NEW YORK STATE SENATE

THE STENOGRAPHIC RECORD

ALBANY, NEW YORK

June 14, 2010

1:42 p.m.

REGULAR SESSION

SENATOR CRAIG M. JOHNSON, Acting President

ANGELO J. APONTE, Secretary

P R O C E E D I N G S

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

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

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

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

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

ACTING PRESIDENT CRAIG JOHNSON: The reading of the Journal.

The Secretary will read.

THE SECRETARY: In Senate, Sunday, June 13, the Senate met pursuant to adjournment. The Journal of Saturday, June 12, was read and approved. On motion, Senate adjourned.

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

Presentation of petitions.

Messages from the Assembly.

Messages from the Governor.

Reports of standing committees.

Reports of select committees.

Communications and reports from state officers.

Motions and resolutions.

Senator Klein.

SENATOR KLEIN: Mr. President, I have quite a few motions.

First, on behalf of Senator Valesky, I wish to call up Senate Print Number 5440B, recalled from the Assembly, which is now at the desk.

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

THE SECRETARY: Calendar Number 79, by Senator Valesky, Senate Print 5440B, an act to amend the Alcoholic Beverage Control Law.

ACTING PRESIDENT CRAIG JOHNSON: Senator Klein.

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

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

(The Secretary called the roll.)

THE SECRETARY: Ayes, 45.

ACTING PRESIDENT CRAIG JOHNSON: Senator Klein.

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

ACTING PRESIDENT CRAIG JOHNSON: Amendments received.

Senator Klein.

SENATOR KLEIN: Mr. President, on behalf of Senator Valesky, I wish to call up Senate Print Number 7198A, recalled from the Assembly, which is now at the desk.

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

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

ACTING PRESIDENT CRAIG JOHNSON: Senator Klein.

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

bill was passed.

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

THE SECRETARY: Ayes, 51.

ACTING PRESIDENT CRAIG JOHNSON: Senator Klein.

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

ACTING PRESIDENT CRAIG JOHNSON: Amendments received.

Senator Klein.

SENATOR KLEIN: Mr. President, on behalf of Senator Espada, I move that the following bill be discharged from its respective committee and be recommitted with instructions to strike the enacting clause: Senate Number 8127.

ACTING PRESIDENT CRAIG JOHNSON: So ordered.

Senator Klein.

SENATOR KLEIN: 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 Print 1940, on behalf of Senator Stachowski.

ACTING PRESIDENT CRAIG JOHNSON: So ordered.

Senator Klein.

SENATOR KLEIN: Mr. President, on behalf of Senator Valesky, I move that the following bill be discharged from its respective committee and be recommitted with instructions to strike the enacting clause: Senate Print Number 5677.

ACTING PRESIDENT CRAIG JOHNSON: So ordered.

Senator Klein.

SENATOR KLEIN: Mr. President, on behalf of Senator Sampson, please place a sponsor's star on Calendar Number 335.

ACTING PRESIDENT CRAIG JOHNSON: So ordered.

Senator Klein.

SENATOR KLEIN: Mr. President, on behalf of Senator Parker, I wish to call up Print Number 6079A, recalled from the Assembly, which is now at the desk.

ACTING PRESIDENT CRAIG JOHNSON:

The Secretary will read the title.

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

ACTING PRESIDENT CRAIG JOHNSON: Senator Klein.

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

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

(The Secretary called the roll.)

THE SECRETARY: Ayes, 51.

ACTING PRESIDENT CRAIG JOHNSON: Senator Klein.

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

ACTING PRESIDENT CRAIG JOHNSON: Amendments received.

Senator Klein.

SENATOR KLEIN: Mr. President, on behalf of Senator Foley, I wish to call up Senate Print Number 6041, recalled from the Assembly, which is now at the desk.

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

THE SECRETARY: Calendar Number 219, by Senator Foley, Senate Print 6041, an act to amend the Real Property Tax Law.

ACTING PRESIDENT CRAIG JOHNSON: Senator Klein.

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

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

(The Secretary called the roll.)

THE SECRETARY: Ayes, 51.

ACTING PRESIDENT CRAIG JOHNSON: Senator Klein.

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

ACTING PRESIDENT CRAIG JOHNSON: Amendments received.

Senator Klein.

SENATOR KLEIN: Mr. President, on behalf of Senator L. Krueger, I wish to call up Print Number 3853, recalled from the

Assembly, which is now at the desk.

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

THE SECRETARY: Calendar Number 595, by Senator L. Krueger, Senate Print 3853, an act to amend the Real Property Tax Law.

ACTING PRESIDENT CRAIG JOHNSON: Senator Klein.

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

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

(The Secretary called the roll.)

THE SECRETARY: Ayes, 51.

ACTING PRESIDENT CRAIG JOHNSON: Senator Klein.

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

ACTING PRESIDENT CRAIG JOHNSON: Amendments received.

Senator Klein.

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

Print Number 3538A, recalled from the Assembly, which is now at the desk.

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

THE SECRETARY: Calendar Number 384, by Senator Addabbo, Senate Print 3538A, an act to amend the Civil Service Law.

ACTING PRESIDENT CRAIG JOHNSON: Senator Klein.

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

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

(The Secretary called the roll.)

THE SECRETARY: Ayes, 51.

ACTING PRESIDENT CRAIG JOHNSON: Senator Klein.

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

ACTING PRESIDENT CRAIG JOHNSON: Amendments received.

Senator Klein.

SENATOR KLEIN: Mr. President, on

behalf of Senator Stavisky, I wish to call up Senate Print Number 1538B, recalled from the Assembly, which is now at the desk.

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

THE SECRETARY: Calendar Number 139, by Senator Stavisky, Senate Print 1538B, an act to amend the Executive Law.

ACTING PRESIDENT CRAIG JOHNSON: Senator Klein.

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

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

(The Secretary called the roll.)

THE SECRETARY: Ayes, 51.

ACTING PRESIDENT CRAIG JOHNSON: Senator Klein.

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

ACTING PRESIDENT CRAIG JOHNSON: Amendments received.

Senator Klein.

SENATOR KLEIN: Mr. President, on behalf of Senator Squadron, I wish to call up Calendar Number 506, Assembly Print Number 10147.

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

THE SECRETARY: Calendar Number 506, by Member of the Assembly Brodsky, Assembly Print Number 10147, an act to amend the Public Authorities Law.

ACTING PRESIDENT CRAIG JOHNSON: Senator Klein.

SENATOR KLEIN: I now move to reconsider the vote by which this bill was substituted for Senate Print Number 7365 on May 12th.

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

(The Secretary called the roll.)

THE SECRETARY: Ayes, 51.

ACTING PRESIDENT CRAIG JOHNSON: Senator Klein.

SENATOR KLEIN: I now move that Assembly Bill Number 10147 be recommitted to

the Committee on Corporations and the Senate bill be restored to the order of Third Reading Calendar.

ACTING PRESIDENT CRAIG JOHNSON: So ordered.

Senator Klein.

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

ACTING PRESIDENT CRAIG JOHNSON: Amendments received.

Senator Klein.

SENATOR KLEIN: Mr. President, on behalf of Senator Valesky, I wish to call up Calendar Number 267, Assembly Print Number 6671B.

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

THE SECRETARY: Calendar Number 267, by Member of the Assembly Rosenthal, Assembly Print Number 6671B, an act to amend the Public Health Law.

ACTING PRESIDENT CRAIG JOHNSON: Senator Klein.

SENATOR KLEIN: I now move to reconsider the vote by which this Assembly

bill was substituted for Senate Print Number 5463B on March 22nd.

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

(The Secretary called the roll.)

THE SECRETARY: Ayes, 51.

ACTING PRESIDENT CRAIG JOHNSON: Senator Klein.

SENATOR KLEIN: I now move that Assembly Bill Number 6671B be recommitted to the Committee on Codes and the Senate bill be recommitted to the Committee on Codes, with instructions to said committee to strike out the enacting clause.

ACTING PRESIDENT CRAIG JOHNSON: So ordered.

Senator Klein.

SENATOR KLEIN: Mr. President, I believe Senator Libous also has some floor motions.

ACTING PRESIDENT CRAIG JOHNSON: Senator Libous.

SENATOR LIBOUS: Thank you very much, Senator Klein.

Mr. President, on behalf of Senator Maziarz, on page 37 I offer the following amendments to Calendar Number 701, Senate Print 6934, and ask that said bill retain its place on the Third Reading Calendar.

ACTING PRESIDENT CRAIG JOHNSON: Amendments received.

Senator Libous.

SENATOR LIBOUS: Thank you.

Mr. President, I have one more, on behalf of Senator Fuschillo. Mr. President, I wish to call up his bill, Print Number 46A, recalled from the Assembly, which is now at the desk.

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

THE SECRETARY: Calendar Number 134, by Senator Fuschillo, Senate Print 46A, an act to amend the Vehicle and Traffic Law.

ACTING PRESIDENT CRAIG JOHNSON: Senator Libous.

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

ACTING PRESIDENT CRAIG JOHNSON:

The Secretary will call the roll on reconsideration.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 51.

ACTING PRESIDENT CRAIG JOHNSON: Senator Libous.

SENATOR LIBOUS: Mr. President, on behalf of my friend and colleague Senator Fuschillo, I offer up the following amendments.

ACTING PRESIDENT CRAIG JOHNSON: Amendments received.

Senator Klein.

SENATOR KLEIN: Mr. President, I have some additional amendments.

First, on behalf of Senator Schneiderman, on page 21, Calendar Number 337, Senate Print Number 7142.

On behalf of Senator Craig Johnson, on page 22, Calendar Number 356, Senate Print Number 5538.

On behalf of Senator Breslin, on page number 32, Calendar Number 609, Senate Print Number 7118.

On behalf of myself, on page 34,

Calendar Number 656, Senate Print Number 2992A.

On behalf of Senator Breslin, on page 35, Calendar Number 682, Senate Print Number 6949.

On behalf of Senator Adams, on page 36, Calendar Number 695, Senate Print Number 7275A.

On behalf of Senator Breslin, on page number 42, Calendar Number 751, Senate Print Number 6014A.

Again, on behalf of myself, on page 42, Calendar Number 753, Senate Print Number 7196.

And finally, on behalf of Senator Dilan, on page 26, Calendar Number 459, Senate Print Number 5711A.

Mr. President, I now move that these bills retain their place on the order of Third Reading Calendar.

ACTING PRESIDENT CRAIG JOHNSON: Amendments received.

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: The Secretary will read.

THE SECRETARY: On page 43, Senator Klein moves to discharge, from the Committee on Environmental Conservation, Assembly Bill Number 779A and substitute it for the identical Senate Bill Number 2993B, Third Reading Calendar 769.

On page 43, Senator Montgomery moves to discharge, from the Committee on Codes, Assembly Bill Number 7923 and substitute it for the identical Senate Bill Number 3644, Third Reading Calendar 770.

On page 43, Senator Sampson moves to discharge, from the Committee on Housing, Construction and Community Development, Assembly Bill Number 859 and substitute it for the identical Senate Bill Number 4087, Third Reading Calendar 772.

On page 44, Senator Duane moves to discharge, from the Committee on Health, Assembly Bill Number 7617 and substitute it for the identical Senate Bill Number 4498,

Third Reading Calendar 775.

On page 44, Senator Hassell-Thompson moves to discharge, from the Committee on Codes, Assembly Bill Number 8012 and substitute it for the identical Senate Bill Number 4687, Third Reading Calendar 776.

On page 44, Senator Foley moves to discharge, from the Committee on Environmental Conservation, Assembly Bill Number 2692A and substitute it for the identical Senate Bill Number 5113, Third Reading Calendar 779.

On page 44, Senator Valesky moves to discharge, from the Committee on Agriculture, Assembly Bill Number 915A and substitute it for the identical Senate Bill Number 5501, Third Reading Calendar 780.

On page 44, Senator Adams moves to discharge, from the Committee on Finance, Assembly Bill Number 7957A and substitute it for the identical Senate Bill Number 6102A, Third Reading Calendar 783.

On page 45, Senator Bonacic moves to discharge, from the Committee on Finance, Assembly Bill Number 9768 and substitute it for the identical Senate Bill Number 6677,

Third Reading Calendar 786.

On page 45, Senator Parker moves to discharge, from the Committee on Children and Families, Assembly Bill Number 3233B and substitute it for the identical Senate Bill Number 6877, Third Reading Calendar 787.

On page 45, Senator C. Kruger moves to discharge, from the Committee on Finance, Assembly Bill Number 10772 and substitute it for the identical Senate Bill Number 7417, Third Reading Calendar 792.

On page 46, Senator Morahan moves to discharge, from the Committee on Finance, Assembly Bill Number 10889 and substitute it for the identical Senate Bill Number 7566A, Third Reading Calendar 794.

On page 46, Senator Serrano moves to discharge, from the Committee on Cultural Affairs, Tourism, Parks and Recreation, Assembly Bill Number 2769A and substitute it for the identical Senate Bill Number 7657, Third Reading Calendar 797.

On page 47, Senator Montgomery moves to discharge, from the Committee on Elections, Assembly Bill Number 3563 and

substitute it for the identical Senate Bill Number 7980, Third Reading Calendar 807.

On page 48, Senator Breslin moves to discharge, from the Committee on Investigations and Government Operations, Assembly Bill Number 7162B and substitute it for the identical Senate Bill Number 5789A, Third Reading Calendar 813.

On page 48, Senator Sampson moves to discharge, from the Committee on Judiciary, Assembly Bill Number 8969 and substitute it for the identical Senate Bill Number 7201, Third Reading Calendar 815.

On page 48, Senator Sampson moves to discharge, from the Committee on Judiciary, Assembly Bill Number 10851A and substitute it for the identical Senate Bill Number 8013, Third Reading Calendar 816.

On page 49, Senator Aubertine moves to discharge, from the Committee on Codes, Assembly Bill Number 2132 and substitute it for the identical Senate Bill Number 4743, Third Reading Calendar 831.

On page 50, Senator Klein moves to discharge, from the Committee on Mental Health

and Developmental Disabilities, Assembly Bill Number 8645B and substitute it for the identical Senate Bill Number 5803B, Third Reading Calendar 837.

On page 50, Senator Schneiderman moves to discharge, from the Committee on Codes, Assembly Bill Number 6468C and substitute it for the identical Senate Bill Number 6005A, Third Reading Calendar 839.

On page 50, Senator Stavisky moves to discharge, from the Committee on Higher Education, Assembly Bill Number 10137 and substitute it for the identical Senate Bill Number 7121, Third Reading Calendar 845.

On page 51, Senator Onorato moves to discharge, from the Committee on Labor, Assembly Bill Number 9898 and substitute it for the identical Senate Bill Number 7409, Third Reading Calendar 847.

On page 51, Senator Foley moves to discharge, from the Committee on Codes, Assembly Bill Number 9938A and substitute it for the identical Senate Bill Number 7702A, Third Reading Calendar 853.

On page 52, Senator Addabbo moves

to discharge, from the Committee on Codes, Assembly Bill Number 3514A and substitute it for the identical Senate Bill Number 7852, Third Reading Calendar 854.

On page 52, Senator LaValle moves to discharge, from the Committee on Environmental Conservation, Assembly Bill Number 3950 and substitute it for the identical Senate Bill Number 1390, Third Reading Calendar 862.

On page 52, Senator Thompson moves to discharge, from the Committee on Environmental Conservation, Assembly Bill Number 2477 and substitute it for the identical Senate Bill Number 3442, Third Reading Calendar 863.

On page 52, Senator Foley moves to discharge, from the Committee on Environmental Conservation, Assembly Bill Number 8560B and substitute it for the identical Senate Bill Number 6110A, Third Reading Calendar 864.

On page 53, Senator Duane moves to discharge, from the Committee on Health, Assembly Bill Number 1729 and substitute it for the identical Senate Bill Number 5002,

Third Reading Calendar 866.

On page 53, Senator Duane moves to discharge, from the Committee on Health, Assembly Bill Number 9550A and substitute it for the identical Senate Bill Number 7723, Third Reading Calendar 867.

On page 53, Senator Oppenheimer moves to discharge, from the Committee on Education, Assembly Bill Number 3467A and substitute it for the identical Senate Bill Number 7820, Third Reading Calendar 871.

On page 54, Senator Parker moves to discharge, from the Committee on Social Services, Assembly Bill Number 1459 and substitute it for the identical Senate Bill Number 2276, Third Reading Calendar 878.

On page 55, Senator Schneiderman moves to discharge, from the Committee on Energy and Telecommunications, Assembly Bill Number 193A and substitute it for the identical Senate Bill Number 2349A, Third Reading Calendar 887.

On page 55, Senator Perkins moves to discharge, from the Committee on Energy and Telecommunications, Assembly Bill Number 4671A

and substitute it for the identical Senate Bill Number 3573A, Third Reading Calendar 888.

And on page 55, Senator Aubertine moves to discharge, from the Committee on Energy and Telecommunications, Assembly Bill Number 10955 and substitute it for the identical Senate Bill Number 7704, Third Reading Calendar 889.

ACTING PRESIDENT CRAIG JOHNSON: Substitutions ordered.

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 137, by Senator Stavisky, Senate Print 5977, an act to amend the Vehicle and Traffic Law.

ACTING PRESIDENT CRAIG JOHNSON: Read the last section.

THE SECRETARY: Section 2. This act shall take effect on the 90th day.

ACTING PRESIDENT CRAIG JOHNSON: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Those recorded in the negative on Calendar Number 137 are Senators Fuschillo, Ranzenhofer and Skelos.

Ayes, 53. Nays, 3.

ACTING PRESIDENT CRAIG JOHNSON: The bill is passed.

THE SECRETARY: Calendar Number 201, by Member of the Assembly Glick, Assembly Print Number 8220, an act to amend the Education 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, 56.

ACTING PRESIDENT CRAIG JOHNSON: The bill is passed.

THE SECRETARY: Calendar Number 317, by Senator Perkins, Senate Print 5057A,

an act to amend the Public Service 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 317 are Senators Aubertine, DeFrancisco, Griffo, Hannon, O. Johnson, Larkin, LaValle, Leibell, Libous, Marcellino, Maziarz, McDonald, Nozzolio, Ranzenhofer, Seward, Skelos, Volker, Winner and Young.

(Pause.)

ACTING PRESIDENT CRAIG JOHNSON: Announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 317 are Senators Aubertine, DeFrancisco, Farley, Flanagan, Griffo, Hannon, O. Johnson, Larkin, LaValle, Leibell, Libous, Marcellino, Maziarz,

McDonald, Nozzolio, Padavan, Ranzenhofer, Robach, Saland, Seward, Skelos, Volker, Winner and Young.

SENATOR LIBOUS: Lay it aside.

ACTING PRESIDENT CRAIG JOHNSON: The roll call is withdrawn. The bill is laid aside.

The Secretary will continue to read.

THE SECRETARY: Calendar Number 576, by Senator Schneiderman, Senate Print 7806A, an act to amend Chapter 367 of the Laws of 1999, amending the Civil Practice Law and Rules.

ACTING PRESIDENT CRAIG JOHNSON: Read the last section.

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

ACTING PRESIDENT CRAIG JOHNSON: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT CRAIG JOHNSON: Announce the results.

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT CRAIG JOHNSON:

The bill is passed.

THE SECRETARY: Calendar Number 614, by Senator Klein, Senate Print 5753A, an act to amend the Education Law.

ACTING PRESIDENT CRAIG JOHNSON: Read the last section.

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

ACTING PRESIDENT CRAIG JOHNSON: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT CRAIG JOHNSON: Announce the results.

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT CRAIG JOHNSON: The bill is passed.

THE SECRETARY: Calendar Number 622, by Senator Squadron, Senate Print --

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

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

THE SECRETARY: Calendar Number 645, by Senator Oppenheimer, Senate Print 1180A, an act to amend the Tax Law.

SENATOR LIBOUS: Lay it aside.

ACTING PRESIDENT CRAIG JOHNSON: The bill is laid aside.

THE SECRETARY: Calendar Number 694, by Senator Adams, Senate Print 7162, an act to amend the Racing, Pari-Mutuel Wagering and Breeding Law.

ACTING PRESIDENT CRAIG JOHNSON: 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: Ayes, 59.

ACTING PRESIDENT CRAIG JOHNSON: The bill is passed.

THE SECRETARY: Calendar Number 699, by Senator Duane, Senate Print 7827, an act to amend the Public Health Law.

ACTING PRESIDENT CRAIG JOHNSON: Read the last section.

THE SECRETARY: Section 3. This

act shall take effect January 1, 2011.

ACTING PRESIDENT CRAIG JOHNSON: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT CRAIG JOHNSON: Announce the results.

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT CRAIG JOHNSON: The bill is passed.

THE SECRETARY: Calendar Number 706, by Senator Oppenheimer, Senate Print --

SENATOR LIBOUS: Lay it aside.

ACTING PRESIDENT CRAIG JOHNSON: The bill is laid aside.

THE SECRETARY: Calendar Number 714, by Member of the Assembly O'Donnell, Assembly Print Number 7961, 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 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 Skelos recorded in the negative.

ACTING PRESIDENT CRAIG JOHNSON: The bill is passed.

THE SECRETARY: Calendar Number 722, by Senator Thompson, Senate Print --

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

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

THE SECRETARY: Calendar Number 725, by Member of the Assembly Bing, Assembly Print Number --

SENATOR LIBOUS: Lay it aside.

ACTING PRESIDENT CRAIG JOHNSON: The bill is laid aside.

THE SECRETARY: Calendar Number 743, by Member of the Assembly Destito --

SENATOR LIBOUS: Lay it aside.

ACTING PRESIDENT CRAIG JOHNSON: The bill is laid aside.

THE SECRETARY: Calendar Number 750, by Senator Hassell-Thompson --

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

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

THE SECRETARY: Calendar Number 769, substituted earlier today by Member of the Assembly Paulin, Assembly Print Number 779A, an act to amend the Environmental Conservation Law.

ACTING PRESIDENT CRAIG JOHNSON: Read the last section.

THE SECRETARY: Section 2. This act shall take effect 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, 59.

ACTING PRESIDENT CRAIG JOHNSON: The bill is passed.

THE SECRETARY: Calendar Number 770, substituted earlier today by Member of the Assembly Scarborough, Assembly Print Number 7923, an act to amend the Social

Services Law.

ACTING PRESIDENT CRAIG JOHNSON:

Read the last section.

THE SECRETARY: Section 2. This act shall take effect on the 120th day.

ACTING PRESIDENT CRAIG JOHNSON:

Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT CRAIG JOHNSON:

Announce the results.

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT CRAIG JOHNSON:

The bill is passed.

THE SECRETARY: Calendar Number 773, by Senator Aubertine, Senate Print 4103, an act to amend the Economic Development Law.

ACTING PRESIDENT CRAIG JOHNSON:

Read the last section.

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

ACTING PRESIDENT CRAIG JOHNSON:

Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT CRAIG JOHNSON:

Announce the results.

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT CRAIG JOHNSON: The bill is passed.

THE SECRETARY: Calendar Number 784, by Senator Klein, Senate Print 6203, an act to amend the New York State Urban Development --

SENATOR LIBOUS: Mr. President.

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

SENATOR LIBOUS: Thank you, Mr. President. We just passed 773, and for some reason we jumped to 784.

ACTING PRESIDENT CRAIG JOHNSON: One moment, Senator Libous. Let me confer.

Senator Libous --

SENATOR LIBOUS: Mr. President.

ACTING PRESIDENT CRAIG JOHNSON: The bills that you referenced were inadvertently filed. We're going to get to them in a minute to bring them up for the calendar. They will be called for a vote. We're just going to wait for a minute.

SENATOR LIBOUS: So, Mr. President, we're in recess for a minute or

we're at ease for a minute or --

ACTING PRESIDENT CRAIG JOHNSON: Just give us one second.

Senator Libous, guess what, we're ready. So we're now going to continue.

The Secretary will continue to read.

SENATOR LIBOUS: Thank you, Mr. President.

ACTING PRESIDENT CRAIG JOHNSON: The Secretary will read.

THE SECRETARY: Calendar Number 775, substituted earlier today by Member of the Assembly Gottfried, Assembly Print Number 7617, an act to amend the Public Health Law.

ACTING PRESIDENT CRAIG JOHNSON: Read the last section.

SENATOR HANNON: Lay it aside.

ACTING PRESIDENT CRAIG JOHNSON: The bill is laid aside.

THE SECRETARY: Calendar Number 779, substituted earlier today by Member of the Assembly Sweeney, Assembly Print Number 2692A, an act to amend the Environmental Conservation Law.

ACTING PRESIDENT CRAIG JOHNSON:

Read the last section.

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

ACTING PRESIDENT CRAIG JOHNSON:

Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT CRAIG JOHNSON:

Announce the results.

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT CRAIG JOHNSON:

The bill is passed.

THE SECRETARY: Calendar Number 780, substituted earlier today by Member of the Assembly DelMonte, Assembly Print Number 915A, an act to amend the Agriculture and Markets Law.

ACTING PRESIDENT CRAIG JOHNSON:

Read the last section.

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

ACTING PRESIDENT CRAIG JOHNSON:

Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT CRAIG JOHNSON:

Announce the results.

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT CRAIG JOHNSON: The bill is passed.

THE SECRETARY: Calendar Number 783, substituted earlier today by Member of the Assembly Lentol, Assembly Print Number 7957A, an act to amend the Executive Law and others.

ACTING PRESIDENT CRAIG JOHNSON: Read the last section.

THE SECRETARY: Section 6. This act shall take effect on the first of January.

ACTING PRESIDENT CRAIG JOHNSON: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT CRAIG JOHNSON: Announce the results.

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT CRAIG JOHNSON: The bill is passed.

THE SECRETARY: Calendar Number 784, by Senator Klein, Senate Print 6203, an act to amend the New York State Urban Development Corporation Act.

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: Senator Klein, to explain his vote.

SENATOR KLEIN: Just briefly, Mr. President.

This is, I believe, a piece of legislation that's going to go a long way towards making sure that our upstate region, those farm regions, get to sell their produce downstate.

One of the things that I've seen over the years which always angered me is that a lot of the produce that's sold in the downstate community, most specifically in New York City, isn't New York-grown. This legislation will change that and not only give larger markets downstate but smaller ones, through farmer's markets, the ability to easily access upstate farm products.

So of course I vote yes, Mr. President.

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

Announce the results.

THE SECRETARY: Ayes, 60. Nays, 0.

ACTING PRESIDENT CRAIG JOHNSON: The bill is passed.

THE SECRETARY: Calendar Number 790, by Senator Hassell-Thompson, Senate Print 7068, an act to amend the Correction 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: Senator Little, to explain her vote.

SENATOR LITTLE: Thank you, Mr. President.

I'd like to begin by thanking

Senator Hassell-Thompson for this piece of legislation. As you know, as a representative of the 45th Senate District and six counties in the North Country, up to two years ago I had 12 state prison facilities. One was closed last year, and we're looking at a possible closure of two again this year.

This bill would amend Section 79B of the Correction Law which we passed in 2005. That Correction Law gives one-year notice to a community if there is going to be a facility closed and a six-month adaptive-use notice that has to be done by the Commissioner of Corrections.

Rightly so, Senator Hassell-Thompson, has put forward in this bill an amendment that would require the Commissioner of Economic Development as well as General Services and other areas of government to be involved in any adaptive use plan. And this would take effect now. It takes effect immediately, as soon as this bill is passed and signed.

The point I'm trying to make is that this is key. Because we know that there

is a reduction in the inmates in New York State prisons, but when you start to look at what facilities you're going to close, a big part of it should be to look at the reuse of that facility and the economic impact on that community.

And I will tell you that the economic impact on the communities in the North Country is similar to pulling the rug out from under someone. We have a tremendous economic need, and these facilities have filled a great portion of that need.

Therefore, having this adaptive use done by an economic development team would be more important. But even better than that, and -- I have suggested it to Senator Hassell-Thompson and will continue to suggest it -- that this economic development adaptive use be done before a facility is targeted for closure.

And if that had been the case, I feel certain that two of the facilities that are in my district today would not be on the closure list, and the one that was closed last year and is still empty would not have been on

the closure list. When it's so important to the economy, we need to look at that and the impact on everyone involved in it.

So thank you for the bill. I hope that we can somehow amend this bill so that this will be done ahead of time, before the decision, and we look at facilities to be closed but let's look at ones that there is a reuse for or there are other jobs in that area for and what's the economic impact.

Thank you very much, and I vote aye.

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

Senator Ruth Hassell-Thompson, to explain her vote.

SENATOR HASSELL-THOMPSON: Thank you, Mr. President. I rise just to add just a little bit to the discussion that has been raised by Senator Little.

In visiting both Gabriel and this year Moriah, it isn't that I don't trust the opinion of the commissioner in his desire to close the facilities, but more importantly, I

think what has been shown is that these prisons historically were placed in these areas as an answer to an economic crisis that was occurring in many of these districts. And once the prisons were put there, that crisis was somewhat mitigated.

Moving the prisons without doing a reuse plan, without having a reuse plan in place, can have such extraordinary and devastating effects. Just looking at the pile of letters that I just received from Ogdensburg alone, and certainly from Lyons and other prisons that are potentially going to close, while we're happy about the drop in crime and no longer the need for prisons, it still does not mean that we don't need industry in that part of our state.

And so I think that what we've asked the commissioner to do is to work with the expertise of some of the other departments as a panel. And, Betty, like you -- Senator Little, like you, I agree that this should begin long before we talk about prison closures, so that by the time the closure is imminent, everyone is comforted by knowing

that some of the losses that they're going to sustain will be replaced.

And so I thank you for your support, and I hope that all of my colleagues will do so as well.

Thank you, Mr. President.

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

Senator Nozzolio, to explain his vote.

SENATOR NOZZOLIO: Thank you, Mr. President.

Mr. President, I rise in support of this legislation based on the representations by the sponsor, Senator Hassell-Thompson, that this measure will apply immediately to any potential prison closures that may be on the books.

I should add, because we do not have a budget, that it is still up in the air whether or not there are closures that will take place this year. But if there are, this measure should definitely -- if the budget prevails, I know there are many who are

opposed to that approach. But at the very least, that this new procedure will be enacted immediately and will be in effect for any change in the correctional system that is foisted about as a result of the enacted state budget.

I should also hasten to add that Senator Thompson's measure, which is extremely important as we look at economic development and continue to provide for the best, most efficient results for our taxpayers, that this also provides the appropriate notice to a community.

That legislation and law that I had sponsored and this body enacted required a 12-month notice to the communities. Last year, that notice provision was knocked aside by some who supported its repeal. We hope that this notice provision continues as a result of the new measure sponsored by Senator Hassell-Thompson.

Because of those two components, economic development that will be affected immediately and a year notice still will prevail, that is why I can support this

measure.

And I thank, Mr. President, you for the opportunity to be allowed to explain why.

SENATOR HANNON: Thank you, Senator Nozzolio.

Senator Nozzolio to be recorded in the affirmative.

Announce the results.

THE SECRETARY: Ayes, 60. Nays, 0.

ACTING PRESIDENT CRAIG JOHNSON: The bill is passed.

THE SECRETARY: Calendar Number 800, by Senator C. Kruger, Senate Print 7838, an act to amend the Local Finance Law.

ACTING PRESIDENT CRAIG JOHNSON: Read the last section.

THE SECRETARY: Section 4. 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, 60.

ACTING PRESIDENT CRAIG JOHNSON: The bill is passed.

THE SECRETARY: Calendar Number 888, substituted earlier today by Member of the Assembly Benjamin, Assembly Print Number 4671A, an act to amend the Public Service Law.

ACTING PRESIDENT CRAIG JOHNSON: Read the last section.

THE SECRETARY: Section 2. This act shall take effect on the 90th day.

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 888 are Senators DeFrancisco, O. Johnson, Larkin, Little, Marcellino, Maziarz, Nozzolio, Ranzenhofer, Seward, Volker and Winner. Also Senator Farley.

Ayes, 48. Nays, 12.

ACTING PRESIDENT CRAIG JOHNSON: The bill is passed.

Senator Klein, that completes the

reading of the noncontroversial calendar.

SENATOR KLEIN: Mr. President, at this time can you please recognize Senate President Malcolm Smith to introduce some very distinguished guests.

ACTING PRESIDENT CRAIG JOHNSON: Senator Smith.

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

Colleagues, this afternoon, from time to time we have the pleasure of having distinguished guests to enter these august chambers. About seven months ago, Senate Conference Leader John Sampson, Senator Kevin Parker and myself --

ACTING PRESIDENT CRAIG JOHNSON: Senator Smith, I apologize. Can we please have some order in the chamber.

Again, could we please have some order in the chamber. Thank you.

Senator Smith.

SENATOR SMITH: Thank you, Mr. President.

Several months ago, Senator Parker, myself, Conference Leader Senator John

Sampson, along with a number of our Assembly colleagues -- Majority Leader Ron Canestrari, Assemblywoman Audrey Pheffer and others -- visited China for the purpose of talking to the leadership in China with regards to a business relationship and cultural exchange between New York and China.

We had a number of companies we visited, some of which have come to New York since our trip to talk about the partnership and the potential of New York and China coming together to do business.

Today, Mr. President, we have been fortunately joined by several distinguished members of the Chinese government. This morning Senator Sampson and myself, Senator Dilan, had a conversation with the ambassador from China. As you know, today is High-Speed Rail Day up here in the Senate. We've had a number of conversations around high-speed rail; in particular, the financing thereof.

We also had a conversation, as Kevin Parker will tell you, regarding Trina Solar, which is a Chinese solar panel manufacturing company which has an interest in

coming to upstate New York.

Ambassador Peng Keyu, from China, the Chinese consul general. We're joined by Consul Fan Jianghong, the assistant to the ambassador, and also Consul Zhang Haitao, who's the assistant to the ambassador. And of course many of us who know him very well, our good friend John Wang, who is the president of the Asian-American Business Development Center.

We've had a tremendous day here in the Capitol, colleagues. So many of you have been so cordial to them. They are leaving here with a sense of relationship and a sense of camaraderie from this chamber. We committed to the ambassador that we would look forward to exploring potential opportunities between China and New York in the near future.

Ambassador and your colleagues, I'd like to welcome you on behalf of the State Senate, on behalf of our conference leader, Senator John Sampson, our minority leader, Senator Skelos, and colleagues on the other side of the aisle. Thank you so much for gracing us with your presence today.

ACTING PRESIDENT CRAIG JOHNSON: Thank you, Senator Smith.

Senator Stavisky.

SENATOR STAVISKY: Yes, very briefly, to our friends: Ni hao. We are delighted to welcome you here to Albany. And I know that the relationship is a warm one, a strong one.

And as someone who represents many people of Asian-American descent, particularly in the Flushing community, we welcome you to Albany and we look forward to improving and expanding our economic development and the relationship between us and the People's Republic of China.

Thank you.

ACTING PRESIDENT CRAIG JOHNSON: Thank you, Senator Stavisky.

Again, on behalf of the New York State Senate, we welcome you, gentlemen.

Senator Dilan.

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

I just rise to join President Pro Tem Malcolm Smith, Majority Leader John

Sampson inn welcoming the Chinese delegation here to our chambers today.

And we do look forward to economic development ventures and cultural exchange with you, especially in the area of high-speed rail.

So thank you very much, and welcome.

ACTING PRESIDENT CRAIG JOHNSON: Thank you, Senator Dilan.

Is there any other Senator who would wish to be heard?

Again, gentlemen, thank you. Welcome. To the representatives of the People's Republic of China, welcome to this chamber.

(Applause.)

ACTING PRESIDENT CRAIG JOHNSON: Senator Klein.

SENATOR KLEIN: Mr. President, can you please call on Senator Ruth Hassell-Thompson for a brief announcement.

ACTING PRESIDENT CRAIG JOHNSON: Senator Hassell-Thompson.

SENATOR HASSELL-THOMPSON: Yes,

thank you, Mr. President.

Before I give the official announcement, I'd also like to announce today is Tommy's birthday, our Journal clerk. And I just would like us to know that and to extend to him -- this is an important number for him. Happy birthday to you, Tommy.

(Applause.)

SENATOR HASSELL-THOMPSON: Thank you, Mr. President.

ACTING PRESIDENT CRAIG JOHNSON: Happy birthday, Tommy. Let the record reflect it is your birthday today.

Senator Klein.

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

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

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

The Secretary will read.

THE SECRETARY: Calendar Number 317, by Senator Perkins, Senate Print 5057A --

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

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

THE SECRETARY: Calendar Number 645, by Senator Oppenheimer, Senate Print 1180A, an act to amend the Tax Law.

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

Read the last section.

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

ACTING PRESIDENT CRAIG JOHNSON: Debate is closed. Will the Secretary please ring the bells.

Read the last section.

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

ACTING PRESIDENT CRAIG JOHNSON: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT CRAIG JOHNSON: Senator Oppenheimer, to explain her vote.

SENATOR OPPENHEIMER: I'd like to explain, while this is a tax, it is not a tax.

And the reason I say that is because this is a hotel occupancy tax, which exists in many of our cities.

The reason I say it is not a tax, though it is a tax, is because it is on outsiders coming to stay at that hotel. And whatever money comes from this 3 percent tax on hotel rooms spares the residents that 3 percent that would be put onto their property tax. It's an alternate tax to bring revenues to a village that only has the property tax as its source of revenues.

So it is sort of the reverse of what you think of as a tax. This actually would be very, very helpful to the property taxpayers of this community, because it would be an alternative tax, aside from their property tax, to help them pay for municipal services.

So I just wanted to inject that so you recognize the difference between a hotel occupancy tax and most other taxes.

Thank you. I'll be voting yes.

ACTING PRESIDENT CRAIG JOHNSON: Announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 645 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, Seward, Skelos, Volker, Winner and Young.

Ayes, 32. Nays, 29.

ACTING PRESIDENT CRAIG JOHNSON: The bill is passed.

THE SECRETARY: Calendar Number 706, by Senator Oppenheimer, Senate Print 2003, an act to amend the Election Law.

ACTING PRESIDENT CRAIG JOHNSON: Hearing no debate, debate is closed. The Secretary will please ring the bells.

Read the last section.

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

ACTING PRESIDENT CRAIG JOHNSON: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT CRAIG JOHNSON:

Senator Montgomery, to explain her vote.

SENATOR MONTGOMERY: Yes, Mr. President, I rise to support this legislation.

It is a very important bill because it will make it possible and encourage students on campuses around our state to participate in the electoral process. And if there's any issue that is important to us, it is that we want young Americans to be involved in the electoral process. We want them voting, we want them understanding and participating in their government. And we definitely want to be reaching out to include them, because that is in fact determinant of the future success of our democracy.

So I thank Senator Oppenheimer for this legislation, and I vote aye.

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

Announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 706 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, Seward, Skelos, Volker, Winner and Young.

Ayes, 32. Nays, 29.

ACTING PRESIDENT CRAIG JOHNSON: The bill is passed.

THE SECRETARY: Calendar Number 725, by Member of the Assembly Bing, Assembly Print Number 10689A, an act to amend the Executive Law.

ACTING PRESIDENT CRAIG JOHNSON: Seeing no debate, debate is closed. The Secretary will please ring the bells.

Senator Padavan, why do you rise?

SENATOR PADAVAN: Will the Senator yield for a question.

ACTING PRESIDENT CRAIG JOHNSON: Senator Squadron, Senator Padavan has asked that you yield. Do you yield for a question?

SENATOR SQUADRON: Absolutely.

ACTING PRESIDENT CRAIG JOHNSON: Senator Padavan.

SENATOR PADAVAN: I understand the City Council in New York City passed a bill requiring the very same need, but it was vetoed by the mayor.

SENATOR SQUADRON: I'm sorry, Mr. President, I can't hear.

ACTING PRESIDENT CRAIG JOHNSON: Can we please have some order in the chamber. We are on the controversial calendar.

I also remind all Senators to please stay within the chamber.

Senator Padavan, if you'd mind repeating your question.

SENATOR PADAVAN: Yes, I'll repeat the question.

I understand a bill similar to this passed the City Council. It was then vetoed by the mayor and then overridden. Am I correct?

SENATOR SQUADRON: Through you, Mr. President, I know that a bill similar to this is the law in the City of New York. I can't speak for certain, but I assume Senator Padavan has his facts right.

SENATOR PADAVAN: Would the

Senator yield again.

ACTING PRESIDENT CRAIG JOHNSON: Senator Squadron, do you continue to yield?

SENATOR SQUADRON: Absolutely.

ACTING PRESIDENT CRAIG JOHNSON: Senator Padavan.

SENATOR PADAVAN: That having taken place, I also understand the matter is now in the middle of litigation, meaning the law has been challenged in terms of its either constitutionality, applicability, whatever the basis of that legal action is.

Are you aware of that?

ACTING PRESIDENT CRAIG JOHNSON: Senator Squadron.

SENATOR SQUADRON: Mr. President, I can't speak to any ongoing litigation.

What I can say is that New York City isn't the only locality in the state to have this law. It's also in your home county of Nassau, in Buffalo, Hamburg, and West Seneca, and I believe Yonkers is moving on similar legislation.

SENATOR PADAVAN: Mr. President, I understand exactly what the Senator and

sponsor is saying, but it would seem to me that if the matter is currently being subject to litigation in the City of New York, the largest area in which it would be applicable in terms of numbers, it would be prudent for us not to be passing a bill at this time until the outcome of that litigation is determined, and perhaps at that time there would be things you would need to do to make the law appropriate and possible.

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

Seeing none, debate is closed.

The Secretary will please ring the bells.

Read the last section.

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

ACTING PRESIDENT CRAIG JOHNSON: Call the roll.

(The Secretary called the roll.)

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

SENATOR SQUADRON: Thank you,

Mr. President.

This bill, as I mentioned during the brief debate, is the law in a number of localities in New York State as well as 12 states in the nation. And its purpose is very clear. It's meant to ensure that all housing is available to all people.

Housing discrimination on the basis of your source of income particularly affects those with disabilities, who are overwhelmingly more likely to have some sort of government subsidy that helps pay for their housing.

ACTING PRESIDENT CRAIG JOHNSON: Can we please have some order in the chamber.

SENATOR SQUADRON: Similarly, domestic violence victims, others among the most vulnerable, are adversely impacted by source-of-income discrimination.

This is a basic way to ensure that all housing, if you can afford it, however it is you're paying for it, as long as you have a legal source of income, is available to all people in the state. It's a basic and necessary human right in this state that we

house folks. That's been decided again and again. And this is an important step in doing so.

I vote aye. Thank you, Mr. President.

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

Senator Thompson, to explain his vote.

SENATOR THOMPSON: Yes, I just want to say quickly I strongly support this bill. When I was on the city council in Buffalo, I actually authored the fair housing law for Buffalo, which is one of the reasons why there's a reference here.

And I want to commend my colleague for moving this bill forward, and I think it's a good bill. I am a yes vote.

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

Senator Huntley, to explain her vote.

SENATOR HUNTLEY: Yes, Mr.

President. I would like to commend Senator Squadron for this bill. It will help a lot of people in my district and in the State of New York. I think it's a great bill, and I just want to thank him for it.

And I will vote yes.

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

Announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 725 are Senators Alesi, Bonacic, DeFrancisco, Farley, Flanagan, Golden, Griffo, Hannon, O. Johnson, Lanza, Larkin, LaValle, Leibell, Libous, Little, Marcellino, Maziarz, McDonald, Nozzolio, Padavan, Ranzenhofer, Saland, Seward, Skelos, Volker, Winner and Young.

Ayes, 34. Nays, 27.

ACTING PRESIDENT CRAIG JOHNSON: The bill is passed.

THE SECRETARY: Calendar Number 743, by Member of the Assembly Destito, Assembly Print Number 520, an act to amend the Executive Law.

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

SENATOR PADAVAN: Would the sponsor yield to a question?

ACTING PRESIDENT CRAIG JOHNSON: Senator Parker, Senator Padavan has sought you to yield for a question. Do you so yield?

SENATOR PARKER: Absolutely.

ACTING PRESIDENT CRAIG JOHNSON: Senator Padavan.

SENATOR PADAVAN: Senator, the goal of your bill is certainly laudable. Currently it's recommended that in various jurisdictions that a registry of people who are aged and infirm, they're disabled, be kept on record in the event of a disaster of some sort.

What your bill does, it mandates it. It said "shall be required." Now, in a city like ours of over 8 million people, I can't venture on accurate guess as to how many individuals would fall under this definition: Aged, disabled. I assume it would be in the hundreds of thousands.

Now, how would the City of New York

go about identifying all of the persons that are required to be listed in this directory -- or registry, rather, under the provisions of your bill?

SENATOR PARKER: Thank you, Senator. Through you, Mr. President.

As you know, we live in an age now where terrorism is quite common in our day-to-day lives, where we have lived through the World Trade Center, Katrina, an earthquake in Haiti, what we've seen in terms of tsunamis in the Far East. And so what we're trying to do is figure out ways to in fact make our state safer and more prepared for emergencies.

Certainly it's important to make sure that in municipalities that we have an ability to know the people who are in most need of help, people who are disabled or infirm. And so what the bill is attempting to do is to in fact gather that information using some of the homeland security resources and being able to track it such that if there is an emergency in the certain area -- for instance, in the World Trade Center, that we know in that area approximately like where

people are, who they are, and how we can effectuate a proper either evacuation, rescue, or treatment of people who may be injured in a particular area.

The particular ways they do that will be actually promulgated by the State Department of Homeland Security.

SENATOR PADAVAN: Will the Senator yield.

ACTING PRESIDENT CRAIG JOHNSON: Senator Parker, do you continue to yield?

SENATOR PARKER: Yes. Through you, Mr. President.

ACTING PRESIDENT CRAIG JOHNSON: Senator Padavan.

SENATOR PADAVAN: Senator, I don't see anything in your bill that relates to this responsibility being given to the Office of Homeland Security. It does make reference to the Emergency Management Office and I assume other city agencies, including the Health Department. But it does not relate in any way that I can find to the Office of Homeland Security, placing both the responsibility and the cost and the mechanism

to do what you'd like to do in their hands.

SENATOR PARKER: Through you, Mr. President. Senator Padavan, you're correct that it does not in fact speak to it. The bill does speak to the fact that the county Department of Social Services and the county Department of Mental Health or agencies like those -- so in New York City, it would be HRA and others that would do it in New York City.

My reference to the Department of Homeland Security is a reference that is not necessarily related to the bill but the fact that actually DHS actually has funding that they are passing through from the federal government to do exactly this kind of work.

SENATOR PADAVAN: Will the Senator yield.

ACTING PRESIDENT CRAIG JOHNSON: Senator Parker, do you continue to yield?

SENATOR PARKER: Yes, I'll continue to yield.

ACTING PRESIDENT CRAIG JOHNSON: Yes, Senator Padavan.

SENATOR PADAVAN: My original

question, Senator, was how physically will the Department of Health, the Office of Mental Health, the Office of Emergency Management physically go around the City of New York identifying what I presume will be hundreds of thousands of people who would fall into the definition of your bill? How will they physically do that?

ACTING PRESIDENT CRAIG JOHNSON: Senator Parker.

SENATOR PARKER: Through you, Mr. President.

Senator Padavan, they could actually physically do that through records they already have. HRA already currently keeps records of many people who are disabled. And so you can actually begin the process by going through the records that we currently already keep.

SENATOR PADAVAN: Will the Senator yield.

ACTING PRESIDENT CRAIG JOHNSON: Senator Parker, do you continue to yield?

SENATOR PARKER: I will.

SENATOR PADAVAN: There's no

doubt that there are many on record, people with disabilities, parking permits, all kinds of various categories. But they're still only a part of that total potential out there that exists.

Now, a voluntary program would enable the city to do all the things that they can do, within reason. And that's covered by current law, I believe. But to mandate it means they must go out and find every person who fits your description. And at the same time, Senator, I don't see any allocation of funding to do that.

Could you address those issues?

ACTING PRESIDENT CRAIG JOHNSON: Senator Parker.

SENATOR PARKER: Yes, through you, Mr. President.

First, again, as you indicated, there is in fact a basis place to start, which is that there are in fact many records. And actually more people are actually registered through various programs than are not registered.

Secondly, you in fact -- in the

bill is actually a voluntary program, so it actually would be up to the people with the disabilities to in fact register with the various county agencies.

And counties are actually exempted from liability in this bill. So if, you know, someone isn't registered because they failed to register with the Department of Social Services or, in the case of New York City, HRA, the City of New York would not bear any liability at all in that.

Now, from the issue of costs, you know, as I indicated, no, we have not provided for any costs in the bill. Again, because most of the records can actually be gathered -- sorry, most of the numbers of people who in fact have disabilities are actually already registered in some way with us, that is really an administrative function that we believe is nominal.

But also, like I indicated I think to one of your previous questions, that we believe that there is in fact some pass-through money from the federal government vis-a-vis the New York State Department of

Homeland Security to in fact fund some of this effort.

SENATOR PADAVAN: All right, thank you, Senator.

On the bill.

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

SENATOR PADAVAN: As I started off, the program is laudable. And there's no question about that. And the voluntary aspects of it that exist today -- that perhaps could be expanded upon -- provide just what the Senator said: People would be able to register themselves, are able today to list themselves with the appropriate city agencies in the event of an emergency, a catastrophe of some sort. Whether they're aged, infirm, disabled, whatever the category might be.

But I still contend, as my questions I think alluded to, that it's virtually impossible for any locality, particularly in the City of New York, with over 8 million people, to identify all of the folks who are subject to this particular listing.

Now, yes, there is a provision in there that eliminates any local liability should someone be overlooked. That would become, you know, a question of perhaps a legal action whether or not we exclude that liability or not, but we can lay that aside for the moment.

I still think that we should encourage whatever agencies have responsibilities in this area to reach out, to advertise, through the networks of organizations that exist -- senior citizens centers, Offices for the Disabled, Office of Transportation that issues handicapped parking permits -- all kinds of ways we could reach out to them to ask people to volunteer their names to be on a list.

But when you get to the provision here that "shall be required," now we're in a different universe. And I think that presents both logistical problems how to do it and, frankly, the only way I guess you could do it is to hire a bunch of people to go around looking for the individuals who have not voluntarily registered themselves who could be

on this list. And that would cost money.

Now, I'm not aware of any Homeland Security funds that have been allocated to the City of New York for this purpose. If they exist, then perhaps we should know about it. But I don't believe they do for this specific purpose.

So, Senator, you know, many good ideas are sometimes impractical. And I think yours is.

ACTING PRESIDENT CRAIG JOHNSON: Senator Libous.

SENATOR LIBOUS: Thank you, Mr. President. Would Senator Parker yield for a couple of questions.

ACTING PRESIDENT CRAIG JOHNSON: Senator Parker, do you yield?

SENATOR PARKER: Of course.

ACTING PRESIDENT CRAIG JOHNSON: Senator Libous, he yields.

SENATOR LIBOUS: Thank you, Mr. President. I want to pick up where my colleague left off and take it from 8 million people of the City of New York to, let's say, about 310,000 people in the three counties

that I represent. Very rural counties, Senator Parker.

How does my county of Tioga County, which is extremely rural, how do they go out and track these individuals? They don't have the money or the resources.

ACTING PRESIDENT CRAIG JOHNSON: Senator Parker.

SENATOR PARKER: Through you, Mr. President.

Senator Libous, again, I don't think that they necessarily have to go out and do a census door by door. Actually, many people in even rural counties are registered just like they are in New York City through the social services agencies. So again, you know, outside of just, you know, people are getting disability benefits, people are getting other kinds of services. You begin there.

Then those county agencies also have relationships with community-based organizations that do work and other kinds of organizations that do work in communities that they can also reach out to in order to begin

the process of getting numbers. But ultimately, as I indicated with Senator Padavan's question, that ultimately this is up to the disabled person to reach out to the county Department of Social Services. In the case of New York City, you know, it would be the city Department of Human Resources Administration.

And I'm not familiar with your county and how it would work, but it's ultimately liable of -- not liable, but it's ultimately incumbent upon the person with a disability to register so that we know where people are.

And again, if we don't get everybody, your county and no one else's county is liable if any way for people being not tracked.

SENATOR LIBOUS: Mr. President, would he continue to yield.

ACTING PRESIDENT CRAIG JOHNSON: Senator Parker, do you continue to yield?

SENATOR PARKER: For Senator Libous, of course.

ACTING PRESIDENT CRAIG JOHNSON:

Senator Libous.

SENATOR LIBOUS: Thank you, Senator Parker and Mr. President.

Let's assume I have a disability, I live in a rural community which is several -- maybe 10, 15 miles from any village or center city, and I don't receive Social Security benefits, I don't receive Medicaid benefits, I'm just disabled. My name would be on no particular record. Does that mean the town or the village at this point would then have to knock on doors and find out who's disabled, even though they may not have a mental health history, they may not have a -- I mean, how do you find those people?

Anyone who's disabled is covered under your legislation, Senator Parker. How do you find those who might not be registered with an agency?

ACTING PRESIDENT CRAIG JOHNSON: Senator Parker.

SENATOR PARKER: Through you, Mr. President. I think that, again, county health agencies have a lot of resources at their disposal. They can speak to churches,

they can speak to people at home cares. There are a number of both private and public agencies that in fact do this work day to day. And certainly they would have the ability to reach out to those folks to find out who they are.

My expectation, though, is that counties will in fact reach out to their communities and encourage people to become registered, because this will become an added benefit to them, help that they can actually receive just in case that there is, you know, a disaster or an emergency, to begin to prepare our counties for the kind of emergency preparedness that we now know that we need to do in every county in the State of New York.

SENATOR LIBOUS: On the bill, Mr. President.

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

SENATOR LIBOUS: Again, as I think my colleague Senator Padavan noted, what Senator Parker is trying to do I think is a noble thing, but I think it's just not practical. And I'd like to explain at least

in my district and I think in a lot of upstate districts -- I'll defer to my colleagues in the City of New York to talk about the City of New York.

But if you take in the year 2006, the three counties that I represent were hit with a very devastating flood, Senator Parker. And for weeks, months, we were literally underwater, couldn't get to towns and villages, and it was not a good sight.

I think what would happen here is that -- let's assume that we had a particular nursing home that went underwater. And I would hope that the administrators in the nursing home would have already an accurate count of their clients. We had a hospital that went underwater, and quite frankly we had to evacuate the hospital. And we did that in about an hour and a half. It was done very successfully. And the hospital obviously accounted for every person that was in that hospital, because they have those records available.

Here's to me what seems a little difficult. If you were in the Village of

Candor -- and I don't know if any of you have ever traveled through the beautiful Tioga County that I represent. Candor is a beautiful community. And many people live on a creek in Candor. There's probably, oh, maybe two dozen homes. They were all hit and devastated -- Senator Winner's been to Candor. They were all hit and devastated with the flood.

Let's just assume that under this directory that the county actually had the resources, or the village -- which they don't -- to go out and find out that somebody lived in a particular home that was disabled. And maybe a relative came and they were evacuated from that home. Or maybe the disabled person even moved -- let's say that. Let's say the disabled person moved and never contacted the county.

The flood hits, emergency crews go in. I myself was involved in some of the emergency evacuations; they're quite scary at the time. And Red Cross personnel and the National Guard would go in. And if they had a record that said that Mr. So-and-So is

disabled, lived in this house, but he's not there now, I think that causes more problems and more confusion.

I just think in the rural upstate counties, Mr. President, while this may be a noble idea, I think it is going to be impossible to track. I think it's impossible for any small town or village who continually has fewer and fewer resources -- I don't want to go back home and tell the City of Binghamton, for that matter, or the Village of Candor, for that matter, or the Village of Owego or, in Chenango County, Bainbridge, that they now have to go out and track every person with a disability and keep a record of that and make sure that it's current and make sure that it's updated.

I think that already -- and again, maybe Senator Hannon might know this -- but I would think that our nursing homes and our hospitals and those big facilities all over the state already have these records, as I know you just used the example of Our Lady of Lourdes Hospital during the evacuation: 500-and-some-odd patients were evacuated

safely and effectively, and they knew every patient that was in that hospital.

So again, to my colleague Senator Parker, I think you're trying to do a good think here. I just don't think it's practical.

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

SENATOR PADAVAN: Senator, forgive me, I meant to ask you about this before, but I overlooked it.

ACTING PRESIDENT CRAIG JOHNSON: Senator Parker, do you yield from a question?

SENATOR PARKER: Absolutely.

ACTING PRESIDENT CRAIG JOHNSON: Senator Padavan.

SENATOR PADAVAN: Senator, the current law reads "A county" -- and I assume that would be the City of New York as well -- "shall not be liable for any claim based upon the good faith exercise or performance, good faith failure or exercise or performance" -- so on. It eliminates their liability.

However, you in this bill added the word "reasonable," any claim based upon the

reasonable good faith exercise.

Now, my question, Senator, does this not open up a big barn door in terms of liability? Because I don't know how you define "reasonable." Senator Libous gave you an example, there are probably a dozen others.

How will you define "reasonable" in terms of eliminating the liability that any jurisdiction would have should there be an emergency and a person who should have been on the list was not on the list, or was on the list and moved? All kinds of configurations. What does the word "reasonable" mean?

SENATOR PARKER: Senator Padavan -- through you, Mr. President -- the term "reasonable" is actually a defined term within the concept of liability. So it is actually a defined term.

And I think that, you know, I think most counties understand when they get a law and there's a reasonable expectation, they understand what "reasonable" is.

I certainly don't expect that most counties will have a significant problem implementing this. It is the next step

towards what I think we need to do from a homeland security perspective and an emergency preparedness perspective.

And like I said, I think that states will not be penalized for attempting to make sure that their residents are safer.

ACTING PRESIDENT CRAIG JOHNSON: Senator Parker to close.

SENATOR PARKER: On the bill, Mr. President.

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

SENATOR PARKER: As I indicated before, that, you know, we're in a time now when emergency preparedness ought to be at the front of all of our minds, that we all ought to be in our cars, you know, packing emergency kits just in case something happens while we're on the road or while we're away from our homes, that we all ought to be preparing for ourselves in our homes to make sure that we have water and food and extra medicine and blankets and radios and first-aid kits.

That we know since both 9/11 and Katrina that this is an important part of what

we need to do. And I think that we need to both push ourselves and our county governments to in fact do the exact same.

I think this is not a perfect bill. I think it's more perfect than not having one, though. And I certainly am asking for my colleagues to vote on it, because I think that at the end of the day I understand their concerns. But certainly in the case that Senator Libous put forward where you actually know someone lives in a certain place, one, that they're asked to update these registries annually.

So if someone moves within the annual registration, we would actually figure that out. If they moved in between a short period, again, we can't let the perfect be the enemy of the good in this particular case. And so I think that the bill deals with the idea of updating.

But also it is actually better to know that Mr. Smith lives at 3220 Oakwood Lane and go there and look for Mr. Smith and find out that he's not there, and that way -- as opposed to not someone ever going to look for

Mr. Smith. Or Mrs. Smith. I think that we ought to be providing the best opportunity to look after the least of those in our communities and making sure that they are protected.

Again, I share my colleagues' concerns about funding. This is exactly the kind of things that the Department of Homeland Security is looking to fund, both on the federal level and the state level. And certainly I think that it won't take as many resources as maybe is being suggested in this room.

But I think there's also going to be more resources to do this kind of work, because it really is important and vital that we provide an opportunity for disabled people to be rescued in case of emergency. I ask you to vote aye on this bill.

ACTING PRESIDENT CRAIG JOHNSON: Thank you, Senator Parker.

Seeing no other Senators wishing to speak, the debate is closed. The Secretary will please ring the bells.

Read the last section.

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

ACTING PRESIDENT CRAIG JOHNSON: 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, again, notwithstanding the laudable intent, this bill is not merely a mandate, it's a mandate that is incapable or impossible of being performed.

In part, the bill reads that people of all ages with disabilities shall be given the option not to be included in the regulation. Well, that means first you have to determine the universe of who all those people are. In order to do that, you have to violate HIPAA, the federal act which basically is intended to give you privacy with regard to health and health issues. So it's virtually impossible.

And then you compound the problem by now adding yet another question of fact.

Right now the existing law talks in terms of good faith as a question, always a question of fact. So if you determine that they acted in good faith, then you also have to determine that that acting in good faith was one on the facts that was reasonable. So we now have two hoops to jump through for a county that has failed for some reason to meet now the mandate imposed by this bill.

I think this bill, notwithstanding its laudable intent, should be defeated. It is an unfunded mandate the magnitude of which can't be determined and one of which is absolutely impossible to perform.

Thank you, Mr. President. I vote in the negative.

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

Senator Libous, to explain his vote.

SENATOR LIBOUS: Briefly, Mr. President.

Again, Senator Parker, I think this is well intended. Obviously during major disasters it's important to find especially

our folks who are a bit more vulnerable, with disabilities.

But I just think, at least for the counties that I represent and the communities that I represent, it would be a huge expensive undertaking. And I know when we went through -- the kind of disaster we had was flood-related. Certainly we live in a flood area that it could happen again. And I just think that, as Senator Saland said, it is an unfunded mandate at this time. So I will vote no.

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

Senator Adams, to explain his vote.

SENATOR ADAMS: Thank you, Mr. President. I just want to commend Senator Parker on this bill. This is an important bill.

And I think even the federal government, after Katrina, passed the Pets Evacuation and Transportation Standard Act, which required those who are seeking federal emergency management money to ensure that they have some form of evacuating pets during an

emergency.

And I know this is troublesome, I know it's difficult, I know it's hard. But during these times that we're living in a new universe of evacuation, either through man-made emergencies or those who want to harm America, it is easy for myself, Senator Libous and others, we can walk out a door, we can flee the scene. But if you're in a wheelchair, if you're blind, if you have some form of physical or mental disability, it's not very easy to turn a doorknob -- autism and other ailments that impact countless number of New Yorkers.

We should dig deep and find the resources to protect the most needy among us. Let's find a way to make this happen. This is the first step, the right step. And I commend Senator Parker. I'll be voting aye. If we could do it for a dog or cat, we could do it for our grandparents and our brothers and our sisters as well.

I vote aye.

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

affirmative.

Senator DeFrancisco, to explain his vote.

SENATOR DeFRANCISCO: Yes. Eventually today, when the bill is in print, we're actually going to vote on a budget extender. And the budget process that we're going through actually, in bits and pieces, is going to result in less money to counties, less money to school districts, less money to just about everybody.

And to think that we're considering a bill today that would require counties to go out and try to find people who may not even want to be found, as to people with disabilities, and keep a registry and apparently keep that up, current, by making sure that when they move we follow them around to find out where they're going to go next, is just absolutely unbelievable. It is an unfunded mandate.

And this isn't about evacuating pets, it's about identifying people and having counties go out and reach out, was the words that Senator Parker used, to reach out to

go -- that's work. People have to do that. People have to be paid to reach out and compile this particular list.

To suggest that Homeland Security money is available, this is exactly what Homeland Security dollars are for, I haven't seen anything from anybody from Homeland Security saying they'd want money spent for this.

As far as it's incumbent upon the disabled to reach out to get on the list, that's not what the bill says. It sounds good as far as an explanation. But the bill says that the counties shall be required to go out and find this information.

As far as reasonable, sure, there's a definition of reasonable. Reasonable is what the jury says it is. And if we're imposing another standard and an easier standard to meet for someone suing because they somehow were not on the list, that's not only a burden, that's a potential great expense to the counties.

And now is not the time to put an impossible -- not just a mandate, but an

impossible mandate on people that we are cutting their budgets and will be cutting their budgets in the future.

So for those reasons -- and I have more, but I only have two minutes -- I vote no.

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

Announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 743 are Senators Alesi, Bonacic, DeFrancisco, Farley, Flanagan, Golden, Griffo, Hannon, O. Johnson, Lanza, Larkin, LaValle, Leibell, Libous, Little, Maziarz, Nozzolio, Padavan, Ranzenhofer, Robach, Saland, Seward, Skelos, Volker and Winner.

Ayes, 36. Nays, 25.

ACTING PRESIDENT CRAIG JOHNSON: The bill is passed.

THE SECRETARY: Calendar Number 775, by Member of the Assembly Gottfried, Assembly Print Number 7617, an act to amend the Public Health Law.

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

SENATOR HANNON: On the bill, Mr. President.

ACTING PRESIDENT CRAIG JOHNSON: Senator Kemp Hannon, on the bill.

SENATOR HANNON: Mr. President, this is a bill that in the title says it's in relation to a patient's right to palliative care information.

This is one of those bills that certainly has a laudatory purpose. We've earlier this session passed a bill called Family Healthcare Decision-making, which had taken years to arrive at and deals with many end-of-life situations.

In fact, this bill was written about the same time as the last draft of the other one, and consequently it seems to make some cross-references that may not be consistent at the moment.

My problem with the bill is it attempts to tell doctors how to practice medicine, and a few other things besides. And so while it's great that patients get

information about palliative care -- which of course is not curative care or not remedial care, but palliative care, which in a broader sense means pain relief or also in a broader sense at times means end-of-life treatment -- it's not defined in anywhere by the practice or the journals as to what exactly it is. And therefore, you're obligating a doctor to talk about something that's really not defined.

The bill actually goes on to talk about counseling -- this is for a doctor, so this is where you're going beyond the treatment of medical care -- counseling about palliative care and counseling about end-of-life options appropriate to the patient. Well, is that exactly what the doctor should be doing? Or should the doctor be trying to cure the patient? That's the difficulty.

It also goes beyond and talks about giving advice on the risks and benefits of the various options -- well, that would be in keeping with medical care -- and the patient's legal rights to comprehensive pain and symptom management. Legal rights? Are we asking the

doctor now to be giving opinions about the legal rights available to the patient?

What happens here is it's a nice idea. It probably could be met by a good, definitive, written pamphlet. But here it is, it's all mixed up. I'll tell you how mixed up it is. It says where there's more than one practitioner with the responsibility for the patient, each of them has the responsibility under this section unless they agree to assign the responsibility to one of them. Well, if they don't assign it, maybe they'll give this advice on this feel-good thing, but it may be different.

It's well-intentioned. I think it should go become to the drawing boards. I'm not so sure I'd want to vote against it; we want people to know what their options are. But this is not the appropriate vehicle for those options.

Thank you, Mr. President.

ACTING PRESIDENT CRAIG JOHNSON: Thank you, Senator Hannon.

Senator Duane, on the bill.

SENATOR DUANE: Thank you,

Mr. President.

I too was very pleased that after many years the Family Healthcare Decisions Act was passed. And in fact, here in the Senate it passed not once but actually twice.

You know, there's an expression that God works in mysterious ways. And this bill had been one that over the course of time advocates have brought to my attention and urged me to support this concept of physicians or practitioners who are entrusted with the care of a patient with a terminal illness to offer information on palliative care and end-of-life decision-making.

And I think that this bill strikes a good balance between what is prescribed, which is prognosis, which is an incredibly difficult thing to tell someone when they are in an end-of-life health situation -- incredibly difficult, but necessary. Painful, but necessary. To talk about options what the risks are, what may be the potential for more time, the potential for the side effects of a treatment being unbearable or not.

And that now, today, we know a lot

more about pain management. We know a great deal more about symptoms and management of the most difficult symptoms that manifest when someone has an end-of-life illness.

And I sincerely believe that this bill strikes the right balance between allowing the practitioner to do this work in his or her own way and making sure that the important points are covered. And of course if a physician or a practitioner doesn't want to do it, they can ask someone else to do it for them.

And I personally was recently -- well, let me say this. You know, I think honestly, at my age, I -- and in my 20s and 30s I think I saw more death, more suffering than a lot of my contemporaries save those who had been in the military or worked with a relief organization. I think I saw far more. And we didn't have the Family Healthcare Decisions Act then. We didn't have this counseling on palliative care then. We were not as far advanced with pain management and symptom management. And I saw a lot of really horrible symptoms, and I also saw a lot of

horrible side effects from young people who were desperate to live a little bit longer.

And as many of you know, my mother had a massive stroke this October, and the prognosis was hopeless. And my mom in the beginning was alert, didn't even know she had a stroke, but over time she came to realize that the prognosis was terrible. And though my brothers and I had spoken with my mother and my mother had all of her forms in order -- and, as I say, individually with my mother and all of us together had talked about my mother's wishes -- still, when it became so clear that the prognosis was hopeless, my mother's practitioner, who fortunately was a geriatric physician, spoke to me first and then I asked her to speak with my brothers.

And we told her that though we didn't have this law, that my mother did want -- she did want to know. Even though she was clear about it, I think in a -- anyway, it was important that we all do it again. And she asked us, we said yes, to please do it. And I know it was just the order of things that if the practitioner had asked my mother,

she would have asked for this too.

Now, my mother was, you know, fortunate. And her physician was wonderful. And I wish that for everyone. And I think most physicians, most practitioners are wonderful. And I think that they do do this. And I know that no one likes to be told what to do. I totally get that. But I absolutely think that this legislation strikes the right balance between what should be required to tell someone at end of life while at the same time leaving enough space, enough freedom, enough leeway for the individual relationship between the practitioner and the patient to be respected.

And so it is with that in mind, both my past history around death and my most recent experience around death, that I think that this is a piece of legislation whose time has absolutely come. And I also think that over time that everyone will even forget that we even ever did this legislation, because it will become part of end-of-life care, it will be a routine part of end-of-life care. And that really is the goal of this.

And so I encourage my colleagues to vote in the affirmative on this. And though I wish that none of us had to face this sort of thing, most of us already have and all of us will.

Thank you, Mr. President.

ACTING PRESIDENT CRAIG JOHNSON: Thank you, Senator Duane.

Senator Montgomery, on the bill.

SENATOR MONTGOMERY: Yes, Mr. President. I rise to support this legislation, and certainly on behalf of the hundreds and hundreds of constituents in my district and in other districts as well who come to me and say, Oh, we need help.

And it's the help that you really never know or realize or are prepared to know until it confronts you, you're faced with making decisions, understanding what is going to happen, understanding what to do when one of your loved ones -- and Senator Duane talks about his experience; I've had my own experience. And I refer to people like us as the sandwich generation. I have my son, who is in college, and I had to deal with figuring

out how to manage to get him in the college of choice. And at the same time I had my aunt, who was like a mom to me, who was at the end of life and needed my assistance, needed my constant attention. It was extremely difficult. It's a time when you need support, you need information, you need guidance, and you need to have someone help you understand what is in front of you and how to deal with it.

So this is really a very important bill, Senator Duane, and I rise to support it. And on behalf of my constituents, many of whom are part of that sandwich generation, we thank you. Because at some point in our lives most of us, if not all of us, will be confronted with this situation, and we will need this legislation to help us get through one of the more difficult times in all of our lives.

So thank you, Mr. President. I vote aye.

ACTING PRESIDENT CRAIG JOHNSON: Thank you, Senator Montgomery.

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

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

Read the last section.

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

ACTING PRESIDENT CRAIG JOHNSON: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT CRAIG JOHNSON: Announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 775 are Senators Alesi, DeFrancisco, Farley, Flanagan, Golden, Hannon, O. Johnson, Lanza, Larkin, LaValle, Leibell, Little, Marcellino, Nozzolio, Seward, Winner and Young. Also Senator Skelos. Also Senator Saland.

Ayes, 42. Nays, 19.

ACTING PRESIDENT CRAIG JOHNSON: The bill is passed.

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

SENATOR KLEIN: Mr. President, can you please call on Senator Ruth Hassell-Thompson for an announcement, please.

ACTING PRESIDENT CRAIG JOHNSON: Senator Hassell-Thompson.

SENATOR HASSELL-THOMPSON: Thank you, Mr. President.

There will be an immediate meeting of the Senate Majority in Room 332.

ACTING PRESIDENT CRAIG JOHNSON: There will be an immediate meeting of the Senate Majority in Room 332.

Senator Klein.

SENATOR KLEIN: Mr. President, before we adjourn, I have three motions.

First, on behalf of Senator Addabbo, on page number 47 I offer the following amendments to Calendar Number 805, Senate Print Number 3251A, and ask that said bill retain its place on Third Reading Calendar.

ACTING PRESIDENT CRAIG JOHNSON: Amendments received.

Can we please have some order in the chamber.

Senator Klein.

SENATOR KLEIN: Thank you, Mr. President.

On behalf of Senator Breslin, I wish to call up Print Number 6954A, recalled from the Assembly, which is now at the desk.

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

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

ACTING PRESIDENT CRAIG JOHNSON: Senator Klein.

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

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

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT CRAIG JOHNSON: Senator Klein.

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

ACTING PRESIDENT CRAIG JOHNSON:

Amendments received.

SENATOR KLEIN: Mr. President, on behalf of Senator Serrano, on page number 39 I offer the following amendments to Calendar Number 719, Senate Print Number 7359, and ask that said bill retain its place on Third Reading Calendar.

ACTING PRESIDENT CRAIG JOHNSON: Amendments received.

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

ACTING PRESIDENT CRAIG JOHNSON: Senator Libous.

SENATOR LIBOUS: Mr. President, thank you for recognizing me.

There will be an immediate Republican conference following this session when it recesses.

ACTING PRESIDENT CRAIG JOHNSON: There will be a Senate Republican conference in the Senate Republican Conference Room once we go into recess.

Senator Klein.

SENATOR KLEIN: Mr. President, pending the return of the two conferences, may

we please stand at ease.

ACTING PRESIDENT CRAIG JOHNSON: Pending the return of the two conferences, the Senate now stands at ease.

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

(Whereupon, the Senate reconvened at 4:46 p.m.)

ACTING PRESIDENT CRAIG JOHNSON: Senator Klein.

SENATOR KLEIN: Mr. President, I have three motions I'd like to do.

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

Senator Klein.

SENATOR KLEIN: Mr. President, on behalf of Senator Craig Johnson, on page 17 I offer the following amendments to Calendar Number 215, Senate Print Number 6444A, and ask that said bill retain its place on Third Reading Calendar.

ACTING PRESIDENT CRAIG JOHNSON: Amendments received.

Senator Klein.

SENATOR KLEIN: Mr. President, on behalf of Senator Hassell-Thompson, on page number 42 I offer the following amendments to Calendar Number 750, Senate Print Number 5854, and ask that said bill retain its place on Third Reading Calendar.

ACTING PRESIDENT CRAIG JOHNSON: Amendments received.

Senator Klein.

SENATOR KLEIN: On behalf of Senator Valesky, on page 31 I offer the following amendments to Calendar Number 587, Senate Print Number 7542A and ask that said bill retain its place on Third Reading Calendar.

ACTING PRESIDENT CRAIG JOHNSON: Amendments received.

Senator Klein.

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

Pending the return of the Rules

Committee, may we please stand at ease.

ACTING PRESIDENT CRAIG JOHNSON: There will be an immediate meeting of the Environmental Conservation Committee, followed by a meeting of the Finance Committee, followed by a meeting of the Rules Committee in the Majority Conference Room.

Senator Fuschillo, why do you rise?

SENATOR FUSCHILLO: Mr. President, a brief announcement.

I just want to wish my colleague Senator John Bonacic a happy birthday. Today is his birthday.

(Applause.)

ACTING PRESIDENT CRAIG JOHNSON: Happy birthday, Senator Bonacic.

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

(Whereupon, the Senate stood at ease at 4:48 p.m.)

(Whereupon, the Senate reconvened at 6:19 p.m.)

ACTING PRESIDENT CRAIG JOHNSON: Senator Klein.

SENATOR KLEIN: Mr. President, I

believe there's a report of the Rules Committee 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 8167, by the Senate Committee on Rules, an act making appropriations for the support of government;

8169, by the Senate Committee on Rules, an act to amend Mental Hygiene Law;

And Senate Print 8178, by the Senate Committee on Rules, 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, at this time can we please go to a reading of the supplemental calendar.

ACTING PRESIDENT CRAIG JOHNSON: The Secretary will proceed with the reading of the supplemental calendar.

THE SECRETARY: Calendar Number 957, by the Senate Committee on Rules --

SENATOR VOLKER: Lay it aside, please.

ACTING PRESIDENT CRAIG JOHNSON: One moment, Senator Volker.

The Secretary will read the title again.

THE SECRETARY: Calendar Number 957, by the Senate Committee on Rules, Senate Print 8167, an act making appropriations for the support of government.

ACTING PRESIDENT CRAIG JOHNSON: Senator Klein.

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

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

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

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

(Response of "Aye.")

ACTING PRESIDENT CRAIG JOHNSON: Opposed, nay.

(Response of "Nay.")

ACTING PRESIDENT CRAIG JOHNSON: The message is accepted.

Read the last section.

SENATOR DeFRANCISCO: Lay the bill aside for the day. No, I'm just kidding.

(Laughter.)

SENATOR SALAND: Can you please tell me what calendar number this is?

ACTING PRESIDENT CRAIG JOHNSON:

It's Calendar Number 957, Senator Saland.

SENATOR LIBOUS: Lay it aside.

ACTING PRESIDENT CRAIG JOHNSON: And the bill will be laid aside at the request of Senator Libous.

The Secretary will continue to read.

THE SECRETARY: Calendar Number 958, by the Senate Committee on Rules, Senate Print 8178, an act to amend the Education Law.

ACTING PRESIDENT CRAIG JOHNSON: Senator Klein.

SENATOR KLEIN: Mr. President, can we lay this bill aside temporarily. We're awaiting the message of necessity from the Governor.

ACTING PRESIDENT CRAIG JOHNSON: The bill is laid aside temporarily, as we're awaiting the message of necessity from the Governor.

The Secretary will continue to read.

THE SECRETARY: Calendar Number 959, by the Senate Committee on Rules, Senate Print 8169, an act to amend the Mental Hygiene

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.

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

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

(Response of "Aye.")

ACTING PRESIDENT CRAIG JOHNSON: Opposed, nay.

(Response of "Nay.")

ACTING PRESIDENT CRAIG JOHNSON: The message is accepted.

Read the last section.

SENATOR VOLKER: Lay it aside.

ACTING PRESIDENT CRAIG JOHNSON: The bill is laid aside.

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

SENATOR KLEIN: Mr. President, 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 a reading of the controversial supplemental calendar.

The Secretary will read.

THE SECRETARY: Calendar Number 957, by the Senate Committee on Rules, Senate Print 8167, an act making appropriations for the support of government.

SENATOR LIBOUS: Explanation.

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

SENATOR CARL KRUGER: Thank you very much, Mr. President.

Today we are considering the 11th appropriations special extender to this year's budget. I think that before we deal with the

substance of the bill itself, we should spend a moment to talk about the bill in general.

For the past 10 weeks we have stood and this Democratic majority has kept government open. For these past 10 weeks, this Democratic majority has kept government functioning while the unanimous sentiment of the Republican minority was to close down government.

Our obligation was to put service over politics. And today we're faced with that same situation once again. After all the rhetoric is over and after all of the speeches are made, the fact is the campaigning has to end and governing has to begin.

(Republican reaction.)

SENATOR CARL KRUGER: And governing has to begin.

So let's talk for a moment about this extender and exactly what it means. I was asked by the ranker of the Senate Finance Committee for the past 10 weeks, and so many of my other colleagues on the other side of the aisle, to produce at least one brave soul, one brave soul that would change the course of

governing in this state. Well, today maybe we're faced with that very situation.

And if for a moment we have that one brave soul, now the other side of the equation is who on the other side of the aisle is going to be responsible for shutting down government.

Who on the other side of the aisle is tomorrow going to close 1300 courtrooms? Who on the other side of the aisle will take 153,000 state employees and put them out of work? Who on the other side of the aisle will stop the State Police from doing their duty?

Who on the other side of the aisle will effectively close down the prison system? Who on the other side of the aisle will decide that 2,000 prisoners, on the average, that get fingerprinted and go through the criminal justice system, will not be processed and by action of law would have to be released after the due process period of time?

Who on the other side of the aisle will deny the right for individuals that have to be fingerprinted and licensed to be denied those very positions? Who on the other side

of the aisle will deny whether or not we should be providing home care, whether we should close our OASAS, whether we should close our developmental centers, whether we should basically cancel all of the services that we provide to those that are unfortunate or for those New Yorkers who rely on the day-to-day services that this state provides?

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

SENATOR CARL KRUGER: So what we're going to do -- I have the floor, Mr. President.

ACTING PRESIDENT CRAIG JOHNSON: Actually, Senator Kruger is providing an explanation at the request of Senator Libous.

SENATOR CARL KRUGER: The Department of Homeland Security provides a 24-hour tip line. That line will close tomorrow if we have just the same sentiment that existed in this house tonight as we are so well on the precipice of doing.

So today what we have to do is ask not that we find one brave soul, but that this house stands as one unanimous voice in support

of maintaining government, in support of recognizing our obligations as sworn elected officials to provide the services that are necessary to provide as we go forward with unquestionably this very tortured process of trying to develop a budget, a process that none of us like, in an atmosphere where rather than giving programmatic money, we're charged with the responsibility of cutting programs.

We're charged with the responsibility of offering reforms. We're charged with the responsibility of consolidating government. We're charged with the responsibility of doing what the electorate asked us and commanded us to do, to come here to govern and not to play politics.

So tonight, Mr. President, I offer up an appropriations bill, an appropriations bill that will do exactly what we need it to do, and that's to maintain government and to keep our workforce working, to make sure that those unemployment checks that would otherwise not be cut tomorrow, that those unemployment funds go out, that public assistance checks that are due this week ultimately get paid,

that we do not create chaos for the mere fact that we want to engage in petty politics.

So today I offer up a bill that will provide an extender that will run through June 20th and will provide an emergency appropriation of $3.4 billion in General Fund expenditures, of which $2.3 billion is associated with mental hygiene appropriations and $1.4 billion with human service agency requirements.

Thank you, Mr. President.

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

SENATOR DeFRANCISCO: Yes, I'm tempted to respond to those comments, but first I would like to ask Senator Kruger a few questions, if he would yield this week.

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

SENATOR CARL KRUGER: I will yield this week as I have yielded for the past 10 weeks.

ACTING PRESIDENT CRAIG JOHNSON: Senator DeFrancisco, Senator Kruger will

yield.

SENATOR DeFRANCISCO: We'll see how long he yields. But in any event, the first question is that --

SENATOR CARL KRUGER: As long as it takes to get this passed.

SENATOR DeFRANCISCO: Okay, good. Then I've got a lot of questions.

Question number one. Last week you told us that the extender bill included 40 percent of the ultimate budget. And at the Finance Committee meeting, I understand from what was told to us by Mr. Pennisi that adding this part of the budget to the state part of the budget, the state budget, results in 51 percent of the total budget for the State of New York. Correct?

SENATOR CARL KRUGER: Well, let's revise those numbers slightly. What we have is there was a double count on the Medicaid portion, so we have a $79 billion budget offset, which represents approximately 58 percent of the overall budget.

SENATOR DeFRANCISCO: All right. So the next question, if you'll yield, is

so --

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

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

ACTING PRESIDENT CRAIG JOHNSON: Senator DeFrancisco, he'll yield.

SENATOR DeFRANCISCO: So that today, if we pass this budget extender, 58 percent of the budget will have been done.

SENATOR CARL KRUGER: In substance, yes. Depending upon, once again, for the purpose of clarity -- through you, Mr. President -- when we keep on talking about percentages and appropriations, the only way we can actually come to that moving number is by looking at what the Governor proposed and then readjusting it based upon these last extenders.

SENATOR DeFRANCISCO: All right. Now, would Senator Kruger yield to another question?

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

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

ACTING PRESIDENT CRAIG JOHNSON: He will continue to yield.

SENATOR DeFRANCISCO: Now, Senator Kruger, it's been stated repeatedly by the leaders that the budget gap that we have to deal with for this budget cycle is $9.5 billion or thereabouts. Is that fair to say?

SENATOR CARL KRUGER: Through you, Mr. President, $9.2 billion.

SENATOR DeFRANCISCO: Okay. Now, can you tell me, Senator Kruger, based upon --

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

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

SENATOR DeFRANCISCO: Based upon the cuts that were made last week and the cuts that are in this extender, what the total amount of cuts would be? To the nearest ten million -- nearest hundred million.

SENATOR CARL KRUGER: Through you, Mr. President, approximately $1.1

billion.

SENATOR DeFRANCISCO: All right. So we -- would Senator Kruger yield again?

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

ACTING PRESIDENT CRAIG JOHNSON: Senator Kruger continues to yield, Senator DeFrancisco.

SENATOR DeFRANCISCO: So by passing this budget extender by this manner that's been going on by budget extenders, we will have had passed 58 percent of the budget and cut $1.1 billion, and we've got 42 percent of the budget left from which we have to cut $8.1 billion. Is that correct?

SENATOR CARL KRUGER: Through you, Mr. President. If I understand your question correctly, then what we're talking about is a lower figure based upon the General Fund.

SENATOR DeFRANCISCO: I don't understand that answer. Let me -- maybe I'll withdraw that question and ask you another one.

SENATOR CARL KRUGER: Please.

Thank you, Mr. President.

SENATOR DeFRANCISCO: What portion of the budget, what percentage of the budget is available now, after 52 percent of the budget is being passed today, is available for -- 58 percent of the budget that's passed today, what percentage of the budget is left from which we're supposed to cut $8.1 billion?

SENATOR CARL KRUGER: Through you, Mr. President. Now, if I understand your question, more than half of the budget is still available from the All Funds portion. General Fund, rather, I'm sorry.

SENATOR DeFRANCISCO: So, Senator Kruger, would you yield, please.

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

ACTING PRESIDENT CRAIG JOHNSON: Senator Kruger continues to yield.

SENATOR DeFRANCISCO: So 100 percent minus 50 percent is more than 50 percent?

SENATOR CARL KRUGER: Fifty-eight percent.

SENATOR DeFRANCISCO: All right,

I'm sorry, 100 percent minus 58 percent is more than 50 percent; is that correct?

SENATOR CARL KRUGER: Through you, Mr. President. Once again, if we draw the distinctions, the All Funds number is different than the General Funds number.

SENATOR DeFRANCISCO: Okay. Would Senator Kruger yield to one more question on this topic?

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

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

ACTING PRESIDENT CRAIG JOHNSON: Senator DeFrancisco.

SENATOR DeFRANCISCO: How much is left in the All Funds budget from which we have to cut or find $8.1 billion?

SENATOR CARL KRUGER: Through you, Mr. President, that would be a difficult number to come to because we don't know what the overall budget is going to be.

SENATOR DeFRANCISCO: Would Senator Kruger yield to another question.

ACTING PRESIDENT CRAIG JOHNSON:

Senator Kruger, do you continue to yield?

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

ACTING PRESIDENT CRAIG JOHNSON: Senator DeFrancisco.

SENATOR DeFRANCISCO: Moments ago you gave us percentages based upon the basis of the Governor's budget, because it was the only way you could do it because we don't know the final budget. Can't you use that same parameter to answer this last question that I gave you?

SENATOR CARL KRUGER: Through you, Mr. President. Once again, on the General Fund, more than 50 percent.

SENATOR DeFRANCISCO: How much more?

ACTING PRESIDENT CRAIG JOHNSON: Senator DeFrancisco, are you asking Senator Kruger to yield?

SENATOR DeFRANCISCO: Would you yield again? Give me a percentage. More than 50 percent -- is it 51, is it 95?

SENATOR CARL KRUGER: Through you, Mr. President, 51.

SENATOR DeFRANCISCO: Okay. So, Senator Kruger, would you yield again?

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

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

ACTING PRESIDENT CRAIG JOHNSON: Senator DeFrancisco.

SENATOR DeFRANCISCO: So we approximately will have passed at least 50 percent of the budget, a little more -- you said 58 -- and we've only cut $1.1 billion. And we've got 51 percent left to cut $8.1 billion or raise taxes, borrow, or do other stuff like that. Is that fair to say?

SENATOR CARL KRUGER: Through you, Mr. President, I don't know what "borrow, raise taxes and other stuff" might mean. But yes, the preamble to your question is correct, yes.

SENATOR DeFRANCISCO: Okay. Thank you. Senator Kruger, would you yield to one last question?

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

ACTING PRESIDENT CRAIG JOHNSON: Senator DeFrancisco.

SENATOR DeFRANCISCO: Senator Kruger, would you tell me what your best judgment is as to the likelihood of the Senate leaders that are working -- Senate and Assembly leadership and the Governor, working behind closed doors, the likelihood that they're going to cut $8.1 billion on the remaining half of the budget when they've cut $1.1 billion on the first half? Do you have a judgment on that?

SENATOR CARL KRUGER: Through you, Mr. President. Quite frankly, Senator, my proverbial crystal ball is not plugged in.

However, I do know, as you well know, that, you know, there have been negotiations ongoing, both with the Republican leadership as well as the Democratic leadership and the Governor. And what we're trying to do is come to a budget resolution.

Thank you, Mr. President.

SENATOR DeFRANCISCO: Thank you. I have no other questions.

On the bill, please.

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

SENATOR DeFRANCISCO: First I'd like to respond to Senator Kruger's speech at the beginning of his explanation.

And I know he wants to make this vote be a vote as to whether you're for closing government or against closing down government. Well, as hundreds of thousands of people in the State of New York already know, government's been closed since April 1. It's been closed down. We don't have a budget. So the contractors that aren't being paid, people who are putting bids on other projects where they would hire people, the bids aren't being open. Nonprofit organizations that rely on government to provide the needed services for the individuals that need them in our community are not being paid. School districts are not receiving the dollars that they're expecting, and they're going to be having to borrow money. And I can go on and on and on.

So government has been closed down. Maybe not for everybody, but for a substantial

number of people in the State of New York.

Secondly, with respect to the issue of closure, the issue is not whether those voting no are voting to close down government. Those voting no are voting to get closure to a budget, an entire budget, rather than going through this illegal process that violates the 2007 Reform Act.

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

SENATOR CARL KRUGER: Would the Senator yield to a question.

SENATOR DeFRANCISCO: I will yield as soon as I'm done speaking, in view of the fact that I don't want it to be counted towards my time. And I want to be able to say what I have to say first, and I'll be happy to answer any questions thereafter.

SENATOR CARL KRUGER: Through you, Mr. President. Can I give my colleague some of my time?

(Laughter.)

ACTING PRESIDENT CRAIG JOHNSON: Senator Kruger, Senator DeFrancisco indicated he would yield as soon as he was done with his

statement.

I will note that when you do ask him questions, that will also, though, be counted against your time, Senator DeFrancisco.

But you've indicated you will yield as soon as you're done with your statement, so I'll let you continue.

SENATOR DeFRANCISCO: That's absolutely correct.

Now, the emotional statement by Senator Kruger concerning the closure of government -- I've already mentioned it's closed down for many people -- but we need closure, closure on a budget. And closure on a budget in a way that we know is going to work.

And what's obvious from the process that's going on now, that we've said over and over again not only that violates the law and it's behind closed doors and people can't weigh in, but it's headed towards what's happened last year when the law was not followed, where there was $8 billion in new taxes and $12 billion in new spending.

The reason it's heading down that way is obvious from the answers of Senator Kruger. We now have 50 percent, 58 percent of the budget done, whatever it's done. And according to Senator Kruger, all that's been cut is $1.1 billion. And these are big-ticket items we're talking about, the healthcare system and mental health and Social Services. In fact, rather than cutting, the social services benefit is increased in this extender. It's increased, it's not cut. In a time when we're trying to find a way to close a budget. It makes no sense.

In addition, there's savings that are computed here, according to the notes I have from the Finance Committee meeting, savings of at least $76 million, savings to the State of New York by reducing reimbursements to counties and providing less funding to counties. Which translates, by the way, to increases in property taxes. That supposedly is a goal of the Senate majority to cut property taxes. So that's not a savings at all.

So we're headed towards a situation

where we've got approximately 50 percent -- I don't know exactly the amount, but close to it; 51, Senator Kruger said -- and we've still got $8.1 billion to go.

Well, I asked Senator Kruger what his best judgment was of the chances of the leaders, behind closed doors, of cutting $8 billion from the last half of the budget that isn't done yet, and he doesn't have a crystal ball. But I think anybody who thinks of this concept of what's going on logically would probably not bet too much on the prospect of all of those cuts being made.

So what's left in this piecemeal process, as we're going forward piece by piece, of the budget? What's left? More taxes, like last year, more borrowing and kick the can down the street till next year. Don't deal with the problems you want to deal with.

Now, we've been called, the people on this side of the aisle, the "conference of no." We no, no, no. Well, we provided the Governor with additional cuts. We provided the Governor with additional cuts. Not one of those additional cuts is part of this package.

That's really a shocker. It's really a shocker. When we did the budget extenders in prior weeks, we had other suggestions that would help cut the cost of government. Not one of those amendments that we proposed was considered.

That's fine. That's your choice. But don't say that we're not willing to put out our proposals on the table and that we're not participating. Because we want to participate in the right way -- not raising taxes, not increasing borrowing, and not kicking the can down the block for another week.

So when we vote no, those of us who are voting no on this budget extender, we're not voting no to close down government. We're voting no to bring closure to the budget process the way it's supposed to be done.

And with respect to closure, by the way -- and I think the Senate majority is well aware of this -- in last week's extender, the pay that is due employees was authorized to be paid through -- this Wednesday's checks are going to be paid whether we pass this extender

or not. So employees are being paid through next Tuesday.

So government wouldn't shut down if this extender wasn't passed, there'd be still another week, after last week when it was pretty much given notice that it might not pass this week. That's a couple of weeks to do something constructive to bring closure to the budget process. Not dribs and drabs, like a dripping-faucet type of approach, but actually closure to the budget.

And that's what we're trying to do in this process. We've given constructive suggestions. We don't want taxes, we don't want borrowing. And that's where we're headed under this dysfunctional, illegal process that's been conducted over the last 11 weeks.

So the brave souls that I'm talking about that we're hoping for in this body are not brave souls to shut down government. But since we had a week from the last extender and we've got another week before the pay stops, there's time or there would have been time to do a total budget.

And I have to add one other thing.

I've gotten calls from different organizations and different individuals that they've got calls from the Governor's office that if we don't pass an extender here, the world's going to end. Don't show up for work tomorrow, don't do this, we're not going to get our money for our transportation system. And talk about politics -- the whole state was put on notice that there's an emergency, scaring the living daylights out of the employees of this state that were going to be paid through next week anyway, whatever happened in the extender.

To me, if you're talking about bold politics to scare people, as the Governor's office has done, when it's not necessary, if he had some leadership ability, and if the majority leader in the Senate and the September of the Assembly did what they should be doing, there wouldn't be any need for this hysteria that's out there about this particular day.

So I'm convinced, Senator Kruger, that you're going to get your extender bill passed. You're going to get your extender

bill, which will pass on costs to county governments. You're going to get your extender bill that increases welfare payments when we're decreasing costs for people that have mental health problems. You're going to get that extender.

However, at some point in time, maybe we could follow the law or you can follow the law of 2007. Let's get a complete budget and get it done in the open, without taxes, without borrowing, and without passing these costs down to local governments and thereby increasing property taxes.

So with that said, I'd be happy to answer any questions that Senator Kruger had concerning this budget extender.

ACTING PRESIDENT CRAIG JOHNSON: Senator Kruger.

SENATOR CARL KRUGER: Thank you very much, Mr. President.

Senator, the bills that were passed here in both houses and signed by the Governor, I was just confused, weren't those bills appropriations to continue governing and government functioning over those last

10 weeks?

SENATOR DeFRANCISCO: Yes, they were. None of which would have been necessary if the law was followed and we had a budget by April 1.

SENATOR CARL KRUGER: And then --

ACTING PRESIDENT CRAIG JOHNSON: Senator Kruger, I assume you want Senator DeFrancisco to yield for another question?

SENATOR CARL KRUGER: Yes, I do.

ACTING PRESIDENT CRAIG JOHNSON: Senator DeFrancisco, do you yield?

SENATOR DeFRANCISCO: Oh, yes.

SENATOR CARL KRUGER: Thank you. Thank you. Thank you, Senator.

And on the issue of payroll, are there different payrolls in this state and are there people that would not get paid if this extender is not passed tonight?

SENATOR DeFRANCISCO: The only people that wouldn't get paid if this extender was not passed tonight would be those that the Governor called to tell them don't show up for work tomorrow if the extender isn't passed. Because the payroll is paid, by the last

extender, through Tuesday of next week.

SENATOR CARL KRUGER: Will the Senator yield to another question.

ACTING PRESIDENT CRAIG JOHNSON: Senator DeFrancisco, do you yield?

SENATOR DeFRANCISCO: Yes.

SENATOR CARL KRUGER: Thank you.

Senator, once again, different pay periods are different payrolls. And the SUNY and the CUNY payroll are not affected by this extender. But yet at the same time. There are other branches of government -- OGS, for example, is affected by this extender. Is that not the case?

SENATOR DeFRANCISCO: Senator, I don't know if OGS is affected by this extender. I just know the last extender extended payrolls for the State of New York through next Tuesday.

SENATOR CARL KRUGER: Thank you very much.

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

SENATOR DeFRANCISCO: Thank you.

SENATOR SALAND: Mr. President.

ACTING PRESIDENT CRAIG JOHNSON: Senator Saland.

SENATOR SALAND: Thank you, Mr. President. Mr. President, would Senator Kruger yield?

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

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

ACTING PRESIDENT CRAIG JOHNSON: Senator Saland.

SENATOR SALAND: Thank you, Senator Kruger. Thank you, Mr. President.

Senator Kruger, you mentioned in response to a question by Senator DeFrancisco that the amount of the All Funds budget that had been appropriated to date was $79 billion, not $96.7 billion.

During the course of our earlier Finance meeting, probably about an hour or an hour and a half or so ago, the Secretary to the Finance Committee said that General Fund spending, with the passage of this bill that we're discussing now, would amount to

$27.6 billion, or 51 percent of General Fund spending. Is that still correct, or is there an error in that?

SENATOR CARL KRUGER: Through you, Mr. President, yes, I believe that that's correct.

SENATOR SALAND: Thank you. Now, Senator Kruger, if you'll continue to yield.

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

ACTING PRESIDENT CRAIG JOHNSON: Senator Saland.

SENATOR SALAND: When you use the term "All Funds spending," that includes some state spending that's offline and all the federal spending as well; correct?

SENATOR CARL KRUGER: Yes, it does, Mr. President.

SENATOR SALAND: And all of the federal spending, if you'll continue to yield --

ACTING PRESIDENT CRAIG JOHNSON: Senator Saland, do you wish Senator Kruger to continue to yield?

SENATOR SALAND: If he'll

continue to yield.

SENATOR CARL KRUGER: Yes, I do.

SENATOR SALAND: And all of the federal spending is specifically earmarked, and we don't have a lot of latitude in how we can use that money, do we?

SENATOR CARL KRUGER: Through you. Mr. President, I don't know what "latitude" exactly means. Some is in the form of block grants and there may be different mechanisms under which they can be used.

SENATOR SALAND: If Senator Kruger will continue to yield.

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

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

ACTING PRESIDENT CRAIG JOHNSON: Senator Saland.

SENATOR SALAND: The General Fund money, however, has no federal money, and it represents all state revenues, does it not?

SENATOR CARL KRUGER: Yes, it does.

SENATOR SALAND: Now, if I

remember correctly, you indicated, as did the secretary during the Finance Committee meeting, that for purposes of this discussion we are using the Governor's budget as our benchmark.

SENATOR CARL KRUGER: Through you, Mr. President. For the purposes of these arbitrary percentages that the Senators are asking, yes.

SENATOR SALAND: Would the Senator continue to yield.

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

SENATOR CARL KRUGER: Yes.

ACTING PRESIDENT CRAIG JOHNSON: The Senator will yield.

SENATOR SALAND: Senator Kruger, what number was the number in the Governor's budget for General Fund spending, if you have that handy? I assume it's somewhere less than $27 billion more.

SENATOR CARL KRUGER: Through you, Mr. President, $53 billion.

SENATOR SALAND: $53 billion. So if I subtract -- if the Senator will continue

to yield.

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

SENATOR CARL KRUGER: Yes, I do.

SENATOR SALAND: If I subtract, from $53 billion, $27.6 billion, if my math is correct, that will come to $25.4 billion.

SENATOR CARL KRUGER: Through you, Mr. President, give or take a few bucks.

SENATOR SALAND: Okay, thank you.

Will the Senator continue to yield?

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

SENATOR CARL KRUGER: Yes, I do.

ACTING PRESIDENT CRAIG JOHNSON: He will continue to yield, Senator Saland.

SENATOR SALAND: In the exchange you had with Senator DeFrancisco, you indicated that there was some $8 billion, approximately, left in the deficit that we have to deal with?

SENATOR CARL KRUGER: Through you, Mr. President, yes.

SENATOR SALAND: Thank you, Senator Kruger.

On the bill, Mr. President.

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

SENATOR SALAND: Mr. President, we find ourselves in a situation in which we have a deficit of at least $9.2 billion, perhaps as much as $10.2 billion, if the federal FMAP or Medicaid money does not materialize. And right now no one can say with certainty that it will, and there's a very good chance that it won't.

We have, as was acknowledged earlier in the exchange between Senator DeFrancisco and Senator Kruger, cut some $1.1 billion. We have, minimally, $8-plus billion left to deal with. We can't cut the federal money; the federal money is out of the equation. So we're really talking about state funds. And we're really, for all intents and purposes, talking about the General Fund.

So we have to find 90 percent of the remaining cuts to close the deficit in $25.4 billion worth of pot. And when I say "worth of pot," I'm not necessarily referring to the illegal substance, I'm referring to the

pot of revenues that might be available to us. That's a staggeringly large amount that compromises almost one-third, certainly at least 30 percent.

Now, absent fee increases, tax increases or borrowing -- to date, the Governor has proclaimed that he's not interested in doing any of those things other than I believe the approximate $1.6 billion he has in his budget. To date, there's been no great hue and cry to borrow, there's been no great hue and cry to tax. If anything, the public is telling us that's a very, very bad idea.

So in this very small, in relative terms, universe that's left, we have to find $8 billion, unless the commitment is to tax and spend our way out of it. Something which would really be almost like a nail in a coffin for this already beleaguered and rather badly damaged state.

Now, Mr. President, I too am deeply troubled by the prospects of looking to milk our counties for yet additional monies as part of closing this deficit or by way of using

this particular extender bill. What we have done is by this incremental process, one week at a time over 11 weeks, placed ourselves in a position where no person, man or woman, controlling his or her checkbook nor any business would ever place themselves in. We have delayed, by the action -- and I hate to use the word "we" -- this house, through the acts of the majority, have delayed making inevitable a greater crisis with each passing week, instead of taking on the sum total of the problem by dealing with the budget as one document consisting of however many bills at one time.

So whether it's kicking the can down the street, whether it's dealing with it incrementally, we continue to delay the inevitable. And with each succeeding extender, the inevitable becomes far more alarming, grotesquely so, to the point at which we are standing on a precipice and about to be pushed over the edge.

And that edge, the only way we're going to get there, unless there's a willingness to make some very difficult and

painful decisions, is once again the infamous resort to tax, spend and borrow. Which will not only condemn us as a state, as a place not to land, not to grow, not to try and create or establish businesses in, but will condemn our children and our grandchildren to woes that will only be compounded by what they're going to have to contend with at the national level as well.

So, Mr. President, incremental doesn't work. We had a game plan that we all prided ourselves on a few short years ago. As recently as 2007, we patted ourselves on the back. Unanimously, in bipartisan fashion, we all embraced budget reform.

This is diametrically opposed to anything that would smack of reform. And it is a long and slow sentence, and it's almost like a death knell for the State of New York. We can't -- can't, can't, can't -- in the amount that you're leaving us left with which to deal, reasonably expect that we're going to be able to come to closure without somehow or other having imposed upon us taxes, fees and borrowing. And that, ladies and gentlemen, as

I said, is a prescription for disaster.

Thank you, Mr. President.

ACTING PRESIDENT CRAIG JOHNSON: Thank you, Senator Saland.

Senator Marcellino.

SENATOR MARCELLINO: Thank you, Mr. President. On the bill.

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

SENATOR MARCELLINO: Earlier, Senator Kruger had talked about how the majority was keeping government going, keeping government functioning. I would argue with that proposal; I would argue with that statement. If you want to call it keeping government functioning by not paying your bills, that's okay, because that's what we've been doing.

According to the Comptroller of this state, not of my party, but according to the Comptroller -- who is, by the way, a friend -- we pick and choose our bills. Some bills we pay some months, some bills we don't pay. We're like the debtor who's got his credit cards all full, maxed out, and when one

company sends him a dunning notice he pays a little to that one and ignores the rest. When another one sends him another dunning notice, he pays a little bit into that one and ignores the others.

We're piecemealing. We're paying some contractors and we're not paying others. We're paying construction costs for CUNY colleges but not for SUNY colleges. I don't understand the difference, except by their location.

We are increasing spending by this proposal and this budget extender over the Governor's budget. Over the Governor's budget. The Governor's budget spent more than the previous year's unbalanced budget that was passed by the Majority.

We are increasing spending. I do not understand how a state that is $9.2 billion in debt -- and, if the federal money doesn't come through, $10 billion in debt -- can get away with actually spending more than the previous year. That doesn't make a lot of sense to me.

We are also shifting costs to the

counties. We're shifting by adding to the increases in the child welfare costs, $34 million to the counties, increasing the counties' share of the youth facility costs, another $42 million added to the counties' costs. That translates, as Senator DeFrancisco said, into property tax increases. That is something everybody in this chamber has said they would never do. But you're going to do it if you vote for this extender. You're going to increase costs to the counties.

We are talking about -- I don't know if it's going to be done, because we really don't know what's going on because everything's being done in secret behind closed doors -- we're talking about potentially borrowing from the pension fund so that we can pay pension benefits. So we're borrowing from the fund we're going to pay back from. I don't understand that one at all. That's another crazy thing we're doing or talking about doing, according to the newspapers, if they're accurate or not. You figure that one out.

Increasing spending, ladies and gentlemen, at a time when we don't have any money. How do we do that? We're doing this piecemeal budget. Last week we did the health system. The week before that, it was EnCon and Parks. This week it's mental health. A death of a thousand cuts -- I would say a death of a thousand adds. Because each one is spending more than the previous year. I don't know how you get away with that, by calling this a functioning government. I call this the height of dysfunction.

When you go down this road one piece at a time, no entire budget, no part of it's ever closed. No part of this budget is closed. Every part of it, according to the Governor's office, is on the table if we don't close the deficit. So the health budget, which everybody thinks is settled, it's not. It's not. The Parks and EnCon, that's not settled. This mental health budget, this won't be settled when this is passed. None of it will be settled until we get an entire budget done. And we don't know when that's going to be. That's still not on the table.

So when does that happen?

Ladies and gentlemen, we're going down a path where the Big Ugly is coming right at us. And the Big Ugly is going to be lots of borrowing, taxes and fee increases. Nobody wants to talk about it, nobody wants to see it happen, but that's where you're going. We've just seen the numbers from the previous two questions, the previous two questioners. They set the stage. They've asked it. In all of this stuff, we've only cut about a billion dollars out of a $9 billion deficit. There's a huge amount of money left. How are you going to make that up? You don't have a lot left. You're going to take it all out of what's left in the education budget?

I've said this many times. Doing the same thing over and over again and expecting different results is the definition of insanity. If you want to call insanity a functioning state government, so be it. I intend to vote no on this particular extender, Mr. President. This is not the way to do a budget. This is not the way to govern the great State of New York. And this is not the

way we should be treating our constituents. They're not getting what they deserve: Honest, open and clear government. They're getting a bunch of rhetoric, a lot of talk and very little action.

ACTING PRESIDENT CRAIG JOHNSON: Thank you, Senator Marcellino.

Senator Diaz.

SENATOR DIAZ: Thank you, Mr. President.

Today is the 11th week that we have been coming here and voting for an extender bill. For the past 10 weeks, Mr. President, I have been cooperating with my conference, with my leader, to the point, to the point Mr. President, that two weeks ago I went into the hospital. And after four days being in the hospital, that Saturday, my leader, Senator Sampson, came to the hospital to visit me.

And he told me, "Rev" -- he calls me Rev -- "Rev, Monday we need you." I said, "Senator, I'm here in the hospital. They haven't find out what I have yet. They're doing the tests, they're testing me." He told

me, "Rev, we need you Monday." That was Saturday.

Sunday, that Sunday, Mr. President, because my leader told me that he needed me for last Monday, I left the hospital, I came Sunday morning out of the hospital and I drove here on Sunday night so I could be here Monday.

And Monday they presented me with an extender bill to cut close to a billion dollars in health. The same hospital where I was, Westchester Square Hospital, the same hospital that was taking care of me four days before, my gift to them Monday was to kill them, practically, because my leader told me he needed me. And in pain, with sorrow, with my heart in my hand, I voted last week, Monday.

But you remember, ladies and gentlemen, last week I said "No more, this will be the last time that I will vote to cut services to the needy, to the poor, to my community. No more." I said it last Monday during that vote.

Today is June 14th. Today is my

anniversary, wedding anniversary. And you know what wives expect from husbands during their wedding anniversary? Wives expect their husbands to spend the day with them. When a husband leaves a wife on their wedding anniversary, that's not good.

So I left the hospital two weeks ago to come Monday to vote for an extender, and this week I'm leaving my wife, I left my wife on the wedding anniversary today to be here. And today we're cutting child welfare. The funding for child welfare, for county programs, has been cut, it's cut. The emergency preventive program in child welfare, cut. Summer youth employment program cut substantially.

So what I said last week and what I've been saying is I represent one of the poorest districts in the nation. And the people in my district, when I go out there campaigning, I say vote for me, elect me and I will protect you and I will help you and I will be sure that you get what you need. But for 10 weeks -- for 10 weeks -- I'm a Democrat, and we Democrats have been voting to

cut services.

I've been telling my conference, I've been telling everybody we don't have to do this. Because we know where to get the money. And I told them, number one, I have two bills, submitted two bills. One, one bill requires for us to go against the credit card companies, go against them and force them, force the credit card companies to send the taxes that are owed to the state.

Because when you purchase, Mr. President and ladies and gentlemen, when you purchase with a credit card, the taxes that are owed to the state, the credit card companies send those taxes back to the merchants. The merchants are supposed to send the taxes to the state, but that doesn't happen accurately. The state loses from $800 million to $1 billion every year.

Simple, my bill simply requires let's force the credit card companies to send the taxes straight to the state and we don't have to cut senior citizen programs, we don't have to cut transportation programs, we don't have to cut services for the needy and the

poor. We got money there. But nobody wants to go against the credit card companies. Because the credit card companies oppose that, so nobody wants to touch that bill.

I also have another bill, another bill that says let's purchase prescription drugs from Canada. They say, Oh, that's illegal. Well, the City of Schenectady is doing it. So if it is illegal, how come Schenectady is doing it? And how come last year, how come last year the City of Schenectady saved $9.4 million by buying prescription drugs from Canada? If the state does that, we will save close to a billion dollars a year.

So I'm telling you where to get the money. Why abusing, why balancing the budget on the backs of the poor and the needy? Why? We don't need to do that. What else? As some of you know, let's have the Indian reservation cigarettes pay taxes. Some people said that that's close to $2 billion we could get from there.

So you pass my two bills, because I'm up here like crazy saying don't cut, don't

cut, don't cut. I'm telling you, I'm telling you -- ladies and gentlemen, I'm telling you, don't cut. But I'm telling you, here is the money. So it's not like a crazy guy saying don't cut, don't cut, don't cut. And when you say, well, we got to cut -- no, we don't have to cut. I'm telling you where the money is. But you don't want to go against the pharmaceuticals, because they have a lot of money, they are powerful people, so let's don't go against the pharmaceuticals. Let's go better cut the services to the needy and the poor.

I'm telling you, let's go against the credit card companies. You don't want to go against the credit card companies because they're powerful. Let's -- it's easy to go and hit the needy and the poor.

Well, I'm tired of that. I am tired of that. Today won't be a good day for me because my wife, I'm pretty sure that she don't like me leaving her alone on the wedding day, and I'm going to make a lot of people angry today with my vote.

So, ladies and gentlemen, I'm not

voting for any more cuts. Not this week, not next week, not from now until we get a budget to deal with. So I'm against -- please, if people don't -- like if people don't believe me or don't -- I don't know. I said it last week, I'm not voting anymore. And then people said, oh, he's going to vote, he's going to vote, he's going to vote, he's going to vote. Hey, listen to me, ladies and gentlemen. Listen to me. I'm not voting for cuts, not today and not next week.

You want to shut off government? I don't want. We have 62. I'm only one vote. So don't put that on me. Don't put that on me. I'm a Democrat. As a Democrat, I will fight for services that we Democrats are supposed to be fighting for. I'm a Democrat and I will protect and I will not cut no more benefits to the people that send me here.

And I'm willing to take the consequences. I'll go to my community and I will face them. But I'm not voting today -- I'm voting no today to everything that's coming here today, I am voting no today and I will vote no next week. This is what I'm

trying to tell you.

Let's go to the Indian reservations. There's money, there are taxes there. Let's purchase prescription drugs from Canada. Don't tell me it's illegal. Again, I'm going to repeat myself. The City of Schenectady is doing it. So why is that illegal? It's not illegal for the City of Schenectady. If it is not illegal for the City of Schenectady, it cannot be illegal for the state.

And let's force the credit card companies to send the taxes that are owed to the state, send those taxes straight to the state. Don't send those taxes to the merchants. Simple. This black guy, Puerto Rican black guy with kinky hair and broken English, I'm telling you how simple it is. You don't have to go to Harvard. You don't have to go to Yale. You don't have to go to Princeton. Simple. This black Puerto Rican with kinky hair and broken English is telling you how simple it is.

Those taxes are belong the State of New York. Why sending those taxes to the

merchants? You don't need to those taxes to the merchants. Those taxes are supposed to be sent to the state. Simple. Let's purchase stuff from Canada, prescription drugs. Simple. Let's put the taxes on the cigarettes on the Indian reservations. Simple.

But no, we cannot do that because the Indians will rally up. We cannot do that because the pharmaceuticals are opposing that. We cannot do that because the credit card companies are opposing that. Oh. But you're asking me to go and vote, keep voting to cut services to my community, to my people.

It is hard, it is difficult, it's painful. It is painful. I understand. And I hope that that side that has been voting for 10 weeks no, I hope that that side today will vote yes and the government will not be shut. But I cannot vote yes. I have to vote no.

And, Mr. President and ladies and gentlemen, thank you for this opportunity, and I have spoken my piece. Thank you.

ACTING PRESIDENT CRAIG JOHNSON: Thank you, Senator Diaz.

Senator Maziarz.

SENATOR MAZIARZ: Thank you very much, Mr. President. On the bill.

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

SENATOR MAZIARZ: Thank you, Mr. President.

You know, all of us -- and I don't want to repeat what my colleagues Senator DeFrancisco or Senator Marcellino said, but all of us, particularly this summer and this fall are going to be going out, outside the City of New York. You know, we meet with county legislators and we meet with county executives and we meet with county managers. And we tell them all the same thing, that we're against unfunded mandates, that we're against instituting programs and then shifting the cost onto someone else.

What this bill does today, what this extender does today is it shifts some of the costs back to county governments. And we all know where county governments get their money. Outside the City of New York, they get it from property taxes. A vote for this extender today is a vote to shift costs,

particularly social services costs, back to county property taxpayers.

And that's just -- that's the main reason why we should all defeat this bill today, Mr. President. Because we can't -- we can't go out there and say that we're against cost shifting, we're against unfunded mandates, and then stand here on the floor or sit here on the floor and vote for this particular bill today.

Mr. President, I will be voting in the negative. Thank you.

ACTING PRESIDENT CRAIG JOHNSON: Thank you, Senator Maziarz.

Senator Lanza.

SENATOR LANZA: Thank you, Mr. President. On the bill.

ACTING PRESIDENT CRAIG JOHNSON: On the bill, Senator Lanza.

SENATOR LANZA: I know it's late. It's late because we were called into session at 12 o'clock and the bill came to the floor at 6:00 p.m. That's why it's late. But we should have an opportunity to speak about what's happening here for real.

You know, I listened to the chairman of the Senate Finance Committee -- Democrat, in the majority -- stand there and chastise the Republican Party for what's happening here today. All I've got to say to that is nice try. Nice try. And I know in a place that doesn't suffer for lack of theater, we often hear a lot of pontificating and politicking. But I've got to tell you, for me that was about the most disingenuous, shocking and hypocritical statement that I've heard on this floor.

And I know there are more cameras here than usual, so let me tell you this. The people on the other side of those cameras across this state won't be fooled. They will not be fooled. I mean, the chairman of the Finance Committee is blaming us for what's happening here this evening. That reminds me of the guy that walks in the room and turns off the lights and then chastises the people sitting in the room for sitting in darkness.

I heard on the radio over the weekend, one of the pundits said "Government's going to shut down if they don't pass the

emergency bill." Well, let's analyze that. Why do we have an emergency bill? Because you created an emergency. You created it by ignoring your responsibility. You talk about our responsibility? By ignoring your responsibility to have an on-time budget April 1st. To have, as a matter of law, conference committees so that the public might see what it is that you see or don't see in your crystal ball.

We have an emergency because we don't have a budget. Don't blame us. I mean, the excuses I've heard tonight and over the last few weeks. My favorite a couple of weeks ago was that we don't have a budget because of some vote Senator DeFrancisco took in 1997. There's a show on television, "MythBusters." I mean, they could do a week-long special on some of the things that we hear from your party concerning why we have a late budget. Don't blame us, please.

The people will not be fooled. They know why we don't have a budget 74 days late. They know it's because you have been unable to put a budget on the floor. Because

you who are in leadership for whatever reason have been unable to lead.

So let me dispel one myth right off the bat here. You heard the chair of the Senate Finance Committee say, "These guys are going to shut down government." Government's not going to be shut down. It's a myth. That's myth number one.

Myth number two, somehow the budget is magically going to come together without leadership. That is not possible. We need leadership. You're in the majority? Lead.

So if you don't want government to shut down, put a budget on the floor. Lead. Make the tough choices. There's an old expression that says "Lead or get out of the way." Lead or get out of the way, and let's get a budget passed 74 days overdue. We could do it tomorrow. There's no reason for people to go home. There's no reason for anyone in room to do anything but work on getting a budget done.

So I'm going to vote no. And I voted for the first four or five because my friends across the aisle said we need more

time, it's a difficult year. And I voted for the first four or five. But I can't any longer vote yes on these extenders because they've become nothing more than an excuse not to pass a budget. And we've got plenty of excuses.

The people back home should not be played with any longer. We need a budget, Mr. President. And I'll vote no.

ACTING PRESIDENT CRAIG JOHNSON: Thank you, Senator Lanza.

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

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

Read the last section.

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

ACTING PRESIDENT CRAIG JOHNSON: Call the roll.

(The Secretary called the roll.)

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

SENATOR FARLEY: Thank you, Mr. President.

I rise because this is a very, very difficult vote. When I came to work here this morning, over the weekend two members of the other side said that they were not going to vote for extenders. To not pass this extender would drive New York State into a state of chaos. It's time to pass a budget. It would be a calamity if this extender did not pass.

I have tens of thousands of state workers. Many of them received notices not to come to work tomorrow if this extender does not pass. This secret budget process, which is 74 days late, is the worst thing that I've seen in my 34 years in this Senate. It's an absolute disgrace. A dysfunction on steroids.

If I was to say something about the way that this house runs, I would say, please, if this is what one-party rule does in the State of New York, give me a break. Because it is outrageous.

The extender -- this particular extender has no taxes and fees in it, which makes a little bit better for me to vote for it. But I'll tell you, it's got a lot of negatives. And it's one of the reasons that

I'm gravely concerned about it.

But I'll tell you one thing. Don't count on me to vote for any more extenders. This time it's time to pass a budget. We've got to get this act together. The minority, the Republicans in both houses have been totally excluded from the process. I think it's outrageous.

But I will vote aye, reluctantly.

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

Senator McDonald, to explain his vote.

SENATOR McDONALD: Thank you, Mr. President.

I too am voting yes. This has not been a good day, a good year, or a good couple of years for real people in New York State. This has been a problem all year for our school systems, our hospitals, our nursing homes, local governments, you name it. This has been a problem. They've seen up close the dysfunctionality of leadership in this state, from day one. Remember day one? From day

one. It did something I thought was virtually impossible. It got worse.

Real people don't care about us sitting here right now. Don't kid yourself if you read election returns, that you think somebody really cares about your position. We have lost the respect, justifiably so, we've lost the respect of real people in this state.

People in my community have seen brinkmanship. You almost destroyed horse racing in New York State. You waited till the last moment, and you impacted real people.

Some weeks ago remember the extender that called for furloughs for the people who actually work for a living in New York State, the lower end. Not the top, not the patronage, not the buddies, but the men and women who actually work, the real people with the real families.

There's nothing to be happy here. Fear was used as a weapon today. Fear by the leaders: We're going to close down. A couple of days ago that was the hot topic, fear.

I will not allow anybody to scare or intimidate my constituency again. Fear is

not the weapon for men and women who work here, the construction projects that we need, the schools --

ACTING PRESIDENT CRAIG JOHNSON: Senator McDonald --

SENATOR McDONALD: -- the hospitals --

ACTING PRESIDENT CRAIG JOHNSON: -- your two minutes are up. How do you vote, Senator McDonald?

SENATOR McDONALD: I vote yes. But that's a floating two minutes. It's another form of censorship, just like what's happened during this budget process.

ACTING PRESIDENT CRAIG JOHNSON: Senator McDonald --

SENATOR McDONALD: To the people up there listening, do not tolerate it anymore.

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

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

Seeing none, the Secretary -- oh, I'm sorry. I don't wish to -- Senator Adams.

SENATOR ADAMS: Yeah, let me say this. I don't like voting for extenders. I don't like that we are over 70 days late for the budget.

But the reality is it's not fear and it's not irresponsible, it's responsible to vote to maintain government. And no matter how we romanticize -- closing down government is not good, it's not bad -- it impacts thousands of employees.

I would not permit and participate in our state doing an irresponsible vote. I vote in favor of this extender and any other extender that comes up until we are clear on how we're going to settle this budget.

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 957 are Senators Alesi, Bonacic, DeFrancisco, Diaz, Flanagan, Golden, Griffo, Hannon, O. Johnson,

Lanza, Larkin, LaValle, Leibell, Libous, Little, Marcellino, Maziarz, Nozzolio, Padavan, Ranzenhofer, Robach, Saland, Seward, Skelos, Volker, Winner and Young.

Ayes, 34. Nays, 27.

ACTING PRESIDENT CRAIG JOHNSON: The bill is passed.

Senator Klein.

SENATOR KLEIN: Mr. President, can we go back to a reading of Senate Print Number 8178, Calendar Number 958.

ACTING PRESIDENT CRAIG JOHNSON: The Secretary will read.

THE SECRETARY: Calendar Number 958, by the Senate Committee on Rules, Senate Print 8178, 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 to accept the message at this time.

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

(Response of "Aye.")

ACTING PRESIDENT CRAIG JOHNSON: Opposed, nay.

(No response.)

ACTING PRESIDENT CRAIG JOHNSON: The message is accepted.

Senator Klein.

SENATOR KLEIN: Mr. President, can we now lay this bill aside for the day.

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

The Secretary will continue to read the controversial supplemental calendar.

THE SECRETARY: Calendar Number 959, by the Senate Committee on Rules, Senate Print 8169, an act to amend the Mental Hygiene Law.

ACTING PRESIDENT CRAIG JOHNSON: Are there any Senators who wish to be heard?

Seeing none, the Secretary will ring the bell. Debate is closed.

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: Those recorded in the negative on Calendar Number 959 are Senators Alesi, Bonacic, DeFrancisco, Diaz, Flanagan, Golden, Griffo, Hannon, O. Johnson, Lanza, Larkin, LaValle, Leibell, Libous, Little, Marcellino, Maziarz, Nozzolio, Padavan, Ranzenhofer, Robach, Saland, Seward, Skelos, Volker, Winner and Young.

Ayes, 34. Nays, 27.

ACTING PRESIDENT CRAIG JOHNSON: The bill is passed.

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

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

Room.

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

ACTING PRESIDENT CRAIG JOHNSON: There will be an immediate meeting of the Rules Committee in the Majority Conference Room.

Pending the return of the Rules Committee, the Senate stands at ease.

(Whereupon, the Senate stood at ease at 7:36 p.m.)

(Whereupon, the Senate reconvened at 7:50 p.m.)

ACTING PRESIDENT CRAIG JOHNSON: Senator Klein.

SENATOR KLEIN: Mr. President, I have several motions.

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

Senator Klein.

SENATOR KLEIN: On behalf of Senator Thompson, on page number 39 I offer the following amendments to Calendar Number 722, Senate Print Number 7842, and ask that

said bill retain its place on Third Reading Calendar.

ACTING PRESIDENT CRAIG JOHNSON: Amendments received.

Senator Klein.

SENATOR KLEIN: Mr. President, on behalf of Senator Hassell-Thompson, I wish to call up Senate Print Number 4018, recalled from the Assembly, which is now at the desk.

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

THE SECRETARY: Calendar Number 11, by Senator Hassell-Thompson, Senate Print 4018, an act to amend the Penal Law.

ACTING PRESIDENT CRAIG JOHNSON: Senator Klein.

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

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

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT CRAIG JOHNSON:

Senator Klein.

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

ACTING PRESIDENT CRAIG JOHNSON: Amendments received.

Senator Klein.

SENATOR KLEIN: Mr. President, on behalf of Senator Oppenheimer, I wish to call up Calendar Number 871, Assembly Print Number 3467A.

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

THE SECRETARY: Calendar Number 871, by Member of the Assembly Rosenthal, Assembly Print Number 3467A, an act to amend the Education Law.

ACTING PRESIDENT CRAIG JOHNSON: Senator Klein.

SENATOR KLEIN: I now move to reconsider the vote by which this Assembly bill was substituted for Senate Print Number 7820 on 6/14.

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

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT CRAIG JOHNSON: Senator Klein.

SENATOR KLEIN: I mow move that Assembly Bill Number 3467A be committed to the Committee on Rules and the Senate bill be restored to the order of Third Reading Calendar.

ACTING PRESIDENT CRAIG JOHNSON: So ordered.

Senator Klein.

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

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

SENATOR KLEIN: There being no further business, Mr. President, I move that we adjourn until Tuesday, June 15th, at 12:00 o'clock.

ACTING PRESIDENT CRAIG JOHNSON: There being no further business to come before the Senate, on motion, the Senate stands adjourned until Tuesday, June 15th, at 12:00 noon.

(Whereupon, at 7:52 p.m., the Senate adjourned.)