NEW YORK STATE SENATE

THE STENOGRAPHIC RECORD

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11:38 a.m.

REGULAR SESSION

SENATOR CRAIG M. JOHNSON, Acting President

ANGELO J. APONTE, Secretary

P R O C E E D I N G S

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

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

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

ACTING PRESIDENT CRAIG JOHNSON: The Reverend Peter G. Young, of Mother Teresa Community in Albany, will now lead us in prayer.

REVEREND YOUNG: Thank you, Senator.

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

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

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

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

Amen.

ACTING PRESIDENT CRAIG JOHNSON: The reading of the Journal.

The Secretary will read.

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

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

Presentation of petitions.

Messages from the Assembly.

Messages from the Governor.

Reports of standing committees.

Reports of select committees.

Communications and reports from state officers.

Motions and resolutions.

Senator Klein.

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

ACTING PRESIDENT CRAIG JOHNSON: Senator Padavan.

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

ACTING PRESIDENT CRAIG JOHNSON: So ordered.

Senator Klein.

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

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

The Secretary will read.

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

ACTING PRESIDENT CRAIG JOHNSON: Substitution ordered.

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

ACTING PRESIDENT CRAIG JOHNSON: Substitution ordered.

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

ACTING PRESIDENT CRAIG JOHNSON: Substitution ordered.

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

ACTING PRESIDENT CRAIG JOHNSON: So ordered.

Senator Klein.

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

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

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

ACTING PRESIDENT CRAIG JOHNSON: The Secretary will read.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

ACTING PRESIDENT CRAIG JOHNSON: Senator Stewart-Cousins.

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

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

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

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

(Laughter.)

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

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

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

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

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

My association with him is far

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

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

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

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

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

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

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

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

And again, I thank you for being

here.

ACTING PRESIDENT CRAIG JOHNSON: Senator Klein.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

So thank you, Mr. President.

ACTING PRESIDENT CRAIG JOHNSON: Thank you very much.

Senator Breslin.

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

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

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

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

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

(Laughter.)

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

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

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

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

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

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

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

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

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

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

Thank you, Mr. President.

ACTING PRESIDENT CRAIG JOHNSON:

Thank you, Senator Breslin.

Senator Libous.

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

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

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

(Laughter.)

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

"No."

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

(Laughter.)

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

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

(Laughter.)

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

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

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

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

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

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

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

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

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

ACTING PRESIDENT SAVINO: Senator Robach.

SENATOR ROBACH: Yes, Madam

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

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

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

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

(Laughter.)

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

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

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

(Laughter.)

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

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

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

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

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

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

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

(Laughter.)

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

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

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

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

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

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

ACTING PRESIDENT SAVINO: Senator Volker.

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

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

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

(Laughter.)

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

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

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

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

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

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

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

The last I saw him was just a

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

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

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

(Laughter.)

ACTING PRESIDENT CRAIG JOHNSON: Senator Liz Krueger.

SENATOR LIZ KRUEGER: Thank you very much.

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

enormous loss for you.

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

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

And thank you for being here today.

Thank you, Mr. President.

ACTING PRESIDENT CRAIG JOHNSON: Senator Oppenheimer.

SENATOR OPPENHEIMER: Hi, family.

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

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

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

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

And, you know, all of us who knew

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

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

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

ACTING PRESIDENT CRAIG JOHNSON: Senator Larkin.

SENATOR LARKIN: Thank you, Mr. President.

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

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

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

(Laughter.)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

ACTING PRESIDENT CRAIG JOHNSON: Thank you, Senator Larkin.

Senator Maziarz.

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

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

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

who was not in very good health.

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

(Laughter.)

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

(Laughter.)

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

Thank you.

ACTING PRESIDENT CRAIG JOHNSON: Senator Leibell.

SENATOR LEIBELL: Thank you, Mr. President.

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

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

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

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

was not always one of our happier conversations.

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

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

ACTING PRESIDENT CRAIG JOHNSON: Thank you, Senator Leibell.

Senator Farley.

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

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

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

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

ACTING PRESIDENT CRAIG JOHNSON: Thank you, Senator Farley.

Senator Klein.

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

ACTING PRESIDENT CRAIG JOHNSON: Thank you, Senator Klein.

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

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

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

heard on the resolution?

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

(Response of "Aye.")

ACTING PRESIDENT CRAIG JOHNSON: Opposed, nay.

(No response.)

ACTING PRESIDENT CRAIG JOHNSON: The resolution is adopted.

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

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

Thank you for joining us, and thank everybody.

Senator Klein.

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

read in its entirety and move for its immediate adoption.

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

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

ACTING PRESIDENT CRAIG JOHNSON: The Secretary will read.

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

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

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

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

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

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

Committee and head manager of the Army Football Team; and

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

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

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

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

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

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

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

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

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

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

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

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

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

"WHEREAS, Our nation's veterans

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

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

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

ACTING PRESIDENT CRAIG JOHNSON: Senator Larkin.

SENATOR LARKIN: Thank you, Mr. President.

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

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

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

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

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

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

And the rest of us that knew Pat

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

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

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

But General Finnegan made sure that

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

Pat Finnegan will be missed.

ACTING PRESIDENT CRAIG JOHNSON: Thank you, Senator Larkin.

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

(Response of "Aye.")

ACTING PRESIDENT CRAIG JOHNSON: Opposed, nay.

(No response.)

ACTING PRESIDENT CRAIG JOHNSON: The resolution is adopted.

Senator Klein.

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

ACTING PRESIDENT CRAIG JOHNSON:

The Secretary will read.

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

ACTING PRESIDENT CRAIG JOHNSON: Read the last section.

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

ACTING PRESIDENT CRAIG JOHNSON: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT CRAIG JOHNSON: Announce the results.

THE SECRETARY: Ayes, 58.

ACTING PRESIDENT CRAIG JOHNSON: The bill is passed.

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

ACTING PRESIDENT CRAIG JOHNSON: Read the last section.

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

ACTING PRESIDENT CRAIG JOHNSON:

Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT CRAIG JOHNSON: Announce the results.

THE SECRETARY: Ayes, 58.

ACTING PRESIDENT CRAIG JOHNSON: The bill is passed.

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

ACTING PRESIDENT CRAIG JOHNSON: Read the last section.

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

ACTING PRESIDENT CRAIG JOHNSON: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT CRAIG JOHNSON: Announce the results.

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

Ayes, 54. Nays, 4.

ACTING PRESIDENT CRAIG JOHNSON: The bill is passed.

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

ACTING PRESIDENT CRAIG JOHNSON: Read the last section.

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

ACTING PRESIDENT CRAIG JOHNSON: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT CRAIG JOHNSON: Announce the results.

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

Ayes, 33. Nays, 25.

ACTING PRESIDENT CRAIG JOHNSON: The bill is passed.

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

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

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

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

ACTING PRESIDENT CRAIG JOHNSON: Read the last section.

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

ACTING PRESIDENT CRAIG JOHNSON: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT CRAIG JOHNSON: Announce the results.

THE SECRETARY: Ayes, 58.

ACTING PRESIDENT CRAIG JOHNSON: The bill is passed.

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

ACTING PRESIDENT CRAIG JOHNSON:

Read the last section.

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

ACTING PRESIDENT CRAIG JOHNSON:

Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT CRAIG JOHNSON:

Announce the results.

THE SECRETARY: Ayes, 58.

ACTING PRESIDENT CRAIG JOHNSON:

The bill is passed.

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

ACTING PRESIDENT CRAIG JOHNSON:

Read the last section.

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

ACTING PRESIDENT CRAIG JOHNSON:

Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT CRAIG JOHNSON:

Announce the results.

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

ACTING PRESIDENT CRAIG JOHNSON: The bill is passed.

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

ACTING PRESIDENT CRAIG JOHNSON: Read the last section.

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

ACTING PRESIDENT CRAIG JOHNSON: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT CRAIG JOHNSON: Announce the results.

THE SECRETARY: Ayes, 58.

ACTING PRESIDENT CRAIG JOHNSON: The bill is passed.

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

ACTING PRESIDENT CRAIG JOHNSON: Read the last section.

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

ACTING PRESIDENT CRAIG JOHNSON: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT CRAIG JOHNSON: Announce the results.

THE SECRETARY: Ayes, 58.

ACTING PRESIDENT CRAIG JOHNSON: The bill is passed.

Senator Klein, that completes the reading of the calendar.

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

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

SENATOR LIBOUS: Mr. President.

ACTING PRESIDENT CRAIG JOHNSON: Senator Libous.

SENATOR LIBOUS: Thank you, Mr. President.

Could there be an immediate

Republican conference while we're at ease.

ACTING PRESIDENT CRAIG JOHNSON: There will be an immediate Republican conference in the Republican Conference Room while the Senate stands at ease.

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

ACTING PRESIDENT CRAIG JOHNSON: Senator Klein.

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

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

ACTING PRESIDENT CRAIG JOHNSON: Immediate meeting of the Finance Committee, followed by an immediate meeting of the Rules Committee in Room 332.

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

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

ACTING PRESIDENT CRAIG JOHNSON: Senator Klein.

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

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

The Secretary will read.

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

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

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

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

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

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

And Senate Print 8001, by Senator

Oppenheimer, an act to amend the Education Law.

All bills ordered direct to third reading.

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

(Response of "Aye.")

ACTING PRESIDENT CRAIG JOHNSON: Opposed, nay.

(No response.)

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

Senator Klein.

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

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

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

Number 7909, Third Reading Calendar 662.

ACTING PRESIDENT CRAIG JOHNSON: Substitution ordered.

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

SENATOR LIBOUS: Lay the bill aside.

ACTING PRESIDENT CRAIG JOHNSON: The bill is laid aside.

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

ACTING PRESIDENT CRAIG JOHNSON: Substitution ordered.

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

ACTING PRESIDENT CRAIG JOHNSON: Senator Klein.

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

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

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

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

(Response of "Aye.")

ACTING PRESIDENT CRAIG JOHNSON: Opposed, nay.

(No response.)

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

Read the last section.

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

ACTING PRESIDENT CRAIG JOHNSON: Call the roll.

(The Secretary called the roll.)

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

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

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

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

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

have a solution.

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

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

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

Senator Marcellino, to explain his vote.

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

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

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

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

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

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

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

I vote no, Mr. President.

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

Senator Robach, to explain his

vote.

SENATOR ROBACH: Yes, very briefly.

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

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

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

Now, I can't give an exact figure,

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

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

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

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

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

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

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

I vote no, Mr. President.

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

Senator Farley, to explain his vote.

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

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

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

pills that were put in this bill.

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

I vote no.

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

Senator LaValle, to explain his vote.

SENATOR LaVALLE: Thank you, Mr. President.

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

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

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

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

I vote in the negative.

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

Senator Thompson, to explain his vote.

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

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

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

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

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

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

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

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

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

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

Senator Volker, to explain his vote.

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

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

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

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

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

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

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

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

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

Senator Lanza, to explain his vote.

SENATOR LANZA: Thank you, Mr. President.

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

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

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

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

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

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

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

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

Senator Serrano, to explain his vote.

SENATOR SERRANO: Thank you, Mr. President.

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

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

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

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

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

Thank you.

ACTING PRESIDENT CRAIG JOHNSON: Senator Serrano, how are you going to be

voting?

SENATOR SERRANO: Yes.

ACTING PRESIDENT CRAIG JOHNSON: Senator Serrano to be recorded in the affirmative.

Senator Liz Krueger.

SENATOR LIZ KRUEGER: Thank you. I rise to support this bill.

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

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

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

$800,000 maximum per company.

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

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

I vote yes. Thank you.

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

Senator Adams, to explain his vote.

SENATOR ADAMS: Just quickly, Mr. President.

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

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

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

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

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

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

I vote aye. Thank you.

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

Senator Larkin, to explain his vote.

SENATOR LARKIN: Thank you, Mr. President.

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

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

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

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

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

This is a terrible vote. I vote

no.

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

Senator Padavan, to explain his vote.

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

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

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

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

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

I vote nay.

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

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

Senator Alesi, to explain his vote.

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

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

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

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

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

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

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

further cripple an economy.

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

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

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

ACTING PRESIDENT CRAIG JOHNSON: Senator Alesi --

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

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

SENATOR ALESI: -- not a good

bill for anybody. I have to vote no.

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

Senator Ranzenhofer, to explain his vote.

SENATOR RANZENHOFER: Thank you, Mr. President.

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

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

As Senator Alesi said, this is a

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

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

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

Senator Perkins, to explain his vote.

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

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

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

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

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

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

Senator Parker, to explain his vote.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(Catcalls, applause.)

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

jobs in New York City and 716 jobs created --

ACTING PRESIDENT CRAIG JOHNSON: Senator Parker -- Senator Parker --

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

ACTING PRESIDENT CRAIG JOHNSON: Senator Parker, your time is up.

Senator Parker to be recorded in the affirmative.

Senator Diaz, to explain his vote.

SENATOR DIAZ: Thank you, Mr. President.

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

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

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

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

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

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

Senator Libous, to explain his vote.

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

First of all, Memorial Day weekend

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

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

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

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

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

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

I vote no.

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

Senator Saland, to explain his vote.

SENATOR SALAND: Thank you, Mr. President.

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

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

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

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

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

continuing increasing taxes and fees.

Thank you, Mr. President.

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

Senator Smith, to close.

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

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

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

Mr. President, I will be voting yes.

ACTING PRESIDENT CRAIG JOHNSON:

Senator Smith to be recorded in the affirmative.

Senator Fuschillo, to explain his vote.

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

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

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

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

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

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

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

I vote no, Mr. President.

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

Announce the results.

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

Ayes, 32. Nays, 27.

ACTING PRESIDENT CRAIG JOHNSON: The bill is passed.

The Secretary will continue to

read.

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

ACTING PRESIDENT CRAIG JOHNSON: Substitution ordered.

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

ACTING PRESIDENT CRAIG JOHNSON: Senator Klein.

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

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

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

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

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

(Response of "Aye.")

ACTING PRESIDENT CRAIG JOHNSON: Opposed, nay.

(No response.)

ACTING PRESIDENT CRAIG JOHNSON: The message is accepted.

Read the last section.

SENATOR LIBOUS: Lay the bill aside.

ACTING PRESIDENT CRAIG JOHNSON: The bill is laid aside.

The Secretary will continue to read.

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

ACTING PRESIDENT CRAIG JOHNSON: Substitution ordered.

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

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

ACTING PRESIDENT CRAIG JOHNSON: Senator Klein.

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

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

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

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

(Response of "Aye.")

ACTING PRESIDENT CRAIG JOHNSON: Opposed say nay.

(No response.)

ACTING PRESIDENT CRAIG JOHNSON: The message is accepted.

Read the last section.

SENATOR LIBOUS: Lay the bill aside.

ACTING PRESIDENT CRAIG JOHNSON: The bill is laid aside.

The Secretary will continue to read.

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

ACTING PRESIDENT CRAIG JOHNSON: Substitution ordered.

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

SENATOR LIBOUS: Lay the bill aside.

ACTING PRESIDENT CRAIG JOHNSON: The bill is laid aside.

The Secretary will continue to read.

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

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

ACTING PRESIDENT CRAIG JOHNSON: Substitution ordered.

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

ACTING PRESIDENT CRAIG JOHNSON: Senator Klein.

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

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

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

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

(Response of "Aye.")

ACTING PRESIDENT CRAIG JOHNSON: Opposed, nay.

(No response.)

ACTING PRESIDENT CRAIG JOHNSON: The message is accepted.

Read the last section.

SENATOR LIBOUS: Lay the bill aside.

ACTING PRESIDENT CRAIG JOHNSON: The bill is laid aside.

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

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

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

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

The Secretary will please ring the bell.

The Secretary will read.

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

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

SENATOR LIBOUS: Thank you, Mr. President.

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

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

SENATOR GRIFFO: Thank you, Mr. President.

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

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

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

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

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

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

ACTING PRESIDENT CRAIG JOHNSON: Are there any other Senators who wish to be heard on the amendment?

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

Announce the results.

THE SECRETARY: Ayes, 27. Nays, 22.

ACTING PRESIDENT CRAIG JOHNSON: The motion fails.

Calendar 662 is before the house.

Read the last section.

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

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

Read the last section.

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

ACTING PRESIDENT CRAIG JOHNSON: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT CRAIG JOHNSON: Announce the results.

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

negative.

ACTING PRESIDENT CRAIG JOHNSON: The bill is passed.

Senator Klein.

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

ACTING PRESIDENT CRAIG JOHNSON: Senator Libous.

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

ACTING PRESIDENT CRAIG JOHNSON: Before I excuse you to go, again, a reminder, as I previously said, will all members please stay in the chambers before the vote so we can get through the votes.

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

Senator Klein.

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

ACTING PRESIDENT CRAIG JOHNSON:
Senator Klein, we will stand at ease.
(Whereupon, the Senate stood at ease at 2:52 p.m.)
(Whereupon, the Senate reconvened at 3:04 p.m.)
ACTING PRESIDENT CRAIG JOHNSON:
Returning to the controversial calendar, Calendar Number 664 is before the house.
The Secretary will read.
THE SECRETARY: Calendar Number 664, by the Committee on Rules, an act making appropriations for the support of government.
ACTING PRESIDENT CRAIG JOHNSON:
Are there any Senators who wish to be heard?
Hearing none, the debate is closed.
Read the last section.
THE SECRETARY: Section 5. This act shall take effect immediately.
ACTING PRESIDENT CRAIG JOHNSON:
Call the roll.
(The Secretary called the roll.)
ACTING PRESIDENT CRAIG JOHNSON:
Announce the results.
THE SECRETARY: Those recorded in

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

Ayes, 55. Nays, 4.

ACTING PRESIDENT CRAIG JOHNSON: The bill is passed.

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

The Secretary will read.

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

ACTING PRESIDENT CRAIG JOHNSON: The Secretary will ring the bell, debate being closed.

Read the last section.

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

ACTING PRESIDENT CRAIG JOHNSON: Call the roll.

(The Secretary called the roll.)

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

SENATOR GOLDEN: Thank you, Mr. President.

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

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

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

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

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

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

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

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

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

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

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

Senator Saland, to explain his vote.

SENATOR SALAND: Thank you, Mr. President.

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

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

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

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

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

I fear what that means,

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

ACTING PRESIDENT CRAIG JOHNSON: Senator Saland, how do you vote?

SENATOR SALAND: Mr. President --

ACTING PRESIDENT CRAIG JOHNSON: Your two minutes are up, Senator Saland. How do you vote?

SENATOR SALAND: I vote in the negative.

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

Senator Oppenheimer, to explain her vote.

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

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

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

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

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

schools.

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

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

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

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

SENATOR OPPENHEIMER: Okay, I vote yes.

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

Senator Perkins.

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

explain my vote.

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

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

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

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

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

I vote aye.

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

Senator Klein.

SENATOR KLEIN: Thank you, Mr. President.

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

Whether or not you support charter

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

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

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

I vote yes, Mr. President.

ACTING PRESIDENT CRAIG JOHNSON:

Thank you, Senator.

Senator Klein to be recorded in the affirmative.

Senator Huntley, to explain her vote.

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

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

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

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

Thank you.

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

Senator Diaz, to explain his vote.

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

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

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

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

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

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

Senator Smith, to explain his vote.

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

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

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

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

So I'll be voting aye. Thank you.

ACTING PRESIDENT CRAIG JOHNSON: Senator Smith to be recorded in the affirmative.

Senator Sampson, to close.

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

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

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

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

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

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

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

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

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

Thank you very much.

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

Senator Adams, to close.

SENATOR ADAMS: Thank you, Mr. President.

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

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

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

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

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

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

affirmative.

Announce the results.

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

Ayes, 45. Nays, 14.

ACTING PRESIDENT CRAIG JOHNSON: The bill is passed.

The Secretary will continue to read.

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

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

Read the last section.

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

ACTING PRESIDENT CRAIG JOHNSON: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59. Nays, 0.

ACTING PRESIDENT CRAIG JOHNSON: The bill is passed.

The Secretary will continue to read.

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

ACTING PRESIDENT CRAIG JOHNSON: Read the last section.

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

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

Call the roll.

(The Secretary called the roll.)

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

SENATOR SALAND: Thank you,

Mr. President.

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

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

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

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

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

Thank you, Mr. President.

ACTING PRESIDENT CRAIG JOHNSON: Senator Saland to be recorded in the affirmative.

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

Senator Oppenheimer, to explain her vote.

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

cities of Albany and Buffalo.

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

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

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

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

I'll be voting aye.

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

Announce the results.

THE SECRETARY: Ayes, 59. Nays, 0.

ACTING PRESIDENT CRAIG JOHNSON: The bill is passed.

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

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

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

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

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

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