

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 25, 2010

11 10:58 a.m.

12
13
14 REGULAR SESSION

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16
17
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 In the absence of clergy, may we all bow our
11 heads in a moment of silence.

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

14 ACTING PRESIDENT CRAIG JOHNSON:

15 The reading of the Journal.

16 The Secretary will read.

17 THE SECRETARY: In Senate,
18 Thursday, June 24, 2010, the Senate met
19 pursuant to adjournment. The Journal of
20 Wednesday, June 23, 2010, was read and
21 approved. On motion, Senate adjourned.

22 ACTING PRESIDENT CRAIG JOHNSON:

23 Without objection, the Journal stands approved
24 as read.

25 Presentation of petitions.

1 Messages from the Assembly.
2 Messages from the Governor.
3 Reports of standing committees.
4 Reports of select committees.
5 Communications and reports from
6 state officers.
7 Motions and resolutions.
8 Senator Klein.
9 SENATOR KLEIN: Mr. President, I
10 believe there are substitutions at the desk.
11 I ask that we make the substitutions at this
12 time.
13 ACTING PRESIDENT CRAIG JOHNSON:
14 The Secretary will read.
15 THE SECRETARY: Page number 12,
16 Senator Stachowski moves to discharge, from
17 the Committee on Rules, Assembly Bill Number
18 9939A, and substitute it for the identical
19 Senate Bill Number 6277A, Third Reading
20 Calendar 306.
21 Page 13, Senator Savino moves to
22 discharge, from the Committee on Rules,
23 Assembly Bill Number 5110 and substitute it
24 for the identical Senate Bill Number 4226,
25 Third Reading Calendar 343.

1 Page number 28, Senator Leibell
2 moves to discharge, from the Committee on
3 Rules, Assembly Bill Number 10629A and
4 substitute it for the identical Senate Bill
5 Number 7620A, Third Reading Calendar 881.

6 And page number 30, Senator Volker
7 moves to discharge, from the Committee on
8 Rules, Assembly Bill Number 11179A and
9 substitute it for the identical Senate Bill
10 Number 7903A, Third Reading Calendar 926.

11 ACTING PRESIDENT CRAIG JOHNSON:
12 Substitutions ordered.

13 Senator Klein.

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

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

20 ACTING PRESIDENT CRAIG JOHNSON:
21 There will be an immediate meeting of the
22 Rules Committee in Room 332.

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

25 (Whereupon, the Senate stood at

1 ease at 11:02 a.m.)

2 (Whereupon, the Senate reconvened
3 at 11:55 a.m.)

4 ACTING PRESIDENT CRAIG JOHNSON:
5 Senator Klein.

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

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

13 The Secretary will read.

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

17 Senate Print 323, by Senator
18 Little, an act to amend the Civil Practice Law
19 and Rules;

20 641, by Senator Larkin, an act to
21 authorize;

22 1369, by Senator O. Johnson, an act
23 to authorize;

24 2400A, by Senator Nozzolio, an act
25 to amend the Highway Law;

1 3004A, by Senator Lanza, an act to
2 amend the Administrative Code of the City of
3 New York;

4 3144, by Senator Hannon, an act to
5 legalize, validate;

6 3484, by Senator Huntley, an act to
7 amend the Mental Hygiene Law;

8 3780B, by Senator Thompson, an act
9 to amend the Environmental Conservation Law;

10 4211B, by Senator Marcellino, an
11 act in relation to legalizing;

12 4472, by Senator Stavisky, an act
13 to amend the Education Law;

14 4631A, by Senator Oppenheimer, an
15 act to amend the Workers' Compensation Law;

16 5692, by Senator Flanagan, an act
17 to amend the Highway Law;

18 5783A, by Senator Stachowski, an
19 act to amend the Public Authorities Law;

20 5874, by Senator McDonald, an act
21 to amend the Highway Law;

22 6213B, by Senator Klein, an act to
23 amend the Executive Law;

24 6261A, by Senator Montgomery, an
25 axis in relation to exempting;

1 6657A, by Senator Montgomery, an
2 act to amend the Public Authorities Law;

3 6671A, by Senator Maziarz, an act
4 to amend the Highway Law;

5 6675, by Senator O. Johnson, an act
6 to authorize;

7 6693, by Senator Skelos, an act to
8 authorize;

9 6827A, by Senator Padavan, an act
10 to authorize;

11 7043, by Senator Klein, an act to
12 amend the Banking Law;

13 7134, by Senator Oppenheimer, an
14 act to amend the State Finance Law;

15 7163, by Senator Serrano, an act to
16 amend the Economic Development Law;

17 7189, by Senator Stewart-Cousins,
18 an act to amend the Education Law;

19 7450A, by Senator Savino, an act to
20 amend Chapter 154 of the Laws of 1921;

21 7488A, by Senator Thompson, an act
22 to amend the Public Authorities Law;

23 7515A, by Senator Schneiderman, an
24 act to amend the Real Property Law;

25 7558A, by Senator Addabbo, an act

1 to amend the General Business Law;

2 7562B, by Senator Parker, an act to
3 amend the Executive Law;

4 7612A, by Senator L. Krueger, an
5 act to amend the Agriculture and Markets Law;

6 7705, by Senator Hassell-Thompson,
7 an act to amend the Penal Law and others;

8 7754, by Senator Oppenheimer, an
9 act to amend the Education Law;

10 7811A, by Senator L. Krueger, an
11 act to amend the Real Property Law;

12 7814B, by Senator Valesky, an act
13 to authorize;

14 7897, by Senator Stewart-Cousins,
15 an act to amend the Vehicle and Traffic Law;

16 7941, by Senator L. Krueger, an act
17 to amend the Social Services Law;

18 7961, by Senator Adams, an act to
19 amend the Executive Law;

20 8044, by Senator Oppenheimer, an
21 act to legalize;

22 8045, by Senator Oppenheimer, an
23 act to amend Chapter 183 of the Laws of 2003;

24 8059, by Senator C. Johnson, an act
25 to amend the Civil Service Law;

1 8109, by Senator Klein, an act to
2 amend the Penal Law;

3 8116, by Senator Aubertine, an act
4 to amend the Environmental Conservation Law;

5 8227, by Senator Duane, an act to
6 amend the Public Health Law;

7 8245, by Senator Aubertine, an act
8 to amend the Civil Service Law;

9 8273, by Senator Savino, an act to
10 amend the Public Officers Law;

11 8312, by Senator Hassell-Thompson,
12 an act to amend the State Finance Law;

13 8313, by Senator Hassell-Thompson,
14 an act to amend the Public Authorities Law;

15 8314, by Senator Hassell-Thompson,
16 an act to amend the Executive Law;

17 8315, by Senator Foley, an act to
18 amend a chapter of the Laws of 2010;

19 8316, by Senator Klein, an act to
20 amend the Tax Law;

21 And Senate Print 8338, by Senator
22 Thompson, an act to amend the General
23 Municipal Law.

24 All bills ordered direct to third
25 reading.

1 ACTING PRESIDENT CRAIG JOHNSON:
2 All those in favor of adopting the Rules
3 Committee report please signify by saying aye.
4 (Response of "Aye.")
5 ACTING PRESIDENT CRAIG JOHNSON:
6 Opposed, nay.
7 (No response.)
8 ACTING PRESIDENT CRAIG JOHNSON:
9 The Rules Committee report is adopted.
10 Senator Klein.
11 SENATOR KLEIN: Mr. President,
12 can we please go to a reading of the calendar.
13 ACTING PRESIDENT CRAIG JOHNSON:
14 The supplemental calendar, Senator Klein, or
15 the regular calendar?
16 SENATOR KLEIN: The regular
17 calendar.
18 ACTING PRESIDENT CRAIG JOHNSON:
19 The Secretary will read.
20 THE SECRETARY: Calendar Number
21 271, by Senator Adams, Senate Print 3022A, an
22 act to amend the Racing, Pari-Mutuel Wagering
23 and Breeding Law.
24 SENATOR LIBOUS: Lay the bill
25 aside, please.

1 ACTING PRESIDENT CRAIG JOHNSON:
2 The bill is laid aside.
3 THE SECRETARY: Calendar Number
4 284, by Senator C. Kruger --
5 SENATOR KLEIN: Lay the bill
6 aside for the day, please.
7 ACTING PRESIDENT CRAIG JOHNSON:
8 The bill is laid aside for the day.
9 THE SECRETARY: Calendar Number
10 306, substituted earlier today by Member of
11 the Assembly DelMonte, Assembly Print Number
12 9939A, an act to amend the Highway Law.
13 ACTING PRESIDENT CRAIG JOHNSON:
14 Read the last section.
15 THE SECRETARY: Section 2. This
16 act shall take effect immediately.
17 ACTING PRESIDENT CRAIG JOHNSON:
18 Call the roll.
19 (The Secretary called the roll.)
20 ACTING PRESIDENT CRAIG JOHNSON:
21 Announce the results.
22 THE SECRETARY: Ayes, 59.
23 ACTING PRESIDENT CRAIG JOHNSON:
24 The bill is passed.
25 THE SECRETARY: Calendar Number

1 317, by Senator --

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

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

6 THE SECRETARY: Calendar Number
7 337, by Senator Schneiderman, Senate Print
8 7142A, an act to amend the Criminal Procedure
9 Law.

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

12 THE SECRETARY: Section 8. This
13 act shall take effect immediately.

14 ACTING PRESIDENT CRAIG JOHNSON:
15 Call the roll.

16 (The Secretary called the roll.)

17 ACTING PRESIDENT CRAIG JOHNSON:
18 Announce the results.

19 THE SECRETARY: Ayes, 59.

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

22 THE SECRETARY: Calendar Number
23 384, by Senator Addabbo, Senate Print 3538B,
24 an act to amend the Civil Service Law.

25 ACTING PRESIDENT CRAIG JOHNSON:

1 Read the last section.

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

4 ACTING PRESIDENT CRAIG JOHNSON:
5 Call the roll.

6 (The Secretary called the roll.)

7 ACTING PRESIDENT CRAIG JOHNSON:
8 Announce the results.

9 THE SECRETARY: Ayes, 59.

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

12 THE SECRETARY: Calendar Number
13 489, by Member of the Assembly Weisenberg,
14 Assembly Print 9825A, an act to amend the
15 Mental Hygiene Law.

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

18 THE SECRETARY: Section 3. This
19 act shall take effect on the 180th day.

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: Ayes, 59.

1 ACTING PRESIDENT CRAIG JOHNSON:

2 The bill is passed.

3 THE SECRETARY: Calendar Number
4 577, by Senator C. Kruger, Senate Print 164,
5 an act to amend the Criminal Procedure Law.

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

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

10 ACTING PRESIDENT CRAIG JOHNSON:
11 Call the roll.

12 (The Secretary called the roll.)

13 ACTING PRESIDENT CRAIG JOHNSON:
14 Announce the results.

15 SENATOR LIBOUS: Lay the bill
16 aside.

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

19 THE SECRETARY: Calendar Number
20 586, by Senator Schneiderman, Senate Print
21 6360A, an act to amend the Civil Practice Law
22 and Rules.

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

25 THE SECRETARY: Section 3. 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, 59.

8 ACTING PRESIDENT CRAIG JOHNSON:

9 The bill is passed.

10 THE SECRETARY: Calendar Number
11 609, by Member of the Assembly Morelle,
12 Assembly Print Number 10908B, an act to amend
13 the Insurance Law.

14 ACTING PRESIDENT CRAIG JOHNSON:

15 Read the last section.

16 THE SECRETARY: Section 3. This
17 act shall take effect on the 180th day.

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, 59.

24 ACTING PRESIDENT CRAIG JOHNSON:

25 Announce the results.

1 THE SECRETARY: Ayes, 59.

2 ACTING PRESIDENT CRAIG JOHNSON:

3 The bill is passed.

4 THE SECRETARY: Calendar Number
5 676, by Senator Squadron, Senate Print 5597B,
6 an act creating the New York City/New York
7 State Task Force.

8 ACTING PRESIDENT CRAIG JOHNSON:

9 Read the last section.

10 THE SECRETARY: Section 5. This
11 act shall take effect immediately.

12 ACTING PRESIDENT CRAIG JOHNSON:

13 Call the roll.

14 (The Secretary called the roll.)

15 ACTING PRESIDENT CRAIG JOHNSON:

16 Announce the results.

17 THE SECRETARY: Ayes, 59.

18 ACTING PRESIDENT CRAIG JOHNSON:

19 The bill is passed.

20 THE SECRETARY: Calendar Number
21 684, by Senator Breslin, Senate Print 7674, an
22 act to amend the Insurance Law.

23 ACTING PRESIDENT CRAIG JOHNSON:

24 Read the last section.

25 THE SECRETARY: Section 3. 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, 59.

8 ACTING PRESIDENT CRAIG JOHNSON:

9 The bill is passed.

10 THE SECRETARY: Calendar Number

11 703, by Senator Oppenheimer, Senate Print

12 7817A, an act to amend Chapter 147 of the Laws

13 of 2001.

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, 59.

24 ACTING PRESIDENT CRAIG JOHNSON:

25 The bill is passed.

1 THE SECRETARY: Calendar Number
2 732, by Senator Seward, Senate Print 1153A, an
3 act to authorize the Village of Frankfurt.

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

6 Read the last section.

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

9 ACTING PRESIDENT CRAIG JOHNSON:
10 Call the roll.

11 (The Secretary called the roll.)

12 ACTING PRESIDENT CRAIG JOHNSON:
13 Announce the results.

14 THE SECRETARY: Ayes, 59.

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

17 THE SECRETARY: Calendar Number
18 737, by Senator Marcellino, Senate Print 7627,
19 an act to authorize the Village of Upper
20 Brookville.

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

23 The Secretary will read the last
24 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, 59.

8 ACTING PRESIDENT CRAIG JOHNSON:

9 The bill is passed.

10 THE SECRETARY: Calendar Number

11 754, by Senator Breslin, Senate Print 7220A,

12 an act to amend the Insurance Law.

13 ACTING PRESIDENT CRAIG JOHNSON:

14 Read the last section.

15 THE SECRETARY: Section 5. This

16 act shall take effect immediately.

17 ACTING PRESIDENT CRAIG JOHNSON:

18 Call the roll.

19 (The Secretary called the roll.)

20 ACTING PRESIDENT CRAIG JOHNSON:

21 Announce the results.

22 THE SECRETARY: Ayes, 59.

23 ACTING PRESIDENT CRAIG JOHNSON:

24 The bill is passed.

25 THE SECRETARY: Calendar Number

1 771, by Senator Stachowski, Senate Print
2 3720A, an act to amend the Executive Law.

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

5 THE SECRETARY: Section 2. This
6 act shall take effect on the first of January
7 next succeeding.

8 ACTING PRESIDENT CRAIG JOHNSON:
9 Call the roll.

10 (The Secretary called the roll.)

11 ACTING PRESIDENT CRAIG JOHNSON:
12 Announce the results.

13 THE SECRETARY: Ayes, 58. Nays,
14 1. Senator Duane to be recorded in the
15 negative.

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

18 THE SECRETARY: Calendar Number
19 774, by Senator --

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

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

24 THE SECRETARY: Calendar Number
25 794, by Member of the Assembly Paulin,

1 Assembly Print Number 10889, an act to amend
2 the Mental Hygiene Law.

3 ACTING PRESIDENT CRAIG JOHNSON:
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: Ayes, 59.

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

15 THE SECRETARY: Calendar Number
16 840, by Senator --

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

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

21 THE SECRETARY: Calendar Number
22 908, by Senator C. Kruger, Senate Print 4342A,
23 an act to amend the General Municipal Law.

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

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

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, 59.

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

11 THE SECRETARY: Calendar Number
12 910, by Senator Saland, Senate Print 6129A, an
13 act to amend the Town 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, 59.

24 ACTING PRESIDENT CRAIG JOHNSON:
25 The bill is passed.

1 THE SECRETARY: Calendar Number
2 916, by Member of the Assembly Hooper,
3 Assembly Print Number 9511A, an act to
4 authorize the Time Out Club Development
5 Corporation.

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, 59.

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

18 THE SECRETARY: Calendar Number
19 925, by Senator Stewart-Cousins, Senate Print
20 7876, an act to amend the General Municipal
21 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, 59.
7 ACTING PRESIDENT CRAIG JOHNSON:
8 The bill is passed.
9 THE SECRETARY: Calendar Number
10 926, substituted earlier today by Member of
11 the Assembly Kolb, Assembly Print Number
12 11179A, an act to authorize the Town of
13 Canandaigua.
14 ACTING PRESIDENT CRAIG JOHNSON:
15 There is a home-rule message at the desk.
16 Read the last section.
17 THE SECRETARY: Section 2. This
18 act shall take effect immediately.
19 ACTING PRESIDENT CRAIG JOHNSON:
20 Call the roll.
21 (The Secretary called the roll.)
22 ACTING PRESIDENT CRAIG JOHNSON:
23 Announce the results.
24 THE SECRETARY: Ayes, 59.
25 ACTING PRESIDENT CRAIG JOHNSON:

1 The bill is passed.

2 THE SECRETARY: Calendar Number
3 929, by Senator Stewart-Cousins --

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

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

8 THE SECRETARY: Calendar Number
9 1105, by Senator Thompson, Senate Print 1237,
10 an act to amend the General Business Law.

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

13 THE SECRETARY: Section 8. This
14 act shall take effect on the 90th day.

15 ACTING PRESIDENT CRAIG JOHNSON:
16 Call the roll.

17 (The Secretary called the roll.)

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

20 SENATOR DeFRANCISCO: Yes, I'm
21 voting no.

22 We happen to be in sort of a budget
23 problem right now, and in a recession. And it
24 would seem that we should show some restraint
25 on the number of task forces that are --

1 ACTING PRESIDENT CRAIG JOHNSON:

2 Can we have some order, please.

3 SENATOR DeFRANCISCO: -- are
4 legislated in this body. And for that reason,
5 I'm voting no.

6 ACTING PRESIDENT CRAIG JOHNSON:

7 Senator DeFrancisco to be recorded in the
8 negative.

9 Announce the results.

10 THE SECRETARY: In relation to
11 Calendar Number 1105, those recorded in the
12 negative are Senators DeFrancisco, Farley,
13 Flanagan, Golden, O. Johnson, Lanza, Libous,
14 Little, Maziarz, Nozzolio, Skelos. Also
15 Senator Ranzenhofer. Also Senator Seward.
16 Also Senator Griffo.

17 Ayes, 45. Nays, 14.

18 ACTING PRESIDENT CRAIG JOHNSON:

19 The bill is passed.

20 THE SECRETARY: Calendar Number
21 1199, by Senator Parker --

22 SENATOR LIBOUS: Lay it aside.

23 ACTING PRESIDENT CRAIG JOHNSON:

24 The bill is laid aside.

25 THE SECRETARY: Calendar Number

1 1206, by Senator Aubertine, Senate Print 8305,
2 an act to amend the Alcoholic Beverage Control
3 Law.

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

6 THE SECRETARY: Section 20. This
7 act shall take effect on the 90th day.

8 ACTING PRESIDENT CRAIG JOHNSON:
9 Call the roll.

10 (The Secretary called the roll.)

11 ACTING PRESIDENT CRAIG JOHNSON:
12 Announce the results.

13 THE SECRETARY: Ayes, 59.

14 ACTING PRESIDENT CRAIG JOHNSON:
15 The bill is passed.

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 The Secretary will read.

1 THE SECRETARY: Calendar Number
2 271, by Senator Adams, Senate Print 3022A, an
3 act to amend the Racing, Pari-Mutuel Wagering
4 and Breeding Law.

5 ACTING PRESIDENT CRAIG JOHNSON:
6 Senator Volker, why do you rise?

7 SENATOR VOLKER: Mr. President,
8 can I have an explanation from Senator Adams,
9 please.

10 ACTING PRESIDENT CRAIG JOHNSON:
11 Senator Adams, Senator Volker has requested an
12 explanation on Calendar Number 271.

13 SENATOR ADAMS: Anything for my
14 good friend Senator Volker.

15 This is an important interstate
16 compact. And on first view it may seem as
17 though we're trying to actually regulate or
18 try to damage racing in this state when in
19 fact it's to the contrary, it's to the
20 opposite.

21 This compact will authorize
22 New York State to participate in an interstate
23 compact for horse racing to provide uniform
24 rules and regulations for the entire industry
25 with those participating states.

1 Participation in the contract will
2 not impact the wagering, it will not impact in
3 any way the takeouts. It will allow New York
4 State to cooperate with other participating
5 states. It is almost equivalent to what we do
6 now with boxing.

7 Right now all of the states that
8 participate in racing, it's an ad hoc manner
9 in which we do it. We're going to
10 professionalize the sport of racing. We're
11 going to make sure that our horses in New York
12 State are not running against horses that are
13 drugged up on some different types of drugs to
14 impact our horse race.

15 We're really moving the industry to
16 another level. We're moving the industry away
17 from similar to how boxing used to be, where
18 you had have athletes that are fighting in
19 different states in different manners. We're
20 going to raise the code of conduct and raise
21 the code of racing.

22 Right now, as you see, drugs have
23 proliferated in the industry. Many of our
24 horses are dying prematurely on the tracks.
25 Many of our horses are running against other

1 horses that are drugged up. We want to change
2 that. We want one code or standard, similar
3 to how we do boxing, similar to how we do the
4 NFL, similar to how we do the Major League
5 Baseball.

6 By creating this compact, it's not
7 going to impact us in any way on the takeout,
8 it's not going to impact us in any way on the
9 amount of revenue someone will win if they win
10 a ticket. But it will move us to the level
11 that we will professionalize our industry.
12 And this is what I want to do as the chair of
13 the committee; I want to continue to see what
14 we can do to make our industry professional
15 and ensure that New York continues to be the
16 great racing capital that it is.

17 SENATOR VOLKER: Mr. President,
18 if I might, I'm just -- I'm not going to ask
19 you questions, I'll just comment on the bill.

20 ACTING PRESIDENT CRAIG JOHNSON:
21 Senator Volker, on the bill.

22 SENATOR VOLKER: I know I don't
23 look like Senator Larkin, but I'm kind of
24 speaking for Senator Larkin now, who had some
25 problems with this bill also.

1 The problem with what concerns us
2 about that bill is, as I understand what this
3 would do, if New York came in -- and by the
4 way, no other states yet have joined in the
5 compact, if I'm not mistaken. Then what would
6 happen is we are told that some of the other
7 smaller states would join thinking they could
8 get increased revenue from New York, which
9 everybody thinks has a lot of money, and
10 New York could end up financing this racing
11 interstate compact group.

12 I think the thing that's very
13 disconcerting here is that the idea is good,
14 but the idea that New York would subject
15 itself to a compact and the fact that we as a
16 legislature, for instance, and the government
17 would have little or no control over it, and
18 yet the other states could demand considerable
19 amounts of money -- I realize that it may well
20 improve the racing standards, and we can
21 always use more oversight of the racing
22 industry and that a lot of the horsemen groups
23 are looking at this and thinking this is a
24 good way that they can make more money.

25 One of the reasons they're thinking

1 that is because they're looking at the money
2 that we have in New York, like everybody else,
3 as having tons of money. Of course, if they
4 read the papers lately they'd know --

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

7 I'm sorry, Senator Volker. I want
8 to give you the opportunity to speak.

9 SENATOR VOLKER: Sure. Thank
10 you.

11 I think the problem is this would
12 set up a whole new bureaucracy and there would
13 be a good deal of expense, a lot of expense
14 involved. And this contract group would be
15 able to do contracts, they would be able to
16 set up all sorts of oversight. And what may
17 very well happen is that New York, being the
18 largest state most likely to join this
19 compact, they would then ask us to contribute
20 by far the largest amount of money.

21 And even if we assume that the
22 handle in New York would increase, the
23 question is where is the money going to come
24 from. Right now, you know, we haven't passed
25 a budget yet, so quite obviously we have a

1 problem. We didn't pass this in 2009, as I
2 understand, for that very reason, that there
3 was great concern in both the Assembly and the
4 Senate about the fiscal implications of this
5 bill -- not to the racing industry directly,
6 but to the State of New York.

7 And some people have suggested that
8 it might even be better for us to wait till we
9 see who else gets into the compact to decide
10 whether we really want to get into it or not.

11 I think the concept is excellent,
12 but the problem I think is, like anything
13 else, New York has had a tendency to get into
14 things and then find out later it's going to
15 cost us a ton of money. I don't have to tell
16 you about Medicaid, I don't have to tell you
17 about so many of the other programs.

18 Some people have said that they
19 compare this compact obviously not directly to
20 Medicaid, but the biggest problem is we don't
21 know what it's going to cost in the long haul.
22 But we do know one thing, that there's going
23 to be a substantial cost here. Because just
24 reading the bill, you can see that they have
25 enormous powers and they will not only take

1 powers away from the racing industry here in
2 New York but they will also be able to say to
3 us, Well, we're going to help you, but you've
4 got to pay for it.

5 And I think that is by far the
6 biggest problem, is the uncertainty of what
7 exactly is going to be the cost to the
8 New York taxpayers and to the racing industry.

9 ACTING PRESIDENT CRAIG JOHNSON:
10 Are there any other Senators wishing to be
11 heard?

12 Seeing none, the debate is closed.
13 The Secretary will please ring the bells.

14 Read the last section.

15 THE SECRETARY: Section 2. This
16 act shall take effect only with respect to any
17 compacting state.

18 ACTING PRESIDENT CRAIG JOHNSON:
19 Call the roll.

20 (The Secretary called the roll.)

21 ACTING PRESIDENT CRAIG JOHNSON:
22 Senator Adams, to explain his vote.

23 SENATOR ADAMS: Yes, I just want
24 to respond to some of the concerns that
25 Senator Volker had.

1 First of all, the industry supports
2 this. The Jockey Club supports it, NYRA
3 supports it, other racetracks support it, the
4 American Association of Equine Practitioners
5 supports it.

6 New York State, in order for any
7 fee to be paid, the industry must approve it
8 to pay it. So you're not sanctioned in any
9 way. New York State is not held liable at all
10 for any fees or any debt that's owed by the
11 compact. So this doesn't hurt our state at
12 all. It helps a multi-billion-dollar industry
13 become professionalized and ensures that we
14 continue to grow the racing industry,
15 particularly in the northern part of our
16 state.

17 I vote aye, and I'm asking my
18 colleagues to do the same. Thank you.

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

22 Announce the results.

23 THE SECRETARY: In relation to
24 Calendar Number 271, those Senators recorded
25 in the negative: Senators DeFrancisco,

1 Farley, Hannon, LaValle, Marcellino, McDonald,
2 Saland, Seward, Skelos and Volker. Also
3 Senator Leibell.

4 Absent from voting: Senators
5 Bonacic, Fuschillo, Huntley, Padavan and
6 Winner.

7 Ayes, 42. Nays, 11.

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

10 The Secretary will read.

11 THE SECRETARY: Calendar Number
12 577, by Senator C. Kruger, Senate Print 164,
13 an act to amend the Criminal Procedure Law.

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

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

19 Read the last section.

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

22 ACTING PRESIDENT CRAIG JOHNSON:
23 Call the roll.

24 (The Secretary called the roll.)

25 ACTING PRESIDENT CRAIG JOHNSON:

1 Announce the results.

2 THE SECRETARY: In relation to
3 Calendar Number 577, those Senators recorded
4 in the negative are Senators Alesi, Farley,
5 Flanagan, Golden, Griffio, Hannon, O. Johnson,
6 Lanza, LaValle, Leibell, Libous, Little,
7 Marcellino, Maziarz, McDonald, Nozzolio,
8 Ranzenhofer, Robach, Saland, Seward, Skelos,
9 Volker and Young.

10 Those Senators absent from voting:
11 Senators Bonacic, Fuschillo, Huntley, Padavan
12 and Winner.

13 Ayes, 32. Nays, 23.

14 ACTING PRESIDENT CRAIG JOHNSON:
15 The bill is passed.

16 The Secretary will read.

17 THE SECRETARY: Calendar Number
18 1199, by Senator Parker, Senate Print 7687B,
19 an act to amend the Public Services Law.

20 ACTING PRESIDENT CRAIG JOHNSON:
21 Any Senator wishing to be heard on the bill?

22 Hearing none, debate is closed.

23 The Secretary will please ring the bells.

24 Read the last section.

25 THE SECRETARY: Section 2. This

1 act shall take effect on the 30th day.

2 ACTING PRESIDENT CRAIG JOHNSON:

3 Call the roll.

4 (The Secretary called the roll.)

5 ACTING PRESIDENT CRAIG JOHNSON:

6 Senator Volker, to explain his vote.

7 SENATOR VOLKER: Mr. President,
8 this bill -- this was the intervenors bill --
9 this bill was a bill that I killed in my
10 Energy Committee 30 years ago. And it's been
11 drifting around for years. It's one of the
12 most expensive bills for the utilities that
13 I've seen.

14 What this means is that if anybody
15 wants to make a complaint against a utility
16 company, the utility company has to pay the
17 person, the intervenor, to in effect go
18 against the utility. So if they win, the
19 utility then of course has to pay up. Even if
20 they lose, the utility now has to pay the PULP
21 or NYPIRG or whoever it is that brings the
22 action. It's one of the few times where a
23 business is forced to pay its opponent.

24 And the problem with it is there's
25 no question that groups would love to have

1 this bill in place, because the potential here
2 for raising utility rates is enormous. In
3 fact, as I've said before, I talked with
4 somebody from the PSC, and I just want to warn
5 everybody they're doing an assessment of the
6 bills that we've passed this session. They
7 believe this is the most expensive session for
8 utilities, meaning ratepayers, in the history
9 of the Legislature. I want to warn you,
10 because they're calculating it.

11 This bill is another bill that will
12 have a major impact on utility rates in this
13 state. I vote no.

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

16 Senator Parker, to explain his
17 vote.

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

20 I'm asking my colleagues to vote
21 yes on this very important bill that actually
22 is very pro-consumer.

23 And I heard Senator Volker's
24 comments. And I regret the fact that I was
25 not able to communicate with him more directly

1 so he would actually understand the bill and
2 what it does.

3 This bill actually provides
4 intervenor funds only for nonprofits that
5 represent large sets of consumers or
6 individuals who represent large numbers of
7 repairs. This is not just for anybody who has
8 a broken line in their house, you know. And
9 actually the PSC is actually obligated under
10 this bill to aggregate individual consumers
11 who have similar complaints and provide
12 intervenor funds.

13 This bill does not -- let me
14 repeat, this bill does not actually increase
15 anything for ratepayers. In fact, this
16 actually helps ratepayers, because if you're a
17 ratepayer and you have a problem, you now have
18 an ability to get legal help and in fact the
19 utility companies have to help you essentially
20 deal with the problem.

21 So this actually creates an
22 economic incentive for utilities to actually
23 do repairs and keep up their capital
24 investment on the front end, instead of having
25 to go through cases which doesn't exist now.

1 And we have thousands of ratepayers across our
2 state, in my district and your district,
3 Senator Volker, who really will benefit from
4 this legislation.

5 I vote aye because this is a good
6 thing for our consumers, a good thing for our
7 ratepayers, and a great thing for our
8 constituents.

9 ACTING PRESIDENT CRAIG JOHNSON:
10 Senator Parker to be recorded in the
11 affirmative.

12 Announce the results.

13 THE SECRETARY: In relation to
14 Calendar Number 1199, those recorded in the
15 negative: Senators Alesi, Aubertine,
16 DeFrancisco, Farley, Flanagan, Golden,
17 O. Johnson, Lanza, Leibell, Little, Maziarz,
18 Nozzolio, Ranzenhofer, Robach, Saland, Skelos,
19 Volker and Young.

20 Those Senators absent from voting:
21 Senators Bonacic, Fuschillo, Huntley, Padavan
22 and Winner.

23 Ayes, 37. Nays, 18.

24 ACTING PRESIDENT CRAIG JOHNSON:
25 The bill is passed.

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

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

6 ACTING PRESIDENT CRAIG JOHNSON:
7 The Secretary will read.

8 THE SECRETARY: Calendar Number
9 1189, by Senator Little, Senate Print 323, an
10 act to amend the Civil Practices Law.

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

13 THE SECRETARY: Section 3. 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 Little, to explain her vote.

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

22 As many of you know, I usually
23 stand here and tell you why a piece of
24 legislation will be harmful to the
25 Adirondacks. Well, I stand today to tell you

1 how helpful this piece of legislation is to
2 the Adirondacks, and I thank all of you for
3 supporting this legislation.

4 The Adirondacks is regulated by the
5 Adirondack Park Agency, a land use agency
6 which has no limit as to a statute of
7 limitations and how far back they can go in
8 enforcement. So what we have had in the
9 Adirondacks is someone who purchases a home,
10 wants to make an addition to that home, has
11 the APA come in to give a permit for the
12 addition -- and while there, the APA may see
13 that 30 years ago the deck that was built was
14 larger than the APA statute allows or that the
15 property was a half a foot or a foot closer to
16 the water than the regulations.

17 And this may have been built 30,
18 35 years ago, and yet the APA can enforce that
19 violation with a series of fines and make the
20 person either remove the deck or change the
21 wall or do something to correct it.

22 What this piece of legislation does
23 is make it a statute of limitations on a
24 violation. The violation has to be discovered
25 within ten years of when it began, and

1 reasonable discovery, and then they cannot
2 enforce anything past that. So it actually
3 helps people who are purchasing a home who the
4 previous owner may have had a violation years
5 before that, but it will not go on them.

6 So thank you very much for
7 supporting this legislation. I appreciate it,
8 and the people in the Adirondacks that live
9 there will appreciate it as well.

10 Thank you.

11 ACTING PRESIDENT CRAIG JOHNSON:

12 Senator Little to be recorded in the
13 affirmative.

14 Announce the results.

15 THE SECRETARY: Ayes, 59.

16 ACTING PRESIDENT CRAIG JOHNSON:

17 The bill is passed.

18 THE SECRETARY: Calendar Number
19 1208, by Senator Larkin, Senate Print 641, an
20 act to authorize the City of Newburgh.

21 ACTING PRESIDENT CRAIG JOHNSON:

22 There is a home-rule message at the desk.

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, 59.
7 ACTING PRESIDENT CRAIG JOHNSON:
8 The bill is passed.
9 THE SECRETARY: Calendar Number
10 1209, by Senator O. Johnson, Senate Print
11 1369, an act to authorize the Church of God of
12 Brentwood.
13 ACTING PRESIDENT CRAIG JOHNSON:
14 Read the last section.
15 THE SECRETARY: Section 2. This
16 act shall take effect immediately.
17 ACTING PRESIDENT CRAIG JOHNSON:
18 Call the roll.
19 (The Secretary called the roll.)
20 ACTING PRESIDENT CRAIG JOHNSON:
21 Announce the results.
22 THE SECRETARY: Ayes, 59.
23 ACTING PRESIDENT CRAIG JOHNSON:
24 The bill is passed.
25 THE SECRETARY: In relation to

1 Calendar Number 1210, Senator Nozzolio moves
2 to discharge, from the Committee on Rules,
3 Assembly Bill Number 5579A and substitute it
4 for the identical Senate Bill Number 2400A,
5 Third Reading Calendar 1210.

6 ACTING PRESIDENT CRAIG JOHNSON:
7 Substitution ordered.

8 THE SECRETARY: Calendar Number
9 1210, by Member of the Assembly Oaks, Assembly
10 Print 5579A, an act to amend the Highway Law.

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

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

15 ACTING PRESIDENT CRAIG JOHNSON:
16 Call the roll.

17 (The Secretary called the roll.)

18 ACTING PRESIDENT CRAIG JOHNSON:
19 Announce the results.

20 THE SECRETARY: Ayes, 59.

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

23 THE SECRETARY: In relation to
24 Calendar Number 1211, Senator Lanza moves to
25 discharge, from the Committee on Rules,

1 Assembly Bill Number 7383A and substitute it
2 for the identical Senate Bill Number 3004A,
3 Third Reading Calendar 1211.

4 ACTING PRESIDENT CRAIG JOHNSON:
5 Substitution ordered.

6 THE SECRETARY: Calendar Number
7 1211, by Member of the Assembly Cusick,
8 Assembly Print Number 7383A, an act to amend
9 the Administrative Code of the City of
10 New York.

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

13 Read the last section.

14 THE SECRETARY: Section 2. 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, 59.

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

24 THE SECRETARY: Calendar Number
25 1212, by Senator Hannon, Senate Print 3144, an

1 act to legalize, validate, ratify and confirm.

2 ACTING PRESIDENT CRAIG JOHNSON:

3 Read the last section.

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

6 ACTING PRESIDENT CRAIG JOHNSON:

7 Call the roll.

8 (The Secretary called the roll.)

9 ACTING PRESIDENT CRAIG JOHNSON:

10 Announce the results.

11 THE SECRETARY: Ayes, 59.

12 ACTING PRESIDENT CRAIG JOHNSON:

13 The bill is passed.

14 THE SECRETARY: Calendar Number
15 1213, by Senator Huntley, Senate Print 3484,
16 an act to amend the Mental Hygiene Law and the
17 Executive Law.

18 ACTING PRESIDENT CRAIG JOHNSON:

19 Read the last section.

20 THE SECRETARY: Section 3. This
21 act shall take effect on the 180th day.

22 ACTING PRESIDENT CRAIG JOHNSON:

23 Call the roll.

24 (The Secretary called the roll.)

25 ACTING PRESIDENT CRAIG JOHNSON:

1 Announce the results.

2 THE SECRETARY: Ayes, 59.

3 ACTING PRESIDENT CRAIG JOHNSON:

4 The bill is passed.

5 THE SECRETARY: Calendar Number
6 1214, by Senator Thompson, Senate Print 3780B,
7 an act to amend the Environmental Conservation
8 Law.

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

11 THE SECRETARY: Section 2. This
12 act shall take effect July 1, 2013.

13 ACTING PRESIDENT CRAIG JOHNSON:
14 Call the roll.

15 (The Secretary called the roll.)

16 ACTING PRESIDENT CRAIG JOHNSON:
17 Announce the results.

18 THE SECRETARY: Ayes, 59.

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

21 THE SECRETARY: In relation to
22 Calendar Number 1215, Senator Marcellino moves
23 to discharge, from the Committee on Rules,
24 Assembly Bill Number 10212A and substitute it
25 for the identical Senate Bill Number 4211B,

1 Third Reading Calendar 1215.

2 ACTING PRESIDENT CRAIG JOHNSON:

3 Substitution ordered.

4 THE SECRETARY: Calendar Number
5 1215, by Member of the Assembly Montesano,
6 Assembly Print Number 10212A, an act in
7 relation to legalizing, validating, ratifying
8 and confirming.

9 ACTING PRESIDENT CRAIG JOHNSON:

10 Read the last 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 Announce the results.

18 THE SECRETARY: Ayes, 59.

19 ACTING PRESIDENT CRAIG JOHNSON:

20 The bill is passed.

21 THE SECRETARY: In relation to
22 Calendar Number 1216, Senator Stavisky moves
23 to discharge, from the Committee on Education,
24 Assembly Bill Number 5434 and substitute it
25 for the identical Senate Bill Number 4472,

1 Third Reading Calendar 1216.

2 ACTING PRESIDENT CRAIG JOHNSON:

3 Substitution ordered.

4 THE SECRETARY: Calendar Number
5 1216, by --

6 SENATOR VOLKER: Lay the bill
7 aside.

8 ACTING PRESIDENT CRAIG JOHNSON:

9 The bill is laid aside.

10 THE SECRETARY: In relation to
11 Calendar Number 1217, Senator Oppenheimer
12 moves to discharge, from the Committee on
13 Finance, Assembly Bill Number 4302A and
14 substitute it for the identical Senate Bill
15 Number 4631A, Third Reading Calendar 1217.

16 ACTING PRESIDENT CRAIG JOHNSON:

17 Substitution ordered.

18 THE SECRETARY: Calendar Number
19 1217, by Member of the Assembly Canestrari,
20 Assembly Print 4302A, an act to amend the
21 Workers' Compensation 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, 59.
7 ACTING PRESIDENT CRAIG JOHNSON:
8 The bill is passed.
9 THE SECRETARY: Calendar Number
10 1219, by Senator Flanagan, Senate Print 5692,
11 an act to amend the Highway Law.
12 ACTING PRESIDENT CRAIG JOHNSON:
13 There is a home-rule message at the desk.
14 Read the last section.
15 THE SECRETARY: Section 2. This
16 act shall take effect immediately.
17 ACTING PRESIDENT CRAIG JOHNSON:
18 Call the roll.
19 (The Secretary called the roll.)
20 ACTING PRESIDENT CRAIG JOHNSON:
21 Announce the results.
22 THE SECRETARY: Ayes, 59.
23 ACTING PRESIDENT CRAIG JOHNSON:
24 The bill is passed.
25 THE SECRETARY: In relation to

1 Calendar Number 1220, Senator Stachowski moves
2 to discharge, from the Committee on Rules,
3 Assembly Bill Number 8712A and substitute it
4 for the identical Senate Bill Number 5783A,
5 Third Reading Calendar 1220.

6 ACTING PRESIDENT CRAIG JOHNSON:
7 Substitution ordered.

8 THE SECRETARY: Calendar Number
9 1220, by Member of the Assembly Gabryszak,
10 Assembly Print Number 8712A, an act to amend
11 the Public Authorities Law and the Economic
12 Development Law.

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

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

17 ACTING PRESIDENT CRAIG JOHNSON:
18 Call the roll.

19 (The Secretary called the roll.)

20 ACTING PRESIDENT CRAIG JOHNSON:
21 Senator Maziarz, to explain his vote.

22 SENATOR MAZIARZ: Mr. President,
23 just to explain my vote.

24 I am a cosponsor of this
25 legislation and am fully supportive of it. I

1 think this takes a very large step towards
2 keeping the greatest asset that Western
3 New York has, the Niagara Power Project, of
4 keeping the power that is produced at Niagara
5 and sold, the power that is allocated but not
6 used that is sold on the open market by the
7 Power Authority, to be used for economic
8 development for job creation in Western
9 New York and specifically, of course, more to
10 my liking, in Niagara County.

11 This goes a very minor step for
12 years and years of the Power Authority
13 screwing Niagara County -- and with a little
14 bit of help from the Assembly and the Senate
15 and some governors too, Mr. President.

16 Thank you very much. I vote in the
17 affirmative.

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

21 Senator Stachowski, to explain his
22 vote.

23 SENATOR STACHOWSKI: Yes,
24 Mr. President, I too would just like to
25 mention that this is a great bill in keeping

1 power, a deal that was made when the Power
2 Authority put together the new plant. And
3 that this will make sure that the funds stay
4 within the 30-mile radius. If the power is
5 not being used, the funds will be able
6 available for an economic development fund
7 which will be used to help Niagara County and
8 parts of Erie County.

9 And we think it's long overdue and
10 it's a great step. And I know it's strongly
11 supported by everybody in Western New York,
12 and I'm glad to have the opportunity to vote
13 for it. I vote aye.

14 ACTING PRESIDENT CRAIG JOHNSON:
15 Senator Stachowski to be recorded in the
16 affirmative.

17 Announce the results.

18 THE SECRETARY: In relation to
19 Calendar Number 1220, those Senators recorded
20 in the negative are Senators Flanagan, Foley,
21 Hannon, C. Johnson, LaValle and Marcellino.
22 Also Senator Skelos. Also Senator O. Johnson.

23 Ayes, 51. Nays, 8.

24 ACTING PRESIDENT CRAIG JOHNSON:
25 The bill is passed.

1 The Secretary will continue to
2 read.

3 THE SECRETARY: Calendar Number
4 1221, by Senator McDonald, Senate Print 5874,
5 an act to amend the Highway Law.

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

8 THE SECRETARY: Section 3. 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, 59.

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

18 THE SECRETARY: Calendar Number
19 1222, by Senator Klein --

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

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

24 THE SECRETARY: Calendar Number
25 1223, by Senator Montgomery, Senate Print

1 6261A, an act in relation to exempting monthly
2 assessments.

3 ACTING PRESIDENT CRAIG JOHNSON:
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: Ayes, 59.

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

15 THE SECRETARY: In relation to
16 Calendar Number 1224, Senator Montgomery moves
17 to discharge, from the Committee on Rules,
18 Assembly Bill Number 9547A and substitute it
19 for the identical Senate Bill Number 6657A,
20 Third Reading Calendar 1224.

21 ACTING PRESIDENT CRAIG JOHNSON:
22 Substitution ordered.

23 THE SECRETARY: Calendar Number
24 1224, by Member of the Assembly Jeffries,
25 Assembly Print Number 9547A, an act to amend

1 the Public Authorities Law.

2 ACTING PRESIDENT CRAIG JOHNSON:

3 Read the last section.

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

6 ACTING PRESIDENT CRAIG JOHNSON:

7 Call the roll.

8 (The Secretary called the roll.)

9 ACTING PRESIDENT CRAIG JOHNSON:

10 Announce the results.

11 THE SECRETARY: In relation to
12 Calendar Number 1224, those recorded in the
13 negative are Senators DeFrancisco, Farley,
14 Griffo, Hannon, Lanza, LaValle, Little,
15 Marcellino, Nozzolio, Ranzenhofer, Saland,
16 Seward, Skelos and Young.

17 Ayes, 45. Nays, 14.

18 ACTING PRESIDENT CRAIG JOHNSON:

19 The bill is passed.

20 THE SECRETARY: Calendar Number
21 1225, by Senator Maziarz, Senate Print 6671A,
22 an act to amend the Highway Law.

23 ACTING PRESIDENT CRAIG JOHNSON:

24 There is a home-rule message at the desk.

25 Read the last section.

1 THE SECRETARY: Section 3. This
2 act shall take effect July 1, 2010.

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, 59.

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

11 THE SECRETARY: Calendar Number
12 1226, by Senator O. Johnson, Senate Print --

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

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

17 THE SECRETARY: Calendar Number
18 1227, by Senator Skelos, Senate Print 6693, an
19 act to authorize the assessor of the County of
20 Nassau.

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

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

25 ACTING PRESIDENT CRAIG JOHNSON:

1 Call the roll.

2 (The Secretary called the roll.)

3 ACTING PRESIDENT CRAIG JOHNSON:

4 Announce the results.

5 THE SECRETARY: Ayes, 59.

6 ACTING PRESIDENT CRAIG JOHNSON:

7 The bill is passed.

8 THE SECRETARY: In relation to
9 Calendar Number 1228, Senator Padavan moves to
10 discharge, from the Committee on Rules,
11 Assembly Bill Number 9924A and substitute it
12 for the identical Senate Bill Number 6827A,
13 Third Reading Calendar 1228.

14 ACTING PRESIDENT CRAIG JOHNSON:
15 Substitution ordered.

16 THE SECRETARY: Calendar Number
17 1228, by Member of the Assembly Clark,
18 Assembly Print Number A9924A, an act to
19 authorize the Dormitory Authority of the State
20 of New York.

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

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

25 ACTING PRESIDENT CRAIG JOHNSON:

1 Call the roll.

2 (The Secretary called the roll.)

3 ACTING PRESIDENT CRAIG JOHNSON:

4 Announce the results.

5 THE SECRETARY: Ayes, 59.

6 ACTING PRESIDENT CRAIG JOHNSON:

7 The bill is passed.

8 THE SECRETARY: Calendar Number

9 1229, by Senator --

10 SENATOR KLEIN: Lay the bill

11 aside for the day, please.

12 ACTING PRESIDENT CRAIG JOHNSON:

13 The bill is laid aside for the day.

14 THE SECRETARY: Calendar Number

15 1230, by Senator Oppenheimer, Senate Print

16 7134, an act to amend the State Finance Law.

17 ACTING PRESIDENT CRAIG JOHNSON:

18 Read the last section.

19 THE SECRETARY: Section 3. This

20 act shall take effect immediately.

21 ACTING PRESIDENT CRAIG JOHNSON:

22 Call the roll.

23 (The Secretary called the roll.)

24 ACTING PRESIDENT CRAIG JOHNSON:

25 Senator Oppenheimer, to explain her vote.

1 SENATOR OPPENHEIMER: Yes, thank
2 you. I would very much like to explain the
3 problem.

4 The problem is that we have Special
5 Act districts in our state, 13 in all. They
6 deal with some of the most difficult students
7 in our state, and they have been funded with a
8 methodology that is so not reflective of what
9 their costs are.

10 And we have been working for years
11 to try and formulate a new methodology for
12 Special Act schools. We are making some
13 progress. But because they are so underfunded
14 and paid a year after their costs, they find
15 that they must go to the banks in order to
16 borrow money. The interest on RANs -- rate
17 anticipation notes -- the interest is never
18 paid by the state, it is only paid by the
19 Special Act districts. It is these very same
20 districts that are so strapped that now have
21 to borrow from banks and pay the interest on
22 the borrowing. It is really an outrage.

23 And so what this bill does -- and
24 this is only because we haven't yet changed
25 the methodology -- it says that we will have a

1 revolving loan for them, for Special Act
2 school districts. This is the right thing to
3 do. And it's the best that we can do --
4 though it's a Band-Aid -- but it's the best
5 that we can do at this time lacking a new
6 methodology.

7 So thank you all for supporting it.

8 ACTING PRESIDENT CRAIG JOHNSON:

9 Senator Oppenheimer to be recorded in the
10 affirmative.

11 Announce the results.

12 THE SECRETARY: Ayes, 59.

13 ACTING PRESIDENT CRAIG JOHNSON:

14 The bill is passed.

15 THE SECRETARY: Calendar Number

16 1231, by Senator Serrano, Senate Print 7163,
17 an act to amend the Economic Development Law.

18 ACTING PRESIDENT CRAIG JOHNSON:

19 Read the last section.

20 THE SECRETARY: Section 2. This

21 act shall take effect immediately.

22 ACTING PRESIDENT CRAIG JOHNSON:

23 Call the roll.

24 (The Secretary called the roll.)

25 ACTING PRESIDENT CRAIG JOHNSON:

1 Announce the results.

2 THE SECRETARY: Ayes, 59.

3 ACTING PRESIDENT CRAIG JOHNSON:

4 The bill is passed.

5 THE SECRETARY: Calendar Number
6 1232, by Senator Stewart-Cousins, Senate Print
7 7189, an act --

8 SENATOR VOLKER: Lay it aside.

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

11 ACTING PRESIDENT CRAIG JOHNSON:

12 The bill is laid aside for the day.

13 THE SECRETARY: Which one?

14 ACTING PRESIDENT CRAIG JOHNSON:
15 Calendar Number 1232 will be laid aside for
16 the day.

17 The Secretary will continue to
18 read.

19 THE SECRETARY: Calendar Number
20 1233, by Senator Savino, Senate Print 7450A,
21 an act to amend Chapter 154 of the Laws of
22 1921.

23 ACTING PRESIDENT CRAIG JOHNSON:

24 Read the last section.

25 THE SECRETARY: Section 2. This

1 act shall take effect upon the enactment into
2 law.

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: In relation to
9 Calendar Number 1233, those recorded in the
10 negative are Senators DeFrancisco, Griffo,
11 Hannon, LaValle, Libous, Little, Marcellino,
12 Ranzenhofer, Saland, Skelos, Volker and Young.
13 Also Senator Flanagan.

14 Ayes, 46. Nays, 13.

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

17 THE SECRETARY: Calendar Number
18 1234, by Senator Thompson, Senate Print 7488A,
19 an act to amend the Public Authorities Law.

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

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

24 ACTING PRESIDENT CRAIG JOHNSON:
25 Call the roll.

1 (The Secretary called the roll.)

2 ACTING PRESIDENT CRAIG JOHNSON:

3 Announce the results.

4 THE SECRETARY: Ayes, 59.

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

7 ACTING PRESIDENT CRAIG JOHNSON:

8 With respect to Calendar Number 1234, the roll
9 call is withdrawn and the bill is -- Senator
10 Klein.

11 SENATOR KLEIN: Mr. President,
12 can I remove the lay aside on Calendar Number
13 1234, Senator Thompson's bill.

14 ACTING PRESIDENT CRAIG JOHNSON:

15 The lay aside is withdrawn.

16 The Secretary will read.

17 THE SECRETARY: Calendar Number
18 1234, by Senator Thompson, Senate Print 7488A,
19 an act to amend the Public Authorities Law.

20 ACTING PRESIDENT CRAIG JOHNSON:

21 Read the last section.

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

24 ACTING PRESIDENT CRAIG JOHNSON:

25 Call the roll.

1 (The Secretary called the roll.)

2 ACTING PRESIDENT CRAIG JOHNSON:

3 Announce the results.

4 THE SECRETARY: Ayes, 59.

5 ACTING PRESIDENT CRAIG JOHNSON:

6 The bill is passed.

7 THE SECRETARY: Calendar Number
8 1235, by Senator Schneiderman, Senate Print
9 7515A --

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

12 ACTING PRESIDENT CRAIG JOHNSON:

13 The bill is laid aside for the day.

14 THE SECRETARY: In relation to
15 Calendar Number 1236, Senator Addabbo moves to
16 discharge, from the Committee on Rules,
17 Assembly Bill Number 10766A and substitute it
18 for the identical Senate Bill Number 7558A,
19 Third Reading Calendar 1236.

20 ACTING PRESIDENT CRAIG JOHNSON:

21 Substitution ordered.

22 THE SECRETARY: Calendar Number
23 1236, by Member of the Assembly Nolan,
24 Assembly Print Number 10766A, an act to amend
25 the General Business Law.

1 ACTING PRESIDENT CRAIG JOHNSON:

2 Read the last section.

3 THE SECRETARY: Section 2. This
4 act shall take effect on the 180th day.

5 ACTING PRESIDENT CRAIG JOHNSON:
6 Call the roll.

7 (The Secretary called the roll.)

8 ACTING PRESIDENT CRAIG JOHNSON:
9 Announce the results.

10 THE SECRETARY: Ayes, 59.

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

13 THE SECRETARY: In relation to
14 Calendar Number 1237, Senator Parker moves to
15 discharge, from the Committee on Rules,
16 Assembly Bill Number 10754A and substitute it
17 for the identical Senate Bill Number 7562B,
18 Third Reading Calendar 1237.

19 ACTING PRESIDENT CRAIG JOHNSON:
20 Substitution ordered.

21 THE SECRETARY: Calendar Number
22 1237, by Member of the Assembly Magnarelli,
23 Assembly Print Number 10754A, an act to amend
24 the Executive Law and the Public Health Law.

25 ACTING PRESIDENT CRAIG JOHNSON:

1 Read the last section.

2 THE SECRETARY: Section 3. This
3 act shall take effect November 11, 2010.

4 ACTING PRESIDENT CRAIG JOHNSON:
5 Call the roll.

6 (The Secretary called the roll.)

7 ACTING PRESIDENT CRAIG JOHNSON:
8 Announce the results.

9 THE SECRETARY: Ayes, 59.

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

12 THE SECRETARY: In relation to
13 Calendar Number 1239, Senator L. Krueger moves
14 to discharge, from the Committee on Rules,
15 Assembly Bill Number 10715A and substitute it
16 for the identical Senate Bill Number 7612A,
17 Third Reading Calendar 1239.

18 ACTING PRESIDENT CRAIG JOHNSON:
19 Substitution ordered.

20 THE SECRETARY: Calendar Number
21 1239, by Member of the Assembly Paulin,
22 Assembly Print Number 10715A, an act to amend
23 the Agriculture and Markets Law.

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

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

3 ACTING PRESIDENT CRAIG JOHNSON:
4 Call the roll.

5 (The Secretary called the roll.)

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

8 SENATOR DeFRANCISCO: Yes, animal
9 shelters are usually running on a shoestring,
10 and it would seem to be better for them to be
11 caring for animals rather than filing annual
12 reports to some agency of the State of
13 New York. And for that reason, I'm voting no.

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

17 Announce the results.

18 THE SECRETARY: In relation to
19 Calendar Number 1239, those Senators to be
20 recorded in the negative are Senators
21 DeFrancisco, Golden, Griffo, Hannon,
22 O. Johnson, Little, Nozzolio, Ranzenhofer,
23 Saland, Seward, and Skelos.

24 Ayes, 48. Nays, 11.

25 ACTING PRESIDENT CRAIG JOHNSON:

1 The bill is passed.

2 THE SECRETARY: Calendar Number
3 1240, by Senator Hassell-Thompson, Senate
4 Print 7705, an act to amend the Penal Law, the
5 Criminal Procedure Law, and the Vehicle and
6 Traffic Law.

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

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

11 ACTING PRESIDENT CRAIG JOHNSON:
12 Call the roll.

13 (The Secretary called the roll.)

14 ACTING PRESIDENT CRAIG JOHNSON:
15 Senator Hassell-Thompson, to explain her vote.

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

18 I just rise to thank my colleagues
19 for their support for the Child Protection Act
20 of 2010. Just very briefly, there are just
21 too many cases of our children who are being
22 sadistically abused over long periods of time
23 and often turn fatal.

24 I believe that this bill will give
25 law enforcement as well as the courts the

1 tools they need to protect our children before
2 that occurs. Thank you very much.

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

6 Announce the results.

7 THE SECRETARY: Ayes, 59.

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

10 THE SECRETARY: In relation to
11 Calendar Number 1241, Senator Oppenheimer
12 moves to discharge, from the Committee on
13 Rules, Assembly Bill Number 10638 and
14 substitute it for the identical Senate Bill
15 Number 7754, Third Reading Calendar 1241.

16 ACTING PRESIDENT CRAIG JOHNSON:
17 Substitution ordered.

18 THE SECRETARY: Calendar Number
19 1241, by Member of the Assembly Paulin,
20 Assembly Print Number 10638, an act to amend
21 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: In relation to
7 Calendar Number 1241, those Senators to be
8 recorded in the negative: Senators
9 DeFrancisco, Ranzenhofer, Skelos and Volker.

10 Ayes, 55. Nays, 4.

11 ACTING PRESIDENT CRAIG JOHNSON:

12 The bill is passed.

13 THE SECRETARY: In relation to
14 Calendar Number 1242, Senator L. Krueger moves
15 to discharge, from the Committee on Rules,
16 Assembly Bill Number 10878A and substitute it
17 for the identical Senate Bill Number 7811A,
18 Third Reading Calendar 1242.

19 ACTING PRESIDENT CRAIG JOHNSON:

20 Substitution ordered.

21 THE SECRETARY: Calendar Number
22 1242, by Member of the Assembly Rosenthal,
23 Assembly Print Number 10878A, an act to amend
24 the Real Property Law.

25 ACTING PRESIDENT CRAIG JOHNSON:

1 Read the last section.

2 THE SECRETARY: Section 2. This
3 act shall take effect on the 30th day.

4 ACTING PRESIDENT CRAIG JOHNSON:
5 Call the roll.

6 (The Secretary called the roll.)

7 ACTING PRESIDENT CRAIG JOHNSON:
8 Announce the results.

9 THE SECRETARY: Ayes, 59.

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

12 THE SECRETARY: Calendar Number
13 1243, by Senator Valesky, Senate Print 7814B,
14 an act to authorize the lease of lands.

15 ACTING PRESIDENT CRAIG JOHNSON:
16 The bill is high.

17 The bill will be laid aside for the
18 day.

19 THE SECRETARY: Calendar Number
20 1244, by Senator Stewart-Cousins, Senate Print
21 7897, an act to amend the Vehicle and Traffic
22 Law.

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

25 THE SECRETARY: Section 3. This

1 act shall take effect on the first of November
2 next succeeding.

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: In relation to
9 Calendar Number 1244, those Senators to be
10 recorded in the negative: Senators
11 DeFrancisco, Farley and Skelos.

12 Ayes, 56. Nays, 3.

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

15 THE SECRETARY: Calendar Number
16 1245, by Senator L. Krueger, Senate Print
17 7941, an act to amend the Social Services Law.

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

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

22 ACTING PRESIDENT CRAIG JOHNSON:
23 Call the roll.

24 (The Secretary called the roll.)

25 ACTING PRESIDENT CRAIG JOHNSON:

1 Announce the results.

2 THE SECRETARY: Ayes, 58. Nays,
3 1. Senator LaValle to be recorded in the
4 negative.

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

7 THE SECRETARY: In relation to
8 Calendar Number 1246, Senator Adams moves to
9 discharge, from the Committee on Rules,
10 Assembly Bill Number 11098 and substitute it
11 for the identical Senate Bill Number 7961,
12 Third Reading Calendar 1246.

13 ACTING PRESIDENT CRAIG JOHNSON:
14 Substitution ordered.

15 THE SECRETARY: Calendar Number
16 1246, by Member of the Assembly Magnarelli,
17 Assembly Print Number 11098, an act to amend
18 the Executive Law.

19 ACTING PRESIDENT CRAIG JOHNSON:
20 Read the last section.

21 THE SECRETARY: Section 4. This
22 act shall take effect 30 days after it shall
23 have become law.

24 ACTING PRESIDENT CRAIG JOHNSON:
25 Call the roll.

1 (The Secretary called the roll.)

2 ACTING PRESIDENT CRAIG JOHNSON:

3 Announce the results.

4 THE SECRETARY: Ayes, 59. Nays,
5 0.

6 ACTING PRESIDENT CRAIG JOHNSON:

7 The bill is passed.

8 THE SECRETARY: Calendar Number
9 1247, by Senator Oppenheimer, Senate Print
10 8044, an act to legalize, validate, ratify and
11 confirm.

12 ACTING PRESIDENT CRAIG JOHNSON:

13 Read the last section.

14 THE SECRETARY: Section 4. 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, 59.

22 ACTING PRESIDENT CRAIG JOHNSON:

23 The bill is passed.

24 THE SECRETARY: In relation to
25 Calendar Number 1248, Senator Oppenheimer

1 moves to discharge, from the Committee on
2 Rules, Assembly Bill Number 11364 and
3 substitute it for the identical Senate Bill
4 Number 8045, Third Reading Calendar 1248.

5 ACTING PRESIDENT CRAIG JOHNSON:
6 Substitution ordered.

7 THE SECRETARY: Calendar Number
8 1248, by the Assembly Committee on Rules,
9 Assembly Print Number 11364, an act to amend
10 Chapter 183 of the Laws of 2003.

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

13 Read the last section.

14 THE SECRETARY: Section 2. 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, 59.

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

24 THE SECRETARY: In relation to
25 Calendar Number 1249, Senator C. Johnson moves

1 to discharge, from the committee on Committee
2 on Investigations and Government Operations,
3 Assembly Print Number 4395 and substitute it
4 for the identical Senate Bill Number 8059,
5 Third Reading Calendar 1249.

6 ACTING PRESIDENT CRAIG JOHNSON:
7 Substitution ordered.

8 THE SECRETARY: Calendar Number
9 1249, by Member of the Assembly Canestrari,
10 Assembly Print Number 4395, an act to amend
11 the Civil Service Law.

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

14 THE SECRETARY: Section 2. 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, 59.

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

24 THE SECRETARY: Calendar Number
25 1250, by Senator Klein, Senate Print 8109, an

1 act to amend the Penal Law.

2 ACTING PRESIDENT CRAIG JOHNSON:

3 Read the last section.

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

6 ACTING PRESIDENT CRAIG JOHNSON:

7 Call the roll.

8 (The Secretary called the roll.)

9 ACTING PRESIDENT CRAIG JOHNSON:

10 Announce the results.

11 THE SECRETARY: Ayes, 59.

12 ACTING PRESIDENT CRAIG JOHNSON:

13 The bill is passed.

14 THE SECRETARY: In relation to
15 Calendar Number 1251, Senator Aubertine moves
16 to discharge, from the Committee on Rules,
17 Assembly Bill Number 11312 and substitute it
18 for the identical Senate Bill Number 8116,
19 Third Reading Calendar 1251.

20 ACTING PRESIDENT CRAIG JOHNSON:

21 Substitution ordered.

22 THE SECRETARY: Calendar Number
23 1251, by the Assembly Committee on Rules,
24 Assembly Print Number 11312, an act to amend
25 the Environmental Conservation Law.

1 ACTING PRESIDENT CRAIG JOHNSON:

2 Read the last section.

3 THE SECRETARY: Section 4. This
4 act shall take effect on the 120th day.

5 ACTING PRESIDENT CRAIG JOHNSON:
6 Call the roll.

7 (The Secretary called the roll.)

8 ACTING PRESIDENT CRAIG JOHNSON:
9 Announce the results.

10 THE SECRETARY: Ayes, 59.

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

13 THE SECRETARY: Calendar Number
14 1252, by Senator Duane --

15 SENATOR LIBOUS: Lay it aside.

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

18 THE SECRETARY: Calendar Number
19 1253, by Senator Aubertine, Senate Print 8245,
20 an act to amend the Civil Service Law.

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

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

25 ACTING PRESIDENT CRAIG JOHNSON:

1 Call the roll.

2 (The Secretary called the roll.)

3 ACTING PRESIDENT CRAIG JOHNSON:

4 Announce the results.

5 THE SECRETARY: Ayes, 59.

6 ACTING PRESIDENT CRAIG JOHNSON:

7 the bill is passed.

8 THE SECRETARY: Calendar Number
9 1254, by Senator Savino, Senate Print 8273, an
10 act to amend the Public Officers Law.

11 ACTING PRESIDENT CRAIG JOHNSON:

12 Read the last section.

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

15 ACTING PRESIDENT CRAIG JOHNSON:

16 Call the roll.

17 (The Secretary called the roll.)

18 ACTING PRESIDENT CRAIG JOHNSON:

19 Announce the results.

20 THE SECRETARY: Ayes, 58. Nays,
21 1. Senator Lanza to be recorded in the
22 negative.

23 ACTING PRESIDENT CRAIG JOHNSON:

24 The bill is passed.

25 THE SECRETARY: Calendar Number

1 1255, by Senator Hassell-Thompson, Senate
2 Print 8312, an act to amend the State Finance
3 Law.

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

6 THE SECRETARY: Section 3. This
7 act shall take effect on the 90th day.

8 ACTING PRESIDENT CRAIG JOHNSON:
9 Call the roll.

10 (The Secretary called the roll.)

11 ACTING PRESIDENT CRAIG JOHNSON:
12 Announce the results.

13 THE SECRETARY: Ayes, 58. Nays,
14 1. Senator Flanagan recorded in the negative.

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

17 THE SECRETARY: Calendar Number
18 1256, by Senator Hassell-Thompson, Senate
19 Print 8313, an act to amend the Public
20 Authorities Law.

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

23 THE SECRETARY: Section 6. This
24 act shall take effect on the 90th day.

25 ACTING PRESIDENT CRAIG JOHNSON:

1 Call the roll.

2 (The Secretary called the roll.)

3 ACTING PRESIDENT CRAIG JOHNSON:

4 We are calling the roll on 1256.

5 Announce the results.

6 THE SECRETARY: In relation to
7 Calendar Number 1256, those Senators to be
8 recorded in the negative are Senators Flanagan
9 and LaValle. Also Senators Ranzenhofer and
10 Saland.

11 Ayes, 55. Nays, 4.

12 ACTING PRESIDENT CRAIG JOHNSON:

13 The bill is passed.

14 THE SECRETARY: Calendar Number
15 1257, by Senator Hassell-Thompson, Senate
16 Print 8314, an act to amend the Executive Law
17 and the State Finance Law.

18 ACTING PRESIDENT CRAIG JOHNSON:

19 Read the last section.

20 THE SECRETARY: Section 14. This
21 act shall take effect on the 90th day.

22 ACTING PRESIDENT CRAIG JOHNSON:

23 Call the roll.

24 (The Secretary called the roll.)

25 SENATOR LIBOUS: Lay the bill

1 aside.

2 ACTING PRESIDENT CRAIG JOHNSON:

3 The bill is laid aside.

4 THE SECRETARY: Calendar Number
5 1258, by Senator Foley, Senate Print 8315, an
6 act to amend a chapter of the Laws of 2010.

7 ACTING PRESIDENT CRAIG JOHNSON:

8 Read the last section.

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

11 ACTING PRESIDENT CRAIG JOHNSON:

12 Call the roll.

13 (The Secretary called the roll.)

14 ACTING PRESIDENT CRAIG JOHNSON:

15 Announce the results.

16 THE SECRETARY: Ayes, 58. Nays,
17 1. Senator O. Johnson to be recorded in the
18 negative.

19 ACTING PRESIDENT CRAIG JOHNSON:

20 The bill is passed.

21 THE SECRETARY: Calendar Number
22 1259, by Senator Klein, Senate Print --

23 SENATOR LIBOUS: Lay it aside.

24 ACTING PRESIDENT CRAIG JOHNSON:

25 The bill is laid aside.

1 THE SECRETARY: Calendar Number
2 1260, by Senator Thompson, Senate Print 8338,
3 an act to amend the General Municipal Law.

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

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

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

13 ACTING PRESIDENT CRAIG JOHNSON:
14 The Secretary will ring the bell. Members are
15 all asked to come to the chamber for the
16 reading of the controversial supplemental
17 calendar.

18 The Secretary will read.

19 THE SECRETARY: Calendar Number
20 1216, by Member of the Assembly Gianaris,
21 Assembly Print Number 5434, an act to amend
22 the Education Law.

23 ACTING PRESIDENT CRAIG JOHNSON:
24 Are there any Senators wishing to be heard on
25 the bill?

1 Hearing none, the debate is closed.

2 The Secretary will please ring the bells.

3 Read the last section.

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

6 ACTING PRESIDENT CRAIG JOHNSON:
7 Call the roll.

8 (The Secretary called the roll.)

9 ACTING PRESIDENT CRAIG JOHNSON:
10 Announce the results.

11 THE SECRETARY: Ayes, 53. Nays,
12 0. Absent from voting: Senators Bonacic,
13 Diaz, Fuschillo, Huntley, Leibell, Winner and
14 Young.

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

17 The Secretary will read.

18 THE SECRETARY: Calendar Number
19 1252, by Senator Duane, Senate Print 8227, an
20 act to amend the Public Health Law.

21 ACTING PRESIDENT CRAIG JOHNSON:
22 Are there any Senators wishing to be heard on
23 the bill?

24 Senator Hannon.

25 SENATOR HANNON: Thank you.

1 ACTING PRESIDENT CRAIG JOHNSON:

2 Senator Hannon, on the bill?

3 SENATOR HANNON: On the bill.

4 ACTING PRESIDENT CRAIG JOHNSON:

5 On the bill, Senator Hannon.

6 SENATOR HANNON: In the world of
7 healthcare and public health, this is a pretty
8 big bill. It addresses the public health
9 problem of those with HIV, detecting those
10 with HIV, how they're going to be treated in
11 the healthcare system.

12 In 2006 the Center for Disease
13 Control and Prevention issued new guidelines
14 which attempted to have states lower the
15 barriers for testing for HIV, and this bill is
16 a result. It's been discussed very intensely
17 within the public health community for three
18 years. It's supported by the City of New
19 York, I presume still supported by the Health
20 Department of the state.

21 And I come to it with mixed
22 emotions, because it's one of those bills
23 which has things that I think are essential in
24 terms of lowering the barrier, in terms of in
25 some cases doing away with the very formal

1 consent now required, and, importantly,
2 allowing for testing in cases where there has
3 been a needle stick and a suspicion by a
4 healthcare personnel provider, such as a nurse
5 or a physician, that perhaps they may have
6 been subjected to infection.

7 But I rise to put on the record my
8 real hesitation as to how far we've gone with
9 the testing. When we started discussing this
10 test and lowering the barriers, people started
11 to talk as if every time a patient goes to see
12 a primary care provider that a consent is
13 written out. And therefore, the initial
14 proposal was we'll modify that consent that's
15 written out.

16 Turns out most people thought they
17 were writing out a consent but they're not.
18 They're talking about giving authorization to
19 bill the insurance provider.

20 So the question became, how do you
21 make the consent more universal, how do you
22 make the test more universal? My
23 recommendation had been do it in settings
24 where there is, by statistics, a high
25 incidence of people with HIV-positive results,

1 and that will address the majority part of the
2 problem.

3 Instead, after a considerable
4 amount of time, there has been what is in this
5 bill, a requirement that an HIV test be
6 offered by all primary care physicians in all
7 healthcare settings. That means we're not
8 just talking about an emergency room, we're
9 not just talking about an ambulatory care
10 clinic, we're not talking about a regular
11 clinic, we're talking about every visit in
12 every doctor's office in this state when it's
13 primary care, and that also includes
14 gynecologists.

15 I just don't think the reach is
16 appropriate. And I would think perhaps a
17 chapter amendment would be the best way
18 possible in dealing with this in terms of
19 limiting the scope and not going to the
20 doctor's office or in terms of, as a
21 compromise, having a short-term effective span
22 for this requirement.

23 Because I just think that we are
24 going to be surprising, maybe shocking people
25 throughout this state when they go for their

1 primary care and the doctor has to say to
2 them, "Hey, want an HIV test?" And they're
3 going to go, "Well, how do you get that?" And
4 then they're going to be pretty surprised.

5 The counter has been, well, it's
6 very widespread, we're missing a lot of
7 people. My point would be this is
8 overreaching. The place where we're missing
9 it tends to be in areas where there's been
10 statistically a high level of HIV-positive
11 results, and I think we should focus on that.

12 The other part is a little more
13 philosophical about this testing. We're
14 trying to go in and say to a doctor, This is
15 what you must do in terms of how you practice
16 medicine.

17 I talked to a physician who called
18 me yesterday, one of the best primary care
19 physicians I've come across. She's been
20 serving in the community for years. And she
21 said, "What did it does it mean to offer?"
22 And so I explained what the bill provides.

23 She said, "Well, wait a minute.
24 Anytime I think it's appropriate, I talk the
25 patient into getting an HIV test, and that's

1 fine." I said, "No, no, this goes to you must
2 do that in all cases." And she said, "You
3 know, I don't agree with that." And that's
4 the philosophical point of it.

5 We do deal with philosophy. We do
6 deal with people's health. We do deal with
7 people's lives. And this is really a tough
8 question, how I come about. It's one of those
9 bills where I think there's probably
10 51 percent of the bill I like, there's
11 49 percent of the bill I don't like. I'll
12 probably be voting in favor of it. But it's
13 just one of these troubling things.

14 It's not easy. I've spoken at
15 length with the sponsor. I know this is not
16 something that came about as a matter of just
17 happenstance; it's been heavily negotiated.

18 And so those are my comments I
19 wanted to put on the record. Thank you,
20 Mr. President.

21 ACTING PRESIDENT CRAIG JOHNSON:
22 Thank you, Senator Hannon.

23 Senator Duane, on the bill.

24 SENATOR DUANE: Thank you,
25 Mr. President.

1 Really, the only thing that I want
2 to say about this legislation -- and I would,
3 of course, and I have spoken with many people
4 over many years about this issue and the
5 sincerity with which everyone wants to make
6 sure that as many people as possible at risk
7 are tested and get into treatment.

8 And from the bottom of my heart I
9 want to thank Senator Hannon for his
10 leadership, his partnership, his -- I would
11 like everyone in this body to know the
12 enormous respect with which I hold Senator
13 Hannon for his work on this issue. And that's
14 really the thing that I feel at this time, at
15 this moment, after -- as many of you know --
16 many, many years being involved with this
17 issue, Senator Hannon has been a shining light
18 and an amazing leader, partner, and friend on
19 this issue.

20 And thank you, Mr. President. I do
21 encourage everyone to vote aye.

22 ACTING PRESIDENT CRAIG JOHNSON:

23 Thank you, Senator Duane.

24 Any other Senators wishing to be
25 heard on the bill?

1 Seeing none, hearing none, the
2 debate is closed. The Secretary will please
3 ring the bells.

4 Read the last section.

5 THE SECRETARY: Section 10. This
6 act shall take effect September 1, 2010.

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: In relation to
13 Calendar Number 1252, those recorded in the
14 negative are Senators DeFrancisco, Farley,
15 Flanagan, Golden, O. Johnson, LaValle,
16 Maziarz, Nozzolio, Ranzenhofer and Seward.

17 Absent from voting: Senators
18 Bonacic, Fuschillo, Huntley, Leibell,
19 Marcellino, Winner and Young.

20 Ayes, 42. Nays, 10.

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

23 The Secretary will continue to
24 read.

25 THE SECRETARY: Calendar Number

1 1257, by Senator Hassell-Thompson, Senate
2 Print 8314, an act to amend the Executive Law
3 and the State Finance Law.

4 ACTING PRESIDENT CRAIG JOHNSON:

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

7 Hearing none, the debate is closed.

8 The Secretary will please ring the bells.

9 Read the last section.

10 THE SECRETARY: Section 14. This
11 act shall take effect on the 90th day.

12 ACTING PRESIDENT CRAIG JOHNSON:

13 Call the roll.

14 (The Secretary called the roll.)

15 ACTING PRESIDENT CRAIG JOHNSON:

16 Announce the results.

17 THE SECRETARY: In relation to
18 Calendar Number 1257, those recorded in the
19 negative are Senators DeFrancisco, Farley,
20 Flanagan, Golden, Griffo, Hannon, O. Johnson,
21 Lanza, LaValle, Libous, Little, Maziarz,
22 McDonald, Nozzolio, Padavan, Ranzenhofer,
23 Saland, Seward, Skelos and Volker.

24 Absent from voting: Senators
25 Bonacic, Diaz, Fuschillo, Huntley, Leibell,

1 Marcellino, Winner and Young.

2 Ayes, 32. Nays, 20.

3 ACTING PRESIDENT CRAIG JOHNSON:

4 The bill is passed.

5 The Secretary will continue to
6 read.

7 THE SECRETARY: Calendar Number
8 1259, by Senator Klein, Senate Print 8316, an
9 act to amend the Tax Law.

10 SENATOR NOZZOLIO: Explanation.

11 ACTING PRESIDENT CRAIG JOHNSON:

12 Senator Klein, an explanation has been
13 requested by Senator Nozzolio.

14 SENATOR KLEIN: Mr. President,
15 this legislation just removes language which
16 was in the enforcement provisions of the
17 legislation that we passed last week which was
18 part of the extender.

19 Evidently there were some people
20 who were confused about some of the language,
21 so we just removed any of the language that
22 referred to a federal court stipulation or
23 order.

24 ACTING PRESIDENT CRAIG JOHNSON:

25 Senator Nozzolio.

1 SENATOR NOZZOLIO: Mr. President,
2 on the bill.

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

5 Senator Nozzolio, on the bill.

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

8 Mr. President and my colleagues, I
9 appreciate this measure coming before the
10 house. I do distinguish from the remarks of
11 Senator Klein that some may have had a
12 misimpression. Frankly, I think many of us
13 had the appropriate impression that the
14 language enacted by this house earlier this
15 week -- and it's hard to believe it's been a
16 week. It seems like it's been much longer
17 than that.

18 But the language enacted by this
19 house and I assume by the Assembly, the same
20 language, was in fact language that told the
21 public that the Governor would have full
22 authority to negotiate all sorts of matters
23 with Indians without the appropriate public
24 review, without the appropriate legislative
25 approval for those agreements. And those

1 could be land claims, they could be issues
2 regarding Indian taxation, it could be a whole
3 list of the issues that are normally part and
4 parcel of Indian nation issues in relation to
5 New York State.

6 This legislation does take a step
7 in the right direction to ensure that the
8 public, through the elected representatives,
9 are the final arbiters and approval process
10 for any decisions and agreements made in
11 Indian matters.

12 That I may remind this body it was
13 a few governors ago when Governor Mario Cuomo
14 entered into a compact with the Oneida Indians
15 and established a casino. That compact was
16 never approved by this legislative body and,
17 as such, has been fully questioned and
18 appropriately scrutinized by the courts of
19 this state. And the agreement with the
20 Oneidas and the State of New York is in severe
21 doubt because of the lack of appropriate
22 legislative approval.

23 Senator Klein's bill today I
24 believe closes a significant loophole that was
25 established earlier in the week by the law

1 that required Indian taxation and the issues
2 related to the collection of that tax.

3 So I appreciate the sponsor's rapid
4 review of this issue and the appropriate
5 closure of the loophole so that ultimately
6 whatever matters are discussed with Indian
7 nations and the Governor of this state -- and
8 what other agreements are put forward -- that
9 this Legislature will have the appropriate
10 scrutiny authority, and as such the public
11 will have an opportunity to review those
12 agreements before they become enacted into
13 law.

14 Thank you, Mr. President.

15 ACTING PRESIDENT CRAIG JOHNSON:

16 Thank you, Senator Nozzolio.

17 Senator Valesky, on the bill.

18 SENATOR VALESKY: Thank you,
19 Mr. President, on the bill. And very briefly,
20 because my colleague Senator Nozzolio
21 summarized the issue very well and very
22 accurately.

23 I just want to thank Senator Klein
24 for the speed with which he has brought this
25 chapter amendment to Monday's bill to the

1 floor today.

2 And it is very simple. This is
3 ensuring that the elected representatives have
4 an opportunity to weigh in on any compacts
5 that the Governor of the State of New York
6 would enter into with any Indian tribe across
7 the state.

8 So I'm very supportive of the bill.
9 Again, I want to thank my colleague Senator
10 Klein for bringing this before us. And I urge
11 a yes vote. Thank you.

12 ACTING PRESIDENT CRAIG JOHNSON:

13 Thank you, Senator Valesky.

14 Senator Volker, on the bill.

15 SENATOR VOLKER: Mr. President,
16 as somebody who has a lot of Indians in his
17 district -- in fact, I have part of the Seneca
18 reservation; Senator Young has the other
19 part -- I'm actually very happy with this bill
20 except for one thing.

21 It is my understanding, Senator
22 Klein -- Senator Klein? Excuse me. Senator
23 Klein, it is my understanding that the way the
24 Legislature decides to confirm the Governor's
25 decision or whatever is through a process that

1 is like the Regents process where the Assembly
2 and the Senate meet together, rather than a
3 separate process the way we normally do where
4 the Senate meets and the Assembly meets. Is
5 that correct?

6 ACTING PRESIDENT CRAIG JOHNSON:
7 Senator Volker, do you ask Senator Klein to
8 yield?

9 SENATOR VOLKER: Yeah, I'm sorry,
10 I might as well ask him to yield.

11 ACTING PRESIDENT CRAIG JOHNSON:
12 Senator Klein?

13 SENATOR KLEIN: Mr. President,
14 I'll be happy to yield.

15 The agreement that's stated in the
16 text of the legislation, if an Indian nation
17 or tribe enters into an agreement with the
18 State and the Legislature approves such
19 agreement, that agreement -- or I guess it
20 would also be known as a compact -- would have
21 to be approved by the Legislature, first the
22 Assembly, then the Senate. It would not be
23 similar to the Regents.

24 We looked up the example of when we
25 had a compact with the St. Regis Mohawk tribe.

1 And that was done by the Assembly and the
2 Senate, both legislative houses.

3 SENATOR VOLKER: Thank you,
4 Senator. I think that was my concern. The
5 rumor that I heard was that, you know, that we
6 were going to do Regents-style agreements.
7 And Senator LaValle and I in particular have a
8 little problem with that.

9 But if that's the case, that each
10 house has to approve it, then I have no
11 problem. Then I'm going to vote yes.

12 ACTING PRESIDENT CRAIG JOHNSON:
13 Thank you, Senator Volker.

14 Any other Senators wish to be heard
15 on the bill?

16 Hearing none, debate is closed.
17 The Secretary will ring the bells. I ask all
18 Senators to please return to the chamber for
19 the vote.

20 Read the last section.

21 THE SECRETARY: Section 2. This
22 act shall take effect on the same date and in
23 the same manner as Part D.

24 ACTING PRESIDENT CRAIG JOHNSON:
25 Call the roll.

1 (The Secretary called the roll.)

2 ACTING PRESIDENT CRAIG JOHNSON:

3 Announce the results.

4 THE SECRETARY: In relation to
5 Calendar Number 1259, those recorded in the
6 negative are Senators Adams, Dilan,
7 Hassell-Thompson, L. Krueger, Maziarz,
8 Montgomery, Parker, Perkins and
9 Stewart-Cousins.

10 Absent from voting: Senators
11 Bonacic, Diaz, Fuschillo, Huntley, Marcellino,
12 Winner and Young.

13 Ayes, 43. Nays, 9.

14 ACTING PRESIDENT CRAIG JOHNSON:

15 The bill is passed.

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

19 Senator Klein.

20 SENATOR KLEIN: Mr. President,
21 can we please stand at ease briefly while the
22 Minority conferences the Rules agenda. Then
23 our hope is to come out and take up the
24 noncontroversial calendar.

25 So let's all be back here at 2:30.

1 ACTING PRESIDENT CRAIG JOHNSON:

2 Senator Libous.

3 SENATOR LIBOUS: There will be an
4 immediate Republican conference.

5 ACTING PRESIDENT CRAIG JOHNSON:
6 There will be an immediate Republican
7 conference in the Republican conference room.

8 Until then, the Senate will stand
9 at ease.

10 (Whereupon, the Senate stood at
11 ease at 2:03 p.m.)

12 (Whereupon, the Senate reconvened
13 at 2:48 p.m.)

14 ACTING PRESIDENT SAVINO: Senator
15 Klein.

16 SENATOR KLEIN: Madam President,
17 can we please call a Rules Committee meeting
18 in the Majority Conference Room.

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

21 ACTING PRESIDENT SAVINO: There
22 will be an immediate meeting of the Rules
23 Committee in the Majority Conference Room.

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

1 (Whereupon, the Senate stood at
2 ease at 2:49 p.m.)

3 (Whereupon, the Senate reconvened
4 at 3:16 p.m.)

5 ACTING PRESIDENT CRAIG JOHNSON:
6 Senator Klein.

7 SENATOR KLEIN: Mr. President,
8 can we briefly return to motions and
9 resolutions.

10 ACTING PRESIDENT CRAIG JOHNSON:
11 Returning to motions and resolutions.

12 Senator Klein.

13 SENATOR KLEIN: Mr. President, on
14 behalf of Senator Foley, on page number 34 I
15 offer the following amendments to Calendar
16 Number 1137, Senate Print Number 7137A, and
17 ask that said bill retain its place on the
18 Third Reading Calendar.

19 ACTING PRESIDENT CRAIG JOHNSON:
20 Amendments received.

21 SENATOR KLEIN: On behalf of
22 Senator Dilan, on page 33 I offer the
23 following amendments to Calendar Number 1098,
24 Senate Print Number 1103, and ask that said
25 bill retain its place on Third Reading

1 Calendar.

2 ACTING PRESIDENT CRAIG JOHNSON:

3 Amendments received.

4 SENATOR KLEIN: On behalf of
5 Senator Foley, on page 33 I offer the
6 following amendments to Calendar Number 1021,
7 Senate Print Number 7263B, and ask that said
8 bill retain its place on Third Reading
9 Calendar.

10 ACTING PRESIDENT CRAIG JOHNSON:

11 Amendments received.

12 SENATOR KLEIN: On behalf of
13 Senator Savino, I wish to call up Print Number
14 5953, recalled from the Assembly, which is now
15 at the desk.

16 ACTING PRESIDENT CRAIG JOHNSON:

17 The Secretary will read.

18 THE SECRETARY: Calendar Number
19 1088, by Senator Savino, Senate Print 5953, an
20 act to amend the Real Property Tax Law.

21 ACTING PRESIDENT CRAIG JOHNSON:

22 Senator Klein.

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

1 ACTING PRESIDENT CRAIG JOHNSON:

2 Call the roll on reconsideration.

3 (The Secretary called the roll.)

4 THE SECRETARY: Ayes, 60.

5 ACTING PRESIDENT CRAIG JOHNSON:

6 Senator Klein.

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

9 ACTING PRESIDENT CRAIG JOHNSON:
10 Amendments received.

11 SENATOR KLEIN: Mr. President, on
12 behalf of Senator Squadron, on page number 32
13 I offer the following amendments to Calendar
14 Number 986, Senate Print Number 7855A, and ask
15 that said bill retain its place on Third
16 Reading Calendar.

17 ACTING PRESIDENT CRAIG JOHNSON:
18 Amendments received.

19 SENATOR KLEIN: On behalf of
20 Senator Addabbo, I move to recommit Senate
21 Print Number 5442, Calendar Number 635 on
22 order of third reading, to the Committee on
23 Cities, with instructions to said committee to
24 strike out the enacting clause.

25 ACTING PRESIDENT CRAIG JOHNSON:

1 So ordered.

2 Senator Klein.

3 SENATOR KLEIN: On behalf of
4 Senator Valesky, I wish to call up Print
5 Number 6780, recalled from the Assembly, which
6 is now at the desk.

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

9 THE SECRETARY: Calendar Number
10 184, by Senator Valesky, Senate Print 6780, an
11 act to amend the Agriculture and Markets Law.

12 ACTING PRESIDENT CRAIG JOHNSON:
13 Senator Klein.

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

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

20 (The Secretary called the roll.)

21 THE SECRETARY: Ayes, 60.

22 ACTING PRESIDENT CRAIG JOHNSON:
23 Senator Klein.

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

1 ACTING PRESIDENT CRAIG JOHNSON:

2 Amendments received.

3 Senator Klein.

4 SENATOR KLEIN: Mr. President,
5 staying on motions and resolutions, I move
6 that we pass the Resolution Calendar in its
7 entirety, with the exception of Senate
8 Resolutions 6244, 6245, 6246, 6247 and 6287.

9 ACTING PRESIDENT CRAIG JOHNSON:

10 All those in favor of adopting the Resolution
11 Calendar in its entirety, with the exception
12 of Senate Resolutions 6244, 6245, 6246, 6247,
13 and 6287, please signify by saying aye.

14 (Response of "Aye.")

15 ACTING PRESIDENT CRAIG JOHNSON:

16 Opposed, nay.

17 (No response.)

18 ACTING PRESIDENT CRAIG JOHNSON:

19 The Resolution Calendar is adopted.

20 Senator Klein.

21 SENATOR KLEIN: Mr. President, at
22 this time I move to take up Senate Resolution
23 Number 6287, by Senators Farley and McDonald.
24 I ask that the resolution be read in its
25 entirety and move for its immediate adoption.

1 ACTING PRESIDENT CRAIG JOHNSON:

2 The Secretary will read.

3 THE SECRETARY: By Senators
4 Farley and McDonald, Senate Resolution 6287,
5 mourning the untimely death of Private First
6 Class David Taylor Miller of Wilton, New York,
7 and paying tribute to his courageous actions
8 as a member of the United States Army.

9 "WHEREAS, The courage and bravery
10 of our military personnel since the United
11 States Armed Forces commenced Operation Iraqi
12 Freedom will ensure our continued role as a
13 nation which embodies the ideals of democracy,
14 and as a defender of liberty for people
15 throughout the world; and

16 "WHEREAS, Members of the armed
17 services from the State of New York who have
18 served so valiantly and honorably during
19 Operation Enduring Freedom deserve a special
20 salute from this Legislative Body; and

21 "WHEREAS, It is with feelings of
22 deepest regret that this Legislative Body
23 mourns the untimely death of Private First
24 Class David Taylor Miller of Wilton, New York,
25 and pays tribute to his courageous actions as

1 a member of the United States Army; and

2 "WHEREAS, PFC David Taylor Miller
3 was killed by a suicide bombing on Monday,
4 June 21, 2010, when he and another soldier
5 were on security checkpoints in the province
6 of Kunar in Afghanistan. Always thinking of
7 others, he asked to switch his two-week leave
8 to a later date so a fellow soldier could go
9 home and meet his newborn son; and

10 "WHEREAS, This brave soldier, known
11 as 'Taylor' to his friends and family,
12 graduated from Saratoga Springs High School in
13 2009. He had moved to Wilton from his
14 hometown of Amherst, Virginia, during his
15 sophomore year; and

16 "WHEREAS, He was a lineman for the
17 Saratoga Springs Blue Streaks Varsity Football
18 Team for two years; and

19 "WHEREAS, The son of a Marine,
20 PFC David Taylor Miller joined the United
21 States Army right out of high school in July
22 of 2009. He was deployed to Afghanistan in
23 April 2010; and

24 "WHEREAS, PFC David Taylor Miller
25 was deployed to Afghanistan in April of 2010,

1 serving as a designated marksman with the
2 101st Airborne Division; and

3 "WHEREAS, He is survived by his
4 parents, Leslie and Jesse Miller, and his
5 sister, Victoria Ferguson; and

6 "WHEREAS, The banner of freedom
7 will always wave over our beloved New York and
8 all of America, the Land of the Free and the
9 Home of the Brave; and

10 "WHEREAS, Residents of this great
11 state must never forget the courage with which
12 these men and women served their country, and
13 must recognize that no greater debt is owed
14 than that owed to those who gave their lives
15 for their beloved nation and to those who
16 continue to be missing in action; and

17 "WHEREAS, The freedoms and security
18 we cherish as Americans come at a very high
19 price for those serving in the military in
20 times of conflict. It is fitting and proper
21 that we who are the beneficiaries of those who
22 risk their lives, leaving their families
23 behind, express our appreciation and eternal
24 gratitude for their sacrifices and courageous
25 acts; now, therefore, be it

1 "RESOLVED, That this Legislative
2 Body pause in its deliberations to mourn the
3 untimely death of PFC David Taylor Miller of
4 Wilton, New York, and to pay tribute to his
5 courageous actions as a member of the United
6 States Army; and be it further

7 "RESOLVED, That a copy of this
8 resolution, suitably engrossed, be transmitted
9 to the family of PFC David Taylor Miller."

10 ACTING PRESIDENT CRAIG JOHNSON:
11 Senator Farley.

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

14 Let me just say this is the third
15 time this week that we have mourned the loss
16 of a young man, 19 years of age. You know,
17 it's so sad when you think of -- he was called
18 Taylor, David Taylor Miller -- Taylor gave up
19 his leave to come home to see his family so
20 that a friend of his, his buddy, could visit
21 his newborn son.

22 This young man was killed by a
23 suicide bomber at a checkpoint and gave up his
24 life.

25 Now, at 19 years of age and he's

1 going to be buried in Arlington National
2 Cemetery in Virginia. He originally came from
3 Virginia. He lives in the town of Wilton,
4 which is in my district -- where Senator
5 McDonald lived for many years and was the
6 supervisor -- but went to Saratoga Springs
7 High School and was an outstanding football
8 player and so forth.

9 And it's interesting on July 4th
10 that the City of Saratoga Springs, for their
11 annual Fourth of July weekend celebration,
12 will dedicate their entire weekend celebration
13 to Taylor Miller.

14 You know, it is so sad -- and
15 Senator Maziarz just lost a constituent this
16 week, and Senator Little lost a constituent
17 this week -- it is so sad what is going on in
18 our world today. But I would ask that all of
19 my colleagues in this house mourn the death of
20 Taylor Miller because of all that he's given
21 for our country. And what a fine young man
22 that he thought of others before he thought of
23 himself.

24 And with that, I would yield the
25 floor to my colleague Senator McDonald, who

1 would like to speak on this also.

2 ACTING PRESIDENT CRAIG JOHNSON:

3 Senator McDonald.

4 SENATOR McDONALD: Thank you,
5 Mr. President. Thank you, Senator Farley.
6 Thank you, New York State Senate.

7 This is certainly a sad time, our
8 third this week. I know all my colleagues
9 from all over this great state have been going
10 through this.

11 There's a sadness that's almost
12 incomprehensible if you're a parent. In my
13 life, I've evolved from a soldier to a parent
14 to a grandparent. You not only think of this
15 wonderful soldier, so many of them -- men and
16 women, all over the place -- you think of
17 their family members right now, the sadness in
18 their hearts.

19 I don't know what the answer is.
20 As a former soldier, I know one thing: It's
21 nice to have the people back home carrying
22 about them.

23 I'm proud of this Senate and this
24 state because they do care about our soldiers.
25 I'm proud of the soldiers. When I read the

1 newspapers throughout the state, New York City
2 papers upstate, it's amazing to see the
3 diversity of our military -- men, women,
4 Hispanics, African-Americans, upstate,
5 downstate. One thing in common: They love
6 this country so much they're willing to leave
7 it to protect it.

8 So we have kind of a special
9 responsibility, and I know we're all up for
10 it, and that is to take care of them, the ones
11 that survive and come back, and to be there
12 for their family structures, like now. It's a
13 tough challenge. Other generations of
14 Americans have had to do it. And I'm sure
15 that future generations will have to do it.

16 It is without question one of the
17 saddest things that I've ever been involved
18 with. And I'm just amazed that there's so
19 many men and women throughout this great
20 country and state that are willing to do that
21 for us.

22 So thank you for letting me have
23 the opportunity to express that.

24 ACTING PRESIDENT CRAIG JOHNSON:

25 Thank you, Senator McDonald.

1 Senator Farley.

2 SENATOR FARLEY: I'd like to open
3 up this resolution to all members of the
4 house, if they would choose to be on it.

5 ACTING PRESIDENT CRAIG JOHNSON:
6 The resolution honoring David Taylor Miller
7 will be open to all members of the Senate. If
8 you do not wish to be on the resolution,
9 please contact the desk.

10 I also ask, on behalf of the memory
11 of David Taylor Miller, to have all members
12 and all those within the chamber to please
13 rise for a moment of silence in David Taylor
14 Miller's honor.

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

17 SENATOR FARLEY: Thank you very
18 much, Mr. Chair.

19 ACTING PRESIDENT CRAIG JOHNSON:
20 Thank you, Senator Farley. Thank you, Senator
21 McDonald.

22 Senator Klein.

23 SENATOR KLEIN: Mr. President, I
24 believe Senator Valesky has a resolution at
25 the desk --

1 ACTING PRESIDENT CRAIG JOHNSON:

2 I'm sorry, Senator Klein. We actually have to
3 vote on the resolution, if you wouldn't mind.

4 All those in favor of the
5 resolution please indicate by saying aye.

6 (Response of "Aye.")

7 ACTING PRESIDENT CRAIG JOHNSON:

8 Opposed, nay.

9 (No response.)

10 ACTING PRESIDENT CRAIG JOHNSON:

11 The resolution is adopted.

12 Again, to repeat, Senator Farley
13 does open up the resolution for sponsorship.
14 Those who do not wish to be on the resolution
15 please contact the desk.

16 Senator Klein.

17 SENATOR KLEIN: Mr. President, I
18 believe Senator Valesky 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 the title only.

5 THE SECRETARY: By Senators
6 Valesky and DeFrancisco, legislative
7 resolution honoring Colonel Anthony B. Basile
8 a upon the occasion of his retirement as Chief
9 of Staff of the New York Air National Guard,
10 to be celebrated July 1, 2010.

11 ACTING PRESIDENT CRAIG JOHNSON:
12 The question is on the resolution. All those
13 in favor please signify by saying aye.

14 (Response of "Aye.")

15 ACTING PRESIDENT CRAIG JOHNSON:
16 Opposed, nay.

17 (No response.)

18 ACTING PRESIDENT CRAIG JOHNSON:
19 The resolution is adopted.

20 Senator Valesky has also indicated
21 that he would like to open the resolution up
22 for cosponsorship. Any Senator not wishing to
23 be on the resolution please notify the desk.

24 Senator Klein.

25 SENATOR KLEIN: Mr. President, I

1 believe there's a report of the Rules
2 Committee at the desk. I move that we adopt
3 the report at this time.

4 ACTING PRESIDENT CRAIG JOHNSON:
5 Senator Klein, there is a report of the Rules
6 Committee at the desk.

7 The Secretary will read.

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

11 Senate Print 756, by Senator
12 LaValle, an act to amend the Environmental
13 Conservation Law;

14 Senate Print 1156B, by Senator
15 Thompson, an act to amend the Vehicle and
16 Traffic Law;

17 Senate Print 2245B, by Senator
18 Onorato, an act to amend the Labor Law;

19 Senate Print 4050, by Senator
20 Hannon, an act to authorize the assessor of
21 the County of Nassau;

22 Senate Print 4410A, by Senator
23 O. Johnson, an act to authorize the West Islip
24 Union Free School District to file an
25 application;

1 Senate Print 5342A, by Senator
2 Morahan, an act to authorize the Congregation
3 Mesiftha Beth Shraga to file an application;

4 Senate Print 6291, by Senator
5 Espada, an act to amend the Social Services
6 Law;

7 Senate Print 6356B, by Senator
8 Saland, an act to amend the General Business
9 Law;

10 Senate Print 6694B, by Senator
11 Skelos, an act to authorize the assessor of
12 the County of Nassau;

13 Senate Print 6766, by Senator
14 Farley, an act to authorize the Tabernacle of
15 New Hope to file an application;

16 Senate Print 6928B, by Senator
17 Klein, an act to amend the Education Law;

18 Senate Print 7022B, by Senator
19 Adams, an act to amend the Penal Law;

20 Senate Print 7447A, by Senator
21 Foley, an act authorizing certain school
22 districts;

23 Senate Print 7681A, by Senator
24 Young, an act to validate certain acts of the
25 Fredonia Central School District;

1 Senate Print 7863A, by Senator
2 Espada, an act to amend the Public Officers
3 Law;

4 Senate Print 7934B, by Senator
5 Ranzenhofer, an act authorizing the County of
6 Erie to transfer;

7 Senate Print 7951, by Senator
8 Dilan, an act to amend the Vehicle and Traffic
9 Law;

10 Senate Print 7953, by Senator
11 Peralta, an act to amend the Executive Law;

12 Senate Print 8119A, by Senator
13 Adams, Concurrent Resolution of the Senate and
14 Assembly proposing an amendment;

15 Senate Print 8121, by Senator
16 Fuschillo, an act to authorize the
17 Commissioner of General Services;

18 Senate Print 8122A, by Senator
19 Klein, an act to amend the Executive Law;

20 Senate Print 8124, by Senator C.
21 Johnson, an act to amend the Public
22 Authorities Law;

23 Senate Print 8156, by Senator
24 Smith, an act to amend the Education Law;

25 Senate Print 8213, by Senator

1 Dilan, an act to amend the Vehicle and Traffic
2 Law;

3 Senate Print 8221A, by Senator
4 Breslin, an act authorizing the lease of
5 lands;

6 Senate Print 8257, by Senator
7 C. Kruger, an act to amend Chapter 95 of the
8 Laws of 2000;

9 And Senate Print 8324, by Senator
10 Stachowski, an act to amend the Erie County
11 Tax Act.

12 All bills ordered direct to third
13 reading.

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

17 (Response of "Aye.")

18 ACTING PRESIDENT CRAIG JOHNSON:
19 Opposed, nay.

20 (No response.)

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

23 Senator Klein.

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

1 Senate Supplemental Calendar 71B.

2 ACTING PRESIDENT CRAIG JOHNSON:

3 The Secretary will read.

4 THE SECRETARY: In relation to
5 Calendar Number 1218, Senator LaValle moves to
6 discharge, from the Committee on Rules,
7 Assembly Bill Number 2294 and substitute it
8 for the identical Senate Bill Number 756,
9 Third Reading Calendar 1218.

10 ACTING PRESIDENT CRAIG JOHNSON:

11 Substitution ordered.

12 THE SECRETARY: Calendar Number
13 1218, by Member of the Assembly Thiele,
14 Assembly Print Number 2294, an act to amend
15 the Environmental Conservation Law.

16 ACTING PRESIDENT CRAIG JOHNSON:

17 Read the last section.

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

20 ACTING PRESIDENT CRAIG JOHNSON:

21 Call the roll.

22 (The Secretary called the roll.)

23 ACTING PRESIDENT CRAIG JOHNSON:

24 Announce the results.

25 THE SECRETARY: Ayes, 60.

1 ACTING PRESIDENT CRAIG JOHNSON:
2 The bill is passed.

3 THE SECRETARY: Calendar Number
4 1238, by Senator Thompson, Senate Print 1156B,
5 an act to amend the Vehicle and Traffic Law.

6 ACTING PRESIDENT CRAIG JOHNSON:
7 There is a home-rule message at the desk.
8 Read the last section.

9 THE SECRETARY: Section 2. This
10 act shall take effect January 1, 2011.

11 ACTING PRESIDENT CRAIG JOHNSON:
12 Call the roll.

13 (The Secretary called the roll.)

14 ACTING PRESIDENT CRAIG JOHNSON:
15 Announce the results.

16 THE SECRETARY: Ayes, 60.

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

19 THE SECRETARY: Calendar Number
20 1260, by Senator Onorato --

21 SENATOR LIBOUS: Lay it aside.

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

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

1 ACTING PRESIDENT CRAIG JOHNSON:

2 The bill is laid aside for the day.

3 THE SECRETARY: Calendar Number
4 1261, by Senator Hannon, Senate Print 4050, an
5 act to authorize the assessor of the County of
6 Nassau.

7 ACTING PRESIDENT CRAIG JOHNSON:

8 Read the last section.

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

11 ACTING PRESIDENT CRAIG JOHNSON:

12 Call the roll.

13 (The Secretary called the roll.)

14 ACTING PRESIDENT CRAIG JOHNSON:

15 Announce the results.

16 THE SECRETARY: Ayes, 60.

17 ACTING PRESIDENT CRAIG JOHNSON:

18 The bill is passed.

19 THE SECRETARY: Calendar Number
20 1262, by Senator O. Johnson, Senate Print
21 4410A, an act to authorize the West Islip
22 Union Free School District.

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, 60.

8 ACTING PRESIDENT CRAIG JOHNSON:

9 The bill is passed.

10 THE SECRETARY: In relation to
11 Calendar Number 1263, Senator Morahan moves to
12 discharge, from the Committee on Rules,
13 Assembly Bill Number 7924A and substitute it
14 for the identical Senate Bill Number 5342A,
15 Third Reading Calendar 1263.

16 ACTING PRESIDENT CRAIG JOHNSON:
17 Substitution ordered.

18 THE SECRETARY: Calendar Number
19 1263, by Member of the Assembly Zebrowski,
20 Assembly Print Number 7924A, an act to
21 authorize the Congregation Mesiftha Beth
22 Shraga.

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, 60.

8 ACTING PRESIDENT CRAIG JOHNSON:

9 The bill is passed.

10 THE SECRETARY: Calendar Number

11 1264, by Senator Espada, Senate Print --

12 SENATOR KLEIN: Lay the bill

13 aside for the day, please.

14 ACTING PRESIDENT CRAIG JOHNSON:

15 The bill is laid aside for the day.

16 THE SECRETARY: In relation to

17 Calendar Number 1265, Senator Saland moves to

18 discharge, from the Committee on Rules,

19 Assembly Bill Number 9223C and substitute it

20 for the identical Senate Bill Number 6356B,

21 Third Reading Calendar 1265.

22 ACTING PRESIDENT CRAIG JOHNSON:

23 Substitution ordered.

24 THE SECRETARY: Calendar Number

25 1265, by Member of the Assembly Fields,

1 Assembly Print Number 9223C, an act to amend
2 the General Business Law.

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

5 THE SECRETARY: Section 3. This
6 act shall take effect on the 90th day.

7 ACTING PRESIDENT CRAIG JOHNSON:
8 Call the roll.

9 (The Secretary called the roll.)

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

12 SENATOR SALAND: Very briefly,
13 Mr. President.

14 This bill would prohibit the
15 manufacture and sale here in New York of
16 unsafe cribs as defined by really federal
17 standards, the Federal Consumer Safety
18 Commission. And it's particularly timely.

19 And the reason I rise is because
20 yesterday there was an announcement of some
21 2 million drop-side cribs being recalled. So
22 certainly it's more than fortuitous that we
23 would be passing this bill at this time.

24 Thank you, Mr. President.

25 ACTING PRESIDENT CRAIG JOHNSON:

1 Senator Saland to be recorded in the
2 affirmative.

3 Announce the results.

4 THE SECRETARY: Ayes, 60.

5 ACTING PRESIDENT CRAIG JOHNSON:

6 The bill is passed.

7 THE SECRETARY: In relation to
8 Calendar Number 1266, Senator Skelos moves to
9 discharge, from the Committee on Rules,
10 Assembly Bill Number 6241C and substitute it
11 for the identical Senate Bill Number 6694B,
12 Third Reading Calendar 1266.

13 ACTING PRESIDENT CRAIG JOHNSON:

14 Substitution ordered.

15 THE SECRETARY: Calendar Number
16 1266, by Member of the Assembly Barra,
17 Assembly Print Number 6241C, an act to
18 authorize Gibson Meeting Halls, Inc.

19 ACTING PRESIDENT CRAIG JOHNSON:

20 Read the last section.

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

23 ACTING PRESIDENT CRAIG JOHNSON:

24 Call the roll.

25 (The Secretary called the roll.)

1 ACTING PRESIDENT CRAIG JOHNSON:

2 Announce the results.

3 THE SECRETARY: Ayes, 60.

4 ACTING PRESIDENT CRAIG JOHNSON:

5 The bill is passed.

6 THE SECRETARY: Calendar Number
7 1267, by Senator Farley, Senate Print 6766, an
8 act to authorize the Tabernacle of New Hope.

9 ACTING PRESIDENT CRAIG JOHNSON:
10 Read the last 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 Announce the results.

18 THE SECRETARY: Ayes, 60.

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

21 THE SECRETARY: Calendar Number
22 1268, by Senator Klein --

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

25 ACTING PRESIDENT CRAIG JOHNSON:

1 The bill is laid aside for the day.

2 THE SECRETARY: In relation to
3 Calendar Number 1269, Senator Adams moves to
4 discharge, from the Committee on Rules,
5 Assembly Bill Number 10058B and substitute it
6 for the identical Senate Bill Number 7022B,
7 Third Reading Calendar 1269.

8 ACTING PRESIDENT CRAIG JOHNSON:
9 Substitution ordered.

10 THE SECRETARY: Calendar Number
11 1269, by Member of the Assembly Lancman,
12 Assembly Print Number 10058B, an act to amend
13 the Penal 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, 60.

24 ACTING PRESIDENT CRAIG JOHNSON:
25 The bill is passed.

1 THE SECRETARY: Calendar Number
2 1270, by Senator Foley --

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

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

7 THE SECRETARY: In relation to
8 Calendar Number 1271, Senator Young moves to
9 discharge, from the Committee on Rules,
10 Assembly Bill Number 10798A and substitute it
11 for the identical Senate Bill Number 7681A,
12 Third Reading Calendar 1271.

13 ACTING PRESIDENT CRAIG JOHNSON:
14 Substitution ordered.

15 THE SECRETARY: Calendar Number
16 1271, by Member of the Assembly Parment,
17 Assembly Print Number 10798A, an act to
18 validate certain acts.

19 GETRIDDOFMETOOPLEASE: Read the
20 last section.

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

23 ACTING PRESIDENT CRAIG JOHNSON:
24 Call the roll.

25 (The Secretary called the roll.)

1 ACTING PRESIDENT CRAIG JOHNSON:

2 Announce the results.

3 THE SECRETARY: Ayes, 60.

4 ACTING PRESIDENT CRAIG JOHNSON:

5 The bill is passed.

6 THE SECRETARY: In relation to
7 Calendar Number 1272, Senator Espada --

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

10 ACTING PRESIDENT CRAIG JOHNSON:

11 Senator Klein, we'll continue the substitution
12 and then we'll lay the bill aside for the day.

13 THE SECRETARY: Senator Espada
14 moves to discharge, from the Committee on
15 Rules, Assembly Bill Number 11389 and
16 substitute it for the identical Senate Bill
17 Number 7863A, Third Reading Calendar 1272.

18 ACTING PRESIDENT CRAIG JOHNSON:

19 Substitution ordered.

20 The bill is laid aside for the day.

21 THE SECRETARY: Calendar Number
22 1273, by Senator Ranzenhofer, Senate Print
23 7934B, an act authorizing the County of Erie.

24 ACTING PRESIDENT CRAIG JOHNSON:

25 There is a home-rule message at the desk.

1 Read the last section.

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

4 ACTING PRESIDENT CRAIG JOHNSON:
5 Call the roll.

6 (The Secretary called the roll.)

7 ACTING PRESIDENT CRAIG JOHNSON:
8 Announce the results.

9 THE SECRETARY: Ayes, 60.

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

12 THE SECRETARY: Calendar Number
13 1274, by Senator Dilan, Senate Print 7951, an
14 act to amend the Vehicle and Traffic Law and
15 the Penal Law.

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

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

20 ACTING PRESIDENT CRAIG JOHNSON:
21 Call the roll.

22 (The Secretary called the roll.)

23 ACTING PRESIDENT CRAIG JOHNSON:
24 Announce the results.

25 THE SECRETARY: Ayes, 60.

1 ACTING PRESIDENT CRAIG JOHNSON:

2 The bill is passed.

3 THE SECRETARY: In relation to
4 Calendar Number 1275, Senator Peralta --

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

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

9 Oh, one more time, sorry.

10 THE SECRETARY: In relation to
11 Calendar Number 1275, Senator Peralta moves to
12 discharge, from the Committee on Finance,
13 Assembly Bill Number 10894 and substitute it
14 for the identical Senate Bill Number 7953,
15 Third Reading Calendar 1275.

16 ACTING PRESIDENT CRAIG JOHNSON:
17 Substitution ordered.

18 The bill is laid aside for the day.

19 THE SECRETARY: Calendar Number
20 1276, by Senator Adams, Senate Print --

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

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

25 THE SECRETARY: Calendar Number

1 1277, by Senator Fuschillo, Senate Print
2 8121 --

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

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

7 THE SECRETARY: Calendar Number
8 1278, by Senator Klein, Senate Print 8122A, an
9 act to amend the Executive Law.

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

12 THE SECRETARY: Section 2. 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 Klein, to explain his vote.

19 SENATOR KLEIN: I'll be very
20 brief, Mr. President.

21 This is a piece of legislation that
22 came out of the Task Force on Government
23 Efficiency dealing with improper payments.
24 This is modeled after federal legislation
25 which was very successful that would require

1 state agencies to spend over \$20 million to
2 identify programs that are at risk of a
3 significant amount of improper payments.

4 This is, I think, a way, once we
5 get this into effect, of really providing a
6 lot more transparency, efficiency in
7 government, and ultimately saving the
8 taxpayers millions upon millions of dollars.
9 So of course I vote yes Mr. President.

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

13 Announce the results.

14 THE SECRETARY: Ayes, 60.

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

17 THE SECRETARY: Calendar Number
18 1279, by Senator C. Johnson, Senate Print
19 8124, an act to amend the Public Authorities
20 Law.

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

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

25 ACTING PRESIDENT CRAIG JOHNSON:

1 Call the roll.

2 (The Secretary called the roll.)

3 ACTING PRESIDENT CRAIG JOHNSON:

4 Announce the results.

5 THE SECRETARY: Ayes, 60.

6 ACTING PRESIDENT CRAIG JOHNSON:

7 The bill is passed.

8 THE SECRETARY: In relation to
9 Calendar Number 1280, Senator Smith moves to
10 discharge, from the Committee on Rules,
11 Assembly Bill Number 11404 and substitute it
12 for the identical Senate Bill Number 8156,
13 Third Reading Calendar 1280.

14 ACTING PRESIDENT CRAIG JOHNSON:
15 Substitution ordered.

16 THE SECRETARY: Calendar Number
17 1280, by the Assembly Committee on Rules,
18 Assembly Bill Number 11404, an act to amend
19 the Education Law.

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

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

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

1 THE SECRETARY: Calendar Number
2 1281, by Senator Dilan, Senate Print 8213, an
3 act to amend the Vehicle and Traffic Law.

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

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

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

10 THE SECRETARY: Calendar Number
11 1282, by Senator Breslin, Senate Print 8221A,
12 an act to authorizing the lease of lands.

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

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

17 ACTING PRESIDENT CRAIG JOHNSON:
18 Call the roll.

19 (The Secretary called the roll.)

20 ACTING PRESIDENT CRAIG JOHNSON:
21 Announce the results.

22 THE SECRETARY: Ayes, 60.

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

25 THE SECRETARY: In relation to

1 Calendar Number 1283, Senator C. Kruger moves
2 to discharge, from the Committee on Rules,
3 Assembly Bill Number 11326 and substitute it
4 for the identical Senate Bill Number 8257,
5 Third Reading Calendar 1283.

6 ACTING PRESIDENT CRAIG JOHNSON:
7 Substitution ordered.

8 THE SECRETARY: Calendar Number
9 1283, by the Assembly Committee on Rules,
10 Assembly Print 11326, an act to amend
11 Chapter 95 of the Laws of 2000.

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

14 THE SECRETARY: Section 2. 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, 60.

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

24 THE SECRETARY: In relation to
25 Calendar Number 1284, Senator Stachowski moves

1 to discharge, from the Committee on Local
2 Government, Assembly Bill Number 7385A and
3 substitute it for the identical Senate Bill
4 Number 8324, Third Reading Calendar 1284.

5 ACTING PRESIDENT CRAIG JOHNSON:
6 Substitution ordered.

7 THE SECRETARY: Calendar Number
8 1284, by Member of the Assembly Gabryszak,
9 Assembly Print Number 7385A, an act to amend
10 the Erie County Tax Act.

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

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

15 ACTING PRESIDENT CRAIG JOHNSON:
16 Call the roll.

17 (The Secretary called the roll.)

18 ACTING PRESIDENT CRAIG JOHNSON:
19 Announce the results.

20 THE SECRETARY: In relation to
21 Calendar Number 1284, those recorded in the
22 negative are Senators Golden, Ranzenhofer and
23 Saland. Also Senators Hannon and Griffo.

24 Ayes, 55. Nays, 5.

25 ACTING PRESIDENT CRAIG JOHNSON:

1 The bill is passed.

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

5 SENATOR KLEIN: Mr. President, at
6 this time can we take up the very short
7 supplemental active list.

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

10 THE SECRETARY: Calendar Number
11 782, by Senator Onorato, Senate Print 5847F,
12 an act to amend the Labor Law.

13 ACTING PRESIDENT CRAIG JOHNSON:
14 Senator Klein.

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

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

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

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

1 (Response of "Aye.")

2 ACTING PRESIDENT CRAIG JOHNSON:

3 Opposed, nay.

4 (No response.)

5 ACTING PRESIDENT CRAIG JOHNSON:

6 The message is accepted.

7 The Secretary will read the last
8 section.

9 THE SECRETARY: Section 5. This
10 act shall take effect on --

11 SENATOR LIBOUS: Lay the bill
12 aside.

13 ACTING PRESIDENT CRAIG JOHNSON:

14 The bill is laid aside.

15 Senator Klein.

16 SENATOR KLEIN: Mr. President,
17 can we now go to a reading of the
18 controversial supplemental active list.

19 ACTING PRESIDENT CRAIG JOHNSON:

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

23 The Secretary will read.

24 THE SECRETARY: Calendar Number
25 782, by Senator Onorato, Senate Print 5847F,

1 an act to amend the Labor Law.

2 ACTING PRESIDENT CRAIG JOHNSON:

3 Senator Saland.

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

6 ACTING PRESIDENT CRAIG JOHNSON:

7 Senator Saland, on the bill?

8 SENATOR SALAND: Yeah, on the
9 bill.

10 ACTING PRESIDENT CRAIG JOHNSON:

11 Senator Saland, on the bill.

12 SENATOR SALAND: Mr. President,
13 in reading the legislative intent, it's
14 certainly clear what is being attempted to be
15 done here. And the legislative intent section
16 dwells at some length on recent studies of
17 New York City's construction industry and
18 talks about abuses that are occurring in
19 New York City's construction industry and then
20 goes on to apply statewide a standard for
21 determining who shall be an independent
22 contractor.

23 And as I look at those standards,
24 there are two alternative sections, one under
25 Section 861C, which specifically says any

1 person performing services for a contractor
2 shall be classified as an employee unless the
3 person is a separate business entity under
4 subdivision 2 of this section or all the
5 following criteria are met, and it goes on to
6 list the criteria.

7 But when I look at Section 2, one
8 of the things -- and again, I'll emphasize the
9 difference between perhaps major construction
10 jobs in New York City and smaller jobs that
11 may occur in communities such as those that I
12 represent. But one of the criteria, and it
13 goes from A through L -- and I assume
14 that's -- I won't assume, that's 12 separate
15 criteria each of which have to be met.

16 One of them, in order to establish
17 that you are an independent contractor, the
18 business entity must have a substantial
19 investment of capital in the business entity
20 beyond ordinary tools and equipment and a
21 personal vehicle.

22 Now, many of the independent
23 contractors in my area are one-man operations,
24 perhaps two-person operations, and they get by
25 by working at any number of different sites.

1 And in the course of doing that, they probably
2 have a pickup truck and they probably have a
3 bin in the back of their pickup truck where
4 they store their tools, and that's pretty much
5 their capital investment.

6 We're not talking about major
7 companies here. We're not talking about
8 people who have big-time offices with
9 conference rooms. And we're not talking about
10 people who may have a large space where they
11 store materials or the like. These are folks
12 who in many instances are merely trying
13 sustain themselves. So that immediately
14 presents an enormous problem for any number of
15 small entrepreneurs in my district.

16 Then it goes on to say that the
17 business entity perform services for the
18 contractor under the business entity's name.
19 Now, I'm not quite sure if that means in the
20 absence of either an LLC, a corporation, or a
21 d/b/a, an assumed name, if Tom Jones isn't
22 sophisticated enough to form an LLC and just
23 goes out and works on the job site as a
24 carpenter or a plumber or an electrician, that
25 because he doesn't have a business name that

1 somehow or other he's prejudiced.

2 And the fact that that individual,
3 this one or perhaps two-person operation, may
4 do what is lawfully expected of him and secure
5 workers' compensation insurance as a sole
6 proprietor or partnership, is not binding on
7 any determination.

8 So you take some little guy or
9 little gal who's out there trying to make a
10 living, trying to scrape by, taking any job
11 that might be available in order to do this,
12 perhaps occasionally working as an independent
13 contractor on a particular job site -- and
14 they're complying with the law. They've got
15 workers' compensation. And one of the things
16 you would think they would attempt to use to
17 establish that in fact they are legitimately
18 in business -- and this says if they do that,
19 it doesn't matter.

20 Now, I understand the desire to
21 punish those who violate the law, and they
22 certainly should be punished. I understand
23 the efforts to try and inject an element of
24 wilfulness into this. But this has been cast
25 with such a broad brush that you are

1 effectively going to take, in what is already
2 a horrid economy, a number of people who are
3 desperately trying to sustain themselves by
4 the sweat of their labor -- their hands, their
5 tools, their pickup truck -- and basically say
6 you can't work on a job site as an independent
7 contractor, that's not going to be permitted
8 to you, so you'd better confine yourselves to
9 another universe, you'd better limit
10 yourselves to looking for odd jobs, working at
11 one or another residence or building because
12 you by definition are incapable of being an
13 independent contractor.

14 And the cards have been stacked,
15 stacked so high and so badly that it greatly
16 prejudices any number -- and I couldn't even
17 begin to hazard a guess. And I assume it
18 would be true in many areas upstate.

19 To the extent that there's a
20 significant problem in the city, and to the
21 extent that you want to punish those who are
22 wilfully in violation, then by all means they
23 should be punished. But this should not have
24 been crafted in such a blunderbuss fashion and
25 certainly should have been cognizant of those

1 who are struggling to make a living, who are
2 barely getting by, and who desperately are
3 looking for work and do from time to time, in
4 that capacity, find themselves working on
5 larger job sites as either an independent
6 contractor or perhaps a subcontractor.

7 I would hope that the sponsor, who
8 I know certainly is a keen advocate as the
9 chairman of the Labor Committee, might
10 consider some way in which to take into
11 consideration some of the points I've just
12 raised and before, in fact, this session is
13 over, which is just around the corner, might
14 look at some means by which to address those
15 issues.

16 Thank you.

17 ACTING PRESIDENT CRAIG JOHNSON:

18 Senator Ranzenhofer.

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

21 I share many of the concerns that
22 were expressed by Senator Saland. And it
23 appears that the intent of the legislation is
24 focused mainly on a problem that is occurring
25 in New York City.

1 But what is actually going to
2 happen here, by casting such a wide net to try
3 to deal with a problem in New York City, in my
4 area in Western New York it's going to be very
5 hurtful to the small businessman or woman that
6 right now serves as an independent contractor.

7 It's also going to be
8 disproportionately impacting and negatively
9 impacting minority- and women-owned
10 businesses, because many of them are the
11 smaller companies not yet at the larger stage,
12 and will have a real bad affect on women- and
13 minority-owned businesses.

14 One of the problems that you have
15 here, as Senator Saland said, is that you have
16 companies that are two, five, six, and this is
17 really going to shut them out of the
18 construction industry. They need to rely on
19 not only working on big jobs but working on
20 small jobs. And when you craft this
21 legislation, it's just so onerous that these
22 people are no longer going to be able to work
23 on the types of jobs which they've been
24 working on and they're struggling to work on,
25 because there aren't that many jobs.

1 One of the things that also
2 concerns me is the way, in the legislation,
3 you defined wilfulness. And the way it's
4 defined is that you knew or should have known
5 that the conduct was prohibited. And that
6 seems more like oversight and making a mistake
7 than intentionally going out.

8 I agree that someone who is
9 deliberately cheating the system ought to be
10 punished. But the definition that you have
11 here is going to capture the person who is not
12 knowledgeable, who is not a lawyer. And the
13 penalties that have been assessed are really,
14 really rather extreme, especially for Western
15 New York.

16 The first thing is that -- and I
17 haven't seen much of this -- is that you're
18 now criminalizing this type of behavior. And
19 a person who is guilty of this section can now
20 go to jail. So what you're doing is you're
21 taking a businesswomen or woman and you're
22 putting them in the same category as someone
23 who is convicted of drunk driving and kills
24 somebody, someone who has committed a criminal
25 offense. The businessman, the businesswoman

1 is now in that same category, and they can
2 find themselves in jail. Obviously if they
3 could themselves in jail, they're not going to
4 have a company that exists any longer.

5 Also some of the penalties here,
6 \$25,000, \$50,000 for some of these violations,
7 that may be more than the contractor makes in
8 a year. And yet a penalty of \$50,000 is going
9 to be imposed on that particular individual.

10 I understand what the intent is
11 behind this. The intent is admirable. But
12 the way that the law is crafted in terms of
13 criminalizing what I believe to be mistakes
14 really is going to hurt small business in my
15 area.

16 Thank you.

17 ACTING PRESIDENT CRAIG JOHNSON:

18 Thank you, Senator Ranzenhofer.

19 Senator Savino, on the bill.

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

22 First I want to congratulate
23 Senator Onorato for bringing this bill through
24 and getting it to the floor, and also for the
25 support of the Governor's office and the

1 Assembly, who worked on this.

2 The misclassification of workers in
3 the construction industry is a problem not
4 just for those employees but it's a problem
5 for the State of New York. There is rampant
6 abuses of workers in the construction industry
7 that are hurting the State of New York's
8 bottom line. A recent study by Cornell
9 University suggests that as many as 50,000
10 New York City construction workers -- that's
11 nearly one in four -- are either misclassified
12 as independent contractors or they're employed
13 completely off the books. Which makes their
14 employers already in violation of the law.

15 Over \$4 billion in taxable wages
16 are underreported due to misclassification.
17 That results in the underreporting of over
18 \$175 million in unemployment tax, which taxes
19 our unemployment insurance system.

20 An estimated \$150 million in
21 healthcare costs are shifted to employees,
22 taxpayers and honest employers because of
23 misclassification. Misclassification of
24 construction workers actually puts good actors
25 at a competitive disadvantage with the bad.

1 Now, I understand, from listening
2 to Senator Saland, his concern about real
3 independent contractors. And we believe that
4 in this bill we have found a way to clearly
5 define who is an independent contractor.

6 The Fair Play Act creates a
7 presumption that a construction worker is an
8 employee rather than an independent contractor
9 unless the employer can prove either, under
10 the ABC test, (A) the worker is free from
11 control and direction in performing the
12 work -- that means they're free to make their
13 own independent decisions. They may own their
14 own pickup truck, their own tools and go from
15 place to place. They would not be an
16 employee; they would be an independent
17 contractor -- (B) the service is performed
18 outside the employer's usual course of
19 business; and (C) the individual is
20 customarily engaged in an independent trade
21 that is similar to the work in question.

22 This ABC test has been adopted in
23 26 other states in an effort to crack down on
24 misclassification in the construction
25 industry.

1 It is not just harmful to the
2 employees who find themselves at the end of
3 the year assuming that their taxes have been
4 collected and transmitted to the federal
5 government and the State of New York when in
6 fact they haven't. It protects them in the
7 event they get hurt on the job and they find
8 out that their employer -- who they thought
9 was an employer. They didn't know they had
10 this relationship that they were an
11 independent contractor -- they get hurt on the
12 job, there's no workers' compensation coverage
13 for them. They get unemployed, there's no
14 unemployment insurance tax.

15 This costs the State of New York,
16 it costs the workers, and it costs the good
17 actors in the construction industry. And
18 that's why this is a good piece of
19 legislation.

20 ACTING PRESIDENT CRAIG JOHNSON:
21 Senator Saland, why do you rise?

22 SENATOR SALAND: Will Senator
23 Savino yield?

24 ACTING PRESIDENT CRAIG JOHNSON:
25 Senator Savino, will you yield for a question?

1 SENATOR SAVINO: Certainly.

2 SENATOR SALAND: Just one
3 question. So that means that I can tell all
4 of the people I just described earlier that
5 they can disregard Section 2 because it
6 doesn't apply to them, the 12 criteria that
7 they also have to meet.

8 SENATOR SAVINO: Section 2 refers
9 to who a contractor is. And what we're trying
10 to define under the law here, who is an
11 employer in the construction industry.

12 And I believe that the language
13 that we've put forth clarifies who becomes an
14 independent contractor. So for a small
15 one-or-two-person firm, as opposed to a guy
16 who shows up every day on the job and actually
17 works for somebody else but does not realize
18 that he is being misclassified by his
19 employer.

20 SENATOR SALAND: I'll ask one
21 last question, if you'll yield, and then I'll
22 sit down.

23 SENATOR SAVINO: Certainly.

24 SENATOR SALAND: So the language
25 that reads "Any person performing services for

1 a contractor shall be classified as an
2 employee unless the person is a separate
3 business entity under subdivision 2 of this
4 section" would not apply to my guy in the
5 pickup truck with his tools?

6 SENATOR SAVINO: No.

7 SENATOR SALAND: It doesn't?

8 SENATOR SAVINO: I don't believe
9 it does. It should not apply to him. Unless
10 he has -- if he is working independently. And
11 again, it goes back to the ABC test. He is
12 free from control and direction.

13 SENATOR SALAND: So these --

14 ACTING PRESIDENT CRAIG JOHNSON:
15 Senator Saland, do you wish Senator Savino to
16 yield again?

17 SENATOR SALAND: Yeah, if she'll
18 yield for one more.

19 So I should disregard the "or"
20 that's in that paragraph? It's an either/or
21 situation. So I should disregard --
22 everything that precedes the "or" doesn't
23 count?

24 SENATOR SAVINO: Where exactly --
25 what line are you on, so I can find it.

1 SENATOR SALAND: I'm at lines 43
2 through 47 on page 2, "Presumption of
3 employment in the construction industry."

4 SENATOR SAVINO: [Reading.] All
5 of the following criteria underneath should
6 consider them an employee as opposed to a
7 contractor.

8 SENATOR SALAND: Thank you,
9 Senator Savino.

10 SENATOR SAVINO: Thank you.

11 ACTING PRESIDENT CRAIG JOHNSON:
12 Are there any other Senators wishing to be
13 heard?

14 Seeing none, debate is closed. The
15 Secretary will please ring the bells.

16 Read the last section.

17 THE SECRETARY: Section 5. This
18 act shall take effect on the 60th day.

19 ACTING PRESIDENT CRAIG JOHNSON:
20 Call the roll.

21 (The Secretary called the roll.)

22 ACTING PRESIDENT CRAIG JOHNSON:
23 Senator Onorato, to explain his vote.

24 SENATOR ONORATO: Thank you,
25 Mr. President.

1 I want to thank my colleagues for
2 their support. I understand there were some
3 concerns with the legislation. And if each
4 and every one of you put that in writing to
5 me, if there's something that I can reflect
6 later on in a chapter amendment, I'll be happy
7 to do so to take care of some of the concerns
8 that you just mentioned.

9 But again, thank you for your vote.
10 I vote aye.

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

14 Those who want to be recorded in
15 the negative please raise their hands so the
16 Secretary can record your vote.

17 Announce the results.

18 THE SECRETARY: In relation to
19 Calendar Number 782, those Senators recorded
20 in the negative: Senators DeFrancisco,
21 Griffo, Ranzenhofer and Saland.

22 Absent from voting: Senators
23 Bonacic, Diaz, Duane, Flanagan, Fuschillo,
24 Huntley, C. Kruger, LaValle, Leibell,
25 Marcellino, Robach, Squadron, Winner and

1 Young.

2 Ayes, 39. Nays, 4.

3 ACTING PRESIDENT CRAIG JOHNSON:

4 The bill is passed.

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

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

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

11 SENATOR KLEIN: Mr. President, I
12 move that we adjourn at the call of the
13 Temporary President, intervening days to be
14 legislative days.

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

21 (Whereupon, at 4:12 p.m., the
22 Senate adjourned.)

23

24

25