NEW YORK STATE SENATE

THE STENOGRAPHIC RECORD

ALBANY, NEW YORK

June 29, 2010

1:29 p.m.

REGULAR SESSION

SENATOR CRAIG M. JOHNSON, Acting President

ANGELO J. APONTE, Secretary

P R O C E E D I N G S

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

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

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

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

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

ACTING PRESIDENT CRAIG JOHNSON: The reading of the Journal.

The Secretary will read.

THE SECRETARY: In Senate, Monday, June 28, the Senate met pursuant to adjournment. The Journal of Sunday, June 27, 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, on behalf of Senator Savino, I wish to call up Print Number 2311D, recalled from the Assembly, which is now at the desk.

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

THE SECRETARY: Calendar Number 196, by Senator Savino, Senate Print 2311D, an act to amend the Labor Law and others.

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, 58.

ACTING PRESIDENT CRAIG JOHNSON: Senator Klein.

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

ACTING PRESIDENT CRAIG JOHNSON: Amendments received.

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

ACTING PRESIDENT CRAIG JOHNSON: The Secretary will read.

THE SECRETARY: On page 5, Senator LaValle moves to discharge, from the Committee on Rules, Assembly Bill Number 6848A and substitute it for the identical Senate Bill Number 3292A, Third Reading Calendar 68.

And on page 25, Senator Duane moves to discharge, from the Committee on Rules, Assembly Bill Number 8117B and substitute it for the identical Senate Bill Number 5007A, Third Reading Calendar 900.

ACTING PRESIDENT CRAIG JOHNSON: Substitutions ordered.

Senator Klein.

SENATOR KLEIN: Mr. President, before we proceed, I just want to recognize this is a very special day for one of our colleagues who we hold near and dear. She is someone I consider a dear friend, and I know all of us do. Today is Shirley Huntley's birthday and anniversary.

(Applause.)

SENATOR HUNTLEY: Thank you. Thank you. Thank you.

ACTING PRESIDENT CRAIG JOHNSON: Congratulations, Senator Huntley, on both the birthday and the anniversary.

Senator Klein.

SENATOR KLEIN: Mr. President, at this time I move to recall Senate Resolution Number 6298, which was previously adopted. I ask that the resolution be read in its entirety and ask that Senator Parker, when he gets here, be allowed to speak on his resolution.

ACTING PRESIDENT CRAIG JOHNSON: The Secretary will read the resolution in its entirety.

THE SECRETARY: By Senator Parker, Legislative Resolution Number 6298, mourning the death of Local 371 President Charles Stephen Ensley, distinguished citizen and devoted member of his community.

"WHEREAS, It is the custom of this Legislative Body to pay tribute to citizens of the State of New York whose lifework and civic endeavor serve to enhance the quality of life in their communities and the great State of New York; and

"WHEREAS, Charles Ensley died on Friday, June 18, 2010, at the age of 69; and

"WHEREAS, President of Local 371 for 26 years, Charles Ensley was born in Birmingham, Alabama. He grew up amid the civil rights campaigns of the 1960s, and some of his principles came" --

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

The Secretary will continue to read.

THE SECRETARY: "And WHEREAS, President of Local 371 for 23 years, Charles Ensley was born in Birmingham, Alabama. He

grew up among the civil rights campaigns of the 1960s, and some of his principles came from his father, John, who in the 1950s led African-American workers against brutal opposition in a long battle for equal pay at the Birmingham News; and

"WHEREAS, Charles Ensley had unionism, equality and integrity in his DNA. Growing up in Birmingham as the youngest of four children, he learned the importance of individual goals as well as group goals; and

"WHEREAS, Charles Ensley graduated from Parker High School, at that time the largest black high school in the country. He later went on to attend Howard University in Washington, D.C.; and

"WHEREAS, Charles Ensley soon married, and both he and his wife, Annette, moved to New York City in 1965. He became a caseworker in the Bureau of Child Welfare Bedford-Stuyvesant office, and also provided services in tutoring kids in Harlem and in educating welfare rights groups; and

"WHEREAS, In 1982, after a hotly contested election, with more than 70 percent

of the vote Charles Ensley became president of Local 371 and began demanding more democracy and financial accountability in the union; and

"WHEREAS, Charles Ensley was an innovative, independent leader with high integrity. Possessing an amazing sense of humor and a quick wit, he fought with vigor and intelligence, and was proud of winning dignity and job protections for his members and never wavered in his steadfast determination to pursue a progressive agenda; and

"WHEREAS, Charles Ensley believed that diversity is a major source of the strength of the union. Regardless of race, gender, blue collar or professional, the common ground has been defending the rights of every single union member; and

"WHEREAS, Under Charles Ensley's leadership as a tough negotiator, Local 371 became the 'Mighty, Mighty Union,' and its membership grew from 9,000 to 17,000 members. He received numerous awards for his work, among them the prestigious Ellis Island Medal of Honor in 2001; and

"WHEREAS, Charles Ensley served on a number of boards, including the AFSCME International Executive Board. He enjoyed jazz, theater, and reading that ranged from Russian literature to the French existentialists, with a particular interest in black history and the development of the black novel. In addition, he was a collector of black art and surrounded himself with some of the well-known and lesser-known artists from around the world; and

"WHEREAS, Prior to his death, Charles Ensley asked that everyone, particularly Local 371 members, use time, energy and resources in maintaining the Mighty, Mighty Union. He was a true asset to society; and

"WHEREAS, Charles Ensley distinguished himself in his profession and by his sincere dedication and substantial contribution to the welfare of his community; and

"WHEREAS, Charles Ensley's commitment to excellence, and his spirit of humanity, carried over into all fields of

enterprise, including charitable and civic endeavors; and

"WHEREAS, Charles Ensley is survived by his wife, Annette, his sister, Barbara Jean, his nephews, Bradley and Clarence, his niece, Imani, along with many cousins; and

"WHEREAS, Armed with a humanistic spirit, imbued with a sense of compassion, and comforted by a loving family, Charles Ensley's life was a portrait of service, a legacy which will long endure the passage of time and remain as a comforting memory to all he served and befriended; now, therefore, be it

"RESOLVED, That this Legislative Body pause in its deliberations to mourn the death of Local 371 President Charles Stephen Ensley, distinguished citizen and devoted member of his community; and be it further

"RESOLVED, That a copy of this resolution, suitably engrossed, be transmitted to the family of Charles Ensley."

ACTING PRESIDENT CRAIG JOHNSON: Senator Smith.

SENATOR SMITH: Thank you very

much, Mr. President.

Colleagues, it is on very rare occasions you have the opportunity to celebrate someone's life. Normally when a person passes, obviously there is remorse, there is concern, your heart is broken, your spirit seems shattered because of the separation of that person's involvement in your life.

Charles Ensley was that person. And while my heart is very heavy for someone who had a tremendous amount of integrity, a tremendous amount of independence, leadership, one who regardless of how one felt about a decision that he made, if he gave you his word for something, it was clear.

I can remember my first attempts at running for office when I was what you would call an insurgent and every single person was on the other side of the fence from me. Charles Ensley was a person who stood up to not only the powers that be of DC37, but to all other labor supporters, and said "I'm going to be with this person." He took a lot of heat for it, as Senator Savino can tell

you, for years. But he was that kind of a person.

But I rise today to say to Charles that I will never forget your friendship, I will never forget what you stood for for the poor people of the City of New York.

Most people think union leaders represent those who are working. Yes, that is true. But Charles represented people who were not working. He represented a lot of people who felt as though nobody would speak up for them, and he would at times put his own personal integrity and his leadership of his particular local on the line.

I can't tell you of a finer local leader than Charles Ensley. I've known many of them, many of you know them. For those of you who have not had the opportunity to know Charles Ensley, you missed a real special person.

This resolution that we're going to adopt today is well worded. But if I had to describe its total explanation of Charles Ensley, I'd say it represents only 10 percent, because the emotion and the spirit of this

individual one could not capture in words.

So as I stand here today, I congratulate my colleague Senator Diane Savino for not only this resolution, but thank you for introducing me to Charles. It was because of you that I developed this very special relationship.

And I ask all my colleagues that you will say a silent prayer for this individual at some point during your day, because this is a loss to the people of this state, no question about it.

And Senator Diane Savino, my heart goes out to you as well, because I know how close you and Charles were.

Thank you, Mr. President.

ACTING PRESIDENT CRAIG JOHNSON: Thank you, Senator Smith.

Senator Parker, on the resolution.

SENATOR PARKER: Mr. President, on the resolution.

We have not come to bury Charles Ensley today but to celebrate his life. And this was a life certainly worth living. To paraphrase King, it is not where a person

stands in times of comfort but in times of challenge and in times of difficulty in which people are judged.

And certainly you found Charles Ensley on the front lines every single time it mattered. Every single time it was important for somebody to stand up and do the right thing, you found Charles Ensley at the front and prepared to do the right thing despite what everybody else said or what anybody else did.

Similar to Senator Smith's testimony today, I have a similar testimony in which, when I ran for office and no one was ready to support me, Charles Ensley did the right thing and came forward for me.

And I share my condolences to you, Diane, who I know you were very, very close to President Ensley.

He was somebody who not only led the members of Local 371 of DC 37 with courage and dignity and a knife-cutting honesty, but somebody who saw himself as a leader of New Yorkers all over the state, particularly working men and women who were trying to just

make a way in the world. And people who didn't have much.

You know, the social service workers union is a group of people who work with the least of those in our society. And so he saw both the mission of helping his actual members who were doing the work as well as the clients that they served as his constituency.

And I rededicate myself today to those same principles of making sure that every New Yorker, particularly the least of those in our society, are in fact cared for and get the best possible representation they can.

We remember and honor the life and legacy of Charles Ensley.

ACTING PRESIDENT CRAIG JOHNSON: Thank you, Senator Parker.

Senator Liz Krueger.

SENATOR LIZ KRUEGER: I too want to rise to say that it is a real loss to us all for Charles Ensley no longer being on this earth with us.

Like some of my other colleagues, I

knew Charles a long time. I knew him long before I even thought about running for political office. I was running not-for-profit organizations, working on behalf of low-income New Yorkers, working side by side with members of 371 -- sometimes not always being in agreement with 371 and needing to go in and talk to Charles about why what he thought was the right answer for his workers might not have been the right answer for the low-income people of the City of New York who his workers work with day by day.

I worked with him to argue against the fundamentally wrong policies of the Giuliani administration during those years, worked with him to improve federal law, state law, government regulations and policies that affected both his workers and millions of people in the City of New York.

And he never forgot why he had the job he did, that his job was to represent his members but to represent the fundamental core values of society and government's obligations to help those most in need.

And he was an amazing man. And so

hopefully none of us will forget the lessons of Charles Ensley's life and what he actually did for all of us, whether we ever knew him or not.

Thank you very much, Mr. President.

ACTING PRESIDENT CRAIG JOHNSON: Thank you, Senator Liz Krueger.

Senator Duane.

SENATOR DUANE: Thank you, Mr. President. I also rise to speak in tribute of Charles Ensley.

On so many levels he was an amazing man. I want to say, because I don't want to forget this, not least of which was -- I don't want to say discovering, but recognizing, investing in, mentoring, supporting one of the finest elected officials and union leaders I have ever met or worked with, Diane Savino. And so for that alone, he deserves enormous praise.

Charles Ensley within his union was a voice of conscience and reason and determination. And he was a person who never forgot the mission of the members of his local and of his union. And that was a combination

of making sure that his workers had the strongest possible voice for their well-being as well as making sure that the mission of their workers was also to serve people.

Because the members of that union are the people who are front lines in making life a little bit better and a little bit easier for people who need help. And in fact, for those of us who believe that government can make a difference in people's lives, these are the actual municipal workers who make a difference in people's lives.

To listen to Charles Ensley talk about case managers or social workers was -- it was a beautiful -- it was wonderful. I had the honor of working on the City Council when he would come and testify, and he was riveting and he was always on point and he was convincing and he was amazing.

Some of you know this, many of you -- some of you may know it that, you know, there were various things in the New York City Council that I was known for, and here as well. But the thing that I am most proud of is the thing that I worked on with Charles

Ensley and, frankly, Diane Savino. And that was Local Law 49, which, when former Mayor Giuliani first tried to eliminate the city's Division of AIDS Services, now called HASA -- and then, when he failed at doing that, tried to, under the guise of reform, decimate it -- we were able to put that part of that agency, that department, into law so no mayor, no one could ever, ever, ever eliminate it or destroy it.

And Charles and Diane and people in the activist community -- it was the most amazing thing. And it is the model for how it is that we should provide social services. And though it's now 13 years ago that that law was passed, it is a model for how social services should be provided. And I believe that Charles would agree with that.

Loyal, forceful, smart, funny sometimes -- just an amazing, just a giant, a lion in the labor movement for the people of the City of New York and for the people that he represented and for the people that he represented, the people that they helped every day. A tremendous loss.

But I think, as I think about it now, every day that we do something that impacts people through our social services or children and families legislation here, I'm going to think what would Charles do, how would Charles get this done, where he would find common ground.

He'll be tremendously missed and not forgotten. And, Diane, I am so sorry for your loss.

ACTING PRESIDENT CRAIG JOHNSON: Senator Diane Savino.

SENATOR SAVINO: Thank you, Mr. President. I am going to try and do this without getting too upset.

The person that you heard Senator Parker and Senator Smith and Senator Duane and Senator Krueger talk about and you heard Tommy read about is everything that they said he was. But he's more than that. He is the person who was principally responsible for who I am today and why I'm standing here.

He was not just the president of my union -- although he was -- he was my friend, my mentor, in many ways a father to me in a

way my own father wasn't. So that's the personal part of Charles, and that's why it's a tremendous loss to me.

But for the people of the City of New York, the people of the State of New York, and more importantly for the labor movement, it is a tremendous loss.

You know, we read every day about union leaders -- as a matter of fact, I think the Post did a story this week about the exorbitant salaries of union leaders and how they're not representing their membership. You will never see anything remotely like that --

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

SENATOR SAVINO: You will never see anything remotely like that written about Charles Ensley.

He was fiercely independent, fiercely proud, and actually had real disdain for those who would abuse the leadership of working people. He had a perverse sense that a union leader should never get too far away

from their membership.

And in fact he had a hard and fast rule that as the president of the union, particularly in a civil service union, he would not earn more than his civil service title. And in fact all of us who worked at the union office were in the same position. And he would say, "Girl, if you want a raise, we'll negotiate it at the bargaining table. And if you want a promotion, you take a civil service test."

He felt incredibly strongly that union leaders should not get that far away from their members, that you had to live under the contract to really understand what your union members needed. And in an age where union presidents are earning $300,000 a year -- that would never have happened with Charles.

He was the person to demand honesty and integrity in his parent union. He was the one who uncovered the scandals at Council 37 which led to the administratorship and the eventual jailing of several union leaders for abusing the union's membership. He never gave

up trying to fight to improve Council 37.

And his loss is a tremendous loss not just for them, but for all of us. Because over the years, not just at the bargaining table and not just in the halls of government, he recognized his responsibility to improve the lives of the people that he represented as well as the people they served.

As I said, he is principally responsible for who I am today. He taught me everything I ever knew about unions, he taught me everything I ever knew about government. And every day -- like you, Tom -- when I look at a problem I find myself saying what would Charles do. And the greatest loss to me right now is I can't call him and ask him.

But I know what he would do. And I think we all do. Any of us who were touched by his life would know what Charles would do. And so, as Kevin said, I will commit, every day that I'm in office or in public life, to continue in the tradition of Charles Ensley, who left this world a better place than he found it, left the labor movement a far better place than he found it.

And a voice who is so desperately needed for working people has been silenced. But it won't be as long as people like myself, Kevin, and Liz and Tom and Malcolm, who knew him, who worked with him, will be able to continue his legacy.

Thank you.

ACTING PRESIDENT CRAIG JOHNSON: Thank you, Senator Savino.

I ask all members in the chamber to please rise to honor, in a moment of silence, the life of Charles Ensley.

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

ACTING PRESIDENT CRAIG JOHNSON: This resolution was unanimously adopted on June 25th.

Senator Serrano.

SENATOR SERRANO: Mr. President, at this time I move to recall Senate Resolution Number 6260, which was previously adopted, and I ask that Senator Little be permitted to speak on the resolution.

ACTING PRESIDENT CRAIG JOHNSON: I would ask for order in the chamber as

Senator Little honors the passing of former New York State Assemblyman James Preston King.

Senator Little.

SENATOR LITTLE: Thank you, Mr. President.

I rise today and ask all my colleagues to join me as we recognize a lifetime of achievement by James Preston King. He truly was one of the most honorable public servants that I have ever known.

And in recognition of his public service, the Government Law Center at Albany Law School in April created the Lifetime Achievement in Public Services Award, awarded it to Jim King, and thereby named that award after him.

Jim King was a man of many talents and wore many hats. He had many titles. He was a Marine Corps general of the JAG Corps. He was an Assemblyman who left office in 1995, and I was elected to complete his term. He was a Court of Claims judge. He was chief counsel to the Secretary of State. He was a commissioner on the Lobbying Commission, a member of the Public Integrity Commission. He

was a professor at Siena College and Albany Law School. He was a leader of the band and a trombonist; many of us enjoyed his music at one time or another.

But the titles that were most important to him were that of husband -- he was husband to Jane, who predeceased him after 47 years of marriage, and to Anne, his wife of the past three years. He was dad to three sons -- his son Jim, in Ticonderoga; his son David, who is a member of the Finance staff of the majority here; and his son Glenn, who works at the Attorney General's office.

In all of these things, Jim King was helping other people and always out to do what he could for others, and his entire lifetime was spent doing that in the many roles that he played. But I think, of all the titles that I like the best of Jim King, is that that I can use in talking about him personally, as being a friend.

So I thank you for recognizing him today and for honoring his family with a legislative resolution that we have passed and that I will forward to his family.

Thank you very much.

ACTING PRESIDENT CRAIG JOHNSON: Thank you, Senator Little.

Senator Farley, on the resolution.

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

I also rise to support what Senator Little had to say about one of the most remarkable men that I ever met. An incredible person that grew up in modest circumstances, went into the Marine Corps, ended up as a general, the adjutant general, a distinguished lawyer, law professor, Assemblyman, trombone player. He had everything in the -- I never saw anybody that was so diversified in his talents.

And not only on top of that, as he served in the Assembly, I don't know anybody that didn't love him. He was the nicest man to work with. From both sides of the aisle, Jim King was respected and loved.

He was a wonderful father with an absolutely gorgeous wife and beautiful children. And everything he did, he did well. He served as an Assemblyman in my district,

and it was an absolute joy to work with him.

And Jim King, every time you met him or had a dealing with him, you came away feeling good. Jim King is a remarkable man and somebody that really made quite an impact in this world. And I wish he and his family all the best, because they can be very proud of the legacy that their father left.

Thank you.

ACTING PRESIDENT CRAIG JOHNSON: Thank you, Senator Farley.

Senator Leibell.

SENATOR LEIBELL: Thank you, Mr. President.

I just want to echo my colleagues' comments. Having served in the Assembly, I served there with Jim King, and he truly was a remarkable man with a wonderful family.

I recall, when my children were young, he and his wife Jane inviting our family to spend a weekend with him up in the district, Betty. And it was a wonderful weekend.

He was great with kids but also, as has been noted, a remarkable career of public

service to New York State but also, before that, to this country. He was a fairly senior officer in the Marine Corps when he was serving in Vietnam, and we often talked about his experiences there.

He was a great public servant, a great American, and he will be sorely missed.

ACTING PRESIDENT CRAIG JOHNSON: Thank you, Senator Leibell.

I ask all persons in the chamber to please rise and join me in a moment of silence on the passing of James Preston King.

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

ACTING PRESIDENT CRAIG JOHNSON: Senator Serrano.

SENATOR SERRANO: Mr. President, at this time I move to adopt the Resolution Calendar in its entirety.

ACTING PRESIDENT CRAIG JOHNSON: All those in favor of adopting the Resolution Calendar in its entirety 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 Serrano.

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

ACTING PRESIDENT CRAIG JOHNSON: The Secretary will read.

THE SECRETARY: Calendar Number 239, by Senator Valesky, Senate Print 6718A, an act relating to authorizing.

ACTING PRESIDENT CRAIG JOHNSON: A home-rule message is 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, 61.

ACTING PRESIDENT CRAIG JOHNSON:

The bill is passed.

THE SECRETARY: Calendar Number 600, by Senator Stewart-Cousins, Senate Print 6697, an act to amend the General Municipal Law.

ACTING PRESIDENT CRAIG JOHNSON: A home-rule message is here 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, 61.

ACTING PRESIDENT CRAIG JOHNSON: The bill is passed.

THE SECRETARY: Calendar Number 807, by Member of the Assembly Perry, Assembly Print Number 3563, an act to amend the Election 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: Those recorded in the negative on Calendar Number 807 are Senators Golden, Griffo, Nozzolio, Skelos and Volker. Also Senator Young.

Ayes, 55. Nays, 6.

ACTING PRESIDENT CRAIG JOHNSON: The bill is passed.

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

SENATOR LIBOUS: Lay it aside.

ACTING PRESIDENT CRAIG JOHNSON: The bill is laid aside.

THE SECRETARY: Calendar Number 974, by Senator Dilan, Senate Print 3772A, an act to amend the Public Authorities 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: Those recorded in the negative on Calendar Number 974 are Senators DeFrancisco, Flanagan, O. Johnson, LaValle, Leibell, Little, Marcellino, Ranzenhofer, Saland, Skelos, Volker and Winner. Also Senator Larkin. Also Senator Fuschillo. Also Senator Bonacic.

Ayes, 46. Nays, 15.

ACTING PRESIDENT CRAIG JOHNSON: The bill is passed.

THE SECRETARY: Calendar Number 1021, by Senator Foley, Senate Print 7263C, an act to amend the Public Service --

SENATOR LIBOUS: Lay it aside.

ACTING PRESIDENT CRAIG JOHNSON: The bill is laid aside.

THE SECRETARY: Calendar Number 1196, by Senator --

SENATOR SERRANO: Lay the bill

aside for the day, please.

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

THE SECRETARY: Calendar Number 1197, by Member of the Assembly Pheffer, Assembly Print Number 275A, an act to establish a New York State Automatic Identification Technology Privacy Task Force.

ACTING PRESIDENT CRAIG JOHNSON: Read the last section.

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

ACTING PRESIDENT CRAIG JOHNSON: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT CRAIG JOHNSON: Announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 1197 are Senators DeFrancisco, Farley, Flanagan, Golden, Hannon, O. Johnson, Lanza, Larkin, LaValle, Libous, Little, Marcellino, Maziarz, Ranzenhofer, Seward, Skelos and Winner. Also Senator Saland.

Ayes, 43. Nays, 18.

ACTING PRESIDENT CRAIG JOHNSON: The bill is passed.

THE SECRETARY: Calendar Number 1276, by Senator Adams, Concurrent Resolution of the Senate and Assembly proposing --

SENATOR LIBOUS: Lay it aside.

ACTING PRESIDENT CRAIG JOHNSON: The bill is laid aside.

THE SECRETARY: Calendar Number 1286, Senate Budget Bill, Senate Print 6601A, an act --

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

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

Senator Serrano, that completes the noncontroversial calendar.

SENATOR SERRANO: Mr. President, can I remove the lay aside for the day on Calendar Number 1196.

ACTING PRESIDENT CRAIG JOHNSON: Senator Serrano, we will remove the lay aside for the day on Calendar Number 1196 and call that back up on the noncontroversial calendar.

THE SECRETARY: Calendar Number

1196, by Senator Stewart-Cousins, Senate Print 7190, an act to provide an apportionment.

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 Robach, to explain his vote.

SENATOR ROBACH: Yes, very briefly, Mr. President, to explain my vote.

Obviously everyone is always doing what they can to try and benefit their constituents' and students' education. But this clearly should be a budget item.

And while in all due respect to the sponsor I understand the need in her community, certainly there are needier communities, others that would like to have the same thing. And I think these are items that should be included in the budget, not done in separate preferential treatment for one group of constituents rather than another.

And so for that reason I am forced to vote in the negative.

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

Senator Stewart-Cousins, to explain her vote.

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

I certainly rise to thank my colleagues who will support this measure for the children of Yonkers. For however many decades, Yonkers has once and several times implored the state to create a formula that works for Yonkers.

Yonkers is in a unique position, neither fish nor fowl. While it is in Westchester County, the population in the school district is qualified for free and reduced lunch. Even Senator Skelos in 2008, in our daily newspaper headline, "Skelos Backs More State Education Money for Yonkers," and said that he would back rewriting the state education funding formula for the city.

There was not an easy way to do it, because anything you do triggers things for

other communities. So the superintendent, in conjunction with other leaders in our district, realized that one way to do it was to look at the increased enrollment. And over the past year the enrollment has increased by almost 600 young people, and that's not included in the formula.

So whereas the funding had been cut in the City of Yonkers, there had been no consideration for the increase. This allows for consideration going forward for the increase in the student body and the realization that Yonkers indeed is one of the Big Five, is unique, and certainly in this respect should have all of its students counted.

So certainly I vote aye.

ACTING PRESIDENT CRAIG JOHNSON: Senator Stewart-Cousins to be recorded in the affirmative.

Senator Farley, to explain his vote.

SENATOR FARLEY: Thank you.

Nobody likes to vote against anything for Yonkers. But let me just say

that when we don't even fund libraries for $2 million, we could take some of this money and statewide help the education system for everyone with supporting libraries.

I vote no.

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

The Secretary will announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 1196 are Senators Alesi, Bonacic, DeFrancisco, Farley, Flanagan, Fuschillo, Golden, Griffo, Hannon, O. Johnson, Lanza, Larkin, LaValle, Leibell, Libous, Little, Marcellino, Maziarz, McDonald, Nozzolio, Padavan, Ranzenhofer, Robach, Saland, Seward, Skelos, Volker, Winner and Young.

Ayes, 32. Nays, 29.

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

I apologize, Senator Saland.

SENATOR SALAND: Thank you, Mr. President. I merely wanted to make comment to the fact that Yonkers already

receives an enhancement grant that none of the other Big Four receive, somewhere in the area -- I believe it might be somewhere in the area as much as $17 million.

So there certainly has been a recognition in the monies that have been driven under the existing education formula to the particular needs of the City of Yonkers.

Thank you, Mr. President.

ACTING PRESIDENT CRAIG JOHNSON: Thank you, Senator Saland. You were recorded in the negative.

We announced the results: 32-29. The bill is passed.

Senator Serrano, now that completes the noncontroversial calendar.

SENATOR SERRANO: Thank you, Mr. President. At this time can we go to a controversial reading of the 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

929, by Senator Stewart-Cousins, Senate Print 7962C, an act to amend the General Municipal Law.

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

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

ACTING PRESIDENT SAVINO: Read the last section.

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

ACTING PRESIDENT SAVINO: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT SAVINO: Announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 929 are Senators Alesi, Bonacic, DeFrancisco, Farley, Flanagan, Fuschillo, Golden, Griffo, Hannon, O. Johnson, Lanza, Larkin, LaValle, Leibell, Libous, Little, Marcellino, Maziarz, McDonald, Nozzolio, Padavan, Ranzenhofer, Robach, Saland, Seward, Skelos, Volker, Winner and

Young.

Ayes, 32. Nays, 29.

ACTING PRESIDENT SAVINO: The bill is passed.

THE SECRETARY: Calendar Number 1021, by Senator Foley, Senate Print --

SENATOR SERRANO: Madam President, could we lay that bill aside temporarily.

ACTING PRESIDENT SAVINO: The bill is laid aside temporarily.

The Secretary will read.

THE SECRETARY: Calendar Number 1276, by Senator Adams, Senate Print 8119A, Concurrent Resolution of the Senate and Assembly proposing an amendment to Section 9 of Article 1 of the Constitution.

ACTING PRESIDENT SAVINO: Are there any Senators wishing to be heard?

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

Senator Padavan.

SENATOR PADAVAN: When we get to that point, I'd like to explain my vote, please.

ACTING PRESIDENT SAVINO: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT SAVINO: Senator Padavan, to explain his vote.

SENATOR PADAVAN: Thank you, Madam President.

There's an old adage that you know the session is going to end when there's a gambling bill that's before us. And here we are again, as we have been for decades now, with some additional type of gambling venue imposed upon the people of this state.

And I'm just simply going to explain my vote because we could go on by the hour in terms of talking about this issue.

Here's where we are. We are the state in this great nation with the greatest number of problem and compulsive gamblers, over a million people. We are a state that gambles somewhere in excess of over $50 billion annually in all of the various venues that are out there. We are the "Gambling State" and no longer the Empire State.

Why has that happened? Year after year a new gambling idea -- it began with the lottery in the '60s, an annual event, semiannual, and now every minute, depending on how fast you can scratch off a card. Super Lotto, Quick Draw, VLTs at racetracks, Indian casinos. On a per capita basis, we gamble more in New York State than any state including Nevada.

And that's money that's sucked right out of the economy. And if you don't think there's a price to pay for it, there is. In social services, in criminality, in disruption in local communities wherever these venues are.

There are all kinds of studies all over the country, including in New York by the New York State Council on Problem Gambling, that tell us the more opportunities you have, the more problems you create. And this amendment, if it ever became reality, constitutional amendment, would just be one more opportunity building upon all the others that have brought us to this state we're in.

And I will be voting no.

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

Are there any other Senators wishing to explain their vote?

Seeing none, announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 1276 are Senators Diaz, Duane, Hannon, L. Krueger, LaValle, Leibell, Marcellino, Padavan, Ranzenhofer, Robach, Saland, Skelos and Volker. Also Senator Alesi.

Ayes, 47. Nays, 14.

ACTING PRESIDENT SAVINO: The amendment passes.

THE SECRETARY: Calendar Number 1286, Senate Budget Bill, Senate Print 6601A, an act making appropriations for the support of government.

SENATOR SERRANO: Could we lay that bill aside for the day.

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

Senator Serrano.

SENATOR SERRANO: Madam President, there will be an immediate meeting

of the Rules Committee in Room 332.

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

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

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

(Whereupon, the Senate stood at ease at 2:30 p.m.)

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

ACTING PRESIDENT SAVINO: Senator Klein.

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

ACTING PRESIDENT SAVINO: 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 754, by Senator

Breslin, an act to amend the General Business Law;

1385, by Senator Duane, an act to amend the Elder Law;

2208B, by Senator Diaz, an act to amend the Elder Law;

2361C, by Senator Parker, an act to amend the General Business Law;

2809, by Senator Morahan, an act to amend the Tax Law;

3182A, by Senator Marcellino, an act to authorize;

3317A, by Senator Oppenheimer, an act to amend the Administrative Code of the City of New York;

3430, by Senator Breslin, an act to amend Chapter 415 of the Laws of 1913;

4786A, by Senator L. Krueger, an act to amend the Insurance Law;

5108, by Senator Savino, an act to amend the Workers' Compensation Law;

5388A, by Senator Squadron, an act to amend the Public Authorities Law;

5439B, by Senator Valesky, an act to amend the Racing, Pari-Mutuel Wagering and

Breeding Law;

5768, by Senator Schneiderman, an act to amend the Business Corporation Law;

5794A, by Senator Oppenheimer, an act to amend the Agriculture and Markets Law;

6418A, by Senator C. Johnson, an act to amend the Penal Law;

6432, by Senator Skelos, an act to amend Chapter 846 of the Laws of 1970;

6726, by Senator Stachowski, an act to amend the Limited Liability Company Law;

6832A, by Senator O. Johnson, an act to amend Chapter 572 of the Laws of 1994;

6932, by Senator Montgomery, an act to amend the Social Services Law;

6977, by Senator Larkin, an act to amend the Criminal Procedure Law;

6990B, by Senator Aubertine, an act to create;

7282, by Senator LaValle, an act designating;

7410B, by Senator Espada, an act to amend the General Business Law;

7462A, by Senator Perkins, an act to amend Chapter 174 of the Laws of 1968;

8255, by Senator C. Kruger, an act to amend the Tax Law;

8349, by Senator Parker, an act to amend the General Municipal Law;

8372, by Senator Klein, an act to amend the Education Law;

8380, by Senator Savino, an act to amend the Labor Law;

8390, by Senator Hassell-Thompson, an act to amend the Domestic Relations Law;

And Senate Print 8357, by Senator Smith, an act to amend the Transportation Law.

All bills ordered direct to third reading.

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

(Response of "Aye.")

ACTING PRESIDENT SAVINO: Opposed, nay.

(No response.)

ACTING PRESIDENT SAVINO: The Rules Committee report is adopted.

Senator Klein.

SENATOR KLEIN: Thank you, Madam

President.

At this time can we please go to a reading of the supplemental calendar.

ACTING PRESIDENT SAVINO: The Secretary will proceed with a reading of the supplemental calendar.

THE SECRETARY: In relation to Calendar Number 1294, Senator Duane moves to discharge, from the Committee on Aging, Assembly Bill Number 3956 and substitute it for the identical Senate Bill Number 1385, Third Reading Calendar 1294.

SENATOR PADAVAN: Lay it aside.

ACTING PRESIDENT SAVINO: Substitution ordered.

The bill is laid aside.

THE SECRETARY: Calendar Number 1295, by Senator Diaz, Senate Print 2208B, an act to amend the Elder Law.

ACTING PRESIDENT SAVINO: Read the last section.

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

ACTING PRESIDENT SAVINO: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT SAVINO: Senator DeFrancisco, to explain his vote.

SENATOR DeFRANCISCO: I'm voting no. Not because I don't have the greatest respect for senior citizens, since I am one, but the fact that this is a task force, another task force. We seem to have a run on task force bills in the last couple of weeks.

We're in a budget situation that is very dire, and there seems to be more need for financial restraint, and that's why I'm voting no. Thank you.

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

Senator Saland, to explain his vote.

SENATOR SALAND: Thank you, Madam President.

Madam President, this bill is strangely similar -- in fact, identical -- to a bill which I had passed I believe in 2008. And at that time the Governor vetoed it because of the fiscal.

And however dire our situation was

then, it's even more dire now. I believe the fiscal impact is somewhere in the area of $400,000. It's not provided for in the budget.

And it's with great reluctance that I find myself constrained to vote against a bill that I had previously introduced and carried, basically on the simple fact and premise that it's not provided for in the fiscal plan, it's definitely going to be vetoed.

And I would hope there would be a time and a place in which we can accomplish this, but this certainly is not going to be the time or the place.

Thank you, Madam President.

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

Are there any other Senators wishing to explain their vote?

Announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 1295 are Senators DeFrancisco, Flanagan, O. Johnson, Little, Ranzenhofer, Saland, Skelos, Winner

and Young.

Ayes, 52. Nays, 9.

ACTING PRESIDENT SAVINO: The bill is passed.

THE SECRETARY: In relation to Calendar Number 1296, Senator Parker moves to discharge, from the Committee on Rules, Assembly Bill Number 1558C and substitute it for the identical Senate Bill Number 2361C, Third Reading Calendar 1296.

ACTING PRESIDENT SAVINO: Substitution ordered.

THE SECRETARY: Calendar Number 1296, by Member of the Assembly Gianaris, Assembly Print Number 1558C, an act to amend the General Business Law.

ACTING PRESIDENT SAVINO: Read the last section.

THE SECRETARY: Section 6. This act shall take effect on the 150th day.

ACTING PRESIDENT SAVINO: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT SAVINO: Announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 1296 are Senators DeFrancisco, Farley, Flanagan, Fuschillo, Golden, O. Johnson, Maziarz, Ranzenhofer, Saland, Skelos and Young.

Ayes, 50. Nays, 11.

ACTING PRESIDENT SAVINO: The bill is passed.

THE SECRETARY: Calendar Number 1297, by Senator Morahan, Senate Print 2809, an act to amend the Tax Law.

ACTING PRESIDENT SAVINO: Read the last section.

THE SECRETARY: Section 3. This act shall take effect on the 60th day.

ACTING PRESIDENT SAVINO: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT SAVINO: Announce the results.

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT SAVINO: The bill is passed.

THE SECRETARY: In relation to Calendar Number 1298, Senator Marcellino moves

to discharge, from the Committee on Rules, Assembly Bill Number 6742A and substitute it for the identical Senate Bill Number 3182A, Third Reading Calendar 1298.

ACTING PRESIDENT SAVINO: Substitution ordered.

THE SECRETARY: Calendar Number 1298, by Member of the Assembly Conte, Assembly Print Number 6742A, an act to authorize payment.

ACTING PRESIDENT SAVINO: Read the last section.

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

ACTING PRESIDENT SAVINO: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT SAVINO: Announce the results.

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT SAVINO: The bill is passed.

THE SECRETARY: In relation to Calendar Number 1299, Senator Oppenheimer moves to discharge, from the Committee on

Housing, Construction and Community Development, Assembly Bill Number 2365A and substitute it for the identical Senate Bill Number 3317A, Third Reading Calendar 1299.

ACTING PRESIDENT SAVINO: Substitution ordered.

THE SECRETARY: Calendar Number 1299, by Member of the Assembly O'Donnell, Assembly Print Number 2365A --

SENATOR HANNON: Lay it aside.

ACTING PRESIDENT SAVINO: The bill is laid aside.

THE SECRETARY: In relation to Calendar Number 1300, Senator Breslin moves to discharge, from the Committee on Rules, Assembly Bill Number 6420 and substitute it for the identical Senate Bill Number 3430, Third Reading Calendar 1300.

ACTING PRESIDENT SAVINO: Substitution ordered.

THE SECRETARY: Calendar Number 1300, by Member of the Assembly Weisenberg, Assembly Print Number 6420, an act to amend Chapter 415 of the Laws of 1913.

ACTING PRESIDENT SAVINO: Read

the last section.

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

ACTING PRESIDENT SAVINO: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT SAVINO: Announce the results.

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT SAVINO: The bill is passed.

THE SECRETARY: In relation to Calendar Number 1301, Senator L. Krueger moves to discharge, from the Committee on Rules, Assembly Bill Number 5653A and substitute it for the identical Senate Bill Number 4786A, Third Reading Calendar 1301.

ACTING PRESIDENT SAVINO: Substitution ordered.

THE SECRETARY: Calendar Number 1301, by Member of the Assembly Rosenthal, Assembly Print Number 5653A, an act to amend the Insurance Law.

ACTING PRESIDENT SAVINO: Read the last section.

SENATOR HANNON: Lay it aside.

ACTING PRESIDENT SAVINO: The bill is laid aside.

THE SECRETARY: In relation to Calendar Number 1302, Senator Savino moves to discharge, from the Committee on Rules, Assembly Bill Number 619 and substitute it for the identical Senate Bill Number 5108, Third Reading Calendar 1302.

ACTING PRESIDENT SAVINO: Substitution ordered.

THE SECRETARY: Calendar Number 1302, by Member of the Assembly Kavanagh, Assembly Print Number 619, an act to amend the Workers' Compensation Law.

ACTING PRESIDENT SAVINO: Read the last section.

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

ACTING PRESIDENT SAVINO: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT SAVINO: Announce the results.

THE SECRETARY: In relation to

Calendar Number 1302: Ayes, 59. Nays, 2. Senators DeFrancisco and Ranzenhofer recorded in the negative.

ACTING PRESIDENT SAVINO: The bill is passed.

THE SECRETARY: Calendar Number 1303, by Senator Squadron, Senate Print 5388A, an act to amend the Public Authorities Law.

ACTING PRESIDENT SAVINO: Read the last section.

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

ACTING PRESIDENT SAVINO: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT SAVINO: Announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 1303 are Senators DeFrancisco, Farley, O. Johnson, Little, Marcellino, Ranzenhofer, Skelos, Volker, Winner and Young.

Ayes, 51. Nays, 10.

ACTING PRESIDENT SAVINO: The bill is passed.

THE SECRETARY: Calendar Number 1304, by Senator Valesky, Senate Print 5439B, an act to amend the Racing, Pari-Mutuel Wagering and Breeding Law.

ACTING PRESIDENT SAVINO: Read the last section.

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

ACTING PRESIDENT SAVINO: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT SAVINO: Announce the results.

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT SAVINO: The bill is passed.

THE SECRETARY: In relation to Calendar Number 1306, Senator Oppenheimer moves to discharge, from the Committee on Agriculture, Assembly Bill Number 600B and substitute it for the identical Senate Bill Number 5794A, Third Reading Calendar 1306.

ACTING PRESIDENT SAVINO: Substitution ordered.

THE SECRETARY: Calendar Number

1306, by Member of the Assembly Cahill, Assembly Print Number 600B, an act to amend the Agriculture and Markets Law.

ACTING PRESIDENT SAVINO: Read the last section.

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

ACTING PRESIDENT SAVINO: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT SAVINO: Announce the results.

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT SAVINO: The bill is passed.

THE SECRETARY: Excuse me. In relation to Calendar Number 1306: Ayes, 60. Nays, 1. Senator Aubertine recorded in the negative.

ACTING PRESIDENT SAVINO: The bill is still passed.

THE SECRETARY: Calendar Number 1307, by Senator C. Johnson, Senate Print 6418A, an act to amend the Penal Law.

ACTING PRESIDENT SAVINO: Read

the last section.

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

ACTING PRESIDENT SAVINO: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT SAVINO: Senator Johnson, to explain his vote.

SENATOR CRAIG JOHNSON: Thank you very much, Madam President.

We have a crisis throughout the state, but in particular -- and I know my colleagues from Long Island know all too well -- we have a real crisis of children dying as a result of overdoses of drugs, in particular heroin.

The bill that you have before you today, a bipartisan bill cosponsored by my friends Chuck Fuschillo and Jeffrey Klein, Brian Foley, Eric Adams, Darryl Aubertine, Tom Morahan, George Onorato and Mike Ranzenhofer, will start the process of punishing those who kill our children with drugs.

I notice that there is some opposition. I would urge my colleagues who

oppose this bill to reverse that decision and support us. It is time to treat those who kill our children with drugs as the murderers that they are. We have to stop the madness. We have to stop the murder of our children when it comes to heroin and other drugs.

I vote yes, Madam President. Thank you.

ACTING PRESIDENT SAVINO: Senator C. Johnson to be recorded in the affirmative.

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

Announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 1307 are Senators Duane, Hassell-Thompson and Montgomery.

Ayes, 58. Nays, 3.

ACTING PRESIDENT SAVINO: The bill is passed.

THE SECRETARY: In relation to Calendar Number 1308, Senator Skelos moves to discharge, from the Committee on Rules, Assembly Bill Number 9750 and substitute it for the identical Senate Bill Number 6432,

Third Reading Calendar 1308.

ACTING PRESIDENT SAVINO: Substitution ordered.

THE SECRETARY: Calendar Number 1308, by Member of the Assembly Weisenberg, Assembly Print Number 9750, an act to amend Chapter 846 of the Laws of 1970.

ACTING PRESIDENT SAVINO: 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 SAVINO: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT SAVINO: Announce the results.

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT SAVINO: The bill is passed.

THE SECRETARY: Calendar Number 1309, by Senator Stachowski, Senate Print 6726, an act to amend the Limited Liability Company Law.

ACTING PRESIDENT SAVINO: Read

the last section.

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

ACTING PRESIDENT SAVINO: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT SAVINO: Senator Bonacic, to explain his vote.

SENATOR BONACIC: I'll be brief. I should have asked Senator Stachowski the question.

I think there's confusion in this legislation in the definition of what is small profit as opposed to a profit company and a not-for-profit company. And there is no definition that I can see in the legislation that will defines "low profit." And that's going to create confusion and problems with the different kinds of companies.

For that reason, I'm going to vote no and hope that the sponsor eventually clears this up.

ACTING PRESIDENT SAVINO: Senator Bonacic to be recorded in the negative.

Are there any other Senators

wishing to explain their vote?

Announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 1309 are Senators Bonacic, DeFrancisco, Flanagan, Golden, Leibell, Little, Nozzolio, Saland, Skelos, Winner and Young.

Ayes, 50. Nays, 11.

ACTING PRESIDENT SAVINO: The bill is passed.

THE SECRETARY: In relation to Calendar Number 1310, Senator O. Johnson moves to discharge, from the Committee on Health, Assembly Bill Number 9999A and substitute it for the identical Senate Bill Number 6832A, Third Reading Calendar 1310.

ACTING PRESIDENT SAVINO: Substitution ordered.

THE SECRETARY: Calendar Number 1310, by Member of the Assembly Sweeney, Assembly Print Number 9999A, an act to amend Chapter 572 of the Laws of 1994.

ACTING PRESIDENT SAVINO: Read the last section.

THE SECRETARY: Section 2. This

act shall take effect immediately.

ACTING PRESIDENT SAVINO: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT SAVINO: Announce the results.

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT SAVINO: The bill is passed.

THE SECRETARY: In relation to Calendar Number 1311, Senator Montgomery moves to discharge, from the Committee on Health, Assembly Bill Number 5681A and substitute it for the identical Senate Bill Number 6932, Third Reading Calendar 1311.

ACTING PRESIDENT SAVINO: Substitution ordered.

SENATOR PADAVAN: Lay it aside.

ACTING PRESIDENT SAVINO: The bill is laid aside.

THE SECRETARY: In relation to Calendar Number 1312, Senator Larkin moves to discharge, from the Committee on Codes, Assembly Bill Number 10005 and substitute it for the identical Senate Bill Number 6977,

Third Reading Calendar 1312.

ACTING PRESIDENT SAVINO: Substitution ordered.

THE SECRETARY: Calendar Number 1312, by Member of the Assembly Calhoun, Assembly Print Number 10005, an act to amend the Criminal Procedure Law.

ACTING PRESIDENT SAVINO: Read the last section.

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

ACTING PRESIDENT SAVINO: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT SAVINO: Announce the results.

THE SECRETARY: Ayes, 60. Nays, 1. Senator Duane recorded in the negative.

ACTING PRESIDENT SAVINO: The bill is passed.

THE SECRETARY: In relation to Calendar Number 1313, Senator Aubertine moves to discharge, from the Committee on Rules, Assembly Bill Number 10027B and substitute it for the identical Senate Bill Number 6990B,

Third Reading Calendar 1313.

ACTING PRESIDENT SAVINO: Substitution ordered.

THE SECRETARY: Calendar Number 1313, by Member of the Assembly Brodsky, Assembly Print Number 10027B, an act to create a temporary New York State War of 1812 200th Anniversary Commemoration Commission.

ACTING PRESIDENT SAVINO: Read the last section.

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

ACTING PRESIDENT SAVINO: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT SAVINO: Senator Maziarz, to explain his vote.

SENATOR MAZIARZ: Madam President, to very briefly explain my vote.

I think this is a very good bill. We did pass this bill one other time, and the Governor vetoed it. I hope he doesn't do that again, because this is a very important moment in New York State history and the history of our great country.

And one of the most important battles took place at Fort Niagara in Niagara County, and we need this bill.

Thank you. I vote in the affirmative.

ACTING PRESIDENT SAVINO: Senator Marcellino to be recorded in the affirmative.

Senator Farley, to explain his vote.

SENATOR FARLEY: Yes, in support of this bill, I think Senator Aubertine knows it's Sackets Harbor, a very famous War of 1812 battle where many, many Americans lost their lives, and a very significant battle -- it's almost as significant, if not more so, than that battle in Niagara --

SENATOR MARCELLINO: Not more so.

SENATOR FARLEY: But I vote aye.

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

Senator Volker, to explain his vote.

SENATOR VOLKER: Yeah, very quickly, Madam President. This is a very good bill.

They burned Buffalo in 1811 and then 1812 during the War of 1812. And there was a lot of history really all through the area around the Great Lakes. But of course, as Senator Aubertine is going to show in this commission, there was a lot of activity in the North Country also.

But it is a very good bill, and we are in Western New York planning on a lot of celebration at the time. The biggest thing is we're going to try to make sure Buffalo doesn't burn again.

I vote aye.

ACTING PRESIDENT SAVINO: Senator Volker to be recorded in the affirmative.

Announce the results.

THE SECRETARY: Ayes, 61. Nays, 0.

ACTING PRESIDENT SAVINO: The bill is passed.

THE SECRETARY: In relation to Calendar Number 1314, Senator LaValle moves to discharge, from the Committee on Rules, Assembly Bill Number 10466 and substitute it for the identical Senate Bill Number 7282,

Third Reading Calendar 1314.

ACTING PRESIDENT SAVINO: Substitution ordered.

THE SECRETARY: Calendar Number 1314, by Member of the Assembly Thiele, Assembly Print Number 10466, an act designating state-owned lands.

ACTING PRESIDENT SAVINO: Senator LaValle, to explain his vote.

SENATOR LaVALLE: Thank you, Madam President.

This legislation would set aside a small piece in the hamlet of Westhampton in the town of Southampton in the name of Edwin 'Buzz' Schwenk.

Buzz Schwenk was born and lived in the town of Southampton until his death about a year ago. He was a businessman, he headed the Business Alliance and then headed the Long Island Housing Partnership. He was very much involved in development.

And then one day there was an epiphany where Buzz Schwenk came and said, "You know, I was born, I've lived in Southampton, and we've got to preserve the

Pine Barrens in Southampton."

He joined with Assemblyman Tom DiNapoli at the time to be part of a working group that developed the Pine Barrens Preservation Act preserving 100,000 acres. And to his death, he wanted to make sure that the Town of Southampton had open space that was preserved. So he went from a nonenvironmentalist to an environmentalist and a preservationist of the land.

I vote in the affirmative, Madam President.

ACTING PRESIDENT SAVINO: Senator LaValle will be recorded in the affirmative.

The Secretary will read the last section.

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

ACTING PRESIDENT SAVINO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT SAVINO: The bill is passed.

THE SECRETARY: Calendar Number

1315, by Senator Espada, Senate Print 7410B, an act to amend the General Business Law.

ACTING PRESIDENT SAVINO: Read the last section.

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

ACTING PRESIDENT SAVINO: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT SAVINO: Announce the results.

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT SAVINO: The bill is passed.

THE SECRETARY: Calendar Number 1316, by Senator Perkins, Senate Print 7462A, an act to amend Chapter 174 of the Laws of 1968.

ACTING PRESIDENT SAVINO: Read the last section.

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

ACTING PRESIDENT SAVINO: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT SAVINO: Announce the results.

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT SAVINO: The bill is passed.

THE SECRETARY: Calendar Number 1317, by Senator C. Kruger, Senate Print 8255, an act to amend the Tax Law and the Administrative Code of the City of New York.

ACTING PRESIDENT SAVINO: Read the last section.

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

ACTING PRESIDENT SAVINO: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT SAVINO: Announce the results.

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT SAVINO: The bill is passed.

THE SECRETARY: Calendar Number 1318, by Senator Parker, Senate Print --

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

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

THE SECRETARY: Calendar Number 1319, by Senator Klein, Senate Print 8372, an act to amend the Education Law.

ACTING PRESIDENT SAVINO: Read the last section.

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

ACTING PRESIDENT SAVINO: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT SAVINO: Announce the results.

THE SECRETARY: Ayes, 60. Nays, 1. Senator Duane recorded in the negative.

ACTING PRESIDENT SAVINO: The bill is passed.

THE SECRETARY: Calendar Number 1320, by Senator Savino, Senate Print 8380, an act to amend the Labor Law.

ACTING PRESIDENT SAVINO: The bill is high and will be laid aside for the day.

THE SECRETARY: Calendar Number

1321, by Senator Hassell-Thompson, Senate Print 8390, an act to amend the Domestic Relations Law.

ACTING PRESIDENT SAVINO: The bill is high. It will be laid aside for the day.

THE SECRETARY: Calendar Number 1322, by Senator Smith, Senate Print 8357, an act to amend the Transportation Law.

ACTING PRESIDENT SAVINO: Read the last section.

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

ACTING PRESIDENT SAVINO: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT SAVINO: Announce the results.

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT SAVINO: The bill is passed.

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

SENATOR KLEIN: Madam President,

at this time can we please go to a reading of the controversial supplemental calendar.

ACTING PRESIDENT SAVINO: The Secretary will ring the bells and announce the reading of the controversial supplemental calendar.

SENATOR SEWARD: Madam President.

ACTING PRESIDENT SAVINO: Senator Seward.

SENATOR SEWARD: Madam President, I was unavoidably out of the chamber when 1296 passed a few moments ago, and I would ask unanimous consent to be recorded in the negative on Calendar Number 1296.

ACTING PRESIDENT SAVINO: Senator Seward, with unanimous consent, you will be recorded in the negative on Calendar Number 1296.

The Secretary will read.

THE SECRETARY: Calendar Number 1294, substituted earlier today by Member of the Assembly Kellner, Assembly Print Number 3956, an act to amend the Elder Law.

ACTING PRESIDENT SAVINO: Are there any Senators wishing to be heard?

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

Read the last section.

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

ACTING PRESIDENT SAVINO: Call the roll.

(The Secretary called the roll.)

SENATOR KLEIN: Madam President, can we lay the bill aside temporarily.

ACTING PRESIDENT SAVINO: The roll call is withdrawn, and the bill is laid aside temporarily.

Senator Breslin.

SENATOR BRESLIN: Madam President, I request unanimous consent to be recorded in the negative on Calendar Number 1315.

ACTING PRESIDENT SAVINO: Senator Breslin, by unanimous consent you will be recorded in the negative on Calendar 1315.

The Secretary will read.

THE SECRETARY: Calendar Number 1299, substituted earlier today by Member of the Assembly O'Donnell, Assembly Print Number

2365A, an act to amend the Administrative Code of the City of New York.

ACTING PRESIDENT SAVINO: Senator Hannon.

SENATOR HANNON: Would the sponsor yield to a question, Madam President.

ACTING PRESIDENT SAVINO: Senator Oppenheimer, would you yield to a question?

SENATOR OPPENHEIMER: Yes.

ACTING PRESIDENT SAVINO: Senator Oppenheimer yields.

SENATOR HANNON: Senator Oppenheimer, I notice that you give a right to a victim of domestic violence, and you define how one would be victim of domestic violence by referencing the Social Services Law. And you say that a person may retain certain residency status by "asserting an intent to return to the housing accommodation."

Could you tell me what time period -- and you make that exact same statement three or four places in your bill affecting different provisions of the rent control and rent stabilization laws.

Would you be able to tell me when a

person has to assert an intent? And I'm using the words "assert" and "intent" right from your proposal.

SENATOR OPPENHEIMER: I can tell you the intent of the law. It is for those domestic violence victims that have to flee the residence, their primary residence, because they are being threatened. And so with this bill they would be permitted to leave their primary residence, with the intention of coming back to that primary residence when the situation is resolved.

As it is domestic violence, you can't say it will be resolved in two months or four months. But the intent is that the rent will still be paid and they will be coming back to that residence.

SENATOR HANNON: Would the Senator yield for another question.

ACTING PRESIDENT SAVINO: Senator Oppenheimer, will you continue to yield?

SENATOR OPPENHEIMER: Of course.

ACTING PRESIDENT SAVINO: Senator Oppenheimer yields.

SENATOR HANNON: So would it be

an assumption on my part that you intend to put into this bill that only so long as the particular factual circumstances attendant to that domestic violence are continuing, then when that is ceasing, then one may assert the intent at that point?

SENATOR OPPENHEIMER: Through you, Madam President, I would think that that -- there's no need to spell that out. Anyone who's experienced domestic violence knows you can't determine how long it's going to take.

But the tenant will continue to pay rent and plans to come back. So, I mean, that's the best I can tell you. And I don't think we can put any specificity into it, because of the nature of the violation.

SENATOR HANNON: Would the Senator continue to yield.

ACTING PRESIDENT SAVINO: Senator Oppenheimer, will you continue to yield?

SENATOR OPPENHEIMER: Yes, I would.

SENATOR HANNON: Let me give you a hypothetical that's kind of the other side

of what I've just asked. Suppose somebody is a victim of domestic violence -- and by the way, I appreciate the intent of the bill. I think it's laudatory.

But suppose somebody is a victim of domestic violence. They, for reasons not necessarily related to that unfortunate circumstance, happen to either sublet, legally or illegally, happen to just not be there, and two or three years later decide that they want to go back to that residence. Can they then make some type of intent to return?

SENATOR OPPENHEIMER: Through you, Madam President, it's written here in the law that the victim asserts the intent to return to the housing accommodation and the victim, this domestic violence victim, will be deemed to be occupying the unit as her primary residence during that period of time. I think the opportunity to sublet if she is occupying the residence would not be possible.

SENATOR HANNON: Madam President, would the Senator continue to yield.

ACTING PRESIDENT SAVINO: Senator Oppenheimer, will you continue to yield?

SENATOR OPPENHEIMER: Yes, I do.

SENATOR HANNON: So may I infer that -- see, I'm looking at the timeliness of the assertion, not the condition and all those things. So may I infer that there must be a reasonable timeliness of the conveyance that they want to return?

SENATOR OPPENHEIMER: You know, I wish I could be more specific for you, but domestic violence is not specific. And it says the victim is deemed to be living in that residence during that time that she is not living in the residence but she is paying rent.

And that's the best I can tell you, and I think that's the best that can be said under these circumstances.

SENATOR HANNON: Would the Senator continue to yield.

ACTING PRESIDENT SAVINO: Senator Oppenheimer, do you continue to yield?

SENATOR OPPENHEIMER: Yes, I will.

SENATOR HANNON: So you're saying that so long as somebody is a victim of

domestic violence, that at any time thereafter, whether or not that domestic violence has ceased, they can assert an intent to return? Is that what you're saying?

SENATOR OPPENHEIMER: The victim who has left the unit because of this violence and who asserts an intent to return to the housing accommodation, as I said earlier, is deemed as though they were occupying, she was occupying -- I shouldn't say "she," it could be a man, too -- occupying the unit as his primary residence. So I think it's pretty much spelled out.

SENATOR HANNON: Madam President, would the Senator continue to yield.

ACTING PRESIDENT SAVINO: Senator Oppenheimer?

SENATOR OPPENHEIMER: Yes, I do.

ACTING PRESIDENT SAVINO: The sponsor continues to yield.

SENATOR HANNON: Very simply, Senator Oppenheimer, when do you have to assert that intent?

SENATOR OPPENHEIMER: That is not written in the law as to when the victim

decides that the domestic violence has reached a point that she is threatened. That is not written into the law, and I don't see how it can be.

SENATOR HANNON: On the bill, Madam President.

ACTING PRESIDENT SAVINO: Senator Hannon, on the bill.

SENATOR HANNON: Given the intent, I think there needs to be some type of reasonableness built into the statute. Absent the fact that there is any type of provision for reasonable notification -- it does not have to be specific, it doesn't have to be a given time period -- I'm unable to support this.

I think it's poorly written, and I don't think it would be up held in the courts. Thank you.

ACTING PRESIDENT SAVINO: Senator Hannon to be recorded in the negative.

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

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

Read the last section.

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

ACTING PRESIDENT SAVINO: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT SAVINO: Announce the results.

THE SECRETARY: Ayes, 61. Nays, 0.

ACTING PRESIDENT SAVINO: The bill is passed.

THE SECRETARY: Excuse me. In relation to Calendar Number 1299: Ayes, 59. Nays, 2. Senators Golden and Hannon recorded in the negative.

ACTING PRESIDENT SAVINO: The bill is still passed.

The Secretary will read.

THE SECRETARY: Calendar Number 1301, substituted earlier today by Member of the Assembly Rosenthal, Assembly Print Number 5653A, an act to amend the Insurance Law.

ACTING PRESIDENT SAVINO: Are there any Senators wishing to be heard?

Seeing none, debate is closed -- oh, I'm sorry, Senator Hannon.

SENATOR HANNON: On the bill, Madam President.

ACTING PRESIDENT SAVINO: On the bill.

SENATOR HANNON: This bill, which has a commonsense logic that you shouldn't pay more than your copay, unfortunately is unworkable because there's no place to define the usual and customary cost of such a prescribed drug. It says that if the copayment exceeds the usual and customary cost of a prescribed drug, they can't charge you that, that usual and customary cost. It's not defined.

There are other mechanisms in this proposal that talk about the posted retail price and when the copayment exceeds the pharmacy's usual and customary price. We have three separate standards in a bill that exceeds about 31 lines.

If you really want to protect the individual customer of the pharmacy I think you need a far better set of definitions, you

need definitions that use state law, you need things like average wholesale price. These are customary standards. These are defined standards.

But the ones that are in this bill are not defined. I would think that it's just unworkable and needs to be redone.

Thank you, Madam President.

ACTING PRESIDENT SAVINO: Senator Hannon to be recorded in the negative.

Are there any other Senators who wishing to speak on the bill?

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

Read the last section.

THE SECRETARY: Section 4. This act shall take effect on the 90th day.

ACTING PRESIDENT SAVINO: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT SAVINO: Announce the results.

THE SECRETARY: In relation to Calendar Number 1301, those recorded in the negative are Senators Golden, Hannon and

O. Johnson.

Ayes, 58. Nays, 3.

ACTING PRESIDENT SAVINO: The bill is passed.

THE SECRETARY: Calendar Number 1311, substituted earlier today by --

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

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

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

SENATOR KLEIN: Madam President, can we go back to Calendar Number 1294, Print Number 1385, Senator Duane's bill. Can we remove the lay-aside.

ACTING PRESIDENT SAVINO: The lay-aside is removed from Calendar 1294.

The Secretary will read Calendar Number 1294 on the controversial calendar.

THE SECRETARY: Calendar Number 1294, substituted earlier today by Member of the Assembly Kellner, Assembly Print Number 3956, an act to amend the Elder Law.

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

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

Read the last section.

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

ACTING PRESIDENT SAVINO: Call the roll.

(The Secretary called the roll.)

SENATOR KLEIN: Lay the bill aside temporarily again, Madam President.

ACTING PRESIDENT SAVINO: The bill is laid aside temporarily.

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

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

ACTING PRESIDENT SAVINO: Returning to motions and resolutions.

Senator Klein.

SENATOR KLEIN: On behalf of Senator Aubertine, I wish to call up Print Number 7936, recalled from the Assembly, which

is now at the desk.

ACTING PRESIDENT SAVINO: The Secretary will read.

THE SECRETARY: Calendar Number 1056, by Senator Aubertine, Senate Print 7936, an act to amend Chapter 106 of the Laws of 2003.

ACTING PRESIDENT SAVINO: Senator Klein.

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

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

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT SAVINO: Senator Klein.

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

ACTING PRESIDENT SAVINO: The amendments are received.

SENATOR KLEIN: Madam President, on behalf of Senator Thompson, I wish to call

up Print Number 7488A, recalled from the Assembly, which is now at the desk.

ACTING PRESIDENT SAVINO: 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 SAVINO: Senator Klein.

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

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

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT SAVINO: Senator Klein.

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

ACTING PRESIDENT SAVINO: The amendments are received.

SENATOR KLEIN: Madam President, at this time can we call up Calendar Number

1201, Senate Print Number 7263C on the controversial calendar.

ACTING PRESIDENT SAVINO: Senator Klein, do you mean Calendar Number 1021?

SENATOR KLEIN: I'm sorry, 1021, Senate Print Number 7263C.

ACTING PRESIDENT SAVINO: The Secretary will read Calendar Number 1021 on the controversial calendar.

THE SECRETARY: Calendar Number 1021, by Senator Foley, Senate Print 7263C, an act to amend the Public Service Law.

SENATOR FUSCHILLO: Explanation.

ACTING PRESIDENT SAVINO: Senator Foley, an explanation has been requested.

SENATOR LIBOUS: Who asked for the explanation?

ACTING PRESIDENT SAVINO: Senator Fuschillo.

SENATOR FOLEY: Thank you, Madam President.

This legislation will strengthen consumer protection in the event of a merger between two telephone companies. Specifically, the bill requires the PSC to

address a set of public interest standards during its review of a sale or merger.

Further, this legislation only affects mergers when one of the two parties' gross annual New York revenues exceeds $200 million. And further, this legislation would only cover residential mergers.

There are 11 specific public interest standards that the acquiring corporation must meet and that the PSC must find. And I'll be happy to go into those standard later in the debate.

Let me just give a little geographic history to this, if I may, Madam President. In the spring of 2008, FairPoint Communications purchased telephone networks in Vermont, New Hampshire, and Maine. They were saddled with a $1 billion debt in the transaction and were wholly unprepared to operate the 1.7 additional landlines. In fact, it was widely acknowledged that since this conversion occurred with FairPoint, FairPoint had plagued their customers with many complaints and quality concerns.

What this bill is about, Madam

President, is essentially two things. One, it is designed to balance the interests of ratepayers and the investors, and to do it in a fair way. And finally, this bill -- and most importantly, why I've sponsored this bill and have over 21 cosponsors -- this bill will strengthen the PSC's already existing authority by creating standards to protect consumers, to protect workers, and to protect the local economy before it approves a sale or merger.

Most importantly, Madam Chair, and most succinctly, it will ensure that New York is not victimized by a bad sale.

Thank you, Madam President.

ACTING PRESIDENT SAVINO: Are there any Senators wishing to be heard?

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

Senator C. Johnson.

SENATOR CRAIG JOHNSON: Yes, Madam President, I request a slow roll call for this vote, please.

ACTING PRESIDENT SAVINO: Seeing as five Senators have stood up, a slow roll

call is in order.

The Secretary will read the last section and then call the roll slowly.

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

Senator Adams.

SENATOR ADAMS: Yes.

THE SECRETARY: Senator Addabbo.

SENATOR ADDABBO: Yes.

THE SECRETARY: Senator Alesi.

SENATOR ALESI: No.

THE SECRETARY: Senator Aubertine.

SENATOR AUBERTINE: Aye.

THE SECRETARY: Senator Bonacic.

SENATOR BONACIC: No.

THE SECRETARY: Senator Breslin.

SENATOR BRESLIN: Yes.

THE SECRETARY: Senator DeFrancisco.

SENATOR DeFRANCISCO: No.

THE SECRETARY: Senator Diaz.

SENATOR DIAZ: Si.

THE SECRETARY: Senator Dilan.

SENATOR DILAN: Yes.

THE SECRETARY: Senator Duane.
SENATOR DUANE: Yes.
THE SECRETARY: Senator Espada.
SENATOR ESPADA: No.
THE SECRETARY: Senator Farley.
SENATOR FARLEY: No.
THE SECRETARY: Senator Flanagan.
SENATOR FLANAGAN: No.
THE SECRETARY: Senator Foley.
SENATOR FOLEY: To explain my vote, Madam President.
ACTING PRESIDENT SAVINO: Senator Foley, to explain his vote.
SENATOR FOLEY: Thank you.
I outlined earlier the summary of the bill, but I also think it's instructive, Madam President, that this bill is virtually identical with -- in fact, in two ways a little bit more restrictive but virtually identical to two bills that were sponsored two years ago.
And at that time the lead sponsor of the bill was Senator Nozzolio, and Senators Fuschillo, Hannon, Larkin, LaValle and Morahan were the cosponsors of that particular bill,

which is virtually identical to this bill.

And prior to that, in 2007 we had not only Senator Spano but Senator Bonacic, Senator DeFrancisco, Senator Larkin, Senator Leibell, Senator Morahan, Senator Padavan and in fact, my predecessor Senator Trunzo, all had sported a bill that is virtually identical to the bill that we're voting on here this afternoon.

I vote aye.

ACTING PRESIDENT SAVINO: Senator Foley to be recorded in the affirmative.

The Secretary will continue to call the roll slowly.

THE SECRETARY: Senator Fuschillo.

SENATOR FUSCHILLO: No.

THE SECRETARY: Senator Golden.

SENATOR GOLDEN: No.

THE SECRETARY: Senator Griffo.

SENATOR GRIFFO: No.

THE SECRETARY: Senator Hannon.

SENATOR HANNON: No.

THE SECRETARY: Senator Hassell-Thompson.

SENATOR HASSELL-THOMPSON: Yes.
THE SECRETARY: Senator Huntley.
SENATOR HUNTLEY: Yes.
THE SECRETARY: Senator C. Johnson.
SENATOR CRAIG JOHNSON: Yes.
THE SECRETARY: Senator O. Johnson.
SENATOR OWEN JOHNSON: No.
THE SECRETARY: Senator Klein.
SENATOR KLEIN: Yes.
THE SECRETARY: Senator L. Krueger.
SENATOR LIZ KRUEGER: Yes.
THE SECRETARY: Senator C. Kruger.
SENATOR CARL KRUGER: Yes.
THE SECRETARY: Senator Lanza.
SENATOR LANZA: No.
THE SECRETARY: Senator Larkin.
SENATOR LARKIN: No.
THE SECRETARY: Senator LaValle.
SENATOR LaVALLE: No.
THE SECRETARY: Senator Leibell.
SENATOR LEIBELL: No.

THE SECRETARY: Senator Libous.
SENATOR LIBOUS: No.
THE SECRETARY: Senator Little.
SENATOR LITTLE: No.
THE SECRETARY: Senator Marcellino.
SENATOR MARCELLINO: No.
THE SECRETARY: Senator Maziarz.
SENATOR MAZIARZ: No.
THE SECRETARY: Senator McDonald.
SENATOR McDONALD: No.
THE SECRETARY: Senator Montgomery.
SENATOR MONTGOMERY: Yes.
THE SECRETARY: Senator Morahan, excused.
Senator Nozzolio.
SENATOR NOZZOLIO: No.
THE SECRETARY: Senator Onorato.
SENATOR ONORATO: Yes.
THE SECRETARY: Senator Oppenheimer.
SENATOR OPPENHEIMER: Yes.
THE SECRETARY: Senator Padavan.
SENATOR PADAVAN: No.

THE SECRETARY: Senator Parker.
SENATOR PARKER: Yes.
THE SECRETARY: Senator Peralta.
SENATOR PERALTA: Yes.
THE SECRETARY: Senator Perkins.
SENATOR PERKINS: Yes.
THE SECRETARY: Senator Ranzenhofer.
SENATOR RANZENHOFER: No.
THE SECRETARY: Senator Robach.
SENATOR ROBACH: No.
THE SECRETARY: Senator Saland.
SENATOR SALAND: No.
THE SECRETARY: Senator Sampson.
(Senator Sampson recorded in the affirmative.)
THE SECRETARY: Senator Savino.
SENATOR SAVINO: Yes.
THE SECRETARY: Senator Schneiderman.
SENATOR SCHNEIDERMAN: Yes.
THE SECRETARY: Senator Serrano.
SENATOR SERRANO: Yes.
THE SECRETARY: Senator Seward.
SENATOR SEWARD: No.

THE SECRETARY: Senator Skelos.
SENATOR SKELOS: No.
THE SECRETARY: Senator Smith.
SENATOR SMITH: Yes.
THE SECRETARY: Senator Squadron.
SENATOR SQUADRON: Yes.
THE SECRETARY: Senator Stachowski.
SENATOR STACHOWSKI: Yes.
SENATOR KLEIN: Lay the bill aside for the day, please, Madam President.
ACTING PRESIDENT SAVINO: The roll call is withdrawn, and the bill is laid aside for the day.
Senator Klein, that completes the reading of the controversial calendar.
Senator Klein.
SENATOR KLEIN: Madam President, can we please stand at ease and come back to the chambers in about an hour. So that would be ten to 6:00.
ACTING PRESIDENT SAVINO: Senator Libous.
SENATOR LIBOUS: Thank you.
There will be an immediate

Republican conference.

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

The Senate will stand at ease until ten minutes to 6:00 o'clock.

(Whereupon, the Senate stood at ease at 4:50 p.m.)

(Whereupon, the Senate reconvened at 6:22 p.m.)

ACTING PRESIDENT ADAMS: 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 ADAMS: There's an immediate meeting of the Rules Committee in the Majority Conference Room.

Until then, the Senate stands at ease, Senator Libous.

(Whereupon, the Senate stood at ease at 6:23 p.m.)

(Whereupon, the Senate reconvened at 7:01 p.m.)

ACTING PRESIDENT CRAIG JOHNSON: Senator Klein.

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

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

The Secretary will read.

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

Senate Print 3180C, by Senator Duane, an act to amend the Public Health Law;

4117B, by Senator Oppenheimer, an act to amend the Education Law;

4181, by Senator Flanagan, an act to amend the Highway Law;

4431B, by Senator Lanza, an act to amend the Executive Law;

5512A, by Senator Oppenheimer, an act to amend the Education Law;

5514, by Senator Stachowski, an act to amend the State Finance Law;

5614B, by Senator Valesky, an act to amend the Alcoholic Beverage Control Law;

5628A, by Senator Savino, an act to amend the Retirement and Social Security Law;

5969, by Senator Valesky, an act to amend the Education Law;

6646, by Senator Bonacic, an act to amend the Executive Law;

6861, by Senator LaValle, an act authorizing;

6888C, by Senator Hassell-Thompson, an act to amend the Retirement and Social Security Law;

7202A, by Senator Skelos, an act authorizing;

7228A, by Senator Stachowski, an act to amend the New York State Urban Development Corporation Act;

7255A, by Senator Morahan, an act to amend the Mental Hygiene Law;

7267C, by Senator Schneiderman, an act to amend the General Business Law;

7412B, by Senator Montgomery, an act to amend the Administrative Code of the City of New York;

7480A, by Senator Valesky, an act to amend the Alcoholic Beverage Control Law;

7517, by Senator Duane, an act to amend the Social Services Law;

7580, by Senator Stachowski, an act to amend the Tax Law;

7587, by Senator Oppenheimer, an act to amend the Agriculture and Markets Law;

7730, by Senator Flanagan, an act to amend the Real Property Tax Law;

7738A, by Senator Farley, an act authorizing;

7769, by Senator L. Krueger, an act to amend the Public Authorities Law;

7830, by Senator C. Kruger, an act to amend the Real Property Law;

7840, by Senator Skelos, an act to amend Chapter 821 of the Laws of 1970;

7900, by Senator Savino, an act to amend the Workers' Compensation Law;

7955A, by Senator Oppenheimer, an act to amend the Agriculture and Markets Law;

8004, by Senator Aubertine, an act to amend the Penal Law;

8072A, by Senator Schneiderman, an

act to amend the General Obligations Law;

8097, by Senator Squadron, an act to amend the Public Service Law;

8132A, by Senator Montgomery, an act to amend the Social Services Law;

8165A, by Senator Stewart-Cousins, an act to repeal;

8215, by Senator LaValle, an act to amend the Highway Law;

8229, by Senator Hassell-Thompson, an act to amend the Executive Law.

8258, by Senator Parker, an act to amend a chapter of the Laws of 2010;

8289, by Senator Stachowski, an act to amend the Penal Law;

8310, by Senator Aubertine, an act to amend the Public Service Law;

8333, by Senator Squadron, an act to amend General Business Law;

8343, by Senator Foley, an act to amend the Environmental Conservation Law;

8347, by Senator Klein, an act to amend the Education Law;

8370, by the Senate Committee on Rules, an act to amend Chapter 268 of the Laws

of 1989;

8373A, by Senator Sampson, an act to amend the Civil Rights Law;

8376, by Senator Oppenheimer, an act to amend the Education Law;

8377A, by Senator Dilan, an act to amend the Multiple Dwelling Law;

8378, by Senator Schneiderman, an act to amend the State Finance Law;

8379A, by Senator Schneiderman, an act to amend the Labor Law;

8391, by Senator Sampson, an act to amend a chapter of the Laws of 2010;

5806C, by Senator Young, an act to authorize;

7115A, by Senator Young, an act to amend the Highway Law;

7602, by Senator Winner, an act in relation to dissolving;

And Senate Print 7636, by Senator Winner, an act in relation to dissolving.

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, I believe there's a resolution at the desk by Senator Hassell-Thompson. I ask that the resolution be read title only and move for its immediate adoption.

ACTING PRESIDENT CRAIG JOHNSON: The Secretary will read.

THE SECRETARY: By Senator Hassell-Thompson, legislative resolution applauding and approving the foregoing steps that have been taken by the chief judge and the judiciary to institute an ongoing program with respect to civil legal services in the State of New York.

ACTING PRESIDENT CRAIG JOHNSON: Senator Klein, as 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 has read.

All those voting 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.

Senator Klein.

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

ACTING PRESIDENT CRAIG JOHNSON: No, Senator Klein, the desk is clear.

SENATOR KLEIN: There being no further business, Mr. President, I move that we adjourn until Wednesday, June 30th, at 12:00 p.m.

ACTING PRESIDENT CRAIG JOHNSON: There being no further business to come before the Senate, on motion, the Senate stands

adjourned until Wednesday, June 30th, at 12:00 p.m.

(Whereupon, at 7:07 p.m., the Senate adjourned.)