NEW YORK STATE SENATE

THE STENOGRAPHIC RECORD

ALBANY, NEW YORK

June 25, 2010

10:58 a.m.

REGULAR SESSION

SENATOR CRAIG M. JOHNSON, Acting President

ANGELO J. APONTE, Secretary

P R O C E E D I N G S

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

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

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

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

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

ACTING PRESIDENT CRAIG JOHNSON: The reading of the Journal.

The Secretary will read.

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

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

Presentation of petitions.

Messages from the Assembly.

Messages from the Governor.

Reports of standing committees.

Reports of select committees.

Communications and reports from state officers.

Motions and resolutions.

Senator Klein.

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

ACTING PRESIDENT CRAIG JOHNSON: The Secretary will read.

THE SECRETARY: Page number 12, Senator Stachowski moves to discharge, from the Committee on Rules, Assembly Bill Number 9939A, and substitute it for the identical Senate Bill Number 6277A, Third Reading Calendar 306.

Page 13, Senator Savino moves to discharge, from the Committee on Rules, Assembly Bill Number 5110 and substitute it for the identical Senate Bill Number 4226, Third Reading Calendar 343.

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

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

ACTING PRESIDENT CRAIG JOHNSON: Substitutions ordered.

Senator Klein.

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

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

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

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

(Whereupon, the Senate stood at

ease at 11:02 a.m.)

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

ACTING PRESIDENT CRAIG JOHNSON: Senator Klein.

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

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

The Secretary will read.

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

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

641, by Senator Larkin, an act to authorize;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

6693, by Senator Skelos, an act to authorize;

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

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

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

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

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

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

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

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

7558A, by Senator Addabbo, an act

to amend the General Business Law;

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

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

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

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

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

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

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

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

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

8044, by Senator Oppenheimer, an act to legalize;

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

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

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

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

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

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

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

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

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

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

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

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

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

All bills ordered direct to third reading.

ACTING PRESIDENT CRAIG JOHNSON:

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

(Response of "Aye.")

ACTING PRESIDENT CRAIG JOHNSON:

Opposed, nay.

(No response.)

ACTING PRESIDENT CRAIG JOHNSON:

The Rules Committee report is adopted.

Senator Klein.

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

ACTING PRESIDENT CRAIG JOHNSON:

The supplemental calendar, Senator Klein, or the regular calendar?

SENATOR KLEIN: The regular calendar.

ACTING PRESIDENT CRAIG JOHNSON:

The Secretary will read.

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

SENATOR LIBOUS: Lay the bill aside, please.

ACTING PRESIDENT CRAIG JOHNSON: The bill is laid aside.

THE SECRETARY: Calendar Number 284, by Senator C. Kruger --

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

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

THE SECRETARY: Calendar Number 306, substituted earlier today by Member of the Assembly DelMonte, Assembly Print Number 9939A, an act to amend the Highway Law.

ACTING PRESIDENT CRAIG JOHNSON: Read the last section.

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

ACTING PRESIDENT CRAIG JOHNSON: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT CRAIG JOHNSON: Announce the results.

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT CRAIG JOHNSON: The bill is passed.

THE SECRETARY: Calendar Number

317, by Senator --

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

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

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

ACTING PRESIDENT CRAIG JOHNSON: Read the last section.

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

ACTING PRESIDENT CRAIG JOHNSON: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT CRAIG JOHNSON: Announce the results.

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT CRAIG JOHNSON: The bill is passed.

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

ACTING PRESIDENT CRAIG JOHNSON:

Read the last section.

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

ACTING PRESIDENT CRAIG JOHNSON: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT CRAIG JOHNSON: Announce the results.

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT CRAIG JOHNSON: The bill is passed.

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

ACTING PRESIDENT CRAIG JOHNSON: Read the last section.

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

ACTING PRESIDENT CRAIG JOHNSON: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT CRAIG JOHNSON: Announce the results.

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT CRAIG JOHNSON: The bill is passed.

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

ACTING PRESIDENT CRAIG JOHNSON: Read the last section.

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

ACTING PRESIDENT CRAIG JOHNSON: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT CRAIG JOHNSON: Announce the results.

SENATOR LIBOUS: Lay the bill aside.

ACTING PRESIDENT CRAIG JOHNSON: The bill is laid aside.

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

ACTING PRESIDENT CRAIG JOHNSON: Read the last section.

THE SECRETARY: Section 3. This

act shall take effect immediately.

ACTING PRESIDENT CRAIG JOHNSON: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT CRAIG JOHNSON: Announce the results.

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT CRAIG JOHNSON: The bill is passed.

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

ACTING PRESIDENT CRAIG JOHNSON: Read the last section.

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

ACTING PRESIDENT CRAIG JOHNSON: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT CRAIG JOHNSON: Announce the results.

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT CRAIG JOHNSON: Announce the results.

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT CRAIG JOHNSON: The bill is passed.

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

ACTING PRESIDENT CRAIG JOHNSON: Read the last section.

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

ACTING PRESIDENT CRAIG JOHNSON: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT CRAIG JOHNSON: Announce the results.

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT CRAIG JOHNSON: The bill is passed.

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

ACTING PRESIDENT CRAIG JOHNSON: Read the last section.

THE SECRETARY: Section 3. This

act shall take effect immediately.

ACTING PRESIDENT CRAIG JOHNSON: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT CRAIG JOHNSON: Announce the results.

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT CRAIG JOHNSON: The bill is passed.

THE SECRETARY: Calendar Number 703, by Senator Oppenheimer, Senate Print 7817A, an act to amend Chapter 147 of the Laws of 2001.

ACTING PRESIDENT CRAIG JOHNSON: Read the last section.

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

ACTING PRESIDENT CRAIG JOHNSON: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT CRAIG JOHNSON: Announce the results.

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT CRAIG JOHNSON: The bill is passed.

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

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

Read the last section.

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

ACTING PRESIDENT CRAIG JOHNSON: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT CRAIG JOHNSON: Announce the results.

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT CRAIG JOHNSON: The bill is passed.

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

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

The Secretary will read the last section.

THE SECRETARY: Section 2. This

act shall take effect immediately.

ACTING PRESIDENT CRAIG JOHNSON:

Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT CRAIG JOHNSON:

Announce the results.

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT CRAIG JOHNSON:

The bill is passed.

THE SECRETARY: Calendar Number 754, by Senator Breslin, Senate Print 7220A, an act to amend the Insurance Law.

ACTING PRESIDENT CRAIG JOHNSON:

Read the last section.

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

ACTING PRESIDENT CRAIG JOHNSON:

Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT CRAIG JOHNSON:

Announce the results.

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT CRAIG JOHNSON:

The bill is passed.

THE SECRETARY: Calendar Number

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

ACTING PRESIDENT CRAIG JOHNSON: Read the last section.

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

ACTING PRESIDENT CRAIG JOHNSON: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT CRAIG JOHNSON: Announce the results.

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

ACTING PRESIDENT CRAIG JOHNSON: The bill is passed.

THE SECRETARY: Calendar Number 774, by Senator --

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

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

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

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

ACTING PRESIDENT CRAIG JOHNSON: Read the last section.

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

ACTING PRESIDENT CRAIG JOHNSON: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT CRAIG JOHNSON: Announce the results.

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT CRAIG JOHNSON: The bill is passed.

THE SECRETARY: Calendar Number 840, by Senator --

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

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

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

ACTING PRESIDENT CRAIG JOHNSON: Read the last section.

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

ACTING PRESIDENT CRAIG JOHNSON: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT CRAIG JOHNSON: Announce the results.

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT CRAIG JOHNSON: The bill is passed.

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

ACTING PRESIDENT CRAIG JOHNSON: Read the last section.

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

ACTING PRESIDENT CRAIG JOHNSON: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT CRAIG JOHNSON: Announce the results.

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT CRAIG JOHNSON: The bill is passed.

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

ACTING PRESIDENT CRAIG JOHNSON: Read the last section.

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

ACTING PRESIDENT CRAIG JOHNSON: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT CRAIG JOHNSON: Announce the results.

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT CRAIG JOHNSON: The bill is passed.

THE SECRETARY: Calendar Number 925, by Senator Stewart-Cousins, Senate Print 7876, an act to amend the General Municipal Law.

ACTING PRESIDENT CRAIG JOHNSON: Read the last section.

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

ACTING PRESIDENT CRAIG JOHNSON:

Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT CRAIG JOHNSON:

Announce the results.

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT CRAIG JOHNSON:

The bill is passed.

THE SECRETARY: Calendar Number 926, substituted earlier today by Member of the Assembly Kolb, Assembly Print Number 11179A, an act to authorize the Town of Canandaigua.

ACTING PRESIDENT CRAIG JOHNSON:

There is a home-rule message at the desk.

Read the last section.

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

ACTING PRESIDENT CRAIG JOHNSON:

Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT CRAIG JOHNSON:

Announce the results.

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT CRAIG JOHNSON:

The bill is passed.

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

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

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

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

ACTING PRESIDENT CRAIG JOHNSON: Read the last section.

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

ACTING PRESIDENT CRAIG JOHNSON: Call the roll.

(The Secretary called the roll.)

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

SENATOR DeFRANCISCO: Yes, I'm voting no.

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

ACTING PRESIDENT CRAIG JOHNSON:

Can we have some order, please.

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

ACTING PRESIDENT CRAIG JOHNSON:

Senator DeFrancisco to be recorded in the negative.

Announce the results.

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

Ayes, 45. Nays, 14.

ACTING PRESIDENT CRAIG JOHNSON:

The bill is passed.

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

SENATOR LIBOUS: Lay it aside.

ACTING PRESIDENT CRAIG JOHNSON:

The bill is laid aside.

THE SECRETARY: Calendar Number

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

ACTING PRESIDENT CRAIG JOHNSON: Read the last section.

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

ACTING PRESIDENT CRAIG JOHNSON: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT CRAIG JOHNSON: Announce the results.

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT CRAIG JOHNSON: The bill is passed.

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

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

ACTING PRESIDENT CRAIG JOHNSON: The Secretary will ring the bell. Members are all asked to come to the chamber for a reading of the controversial calendar.

The Secretary will read.

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

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

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

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

SENATOR ADAMS: Anything for my good friend Senator Volker.

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

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

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

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

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

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

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

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

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

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

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

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

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

One of the reasons they're thinking

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

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

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

SENATOR VOLKER: Sure. Thank you.

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

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

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

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

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

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

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

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

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

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

Read the last section.

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

ACTING PRESIDENT CRAIG JOHNSON: Call the roll.

(The Secretary called the roll.)

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

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

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

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

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

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

Announce the results.

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

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

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

Ayes, 42. Nays, 11.

ACTING PRESIDENT CRAIG JOHNSON: The bill is passed.

The Secretary will read.

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

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

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

Read the last section.

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

ACTING PRESIDENT CRAIG JOHNSON: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT CRAIG JOHNSON:

Announce the results.

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

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

Ayes, 32. Nays, 23.

ACTING PRESIDENT CRAIG JOHNSON: The bill is passed.

The Secretary will read.

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

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

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

Read the last section.

THE SECRETARY: Section 2. This

act shall take effect on the 30th day.

ACTING PRESIDENT CRAIG JOHNSON: Call the roll.

(The Secretary called the roll.)

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

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

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

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

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

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

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

Senator Parker, to explain his vote.

SENATOR PARKER: Thank you, Mr. President.

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

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

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

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

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

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

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

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

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

Announce the results.

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

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

Ayes, 37. Nays, 18.

ACTING PRESIDENT CRAIG JOHNSON: The bill is passed.

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

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

ACTING PRESIDENT CRAIG JOHNSON: The Secretary will read.

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

ACTING PRESIDENT CRAIG JOHNSON: Read the last section.

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

ACTING PRESIDENT CRAIG JOHNSON: Call the roll.

(The Secretary called the roll.)

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

SENATOR LITTLE: Thank you, Mr. President.

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

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

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

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

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

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

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

Thank you.

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

Announce the results.

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT CRAIG JOHNSON: The bill is passed.

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

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

Read the last section.

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

ACTING PRESIDENT CRAIG JOHNSON:

Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT CRAIG JOHNSON:

Announce the results.

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT CRAIG JOHNSON:

The bill is passed.

THE SECRETARY: Calendar Number 1209, by Senator O. Johnson, Senate Print 1369, an act to authorize the Church of God of Brentwood.

ACTING PRESIDENT CRAIG JOHNSON:

Read the last section.

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

ACTING PRESIDENT CRAIG JOHNSON:

Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT CRAIG JOHNSON:

Announce the results.

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT CRAIG JOHNSON:

The bill is passed.

THE SECRETARY: In relation to

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

ACTING PRESIDENT CRAIG JOHNSON: Substitution ordered.

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

ACTING PRESIDENT CRAIG JOHNSON: Read the last section.

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

ACTING PRESIDENT CRAIG JOHNSON: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT CRAIG JOHNSON: Announce the results.

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT CRAIG JOHNSON: The bill is passed.

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

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

ACTING PRESIDENT CRAIG JOHNSON: Substitution ordered.

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

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

Read the last section.

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

ACTING PRESIDENT CRAIG JOHNSON: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT CRAIG JOHNSON: Announce the results.

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT CRAIG JOHNSON: The bill is passed.

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

act to legalize, validate, ratify and confirm.

ACTING PRESIDENT CRAIG JOHNSON:

Read the last section.

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

ACTING PRESIDENT CRAIG JOHNSON:

Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT CRAIG JOHNSON:

Announce the results.

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT CRAIG JOHNSON:

The bill is passed.

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

ACTING PRESIDENT CRAIG JOHNSON:

Read the last section.

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

ACTING PRESIDENT CRAIG JOHNSON:

Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT CRAIG JOHNSON:

Announce the results.

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT CRAIG JOHNSON: The bill is passed.

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

ACTING PRESIDENT CRAIG JOHNSON: Read the last section.

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

ACTING PRESIDENT CRAIG JOHNSON: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT CRAIG JOHNSON: Announce the results.

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT CRAIG JOHNSON: The bill is passed.

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

Third Reading Calendar 1215.

ACTING PRESIDENT CRAIG JOHNSON: Substitution ordered.

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

ACTING PRESIDENT CRAIG JOHNSON: Read the last section.

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

ACTING PRESIDENT CRAIG JOHNSON: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT CRAIG JOHNSON: Announce the results.

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT CRAIG JOHNSON: The bill is passed.

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

Third Reading Calendar 1216.

ACTING PRESIDENT CRAIG JOHNSON: Substitution ordered.

THE SECRETARY: Calendar Number 1216, by --

SENATOR VOLKER: Lay the bill aside.

ACTING PRESIDENT CRAIG JOHNSON: The bill is laid aside.

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

ACTING PRESIDENT CRAIG JOHNSON: Substitution ordered.

THE SECRETARY: Calendar Number 1217, by Member of the Assembly Canestrari, Assembly Print 4302A, an act to amend the Workers' Compensation Law.

ACTING PRESIDENT CRAIG JOHNSON: Read the last section.

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

ACTING PRESIDENT CRAIG JOHNSON:

Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT CRAIG JOHNSON:

Announce the results.

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT CRAIG JOHNSON:

The bill is passed.

THE SECRETARY: Calendar Number 1219, by Senator Flanagan, Senate Print 5692, an act to amend the Highway Law.

ACTING PRESIDENT CRAIG JOHNSON:

There is a home-rule message at the desk.

Read the last section.

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

ACTING PRESIDENT CRAIG JOHNSON:

Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT CRAIG JOHNSON:

Announce the results.

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT CRAIG JOHNSON:

The bill is passed.

THE SECRETARY: In relation to

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

ACTING PRESIDENT CRAIG JOHNSON: Substitution ordered.

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

ACTING PRESIDENT CRAIG JOHNSON: Read the last section.

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

ACTING PRESIDENT CRAIG JOHNSON: Call the roll.

(The Secretary called the roll.)

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

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

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

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

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

Thank you very much. I vote in the affirmative.

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

Senator Stachowski, to explain his vote.

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

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

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

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

Announce the results.

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

Ayes, 51. Nays, 8.

ACTING PRESIDENT CRAIG JOHNSON: The bill is passed.

The Secretary will continue to read.

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

ACTING PRESIDENT CRAIG JOHNSON: Read the last section.

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

ACTING PRESIDENT CRAIG JOHNSON: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT CRAIG JOHNSON: Announce the results.

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT CRAIG JOHNSON: The bill is passed.

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

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

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

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

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

ACTING PRESIDENT CRAIG JOHNSON: Read the last section.

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

ACTING PRESIDENT CRAIG JOHNSON: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT CRAIG JOHNSON: Announce the results.

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT CRAIG JOHNSON: The bill is passed.

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

ACTING PRESIDENT CRAIG JOHNSON: Substitution ordered.

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

the Public Authorities Law.

ACTING PRESIDENT CRAIG JOHNSON: Read the last section.

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

ACTING PRESIDENT CRAIG JOHNSON: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT CRAIG JOHNSON: Announce the results.

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

Ayes, 45. Nays, 14.

ACTING PRESIDENT CRAIG JOHNSON: The bill is passed.

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

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

Read the last section.

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

ACTING PRESIDENT CRAIG JOHNSON: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT CRAIG JOHNSON: Announce the results.

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT CRAIG JOHNSON: The bill is passed.

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

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

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

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

ACTING PRESIDENT CRAIG JOHNSON: Read the last section.

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

ACTING PRESIDENT CRAIG JOHNSON:

Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT CRAIG JOHNSON: Announce the results.

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT CRAIG JOHNSON: The bill is passed.

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

ACTING PRESIDENT CRAIG JOHNSON: Substitution ordered.

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

ACTING PRESIDENT CRAIG JOHNSON: Read the last section.

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

ACTING PRESIDENT CRAIG JOHNSON:

Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT CRAIG JOHNSON: Announce the results.

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT CRAIG JOHNSON: The bill is passed.

THE SECRETARY: Calendar Number 1229, by Senator --

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

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

THE SECRETARY: Calendar Number 1230, by Senator Oppenheimer, Senate Print 7134, an act to amend the State Finance Law.

ACTING PRESIDENT CRAIG JOHNSON: Read the last section.

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

ACTING PRESIDENT CRAIG JOHNSON: Call the roll.

(The Secretary called the roll.)

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

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

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

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

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

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

So thank you all for supporting it.

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

Announce the results.

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT CRAIG JOHNSON: The bill is passed.

THE SECRETARY: Calendar Number 1231, by Senator Serrano, Senate Print 7163, an act to amend the Economic Development Law.

ACTING PRESIDENT CRAIG JOHNSON: Read the last section.

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

ACTING PRESIDENT CRAIG JOHNSON: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT CRAIG JOHNSON:

Announce the results.

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT CRAIG JOHNSON: The bill is passed.

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

SENATOR VOLKER: Lay it aside.

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

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

THE SECRETARY: Which one?

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

The Secretary will continue to read.

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

ACTING PRESIDENT CRAIG JOHNSON: Read the last section.

THE SECRETARY: Section 2. This

act shall take effect upon the enactment into law.

ACTING PRESIDENT CRAIG JOHNSON: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT CRAIG JOHNSON: Announce the results.

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

Ayes, 46. Nays, 13.

ACTING PRESIDENT CRAIG JOHNSON: The bill is passed.

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

ACTING PRESIDENT CRAIG JOHNSON: Read the last section.

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

ACTING PRESIDENT CRAIG JOHNSON: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT CRAIG JOHNSON: Announce the results.

THE SECRETARY: Ayes, 59.

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

ACTING PRESIDENT CRAIG JOHNSON: With respect to Calendar Number 1234, the roll call is withdrawn and the bill is -- Senator Klein.

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

ACTING PRESIDENT CRAIG JOHNSON: The lay aside is withdrawn.

The Secretary will read.

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

ACTING PRESIDENT CRAIG JOHNSON: Read the last section.

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

ACTING PRESIDENT CRAIG JOHNSON: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT CRAIG JOHNSON: Announce the results.

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT CRAIG JOHNSON: The bill is passed.

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

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

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

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

ACTING PRESIDENT CRAIG JOHNSON: Substitution ordered.

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

ACTING PRESIDENT CRAIG JOHNSON: Read the last section.

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

ACTING PRESIDENT CRAIG JOHNSON: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT CRAIG JOHNSON: Announce the results.

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT CRAIG JOHNSON: The bill is passed.

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

ACTING PRESIDENT CRAIG JOHNSON: Substitution ordered.

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

ACTING PRESIDENT CRAIG JOHNSON:

Read the last section.

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

ACTING PRESIDENT CRAIG JOHNSON: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT CRAIG JOHNSON: Announce the results.

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT CRAIG JOHNSON: The bill is passed.

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

ACTING PRESIDENT CRAIG JOHNSON: Substitution ordered.

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

ACTING PRESIDENT CRAIG JOHNSON: Read the last section.

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

ACTING PRESIDENT CRAIG JOHNSON: Call the roll.

(The Secretary called the roll.)

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

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

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

Announce the results.

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

Ayes, 48. Nays, 11.

ACTING PRESIDENT CRAIG JOHNSON:

The bill is passed.

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

ACTING PRESIDENT CRAIG JOHNSON: Read the last section.

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

ACTING PRESIDENT CRAIG JOHNSON: Call the roll.

(The Secretary called the roll.)

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

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

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

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

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

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

Announce the results.

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT CRAIG JOHNSON: The bill is passed.

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

ACTING PRESIDENT CRAIG JOHNSON: Substitution ordered.

THE SECRETARY: Calendar Number 1241, by Member of the Assembly Paulin, Assembly Print Number 10638, an act to amend the Education Law.

ACTING PRESIDENT CRAIG JOHNSON: Read the last section.

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

ACTING PRESIDENT CRAIG JOHNSON:

Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT CRAIG JOHNSON:

Announce the results.

THE SECRETARY: In relation to Calendar Number 1241, those Senators to be recorded in the negative: Senators DeFrancisco, Ranzenhofer, Skelos and Volker.

Ayes, 55. Nays, 4.

ACTING PRESIDENT CRAIG JOHNSON:

The bill is passed.

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

ACTING PRESIDENT CRAIG JOHNSON:

Substitution ordered.

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

ACTING PRESIDENT CRAIG JOHNSON:

Read the last section.

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

ACTING PRESIDENT CRAIG JOHNSON: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT CRAIG JOHNSON: Announce the results.

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT CRAIG JOHNSON: The bill is passed.

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

ACTING PRESIDENT CRAIG JOHNSON: The bill is high.

The bill will be laid aside for the day.

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

ACTING PRESIDENT CRAIG JOHNSON: Read the last section.

THE SECRETARY: Section 3. This

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

ACTING PRESIDENT CRAIG JOHNSON: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT CRAIG JOHNSON: Announce the results.

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

Ayes, 56. Nays, 3.

ACTING PRESIDENT CRAIG JOHNSON: The bill is passed.

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

ACTING PRESIDENT CRAIG JOHNSON: Read the last section.

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

ACTING PRESIDENT CRAIG JOHNSON: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT CRAIG JOHNSON:

Announce the results.

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

ACTING PRESIDENT CRAIG JOHNSON: The bill is passed.

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

ACTING PRESIDENT CRAIG JOHNSON: Substitution ordered.

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

ACTING PRESIDENT CRAIG JOHNSON: Read the last section.

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

ACTING PRESIDENT CRAIG JOHNSON: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT CRAIG JOHNSON: Announce the results.

THE SECRETARY: Ayes, 59. Nays, 0.

ACTING PRESIDENT CRAIG JOHNSON: The bill is passed.

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

ACTING PRESIDENT CRAIG JOHNSON: Read the last section.

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

ACTING PRESIDENT CRAIG JOHNSON: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT CRAIG JOHNSON: Announce the results.

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT CRAIG JOHNSON: The bill is passed.

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

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

ACTING PRESIDENT CRAIG JOHNSON: Substitution ordered.

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

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

Read the last section.

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

ACTING PRESIDENT CRAIG JOHNSON: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT CRAIG JOHNSON: Announce the results.

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT CRAIG JOHNSON: The bill is passed.

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

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

ACTING PRESIDENT CRAIG JOHNSON: Substitution ordered.

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

ACTING PRESIDENT CRAIG JOHNSON: Read the last section.

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

ACTING PRESIDENT CRAIG JOHNSON: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT CRAIG JOHNSON: Announce the results.

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT CRAIG JOHNSON: The bill is passed.

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

act to amend the Penal Law.

ACTING PRESIDENT CRAIG JOHNSON: Read the last section.

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

ACTING PRESIDENT CRAIG JOHNSON: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT CRAIG JOHNSON: Announce the results.

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT CRAIG JOHNSON: The bill is passed.

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

ACTING PRESIDENT CRAIG JOHNSON: Substitution ordered.

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

ACTING PRESIDENT CRAIG JOHNSON:

Read the last section.

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

ACTING PRESIDENT CRAIG JOHNSON:

Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT CRAIG JOHNSON:

Announce the results.

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT CRAIG JOHNSON:

The bill is passed.

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

SENATOR LIBOUS: Lay it aside.

ACTING PRESIDENT CRAIG JOHNSON:

The bill is laid aside.

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

ACTING PRESIDENT CRAIG JOHNSON:

Read the last section.

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

ACTING PRESIDENT CRAIG JOHNSON:

Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT CRAIG JOHNSON: Announce the results.

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT CRAIG JOHNSON: the bill is passed.

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

ACTING PRESIDENT CRAIG JOHNSON: Read the last section.

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

ACTING PRESIDENT CRAIG JOHNSON: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT CRAIG JOHNSON: Announce the results.

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

ACTING PRESIDENT CRAIG JOHNSON: The bill is passed.

THE SECRETARY: Calendar Number

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

ACTING PRESIDENT CRAIG JOHNSON: Read the last section.

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

ACTING PRESIDENT CRAIG JOHNSON: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT CRAIG JOHNSON: Announce the results.

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

ACTING PRESIDENT CRAIG JOHNSON: The bill is passed.

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

ACTING PRESIDENT CRAIG JOHNSON: Read the last section.

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

ACTING PRESIDENT CRAIG JOHNSON:

Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT CRAIG JOHNSON: We are calling the roll on 1256.

Announce the results.

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

Ayes, 55. Nays, 4.

ACTING PRESIDENT CRAIG JOHNSON: The bill is passed.

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

ACTING PRESIDENT CRAIG JOHNSON: Read the last section.

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

ACTING PRESIDENT CRAIG JOHNSON: Call the roll.

(The Secretary called the roll.)

SENATOR LIBOUS: Lay the bill

aside.

ACTING PRESIDENT CRAIG JOHNSON: The bill is laid aside.

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

ACTING PRESIDENT CRAIG JOHNSON: Read the last section.

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

ACTING PRESIDENT CRAIG JOHNSON: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT CRAIG JOHNSON: Announce the results.

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

ACTING PRESIDENT CRAIG JOHNSON: The bill is passed.

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

SENATOR LIBOUS: Lay it aside.

ACTING PRESIDENT CRAIG JOHNSON: The bill is laid aside.

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

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

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

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

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

The Secretary will read.

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

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

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

Read the last section.

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

ACTING PRESIDENT CRAIG JOHNSON: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT CRAIG JOHNSON: Announce the results.

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

ACTING PRESIDENT CRAIG JOHNSON: The bill is passed.

The Secretary will read.

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

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

Senator Hannon.

SENATOR HANNON: Thank you.

ACTING PRESIDENT CRAIG JOHNSON: Senator Hannon, on the bill?

SENATOR HANNON: On the bill.

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

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

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

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

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

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

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

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

and that will address the majority part of the problem.

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

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

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

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

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

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

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

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

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

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

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

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

ACTING PRESIDENT CRAIG JOHNSON: Thank you, Senator Hannon.

Senator Duane, on the bill.

SENATOR DUANE: Thank you, Mr. President.

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

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

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

ACTING PRESIDENT CRAIG JOHNSON: Thank you, Senator Duane.

Any other Senators wishing to be heard on the bill?

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

Read the last section.

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

ACTING PRESIDENT CRAIG JOHNSON: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT CRAIG JOHNSON: Announce the results.

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

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

Ayes, 42. Nays, 10.

ACTING PRESIDENT CRAIG JOHNSON: The bill is passed.

The Secretary will continue to read.

THE SECRETARY: Calendar Number

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

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

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

Read the last section.

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

ACTING PRESIDENT CRAIG JOHNSON: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT CRAIG JOHNSON: Announce the results.

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

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

Marcellino, Winner and Young.

Ayes, 32. Nays, 20.

ACTING PRESIDENT CRAIG JOHNSON: The bill is passed.

The Secretary will continue to read.

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

SENATOR NOZZOLIO: Explanation.

ACTING PRESIDENT CRAIG JOHNSON: Senator Klein, an explanation has been requested by Senator Nozzolio.

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

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

ACTING PRESIDENT CRAIG JOHNSON: Senator Nozzolio.

SENATOR NOZZOLIO: Mr. President, on the bill.

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

Senator Nozzolio, on the bill.

SENATOR NOZZOLIO: Thank you, Mr. President.

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

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

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

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

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

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

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

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

Thank you, Mr. President.

ACTING PRESIDENT CRAIG JOHNSON: Thank you, Senator Nozzolio.

Senator Valesky, on the bill.

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

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

floor today.

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

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

ACTING PRESIDENT CRAIG JOHNSON: Thank you, Senator Valesky.

Senator Volker, on the bill.

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

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

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

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

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

ACTING PRESIDENT CRAIG JOHNSON: Senator Klein?

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

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

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

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

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

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

ACTING PRESIDENT CRAIG JOHNSON: Thank you, Senator Volker.

Any other Senators wish to be heard on the bill?

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

Read the last section.

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

ACTING PRESIDENT CRAIG JOHNSON: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT CRAIG JOHNSON: Announce the results.

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

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

Ayes, 43. Nays, 9.

ACTING PRESIDENT CRAIG JOHNSON: The bill is passed.

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

Senator Klein.

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

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

ACTING PRESIDENT CRAIG JOHNSON: Senator Libous.

SENATOR LIBOUS: There will be an immediate Republican conference.

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

Until then, the Senate will stand at ease.

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

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

ACTING PRESIDENT SAVINO: Senator Klein.

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

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

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

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

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

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

ACTING PRESIDENT CRAIG JOHNSON: Senator Klein.

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

ACTING PRESIDENT CRAIG JOHNSON: Returning to motions and resolutions.

Senator Klein.

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

ACTING PRESIDENT CRAIG JOHNSON: Amendments received.

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

Calendar.

ACTING PRESIDENT CRAIG JOHNSON: Amendments received.

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

ACTING PRESIDENT CRAIG JOHNSON: Amendments received.

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

ACTING PRESIDENT CRAIG JOHNSON: The Secretary will read.

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

ACTING PRESIDENT CRAIG JOHNSON: Senator Klein.

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

ACTING PRESIDENT CRAIG JOHNSON:

Call the roll on reconsideration.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT CRAIG JOHNSON:

Senator Klein.

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

ACTING PRESIDENT CRAIG JOHNSON:

Amendments received.

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

ACTING PRESIDENT CRAIG JOHNSON:

Amendments received.

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

ACTING PRESIDENT CRAIG JOHNSON:

So ordered.

Senator Klein.

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

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

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

ACTING PRESIDENT CRAIG JOHNSON: Senator Klein.

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

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

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT CRAIG JOHNSON: Senator Klein.

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

ACTING PRESIDENT CRAIG JOHNSON: Amendments received.

Senator Klein.

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

ACTING PRESIDENT CRAIG JOHNSON: All those in favor of adopting the Resolution Calendar in its entirety, with the exception of Senate Resolutions 6244, 6245, 6246, 6247, and 6287, please signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT CRAIG JOHNSON: Opposed, nay.

(No response.)

ACTING PRESIDENT CRAIG JOHNSON: The Resolution Calendar is adopted.

Senator Klein.

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

ACTING PRESIDENT CRAIG JOHNSON:

The Secretary will read.

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

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

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

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

a member of the United States Army; and

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

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

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

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

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

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

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

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

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

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

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

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

ACTING PRESIDENT CRAIG JOHNSON: Senator Farley.

SENATOR FARLEY: Thank you, Mr. President.

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

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

Now, at 19 years of age and he's

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

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

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

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

would like to speak on this also.

ACTING PRESIDENT CRAIG JOHNSON: Senator McDonald.

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

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

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

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

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

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

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

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

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

ACTING PRESIDENT CRAIG JOHNSON: Thank you, Senator McDonald.

Senator Farley.

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

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

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

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

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

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

Senator Klein.

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

ACTING PRESIDENT CRAIG JOHNSON: I'm sorry, Senator Klein. We actually have to vote on the resolution, if you wouldn't mind.

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

(Response of "Aye.")

ACTING PRESIDENT CRAIG JOHNSON: Opposed, nay.

(No response.)

ACTING PRESIDENT CRAIG JOHNSON: The resolution is adopted.

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

Senator Klein.

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

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

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

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

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

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

(Response of "Aye.")

ACTING PRESIDENT CRAIG JOHNSON: Opposed, nay.

(No response.)

ACTING PRESIDENT CRAIG JOHNSON: The resolution is adopted.

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

Senator Klein.

SENATOR KLEIN: Mr. President, I

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

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

The Secretary will read.

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

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

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

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

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

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

Senate Print 5342A, by Senator Morahan, an act to authorize the Congregation Mesifta Beth Shraga to file an application;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Senate Print 8213, by Senator

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

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

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

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

All bills ordered direct to third reading.

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

(Response of "Aye.")

ACTING PRESIDENT CRAIG JOHNSON: Opposed, nay.

(No response.)

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

Senator Klein.

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

Senate Supplemental Calendar 71B.

ACTING PRESIDENT CRAIG JOHNSON: The Secretary will read.

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

ACTING PRESIDENT CRAIG JOHNSON: Substitution ordered.

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

ACTING PRESIDENT CRAIG JOHNSON: Read the last section.

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

ACTING PRESIDENT CRAIG JOHNSON: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT CRAIG JOHNSON: Announce the results.

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT CRAIG JOHNSON:

The bill is passed.

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

ACTING PRESIDENT CRAIG JOHNSON:

There is a home-rule message at the desk.

Read the last section.

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

ACTING PRESIDENT CRAIG JOHNSON:

Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT CRAIG JOHNSON:

Announce the results.

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT CRAIG JOHNSON:

The bill is passed.

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

SENATOR LIBOUS: Lay it aside.

ACTING PRESIDENT CRAIG JOHNSON:

The bill is laid aside.

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

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

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

ACTING PRESIDENT CRAIG JOHNSON: Read the last section.

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

ACTING PRESIDENT CRAIG JOHNSON: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT CRAIG JOHNSON: Announce the results.

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT CRAIG JOHNSON: The bill is passed.

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

ACTING PRESIDENT CRAIG JOHNSON: Read the last section.

THE SECRETARY: Section 2. This

act shall take effect immediately.

ACTING PRESIDENT CRAIG JOHNSON: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT CRAIG JOHNSON: Announce the results.

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT CRAIG JOHNSON: The bill is passed.

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

ACTING PRESIDENT CRAIG JOHNSON: Substitution ordered.

THE SECRETARY: Calendar Number 1263, by Member of the Assembly Zebrowski, Assembly Print Number 7924A, an act to authorize the Congregation Mesifta Beth Shraga.

ACTING PRESIDENT CRAIG JOHNSON: Read the last section.

THE SECRETARY: Section 2. This

act shall take effect immediately.

ACTING PRESIDENT CRAIG JOHNSON: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT CRAIG JOHNSON: Announce the results.

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT CRAIG JOHNSON: The bill is passed.

THE SECRETARY: Calendar Number 1264, by Senator Espada, Senate Print --

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

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

THE SECRETARY: In relation to Calendar Number 1265, Senator Saland moves to discharge, from the Committee on Rules, Assembly Bill Number 9223C and substitute it for the identical Senate Bill Number 6356B, Third Reading Calendar 1265.

ACTING PRESIDENT CRAIG JOHNSON: Substitution ordered.

THE SECRETARY: Calendar Number 1265, by Member of the Assembly Fields,

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

ACTING PRESIDENT CRAIG JOHNSON: Read the last section.

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

ACTING PRESIDENT CRAIG JOHNSON: Call the roll.

(The Secretary called the roll.)

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

SENATOR SALAND: Very briefly, Mr. President.

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

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

Thank you, Mr. President.

ACTING PRESIDENT CRAIG JOHNSON:

Senator Saland to be recorded in the affirmative.

Announce the results.

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT CRAIG JOHNSON: The bill is passed.

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

ACTING PRESIDENT CRAIG JOHNSON: Substitution ordered.

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

ACTING PRESIDENT CRAIG JOHNSON: Read the last section.

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

ACTING PRESIDENT CRAIG JOHNSON: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT CRAIG JOHNSON: Announce the results.

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT CRAIG JOHNSON: The bill is passed.

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

ACTING PRESIDENT CRAIG JOHNSON: Read the last section.

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

ACTING PRESIDENT CRAIG JOHNSON: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT CRAIG JOHNSON: Announce the results.

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT CRAIG JOHNSON: The bill is passed.

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

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

ACTING PRESIDENT CRAIG JOHNSON:

The bill is laid aside for the day.

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

ACTING PRESIDENT CRAIG JOHNSON: Substitution ordered.

THE SECRETARY: Calendar Number 1269, by Member of the Assembly Lancman, Assembly Print Number 10058B, an act to amend the Penal Law.

ACTING PRESIDENT CRAIG JOHNSON: Read the last section.

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

ACTING PRESIDENT CRAIG JOHNSON: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT CRAIG JOHNSON: Announce the results.

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT CRAIG JOHNSON: The bill is passed.

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

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

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

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

ACTING PRESIDENT CRAIG JOHNSON: Substitution ordered.

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

GETRIDDOFMETOOPLEASE: Read the last section.

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

ACTING PRESIDENT CRAIG JOHNSON: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT CRAIG JOHNSON: Announce the results.

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT CRAIG JOHNSON: The bill is passed.

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

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

ACTING PRESIDENT CRAIG JOHNSON: Senator Klein, we'll continue the substitution and then we'll lay the bill aside for the day.

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

ACTING PRESIDENT CRAIG JOHNSON: Substitution ordered.

The bill is laid aside for the day.

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

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

Read the last section.

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

ACTING PRESIDENT CRAIG JOHNSON: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT CRAIG JOHNSON: Announce the results.

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT CRAIG JOHNSON: The bill is passed.

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

ACTING PRESIDENT CRAIG JOHNSON: Read the last section.

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

ACTING PRESIDENT CRAIG JOHNSON: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT CRAIG JOHNSON: Announce the results.

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT CRAIG JOHNSON: The bill is passed.

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

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

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

Oh, one more time, sorry.

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

ACTING PRESIDENT CRAIG JOHNSON: Substitution ordered.

The bill is laid aside for the day.

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

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

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

THE SECRETARY: Calendar Number

1277, by Senator Fuschillo, Senate Print 8121 --

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

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

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

ACTING PRESIDENT CRAIG JOHNSON: Read the last section.

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

ACTING PRESIDENT CRAIG JOHNSON: Call the roll.

(The Secretary called the roll.)

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

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

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

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

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

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

Announce the results.

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT CRAIG JOHNSON: The bill is passed.

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

ACTING PRESIDENT CRAIG JOHNSON: Read the last section.

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

ACTING PRESIDENT CRAIG JOHNSON:

Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT CRAIG JOHNSON: Announce the results.

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT CRAIG JOHNSON: The bill is passed.

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

ACTING PRESIDENT CRAIG JOHNSON: Substitution ordered.

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

ACTING PRESIDENT CRAIG JOHNSON: Read the last section.

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

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

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

ACTING PRESIDENT CRAIG JOHNSON: Read the last section.

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

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

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

ACTING PRESIDENT CRAIG JOHNSON: Read the last section.

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

ACTING PRESIDENT CRAIG JOHNSON: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT CRAIG JOHNSON: Announce the results.

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT CRAIG JOHNSON: The bill is passed.

THE SECRETARY: In relation to

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

ACTING PRESIDENT CRAIG JOHNSON: Substitution ordered.

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

ACTING PRESIDENT CRAIG JOHNSON: Read the last section.

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

ACTING PRESIDENT CRAIG JOHNSON: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT CRAIG JOHNSON: Announce the results.

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT CRAIG JOHNSON: The bill is passed.

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

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

ACTING PRESIDENT CRAIG JOHNSON: Substitution ordered.

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

ACTING PRESIDENT CRAIG JOHNSON: Read the last section.

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

ACTING PRESIDENT CRAIG JOHNSON: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT CRAIG JOHNSON: Announce the results.

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

Ayes, 55. Nays, 5.

ACTING PRESIDENT CRAIG JOHNSON:

The bill is passed.

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

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

ACTING PRESIDENT CRAIG JOHNSON: The Secretary will read.

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

ACTING PRESIDENT CRAIG JOHNSON: Senator Klein.

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

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

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

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

(Response of "Aye.")

ACTING PRESIDENT CRAIG JOHNSON: Opposed, nay.

(No response.)

ACTING PRESIDENT CRAIG JOHNSON: The message is accepted.

The Secretary will read the last section.

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

SENATOR LIBOUS: Lay the bill aside.

ACTING PRESIDENT CRAIG JOHNSON: The bill is laid aside.

Senator Klein.

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

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

The Secretary will read.

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

an act to amend the Labor Law.

ACTING PRESIDENT CRAIG JOHNSON: Senator Saland.

SENATOR SALAND: Thank you, Mr. President.

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

SENATOR SALAND: Yeah, on the bill.

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

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

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

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

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

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

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

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

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

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

somehow or other he's prejudiced.

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

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

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

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

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

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

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

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

Thank you.

ACTING PRESIDENT CRAIG JOHNSON: Senator Ranzenhofer.

SENATOR RANZENHOFER: Thank you, Mr. President.

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

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

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

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

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

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

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

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

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

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

Thank you.

ACTING PRESIDENT CRAIG JOHNSON: Thank you, Senator Ranzenhofer.

Senator Savino, on the bill.

SENATOR SAVINO: Thank you, Mr. President.

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

Assembly, who worked on this.

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

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

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

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

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

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

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

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

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

SENATOR SALAND: Will Senator Savino yield?

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

SENATOR SAVINO: Certainly.

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

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

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

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

SENATOR SAVINO: Certainly.

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

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

SENATOR SAVINO: No.

SENATOR SALAND: It doesn't?

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

SENATOR SALAND: So these --

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

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

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

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

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

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

SENATOR SALAND: Thank you, Senator Savino.

SENATOR SAVINO: Thank you.

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

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

Read the last section.

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

ACTING PRESIDENT CRAIG JOHNSON: Call the roll.

(The Secretary called the roll.)

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

SENATOR ONORATO: Thank you, Mr. President.

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

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

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

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

Announce the results.

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

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

Young.

Ayes, 39. Nays, 4.

ACTING PRESIDENT CRAIG JOHNSON: The bill is passed.

Senator Klein, that completes the controversial supplemental calendar.

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

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

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

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

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