

1 NEW YORK STATE SENATE

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3
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