

1 NEW YORK STATE SENATE

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3
4 THE STENOGRAPHIC RECORD

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8
9 ALBANY, NEW YORK

10 June 21, 2010

11 1:00 p.m.

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13
14 REGULAR SESSION

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18 SENATOR CRAIG M. JOHNSON, Acting President

19 ANGELO J. APONTE, Secretary

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

2 ACTING PRESIDENT CRAIG JOHNSON:

3 The Senate will please come to order.

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

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

9 ACTING PRESIDENT CRAIG JOHNSON:

10 Today's invocation will be provided by the
11 Reverend Peter G. Young, Mother Teresa
12 Community Church, Albany.

13 REVEREND YOUNG: Thank you.
14 Thank you, Senator. Let us pray.

15 Ever-living God, on this day, the
16 first day of summer, you have given us
17 15 hours and 26 minutes to gather here in
18 daylight in this Senate chamber, as members
19 representing our constituents, to provide
20 leadership for our New York State citizens.

21 Let Your spirit enlighten our minds
22 and guide our actions, that we may be united
23 in love and bring to fulfillment the work of
24 government for the greater honor and glory of
25 our citizens.

1 By being a Senator, you have been
2 accepted into the leadership position so that
3 you can more fully serve the people of
4 New York State. In the spirit of community
5 and prayer today, we will better achieve the
6 goal of dedicated representation in the power
7 that is entrusted to all of our legislative
8 leadership. May you attain your satisfaction
9 in your services to your constituents.

10 Amen.

11 ACTING PRESIDENT CRAIG JOHNSON:

12 The reading of the Journal.

13 The Secretary will read.

14 THE SECRETARY: In Senate,
15 Sunday, June 20, the Senate met pursuant to
16 adjournment. The Journal of Saturday,
17 June 19, was read and approved. On motion,
18 Senate adjourned.

19 ACTING PRESIDENT CRAIG JOHNSON:

20 Without objection, the Journal stands approved
21 as read.

22 Presentation of petitions.

23 Messages from the Assembly.

24 Messages from the Governor.

25 Reports of standing committees.

1 Reports of select committees.

2 Communications and reports from
3 state officers.

4 Motions and resolutions.

5 Senator Klein.

6 SENATOR KLEIN: Mr. President, on
7 behalf of Senator Squadron, on page number 25
8 I offer the following amendments to Calendar
9 Number 676, Senate Print Number 5597A, and ask
10 that said bill retain its place on Third
11 Reading Calendar.

12 ACTING PRESIDENT CRAIG JOHNSON:

13 So ordered.

14 Senator Klein.

15 SENATOR KLEIN: On behalf of
16 Senator Stavisky, on page 37 I offer the
17 following amendments to Calendar Number 901,
18 Senate Print Number 5954B, and ask that said
19 bill retain its place on Third Reading
20 Calendar.

21 ACTING PRESIDENT CRAIG JOHNSON:

22 So ordered.

23 Senator Klein.

24 SENATOR KLEIN: On behalf of
25 Senator Breslin, on page 29 I offer the

1 following amendments to Calendar Number 754,
2 Senate Print Number 7220, and ask that said
3 bill retain its place on Third Reading
4 Calendar.

5 ACTING PRESIDENT CRAIG JOHNSON:

6 So ordered.

7 Senator Klein.

8 SENATOR KLEIN: On behalf of
9 Senator Craig Johnson, I move that the
10 following bill be discharged from its
11 respective committee and be recommitted with
12 instructions to strike the enacting clause:
13 Senate Number 8216.

14 ACTING PRESIDENT CRAIG JOHNSON:

15 So ordered.

16 Senator Klein.

17 SENATOR KLEIN: Mr. President, I
18 believe Senator Perkins has a resolution at
19 the desk. I ask that the title of the
20 resolution be read and move for its immediate
21 adoption.

22 ACTING PRESIDENT CRAIG JOHNSON:

23 Senator Klein, has this resolution been deemed
24 privileged and submitted by the office of the
25 Temporary President?

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

3 ACTING PRESIDENT CRAIG JOHNSON:
4 The Secretary will read.

5 THE SECRETARY: By Senator
6 Perkins, legislative resolution commending
7 Maysles Cinema upon the occasion of presenting
8 the Second Annual "Homo-Harlem" Film Festival
9 on June 21 through 26, 2010.

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

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

16 (Response of "Aye.")

17 ACTING PRESIDENT CRAIG JOHNSON:
18 Opposed, nay.

19 (Response of "Nay.")

20 ACTING PRESIDENT CRAIG JOHNSON:
21 The resolution is adopted.

22 Senator Klein.

23 SENATOR KLEIN: Mr. President,
24 can you please call on Senator Libous. I
25 think he has a floor motion.

1 ACTING PRESIDENT CRAIG JOHNSON:

2 Of course. Senator Libous.

3 SENATOR LIBOUS: Thank you.

4 Mr. President, on behalf of Senator
5 Volker, I call up Calendar Number 344,
6 Assembly Print 9070A.

7 ACTING PRESIDENT CRAIG JOHNSON:

8 The Secretary will read.

9 THE SECRETARY: Calendar Number
10 344, by Member of the Assembly Hoyt, Assembly
11 Print Number 9070A, an act to amend the Real
12 Property Law.

13 SENATOR LIBOUS: I now move to
14 reconsider the vote by which this Assembly
15 bill was substituted for Senator Volker's
16 bill, Print Number 7170A, on May 10th in the
17 year 2010.

18 ACTING PRESIDENT CRAIG JOHNSON:

19 The Secretary will call the roll on
20 reconsideration.

21 (The Secretary called the roll.)

22 THE SECRETARY: Ayes, 53.

23 ACTING PRESIDENT CRAIG JOHNSON:

24 Senator Libous.

25 SENATOR LIBOUS: Thank you,

1 Mr. President. I now move that Assembly Bill
2 Number 9070A be committed to the Committee on
3 Rules and that Senator Volker's bill be
4 restored to the order of Third Reading
5 Calendar.

6 ACTING PRESIDENT CRAIG JOHNSON:
7 So ordered.

8 SENATOR LIBOUS: I offer up the
9 following amendments, Mr. President.

10 ACTING PRESIDENT CRAIG JOHNSON:
11 Amendments received.

12 SENATOR LIBOUS: Thank you, sir.

13 ACTING PRESIDENT CRAIG JOHNSON:
14 Thank you, Senator Libous.

15 Senator Klein.

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

18 ACTING PRESIDENT CRAIG JOHNSON:
19 The Secretary will read.

20 THE SECRETARY: Calendar Number
21 37, by Member of the Assembly Bing, Assembly
22 Print Number 10038A, an act to amend the
23 Insurance Law.

24 ACTING PRESIDENT CRAIG JOHNSON:
25 Read the last section.

1 THE SECRETARY: Section 2. This
2 act shall take effect on the 60th day.

3 ACTING PRESIDENT CRAIG JOHNSON:
4 Call the roll.

5 (The Secretary called the roll.)

6 ACTING PRESIDENT CRAIG JOHNSON:
7 Announce the results.

8 THE SECRETARY: Ayes, 53.

9 ACTING PRESIDENT CRAIG JOHNSON:
10 The bill is passed.

11 THE SECRETARY: Calendar Number
12 208, by Senator Dilan, Senate Print --

13 SENATOR LIBOUS: Lay it aside,
14 please.

15 ACTING PRESIDENT CRAIG JOHNSON:
16 The bill is laid aside.

17 THE SECRETARY: Calendar Number
18 702, by Member of the Assembly Benedetto,
19 Assembly Print Number 11064, an act to amend
20 Chapter 618 of the Laws of 1998, amending the
21 General Municipal Law and the Education Law.

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

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

1 ACTING PRESIDENT CRAIG JOHNSON:

2 Call the roll.

3 (The Secretary called the roll.)

4 ACTING PRESIDENT CRAIG JOHNSON:

5 Announce the results.

6 THE SECRETARY: Ayes, 53.

7 ACTING PRESIDENT CRAIG JOHNSON:

8 The bill is passed.

9 THE SECRETARY: Calendar Number
10 704, by Member of the Assembly Maisel,
11 Assembly Print Number 11067, an act to amend
12 Chapter 552 of the Laws of 1995 amending the
13 Education Law.

14 ACTING PRESIDENT CRAIG JOHNSON:

15 Read the last section.

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

18 ACTING PRESIDENT CRAIG JOHNSON:

19 Call the roll.

20 (The Secretary called the roll.)

21 ACTING PRESIDENT CRAIG JOHNSON:

22 Announce the results.

23 THE SECRETARY: Ayes, 53.

24 ACTING PRESIDENT CRAIG JOHNSON:

25 The bill is passed.

1 THE SECRETARY: Calendar Number
2 739, by Senator Foley, Senate Print 7703, an
3 act to amend Chapter 397 --

4 SENATOR LIBOUS: Lay the bill
5 aside, please.

6 ACTING PRESIDENT CRAIG JOHNSON:
7 The bill is laid aside.

8 THE SECRETARY: Calendar Number
9 785, by Senator Oppenheimer, Senate Print
10 6466A, an act to authorize approval of certain
11 transportation contracts.

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

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

16 ACTING PRESIDENT CRAIG JOHNSON:
17 Call the roll.

18 (The Secretary called the roll.)

19 ACTING PRESIDENT CRAIG JOHNSON:
20 Announce the results.

21 THE SECRETARY: Ayes, 53.

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

24 THE SECRETARY: Calendar Number
25 788, by Senator McDonald, Senate Print 6967A,

1 an act to authorize the Town of North
2 Greenbush to offer an optional 20-year
3 retirement plan.

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

6 The Secretary will read the last
7 section.

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

10 ACTING PRESIDENT CRAIG JOHNSON:
11 Call the roll.

12 (The Secretary called the roll.)

13 ACTING PRESIDENT CRAIG JOHNSON:
14 Announce the results.

15 THE SECRETARY: Ayes, 53.

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

18 THE SECRETARY: Calendar Number
19 893, by the Assembly Committee on Rules,
20 Assembly Print Number 11324, an act to amend
21 Chapter 199 of the Laws of 2008 amending the
22 Private Housing Finance Law.

23 ACTING PRESIDENT CRAIG JOHNSON:
24 Read the last section.

25 THE SECRETARY: Section 2. This

1 act shall take effect immediately.

2 ACTING PRESIDENT CRAIG JOHNSON:

3 Call the roll.

4 (The Secretary called the roll.)

5 ACTING PRESIDENT CRAIG JOHNSON:

6 Announce the results.

7 THE SECRETARY: Ayes, 53.

8 ACTING PRESIDENT CRAIG JOHNSON:

9 The bill is passed.

10 THE SECRETARY: Calendar Number

11 905, by Member of the Assembly Wright,

12 Assembly Print Number 9512, an act to amend

13 the Education Law.

14 ACTING PRESIDENT CRAIG JOHNSON:

15 Read the last section.

16 THE SECRETARY: Section 3. This

17 act shall take effect on the first of July.

18 ACTING PRESIDENT CRAIG JOHNSON:

19 Call the roll.

20 (The Secretary called the roll.)

21 ACTING PRESIDENT CRAIG JOHNSON:

22 Announce the results.

23 THE SECRETARY: Ayes, 53.

24 ACTING PRESIDENT CRAIG JOHNSON:

25 The bill is passed.

1 THE SECRETARY: Calendar Number
2 915, by Member of the Assembly Sweeney,
3 Assembly Print Number 10512A, an act
4 authorizing the assessor of the Town of
5 Babylon.

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

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

10 ACTING PRESIDENT CRAIG JOHNSON:
11 Call the roll.

12 (The Secretary called the roll.)

13 ACTING PRESIDENT CRAIG JOHNSON:
14 Announce the results.

15 THE SECRETARY: Ayes, 52. Nays,
16 1. Senator Larkin recorded in the negative.

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

19 THE SECRETARY: Calendar Number
20 929, by Senator --

21 SENATOR LIBOUS: Lay it aside.

22 ACTING PRESIDENT CRAIG JOHNSON:
23 The bill is laid aside.

24 THE SECRETARY: Calendar Number
25 963, by Senator Stewart-Cousins, Senate Print

1 4057B, an act to amend the Public Health Law
2 and the --

3 SENATOR LIBOUS: Lay it aside.

4 ACTING PRESIDENT CRAIG JOHNSON:
5 The bill is laid aside.

6 THE SECRETARY: Calendar Number
7 987, by Senator C. Johnson, Senate Print 766,
8 an act to amend the --

9 SENATOR LIBOUS: Lay this bill
10 aside also, please.

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

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

15 THE SECRETARY: Calendar Number
16 1013, by Senator Klein, Senate Print 3194, an
17 act to amend the Public --

18 SENATOR LIBOUS: Lay it aside.

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

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

23 THE SECRETARY: Calendar Number
24 1042, by Senator Breslin, Senate --

25 SENATOR LIBOUS: Lay the bill

1 aside for the day, please.

2 ACTING PRESIDENT CRAIG JOHNSON:

3 The bill is laid aside for the day.

4 THE SECRETARY: Calendar Number
5 1048, by Senator Foley, Senate Print 7427, an
6 act to authorize --

7 SENATOR LIBOUS: Lay it aside.

8 ACTING PRESIDENT CRAIG JOHNSON:

9 The bill is laid aside.

10 THE SECRETARY: Calendar Number
11 1057, by Member of the Assembly --

12 SENATOR LIBOUS: Lay this bill
13 aside too, please.

14 ACTING PRESIDENT CRAIG JOHNSON:

15 The bill is laid aside.

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

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

21 ACTING PRESIDENT CRAIG JOHNSON:

22 The Secretary will ring the bell. Members are
23 all asked to come to the chamber for a reading
24 of the controversial calendar.

25 And I remind all members to please

1 stay within the chamber as we read the
2 controversial calendar and then vote. It
3 makes things a lot easier for all of us.

4 Senator Klein.

5 SENATOR KLEIN: Mr. President, on
6 Calendar Number 1048, Senate Print Number
7 7427, Senator Foley's bill, can we please lay
8 the bill aside for the day.

9 ACTING PRESIDENT CRAIG JOHNSON:
10 Calendar Number 1048 is laid aside for the
11 day.

12 The Secretary will read.

13 THE SECRETARY: Calendar Number
14 208, by Senator Dilan, Senate Print 1434A, an
15 act to amend the Election Law.

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

19 SENATOR LIBOUS: Explanation,
20 please.

21 ACTING PRESIDENT CRAIG JOHNSON:
22 Senator Dilan, an explanation of your bill has
23 been requested by Senator Libous.

24 SENATOR DILAN: Yes, this bill
25 would prevent election commissioners and

1 deputy commissioners from holding a publicly
2 elected office. And this bill would also --

3 SENATOR LIBOUS: Excuse me.
4 Excuse me, Senator. I am having trouble
5 hearing.

6 There's a lot of side conversations
7 going on, Mr. President. I know it's very
8 important; I would like to hear Senator
9 Dilan's explanation.

10 ACTING PRESIDENT CRAIG JOHNSON:
11 Of course. I remind both sides, since the
12 side conversations are coming from both sides,
13 to please keep it down. If you have
14 conversations, please exit the chamber to have
15 those conversations. If you're members of the
16 Senate, stay close.

17 Senator Dilan, if you wouldn't mind
18 to repeat your explanation for Senator Libous.

19 SENATOR DILAN: This bill will
20 prohibit election commissioners and deputy
21 commissioners from holding publicly elected
22 offices. It will also prevent county leaders
23 from the two respective parties from also
24 serving as commissioners or deputy
25 commissioners.

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

4 Senator Libous.

5 SENATOR LIBOUS: Yeah, would
6 Senator Dilan yield for a few questions.

7 ACTING PRESIDENT CRAIG JOHNSON:
8 Senator Dilan, will you yield for a question?

9 SENATOR DILAN: Sure.

10 ACTING PRESIDENT CRAIG JOHNSON:
11 Senator Libous, he will yield.

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

14 Senator Dilan, why -- I mean, I
15 know you explained what the bill does, but
16 what's the purpose of the bill? Why, is there
17 a problem throughout the state with those
18 folks who are commissioners and --

19 SENATOR DILAN: Well, it's just
20 closing --

21 SENATOR LIBOUS: I'm not done
22 yet.

23 SENATOR DILAN: Oh, I'm sorry.
24 I'm sorry.

25 SENATOR LIBOUS: Thank you. Is

1 there a problem presently with some of our
2 election commissioners and/or deputy election
3 commissioners that are either holding elected
4 office or -- I'm not aware of any issues here.

5 SENATOR DILAN: No, there are no
6 issues. Through you, Mr. President.

7 However, there is a perception or
8 closing a loophole that individuals who are
9 either county chair of the two major parties
10 serving as a commissioner or deputy
11 commissioner could be perceived as a conflict
12 of interest and they may have a direct
13 involvement in some of the elections that they
14 would be making decisions on.

15 ACTING PRESIDENT CRAIG JOHNSON:
16 Senator Libous.

17 SENATOR LIBOUS: Mr. President, I
18 guess my question to Senator Dilan would be --

19 ACTING PRESIDENT CRAIG JOHNSON:
20 You wish him to yield again?

21 SENATOR LIBOUS: Oh, yeah, I'm
22 sorry, Mr. President.

23 ACTING PRESIDENT CRAIG JOHNSON:
24 Senator Dilan, do you continue to yield?

25 SENATOR LIBOUS: Senator Dilan,

1 would you continue to yield?

2 SENATOR DILAN: Yes.

3 ACTING PRESIDENT CRAIG JOHNSON:

4 Senator Dilan will yield.

5 SENATOR LIBOUS: Thank you,

6 Mr. President. It's Monday.

7 Is there a problem right now with
8 individuals holding those positions and being
9 party leaders or being -- I guess holding
10 elective office?

11 SENATOR DILAN: I answered that
12 question already. I said no, that there is no
13 problem, it's just basically a loophole
14 closure in preventing people who may have a
15 conflict of interest from deciding, making
16 these decisions as commissioner on a Board of
17 Elections where they may have a direct
18 connection to a particular election. And this
19 is just preventing that in future cases.

20 SENATOR LIBOUS: Mr. President,
21 would Senator Dilan continue to yield.

22 ACTING PRESIDENT CRAIG JOHNSON:

23 Senator Dilan, do you continue to yield?

24 SENATOR DILAN: Yes.

25 SENATOR LIBOUS: Senator Dilan,

1 don't we usually -- you said there was no
2 problem. Usually when we close loopholes,
3 it's because there's a problem. So I guess
4 I'm a little confused about the purpose of the
5 bill.

6 SENATOR DILAN: Well, Senator
7 Libous, I've had this bill in the Legislature
8 for a few years now. And also there are
9 colleagues from your conference who are also
10 supporting this piece of legislation.

11 And I perceive that someone who
12 holds a publicly elected office or someone who
13 is a county leader in any particular county in
14 both the Republican and the Democratic Party
15 should not be in a position deciding the
16 outcome of, let's say, a close election or a
17 petition battle, and they should not be in
18 that position.

19 SENATOR LIBOUS: Will Senator
20 Dilan continue to yield.

21 ACTING PRESIDENT CRAIG JOHNSON:
22 Senator Dilan, do you continue to yield?

23 SENATOR DILAN: Yes, sir.

24 ACTING PRESIDENT CRAIG JOHNSON:
25 He does.

1 SENATOR LIBOUS: Senator Dilan, I
2 would respectfully disagree. As I read your
3 bill, it goes beyond county leaders. It says
4 "or who is the chair of the representative
5 Democratic or Republican committee in such
6 county," and then it goes on to talk about
7 others than county leaders.

8 SENATOR DILAN: I mentioned
9 earlier, Mr. President, that this also
10 involves publicly elected officials, that
11 these individuals should not be in a publicly
12 elected position and also serve in what is
13 perhaps tantamount to a party position that
14 would directly impact the results of an
15 election.

16 SENATOR LIBOUS: Would he
17 continue to yield.

18 ACTING PRESIDENT CRAIG JOHNSON:
19 Senator Dilan --

20 SENATOR DILAN: Yes, sir.

21 ACTING PRESIDENT CRAIG JOHNSON:
22 Senator Dilan will continue to yield.

23 SENATOR LIBOUS: I'm going to use
24 my own county, Senator Dilan. I'm going to
25 ask you a question here, but I'm going to use

1 my own county. I happen to have a county
2 Republican leader who is -- she actually is
3 the town supervisor in a local town, has
4 gotten elected unanimously many times
5 unopposed. The county legislature, which is
6 Democratic, has appointed her a deputy
7 commissioner of the election office.

8 So on one hand she gets elected by
9 the people of her town, very well respected, a
10 Republican, and then she gets appointed deputy
11 commissioner by a heavily Democratic county
12 legislature. Under your bill, would she have
13 to resign?

14 SENATOR DILAN: If she's an
15 elected representative, yes, she would have to
16 resign.

17 I think that the way the law
18 currently is, if you are a commissioner of the
19 Board of Elections, you cannot hold a publicly
20 elected position at this time other than
21 perhaps judge or commissioner of deeds. But
22 this is really closing the loophole for also
23 the deputy commissioners.

24 SENATOR LIBOUS: Through you,
25 Mr. President, so she would have to --

1 ACTING PRESIDENT CRAIG JOHNSON:

2 Senator Dilan, do you wish to continue to
3 yield?

4 SENATOR LIBOUS: I'm sorry,
5 Senator Dilan --

6 SENATOR DILAN: Yes.

7 ACTING PRESIDENT CRAIG JOHNSON:
8 Senator Dilan will yield.

9 SENATOR LIBOUS: Senator Dilan,
10 so she would have to resign her position as
11 town supervisor or as deputy election
12 commissioner?

13 SENATOR DILAN: She would have to
14 resign one or the other position.

15 SENATOR LIBOUS: What was that,
16 sir?

17 ACTING PRESIDENT CRAIG JOHNSON:
18 She would have to resign one or the other
19 position.

20 SENATOR LIBOUS: And if I could
21 continue to ask --

22 ACTING PRESIDENT CRAIG JOHNSON:
23 Senator Dilan, do you continue to yield?

24 SENATOR DILAN: Yes.

25 ACTING PRESIDENT CRAIG JOHNSON:

1 He does.

2 SENATOR LIBOUS: Senator, this is
3 obviously a problem in the metropolitan area.
4 I mean, in upstate New York we sometimes have
5 problems finding individuals that are
6 qualified to take these positions. I guess
7 why wouldn't you just have your bill focus on
8 maybe the City of New York, if it seems to be
9 an issue there, and leave the rest of the
10 state alone?

11 ACTING PRESIDENT CRAIG JOHNSON:
12 Senator Dilan.

13 SENATOR DILAN: I'm not aware
14 of -- if there is any conflict in New York
15 City, I'm not aware. But I am aware of
16 several outside of New York City. You have
17 Westchester County, where that will affect a
18 Democrat. I think in Dutchess County we have
19 the same situation. If there is any case
20 within New York City, I'm not particularly
21 aware of it. But basically I presented this
22 bill to impact both parties across the whole
23 state.

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

1 SENATOR PADAVAN: Would Senator
2 Dilan yield to a question?

3 ACTING PRESIDENT CRAIG JOHNSON:
4 I believe Senator Libous --

5 SENATOR LIBOUS: I would yield
6 the floor to Senator Padavan.

7 ACTING PRESIDENT CRAIG JOHNSON:
8 Senator Dilan has the floor.

9 SENATOR LIBOUS: Oh, Senator
10 Dilan has the floor.

11 ACTING PRESIDENT CRAIG JOHNSON:
12 I was going to say Senator Dilan has the
13 floor.

14 SENATOR LIBOUS: I would be happy
15 to sit if Senator Dilan would entertain
16 Senator Padavan.

17 ACTING PRESIDENT CRAIG JOHNSON:
18 Senator Dilan, do you yield to questions from
19 Senator Padavan?

20 SENATOR DILAN: I'll answer a
21 question, yes.

22 ACTING PRESIDENT CRAIG JOHNSON:
23 He indicated, Senator Libous, he would.

24 Senator Padavan.

25 SENATOR PADAVAN: Thank you,

1 Senator.

2 You just said a moment ago that
3 there are no problems in the City of New York.

4 SENATOR DILAN: I said I'm not
5 aware if there are any problems.

6 SENATOR PADAVAN: Let me ask you
7 a question about one that might be a problem.

8 Currently the Democratic county
9 leader of Queens County, who recommends or
10 appoints members of the Board of Elections, is
11 a Congressman. Do you think that's a problem?

12 ACTING PRESIDENT CRAIG JOHNSON:
13 Senator Dilan.

14 SENATOR DILAN: He's not a member
15 of the Board of Elections. He's not a
16 commissioner or a deputy commissioner. That's
17 who this is affecting.

18 If that may be a problem, I think
19 we could look at future legislation to address
20 that.

21 ACTING PRESIDENT CRAIG JOHNSON:
22 Senator Padavan.

23 SENATOR PADAVAN: Will he yield?

24 ACTING PRESIDENT CRAIG JOHNSON:
25 Senator Dilan, will you continue to yield?

1 SENATOR DILAN: Yes.

2 SENATOR PADAVAN: Senator, I know
3 this bill doesn't cover that situation. But
4 my question to you is don't you think that's
5 even a bigger problem in terms of appointing
6 the majority members on the Board of Elections
7 and being an elected official himself?

8 And I don't know where else that
9 problem might exist. It might be beyond our
10 county. But I certainly know it exists there.
11 So if you're going to address an issue of
12 conflict, that's as big as a barn door.

13 SENATOR DILAN: Well, there are
14 many issues like this that I think we need to
15 look at and work together to resolve these
16 types of conflicts. I see it as a conflict.
17 I think that if you're a member of a publicly
18 elected office, I think we need to look at all
19 these and address it.

20 However, my bill does not address
21 that particular issue. It addresses elected
22 officials within New York State and deputy
23 commissioners and commissioners of the Board
24 of Elections. And as I indicated, if we want
25 to look at that in the future, we can.

1 SENATOR PADAVAN: On the bill.

2 ACTING PRESIDENT CRAIG JOHNSON:

3 Actually, Senator Padavan, Senator Dilan has
4 the floor right now.

5 SENATOR PADAVAN: I'm sorry, I
6 thought he'd given it up.

7 ACTING PRESIDENT CRAIG JOHNSON:

8 He yielded for a question.

9 Senator Dilan, you continue to have
10 the floor.

11 SENATOR DILAN: Well, as I
12 indicated, this bill was originally brought
13 before this house several months ago. At that
14 time several members had requested would I
15 consider amending the bill. At that time I
16 did accommodate that, and that's why this bill
17 is back on the floor today.

18 I'm asking all my colleagues on
19 both sides of the aisles to support this bill.
20 I will be voting yes on it.

21 ACTING PRESIDENT CRAIG JOHNSON:

22 Actually, Senator Maziarz requested the floor.

23 Senator Maziarz.

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

1 ACTING PRESIDENT CRAIG JOHNSON:

2 On the bill, Senator Maziarz.

3 SENATOR MAZIARZ: First of all, I
4 want to thank Senator Dilan. He's absolutely
5 correct, this is a great piece of legislation.
6 This may be the only ethics reform that we do
7 this year in the State Legislature.
8 Hopefully, this bill will pass in the Assembly
9 and will be signed into law by the Governor.

10 Senator Dilan pointed out that
11 several members on this side of the aisle made
12 suggestions for improving this bill. I think
13 Senator Padavan makes a very good point. And,
14 you know, it's not exactly covered in this
15 bill, but I think that clearly more could be
16 done. But this is an excellent first step.

17 You know, when you have a county
18 political leader whose job it is, in being a
19 county political leader, to go out and to
20 recruit candidates to run for office, to
21 assist candidates in running for office --
22 now, part of that assistance is gathering
23 petitions, finding volunteers that gather
24 petitions, maybe assisting a candidate in
25 filing and filling out their financial

1 disclosure forms, their election treasury and
2 so forth -- and then that county leader
3 happens to be the country on the county Board
4 of Elections who's going to be deciding the
5 validity, maybe, of those petitions or of that
6 particular financial filing statement, it's a
7 clear conflict of interest. A clear conflict
8 of interest.

9 Now, there may be others, as
10 Senator Padavan pointed out, and maybe we can
11 do another bill to take those up. But right
12 now I think this is a great piece of ethics
13 reform legislation.

14 I am very proud of the fact that
15 the County of Niagara, which I represent,
16 as -- I don't know if we can get any more
17 upstate than the County of Niagara, Senator
18 Libous. But the County of Niagara actually
19 did this in their county ethics law,
20 prohibited political leaders from being the
21 commissioners or deputy commissioners of the
22 Board of Elections 10 years ago. So we're
23 behind the times here in the State of
24 New York.

25 It's a great bill, and I'm going to

1 vote for it.

2 ACTING PRESIDENT CRAIG JOHNSON:

3 Thank you, Senator Maziarz.

4 Senator Padavan.

5 SENATOR PADAVAN: Mr. President,
6 on the bill.

7 ACTING PRESIDENT CRAIG JOHNSON:

8 On the bill, Senator Padavan.

9 SENATOR PADAVAN: I'm going to
10 vote for the bill. But, you know, there is a
11 certain amount of -- I don't want to use
12 "hypocrisy," but that may be applicable.

13 You, in answer to a question from
14 Senator Libous, said you don't know of any
15 problems that this particular bill addresses
16 that exist today. I think that was your
17 answer, you didn't know any. But I know of at
18 least two major problems where elected
19 officials are county leaders -- your party --
20 who select members to the Board of Elections,
21 where they exercise a great deal of power in
22 that selection.

23 Believe me, those members of the
24 board in any contentious situation, involving
25 petitions or whatever, are not going to vote

1 against the guy who put them there. And to
2 me, that is a major conflict. So really, if
3 you want to deal with the problems that do
4 exist, that's the direction we should be going
5 in.

6 ACTING PRESIDENT CRAIG JOHNSON:
7 Senator Little, on the bill.

8 SENATOR LITTLE: Thank you. On
9 the bill.

10 I would just question the slope
11 that we're getting on going into this bill. I
12 actually represent six counties. Each county
13 has two election commissioners, one of each
14 party. And one of mine is the county chair;
15 the Democrat county chair in Warren County is
16 also one of the election commissioners.

17 And if this has to happen
18 immediately, then I would think that there
19 needed to be some way of allowing a time span
20 here where he could keep that job while, with
21 elections coming, he would be able to continue
22 to go forward with elections.

23 So I'm looking at a negative vote
24 on this bill. Thank you.

25 ACTING PRESIDENT VALESKY: Thank

1 you, Senator Little.

2 Senator Leibell.

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

5 And, Senator Dilan, thank you very
6 much for putting forth this piece of
7 legislation, which I am in support of. In
8 fact, I'm now on the bill.

9 For all too long, we have watched
10 our publicly funded Boards of Elections act
11 like they are political fiefdoms. They are
12 not and should not be political fiefdoms.
13 They should be in a position to make objective
14 decisions when issues are brought before them.

15 How often have we in this business
16 heard somebody said say "Well, I'm the
17 Republican Commissioner of Elections" or "I'm
18 the Democrat Commissioner of Elections,
19 therefore." That's wrong. The people in
20 those positions should be removed from, as
21 much as possible, that political process.
22 They are a Board of Elections, they are called
23 upon frequently in any election cycle to make
24 decisions, and they need to be objective in
25 making those decisions.

1 If a Republican needs to side with
2 a Democrat, so be it. And if a Democrat needs
3 to side with a Republican, so it be. This is
4 a good piece of legislation. It's a first
5 step. I think it clears the air in our
6 election commissioners positions throughout
7 the State of New York, and I'm pleased to
8 support it.

9 ACTING PRESIDENT VALESKY: Thank
10 you, Senator Leibell.

11 Senator Saland.

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

14 I had intended to ask Senator Dilan
15 to yield, but perhaps I could just mention it
16 on the bill. I certainly applaud what you're
17 attempting to do here. My concern, Senator,
18 is your effective immediate date.

19 Now, right now, as you know,
20 there's a petition process going on. And then
21 there's a primary period. If your bill were
22 to pass both houses and be signed into law,
23 effective immediately, you would, I think, be
24 perhaps causing a bit of a disservice to the
25 general operation of those Boards of Elections

1 that might have deputy commissioners who are
2 affected, removing somebody who might be
3 experienced during the time of year when their
4 services are most demanded.

5 So I would hope that -- and I'm not
6 speaking in opposition to your bill. I would
7 hope that you might consider amending your
8 effective date so as to make it effective
9 sometime perhaps starting the first of next
10 year or thereafter, so as not to strip
11 experienced persons currently serving on
12 Boards of Elections from the ability to pursue
13 their duties -- again, being very mindful of
14 what it is that you're trying to accomplish
15 here.

16 Thank you.

17 ACTING PRESIDENT VALESKY: Thank
18 you, Senator Saland.

19 Senator Farley, on the bill.

20 SENATOR FARLEY: Thank you. I
21 rise in support of this. It is a first step,
22 as Senator Leibell said, towards trying to
23 take some of the partisanship out of the Board
24 of Elections. I always feel I don't care
25 which party it is, you'd like to see those

1 people do their job fairly and to try to keep
2 politics as much as possible out of that.

3 I don't think that you'll ever see
4 that happen, but certainly when you're talking
5 about a county chairman being on the Board of
6 Elections, I think it's a little bit much.
7 And I would agree with some of my colleagues
8 that that is a good first step to try to take
9 some of the politics out of the Board of
10 Elections. And I do rise in support of this
11 bill.

12 ACTING PRESIDENT VALESKY: Thank
13 you, Senator Farley.

14 Are there any other Senators who
15 wish to be heard?

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

18 Senators are asked to proceed to
19 the chamber for purposes of a roll call.

20 Read the last section.

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

23 ACTING PRESIDENT VALESKY: Call
24 the roll.

25 (The Secretary called the roll.)

1 ACTING PRESIDENT VALESKY:

2 Senator Montgomery, to explain her vote.

3 SENATOR MONTGOMERY: Yes,
4 Mr. President, thank you.

5 I'm certainly going to be
6 supporting this legislation. I understand --
7 Senator Dilan and I come from Brooklyn, and we
8 understand the need for this perhaps even more
9 than some others of our colleagues, that we
10 should have a clear separation of publicly
11 elected officials from serving as
12 commissioners of the election process, so that
13 it's purely, clearly nonpartisan and that the
14 role of the election commissioners and the
15 deputy commissioners of the Board of Elections
16 should not be publicly elected officials at
17 the same time. So I am supporting this.

18 And, Mr. President, I have a group
19 of young people here today, and they're
20 watching what we do. And so it makes it even
21 more important that when we are taking our
22 vote today that we're voting to clean up our
23 election process so that our constituents
24 maintain a level of trust and respect for the
25 process.

1 So to those young people from
2 P.S. 56 who are visiting today, I want to make
3 sure that they are seeing this process and how
4 it works.

5 And yes, Mr. President, I vote aye
6 on Senator Dilan's bill.

7 ACTING PRESIDENT VALESKY:
8 Senator Montgomery to be recorded in the
9 affirmative.

10 Senator Dilan, to explain his vote.

11 SENATOR DILAN: Yes. Again, I'd
12 like to first thank all my colleagues who are
13 supporting this piece of legislation.

14 And just to add some clarity in
15 terms of when this bill becomes effective,
16 I've heard some members say that it becomes
17 effective immediately upon the signature of
18 the Governor. That is correct. But the six
19 Republicans and the eight Democrats that this
20 will affect across the State of New York will
21 have a choice either of remaining as county
22 leader or remaining as a commissioner of the
23 Board of Elections.

24 And we have to also note that the
25 position of commissioner, the Board of

1 Elections throughout this state pays these
2 individuals between \$80,000 and \$110,000. So
3 that choice they will have to make.

4 Thank you very much.

5 ACTING PRESIDENT VALESKY:

6 Senator Dilan will be recorded in the
7 affirmative.

8 Senator Libous, to explain his
9 vote.

10 SENATOR LIBOUS: Thank you,
11 Mr. President.

12 I guess for exactly that reason
13 that Senator Dilan stated, I'm going to vote
14 no on this bill. Certainly I'm all for
15 fighting corruption, but in my debate with
16 Senator Dilan he said that there were no
17 issues that he was aware of. Certainly he
18 knows how many members this is going to affect
19 on both sides of the aisle.

20 But, Senator, I think it's wrong to
21 have it go into effect immediately. I think
22 that at least it would be fair to get through
23 this election cycle, maybe go into effect on
24 January 1. And I say that this because it's
25 the only reason why I'm voting no. As I said

1 to you before, quite frankly in committee one
2 year I voted without recommendation, this year
3 I voted yes. But this particular issue is a
4 concern to me.

5 I think in the middle of a
6 gubernatorial election year, to make as many
7 as six on one side, eight on the other, to
8 make a decision and resign I think is just not
9 right. I think if you wanted to make this
10 bill go into effect on January 1 of 2011, I
11 think it would make more sense.

12 So for that reason, Mr. President,
13 I'm going to vote no.

14 ACTING PRESIDENT VALESKY:
15 Senator Libous to be recorded in the negative.

16 Senator Oppenheimer, to explain her
17 vote.

18 SENATOR OPPENHEIMER: Thank you.

19 Well, I find myself in complete
20 accord with the prior speaker. I love the
21 bill; I think it's a great bill. As most of
22 you know, my background was president of the
23 League of Women Voters, and that's how I got
24 into government. And it's a good-government
25 bill, and under normal circumstances I would

1 be voting yes.

2 But I feel that the date that it's
3 supposed to become effective simply does not
4 work at this time. And I would encourage a
5 date that would be either the beginning of
6 next year or the beginning of the following
7 year.

8 Otherwise, I think it's a great
9 bill, but I don't like the date that it
10 starts, so I'll be voting no.

11 ACTING PRESIDENT VALESKY:
12 Senator Oppenheimer to be recorded in the
13 negative.

14 Senator Stavisky, to explain her
15 vote.

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

18 We did, I think, have a situation
19 in Queens County which, while not covered
20 under the provisions of this legislation,
21 nevertheless I find extremely troubling. We
22 had a situation where a Queens member of the
23 Board of Elections was sitting in on a recount
24 of a particular political campaign. The
25 problem is that that employee was also an

1 employee of the Senate, the Senate minority.
2 And while the individual I happen to like and
3 respect, nevertheless I think there's an
4 innate conflict in that kind of situation.

5 Obviously it's not covered under
6 the provisions of this legislation, but I
7 certainly support the reform efforts and I
8 vote aye.

9 ACTING PRESIDENT VALESKY:

10 Senator Stavisky to be recorded in the
11 affirmative.

12 Senator DeFrancisco, to explain his
13 vote.

14 SENATOR DeFRANCISCO: Yes, I vote
15 aye on this bill. I think it's a
16 good-government bill. It avoids conflicts of
17 interest that are extremely important in the
18 election process. And for those who say that
19 we don't vote in a bipartisan manner from time
20 to time, I think this is an example of this
21 body doing exactly that.

22 The last good-government bill that
23 we passed in such a bipartisan fashion was a
24 budget bill back in 2007, and we don't -- we
25 followed it in 2008. The leadership over the

1 last two years, including this year, found
2 that maybe it's not necessary, maybe it's just
3 a suggestion rather than a law. So now we're
4 here going to our 12th budget extender
5 momentarily.

6 So to those who are concerned about
7 the start date of this bill and how it's going
8 to affect Boards of Elections this coming
9 election, maybe they could take the same tack
10 that the legislative leaders have taken: Just
11 ignore the law. And then they won't have to
12 worry, make their determination as to who to
13 resign or not maybe next year or the year
14 after or whenever it possibly fits their
15 purpose to do so.

16 So I vote aye on this bill, I just
17 hope it actually is followed, unlike many of
18 our other reform bills. Thank you.

19 ACTING PRESIDENT VALESKY:
20 Senator DeFrancisco to be recorded in the
21 affirmative.

22 Senator Maziarz, to explain his
23 vote.

24 SENATOR MAZIARZ: Thank you very
25 much, Mr. President, to explain my vote.

1 I am going to be voting in the
2 affirmative. I don't know, quite frankly,
3 what the big concern is about the effective
4 date. I think Senator Dilan hit it right on.

5 Hopefully when the bill becomes
6 law, the individuals, the eight Democrats and
7 six Republicans, are going to have to make a
8 choice. They're either going to want to
9 continue to be county leaders or elected
10 officials, or they're going to want to be
11 commissioners of the Board of Elections. No
12 one says that the world has to stop, that the
13 elections are somehow going to be interrupted
14 because of that. Well, I would hope that they
15 do the right thing then and stay on on the
16 Board of Elections and give up their other
17 jobs.

18 I vote in the affirmative,
19 Mr. President. Thank you.

20 ACTING PRESIDENT VALESKY:
21 Senator Maziarz to be recorded in the
22 affirmative.

23 Announce the results.

24 THE SECRETARY: Those recorded in
25 the negative on Calendar Number 208 are

1 Senators Hassell-Thompson, O. Johnson, Larkin,
2 Libous, Little, Oppenheimer, Ranzenhofer,
3 Seward, Skelos, Stewart-Cousins, Volker and
4 Winner.

5 Absent from voting: Senators
6 Golden, Lanza and Peralta. Ayes, 45 --

7 ACTING PRESIDENT VALESKY: Hold
8 on. Senator Peralta, how do you vote?

9 SENATOR PERALTA: Aye.

10 ACTING PRESIDENT VALESKY:
11 Senator Peralta to be recorded in the
12 affirmative.

13 The Secretary will announce the
14 results.

15 THE SECRETARY: In relation to
16 Calendar Number 208: Ayes, 46. Nays, 12.

17 Absent from voting: Senators
18 Golden and Lanza.

19 ACTING PRESIDENT VALESKY: The
20 bill is passed.

21 Senator Bonacic.

22 SENATOR BONACIC: Thank you,
23 Mr. President.

24 I would ask unanimous consent to
25 vote on a bill which I was not present in the

1 chambers. It was Senate Bill 7386A. It was a
2 Senator Fuschillo bill. I'd like to be
3 recorded in the negative.

4 ACTING PRESIDENT VALESKY:
5 Senator Bonacic, unanimous consent has been
6 granted. You will be recorded in the negative
7 on Calendar Number 915.

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

10 ACTING PRESIDENT VALESKY: The
11 Secretary will read.

12 THE SECRETARY: Calendar Number
13 739, by Senator Foley, Senate Print 7703, an
14 act to amend Chapter 397 of the Laws of 1996,
15 relating to authorizing.

16 ACTING PRESIDENT VALESKY: Are
17 there any Senators wishing to be heard?

18 SENATOR LIBOUS: Mr. President,
19 would you please withdraw the lay-aside on
20 this bill?

21 ACTING PRESIDENT VALESKY: The
22 lay-aside has been withdrawn on Calendar
23 Number 739.

24 The Secretary will place the bill
25 before the house on the noncontroversial

1 calendar and read the last section.

2 There is a home-rule message at the
3 desk.

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

6 ACTING PRESIDENT VALESKY: Call
7 the roll.

8 (The Secretary called the roll.)

9 THE SECRETARY: Ayes, 58.

10 ACTING PRESIDENT VALESKY: The
11 bill is passed.

12 Returning to the controversial
13 calendar, the Secretary will continue to read.

14 THE SECRETARY: Calendar Number
15 929, by Senator Stewart-Cousins, Senate Print
16 7962B, an act to amend the General Municipal
17 Law.

18 SENATOR SERRANO: Lay the bill
19 aside for the day, please.

20 ACTING PRESIDENT VALESKY: The
21 bill is laid aside for the day.

22 THE SECRETARY: Calendar Number
23 963, by Senator Stewart-Cousins, Senate Print
24 4057B, an act to amend the Public Health Law
25 and the Social Services Law.

1 SENATOR FUSCHILLO: Explanation.

2 SENATOR SALAND: Explanation,
3 please.

4 ACTING PRESIDENT VALESKY:
5 Senator Stewart-Cousins, an explanation has
6 been requested.

7 SENATOR STEWART-COUSINS: Yes,
8 thank you, Mr. President.

9 This bill is an attempt to capture
10 the almost 270,000 children in New York State
11 who are eligible, because of lack of income,
12 for Child Health Plus.

13 Many of these children actually go
14 to our schools, and many of these children
15 receive free or reduced lunch. And so what
16 we're trying to do is enhance the coordination
17 so that there is an awareness of the
18 eligibility for our insurance program, so that
19 instead of having 270,000 uninsured children
20 who somehow slip through the cracks, they are
21 enrolled and are able to receive benefits.
22 Again, it's about keeping kids insured who
23 should be insured.

24 I will point out to my colleagues
25 that the eligibility process remains the same.

1 It's one thing to be able to enroll; it is
2 another thing to be able to be found eligible.
3 And the eligibility criteria is not changed at
4 all. This just, again, hopes to capture the
5 over 200,000 children who are eligible in
6 New York State but, you know, don't know it.

7 SENATOR SALAND: Mr. President,
8 would Senator Stewart-Cousins --

9 SENATOR STEWART-COUSINS: Yes.
10 Through you, Mr. President.

11 SENATOR SALAND: Mr. President,
12 excuse me for one moment. Apparently there's
13 an amendment that's going to be offered.

14 ACTING PRESIDENT VALESKY:
15 Certainly.

16 Senator Libous.

17 SENATOR LIBOUS: Thank you,
18 Senator Saland.

19 Mr. President, I believe there's an
20 amendment by Senator Hannon at the desk. I
21 would ask that you waive its reading and
22 please call on Senator Hannon to explain the
23 amendment.

24 ACTING PRESIDENT VALESKY: There
25 is an amendment at the desk. The reading of

1 the amendment is waived and, Senator Hannon,
2 you are recognized to speak on the amendment.

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

5 In keeping with the stated
6 intentions of the sponsor that the eligibility
7 is not changed but the notice of it is
8 expanded, I am offering an amendment that says
9 nothing herein shall be construed to expand
10 the current eligibility guidelines of the
11 medical assistance program.

12 I believe that we just need to be
13 clear. There is language that was added to
14 this bill after it was reported from
15 committee. That's perfectly fine, but I
16 believe that language gives rise to the reason
17 I would like my amendment adopted. For that
18 reason, I urge its adoption.

19 ACTING PRESIDENT VALESKY: Thank
20 you, Senator Hannon.

21 All those supporting the nonsponsor
22 amendment to Calendar Number 963 should raise
23 their hands.

24 Results.

25 THE SECRETARY: Ayes, 26. Nays,

1 32.

2 ACTING PRESIDENT VALESKY: The
3 amendment is not agreed to.

4 Returning to the bill. Senator
5 Saland.

6 SENATOR SALAND: Thank you,
7 Mr. President. Would Senator Stewart-Cousins
8 yield, please.

9 ACTING PRESIDENT VALESKY:
10 Senator Stewart-Cousins, do you yield?

11 SENATOR STEWART-COUSINS:
12 Absolutely.

13 ACTING PRESIDENT VALESKY: The
14 sponsor yields.

15 SENATOR HANNON: Senator
16 Stewart-Cousins, perhaps in light of the
17 amendment that Senator Hannon offered -- I did
18 not realize he was offering the amendment --
19 you might be able to explain the difference
20 between the A print and the B print.

21 The A print I saw as a member of
22 the Education Committee, I supported it, and
23 it pretty much sounded like the bill you
24 described. The B print, however, is not
25 quite, I don't believe, like the bill you

1 described.

2 SENATOR STEWART-COUSINS: Thank
3 you, Senator Saland.

4 It is the same bill, but what's
5 happened is that it's structurally changed so
6 that it is in a more sequential way as opposed
7 to the way it was before. So it's the same
8 bill, it's just in a different -- in a more
9 technically correct structure.

10 SENATOR SALAND: If the Senator
11 will continue to yield.

12 ACTING PRESIDENT VALESKY:
13 Senator Stewart-Cousins, do you continue to
14 yield?

15 SENATOR STEWART-COUSINS:
16 Absolutely.

17 ACTING PRESIDENT VALESKY: The
18 sponsor yields.

19 SENATOR SALAND: In your A
20 print -- and perhaps in your B print as well,
21 I'm not sure -- you said, on the fiscal,
22 "Amount to be determined." Does that remain
23 the fiscal implication to the state, the
24 amount is to be determined?

25 SENATOR STEWART-COUSINS: Yes,

1 Senator.

2 SENATOR SALAND: If the Senator
3 will continue to yield.

4 ACTING PRESIDENT VALESKY:
5 Senator Stewart-Cousins, do you continue to
6 yield?

7 SENATOR STEWART-COUSINS: Yes.

8 ACTING PRESIDENT VALESKY: The
9 sponsor continues.

10 SENATOR SALAND: And what are the
11 elements that will go into the determination
12 of what that amount will be? And to the
13 extent -- if I may, and to the extent that you
14 can, can you explain the difference in the
15 impact on Medicaid payments between your A
16 version and your B version?

17 SENATOR STEWART-COUSINS: Let me
18 just answer the first question first.

19 As I began, there are approximately
20 270,000 children who are eligible for
21 insurance but who for one reason or another
22 are not being insured. So -- so --

23 ACTING PRESIDENT VALESKY: Excuse
24 me, Senator Stewart-Cousins.

25 SENATOR SALAND: There are folks

1 around me speaking, and I'm finding it hard to
2 hear Senator Stewart-Cousins.

3 ACTING PRESIDENT VALESKY: Keep
4 the noise down, please.

5 SENATOR STEWART-COUSINS: The
6 original premise is that there are almost
7 300,000 children in New York State who are
8 eligible for these types of programs who for
9 one reason or another are still not receiving
10 the benefits.

11 So on the one hand, I think it's
12 fair to say that we have these programs
13 established to be able to make sure that kids
14 who are eligible get insurance. So I think
15 the fiscal implications have already been
16 factored into the reality that we offer these
17 programs for the benefit of eligible children.

18 So what this particular bill would
19 do was, again, give another avenue to reach
20 these eligible children. And that's why I say
21 that the impact, although not determined, has
22 already presumably been factored into the fact
23 that we have offered these programs for
24 insuring children and continue to offer the
25 programs.

1 SENATOR SALAND: Would the
2 Senator continue to yield.

3 ACTING PRESIDENT VALESKY:
4 Senator Stewart-Cousins, do you continue to
5 yield?

6 SENATOR STEWART-COUSINS: Yes.

7 ACTING PRESIDENT VALESKY: The
8 sponsor continues.

9 SENATOR SALAND: Senator
10 Stewart-Cousins, could you tell me what the
11 difference is between the federal poverty
12 level for purposes of a free lunch or
13 breakfast or a reduced lunch or breakfast?

14 SENATOR STEWART-COUSINS: What
15 are the qualifications?

16 SENATOR SALAND: Yes.

17 SENATOR STEWART-COUSINS: Yeah.
18 A parent or the guardian can come in and, you
19 know, say that they are eligible for free and
20 reduced lunch.

21 And I'm glad you brought this point
22 up, because the reality is is that you can say
23 "I can't afford to feed my child" and get a
24 free or reduced lunch. However, you cannot
25 use that only as an eligibility criterion for

1 the insurance program that we're talking
2 about.

3 So it is another avenue where we
4 can identify and hopefully ensure that
5 schoolchildren who are absolutely eligible for
6 this program who arrive at our schools, their
7 parents know that there's another way for them
8 to be insured. However, again, the
9 eligibility criteria for these programs remain
10 the same.

11 SENATOR SALAND: If the Senator
12 will continue to yield.

13 SENATOR STEWART-COUSINS: Yes.

14 ACTING PRESIDENT VALESKY: The
15 sponsor continues.

16 SENATOR SALAND: When we talk
17 about the federal poverty level, is it not
18 true that in one instance it's 130 percent of
19 the rate and in the other instance it's
20 185 percent of the rate? Is that correct?

21 SENATOR STEWART-COUSINS: Well, I
22 can tell you that the Child Health Plus
23 eligibility is 400 percent of the federal
24 poverty level -- \$58,200 for a family of two,
25 \$73,000 and change for a family of three,

1 et cetera. So the Child Health Plus
2 eligibility, which is what we'd be looking at,
3 is 400 percent of the federal poverty level.

4 SENATOR SALAND: Thank you,
5 Senator Stewart-Cousins. But my question
6 really is about the federal poverty level for
7 purposes of eligibility not for Child Health
8 Plus, but either for a free lunch or breakfast
9 or a reduced lunch or breakfast.

10 And I think in the case of the
11 former, the free, it's 130 percent of the
12 poverty level and in the case of the latter, I
13 believe it's 185 percent.

14 SENATOR STEWART-COUSINS: You're
15 right. Actually, you're almost right, it's
16 about 185 percent based on my records here.

17 But again, the larger picture is
18 still the larger picture. And that is that
19 there are almost 300,000 children, many of
20 whom I'm sure are in our public schools, many
21 of whom are indeed eligible for both free
22 lunch as well as Child Health Plus.

23 So again, because the awareness is
24 raised, because you choose to enroll in a
25 program doesn't necessarily mean you're

1 eligible. And the eligibility criteria which
2 is used to determine whether or not a child
3 can benefit from Child Health Plus remains the
4 same.

5 SENATOR SALAND: Would the
6 Senator yield to one more question.

7 ACTING PRESIDENT VALESKY:
8 Senator Stewart-Cousins, do you continue to
9 yield?

10 SENATOR STEWART-COUSINS: Yes.

11 ACTING PRESIDENT VALESKY: The
12 sponsor yields.

13 SENATOR SALAND: That was the
14 rationale that was offered for your A print.
15 And if that was the case, why is the B print
16 necessary? Because that was the rationale
17 that was offered in committee --

18 SENATOR STEWART-COUSINS: Right.

19 SENATOR SALAND: -- that was the
20 rationale that was offered in your bill memo.
21 And what is it that necessitated the B print
22 that will result, by reason of the
23 certification language that's contained on the
24 last page of the bill, in an undetermined yet
25 increased amount of Medicaid costs? This has

1 nothing to do with Child Health Plus.

2 SENATOR STEWART-COUSINS: Senator
3 Saland, again, the technical change was
4 because of the restructuring for
5 recertification. The restructuring was in
6 recertification; now it's in the application
7 process.

8 SENATOR SALAND: Thank you.
9 Thank you, Senator Stewart-Cousins.

10 On the bill, Mr. President.

11 ACTING PRESIDENT VALESKY:
12 Senator Saland, on the bill.

13 SENATOR SALAND: I would merely
14 suggest that the amendment that we're seeing
15 in an A and B print is anything but technical.
16 The amendment is going to result in what is,
17 in the bill sponsor's memo, an undetermined
18 impact on the state in terms of the fiscal
19 note.

20 And this particular amendment, by
21 way of the Medicaid impact, will increase the
22 amount that would be expected to be paid by
23 way of Medicaid over and above what was in the
24 preceding bill -- a bill which I believe may
25 have passed, notwithstanding the fiscal,

1 unanimously out of committee.

2 What we're doing here is inviting
3 yet another increase in spending on the
4 Medicaid side of the equation, notwithstanding
5 the laudable purpose, which could have been
6 equally well accomplished at a lower expense
7 with the prior version of the bill. And it's
8 one which I would hope that the sponsor would
9 reconsider.

10 I have no idea if this is a
11 crossover or if it's -- if there's a same-as.
12 But this certainly is nothing that's in the
13 Governor's fiscal plan. And God only knows if
14 anybody knows what's in the fiscal plan, 12,
15 13 weeks into the budget date. But it's
16 inconceivable to me that anybody in any fiscal
17 plan has made any provision for this increased
18 amount of money.

19 Thank you.

20 ACTING PRESIDENT VALESKY: Thank
21 you, Senator Saland.

22 Are there any other Senators --
23 Senator Montgomery.

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

1 legislation and thank Senator Stewart-Cousins
2 for introducing it.

3 And certainly I represent one of
4 those districts where so many of those 270,000
5 children who are not currently participating
6 and who are eligible live.

7 And despite, you know, every summer
8 at every event all across my district, there
9 are people with vans and brochures and tables
10 and they're passing out this Child Health Plus
11 and join Child Health Plus and sign up and
12 what have you, most of those young people are
13 still missed.

14 And we have these separate systems
15 to serve the exact same constituents. And
16 this is clearly one of those areas where we
17 have a separate system for enrolling children
18 in their nutrition programs in their schools
19 and a separate system for them to be enrolled
20 in Child Health Plus. This just makes so much
21 more sense.

22 If a young person is enrolled, is
23 eligible, and the parents can prove their
24 eligibility for the nutrition program, yes,
25 they should automatically be assumed to be

1 eligible for Child Health Plus, for Medicaid.
2 It's a very simple solution to a huge problem.
3 And I really, really think that this becomes
4 one of the pillars where we begin to address
5 access to very important services for parents
6 and their children in our state and remove
7 some of those barriers that are just really
8 basically bureaucratic fences to them being
9 able to access services.

10 So I'm supporting this legislation.
11 I really ask my colleagues to vote yes on
12 this, because this really will make a huge
13 difference in making sure that children who
14 are eligible are actually going to be covered
15 for their healthcare.

16 Thank you, Mr. President.

17 ACTING PRESIDENT VALESKY: Thank
18 you, Senator Montgomery.

19 Senator Hannon.

20 SENATOR HANNON: Thank you,
21 Mr. President.

22 If you're going to make a change,
23 you ought to make it accurately. I voted for
24 this bill in committee, and subsequent to the
25 committee, the phrase was added

1 "notwithstanding the provisions of paragraph
2 A, an applicant or recipient providing written
3 documentation of income eligibility of a child
4 for a free or reduced breakfast or lunch
5 through the school programs certified by the
6 child's school shall meet the evidentiary
7 requirements." So in other words, if you get
8 either the free or reduced-price breakfast or
9 lunch, you're eligible for Medicaid.

10 Well, the free is exactly the same
11 in terms of the percentage of the poverty
12 level, so there is an even standard. But the
13 hole in the argument of the sponsor is that
14 it's the reduced price. That goes to
15 185 percent of poverty. If we make that many
16 children eligible for Medicaid, we've expanded
17 Medicaid. It's very clear.

18 Now, I would like to expand
19 Medicaid for lots. I'd like to keep the
20 expanded Child Health Plus. But at a time
21 we're facing multiple billion-dollar deficits
22 and told later today we'll be voting on tax
23 hikes, later this week we'll be voting on tax
24 hikes, this is not a wise measure.

25 Thank you, Mr. President.

1 ACTING PRESIDENT VALESKY: Thank
2 you, Senator Hannon.

3 Are there any other Senators who
4 wish to be heard?

5 Seeing none, the debate is closed.
6 The Secretary will ring the bells.

7 Read the last section.

8 THE SECRETARY: Section 5. This
9 act shall take effect June 1, 2011.

10 ACTING PRESIDENT VALESKY: Call
11 the roll.

12 (The Secretary called the roll.)

13 ACTING PRESIDENT VALESKY:
14 Senator Duane, to explain his vote.

15 SENATOR DUANE: Thank you very
16 much, Mr. President.

17 I want to commend the sponsor for
18 this bill. I know that she worked extremely
19 hard on it, and it's a very good bill.

20 The bill doesn't do anything to
21 change eligibility. Eligibility has been
22 approved and is monitored by the federal
23 government. What this does is, for children
24 who are already eligible but who may not be
25 accessing healthcare, it's another vehicle by

1 which they can access healthcare.

2 So covering children who are
3 already eligible to be covered is a good
4 thing, and everything we can do to get them
5 healthcare is, short term and long term, good
6 for our state.

7 Thank you, Mr. President.

8 ACTING PRESIDENT VALESKY:
9 Senator Duane to be recorded in the
10 affirmative.

11 Senator Saland, to explain his
12 vote.

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

15 I'd like to read from a piece from
16 yesterday's Poughkeepsie Journal which talked
17 about Medicaid as an issue in New York:

18 "Driving New York's rate is the
19 paradoxical incentive, under Medicaid, to
20 spend money in order to make it, the promise
21 of the Medicaid match. The feds give a dollar
22 for every dollar." And then they go on to
23 quote a researcher from the University of
24 Minnesota: "'At one level it's fabulous the
25 amount of federal money New York has brought

1 in.' 'But,' he added, 'half the money has to
2 come from people in New York. That's the
3 other side of it.'"

4 Then, under "Medicaid It," "One of
5 the reasons New York reaps so much federal
6 cash is New York's proclivity, legendary among
7 the states, to jack up Medicaid reimbursements
8 by aggressively and legally including every
9 state cost even remotely related to disability
10 services, from pencils to power plants.
11 Clerks, commissioners, Albany overhead,
12 regulatory oversight, sidewalk maintenance, it
13 all goes into the mix. 'New York's strategy
14 was' -- again, quoting somebody else -- 'if it
15 moves, Medicaid it. It's called cost
16 mining.'"

17 This is an example of cost mining.
18 The increase between the current 130 percent
19 of the federal poverty level for the free and
20 185 percent for the reduced is simply such an
21 example. This is an increased Medicaid cost
22 imposed upon state taxpayers and county
23 taxpayers as well.

24 I vote in the negative.

25 ACTING PRESIDENT VALESKY:

1 Senator Saland to be recorded in the negative.

2 Senator Hannon, to explain his
3 vote.

4 SENATOR HANNON: I rise to
5 explain my vote and to say why two of the
6 Senators on the other side of the aisle were
7 wrong in their assumption that this is simply
8 keeping people who are eligible for one
9 program automatically enrolled in Medicaid.

10 The mistake comes because, and as
11 the bill memo of the sponsor says, "to ensure
12 that children who are eligible and enrolled
13 for free and reduced-price school meals are
14 also enrolled in Child Health Plus or
15 Medicaid." The free school meals does have
16 the same eligibility as Medicaid. So to that
17 point, there is coordination.

18 However, there's a second program,
19 reduced-price school meals. That has a
20 different eligibility. And in fact it's much
21 higher than the free eligibility -- it's
22 185 percent of poverty versus 130 percent of
23 poverty. So we are adding in a whole new
24 population to Medicaid by an indirect route,
25 by a route that is not acknowledged.

1 And that is why I'm against it,
2 because at this time in this year we cannot
3 afford it. Thank you.

4 ACTING PRESIDENT VALESKY:
5 Senator Hannon to be recorded in the negative.

6 Senator Liz Krueger, to explain her
7 vote.

8 SENATOR LIZ KRUEGER: Thank you,
9 Mr. President. I too rise to praise this bill
10 and to support it.

11 It is free or reduced, as my
12 colleague Senator Hannon just pointed out, but
13 it's Child Health Plus and Medicaid. So Child
14 Health Plus eligibility goes above the reduced
15 price level. So no, it is not increasing a
16 universe of eligibility for benefits.

17 This is a fundamental question of
18 when you have laws saying people are eligible
19 and yet people aren't participating, you've
20 failed the test. The most critical issue in
21 healthcare, and we've talked about it so many
22 times, is ensuring access to healthcare for
23 children as they are developing so that they
24 don't get the long-term chronic illnesses that
25 will be with them for the rest of their lives,

1 drive up healthcare costs in the State of New
2 York for them as adults and as older adults.

3 So this is a win/win. It does not
4 increase the universe of eligibility, it
5 ensures that people who are eligible for
6 either Medicaid or Child Health Plus as
7 children get the benefits they are eligible
8 for.

9 We've talked about so many times
10 needing universal access to health insurance
11 for our most vulnerable children. This is
12 another common-sense way to ensure that
13 children who are already eligible are able to
14 participate.

15 I vote yes, Mr. President.

16 ACTING PRESIDENT VALESKY:

17 Senator Liz Krueger to be recorded in the
18 affirmative.

19 Senator LaValle, to explain his
20 vote.

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

23 This bill sets an example of why we
24 may want to make a rules change or at least
25 consider it when you make a major change in a

1 that was reported from committee. And those
2 individuals in the committee -- such as
3 Senator Hannon -- who supported it, then with
4 this amendment, it just brings into play
5 entirely different dynamics. So I think if we
6 rely on a committee system, we really need to
7 abide by the interaction and input of the
8 committee members.

9 Lastly, once we go this route in
10 terms of school services, we are going to see
11 an expansion in many other areas at a time
12 when we can ill-afford an expansion in cost of
13 Medicaid. And I just remind everyone it's a
14 billion dollars a week. So we're just going
15 to increase those costs.

16 I vote in the negative.

17 ACTING PRESIDENT VALESKY:

18 Senator LaValle to be recorded in the
19 negative.

20 Senator Montgomery, to explain her
21 vote.

22 SENATOR MONTGOMERY: Yes.

23 Mr. President, I rise to support this
24 legislation. I'm very thankful that Senator
25 Stewart-Cousins has brought this bill to us.

1 And as I said, I'm a great believer
2 in the school as the access point for services
3 to children, especially young children. And
4 so that's why I believe so much in
5 school-based health clinics. This bill
6 utilizes the school site as the primary place
7 where we can reach the maximum number of
8 children and enroll them in either Child
9 Health Plus or make sure they're covered by
10 Medicaid. And, Mr. President, primary and
11 early intervention for healthcare will reduce
12 the cost in the long run, that is for sure.

13 The second thing is that children
14 are not the costly part of Medicaid. The
15 other end of the care that we provide -- for
16 institutional care, for the elderly -- that's
17 where the high cost is, not for children.

18 So I wholeheartedly support this
19 legislation, and I think we are doing what is
20 the right thing to do for the children in our
21 state, and that is to make sure that those who
22 are eligible are indeed covered and enrolled
23 in the program.

24 Thank you, Mr. President. I vote
25 aye.

1 ACTING PRESIDENT VALESKY:

2 Senator Montgomery to be recorded in the
3 affirmative.

4 Senator Stewart-Cousins, to explain
5 her vote.

6 SENATOR STEWART-COUSINS: Yes,
7 Mr. President. Thank you.

8 I think that everything to be said
9 about this bill has been said, and I really do
10 urge my colleagues to support the bill.

11 We have opportunities to change
12 outcomes for people when they are young.
13 That's why we do what we do. We try and get
14 people into appropriate quality care early in
15 their lifetime so that they are not
16 chronically ill and underserved and create a
17 tremendous fiscal burden on taxpayers.

18 I can't think of a better way to
19 introduce eligible young people, almost
20 300,000 of them, to the fact that they can get
21 quality primary care than by doing so in
22 school buildings. This does not guarantee
23 that they will indeed be eligible; there are
24 steps that they have to take. It's just
25 another ticket, it's another access point. It

1 is evidence that they could indeed be
2 eligible.

3 I hope that we support the bill. I
4 hope that we continue to support the health of
5 our children in New York State.

6 ACTING PRESIDENT VALESKY:
7 Senator Stewart-Cousins to be recorded in the
8 affirmative.

9 Senator Oppenheimer, to explain her
10 vote.

11 SENATOR OPPENHEIMER: Well, just
12 very briefly, because most of the points have
13 been made.

14 But from my vantage point, as chair
15 of Education, I say if we do not have a
16 healthy child entering school, we are not
17 going to have good educational results. And
18 the opportunity to reach these children young,
19 so that we can change their outcome, so that
20 they can enter kindergarten or pre-K in a
21 position to be able to learn and to benefit
22 from it, that can only be achieved through
23 good healthcare.

24 And in this instance, with the
25 healthcare available so close to where the

1 child is, particularly if they're in school,
2 it just gives us a leg up on illnesses like
3 asthma, like diabetes. I mean, if we get them
4 young, we can tell them how to manage their
5 illness. And that will prevent so many times
6 their going to emergency units, to hospitals.

7 It's just -- this is a win/win.
8 It's a win as far as cost. But more
9 importantly, it saves, in many instances, the
10 lives of these children.

11 Thank you. I'll be voting yes.

12 ACTING PRESIDENT VALESKY:

13 Senator Oppenheimer to be recorded in the
14 affirmative.

15 Announce the results.

16 THE SECRETARY: Those recorded in
17 the negative on Calendar Number 963 are
18 Senators Alesi, Bonacic, DeFrancisco, Farley,
19 Flanagan, Fuschillo, Golden, Griffio, Hannon,
20 Larkin, LaValle, Leibell, Libous, Little,
21 Marcellino, Maziarz, McDonald, Nozzolio,
22 Ranzenhofer, Robach, Saland, Seward, Skelos,
23 Volker, Winner and Young.

24 Absent from voting: Senator Lanza.

25 Ayes, 34. Nays, 26.

1 ACTING PRESIDENT VALESKY: The
2 bill is passed.

3 THE SECRETARY: Calendar Number
4 1057, by Member of the Assembly Paulin,
5 Assembly Print Number 7850, an act to amend
6 the Election Law.

7 ACTING PRESIDENT CRAIG JOHNSON:
8 Seeing no other Senator wishing to be heard,
9 debate is closed.

10 The Secretary will please ring the
11 bells.

12 Read the last section.

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

15 ACTING PRESIDENT CRAIG JOHNSON:
16 Call the roll.

17 (The Secretary called the roll.)

18 ACTING PRESIDENT CRAIG JOHNSON:
19 Announce the results.

20 THE SECRETARY: Those recorded in
21 the negative on Calendar Number 1057 are
22 Senators Alesi, Bonacic, DeFrancisco, Farley,
23 Flanagan, Fuschillo, Golden, Griffio, Hannon,
24 O. Johnson, Lanza, Larkin, LaValle, Leibell,
25 Libous, Little, Marcellino, Maziarz, McDonald,

1 Nozzolio, Padavan, Ranzenhofer, Robach,
2 Saland, Seward, Skelos, Volker, Winner and
3 Young.

4 Ayes, 32. Nays, 29.

5 ACTING PRESIDENT CRAIG JOHNSON:

6 The bill is passed.

7 Senator Klein.

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

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

15 ACTING PRESIDENT CRAIG JOHNSON:

16 Senator DeFrancisco.

17 SENATOR DeFRANCISCO: I was
18 standing to explain my vote, but I'll do it on
19 the next bill, explaining my vote on this last
20 bill.

21 ACTING PRESIDENT CRAIG JOHNSON:

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

25 Pending the return of the Rules

1 Committee, may we please stand at ease.

2 Senator Libous.

3 SENATOR LIBOUS: After the
4 Finance and Rules meetings, there will be a
5 Republican conference.

6 ACTING PRESIDENT CRAIG JOHNSON:
7 Following the Finance Committee and Rules
8 Committee meetings, there will be an immediate
9 meeting of the Republican Minority Conference
10 in the Republican Minority Conference Room.

11 (Whereupon, the Senate stood at
12 ease at 2:44 p.m.)

13 ACTING PRESIDENT CRAIG JOHNSON:
14 Senator Klein.

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

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

22 ACTING PRESIDENT CRAIG JOHNSON:
23 Immediate meeting of the Finance Committee,
24 followed by a meeting of the Rules Committee
25 in the Majority Conference Room.

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

4 (Whereupon, the Senate reconvened
5 at 4:54 p.m.)

6 ACTING PRESIDENT CRAIG JOHNSON:
7 Senator Klein.

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

12 ACTING PRESIDENT CRAIG JOHNSON:
13 Senator Klein, there is a report of the Rules
14 Committee at the desk.

15 The Secretary will read.

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

19 Senate Print 6600C, Senate Budget
20 Bill, an act making appropriations for the
21 support of government;

22 6605C, Senate Budget Bill, an act
23 making appropriations for the support of
24 government;

25 6606B, Senate Budget Bill, an act

1 to amend the Executive Law and others;

2 6609B, Senate Budget Bill, an act
3 intentionally omitted (Part A); intentionally
4 omitted (Part B);

5 8065, by Senator Aubertine, an act
6 to amend the Economic Development Law and the
7 Public Authorities Law;

8 8284, by the Senate Committee on
9 Rules, an act making appropriations for the
10 support of government;

11 8285, by the Senate Committee on
12 Rules, an act to amend Chapter 405 of the Laws
13 of 1999;

14 And Senate Print 8293, by the
15 Senate Committee on Rules, an act to amend
16 Part D of a chapter of the Laws of 2010.

17 All bills ordered direct to third
18 reading.

19 ACTING PRESIDENT CRAIG JOHNSON:
20 We wish to have some order in the chamber,
21 please.

22 All those in favor of adopting the
23 Rules Committee report please signify by
24 saying aye.

25 (Response of "Aye.")

1 ACTING PRESIDENT CRAIG JOHNSON:

2 Opposed, nay.

3 (Response of "Nay.")

4 ACTING PRESIDENT CRAIG JOHNSON:

5 The Rules Committee report is adopted.

6 Senator Klein.

7 SENATOR KLEIN: Mr. President, I
8 would like to take up two bills from
9 Supplemental Calendar 67A: Calendar Numbers
10 1066 and 1067.

11 ACTING PRESIDENT CRAIG JOHNSON:

12 The Secretary will place Calendar Number 1066
13 before the house, noncontroversial.

14 The Secretary will read.

15 THE SECRETARY: In relation to
16 Calendar Number 1066, Senator C. Kruger moves
17 to discharge, from the Committee on Finance,
18 Assembly Bill Number 11514 and substitute it
19 for the identical Senate Bill Number 8284,
20 Third Reading Calendar 1066.

21 ACTING PRESIDENT CRAIG JOHNSON:

22 Substitution ordered.

23 THE SECRETARY: Calendar Number
24 1066, by the Assembly Committee on Rules,
25 Assembly Print Number 11514, an act making

1 appropriations for the support of government.

2 ACTING PRESIDENT CRAIG JOHNSON:

3 Senator Klein.

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

7 ACTING PRESIDENT CRAIG JOHNSON:

8 Senator Klein, there is a message of necessity
9 and appropriation here at the desk.

10 SENATOR KLEIN: Mr. President, I
11 ask that we adopt the message at this time.

12 ACTING PRESIDENT CRAIG JOHNSON:

13 The question is on the acceptance of the
14 message of necessity and appropriation. All
15 those in favor please signify by saying aye.

16 (Response of "Aye.")

17 ACTING PRESIDENT CRAIG JOHNSON:

18 Opposed, nay.

19 (No response.)

20 ACTING PRESIDENT CRAIG JOHNSON:

21 The message is accepted.

22 Read the last section.

23 THE SECRETARY: Section 20 --

24 SENATOR LIBOUS: Lay it aside.

25 ACTING PRESIDENT CRAIG JOHNSON:

1 The bill is laid aside.

2 The Secretary will now put before
3 the house Calendar Number 1067. The Secretary
4 will read.

5 THE SECRETARY: Calendar Number
6 1067, by the Senate Committee on Rules, Senate
7 Print 8285, an act to amend Chapter 405 of the
8 Laws of 1999 amending the Real Property Tax
9 Law.

10 ACTING PRESIDENT CRAIG JOHNSON:
11 Senator Klein.

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

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

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

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

24 (Response of "Aye.")

25 ACTING PRESIDENT CRAIG JOHNSON:

1 Opposed, nay.

2 (No response.)

3 ACTING PRESIDENT CRAIG JOHNSON:

4 The message is accepted.

5 Read the last section.

6 THE SECRETARY: Section 3. This

7 act --

8 SENATOR LIBOUS: Lay it aside.

9 ACTING PRESIDENT CRAIG JOHNSON:

10 The bill is laid aside.

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

13 Senator Klein.

14 SENATOR KLEIN: Mr. President, at
15 this time can we please move to the
16 controversial reading of the two bills on the
17 supplemental calendar, 67A.

18 ACTING PRESIDENT CRAIG JOHNSON:

19 The Secretary will ring the bell.

20 Members are all asked to come to
21 the chamber for the reading of the
22 controversial calendar. I ask all members to
23 please remain in the chamber as we debate
24 these bills.

25 The Secretary will put before the

1 house Calendar Number 1066 on the
2 controversial supplemental calendar.

3 THE SECRETARY: Calendar Number
4 1066, substituted earlier by the Assembly
5 Committee on Rules, Assembly Print Number
6 11514, an act making appropriations for the
7 support of government.

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

10 SENATOR DeFRANCISCO: I'm
11 requesting a very, very brief explanation.

12 ACTING PRESIDENT CRAIG JOHNSON:
13 Senator Kruger, a very, very brief explanation
14 has been requested by Senator DeFrancisco.

15 SENATOR CARL KRUGER: Thank you,
16 Mr. President. It will be my pleasure to
17 oblige.

18 This bill is the 12th appropriation
19 extender, that runs for the period to end on
20 June 27th. It provides \$2.4 billion in an
21 All Funds appropriation and \$1.5 billion for a
22 General Funds appropriation.

23 ACTING PRESIDENT CRAIG JOHNSON:
24 Senator DeFrancisco.

25 SENATOR DeFRANCISCO: Would

1 Senator Kruger yield to a couple of questions?

2 ACTING PRESIDENT CRAIG JOHNSON:

3 Senator Kruger, will you yield for a couple of
4 questions?

5 SENATOR CARL KRUGER: Yes, I do.

6 ACTING PRESIDENT CRAIG JOHNSON:

7 He does, Senator DeFrancisco.

8 SENATOR DeFRANCISCO: Senator
9 Kruger, I'd just like to ask you the same
10 questions that I asked last week. What cuts
11 if any, are made by the series of bills that
12 we're asked to pass on today? Total amount of
13 dollars of cuts.

14 SENATOR CARL KRUGER: Through
15 you, Mr. President, somewhere in the
16 neighborhood of \$100 million.

17 SENATOR DeFRANCISCO: All right.

18 So would Senator Kruger continue to
19 yield?

20 ACTING PRESIDENT CRAIG JOHNSON:

21 Senator Kruger, do you continue to yield?

22 SENATOR CARL KRUGER: Yes, I do.

23 SENATOR DeFRANCISCO: Adding that
24 \$100 million to the \$1.1 billion of cuts,
25 cumulative, from last week, after passing

1 these budget bills today we would have a total
2 of \$1.2 billion in cuts; is that correct?

3 SENATOR CARL KRUGER: No.

4 SENATOR DeFRANCISCO: No. Would
5 Senator Kruger tell me how I'm wrong in adding
6 the \$1.1 billion, which was his number last
7 week, to 100 million today, to come up with
8 \$1.2 billion?

9 ACTING PRESIDENT CRAIG JOHNSON:
10 First of all, Senator Kruger, do you yield for
11 another question?

12 SENATOR CARL KRUGER: Yes, I do.

13 And, Mr. President, for the
14 purposes of clarity, let me go through a
15 series of numbers and maybe that will put us
16 better into focus.

17 Firstly, the initial budget cut was
18 \$9.1 billion. In the December DRP, we cleared
19 up \$692 million of that shortfall. Through
20 the period of reductions, we have provided for
21 the following: In healthcare, \$774 million;
22 in local government aid, \$325 million; in
23 human services, \$211 million; in mental
24 hygiene, \$48 million; other cuts totalling
25 \$52 million; and state operations, including

1 workforce, \$1.2 million. For a total cut of
2 \$2.620 billion.

3 By the way, and then just for
4 further clarity, other actions that were taken
5 were tax audit and recovery of \$221 million,
6 nonrecurring actions of \$565 million, federal
7 FMAP extension of \$989 million, other actions
8 of 1.775 million, tobacco revenues of
9 440 million. Total back-closing actions of
10 5.527 billion. Remaining gap to close, which
11 would approximately be 40 percent of the
12 outstanding, would be 3.651 billion.

13 ACTING PRESIDENT CRAIG JOHNSON:

14 Senator DeFrancisco.

15 SENATOR DeFRANCISCO: Would

16 Senator Kruger yield to another question.

17 ACTING PRESIDENT CRAIG JOHNSON:

18 Senator Kruger, will you yield to another
19 question?

20 SENATOR CARL KRUGER: Yes, I do,

21 Mr. President.

22 SENATOR DeFRANCISCO: I'm not

23 quite sure how raising taxes is a cut.

24 Because you indicated in your summary there
25 raising cigarette taxes by so many millions --

1 I'm not quite sure what the number was,
2 because I lost track. All I remember is last
3 week you told me cumulatively up to last week
4 there was \$1.1 billion in cuts, and today
5 you're telling me there's another \$100 million
6 in cuts. To me, that sounds like \$1.2 billion
7 in cuts, leaving a balance from the
8 \$9.2 billion of \$8 billion to go.

9 Now you're saying to me that I'm
10 wrong. Is that correct?

11 SENATOR CARL KRUGER: Through
12 you, Mr. President. Firstly, what we were
13 talking about last week were the two bills
14 that were on the floor, and those were the
15 numbers that we used to reflect actions being
16 taken on those two bills, not the cumulative
17 effect of all actions being taken.

18 SENATOR DeFRANCISCO: Would
19 Senator Kruger yield to a question.

20 ACTING PRESIDENT CRAIG JOHNSON:
21 Senator Kruger, would you yield to a question?

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

24 SENATOR DeFRANCISCO: Excluding
25 revenue enhancers -- or taxes and fees, as

1 others call them -- up till today, if we pass
2 every one of these bills, how much in actual
3 cuts would have been accomplished, according
4 to your computation?

5 SENATOR CARL KRUGER: Through
6 you, Mr. President, the actual cuts are 2.620.

7 SENATOR DeFRANCISCO: All right.
8 So let's take that number, although I'm not
9 quite sure how it changes week to week -- but
10 let's take that number of 2.6 billion. Would
11 Senator Kruger yield to another question?

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

14 SENATOR DeFRANCISCO: The gap
15 that we've been told for several weeks has
16 been \$9.2 billion -- and it may be more,
17 because FMAP money may not be coming from the
18 federal government. So if I subtract 2.6, the
19 cuts that you say will be in effect as of
20 today, from the 9.2 gap, that leaves
21 6.6 billion of gap left to fill somehow,
22 whether with revenue enhancers, as you call
23 them, taxes and fees, as we call them, or
24 borrowing or whatever. Is that correct?

25 SENATOR CARL KRUGER: Through

1 you, Mr. President. No.

2 SENATOR DeFRANCISCO: Senator
3 Kruger, would you yield to another question?

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

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

8 SENATOR DeFRANCISCO: Senator
9 Kruger, would you tell me what you believe the
10 gap is after passing all of the bills today,
11 if these bills were passed?

12 SENATOR CARL KRUGER: Through
13 you, Mr. President. As I had indicated
14 previously, the remaining gap to close is
15 3.651.

16 SENATOR DeFRANCISCO: Now,
17 Senator Kruger, would you yield to another
18 question?

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

21 SENATOR DeFRANCISCO: Now, if you
22 take away the taxes that are being proposed in
23 what's happening today -- well, strike that.

24 Can you tell me what taxes are
25 being imposed today in order to reach the

1 \$3.6 billion gap that remains?

2 SENATOR CARL KRUGER: Through
3 you, Mr. President, the revenue enhancer that
4 we're talking about today, or the so-called
5 tobacco or cigarette tax, would be
6 \$290 million.

7 SENATOR DeFRANCISCO: All right.
8 If we add the two -- well, let's make it
9 three --

10 ACTING PRESIDENT CRAIG JOHNSON:
11 Senator DeFrancisco, do you wish Senator
12 Kruger to yield?

13 SENATOR DeFRANCISCO: Yes.

14 SENATOR CARL KRUGER: Yes, I do.

15 ACTING PRESIDENT CRAIG JOHNSON:
16 He yields.

17 SENATOR DeFRANCISCO: So by your
18 current numbers, cuts were 3.6 billion --
19 excuse me. Of the \$3.6 billion gap that's
20 left, \$300 million to get to that number is
21 from taxes of cigarettes. Correct?

22 SENATOR CARL KRUGER: Through
23 you, Mr. President. Approximately, yes.

24 SENATOR DeFRANCISCO: All right.
25 So without taxes today, Senator Kruger -- and

1 would you answer this question -- without the
2 taxes that are being proposed, we would have,
3 as of today, a \$4.2 billion gap. Correct?

4 ACTING PRESIDENT CRAIG JOHNSON:
5 Senator Kruger, do you continue to yield to
6 Senator DeFrancisco?

7 SENATOR DeFRANCISCO: Excuse me.
8 Excuse me, \$3.9 billion.

9 SENATOR CARL KRUGER: Right.
10 Right.

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

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

15 And as the Senator pointed out, it
16 would be approximately 3.9.

17 SENATOR DeFRANCISCO: Senator
18 Kruger, one last question.

19 ACTING PRESIDENT CRAIG JOHNSON:
20 Do you continue to yield, Senator Kruger?

21 SENATOR CARL KRUGER: Yes, I do.

22 SENATOR DeFRANCISCO: What is the
23 percentage of the budget that will have been
24 passed as of today, assuming that the budget
25 is the amount that the Governor proposed when

1 he presented his budget?

2 SENATOR CARL KRUGER: Through
3 you, Mr. President. After we're completed
4 passing the bills today, in anticipation with
5 total gap closing actions, 5.527, which would
6 be 60 percent -- approximately, again -- of
7 the budget.

8 SENATOR DeFRANCISCO: Now, I do
9 have one last question.

10 ACTING PRESIDENT CRAIG JOHNSON:
11 Senator Kruger, do you continue to yield for
12 one last question?

13 SENATOR CARL KRUGER: Yes, I do.

14 SENATOR DeFRANCISCO: This
15 \$3.9 billion gap, can you tell me -- strike
16 that. Has the Democrat conference been having
17 conferences about what options that remain in
18 order to fill that gap that you just referred
19 to?

20 SENATOR CARL KRUGER: Through
21 you, Mr. President, negotiations are ongoing.

22 SENATOR DeFRANCISCO: That wasn't
23 my question. Would Senator Kruger yield to a
24 question.

25 ACTING PRESIDENT CRAIG JOHNSON:

1 Senator Kruger, will you continue to yield for
2 questions?

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

5 SENATOR DeFRANCISCO: What
6 options are being considered by the Democrat
7 conference -- that no doubt you've been
8 briefed, because you want to be informed of
9 what's going on, as chair of Finance. What
10 options are being discussed or are out there
11 to complete the closing of this \$9.2 billion
12 gap? Because we're running out of budget
13 here.

14 SENATOR CARL KRUGER: Through
15 you, Mr. President, we're running out of time,
16 we're not running out of budget.

17 I guess all actions are on the
18 table.

19 SENATOR DeFRANCISCO: Senator
20 Kruger, would you yield to another question?

21 ACTING PRESIDENT CRAIG JOHNSON:
22 Senator Kruger, will you continue to yield for
23 another question?

24 SENATOR CARL KRUGER: Yeah, I
25 guess this is all part of the last question.

1 Yes, I do, Mr. President.

2 SENATOR DeFRANCISCO: Senator
3 Kruger, can you tell me what tax and fee
4 options are being discussed now that we may be
5 faced with within days, because of the
6 Governor's June 28th deadline, which are being
7 discussed so we can start thinking about them
8 on this side of the aisle?

9 SENATOR CARL KRUGER: Well,
10 through you, Mr. President. As I said,
11 negotiations are ongoing. Cuts as well as
12 revenues projections are on the table. And as
13 the negotiations go forward, we'll have a
14 clearer picture of exactly what that package
15 means.

16 SENATOR DeFRANCISCO: Thank you,
17 Senator Kruger.

18 SENATOR CARL KRUGER: Thank you.

19 SENATOR DeFRANCISCO: This is the
20 12th budget extender. And by the way, I don't
21 know if this is correct or not --

22 ACTING PRESIDENT CRAIG JOHNSON:
23 Senator DeFrancisco, this is on the bill,
24 correct?

25 SENATOR DeFRANCISCO: On the

1 bill.

2 ACTING PRESIDENT CRAIG JOHNSON:

3 Thank you.

4 SENATOR DeFRANCISCO: This is the
5 12th budget extender, and I don't know if this
6 is correct or now, but the Comptroller, who
7 should know what he's talking about, said that
8 if this budget extender didn't pass by
9 5 o'clock, he would not be able to get certain
10 payments made to bank accounts, direct
11 deposit. And it's now after 5:00, and we
12 didn't start this discussion until about
13 5 o'clock. So I don't know if that's true or
14 not.

15 But unfortunately, we're at this
16 point, the Assembly having done whatever they
17 did last week. But be that as it may, by
18 doing this piecemeal budget, we basically
19 left -- according to what we're hearing today,
20 there's 40 percent of the budget left. We've
21 still got billions of dollars of gap. And if
22 most people understand that if 40 percent is
23 left, 30 percent of the amount that's left is
24 education.

25 And if the Assembly and Senate

1 majorities are having difficulty cutting
2 1.4 billion, they're certainly not going to
3 cut \$4 billion or \$5 billion to close that gap
4 in that area, because that's all that really
5 remains, the only major item that remains.

6 So what we're facing, no doubt, is
7 either borrowing, despite the Governor's
8 unequivocal statement that there be no
9 borrowing, or more revenue enhancers, what the
10 general public knows as higher taxes and
11 higher fees. And that's why this piecemeal
12 process is the wrong process.

13 I will guarantee you that someone
14 will say, when we're in the final bill, that
15 we really have no options. And if that's the
16 case, we really had no options only because we
17 did the budget piecemeal by this process,
18 which is the bad process which will be
19 discussed in some of the more specific bills.

20 For example -- I just want to
21 mention one of them -- one of the big issues
22 is whether there's going to be wine in grocery
23 stores. But we don't have anything in any of
24 these bills that says we're going to do it or
25 we're not going to do it. But in 6600C that

1 we're going to be dealing with shortly, there
2 is funding for 20 new staff members associated
3 with the Governor's wine in grocery stores
4 initiative.

5 Now, how can we be putting more
6 people on with respect to that proposal and we
7 haven't even made a decision yet whether or
8 not there's going to be wine in grocery
9 stores? So these things are interrelated, as
10 are the cuts and taxes, when you've got to do
11 the budget as a whole.

12 But be that as it may, despite the
13 piecemeal process that we're going through
14 right now, I am going to be voting no. I just
15 don't see how this process is going to result
16 in anything other than taxes and fees and
17 borrowing. Those are the only real choices
18 with the education part of the budget, the
19 last one.

20 And I'm not going to buy the
21 argument that we will have no alternative,
22 because you can't just paint yourself in the
23 corner and then claim that there's nothing you
24 can about it.

25 So I would urge all of my

1 colleagues to vote no on this bill, because
2 this is not a way to run a state government.
3 And I once again will be voting no.

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

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

9 All Senators please reenter the
10 chamber and sit in your seats for voting.

11 Read the last section.

12 THE SECRETARY: Section 22. This
13 act shall take effect immediately.

14 ACTING PRESIDENT CRAIG JOHNSON:
15 Call the roll.

16 (The Secretary called the roll.)

17 ACTING PRESIDENT CRAIG JOHNSON:
18 Senator Diaz, to explain his vote.

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

21 Today, this is the 12th extender.
22 And this 12th extender has no cuts on it.
23 Meaning that I feel at ease because the people
24 in my district, the people in my community are
25 not getting cuts today.

1 And I am happy to vote yes on the
2 extender with no cuts, and I ask everybody
3 here on the other side -- Maziarz -- put your
4 hands down and vote yes.

5 Thank you, Mr. President.

6 ACTING PRESIDENT CRAIG JOHNSON:
7 Senator Diaz will be recorded in the
8 affirmative.

9 Senator Saland, to explain his
10 vote.

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

13 Mr. President, I found the debate
14 between Senator DeFrancisco and Senator Kruger
15 interesting. Not necessarily illuminating,
16 but interesting. Trying to come up with
17 certitude when it comes to numbers is sort of
18 like trying to capture fog.

19 I'm intrigued by the idea that we
20 continue with this incremental approach. We
21 keep spending money having absolutely no idea
22 whatsoever as to what might constitute a
23 fiscal plan or what might be the pot at the
24 end of this long and arduous procedure,
25 12 weeks now of extenders. And the reality

1 simply is that there's no individual, as I've
2 said before, who can control their personal
3 finances this way, nor any business who can
4 keep writing checks without knowing what's in
5 the pot. I suspect before long we'll have the
6 old, for those of us who remember, Flip Wilson
7 defense of "The devil made me do it."

8 But I'd like to just conclude,
9 Mr. President, with a quote from the Albany
10 Business Review from the State Comptroller.
11 It's as follows: "The state is limping along
12 week to week without a budget, hoping there
13 will be enough money to pay the bills. We're
14 on a long trip with no map, no directions, and
15 no GPS. This is no way to responsibly operate
16 a state. We're already mired in a fiscal
17 crisis."

18 I vote in the negative,
19 Mr. President.

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

22 Senator DeFrancisco, to explain his
23 vote.

24 SENATOR DeFRANCISCO: Yes, very
25 briefly.

1 I just -- the 12th extender -- you
2 know, I don't know what to say, actually. You
3 know, to me it's personally embarrassing to
4 come here each week and ask legitimate
5 questions and get a sliding-scale answer that
6 has no relationship to the answers the
7 previous week.

8 But what what's even more troubling
9 today to me is there's no question that the
10 Democrat conference, the majority, has
11 discussed the progress of negotiations that
12 have gone on. And there's no doubt that
13 there's information that's being provided to
14 the Democrat majority Senators who represent
15 virtually, say, about half of the state, a
16 little more than half of the state. And they
17 know what the options are, and they know
18 what's being discussed, and they know what
19 direction this process is going and what taxes
20 and additional spending that's being proposed.

21 And it's just an embarrassment that
22 we don't have this out in public and that the
23 other half of the community of the State of
24 New York is left totally in the dark, just
25 waiting for the next nonsensical explanation

1 and the next nonanswers and ultimately a final
2 take-it-or-leave-it plan. Because there are
3 options, and those options should be discussed
4 publicly.

5 So I'm going to vote no again this
6 week and see what the next few days bring to
7 us and whether it will be more so-called
8 revenue enhancers. In my community, they're
9 determined to be taxes and borrowing and fees.

10 Thank you. I vote no.

11 ACTING PRESIDENT CRAIG JOHNSON:

12 Senator DeFrancisco to be recorded in the
13 negative.

14 Announce the results.

15 THE SECRETARY: Those recorded in
16 the negative on Calendar Number 1066 are
17 Senators Alesi, Bonacic, DeFrancisco, Farley,
18 Flanagan, Fuschillo, Golden, Griffio, Hannon,
19 O. Johnson, Lanza, Larkin, LaValle, Leibell,
20 Libous, Little, Marcellino, Maziarz, Nozzolio,
21 Padavan, Ranzenhofer, Robach, Saland, Seward,
22 Skelos, Volker, Winner and Young.

23 Ayes, 33. Nays, 28.

24 ACTING PRESIDENT CRAIG JOHNSON:

25 The bill is passed.

1 The Secretary will now put before
2 the house Calendar Number 1067.

3 THE SECRETARY: Calendar Number
4 1067, by the Senate Committee on Rules, Senate
5 Print 8285, an act to amend Chapter 405 of the
6 Laws of 1999 amending the Real Property Tax
7 Law.

8 ACTING PRESIDENT CRAIG JOHNSON:
9 Senator Klein, on the bill.

10 SENATOR KLEIN: Thank you,
11 Mr. President.

12 I rise in support of I believe this
13 very important piece of legislation. Since
14 I've come to the Legislature, one of the
15 issues that I've consistently worked on was
16 the enforcement of our Tax Laws -- more
17 specifically, the untaxed cigarettes which
18 were making their way around the State of
19 New York. I'm very proud of the fact that I
20 was able to accomplish most of my goals with
21 bipartisan support. Earlier in my career,
22 along with Senator Libous, we were able to
23 curtail a lot of the bootlegging or untaxed
24 cigarettes that came to this state from
25 low-tax states around the nation.

1 More recently, when I was in the
2 Assembly, together with Senator Fuschillo we
3 wrote landmark legislation which banned the
4 sale of cigarettes over the Internet and
5 through mail order. Unfortunately, this law
6 was written some time ago. It still hasn't
7 been enforced. While UPS and Federal Express
8 agreed through various agreements not to
9 deliver these cigarettes, the United States
10 Postal Service unfortunately was still
11 delivering these cigarettes because we
12 couldn't regulate them.

13 Earlier in the year -- actually,
14 several months ago -- the federal government,
15 the President signed what's known as the PACT
16 Act, which now prohibits the delivery of
17 cigarettes through the United States Postal
18 Service. So now, in essence, the trade of
19 Internet cigarettes is I think going to be
20 curtailed in New York, which is very important
21 for several reasons.

22 First are health reasons. We found
23 time and time again, through various sting
24 operations, that young people were able to buy
25 cigarettes through the Internet, no questions

1 asked, and that's a problem. Because one of
2 the things that we need to do to make sure
3 that young people don't smoke is first of all
4 have verification of their age and also make
5 sure that they don't have a source of cheap
6 cigarettes, which of course are untaxed
7 cigarettes.

8 Luckily, that has been
9 accomplished. And I think what we're doing
10 here today is sort of the second leg. What
11 we're doing here finally -- and I think
12 Governor Paterson and the Governor's counsel
13 Peter Kiernan deserve a tremendous amount of
14 credit. I think what Governor Paterson is
15 doing here today through this bill could very
16 well be one of his legacies, because prior
17 Governors were not able to get something as
18 simple as enforce our tax laws, also making
19 sure that young people don't have access to
20 cheap smokes, making sure that no one has
21 access to tax-free cigarettes in the State of
22 New York. So I think this is very important.

23 It's important because clearly when
24 you look at the numbers and you look at the
25 statistics, the way we're going to reduce

1 smoking in this state is by raising taxes.

2 There's a correlation that every time we raise
3 the tax on cigarettes, anywhere from 5 to
4 10 percent of the smoking public quits. The
5 problem is we haven't been seeing those large
6 numbers of people quitting smoking because
7 they had access to tax-free cigarettes over
8 the Internet and by visiting their local
9 Native American reservation.

10 Today we will finally end that, and
11 I think we're going to do it in rather simple
12 ways. The legislation does two things. First
13 of all, come September 1st we're giving the
14 opportunity to Native American reservations
15 around the state to opt into a coupon program.
16 Which means when a Native American has these
17 coupons, they can buy cigarettes tax-free.

18 This I think holds true with the
19 United States Supreme Court decision, which is
20 the seminal case, United States vs. Attea,
21 which specifically states -- and it is still
22 the law of the land -- when Native Americans
23 sell cigarettes to non-Native Americans, they
24 must collect the tax. So we're giving them
25 the opportunity to purchase cigarettes

1 tax-free if indeed they're Native Americans.

2 The other portion, if the Native
3 Americans choose not to buy into this coupon
4 program, they can move into something that's
5 called prior approval, which will also take
6 effect on September 1st. The regulations have
7 already been written. There's already counts
8 which state how many Native Americans in each
9 tribe are smokers. And they will be able to
10 get, again, stamped cigarettes -- because now
11 the law in the land is there's no cigarettes
12 that can be sold in the State of New York
13 without a New York State tax stamp -- that
14 they will get these tax stamps and they will
15 actually be reimbursed through the wholesaler.

16 In other words, they actually don't
17 have to pay the tax, we're now putting the
18 burden on the wholesaler, which is the tax
19 collector, to be able to make sure that they
20 don't sell above and beyond the number of
21 Native Americans who qualify to get tax-free
22 cigarettes on the reservation.

23 Again, I think this has certainly
24 been a long haul, but I think an important
25 one. During tough fiscal times I think it's

1 incumbent upon each and every one of us to do
2 every possible that we put more money back in
3 people's pockets. And certainly this is
4 something we should have dealt with a long
5 time ago.

6 I know it affects so many upstate
7 communities where anyone who's in close
8 proximity to a Native American reservation --
9 more specifically, a convenience store or a
10 gas station -- just can't compete. They can't
11 compete with someone who is not obeying the
12 tax laws. They can't compete with someone who
13 is not charging the very high tax that we have
14 on cigarettes in the State of New York.

15 And by the way, when you go into a
16 local convenience store, when you go to a
17 bodega or a grocery store downstate, the three
18 things that keep these establishments going
19 are cigarettes, beer and lottery. So if
20 you're going to get your cigarettes, you're
21 certainly not going to go to another place to
22 get your lottery or another place to get your
23 beer or your groceries.

24 So I think this will actually, I
25 think, level the playing field for upstate

1 communities whose convenience stores just
2 couldn't compete with this unfair source of
3 contributions which weren't taking place.

4 So again, I want to thank the
5 Governor. I want to thank my colleagues.
6 This is something that's been worked on for a
7 long time. I do not consider this balancing
8 the budget on the backs of Native Americans or
9 anyone else. What we're merely doing today is
10 enforcing our laws. We're a land of laws.
11 And today I think we're taking a very
12 important step to make sure those laws are
13 being enforced and in the process get some
14 very needed revenue.

15 I vote yes, Mr. President.

16 ACTING PRESIDENT CRAIG JOHNSON:

17 Thank you very much, Senator Klein.

18 Senator Winner.

19 SENATOR WINNER: Thank you,
20 Mr. President. Will Senator Klein yield to a
21 few questions?

22 SENATOR KLEIN: Yes,
23 Mr. President.

24 ACTING PRESIDENT CRAIG JOHNSON:

25 Senator Klein will yield, Senator Winner.

1 SENATOR WINNER: Senator Klein,
2 in this legislation as it relates to the tax
3 agreements with Indian nations or tribes -- I
4 believe it's on page 10 -- there is language
5 in there with regard to stipulations in court
6 of agreements that would be entered into with
7 litigating parties where there is not a
8 necessity of having an agreement of the
9 Legislature with respect to the terms of those
10 stipulations.

11 My question to you, Senator Klein,
12 is that within your legislative intent is
13 there any intent here to allow a stipulation,
14 a part of which may be dealing with an
15 agreement with respect to the collection of
16 taxes on sales on Indian reservations that may
17 contain other provisions of that agreement,
18 whether it be the settlement of real property
19 tax claims, land claims, the approval of
20 gaming compacts, sales tax on gasoline sales
21 or the like, that may be a part of an overall
22 stipulation in court between parties that may
23 be affecting other areas of the state but may
24 be not directly related to the collection of
25 taxes on Indian reservations but it may be a

1 part of that stipulation.

2 Under those circumstances, Senator
3 Klein, is there any intent that that
4 stipulation would be entered into without the
5 approval of the Legislature that may approve
6 those unrelated items?

7 SENATOR KLEIN: Through you,
8 Mr. President, I assume, Senator Winner,
9 you're referring to the section of the bill
10 which states if an Indian nation or tribe
11 enters into an agreement with the state and
12 the Legislature approves such agreement or if
13 an Indian nation enters into an agreement with
14 the state, and then it goes on, that is part
15 of a stipulation or order approved by a
16 federal court of competent jurisdiction
17 regarding the sale and distribution of
18 cigarettes.

19 I think it specifically states here
20 there's one or two ways that the bill we're
21 passing today would I guess effectively be
22 null and void. First, if between now and
23 September 1st the Governor, along with the
24 Native American tribes, enters into an
25 agreement or compact which has to be ratified

1 by the Legislature, that would forgo the need
2 for this legislation.

3 Two, if there was a lawsuit brought
4 after we pass this legislation and a judge
5 stipulated which would change the terms of
6 this legislation, again, this would be null
7 and void.

8 But again, to your question on land
9 claims, the legislation specifically states
10 that that would only be the case when dealing
11 with cigarettes, not land claims or anything
12 else.

13 SENATOR WINNER: Including gaming
14 compacts.

15 SENATOR KLEIN: Correct.

16 SENATOR WINNER: May I ask the
17 Senator to yield to another question.

18 ACTING PRESIDENT CRAIG JOHNSON:
19 Senator, will you continue to yield for a
20 question from Senator Winner?

21 SENATOR KLEIN: Yes.

22 SENATOR WINNER: Senator, if I
23 could give you a hypothetical question or a
24 set of facts, let's say Tribe X were to bring
25 some litigation as relates to the collection

1 of taxes as to the sale of the cigarettes on
2 their reservation properties or elsewhere, and
3 within a stipulation entered into between the
4 parties between the state and Tribe X there
5 was a settlement or an agreement to settle
6 with regard to the collection of taxes but
7 also part of that settlement were to say that
8 in addition you're going to have a compact to
9 be allowed to have gaming on your reservation
10 property or elsewhere, would that stipulation
11 part dealing with gaming still be subject to
12 legislative approval?

13 SENATOR KLEIN: Yes, it would.

14 SENATOR WINNER: Thank you.

15 On the bill, Mr. President.

16 ACTING PRESIDENT CRAIG JOHNSON:

17 Senator Winner, on the bill.

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

20 I'm pleased with the answers to
21 those questions setting forth legislative
22 intent by Senator Klein.

23 But I do take significant exception
24 to his characterization that this will somehow
25 level the playing field as it relates to

1 making a more even competitive field to our
2 convenience store businesses as it relates to
3 the sale of cigarettes in the State of
4 New York.

5 Notwithstanding the Indian issue,
6 the fact of the matter is that along the
7 border where I happen to represent, on the
8 Pennsylvania border, increasing the tax on
9 cigarettes at the significant level that it
10 does may provide for some deterrent in sales
11 to New York residents who might want to shop
12 in those New York convenience stores, but I
13 assure you it will provide no deterrent
14 whatsoever and provide an incentive to drive
15 them across the border into Pennsylvania,
16 which is only a couple of miles away, in order
17 to buy cigarettes with reckless abandon, as
18 well as lottery tickets, gasoline, beer and
19 all the other items, and therefore making
20 those convenience stores even less of a
21 reasonable venture to enter into than they are
22 right now.

23 So you don't have to be next to an
24 Indian reservation to have that issue of
25 disparity in prices to be a reality, you have

1 to be anywheres along the border of the state
2 of Pennsylvania, the state of Vermont, the
3 state of Connecticut, or the state of
4 Massachusetts in order to know you can get
5 your cigarettes cheaper right across the
6 border.

7 So this will hurt my community, my
8 small businesses that are on the border by
9 driving those customers across the border to
10 shop cheaper for not only cigarettes but for
11 gasoline, for lottery, for everything, because
12 the taxes are just lower in those other
13 states.

14 And this is another hit to regions
15 in upstate who are struggling economically to
16 compete. And when you add it all on top of
17 all of the other things we're doing to them,
18 like eliminating the Empire Zone and charging
19 more for sulfur home heating oil and on and on
20 and on and the like, you'll know that we're
21 not doing a great deal of favor to those of us
22 in the upstate regions who have to compete
23 with these noncompetitive types of atmosphere
24 that we have in New York.

25 So for those reasons,

1 Mr. President, I am going to be voting no.

2 ACTING PRESIDENT CRAIG JOHNSON:

3 Senator Winner will be recorded in the
4 negative.

5 Senator Diaz.

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

8 ACTING PRESIDENT CRAIG JOHNSON:

9 On the bill, Senator Diaz?

10 SENATOR DIAZ: On the bill.

11 ACTING PRESIDENT CRAIG JOHNSON:

12 On the bill, Senator Diaz.

13 SENATOR DIAZ: As you remember,
14 Mr. President and ladies and gentlemen, last
15 week I was the only Democratic Senator that
16 voted no on the extender. And I expressed
17 myself last week stating the reason why I was
18 voting no, because there was too much cuts,
19 hurting the people that I was supposed to be
20 protecting.

21 And I said last week that I would
22 no longer vote as long as there is cuts. And
23 I also said last week that I was not a crazy
24 person saying don't cut without -- without
25 giving some solution. And I gave three last

1 week, three solutions about -- on how to get
2 money. One of them -- and I also said that it
3 don't take anyone to go to Harvard or to Yale
4 University to see my solutions.

5 And I said that this black guy from
6 Puerto Rico, with kinky hair and broken
7 English, was giving you guys the solution.

8 And I said that one was to purchase
9 prescription drugs from Canada, the other one
10 was to force the credit card companies to send
11 the taxes that are owed to the state directly
12 to the state and not to the merchants.

13 And the third one, I said that to
14 impose taxes on the Indian reservation
15 cigarettes. Today I am proud when I see that
16 we're moving on it. We are moving on taxes on
17 Indian reservations, and we started to work on
18 that behalf.

19 I still would like to see what's
20 going to be done with the credit card
21 companies and taxes and with the purchasing of
22 prescription drugs from Canada.

23 So today, today I'm voting yes.
24 Next week we don't even know what's going to
25 happen. Next week we shall wait to see next

1 week. Because what tomorrow might bring,
2 nobody knows. Today is a good day. Today
3 there is no cuts. Today we are voting on
4 taxes and cigarettes, and today also we are
5 voting on later, maybe, on putting back the
6 MetroCard for the students. So it's a good
7 day, a good day for my community, a good day
8 for my constituents, a good day.

9 So I'm voting yes today. And
10 again, I will repeat myself again, don't take
11 this vote yes that tomorrow, that next week
12 will be yes. Next week we shall wait to see
13 what next week will bring. But meanwhile,
14 Mr. President and ladies and gentlemen, today
15 is a good day to vote yes.

16 Thank you.

17 ACTING PRESIDENT CRAIG JOHNSON:
18 Senator Diaz will be recorded in the
19 affirmative.

20 Senator Padavan.

21 SENATOR PADAVAN: I'd like to
22 address the other two parts of this bill.

23 One of them deals with Quick Draw
24 and its extension. But if you read the
25 wording, very clearly what it does is reaffirm

1 all the eliminations of the restrictions that
2 existed on Quick Draw -- that the place had to
3 have a certain percentage of food, that it had
4 to be of certain size. And the goal there
5 when the Quick Draw law was initially enacted
6 was to restrict it from bodegas and small
7 little establishments on every corner in our
8 residential communities. All those
9 restrictions are now gone and reaffirmed in
10 this bill.

11 That's a big mistake. It brings
12 what I call or labeled at that time "video
13 crack" into every neighborhood, on every
14 street corner and any venue you could possibly
15 think of. That, in my view, is not only
16 unwise but immoral.

17 The other part of this bill deals
18 with the Loft Law. And we discussed this the
19 other day, and I'm not quite sure why it's now
20 in this bill. But I described the Loft Law,
21 for those who are not familiar with it, as a
22 worthwhile effort many years ago to
23 accommodate artists, craftsmen who had
24 occupied the second level of certain buildings
25 in certain limited areas in the City of

1 New York, primarily in Manhattan and in
2 Brooklyn, and turned them, in addition to
3 their workshop, into their residence. It was
4 a way to accommodate them, and it was
5 reasonable and it was appropriate.

6 What this bill, the bill we
7 discussed the other day, does is it opens it
8 up throughout the five boroughs broadly, and
9 in the process totally ignores in many
10 instances local zoning and the building code,
11 which is fundamentally a fire safety code,
12 presenting some very hazardous potential
13 situations throughout the City of New York, an
14 issue that many of us from the city have
15 talked about and tried to address in a variety
16 of ways.

17 Secondly, what it does is undermine
18 the city's effort to promote small
19 manufacturing and industrial companies and
20 initiatives, to attract the small businesses
21 with perhaps 10, 20, 30 employees in different
22 parts of the city to provide employment, to
23 provide economic development, and therefore to
24 provide income. And so by eliminating those
25 facilities, those potential locations, we

1 undermine that effort as well.

2 So those two other portions of this
3 bill, I think alone, aside from what's already
4 been discussed, should be reason enough to
5 vote no, and I do so.

6 Thank you.

7 ACTING PRESIDENT CRAIG JOHNSON:
8 Senator Padavan, thank you very much.

9 Are there any other Senators who
10 wish to be heard on the bill? Seeing none,
11 the debate is closed.

12 I apologize. Senator Bonacic, on
13 the bill.

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

16 You know, when we keep raising the
17 taxes, I'm one of those Senators that lives
18 near -- right by the Delaware River. We have
19 Pennsylvania, we have Jersey. And all the
20 small businesses are taking a beating now by
21 our tax policies. On gasoline alone, if they
22 across the bridge to Pennsylvania they'll get
23 about a 12-cent break. If they go to
24 New Jersey they get an 18-cent break.

25 Now when we raise the taxes on

1 cigarettes to the highest in the nation and we
2 can beat our chests that we think it's going
3 to stop smoking, be a deterrent to smoking and
4 have health benefits, what has happened is
5 they go on the black market and buy the
6 cigarettes, they go over to New Jersey and buy
7 the cigarettes, and they go to Pennsylvania
8 and buy the cigarettes. So there's a lot of
9 negatives that are attached when we raise the
10 products on gasoline, on cigarettes, on our
11 small businesses, for all those Senate
12 districts that border the other states.

13 For those reasons, I'm voting no.
14 Thank you, Mr. President.

15 ACTING PRESIDENT CRAIG JOHNSON:
16 Thank you, Senator Bonacic.

17 Senator Bonacic will be recorded in
18 the negative.

19 Seeing no other Senators wishing to
20 be heard, the debate is closed.

21 The Secretary will please ring the
22 bells. I ask all Senators to please join us
23 in the chamber.

24 Before we read the last section,
25 the Secretary will read the bill for

1 substitution purposes.

2 THE SECRETARY: In relation to
3 Calendar Number 1067, Senator C. Kruger moves
4 to discharge, from the Committee on Finance,
5 Assembly Bill Number 11515 and substitute it
6 for the identical Senate Bill Number 8285,
7 Third Reading Calendar 1067.

8 ACTING PRESIDENT CRAIG JOHNSON:
9 Substitution ordered.

10 Read the last section.

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

13 ACTING PRESIDENT CRAIG JOHNSON:
14 Call the roll.

15 (The Secretary called the roll.)

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

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

20 I just wanted to indicate that I
21 think that Senator Klein has done a lot around
22 this bill, and I commend him for his level for
23 of passion to looking to this issue. He and I
24 just are on the opposite side of this issue.

25 And I think that when you walk

1 through the Capitol and you see a celebratory
2 photo over the first indigent person killed in
3 New York State, that is the indicator of how
4 far we don't understand this issue. I don't
5 believe we should be taxing Native Americans.
6 This is their land, we are on their land, and
7 I think it's wrong for us to tax Native
8 Americans.

9 I am going vote for this bill
10 because I don't want to shut down government.
11 I think it's imperative that we move ahead
12 with this issue. But it is time for us to
13 come to clear terms on how we treat Native
14 Americans in the State of New York, if not in
15 this country. But I will be voting aye.

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

19 Senator Savino.

20 SENATOR SAVINO: Thank you,
21 Mr. President. I'll be brief because I know
22 we have a lot ahead of us.

23 First, I want to congratulate
24 Senator Klein and the Governor for finally
25 developing a solution to a problem that this

1 state has been grappling with for a long time.

2 And secondly, I want to state, as a
3 representative of a border community, like
4 Senator Bonacic and Senator Winner, you know,
5 I'm particularly sensitive to the fact that
6 there are states right around us that sell
7 things cheaper, whether it be gas or liquor or
8 cigarettes, or they don't have sales tax on
9 clothing and shoes. And I'm generally very
10 critical of decisions that put us at a
11 competitive disadvantage with other states.

12 But with respect to cigarettes,
13 it's really hard to defend cheap cigarettes.
14 You know, I started smoking when I was 12,
15 when cigarettes were 50 cents a pack. I quit
16 on August 30, 1993. They were \$2.15. The
17 cost never really mattered. And during the
18 period of time I was a nonsmoker, I was the
19 most obnoxious ex-smoker you ever met. You
20 couldn't come near me, you couldn't smoke near
21 me, you couldn't smoke in my house, near my
22 car.

23 And unfortunately, like most
24 ex-smokers, I always knew that the day could
25 come when I might fall victim to that

1 temptation. And on August 17, 2007, in a fit
2 of temporary insanity, I put a cigarette in my
3 mouth, I lit it, and I said, "Oh, my God, this
4 is like heroin."

5 That's a fact. Cigarette smoking
6 is more addictive than any other substance.
7 And that \$1.60 a pack extra may not make as
8 many people quit as we would like, but I will
9 tell you what it will do. It will prevent
10 that next 12-year-old from buying cigarettes.
11 And for that reason, I support this increased
12 tax which makes us slightly less competitive
13 with New Jersey. I vote aye.

14 ACTING PRESIDENT CRAIG JOHNSON:
15 Senator Savino will be recorded in the
16 affirmative.

17 Senator Hassell-Thompson, to
18 explain her vote.

19 SENATOR HASSELL-THOMPSON: Thank
20 you, Mr. President. I rise to support the
21 contention of Senator Adams, in that I too
22 would not have ever voted for this bill if it
23 were freestanding.

24 And this bill has absolutely
25 nothing to do with health and smoking, but it

1 has everything to do with revenue-generating
2 activities on the -- to the extent that it is
3 going have a deleterious effect not on those
4 who smoke in the Native American communities,
5 but on their ability to continue to care for
6 their nation.

7 If anyone has been paying
8 attention, they have gone from having serious
9 issues of substance abuse, of alcoholism and
10 homelessness, to being self-sufficient. And
11 they've been successful in doing that with the
12 revenues that they have been able to collect
13 based upon the treaties that have allowed them
14 to continue to do so.

15 Therefore, I am in total
16 disagreement with this bill. But because it
17 is a part of a budget bill that I am forced to
18 sign, I want to go on record as saying that I
19 am totally opposed to the taxing of
20 Native Americans.

21 Thank you, Mr. President.

22 ACTING PRESIDENT CRAIG JOHNSON:

23 Senator Hassell-Thompson, how do you vote?

24 SENATOR HASSELL-THOMPSON: I
25 already told you.

1 ACTING PRESIDENT CRAIG JOHNSON:
2 Senator Hassell-Thompson, you asked to explain
3 your vote.

4 SENATOR HASSELL-THOMPSON: I am
5 voting in support of the bill, under duress.

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

9 Senator Stachowski.

10 SENATOR STACHOWSKI: Yes,
11 Mr. President. As Senator Adams and Senator
12 Hassell-Thompson both mentioned, I too believe
13 that this should have been -- the Indian tax
14 collection should have been negotiated. I
15 feel that they have treaties that we should
16 respect.

17 I think that there's still a
18 question whether this particular collection is
19 part of the treaty. I know that there's one
20 court decision that says we should be
21 collecting the money, but I think there's a
22 probability that this is going to end up in
23 court again and this amount of money is not
24 going to be collected.

25 Unfortunately, it's going to cause

1 ill feelings. I don't know if we'll be able
2 to get negotiations done. And there's a
3 series of other issues that are outstanding
4 that we should be settling all of these issues
5 with the various Indian nations, in
6 particular, in my area, the Seneca nation.

7 But because this is part of a
8 budget extender, I'm going to have to support
9 it. But I have to say that I'm very
10 disappointed that we didn't take this through
11 negotiations and work this out in a manner
12 that would be satisfactory not only to us but
13 to the sovereign nation of the Seneca Indians
14 also.

15 Thank you. I vote aye.

16 ACTING PRESIDENT CRAIG JOHNSON:

17 Senator Stachowski will be recorded in the
18 affirmative.

19 Senator Diaz, to explain his vote.

20 SENATOR DIAZ: Thank you,
21 Mr. President.

22 I really sympathize with Senator
23 Bonacic and those of you that are talking
24 about that you don't like taxes for the
25 Indians and upstate. But I would invite all

1 of you to come to the City of New York and
2 smell the coffee. And you'll see how
3 oppressed the people that I serve are.

4 In the City of New York we have
5 taxes on milk, taxes on chewing gum, taxes on
6 parking meters, double parking, rent
7 increases, taxes on rice and beans when you
8 buy it, taxes on student loans, taxes on
9 student lunch, taxes on subway fare increase,
10 taxes on taxes. Taxes in restaurants, taxes
11 in theaters. And you're telling me that I'm
12 not going to vote for taxes in the Indian
13 reservation? Come to the city and see how my
14 people are oppressed with taxes.

15 So today we have been fair, today
16 we are being treated with decency when there
17 are no cuts. But it's about time that we put
18 taxes in the Indian reservations. With all
19 due respect, they use the same streets that we
20 use, they use the same services that we use,
21 they use the same hospitals that we use, they
22 use everything equally, such as the social
23 services departments. So in the City of
24 New York, you want to talk about oppressing
25 and taxes and increases? Come to my district

1 and you will see how it is.

2 That's how I'm voting yes, proudly,
3 and congratulate Governor Paterson and my
4 Bronx colleague Senator Klein.

5 ACTING PRESIDENT CRAIG JOHNSON:
6 Senator Diaz, how do you vote?

7 SENATOR DIAZ: I'm voting yes --
8 no, I'm voting si.

9 Thank you.

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

13 Senator DeFrancisco, to explain his
14 vote.

15 SENATOR DeFRANCISCO: Yes, I'm
16 going to vote in the negative.

17 Just so there's no confusion by
18 those who are protesting that this is somehow
19 linked to the extender, therefore they have no
20 choice but to vote for this, it's not the
21 case. We've already passed the extender, or I
22 should say you already passed the extender.
23 This is just a piece of the rest of the
24 piecemeal budget process. And if it's
25 rejected, government is still going to

1 operate, just as it did under the rest of the
2 extender bill.

3 So this bill has good aspects to
4 it, and I think taxing the cigarettes on
5 Indian sales is a good part. But it's a very
6 bad bill in increasing taxes and making our
7 businesses much more noncompetitive, which is
8 the least thing we need right now.

9 So those who really want to
10 reconsider their vote on this tax bill here,
11 for whatever reason, could do so and rest
12 assured that it has nothing to do with
13 stopping government. It just means that this
14 little piecemeal piece of this little
15 piecemeal process ain't going to happen today.
16 And maybe there's other alternatives, as we've
17 been saying all along.

18 I vote no.

19 ACTING PRESIDENT CRAIG JOHNSON:
20 Senator DeFrancisco to be recorded in the
21 affirmative.

22 Senator Perkins, to explain his
23 vote.

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

1 I just want to share the concerns
2 of those who are expressing problems with the
3 way in which we associate with the Indians and
4 how this particular matter to some extent is
5 being addressed on their backs. Nevertheless,
6 I do recognize that it's important that we
7 raise this revenue, as well as it's important
8 in our communities where we have the
9 possibility, through this, to curb the use of
10 smoking.

11 I believe that it does have some
12 potential in that regard. The more it costs,
13 the less likely people may be inclined to use
14 it. And as Senator Savino pointed out, the
15 next 12-year-old or teenager might hesitate in
16 terms of buying a pack of cigarettes. And
17 from that point of view, this is very, very
18 important to me, especially with the high
19 rates of cancer that are affecting especially
20 communities of color. Cigarette smoking
21 contributes significantly to that.

22 But I just want to underscore
23 Senator Adams' point about our relationship
24 with the Indian nations and about the need for
25 us to be working better with them and not use

1 them in the ways that we've abused them.

2 In this particular moment,
3 nevertheless I'm supporting the bill. I vote
4 aye.

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

8 Senator Maziarz, to explain his
9 vote.

10 SENATOR MAZIARZ: Thank you very
11 much, Mr. President. Just very briefly to
12 explain my vote.

13 I don't understand, people say
14 they're against taxing the Native Americans
15 and they vote to tax the Native Americans.

16 Just a few weeks ago there was a
17 delegation up here, and I thought they did an
18 excellent job, from the Seneca Nation. They
19 met with several of my colleagues on that side
20 of the aisle, and I think there was general
21 agreement that there was some understanding.
22 Well, I can tell you, I can't speak for the
23 Seneca Nation, but after they see this vote,
24 they're going to feel like they were once
25 again, once again lied to by representatives

1 of the State of New York.

2 Make no mistake about it, if the
3 Governor -- and I'm not sure that he will this
4 time really, really, really carry out the
5 collection efforts. But if he does, in
6 September there will be a clash of cultures
7 here in this state, probably in the Southern
8 Tier. And I suspect, and I hope that I'm
9 wrong, that there may be violence and that
10 there will be people who will get hurt. And
11 the reason that that will happen, that clash
12 of cultures, is because of the vote that took
13 place here today.

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

16 ACTING PRESIDENT CRAIG JOHNSON:
17 Thank you, Senator Maziarz.

18 Senator Maziarz will be recorded in
19 the negative.

20 Announce the results.

21 THE SECRETARY: Those recorded in
22 the negative on Calendar Number 1067 are
23 Senators Alesi, Bonacic, DeFrancisco, Farley,
24 Flanagan, Fuschillo, Golden, Griffio, Hannon,
25 O. Johnson, Lanza, Larkin, LaValle, Leibell,

1 Libous, Little, Marcellino, Maziarz, McDonald,
2 Nozzolio, Padavan, Ranzenhofer, Robach,
3 Saland, Seward, Skelos, Volker, Winner and
4 Young.

5 Ayes, 32. Nays, 29.

6 ACTING PRESIDENT CRAIG JOHNSON:

7 The bill is passed.

8 Senator Klein, that completes the
9 reading of the controversial Supplemental
10 Calendar Number 67A.

11 Senator Klein.

12 SENATOR KLEIN: Mr. President, I
13 would like to take up Supplemental Calendar
14 67B.

15 ACTING PRESIDENT CRAIG JOHNSON:

16 The Secretary will read.

17 THE SECRETARY: Calendar Number
18 1068, by the Senate Committee on Rules, Senate
19 Print 8293, an act to amend Part D of a
20 chapter of the Laws of 2010.

21 ACTING PRESIDENT CRAIG JOHNSON:

22 Senator Klein.

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

25 ACTING PRESIDENT CRAIG JOHNSON:

1 Senator Klein, there is a message of necessity
2 at the desk.

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

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

9 (Response of "Aye.")

10 ACTING PRESIDENT CRAIG JOHNSON:
11 Opposed, nay.

12 (No response.)

13 ACTING PRESIDENT CRAIG JOHNSON:
14 The message is accepted.

15 The Secretary will read the last
16 section.

17 THE SECRETARY: Section 2. This
18 act shall take effect on the same date as
19 Part D of a chapter of the Laws of 2010.

20 ACTING PRESIDENT CRAIG JOHNSON:
21 Call the roll.

22 (The Secretary called the roll.)

23 ACTING PRESIDENT CRAIG JOHNSON:
24 Announce the results.

25 THE SECRETARY: Those recorded in

1 the negative on Calendar Number 1068 are
2 Senators Alesi, Bonacic, DeFrancisco, Farley,
3 Flanagan, Fuschillo, Golden, Griffo, Hannon,
4 O. Johnson, Lanza, Larkin, LaValle, Leibell,
5 Libous, Little, Marcellino, Maziarz, McDonald,
6 Nozzolio, Padavan, Ranzenhofer, Robach,
7 Saland, Seward, Skelos, Volker, Winner and
8 Young.

9 Ayes, 32. Nays, 29.

10 ACTING PRESIDENT CRAIG JOHNSON:

11 The bill is passed.

12 Senator Klein, that completes the
13 reading of noncontroversial Supplemental
14 Calendar 67B.

15 SENATOR KLEIN: Mr. President,
16 can we return to Supplemental Calendar 67A.

17 ACTING PRESIDENT CRAIG JOHNSON:

18 Returning to Supplemental Calendar 67A,
19 Senator Klein.

20 The Secretary will read beginning
21 with Calendar Number 1041.

22 THE SECRETARY: In relation to
23 Calendar Number 1041, Senator C. Kruger moves
24 to discharge, from the Committee on Finance,
25 Assembly Bill Number 9700D and substitute it

1 for the identical Senate Bill Number 6600C,
2 Third Reading Calendar 1041.

3 ACTING PRESIDENT CRAIG JOHNSON:
4 Read the last section.

5 SENATOR LIBOUS: Lay it aside.

6 ACTING PRESIDENT CRAIG JOHNSON:
7 The bill is laid aside.

8 THE SECRETARY: In relation to
9 Calendar Number 1062, Senator C. Kruger moves
10 to discharge, from the Committee on Finance,
11 Assembly Bill Number 9705D and substitute it
12 for the identical Senate Bill Number 6605C,
13 Third Reading Calendar 1062.

14 ACTING PRESIDENT CRAIG JOHNSON:
15 Substitution ordered.

16 Read the last section.

17 SENATOR LIBOUS: Lay it aside.

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

20 THE SECRETARY: In relation to
21 Calendar Number 1063, Senator C. Kruger moves
22 to discharge, from the Committee on Finance,
23 Assembly Bill Number 9706C and substitute it
24 for the identical Senate Bill Number 6606B,
25 Third Reading Calendar 1063.

1 ACTING PRESIDENT CRAIG JOHNSON:

2 Substitution ordered.

3 The Secretary will read.

4 THE SECRETARY: Calendar Number
5 1063, Assembly Budget Bill, Assembly Print
6 Number 9706C, an act to amend the Executive
7 Law and others.

8 ACTING PRESIDENT CRAIG JOHNSON:

9 Read the last section.

10 SENATOR LIBOUS: Lay it aside.

11 ACTING PRESIDENT CRAIG JOHNSON:

12 The bill is laid aside.

13 THE SECRETARY: In relation to
14 Calendar Number 1064, Senator C. Kruger moves
15 to discharge, from the Committee on Finance,
16 Assembly Bill Number 9709C and substitute it
17 for the identical Senate Bill Number 6609B,
18 Third Reading Calendar 1064.

19 ACTING PRESIDENT CRAIG JOHNSON:

20 Substitution ordered.

21 THE SECRETARY: Calendar Number
22 1064, Assembly Budget Bill, Assembly Print
23 Number 9709C, an act intentionally omitted
24 (Part A).

25 ACTING PRESIDENT CRAIG JOHNSON:

1 Read the last section.

2 SENATOR LIBOUS: Lay it aside.

3 ACTING PRESIDENT CRAIG JOHNSON:

4 The bill is laid aside.

5 THE SECRETARY: Calendar Number
6 1065, by Senator Aubertine, Senate Print 8065,
7 an act to amend the Economic Development Law
8 and the Public Authorities Law.

9 ACTING PRESIDENT CRAIG JOHNSON:

10 Read the last section.

11 THE SECRETARY: Section --

12 SENATOR LIBOUS: Lay it aside.

13 ACTING PRESIDENT CRAIG JOHNSON:

14 The bill is laid aside.

15 Senator Klein, that completes the
16 reading of noncontroversial Supplemental
17 Calendar 67A.

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

21 ACTING PRESIDENT CRAIG JOHNSON:

22 The Secretary will ring the bell. Members are
23 all to come to the chamber for the reading of
24 the controversial Supplemental Calendar 67A.

25 Again, I ask all Senators to please

1 stay in the chamber or immediately outside so
2 when we call and ring the bells for a vote we
3 can immediately have you come in for voting.

4 The Secretary will place before the
5 house Calendar Number 1041.

6 The Secretary will read.

7 THE SECRETARY: Calendar Number
8 1041, substituted earlier, Assembly Budget
9 Bill, Assembly Print Number 9700D, an act
10 making appropriations for the support of
11 government: Public Protection and General
12 Government Budget.

13 ACTING PRESIDENT CRAIG JOHNSON:
14 Are there any Senators who wish to be heard on
15 the bill?

16 Senator Nozzolio.

17 SENATOR NOZZOLIO: Thank you,
18 Mr. President. Mr. President, will the
19 sponsor of this measure yield?

20 ACTING PRESIDENT CRAIG JOHNSON:
21 Senator Kruger, will you yield for questions
22 from Senator Nozzolio?

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

25 ACTING PRESIDENT CRAIG JOHNSON:

1 Senator Nozzolio, Senator Kruger will yield.

2 SENATOR NOZZOLIO: Thank you,
3 Senator Kruger. Mr. President, through you.

4 Mr. President, are there, in this
5 public protection legislation, correctional
6 facilities that will be closed as a result of
7 this vote?

8 SENATOR CARL KRUGER: Through
9 you, Mr. President, Lyon Mountain and Butler
10 in Wayne County. That's it. That's it, yes.

11 ACTING PRESIDENT CRAIG JOHNSON:
12 Senator Nozzolio.

13 SENATOR NOZZOLIO: Thank you,
14 Senator Kruger. Mr. President, will Senator
15 Kruger continue to yield?

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

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

20 ACTING PRESIDENT CRAIG JOHNSON:
21 Yes, he will, Senator Nozzolio.

22 SENATOR NOZZOLIO: Senator
23 Kruger, could you explain to this body what
24 will the dollar savings be of the closure of
25 those facilities?

1 SENATOR CARL KRUGER: Just one
2 moment, Mr. President.

3 ACTING PRESIDENT CRAIG JOHNSON:
4 One moment, Senator Nozzolio.

5 SENATOR CARL KRUGER: Through
6 you, Mr. President, the Butler facility,
7 1.776, and Lyon for 1.270.

8 ACTING PRESIDENT CRAIG JOHNSON:
9 Senator Nozzolio.

10 SENATOR NOZZOLIO: Thank you.
11 Mr. President, will Senator Kruger continue to
12 yield?

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

15 SENATOR CARL KRUGER: Yes, I do.

16 ACTING PRESIDENT CRAIG JOHNSON:
17 Senator Nozzolio.

18 SENATOR NOZZOLIO: Thank you,
19 Senator Kruger.

20 Senator Kruger, for those closures
21 earmarked in this legislation, Senator
22 Hassell-Thompson debated and helped enact last
23 week a measure that provided economic
24 development assistance for those communities
25 that face prison closures. Will any of those

1 facilities closed by this legislation have the
2 benefit of those economic development
3 activities and support in the legislation
4 enacted last week?

5 SENATOR CARL KRUGER: One moment,
6 Mr. President.

7 ACTING PRESIDENT CRAIG JOHNSON:
8 One moment, Senator Nozzolio.

9 SENATOR CARL KRUGER: Through
10 you, Mr. President, as part of the closure
11 program, there is automatically a study done
12 for economic impact and remediation.

13 SENATOR NOZZOLIO: Senator
14 Kruger, I'm sorry, I had trouble hearing you.
15 Did you indicate --

16 SENATOR CARL KRUGER: I'm sorry.
17 As part of the closure plan, there is a
18 provision made for a study of the economic
19 impact of that closure and what remediation to
20 mitigate that economic impact would be.

21 SENATOR NOZZOLIO: So in other
22 words, Senator, that those facilities --

23 ACTING PRESIDENT CRAIG JOHNSON:
24 Do you wish Senator Kruger to yield for
25 another question?

1 SENATOR NOZZOLIO: Yes,
2 Mr. President.

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

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

7 SENATOR NOZZOLIO: Senator
8 Kruger, thank you. Would those facilities
9 then be subject to that assistance?

10 SENATOR CARL KRUGER: Yes, they
11 would be.

12 SENATOR NOZZOLIO: Mr. President,
13 would Senator Kruger continue to yield.

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

16 SENATOR CARL KRUGER: Yes, I do.

17 SENATOR NOZZOLIO: Senator
18 Kruger, in Governor Paterson's budget it was
19 proposed a few months ago that in his proposal
20 there was an amount of funds to support what's
21 called the Family Reunion Program at
22 correctional facilities. Is that money in the
23 budget bill before us today?

24 SENATOR CARL KRUGER: Through
25 you, Mr. President, there is nothing that

1 takes that out of this budget.

2 SENATOR NOZZOLIO: Thank you,
3 Senator Kruger.

4 Mr. President, on the bill.

5 ACTING PRESIDENT CRAIG JOHNSON:
6 Senator Nozzolio, on the bill.

7 SENATOR NOZZOLIO: I appreciate
8 Senator Kruger's candor on this particular
9 item. But I'd like to highlight exactly what
10 this item is. Governor Paterson put in his
11 budget \$800,000 or thereabouts to establish
12 conjugal visits at the Five Points
13 Correctional Facility.

14 Now, it might make some sense, you
15 could argue at least that the closure of
16 correctional facilities would in fact save the
17 taxpayers some money. That would certainly be
18 the intention. But it's clear here that none
19 of the dollars going to the closure of these
20 correctional facilities are going to be
21 returned to the taxpayers. On the contrary,
22 an additional appropriation is in this budget
23 to establish \$800,000 for a double-wide
24 trailer so that murderers, rapists, robbers,
25 those who have committed the most violent

1 crimes that society has ever seen will be able
2 to be treated to a conjugal visit with someone
3 ostensibly from their family.

4 In an effort to understand this, I
5 guess my citizens who sent me to represent
6 them believe it's an upside down situation
7 where you're allowing taxpayers' dollars of
8 that magnitude to be for a double-wide trailer
9 to be located at Five Points Correctional
10 Facility or at any of the other correctional
11 facilities across this state that provide the
12 conjugal visit program.

13 Mr. President and my colleagues,
14 this is a waste of money. It's not only a
15 waste of money, it's an insult to the citizens
16 of this state who are seeing their parks
17 closed, who are seeing their school districts
18 at stress, who are seeing their taxes
19 increase. Why? So that the most violent of
20 criminals in this state can be coddled by
21 establishing a program that the State of Ohio
22 says very clearly is not just a waste of
23 money, it's dangerous. There's potential for
24 violence within these reunions. It's placing
25 the most violent who are going to be in prison

1 for the longest period of time in a situation
2 where they're in effect with their families
3 when in fact they're going to be in prison for
4 many, many years --

5 ACTING PRESIDENT CRAIG JOHNSON:

6 Senator Hassell-Thompson, why do you rise?

7 SENATOR HASSELL-THOMPSON: I

8 wanted to -- through you, Mr. President, I
9 wanted to answer Senator Nozzolio's question
10 specifically about this particular allocation.

11 ACTING PRESIDENT CRAIG JOHNSON:

12 Senator Hassell-Thompson, do you ask Senator
13 Nozzolio to yield for a question?

14 SENATOR HASSELL-THOMPSON: I

15 didn't have a question. I had an answer to
16 the concern that he raised.

17 ACTING PRESIDENT CRAIG JOHNSON:

18 Senator Hassell-Thompson, Senator Nozzolio
19 does have the floor. If you're asking him to
20 yield for a question, that's up to him. But
21 if you wish to speak on the bill, Senator
22 Nozzolio still has the floor. You'd have to
23 ask him to yield.

24 SENATOR HASSELL-THOMPSON:

25 Senator Nozzolio, would you yield to a

1 question?

2 ACTING PRESIDENT CRAIG JOHNSON:

3 Will you yield for a question, Senator?

4 SENATOR NOZZOLIO: Mr. President,
5 I appreciate the graciousness of Senator
6 Hassell-Thompson in trying to answer my
7 questions before I ask them to her, but I
8 believe frankly I would like to conclude my
9 remarks, and then certainly I'd be willing to
10 yield.

11 ACTING PRESIDENT CRAIG JOHNSON:

12 You may continue, Senator Nozzolio.

13 SENATOR NOZZOLIO: Thank you,
14 Mr. President.

15 Mr. President, I was saying that to
16 place the most violent of criminals in a
17 situation where the taxpayers are funding, in
18 terms of millions of dollars across the
19 correctional system, a place where prisoners
20 who have committed the most violent of crimes
21 can now -- as an Ohio Department of
22 Rehabilitation and Correction study indicated,
23 that this does not promote healthy bonding of
24 families. In effect, it's an ethical paradox
25 where you're placing some violent criminal in

1 a situation where frankly what happens if the
2 family and the -- in effect, as a result of
3 the conjugal visit becomes pregnant and has
4 another child while the inmate is incarcerated
5 that certainly is not, as this study
6 indicated, a visitation program that is --
7 this may be extremely detrimental to the
8 family and society, as well as establishing
9 issues to convey contraband, establish
10 potential for sexually transmitted diseases
11 and other things that make no sense.

12 Mr. President, I rise to oppose
13 this legislation particularly because of this
14 type of inappropriate appropriation where
15 we're placing taxpayers' dollars in a priority
16 that makes no sense in these difficult
17 economic times. That's why I'll be voting
18 against it. I urge my colleagues to do the
19 same.

20 Thank you, Mr. President.

21 ACTING PRESIDENT CRAIG JOHNSON:

22 Thank you, Senator Nozzolio.

23 Senator Hassell-Thompson.

24 SENATOR HASSELL-THOMPSON: I
25 withdraw my question. He wasn't interested in

1 the information.

2 Thank you, Mr. President.

3 ACTING PRESIDENT CRAIG JOHNSON:

4 Thank you, Senator Hassell-Thompson.

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

7 Hearing none, the debate is closed.

8 The Secretary will please ring the bells.

9 The Secretary will read the last
10 section.

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

13 ACTING PRESIDENT CRAIG JOHNSON:

14 Call the roll.

15 (The Secretary called the roll.)

16 ACTING PRESIDENT CRAIG JOHNSON:

17 Senator Hassell-Thompson, to explain her vote.

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

20 I am in support of this
21 legislation, and I would just like to state
22 for the record that the \$800,000 that was
23 referred to for conjugal visits is not in this
24 budget. It was never put in the budget this
25 year, and it was discouraged from being in the

1 budget for the very reasons that Senator
2 Nozzolio stated. So I just would like the
3 record to reflect that that's not correct
4 information.

5 Thank you, Mr. President. I vote
6 yes.

7 ACTING PRESIDENT CRAIG JOHNSON:
8 Senator Hassell-Thompson will be voting in the
9 affirmative.

10 Senator DeFrancisco, to explain his
11 vote.

12 SENATOR DeFRANCISCO: Yes, with
13 respect to the conjugal visits, the Governor
14 prepared these in his original budget, and
15 this bill did not eliminate that portion of
16 the budget. It's the same number. And we've
17 been informed, the Minority has been informed
18 by the Office of the Budget, the Governor's
19 budget office, that that is still in.

20 But the other two points I wanted
21 to make, what's also in here, for those who
22 are deciding how to vote, is funding 20 new
23 staff members associated with the Governor's
24 wine in grocery stores. I don't know where
25 people stand on that, but it's kind of curious

1 that we're voting on new positions and we
2 haven't even made the decision -- or maybe you
3 have, maybe you have -- that there will be
4 wine in grocery stores.

5 In addition, there is new spending,
6 \$8 million for legal services funded through
7 more fees. Let me give you an idea what those
8 fees are. Ninety-five dollars paid by the
9 plaintiff in every consumer credit transaction
10 where you're suing on a consumer credit
11 transaction; \$190 extra for every real estate
12 foreclosure; an additional fee, from \$55 to
13 \$65 for criminal background checks -- unfunded
14 mandate going back to the school districts and
15 other people; and increasing registration fees
16 for lawyers and the like.

17 All of these, the total of all of
18 these are about \$35 million. So it's another
19 hidden fee in a bill. We haven't got to that
20 part yet, but this is how it's going to be
21 funded what we're voting on by this piecemeal
22 budget process.

23 I vote no.

24 ACTING PRESIDENT CRAIG JOHNSON:

25 Senator DeFrancisco to be recorded in the

1 negative.

2 Senator Ranzenhofer to explain his
3 vote.

4 SENATOR RANZENHOFER: Thank you,
5 Mr. President.

6 Three hundred and twenty-nine
7 pages, an hour to read it, 329 pages. You
8 know, I thought after last year when spending
9 was increased by those on the other side of
10 the aisle \$12 billion, \$2,400 a family, that
11 we'd had enough, we couldn't get any higher,
12 we couldn't take any more money out of the
13 system, out of people's pockets. But here we
14 go again. In 329 pages, spending more money,
15 raising more fees.

16 When is it going to end? When is
17 it going to end? You know, I think that's one
18 of the problems when you put together a budget
19 in secret and you don't have any discussions
20 after 12 weeks. I keep on listening to the
21 dialogue between Senator DeFrancisco and
22 Senator Kruger. When are you going to get the
23 information? Well, it's coming, it's coming,
24 when we reach a critical mass.

25 Well, here we are voting on the

1 first budget bill, and what do we see? We see
2 more fees, we see more hires -- we can't even
3 fund the programs that we have right now. But
4 what are you doing in this budget? You're
5 creating new programs, new state employees,
6 more money from the taxpayer.

7 Simply not affordable. Not
8 sustainable. You're continuing to drive more
9 and more people from this state -- my kids,
10 your kids, some of our grandkids. It's just
11 not affordable. I cannot in good conscience
12 vote for this. I'll be voting no.

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

16 Senator Carl Kruger, to explain his
17 vote.

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

20 I guess by virtue of a reality
21 check, let's look at some of the facts that
22 were put on the floor today. Firstly, the
23 bills that we're voting on now were printed
24 and available on Friday, and they were voted
25 on by the Assembly on Friday as well. So it's

1 not that someone had a few hours, they had
2 several days.

3 Secondly, the issue that's made
4 about the staffing at the SLA for wine in the
5 supermarkets, that's a contingent
6 appropriation and it is not supported by
7 actual cash.

8 Thirdly, the issue of trailers.
9 The conjugal program is an outgrowth of the
10 programs that were under the stewardship of
11 the former chairman of the Crime and
12 Corrections Committee in the Senate, Senator
13 Nozzolio.

14 Thank you, Mr. President. I vote
15 yes.

16 ACTING PRESIDENT CRAIG JOHNSON:
17 Senator Kruger to be recorded in the
18 affirmative.

19 Senator Volker, to explain his
20 vote.

21 Mr. President, I'll try to move
22 quickly. First of all, there is money in the
23 budget, I'm told, for conjugal visits, and
24 it's in a lump sum appropriation, just as it
25 was in there last year. Well, that's what

1 we're told, that it's in there and it's in the
2 same place as it was last year. And people
3 have already been notified that it's going to
4 continue.

5 Interestingly enough, the Assembly
6 obviously made a deal on lawyers, because they
7 charged individuals who are from outside the
8 state who take the bar exam \$500 more, to
9 raise it to \$750, but only raised the biannual
10 fee for practicing lawyers from \$350 to \$375.
11 It's interesting, because I think that was to
12 satisfy some of the lawyers in the Assembly.

13 But I've got to tell you something
14 else. There's a new bureau set up for
15 overseeing indigent services. The problem
16 with it is what I was always concerned about.
17 If you read the people who make the
18 appointments, the vast majority are from
19 New York City. There's no question that's why
20 we always had problems. We wanted a statewide
21 group to be able to do it. If you read it,
22 you will see what I'm talking about.

23 And by the way, there's nobody from
24 the Senate Minority or the Assembly Minority,
25 no Republicans at all, particularly that are

1 listed here.

2 The problem we always had with the
3 suggestion for this new bureaucracy for legal
4 services, indigent legal services, is that the
5 upstate people and the Long Island people were
6 concerned that this would turn into a New York
7 City program. And if you read who is involved
8 in the appointments, you'll realize that's
9 exactly what happened.

10 And that's a shame. Because I
11 thought this was a good idea. I still think
12 it's a good idea. But I really think that we
13 ought to have people from all across the state
14 making these decisions and not just people who
15 are primarily concerned with New York City.

16 I vote no.

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

19 Senator Nozzolio, to explain his
20 vote.

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

23 Mr. President and my colleagues, in
24 these horrendously difficult economic times
25 when this Legislature is facing very difficult

1 decisions, the Senate Democrats and Governor
2 Paterson and the Assembly Democrats are
3 putting before us bills that raise taxes, that
4 cut vital services, that are driving people
5 out of this state. At the same time putting
6 an \$800,000 expenditure for a new conjugal
7 visit program at one of the correctional
8 programs in this state, where the most violent
9 criminals, those who have committed serious
10 violent felonies -- rape, robbery, murderer --
11 are going to be allowed to have conjugal
12 visits at taxpayers' expense.

13 The citizens of this state can no
14 longer nor should no longer tolerate this type
15 of expenditure. In these times, this
16 expenditure should be a priority to cut. It
17 should be one of the first things to be cut.
18 And because this Senate proposal put forward
19 by the Democrats does not cut, I think it's
20 unconscionable and unforgivable to those who
21 are supporting it.

22 And for that I say we oppose it we
23 believe, it's inappropriate in this time, and
24 that's why we Senate Republicans are voting
25 against it.

1 ACTING PRESIDENT CRAIG JOHNSON:

2 Senator Nozzolio to be recorded in the
3 negative.

4 Senator Schneiderman, to explain
5 his vote.

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

8 I just want to rise and thank
9 Senator Hassell-Thompson and Senator Adams,
10 Senator Sampson, the others who have worked on
11 this. This is actually the best piece of a
12 bad budget that I have seen. This imposes
13 fees, ladies and gentlemen, on those who can
14 best afford to pay lawyers, the plaintiffs in
15 foreclosure proceedings, which are basically
16 banks and creditors. It uses the money not
17 for some centralized bureaucracy, this money
18 is going to local governments to fund indigent
19 defense services.

20 The 2006 report by Chief Judge Kaye
21 determined that our indigent defense services
22 in this state are broken. It's county by
23 county, it's piecemeal. Some places you get
24 good services, some places the defenders are
25 completely overloaded. This would correct

1 that inequity without generalized taxes. It
2 takes money out of the system and puts it back
3 into the system.

4 And the creation of the indigent
5 defense office I believe is a great step
6 forward towards our ideal of equal justice
7 under law. This is not principally, Senator
8 Volker, a New York City problem. This is
9 principally a problem in poorer counties
10 upstate, and this is what it's designed to
11 correct.

12 This is a good step forward.
13 Mr. President, I think everyone should support
14 this piece of legislation. It's tough to
15 impose fees, but this is as fair as we could
16 do and it does improve legal services for
17 thousands and thousands of New Yorkers.

18 ACTING PRESIDENT CRAIG JOHNSON:
19 Senator Schneiderman, how do you vote?

20 SENATOR SCHNEIDERMAN: I vote in
21 the affirmative, Mr. President.

22 ACTING PRESIDENT CRAIG JOHNSON:
23 Senator Schneiderman to be recorded in the
24 affirmative.

25 Senator Maziarz, to explain his

1 vote.

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

4 I didn't want to get into this, but
5 I'm going to be voting in the negative. But
6 just so that everyone's clear, look, there
7 have been conjugal visit programs in state
8 prisons for a long time. The Governor
9 proposed this year \$778,000 to expand that
10 program and to purchase new trailers. Okay?
11 The Division of Budget has acknowledged that
12 \$778,000 is in this bill that we are about to
13 vote on today. The new trailers and expansion
14 of the program is in this bill.

15 I vote no, Mr. President. Thank
16 you.

17 ACTING PRESIDENT CRAIG JOHNSON:
18 Senator Maziarz to be recorded in the
19 negative.

20 Senator Marcellino, to explain his
21 vote.

22 SENATOR MARCELLINO: Yes,
23 Mr. President, thank you, to explain my vote.

24 I will be voting no on this bill.
25 Senator Schneiderman talked about fees and

1 it's difficult to do it. Well, the fee that's
2 mentioned was just slightly mentioned but I
3 think is a pass-through and pass-down to
4 people who cannot afford it very much is the
5 criminal background check fee.

6 I was the town clerk in the town of
7 Oyster Bay for many years, and we did criminal
8 background checks and required them routinely
9 for people who came in for hack licenses and a
10 whole bunch of other types of licenses. All
11 the civil service tests require criminal
12 background checks. And those fees generally
13 were passed on to the applicants. These were
14 not people who could afford it, these were
15 people who were, you know, looking for a job
16 at pretty low levels. This is a pass-down to
17 local governments that's going to cost a lot
18 of people a lot of money that they don't have.

19 We were told before that 60 percent
20 of this budget will be finished by the time
21 we're through today, leaving about
22 \$3.9 billion of a \$9.2 billion gap to fill.
23 The only thing of significance, as was pointed
24 out correctly by Senator DeFrancisco, is the
25 education part of the budget. Are we going to

1 cut approximately \$4 billion out of education?
2 I don't think so. If that's your proposal,
3 let's bring it on the floor right now. I
4 don't think you're going to do that. I think
5 you're going to raise taxes to fill that gap.
6 I think you're going to do some borrowing to
7 fill that gap.

8 And I think, as I said in a prior
9 statement, the Big Ugly is coming. And the
10 Big Ugly is going to hit us on Monday. That's
11 when we're going to see the borrowing and
12 taxes and the fees that are going to come out
13 and the cuts to education which a lot of
14 people are waiting for and are not too happy
15 about.

16 So I'm going to vote no on this --
17 I'm going to continue to vote no -- because
18 this tax-and-spend mentality has got to stop.
19 We've got to change what we're doing and we've
20 got to change how we're doing it.

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

24 Announce the results.

25 THE SECRETARY: Those recorded in

1 the negative on Calendar Number 1041 are
2 Senators Alesi, Bonacic, DeFrancisco, Farley,
3 Flanagan, Fuschillo, Golden, Griffo, Hannon,
4 O. Johnson, Lanza, Larkin, Flanagan, Leibell,
5 Libous, Little, Marcellino, Maziarz, McDonald,
6 Nozzolio, Padavan, Ranzenhofer, Robach,
7 Saland, Seward, Skelos, Volker, Winner and
8 Young.

9 Ayes, 32. Nays, 29.

10 ACTING PRESIDENT CRAIG JOHNSON:

11 The bill is passed.

12 The Secretary will put before the
13 house Calendar Number 1062.

14 THE SECRETARY: Calendar Number
15 1062, substituted earlier today, Assembly
16 Budget Bill, Assembly Print Number 9705D, an
17 act making appropriations for the support of
18 government: Transportation, Economic
19 Development and Environmental Conservation
20 Budget.

21 ACTING PRESIDENT CRAIG JOHNSON:

22 Senator Libous.

23 SENATOR LIBOUS: Mr. President,
24 would Senator Dilan answer some questions in
25 the transportation portion of this bill,

1 please.

2 ACTING PRESIDENT CRAIG JOHNSON:
3 Senator Dilan, Senator Libous has requested
4 that you would yield for questions.

5 SENATOR DILAN: If it's okay with
6 the chair of Finance, yes.

7 ACTING PRESIDENT CRAIG JOHNSON:
8 Senator Kruger, would you permit Senator Dilan
9 to answer questions pertaining to --

10 SENATOR CARL KRUGER: I always
11 yield to my learned colleagues.

12 SENATOR LIBOUS: Mr. President,
13 whomever feels more comfortable, I'd be happy
14 to --

15 SENATOR CARL KRUGER: There is
16 nobody better equipped to answer the questions
17 than Senator Dilan.

18 ACTING PRESIDENT CRAIG JOHNSON:
19 Senator Kruger has agreed to let Senator
20 Dilan -- Senator Libous, Senator Dilan has
21 agreed to yield for some questions.

22 SENATOR LIBOUS: Thank you,
23 Senator Dilan, if you would yield.

24 My first question is, can you tell
25 me what the size of the DOT capital plan would

1 be under this bill and over how many years
2 will that money be spent? So I need to know
3 the amount of money and over how many years
4 will it be spent, for the DOT capital plan.

5 SENATOR DILAN: Mr. President,
6 through you. Under this appropriation bill,
7 this legislation authorizes a two-year
8 \$6.9 billion capital spending plan.

9 SENATOR LIBOUS: Thank you,
10 Senator.

11 And, Mr. President, through you,
12 would the Senator continue to yield.

13 ACTING PRESIDENT CRAIG JOHNSON:
14 Senator Dilan, do you continue to yield?

15 SENATOR DILAN: Yes, sir.

16 SENATOR LIBOUS: Senator Dilan,
17 in October of 2009 DOT Commissioner Stan Gee
18 requested a five-year capital plan of
19 \$25.8 billion, and DOT spent about
20 \$8.43 billion in the first two years. Even at
21 this higher funding level, he stated that the
22 state's road and bridge conditions were going
23 to continue to deteriorate.

24 By cutting \$1.5 billion from this
25 budget or from his budget proposal, what will

1 happen to the condition of the roads and
2 bridges in the State of New York?

3 SENATOR DILAN: Mr. President,
4 Senator Libous is correct. On October 4,
5 2009, DOT released its capital plan, which at
6 that time was for five years, at about
7 \$5 billion per year. And about 45 minutes
8 after that plan was released, by the way, I
9 believe everyone knows that the Governor of
10 the State of New York actually said "We can't
11 even fund what they're requesting."

12 Since that time, I've held about
13 six, seven hearings throughout the State of
14 New York, had many of the stakeholders speak
15 on this. I have held out during this entire
16 process to try to get the DOT budget to be
17 funded at close to \$5 billion. And I actually
18 met with the Governor several months ago.
19 Because what we're talking about here to get
20 it funded at that level would mean that we
21 would have to put in \$88 million from the
22 General Fund into the Bridge and Highway Trust
23 Fund in order to leverage close to \$5 billion
24 a year.

25 The \$88 million did not materialize

1 because the Executive decided this funding
2 level, even against his own DOT agency -- and
3 I have actually till about last Friday held
4 out on closing down the transportation budget.

5 However, I did have members of the
6 industry from upstate New York, from all over
7 the State of New York, indicate to me that if
8 we did not close down this transportation
9 budget they were going to lose the
10 construction season and this year's
11 appropriation would not even be spent. For
12 example, they indicated to me that upstate
13 New York, especially in the Northern Country,
14 the construction season ends about October of
15 this year, and we would be hurting thousands
16 of jobs throughout this state.

17 For that reason, I agreed with the
18 chairman of Finance and others to close the
19 transportation part of the budget down.

20 ACTING PRESIDENT CRAIG JOHNSON:
21 Senator Libous.

22 SENATOR LIBOUS: Will the Senator
23 continue to yield.

24 SENATOR DILAN: Yes, sir.

25 ACTING PRESIDENT CRAIG JOHNSON:

1 Senator Dilan will continue to yield.

2 SENATOR LIBOUS: Thank you. So,
3 Senator, thank you for agreeing that an
4 additional \$1.5 billion has been cut and that
5 according to DOT that the fair and poor
6 pavement report went up from 40 percent to
7 55 percent over the next two years and,
8 according to them, that 600 more bridges will
9 become deficient. So I appreciate that you
10 recognize that.

11 My question to you, sir, would be
12 in 2008 my colleagues on this side of the
13 aisle, we increased the DOT five-year capital
14 plan to about \$19.2 billion to address the
15 needs of drivers throughout the State of
16 New York and to keep parity -- and I'll get
17 back to that word -- with the MTA.

18 Last year I believe, Mr. Chairman,
19 you voted to cut the DOT'S capital plan. Can
20 you tell me by how much?

21 ACTING PRESIDENT CRAIG JOHNSON:
22 Senator Dilan.

23 SENATOR DILAN: Well, I don't
24 recall -- your question is that we voted to
25 cut the MTA capital plan?

1 SENATOR LIBOUS: No, the DOT
2 capital plan, Mr. President. The road/bridge
3 plan, sir.

4 SENATOR DILAN: I don't recall
5 the exact number at this moment. I don't
6 recall the number at this moment.

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

9 I will respond, and then I would
10 ask if he would yield for another question.

11 SENATOR DILAN: Sure.

12 ACTING PRESIDENT CRAIG JOHNSON:
13 Senator Dilan will continue to yield.

14 SENATOR LIBOUS: Senator Dilan,
15 the amount was \$1 billion, down to 18.2.

16 But in just over one year, you will
17 have voted to cut the DOT's capital plan by
18 \$2.5 billion. During this same period, you
19 voted to increase revenues going to the MTA by
20 \$2.2 billion a year and provided the MTA with
21 an additional \$6.5 billion in capital funding.

22 Can you tell me the size of the
23 two-year MTA capital program that your
24 conference approved on June 1st? And is this
25 the largest discrepancy in the two-year

1 program that we've ever seen in the agency's
2 history?

3 Now I'll go back to that parity
4 question. In the past, Mr. President and
5 Senator Dilan, this chamber for about 20 years
6 has always done the MTA capital plan and the
7 road and bridge plan together. Parity.
8 Whatever money went into one went into the
9 other.

10 That was broken. And I'm asking
11 Senator Dilan if he could tell me the size of
12 the MTA two-year plan and then the size of the
13 bridge and highway plan and ask if he could
14 also state the discrepancy between the two
15 plans.

16 ACTING PRESIDENT CRAIG JOHNSON:
17 Senator Libous, before -- how many questions
18 are you asking?

19 SENATOR LIBOUS: That was one
20 with multiple parts, Mr. President. Let me be
21 more specific.

22 ACTING PRESIDENT CRAIG JOHNSON:
23 That was more than one --

24 SENATOR LIBOUS: Senator Dilan, I
25 would be happy to lay them out a little better

1 for you. I apologize. Question one --

2 SENATOR DILAN: I could have
3 answered them, but --

4 SENATOR LIBOUS: Question number
5 one, on June 1st your conference approved an
6 MTA capital plan. How much was that capital
7 plan, sir?

8 ACTING PRESIDENT CRAIG JOHNSON:
9 Senator Dilan.

10 SENATOR DILAN: It's \$24 billion
11 over five years.

12 SENATOR LIBOUS: I'm sorry?

13 SENATOR DILAN: \$24 billion over
14 five years.

15 SENATOR LIBOUS: So I believe
16 it's about \$9.1 billion, or 31 percent larger
17 than the DOT plan during the same period. Is
18 that correct?

19 ACTING PRESIDENT CRAIG JOHNSON:
20 Are you asking Senator Dilan to continue to
21 yield?

22 SENATOR LIBOUS: I'm sorry,
23 Mr. President, I'm asking him to continue to
24 yield.

25 So my question to you is that

1 according to my math, it's about \$9.1 billion
2 or 31 percent large than the DOT plan over the
3 same period of time.

4 SENATOR DILAN: It is about
5 \$8 billion over two years, which means it's
6 about \$4 billion per year.

7 SENATOR LIBOUS: Mr. President, I
8 respectfully disagree. But I won't argue that
9 now, because I believe it is \$9.1 billion.
10 Would Senator Dilan continue to
11 yield?

12 ACTING PRESIDENT CRAIG JOHNSON:
13 Senator Dilan, do you continue to yield?

14 SENATOR DILAN: Yes, sir.

15 ACTING PRESIDENT CRAIG JOHNSON:
16 Senator Libous.

17 SENATOR LIBOUS: Because of the
18 late state budget, Senator, DOT has awarded
19 over \$1 billion in work. Your bill does not
20 include the traditional shares or splits
21 between Long Island, New York City, the Hudson
22 Valley, or upstate. Since there are no
23 regional allocations in your bill that is on
24 the floor today, are you leaving this up to
25 the Executive to decide which road and bridge

1 projects are going to be accomplished?

2 SENATOR DILAN: The DOT did come
3 out with a schedule, I believe it was in March
4 of this year, which outlined all the projects
5 throughout the State of New York for a
6 two-year program.

7 SENATOR LIBOUS: Would he
8 continue to yield, Mr. President?

9 ACTING PRESIDENT CRAIG JOHNSON:
10 Senator Dilan?

11 SENATOR DILAN: Yes.

12 ACTING PRESIDENT CRAIG JOHNSON:
13 He will continue to yield, Senator Libous.

14 SENATOR LIBOUS: Senator Dilan,
15 are you familiar with the program as it
16 pertained to the shares program that we've had
17 for transportation in this state for the last
18 probably 20, 25 years?

19 SENATOR DILAN: I believe I
20 understand what you're saying in terms of how
21 you've done it in the past. And I know that
22 we have been trying to accommodate that,
23 Senator.

24 However, in view of the economic
25 times and the MTA being an authority and

1 having a capital review board which deals with
2 their budget, and I through our leadership,
3 trying to negotiate equity between DOT, MTA,
4 and trying do this at the same time, we're at
5 very difficult times.

6 And under the circumstances -- and
7 also, as I indicated earlier, I tried to hold
8 out to the very last second. But at the
9 urging of the industry and all the contractors
10 throughout the State of New York, if we
11 continue to hold out on this budget, there
12 would be no contracts let after April 1st. Up
13 to this point and this is our, what, 12th
14 extender, since April 1 not one single
15 contract has been let by DOT.

16 By virtue of passing this current
17 budget appropriation, and at the urging of the
18 industry, we would not even be able to spend
19 the money that was allocated for this year.
20 So for the sake of getting some contracts let
21 and saving thousands of jobs for New York
22 State, this is the appropriation we have at
23 this time.

24 ACTING PRESIDENT CRAIG JOHNSON:
25 Senator Libous.

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

3 ACTING PRESIDENT CRAIG JOHNSON:
4 Senator Dilan, will you continue to yield?

5 SENATOR DILAN: Yes, sir.

6 SENATOR LIBOUS: Senator Dilan,
7 are you aware that you have veto power over
8 that MTA plan and that you, as Chairman of the
9 committee, and your conference being in the
10 majority, could actually have vetoed that plan
11 and then implemented a plan that would be fair
12 to all New York State that would have the
13 appropriate splits for the road and bridge
14 plan? Are you aware of that, sir?

15 SENATOR DILAN: If I were chair
16 of the committee, I'd be very well aware of
17 it. But I'm not chair or the representative
18 from the Senate on the capital review board.

19 ACTING PRESIDENT CRAIG JOHNSON:
20 Senator Libous.

21 SENATOR LIBOUS: Mr. President,
22 would he yield to another question?

23 ACTING PRESIDENT CRAIG JOHNSON:
24 Senator Dilan, will you continue to yield?

25 SENATOR DILAN: Yes, sir.

1 SENATOR LIBOUS: Senator Dilan,
2 do you have a member of your conference on
3 that board?

4 SENATOR DILAN: Yes.

5 SENATOR LIBOUS: Would he
6 continue to yield.

7 ACTING PRESIDENT CRAIG JOHNSON:
8 Senator Dilan, do you continue to yield?

9 SENATOR DILAN: Yes, sir.

10 SENATOR LIBOUS: Senator Dilan,
11 would possibly a member of your conference
12 that sat on that board, would he be willing to
13 maybe stand up for the rest of New York State
14 and could he have vetoed that plan and then
15 done a fair plan that would be an accurate
16 plan for both road and bridges and the MTA
17 that would have the same amount of money and
18 have parity and have the splits between
19 upstate, downstate, Long Island, Hudson
20 Valley, and for that matter New York City?

21 SENATOR DILAN: Well, the
22 member -- the representative from the State
23 Senate could have approved no plan for the
24 MTA, and then we would have had no capital
25 plan for anyone.

1 SENATOR LIBOUS: I'm sorry, what
2 was that answer, Mr. President?

3 SENATOR DILAN: I'll repeat it.
4 I said the representative from the Senate
5 could have vetoed that MTA plan. Then we
6 would have had no plan for the MTA and perhaps
7 no plan for DOT either.

8 SENATOR LIBOUS: Mr. President,
9 through you, would he continue to yield?

10 ACTING PRESIDENT CRAIG JOHNSON:
11 Senator Dilan, will you continue to yield?

12 SENATOR DILAN: Yes, sir.

13 SENATOR LIBOUS: Senator Dilan,
14 do you realize that if he did veto it and
15 there was no plan that it could be
16 renegotiated by the majority of this house?

17 ACTING PRESIDENT CRAIG JOHNSON:
18 Senator Dilan.

19 SENATOR DILAN: Perhaps. I don't
20 know.

21 ACTING PRESIDENT CRAIG JOHNSON:
22 He said perhaps, he didn't know.

23 SENATOR LIBOUS: Would Senator
24 Dilan continue to yield?

25 ACTING PRESIDENT CRAIG JOHNSON:

1 Senator Dilan, do you continue to yield?

2 SENATOR DILAN: Yes.

3 SENATOR LIBOUS: Thank you,
4 Senator.

5 Senator, do you think it was fair
6 to do a plan for the MTA region but yet leave
7 the rest of New York State hanging?

8 SENATOR DILAN: You know,
9 Mr. President, I think that we in the majority
10 conference or I know especially myself tried
11 very hard to ensure that the Department of
12 Transportation capital plan was funded.
13 Unfortunately, we did not get the cooperation
14 that we expected from the Governor.

15 And as I indicated, if we don't
16 have any plan at all, there would be no
17 spending whatsoever this fiscal year on the
18 plan. And again, I'll repeat, at the urging
19 of the industry, we closed it down so we can
20 get some contracts let and employment for many
21 construction jobs throughout the State of
22 New York this year.

23 SENATOR LIBOUS: Would Senator
24 Dilan continue to yield?

25 ACTING PRESIDENT CRAIG JOHNSON:

1 Senator Dilan, will you continue to yield for
2 Senator Libous?

3 SENATOR DILAN: Yes, sir.

4 ACTING PRESIDENT CRAIG JOHNSON:
5 Senator Libous.

6 SENATOR LIBOUS: Thank you,
7 Senator Dilan.

8 Senator, do you realize that this
9 year the MTA five-year plan was approved but
10 yet there was only funding for two years?

11 SENATOR DILAN: As I indicated,
12 I'm not the representative on the Capital
13 Review Board, although I may have seen the
14 plan. But I didn't have anything to do with
15 that part.

16 It's two years also, I believe.
17 Two years. It's funded for two years.

18 SENATOR LIBOUS: That's right.
19 But it was a five-year capital plan,
20 Mr. President, funded for two years. But the
21 road and bridge plan is the pay-as-you-go in
22 this item.

23 ACTING PRESIDENT CRAIG JOHNSON:
24 Let me first say both parties can't talk over
25 each over.

1 SENATOR LIBOUS: Could I ask for
2 a favor before I -- there's a lot of noise in
3 the back of the chamber here.

4 ACTING PRESIDENT CRAIG JOHNSON:
5 I'll ask, at Senator Libous's request, for
6 both sides of the aisle to keep it down.

7 I will also ask to allow each
8 Senator to speak and try not to speak over
9 each other because the stenographer, for one,
10 may have a difficult time.

11 Senator Libous.

12 SENATOR LIBOUS: Senator Dilan,
13 one or two more questions, please. Would you
14 yield?

15 SENATOR DILAN: Yes, sir,
16 Mr. President.

17 ACTING PRESIDENT CRAIG JOHNSON:
18 Senator Libous.

19 SENATOR LIBOUS: Do you realize
20 that upstate drivers pay over half the gas
21 taxes and fees going into the dedicated
22 Highway and Bridge Trust Fund? Without the
23 regional splits we talked about, how will the
24 drivers in upstate New York or the ones that
25 many of us represent -- and actually some of

1 your colleagues represent -- how will they get
2 their fair share of the taxes if there are no
3 regional splits in this budget, if it's going
4 to be left to the discretion of the Executive?

5 SENATOR DILAN: Well, you know,
6 the only thing I can indicate about the
7 dedicated Bridge and Highway Trust Fund is
8 that it's in trouble. And I think it's been
9 in trouble for many years before we took over
10 the majority. The bridge and highway fund
11 needs to be revamped, it needs to be really
12 looked at in terms of how we can leverage
13 capital funding for it.

14 And for many years prior to us
15 being in the majority -- I'm trying to use the
16 right word here -- this fund, there was tons
17 of borrowing to pay for other programs and not
18 used the way it was supposed to be.

19 ACTING PRESIDENT CRAIG JOHNSON:
20 Senator Libous.

21 SENATOR LIBOUS: Senator Dilan,
22 are you aware, sir, that I had a bill on the
23 floor five years ago to level the funding in
24 the dedicated highway --

25 ACTING PRESIDENT CRAIG JOHNSON:

1 Senator Libous, are you asking Senator Dilan
2 to yield for a question?

3 SENATOR LIBOUS: I'm asking, yes,
4 if he will yield.

5 ACTING PRESIDENT CRAIG JOHNSON:
6 Senator Dilan, will you continue to yield?

7 SENATOR DILAN: Yes. Yes.

8 SENATOR LIBOUS: Are you aware
9 that I had a bill on the floor five years ago
10 that actually would have corrected the deficit
11 in the dedicated highway trust fund?

12 SENATOR DILAN: Well, I believe
13 that I was aware. And if Senator Libous would
14 like, we can work on it together to correct
15 the highway and bridge fund.

16 SENATOR LIBOUS: Mr. President,
17 on the bill.

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

20 Thank you very much, Senator Dilan.
21 Senator Libous.

22 SENATOR LIBOUS: Mr. President
23 and my colleagues, I'm -- and, Senator Dilan,
24 thank you for being so gracious to answer some
25 of the questions.

1 But I have to tell you that, once
2 again, there are regions of this state getting
3 the short end of the stick, if you will.

4 There are roads and bridges throughout this
5 state, and there is more to this state than
6 the MTA region. And although I have great
7 respect and have been supportive when I
8 chaired the committee of the MTA region, we
9 always had parity. And parity meant that
10 whatever went to the MTA went to the road and
11 bridge plan.

12 Senator Dilan, last year, in April
13 when the budget was passed, I asked you on the
14 floor if there would be a road and bridge
15 plan, if there would be parity. And you said
16 to me: "Yes, Senator, in October." October
17 of 2009 has come and gone. We are now in June
18 of 2010. There is no parity for upstate roads
19 and bridges.

20 I turn to some of my colleagues
21 from upstate New York, and I would defer to
22 Senator Aubertine and Senator Valesky, who in
23 2009 -- and I plead, I plead, gentlemen, for
24 your help here -- in 2009 you had a release
25 that went out. And because of my age, I need

1 glasses to read it. I can't find my glasses,
2 so I'll borrow Senator Skelos's. Oh, these
3 are pretty good.

4 In 2009 my colleagues Senator
5 Valesky and Senator Aubertine put a release
6 out, and in that release they talked about
7 "The plan announced today will keep the MTA
8 solvent and provide accountability which has
9 been sorely lacking in this authority for
10 decades." I concur with you, gentlemen.
11 You're absolutely right there. Certainly a
12 plan without rate hikes or cuts in services is
13 a good move for the state's economy.

14 Then you went on to say: "But what
15 we've got alone here with this legislation is
16 a renewed commitment to upstate which will
17 ensure road and bridge projects throughout the
18 state will be a priority as we put a five-year
19 plan together."

20 Well, gentlemen, I guess you kind
21 of feel the same way I do today. Because
22 there is no upstate five-year road and bridge
23 plan. The plan isn't there. And both Senator
24 Aubertine, Senator Valesky, I know that you
25 have the same issues that I have in my

1 district and that many of us have as
2 upstaters. And it's not fair that there's a
3 five-year MTA plan but yet the road and bridge
4 gets ignored and that the difference in
5 funding in the MTA plan versus the road and
6 bridge plan is 31 percent more for the MTA.
7 In 20 years in this house, in 20 years there
8 was always parity, there was always shares.

9 If you live in upstate New York or
10 in the Hudson Valley or in Long Island, you're
11 getting the short end of the stick here again.
12 And I think we had this discussion last week,
13 but it seems to keep coming up.

14 Mr. President, this is not a good
15 way to do business. And then not only do we
16 eliminate the shares, but we give the
17 Governor, no matter who it is, the opportunity
18 to make those decisions on whether roads in
19 Senator Bonacic's district get fixed or
20 Senator Aubertine's district get fixed.
21 Senator Fuschillo's district. Instead of
22 equally dividing the money up by shares
23 throughout the state so that each district
24 gets its fair share and representation. The
25 way we have done it.

1 But oh, no, we'll give more to the
2 MTA because the mass transit in New York City
3 is much more important than the roads and
4 bridges on Long Island, in the Hudson Valley
5 and upstate New York.

6 Mr. President, I would call upon my
7 fellow upstate colleagues on the Democratic
8 side of the aisle, even Senator Stachowski --
9 buffalo is upstate the last I knew -- Senator
10 Breslin: Help us here. Don't let upstate get
11 short-changed. Senator Valesky is not here; I
12 wish he was. Senator Aubertine, as you said
13 in your release, there would be a plan, but
14 unfortunately there is no plan.

15 We need a plan for upstate roads
16 and bridges. This bill does not provide that
17 plan, Mr. President. Upstate gets the short
18 end again.

19 ACTING PRESIDENT CRAIG JOHNSON:
20 Thank you, Senator Libous.

21 Senator Saland.

22 SENATOR SALAND: Thank you,
23 Mr. President. Would Senator Kruger yield,
24 please?

25 ACTING PRESIDENT CRAIG JOHNSON:

1 Senator Kruger, Senator Saland has requested
2 that you yield.

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

5 ACTING PRESIDENT CRAIG JOHNSON:
6 Senator Saland.

7 SENATOR SALAND: Senator Kruger,
8 thank you for yielding. Through you,
9 Mr. President.

10 ACTING PRESIDENT CRAIG JOHNSON:
11 Senator Saland.

12 SENATOR SALAND: Senator Kruger,
13 I know we've probably had the opportunity to
14 engage on this topic in general terms. It's
15 really the job creation economic development
16 realm. And what I'd like to do is just start
17 off by asking you a general question to see
18 if --

19 ACTING PRESIDENT CRAIG JOHNSON:
20 Can I please have some order in the chamber.

21 I apologize, Senator Saland.
22 Please continue.

23 SENATOR SALAND: Thank you very
24 much, Mr. President.

25 -- just to see if we're starting

1 off anywhere near the same place. I believe
2 that in order for New York to be viable, our
3 state, in order for our state to be able to
4 stimulate its economy, there has to be a great
5 emphasis on not impairing private-sector job
6 growth but incentivizing private-sector job
7 growth. Could we agree that that in fact
8 would be, as an overarching statement, that
9 could be a common agreement between you and I?

10 SENATOR CARL KRUGER: Through
11 you, Mr. President, yes, I know so. And that
12 has been the very basis that we've been
13 approaching the entire economic development
14 package.

15 SENATOR SALAND: Thank you,
16 Senator.

17 Would the Senator continue to
18 yield?

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

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

23 SENATOR SALAND: Senator Kruger,
24 as I looked at this particular budget bill,
25 there are several things that caught my

1 attention. I can recall within -- it was
2 either this past week or the week before, we
3 were visited by a delegation from the People's
4 Republic of China. Senator Smith, the Senate
5 President, spoke eloquently of them and how
6 important they were and the importance of
7 international trade.

8 And having been witness to that and
9 sort of, in all candor, sharing that view, why
10 would this particular bill reject the
11 Governor's proposed increase of \$1.5 million
12 for international trade efforts? It would
13 certainly seem to fly in the face of Senator
14 Smith's comments.

15 SENATOR CARL KRUGER: Through
16 you, Mr. President. Consistent with our goal
17 of encouraging international trade, yet
18 recognizing the tough budget times that we're
19 in, we did fund an Office of International
20 Trade with a \$200,00 increase in its
21 appropriation. Which to my understanding is
22 about 20 percent above last year's
23 appropriation.

24 SENATOR SALAND: So if I'm not
25 mistaken --

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

4 SENATOR SALAND: Thank you,
5 Mr. President.

6 SENATOR CARL KRUGER: Yes, I do.

7 SENATOR SALAND: Thank you. If
8 I'm not mistaken, the funding level for this
9 year is \$1.2 million. And could you share
10 with me what the funding level for our
11 international --

12 SENATOR CARL KRUGER: Through
13 you, Mr. President, that is correct, sir.

14 SENATOR SALAND: And under the
15 Governor's proposal, what would that have
16 been?

17 SENATOR CARL KRUGER: Through
18 you, Mr. President, under the Governor's
19 proposal it would have been approximately
20 \$2.7 million. But for all the reasons that
21 we've already defined, we've reappropriated
22 funds to the level that we've discussed.

23 SENATOR SALAND: Thank you,
24 Senator.

25 Would the Senator continue to

1 yield?

2 ACTING PRESIDENT CRAIG JOHNSON:

3 Senator Kruger, will you continue to yield?

4 SENATOR CARL KRUGER: Yes, I do.

5 ACTING PRESIDENT CRAIG JOHNSON:

6 He does, Senator Saland.

7 SENATOR SALAND: Senator Kruger,
8 there are probably very few people that you or
9 I know who have not been exposed to or heard
10 of the "I Love New York" tourism program. I
11 know in my area it is a source of revenue. It
12 generates considerable interest, brings people
13 to our area, particularly in these
14 hard-pressed times. My, again, review
15 indicates a cut of some \$6.1 million from
16 tourism and marketing, which is 3.5, I
17 believe, from the Governor, compounded by an
18 additional 2.6 million by this majority,
19 Democrat majority, and the Assembly Democrat
20 majority.

21 First, can you verify whether in
22 fact that's an accurate number?

23 SENATOR CARL KRUGER: Through
24 you, Mr. President, yes, the numbers reflect
25 an accurate representation.

1 SENATOR SALAND: If the Senator
2 will continue to yield.

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

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

7 SENATOR SALAND: Many of our
8 communities -- and certainly there are
9 probably fewer tourist meccas in our nation
10 than the City of New York which, to a
11 considerable extent, may not require them to
12 resort to these types of tourism proposals and
13 marketing proposals.

14 But for areas outside of the City
15 of New York, and the further north and the
16 further west you go, they become far more
17 critically important. The elimination of
18 these dollars basically cuts at the very heart
19 of economic development. Going back to our
20 initial area of agreement, would you not view
21 that as in fact not incentivizing economic
22 development once we're beyond the immediate
23 metropolitan area, but in fact impeding
24 economic development -- the inability for "I
25 Love New York" matching grants, the inability

1 to engage in tourism programs, which for many
2 communities can be vital to their very
3 sustenance?

4 SENATOR CARL KRUGER: Through
5 you, Mr. President, in the very broadest
6 terms, yes. Yes. Certainly wherever we can
7 market and wherever we can show all the
8 attributes of what make this great state an
9 interesting and exciting place to visit and to
10 vacation, it certainly spurs economic
11 development.

12 At the same time, as part of gap
13 closing, we had to recognize our obligation to
14 cut. And cut we did. But at the same time we
15 also recognize that our obligation to fund a
16 level of tourism activity in this state is an
17 integral part of an economic development
18 package. And we did provide, in this
19 appropriation, approximately \$8 million for
20 tourism.

21 SENATOR SALAND: Thank you,
22 Senator Kruger.

23 If the Senator will continue to
24 yield.

25 ACTING PRESIDENT CRAIG JOHNSON:

1 Senator Kruger, will you continue to yield?

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

4 SENATOR SALAND: Thank you.

5 Senator Kruger, as I said in my
6 earlier remarks, the City of New York has its
7 own cachet. And certainly there are the
8 wonders of the City of New York that bring
9 people from all over this nation and all over
10 the world. But if you are from the
11 Adirondacks, if you're from the upper Hudson
12 Valley, if you're out in Central and Western
13 New York, these tourism dollars can be really,
14 in part, part of the essence of economic
15 vitality.

16 So I would respectfully submit to
17 you that while I agree wholeheartedly with the
18 importance of cuts, if we start off with the
19 same basic premise that we want to not impede
20 but incentivize, why would we want to strip
21 areas that are desperately in need of economic
22 development from one of their most viable
23 tools?

24 SENATOR CARL KRUGER: Through
25 you, Mr. President. Firstly, Senator,

1 notwithstanding the fact that we know the
2 cachet -- I like the choice of the word --
3 that New York City has to offer, New York City
4 has a very a vigorous and robust tourism
5 program of its own. And its marketing
6 techniques have been duplicated and copied in
7 states around the country.

8 What we're looking at, what we try
9 to do with our tourism dollars is that, as you
10 pointed out, they become a matching -- we
11 incentivize localities by matching the monies
12 that they put into their tourism programs.
13 And in this particular case, this legislation
14 calls for approximately \$3.8 million in
15 matching money to accomplish those goals.

16 Which, you know, again, just to
17 point out, when we're looking at the overall
18 budget and the cuts that we've been taking,
19 this is about 10 percent below the amount of
20 monies that we allocated last year. Which is
21 very consistent and perhaps slightly above
22 cuts that we've suffered throughout this whole
23 tortured budget process.

24 SENATOR SALAND: Well, Senator
25 Kruger, inasmuch as you brought up last

1 year -- if he'll continue to yield, Mr.
2 President.

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

5 SENATOR CARL KRUGER: Yes, I do.

6 SENATOR SALAND: So this is a cut
7 from last year. And if my memory serves me
8 correctly, last year was a cut from the
9 preceding year, was it not?

10 SENATOR CARL KRUGER: Through
11 you, Mr. President, I can't answer with any
12 certainty, but I'll take -- I'm sure your
13 facts bear that out.

14 SENATOR SALAND: Thank you. I
15 appreciate that vote of confidence.

16 Senator Kruger, the --

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

19 SENATOR CARL KRUGER: Yes, I do.

20 SENATOR SALAND: This bill
21 provides for the Governor's small business
22 revolving loan fund?

23 SENATOR CARL KRUGER: Yes, it
24 does.

25 SENATOR SALAND: And how much is

1 that revolving loan fund?

2 SENATOR CARL KRUGER: Through
3 you, Mr. President, we've created a
4 \$25 million small business revolving fund,
5 loan fund.

6 SENATOR SALAND: And if my memory
7 serves me correctly, the Governor also had
8 another fund, which I believe was also a loan
9 fund, it was some type of technology fund. Is
10 that in this budget?

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

13 SENATOR CARL KRUGER: Through
14 you, Mr. President, that loan fund was
15 withdrawn by the Governor as part of his
16 90-day amendments after he submitted his
17 original budget.

18 SENATOR SALAND: For some reason
19 or another, Senator Kruger, I was under the
20 impression that that had been rejected. But I
21 will take you at your word.

22 SENATOR CARL KRUGER: We're even.

23 SENATOR SALAND: Okay, thank you.

24 Senator Kruger --

25 ACTING PRESIDENT CRAIG JOHNSON:

1 Senator Kruger, do you continue to yield?

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

4 SENATOR SALAND: -- the monies
5 that are dedicated to economic development
6 currently are, in principle, the major dollars
7 through the Empire Zone programs. And it's my
8 understanding that that will be discontinued,
9 although those in the program will continue to
10 be funded for the duration of whatever their
11 commitment was.

12 If you know, Senator Kruger, how
13 much money is backing that Empire Zone
14 program?

15 SENATOR CARL KRUGER: Through
16 you, Mr. President. Senator Saland, could you
17 please repeat that?

18 SENATOR SALAND: How much money
19 is appropriated for -- in the past, how much
20 money per year has been appropriated for the
21 Empire Zone program?

22 SENATOR CARL KRUGER: In the
23 past? Actually, zero, because it's a tax
24 expenditure.

25 SENATOR SALAND: Let me rephrase

1 my question, if he'll continue to yield.

2 ACTING PRESIDENT CRAIG JOHNSON:

3 Do you continue to yield, Senator Kruger?

4 SENATOR CARL KRUGER: Yes, I do.

5 SENATOR SALAND: How much money
6 has been spent on the Empire Zone program?

7 SENATOR CARL KRUGER: Through the
8 years? Through you, Mr. President, in the
9 recent years, for however we want to define
10 those, probably in the range of \$500 to
11 \$550 million.

12 SENATOR SALAND: Thank you,
13 Senator Kruger. And that item, as a
14 \$550 million tax expenditure, certainly has
15 been the subject of, at least in some
16 quarters, controversy, has it not?

17 SENATOR CARL KRUGER: Through
18 you, Mr. President. With your permission,
19 Senator Saland, Senator Stachowski may be in a
20 better position to give some specific facts.
21 So let's play tag-team wrestling. Thank you.

22 ACTING PRESIDENT CRAIG JOHNSON:

23 Senator Stachowski.

24 SENATOR SALAND: Mr. President,
25 as long as I am asking the questions and it's

1 Senator Kruger or Senator Stachowski's time,
2 that's fine.

3 ACTING PRESIDENT CRAIG JOHNSON:
4 Senator Saland, you still have the floor. So
5 yes.

6 SENATOR SALAND: Thank you.

7 SENATOR STACHOWSKI: The
8 \$500 million to \$600 million is the carry-over
9 of existing companies, from whether they're in
10 for 15 years or 10 years, depending on when
11 they entered.

12 Currently I can tell you in 2007,
13 for new companies, we spent \$29 million. In
14 2008, we spent \$21 million on new companies.
15 In 2009, we had minus \$47 million. And in
16 2010 so far we've --

17 SENATOR SALAND: Excuse me. I'm
18 sorry, could you repeat --

19 SENATOR STACHOWSKI: Minus
20 \$47 million. Decertification of a lot of
21 companies. Which some of them might get back.
22 Because a court case is involved, there's
23 companies being recertified, a very complex
24 situation caused by changes.

25 But this year so far we've spent

1 \$13 million.

2 So the \$600 million is mostly the
3 carry-over. So when you talk about what's
4 available to new companies, right now it would
5 be, if we left it running, we had a one-year
6 extension, it would be about \$25 million.
7 Last year it was -- we spent like 29, 21, and
8 next year it will be 25. Currently we spent
9 13.

10 SENATOR SALAND: If Senator
11 Stachowski would continue to yield.

12 ACTING PRESIDENT CRAIG JOHNSON:
13 Senator Stachowski will continue to yield.

14 SENATOR SALAND: So the 13 that
15 you're talking about is new money cumulatively
16 added to whatever was being spent to those in
17 the program, which was somewhere in the area
18 of what, based on whatever numbers you have
19 there?

20 SENATOR STACHOWSKI: 550 million.

21 SENATOR SALAND: So if the
22 Senator will continue to yield.

23 SENATOR STACHOWSKI: Yes.

24 SENATOR SALAND: Was that 550
25 million plus another 13 million?

1 SENATOR STACHOWSKI: 538 plus 13
2 comes out to 551.

3 SENATOR SALAND: Senator
4 Stachowski, so in fact -- if the Senator will
5 continue to yield.

6 SENATOR STACHOWSKI: Yes.

7 SENATOR SALAND: In fact, what
8 has been spent through the program, with
9 whatever its warts and bruises may be, in the
10 most completely year was in excess of
11 \$550 million.

12 SENATOR STACHOWSKI: And next
13 year it will be -- the Empire Zone program
14 will still continue for all those that have
15 benefits for however long they have benefits.
16 So no matter what the new program is or
17 whatever the current program is, those
18 benefits carry out till they expire for
19 whatever companies are in it.

20 SENATOR SALAND: And as the --

21 ACTING PRESIDENT CRAIG JOHNSON:
22 Senator Saland, do you wish Senator Stachowski
23 to continue to yield?

24 SENATOR SALAND: If Senator
25 Stachowski will continue to yield.

1 SENATOR STACHOWSKI: Yes.

2 ACTING PRESIDENT CRAIG JOHNSON:

3 He does.

4 SENATOR SALAND: And as those
5 businesses that are in the program exhaust the
6 period of their certification, that pot will
7 shrink, will it not? Or that expenditure will
8 shrink.

9 SENATOR STACHOWSKI: Well, I
10 can't answer that, because we don't know if --
11 in future years, we don't know -- usually when
12 there's a cap on a program, oftentimes if the
13 cap is pushed up, you know, get upon and they
14 spend the whole amount, sometimes there's --
15 oftentimes, I should say, almost all the time
16 is more like reality -- there's discussion in
17 the following budget to increase the cap.
18 However, right now we're working under a
19 program that is capped at \$50 million and will
20 be capped every year at \$50 million for the
21 next five years.

22 SENATOR SALAND: Will Senator
23 Stachowski continue to yield?

24 SENATOR STACHOWSKI: Yes.

25 ACTING PRESIDENT CRAIG JOHNSON:

1 Senator Stachowski will continue to yield.

2 SENATOR SALAND: Senator
3 Stachowski, am I to conclude or should anybody
4 reasonably conclude from your preceding
5 remarks that in fact the Empire Zone program
6 will continue --

7 SENATOR STACHOWSKI: No, the
8 Empire Zone -- is that the end of your
9 question?

10 SENATOR SALAND: Well, what you
11 had said was, if I remember correctly, is that
12 it's capped, but one will not know what the
13 next year will bring.

14 SENATOR STACHOWSKI: The new
15 program has a cap of \$50 million. If this
16 bill passes and the new program goes in.

17 But the fact is that the Empire
18 Zone expires June 30th. So the Empire Zone
19 for new entrants will no longer exist unless
20 there's some kind of extension done, which
21 isn't in this bill, isn't in the budget bill
22 that the Assembly passed, isn't in anything
23 that the Governor is willing to sign. So the
24 fact is that the Empire Zone will continue for
25 those people in it, getting benefits, until

1 their benefits run the full course, whether it
2 was 15 or 10 years of, however the -- whenever
3 they entered and what the program was doing at
4 that point.

5 SENATOR SALAND: Will Senator
6 Stachowski continue to yield?

7 SENATOR STACHOWSKI: Yes.

8 ACTING PRESIDENT CRAIG JOHNSON:
9 Senator Stachowski will continue to yield.

10 SENATOR SALAND: So then it's
11 safe to say that with the program expiring on
12 June 30th and businesses that have fixed
13 duration of benefits, as those periods or
14 durations expire, they will cease to be able
15 to take advantage of those benefits and the
16 replacement for that program will be the
17 Governor's Excelsior program?

18 SENATOR STACHOWSKI: Excuse me,
19 Senator. The only problem I have with the way
20 you worded your question was whether the
21 Empire Zone continued or not, when their term
22 of 10 years is over, they cease to get those
23 benefits.

24 Because it was X amount of years
25 long that you're in the Empire Zone. It

1 doesn't mean that if you're in the Empire
2 Zone, you're in for 10 years, that you're now
3 in Year 11, you continue to get those
4 benefits. I don't believe that that was the
5 case in the past program, and I don't know
6 that that's the case in the next program.

7 SENATOR SALAND: Will the Senator
8 continue to yield?

9 ACTING PRESIDENT CRAIG JOHNSON:
10 Senator Stachowski, will you continue to
11 yield.

12 SENATOR STACHOWSKI: Yes.

13 SENATOR SALAND: Senator
14 Stachowski, I hope I didn't leave you with the
15 impression that I thought otherwise. There
16 will be a point in time, will there not, when,
17 due to the termination of the program or
18 expiration of the program, that Empire Zone
19 benefits -- currently, the most recent year,
20 some \$550 million -- will be thoroughly
21 depleted as the businesses that have been
22 certified and enter the program, no new
23 businesses coming in, the benefits going to
24 dissipate, and the replacement then is the
25 Governor's Excelsior program?

1 SENATOR STACHOWSKI: And that's
2 the case that Year 1 it's \$50 million, Year 2
3 the ceiling is at \$100 million. It's 50 and
4 50. And it's an additional 50 the third year,
5 an additional 50 the fourth year, and an
6 additional 50 the fifth year.

7 SENATOR SALAND: Senator
8 Stachowski, let me just pose this rhetorically
9 because I would not want to say something that
10 might be offensive. Five times 50, in terms
11 of economic development, is a heck of a lot
12 more than five times 50.

13 So I look at this and what I see is
14 in a period of time in which we are struggling
15 mightily, in which jobs are fleeing New York,
16 in which areas of the state such as the areas
17 of the state that you represent are
18 desperately crying out for some kind of help,
19 we in my opinion are sort of throwing out the
20 baby with the bathwater by tossing out this
21 Empire Zone program -- which, as I said a bit
22 earlier, does have warts and bruises -- and
23 going to a model that is a severely reduced
24 model in terms of the ability to provide
25 economic incentives to businesses either to

1 stay in New York or to come to New York.

2 SENATOR STACHOWSKI: That's the
3 question? Through you, Mr. President --

4 ACTING PRESIDENT CRAIG JOHNSON:
5 Thank you.

6 SENATOR STACHOWSKI: -- I don't
7 want to argue with your mathematical
8 background, but the fact is for at least the
9 next five years the \$500 million will be still
10 being spent by the Empire Zone because most of
11 these companies will still be getting those
12 full benefits, plus the new program will be
13 in, and they'll be getting \$50 million a year
14 offered to new companies coming in under the
15 new criteria.

16 And so that I don't see where this
17 big drop-off in economic development money is
18 coming from.

19 SENATOR SALAND: Senator
20 Stachowski --

21 ACTING PRESIDENT CRAIG JOHNSON:
22 So you wish Senator Stachowski to --

23 SENATOR STACHOWSKI: And just to
24 finish that answer, it is not \$500 million to
25 new companies every single year. So to try

1 frame it that way is fuzzy mathematics, as
2 many people refer to things like that.

3 And the fact is that in new
4 companies, for the last three years we have
5 been spending nowhere near \$50 million on new
6 companies. The carry-over benefits are still
7 carrying over for a distant future, I might
8 add, including the small amounts that have
9 been added.

10 So there's nobody that's going to
11 drop it off immediately. When the program
12 ends, that \$500 million does not disappear.
13 Those people will still be getting those
14 benefits. And I'm pretty sure that a lot of
15 people that had received letters that said you
16 may be decertified are going to end up being
17 recertified, a large number of them. Because
18 they've been being recertified. In the last
19 meaning of the Empire Zone decertification
20 board, for lack of a better -- I think that's
21 what it's called -- was going to recertify
22 some more, but it was put on hold by DOB.
23 They asked for the meeting to be canceled
24 until after the budget passed.

25 So I believe more of those

1 companies will be coming back. So the fact is
2 that the program will not be going down in its
3 impact in this state. As a matter of fact,
4 now there will be more money available with
5 this new program, and more areas available to
6 get them. No longer will be you the guy
7 across the street from the Empire Zone and the
8 guy across the street's getting benefits and
9 you're not allowed because you're on the wrong
10 side of the street. In the new program, it's
11 statewide to get to enter the program.

12 Now, to get certain pieces of the
13 program, you get an extra benefit for being in
14 a distressed area. Or you could be a
15 regionally significant project and get that
16 extra credit. But the fact is that companies
17 all over the state now, businesses all over
18 the state, can apply for the new program,
19 where currently there's 85 Empire Zones and
20 only if you're in one can you get it.

21 And I might add in Buffalo they had
22 the experience where they moved one, and all
23 the people that were in it no longer would be
24 eligible for Empire Zone credits. Only the
25 people that were now in it were eligible for

1 Empire Zone credits. And that was always a
2 risk if the locality decided to move the
3 Empire Zone and change its boundaries. If
4 you're no longer in the new boundaries, you
5 were out of the program. And that's nothing
6 that we did, that was something that
7 localities could do.

8 SENATOR SALAND: If the Senator
9 will continue to yield.

10 SENATOR STACHOWSKI: Absolutely.

11 ACTING PRESIDENT CRAIG JOHNSON:
12 Senator Stachowski will continue to yield.

13 SENATOR SALAND: So, Senator
14 Stachowski, let me see if I understand this
15 correctly. Are you telling me that there are
16 businesses currently not in the Empire Zone
17 program that are going to be able to get into
18 the Empire Zone program?

19 SENATOR STACHOWSKI: No, I'm
20 telling you that there's businesses that are
21 currently not able to get in any kind of
22 program, because the Empire Zone is our
23 program, that now were across the street from
24 an Empire Zone in the same town that will be
25 able to enter the new program, because there

1 won't be a geographical boundary unless we
2 count the border of the State of New York as
3 the geographical boundary.

4 So any company is eligible to apply
5 to get entrance into the new program, where
6 that definitely was not the case in the Empire
7 Zone.

8 SENATOR SALAND: If the Senator
9 will continue to yield.

10 SENATOR STACHOWSKI: Absolutely.

11 ACTING PRESIDENT CRAIG JOHNSON:
12 Senator Stachowski will yield.

13 SENATOR SALAND: Are there any
14 parameters on the types of companies that
15 would be eligible for this pool of money?

16 SENATOR STACHOWSKI: Yes, there
17 are.

18 SENATOR SALAND: So when you say
19 any company would be eligible, it's not the
20 universe of all companies and all businesses.
21 Why don't you share with us, or me, who those
22 companies might be, what types of companies.

23 SENATOR STACHOWSKI: Well, you
24 could be in manufacturing, financial services,
25 other back office or distribution centers.

1 You could be in high-tech industries, biotech
2 industries, development of software and new
3 media industries. You can be in agriculture.
4 You can be industries with significant growth
5 potential. And you can be a business that the
6 commissioner would deem as a regionally
7 significant project. Which is also the case
8 with the Empire Zone, for that last piece.

9 SENATOR SALAND: And if the
10 Senator will --

11 ACTING PRESIDENT CRAIG JOHNSON:
12 Senator Stachowski, do you continue to yield?

13 SENATOR STACHOWSKI: Yes. Yes.

14 SENATOR SALAND: If we're talking
15 about, and correct me if I'm wrong, phasing
16 out the Empire Zone program -- and please tell
17 me if I'm misunderstanding that, because I
18 think that's what you're telling me, we're
19 phasing it out. And then I have a question.

20 SENATOR STACHOWSKI: Actually,
21 the Empire Zone program was officially phased
22 out last year. It goes out of existence
23 June 30th.

24 SENATOR SALAND: We're going to
25 provide benefits to that panoply of businesses

1 to the tune of some \$50 million statewide,
2 replacing a vehicle that was providing
3 benefits to the tune of some \$500-plus million
4 statewide. And notwithstanding the fact that
5 there may have been geographical determination
6 made by localities, if my math is right,
7 that's about one-tenth of the economic
8 benefit.

9 SENATOR STACHOWSKI: Well,
10 actually, Senator, when you take -- and you're
11 talking about benefits that have accrued over
12 a number of years to get it to that larger
13 number. If you took the new program and
14 pushed it out ten years, you'd be talking
15 about \$1.25 billion in the program. As
16 opposed to the \$500 million in this program.
17 Because every year it grows \$50 million.

18 Unless, somewhere down the line,
19 because of a great deal of demand and a better
20 economic condition in New York State, we
21 decide to lift the cap and make it higher.
22 Which is always a possibility in a better
23 economic condition for the state and in a
24 situation where we're getting a larger demand
25 to enter the program.

1 SENATOR SALAND: If the Senator
2 will continue to yield.

3 ACTING PRESIDENT CRAIG JOHNSON:
4 Senator Stachowski?

5 SENATOR STACHOWSKI: Absolutely.

6 SENATOR SALAND: Senator
7 Stachowski, the Governor's \$50 million
8 Excelsior program, the annual appropriation
9 is, according to the Governor's plan, for how
10 many years?

11 SENATOR STACHOWSKI: Actually,
12 there's no appropriation to this. It's after
13 you've proved that you created the jobs or any
14 of the tax benefits and you document it, then
15 you get the tax credits, et cetera, to your
16 company.

17 SENATOR SALAND: And if the
18 Senator will continue to yield.

19 ACTING PRESIDENT CRAIG JOHNSON:
20 Senator Stachowski, do you continue to yield?

21 SENATOR STACHOWSKI: Yes.

22 SENATOR SALAND: Has the
23 Governor, in his proposal -- I recall sitting
24 through his budget presentation. I thought he
25 had specified that his proposal, if I remember

1 correctly, was for a period of five years.

2 SENATOR STACHOWSKI: The
3 Governor's proposal -- first of all, what the
4 Governor said in his budget presentation was a
5 much different-looking program than the
6 program that is currently in this package.
7 His program at budget presentation was 50 jobs
8 in five years, period. And that's not exactly
9 what we have here today.

10 There's been some change in what
11 the Governor originally put out. You can be
12 in for five years. When you join, you're in
13 for five years. That's the new program. And
14 you can get credits for five years. If you
15 join in Year 5, you still have four more years
16 after that left, because it's a five-year
17 program.

18 So what the Governor described at
19 his budget presentation is a lot different
20 than what is in this program now. There are
21 more ways of entering the program. There is a
22 retention, quote, unquote, smart growth piece,
23 which is the property tax piece that you get
24 on distressed areas or regionally significant
25 projects. That was in no way included in his

1 original presentation of 50 jobs in five
2 years. And the job growth, even the job
3 creation level differs between industries. So
4 that some industries are expected to create
5 more jobs to qualify and some are expected to
6 create less jobs to qualify.

7 So this program is a completely
8 different-looking program than the simple job
9 creation program that he presented at his
10 presentation at budget.

11 SENATOR SALAND: If the Senator
12 will continue to yield.

13 SENATOR STACHOWSKI: Yes.

14 SENATOR SALAND: I also recall,
15 during the course of his budget presentation,
16 him making reference to some type of
17 technology seed fund, which I believe was
18 going to be a revolving loan fund. Is that
19 part of this budget.

20 SENATOR STACHOWSKI: No,
21 unfortunately that's a piece that the Governor
22 withdrew. Isn't it the seed fund? The seed
23 fund is a piece that he put in. We thought it
24 was a great idea, because we included in our
25 one-house budget. And he also withdrew it,

1 the Governor withdrew the seed fund somewhere
2 along the way -- in the 90-day amendments, to
3 be specific. Yes, sorry, I forgot.

4 SENATOR SALAND: And one or two
5 other questions, if you'll continue to yield.

6 The subsidy that was provided for
7 small businesses to comply with the
8 requirements of Timothy's Law, I believe that
9 has been eliminated from this budget?

10 SENATOR STACHOWSKI: I believe
11 so, yes.

12 SENATOR SALAND: And would you
13 know how much that means in terms of dollars?

14 SENATOR STACHOWSKI: \$70 million.
15 Seventy-nine million, excuse me. DeFrancisco
16 could have passed you a note on that.
17 Seventy million, he says. Sorry, John.
18 Another discrepancy.

19 ACTING PRESIDENT CRAIG JOHNSON:
20 Senator Saland.

21 SENATOR SALAND: Just one last
22 topic, if I might.

23 ACTING PRESIDENT CRAIG JOHNSON:
24 Okay. But if I can, I just wanted to let you
25 know that you have been debating this bill for

1 more than 30 minutes. If you wouldn't mind,
2 we have a couple of other speakers. If you
3 could just wrap it up, it would be really
4 appreciate.

5 SENATOR SALAND: Thank you. I
6 appreciate -- thank you. I'll merely ask
7 the -- well, if I've dominated that much time,
8 I will take your lead and I will explain my
9 vote later.

10 ACTING PRESIDENT CRAIG JOHNSON:
11 You'll speak on the bill? Thank you, Senator
12 Saland.

13 Senator Fuschillo, on the bill.

14 SENATOR FUSCHILLO: Thank you,
15 Mr. President. I'd like to ask Senator Dilan
16 a few questions.

17 ACTING PRESIDENT CRAIG JOHNSON:
18 Can you wait a moment, Senator Fuschillo?

19 SENATOR FUSCHILLO: Or Senator
20 Kruger, whatever is easiest.

21 ACTING PRESIDENT CRAIG JOHNSON:
22 Senator Kruger, would you mind yielding to a
23 few questions from Senator Fuschillo?

24 SENATOR CARL KRUGER: Yes, I
25 will.

1 SENATOR FUSCHILLO: Thank you,
2 Senator. It's been a while since Senator
3 Libous had asked Senator Dilan some questions,
4 so if I'm repetitive, please bear with me.

5 The \$7 billion for the two-year
6 capital program for the DOT, how is that
7 funded?

8 SENATOR CARL KRUGER: Rather than
9 having some conflicting verbiage, let's get
10 Senator Dilan back so that he can pick up
11 exactly with the same message.

12 SENATOR FUSCHILLO: Okay, thank
13 you.

14 ACTING PRESIDENT CRAIG JOHNSON:
15 Senator Fuschillo, I assume you would like to
16 ask Senator Dilan to yield for a couple of
17 questions, then.

18 SENATOR CARL KRUGER: Through
19 you, Mr. President. Senator Dilan, there's
20 some questions on the capital program Senator
21 Fuschillo would like answered. I thought
22 you'd be in the best position.

23 SENATOR DILAN: I'll answer to
24 the best of my ability.

25 ACTING PRESIDENT CRAIG JOHNSON:

1 Senator Fuschillo, Senator Dilan will yield
2 for some questions.

3 SENATOR FUSCHILLO: Thank you,
4 Senator. Just bear with me; it's been a while
5 since Senator Libous had asked you some
6 questions. So if I'm repetitive, my
7 apologies.

8 The \$7 billion for the two-year
9 capital program for the DOT, how is that
10 funded?

11 SENATOR DILAN: It's \$6.9
12 billion, funded from a portion of federal
13 funds and state-bonded money.

14 SENATOR FUSCHILLO: I'm sorry,
15 Mr. President, I didn't --

16 ACTING PRESIDENT CRAIG JOHNSON:
17 He said it was funded -- correct me if I'm
18 wrong -- from federal funds and state-bonded
19 money, a portion of each.

20 SENATOR FUSCHILLO: Will the
21 Senator yield for another question?

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

24 SENATOR DILAN: Yes, sir.

25 ACTING PRESIDENT CRAIG JOHNSON:

1 He will yield.

2 SENATOR FUSCHILLO: Thank you,
3 Senator Dilan. How much of it is bonded out,
4 state bonded out?

5 SENATOR DILAN: Twenty percent.

6 SENATOR FUSCHILLO: Twenty
7 percent of \$6.9 billion would be additional
8 bonding by -- I'm sorry, Mr. President, will
9 he answer another question?

10 ACTING PRESIDENT CRAIG JOHNSON:
11 Senator Dilan, will you continue to yield?

12 SENATOR DILAN: Yes, sir.

13 SENATOR FUSCHILLO: So 20 percent
14 of the \$6.9 billion will be additional state
15 bonding; correct?

16 SENATOR DILAN: That's correct.

17 SENATOR FUSCHILLO: Okay. With
18 respect to the MTA capital --

19 ACTING PRESIDENT CRAIG JOHNSON:
20 Senator Fuschillo, do you wish him to yield
21 for another question?

22 SENATOR FUSCHILLO: I would.

23 ACTING PRESIDENT CRAIG JOHNSON:
24 Senator Dilan, will you yield for another
25 question?

1 SENATOR DILAN: Yes, sir.

2 SENATOR FUSCHILLO: With respect
3 to the MTA Capital Review Board program, over
4 \$23 billion was approved, as you know. How is
5 that going to be funded under this budget?

6 SENATOR DILAN: Well, the
7 authority puts out bonds themselves. My
8 understanding also is that \$10 billion of it
9 is unfunded. And I believe there is a federal
10 portion. And \$6 billion is, I believe,
11 federal. I'm sorry, bonded by MTA,
12 \$6 billion.

13 SENATOR FUSCHILLO: Will Senator
14 Dilan yield for another question?

15 ACTING PRESIDENT CRAIG JOHNSON:
16 Senator Dilan, will you yield for another
17 question from Senator Fuschillo?

18 SENATOR DILAN: Yes, sir.

19 SENATOR FUSCHILLO: Thank you,
20 Mr. President. Does this budget that's being
21 proposed to be voted on increase the bonding
22 capability for the MTA by that \$6 billion?

23 SENATOR DILAN: The bonding for
24 the MTA will be an additional \$6 billion, yes.
25 Yes.

1 SENATOR FUSCHILLO: Will the
2 Senator yield?

3 ACTING PRESIDENT CRAIG JOHNSON:
4 Senator Dilan, will you continue to yield?

5 SENATOR DILAN: Yes. Yes.

6 SENATOR FUSCHILLO: So the answer
7 to my question is yes?

8 SENATOR DILAN: I said yes three
9 times.

10 SENATOR FUSCHILLO: Okay. I only
11 heard you once.

12 Will the Senator continue to yield?

13 ACTING PRESIDENT CRAIG JOHNSON:
14 Senator Dilan, will you continue to yield?

15 SENATOR DILAN: Yes, sir.

16 SENATOR FUSCHILLO: Is there any
17 language in here to reduce the MTA payroll
18 tax?

19 SENATOR DILAN: No.

20 SENATOR FUSCHILLO: Would the
21 Senator continue to yield?

22 ACTING PRESIDENT CRAIG JOHNSON:
23 Senator Dilan, will you continue to yield.

24 SENATOR DILAN: Yes.

25 SENATOR FUSCHILLO: Is the MTA

1 payroll tax funding the foundation for the
2 bonding?

3 SENATOR DILAN: Yes.

4 SENATOR FUSCHILLO: Thank you,
5 Senator.

6 On the bill.

7 ACTING PRESIDENT CRAIG JOHNSON:
8 Senator Fuschillo, on the bill.

9 SENATOR FUSCHILLO: The MTA
10 payroll tax that was adopted last year by the
11 Democratic majority is a job-killing tax in
12 the metropolitan area. Just on Long Island
13 alone, businesses are closing, hospitals are
14 hurting, nonprofits are hurting, small
15 businesses are being decimated throughout the
16 island and throughout the metropolitan area.

17 There are bills floating in this
18 house by the Democratic majority that would
19 reduce the payroll tax. We should eliminate
20 it. It was wrong then, it's wrong now. But
21 you're stuck with it now. Because as Senator
22 Dilan responded to me, it's the foundation for
23 the \$6 billion of the MTA funding of
24 \$23.8 billion, of which \$10 billion is a gap.
25 There's a structural imbalance with the MTA

1 capital program here, and you're locked into
2 the MTA payroll tax to 2014.

3 A suggestion to the majority:
4 Sunset the tax. Get rid of the tax. It's
5 killing businesses in the metropolitan area.

6 Mr. President, thank you very much.

7 ACTING PRESIDENT CRAIG JOHNSON:
8 Thank you, Senator Fuschillo.

9 Senator Dilan, on the bill.

10 SENATOR DILAN: Thank you very
11 much, Mr. President. I just rise -- first, I
12 want to indicate that I will be voting on this
13 bill.

14 And the Republican minority
15 indicated that it has been tradition that we
16 fund the five-year DOT plan and a five-year
17 MTA plan. Yes, that is true. But in almost
18 all cases, or at least the last five years
19 that I've been here, the funding or the amount
20 of the allocation was always done after the
21 bills were passed and after the budget was
22 passed.

23 And I believe that in almost all
24 cases, even though they called it a five-year
25 capital plan, they only funded two years of

1 the plan. Because if you look at it, you'll
2 see that they fund -- only two years of the
3 jobs or construction work in there gets done,
4 and then about three years of the work gets
5 rolled over into next five-year plan.

6 So perhaps a two-year plan funding
7 it at \$3.6 billion or \$3.3 billion will
8 hopefully let out all contracts within that
9 two-year period and then come back and fund
10 another two-year period. Whereas we do not
11 have to wait an additional three years to fund
12 the plan.

13 Senator Libous also talked about
14 providing \$100 million for the highway
15 dedicated fund, bridge and highway fund. But
16 he never provided the source of the hundred
17 million dollars to pay for that. Was he
18 proposing new taxes then? Where was he going
19 to get the money?

20 Also, today we will be voting on
21 expanding the powers of the existing
22 Legislative Commission on Critical
23 Transportation Choices, which authorizes the
24 commission to examine, study, and make
25 recommendations regarding the financing of

1 transportation infrastructure projects as we
2 move along.

3 So I urge everyone to vote yes on
4 this piece of legislation.

5 ACTING PRESIDENT CRAIG JOHNSON:
6 Thank you, Senator Dilan.

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

9 Seeing none and hearing none, the
10 debate is closed. The Secretary will please
11 ring the bells.

12 Read the last section.

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

15 ACTING PRESIDENT CRAIG JOHNSON:
16 Call the roll.

17 (The Secretary called the roll.)

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

20 SENATOR SALAND: Thank you,
21 Mr. President.

22 At the expense of somehow or other
23 offending the gentleman who's in the back of
24 the chamber right now, our Governor and former
25 colleague, I'd like to come back to the issue

1 of fuzzy math that was mentioned during my
2 exchange with Senator Stachowski. I guess
3 it's a --

4 ACTING PRESIDENT CRAIG JOHNSON:

5 I apologize, Senator Saland.

6 Please, a Senator is explaining his
7 vote. Can we have order in the chamber.
8 Thank you.

9 Senator Saland.

10 SENATOR SALAND: I guess it's a
11 matter of it being in the eye of the beholder.
12 Five times 50 million on five consecutive
13 five-year programs cumulatively through
14 10 years would be \$1.25 billion. Five times
15 \$550 million, which is what was being paid in
16 terms of benefits for the Empire Zone plan,
17 over that same period of time would be
18 \$5.5 billion.

19 The program is terminated. People
20 will ultimately, in effect, age out of the
21 system. But it's a difference of \$4.25
22 billion, \$5.5 billion versus \$1.25 billion.
23 And at the same time we are cutting back on
24 commitments to international trade, tourism,
25 commitments to businesses under Timothy's Law.

1 While this is in part the economic
2 development portion of the budget, I submit
3 that, as I mentioned in my earlier remarks, we
4 can either as a government impair or impede,
5 on the one hand, or incentivize on the other.

6 This does more to impair and
7 certainly not enough to incentivize, and I
8 cast my vote in the negative. Thank you.

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

11 Senator DeFrancisco, to explain his
12 vote.

13 SENATOR DeFRANCISCO: Yes, I vote
14 no.

15 And the point that I want to make
16 is about the transportation budget. When the
17 deficit reduction plan came out, we were told
18 in the fall of last year that the road and
19 bridge parity would actually take place that
20 funds that normally go to roads and bridges
21 upstate would offset what goes to the MTA.
22 Well, that obviously never happened.

23 There's also some facility closures
24 in this bill -- all of which, by the way, are
25 upstate, and none in New York City. Which is

1 not too much of a surprise.

2 In addition, there's a provision in
3 this bill that eliminates the \$665,000
4 proposed to begin oversight of permitting for
5 the Marcellus Shale hydrofracking. Now, I
6 don't know what that means, whether we don't
7 need it because it's not an environmental
8 issue or that there's already been a decision
9 made for not allowing this by way of some type
10 of moratorium. We just don't know, because
11 this is being done piecemeal.

12 And lastly, as I mentioned before,
13 each business -- people are saying we should
14 work in a bipartisan manner. How can you
15 exempt small businesses from the increased
16 costs of Timothy's Law because they can't
17 afford it and then today eliminate
18 \$70 million-plus to reimburse those small
19 businesses, which will kill many of them, and
20 want bipartisan support for another
21 antibusiness provision?

22 So for those reasons, and for many
23 other too numerous to mention in two minutes,
24 I vote no.

25 ACTING PRESIDENT CRAIG JOHNSON:

1 Senator DeFrancisco to be recorded in the
2 negative.

3 Senator Ranzenhofer, to explain his
4 vote.

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

7 Again, you know, this is just
8 complete insanity. I was complaining last
9 time about the last budget bill, which was 329
10 pages. This one is 735 pages. Okay? A total
11 of almost 1100 pages. Hundreds of more pages
12 when you add the other bills that we're
13 dealing with. And I know that, you know, we
14 did have the whole weekend to read it. But
15 nevertheless, to read 1500 pages over the
16 weekend I think is a little bit much,
17 especially with such a terrible budget that
18 we're voting on today.

19 And again, it just draws out the
20 discrepancy and the unfairness to upstate
21 New York and Western New York. You know,
22 whether we're talking about heating fuel,
23 where we have one set of rules for New York
24 City and another set of rules for the rest of
25 the state; whether we're talking about the

1 utility tax, which again was 1 percent for
2 downstate and 2 percent for upstate; whether
3 we're talking about the STAR program, which
4 hurt upstate New York and Western New York
5 much more than the downstate area; or whether
6 we're talking about the disparity between
7 roads and bridges, where you have an MTA plan
8 but you don't have any plan for upstate
9 New York for roads and bridges, where we have
10 to depend on those in order to get to work,
11 take our kids to school, whatever we're
12 doing -- it's just completely unfair.

13 And then to cap it off with a new
14 program, or what I would call the lack of a
15 program for economic development, where you go
16 to a five-year plan from a 10-year plan where
17 you don't have a cap, where you now have a
18 cap, it just completely is unfair for Western
19 New York and upstate New York.

20 For those reasons, for putting in
21 more spending, more taxes, I'll be voting no.

22 Thank you, Mr. President.

23 ACTING PRESIDENT CRAIG JOHNSON:

24 Senator Ranzenhofer to be recorded in the
25 negative.

1 Senator Bonacic, to explain his
2 vote.

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

5 This legislation today, this budget
6 bill, continues the pattern of geographical
7 discrimination. You've heard colleagues on
8 this side of the aisle talk about more of the
9 burdens are passed to the people outside
10 New York City, and more of the benefits are
11 accruing to New York City.

12 But other than the parity issue
13 that Senator Libous talked about at length,
14 with the roads and bridges and the MTA capital
15 plan, what you did today is you locked in the
16 MTA payroll tax on all of the counties,
17 because those monies are the basis for
18 increasing the \$6 billion MTA new bonding
19 program.

20 So all those Senators on your side
21 of the aisle that have all those bills in
22 about eliminating the payroll tax for the MTA
23 or changing the formulas, it's all a pandering
24 game. Because when you vote today, you have
25 cemented the payroll tax to 2014 in order to

1 enable the MTA to continue borrowing.

2 So for that reason, I'm voting no.

3 Thank you, Mr. President.

4 ACTING PRESIDENT CRAIG JOHNSON:

5 Thank you, Senator Bonacic. To be recorded in
6 the negative.

7 Senator Dilan, to explain his vote.

8 SENATOR DILAN: Mr. President, I
9 hear from the other side that we do not have
10 an upstate plan. We indeed do have a two-year
11 upstate plan for roads and bridges, which is
12 funded at about \$3.4 billion for one year.
13 And we also do have an MTA plan, which is also
14 two years.

15 The problem that we have here, when
16 we became the majority in this house -- and
17 the pillage that has gone on of the highway
18 and dedicated fund is where we have this
19 problem that we have difficulty raising the
20 necessary money to pay for the adequate
21 maintenance of our roads.

22 I'm going to vote yes and urge
23 everyone to vote yes.

24 ACTING PRESIDENT CRAIG JOHNSON:

25 Senator Dilan to be recorded in the

1 affirmative.

2 Announce the results.

3 THE SECRETARY: Those recorded in
4 the negative on Calendar Number 1062 are
5 Senators Alesi, Bonacic, DeFrancisco, Farley,
6 Flanagan, Fuschillo, Golden, Griffio, Hannon,
7 O. Johnson, Lanza, Larkin, LaValle, Leibell,
8 Libous, Little, Marcellino, Maziarz, McDonald,
9 Nozzolio, Padavan, Ranzenhofer, Robach,
10 Saland, Seward, Skelos, Volker, Winner and
11 Young.

12 Ayes, 32. Nays, 29.

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

15 To clarify the record, the
16 Secretary will reannounce the results on
17 Calendar Number 1041.

18 THE SECRETARY: In relation to
19 Calendar Number 1041: Ayes, 32. Nays, 28.

20 Absent from voting: Senator
21 Little. Excused from voting for the day:
22 Senator Morahan.

23 ACTING PRESIDENT CRAIG JOHNSON:
24 The bill is passed.

25 The Secretary will now call up

1 Calendar Number 1063 and put it before the
2 Senate on the controversial calendar.

3 THE SECRETARY: Calendar Number
4 1063, substituted earlier today, Assembly
5 Budget Bill, Assembly Print Number 9706C, an
6 act to amend the Executive Law and others.

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

10 Senator DeFrancisco.

11 SENATOR DeFRANCISCO: I just want
12 to mention a couple of things that are in this
13 bill --

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

16 SENATOR DeFRANCISCO: -- on the
17 bill, in case people missed them.

18 This budget bill eliminates the
19 language for a four-year moratorium on new
20 unfunded legislative mandates on local
21 governments and school districts. So that
22 provision that the Governor proposed,
23 eliminating unfunded mandates, is being
24 eliminated by this particular bill.

25 In addition, this is the bill that

1 raises millions of dollars of fees, from a \$95
2 fee, additional fee paid for every judgment on
3 every consumer credit transaction in the State
4 of New York, an additional \$190 per real
5 property foreclosure transaction -- and
6 between the two of them, that's about
7 \$30 million -- an additional fee of \$500 to
8 sit on the New York State Bar if you're from
9 out of state; increasing the criminal history
10 search fee from \$55 to \$65, which is going to
11 affect everyone who's required by law to get a
12 criminal history check, such as school
13 districts and the like; increases biennial
14 registration fees for the practice of law.

15 In addition, one other thing, and
16 that is that this fund is going to provide
17 funding for a new organization a new office --
18 when we're supposed to be consolidating
19 government -- an Office of Indigent Legal
20 Services. And I'll just ask all of you to
21 please stay tuned for another budget bill so
22 we can discuss that.

23 Thank you.

24 ACTING PRESIDENT CRAIG JOHNSON:

25 Thank you, Senator DeFrancisco.

1 Seeing no other Senators wishing to
2 be heard on the bill, debate is closed. The
3 Secretary will please ring the bells.

4 Read the last section.

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

7 ACTING PRESIDENT CRAIG JOHNSON:
8 Call the roll.

9 (The Secretary called the roll.)

10 ACTING PRESIDENT CRAIG JOHNSON:
11 Announce the results.

12 THE SECRETARY: Those recorded in
13 the negative on Calendar Number 1063 are
14 Senators Alesi, Bonacic, DeFrancisco, Farley,
15 Flanagan, Fuschillo, Golden, Griffio, Hannon,
16 O. Johnson, Lanza, Larkin, LaValle, Leibell,
17 Libous, Little, Marcellino, Maziarz, McDonald,
18 Nozzolio, Padavan, Ranzenhofer, Robach,
19 Saland, Seward, Skelos, Volker, Winner and
20 Young.

21 Ayes, 32. Nays, 29.

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

24 Secretary will now put before the
25 Senate Calendar Number 1064 on the

1 controversial supplemental calendar.

2 THE SECRETARY: Calendar Number
3 1064, substituted earlier today, Assembly
4 Budget Bill, Assembly Print Number 9709C, an
5 act intentionally omitted (Part A);
6 intentionally omitted (Part B).

7 ACTING PRESIDENT CRAIG JOHNSON:
8 Senator DeFrancisco.

9 SENATOR DeFRANCISCO: On this
10 bill, I just want to mention, for those who
11 didn't have a chance to read the entire large
12 bill here, that it provides for a new
13 Article 30 in the Executive Law to create a
14 new Office of Indigent Legal Services. New
15 office, when we're cutting jobs, when the
16 Governor is talking about furloughing people,
17 cutting positions.

18 And it's a new bureaucracy that
19 will consist of a nine-member board and 29 new
20 staff members, and its appointed director
21 would oversee the administration of 18(B)
22 services by New York City and the counties.

23 What's very interesting about this
24 bill when we're talking about this
25 upstate/New York City difference, or New York

1 City/rest of the state difference, is that
2 there's funding of \$40 million a year in
3 statute in this bill for indigent legal
4 services for New York City, but upstate will
5 move away from a formula program to a grant
6 program decided by the board. Forty million
7 locked in for New York City for indigent legal
8 services, and a grant program where people
9 from upstate have to go hat in hand to this
10 board to get some money for their indigent
11 legal defense. It never ends.

12 And as a result, upstate and
13 everybody other than New York has to bring
14 their hat in hand to Albany to go before this
15 newly created board in order to try to get
16 some money when \$40 million is in the bill for
17 New York City.

18 No doubt it's pretty obvious, if
19 it's not obvious to the casual observer, that
20 there's 23 out of 32 majority members that are
21 from New York City. And these things that
22 we're pointing out in this budget package are
23 no coincidence.

24 I'm going to vote no.

25 ACTING PRESIDENT CRAIG JOHNSON:

1 Senator DeFrancisco to be recorded in the
2 negative.

3 I do ask people in the chamber to
4 please keep your conversation to a minimum as
5 Senators are speaking.

6 Are there any other Senators that
7 wish to be heard on the bill?

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

10 Read the last section.

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

13 ACTING PRESIDENT CRAIG JOHNSON:
14 Call the roll.

15 (The Secretary called the roll.)

16 ACTING PRESIDENT CRAIG JOHNSON:
17 Senator Winner, to explain his vote.

18 SENATOR WINNER: Thank you,
19 Mr. President. Very briefly to explain my
20 vote.

21 You can try to put a good spin on
22 the elimination of the Empire Zone program and
23 the creation of this new Excelsior program,
24 but as most editorial writers, particularly in
25 upstate New York and Western New York have

1 pointed out, this is a bad deal for us. It's
2 a bad swap. It's something that is going to
3 not do anything against the mitigation of the
4 uncompetitive business climate that we have in
5 this state. It doesn't do anything about our
6 high cost of energy. It doesn't do anything
7 about our high income taxes. It doesn't
8 mitigate, except on a minimal basis, against
9 our high real property taxes, our health
10 insurance, our unemployment insurance, or our
11 workers' compensation rates.

12 In short, it is a bad, bad
13 substitute for the Empire Zone program that's
14 created thousands of jobs in my particular
15 area and would have been a far better program
16 to have continued.

17 And at the same time, ironically,
18 as we've talked about the lack of parity in
19 this upstate/New York City, we expand
20 significantly the film credit tax that
21 benefits 93 percent to the New York region,
22 and we expand it in an amount that is
23 ironically in excess of that which is expended
24 to benefit the Empire Zone program as it
25 currently exists.

1 So on behalf of upstate New York, I
2 am voting no on this bill, as it is an unfair,
3 upstate discriminatory measure in the creation
4 of this economic development program that,
5 according to most Empire Zone people as well
6 as economic development people, just plain
7 won't work for us.

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

10 Senator Stachowski, to explain his
11 vote.

12 SENATOR STACHOWSKI: Yes, to
13 explain my vote.

14 I think that most editorial boards
15 only hear from the people that represent areas
16 that currently are doing a pretty good job
17 with the Empire Zones.

18 The biggest difference in this
19 program is, one, that you can be anywhere in
20 the state and qualify for the program. Two,
21 that if you are in a distressed area, which
22 Empire Zones was originally created for, you
23 still get a property tax credit. Three, you
24 get an investment tax credit fully refundable
25 in this program, which you didn't get in the

1 other program.

2 You have many more ways of entering
3 it. The program shouldn't have the
4 possibility of changing partway through, which
5 unfortunately happened to the Empire Zones.
6 And the fact is that you will prove your
7 existence as you get the benefits. So once
8 you're in, you're in. You won't be
9 decertified. Another benefit that the Empire
10 Zones didn't offer.

11 And the fact is that the Empire
12 Zone benefits will continue for those
13 companies that are in them. We believe that
14 this program will grow. We think that this
15 program as it currently is, although it could
16 have been a little bit better, we believe in
17 certain areas will turn out to be a much
18 better program than everybody's giving it
19 credit for on initial blush.

20 And the reality is that this
21 program I think will prove to be successful in
22 attracting companies that might not otherwise
23 qualify for Empire Zone credits but will
24 qualify under some of the terms available in
25 this program.

1 So for those reasons, and although
2 it is not getting an early rousing welcome, I
3 believe this program will turn out to be good,
4 and I therefore will support the bill. And I
5 would wish my colleagues to support it also.
6 Thank you.

7 ACTING PRESIDENT CRAIG JOHNSON:
8 Senator Stachowski to be recorded in the
9 affirmative.

10 Senator Saland, to explain his
11 vote.

12 SENATOR SALAND: Mr. President,
13 we heard Senator Bonacic a bit earlier talk
14 about the impact that this would have on the
15 MTA tax, the payroll tax. In fact, the very
16 provisions that provide for the increase in
17 bonds and obligations of the MTA are contained
18 in this particular provision, in this
19 particular budget bill, as a result of which
20 the payroll tax effectively locks in and
21 supports the bonds I believe through the year
22 2014 at the very least.

23 This, ladies and gentlemen, for
24 those of us who are among certainly the
25 Quarter-Pounders -- and for that matter, I

1 would think any of the suburban counties --
2 pretty much puts a ball and chain around our
3 collective ankles and holds us as prisoners to
4 the MTA for the duration of these bonds,
5 because they will now be backed by revenues of
6 the payroll tax.

7 So notwithstanding any and all
8 efforts on the part of some to look as if
9 somehow or other we are making progress
10 towards getting rid of this odious tax, this
11 measure ensures that it's not going to go
12 anywhere. And if for no other reason than
13 that, that alone, I would vote no.

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

16 Announce the results.

17 THE SECRETARY: Those recorded in
18 the negative on Calendar Number 1064 are
19 Senators Alesi, Bonacic, DeFrancisco, Farley,
20 Flanagan, Fuschillo, Golden, Griffo, Hannon,
21 O. Johnson, Lanza, Larkin, LaValle, Leibell,
22 Libous, Little, Marcellino, Maziarz, McDonald,
23 Nozzolio, Padavan, Ranzenhofer, Robach,
24 Saland, Seward, Skelos, Volker, Winner and
25 Young.

1 Ayes, 32. Nays, 29.

2 ACTING PRESIDENT CRAIG JOHNSON:

3 The bill is passed.

4 The Secretary will now place before
5 the Senate Calendar Number 1065 on the
6 controversial supplemental calendar.

7 THE SECRETARY: Calendar Number
8 1065, by Senator Aubertine, Senate Print 8065,
9 an act to amend the Economic Development Law
10 and the Public Authorities Law.

11 ACTING PRESIDENT CRAIG JOHNSON:
12 Are there any other Senators that wish to be
13 heard on this bill?

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

16 Read the last section.

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

19 ACTING PRESIDENT CRAIG JOHNSON:
20 Call the roll.

21 (The Secretary called the roll.)

22 ACTING PRESIDENT CRAIG JOHNSON:
23 Announce the results.

24 THE SECRETARY: Those recorded in
25 the negative on Calendar Number 1065 are

1 Senators Stachowski and Volker.

2 Ayes, 59. Nays, 2.

3 ACTING PRESIDENT CRAIG JOHNSON:

4 The bill is passed.

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

8 SENATOR KLEIN: Mr. President,
9 can we briefly return to motions and
10 resolutions.

11 ACTING PRESIDENT CRAIG JOHNSON:

12 We can briefly return to motions and
13 resolutions.

14 SENATOR KLEIN: On behalf of
15 Senator Adams, on page number 12 I offer the
16 following amendments to --

17 ACTING PRESIDENT CRAIG JOHNSON:

18 Can we please have some order in the chamber.

19 Senator Klein.

20 SENATOR KLEIN: Mr. President, on
21 behalf of Senator Adams, on page 12 I offer
22 the following amendments to Calendar Number
23 271, Senate Print Number 3022, and ask that
24 said bill retain its place on Third Reading
25 Calendar.

1 ACTING PRESIDENT CRAIG JOHNSON:

2 So ordered.

3 SENATOR KLEIN: On behalf of
4 Senator L. Krueger on page 42 I offer the
5 following amendments to Calendar Number 1001,
6 Senate Print Number 4526, and ask that said
7 bill retain its place on Third Reading
8 Calendar.

9 ACTING PRESIDENT CRAIG JOHNSON:

10 So ordered.

11 Again, I ask if Senators and staff
12 are leaving, to please do so quietly. We
13 still have business before the Senate chamber.

14 Senator Klein.

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

17 On behalf of Senator Thompson, I
18 move the following bill be discharged from its
19 respective committee and be recommitted with
20 instructions to strike the enacting clause:
21 Senate Number 8185.

22 ACTING PRESIDENT CRAIG JOHNSON:

23 So ordered.

24 SENATOR KLEIN: On behalf of
25 Senator Oppenheimer, on page number 37 I offer

1 the following amendments to Calendar Number
2 898, Senate Print Number 4134A, and ask that
3 said bill retain its place on Third Reading
4 Calendar.

5 ACTING PRESIDENT CRAIG JOHNSON:

6 So ordered.

7 SENATOR KLEIN: On behalf of
8 Senator Stewart-Cousins, on page 40 I offer
9 the following amendments to Calendar Number
10 929, Senate Print Number 7962B, and ask that
11 said bill retain its place on Third Reading
12 Calendar.

13 ACTING PRESIDENT CRAIG JOHNSON:

14 So ordered.

15 Senator Klein.

16 SENATOR KLEIN: Would you please
17 recognize Senator Libous for some motions.

18 ACTING PRESIDENT CRAIG JOHNSON:

19 Senator Libous.

20 SENATOR LIBOUS: Thank you,
21 Mr. President.

22 On behalf of Senator Saland, on
23 page 33 I offer the following amendments to
24 Calendar Number 844, Senate Print 7001A, and
25 ask that said bill retain its place on the

1 Third Reading Calendar.

2 ACTING PRESIDENT CRAIG JOHNSON:

3 So ordered.

4 SENATOR LIBOUS: I have one more,
5 on behalf of Senator LaValle. I wish to call
6 up his print number, 3292 --

7 ACTING PRESIDENT CRAIG JOHNSON:

8 Again, please.

9 SENATOR LIBOUS: -- recalled from
10 the Assembly, which is now at the desk.

11 ACTING PRESIDENT CRAIG JOHNSON:

12 The Secretary will read the title.

13 THE SECRETARY: Calendar Number
14 68, by Senator LaValle, Senate Print 3292, an
15 act to amend the Education Law.

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

19 ACTING PRESIDENT CRAIG JOHNSON:

20 The Secretary will call the roll on
21 reconsideration.

22 (The Secretary called the roll.)

23 THE SECRETARY: Ayes, 61.

24 SENATOR LIBOUS: Mr. President, I
25 offer up the following amendments.

1 ACTING PRESIDENT CRAIG JOHNSON:

2 Amendments received.

3 Senator Klein.

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

6 ACTING PRESIDENT CRAIG JOHNSON:

7 There is a substitution at the desk.

8 The Secretary will read.

9 THE SECRETARY: On page 20,
10 Senator Squadron moves to discharge, from the
11 Committee on Rules, Assembly Bill Number 1730D
12 and substitute it for the identical Senate
13 Bill Number 4313D, Third Reading Calendar 532.

14 ACTING PRESIDENT CRAIG JOHNSON:

15 So ordered.

16 Senator Klein.

17 SENATOR KLEIN: Mr. President,
18 there being no further business, I move we
19 adjourn until Tuesday, June 22nd, at
20 12:00 p.m.

21 ACTING PRESIDENT CRAIG JOHNSON:

22 Senator Klein, since the desk is clear and
23 there is no further business to come before
24 the Senate, on motion, the Senate stands
25 adjourned until Tuesday, June 22nd, at

1 12:00 p.m.

2 (Whereupon, at 8:25 p.m., the
3 Senate adjourned.)

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