NEW YORK STATE SENATE

THE STENOGRAPHIC RECORD

ALBANY, NEW YORK

December 7, 2010

1:30 p.m.

EXTRAORDINARY SESSION

SENATOR DAVID J. VALESKY, Acting President

MARY KAY BERGER, Acting Secretary

P R O C E E D I N G S

ACTING PRESIDENT VALESKY: The Senate will please come to order.

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

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

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

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

ACTING PRESIDENT VALESKY: The Senate remains in extraordinary session.

The reading of the Journal.

The Secretary will read.

THE SECRETARY: In extraordinary session, Monday, December 6, the Senate met pursuant to adjournment. The Journal of Sunday, December 5, was read and approved. On motion, Senate adjourned.

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

Senator Klein.

SENATOR KLEIN: Mr. President, there will be an immediate meeting of the Finance Committee, followed by a meeting of the Rules Committee, both in Room 332.

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

ACTING PRESIDENT VALESKY: There will be an immediate meeting of the Finance Committee, followed by a meeting of the Rules Committee, both in Room 332.

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

(Whereupon, the Senate stood at ease at 1:32 p.m.)

(Whereupon, the Senate reconvened at 2:25 p.m.)

ACTING PRESIDENT VALESKY: Senator Klein.

SENATOR KLEIN: Mr. President, can you please call on Senator Winner for a brief announcement.

ACTING PRESIDENT VALESKY: Senator Winner.

SENATOR WINNER: Thank you,

Mr. President.

There will be an immediate Republican conference in the Republican Conference Room.

ACTING PRESIDENT VALESKY: Immediate Republican conference in the Republican Conference Room.

SENATOR KLEIN: In the meantime, Mr. President, may we please continue to stand at ease.

ACTING PRESIDENT VALESKY: The Senate continues to stand at ease.

(Whereupon, the Senate stood at ease at 2:26 p.m.)

(Whereupon, the Senate reconvened at 2:54 p.m.)

ACTING PRESIDENT VALESKY: Senator Klein.

SENATOR KLEIN: Mr. President, can we please return to reports of standing committees. I believe there's a report of the Finance Committee at the desk.

ACTING PRESIDENT VALESKY: There is a report of the Finance Committee at the desk, and the Secretary will read.

THE SECRETARY: Senator C. Kruger, from the Committee on Finance, reports the following nominations.

As a member of the board of directors of the New York State Higher Education Services Corporation, Alan M. Klinger, of Great Neck.

ACTING PRESIDENT VALESKY: Senator Kruger.

SENATOR CARL KRUGER: Thank you, Mr. President. Can we please move the nomination.

ACTING PRESIDENT VALESKY: Are there any Senators wishing to be heard on the motion to confirm the nomination?

Seeing none, the question is on the motion to confirm the nomination. All in favor signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT VALESKY: Opposed, nay.

(No response.)

ACTING PRESIDENT VALESKY: The motion carries. The nomination is confirmed.

Congratulations to Mr. Klinger, who

is here with us in the gallery today.

(Applause.)

ACTING PRESIDENT VALESKY: The Secretary will continue to read.

THE SECRETARY: As a member of the Metropolitan Transportation Authority, Charles G. Moerdler, of Riverdale.

ACTING PRESIDENT VALESKY: Senator Kruger.

SENATOR CARL KRUGER: Thank you, Mr. President. It's with great pleasure that I move this nomination.

ACTING PRESIDENT VALESKY: Thank you, Senator.

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

Senator Klein, on the nomination.

SENATOR KLEIN: Thank you, Mr. President.

It is my privilege to support the nomination of Charles Moerdler. You can't get anyone who has spent a career as illustrious as Charles Moerdler in serving the public good.

When we look for the definition of

a public man, there's certainly a picture of Charles Moerdler there. He started out in the Lindsay administration, one of the Lindsay whiz kids in turning around how government functions. He's on a whole array of boards. He still, to this day, after many, many years, serves as the land use chair of a community board in the Bronx. He is someone that understands each and every day how important it is to give something back to our society.

So it is my privilege to support my constituent as a member of the MTA board, Charles Moerdler.

ACTING PRESIDENT VALESKY: Thank you, Senator Klein.

Senator Stavisky.

SENATOR STAVISKY: Yes, Mr. President. I want to congratulate both Mr. Klinger and Mr. Moerdler on their confirmation today.

And let me just say, as far as Mr. Moerdler is concerned, I want to echo what Senator Klein has said. But Mr. Moerdler, for the record, was a student of my husband's in college. He took a class at LIU when my

husband was teaching at LIU. And he was always very proud of Chuck Moerdler, and every time he saw his name in the newspaper he used to say he felt like Mr. Chips, the old English teacher, when he sees how well his students are doing.

So I'm delighted to congratulate both Mr. Klinger and Mr. Moerdler on their confirmations. These are two outstanding individuals who are willing to give service to the people of our state, and for that I congratulate them.

Thank you.

ACTING PRESIDENT VALESKY: Thank you, Senator Stavisky.

Senator Schneiderman.

SENATOR SCHNEIDERMAN: Thank you, Mr. President.

I also am proud to rise in support of the nomination of Chuck Moerdler, who is someone who has made great, great contributions to part of the community that I share with Senator Klein in Riverdale. He's had an extraordinary professional career, but he's never failed to give back to his

community, to causes that he cares about.

He has a long, long, deep relationship with me and my family. And I know that he will provide exactly the kind of service we need for a troubled institution during difficult times. With his creativity, his diligence, and his extraordinary level of integrity, that I can think of no finer nominee for the MTA.

I'm proud to support the nomination today. Thank you.

ACTING PRESIDENT VALESKY: Thank you, Senator Schneiderman.

Are there any other Senators who wish to be heard?

Seeing none, the question is on the motion to confirm the nomination. All in favor signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT VALESKY: Opposed, nay.

(No response.)

ACTING PRESIDENT VALESKY: The motion carries. The nomination is confirmed.

Mr. Moerdler is joined today in the

chamber by his wife, Pearl. Congratulations.

(Applause.)

ACTING PRESIDENT VALESKY: Senator Klein.

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

ACTING PRESIDENT VALESKY: The Secretary will read.

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

Senate Print Number 1, by the Senate Committee on Rules, an act to amend the Racing, Parimutuel Wagering and Breeding Law;

7, by the Senate Committee on Rules, an act to amend the Public Authorities Law and the Highway Law;

8A, by the Senate Committee on Rules, an act to amend Chapter 53 of the Laws of 2010;

12, by the Senate Committee on Rules, an act to amend the Energy Law and the Executive Law; and

Extraordinary Session Senate Print Number 14, by the Senate Committee on Rules, an act to amend the Public Authorities Law.

All bills ordered direct to third reading.

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

(Response of "Aye.")

ACTING PRESIDENT VALESKY: Opposed, nay.

(No response.)

ACTING PRESIDENT VALESKY: The Rules Committee report is adopted.

Senator Klein.

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

ACTING PRESIDENT VALESKY: The Secretary will proceed with the reading of Extraordinary Session Calendar Number 4.

THE SECRETARY: In relation to Calendar Number 4, Senator Smith moves to discharge, from the Committee on Rules, Assembly Bill Number 1 and substitute it for

the identical Senate Bill Number 1, Calendar Number 4.

ACTING PRESIDENT VALESKY: Substitution ordered.

THE SECRETARY: Calendar Number 4, by the Assembly Committee on Rules, Assembly Print Number 1, an act to amend the Racing, Parimutuel Wagering and Breeding Law.

SENATOR WINNER: Lay it aside.

ACTING PRESIDENT VALESKY: The bill is laid aside.

The Secretary will continue to read.

THE SECRETARY: In relation to Calendar Number 6, Senator Smith moves to discharge, from the Committee on Rules, Assembly Bill Number 7 and substitute it for the identical Senate Bill Number 7, Third Reading Calendar Number 6.

ACTING PRESIDENT VALESKY: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 6, by the Assembly Committee on Rules, Assembly Print Number 7, an act to amend the

Public Authorities Law and the Highway Law.

ACTING PRESIDENT VALESKY: Read the last section.

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

ACTING PRESIDENT VALESKY: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 54.

ACTING PRESIDENT VALESKY: The bill is passed.

THE SECRETARY: In relation to Calendar Number 7, Senator Smith moves to discharge, from the Committee on Rules, Assembly Bill Number 8A and substitute it for the identical Senate Bill Number 8A, Third Reading Calendar Number 7.

ACTING PRESIDENT VALESKY: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 7, by the Assembly Committee on Rules, Assembly Print Number 8A, an act to amend Chapter 53 of the Laws of 2010, enacting the Education, Labor and Family Assistance Budget.

ACTING PRESIDENT VALESKY: Read the last section.

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

ACTING PRESIDENT VALESKY: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 54.

ACTING PRESIDENT VALESKY: The bill is passed.

THE SECRETARY: In relation to Calendar Number 8, Senator Smith moves to discharge, from the Committee on Rules, Assembly Print Number 12 and substitute it for the identical Senate Bill Number 12, Third Reading Calendar 8.

ACTING PRESIDENT VALESKY: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 8, by the Assembly Committee on Rules, Assembly Print Number 12, an act to amend the Energy Law and the Executive Law.

ACTING PRESIDENT VALESKY: Read the last section.

THE SECRETARY: Section 11. This act shall take effect January 1, 2011.

ACTING PRESIDENT VALESKY: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT VALESKY: Announce the results.

THE SECRETARY: In relation to Calendar Number 8: Ayes, 54. Nays, 0.

ACTING PRESIDENT VALESKY: The bill is passed.

THE SECRETARY: In relation to Calendar Number 10, Senator Smith moves to discharge, from the Committee on Rules, Assembly Bill Number 14 and substitute it for the identical Senate Bill Number 14, Third Reading Calendar 10.

ACTING PRESIDENT VALESKY: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 10, by the Assembly Committee on Rules, Assembly Print Number 14, an act to amend the Public Authorities Law.

ACTING PRESIDENT VALESKY: Read

the last section.

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

ACTING PRESIDENT VALESKY: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 54.

ACTING PRESIDENT VALESKY: The bill is passed.

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

SENATOR KLEIN: Mr. President, can you please call on Senator Golden. He wanted to speak on one of the previous bills that was passed.

ACTING PRESIDENT VALESKY: Certainly.

Senator Golden.

SENATOR GOLDEN: Thank you, Mr. President.

I rise to commend this body for its insight and foresight in being able to bring this bill to the floor and to pass a bill for a great man that did so many great things for our city and our state, supporting the

renaming of the Brooklyn Battery Tunnel in honor of the life and service and the accomplishments of Governor Hugh Carey, on behalf of all of the residents of this great state.

Governor Carey has a record of accomplishments that earned him the honor of having the Brooklyn Battery Tunnel named for him. A hero of Brooklyn, a hero of New York, a hero of America. He was a champion of the disabled. He was a man who saved New York's economy in the 1970s. I was one of those laid-off New York City police officers. And through those tough times, this Governor never waivered. He stayed tough and made sure that this state was solvent and that the City of New York was solvent, through his extraordinary leadership.

And it's only appropriate that those entering and leaving Brooklyn by means of the Brooklyn Battery Tunnel will travel in the name of one of the best of Brooklyn. And that was Hugh Carey, ladies and gentlemen -- is Hugh Carey.

Born in Brooklyn, Hugh Leo Carey

served in the United States Army during World War II, raised a family of 14 children in Brooklyn. And he served as a member of the United States House of Representatives. He was president of the organizing committee for the 1980 Winter Olympic Games.

And among the many accomplishments New Yorkers remember, Governor Hugh Carey successfully handled New York City's economic crisis and was responsible for building the Jacob Javits Center, the Battery Park City, the South Street Seaport, and was instrumental in supporting other means of economic development through the outer boroughs of the City of New York.

Governor Carey cut taxes significantly. And during his governorship he offered tax credits to encourage new investments. Governor Carey was an advocate for the disabled. He signed the Willowbrook consent decree, which ended the warehousing of the mentally retarded and developmentally disabled.

His vision and leadership led to the community placement of the mentally

retarded and developmentally disabled, which later came on to be the Padavan Act, which would allow for our mentally ill to be able to stay and to live in the communities and the homes where they grew up.

And, along with Senators Ed Kennedy and Dan Patrick Moynihan and House Speaker Tip O'Neill, Carey led efforts to end the violence in Northern Ireland and support peace in that region.

Hugh Carey was a great man and a great leader. Few of his leadership have we seen. And he has and does a great, great job.

And I've got to tell you, his family is here today. I wish he could be in the audience; he's down in the city today. But I commend and I thank his family for being here. And if we could give them a round of applaud, ladies and gentlemen, for all of their --

(Standing ovation.)

SENATOR GOLDEN: I'm sorry, they're right in the corner over there by the big clock.

ACTING PRESIDENT VALESKY: Thank

you, Senator Golden.

Senator Breslin is also recognized to speak on Calendar Number 6.

SENATOR BRESLIN: Thank you very much.

I won't repeat everything that Senator Golden has said. He's really said a great deal of positive things about our great Governor Carey. And I think I'll just episodically say that frequently people say that Hugh Carey was the kind of man and person that, if you met him once, you wanted to meet him again.

And, you know, the most predominant book about him is in fact "The Man Who Saved New York." A St. John's graduate both undergraduate and law school, 14 years in Congress. But he's the guy who not only saved New York City, he saved the entire state.

And, you know, when he came to Albany -- and I consider him a resident of Albany as well as a resident downstate. But he's left a wonderful legacy here. And we're joined today by his daughter Nancy Carey Cassidy and his son Kevin, two very dear

friends of mine, and they share in that legacy and they share in one of the most wonderful leaders in the history of the State of New York.

Thank you, Mr. President.

Oh, and he's an Irishman, too. I forgot.

(Laughter.)

ACTING PRESIDENT VALESKY: Thank you, Senator Breslin.

Senator Farley.

SENATOR FARLEY: Thank you, Mr. President.

I rise to pay tribute to Governor Carey, one of the finest governors this state has ever had, and a man that's a dear friend of mine. Someone that not only was a great governor, but a war hero, battlefield commission, somebody that served this state with distinction during some very troubled times and literally saved the City of New York from bankruptcy.

Governor Carey not only was a great governor, he was a great father that raised a wonderful Irish family, which was quite a

challenge many times.

And Governor Carey not only served this state well, he served this country. He served the entire nation with his service in Congress and also before, on the battlefield.

Governor Carey, to show, back when I was in a very difficult race after he was governor, he not only endorsed me but went on my fundraising letter. And I consider him one of the great servants that has ever served in New York State. A great man. And, you know, he's in his 90s right now, but he's still a vigorous guy.

And I know that his family is here, and I wish them well because they have a great legacy and a great father. And I'll tell you, Governor Carey is a great man and a great citizen of this state, and I wish him well.

Thank you.

ACTING PRESIDENT VALESKY: Thank you, Senator Farley.

Senator LaValle.

SENATOR LaVALLE: Thank you, Mr. President.

It's a great pleasure to rise as we

honor a great New Yorker, a great American, Hugh Carey, who lives at least part of the time on Shelter Island in the First Senatorial District.

Hugh Carey had the ability to assemble an intellectual nucleus that was critically important during a very troubled time. I was a staff member in 1975 in this chamber when those individuals who served in this chamber at that time had extremely difficult decisions to make. His leadership paved the way during that critical time, along with Majority Leader Warren Anderson and Stanley Fink, who brought people together to deal with the terrible problems that this state was facing.

But when we use the word "leader" and "leadership," it is synonymous with the name "Hugh Carey," who certainly history will be exceedingly kind in defining his governorship and what he did for this state.

Thank you, Mr. President.

ACTING PRESIDENT VALESKY: Thank you, Senator LaValle.

Senator Squadron.

SENATOR SQUADRON: Thank you, Mr. President.

I rise too in honor of Governor Carey and the respect that is being paid to him today.

In an earlier crisis in our state's history -- and we all know we're going through one now -- Governor Carey rose above those things that so often divide us, Republican and Democrat, upstate and downstate, to craft a solution that kept the whole state strong and allowed the state to rise and the city to rise from what looked like dark days that might never end.

And that ability, that leadership, the ability to bring people together is really what Governor Carey embodies. And so it's important, as Senator Golden pointed out, Governor Carey started in Brooklyn and spread through the whole state to exercise his leadership and get us through that crisis, just as the tunnel we're naming after him today starts in my district in Brooklyn, continues to my district in Manhattan, and then connects Brooklyn to the rest of the

world.

So it's really an appropriate honoring of Governor Carey. I'm sure that what he did for New York City, for New York State, for our political culture will never be forgotten. But what we do today will go a long way to ensure that.

So congratulations to his family, and another big thank you to Governor Carey for all that he did for New York City and New York State.

ACTING PRESIDENT VALESKY: Thank you, Senator Squadron.

Senator Klein.

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

ACTING PRESIDENT VALESKY: The Secretary will ring the bells. Senators are asked to come to the chamber so that we may commence the reading of the one-bill controversial calendar.

(Pause.)

ACTING PRESIDENT SAVINO: The Secretary will read.

THE SECRETARY: Calendar Number 4, substituted earlier by the Assembly Committee on Rules, Assembly Print Number 1, an act to amend the Racing, Parimutuel Wagering and Breeding Law.

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

Seeing none, debate is closed.

The Secretary will ring the bells. We ask all members to please return to the chamber so that we can vote on the bill before us.

(Pause.)

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.)

SENATOR KLEIN: Madam President.

ACTING PRESIDENT SAVINO: Senator Klein.

SENATOR KLEIN: Madam President,

I request a slow roll call.

ACTING PRESIDENT SAVINO: Seeing as five Senators have risen, we will withdraw the fast roll call and the Secretary will proceed with a slow roll call.

THE SECRETARY: Senator Adams.

SENATOR ADAMS: I would like to explain my vote.

ACTING PRESIDENT SAVINO: Senator Adams to explain his vote.

SENATOR ADAMS: First, this is not a bailout. This is not about upstate and downstate. This is about one state.

And I think that sometimes you have to go beyond the politics of an issue. And when we look at the faces of the men and women in those green jackets, they're representative of middle-class New Yorkers who held this state together.

A no vote on this bill lights the wick to a stick of dynamite that will blow up our racing industry. And if you believe that it will only impact New York State, you have the wrong insight.

I traveled from Buffalo to Long

Island, visited horse farms, visited those who made horse feed, visited those who are attached to this industry. If we don't pass this bill, we have started the erosion of racing in the State of New York. Today it is New York City OTB, tomorrow it's Nassau, it's Monticello and other regions.

This is an important bill. We owe this to the employees of OTB. They gave up everything. They came to the table with the right spirit and the right energy on what we expect people to do to bring this state in its recovery stage. Fifty percent of their employees, they're losing. They are losing their Sunday overtimes and other issues.

This is an important bill. I vote aye, and I'm asking my colleagues to do the same and take the politics out of racing. Even if we have to win it by a nose, let's win it for the people of this state.

(Applause from the gallery.)

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

The Secretary will continue to call the roll slowly.

THE SECRETARY: Senator Addabbo.
SENATOR ADDABBO: Yes.
THE SECRETARY: Senator Alesi.
SENATOR ALESI: No.
THE SECRETARY: Senator Aubertine.
SENATOR AUBERTINE: Yes.
THE SECRETARY: Senator Bonacic.
SENATOR BONACIC: No.
THE SECRETARY: Senator Breslin.
SENATOR BRESLIN: Yes.
THE SECRETARY: Senator DeFrancisco.
(No response.)
THE SECRETARY: Senator Diaz.
(No response.)
THE SECRETARY: Senator Dilan.
SENATOR DILAN: Yes.
THE SECRETARY: Senator Duane.
SENATOR DUANE: Yes.
THE SECRETARY: Senator Espada.
(No response.)
THE SECRETARY: Senator Farley.
(No response.)
THE SECRETARY: Senator Flanagan.

SENATOR FLANAGAN: To explain my vote.

ACTING PRESIDENT SAVINO: Senator Flanagan to explain his vote.

SENATOR FLANAGAN: Thank you, Madam President.

I listened in earnest to my colleague Senator Adams speak, and I agree partially with what he said. But I don't think this is about lighting a stick of dynamite. When I look at this issue, I look at it in relation not only to the City of New York but the entire State of New York.

All -- not all of us, but some of us have OTBs in our region. And if we're looking at this in a holistic approach, then we can do better than what's out here on the floor. There are other pieces of legislation that I believe are better for all interests in the State of New York -- the racing industry, the people who are employed in various positions not only in the City of New York but all across the State of New York.

In my estimation, this is about politics. And it's not being done on the

merits, and we can do much better. And frankly we should do much better. Because I'll make a prediction. If we don't do this in totality and approach it the right way, we're going to be back here looking at New York City again, and then Nassau County, Suffolk County, Westchester, the Capital Region. We're going to be revisiting this issue because it was not done the right way now. I can't say not done the right way the first time, because this is certainly not the first time we've been tackling this issue.

We have important business that's going to affect the racing industry and the economy of the State of New York as a whole. One of my colleagues, Senator Lanza, has a better bill that helps the City of New York and helps the entire state. That's the approach we should be taking.

And there is, in my opinion, a rush to judgment that is going to create a short-term gain for some and long-term pain for everybody in this room because we're going to be discussing this issue again and voting on more problems related to the fact that it

wasn't done properly now.

I vote no.

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

The Secretary will continue to call the roll slowly.

THE SECRETARY: Senator Foley.

SENATOR FOLEY: Yes.

THE SECRETARY: Senator Fuschillo.

SENATOR FUSCHILLO: No.

THE SECRETARY: Senator Golden.

SENATOR GOLDEN: To explain my vote.

ACTING PRESIDENT SAVINO: Senator Golden to explain his vote.

SENATOR GOLDEN: Madam President, we have talked about OTB now for years, and we keep on kicking that can down the street.

I believe it's time for public/private partnerships where we can actually pick up 350 DC-37 employees and put them into these new franchised OTB in the City of New York.

What we could do in my bill is to

have a sports bar, and in that sports bar you would have one kiosk and two screens. And each of those screens would be $400, and that kiosk would be $400. And the price of increasing that liquor license would also go up, but the State of New York and the City of New York would make money. And at the end of the day, the franchise price would pay for the pension costs and the health and welfare costs of every employee within DC-37.

It is important that we deal with this correctly going forward. And it's important that we do a public/private partnership, that we do include DC-37 in some of those jobs, to make sure that they have the ability to have a living.

But at the same point, it's time for the City and the State of New York to start making money with the OTBs across this great state and stop losing money. And the only way you do that, ladies and gentlemen, is by a franchise, by opening up a franchise either by region or by statewide. And I'm going to tell you, there would be plenty of people that would be willing to spend money to

take that franchise in New York City.

This bill that we have before us gives everything to NYRA -- $30 million we give to NYRA as the OTB Internet and phones. That's the only real asset that OTB has. OTB cannot file bankruptcy. If OTB gets in trouble next year, where does it go? It goes to NYRA. NYRA made a great sale here. They bought OTB in the City of New York for $30 million. Is that what we want to do? I don't think so.

Ladies and gentlemen, public/private partnership. That's what we need to do for the people of our great city and our great state.

I vote no.

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

The Secretary will continue to call the roll slowly.

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.

ACTING PRESIDENT SAVINO: Senator Klein to explain his vote.

SENATOR KLEIN: Madam President, this is certainly, you know, a sad day. We were called up to Albany by the Governor once again in extraordinary session to save off-track betting in New York City. With the Christmas holiday approaching -- and some of the people are here -- to actually put them on the unemployment line at this point in time is inhuman.

We're here not only hurting these poor people and forcing them to lose employment but, as my colleague Senator Eric

Adams said, this is really the death knell of racing in New York State.

New York City OTB doesn't just have an impact, and a positive one, on New York City, but through the entire state. Over $700 million goes to state racing across the State of New York every year. The local economy that benefits from New York City OTB is not only downstate but upstate and the suburbs as well. So by having OTB close, if this bill does go down without the required votes, would really be the death knell of racing in New York State.

I have in front of me a press release that was just put out by the New York Racing Association which states that "NYRA announced today that the provisions being sought by the regional Off-Track Betting Corporations as part of the legislation to permit New York City OTB to emerge from bankruptcy could force NYRA into bankruptcy once again."

So again, by having this bill, if it does go down without the required votes, we're not only impacting these poor people who

work and have dedicated their lives to the Off-Track Betting Corporation, but we're also hurting the racing industry and the farm industry and everything else that's related to racing in New York State.

So I vote yes, Madam President.

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

The Secretary will continue to call the roll slowly.

THE SECRETARY: Senator L. Krueger.

(No response.)

THE SECRETARY: Senator C. Kruger.

SENATOR CARL KRUGER: Madam President, to explain my vote.

ACTING PRESIDENT SAVINO: Senator Carl Kruger to explain his vote.

SENATOR CARL KRUGER: Today we're joined in the gallery by several of my constituents: Larry Goldberg, Alvin Rivers, Ron Silverstein, Elizabeth Nieves, a single mother, Amanda Tan. Would those people please stand up for a moment? Thank you very, very

much.

Today what we've done by defeating this bill is taken 800 hardworking rank-and-file unionists, people that have given 36 years, 25 years, 33 years, 13 years into a system, a system that we are going to be responsible to pick up the tab for to the tune of about $600 million, which will become an obligation to this state because of these not layoffs, but actual terminations.

Today by this vote, this body, by rejecting this bill, does not lay these people off, but they fire them. And by doing that, they take an entire industry and throw it into the toilet bowl. Approximately $700 million worth of economic engine is potentially destroyed by today's vote. Over 17,000 jobs across this state are thrown into jeopardy because of this vote.

So this is not so much a vote about what is OTB. Let's start putting a face on some of these cuts. While we talk about developing economic opportunities, we can't talk through both sides of our mouth. What we say on the north side of town we have to be

able to say on the south side of town. And what we are doing by this one particular vote -- and there's more that are going to be coming down the pike as we so-called kick that proverbial can down the road -- we are going to be destroying opportunity. We're going to be destroying futures. We're going to be destroying so much of what this state is all about.

So what I say today to my colleagues in government is let's start to recognize that when we start looking at this budget, when we start addressing a deficit reduction plan, for the past two years we have been very, very cognizant to put a face behind those cuts. Today, with reckless disregard of those faces that stay in this body in this chamber, and for those faces around the state, and some faces that we will never know as an industry collapses, today's vote is the death knell for the racing industry in New York State.

I vote yes.

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

The Secretary will continue to call the roll slowly.

THE SECRETARY: Senator Lanza.

SENATOR LANZA: Madam President, may I explain my vote?

ACTING PRESIDENT SAVINO: Senator Lanza to explain his vote.

SENATOR LANZA: Thank you.

You know, I listened to Senator Adams talk about the need to remove politics from this issue, and I agree completely. Make no mistake about this, folks: The only reason why this bill is on the floor here for this vote is because of politics.

You know, a lot of times the public only sees this last moment when legislation comes to the floor for a vote, but they don't get to see behind the curtain with respect to the process that has led us here. So let me pull down that curtain for a moment here.

You know, talk about acting at the 11th hour. We're beyond the 12th hour here. We were here a week and a half ago, and a bill didn't even come to the floor, was not put on the floor by the Senate Democrat Majority.

And now the Senate Democrat Majority is putting the bill on the floor knowing that they don't have the votes for passage, knowing that that's the fact.

So why, then, are we voting on this bill? Because for only one reason, Senator Adams. Because of politics. Let's stick it to the other side. Let's be able to blame them.

Well, you know, I've got another piece of legislation. If you believe that this bill is a good bill, well, then, you've got to really love my bill. Because all the concessions that are given to OTB in New York City are extended throughout OTB regions in the state. If you really want to solve this problem, then you've got to do it in a comprehensive and thoughtful fashion.

Yes, I feel for the men and women, the hardworking men and women of DC-37 OTB, those people that are here with the green jackets. We do owe them a responsibility. But I am telling you that this bill, the one on the floor here, the take-it-or-leave-it option that we're being given here, it's

merely a temporary stay of execution for you, and they know that. We've got to fix it once, fix it right, and fix it for good. My legislation would do it.

Let me also tear down the curtain a little more. You know, there were discussions between leadership from the Democratic side of the aisle and the Republican side of the aisle, and they were going very well. We were headed toward a real solution for you. And all of a sudden the plug was pulled. Why? Ask them why. Ask them why we're not now at the table discussing how to really do this right.

And you know, let me say one more thing about this doomsday scenario right now. Larry Schwartz, who works for Governor Paterson, does not need to pull the plug. He doesn't have to do it today. There's absolutely no reason. This is a decision that's being made -- or a threat, I would say, that is being made with your lives.

So I'm going to reluctantly, Madam President, vote no in the hope and the belief that you won't leave town. Because we won't

leave town either if you want to sit down and get this right. There's no reason for us to leave without truly solving this problem. And there's no reason -- and I have a call out to the Governor of our state and to Larry Schwartz. There's no reason for you to pull the plug. No legal reason, no actual reason for that to happen. That's a bunch of baloney.

So let's sit down, my friends across the aisle, and let's get it right. And that's why I'm going to reluctantly vote no -- to hopefully get people to get in a room, to sit at the table and truly, Senator Adams, remove politics from this process.

Thank you. I vote no.

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

The Secretary will continue to call the roll slowly.

THE SECRETARY: Senator Larkin, excused.

Senator LaValle.

SENATOR LaVALLE: To explain my vote, Madam President.

ACTING PRESIDENT SAVINO: Senator LaValle to explain his vote.

SENATOR LaVALLE: Today, as I sit here, it's a real puzzlement to me. The role of a legislature is to reach a consensus. This is one state. And if it is one state, there are disparate interests throughout the state that need to come together. There are regional interests that need to be represented.

The people of the First Senatorial District in Suffolk County send me here to represent Suffolk County's interests. And Suffolk County's OTB is in trouble, and they are not being represented.

We should have been here, after dealing with this issue for about a year, and negotiations should have brought us to a point on this very day where everyone in this chamber should be voting aye because their interest and where they live is being represented in this forum, this chamber.

And so Suffolk County is not being represented here. And we should not be leaving New York City. But someone at some

point should have said there are other OTBs that need to be taken care of, just as we need to take care of the New York City OTB.

So, Madam President, I vote in the negative on this legislation.

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

The Secretary will continue to call the roll slowly.

THE SECRETARY: Senator Libous, excused.

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: Yes.

THE SECRETARY: Senator Montgomery.

ACTING PRESIDENT SAVINO: Senator Montgomery, to explain her vote.

SENATOR MONTGOMERY: Yes, Madam

President, to explain my vote.

As long as I've been here, I learn something new all the time. And I'm learning this wonderful tactic that if I don't get what I want, nobody wins. And so that's what we seem to be talking about today.

Senator Lanza talks about a bill that I don't believe is alive. And so if we miss this opportunity to vote on the bill that has already passed the Assembly, has been agreed upon by the Governor, then we miss the opportunity. So I just wanted to make sure I understand what the tactic is that we're facing today.

The second thing that I want to say is I have been told by one of my colleagues, Madam President, that this is not really costing, to do this bill does not cost the state anything to save all of these jobs. That if we do this -- if we don't do it, if we vote no, it means that the state will be indebted to resolve some of the liabilities that will come about because of our not acting on this legislation.

So we in fact are missing an

opportunity to save the jobs of some of the New Yorkers, some of whom live -- many of whom live in my district, some of whom live in my own building. I am here to vote for the people who need jobs because we're coming into the holidays, they have family responsibilities, they need to work. And all we have to do is pass this legislation.

It doesn't cost us anything to save their jobs, yet we come up with an excuse of, oh, I have another bill, or I have another idea for a bill, or why didn't we do this last year and so therefore I'm voting no. Because people obviously don't understand how difficult it is for people working families to be faced with the loss of a job. They maybe don't understand; maybe they don't care. But certainly this is an obligation that we have to at least save the jobs of the people and the racing industry in our state.

So, Madam President, I vote aye.

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

The Secretary will continue to call the roll slowly.

THE SECRETARY: Senator Nozzolio.

SENATOR NOZZOLIO: Madam President, I ask permission to explain my vote.

ACTING PRESIDENT SAVINO: Senator Nozzolio to explain his vote.

SENATOR NOZZOLIO: Thank you, Madam President and my colleagues.

I've listened intently to those who are who are speaking and come to this conclusion. When an item is negotiated behind closed doors, when all the parties directly impacted by that decision are not party to the discussions, when legislators from this side of the aisle are totally excluded from those discussions, when this whole process is one of question and results in unequal and I daresay unfair treatment to parties that were not necessarily at the table all the time or not at the table at all, you can only conclude that there can be a better way.

There is a better way. There should be a broader, more significant and open discussion about this important issue. With all due respect to my colleagues who say that

there are jobs involved here, there's certainly an important component. But what about taxpayers' resources? What about the policies that lead to those jobs? What about those who are being -- doing the same, performing the same task yet receiving much different treatment by this legislation?

Those are the questions that this body should be asking. And it should be asking is the remedy fair, is it inclusive, is it just, and does it support the best interests of our taxpayers.

This measure before us is inadequate on all those counts. Can we do better? Absolutely yes. And the negotiators should begin today to achieve that objective. It has been discussed often, we have a better way, we can achieve a better way. And that's why I must reluctantly vote against this measure today, with the hope that that will be a signal to those to get to the table, be more inclusive in the discussions around that table, and produce a better product for our taxpayers and for those who are directly impacted by this industry.

Madam President, I must vote in the negative.

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

The Secretary will continue to call the roll slowly.

THE SECRETARY: Senator Onorato.

SENATOR ONORATO: To explain my vote, Madam President.

ACTING PRESIDENT SAVINO: Senator Onorato to explain his vote.

SENATOR ONORATO: I can't believe what we're going through right now here. With the economy tanking as it is, we are now about to layoff 800 employees from New York City OTB parlor. But the other effect of it is probably going to affect somewhere in the neighborhood of 2,500 workers throughout the state in the entire industry.

We are certainly coming into the holiday season with good cheer and welfare to everybody again. Merry Christmas, everybody. And I hope you have a good night's sleep knowing full well that these people may not even be able to collect unemployment insurance

because they're being terminated and there's a discussion of whether or not they'll be entitled to unemployment.

So for those of you who haven't voted yet, please consider those effects on these 800 people and their families. I urge you to vote yes.

I vote aye.

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

The Secretary will continue to call the roll slowly.

THE SECRETARY: Senator Oppenheimer.

SENATOR OPPENHEIMER: Aye.

THE SECRETARY: Senator Padavan.

SENATOR PADAVAN: Yes.

THE SECRETARY: Senator Parker.

(No response.)

THE SECRETARY: Senator Peralta.

SENATOR PERALTA: I choose to save jobs. I vote yes.

THE SECRETARY: Senator Perkins.

SENATOR PERKINS: I'd like to take a moment and explain my vote, Madam

Chair.

ACTING PRESIDENT SAVINO: Senator Perkins to explain his vote.

SENATOR PERKINS: You know, it just seems, in the context of historically high unemployment rates and with our economy in the bad shape that it is, sort of a no-brainer to with one vote be able to make a significant difference in at least 800 jobs, if not more, and the effect that that will have on families and the effect that that will have on the economies not just in the area where those jobs will take place but throughout the whole state.

Someone working in Buffalo helps the economy for all of us. And someone working in New York City helps the economy for all of us. We cannot assume that that benefit is limited to that community where that job will take place, because those taxes are not just going to be used in that neighborhood. Those taxes are going to be used to address the concerns for all New Yorkers.

So it just seems to me that we have an easy vote here today to be able to create,

through this vote, so many jobs, so many opportunities for some improvement in people's lives, especially in the context not just of the economy or the unemployment rate that we're having now, but also the season, which suggests that we would want to leave here bringing some good cheer to somebody at this point in time.

So please record me as voting aye. Thank you.

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

The Secretary will continue to call roll slowly.

THE SECRETARY: Senator Ranzenhofer.

SENATOR RANZENHOFER: No.

THE SECRETARY: Senator Robach.

SENATOR ROBACH: No.

THE SECRETARY: Senator Saland, excused.

Senator Sampson.

SENATOR SAMPSON: Aye.

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 recorded in the negative.)

THE SECRETARY: Senator Smith, excused.

Senator Squadron.

SENATOR SQUADRON: Yes.

THE SECRETARY: Senator Stachowski.

SENATOR STACHOWSKI: Yes.

THE SECRETARY: Senator Stavisky.

SENATOR STAVISKY: Yes.

THE SECRETARY: Senator Stewart-Cousins.

SENATOR STEWART-COUSINS: Yes.

THE SECRETARY: Senator Thompson.

SENATOR THOMPSON: Yes.

THE SECRETARY: Senator Valesky.

SENATOR VALESKY: To explain my vote.

ACTING PRESIDENT SAVINO: Senator Valesky to explain his vote.

SENATOR VALESKY: Madam President, I do believe this is a bill that is about jobs, first and foremost. I do also believe that it is -- that there may be the opportunity to do something and to bring a product to the floor that would be better than this.

Well, my concern is should we take that chance. Should we take the chance when tonight, my understanding is tonight there will be at least 800 direct jobs lost immediately?

But my concern is the statewide impact on jobs. And I just want to share with you, Madam President and my colleagues, some of the information that I think should be helpful and instructive as we try to decide what to do with this particular piece of legislation. Because the fact of the matter is -- and the one thing that we can't change -- the Assembly is not here today. I

would have liked a better product today. The Assembly did not take up that better product. They are not here, and that is not an option that is on the table.

So I think about over 250,000 New Yorkers who participate in the equine industry across the state, as owners, service providers, employees and volunteers. A $2.4 billion annual economic impact on New York State's economy, across the entire state, one New York. Seventeen thousand full-time jobs that the New York equine industry directly provides here in New York State. And spending by suppliers and employees that generates additional jobs in New York, for a total employment impact of over 35,000 agribusiness jobs.

Madam President, I'm not willing to take the risk that if we do not take this action today some number of those jobs are not going to be lost between tomorrow and whenever we get a chance to do a better product on the floor of this Senate.

Not only that, we are about, assuming this bill fails, to add another

$600 million in debt to the State of New York and on New York State taxpayers' backs. Last time I checked, we have a $315 million mid-fiscal-year deficit that is yet to be closed. We have a deficit for the new fiscal year that begins on April 1st: $9 billion, $10 billion. It seems to continue to grow every day that you hear new numbers.

And we're going to take an act today that would cost jobs and add over half a billion dollars in debt on the New York State budget? It just doesn't make sense. I vote in the affirmative.

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

The Secretary will continue to call the roll slowly.

THE SECRETARY: Senator Volker.

SENATOR VOLKER: No.

THE SECRETARY: Senator Winner.

SENATOR WINNER: No.

THE SECRETARY: Senator Young.

SENATOR YOUNG: No.

ACTING PRESIDENT SAVINO: The Secretary will call the absentees.

THE SECRETARY: Senator DeFrancisco.

(No response.)

THE SECRETARY: Senator Diaz.

(No response.)

THE SECRETARY: Senator Espada.

(No response.)

THE SECRETARY: Senator Farley.

(No response.)

THE SECRETARY: Senator L. Krueger.

(No response.)

THE SECRETARY: Senator Parker.

(No response.)

ACTING PRESIDENT SAVINO: Announce the results.

THE SECRETARY: Ayes, 29. Nays, 21.

ACTING PRESIDENT SAVINO: The bill is failed.

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

Senator Klein.

SENATOR KLEIN: Madam President, can we please stand at ease for five minutes

at the most.

ACTING PRESIDENT SAVINO: The Senate will stand at ease.

(Whereupon, the Senate stood at ease at 4:01 p.m.)

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

ACTING PRESIDENT STEWART-COUSINS: Senator Klein.

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

ACTING PRESIDENT STEWART-COUSINS: Senator Klein, the desk is clear.

SENATOR KLEIN: There being no further business, Madam President, I move that we adjourn at the call of the Temporary President.

ACTING PRESIDENT STEWART-COUSINS: There being no further business to come before the Senate, on motion, the Senate stands adjourned at the call of the Temporary President.

(Whereupon, at 4:13 p.m., the Senate adjourned.)