NEW YORK STATE SENATE

THE STENOGRAPHIC RECORD

ALBANY, NEW YORK

September 10, 2009

3:37 p.m.

REGULAR SESSION

SENATOR NEIL D. BRESLIN, Acting President

ANGELO J. APONTE, Secretary

P R O C E E D I N G S

ACTING PRESIDENT BRESLIN: The Senate will please come to order.

I ask all to rise and recite the Pledge of Allegiance.

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

ACTING PRESIDENT BRESLIN: In the absence of clergy, may we bow our heads for a moment of silence.

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

ACTING PRESIDENT BRESLIN: The reading of the Journal.

The Secretary will read.

THE SECRETARY: In Senate, Wednesday, September 9, the Senate met pursuant to adjournment. The Journal of Tuesday, September 8, was read and approved. On motion, Senate adjourned.

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

Senator Sampson.

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

I just rise and ask my colleagues that we have a moment of silence to commemorate those individuals who lost their lives on September 11, 2001.

Eight years ago, we experienced the terrorist attacks that attacked our freedom and most of all our power here in the United States of America. And what happened that day just exemplified the commitment and dedication that we as American people have, and our resolve.

And I just want to take time out to commemorate not only those who lost their lives, but also the members of our armed force who fought in Afghanistan and Iraq to make sure they preserve our freedom, our ability to be here today and to conduct business.

So I think it's fitting, especially on this day, September 10th, and tomorrow being September 11th, eight years ago. And we all lost family and friends or we know someone who lost their lives on September 11th. And I

just want to have a moment of silence for those, just to commemorate those who gave their lives for the most important thing that we have here in America, and that at times we take for granted -- and that's life, liberty, and the pursuit of happiness.

So if we can have a moment of silence, unless some of my colleagues would also like to speak.

ACTING PRESIDENT BRESLIN: Senator Skelos.

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

Senator Sampson, I appreciate -- I think all of us -- your leadership in taking a moment to reflect upon the attack that occurred on our nation, the attack that occurred on our values that exist within this country, the hatred that was expressed against our nation on that day, and certainly all of our it could be family members, neighbors, friends that we lost on September 11th.

As time passes on, I think with all of us -- and perhaps that is one of the better

traits of human beings -- that bad memories tend to disappear a little bit. And we are more of an optimistic people here in the United States, and we think about good more than we think about evil. And I think that's proper. But it's also proper every year, and I know all of us tomorrow, the next day, will be attending memorial services and remembrances for those that we lost on September 11th.

All of us during that period of time saw tragedy, saw families brutalized by loss. I know that within my own community, and I think those of us who live closer to the city saw families destroyed, brothers, sisters killed -- one family I know in my community, a brother and a brother-in-law -- young men and women on the verge of their own personal greatness in terms of success within their own professions, bringing up their families. Seeing young kids who lost their parents. Our firefighters, our police, those in our uniformed services.

You know, when we think about

things that we do to help them, we should also reflect upon the sacrifice that they make: The fact that so many firemen ran in and lost their lives. The fact that families did not have truly a real opportunity in so many instances to bury their loved ones.

So, Senator Sampson, I thank you for this opportunity to speak. I think all of us will always remember 9/11. We'll remember where we were. But most importantly, we'll remember those who lost their lives, the innocent lives, and those who sacrificed their lives trying to save.

So again, Senator Sampson, thank you.

ACTING PRESIDENT BRESLIN: Thank you, Senator Skelos.

Senator Smith.

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

Senator Sampson, thank you for bringing this very sensitive issue to our floor.

Tomorrow will commemorate one of

the worst moments that this country has ever seen. In particular, it happened in New York, it happened in Lower Manhattan, the financial capital of the world, which has never been the same since then.

The families that were impacted by that -- not only our personal friends, friends that we don't even know -- will never forget it. There is no time in the last seven to eight years have I heard a day go by where someone has not made reference to 9/11 and that tragedy.

The district that I represent, Far Rockaway, one of the areas which was hardest hit, had the largest numbers of individuals that were lost in terms of firefighters in one grouping. Whenever I am out there, you can sense and feel how people's lives have changed forever.

What's important for each of us to remember is that it only takes a moment for one of us to lose a loved one. It only takes a moment for us at times to forget what people have gone through. So I think what Senator

Sampson has brought forward, while it is a tragedy, it is something that we have to keep in our minds at all times.

We pray every day -- I know I pray every day -- but there is no amount of prayers that is going to provide the kind of solace to that young lady or that young woman tomorrow when they wake up and every network is saying something about what occurred. Or that picture that we all saw, the World Trade Center -- I'll never forget it, I was on the shores of Rockaway watching the World Trade Center collapse. It's something that I will never, ever forget. There was an eerie silence in the air when that moment occurred, and many people thought that much more would have happened.

This is a moment that we also have to be thankful for also our troops, those family members who are not with us and will not be with us because they are protecting us to make sure that nothing like 9/11 happens again. And we have not had such a tragedy since then.

I just want the families of all those individuals -- as well as those families who were part and witnessed what happened months after that, with Flight 587, that also had a major impact on the Rockaways -- that we will never forget them. We understand what it means to lose a loved one. I'm sure everyone in this room at some point in time has done that, it has happened to them. And that we will continue to pray with the families.

We will continue to work with the families. We know how important that memorial is. We will continue to work with the Governor and the Mayor, the Speaker, to make sure that that memorial is completed and it is one that represents the thoughts and prayers of everyone in this room.

Thank you very much, Senator Sampson, for bringing this forward.

Senator Skelos, thank you for your comments as well.

Thank you, Mr. President.

ACTING PRESIDENT BRESLIN: Thank you, Senator Smith.

Senator Adams.

SENATOR ADAMS: Thank you, Mr. President.

I too want to thank Senator Sampson for bringing this moment that we're going to take a stay of our lives and just pause in remembrance of September 11. I think that throughout our life there are incidents that we benchmark our lives by, and we can all say where and what we were doing on that day.

I just want to talk about one person in particular. His name was Officer John Perry. John Perry was retiring on September 11th. He was down at One Police Plaza turning in his shield and his ID card, a formality that a police officer goes through at the conclusion of his career.

When the planes attacked, the first and second plane, John Perry went back into One Police Plaza and bought a uniform shirt so that he could have a uniform shirt on and be able to go inside the Trade Center and save lives. It was some weeks later that we found his body inside the center; he died and never

was able to leave after the center crumbled.

I was a lieutenant in the Police Department during the incident, and I remember the scene as we went there and just realizing that there are those who spend their entire lives attempting to harm Americans. That is their passion, that is their desire.

And we cannot allow the luxury of time to make us believe that that form of disdain and hate will dissipate with time. It is as alive as September 11th was then; it's still live today. And we must remain forever vigilant to make sure that our law enforcement officers are given the necessary equipment, the necessary laws, and the necessary resources to ensure that they can protect those who are part of this great country.

I think that it is imperative that we remember the countless number of men and women that not only don the gray uniforms of state troopers or blue uniforms of New York City police officers, but also green fatigues in Afghanistan and in Baghdad, and some of our state troopers that protect the Amtrak and

other locations within our state.

This is a real issue. And by pausing today, we realize that we must remain vigilant, we must remain steadfast, and we must ensure that those officers like Officer Perry did not lose their life in vain.

And to his family and to the countless number of men and women who not only died on that day but are continuing to have to deal with the many health issues that are coming from the attack on September 11th, I think our state owes them the obligation and responsibility to protect them and their families.

I thank you, Mr. President.

ACTING PRESIDENT BRESLIN: Thank you, Senator Adams.

Senator Perkins.

SENATOR PERKINS: Thank you, Mr. President.

I just wanted to first thank our leader for giving us this opportunity to reflect on the significance of the occasion. For my family, it's a very, very personal

thing because my cousin, Clyde Frazier, Jr., lost his son in that tragic day.

But as saddened as we may be, we also are reminded of the privilege that we have here to represent our communities and to represent our flag in the ways that we can. And just yesterday, thanks to Senator Squadron, I had the opportunity to conduct some hearings at the World Trade Center through the committee that I have the privilege of representing.

And I'm also reminded that beyond just that site and beyond just that memorial are concerns of that community that are still suffering the tragedy. The living are still suffering the consequences of that attack -- not just on that particular site not just with respect to the World Trade Center -- and that daily they live with it and how important is the work that we do to help overcome that.

And so thank you again, Senator Sampson, for helping us to reflect and to understand our focus and the opportunities that we have to correct some of the damage

that may have been done as a result of that tragic attack on our city, on our state, on our nation.

ACTING PRESIDENT BRESLIN: Thank you, Senator Perkins.

I'd ask all to rise for a moment silence.

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

ACTING PRESIDENT BRESLIN: Continuing with the regular order of business.

Presentation of petitions.

Messages from the Assembly.

Messages from the Governor.

Reports of standing questions.

Reports of select committees.

Communications and reports from state officers.

Motions and resolutions.

Senator Smith.

SENATOR SMITH: Yes, Mr. President. May we at this time take up the Resolution Calendar in its entirety, with the exception of Resolution 2980, Resolution

2986, Resolution 2987, and Resolution 3068.

ACTING PRESIDENT BRESLIN: All those in favor of adopting the Resolution Calendar in its entirety, with the exception of Resolutions 2980, 2986, 2987, and 3068, please signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT BRESLIN: Opposed, nay.

(No response.)

ACTING PRESIDENT BRESLIN: The Resolution Calendar is adopted in its entirety, with the exception of Resolutions 2980, 2986, 2987 and 3068.

Senator Smith.

SENATOR SMITH: Yes, Mr. President. Could you please recognize Senator Aubertine for a brief statement concerning several resolutions that he has on the calendar.

ACTING PRESIDENT BRESLIN: Senator Aubertine.

SENATOR AUBERTINE: Thank you, Mr. President.

Before you, you have a series of resolutions, resolutions very appropriate in light of the fact that, as Senator Sampson pointed out earlier, as other Senators have pointed out, we are here on the 10th of September, the eve of 9/11.

In these resolutions are a series of resolutions recognizing a group of young soldiers who were killed in the past month in the uptick in fighting in Afghanistan. And I'd like to read their names into the record, those soldiers: Army Sergeant Jerry Evans; Specialist Andrew J. Roughton; Army Specialist Matthew Swanson; Specialist Anthony M. Lightfoot; Sergeant Gregory Owens Jr.; Specialist Justin D. Coleman; Private First Class Dennis Pratt; and Rosemary S. Nesbitt.

These people have given their all, Mr. President. And I think that, you know, on the eve of 9/11 that if again we pause just for a moment of reflection to understand that the war that started over eight years ago in literally our backyard continues today and a lot of young Americans are still paying the

price.

So with that, Mr. President, I would ask for another moment of silence for these individuals.

ACTING PRESIDENT BRESLIN: Please rise for a moment of silence.

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

ACTING PRESIDENT BRESLIN: Thank you, Senator Aubertine.

Senator Smith.

SENATOR SMITH: Yes, Mr. President. Can we please take up Resolution Number 2986, and we'd like it to be read in its entirety and move for immediate adoption.

ACTING PRESIDENT BRESLIN: The Secretary will read.

THE SECRETARY: By Senator Perkins, Legislative Resolution Number 2986, mourning the death of United States Senator Edward Moore Kennedy, the third longest-serving member of the United States Senate in American history.

"WHEREAS, In this time of national

mourning, this Legislative Body, representing the people of the State of New York, is moved this day to honor the life and the service of United States Senator Edward Moore Kennedy, a man of unquestioned character, integrity, and true defender of the American dream, who had a profound and lasting impact upon our nation; and

"WHEREAS, On Tuesday, August 25, 2009, Edward (Ted) Kennedy died at his home in Hyannisport, Massachusetts, at the age of 77; and

"WHEREAS, The heartfelt condolences of this Legislative Body are offered with sympathy and respect to the family of Senator Ted Kennedy, his wife, Vicki, and his five children: Kara, Edward Jr., Patrick, Curran, and Caroline; and

"WHEREAS, Known as the 'Liberal Lion' of the U.S. Senate, Ted Kennedy was known as a champion for equal justice for every American, but especially for those who were left out and left behind. He was instrumental for his contributions to the

causes of voting and civil rights; and

"WHEREAS, Born in Boston, Massachusetts, Ted Kennedy resided in Bronxville, New York, as a child when his parents purchased the Crownlands Estate in the late 1920s. He lived there until the age of five; and

"WHEREAS, A graduate of Harvard University, Ted Kennedy was the senior right end for the school's football team in 1955. His athletic ability on the football field caught the attention of Green Bay Packer Head Coach Lisle Blackbourn, and he was highly recommended by a number of coaches and talent scouts as a possible pro prospect, but Ted Kennedy declined in order to attend law school at the University of Virginia, and soon thereafter launched his political career; and

"WHEREAS, Ted Kennedy and Virginia Joan Bennett were married by Francis Cardinal Spellman on November 29, 1958, at St. Joseph's Church in Bronxville, New York; and

"WHEREAS, With the tragic loss of his beloved older brothers, John in 1963 and

Robert in 1968, Ted Kennedy was thrust to the forefront of an immensely powerful political family; and

"WHEREAS, During his eight terms in the U.S. Senate representing Massachusetts, Ted Kennedy rose to become one of the Democratic Party's most powerful and eloquent legislators. He was praised for his unyieldingly liberal positions on various issues; and

"WHEREAS, For five decades, virtually every major piece of legislation to advance the civil rights, health and economic well-being of the American people bore Ted Kennedy's name and resulted from his efforts. He fought for and won so many great battles for voting rights, education, immigration reform, minimum wage, national service, and the nation's first major legislation to combat AIDS. In addition, he sought equality for minorities, women, the disabled, and gay Americans; and

"WHEREAS, Senator Ted Kennedy succeeded in bringing quality and affordable

healthcare for countless Americans, including children, seniors and Americans with disabilities. He stood for human rights abroad, from Chile to the former Soviet Union, and was a leader in the cause of poverty relief for the poorest nations of Africa and throughout the world; and

"WHEREAS, A believer in a strong national defense, Ted Kennedy unceasingly pursued and advanced the work of nuclear arms control. He was the conscience of the Democratic Party and also the Senate's greatest master of forging compromise with the Republican Party. He was widely respected on both sides of the aisle for his commitment to progress and his ability to legislate; and

"WHEREAS, Senator Ted Kennedy was chairman of the Senate Health, Education, Labor and Pensions Committee. Previously, he was chairman of the Senate Judiciary Committee and served on that committee for many years; and

"WHEREAS, In addition, Senator Ted Kennedy served on the Senate Armed Services

Committee and the Congressional Joint Economic Committee. He was a leader of the Congressional Friends of Ireland and helped lead the way toward peace on that island; and

"WHEREAS, Senator Ted Kennedy's support of Barack Obama as the Democratic nominee for President was seen as a key factor in determining President Obama's election as the nation's first African-American to serve in the White House; now, therefore, be it

"RESOLVED, That this Legislative Body pause in its deliberations to mourn the death of United States Senator Edward Moore Kennedy, the third longest-serving member of the United States Senate in American history; and be it further

"RESOLVED, That a copy of this resolution, suitably engrossed, be transmitted to the family of Senator Edward Moore Kennedy."

ACTING PRESIDENT BRESLIN: Senator Perkins.

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

And I just wanted to take a moment to obviously encourage my colleagues to support this resolution.

You know, my colleague Senator Klein thought it was my support that made the difference in the election of Barack Obama, he was jokingly saying.

But this is a very, very significant thing that he has done, and it's interesting how timely it is that just yesterday a great speech was made by our president, and in reference he made note of the work that Senator Kennedy has done for so many years while he in the Senate.

I have a very personal experience, in that in 1980 I had the privilege of being a Kennedy delegate to the Democratic Convention when he was a candidate for the United States presidency. It took place, Senator Diane Savino, at Madison Square Garden, and it was an extraordinary experience. And I was able to be such a delegate because of the fact that the party had just initiated this requirement that a certain number of delegates had to be

under 30. So you can see that was just a few years ago.

(Laughter.)

SENATOR PERKINS: But in any case, from a personal point of view as well as from what he has been able to contribute to our nation and really to the world in so many ways, I'm honored to have the opportunity to have known him personally to some extent and for us to be able to recognize his accomplishments today.

Thank you, Mr. President.

ACTING PRESIDENT BRESLIN: Thank you, Senator Perkins.

Are there any other Senators wishing to be heard?

The question then is on the resolution. All those in favor please signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT BRESLIN: Opposed, nay.

(No response.)

ACTING PRESIDENT BRESLIN: The

resolution is adopted.

At the request of the sponsor, the resolution is open for multisponsorship by the entire house. Any member not wishing to be a cosponsor please notify the desk.

The Secretary will continue to read.

SENATOR SMITH: Mr. President.

ACTING PRESIDENT BRESLIN: Senator Smith.

SENATOR SMITH: Yes, would you please take up Resolution Number 2987. I also ask that this resolution be read in its entirety and move for immediate adoption.

ACTING PRESIDENT BRESLIN: The Secretary will read.

THE SECRETARY: By Senator Perkins, Legislative Resolution Number 2987, commemorating the 46th Anniversary of the March on Washington for Jobs and Freedom.

"WHEREAS, In the course of history, certain events have exemplified the power of the human spirit to overcome oppression, today we must remember such events and pay tribute

to the people involved who fought for the cause of freedom; and

"WHEREAS, Attendant to such concern, and in full accord with its long-standing traditions, this Legislative Body is justly proud to commemorate the 46th Anniversary of the March on Washington for Jobs and Freedom; and

"WHEREAS, The March on Washington for Jobs and Freedom took place in Washington, D.C., on August 28, 1963. Attended by some 250,000 people, it was the largest demonstration ever seen in the nation's capital, and one of the first to have extensive television coverage; and

"WHEREAS, The year 1963 was noted for racial unrest and civil rights demonstrations. Nationwide outrage was sparked by media coverage of police actions in Birmingham, Alabama, where attack dogs and firehoses were turned against protestors, many of whom were in their early teens or younger. Dr. Martin Luther King, Jr., was arrested and jailed during these protests, writing his

famous 'Letter from Birmingham City Jail,' which advocates civil disobedience against unjust laws; and

"WHEREAS, Dozens of additional demonstrations took place across the country, from California to New York, culminating in the March on Washington. President John Kennedy backed a Civil Rights Act which was stalled in Congress by the summer; and

"WHEREAS, The March on Washington represented a coalition of several civil rights organizations, all of which generally had different approaches and different agendas. The 'Big Six' organizers were James Farmer, of the Congress of Racial Equality (CORE); Dr. Martin Luther King, Jr., of the Southern Christian Leadership Conference (SCLC); John Lewis, of the Student Nonviolent Coordinating Committee (SNCC); A. Philip Randolph, of the Brotherhood of Sleeping Car Porters; Roy Wilkins, of the National Association for the Advancement of Colored People (NAACP); and Whitney Young, Jr., of the National Urban League; and

"WHEREAS, The stated demands of the march were the passage of meaningful civil rights legislation, the elimination of racial segregation in public schools, protection for demonstrators against police brutality, a major public-works program to provide jobs, the passage of a law prohibiting racial discrimination in public and private hiring, a $2-an-hour minimum wage, and self-government for the District of Columbia, which had a black majority; and

"WHEREAS, The event included musical performances by Marian Anderson, Joan Baez, Bob Dylan, Mahalia Jackson, Peter, Paul and Mary, and Josh White. Charlton Heston represented a contingent of artists including Harry Belafonte, Marlon Brando, Diahann Carroll, Ossie Davis, Sammy Davis Jr., Lena Horne, Paul Newman, and Sidney Poitier; and

"WHEREAS, Although monumental, it was at the March on Washington for Jobs and Freedom that Dr. Martin Luther King, Jr., delivered his historic 'I Have a Dream' speech advocating racial harmony at the Lincoln

Memorial during the event. This particular march was an important part of the rapidly expanding civil rights movement and is widely credited for helping to pass the Civil Rights Act (1964) and the National Voting Rights Act (1965); and

"WHEREAS, Events expressing the bravery, willingness and sacrifice for the well-being of future generations are deserving of the highest honor by all defenders of freedom and democracy, now, therefore, be it

"RESOLVED, That this Legislative Body pause in its deliberations to commemorate the 46th Anniversary of the March on Washington for Jobs and Freedom."

ACTING PRESIDENT BRESLIN: Senator Perkins.

SENATOR PERKINS: You know, we can never acknowledge too often the fact that the greatness of this society is represented often in these moments such as the March on Washington that opened up so many doors of opportunity and helped our democracy become even more world-acknowledged and appreciated

because of the principles and the values that we stand for.

And as I look around the room, I realize but for this march, a good number of us would not be here.

So I appreciate the fact that we have the opportunity to bring this forward as a resolution and that the body hopefully will accept it.

ACTING PRESIDENT BRESLIN: Thank you, Senator Perkins.

Are there any other Senators wishing to be heard?

The question then is on the resolution. All those in favor please signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT BRESLIN: Opposed, nay.

(No response.)

ACTING PRESIDENT BRESLIN: The resolution is adopted.

At the request of the sponsor, the resolution is open to multisponsorship. Any

Senator not wishing to be part of that resolution please notify the desk.

Senator Smith.

SENATOR SMITH: Yes, Mr. President. Thank you. Would you please take up Resolution Number 3068. And we ask that you read the title and that we move for immediate adoption.

ACTING PRESIDENT BRESLIN: The Secretary will read.

THE SECRETARY: By Senator Perkins, Legislative Resolution Number 3068, celebrating the 100th birthday of the late Kwame Nkrumah, and paying tribute to his many contributions to Pan-Africanism, on Monday, September 21, 2009.

ACTING PRESIDENT BRESLIN: Senator Perkins.

SENATOR PERKINS: Thank you for the opportunity again to present a resolution of what I consider importance to me and to all of us, actually.

And I realize that there are some members in this chamber who have never heard

of Kwame Nkrumah. Kwame Nkrumah, who was a leading advocate for Pan-Africanism in the 20th century, was born on September 21, 1909, in the Gold Coast, or what is now known as Ghana. In 1935 he left Ghana and moved to the United States to further his education, both institutionally and socially.

During the time that Kwame Nkrumah spent in the United States, he preached at black Presbyterian churches in Philadelphia and in New York City. In fact, while in New York City, he resided in my district, in Harlem. And one of the reasons why Harlem has become so famous internationally and sometimes is called the mecca or the capital of black culture is because folks like Kwame Nkrumah who were fighting colonialism in Africa often came into New York City and stayed in Harlem to get the kind of support, intellectually and otherwise, to go back home and bring about the kind of democracy that we take for granted to their nation.

And so he eventually left the United States and traveled the world

establishing Pan African organizations such as the Fifth African Congress in Manchester, England, in 1945. Kwame received numerous honorary degrees -- from Lincoln University, Moscow State University, Cairo University, and numerous other universities -- for his leading role in advocating Pan-Africanism.

Kwame Nkrumah also played an essential role in African pride by becoming the president of the African Students Organization of America and Canada and vice president of the West African Students Union.

His Pan-Africanism work eventually landed him in jail in 1950, but he was released in 1951 by the Convention People's Party, the party that had just won the election in Ghana and which he had founded in 1949 to liberate the Gold Coast from colonial rule.

Kwame Nkrumah's rigorous pursuit of Pan-Africanism helped his tireless fight for the independence of Ghana and led him to become its president in 1957.

Kwame Nkrumah was overthrown in

1966 by the military and he was exiled to Bucharest, Romania, where he died on April 27, 1972. Yet many people still hold on to his dream that there will be one day a United States of Africa. The legacy of Kwame Nkrumah continues to serve as an inspiration for many people in the African-American communities all across this state and this country.

It is therefore a great honor and pleasure to present this resolution to the chamber for its adoption. Thank you so much.

ACTING PRESIDENT BRESLIN: Thank you, Senator Perkins.

Are there any other Senators wishing to be heard?

Senator Parker.

SENATOR PARKER: Thank you, Mr. President.

I just wanted to echo the words by Senator Perkins about how important Kwame Nkrumah has been both for this country and particularly African-Americans in it.

And I don't know if Senator Perkins was aware of this. You know, as a professor,

I know -- I'm teaching at the University of Albany in the Black Studies Department this year. And although Kwame Nkrumah spent his time living in Harlem, he actually was on record as saying Brooklyn was actually his favorite part of the city.

(Laughter.)

SENATOR PARKER: But, you know, the short amount of time that you heard Senator Perkins talk about the importance of Kwame Nkrumah only is really the tip of the iceberg of what this man has meant not just to his own country -- because, you know, people don't realize that Ghana was actually the first African nation to free itself from dominance, and that really actually created a domino effect of other African nations breaking away from the old political colonial system that they were in, which then also led to a revolution actually in the Caribbean as well.

And that in fact had a great deal of impact on what we actually see in my district and many districts really across the

State of New York, with the numbers of the Caribbean immigrants who have become part of the American fabric.

And so many of those ideals and many of the things that we think of as part of the -- particularly part of the immigrant experience have been formed by people like Dr. Kwame Nkrumah. And so I wanted to remember him and just talk about how important he was. And this idea of Pan-Africanism has become a unifying force in terms of the way African politics has been played out but also African-American politics.

In fact, when you see someone like Barack Obama, he is in fact a direct descendant of the ideological-political understanding of how we should operate and how he then, you know, gets to become an instrument of Pan-African hopes and dreams of not just people here in the United States but people in the continent and in the Caribbean.

And so thank you, Senator Perkins, for remembering this important day, and thank you all for becoming part of this remembrance.

ACTING PRESIDENT BRESLIN: Thank you, Senator Parker.

Senator Montgomery.

SENATOR MONTGOMERY: Thank you, Mr. President.

I just rise to thank my colleague Senator Perkins for this resolution.

Kwame Nkrumah is a huge hero for those of us who are African in America as well as the people in Africa. And we should not forget nor should we allow the significance of his presence and his life and his activity to be forgotten and lost as it relates to the history of the U.S. as well as the history of Africa.

And so I'm very happy that you've introduced this resolution, Senator. And I hope that we can think of other ways that we as a body that has a lot to say and do about what children are eventually learning in the education system in our state -- that we can promote more people like Kwame Nkrumah, who has played such a large role and is so important to them as it relates to their

history, who they are and where they have come from and who are the heroes that they should be understanding and looking to as their leaders.

And so this is important, and I hope we can work together on framing other kinds of activities where Kwame Nkrumah can be held up to young people in this state.

Thank you, Mr. President.

ACTING PRESIDENT BRESLIN: Thank you, Senator Montgomery.

Are there any other Senators wishing to be heard?

The question is on the resolution. All those in favor please signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT BRESLIN: Opposed, nay.

(No response.)

ACTING PRESIDENT BRESLIN: The resolution is adopted.

At the request of the sponsor, the resolution is open for multisponsorship by the

entire house. Any member wishing not to be a multisponsor please notify the desk.

Senator Smith.

SENATOR SMITH: Yes, Mr. President, thank you. I would ask at this time that we take up Resolution 2980. I ask that the title be read and we move for its immediate adoption.

ACTING PRESIDENT BRESLIN: The Secretary will read.

THE SECRETARY: By Senator Larkin, Legislative Resolution Number 2980, commending West Point, the United States Military Academy, upon the occasion of being ranked the top college in the country by Forbes Magazine.

ACTING PRESIDENT BRESLIN: Senator Larkin.

SENATOR LARKIN: Thank you, Mr. President.

You know, it's a real honor, my colleagues, to stand here and commend the United States Military Academy, which was just honored by Forbes as the number-one college in

the United States of America.

We're talking about a college that is very selective. We're talking about a college that's curriculum is second to none. We're talking about a college that's preparing young men and women to be members of the armed forces in combat arms or serve as reserve units. We're also teaching them so that they'll be knowledgeable about when they decide to retire or go into some government or business.

But when you realize that the Class of 2009 that graduated May 23rd of this year, the average grade of the graduates was something like 3.8 -- Rhodes scholars, various colleges across the world accepted cadets because of their outstanding skills, academic skills and everything else.

I think we should be honored here at Albany when we think that this college is in New York State. It is the 207th anniversary of the United States Military Academy. And, ladies and gentlemen, I ask you to join me in honoring the academy. And I

know that our good friend the president, presiding officer, will sure want a copy for his brother, a distinguished graduate of the Class of 1962.

Thank you Mr. President.

ACTING PRESIDENT BRESLIN: Thank you, Senator Larkin.

Are there any other Senators wishing to be heard on the resolution?

The question is then on the resolution. All those in favor please signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT BRESLIN: Opposed, nay.

(No response.)

ACTING PRESIDENT BRESLIN: The resolution is adopted.

At the request of the sponsor, the resolution is open to the entire Senate. Any Senator not wishing to be on the resolution please notify the desk accordingly.

Returning to the reports of standing committees. Senator Smith.

SENATOR SMITH: Yes, Mr. President, I believe there's a report of the Finance Committee at the desk.

ACTING PRESIDENT BRESLIN: Senator Smith, there is a report of the Finance Committee at the desk.

The Secretary will read.

THE SECRETARY: Senator Kruger, from the Committee on Finance, reports the following nominations.

As chairman and chief executive officer of the Metropolitan Transportation Authority, Jay Herbert Walder, of London, England.

ACTING PRESIDENT BRESLIN: Senator Kruger.

SENATOR CARL KRUGER: Mr. President, please move the nomination.

ACTING PRESIDENT BRESLIN: Are there any Senators that wish to be heard on the motion to confirm the nomination?

Senator Marcellino.

SENATOR MARCELLINO: Thank you, Mr. President. I rise to speak on this

nominee.

I have attended hearings on Long Island and the Finance Committee meeting this afternoon -- actually, this morning, which turned into this afternoon -- up here in Albany. There is no doubt in my mind of the qualifications of Mr. Walder. He is a world-class nominee, there is no doubt about it.

However, in our discussions and in the hearings, we don't get much information. We don't get many specific answers to questions. I find that troubling.

I also find it troubling that when I asked the question about the payroll tax at one of the hearings on Long Island, the answer was -- when I say asked the question, about would you be willing to look at ways to roll that tax back, the answer was no. No, I need the money. No, the MTA needs the money. We have to move forward.

The payroll tax is a destroyer. It is a killer of business, it is a killer of jobs. It will result and has already resulted

in an increase in property taxes because everybody, every entity has to pay that tax, municipalities included. Villages, counties, towns all have to pay that tax. They're going to get it by raising property taxes on their residents, that's the only way they can do it.

Jobs will be lost because many businesses, rather than raise costs of the services they perform or the goods they sell, will lay people off in order to make up the difference that they have to have in paying nor this tax.

I know what the tax is supposed to pay for. I know what it's supposed to do. What I am saying is to Mr. Walder -- and I know he's hearing me, and I know he listens. But I'm asking him to hear it again and to listen extra hard, because my constituents are screaming that they can no longer handle increased taxes. They can no longer handle increased costs to go to work.

People who have to ride in my area the Long Island Railroad, it costs them $4,000 a year just to go to work. That's a huge

expenditure before you take into consideration all the other costs to live. That takes a huge bite out of them. It is no wonder that as a result they choose to drive their cars, which is just where we don't want them.

We don't want them in their cars. We want them out of their cars. We want them in the mass transit system. But the mass transit system is pricing them out. It is costing them out. It is saying we don't want you here, only the elite can travel on the Long Island Railroad because they're the only ones who can afford it. Everybody else has got to find some other way to get to work.

So if you get on the Long Island Railroad, the Southern State Parkway, the Northern State Parkway or any of the other main roads on Long Island, going into the city or wherever, you'll find them parking lots at the rush hours, either going to work or coming back, people in their cars. And if you look at it, there's usually only one person per car.

These people should be on the

railroads. They should be able to ride the Long Island Railroad and not spend $4,000 a year to go to work. That's just unconscionable. And it's not sustainable. Because the fares went up recently after the payroll tax and will go up again, nobody has any doubt of that. They're going to go up again. The tolls on the bridges are going to go up again. They just went up also.

We can't just keep on doing that. Salaries are not increasing at the same rate that the fares are increasing. They're just not cutting it. The service has got to be improved. It doesn't cut it either. From escalators that don't work, from elevators that you can't go into because they stink of urine, from train platforms that are covered by bird excrement and other things, that are all in disrepair, from lack of parking facilities for cars that bring people to the railroad. A whole host of situations that the MTA is not addressing.

The lack of electrification of the line from one end of Long Island to the other,

something that's been talked about for 25, 30 years, it still isn't done. It would save a fortune. It would save the use of fossil fuels on the diesel engines that have to be used to go out to the east end. It would make it more environmentally safe and more environmentally protective. Instead, the MTA keeps plodding along doing the same old, same old.

We can't have that anymore. We can't have a tax-and-spend mentality to keep on going: It's okay, we'll just tax them some more. It's okay, they've got no other choice. Well, they do -- they're in their cars. And we don't want them there. I want them on the buses, which on Long Island for the most part don't exist. There's no route, there is no schedule that means anything. This is just plain wrong.

So, Mr. Walder, your job is cut out for you. I have no doubt you'll be confirmed today. Your job is cut out for you. I'm more than willing to work. I don't hold this as your responsibility, you didn't create the

problem. But we look to you for the solution.

For my constituents, I am going to vote no. But I do hope -- and I offer my hand that I will work with you and I will be supportive in every way I can. But I fully expect and I fully require that you understand the problems that my constituents face, that all of the people who live in the downstate region in the 12 counties of the MTA region face. The service is not up to par. The cost is too much -- not just the fares, but the taxes that we pay, that my constituents have to pay to support the service. They're not just not getting the bang for their buck.

For that reason, I'm going to vote no on this confirmation. Thank you, Mr. Chairman.

ACTING PRESIDENT BRESLIN: Thank you, Senator Marcellino.

Senator Smith.

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

And let me congratulate the Governor on what I think is a fine selection

for someone to run the largest metropolitan system in the country, one that is clearly faced with challenges, one that moves millions of people every day and has the responsibility for making sure that not only do people get back and forth to work but that they also continue to move the great City of New York that so many of us rely on from a commerce/financial standpoint.

Jay Walder, who was the managing director at Transport for London -- he also lectured on public policy at Harvard University and worked for Metropolitan Transportation Authority -- comes with a breadth of experience. He provides a breath of fresh air to an institution and an organization that will need a lot of help.

There is no question that he is going to meet challenges, challenges by which this body here had to vote on an MTA bailout plan, if you will, last year. It took us quite some time. We still have in front of us a capital plan that he has to shepherd that will deal with not only New York City but

roads and bridges for Long Island and upstate.

But, Jay, you should know that you have a partner in the Senate. We are looking forward to working with you. Because if you are successful, we are successful. If you are successful, the commerce of this city and the state runs well. So we want you to succeed, and we are going to be your partner.

I want to thank my colleagues in the Senate, in particular Senator Perkins; Senator Dilan, who I know spent quite a bit of time talking to Mr. Walder, making him understand what the needs are; our Finance chair Senator, Carl Kruger, who is not an easy person to convince, but once he's convinced, you got a good ally once he's on your team.

So it's my great pleasure, Mr. President, that I stand again to congratulate the Governor on this selection and also to congratulate Mr. Walder and his family. We welcome you and look forward to you being successful.

ACTING PRESIDENT BRESLIN: Thank you, Senator Smith.

Senator Morahan.

SENATOR MORAHAN: Thank you, Mr. President.

I'm going to vote yes on this appointment. I think it's time for a fresh start for the MTA. But I would give a challenge to Mr. Walder in his new role.

Mr. Walder, over the past several years the MTA has suffered a crisis in credibility. I think it's important for you and the MTA to reestablish that credibility in the minds of this Senate, of the Assembly, of our Governor, and most importantly the people of the State of New York, particularly those who live in the MTA region.

Numbers change overnight; it's always a shifting target. And I think it's almost a disaster for any agency to lose its credibility, because once that happens we don't know what to believe, who to believe, or should we believe anything at all.

When we had a conversation, I asked you to press forward with the forensic audit so we would know once and for all where we

stand, how we got here and how we will get out of whatever mess we have.

I represent the County of Rockland and a portion of Orange County. Both those counties are shorted on services to the tune of almost $85 million in excess of what we put into that system through mortgage tax, sales tax, the fare box, and other revenues. All the other 10 counties in the MTA enjoy at least a surplus in service or break even at least.

Only Rockland and only Orange, those two counties in the mid-Hudson region, have such a shortfall in service. So much so that the County of Rockland has passed a resolution, its legislature, to withdraw from the MTA. And for the first time, Orange County has joined that cry. And for the first time, the resolutions have been signed by the county executives.

Now, no one looks forward, especially me, for the County of Rockland to run a railroad, or the County of Orange, through its legislature. But something must

be done to bring into balance what Rockland and Orange County are putting into the MTA coffers when you compare it to the service.

And to add injury to an already unpleasant situation, in the last bailout, if you will, we added a payroll tax on all the businesses within our two counties and other counties as well. But now that falls on our governments, which have to pass that along to our taxpayers through property tax, to our school districts that will have pass that tax on to the taxpayer through its property tax. It's harmful to small business, which is really the backbone of the economy in Orange and Rockland counties.

On top of that, the few commuters that we have who go to New York City were threatened last year with a congestion tax by the City of New York. To add to that, those employers that are going to be paying that payroll tax have far too few, if any, traveling to their place of business by the MTA service.

So you have a great challenge.

From your resume and from our interview, I believe you have great talent. But it's going take great strength, political courage to get through to the basic problems facing the MTA, courage not normally found in a public authority.

So I would hope, Mr. Walder, and the reason I'm giving you my vote today on behalf of the people of Rockland and Orange counties, is because your resume indicates you have both. And I believe you will be successful. But let me say this. If in our oversight here and my oversight as an individual Senator things don't seem to go the way they ought to go, you will hear from us. You will hear from us vigorously. We will push the legislation to get our two counties out of this mess on behalf of the people that I represent.

So good luck. I wish you all the best. And I vote yes, Mr. President.

ACTING PRESIDENT BRESLIN: Thank you, Senator Morahan.

Senator Lanza.

SENATOR LANZA: Thank you, Mr. President.

I rise with regret to vote no on this nomination. You know, I attended this morning's Transportation hearing with great interest, great expectations, because I agree with my colleagues with respect to the nominee's experience and credentials. I have no question that Mr. Walder can do this job when you look at his resume. I have too many unanswered questions with respect to how is he going to do that job. And I'm very troubled with respect to what I experienced and we today experienced at that hearing.

You know, I've heard the frustration of so many of my colleagues in government, both in the City Council in New York City and here in the Senate, both Democrat and Republican, with respect to not getting the sort of open dialogue between the MTA and the people.

I heard, when this body passed that MTA bailout imposing $2.5 billion in new taxes and fees on the people in the MTA region, that

this time it was going to be different, that there was going to be accountability and that we were going to make sure that the MTA was going to be held accountable.

What I witnessed at the hearing does not give me a lot of confidence that that in fact is the case. The MTA, like most authorities, doesn't want to answer questions. And we don't get too many answers. But there's usually a honeymoon period that lasts at least through the Senate nomination committee. We didn't have that even today.

I asked Mr. Walder, for instance, whether or not he would consider or propose tolling the East River crossings as a way to address the MTA's budget shortfalls. He wouldn't say. I asked him whether or not he thought congestion pricing was the way he would go with respect to solving the MTA budget shortfall. He wouldn't say. I asked him whether he thought it was fair that the Verrazano Bridge back on Staten Island has a toll and that the East River crossings doesn't, and he said that it wasn't really

about fairness.

In fact, Mr. Walder at this hearing -- our hearing today -- said that these specific issues should not be addressed today, this was not the time, this was not the place, that they should be addressed later. He said, in fact, that these probably weren't the discussions for the MTA. I couldn't disagree more.

Each of you is about to vote on whether or not to give someone a job that pays $372,000 per year -- at a time when the state budget is in crisis, the MTA budget and institution is in crisis, the New York City budget is in crisis. Is it too much to ask of the person you're about to hire what his plan is to address those problems? I think not. In fact, I think we're entitled to them. The riders in the region are entitled to those answers. The taxpayers in the region and throughout the state are entitled to have those answers. And I don't know why we had a hearing today and walked away without answers to those questions.

You know, I asked Mr. Walder, given the public outrage with respect to compensation packages on Wall Street, whether or not, given these trying times, he'd be willing to take the job for less than the $372,000 per year. And of course -- and I don't blame him -- he said no.

But at least, at least we should know what the plan is here before we vote. And what is of great disappointment to me is when I look at his resume and I look at his experience, I think -- of all the people out there -- he's someone that may have some of those answers and those solutions. But for whatever reason -- maybe the MTA culture has already struck. Maybe it was his experience back in the '80s.

And by the way, I asked Mr. Walder whether or not he'd ever been to Staten Island. And he said that he was but he doesn't remember when or where. And that might not upset many of you here in the chamber, but it bothers me. It bothers me greatly. Five hundred thousand people on

Staten Island, not an insignificant part of the MTA region.

And I see some heads shaking. I'm not trying to be personal here, but you would think, as was said during the hearing, that when you come to a job interview for a job this important that you might want to kick the tires around, that you might want to take a look at the region and you might want to come prepared to answer these types of questions. I think we're entitled to know that. And I'm greatly disappointed that we don't have the answers to these questions.

Again, the MTA is in crisis. I don't expect that anyone would come to a hearing and have a magic answer or a magic bullet to solve all the problems that the MTA is confronted by. But I do believe, I do believe that at least on day one, on day one you would be willing to answer questions in a way that demonstrated that you understand that you need to have a working partnership with this legislative body and the governor of the state and the taxpayers and the riders.

And I've attended too many MTA hearings which were rightly described as dog and pony shows where folks looked at their watches and waited for the meetings to end and there was never any follow-up and there was never any answer.

And when I have someone who wants to be the chairman of that board who comes before this Senate, who asks for our vote to give him a job that pays $372,000 a year, I expect that he'd be willing to answer those questions in a forthright way.

So I don't think today is a good start. Of course, I'm hopeful and optimistic that it will have a better ending. But it just doesn't look good to me, and there are too many unanswered questions, and so I regret that I will be voting no.

ACTING PRESIDENT BRESLIN: Thank you, Senator Lanza.

Senator Libous.

SENATOR LIBOUS: Thank you, Mr. President.

I rise to make some of the same

comments I made in committee today. And I said to Mr. Walder in committee that I am very impressed with his resume. I think probably the Governor made a very good choice. He has all of the qualifications to run a very difficult agency, one that has been tried to be run by many others before who have had difficulty doing so.

But I also told him that I am going to vote against him, but it has nothing to do with you personally, and I mean that sincerely. And I believe you'll get confirmed today, and I want to extend whatever help I can to you.

I am not going to support him because I want to send a broader message. There is more to transportation in this state than just the MTA. And all this house has done is bail out the MTA, worry about the MTA, worry about the deficits of the MTA, worry about ridership of the MTA, sit here and wait for weeks to try to help the MTA.

I understand that the MTA is a vital transportation component to a certain

part of the state, and I have been very supportive, particularly as chairman of the Transportation Committee for years, for the MTA. But as I stand on this floor and as I am an upstater, I have road and bridges. I don't have an MTA where I live.

And we have no plan for roads and bridges. We have no DOT commissioner. We have an acting commissioner, one who has filled the spot after the commissioner left.

And my plea today is very simple to my colleagues, and certainly to my friend the Governor if he's listening, is that transportation in New York State is more than just the MTA. The MTA has to work with the DOT. If we don't have a commissioner, Mr. Walder is going to have a very difficult time getting things done with DOT.

We need to have a comprehensive capital plan, one that my friend Senator Dilan has said will be coming soon. And, Senator, I look forward to working with you hand in hand, but on one that will work together for roads and bridges -- and not only upstate, but in

New York City, on Long Island, in the MTA region, because there are lots of roads and bridges in the MTA region.

So my opposition today is one that I hope sends a message to all of my colleagues to help you to understand -- and I don't profess to be an expert on transportation; I know a little bit about it. And when you know a little bit about something, you can become dangerous.

I do know that for New York State to thrive economically and to come back and to restore jobs -- not only for upstate, but I know the city is having difficulty, and on Long Island -- that we have to have a complete and thorough transportation system.

So, Mr. President, today I am going cast a vote against Mr. Walder. Again, I wish you well. You have a daunting task ahead of you. I look forward to working with you. But I hope that my colleagues in this chamber and the Governor, if he's listening, understand that we have to address all of our transportation needs.

Thank you, Mr. President.

ACTING PRESIDENT BRESLIN: Thank you, Senator Libous.

Senator Saland.

SENATOR SALAND: Thank you, Mr. President.

I had the opportunity earlier today during the Finance Committee meeting to engage Mr. Walder. At that time I rehashed some of the history with regard to what had brought us to this time and place, speaking certainly on behalf of the people whom I represent in Dutchess County, the county in which I live.

Several months ago we had the proposed Ravitch Commission report, and I had requested that we have a hearing in the Metro-North region, not necessarily in my county. I had even suggested that perhaps in northern Westchester. That request was ignored.

On August 12th of this summer, just a few short weeks ago, in anticipation of this day I again requested a hearing again in the Metro-North region. Came to pass that there

were two hearings, one in Long Island, I believe in Mineola, and one in Manhattan, I believe. Again, no hearing in the Metro-North region.

So if you think that people in the Metro-North region and the people in my county view themselves as the proverbial stepchildren or outcasts, I don't think it's without reason. And if they view themselves as revenue hostages, they certainly have all good cause to believe so.

Notwithstanding the comments of my good friend and colleague Senator Morahan a bit earlier to the effect that -- and I am looking now -- all of the counties enjoy a surplus in service, the only way, the absolutely only way that it can be pretended that Dutchess County has a surplus in service is through godawful creative accounting, creative bookkeeping or, as some might want to say, cooking the books.

The simple fact of the matter is is that the MTA treats each of its regions differently, assesses their benefit ratio

differently. Metro-North is treated differently than the Long Island Railroad; each of those are treated differently than the city. And the sole purpose of the creative accounting is to maximize the benefit ratio to make counties believe or enable Metro-North or MTA to pretend that those counties are deriving larger benefits than in fact they are deriving.

In my county, for example, we have -- this is MTA data. There was a report commissioned by MTA in 2005, the Cambridge report. It's been updated. The data they used is MTA data. They took pains, I guess, to make it be known that it was not independent data.

If you look at their data prior to the absolutely godawful imposition of the payroll tax and the driver's license fees and the registration fees, we were paying a hefty $68 million in taxes and fees for some 4,000 commuters -- 9,000 fares, 4,000 commuters. So a thousand or so more additional people use it perhaps recreationally. Even if you want to

take number 10,000, if the data is dated. Four thousand commuters, $68 million. That's pretty steep.

Well, take $17.5 million in payroll tax, add $8.76 million in driver's license fees and registrations for people who don't use the system -- keep in mind that 4,000 of the people who use the system are commuters, of a population in excess of 300,000; you're talking less than a percent and a half of the population of my county availing themselves of the system as commuters -- and we are now paying for this marvelous benefit somewhere in excess of $95 million.

Is there any one of you who could endure that pain? Any one of you who would say "I volunteer, I want to be part of that system"? In committee I said if I could put a gate across, or if this were the 1870s or 1880s and I could invite vigilantes to come and rip up the track, I would do so.

My county is a revenue hostage. It is abused. If there was a central registry of abused counties, this state would be reported

and imprisoned for what it's doing and continues to do to my county.

During the course of the comments that were offered by the nominee -- who I apologized to in advance and told him my issues had nothing to do with him or his qualifications, but the fact that once again my county was being further abused as a revenue hostage -- he emphasized, and I went through this language with him to make sure that in fact I did not take my notes improperly, but he emphasized the following as being important: Credibility, accountability, transparency.

And he went on to say, "The MTA must demonstrate good value and the bottom line is that taxpayers and the riding public have to see that they're getting their money's worth."

There is no way in hell that the taxpayers and commuters in my district are getting their money's worth. There's no conceivable way that they can get their money's worth. The only way they can get

their money's worth is if somehow or other, prior to this payroll tax money being used to secure the bonds that ultimately we will have to resort to to make up for the deficit in the MTA capital plan, that we do a rollback on that payroll tax.

It's not merely Dutchess County; all of the so-called "quarter-pounders" are being similarly afflicted. And there's absolutely no equity, no justice. Perhaps I should break into a rendition of "Let My People Go."

I vote in the negative.

ACTING PRESIDENT BRESLIN: Thank you, Senator Saland.

Senator Espada.

SENATOR ESPADA: Thank you, Mr. President.

I rise to second this nomination. I don't disagree with what's been said -- and I'm a good listener -- with respect to the challenges. But let me just focus on a couple of things briefly.

I am very happy that Mr. Walder's

address will change from London, England, back to New York. So therefore, welcome, to a native son, welcome home.

The protracted debate that was had, both here and throughout the months, that focused on the MTA, that focused on service, on pricing, on accountability, on transparency, on restructuring, all of that, we debated that. And it was difficult, and it will remain difficult and ongoing.

Thanks to my good friend Senator Carl Kruger, the Finance Committee did its job with vetting. And I think most of us, a lot of us know good leadership when we see it.

The selection process in and of itself will obviously not cure or resolve any of the challenges. It is a start. The merging of the two roles with someone with the requisite leadership, with the vast experience, with the preparation, with MTA experience, I think would be a great start.

Having met the gentleman, having heard and listened to the challenges posed by my colleagues, I think that it is a good

start.

Clearly not the end of the ride. We must visit underserved areas. I come from one of those. We struggled mightily to keep tolls away from bridges of one and two and three bucks. We have to deal with revenue generation. We have to deal with cost savings and waste. And transparency and oversight and great leadership at the top will help the engine to start rolling down the right track.

I support this nomination. Thank you very much.

ACTING PRESIDENT BRESLIN: Thank you, Senator Espada.

Senator Carl Kruger.

SENATOR CARL KRUGER: Thank you, Mr. President.

I rise firstly to thank my colleagues, both Senator Dilan and Senator Perkins, and their committees for joining us as we traveled through two hearings in the MTA region concerning this nomination.

The Governor, in his wisdom, selected someone of impeccable talent.

Mr. Walder comes to the head of the MTA with a vast knowledge of the workings of huge transportation systems. But more importantly, he comes with fresh ideas and with a clear mission.

At today's hearing, Mr. Walder committed to our committee that he would agree, notwithstanding the fact that our legislation calls for an audit, for a forensic audit of the MTA, the opportunity to open up the books and records in a way that we have never been able to do before. We will go into the MTA -- and originally we said that we would use our subpoena power, if necessary, to do it. Well, now transparency and accountability will become the cornerstone of the new administration at the MTA. And that we are very thankful for.

And we're very optimistic as we go forward that we're going to uncover many of the things that we all have been mumbling and talking about, from hidden assets to two sets of books.

And with that in mind, we have to

recognize that we still have an obligation. The capital plan that we put forward is a short-term vision of what ultimately has to become a long-range goal to bring the MTA into the 21st century. And with Mr. Walder at the head, I know that we're going to be able to do it.

Yes, we went through some tough times. There were some tough negotiations: Were we going to decide to do a congestion pricing component and toll the East River and Harlem crossings as a way to offer a sustainable revenue stream for the MTA? We were going to talk about a gasoline tax. And if we spoke about a gasoline tax as an alternative to a payroll tax, we were talking about having to tax gasoline at over $2 on a gallon, which obviously was ludicrous.

So today we are on the threshold of a new era. We have an opportunity to bring to our ridership in this 12-county region both transparency, accountability, a mission and a purpose. Combined what we were able to do in our MTA rescue plan, we're not going to go

back to the transit system of the '80s. We're not going to be faced with draconian cuts in service and astronomical fare increases that the rank-and-file ridership could not absorb.

Certainly there are vast holes. The issue of what's happening on the Long Island Railroad is of deep concern to us. The labor package as it's been brought forth by the arbitrator raises some serious challenges at the MTA. The points that Senator Saland said are points that don't date from today, but we're talking about inequities that go back 25 years, if not better -- inequities that this house under past leadership should have and could have dealt with. The way the structure of the MTA board was created was created in administrations that were under the control of the prior majority in this house.

So at the end of the day, Mr. President, what we're able to say is that we have a new birth and a new generation at the MTA with a new mission and a new purpose, armed with this house as a partner, but with the legislative muscle to make changes if

changes have to be made.

Welcome aboard, Mr. Walder.

Thank you.

ACTING PRESIDENT BRESLIN: Thank you, Senator Kruger.

Senator Savino.

SENATOR SAVINO: Thank you, Mr. President.

I also rise in support of this nomination. And I want to congratulate the Governor for his selection. I also want to thank my colleagues Senators Kruger, Perkins and Dilan for hosting the hearings.

And earlier this week I had the opportunity to first attend a hearing in Harlem where I got to meet Mr. Walder for the first time. I was quite excited to meet him. I'm a big fan of his work, having been to London several times and seen just how impressive the London Underground is and how it not only centered around the city, the city center of London, but the greater London region, which in many ways is very similar to the 12-county region of the MTA.

But in the course of these discussions that we've had, I warned him about the combative nature that exists between the MTA and the Legislature. And the truth is no legislator ever loses votes by beating up on the MTA. It's an agency we all love to hate, and with good reason.

And as you have heard, Mr. Walder, in your conversations with many of us during the last few weeks, there is a level of frustration and anger that we reflect from our constituents, constituents who have been underserved and overtaxed by the MTA for decades. You've heard it from Senator Lanza, you've heard it from Senator Marcellino, you heard it from Senator Saland, you will hear it from some of my colleagues.

And I have a basic philosophy in life. It's okay to be angry, but you should know who to be angry at. So I'm not going to hold you responsible for a job that you haven't gotten yet. I'm not going to hold you responsible for the past mistakes of the MTA. I'm going to welcome you aboard. With your

wealth of information, with your vast experience, you are a world-class transportation expert, and I'm going to hope that you're going to take some of that innovation that you have used in London and in Asia and in the other transit markets in Europe and you're going to bring that to the MTA, because they need to so desperately.

And I'm going to hold you accountable for starting to change the relationship between your agency and this body. And I will tell you, you're lucky you only had to deal with the Senate. If you had had to listen to the Assembly as well, these hearings would have gone on a lot longer.

There is a level of discontent that exists between the MTA and the people in this room, the people who should be your partner. And I hope that we will become your partner, and I am prepared to become one of those partners. Because the work that you are going to be entrusted to do is so critically important not just to the people who live in my district or Senator Lanza's district or

Senator Smith's district, but the entire region. You know the importance of a world-class transportation system. So I'm going to hold you accountable for those things, not for the past.

And finally, I have heard a couple of people raise the issue of your salary. Now, just for comparison, I'm going to read a couple of numbers which some of you probably don't have. So the new head of the MTA, chair and CEO, who's going to earn a salary of a $350,000 a year, will oversee a system that carries 10 million, almost 11 million people a day and has over 70,000 employees.

Compare that to the City of Washington, where the general manager of their system earns $300,000 a year -- just a few thousand less -- but they only move a million people a day and they only have 9200 employees.

And you look at Denver, where their interim GM earns $172,000 a year, just about half of this compensation package. But yet they only move 292,000 people a year and have

2500 employees.

So in the scope of compensation packages for the head of a major transportation system, I don't think $350,000 is out of whack. In fact, after having listened to us for the past few weeks, I actually think you should ask for a raise, because it's not going to be easy.

But I hope that your interaction with members of the Senate has been informative, even if it has not always been pleasant, and we will create a new dynamic and a new relationship that will help us build that world-class system that New York City definitely deserves, the suburban regions deserve, and upstate deserves as well.

Thank you, and welcome aboard, Mr. Walder.

ACTING PRESIDENT BRESLIN: Thank you, Senator Savino.

Senator Schneiderman.

SENATOR SCHNEIDERMAN: Thank you, Mr. President.

I rise to strongly support this

nomination. I just have to say virtually all of the discussion here today by those who expressed concerns about Mr. Walder and his confirmation really has very, very little or nothing to do with Mr. Walder. You know the expression "It's not you, it's me?" Well, to a certain extent it's not you, it's us.

And you can tell that we have been having trouble for many years in our interaction with the MTA and our efforts to do our job to monitor what's going on, to make sure that appropriations are spent responsibly, to make sure that directives are followed. The MTA has been one of the most opaque entities that we've had to deal with in the state government.

I have to say, as someone who for many years represented the Straphangers Campaign -- and I've sued the MTA on numerous occasions and been in discovery trying to decipher their documents -- the MTA has gotten steadily better. Mr. Walder was a part of the team in the MTA really during the worst period of time of that agency, a very challenging

period of time, from '83 to '95. I actually saw the results of his work in some of the litigation that I was involved with.

And ladies and gentlemen, whatever your concerns are about the lack of responsiveness, about the concerns about numbers that don't appear to be credible -- and as Senator Kruger has indicated, we are going to be doing more by way of auditing to make sure that we know exactly what all the numbers mean. Whatever your concerns are about that, whatever your objections may be to congestion pricing or to tolling or anything else, that not Mr. Walder's fault.

I think it is important for us to focus on something here today as we are attempting to attract the best people into public service in this state. He could stay with McKinsey making a lot of money. He's coming back with a lot more money than he's going to make here. He's coming back to help us solve one of the most intractable problems in the State of New York, how to finance this agency, how to make sure that the engine that

makes our economy run in downstate New York operates efficiently and effectively for all of our constituents. I am glad he's coming back.

And I hope that you will listen to the criticisms, participate in the debate, answer the questions, fight with us. But not for one moment should you believe that -- I certainly don't believe anyone in good faith can contend you are not qualified and that it is not a benefit to the people of the State of New York that you are coming back to work with us.

I look forward to arguing with you, to debating with you, to questioning you, and occasionally suing you, perhaps --

(Laughter.)

SENATOR SCHNEIDERMAN: -- but that doesn't mean it's not great for the people of the State of New York that you're coming back here to us.

This is the most important engine of economic development in our state. Let us never lose sight of that, ladies and

gentlemen. The money from the downstate region finances everything else. Let's give this guy a chance. Let's give him the support we need.

And we'll help you with the forensic audits. Just in case there's something you can't figure out, we'll try and figure it out for you.

I strongly support this nomination, Mr. President.

ACTING PRESIDENT BRESLIN: Thank you, Senator Schneiderman.

Senator Larkin.

SENATOR LARKIN: Thank you, Mr. President.

I had the privilege and the pleasure today of meeting with Mr. Walder at three committee meetings. I had telephone calls with him last week. I don't want to be repetitive of what we heard from others on both sides of the issue, but this is a job that takes a man with experience. This is a job that needs somebody who can be hands-on.

I've read all about his term with

the MTA before. I've talked to some people who know what went on in London, and they say the same thing. He is a hands-on individual who knows how to lead, know how to manage. Those are two qualities that have been missing in the MTA for years. You don't have to be in the New York City area, you can be here in the Albany area and you can hear the same problems.

What we have here, though, Mr. Walder, we just need to make sure that you don't forget the comments that were rendered to you about our concerns and why we need what we need to make sure that the MTA responds to the ridership, whether it's the daily commuters or those who go to the city just for a day of recreation.

This is an important assignment. It's probably one of the most important jobs that we have here in the state. I don't know why anybody would want it. But you've got it. Now you've got to bring to the table those credentials that you have and put them alongside of your abilities and your

willingness to work with us.

I'm giving you my vote because you said "I will work to accomplish the positive things that the MTA is supposed to do." I trust you, but I'll be watching you.

ACTING PRESIDENT BRESLIN: Thank you, Senator Larkin.

Senator Dilan.

SENATOR DILAN: Thank you, Mr. President.

I rise to congratulate the Governor on the high caliber of his nominee. And also I'd like to commend Mr. Walder for taking on this awesome task of being the chairman and CEO of the Metropolitan Transportation Authority.

Also, I'd like to commend Mr. Walder on the fact that he did attend two public hearings and respond to our questions in an open forum. I think during the course of those two hearings -- also, I happen to be a member of the Corporations Committee, chair of the Transportation Committee, and a member of the Finance Committee, so I had many

opportunities to question Mr. Walder and to listen to his response.

So I think that he has already shown that he is an honest, hands-on person, and open, and will open up the MTA to accountability and transparency by the mere fact that he chose to be present at those two public hearings. He didn't have to be there. He had to be before us today at our committee meetings, but he chose to be at those public hearings.

I think that during the course of these meetings he also made his position very clear on congestion pricing. He indicated to at least us in the Transportation Committee, and I believe also in the Finance Committee and in the forums, that if congestion pricing was the law of the land he would implement it. However, in New York City we do not have congestion pricing, so therefore he's not advocating for it and he is not going to implement that.

Also, I just want to comment with respect to our five-year capital plan for

roads and bridges throughout the State of New York. We made a commitment to all our colleagues in this chamber that before this year is out there will be a plan for roads throughout the State of New York -- Long Island, upstate. There will be a plan for the bridges of the State of New York.

Also my committee, Transportation, has committed to holding hearings throughout the state. Within probably the next two months, we'll be in Buffalo, we'll be in Syracuse, we'll in Long Island, we'll be in the Hudson Valley. I expect, hopefully, that we'll be also in Binghamton to listen to all the concerns of the people of the State of New York.

And as we promised every member in this chamber and the people of the State of New York during our budget negotiations, we will have a five-year capital plan for roads and bridges for the entire State of New York.

Thank you, and good luck.

ACTING PRESIDENT BRESLIN: Thank you, Senator Dilan.

Senator Leibell.

SENATOR LEIBELL: Thank you, Mr. President.

And I also was at the Finance Committee meeting and had a chance to listen to the nominee. And I think the nominee understands by now, after having listened to so many members, both at the committee meeting and here on the floor, that our comments are in no way personal. And certainly he brings to this position a great resume.

Having said that, I think the nominee is also very aware by now of how distressed we are as a legislative body and how distressed our constituents are.

It was only a few years ago that we passed a major reform law for authorities. At the time I chaired that committee. And I have to say to you that there was no authority that resisted change more than the MTA, through every back channel you can think of. They did not wish to change.

Every entity, whether it's an authority or a legislature or a private

industry, has a culture, a corporate culture. And I'm going to suggest that the corporate culture within the MTA is one of arrogance coupled with indifference.

Now, there's a reason why we have authorities in this state and in all other states. Actually, they were initially used very successfully by Governor Franklin Roosevelt, later President Franklin Roosevelt. And they are creatures of the state government. They can move more swiftly than entities that are not authorities. They are able to significantly finance things and do things in a different way than we might otherwise do. They do bring advantages to the public sector that can benefit and have in the past benefited our constituents.

But this is an organization, the MTA, that is so far out of whack, so far out of line, that they only hurt our constituents. Senator Saland mentioned the county that he and share -- and I also go into Putnam, northern Westchester. The cost to our ridership of participating in this body, in

this MTA, in this authority, the farther north you go, the more it outweighs the benefits.

And yet how are we treated? There were not those public hearings conducted in the Hudson Valley. I'm glad to hear they'll be there someday. I hope that it's known that the Hudson Valley goes beyond Yonkers. We'd love to hear from the people in power. My constituents would love to hear from the MTA. They'd like to know what it is that they did wrong that they have been so badly beaten up.

When we talk about the payroll tax following a budget that we had last year that was disastrous, that is almost the final nail in the coffin for the Hudson Valley and for probably most of the MTA region.

I hope that our nominee will be able to change this corporate culture. I hope that this nominee will be able to show our constituents that this will be a different type of organization, that it will provide real services at an affordable cost.

And I do not think it's inappropriate to discuss salaries that people

are paid in public life. I've heard a couple of my colleagues throw around very large numbers here today, double probably -- almost double what the Governor of this state makes. Last time I looked the Governor, has some great responsibilities. I'm going to suggest to you that the chairman of the Joint Chiefs of Staff has a number of significant responsibilities but makes a fraction of this salary.

So these numbers are not insignificant, and they are public dollars at the end of the day. We've seen a lot of criticism out there during this recession of some of the bonuses and salaries that are paid in the private sector. Well, it's even more significant when they're public dollars.

So I hope our nominee will listen to what we are saying here today, and especially to my comments on a corporate culture that is bad, that is rotten, and that needs to change.

Thank you, Mr. President.

ACTING PRESIDENT BRESLIN: Thank

you, Senator Leibell.

Senator Stavisky.

SENATOR STAVISKY: Thank you, Mr. President.

Senator Schneiderman is not the only one who has sued the MTA in the past. Many years ago my husband went to federal court and sued the MTA on the issue of holding hearings before there are changes in service. And in fact I believe Senator Schneiderman used that case as part of his argument.

But let me be very, very brief, because we've heard today comments from various people representing different parts of the state. To summarize, what I think is facing the MTA today is a crisis in confidence. We have to be able to restore our faith in the MTA that when they show us some numbers, that we know that those numbers are true and accurate representations of what actually is.

So it is my hope with this confirmation of Mr. Walder -- and I feel very confident that he will do this -- that he will

restore the confidence that has been so lacking over the years in the MTA. And I think it's up to us in the Legislature to try to make it as easy as possible, because I think we succeed as he succeeds.

And Mr. President, I vote aye.

ACTING PRESIDENT BRESLIN: Thank you, Senator Stavisky.

Senator Perkins.

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

I just want to take a moment to express my support for the candidate, the nominee.

I had the honor of working with Senator Dilan and Senator Kruger in a series of hearings out in Mineola, Long Island, as well as in New York City, in my district in particular, and therefore had a sort of privileged opportunity to see him respond to a lot of criticism that obviously has great merit from the perspective of those in certain parts of the community.

One of the things that I was

appreciative of, especially when he was in my district, was that after he made his presentation and was grilled by the members who were a part of the committee, he bothered to stay and hear from the rest of those who had come to testify. Even as they criticized vociferously, he nevertheless sat and took it in and seemed to be at least interested in not just being flattered but also hearing the criticism. He could just as easily have gone and did what he had to do is, as is normally the case, but instead he stayed to the end of what I think turned out to be I think a three or four hour hearing in which he was really finished after the first hour.

So I think that that kind of patience and appreciation to hear is an indication of the kind of quality I think that begins to provide for the leadership, the kind of leadership that is going to be needed in this very difficult circumstance that we are all facing, and hopefully with his leadership.

I have a little curiosity, though, about some of the concerns that I've heard,

which is that, you know, these problems in other parts of the region that have come up during the earlier debates and even today are problems that are new to us today, those of us that are in the majority now. And it seems -- I'm a little bit curious about why, having been in the leadership in the past, these problems are still remaining.

I think it's very, very important for Mr. Walder to really come to an appreciation of what didn't happen over the past forty years or so when there was a different type of leadership, especially that was not necessarily from the city but from outside of the city.

And so I would hope that those who had the opportunity to be in such leadership positions in the past would really share with him what were the intractable problems that you've had and you seem to be laying at his feet -- not necessarily to blame, but nevertheless to challenge him and perhaps even suggest that he's not worthy because he doesn't have the answers right now. So

something that's happened for a long time in other places that he has to deal with almost as if he's responsible for those conditions.

So let us, like, all work together to help him understand that and to help him make the lift that's needed to be made so that the region -- and especially my neighborhood -- gets the kind of services that folks feel that they're paying dearly for. But I mean, in all seriousness, that all of our neighborhoods, that all of our communities get it.

And I think, in that spirit of unity and cooperation, we give him at least a head start to be successful. Because his failure is not his own, his failure becomes our constituents'. And we can't afford for our constituents to suffer another failure.

And the fact that he is coming from an important place where he could make a lot more money is totally irrelevant to me. In fact, the privilege of the opportunity that he's getting is priceless. And I would hope that he appreciates that and does not in any

way think that the comparison of his salary to what he could be worth is some sort of a sacrifice on his part.

Quite the opposite. He's in a place where he's able to make a significant difference in many more lives, I daresay, than he would as a rich person in some famous law firm or whatever the case may be. He's now going to be the head of the most significant transit system in the world and have an opportunity to bring it to a place where there's never been and perhaps where no other transit system in the world has ever been. That's a great opportunity for someone, any one of us to be able to have the privilege of doing.

So I welcome him towards that end, and I appreciate the fact that my colleagues who have been dissatisfied have been very vigorous about their dissatisfaction with the way the system is now. It reminds me of the best quality of my constituents, which is that they dare to complain and be persistent in order to make me do a better job. And I hope

that that translates to him becoming a better leader for our system.

Thank you.

ACTING PRESIDENT BRESLIN: Thank you, Senator Perkins.

Senator Flanagan.

SENATOR FLANAGAN: Thank you, Mr. President.

Like everybody else, I had a chance to listen to a lot of the comments that were offered, including the comments that just came from Senator Perkins. I would differentiate just in a couple of basic respects.

I, like many of us, had a chance to meet Mr. Walder a little while ago. He was up in Albany several months ago, and I had a chance to ask him very frankly and bluntly like "Why do you want this job? Why would you want this job?" And I think -- I won't put words in his mouth exactly, but the answer was "It's kind of like the World Series. You're playing for the Yankees. When you're head of the MTA and you work in transit, you're on the best team and this is the biggest challenge

that's out there."

I respect that. On paper, his credentials are impeccable.

But I listened to Senator Dilan, and he made a reference that Mr. Walder had attended two public hearings when he didn't have to. Technically, you're right. But fundamentally, I think that's where we start to get off on the wrong foot.

If a legislative body says they want a prospective nominee or they want the chairman or the executive director, the bottom line is they should show up. They're not doing us any favor. They should be there because that's their job, that's their responsibility.

And to the comments that were offered by many of my colleagues, including Senator Perkins, I would make this differentiation. We all have our one vote, and in reality that's all we have. Perhaps we have our reputation and our integrity, but the bottom line is we have our one vote. And when I cast my vote today, I want to be able to go

back to my constituents and say this is why I voted yes or this is why I voted no.

And in listening and watching -- and I did not attend the hearings, but I spoke to many of my colleagues who asked very direct, pointed, timely and in-depth questions -- I can't go back to the people I represent and say yes, this person is terrific on paper and I have every confidence that things are going to go in the right direction.

And here's the bottom line. And this is where I will say, perhaps a little differently, I am going to make it personal. I don't believe that Mr. Walder has offered enough information and enough concrete details and enough hard ideas to the people in this body. So I can't go back right now and say I'm good, on behalf of the people I represent, I think we're going in the right direction. And I'll just give a couple of examples.

Let's not overlook the fact that despite the fact that Mr. Walder has been overseas for a number of years, he worked for the MTA for 13 years. He's not a newbie to

the situation here. He's got a track record -- no pun intended -- having worked in this area and for this authority for over a decade. So he's not unfamiliar with some of the problems that have been around before, during his tenure, and after, and the things that are there prospectively.

And I don't care whether it's him or anyone else who's looking for this job. When you come and you're going to take on a responsibility like this, you do your homework. You're not coming into this blind. You're going to know what the politics are. You're going to know who the players are. You're going to know who the new chairs are. You're going to know who the people are that you have to meet with. And you sure as heck are going to know what the issues are, whether it's a deficit, it's a bailout, it's a payroll tax, it's a five-year capital plan, it's begging for federal money.

You're coming into this process. And while you may not know every nuance and every detail of what goes on in the MTA every

single day, let's not kid ourselves that our nominee here is new to the game.

Now, why is that important to me? Because on very basic things -- and I'll use two examples -- not enough forthright answers. I would love to be able to go back to my constituents and say, In light of the fact of what's going on in this economy, the head of the MTA has made it clear that he is going to fight like heck to overturn that arbitration award.

We cannot afford it. We all know we cannot afford it. And if something is not done about it, those $300 million in additional labor costs is going to come out of somebody's hide. It's either going to come out of the capital plan or it's going to come out of the ratepayers or the fare payers, and we're going to be the ones that are going to have to deal with that ultimately because it's our constituents that are going to be affected.

So I am making it personal in this respect. I wanted more detail and I wanted

more in-depth answers and three or four or five concrete things that this gentleman would have said "These are my first five mission priorities to get things done." Because you all know this, and I know it as well, you step into a job like, if you have trouble coming up with some hard stuff for us, you'll never get the hard stuff done when you go there.

Now, I'll close with this. I hope, in deference to many of the things that my colleagues said, I hope I'm wrong. I absolutely hope I'm wrong. And I hope in six, nine, 12 months I can go to my constituents and say: You know what, this gentleman has proved me wrong and we're all better because he's now the head of the MTA. So I hope I'm wrong.

But right now I don't have the level of comfort to vote yes. I will be voting no.

ACTING PRESIDENT BRESLIN: Thank you, Senator Flanagan.

Senator Fuschillo.

SENATOR FUSCHILLO: Just quickly,

Mr. President. Thank you very much.

And I appreciate the comments and sensitivity that my colleagues have expressed. But the time is now to act.

And I want to thank Senator Perkins, Senator Kruger, and Senator Dilan for holding the hearings that they did on Long Island, in Mineola. And I expressed the same frustration as my colleagues did from Long Island, and I thought Mr. Walder was somewhat evasive.

But I must say that this bloated bureaucracy -- that has the worst reputation of any public authority or agency here in the State of New York -- needs leadership. I've met with Helena Williams, who is the acting CEO right now and president of Long Island Railroad, and she's overwhelmed. And I think it's important that this legislative body addresses the issue now.

Mr. Walder's resume is unquestionable. His experience in transportation issues is exactly what the MTA needs. I'm going to vote for this nominee

with the hope that today is a new beginning, today is an understanding that my commuters from my district -- and Long Island Railroad runs up and down my district, from Baldwin to Babylon -- he understands that the commuters can't take it anymore. They can't take any more increases in fees, they can't take any more increases in their tickets, they can't take any more increases in the surcharge.

But we have to act today. And I'm hopeful that with the experience that he brings, it's the experience necessary that's going to make a change in an agency that sorely needs it.

Thank you very much, Mr. President.

ACTING PRESIDENT BRESLIN: Thank you, Senator Fuschillo.

The question is on the notion to confirm the nomination of Jay H. Walder as chairman and chief executive officer of the Metropolitan Transportation Authority.

Senator Libous.

SENATOR LIBOUS: Thank you, Mr. President. Could I ask that the

confirmation vote be taken by a show of hands and that the nos be recorded and announced, please.

ACTING PRESIDENT BRESLIN: Of course, Senator Libous.

SENATOR LIBOUS: Thank you.

ACTING PRESIDENT BRESLIN: First, all those in favor please signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT BRESLIN: Opposed, please show your hands.

The Secretary will announce the results.

THE SECRETARY: Those Senators recorded in the negative on the confirmation of Jay Herbert Walder are Senators Flanagan, Griffo, Lanza, LaValle, Leibell, Libous, Marcellino, Maziarz, Nozzolio, Robach, Saland, Seward and Young.

Ayes, 47. Nays, 13.

ACTING PRESIDENT BRESLIN: The nomination is hereby confirmed; the motion carries.

(Standing ovation.)

ACTING PRESIDENT BRESLIN: Chairman Walder is also joined by his in-laws, Anne and Bill Cummings, and his uncle, Ed Gregory.

Congratulations.

(Applause.)

ACTING PRESIDENT BRESLIN: The Secretary will continue to read.

THE SECRETARY: As superintendent of the Insurance Department of the State of New York, James J. Wrynn, of Douglaston.

ACTING PRESIDENT BRESLIN: Senator Kruger.

SENATOR CARL KRUGER: Mr. President, can we please move the nomination.

ACTING PRESIDENT BRESLIN: Senator Stavisky.

SENATOR STAVISKY: Thank you, Mr. President.

I've known Mr. Wrynn for many years. In fact, I've known his entire family for certainly the past 15 years or so.

In the community, he's been

extremely active. He is a member of the board of St. John's Law School Alumni. He was counsel to a member of the Assembly for five years. He served on the New York City Economic Development Corporation, the Business Relocation Corporation, and so on -- the Community Board 13.

But let me mention some of the things that are not so apparent from the biographical material that you have before you.

He has served the Little Neck-Douglaston Memorial Day Parade, which is one of the largest in the country, and in 2007 he was their "Man of the Year."

He also joined President Clinton in December of 2000 on a visit to Northern Ireland. He's been involved with the peace movement in Northern Ireland, which I find very interesting because we were privileged to visit Northern Ireland several years ago with the Irish legislators.

He also joined the New York State Attorney General on a visit to Ireland in

March of '05, with Speaker Quinn from the New York City Council and other dignitaries.

And in fact, in September of 2007 he received the Paul O'Dwyer Peace and Justice Award for his service to the peace process.

He's an attorney. His law office was originally in Manhattan, but he's in been in Douglaston for quite a number of years. He's been the executive director of the State Insurance Fund for several months. And this is an opportunity for him to participate in policymaking as it affects the insurance industry.

One of my previous jobs many years ago was working in the actuarial department of an insurance company for two years, and I must say it was not the most interesting job in the world. And in fact that's when I went into teaching.

Jim Wrynn, on the other hand, finds it exciting. And it is a tribute to his enthusiasm and to his love of both the insurance industry, the accounting field, and tax policy that brings him to this

confirmation day as superintendent of the State Insurance Department.

As an attorney I have seen Jim Wrynn treat parties with great respect. Today, before the Finance Committee, I was impressed with the way he handled himself. You can see that this is an individual who will treat people fairly. He will treat all parties fairly. And he is an expert in all aspects; he made that very clear today at the Finance Committee.

And the most interesting quote of all, I must tell you, was in the Times Union, where he was quoted as saying "I love insurance."

And sometimes I think we become a little jaded, a little sort of skeptical. And to see somebody so interested in this field I find to be very inspiring and exciting. And I am so proud to stand here today to speak on the confirmation of James J. Wrynn, Jr.

But let me just add that in the balcony with him -- and I know the Temporary President will introduce the people formally,

but I am so happy to see so many friends from the Queens community. I see wife up there, Maura, who's a public school teacher, and his parents, Mrs. and Mrs. James Wrynn, Sr. And I think I even see Justice Peter O'Donoghue up there in the gallery, justice of the Supreme Court.

So we welcome you all to Albany. And this is a very exciting day for not just the Wrynn family but for the Stavisky family and for the people in Queens County.

Thank you, Mr. President.

ACTING PRESIDENT BRESLIN: Thank you, Senator Stavisky.

Senator Seward.

SENATOR SEWARD: Thank you, Mr. President.

I certainly have not known Jim Wrynn to the length of time that Senator Stavisky has. In fact, I've only gotten to know Mr. Wrynn during the confirmation process as the ranking member of the Insurance Committee.

But I've got to say that I've been

very, very impressed with Jim Wrynn. He is obviously very well qualified to be Superintendent of Insurance. He's very knowledgeable on the issues. And there is a sense of enthusiasm for the issues that is well demonstrated by not only his background but his comments during the confirmation process.

He certainly has an experience-based background in the insurance issues. And I've been particularly impressed with his stated desires in terms of our future in terms of insurance in this state to have the insurance market be very vibrant and for the benefit of insurance consumers of our state, and also maintaining New York State as the insurance capital not only in the country but of the world. And that's very, very important to the thousands and thousands of people who not only are insurance consumers but who are employed by the insurance industry of our great state.

So I rise, Mr. President, to congratulate the Governor on this choice and

also to congratulate Jim Wrynn and his family and certainly look forward to working with him in the future.

ACTING PRESIDENT BRESLIN: Thank you, Senator Seward.

Senator DeFrancisco.

SENATOR DeFRANCISCO: Yes, I rise also in support of the nomination.

I think sometimes when you meet somebody and just listen to his answers, you get a good feel for the type of person the nominee is. And I just happen to feel that this is the right person for this job.

His answers were professional. A couple of tough questions were asked in Finance. He didn't give the answer that maybe the person questioning him wanted or expected or would have been good for his nomination; he gave the honest answer. And with respect, for example, to tort reform. It depends on what tort reform you're talking about, rather than the knee-jerk reaction that you would see from many nominees trying to please someone questioning him.

In this particular case also, what impresses me is that he's already taken on a very difficult issue that I've been involved in for several years, life settlements. He's gotten involved himself, he's listening to both sides of the issue to come out with a reasonable solution to a very important issue.

He's also interested in the malpractice issue, has committed to follow through on some of the work that was done during a prior administration that simply just didn't get done that can be done because there was some common ground by people on both sides of the issue.

And I think he clearly understands, having represented both insurance companies and individuals, that there is not only an insurance industry in this state but there's a group of people that buy insurance that have to be protected against practices that aren't fair.

And I feel very good about this nomination. But the real reason I'm voting for him is when I called him back when he

first called me to talk about his nomination, I talked to his secretary for some time. And she probably knew him the best, and she had glowing recommendations. And I felt that if she really felt this man was a good guy and was the right person for the job, who would know better? So I'm going to vote aye on this nomination.

Thank you, Mr. President.

ACTING PRESIDENT BRESLIN: Thanks, Senator DeFrancisco.

Senator Onorato.

SENATOR ONORATO: Thank you, Mr. President.

It gives me a great deal of pleasure to second the nomination of Jim Wrynn. Jim Wrynn was one of my district leaders in the 25th Assembly District when I represented part of his district. And I'm very, very happy now to have the opportunity of giving him some of my support for all of the support that you've given me.

Good luck in your new endeavor. God bless you and your family.

ACTING PRESIDENT BRESLIN: Thank you, Senator Onorato.

Senator Duane.

SENATOR DUANE: Thank you, Mr. President.

I want to congratulate the Governor on this appointment. I think that Jim Wrynn is just an excellent choice.

These are very challenging times -- very challenging times for the economy, very challenging times for the insurance industry. A great many things are undergoing really enormous change. And we need a steady hand. We need someone who really understands this very important industry to our state completely and thoroughly, and Jim Wrynn actually is someone who really fits that bill.

So I'm -- and not just because we're from the same part of Queens, but I do have to comment on that; it's a very fertile territory for smart people. But not just for that reason, I think the Governor has made an excellent, excellent choice.

ACTING PRESIDENT BRESLIN: Thank

you, Senator Duane.

Senator Smith, to close.

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

I just want to rise to congratulate the Governor on a great selection and to congratulate you, Senator Breslin, as chair of Insurance. I know the work that was done to bring this nominee forward.

I do want my good friend Jimmy Wrynn to know that at times I know he requested to meet with me. The only reason why I didn't is because I knew your qualifications were so great, I didn't want to waste public time.

This is actually a great day for Queens, if you think about it, Mr. President. We have Jay Walder, who was born in Rockaway, and now we have Jimmy Wrynn. That tells me for some way that Queens might be soon running the State of New York the way things are going. I'm not sure if that's a good or a bad thing.

(Laughter.)

SENATOR SMITH: But again, Jimmy Wrynn is a well-qualified individual. The fact that he is a proud alumni of St. John's, I'm not going to hold that against him, because I'm an alumni of Fordham. But we do have our relationships between Jesuits and how they train.

But this is a good for the state, a good day for his family. It has been a long time coming, is well-deserved. And I'm just happy to stand on this floor and be able to be here the day that Jimmy Wrynn is now going to be the Superintendent of Insurance for the great State of New York.

Thank you, Mr. President.

ACTING PRESIDENT BRESLIN: Thank you very much, Senator Smith.

And, Jim Wrynn, I would echo the remarks of all of the speakers that I think you're going to make an excellent commissioner and I look forward to working with you very closely.

The question is on the motion. All those in favor please signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT BRESLIN: Opposed, nay.

(No response.)

ACTING PRESIDENT BRESLIN: The motion carries. The nomination is hereby confirmed.

(Standing ovation.)

ACTING PRESIDENT BRESLIN: And as Senator Stavisky indicated, Jim is joined by his parents, Evelyn and James; his wife, Maura; and his sons, Kevin and James.

Welcome. Congratulations.

(Applause.)

ACTING PRESIDENT BRESLIN: The Secretary will continue to read.

THE SECRETARY: As a member of the Workers' Compensation Board, Konrad W. Lower, of Brooklyn.

ACTING PRESIDENT BRESLIN: Senator Kruger.

SENATOR CARL KRUGER: Please move the nomination, Mr. President.

ACTING PRESIDENT BRESLIN: The

question is on the nomination. All those in favor please signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT BRESLIN: Opposed, nay.

(No response.)

ACTING PRESIDENT BRESLIN: The motion carries, and the nomination is hereby confirmed.

Congratulations.

(Applause.)

ACTING PRESIDENT BRESLIN: The chair recognizes Senator Smith.

SENATOR SMITH: Yes, Mr. President. There will be an immediate meeting of the Finance Committee in the Majority Conference Room.

Pending the return of the Finance Committee, could we please have the Senate stand at ease.

ACTING PRESIDENT BRESLIN: There will be an immediate meeting of the Senate Finance Committee in the Majority Conference Room, Room 332.

The Senate will stand at ease pending the report of the Finance Committee.

(Whereupon, the Senate stood at ease at 5:51 p.m.)

(Whereupon, the Senate reconvened at 6:34 p.m.)

ACTING PRESIDENT BRESLIN: Senator Smith.

SENATOR SMITH: Yes, Mr. President. If we could return to the order of reports of standing committees, I believe there is a report of the Finance Committee at the desk.

ACTING PRESIDENT BRESLIN: Senator Smith, there is a report of the Finance Committee here at the desk.

The Secretary will read. The Secretary will read the resolutions one at a time.

THE SECRETARY: By Senator Sampson, Concurrent Resolution Number 3087, establishing a plan setting forth an itemized list for grantees for a certain appropriation for the 2009-2010 state fiscal year for grants

that are incurred by local government agencies and/or not-for-profit providers or their employees providing civil or criminal legal services; for grants in aid for drug, violence, and crime control and prevention programs; and for grants that prevent domestic violence or aid victims of domestic violence, as required by subdivision 5 of Section 24 of the State Finance Law.

ACTING PRESIDENT BRESLIN: Are there any Senators wishing to be heard on the resolution?

The question is on the concurrent resolution. Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT BRESLIN: Announce the results.

THE SECRETARY: Ayes, 58. Nays, 2. Senators Ranzenhofer and Saland recorded in the negative.

ACTING PRESIDENT BRESLIN: The concurrent resolution is adopted.

The Secretary will continue to read.

THE SECRETARY: By Senator Smith, Concurrent Resolution Number 3088, establishing a plan setting forth an itemized list of grantees for certain appropriations for the 2009-2010 state fiscal year, as required by subdivision 5 of Section 24 of the State Finance Law.

ACTING PRESIDENT BRESLIN: The question is on the concurrent resolution. Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT BRESLIN: Announce the results.

THE SECRETARY: Ayes, 58. Nays, 2. Senators Ranzenhofer and Saland recorded in the negative.

ACTING PRESIDENT BRESLIN: The concurrent resolution is adopted.

The Secretary will continue to read.

THE SECRETARY: By Senator C. Kruger, Senate Resolution Number 3089, establishing a plan setting forth an itemized list of grantees for the New York State

Economic Development Assistance Program established pursuant to an appropriation in the 2008-2009 state fiscal year and in Part QQ of Chapter 57 of the Laws of 2008.

ACTING PRESIDENT BRESLIN: The question is on the concurrent resolution.

Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT BRESLIN: Announce the results.

THE SECRETARY: Ayes, 59. Nays, 1. Senator Ranzenhofer recorded in the negative.

ACTING PRESIDENT BRESLIN: The resolution is adopted.

The Secretary will continue to read.

THE SECRETARY: By Senator Smith, Concurrent Resolution Number 3130 of the Senate and Assembly, authorizing the Senate and Assembly of New York State to purchase copies of the New York Red Book for the 2009-2010 session.

ACTING PRESIDENT BRESLIN: The

question is on the concurrent resolution.

Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT BRESLIN: Announce the results.

THE SECRETARY: Ayes, 59. Nays, 1. Senator Ranzenhofer recorded in the negative.

ACTING PRESIDENT BRESLIN: The concurrent resolution is adopted.

The chair recognizes Senator Smith.

SENATOR SMITH: Yes, thank you, Mr. President.

There will be an immediate meeting of the Rules Committee in the Majority Conference Room, and I ask that we stand at ease pending the conclusion of the Rules Committee.

ACTING PRESIDENT BRESLIN: There will be an immediate meeting of the Rules Committee in the Majority Conference Room, Room 332.

The Senate will stand at ease pending the report of the Rules Committee.

(Whereupon, the Senate stood at ease at 6:39 p.m.)

(Whereupon, the Senate reconvened at 7:15 p.m.)

ACTING PRESIDENT STEWART-COUSINS: The chair recognizes Senator Smith.

SENATOR SMITH: Yes, Madam President. If we could return to the order of reports of standing committees, I believe there's a report of the Rules Committee at the desk.

ACTING PRESIDENT STEWART-COUSINS: Yes, Senator Smith, there is a report of the Rules Committee here at the desk.

The Secretary will read.

THE SECRETARY: Senator Smith, from the Committee on Rules, reports the following bills:

Assembly Print 8901, by Member of the Assembly Silver, an act to amend the Public Authorities Law;

Assembly Print 9031, by Member of the Assembly Cahill, an act to amend a chapter of the Laws of 2009;

Senate Print 6064, by Senator Squadron, an act to amend the Executive Law;

And Senate Print 6157, by Senator Sampson, an act to amend the Legislative Law and the Public Officers Law.

All bills ordered direct to third reading.

ACTING PRESIDENT STEWART-COUSINS: Senator Smith.

SENATOR SMITH: Yes, Madam President. I move that we accept the report of the Rules Committee.

And are there any substitutions at the desk?

ACTING PRESIDENT STEWART-COUSINS: All those in favor of adopting the report of the Rules Committee please signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT STEWART-COUSINS: Opposed, nay.

(No response.)

ACTING PRESIDENT STEWART-COUSINS: The report of the Rules Committee is adopted.

The Secretary will read the substitution.

THE SECRETARY: In relation to Calendar Number 959, Senator Squadron moves to discharge, from the Committee on Rules, Assembly Bill Number 9032 and substitute it for the identical Senate Bill Number 6064, Third Reading Calendar 959.

ACTING PRESIDENT STEWART-COUSINS: Substitution ordered.

Senator Smith.

SENATOR SMITH: Madam President, I at this time would ask for unanimous consent and ask that the roll be opened for each of the four bills on the calendar so that Senator Huntley can vote on each bill.

ACTING PRESIDENT STEWART-COUSINS: The Secretary will read.

THE SECRETARY: Calendar Number 960, by Senator Sampson, Senate Print 6157, an act to amend the Legislative Law and the Public Officers Law.

ACTING PRESIDENT STEWART-COUSINS: Read the last section.

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

ACTING PRESIDENT STEWART-COUSINS: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT STEWART-COUSINS: Senator Huntley, how do you vote?

SENATOR HUNTLEY: Yes.

ACTING PRESIDENT STEWART-COUSINS: Senator Huntley to be recorded in the affirmative.

SENATOR LIBOUS: Lay the bill aside.

ACTING PRESIDENT STEWART-COUSINS: The bill is laid aside, and the roll call is withdrawn.

The Secretary will read.

THE SECRETARY: Calendar Number 959, substituted earlier today by Member of the Assembly Silver, Assembly Print Number 9032, an act to amend the Executive Law.

ACTING PRESIDENT STEWART-COUSINS: Read the last section.

THE SECRETARY: Section 22. This

act shall take effect January 1, 2010.

ACTING PRESIDENT STEWART-COUSINS: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT STEWART-COUSINS: Senator Huntley, how do you vote?

SENATOR HUNTLEY: Yes.

ACTING PRESIDENT STEWART-COUSINS: Senator Huntley will be recorded in the affirmative.

The roll call is withdrawn, and we will lay the bill aside.

The Secretary will read.

THE SECRETARY: Calendar Number 872, by Member of the Assembly Silver, Assembly Print Number 8901, an act to amend the Public Authorities Law.

ACTING PRESIDENT STEWART-COUSINS: Read the last section.

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

ACTING PRESIDENT STEWART-COUSINS: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT STEWART-COUSINS: Senator Huntley, how do you vote?

SENATOR HUNTLEY: Yes.

ACTING PRESIDENT STEWART-COUSINS: Senator Huntley will be recorded in the affirmative.

The roll is withdrawn, and the bill is laid aside.

The Secretary will read.

THE SECRETARY: Calendar Number 877, by Member of the Assembly Cahill, Assembly Print Number 9031, an act to amend a chapter of the Laws of 2009 amending the Public Authorities Law.

ACTING PRESIDENT STEWART-COUSINS: Read the last section.

THE SECRETARY: Section 4. This act shall take effect on the same date and in the same manner as a chapter of the Laws of 2009.

ACTING PRESIDENT STEWART-COUSINS: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT STEWART-COUSINS:

Senator Huntley, how do you vote?

SENATOR HUNTLEY: Yes.

ACTING PRESIDENT STEWART-COUSINS: Senator Huntley is recorded in the affirmative.

The roll is withdrawn, and the bill is laid aside.

That concludes the noncontroversial reading of the calendar.

Senator Smith.

SENATOR SMITH: Yes, Madam President. First let me thank my colleagues on the other side of the aisle, Senator Libous and Senator Skelos, for accommodating one of our members. We appreciate that gesture. And we just want to wish Senator Huntley well.

But at this time, Madam President, could we now go back to the reading of the noncontroversial calendar.

ACTING PRESIDENT STEWART-COUSINS: The Secretary will read.

THE SECRETARY: Calendar Number 960, by Senator Sampson, Senate Print 6157, an act to amend the --

SENATOR LIBOUS: Lay it aside, please.

ACTING PRESIDENT STEWART-COUSINS: The bill is laid aside.

THE SECRETARY: Calendar Number 959, substituted earlier by Member of the Assembly Silver, Assembly Print Number 9032, an act to amend the Executive Law.

ACTING PRESIDENT STEWART-COUSINS: Read the last section.

THE SECRETARY: Section 22. This act shall take effect January 1, 2010.

SENATOR LIBOUS: Lay it aside.

ACTING PRESIDENT STEWART-COUSINS: The bill is laid aside.

THE SECRETARY: Calendar Number 872, by Member of the Assembly Silver, Assembly Print Number 8901, an act to amend the Public Authorities Law.

SENATOR LIBOUS: Lay it aside.

ACTING PRESIDENT STEWART-COUSINS: The bill is laid aside.

THE SECRETARY: Calendar Number 877, by Member of the Assembly Cahill,

Assembly Print Number --

SENATOR LIBOUS: Lay it aside.

ACTING PRESIDENT STEWART-COUSINS: The bill is laid aside.

Senator Smith, that completes the reading of the noncontroversial bills.

SENATOR SMITH: Yes, Madam President, thank you very much. At this time could we please move to the reading of the controversial calendar.

ACTING PRESIDENT STEWART-COUSINS: If the Secretary would please ring the bells, members are all asked to come to the chamber for the controversial reading of the bills on the calendar.

The Secretary will read.

THE SECRETARY: Calendar Number 960, by Senator Sampson, Senate Print 6157, an act to amend the Legislative Law and the Public Officers Law.

SENATOR LIBOUS: Excuse me, Madam President.

ACTING PRESIDENT STEWART-COUSINS: Senator Libous.

SENATOR LIBOUS: We're not following the agenda, we're doing the Senator Sampson bill first? So this is the chapter amendment that we're doing? We're on the chapter amendment?

ACTING PRESIDENT STEWART-COUSINS: Yes.

SENATOR LIBOUS: Explanation, Senator Sampson.

ACTING PRESIDENT STEWART-COUSINS: Senator Sampson, an explanation is required by Senator Libous.

SENATOR SAMPSON: Thank you very much, Madam President.

And this is on the chapter amendment, am I correct?

ACTING PRESIDENT STEWART-COUSINS: It is on the amendment, yes.

SENATOR SAMPSON: Thank you very much, Madam President.

Right now we are at a crossroads, and the crossroads --

SENATOR LaVALLE: Madam President.

ACTING PRESIDENT STEWART-COUSINS: Senator LaValle, why do you rise?

SENATOR LaVALLE: Just a procedural matter. We're taking up the chapter amendment before we take up the main bill?

I have not ever, I believe, had this done in the years I've served in this chamber, that we've taken up the chapter amendment first before the main bill.

SENATOR SAMPSON: Through you, Madam President, with all due with respect to Senator LaValle, we did that a couple of weeks ago when we did the school governance bill, in which we did the chapter amendments first before we did the main bill.

ACTING PRESIDENT STEWART-COUSINS: Senator Sampson, you were asked for an explanation.

SENATOR SAMPSON: Thank you very much, Madam President. Just to get to the body of it.

As I indicated before, we are at a crossroads, and that is either the status quo

or redefining our relationship with the public. Everyone knows what has happened a couple of weeks ago, a couple of months ago, and there has been an outcry from the public. And right now I think our theme and our agenda should be to established decorum back into the State Senate. We are the upper house, and we have to govern and manage that way.

And as a result of that, today starts that day. And I want to start it out with a chapter amendment. And this is no more business as usual. What this will do will take a significant step towards furthering transparency, greater accountability and personal responsibility.

I want to tell you a little bit about what this chapter amendment does. This bill makes ethics enforcement more independent. Right now what this bill would do is, one, expand the definition of lobbying to include resolutions, outcomes or any actions of either chamber or the outcome of any official act of the State Legislature.

Two, create a program of random

audit review of annual statements of financial disclosures by the Executive Ethics, the Compliance Commission, or the Legislative Office of Ethics Investigations, which is created in the main body of the bill by Senator Squadron.

Also, it requires public officers to report business dealings with lobbyists and their clients. In addition, it requires annual oversight hearings of joint legislative commissions on ethics standards by the appropriate standing committees of the Legislature. And this is only for a three-year term which sunsets after those three years so we can take a look at it and see how effective it is.

This chapter amendment also makes the following changes to the Election Law which creates an enforcement unit within the State Board of Elections. Right now there is really no enforcement. It also increases the penalty for intentional violations of campaign finance limits.

Let me go into the enforcement

unit. This enforcement unit will be overseen by an executive director which will have a fixed term, a fixed three-year term, which will appointed by a designating committee which will consist of nine members, three from the Governor, one each from the Comptroller's office and the Attorney General's office, and one appointed by each leader in both the Assembly and the Senate.

This enforcement unit will have the sole authority to conduct investigations initiated on its own or upon complaints, but these complaints must be substantiated. They cannot just be an allegation, they need to be substantiated.

It also will provide the Board of Elections with a written recommendation whether a violation exists. So once the enforcement unit finds a violation, they then have to go to the Board of Elections so the Board of Elections can look at all the evidence and make the determination whether it warrants further investigation or it should be dismissed. The state board can, by majority

vote, direct that this investigation not be undertaken. So the Board of Elections can make that determination that this investigation cannot continue.

As with respect to the penalties for the violation of campaign finance limits, this increases the penalties for candidates or committees that accept contributions above the state limits and increases the amount from $1,000 to up to $10,000. It increases penalties for failure to file financial disclosures from $500 to $1,000. And it requires any persons who contribute two or more times to a single campaign to report the name and address of their employer.

So basically what we're doing here is letting the public know that we heard the outcry. We understand that our commitment and our allegiance is to the public at large. And we undertake this responsibility very seriously.

I put forth these amendments to the underlying bill because what we need to do is we need to show the people of the State of

New York that we are serious. We are here, we take our jobs seriously and we take our responsibility to the public seriously. And as a result of that, I ask all my colleagues to join me in support of this.

Right now when we're in the streets and we're in our communities, we're not looked at very highly. We need to restore that honor and dignity back to this chamber. We need to work together, because we are all colleagues, and move this chamber in the right direction not only for the benefit of a Democrat or Republican, for the benefit of all people of the State of New York, all 19.5 million people.

If there's any questions, Madam President, you will let me know. Thank you very much.

ACTING PRESIDENT STEWART-COUSINS: Thank you, Senator Sampson.

SENATOR PADAVAN: Madam President.

ACTING PRESIDENT STEWART-COUSINS: Senator Padavan.

SENATOR PADAVAN: On the chapter amendment of the bill yet to be voted on. First let me say I intend for vote for Senator Squadron's bill, as I'm sure will most members of the chamber. However, as we discussed in the Rules Committee, there are some concerns that relate to the chapter amendment before us.

My primary concern relates to the enforcement unit, which, as you described, and accurately, would end up being seven Democrats and two Republicans under the current political climate. Years from now it could be just the reverse; who knows.

If you go back in time and you look at the Constitution, as was highlighted during the Rules Committee by one of our colleagues, enforcement and those things related to Election Law have always been bipartisan right down the middle. And so this enforcement unit in terms of how it's configured violates that precept, which I think has been fundamental.

I agree with you on everything you said about restoring voter confidence and

understanding that we are here to serve the people and not ourselves. But in the process I don't think we should be establishing a hit unit of nine people who on their own, because to use your own phrase, they can determine on their own who they're going to investigate. It isn't the Board of Elections that's going to direct them to do it; they can do it on their own, if I heard you correctly.

So do we need another Troopergate, another group of individuals who want to make a name for themselves, who are going to run around and target on a partisan basis, on a political basis, certain individuals -- you, me or anybody in this chamber? I don't think we need that. I think there's a better way to do it.

Now, if you feel that the enforcement capability of the Board of Elections is inadequate, then I would be happy to support anything that improves that ability, either by mandate or by statute or by resources, whatever is needed so that they can do an effective job of policing the election

process, which of course is fundamental to our democracy. But to set up this kind of entity presents, I think, potential problems that we need not allow to happen.

Now, the only question I'd like to ask you, Senator Sampson -- because you did explain the bill well and completely -- did the Assembly consider the proposal that you have before us today in the form of a chapter amendment?

ACTING PRESIDENT STEWART-COUSINS: Senator Padavan --

SENATOR PADAVAN: Will the Senator yield?

ACTING PRESIDENT STEWART-COUSINS: -- are you asking Senator Sampson to yield for a question?

SENATOR PADAVAN: Yes.

ACTING PRESIDENT STEWART-COUSINS: Senator Sampson, do you yield?

SENATOR SAMPSON: Yes, I do. For Senator Padavan, yes, I do. And the question is whether the Assembly --

SENATOR PADAVAN: My question,

Senator, was did the Assembly, when they deliberated on the bill and passed the bill that you're amending, did they consider your proposals as it relates to this enforcement unit?

SENATOR SAMPSON: Through you, Madam President, the Assembly, at that point in time they were considering, my chapter amendments were not prepared. But subsequently in the last two days I did have a conversation with the Speaker with respect to my chapter amendments, and he indicated that he would present that to his members and see how they felt with respect to this chapter amendment.

But to add on what you were talking about with respect to the hit unit and the panel, first of all, the designated panel will appoint an executive director who will be responsible for the enforcement unit. Currently, the enforcement unit that exists in the Board of Elections consists of two people with a budget of $200,000, which deals with, this year presently, over 15,000 disclosure

forms.

As a result of that -- through you, Madam President -- it has not been effective with respect to its enforcement unit as of to date. Through you, Madam President.

SENATOR PADAVAN: Well, Senator, just to finish up here -- I don't want to drag this out -- I accept what you say, absolutely. If there's not adequate resources -- I think I've said this before -- or there are not enough people to do the job, then let us do it the right way. Provide the resources, give them the people to do the job, monitor what they do, make whatever changes we want.

But to set up a nine-member independent group of enforcers -- and that's what they're called -- we have a Star Chamber arrangement here. And I don't think we want that. It's not democratic, it's not bipartisan, and I think it presents potential problems that the people of this state don't need and we certainly don't need.

SENATOR SAMPSON: Through you, Madam -- oh, should I respond? Oh, I'm sorry.

ACTING PRESIDENT STEWART-COUSINS: Senator Padavan, that was on the bill? There was no question, really. Okay.

Senator Volker.

SENATOR VOLKER: Madam President, you know, when Senator Bruno was the majority leader here, I was always reluctant to vote against his bills, just as now I'm reluctant to vote against Senator Sampson's bill. Obviously, there's a little bit of a difference.

But let me just say to you, as somebody who's been here a few years, I do not believe -- and I've talked to several constitutional lawyers already -- I don't believe this provision would stand up to scrutiny. And the reason is that a panel -- and, you know, to argue, well, part of it's the Governor and part of it is the Legislature, it's still a partisan panel.

And, you know, I've had a problem for some time with the fact that the Governor, whether it's Pataki or Spitzer or Paterson, that there seems to be an attitude, well, that

the Governor should be part of the guide to ethics for the Legislature. You know, let's remember that we just had this investigation. And although it's being pushed off as nothing, it wasn't nothing. It was a serious problem.

And it seems to me that we have to be especially careful of partisanship. And I know you didn't intend this to be partisan. But think of it, this agency will have seven Democrats and two Republicans. I can imagine a few years ago, when things were different, if we ever put a bill out that said even a little less than seven and two, your side of the aisle would go crazy and say "You can't do that."

The truth is that although I'm going to vote for the -- expect to vote for the Squadron bill, but I really think this is -- and the best way I can put it is this is overkill. What needs to be done is a more fair way to handle it so that we can have respect for the law. And I'm not accusing anybody of doing something to be corrupt or anything like that. That's not the issue.

You said, and I think you're right, that we have to do something which reflects for the confidence of the people out there. A vote of seven to two for one political party, it seems to me, doesn't reflect that confidence.

So unfortunately I'm going to have to vote against this chapter amendment. And I would hope that we would be able to work out a better way to do some sort of enforcement process so that we don't get ourselves into a bad ethics problem for the ethics people in the future.

ACTING PRESIDENT STEWART-COUSINS: Thank you, Senator.

Senator Flanagan.

SENATOR FLANAGAN: Yes, Madam President. Would the sponsor yield?

ACTING PRESIDENT STEWART-COUSINS: Senator Sampson, do you yield?

SENATOR SAMPSON: Yeah. For Senator Flanagan, any time.

ACTING PRESIDENT STEWART-COUSINS: Senator.

SENATOR FLANAGAN: Thank you. If he would yield to a series of questions, I would appreciate that.

Senator Sampson, I was looking at -- first of all, listening to the comments, but looking at the bill, and I have a number of different questions. And I'll start on page 8. It references when this unit undertakes their own investigations, it says on line 13 that if they decide that their allegation appears to be supported by credible evidence that they shall publicly report the intent to commence an investigation to the State Board of Elections no later than the board's next scheduled meeting.

But then it goes on to say that you maintain the confidentiality of the complainant -- which doesn't necessarily have to be the case because they can do this on their own -- and the individual subject of the complaint.

It seems to me that -- I don't know how you can do both. You're going to publicly report everything that's going on, but then

you're potentially going to redact the people who are going to be involved. Is that your understanding? Is that your intention?

SENATOR SAMPSON: You say at line 13?

SENATOR FLANAGAN: Yes.

SENATOR SAMPSON: Through you, Madam President, that is the intent. And the names of the candidates or those in question will be redacted or deleted.

SENATOR FLANAGAN: So the cases will be reported, but no one will know the names of the parties involved?

SENATOR SAMPSON: Correct.

And the reason that is -- through you, Madam President -- if you go down, from line 19 through 34 on page 8 it talks about once they do their investigation they then have to go to the Board of Elections, who then review the information that they have provided. At that point in time, based upon their review, the Board of Elections determines whether it amounts to a violation. If it does, then they will continue with

another investigation. But if it doesn't, at that point in time the board has the option, by majority vote -- which I think presently consists of two Democrats and two Republicans, which have to have a majority vote in order for it either, one, to continue or to dismiss.

SENATOR FLANAGAN: Right. But this is a fundamental change in that now this is going to be publicly reported even if the board ultimately comes to a stalemate or decides not to take any action or to take action. So this is a very basic change.

But I do have another question in particular on page -- well, let me say this. Section 3-104 of the Election Law is fundamentally repealed, and it specifically states that in your legislation. And I'm not sure that that was the intention here because, if I read the statute correctly, you are on the one hand trying to beef up the enforcement powers and the enforcement actions by the State Board of Elections --

SENATOR SAMPSON: Right.

SENATOR FLANAGAN: -- but you are

taking away one of their core charges, if you will, by now repealing their ability to bring criminal actions. Why would you do that?

SENATOR SAMPSON: Through you, Madam President, I would like to yield to my colleague Senator Schneiderman, who is more familiar with the repealing of Section 3-104 of the Election Law.

ACTING PRESIDENT STEWART-COUSINS: Senator Schneiderman.

SENATOR SCHNEIDERMAN: Thank you, Madam President. I appreciate Senator Sampson's leadership on this issue, and I do hope that after our discussion here today my colleagues on the other side of the aisle will see that it would be a big mistake not to support this legislation that substantially increases the authority of all relevant entities to enforce meaningful ethics laws for us.

But as far as that goes, Senator Flanagan's question. The section of this bill that you're referring to actually says that while the old section is repealed, a new

section is enacted. And I'm referring to page 6, line 19. Section 3-104 of the Election Law is repealed and a new Section 3-104 is added. So it doesn't just repeal it, it adds a new section.

And let me read to you from one of the provisions in that new section. This is at page 7, line 49. "Nothing in this section" -- the new Section 3-104 -- shall be construed to diminish or alter the State Board of Elections' jurisdiction pursuant to this chapter."

So I've heard this argument that this somehow diminishes the statutory power of the Board of Elections by repealing 3-104. It enacts a new 3-104 that explicitly states it does not diminish the board's power, nor can it because other sections of the Election Law -- 3-102, 3-107 and others -- provide explicit powers to the Board of Elections for enforcement.

The problem we face now is not a lack of authority, and the authority is not diminished in any way by Senator Sampson's

bill. The problem is that we don't have functional enforcement. Senator Sampson's bill as discussed would provide for an enforcement unit so that our laws can be meaningfully enforced.

SENATOR FLANAGAN: Madam President, would Senator Schneiderman yield?

ACTING PRESIDENT STEWART-COUSINS: Senator Schneiderman, do you yield for a question?

SENATOR SCHNEIDERMAN: Yes, I'd be happy to yield, Madam President.

SENATOR FLANAGAN: We can read the bill in its entirety, we can read it in its parts. But I'm referencing the specific language of the bill that says Section 3-104, as we know it presently, is repealed.

So when you get rid of that section, I don't care what you put after it. Those powers that heretofore existed are now gone. So the criminal enforcement power pursuant to that section no longer exists. And when you talk about creating a new Section 3-140, you don't provide the same

powers. The State Board of Elections will not have those powers under this bill.

No matter how you slice it, the bottom line is they're not going to have the same powers that they have. This enforcement unit has a different set of responsibilities, opportunities, depending upon one's perspective. But the reality is that that power that we have previously granted to the board for a quite substantial period of time is now gone.

SENATOR SCHNEIDERMAN: Do I hear a question?

SENATOR FLANAGAN: So my question is, how can you say that nothing diminishes that power? If you don't want it diminished, why did you repeal the section?

SENATOR SCHNEIDERMAN: Through you, Madam President. You can't say you're repealing Section 3-104 -- oh, my goodness, it's gone -- without looking at the sentence. It states "Section 3-104 of the Election Law is repealed and a new Section 3-104 is added." And the new Section 3-104 explicitly preserves

every existing grant of authority to the Board of Elections.

And I can note for Senator Flanagan some of those grants of authority that are preserved, including Election Law Section 3-107, which states: "Authority is hereby conferred upon the State Board of Elections to," and it lists a lot of things -- appoint investigators; to have the power to issue subpoenas, subpoenas duces tecum; it authorizes all forms of investigation.

Section 3-102 of the State Board of Elections, explicitly preserved under the new Section 3-104 in Senator Sampson's bill, authorizes the State Board of Elections to conduct any investigation necessary to carry out the provisions of the Election Law.

So this is a correction in a statute that is somewhat redundant. But it explicitly states -- and again, I will read to Senator Flanagan from Senator Sampson's bill: "Nothing in this section shall be construed to diminish or alter the State Board of Elections' jurisdiction pursuant to this

chapter," "this chapter" being the Election Law.

So you can pretend that this diminishes the power because it changes the way Section 3-104 operates, but it explicitly states -- and when we were working on this, we wanted to ensure that it was crystal-clear that nothing in this section would diminish or alter the State Board of Elections' jurisdiction, so we wrote "Nothing in this section shall be construed to diminish or alter the State Board of Elections' jurisdiction." I don't know how much clearer we can get, Madam President.

SENATOR FLANAGAN: Madam President, would Senator Schneiderman continue to yield?

ACTING PRESIDENT STEWART-COUSINS: Senator Schneiderman, do you continue to yield?

SENATOR SCHNEIDERMAN: With pleasure.

SENATOR FLANAGAN: Senator Schneiderman, who is the proverbial "we" in

this case? This is a one-house bill. Senator Sampson referenced that he has had a conversation with the Speaker of the Assembly. Has this bill been negotiated with the Governor? Then has it been negotiated with the Board of Elections? Has anyone had any meetings with them? Are there any memorandums in support or opposition?

And I realize I asked you several questions, but I'd like to get a sense of is this a one-team negotiation internally with the Senate Democrats or has this been vetted with all the parties?

SENATOR SCHNEIDERMAN: Well, this particular legislation is Senator Sampson's bill, and it was drafted by our conference.

But I would note that this particular language that you're concerned about came from an Assembly bill that was drafted a couple of years ago and then was readopted in a Governor's program bill.

I want to note that the context for this discussion really is very, very important. During -- you know, and I guess in

Ireland they refer to them as the troubles. During the troubles we had earlier this summer, the Assembly, without engaging in discussions with us -- because I suppose they thought we were otherwise occupied -- passed the Silver bill which we will be addressing also tonight, the Silver-Squadron bill, which in the view of many of us really does not get the job done when it comes to advancing the cause of ethics in the State Legislature. It is a tremendously modest step. A lot of us felt that this provides a very low floor.

We're coming back, we're now getting back to doing business in the Senate, Senator Sampson has called us back together to undertake some of the unfinished business that was left over after the problems we had earlier this summer. He said, "We want to do ethics reform. We want to raise the bar and send the message that we are going to continue the effort at reform and we are going to make this a more transparent and more accountable body and that we are going to have real enforcement." And there are provisions

throughout this bill that deal with the issue of enforcement.

So when we looked at the Silver-Squadron bill -- and "we" just being people who are working on ethics issues here in the Senate -- Senator Sampson essentially said, "Look, we've got to do better. We've got to raise the bar. We have to do better." The Silver-Squadron bill is not enough. No disrespect to Senator Squadron; I think he agrees with me that that provides a floor.

This bill goes substantially further in the ways that Senator Sampson has enumerated. This provides for real enforcement, real transparency. And I would urge you that this section in particular is absolutely essential because right now we have no functional enforcement by the Board of Elections.

So this is something that for the moment is a one-house bill. But it builds on the legislation that passed the Assembly. But let's be clear. To me and to a lot of the other folks here the bill that passed the

Assembly is not acceptable. We cannot walk away from Albany this year and say we have done ethics reform if all we've done is pass the Silver-Squadron bill.

We've got to pass the Sampson bill as well, take it back to the Assembly, sending the message that I hear some of my colleagues on the other side of the aisle asking us to send, that we have moved beyond what the Assembly did. We are challenging the Assembly to take a further step in ethics reform.

We want real enforcement. We don't want to have two people reviewing 15,000 documents. Everybody here knows this. There's no functional enforcement of the Election Law here. The fines are ridiculously low. This would raise the fines. The review doesn't take place, it can't take place, because over the decades we weren't in charge, the Board of Elections was systematically defunded by the Legislature.

We're looking to turn that around and have real enforcement, and that's what this provision does. And I assure you that

while we are editing the statute, there is no intention here in this bill to reduce the authority of the Board of Elections in any way, shape or form.

SENATOR FLANAGAN: Okay. Madam President, would Senator Schneiderman continue to yield?

ACTING PRESIDENT STEWART-COUSINS: Senator Schneiderman, do you continue to yield?

SENATOR SCHNEIDERMAN: I would yield with pleasure to Senator Flanagan.

ACTING PRESIDENT STEWART-COUSINS: The Senator yields.

SENATOR FLANAGAN: Four direct and specific questions. Has this bill been formally negotiated with the Governor, this chapter amendment?

SENATOR SCHNEIDERMAN: Formally negotiated? What does that mean?

SENATOR FLANAGAN: You said it's in a Governor's program bill. Have you had meetings? If this bill passes the Assembly do you have any representation that the Governor

will sign this bill?

SENATOR SCHNEIDERMAN: John? Let me yield to Senator Sampson on that.

ACTING PRESIDENT STEWART-COUSINS: Senator Sampson.

SENATOR SAMPSON: Through you, Madam President, I haven't had any discussions with respect to the Governor, whether he would sign this bill or not.

But I have had -- through you, Madam President -- discussion with the Speaker, who said he would bring it to his conference. And he indicated to me that he liked the idea.

SENATOR FLANAGAN: And given the nature of the State Board of Elections and certainly all the people we know over there, have they been involved in the negotiations on this bill?

SENATOR SAMPSON: Through you, Madam President, no.

SENATOR FLANAGAN: Specifically, I don't mean to play Ping-Pong here, but I think my question goes to Senator

Schneiderman. Senator Schneiderman, you referenced there should be no diminution of power to the State Board of Elections. I want to ask you specifically, under Section 3-104, I'll read one provision.

"If after an investigation the State or other Board of Elections finds reasonable cause to believe that a violation warranting criminal prosecution has taken place, it shall forthwith refer the matter to the district attorney of the appropriate county and shall make available to such district attorney all the relevant papers, documents, et cetera."

As an interpreter of this bill, I want to see what we're putting on the record here. Is it your clear point that that power will still exist if this bill becomes law? Even though you have language in here specifically repealing it.

SENATOR SCHNEIDERMAN: Yes. Through you, Madam President, I have attempted to be as clear as I could be. Yes. The answer is yes, the State Board of Elections

still has the authority that it has now.

Again, nothing in this section shall be construed to diminish or alter the State Board of Elections' jurisdiction pursuant to this chapter.

And I would also suggest that there are other provisions in the Election Law that essentially reiterate that authority.

SENATOR FLANAGAN: Right. But they don't get repealed, Senator Schneiderman.

Madam President, will Senator Schneiderman continue to yield for one more question?

ACTING PRESIDENT STEWART-COUSINS: Senator Schneiderman, do you continue to yield?

SENATOR SCHNEIDERMAN: Yes, Madam President.

SENATOR FLANAGAN: Senator Schneiderman, thank you for yielding.

Last question. You referenced the gross lack of enforcement through the State Board of Elections and talked about the need for enhancing that. Can you show me in this

bill where there's enhanced funding for the enforcement unit, this new unit at the State Board of Elections? And if so, how much is it?

SENATOR SCHNEIDERMAN: Through you, Madam President, this is not an appropriation bill. But this does create the structure for enforcement.

And I would like to note, Madam President, that there's been -- there has been some discussion of the nature of this enforcement unit that I think is a little bit misleading. This sets up an enforcement unit that is subject to the supervision of the Board of Elections. The fact that --

SENATOR FLANAGAN: Madam President, excuse me. My question is -- I understand that. I'm specifically on the appropriation, just directly if there's any appropriation.

SENATOR SCHNEIDERMAN: Madam President, if I might be allowed to finish.

ACTING PRESIDENT STEWART-COUSINS: Senator Schneiderman, continue your answer.

SENATOR SCHNEIDERMAN: I stated that there is no appropriation here. But I would respectfully suggest that the current structure of the Board of Elections makes it very, very difficult for enforcement to take place even if we were to provide additional funding.

This provides a mechanism through which we can provide specific funding in a future appropriation, not just give it to the board generally. And it provides for an enforcement unit that I would like to point out to my colleague is subject to the supervision of the Board of Elections.

The issue has been raised that oh, this would be some sort of a partisan unit. The panel, which is really -- it's a government panel, and the fact that the government officials who have been elected statewide happen right now to be Democrats doesn't make them any less government actors. All that panel does is designate the executive director.

The conduct of the investigations

and the action of this enforcement unit is still subject to the supervision of the Board of Elections that no matter how skewed the registration numbers and how low the registration of Republicans might be in this state, they still get 50/50 power in the Board of Elections. So actually I think that there's kind of an edge that they're getting there.

So this sets up a framework that enables us to do an appropriation to provide for an effective government enforcement mechanism in the Board of Elections where for decades there has not been effective enforcement. And my colleagues have said, oh, we would support other things. You know, we've been here for 43, 44 years of them being in power in the Senate; we have yet never seen any effort like this, like Senator Sampson's bill, to provide for effective, meaningful enforcement.

And I would urge Senator Flanagan that while this is not an appropriation bill, I would certainly hope that we will have his

support when the budget comes around. Because I do believe once we challenge them, the Assembly will have to act on this and the Governor will sign it, or something similar to it. And we do want his support for the appropriation when the time comes during the budget to fund this unit.

SENATOR FLANAGAN: Thank you.

Madam President, would Senator Sampson yield?

ACTING PRESIDENT STEWART-COUSINS: Senator Sampson, do you yield for a question?

SENATOR SAMPSON: Yes, I do.

SENATOR FLANAGAN: We have moved to the issue of appropriation. And part of the reason I asked Senator Schneiderman specifically on the enforcement unit is because I'm looking at your legislation; in particular, your memorandum in support. There are four specific appropriations in your memorandum that reference 7.5 percent to New York State Commission on Lobbying and Ethics, 7.5 percent to the Executive Ethics and Compliance Commission -- and that comes

from the Department of State budget. And then from the State Senate General Fund, 1 percent to the Joint Legislative Commission on Ethics Standards and 1 percent to the Legislative Office of Ethics Investigation. So I have several questions if Senator Sampson would yield.

ACTING PRESIDENT STEWART-COUSINS: Senator Sampson, do you yield for several questions?

SENATOR SAMPSON: Yes, I do. Through you, Madam President.

SENATOR FLANAGAN: Before I get to these specifically, while those four are clearly lined out or laid out in your legislation, why was funding for the Board of Elections not included? If these others were so important, why was funding not included for the board?

SENATOR SAMPSON: Through you, Madam President, I think it was very important to make sure that when there is money given to the Board of Elections at this point in time those groups or those organizations are

specifically lined out to substantiate what we're trying to do with respect to this legislation. Through you, Madam President.

SENATOR FLANAGAN: Madam President, would Senator Sampson continue to yield?

ACTING PRESIDENT STEWART-COUSINS: Do you continue to yield, Senator Sampson?

SENATOR SAMPSON: Yes, I do, Madam President.

SENATOR FLANAGAN: In reading this legislation, it talks about an appropriation coming from the Department of State, 7.5 percent and 7.5 percent. So 15 percent of their budget is now going to these two new entities.

I have a two-part question. How much money is that? And how is the hole going to be backfilled in the Department of State or what's going to have to be cut as a result of the shift of these appropriations?

SENATOR SAMPSON: Through you, Madam President. To answer Senator Flanagan's question, first of all, it depends, one, on

the issue of how much money is allocated. And at that point in time, working with those organizations to make sure the allocation will be appropriate at that point in time, thus not impacting substantially those organizations which we're taking the money from. Through you, Madam President.

SENATOR FLANAGAN: And my last question on the appropriation, it speaks to the State Senate fund. I think I know the answer to this, but I'm not sure.

If this is a joint commission and it's a legislative entity and there are two of them now that are each going to get 1 percent, why is the Assembly not paying for this? Why is this coming out of the Senate appropriation?

SENATOR SAMPSON: Through you, Madam President, since as my colleague said this is a -- discussion hasn't been dealt with with respect to the Assembly and it's characterized as a one-house bill now, that is a conversation that it will have with the Speaker as to making sure that the Assembly

allocate or appropriate some funds with respect to this important legislation.

So through you, Madam President, once the Assembly picks this up, there will be a request from me to the Speaker to ask that there is a certain appropriation from the Assembly with respect to these underlying amendments.

SENATOR FLANAGAN: Madam President, I would just respectfully add one comment to what Senator Sampson said, following up on the advice of Senator Schneiderman that one of the ways we'll get the Assembly to act is by forcing their hand. If we send them the bill and they don't have to put anything in here, they could just pass this bill as is and say you guys are going to suck up the whole cost here. So I would just offer that as food for thought.

And on the bill, Madam President. Thank you to Senator Sampson and Senator Schneiderman.

ACTING PRESIDENT STEWART-COUSINS: Senator Flanagan, on the bill.

SENATOR FLANAGAN: I realize these questions are tedious, but I think they are very important. We are talking about a number of different issues.

I have great respect for Senator Schneiderman's intellect. I just don't happen to agree on this provision. Because I just look and think as a first-year law student you would read and say Section 3-104 is repealed. I don't know how you then can say the power still exists. Maybe I'm wrong, but I think that's going to be something that will lead to litigation.

On the money, we have real issues that we need to deal with. Based on the appropriations that exist now -- not in the future budget, but that exist now -- my calculations are that about $3.4 million would be needed for the Commission on Lobbying Ethics and the Executive Ethics and Compliance Commission. And I'm not sure how that money is going to be spent. I don't know how much money is being spent right now.

But since the representations are

being made that roughly $3.4 million at least are now going to be spent and taken out of the Department of State's budget, we have two problems. Number one, how is the money going to be spent? And number two, how is the Department of State going to prepare their budget for next year -- because you know they're coming back and the first thing they're going to say is, Ladies and gentlemen, you took 15 percent of our budget, what are we supposed to do?

And the last part is we're giving roughly $2 million out of the Senate budget, and I don't think we know how that money is going to be spent. Are we going to have an executive director who makes $300,000? Is the person going to make $80,000? Are there going to be 10 staff, 15 staff? Those are issues that are very important because this is unique and new and certainly very different legislation.

I heed the words of my colleague Senator Schneiderman, but I must tell you -- and it's probably no surprise to you, Madam

President -- I will not be supporting this legislation. Thank you.

ACTING PRESIDENT STEWART-COUSINS: Thank you, Senator Flanagan.

Are there any other Senators wishing to be heard on the bill?

Senator Squadron.

SENATOR SQUADRON: Thank you very much, Madam President.

As the second sponsor on this chapter amendment and the sponsor of the underlying bill, I wanted to rise and thank Senator Sampson for his leadership on this, Senator Schneiderman, others in the Senate, others of my colleagues who have worked to create this bill that, together with the underlying bill that I carry, creates comprehensive ethics reform that isn't just window dressing, isn't some pie in the sky one-house.

This is a realistic framework that the Assembly drew up originally that improves legislative ethics, with independent legislative ethics -- we'll get to that --

executive ethics, lobbying. And with this bill, campaign finance. And in fact for those of us who are worried, as we all are right now, about the fiscal health of the state, with random reviews of the disclosure statements, probably the single most efficient way to create good and meaningful enforcement as an improvement to the underlying bill.

This, with the underlying bill together, is a great, great package. And I'd like to just point out in addition to the random reviews, in addition to the Board of Elections enforcement we've talked about, there's also increased disclosure here on relationships between any of us, any members of the Executive with lobbyists. And together with the underlying bill, that creates a real belt-and-suspenders ways of way of handling any business relationships with lobbyists we have to deal with.

In response to Senator Padavan's concern about this bill that somehow -- I think he referred to it as a Star Chamber, a partisan Star Chamber is created, I would

point out that the group he is talking about in this bill, this nominating panel, has but one purpose, and that is to be an independent appointor of an executive director who serves a fixed term. It is the single best way to have an independent appointment of an executive director serving a fixed term.

After that point, this enforcement unit -- which is an enforcement unit, and that's a good thing. It has the power to enforce campaign finance violations. That's a good thing. This executive director, this enforcement unit answer to the Board of Elections, work with the Board of Elections.

We have put in here an odd number of folks, which is critical. As we all know with the Board of Elections too often you can't get to a majority because it's an even number. So we have created an odd number of people independently appointed, an independent group to create an executive director. That is a necessary component. To claim that that somehow invalidates this package is simply not accurate and simply not fair.

So I am proud to support this chapter amendment and hope that we can move comprehensive ethics legislation out of this house this very evening.

Thank you, Madam President.

ACTING PRESIDENT STEWART-COUSINS: Thank you, Senator.

Senator L. Krueger.

SENATOR DeFRANCISCO: Excuse me, I was up when Senator Squadron was speaking. I was going to ask him a question, if he would yield.

ACTING PRESIDENT STEWART-COUSINS: I apologize, I didn't see you.

Senator DeFrancisco, why do you rise?

SENATOR DeFRANCISCO: Would Senator Squadron yield to a question?

ACTING PRESIDENT STEWART-COUSINS: Senator Squadron, will you yield?

SENATOR SQUADRON: I'd be honored to.

SENATOR DeFRANCISCO: With your comments a moment ago, you said this

enforcement group reports to the Board of Elections, and you said works with. You hastened to add "works with." What is it? There's a significant difference between reporting to a Board of Elections, which presumably would be the ultimate authority, and works with. What is it?

SENATOR SQUADRON: Right. Well, through you, Madam President, it is an independent enforcement unit. So while it does report to the Board of Elections, it does not work under the Board of Elections. And I thought the term "reports to" was a little ambiguous there, which is why I corrected it.

SENATOR DeFRANCISCO: Thank you.

ACTING PRESIDENT STEWART-COUSINS: Thank you, Senator.

Senator L. Krueger.

SENATOR LIZ KRUEGER: Thank you. Well, I've enjoyed the debate -- I hope everyone has -- but I want to, I don't know, put it more into common language.

Senator Sampson's chapter amendment is an attempt to very simply and I think

elegantly build in ethics reforms that we need in this state. I know we've gotten a little obsessed about the Board of Elections enforcement unit, but here's the part that stuck with me. We don't have any enforcement unit in the Board of Elections now.

We have thousands and thousands of filings -- the entire model of New York State's campaigns and elections are that you file information with the Board of Elections, it's supposed to be publicly accessible and available, and there's supposed to be a belief by the public that those of us who are involved in elections, both candidates and political action committees and donors to campaigns, are all following the law. And yet if you don't have enforcement or a mechanism for enforcement, it's not clear to me you can ever assure the public that the laws are being followed.

And when I read that in 2007 the enforcement unit received 165 complaints alleging violations of the Election Law but were only able to investigate 45, well, if I'm

the public, I'm saying "What's going on here?" You're not even following up on the complaints that are made by people who believe there's been a violation.

The concept of having an audit and a review of some number of the campaign filings each year as a standard, we would expect all that in any state contract. We expect that in monies that we distribute through our state agencies and contracts to our state agencies.

So the concept to me that perhaps the most fundamental, most fundamental issue in democracy in our state -- elections -- has no enforcement model, has no audit evaluation process, that's scary to me.

So I agree we can all have differences of opinion about exactly what can be done or what should be done. And yes, right now, tonight, it's Senator Sampson having a chapter amendment. And yes, that means it will go through a process with the Assembly and with the Governor before it becomes law.

So actually I'm pretty excited to hear some of the concerns raised, because let's get it right. And we have the time to get it right. But we want to start the ball rolling because it's way too late in the game for us to be questioning whether we need ethics reform in Albany.

And so if the Senate is the first one out of the box with a bigger and better model for ethics reform, that's terrific and I'm thrilled that I'm going to have a chance to vote yes. But again, most of us focused our discussion on the details of who would be the Board of Elections, who would be the enforcement unit, who would pick the executive director, how many people would be on the committee deciding that, what would be their party makeup.

Again, just to highlight, several of my colleagues, when they were raising concerns about this chapter amendment, actually said they were prepared to vote for the underlying bill, which we haven't gotten to yet.

ACTING PRESIDENT STEWART-COUSINS: Senator DeFrancisco, why do you rise?

SENATOR DeFRANCISCO: I'm just going to ask if Senator Krueger would yield to a question.

ACTING PRESIDENT STEWART-COUSINS: Senator Krueger, do you yield?

SENATOR LIZ KRUEGER: I would love to if I could just finish the last sentence and thought that I was on. Then I would certainly answer your question, Senator.

Several of my colleagues said they were going to be comfortable voting for the underlying bill but had concerns about this chapter amendment because of the makeup of the panel that will decide the executive director. And I just want to highlight for us, realizing in the underlying Senator Squadron bill we create an Executive Ethics and Compliance Commission made up of six members, two to be appointed by the Governor, two by the Comptroller, and two by the Attorney General, which right now, by statistical accident, would be all Democratic appointments. But

that's passed in a bipartisan way in the Assembly, and I think a number of my colleagues didn't raise concerns about that.

And that same bill creates a State Commission on Lobbying and Ethics Compliance, and that includes six members, two appointed by a Governor -- who happens to be Democratic -- and one each by each of the four legislative leaders. So again, by accident of politics and time, at this moment in history would in fact be four Democrats and two Republicans.

But again, most people actually, I think, who have talked about this bill and reviewed this bill are comfortable with that reality, so they're not particularly worried about who are the partisan makeup. They're much more interested in what's the jobs all these people are going to be doing.

And while I'm not done with my statement, now I'm happy to yield to questions from Senator DeFrancisco.

ACTING PRESIDENT STEWART-COUSINS: Senator DeFrancisco.

SENATOR DeFRANCISCO: Thank you, Senator.

You were talking about how we need ethics reform and we've got to have a way to have ethics reform, and I was going to ask you, but you just mentioned it, isn't there a commission established in the Squadron bill that apparently would be satisfactory to Senator Squadron as to how to monitor the ethics rules that are contained in his bill?

SENATOR LIZ KRUEGER: Well, again, I could yield to Senator Squadron, which I will. But I believe I just heard him say he supported the chapter amendments in addition to the underlying bill. So Senator Squadron -- I guess I should point out to you, Madam President --

ACTING PRESIDENT STEWART-COUSINS: You'd like to yield to Senator Squadron?

SENATOR DeFRANCISCO: I'll just speak on the bill. It's pretty obvious --

SENATOR SQUADRON: -- agree that I may answer his question, which was about my view.

SENATOR DeFRANCISCO: Sure, absolutely. Absolutely.

ACTING PRESIDENT STEWART-COUSINS: Please, Senator Squadron.

SENATOR SQUADRON: Thank you, Senator. I appreciate it.

As I said and as you noticed -- I'm not sure if you have a copy of the bill -- but I am in fact the prime cosponsor -- I don't actually have that term -- the first cosponsor of the chapter amendment. Senator Sampson and I and others worked very closely on it.

I actually think the underlying bill moves the ball down the field. I think that with this it moves the ball down the field so we get a first down.

And so having the Board of Elections enforcement in there, having the random reviews in there, having the disclosure of the lobbyist relationships in there is what makes this package a great package all in all.

And so I think the underlying bill begins the conversation. I think with the chapter amendment you have what you need.

SENATOR DeFRANCISCO: So the answer is yes?

SENATOR SQUADRON: The answer is that the package overall does exactly what I think the state needs. And there are gaps -- and there are gaps without it.

SENATOR DeFRANCISCO: Would Senator Krueger yield to another question? Because it got diverted to a different answer.

ACTING PRESIDENT STEWART-COUSINS: Senator Krueger, do you yield?

SENATOR LIZ KRUEGER: Certainly, Senator DeFrancisco.

SENATOR DeFRANCISCO: There is in the Squadron bill, as you aptly pointed out, a commission that would be in charge of enforcing the rules in the Squadron bill. Correct?

SENATOR LIZ KRUEGER: There are three entities in the Squadron bill, an Executive Ethics and Compliance Commission, which also doesn't address Board of Elections enforcement; a State Commission on Lobbying and Ethics Compliance, which also, as written

in the underlying bill, does not address Board of Elections enforcement; and then a Joint Legislative Commission on Ethics Standards, which also doesn't address the additional suggestions that are built into the chapter amendment.

So I guess, to leap forward, I don't believe the chapter amendment duplicates or is redundant with the underlying bill.

SENATOR DeFRANCISCO: I'll speak on the bill when the time comes, okay?

ACTING PRESIDENT STEWART-COUSINS: Thank you, Senator.

Senator Krueger, would you want to continue?

SENATOR LIZ KRUEGER: Thank you so much, Madam President.

So again we've tackled the question, at least from my perspective, on why the section of the chapter amendment that creates an enforcement unit in the Board of Elections is a critical additional component to be taken under advisement and built into a final law in New York State.

But I also just want to highlight the additional supplements in the chapter amendment that are not addressed in the underlying bill and I think are so crucial.

It expands the definition of lobbying to include resolutions, outcomes of any actions of either chamber, and the outcome of any other official act of the State Legislature.

Well, when I talk to people in my district about their concern about ethics, they have many concerns. They have concerns about the behavior of individual legislators. They have concerns about use of campaign monies. But they have, I would say, the most concerns about how does it work up here in Albany.

Again, they're not necessarily following the day-to-day life up here. They want to understand: "So, we hear you can buy a bill in Albany. Is that right, that if you pay a lobbyist you can get your bill done?" They say: "We're confused. We understand that perhaps if you pay somebody to lobby for

you, you can get a special contract through a specific state agency, you can get state budget money directed to you." They are very concerned about that.

Now, I believe that there's more smoke than fire and in fact this government, this city in fact has many, many things it can be proud about in how we operate our government and how we protect against abuse of power here in this chamber, across the hall in the Assembly, in the Governor's chambers, and of course throughout the state agencies.

But there is smoke and there are some things that of course have proved to be true stories. And so it is critical for me, when I go home and talk to the people in my district, to tell them, you know, there were concerns and we can fix them.

And I believe in this chapter amendment, combined with the underlying bill, we go further to assure the people of New York State that when somebody gets elected or appointed to the Legislature, to the Governor's chambers, to a state agency, to a

state commission, to a state authority, that there is a careful review and audit possibility and investigation possibility to ensure that anybody who is attempting to do business with the State of New York or get something changed in our laws or in our budget is in fact following all the right processes and that decisions are being made for the right reasons, which is the facts justify the actions -- not because money changed hands.

So I think it is crucial that we take the steps that go farther in Senator Sampson's chapter amendment to assure the people of New York that we are protecting them and their investments, through their tax dollars, in our budget and their investments in democracy by electing us to be here and do the people's business the right way.

So I, to be honest, when I look at this go I don't really understand how you can vote against this bill, and I will be very pleased and proud to be voting for it tonight.

Thank you, Madam President.

ACTING PRESIDENT STEWART-COUSINS:

Thank you, Senator.

Senator DeFrancisco, you wanted to speak on the bill?

SENATOR DeFRANCISCO: All I wanted to point out is that this whole debate is backwards. I was going to frame it a different way.

There is an ethics bill that's probably going to be supported by a majority in this house, the bill that Senator Squadron has. And to comment, as Senator Krueger did, to the effect that we've got to have ethics reform, we've got to do it, we've got to have ethics reform -- to debate an amendment to a bill that hasn't even passed yet when there is a solution in the bill that's been passed by the Assembly and probably will be passed at this house that's just an alternative enforcement mechanism, and to say that "I don't know how you can not support this particular mechanism" I think is a little bit misleading, to put it mildly.

I think if there was a debate on the other bill, as there will be sometime

tonight, there's going to be criticism of the bill but probably a majority will pass it. And there will be a mechanism that's set up that obviously some people on this side of the aisle feel is preferable to the Sampson amendment.

And if this amendment was so wonderful, why wasn't it part of the Squadron original bill? If Senator Squadron thinks this is moving the ball down the field to the goal line, put it in his bill.

And there's a simply reason why that's the case, because the Sampson amendment isn't going to pass the Assembly in my lifetime. And it's just a political component of this body to get certain people to vote no on an ethics bill. Because it's not going to pass -- it's a one-house bill. It's not going to pass the other house. And I'll be happy to publicly apologize to everybody if I'm wrong.

So the point I'm making simply is this. There are many people in this chamber, a majority, that are going to support the Squadron bill. It has a certain mechanism as

to how it's enforced. To suggest that certain people are out of their mind or just wrong or how could they possibly vote against the Sampson bill, it's because it's not as good a solution as the bill that was passed by the Assembly, as will be seen once the vote is taken.

So I'm going to vote against this amendment which amends something that doesn't exist that we're going to debate in the future.

Thank you.

ACTING PRESIDENT STEWART-COUSINS: Thank you, Senator.

Senator Schneiderman.

SENATOR SCHNEIDERMAN: Thank you, Madam President.

I am proud to rise in support of this bill. And I have to say that I think that -- with all due respect, I think that the way that Senator DeFrancisco has framed this is the wrong way to look at this issue.

We have a problem of ethics and the lack of enforcement of ethics laws in Albany.

The Sampson bill provides substantial reforms. The Silver-Squadron bill, which did pass the Assembly, takes modest steps, and Senator Squadron has fought to expand it. Now, I know this may come as a surprise to Senator DeFrancisco, but Senator Squadron has limited power over the Speaker of the Assembly and what bills he chooses to put on the floor and pass. He's a powerful young man, he will certainly gain more power as he goes on in his career.

But the fact that the Assembly -- you know, I really have to say this is a remarkable moment for us to hear my colleagues on the other side of the aisle saying the Assembly passed this bill, the Assembly didn't pass Senator Sampson's bill; well, let's go with the bill the Assembly passed. Shelly Silver is always right, I guess now, according to my colleagues.

Look, the Silver-Squadron bill takes some modest steps. The Sampson bill is designed to fit together with that bill and actually create a much more substantial ethics

enforcement mechanism. Senator Squadron, who worked with Senator Sampson on the bill, agrees that you have to have both. And quite honestly, my colleagues, from my point of view -- and this is just me speaking -- I do not think that the Silver bill goes nearly far enough.

I have stood and listened to you for untold hours talk about how we have to step up and do better than the Assembly, how we have to show them the right way to do legislation. Well, tonight you have an opportunity to do that. Do you really believe that passing the Silver-Squadron bill without the companion of the Sampson bill does as much as we could do to further ethics reform and ethics enforcement in Albany? I would respectfully that that's not a credible argument.

This enhances enforcement. This provides for reviews of our financial filings which are not provided for by the Silver bill. This provides definitions of contributions that significantly expand ethics. Actually,

you know, one of the things that this bill does that I think is tremendously important that is not done in the underlying Silver bill, this changes the definition of lobbying to include resolutions or any other actions of either chamber. Do you know that under the existing ethics law and under the Assembly's bill, resolutions must allocate funds. If you lobby on those, you don't have to register as a lobbyist. How stupid is that? How riddled with holes is the ethics law that encompassed provision?

So the Sampson bill is essential. Senator Squadron welcomes your support for the Sampson bill in spite of the fact that he is the sponsor of the other bill. If we don't do both, we haven't done our job. Let us say to the Governor and the Assembly the Senate is willing to take things a step further. We want more enforcement, we want more transparency, we want broader definitions of what is reportable. That's the message today.

Senator Sampson and Senator Squadron worked together. Please don't

pretend that it's okay to vote for -- you want to vote for the Squadron bill so you shouldn't vote for the Sampson bill. They are both here telling you that the two form a package of serious ethics reform. And frankly, either one by themselves is inadequate, in my view.

I urge everyone here who cares about ethics, who cares about the enforcement of these laws to vote for this fine piece of legislation. Madam President, I certainly will be voting yes.

ACTING PRESIDENT STEWART-COUSINS: Thank you, Senator.

Are there any other Senators wishing to be heard on the bill?

Senator Morahan.

SENATOR MORAHAN: To speak on the amendment, Madam President.

You know, I came here today happy that we were going to do some reform and some other bills. And when asked about this amendment and the major bill, I said to people I wanted to hear the debate on this particular bill before I committed to it or against it.

I think it's a well-intentioned effort. I think the people of the State of New York would like to have reform, would like to have some assurances, if you will, that what we do here and what we do in the Assembly and what we do on the second floor is in their best interest and that we're honest brokers on their behalf. I agree with that.

But they also want fairness. I think they'd be intimidated if this situation -- which could reverse at any particular time, depending on the makeup of the government -- that you have a seven-to-two investigatory body, if you will, who can pick and choose what they do, when they do it, to whom they do it -- I don't know that New Yorkers want that sort of reform. I think they want reform but they want a fair, fair commission, law enforcement, whatever it may be.

Now, when they say that all of these cases are backed up in the Board of Elections, I understand that. We've all been through that process. But it also seems to me

that if we enhance the Board of Elections with an investigatory team, with people who can go out and do and adequately staff the Board of Elections investigatory people to investigate the claims made by public citizens, political committees, candidates, whomever, and those investigators were split 50/50 on a bipartisan way, I think they would be more comfortable knowing that we have an adequate force to do an adequate investigation and complete investigation and it would be done in a fair and unbiased manner. And set up rules for that investigatory team on what they would move forward on and what they would not and who would make the recommendations.

Now, I think there's time. This bill probably will not pass tonight. And I think there's time for Senator Sampson to get together with others and try to move this around, this appointment process, that it becomes not only effective but becomes fair. And I think that's what New Yorkers want -- effective investigations, full investigations, but they want fair investigations. They don't

want what could be perceived to be witch-hunts.

So unfortunately, while I can support the main bill, I have difficulty with this. I know it's not going to pass tonight. I know the Assembly hasn't addressed it. So there's time; we can get this in place.

And this is a great effort in putting this bill out, or this amendment out, to start the dialogue, to say that we really mean business and we have what we think we want to put in place, we've just got to come up with a little fairer way of making sure that there's bipartisan representation.

It's similar to me when they talk about doing reapportionment. They know we do reapportionment. What they ask for and what good government groups have asked for on reapportionment is that it be a bipartisan, nonpartisan situation. Then they would feel that the reapportionment would be done in a reasonably fair manner. As opposed to if they had seven to two doing the reapportionment for our seats and the Assembly seats and the

Congressional seats, I think there would be a hue and a cry.

So to me, unfortunately, I don't really like voting against this bill, but I feel compelled to because underlying everything, Americans and New Yorkers are fair people and they don't want anything that's lopsided, no matter what party is in control. It ought to be so whichever party or whoever has gotten the Governor's office or whatever, it comes out that these are separate people doing a bipartisan job in a fair way.

That's it. Thank you, Madam President. I vote no.

ACTING PRESIDENT STEWART-COUSINS: Thank you, Senator.

Senator Sampson.

SENATOR SAMPSON: Thank you very much, Madam President. On the bill.

And just to respond -- not even to respond, but just to reassure my colleague Senator Morahan that I'll be the first one to tell you that I always want everything to be effective and fair. Especially as a criminal

defense attorney, I'm very mindful of creating enforcement groups who can become rogue at times and leaving that door open.

But this bill doesn't do that. The only thing this bill does is it's a panel that designates who the executive director is. And the executive director is there responsible for that enforcement unit, which presently consists of only two individuals right now.

The panel doesn't do anything. It doesn't investigate. It only appoints the executive director, who is there for a fixed term of three years, so he cannot be influenced by whoever is in power. And that is extremely important.

Right now we are at the crossroads and we have to understand that it's about restoring faith, trust and confidence back into this institution, and that's what it's all about. It's not about politics. And as everyone knows me, you know, I may be a Democrat, but I'm a fair individual. And when you talk about effectiveness and fairness, that's what I'm all about.

But this bill does not and will not create what you call an enforcement unit that is out of control, because I'm very mindful of that. Because during my own practices and during my own trials and tribulations, I know what an enforcement group or a rogue group can do to just create havoc on your life on just mere allegations. So it's important that that's why we have those stopgaps with respect to the Board of Elections, have to go before them and reassure that everything has to be substantiated.

So at the end of the day, the only thing that I'm trying to do is Senator Squadron has a good bill but it doesn't go quite far enough. A lot of the good government groups are in support of this amendment because with all the scandals and everything else going on and all the allegations, I think we owe it to the public to let them know that we are on the right track now. It's about restoring decorum back into this chamber. But most of all, we understand that the faith, the trust, and the

confidence of the people in what we call government and what we call our leadership here in Albany is paramount, and we have to give them that security.

So with that, Madam President, I will be voting in favor of this amendment. And I ask my colleagues to look at this objectively. This is not about creating a rogue group, allowing someone to go in there and just make a determination. You're concerned about the partisanship issue, they still exist on the main bill of Senator Squadron.

It's about making sure to the people of the State of New York that we are serious about doing business here in Albany and at the end of the day they can feel comfortable knowing that their State Senators, from Buffalo to Brooklyn, understand what it is to restore the faith, the trust, and the confidence back into this institution.

Thank you very much, Madam President.

ACTING PRESIDENT STEWART-COUSINS:

Thank you, Senator.

Are there any other Senators wishing to be heard on the bill?

Hearing none, the debate is closed. The Secretary will please ring the bells.

Read the last section.

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

ACTING PRESIDENT STEWART-COUSINS: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT STEWART-COUSINS: Senator Flanagan.

SENATOR FLANAGAN: To explain my vote.

ACTING PRESIDENT STEWART-COUSINS: Senator Flanagan, to explain his vote.

SENATOR FLANAGAN: Madam President, to explain my vote.

I forgot to mention one very important component of this bill that I think many of us may have overlooked, and that is on page 10, Section 14.

While the penalties are increased

from $500 to $1,000 for civil enforcement, there is a very basic change that a lot of our local boards are not going to be happy with, and that is the fact that the ability to enforce at the local level is now gone.

All enforcement actions can only come from the State Board of Elections. So any local boards that heretofore have done this work -- and there may be those who are out there doing it very well -- they now no longer have that power.

So we're creating two problems. Number one, we're taking that power away from our local boards. And even if you acknowledge the problems at the state board, you're now adding a lot more work on top of that with absolutely no money to back it up.

I'm voting no. Thank you.

ACTING PRESIDENT STEWART-COUSINS: Senator Flanagan to be recorded in the negative.

Senator Squadron.

SENATOR SQUADRON: To explain my vote, Madam President.

ACTING PRESIDENT STEWART-COUSINS: Senator Squadron, to explain his vote.

SENATOR SQUADRON: This debate was a little surprising to me. A lot has been this year, so I guess I shouldn't be surprised by that.

The idea that this is some panel that is a Democratic or a Republican panel is not true. It's proven not true. It's in the language not true. First point.

Second point, the idea that somehow a chapter amendment undermines the underlying bills, that's not true. It's a canard. We all know that.

The fact is together these two, this bill and this chapter amendment, create exactly what we need on enforcement. It is a unique opportunity not to just do something that looks good but to move the ball way down the field on ethics.

And the fact that half of it, half of the package, a full half is going to die based on a couple of canards is really shocking and disappointing.

The fact is tonight we're missing someone on the other side of the aisle who sponsors a bill that has exactly the sort of enforcement on campaign finance that is in this bill, and he's not here tonight. He sponsors a bill that has this exact mechanism.

ACTING PRESIDENT STEWART-COUSINS: (Gaveling.)

SENATOR SQUADRON: Thank you. And a couple of more seconds on my two minutes, if you don't mind.

A member on the other side of the aisle has cosponsored a bill that has exactly the mechanism that is being used as the justification for voting against this bill tonight.

A member on this side is not able to be here for personal and tragic reasons.

The fact is it would be a mistake to move half and not all tonight, missing two members who we have good reason to believe understand that doing this comprehensively is the point. We have to do it, we have to do it this session, we have to base it on what we

already seen the Assembly can pass and did pass and set the table for us.

But this idea that we're going to let these sorts of crazy theories that don't make any sense kill half of comprehensive ethics reform when we're missing some members who have shown that they really do understand why it's so important I think doesn't make any sense.

So I am going to vote for this chapter, and I urge any members who aren't voting for it to reconsider their votes.

Thank you.

ACTING PRESIDENT STEWART-COUSINS: Thank you, Senator.

Senator DeFrancisco, to explain his vote.

SENATOR DeFRANCISCO: Yes, I listened carefully to Senator Squadron. And there's two things that appeared obvious, that the comments here on this side of the aisle, especially those of Senator Flanagan, went well beyond the composition of the board that are reasons why this bill should not be

passed.

Secondly, if this bill is going to move everything to the goal line, Senator Squadron had plenty of time to incorporate the provisions of this bill into his legislation so that we would be voting on the goal-line bill if he truly thought that that was the way to go.

And I believe that's also the reason why we went backwards in this whole process. And Senator Squadron certainly can amend his bill to bring it to the epitome of ethics reform by incorporating the Sampson bill.

So I think it's a little bit suspicious, the arguments that were being made, and I would think that this bill is not a good one. We'll see what happens on his bill when it's debated.

Thank you. I vote no.

ACTING PRESIDENT STEWART-COUSINS: Senator DeFrancisco to be recorded in the negative.

Senator Padavan, to explain his

vote.

SENATOR PADAVAN: You know, the road of good intentions is sometimes full of potholes. The pothole here is the enforcement unit. You hesitate to use the word "enforcement," but it's in the bill.

And it is partisan. It is seven to two. Senator Morahan pointed out the unfairness of that. Others have spoken to that issue time and time again.

There are many good parts to this chapter amendment, but that part, it kind of overrides everything else. That's why we are standing here objecting to something which has been categorized as basically unfair, undemocratic -- small D -- and not in the best interests of the people of this state.

That could provide for witch-hunts, that could provide for situations where individuals will be targeted for no other purpose than political. That possibility is engendered in the very structure of this chapter amendment. That's my major concern, and I think many others'.

And for that reason I vote no.

ACTING PRESIDENT STEWART-COUSINS: Senator Padavan to be recorded in the negative.

Are there any other Senators wishing to explain his or her vote?

Senator Schneiderman.

SENATOR SCHNEIDERMAN: Thank you, Madam President.

I'm voting yes. And I have to say that I don't really understand the arguments on the merits of the other side. I do understand the arguments politically.

This bill, because it is a bill, changes the definition of lobbying to make this a more ethical state, requires us to report business dealings with lobbyists, creates random review of our financial disclosure statements so they just don't sit there in a pile. It changes the rules for ethics commissions. And it does create an enforcement unit. And in spite of everything that has been said, the only function of this panel, which is a government panel -- and yes,

most of the government officials in this state are Democrats right now -- is to appoint an executive director. This provision was insisted on by the good government groups. The enforcement unit thereafter is not influenced at all by the appointing panel. It works under the supervision of the Board of Elections. I don't think we can be clearer.

This is something that makes this a more ethical state. This advances the cause of transparency and small-d democracy. I do understand an argument on the merits against it. I do understand the argument politically. Nobody wants more scrutiny. We want to look like we're passing an ethics bill by voting for the floor rather than the package.

But even the sponsor, Senator Squadron, who agrees that these two bills together are really what we need acknowledges that his bill alone does not do the job.

I think it would be a big mistake to leave here tonight saying, Oh, we passed an ethics bill when we only did half of it. We've got to do both, Madam President. I hope

one person on the other side of the aisle will stand up so that we can do this in a bipartisan way and vote for this so that we can pass a full package of ethics reform, Madam President.

I'm voting yes. I urge my colleagues, this is the right thing to do.

ACTING PRESIDENT STEWART-COUSINS: Senator Schneiderman to be recorded in the affirmative.

Are there any other Senators wishing to explain his or her vote?

The Secretary will announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 960 are Senators Alesi, DeFrancisco, Farley, Flanagan, Fuschillo, Golden, Griffo, Hannon, O. Johnson, Lanza, Larkin, LaValle, Leibell, Libous, Little, Marcellino, Maziarz, McDonald, Morahan, Nozzolio, Padavan, Ranzenhofer, Robach, Saland, Seward, Skelos, Volker, Winner and Young.

Ayes, 31. Nays, 29.

ACTING PRESIDENT STEWART-COUSINS: The bill is defeated.

Senator Sampson.

SENATOR SAMPSON: Madam President, at this point in time can we please lay this bill on the table.

ACTING PRESIDENT STEWART-COUSINS: The bill is laid on the table.

SENATOR SAMPSON: Thank you.

ACTING PRESIDENT STEWART-COUSINS: The Secretary will continue to read.

SENATOR LIBOUS: Madam President.

ACTING PRESIDENT STEWART-COUSINS: Senator Libous, I had asked the Secretary to read. Is --

THE SECRETARY: Calendar Number 959 --

SENATOR LIBOUS: No, no, no, no, no. I'm sorry. Madam President.

ACTING PRESIDENT STEWART-COUSINS: Senator Libous.

SENATOR LIBOUS: Point of order. What took place just then?

ACTING PRESIDENT STEWART-COUSINS:

Senator Sampson asked that the bill be laid on the table.

SENATOR LIBOUS: Laid on the table. And for what purpose? The bill was defeated. It has to be reconsidered.

Madam President, the normal procedure in this house in the past has been that the vote has to be reconsidered and then the bill is laid aside.

ACTING PRESIDENT STEWART-COUSINS: Senator Libous, we are checking that.

SENATOR SMITH: Madam President.

ACTING PRESIDENT STEWART-COUSINS: Senator Smith.

SENATOR SMITH: Yes, would you please recognize Senator Sampson.

ACTING PRESIDENT STEWART-COUSINS: Senator Sampson.

SENATOR SAMPSON: Madam President, at this point in time I would like to make a motion to reconsider the vote.

ACTING PRESIDENT STEWART-COUSINS: Senator Sampson, are you asking to have the bill that was defeated reconsidered?

SENATOR SAMPSON: Yes, Madam President.

ACTING PRESIDENT STEWART-COUSINS: The Secretary will read.

THE SECRETARY: Calendar Number 960, by Senator Sampson, Senate Print 6157, an act to amend the Legislative Law and the Public Officers Law.

ACTING PRESIDENT STEWART-COUSINS: The Secretary will call the roll on reconsideration.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT STEWART-COUSINS: The bill is restored to the Third Reading Calendar.

SENATOR SAMPSON: Madam President, at this point I move to lay the bill aside for the day. Thank you.

ACTING PRESIDENT STEWART-COUSINS: The bill is laid aside for the day.

SENATOR LIBOUS: Thank you, Madam President.

ACTING PRESIDENT STEWART-COUSINS:

Thank you, Senator Libous.

SENATOR SAMPSON: Madam President.

ACTING PRESIDENT STEWART-COUSINS: Senator Sampson.

SENATOR SAMPSON: Now may I have that bill tabled?

ACTING PRESIDENT STEWART-COUSINS: The bill is tabled.

SENATOR LIBOUS: I beg your pardon, Madam President. Point of order.

ACTING PRESIDENT STEWART-COUSINS: Senator Libous.

SENATOR LIBOUS: A motion of reconsideration may be made at any time thereafter while the same is in the possession of the Senate. All resolutions recalling a bill or resolution of the Assembly shall be regarded as privileged, and no vote shall be reconsidered upon either the following motions, to adjourn or to lay on the table.

The bill can be laid aside. It cannot be laid on the table.

ACTING PRESIDENT STEWART-COUSINS:

Senator Smith.

SENATOR SMITH: Madam President, I believe that we have that bill laid aside for the day.

And if that is the case, I'd like to go back to the calendar and begin to read the bills.

Thank you, Madam President.

SENATOR LIBOUS: Thank you, Senator.

ACTING PRESIDENT STEWART-COUSINS: The Secretary will continue to read.

THE SECRETARY: Calendar Number 959, substituted earlier today by Member of the Assembly Silver, Assembly Print Number 9032, an act to amend the Executive Law.

SENATOR SMITH: Lay that aside for the day.

ACTING PRESIDENT STEWART-COUSINS: The bill is laid aside for the day.

The Secretary will continue to read.

THE SECRETARY: Calendar Number 872, by Member of the Assembly Silver,

Assembly Print Number 8901, an act to amend the Public Authorities Law.

ACTING PRESIDENT STEWART-COUSINS: Read the last section.

SENATOR LIBOUS: Explanation.

ACTING PRESIDENT STEWART-COUSINS: Senator Aubertine, an explanation has been requested.

SENATOR AUBERTINE: Thank you, Madam President.

Through you, this is a bill that would establish a loan fund that would provide for middle-income families the ability to tap into this loan fund for weatherization for their homes.

Also, this program would create an estimated 5,000 jobs plus across the state --

ACTING PRESIDENT STEWART-COUSINS: May we have order in the chamber, please.

SENATOR AUBERTINE: Thank you, Madam President.

Also, this bill in the Assembly passed nearly unanimously. It was supported by the minority leader in the Assembly.

ACTING PRESIDENT STEWART-COUSINS: Thank you, Senator Aubertine.

Senator Young.

SENATOR YOUNG: Yes, Madam President. Through you, would the sponsor yield for some questions?

ACTING PRESIDENT STEWART-COUSINS: Senator Aubertine, do you yield for questions?

SENATOR AUBERTINE: Yes.

SENATOR YOUNG: Thank you, Senator Aubertine.

This is a nice-sounding bill. It's called "Green Jobs." And it actually takes $112 million and puts it toward weatherization, as you said. Can you please explain to this body where that $112 million comes from?

SENATOR AUBERTINE: Yes. Through you, Madam President, the $112 million comes from the sales of carbon credits in the RGGI fund.

SENATOR YOUNG: Okay. Thank you, Senator Aubertine. Were you aware that --

ACTING PRESIDENT STEWART-COUSINS:

Senator Young --

SENATOR YOUNG: If he will yield, Madam President.

ACTING PRESIDENT STEWART-COUSINS: Do you continue to yield, Senator Aubertine?

SENATOR AUBERTINE: Yes, Madam President.

SENATOR YOUNG: Were you aware that there's already $1 billion that's supposed to be expended by NYSERDA by the year 2015, and a lot of that money is going to go toward -- it's all going to go toward energy efficiency, a lot of it toward environmental justice?

SENATOR AUBERTINE: Through you, Madam President, yes, I am aware of that. However, that funding is limited to low-income families. And the families that potentially would be affected by the Green Jobs program would not be able to access that funding. Therefore, the Green Jobs program would take care of that loophole.

SENATOR YOUNG: Madam President, through you.

Senator Aubertine, were you also aware that the Division of Housing and Community Renewal also has $500 million allocated for weatherization programs?

ACTING PRESIDENT STEWART-COUSINS: Senator Aubertine.

SENATOR AUBERTINE: Through you, Madam President, yes, I am.

And again, those dollars are allocated for low-income families. Families making $30,000 to $99,000 annually could not access those funds.

SENATOR YOUNG: Thank you, Madam President. Through you.

Senator Aubertine, I also wanted to ask a question about this $112 million. Were you aware that on April 27th of this year --

ACTING PRESIDENT STEWART-COUSINS: Excuse me, Senator Young.

Please, I would ask the people in the rear to allow for the debate to happen.

Senator Young.

SENATOR YOUNG: Thank you, Madam President. I'll start again, Senator

Aubertine.

Basically, were you aware that NYSERDA voted on April 27th of this year to allocate that $112 million toward all kinds of energy efficiency and other projects that would actually stimulate the economy?

SENATOR AUBERTINE: Through you, Madam President, yes, I am aware of that.

And as recently as yesterday I had a conversation with NYSERDA and was assured that the $112 million that would be allocated from the RGGI fund into the Green Jobs program would have absolutely no impact on the commitments that NYSERDA has made in their operating plan.

SENATOR YOUNG: Thank you, Madam President. Through you.

That's very interesting. I guess I would ask the question, then, where is NYSERDA going to get this -- or where are you going to get this $112 million to do this weatherization program?

ACTING PRESIDENT STEWART-COUSINS: Senator Aubertine, do you continue to yield?

SENATOR AUBERTINE: Yes, I do.

And through you, Madam President, currently there's $126 million in the program as of yesterday morning. Between yesterday and today, there has been another auction of RGGI credits. At this point I was unable to get the exact dollar amount that was raised through that auction. However, it's estimated that that was about a $40 million sale, which would lift that to over $160 million, give or take.

There will be another auction before the end of this year and another auction in the first quarter of next year, presumably before the Green Jobs program is implemented. So conceivably that sum would grow considerably more than the $150 or $160 million that's in there currently.

And also I would point out that having had that conversation with NYSERDA yesterday, there was no urgency to use the entire $112 million in a single lump in an initial investment in green jobs. NYSERDA was looking to get the program started more with

an initial investment of somewhere around $40 million.

SENATOR YOUNG: So through you, Madam President. So what you're saying, Senator Aubertine, is that you feel that there's going to be excessive money available that could be used for this particular program.

I guess it begs the question, then, if for example upstate New York, whose economy is really struggling right now -- the farmers are struggling, the small businesses are struggling, the manufacturers are struggling -- why aren't we allocating money through energy-related programs to help the farmers, to help the small businesses, to help the manufacturers, especially upstate where the recession has hit the hardest and where we typically have struggled over the years?

SENATOR AUBERTINE: Through you, Madam President. Senator, this is precisely what this program does. It's not limited to homeowners. Businesses, small businesses as well, can access these programs. There's

nothing here to preclude farmers, agriculture from accessing this program as long as they meet the guidelines set forth by NYSERDA.

SENATOR YOUNG: Through you, Madam President --

ACTING PRESIDENT STEWART-COUSINS: Senator Aubertine, do you continue to yield?

SENATOR AUBERTINE: Yes, Madam President.

SENATOR YOUNG: I understand that possibly some of those entities could qualify for this money. But right now, for example, the dairy farmers in New York State are going out of business. They have the lowest milk prices that they've ever had, and it's continued for nearly a year.

The 18A tax that your colleagues, your side of the aisle levied on all of the utilities earlier this year through the state budget had all of those small businesses, all the farmers and so on, the estimates are that it will cost the farmers about $100 per cow more in costs because of the 18A tax.

So it's nice that they might want

to weatherize their barn. I'm not sure what that really saves them. What they're really looking for are cost savings, some kind of help. And we've increased their costs significantly.

So my question is if we've done that and they're even struggling to stay in business, why don't we allocate some of this money, if you think there's excess, toward helping the farmers or small businesses or people like that?

SENATOR AUBERTINE: Through you, Madam President. Did I understand you correctly, Senator, that the 18A assessment costs the average farmer $100 per cow?

SENATOR YOUNG: With the increased taxes, yes.

SENATOR AUBERTINE: Do you -- could you share with me --

SENATOR YOUNG: I would be glad to go out and dig up my source. I don't have it with me right now, Senator.

SENATOR AUBERTINE: Thank you, Senator.

SENATOR YOUNG: But would you agree, then, though, that that increased their costs?

SENATOR AUBERTINE: Through you, Madam President. The dollar amount that you're speaking about, the money in the RGGI account, there certainly would be -- again, if NYSERDA chose to move those programs out there, there certainly would be money available, I believe, for all small businesses, including dairy farms.

SENATOR YOUNG: Thank you, Madam President. Would Senator Aubertine continue to yield?

ACTING PRESIDENT STEWART-COUSINS: Senator Aubertine, do you continue to yield?

SENATOR AUBERTINE: Yes, Madam President.

SENATOR YOUNG: Thank you.

You know, you've taken on a couple of roles now, which I think is great. You're chair of the Ag Committee, you're chair of the Energy Committee.

And so these revenues that you're

spending through this bill actually come through this RGGI initiative that is a tax on power that's generated. Could you explain for the chamber where most of this power comes from? Where are the power generators in the state?

SENATOR AUBERTINE: Through you, Madam President, this revenue comes from the power generators of the state.

SENATOR YOUNG: Where are they located?

SENATOR AUBERTINE: Through you, Madam President, they're located in various locations around the state.

SENATOR YOUNG: Madam President, will he continue to yield?

ACTING PRESIDENT STEWART-COUSINS: Do you continue to yield, Senator?

SENATOR AUBERTINE: Yes, Madam President.

SENATOR YOUNG: Actually just to clarify my point. Where I was leading was that there are a couple, a handful of very small power generators in the New York City

area, but the vast majority of the power is generated upstate. Would you agree with that statement?

SENATOR AUBERTINE: Through you, Madam President, yes.

SENATOR YOUNG: Including your district; right?

SENATOR AUBERTINE: Absolutely.

SENATOR YOUNG: Thank you. I was reading through the bill, Senator Aubertine -- if he would continue to yield.

ACTING PRESIDENT STEWART-COUSINS: Do you continue to yield, Senator?

SENATOR AUBERTINE: Yes, Madam President.

SENATOR YOUNG: I was reading through the bill, and it said that these grants would go through an RFP process and that geographic area would be considered as one of the elements. But where does it say in the bill that there would, for example, maybe be an even split between upstate and downstate?

SENATOR AUBERTINE: Through you,

Madam President. Senator, it's on page 4.

SENATOR YOUNG: Senator, is that where it says there would be a geographic consideration?

SENATOR AUBERTINE: Yes. If you'll look down through to Line 38, number 2: "In awarding the grants, the authority shall." And then if you go down just a couple more lines to lines 47 and 48, subsection C there: "ensure that the awards as a whole reflect the geographic diversity of the state."

SENATOR YOUNG: Thank you, Senator Aubertine. Would you continue to yield?

ACTING PRESIDENT STEWART-COUSINS: Senator Aubertine, do you continue to yield?

SENATOR AUBERTINE: Yes, Madam President.

SENATOR YOUNG: But basically, under that language, they could maybe give five awards upstate and the rest downstate. There's no kind of percentage that's outlined there. It just says that some have to go to other geographic areas. So basically it

doesn't say that upstate would be guaranteed 50 percent of the money, for example.

SENATOR AUBERTINE: Through you, Madam President. Senator, would you mind repeating the question, please?

SENATOR YOUNG: Would you agree that it doesn't specifically outline, even though based on that language, that upstate would get, you know, to be fair, maybe 50 percent of the money? Because it says based on geographic considerations, but that doesn't -- I mean, they could throw maybe five projects upstate and the rest of the money could go downstate.

And so where does it say that there's some kind of percentage split? Because I don't believe that it's in the bill, unless you can show me where it's at.

SENATOR AUBERTINE: Through you, Madam President, there is no formula in the bill to address economically distressed areas of the state.

However, if you'll read in the bill, it does point out areas of the state as

far as need, as far as mean income and housing stock. So I think if you were to look at obviously the weather conditions in northern parts of the state and the mean income in northern parts of the state, I think you would agree that clearly Northern New York would access a good deal of that funding.

SENATOR YOUNG: Thank you, Senator.

Madam President, would Senator Aubertine continue to yield?

ACTING PRESIDENT STEWART-COUSINS: Senator Aubertine, do you continue to yield?

SENATOR AUBERTINE: Yes, Madam President.

SENATOR YOUNG: Is there any kind of cap or limit on CO2 allowances under the RGGI model?

SENATOR AUBERTINE: I'm sorry, Senator, I --

ACTING PRESIDENT STEWART-COUSINS: Senator Young, Senator Aubertine could not hear you, but it is because there is still noise in the chamber. So would you please

repeat the question?

SENATOR YOUNG: Thank you.

Senator Aubertine, I just wanted to ask the question, is there any kind of cap or limit that is in place on CO2 allowances through the RGGI model?

SENATOR AUBERTINE: Yes, Senator, there is a maximum number of allowances that they can sell.

SENATOR YOUNG: And is there a funding limit that's in place? My understanding is that there isn't in this under RGGI.

SENATOR AUBERTINE: Through you, Madam President. Senator, just for clarity, you're talking about a funding limit on individual grants? I believe it's $16,000 for the loans.

SENATOR YOUNG: No, as far as -- I'm sorry, Senator. Let me clarify. As far as the RGGI goes and money going into RGGI. And, you know, can RGGI just be increased at any time so that they take more and more and more money as a tax, basically, on these

utilities?

SENATOR AUBERTINE: Senator -- through you, Madam President -- there is a finite number of allowances for the RGGI program.

SENATOR YOUNG: Thank you.

Thank you, Madam President. On the bill.

ACTING PRESIDENT STEWART-COUSINS: Senator Young, on the bill.

SENATOR YOUNG: While this sounds like good legislation, has a nice name with "Green Jobs," I'm very concerned about the effect that this will have on New York State's economy. We already have the highest power rates in the entire country. This body levied the 18A utility tax earlier this year. We are losing people and jobs out of the state. We are hemorrhaging. And we need to turn that situation around.

As I mentioned earlier, our farmers, particularly our dairy farmers, are going out of business. Every single day there are scores of farms that are going out of

business. That hurts upstate, but that hurts the entire state because it hurts our economy.

I have to disagree with my colleague Senator Aubertine about the availability of these funds. Because basically this is taking $112 million that NYSERDA already designated on April 27th of 2009 for very significant projects, very important projects to the economy, very important projects to the environment. It's taking money away from a program that would reduce emissions by 8.3 million tons. It's taking money away from a program that would save customer energy bills $1 billion. It's taking money away from programs that will create and retain thousands of jobs. And you're taking away money from renewable energy projects like biomass, wind energy, and so on.

So I believe that this needs to be changed. I believe that we should vote this down. Because quite honestly, as I said, there's already $1.5 billion, think about that, $1.5 billion going toward energy efficiency programs, going toward

weatherization programs through the Division of Housing and Community Renewal.

And this is money that could be put to better use to actually go into the economy, not to duplicate funding that's already there but to create real jobs by helping farmers, helping small businesses, manufacturers.

These bills don't do that, they do the opposite. They kill the economy. And I would urge a no vote.

ACTING PRESIDENT STEWART-COUSINS: Senator Parker.

SENATOR PARKER: Thank you, Madam President. On the bill.

ACTING PRESIDENT STEWART-COUSINS: Senator Parker, on the bill.

SENATOR PARKER: Colleagues, this Green Jobs-Green New York legislation is extremely important for us. We right now are on the precipice of two very significant disasters. One is an ecological disaster that's happening all over our planet with the disintegration of the ozone layer, with the greenhouse effect being seen all over the

world.

We have the polar icecap melting, literally, and polar bears drowning because they can't make it from one ice raft to the other because now the distance is so far, because what used to be miles and miles of ice has now turned back into ocean. This is having profound effects on our weather -- in some places, floods; in other places, severe droughts.

You then add that to the greatest contraction of the economy of the United States in the history of the United States. And many of us have been kind of scared to even talk about that, because the consequences and the thought of things being worse than they were in 1932 is really absolutely terrifying. And I get that.

And frankly, the only reason why we're not in a worse situation than we were during the Great Depression is simply because we learned the lessons of the Great Depression and created a social service safety net with things like TANF and food stamps and Social

Security and Social Security insurance and Medicaid and Medicare and unemployment insurance. We have, you know, all of these mechanisms now to keep people from hitting rock bottom.

But the reality that we see right now is that our economy is in desperate need. And my colleague Cathy Young even talked about how is it in fact affecting the upstate economy. And she's absolutely right. And we in fact talk about the idea of this contracting economy and one of if not the greatest thing in terms of our revenues for the state being agriculture being affected.

Many of you may not know -- certainly Cathy Young knows, and certainly my colleague Darryl Aubertine knows, because of where they're from, that New York State is the fourth-largest dairy producer in the entire country. Sorry, third, I heard. We moved up in the last two years. So we're now the third-largest dairy producer in the entire country. Right? And so we can't afford, as Senator Young has indicated, to allow farms to

go out and to allow our economy just to drop.

This is one New York. So when, you know, Wall Street drops out and, you know, they have a symbolic sneeze, upstate catches pneumonia. And that's essentially the reality that we're in.

This Green Jobs-Green New York legislation brings us to a place where we have an opportunity to deal with both of our major crises simultaneously, Madam President. This is a program that significantly, appropriately uses the cap-and-trade program that was created by this state and that we all should be very proud of. We have a cap-and-trade program that in fact successfully takes our cash emissions, puts a value on them, creates a market around them. And if you're going to be a polluter in the State of New York, it now costs you money.

We have then taken those dollars, we have put it in a lockbox in NYSERDA, the New York State Energy Research and Development Authority, and have now used those dollars to in fact do programs that help our environment.

When you talk about RGGI, that's what RGGI is. RGGI is the Regional Greenhouse Gas Initiative. It is in fact not something that taxes power plants. It is in fact anybody who in fact is creating a significant carbon footprint, defined by the RGGI program, is in fact subject to be engaged in the RGGI lottery over buying credits to be a polluter. You no longer can pollute for free in the State of New York. A model that is so successful that the federal government is in fact in the process of looking at nationalizing a program based on the New York model.

And so what this legislation does is, and what I applaud Senator Aubertine on bringing forward to us today, is an opportunity to appropriately use the monies from RGGI to do three critical things.

First, it is something that significantly helps our environment because it creates programs that deal with the largest sources of carbon emissions in our communities, which are private homes and power plants. The better we can do with insulating

our homes, the less carbon footprint they produce and the less carbon footprint the power plants have to produce in order to create energy for those areas.

So this is important. You know, I know many of you were rabid over the fight last year or the year before last on congestion pricing. And I know when we talked about congestion pricing, many of you made the argument that we have to do something about the pollution. And you wanted to slow down the residential cars that were going into Manhattan. The reality is that that was a red herring. This is the real deal, folks. This is the real deal.

This bill deals with our carbon footprint. Congestion pricing doesn't really deal with the carbon footprint of Manhattan or the city. This deals with the carbon footprint of our entire state. By enacting this legislation, we will have an opportunity to make many millions of homes over the course of years -- right? So if we look at a decade, we may be able to get 1, 2, 3 million homes

insulated.

And what does that mean? And let me use technical terms. What we're going to be doing is retrofitting homes and making buildings, particularly residential buildings -- and that hopefully we'll then expand it to commercial buildings -- but to make them high performance. What does high performance mean? High performance means that you've gotten rid of your wood windows and those old rickety shades you've got on there and you now have some good storm windows on there, and some windows that keep the air out and keep your warm air in. And in the summer, it keeps your cool air in and the hot air out.

Most people, Madam President, have enough holes in their home, between little cracks in the doorways and, believe it or not, your light switches and the sockets in your home, you have enough holes in -- not your home, Madam President, other people's homes. I'm just saying the average New Yorker has enough holes in their home that will equal keeping your window open. So can you imagine

being in Watertown in the middle of February with an open window? But that's what we have right now.

And what this program would allow us to do is seal those holes in people's homes. They would be able to seal their byways and their ductways. They would be able to replace their old incandescent light bulbs for new compact fluorescents. They would be able to get rid of those old water heaters and those old boilers that they've had for 20 or 30 years and get new state-of-the-art energy-saver equipment placed in their homes. They would be able to repair their roofs and insulate their homes so that the air would not be just going out willy-nilly and that we would have an opportunity to in fact save energy because people would be able to not have to use as much energy. And thus it would reduce our carbon footprint because it wouldn't take as much coal-burning furnaces to in fact produce electricity.

Which now leads me to our second benefit. The Green Jobs-Green New York

legislation has a second benefit in that it will reduce the energy costs of every single New Yorker, and particularly those New Yorkers who in fact are suffering from having the draftiest homes and who will, under this program, get their homes retrofitted and be able to live in high-performance buildings.

That this retrofitting will in fact produce homes that save energy. And I don't know who in here has constituents who don't want to save money on their energy bill. I think everybody in here, including the legislators, want to save money on their energy bills. This is our opportunity to do such.

The third, and it's last but certainly not least, is that this Green Jobs-Green New York legislation will produce upwards of 14,000 jobs across the state. And the vast majority of those jobs would in fact be produced in upstate New York, because in fact that's where in fact much of the retrofitting would in fact happen.

If people decide -- my colleagues,

if you decide not to vote for this legislation, you will be blowing an opportunity to bring jobs to your communities. And I don't know one person in here who thinks they have enough jobs in their district. And if you do, please let me know what district you're in so you and I can have some talks about how I can bring some of those excess jobs into my district, because I know I certainly don't have enough jobs in my community. And I don't represent a poor community, but I do know that there are people who are in fact looking for work. And I don't know what legislator in their right mind would miss an opportunity to increase the number of jobs that are available.

Now, we can look at the RGGI pool, this Regional Greenhouse Gas Initiative pool of money, and we can say, well, let's spend it on this, let's spend it on that, let's spend it on this. We were very specific in the legislation that created the RGGI program to make sure that the dollars that were spent out of RGGI had to be used in a way that was

consistent with the idea of reducing carbon footprints and making us have a cleaner environment.

This Green Jobs-Green New York legislation does that. It produces a set of activities that reduces the carbon footprint in the state and at the same time produces jobs and simultaneously also lowers people's bills. And don't take my word for it. Take some of your constituents' word for it.

I have a letter here from the New Buffalo Impact. And this was actually a letter that was sent to Senator Maziarz. And I don't see Senator Maziarz here, but I'm sure he has the letter. And it says:

"Dear Senator Maziarz: New Buffalo Impact, Inc., is a nonprofit organization dedicated to residential energy efficiency for low- and low-to-moderate-income homeowners in Western New York. Since 2002, we have assisted many of your constituents to lower their high-energy-cost burdens through providing air sealing, insulation, high efficiency heating and hot water systems, and

efficient lights and applications in programs primarily funded by the New York State Energy Research and Development Authority, NYSERDA.

"We would like to thank you for your cosponsorship and continued support of the Green Jobs-Green Homes New York legislation, which is coming up for a vote in the Senate this week. We at NBI" -- that's the New Buffalo Impact -- "strongly support this legislation, which has the potential to remove the up-front cost barrier that prevents so many of New Yorker's middle-income homeowners from making their houses energy efficient and to create thousands of green jobs for New York's workers."

And that's signed "Sincerely, Brian M. Paterson, Vice President, New Buffalo Impact, Inc., 34 Peuquet Parkway, Tonawanda, New York, 14150." Phone number (716) 881-1477. You can find him at http://www.NewBuffaloImpact.com.

Right? So that is a letter that came to an upstate legislator, to an upstate Senator, about this idea.

This is an important piece of legislation. We must have this legislation and use these dollars in the way that they were supposed to be used. And by doing that, we will free up dollars in other places of our budget so we can do exactly the things that Senator Young has proposed.

I think that what she's saying is absolutely right. I think that this funding source is not the appropriate funding source to do it. And I'd be happy to work with her and our staffs to figure out how we in fact create more economic opportunity for our dairy farmers across the state, because they're a vital part of our economy and we certainly can't go forward having them fail.

And so I hope to have, you know, a celebration with my colleagues across the state as we bring 14,000 new jobs to our state, and I'll be voting yes.

Thank you, Madam President.

ACTING PRESIDENT STEWART-COUSINS: Thank you, Senator.

Are there any other Senators

wishing to -- Senator Libous.

SENATOR LIBOUS: Thank you, Madam President. Would the sponsor yield to a couple of questions?

ACTING PRESIDENT STEWART-COUSINS: Senator Aubertine, do you yield?

SENATOR AUBERTINE: Yes, Madam President.

SENATOR LIBOUS: Thank you, Madam President. Through you, Madam President.

Senator Aubertine, there's a lot of money here that's going to go in various places. Could you share with us what type of community groups might be receiving this funding?

SENATOR AUBERTINE: Sure. In fact, I've got a list of those groups here somewhere. Pardon me.

Through you, Madam President, I've got a list of quite a few. For example, in Orange County, Orange County Rural Development Advisory Corporation, Newburgh Community Improvement Corporation, Community Voices Heard, Department of Continuing Ed at

SUNY-Orange.

Rockland was Rockland BOCES. In Suffolk County, Action Long Island. In my own district in Watertown, Community Action Planning. And a list of organizations such as that, Senator.

SENATOR LIBOUS: Madam President, will he yield for another question?

SENATOR AUBERTINE: Yes, Madam President.

SENATOR SALAND: Madam President, if the gentlemen would suffer an interruption. I'm not that far from either of them, and --

ACTING PRESIDENT STEWART-COUSINS: Are you finding it difficult to hear?

SENATOR SALAND: The chamber isn't that noisy. I don't know if it's a problem with Senator Aubertine's mike. I've had a problem hearing him during much of the debate with Senator Young. So if it's a mike problem -- or perhaps he could speak a little bit louder. But I have had a problem. And now that it's so dead silent, it continues.

ACTING PRESIDENT STEWART-COUSINS:

Thank you.

Senator Aubertine, will you continue to yield?

SENATOR AUBERTINE: Yes, Madam President.

SENATOR LIBOUS: Thank you. Madam President, through you.

Senator Aubertine, what would these organizations do with this funding? I mean what type of energy-efficient green activities -- and I love that word, by the way. That seems to be the buzzword of the century, "green." If it's green, it's good. I don't happen to believe that that's always the case.

But anyway, Senator, what type of green, if you will, activities would they be funding?

SENATOR AUBERTINE: Through you, Madam President. Senator, they would provide -- they would be the workforce that would provide the activities such as weatherization, caulking, replacement of windows, doors, and again, a myriad of

activities toward weatherization.

SENATOR LIBOUS: Will you yield for another question?

ACTING PRESIDENT STEWART-COUSINS: Senator Aubertine, do you continue to yield?

SENATOR AUBERTINE: Yes, Madam President.

SENATOR LIBOUS: Senator Aubertine, you listed a number of groups, Madam President. If you were to start at the top of the alphabet, would ACORN be one of those, Senator?

SENATOR AUBERTINE: Through you, Madam President. The way the bill is written, Senator, it's constituency-based organizations. And nowhere in the bill do I see that name -- or any of these other names, for that matter. But they are constituency-based organizations, the names that I gave you.

SENATOR LIBOUS: Thank you, Madam President. Could I speak on the bill now?

ACTING PRESIDENT STEWART-COUSINS: Senator Libous, on the bill.

SENATOR LIBOUS: I think the Senator answered my question. And ACORN poses to be one of those organizations, Senator Aubertine.

One of the reasons why I'm not going to support this bill -- there are a lot of reasons. But one of the reasons is that organizations like ACORN should not receive this sort of funding.

And just recently, Madam President, on the Times Union blog, 7:45 Thursday -- that's today -- September 10th -- and it's the Times Union, it's not Fox News, it's the Times Union reported this, that "The group ACORN has fired two employees who were seen on hidden-camera video giving tax advice to a man posing as a pimp and a woman who pretended to be a prostitute. On the video, a man and woman visiting ACORN's Baltimore office asked about buying a house and how to account on tax forms for the woman's income. An ACORN employee advised the woman to list her occupation as performance artist." I find that interesting.

"The pair also claimed they planned to employ teenage girls from Central America as prostitutes. An ACORN employee suggested that up to three of the girls could be claimed as dependents, according to transcripts of the video posted online."

Madam President, that's what disturbs me about this legislation. It's an awful lot of money. There are groups and organizations that are going to get this money and do exactly what ACORN has done. And I believe that ACORN will be one of the groups. Although as Senator Aubertine says, it's not in the bill, I don't believe that. I believe they will be one of those, quote, community groups. They seem to be one of the biggest ones in the country. Therefore, I believe they're going to get this money.

That's wrong. Their activities are wrong. What they stand for is wrong. And to preach this sort of information is wrong. To use taxpayer money -- and that's what this is. This is taxpayer money. I don't care if it comes from NYSERDA or wherever it comes from,

it's taxpayer money.

You know, we talked about the money in the 2 percent energy charge, about $632 million. Why not give it back to the taxpayer? Why give it to these community groups? Why not give it directly back to the taxpayer? What a novel idea.

I think there's probably, if we all went back to our districts and knocked on doors and asked the taxpayers, "Would you like us to give this back to you or should we give it to these community groups, ACORN possibly being one of them?" -- and I guess the response would be overwhelming. I'm sure it wouldn't be 100 percent, but I would guess it would be in the 80 percentile that they would say "Give it back to me, don't give it to one of these organizations."

This disturbs me immensely. We all should be disturbed by organizations like ACORN for the way they perform and spend taxpayer dollars. And I will not be on record as giving them a nickel -- or a penny, for that matter -- to help do some of the

ridiculous things that they've done.

Thank you, Madam President.

ACTING PRESIDENT STEWART-COUSINS: Thank you, Senator.

Senator Nozzolio.

SENATOR NOZZOLIO: Thank you, Madam President. Will the sponsor yield?

ACTING PRESIDENT STEWART-COUSINS: Senator Aubertine, will you yield for a question?

SENATOR AUBERTINE: Yes, Madam President.

SENATOR NOZZOLIO: Thank you, Madam President. Thank you, Senator Aubertine.

Senator Aubertine, I have one question. And that question is whether or not the wages paid to those who are putting in and doing the work under this bill, are those wages -- that are paid for by state taxpayers' dollars -- established at the prevailing rate?

SENATOR AUBERTINE: Through you, Madam President, no.

SENATOR NOZZOLIO: Thank you,

Senator Aubertine, for yielding.

Madam President, on the bill.

ACTING PRESIDENT STEWART-COUSINS: Senator Nozzolio, on the bill.

SENATOR NOZZOLIO: Madam President, listening to Senator Libous and Senator Young in debating this bill, it's become very clear that this legislative body is again "do what I say but don't do what I do."

This body, particularly the Democrats on the other side of the aisle, have been pushing time and again to establish prevailing rate, establishing every state job, every job that's done with state funds be paid for at the prevailing labor rate. Now we have hundreds of millions of dollars of projects out there that does not qualify for the prevailing wage rate in the region.

To sum up, Madam President, this will take money away from the energy consumer, jobs away from renewable energy projects like wind and solar, establish those that are in clean coal operations -- and we have many of

those in upstate New York, where many jobs are utilized and many jobs are the beneficiaries of, not to mention biomass and other types of experimental renewables -- basically taking money away from the consumer, taking money away from all of those projects.

Why? Well, as Senator Libous pointed out, so that ACORN can go across the state and put up storm windows. Now, how does that make any sense? And not even at the prevailing rate. So that those who are in this business, who do this work, who do it very professionally are not going to get the opportunity to provide their trade and do the work that normally is done by those construction workers who do this on an everyday basis.

Madam President, this may be well-named in terms of a legislation. "Green jobs" certainly sound goods. But this doesn't establish green jobs, this takes jobs away. It takes jobs away from those in our state who are producing the work and need those jobs desperately, particularly in upstate.

It may be very well-intentioned, Madam President, but it misses the mark, and that's why we have to oppose it.

Thank you very much.

ACTING PRESIDENT STEWART-COUSINS: Thank you, Senator.

Senator Little.

SENATOR LITTLE: Thank you, Madam President. Would the sponsor yield for a few questions? And I will try to be brief.

ACTING PRESIDENT STEWART-COUSINS: Senator Aubertine, do you yield?

SENATOR AUBERTINE: Yes, Madam President.

ACTING PRESIDENT STEWART-COUSINS: Senator Little.

SENATOR LITTLE: Thank you. Senator Aubertine, can you explain how this program differs from the programs that our housing departments have and NYSERDA already has regarding weatherization for those who are income-eligible?

SENATOR AUBERTINE: Sure. Through you, Madam President, this program

reaches out to middle-income New Yorkers, where the programs that you're referring to through DHCR reach out to lower-income New Yorkers.

SENATOR LITTLE: So this is an expansion of existing programs, basically?

SENATOR AUBERTINE: Through you, Madam President, no. I wouldn't construe this as an expansion of an existing program.

What this is is a utilization of carbon credit dollars to weatherize homes, housing stock in your district, my district, and all across New York State, to be much more fuel-efficient, to conserve energy, to conservative energy dollars, to provide jobs. There have been estimates from creating upwards of 15,000. The estimates range from 5,000 to 15,000 jobs across the state.

So no, Senator, I wouldn't construe this as an expansion of existing programs.

SENATOR LITTLE: Thank you.

And through you, Madam President, another question. In the bill they refer to the authority. Are they talking about

NYSERDA?

SENATOR AUBERTINE: Yes. That's identified right there on --

SENATOR LITTLE: So it's not a new authority that's being formed?

SENATOR AUBERTINE: No, Senator. Through you, Madam President.

SENATOR LITTLE: So there is an expansion -- through you, Madam President, if I might ask -- an expansion of the work of NYSERDA and certainly of the need for staffing for the accountability portion. There's a whole training section. There has to be money for training, for energy-audit people to go to be able to go out and do these energy audits.

Could I ask where that money is coming from? Is that all coming out of the $112 million that was referred to before?

SENATOR AUBERTINE: Through you, Madam President, yes. And it is identified in the bill. There is a maximum of 7 percent.

SENATOR LITTLE: Do you know -- through you, Madam President -- Senator Aubertine, what the percentage of that

$112 million is going to be for overhead, for training, for administration, for reporting, for all the work that NYSERDA now has to do to do this program?

SENATOR AUBERTINE: Through you, Madam President. Again, NYSERDA will determine that through their rule-making process.

SENATOR LITTLE: Another question, if I may. Through you, Madam President.

ACTING PRESIDENT STEWART-COUSINS: Senator Aubertine, do you continue to yield?

SENATOR AUBERTINE: Yes, Madam President.

SENATOR LITTLE: Thank you.

In part of the bill I read that this money is going to be combined with some federal stimulus money and some private investment money. Where would the private investment money be coming from?

SENATOR AUBERTINE: Through you, Madam President, it really can come from any source. There's really no limitation on it.

However, it could come from private investors who want to access in --

SENATOR LITTLE: Thank you. If I may, Senator Aubertine, that leads to the question, then, if you spend all of this money on the $112 million through the training and all of the programs setting it up, has anyone found these private investors? Or do you know that there will be additional funding coming into the program to pay for the actual weatherization?

SENATOR AUBERTINE: Through you, Madam President, I'm being told that there are existing venture capitalists who would participate in this program.

SENATOR LITTLE: Thank you. Another question, if I may.

ACTING PRESIDENT STEWART-COUSINS: Do you continue to yield, Senator?

SENATOR AUBERTINE: Yes, Madam President.

SENATOR LITTLE: This is basically a loan program, and the money gets paid back. The up-front money comes from the

state source, and the money is supposed to be paid back through 80 percent of the energy savings on their heating bill.

So how is that figured, and who goes and figures all that? Because one place here it said the energy -- if it could be determined, the amount of energy that was saved -- "to the extent possible, a calculation of energy savings is achieved." So how is the money going to be paid back?

SENATOR AUBERTINE: Through you, Madam President. Before the work is done, there's an audit done on the proposed work to be done, and that money is then paid back through on-bill finance.

SENATOR LITTLE: But there has to be an energy savings. The idea is if their power bill was $100 a month and it is now $60 a month, 80 percent of that $40 savings apparently is going back into this fund where the money came from. Correct?

SENATOR AUBERTINE: Through you, Madam President, that's correct. It goes back to pay back the loan.

SENATOR LITTLE: And what if there isn't any savings? Because it's only a 10-year program, and it stays with the house regardless of whether the person sold it or not. Supposing their $100 power bill only went down to $90?

SENATOR AUBERTINE: Through you, Madam President. I'm not sure how to answer that other than to say, Senator, that, you know, it's proven that to weatherize housing stock, you do an audit to determine whether or not it's feasible. And then any of the savings that you have clearly would go with the house.

SENATOR LITTLE: I know what you're trying to say in the answer. But the person could use more energy, too, even though the weatherization helped. Now they have the ability to use more energy, and their power bill doesn't go down.

I'm concerned about where the savings are going to be that goes back into the fund. And are there really venture capitalists who are going to invest in this

program based on that accountability?

SENATOR AUBERTINE: Again, through you, Madam President, it's my understanding that there are venture capitalists who are willing to invest in this program.

And as far as the savings, I believe overall, you know, if we're looking at upwards of a million homes in housing stock across the state that you will see a substantial savings.

SENATOR LITTLE: Thank you. And an additional question, if I may.

ACTING PRESIDENT STEWART-COUSINS: Senator Aubertine, do you continue to yield?

SENATOR AUBERTINE: Yes, Madam President.

SENATOR LITTLE: And Senator Young touched on this before. You and I have comparable districts, and I believe we represent the coldest part of the state, most likely. How can we ensure that the awards as a whole reflect the geographic diversity? Is it just geographic diversity, or are we going

to add in need, such as temperatures and heating costs and amount of energy needed to heat a home into this formula?

SENATOR AUBERTINE: Through you, Madam President. Senator, you'll find that on page 4, line 44B. It will give performance in awards to applicants that include significant participation by minority and women-owned business enterprises and to applicants to serve economically distressed communities.

And I've got a list of some of those communities right here. In the county per-capita income below $30,892, it was Chautauqua, Cattaraugus, Allegany, Genesee, Wyoming, Livingston, Yates, Schuyler, Chemung, Cayuga, Seneca, Tompkins, Chenango, Cortland, Tioga, Oneida, Madison, Delaware, Otsego, Herkimer, Hamilton, Washington and Greene counties, just to name a few.

SENATOR LITTLE: Thank you. But there really is no guarantee that this is going to be distributed according to heating needs and energy needs as much as it's going to be distributed according to larger cities

and more people who can apply for this program.

SENATOR AUBERTINE: Through you, Madam President, no, I wouldn't agree with that, Senator.

I think that it's going to without a doubt be based on need and income and certainly areas of the state that have high energy costs.

SENATOR LITTLE: Thank you.

And, Senator Aubertine, one other question. Are there restrictions on who can be hired to do the work and the weatherization and then these programs or who can do the energy audits as far as who the workforce will be?

SENATOR AUBERTINE: Yes. Through you, Madam President. They have to be certified under the Building Performance Institute. And I had a list right here.

SENATOR LITTLE: But there are no restrictions other than a certification?

SENATOR AUBERTINE: Right. There are protocols that are in place at NYSERDA.

And there are -- I do have a list, Senator, and I will share that with you if you'd like, of over 150 contractors that are already listed.

SENATOR LITTLE: Thank you.

One other question. I keep saying that, and I promise I'm getting to the end.

ACTING PRESIDENT STEWART-COUSINS: Senator Aubertine, do you continue to yield?

SENATOR AUBERTINE: Yes, Madam President.

SENATOR LITTLE: Recently the Governor vetoed a bill that would provide some funding for an 1812 Commission and celebration throughout the state that would bring tourism to the state and do all of that, and he cited the economic condition of the state right now.

Have you had any kind of commitment from the Governor that he would be willing to support a program like this that extends and enlarges training programs, energy-audit training, accountability programs for these amounts of money throughout?

SENATOR AUBERTINE: Through you,

Madam President. By the way, the 1812 bill happened to be my bill.

(Laughter.)

SENATOR LITTLE: I didn't realize that. But are we headed the same direction?

SENATOR AUBERTINE: But the Governor did have this legislation on his special-session agenda back in June. And so my assumption would be that he is certainly supportive of it.

SENATOR LITTLE: Thank you, Senator Aubertine.

If I may, on the bill.

ACTING PRESIDENT STEWART-COUSINS: Senator Little, on the bill.

SENATOR LITTLE: Representing a very rural area and very cold temperatures and very long winters, believe me, I believe that weatherization and programs to help people be more energy efficient is very important.

But I feel -- and I have read this bill and thought about it considerably. But I think that in this bill there's an awful lot of money that's going to go to training,

administration, trying to account for any kind of heating savings for this loan program and all of this, and that it really pretty much duplicates what we already have from DHCR and from our weatherization programs and from what NYSERDA is already doing.

Therefore, I reluctantly am going to vote no on this bill. Thank you.

ACTING PRESIDENT STEWART-COUSINS: Thank you, Senator.

Senator DeFrancisco.

SENATOR DeFRANCISCO: Thank you, Madam President. Would Senator Aubertine yield to a few questions?

ACTING PRESIDENT STEWART-COUSINS: Senator Aubertine, will you yield for some questions?

SENATOR AUBERTINE: Yes, Madam President.

SENATOR DeFRANCISCO: The way this bill reads is the competitive grants for outreach, enrollment and related services shall be granted after RFPs are sent out, in order to solicit applications from

partnerships or consortia comprised of constituency-based organizations.

What's the role of the constituency-based organization?

SENATOR AUBERTINE: Through you, Madam President, the role would be to become certified and to become eligible to provide those services.

SENATOR DeFRANCISCO: To provide what services?

SENATOR AUBERTINE: To provide the weatherization services.

SENATOR DeFRANCISCO: Would the Senator continue to yield?

ACTING PRESIDENT STEWART-COUSINS: Senator, do you continue to yield?

SENATOR AUBERTINE: Yes, Madam President.

SENATOR DeFRANCISCO: You indicated that there are already contractors that are listed that are certified to do these types of weatherizing services. Is that correct?

SENATOR AUBERTINE: Through you,

Madam President, yes.

SENATOR DeFRANCISCO: Would Senator Aubertine yield to another question?

ACTING PRESIDENT STEWART-COUSINS: Senator Aubertine, will you yield?

SENATOR AUBERTINE: Yes, Madam President.

SENATOR DeFRANCISCO: Why do we need another layer of consortia and constituency-based services when we have contractors that don't have business, we have an economy that is in distress, and we have counties and cities and state organizations that certainly can publicize the availability of money for weatherizing, and we've got contractors out there that can do the work?

Why do we need a middleperson, a constituency-based organization to siphon off some of the money that could go to weatherizing?

SENATOR AUBERTINE: Through you, Madam President. Senator, the size and scope of what we're trying to accomplish here is great, to say the least. The idea of

weatherizing a million homes and small businesses all across this state, we don't have enough contractors in place, I believe, at this point in time.

And if an organization, if a company chooses to step forward and be a contractor under NYSERDA and provide that service anywhere in the state, you know, it's certainly a big need at this point.

SENATOR DeFRANCISCO: Would the Senator continue to yield.

ACTING PRESIDENT STEWART-COUSINS: Senator Aubertine, do you continue to yield?

SENATOR AUBERTINE: Yes, Madam President.

SENATOR DeFRANCISCO: Do these community-based organizations that are siphoning off some of this money pay taxes, like independent contractors that actually perform services of weatherizing?

SENATOR AUBERTINE: Through you, Madam President, yes.

SENATOR DeFRANCISCO: They do. And may I ask him another question? Will he

yield?

ACTING PRESIDENT STEWART-COUSINS: Senator Aubertine, do you continue to yield?

SENATOR AUBERTINE: Yes, Madam President.

SENATOR DeFRANCISCO: So under this bill we would be assured that community-based organizations that are eligible for these grants would have to be taxpaying entities; is that correct?

SENATOR AUBERTINE: Through you, Madam President, yes, I believe many of them would be. I've got a list of a lot of organizations, such as David B. Lee & Co., Inc., Allen Kulik, Kasper Construction, Kevin Rich Construction, Jeff Hills Construction, Durham Construction, Energy Doors, Zero Draft of Central New York. Many of these you may recognize; they're all from your district, Senator.

SENATOR DeFRANCISCO: May I ask -- would he accept another question, please.

ACTING PRESIDENT STEWART-COUSINS:

Senator Aubertine, do you continue to yield?

SENATOR AUBERTINE: Yes, Madam President.

SENATOR DeFRANCISCO: The question wasn't whether some organization may pay taxes. My question was simply these community-based organizations, or constituency-based -- whatever that means -- organizations, does the bill provide that these people who will be receiving some of these funds are taxpaying entities?

SENATOR AUBERTINE: Through you, Madam President. Senator, anyone who is compensated in this state, for the most part, pays taxes. I'm sure you're aware of that. So anyone that has a job providing weatherization or any other service in this state certainly pays taxes.

SENATOR DeFRANCISCO: Would Senator Aubertine yield to another question.

ACTING PRESIDENT STEWART-COUSINS: Senator Aubertine, do you continue to yield?

SENATOR AUBERTINE: Yes, Madam President.

SENATOR DeFRANCISCO: Isn't there a function of the community-based organizations that they could be organizations that facilitate the weatherization or provide information to get to people that the weatherization monies are out there? Isn't that part of what is contemplated by this bill for the constituency-based organizations to do?

SENATOR AUBERTINE: Through you, Madam President, in order to help the Senator better understand --

SENATOR DeFRANCISCO: Excuse me. I understand it fully. I'm asking for an answer.

SENATOR AUBERTINE: Through you, Madam President. Let me read just for the record, then, what a community-based organization means.

A community-based organization means an organization incorporated for the purpose of providing services or other assistance to economically or socially disadvantaged persons within a specific

community and which is supported by or whose actions are directed by members of the community in which it operates.

Now, Senator, I don't know how much plainer we could make it as to what the function of a community-based operation is. And I don't fully understand where your line of questioning is headed. Maybe if you could get directly to the point.

SENATOR DeFRANCISCO: Well, I will, if he answers another question.

ACTING PRESIDENT STEWART-COUSINS: Senator Aubertine, do you continue to yield?

SENATOR AUBERTINE: Yes, Madam President.

SENATOR DeFRANCISCO: The definition that you just gave of community-based organization included providing other services to the disadvantaged. That doesn't mean they have to provide weatherization services, does it? It could be facilitating their understanding of the program. It could be providing awareness of the program, not putting in some type of

change to a home that's going to make it more weathertight. Is that correct?

SENATOR AUBERTINE: Through you, Madam President. Yes, that's correct.

SENATOR DeFRANCISCO: All right. Now, would he answer another question so he knows that I clearly understand this bill.

ACTING PRESIDENT STEWART-COUSINS: Senator Aubertine, do you continue to yield?

SENATOR AUBERTINE: Yes, Madam President.

SENATOR DeFRANCISCO: Do all constituency-based organizations that are eligible under this bill pay taxes if they provide awareness to the community, facilitate information to the disadvantaged about the program, or do these other services that constituency-based organizations can do under this bill, as opposed to actually doing the weatherizing?

SENATOR AUBERTINE: Through you, Madam President, yes.

SENATOR DeFRANCISCO: And that's a requirement of the bill?

SENATOR AUBERTINE: Through you, Madam President. No, Senator, it's not a requirement of the bill. However, it is a requirement of the tax code. If you make money in New York State, you got to pay taxes.

SENATOR DeFRANCISCO: Pardon me?

SENATOR AUBERTINE: It is a requirement of the tax code. If you make money in New York State, you've got to pay taxes.

SENATOR DeFRANCISCO: On the bill, please.

ACTING PRESIDENT STEWART-COUSINS: Senator DeFrancisco, on the bill.

SENATOR DeFRANCISCO: You know, we're in a recession right now. And just because -- or coming out of one, or whatever the pundits say. To just label a bill a Green Jobs-Green New York Act doesn't mean that it's a good bill. To call something green -- we've got a contractor in our county that gets green money and paints the inside of his mall green with that money. I mean, calling something green doesn't make it so and doesn't make it

the best way to do it.

Weatherizing is a good thing. But why would you require money to be siphoned off to community-based organizations to facilitate the program, to give information to people because it's a big program? It seems to me we've got counties, we've got all kinds of government units.

This particular body passed Attorney General Cuomo's bill to consolidate government organizations or agencies because we've got too much bureaucracy. Why would you not, if this is a good bill and you want to divert this money the way the bill diverts it, why don't you just advertise and provide information through all the state organizations, through NYSERDA and everybody else, we've got a program that's going to be beneficial that's going to pay for some of your weatherizing so that we can save money and we reduce the carbon whatever it's called, footprint.

It would seem to me that those contractors that are already in the business

would be more than happy to accommodate -- you don't need anybody to facilitate anything. You need people to actually do the work. And if there's so much work because it's such a magnificently big amount of money, which it is, don't you think they'd hire more people and those people would pay taxes and you would get the weatherizing and the benefit of the green stuff without another bureaucracy of people explaining things and giving notices out?

We've got plenty of people to give notices out and explain things. And community-based organizations, many are not-for-profit. Make the money go to people who are working who will pay taxes, not people who are advising and facilitating. When you've got every county government that would clearly advertise this program. You've got contractors that would hire people if there was money out there to do the weatherizing rather than siphoning money off the top.

Green jobs, green buildings, very, very important. Use the money for what the

intended purpose is. Not to satisfy different organizations who may benefit from it that have no relationship whatsoever to providing the ultimate service that can be provided by the private small businesses that are now struggling. Housing is down, home building is down. There's people out there looking to do this type of work.

So, Senator Aubertine, I understand the bill. I fully understand the bill. And I understand there's going to be a lot of money paid to organizations that are nonprofit and aren't going to pay a nickel in taxes, that aren't going to do a dime's worth of work that is going to improve anybody's building. It might satisfy a constituency, and I'm wondering what constituency bases we're really talking about. The name ACORN was mentioned. I've got a feeling they might see some of this, and some of the organizations that may be helpful to one side or another in the political process. But that doesn't create green buildings. It creates maybe the constituency base that you're looking for, not

help to the economy.

That's why this bill, in my judgment, is wrong. Others have given other reasons that are also valid. And that's why I'm going to vote no on this bill. Not because I'm antigreen or not because I don't believe in buildings being made weatherproof. I mean, use the money for the purpose and don't create another bureaucracy that's not needed for people.

And if you think -- you're a small-businessman, Senator Aubertine. I guess you're still a farmer. You don't need a community-based group to say you can get your barn weatherized. If a program comes out, it's going to be publicized. You don't need somebody to facilitate that. And if you're low-income, you don't need it either. There's plenty of organizations in the county dealing with people who are lower-income that could make this known. There's existing organizations that we pay money for.

So I'm going to vote no for those reasons and also because I do fully understand

the bill and it's not going to use the money for the purpose that it should be using it for.

ACTING PRESIDENT STEWART-COUSINS: Thank you, Senator.

Senator Schneiderman.

SENATOR SCHNEIDERMAN: Thank you, Madam President. I want to commend Senator Aubertine.

I have to say, listening to this debate, I'm kind of puzzled. This bill passed the Assembly unanimously. Let me go over what I think this bill does. Because if Senator DeFrancisco truly understands the bill, then I do not understand the bill, because we seem to be reading it very differently.

This program is in my view a very, intelligently designed program, and I believe that's why all of our Republican colleagues in the other house voted for it, along with all the other Democrats. The idea here is it takes an existing pool of money and if you have a problem with the RGGI program, with the idea that we should make an effort to reduce

greenhouse gas emissions by creating a market-based incentive -- this is a Ronald-Reagan-era-type program, to create an incentive for the private sector to reduce its emissions by having to buy allowances. They pool their money together.

And the money is not, you know, just there for any purpose. You're saying, Oh, why don't you just give it back in taxes? The point of this fund is to be used to reduce greenhouse gas emissions, to make us more energy efficient, to enable us to use less energy. It's something that you keep in the energy sector so that the polluters, who pay because they pollute -- they make money from the pollution, from the greenhouse gas emissions -- are chipping in to help mitigate the problem.

They take this money, there are a lot of good programs that NYSERDA wanted to spend this money on to reduce pollution, to come up with new technologies. But we are in an economic crisis, ladies and gentlemen. What this Green Jobs-Green New York program

does is it says in addition to the other research and things NYSERDA wants to do -- and NYSERDA has endorsed this program, this proposal in this bill, as consistent with everything it's trying to accomplish -- in addition to the other work, let's create a program to create jobs. Let's create a program to help New Yorkers struggling in this recession.

So what does this program do? It creates funds for training, funds to ensure that people enroll in the program. Because with all due respect, there are a lot of people who do not sign up for programs they are eligible for.

And I want to say, a lot of people are picking on ACORN for whatever reason. There are maybe people associated with ACORN who have committed misdeeds somewhere in the United States. There are people associated with the New York State Legislature who have committed misdeeds. I don't think that that means it's all bad.

And I will tell you this. From my

own experience, ACORN has done a lot of good work in my district signing people up for programs they were eligible for and they did not know they were eligible for, including the earned income tax credit.

So maybe some community groups -- and it includes a lot of community groups, and a lot of religious organizations are going to be applying for this, to help people know that they can get a loan, if you're a homeowner, through this program. And then you use that money to hire a contractor to come in, they do an audit, they weatherize your house. It's a program that pays for itself over time, but does require a homeowner to go get a loan, or a small business owner.

But this is a program that produces jobs, it saves us money on energy by going into people's homes and small businesses and saving them money on their bills. It reduced the demand for electricity. So even if my home is not participating, I'm not participating in the program, the reduced demand for electricity makes electricity rates

go down. We all benefit.

I've got to tell you, I think this is a really well designed program. I think Senator Aubertine and his colleagues who have worked on this have done on a good job.

And I have to say, with regard to the issue that that has been raised about where this program is going to work, in my view this program is actually quite heavily tilted towards upstate New York. It deals with residential housing. And it is geared particularly not to the lowest-income New Yorkers -- and the Weatherization Assistance Program, which this supplements, did a lot of work in communities of extreme poverty in inner cities. This will be more useful to people of more moderate means.

And in fact, if you look at the analysis, the number of homes eligible for weatherization under the Green Jobs-Green New York program is really actually higher in a lot of your districts than it is in mine. Senator Young, you have over 40,000 homes in your district that would be eligible for this

program -- if through your good community organizations they know they're eligible and sign up. Senator Marcellino has 51,000. Senator Maziarz, 41,000.

So the program is going to be geared -- and I would also like --

ACTING PRESIDENT STEWART-COUSINS: Senator DeFrancisco, why do you rise?

SENATOR DeFRANCISCO: I'm requesting if Senator Schneiderman would yield.

SENATOR SCHNEIDERMAN: Madam President, I'll be glad to yield as soon as I finish this paragraph.

ACTING PRESIDENT STEWART-COUSINS: Thank you, Senator Schneiderman.

SENATOR SCHNEIDERMAN: Thank you.

I just had an idea that I should cut my remarks short.

(Laughter.)

SENATOR SCHNEIDERMAN: Oh, thank you, Senator Diaz. Thank you, Senator Diaz.

I just want to close, Madam President, by noting that this program, which

will create jobs for the 21st-century economy, will use the RGGI funds consistent with NYSERDA's purpose to help reduce energy costs, is specifically targeted to communities in areas where energy costs are particularly high in relation to a measure of median household income.

Senator Young, that's your district. Senator Little, that's your district. Senator Robach, yes, that is your district as well.

This is a program that will benefit people all across the state, largely in upstate New York -- it's appropriate Senator Squadron is sponsoring it. And I cannot imagine a better use of these funds. If you're concerned about the lack of RGGI funding for other programs, which some people have expressed, I think then you have to be sure to vote for the chapter amendment, which will ensure that further RGGI auctions take place and we have additional funding.

This is a great program, ladies and gentlemen. All your colleagues -- every

Assembly member didn't vote for this because someone is sneaking around. This is a well-designed program that will generate jobs, save energy, and I hope you will all support it.

And now, Madam President, if Senator DeFrancisco is still anxious to engage, I'd be happy to yield.

ACTING PRESIDENT STEWART-COUSINS: Thank you.

Senator DeFrancisco, do you still wish for Senator Schneiderman to yield?

SENATOR DeFRANCISCO: Yes. Very simply, if you've got a list of all the homeowners that are eligible, I've got an idea. Would you consider this idea? Instead of having community-based organizations, why don't you just send them a letter and tell them by letter that you're eligible for this program and this is how you apply and here's the eligible list of contractors. Would that make any sense to you? That's my question.

SENATOR SCHNEIDERMAN: Through you, Madam President. It has been

demonstrated to be extremely ineffective. And I think that we should stick with what works. Just as using existing contractors and labor unions to do the training and weatherization, let's use the organizations that are good at signing people of moderate means up for programs.

This program uses the existing organizations in our state to create jobs and save energy. It doesn't create any new bureaucracies. It uses everything that works. I don't want to create a new letter-writing bureaucracy. Let's do this. Let's pass this bill.

Thank you, Madam President.

ACTING PRESIDENT STEWART-COUSINS: Are there any other Senators wishing to speak on the bill?

Senator Owen Johnson.

SENATOR OWEN JOHNSON: Yes, I'd like to speak a little bit on the bill.

You know, we've spent a lot of time talking about spending money, giving out money that we don't have. This state is in debt

$2 billion, $2 trillion, whatever it is -- $1.2 billion right now. It will be over $4 billion next. We're in debt. We don't have any money to give away.

The federal government is even in worse shape than we are. They owe $1.6 trillion so far. A lot of that is owed to China and foreign borrowers who loaned the money to us. We have to pay hundreds of millions of dollars every month out, federal money, which is our money, to the people we borrowed the money for. And we're talking about spending money that we don't have.

That's really totally irresponsible. We're in the middle of a depression, recession. It's not getting any better. People say yeah, stocks are up a little bit. A little bit from last year, where it was down 50 percent, so now it's only down 65 percent.

So the economy is not doing great. And we don't know, many people don't know if they can keep their home. We're still losing homes. Even though the economy may be picking

up a little, there's more people unemployed every month.

So you have to realize this. Don't spend money we don't have. Tell the federal government, look, if you've got a couple of hundred million dollars, pay your damn bills and all, and we'll have to keep the money we have to pay our bills off and not start any new programs, spending money like a drunken sailor that we don't have.

You have to realize we're in a serious situation and we can't keep spending, can't keep buying votes with this and that and the other thing. In fact, we've had a lot of these programs already, weatherization, we've had them over many years, and a lot of programs will be done already.

So I don't think there's any great need for that program. Somebody might need a bill that gets to spend some money, give some money to their friends or groups, but the fact is we don't need this bill. Tell the federal government keep what you got, don't borrow any more from China, pay off our bills and let's

get straightened out here.

That's it.

ACTING PRESIDENT STEWART-COUSINS: Thank you, Senator.

SENATOR LIBOUS: Read the last section.

ACTING PRESIDENT STEWART-COUSINS: Are there any other Senators wishing to be heard on the bill?

Senator Aubertine, to close.

SENATOR AUBERTINE: Thank you, Madam President. And again, I will be brief. I know it's getting late.

But I just want to make the point that this bill won't take money away from consumers. Quite the contrary. It won't take money away from other projects. Again, quite the contrary. These are dollars that are raised through the carbon credit auctions and are used in the way that they were intended to be used, to conserve energy and to create jobs.

And in closing, I'd just like to read one letter from a company called Zero

Draft of Central New York. It says: "Dear Senator, Zero Draft of Central New York would like to thank you for supporting Green Jobs New York, S5888. Hopefully this letter will serve to reinforce your decision and help you continue to support this legislation.

"This program will dramatically increase the demand for home performance contracting and boost the overall economy of New York in general. Of particular importance to us, the program's training pipeline will create skilled workers to fill open job slots, creating over 14,000 permanent jobs statewide, and thereby help ease the task of finding and training our new employees.

"We have grown from just three employees five years ago to over 50 this year. We are already actively seeking more employees and anticipate the need to hire at least 20 more prior to the year's end. With a program like Green Jobs New York, Zero Draft will be able to continue to improve our local economy, enrich our residents and employees, save energy on our homes, and hire many more

building-science-professionals-to-be.

"Thank you very much."

And by the way, this letter is a copy of a letter dated September 9th, sent to Senator John A. DeFrancisco, 800 State Office Building, Syracuse, New York.

Thank you, Madam President.

ACTING PRESIDENT STEWART-COUSINS: Thank you.

The debate is closed. The Secretary will please ring the bells.

Read the last section.

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

ACTING PRESIDENT STEWART-COUSINS: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT STEWART-COUSINS: Senator Craig Johnson, to explain his vote.

SENATOR CRAIG JOHNSON: Thank you very much, Madam President.

It's been a very interesting debate tonight, one with a lot of statements flying around, sometimes without backup facts that

came oftentimes from my colleagues on the other side of the aisle.

But what's clear to me is this will put money into the local economies which will help individuals right now who are looking for jobs.

There are provisions in this bill that will protect the money that's being spent. We passed laws in 2007 called the False Claims Act which will continue to protect our money that will allow, if there's a problem, to go after the money and seek damages as well as criminal penalties.

We have pages upon pages of backup and pages upon pages of support from all sorts of organizations, all sorts of groups across the state, primarily upstate, saying how badly they want this. All this should be weighed by each and every Senator.

But for me, for me, it's a simple statement, if I can just it read as follows. "The program is estimated to create approximately 14,250 permanent jobs, eliminate the up-front costs of retrofit construction to

homeowners, save families 30 to 40 percent on their yearly energy bills, and reduce harmful carbon emissions.

How? The program relies on a simple fact -- science-based, whole-house energy-efficiency improvements save money. A government regulated private investment fund will provide up-front construction costs for retrofits that pay themselves back over about eight years."

That paragraph came from a brilliantly written op-ed that was published today, and the author was our colleague Senator Tom Morahan.

I'll be voting in favor of this bill, and I urge my colleagues on both sides of the aisle to follow the example by Senator Morahan and support this legislation.

Thank you very much.

ACTING PRESIDENT STEWART-COUSINS: Senator C. Johnson to be recorded in the affirmative.

Senator DeFrancisco.

SENATOR DeFRANCISCO: Yes, that

was a very-well-written editorial, and I didn't hear community-based organizations mentioned once. And that's my problem with this bill.

Of course the organization from Syracuse, New York, would be in favor of a program that's going to provide money to do weatherproofing. That's their job. What I'm saying, we should be eliminating the middle-people that aren't necessary. If we can identify homes that are eligible, they should be notified. And if they choose not to do it, it's not an unlimited fund. Do those who want to do it, and then go look out for others through the county government.

And it's amazing to me, it's amazing to me, Senator Aubertine, how that organization could increase from three employees to 50 without this program. I think they probably would be able to increase their employment by a lot more if we didn't siphon off part of the money for a needless portion of the bill which would be a great improvement if we just used existing resources to deliver

the money in a way that goes directly to those in need and provides more jobs of doing the work that has to be done on a home, not advocacy for the bill.

So I'm voting no for those reasons and those reasons alone.

ACTING PRESIDENT STEWART-COUSINS: Senator DeFrancisco to be recorded in the negative.

Senator Hassell-Thompson.

SENATOR HASSELL-THOMPSON: Thank you, Madam President. To explain my vote.

As I listened to the debate, it was interesting to hear people talk about middlemen. Historically, since we always like to speak from historical perspectives here, these programs have always been run by community-based organizations. In Rochester there's an agency called ABC. And whenever there have been -- when there were federal dollars that came directly to communities, they came through community-based operations. The state does not know how to run these programs.

When we begin to talk about how much money we're going to save, it is not cost-effective for the state to be operating programs of this type because they don't have the expertise to do that.

So I will be voting yes on the bill because it is more than a righteous bill. But I think sometimes those of us who have never been involved in program development ought to look at the history of how those programs have evolved.

Thank you, Madam President.

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

Senator Thompson.

SENATOR THOMPSON: Thank you, Madam President. I stand to explain my vote.

I definitely support this bill. I think it's a very important bill. Each month, I sponsor a Buffalo is Going Green business roundtable, about 75 to 80 businesses from throughout Western New York, not just in my district. And this is good for a couple of

quick reasons.

Number one, when you talk about solar and you talk about wind and you talk about weatherization and the movement that's taking place in the United States of America, New York still has a difficult time getting workers both in cities, suburbs, and rural towns trained for those jobs that are taking over the country in terms of putting these on the residential facilities.

In addition to that, there are so many different small mom-and-pop businesses that are becoming more and more engaged in this area. And we don't have the workforce ready for these jobs. And if we don't take it seriously, people will come from all over the world trying to come to the United States for these jobs of the future.

This is something that New York must lead in. This would get us on the right track. It's not a panacea but it gets us on the right track for these good green-collar jobs.

And they train young people. We

know a lot of our kids, 50 percent of our kids in the State of New York right now don't graduate from high school on time. So Green Jobs is an opportunity for them, the same way it was for kids 10, 15, 20 years ago.

So this is a great opportunity, and I think that we should all celebrate the fact that we are leading on the green jobs track right now because of this today.

Thank you.

ACTING PRESIDENT STEWART-COUSINS: Senator Thompson to be recorded in the affirmative.

Senator Little.

SENATOR LITTLE: Thank you, Madam President. Just to explain my vote.

I have always supported energy efficiency, and I will continue to do so. I believe that the goals of this bill are very important, and I support those. But in this economy, at a time when we're being called to reduce the size of government, to reduce spending in New York State, if we have $112 million sitting around, let's add to the

current weatherization programs in DHCR, let's add it to programs that exist in NYSERDA, and we will continue to get that result that you're all looking for, more energy efficiency -- and we're not creating more advisory committees, more training programs, more this, more that, more certification, more accountability.

So thank you. I will vote against the bill, but I do support the concept.

ACTING PRESIDENT STEWART-COUSINS: Senator Little to be recorded in the negative.

Senator L. Krueger.

SENATOR LIZ KRUEGER: Thank you. To explain my vote, Madam President.

Well, I guess I'd like to thank you for sponsoring this bill, Senator. I am so delighted even at this late hour, 10:30, to just simply stand up and say this is a huge win-win for the people of New York, this is a huge win-win for energy efficiency and our long-term goals for greening our economy and greening our homes and businesses.

We are taking stimulus money and

applying it exactly how it should be used -- to create jobs, to train a workforce, to modernize not only our homes and businesses but our labor force.

It is not going to cost the state money. In fact, the analysis is that it's going to bring in $5 billion over five years of public/private partnership to improve the future of the State of New York.

I would love to be able to see other creative ideas like this become legislation and become law in the State of New York. I think we would all be incredibly proud of the work we did here.

So thank you, Senator Aubertine. I'm delighted to be voting yes. And I feel that we're going to pass this bill.

Thank you very much. I'll be voting yes.

ACTING PRESIDENT STEWART-COUSINS: Senator L. Krueger to be recorded in the affirmative.

Senator Stachowski.

SENATOR STACHOWSKI: Yes, I too

rise to explain my vote and explain why I'm voting for this bill.

I think, although many people mentioned that NYSERDA has programs that already we could put this money into, this program is directed at middle-income housing, which NYSERDA's programs oftentimes don't reach, and small businesses. And making money available for small businesses to make their place of work more energy-efficient, nothing could be more helpful at this time. If they can lower their energy costs at a time when it's high, this would be a great program to help them.

If this will create jobs for a lot of the unemployed, people losing their jobs from other private businesses, and they can then go to work for contractors that are in this field, this is a good thing.

This will put money back into the tax base, this will give jobs to people, this will help people lower their energy costs at their homes, possibly making the difference between them staying in their homes or leaving

them. This will put people back to work. This will help small businesses, providing money for greening of their locations and lowering their costs.

I think this is a win-win for the state. I think it will be carried out properly. We have safeguards, as Senator Johnson mentioned, to make sure it is carried out properly. Those already exist.

And I think this is a program that couldn't come at a better time. It will give jobs to people. It will help reduce our carbon footprint. And I think it's a program that we should all be supporting. I vote yes.

Thank you.

ACTING PRESIDENT STEWART-COUSINS: Senator Stachowski to be recorded in the affirmative.

Senator Squadron, to explain his vote.

SENATOR SQUADRON: Thank you very much.

Once upon a time, it was we had to choose between the environment and jobs or we

had to between the environment and low cost or we had to choose between the environment and the high cost of implementing things that would save the environment, initiatives that would save the environment.

This bill proves that's no longer true. We're helping the environment, we're creating jobs, we're lowering costs for middle-class families. And it doesn't cost anything because we're doing it on dollars that we get from a forward-thinking environmental plan.

Now there is no reason to vote against the environment. There's a whole lot of reasons to vote for this bill, and that's why I'm proud to do so.

Thank you, Madam President.

ACTING PRESIDENT STEWART-COUSINS: Senator Squadron to be recorded in the affirmative.

Senator Parker.

(Groans.)

SENATOR PARKER: To explain my vote.

ACTING PRESIDENT STEWART-COUSINS: Senator Parker, to explain his vote.

SENATOR PARKER: Fourscore and seven years ago --

(Laughter.)

ACTING PRESIDENT STEWART-COUSINS: It has been to be in two minutes.

SENATOR PARKER: Just really quickly.

One of which is I just wanted to clarify, because some of my colleagues in fact think that this money is just sitting in a pot that is just, you know, available for anything.

This pot, this money is actually legislatively bound to do the work around retrofitting, around reducing our carbon footprint, around making buildings more high efficiency. So the money has to be used in very, very specific ways. So we're bound by this program. This Green Jobs-Green New York legislation is our next best opportunity to do the things that this pot of money is made for.

As relates to how things are

going -- and I know one of my colleagues is very concerned about that, and creating another bureaucracy, I don't think this legislation creates another bureaucracy. It sounds logical that if you build a better mousetrap, you know, build it and they will come. And unfortunately, that's not how it works. That's not how weatherization works, that's not how going green works, that's not how conservation works.

We have to go out there and we have to really retrain the minds of our communities and of our people. And thus we need to organize them. Very similarly to what we did in the 1970s around the energy crisis then, we began in our schools, training the next generation. Well, we began that work and then left it behind. We can no longer ignore it.

We have to get out there and start working with homeowners and renters and everyone to in fact understand what this energy crisis is about, what reducing our carbon footprint is about. And at the same time, those folks will lower -- those same

people will lower their energy bills and they'll have full-time jobs at a living wage with benefits. And they will then pay taxes that will then go into making the state really the Empire State that we know and love.

I'm voting aye.

ACTING PRESIDENT STEWART-COUSINS: Senator Parker will be recorded in the affirmative.

Are there any other Senators wishing to explain his or her vote?

MULTIPLE SENATORS: No.

ACTING PRESIDENT STEWART-COUSINS: Announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 872 are Senators DeFrancisco, Libous, Little, Skelos, Winner and Young. Also Senator Nozzolio. Also Senator O. Johnson.

Ayes, 52. Nays, 8.

ACTING PRESIDENT STEWART-COUSINS: The bill is passed.

The Secretary will continue to read.

THE SECRETARY: Calendar Number 877, by Member of the Assembly Cahill, Assembly Print Number 9031, an act to amend a chapter of the Laws of 2009 amending the Public Authorities Law.

ACTING PRESIDENT STEWART-COUSINS: Read the last section.

THE SECRETARY: Section 4. This act shall take effect on the same date and in the same manner as a chapter of the Laws of 2009.

ACTING PRESIDENT STEWART-COUSINS: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT STEWART-COUSINS: Announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 877 are Senators DeFrancisco, O. Johnson, Libous, Little, Nozzolio, Skelos, Winner and Young.

Ayes, 52. Nays, 8.

ACTING PRESIDENT STEWART-COUSINS: The bill is passed.

Senator Klein, that completes the

controversial reading of the bills on the calendar.

SENATOR KLEIN: Thank you, Madam President.

At this time there will be an immediate meeting of the Rules Committee in the Majority Conference Room.

Pending the return of the Rules Committee, may we please stand at ease.

ACTING PRESIDENT STEWART-COUSINS: There is an immediate meeting of the Rules Committee.

And while that is occurring, the house will stand at ease.

(Whereupon, the Senate stood at ease at 10:44 p.m.)

(Whereupon, the Senate reconvened at 12:12 a.m.)

ACTING PRESIDENT BRESLIN: Senator Klein.

SENATOR KLEIN: Mr. President, I see the clock has struck midnight. With unanimous consent, I move that we continue past midnight to continue our business this

evening.

ACTING PRESIDENT BRESLIN: Pursuant to Rule 5, Section 2, with unanimous consent we are allowed to continue.

Senator Klein.

SENATOR KLEIN: Mr. President, if we can at this time return to the order of reports of standing committees, I believe there's a report of the Rules Committee at the desk.

ACTING PRESIDENT BRESLIN: There is a report of the Rules Committee at the desk.

The Secretary will read.

THE SECRETARY: Senator Smith, from the Committee on Rules, reports the following bills:

Senate Print 185, by Senator Morahan, an act to amend the Mental Hygiene Law;

2443B, by Senator Stewart-Cousins, an act to amend the Election Law;

3292, by Senator LaValle, an act to amend the Education Law;

Assembly Print 4277, by Member of the Assembly Cook, an act to amend the Economic Development Law;

Senate Print 5643, by Senator Dilan, an act to amend the Vehicle and Traffic Law;

5224, by Senator Schneiderman, an act to amend the Executive Law;

Assembly Print 8642, by Member of the Assembly Sweeney, an act to amend the Environmental Conservation Law;

Senate Print 5968, by Senator Sampson, an act to amend the Family Court Act;

27B, by Senator Fuschillo, an act to amend the Vehicle and Traffic Law;

2190, by Senator Golden, an act to amend the County Law;

2493, by Senator Klein, an act to amend the Administrative Code of the City of New York;

2550A, by Senator Diaz, an act to amend the Tax Law;

3141A, by Senator Monserrate, an act to amend the General Business Law;

3257A, by Senator Duane, an act to amend the Public Health Law;

4375, by Senator Griffo, an act to amend the Uniform Justice Court Act;

4962B, by Senator Oppenheimer, an act to amend the Agriculture and Markets Law;

4982, by Senator Foley, an act to amend the Tax Law;

5050, by Senator Smith, an act to amend the Education Law;

5419, by Senator Stachowski, an act to amend the Economic Development Law;

5802A, by Senator Huntley, an act to amend the Public Health Law;

5908A, by Senator Nozzolio, an act authorizing the Commissioner of General Services;

5993, by Senator Hassell-Thompson, an act to amend the Correction Law;

6071, by Senator Saland, an act to amend the Penal Law;

6091, by Senator Diaz, an act to amend the Penal Law;

6108A, by Senator Leibell, an act

in relation to alienation;

6112, by Senator Parker, an act to amend the Penal Law;

6146, by Senator Klein, an act to amend the Social Services Law;

And Senate Print 6150, by Senator Espada, an act to amend the Public Authorities Law.

All bills ordered direct to third reading.

ACTING PRESIDENT BRESLIN: Senator Klein.

SENATOR KLEIN: Mr. President, I move to accept the report of the Rules Committee.

ACTING PRESIDENT BRESLIN: All those in favor of accepting the report of the Rules Committee please signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT BRESLIN: Opposed, nay.

(Response of "Nay.")

ACTING PRESIDENT BRESLIN: The report of the Rules Committee is adopted.

Senator Klein.

SENATOR KLEIN: Mr. President, can we now please move to a reading of the supplemental calendar.

ACTING PRESIDENT BRESLIN: The Secretary will read.

THE SECRETARY: Calendar Number 39, by Senator Morahan, Senate Print 185, an act to amend the Mental Hygiene Law.

ACTING PRESIDENT BRESLIN: Read the last section.

THE SECRETARY: Section 5. This act shall take effect on the 90th day.

ACTING PRESIDENT BRESLIN: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT BRESLIN: Senator Morahan, to explain his vote.

SENATOR MORAHAN: Thank you, Mr. President.

This is a very particularly well-timed bill that will deal with a very serious problem in our nation which is posttraumatic stress disorder. What we're

doing with this bill is we're opening up Timothy's Law and including that ailment to those mental health diseases that will be covered by insurance for those folks who suffer from these dilemmas.

It's particularly well-timed because of 9/11, which is what we're in right now, and all the trauma that was leveled on people involved closely to that disaster, and also those who responded and to family members who suffered great losses.

It's also appropriate, by the time we get this to the Assembly and pass it, that Veterans Day will be upon us. And we're talking about all of those servicepeople now coming back from Afghanistan and also from Iraq with posttraumatic stress disorder from what they've seen and felt and experienced in the service of their country.

So I'm delighted, thankful. Thanks to Senator Huntley, who helped me pass this bill out of committee back in January. And I appreciate that this bill is on the agenda tonight in very orderly process.

And I urge all my colleagues, on behalf of the people who suffer from this type of disease, to vote for this bill.

Thank you very much.

ACTING PRESIDENT BRESLIN: Announce the results.

THE SECRETARY: Ayes, 59. Nays, 0.

ACTING PRESIDENT BRESLIN: The bill is passed.

THE SECRETARY: In relation to Calendar Number 393, Senator Stewart-Cousins moves to discharge, from the Committee on Rules, Assembly Bill Number 1002C and substitute it for the identical Senate Bill Number 2443B, Third Reading Calendar 393.

ACTING PRESIDENT BRESLIN: Substitution ordered.

THE SECRETARY: Calendar Number 393, by Member of the Assembly Paulin, Assembly Print Number 1002C, an act to amend the Election Law.

ACTING PRESIDENT BRESLIN: Read the last section.

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

ACTING PRESIDENT BRESLIN: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT BRESLIN: The bill is passed.

THE SECRETARY: Calendar Number 425, by Senator LaValle, Senate Print 3292, an act to amend the Education Law.

ACTING PRESIDENT BRESLIN: Read the last section.

THE SECRETARY: Section 5. This act shall take effect on the 120th day.

ACTING PRESIDENT BRESLIN: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT BRESLIN: Announce the results.

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT BRESLIN: The bill is passed.

THE SECRETARY: Calendar Number

480, by Member of the Assembly Cook, Assembly Print Number 4277, an act to amend the Economic Development Law.

ACTING PRESIDENT BRESLIN: Read the last section.

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

ACTING PRESIDENT BRESLIN: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT BRESLIN: Announcement.

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT BRESLIN: The bill is passed.

THE SECRETARY: In relation to Calendar Number 602, Senator Dilan moves to discharge, from the Committee on Rules, Assembly Bill Number 4552A and substitute it for the identical Senate Bill Number 5643, Third Reading Calendar 602.

ACTING PRESIDENT BRESLIN: Substitution ordered.

THE SECRETARY: Calendar Number

602, by Member of the Assembly Aubry, Assembly Print Number 4552A, an act to amend the Vehicle and Traffic Law.

ACTING PRESIDENT BRESLIN: Read the last section.

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

ACTING PRESIDENT BRESLIN: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT BRESLIN: Announce the results.

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT BRESLIN: The bill is passed.

THE SECRETARY: In relation to Calendar Number 641, Senator Schneiderman moves to discharge, from the Committee on Rules, Assembly Bill Number 7779 and substitute it for the identical Senate Bill Number 5224, Third Reading Calendar 641.

ACTING PRESIDENT BRESLIN: Substitution ordered.

THE SECRETARY: Calendar Number

641, by Member of the Assembly Rosenthal, Assembly Print Number 7779, an act to amend the Executive Law.

ACTING PRESIDENT BRESLIN: Read the last section.

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

ACTING PRESIDENT BRESLIN: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT BRESLIN: Announce the results.

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT BRESLIN: The bill is passed.

THE SECRETARY: Calendar Number 899, by Member of the Assembly Sweeney, Assembly Print Number 8642, an act to amend the Environmental Conservation Law.

ACTING PRESIDENT BRESLIN: Read the last section.

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

SENATOR KLEIN: Lay it aside for

the day.

ACTING PRESIDENT BRESLIN: The bill is laid aside for the day.

THE SECRETARY: Calendar Number 953, by Senator Sampson, Senate Print 5968, an act to amend the Family Court Act.

ACTING PRESIDENT BRESLIN: Read the last section.

THE SECRETARY: Section 3. This act shall take effect January 1, 2010.

ACTING PRESIDENT BRESLIN: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Senator Saland, to explain his vote.

SENATOR SALAND: Thank you, Mr. President.

Mr. President, I certainly recognize the need in certain of our communities for additional Family Court judges. The caseloads are staggering in some instances. But notwithstanding the efforts of Dutchess County, which has a population similar to and caseloads similar to some of

the counties that have had the good fortune to be selected by whatever process they had the good fortune to be selected, Dutchess was not included.

In the absence of Dutchess being included in this bill, suffering the very same problems that the counties -- and in some cases, worse, in terms of caseload -- that are getting the benefit of this bill, I can't support the bill and will be voting in the negative.

ACTING PRESIDENT BRESLIN: Senator Saland will be recorded in the negative.

Senator Griffo, to explain his vote.

SENATOR GRIFFO: Thank you, Mr. President.

I applaud the sponsor for his concern and initiative here. My concern only is that at a time when we see a number of appointed officials in elective office that this will also lend to more appointments. And I had that conversation with Senator Sampson.

The concern here is that we will be allowing more appointments as opposed to encouraging elections. And this could be resolved by pushing the bill back a year so that we could allow for the elections.

But I will support the bill.

ACTING PRESIDENT BRESLIN: Senator Griffo will be recorded in the affirmative.

Senator Lanza, to explain his vote.

SENATOR LANZA: Thank you, Mr. President.

Unfortunately, I'm going to vote no on this bill. I share the concern raised by my colleague Senator Griffo. Because of the timing of this legislation, outside of New York City the Family Court judges will not be elected, as they are supposed to be, but they will be appointed by the Governor.

I think, given the fact that it's late in the year, to push this off another couple of months would allow the people of the counties outside of New York City to have the opportunity to vote for the judges, which is

the way it should be.

Within New York City, it provides for seven new Family Court judges. We certainly need them in New York City. The concern I have, though, is that on Staten Island we need them perhaps more than any other borough. But I'd be comfortable if in fact this would provide that a minimum of one judge be appointed to each borough within New York City, and then the other two we can work based on need.

And under this legislation there's no guarantee, for instance, that Staten Island would have a single new Family Court judge, which we desperately need. So for those reasons, again, I agree with my colleagues, we certainly need to have more Family Court judges. This calls for 21. I'd support another 42, if you will.

But, you know, I think that it's important that we make sure that there's fairness and equity in where the judges sit. And certainly Staten Island, that I represent, is in dire need of having a new Family Court

judge. So for that reason, I'm going to have to vote no.

ACTING PRESIDENT BRESLIN: Senator Lanza will be recorded in the negative.

Announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 953 are Senators Flanagan, Lanza, Maziarz, Ranzenhofer and Saland.

Ayes, 54. Nays, 5.

ACTING PRESIDENT BRESLIN: The bill is passed.

THE SECRETARY: Calendar Number 961, by Senator Fuschillo, Senate Print 27B, an act to amend the Vehicle and Traffic Law and the State Finance Law.

ACTING PRESIDENT BRESLIN: Read the last section.

THE SECRETARY: Section 6. This act shall take effect April 1, 2010.

ACTING PRESIDENT BRESLIN: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT BRESLIN:

Senator Fuschillo, to explain his vote.

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

I want to thank my colleagues for their support of this important piece of legislation. Once the Assembly finally acts -- and I hope that the actions of this body in requiring mandatory ignition interlocking systems for first-time DWI offenders here in New York State would prompt the Assembly to do something -- we would become the 12th state in the nation to do it.

Every single day, every member of this body can pick up their local newspapers and read about another DWI arrest, crash, or a fatality. It has to stop. We witnessed recently the most tragic event on the Taconic Parkway. And I must say, you'd think people would have learned a lesson.

But on -- it's now Friday, but on Thursday's Newsday it was reported that an off-duty cab driver was arrested Wednesday night at 10:39 p.m. He was found driving the

wrong way on the Taconic Parkway in Westchester, about 10 miles north of where wrong-way driver Diane Schuler caused a crash killing herself and seven others. This gentleman was arrested and was found to be driving with a blood alcohol level of .20.

I'm hopeful that once New York State has a mandatory ignition interlock system, along with other anti-DWI laws, that New York State will be the leader in stopping this epidemic of irresponsible and careless individuals that choose to drink and drive and kill innocent people every single day on our roadways.

Thank you very much for your support.

ACTING PRESIDENT BRESLIN: Announce the results.

THE SECRETARY: Ayes, 59. Nays, 0.

ACTING PRESIDENT BRESLIN: The bill is passed.

THE SECRETARY: In relation to Calendar Number 962, Senator Golden moves to

discharge, from the Committee on Rules, Assembly Bill Number 5643 and substitute it for the identical Senate Bill Number 2190, Third Reading Calendar 962.

ACTING PRESIDENT BRESLIN: Substitution ordered.

THE SECRETARY: Calendar Number 962, by Member of the Assembly Farrell, Assembly Print Number 5643, an act to amend the County Law.

ACTING PRESIDENT BRESLIN: Read the last section.

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

ACTING PRESIDENT BRESLIN: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT BRESLIN: Announce the results.

THE SECRETARY: In relation to Calendar Number 962, those Senators recorded in the negative are Senators C. Johnson, Leibell, Monserrate and Saland.

Ayes, 55. Nays, 4.

ACTING PRESIDENT BRESLIN: The bill is passed.

THE SECRETARY: In relation to Calendar Number 963, Senator Klein moves to discharge, from the Committee on Housing, Construction and Community Development, Assembly Bill Number 2002 and substitute it for the identical Senate Bill Number 2493, Third Reading Calendar 963.

ACTING PRESIDENT BRESLIN: Substitution ordered.

THE SECRETARY: Calendar Number 963, by Member of the Assembly Silver, Assembly Print Number 2002, an act to amend the Administrative Code of the City of New York.

ACTING PRESIDENT BRESLIN: Read the last section.

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

ACTING PRESIDENT BRESLIN: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT BRESLIN:

Announce the results.

THE SECRETARY: Ayes, 57. Nays, 2. Senators Ranzenhofer and Saland recorded in the negative.

ACTING PRESIDENT BRESLIN: The bill is passed.

THE SECRETARY: Calendar Number 964, by Senator Diaz, Senate Print 2550A, an act to amend the Tax Law.

SENATOR LIBOUS: Lay it aside.

ACTING PRESIDENT BRESLIN: The bill is laid aside.

THE SECRETARY: In relation to Calendar Number 965, Senator Monserrate moves to discharge, from the Committee on Codes, Assembly Bill Number 6633A and substitute it for the identical Senate Bill Number 3141A, Third Reading Calendar 965.

ACTING PRESIDENT BRESLIN: Substitution ordered.

THE SECRETARY: Calendar Number 965, by Member of the Assembly Pheffer, Assembly Print Number 6633A, an act to amend the General Business Law.

ACTING PRESIDENT BRESLIN: Read the last section.

THE SECRETARY: Section 6. This act shall take effect on the same date and in the same manner as Chapter 553 of the Laws of 2008.

ACTING PRESIDENT BRESLIN: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT BRESLIN: Announce the results.

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT BRESLIN: The bill is passed.

THE SECRETARY: In relation to Calendar Number 966, Senator Duane moves to discharge, from the Committee on Rules, Assembly Bill Number 8397A and substitute it for the identical Senate Bill Number 3257A, Third Reading Calendar 966.

ACTING PRESIDENT BRESLIN: Substitution ordered.

THE SECRETARY: Calendar Number 966, by Member of the Assembly Gottfried,

Assembly Print Number 8397A, an act to amend the Public Health Law and the Social Services Law.

ACTING PRESIDENT BRESLIN: Read the last section.

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

ACTING PRESIDENT BRESLIN: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT BRESLIN: Announce the results.

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT BRESLIN: The bill is passed.

THE SECRETARY: Calendar Number 968, by Senator Griffo, Senate Print 4375, an act to amend the Uniform Justice Court Act.

ACTING PRESIDENT BRESLIN: Read the last section.

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

ACTING PRESIDENT BRESLIN: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT BRESLIN: Announce the results.

THE SECRETARY: Ayes, 58. Nays, 1. Senator Maziarz recorded in the negative.

ACTING PRESIDENT BRESLIN: The bill is passed.

THE SECRETARY: In relation to Calendar Number 969, Senator Oppenheimer moves to discharge, from the Committee on Rules, Assembly Bill Number 999B and substitute it for the identical Senate Bill Number 4962B, Third Reading Calendar 969.

ACTING PRESIDENT BRESLIN: Substitution ordered.

THE SECRETARY: Calendar Number 969, by Member of the Assembly Paulin, Assembly Print Number 999B, an act to amend the Agriculture and Markets Law.

ACTING PRESIDENT BRESLIN: Read the last section.

THE SECRETARY: Section 7. This act shall take effect on the 365th day.

ACTING PRESIDENT BRESLIN: Call

the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT BRESLIN: The bill is passed.

THE SECRETARY: In relation to Calendar Number 970, Senator Foley moves to discharge, from the Committee on Rules, Assembly Bill Number 2733A and substitute it for the identical Senate Bill Number 4982, Third Reading Calendar 970.

ACTING PRESIDENT BRESLIN: Substitution ordered.

THE SECRETARY: Calendar Number 970, by Member of the Assembly Sweeney, Assembly Print Number 2733A, an act to amend the Tax Law and the State Finance Law.

ACTING PRESIDENT BRESLIN: Read the last section.

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

ACTING PRESIDENT BRESLIN: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT BRESLIN: Announce the results.

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT BRESLIN: The bill is passed.

THE SECRETARY: Calendar Number 972, by Senator Smith, Senate Print 5050, an act to amend the Education Law.

ACTING PRESIDENT BRESLIN: Read the last section.

THE SECRETARY: Section 3. This act shall take effect on the 90th day.

ACTING PRESIDENT BRESLIN: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT BRESLIN: Announce the results.

THE SECRETARY: In relation to Calendar Number 972, those recorded in the negative are Senators Hassell-Thompson, Monserrate, Padavan and Perkins.

Ayes, 55. Nays, 4.

ACTING PRESIDENT BRESLIN: The bill is passed.

THE SECRETARY: In relation to Calendar Number 973, Senator Stachowski moves to discharge, from the Committee on Rules, Assembly Bill Number 7229 and substitute it for the identical Senate Bill Number 5419, Third Reading Calendar 973.

ACTING PRESIDENT BRESLIN: Substitution ordered.

THE SECRETARY: Calendar Number 973, by Member of the Assembly Schimminger, Assembly Print Number 7229, an act to amend the Economic Development Law.

ACTING PRESIDENT BRESLIN: Read the last section.

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

ACTING PRESIDENT BRESLIN: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT BRESLIN: Announce the results.

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT BRESLIN: The bill is passed.

THE SECRETARY: In relation to Calendar Number 974, Senator Huntley moves to discharge, from the Committee on Rules, Assembly Bill Number 8461C and substitute it for the identical Senate Bill Number 5802A, Third Reading Calendar 974.

ACTING PRESIDENT BRESLIN: Substitution ordered.

THE SECRETARY: Calendar Number 974, by Member of the Assembly Lancman, Assembly Print Number 8461C, an act to amend the Public Health Law.

ACTING PRESIDENT BRESLIN: Read the last section.

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

ACTING PRESIDENT BRESLIN: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT BRESLIN: Announce the results.

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT BRESLIN: The bill is passed.

THE SECRETARY: In relation to Calendar Number 975, Senator Nozzolio moves to discharge, from the Committee on Rules, Assembly Bill Number 8971 and substitute it for the identical Senate Bill Number 5908A, Third Reading Calendar 975.

ACTING PRESIDENT BRESLIN: Substitution ordered.

THE SECRETARY: Calendar Number 975, by Member of the Assembly Lifton, Assembly Print Number 8971, an act authorizing the Commissioner of General Services.

ACTING PRESIDENT BRESLIN: Read the last section.

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

ACTING PRESIDENT BRESLIN: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT BRESLIN: Announce the results.

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT BRESLIN: The bill is passed.

THE SECRETARY: In relation to Calendar Number 977, Senator Hassell-Thompson moves to discharge, from the Committee on Rules, Assembly Bill Number 4809A and substitute it for the identical Senate Bill Number 5993, Third Reading Calendar 977.

ACTING PRESIDENT BRESLIN: Substitution ordered.

THE SECRETARY: Calendar Number 977, by Member of the Assembly Weinstein, Assembly Print Number 4809A, an act to amend the Correction Law.

ACTING PRESIDENT BRESLIN: Read the last section.

THE SECRETARY: Section 2. This act shall take effect on the 60th day.

ACTING PRESIDENT BRESLIN: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT BRESLIN: Announce the results.

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT BRESLIN: The bill is passed.

THE SECRETARY: In relation to Calendar Number 978, Senator Saland moves to discharge, from the Committee on Rules, Assembly Bill Number 8781 and substitute it for the identical Senate Bill Number 6071, Third Reading Calendar 978.

ACTING PRESIDENT BRESLIN: Substitution ordered.

THE SECRETARY: Calendar Number 978, by member of the Assembly Paulin, Assembly Print Number 8781, an act to amend the Penal Law.

ACTING PRESIDENT BRESLIN: Read the last section.

THE SECRETARY: Section 7. This act shall take effect on the 90th day.

ACTING PRESIDENT BRESLIN: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT BRESLIN: Announce the results.

THE SECRETARY: Ayes, 58. Nays, 1. Senator Montgomery recorded in the negative.

ACTING PRESIDENT BRESLIN: The bill is passed.

THE SECRETARY: In relation to Calendar Number 979, Senator Diaz moves to discharge, from the Committee on Rules, Assembly Bill Number 5080 and substitute it for the identical Senate Bill Number 6091, Third Reading Calendar 979.

ACTING PRESIDENT BRESLIN: Substitution ordered.

THE SECRETARY: Calendar Number 979, by Member of the Assembly Lentol, Assembly Print Number 5080, an act to amend the Penal Law.

ACTING PRESIDENT BRESLIN: Read the last section.

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

ACTING PRESIDENT BRESLIN: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT BRESLIN: Senator DeFrancisco, to explain his vote.

SENATOR DeFRANCISCO: I'm going

to vote in favor of the bill because it generally is a good idea.

The problem is with the language. It talks about with intent to cause the death of an individual, he causes the death and the defendant acted in an especially cruel and wanton manner. I'm not sure that a court is going to be determining what an especially cruel really means, and I think it's going to end up with some reversals of convictions under this. Especially when, if you go on, if you just say with intent to inflict and inflicting torture, because torture is defined as intention and depraved infliction of extreme physical pain.

So if we can remove, eventually, before this bill is signed, "especially cruel," I think this would be enforceable and not result in a reversal based upon the vague language.

I'll vote yes, hoping that that correction will be made.

ACTING PRESIDENT BRESLIN:

Senator DeFrancisco will be recorded in the

affirmative.

Senator Diaz, to explain his vote.

SENATOR DIAZ: Thank you, Mr. Chairman.

I appreciate Senator DeFrancisco voting in favor of the bill. This is a good bill. I understand your concern. This is in regard -- it's called the Nixzmary Brown Bill. This is a girl that was killed in Brooklyn, abused. But I understand Senator DeFrancisco's concern.

But this is such a good bill that even Senator Schneiderman is voting in favor of it.

ACTING PRESIDENT BRESLIN: So noted.

Announce the results.

THE SECRETARY: Ayes, 58. Nays, 1. Senator Duane recorded in the negative.

ACTING PRESIDENT BRESLIN: The bill is passed.

THE SECRETARY: Calendar Number 980, by Senator Leibell, Senate Print 6108A, an act in relation to the alienation of

certain parklands.

ACTING PRESIDENT BRESLIN: There is a home-rule message at the desk.

Read the last section.

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

ACTING PRESIDENT BRESLIN: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT BRESLIN: Announce the results.

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT BRESLIN: The bill is passed.

THE SECRETARY: In relation to Calendar Number 981, Senator Parker moves to discharge, from the Committee on Rules, Assembly Bill Number --

SENATOR LIBOUS: Lay it aside.

ACTING PRESIDENT BRESLIN: The bill is laid aside.

THE SECRETARY: Calendar Number 982, by Senator Klein, Senate Print 6146, an act to amend the Social Services Law and the

Elder Law.

ACTING PRESIDENT BRESLIN: Read the last section.

THE SECRETARY: Section 4. This act shall take effect September 26, 2009.

ACTING PRESIDENT BRESLIN: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT BRESLIN: Senator Liz Krueger, to explain her vote.

SENATOR LIZ KRUEGER: Thank you, Mr. Chair.

Just briefly, I'll be voting no on this bill, not necessarily because I am in opposition to what it is attempting to do but because of my concern that this is actually more of a budget bill and could have a significant impact on Medicaid costs for prescription drugs as a permanent and ongoing model.

And so I think that this bill should have gone through the process of being a Finance bill and being reviewed in the context of budgetary costs and healthcare

expenses.

So I'll be voting no. Thank you.

ACTING PRESIDENT BRESLIN: Senator Liz Krueger will be recorded in the negative.

Announce the results.

THE SECRETARY: Ayes, 57. Nays, 2. Senators L. Krueger and O. Johnson recorded in the negative.

ACTING PRESIDENT BRESLIN: The bill is passed.

THE SECRETARY: Calendar Number 983, by Senator Espada, Senate Print 6150, an act to amend the Public Authorities Law.

ACTING PRESIDENT BRESLIN: Read the last section.

THE SECRETARY: Section 4. This act shall take effect on the same date as a chapter of the laws of 2009.

ACTING PRESIDENT BRESLIN: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT BRESLIN: Announce the results.

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT BRESLIN: The bill is passed.

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

SENATOR KLEIN: Mr. President, at this time can we take up the controversial calendar.

ACTING PRESIDENT BRESLIN: The Secretary will please ring the bells.

Members are asked to come for the chamber for the controversial reading of bills on the supplemental calendar.

The Secretary will read.

THE SECRETARY: Calendar Number 964, by Senator Diaz, Senate Print 2550A, an act to amend the Tax Law.

SENATOR LIBOUS: Read the last section.

ACTING PRESIDENT BRESLIN: Senator Diaz, to explain his vote.

SENATOR DIAZ: Mr. Chairman and ladies and gentlemen, this is a bill that will help the State of New York. We all know that

the State of New York is having a very difficult fiscal crisis.

This bill, Mr. Chairman and ladies and gentlemen, this is a bill that will produce from $500 million to $800 million for the State of New York. This bill is simply asking that we, when we purchase with a credit card -- Mr. Chairman, when we purchase with a credit card, the credit card company takes the money and the taxes, the taxes that are owed to New York State, what the credit card companies do, they send the taxes back to the merchants. The merchants are supposed to send the tax to the state. That is state money. That is money owed to the state.

What happens, Mr. Chairman and ladies and gentlemen, is that some people don't send the taxes to the state. The state is losing money. So all of you in the other side, my good friends on the Republican side, this is a Democratic side telling you help the State of New York. You come here, you brag about -- and you know what is going to happen to us, the ones that vote in favor of this

bill?

I will tell you what is going to happen to us, the ones that vote in favor of this bill. We will force some people to let the sacred cow go and we will lose contributions from the lobbyists of the credit card companies. Yeah, we will lose that money. But the State of New York will gain $500 million.

We are not asking you to vote to spend money. I'm not asking you to vote to spend money. You brag so much about helping the state. So here, here is an opportunity for you guys to help the state. Between $500 million to $800 million have been lost because merchants, most of the merchants do not report exactly what they are supposed to send to the state.

So what we're asking is come on, let's send the money. Instead of sending the taxes back to the merchants so the merchants could send it to the state, send the monies directly to the state. Simple. Simple.

Why don't you want to help the

State of New York? Why don't you want to help the State of New York? We know, we know that we need money. In two months, maybe in a few weeks, the Governor is going to call us back here and the Governor is going to call us back to cut money, $2 billion. And I'm going to see all of you, oh, that we got to protect -- here is an opportunity to show that we really care.

Five hundred million dollars, $500 million -- you want to let go $500 million so some people are putting the money in their pocket? Because you want to please who? Come on, you know better than this.

This black guy, this Puerto Rican black guy with kinky hair and broken English, I'm telling you, I'm offering you the opportunity to get $500 million for the State of New York. Right now. Right now, at this moment, when we are facing a very difficult crisis, fiscal crisis in the State of New York. Right now, right now, I'm telling here is opportunity. Come on.

And I am very glad that my leader, John Sampson, gave me the opportunity to put this in because for five years, for five years I have been trying to put this on the floor. And this time, at this time that we all are the Democratic majority, Sampson is bringing the bill to the floor.

So I'm asking all of you guys, come on -- Golden, come on. Golden, Senator Golden, you supposed to be my friend. And we friends are supposed to be for the State of New York, the City of New York. Here's $500 million.

So Mr. Chairman and ladies and gentlemen, I'm offering the opportunity to my colleagues tonight, at a quarter to 1:00 in the morning, I'm offering the opportunity for them to vote on a simple bill. Simple bill. Don't send the taxes that are owed to the State of New York back to the merchants. Forget about it. Send the taxes straight to the coffers of the state. The state will benefit, within $500 million to $800 million. That's what this bill is asking for.

So who doesn't want to vote for something like this? Who doesn't want to vote for something like this? Five hundred million dollars to help the State of New York. Come on, Republicans. Come on, join us Democrats. Let's help the State of New York. I challenge you to show that you really care about the State of New York.

Thank you, Mr. Chairman.

SENATOR LIBOUS: Read the last section.

ACTING PRESIDENT BRESLIN: Are there any other Senators wishing to be heard on the bill?

Hearing none, debate is closed. The Secretary will please ring the bells.

Read the last section.

THE SECRETARY: Section 2. This act shall take effect on the first of October next succeeding.

ACTING PRESIDENT BRESLIN: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT BRESLIN:

Announce the results.

THE SECRETARY: In relation to Calendar Number 964, those recorded in the negative are Senators Alesi, DeFrancisco, Farley, Flanagan, Fuschillo, Golden, Griffo, O. Johnson, Lanza, Larkin, Leibell, Libous, Little, Marcellino, Maziarz, McDonald, Morahan, Nozzolio, Padavan, Ranzenhofer, Robach, Saland, Seward, Skelos, Volker, Winner and Young.

Absent from voting: Senators Hannon and LaValle.

Ayes, 28. Nays, 27.

ACTING PRESIDENT BRESLIN: The bill fails.

SENATOR DIAZ: Mr. President.

ACTING PRESIDENT BRESLIN: Senator Diaz.

SENATOR DIAZ: I move to reconsider the vote by which the bill was lost.

ACTING PRESIDENT BRESLIN: The Secretary will call the roll on reconsideration.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 55.

ACTING PRESIDENT BRESLIN: The bill is restored to the Third Reading Calendar.

SENATOR DIAZ: Mr. President.

ACTING PRESIDENT BRESLIN: Yes, Senator Diaz.

SENATOR DIAZ: I wish to lay this bill on the table.

ACTING PRESIDENT BRESLIN: So ordered.

SENATOR DIAZ: Thank you.

ACTING PRESIDENT BRESLIN: The Secretary will continue to read.

THE SECRETARY: In relation to Calendar Number 981, Senator Parker moves to discharge, from the Committee on Rules, Assembly Bill Number 8924 and substitute it for the identical Senate Bill Number 6112, Third Reading Calendar 981.

ACTING PRESIDENT BRESLIN: Substitution ordered.

THE SECRETARY: Calendar Number

981, by Member of the Assembly Hoyt, Assembly Print Number 8924, an act to amend the Penal Law.

SENATOR GOLDEN: Explanation.

ACTING PRESIDENT BRESLIN: Explanation ordered, Senator Parker.

SENATOR PARKER: Yes, Mr. President. Explanation of the bill.

Senate Bill 6112 is the aggravated interference with the healthcare bill, and it establishes really New York as a leader in combatting violence and harassment against the reproductive healthcare community.

Ladies and gentlemen of the Senate, we should not see this as a bill about reproductive rights. This is simply a criminal justice bill. It is a civil protection bill for our communities and particularly protection for doctors, nurses, volunteers, and people seeking medical treatment.

Under this legislation, causing physical injury to someone who is obtaining, providing or assisting someone to obtain or

provide reproductive health services would create a new Class E felony. Under existing law, it is only a misdemeanor. And causing serious physical injury would be a new Class C felony, which is currently a Class D felony under existing law.

These enhanced penalties would apply to injuries caused to a reproductive healthcare provider, an employee, a volunteer, or a patient seeking such medical care.

SENATOR GOLDEN: Mr. President.

ACTING PRESIDENT BRESLIN: Senator Golden, on the bill.

SENATOR GOLDEN: Yes. For all the families that perished on 9/11, today being that memorial, many of us having to get back to our communities tomorrow morning and to go through some of these memorial services, on this bill, this is just another special class that we are setting up and raising the bar.

I mean, if we set up a political office, our politicians, if somebody wanted to come into our office, are we going to someday

create and increase the penalty if somebody were to fall or be injured with some type of intent and cause that individual that has physical injury to receive a felony? I don't think so.

If we have a construction site with construction workers and we have community people outside of that facility trying to get more jobs at that location, are we going to -- if someone is injured, one of those construction workers getting into that site, are we at some point going to raise the bar on those community people trying to get jobs at that site someday and say, you know what, hey, they committed an assault, they should be prosecuted with a felony?

I think it's wrong that we have these special classes. We should not have this, and we should not be raising the bar for someone that's trying to get into a healthcare facility, trips, hurts themselves because they're trying to get past somebody, and there is somehow intent is placed in there and that individual receives just a physical injury and

now is prosecuted for a felony. This is wrong.

And I vote no.

ACTING PRESIDENT BRESLIN: Senator Parker, on the bill.

SENATOR PARKER: Thank you, Mr. President, on the bill.

It's kind of appropriate that we went past midnight so that my bill could be discussed during the eighth anniversary of 9/11, the most horrific terrorist attack on American soil and where we all, I know, are going to be spending some time at some memorial services and commemorating the day, some of us with service and some of us in prayer.

We should remember that this day and this memory about 9/11 wasn't about the attack on the 3,000 people in the World Trade Center that day, but really an attack on our way of life, on our values, on what we as American citizens hold dear.

What distinguishes the American democratic process and the American experiment

is people's right to express themselves and to live a life under a set of values that are uniquely their own -- as long as those values and those activities don't interfere with others.

What we were concerned with in the development of this bill was the fact that there are in fact people who are violating what we believe we should be doing as Americans. That is, that in our day-to-day lives there are things that we don't agree with. And we not only have the right to protest and to, you know, dissuade people from doing that, that it is almost really your American responsibility to be engaged in the political process of stopping those things and those activities.

In fact, just this afternoon for several hours we had a number of protesters in the hall right in front of the Majority Conference Room protesting around housing issues and, you know, demanding that we bring some bills around housing to the floor. And although I think that, you know, it was loud

and to some degree it was disruptive to the workings of the Senate for a few hours, I don't think that not one of us really thought that we were going to be hurt by the people who were here to protest.

Doctors who have decided that they are going to give their lives in service to other people, helping other people, nurses, volunteers, who said we're going to help people as a profession and during our spare time, did so with the expectation that at minimum they would be protected by the American legal system and our criminal justice and law enforcement personnel. That hasn't happened.

This bill unfortunately, Senator Golden, doesn't come out of the necessity to deal with injuries of people falling down or simply tripping coming into a health care facility. With the recent murders of Dr. George Tiller in Kansas, a total of four doctors and eight people in all have been killed in reproductive health-related attacks in the United States, including Dr. Barnett

Slepian, of Buffalo, in 1998.

That's a lot of people to be killed. And these were not accidents. These weren't people who were walking under a scaffolding and something fell on them. These were people who were murdered. And Dr. Tiller's murder is not an isolated incident. Let me read you some of the statistics.

Another doctor who died, John Britton, and a clinic escort were both killed in 1994, and Dr. Gunn was killed in 1993 during a protest. Robert Sanderson, a security guard at a clinic, was also killed in 1998. Two receptionists at a clinic were killed in 1994. And the list of casualties goes on.

A total list of the incidents targeting practitioners at health clinics is more than four pages long, if I was going to read the whole thing. And according to the National Abortion Federation, since 1977 in the United States and Canada, property crimes committed against abortion providers have

included 41 bombings, 173 arsons, 91 attempted bombings or arsons, 619 bomb threats, 1,630 incidents of trespassing, 1,264 incidents of vandalism, and 100 attacks with what's called stink bombs, butyric acid.

In that same 32-year period, there have been 17 attempted murders, 383 death threats, 153 incidents of assault and battery, and three kidnappings committed against abortion providers.

This is not simple accidents. This legislation is not simply about, you know, somebody tripping and falling. We need to protect people and have a democracy that's rooted in nonviolent participation in this society.

I have a letter here from Lynn Slepian, who is the wife of Dr. Barnett Slepian. It's dated September 8, 2009, and it says:

"Dear Members of the New York State: Eleven years ago, my husband and father of our four sons, Bart Slepian, a doctor and reproductive healthcare provider in

Buffalo, was shot and killed in our home by an anti-abortion radical.

"After my husband's murder, I tried to envision the positive side of the tragedy, hoping that his death would be remembered as the end of this form of violence and devastation. However, I realized that the issue is far from resolved when on Sunday, May 31, Dr. Tiller, an abortion provider in Wichita, Kansas, was murdered as he attended church service.

"In order to bring an end to tragedies such as my husband's and Dr. Tiller's murders, we as citizens of New York State need to take action. When Assemblyman Hoyt came to me with his passion and vigor for the Protection of Reproductive Healthcare Act, I saw it as a perfect opportunity to seek just remedies for those who resort to violence.

"I can only hope that this legislation will help to deter more violent acts and threats from endangering the rights and safety of patients, staff and doctors.

"By heightening the legal penalties

for those who commit such destructive violent acts, I hope this bill will send a strong message that New York will not tolerate these acts of terrorism. Violent offenders need to know that they will receive harsh penalties if they target the reproductive health clinic in New York State.

"Please support the Protection of Reproductive Healthcare Act. Its passage is a step towards one of the goals that my husband strived for while he was alive, the assurance of safety and security for all reproductive healthcare facilities.

"Sincerely, Lynn Slepian."

Enough said. I'm hoping my colleagues will join me in voting in the affirmative on this bill, Mr. President.

ACTING PRESIDENT BRESLIN: Thank you, Senator Parker.

Senator Liz Krueger, on the bill.

SENATOR LIZ KRUEGER: I have to say I was fairly shocked by my colleague's analogy of slipping and falling issues to this bill, because this bill is about recognizing

that these activities are terrorist activities.

And as Senator Parker so eloquently spoke of in his comments, we are talking about crimes against healthcare providers -- people being threatened with death, people being killed for providing healthcare services, legally recognized healthcare services.

And this body, in the eight years almost that I have been here, has passed any number of bills increasing specific penalties for specific types of crimes for people in different professions. I have seen us increase felony penalties for police officers, for correction officers, for transportation workers, for civil service employees in any number of different positions.

The concept that we wouldn't recognize the need to protect medical professionals from risking harm and death or their patients from risking harm and death from people who will choose to do violence to them -- again, as Senator Parker said, enough said. Enough said.

ACTING PRESIDENT BRESLIN: Thank you, Senator Krueger.

Senator Volker, on the bill.

SENATOR VOLKER: Mr. President, I just want to say I passed a bill to protect healthcare people at healthcare clinics. And as far as I can see, this bill does nothing to really improve the bill that we passed I think six or seven years ago, which I think myself and Assemblywoman -- I can't even remember who it was.

As I told Sam Hoyt tonight on the floor of the Senate here, when I spoke to him, I said, "If you could just change a couple of sentences here and tighten this up a little bit so that an accidental injury or whatever couldn't be considered a felony, it would be a good bill."

But this bill does not cover the true meaning of what an attack or assault -- and talking about murders, I mean you want to talk about a murder? I'll tell you, pass the death penalty and that will help in abortion clinics, I'll tell you that. Because I'm one

of those people who considers those attacks absolutely deplorable.

And I'll tell you, I don't really believe that the bill the way it's drafted does the job. And I think a few changes in this bill could do it. And as I said to Assemblyman Hoyt tonight, and I will say to you later, I just don't think this bill does the job.

ACTING PRESIDENT BRESLIN: Thank you, Senator Volker.

Are there any other Senators wishing to be heard on this bill?

Senator Parker, to close.

SENATOR PARKER: Just a moment of clarification.

In the bill -- and I'll read it from the bill. Physical injury is defined in law as the impairment of a person's physical condition or substantial pain. Physical injury which creates a substantial risk of death or causes death or serious and protracted disfigurement, protracted impairment of health, or protracted loss or

impairment of any function of a bodily organ. That's the definition of physical injury.

This is not about slips and falls. This is not about accidents. This is about terrorism, and this is about people who are actively going out and causing harm to doctors, to patients, to people who work in facilities, like receptionists and security guards.

I'm surprised, as much as I've heard my colleagues from upstate talk about the lack of doctors in upstate New York, that you would not do everything possible to provide a safe working environment for your constituents -- because these people live in your constituency -- and create a safe working environment for people who want to practice medicine in your particular jurisdictions.

And so I just want people to be clear. If you're not going to vote for it, don't vote for it because, you know, you have a real problem, not because you misunderstand that this is about accidents, because this bill is not about accidents.

Thank you, Mr. President.

ACTING PRESIDENT BRESLIN: Debate on the bill is closed.

The Secretary will ring the bells.

Read the last section.

THE SECRETARY: Section 3. This act shall take effect on the 90th day.

ACTING PRESIDENT BRESLIN: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT BRESLIN: Senator Montgomery, to explain her vote.

SENATOR MONTGOMERY: Yes, Mr. President, I just want to explain I intend to vote yes on this bill, but I generally do not support bills that increase penalties and so forth and so on.

However, I think we know, we all know what this is. This is a situation where people are using terrorism and violence to keep a woman, primarily, from accessing healthcare, especially reproductive health services. That's what this is.

So to talk about falling down and

hurting your head, that's ridiculous. This bill speaks to a very particular situation where people are interfering with a woman's right to reproductive health, and I vote yes.

ACTING PRESIDENT BRESLIN: Thank you, Senator Montgomery.

Senator DeFrancisco, to explain his vote.

SENATOR DeFRANCISCO: Murder is a crime. Arson is a crime. Attempted arson is a crime. All felonies. Bomb threats are felonies. Trespass may or may not be, depending on what happens. I don't know about stink bombs. But the fact of the matter is there are laws that already prevent or punish people for doing all of the things that was given as a justification for this bill.

Secondly, I have stood up on so many of those bills where you try to increase from assault third, which is causing pain and a serious physical injury, to assault second, just by the status of the person. We talked about MTA, I think they've protected every person that goes into a train other than the

passenger, it's a felony.

And I think status of who the person is is wrong to determine what type of penalty there's going to be.

If this was a protest for anything other than abortion clinics, everybody on that side of the aisle would be saying, Why are you doing that, people have a right to express their points of view. And the fact of the matter is that's true, whether you agree with them or not.

And the fact of the matter is if it's a crime, it should be the same type of crime whether it's a trespass, an assault third, an assault second. No matter what the protest may be about or what the crime may be about, whoever the victim is should be irrelevant in our criminal justice system. That's the reason I vote no.

ACTING PRESIDENT BRESLIN: Senator DeFrancisco to be recorded in the negative.

Announce the results.

THE SECRETARY: Those recorded in

the negative on Calendar Number 981 are Senators DeFrancisco, Diaz, Flanagan, Fuschillo, Golden, O. Johnson, Lanza, Larkin, Libous, Marcellino, Nozzolio, Skelos and Volker. Also Senators Farley, Griffo, Young, Maziarz and Ranzenhofer. Also Senator Morahan.

Absent from voting on Calendar Number 981: Senators Hannon and LaValle.

Ayes, 36. Nays, 19.

ACTING PRESIDENT BRESLIN: The bill is passed.

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

SENATOR KLEIN: Mr. President, I move to recommit Calendar Numbers 899, 959 and 960, laid aside earlier today, to the Committee on Rules.

ACTING PRESIDENT BRESLIN: So ordered.

SENATOR KLEIN: Mr. President, is there any further business at the desk?

ACTING PRESIDENT BRESLIN: No, Senator, the desk is clear.

SENATOR LIBOUS: Senator Klein, could I just ask a question?

SENATOR KLEIN: Sure.

ACTING PRESIDENT BRESLIN: Senator Libous.

SENATOR LIBOUS: On the last roll call, was Senator Kruger called?

ACTING PRESIDENT BRESLIN: Senator Kruger was excused.

SENATOR LIBOUS: Thank you.

THE SECRETARY: You're welcome.

SENATOR KLEIN: Mr. President, there being none, I move we adjourn this session at the call of the Temporary President, intervening days to be legislative days.

ACTING PRESIDENT BRESLIN: There being no further business to come before the Senate, on motion, the Senate stands adjourned until the call of the Temporary President, intervening days being legislative days.

(Whereupon, at 1:17 a.m., the Senate adjourned.)