NEW YORK STATE SENATE

THE STENOGRAPHIC RECORD

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3:29 p.m.

REGULAR SESSION

SENATOR CRAIG JOHNSON, Acting President

ANGELO J. APONTE, Secretary

P R O C E E D I N G S

ACTING PRESIDENT CRAIG JOHNSON: The Senate will please come to order.

I ask everyone present to rise and recite with me the Pledge of Allegiance to our Flag.

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

ACTING PRESIDENT CRAIG JOHNSON: In the absence of clergy, may we all bow our heads in a moment of silence.

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

ACTING PRESIDENT CRAIG JOHNSON: The reading of the Journal.

The Secretary will read.

THE SECRETARY: In Senate, Tuesday, April 6, the Senate met pursuant to adjournment. The Journal of Monday, April 5, was read and approved. On motion, Senate adjourned.

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

Presentation of petitions.

Messages from the Assembly.

Messages from the Governor.

Reports of standing committees.

Reports of select committees.

Communications and reports from state officers.

Motions and resolutions.

Senator Klein.

SENATOR KLEIN: Thank you, Mr. President.

Before we proceed, I'd like to make something that I consider a very personal special announcement. I want to welcome back one of our outstanding colleagues on the other side of the aisle, Senator Tom Morahan, who looks as healthy as ever.

(Standing ovation.)

ACTING PRESIDENT CRAIG JOHNSON: Senator Morahan.

SENATOR MORAHAN: Thank you, Mr. President.

I just want to say thank you to my colleagues and staff people who through my illness were so kind to send cards and baskets of fruit, different things -- and I can take

that, because it was from you guys.

(Laughter.)

SENATOR MORAHAN: -- and the phone calls and the well wishes.

And I want to point out, in particular, Secretary to the Senate Angelo Aponte, who visited me in the hospital where I was for 41 days, offered the services of his office both to my local staff, my staff up here, and also messenger service or whatever I needed to keep some semblance of keeping up with my duties while I was caged down in Manhattan.

So everybody's been wonderful. I really appreciate it. And I'm happy to be back here today.

Thank you very much.

(Applause.)

ACTING PRESIDENT CRAIG JOHNSON: Senator Klein.

SENATOR KLEIN: Mr. President, I believe there's a substitution at the desk. I ask that we make the substitution at this time.

ACTING PRESIDENT CRAIG JOHNSON:

The Secretary will read.

THE SECRETARY: On page 19, Senator Squadron moves to discharge, from the Committee on Local Government, Assembly Bill Number 9955 and substitute it for the identical Senate Bill Number 6697A, Third Reading Calendar 314.

ACTING PRESIDENT CRAIG JOHNSON: Substitution ordered.

Senator Klein.

SENATOR KLEIN: Mr. President, can you please recognize Senator Winner at this time.

ACTING PRESIDENT CRAIG JOHNSON: Senator Winner.

SENATOR WINNER: Thank you, Mr. President.

On a less upbeat note, I want to report the unfortunate passing of a former colleague of ours, former --

ACTING PRESIDENT CRAIG JOHNSON: Senator Winner.

SENATOR WINNER: -- Senator William T. "Cadillac" Smith, who ably served this Senate for 24 years, from 1962 to 1986,

from Big Flats, New York, and then left as the deputy majority leader.

He unfortunately passed away at the end of March, while we were away.

Senator Smith obviously served this state with great distinction and of course was known affectionately for his stunt, so to speak, in 1962, where he put a sign on the back of a Cadillac that he purchased for not growing corn as a result of the institution of the Soil Bank Program, and proceeded to use that notoriety and subsequently was elected to the New York State Senate. He was then the president of the Farm Bureau in Big Flats, New York.

Senator Smith was well-known for a number of accomplishments while he was a member of this body. First and foremost, he established what they called at that time the price-tag rule, which we now obviously commonly refer to as the fiscal note requirement.

At Senator Smith's insistence, that was established back when he was a young Senator, to have the first requirement that

all legislation that's introduced that had any fiscal implications be so indicated on the memorandums in support.

He went on to obviously also be very notorious with respect to welfare and Medicaid reform, as the chairman of the Senate Social Services Committee and also the chairman of a temporary state commission to revise the Social Services Law, which made very, very sweeping and major recommendations for reform of those two programs during the '70s.

But I think one of his lasting legacies for the State of New York was following the tragic death of his daughter, Judy, to a drunk driver in 1973, whereupon he went out and established and promoted and enacted the Stop DWI Program in 1981, which really is the cornerstone of our anti-DWI efforts in the State of New York to date.

I think he was the leading legislator in the United States at the time to establishing a very effective and far-reaching program to combat the tragedy of drunk driving in New York. And he is probably credited,

along with those that supported that effort, with saving thousands of lives, not only in New York but across this country, as a result of drunk-driving fatalities that dropped some 50 percent after the enactment and the enforcement of those anti-DWI efforts. So we owe him a great deal of gratitude for those efforts.

But the Senator lived to a ripe old age of 94, and he had a great run. And as a result, I know he loved this body and loved service here and loved his community of Big Flats, where he never forgot his roots. So I thought that the body should be aware of the passing of a great distinguished leader of this house for many, many years. And as such, I hope his soul rests in peace.

Thank you, Mr. President.

ACTING PRESIDENT CRAIG JOHNSON: Thank you very much, Senator Winner.

I request a moment of silence. If everyone could please rise in the chamber for a moment of silence for the passing of our colleague.

(Whereupon, the assemblage

respected a moment of silence.)

ACTING PRESIDENT CRAIG JOHNSON: Thank you, Senator Winner.

Senator Klein.

SENATOR KLEIN: Mr. President, if we can go back to motions and resolutions, I have a couple of motions.

ACTING PRESIDENT CRAIG JOHNSON: Yes. Senator Klein, please.

SENATOR KLEIN: First, Mr. President, on behalf of Senator Peralta, I move that the following bill be discharged from its respective committee and be recommitted with instructions to strike the enacting clause: Senate Number 7362.

ACTING PRESIDENT CRAIG JOHNSON: So ordered.

Senator Klein.

SENATOR KLEIN: On behalf of Senator Savino, I move that the following bills be discharged from their respective committees and be recommitted with instructions to strike the enacting clause: Senate Number 6659, 6660, 6662, 6663, 6664, 6665, 6666, 6667, 6668, and 6669.

ACTING PRESIDENT CRAIG JOHNSON:

So ordered.

SENATOR KLEIN: On behalf of Senator Foley, on page 14 I offer the following amendments to Calendar Number 248, Senate Print Number 6454, and ask that said bill retain its place on Third Reading Calendar.

ACTING PRESIDENT CRAIG JOHNSON:

So ordered.

SENATOR KLEIN: On behalf of Senator Montgomery, on page 12 I offer the following amendments to Calendar Number 220, Senate Print Number 6474B, and ask that said bill retain its place on Third Reading Calendar.

ACTING PRESIDENT CRAIG JOHNSON:

So ordered.

SENATOR KLEIN: On behalf of Senator Sampson, on page 9 I offer the following amendments to Calendar Number 154, Senate Print Number 5262A, and ask that said bill retain its place on Third Reading Calendar.

ACTING PRESIDENT CRAIG JOHNSON:

So ordered.

SENATOR KLEIN: On behalf of Senator Oppenheimer, I wish to call up Print Number 6776, recalled from the Assembly, which is now at the desk.

ACTING PRESIDENT CRAIG JOHNSON: The Secretary will read the title of the bill.

THE SECRETARY: Calendar Number 231, by Senator Oppenheimer, Senate Print 6776, an act to amend the Education Law.

ACTING PRESIDENT CRAIG JOHNSON: Senator Klein.

SENATOR KLEIN: Mr. President, I now move to reconsider the vote by which this bill was passed.

ACTING PRESIDENT CRAIG JOHNSON: The Secretary will call the roll on reconsideration.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58.

ACTING PRESIDENT CRAIG JOHNSON: The bill is restored to its place on the Third Reading Calendar.

Senator Klein.

SENATOR KLEIN: Mr. President, I

now offer the following amendments.

ACTING PRESIDENT CRAIG JOHNSON: So ordered.

Senator Klein.

SENATOR KLEIN: Mr. President, on behalf of Senator Thompson, I wish to call up Calendar Number 82, Assembly Print Number 5765.

ACTING PRESIDENT CRAIG JOHNSON: The Secretary will read.

THE SECRETARY: Calendar Number 82, by Member of the Assembly Sweeney, Assembly Print Number 5765, an act to amend the Environmental Conservation Law.

ACTING PRESIDENT CRAIG JOHNSON: Senator Klein.

SENATOR KLEIN: I now move to reconsider the vote by which this Assembly bill was substituted for my bill, Senate Print Number 3776, on 3/3.

ACTING PRESIDENT CRAIG JOHNSON: The Secretary will call the roll on reconsideration.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58.

SENATOR KLEIN: Mr. President, I now move that Assembly Bill Number 5765 be recommitted to the Committee on Environmental Conservation and Senator Thompson's Senate bill be restored to the order of Third Reading Calendar.

ACTING PRESIDENT CRAIG JOHNSON: So ordered.

Senator Klein.

SENATOR KLEIN: I now offer the following amendments.

ACTING PRESIDENT CRAIG JOHNSON: So ordered.

Senator Klein.

SENATOR KLEIN: Mr. President, again, I wish to call up Calendar Number 53, Assembly Print Number 1239A.

ACTING PRESIDENT CRAIG JOHNSON: The Secretary will read.

THE SECRETARY: Calendar Number 53, by Member of the Assembly Lancman, Assembly Print Number 1239A, an act to amend the Real Property Law.

ACTING PRESIDENT CRAIG JOHNSON: Senator Klein.

SENATOR KLEIN: I now move to reconsider the vote by which this Assembly bill was substituted for my bill, Senate Print Number 2614A, on February 22nd.

ACTING PRESIDENT CRAIG JOHNSON: The Secretary will call the roll on reconsideration.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58.

ACTING PRESIDENT CRAIG JOHNSON: Senator Klein.

SENATOR KLEIN: I now move that Assembly Bill Number 1239A be recommitted to the Committee on Judiciary and my Senate bill be restored to the order of Third Reading Calendar.

ACTING PRESIDENT CRAIG JOHNSON: So ordered.

SENATOR KLEIN: Mr. President, I now offer the following amendments.

ACTING PRESIDENT CRAIG JOHNSON: So ordered.

Senator Klein.

SENATOR KLEIN: Mr. President, can we now move to a reading of the calendar.

ACTING PRESIDENT CRAIG JOHNSON: The Secretary will read.

THE SECRETARY: Calendar Number 102, by Senator Thompson, Senate Print 1230 --

SENATOR KLEIN: Lay the bill aside for the day.

ACTING PRESIDENT CRAIG JOHNSON: The bill is laid aside for the day.

The Secretary will read.

THE SECRETARY: Calendar Number 110, by Member of the Assembly Towns, Assembly Print Number 9872, an act to amend Chapter 591 of the Laws of 2001 amending the Banking Law.

ACTING PRESIDENT CRAIG JOHNSON: Read the last section.

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

ACTING PRESIDENT CRAIG JOHNSON: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT CRAIG JOHNSON: Announce the results.

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT CRAIG JOHNSON: The bill is passed.

The Secretary will read.

THE SECRETARY: Calendar Number 124, by Member of the Assembly Glick, Assembly Print Number 5985A, an act to amend the Estates, Powers and Trusts Law, in relation to eliminating.

ACTING PRESIDENT CRAIG JOHNSON: Read the last section.

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

ACTING PRESIDENT CRAIG JOHNSON: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT CRAIG JOHNSON: Announce the results.

THE SECRETARY: In relation to Calendar Number 124: Ayes, 58. Nays, 1. Senator Lanza recorded in the negative.

ACTING PRESIDENT CRAIG JOHNSON: The bill is passed.

THE SECRETARY: Calendar Number 201, by Member of the Assembly Glick --

SENATOR KLEIN: Lay the bill aside for the day.

ACTING PRESIDENT CRAIG JOHNSON:

The bill is laid aside for the day.

The Secretary will read.

THE SECRETARY: Calendar Number 244, by Senator Stachowski, Senate Print 6816B, an act to amend the Alcoholic Beverage Control Law, in relation to beer and/or malt beverage.

ACTING PRESIDENT CRAIG JOHNSON: Read the last section.

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

ACTING PRESIDENT CRAIG JOHNSON: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT CRAIG JOHNSON: Announce the results.

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT CRAIG JOHNSON: The bill is passed.

The Secretary will read.

THE SECRETARY: Calendar Number 294, by Member of the Assembly Weinstein, Assembly Print Number 8394, an act to amend the New York City Civil Court Act, the Uniform District Court Act and the Uniform City Court

Act, in relation to granting jurisdiction.

ACTING PRESIDENT CRAIG JOHNSON: Read the last section.

THE SECRETARY: Section 10. This act shall take effect on the first of January next succeeding.

ACTING PRESIDENT CRAIG JOHNSON: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT CRAIG JOHNSON: Announce the results.

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT CRAIG JOHNSON: The bill is passed.

THE SECRETARY: Calendar Number 298, by --

SENATOR KLEIN: Lay the bill aside for the day.

ACTING PRESIDENT CRAIG JOHNSON: The bill is laid aside for the day.

THE SECRETARY: Calendar Number 300, by Senator Duane, Senate Print --

SENATOR KLEIN: Lay the bill aside for the day.

ACTING PRESIDENT CRAIG JOHNSON:

The bill is laid aside for the day.

THE SECRETARY: Calendar Number 306, by Senator Stachowski, Senate Print 6277, an act to amend the Highway Law, in relation to the designation of a portion of the state highway system.

ACTING PRESIDENT CRAIG JOHNSON: Read the last section.

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

ACTING PRESIDENT CRAIG JOHNSON: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT CRAIG JOHNSON: Announce the results.

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT CRAIG JOHNSON: The bill is passed.

THE SECRETARY: Calendar Number 314, substituted earlier today by Member of the Assembly Silver, Assembly Print Number 9955, an act to authorize Manhattan Youth Recreations and Resources, Inc., to file an application.

ACTING PRESIDENT CRAIG JOHNSON:

Read the last section.

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

ACTING PRESIDENT CRAIG JOHNSON: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT CRAIG JOHNSON: Announce the results.

THE SECRETARY: In relation to Calendar Number 314: Ayes, 58. Nays, 1. Senator Larkin recorded in the negative.

ACTING PRESIDENT CRAIG JOHNSON: The bill is passed.

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

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

ACTING PRESIDENT CRAIG JOHNSON: Senator Klein, the desk is clear.

SENATOR KLEIN: Mr. President, on behalf of Senator Ruth Hassell-Thompson, there will be an immediate Majority conference in the Majority Conference Room immediately after session.

ACTING PRESIDENT CRAIG JOHNSON:

Immediate conference of the Senate Majority in the Majority Conference Room following session.

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

ACTING PRESIDENT CRAIG JOHNSON: There is no further business at the desk, Senator Klein. The desk is clear.

SENATOR KLEIN: There being no further business, I move that we adjourn until Thursday, April 8th, at 3:00 p.m.

ACTING PRESIDENT CRAIG JOHNSON: There being no further business to come before the Senate, on motion, the Senate stands adjourned until Thursday, April 8th, at 3:00 p.m.

(Whereupon, at 3:44 p.m., the Senate adjourned.)