

1 NEW YORK STATE SENATE

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3
4 THE STENOGRAPHIC RECORD

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9 ALBANY, NEW YORK

10 May 24, 2011

11 3:16 p.m.

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13
14 REGULAR SESSION

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18 SENATOR TOM O'MARA, Acting President

19 FRANCIS W. PATIENCE, Secretary

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

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

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

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

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

12 REVEREND YOUNG: Let us pray.

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

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

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

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

3 Amen.

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

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

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

12 Presentation of petitions.

13 Messages from the Assembly.

14 Messages from the Governor.

15 Reports of standing committees.

16 The Secretary will read.

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

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

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

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

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

16 ACTING PRESIDENT O'MARA: Senator
17 Alesi.

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

22 ACTING PRESIDENT O'MARA: Without
23 objection.

24 Senator DeFrancisco.

25 SENATOR DEFRANCISCO: Yes, I would

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

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

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

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

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

19 Senator Seward.

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

25 You know, Ben has had a very

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

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

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

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

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

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

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

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

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

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

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

16 Senator Griffo on the nomination.

17 SENATOR GRIFFO: Thank you,
18 Mr. President. I also stand today to second the
19 nomination of Ben Lawskey.

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

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

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

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

25 And that's the thing that I know the

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

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

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

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

16 Senator Breslin on the nomination.

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

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

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

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

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

24 Thank you very much, Mr. President.

25 ACTING PRESIDENT O'MARA: Thank

1 you, Senator Breslin.

2 Senator Farley, on the nomination.

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

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

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

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

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

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

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

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

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

24 Senator Smith on the nomination.

25 SENATOR SMITH: Thank you very

1 much, Mr. President.

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

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

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

25 To your wife, Jessica,

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

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

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

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

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

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

5 Any other Senator wishing to be
6 heard on the nomination?

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

11 (Response of "Aye.")

12 ACTING PRESIDENT O'MARA: Opposed,
13 nay.

14 (No response.)

15 ACTING PRESIDENT O'MARA: Benjamin
16 M. Lawskey is hereby confirmed as superintendent
17 of the Department of Financial Services.

18 Congratulations, Mr. Lawskey.

19 (Applause.)

20 ACTING PRESIDENT O'MARA:
21 Congratulations.

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

1 Senator DeFrancisco.

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

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

9 (Response of "Aye.")

10 ACTING PRESIDENT O'MARA: Opposed,
11 nay.

12 (No response.)

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

15 Senator DeFrancisco.

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

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

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

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

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

7 (Response of "Aye.")

8 ACTING PRESIDENT O'MARA: Opposed,
9 nay.

10 (No response.)

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

15 Senator DeFrancisco.

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

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

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

11 (Response of "Aye.")

12 ACTING PRESIDENT O'MARA: Opposed,
13 nay.

14 (No response.)

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

19 Senator Libous.

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

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

24 Communications and reports from
25 state officers.

1 Motions and resolutions.

2 Senator Libous.

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

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

11 ACTING PRESIDENT O'MARA: So
12 ordered.

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

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

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

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

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

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

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

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

21 (Response of "Aye.")

22 ACTING PRESIDENT O'MARA: Opposed,
23 nay.

24 (No response.)

25 ACTING PRESIDENT O'MARA: The

1 Resolution Calendar is adopted.

2 Senator Libous.

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

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

9 ACTING PRESIDENT O'MARA: The
10 Secretary will read.

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

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

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

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

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

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

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

1 Frances-Ann Lightsy, Fredericka G. Mabon,
2 Dr. Martha MacGuffie (deceased), Barbara Medina,
3 Elizabeth Miller, Janet Miller, Kate Miller,
4 Elissa Montanti, Mary Morse, Jeanne Mullgrav,
5 Kelly Myers, Mary Nelson, Judy Pepenella,
6 Christine P'Simer, JoAnn Pushkin, Karen Y.
7 Richmond, Beverly Roberts, Rossana Rosado, Indi
8 L. Shelby, Vicki Simons, Mary Spink, Gretchen
9 Hurley Sprock, Leslyn Stewart, Maria A. Thomson,
10 Millie Tomidy-Pepper, Karen Washington, Judi
11 Whittaker, and Kathleen Wojtaszek-Gariano as a
12 2011 New York State Senate Woman of Distinction,
13 to be celebrated on Tuesday, May 24, 2011, at the
14 Annual Women of Distinction Awards Ceremony in
15 The Well of the Legislative Office Building; and
16 "WHEREAS, Women have become part of
17 New York's lasting heritage by fighting against
18 stereotypes, prejudice, and seemingly
19 insurmountable obstacles; and
20 "WHEREAS, From the women's suffrage
21 movement just over 150 years ago to the present
22 day, women have played and continue to play a
23 crucial role in adding strength, understanding,
24 and inspiration to the diversity and quality of
25 life of the people of the State of New York; and

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

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

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

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

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

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

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

24 (Applause.)

25 ACTING PRESIDENT O'MARA: Senator

1 Libous on the resolution.

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

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

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

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

1 and to making their communities a better place to
2 live.

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

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

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

19 Senator Breslin on the resolution.

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

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

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

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

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

17 Congratulations from the entire
18 Senate.

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

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

23 (Response of "Aye.")

24 ACTING PRESIDENT O'MARA: Opposed,
25 nay.

1 (No response.)

2 ACTING PRESIDENT O'MARA: The
3 resolution is adopted.

4 Will the recipients please stand.

5 (Applause.)

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

10 (Standing ovation.)

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

16 Thank you, and congratulations
17 again.

18 Senator Libous.

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

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

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

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

8 ACTING PRESIDENT O'MARA: The
9 Secretary will read.

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

15 ACTING PRESIDENT O'MARA: Senator
16 Valesky.

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

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

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

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

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

25 Thank you, Mr. President.

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

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

5 (Response of "Aye.")

6 ACTING PRESIDENT O'MARA: Opposed,
7 nay.

8 (No response.)

9 ACTING PRESIDENT O'MARA: The
10 resolution is adopted.

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

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

18 (Applause.)

19 ACTING PRESIDENT O'MARA: Senator
20 Libous.

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

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

1 could call on the Senator after it's read.

2 ACTING PRESIDENT O'MARA: The
3 Secretary will read.

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

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

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

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

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

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

5 "WHEREAS, Janice Sara Reiff taught
6 as a first-grader teacher in the Bronx from 1972
7 to 1976, as well as Public School 82 in District
8 28 in Queens from 1977 to 2010; and

9 "WHEREAS, This outstanding teacher,
10 who was named UFT District 28 representative in
11 2005, distinguished herself in her profession and
12 by her sincere dedication and substantial
13 contribution to the welfare of her community; and

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

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

1 Queens; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

22 Thank you.

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

25 The question is on the resolution.

1 All those in favor signify by saying aye.

2 (Response of "Aye.")

3 ACTING PRESIDENT O'MARA: Opposed,
4 nay.

5 (No response.)

6 ACTING PRESIDENT O'MARA: The
7 resolution is adopted.

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

12 Senator Libous.

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

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

19 ACTING PRESIDENT O'MARA: The
20 Secretary will read.

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

1 ACTING PRESIDENT O'MARA: Senator
2 Kennedy.

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

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

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

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

1 cemetery system, and fighting for compensation
2 for disabled veterans.

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

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

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

22 Thank you.

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

25 The question is on the resolution.

1 All those in favor signify by saying aye.

2 (Response of "Aye.")

3 ACTING PRESIDENT O'MARA: Opposed,
4 nay.

5 (No response.)

6 ACTING PRESIDENT O'MARA: The
7 resolution is adopted.

8 Senator Libous.

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

13 ACTING PRESIDENT O'MARA: The
14 Secretary will read.

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

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

22 (Response of "Aye.")

23 ACTING PRESIDENT O'MARA: Opposed,
24 nay.

25 (No response.)

1 ACTING PRESIDENT O'MARA: The
2 resolution is adopted.

3 Senator Libous.

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

8 ACTING PRESIDENT O'MARA: Without
9 objection.

10 Senator?

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

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

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

1 turn the dreams we all share into a reality.

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

6 (Applause.)

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

10 Imam Konate is currently the imam
11 and spiritual leader of the Masjid Aqsa in
12 New York City, a position he has held since
13 1996. He is founder and current general
14 secretary to the Council of African Imams in
15 America. And Imam Konate is also cofounder and
16 current vice president of the Harlem Islamic
17 Leadership Council.

18 Our other honoree is Marie Claudine
19 Mukamabano.

20 (Applause.)

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

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

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

7 (Applause.)

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

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

13 ACTING PRESIDENT O'MARA: Thank
14 you, Senator.

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

20 (Applause.)

21 ACTING PRESIDENT O'MARA: Senator
22 Libous.

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

1 ACTING PRESIDENT O'MARA: The
2 Secretary will read.

3 THE SECRETARY: Calendar Number
4 405, by Senator Maziarz, Senate Print 3306B, an
5 act to amend the Social Services Law.

6 ACTING PRESIDENT O'MARA: Read the
7 last section.

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

10 ACTING PRESIDENT O'MARA: Call the
11 roll.

12 (The Secretary called the roll.)

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

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

18 First, before I do that, I just want
19 to acknowledge a couple of my colleagues who were
20 instrumental in helping me with this bill.

21 First, Senator Pat Gallivan, the former sheriff
22 of Erie County, whose knowledge of the system was
23 just invaluable in getting this bill here. And
24 also Senator Diane Savino, the chairperson of the
25 Children and Family Services Committee, and her

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

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

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

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

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

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

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

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

25 So I would ask all my colleagues to

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

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

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

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

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

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

23 Senator Grisanti, do you wish to
24 explain your vote?

25 SENATOR GRISANTI: Yes, just

1 briefly.

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

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

19 I vote in the affirmative.

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

22 Senator Gallivan to explain his
23 vote.

24 SENATOR GALLIVAN: Thank you,
25 Mr. President.

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

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

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

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

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

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

6 ACTING PRESIDENT O'MARA: Senator
7 Gullivan to be recorded in the affirmative.

8 Senator Kennedy to explain his vote.

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

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

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

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

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

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

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

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

1 legislation possible. And thank you,
2 Mr. President.

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

5 Senator Montgomery to explain your
6 vote.

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

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

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

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

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

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

25 So thank you, Senator Maziarz, for

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

5 Thank you, Mr. President. I vote
6 aye.

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

10 Announce the results.

11 THE SECRETARY: Ayes, 62.

12 ACTING PRESIDENT O'MARA: The bill
13 is passed.

14 THE SECRETARY: Calendar Number
15 593, by Senator Libous, Senate Print 3758, an act
16 to amend the Education Law.

17 ACTING PRESIDENT O'MARA: Read the
18 last section.

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

22 ACTING PRESIDENT O'MARA: Call the
23 roll.

24 (The Secretary called the roll.)

25 ACTING PRESIDENT O'MARA: Announce

1 the results.

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

7 Ayes, 53. Nays, 9.

8 ACTING PRESIDENT O'MARA: The bill
9 is passed.

10 THE SECRETARY: Calendar Number
11 664, by Senator Lanza, Senate Print 2942, an act
12 to amend the Criminal Procedure Law.

13 ACTING PRESIDENT O'MARA: Read the
14 last section.

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

17 ACTING PRESIDENT O'MARA: Call the
18 roll.

19 (The Secretary called the roll.)

20 THE SECRETARY: Ayes, 62.

21 ACTING PRESIDENT O'MARA: The bill
22 is passed.

23 THE SECRETARY: Calendar Number
24 667, by Senator Valesky, Senate Print 4235, an
25 act to amend the Executive Law.

1 ACTING PRESIDENT O'MARA: Read the
2 last section.

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

5 ACTING PRESIDENT O'MARA: Call the
6 roll.

7 (The Secretary called the roll.)

8 THE SECRETARY: Ayes, 62.

9 ACTING PRESIDENT O'MARA: The bill
10 is passed.

11 THE SECRETARY: Calendar Number
12 670, by Senator Ball, Senate Print 4880B, an act
13 to amend the Tax Law.

14 SENATOR BRESLIN: Lay it aside.

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

17 THE SECRETARY: Calendar Number
18 678, by Senator Young, Senate Print 851, an act
19 to amend the Environmental Conservation Law.

20 ACTING PRESIDENT O'MARA: Read the
21 last section.

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

24 ACTING PRESIDENT O'MARA: Call the
25 roll.

1 (The Secretary called the roll.)

2 THE SECRETARY: Ayes, 62.

3 ACTING PRESIDENT O'MARA: The bill
4 is passed.

5 THE SECRETARY: Calendar Number
6 712, by Senator Grisanti, Senate Print 5117, an
7 act to amend Chapter 84 of the Laws of 2010.

8 ACTING PRESIDENT O'MARA: Read the
9 last section.

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

12 ACTING PRESIDENT O'MARA: Call the
13 roll.

14 (The Secretary called the roll.)

15 THE SECRETARY: Ayes, 62.

16 ACTING PRESIDENT O'MARA: The bill
17 is passed.

18 THE SECRETARY: Calendar Number
19 719, by Senator Fuschillo, Senate Print 5318, an
20 act to amend Chapter 203 of the Laws of 1999.

21 ACTING PRESIDENT O'MARA: Read the
22 last section.

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

25 ACTING PRESIDENT O'MARA: Call the

1 roll.

2 (The Secretary called the roll.)

3 THE SECRETARY: Ayes, 62.

4 ACTING PRESIDENT O'MARA: The bill
5 is passed.

6 THE SECRETARY: Calendar Number
7 721, by Senator Marcellino, Senate Print 924, an
8 act to amend the Penal Law.

9 ACTING PRESIDENT O'MARA: Read the
10 last section.

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

13 ACTING PRESIDENT O'MARA: Call the
14 roll.

15 (The Secretary called the roll.)

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

19 ACTING PRESIDENT O'MARA: The bill
20 is passed.

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

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

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

3 The Secretary will read.

4 THE SECRETARY: Calendar Number
5 670, by Senator Ball, Senate Print 4880B, an act
6 to amend the Tax Law.

7 ACTING PRESIDENT O'MARA: Senator
8 Breslin.

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

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

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

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

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

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

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

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

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

7 Part of helping working families is
8 taking every measure to ensure that families are
9 not gouged at the pump, especially by the
10 practice of fluctuating gas prices within a
11 24-hour window. This practice, often masked as
12 replacement or anticipated replacement costs, is
13 a common practice to increase profits.

14 This legislation or this amendment
15 that I am proposing has passed the Assembly in
16 2010 by a margin of 144-1; in 2009, by a vote of
17 147-0; in 2008, by 140-0. And it's getting ready
18 to pass again this week.

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

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

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

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

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

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

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

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

1 the price; and the cost of getting the gasoline
2 to the retailer and its storage, which is about
3 10 percent of the price.

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

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

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

25 In fact, according to Moody experts,

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

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

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

18 Thank you, Mr. President.

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

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

25 Senate Rule VI, Section 4B, provides

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

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

11 Senator Breslin.

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

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

19 (Response of "Aye.")

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

22 (Response of "Nay.")

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

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

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

5 The Secretary will announce the
6 results.

7 THE SECRETARY: Ayes, 28.

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

10 Senator Ball on the bill.

11 SENATOR BALL: Thank you,
12 Mr. President.

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

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

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

6 And I think it's entirely important
7 that the people of this state, with nearly
8 2 million have left, many of those 2 million have
9 left because of the taxation, the overregulation,
10 and the openly inhospitable environment, not only
11 for small business owners but for working
12 families and blue-collar people who really have
13 always made this state great.

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

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

25 SENATOR BALL: This gas tax holiday

1 will send that exact message. And I tell you,
2 when they see a reduction at the pumps of nearly
3 33 cents, and possibly more with the local
4 option, it will put in the back of their head how
5 these prices have been inflated over time because
6 of overtaxation. And in my opinion, that will be
7 a very good thing.

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

12 Thank you.

13 ACTING PRESIDENT O'MARA: Senator
14 Liz Krueger.

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

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

19 SENATOR BALL: Sure. Yes.

20 SENATOR KRUEGER: Thank you.

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

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

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

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

9 SENATOR BALL: Yes.

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

12 SENATOR BALL: It's 12 days total.

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

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

18 SENATOR BALL: Yes.

19 ACTING PRESIDENT O'MARA: The
20 Senator yields.

21 SENATOR KRUEGER: Thank you,
22 Mr. President.

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

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

3 SENATOR BALL: Seventeen gallons to
4 fill up.

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

10 ACTING PRESIDENT O'MARA: Is that a
11 question?

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

15 Would the sponsor please explain to
16 me how many times they would have to fill up, at
17 a savings of \$6 per fill-up, to save \$100 during
18 12 days?

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

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

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

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

9 SENATOR BALL: Sure.

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

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

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

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

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

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

8 SENATOR KRUEGER: Mr. President, I
9 believe that the sponsor did already state that
10 his tax holiday would cost the state
11 \$60 million. I believe that's what he said.
12 What are we cutting out of the state budget to
13 make up for the loss of \$60 million?

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

16 SENATOR BALL: Yes, Mr. President.

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

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

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

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

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

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

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

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

3 SENATOR BALL: Yes, Mr. President.

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

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

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

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

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

5 SENATOR KRUEGER: Thank you.

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

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

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

22 SENATOR BALL: Mr. President.

23 ACTING PRESIDENT O'MARA: Senator
24 Ball.

25 SENATOR BALL: At this point I'm

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

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

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

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

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

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

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

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

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

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

7 SENATOR BALL: Yes.

8 SENATOR KRUEGER: Thank you.

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

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

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

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

25 SENATOR BALL: Mr. President, may I

1 just ask one question to the Senator?

2 SENATOR KRUEGER: I'd be happy to
3 yield.

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

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

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

15 Would the sponsor yield?

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

18 SENATOR BALL: Yes.

19 ACTING PRESIDENT O'MARA: The
20 sponsor yields.

21 SENATOR KRUEGER: Thank you.

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

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

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

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

15 SENATOR BALL: Mr. President, I
16 absolutely do.

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

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

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

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

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

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

3 SENATOR KRUEGER: Thank you very
4 much.

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

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

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

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

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

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

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

9 SENATOR BALL: Yes.

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

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

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

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

8 SENATOR BALL: Mr. President, in a
9 nutshell, some of the issues that are being
10 brought up in this particular dialogue do come
11 under the purview of the Attorney General. But
12 let it be clear that we're talking about
13 33 cents. And local option, the municipalities
14 that opt in, there can be an additional upwards,
15 I believe, of 15 cents. So you're talking about
16 nearly 50 cents.

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

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

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

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

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

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

19 SENATOR BALL: Yes.

20 SENATOR KRUEGER: Thank you.

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

25 We know it's not a benefit that's

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

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

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

15 So the motor fuel tax, Article 12A,
16 in New York State imposes an 8-cents-per-gallon
17 tax on motor fuel at the point of first taxable
18 sale or use in New York State. That
19 8-cent-per-gallon tax also applies to other motor
20 fuel, including gasoline, upon first import or
21 production within New York State.

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

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

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

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

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

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

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

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

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

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

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

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

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

18 SENATOR KRUEGER: Mr. President, on
19 the bill.

20 ACTING PRESIDENT O'MARA: On the
21 bill.

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

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

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

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

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

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

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

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

10 Yes, the cost of gas is high. I
11 just filled up for \$4 a gallon here in Albany,
12 and the tax is approximately 11.8 percent, I
13 believe, currently on a gallon of gasoline. Yes,
14 at \$4 a gallon our taxes translate to
15 11.8 percent tax. So it's not the most heinous
16 of tax rates that we see across the board in
17 New York State.

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

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

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

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

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

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

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

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

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

25 I vote no, and I urge my colleagues

1 to vote no. Thank you, Mr. President.

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

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

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

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

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

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

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

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

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

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

25 And this is simply a measure which

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

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

10 ACTING PRESIDENT O'MARA: Thank
11 you, Senator.

12 Senator Little.

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

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

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

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

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

10 So I vote aye. Thank you.

11 ACTING PRESIDENT O'MARA: Senator
12 Rivera.

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

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

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

25 It will make for a great press hit.

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

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

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

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

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

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

15 Thank you, Mr. President.

16 ACTING PRESIDENT O'MARA: Thank
17 you, Senator.

18 Senator Marcellino.

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

21 I hadn't intended to get up, but I'm
22 hearing this mantra coming back, there's a
23 \$60 million loss in this bill. A loss to what?
24 A loss to whom? A loss to government.

25 On the other side, there's a

1 \$60 million gain. A gain to whom? To the
2 people. We're putting \$60 million back in
3 people's pockets. What are they going to do with
4 that money? They're going to go out and spend
5 it. They're going to go out and spend it on
6 goods and services. They're going to buy food,
7 they're going to buy other things. Maybe even
8 clothing, who knows. Maybe go out to dinner,
9 take the family out to dinner. Whatever it is,
10 it's going to be put back into the economy of
11 this state. And that's what the key is all
12 about.

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

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

25 I think this is a good thing.

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

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

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

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

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

20 Senator Alesi.

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

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

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

8 And for those people that look at
9 this as a cost of whatever, I don't know where
10 \$60 million comes from. But if it is \$60 million
11 and we put that money into the pockets of the
12 people that will travel across this state over
13 those holidays, it has a multiplier effect. If
14 you look at the effect on small business of
15 people that are traveling, that are going
16 restaurants, that are going to hotels, that are
17 going to destination tourism stops, that it's far
18 more than \$60 million, or whatever the perceived
19 cost of this is, that will come back as revenue.
20 It could easily be 120, 180, maybe -- who knows
21 what it is.

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

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

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

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

13 ACTING PRESIDENT O'MARA: Senator
14 Diaz.

15 SENATOR DIAZ: Thank you,
16 Mr. President.

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

25 So to all of you guys, remember, we

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

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

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

15 One million, 2 million, 10 million,
16 60 million, whatever it is, if I could squeeze
17 something out to give back to them to relieve
18 their burden, to relieve and to help them in
19 these tough times, I will do that. That's why I
20 am voting for this bill, and that's why I'm
21 supporting Senator Marcellino's statement.

22 Thank you.

23 ACTING PRESIDENT O'MARA: Senator
24 Oppenheimer.

25 SENATOR OPPENHEIMER: Thank you.

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

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

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

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

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

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

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

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

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

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

10 ACTING PRESIDENT O'MARA: Thank
11 you, Senator.

12 Any other Senator wishing to be
13 heard?

14 Senator Peralta.

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

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

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

3 Any other Senator wishing to be
4 heard?

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

7 SENATOR LIBOUS: Mr. President.

8 ACTING PRESIDENT O'MARA: Senator
9 Libous.

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

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

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

23 And read the last section.

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

1 ACTING PRESIDENT O'MARA: Call the
2 roll.

3 (The Secretary called the roll.)

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

6 SENATOR RIVERA: Thank you,
7 Mr. President.

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

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

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

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

25 Senator Squadron, do you wish to

1 explain your vote?

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

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

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

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

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

1 from the state government.

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

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

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

16 Announce the results.

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

23 Ayes, 48. Nays, 14.

24 ACTING PRESIDENT O'MARA: The bill
25 is passed.

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

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

5 ACTING PRESIDENT O'MARA: There is
6 none.

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

12 Mr. President, there being no
13 further business before the Senate at this time,
14 I move we adjourn until Wednesday, May 25th, at
15 11:00 a.m.

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

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

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