

1 NEW YORK STATE SENATE

2  
3  
4 THE STENOGRAPHIC RECORD

5  
6  
7  
8  
9 ALBANY, NEW YORK

10 May 28, 2010

11 11:38 a.m.

12  
13  
14 REGULAR SESSION

15  
16  
17  
18  
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