NEW YORK STATE SENATE

THE STENOGRAPHIC RECORD

ALBANY, NEW YORK

May 24, 2010

4:26 p.m.

REGULAR SESSION

SENATOR CRAIG M. 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, Sunday, May 23, the Senate met pursuant to adjournment. The Journal of Saturday, May 22, 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: 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 34, Senator Stavisky moves to discharge, from the Committee on Higher Education, Assembly Bill Number 9959 and substitute it for the identical Senate Bill Number 6809, Third Reading Calendar 542.

ACTING PRESIDENT CRAIG JOHNSON: Substitution ordered.

Senator Klein.

SENATOR KLEIN: Mr. President, I believe there's a resolution at the desk by

Senator Thompson. I ask that the title of the resolution be read and move for its immediate adoption.

ACTING PRESIDENT CRAIG JOHNSON: Senator Klein, has this resolution been deemed privileged and submitted by the office of the Temporary President?

SENATOR KLEIN: Yes, it has, Mr. President.

ACTING PRESIDENT CRAIG JOHNSON: The Secretary will read.

THE SECRETARY: By Senator Thompson, legislative resolution commending Boys and Girls Clubs across the State of New York for the outstanding service they provide young people and their families.

ACTING PRESIDENT CRAIG JOHNSON: Senator Thompson.

SENATOR THOMPSON: Yes, thank you, Mr. President. You look good up there too.

Let me first thank you for, one, recognizing me.

The New York State Senate is pleased to recognize the Boys and Girls Clubs

of New York State for the valuable contributions they make to the young people of the state. And they are here today, and I think we should give them a round of applause for all of these 35 young people.

(Applause.)

SENATOR THOMPSON: The Boys and Girls Clubs provide services for over 250,000 school-aged youth in 59 cities across New York State. Their goal is to inspire all young people, especially those from disadvantaged backgrounds, to help them realize their full potential as productive, responsible, and caring citizens.

The areas of focus and encouragement include character and leadership development, education and career advancement, health and life skills development. They encourage appreciation for the arts and provide programs in sports, fitness and recreation.

Their programs promote a better self-image and improved education. They also include social emotional and cultural awareness. They encourage community

involvement, strong moral values, and enhanced life management skills.

Today there are 35 nominees for the New York State Youth of the Year in the gallery. Tomorrow, one will be chosen to represent New York State in the national Youth of the Year contest for the Boys and Girls Clubs of America.

I'd like to also recognize two young people today that are from my district: Janiece Arties, City of Buffalo Masten Clubhouse -- which I used to live around the corner from -- and also Dolores Pereia, from Niagara Falls as well.

So I'd like to congratulate all 35 of these beautiful young people. You look so precious. And we're glad that you are here today. Thank you.

(Applause.)

ACTING PRESIDENT CRAIG JOHNSON: Senator Foley.

SENATOR FOLEY: Thank you, Mr. President.

I also rise to commend the Boys and Girls Clubs throughout the State of New York.

Particularly in the Third Senatorial District, the Boys and Girls Clubs have played a very, very important role in their particular neighborhoods.

And I look forward to the day very soon where a new center will be constructed in the Bellport community that has been waiting over 30 years for a new center. And this is something that the community, the school district, my office and others have worked on over a period of time. And it's emblematic, if you will, of how the Boys and Girls Club continues to meet the needs of the communities.

So again, we'd like to thank you and welcome you to Albany. And again, those of us in our component senatorial districts know full well just how important the Boys and Girls Clubs have been to the youth of our state.

Thank you very much, Mr. President.

ACTING PRESIDENT CRAIG JOHNSON: Are there any other Senators wishing to be heard on the resolution?

Seeing none, the question is on the

resolution. All those in favor please signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT CRAIG JOHNSON: Opposed, nay.

(No response.)

ACTING PRESIDENT CRAIG JOHNSON: The resolution is adopted.

Senator Thompson has indicated he would like to open the resolution up for cosponsorship by the entire house. Any Senator wishing not to be on the resolution please notify the desk.

Senator Klein.

SENATOR KLEIN: Mr. President, I believe there's a resolution at the desk by Senator Libous. I ask that the resolution be read in its entirety and move for its immediate adoption.

ACTING PRESIDENT CRAIG JOHNSON: Senator Klein, has this resolution been deemed privileged and submitted by the office of the Temporary President?

SENATOR KLEIN: Yes, it has, Mr. President.

ACTING PRESIDENT CRAIG JOHNSON: The Secretary will read.

THE SECRETARY: By Senator Libous, legislative resolution commending President Lois B. DeFleur upon the occasion of her retirement after many years of distinguished service to Binghamton University.

"WHEREAS, New York State's commitment to higher education is unparalleled. Its history and stature are secured by the superlative caliber of its educational professionals and the students they inspire; and

"WHEREAS, It is the sense of this Legislative Body to acknowledge the significant milestones in the distinguished careers of those outstanding educational leaders whose dedications and achievements have been instrumental in developing character and academic excellence in the young people of New York State; and

"WHEREAS, Attendant to such concern, and in full accord with its long-standing traditions, this Legislative

Body is justly proud to commend Binghamton University President Lois B. DeFleur upon the occasion of her retirement after many years of distinguished service in education. She will officially retire in July of 2010; and

"WHEREAS, Over her 20 years as president of Binghamton University, Lois B. DeFleur has had an impressive influence on the campus, the Southern Tier, the SUNY system and higher education in general; and

"WHEREAS, Spanning two decades, President Lois B. DeFleur's continuity of stewardship and her clarity of vision have helped accelerate Binghamton University's transition from the small liberal arts college that it was in a former life into a university center in the SUNY system, prized for its graduate studies, research programs, and range of professional degrees offered by its six schools and colleges; and

"WHEREAS, Binghamton University was ranked the 2009-2010 fifth best value upon among public colleges by Kiplinger, ranked among the nation's top 50 public universities for 13 consecutive years by U.S. News and

World Report, and ranked number two in the nation for its graduate accounting program by Business Week; and

"WHEREAS, with about 15,000 students, successful advancement from Division III to Division I athletic programs, and the addition of several new buildings and programs, including the Binghamton University Events Center, the Engineering and Science Building, and the University Downtown Center, Binghamton University has become a major influence on the Southern Tier as well as a major employer; and

"WHEREAS, Binghamton University has partnered on many projects with organizations from the private sector, including BAE Systems, Corning Incorporated, Endicott Interconnect, General Electric, IBM and Lockheed Martin; and

"WHEREAS, On August 13, 1990, when Lois B. DeFleur became president of Binghamton University, she was one of the first women in the nation to hold such a position, and, as a role model, helped pave the way for others of her gender to aspire to one day sit in a CEO

or college president chair; and

"WHEREAS, Educators like Lois B. DeFleur provide a tremendous service to the future of our state and nation, inspiring generations of young people in their educational journeys and ensuring their success in their future years; and

"WHEREAS, It is the sense of this Legislative Body to commend the efforts of those individuals who work to support our proud tradition of public higher education by providing their skills and talents to our schools; now, therefore, be it

"RESOLVED, That this Legislative Body pause in its deliberations to commend Binghamton University President Lois B. DeFleur upon the occasion of her retirement after many years of with distinguished service in education, and to wish her continued success in all her future endeavors; and be it further

"RESOLVED, That copies of this resolution, suitably engrossed, be transmitted to President Lois B. DeFleur."

ACTING PRESIDENT CRAIG JOHNSON:

Senator Libous.

SENATOR LIBOUS: Thank you, Mr. President.

Before I make my comments, I want to welcome President DeFleur and her fiance, Jim McGorry, and members of the council and certainly some of her staff who are with us in the gallery today.

And it brings me great honor to stand on this floor today and honor President DeFleur. She has done so much not only for this great university, but for our community, and I just don't know where to start.

And as you mentioned in your resolution as it was read, we can first start with the campus, in its growth and its buildings -- whether we talk about the new Downtown Center, the Events Center, the Decker Nursing Center, student housing complexes -- with over $1 billion in capital growth in her 20 years as president.

That's pretty impressive, Mr. President, to be able to look back after 20 years and to know that a billion dollars was invested in this facility, this beautiful

campus, through President DeFleur, through her vision, through her commitment, through her dedication, through her energy and through her hard work, through her passion and never-ending devotion to the students and the faculty of that university.

I asked her earlier today, I said, "What was the success what made Binghamton University during your tenure the great university that it is?" And she said, "Quality." The quality of her student body, the quality of her staff and administration, and the quality of the faculty.

And I would have to agree with that. I've had the honor of working with President DeFleur over the last 20 years, and certainly her staff -- some of whom are here today, members of the council, who are very dedicated community leaders -- and quality does continue to come up when we look at the growth of this great university.

You mentioned in the resolution, Mr. President, that Kiplinger's mentioned Binghamton University as a best value. U.S. News and World Report, 13 years straight,

recognized it as one of the 50 best public universities. That doesn't come without a lot of work, a lot of hard work and effort, and certainly passion and dedication.

If I think back and look at some of the accomplishments that President DeFleur has had upon this university, there are so many that I could just pick a couple.

One was a decision she made to take the university in 1999 -- something that she had planned for and had vision -- in athletics from Division III to Division I. That really helped us in many, many ways, not only as a community, but with the quality of education at Binghamton University, now to have a Division I athletics team. And what many people don't realize is that is during that Division I time period, we have won some 18 championships in the American East through our various athletic programs.

The Events Center that was built to house many of the athletic programs not only became part of the campus, but it became part of the community. Not only for concerts and other great events, but in 2006 many of you

may recall that the Southern Tier area was devastated by floods. During that period, many, many people lost their homes. Immediately, President DeFleur took the normal leadership role that she has always taken in our community, beyond the campus that she ran, and opened up the Events Center so that over 3,000 people would have a place to sleep, would have a place to eat, and would have a place that they could call their home during a time that they had lost everything.

Many of them, as the president mentioned, toward the end, when we were relocating people with the Red Cross, wanted to stay. She said they wanted to stay because they were getting taken care of very, very well.

And that's the kind of person Lois DeFleur is. It goes beyond the bricks and mortar of a fantastic campus, a beautiful facility that's nestled in the Southern Tier area. But she made the college a very vibrant part of the community, she made it a comfortable part of the community, so that the community could share with the college and the

college could share with the community.

That's something, President DeFleur, before you came to Binghamton, didn't happen. And that was a very, very special talent and trait that you brought.

I am going to miss you, just like the community will miss you. I will miss our spirited discussions on the direction of Binghamton University, in which you were always right and I learned from you. I will miss the excitement at the BU basketball games, in which I had the honor and pleasure of sitting next to the president and every once in a while getting one of those elbows that she used to throw when she played basketball in college. And I will miss those, Lois, I will miss those.

But most of all, it's what the community will miss and what this state will miss. We will miss your vision, we will miss your passion, and we will miss the leadership that has brought this campus to a position that has never been better before, to continue to grow. And we, as a community and as a state, say thank you.

ACTING PRESIDENT CRAIG JOHNSON: Senator Smith.

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

Let me stand on the floor and join my colleague Senator Libous. On my election back in 2000, one of my first introductions to the president of a State University in this state was through Senator Libous, which was President DeFleur.

My mistake -- and I say this at the risk of getting Toby Stavisky a little concerned -- is that I thought every State University president would be the same. However, as I have grown to travel around this state -- and that is not to indicate that there are other State University presidents in our SUNY system that are not good -- I found out very quickly that she was great.

My one concern that I have, and I have to confess this, is that she's retiring. I don't know if those young people who attended Binghamton University, many of which have gone on to become professionals and are contributing to this great state and country,

the unfortunate thing is there will be many others who won't have the same leadership at the helm of that university that you put your life into.

Senator Libous talked about how the campus has grown, what you have done. I can recall reading so many articles where, as much as we are enamored with Harvard University, so many people have called Binghamton the Harvard University of the State University system. And I think that is a leadership explanation bar none.

We're going to miss you. And I am proud to stand here, as someone from Queens -- which most people are probably saying "What do you know about President DeFleur?" But as I always profess, that this is a One New York legislative body, I stand here because you epitomize that. You've had individuals in your university from all over the state and all over the country. And I'm not sure what their future holds; I know it will be great. But you will be missed.

If, in fact, there was a way for us to convince you to do otherwise or to stay,

I'd join Senator Libous in that campaign, a bipartisan announcement right on the floor, and we will do what we can to keep you.

I had to come on the floor today because I would have not allowed this resolution to go forward without being able to put my words to it.

I congratulate you on your time. We will miss you. I congratulate my friend and colleague Senator Libous for the fine resolution. You could not have chosen a better person to honor today.

And I ask all my colleagues to please express your enthusiasm for what she has done. For those of you who do not know her, if you trust my word and you trust Senator Libous's word, which I think you do, you are missing and will be missing a fine president for such a university as Binghamton.

And God bless you very much.

ACTING PRESIDENT CRAIG JOHNSON: Senator LaValle.

SENATOR LaVALLE: Thank you, Mr. President.

It's a great pleasure to rise to

join both Senator Libous and Senator Smith in talking about President Lois DeFleur.

You know, we have a great State University system. That system, the whole is made up of the sum of its parts. Today we are recognizing and honoring by our words the architect, the president, Lois DeFleur, who has, from 1990 to 2010, much like a builder putting together a quality structure brick by brick and doing it in such a way that it has received, both at the undergraduate level and the graduate level, incredible recognition.

As many of you know, it is a very, very rigorous admissions process. And many of us have written letters for some of the most talented students to get into this very, very prestigious university.

Besides the academic -- and Tom has talked about the other accomplishments -- President Lois DeFleur recognized early on public/private relationships. And when you look at the Southern Tier, you will see that Binghamton University is the nucleus of everything that is great that happens within that region.

We can talk about engineering programs, healthcare programs, we could go on and on. The research and development programs with businesses, key components that provide economic opportunities, job opportunities for people in that region and certainly educational and cultural opportunities for that region.

I've watched President DeFleur and her Senator, Senator Libous, come together and work in a very artful, creative, productive way to get things done for that region. And, Lois, you will go down, clearly, as one of the outstanding presidents within the State University of New York system. Anyone who could endure a period of time, with the ups and downs of the economy and other challenges, from 1990 to 2010, that in and of itself speaks volumes.

So congratulations to both you and your fiance as you fly around the country. I don't know who the pilot's going to be, but much good luck to both of you.

ACTING PRESIDENT CRAIG JOHNSON: Senator Stavisky.

SENATOR STAVISKY: Thank you, Mr. President.

President DeFleur came to Binghamton about 20 years ago from the University of Missouri at Columbia, where she was provost, and from Washington State University, where she was the dean of the college of liberal arts.

When Dr. DeFleur came to Binghamton, there were very few women presidents, the same way that there are very few women here in the State Senate. And she became a role model for many, many women progressing through the academy, the halls of ivy, or whatever you want to call it.

But she has led the way in terms of leading a major research university in the State University of New York. And Binghamton obviously has a long tradition of excellence, a tradition that goes back many, many years.

For example, when Dr. DeFleur came to Binghamton, the endowment was $8 million. She's leaving with an endowment of $64 million -- this in a day of economic retrenchments and cuts to higher education.

Professor DeFleur has increased the research, the faculty awards. And she has recognized the relationship between the academic community and the business community.

And this, to me, is the future of higher education, to harness the people in the Southern Tier or in the North Country or out on the eastern end of Long Island or in the western parts of Cattaraugus County and bring it into the educational community. This is a relationship that I think, as times are difficult, that we're going to explore even more.

In her retirement -- and I know what was said, that she is going to be traveling. And I understand that President DeFleur is a pilot. She pilots her own Comanche 260 airplane. Somebody referred to the ups and downs of the economy; this is the ups and downs of the aircraft.

And I hope that you take it on a steady course, a safe course. And you've piloted the university so well for these many, many years, and may you continue to pilot the transport to happiness in your retirement.

Thank you.

ACTING PRESIDENT CRAIG JOHNSON: Thank you, Senator Stavisky.

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

Seeing none, the question is on the resolution. All those in favor please signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT CRAIG JOHNSON: Opposed, nay.

(No response.)

ACTING PRESIDENT CRAIG JOHNSON: The resolution is adopted.

Senator Klein.

SENATOR KLEIN: Mr. President, I'd like to go back to motions.

ACTING PRESIDENT CRAIG JOHNSON: Returning to the order of motions and resolutions.

Senator Klein.

SENATOR KLEIN: On behalf of Senator Stachowski, I move that the following bills be discharged from their respective committees and be recommitted with

instructions to strike the enacting clause: Senate Number 2789 and Senate Number 5652.

ACTING PRESIDENT CRAIG JOHNSON: So ordered.

Senator Klein.

SENATOR KLEIN: On behalf of Senator Parker, on page number 32 I offer the following amendments to Calendar Number 518, Senate Print Number 4291, and ask that said bill retain its place on Third Reading Calendar.

ACTING PRESIDENT CRAIG JOHNSON: So ordered.

SENATOR KLEIN: On behalf of Senator Krueger, on page 24 I offer the following amendments to Calendar Number 393, Senate Print Number 5571, and ask that said bill retain its place on Third Reading Calendar.

ACTING PRESIDENT CRAIG JOHNSON: So ordered.

Senator Klein.

SENATOR KLEIN: On behalf of Senator Hassell-Thompson, on page number 18 I offer the following amendments to Calendar

Number 245, Senate Print Number 3754A, and ask that said bill retain its place on Third Reading Calendar.

ACTING PRESIDENT CRAIG JOHNSON: So ordered.

SENATOR KLEIN: On behalf of Senator Savino, on page number 16 I offer the following amendments to Calendar Number 196, Senate Print Number 2311C, and ask that said bill retain its place on Third Reading Calendar.

ACTING PRESIDENT CRAIG JOHNSON: So ordered.

Senator Klein.

SENATOR KLEIN: On behalf of Senator Duane, on page number 12 I offer the following amendments to Calendar Number 72, Senate Print Number 1352A, and ask that said bill retain its place on Third Reading Calendar.

ACTING PRESIDENT CRAIG JOHNSON: So ordered.

Senator Klein.

SENATOR KLEIN: Mr. President, on behalf of Senator Valesky, I wish to call up

Senate Bill Number 5722, 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 169, by Senator Valesky, Senate Print 5722, an act to amend the Vehicle and Traffic 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 the Third Reading Calendar.

Senator Klein.

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

ACTING PRESIDENT CRAIG JOHNSON: Amendments received.

Senator Klein.

SENATOR KLEIN: Mr. President, I wish to call up my bill, Print Number 2490D, 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 74, by Senator Klein, Senate Print 2490D, an act to amend the Correction 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 the Third Reading Calendar.

Senator Klein.

SENATOR KLEIN: Mr. President, I

now offer the following amendments.

ACTING PRESIDENT CRAIG JOHNSON: Amendments received.

Senator Klein.

SENATOR KLEIN: Mr. President, can you please call on Senator Libous, who also has some amendments.

ACTING PRESIDENT CRAIG JOHNSON: Senator Libous, before you start, I want to congratulate you and thank you for your resolution.

And I wish to give President DeFleur a hearty congratulations from the entire Senate body. Congratulations and best wishes.

(Standing ovation.)

ACTING PRESIDENT CRAIG JOHNSON: Senator Libous.

SENATOR LIBOUS: Mr. President, on behalf of Senator Griffo, Mr. President, on page 30 I offer up the following amendments to Calendar Number 494, Senate Print Number 1989, and ask that said bill retain its place on Third Reading Calendar.

ACTING PRESIDENT CRAIG JOHNSON:

So ordered.

SENATOR LIBOUS: And, Mr. President, on behalf of Senator Leibell, on page 28, I offer up the following amendments to Calendar Number 468, Senate Print 7086B, and ask that the said bill retain its place on the Third Reading Calendar.

ACTING PRESIDENT CRAIG JOHNSON: So ordered.

SENATOR LIBOUS: Thank you, Mr. President.

ACTING PRESIDENT CRAIG JOHNSON: Thank you, Senator.

Senator Klein.

SENATOR KLEIN: Mr. President, at this time can we please go to a reading of the calendar.

ACTING PRESIDENT CRAIG JOHNSON: The Secretary will read.

THE SECRETARY: Calendar Number 331, by Senator Foley, Senate Print 4988, an act to amend the Labor 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, 58.

ACTING PRESIDENT CRAIG JOHNSON:

The bill is passed.

THE SECRETARY: Calendar Number 379, by Senator Parker, Senate Print 6079A, an act to amend the Penal Law.

ACTING PRESIDENT CRAIG JOHNSON:

Read the last section.

THE SECRETARY: Section 4. This act shall take effect on the 30th day.

ACTING PRESIDENT CRAIG JOHNSON:

Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT CRAIG JOHNSON:

Senator DeFrancisco.

SENATOR DeFRANCISCO: Yes, I just want to explain my vote.

ACTING PRESIDENT CRAIG JOHNSON:

Senator DeFrancisco, to explain his vote.

SENATOR DeFRANCISCO: Basically, what this bill does is add sanitation enforcement agents as victims of an assault which would raise the level of assault from a regular assault in the third degree to a Class C violent felony offense.

I've spoken against bills like this and different types of bills which keep elevating the crime seriousness based upon who the victim is. And quite frankly, the reason I'm voting no on this one is I don't quite see that a sanitation enforcement agent is in the same category as a police officer, a fireman or emergency medical technician.

And quite frankly, I don't think it's any different of a situation than a housing code inspector, a building inspector, codes enforcement officer, health inspectors. None of those would be elevated under this bill.

So once again, in my judgment, it's one of those bills that we take a special class of people -- for whatever reason, but not based upon logic -- and make offenses against them more serious than if the victim

happened to be someone else. And I'm going to vote no.

ACTING PRESIDENT CRAIG JOHNSON: Senator DeFrancisco to be recorded in the negative.

Announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 379 are Senators DeFrancisco, Larkin, Little, Montgomery and Ranzenhofer.

Ayes, 53. Nays, 5.

ACTING PRESIDENT CRAIG JOHNSON: The bill is passed.

THE SECRETARY: Calendar Number 416, by Member --

SENATOR KLEIN: Lay the bill aside for the day, please.

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

THE SECRETARY: Calendar Number 466, by Member of the Assembly Schimel, Assembly Print Number 9992, an act to authorize the Village of Plandome Heights.

ACTING PRESIDENT CRAIG JOHNSON: There is a home-rule message at the desk.

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, 57. Nays, 1. Senator Lanza recorded in the negative.

ACTING PRESIDENT CRAIG JOHNSON: The bill is passed.

THE SECRETARY: Calendar Number 504, by Member of the Assembly Schimel, Assembly Print Number 6249B, an act to amend the Town 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, 58.

ACTING PRESIDENT CRAIG JOHNSON: The bill is passed.

THE SECRETARY: Calendar Number 529, by Member of the Assembly Hyer-Spencer, Assembly Print Number 8540, an act to amend the Election Law.

SENATOR LIBOUS: Lay it aside, please.

ACTING PRESIDENT CRAIG JOHNSON: The bill is laid aside.

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

Senator Klein.

SENATOR KLEIN: Mr. President, at this time can we please go to a reading of the controversial calendar.

ACTING PRESIDENT CRAIG JOHNSON: The Secretary will ring the bell.

Members are all asked to come to the chamber for a reading of the controversial calendar.

The Secretary will read.

THE SECRETARY: Calendar Number 529, by Member of the Assembly Hyer-Spencer,

Assembly Print Number 8540, an act to amend the Election Law.

SENATOR LIBOUS: Mr. President, can I have an explanation, please.

ACTING PRESIDENT CRAIG JOHNSON: Senator Addabbo, an explanation has been requested by Senator Libous.

SENATOR ADDABBO: Yes, Mr. President.

With the upcoming requirements of the HAVA that we have to basically comply with, with the change of era of new machines that we'll be voting on this year, the Board of Elections and its workers and its administration has a more keen understanding of what those requirements are.

So this bill basically changes a word, that if the New York City administration does not procure or purchase any instrument or equipment used for complying with the HAVA requirements, that the Board of Elections may procure that, with the same rules and regulations and the same regulations and under the same guidance that the New York City administration would have to do.

ACTING PRESIDENT CRAIG JOHNSON: Are there any other Senators wishing to be heard on the bill?

SENATOR LIBOUS: Explanation satisfactory, Mr. President.

ACTING PRESIDENT CRAIG JOHNSON: Explanation satisfactory, Senator.

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

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.)

SENATOR PADAVAN: Mr. President, I'd like to explain my vote, if I may.

ACTING PRESIDENT CRAIG JOHNSON: Senator Padavan, to explain his vote.

SENATOR PADAVAN: Thank you, Mr. President.

I have in front of me a rather expansive and comprehensive memo from the City of New York in opposition to the bill. And the gist of it is that by allowing the Board

of Elections to go outside the normal procurement procedures through the city's Office of Administrative Services, where bulk purchases of all kinds of supplies are made and done so at the lowest possible cost, that that will invariably increase the cost for these services and supplies. The burden of that would have to be picked up by the City of New York.

And particularly in this time when the city is looking at a budget projecting all kinds of reductions -- as a result of what's not happening here in Albany and for other reasons -- it seems inappropriate and unwise to be passing a bill that will cost the city more money than it would otherwise have to expend. That seems to be the wrong thing to do at the wrong time.

I vote no.

ACTING PRESIDENT CRAIG JOHNSON: Senator Padavan to be recorded in the negative.

Announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 529 are

Senators Alesi, Bonacic, DeFrancisco, Farley, Fuschillo, Golden, Griffo, Hannon, Lanza, Larkin, LaValle, Libous, Little, Marcellino, Maziarz, McDonald, Nozzolio, Padavan, Ranzenhofer, Robach, Saland, Seward, Skelos, Volker, Winner and Young.

Ayes, 32. Nays, 26.

ACTING PRESIDENT CRAIG JOHNSON: The bill is passed.

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

Senator Klein.

SENATOR KLEIN: Mr. President, can we please stand at ease.

ACTING PRESIDENT CRAIG JOHNSON: The Senate will stand at ease.

(Whereupon, the Senate stood at ease at 5:08 p.m.)

ACTING PRESIDENT ADAMS: Senator Libous.

SENATOR LIBOUS: Senator Adams, it's good to see you up there, sir.

ACTING PRESIDENT ADAMS: Thank you very much.

SENATOR DeFRANCISCO: Point of

order.

(Laughter.)

SENATOR LIBOUS: Mr. President, if I could please call an immediate and quick Republican conference.

ACTING PRESIDENT ADAMS: There will be an immediate and quick conference in the Minority Conference Room.

SENATOR LIBOUS: Thank you very much.

ACTING PRESIDENT ADAMS: Thank you, Senator Libous.

The Senate will stand at ease.

(Whereupon, the Senate continued to stand at ease.)

ACTING PRESIDENT CRAIG JOHNSON: Senator Klein.

SENATOR KLEIN: Mr. President, there will be an immediate meeting of the Finance Committee, followed by a meeting of the Rules Committee in the Majority Conference Room.

Pending the return of the Rules Committee, may we please stand at ease.

ACTING PRESIDENT CRAIG JOHNSON:

There will be an immediate meeting of the Finance Committee, followed by an immediate meeting of the Rules Committee in Room 332.

Pending the return of the Rules Committee, the Senate will continue to stand at ease.

(Whereupon, the Senate reconvened at 7:06 p.m.)

ACTING PRESIDENT CRAIG JOHNSON: Senator Klein.

SENATOR KLEIN: Mr. President, I believe there's a Rules Committee report at the desk. I move that we adopt the report at this time.

ACTING PRESIDENT CRAIG JOHNSON: There is a report of the Rules Committee at the desk.

I will ask the Secretary to read.

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

Senate Print 7925, by the Senate Committee on Rules, an act to amend Chapter 405 of the Laws of 1999;

And Senate Print 7932, by the

Senate Committee on Rules, an act making appropriations for the support of government.

Both bills ordered direct to third reading.

ACTING PRESIDENT CRAIG JOHNSON: All those in favor of adopting the Rules Committee report please signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT CRAIG JOHNSON: Opposed, nay.

(No response.)

ACTING PRESIDENT CRAIG JOHNSON: The Rules Committee report is adopted.

Senator Klein.

SENATOR KLEIN: Mr. President, at this time can we please go to a reading of the supplemental calendar.

ACTING PRESIDENT CRAIG JOHNSON: We will now go to a reading of the noncontroversial supplemental calendar.

The Secretary will read.

THE SECRETARY: Calendar Number 608, by the Senate Committee on Rules, Senate Print 7925, an act to amend Chapter 405 of the Laws of 1999 amending the Real Property Tax

Law.

ACTING PRESIDENT CRAIG JOHNSON: Senator Klein.

SENATOR KLEIN: Mr. President, is there a message of necessity at the desk?

ACTING PRESIDENT CRAIG JOHNSON: There is a message of necessity at the desk.

SENATOR KLEIN: Mr. President, I move to accept the message of necessity at this time.

ACTING PRESIDENT CRAIG JOHNSON: The question is on the acceptance of the message of necessity. All those in favor please signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT CRAIG JOHNSON: Opposed, nay.

(Response of "Nay.")

ACTING PRESIDENT CRAIG JOHNSON: The message is accepted.

Read the last section.

SENATOR LIBOUS: Lay the bill aside.

ACTING PRESIDENT CRAIG JOHNSON: The bill is laid aside.

The Secretary will continue to read.

THE SECRETARY: Calendar Number 619, by the Senate Committee on Rules, Senate Print 7932, an act making appropriations for the support of government.

ACTING PRESIDENT CRAIG JOHNSON: Senator Klein.

SENATOR KLEIN: Mr. President, is there a message of necessity and appropriation at the desk?

ACTING PRESIDENT CRAIG JOHNSON: Senator Klein, there is a message of necessity and appropriation at the desk.

SENATOR KLEIN: Mr. President, I move to accept the message at this time.

ACTING PRESIDENT CRAIG JOHNSON: The question is on the acceptance of the message of necessity and appropriation. All those in favor please signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT CRAIG JOHNSON: Opposed, nay.

(Response of "Nay.")

ACTING PRESIDENT CRAIG JOHNSON:

The message is accepted.

Read the last section.

SENATOR LIBOUS: Lay the bill aside.

ACTING PRESIDENT CRAIG JOHNSON: The bill is laid aside.

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

SENATOR KLEIN: Mr. President, can we please go to a reading of the controversial supplemental calendar.

ACTING PRESIDENT CRAIG JOHNSON: The Secretary will ring the bell.

All members are asked to come to the chamber for a reading of the controversial supplemental calendar.

The Secretary will read.

THE SECRETARY: Calendar Number 608, by the Senate Committee on Rules, Senate Print 7925, an act to amend Chapter 405 of the Laws of 1999.

ACTING PRESIDENT CRAIG JOHNSON: Senator Libous, why do you rise?

SENATOR LIBOUS: Thank you,

Mr. President.

Mr. President, there are two amendments at the desk. I would ask that you waive their reading and first call on Senator George Maziarz, please.

ACTING PRESIDENT CRAIG JOHNSON: Senator Libous, the two amendments are here at the desk. Without objection, the reading of both amendments is waived, and I will recognize Senator Maziarz to speak on the first amendment.

Senator Maziarz.

SENATOR MAZIARZ: Thank you very much, Mr. President. I appreciate this opportunity.

Mr. President, this amendment would provide for a transfer, if you will, of $6 million from the $65 million sweep of the New York State Power Authority that's included in the extender bill.

Now, when you are taking $65 million, sweeping it from the New York State Power Authority, you are really taking it from St. Lawrence and Niagara. And I was told I have to be kinder in some of my

descriptions of when you're taking money from the New York State Power Authority, from Niagara and St. Lawrence.

But, Mr. President, what this amendment would do, it would take, instead, $59 million and take $6 million of it and use that money to keep state parks open across the state. I think it's vitally important.

Today is actually Victoria Day in Canada, and thousands of Canadian tourists are visiting New York State across the border -- mostly, I think, from the Toronto and southern Ontario area into the Niagara region -- and they are seeing parks where the grass has not been cut in weeks, if at all this year so far.

So clearly, Mr. President, if money is being taken particularly from Niagara and St. Lawrence, I think that we could, instead of taking $65 million and putting it into the General Fund, we could take $59 million for what the Governor's intended purpose is and $6 million to keep our very important parks open.

Everyone in here is -- we've passed a resolution, I've seen press releases,

letters ad nauseam saying about how everyone wanted to keep parks open. You vote yes on this amendment, and you're keeping parks open. Jones Beach to Niagara Falls, let's keep them open.

Thank you, Mr. President.

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

The question is on the nonsponsor motion to amend Calendar Number 608. Those Senators voting in support of the nonsponsor amendment, please raise your hand.

Announce the results.

THE SECRETARY: Ayes, 26. Nays, 27.

ACTING PRESIDENT CRAIG JOHNSON: The motion fails.

Senator Libous.

SENATOR LIBOUS: Thank you, Mr. President.

I believe there's another amendment at the desk. I ask that you would waive the reading of the amendment and call on Senator James Alesi.

ACTING PRESIDENT CRAIG JOHNSON:

Senator Libous, your amendment is here at the desk. Without objection, the reading is waived, and I will call upon Senator James Alesi to speak on the amendment.

Senator Alesi.

SENATOR ALESI: Thank you, Mr. President. By the way, it's Jim on the ballot, but that's beside the point.

I would like to offer this amendment. As I notice, we've had the opportunity to see this emergency spending bill introduced today with an unexpected change that relates directly to jobs and to some extent job creation as that relates to the racing industry. This amendment deals on a broader scale with job creation, which as we all know is vitally important in New York State, to some extent even more important in upstate.

This jobs creation tax credit would allow for any employers who create a new job to take up to a $5,000 tax credit for each job created. And if someone is taken off of the unemployment rolls and given a new job, then there would be an additional $3,000 tax credit

for that as well.

And although it might sound expensive, the point of this whole thing is that it's cost-neutral to the state because instead of paying the withholding tax, the credits would be paid for with the money that goes towards the new jobs. Obviously. If no new jobs are created, there's no withholding tax paid.

So I'd ask my colleagues to consider this, especially in light of the fact that I'm delighted to see that Andrew Cuomo has adopted something that looks fairly similar to this proposal, part of which we came up with in January, that does almost exactly the same thing. It's a jobs tax credit, helps to create jobs, it's good for New York, and I think it would do well for all of us to embrace this amendment.

Thank you, Mr. President.

ACTING PRESIDENT CRAIG JOHNSON: Thank you.

The question is on the nonsponsor motion to amend Calendar Number 608. Those Senators voting in support of the nonsponsor

amendment please raise your hands.

Announce the results.

THE SECRETARY: Ayes, 26. Nays, 30.

ACTING PRESIDENT CRAIG JOHNSON: The motion fails.

The bill is before the house.

Read the last section.

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

ACTING PRESIDENT CRAIG JOHNSON: Senator Padavan, on the bill.

SENATOR PADAVAN: Thank you. I'd like to speak on the bill; very briefly, though.

I happen to be one of the original sponsor of the Loft Law. And for those of you who were around then and those of you who've been around since, it's been extended over a period of years. I can say without any fear of contradiction that it was a very positive initiative. It has helped many people in terms of their housing accommodations. It has helped maintain various communities around the City of New York, particularly in Lower

Manhattan and parts of Brooklyn. And all in all, it was a wise thing to do.

However, in the same bill we did something very unwise, and that something is called Quick Draw, created by this Legislature and this state, which has produced a great deal of harm to many people, individuals and families, as it is part of that continuum of gambling opportunities that we have generated as a state government over a period of decades.

My real annoyance -- that's the best way to put it -- is that these two things are lumped together. There's absolutely no connection. But they're put in the bill and have been on various other occasions, so that those who are for one and against the other will be caught in that bind and have to vote in a way that will get the bill passed.

The loft bill would pass on its own, in my view. Quick Draw may not. This is disingenuous, to say the least. I think when the general public looks at us as we're doing this sort of thing, it says: Why can't they deal with the issue on its own merits? Why do

they have to resort to blackmail? And that's really what it is. If you want one thing, you have to take the other.

And so that's why I'll be voting no, Mr. President.

ACTING PRESIDENT CRAIG JOHNSON: Thank you very much. Senator Padavan to be recorded as a no.

Anybody else wishing to speak on the bill? Hearing none, the debate is closed.

The Secretary will ring the bells.

Read the last section.

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

ACTING PRESIDENT CRAIG JOHNSON: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT CRAIG JOHNSON: Senator DeFrancisco, to explain his vote.

SENATOR DeFRANCISCO: Yes, I was looking at the message of necessity on this bill, and it basically said this bill is necessary to assist the state in meeting its fiscal obligations and to extend certain statutes that would otherwise expire.

It is amazing to me, after all of the press and all of the discussions and all of the support for the parks to remain open as we're approaching a Memorial Day holiday and the summer season -- that that isn't necessary to put in this bill is just incomprehensible.

And to me, it's as necessary as sweeping $65 million from NYPA. It's as necessary as everything else in this bill. As far as I'm concerned, it's more necessary than the loft tenants -- I'm sorry, Senator Padavan, but for the people in my district it's more necessary.

So I'm going to vote against this bill for many reasons, but the most disappointing of which is that it does not include reopening of the parks, because there's money here that could have been used for it, as Senator Maziarz said.

So I vote no.

ACTING PRESIDENT CRAIG JOHNSON: Senator DeFrancisco to vote in the negative.

Senator Maziarz, to explain his vote.

SENATOR MAZIARZ: Thank you,

Mr. President, to explain my vote.

I too am going to be voting in the negative. You know, it started last year when we stole $550 million from Niagara and St. Lawrence, and now we're taking $65 million. We're taking the future, we're taking employment opportunities away from Western New York.

Twenty-two percent of the homes in the City of Niagara Falls are abandoned -- they're not vacant, they're not for sale, they're abandoned. Ninety percent of the kids in three elementary schools in the City of Niagara Falls live below the poverty level because their parents don't have jobs, and it's the fault of the New York Power Authority.

That $65 million should be going to create jobs in Western New York and in the North Country. I vote in the negative, Mr. President.

Thank you.

ACTING PRESIDENT CRAIG JOHNSON: Senator Maziarz to vote in the negative.

Announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 608 are Senators Alesi, Bonacic, DeFrancisco, Farley, Fuschillo, Griffo, Hannon, Larkin, LaValle, Libous, Little, Marcellino, Maziarz, McDonald, Nozzolio, Padavan, Ranzenhofer, Robach, Saland, Seward, Skelos, Volker, Winner and Young.

Ayes, 34. Nays, 24.

ACTING PRESIDENT CRAIG JOHNSON: The bill is passed.

The Secretary will continue to read.

THE SECRETARY: Calendar Number 619, by the Senate Committee on Rules, Senate Print 7932, an act making appropriations for the support of government.

SENATOR DeFRANCISCO: Explanation, please.

ACTING PRESIDENT CRAIG JOHNSON: Senator Kruger, an explanation has been requested by Senator DeFrancisco.

SENATOR CARL KRUGER: Surprise.

This bill, our eighth emergency appropriation bill, provides for $5.6 billion

in All Funds appropriations and $2.09 billion in General Fund appropriations.

ACTING PRESIDENT CRAIG JOHNSON: Senator DeFrancisco, why do you rise?

SENATOR DeFRANCISCO: Would Senator Kruger yield to a question or two?

ACTING PRESIDENT CRAIG JOHNSON: Senator Kruger, will you yield to a question?

SENATOR CARL KRUGER: Absolutely.

ACTING PRESIDENT CRAIG JOHNSON: Senator DeFrancisco, Senator Kruger will yield.

SENATOR DeFRANCISCO: Senator Kruger, this morning when I came in the office I read an emergency extender bill that was different than this emergency extender bill. And it's my understanding from the Finance Committee meeting that this is different because it has some language concerning borrowing for NYRA, $25 million. Is that correct?

SENATOR CARL KRUGER: Yes, it is.

SENATOR DeFRANCISCO: All right. So would Senator Kruger continue to yield.

ACTING PRESIDENT CRAIG JOHNSON:

Senator Kruger, do you continue to yield?

SENATOR CARL KRUGER: Let me -- let me -- perhaps, for a bit of an explanation.

Section 15 of the bill authorizes the state to provide a $25 million loan to NYRA for expenses at Aqueduct, Belmont and the Saratoga racetracks. The loan will be repaid; at the earliest, in the end of the fiscal year, or within 90 days of a signing of a memorandum of understanding with the designated operator of the video lottery terminals at Aqueduct.

If NYRA does not repay the loan, the Division of the Lottery would intercept any vendor fees in order to satisfy the money due.

This section also reduces the appropriation for the bonding in association with the creation of a VLT facility at Aqueduct.

SENATOR DeFRANCISCO: Would Senator Kruger continue to yield?

ACTING PRESIDENT CRAIG JOHNSON: Senator Kruger, will you continue to yield?

SENATOR CARL KRUGER: Yes, I do.

ACTING PRESIDENT CRAIG JOHNSON: Senator DeFrancisco.

SENATOR DeFRANCISCO: This is an interest-free loan; correct?

SENATOR CARL KRUGER: Yes, it is.

SENATOR DeFRANCISCO: Would Senator Kruger continue to yield.

ACTING PRESIDENT CRAIG JOHNSON: Senator Kruger, will you continue to yield?

SENATOR CARL KRUGER: Yes.

ACTING PRESIDENT CRAIG JOHNSON: Yes, he will.

SENATOR DeFRANCISCO: So, Senator Kruger, when in prior weeks you accused those of us who were voting no on an extender that it would stop government, government did pause for a while while you added something else into an extender by further negotiations today. Is that not correct?

SENATOR CARL KRUGER: No. No.

SENATOR DeFRANCISCO: No?

SENATOR CARL KRUGER: It's not correct.

SENATOR DeFRANCISCO: Would

Senator Kruger continue to yield.

ACTING PRESIDENT CRAIG JOHNSON: Senator Kruger, will you continue to yield?

SENATOR CARL KRUGER: Yes.

ACTING PRESIDENT CRAIG JOHNSON: Senator Kruger will yield.

SENATOR DeFRANCISCO: So how did the change from the original extender to the second extender that we're now voting on, how did that occur?

SENATOR CARL KRUGER: By action of the Governor. Through you, Mr. President.

SENATOR DeFRANCISCO: Would Senator Kruger continue to yield.

ACTING PRESIDENT CRAIG JOHNSON: Senator Kruger, will you yield?

SENATOR CARL KRUGER: Yes, I do.

ACTING PRESIDENT CRAIG JOHNSON: Senator Kruger will yield.

SENATOR DeFRANCISCO: Were there any negotiations between the staffs of the Senate and the Assembly and the Governor before this extender bill was presented to us, this modified extender bill?

SENATOR CARL KRUGER: Through

you, Mr. President, this was a five-way agreement on this addendum to the existing appropriation bill.

SENATOR DeFRANCISCO: Would Senator Kruger continue to yield.

SENATOR CARL KRUGER: Yes, I do.

ACTING PRESIDENT CRAIG JOHNSON: Senator Kruger will yield.

SENATOR DeFRANCISCO: So by a process called negotiations, there was a five-way agreement that changed the extender that originally was on our desks earlier this morning; is that fair to say?

SENATOR CARL KRUGER: You could say that, yes. Through you, Mr. President.

SENATOR DeFRANCISCO: Now, Senator Kruger, would you continue to yield?

ACTING PRESIDENT CRAIG JOHNSON: Senator Kruger, will you continue to yield?

SENATOR CARL KRUGER: Yes, I do.

ACTING PRESIDENT CRAIG JOHNSON: Senator Kruger will yield.

SENATOR DeFRANCISCO: So is it fair to say that if there was a will to have five-way negotiations at this point in time,

there could be other changes to this extender, including keeping the parks open, for just an example?

ACTING PRESIDENT CRAIG JOHNSON: Senator Kruger.

SENATOR CARL KRUGER: Where there's a will, there's a way.

SENATOR DeFRANCISCO: Would Senator Kruger continue to yield.

ACTING PRESIDENT CRAIG JOHNSON: Senator Kruger, will you continue to yield?

SENATOR CARL KRUGER: Yes, I do.

ACTING PRESIDENT CRAIG JOHNSON: He will yield.

SENATOR DeFRANCISCO: Well, there's a will on this side of the aisle. And my question is, Senator Kruger, is there a way on your side of the aisle, since you control the Senate, to modify this further today and wait a couple more hours so that we can keep the parks open starting Memorial Day and through the summer?

ACTING PRESIDENT CRAIG JOHNSON: Senator Kruger.

SENATOR CARL KRUGER: Through

you, Mr. President. Firstly, tomorrow is another day, and another day might mean and does mean more negotiations. As you're aware, there is going to be a five-way leaders' meeting tomorrow at 10:00 a.m that I know you're going to be participating in.

SENATOR DeFRANCISCO: Thank you, Senator Kruger. Would Senator Kruger yield again?

ACTING PRESIDENT CRAIG JOHNSON: Senator Kruger, will you yield?

SENATOR CARL KRUGER: Yes, I do.

ACTING PRESIDENT CRAIG JOHNSON: Senator Kruger yields.

SENATOR DeFRANCISCO: Speaking of the five-way leaders' meetings, one happened last Tuesday; is that correct? Or was it Wednesday? I lose track of time. Last week, anyway.

SENATOR CARL KRUGER: Last Tuesday, I believe.

SENATOR DeFRANCISCO: Okay. That being the case, can you tell me what leaders' meetings -- I mean between the leaders, not between staff -- occurred since last week's

public meeting till presently, till today?

SENATOR CARL KRUGER: Through you, Mr. President, none that I'm aware of.

SENATOR DeFRANCISCO: Okay. Would Senator Kruger continue to yield?

ACTING PRESIDENT CRAIG JOHNSON: Senator Kruger, will you yield?

SENATOR CARL KRUGER: Yes, I do, Mr. President.

SENATOR DeFRANCISCO: I know you were at that public meeting, as was I. And I recall specifically the Governor asking the two leaders, the Majority Leader and the Speaker, to get together to start the public conference committee meetings. Did that happen?

SENATOR CARL KRUGER: Through you, Mr. President. If my memory serves me correctly, he said try to get together to put together conference committees, yes. And through you, Mr. President, we did announce ours.

SENATOR DeFRANCISCO: Okay. Senator Kruger, would he continue to yield?

ACTING PRESIDENT CRAIG JOHNSON:

Senator Kruger, will you yield?

SENATOR CARL KRUGER: Yes, I do.

ACTING PRESIDENT CRAIG JOHNSON: He will yield.

SENATOR DeFRANCISCO: Did they try, did the two leaders try? Did they call each other and say "Let's start the public committee process"?

I know you mentioned Senator Sampson announced some committee membership, some committee memberships for the Majority, which was only about 124 days after the Governor presented his budget. A little bit late, but he did it. And thank God he at least moved, although it's a little slow, but he moved. At our urging, I would suggest.

But in any event, did they try? Did they call each other? Did Senator Sampson call the Speaker, or vice versa, to try to set up the public conference committees?

SENATOR CARL KRUGER: Through you, Mr. President. I don't know.

SENATOR DeFRANCISCO: All right. Would Senator Kruger continue to yield?

ACTING PRESIDENT CRAIG JOHNSON:

Senator Kruger, will you continue to yield?

SENATOR CARL KRUGER: Yes.

ACTING PRESIDENT CRAIG JOHNSON: Senator Kruger yields.

SENATOR DeFRANCISCO: Could you tell me what the schedule for the conference committees is at this point in time? Do we have a schedule yet now that we're -- let's see, let me get the right number here -- 124 days since the Governor submitted his budget?

SENATOR CARL KRUGER: Through you, Mr. President, yes, we have a schedule. Tomorrow at 10:00 a.m. we are going to be in a five-way meeting, a leadership meeting.

SENATOR DeFRANCISCO: Senator Kruger, would he continue to yield?

ACTING PRESIDENT CRAIG JOHNSON: Would you continue to yield, Senator Kruger?

SENATOR CARL KRUGER: Yes, I do.

ACTING PRESIDENT CRAIG JOHNSON: Senator Kruger yields.

SENATOR DeFRANCISCO: At this point in time are we going to have an announcement tomorrow as to a calendar for the rank and file, the people that are sitting on

this floor, to participate in public conference committees?

SENATOR CARL KRUGER: Through you, Mr. President, I would suspect that before that happens, the Assembly has to make their appointments. No.

SENATOR DeFRANCISCO: Senator Kruger, one last question. The --

ACTING PRESIDENT CRAIG JOHNSON: Do you wish him to yield for one last question?

SENATOR DeFRANCISCO: Would he please yield.

ACTING PRESIDENT CRAIG JOHNSON: Senator Kruger, will you yield for one last question?

SENATOR CARL KRUGER: Yes, I do.

ACTING PRESIDENT CRAIG JOHNSON: He will yield for one last question.

SENATOR DeFRANCISCO: The Governor proposed a budget, and we've been passing extenders -- this will be the eighth week in a row I assume that it will pass. Can you tell me how much more we're spending on a weekly basis now than the Governor's budget

would have called for?

SENATOR CARL KRUGER: Through you Mr. President. Nothing.

SENATOR DeFRANCISCO: Okay. Thank you, Senator Kruger.

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

Senator Kruger, you still have the floor.

SENATOR DeFRANCISCO: I'd like to speak when he's done speaking.

ACTING PRESIDENT CRAIG JOHNSON: Senator DeFrancisco, on the bill.

SENATOR DeFRANCISCO: Okay. I would just like to point out a couple of things that some of my questions I think kind of suggested, but I think it's important to say this for the eighth week in a row.

We're 54 days late now in passing a budget. It's been 124 days since the Governor proposed his budget. Ten days after the Governor proposed it, we're supposed to have a conference committee schedule, membership and so forth. We've been begging for open conference committees since this budget

extender process started and even before that.

And at our urging, last week I asked Senator Kruger would you please ask Senator Sampson if he would try to get the membership appointed, get the meetings going. Well, Senator Kruger said time would tell.

Well, the Governor was even urging that last week to get the two leaders together to schedule -- he didn't say try to schedule. The clear implication was to schedule public meetings. The Governor thought that that was a good idea, maybe something productive would happen.

Instead, despite this public display that was called a leaders meeting, still nothing has happened. Senator Sampson has provided names of some membership. Senator Skelos followed suit. Nothing from the Assembly. No schedule. No meetings to try to set the parameters of discussions publicly. In other words, nothing has happened.

And last week I was criticized for using a word that one of the Democrat Senators used as far as what the rank and file is doing

here, or how they're acting, but I changed that word to "enabling." We're simply enabling -- at least the majority party is enabling the leadership not to do anything. To do nothing.

I mean, how long do we continue doing this? How long does the majority party, not some of the majority members come over and say enough is enough, we've got to participate in a process? How do you go back to your constituents each week when they say "How is the budget coming?" What, do you laugh and say "Well, it's coming, we're doing the best we can," or do you get embarrassed a little bit? I know I get terribly embarrassed trying to explain what's unexplainable.

And at some point, since we all took the oath to follow the laws of the State of New York, including the laws we passed, the reform law of 2007, how can the majority party continue to ignore it? I just don't get it. And I know it's becoming repetitious, but I don't know what else to say to describe this situation that goes on and on and on.

Now, today the extender bill was

sweetened a little bit with some provisions for NYRA, because NYRA, it's essential for the economy of this region here that this horse-racing profession and the whole industry can open. So right down to the last minute, after scaring the living daylights out of the whole horse industry, the racing industry, all of a sudden, boom, the magic $25 million appears.

Is that a way to run a government? People whose jobs rely on that industry, you wait until the very last minute? Are we going to wait till May 30th to have another section of an extender that would include the parks? So scare the living daylights out of the whole state, open the parks at the last minute, is that the way you do business in this state? That doesn't show leadership. That shows that you're enabling leaders not to do their job.

A message of necessity means something is necessary. That's why it's being done this way. Well, a budget was necessary 54 days ago. And we're still not even -- we still haven't even started the process. I can imagine what tomorrow's leaders meeting is

going to be. More posturing, more platitudes, more pointing fingers at who's to blame. Asking the minority to present their financial plan, that was my favorite. The minority, where's your financial plan? When Sheldon Silver would not say whether he would participate in open conference meetings.

How many times, how many times has the minority, when the minority was a Democrat one, how many times did they propose a financial plan for the State of New York? Not in the 16 years I was in the majority here. It was -- just nonsensical stuff was being said. And no commitment to do these meetings, when he as well as all the leaders touted this 2007 reform bill as just a landmark in legislation for the State of New York.

Well, ladies and gentlemen, I'm going to continue to vote no. One of these days maybe we will understand that by voting no, that doesn't mean government stops. You know, people can continue to negotiate, as they did today on NYRA. You can continue to negotiate, you've got another week to negotiate before we go through this nonsense

again next week.

So at some point in time I'm waiting for somebody on the majority party side to stand up and say, "That's it, I'm voting no." Or, at the very least, "I'm putting this body on notice that next week when we are handed an extender, I intend to vote no." That will give you a week to get this process going and hopefully a budget completed so we're not holding the residents of the State of New York hostage until the last minute on various special items.

So I'm going to vote no on this budget extender. Thank you.

ACTING PRESIDENT CRAIG JOHNSON: Senator DeFrancisco will be recorded in the negative.

Senator Libous.

SENATOR LIBOUS: Mr. President, I have kind of a point of order.

ACTING PRESIDENT CRAIG JOHNSON: Senator Libous, what is your point of order?

SENATOR LIBOUS: Procedural. During the debate between Senator DeFrancisco and Senator Kruger, how was the time

allocated?

ACTING PRESIDENT CRAIG JOHNSON: Senator Libous, Senator Kruger had the floor for purposes of providing the explanation on the bill.

No time was charged to Senator DeFrancisco for purposes of the Senate debate until he rose and gave his statement on the bill.

SENATOR LIBOUS: So as he was asking Senator Kruger questions, he was not being charged.

ACTING PRESIDENT CRAIG JOHNSON: That is correct. Senator Kruger was yielding his time to Senator DeFrancisco.

SENATOR LIBOUS: Thank you, Mr. President. That's very clear now, and I understand it. Thank you.

ACTING PRESIDENT CRAIG JOHNSON: Thank you, Senator Libous.

Senator Marcellino.

SENATOR MARCELLINO: Thank you, Mr. President. Will Senator Kruger please yield for just one question?

ACTING PRESIDENT CRAIG JOHNSON:

Senator Kruger, Senator Marcellino is asking you to yield for just one question.

SENATOR CARL KRUGER: Yes.

ACTING PRESIDENT CRAIG JOHNSON: Senator Marcellino.

SENATOR MARCELLINO: Senator, we've now had eight weeks of extenders. As was said earlier, 54 days late, a budget. Eighteen weeks since the Governor has presented his budget. It's my understanding, if I remember correctly, the Governor's budget was about $136 billion. How much of that budget have we spent in these extenders that we've been doing?

SENATOR CARL KRUGER: Through you, Mr. President, I don't have those numbers immediately available, but I certainly will get them to you.

SENATOR MARCELLINO: I appreciate that. Thank you.

On the bill, Mr. President.

ACTING PRESIDENT CRAIG JOHNSON: Senator Marcellino, on the bill. Senator Marcellino.

SENATOR MARCELLINO: I have voted

against each and every one of these extenders since the beginning, because it's my belief and my contention that we don't need an extender, we need a budget. We need a real budget. That's what the public wants, that's what the public needs, that's what the public is entitled to. They're entitled to an on-time budget that is both balanced and fair.

We know this is going to be a difficult year. We know there's going to have to be some pain. We know that we're in a deficit situation, which is not all of our doing -- some of it is, some of it isn't. But we certainly are paying a price for it. So is the whole world, so is the whole nation. I understand all that.

But it's time we resolve our particular little corner of the world. We cannot keep on postponing the inevitable. Sooner or later we're going to have to make a decision. Sooner or later we're going to have to sit down and make some painful decisions. The majority is going to have to come up with a spending plan, and then we're going to negotiate it in the conference committees that

have been set up. We're waiting for the other house to set up their conference committees. Then we'll sit down and begin true negotiations.

I have voted for extenders in the past. But when we were doing that, we were not in extreme deficit, there was money to be given out, there was money to talk about. Negotiations were ongoing, and the extenders were necessary to carry us through while negotiations were ongoing.

I'm voting against these extenders because, as you just heard, in the colloquy between Senator Kruger and Senator DeFrancisco, there is no negotiations. There have been no negotiations going on. That means eight weeks, 54 days, and 8 extenders in 18 weeks of time since the Governor submitted his budget. Time wasted. Instead, we have a bill that we just went through where sweeps were taken to pay certain bills. Stealing money from one package, from one program, to pay for another program.

Tomorrow we may be talking about a parks budget out of the EPF. We're going to

take some more money out of the EPF. Not that the Governor hasn't proposed taking a hundred-some-odd million dollars from the EPF already in his original budget -- not that we haven't already swept almost half a billion dollars from the EPF over the years and haven't been repaid back to it.

We're now looking to take money from categories to pay to keep parks open. Six more million dollars out of a $136 billion budget, and we're playing games with $6 million. Not even a rounding error. And we don't seem to be able to keep parks open on the Memorial Day weekend for the public when, without borrowing money, the Governor proposes to do an EPF program, all by itself, stand-alone, by sweeping, taking money from one program and another to pay for parks.

It's like rearranging the deck chairs on the Titanic, ladies and gentlemen. It's ridiculous. It's not going to do any good. It's not going to do anything. Sooner or later, we're going to have to pay the bills. Sooner or later, we're going to have to pay the piper.

And I would suggest the sooner we do it, the better off we are. The sooner we do what we have to do, the sooner the majority sets the spending plan, as soon as the majority sets the schedule so that we can all sit down and begin serious negotiations and get this budget done, then we can go back to our public, go back to our constituents and say, Ladies and gentlemen, it was tough, it wasn't easy, but this is what we had to do to get this budget done in these most difficult times.

Until we do, until there is serious negotiations, and as long as the majority keeps putting forward the Governor's extenders one week at a time, I'm going to keep voting no, as I am on this particular bill, Mr. President. And I thank you.

ACTING PRESIDENT CRAIG JOHNSON: Senator Marcellino will be recorded in the negative.

Senator McDonald.

SENATOR McDONALD: On the bill, Mr. President.

ACTING PRESIDENT CRAIG JOHNSON:

Senator McDonald, on the bill.

SENATOR McDONALD: Thank you.

It's a very difficult thing we're doing right now, continuing this never-ending turmoil. For months -- many people, for years -- have been talking about my little part of the State of New York. The racing industry, the agricultural industry, the tourist industry and all the aspects that go with it have suffered undue hardship. It wasn't necessary to delay this process this long. A lot of people -- normal people, regular people, working men and women -- have suffered to date.

The $25 million that go to the racing industry, an industry that wants to pay taxes, that wants to be a part of this great state, is desperately needed. We're going to get this money if this legislation passes, and I will be voting for this, just like I voted for all those nongermane, out-of-order requests in the past. But this has got the magic blessing.

Well, the position that I'm in for all those people in the North Country and

Saratoga County and the Capital Region, we've got to do this. But let nobody kid anybody. We had to do this years ago. This is another industry that because we've ignored it has fallen into disarray. This great state can't keep on doing this. We have got to work together, and we've got to work for the benefit of the average people.

So I'm voting for this, for my community desperately needs this. And we have to undo all the public relations for the past couple of weeks and even months that has said the track may not open, that the tourism industry in upstate New York, especially in our region, may not be successful.

So now we're going to spend money saying they were wrong, it's going to open at the last minute. We can't continue to do this, and I don't care what industry it is. I don't care what region of the state it is. We can't have proposals that pit one region against another region. It's not right. There is no high-fives today for this bill. It should have been done. It could have been done. Let's move on and do some other things.

And if you care about this wonderful region that I represent, you come visit us and see the people up there and see that they're not ten or twenty times multi-multimillionaires, they're just average people throughout that whole wonderful region. Your kind of people. All of our kind of people.

That way you can come up so we don't go through this again next year, so you realize, when you see the small business person, the family structures that are impacted, the agricultural community that is impacted. You're going to like these people. They're going to like you. But they're going to ask you a question: Don't do this again. Don't do it to them again. It's too serious.

Thank you.

ACTING PRESIDENT CRAIG JOHNSON: Senator McDonald to vote in the affirmative.

Senator Farley, on the bill.

SENATOR FARLEY: Thank you, on the bill.

You know, these extenders enable us to have late budgets. I haven't voted for the

last one, and I don't like them. But I'm going to vote for this. Why? Because the lifeblood of the summer season here in the Capital Region is Saratoga. Millions of dollars in tourist money. Tourist and racing people from all over the United States flood this area. It's very, very important to us.

There was a great deal of concern whether the track was even going to be able to open, and consequently this saves it. This also affects the entire racing industry, Belmont and Aqueduct and the life of the racing industry. But it's like so many things that we do. I came in here expecting that keeping the parks open would be in here, as was mentioned earlier, because I don't think I've ever had anything that so many constituents have been concerned about, the parks and historic places.

But this is one area that is very, very important to Senator McDonald, to me, and to many of us in the Capital Region. And for that reason, I'm going to vote aye for this extender.

ACTING PRESIDENT CRAIG JOHNSON:

Senator Farley to be voting in the affirmative.

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

Hearing none, the debate is closed.

The Secretary will please ring the bells.

Read the last section.

THE SECRETARY: Section 19. This act shall take effect immediately.

ACTING PRESIDENT CRAIG JOHNSON: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT CRAIG JOHNSON: Senator Adams, to explain his vote.

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

I think this is an important vote. We do all that we can to protect the industry. And the industry is more than just, you know, horses around the track on jockeys. It's more than that. It's the backstretch, it's the countless number of men and women in your district, in Belmont and Aqueduct, and as well as Saratoga.

And a countless number of people from Saratoga stopped up and visited me and talked about the importance of the industry, and I just really want to thank them for emphasizing that there's an entire economic concern around what happens in Saratoga.

And I had an opportunity to speak with the county supervisor, Joan Yepsen, and she brought up a contingent and told me how important this is. And I want to commend her for that, and I want to commend all those that understand the importance of this bill.

And I believe that we must make sure that OTB also survives, as well as NYRA, as well as all components of the industry. I'm voting aye.

ACTING PRESIDENT CRAIG JOHNSON: Senator Adams to be voting in the affirmative.

Announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 619 are Senators Alesi, Bonacic, DeFrancisco, Golden, Griffo, Hannon, Lanza, Larkin, LaValle, Libous, Little, Marcellino, Nozzolio, Padavan, Ranzenhofer, Saland, Seward, Skelos, Volker,

Winner and Young. Also Senator Robach.

Ayes, 36. Nays, 22.

ACTING PRESIDENT CRAIG JOHNSON: The bill is passed.

Senator Klein, that completes the reading of the controversial supplemental calendar.

Senator Klein.

SENATOR KLEIN: Mr. President, can we briefly return to the order of motions and resolutions.

ACTING PRESIDENT CRAIG JOHNSON: Returning to the order of motions and resolutions.

Senator Klein.

SENATOR KLEIN: Mr. President, on behalf of Senator Duane, on page 15 I offer the following amendments to Calendar Number 185, Senate Print Number 1523, and ask that said bill retain its place on Third Reading Calendar.

ACTING PRESIDENT CRAIG JOHNSON: So ordered.

Senator Klein.

SENATOR KLEIN: Mr. President, is

there any further business at the desk?

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

SENATOR KLEIN: There being no further business, Mr. President, I move that we adjourn until Tuesday, May 25th, 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 Tuesday, May 25th, at 3:00 p.m.

(Whereupon, at 8:06 p.m., the Senate adjourned.)