

1 NEW YORK STATE SENATE

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4 THE STENOGRAPHIC RECORD

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9 ALBANY, NEW YORK

10 September 10, 2009

11 3:37 p.m.

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13  
14 REGULAR SESSION

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18 SENATOR NEIL D. BRESLIN, Acting President

19 ANGELO J. APONTE, Secretary

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

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

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

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

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

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

13 ACTING PRESIDENT BRESLIN: The  
14 reading of the Journal.

15 The Secretary will read.

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

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

24 Senator Sampson.

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

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

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

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

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

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

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

10               ACTING PRESIDENT BRESLIN:  
11       Senator Skelos.

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

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

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

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

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

24 You know, when we think about

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

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

14 So again, Senator Sampson, thank  
15 you.

16 ACTING PRESIDENT BRESLIN: Thank  
17 you, Senator Skelos.

18 Senator Smith.

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

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

24 Tomorrow will commemorate one of

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

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

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

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

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

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

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



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

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

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

20           Senator Skelos, thank you for your  
21      comments as well.

22           Thank you, Mr. President.

23           ACTING PRESIDENT BRESLIN:     Thank  
24      you, Senator Smith.

1 Senator Adams.

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

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

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

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

1       was able to leave after the center crumbled.

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

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

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

1 other locations within our state.

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

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

15 I thank you, Mr. President.

16 ACTING PRESIDENT BRESLIN: Thank  
17 you, Senator Adams.

18 Senator Perkins.

19 SENATOR PERKINS: Thank you,  
20 Mr. President.

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

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

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

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

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

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

4                ACTING PRESIDENT BRESLIN:     Thank  
5       you, Senator Perkins.

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

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

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

12               Presentation of petitions.

13               Messages from the Assembly.

14               Messages from the Governor.

15               Reports of standing questions.

16               Reports of select committees.

17               Communications and reports from  
18       state officers.

19               Motions and resolutions.

20               Senator Smith.

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

1           2986, Resolution 2987, and Resolution 3068.

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

7                   (Response of "Aye.")

8                   ACTING PRESIDENT BRESLIN:  
9           Opposed, nay.

10                   (No response.)

11                   ACTING PRESIDENT BRESLIN:     The  
12           Resolution Calendar is adopted in its  
13           entirety, with the exception of Resolutions  
14           2980, 2986, 2987 and 3068.

15                   Senator Smith.

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

21                   ACTING PRESIDENT BRESLIN:  
22           Senator Aubertine.

23                   SENATOR AUBERTINE:     Thank you,  
24           Mr. President.

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

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

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



1 price.

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

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

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

9 ACTING PRESIDENT BRESLIN: Thank  
10 you, Senator Aubertine.

11 Senator Smith.

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

16 ACTING PRESIDENT BRESLIN: The  
17 Secretary will read.

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

24 "WHEREAS, In this time of national

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

9 "WHEREAS, On Tuesday, August 25,  
10 2009, Edward (Ted) Kennedy died at his home in  
11 Hyannisport, Massachusetts, at the age of 77;  
12 and

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

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

1 causes of voting and civil rights; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

21 ACTING PRESIDENT BRESLIN:  
22 Senator Perkins.

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

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

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

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

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

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

3                   (Laughter.)

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

12                  Thank you, Mr. President.

13                  ACTING PRESIDENT BRESLIN:     Thank  
14      you, Senator Perkins.

15                  Are there any other Senators  
16      wishing to be heard?

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

20                  (Response of "Aye.")

21                  ACTING PRESIDENT BRESLIN:  
22      Opposed, nay.

23                  (No response.)

24                  ACTING PRESIDENT BRESLIN:     The



1 resolution is adopted.

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

6 The Secretary will continue to  
7 read.

8 SENATOR SMITH: Mr. President.

9 ACTING PRESIDENT BRESLIN:  
10 Senator Smith.

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

15 ACTING PRESIDENT BRESLIN: The  
16 Secretary will read.

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

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

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

3 "WHEREAS, Attendant to such  
4 concern, and in full accord with its  
5 long-standing traditions, this Legislative  
6 Body is justly proud to commemorate the  
7 46th Anniversary of the March on Washington  
8 for Jobs and Freedom; and

9 "WHEREAS, The March on Washington  
10 for Jobs and Freedom took place in Washington,  
11 D.C., on August 28, 1963. Attended by some  
12 250,000 people, it was the largest  
13 demonstration ever seen in the nation's  
14 capital, and one of the first to have  
15 extensive television coverage; and

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

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

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

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

1                   "WHEREAS, The stated demands of the  
2                   march were the passage of meaningful civil  
3                   rights legislation, the elimination of racial  
4                   segregation in public schools, protection for  
5                   demonstrators against police brutality, a  
6                   major public-works program to provide jobs,  
7                   the passage of a law prohibiting racial  
8                   discrimination in public and private hiring, a  
9                   \$2-an-hour minimum wage, and self-government  
10                  for the District of Columbia, which had a  
11                  black majority; and

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

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

1 Memorial during the event. This particular  
2 march was an important part of the rapidly  
3 expanding civil rights movement and is widely  
4 credited for helping to pass the Civil Rights  
5 Act (1964) and the National Voting Rights Act  
6 (1965); and

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

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

16 ACTING PRESIDENT BRESLIN:  
17 Senator Perkins.

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

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

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

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

10              ACTING PRESIDENT BRESLIN:     Thank  
11       you, Senator Perkins.

12              Are there any other Senators  
13       wishing to be heard?

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

17              (Response of "Aye.")

18              ACTING PRESIDENT BRESLIN:  
19       Opposed, nay.

20              (No response.)

21              ACTING PRESIDENT BRESLIN:     The  
22       resolution is adopted.

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

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

3 Senator Smith.

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

9 ACTING PRESIDENT BRESLIN: The  
10 Secretary will read.

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

17 ACTING PRESIDENT BRESLIN:  
18 Senator Perkins.

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

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

1 of Kwame Nkrumah. Kwame Nkrumah, who was a  
2 leading advocate for Pan-Africanism in the  
3 20th century, was born on September 21, 1909,  
4 in the Gold Coast, or what is now known as  
5 Ghana. In 1935 he left Ghana and moved to the  
6 United States to further his education, both  
7 institutionally and socially.

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

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



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

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

13               His Pan-Africanism work eventually  
14       landed him in jail in 1950, but he was  
15       released in 1951 by the Convention People's  
16       Party, the party that had just won the  
17       election in Ghana and which he had founded in  
18       1949 to liberate the Gold Coast from colonial  
19       rule.

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

24               Kwame Nkrumah was overthrown in

1       1966 by the military and he was exiled to  
2       Bucharest, Romania, where he died on April 27,  
3       1972. Yet many people still hold on to his  
4       dream that there will be one day a United  
5       States of Africa. The legacy of Kwame Nkrumah  
6       continues to serve as an inspiration for many  
7       people in the African-American communities all  
8       across this state and this country.

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

12              ACTING PRESIDENT BRESLIN:     Thank  
13       you, Senator Perkins.

14              Are there any other Senators  
15       wishing to be heard?

16              Senator Parker.

17              SENATOR PARKER:     Thank you,  
18       Mr. President.

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

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

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

7 (Laughter.)

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

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

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

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

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

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

1                   ACTING PRESIDENT BRESLIN:     Thank  
2     you, Senator Parker.

3                   Senator Montgomery.

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

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

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

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

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

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

9 Thank you, Mr. President.

10 ACTING PRESIDENT BRESLIN: Thank  
11 you, Senator Montgomery.

12 Are there any other Senators  
13 wishing to be heard?

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

17 (Response of "Aye.")

18 ACTING PRESIDENT BRESLIN:  
19 Opposed, nay.

20 (No response.)

21 ACTING PRESIDENT BRESLIN: The  
22 resolution is adopted.

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

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

3               Senator Smith.

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

9               ACTING PRESIDENT BRESLIN:       The  
10       Secretary will read.

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

17               ACTING PRESIDENT BRESLIN:  
18       Senator Larkin.

19               SENATOR LARKIN:       Thank you,  
20       Mr. President.

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

1 the United States of America.

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

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

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



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

5 Thank you Mr. President.

6 ACTING PRESIDENT BRESLIN: Thank  
7 you, Senator Larkin.

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

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

13 (Response of "Aye.")

14 ACTING PRESIDENT BRESLIN:  
15 Opposed, nay.

16 (No response.)

17 ACTING PRESIDENT BRESLIN: The  
18 resolution is adopted.

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

23 Returning to the reports of  
24 standing committees. Senator Smith.

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

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

7                   The Secretary will read.

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

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

15                   ACTING PRESIDENT BRESLIN:  
16    Senator Kruger.

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

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

22                   Senator Marcellino.

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

1 nominee.

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

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

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

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

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

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

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

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

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

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

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

24 These people should be on the

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

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

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

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

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

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

1       problem. But we look to you for the solution.

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

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

18              ACTING PRESIDENT BRESLIN:      Thank  
19      you, Senator Marcellino.

20              Senator Smith.

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

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



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

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

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

1 roads and bridges for Long Island and upstate.

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

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

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

23 ACTING PRESIDENT BRESLIN: Thank  
24 you, Senator Smith.

1 Senator Morahan.

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

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

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

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

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

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

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

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

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

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

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

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

24             So you have a great challenge.

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

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

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

22             ACTING PRESIDENT BRESLIN:     Thank  
23      you, Senator Morahan.

24             Senator Lanza.

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

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

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

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

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

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

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



1       about fairness.

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

10              Each of you is about to vote on  
11       whether or not to give someone a job that pays  
12       \$372,000 per year -- at a time when the state  
13       budget is in crisis, the MTA budget and  
14       institution is in crisis, the New York City  
15       budget is in crisis. Is it too much to ask of  
16       the person you're about to hire what his plan  
17       is to address those problems? I think not.  
18       In fact, I think we're entitled to them. The  
19       riders in the region are entitled to those  
20       answers. The taxpayers in the region and  
21       throughout the state are entitled to have  
22       those answers. And I don't know why we had a  
23       hearing today and walked away without answers  
24       to those questions.

1                   You know, I asked Mr. Walder, given  
2                   the public outrage with respect to  
3                   compensation packages on Wall Street, whether  
4                   or not, given these trying times, he'd be  
5                   willing to take the job for less than the  
6                   \$372,000 per year. And of course -- and I  
7                   don't blame him -- he said no.

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

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

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

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

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

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

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

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

19                  ACTING PRESIDENT BRESLIN:       Thank  
20                  you, Senator Lanza.

21                  Senator Libous.

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

24                  I rise to make some of the same

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

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

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

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

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

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

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

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

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

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

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

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

1                   Thank you, Mr. President.

2                   ACTING PRESIDENT BRESLIN:       Thank  
3                   you, Senator Libous.

4                   Senator Saland.

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

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

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

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



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

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

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

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

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

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

17               If you look at their data prior to  
18       the absolutely godawful imposition of the  
19       payroll tax and the driver's license fees and  
20       the registration fees, we were paying a hefty  
21       \$68 million in taxes and fees for some 4,000  
22       commuters -- 9,000 fares, 4,000 commuters. So  
23       a thousand or so more additional people use it  
24       perhaps recreationally. Even if you want to

1 take number 10,000, if the data is dated.

2 Four thousand commuters, \$68 million. That's  
3 pretty steep.

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

15 Is there any one of you who could  
16 endure that pain? Any one of you who would  
17 say "I volunteer, I want to be part of that  
18 system"? In committee I said if I could put a  
19 gate across, or if this were the 1870s or  
20 1880s and I could invite vigilantes to come  
21 and rip up the track, I would do so.

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

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

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

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

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

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

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

13                   I vote in the negative.

14                   ACTING PRESIDENT BRESLIN:     Thank  
15      you, Senator Saland.

16                   Senator Espada.

17                   SENATOR ESPADA:     Thank you,  
18      Mr. President.

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

24                   I am very happy that Mr. Walder's

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

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

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

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

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

1 start.

2 Clearly not the end of the ride.

3 We must visit underserved areas. I come from  
4 one of those. We struggled mightily to keep  
5 tolls away from bridges of one and two and  
6 three bucks. We have to deal with revenue  
7 generation. We have to deal with cost savings  
8 and waste. And transparency and oversight and  
9 great leadership at the top will help the  
10 engine to start rolling down the right track.

11 I support this nomination. Thank  
12 you very much.

13 ACTING PRESIDENT BRESLIN: Thank  
14 you, Senator Espada.

15 Senator Carl Kruger.

16 SENATOR CARL KRUGER: Thank you,  
17 Mr. President.

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

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

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

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

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

24 And with that in mind, we have to



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

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

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

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

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

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

1 changes have to be made.

2 Welcome aboard, Mr. Walder.

3 Thank you.

4 ACTING PRESIDENT BRESLIN: Thank  
5 you, Senator Kruger.

6 Senator Savino.

7 SENATOR SAVINO: Thank you,  
8 Mr. President.

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

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

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

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

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

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

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

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

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

6 And finally, I have heard a couple  
7 of people raise the issue of your salary.  
8 Now, just for comparison, I'm going to read a  
9 couple of numbers which some of you probably  
10 don't have. So the new head of the MTA, chair  
11 and CEO, who's going to earn a salary of a  
12 \$350,000 a year, will oversee a system that  
13 carries 10 million, almost 11 million people a  
14 day and has over 70,000 employees.

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

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

1       2500 employees.

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

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

17              Thank you, and welcome aboard,  
18 Mr. Walder.

19              ACTING PRESIDENT BRESLIN:     Thank  
20 you, Senator Savino.

21              Senator Schneiderman.

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

24              I rise to strongly support this

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

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

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



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

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

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

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

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

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

17 (Laughter.)

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

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

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

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

9 I strongly support this nomination,  
10 Mr. President.

11 ACTING PRESIDENT BRESLIN: Thank  
12 you, Senator Schneiderman.

13 Senator Larkin.

14 SENATOR LARKIN: Thank you,  
15 Mr. President.

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

24 I've read all about his term with

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

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

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

1 willingness to work with us.

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

6 ACTING PRESIDENT BRESLIN: Thank  
7 you, Senator Larkin.

8 Senator Dilan.

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

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

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

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

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

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

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

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

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

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

22 Thank you, and good luck.

23 ACTING PRESIDENT BRESLIN: Thank  
24 you, Senator Dilan.

1 Senator Leibell.

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

23               Thank you, Mr. President.

24               ACTING PRESIDENT BRESLIN:      Thank

1       you, Senator Leibell.

2                   Senator Stavisky.

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

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

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

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

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

6 And Mr. President, I vote aye.

7 ACTING PRESIDENT BRESLIN: Thank  
8 you, Senator Stavisky.

9 Senator Perkins.

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

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

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

24 One of the things that I was

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

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

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

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

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

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

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

4 So let us, like, all work together  
5 to help him understand that and to help him  
6 make the lift that's needed to be made so that  
7 the region -- and especially my  
8 neighborhood -- gets the kind of services that  
9 folks feel that they're paying dearly for.

10 But I mean, in all seriousness, that all of  
11 our neighborhoods, that all of our communities  
12 get it.

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

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



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

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

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

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

3               Thank you.

4               ACTING PRESIDENT BRESLIN:       Thank  
5       you, Senator Perkins.

6               Senator Flanagan.

7               SENATOR FLANAGAN:       Thank you,  
8       Mr. President.

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

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

1       that's out there."

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

21 ACTING PRESIDENT BRESLIN: Thank  
22 you, Senator Flanagan.

23 Senator Fuschillo.

24 SENATOR FUSCHILLO: Just quickly,

1       Mr. President. Thank you very much.

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

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

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

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



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

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

15 Thank you very much, Mr. President.

16 ACTING PRESIDENT BRESLIN: Thank  
17 you, Senator Fuschillo.

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

22 Senator Libous.

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

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

4 ACTING PRESIDENT BRESLIN: Of  
5 course, Senator Libous.

6 SENATOR LIBOUS: Thank you.

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

10 (Response of "Aye.")

11 ACTING PRESIDENT BRESLIN:  
12 Opposed, please show your hands.

13 The Secretary will announce the  
14 results.

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

21 Ayes, 47. Nays, 13.

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

1 (Standing ovation.)

2 ACTING PRESIDENT BRESLIN:

3 Chairman Walder is also joined by his in-laws,  
4 Anne and Bill Cummings, and his uncle, Ed  
5 Gregory.

6 Congratulations.

7 (Applause.)

8 ACTING PRESIDENT BRESLIN: The  
9 Secretary will continue to read.

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

13 ACTING PRESIDENT BRESLIN:  
14 Senator Kruger.

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

17 ACTING PRESIDENT BRESLIN:  
18 Senator Stavisky.

19 SENATOR STAVISKY: Thank you,  
20 Mr. President.

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

24 In the community, he's been

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

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

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

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

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

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

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

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

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

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

1 confirmation day as superintendent of the  
2 State Insurance Department.

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

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

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

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

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

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

12 Thank you, Mr. President.

13 ACTING PRESIDENT BRESLIN: Thank  
14 you, Senator Stavisky.

15 Senator Seward.

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

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

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

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

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

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



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

4                    ACTING PRESIDENT BRESLIN:     Thank  
5       you, Senator Seward.

6                    Senator DeFrancisco.

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

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

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

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

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

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

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

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

9 Thank you, Mr. President.

10 ACTING PRESIDENT BRESLIN:

11 Thanks, Senator DeFrancisco.

12 Senator Onorato.

13 SENATOR ONORATO: Thank you,  
14 Mr. President.

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

23 Good luck in your new endeavor.

24 God bless you and your family.

1                   ACTING PRESIDENT BRESLIN:     Thank  
2     you, Senator Onorato.

3                   Senator Duane.

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

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

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

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

24                  ACTING PRESIDENT BRESLIN:     Thank

1       you, Senator Duane.

2                   Senator Smith, to close.

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

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

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

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

24                               (Laughter.)

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

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

15                  Thank you, Mr. President.

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

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

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

1 (Response of "Aye.")

2 ACTING PRESIDENT BRESLIN:

3 Opposed, nay.

4 (No response.)

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

8 (Standing ovation.)

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

13 Welcome. Congratulations.

14 (Applause.)

15 ACTING PRESIDENT BRESLIN: The  
16 Secretary will continue to read.

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

20 ACTING PRESIDENT BRESLIN:  
21 Senator Kruger.

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

24 ACTING PRESIDENT BRESLIN: The

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

3 (Response of "Aye.")

4 ACTING PRESIDENT BRESLIN:

5 Opposed, nay.

6 (No response.)

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

10 Congratulations.

11 (Applause.)

12 ACTING PRESIDENT BRESLIN: The  
13 chair recognizes Senator Smith.

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

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

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



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

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

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

7                   ACTING PRESIDENT BRESLIN:  
8                   Senator Smith.

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

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

17                  The Secretary will read. The  
18                  Secretary will read the resolutions one at a  
19                  time.

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

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

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

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

15                (The Secretary called the roll.)

16                ACTING PRESIDENT BRESLIN:  
17       Announce the results.

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

21                ACTING PRESIDENT BRESLIN:     The  
22       concurrent resolution is adopted.

23                The Secretary will continue to  
24       read.

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

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

11                  (The Secretary called the roll.)

12                  ACTING PRESIDENT BRESLIN:  
13                  Announce the results.

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

17                  ACTING PRESIDENT BRESLIN:     The  
18                  concurrent resolution is adopted.

19                  The Secretary will continue to  
20                  read.

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

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

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

7 Call the roll.

8 (The Secretary called the roll.)

9 ACTING PRESIDENT BRESLIN:  
10 Announce the results.

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

14 ACTING PRESIDENT BRESLIN: The  
15 resolution is adopted.

16 The Secretary will continue to  
17 read.

18 THE SECRETARY: By Senator Smith,  
19 Concurrent Resolution Number 3130 of the  
20 Senate and Assembly, authorizing the Senate  
21 and Assembly of New York State to purchase  
22 copies of the New York Red Book for the  
23 2009-2010 session.

24 ACTING PRESIDENT BRESLIN: The

1 question is on the concurrent resolution.

2 Call the roll.

3 (The Secretary called the roll.)

4 ACTING PRESIDENT BRESLIN:

5 Announce the results.

6 THE SECRETARY: Ayes, 59. Nays,

7 1. Senator Ranzenhofer recorded in the  
8 negative.

9 ACTING PRESIDENT BRESLIN: The  
10 concurrent resolution is adopted.

11 The chair recognizes Senator Smith.

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

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

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

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

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

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

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

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

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

15 The Secretary will read.

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

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

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

1                   Senate Print 6064, by Senator  
2       Squadron, an act to amend the Executive Law;  
3                   And Senate Print 6157, by Senator  
4       Sampson, an act to amend the Legislative Law  
5       and the Public Officers Law.

6                   All bills ordered direct to third  
7       reading.

8                   ACTING PRESIDENT STEWART-COUSINS:  
9       Senator Smith.

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

13                  And are there any substitutions at  
14       the desk?

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

19                  (Response of "Aye.")

20                  ACTING PRESIDENT STEWART-COUSINS:  
21       Opposed, nay.

22                  (No response.)

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

1                   The Secretary will read the  
2                   substitution.

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

9                   ACTING PRESIDENT STEWART-COUSINS:  
10                  Substitution ordered.

11                  Senator Smith.

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

17                  ACTING PRESIDENT STEWART-COUSINS:  
18                  The Secretary will read.

19                  THE SECRETARY:     Calendar Number  
20                  960, by Senator Sampson, Senate Print 6157, an  
21                  act to amend the Legislative Law and the  
22                  Public Officers Law.

23                  ACTING PRESIDENT STEWART-COUSINS:  
24                  Read the last section.



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

3                   ACTING PRESIDENT STEWART-COUSINS:  
4   Call the roll.

5                   (The Secretary called the roll.)

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

8                   SENATOR HUNTLEY:     Yes.

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

12                   SENATOR LIBOUS:     Lay the bill  
13   aside.

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

17                   The Secretary will read.

18                   THE SECRETARY:     Calendar Number  
19   959, substituted earlier today by Member of  
20   the Assembly Silver, Assembly Print Number  
21   9032, an act to amend the Executive Law.

22                   ACTING PRESIDENT STEWART-COUSINS:  
23   Read the last section.

24                   THE SECRETARY:     Section 22.   This

1 act shall take effect January 1, 2010.

2 ACTING PRESIDENT STEWART-COUSINS:

3 Call the roll.

4 (The Secretary called the roll.)

5 ACTING PRESIDENT STEWART-COUSINS:

6 Senator Huntley, how do you vote?

7 SENATOR HUNTLEY: Yes.

8 ACTING PRESIDENT STEWART-COUSINS:

9 Senator Huntley will be recorded in the  
10 affirmative.

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

13 The Secretary will read.

14 THE SECRETARY: Calendar Number  
15 872, by Member of the Assembly Silver,  
16 Assembly Print Number 8901, an act to amend  
17 the Public Authorities Law.

18 ACTING PRESIDENT STEWART-COUSINS:

19 Read the last section.

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

22 ACTING PRESIDENT STEWART-COUSINS:

23 Call the roll.

24 (The Secretary called the roll.)

1                   ACTING PRESIDENT STEWART-COUSINS:

2       Senator Huntley, how do you vote?

3                   SENATOR HUNTLEY:     Yes.

4                   ACTING PRESIDENT STEWART-COUSINS:

5       Senator Huntley will be recorded in the  
6       affirmative.

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

9                   The Secretary will read.

10                  THE SECRETARY:     Calendar Number  
11       877, by Member of the Assembly Cahill,  
12       Assembly Print Number 9031, an act to amend a  
13       chapter of the Laws of 2009 amending the  
14       Public Authorities Law.

15                  ACTING PRESIDENT STEWART-COUSINS:

16       Read the last section.

17                  THE SECRETARY:     Section 4.  This  
18       act shall take effect on the same date and in  
19       the same manner as a chapter of the Laws of  
20       2009.

21                  ACTING PRESIDENT STEWART-COUSINS:

22       Call the roll.

23                  (The Secretary called the roll.)

24                  ACTING PRESIDENT STEWART-COUSINS:

1 Senator Huntley, how do you vote?

2 SENATOR HUNTLEY: Yes.

3 ACTING PRESIDENT STEWART-COUSINS:

4 Senator Huntley is recorded in the  
5 affirmative.

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

8 That concludes the noncontroversial  
9 reading of the calendar.

10 Senator Smith.

11 SENATOR SMITH: Yes, Madam

12 President. First let me thank my colleagues  
13 on the other side of the aisle, Senator Libous  
14 and Senator Skelos, for accommodating one of  
15 our members. We appreciate that gesture. And  
16 we just want to wish Senator Huntley well.

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

20 ACTING PRESIDENT STEWART-COUSINS:

21 The Secretary will read.

22 THE SECRETARY: Calendar Number  
23 960, by Senator Sampson, Senate Print 6157, an  
24 act to amend the --

1                   SENATOR LIBOUS:     Lay it aside,  
2     please.

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

5                   THE SECRETARY:     Calendar Number  
6     959, substituted earlier by Member of the  
7     Assembly Silver, Assembly Print Number 9032,  
8     an act to amend the Executive Law.

9                   ACTING PRESIDENT STEWART-COUSINS:  
10    Read the last section.

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

13                  SENATOR LIBOUS:     Lay it aside.

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

16                  THE SECRETARY:     Calendar Number  
17    872, by Member of the Assembly Silver,  
18    Assembly Print Number 8901, an act to amend  
19    the Public Authorities Law.

20                  SENATOR LIBOUS:     Lay it aside.

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

23                  THE SECRETARY:     Calendar Number  
24    877, by Member of the Assembly Cahill,

1 Assembly Print Number --

2 SENATOR LIBOUS: Lay it aside.

3 ACTING PRESIDENT STEWART-COUSINS:

4 The bill is laid aside.

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

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

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

16 The Secretary will read.

17 THE SECRETARY: Calendar Number  
18 960, by Senator Sampson, Senate Print 6157, an  
19 act to amend the Legislative Law and the  
20 Public Officers Law.

21 SENATOR LIBOUS: Excuse me, Madam  
22 President.

23 ACTING PRESIDENT STEWART-COUSINS:  
24 Senator Libous.

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

6                   ACTING PRESIDENT STEWART-COUSINS:  
7       Yes.

8                   SENATOR LIBOUS:       Explanation,  
9       Senator Sampson.

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

13                  SENATOR SAMPSON:       Thank you very  
14       much, Madam President.

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

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

19                  SENATOR SAMPSON:       Thank you very  
20       much, Madam President.

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

23                  SENATOR LaVALLE:       Madam  
24       President.

1                   ACTING PRESIDENT STEWART-COUSINS:

2       Senator LaValle, why do you rise?

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

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

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

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

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

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



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

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

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

24 Two, create a program of random

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

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

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

24              Let me go into the enforcement

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

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

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

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

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

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

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

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

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

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

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

21 SENATOR PADAVAN: Madam  
22 President.

23 ACTING PRESIDENT STEWART-COUSINS:  
24 Senator Padavan.

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

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

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

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

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

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

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

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

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

11 ACTING PRESIDENT STEWART-COUSINS:  
12 Senator Padavan --

13 SENATOR PADAVAN: Will the  
14 Senator yield?

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

18 SENATOR PADAVAN: Yes.

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

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

24 SENATOR PADAVAN: My question,



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

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

16 But to add on what you were talking  
17 about with respect to the hit unit and the  
18 panel, first of all, the designated panel will  
19 appoint an executive director who will be  
20 responsible for the enforcement unit.

21 Currently, the enforcement unit that exists in  
22 the Board of Elections consists of two people  
23 with a budget of \$200,000, which deals with,  
24 this year presently, over 15,000 disclosure

1 forms.

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

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

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

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

1                   ACTING PRESIDENT STEWART-COUSINS:

2           Senator Padavan, that was on the bill? There  
3           was no question, really. Okay.

4                   Senator Volker.

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

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

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

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

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

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

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

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

14                 ACTING PRESIDENT STEWART-COUSINS:  
15          Thank you, Senator.

16                 Senator Flanagan.

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

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

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

23                 ACTING PRESIDENT STEWART-COUSINS:  
24          Senator.

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

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

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

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

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

4               SENATOR SAMPSON:       You say at line  
5       13?

6               SENATOR FLANAGAN:       Yes.

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

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

14               SENATOR SAMPSON:       Correct.

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

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

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

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

23 SENATOR SAMPSON: Right.

24 SENATOR FLANAGAN: -- but you are



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

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

9 ACTING PRESIDENT STEWART-COUSINS:  
10 Senator Schneiderman.

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

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

1 section is enacted. And I'm referring to  
2 page 6, line 19. Section 3-104 of the  
3 Election Law is repealed and a new Section  
4 3-104 is added. So it doesn't just repeal it,  
5 it adds a new section.

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

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

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

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

6 SENATOR FLANAGAN: Madam  
7 President, would Senator Schneiderman yield?

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

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

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

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

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

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

12 SENATOR SCHNEIDERMAN: Do I hear  
13 a question?

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

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

1 every existing grant of authority to the Board  
2 of Elections.

3 And I can note for Senator Flanagan  
4 some of those grants of authority that are  
5 preserved, including Election Law Section  
6 3-107, which states: "Authority is hereby  
7 conferred upon the State Board of Elections  
8 to," and it lists a lot of things -- appoint  
9 investigators; to have the power to issue  
10 subpoenas, subpoenas duces tecum; it  
11 authorizes all forms of investigation.

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

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

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

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

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

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

21 SENATOR SCHNEIDERMAN: With  
22 pleasure.

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

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

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

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

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

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

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

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



1 throughout this bill that deal with the issue  
2 of enforcement.

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

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

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

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

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

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

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

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

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

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

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

13 ACTING PRESIDENT STEWART-COUSINS:  
14 The Senator yields.

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

19 SENATOR SCHNEIDERMAN: Formally  
20 negotiated? What does that mean?

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

1 will sign this bill?

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

4 ACTING PRESIDENT STEWART-COUSINS:  
5 Senator Sampson.

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

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

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

20 SENATOR SAMPSON: Through you,  
21 Madam President, no.

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

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

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

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

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

1 still has the authority that it has now.

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

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

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

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

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

17 SENATOR SCHNEIDERMAN: Yes, Madam  
18 President.

19 SENATOR FLANAGAN: Senator  
20 Schneiderman, thank you for yielding.

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

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

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

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

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

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

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

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

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

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

24                 The conduct of the investigations



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

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

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

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

8 SENATOR FLANAGAN: Thank you.

9 Madam President, would Senator  
10 Sampson yield?

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

13 SENATOR SAMPSON: Yes, I do.

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

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

8 ACTING PRESIDENT STEWART-COUSINS:

9 Senator Sampson, do you yield for several  
10 questions?

11 SENATOR SAMPSON: Yes, I do.

12 Through you, Madam President.

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

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

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

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

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

9 SENATOR SAMPSON: Yes, I do,  
10 Madam President.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

24                  But since the representations are

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

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

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



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

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

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

7               Senator Squadron.

8               SENATOR SQUADRON:     Thank you very  
9       much, Madam President.

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

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

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

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

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

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

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

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

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

5                   Thank you, Madam President.

6                   ACTING PRESIDENT STEWART-COUSINS:

7                   Thank you, Senator.

8                   Senator L. Krueger.

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

13                  ACTING PRESIDENT STEWART-COUSINS:

14                  I apologize, I didn't see you.

15                  Senator DeFrancisco, why do you  
16                  rise?

17                  SENATOR DeFRANCISCO:       Would  
18                  Senator Squadron yield to a question?

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

21                  SENATOR SQUADRON:        I'd be honored  
22                  to.

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

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

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

15 SENATOR DeFRANCISCO: Thank you.

16 ACTING PRESIDENT STEWART-COUSINS:  
17 Thank you, Senator.

18 Senator L. Krueger.

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

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

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

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

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

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

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

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

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

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

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

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



1                   ACTING PRESIDENT STEWART-COUSINS:

2       Senator DeFrancisco, why do you rise?

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

6                   ACTING PRESIDENT STEWART-COUSINS:

7       Senator Krueger, do you yield?

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

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

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

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

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

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

23             ACTING PRESIDENT STEWART-COUSINS:  
24      Senator DeFrancisco.

1                   SENATOR DeFRANCISCO:     Thank you,  
2     Senator.

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

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

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

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

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

1                   SENATOR DeFRANCISCO:     Sure,  
2                   absolutely.  Absolutely.

3                   ACTING PRESIDENT STEWART-COUSINS:  
4                   Please, Senator Squadron.

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

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

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

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

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

1                   SENATOR DeFRANCISCO:     So the  
2     answer is yes?

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

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

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

12                  SENATOR LIZ KRUEGER:     Certainly,  
13     Senator DeFrancisco.

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

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

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

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

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

12 ACTING PRESIDENT STEWART-COUSINS:  
13 Thank you, Senator.

14 Senator Krueger, would you want to  
15 continue?

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

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

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

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

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

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

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

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

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

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



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

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

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

23 Thank you, Madam President.

24 ACTING PRESIDENT STEWART-COUSINS:

1 Thank you, Senator.

2 Senator DeFrancisco, you wanted to  
3 speak on the bill?

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

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

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

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

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

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

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

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

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

12 Thank you.

13 ACTING PRESIDENT STEWART-COUSINS:

14 Thank you, Senator.

15 Senator Schneiderman.

16 SENATOR SCHNEIDERMAN: Thank you,  
17 Madam President.

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

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

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

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

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

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

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

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

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

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

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

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

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

12 ACTING PRESIDENT STEWART-COUSINS:

13 Thank you, Senator.

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

16 Senator Morahan.

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

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



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

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

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

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

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

1       want what could be perceived to be  
2       witch-hunts.

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

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

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

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

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

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

15 ACTING PRESIDENT STEWART-COUSINS:  
16 Thank you, Senator.

17 Senator Sampson.

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

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

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

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

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

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

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

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

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

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

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

22 Thank you very much, Madam  
23 President.

24 ACTING PRESIDENT STEWART-COUSINS:

1 Thank you, Senator.

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

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

6 Read the last section.

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

9 ACTING PRESIDENT STEWART-COUSINS:  
10 Call the roll.

11 (The Secretary called the roll.)

12 ACTING PRESIDENT STEWART-COUSINS:  
13 Senator Flanagan.

14 SENATOR FLANAGAN: To explain my  
15 vote.

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

18 SENATOR FLANAGAN: Madam  
19 President, to explain my vote.

20 I forgot to mention one very  
21 important component of this bill that I think  
22 many of us may have overlooked, and that is on  
23 page 10, Section 14.

24 While the penalties are increased



1 from \$500 to \$1,000 for civil enforcement,  
2 there is a very basic change that a lot of our  
3 local boards are not going to be happy with,  
4 and that is the fact that the ability to  
5 enforce at the local level is now gone.

6 All enforcement actions can only  
7 come from the State Board of Elections. So  
8 any local boards that heretofore have done  
9 this work -- and there may be those who are  
10 out there doing it very well -- they now no  
11 longer have that power.

12 So we're creating two problems.  
13 Number one, we're taking that power away from  
14 our local boards. And even if you acknowledge  
15 the problems at the state board, you're now  
16 adding a lot more work on top of that with  
17 absolutely no money to back it up.

18 I'm voting no. Thank you.

19 ACTING PRESIDENT STEWART-COUSINS:  
20 Senator Flanagan to be recorded in the  
21 negative.

22 Senator Squadron.

23 SENATOR SQUADRON: To explain my  
24 vote, Madam President.

1                   ACTING PRESIDENT STEWART-COUSINS:

2           Senator Squadron, to explain his vote.

3                   SENATOR SQUADRON:     This debate  
4           was a little surprising to me. A lot has been  
5           this year, so I guess I shouldn't be surprised  
6           by that.

7                   The idea that this is some panel  
8           that is a Democratic or a Republican panel is  
9           not true. It's proven not true. It's in the  
10          language not true. First point.

11                  Second point, the idea that somehow  
12          a chapter amendment undermines the underlying  
13          bills, that's not true. It's a canard. We  
14          all know that.

15                  The fact is together these two,  
16          this bill and this chapter amendment, create  
17          exactly what we need on enforcement. It is a  
18          unique opportunity not to just do something  
19          that looks good but to move the ball way down  
20          the field on ethics.

21                  And the fact that half of it, half  
22          of the package, a full half is going to die  
23          based on a couple of canards is really  
24          shocking and disappointing.

1                   The fact is tonight we're missing  
2                   someone on the other side of the aisle who  
3                   sponsors a bill that has exactly the sort of  
4                   enforcement on campaign finance that is in  
5                   this bill, and he's not here tonight. He  
6                   sponsors a bill that has this exact mechanism.

7                   ACTING PRESIDENT STEWART-COUSINS:  
8                   (Gaveling.)

9                   SENATOR SQUADRON:       Thank you.  
10                  And a couple of more seconds on my two  
11                  minutes, if you don't mind.

12                 A member on the other side of the  
13                 aisle has cosponsored a bill that has exactly  
14                 the mechanism that is being used as the  
15                 justification for voting against this bill  
16                 tonight.

17                 A member on this side is not able  
18                 to be here for personal and tragic reasons.

19                 The fact is it would be a mistake  
20                 to move half and not all tonight, missing two  
21                 members who we have good reason to believe  
22                 understand that doing this comprehensively is  
23                 the point. We have to do it, we have to do it  
24                 this session, we have to base it on what we

1 already seen the Assembly can pass and did  
2 pass and set the table for us.

3 But this idea that we're going to  
4 let these sorts of crazy theories that don't  
5 make any sense kill half of comprehensive  
6 ethics reform when we're missing some members  
7 who have shown that they really do understand  
8 why it's so important I think doesn't make any  
9 sense.

10 So I am going to vote for this  
11 chapter, and I urge any members who aren't  
12 voting for it to reconsider their votes.

13 Thank you.

14 ACTING PRESIDENT STEWART-COUSINS:  
15 Thank you, Senator.

16 Senator DeFrancisco, to explain his  
17 vote.

18 SENATOR DeFRANCISCO: Yes, I  
19 listened carefully to Senator Squadron. And  
20 there's two things that appeared obvious, that  
21 the comments here on this side of the aisle,  
22 especially those of Senator Flanagan, went  
23 well beyond the composition of the board that  
24 are reasons why this bill should not be

1       passed.

2               Secondly, if this bill is going to  
3       move everything to the goal line, Senator  
4       Squadron had plenty of time to incorporate the  
5       provisions of this bill into his legislation  
6       so that we would be voting on the goal-line  
7       bill if he truly thought that that was the way  
8       to go.

9               And I believe that's also the  
10      reason why we went backwards in this whole  
11      process. And Senator Squadron certainly can  
12      amend his bill to bring it to the epitome of  
13      ethics reform by incorporating the Sampson  
14      bill.

15              So I think it's a little bit  
16      suspicious, the arguments that were being  
17      made, and I would think that this bill is not  
18      a good one. We'll see what happens on his  
19      bill when it's debated.

20              Thank you. I vote no.

21              ACTING PRESIDENT STEWART-COUSINS:  
22      Senator DeFrancisco to be recorded in the  
23      negative.

24              Senator Padavan, to explain his

1 vote.

2 SENATOR PADAVAN: You know, the  
3 road of good intentions is sometimes full of  
4 potholes. The pothole here is the enforcement  
5 unit. You hesitate to use the word  
6 "enforcement," but it's in the bill.

7 And it is partisan. It is seven to  
8 two. Senator Morahan pointed out the  
9 unfairness of that. Others have spoken to  
10 that issue time and time again.

11 There are many good parts to this  
12 chapter amendment, but that part, it kind of  
13 overrides everything else. That's why we are  
14 standing here objecting to something which has  
15 been categorized as basically unfair,  
16 undemocratic -- small D -- and not in the best  
17 interests of the people of this state.

18 That could provide for witch-hunts,  
19 that could provide for situations where  
20 individuals will be targeted for no other  
21 purpose than political. That possibility is  
22 engendered in the very structure of this  
23 chapter amendment. That's my major concern,  
24 and I think many others'.

1                   And for that reason I vote no.

2                   ACTING PRESIDENT STEWART-COUSINS:

3           Senator Padavan to be recorded in the  
4           negative.

5                   Are there any other Senators  
6           wishing to explain his or her vote?

7                   Senator Schneiderman.

8                   SENATOR SCHNEIDERMAN:     Thank you,  
9           Madam President.

10                   I'm voting yes.   And I have to say  
11           that I don't really understand the arguments  
12           on the merits of the other side.   I do  
13           understand the arguments politically.

14                   This bill, because it is a bill,  
15           changes the definition of lobbying to make  
16           this a more ethical state, requires us to  
17           report business dealings with lobbyists,  
18           creates random review of our financial  
19           disclosure statements so they just don't sit  
20           there in a pile.   It changes the rules for  
21           ethics commissions.   And it does create an  
22           enforcement unit.   And in spite of everything  
23           that has been said, the only function of this  
24           panel, which is a government panel -- and yes,

1 most of the government officials in this state  
2 are Democrats right now -- is to appoint an  
3 executive director. This provision was  
4 insisted on by the good government groups.  
5 The enforcement unit thereafter is not  
6 influenced at all by the appointing panel. It  
7 works under the supervision of the Board of  
8 Elections. I don't think we can be clearer.

9 This is something that makes this a  
10 more ethical state. This advances the cause  
11 of transparency and small-d democracy. I do  
12 understand an argument on the merits against  
13 it. I do understand the argument politically.  
14 Nobody wants more scrutiny. We want to look  
15 like we're passing an ethics bill by voting  
16 for the floor rather than the package.

17 But even the sponsor, Senator  
18 Squadron, who agrees that these two bills  
19 together are really what we need acknowledges  
20 that his bill alone does not do the job.

21 I think it would be a big mistake  
22 to leave here tonight saying, Oh, we passed an  
23 ethics bill when we only did half of it.  
24 We've got to do both, Madam President. I hope



1       one person on the other side of the aisle will  
2       stand up so that we can do this in a  
3       bipartisan way and vote for this so that we  
4       can pass a full package of ethics reform,  
5       Madam President.

6               I'm voting yes. I urge my  
7       colleagues, this is the right thing to do.

8               ACTING PRESIDENT STEWART-COUSINS:  
9       Senator Schneiderman to be recorded in the  
10      affirmative.

11              Are there any other Senators  
12      wishing to explain his or her vote?

13              The Secretary will announce the  
14      results.

15              THE SECRETARY:     Those recorded in  
16      the negative on Calendar Number 960 are  
17      Senators Alesi, DeFrancisco, Farley, Flanagan,  
18      Fuschillo, Golden, Griffo, Hannon, O. Johnson,  
19      Lanza, Larkin, LaValle, Leibell, Libous,  
20      Little, Marcellino, Maziarz, McDonald,  
21      Morahan, Nozzolio, Padavan, Ranzenhofer,  
22      Robach, Saland, Seward, Skelos, Volker, Winner  
23      and Young.

24              Ayes, 31. Nays, 29.

1                   ACTING PRESIDENT STEWART-COUSINS:

2       The bill is defeated.

3                   Senator Sampson.

4                   SENATOR SAMPSON:       Madam  
5       President, at this point in time can we please  
6       lay this bill on the table.

7                   ACTING PRESIDENT STEWART-COUSINS:

8       The bill is laid on the table.

9                   SENATOR SAMPSON:       Thank you.

10                  ACTING PRESIDENT STEWART-COUSINS:

11       The Secretary will continue to read.

12                  SENATOR LIBOUS:        Madam President.

13                  ACTING PRESIDENT STEWART-COUSINS:  
14       Senator Libous, I had asked the Secretary to  
15       read. Is --

16                  THE SECRETARY:        Calendar Number  
17       959 --

18                  SENATOR LIBOUS:        No, no, no, no,  
19       no. I'm sorry. Madam President.

20                  ACTING PRESIDENT STEWART-COUSINS:

21       Senator Libous.

22                  SENATOR LIBOUS:        Point of order.  
23       What took place just then?

24                  ACTING PRESIDENT STEWART-COUSINS:

1 Senator Sampson asked that the bill be laid on  
2 the table.

3 SENATOR LIBOUS: Laid on the  
4 table. And for what purpose? The bill was  
5 defeated. It has to be reconsidered.

6 Madam President, the normal  
7 procedure in this house in the past has been  
8 that the vote has to be reconsidered and then  
9 the bill is laid aside.

10 ACTING PRESIDENT STEWART-COUSINS:  
11 Senator Libous, we are checking that.

12 SENATOR SMITH: Madam President.

13 ACTING PRESIDENT STEWART-COUSINS:  
14 Senator Smith.

15 SENATOR SMITH: Yes, would you  
16 please recognize Senator Sampson.

17 ACTING PRESIDENT STEWART-COUSINS:  
18 Senator Sampson.

19 SENATOR SAMPSON: Madam  
20 President, at this point in time I would like  
21 to make a motion to reconsider the vote.

22 ACTING PRESIDENT STEWART-COUSINS:  
23 Senator Sampson, are you asking to have the  
24 bill that was defeated reconsidered?

1                   SENATOR SAMPSON:     Yes, Madam  
2     President.

3                   ACTING PRESIDENT STEWART-COUSINS:  
4     The Secretary will read.

5                   THE SECRETARY:     Calendar Number  
6     960, by Senator Sampson, Senate Print 6157, an  
7     act to amend the Legislative Law and the  
8     Public Officers Law.

9                   ACTING PRESIDENT STEWART-COUSINS:  
10    The Secretary will call the roll on  
11    reconsideration.

12                   (The Secretary called the roll.)

13                   THE SECRETARY:     Ayes, 60.

14                   ACTING PRESIDENT STEWART-COUSINS:  
15    The bill is restored to the Third Reading  
16    Calendar.

17                   SENATOR SAMPSON:     Madam  
18    President, at this point I move to lay the  
19    bill aside for the day. Thank you.

20                   ACTING PRESIDENT STEWART-COUSINS:  
21    The bill is laid aside for the day.

22                   SENATOR LIBOUS:     Thank you, Madam  
23    President.

24                   ACTING PRESIDENT STEWART-COUSINS:

1 Thank you, Senator Libous.

2 SENATOR SAMPSON: Madam  
3 President.

4 ACTING PRESIDENT STEWART-COUSINS:  
5 Senator Sampson.

6 SENATOR SAMPSON: Now may I have  
7 that bill tabled?

8 ACTING PRESIDENT STEWART-COUSINS:  
9 The bill is tabled.

10 SENATOR LIBOUS: I beg your  
11 pardon, Madam President. Point of order.

12 ACTING PRESIDENT STEWART-COUSINS:  
13 Senator Libous.

14 SENATOR LIBOUS: A motion of  
15 reconsideration may be made at any time  
16 thereafter while the same is in the possession  
17 of the Senate. All resolutions recalling a  
18 bill or resolution of the Assembly shall be  
19 regarded as privileged, and no vote shall be  
20 reconsidered upon either the following  
21 motions, to adjourn or to lay on the table.

22 The bill can be laid aside. It  
23 cannot be laid on the table.

24 ACTING PRESIDENT STEWART-COUSINS:

1 Senator Smith.

2 SENATOR SMITH: Madam President,  
3 I believe that we have that bill laid aside  
4 for the day.

5 And if that is the case, I'd like  
6 to go back to the calendar and begin to read  
7 the bills.

8 Thank you, Madam President.

9 SENATOR LIBOUS: Thank you,  
10 Senator.

11 ACTING PRESIDENT STEWART-COUSINS:  
12 The Secretary will continue to read.

13 THE SECRETARY: Calendar Number  
14 959, substituted earlier today by Member of  
15 the Assembly Silver, Assembly Print Number  
16 9032, an act to amend the Executive Law.

17 SENATOR SMITH: Lay that aside  
18 for the day.

19 ACTING PRESIDENT STEWART-COUSINS:  
20 The bill is laid aside for the day.

21 The Secretary will continue to  
22 read.

23 THE SECRETARY: Calendar Number  
24 872, by Member of the Assembly Silver,

1 Assembly Print Number 8901, an act to amend  
2 the Public Authorities Law.

3 ACTING PRESIDENT STEWART-COUSINS:  
4 Read the last section.

5 SENATOR LIBOUS: Explanation.

6 ACTING PRESIDENT STEWART-COUSINS:  
7 Senator Aubertine, an explanation has been  
8 requested.

9 SENATOR AUBERTINE: Thank you,  
10 Madam President.

11 Through you, this is a bill that  
12 would establish a loan fund that would provide  
13 for middle-income families the ability to tap  
14 into this loan fund for weatherization for  
15 their homes.

16 Also, this program would create an  
17 estimated 5,000 jobs plus across the state --

18 ACTING PRESIDENT STEWART-COUSINS:  
19 May we have order in the chamber, please.

20 SENATOR AUBERTINE: Thank you,  
21 Madam President.

22 Also, this bill in the Assembly  
23 passed nearly unanimously. It was supported  
24 by the minority leader in the Assembly.

1                   ACTING PRESIDENT STEWART-COUSINS:

2       Thank you, Senator Aubertine.

3                   Senator Young.

4                   SENATOR YOUNG:       Yes, Madam  
5       President. Through you, would the sponsor  
6       yield for some questions?

7                   ACTING PRESIDENT STEWART-COUSINS:  
8       Senator Aubertine, do you yield for questions?

9                   SENATOR AUBERTINE:     Yes.

10                  SENATOR YOUNG:       Thank you,  
11       Senator Aubertine.

12                  This is a nice-sounding bill. It's  
13       called "Green Jobs." And it actually takes  
14       \$112 million and puts it toward  
15       weatherization, as you said. Can you please  
16       explain to this body where that \$112 million  
17       comes from?

18                  SENATOR AUBERTINE:     Yes. Through  
19       you, Madam President, the \$112 million comes  
20       from the sales of carbon credits in the RGGI  
21       fund.

22                  SENATOR YOUNG:       Okay. Thank you,  
23       Senator Aubertine. Were you aware that --

24                  ACTING PRESIDENT STEWART-COUSINS:



1 Senator Young --

2 SENATOR YOUNG: If he will yield,  
3 Madam President.

4 ACTING PRESIDENT STEWART-COUSINS:  
5 Do you continue to yield, Senator Aubertine?

6 SENATOR AUBERTINE: Yes, Madam  
7 President.

8 SENATOR YOUNG: Were you aware  
9 that there's already \$1 billion that's  
10 supposed to be expended by NYSERDA by the year  
11 2015, and a lot of that money is going to go  
12 toward -- it's all going to go toward energy  
13 efficiency, a lot of it toward environmental  
14 justice?

15 SENATOR AUBERTINE: Through you,  
16 Madam President, yes, I am aware of that.  
17 However, that funding is limited to low-income  
18 families. And the families that potentially  
19 would be affected by the Green Jobs program  
20 would not be able to access that funding.  
21 Therefore, the Green Jobs program would take  
22 care of that loophole.

23 SENATOR YOUNG: Madam President,  
24 through you.

1                   Senator Aubertine, were you also  
2                   aware that the Division of Housing and  
3                   Community Renewal also has \$500 million  
4                   allocated for weatherization programs?

5                   ACTING PRESIDENT STEWART-COUSINS:  
6                   Senator Aubertine.

7                   SENATOR AUBERTINE:       Through you,  
8                   Madam President, yes, I am.

9                   And again, those dollars are  
10                  allocated for low-income families. Families  
11                  making \$30,000 to \$99,000 annually could not  
12                  access those funds.

13                 SENATOR YOUNG:       Thank you, Madam  
14                 President. Through you.

15                 Senator Aubertine, I also wanted to  
16                 ask a question about this \$112 million. Were  
17                 you aware that on April 27th of this year --

18                 ACTING PRESIDENT STEWART-COUSINS:  
19                 Excuse me, Senator Young.

20                 Please, I would ask the people in  
21                 the rear to allow for the debate to happen.

22                 Senator Young.

23                 SENATOR YOUNG:       Thank you, Madam  
24                 President. I'll start again, Senator

1 Aubertine.

2 Basically, were you aware that  
3 NYSERDA voted on April 27th of this year to  
4 allocate that \$112 million toward all kinds of  
5 energy efficiency and other projects that  
6 would actually stimulate the economy?

7 SENATOR AUBERTINE: Through you,  
8 Madam President, yes, I am aware of that.

9 And as recently as yesterday I had  
10 a conversation with NYSERDA and was assured  
11 that the \$112 million that would be allocated  
12 from the RGGI fund into the Green Jobs program  
13 would have absolutely no impact on the  
14 commitments that NYSERDA has made in their  
15 operating plan.

16 SENATOR YOUNG: Thank you, Madam  
17 President. Through you.

18 That's very interesting. I guess I  
19 would ask the question, then, where is NYSERDA  
20 going to get this -- or where are you going to  
21 get this \$112 million to do this  
22 weatherization program?

23 ACTING PRESIDENT STEWART-COUSINS:  
24 Senator Aubertine, do you continue to yield?

1                   SENATOR AUBERTINE:     Yes, I do.

2                   And through you, Madam President,  
3                   currently there's \$126 million in the program  
4                   as of yesterday morning. Between yesterday  
5                   and today, there has been another auction of  
6                   RGGI credits. At this point I was unable to  
7                   get the exact dollar amount that was raised  
8                   through that auction. However, it's estimated  
9                   that that was about a \$40 million sale, which  
10                  would lift that to over \$160 million, give or  
11                  take.

12                  There will be another auction  
13                  before the end of this year and another  
14                  auction in the first quarter of next year,  
15                  presumably before the Green Jobs program is  
16                  implemented. So conceivably that sum would  
17                  grow considerably more than the \$150 or  
18                  \$160 million that's in there currently.

19                  And also I would point out that  
20                  having had that conversation with NYSERDA  
21                  yesterday, there was no urgency to use the  
22                  entire \$112 million in a single lump in an  
23                  initial investment in green jobs. NYSERDA was  
24                  looking to get the program started more with

1       an initial investment of somewhere around  
2       \$40 million.

3               SENATOR YOUNG:       So through you,  
4       Madam President.   So what you're saying,  
5       Senator Aubertine, is that you feel that  
6       there's going to be excessive money available  
7       that could be used for this particular  
8       program.

9               I guess it begs the question, then,  
10       if for example upstate New York, whose economy  
11       is really struggling right now -- the farmers  
12       are struggling, the small businesses are  
13       struggling, the manufacturers are  
14       struggling -- why aren't we allocating money  
15       through energy-related programs to help the  
16       farmers, to help the small businesses, to help  
17       the manufacturers, especially upstate where  
18       the recession has hit the hardest and where we  
19       typically have struggled over the years?

20              SENATOR AUBERTINE:    Through you,  
21       Madam President.   Senator, this is precisely  
22       what this program does.   It's not limited to  
23       homeowners.   Businesses, small businesses as  
24       well, can access these programs.   There's

1 nothing here to preclude farmers, agriculture  
2 from accessing this program as long as they  
3 meet the guidelines set forth by NYSERDA.

4 SENATOR YOUNG: Through you,  
5 Madam President --

6 ACTING PRESIDENT STEWART-COUSINS:  
7 Senator Aubertine, do you continue to yield?

8 SENATOR AUBERTINE: Yes, Madam  
9 President.

10 SENATOR YOUNG: I understand that  
11 possibly some of those entities could qualify  
12 for this money. But right now, for example,  
13 the dairy farmers in New York State are going  
14 out of business. They have the lowest milk  
15 prices that they've ever had, and it's  
16 continued for nearly a year.

17 The 18A tax that your colleagues,  
18 your side of the aisle levied on all of the  
19 utilities earlier this year through the state  
20 budget had all of those small businesses, all  
21 the farmers and so on, the estimates are that  
22 it will cost the farmers about \$100 per cow  
23 more in costs because of the 18A tax.

24 So it's nice that they might want

1 to weatherize their barn. I'm not sure what  
2 that really saves them. What they're really  
3 looking for are cost savings, some kind of  
4 help. And we've increased their costs  
5 significantly.

6 So my question is if we've done  
7 that and they're even struggling to stay in  
8 business, why don't we allocate some of this  
9 money, if you think there's excess, toward  
10 helping the farmers or small businesses or  
11 people like that?

12 SENATOR AUBERTINE: Through you,  
13 Madam President. Did I understand you  
14 correctly, Senator, that the 18A assessment  
15 costs the average farmer \$100 per cow?

16 SENATOR YOUNG: With the  
17 increased taxes, yes.

18 SENATOR AUBERTINE: Do you --  
19 could you share with me --

20 SENATOR YOUNG: I would be glad  
21 to go out and dig up my source. I don't have  
22 it with me right now, Senator.

23 SENATOR AUBERTINE: Thank you,  
24 Senator.

1                   SENATOR YOUNG:     But would you  
2     agree, then, though, that that increased their  
3     costs?

4                   SENATOR AUBERTINE:     Through you,  
5     Madam President.   The dollar amount that  
6     you're speaking about, the money in the RGGI  
7     account, there certainly would be -- again, if  
8     NYSERDA chose to move those programs out  
9     there, there certainly would be money  
10    available, I believe, for all small  
11    businesses, including dairy farms.

12                  SENATOR YOUNG:     Thank you, Madam  
13    President.   Would Senator Aubertine continue  
14    to yield?

15                  ACTING PRESIDENT STEWART-COUSINS:  
16    Senator Aubertine, do you continue to yield?

17                  SENATOR AUBERTINE:     Yes, Madam  
18    President.

19                  SENATOR YOUNG:     Thank you.

20                         You know, you've taken on a couple  
21    of roles now, which I think is great.   You're  
22    chair of the Ag Committee, you're chair of the  
23    Energy Committee.

24                         And so these revenues that you're



1        spending through this bill actually come  
2        through this RGGI initiative that is a tax on  
3        power that's generated. Could you explain for  
4        the chamber where most of this power comes  
5        from? Where are the power generators in the  
6        state?

7                    SENATOR AUBERTINE:        Through you,  
8        Madam President, this revenue comes from the  
9        power generators of the state.

10                   SENATOR YOUNG:        Where are they  
11        located?

12                   SENATOR AUBERTINE:        Through you,  
13        Madam President, they're located in various  
14        locations around the state.

15                   SENATOR YOUNG:        Madam President,  
16        will he continue to yield?

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

19                   SENATOR AUBERTINE:        Yes, Madam  
20        President.

21                   SENATOR YOUNG:        Actually just to  
22        clarify my point. Where I was leading was  
23        that there are a couple, a handful of very  
24        small power generators in the New York City

1 area, but the vast majority of the power is  
2 generated upstate. Would you agree with that  
3 statement?

4 SENATOR AUBERTINE: Through you,  
5 Madam President, yes.

6 SENATOR YOUNG: Including your  
7 district; right?

8 SENATOR AUBERTINE: Absolutely.

9 SENATOR YOUNG: Thank you. I was  
10 reading through the bill, Senator Aubertine --  
11 if he would continue to yield.

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

14 SENATOR AUBERTINE: Yes, Madam  
15 President.

16 SENATOR YOUNG: I was reading  
17 through the bill, and it said that these  
18 grants would go through an RFP process and  
19 that geographic area would be considered as  
20 one of the elements. But where does it say in  
21 the bill that there would, for example, maybe  
22 be an even split between upstate and  
23 downstate?

24 SENATOR AUBERTINE: Through you,

1       Madam President.   Senator, it's on page 4.

2               SENATOR YOUNG:       Senator, is that  
3       where it says there would be a geographic  
4       consideration?

5               SENATOR AUBERTINE:       Yes.   If  
6       you'll look down through to Line 38, number 2:  
7       "In awarding the grants, the authority shall."  
8       And then if you go down just a couple more  
9       lines to lines 47 and 48, subsection C there:  
10       "ensure that the awards as a whole reflect the  
11       geographic diversity of the state."

12              SENATOR YOUNG:       Thank you,  
13       Senator Aubertine.   Would you continue to  
14       yield?

15              ACTING PRESIDENT STEWART-COUSINS:  
16       Senator Aubertine, do you continue to yield?

17              SENATOR AUBERTINE:       Yes, Madam  
18       President.

19              SENATOR YOUNG:       But basically,  
20       under that language, they could maybe give  
21       five awards upstate and the rest downstate.  
22       There's no kind of percentage that's outlined  
23       there.   It just says that some have to go to  
24       other geographic areas.   So basically it

1 doesn't say that upstate would be guaranteed  
2 50 percent of the money, for example.

3 SENATOR AUBERTINE: Through you,  
4 Madam President. Senator, would you mind  
5 repeating the question, please?

6 SENATOR YOUNG: Would you agree  
7 that it doesn't specifically outline, even  
8 though based on that language, that upstate  
9 would get, you know, to be fair, maybe  
10 50 percent of the money? Because it says  
11 based on geographic considerations, but that  
12 doesn't -- I mean, they could throw maybe five  
13 projects upstate and the rest of the money  
14 could go downstate.

15 And so where does it say that  
16 there's some kind of percentage split?  
17 Because I don't believe that it's in the bill,  
18 unless you can show me where it's at.

19 SENATOR AUBERTINE: Through you,  
20 Madam President, there is no formula in the  
21 bill to address economically distressed areas  
22 of the state.

23 However, if you'll read in the  
24 bill, it does point out areas of the state as

1 far as need, as far as mean income and housing  
2 stock. So I think if you were to look at  
3 obviously the weather conditions in northern  
4 parts of the state and the mean income in  
5 northern parts of the state, I think you would  
6 agree that clearly Northern New York would  
7 access a good deal of that funding.

8 SENATOR YOUNG: Thank you,  
9 Senator.

10 Madam President, would Senator  
11 Aubertine continue to yield?

12 ACTING PRESIDENT STEWART-COUSINS:  
13 Senator Aubertine, do you continue to yield?

14 SENATOR AUBERTINE: Yes, Madam  
15 President.

16 SENATOR YOUNG: Is there any kind  
17 of cap or limit on CO2 allowances under the  
18 RGGI model?

19 SENATOR AUBERTINE: I'm sorry,  
20 Senator, I --

21 ACTING PRESIDENT STEWART-COUSINS:  
22 Senator Young, Senator Aubertine could not  
23 hear you, but it is because there is still  
24 noise in the chamber. So would you please

1 repeat the question?

2 SENATOR YOUNG: Thank you.

3 Senator Aubertine, I just wanted to  
4 ask the question, is there any kind of cap or  
5 limit that is in place on CO2 allowances  
6 through the RGGI model?

7 SENATOR AUBERTINE: Yes, Senator,  
8 there is a maximum number of allowances that  
9 they can sell.

10 SENATOR YOUNG: And is there a  
11 funding limit that's in place? My  
12 understanding is that there isn't in this  
13 under RGGI.

14 SENATOR AUBERTINE: Through you,  
15 Madam President. Senator, just for clarity,  
16 you're talking about a funding limit on  
17 individual grants? I believe it's \$16,000 for  
18 the loans.

19 SENATOR YOUNG: No, as far as --  
20 I'm sorry, Senator. Let me clarify. As far  
21 as the RGGI goes and money going into RGGI.  
22 And, you know, can RGGI just be increased at  
23 any time so that they take more and more and  
24 more money as a tax, basically, on these

1 utilities?

2 SENATOR AUBERTINE: Senator --  
3 through you, Madam President -- there is a  
4 finite number of allowances for the RGGI  
5 program.

6 SENATOR YOUNG: Thank you.  
7 Thank you, Madam President. On the  
8 bill.

9 ACTING PRESIDENT STEWART-COUSINS:  
10 Senator Young, on the bill.

11 SENATOR YOUNG: While this sounds  
12 like good legislation, has a nice name with  
13 "Green Jobs," I'm very concerned about the  
14 effect that this will have on New York State's  
15 economy. We already have the highest power  
16 rates in the entire country. This body levied  
17 the 18A utility tax earlier this year. We are  
18 losing people and jobs out of the state. We  
19 are hemorrhaging. And we need to turn that  
20 situation around.

21 As I mentioned earlier, our  
22 farmers, particularly our dairy farmers, are  
23 going out of business. Every single day there  
24 are scores of farms that are going out of

1 business. That hurts upstate, but that hurts  
2 the entire state because it hurts our economy.

3 I have to disagree with my  
4 colleague Senator Aubertine about the  
5 availability of these funds. Because  
6 basically this is taking \$112 million that  
7 NYSERDA already designated on April 27th of  
8 2009 for very significant projects, very  
9 important projects to the economy, very  
10 important projects to the environment. It's  
11 taking money away from a program that would  
12 reduce emissions by 8.3 million tons. It's  
13 taking money away from a program that would  
14 save customer energy bills \$1 billion. It's  
15 taking money away from programs that will  
16 create and retain thousands of jobs. And  
17 you're taking away money from renewable energy  
18 projects like biomass, wind energy, and so on.

19 So I believe that this needs to be  
20 changed. I believe that we should vote this  
21 down. Because quite honestly, as I said,  
22 there's already \$1.5 billion, think about  
23 that, \$1.5 billion going toward energy  
24 efficiency programs, going toward



1 weatherization programs through the Division  
2 of Housing and Community Renewal.

3 And this is money that could be put  
4 to better use to actually go into the economy,  
5 not to duplicate funding that's already there  
6 but to create real jobs by helping farmers,  
7 helping small businesses, manufacturers.

8 These bills don't do that, they do  
9 the opposite. They kill the economy. And I  
10 would urge a no vote.

11 ACTING PRESIDENT STEWART-COUSINS:  
12 Senator Parker.

13 SENATOR PARKER: Thank you, Madam  
14 President. On the bill.

15 ACTING PRESIDENT STEWART-COUSINS:  
16 Senator Parker, on the bill.

17 SENATOR PARKER: Colleagues, this  
18 Green Jobs-Green New York legislation is  
19 extremely important for us. We right now are  
20 on the precipice of two very significant  
21 disasters. One is an ecological disaster  
22 that's happening all over our planet with the  
23 disintegration of the ozone layer, with the  
24 greenhouse effect being seen all over the

1 world.

2 We have the polar icecap melting,  
3 literally, and polar bears drowning because  
4 they can't make it from one ice raft to the  
5 other because now the distance is so far,  
6 because what used to be miles and miles of ice  
7 has now turned back into ocean. This is  
8 having profound effects on our weather -- in  
9 some places, floods; in other places, severe  
10 droughts.

11 You then add that to the greatest  
12 contraction of the economy of the United  
13 States in the history of the United States.  
14 And many of us have been kind of scared to  
15 even talk about that, because the consequences  
16 and the thought of things being worse than  
17 they were in 1932 is really absolutely  
18 terrifying. And I get that.

19 And frankly, the only reason why  
20 we're not in a worse situation than we were  
21 during the Great Depression is simply because  
22 we learned the lessons of the Great Depression  
23 and created a social service safety net with  
24 things like TANF and food stamps and Social

1 Security and Social Security insurance and  
2 Medicaid and Medicare and unemployment  
3 insurance. We have, you know, all of these  
4 mechanisms now to keep people from hitting  
5 rock bottom.

6 But the reality that we see right  
7 now is that our economy is in desperate need.  
8 And my colleague Cathy Young even talked about  
9 how is it in fact affecting the upstate  
10 economy. And she's absolutely right. And we  
11 in fact talk about the idea of this  
12 contracting economy and one of if not the  
13 greatest thing in terms of our revenues for  
14 the state being agriculture being affected.

15 Many of you may not know --  
16 certainly Cathy Young knows, and certainly my  
17 colleague Darryl Aubertine knows, because of  
18 where they're from, that New York State is the  
19 fourth-largest dairy producer in the entire  
20 country. Sorry, third, I heard. We moved up  
21 in the last two years. So we're now the  
22 third-largest dairy producer in the entire  
23 country. Right? And so we can't afford, as  
24 Senator Young has indicated, to allow farms to

1 go out and to allow our economy just to drop.

2 This is one New York. So when, you  
3 know, Wall Street drops out and, you know,  
4 they have a symbolic sneeze, upstate catches  
5 pneumonia. And that's essentially the reality  
6 that we're in.

7 This Green Jobs-Green New York  
8 legislation brings us to a place where we have  
9 an opportunity to deal with both of our major  
10 crises simultaneously, Madam President. This  
11 is a program that significantly, appropriately  
12 uses the cap-and-trade program that was  
13 created by this state and that we all should  
14 be very proud of. We have a cap-and-trade  
15 program that in fact successfully takes our  
16 cash emissions, puts a value on them, creates  
17 a market around them. And if you're going to  
18 be a polluter in the State of New York, it now  
19 costs you money.

20 We have then taken those dollars,  
21 we have put it in a lockbox in NYSERDA, the  
22 New York State Energy Research and Development  
23 Authority, and have now used those dollars to  
24 in fact do programs that help our environment.

1       When you talk about RGGI, that's what RGGI is.  
2       RGGI is the Regional Greenhouse Gas  
3       Initiative. It is in fact not something that  
4       taxes power plants. It is in fact anybody who  
5       in fact is creating a significant carbon  
6       footprint, defined by the RGGI program, is in  
7       fact subject to be engaged in the RGGI lottery  
8       over buying credits to be a polluter. You no  
9       longer can pollute for free in the State of  
10      New York. A model that is so successful that  
11      the federal government is in fact in the  
12      process of looking at nationalizing a program  
13      based on the New York model.

14               And so what this legislation does  
15      is, and what I applaud Senator Aubertine on  
16      bringing forward to us today, is an  
17      opportunity to appropriately use the monies  
18      from RGGI to do three critical things.

19               First, it is something that  
20      significantly helps our environment because it  
21      creates programs that deal with the largest  
22      sources of carbon emissions in our  
23      communities, which are private homes and power  
24      plants. The better we can do with insulating

1       our homes, the less carbon footprint they  
2       produce and the less carbon footprint the  
3       power plants have to produce in order to  
4       create energy for those areas.

5               So this is important. You know, I  
6       know many of you were rabid over the fight  
7       last year or the year before last on  
8       congestion pricing. And I know when we talked  
9       about congestion pricing, many of you made the  
10      argument that we have to do something about  
11      the pollution. And you wanted to slow down  
12      the residential cars that were going into  
13      Manhattan. The reality is that that was a red  
14      herring. This is the real deal, folks. This  
15      is the real deal.

16             This bill deals with our carbon  
17      footprint. Congestion pricing doesn't really  
18      deal with the carbon footprint of Manhattan or  
19      the city. This deals with the carbon  
20      footprint of our entire state. By enacting  
21      this legislation, we will have an opportunity  
22      to make many millions of homes over the course  
23      of years -- right? So if we look at a decade,  
24      we may be able to get 1, 2, 3 million homes

1 insulated.

2 And what does that mean? And let  
3 me use technical terms. What we're going to  
4 be doing is retrofitting homes and making  
5 buildings, particularly residential  
6 buildings -- and that hopefully we'll then  
7 expand it to commercial buildings -- but to  
8 make them high performance. What does high  
9 performance mean? High performance means that  
10 you've gotten rid of your wood windows and  
11 those old rickety shades you've got on there  
12 and you now have some good storm windows on  
13 there, and some windows that keep the air out  
14 and keep your warm air in. And in the summer,  
15 it keeps your cool air in and the hot air out.

16 Most people, Madam President, have  
17 enough holes in their home, between little  
18 cracks in the doorways and, believe it or not,  
19 your light switches and the sockets in your  
20 home, you have enough holes in -- not your  
21 home, Madam President, other people's homes.  
22 I'm just saying the average New Yorker has  
23 enough holes in their home that will equal  
24 keeping your window open. So can you imagine

1       being in Watertown in the middle of February  
2       with an open window? But that's what we have  
3       right now.

4               And what this program would allow  
5       us to do is seal those holes in people's  
6       homes. They would be able to seal their  
7       byways and their ductways. They would be able  
8       to replace their old incandescent light bulbs  
9       for new compact fluorescents. They would be  
10      able to get rid of those old water heaters and  
11      those old boilers that they've had for 20 or  
12      30 years and get new state-of-the-art  
13      energy-saver equipment placed in their homes.  
14      They would be able to repair their roofs and  
15      insulate their homes so that the air would not  
16      be just going out willy-nilly and that we  
17      would have an opportunity to in fact save  
18      energy because people would be able to not  
19      have to use as much energy. And thus it would  
20      reduce our carbon footprint because it  
21      wouldn't take as much coal-burning furnaces to  
22      in fact produce electricity.

23               Which now leads me to our second  
24      benefit. The Green Jobs-Green New York



1       legislation has a second benefit in that it  
2       will reduce the energy costs of every single  
3       New Yorker, and particularly those New Yorkers  
4       who in fact are suffering from having the  
5       draftiest homes and who will, under this  
6       program, get their homes retrofitted and be  
7       able to live in high-performance buildings.

8               That this retrofitting will in fact  
9       produce homes that save energy. And I don't  
10      know who in here has constituents who don't  
11      want to save money on their energy bill. I  
12      think everybody in here, including the  
13      legislators, want to save money on their  
14      energy bills. This is our opportunity to do  
15      such.

16             The third, and it's last but  
17      certainly not least, is that this Green  
18      Jobs-Green New York legislation will produce  
19      upwards of 14,000 jobs across the state. And  
20      the vast majority of those jobs would in fact  
21      be produced in upstate New York, because in  
22      fact that's where in fact much of the  
23      retrofitting would in fact happen.

24             If people decide -- my colleagues,

1       if you decide not to vote for this  
2       legislation, you will be blowing an  
3       opportunity to bring jobs to your communities.  
4       And I don't know one person in here who thinks  
5       they have enough jobs in their district. And  
6       if you do, please let me know what district  
7       you're in so you and I can have some talks  
8       about how I can bring some of those excess  
9       jobs into my district, because I know I  
10      certainly don't have enough jobs in my  
11      community. And I don't represent a poor  
12      community, but I do know that there are people  
13      who are in fact looking for work. And I don't  
14      know what legislator in their right mind would  
15      miss an opportunity to increase the number of  
16      jobs that are available.

17               Now, we can look at the RGGI pool,  
18      this Regional Greenhouse Gas Initiative pool  
19      of money, and we can say, well, let's spend it  
20      on this, let's spend it on that, let's spend  
21      it on this. We were very specific in the  
22      legislation that created the RGGI program to  
23      make sure that the dollars that were spent out  
24      of RGGI had to be used in a way that was

1 consistent with the idea of reducing carbon  
2 footprints and making us have a cleaner  
3 environment.

4 This Green Jobs-Green New York  
5 legislation does that. It produces a set of  
6 activities that reduces the carbon footprint  
7 in the state and at the same time produces  
8 jobs and simultaneously also lowers people's  
9 bills. And don't take my word for it. Take  
10 some of your constituents' word for it.

11 I have a letter here from the New  
12 Buffalo Impact. And this was actually a  
13 letter that was sent to Senator Maziarz. And  
14 I don't see Senator Maziarz here, but I'm sure  
15 he has the letter. And it says:

16 "Dear Senator Maziarz: New Buffalo  
17 Impact, Inc., is a nonprofit organization  
18 dedicated to residential energy efficiency for  
19 low- and low-to-moderate-income homeowners in  
20 Western New York. Since 2002, we have  
21 assisted many of your constituents to lower  
22 their high-energy-cost burdens through  
23 providing air sealing, insulation, high  
24 efficiency heating and hot water systems, and

1 efficient lights and applications in programs  
2 primarily funded by the New York State Energy  
3 Research and Development Authority, NYSERDA.

4 "We would like to thank you for  
5 your cosponsorship and continued support of  
6 the Green Jobs-Green Homes New York  
7 legislation, which is coming up for a vote in  
8 the Senate this week. We at NBI" -- that's  
9 the New Buffalo Impact -- "strongly support  
10 this legislation, which has the potential to  
11 remove the up-front cost barrier that prevents  
12 so many of New Yorker's middle-income  
13 homeowners from making their houses energy  
14 efficient and to create thousands of green  
15 jobs for New York's workers."

16 And that's signed "Sincerely, Brian  
17 M. Paterson, Vice President, New Buffalo  
18 Impact, Inc., 34 Pequet Parkway, Tonawanda,  
19 New York, 14150." Phone number (716)  
20 881-1477. You can find him at  
21 <http://www.NewBuffaloImpact.com>.

22 Right? So that is a letter that  
23 came to an upstate legislator, to an upstate  
24 Senator, about this idea.

1                   This is an important piece of  
2                   legislation. We must have this legislation  
3                   and use these dollars in the way that they  
4                   were supposed to be used. And by doing that,  
5                   we will free up dollars in other places of our  
6                   budget so we can do exactly the things that  
7                   Senator Young has proposed.

8                   I think that what she's saying is  
9                   absolutely right. I think that this funding  
10                  source is not the appropriate funding source  
11                  to do it. And I'd be happy to work with her  
12                  and our staffs to figure out how we in fact  
13                  create more economic opportunity for our dairy  
14                  farmers across the state, because they're a  
15                  vital part of our economy and we certainly  
16                  can't go forward having them fail.

17                  And so I hope to have, you know, a  
18                  celebration with my colleagues across the  
19                  state as we bring 14,000 new jobs to our  
20                  state, and I'll be voting yes.

21                  Thank you, Madam President.

22                  ACTING PRESIDENT STEWART-COUSINS:

23                  Thank you, Senator.

24                  Are there any other Senators

1 wishing to -- Senator Libous.

2 SENATOR LIBOUS: Thank you, Madam  
3 President. Would the sponsor yield to a  
4 couple of questions?

5 ACTING PRESIDENT STEWART-COUSINS:  
6 Senator Aubertine, do you yield?

7 SENATOR AUBERTINE: Yes, Madam  
8 President.

9 SENATOR LIBOUS: Thank you, Madam  
10 President. Through you, Madam President.

11 Senator Aubertine, there's a lot of  
12 money here that's going to go in various  
13 places. Could you share with us what type of  
14 community groups might be receiving this  
15 funding?

16 SENATOR AUBERTINE: Sure. In  
17 fact, I've got a list of those groups here  
18 somewhere. Pardon me.

19 Through you, Madam President, I've  
20 got a list of quite a few. For example, in  
21 Orange County, Orange County Rural Development  
22 Advisory Corporation, Newburgh Community  
23 Improvement Corporation, Community Voices  
24 Heard, Department of Continuing Ed at

1       SUNY-Orange.

2                   Rockland was Rockland BOCES. In  
3       Suffolk County, Action Long Island. In my own  
4       district in Watertown, Community Action  
5       Planning. And a list of organizations such as  
6       that, Senator.

7                   SENATOR LIBOUS:       Madam President,  
8       will he yield for another question?

9                   SENATOR AUBERTINE:     Yes, Madam  
10      President.

11                  SENATOR SALAND:       Madam President,  
12      if the gentlemen would suffer an interruption.  
13      I'm not that far from either of them, and --

14                  ACTING PRESIDENT STEWART-COUSINS:  
15      Are you finding it difficult to hear?

16                  SENATOR SALAND:       The chamber  
17      isn't that noisy. I don't know if it's a  
18      problem with Senator Aubertine's mike. I've  
19      had a problem hearing him during much of the  
20      debate with Senator Young. So if it's a mike  
21      problem -- or perhaps he could speak a little  
22      bit louder. But I have had a problem. And  
23      now that it's so dead silent, it continues.

24                  ACTING PRESIDENT STEWART-COUSINS:

1 Thank you.

2 Senator Aubertine, will you  
3 continue to yield?

4 SENATOR AUBERTINE: Yes, Madam  
5 President.

6 SENATOR LIBOUS: Thank you.  
7 Madam President, through you.

8 Senator Aubertine, what would these  
9 organizations do with this funding? I mean  
10 what type of energy-efficient green  
11 activities -- and I love that word, by the  
12 way. That seems to be the buzzword of the  
13 century, "green." If it's green, it's good.  
14 I don't happen to believe that that's always  
15 the case.

16 But anyway, Senator, what type of  
17 green, if you will, activities would they be  
18 funding?

19 SENATOR AUBERTINE: Through you,  
20 Madam President. Senator, they would  
21 provide -- they would be the workforce that  
22 would provide the activities such as  
23 weatherization, caulking, replacement of  
24 windows, doors, and again, a myriad of



1 activities toward weatherization.

2 SENATOR LIBOUS: Will you yield  
3 for another question?

4 ACTING PRESIDENT STEWART-COUSINS:  
5 Senator Aubertine, do you continue to yield?

6 SENATOR AUBERTINE: Yes, Madam  
7 President.

8 SENATOR LIBOUS: Senator  
9 Aubertine, you listed a number of groups,  
10 Madam President. If you were to start at the  
11 top of the alphabet, would ACORN be one of  
12 those, Senator?

13 SENATOR AUBERTINE: Through you,  
14 Madam President. The way the bill is written,  
15 Senator, it's constituency-based  
16 organizations. And nowhere in the bill do I  
17 see that name -- or any of these other names,  
18 for that matter. But they are  
19 constituency-based organizations, the names  
20 that I gave you.

21 SENATOR LIBOUS: Thank you, Madam  
22 President. Could I speak on the bill now?

23 ACTING PRESIDENT STEWART-COUSINS:  
24 Senator Libous, on the bill.

1                   SENATOR LIBOUS:     I think the  
2     Senator answered my question.   And ACORN poses  
3     to be one of those organizations, Senator  
4     Aubertine.

5                   One of the reasons why I'm not  
6     going to support this bill -- there are a lot  
7     of reasons.   But one of the reasons is that  
8     organizations like ACORN should not receive  
9     this sort of funding.

10                  And just recently, Madam President,  
11     on the Times Union blog, 7:45 Thursday --  
12     that's today -- September 10th -- and it's the  
13     Times Union, it's not Fox News, it's the Times  
14     Union reported this, that "The group ACORN has  
15     fired two employees who were seen on  
16     hidden-camera video giving tax advice to a man  
17     posing as a pimp and a woman who pretended to  
18     be a prostitute.   On the video, a man and  
19     woman visiting ACORN's Baltimore office asked  
20     about buying a house and how to account on tax  
21     forms for the woman's income.   An ACORN  
22     employee advised the woman to list her  
23     occupation as performance artist."   I find  
24     that interesting.

1                   "The pair also claimed they planned  
2           to employ teenage girls from Central America  
3           as prostitutes. An ACORN employee suggested  
4           that up to three of the girls could be claimed  
5           as dependents, according to transcripts of the  
6           video posted online."

7                   Madam President, that's what  
8           disturbs me about this legislation. It's an  
9           awful lot of money. There are groups and  
10          organizations that are going to get this money  
11          and do exactly what ACORN has done. And I  
12          believe that ACORN will be one of the groups.  
13          Although as Senator Aubertine says, it's not  
14          in the bill, I don't believe that. I believe  
15          they will be one of those, quote, community  
16          groups. They seem to be one of the biggest  
17          ones in the country. Therefore, I believe  
18          they're going to get this money.

19                  That's wrong. Their activities are  
20          wrong. What they stand for is wrong. And to  
21          preach this sort of information is wrong. To  
22          use taxpayer money -- and that's what this is.  
23          This is taxpayer money. I don't care if it  
24          comes from NYSERDA or wherever it comes from,

1       it's taxpayer money.

2               You know, we talked about the money  
3       in the 2 percent energy charge, about  
4       \$632 million. Why not give it back to the  
5       taxpayer? Why give it to these community  
6       groups? Why not give it directly back to the  
7       taxpayer? What a novel idea.

8               I think there's probably, if we all  
9       went back to our districts and knocked on  
10      doors and asked the taxpayers, "Would you like  
11      us to give this back to you or should we give  
12      it to these community groups, ACORN possibly  
13      being one of them?" -- and I guess the  
14      response would be overwhelming. I'm sure it  
15      wouldn't be 100 percent, but I would guess it  
16      would be in the 80 percentile that they would  
17      say "Give it back to me, don't give it to one  
18      of these organizations."

19              This disturbs me immensely. We all  
20      should be disturbed by organizations like  
21      ACORN for the way they perform and spend  
22      taxpayer dollars. And I will not be on record  
23      as giving them a nickel -- or a penny, for  
24      that matter -- to help do some of the

1       ridiculous things that they've done.

2               Thank you, Madam President.

3               ACTING PRESIDENT STEWART-COUSINS:

4       Thank you, Senator.

5               Senator Nozzolio.

6               SENATOR NOZZOLIO:       Thank you,  
7       Madam President. Will the sponsor yield?

8               ACTING PRESIDENT STEWART-COUSINS:  
9       Senator Aubertine, will you yield for a  
10      question?

11              SENATOR AUBERTINE:       Yes, Madam  
12      President.

13              SENATOR NOZZOLIO:       Thank you,  
14      Madam President. Thank you, Senator  
15      Aubertine.

16              Senator Aubertine, I have one  
17      question. And that question is whether or not  
18      the wages paid to those who are putting in and  
19      doing the work under this bill, are those  
20      wages -- that are paid for by state taxpayers'  
21      dollars -- established at the prevailing rate?

22              SENATOR AUBERTINE:       Through you,  
23      Madam President, no.

24              SENATOR NOZZOLIO:       Thank you,

1 Senator Aubertine, for yielding.

2 Madam President, on the bill.

3 ACTING PRESIDENT STEWART-COUSINS:

4 Senator Nozzolio, on the bill.

5 SENATOR NOZZOLIO: Madam  
6 President, listening to Senator Libous and  
7 Senator Young in debating this bill, it's  
8 become very clear that this legislative body  
9 is again "do what I say but don't do what I  
10 do."

11 This body, particularly the  
12 Democrats on the other side of the aisle, have  
13 been pushing time and again to establish  
14 prevailing rate, establishing every state job,  
15 every job that's done with state funds be paid  
16 for at the prevailing labor rate. Now we have  
17 hundreds of millions of dollars of projects  
18 out there that does not qualify for the  
19 prevailing wage rate in the region.

20 To sum up, Madam President, this  
21 will take money away from the energy consumer,  
22 jobs away from renewable energy projects like  
23 wind and solar, establish those that are in  
24 clean coal operations -- and we have many of

1       those in upstate New York, where many jobs are  
2       utilized and many jobs are the beneficiaries  
3       of, not to mention biomass and other types of  
4       experimental renewables -- basically taking  
5       money away from the consumer, taking money  
6       away from all of those projects.

7               Why? Well, as Senator Libous  
8       pointed out, so that ACORN can go across the  
9       state and put up storm windows. Now, how does  
10      that make any sense? And not even at the  
11      prevailing rate. So that those who are in  
12      this business, who do this work, who do it  
13      very professionally are not going to get the  
14      opportunity to provide their trade and do the  
15      work that normally is done by those  
16      construction workers who do this on an  
17      everyday basis.

18             Madam President, this may be  
19      well-named in terms of a legislation. "Green  
20      jobs" certainly sound goods. But this doesn't  
21      establish green jobs, this takes jobs away.  
22      It takes jobs away from those in our state who  
23      are producing the work and need those jobs  
24      desperately, particularly in upstate.

1                   It may be very well-intentioned,  
2       Madam President, but it misses the mark, and  
3       that's why we have to oppose it.

4                   Thank you very much.

5                   ACTING PRESIDENT STEWART-COUSINS:

6       Thank you, Senator.

7                   Senator Little.

8                   SENATOR LITTLE:       Thank you, Madam  
9       President.   Would the sponsor yield for a few  
10      questions?   And I will try to be brief.

11                  ACTING PRESIDENT STEWART-COUSINS:

12      Senator Aubertine, do you yield?

13                  SENATOR AUBERTINE:       Yes, Madam  
14      President.

15                  ACTING PRESIDENT STEWART-COUSINS:

16      Senator Little.

17                  SENATOR LITTLE:       Thank you.

18      Senator Aubertine, can you explain how this  
19      program differs from the programs that our  
20      housing departments have and NYSERDA already  
21      has regarding weatherization for those who are  
22      income-eligible?

23                  SENATOR AUBERTINE:       Sure.

24      Through you, Madam President, this program



1 reaches out to middle-income New Yorkers,  
2 where the programs that you're referring to  
3 through DHCR reach out to lower-income  
4 New Yorkers.

5 SENATOR LITTLE: So this is an  
6 expansion of existing programs, basically?

7 SENATOR AUBERTINE: Through you,  
8 Madam President, no. I wouldn't construe this  
9 as an expansion of an existing program.

10 What this is is a utilization of  
11 carbon credit dollars to weatherize homes,  
12 housing stock in your district, my district,  
13 and all across New York State, to be much more  
14 fuel-efficient, to conserve energy, to  
15 conservative energy dollars, to provide jobs.  
16 There have been estimates from creating  
17 upwards of 15,000. The estimates range from  
18 5,000 to 15,000 jobs across the state.

19 So no, Senator, I wouldn't construe  
20 this as an expansion of existing programs.

21 SENATOR LITTLE: Thank you.

22 And through you, Madam President,  
23 another question. In the bill they refer to  
24 the authority. Are they talking about

1           NYSERDA?

2                   SENATOR AUBERTINE:     Yes.   That's  
3           identified right there on --

4                   SENATOR LITTLE:     So it's not a  
5           new authority that's being formed?

6                   SENATOR AUBERTINE:     No, Senator.  
7           Through you, Madam President.

8                   SENATOR LITTLE:     So there is an  
9           expansion -- through you, Madam President, if  
10          I might ask -- an expansion of the work of  
11          NYSERDA and certainly of the need for staffing  
12          for the accountability portion.  There's a  
13          whole training section.  There has to be money  
14          for training, for energy-audit people to go to  
15          be able to go out and do these energy audits.

16                   Could I ask where that money is  
17          coming from?  Is that all coming out of the  
18          \$112 million that was referred to before?

19                   SENATOR AUBERTINE:     Through you,  
20          Madam President, yes.  And it is identified in  
21          the bill.  There is a maximum of 7 percent.

22                   SENATOR LITTLE:     Do you know --  
23          through you, Madam President -- Senator  
24          Aubertine, what the percentage of that

1       \$112 million is going to be for overhead, for  
2       training, for administration, for reporting,  
3       for all the work that NYSERDA now has to do to  
4       do this program?

5               SENATOR AUBERTINE:       Through you,  
6       Madam President.   Again, NYSERDA will  
7       determine that through their rule-making  
8       process.

9               SENATOR LITTLE:        Another  
10       question, if I may.   Through you, Madam  
11       President.

12              ACTING PRESIDENT STEWART-COUSINS:  
13       Senator Aubertine, do you continue to yield?

14              SENATOR AUBERTINE:       Yes, Madam  
15       President.

16              SENATOR LITTLE:        Thank you.

17              In part of the bill I read that  
18       this money is going to be combined with some  
19       federal stimulus money and some private  
20       investment money.   Where would the private  
21       investment money be coming from?

22              SENATOR AUBERTINE:       Through you,  
23       Madam President, it really can come from any  
24       source.   There's really no limitation on it.

1       However, it could come from private investors  
2       who want to access in --

3               SENATOR LITTLE:     Thank you.   If I  
4       may, Senator Aubertine, that leads to the  
5       question, then, if you spend all of this money  
6       on the \$112 million through the training and  
7       all of the programs setting it up, has anyone  
8       found these private investors?  Or do you know  
9       that there will be additional funding coming  
10      into the program to pay for the actual  
11      weatherization?

12             SENATOR AUBERTINE:   Through you,  
13      Madam President, I'm being told that there are  
14      existing venture capitalists who would  
15      participate in this program.

16             SENATOR LITTLE:     Thank you.  
17      Another question, if I may.

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

20             SENATOR AUBERTINE:   Yes, Madam  
21      President.

22             SENATOR LITTLE:     This is  
23      basically a loan program, and the money gets  
24      paid back.  The up-front money comes from the

1 state source, and the money is supposed to be  
2 paid back through 80 percent of the energy  
3 savings on their heating bill.

4 So how is that figured, and who  
5 goes and figures all that? Because one place  
6 here it said the energy -- if it could be  
7 determined, the amount of energy that was  
8 saved -- "to the extent possible, a  
9 calculation of energy savings is achieved."  
10 So how is the money going to be paid back?

11 SENATOR AUBERTINE: Through you,  
12 Madam President. Before the work is done,  
13 there's an audit done on the proposed work to  
14 be done, and that money is then paid back  
15 through on-bill finance.

16 SENATOR LITTLE: But there has to  
17 be an energy savings. The idea is if their  
18 power bill was \$100 a month and it is now \$60  
19 a month, 80 percent of that \$40 savings  
20 apparently is going back into this fund where  
21 the money came from. Correct?

22 SENATOR AUBERTINE: Through you,  
23 Madam President, that's correct. It goes back  
24 to pay back the loan.

1                   SENATOR LITTLE:     And what if  
2                   there isn't any savings? Because it's only a  
3                   10-year program, and it stays with the house  
4                   regardless of whether the person sold it or  
5                   not. Supposing their \$100 power bill only  
6                   went down to \$90?

7                   SENATOR AUBERTINE:     Through you,  
8                   Madam President. I'm not sure how to answer  
9                   that other than to say, Senator, that, you  
10                  know, it's proven that to weatherize housing  
11                  stock, you do an audit to determine whether or  
12                  not it's feasible. And then any of the  
13                  savings that you have clearly would go with  
14                  the house.

15                 SENATOR LITTLE:     I know what  
16                 you're trying to say in the answer. But the  
17                 person could use more energy, too, even though  
18                 the weatherization helped. Now they have the  
19                 ability to use more energy, and their power  
20                 bill doesn't go down.

21                 I'm concerned about where the  
22                 savings are going to be that goes back into  
23                 the fund. And are there really venture  
24                 capitalists who are going to invest in this

1 program based on that accountability?

2 SENATOR AUBERTINE: Again,  
3 through you, Madam President, it's my  
4 understanding that there are venture  
5 capitalists who are willing to invest in this  
6 program.

7 And as far as the savings, I  
8 believe overall, you know, if we're looking at  
9 upwards of a million homes in housing stock  
10 across the state that you will see a  
11 substantial savings.

12 SENATOR LITTLE: Thank you. And  
13 an additional question, if I may.

14 ACTING PRESIDENT STEWART-COUSINS:  
15 Senator Aubertine, do you continue to yield?

16 SENATOR AUBERTINE: Yes, Madam  
17 President.

18 SENATOR LITTLE: And Senator  
19 Young touched on this before. You and I have  
20 comparable districts, and I believe we  
21 represent the coldest part of the state, most  
22 likely. How can we ensure that the awards as  
23 a whole reflect the geographic diversity? Is  
24 it just geographic diversity, or are we going

1 to add in need, such as temperatures and  
2 heating costs and amount of energy needed to  
3 heat a home into this formula?

4 SENATOR AUBERTINE: Through you,  
5 Madam President. Senator, you'll find that on  
6 page 4, line 44B. It will give performance in  
7 awards to applicants that include significant  
8 participation by minority and women-owned  
9 business enterprises and to applicants to  
10 serve economically distressed communities.

11 And I've got a list of some of  
12 those communities right here. In the county  
13 per-capita income below \$30,892, it was  
14 Chautauqua, Cattaraugus, Allegany, Genesee,  
15 Wyoming, Livingston, Yates, Schuyler, Chemung,  
16 Cayuga, Seneca, Tompkins, Chenango, Cortland,  
17 Tioga, Oneida, Madison, Delaware, Otsego,  
18 Herkimer, Hamilton, Washington and Greene  
19 counties, just to name a few.

20 SENATOR LITTLE: Thank you. But  
21 there really is no guarantee that this is  
22 going to be distributed according to heating  
23 needs and energy needs as much as it's going  
24 to be distributed according to larger cities



1       and more people who can apply for this  
2       program.

3                SENATOR AUBERTINE:     Through you,  
4       Madam President, no, I wouldn't agree with  
5       that, Senator.

6                I think that it's going to without  
7       a doubt be based on need and income and  
8       certainly areas of the state that have high  
9       energy costs.

10               SENATOR LITTLE:     Thank you.

11               And, Senator Aubertine, one other  
12       question. Are there restrictions on who can  
13       be hired to do the work and the weatherization  
14       and then these programs or who can do the  
15       energy audits as far as who the workforce will  
16       be?

17               SENATOR AUBERTINE:     Yes. Through  
18       you, Madam President. They have to be  
19       certified under the Building Performance  
20       Institute. And I had a list right here.

21               SENATOR LITTLE:     But there are no  
22       restrictions other than a certification?

23               SENATOR AUBERTINE:     Right. There  
24       are protocols that are in place at NYSERDA.

1       And there are -- I do have a list, Senator,  
2       and I will share that with you if you'd like,  
3       of over 150 contractors that are already  
4       listed.

5                   SENATOR LITTLE:       Thank you.

6                   One other question. I keep saying  
7       that, and I promise I'm getting to the end.

8                   ACTING PRESIDENT STEWART-COUSINS:  
9       Senator Aubertine, do you continue to yield?

10                  SENATOR AUBERTINE:     Yes, Madam  
11       President.

12                  SENATOR LITTLE:       Recently the  
13       Governor vetoed a bill that would provide some  
14       funding for an 1812 Commission and celebration  
15       throughout the state that would bring tourism  
16       to the state and do all of that, and he cited  
17       the economic condition of the state right now.

18                  Have you had any kind of commitment  
19       from the Governor that he would be willing to  
20       support a program like this that extends and  
21       enlarges training programs, energy-audit  
22       training, accountability programs for these  
23       amounts of money throughout?

24                  SENATOR AUBERTINE:     Through you,

1       Madam President. By the way, the 1812 bill  
2       happened to be my bill.

3                       (Laughter.)

4               SENATOR LITTLE: I didn't realize  
5       that. But are we headed the same direction?

6               SENATOR AUBERTINE: But the  
7       Governor did have this legislation on his  
8       special-session agenda back in June. And so  
9       my assumption would be that he is certainly  
10      supportive of it.

11              SENATOR LITTLE: Thank you,  
12      Senator Aubertine.

13                      If I may, on the bill.

14              ACTING PRESIDENT STEWART-COUSINS:  
15      Senator Little, on the bill.

16              SENATOR LITTLE: Representing a  
17      very rural area and very cold temperatures and  
18      very long winters, believe me, I believe that  
19      weatherization and programs to help people be  
20      more energy efficient is very important.

21                      But I feel -- and I have read this  
22      bill and thought about it considerably. But I  
23      think that in this bill there's an awful lot  
24      of money that's going to go to training,

1 administration, trying to account for any kind  
2 of heating savings for this loan program and  
3 all of this, and that it really pretty much  
4 duplicates what we already have from DHCR and  
5 from our weatherization programs and from what  
6 NYSERDA is already doing.

7 Therefore, I reluctantly am going  
8 to vote no on this bill. Thank you.

9 ACTING PRESIDENT STEWART-COUSINS:  
10 Thank you, Senator.

11 Senator DeFrancisco.

12 SENATOR DeFRANCISCO: Thank you,  
13 Madam President. Would Senator Aubertine  
14 yield to a few questions?

15 ACTING PRESIDENT STEWART-COUSINS:  
16 Senator Aubertine, will you yield for some  
17 questions?

18 SENATOR AUBERTINE: Yes, Madam  
19 President.

20 SENATOR DeFRANCISCO: The way  
21 this bill reads is the competitive grants for  
22 outreach, enrollment and related services  
23 shall be granted after RFPs are sent out, in  
24 order to solicit applications from

1 partnerships or consortia comprised of  
2 constituency-based organizations.

3 What's the role of the  
4 constituency-based organization?

5 SENATOR AUBERTINE: Through you,  
6 Madam President, the role would be to become  
7 certified and to become eligible to provide  
8 those services.

9 SENATOR DeFRANCISCO: To provide  
10 what services?

11 SENATOR AUBERTINE: To provide  
12 the weatherization services.

13 SENATOR DeFRANCISCO: Would the  
14 Senator continue to yield?

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

17 SENATOR AUBERTINE: Yes, Madam  
18 President.

19 SENATOR DeFRANCISCO: You  
20 indicated that there are already contractors  
21 that are listed that are certified to do these  
22 types of weatherizing services. Is that  
23 correct?

24 SENATOR AUBERTINE: Through you,

1       Madam President, yes.

2                   SENATOR DeFRANCISCO:       Would  
3       Senator Aubertine yield to another question?

4                   ACTING PRESIDENT STEWART-COUSINS:  
5       Senator Aubertine, will you yield?

6                   SENATOR AUBERTINE:       Yes, Madam  
7       President.

8                   SENATOR DeFRANCISCO:       Why do we  
9       need another layer of consortia and  
10      constituency-based services when we have  
11      contractors that don't have business, we have  
12      an economy that is in distress, and we have  
13      counties and cities and state organizations  
14      that certainly can publicize the availability  
15      of money for weatherizing, and we've got  
16      contractors out there that can do the work?

17                   Why do we need a middleperson, a  
18      constituency-based organization to siphon off  
19      some of the money that could go to  
20      weatherizing?

21                   SENATOR AUBERTINE:       Through you,  
22      Madam President.   Senator, the size and scope  
23      of what we're trying to accomplish here is  
24      great, to say the least.   The idea of

1 weatherizing a million homes and small  
2 businesses all across this state, we don't  
3 have enough contractors in place, I believe,  
4 at this point in time.

5 And if an organization, if a  
6 company chooses to step forward and be a  
7 contractor under NYSERDA and provide that  
8 service anywhere in the state, you know, it's  
9 certainly a big need at this point.

10 SENATOR DeFRANCISCO: Would the  
11 Senator continue to yield.

12 ACTING PRESIDENT STEWART-COUSINS:  
13 Senator Aubertine, do you continue to yield?

14 SENATOR AUBERTINE: Yes, Madam  
15 President.

16 SENATOR DeFRANCISCO: Do these  
17 community-based organizations that are  
18 siphoning off some of this money pay taxes,  
19 like independent contractors that actually  
20 perform services of weatherizing?

21 SENATOR AUBERTINE: Through you,  
22 Madam President, yes.

23 SENATOR DeFRANCISCO: They do.  
24 And may I ask him another question? Will he

1       yield?

2                   ACTING PRESIDENT STEWART-COUSINS:

3       Senator Aubertine, do you continue to yield?

4                   SENATOR AUBERTINE:       Yes, Madam  
5       President.

6                   SENATOR DeFRANCISCO:       So under  
7       this bill we would be assured that  
8       community-based organizations that are  
9       eligible for these grants would have to be  
10      taxpaying entities; is that correct?

11                  SENATOR AUBERTINE:       Through you,  
12      Madam President, yes, I believe many of them  
13      would be. I've got a list of a lot of  
14      organizations, such as David B. Lee & Co.,  
15      Inc., Allen Kulik, Kasper Construction, Kevin  
16      Rich Construction, Jeff Hills Construction,  
17      Durham Construction, Energy Doors, Zero Draft  
18      of Central New York. Many of these you may  
19      recognize; they're all from your district,  
20      Senator.

21                  SENATOR DeFRANCISCO:       May I  
22      ask -- would he accept another question,  
23      please.

24                  ACTING PRESIDENT STEWART-COUSINS:



1 Senator Aubertine, do you continue to yield?

2 SENATOR AUBERTINE: Yes, Madam  
3 President.

4 SENATOR DeFRANCISCO: The  
5 question wasn't whether some organization may  
6 pay taxes. My question was simply these  
7 community-based organizations, or  
8 constituency-based -- whatever that means --  
9 organizations, does the bill provide that  
10 these people who will be receiving some of  
11 these funds are taxpaying entities?

12 SENATOR AUBERTINE: Through you,  
13 Madam President. Senator, anyone who is  
14 compensated in this state, for the most part,  
15 pays taxes. I'm sure you're aware of that.  
16 So anyone that has a job providing  
17 weatherization or any other service in this  
18 state certainly pays taxes.

19 SENATOR DeFRANCISCO: Would  
20 Senator Aubertine yield to another question.

21 ACTING PRESIDENT STEWART-COUSINS:  
22 Senator Aubertine, do you continue to yield?

23 SENATOR AUBERTINE: Yes, Madam  
24 President.

1                   SENATOR DeFRANCISCO:     Isn't there  
2     a function of the community-based  
3     organizations that they could be organizations  
4     that facilitate the weatherization or provide  
5     information to get to people that the  
6     weatherization monies are out there? Isn't  
7     that part of what is contemplated by this bill  
8     for the constituency-based organizations to  
9     do?

10                  SENATOR AUBERTINE:     Through you,  
11     Madam President, in order to help the Senator  
12     better understand --

13                  SENATOR DeFRANCISCO:     Excuse me.  
14     I understand it fully. I'm asking for an  
15     answer.

16                  SENATOR AUBERTINE:     Through you,  
17     Madam President. Let me read just for the  
18     record, then, what a community-based  
19     organization means.

20                         A community-based organization  
21     means an organization incorporated for the  
22     purpose of providing services or other  
23     assistance to economically or socially  
24     disadvantaged persons within a specific

1 community and which is supported by or whose  
2 actions are directed by members of the  
3 community in which it operates.

4 Now, Senator, I don't know how much  
5 plainer we could make it as to what the  
6 function of a community-based operation is.  
7 And I don't fully understand where your line  
8 of questioning is headed. Maybe if you could  
9 get directly to the point.

10 SENATOR DeFRANCISCO: Well, I  
11 will, if he answers another question.

12 ACTING PRESIDENT STEWART-COUSINS:  
13 Senator Aubertine, do you continue to yield?

14 SENATOR AUBERTINE: Yes, Madam  
15 President.

16 SENATOR DeFRANCISCO: The  
17 definition that you just gave of  
18 community-based organization included  
19 providing other services to the disadvantaged.  
20 That doesn't mean they have to provide  
21 weatherization services, does it? It could be  
22 facilitating their understanding of the  
23 program. It could be providing awareness of  
24 the program, not putting in some type of

1 change to a home that's going to make it more  
2 weathertight. Is that correct?

3 SENATOR AUBERTINE: Through you,  
4 Madam President. Yes, that's correct.

5 SENATOR DeFRANCISCO: All right.  
6 Now, would he answer another question so he  
7 knows that I clearly understand this bill.

8 ACTING PRESIDENT STEWART-COUSINS:  
9 Senator Aubertine, do you continue to yield?

10 SENATOR AUBERTINE: Yes, Madam  
11 President.

12 SENATOR DeFRANCISCO: Do all  
13 constituency-based organizations that are  
14 eligible under this bill pay taxes if they  
15 provide awareness to the community, facilitate  
16 information to the disadvantaged about the  
17 program, or do these other services that  
18 constituency-based organizations can do under  
19 this bill, as opposed to actually doing the  
20 weatherizing?

21 SENATOR AUBERTINE: Through you,  
22 Madam President, yes.

23 SENATOR DeFRANCISCO: And that's  
24 a requirement of the bill?

1                   SENATOR AUBERTINE:     Through you,  
2     Madam President.  No, Senator, it's not a  
3     requirement of the bill.  However, it is a  
4     requirement of the tax code.  If you make  
5     money in New York State, you got to pay taxes.

6                   SENATOR DeFRANCISCO:     Pardon me?

7                   SENATOR AUBERTINE:     It is a  
8     requirement of the tax code.  If you make  
9     money in New York State, you've got to pay  
10    taxes.

11                  SENATOR DeFRANCISCO:     On the  
12    bill, please.

13                  ACTING PRESIDENT STEWART-COUSINS:  
14    Senator DeFrancisco, on the bill.

15                  SENATOR DeFRANCISCO:     You know,  
16    we're in a recession right now.  And just  
17    because -- or coming out of one, or whatever  
18    the pundits say.  To just label a bill a Green  
19    Jobs-Green New York Act doesn't mean that it's  
20    a good bill.  To call something green -- we've  
21    got a contractor in our county that gets green  
22    money and paints the inside of his mall green  
23    with that money.  I mean, calling something  
24    green doesn't make it so and doesn't make it

1 the best way to do it.

2 Weatherizing is a good thing. But  
3 why would you require money to be siphoned off  
4 to community-based organizations to facilitate  
5 the program, to give information to people  
6 because it's a big program? It seems to me  
7 we've got counties, we've got all kinds of  
8 government units.

9 This particular body passed  
10 Attorney General Cuomo's bill to consolidate  
11 government organizations or agencies because  
12 we've got too much bureaucracy. Why would you  
13 not, if this is a good bill and you want to  
14 divert this money the way the bill diverts it,  
15 why don't you just advertise and provide  
16 information through all the state  
17 organizations, through NYSERDA and everybody  
18 else, we've got a program that's going to be  
19 beneficial that's going to pay for some of  
20 your weatherizing so that we can save money  
21 and we reduce the carbon whatever it's called,  
22 footprint.

23 It would seem to me that those  
24 contractors that are already in the business

1       would be more than happy to accommodate -- you  
2       don't need anybody to facilitate anything.  
3       You need people to actually do the work. And  
4       if there's so much work because it's such a  
5       magnificently big amount of money, which it  
6       is, don't you think they'd hire more people  
7       and those people would pay taxes and you would  
8       get the weatherizing and the benefit of the  
9       green stuff without another bureaucracy of  
10      people explaining things and giving notices  
11      out?

12               We've got plenty of people to give  
13      notices out and explain things. And  
14      community-based organizations, many are  
15      not-for-profit. Make the money go to people  
16      who are working who will pay taxes, not people  
17      who are advising and facilitating. When  
18      you've got every county government that would  
19      clearly advertise this program. You've got  
20      contractors that would hire people if there  
21      was money out there to do the weatherizing  
22      rather than siphoning money off the top.

23               Green jobs, green buildings, very,  
24      very important. Use the money for what the

1 intended purpose is. Not to satisfy different  
2 organizations who may benefit from it that  
3 have no relationship whatsoever to providing  
4 the ultimate service that can be provided by  
5 the private small businesses that are now  
6 struggling. Housing is down, home building is  
7 down. There's people out there looking to do  
8 this type of work.

9 So, Senator Aubertine, I understand  
10 the bill. I fully understand the bill. And I  
11 understand there's going to be a lot of money  
12 paid to organizations that are nonprofit and  
13 aren't going to pay a nickel in taxes, that  
14 aren't going to do a dime's worth of work that  
15 is going to improve anybody's building. It  
16 might satisfy a constituency, and I'm  
17 wondering what constituency bases we're really  
18 talking about. The name ACORN was mentioned.  
19 I've got a feeling they might see some of  
20 this, and some of the organizations that may  
21 be helpful to one side or another in the  
22 political process. But that doesn't create  
23 green buildings. It creates maybe the  
24 constituency base that you're looking for, not



1 help to the economy.

2 That's why this bill, in my  
3 judgment, is wrong. Others have given other  
4 reasons that are also valid. And that's why  
5 I'm going to vote no on this bill. Not  
6 because I'm antigreen or not because I don't  
7 believe in buildings being made weatherproof.  
8 I mean, use the money for the purpose and  
9 don't create another bureaucracy that's not  
10 needed for people.

11 And if you think -- you're a  
12 small-businessman, Senator Aubertine. I guess  
13 you're still a farmer. You don't need a  
14 community-based group to say you can get your  
15 barn weatherized. If a program comes out,  
16 it's going to be publicized. You don't need  
17 somebody to facilitate that. And if you're  
18 low-income, you don't need it either. There's  
19 plenty of organizations in the county dealing  
20 with people who are lower-income that could  
21 make this known. There's existing  
22 organizations that we pay money for.

23 So I'm going to vote no for those  
24 reasons and also because I do fully understand

1 the bill and it's not going to use the money  
2 for the purpose that it should be using it  
3 for.

4 ACTING PRESIDENT STEWART-COUSINS:  
5 Thank you, Senator.

6 Senator Schneiderman.

7 SENATOR SCHNEIDERMAN: Thank you,  
8 Madam President. I want to commend Senator  
9 Aubertine.

10 I have to say, listening to this  
11 debate, I'm kind of puzzled. This bill passed  
12 the Assembly unanimously. Let me go over what  
13 I think this bill does. Because if Senator  
14 DeFrancisco truly understands the bill, then I  
15 do not understand the bill, because we seem to  
16 be reading it very differently.

17 This program is in my view a very,  
18 intelligently designed program, and I believe  
19 that's why all of our Republican colleagues in  
20 the other house voted for it, along with all  
21 the other Democrats. The idea here is it  
22 takes an existing pool of money and if you  
23 have a problem with the RGGI program, with the  
24 idea that we should make an effort to reduce

1 greenhouse gas emissions by creating a  
2 market-based incentive -- this is a  
3 Ronald-Reagan-era-type program, to create an  
4 incentive for the private sector to reduce its  
5 emissions by having to buy allowances. They  
6 pool their money together.

7 And the money is not, you know,  
8 just there for any purpose. You're saying,  
9 Oh, why don't you just give it back in taxes?  
10 The point of this fund is to be used to reduce  
11 greenhouse gas emissions, to make us more  
12 energy efficient, to enable us to use less  
13 energy. It's something that you keep in the  
14 energy sector so that the polluters, who pay  
15 because they pollute -- they make money from  
16 the pollution, from the greenhouse gas  
17 emissions -- are chipping in to help mitigate  
18 the problem.

19 They take this money, there are a  
20 lot of good programs that NYSERDA wanted to  
21 spend this money on to reduce pollution, to  
22 come up with new technologies. But we are in  
23 an economic crisis, ladies and gentlemen.  
24 What this Green Jobs-Green New York program

1       does is it says in addition to the other  
2       research and things NYSERDA wants to do -- and  
3       NYSERDA has endorsed this program, this  
4       proposal in this bill, as consistent with  
5       everything it's trying to accomplish -- in  
6       addition to the other work, let's create a  
7       program to create jobs. Let's create a  
8       program to help New Yorkers struggling in this  
9       recession.

10               So what does this program do? It  
11       creates funds for training, funds to ensure  
12       that people enroll in the program. Because  
13       with all due respect, there are a lot of  
14       people who do not sign up for programs they  
15       are eligible for.

16               And I want to say, a lot of people  
17       are picking on ACORN for whatever reason.  
18       There are maybe people associated with ACORN  
19       who have committed misdeeds somewhere in the  
20       United States. There are people associated  
21       with the New York State Legislature who have  
22       committed misdeeds. I don't think that that  
23       means it's all bad.

24               And I will tell you this. From my

1 own experience, ACORN has done a lot of good  
2 work in my district signing people up for  
3 programs they were eligible for and they did  
4 not know they were eligible for, including the  
5 earned income tax credit.

6 So maybe some community groups --  
7 and it includes a lot of community groups, and  
8 a lot of religious organizations are going to  
9 be applying for this, to help people know that  
10 they can get a loan, if you're a homeowner,  
11 through this program. And then you use that  
12 money to hire a contractor to come in, they do  
13 an audit, they weatherize your house. It's a  
14 program that pays for itself over time, but  
15 does require a homeowner to go get a loan, or  
16 a small business owner.

17 But this is a program that produces  
18 jobs, it saves us money on energy by going  
19 into people's homes and small businesses and  
20 saving them money on their bills. It reduced  
21 the demand for electricity. So even if my  
22 home is not participating, I'm not  
23 participating in the program, the reduced  
24 demand for electricity makes electricity rates

1 go down. We all benefit.

2 I've got to tell you, I think this  
3 is a really well designed program. I think  
4 Senator Aubertine and his colleagues who have  
5 worked on this have done on a good job.

6 And I have to say, with regard to  
7 the issue that that has been raised about  
8 where this program is going to work, in my  
9 view this program is actually quite heavily  
10 tilted towards upstate New York. It deals  
11 with residential housing. And it is geared  
12 particularly not to the lowest-income  
13 New Yorkers -- and the Weatherization  
14 Assistance Program, which this supplements,  
15 did a lot of work in communities of extreme  
16 poverty in inner cities. This will be more  
17 useful to people of more moderate means.

18 And in fact, if you look at the  
19 analysis, the number of homes eligible for  
20 weatherization under the Green Jobs-Green  
21 New York program is really actually higher in  
22 a lot of your districts than it is in mine.  
23 Senator Young, you have over 40,000 homes in  
24 your district that would be eligible for this

1       program -- if through your good community  
2       organizations they know they're eligible and  
3       sign up. Senator Marcellino has 51,000.  
4       Senator Maziarz, 41,000.

5               So the program is going to be  
6       geared -- and I would also like --

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

9               SENATOR DeFRANCISCO:     I'm  
10      requesting if Senator Schneiderman would  
11      yield.

12              SENATOR SCHNEIDERMAN:     Madam  
13      President, I'll be glad to yield as soon as I  
14      finish this paragraph.

15              ACTING PRESIDENT STEWART-COUSINS:  
16      Thank you, Senator Schneiderman.

17              SENATOR SCHNEIDERMAN:     Thank you.  
18                I just had an idea that I should  
19      cut my remarks short.

20               (Laughter.)

21              SENATOR SCHNEIDERMAN:     Oh, thank  
22      you, Senator Diaz. Thank you, Senator Diaz.

23                I just want to close, Madam  
24      President, by noting that this program, which

1 will create jobs for the 21st-century economy,  
2 will use the RGGI funds consistent with  
3 NYSERDA's purpose to help reduce energy costs,  
4 is specifically targeted to communities in  
5 areas where energy costs are particularly high  
6 in relation to a measure of median household  
7 income.

8 Senator Young, that's your  
9 district. Senator Little, that's your  
10 district. Senator Robach, yes, that is your  
11 district as well.

12 This is a program that will benefit  
13 people all across the state, largely in  
14 upstate New York -- it's appropriate Senator  
15 Squadron is sponsoring it. And I cannot  
16 imagine a better use of these funds. If  
17 you're concerned about the lack of RGGI  
18 funding for other programs, which some people  
19 have expressed, I think then you have to be  
20 sure to vote for the chapter amendment, which  
21 will ensure that further RGGI auctions take  
22 place and we have additional funding.

23 This is a great program, ladies and  
24 gentlemen. All your colleagues -- every



1 Assembly member didn't vote for this because  
2 someone is sneaking around. This is a  
3 well-designed program that will generate jobs,  
4 save energy, and I hope you will all support  
5 it.

6 And now, Madam President, if  
7 Senator DeFrancisco is still anxious to  
8 engage, I'd be happy to yield.

9 ACTING PRESIDENT STEWART-COUSINS:  
10 Thank you.

11 Senator DeFrancisco, do you still  
12 wish for Senator Schneiderman to yield?

13 SENATOR DeFRANCISCO: Yes. Very  
14 simply, if you've got a list of all the  
15 homeowners that are eligible, I've got an  
16 idea. Would you consider this idea? Instead  
17 of having community-based organizations, why  
18 don't you just send them a letter and tell  
19 them by letter that you're eligible for this  
20 program and this is how you apply and here's  
21 the eligible list of contractors. Would that  
22 make any sense to you? That's my question.

23 SENATOR SCHNEIDERMAN: Through  
24 you, Madam President. It has been

1 demonstrated to be extremely ineffective. And  
2 I think that we should stick with what works.  
3 Just as using existing contractors and labor  
4 unions to do the training and weatherization,  
5 let's use the organizations that are good at  
6 signing people of moderate means up for  
7 programs.

8 This program uses the existing  
9 organizations in our state to create jobs and  
10 save energy. It doesn't create any new  
11 bureaucracies. It uses everything that works.  
12 I don't want to create a new letter-writing  
13 bureaucracy. Let's do this. Let's pass this  
14 bill.

15 Thank you, Madam President.

16 ACTING PRESIDENT STEWART-COUSINS:  
17 Are there any other Senators wishing to speak  
18 on the bill?

19 Senator Owen Johnson.

20 SENATOR OWEN JOHNSON: Yes, I'd  
21 like to speak a little bit on the bill.

22 You know, we've spent a lot of time  
23 talking about spending money, giving out money  
24 that we don't have. This state is in debt

1       \$2 billion, \$2 trillion, whatever it is --  
2       \$1.2 billion right now. It will be over  
3       \$4 billion next. We're in debt. We don't  
4       have any money to give away.

5               The federal government is even in  
6       worse shape than we are. They owe  
7       \$1.6 trillion so far. A lot of that is owed  
8       to China and foreign borrowers who loaned the  
9       money to us. We have to pay hundreds of  
10      millions of dollars every month out, federal  
11      money, which is our money, to the people we  
12      borrowed the money for. And we're talking  
13      about spending money that we don't have.

14             That's really totally  
15      irresponsible. We're in the middle of a  
16      depression, recession. It's not getting any  
17      better. People say yeah, stocks are up a  
18      little bit. A little bit from last year,  
19      where it was down 50 percent, so now it's only  
20      down 65 percent.

21             So the economy is not doing great.  
22      And we don't know, many people don't know if  
23      they can keep their home. We're still losing  
24      homes. Even though the economy may be picking

1 up a little, there's more people unemployed  
2 every month.

3 So you have to realize this. Don't  
4 spend money we don't have. Tell the federal  
5 government, look, if you've got a couple of  
6 hundred million dollars, pay your damn bills  
7 and all, and we'll have to keep the money we  
8 have to pay our bills off and not start any  
9 new programs, spending money like a drunken  
10 sailor that we don't have.

11 You have to realize we're in a  
12 serious situation and we can't keep spending,  
13 can't keep buying votes with this and that and  
14 the other thing. In fact, we've had a lot of  
15 these programs already, weatherization, we've  
16 had them over many years, and a lot of  
17 programs will be done already.

18 So I don't think there's any great  
19 need for that program. Somebody might need a  
20 bill that gets to spend some money, give some  
21 money to their friends or groups, but the fact  
22 is we don't need this bill. Tell the federal  
23 government keep what you got, don't borrow any  
24 more from China, pay off our bills and let's

1       get straightened out here.

2                   That's it.

3                   ACTING PRESIDENT STEWART-COUSINS:

4       Thank you, Senator.

5                   SENATOR LIBOUS:       Read the last  
6       section.

7                   ACTING PRESIDENT STEWART-COUSINS:

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

10                  Senator Aubertine, to close.

11                  SENATOR AUBERTINE:     Thank you,  
12       Madam President. And again, I will be brief.  
13       I know it's getting late.

14                  But I just want to make the point  
15       that this bill won't take money away from  
16       consumers. Quite the contrary. It won't take  
17       money away from other projects. Again, quite  
18       the contrary. These are dollars that are  
19       raised through the carbon credit auctions and  
20       are used in the way that they were intended to  
21       be used, to conserve energy and to create  
22       jobs.

23                  And in closing, I'd just like to  
24       read one letter from a company called Zero

1 Draft of Central New York. It says: "Dear  
2 Senator, Zero Draft of Central New York would  
3 like to thank you for supporting Green Jobs  
4 New York, S5888. Hopefully this letter will  
5 serve to reinforce your decision and help you  
6 continue to support this legislation.

7 "This program will dramatically  
8 increase the demand for home performance  
9 contracting and boost the overall economy of  
10 New York in general. Of particular importance  
11 to us, the program's training pipeline will  
12 create skilled workers to fill open job slots,  
13 creating over 14,000 permanent jobs statewide,  
14 and thereby help ease the task of finding and  
15 training our new employees.

16 "We have grown from just three  
17 employees five years ago to over 50 this year.  
18 We are already actively seeking more employees  
19 and anticipate the need to hire at least 20  
20 more prior to the year's end. With a program  
21 like Green Jobs New York, Zero Draft will be  
22 able to continue to improve our local economy,  
23 enrich our residents and employees, save  
24 energy on our homes, and hire many more

1 building-science-professionals-to-be.

2 "Thank you very much."

3 And by the way, this letter is a  
4 copy of a letter dated September 9th, sent to  
5 Senator John A. DeFrancisco, 800 State Office  
6 Building, Syracuse, New York.

7 Thank you, Madam President.

8 ACTING PRESIDENT STEWART-COUSINS:

9 Thank you.

10 The debate is closed. The  
11 Secretary will please ring the bells.

12 Read the last section.

13 THE SECRETARY: Section 6. This  
14 act shall take effect immediately.

15 ACTING PRESIDENT STEWART-COUSINS:

16 Call the roll.

17 (The Secretary called the roll.)

18 ACTING PRESIDENT STEWART-COUSINS:

19 Senator Craig Johnson, to explain his vote.

20 SENATOR CRAIG JOHNSON: Thank you  
21 very much, Madam President.

22 It's been a very interesting debate  
23 tonight, one with a lot of statements flying  
24 around, sometimes without backup facts that

1       came oftentimes from my colleagues on the  
2       other side of the aisle.

3               But what's clear to me is this will  
4       put money into the local economies which will  
5       help individuals right now who are looking for  
6       jobs.

7               There are provisions in this bill  
8       that will protect the money that's being  
9       spent. We passed laws in 2007 called the  
10      False Claims Act which will continue to  
11      protect our money that will allow, if there's  
12      a problem, to go after the money and seek  
13      damages as well as criminal penalties.

14              We have pages upon pages of backup  
15      and pages upon pages of support from all sorts  
16      of organizations, all sorts of groups across  
17      the state, primarily upstate, saying how badly  
18      they want this. All this should be weighed by  
19      each and every Senator.

20              But for me, for me, it's a simple  
21      statement, if I can just it read as follows.  
22      "The program is estimated to create  
23      approximately 14,250 permanent jobs, eliminate  
24      the up-front costs of retrofit construction to



1 homeowners, save families 30 to 40 percent on  
2 their yearly energy bills, and reduce harmful  
3 carbon emissions.

4 How? The program relies on a  
5 simple fact -- science-based, whole-house  
6 energy-efficiency improvements save money. A  
7 government regulated private investment fund  
8 will provide up-front construction costs for  
9 retrofits that pay themselves back over about  
10 eight years."

11 That paragraph came from a  
12 brilliantly written op-ed that was published  
13 today, and the author was our colleague  
14 Senator Tom Morahan.

15 I'll be voting in favor of this  
16 bill, and I urge my colleagues on both sides  
17 of the aisle to follow the example by Senator  
18 Morahan and support this legislation.

19 Thank you very much.

20 ACTING PRESIDENT STEWART-COUSINS:  
21 Senator C. Johnson to be recorded in the  
22 affirmative.

23 Senator DeFrancisco.

24 SENATOR DeFRANCISCO: Yes, that

1        was a very-well-written editorial, and I  
2        didn't hear community-based organizations  
3        mentioned once. And that's my problem with  
4        this bill.

5                    Of course the organization from  
6        Syracuse, New York, would be in favor of a  
7        program that's going to provide money to do  
8        weatherproofing. That's their job. What I'm  
9        saying, we should be eliminating the  
10       middle-people that aren't necessary. If we  
11       can identify homes that are eligible, they  
12       should be notified. And if they choose not to  
13       do it, it's not an unlimited fund. Do those  
14       who want to do it, and then go look out for  
15       others through the county government.

16                   And it's amazing to me, it's  
17        amazing to me, Senator Aubertine, how that  
18        organization could increase from three  
19        employees to 50 without this program. I think  
20        they probably would be able to increase their  
21        employment by a lot more if we didn't siphon  
22        off part of the money for a needless portion  
23        of the bill which would be a great improvement  
24        if we just used existing resources to deliver

1 the money in a way that goes directly to those  
2 in need and provides more jobs of doing the  
3 work that has to be done on a home, not  
4 advocacy for the bill.

5 So I'm voting no for those reasons  
6 and those reasons alone.

7 ACTING PRESIDENT STEWART-COUSINS:  
8 Senator DeFrancisco to be recorded in the  
9 negative.

10 Senator Hassell-Thompson.

11 SENATOR HASSELL-THOMPSON: Thank  
12 you, Madam President. To explain my vote.

13 As I listened to the debate, it was  
14 interesting to hear people talk about  
15 middlemen. Historically, since we always like  
16 to speak from historical perspectives here,  
17 these programs have always been run by  
18 community-based organizations. In Rochester  
19 there's an agency called ABC. And whenever  
20 there have been -- when there were federal  
21 dollars that came directly to communities,  
22 they came through community-based operations.  
23 The state does not know how to run these  
24 programs.

1                   When we begin to talk about how  
2                   much money we're going to save, it is not  
3                   cost-effective for the state to be operating  
4                   programs of this type because they don't have  
5                   the expertise to do that.

6                   So I will be voting yes on the bill  
7                   because it is more than a righteous bill. But  
8                   I think sometimes those of us who have never  
9                   been involved in program development ought to  
10                  look at the history of how those programs have  
11                  evolved.

12                  Thank you, Madam President.

13                  ACTING PRESIDENT STEWART-COUSINS:  
14                  Senator Hassell-Thompson to be recorded in the  
15                  affirmative.

16                  Senator Thompson.

17                  SENATOR THOMPSON:     Thank you,  
18                  Madam President. I stand to explain my vote.

19                  I definitely support this bill. I  
20                  think it's a very important bill. Each month,  
21                  I sponsor a Buffalo is Going Green business  
22                  roundtable, about 75 to 80 businesses from  
23                  throughout Western New York, not just in my  
24                  district. And this is good for a couple of

1       quick reasons.

2                   Number one, when you talk about  
3       solar and you talk about wind and you talk  
4       about weatherization and the movement that's  
5       taking place in the United States of America,  
6       New York still has a difficult time getting  
7       workers both in cities, suburbs, and rural  
8       towns trained for those jobs that are taking  
9       over the country in terms of putting these on  
10      the residential facilities.

11                  In addition to that, there are so  
12      many different small mom-and-pop businesses  
13      that are becoming more and more engaged in  
14      this area. And we don't have the workforce  
15      ready for these jobs. And if we don't take it  
16      seriously, people will come from all over the  
17      world trying to come to the United States for  
18      these jobs of the future.

19                  This is something that New York  
20      must lead in. This would get us on the right  
21      track. It's not a panacea but it gets us on  
22      the right track for these good green-collar  
23      jobs.

24                  And they train young people. We

1 know a lot of our kids, 50 percent of our kids  
2 in the State of New York right now don't  
3 graduate from high school on time. So Green  
4 Jobs is an opportunity for them, the same way  
5 it was for kids 10, 15, 20 years ago.

6 So this is a great opportunity, and  
7 I think that we should all celebrate the fact  
8 that we are leading on the green jobs track  
9 right now because of this today.

10 Thank you.

11 ACTING PRESIDENT STEWART-COUSINS:

12 Senator Thompson to be recorded in the  
13 affirmative.

14 Senator Little.

15 SENATOR LITTLE: Thank you, Madam  
16 President. Just to explain my vote.

17 I have always supported energy  
18 efficiency, and I will continue to do so. I  
19 believe that the goals of this bill are very  
20 important, and I support those. But in this  
21 economy, at a time when we're being called to  
22 reduce the size of government, to reduce  
23 spending in New York State, if we have  
24 \$112 million sitting around, let's add to the

1       current weatherization programs in DHCR, let's  
2       add it to programs that exist in NYSERDA, and  
3       we will continue to get that result that  
4       you're all looking for, more energy  
5       efficiency -- and we're not creating more  
6       advisory committees, more training programs,  
7       more this, more that, more certification, more  
8       accountability.

9               So thank you. I will vote against  
10       the bill, but I do support the concept.

11               ACTING PRESIDENT STEWART-COUSINS:  
12       Senator Little to be recorded in the negative.

13               Senator L. Krueger.

14               SENATOR LIZ KRUEGER:     Thank you.  
15       To explain my vote, Madam President.

16               Well, I guess I'd like to thank you  
17       for sponsoring this bill, Senator. I am so  
18       delighted even at this late hour, 10:30, to  
19       just simply stand up and say this is a huge  
20       win-win for the people of New York, this is a  
21       huge win-win for energy efficiency and our  
22       long-term goals for greening our economy and  
23       greening our homes and businesses.

24               We are taking stimulus money and

1       applying it exactly how it should be used --  
2       to create jobs, to train a workforce, to  
3       modernize not only our homes and businesses  
4       but our labor force.

5               It is not going to cost the state  
6       money. In fact, the analysis is that it's  
7       going to bring in \$5 billion over five years  
8       of public/private partnership to improve the  
9       future of the State of New York.

10              I would love to be able to see  
11       other creative ideas like this become  
12       legislation and become law in the State of New  
13       York. I think we would all be incredibly  
14       proud of the work we did here.

15              So thank you, Senator Aubertine.  
16       I'm delighted to be voting yes. And I feel  
17       that we're going to pass this bill.

18              Thank you very much. I'll be  
19       voting yes.

20              ACTING PRESIDENT STEWART-COUSINS:  
21       Senator L. Krueger to be recorded in the  
22       affirmative.

23              Senator Stachowski.

24              SENATOR STACHOWSKI:       Yes, I too



1       rise to explain my vote and explain why I'm  
2       voting for this bill.

3               I think, although many people  
4       mentioned that NYSERDA has programs that  
5       already we could put this money into, this  
6       program is directed at middle-income housing,  
7       which NYSERDA's programs oftentimes don't  
8       reach, and small businesses. And making money  
9       available for small businesses to make their  
10      place of work more energy-efficient, nothing  
11      could be more helpful at this time. If they  
12      can lower their energy costs at a time when  
13      it's high, this would be a great program to  
14      help them.

15             If this will create jobs for a lot  
16      of the unemployed, people losing their jobs  
17      from other private businesses, and they can  
18      then go to work for contractors that are in  
19      this field, this is a good thing.

20             This will put money back into the  
21      tax base, this will give jobs to people, this  
22      will help people lower their energy costs at  
23      their homes, possibly making the difference  
24      between them staying in their homes or leaving

1       them. This will put people back to work.  
2       This will help small businesses, providing  
3       money for greening of their locations and  
4       lowering their costs.

5               I think this is a win-win for the  
6       state. I think it will be carried out  
7       properly. We have safeguards, as Senator  
8       Johnson mentioned, to make sure it is carried  
9       out properly. Those already exist.

10              And I think this is a program that  
11       couldn't come at a better time. It will give  
12       jobs to people. It will help reduce our  
13       carbon footprint. And I think it's a program  
14       that we should all be supporting. I vote yes.

15              Thank you.

16              ACTING PRESIDENT STEWART-COUSINS:  
17       Senator Stachowski to be recorded in the  
18       affirmative.

19              Senator Squadron, to explain his  
20       vote.

21              SENATOR SQUADRON:     Thank you very  
22       much.

23              Once upon a time, it was we had to  
24       choose between the environment and jobs or we

1       had to between the environment and low cost or  
2       we had to choose between the environment and  
3       the high cost of implementing things that  
4       would save the environment, initiatives that  
5       would save the environment.

6               This bill proves that's no longer  
7       true. We're helping the environment, we're  
8       creating jobs, we're lowering costs for  
9       middle-class families. And it doesn't cost  
10      anything because we're doing it on dollars  
11      that we get from a forward-thinking  
12      environmental plan.

13             Now there is no reason to vote  
14      against the environment. There's a whole lot  
15      of reasons to vote for this bill, and that's  
16      why I'm proud to do so.

17             Thank you, Madam President.

18             ACTING PRESIDENT STEWART-COUSINS:  
19      Senator Squadron to be recorded in the  
20      affirmative.

21             Senator Parker.

22             (Groans.)

23             SENATOR PARKER:     To explain my  
24      vote.

1                   ACTING PRESIDENT STEWART-COUSINS:

2       Senator Parker, to explain his vote.

3                   SENATOR PARKER:       Fourscore and  
4       seven years ago --

5                   (Laughter.)

6                   ACTING PRESIDENT STEWART-COUSINS:

7       It has been to be in two minutes.

8                   SENATOR PARKER:       Just really  
9       quickly.

10                   One of which is I just wanted to  
11       clarify, because some of my colleagues in fact  
12       think that this money is just sitting in a pot  
13       that is just, you know, available for  
14       anything.

15                   This pot, this money is actually  
16       legislatively bound to do the work around  
17       retrofitting, around reducing our carbon  
18       footprint, around making buildings more high  
19       efficiency. So the money has to be used in  
20       very, very specific ways. So we're bound by  
21       this program. This Green Jobs-Green New York  
22       legislation is our next best opportunity to do  
23       the things that this pot of money is made for.

24                   As relates to how things are

1       going -- and I know one of my colleagues is  
2       very concerned about that, and creating  
3       another bureaucracy, I don't think this  
4       legislation creates another bureaucracy. It  
5       sounds logical that if you build a better  
6       mousetrap, you know, build it and they will  
7       come. And unfortunately, that's not how it  
8       works. That's not how weatherization works,  
9       that's not how going green works, that's not  
10      how conservation works.

11               We have to go out there and we have  
12      to really retrain the minds of our communities  
13      and of our people. And thus we need to  
14      organize them. Very similarly to what we did  
15      in the 1970s around the energy crisis then, we  
16      began in our schools, training the next  
17      generation. Well, we began that work and then  
18      left it behind. We can no longer ignore it.

19               We have to get out there and start  
20      working with homeowners and renters and  
21      everyone to in fact understand what this  
22      energy crisis is about, what reducing our  
23      carbon footprint is about. And at the same  
24      time, those folks will lower -- those same

1 people will lower their energy bills and  
2 they'll have full-time jobs at a living wage  
3 with benefits. And they will then pay taxes  
4 that will then go into making the state really  
5 the Empire State that we know and love.

6 I'm voting aye.

7 ACTING PRESIDENT STEWART-COUSINS:  
8 Senator Parker will be recorded in the  
9 affirmative.

10 Are there any other Senators  
11 wishing to explain his or her vote?

12 MULTIPLE SENATORS: No.

13 ACTING PRESIDENT STEWART-COUSINS:  
14 Announce the results.

15 THE SECRETARY: Those recorded in  
16 the negative on Calendar Number 872 are  
17 Senators DeFrancisco, Libous, Little, Skelos,  
18 Winner and Young. Also Senator Nozzolio.  
19 Also Senator O. Johnson.

20 Ayes, 52. Nays, 8.

21 ACTING PRESIDENT STEWART-COUSINS:  
22 The bill is passed.

23 The Secretary will continue to  
24 read.

1                   THE SECRETARY:     Calendar Number  
2     877, by Member of the Assembly Cahill,  
3     Assembly Print Number 9031, an act to amend a  
4     chapter of the Laws of 2009 amending the  
5     Public Authorities Law.

6                   ACTING PRESIDENT STEWART-COUSINS:  
7     Read the last section.

8                   THE SECRETARY:     Section 4. This  
9     act shall take effect on the same date and in  
10    the same manner as a chapter of the Laws of  
11    2009.

12                  ACTING PRESIDENT STEWART-COUSINS:  
13    Call the roll.

14                  (The Secretary called the roll.)

15                  ACTING PRESIDENT STEWART-COUSINS:  
16    Announce the results.

17                  THE SECRETARY:     Those recorded in  
18    the negative on Calendar Number 877 are  
19    Senators DeFrancisco, O. Johnson, Libous,  
20    Little, Nozzolio, Skelos, Winner and Young.

21                  Ayes, 52. Nays, 8.

22                  ACTING PRESIDENT STEWART-COUSINS:  
23    The bill is passed.

24                  Senator Klein, that completes the

1 controversial reading of the bills on the  
2 calendar.

3 SENATOR KLEIN: Thank you, Madam  
4 President.

5 At this time there will be an  
6 immediate meeting of the Rules Committee in  
7 the Majority Conference Room.

8 Pending the return of the Rules  
9 Committee, may we please stand at ease.

10 ACTING PRESIDENT STEWART-COUSINS:  
11 There is an immediate meeting of the Rules  
12 Committee.

13 And while that is occurring, the  
14 house will stand at ease.

15 (Whereupon, the Senate stood at  
16 ease at 10:44 p.m.)

17 (Whereupon, the Senate reconvened  
18 at 12:12 a.m.)

19 ACTING PRESIDENT BRESLIN:  
20 Senator Klein.

21 SENATOR KLEIN: Mr. President, I  
22 see the clock has struck midnight. With  
23 unanimous consent, I move that we continue  
24 past midnight to continue our business this



1 evening.

2 ACTING PRESIDENT BRESLIN:

3 Pursuant to Rule 5, Section 2, with unanimous  
4 consent we are allowed to continue.

5 Senator Klein.

6 SENATOR KLEIN: Mr. President, if  
7 we can at this time return to the order of  
8 reports of standing committees, I believe  
9 there's a report of the Rules Committee at the  
10 desk.

11 ACTING PRESIDENT BRESLIN: There  
12 is a report of the Rules Committee at the  
13 desk.

14 The Secretary will read.

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

18 Senate Print 185, by Senator  
19 Morahan, an act to amend the Mental Hygiene  
20 Law;

21 2443B, by Senator Stewart-Cousins,  
22 an act to amend the Election Law;

23 3292, by Senator LaValle, an act to  
24 amend the Education Law;

1                   Assembly Print 4277, by Member of  
2                   the Assembly Cook, an act to amend the  
3                   Economic Development Law;

4                   Senate Print 5643, by Senator  
5                   Dilan, an act to amend the Vehicle and Traffic  
6                   Law;

7                   5224, by Senator Schneiderman, an  
8                   act to amend the Executive Law;

9                   Assembly Print 8642, by Member of  
10                  the Assembly Sweeney, an act to amend the  
11                  Environmental Conservation Law;

12                  Senate Print 5968, by Senator  
13                  Sampson, an act to amend the Family Court Act;

14                  27B, by Senator Fuschillo, an act  
15                  to amend the Vehicle and Traffic Law;

16                  2190, by Senator Golden, an act to  
17                  amend the County Law;

18                  2493, by Senator Klein, an act to  
19                  amend the Administrative Code of the City of  
20                  New York;

21                  2550A, by Senator Diaz, an act to  
22                  amend the Tax Law;

23                  3141A, by Senator Monserrate, an  
24                  act to amend the General Business Law;

1                   3257A, by Senator Duane, an act to  
2 amend the Public Health Law;

3                   4375, by Senator Griffo, an act to  
4 amend the Uniform Justice Court Act;

5                   4962B, by Senator Oppenheimer, an  
6 act to amend the Agriculture and Markets Law;

7                   4982, by Senator Foley, an act to  
8 amend the Tax Law;

9                   5050, by Senator Smith, an act to  
10 amend the Education Law;

11                  5419, by Senator Stachowski, an act  
12 to amend the Economic Development Law;

13                  5802A, by Senator Huntley, an act  
14 to amend the Public Health Law;

15                  5908A, by Senator Nozzolio, an act  
16 authorizing the Commissioner of General  
17 Services;

18                  5993, by Senator Hassell-Thompson,  
19 an act to amend the Correction Law;

20                  6071, by Senator Saland, an act to  
21 amend the Penal Law;

22                  6091, by Senator Diaz, an act to  
23 amend the Penal Law;

24                  6108A, by Senator Leibell, an act

1 in relation to alienation;

2 6112, by Senator Parker, an act to  
3 amend the Penal Law;

4 6146, by Senator Klein, an act to  
5 amend the Social Services Law;

6 And Senate Print 6150, by Senator  
7 Espada, an act to amend the Public Authorities  
8 Law.

9 All bills ordered direct to third  
10 reading.

11 ACTING PRESIDENT BRESLIN:  
12 Senator Klein.

13 SENATOR KLEIN: Mr. President, I  
14 move to accept the report of the Rules  
15 Committee.

16 ACTING PRESIDENT BRESLIN: All  
17 those in favor of accepting the report of the  
18 Rules Committee please signify by saying aye.

19 (Response of "Aye.")

20 ACTING PRESIDENT BRESLIN:  
21 Opposed, nay.

22 (Response of "Nay.")

23 ACTING PRESIDENT BRESLIN: The  
24 report of the Rules Committee is adopted.

1 Senator Klein.

2 SENATOR KLEIN: Mr. President,  
3 can we now please move to a reading of the  
4 supplemental calendar.

5 ACTING PRESIDENT BRESLIN: The  
6 Secretary will read.

7 THE SECRETARY: Calendar Number  
8 39, by Senator Morahan, Senate Print 185, an  
9 act to amend the Mental Hygiene Law.

10 ACTING PRESIDENT BRESLIN: Read  
11 the last section.

12 THE SECRETARY: Section 5. This  
13 act shall take effect on the 90th day.

14 ACTING PRESIDENT BRESLIN: Call  
15 the roll.

16 (The Secretary called the roll.)

17 ACTING PRESIDENT BRESLIN:  
18 Senator Morahan, to explain his vote.

19 SENATOR MORAHAN: Thank you,  
20 Mr. President.

21 This is a very particularly  
22 well-timed bill that will deal with a very  
23 serious problem in our nation which is  
24 posttraumatic stress disorder. What we're

1       doing with this bill is we're opening up  
2       Timothy's Law and including that ailment to  
3       those mental health diseases that will be  
4       covered by insurance for those folks who  
5       suffer from these dilemmas.

6               It's particularly well-timed  
7       because of 9/11, which is what we're in right  
8       now, and all the trauma that was leveled on  
9       people involved closely to that disaster, and  
10      also those who responded and to family members  
11      who suffered great losses.

12             It's also appropriate, by the time  
13      we get this to the Assembly and pass it, that  
14      Veterans Day will be upon us. And we're  
15      talking about all of those servicepeople now  
16      coming back from Afghanistan and also from  
17      Iraq with posttraumatic stress disorder from  
18      what they've seen and felt and experienced in  
19      the service of their country.

20             So I'm delighted, thankful. Thanks  
21      to Senator Huntley, who helped me pass this  
22      bill out of committee back in January. And I  
23      appreciate that this bill is on the agenda  
24      tonight in very orderly process.

1                   And I urge all my colleagues, on  
2                   behalf of the people who suffer from this type  
3                   of disease, to vote for this bill.

4                   Thank you very much.

5                   ACTING PRESIDENT BRESLIN:  
6                   Announce the results.

7                   THE SECRETARY:     Ayes, 59.   Nays,  
8                   0.

9                   ACTING PRESIDENT BRESLIN:     The  
10                  bill is passed.

11                  THE SECRETARY:     In relation to  
12                  Calendar Number 393, Senator Stewart-Cousins  
13                  moves to discharge, from the Committee on  
14                  Rules, Assembly Bill Number 1002C and  
15                  substitute it for the identical Senate Bill  
16                  Number 2443B, Third Reading Calendar 393.

17                  ACTING PRESIDENT BRESLIN:  
18                  Substitution ordered.

19                  THE SECRETARY:     Calendar Number  
20                  393, by Member of the Assembly Paulin,  
21                  Assembly Print Number 1002C, an act to amend  
22                  the Election Law.

23                  ACTING PRESIDENT BRESLIN:     Read  
24                  the last section.

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

3 ACTING PRESIDENT BRESLIN: Call  
4 the roll.

5 (The Secretary called the roll.)

6 THE SECRETARY: Ayes, 59.

7 ACTING PRESIDENT BRESLIN: The  
8 bill is passed.

9 THE SECRETARY: Calendar Number  
10 425, by Senator LaValle, Senate Print 3292, an  
11 act to amend the Education Law.

12 ACTING PRESIDENT BRESLIN: Read  
13 the last section.

14 THE SECRETARY: Section 5. This  
15 act shall take effect on the 120th day.

16 ACTING PRESIDENT BRESLIN: Call  
17 the roll.

18 (The Secretary called the roll.)

19 ACTING PRESIDENT BRESLIN:  
20 Announce the results.

21 THE SECRETARY: Ayes, 59.

22 ACTING PRESIDENT BRESLIN: The  
23 bill is passed.

24 THE SECRETARY: Calendar Number



1       480, by Member of the Assembly Cook, Assembly  
2       Print Number 4277, an act to amend the  
3       Economic Development Law.

4                ACTING PRESIDENT BRESLIN:     Read  
5       the last section.

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

8                ACTING PRESIDENT BRESLIN:     Call  
9       the roll.

10               (The Secretary called the roll.)

11               ACTING PRESIDENT BRESLIN:  
12       Announcement.

13               THE SECRETARY:     Ayes, 59.

14               ACTING PRESIDENT BRESLIN:     The  
15       bill is passed.

16               THE SECRETARY:     In relation to  
17       Calendar Number 602, Senator Dilan moves to  
18       discharge, from the Committee on Rules,  
19       Assembly Bill Number 4552A and substitute it  
20       for the identical Senate Bill Number 5643,  
21       Third Reading Calendar 602.

22               ACTING PRESIDENT BRESLIN:  
23       Substitution ordered.

24               THE SECRETARY:     Calendar Number

1       602, by Member of the Assembly Aubry, Assembly  
2       Print Number 4552A, an act to amend the  
3       Vehicle and Traffic Law.

4                ACTING PRESIDENT BRESLIN:     Read  
5       the last section.

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

8                ACTING PRESIDENT BRESLIN:     Call  
9       the roll.

10               (The Secretary called the roll.)

11               ACTING PRESIDENT BRESLIN:  
12       Announce the results.

13               THE SECRETARY:     Ayes, 59.

14               ACTING PRESIDENT BRESLIN:     The  
15       bill is passed.

16               THE SECRETARY:     In relation to  
17       Calendar Number 641, Senator Schneiderman  
18       moves to discharge, from the Committee on  
19       Rules, Assembly Bill Number 7779 and  
20       substitute it for the identical Senate Bill  
21       Number 5224, Third Reading Calendar 641.

22               ACTING PRESIDENT BRESLIN:  
23       Substitution ordered.

24               THE SECRETARY:     Calendar Number

1       641, by Member of the Assembly Rosenthal,  
2       Assembly Print Number 7779, an act to amend  
3       the Executive Law.

4                ACTING PRESIDENT BRESLIN:     Read  
5       the last section.

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

8                ACTING PRESIDENT BRESLIN:     Call  
9       the roll.

10               (The Secretary called the roll.)

11               ACTING PRESIDENT BRESLIN:  
12       Announce the results.

13               THE SECRETARY:     Ayes, 59.

14               ACTING PRESIDENT BRESLIN:     The  
15       bill is passed.

16               THE SECRETARY:     Calendar Number  
17       899, by Member of the Assembly Sweeney,  
18       Assembly Print Number 8642, an act to amend  
19       the Environmental Conservation Law.

20               ACTING PRESIDENT BRESLIN:     Read  
21       the last section.

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

24               SENATOR KLEIN:     Lay it aside for

1 the day.

2 ACTING PRESIDENT BRESLIN: The  
3 bill is laid aside for the day.

4 THE SECRETARY: Calendar Number  
5 953, by Senator Sampson, Senate Print 5968, an  
6 act to amend the Family Court Act.

7 ACTING PRESIDENT BRESLIN: Read  
8 the last section.

9 THE SECRETARY: Section 3. This  
10 act shall take effect January 1, 2010.

11 ACTING PRESIDENT BRESLIN: Call  
12 the roll.

13 (The Secretary called the roll.)

14 THE SECRETARY: Senator Saland,  
15 to explain his vote.

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

18 Mr. President, I certainly  
19 recognize the need in certain of our  
20 communities for additional Family Court  
21 judges. The caseloads are staggering in some  
22 instances. But notwithstanding the efforts of  
23 Dutchess County, which has a population  
24 similar to and caseloads similar to some of

1       the counties that have had the good fortune to  
2       be selected by whatever process they had the  
3       good fortune to be selected, Dutchess was not  
4       included.

5               In the absence of Dutchess being  
6       included in this bill, suffering the very same  
7       problems that the counties -- and in some  
8       cases, worse, in terms of caseload -- that are  
9       getting the benefit of this bill, I can't  
10      support the bill and will be voting in the  
11      negative.

12               ACTING PRESIDENT BRESLIN:

13      Senator Saland will be recorded in the  
14      negative.

15               Senator Griffo, to explain his  
16      vote.

17               SENATOR GRIFFO:     Thank you,  
18      Mr. President.

19               I applaud the sponsor for his  
20      concern and initiative here. My concern only  
21      is that at a time when we see a number of  
22      appointed officials in elective office that  
23      this will also lend to more appointments. And  
24      I had that conversation with Senator Sampson.

1                   The concern here is that we will be  
2                   allowing more appointments as opposed to  
3                   encouraging elections. And this could be  
4                   resolved by pushing the bill back a year so  
5                   that we could allow for the elections.

6                   But I will support the bill.

7                   ACTING PRESIDENT BRESLIN:

8                   Senator Griffo will be recorded in the  
9                   affirmative.

10                  Senator Lanza, to explain his vote.

11                  SENATOR LANZA:       Thank you,  
12                  Mr. President.

13                  Unfortunately, I'm going to vote no  
14                  on this bill. I share the concern raised by  
15                  my colleague Senator Griffo. Because of the  
16                  timing of this legislation, outside of  
17                  New York City the Family Court judges will not  
18                  be elected, as they are supposed to be, but  
19                  they will be appointed by the Governor.

20                  I think, given the fact that it's  
21                  late in the year, to push this off another  
22                  couple of months would allow the people of the  
23                  counties outside of New York City to have the  
24                  opportunity to vote for the judges, which is

1 the way it should be.

2 Within New York City, it provides  
3 for seven new Family Court judges. We  
4 certainly need them in New York City. The  
5 concern I have, though, is that on Staten  
6 Island we need them perhaps more than any  
7 other borough. But I'd be comfortable if in  
8 fact this would provide that a minimum of one  
9 judge be appointed to each borough within New  
10 York City, and then the other two we can work  
11 based on need.

12 And under this legislation there's  
13 no guarantee, for instance, that Staten Island  
14 would have a single new Family Court judge,  
15 which we desperately need. So for those  
16 reasons, again, I agree with my colleagues, we  
17 certainly need to have more Family Court  
18 judges. This calls for 21. I'd support  
19 another 42, if you will.

20 But, you know, I think that it's  
21 important that we make sure that there's  
22 fairness and equity in where the judges sit.  
23 And certainly Staten Island, that I represent,  
24 is in dire need of having a new Family Court

1 judge. So for that reason, I'm going to have  
2 to vote no.

3 ACTING PRESIDENT BRESLIN:  
4 Senator Lanza will be recorded in the  
5 negative.

6 Announce the results.

7 THE SECRETARY: Those recorded in  
8 the negative on Calendar Number 953 are  
9 Senators Flanagan, Lanza, Maziarz, Ranzenhofer  
10 and Saland.

11 Ayes, 54. Nays, 5.

12 ACTING PRESIDENT BRESLIN: The  
13 bill is passed.

14 THE SECRETARY: Calendar Number  
15 961, by Senator Fuschillo, Senate Print 27B,  
16 an act to amend the Vehicle and Traffic Law  
17 and the State Finance Law.

18 ACTING PRESIDENT BRESLIN: Read  
19 the last section.

20 THE SECRETARY: Section 6. This  
21 act shall take effect April 1, 2010.

22 ACTING PRESIDENT BRESLIN: Call  
23 the roll.

24 (The Secretary called the roll.)



1                   ACTING PRESIDENT BRESLIN:

2           Senator Fuschillo, to explain his vote.

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

5                   I want to thank my colleagues for  
6           their support of this important piece of  
7           legislation.   Once the Assembly finally  
8           acts -- and I hope that the actions of this  
9           body in requiring mandatory ignition  
10          interlocking systems for first-time DWI  
11          offenders here in New York State would prompt  
12          the Assembly to do something -- we would  
13          become the 12th state in the nation to do it.

14                  Every single day, every member of  
15          this body can pick up their local newspapers  
16          and read about another DWI arrest, crash, or a  
17          fatality.   It has to stop.   We witnessed  
18          recently the most tragic event on the Taconic  
19          Parkway.   And I must say, you'd think people  
20          would have learned a lesson.

21                  But on -- it's now Friday, but on  
22          Thursday's Newsday it was reported that an  
23          off-duty cab driver was arrested Wednesday  
24          night at 10:39 p.m.   He was found driving the

1 wrong way on the Taconic Parkway in  
2 Westchester, about 10 miles north of where  
3 wrong-way driver Diane Schuler caused a crash  
4 killing herself and seven others. This  
5 gentleman was arrested and was found to be  
6 driving with a blood alcohol level of .20.

7 I'm hopeful that once New York  
8 State has a mandatory ignition interlock  
9 system, along with other anti-DWI laws, that  
10 New York State will be the leader in stopping  
11 this epidemic of irresponsible and careless  
12 individuals that choose to drink and drive and  
13 kill innocent people every single day on our  
14 roadways.

15 Thank you very much for your  
16 support.

17 ACTING PRESIDENT BRESLIN:  
18 Announce the results.

19 THE SECRETARY: Ayes, 59. Nays,  
20 0.

21 ACTING PRESIDENT BRESLIN: The  
22 bill is passed.

23 THE SECRETARY: In relation to  
24 Calendar Number 962, Senator Golden moves to

1 discharge, from the Committee on Rules,  
2 Assembly Bill Number 5643 and substitute it  
3 for the identical Senate Bill Number 2190,  
4 Third Reading Calendar 962.

5 ACTING PRESIDENT BRESLIN:  
6 Substitution ordered.

7 THE SECRETARY: Calendar Number  
8 962, by Member of the Assembly Farrell,  
9 Assembly Print Number 5643, an act to amend  
10 the County Law.

11 ACTING PRESIDENT BRESLIN: Read  
12 the last section.

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

15 ACTING PRESIDENT BRESLIN: Call  
16 the roll.

17 (The Secretary called the roll.)

18 ACTING PRESIDENT BRESLIN:  
19 Announce the results.

20 THE SECRETARY: In relation to  
21 Calendar Number 962, those Senators recorded  
22 in the negative are Senators C. Johnson,  
23 Leibell, Monserrate and Saland.

24 Ayes, 55. Nays, 4.

1                   ACTING PRESIDENT BRESLIN:     The  
2     bill is passed.

3                   THE SECRETARY:     In relation to  
4     Calendar Number 963, Senator Klein moves to  
5     discharge, from the Committee on Housing,  
6     Construction and Community Development,  
7     Assembly Bill Number 2002 and substitute it  
8     for the identical Senate Bill Number 2493,  
9     Third Reading Calendar 963.

10                  ACTING PRESIDENT BRESLIN:  
11     Substitution ordered.

12                  THE SECRETARY:     Calendar Number  
13     963, by Member of the Assembly Silver,  
14     Assembly Print Number 2002, an act to amend  
15     the Administrative Code of the City of  
16     New York.

17                  ACTING PRESIDENT BRESLIN:     Read  
18     the last section.

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

21                  ACTING PRESIDENT BRESLIN:     Call  
22     the roll.

23                         (The Secretary called the roll.)

24                  ACTING PRESIDENT BRESLIN:

1       Announce the results.

2               THE SECRETARY:     Ayes, 57.   Nays,  
3       2.   Senators Ranzenhofer and Saland recorded  
4       in the negative.

5               ACTING PRESIDENT BRESLIN:     The  
6       bill is passed.

7               THE SECRETARY:     Calendar Number  
8       964, by Senator Diaz, Senate Print 2550A, an  
9       act to amend the Tax Law.

10              SENATOR LIBOUS:     Lay it aside.

11              ACTING PRESIDENT BRESLIN:     The  
12       bill is laid aside.

13              THE SECRETARY:     In relation to  
14       Calendar Number 965, Senator Monserrate moves  
15       to discharge, from the Committee on Codes,  
16       Assembly Bill Number 6633A and substitute it  
17       for the identical Senate Bill Number 3141A,  
18       Third Reading Calendar 965.

19              ACTING PRESIDENT BRESLIN:  
20       Substitution ordered.

21              THE SECRETARY:     Calendar Number  
22       965, by Member of the Assembly Pheffer,  
23       Assembly Print Number 6633A, an act to amend  
24       the General Business Law.

1                   ACTING PRESIDENT BRESLIN:     Read  
2     the last section.

3                   THE SECRETARY:     Section 6.   This  
4     act shall take effect on the same date and in  
5     the same manner as Chapter 553 of the Laws of  
6     2008.

7                   ACTING PRESIDENT BRESLIN:     Call  
8     the roll.

9                   (The Secretary called the roll.)

10                  ACTING PRESIDENT BRESLIN:  
11     Announce the results.

12                  THE SECRETARY:     Ayes, 59.

13                  ACTING PRESIDENT BRESLIN:     The  
14     bill is passed.

15                  THE SECRETARY:     In relation to  
16     Calendar Number 966, Senator Duane moves to  
17     discharge, from the Committee on Rules,  
18     Assembly Bill Number 8397A and substitute it  
19     for the identical Senate Bill Number 3257A,  
20     Third Reading Calendar 966.

21                  ACTING PRESIDENT BRESLIN:  
22     Substitution ordered.

23                  THE SECRETARY:     Calendar Number  
24     966, by Member of the Assembly Gottfried,

1 Assembly Print Number 8397A, an act to amend  
2 the Public Health Law and the Social Services  
3 Law.

4 ACTING PRESIDENT BRESLIN: Read  
5 the last section.

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

8 ACTING PRESIDENT BRESLIN: Call  
9 the roll.

10 (The Secretary called the roll.)

11 ACTING PRESIDENT BRESLIN:  
12 Announce the results.

13 THE SECRETARY: Ayes, 59.

14 ACTING PRESIDENT BRESLIN: The  
15 bill is passed.

16 THE SECRETARY: Calendar Number  
17 968, by Senator Griffo, Senate Print 4375, an  
18 act to amend the Uniform Justice Court Act.

19 ACTING PRESIDENT BRESLIN: Read  
20 the last section.

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

23 ACTING PRESIDENT BRESLIN: Call  
24 the roll.

1 (The Secretary called the roll.)

2 ACTING PRESIDENT BRESLIN:

3 Announce the results.

4 THE SECRETARY: Ayes, 58. Nays,  
5 1. Senator Maziarz recorded in the negative.

6 ACTING PRESIDENT BRESLIN: The  
7 bill is passed.

8 THE SECRETARY: In relation to  
9 Calendar Number 969, Senator Oppenheimer moves  
10 to discharge, from the Committee on Rules,  
11 Assembly Bill Number 999B and substitute it  
12 for the identical Senate Bill Number 4962B,  
13 Third Reading Calendar 969.

14 ACTING PRESIDENT BRESLIN:  
15 Substitution ordered.

16 THE SECRETARY: Calendar Number  
17 969, by Member of the Assembly Paulin,  
18 Assembly Print Number 999B, an act to amend  
19 the Agriculture and Markets Law.

20 ACTING PRESIDENT BRESLIN: Read  
21 the last section.

22 THE SECRETARY: Section 7. This  
23 act shall take effect on the 365th day.

24 ACTING PRESIDENT BRESLIN: Call



1 the roll.

2 (The Secretary called the roll.)

3 THE SECRETARY: Ayes, 59.

4 ACTING PRESIDENT BRESLIN: The  
5 bill is passed.

6 THE SECRETARY: In relation to  
7 Calendar Number 970, Senator Foley moves to  
8 discharge, from the Committee on Rules,  
9 Assembly Bill Number 2733A and substitute it  
10 for the identical Senate Bill Number 4982,  
11 Third Reading Calendar 970.

12 ACTING PRESIDENT BRESLIN:  
13 Substitution ordered.

14 THE SECRETARY: Calendar Number  
15 970, by Member of the Assembly Sweeney,  
16 Assembly Print Number 2733A, an act to amend  
17 the Tax Law and the State Finance Law.

18 ACTING PRESIDENT BRESLIN: Read  
19 the last section.

20 THE SECRETARY: Section 4. This  
21 act shall take effect on the 180th day.

22 ACTING PRESIDENT BRESLIN: Call  
23 the roll.

24 (The Secretary called the roll.)

1                   ACTING PRESIDENT BRESLIN:  
2     Announce the results.

3                   THE SECRETARY:     Ayes, 59.

4                   ACTING PRESIDENT BRESLIN:     The  
5     bill is passed.

6                   THE SECRETARY:     Calendar Number  
7     972, by Senator Smith, Senate Print 5050, an  
8     act to amend the Education Law.

9                   ACTING PRESIDENT BRESLIN:     Read  
10    the last section.

11                  THE SECRETARY:     Section 3. This  
12    act shall take effect on the 90th day.

13                  ACTING PRESIDENT BRESLIN:     Call  
14    the roll.

15                  (The Secretary called the roll.)

16                  ACTING PRESIDENT BRESLIN:  
17    Announce the results.

18                  THE SECRETARY:     In relation to  
19    Calendar Number 972, those recorded in the  
20    negative are Senators Hassell-Thompson,  
21    Monserrate, Padavan and Perkins.

22                  Ayes, 55. Nays, 4.

23                  ACTING PRESIDENT BRESLIN:     The  
24    bill is passed.

1                   THE SECRETARY:     In relation to  
2     Calendar Number 973, Senator Stachowski moves  
3     to discharge, from the Committee on Rules,  
4     Assembly Bill Number 7229 and substitute it  
5     for the identical Senate Bill Number 5419,  
6     Third Reading Calendar 973.

7                   ACTING PRESIDENT BRESLIN:  
8     Substitution ordered.

9                   THE SECRETARY:     Calendar Number  
10    973, by Member of the Assembly Schimminger,  
11    Assembly Print Number 7229, an act to amend  
12    the Economic Development Law.

13                  ACTING PRESIDENT BRESLIN:     Read  
14    the last section.

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

17                  ACTING PRESIDENT BRESLIN:     Call  
18    the roll.

19                  (The Secretary called the roll.)

20                  ACTING PRESIDENT BRESLIN:  
21    Announce the results.

22                  THE SECRETARY:     Ayes, 59.

23                  ACTING PRESIDENT BRESLIN:     The  
24    bill is passed.

1                   THE SECRETARY:     In relation to  
2     Calendar Number 974, Senator Huntley moves to  
3     discharge, from the Committee on Rules,  
4     Assembly Bill Number 8461C and substitute it  
5     for the identical Senate Bill Number 5802A,  
6     Third Reading Calendar 974.

7                   ACTING PRESIDENT BRESLIN:  
8     Substitution ordered.

9                   THE SECRETARY:     Calendar Number  
10    974, by Member of the Assembly Lancman,  
11    Assembly Print Number 8461C, an act to amend  
12    the Public Health Law.

13                  ACTING PRESIDENT BRESLIN:     Read  
14    the last section.

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

17                  ACTING PRESIDENT BRESLIN:     Call  
18    the roll.

19                  (The Secretary called the roll.)

20                  ACTING PRESIDENT BRESLIN:  
21    Announce the results.

22                  THE SECRETARY:     Ayes, 59.

23                  ACTING PRESIDENT BRESLIN:     The  
24    bill is passed.

1                   THE SECRETARY:     In relation to  
2     Calendar Number 975, Senator Nozzolio moves to  
3     discharge, from the Committee on Rules,  
4     Assembly Bill Number 8971 and substitute it  
5     for the identical Senate Bill Number 5908A,  
6     Third Reading Calendar 975.

7                   ACTING PRESIDENT BRESLIN:  
8     Substitution ordered.

9                   THE SECRETARY:     Calendar Number  
10    975, by Member of the Assembly Lifton,  
11    Assembly Print Number 8971, an act authorizing  
12    the Commissioner of General Services.

13                  ACTING PRESIDENT BRESLIN:     Read  
14    the last section.

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

17                  ACTING PRESIDENT BRESLIN:     Call  
18    the roll.

19                  (The Secretary called the roll.)

20                  ACTING PRESIDENT BRESLIN:  
21    Announce the results.

22                  THE SECRETARY:     Ayes, 59.

23                  ACTING PRESIDENT BRESLIN:     The  
24    bill is passed.

1                   THE SECRETARY:     In relation to  
2     Calendar Number 977, Senator Hassell-Thompson  
3     moves to discharge, from the Committee on  
4     Rules, Assembly Bill Number 4809A and  
5     substitute it for the identical Senate Bill  
6     Number 5993, Third Reading Calendar 977.

7                   ACTING PRESIDENT BRESLIN:  
8     Substitution ordered.

9                   THE SECRETARY:     Calendar Number  
10    977, by Member of the Assembly Weinstein,  
11    Assembly Print Number 4809A, an act to amend  
12    the Correction Law.

13                  ACTING PRESIDENT BRESLIN:     Read  
14    the last section.

15                  THE SECRETARY:     Section 2. This  
16    act shall take effect on the 60th day.

17                  ACTING PRESIDENT BRESLIN:     Call  
18    the roll.

19                  (The Secretary called the roll.)

20                  ACTING PRESIDENT BRESLIN:  
21    Announce the results.

22                  THE SECRETARY:     Ayes, 59.

23                  ACTING PRESIDENT BRESLIN:     The  
24    bill is passed.

1                   THE SECRETARY:     In relation to  
2     Calendar Number 978, Senator Saland moves to  
3     discharge, from the Committee on Rules,  
4     Assembly Bill Number 8781 and substitute it  
5     for the identical Senate Bill Number 6071,  
6     Third Reading Calendar 978.

7                   ACTING PRESIDENT BRESLIN:  
8     Substitution ordered.

9                   THE SECRETARY:     Calendar Number  
10    978, by member of the Assembly Paulin,  
11    Assembly Print Number 8781, an act to amend  
12    the Penal Law.

13                  ACTING PRESIDENT BRESLIN:     Read  
14    the last section.

15                  THE SECRETARY:     Section 7. This  
16    act shall take effect on the 90th day.

17                  ACTING PRESIDENT BRESLIN:     Call  
18    the roll.

19                  (The Secretary called the roll.)

20                  ACTING PRESIDENT BRESLIN:  
21    Announce the results.

22                  THE SECRETARY:     Ayes, 58. Nays,  
23    1. Senator Montgomery recorded in the  
24    negative.

1                   ACTING PRESIDENT BRESLIN:     The  
2     bill is passed.

3                   THE SECRETARY:     In relation to  
4     Calendar Number 979, Senator Diaz moves to  
5     discharge, from the Committee on Rules,  
6     Assembly Bill Number 5080 and substitute it  
7     for the identical Senate Bill Number 6091,  
8     Third Reading Calendar 979.

9                   ACTING PRESIDENT BRESLIN:  
10    Substitution ordered.

11                  THE SECRETARY:     Calendar Number  
12    979, by Member of the Assembly Lentol,  
13    Assembly Print Number 5080, an act to amend  
14    the Penal Law.

15                  ACTING PRESIDENT BRESLIN:     Read  
16    the last section.

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

19                  ACTING PRESIDENT BRESLIN:     Call  
20    the roll.

21                  (The Secretary called the roll.)

22                  ACTING PRESIDENT BRESLIN:  
23    Senator DeFrancisco, to explain his vote.

24                  SENATOR DeFRANCISCO:     I'm going



1 to vote in favor of the bill because it  
2 generally is a good idea.

3 The problem is with the language.  
4 It talks about with intent to cause the death  
5 of an individual, he causes the death and the  
6 defendant acted in an especially cruel and  
7 wanton manner. I'm not sure that a court is  
8 going to be determining what an especially  
9 cruel really means, and I think it's going to  
10 end up with some reversals of convictions  
11 under this. Especially when, if you go on, if  
12 you just say with intent to inflict and  
13 inflicting torture, because torture is defined  
14 as intention and depraved infliction of  
15 extreme physical pain.

16 So if we can remove, eventually,  
17 before this bill is signed, "especially  
18 cruel," I think this would be enforceable and  
19 not result in a reversal based upon the vague  
20 language.

21 I'll vote yes, hoping that that  
22 correction will be made.

23 ACTING PRESIDENT BRESLIN:  
24 Senator DeFrancisco will be recorded in the

1 affirmative.

2 Senator Diaz, to explain his vote.

3 SENATOR DIAZ: Thank you,  
4 Mr. Chairman.

5 I appreciate Senator DeFrancisco  
6 voting in favor of the bill. This is a good  
7 bill. I understand your concern. This is in  
8 regard -- it's called the Nixzmary Brown Bill.  
9 This is a girl that was killed in Brooklyn,  
10 abused. But I understand Senator  
11 DeFrancisco's concern.

12 But this is such a good bill that  
13 even Senator Schneiderman is voting in favor  
14 of it.

15 ACTING PRESIDENT BRESLIN: So  
16 noted.

17 Announce the results.

18 THE SECRETARY: Ayes, 58. Nays,  
19 1. Senator Duane recorded in the negative.

20 ACTING PRESIDENT BRESLIN: The  
21 bill is passed.

22 THE SECRETARY: Calendar Number  
23 980, by Senator Leibell, Senate Print 6108A,  
24 an act in relation to the alienation of

1       certain parklands.

2                ACTING PRESIDENT BRESLIN:     There  
3       is a home-rule message at the desk.

4                Read the last section.

5                THE SECRETARY:     Section 6.   This  
6       act shall take effect immediately.

7                ACTING PRESIDENT BRESLIN:     Call  
8       the roll.

9                (The Secretary called the roll.)

10               ACTING PRESIDENT BRESLIN:  
11       Announce the results.

12               THE SECRETARY:     Ayes, 59.

13               ACTING PRESIDENT BRESLIN:     The  
14       bill is passed.

15               THE SECRETARY:     In relation to  
16       Calendar Number 981, Senator Parker moves to  
17       discharge, from the Committee on Rules,  
18       Assembly Bill Number --

19               SENATOR LIBOUS:     Lay it aside.

20               ACTING PRESIDENT BRESLIN:     The  
21       bill is laid aside.

22               THE SECRETARY:     Calendar Number  
23       982, by Senator Klein, Senate Print 6146, an  
24       act to amend the Social Services Law and the

1 Elder Law.

2 ACTING PRESIDENT BRESLIN: Read  
3 the last section.

4 THE SECRETARY: Section 4. This  
5 act shall take effect September 26, 2009.

6 ACTING PRESIDENT BRESLIN: Call  
7 the roll.

8 (The Secretary called the roll.)

9 ACTING PRESIDENT BRESLIN:  
10 Senator Liz Krueger, to explain her vote.

11 SENATOR LIZ KRUEGER: Thank you,  
12 Mr. Chair.

13 Just briefly, I'll be voting no on  
14 this bill, not necessarily because I am in  
15 opposition to what it is attempting to do but  
16 because of my concern that this is actually  
17 more of a budget bill and could have a  
18 significant impact on Medicaid costs for  
19 prescription drugs as a permanent and ongoing  
20 model.

21 And so I think that this bill  
22 should have gone through the process of being  
23 a Finance bill and being reviewed in the  
24 context of budgetary costs and healthcare

1 expenses.

2 So I'll be voting no. Thank you.

3 ACTING PRESIDENT BRESLIN:

4 Senator Liz Krueger will be recorded in the  
5 negative.

6 Announce the results.

7 THE SECRETARY: Ayes, 57. Nays,  
8 2. Senators L. Krueger and O. Johnson  
9 recorded in the negative.

10 ACTING PRESIDENT BRESLIN: The  
11 bill is passed.

12 THE SECRETARY: Calendar Number  
13 983, by Senator Espada, Senate Print 6150, an  
14 act to amend the Public Authorities Law.

15 ACTING PRESIDENT BRESLIN: Read  
16 the last section.

17 THE SECRETARY: Section 4. This  
18 act shall take effect on the same date as a  
19 chapter of the laws of 2009.

20 ACTING PRESIDENT BRESLIN: Call  
21 the roll.

22 (The Secretary called the roll.)

23 ACTING PRESIDENT BRESLIN:

24 Announce the results.

1 THE SECRETARY: Ayes, 59.

2 ACTING PRESIDENT BRESLIN: The  
3 bill is passed.

4 Senator Klein, that completes the  
5 reading of the noncontroversial calendar.

6 SENATOR KLEIN: Mr. President, at  
7 this time can we take up the controversial  
8 calendar.

9 ACTING PRESIDENT BRESLIN: The  
10 Secretary will please ring the bells.

11 Members are asked to come for the  
12 chamber for the controversial reading of bills  
13 on the supplemental calendar.

14 The Secretary will read.

15 THE SECRETARY: Calendar Number  
16 964, by Senator Diaz, Senate Print 2550A, an  
17 act to amend the Tax Law.

18 SENATOR LIBOUS: Read the last  
19 section.

20 ACTING PRESIDENT BRESLIN:  
21 Senator Diaz, to explain his vote.

22 SENATOR DIAZ: Mr. Chairman and  
23 ladies and gentlemen, this is a bill that will  
24 help the State of New York. We all know that

1 the State of New York is having a very  
2 difficult fiscal crisis.

3 This bill, Mr. Chairman and ladies  
4 and gentlemen, this is a bill that will  
5 produce from \$500 million to \$800 million for  
6 the State of New York. This bill is simply  
7 asking that we, when we purchase with a credit  
8 card -- Mr. Chairman, when we purchase with a  
9 credit card, the credit card company takes the  
10 money and the taxes, the taxes that are owed  
11 to New York State, what the credit card  
12 companies do, they send the taxes back to the  
13 merchants. The merchants are supposed to send  
14 the tax to the state. That is state money.  
15 That is money owed to the state.

16 What happens, Mr. Chairman and  
17 ladies and gentlemen, is that some people  
18 don't send the taxes to the state. The state  
19 is losing money. So all of you in the other  
20 side, my good friends on the Republican side,  
21 this is a Democratic side telling you help the  
22 State of New York. You come here, you brag  
23 about -- and you know what is going to happen  
24 to us, the ones that vote in favor of this

1 bill?

2 I will tell you what is going to  
3 happen to us, the ones that vote in favor of  
4 this bill. We will force some people to let  
5 the sacred cow go and we will lose  
6 contributions from the lobbyists of the credit  
7 card companies. Yeah, we will lose that  
8 money. But the State of New York will gain  
9 \$500 million.

10 We are not asking you to vote to  
11 spend money. I'm not asking you to vote to  
12 spend money. You brag so much about helping  
13 the state. So here, here is an opportunity  
14 for you guys to help the state. Between  
15 \$500 million to \$800 million have been lost  
16 because merchants, most of the merchants do  
17 not report exactly what they are supposed to  
18 send to the state.

19 So what we're asking is come on,  
20 let's send the money. Instead of sending the  
21 taxes back to the merchants so the merchants  
22 could send it to the state, send the monies  
23 directly to the state. Simple. Simple.

24 Why don't you want to help the



1 State of New York? Why don't you want to help  
2 the State of New York? We know, we know that  
3 we need money. In two months, maybe in a few  
4 weeks, the Governor is going to call us back  
5 here and the Governor is going to call us back  
6 to cut money, \$2 billion. And I'm going to  
7 see all of you, oh, that we got to protect --  
8 here is an opportunity to show that we really  
9 care.

10 Five hundred million dollars,  
11 \$500 million -- you want to let go  
12 \$500 million so some people are putting the  
13 money in their pocket? Because you want to  
14 please who? Come on, you know better than  
15 this.

16 This black guy, this Puerto Rican  
17 black guy with kinky hair and broken English,  
18 I'm telling you, I'm offering you the  
19 opportunity to get \$500 million for the State  
20 of New York. Right now. Right now, at this  
21 moment, when we are facing a very difficult  
22 crisis, fiscal crisis in the State of  
23 New York. Right now, right now, I'm telling  
24 here is opportunity. Come on.

1                   And I am very glad that my leader,  
2           John Sampson, gave me the opportunity to put  
3           this in because for five years, for five years  
4           I have been trying to put this on the floor.  
5           And this time, at this time that we all are  
6           the Democratic majority, Sampson is bringing  
7           the bill to the floor.

8                   So I'm asking all of you guys, come  
9           on -- Golden, come on.   Golden, Senator  
10          Golden, you supposed to be my friend.   And we  
11          friends are supposed to be for the State of  
12          New York, the City of New York.   Here's  
13          \$500 million.

14                   So Mr. Chairman and ladies and  
15          gentlemen, I'm offering the opportunity to my  
16          colleagues tonight, at a quarter to 1:00 in  
17          the morning, I'm offering the opportunity for  
18          them to vote on a simple bill.   Simple bill.  
19          Don't send the taxes that are owed to the  
20          State of New York back to the merchants.  
21          Forget about it.   Send the taxes straight to  
22          the coffers of the state.   The state will  
23          benefit, within \$500 million to \$800 million.  
24          That's what this bill is asking for.

1                   So who doesn't want to vote for  
2 something like this? Who doesn't want to vote  
3 for something like this? Five hundred million  
4 dollars to help the State of New York. Come  
5 on, Republicans. Come on, join us Democrats.  
6 Let's help the State of New York. I challenge  
7 you to show that you really care about the  
8 State of New York.

9                   Thank you, Mr. Chairman.

10                  SENATOR LIBOUS:     Read the last  
11 section.

12                  ACTING PRESIDENT BRESLIN:     Are  
13 there any other Senators wishing to be heard  
14 on the bill?

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

17                  Read the last section.

18                  THE SECRETARY:     Section 2. This  
19 act shall take effect on the first of October  
20 next succeeding.

21                  ACTING PRESIDENT BRESLIN:     Call  
22 the roll.

23                  (The Secretary called the roll.)

24                  ACTING PRESIDENT BRESLIN:

1       Announce the results.

2                   THE SECRETARY:     In relation to  
3       Calendar Number 964, those recorded in the  
4       negative are Senators Alesi, DeFrancisco,  
5       Farley, Flanagan, Fuschillo, Golden, Griffo,  
6       O. Johnson, Lanza, Larkin, Leibell, Libous,  
7       Little, Marcellino, Maziarz, McDonald,  
8       Morahan, Nozzolio, Padavan, Ranzenhofer,  
9       Robach, Saland, Seward, Skelos, Volker, Winner  
10      and Young.

11                   Absent from voting:   Senators  
12      Hannon and LaValle.

13                   Ayes, 28.   Nays, 27.

14                   ACTING PRESIDENT BRESLIN:     The  
15      bill fails.

16                   SENATOR DIAZ:     Mr. President.

17                   ACTING PRESIDENT BRESLIN:  
18      Senator Diaz.

19                   SENATOR DIAZ:     I move to  
20      reconsider the vote by which the bill was  
21      lost.

22                   ACTING PRESIDENT BRESLIN:     The  
23      Secretary will call the roll on  
24      reconsideration.

1 (The Secretary called the roll.)

2 THE SECRETARY: Ayes, 55.

3 ACTING PRESIDENT BRESLIN: The  
4 bill is restored to the Third Reading  
5 Calendar.

6 SENATOR DIAZ: Mr. President.

7 ACTING PRESIDENT BRESLIN: Yes,  
8 Senator Diaz.

9 SENATOR DIAZ: I wish to lay this  
10 bill on the table.

11 ACTING PRESIDENT BRESLIN: So  
12 ordered.

13 SENATOR DIAZ: Thank you.

14 ACTING PRESIDENT BRESLIN: The  
15 Secretary will continue to read.

16 THE SECRETARY: In relation to  
17 Calendar Number 981, Senator Parker moves to  
18 discharge, from the Committee on Rules,  
19 Assembly Bill Number 8924 and substitute it  
20 for the identical Senate Bill Number 6112,  
21 Third Reading Calendar 981.

22 ACTING PRESIDENT BRESLIN:  
23 Substitution ordered.

24 THE SECRETARY: Calendar Number

1       981, by Member of the Assembly Hoyt, Assembly  
2       Print Number 8924, an act to amend the Penal  
3       Law.

4               SENATOR GOLDEN:       Explanation.

5               ACTING PRESIDENT BRESLIN:  
6       Explanation ordered, Senator Parker.

7               SENATOR PARKER:       Yes,  
8       Mr. President.   Explanation of the bill.

9               Senate Bill 6112 is the aggravated  
10       interference with the healthcare bill, and it  
11       establishes really New York as a leader in  
12       combatting violence and harassment against the  
13       reproductive healthcare community.

14              Ladies and gentlemen of the Senate,  
15       we should not see this as a bill about  
16       reproductive rights. This is simply a  
17       criminal justice bill. It is a civil  
18       protection bill for our communities and  
19       particularly protection for doctors, nurses,  
20       volunteers, and people seeking medical  
21       treatment.

22              Under this legislation, causing  
23       physical injury to someone who is obtaining,  
24       providing or assisting someone to obtain or

1 provide reproductive health services would  
2 create a new Class E felony. Under existing  
3 law, it is only a misdemeanor. And causing  
4 serious physical injury would be a new Class C  
5 felony, which is currently a Class D felony  
6 under existing law.

7 These enhanced penalties would  
8 apply to injuries caused to a reproductive  
9 healthcare provider, an employee, a volunteer,  
10 or a patient seeking such medical care.

11 SENATOR GOLDEN: Mr. President.

12 ACTING PRESIDENT BRESLIN:

13 Senator Golden, on the bill.

14 SENATOR GOLDEN: Yes. For all  
15 the families that perished on 9/11, today  
16 being that memorial, many of us having to get  
17 back to our communities tomorrow morning and  
18 to go through some of these memorial services,  
19 on this bill, this is just another special  
20 class that we are setting up and raising the  
21 bar.

22 I mean, if we set up a political  
23 office, our politicians, if somebody wanted to  
24 come into our office, are we going to someday

1       create and increase the penalty if somebody  
2       were to fall or be injured with some type of  
3       intent and cause that individual that has  
4       physical injury to receive a felony? I don't  
5       think so.

6               If we have a construction site with  
7       construction workers and we have community  
8       people outside of that facility trying to get  
9       more jobs at that location, are we going to --  
10      if someone is injured, one of those  
11      construction workers getting into that site,  
12      are we at some point going to raise the bar on  
13      those community people trying to get jobs at  
14      that site someday and say, you know what, hey,  
15      they committed an assault, they should be  
16      prosecuted with a felony?

17             I think it's wrong that we have  
18      these special classes. We should not have  
19      this, and we should not be raising the bar for  
20      someone that's trying to get into a healthcare  
21      facility, trips, hurts themselves because  
22      they're trying to get past somebody, and there  
23      is somehow intent is placed in there and that  
24      individual receives just a physical injury and



1       now is prosecuted for a felony. This is  
2       wrong.

3                   And I vote no.

4                   ACTING PRESIDENT BRESLIN:  
5       Senator Parker, on the bill.

6                   SENATOR PARKER:     Thank you,  
7       Mr. President, on the bill.

8                   It's kind of appropriate that we  
9       went past midnight so that my bill could be  
10      discussed during the eighth anniversary of  
11      9/11, the most horrific terrorist attack on  
12      American soil and where we all, I know, are  
13      going to be spending some time at some  
14      memorial services and commemorating the day,  
15      some of us with service and some of us in  
16      prayer.

17                   We should remember that this day  
18      and this memory about 9/11 wasn't about the  
19      attack on the 3,000 people in the World Trade  
20      Center that day, but really an attack on our  
21      way of life, on our values, on what we as  
22      American citizens hold dear.

23                   What distinguishes the American  
24      democratic process and the American experiment

1 is people's right to express themselves and to  
2 live a life under a set of values that are  
3 uniquely their own -- as long as those values  
4 and those activities don't interfere with  
5 others.

6 What we were concerned with in the  
7 development of this bill was the fact that  
8 there are in fact people who are violating  
9 what we believe we should be doing as  
10 Americans. That is, that in our day-to-day  
11 lives there are things that we don't agree  
12 with. And we not only have the right to  
13 protest and to, you know, dissuade people from  
14 doing that, that it is almost really your  
15 American responsibility to be engaged in the  
16 political process of stopping those things and  
17 those activities.

18 In fact, just this afternoon for  
19 several hours we had a number of protesters in  
20 the hall right in front of the Majority  
21 Conference Room protesting around housing  
22 issues and, you know, demanding that we bring  
23 some bills around housing to the floor. And  
24 although I think that, you know, it was loud

1 and to some degree it was disruptive to the  
2 workings of the Senate for a few hours, I  
3 don't think that not one of us really thought  
4 that we were going to be hurt by the people  
5 who were here to protest.

6 Doctors who have decided that they  
7 are going to give their lives in service to  
8 other people, helping other people, nurses,  
9 volunteers, who said we're going to help  
10 people as a profession and during our spare  
11 time, did so with the expectation that at  
12 minimum they would be protected by the  
13 American legal system and our criminal justice  
14 and law enforcement personnel. That hasn't  
15 happened.

16 This bill unfortunately, Senator  
17 Golden, doesn't come out of the necessity to  
18 deal with injuries of people falling down or  
19 simply tripping coming into a health care  
20 facility. With the recent murders of  
21 Dr. George Tiller in Kansas, a total of four  
22 doctors and eight people in all have been  
23 killed in reproductive health-related attacks  
24 in the United States, including Dr. Barnett

1 Slepian, of Buffalo, in 1998.

2 That's a lot of people to be  
3 killed. And these were not accidents. These  
4 weren't people who were walking under a  
5 scaffolding and something fell on them. These  
6 were people who were murdered. And  
7 Dr. Tiller's murder is not an isolated  
8 incident. Let me read you some of the  
9 statistics.

10 Another doctor who died, John  
11 Britton, and a clinic escort were both killed  
12 in 1994, and Dr. Gunn was killed in 1993  
13 during a protest. Robert Sanderson, a  
14 security guard at a clinic, was also killed in  
15 1998. Two receptionists at a clinic were  
16 killed in 1994. And the list of casualties  
17 goes on.

18 A total list of the incidents  
19 targeting practitioners at health clinics is  
20 more than four pages long, if I was going to  
21 read the whole thing. And according to the  
22 National Abortion Federation, since 1977 in  
23 the United States and Canada, property crimes  
24 committed against abortion providers have

1 included 41 bombings, 173 arsons, 91 attempted  
2 bombings or arsons, 619 bomb threats, 1,630  
3 incidents of trespassing, 1,264 incidents of  
4 vandalism, and 100 attacks with what's called  
5 stink bombs, butyric acid.

6 In that same 32-year period, there  
7 have been 17 attempted murders, 383 death  
8 threats, 153 incidents of assault and battery,  
9 and three kidnappings committed against  
10 abortion providers.

11 This is not simple accidents. This  
12 legislation is not simply about, you know,  
13 somebody tripping and falling. We need to  
14 protect people and have a democracy that's  
15 rooted in nonviolent participation in this  
16 society.

17 I have a letter here from Lynn  
18 Slepian, who is the wife of Dr. Barnett  
19 Slepian. It's dated September 8, 2009, and it  
20 says:

21 "Dear Members of the New York  
22 State: Eleven years ago, my husband and  
23 father of our four sons, Bart Slepian, a  
24 doctor and reproductive healthcare provider in

1 Buffalo, was shot and killed in our home by an  
2 anti-abortion radical.

3 "After my husband's murder, I tried  
4 to envision the positive side of the tragedy,  
5 hoping that his death would be remembered as  
6 the end of this form of violence and  
7 devastation. However, I realized that the  
8 issue is far from resolved when on Sunday,  
9 May 31, Dr. Tiller, an abortion provider in  
10 Wichita, Kansas, was murdered as he attended  
11 church service.

12 "In order to bring an end to  
13 tragedies such as my husband's and Dr.  
14 Tiller's murders, we as citizens of New York  
15 State need to take action. When Assemblyman  
16 Hoyt came to me with his passion and vigor for  
17 the Protection of Reproductive Healthcare Act,  
18 I saw it as a perfect opportunity to seek just  
19 remedies for those who resort to violence.

20 "I can only hope that this  
21 legislation will help to deter more violent  
22 acts and threats from endangering the rights  
23 and safety of patients, staff and doctors.

24 "By heightening the legal penalties

1       for those who commit such destructive violent  
2       acts, I hope this bill will send a strong  
3       message that New York will not tolerate these  
4       acts of terrorism. Violent offenders need to  
5       know that they will receive harsh penalties if  
6       they target the reproductive health clinic in  
7       New York State.

8                "Please support the Protection of  
9       Reproductive Healthcare Act. Its passage is a  
10      step towards one of the goals that my husband  
11      strived for while he was alive, the assurance  
12      of safety and security for all reproductive  
13      healthcare facilities.

14               "Sincerely, Lynn Slepian."

15               Enough said. I'm hoping my  
16      colleagues will join me in voting in the  
17      affirmative on this bill, Mr. President.

18               ACTING PRESIDENT BRESLIN:     Thank  
19      you, Senator Parker.

20               Senator Liz Krueger, on the bill.

21               SENATOR LIZ KRUEGER:     I have to  
22      say I was fairly shocked by my colleague's  
23      analogy of slipping and falling issues to this  
24      bill, because this bill is about recognizing

1       that these activities are terrorist  
2       activities.

3               And as Senator Parker so eloquently  
4       spoke of in his comments, we are talking about  
5       crimes against healthcare providers -- people  
6       being threatened with death, people being  
7       killed for providing healthcare services,  
8       legally recognized healthcare services.

9               And this body, in the eight years  
10      almost that I have been here, has passed any  
11      number of bills increasing specific penalties  
12      for specific types of crimes for people in  
13      different professions. I have seen us  
14      increase felony penalties for police officers,  
15      for correction officers, for transportation  
16      workers, for civil service employees in any  
17      number of different positions.

18              The concept that we wouldn't  
19      recognize the need to protect medical  
20      professionals from risking harm and death or  
21      their patients from risking harm and death  
22      from people who will choose to do violence to  
23      them -- again, as Senator Parker said, enough  
24      said. Enough said.



1                   ACTING PRESIDENT BRESLIN:     Thank  
2     you, Senator Krueger.

3                   Senator Volker, on the bill.

4                   SENATOR VOLKER:     Mr. President, I  
5     just want to say I passed a bill to protect  
6     healthcare people at healthcare clinics. And  
7     as far as I can see, this bill does nothing to  
8     really improve the bill that we passed I think  
9     six or seven years ago, which I think myself  
10    and Assemblywoman -- I can't even remember who  
11    it was.

12                  As I told Sam Hoyt tonight on the  
13    floor of the Senate here, when I spoke to him,  
14    I said, "If you could just change a couple of  
15    sentences here and tighten this up a little  
16    bit so that an accidental injury or whatever  
17    couldn't be considered a felony, it would be a  
18    good bill."

19                  But this bill does not cover the  
20    true meaning of what an attack or assault --  
21    and talking about murders, I mean you want to  
22    talk about a murder? I'll tell you, pass the  
23    death penalty and that will help in abortion  
24    clinics, I'll tell you that. Because I'm one

1 of those people who considers those attacks  
2 absolutely deplorable.

3 And I'll tell you, I don't really  
4 believe that the bill the way it's drafted  
5 does the job. And I think a few changes in  
6 this bill could do it. And as I said to  
7 Assemblyman Hoyt tonight, and I will say to  
8 you later, I just don't think this bill does  
9 the job.

10 ACTING PRESIDENT BRESLIN: Thank  
11 you, Senator Volker.

12 Are there any other Senators  
13 wishing to be heard on this bill?

14 Senator Parker, to close.

15 SENATOR PARKER: Just a moment of  
16 clarification.

17 In the bill -- and I'll read it  
18 from the bill. Physical injury is defined in  
19 law as the impairment of a person's physical  
20 condition or substantial pain. Physical  
21 injury which creates a substantial risk of  
22 death or causes death or serious and  
23 protracted disfigurement, protracted  
24 impairment of health, or protracted loss or

1       impairment of any function of a bodily organ.

2       That's the definition of physical injury.

3               This is not about slips and falls.  
4       This is not about accidents. This is about  
5       terrorism, and this is about people who are  
6       actively going out and causing harm to  
7       doctors, to patients, to people who work in  
8       facilities, like receptionists and security  
9       guards.

10              I'm surprised, as much as I've  
11       heard my colleagues from upstate talk about  
12       the lack of doctors in upstate New York, that  
13       you would not do everything possible to  
14       provide a safe working environment for your  
15       constituents -- because these people live in  
16       your constituency -- and create a safe working  
17       environment for people who want to practice  
18       medicine in your particular jurisdictions.

19              And so I just want people to be  
20       clear. If you're not going to vote for it,  
21       don't vote for it because, you know, you have  
22       a real problem, not because you misunderstand  
23       that this is about accidents, because this  
24       bill is not about accidents.

1 Thank you, Mr. President.

2 ACTING PRESIDENT BRESLIN: Debate  
3 on the bill is closed.

4 The Secretary will ring the bells.

5 Read the last section.

6 THE SECRETARY: Section 3. This  
7 act shall take effect on the 90th day.

8 ACTING PRESIDENT BRESLIN: Call  
9 the roll.

10 (The Secretary called the roll.)

11 ACTING PRESIDENT BRESLIN:  
12 Senator Montgomery, to explain her vote.

13 SENATOR MONTGOMERY: Yes,  
14 Mr. President, I just want to explain I intend  
15 to vote yes on this bill, but I generally do  
16 not support bills that increase penalties and  
17 so forth and so on.

18 However, I think we know, we all  
19 know what this is. This is a situation where  
20 people are using terrorism and violence to  
21 keep a woman, primarily, from accessing  
22 healthcare, especially reproductive health  
23 services. That's what this is.

24 So to talk about falling down and

1       hurting your head, that's ridiculous. This  
2       bill speaks to a very particular situation  
3       where people are interfering with a woman's  
4       right to reproductive health, and I vote yes.

5                ACTING PRESIDENT BRESLIN:     Thank  
6       you, Senator Montgomery.

7                Senator DeFrancisco, to explain his  
8       vote.

9                SENATOR DeFRANCISCO:     Murder is a  
10       crime. Arson is a crime. Attempted arson is  
11       a crime. All felonies. Bomb threats are  
12       felonies. Trespass may or may not be,  
13       depending on what happens. I don't know about  
14       stink bombs. But the fact of the matter is  
15       there are laws that already prevent or punish  
16       people for doing all of the things that was  
17       given as a justification for this bill.

18               Secondly, I have stood up on so  
19       many of those bills where you try to increase  
20       from assault third, which is causing pain and  
21       a serious physical injury, to assault second,  
22       just by the status of the person. We talked  
23       about MTA, I think they've protected every  
24       person that goes into a train other than the

1 passenger, it's a felony.

2 And I think status of who the  
3 person is is wrong to determine what type of  
4 penalty there's going to be.

5 If this was a protest for anything  
6 other than abortion clinics, everybody on that  
7 side of the aisle would be saying, Why are you  
8 doing that, people have a right to express  
9 their points of view. And the fact of the  
10 matter is that's true, whether you agree with  
11 them or not.

12 And the fact of the matter is if  
13 it's a crime, it should be the same type of  
14 crime whether it's a trespass, an assault  
15 third, an assault second. No matter what the  
16 protest may be about or what the crime may be  
17 about, whoever the victim is should be  
18 irrelevant in our criminal justice system.  
19 That's the reason I vote no.

20 ACTING PRESIDENT BRESLIN:  
21 Senator DeFrancisco to be recorded in the  
22 negative.

23 Announce the results.

24 THE SECRETARY: Those recorded in

1 the negative on Calendar Number 981 are  
2 Senators DeFrancisco, Diaz, Flanagan,  
3 Fuschillo, Golden, O. Johnson, Lanza, Larkin,  
4 Libous, Marcellino, Nozzolio, Skelos and  
5 Volker. Also Senators Farley, Griffo, Young,  
6 Maziarz and Ranzenhofer. Also Senator  
7 Morahan.

8 Absent from voting on Calendar  
9 Number 981: Senators Hannon and LaValle.

10 Ayes, 36. Nays, 19.

11 ACTING PRESIDENT BRESLIN: The  
12 bill is passed.

13 Senator Klein, that completes the  
14 reading of the controversial calendar.

15 SENATOR KLEIN: Mr. President, I  
16 move to recommit Calendar Numbers 899, 959 and  
17 960, laid aside earlier today, to the  
18 Committee on Rules.

19 ACTING PRESIDENT BRESLIN: So  
20 ordered.

21 SENATOR KLEIN: Mr. President, is  
22 there any further business at the desk?

23 ACTING PRESIDENT BRESLIN: No,  
24 Senator, the desk is clear.

1                   SENATOR LIBOUS:     Senator Klein,  
2     could I just ask a question?

3                   SENATOR KLEIN:     Sure.

4                   ACTING PRESIDENT BRESLIN:  
5     Senator Libous.

6                   SENATOR LIBOUS:     On the last roll  
7     call, was Senator Kruger called?

8                   ACTING PRESIDENT BRESLIN:  
9     Senator Kruger was excused.

10                  SENATOR LIBOUS:     Thank you.

11                  THE SECRETARY:     You're welcome.

12                  SENATOR KLEIN:     Mr. President,  
13     there being none, I move we adjourn this  
14     session at the call of the Temporary  
15     President, intervening days to be legislative  
16     days.

17                  ACTING PRESIDENT BRESLIN:     There  
18     being no further business to come before the  
19     Senate, on motion, the Senate stands adjourned  
20     until the call of the Temporary President,  
21     intervening days being legislative days.

22                         (Whereupon, at 1:17 a.m., the  
23     Senate adjourned.)

24