NEW YORK STATE SENATE

THE STENOGRAPHIC RECORD

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3:16 p.m.

REGULAR SESSION

SENATOR TOM O'MARA, Acting President

FRANCIS W. PATIENCE, Secretary

P R O C E E D I N G S

ACTING PRESIDENT O'MARA: The Senate will come to order.

Please rise and join me in the Pledge of Allegiance to our Flag.

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

ACTING PRESIDENT O'MARA: Today we have the Reverend Peter G. Young, from Mother Teresa Community here in Albany, to lead us in a prayer.

REVEREND YOUNG: Let us pray.

God, by Your love You made a world where we have become neighbors to each other and we are enabled therefore to love one another. Grant that we too may use the Senate to strive toward a way of life in keeping with God's plan.

You have on this preparation for Memorial Day given us marvelous examples of charity in those who have been in this house and those who have served to love one another.

Send down Your blessings on these Senators who are now with God, and we pray too for the Senators that are in this assembly, to make sure that they generously devote themselves

to helping others as the example of those who have past served in such an honorable way.

Amen.

ACTING PRESIDENT O'MARA: The reading of the Journal.

THE SECRETARY: In Senate, Monday, May 23rd, the Senate met pursuant to adjournment. The Journal of Sunday, May 22nd, was read and approved. On motion, Senate adjourned.

ACTING PRESIDENT O'MARA: Without objection, the Journal stands approved as read.

Presentation of petitions.

Messages from the Assembly.

Messages from the Governor.

Reports of standing committees.

The Secretary will read.

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

As superintendent of the New York State Department of Financial Services, Benjamin M. Lawsky, of New York City.

As a member of the Small Business Advisory Board, James S. Alesi, of East Rochester.

As members of the Mental Health Services Council, Glenn A. Martin, of Forest Hills, and Ann Marie Theresa Sullivan, of New York City.

As members of the Public Health Planning Council, Jeffery A. Kraut, of East Meadow; Victoria Godwin Hines, of Fairport; Christopher C. Booth, of Pittsford; Ann Marie Theresa Sullivan, of New York City; Angel Alfonso Gutierrez, of Buffalo; Arthur Aaron Levin, of New York City; John M. Palmer, of Forest Hills; Howard S. Berliner, of Brooklyn; Anderson Torres, of the Bronx; Ellen E. Grant, of Grand Island; John Rugge, of Queensbury; and Glenn A. Martin, of Forest Hills.

ACTING PRESIDENT O'MARA: Senator Alesi.

SENATOR ALESI: Mr. President, I would ask for unanimous consent to be excused from voting on the member of the Small Business Advisory Board.

ACTING PRESIDENT O'MARA: Without objection.

Senator DeFrancisco.

SENATOR DEFRANCISCO: Yes, I would

first like to move the nomination, for superintendent of the New York State Department of Financial Services, Benjamin M. Lawsky, of New York City.

Mr. Lawsky appeared before our committee, the Finance Committee, and was unanimously recommended to the full house.

I would wholeheartedly endorse his nomination. It's an excellent, excellent nomination by the Governor. He's got the educational background, the work experience, the intelligence and the integrity necessary for this very, very important position.

And I would ask that you would please recognize Senator Seward to second this great nomination.

ACTING PRESIDENT O'MARA: Thank you, Senator DeFrancisco.

Senator Seward.

SENATOR SEWARD: Thank you, Mr. President. I'm delighted to rise to second the confirmation of Ben Lawsky to be the first superintendent of the new Department of Financial Services.

You know, Ben has had a very

distinguished career which has included a number of very, very important titles. He's been an attorney in the U.S. Department of Justice, chief counselor to U.S. Senator Charles Schumer, Assistant U.S. Attorney in the Southern District of New York, deputy counselor and special assistant to the Attorney General, and then, for the last number of months, chief of staff to Governor Cuomo.

You know, Ben was one of the driving forces behind the merger of the Insurance and Banking Departments into this newly created Department of Financial Services. And as chair of the Insurance Committee, I had the pleasure of working very closely with Ben as we negotiated the creation of this new department. And I think we all collectively, in the administration and we in the Legislature, can be very proud of the final product.

But throughout that process, I got to know him. And a number of words come to mind when I think of Ben Lawsky. He's smart, he's effective, articulate. He has an outstanding grasp of the issues. He has a businesslike but very pleasant manner. And as Senator DeFrancisco

said, he has the highest integrity. All of these characteristics will serve him and the people of the State of New York very well in this new endeavor.

I believe he's uniquely qualified to take on the challenges, and there are many challenges that await him as the head of this new department. I've had the opportunity to discuss the issues with Ben both privately and before our Insurance Committee. He certainly understands and recognizes the contributions that the insurance industry provides to our New York State economy from an employment point of view. Thousands and thousands of New Yorkers are employed through the insurance and financial services industry.

The industry provides financial security for the families of New York, the businesses of New York, and of course is very important in meeting the consumer needs of our state.

And I believe that he also shares my goal of the need to create a modernized, streamlined and effective regulatory structure so that New York State can maintain and enhance our

preeminent role and status as the financial services capital of the world.

So I, Mr. President, stand to congratulate Governor Cuomo on this outstanding, outstanding appointment. And I look very much forward to the opportunity to work with our new superintendent Ben Lawsky as he works to put this new department together and work on these very, very important issues confronting not only that department but New York State.

So, Ben, I rise to congratulate you and your beautiful family on this very, very special day. Congratulations.

ACTING PRESIDENT O'MARA: Thank you, Senator Seward.

Senator Griffo on the nomination.

SENATOR GRIFFO: Thank you, Mr. President. I also stand today to second the nomination of Ben Lawsky.

As chairman of the Banks Committee, I was fortunate to have an opportunity to also work with Ben very early on. And I think what Senator Seward said today, the attributes that he described, truly fit Ben Lawsky. He is truly an exceptional individual.

And I think the Governor chose wisely. I commend the Governor for hiring him in the first place to bring him onto his team. And then we're happy -- a lot of times we'll hear speculation, and this is one time the speculation was good, because it was rumored that this would be the choice of the Governor for this new important department. And I'm happy that he was nominated by the Governor.

Ben I found to be an individual with a lot of energy and true passion for not only the job that he's doing but for the State of New York. And I admire that because that is what we need. We need talented people who possess the potential and capacity to do good things for this state.

And there are great challenges that face us economically and in the financial institutions, and that's why during this process of this consolidation Ben was an integral part throughout the entire operation. And he was very accessible, he was very attentive, and he was very responsive. And as a result of that, I think we were able to achieve a good result.

And that's the thing that I know the

Governor prides himself on and I think all of us want to pride ourselves on, that working together we can produce results for the people that we serve.

So, Ben, I look forward to working with you. I, as I said, believe that you have an exceptional resume, that you have extraordinary potential, and we can continue to do good things to ensure that this state and New York City and the State of New York continue to remain the financial services capital of the world.

So congratulations to you, my best wishes, and I second the nomination.

ACTING PRESIDENT O'MARA: Thank you, Senator Griffo.

Senator Breslin on the nomination.

SENATOR BRESLIN: Thank you, Mr. President.

I echo the remarks of Senator Seward and Senator Griffo. Starting in college at Columbia and going on to law school at Columbia, through his clerkships, two separate clerkships, on to time in not only the U.S. Attorney's office but the Justice Department, the Attorney General's office, working as legislative counsel

in the United States Senate with Senator Charles Schumer, back to the Attorney General's office, and then ultimately as chief of staff for the Governor, Ben Lawsky has just exhibited all of the characteristics necessary for this most important merger of banking and finance. His administrative skills, his academic background and his honesty come together to form a person who we can all be proud of and commend the Governor for making this choice.

Banking and Insurance, the departments, when put together, will affect I believe the most lives of any, any agency in the State of New York. And I firmly believe Ben Lawsky will balance the needs of the consumer to probably combine the most important industries in the State of New York, insurance and banking. And he will do that I think in a seamless way, making all of us proud of him for hopefully unanimously approving him in several minutes.

I wish you every success. I'm delighted to see your family with you on this most happy day.

Thank you very much, Mr. President.

ACTING PRESIDENT O'MARA: Thank

you, Senator Breslin.

Senator Farley, on the nomination.

SENATOR FARLEY: Thank you, Mr. President. I also rise to second this nomination.

You know, as somebody who's been involved in the banking area for over three decades, this was a merger that many thought might not ever happen, putting two cats in a bag. It was a very difficult situation.

And as I followed the negotiations, Ben Lawsky proved the example that he is as a brilliant lawyer, a brilliant negotiator. And he made something that was very much a part of the Governor's platform for consolidation, in the largest merger that I have seen in all my years in the Senate.

And Ben Lawsky not only has a background that is so vast for a young man, and he knows the Legislature, he knows the Executive, he knows the Attorney General's office, he knows so much about state government and federal government.

And as we look at this merger, it's so important that banking, which New York State

has always been the leader of the whole nation -- and the world, for that matter. But, you know, banking has been somewhat diminished because of the feds eating our lunch, if you will. And I know that it's so important for Mr. Lawsky that he protect the state charter and encourage banking to grow and prosper in this great state, because it is a wealth source and we are an example to the rest of the nation. All of the great legislation that has happened in banking throughout the United States has emanated from New York State.

I think that Governor Cuomo has really given up his prize counsel and one of the most brilliant people that has ever served the government to take on the Department of Financial Services and make it an example for the whole nation.

We're very proud of your career. We look forward to working with you. And, Ben, all the best to you and your lovely family.

ACTING PRESIDENT O'MARA: Thank you, Senator Farley.

Senator Smith on the nomination.

SENATOR SMITH: Thank you very

much, Mr. President.

Colleagues, I rise today also to second the nomination of Ben Lawsky. Allow me to first recognize the caliber of the individuals that our Governor has selected to steer some of the more critical agencies that will be impacting and affecting the lives of the people that we represent in our districts.

Mr. Lawsky, as many have heard about his background, academia as well as practical experience, is heading one of the premier agencies that the Governor has focused on with regard to more transparency, efficiency, and consumer protection.

Putting together the Insurance and the Banking Department is a very forward-thinking effort by the Governor. And his choosing of Mr. Lawsky, who has a tremendous background not only in what he has done for dealing with the student loan issue, but also as it relates to the foreclosure market, clearly represents a selection that has one with a tremendous amount of respect for an industry that you will be covering.

To your wife, Jessica,

congratulations to you. I know you have stood by his side for many years as he moves into a tremendous career. And I'm sure with this new chapter in his life, you will be there along with your lovely children.

Your mother and father, Vivian and Dr. Alan, obviously they have taught you well. And they should be proud, because as they sit in this audience in a chamber that is revered by many in the country and around the world, this is a big day for the Lawsky family.

So I stand on this floor, Mr. President, not only to congratulate the Governor on his selection, not only to congratulate Ben on all of the stellar work that he has performed as an advocate for the public, but more importantly to congratulate his mother and father and his wife. Because it is that foundation and support that makes a man who he is. If you were not there for him, he would not be able to do the things that he does for so many other people who are now part of his extended family.

Congratulations to you, God bless you to you and your family, and we will keep you

in our prayers as you continue to do your stellar work.

ACTING PRESIDENT O'MARA: Thank you, Senator Smith.

Any other Senator wishing to be heard on the nomination?

Seeing none, the question is on the nomination of Benjamin M. Lawsky as superintendent of the Department of Financial Services. All in favor signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT O'MARA: Opposed, nay.

(No response.)

ACTING PRESIDENT O'MARA: Benjamin M. Lawsky is hereby confirmed as superintendent of the Department of Financial Services.

Congratulations, Mr. Lawsky.

(Applause.)

ACTING PRESIDENT O'MARA: Congratulations.

And joining Mr. Lawsky today is his wife, Jessica; his children, Mo and Lexie; his mother and father, Vivian and Alan Lawsky. Welcome to the Senate chamber today.

Senator DeFrancisco.

SENATOR DEFRANCISCO: I'd now like to move the nomination, as a member of the Small Business Advisory Board, of James S. Alesi, of East Rochester, New York.

ACTING PRESIDENT O'MARA: The question is on the nomination. All in favor signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT O'MARA: Opposed, nay.

(No response.)

ACTING PRESIDENT O'MARA: The nomination is hereby confirmed.

Senator DeFrancisco.

SENATOR DEFRANCISCO: I'd like to move as a group the next nominations, first to the Mental Health Services Council, and then we'll do the next group as a group, none of whom need to appear today.

ACTING PRESIDENT O'MARA: Without objection, we'll move the entire group of appointees.

SENATOR DEFRANCISCO: Excuse me. Just so I'm clear, there's two appointees to the

Mental Health Services Council. I'd like to move those two first.

ACTING PRESIDENT O'MARA: The question is on the nomination of the two members to the Mental Health Services Council. All those in favor signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT O'MARA: Opposed, nay.

(No response.)

ACTING PRESIDENT O'MARA: The nominations are hereby confirmed of Glenn A. Martin and Ann Marie Theresa Sullivan to the Mental Health Services Council.

Senator DeFrancisco.

SENATOR DEFRANCISCO: Now I'd like to move as a group the members of the Public Health Planning Council. And I request that you would read each of their names so that it's clear who we're voting on. Thank you.

ACTING PRESIDENT O'MARA: The question is on the nominations to the Public Health Planning Council of Jeffery A. Kraut, of East Meadow; Victoria Godwin Hines, of Fairport; Christopher C. Booth, of Pittsford; Ann Marie

Theresa Sullivan, of New York City; Angel Alfonso Gutierrez, of Buffalo; Arthur Aaron Levin, of New York City; John M. Palmer, of Forest Hills; Howard S. Berliner, of Brooklyn; Anderson Torres, of the Bronx; Ellen E. Grant, of Grand Island; John Rugge, of Queensbury; and Glenn A. Martin, of Forest Hills. The question is on these individuals' nomination to the Public Health Planning Council. All those in favor signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT O'MARA: Opposed, nay.

(No response.)

ACTING PRESIDENT O'MARA: The nominations are hereby confirmed, and the members are appointed to the Public Health Planning Council.

Senator Libous.

SENATOR LIBOUS: I believe we're on reports of select committees.

ACTING PRESIDENT O'MARA: Yes, Senator. Reports of select committees.

Communications and reports from state officers.

Motions and resolutions.

Senator Libous.

SENATOR LIBOUS: Thank you, Mr. President. At this time I have a number of motions I need to read.

Mr. President, on behalf of Senator Lanza, I move to commit Senate Print Number 5290, Calendar Number 761 on the order of third reading, and commit it to the Finance Committee, please.

ACTING PRESIDENT O'MARA: So ordered.

SENATOR LIBOUS: On behalf of Senator O. Johnson, on page 47 I offer the following amendments to Calendar Number 708, Senate Print number 5086, and ask that said bill retain its place on the Third Reading Calendar.

ACTING PRESIDENT O'MARA: The amendments are received, and the bill will retain its place on Third Reading Calendar.

SENATOR LIBOUS: Mr. President, on behalf of Senator Grisanti, on page 48 I offer the following amendments to Calendar Number 720, Senate Print 5332, and ask that said bill retain its place on the Third Reading Calendar.

ACTING PRESIDENT O'MARA: The amendments are received, and the bill will retain its place on the Third Reading Calendar.

SENATOR LIBOUS: And, Mr. President, on behalf of Senator Hannon, on page 32 I offer the following amendments to Calendar Number 524, Senate Print 4875A, and ask that said bill retain its place on the Third Reading Calendar.

ACTING PRESIDENT O'MARA: The amendments are received, and the bill will retain its place on the Third Reading Calendar.

SENATOR LIBOUS: Mr. President, at this time may we please adopt the Resolution Calendar, with the exception of Resolutions Number 1873, 1915, 1922, and 1948.

ACTING PRESIDENT O'MARA: All in favor of adopting the Resolution Calendar, with the exceptions of Resolutions 1873, 1915, 1922, and 1948, please signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT O'MARA: Opposed, nay.

(No response.)

ACTING PRESIDENT O'MARA: The

Resolution Calendar is adopted.

Senator Libous.

SENATOR LIBOUS: Thank you, Mr. President.

At this time could we please read in its entirety Resolution Number 1948, which is at the desk. And then if you could call on me and then Senator Breslin before we adopt it.

ACTING PRESIDENT O'MARA: The Secretary will read.

THE SECRETARY: Legislative Resolution Number 1948, by Senator Skelos, congratulating the 2011 New York State Women of Distinction.

"WHEREAS, It is the sense of this Legislative Body to acknowledge and celebrate Women of Distinction who significantly add inspiration and encouragement to the people of this great Empire State; and

"WHEREAS, The New York State Senate Women of Distinction program was created in 1998 as part of our state celebration of Women's History Month to honor exemplary women across New York State whose singular professional or personal achievements, commitment to excellence

and accomplishments merit special recognition. Honorees are selected from nominations submitted from across the state; and

"WHEREAS, Women of every economic, ethnic and religious background have made significant contributions that are reflected across all aspects of society; and

"WHEREAS, It is the custom of this Legislative Body to pay tribute to individuals of remarkable character, who have shown initiative and commitment in constantly pursuing higher goals for themselves as well as acting as role models to all women in their community; and

"WHEREAS, On behalf of the New York State Senate, I take this opportunity to congratulate Lori Bahnik, Helen Baran, Nicole Behrens, Carol Berry, Susan Boudreau, Wanda Jean Burris, Christa Caldwell, Virginia Clark, Debbie Cuevas, Bonnie Daggett, Elaine Delaney, Gloria M. Dixon, Ann E. Ellsworth, Lindsay Farrell, Dr. Susan Fox, Mathylde Frontus, Virginia Gallagher, Diane C. Ganz, Mary Herlihy Gearan, Deirdre Glenn, Karen Gordon, Elizabeth Gulotta, Phyllis E. Gunther, Mary E. Holtz, Grace Johnson, Debra Markell Kleinert, Dr. Anne M. Kress,

Frances-Ann Lightsy, Fredericka G. Mabon, Dr. Martha MacGuffie (deceased), Barbara Medina, Elizabeth Miller, Janet Miller, Kate Miller, Elissa Montanti, Mary Morse, Jeanne Mullgrav, Kelly Myers, Mary Nelson, Judy Pepenella, Christine P'Simer, JoAnn Pushkin, Karen Y. Richmond, Beverly Roberts, Rossana Rosado, Indi L. Shelby, Vicki Simons, Mary Spink, Gretchen Hurley Sprock, Leslyn Stewart, Maria A. Thomson, Millie Tomidy-Pepper, Karen Washington, Judi Whittaker, and Kathleen Wojtaszek-Gariano as a 2011 New York State Senate Woman of Distinction, to be celebrated on Tuesday, May 24, 2011, at the Annual Women of Distinction Awards Ceremony in The Well of the Legislative Office Building; and

"WHEREAS, Women have become part of New York's lasting heritage by fighting against stereotypes, prejudice, and seemingly insurmountable obstacles; and

"WHEREAS, From the women's suffrage movement just over 150 years ago to the present day, women have played and continue to play a crucial role in adding strength, understanding, and inspiration to the diversity and quality of life of the people of the State of New York; and

"WHEREAS, New York State has been, and continues to be, the home to many distinguished women who have made their mark in history as pioneers in their field, therefore laying the foundation for women after them to succeed; and

"WHEREAS, September 11, 2011, will mark the 10-year anniversary of the unprecedented tragedy that befell our state and nation on September 11, 2001. This year we again remember women of distinction honorees Moira Smith, a decorated NYPD officer, Captain Kathy Mazza, the first female commandant of the Port Authority Police Training Academy, and Yamel Merino, New York State's 2001 Emergency Medical Technician of the Year, all of whom were among the first responders on the scene at the World Trade Center, literally saving the lives of hundreds; and

"WHEREAS, The horrific events on September 11th shone a bright light on the heroic actions of emergency service workers. Working side by side, running stride for stride, women and men worked together tirelessly to rescue and recover victims. Women of Distinction

commemorates the role that women have always played in serving our communities as emergency and rescue workers, and pays special tribute to the women heroes on the tenth anniversary of 9/11 who made the ultimate sacrifice; and

"WHEREAS, This Legislative Body recognizes that New York State is the home to countless women who are strong and colorful threads vital to the fabric of our rich heritage, who have contributed and continue to add to the advancement of our culture through their traditional and nontraditional roles in society; now, therefore, be it

"RESOLVED, It is the sense of this Legislative Body that those who enhance the well-being and vitality of their community and have shown a long and sustained commitment to excellence certainly have earned the recognition and applause of all the citizens of this great Empire State; and be it further

"RESOLVED, That copies of this resolution, suitably engrossed, be transmitted to the aforementioned Women of Distinction."

(Applause.)

ACTING PRESIDENT O'MARA: Senator

Libous on the resolution.

SENATOR LIBOUS: Mr. President, I appreciate the applause.

Mr. President, later on this evening we will be taking part, all 62 members of this house will be taking part in a ceremony that will honor the women that were mentioned in the Senate resolution.

They come from a number of various backgrounds and professions, but what's most important about what was mentioned by all of these outstanding individuals is that they have given to their communities and asked to take nothing back.

And the more that they have given to their communities, because of the wonderful things that they have done -- whether it be in education, working in our school libraries, physical therapy, working in our hospitals, just a plain community activist doing what's right for the community, doing what's right for the neighborhood that they live in, or a member of the farming and agricultural community -- they have dedicated their lives and their time and their commitment to making this a better state

and to making their communities a better place to live.

Later on this evening when we go to the ceremony at 5:30 in the Well, we will hear about the outstanding individuals that are up in the gallery today, we will hear about their accomplishments. And some of the stories are heart-wrenching. Some of them are very touching. Some will make us laugh, and some will make us cry because of the wonderful things that they've done.

So, Mr. President, it is indeed an honor to stand before this body today to speak on this resolution, to honor the outstanding women that are with us today and that will be with us later this evening as we have our ceremony.

ACTING PRESIDENT O'MARA: Thank you, Senator Libous.

Senator Breslin on the resolution.

SENATOR BRESLIN: Thank you, Mr. President. I join with Senator Libous in acknowledging the Women of Distinction.

Each year we hope that we take our job seriously, but when we enter into the process of seeking out Women of Distinction, as you might

imagine, there are a number of extraordinary candidates for that distinction. And the biographies of the Women of Distinction this year I think humble all of us with what they have done in the various aspects of their lives.

Most of it narrows down, no matter what business you're in or what profession you're in, it's making the lives of your neighbors better. It's the singular element throughout the biographies that impressed me about this group.

And we will have the opportunity later, as Senator Libous said, to highlight each individual Woman of Distinction. But we are delighted to have you here with us, and we look forward to later being able to honor each and every one of you in a special way.

Congratulations from the entire Senate.

ACTING PRESIDENT O'MARA: Thank you, Senator Breslin.

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

(Response of "Aye.")

ACTING PRESIDENT O'MARA: Opposed, nay.

(No response.)

ACTING PRESIDENT O'MARA: The resolution is adopted.

Will the recipients please stand.

(Applause.)

SENATOR LIBOUS: Excuse me, Mr. President. Could we ask that the women who are going to be honored this evening please stand so that we can acknowledge who they are.

(Standing ovation.)

ACTING PRESIDENT O'MARA: Congratulations on your achievement here today. Thank you for being here with us in the Senate. We offer you the courtesies of the house today and any time you return to visit us.

Thank you, and congratulations again.

Senator Libous.

SENATOR LIBOUS: Thank you, Mr. President.

Mr. President, at this time -- by the way, we'd like to open the resolution up to all of the members. And as our policy in the past here, if for some reason -- and I don't think there would be on this -- anyone would not

wish to go on the resolution, please let the desk know. Otherwise, everybody's name will be on it. Thank you, Mr. President.

Mr. President, at this time there's a resolution at the desk by Senator Valesky, Number 1915. Could you please read its title and then call on Senator Valesky.

ACTING PRESIDENT O'MARA: The Secretary will read.

THE SECRETARY: Legislative Resolution Number 1915, by Senator Valesky, memorializing Governor Andrew M. Cuomo to proclaim May 2011 as Older Americans Month in the State of New York.

ACTING PRESIDENT O'MARA: Senator Valesky.

SENATOR VALESKY: Thank you, Mr. President.

This year we continue a tradition here in the State Capitol to memorialize our Governor to proclaim May as Older Americans Month here in New York State. And we do so as a way to recognize the numerous contributions from older Americans, from senior citizens across New York State.

I'm sure each and every one of us in our own Senate districts can think of dozens and dozens of older Americans who go out of their way to make a difference of in the lives of all who live in communities across our state.

As part of our recognition today, in the Blue Room here in the Capitol, the Legislature joined with the State Office of the Aging to honor specific individuals from across New York State -- many of them are with us today in the gallery -- as outstanding seniors who go above and beyond the call in their own communities. We also presented awards to the Senior Citizen of the Year -- Ardie Bennett, of Ithaca -- and the Outstanding Contribution by a Senior Citizen -- Diane Pomeroy, of Spring Valley -- and other awardees from each of the counties across the State of New York.

So, Mr. President, I also would move that this resolution be opened for cosponsorship by all members of the house and would ask that you extend the courtesies of the house to our visitors here who are making such a difference in the lives of so many New Yorkers.

Thank you, Mr. President.

ACTING PRESIDENT O'MARA: Thank you, Senator Valesky.

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

(Response of "Aye.")

ACTING PRESIDENT O'MARA: Opposed, nay.

(No response.)

ACTING PRESIDENT O'MARA: The resolution is adopted.

Per Senator Valesky's request, the resolution will be open for all members. Anyone not wishing to be on it please see the desk.

Congratulations and welcome to the Senate chamber today. And we extend to you the courtesies of the house and thank you for being here.

(Applause.)

ACTING PRESIDENT O'MARA: Senator Libous.

SENATOR LIBOUS: Thank you, Mr. President.

I believe at this time Senator Huntley has Resolution Number 1922. She would like it, please, read in its entirety, and if you

could call on the Senator after it's read.

ACTING PRESIDENT O'MARA: The Secretary will read.

THE SECRETARY: Legislative Resolution Number 1922, by Senator Huntley, mourning the death of Janice Sara Reiff, distinguished citizen and devoted member of her community.

"WHEREAS, It is the custom of this Legislative Body to pay tribute to citizens of the State of New York whose lifework and civic endeavor serve to enhance the quality of life in their communities and the great State of New York; and

"WHEREAS, This Legislative Body is moved to mourn the death of Janice Sara Reiff, distinguished citizen and devoted member of her community; and

"WHEREAS, Janice Sara Reiff was born in the Bronx, New York, on July 8, 1949, to Lillian Boshes and William Reiff; and

"WHEREAS, Janice Sara Reiff attended elementary, junior, and high schools within the New York City public school system located in Queens, New York; and

"WHEREAS, She furthered her education and graduated from C.W. Post College of Long Island University with a bachelor of science degree in early childhood education; and

"WHEREAS, Janice Sara Reiff taught as a first-grader teacher in the Bronx from 1972 to 1976, as well as Public School 82 in District 28 in Queens from 1977 to 2010; and

"WHEREAS, This outstanding teacher, who was named UFT District 28 representative in 2005, distinguished herself in her profession and by her sincere dedication and substantial contribution to the welfare of her community; and

"WHEREAS, Janice Sara Reiff's commitment to excellence and her spirit of humanity carried over into all fields of enterprise, including charitable and civic endeavors; and

"WHEREAS, She served as president of her tenants association and was a member of the Jewish Labor Committee Educators Chapter, as well as the Crohn's and Colitis Foundation of America and the Cancer Research Foundation. Furthermore, she was a union activist and a member of the Conservative Synagogue of Jamaica Estates in

Queens; and

"WHEREAS, Janice Sara Reiff is survived by her sister, Arlene Kwartowitz, one brother-in-law, Alan, and her beloved nephew, Laurence; and

"WHEREAS, Armed with a humanistic spirit and imbued with a sense of compassion, Janice Sara Reiff leaves behind a legacy which will long endure the passage of time and will remain as a comforting memory to all she served and befriended; now, therefore, be it

"RESOLVED, That this Legislative Body pause in its deliberations to mourn the death of Janice Sara Reiff, distinguished citizen and devoted member of her community; and be it further

"RESOLVED, That a copy of this resolution, suitably engrossed, be transmitted to the family of Janice Sara Reiff."

ACTING PRESIDENT O'MARA: Senator Huntley on the resolution.

SENATOR HUNTLEY: Thank you, Mr. President.

This is a very important resolution to me. Janice Reiff was very important to me.

During the time of her passing, we were doing the budget and I was not able to go down to the funeral. I had to make the decision of what Janice actually would want me to do. And because she was an educator and someone who cared about people and children in our schools, I made the decision to stay here and vote on the educational budget.

So since that time, I have thought about her and I've spoke to her sister, Arlene. And Janice and I basically were like sisters. She's a person I can actually tell you I loved very much. She loved people. She had a great, great personality. She didn't think about herself, she wasn't selfish. She was a regular person.

And her and I used to laugh because when we'd have certain conversations, she'd always say to me, "You know, there's a lot of Jew in you." And I'd say to her, "Well, you know, we're mixed up here and there, because there's something else in you too." So those are the kind of conversations that we would have.

We shared a lot. We lunched regularly. We've done committees together.

We've done things with different organizations. And I truly miss her. And I know that District 28, the school district which I represent, will also miss her.

And you know, I stand here and I talk about her and our other dear friend Neil Shanahan, who was here the day I was installed, who also passed away a few years ago with cancer, and we were like a threesome. And I truly, truly loved both of them, and they loved me. And I will think about her for the rest of my life.

So again, I welcome her sister Arlene, who's there, and Alan.

And listen, when people pass away we all know that deep feeling that you have in your heart for a very long time. But eventually -- it never goes, but you just live with it.

And again, I thank them for coming. And I just want Janice to know -- I'm sure she's looking down -- that we love her, respect her, and she's really, really missed.

Thank you.

ACTING PRESIDENT O'MARA: Thank you, Senator Huntley.

The question is on the resolution.

All those in favor signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT O'MARA: Opposed, nay.

(No response.)

ACTING PRESIDENT O'MARA: The resolution is adopted.

Senator Huntley has requested that the sponsorship of this resolution be open to all. And anyone not wishing to cosponsor it, please check in with the desk.

Senator Libous.

SENATOR LIBOUS: Thank you, Mr. President.

At this time Resolution Number 1873, by Senator Kennedy, could we have the title read. And I believe Senator Kennedy would like to be called on before we move for its adoption.

ACTING PRESIDENT O'MARA: The Secretary will read.

THE SECRETARY: Legislative Resolution Number 1873, by Senator Kennedy, commending the Erie County Council VFW and Ladies Auxiliary upon the occasion of its 77th Annual Convention, May 20-21, 2011.

ACTING PRESIDENT O'MARA: Senator Kennedy.

SENATOR KENNEDY: Thank you, Mr. President.

I'm very proud to commend the Erie County Council VFW and Ladies Auxiliary upon the occasion of their 77th Annual Convention. The West Seneca VFW Post 8113 hosted the event this past weekend.

The Erie County Council VFW has made countless contributions to the Western New York veteran community, and they are most deserving of our praise.

The impact the Veterans of Foreign Wars organization has made on our nation's history is impressive and inspiring. The VFW's voice has been instrumental in securing the rights and benefits that our nation owes our veterans. American veterans risk their lives to serve our nation and protect our freedom, and when they return home it's our duty to protect and serve our veterans and their families. The organization has played a critical role in establishing the Veterans Administration, creating the GI Bill, developing the national

cemetery system, and fighting for compensation for disabled veterans.

The vision of the VFW is to, quote, ensure that veterans are respected for their service, always receive their earned entitlements, and are recognized for the sacrifices they and their loved ones have made on behalf of this great country. That is a vision that I share and that my colleagues in the New York State Senate share along with the VFW.

I am honored to extend my appreciation and gratitude to the VFW and to the Erie County Council VFW and Ladies Auxiliary for all that they have done to protect and serve New York veterans. And I am proud to vote my commitment and the commitment of this chamber to our state's veterans.

Congratulations again to the Erie County Council VFW and Ladies Auxiliary, and thank you to all the veterans of this honorable body and to this great state and nation.

Thank you.

ACTING PRESIDENT O'MARA: Thank you, Senator Kennedy.

The question is on the resolution.

All those in favor signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT O'MARA: Opposed, nay.

(No response.)

ACTING PRESIDENT O'MARA: The resolution is adopted.

Senator Libous.

SENATOR LIBOUS: I believe, Mr. President, there's a privileged resolution at the desk by Senator Klein. Could we have the title read and move for its immediate adoption.

ACTING PRESIDENT O'MARA: The Secretary will read.

THE SECRETARY: Legislative resolution by Senator Klein, congratulating Madeline Lento upon the occasion of celebrating her 100th birthday.

ACTING PRESIDENT O'MARA: The question is on the resolution. All in favor signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT O'MARA: Opposed, nay.

(No response.)

ACTING PRESIDENT O'MARA: The resolution is adopted.

Senator Libous.

SENATOR LIBOUS: Mr. President, at this time I would, on behalf of Senator Ruth Hassell-Thompson, ask unanimous consent of the body for her to welcome some visitors.

ACTING PRESIDENT O'MARA: Without objection.

Senator?

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

Africa Day is the annual celebration of the 1963 founding of the Organization of African Unity, presently recognized as the African Union. This year's reception honored those who have worked tirelessly to promote diversity and unity across the Diaspora. It is celebrating the achievement of a number of individuals who have made improving diversity across our state their life's work.

Focusing on this year's theme of bridging gaps and forging partnerships, a diverse panel of legislators, activists and academics are leading a democratic conversation about how to

turn the dreams we all share into a reality.

In the gallery today are two of the people who are being honored. One's name you will recognize: Imam Souleimane Konate, who was our --

(Applause.)

SENATOR HASSELL-THOMPSON: -- who led the prayer here in the Senate just two weeks ago.

Imam Konate is currently the imam and spiritual leader of the Masjid Aqsa in New York City, a position he has held since 1996. He is founder and current general secretary to the Council of African Imams in America. And Imam Konate is also cofounder and current vice president of the Harlem Islamic Leadership Council.

Our other honoree is Marie Claudine Mukamabano.

(Applause.)

SENATOR HASSELL-THOMPSON: She is the founder and CEO of Kuki Ndiho Rwanda Orphans Support Project, an organization that she started in 2005 to aid and advocate for orphans of HIV and the genocide in Rwanda and to raise awareness

of the 1994 Rwandan genocide. In her personal capacity, she serves as a mentor to many of the children.

Also with them today is Joseph Makhandal Champagne, Jr., who is the mayor of South Toms River in New Jersey.

(Applause.)

SENATOR HASSELL-THOMPSON: Thank you, Mr. President, for the opportunity to welcome them to the chambers.

And as a part of the honor, I appreciate the conference indulging me.

ACTING PRESIDENT O'MARA: Thank you, Senator.

And welcome to you all here to the Senate today. Thank you for coming and being a part of our proceedings. I extend to you the courtesies of the house today and welcome your participation today. Thank you.

(Applause.)

ACTING PRESIDENT O'MARA: Senator Libous.

SENATOR LIBOUS: Thank you, Mr. President. At this time could we have the reading of the noncontroversial calendar, please.

ACTING PRESIDENT O'MARA: The Secretary will read.

THE SECRETARY: Calendar Number 405, by Senator Maziarz, Senate Print 3306B, an act to amend the Social Services Law.

ACTING PRESIDENT O'MARA: Read the last section.

THE SECRETARY: Section 9. This act shall take effect immediately.

ACTING PRESIDENT O'MARA: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT O'MARA: Senator Maziarz to explain his vote.

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

First, before I do that, I just want to acknowledge a couple of my colleagues who were instrumental in helping me with this bill. First, Senator Pat Gallivan, the former sheriff of Erie County, whose knowledge of the system was just invaluable in getting this bill here. And also Senator Diane Savino, the chairperson of the Children and Family Services Committee, and her

knowledge of the system in the City of New York in protecting people who are unable to care for themselves.

Mr. President, this law is being passed in memory of a young woman by the name of Laura Cummings. And this bill, just very briefly, is going to allow social services caseworkers greater access, the ability to have access to court orders to get inside of an establishment or a home, a private home, where they may have been denied access.

The second portion of this bill is going to allow information to be shared between different segments of a Social Services Department, the Child Protective Services section and the Adult Protective Services section. And I'll explain why in a minute.

And the final section of this bill provides for criminal penalties for individuals who may deny access inside a residence, access by Social Services to a particular individual.

The case of Laura Cummings is one of the most tragic ever to touch Western New York. In November of 2010, Eva Cummings, Laura's mother, was sentenced to 53 years in prison for

torturing, beating, brutally suffocating and murdering her 23-year-old disabled daughter Laura. Laura's brother, Luke Wright, this morning in Buffalo was sentenced to 40 years to life in prison for being an accessory to that torture, repeated rapes. What they did to Laura Cummings was just unbelievable and beyond description, the horrific nature of Laura's life and the tragedy of her death.

Several times brave neighbors, other relatives would go to the Department of Social Services, would go to the authorities and say "Something is not right in that house." Laura, who was mentally disabled, was an adult in years but a child in her mental capacity. Neighbors, as I said, and other family members would say that she was being abused. And all the times that first Child Protective Services, then Adult Protective Services tried to get inside that house, they were denied access.

The system didn't work for Laura. Hopefully with this bill, with the support of all my colleagues, hopefully an instance like this will never, ever happen again anywhere.

So I would ask all my colleagues to

support me in passing this legislation. I would ask and plead with my colleagues in the other house -- we have a majority sponsor in the other house. We have a lot of support, many cosponsors in the other house. Clearly, if this bill made it to the floor in the other house, it would pass. This is something that's needed. It's going to protect people who are unable to protect themselves.

It comes too late for Laura. It comes too late for this beautiful young girl who lived obviously a very horrific life at the hands of her mother and her brother.

Mr. President, I vote in the affirmative. Thank you.

ACTING PRESIDENT O'MARA: Thank you, Senator Maziarz. You will be recorded in the affirmative.

SENATOR MAZIARZ: I ask that you please recognize Senator Gallivan.

ACTING PRESIDENT O'MARA: Senator Grisanti is ahead of Senator Gallivan.

Senator Grisanti, do you wish to explain your vote?

SENATOR GRISANTI: Yes, just

briefly.

I want to commend Senator Maziarz for bringing and sponsoring this legislation. The bottom line, quite simply, is this. Access to this home would have saved Laura's life, simple access.

The bill will now allow this access to the home to ensure that there is no abuse of children or adults that are under county program supervision. CPS and APS now will have these tools to gain access. It doesn't make up for any excuses that happened in the Laura Cummings case. There were on the books, under Federal Court Act and other acts, and New York law that allowed access. This now makes it a little bit more clearer for them to go forward to have access to these houses to protect children and adults.

I vote in the affirmative.

ACTING PRESIDENT O'MARA: Senator Grisanti to be recorded in the affirmative.

Senator Gallivan to explain his vote.

SENATOR GALLIVAN: Thank you, Mr. President.

I would also like to thank Senator Maziarz and Senator Savino for their leadership on this issue.

This is just a terrible, tragic case. It would be heartbreaking under any circumstances, but made much worse by the fact that Laura Cummings' life could have been saved, she would not have suffered with a better system and a more appropriate response.

This legislation attempts to fix those things to make sure that these same mistakes are never made again and those that fail to cooperate with an investigation are held accountable.

Children and impaired adults are some of our state's most vulnerable citizens. We of course have a responsibility to try to protect them. This bill seeks to offer them the maximum protections possible against anybody who might try to abuse them, and to ensure that government agencies act in time to save others who might find themselves in the same situation as Laura Cummings.

I'm hopeful that we won't have any more Laura Cummings, that we won't have any more

abuse of this type. And I'm asking all my colleagues to join in support. Senator Maziarz, in this legislation do what you can to encourage the Assembly to pass this legislation. I vote in the affirmative.

ACTING PRESIDENT O'MARA: Senator Gallivan to be recorded in the affirmative.

Senator Kennedy to explain his vote.

SENATOR KENNEDY: Thank you, Mr. President.

This is extraordinarily tragic. And extraordinarily disturbing. First and foremost, I want to thank the bill sponsor, Senator Maziarz, for bringing this to the floor today.

You know, it's tragically ironic that the sentence was handed down today to the perpetrator of the abuse and the murder of Laura Cummings on the same day that we pass a bill in her honor and in her memory.

Laura Cummings' life ended in unthinkable pain and unthinkable suffering. It's a heartbreaking tragedy that should never happen again and that, by the passage of this bill today in this house and in the Assembly, we can prevent from every happening again.

Her story is made even more tragic by the fact that Child and Adult Protective Services failed Laura Cummings. This suffering could have ended and Laura's life could have been saved if only protective services intervened as they should have.

Today we honor her memory by passing important legislation in her name, legislation that will keep the vulnerable safe and help to save lives. New York needs to do all that we can do to protect the most vulnerable members of our society. This bill will help prevent such devastating cases of abuse of children and impaired adults, and it will hold people accountable, most importantly, if they fail to protect the safety of those most in need of our help.

Keeping New Yorkers safe must always remain a primary focus of this body. And while it's too late to save Laura's life, tragically, this bill will protect New York's most vulnerable and help save the lives of many, moving forward, and help protect those from needless suffering.

Thank you again to the bill's sponsor and those that helped to make this

legislation possible. And thank you, Mr. President.

ACTING PRESIDENT O'MARA: Senator Kennedy will be recorded in the affirmative.

Senator Montgomery to explain your vote.

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

I am certainly intending to vote yes on this legislation, and I certainly appreciate the attention that Senator Maziarz is paying to this extremely difficult and important issue.

I certainly do caution, however, that it's a situation where vulnerable people, most often young children, are in a situation that is of danger to them where they are tortured or neglected or abused in some way and very often we cannot get to them. It is, in many, many instances -- I certainly have had a number of cases in my own district where children end up being killed by someone in their home. And we can't seem to deal with the situation until the person, the child, has been killed and we are looking for answers and excuses and approaches. And very, very often -- too often, I think -- we

end up trying to address it through the criminal justice system.

And that has not worked. It will never work. I believe that one of the things that we must do, and I hope that we will do in the very, very near future, is look to building a system that seeks early intervention through signals that we all know are stress signals in a family that will allow us to intervene into situations, whether they are adults of children, early enough to protect them and save their lives, and at the same time provide a support system for the families so that they are strengthened as opposed to attempting to penalize people and to do punishment as opposed to prevention and public assistance to families in stress.

And so I certainly am going to vote yes on this, but I hope that there is not an assumption that this satisfies the need for families in our state who, for whatever reasons, find themselves in a situation where they endanger their own loved ones because of the stresses involved.

So thank you, Senator Maziarz, for

paying attention to it. And certainly I look forward to when we can begin to address this problem systemically, systematically, as opposed to piecemeal, as we have tried to do in the past.

Thank you, Mr. President. I vote aye.

ACTING PRESIDENT O'MARA: Thank you, Senator Montgomery. Your vote will be recorded in the affirmative.

Announce the results.

THE SECRETARY: Ayes, 62.

ACTING PRESIDENT O'MARA: The bill is passed.

THE SECRETARY: Calendar Number 593, by Senator Libous, Senate Print 3758, an act to amend the Education Law.

ACTING PRESIDENT O'MARA: Read the last section.

THE SECRETARY: Section 5. This act shall take effect 18 months after it shall have become law.

ACTING PRESIDENT O'MARA: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT O'MARA: Announce

the results.

THE SECRETARY: In relation to Calendar Number 593, those recorded in the negative are Senators Alesi, Ball, DeFrancisco, L. Krueger, Lanza, Larkin, Marcellino, Martins and Ranzenhofer.

Ayes, 53. Nays, 9.

ACTING PRESIDENT O'MARA: The bill is passed.

THE SECRETARY: Calendar Number 664, by Senator Lanza, Senate Print 2942, an act to amend the Criminal Procedure Law.

ACTING PRESIDENT O'MARA: Read the last section.

THE SECRETARY: Section 3. This act shall take effect on the 60th day.

ACTING PRESIDENT O'MARA: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 62.

ACTING PRESIDENT O'MARA: The bill is passed.

THE SECRETARY: Calendar Number 667, by Senator Valesky, Senate Print 4235, an act to amend the Executive Law.

ACTING PRESIDENT O'MARA: Read the last section.

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

ACTING PRESIDENT O'MARA: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 62.

ACTING PRESIDENT O'MARA: The bill is passed.

THE SECRETARY: Calendar Number 670, by Senator Ball, Senate Print 4880B, an act to amend the Tax Law.

SENATOR BRESLIN: Lay it aside.

ACTING PRESIDENT O'MARA: The bill is laid aside.

THE SECRETARY: Calendar Number 678, by Senator Young, Senate Print 851, an act to amend the Environmental Conservation Law.

ACTING PRESIDENT O'MARA: Read the last section.

THE SECRETARY: Section 6. This act shall take effect immediately.

ACTING PRESIDENT O'MARA: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 62.

ACTING PRESIDENT O'MARA: The bill is passed.

THE SECRETARY: Calendar Number 712, by Senator Grisanti, Senate Print 5117, an act to amend Chapter 84 of the Laws of 2010.

ACTING PRESIDENT O'MARA: Read the last section.

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

ACTING PRESIDENT O'MARA: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 62.

ACTING PRESIDENT O'MARA: The bill is passed.

THE SECRETARY: Calendar Number 719, by Senator Fuschillo, Senate Print 5318, an act to amend Chapter 203 of the Laws of 1999.

ACTING PRESIDENT O'MARA: Read the last section.

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

ACTING PRESIDENT O'MARA: Call the

roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 62.

ACTING PRESIDENT O'MARA: The bill is passed.

THE SECRETARY: Calendar Number 721, by Senator Marcellino, Senate Print 924, an act to amend the Penal Law.

ACTING PRESIDENT O'MARA: Read the last section.

THE SECRETARY: Section 6. This act shall take effect on the first of November.

ACTING PRESIDENT O'MARA: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60. Nays, 2. Senators Montgomery and Perkins recorded in the negative.

ACTING PRESIDENT O'MARA: The bill is passed.

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

SENATOR LIBOUS: Thank you, Mr. President. Could we now have the controversial reading of the calendar, please.

ACTING PRESIDENT O'MARA: The Secretary will ring the bells.

The Secretary will read.

THE SECRETARY: Calendar Number 670, by Senator Ball, Senate Print 4880B, an act to amend the Tax Law.

ACTING PRESIDENT O'MARA: Senator Breslin.

SENATOR BRESLIN: Thank you, Mr. President.

I believe there's a hostile amendment at the desk. I ask that the reading of the hostile amendment be waived and that Senator Peralta be allowed to speak on the amendment.

ACTING PRESIDENT O'MARA: Senator Peralta on the amendment.

SENATOR PERALTA: Thank you, Mr. President. I rise to support this amendment and ask all my colleagues to do the same.

I'd like to begin my remarks by letting everyone know that as of the close of business last Friday, the price of crude oil was just around a hundred dollars a barrel, depending on the contract. And this will come in handy later on in my remarks.

This tax holiday bill that we're entertaining here today is at best a temporary relief at the gas pumps, simply understood as a Band-Aid to a very complex problem. In fact, it's only a relief if gas stations and other retailers do not maintain elevated prices or increase replacement costs in order to augment for profit. That's why many are skeptical that this measure will just be another windfall for the gasoline industry, being that the state will lose around $60 million.

Nevertheless, we must take all available opportunities to help ease the pressure on working families. There have been countless news stories and reports in recent days and weeks describing the pain that working families are going through, stories of families deciding whether they should put gas in their car or whether they should buy food for their table.

And here's just a sampling of some of the hurt that our families are going through and are facing throughout the State of New York. Over the last year, prices have increased throughout the state and they've increased substantially. In Albany, New York, they've

increased by $1.10. In Binghamton, they've increased by $1.05. In Buffalo/Niagara Falls, they've increased by $1.03. In Nassau, they've increased by $1.15. In New York City, they've increased by $1.16. In Rochester, by $1.03. In Syracuse, by $1.00. In Utica/Rome, $1.05.

Part of helping working families is taking every measure to ensure that families are not gouged at the pump, especially by the practice of fluctuating gas prices within a 24-hour window. This practice, often masked as replacement or anticipated replacement costs, is a common practice to increase profits.

This legislation or this amendment that I am proposing has passed the Assembly in 2010 by a margin of 144-1; in 2009, by a vote of 147-0; in 2008, by 140-0. And it's getting ready to pass again this week.

This legislation would end the practice of elevating or increasing oil prices within a 24-hour period. This legislation will make it unlawful for anyone engaged in the sale of motor fuel to increase the price of any grade or quality of motor fuel sold at a retail outlet more than once in a 24-hour period. This measure

will help prevent the fleecing of New Yorkers when they go to fill up their cars.

As we all know, our economy has gone through troubling times. We have seen the mortgage foreclosure issue, we have seen high unemployment rates, we have seen Wall Street crumble and try to get back on its feet. Increased gasoline prices could derail continued economic recovery. We must take all measures, whether small or significant, to prevent this from occurring.

And while the gasoline market and the components that make up the market are some of the fastest and the most volatile markets in the world, the market does not move so fast to feel the need to increase prices several times a day. The practice of increasing gasoline prices has to do with increasing profits for retailers and not covering increased costs. Multiple price increases during a single day is part of a broader set of price-gouging and manipulation practices that take advantage of rapidly moving prices.

And that's why in New York, right here, Attorney General Eric Schneiderman has

recently announced a formal examination of gas prices throughout New York. This investigation will compile data on the prices charged by gas retailers and information on the chain of distribution to determine the cause behind the recent spikes.

That's why, nationally, Attorney General Eric Holder recently created the Oil and Gas Price Fraud Working Group, which will identify civil or criminal violations into oil and gasoline markets. This group will coordinate and foster cooperation between the Department of Justice and other relevant agencies, including state attorney generals.

We must move on this measure today because, as has been noted, we are set to begin the heavy driving season now during Memorial Day. As we all know, gas prices are determined by a few key factors, including the cost of crude oil, which is the most significant, which is made up of 61 percent of the price; the cost of refining the crude oil into gasoline, which is made up of 11 percent of the price; sales tax imposed by the federal government and the state government, which makes up about 18 percent of

the price; and the cost of getting the gasoline to the retailer and its storage, which is about 10 percent of the price.

And while gas prices are mostly determined by supply, demand, competition and profit, manipulating the market to get to a set profit is absolutely wrong.

Preventing the increase of prices more than once during a 24-hour window will enable consumers to make educated spending decisions and help cushion the impact of rapid price increases.

This measure is also necessary because the market does not always set prices according to cost or supply and demand. This is highlighted by the near record high in the cost of consumer gasoline prices despite falling crude oil prices. In fact, the price of crude oil in February of this year was $113 a barrel, and like I mentioned earlier, has since dropped to just around $100 a barrel just a few days ago. Yet the cost for regular gas in February was $3.40, and today it remains at $4.20, about 80 cents higher since we reached a cruel oil price high.

In fact, according to Moody experts,

for every dollar that crude oil is increased, the consumer pays on average 2.5 cents more at the gas pump. So if this is the case when you increase crude oil, why isn't it the reverse when you decrease crude oil?

The measure that we propose here today is not extraordinary. Other states have followed suit -- Wisconsin, New Jersey, and the City of New York has done so as well. They have laws banning more than one increase in prices during a 24-hour period.

I hope my colleagues will join me in this amendment in providing some relief to the fragile economy and to all New Yorkers. Because although today we're considering a temporary Band-Aid, we need a permanent solution to this common practice that leads to price gouging.

Thank you, Mr. President.

ACTING PRESIDENT O'MARA: Thank you, Senator Peralta.

I have reviewed your amendment at the desk, conferred with counsel, and ruled that your amendment is not germane to the bill and is therefore out of order.

Senate Rule VI, Section 4B, provides

in part that no amendment shall be allowed to any bill which is not germane to the original object or purpose thereof.

The subject of the bill before the house is the imposition of taxes, and it amends the Tax Law and the State Finance Law relating to tax issues. Your amendment does not address any issues relating to taxes and would seek to amend the General Business Law. Therefore, the chair rules that the amendment is not germane.

Senator Breslin.

SENATOR BRESLIN: Mr. President, I respectfully appeal the ruling of the chair.

ACTING PRESIDENT O'MARA: The question before the house is the appeal on the ruling of the chair. All those in favor of overruling the ruling of the chair please say aye.

(Response of "Aye.")

ACTING PRESIDENT O'MARA: All those opposed to overruling the chair please say nay.

(Response of "Nay.")

SENATOR BRESLIN: A show of hands, please, Mr. President. A show of hands, if we could.

ACTING PRESIDENT O'MARA: A show of hands has been requested.

Those in favor of overruling the chair please signify by raising your hand.

The Secretary will announce the results.

THE SECRETARY: Ayes, 28.

ACTING PRESIDENT O'MARA: The ruling of the chair stands.

Senator Ball on the bill.

SENATOR BALL: Thank you, Mr. President.

You know, we know that we right now are living in one of the worst economies and economic crises that we've seen since the Great Depression. And it has been suggested, at least today, that this is a Band-Aid. And there is no doubt that there is a larger problem where we live in a nation that is chronically addicted to foreign oil -- that it is not only an economic issue but it's also, at its very heart, a homeland security issue.

Above and beyond that great debate, we have blue-collar families here in New York State that really and truly are having to decide

the difference between filling up their tank, buying food, making a mortgage payment. There are certain people who are realizing that it doesn't even pay them to get a job because of the cost of what it takes to fill up that tank.

And I think it's entirely important that the people of this state, with nearly 2 million have left, many of those 2 million have left because of the taxation, the overregulation, and the openly inhospitable environment, not only for small business owners but for working families and blue-collar people who really have always made this state great.

And I think it's important that we send a very clear message and a very clear signal, as a body and as a Legislature, that we understand, that we feel the concerns of the people in this state. And whether it be a Band-Aid or a tourniquet, it is well beyond the time where this State Legislature should respond to the concerns and the needs of the people in New York.

ACTING PRESIDENT O'MARA: Can we have order in the chamber, please.

SENATOR BALL: This gas tax holiday

will send that exact message. And I tell you, when they see a reduction at the pumps of nearly 33 cents, and possibly more with the local option, it will put in the back of their head how these prices have been inflated over time because of overtaxation. And in my opinion, that will be a very good thing.

So I want to thank those who support this piece of legislation. And it's certainly a great step forward during this very important summer holiday season.

Thank you.

ACTING PRESIDENT O'MARA: Senator Liz Krueger.

SENATOR KRUEGER: Thank you. Will the sponsor please yield, Mr. President.

ACTING PRESIDENT O'MARA: Senator Ball, will you yield?

SENATOR BALL: Sure. Yes.

SENATOR KRUEGER: Thank you.

So I heard the sponsor explain and support his bill and that it would save people money. How much do we estimate that people will save through this tax holiday period in their gas bill?

SENATOR BALL: The typical family could expect to save approximately $100. And it's approximately $5 to $6 every time that you fill up.

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

ACTING PRESIDENT O'MARA: Do you yield, Senator Ball?

SENATOR BALL: Yes.

SENATOR KRUEGER: What's the total number of days this tax holiday would apply to?

SENATOR BALL: It's 12 days total.

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

ACTING PRESIDENT O'MARA: Do you continue to yield, Senator Ball?

SENATOR BALL: Yes.

ACTING PRESIDENT O'MARA: The Senator yields.

SENATOR KRUEGER: Thank you, Mr. President.

So the estimate is 12 days, 33 cents per gallon, and he's proposing a hundred dollars? How many gallons of gas is he

estimating the average person uses in a 12-day period?

SENATOR BALL: Seventeen gallons to fill up.

SENATOR KRUEGER: Seventeen gallons per fill-up times 33 cents is approximately $6. Mr. President, in order for them to save $100, they'd have to fill up their tank how many times during a 12-day period?

ACTING PRESIDENT O'MARA: Is that a question?

SENATOR KRUEGER: You're right. Fair enough. It's not a question of you, Mr. President.

Would the sponsor please explain to me how many times they would have to fill up, at a savings of $6 per fill-up, to save $100 during 12 days?

SENATOR BALL: Okay. So, Mr. President, we're talking about two cars per household. We're talking about two fill-ups per period. And in that estimate we're also including the local option. We have 33 cents from the state level, but above and beyond that, this legislation also allows municipalities to

opt in as well. And the estimate is a hit of over $60 million at the state level, but the -- it could be, you know, between $60 to $70 million is the estimate that we've been getting.

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

ACTING PRESIDENT O'MARA: Do you continue to yield, Senator Ball?

SENATOR BALL: Sure.

SENATOR KRUEGER: Particularly because it's a holiday period and we love having tourists come to New York during a holiday period, would we give this tax break to visitors to New York State as well as New York State residents?

SENATOR BALL: Mr. President, this savings would be to those who are coming into the state.

And there were concerns initially that I also had as placing this burden onto the retailers. But those issues have been addressed in this legislation.

So it would indeed include those who come to New York State. And I can tell you that in my district, where we're right on the border,

I think that you could actually see an increase in economic activity.

So while you may have an impact of over $60 million a hit to the General Fund at the direction of the Comptroller because of the increase in economic activity to the state, we could actually see revenues increase overall.

SENATOR KRUEGER: Mr. President, I believe that the sponsor did already state that his tax holiday would cost the state $60 million. I believe that's what he said. What are we cutting out of the state budget to make up for the loss of $60 million?

ACTING PRESIDENT O'MARA: Do you continue to yield?

SENATOR BALL: Yes, Mr. President.

It was a great conservative Republican, Jack Kennedy, who cut taxes during his administration at the federal level and actually realized that by doing so that revenues overall -- actually, he was a Democrat, I'm sorry -- and then saw revenues increase overall because of economic activity.

At the end of the day, this state -- and I believe it was a Democratic Governor has

suggested that this state no longer has a future of being number one in overall taxation, number one in all the wrong ways.

And it has been suggested on the other side that this is merely a Band-Aid approach anyways. We're talking about a very small chunk of money which will go a very long way for the blue-collar families -- Democrat, Republican, vegetarian, vegan, and everywhere in between -- that are struggling to make ends meet.

So I believe that because of increased economic activity, especially during these holiday periods -- and, as you have just suggested, folks coming from out of state to come to this great state to take advantage of this great discount, which certainly will get a lot of press -- that we will actually see the coffers increase.

And let us remember that New York State government should not be happy nor smile at the misery of taxpayers as sales tax revenues increase over which they have no control.

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

ACTING PRESIDENT O'MARA: Do you continue to yield, Senator Ball?

SENATOR BALL: Yes, Mr. President.

SENATOR KRUEGER: While I appreciate the discussion of the political party of the great President Jack Kennedy and the broad, global impact for vegans and vegetarians from sales tax, right now, if we pass this bill, what does the sponsor intend for us to cut out of the state budget? Because it takes $60 million away from money intended for our roads and bridges.

SENATOR BALL: Mr. President, this is a great example, for the three or four people who are watching on TV today, of philosophical differences.

And it is my belief, and I believe many on this side, that by freeing up the private enterprise, by cutting taxes on blue-collar families, by providing economic activity, we will actually see an increase in revenues. That is our philosophy. So there will be no need to cut any further.

In fact, it is our contention and my belief that because of the cut in taxes and

because of the attention brought to these gas-tax holidays that we will actually see an increase in overall revenue projection. That's just a very clear difference of that side versus this side.

SENATOR KRUEGER: Thank you.

Mr. President, I think Senator Ball is right, the people who are watching -- hopefully more than three or four; there's certainly more than three or four of us here in the chamber -- will see that there's a philosophical difference.

I am extremely concerned about passing a bill that would have an immediate loss of funding for the State of New York without explaining what we're going to cut in our budget to make up for that loss of money.

So again, I would like Senator Ball to please clarify to me what he is proposing we cut out of our budget specifically to make up for the loss of $60 million intended for our roads and bridges in this year's budget.

SENATOR BALL: Mr. President.

ACTING PRESIDENT O'MARA: Senator Ball.

SENATOR BALL: At this point I'm

going to answer this one more time, because I understand that sometimes I don't always possess the ability to communicate to the best of my ability. So I'm going to be very clear on this. And it was even suggested by the Senator when she asked about tourists coming from out of state.

Our legislative body has the opportunity today, as well as the Assembly, to move forward and say the Empire State is back, we're open for business. We want tourists, we want folks in the border areas to come to New York State to take your stay-vacation, to take your vacation and come to New York State.

And in order to incentivize that, we are going to cut the gas tax on the method by which you actually can get and travel around this state by a whopping 33 cents. When the local municipalities opt in, you're talking about nearly 50 cents. That's no small dollar added up over time.

By doing that, we will see tourists coming into New York State. And I can tell you that while some of us may not believe it, in my blue-collar community I see an awful lot of people using coupons. I see a lot of gas

stations -- there's one gas station in particular, they try to have a bare-bones rate, and there are cars lined up and trucks lined up around the street in order to be able to go to that service station.

This will create the type of energy and buzz that we need to put New York State back on the map, to bring those tourists in. We will not need to cut, because instead of being statists, instead of believing that it is our job to stand here and defend the revenue streams of New York State government, we have got to realize that it is our job to protect the pocketbooks of the blue-collar people who are struggling and making New York State great but struggling to do so. And the moment that we realize we're here to protect their wallets and not our government coffers is the moment that New York State will once again be great.

And to the extent that we continue to defend the growth of government and to fight against any ending of taxation, that's just another nail in the coffin for a state that was built not by this government but by private enterprise, by blue-collar people, union and

not. And that is exactly what this gas sales tax holiday will accomplish.

SENATOR KRUEGER: Mr. President, if the sponsor will continue to yield.

ACTING PRESIDENT O'MARA: Will you continue to yield, Senator Ball?

SENATOR BALL: Yes.

SENATOR KRUEGER: Thank you.

I like that we're talking about that it will be a sales tax break for blue-collar New Yorkers. Is this a means-tested program? Are we only allowing this to be a sales tax deduction for those people who meet some legal definition as a blue-collar New Yorker?

SENATOR BALL: Mr. President, it's not means-tested. We do not want to means-test economic activity coming into the state. We want folks who are lower middle class, poor, rich, everything in between, realizing that New York State has this great opportunity in coming here.

So that just -- I don't even understand why that would even be considered.

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

SENATOR BALL: Mr. President, may I

just ask one question to the Senator?

SENATOR KRUEGER: I'd be happy to yield.

SENATOR BALL: Would it be your objective that gas in New York State -- just very simply, would it be your objective that gas in New York State at the pump cost less or cost more?

SENATOR KRUEGER: I would like every item in New York State to cost less.

And at the same time, when you're going after our tax revenue, when you cut tax revenue you have to answer the hard question of what are you going to cut in government spending.

Would the sponsor yield?

ACTING PRESIDENT O'MARA: Do you continue to yield, Senator Ball?

SENATOR BALL: Yes.

ACTING PRESIDENT O'MARA: The sponsor yields.

SENATOR KRUEGER: Thank you.

So I understand that his proposal would be to cut sales tax for a 12-day period to the tune of 33 cents per gallon. I think he and I disagree on how many times anyone will be

filling up their car or cars during the holiday period. I certainly don't think it will be anywhere near the $100 per family described.

But we have a problem with price gouging 365 days a year. Attorney General Eric Schneiderman has started an investigation into price gouging. My colleague Senator Peralta attempted to do an amendment to this bill addressing price gouging and yet it was ruled non-germane to the topic of the price of gas at the gas pump.

So does Senator Ball think that price gouging is a problem for the cost of gasoline at the gas station?

SENATOR BALL: Mr. President, I absolutely do.

And to the extent that those concerns have been addressed in the bill, I just want to very specifically read the portion of the bill. It says: "Every person engaged in the retail sale of motor fuel and/or diesel motor fuel or distributor of such fuel, as defined in Article 12-A of this chapter, shall comply with the provisions of Section 392 of the General Business Law by reducing the prices charged for

motor fuel and diesel motor fuel in an amount equal to any reduction in taxes prepaid by the distributor."

So just let me back up real quick. "Shall comply by reducing the prices charged for motor fuel and diesel motor fuel in an amount equal to any reduction in taxes prepaid by the distributor." I can tell you, as the sponsor of this bill -- and I know that our entire conference would in no way support this legislation if we thought in any way that certain retailers were just going to put those savings back into their own pocket. That's why we worked very hard to make sure that those protections were put into the bill.

And you yourself have suggested -- and I thank you for reminding me -- the aggressiveness of our current Attorney General, because it's certainly in his purview, not ours, to enforce the law. And I am absolutely certain that if any price gouging were to come because of this, that he would be on top of it quicker than can be imagined.

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

ACTING PRESIDENT O'MARA: Yes, he continues to yield.

SENATOR KRUEGER: Thank you very much.

I'm glad we both agree that we have a very aggressive Attorney General who will work to be on top of it. But the catch with this kind of sales tax holiday is it's very hard to figure out whether the consumer is ever getting the tax savings, particularly when retailers can simply up their price several days before the tax holiday to adjust for their continuing to have a higher rate even with a sales tax holiday.

What specifically in this bill would prevent retailers from increasing their prices before the holiday?

SENATOR BALL: Mr. President, as I read before, and it is very specific in the legislation, these retailers are actually going to be forced to comply to make sure that there is a reduction in their prices commensurate with the cut in the 33 cents, plus, in some areas, the local option.

To the extent of legislating every single scenario, that is certainly why we have an

Attorney General, who no doubt would enforce the laws that are already on the books to go after price gouging or any other violation of existing law.

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

ACTING PRESIDENT O'MARA: Do you continue to yield, Senator Ball?

SENATOR BALL: Yes.

SENATOR KRUEGER: So I think we agree we lose $60 million to our existing financial plan, and we hope somehow that will be made up someday with increased economic activity.

I think we agree -- or we don't agree with how much gas any given household will be filling up. I don't think we agree that this bill specifically outlines how we can prevent retailers from increasing their prices before the holiday or continuing current gouging or even prevent them from, once the holiday is over, continuing at the higher rate.

So can we talk about how do we ensure that the tax savings will actually be passed on to the consumer at the point of purchase? Could the Senator explain to me what

mechanisms are or will be in place to ensure that the savings, total savings, would not be actually realized by the retail establishment or the fuel distributor, instead of the consumer as intended by the legislation? Who would be providing the extra oversight to ensure that the savings are passed directly on to the consumers?

SENATOR BALL: Mr. President, in a nutshell, some of the issues that are being brought up in this particular dialogue do come under the purview of the Attorney General. But let it be clear that we're talking about 33 cents. And local option, the municipalities that opt in, there can be an additional upwards, I believe, of 15 cents. So you're talking about nearly 50 cents.

So the hypothetical that's put out there is that a couple of days before the certainty, the retailer is going to go ahead and increase prices by nearly 50 cents and then go ahead and take those proceeds.

To the extent that that was done, it would be highly visible because of the large percentage of tax that we have in New York State, being 33 cents plus the local option. To that

point, because of the laws that already exist on the books to govern price gouging, the Attorney General and other law enforcement would have it within their powers to investigate that. And the Attorney General has already shown a proclivity to do that.

And I would say that the questions that you ask are ones that were asked during the formation of this bill. They're well-taken, they're well-placed. And that's why we are forcing the retailers, to the extent possible, to comply and to, commensurate with the 33-cent reduction or more, to place that in their price rate.

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

ACTING PRESIDENT O'MARA: Do you continue to yield, Senator Ball?

SENATOR BALL: Yes.

SENATOR KRUEGER: Thank you.

I'm really trying to get at the nuts and bolts of how we're going to make sure that the consumer gets the money, because we know the state is going to lose the money.

We know it's not a benefit that's

going to apply only to New Yorkers, because non-New Yorkers can take advantage of it. And we know that it's not a program that will specifically advantage low-income New Yorkers, blue-collar New Yorkers, or even New Yorkers who drive fuel-efficient cars as opposed to gas-guzzling cars.

Ironically, the bigger the gas-guzzler you've got, the better your deal is under this. So I've got a problem with that too.

But again, trying to pinpoint how we can assure that these taxes actually are saved at the pump by the consumer as opposed to pocketed somewhere along the supply chain.

So the motor fuel tax, Article 12A, in New York State imposes an 8-cents-per-gallon tax on motor fuel at the point of first taxable sale or use in New York State. That 8-cent-per-gallon tax also applies to other motor fuel, including gasoline, upon first import or production within New York State.

The tax law requires the pass-through of these taxes to the consumer, the retail point. Therefore, because this tax is essentially prepaid, doesn't this feature of

Senator Ball's law make it difficult to pass the savings on to the consumer at the point of last sale, retail?

So doesn't the prepaid feature of our model of petroleum tax collection make it very difficult to determine the actual amount of the tax reduction that should occur at the retail level, partially because gasoline and diesel are shipped in very large amounts and these taxes are applied earlier in the process?

So again, how do we make sure anybody's calculating it right and anybody is providing it to the consumer correctly?

SENATOR BALL: Mr. President, first, the prepaid portion is only an issue in the sense of it being an issue with the state portion, because at the local option that's paid at the pump.

And what also we didn't want to do in this legislation was create a bureaucratic nightmare for retailers, mom-and-pop types. And that's why they actually, as you play this through, are going to be able to -- the tax is prepaid, and against future sales taxes. In many instances it will probably even out or equal out,

according to the sales tax that they're going to have to pay on other items.

So to your point of how are we going to know that each and every retailer is doing the right thing, I think at some point we've got to get back to the basics of this legislation. We are here to pass a piece of legislation to let blue-collar families -- and I'll say that. You know, you suggested that, well, you know, people that drive bigger cars, the limos and helicopters and whatnot, they're the ones that are making the biggest savings.

It's the folks who are blue-collar who are having to decide between filling up their cars or being able to make a mortgage payment, being able to afford health insurance, being able to put money away in the bank or go on vacation and spend money throughout this state. So it's really the blue-collar folks and lower middle class and the poor who spend the largest percentage of their salary and the money that they have in their pockets on things like food and clothes and, yes, gas.

So this really is a bailout during critical holiday times for the lower middle

class, the middle class, blue-collar folks in this state, and works as an economic incentive to tourists who are seeking to come into this state.

Now, we can go into a thousand different ways how Big Brother could do a better job of looking over the shoulder of some retailer or pulling the money out of somebody's pocket. But I would suggest that this is a move in the opposite direction to suggest, you know what, yes, as a body we realize that New York State taxes way too much and we are number one in all the wrong ways.

And sure, is this one small step in the right direction? Yes. But it's also a huge call and sign to the folks, the taxpayers in this state that we hear their pain and that we're trying to do the right thing.

SENATOR KRUEGER: Mr. President, on the bill.

ACTING PRESIDENT O'MARA: On the bill.

SENATOR KRUEGER: We could go on with the questions. I have a lot more questions. But I think the fundamental issue here is the State of New York should want to do

something to try to lower taxes for those people whose lives are suffering for inability to buy food or pay their mortgage or pay their rent or pay for health insurance.

But there's an endless stream of models for tax policy and progressive taxation that will get us there much more effectively and much more significantly than this holiday sales tax proposal. I would go so far as to say that this is a voodoo-economics tax solution.

And actually, the Lower Hudson Valley Lohud newspaper called it a "gas tax holiday gimmick." The New Republic called it a gimmick, as well as did any number of other journals and newspapers.

This isn't the way to address the economic needs of our population. It is a way to cut $60 million out of our budget for road repair and bridges. And last time I checked, many of my colleagues were very concerned that we had inadequate funding for road repair and bridges.

It's not a model that assures the savings go to the blue-collar users of gasoline most in need. It's not even a way to guarantee the tax savings go to the consumer at all,

whether he's Donald Trump or a visitor from across the state, because it's unbelievably complicated to calculate the savings, to calculate who, what, where, why on the different taxes, how to address the refund payments between Tax and Finance, the retailers, the wholesalers.

It is a tax reduction on petroleum products, which many people would say is about the last thing you want to do tax reductions in.

Yes, the cost of gas is high. I just filled up for $4 a gallon here in Albany, and the tax is approximately 11.8 percent, I believe, currently on a gallon of gasoline. Yes, at $4 a gallon our taxes translate to 11.8 percent tax. So it's not the most heinous of tax rates that we see across the board in New York State.

But at least in other kinds of taxes, or even proposals to reduce taxes, we have the ability to see whether the person paying the taxes actually gets the reduction in taxes. We can't prove that here. We can't find any evidence that that's worked other places.

We can't determine that it goes to people most in need. Although I'd hazard a

guess, if we have to cut $60 million out of the state budget, those cuts probably will affect those people most in need.

It does nothing to address the concerns of gas price gouging and in fact, I believe, as a model encourages more gas price gouging by retailers who may figure out that if they up their prices right before the holiday goes into effect and then don't quite really ever master figuring out how to transfer that sales tax reduction at the pump during the holiday and then see no reason to reduce their prices after the holiday, there can be a real win for those people who want to game the system.

We didn't get into my questions about the county matches. But when I review the counties who at one time did have a county match, most of them pulled out because they recognized that the loss of county sales tax, if they went into a matching program, translated in real life for their budgets and they would have to cut something in their local budgets.

In fact, the Onondaga County Division of Management and Budget did a report showing that the sales tax loss would serve as

having to do an offset against property taxes, requiring them to raise their property tax if they lowered their sales tax on gasoline. So there's one location who said, I see the immediate gain and loss. The loss is to government, and it has to be made up, and it will be made up in some other kind of tax.

So I don't think this really is about reducing taxes. I think this is about a fabulous press hit. And I don't think it works, and I don't think we should support it. And I don't think it will become law. That's the good news today. I don't believe it will become law, because it's bad public policy. And it will not have its effected goals. And in fact, it can have just the reverse.

And what a shame that we could have been having a discussion about legislation to reduce gas gouging 365 days a year, or increase energy efficiency, or encourage alternatives to petroleum product use. That's the shame in our spending time on this bill that doesn't make sense, will I'm sure pass this house, but not become law.

I vote no, and I urge my colleagues

to vote no. Thank you, Mr. President.

ACTING PRESIDENT O'MARA: Senator Ranzenhofer on the bill.

SENATOR RANZENHOFER: Thank you, Mr. President. Just very briefly.

I'd like to commend my colleague Senator Ball for what is really a common sense piece of legislation here.

In my neck of the woods this is very real. Because what's happening in my community are people are deciding whether or not they're going to travel these holidays, on Memorial Day, July 4th, and Labor Day, probably some of the busiest travel times of the year.

What people are telling me as I travel throughout my community is because the price of gasoline is so high, they're simply not traveling. They're staying home. In my opinion, I think that will result in less money coming into the state than more money, because people are not going to do what they normally do over Memorial Day, July 4th, and Labor Day.

This concept is actually very similar to something that this Senate has done in the past with respect to clothing. These very

same arguments that I've heard back and forth are the very same arguments which you would use when you discuss the sales tax holiday on clothing.

Yet the Senate and the Assembly and the Governor decided that that was a good public policy, because when kids were going back to school and families were doing their clothes shopping, this would actually encourage more spending at that particular time.

Well, this legislation is actually patterned over the type of legislation that has passed before, only this time it doesn't apply to clothing, it applies to gasoline.

The fact is people are not going to be traveling over these holidays. They're very concerned about the effect that the high price of gasoline has. I think they want to see the Senate and the Assembly and the Governor reacting to this problem that they have to deal with each and every day. They don't sit at home and discuss these very high-minded policy issues. What they know is that more money is coming out of their wallet because the price of gas is going up.

And this is simply a measure which

helps them, which gives them some limited relief during a time when they would travel most.

So I want to commend my colleague Senator Ball for his foresight in patterning this legislation over the very legislation that has passed before dealing with clothing, only this time it deals with gasoline. So I want to commend you, and I'll be voting yes on this legislation. Thank you.

ACTING PRESIDENT O'MARA: Thank you, Senator.

Senator Little.

SENATOR LITTLE: Thank you, Mr. President.

And I too would like to commend Senator Ball for putting forth this really bold proposal. And it's coming at a time when it can help New York State tourism.

The I Love New York program is putting their summer program in as it's just a tankful away to go and travel and travel within New York State. Some Cornell students just did a study, and what they found is that more people travel to New York State by car than any other means. And for us to be promoting "just a

tankful away" and giving this incentive of not having the taxes on your tankful of gas is really going to help with tourism in New York State.

And if tourism improves, the sales tax improves, the income taxes for the people working in tourism improves, the business improves. So I think we all gain. I don't think this is a loss. You might want to call it a gimmick, but if you ask me, it's a good gimmick.

So I vote aye. Thank you.

ACTING PRESIDENT O'MARA: Senator Rivera.

SENATOR RIVERA: Thank you, Mr. President.

So I stand today, I will be voting no on this legislation for a few reasons. I think that Senator Krueger was very good at pointing out different issues that we've had with this particular legislation.

I would have to disagree with my colleagues, particularly Senator Little, when she said this is a good gimmick. A gimmick is still a gimmick. It is not actually something that resolves anything.

It will make for a great press hit.

But if we have problems with its enforcement, if we have problems with its implementation -- I mean, think about it. We have one of these weekends that is actually coming up. If we were to pass it today and the Assembly were to pass it today, how would it actually get implemented by the Department of Taxation?

So if we have problems with its enforcement and problems with its implementation -- and particularly problems with what will happen with the loss of revenue. It is interesting that here we are talking about how we can actually make life easier for some of the working-class people in this state, and yet we are once again not discussing the fact that there are $4 billion that we're leaving on the table with our personal income tax surcharge that is going to run out on December 31st.

And I know I am a broken record on this, ladies and gentlemen, but I will continue to say it, because it is -- when we're talking about working-class people in this state and those that are impacted by the cuts in revenue that we have, it is those blue-collar workers in your district, Senator Ball, it is those

blue-collar constituents in your district, Senator Little, and certainly my constituents, the constituents in my district and all over this state that are impacted when we have less revenue.

So if we are not talking about how to continue a tax that is not burdensome, that is not burdensome on wealthier New Yorkers, but we are talking about a gimmick that will actually give us $60 million less in revenue, I think we're talking about the wrong thing.

So I will be voting no on this piece of legislation, and I will encourage all my colleagues to do the same.

Thank you, Mr. President.

ACTING PRESIDENT O'MARA: Thank you, Senator.

Senator Marcellino.

SENATOR MARCELLINO: Thank you, Mr. President.

I hadn't intended to get up, but I'm hearing this mantra coming back, there's a $60 million loss in this bill. A loss to what? A loss to whom? A loss to government.

On the other side, there's a

$60 million gain. A gain to whom? To the people. We're putting $60 million back in people's pockets. What are they going to do with that money? They're going to go out and spend it. They're going to go out and spend it on goods and services. They're going to buy food, they're going to buy other things. Maybe even clothing, who knows. Maybe go out to dinner, take the family out to dinner. Whatever it is, it's going to be put back into the economy of this state. And that's what the key is all about.

Governor Cuomo has said it many times. We said it during the budget debate. We don't have a revenue problem in this state, we have a spending problem in this state. We overtax and we overspend.

We're sending a message here: The money belongs in the people's hands. The money belongs in the people's pockets. Let's put it there whenever we have an opportunity to. Let's let them keep their money, let them spend it as they see fit, and it will come back to us tenfold in goods and services and a stimulated economy.

I think this is a good thing.

Senator Ball, you're doing the right thing, you've got the right message. Keep it up.

Mr. President, I intend to vote aye, and I urge everyone else who cares about the public -- and I think that's everybody in this room, that's everybody in this chamber -- let them have the money. Let's put $60 million back in the people's pockets.

I urge the other house to take this bill up too. It's about time they did the right thing for the public. They call themselves the people's house? This is a time when they can demonstrate that they are in fact the people's house.

I vote aye to putting $60 million in people's hands and $60 million back into the economy. Thank you, Mr. President.

ACTING PRESIDENT O'MARA: Thank you, Senator Marcellino.

Senator Alesi.

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

It doesn't strike me as odd at all, when I listen to the tax-and-spend philosophy of some of my colleagues who shudder at the thought

that we might be providing some kind of relief for the hardworking, overburdened taxpayers of this state, that when the economy is slowing down for our small businesses across the state that we might provide some kind of incentive for people to actually travel like they normally would want to do during these three major holidays.

And for those people that look at this as a cost of whatever, I don't know where $60 million comes from. But if it is $60 million and we put that money into the pockets of the people that will travel across this state over those holidays, it has a multiplier effect. If you look at the effect on small business of people that are traveling, that are going restaurants, that are going to hotels, that are going to destination tourism stops, that it's far more than $60 million, or whatever the perceived cost of this is, that will come back as revenue. It could easily be 120, 180, maybe -- who knows what it is.

It's a multiplier effect. It's a positive effect. It drives revenue. It helps the small businesses. And at the same time it helps the people who are bleeding because the

price of gasoline and everything else is keeping them home, it's keeping them from buying consumer goods.

And I would encourage those people who are having a crisis over this to look at it from the positive standpoint that this is good not only for hardworking taxpayers, but it's good for the economy of the state. It is not bad for the economy of this state.

And as Senator Marcellino correctly pointed out, it's their money. Give them a break. I'm voting yes on this.

ACTING PRESIDENT O'MARA: Senator Diaz.

SENATOR DIAZ: Thank you, Mr. President.

Before I say what I'm going to say, I have to remind everyone that today is Women of Distinction night. And 62 members in this chamber have selected one lady, one woman from their district to be here today, and they are here. And to honor Women of Distinction and to let them walk around without us being with them I think is being disrespectful to all of them.

So to all of you guys, remember, we

have Women of Distinction and they're waiting for us somewhere in this building.

And talking about the bill, I have to agree with Senator Marcellino. I have to agree with him. Because we are going through tough times. And I agree also with Senator Krueger; we should do better. And I agree with Senator Peralta. We should do better, more.

But if we cannot do more, the people that I represent -- and I'm here to represent people, not interests or groups -- the people that I represent deserve for me to squeeze, squeeze out of the government as much as I can to give back to them in these times, today.

One million, 2 million, 10 million, 60 million, whatever it is, if I could squeeze something out to give back to them to relieve their burden, to relieve and to help them in these tough times, I will do that. That's why I am voting for this bill, and that's why I'm supporting Senator Marcellino's statement.

Thank you.

ACTING PRESIDENT O'MARA: Senator Oppenheimer.

SENATOR OPPENHEIMER: Thank you.

I'm glad that the Reverend mentioned that we have the Women of Distinction program starting at 5:15, and I'm supposed to be opening it at -- I mean at 5:30 it's supposed to start, and I'm the first speaker. So I wanted to be recorded before I had to leave the chamber.

I'll be voting yes. And I'm voting yes because I have certain empathy with people who are being so hard-pressed at the gas pump. I filled up yesterday morning, and it cost me $70. I couldn't believe my eyes. But I do have empathy for those people who want to get away and are looking at huge costs now.

But as an environmentalist, I know that this is just a drop in the bucket, or in the gas tank, because this is not the answer. And the answer is more difficult and is long-lasting. We have an addiction to gasoline, and we have to break that addiction. And there are many alternatives to the gas in our cars.

For example, my husband and I are going down to Washington, D.C., this weekend, and for once we have decided to take the train instead of taking our car. There's a viable alternative.

There's also, instead of dragging your car to the station, if you're a commuter, there's the opportunity to ride a bike or walk. Think how healthy that might be. It might improve your all-over outlook.

We have also alternatives in conservation. We have a big alternative, huge, in improving the mileage of our new vehicles. This is something we have to work on with Washington. They know in Congress that this is available, we can double the mileage that we get on a present gallon, and yet it is not being moved. And so this is another area that we have to see as the future that we have to work towards.

And we have to work towards alternative fuels. We all know all of the environmental possibilities there are in alternative fuels.

And we now have, at one of my railroad stations, ten plugs where you can plug into your electricity for your electric car, for those people that are just using their electric car to go from the home to the station. When they get to the station, they plug in.

There are so many viable alternatives if we only had the will to pursue them.

But having said that, I am going to vote yes because I do have an empathy for those people who have to buy gas this week and the holiday weekend and just don't know where they have the wherewithal to put it all together. I'll be voting yes.

ACTING PRESIDENT O'MARA: Thank you, Senator.

Any other Senator wishing to be heard?

Senator Peralta.

SENATOR PERALTA: Although the hour is late and I know we have Women of Distinction, I do want to rise and say that although today I believe we should be doing much, much more on these gas-price issues, gas taxes are -- they're a regressive tax. And we need to make sure that the working men and women of the State of New York are protected.

And today, although I've asked all my colleagues on which way I was going to go, but I will be voting in the affirmative on this bill.

ACTING PRESIDENT O'MARA: Thank you, Senator Peralta.

Any other Senator wishing to be heard?

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

SENATOR LIBOUS: Mr. President.

ACTING PRESIDENT O'MARA: Senator Libous.

SENATOR LIBOUS: Thank you, Mr. President. I know that we're waiting for members to come in to be in their chairs. But in the meantime, I believe there are some members who would like to explain their vote.

So if we could start that process, and then as the members filter in we can complete -- because we do have, in 10 minutes, the Women of Distinction ceremony, and I would think that it would be proper for all of us to be there on time and not be disrespectful.

ACTING PRESIDENT O'MARA: We will hold the roll call open.

And read the last section.

THE SECRETARY: Section 9. This act shall take effect immediately.

ACTING PRESIDENT O'MARA: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT O'MARA: Senator Rivera to explain your vote.

SENATOR RIVERA: Thank you, Mr. President.

I just think there's one more thing that I wanted to add. I think it's kind of funny that we are getting blamed over here for being tax-and-spend Democrats. I'd like to remind our colleagues that you all voted almost unanimously yesterday to raise taxes maybe 15 times all across the state.

So it's a little funny that we're actually raising taxes with sales taxes that, again, are the most regressive ones, and here we are getting accused of being something that actually you all are. So I just wanted to point that out.

Thank you, Mr. President. I'll be voting in the negative.

ACTING PRESIDENT O'MARA: Senator Rivera will be recorded in the negative.

Senator Squadron, do you wish to

explain your vote?

SENATOR SQUADRON: Thank you, Mr. President. And thank you for the debate.

Look, the issue with gasoline more than $4 dollar a gallon, there's no question that working men and women in New York State need a break. We need to be moving beyond fuel over time. But today, this summer, it doesn't make any difference for folks on a budget.

ACTING PRESIDENT O'MARA: Can we have order in the house, please.

SENATOR SQUADRON: We need to be moving away from our dependence on foreign fuels, on fossil fuels over time. It doesn't make one whit of difference for people this summer on a budget who are dealing with gas taxes that are more expensive than they ever have been.

The problem with this bill is it's not a gas-tax holiday for consumers, it's a gas-station holiday for those who are retailers, those who sell gas and fuel. And I've got to tell you, they don't need any more help. They get too much help and too many breaks from the federal government. They don't need a break that they're not going to pass on to consumers here

from the state government.

I think that we do too much as it is to subsidize foreign fuel, to subsidize the gasoline industry. What we need is a bill such as the one that Senator Peralta brought up earlier that will actually give relief to families in the short term as well as dealing with some of the problems of cost in the long term.

Unfortunately, this bill will do neither. Folks won't see relief at the pump. Gas prices will go up over time. That's why I'm going to vote no, Mr. President.

ACTING PRESIDENT O'MARA: Senator Squadron will be recorded in the negative.

Announce the results.

THE SECRETARY: In relation to Calendar Number 670, those recorded in the negative are Senators Duane, Gianaris, Hassell-Thompson, Huntley, L. Krueger, Montgomery, Parker, Perkins, Rivera, Sampson, Savino, Serrano, Squadron and Stavisky.

Ayes, 48. Nays, 14.

ACTING PRESIDENT O'MARA: The bill is passed.

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

SENATOR LIBOUS: Mr. President, is there any further business at the desk?

ACTING PRESIDENT O'MARA: There is none.

SENATOR LIBOUS: Mr. President, just as a notification, the Republican majority will conference tomorrow morning at 10:00 a.m. in Room 332. That's 10:00 a.m., Republican majority conference tomorrow in Room 332.

Mr. President, there being no further business before the Senate at this time, I move we adjourn until Wednesday, May 25th, at 11:00 a.m.

ACTING PRESIDENT O'MARA: On motion, the Senate stands adjourned until Wednesday, May 25th, at 11:00 a.m.

(Whereupon, at 5:26 p.m., the Senate adjourned.)