

1 NEW YORK STATE SENATE

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3
4 THE STENOGRAPHIC RECORD

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8
9 ALBANY, NEW YORK

10 May 28, 2010

11 11:38 a.m.

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14 REGULAR SESSION

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19 SENATOR CRAIG M. JOHNSON, Acting President

20 ANGELO J. APONTE, Secretary

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

2 ACTING PRESIDENT CRAIG JOHNSON:

3 The Senate will please come to order.

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

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

9 ACTING PRESIDENT CRAIG JOHNSON:

10 The Reverend Peter G. Young, of Mother Teresa
11 Community in Albany, will now lead us in
12 prayer.

13 REVEREND YOUNG: Thank you,
14 Senator.

15 We gather in this Senate chamber,
16 on this memorial weekend for those that have
17 served our country, to provide our citizens
18 with freedom of our political process as their
19 legislative leadership. Thomas Jefferson
20 stated that democracy will cease to exist when
21 you take away from those willing to serve and
22 give to those who will not.

23 This weekend we honor those who
24 have served our country, with gratitude for
25 their dedication to protect our liberties.

1 In New York City, Washington, in
2 his inauguration address as President, placed
3 his hand on the Bible on April 30, 1789, to
4 serve with integrity his nation.

5 Our Senators are called to
6 leadership as Your elected and dedicated
7 public servants. We bless them in Your name
8 so that they can carry out the most important
9 work for all of our New York State citizens.

10 Amen.

11 ACTING PRESIDENT CRAIG JOHNSON:
12 The reading of the Journal.

13 The Secretary will read.

14 THE SECRETARY: In Senate,
15 Thursday, May 27, the Senate met pursuant to
16 adjournment. The Journal of Wednesday,
17 May 26, was read and approved. On motion,
18 Senate adjourned.

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

22 Presentation of petitions.

23 Messages from the Assembly.

24 Messages from the Governor.

25 Reports of standing committees.

1 Reports of select committees.

2 Communications and reports from
3 state officers.

4 Motions and resolutions.

5 Senator Klein.

6 SENATOR KLEIN: Mr. President,
7 can you please recognize Senator Padavan for a
8 floor motion.

9 ACTING PRESIDENT CRAIG JOHNSON:
10 Senator Padavan.

11 SENATOR PADAVAN: Mr. President,
12 I move that the following bill be discharged
13 from its respective committee and be
14 recommitted with instructions to strike the
15 enacting clause: Senate Bill Number 7371.

16 ACTING PRESIDENT CRAIG JOHNSON:
17 So ordered.

18 Senator Klein.

19 SENATOR KLEIN: Mr. President, I
20 believe there are substitutions at the desk.
21 I ask that we make the substitutions at this
22 time.

23 ACTING PRESIDENT CRAIG JOHNSON:
24 Senator Klein, there are substitutions at the
25 desk.

1 The Secretary will read.

2 THE SECRETARY: On page 34,
3 Senator Espada moves to discharge, from the
4 Committee on Finance, Assembly Bill Number
5 10705 and substitute it for the identical
6 Senate Bill Number 6842, Third Reading
7 Calendar 626.

8 ACTING PRESIDENT CRAIG JOHNSON:
9 Substitution ordered.

10 THE SECRETARY: On page 34,
11 Senator Adams moves to discharge, from the
12 Committee on Finance, Assembly Bill Number
13 8296A and substitute it for the identical
14 Senate Bill Number 7112, Third Reading
15 Calendar 630.

16 ACTING PRESIDENT CRAIG JOHNSON:
17 Substitution ordered.

18 THE SECRETARY: On page 36,
19 Senator Huntley moves to discharge, from the
20 Committee on Investigations and Government
21 Operations, Assembly Bill Number 10676 and
22 substitute it for the identical Senate Bill
23 Number 7482, Third Reading Calendar 647.

24 ACTING PRESIDENT CRAIG JOHNSON:
25 Substitution ordered.

1 THE SECRETARY: And on page 36,
2 Senator Hassell-Thompson moves to discharge,
3 from the Committee on Health, Assembly Bill
4 Number 10094B and substitute it for the
5 identical Senate Bill Number 6993B, Third
6 Reading Calendar 649.

7 ACTING PRESIDENT CRAIG JOHNSON:
8 So ordered.

9 Senator Klein.

10 SENATOR KLEIN: Mr. President, I
11 believe there's a resolution at the desk by
12 Senator Andrea Stewart-Cousins and Senator
13 Breslin. I ask that the resolution be read in
14 its entirety and move for its immediate
15 adoption.

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

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

22 ACTING PRESIDENT CRAIG JOHNSON:
23 The Secretary will read.

24 THE SECRETARY: By Senators
25 Stewart-Cousins and Breslin, legislative

1 resolution mourning the death of Jay
2 Gallagher, longtime Gannett bureau chief,
3 consummate journalist, and true public
4 servant.

5 "WHEREAS, This Legislative Body is
6 moved to publicly mourn the passing of
7 prominent citizens of the State of New York
8 whose purposeful careers and worthy endeavors
9 have contributed to the quality and character
10 of life in their communities; and

11 "WHEREAS, Jay Gallagher, the dean
12 of the legislative correspondents, died on
13 Monday, May 24, 2010, at the age of 63; and

14 "WHEREAS, Born on April 30, 1947,
15 to Joseph and Hazel Bromley Gallagher, in
16 Beverly, Massachusetts, Jay Gallagher grew up
17 in nearby Danvers with his brother, Neil, and
18 his sister, Anne; and

19 "WHEREAS, In high school, Jay was
20 an athlete and an avid Boston-sports-teams
21 fan, particularly the Boston Red Sox. It was
22 in high school that he decided to follow in
23 the footsteps of his father and uncle, who
24 worked as reporters and editors at newspapers
25 in Salem and Lynn, Massachusetts; and

1 "WHEREAS, While attending Colby
2 College in Maine, Jay Gallagher met the woman
3 who would become his wife for the next
4 40 years, Emily Gallagher. He graduated in
5 1969, and began a legendary career in
6 journalism when he accepted his first
7 reporting job with the Waltham News Tribune in
8 Massachusetts; and

9 "WHEREAS, He then moved on to the
10 Providence Journal in Rhode Island, where he
11 remained until the day he was arrested for his
12 vociferous participation in a work strike
13 while on the picket line, and decided that it
14 was time to leave Rhode Island for New York;
15 and

16 "WHEREAS, After eight years at the
17 Rochester Times-Union, where he was known for
18 his tenacious local government reporting, Jay
19 Gallagher joined New York Capitol Bureau's
20 Gannett News Service, where he was named
21 bureau chief in 1989; and

22 "WHEREAS, In this capacity, Jay
23 Gallagher coordinated state coverage for
24 Gannett's eight statewide newspapers. He was
25 admired by his colleagues and those he

1 mentored, as well as those he covered, for his
2 journalistic integrity, compassion and good
3 humor peppered with a healthy cynicism, and
4 for his relentless drive to cover all things
5 state government, as a form of genuine public
6 service; and

7 "WHEREAS, At the same time,
8 achieving a balance in his life, Jay and Emily
9 Gallagher raised two beloved daughters, Janice
10 and Ellen, who shared his love of politics and
11 sports. As a family, the Gallaghers went bike
12 riding, kayaking and cross-country skiing.
13 Furthermore, Jay never missed his girls'
14 athletic events or the family vacations that
15 were always scheduled around the New York
16 State budgets; and

17 "WHEREAS, An award-winning print
18 reporter, columnist, author, public television
19 show panelist and statewide public radio
20 program cohost, Jay Gallagher was recognized
21 for his outstanding coverage of state
22 government with numerous awards and accolades,
23 such as an Award for Excellence from the
24 New York Newspaper Association, the
25 Outstanding Reporter Award from the

1 Legislative Correspondents Association, and a
2 Beat Reporting Award from Capitol Beat, an
3 honor bestowed upon an individual for best
4 commentary by Common Cause; and

5 "WHEREAS, In 2005, Jay Gallagher
6 published the book that developed from a
7 series of in-depth news articles on state
8 government, The Politics of Decline, which
9 chronicled how political problems have
10 contributed to economic decline in the State
11 of New York. In 2009, Jay began the chronicle
12 of his battle with pancreatic cancer in a blog
13 carried by newspapers across New York State;
14 and

15 "WHEREAS, The family of Jay
16 Gallagher, including his beloved wife, Emily,
17 of Delmar, New York, and his two loving
18 daughters, Janice Gallagher, of Ithaca,
19 New York, and Ellen Gallagher, of Somerville,
20 Massachusetts, as well as the citizens of
21 New York State, have lost an eminent husband,
22 father, author, journalist and friend. He
23 will be deeply missed and truly merits the
24 grateful tribute of this Legislative Body;
25 now, therefore, be it

1 "RESOLVED, That this Legislative
2 Body pause in its deliberations to mourn the
3 death of Jay Gallagher, longtime Gannett
4 bureau chief, consummate journalist, and true
5 public servant, recognizing the significance
6 of his service to the people of the State of
7 New York and expressing its deepest
8 condolences to his family; and be it further

9 "RESOLVED, That copies of this
10 resolution, suitably engrossed, be transmitted
11 to the family of Jay Gallagher."

12 ACTING PRESIDENT CRAIG JOHNSON:
13 Senator Stewart-Cousins.

14 SENATOR STEWART-COUSINS: Thank
15 you, Mr. President.

16 And I would just like to thank the
17 family of Jay Gallagher: his wife, Emily; his
18 daughters, Ellen and Janice; Judi Kreinick,
19 his sister-in-law; and Allyson Goose -- I told
20 her that I might make it Goosay -- but for the
21 record, it's Allyson Goose, his
22 daughter-in-law and Ellen's spouse.

23 I want to thank you for being here
24 and certainly thank you for sharing this
25 moment with us and experiencing very much what

1 Jay experienced, the timing of the
2 Legislature. We told them to be here at
3 9:00 a.m., when we were to begin, and now,
4 only a short almost three hours later, we are
5 pausing to honor his memory.

6 (Laughter.)

7 SENATOR STEWART-COUSINS: You are
8 living his life. You are able to have a taste
9 of what it meant to do what he did. And not
10 only did he do this, but he coordinated the
11 schedules of so many others, because indeed
12 that was his role.

13 When I had the opportunity to speak
14 with the family and talk about what they might
15 want me to say about Jay, his wife said that
16 today would have been a momentous day for Jay,
17 because today we will keep the parks open, and
18 that so much of his life was centered around
19 the outdoors -- around activity, around
20 sports, certainly encouraging his daughters,
21 co-coaching a soccer team with Janice, and
22 making sure that all the deadlines, although
23 respected deadlines, somehow happened before
24 the commitments that he had to do the things
25 he did with his family.

1 His wife told me that his service,
2 even beyond the time where he formally left
3 Gannett, but his service and reporting what
4 happened here in state government kept him
5 alive. It defied what his lifespan would have
6 been, because state government was so in his
7 veins. It mattered to him what happened here.
8 It mattered to him how we did what we do for
9 the public.

10 I spoke to reporters who were so
11 honored to have served with him. Young
12 reporters felt nurtured by his experience and
13 by his care. Young reporters knew that he was
14 never threatened by their talents or their
15 abilities or even ambition, because it didn't
16 matter. What mattered was chronicling for the
17 people of State of New York, in the very best
18 possible way, what the goings-on of the
19 Capital Region were and making sure that they
20 were able to ply their trade in the very best
21 and honorable ways.

22 He was a role model, a mentor, a
23 guide, and somebody who genuinely cared and
24 knew what it took to be a real journalist.

25 My association with him is far

1 shorter than many of my colleagues' here, our
2 formal meeting. But because I live in
3 Westchester, we have the Journal News. I
4 reported for Gannett years ago. Jay's face --
5 and I picture his head shot in the paper --
6 was important to me. Even before I got here,
7 his opinions, his assessments, what he thought
8 about was important to me.

9 So that when I actually arrived
10 here, I was so pleased that he and I were able
11 to have a real conversation. It was among the
12 very first days that we got a chance to talk,
13 and I started interviewing him because I knew
14 who he was. And of course he knew who I was,
15 because of the battles that it took to get
16 there.

17 But I turned the table, and I said,
18 "What do you think about this? Do you think
19 it's going to change?" And he says, "You
20 know, I really want to believe that we can
21 make a difference in state government. I
22 really want to believe."

23 But he told me that the cynicism
24 still existed and he was a reporter, he was a
25 journalist, he was going to hold that, but he

1 believed and hoped in his heart that there
2 would be real reform and change in state
3 government. He lived for that.

4 And of course who would have
5 thought there would have been this much
6 change, which continues to this day. But that
7 I think also enlivened and empowered him,
8 excited him every day in ways that had never
9 been experienced by Jay before, to see the
10 amount of transition and transformation taking
11 place in state government.

12 We had a nice relationship, but I
13 always understood that first and foremost he
14 did his job. What a tremendous, tremendous
15 influence he had on this Capitol and on this
16 body.

17 And on this day where we save our
18 parks, where we struggle as always to do the
19 people's business, it is only fitting that we
20 commemorate a consummate journalist, husband,
21 father, friend, mentor, somebody who made sure
22 that we understood that journalism and being a
23 good journalist makes all the difference. He
24 will be missed and never forgotten.

25 And again, I thank you for being

1 here.

2 ACTING PRESIDENT CRAIG JOHNSON:

3 Senator Klein.

4 SENATOR KLEIN: Thank you very
5 much, Mr. President.

6 To the Gallagher family, you should
7 be very, very proud, because Jay Gallagher is
8 really the last of one of the giants of
9 journalism in New York State.

10 I think Senator Stewart-Cousins
11 said it best, he personified, I certainly
12 believe, what a journalist should be, where he
13 sort of shied away from what's known as the
14 "gotcha" journalism to understand an issue.
15 And if an elected official didn't do right by
16 that issue, yeah, then he went after you.

17 But he sort of had a mission.
18 Besides giving the public the ability to know
19 the truth and what went on, he also took sides
20 on issues that were near and dear to his
21 heart. Which I think we probably need a lot
22 more of, because I think we'd all be less than
23 honest if we didn't say that we need the
24 media, in many cases, to showcase the issues
25 we care about, to build grassroots support on

1 those issues. And I hope we get back to that,
2 and maybe in Jay's memory we can.

3 I'm also particularly proud that
4 probably 16 years ago, almost to the day, I
5 worked with Jay, myself and my colleague
6 Senator Libous, when I was a freshman
7 Assemblymember, with the subject of those
8 published articles which led to Jay's book,
9 The Politics of Decline.

10 It was a very interesting piece.
11 Jay was in on every one of the meetings that
12 myself and Senator Libous took part in. And
13 it was sort of how a bill becomes a law. The
14 issue -- which is an issue we're still dealing
15 with, like most things in the State of
16 New York -- was untaxed cigarettes. But at
17 the time the issue really wasn't so much about
18 Native Americans, it was more about
19 bootlegging that took place where people would
20 go to low-tax states like Virginia and
21 North Carolina, fill up a van full of
22 cigarettes that were untaxed in some of these
23 states, and sell them here in New York.

24 We also uncovered, through several
25 investigations that I took part in, that young

1 people were also able to buy these cigarettes,
2 especially over the Internet, without any type
3 of age verification.

4 You know, Jay, even though he was
5 sort of a hard-boiled journalist by that time,
6 still was excited that he was in on all these
7 meetings with myself, Senator Libous,
8 Speaker's counsel, the Majority counsel, that
9 he was there on the ground floor of what I
10 consider -- and I think Senator Libous would
11 agree -- very important legislation, the
12 backs-and-forths, the politics.

13 It portrayed how sometimes -- and
14 I'm not saying this in a negative way, because
15 I love our staff -- that staff sometimes has a
16 lot of control over the destiny of an issue.

17 But it also showed the positive
18 side of the business that we all chose, that
19 we do do things for the people and we can do
20 them into bipartisan fashion. That even
21 though myself and Senator Libous represented
22 two very different districts -- myself in
23 Bronx County, him in Broome County -- that
24 this was an issue that sort of transcended
25 party politics and regional differences, and

1 we were able to come together and have a piece
2 of legislation.

3 I was also very, very proud, even
4 though the subject of the book was the
5 politics of decline, this was one of the few
6 examples that even with all the lobbying
7 groups and the staff and different political
8 interests, we were able to come together and
9 pass a good piece of legislation.

10 So I know Jay is looking down at us
11 today, and I know he has a smile. Because a
12 lot of what he wanted to happen as far as
13 doing some bipartisan work -- and I think he
14 still loved the turmoil that takes place, and
15 God knows we had a lot of turmoil this year --
16 that he loved the give-and-take of politics.
17 He loved the issues that were attached to
18 politics. And I know I'm certainly always
19 going to miss him.

20 So thank you, Mr. President.

21 ACTING PRESIDENT CRAIG JOHNSON:

22 Thank you very much.

23 Senator Breslin.

24 SENATOR BRESLIN: Thank you very
25 much, Mr. President.

1 I couldn't agree more with Senator
2 Stewart-Cousins and Senator Klein in their
3 remarks. Mine will be not dissimilar.

4 Some 13 years ago, during my first
5 or second year in this Senate, I was asked to
6 speak at a Unitarian Church in Albany. And I
7 prepared and was concerned because I didn't
8 know anybody there. And as I walked in on
9 Sunday morning, the first person I saw was
10 Jay.

11 And I had dealt with Jay briefly,
12 professionally, on several occasions. But he
13 had a big grin on his face. And the question
14 he asked me is, "What is a good Irish Catholic
15 doing here?" If you know Jay, that is not an
16 unexpected question that he would ask. He was
17 always looking for the light side.

18 And over the years, I began to
19 trust Jay. That was rather quickly, though.
20 Began to trust him, began to like him, and in
21 a measure began to fear him.

22 (Laughter.)

23 SENATOR BRESLIN: Because it was
24 never about the friendship. And sometimes you
25 think, when you're trying to endear yourself

1 to a reporter, that they're going to write
2 better about you.

3 And Jay and I could talk about
4 baseball and his love of the Red Sox and mine
5 of the Dodgers, or about his children and his
6 wife and my children and my wife, and talk
7 about things going on in Delmar, New York,
8 where we both lived. We are Delmartians.

9 And I always found out that that
10 friendship had nothing to do with what he
11 would write. And if I made a mistake, as I
12 did on several occasions, it was written about
13 by Jay, and he pointed out my mistakes. But
14 he didn't act any differently. He was still
15 the same Jay Gallagher.

16 And isn't that a wonderful message
17 for all young reporters who are looking to be
18 objective but not trying to, as Senator
19 Stewart-Cousins said, trying to get you.
20 They're trying to report fairly, they're
21 trying to tell you what really is going on.
22 And that shouldn't interfere with the
23 friendship.

24 And if they happen to write
25 something that indicated that you had made a

1 mistake, he wasn't doing that personally. He
2 wasn't trying to hurt you. He was trying to
3 tell people what was going on in this chamber.
4 And it's something that I grew to respect
5 immensely.

6 And there are other reporters who I
7 believe emulate and follow the way Jay
8 Gallagher acted at all times. And it's such a
9 tremendous loss to us as a Senate.

10 And as I was talking to the
11 Gallaghers and talking about every place in
12 this building Jay said was his office, because
13 it's where he lived and it's where he worked
14 and it's where he accomplished so much. And
15 he accomplished so much that all of us have a
16 tremendous loss that we share today. But we
17 also have wonderful, wonderful memories of
18 someone who I believe is the epitome of what a
19 good reporter is.

20 And I salute the Gallagher
21 family -- Emily, his two daughters -- for
22 having had a wonderful, wonderful life with a
23 wonderful, wonderful man.

24 Thank you, Mr. President.

25 ACTING PRESIDENT CRAIG JOHNSON:

1 Thank you, Senator Breslin.

2 Senator Libous.

3 SENATOR LIBOUS: Thank you,
4 Mr. President. I too rise and join my
5 colleagues in honoring a great man.

6 And I can reflect in a similar but
7 different way. In Binghamton, in the Gannett
8 paper, before I was elected to the Senate,
9 every Sunday was a picture of Jay, as Senator
10 Stewart-Cousins said, and a picture of the
11 Capitol, and it was "The Albany Angle," by Jay
12 Gallagher. And as a young politician, coming
13 through the ranks as a city councilman, I
14 would read that religiously every Sunday to
15 get a feel for what was going on in the
16 Capitol.

17 Then I got elected to the Senate.
18 And I still read his article, but I didn't
19 like it as much.

20 (Laughter.)

21 SENATOR LIBOUS: And I would
22 tease Jay all the time, and I'd say, "Jay,
23 doesn't anything good ever happen in Albany?
24 Don't you ever see any good?" It was always
25 about what was going wrong here. And he says

1 "No."

2 And I said to him, "Well, I don't
3 see the story the same way you do." And he
4 would say to me, "I see it the right way. And
5 until you change it, we'll keep writing it
6 that way."

7 (Laughter.)

8 SENATOR LIBOUS: So Jay and I got
9 to be pretty good friends. And I would call
10 over to the bureau -- and I see some his
11 colleagues here, Joe Spector -- and I would
12 always ask for Jay. I didn't care who
13 answered the phone, I'd say, "I want to talk
14 to Gallagher. I want to talk to the main
15 man."

16 And I would then go on to continue
17 to tease him and say, "Gee, you wrote a story
18 yesterday about a bill that I passed, yet they
19 didn't print it in the Binghamton paper." And
20 without skipping a beat, he says, "Well, they
21 don't like you."

22 (Laughter.)

23 SENATOR LIBOUS: And he would
24 just go on and never acknowledge our
25 conversation, but just keep going.

1 As Senator Klein mentioned, it was
2 an honor and a privilege to have him follow us
3 and, you know, actually be published in his
4 book. And that was the one time I got to say
5 to him, "See, we actually do good things here
6 from time to time."

7 But I want to share with all of you
8 the real human side of Jay. And although I
9 thought I knew him fairly well -- and we were
10 not close friends; we didn't go out and have a
11 drink or whatever. But I thought we were
12 close professional friends.

13 And last August I was diagnosed
14 with prostate cancer, as many of you know. A
15 couple of days after that diagnosis was
16 public, I got an email from Jay Gallagher. I
17 then got a phone call from him a couple of
18 weeks later. He wanted to know how I was
19 doing. He was going through his own personal
20 hell -- I want to do this without choking up.

21 But he cared about a professional
22 colleague. I wasn't a close friend; I was a
23 professional colleague. And he called, he
24 wanted to know how I was doing. He told me
25 to, you know, be tough through the treatments

1 and do what you need to do. And I know that
2 what he was going through was far worse than
3 anything that I was experiencing.

4 That tells you the human side and
5 the character of this individual. And I
6 really want to emphasize character.

7 We come here and we do what we do
8 and we debate and we argue on the floor and we
9 have differences with professionals, whether
10 they be reporters or colleagues. But at the
11 end of the day, we're all humans. We're all
12 real people. We all cry. We all get
13 emotional. We all feel for each other. We
14 all feel for things. And Jay Gallagher showed
15 me that real human side.

16 I will miss him. What a great
17 husband, what a great father, what a great
18 individual that you can be proud of. And the
19 memories that you will have will be your
20 memories. Nobody can change the memories that
21 are in your mind. They will only be positive
22 memories. We'll miss him.

23 ACTING PRESIDENT SAVINO: Senator
24 Robach.

25 SENATOR ROBACH: Yes, Madam

1 President. Let me too briefly add my
2 condolences to the Gallagher family.

3 And as you're picking up not only a
4 giant in your family but an institution here
5 at the Capitol, I, my family, my father got
6 the chance to know him when he I guess rose,
7 really, in the Gannett chain in his Rochester
8 days and knew him before I came to Albany.

9 But you've heard many of my
10 colleagues say, and it was really true, I
11 think what made Jay's viewpoint a little bit
12 differently, he did care, both micro- and
13 macro-ly, what went on in government and
14 really liked it.

15 And I used to always make the joke
16 to him, I said, "Jay, you're a journalist.
17 You're not running for office." Had I known
18 he lived in Senator Breslin's office, I would
19 have encouraged him more to run for office.
20 But that's another story.

21 (Laughter.)

22 SENATOR ROBACH: But Jay really
23 had a unique perspective. And on his job, I
24 would really say this, he did in-depthly want
25 to know not only what your position was, but

1 might sometimes even ask a little bit about
2 your family, your background, and then say,
3 "Well, now I understand why you think that
4 way" -- yet, as Tom Libous pointed out, would
5 disagree with you anyways when he wrote the
6 article.

7 But he really, really did have a
8 passion for government and journalism as well,
9 and information. I used to always kid him a
10 little bit. I used to say, "Jay, I'm the only
11 guy that ever read your book. I know you
12 asked people. I'm the only one." That never
13 helped me in any of the articles either.

14 (Laughter.)

15 SENATOR ROBACH: But he was a
16 great guy. And I would say, too, you know, we
17 talk about the personal side and the
18 professional side. He helped me tremendously
19 when he used to write those blurbs.

20 When I first got elected to the
21 Assembly, I won in a special election. And
22 because they wanted every vote, we got sworn
23 in before January. And they called me down
24 here for a special session, and they said
25 session will be at 11 o'clock.

1 I drove from Rochester in the
2 morning, got here at 10:30, was a little bit
3 worried I'd be late. I get to the chamber,
4 I'm sitting in which was then my father's
5 seat, and I also am not only a half an hour
6 early, but I noticed I had a button missing.

7 I asked the clerk for a needle and
8 thread. I'm sewing my button in there a
9 half-hour early, and who walks through the
10 chamber? Jay Gallagher. And he says to me,
11 "What are you doing here?" I said, "Well,
12 session is supposed to be at 11:00." You
13 know, it's 10:35 and he sees me sewing this
14 button.

15 And he writes this little anecdotal
16 article about being on time and sewing a
17 button on. And I had said to him my mother
18 said, you know, "If you like to wear clothes,
19 learn how to take care of them." He wrote
20 this little thing up kind of chastising the
21 Assembly for being late, but writing that.

22 Now, we've gotten millions of
23 dollars for medical centers, all kinds of
24 policies. That was back before email. I got
25 more correspondence on sewing my button from

1 women and more correspondence from men for
2 being on time from that little article.

3 (Laughter.)

4 SENATOR ROBACH: So I'll say
5 thank you for that. But Jay loved that part
6 of government.

7 And lastly, you could go on for
8 hours. There's a lot of Jay Gallagher
9 stories. But I would say, in the most human
10 terms too, this was very telling. When my dad
11 passed -- who had also worked with Jay, both
12 in Rochester, in the county leg when he
13 covered there, and the Assembly here -- my
14 mother, my entire family were touched that Jay
15 Gallagher came from Albany to Rochester to
16 attend the calling hours of my dad and stayed
17 for the funeral.

18 And, you know, I said to him how
19 nice it was. And you know what Jay said? And
20 I think you could say that to everybody here.
21 He said, "You know, when you think about it,
22 we're not like corporation or a company. This
23 is our family, these are our coworkers."

24 I think in many ways Jay really was
25 maybe as influential as some of the members

1 and really viewed himself as part of what goes
2 on in Albany and to make sure that everybody
3 in the state knew what was going on as well.

4 His in-depth dedication, his dry
5 sense of humor will be greatly missed but not
6 forgotten.

7 ACTING PRESIDENT SAVINO: Senator
8 Volker.

9 SENATOR VOLKER: Madam President,
10 you know, so many things go through my mind.
11 I think probably I knew Jay Gallagher as long
12 as -- well, just about as long as anyone here.

13 My first confrontations with him --
14 and I say confrontations. We were not always
15 friends. You have to realize that when I
16 first came here, I guess I was a little
17 obstreperous. And Jay was not a fan of the
18 death penalty. And of course I was the
19 sponsor of the death penalty. And he once
20 wrote a story that I thought was unfair.

21 So I went to see him, and we got
22 into a considerable argument. And at one
23 point he said to me, "Are you Irish?" I said,
24 "Yeah. Why?" He said, "I figured."

25 (Laughter.)

1 SENATOR VOLKER: He said,
2 because -- he said, "You know, we're both
3 Irishmen. So you got to expect that those
4 things happen." And I just laughed. And I
5 said, "You know, you're right."

6 As time went on, you know, we got
7 together on a number of things and I realized
8 that Jay Gallagher was an honest, truthful
9 reporter who, sure, saw things differently
10 than many of us. And one of the things that
11 I've realized over the years is there aren't
12 too many people I guess that see things
13 exactly as I do. That includes my wife.

14 But the point I think is this. He
15 was a guy who tried to be fair, always tried
16 to be fair. Two stories, quickly, and then
17 I'll finish.

18 One story is that I -- there was a
19 story in the paper that Jay had done for the
20 newspaper and I said, "Well, you've got to
21 remember, that's a downstate reporter." Well,
22 I got a call back from him, and he said, "You
23 know, Dale, we actually are up in
24 Rochester" -- which I had forgotten about, by
25 the way. He said, "I am not a downstate

1 reporter." And I apologized to him. And I
2 said, "Yeah, I didn't think of that, but
3 you're right. It just blurted out."

4 The second story is that he called
5 me one morning and said, "I want to apologize
6 to you." I said, "Well, what are you
7 apologizing about?" He says, "One of our
8 reporters wrote a story that was inaccurate
9 about you." I said, "Well, yeah, it was. But
10 why are you calling?" "Because," he said, "it
11 bothers me when one of our people says
12 something that's inaccurate. You can
13 criticize, but it should be accurate." And I
14 thanked him.

15 And, you know, I met Jay many
16 times; he would call me and ask about
17 different issues over the years in criminal
18 justice -- by the way, my recollection is that
19 he called me at home in '94 when I had
20 prostate cancer and, you know, I was laid up
21 for quite a while, and asked me how I was
22 doing and so forth, and if I remember right,
23 wrote a story about, you know, coming back
24 from cancer and so forth.

25 The last I saw him was just a

1 couple of weeks ago. I was on a radio
2 program, and Jay sat in on it and he asked a
3 couple of questions. And as we were walking
4 out, I said, "Jay, how you feeling?" He said
5 "Not too good." I said, "Yeah, I can see
6 that." But he said, "I'm fighting." And I
7 said, "You always have fought. And I know
8 you'll fight right to the end."

9 Little did I think that here we
10 are, just, oh, probably not more than two
11 weeks -- it was right after I announced that I
12 wasn't running -- that we'd be talking about
13 it.

14 But I have no doubt that Jay
15 Gallagher is up in heaven and he's looking
16 down at us and probably saying, "Boy, those
17 guys down there, and women, they've got to get
18 their act together."

19 (Laughter.)

20 ACTING PRESIDENT CRAIG JOHNSON:
21 Senator Liz Krueger.

22 SENATOR LIZ KRUEGER: Thank you
23 very much.

24 I just wanted to rise to also say
25 to the family I know that this must be an

1 enormous loss for you.

2 And I wasn't in the Gannett
3 geographic area, but I got to know Jay a
4 little bit because he would stop me and he'd
5 ask the hard questions. And I want to tell
6 you that, you know, as somebody who he was
7 asking hard questions of, you knew that he
8 really wanted to get to the bottom of the
9 question. He really believed in what
10 journalism was, I think in the highest
11 standard and definition of what we hope
12 journalism continues to be in this town and
13 this state and in this country.

14 And I just enjoyed a number of the
15 conversations we had an opportunity to have
16 over the last few years. And everyone has
17 described what he clearly was as a wonderful
18 human being. And I guess, in my language, Jay
19 Gallagher was a mensch. And we're going to
20 miss him.

21 And thank you for being here today.

22 Thank you, Mr. President.

23 ACTING PRESIDENT CRAIG JOHNSON:

24 Senator Oppenheimer.

25 SENATOR OPPENHEIMER: Hi, family.

1 Well, as you know, I go way, way back with
2 Jay. Gosh, probably more -- I can't even --
3 more than 20 years.

4 And, you know, a lot of people have
5 spoken about what a wonderful journalist he
6 was. And he really was of a breed that we
7 don't see very much anymore, which is very
8 sad. Because he always wrote the truth and he
9 didn't try and color it. You know, he didn't
10 try and insert, you know, what his feelings
11 were. At least not in that venue, not in the
12 article. He might get it filtered into some
13 editorial part, but not in his article.

14 He really was just a brilliant
15 journalist, and so honest and always trying to
16 get to the bottom of what it really was. So
17 that part we've spoken about.

18 And we've also spoken about his
19 thoughtfulness and his kindness. He was a
20 very kind man. And that is not so often seen
21 up here anymore. He may have been ruthless
22 about the truth, but in his personal life he
23 was a very generous and gentle and kind
24 person. At least that's how I saw him.

25 And, you know, all of us who knew

1 him are very upset. And I can only say to you
2 that I can only imagine what your pain is. I
3 mean, I saw him as recently as four weeks ago,
4 and we were talking, he was carrying on. You
5 know, nothing was stopping him. It's just
6 amazing that someone at the end goes so
7 quickly. Because he always had -- he had such
8 a nice smile, and he seemed so up.

9 At any rate, we have an opportunity
10 on Tuesday night to go to the memorial service
11 and participate in his leaving us. And we all
12 are very much diminished and bereft by his
13 passing.

14 And I wish to you in time to be
15 able to look back and laugh and smile about
16 the things he did and the places you went. I
17 know it seems like it will never come, but it
18 does. And I hope it will heal your pain.

19 ACTING PRESIDENT CRAIG JOHNSON:
20 Senator Larkin.

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

23 I guess I had a different life with
24 Jay. The first time -- I never read about
25 him, he never read about me or never said

1 anything during my days in the Assembly. He
2 thought I was in a lost canyon, I think. But
3 he was humorous about it.

4 After I came to the Senate, he
5 wrote a very nice article, and I said to him,
6 "Thank you very much." He said: "Treasure
7 it. You don't know how many more there will
8 be."

9 (Laughter.)

10 SENATOR LARKIN: But what got me
11 was when we started the national drive -- and
12 not bragging, I was the one that started it.
13 And I want to thank my good friend and
14 colleague John Bonacic who was there the day
15 we started the campaign for the Purple Heart
16 stamp.

17 Jay called me the following week,
18 said, "I want to sit down and discuss it with
19 you. Why are you doing this? Do you have a
20 Purple Heart?" I said, "No, thank God." He
21 said, "Well, that's a good statement."

22 And then he started asking why we
23 were doing it, how did we think we would get
24 it. And, you know, he wasn't just sitting
25 there. He had a little recorder, you know, in

1 case you tell a little fib. And what he was
2 going through was what were the mechanics.

3 I know for a fact that he called
4 people in Washington because he wanted to know
5 how long it would take to get this stamp. And
6 he came to me and said, "I'll be in your
7 office tomorrow. Have the coffee." So I said
8 okay, I wonder what he's going to say. He
9 said, "Do you have any idea that they haven't
10 even put this into the concept stage?"

11 I said, "Well, they'd better,
12 because there are a lot of men and women who
13 have made a sacrifice, killed in action or
14 wounded for this great country of ours."

15 And on May 30, 2003, when the stamp
16 was officially opened and we pulled the
17 lanyards on it, it was a 37-cent stamp. And I
18 received a call, and it said:
19 "Congratulations. That's one for the home
20 team." And it was.

21 We had a few other go-arounds that
22 we had. And in 2005, when we announced we
23 were in the final throes of the Purple Heart
24 Hall of Honor, he said, "You've got your
25 second hit."

1 And his comments in the
2 Poughkeepsie Journal were not written for
3 Billy Larkin or any state legislator, but they
4 were written about the men and women of our
5 armed forces who were killed or wounded in
6 combat and how people should show up.

7 When I come back that following
8 Monday, I said to him -- we were here for some
9 reason -- I said, "There were 6,000 people
10 showed up at the opening." And I said, "Your
11 article helped us, because you give
12 directions, you give it -- you didn't give it
13 a big glossy thing, but you gave it as
14 something that really cared."

15 The next time -- it's tough -- he
16 came to me and he said, "A friend of our
17 family, Captain Tim Mosher, helicopter pilot,
18 was killed over the weekend." He asked a
19 couple of questions about burial, about flags,
20 about this. And he never lost his composure.
21 I do. Twenty-three years has taught me that
22 life is short, when you serve 23 years with
23 the service.

24 But his intensity and compassion
25 for the Mosher family was just something

1 that -- that's what brings the military
2 together. They have never forgot the love and
3 the sincerity and the respect.

4 And I want to tell you, you know
5 what he was. None of us will forget him. But
6 those of us who met him in another frame will
7 always remember his compassion and his
8 commitment, from when we talked about a Purple
9 Heart stamp, to a national honor facility, to
10 his compassion for some family member who gave
11 his life. And he meant it.

12 Thank you for a wonderful husband,
13 wonderful son, and a great American.

14 ACTING PRESIDENT CRAIG JOHNSON:
15 Thank you, Senator Larkin.

16 Senator Maziarz.

17 SENATOR MAZIARZ: Thank you very
18 much, Mr. President.

19 And I want to join and offer my
20 condolences and, you know, add another Jay
21 Gallagher story.

22 When I first got here, many years
23 ago, I always timed my exit here and arriving
24 back home, I would drive from here back to
25 Niagara County, five hours, to see my mother,

1 who was not in very good health.

2 And she would always ask me, "Well,
3 what went on in Albany this week?" And I
4 would tell her, you know, all the positive
5 things, all the good things we were doing, how
6 great everything was. And she would say to
7 me, "Well, not according to Jay Gallagher."

8 (Laughter.)

9 SENATOR MAZIARZ: And she would
10 pull out Jay's weekly column, and we would
11 have to go over it point by point. And, you
12 know, I'd say, "Well, that's one way of
13 looking at it, but then there's another way of
14 looking at it." And she would say to me,
15 "Well, you know, I'm not so sure if I agree
16 with you or with Jay." I said, "Mom, you have
17 to agree with me. I'm your son."

18 (Laughter.)

19 SENATOR MAZIARZ: I told Jay that
20 story. And I thought it described the type of
21 person that Jay was, when, a few years ago,
22 she did pass away, one of the first calls that
23 I received was from Jay to wish me well. So
24 he was a good person.

25 Thank you.

1 ACTING PRESIDENT CRAIG JOHNSON:
2 Senator Leibell.

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

5 Senator Maziarz, that must be
6 probably common to a number of us, that our
7 mothers got a different opinion of what we
8 were doing from Jay's report card of us.

9 This place is built on, frankly,
10 many tensions. We have tensions among
11 conferences, within conferences, between
12 members and the press.

13 I think Jay, though, I think for
14 all of us was a person who, when we saw him
15 coming, we just felt good about it. We all
16 knew that he was going to treat us fairly, he
17 would report it as we stated it, and that he
18 was a very fair person.

19 And if you were to meet him in the
20 hallway, you could talk about anything. He
21 would ask me about my kids, who were at Siena
22 up here and how they were doing. I can
23 remember talking to him about -- you know,
24 we're just about the same age -- how the
25 Gannett stock was doing in his 401(k). Which

1 was not always one of our happier
2 conversations.

3 We would talk about these things.
4 And I guess, you know, we can talk about his
5 professionalism, his sense of fairness, his
6 kindness. Above all, though, the sense that
7 he treated everyone with such great respect.

8 And I know that we all, all of us,
9 had the greatest respect for Jay Gallagher.

10 ACTING PRESIDENT CRAIG JOHNSON:

11 Thank you, Senator Leibell.

12 Senator Farley.

13 SENATOR FARLEY: Thank you. I
14 rise to pay tribute to Jay Gallagher and
15 express my condolences to his family.

16 But let me just say, as a fellow
17 Irishman, I was always pleased to meet him
18 because I never met him that he didn't have a
19 smile, humor, a little joke or something. He
20 was one of the most pleasant people that you
21 could ever run into. Besides being a
22 journalist who was always very fair and really
23 was into the issues. And regardless of your
24 politics, he treated everybody equally and
25 fairly.

1 He was the epitome of what a
2 journalist should be. But more important, he
3 was the epitome of what a human being should
4 be. Jay Gallagher was one nice guy, to say
5 the least.

6 And my deepest sympathy at this
7 early loss. And nobody as young and as gifted
8 as he is should have to leave us so early. My
9 deepest sympathy to the family.

10 ACTING PRESIDENT CRAIG JOHNSON:
11 Thank you, Senator Farley.

12 Senator Klein.

13 SENATOR KLEIN: Mr. President, on
14 behalf of the legislative body and certainly a
15 giant of a man, Jay Gallagher, can I please
16 ask for a moment of silence.

17 ACTING PRESIDENT CRAIG JOHNSON:
18 Thank you, Senator Klein.

19 All members, members of the
20 audience, please rise and join us in a moment
21 of silence in the memory of Jay Gallagher.

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

24 ACTING PRESIDENT CRAIG JOHNSON:
25 Are there any other Senators wishing to be

1 heard on the resolution?

2 The question is on the resolution.

3 All those in favor please signify by saying
4 aye.

5 (Response of "Aye.")

6 ACTING PRESIDENT CRAIG JOHNSON:

7 Opposed, nay.

8 (No response.)

9 ACTING PRESIDENT CRAIG JOHNSON:

10 The resolution is adopted.

11 Senator Stewart-Cousins has
12 indicated that she would like to open the
13 resolution up for cosponsorship by the entire
14 house. Any Senator not wishing to be on the
15 resolution please notify the desk.

16 And again, on behalf of the entire
17 State Senate, I welcome Jay's family to be
18 here and apologize for the delay in getting
19 here. But our memories are with him.

20 Thank you for joining us, and thank
21 everybody.

22 Senator Klein.

23 SENATOR KLEIN: Mr. President, I
24 believe there's a resolution at the desk by
25 Senator Larkin. I ask that the resolution be

1 read in its entirety and move for its
2 immediate adoption.

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

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

9 ACTING PRESIDENT CRAIG JOHNSON:
10 The Secretary will read.

11 THE SECRETARY: By Senator
12 Larkin, legislative resolution honoring
13 Brigadier General Patrick Finnegan upon the
14 occasion of his retirement as Dean of the
15 Academic Board at the United States Military
16 Academy.

17 "WHEREAS, It is the sense of this
18 Legislative Body to acknowledge outstanding
19 individuals whose professional lives, personal
20 endeavors, and community service are an
21 example and inspiration to their colleagues,
22 friends and family; and

23 "WHEREAS, Members and former
24 members of the armed services from the State
25 of New York who have served so valiantly and

1 honorably in wars in which this country's
2 freedom was at stake, as well as in the
3 preservation of peace in peacetime, deserve a
4 personal salute from this Legislative Body;
5 and

6 "WHEREAS, Attendant to such
7 concern, and in full accord with its
8 long-standing traditions, this Legislative
9 Body is justly proud to honor Brigadier
10 General Patrick Finnegan upon the occasion of
11 his retirement as Dean of the Academic Board
12 at the United States Military Academy. This
13 auspicious occasion will be celebrated at a
14 retirement ceremony to be held in his honor on
15 Tuesday, June 1, 2010, at Crest Hall,
16 Eisenhower Hall, United States Military
17 Academy, West Point, New York; and

18 "WHEREAS, Confirmed by the United
19 States Senate as the 12th Dean of the Academic
20 Board at the United States Military Academy on
21 July 1, 2005, Brigadier General Patrick
22 Finnegan was born in Fukuoka, Japan, on
23 September 20, 1949. He was appointed to the
24 United States Military Academy in 1967 and, as
25 a cadet, he was the chairman of the Honor

1 Committee and head manager of the Army
2 Football Team; and

3 "WHEREAS, Upon graduation from West
4 Point and being commissioned a second
5 lieutenant in 1971, he attended the Kennedy
6 School of Government at Harvard University and
7 earned a Master of Public Administration
8 degree in 1973; and

9 "WHEREAS, After completing graduate
10 school, Brigadier General Finnegan was
11 assigned as Battalion Adjutant, 3/39th
12 Infantry, 9th Infantry Division, at Fort
13 Lewis, Washington, from 1973-1974, and then
14 Headquarters Company Commander, U.S. Army
15 Security Agency Material Support Command,
16 Vint Hill Farms Station, Virginia, from
17 1975-1976. During that assignment, he was
18 selected for the Judge Advocate General's
19 Funded Legal Education Program; and

20 "WHEREAS, Brigadier General
21 Finnegan received his Juris Doctor from the
22 University of Virginia Law School in 1979.
23 While attending law school, he was a member
24 and editor of the Law Review and was elected
25 to the Order of the Coif; and

1 "WHEREAS, After an initial JAG
2 Corps tour at the 8th Infantry Division in
3 Bad Kreuznach, Germany, where he served as
4 Trial Counsel (1979-1980), Chief of
5 Administrative Law (1980-1981), and Chief of
6 Military Justice (1981-1982), Brigadier
7 General Finnegan was assigned to the Judge
8 Advocate General's School, Charlottesville,
9 Virginia, as a criminal law instructor
10 (1983-1985) and as Deputy Director, Academic
11 Department (1985-1987); and

12 "WHEREAS, From 1988 to 1991,
13 Brigadier General Finnegan was assigned to the
14 XVIII Airborne Corps, Fort Bragg,
15 North Carolina, as Chief of Administrative and
16 Civil Law (1988-1989) and Deputy Staff Judge
17 Advocate (1989-1991); and

18 "WHEREAS, Brigadier General Patrick
19 Finnegan served as Staff Judge Advocate,
20 Fort Bragg, for five months before deploying
21 to the Persian Gulf to participate in
22 Operations Desert Shield and Desert Storm; and

23 "WHEREAS, In addition, Brigadier
24 General Patrick Finnegan was Legal Advisor,
25 Joint Special Operations Command, Fort Bragg,

1 North Carolina, from May 1991 to July 1993,
2 and was the Staff Judge Advocate, United
3 States Special Operations Command, MacDill Air
4 Force Base, Florida, from July 1994 to
5 June 1996. He then served as the Legal
6 Advisor for the United States European
7 Command, Stuttgart, Germany, from July 1996 to
8 July 1998, and was the United States Military
9 Academy Staff Judge Advocate from August 1998
10 until he was appointed as professor and head
11 of the Department of Law in July of 1999; and

12 "WHEREAS, Brigadier General Patrick
13 Finnegan's military education includes the
14 Infantry Officers Basic Course, Airborne
15 School, Electronic Warfare Officers Basic
16 Course, Judge Advocate Officer Basic and
17 Graduate Courses, the Army Command and General
18 Staff College, and the Army War College. His
19 awards and decorations include the Defense
20 Superior Service Medal with oak leaf cluster,
21 the Legion of Merit, the Bronze Star,
22 Meritorious Service Medal with two oak leaf
23 clusters, Army Commendation Medal, Army
24 Achievement Medal with two oak leaf clusters,
25 Humanitarian Service Medal, Saudi Arabia/

1 Kuwait Liberation Medal, and the Defense
2 Meritorious Unit Award with oak leaf cluster.
3 He has also been awarded the Parachutist
4 Badge; and

5 "WHEREAS, A member of the Virginia
6 Bar, Brigadier General Finnegan has also been
7 admitted to practice before the United States
8 Supreme Court. He has published articles in
9 the Virginia Law Review, Military Law Review,
10 The Army Lawyer, and Military Review. He is a
11 member of the Phi Kappa Phi Academic Honor
12 Society; and

13 "WHEREAS, Upon his retirement from
14 the United States Army, Brigadier General
15 Patrick Finnegan will become the 25th
16 President of Longwood University in Farmville,
17 Virginia; and

18 "WHEREAS, With Brigadier General
19 Patrick Finnegan throughout his distinguished
20 career have been his wife, Joan, and their two
21 daughters, as well as their beloved
22 grandchildren, all of whom feel privileged to
23 be a part of his life and rejoice in his
24 achievements; and

25 "WHEREAS, Our nation's veterans

1 deserve to be recognized, commended and
2 thanked by the people of the State of New York
3 for their service and for their dedication to
4 their communities, their state and their
5 nation; now, therefore, be it

6 "RESOLVED, That this Legislative
7 Body pause in its deliberations to honor
8 Brigadier General Patrick Finnegan upon the
9 occasion of his retirement as Dean of the
10 Academic Board at the United States Military
11 Academy; and be it further

12 "RESOLVED, That a copy of this
13 resolution, suitably engrossed, be transmitted
14 to Brigadier General Patrick Finnegan."

15 ACTING PRESIDENT CRAIG JOHNSON:
16 Senator Larkin.

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

19 General Finnegan is completing his
20 39th year of service. Some of the other grads
21 will always tell you, "Don't forget the four
22 years we slogged around this great place."

23 You know, General Finnegan is the
24 twelfth academic dean in a school that is
25 208 years old. You know, someone said they

1 pick a professor or a president of a college
2 or a provost. To be selected to be the
3 academic dean of the service academies, you
4 have to be nominated by the President and then
5 confirmed by the Senate.

6 And the grilling, if you've ever
7 heard of it or watched it, is pretty detailed.
8 Because in fact the Senate of the United
9 States, in looking at this, want to make sure
10 that whoever they appoint has not only the
11 title and the infantry background but the
12 background to lead a college from a point of
13 view of all of the rest of the public and
14 private colleges.

15 General Finnegan, one of his real
16 claims to fame is that "When I graduated in
17 '71, Lark, I was an infantry officer." And
18 now he's going to leave the military as one of
19 the finest judge advocates and academic deans
20 that the service academy has ever had.

21 I had the privilege of serving with
22 one of his older brothers. And his comment to
23 me was "Of all the kids we had in the family,
24 Patrick to become a general."

25 And the rest of us that knew Pat

1 and have known him for the years he's been at
2 the Academy, we really feel kind of proud as
3 well as sad to see him walk away. Because the
4 dean at the Academy is not chosen for a number
5 of set years. The dean at the Academy is
6 picked and he stays there as long as the
7 President would like him to or he will go.

8 He's going to be missed. I talked
9 to some of the graduating class of this year,
10 and they said that, you know, as the academic
11 dean -- and others have said the same thing --
12 he didn't sit in that big charming office that
13 he has with his staff, but he went into the
14 classes and monitored what was being taught,
15 how it was, and how was the action between the
16 staff.

17 As you know, the service academies
18 today, as a result of action taken during
19 President Clinton, is not just military
20 professors but it is civilian professors. And
21 that runs a rough risk, sometimes, with the
22 faculty and the cadets. Because at the end of
23 the day, the private faculty members, bye-bye,
24 go home. The military faculty are there 7/24.

25 But General Finnegan made sure that

1 there was nobody slighted in any academic
2 portion of it. And while the Academy has a
3 lot of sports -- they've been some of the
4 greatest college football teams, basketball,
5 in the years -- he always stressed the point
6 that this is an academic institution, we want
7 to prepare these young men and women for the
8 future, for the future that they will commit
9 to our country.

10 Pat Finnegan will be missed.

11 ACTING PRESIDENT CRAIG JOHNSON:

12 Thank you, Senator Larkin.

13 The question is on the resolution.

14 All those in favor signify by saying aye.

15 (Response of "Aye.")

16 ACTING PRESIDENT CRAIG JOHNSON:

17 Opposed, nay.

18 (No response.)

19 ACTING PRESIDENT CRAIG JOHNSON:

20 The resolution is adopted.

21 Senator Klein.

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

25 ACTING PRESIDENT CRAIG JOHNSON:

1 The Secretary will read.

2 THE SECRETARY: Calendar Number
3 439, by Member of the Assembly Silver,
4 Assembly Print Number 10681B, an act to amend
5 the Election Law.

6 ACTING PRESIDENT CRAIG JOHNSON:
7 Read the last section.

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

10 ACTING PRESIDENT CRAIG JOHNSON:
11 Call the roll.

12 (The Secretary called the roll.)

13 ACTING PRESIDENT CRAIG JOHNSON:
14 Announce the results.

15 THE SECRETARY: Ayes, 58.

16 ACTING PRESIDENT CRAIG JOHNSON:
17 The bill is passed.

18 THE SECRETARY: Calendar Number
19 486, by Senator Sampson, Senate Print 7505, an
20 act to amend the Judiciary Law.

21 ACTING PRESIDENT CRAIG JOHNSON:
22 Read the last section.

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

25 ACTING PRESIDENT CRAIG JOHNSON:

1 Call the roll.

2 (The Secretary called the roll.)

3 ACTING PRESIDENT CRAIG JOHNSON:

4 Announce the results.

5 THE SECRETARY: Ayes, 58.

6 ACTING PRESIDENT CRAIG JOHNSON:

7 The bill is passed.

8 THE SECRETARY: Calendar Number
9 490, by Senator Breslin, Senate Print 6954A,
10 an act to repeal Chapter 241 of the Laws of
11 1930.

12 ACTING PRESIDENT CRAIG JOHNSON:

13 Read the last section.

14 THE SECRETARY: Section 5. This
15 act shall take effect July 1, 2010.

16 ACTING PRESIDENT CRAIG JOHNSON:

17 Call the roll.

18 (The Secretary called the roll.)

19 ACTING PRESIDENT CRAIG JOHNSON:

20 Announce the results.

21 THE SECRETARY: Those recorded in
22 the negative on Calendar Number 490 are
23 Senators Fuschillo, Lanza and Skelos. Also
24 Senator Marcellino.

25 Ayes, 54. Nays, 4.

1 ACTING PRESIDENT CRAIG JOHNSON:

2 The bill is passed.

3 THE SECRETARY: Calendar Number
4 523, by Senator Sampson, Senate Print 5987B,
5 an act to amend the Public Authorities Law.

6 ACTING PRESIDENT CRAIG JOHNSON:

7 Read the last section.

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

10 ACTING PRESIDENT CRAIG JOHNSON:

11 Call the roll.

12 (The Secretary called the roll.)

13 ACTING PRESIDENT CRAIG JOHNSON:

14 Announce the results.

15 THE SECRETARY: Those recorded in
16 the negative on Calendar Number 523 are
17 Senators Bonacic, DeFrancisco, Flanagan,
18 Fuschillo, Golden, Griffio, Hannon, O. Johnson,
19 Lanza, Larkin, LaValle, Leibell, Libous,
20 Little, Marcellino, Maziarz, McDonald,
21 Nozzolio, Padavan, Ranzenhofer, Robach,
22 Saland, Skelos, Volker and Young.

23 Ayes, 33. Nays, 25.

24 ACTING PRESIDENT CRAIG JOHNSON:

25 The bill is passed.

1 THE SECRETARY: Calendar Number
2 524, by Senator Breslin, Senate Print 6846 --

3 SENATOR KLEIN: Lay it aside for
4 the day, please.

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

7 THE SECRETARY: Calendar Number
8 530, by Member of the Assembly Russell,
9 Assembly Print Number 8525, an act to amend
10 the Election Law.

11 ACTING PRESIDENT CRAIG JOHNSON:
12 Read the last section.

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

15 ACTING PRESIDENT CRAIG JOHNSON:
16 Call the roll.

17 (The Secretary called the roll.)

18 ACTING PRESIDENT CRAIG JOHNSON:
19 Announce the results.

20 THE SECRETARY: Ayes, 58.

21 ACTING PRESIDENT CRAIG JOHNSON:
22 The bill is passed.

23 THE SECRETARY: Calendar Number
24 535, by Senator Foley, Senate Print 5495, an
25 act to amend the Criminal Procedure Law.

1 ACTING PRESIDENT CRAIG JOHNSON:

2 Read the last section.

3 THE SECRETARY: Section 2. This
4 act shall take effect on the first of
5 November.

6 ACTING PRESIDENT CRAIG JOHNSON:
7 Call the roll.

8 (The Secretary called the roll.)

9 ACTING PRESIDENT CRAIG JOHNSON:
10 Announce the results.

11 THE SECRETARY: Ayes, 58.

12 ACTING PRESIDENT CRAIG JOHNSON:
13 The bill is passed.

14 THE SECRETARY: Calendar Number
15 537, by Senator Perkins, Senate Print 7434, an
16 act to amend the Penal Law.

17 ACTING PRESIDENT CRAIG JOHNSON:
18 Read the last section.

19 THE SECRETARY: Section 2. This
20 act shall take effect on the first of
21 November.

22 ACTING PRESIDENT CRAIG JOHNSON:
23 Call the roll.

24 (The Secretary called the roll.)

25 ACTING PRESIDENT CRAIG JOHNSON:

1 Announce the results.

2 THE SECRETARY: Ayes, 57. Nays,
3 1. Senator Montgomery recorded in the
4 negative.

5 ACTING PRESIDENT CRAIG JOHNSON:
6 The bill is passed.

7 THE SECRETARY: Calendar Number
8 540, by Senator Valesky, Senate Print 7198A,
9 an act to amend the Highway Law.

10 ACTING PRESIDENT CRAIG JOHNSON:
11 Read the last section.

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

14 ACTING PRESIDENT CRAIG JOHNSON:
15 Call the roll.

16 (The Secretary called the roll.)

17 ACTING PRESIDENT CRAIG JOHNSON:
18 Announce the results.

19 THE SECRETARY: Ayes, 58.

20 ACTING PRESIDENT CRAIG JOHNSON:
21 The bill is passed.

22 THE SECRETARY: Calendar Number
23 564, by Senator C. Johnson, Senate Print
24 5972C, an act to amend the Education Law and
25 the Public Health Law.

1 ACTING PRESIDENT CRAIG JOHNSON:

2 Read the last section.

3 THE SECRETARY: Section 4. This
4 act shall take effect immediately on the 180th
5 day.

6 ACTING PRESIDENT CRAIG JOHNSON:

7 Call the roll.

8 (The Secretary called the roll.)

9 ACTING PRESIDENT CRAIG JOHNSON:
10 Announce the results.

11 THE SECRETARY: Ayes, 58.

12 ACTING PRESIDENT CRAIG JOHNSON:
13 The bill is passed.

14 Senator Klein, that completes the
15 reading of the calendar.

16 SENATOR KLEIN: Mr. President, at
17 this time can we please stand at ease.

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

20 SENATOR LIBOUS: Mr. President.

21 ACTING PRESIDENT CRAIG JOHNSON:
22 Senator Libous.

23 SENATOR LIBOUS: Thank you,
24 Mr. President.

25 Could there be an immediate

1 Republican conference while we're at ease.

2 ACTING PRESIDENT CRAIG JOHNSON:

3 There will be an immediate Republican
4 conference in the Republican Conference Room
5 while the Senate stands at ease.

6 (Whereupon, the Senate stood at
7 ease at 12:46 p.m.)

8 ACTING PRESIDENT CRAIG JOHNSON:

9 Senator Klein.

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

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

17 ACTING PRESIDENT CRAIG JOHNSON:

18 Immediate meeting of the Finance Committee,
19 followed by an immediate meeting of the Rules
20 Committee in Room 332.

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

24 (Whereupon, the Senate reconvened
25 at 1:53 p.m.)

1 ACTING PRESIDENT CRAIG JOHNSON:

2 Senator Klein.

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

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

10 The Secretary will read.

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

14 Senate Print 7909, by Senator
15 Savino, an act to provide;

16 7988, by the Senate Committee on
17 Rules, an act to amend the Tax Law;

18 7989, by the Senate Committee on
19 Rules, an act making appropriations for the
20 support of government;

21 7990, by Senator Oppenheimer, an
22 act to amend the Education Law;

23 7991, by Senator Oppenheimer, an
24 act to amend the Education Law;

25 And Senate Print 8001, by Senator

1 Oppenheimer, an act to amend the Education
2 Law.

3 All bills ordered direct to third
4 reading.

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

8 (Response of "Aye.")

9 ACTING PRESIDENT CRAIG JOHNSON:
10 Opposed, nay.

11 (No response.)

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

14 Senator Klein.

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

18 ACTING PRESIDENT CRAIG JOHNSON:
19 The Secretary will read the supplemental
20 calendar.

21 THE SECRETARY: In relation to
22 Calendar Number 662, Senator Savino moves to
23 discharge, from the Committee on Civil Service
24 and Pensions, Assembly Bill Number 11144, and
25 substitute it for the identical Senate Bill

1 Number 7909, Third Reading Calendar 662.

2 ACTING PRESIDENT CRAIG JOHNSON:

3 Substitution ordered.

4 THE SECRETARY: Calendar Number
5 662, by Member of the Assembly Abbate,
6 Assembly Print Number 11144, an act to
7 provide --

8 SENATOR LIBOUS: Lay the bill
9 aside.

10 ACTING PRESIDENT CRAIG JOHNSON:

11 The bill is laid aside.

12 THE SECRETARY: In relation to
13 Calendar Number 663, Senator Smith moves to
14 discharge, from the Committee on Finance,
15 Assembly Bill Number 11308 and substitute it
16 for the identical Senate Bill Number 7988,
17 Third Reading Calendar 663.

18 ACTING PRESIDENT CRAIG JOHNSON:

19 Substitution ordered.

20 THE SECRETARY: Calendar Number
21 663, by the Assembly Committee on Rules,
22 Assembly Print Number 11308, an act to amend
23 the Tax Law.

24 ACTING PRESIDENT CRAIG JOHNSON:

25 Senator Klein.

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

4 ACTING PRESIDENT CRAIG JOHNSON:
5 There is a message of necessity and
6 appropriation at the desk.

7 SENATOR KLEIN: Mr. President, I
8 move that we accept the message at this time.

9 ACTING PRESIDENT CRAIG JOHNSON:
10 The question on accepting the message of
11 necessity and appropriation is before the
12 desk. All those in favor please signify by
13 saying aye.

14 (Response of "Aye.")

15 ACTING PRESIDENT CRAIG JOHNSON:
16 Opposed, nay.

17 (No response.)

18 ACTING PRESIDENT CRAIG JOHNSON:
19 The message of necessity and appropriation is
20 accepted.

21 Read the last section.

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

24 ACTING PRESIDENT CRAIG JOHNSON:
25 Call the roll.

1 (The Secretary called the roll.)

2 ACTING PRESIDENT CRAIG JOHNSON:

3 Senator DeFrancisco, to explain his vote.

4 SENATOR DeFRANCISCO: Yes, I'm
5 voting no for several reasons.

6 The first reason is that I was
7 assured by my colleagues on the other side of
8 the aisle that we had already fixed the parks
9 bill because there was a way to manipulate the
10 last extender, or words to that effect, and
11 there was enough money in the last extender,
12 we were told by the sponsor of the parks bill,
13 to take care of parks.

14 And here we are a couple of days
15 later actually voting for increased taxes in
16 order supposedly to fund the parks. It's
17 simply contradictory, to say the least. And
18 there's no need to raise taxes if we are to
19 believe the Majority explanation of the other
20 bill. And I will not vote to raise taxes.

21 Lastly, as far as this bill is
22 concerned, you know, this plus the charter
23 school bill is so embarrassing to wait until
24 the day before, the day before parks are going
25 to be closed to claim that now you finally

1 have a solution.

2 Absolutely unbelievable. That's
3 not the way to do business, nor is it a way to
4 do business with the new charter school bill
5 that we'll get to later on in the agenda.

6 So those are the reasons I vote no.
7 Thank you.

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

11 Senator Marcellino, to explain his
12 vote.

13 SENATOR MARCELLINO: I'd like to
14 explain my vote, Mr. President.

15 This bill was done in secret. This
16 bill was done in the dark of night. This bill
17 was done without any Republican input, without
18 any conference committee, without any
19 discussion. This is not the way to do a bill.
20 This is not the way we're supposed to operate.
21 We're supposed to have openness, we're
22 supposed to have transparency. We have
23 neither here.

24 This is a bad bill. It cuts the
25 EPF to \$134 million. This is the economic

1 engine that drives the entire environmental
2 movement in this state. Clean air, open space
3 and everything else that goes with it is
4 dependent upon the Environmental Protection
5 Fund. And in the last two years, under
6 Democrat leadership, this fund has been cut
7 from \$300 million to \$134 million.

8 Mr. President, that's unconscionable and must
9 not occur.

10 This bill is bad. It doesn't do
11 anything. The parks open will be a shell of
12 what they should be and not really in full
13 open and full shape. This is not positive.
14 This is not good. This is not the way we
15 should be doing a budget.

16 This state needs an on-time budget.
17 Instead of working till 3:00 in the morning to
18 keep the parks open, we should have worked
19 together till 3:00 in the morning to do a
20 budget on time.

21 I vote no, Mr. President.

22 ACTING PRESIDENT CRAIG JOHNSON:

23 Senator Marcellino to be recorded in the
24 negative.

25 Senator Robach, to explain his

1 vote.

2 SENATOR ROBACH: Yes, very
3 briefly.

4 You know, the parks are critically
5 important. I think there was other ways we
6 could have accomplished keeping them open.
7 Senator Serrano said on the floor the other
8 day in the extender that to get to that
9 \$6 million we could have moved some money
10 around inside the department, perhaps even
11 shrank the size of government.

12 But that's what happened here, is
13 we are putting taxes and fees on businesses,
14 upstate manufacturers. I, very parochially
15 but very importantly, represent Eastman Kodak
16 Company, where friends, family members are
17 struggling to hang onto their job to support
18 their family.

19 And we all talk in here how
20 important it is that we do business
21 differently, don't raise taxes, don't raise
22 fees, and then we come right out, in that,
23 after you make that pledge and do just the
24 opposite.

25 Now, I can't give an exact figure,

1 but I'm telling you this is going to hurt
2 Eastman Kodak Company, which has probably been
3 reduced in size by almost 75 percent in my
4 district. If we wanted to, we could have done
5 a better bill and got this money some other
6 way. Not we, you chose to put those taxes and
7 fees on upstate manufacturing, predominantly,
8 and I think that's unfortunate.

9 If we're going to talk about
10 revitalizing the economy, we can't keep
11 putting more fees, more taxes on businesses
12 upstate or downstate, but sure as heck not in
13 those ones that are struggling. And that's
14 the shame.

15 I listened very, very intently to
16 the debate on the extenders. And, you know,
17 it may sound strange, but \$6 million isn't a
18 tremendous amount of money in a \$134 billion
19 budget. But to pass that money on to upstate
20 companies who are already struggling, that is
21 a lot of money.

22 Everybody wants to keep the parks
23 open. This is the wrong direction. And I'm
24 going to ask my colleagues on the other side
25 of the aisle again to please practice what

1 you're preaching, be more responsive to the
2 people I represent. This is the time. If
3 we're going to turn the corner --

4 ACTING PRESIDENT CRAIG JOHNSON:
5 Senator Robach, how do you vote?

6 SENATOR ROBACH: -- it's got to
7 be with actions, not words.

8 I vote no, Mr. President.

9 ACTING PRESIDENT CRAIG JOHNSON:
10 Senator Robach to be recorded in the negative.

11 Senator Farley, to explain his
12 vote.

13 SENATOR FARLEY: Thank you,
14 Mr. President. I'll stay within my two
15 minutes.

16 Let me say that nobody in this
17 chamber wants the parks, historic sites and
18 campgrounds to remain open any more than I.
19 It's a huge issue in my district. But what
20 have we done? For keeping these parks open
21 for \$6 million, we have created a monster that
22 raises taxes.

23 It's interesting in the other house
24 that every Republican and 10 Democrats voted
25 against this because of all of the poison

1 pills that were put in this bill.

2 And it raises fees and taxes
3 throughout this state, particularly for
4 upstate manufacturing places, and causes all
5 kinds of havoc and drives business out of this
6 state for no reason at all.

7 I vote no.

8 ACTING PRESIDENT CRAIG JOHNSON:
9 Senator Farley to be recorded in the negative.

10 Senator LaValle, to explain his
11 vote.

12 SENATOR LaVALLE: Thank you,
13 Mr. President.

14 When we do a budget in a piecemeal
15 way -- and I would say the Democrat Majority
16 does and the Governor and the Assembly does a
17 budget in a piecemeal way, we get something
18 that doesn't make any sense. Fees and taxes,
19 and what we have done to the Environmental
20 Protection Fund -- something that Senator
21 Marcellino, myself, and other individuals have
22 worked over the years so hard to have open
23 space protections -- is very, very sad.

24 We were not able, because of the
25 timeliness here -- at least I was not able to

1 put in an amendment. But you will see this,
2 that the Comptroller shall transfer to the
3 Environmental Protection Fund 30 percent of
4 the taxes, interest and penalties collected
5 pursuant to this section in excess of the
6 revenue estimate included in the state
7 financial plan for the prior year. We cannot
8 abandon the environment.

9 And I hear, you know, during
10 campaigns Democratic candidates talking about
11 how they're for the environment. Well, I want
12 to tell you, you are doing something today,
13 with this hodgepodge bill that is before us,
14 something that is not positive for the
15 environment.

16 I vote in the negative.

17 ACTING PRESIDENT CRAIG JOHNSON:

18 Senator LaValle to be recorded in the
19 negative.

20 Senator Thompson, to explain his
21 vote.

22 SENATOR THOMPSON: First, thank
23 you for recognizing me, Mr. President.

24 This budget today that we are
25 approving is a -- this item for the parks I

1 believe, number one, is important. It has not
2 been a pretty process, but it's been a very
3 important process and one that people have
4 said that they wanted the parks open. And I
5 think it's important that we pass this bill so
6 that people can enjoy these parks this
7 weekend.

8 But there's some other positive
9 things that are in the budget, despite the
10 cuts to the Environmental Protection Fund.
11 Number one, this bill will provide electronic
12 recycling in the State of New York, something
13 that many of us have worked on, and some even
14 prior to me arriving, for a number of years.

15 And that's very important that we
16 will move on a path towards removing computers
17 and other forms of electronic equipment out of
18 our waste stream.

19 This bill also seeks to provide
20 funding for waterfront development and parks
21 and other forms of environmental protection
22 across the state. It also says to us that in
23 this very difficult financial time that we
24 have to make some cuts, even some unpopular
25 cuts, but cuts that are necessary to protect

1 the environment but to make sure that we all
2 share in the pain. And we also, once we
3 finish the budget, hopefully we can finish one
4 loophole, which is the repayment language
5 that's necessary to repay the Environmental
6 Protection Fund for all of these sweeps.

7 So we still have some work to do.
8 No, it's not a pretty budget. But we send the
9 message that we will not send the parks. We
10 protection our zoos and botanical gardens. We
11 provide environmental stewardship funding.
12 Yes, it's not \$300 million like we would like,
13 but it's still protecting the fund. And we
14 have more work to do as the economy gets
15 better in the State of New York.

16 I vote yes, and thank you for the
17 opportunity to speak.

18 ACTING PRESIDENT CRAIG JOHNSON:
19 Senator Thompson to be recorded in the
20 affirmative.

21 Senator Volker, to explain his
22 vote.

23 SENATOR VOLKER: Mr. President, I
24 have not spoken a great deal, but it's
25 important to me -- who as everyone knows, I

1 think, I'm leaving the Legislature -- to leave
2 with what I consider to be a high note.

3 This is the beginning of the budget
4 process. I assume we all know that. And this
5 is the typical budget -- we're sent a
6 hodgepodge by the Budget Bureau, and that's
7 what exactly this is, because there's
8 something we want. We all want the parks
9 open, and we all want the zoos and all the
10 rests of the things.

11 What this bill does, though, is
12 raise taxes and fees all over the place. In
13 fact, we're still having trouble figuring out
14 exactly how much this actually is going to
15 cost. And it is going to cost consumers a lot
16 of money. Not just businesses, but consumers.

17 The problem is that it is New York
18 doing business as usual. And we have to stop
19 doing this, because -- and what's scary is
20 since this is the first bill, many would
21 argue, in the budget process, to start right
22 out with a bill with unnecessary funding for
23 the parks -- because everybody has admitted we
24 don't need to do this -- and raise money --
25 and that's what it's about, is to tempt us

1 into raising money through fees and all kinds
2 of things, and that is particularly true in
3 upstate New York -- is wrong and a huge
4 mistake.

5 So I'm going to have to vote
6 against this. And I realize that there's some
7 people who are going to say, "Well, you voted
8 against the parks." I voted so many times in
9 favor of the parks, I'm beginning to wonder
10 how many times I'm going to have to do it.

11 But it's time that we stop this
12 kind of foolishness, and I'm going to have to
13 vote no.

14 ACTING PRESIDENT CRAIG JOHNSON:
15 Senator Volker to be recorded in the negative.

16 Senator Lanza, to explain his vote.

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

19 I'm voting no. And I'm voting no
20 not on a parks bill -- because that's not what
21 this is. This is a tax bill. We know we
22 don't need to raise fees or taxes in order to
23 open the parks. How do we know that? My good
24 friend Senator Serrano the other day had a
25 bill in which everyone on your side of the

1 aisle voted yes. And the reason why we were
2 told that that would open parks without fees
3 is because we don't need the money, it's
4 already there, floating around, slushing
5 around in the extender.

6 You want to open parks? Vote on
7 the budget. You want to open parks? Talk to
8 the leader of your party, Governor Paterson,
9 and have him sign an executive order. So this
10 is not about parks, this is about a tax.

11 Now, when I've asked some of my
12 colleagues who's going to pay this tax,
13 there's a moving target. You can't get an
14 answer. So let me tell you who's going to pay
15 it. Because when you impose fees to the tune
16 of millions of dollars, we know who pays every
17 single time. It's the families and businesses
18 across this great state.

19 So we know we're going to lose
20 jobs. Once again, we know hardworking
21 families are going to find it tougher to make
22 ends meet. And let me tell you about some of
23 the things that are going to cost more in the
24 State of New York. Computers, televisions,
25 printers, iPods, MP3 players, maybe your dry

1 cleaning bill -- no one can seem to figure out
2 whether or not that's going to cost more. But
3 I'll tell you, we know that it's the people
4 who are going to pay this bill.

5 It's not the right thing to do,
6 it's the wrong thing to do. Let's not make
7 believe that this is a parks bill. This is
8 Trojan horse within which is a whole host of
9 new fees and taxes.

10 ACTING PRESIDENT CRAIG JOHNSON:
11 Senator Lanza to be recorded in the negative.

12 Senator Serrano, to explain his
13 vote.

14 SENATOR SERRANO: Thank you,
15 Mr. President.

16 I want to thank the Governor and
17 the legislative leaders for coming up with a
18 plan that will keep our parks open in time for
19 Memorial Day weekend. This weekend accounts
20 for a huge percentage of revenue that parks
21 would generate all year. And more
22 importantly, the parks, which we all talk so
23 much about, and we've had bipartisan support
24 and agreement on the issue of saving parks --
25 disagreement on how to do it, understandably.

1 But again, I think none of us disagree on the
2 importance of our parks, on the transformative
3 effect that parks have on our communities and
4 in our state.

5 And in a time of economic recession
6 where residents will be staying closer to
7 home, will be traveling to less faraway
8 places, our state parks become more valuable
9 than ever. They are the jewel for the State
10 of New York. And they generate revenue to the
11 tune of five to one, meaning every dollar
12 invested in parks will generate \$5 in revenue.

13 However, in a budget that has
14 tremendous pain in all areas, even though
15 there is a bill here to save parks in time for
16 this weekend, Parks is still absorbing a major
17 cut in this budget, as is all state agencies.

18 But again, we needed to have these
19 parks open in time for this weekend and for
20 this summer. And I'm very happy and very
21 pleased that we've done it in time for the
22 weekend.

23 Thank you.

24 ACTING PRESIDENT CRAIG JOHNSON:

25 Senator Serrano, how are you going to be

1 voting?

2 SENATOR SERRANO: Yes.

3 ACTING PRESIDENT CRAIG JOHNSON:

4 Senator Serrano to be recorded in the
5 affirmative.

6 Senator Liz Krueger.

7 SENATOR LIZ KRUEGER: Thank you.

8 I rise to support this bill.

9 I'm a little confused about some of
10 the reasons some of my colleagues are voting
11 no. Yes, it's the last day, but it's a good
12 day to vote to keep the parks open,
13 particularly around Memorial Day.

14 And people seem to be a little
15 confused about all these taxes. This bill
16 only increases minor fees on people who are
17 hazardous waste generators. \$2.1 million out
18 of the \$4 million in taxes statewide in this
19 bill are to affect the hazardous waste
20 generator fee.

21 And you know what? Over 377 small
22 businesses are going to have their fees
23 decreased with this bill, and about 70 larger
24 polluters are going to have their fees
25 somewhat increased but capped quite low, at

1 \$800,000 maximum per company.

2 So it will encourage large
3 companies to decrease the production of
4 hazardous waste -- a good thing in an
5 environmental bill, I think. It will decrease
6 the fees on the vast majority of small
7 businesses impacted.

8 And you know what? The people who
9 get hit with the e-waste fee actually support
10 the bill. They recognize that this is the
11 21st century. We want to be decreasing
12 e-waste, we want to be decreasing hazardous
13 waste, we want the zoos open, we want the
14 gardens open, we want the parks open.
15 Finally, we're getting this done.

16 I vote yes. Thank you.

17 ACTING PRESIDENT CRAIG JOHNSON:
18 Senator Liz Krueger to be recorded in the
19 affirmative.

20 Senator Adams, to explain his vote.

21 SENATOR ADAMS: Just quickly,
22 Mr. President.

23 The parks are important. And, you
24 know, people could disagree with, you know,
25 some of the ways it's been done. But to the

1 average family member who can't afford to go
2 to some distant island somewhere on the
3 holiday, this is a real issue. This is a
4 kitchen table, bread-and-butter issue.

5 And we could articulate reasons
6 why. But when a person shows up with their
7 family because they can't afford a movie at
8 \$14 a ticket on a family of four, they can't
9 afford to fly out somewhere, gas is too
10 high -- free locations are important to
11 families. And why we have a budget or why we
12 don't have a budget, tell that to a family of
13 four that's trying to get into a place to
14 entertain their family this weekend.

15 This is an important bill. The
16 parks have to be open. They must be open over
17 this holiday. They must be open over the
18 summer so our children can have alternative
19 means of interacting with their family.

20 I support this bill. And I'm
21 pretty sure there's reasons why this is not a
22 perfect bill. I have yet to see a perfect
23 bill in this chamber since I was here. But I
24 do know the members of my district and all
25 throughout this state, families want to go

1 somewhere with their families throughout this
2 weekend. And I think this is a way of doing
3 it. We had an obligation of ensuring the
4 parks stay open.

5 I vote aye. Thank you.

6 ACTING PRESIDENT CRAIG JOHNSON:
7 Senator Adams to be recorded in the
8 affirmative.

9 Senator Larkin, to explain his
10 vote.

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

13 You know, we keep looking around
14 here, we're going to save money, we're going
15 to tax this, a little bit of that. Let's cut
16 out the BS. This is about raising taxes. If
17 we were so interested in the parks -- when
18 Senator Serrano put his bill out, we all voted
19 for it. There was nothing in there about
20 money, not a penny. The statements were made
21 to John that the money was in there, there was
22 plenty of money to pay all these bills.

23 But now all of a sudden we've got
24 dry cleaners worrying about it, we got
25 manufacturing businesses worrying about it.

1 We're talking about -- and we're talking on a
2 Friday afternoon when half the country is on
3 vacation.

4 Sure, you want to have the parks
5 open. But the Governor gave us his budget way
6 back in January. Stop trying to push over
7 that you're doing this to open the parks.
8 You're doing this to raise taxes. And in the
9 campaign, we'll see: "Look at this, he voted
10 to increase taxes." Of course, those of you
11 who vote for it will say "We voted to open the
12 parks." Come on, this is a lie. A good cop
13 would call it a cover-up.

14 But we're kidding ourself if we're
15 going to say here this was all done for the
16 parks. It's not. Done in the dark, none of
17 us had anything to do with it. We got a deal,
18 we don't have a deal, we got a deal, we don't
19 have a deal. You got a deal; you won it. But
20 then when the businesses start leaving the
21 state, and the Census Bureau says we have a
22 million less than we did 10 years ago and
23 we're going to lose a Congressman, look in the
24 mirror at yourself.

25 This is a terrible vote. I vote

1 no.

2 ACTING PRESIDENT CRAIG JOHNSON:
3 Senator Larkin to be recorded in the negative.

4 Senator Padavan, to explain his
5 vote.

6 SENATOR PADAVAN: Mr. President,
7 you know, I'm all for penalizing people,
8 Senator Krueger, who are guilty of polluting
9 our environment. Not only penalize them but
10 put them in jail.

11 But that's not who we're talking
12 about here today. You have an iPad, perhaps,
13 or a cellphone, a TV set, a computer, and on
14 and on, the list of products that you own or
15 are in your office that are manufactured and
16 in the process produce some degree of
17 hazardous waste. Those are the manufacturers
18 we're talking about here.

19 Even our hospitals, and I don't
20 think you would call them a polluter, produce
21 a great deal of hazardous waste. And that
22 waste has to be disposed of in an appropriate,
23 reasonable way.

24 Now, to tax those people who are
25 manufacturers and providers of services and

1 healthcare in the fashion that this bill does
2 isn't dealing with polluters. It's dealing
3 with employers, producers, whom we've been
4 losing in this state in great amounts over an
5 extended period of time, who go elsewhere.
6 And all this bill will do, it will make it
7 even more feasible for them to do so.

8 I vote nay.

9 ACTING PRESIDENT CRAIG JOHNSON:

10 Senator Padavan to be recorded in the
11 negative.

12 Are there any other Senators who
13 wish to explain their vote?

14 Senator Alesi, to explain his vote.

15 SENATOR ALESI: Thank you,
16 Mr. President. I thought I was on the list.

17 But probably an auspicious time to
18 wrap things up here, because I see things that
19 I think maybe some of my colleagues have not
20 seen. And that is the interdependency of one
21 business on another, not only in this state
22 but in this country.

23 And so some point was made that
24 some businesses, the big polluters, those
25 manufacturers that are mostly upstate are

1 going to get taxed more and yeah, they
2 probably should. And some others are going to
3 get taxed less, so that's why this is a good
4 bill.

5 The fact of the matter is that
6 businesses depend upon each other in this
7 state. There's no business that makes
8 something that it doesn't market to the
9 general public or to other businesses. So
10 just saying that one business is going to get
11 taxed a little more and another is going to
12 get a little less, that doesn't wash.

13 What this is is it's a tax and fee
14 increase at a time when even the new nominee
15 for the Democrat gubernatorial race is saying
16 no, we need to create jobs and focus on jobs,
17 and one of the ways we do that is to get away
18 from this tax-and-fee mentality. And I agree
19 with him on that. I applaud him.

20 But I do not applaud this thing
21 that's masquerading as a parks-opening bill.
22 This is not a parks-opening bill. This is a
23 business-closing bill. And make no mistake
24 about that, when you close businesses, you
25 shut down jobs. When you shut down jobs, you

1 further cripple an economy.

2 I don't see how anybody can embrace
3 this. I don't see how anybody can vote on
4 this, masquerading as if it's going to open up
5 the parks. We're negotiating a budget item in
6 isolation. And what's it going to be next
7 week? What are we going to do next week, what
8 issue are we going to do next week outside of
9 the budget process?

10 What we need to do here, my
11 colleagues, is understand that the budget
12 would take care of this. And it would take
13 care of it without doing to the EPF what we
14 did a couple of weeks by transferring money
15 out of NYPA, out of the Power Authority.

16 This is not a good bill for
17 New York State --

18 ACTING PRESIDENT CRAIG JOHNSON:
19 Senator Alesi --

20 SENATOR ALESI: -- it's not a
21 good bill for job retention and creation, it's
22 certainly --

23 ACTING PRESIDENT CRAIG JOHNSON:
24 Senator Alesi, how do you vote?

25 SENATOR ALESI: -- not a good

1 bill for anybody. I have to vote no.

2 ACTING PRESIDENT CRAIG JOHNSON:

3 Senator Alesi to be recorded in the negative.

4 Senator Ranzenhofer, to explain his
5 vote.

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

8 I will also be voting no on this
9 bill. This is a job-killing piece of
10 legislation. What it does is it increases
11 fees and taxes on manufacturing companies,
12 many of them upstate. And what happens when
13 you have another nail in the coffin, it's just
14 very hard for these companies to recover.

15 What's happening here is that as
16 fees increase, companies close down. And when
17 companies close down and you have to tell your
18 employees "We're laying you off, you don't
19 have any job anymore," it's no consolation
20 that you tell them that "You can now go to a
21 free park." That's not a good thing to tell
22 someone that you have to lay them off after
23 you're closing down your company, after you're
24 shedding your employees.

25 As Senator Alesi said, this is a

1 job-killing bill. This hurts Buffalo, Niagara
2 Falls, Rochester, Syracuse. This hurts the
3 entire upstate area because it increases fees,
4 it's going to hurt consumers. Because who's
5 going to pay for this? This is going to be
6 passed along to consumers, paying more for
7 televisions. So not only do taxes increase,
8 fees increase, consumer goods increase.

9 This is bad all around. I'll be
10 voting no.

11 ACTING PRESIDENT CRAIG JOHNSON:
12 Senator Ranzenhofer to be recorded in the
13 negative.

14 Senator Perkins, to explain his
15 vote.

16 SENATOR PERKINS: Thank you very
17 much, Mr. Chairman.

18 This is a very simple bill, in a
19 way. You know, either you want the parks open
20 or you want them closed. Those who want them
21 closed will find any reason to close them.
22 And those who want them open will find good
23 reasons to keep them open.

24 I think those who vote to close
25 these want them closed. Those of us who want

1 them open will vote yes for them to be open.
2 And I think that for our constituents, that's
3 the right vote. They will not be able to wade
4 through the intricacies that one might put
5 before us that really don't add up to a good
6 reason to close them.

7 So again, I vote aye because I
8 think the parks need to be open for the
9 families and the communities that are waiting
10 to enjoy them for the summer.

11 ACTING PRESIDENT CRAIG JOHNSON:
12 Senator Perkins to be recorded in the
13 affirmative.

14 Senator Parker, to explain his
15 vote.

16 SENATOR PARKER: Thank you very
17 much, Mr. President, to explain my vote.

18 Like Senator Perkins indicated,
19 either you want the parks open or you want
20 them closed. This is a tough year for us.
21 This is a tough budget. We're trying to do
22 the best we can to get this thing done.

23 But we also have to get the facts
24 straight. And so to help out some of my
25 colleagues who apparently could not read the

1 bill correctly, you should understand the math
2 in this is that actually small businesses
3 actually benefit from this bill. So if you
4 vote against this bill, actually you're voting
5 against small businesses, because their fees
6 become lower in the ways that the fees have
7 been reassessed.

8 When you look at hospitals,
9 hospitals are paying lower fees under this
10 bill. So if you want to protect your
11 hospital, you have to vote yes for this bill.

12 Mr. President, I'm voting yes
13 because the parks are important, particularly,
14 again, coming into a Memorial Day weekend
15 where we are going to have lots of families
16 going out to those parks. And I think Senator
17 Adams laid it out very much correctly.

18 Tourism is at the heart of economic
19 development in this state. And for many of
20 us, particularly some of my colleagues on the
21 other side of the aisle, I can't believe that
22 you would even fathom voting against this,
23 because for many of you this is important.

24 You who represent the Allegany
25 region -- and I want to say Senator Volker is

1 in that area -- 1.9 million visitors, 860 jobs
2 created, and \$62 million in related sales are
3 generated in that area.

4 If you represent Saratoga and the
5 Capital Region, like Senator McDonald,
6 3.3 million visitors to state parks, 2,929
7 jobs created and \$249 million in related sales
8 and generated output at Saratoga Spa and other
9 places.

10 If you represent the Finger Lakes
11 region, like I want to say Senator Nozzolio
12 does, about 3 million visitors are going to
13 visit that area this year. About 1,776 jobs
14 created and \$141 million in related sales.

15 Senator Lanza, who got up and
16 spoke, Senator Lanza, if he's voting no --

17 ACTING PRESIDENT CRAIG JOHNSON:
18 Senator Parker -- Senator Parker, how do you
19 vote?

20 SENATOR PARKER: I'm voting no,
21 even though -- I'm voting yes, even though
22 Senator Lanza is voting no --

23 (Catcalls, applause.)

24 SENATOR PARKER: -- I'm voting
25 yes because there's going to be 4.5 million

1 jobs in New York City and 716 jobs created --

2 ACTING PRESIDENT CRAIG JOHNSON:

3 Senator Parker -- Senator Parker --

4 SENATOR PARKER: -- and
5 \$61 million that Senator Lanza is going to
6 vote against.

7 ACTING PRESIDENT CRAIG JOHNSON:

8 Senator Parker, your time is up.

9 Senator Parker to be recorded in
10 the affirmative.

11 Senator Diaz, to explain his vote.

12 SENATOR DIAZ: Thank you,
13 Mr. President.

14 As the chairman of the Aging
15 Committee representing over 3 million senior
16 citizens in the State of New York, I'm
17 thinking that we have a long weekend, Memorial
18 Day, where we honor all those veterans and
19 those people that, you know, that served in
20 the armed forces and their loved ones. And to
21 close parks, to close parks on this weekend
22 and to hold senior citizens hostage is a
23 crime. It is a crime.

24 I believe that we could find a lot
25 of reasons why not to vote for it or why to

1 vote for it. But I'm thinking of senior
2 citizens. They would like to go out this
3 weekend, go out, the senior citizens of every
4 Senate district here. And to tell those
5 senior citizens you cannot go out this
6 weekend, we're going to hold you hostage, and
7 stay home, lock yourself up, is abusive.

8 So, ladies and gentlemen, let's
9 stop the nonsense, let's stop the talking,
10 let's vote yes. And let's do it for our
11 senior citizens, so they can enjoy the long
12 weekend that they deserve.

13 I'm voting yes. Bodegueros too.
14 Taxi drivers, yes.

15 ACTING PRESIDENT CRAIG JOHNSON:
16 Senator Diaz to be recorded in the
17 affirmative.

18 Senator Libous, to explain his
19 vote.

20 SENATOR LIBOUS: Mr. President, I
21 rise on this issue for a number of reasons and
22 feel obligated to answer some of the
23 statements that have been made as I explain my
24 vote.

25 First of all, Memorial Day weekend

1 is not about opening the parks, it's about
2 honoring the men and women who have served our
3 country, those who have left us because
4 they've given the ultimate sacrifice and those
5 who have served in our home with us. That's
6 what Memorial Day weekend is about.

7 If you really wanted to open the
8 parks, you would have passed the budget on
9 April 1st. Then the parks would be open. And
10 quite frankly, have they been maintained? I
11 don't believe that anybody is in any of the
12 parks right now, because they're closed.

13 Therefore, between the time this
14 bill supposedly passes and the time that the
15 parks are going to open whenever this weekend,
16 they've got to cut the grass, they've got to
17 find lifeguards, they've got to go out and
18 hire people. Now, if they've already done
19 that, then I have to scratch my head and ask
20 why, because I thought there was a hiring
21 freeze, I thought there was no budget, I
22 thought we did emergency bills, the Governor
23 wanted to furlough employees.

24 Let's cut the nonsense here.
25 Everybody in this chamber loves and supports

1 the state parks. But the real issue is
2 there's no budget. The budget was due on
3 April 1st to keep the state running and
4 functioning. The parks would be open.

5 So let's not posture back and forth
6 about hazardous waste and job -- the fact is,
7 the budget needs to get done, the parks will
8 open and the people of this state will enjoy
9 them. And hopefully that we will all do what
10 we need to do on Memorial weekend and honor
11 those who served our country.

12 I vote no.

13 ACTING PRESIDENT CRAIG JOHNSON:

14 Senator Libous to be recorded in the negative.

15 Senator Saland, to explain his
16 vote.

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

19 Mr. President, if my recollection
20 serves me correctly, I and the members of this
21 side of the aisle have voted some five times
22 in favor of keeping the parks open -- four
23 times by way of amendment, which was defeated,
24 and a fifth time, I believe unanimously, in
25 support of Senator Serrano's bill. Which

1 again, as has been repeated several times, we
2 were advised was capable of being supported by
3 existing funds in the extenders.

4 There was no reason to have to tie
5 a parks-opening bill to a bill raising taxes
6 and fees. I mean, there's simply no
7 connection between the two. Nor should there
8 be any connection between the two.

9 And if I look at the clock, it's
10 approximately 25 minutes after 2:00 on the
11 Friday of Memorial Day weekend. And
12 notwithstanding the very cogent comments of
13 Senator Libous about the purpose of this
14 weekend, there are people who do want to take
15 advantage of the state parks system. But
16 2:30, nearly, on the Friday of Memorial Day
17 weekend is a rather late starter. And I'm not
18 sure everybody is going to be up to the task
19 of miraculously getting up and running, as was
20 previously indicated by Senator Libous.

21 Mr. President, I'm going to vote no
22 on this bill, not because I don't embrace the
23 idea of our parks being open -- as I've done
24 five times prior to this date -- but because I
25 am deeply troubled by the commitment to

1 continuing increasing taxes and fees.

2 Thank you, Mr. President.

3 ACTING PRESIDENT CRAIG JOHNSON:

4 Senator Saland to be recorded in the negative.

5 Senator Smith, to close.

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

8 To the 11 regions around the State
9 of New York, the parks will be open. To the
10 20,000 jobs or more that will be created by
11 the parks being open, the parks will be open.
12 To the \$1 billion or more in sales that we
13 will get by virtue of the parks being open,
14 that will generate revenue to be recycled in
15 the State of New York, the parks will be open.

16 And to the close to 55 million
17 visitors who will be visiting those parks
18 throughout the summer, you should know that
19 you can continue to make your plans because
20 the Senate today has been responsive and we
21 are acting appropriately in voting to make
22 sure that our parks will be open.

23 Mr. President, I will be voting
24 yes.

25 ACTING PRESIDENT CRAIG JOHNSON:

1 Senator Smith to be recorded in the
2 affirmative.

3 Senator Fuschillo, to explain his
4 vote.

5 SENATOR FUSCHILLO: Thank you,
6 Mr. President, just quickly.

7 I want to thank Senator Serrano,
8 who put a bill before us the other day that we
9 all supported that did the right thing, but it
10 found the money.

11 You know, Senator Smith, you talk
12 about all these new jobs and everything. I
13 feel bad for the businesses that are going to
14 have to pay for this in new fees and new
15 taxes.

16 You know, what do we want, the
17 distinction to be ahead of New Jersey as the
18 highest-taxed state in the country? We are
19 the most unfriendly-to-business state in the
20 country. We are number one in interstate
21 migration, where people are moving out of
22 New York State and going to other states in
23 the country.

24 Those are distinctions that you
25 guys, the Governor and the Assembly, should be

1 ashamed of. Because this bill, while you
2 sound its virtues of new jobs and everything
3 that is going to happen this weekend, I don't
4 know how 20,000 people are going to be
5 employed tomorrow. It's not going to happen.

6 But what's going to happen is
7 businesses, because of what you're doing, are
8 going to pay more in taxes and more in fees.

9 I vote no, Mr. President.

10 ACTING PRESIDENT CRAIG JOHNSON:

11 Senator Fuschillo to be recorded in the
12 negative.

13 Announce the results.

14 THE SECRETARY: Those recorded in
15 the negative on Calendar Number 663 are
16 Senators Alesi, Bonacic, DeFrancisco, Farley,
17 Flanagan, Fuschillo, Golden, Griffio, Hannon,
18 O. Johnson, Lanza, Larkin, LaValle, Leibell,
19 Libous, Little, Marcellino, Maziarz, McDonald,
20 Nozzolio, Padavan, Ranzenhofer, Robach,
21 Saland, Skelos, Volker and Young.

22 Ayes, 32. Nays, 27.

23 ACTING PRESIDENT CRAIG JOHNSON:

24 The bill is passed.

25 The Secretary will continue to

1 read.

2 THE SECRETARY: In relation to
3 Calendar Number 664, Senator Smith moves to
4 discharge, from the Committee on Finance,
5 Assembly Bill Number 11309 and substitute it
6 for the identical Senate Bill Number 7989,
7 Third Reading Calendar 664.

8 ACTING PRESIDENT CRAIG JOHNSON:
9 Substitution ordered.

10 THE SECRETARY: Calendar Number
11 664, by the Assembly Committee on Rules,
12 Assembly Print Number 11309, an act making
13 appropriations for the support of government.

14 ACTING PRESIDENT CRAIG JOHNSON:
15 Senator Klein.

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

19 ACTING PRESIDENT CRAIG JOHNSON:
20 There is a message of necessity and
21 appropriation at the desk.

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

24 ACTING PRESIDENT CRAIG JOHNSON:
25 The question is on the acceptance of the

1 message of necessity and appropriation. All
2 those in favor please signify by saying aye.

3 (Response of "Aye.")

4 ACTING PRESIDENT CRAIG JOHNSON:

5 Opposed, nay.

6 (No response.)

7 ACTING PRESIDENT CRAIG JOHNSON:

8 The message is accepted.

9 Read the last section.

10 SENATOR LIBOUS: Lay the bill
11 aside.

12 ACTING PRESIDENT CRAIG JOHNSON:

13 The bill is laid aside.

14 The Secretary will continue to
15 read.

16 THE SECRETARY: In relation to
17 Calendar Number 665, Senator Oppenheimer moves
18 to discharge, from the Committee on Rules,
19 Assembly Bill Number 11310 and substitute it
20 for the identical Senate Bill Number 7990,
21 Third Reading Calendar 665.

22 ACTING PRESIDENT CRAIG JOHNSON:

23 Substitution ordered.

24 THE SECRETARY: Calendar Number
25 665, by the Assembly Committee on Rules,

1 Assembly Print Number 11310, an act to amend
2 the Education Law.

3 ACTING PRESIDENT CRAIG JOHNSON:
4 Senator Klein.

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

7 ACTING PRESIDENT CRAIG JOHNSON:
8 There is a message of necessity at the desk,
9 Senator Klein.

10 SENATOR KLEIN: Mr. President, I
11 move we accept the message of necessity at
12 this time.

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

17 (Response of "Aye.")

18 ACTING PRESIDENT CRAIG JOHNSON:
19 Opposed say nay.

20 (No response.)

21 ACTING PRESIDENT CRAIG JOHNSON:
22 The message is accepted.

23 Read the last section.

24 SENATOR LIBOUS: Lay the bill
25 aside.

1 ACTING PRESIDENT CRAIG JOHNSON:

2 The bill is laid aside.

3 The Secretary will continue to
4 read.

5 THE SECRETARY: In relation to
6 Calendar Number 666, Senator Oppenheimer moves
7 to discharge, from the Committee on Education,
8 Assembly Bill Number 11171 and substitute it
9 for the identical Senate Bill Number 7991,
10 Third Reading Calendar 666.

11 ACTING PRESIDENT CRAIG JOHNSON:
12 Substitution ordered.

13 THE SECRETARY: Calendar Number
14 666, by Member of the Assembly Nolan, Assembly
15 Print Number 11171 --

16 SENATOR LIBOUS: Lay the bill
17 aside.

18 ACTING PRESIDENT CRAIG JOHNSON:
19 The bill is laid aside.

20 The Secretary will continue to
21 read.

22 THE SECRETARY: In relation to
23 Calendar Number 667, Senator Oppenheimer moves
24 to discharge, from the Committee on Rules,
25 Assembly Bill Number 11311 and substitute it

1 for the identical Senate Bill Number 8001,
2 Third Reading Calendar 667.

3 ACTING PRESIDENT CRAIG JOHNSON:
4 Substitution ordered.

5 THE SECRETARY: Calendar Number
6 667, by the Assembly Committee on Rules,
7 Assembly Print Number 11311, an act to amend
8 the Education Law.

9 ACTING PRESIDENT CRAIG JOHNSON:
10 Senator Klein.

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

13 ACTING PRESIDENT CRAIG JOHNSON:
14 Senator Klein, there is a message of necessity
15 at the desk.

16 SENATOR KLEIN: Mr. President, I
17 move we accept the message of necessity at
18 this time.

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

23 (Response of "Aye.")

24 ACTING PRESIDENT CRAIG JOHNSON:
25 Opposed, nay.

1 (No response.)

2 ACTING PRESIDENT CRAIG JOHNSON:

3 The message is accepted.

4 Read the last section.

5 SENATOR LIBOUS: Lay the bill
6 aside.

7 ACTING PRESIDENT CRAIG JOHNSON:

8 The bill is laid aside.

9 Senator Klein, that completes the
10 reading of the noncontroversial supplemental
11 active list.

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

15 ACTING PRESIDENT CRAIG JOHNSON:

16 The Secretary will ring the bell.

17 Members are all asked to come to
18 the chamber for the reading of the
19 supplemental active list. And I ask that all
20 members, when they come in, to stay in the
21 chamber unless we are put into recess at that
22 time.

23 The Secretary will please ring the
24 bell.

25 The Secretary will read.

1 THE SECRETARY: Calendar Number
2 662, substituted earlier today by Member of
3 the Assembly Abbate, Assembly Print Number
4 11144, an act to provide a temporary
5 retirement incentive.

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

8 SENATOR LIBOUS: Thank you,
9 Mr. President.

10 There's an amendment at the desk by
11 Senator Griffo. I ask that you waive its
12 reading and please call on Senator Griffo.

13 ACTING PRESIDENT CRAIG JOHNSON:
14 Senator Griffo, your amendment is here at the
15 desk. Without objection, the reading is
16 waived. And, Senator Griffo, you may speak on
17 the amendment.

18 SENATOR GRIFFO: Thank you,
19 Mr. President.

20 Our motivation has to be in
21 achieving real and significant savings. And
22 in 1995, then-Comptroller McCall did a study
23 on many of the incentive programs that were
24 offered. And in just one example, he
25 illustrated that in 1983, when an incentive

1 program was offered, 8,000 people took
2 advantage of the incentive program. But the
3 administration at the time forecast that
4 between '83 and '85 the workforce would
5 actually grow by 3,000.

6 So this amendment does essentially
7 three things. As a result of identifying and
8 eliminating the positions before the
9 retirement incentive program, it would require
10 that for 10 years they remain vacant. So
11 these positions eliminated would stay
12 eliminated.

13 Secondly, it would require the
14 Department of Civil Service to issue an annual
15 report that would monitor these new levels to
16 ensure that the lower levels are retained.

17 And then finally, it would require
18 the Division of the Budget to do a
19 cost-benefit analysis so that we can actually
20 assess how much we have actually saved.

21 So that's the essence of the
22 amendment, and I urge its adoption.

23 ACTING PRESIDENT CRAIG JOHNSON:

24 Are there any other Senators who wish to be
25 heard on the amendment?

1 Seeing none, the question is on the
2 nonsponsor motion to amend Calendar Number
3 662. Those Senators voting in support of the
4 nonsponsor amendment please raise your hands.

5 Announce the results.

6 THE SECRETARY: Ayes, 27. Nays,
7 22.

8 ACTING PRESIDENT CRAIG JOHNSON:
9 The motion fails.

10 Calendar 662 is before the house.

11 Read the last section.

12 THE SECRETARY: Section 16. This
13 act shall take effect immediately.

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

16 Read the last section.

17 THE SECRETARY: Section 16. This
18 act shall take effect immediately.

19 ACTING PRESIDENT CRAIG JOHNSON:
20 Call the roll.

21 (The Secretary called the roll.)

22 ACTING PRESIDENT CRAIG JOHNSON:
23 Announce the results.

24 THE SECRETARY: Ayes, 58. Nays,
25 1. Senator Ranzenhofer recorded in the

1 negative.

2 ACTING PRESIDENT CRAIG JOHNSON:

3 The bill is passed.

4 Senator Klein.

5 SENATOR KLEIN: Mr. President,
6 can you please recognize Senator Libous for an
7 announcement.

8 ACTING PRESIDENT CRAIG JOHNSON:

9 Senator Libous.

10 SENATOR LIBOUS: Mr. President,
11 there will be an immediate and brief
12 Republican conference. And I mean real brief.
13 And so I would ask my colleagues not to wander
14 too far; we'll be right back.

15 ACTING PRESIDENT CRAIG JOHNSON:

16 Before I excuse you to go, again, a reminder,
17 as I previously said, will all members please
18 stay in the chambers before the vote so we can
19 get through the votes.

20 There will be an immediate meeting
21 of the Republican Conference in the Minority
22 Conference Room. A brief conference.

23 Senator Klein.

24 SENATOR KLEIN: In the meantime,
25 Mr. President, can we please stand at ease.

1 ACTING PRESIDENT CRAIG JOHNSON:

2 Senator Klein, we will stand at ease.

3 (Whereupon, the Senate stood at
4 ease at 2:52 p.m.)

5 (Whereupon, the Senate reconvened
6 at 3:04 p.m.)

7 ACTING PRESIDENT CRAIG JOHNSON:

8 Returning to the controversial calendar,
9 Calendar Number 664 is before the house.

10 The Secretary will read.

11 THE SECRETARY: Calendar Number
12 664, by the Committee on Rules, an act making
13 appropriations for the support of government.

14 ACTING PRESIDENT CRAIG JOHNSON:

15 Are there any Senators who wish to be heard?

16 Hearing none, the debate is closed.

17 Read the last section.

18 THE SECRETARY: Section 5. This
19 act shall take effect immediately.

20 ACTING PRESIDENT CRAIG JOHNSON:

21 Call the roll.

22 (The Secretary called the roll.)

23 ACTING PRESIDENT CRAIG JOHNSON:

24 Announce the results.

25 THE SECRETARY: Those recorded in

1 the negative on Calendar Number 664 are
2 Senators Hannon, Larkin, LaValle and
3 Ranzenhofer.

4 Ayes, 55. Nays, 4.

5 ACTING PRESIDENT CRAIG JOHNSON:

6 The bill is passed.

7 I remind members that we're on the
8 controversial supplemental calendar. I ask
9 for all members to stay within the chamber.

10 The Secretary will read.

11 THE SECRETARY: Calendar Number
12 665, substituted earlier today by the Assembly
13 Committee on Rules, Assembly Print Number
14 11310, an act to amend the Education Law.

15 ACTING PRESIDENT CRAIG JOHNSON:

16 The Secretary will ring the bell, debate being
17 closed.

18 Read the last section.

19 THE SECRETARY: Section 28. This
20 act shall take effect immediately.

21 ACTING PRESIDENT CRAIG JOHNSON:

22 Call the roll.

23 (The Secretary called the roll.)

24 ACTING PRESIDENT CRAIG JOHNSON:

25 Senator Golden, to explain his vote.

1 SENATOR GOLDEN: Thank you,
2 Mr. President.

3 I rise today to speak of this
4 charter school bill. And had we not studied
5 this bill, the Assembly Speaker had mentioned
6 last time when I put my bill out to raise the
7 cap to 460, he said the ink wasn't even dry
8 yet. And that took three days to age. This
9 bill took no time to age.

10 And we found a ton of mistakes in
11 this bill, one leaving SUNY out of being one
12 of the agents that would be authorizing
13 charter schools. Another one with a cap of
14 2013. It took us 12 years to get 174 schools
15 done. How many more schools do you think we
16 would have got done by 2013? It will take us
17 20 before we get another 150 schools done.

18 So we found a lot of mistakes in
19 this bill. And then we find out that they
20 left the for-profits out of this. Could you
21 imagine what we see going on in Harlem, where
22 we had all of these great charter schools
23 doing great work, that the public school
24 system had to go out and find marketing
25 companies to bring in marketers to see how

1 they could market their product to make
2 education better for children, to be able to
3 do after-schools programs and morning and
4 weekend programs and raise the level of all
5 the children in our public school system,
6 parochial system and our charter school system
7 and our private school system.

8 And that's what this was all about,
9 is trying to get our children the best
10 education that they can get. Ladies and
11 gentlemen, where do you get a corporation that
12 wants to open up right in the City of New
13 York? We've got to beg some companies to come
14 in and we've got to give them all sorts of tax
15 incentives. These companies, these charter
16 schools, when they came in, they paid taxes.
17 They hire hundreds of employees. And guess
18 what? They pay real estate taxes, they pay
19 employee taxes, they generate the economics in
20 our communities.

21 And here we are today throwing out
22 the for-profits in a charter school bill.
23 What a backward way to go. And we're trying
24 to get money from the federal government on a
25 Race to the Top? This is not a race to the

1 top, ladies and gentlemen. This is slowing
2 progress down. And we shouldn't have done
3 this.

4 Ladies and gentlemen, it may be
5 \$700 million. I doubt that we get --

6 ACTING PRESIDENT CRAIG JOHNSON:
7 Senator Golden, how do you vote?

8 SENATOR GOLDEN: I will be voting
9 no on this bill.

10 ACTING PRESIDENT CRAIG JOHNSON:
11 Senator Golden to be recorded in the negative.

12 Senator Saland, to explain his
13 vote.

14 SENATOR SALAND: Thank you,
15 Mr. President.

16 On more than one occasion I have
17 stood up and prefaced my remarks by saying I
18 certainly welcome the idea of competition in
19 any venue, and education would be included as
20 among any venue.

21 My concern with this bill, as the
22 prior bills, is that charter schools are a
23 zero-sum game. And as we all know, there's no
24 additional funding to speak of. And the money
25 basically follows the student, including the

1 real property tax, that goes from one district
2 to another in some of these instances.

3 And I have implored this house to
4 try and provide an element of local control so
5 that in fact we can do what some 40 percent of
6 the other states that have charter schools do,
7 which is have some local input in these
8 decisions. And I just want to call your
9 attention to the fact that the scoring rubric
10 for Race to the Top actually provides a
11 priority for those applications that
12 demonstrate local school district support.

13 This bill, however, goes on to say
14 in part -- and I'm looking at page 5 -- in
15 order to deal to deal with the saturation
16 problem, which certainly is a problem for
17 certain districts -- that those who charter --
18 in this case, the Board of Regents, until this
19 bill is amended -- should seek to locate
20 charter schools in a region or regions where
21 there may be a lack of alternatives and access
22 to charter schools would provide new
23 alternatives within the local public education
24 system.

25 I fear what that means,

1 particularly since the Race to the Top money
2 is primarily Title I money, that small city
3 school districts, for those of you who
4 represent small city school districts, are
5 going to become the next great venue for
6 charter schools. And again, zero-sum game.
7 No additional money. We now how badly small
8 city schools struggle. There are 52 of them
9 who are faced with enormous problems. And yet
10 they all in all likelihood will see the next
11 wave of applications under this legislation.

12 ACTING PRESIDENT CRAIG JOHNSON:

13 Senator Saland, how do you vote?

14 SENATOR SALAND: Mr. President --

15 ACTING PRESIDENT CRAIG JOHNSON:

16 Your two minutes are up, Senator Saland. How
17 do you vote?

18 SENATOR SALAND: I vote in the
19 negative.

20 ACTING PRESIDENT CRAIG JOHNSON:

21 Senator Saland to be recorded in the negative.

22 Senator Oppenheimer, to explain her
23 vote.

24 SENATOR OPPENHEIMER: I would be
25 remiss if I didn't take this opportunity to

1 thank certain people who have worked very,
2 very hard on this. And so I want to
3 specifically thank Chancellor Meryl Tisch and
4 the Board of Regents and the Department of Ed,
5 State Department, and Commissioner David
6 Steiner, who I understand is with us in the
7 gallery, for their leadership and very, very
8 hard work.

9 This has been an immense challenge
10 for the teacher organizations that have come
11 forth and helped and the charter school groups
12 who have helped.

13 And as you know, a few weeks ago I
14 voted against the charter cap going to 460 in
15 the bill that was before us. And I did that
16 because I said that there was absolutely no
17 way that I could see any accountability or any
18 transparency in the bill that would let us
19 have confidence that people are doing the
20 things they're supposed to be doing.

21 So now we have that in this bill.
22 We will be able to see where there are
23 conflicts of interest on the board of
24 trustees. We are going to have the
25 Comptroller audit these various charter

1 schools.

2 We were also concerned about the
3 underserved population, and specifically that
4 is mentioned here. So we have enrollment
5 targets that have to be met and retention of
6 students that are not being well served
7 because they're English-language learners or
8 because they're disabled or because they are
9 poorer children.

10 The co-location, which I mentioned
11 a couple of weeks ago, also is handled well in
12 this bill.

13 And the only thing that's left out
14 which had me very concerned, and still does,
15 is the saturation piece.

16 ACTING PRESIDENT CRAIG JOHNSON:
17 Senator Oppenheimer, how do you vote?

18 SENATOR OPPENHEIMER: Okay, I
19 vote yes.

20 ACTING PRESIDENT CRAIG JOHNSON:
21 Senator Oppenheimer to be recorded in the
22 affirmative.

23 Senator Perkins.

24 SENATOR PERKINS: Thank you,
25 Mr. Chair. I just want to take a moment to

1 explain my vote.

2 I first want to commend all sides
3 for the hard work that everyone put into this
4 issue in arriving at this moment.

5 Obviously, nothing is more
6 important to me than the education of all of
7 our children. And as I've expressed in the
8 past and as my hearings have revealed, there
9 are real challenges, real concerns regarding
10 transparency and accountability of the charter
11 schools, their accessibility for special ed
12 and non-English-speaking students as well as
13 children in shelters.

14 And favoritism of charters over the
15 traditional public schools is a major concern.
16 They serve a small percentage of our children
17 at the expense of public schools that serve
18 90 percent of public school families.

19 I have said that this bill makes
20 important progress in providing independent
21 auditing, making the charter schools more
22 accountable and open, and advances New York
23 State's efforts in the Race to the Top, at a
24 time when people are struggling and our budget
25 situation is worse than ever.

1 For these reasons and more, I will
2 vote for this compromise. However, this is
3 not an end to the process. I will continue my
4 hearings to make sure our children are being
5 served. We must still better address the
6 issues and problems of co-location and
7 saturation and the policy of privatizing
8 public education, also often at the expense of
9 traditional public schools and resegregation
10 of the public school system.

11 I vote aye.

12 ACTING PRESIDENT CRAIG JOHNSON:

13 Senator Perkins to be recorded in the
14 affirmative.

15 Senator Klein.

16 SENATOR KLEIN: Thank you,
17 Mr. President.

18 I think this has been certainly a
19 long road, and unfortunately one that was
20 filled with sometimes heightened rhetoric.
21 But I think, thanks to some leadership,
22 especially Chancellor of the Board of Regents
23 Meryl Tisch and some others, we kept our eye
24 on the prize.

25 Whether or not you support charter

1 schools -- I certainly do -- whether or not
2 you support reforming our education system,
3 this was really and always should have been
4 about submitting the most competitive
5 application for Race to the Top.

6 Regardless of the fact of whether
7 or not money is restored from the budget,
8 which I hope it is, for education, this is
9 certainly \$300 million, maybe \$700 million in
10 education funding that improves our public
11 school system. And for New York not to be
12 able to put in the most competitive
13 application by raising the cap on charters --
14 and by the way, holding charters accountable
15 to the parents, to the teachers is something
16 that's very, very important.

17 So I'm finally hopeful, even though
18 we're approaching the deadline very, very
19 quickly, that this legislation that we did
20 here today will ensure that we're at least
21 competitive and we get our fair share of
22 federal dollars for education here in New York
23 State.

24 I vote yes, Mr. President.

25 ACTING PRESIDENT CRAIG JOHNSON:

1 Thank you, Senator.

2 Senator Klein to be recorded in the
3 affirmative.

4 Senator Huntley, to explain her
5 vote.

6 SENATOR HUNTLEY: I think
7 everyone realizes I am definitely a public
8 school parent. For years I've supported
9 public schools.

10 I have many people in my district,
11 my constituents, who are charter parents. I
12 met with them, and I feel that parents have
13 rights and choices where they want to send
14 their children. When my children were
15 attending school, I wanted the right to send
16 them wherever I wanted to, and I did have that
17 right. So therefore, I am going to support
18 this.

19 But I must say this. When we come
20 to the table anytime to negotiate on charters,
21 to negotiate any educational problem that we
22 have in the Senate, I would like very much to
23 say we should include other organizations that
24 are involved in education, such as District
25 Council 37. They play a large role in my

1 district, and I think they too should be at
2 the table.

3 Thank you.

4 ACTING PRESIDENT CRAIG JOHNSON:
5 Senator Huntley to be recorded in the
6 affirmative.

7 Senator Diaz, to explain his vote.

8 SENATOR DIAZ: Thank you,
9 Mr. President. Just to explain that I am
10 excited about this bill.

11 And all we wanted was to increase
12 the charter schools from 200 to 460. In my
13 district, charter schools are a godsend, a
14 blessing from heaven. So I'm a supporter of
15 charter schools.

16 I would like to express my
17 appreciation to the Governor, Governor
18 Paterson. He never give up. Never give up.
19 He said now we want to increase it, and he
20 stood firm. And today we can say we have
21 increased charter schools from 200 to 460.
22 And those many children that were waiting and
23 parents that were praying so they could have
24 an opportunity, today I can go back to my
25 district and say I did it for you, I voted for

1 you, we got it, we fought it, praise God,
2 praise be the Lord.

3 Okay, thank you very much. I am
4 voting yes. I am voting si. Thank you.

5 ACTING PRESIDENT CRAIG JOHNSON:
6 Senator Diaz to be recorded in the
7 affirmative.

8 Senator Smith, to explain his vote.

9 SENATOR SMITH: Yes, thank you
10 very much, Mr. President.

11 Let me thank all my colleagues --
12 Senator Suzi Oppenheimer, who sponsored the
13 bill; our leader, Senator Sampson, for his
14 effort and for his work. Also, I want to
15 thank Commissioner Steiner, who I know is in
16 the room, and also Meryl Tisch, for their
17 work. But I also want to thank the staff,
18 Kathy Grainger and the Education staff as
19 well, who did a lot of work.

20 What we are allowing at this point
21 is what is crucial to us with regard to Race
22 to the Top. But keep in mind that 90 percent
23 of that \$700 million or whatever we receive,
24 being optimistic, goes to the public school
25 system.

1 This is about charter schools being
2 available and having choice for parents. It's
3 a good day for our parents. Just as we did
4 with the Parks Department, we understand that,
5 we recognize what's important to the people of
6 the state. And today we made it very clear to
7 them that we are capable and have the ability
8 to do the right thing.

9 So I'll be voting aye. Thank you.

10 ACTING PRESIDENT CRAIG JOHNSON:

11 Senator Smith to be recorded in the
12 affirmative.

13 Senator Sampson, to close.

14 SENATOR SAMPSON: Thank you very
15 much, Mr. President.

16 I just want to first of all let
17 everyone know, nothing is more important than
18 the investment in our children and improving
19 their opportunities to receive this Race to
20 the Top funding. Raising the charter cap,
21 reforming charter schools, improving teacher
22 evaluation, and investing in tracking
23 educational outcomes will give us the needed
24 points to not only be in the running but to
25 hopefully win.

1 And I really want to thank the
2 chair of Education, Suzi Oppenheimer, for her
3 leadership to making sure that we are in the
4 running. And I want to thank you very much.

5 I also want to thank and
6 congratulate all of my colleagues for their
7 clear focus and direction and for their
8 investment in our children.

9 I also want to take time to thank
10 the Governor for his commitment and
11 dedication, Speaker Silver, Mayor Bloomberg.
12 Chancellor Tisch, thank you very much for your
13 commitment and your dedication. Also
14 Commissioner Steiner, thank you very much.
15 And all our partners in the labor movement and
16 in the charter school movement.

17 But one particular person I really
18 want to thank, and that is my friend and my
19 colleague Senator Perkins for his valuable
20 insight, his bold leadership of crucial
21 charter school hearings, and absolute
22 dedication in shaping the debate on charters
23 to increase transparency, oversight,
24 educational opportunity for our children. He
25 brought it all home, and he allowed all the

1 partners to get into the room to get this
2 thing done.

3 So I want to thank you very much,
4 because I know you took a lot of heat with
5 respect to this, Senator Perkins. And if you
6 did not lay the framework, I don't know if we
7 would have been at this place today. So I
8 want to thank you very much.

9 But once again, Mr. President, I
10 want to thank all my colleagues. We are not
11 only in the running, but I believe we have an
12 excellent opportunity to make sure we win Race
13 to the Top.

14 Thank you very much.

15 ACTING PRESIDENT CRAIG JOHNSON:
16 Senator Sampson to be recorded in the
17 affirmative.

18 Senator Adams, to close.

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

21 I too will be voting aye. But I
22 just wanted to pause for a moment and join
23 Leader Senator Sampson in just acknowledging
24 Senator Perkins and Senator Velmanette
25 Montgomery, because they kept us in line

1 around this issue. And again, they took a lot
2 of heat for it.

3 And those of us who support
4 educational opportunities for parents, those
5 of us who support charter schools or public
6 schools, I just really want to thank you,
7 Senator Perkins and Senator Montgomery, for
8 making us realize we've got to ask the tough
9 questions.

10 And again, it just goes to show you
11 why it's so important to have diversity not
12 only in the makeup of our conference but in
13 the philosophy of our conference. We're not a
14 monolithic state, so we're not going to all be
15 in line. But if we come together and look at
16 those tough questions to come up with tough
17 answers, we can find solutions for our
18 children and ensure they can be on the right
19 road of education.

20 I will be voting aye. And I thank
21 you also, Senator Johnson, for your work
22 around this issue as well. I will be voting
23 aye.

24 ACTING PRESIDENT CRAIG JOHNSON:
25 Senator Adams to be recorded in the

1 affirmative.

2 Announce the results.

3 THE SECRETARY: Those recorded in
4 the negative on Calendar Number 665 are
5 Senators Farley, Flanagan, Golden, Griffo,
6 O. Johnson, Larkin, LaValle, Libous, McDonald,
7 Nozzolio, Padavan, Saland and Young. Also
8 Senator Maziarz.

9 Ayes, 45. Nays, 14.

10 ACTING PRESIDENT CRAIG JOHNSON:

11 The bill is passed.

12 The Secretary will continue to
13 read.

14 THE SECRETARY: Calendar Number
15 666, substituted earlier today by Member of
16 the Assembly Nolan, Assembly Print Number
17 11171, an act to amend the Education Law.

18 ACTING PRESIDENT CRAIG JOHNSON:

19 The Secretary will ring the bell. The debate
20 is closed.

21 Read the last section.

22 THE SECRETARY: Section 7. This
23 act shall take effect immediately.

24 ACTING PRESIDENT CRAIG JOHNSON:

25 Call the roll.

1 (The Secretary called the roll.)

2 THE SECRETARY: Ayes, 59. Nays,
3 0.

4 ACTING PRESIDENT CRAIG JOHNSON:
5 The bill is passed.

6 The Secretary will continue to
7 read.

8 THE SECRETARY: Calendar Number
9 667, substituted earlier today by the Assembly
10 Committee on Rules, Assembly Print Number
11 11311, an act to amend the Education Law.

12 ACTING PRESIDENT CRAIG JOHNSON:
13 Read the last section.

14 THE SECRETARY: Section 2. This
15 act shall take effect on the same date and in
16 the same manner as a chapter of the Laws of
17 2010.

18 ACTING PRESIDENT CRAIG JOHNSON:
19 Debate is closed. The Secretary will ring the
20 bells.

21 Call the roll.

22 (The Secretary called the roll.)

23 ACTING PRESIDENT CRAIG JOHNSON:
24 Senator Saland, to explain his vote.

25 SENATOR SALAND: Thank you,

1 Mr. President.

2 Mr. President, I didn't have the
3 opportunity to complete my remarks earlier.
4 And all I would like to say, this is one of
5 the compliance pieces for Race to the Top, and
6 we have this slavish if not orgasmic pursuit
7 of Race to the Top money. I just want to
8 somehow or other make this a little more
9 sobering.

10 Understand that were we fortunate
11 enough to get the \$700 million, it will be
12 payable over four years. Seventy percent of
13 it goes to Title I schools; any number of
14 school districts will not be eligible for this
15 funding. That would amount to probably less
16 than 1 percent of what the state spends on
17 education, and overall probably a little more
18 than 3/10 of 1 percent what we spend statewide
19 for all.

20 So this is not manna from heaven
21 that somehow or other is going to miraculously
22 rescue us. And every single editorial that I
23 have seen has talked about \$700 million.
24 There's not going to be \$700 million delivered
25 to our doorstep, even if we succeed. So I

1 just want to give you a little more sobering,
2 long-range view. It's just not going to work
3 that way.

4 I'm certainly going to support
5 this, as I have supported the other compliance
6 measures here. But it's not manna from
7 heaven, and it's not the cavalry coming in
8 over the ridge, as many editorialists would
9 have you believe. It's just a relatively
10 modest amount of money to add to our education
11 efforts.

12 Thank you, Mr. President.

13 ACTING PRESIDENT CRAIG JOHNSON:

14 Senator Saland to be recorded in the
15 affirmative.

16 I ask for a little bit of order in
17 the chamber.

18 Senator Oppenheimer, to explain her
19 vote.

20 SENATOR OPPENHEIMER: Well, I'm
21 going to do what Senator Saland did and just
22 continue what I was saying earlier, in that I
23 felt very strongly that we should have a piece
24 for saturation in these bills. And the
25 saturation is particularly painful in the

1 cities of Albany and Buffalo.

2 And so I am going to be working in
3 the direction of putting in a stand-alone bill
4 on that subject, because they need relief and
5 we must offer it to them.

6 I also felt that the for-profit
7 charters were valuable to us. And I had
8 suggested that we put in the same percentage
9 that we now have going forward, which would be
10 about 10 percent of all new charters.

11 I feel that if we had the oversight
12 of the Comptroller doing the audits, I think
13 we can keep a close eye on them.

14 And lastly, I want to congratulate
15 the courage that NYSUT and UFT had in the
16 changing of the evaluation for teachers. It
17 is a big step forward, and it will be a big
18 improvement. And it took a lot of courage and
19 vision for the unions to do that. So I
20 congratulate them.

21 I'll be voting aye.

22 ACTING PRESIDENT CRAIG JOHNSON:
23 Senator Oppenheimer will be recorded in the
24 affirmative.

25 Announce the results.

1 THE SECRETARY: Ayes, 59. Nays,
2 0.

3 ACTING PRESIDENT CRAIG JOHNSON:
4 The bill is passed.

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

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

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

12 SENATOR KLEIN: There being no
13 further business, Mr. President, I move that
14 we adjourn at the call of the Temporary
15 President, intervening days to be legislative
16 days.

17 ACTING PRESIDENT CRAIG JOHNSON:
18 There being no further business to come before
19 the Senate on motion, the Senate stands
20 adjourned at the call of the Temporary
21 President, intervening days being legislative
22 days.

23 (Whereupon, at 3:32 p.m., the
24 Senate adjourned.)
25