

1 NEW YORK STATE SENATE

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3
4 THE STENOGRAPHIC RECORD

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8
9 ALBANY, NEW YORK

10 June 17, 2010

11 11:32 a.m.

12
13
14 REGULAR SESSION

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17
18 SENATOR DAVID J. VALESKY, Acting President

19 ANGELO J. APONTE, Secretary

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

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

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

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

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

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

14 ACTING PRESIDENT VALESKY: The
15 reading of the Journal.

16 The Secretary will read.

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

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

25 Presentation of petitions.

1 Messages from the Assembly.
2 Messages from the Governor.
3 Reports of standing committees.
4 Reports of select committees.
5 Communications and reports from
6 state officers.

7 Motions and resolutions.

8 Senator Klein.

9 SENATOR KLEIN: Mr. President, on
10 behalf of Senator Breslin, on page number 31 I
11 offer the following amendments to Calendar
12 Number 749, Senate Print Number 4869A, and ask
13 that said bill retain its place on Third
14 Reading Calendar.

15 ACTING PRESIDENT VALESKY: So
16 ordered.

17 Senator Klein.

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

22 ACTING PRESIDENT VALESKY: The
23 Secretary will read the substitutions.

24 THE SECRETARY: On page 5,
25 Senator Breslin moves to discharge, from the

1 Committee on Rules, Assembly Bill Number
2 10038A and substitute it for the identical
3 Senate Bill Number 4767B, Third Reading
4 Calendar 37.

5 On page 8, Senator Valesky moves to
6 discharge, from the Committee on Rules,
7 Assembly Bill Number 8300A and substitute it
8 for the identical Senate Bill Number 5722A,
9 Third Reading Calendar 169.

10 On page 15, Senator LaValle moves
11 to discharge, from the Committee on Rules,
12 Assembly Bill Number 4422 and substitute it
13 for the identical Senate Bill Number 1656,
14 Third Reading Calendar 353.

15 On page 15, Senator Parker moves to
16 discharge, from the Committee on Rules,
17 Assembly Bill Number 9186B and substitute it
18 for the identical Senate Bill Number 6079B,
19 Third Reading Calendar 379.

20 On page 19, Senator Morahan moves
21 to discharge, from the Committee on Rules,
22 Assembly Bill Number 10791 and substitute it
23 for the identical Senate Bill Number 7253,
24 Third Reading Calendar 470.

25 On page 40, Senator Duane moves to

1 discharge, from the Committee on Rules,
2 Assembly Bill Number 11343 and substitute it
3 for the identical Senate Bill Number 7826,
4 Third Reading Calendar 879.

5 And on page 46, Senator Huntley
6 moves to discharge, from the Committee on
7 Rules, Assembly Bill Number 11351 and
8 substitute it for the identical Senate Bill
9 Number 8060, Third Reading Calendar 936.

10 ACTING PRESIDENT VALESKY:
11 Substitutions ordered.

12 Senator Klein.

13 SENATOR KLEIN: Mr. President,
14 can you please recognize Senator Padavan for a
15 floor motion.

16 ACTING PRESIDENT VALESKY:
17 Senator Padavan.

18 SENATOR PADAVAN: Mr. President,
19 I wish to call up my bill, Print Number 4893,
20 recalled from the Assembly, which is now at
21 the desk.

22 ACTING PRESIDENT VALESKY: The
23 Secretary will read.

24 THE SECRETARY: Calendar Number
25 77, by Senator Nozzolio, Senate Print 4893, an

1 act to amend the Executive Law.

2 ACTING PRESIDENT VALESKY:

3 Senator Padavan.

4 SENATOR PADAVAN: I now move to
5 reconsider the vote by which this bill was
6 passed.

7 ACTING PRESIDENT VALESKY: The
8 Secretary will call the roll on
9 reconsideration.

10 (The Secretary called the roll.)

11 THE SECRETARY: Ayes, 59.

12 ACTING PRESIDENT VALESKY:

13 Senator Padavan.

14 SENATOR PADAVAN: I believe we're
15 restoring this bill on the Third Reading
16 Calendar, am I not?

17 ACTING PRESIDENT VALESKY: So
18 ordered.

19 Senator Klein.

20 SENATOR KLEIN: Mr. President,
21 can you please recognize Senator Little. She
22 has an important announcement to make.

23 ACTING PRESIDENT VALESKY:

24 Senator Little.

25 SENATOR LITTLE: Thank you,

1 Mr. President.

2 I have the sad responsibility today
3 of asking for a moment of silence and asking
4 my colleagues to join me in that, on the loss
5 of a life by a young Army fellow from my
6 district.

7 Benjamin Osborn, age 27, who's a
8 graduate of Lake George High School, was
9 killed in a combat mission on Tuesday in
10 Afghanistan. Ben had served three years in
11 the Army. This was his second tour of duty.
12 He spent 15 months in Iraq. He had been in
13 Afghanistan since April.

14 He leaves behind his mother and
15 father, Beverly and Bill Osborn of Lake George
16 his sister and three brothers, and his new
17 wife, who he had just married in February of
18 this past year, Nicole LaPier of South Glens
19 Falls.

20 Ben is a real hero. He was in a
21 combat mission; there were about 20 of them.
22 They were being assaulted by a larger Taliban
23 group. His command leader said "I need a
24 gunner," and Ben Osborn stepped forward to be
25 that gunner. And he lost his life.

1 I spoke with his mother, Beverly,
2 this morning, and they are leaving at noon to
3 go to Dover Air Base, where they will receive
4 his remains sometime during the night.

5 But I'd just like to ask all of you
6 to take a moment and offer a prayer and a
7 moment of silence for this family, who are
8 heartbroken by the loss of their son, but are
9 truly proud about his service.

10 And we are very fortunate, all of
11 us, as we know, to have young men and women
12 who are willing to serve on a volunteer basis,
13 to serve in harm's way and to be the person
14 who steps forward and says "I'll do that,"
15 even though they know that the outcome could
16 be the loss of their life, as it was for
17 Benjamin Osborn.

18 Thank you. And if you would stand
19 and join me for a moment of silence and
20 remember this family in your prayers today.

21 ACTING PRESIDENT VALESKY: If all
22 Senators, staff and visitors would please rise
23 to observe a moment of silence in memory of
24 Benjamin Osborn.

25 (Whereupon, the assemblage

1 respected a moment of silence.)

2 Senator Klein.

3 SENATOR KLEIN: Mr. President,
4 there will be an immediate meeting of the
5 Veterans, Homeland Security and Military
6 Affairs Committee, followed by an immediate
7 meeting of the Crime Victims and Corrections
8 Committee in the Majority Conference Room.

9 Pending the return of the Crime
10 Victims and Corrections Committee, may we
11 please stand at ease.

12 ACTING PRESIDENT VALESKY: There
13 will be an immediate meeting of the Veterans,
14 Homeland Security and Military Affairs
15 Committee, followed by a meeting of the Crime
16 Victims, Crime and Corrections Committee in
17 the Majority Conference Room.

18 Pending the return of the Crime
19 Victims, Crime and Corrections Committee, the
20 Senate will stand at ease.

21 (Whereupon, the Senate stood at
22 ease at 11:39 a.m.)

23 (Whereupon, the Senate reconvened
24 at 1:24 p.m.)

25 ACTING PRESIDENT VALESKY: The

1 Senate will come to order.

2 Senator Klein.

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

6 ACTING PRESIDENT VALESKY: The
7 Secretary will proceed with the reading of the
8 noncontroversial calendar.

9 THE SECRETARY: Calendar Number
10 28, by Senator Perkins, Senate Print 1145C, an
11 act to amend --

12 SENATOR LIBOUS: Lay it aside.

13 ACTING PRESIDENT VALESKY: The
14 bill is laid aside.

15 THE SECRETARY: Calendar Number
16 329, by Senator Huntley, Senate Print 3119C,
17 an act to amend the Vehicle and Traffic Law.

18 ACTING PRESIDENT VALESKY: Read
19 the last section.

20 THE SECRETARY: Section 2. This
21 act shall take effect on the first of
22 November.

23 ACTING PRESIDENT VALESKY: Call
24 the roll.

25 (The Secretary called the roll.)

1 THE SECRETARY: Ayes, 61.

2 ACTING PRESIDENT VALESKY: The
3 bill is passed.

4 THE SECRETARY: Calendar Number
5 459, by Senator Dilan, Senate Print 5711B, an
6 act to amend the Highway Law.

7 ACTING PRESIDENT VALESKY: Read
8 the last section.

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

11 ACTING PRESIDENT VALESKY: Call
12 the roll.

13 (The Secretary called the roll.)

14 ACTING PRESIDENT VALESKY: The
15 Secretary will announce the results.

16 THE SECRETARY: Those recorded in
17 the negative on Calendar Number 459 are
18 Senators LaValle, Ranzenhofer and Skelos.

19 Ayes, 58. Nays, 3.

20 ACTING PRESIDENT VALESKY: The
21 bill is passed.

22 THE SECRETARY: Calendar Number
23 540, by Senator Valesky, Senate Print 7198B,
24 an act to amend the Highway Law.

25 ACTING PRESIDENT VALESKY: Read

1 the last section.

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

4 ACTING PRESIDENT VALESKY: Call
5 the roll.

6 (The Secretary called the roll.)

7 THE SECRETARY: Ayes, 61.

8 ACTING PRESIDENT VALESKY: The
9 bill is passed.

10 THE SECRETARY: Calendar Number
11 693, by Member of the Assembly McEneny,
12 Assembly Print Number 9944, an act to amend
13 the Public Health Law.

14 ACTING PRESIDENT VALESKY: Read
15 the last section.

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

18 ACTING PRESIDENT VALESKY: Call
19 the roll.

20 (The Secretary called the roll.)

21 THE SECRETARY: Ayes, 61.

22 ACTING PRESIDENT VALESKY: The
23 bill is passed.

24 THE SECRETARY: Calendar Number
25 712, by Member of the Assembly Weinstein,

1 Assembly Print Number 6922, an act to amend
2 the Civil Practice Law and Rules.

3 ACTING PRESIDENT VALESKY: Read
4 the last section.

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

7 ACTING PRESIDENT VALESKY: Call
8 the roll.

9 (The Secretary called the roll.)

10 ACTING PRESIDENT VALESKY:
11 Announce the results.

12 THE SECRETARY: Those recorded in
13 the negative on Calendar Number 712 are
14 Senators Bonacic, DeFrancisco, Farley, Golden,
15 Griffo, O. Johnson, Lanza, LaValle, Skelos and
16 Winner. Also Senator Nozzolio. Also Senator
17 Little. Also Senator Saland.

18 Ayes, 48. Nays, 13.

19 ACTING PRESIDENT VALESKY: The
20 bill is passed.

21 THE SECRETARY: Calendar Number
22 716, by Senator Aubertine, Senate Print 7099,
23 an act to amend the Agriculture and Markets
24 Law.

25 ACTING PRESIDENT VALESKY: Read

1 the last section.

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

4 ACTING PRESIDENT VALESKY: Call
5 the roll.

6 (The Secretary called the roll.)

7 THE SECRETARY: Ayes, 61.

8 ACTING PRESIDENT VALESKY: The
9 bill is passed.

10 THE SECRETARY: Calendar Number
11 720, by Senator Dilan, Senate Print 7439, an
12 act to amend the Vehicle and Traffic Law.

13 ACTING PRESIDENT VALESKY: Read
14 the last section.

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

17 ACTING PRESIDENT VALESKY: Call
18 the roll.

19 (The Secretary called the roll.)

20 THE SECRETARY: Ayes, 61.

21 ACTING PRESIDENT VALESKY: The
22 bill is passed.

23 THE SECRETARY: Calendar Number
24 738, by Member of the Assembly Galef, Assembly
25 Print Number 10869, an act to amend the Real

1 Property Tax Law.

2 ACTING PRESIDENT VALESKY: Read
3 the last section.

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

6 ACTING PRESIDENT VALESKY: Call
7 the roll.

8 (The Secretary called the roll.)

9 THE SECRETARY: Ayes, 61.

10 ACTING PRESIDENT VALESKY: The
11 bill is passed.

12 THE SECRETARY: Calendar Number
13 742, by Senator Adams, Senate Print 5767, an
14 act to amend the Military Law.

15 ACTING PRESIDENT VALESKY: Read
16 the last section.

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

19 ACTING PRESIDENT VALESKY: Call
20 the roll.

21 (The Secretary called the roll.)

22 THE SECRETARY: Ayes, 61.

23 ACTING PRESIDENT VALESKY: The
24 bill is passed.

25 THE SECRETARY: Calendar Number

1 745, by Senator Hassell-Thompson, Senate Print
2 7864, an act to amend the Correction Law.

3 ACTING PRESIDENT VALESKY: Read
4 the last section.

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

7 ACTING PRESIDENT VALESKY: Call
8 the roll.

9 (The Secretary called the roll.)

10 ACTING PRESIDENT VALESKY:
11 Senator Robach, to explain his vote.

12 SENATOR ROBACH: Yes,
13 Mr. President, just very briefly, to explain
14 my vote.

15 This bill gives inmates more time
16 off for participating in programs that they
17 already participate in, but then would allow
18 them to get out earlier. I would have no
19 problem if this bill was only for nonviolent
20 felons, but this is for anyone incarcerated.
21 I hear all across my district strong concerns
22 with people that are already getting out, in
23 the public's opinion, too early who have
24 committed murders, violent offenses.

25 I just went through a petition

1 drive for an individual in my community, Walt
2 Casper, let out at the earliest time possible,
3 who very meticulously planned out and murdered
4 his wife, the mother of his own children,
5 only -- shockingly -- to get out very, very
6 early in the process.

7 I think this bill would be much
8 better and do the job if it only affected
9 nonviolent felons rather than everyone in the
10 criminal justice spectrum, especially those
11 who have already preyed, maimed and murdered
12 people in our community. So for that reason
13 I'll be voting in the negative.

14 ACTING PRESIDENT VALESKY:

15 Senator Robach to be recorded in the negative.

16 Announce the results.

17 THE SECRETARY: Those recorded in
18 the negative on Calendar Number 745 are
19 Senators Bonacic, DeFrancisco, Flanagan,
20 Fuschillo, Golden, Griffo, Hannon, O. Johnson,
21 Lanza, Larkin, LaValle, Libous, Little,
22 Marcellino, Maziarz, McDonald, Nozzolio,
23 Ranzenhofer, Robach, Saland, Skelos, Winner,
24 Young. Also Senators Alesi, Farley and
25 Padavan.

1 Ayes, 35. Nays, 26.

2 ACTING PRESIDENT VALESKY: The
3 bill is passed.

4 THE SECRETARY: Calendar Number
5 748, by Member of the Assembly Pheffer,
6 Assembly Print Number 4916, an act to amend
7 the Insurance Law.

8 ACTING PRESIDENT VALESKY: Read
9 the last section.

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

12 ACTING PRESIDENT VALESKY: Call
13 the roll.

14 (The Secretary called the roll.)

15 THE SECRETARY: Ayes, 61.

16 ACTING PRESIDENT VALESKY: The
17 bill is passed.

18 THE SECRETARY: Calendar Number
19 778, by Senator Thompson, Senate Print 4949A,
20 an act to amend the Environmental Conservation
21 Law.

22 ACTING PRESIDENT VALESKY: Read
23 the last section.

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

1 ACTING PRESIDENT VALESKY: Call
2 the roll.

3 (The Secretary called the roll.)

4 THE SECRETARY: Ayes, 61.

5 ACTING PRESIDENT VALESKY: The
6 bill is passed.

7 THE SECRETARY: Calendar Number
8 781, by Senator Klein, Senate Print 5508A, an
9 act to amend the Alcoholic Beverage Control
10 Law.

11 ACTING PRESIDENT VALESKY: Read
12 the last section.

13 THE SECRETARY: Section 6. This
14 act shall take effect on the 180th day.

15 ACTING PRESIDENT VALESKY: Call
16 the roll.

17 (The Secretary called the roll.)

18 THE SECRETARY: Ayes, 61.

19 ACTING PRESIDENT VALESKY: The
20 bill is passed.

21 THE SECRETARY: Calendar Number
22 789, by Senator Stachowski, Senate Print 6970,
23 an act to amend the Alcoholic Beverage Control
24 Law.

25 ACTING PRESIDENT VALESKY: Read

1 the last section.

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

4 ACTING PRESIDENT VALESKY: Call
5 the roll.

6 (The Secretary called the roll.)

7 THE SECRETARY: Ayes, 61.

8 ACTING PRESIDENT VALESKY: The
9 bill is passed.

10 THE SECRETARY: Calendar Number
11 792, by Member of the Assembly Reilly,
12 Assembly Print Number 10772, an act to amend
13 the Public Officers Law.

14 ACTING PRESIDENT VALESKY: Read
15 the last section.

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

18 ACTING PRESIDENT VALESKY: Call
19 the roll.

20 (The Secretary called the roll.)

21 THE SECRETARY: Ayes, 60. Nays,
22 1. Senator Golden recorded in the negative.

23 ACTING PRESIDENT VALESKY: The
24 bill is passed.

25 THE SECRETARY: Calendar Number

1 813, by Member of the Assembly Reilly,
2 Assembly Print Number 7162B, an act to amend
3 the Tax Law.

4 ACTING PRESIDENT VALESKY: Read
5 the last section.

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

8 ACTING PRESIDENT VALESKY: Call
9 the roll.

10 (The Secretary called the roll.)

11 THE SECRETARY: Ayes, 61.

12 ACTING PRESIDENT VALESKY: The
13 bill is passed.

14 THE SECRETARY: Calendar Number
15 814, by Senator C. Johnson, Senate Print
16 7350A, an act to amend the Public Officers
17 Law.

18 ACTING PRESIDENT VALESKY: Read
19 the last section.

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

22 ACTING PRESIDENT VALESKY: Call
23 the roll.

24 (The Secretary called the roll.)

25 THE SECRETARY: Ayes, 61. Nays,

1 0.

2 ACTING PRESIDENT VALESKY: The
3 bill is passed.

4 THE SECRETARY: Calendar Number
5 832, by Senator Adams, Senate Print 5213A, an
6 act to amend the Criminal Procedure Law.

7 ACTING PRESIDENT VALESKY: Read
8 the last section.

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

11 ACTING PRESIDENT VALESKY: Call
12 the roll.

13 (The Secretary called the roll.)

14 THE SECRETARY: Ayes, 61.

15 ACTING PRESIDENT VALESKY: The
16 bill is passed.

17 THE SECRETARY: Calendar Number
18 837, by Member of the Assembly Paulin,
19 Assembly Print Number 8645B, an act to amend
20 the Alcoholic Beverage Control Law.

21 ACTING PRESIDENT VALESKY: Read
22 the last section.

23 THE SECRETARY: Section 4. This
24 act shall take effect on the 30th day.

25 ACTING PRESIDENT VALESKY: Call

1 the roll.

2 (The Secretary called the roll.)

3 ACTING PRESIDENT VALESKY:

4 Senator Klein, to explain his vote.

5 SENATOR KLEIN: Mr. President, to
6 explain my vote.

7 This bill amends the Alcoholic
8 Beverage Control Law to encourage those who
9 sell alcohol, and their employees, to make
10 sure that they attend training classes to
11 reduce underage drinking.

12 When you look at the numbers,
13 they're quite startling. Freshmen in high
14 school, over 50 percent have tried alcohol.
15 Seniors in high school, 35 percent have
16 knowingly got into a car with someone who is
17 under the influence.

18 I think this legislation will offer
19 important incentives for those who run liquor
20 establishments to make sure that their
21 employees take these classes. Because the
22 licenses that actually have been given, they
23 can actually get 25 percent off on their civil
24 penalty if they attend these classes.

25 So I think it's the incentive

1 that's needed, because if you look at the
2 State Liquor Authority's programs that they
3 run around the state, they're not in very high
4 attendance. So we're not doing everything
5 possible to make sure we're adequately
6 educating people to the problems of underage
7 drinking and how to spot someone and make sure
8 someone does not purchase alcohol if they're
9 underage.

10 So of course I vote yes,
11 Mr. President.

12 ACTING PRESIDENT VALESKY:
13 Senator Klein to be recorded in the
14 affirmative.

15 Announce the results.

16 THE SECRETARY: Ayes, 61. Nays,
17 0.

18 ACTING PRESIDENT VALESKY: The
19 bill is passed.

20 THE SECRETARY: Calendar Number
21 846, by Senator Stewart-Cousins, Senate Print
22 7400A, an act to amend the General Municipal
23 Law.

24 ACTING PRESIDENT VALESKY: Read
25 the last section.

1 THE SECRETARY: Section 17. This
2 act shall --

3 SENATOR HANNON: Lay it aside.

4 ACTING PRESIDENT VALESKY: The
5 bill is laid aside.

6 THE SECRETARY: Calendar Number
7 848, by Senator Dilan, Senate Print 7438, an
8 act to amend the Vehicle and Traffic Law.

9 ACTING PRESIDENT VALESKY: Read
10 the last section.

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

13 ACTING PRESIDENT VALESKY: Call
14 the roll.

15 (The Secretary called the roll.)

16 ACTING PRESIDENT VALESKY:
17 Announce the results.

18 THE SECRETARY: Those recorded in
19 the negative on Calendar Number 848 are
20 Senators Bonacic, DeFrancisco, Farley,
21 Flanagan, Fuschillo, Griffo, O. Johnson,
22 Lanza, Larkin, Libous, Little, Maziarz,
23 Nozzolio, Ranzenhofer, Robach, Saland, Skelos,
24 Volker, Winner and Young.

25 Ayes, 41. Nays, 20.

1 ACTING PRESIDENT VALESKY: The
2 bill is passed.

3 THE SECRETARY: Calendar Number
4 858, by Senator Perkins --

5 SENATOR LIBOUS: Lay it aside.

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

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

10 THE SECRETARY: Calendar Number
11 861, by Senator Adams --

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

14 ACTING PRESIDENT VALESKY: The
15 bill is laid aside for the day.

16 THE SECRETARY: Calendar Number
17 867, by Member of the Assembly Gottfried,
18 Assembly Print Number 9550A, an act to amend
19 the Public Health Law.

20 ACTING PRESIDENT VALESKY: Read
21 the last section.

22 THE SECRETARY: Section 2. This
23 act shall --

24 SENATOR LIBOUS: Lay it aside.

25 ACTING PRESIDENT VALESKY: The

1 bill is laid aside.

2 THE SECRETARY: Calendar Number
3 876, by Senator Dilan, Senate Print 7885A, an
4 act to amend the Vehicle and Traffic Law.

5 ACTING PRESIDENT VALESKY: Read
6 the last section.

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

9 ACTING PRESIDENT VALESKY: Call
10 the roll.

11 (The Secretary called the roll.)

12 THE SECRETARY: Ayes, 61.

13 ACTING PRESIDENT VALESKY: The
14 bill is passed.

15 THE SECRETARY: Calendar Number
16 931, by Senator Aubertine, Senate Print 4823,
17 an act to amend the Public Authorities Law.

18 ACTING PRESIDENT VALESKY: Read
19 the last section.

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

22 ACTING PRESIDENT VALESKY: Call
23 the roll.

24 (The Secretary called the roll.)

25 THE SECRETARY: Ayes, 61.

1 ACTING PRESIDENT VALESKY: The
2 bill is passed.

3 THE SECRETARY: Calendar Number
4 936, substituted earlier today by the Assembly
5 Committee on Rules, Assembly Print Number
6 11351, an act to amend the Public Authorities
7 Law.

8 ACTING PRESIDENT VALESKY: Read
9 the last section.

10 THE SECRETARY: Section 3. This
11 act shall take effect on the same date and in
12 the same manner as Chapter 95 of the Laws of
13 2010.

14 ACTING PRESIDENT VALESKY: Call
15 the roll.

16 (The Secretary called the roll.)

17 THE SECRETARY: Ayes, 61.

18 ACTING PRESIDENT VALESKY: The
19 bill is passed.

20 THE SECRETARY: Calendar Number
21 948, by Member of the Assembly Kavanagh,
22 Assembly Print Number 7917D, an act to amend
23 the Vehicle and Traffic Law.

24 ACTING PRESIDENT VALESKY: Read
25 the last section.

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

3 ACTING PRESIDENT VALESKY: Call
4 the roll.

5 (The Secretary called the roll.)

6 ACTING PRESIDENT VALESKY:
7 Senator Squadron, to explain his vote.

8 SENATOR SQUADRON: Thank you very
9 much, Mr. President.

10 This bill was written in response
11 to a tragedy that happened in my district in
12 Chinatown a little over a year ago where two
13 young children were tragically killed when a
14 delivery van ran them over.

15 This bill will not bring Hayley and
16 Diego back, but hopefully it will send the
17 message that careless driving is in many cases
18 as dangerous as other driving infractions on
19 the road, as reckless driving or other things
20 that can lead to tragedy. And it will send
21 the message that you need to exercise due care
22 and be incredibly careful when you're behind
23 the wheel, because the consequences of not
24 doing so can too often be tragic.

25 Hopefully this is a bill that won't

1 lead to lots of folks having increased
2 penalties, but instead will lead to lots of
3 folks driving just a little bit more safely
4 and will save lives.

5 Thank you very much, Mr. President.
6 I vote aye.

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

10 Senator DeFrancisco, to explain his
11 vote.

12 SENATOR DeFRANCISCO: Yes, I
13 voted no because I think in the Penal Law the
14 theory is that if you're reckless or
15 intentionally causing various types of events,
16 you should be found to be guilty of a criminal
17 offense.

18 This bill actually changes that
19 theory that simply if you're negligent or
20 careless, you can be determined to be guilty
21 of a criminal offense, because there's
22 provisions in here for a Class B misdemeanor.

23 I think that really changes
24 criminal law substantially, and it's a --
25 although the offense here is only a

1 B misdemeanor, I think such a dramatic change
2 in philosophy as far as the criminal law is
3 concerned should be subject to some kind of
4 hearings or something if we're going to change
5 the law this dramatically, and that's why I'm
6 voting no.

7 ACTING PRESIDENT VALESKY:

8 Senator DeFrancisco to be recorded in the
9 negative.

10 Senator Bonacic, to explain his
11 vote.

12 SENATOR BONACIC: Thank you,
13 Mr. Chairman.

14 I think when you look on the face
15 of this bill, we certainly don't want cars
16 hitting children or bicycles getting in the
17 way and hurting people. That's not the
18 problem with the bill. The problem is we're
19 engaging in a slippery slope when you start to
20 criminalize acts of negligence.

21 And that's the reason I'm voting
22 no, why I voted no in committee.

23 Thank you, Mr. Chairman.

24 ACTING PRESIDENT VALESKY:

25 Senator Bonacic to be recorded in the

1 negative.

2 Announce the results.

3 THE SECRETARY: Those recorded in
4 the negative on Calendar Number 948 are
5 Senators Alesi, Bonacic, DeFrancisco, Farley,
6 Flanagan, Golden, Hannon, O. Johnson, Larkin,
7 LaValle, Libous, Marcellino, Maziarz, Skelos
8 and Volker. Also Senator Lanza. Also Senator
9 Saland. Also Senator Ranzenhofer. Also
10 Senator Young. Also Senator Winner. Also
11 Senators Little and Leibell.

12 Ayes, 39. Nays, 22.

13 ACTING PRESIDENT VALESKY: The
14 bill is passed.

15 THE SECRETARY: Calendar Number
16 977, by Senator Hassell-Thompson, Senate Print
17 5043A, an act to amend the Social Services
18 Law.

19 ACTING PRESIDENT VALESKY: Read
20 the last section.

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

23 ACTING PRESIDENT VALESKY: Call
24 the roll.

25 (The Secretary called the roll.)

1 THE SECRETARY: Ayes, 61.

2 ACTING PRESIDENT VALESKY: The
3 bill is passed.

4 SENATOR LIBOUS: Mr. President.

5 ACTING PRESIDENT VALESKY:
6 Senator Libous.

7 SENATOR LIBOUS: Thank you,
8 Mr. President. Would you pull aside the
9 lay-aside on bill number -- I've been
10 corrected by Senator Padavan. Please remove
11 the lay-aside on 867.

12 Thank you, Mr. President. And
13 thank you, Senator Padavan.

14 ACTING PRESIDENT VALESKY: Thank
15 you, Senator Libous.

16 The lay-aside on Calendar Number
17 867 is removed. The Secretary will place
18 Calendar Number 867 before the house,
19 noncontroversial.

20 THE SECRETARY: Calendar Number
21 867, by Member of the Assembly Gottfried,
22 Assembly Print Number 9550A, an act to amend
23 the Public Health Law.

24 ACTING PRESIDENT VALESKY: Read
25 the last section.

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

3 ACTING PRESIDENT VALESKY: Call
4 the roll.

5 (The Secretary called the roll.)

6 THE SECRETARY: Ayes, 60. Nays,
7 1. Senator Golden to be recorded in the
8 negative.

9 ACTING PRESIDENT VALESKY: The
10 bill is passed.

11 Senator Golden.

12 SENATOR GOLDEN: Put me up on
13 that bill, please.

14 ACTING PRESIDENT VALESKY: The
15 Secretary will announce the results.

16 THE SECRETARY: In relation to
17 Calendar Number 867: Ayes, 61. Nays, 0.

18 ACTING PRESIDENT VALESKY: The
19 bill is passed.

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

22 Senator Klein.

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

1 ACTING PRESIDENT VALESKY: The
2 Secretary will proceed with the reading of
3 noncontroversial supplemental active list.

4 THE SECRETARY: Calendar Number
5 1001, by Senator L. Krueger, Senate Print
6 4526 --

7 SENATOR LIBOUS: Lay it aside.

8 ACTING PRESIDENT VALESKY: The
9 bill is laid aside.

10 THE SECRETARY: Calendar Number
11 1008, by Senator Savino, Senate Print 5634, an
12 act to amend the Public Authorities Law.

13 ACTING PRESIDENT VALESKY: Read
14 the last section.

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

17 ACTING PRESIDENT VALESKY: Call
18 the roll.

19 (The Secretary called the roll.)

20 THE SECRETARY: Ayes, 61.

21 ACTING PRESIDENT VALESKY: The
22 bill is passed.

23 THE SECRETARY: Calendar Number
24 1015, by Senator L. Krueger, Senate Print
25 6680, an act to amend the Social Services Law.

1 ACTING PRESIDENT VALESKY: Read
2 the last section.

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

5 ACTING PRESIDENT VALESKY: Call
6 the roll.

7 (The Secretary called the roll.)

8 ACTING PRESIDENT VALESKY:
9 Senator Liz Krueger.

10 SENATOR LIZ KRUEGER: Thank you
11 very much.

12 My colleagues, perhaps we're not
13 understanding the bill, for those of you who
14 are voting against it. This is a bill that's
15 pretty much a technical amendment to current
16 public assistance social services law.

17 In social services law, for public
18 assistance recipients, they are allowed to
19 have a car with a Blue Book value of up to
20 \$9,300. They might only have \$400 of actual
21 equity in it. If they are looking for work or
22 working, they can have a car worth \$9,300. If
23 they are not, at this moment in time, looking
24 for work or working, the car's value can only
25 be \$4,000, although that can change from week

1 to week.

2 Which means right now a woman with
3 a disabled child or a woman who had just given
4 birth who has a car that might have a
5 Blue Book value of \$6,000, with maybe equity
6 in it of only \$600, would not be allowed to
7 receive public assistance because she wouldn't
8 be able to -- or would have to give up her
9 car.

10 Now, in New York City this truly
11 doesn't matter. But for many parts of the
12 state, this will leave people with no
13 automobile to get food for their family, to
14 get to medical appointments, to a week later
15 be eligible to look for a job. They won't be
16 able to get a job, they won't be able to get
17 off public assistance.

18 For food stamps, we already have no
19 resource cap on one car. And in fact,
20 modernizing and simplifying this process again
21 is simply a fair and right thing to do. I'm
22 urging a yes vote by all.

23 Thank you, Mr. President.

24 ACTING PRESIDENT VALESKY:

25 Senator L. Krueger to be recorded in the

1 affirmative.

2 Announce the results.

3 THE SECRETARY: Those recorded in
4 the negative on Calendar Number 1015 are
5 Senators Alesi, Bonacic, DeFrancisco, Farley,
6 Flanagan, Golden, Griffio, Hannon, Larkin,
7 LaValle, Libous, Marcellino, Maziarz,
8 Nozzolio, Ranzenhofer, Robach, Seward, Skelos,
9 Volker, Winner and Young. Also Senators
10 Leibell and Saland.

11 Ayes, 38. Nays, 23.

12 ACTING PRESIDENT VALESKY: The
13 bill is passed.

14 THE SECRETARY: Calendar Number
15 1022, by Senator Savino, Senate Print 7451, an
16 act to amend the Labor Law.

17 ACTING PRESIDENT VALESKY: Read
18 the last section.

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

21 ACTING PRESIDENT VALESKY: Call
22 the roll.

23 (The Secretary called the roll.)

24 ACTING PRESIDENT VALESKY:
25 Senator Bonacic, to explain his vote.

1 SENATOR BONACIC: On the bill,
2 just explaining my vote.

3 You know, daycare is something we
4 all seek. There's not enough daycare
5 facilities in the State of New York. You have
6 working mothers that have to spend a good
7 portion of their paycheck for people to take
8 care of their children.

9 When you go in the direction of
10 start unionizing childcare, you're going to
11 start to drive the expenses up and up and up,
12 putting so much pressure on middle-class
13 families where maybe both spouses are working
14 and they need someone to take care of young
15 children.

16 For that reason, I'm voting no.
17 Thank you, Mr. Chairman.

18 ACTING PRESIDENT VALESKY:
19 Senator Bonacic to be recorded in the
20 negative.

21 Senator Savino, to explain her
22 vote.

23 SENATOR SAVINO: Thank you,
24 Mr. President.

25 Certainly I share Senator Bonacic's

1 concern about the cost of daycare and the lack
2 of access to affordable daycare. But I think
3 we need to be clear what we're doing with this
4 piece of legislation.

5 In 2007, the governor of the state
6 at the time, Eliot Spitzer, extended
7 collective bargaining rights to childcare
8 workers through an executive order. All this
9 bill does is codify into law what has been in
10 practice since 2007.

11 The childcare workers were given
12 the right to organize through that executive
13 order in an effort for them to help increase
14 the reimbursement rate for daycare providers.
15 The majority of daycare providers are not paid
16 directly by parents. In fact, far too many of
17 them are paid through the voucher system
18 that's tied to the eligibility of the parent.

19 So what this will do is codify into
20 law what's been in practice in the State of
21 New York for the past three years.

22 Thank you, Mr. President.

23 ACTING PRESIDENT VALESKY:

24 Senator Savino to be recorded in the
25 affirmative.

1 Announce the results.

2 THE SECRETARY: Those recorded in
3 the negative on Calendar Number 1022 are
4 Senators Bonacic, O. Johnson, Ranzenhofer and
5 Skelos.

6 Ayes, 57. Nays, 4.

7 ACTING PRESIDENT VALESKY: The
8 bill is passed.

9 Senator Klein, that completes the
10 reading of the noncontroversial supplemental
11 active list.

12 Senator Seward, why do you rise?

13 SENATOR SEWARD: Mr. President, I
14 would ask unanimous consent -- we had fits and
15 starts in terms of starting session. I was on
16 a lengthy phone call when the number of bills
17 went through. And I would ask permission to
18 be voted in the negative on Calendar Number
19 748, 848, and 948. All the 48s.

20 ACTING PRESIDENT VALESKY:
21 Senator Klein, Senator Libous, Senator Seward
22 has asked for unanimous consent.

23 SENATOR KLEIN: We grant
24 unanimous consent, Mr. President.

25 ACTING PRESIDENT VALESKY: With

1 unanimous consent, Senator Seward to be
2 recorded in the negative on Calendar Numbers
3 748, 848, and 948.

4 SENATOR SEWARD: At least I'm
5 consistent.

6 ACTING PRESIDENT VALESKY: Yes,
7 you are.

8 SENATOR SEWARD: Thank you.

9 ACTING PRESIDENT VALESKY:
10 Senator Klein.

11 SENATOR KLEIN: Mr. President,
12 there's a resolution at the desk by Senator
13 Antoine Thompson. I ask that the title of the
14 resolution be read and move for its immediate
15 adoption.

16 ACTING PRESIDENT VALESKY:
17 Senator Klein, has this resolution been deemed
18 privileged and submitted by the office of the
19 Temporary President?

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

22 ACTING PRESIDENT VALESKY: The
23 Secretary will read.

24 THE SECRETARY: By Senator
25 Thompson, legislative resolution commending

1 Juneteenth of Buffalo, Inc., upon the occasion
2 of hosting the 35th Consecutive Juneteenth
3 Festival, to be held June 13 through 20, 2010.

4 ACTING PRESIDENT VALESKY: The
5 question is on the resolution. All in favor
6 signify by saying aye.

7 (Response of "Aye.")

8 ACTING PRESIDENT VALESKY:
9 Opposed, nay.

10 (No response.)

11 ACTING PRESIDENT VALESKY: The
12 resolution is adopted.

13 Senator Maziarz, why do you rise?

14 SENATOR MAZIARZ: Thank you very
15 much, Mr. President.

16 I, like Senator Seward, was also
17 out of the chamber on a phone call -- not
18 quite as long as his phone call. But if I
19 could ask unanimous consent to be recorded in
20 the negative on Calendar Number 459, I would
21 appreciate that, Mr. President.

22 Thank you.

23 ACTING PRESIDENT VALESKY:
24 Senator Klein?

25 SENATOR KLEIN: Unanimous consent

1 is granted, Mr. President.

2 ACTING PRESIDENT VALESKY: With
3 unanimous consent, Senator Maziarz to be
4 recorded in the negative on Calendar 459.

5 Senator Klein.

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

9 ACTING PRESIDENT VALESKY: The
10 Secretary will ring the bells.

11 The Secretary will proceed with the
12 reading of the controversial calendar.

13 THE SECRETARY: Calendar Number
14 28, by Senator Perkins, Senate Print 1145C, an
15 act to amend the Environmental Conservation
16 Law.

17 ACTING PRESIDENT VALESKY:
18 Senator Libous.

19 SENATOR LIBOUS: Mr. President, I
20 have an amendment at the desk. I ask that you
21 waive its reading and call on me, please.

22 ACTING PRESIDENT VALESKY: The
23 amendment is here at the desk. The reading of
24 the amendment is waived, Senator Libous, and
25 you're recognized to speak on the amendment.

1 SENATOR LIBOUS: Thank you,
2 Mr. President.

3 This legislation is something that
4 I know that Senator Perkins has brought before
5 this body on a number of occasions. And on a
6 number of occasions, I've spoken with Senator
7 Perkins on this and asked him if he would make
8 some amendments to it.

9 And I know that he has made some
10 changes, but I think the changes that were
11 going to be acceptable to those of us who
12 represent particularly upstate and those
13 consumers around the state who depend on home
14 heating oil, we are very much concerned that
15 this bill is going to raise our prices.

16 Mr. President, there seems to be a
17 lot of noise in the chamber. Thank you,
18 Mr. President.

19 And we're very concerned that our
20 prices for home heating oil goes up.

21 Now, the other day we passed a bill
22 that deals with the heat program for certainly
23 people throughout the state who are on a low
24 income and have a problem with heating their
25 homes and doing renovations to their homes.

1 And quite frankly, this particular bill is
2 going to be devastating to everyone who heats
3 their home with oil in my district.

4 And the problem is that the price
5 from the refinery, the manufacturer, is going
6 to go up, because all we ask here is for a
7 little bit of time.

8 I think what Senator Perkins is
9 trying to do here is quite noble, and we
10 understand that the parts per million need to
11 come down in Number 2 oil. We agree with
12 that. The problem is we don't believe that it
13 can be done as quickly as the sponsor would
14 like it to be done, because the manufacturers
15 are telling us that they can't. And quite
16 frankly, it will take 18 months to two years
17 before they get permitted to be okay to do it.

18 So all we're asking in this
19 amendment -- and quite frankly, Mr. President,
20 this amendment is the same as a bill that
21 Senator Stachowski has in that would basically
22 say we'll take Number 2 oil to 500 parts per
23 million and change the date to 2014. We don't
24 think that's unreasonable to help people
25 throughout the state who are on home heating

1 oil.

2 And many people do not have access
3 to natural gas -- that's a whole subject for
4 another day -- but quite frankly, they depend
5 on oil to heat their homes. And we talked
6 earlier about some of those areas that we all
7 represent in upstate New York that are
8 extremely rural. This bill will make it
9 prohibitive for them to afford home heating
10 oil.

11 So again, Mr. President, what this
12 amendment does, it does not say what we are
13 against what Senator Perkins is trying to do
14 to help folks environmentally. All it's
15 asking for is a little bit more time, to 2014.

16 Thank you, Mr. President.

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

19 Those Senators voting in support of
20 the nonsponsor motion to amend Calendar Number
21 28 should raise their hands.

22 Announce the results.

23 THE SECRETARY: Ayes, 31. Nays,
24 30.

25 ACTING PRESIDENT VALESKY: The

1 motion fails.

2 Are there any Senators who wish to
3 be heard on the debate?

4 SENATOR LIBOUS: Yes, I would
5 like an explanation on the bill, please, from
6 the sponsor.

7 ACTING PRESIDENT VALESKY:
8 Senator Perkins, an explanation of the bill
9 has been requested by Senator Libous.

10 SENATOR PERKINS: Thank you very
11 much, Mr. President, and also Senator Libous,
12 for your appreciation of the significance of
13 this bill that essentially is trying to reduce
14 the content of sulfur that has been so
15 hazardous environmentally and healthwise for
16 so many of us, not only in the City of
17 New York but upstate as well, I might add.

18 And clearly we know that home
19 heating oil is essentially the same as diesel
20 fuel, except there are virtually no limits to
21 the level of sulfur that can be in it. On
22 average, the current sulfur content in home
23 heating oil is 2600 parts per million. This
24 bill will limit it to 15 parts per million
25 beginning in July 2012.

1 Now, originally, as you know, we
2 were trying to do this as per 2011. As per
3 the discussions we had, we extended it to 2012
4 and were hopeful there would be some kind of
5 compromise that would be suitable, but in fact
6 that's not possible at this point in time,
7 apparently.

8 Compounding the problem is the rate
9 at which New York consumes home heating oil.
10 With 2.6 million households using home heating
11 oil, New York leads the nation in the amount
12 of home heating oil consumed. Most
13 disturbingly, 79 percent of this consumption
14 occurs in the New York metropolitan region and
15 thus creates a localized pollution problem due
16 to the increase in hazardous particulate
17 matter, which contributes to aggravated
18 asthma, increased cancer risks, heart and lung
19 disease, and even premature death.

20 Over the last five years alone,
21 asthma rates among New Yorkers are
22 consistently higher than the U.S. population
23 as a whole. In fact 300,000 children in
24 New York City have been diagnosed with asthma,
25 and hospitalizations cost approximately

1 \$10,000 per visit and over 240 million a year.

2 This legislation will save money,
3 and in these times of financial hardship we
4 cannot afford to ignore this cost saver. This
5 legislation will not only serve as a cost
6 saver to the state, but also to individual
7 consumers and the heating oil industry.

8 So in conclusion, again, this
9 limits sulfur content in Number 2 heating oil
10 to no greater than 15 parts per million
11 beginning July 1, 2012, and it authorizes the
12 Governor, after consultation with NYSERDA, to
13 make exceptions by executive order for
14 considerations of scarcity.

15 I vote aye on this and encourage my
16 colleagues to do the same. Thank you very
17 much for your support.

18 ACTING PRESIDENT VALESKY:
19 Senator Libous.

20 SENATOR LIBOUS: Thank you,
21 Mr. President. Would the sponsor yield for a
22 series of questions?

23 ACTING PRESIDENT VALESKY:
24 Senator Perkins, will you yield?

25 SENATOR PERKINS: Yes, by all

1 means.

2 ACTING PRESIDENT VALESKY: The
3 sponsor yields.

4 SENATOR LIBOUS: Thank you
5 Senator Perkins.

6 Mr. President, Senator Perkins just
7 mentioned that there's a high level of
8 pollution in the New York metropolitan area.
9 Senator Perkins, why did you not just make
10 this bill pertain to the New York metropolitan
11 area, and why did you have it affect the
12 entire state?

13 SENATOR PERKINS: Because it's a
14 statewide problem. I just pointed out
15 particularly how it affects the New York
16 metropolitan area.

17 SENATOR LIBOUS: Thank you.
18 Mr. President, will he continue to
19 yield?

20 ACTING PRESIDENT VALESKY:
21 Senator Perkins, do you continue to yield?

22 SENATOR PERKINS: Yes, sir.

23 ACTING PRESIDENT VALESKY: The
24 sponsor yields.

25 SENATOR LIBOUS: Senator, if it's

1 a statewide problem, did you examine the
2 ramifications of this statewide problem to
3 those of us who have home heating oil
4 customers in rural areas of upstate New York?

5 SENATOR PERKINS: Through you,
6 Mr. President, as you know, we surely did and
7 in fact had some negotiations with you and our
8 colleagues in the upstate area to try to be
9 helpful towards that end.

10 SENATOR LIBOUS: Thank you.
11 Mr. President, would he continue to
12 yield?

13 ACTING PRESIDENT VALESKY:
14 Senator Perkins, do you continue to yield?

15 SENATOR PERKINS: Yes, sir.

16 ACTING PRESIDENT VALESKY: The
17 sponsor yields.

18 SENATOR LIBOUS: And,
19 Mr. President, through you. Senator Perkins,
20 what did you change to be helpful to my
21 upstate colleagues as it pertains to their
22 home heating oil constituents?

23 SENATOR PERKINS: Well, through
24 you, Mr. President, we obviously changed the
25 date. And we were hopeful that we could

1 change even more, but at this point in time
2 this is the best that we could do.

3 SENATOR LIBOUS: And through you,
4 Mr. President.

5 ACTING PRESIDENT VALESKY:
6 Senator Libous.

7 SENATOR LIBOUS: Senator, it is
8 the date that's the problem here. It is the
9 dates that is going to increase the cost of
10 home heating oil to our constituents. So by
11 changing the date I believe a year, how does
12 that help the refineries and those who produce
13 the product to get up to speed within an
14 adequate period of time -- everyone's telling
15 us it's going to take three to four years;
16 other states have said it takes three to four
17 years -- without increasing the cost of home
18 heating oil to those who depend on it?

19 SENATOR PERKINS: Through you,
20 Mr. President. Well, we did have the
21 negotiation in which we expected certain
22 changes to be made, as per the request. And
23 at this point in time there's no evidence that
24 any efforts have been made to accommodate the
25 bill.

1 SENATOR LIBOUS: Mr. President,
2 again, I guess I'll respond to that. I mean,
3 an effort was made just a few moments ago in
4 the form of an amendment to try to accommodate
5 the bill.

6 But if the Senator would continue
7 to yield.

8 ACTING PRESIDENT VALESKY:
9 Senator Perkins, will you continue to yield?

10 SENATOR PERKINS: Yes, I will.

11 ACTING PRESIDENT VALESKY: The
12 sponsor yields.

13 SENATOR LIBOUS: Senator, what
14 effect is this bill going to have on domestic
15 home heating oil supplies for those of us
16 outside of the metropolitan New York area?

17 SENATOR PERKINS: Well, you know,
18 the bill includes an opportunity for the
19 Governor, as I pointed out earlier, to make
20 exceptions by executive order if there's --
21 for considerations of scarcity, number one.

22 And we also have been told that
23 some of the problems have been overstated in
24 terms of the scarcity.

25 SENATOR LIBOUS: Mr. President,

1 would he continue to yield.

2 ACTING PRESIDENT VALESKY:

3 Senator Perkins, do you continue to yield?

4 SENATOR PERKINS: Yes, sir.

5 ACTING PRESIDENT VALESKY: The
6 sponsor yields.

7 SENATOR LIBOUS: Senator, I guess
8 I'm really concerned because I think it will
9 have a very negative effect on home heating
10 oil supplies. Because wouldn't you agree with
11 me that by not giving the refineries time to
12 change over and meet the qualifications, that
13 the supply will then diminish because they
14 won't be able to produce it to sell it because
15 it would not have met the qualifications of
16 your bill?

17 SENATOR PERKINS: Through you,
18 Mr. President. You know, we have 2.6 million
19 households in New York using home heating oil.
20 We believe that the producers will adapt to
21 this new approach such that it will mitigate
22 the kind of concerns that you have.

23 SENATOR LIBOUS: Would Senator
24 Perkins continue to yield.

25 ACTING PRESIDENT VALESKY:

1 Senator Perkins, do you yield?

2 SENATOR PERKINS: Yes, sir.

3 ACTING PRESIDENT VALESKY: The
4 sponsor continues.

5 SENATOR LIBOUS: Senator Perkins,
6 as I said before, I understand what you're
7 trying to do. And I have said to you on a
8 number of occasions in the past that the issue
9 here is the time. The issue is the time for
10 these refineries to be able to change over to
11 meet the standards that you have in your bill.
12 And I have no problem with the standards, sir.

13 But what do I tell a senior citizen
14 or a family of seniors, two folks in their 80s
15 that depend on, live in -- the other day I
16 used Candor, New York. I guess I'll use
17 Bainbridge, in Chenango County. We'll switch
18 counties. Rural community; they depend on
19 home heating oil or they don't stay warm in
20 the wintertime, because there's no way that
21 they can get natural gas or any other
22 alternative.

23 How do I tell them that the supply
24 is now gone or the cost has doubled because of
25 a regulation that was put on by the

1 Legislature that just all they had to do was
2 give the refinery a couple more years to get
3 up to speed, but now the supply has been
4 limited because of that legislation?

5 SENATOR PERKINS: Through you,
6 Mr. President.

7 Again, we're very sympathetic to
8 the concerns of the seniors and those who,
9 from your point of view, would be adversely
10 affected. As I pointed out, again, there is a
11 provision for the Governor to respond to the
12 scarcity that you suggest, number one.

13 Number two, I believe that the time
14 is now for us to move forward, having tried to
15 create the kind of accommodations that we
16 believe will help us overcome the problems
17 that you're concerned about. And so I guess
18 we have an irreconcilable difference from that
19 point of view. But I know that we have made
20 good faith efforts in the best interests of
21 all New Yorkers to try to address your
22 concerns as well as the larger concern about
23 the reduction of sulfur.

24 SENATOR LIBOUS: Would the
25 Senator continue to yield.

1 ACTING PRESIDENT VALESKY:

2 Senator Perkins, do you continue to yield?

3 SENATOR PERKINS: Yes.

4 ACTING PRESIDENT VALESKY: The
5 sponsor continues to yield.

6 SENATOR LIBOUS: Senator, again,
7 you stress that you care very much about the
8 environment and sulfate, but yet in New York
9 City many large residential folks and office
10 buildings use Number 6 heating oil. Why
11 doesn't your bill include them?

12 SENATOR PERKINS: Would you
13 repeat the question, please?

14 ACTING PRESIDENT VALESKY:
15 Senator Libous, would you mind repeating your
16 question?

17 SENATOR LIBOUS: Oh, yes. I'm
18 sorry, Senator. I said in New York City many
19 large residential units and office buildings
20 use Number 6 formula heating oil. Why doesn't
21 your bill include them?

22 SENATOR PERKINS: Through you,
23 Mr. President, I think that that is a concern
24 that we will take a look at moving forward.

25 SENATOR LIBOUS: So, Senator, you

1 stressed earlier, sir, that you were concerned
2 about the metropolitan area, but yet many
3 people in the metropolitan area will be exempt
4 and yet many people outside the metropolitan
5 area will now have a tremendous hardship. I
6 don't see that as fair.

7 SENATOR PERKINS: Through you,
8 Mr. President, this bill is fair to the people
9 of the State of New York as it puts us on
10 track to try to reduce sulfur for all in the
11 state. And obviously it's a project, it's a
12 piece of legislation that allows for the
13 Governor to intervene where necessary to make
14 up for any shortcomings such as the type that
15 you're talking about.

16 SENATOR LIBOUS: Will the Senator
17 continue to yield.

18 ACTING PRESIDENT VALESKY:
19 Senator Perkins, do you continue to yield?

20 SENATOR PERKINS: Yes.

21 ACTING PRESIDENT VALESKY: The
22 sponsor yields.

23 SENATOR LIBOUS: Senator,
24 wouldn't you agree that it's more fair for
25 those building owners in New York City than it

1 is for the senior citizens and the poor folks
2 on fixed incomes who live in rural areas of
3 New York State?

4 SENATOR PERKINS: I'm sorry,
5 would you repeat yourself, please?

6 ACTING PRESIDENT VALESKY:
7 Senator Libous, would you repeat your question
8 for Senator Perkins?

9 SENATOR LIBOUS: It must be my --
10 is my mike on? Because usually I have quite a
11 melodious tone. I'm sorry.

12 SENATOR PERKINS: Well, today you
13 might be talking a little lower because of
14 your concerns about the people upstate.

15 SENATOR LIBOUS: Mr. President,
16 my question for Senator Perkins was wouldn't
17 you say that this legislation was more fair to
18 the building owners of New York City than it
19 is to the folks on fixed incomes who depend on
20 home heating oil in the rest of New York
21 State.

22 SENATOR PERKINS: No. Through
23 you, Mr. President, no, I wouldn't say that.
24 And in fact, again, I think that if -- as I
25 point out to you, if exceptions need to be

1 made, the bill allows for the kind of changes
2 that if they're real, if they're -- then the
3 Governor will be able to make those changes.

4 SENATOR LIBOUS: Thank you,
5 Mr. President. On the bill.

6 ACTING PRESIDENT VALESKY:
7 Senator Libous, on the bill.

8 SENATOR LIBOUS: I'm going to
9 make an impassioned plea to all of my
10 colleagues on both sides of the aisle today.
11 While I certainly and I believe everybody in
12 this chamber applauds the fact that
13 environmentally, Senator Perkins has a goal
14 here, I think we all have that same
15 environmental goal.

16 But the issue here is whether or
17 not these companies can get up to speed quick
18 enough, or will they eliminate the supply of
19 home heating oil for those of us who represent
20 communities in this state that depend on it.
21 I say it will hurt the supply. The demand
22 will be great. Those who can get it will pay
23 two and three times more than they've had to
24 pay this winter.

25 This bill is not fair to the people

1 outside of the New York metropolitan area. As
2 I said a few moments ago, Number 6 heating oil
3 is eliminated from this bill. Number 6 is
4 used by many, many massive residential centers
5 in the city -- high-rises, I guess, Senator
6 Padavan, you'd call them -- and businesses in
7 the city.

8 So while my colleague is being
9 extremely noble here on trying to provide a
10 better environment, he is not being reasonable
11 as to how he approaches that.

12 ACTING PRESIDENT VALESKY:

13 Senator Perkins, why do you rise?

14 SENATOR PERKINS: Through you,
15 Mr. President, I'd like to ask you a question.

16 ACTING PRESIDENT VALESKY:

17 Senator Libous, would you yield to a question?

18 SENATOR LIBOUS: As soon as I'm
19 done, I'd be happy to. Thank you, Senator.
20 Okay?

21 ACTING PRESIDENT VALESKY:

22 Proceed.

23 SENATOR LIBOUS: Thank you. So I
24 appeal to anyone here today, all we're asking
25 that we change the date, we get a couple of

1 more years. We want to meet the environmental
2 standards.

3 Now, let me go further to share
4 with you that there are other states who have
5 approached this and they have all had
6 sufficient time to begin to make those
7 changes. It's here in many various documents
8 that I have. I'm not going to bore you by
9 reading them.

10 But I will tell you that for
11 whatever reason, once again, New York State
12 has to be unreasonable. We have to be
13 unreasonable in this case to the homeowners,
14 to the taxpayers, to the folks who live in the
15 communities or the rural areas of this state
16 that depend on home heating fuel.

17 Mr. President, I would ask that my
18 colleagues vote against this. I would ask
19 that my colleague Senator Perkins amend the
20 bill to 2014. And I would tell you right here
21 that I will assure you that I will vote for it
22 when that time comes, and I believe that many
23 of our colleagues in this chamber would vote
24 for it.

25 But right now we cannot put any

1 more additional burden on those folks who are
2 on fixed incomes who live in rural areas of
3 this state, because what this bill is going to
4 do, it is going to shut off their supply of
5 home heating oil. It is going to increase the
6 cost tremendously for those who have the money
7 and can negotiate the opportunity to get it.

8 So, Mr. President, I'm not being
9 unreasonable here, I just reach out to the
10 sponsor and ask him please, please amend this
11 bill to 2014.

12 ACTING PRESIDENT VALESKY:
13 Senator Libous, will you at this time yield to
14 a question?

15 SENATOR LIBOUS: Yes.

16 ACTING PRESIDENT VALESKY:
17 Senator Perkins.

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

20 I just wanted to -- for the record,
21 you are aware that the mayor, with regard to
22 your concern about New York City, is in the
23 process of developing regs on Number 4 and
24 Number 6 heating oil. Are you?

25 SENATOR LIBOUS: I'm sorry?

1 SENATOR PERKINS: Are you aware
2 that the mayor of the City of New York is in
3 the process of developing regs on Number 4 and
4 Number 6 oil?

5 SENATOR LIBOUS: I'm not aware,
6 Mr. President. But I am aware that there are
7 no regs in this bill.

8 SENATOR PERKINS: Okay. Thank
9 you.

10 ACTING PRESIDENT VALESKY: Thank
11 you, Senator Libous.

12 Senator Fuschillo.

13 SENATOR FUSCHILLO: Thank you
14 very much, Mr. President. Would the sponsor
15 yield to a question?

16 ACTING PRESIDENT VALESKY:
17 Senator Perkins, do you yield?

18 SENATOR PERKINS: Yes.

19 ACTING PRESIDENT VALESKY: The
20 sponsor yields.

21 SENATOR FUSCHILLO: Senator, I
22 agree with the intent of your bill, and I
23 think it's laudable, and I think everybody
24 else does, with the protection of the
25 environment. But I just want to ask you a few

1 questions.

2 I received a lot of memos and phone
3 calls in opposition. And when I read some of
4 them, where it says the two-year lead time
5 provided in this bill is simply not enough --
6 another one says that it is virtually
7 impossible for the industry to meet so quickly
8 and extremely difficult.

9 My question to you is that on
10 Senator Libous's amendment, there were 31
11 members that said yes to it, Republicans and
12 two Democrats. And if Senator Morahan was
13 here -- God willing, if he was here -- the
14 amendment would have been approved.

15 If it's as simple as laying the
16 bill aside, amending it, agreeing to what 31
17 out of 61 members here in the house agree
18 to -- and you probably have a tremendous
19 amount of support as the sponsor of the
20 amendments to do it -- my question is why not
21 just lay it aside, amend the bill, and we'll
22 take it up and vote for it? And we'll have an
23 agreement, we'll have a law here that
24 everybody can agree with.

25 SENATOR PERKINS: Thank you,

1 Mr. President. I appreciate your interest.
2 However, I believe the bill allows for the
3 Governor to intervene in some of the areas
4 where these concerns were raised. And I
5 believe the discussions that we had led us to
6 including that type of provision so that we
7 can move forward instead of delaying it.

8 SENATOR FUSCHILLO: Thank you,
9 Senator.

10 Just on the bill, Mr. President.

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

13 SENATOR FUSCHILLO: While I agree
14 with the intent, I agree with Senator Libous.
15 My concern in this environment, this economic
16 environment, is that this may not be
17 attainable. And if you do that, you put the
18 industry at a tremendous disadvantage to do
19 this.

20 I would ask Senator Perkins, as the
21 debate goes on and questions come, that in
22 this time he thinks about that and really
23 thinks about laying the bill aside and
24 amending the bill to come back up to this
25 floor when he would probably have a tremendous

1 amount of support.

2 Thank you, Mr. President.

3 ACTING PRESIDENT VALESKY: Thank
4 you, Senator Fuschillo.

5 Senator Marcellino.

6 SENATOR MARCELLINO: Thank you,
7 Mr. President. I'm not going to ask any
8 questions, Senator, because I think a lot of
9 them have been raised and asked. What I'm
10 going to make is basically a statement.

11 States around us -- New Jersey,
12 Maine, Connecticut -- are moving back the time
13 frame. New Jersey in particular, where the
14 refineries are that produce these products,
15 these home heating products. New Jersey is
16 going in 2012 to 500 parts per million and in
17 2016 to 15 parts per million.

18 If New York insists and if you are
19 successful and if we go to 15 parts per
20 million while New Jersey, upwind of us, is at
21 500, you gain nothing. You gain absolutely
22 nothing with respect to air quality, which is
23 what you're trying to achieve. You're trying
24 to achieve a goal of clear air.

25 Now, I've got two children --

1 they're older now -- but asthmatics, and we
2 lived through it. When I taught in the City
3 of New York, we used to joke that we could see
4 the air we breathed. We were tough people,
5 going into the city, because you could see
6 that haze, that bubble over the city that you
7 could breathe. And asthma is a problem. We
8 all know that. Lung disease is a problem. We
9 all know that.

10 This bill isn't going to solve your
11 problem. It's only going to raise the costs,
12 because the industry is going to pass the
13 costs of changing their technology, changing
14 their pipelines -- because they're going to
15 have too. They can't use the same pipelines,
16 they've got to flush them clean with the
17 product they have before they can put new
18 product in.

19 So it's going cost them money.
20 That's going to go to your clients. That's
21 going to go to the people who buy home heating
22 fuel all over this state. Why you're going
23 upstate, I don't know. They don't have an
24 attainment, they don't have an air quality
25 problem. They're not the downstate region.

1 We're the non-attainment area, downstate.

2 Upstate is not.

3 By forcing the state and thereby by
4 forcing the manufacturers to put the fuel into
5 the state, they're going to raise their costs
6 and they're going to pass it on to the
7 consumers. We cannot -- as Senator Fuschillo
8 rightly points out, Senator Libous correctly
9 pointed out, this is not the time to do that.
10 This is not the time to do that.

11 You could get what you want
12 Senator, you could get what you want by simply
13 amending the bill to go to 500 parts per
14 million by 2012 and then to 15 parts per
15 million by 2016, and we would vote for it.
16 And you would get the same air quality
17 improvement you want but will not achieve by
18 this current bill.

19 I know what you want to do,
20 Senator, but the bill as written won't achieve
21 your goal. That's simply science. It won't
22 achieve it. Because upwind states are having
23 a higher parts per million in their home
24 heating fuel, and the wind will blow the
25 particulates over our state, and particularly

1 in the downstate region, and we're not going
2 to get the benefit of the change. We're going
3 to get the cost, but we're not going to get
4 the benefit that you want to achieve.

5 So again, I would urge that we
6 perhaps take a step back. I understand when
7 you put a bill up, nobody likes to give
8 something up. You've got it in hand; nobody
9 likes to walk away from something. We've
10 produced it. You'll get the bill. You could
11 do the bill this session. We're not going
12 away tomorrow. We're not leaving town next
13 week. You know that. We're here.

14 This bill could easily be laid
15 aside, amended to the standards that I've just
16 mentioned to you, aged accordingly or get a
17 message from the Governor, whatever is
18 required, and you'll get the votes to pass the
19 bill. I'd vote for it. And I know many of my
20 colleagues -- I can't speak for all of them,
21 but I know many of them would, would vote for
22 to it accordingly, and I'm sure you'd get two
23 more votes from your side at the very least
24 for a changed bill.

25 So I would urge you, Senator,

1 please, do the responsible thing. This is the
2 responsible thing. Let's put New York in line
3 with the states around us, because that's
4 important. Otherwise, everything you want to
5 get, you're not going to get because the
6 wind's going to blow it away. I would urge
7 that you do this, sir. I really would.
8 Unfortunately, if it doesn't happen, I'm going
9 to vote against this bill.

10 I do not want to do that. I have
11 fought all the years I'm here and chaired this
12 committee, the Environmental Committee, when I
13 was chair, and ranker now, I have supported
14 legislation on air quality. I have supported
15 standards. But we tried to do them in concert
16 and make them regionally. We did the e-waste
17 bill, it took us a while because we wanted it
18 done regionally so that we didn't increase
19 costs unnecessarily on anybody. And we got
20 what we wanted. We got a good e-waste bill
21 this year. We've done that before, we can do
22 it again.

23 Senator, please, be reasonable.
24 Lay the bill aside, let's amend it, let's do
25 the thing. You'll get the votes. I will vote

1 for your bill as amended. I cannot support
2 this bill as it stands now. I will be voting
3 no.

4 ACTING PRESIDENT VALESKY: Thank
5 you, Senator Marcellino.

6 Senator Farley.

7 SENATOR FARLEY: Thank you,
8 Mr. President.

9 You know, I was rather surprised to
10 see the majority of this house vote for the
11 amendment because of the concerns that they
12 have for the heating fuel that is in the
13 upstate region.

14 I have a very diverse district.
15 It's very urban, and about half of it is very
16 rural, three counties that not only is rural,
17 there's no access to gas or any other kind of
18 fuel to heat their homes. And if I hear a
19 complaint, particularly in the cold winter,
20 it's the poor and the elderly that are on
21 fixed incomes that say what a burden it is to
22 try to heat their homes. And generally
23 speaking, these people live in homes that are
24 not as well insulated as they should be, and
25 they turn the thermostat down.

1 You know, the other side, my
2 colleagues on the other side of the aisle,
3 you're very concerned always, and I applaud
4 you for that, for the poor and the elderly and
5 so forth. But you know, this is a tremendous
6 burden on the poor and the elderly that exists
7 in the area that does not have access to
8 natural gas. And boy, there's a -- I think
9 that's almost everybody in the rural upstate
10 area.

11 And there's no question about it
12 that this is going to put a tremendous price
13 on the cost of fuel oil because there isn't
14 any access and they're not going to be able to
15 conform. All that this house or this side and
16 the majority of the house is asking for is a
17 change in the date, that Senator Stachowski
18 actually has been promoting. I think it's
19 very reasonable.

20 And it boggles my mind, Senator,
21 why this accommodation can't be made on behalf
22 of so many people in this state. Because it
23 doesn't affect just your area, it affects the
24 entire state, and it hurts a lot of poor and
25 elderly that are on fixed incomes.

1 And I urge people to vote against
2 this bill until it's amended.

3 ACTING PRESIDENT VALESKY: Thank
4 you, Senator Farley.

5 Senator Larkin.

6 SENATOR LARKIN: Thank you,
7 Mr. President. On the bill.

8 ACTING PRESIDENT VALESKY:
9 Senator Larkin, on the bill.

10 SENATOR LARKIN: You know, I
11 don't want to rehash everything that's been
12 said here. But, you know, in my district lots
13 of people say to me, Why don't we separate
14 from New York City? Everything that's done is
15 good for New York City, to h--- with the rest
16 of the state.

17 Now, this bill is talking about
18 Number 6 heating oil to take care of all the
19 buildings. But what about our people upstate?
20 What about them? What are we saying?

21 And, you know, the other thing,
22 Senator Perkins, that my people say is when
23 are you going to sit down and act like human
24 beings and work together for a common cause?
25 This is common. Senator Libous, Senator

1 Fuschillo, Senator Marcellino said we will
2 support you. Why won't we sit down and show
3 the people of this state and this nation that
4 we're not ashamed to look at a bill and say,
5 you know, a little bit of this, it will show
6 the American people and most importantly
7 New Yorkers that we're willing to work
8 together for a common good.

9 Now, by changing the date on
10 this -- nobody has convinced me on your side
11 of the aisle that this is good the way it is.
12 Two of your members voted with us. If Senator
13 Morahan was in good health, he would have been
14 here and we would have had the 32 votes and
15 then you would have had something bad.

16 But what we're saying is don't be
17 afraid, there's nothing wrong with the bill.
18 I've been in this house 18 years, and I've
19 seen bills pulled. And we made them better.
20 And we made the people proud of us that we
21 were willing to sit back, make some changes,
22 and do something that was right.

23 Now, I'd like to ask you to think,
24 every one of you on both sides of the aisle,
25 what's so wrong with saying hold it, hold it,

1 let's do something for the people. Because
2 since January this year, we've done a hell of
3 a lot of nothing. We're 70-some days past a
4 budget. Here's an opportunity to show the
5 people that we're not going to profit New York
6 City over the state, we're going to take care
7 of the needs of the state as a whole, not
8 preferential treatment for New York City.

9 Because that's exactly what people
10 are saying. I had a phone call while this
11 debate was going on, and this dealer said to
12 me: "You know what, Bill? I think maybe I'm
13 going to shut down this year, because I don't
14 think you people care about us. You care
15 about yourself and not about the needs of the
16 people of the State of New York."

17 I don't know all of the mechanics,
18 Senator Perkins, on how much this does and or
19 how much that doesn't. I count on my
20 colleague Senator Marcellino, who's been the
21 expert on this for years. So why don't we
22 just say we're going to do one for the team?
23 The team is the State of New York. "Team" is
24 not spelled with an I. And we can make it
25 sound not just good, but we can show the

1 people of this state that we're willing to
2 make amends and changes when it will profit,
3 benefit the rest of the state.

4 Thank you, Mr. President.

5 ACTING PRESIDENT VALESKY: Thank
6 you, Senator Larkin.

7 Senator Little.

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

10 I can say with confidence that the
11 area I represent has probably got the cleanest
12 air in New York State. Obviously, the fewest
13 people per square mile and all. But certainly
14 not only does it have the cleanest area, but
15 it also has some of the coldest temperatures
16 in the state. And if you watch the Weather
17 Channel during the winter months, I'm sure
18 you're all familiar with Saranac Lake, which
19 is usually the coldest spot in New York State,
20 and that's in my district. We have so many
21 people who have to rely upon oil heat because
22 natural gas is not available in a lot of
23 places. Their only other choice is wood or
24 propane. And they also are on fixed incomes,
25 not huge incomes, and it's a real hardship.

1 So I think I would like to join, I
2 know I would like to join my colleagues here
3 today, Senator Perkins, in asking you if you
4 would amend the bill, if you would take this
5 bill back. If the problem is in New York
6 City, amend it to just New York City. If you
7 believe it should be statewide, amend it to a
8 date that is reasonable.

9 We have been here since January.
10 We have a budget bill we haven't done yet. I
11 would guarantee we're probably going to be
12 here next week. You could bring the bill in
13 on Monday with the amendments, and I believe
14 that you would get more support than you are
15 going to get for this bill today. And I
16 really ask you to do this on behalf of all the
17 people of New York State, particularly for the
18 people of my district, who you would be
19 creating a tremendous hardship by the passing
20 of this piece of legislation as it exists
21 today.

22 Thank you.

23 ACTING PRESIDENT VALESKY: Thank
24 you, Senator Little.

25 Senator LaValle.

1 SENATOR LaVALLE: Thank you,
2 Mr. President.

3 Some four or more years ago I was
4 the sponsor of this legislation, so I'm aware
5 of the components that go into this. And it
6 has been mentioned here one of the issues is
7 the effective date. The other issue is the
8 parts per million and at what points in time
9 that will come in.

10 But there's one more component, and
11 I would ask if the sponsor would yield to a
12 question. Senator Perkins?

13 ACTING PRESIDENT VALESKY:
14 Senator Perkins, do you yield?

15 SENATOR PERKINS: Through you,
16 Mr. President, yes.

17 ACTING PRESIDENT VALESKY:
18 Senator LaValle, the sponsor yields.

19 SENATOR LaVALLE: Through you,
20 Mr. President. Senator Perkins, one of the
21 things that I recall on this legislation when
22 I had the sponsorship of it was a component
23 dealing with the technology of the oil burner
24 and changes that had to be made. Is that true
25 today? Will individuals have to make changes

1 in the nozzle or other parts of their system?

2 SENATOR PERKINS: Through you,
3 Mr. President, no. The answer is no.

4 SENATOR LaVALLE: No changes?
5 Okay, thank you.

6 SENATOR PERKINS: Thank you.

7 SENATOR LaVALLE: On the bill,
8 Mr. President.

9 ACTING PRESIDENT VALESKY:
10 Senator LaValle, on the bill.

11 SENATOR LaVALLE: You know, as
12 I've said, I had the sponsorship of this
13 legislation. And one of the key elements is
14 the effective date. I've heard my colleagues
15 here not peppering the sponsor with a whole
16 lot of questions, but it's all about the
17 effective date.

18 So many times as sponsors of
19 legislation, or even as chairs of committees,
20 we find that industry, you know, drags its
21 feet and they get hard-nosed. We as
22 legislators, on the other side, should not dig
23 our heels in. Collectively, we have heard
24 that the 2014 date should be one that would
25 allow us to get where we want to get.

1 Senator Marcellino talked about
2 something -- and I had a situation today -- he
3 talked about his children with asthma. I
4 think I have over the years supported the Lung
5 Association and clean air measures. I called
6 my daughter today -- I don't want to bore
7 everyone here. She wasn't home, but I got my
8 grandson, who was home. I said, "Justin, what
9 are you doing home? You should be in school."
10 "Oh," he said, "my asthma is really bad
11 today."

12 So I say that because every one of
13 us has a family member who struggles with
14 asthma. And we want, as a policy matter, to
15 move toward cleaner air, cleaner air. And we
16 could do that, make a bold statement in this
17 Legislature by simply changing the effective
18 date from 2012 to 2014 -- two years -- to
19 allow everyone to gear up. To do it and pass
20 legislation that is truly in the interest of
21 all New Yorkers, all New Yorkers.

22 So, Senator Perkins, I ask you, as
23 many of the other colleagues have, make the
24 change. Let's make together a bold statement
25 towards cleaner air. 2014 does it.

1 Thank you, Mr. President.

2 ACTING PRESIDENT VALESKY: Thank
3 you, Senator LaValle.

4 Senator Young.

5 SENATOR YOUNG: Thank you,
6 Mr. President.

7 You know, heating your home is not
8 a luxury, it's a necessity. And the further
9 north you go in New York State, the more
10 brutal weather becomes and the more brutal the
11 winters become. And whether you're in Buffalo
12 or Olean or Watertown, Potsdam, wherever you
13 go in upstate, as you drive around the
14 countryside you see the landscape dotted with
15 home heating fuel stations.

16 And this hurts a lot of people if
17 this legislation is passed in the form that it
18 currently has. People are hurting across this
19 state. They're hurting because they've lost
20 their jobs. Dairy farmers are suffering
21 because of the dairy crisis with record low
22 milk prices. We have senior citizens who
23 can't afford to pay their bills now. We have
24 the working poor in upstate New York.

25 And I can't understand why my

1 colleague will not consider a simple amendment
2 to this bill that would make it palatable for
3 everybody, would make it work for everybody,
4 and would allow us to still have the goal --
5 which is very laudable -- of having cleaner
6 air.

7 So I join with the pleas of my
8 colleagues who say to Senator Perkins please
9 change the date on this bill. Don't hurt our
10 seniors, don't hurt the working poor, don't
11 hurt our dairy farmers, don't hurt upstate
12 New York. Because if this bill passes the way
13 that it is now, it will unfortunately do all
14 those things.

15 ACTING PRESIDENT VALESKY: Thank
16 you, Senator Young.

17 Senator Padavan.

18 SENATOR PADAVAN: Thank you,
19 Mr. President. I'd like to just address two
20 aspects of the discussion that we have had so
21 far.

22 First, the sponsor indicates, and
23 rightly so, that the area of this state that's
24 most impacted by sulfur content is in the City
25 of New York. And why is that so? Because of

1 the concentration with high-rise apartments,
2 office buildings all over the City of
3 New York, particularly in Manhattan -- using
4 Number 4 and Number 6 oil predominantly, not
5 at all covered by this legislation.

6 That's part of the problem. What
7 the solution there is, I'm not sure, but it's
8 not solved. So when we talk about the sulfur
9 content issue in the City of New York, let us
10 be clear that we're only dealing with part of
11 that issue with this bill.

12 Now, at the same time, if I knew
13 with certainty, reasonable certainty, that the
14 capacity for producing this type of fuel
15 existed in this nation anywhere, and certainly
16 in our region, I might have a different view
17 as to how I'm going to vote. But I've been
18 reading over all of the inputs that I've
19 received, and from every source -- U.S. East
20 Coast refineries, Canadian and Virgin Island
21 refineries, United Refinery Company, and so
22 on -- they're all telling us that they
23 currently do not have the capacity to produce
24 this fuel in the time frame we are seeking for
25 them to accomplish.

1 Now, you know, there's the old
2 saying you can't stick a 10-pound weight in a
3 5-pound bag. It's not there. It's simply not
4 there.

5 Now, part of the problem that
6 refineries have been experiencing is that
7 during the economic downturn, some of them
8 shut down their capacity, shut down entire
9 refineries. Valero, the largest refiner in
10 this country, shut down one or more of their
11 facilities because of the economy and the lack
12 of need, particularly in the manufacturing
13 sector, of fuel.

14 Now, what we would be asking them
15 to do is to open up those refineries, and it
16 takes a great deal of time to do that. You
17 just don't turn on a switch. It takes a year
18 or so to get a refinery on line.

19 In addition, in order to produce
20 this type fuel, this Number 2 fuel, in the
21 configuration that we want it to produce it,
22 existing facilities would have to be modified.
23 It requires reengineering. And I've been
24 forced to go back to my college course in
25 organic chemistry to remember what that might

1 require with a petroleum organic product of
2 this sort. And it's not easy. That would
3 take a great deal of time.

4 So on one hand, we don't have the
5 capacity. On the other hand, to produce the
6 capacity, we need a lot of time to do it, and
7 we certainly can't do it in the time frame
8 this bill requires. That's what all the
9 refiners are saying. They're not saying they
10 don't want to sell this fuel, they're not
11 saying they don't want to make this fuel. As
12 a matter of fact they might make more profit
13 with this fuel. They're say they can't. Now,
14 you say they can; they say they can't.

15 This would be a terrible, terrible
16 tragedy if we put into law a requirement that
17 people have to acquire, buy a product that's
18 simply not available. Then what do they do?
19 There are countries in South America where
20 they sell fuel on the black market. They go
21 across national lines because of certain
22 regulations and restrictions and all kinds of
23 things. I don't think you want to do that. I
24 think you're far too astute, intelligent an
25 individual. You don't want to do that.

1 So as has been asked here and been
2 asked in a very, I think, gentle way and in a
3 reasonable way and in a positive way, amend
4 this bill, give us the time to do what the
5 industry needs, and then we'll be home free.
6 We'll achieve what we want to achieve. And
7 maybe in the process we could also start
8 including some of those other types of fuels
9 that are polluting our environment in New York
10 City.

11 ACTING PRESIDENT VALESKY:

12 Senator Perkins, why do you rise?

13 SENATOR PERKINS: I just wanted
14 to ask, again, a question of the Senator.

15 ACTING PRESIDENT VALESKY:

16 Senator Padavan, do you yield to a question?

17 SENATOR PADAVAN: Yes.

18 ACTING PRESIDENT VALESKY:

19 Senator Padavan yields.

20 SENATOR PERKINS: I just want to
21 be clear that you did hear -- you point out
22 that the Governor has the opportunity to
23 address some of the concerns that you brought
24 up in terms of the scarcity of the type --

25 SENATOR PADAVAN: I'm sorry,

1 Senator, I'm not hearing you.

2 SENATOR PERKINS: The Governor --
3 the bill allows for the Governor to intervene,
4 in consultation with NYSERDA, when it comes to
5 some of the concerns that have been addressed
6 already. Like scarcity, for instance.

7 SENATOR PADAVAN: Well, I'm not
8 sure I understand fully what that means. But
9 if there's a mandate of time on this -- excuse
10 us if we're breaking the rules here. But if
11 there's a mandate on time in terms of when the
12 effective date is, I don't know what the
13 Governor is going to be able to do to undo
14 that either -- unless the bill allows him to
15 overrule that time frame at some future date.

16 And I don't think that's in your
17 bill. If it is, I'd be interested in knowing
18 that.

19 SENATOR PERKINS: Okay. Thank
20 you.

21 ACTING PRESIDENT VALESKY:
22 Senator Alesi.

23 SENATOR ALESI: Thank you,
24 Mr. President.

25 I appreciate the points of view on

1 both sides of the aisle. And I have great
2 respect for Senator Perkin's efforts here.
3 Because as we all know, the main goal, over a
4 reasonable period of time while we're dealing
5 with elements of the environment, is to
6 improve the environment. That's good for
7 everybody.

8 But I think Senator Libous made a
9 compelling argument when he was talking about
10 a reasonable period of time, and some of my
11 colleagues also in asking for just a little
12 more time before this is implemented. In
13 fact, if you pay close attention to the bill,
14 it says this act shall take effect
15 immediately. That means as soon as the
16 Governor signs it. Immediately. With the
17 date prescribed in there, obviously.

18 But I would like to ask if Senator
19 Perkins would be kind enough to yield for a
20 simple question.

21 I'm sorry, Mr. President, I thought
22 you were going back to your seat to vote yes
23 with it.

24 ACTING PRESIDENT VALESKY:
25 Proceed.

1 SENATOR ALESI: Mr. President,
2 would Senator Perkins yield?

3 ACTING PRESIDENT VALESKY:
4 Senator Perkins, will you yield?

5 SENATOR PERKINS: Yes.

6 ACTING PRESIDENT VALESKY: The
7 sponsor yields.

8 SENATOR ALESI: Thank you,
9 Senator. Thank you for your efforts. I think
10 there's no dispute that you're trying to do
11 something good here.

12 However, it's very, very clear to
13 me and some of my colleagues that this just
14 makes this happen too soon. And because it
15 covers the entire State of New York and not
16 just those areas that are defined as
17 non-attainment areas -- it covers the whole
18 State of New York -- that this has a very
19 negative effect on those of us who live
20 upstate.

21 In this new Section 19, as you
22 correctly point out, there is a provision that
23 says the Governor, by way of executive action,
24 can stop this temporarily from being put into
25 effect. You could also draw from that that

1 maybe while it's in effect, that he could
2 suspend it temporarily, although that's not
3 specifically said in there. But he can do
4 this after consulting with NYSERDA.

5 And so my question to you, Senator,
6 is this. I'm looking through all of those
7 people who are in favor of the bill and who
8 are not in favor of the bill, and I do not see
9 NYSERDA in here on any of these memos. Where
10 is NYSERDA on this particular bill?

11 SENATOR PARKER: I assume that
12 the Governor's support of this bill is
13 significant in terms of NYSERDA's point of
14 view. But generally speaking, they don't
15 issue a position on this.

16 SENATOR ALESI: Thank you,
17 Mr. President. If I may continue.

18 ACTING PRESIDENT VALESKY:
19 Senator Alesi.

20 SENATOR ALESI: If Senator
21 Perkins would continue to yield.

22 ACTING PRESIDENT VALESKY:
23 Senator Perkins, will you continue to yield?

24 SENATOR PERKINS: Yes.

25 ACTING PRESIDENT VALESKY: The

1 sponsor continues.

2 SENATOR ALESI: With all respect,
3 Senator, setting your assumptions aside, my
4 question was where does NYSERDA stand. And if
5 your assumption is that they haven't taken a
6 position on this, then could I conclude that
7 you haven't consulted with NYSERDA on this in
8 the crafting of this bill?

9 SENATOR PERKINS: Through you,
10 Mr. President, I have not personally consulted
11 with them about their position on the bill.
12 However, I do know that they have not sent any
13 communication in opposition either.

14 And again, I think that the support
15 of the Governor for the bill indicates that
16 there will be some support from NYSERDA as
17 well.

18 SENATOR ALESI: Thank you.
19 Mr. President, one other question,
20 if I may.

21 ACTING PRESIDENT VALESKY:
22 Senator Perkins?

23 SENATOR PERKINS: By all means.

24 ACTING PRESIDENT VALESKY: The
25 sponsor continues to yield.

1 SENATOR ALESI: Senator, as you
2 know, sometimes it's a little difficult to
3 hear around here. But I think when you were
4 responding to Senator Libous, you said
5 something about the mayor of New York. I
6 think you said "Are you aware that the mayor
7 of New York" -- and then I couldn't hear the
8 rest of that.

9 SENATOR PERKINS: Through you,
10 Mr. President. Yes, the mayor of New York,
11 who's in support of this bill, is also in the
12 process of developing regs on Number 4 and
13 Number 6 oil.

14 SENATOR ALESI: I'm sorry,
15 Mr. President. In the process of what?

16 SENATOR PERKINS: Developing some
17 regs with regard to Number 4 and Number 6.

18 SENATOR ALESI: Through you,
19 Mr. President. Will he continue to yield?

20 ACTING PRESIDENT VALESKY:
21 Senator Perkins, do you continue to yield?

22 SENATOR PERKINS: Yes.

23 ACTING PRESIDENT VALESKY: The
24 sponsor yields.

25 SENATOR ALESI: Senator Perkins,

1 why is he in the process of doing that?

2 SENATOR PERKINS: Through you,
3 Mr. President, I guess he wants to be ready in
4 time for the implementation of this
5 legislation.

6 SENATOR ALESI: Mr. President,
7 through you. May I continue?

8 ACTING PRESIDENT VALESKY:
9 Senator Perkins?

10 SENATOR PERKINS: Yes.

11 ACTING PRESIDENT VALESKY: The
12 sponsor yields.

13 SENATOR ALESI: Senator Perkins,
14 is that because the area that we know as
15 Manhattan, which is in the non-attainment
16 area, does this bill not apply to Manhattan?

17 SENATOR PERKINS: Through you,
18 Mr. President, it does apply.

19 SENATOR ALESI: So it applies to
20 all of the areas in the non-attainment area,
21 then? Through you, Mr. President.

22 SENATOR PERKINS: Through you,
23 yes.

24 SENATOR ALESI: Thank you.

25 Mr. President, on the bill, if I

1 may.

2 Thank you, Senator Perkins for your
3 help.

4 ACTING PRESIDENT VALESKY:
5 Senator Alesi, on the bill.

6 SENATOR ALESI: I think it's very
7 clear -- and I don't know how many different
8 ways that we can say this. But I think it is
9 clear through this legislation that the
10 Governor is mentioned prominently in this
11 bill, as Senator Perkins correctly points out,
12 as having the power to suspend this
13 legislation after consulting with NYSERDA. It
14 seems odd to me at this point that we have
15 had, at least according to the sponsor, no
16 interaction with NYSERDA at all, and yet they
17 figure prominently into how this bill would
18 work as well.

19 And I think it's also compelling
20 for all of us to understand, and I'll say
21 slightly differently what all of my other
22 colleagues have said, is that this bill
23 applies statewide and yet it refers in the
24 legislative memo to those areas that are
25 non-attainment areas. Meaning that they don't

1 meet the federal standards for healthy air.

2 Senator Little correctly pointed
3 out that in her district they have the
4 cleanest air in all of New York State. And
5 one might conclude from that that this would
6 be beyond necessary from the environmental
7 standpoint, but she also concluded -- and I
8 agree -- that this would have deleterious
9 effects to those individual homeowners who are
10 going to have to pay significantly more price
11 per gallon for this kind of heating oil.

12 And if you look at the contrast
13 between those areas in the New York City
14 region that, maybe rightfully so, need to have
15 more help in attaining healthier air, those
16 areas upstate that are going to be equally
17 impacted probably don't.

18 If you look at the kinds of homes
19 that are being heated in upstate New York, by
20 and large we are not in a vertical society.
21 Not most of our residential lives in high-rise
22 apartments, we live in single-family home. If
23 you think about that, a single-family home,
24 there is no synergy. You don't pick up any
25 advantage from your neighbor who's 200 yards

1 away as you do when you're living in a
2 vertical society and you have the advantage of
3 heating that whole vertical building with
4 maybe a thousand apartments in it.

5 So now while you have the coldest
6 area of the state, as compared to New York
7 City -- and whether it is in the Adirondacks
8 or if it's on the southern shore of Lake Erie
9 or Lake Ontario where the Canadian wind, the
10 Artic Express, comes across and hits every one
11 of those single-family homes like a 10-cent
12 razor blade -- I think that was the term I
13 remember hearing -- it is freezing cold. And
14 you have to turn the heat up. And when you
15 turn the heat up to keep your home warm, it
16 costs you more money. And under this plan,
17 even though we don't really need it upstate
18 for air quality, it's going to cost even that
19 much more.

20 Now, it doesn't matter whether
21 we're middle-class or low-income people or
22 elderly, we're all going to be impacted
23 negatively by a bill that really is designed
24 for New York City and the New York City
25 metropolitan area. And I applaud that. Love

1 to help you with that.

2 But all I'm saying is this. I
3 don't know if there's another way I can say
4 it. My colleagues have said it. Cut us some
5 slack. Every time we turn around, we're
6 getting killed by New York City. I love
7 New York City. I still believe it's the
8 economic engine of the state. And we
9 desperately need New York City. We're all
10 part of it. But we should not be suffering
11 under a bill that is meant to take care of the
12 non-attainment areas, which is mostly New York
13 City, when we live upstate, where it's cold,
14 where we live in single-family homes, and
15 we're going to pay more. Whether we're
16 capable of paying more, whether we're elderly
17 and frail, or whether we're young families in
18 a single-family home trying to make life
19 better, we're getting killed.

20 The mayor is working on something.
21 I'm glad for that. But the mayor is from
22 New York City. So is the Governor. So is
23 everybody else that's running this state right
24 now. Now, we were able to have some rational,
25 in my view, some rational response from a

1 couple of the upstate Senators from the other
2 side of the aisle on that amendment. That
3 tells me clearly that those two out of three
4 upstate Senators -- that would have embraced
5 the amendment that would have just put this
6 off a little bit longer so that we could maybe
7 be carved out or at least accommodated --
8 understand how vitally important it is not to
9 impact upstate New York so negatively when the
10 real intent of this bill is to do something
11 for New York City. And appropriately so.

12 So, my colleagues, we're on the
13 main bill. I'm simply asking again -- and
14 Senator Perkins is a dear friend of mine. And
15 I enjoy his company, and I applaud his
16 efforts. I'm simply asking, again, take a
17 step back, just amend this bill slightly to
18 help the people in upstate New York, come back
19 with it Monday. I can't speak for my
20 colleagues, but I'd pretty much bet if I got
21 them all in a room alone, they'd see life my
22 way. We'd support your bill.

23 Please, Senator Perkins, help us
24 out in upstate.

25 ACTING PRESIDENT VALESKY: Thank

1 you, Senator Alesi.

2 Senator Owen Johnson.

3 SENATOR OWEN JOHNSON: Thank you,
4 Mr. President.

5 You know, I spent quite a few years
6 in environmental activities, including being
7 the chairman of the Environmental Conservation
8 Committee in the Senate. And I have always
9 had a strong interest in air quality and water
10 quality. When I started right off talking
11 with DEC and other people, they said to me,
12 Well, you can do a lot of things and we should
13 do a lot of things and we have done a lot of
14 things to clean the air, but unless you can
15 change the breeze coming up from Jersey, you
16 won't make much difference in your communities
17 on Long Island. And that's probably true.

18 In any event, as you all know,
19 automobile inspections and standards have been
20 ratcheted down and down. The cars are very
21 clean. They've added ethanol to the gasoline
22 to make the air cleaner. And we're still in a
23 non-attainment area, with all we've done.

24 Now, we can't change the air coming
25 up the coast. We can't get a block of fresh

1 air and park it over our communities and keep
2 it there, because air keeps moving. Not only
3 around Long Island, obviously, or New York
4 City, but even in the Adirondacks. Senator
5 Little said they've got the cleanest air up
6 there. But you know what? Their air is
7 polluted by the midwest power plants, and they
8 have acidic lakes with no fish in their lakes
9 because of the acid from the midwest power
10 plants.

11 So we can't change a lot of the
12 surroundings. We should try to work together
13 with our surrounding states, though, and get
14 the air as clean as we can by matching the
15 standards of the surrounding states, which has
16 been proposed as an amendment here. Now, that
17 amendment should be adopted. We should match
18 that clean as we can. And what am I going to
19 tell you here? I've got so many things to
20 say.

21 In any event, the only discernible
22 benefit -- or change, I should say, not
23 benefit. The only discernible change from
24 changing this little bit of air quality in
25 fuel, varying it lower than the surrounding

1 states, will not make our air one bit cleaner.
2 The discernible benefit, if you want to say,
3 or change is that we're going to pay more for
4 our fuel oil. Now, that doesn't make an awful
5 lot of sense, does it, when you're not
6 cleaning the air at all, you still have the
7 same air coming from Jersey, the same air from
8 the surrounding states. That we should match
9 their standard and that we could do that
10 inexpensively and avoid increased costs for
11 people who buy the fuel oil.

12 That's about all I can say. So I
13 think that the suggested changes by Senator
14 Marcellino to match the other standards is the
15 right thing to do. It'll be doing the best we
16 can for air quality at the moment, and we
17 won't be bankrupting our people.

18 Thank you.

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

21 Senator DeFrancisco.

22 SENATOR DeFRANCISCO: I just want
23 to stand up briefly. I'm not going to make
24 the same argument. I just want to state for
25 the record that I agree with Senator

1 Stachowski. I agree with him strongly that
2 this bill should not be effective until 2014,
3 and I support his bill, which was our
4 amendment.

5 And I agree with Senator Aubertine
6 as well, who voted for that amendment, who
7 obviously feels the same way, because he
8 represents an upstate community, that this
9 bill should not go into effect, the
10 requirement, until 2014.

11 And I also agree with what I know
12 is Senator Valesky's belief in his heart that
13 it should be 2014. And I hope we have their
14 support when we vote against this bill.

15 Thank you.

16 ACTING PRESIDENT VALESKY: Thank
17 you, Senator DeFrancisco.

18 Are there any other Senators who
19 wish to be heard on the bill?

20 Seeing none, the debate is closed.

21 The Secretary will ring the bells.
22 All Senators are asked to proceed to the
23 chamber for the purposes of a roll call.

24 Senator Libous.

25 SENATOR LIBOUS: Mr. President,

1 I'd like to call a slow roll call on this
2 bill.

3 ACTING PRESIDENT VALESKY: Seeing
4 the required five Senators rise, the roll will
5 be called slowly.

6 The Secretary will read the last
7 section.

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

10 ACTING PRESIDENT VALESKY: Call
11 the roll slowly.

12 THE SECRETARY: Senator Adams.

13 SENATOR ADAMS: Yes.

14 THE SECRETARY: Senator Addabbo.

15 SENATOR ADDABBO: Yes.

16 THE SECRETARY: Senator Alesi.

17 SENATOR ALESI: No.

18 THE SECRETARY: Senator

19 Aubertine.

20 SENATOR AUBERTINE: Yes.

21 THE SECRETARY: Senator Bonacic.

22 SENATOR BONACIC: No.

23 THE SECRETARY: Senator Breslin.

24 SENATOR BRESLIN: Yes.

25 THE SECRETARY: Senator

1 DeFrancisco.

2 SENATOR DeFRANCISCO: No.

3 THE SECRETARY: Senator Diaz.

4 ACTING PRESIDENT VALESKY:

5 Senator Diaz, to explain his vote.

6 SENATOR DIAZ: Thank you,

7 Mr. President.

8 I'd just like to thank Senator
9 Perkins, because the County of the Bronx and
10 the district that I represent is one of the
11 more affected areas with asthma and
12 respiratory diseases. Even myself, the other
13 day, I just found that I am with asthma too.
14 And that's what happens to people in the
15 district that I represent.

16 So, Senator Perkins, thank you for
17 your concern and your bill. It helps -- even
18 myself will be helped with that bill. So
19 thank you, and I'm voting yes.

20 ACTING PRESIDENT VALESKY:

21 Senator Diaz to be recorded in the
22 affirmative.

23 THE SECRETARY: Senator Dilan.

24 SENATOR DILAN: Yes.

25 THE SECRETARY: Senator Duane.

1 SENATOR DUANE: Yes.

2 THE SECRETARY: Senator Espada.

3 SENATOR ESPADA: Yes.

4 SENATOR LIBOUS: Mr. President --

5 ACTING PRESIDENT VALESKY:

6 Senator Libous.

7 SENATOR LIBOUS: -- is this a
8 slow roll call? Are not members supposed to
9 orally give their vote, or are we on a hand
10 vote?

11 ACTING PRESIDENT VALESKY: This
12 is a slow roll call. Members are voted
13 orally.

14 SENATOR LIBOUS: First of all, we
15 can't hear any members voting. We only hear
16 Tommy giving the result of the vote.

17 ACTING PRESIDENT VALESKY: I
18 would ask that Senators project as they vote
19 so that the Secretary may record the vote
20 accurately.

21 SENATOR LIBOUS: In that vein,
22 Mr. President, could you please tell me how
23 the last three people voted?

24 ACTING PRESIDENT VALESKY:
25 Senators Dilan, Duane, and Espada recorded in

1 the affirmative.

2 SENATOR LIBOUS: Thank you,
3 Mr. President.

4 ACTING PRESIDENT VALESKY: The
5 Secretary will continue to call the roll
6 slowly.

7 THE SECRETARY: Senator Farley.

8 SENATOR FARLEY: No.

9 THE SECRETARY: Senator Flanagan.

10 SENATOR FLANAGAN: No.

11 THE SECRETARY: Senator Foley.

12 SENATOR FOLEY: Mr. President.

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

15 SENATOR FOLEY: Thank you,
16 Mr. President.

17 This bill is very, very important
18 to Long Island and that particular region of
19 New York State. When I was chair of the
20 Health Committee in the County Legislature, we
21 had plenty of testimony over a period of years
22 about the, let's say, high, high levels of
23 pollutants within that given region.

24 This particular bill that Senator
25 Perkins has put forward will in the short

1 term, mid-term, and long term help clean up
2 the air of our particular region.

3 I want to thank Senator Perkins for
4 putting this bill forward. Notwithstanding
5 the issue of the timing, the substance of this
6 bill will enable Long Islanders to breathe
7 easier as time goes on. That's why I strongly
8 support the bill and vote in the affirmative,
9 Mr. President. Thank you.

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

13 THE SECRETARY: Senator
14 Fuschillo.

15 SENATOR FUSCHILLO: No.

16 THE SECRETARY: Senator Golden.

17 SENATOR GOLDEN: No.

18 THE SECRETARY: Senator Griffo.

19 SENATOR GRIFFO: No.

20 SENATOR ADAMS: Mr. President,
21 point of order.

22 ACTING PRESIDENT VALESKY:
23 Senator Adams, why do you rise?

24 SENATOR ADAMS: Point of order.
25 If I recall, in order to do a vote, you're

1 supposed to be in your chair. Senator Golden
2 was marching around somewhere. You know, he
3 disappears a lot when important votes come on.
4 So I just wanted to make sure that he was in
5 his chair when he made his vote.

6 (Laughter.)

7 SENATOR GOLDEN: Thank you,
8 Senator Adams.

9 (Laughter.)

10 ACTING PRESIDENT VALESKY:
11 Senator Golden to be recorded in the negative.

12 SENATOR GOLDEN: That's correct.
13 Thank you.

14 ACTING PRESIDENT VALESKY: The
15 Secretary will continue to call the roll.

16 THE SECRETARY: Senator Hannon.

17 SENATOR HANNON: No.

18 THE SECRETARY: Senator
19 Hassell-Thompson.

20 ACTING PRESIDENT VALESKY:
21 Senator Hassell-Thompson, to explain her vote.

22 SENATOR HASSELL-THOMPSON: Thank
23 you, Mr. President. Let me project my voice
24 loudly so that all can hear me vote in the
25 affirmative.

1 I, like Senator Diaz, represent the
2 Bronx, with the highest incidences of asthma.
3 And until we have found what the single cause
4 is, everything that we do has the
5 possibilities of adding to the rise in asthma
6 among our children as well as adults.
7 Therefore, loudly I affirm in support of
8 Senator Perkins' bill.

9 Thank you, Mr. President.

10 ACTING PRESIDENT VALESKY:
11 Senator Hassell-Thompson to be recorded in the
12 affirmative.

13 THE SECRETARY: Senator Huntley.

14 SENATOR HUNTLEY: Yes.

15 THE SECRETARY: Senator C.
16 Johnson.

17 SENATOR CRAIG JOHNSON: Yes.

18 THE SECRETARY: Senator O.
19 Johnson.

20 SENATOR OWEN JOHNSON: No.

21 THE SECRETARY: Senator Klein.

22 SENATOR KLEIN: Yes.

23 THE SECRETARY: Senator
24 L. Krueger.

25 ACTING PRESIDENT VALESKY:

1 Senator Liz Krueger, to explain her vote.

2 SENATOR LIZ KRUEGER: Thank you.

3 Well, I sat and listened carefully
4 to the debate. And I guess I was confused by
5 a couple of things. But I am quite sure I am
6 voting yes for this bill.

7 Just for the record, the air moves
8 around. So whether we think we live in a
9 slightly dirty area airwise or a clean area
10 airwise, the thing about air is it keeps
11 moving everywhere. So it affects us all when
12 there's pollution.

13 Second, it was made very clear that
14 if there is any shortage of the correct new
15 low-sulfur, high-efficiency fuel, that the
16 Governor will have the power to extend
17 timelines with this legislation.

18 So with this legislation we're
19 going to do what is needed for the
20 environment. It will be a win/win for all
21 areas of the State of New York. Yes, my area
22 is a particularly high-danger area. But also
23 the fuel is more efficient, so you're actually
24 going to burn less of it. So I'd even debate
25 the cost issue.

1 So yes, I'm happy to loudly
2 proclaim yes I support the bill. Thank you,
3 Mr. President.

4 ACTING PRESIDENT VALESKY:
5 Senator Liz Krueger to be recorded in the
6 affirmative.

7 The Secretary will continue.

8 THE SECRETARY: Senator C.
9 Kruger.

10 SENATOR CARL KRUGER: Yes.

11 THE SECRETARY: Senator Lanza.

12 SENATOR LANZA: No.

13 THE SECRETARY: Senator Larkin.

14 SENATOR LARKIN: No.

15 THE SECRETARY: Senator LaValle.

16 SENATOR LaVALLE: No.

17 THE SECRETARY: Senator Leibell.

18 SENATOR LEIBELL: No.

19 THE SECRETARY: Senator Libous.

20 SENATOR LIBOUS: To explain my
21 vote, Mr. President.

22 ACTING PRESIDENT VALESKY:
23 Senator Libous, to explain his vote.

24 SENATOR LIBOUS: Mr. President,
25 Senator Perkins, I like you, I think you're a

1 good legislator, but I'm disappointed today.

2 I'm disappointed.

3 I'm disappointed in my other
4 colleagues, particularly those from downstate.
5 Over the last 22 years, I've voted for a
6 number of major pieces of legislation that
7 helped people on Long Island and the City of
8 New York, because it's all part of the state.
9 And I hear from my colleagues on the other
10 side of the aisle that we're one New York. I
11 hear it often from my friend and colleague
12 Senator Smith and others.

13 Well, I'm disappointed. We
14 explained to you that this bill hurts the
15 upstate rural communities, the consumers who
16 heat their home with oil. This is going to
17 cost them more money. We're not being
18 unreasonable. We care about asthma, we care
19 about air quality and control. And we asked
20 the sponsor on a number of occasions -- number
21 one occasion, if it's a problem in the City of
22 New York and in Long Island, then make the
23 bill pertain to the City of New York and Long
24 Island. But no, we're going to make this
25 statewide.

1 And then what do you do is you
2 impose restrictions. People will not get home
3 heating oil next year, I'm telling you. But
4 you won't care, because you'll be in the City
5 of New York. You don't heat, as Senator Alesi
6 and others said, your home with home heating
7 fuel.

8 So I'm disappointed. I'm very
9 disappointed. When we stand up and share with
10 you the differences -- because this is a
11 different state, even though we're one New
12 York State. Upstate -- and I see that,
13 Senator Hassell-Thompson. You don't have to
14 show me your watch. I have one. I know my
15 time is running out. But this is important
16 enough for me for make a point. Shame on you
17 for not being open-minded enough to respect
18 those who don't live in the City of New York
19 or on Long Island.

20 ACTING PRESIDENT VALESKY:

21 Senator Libous, how do you vote?

22 SENATOR LIBOUS: I vote no.

23 ACTING PRESIDENT VALESKY:

24 Senator Libous to be recorded in the negative.

25 The Secretary will continue.

1 THE SECRETARY: Senator Little.
2 SENATOR LITTLE: No.
3 THE SECRETARY: Senator
4 Marcellino.
5 SENATOR MARCELLINO: No.
6 THE SECRETARY: Senator Maziarz.
7 SENATOR MAZIARZ: No.
8 THE SECRETARY: Senator McDonald.
9 SENATOR McDONALD: No.
10 THE SECRETARY: Senator
11 Montgomery.
12 ACTING PRESIDENT VALESKY:
13 Senator Montgomery, to explain her vote.
14 SENATOR MONTGOMERY: Mr.
15 President, to explain my vote.
16 I am voting yes on this. I'm quite
17 confused by Senator Libous, all due respect,
18 Senator. You chastise us because we say one
19 New York, because we believe one New York.
20 But then, on the other hand, you say but leave
21 us out, leave the upstate constituents out,
22 don't protect their environment. So I'm a
23 little bit confused by that.
24 I think this is really a good bill.
25 We really need this bill in the State of

1 New York. We are one of the highest users of
2 fuel oil for heating purposes. And we also
3 have pockets in our state where there is a
4 very high concentration of incidents of
5 chronic ailments related to pollution in the
6 environment, auto and home heating and public
7 transportation and et cetera.

8 So this particular bill is an
9 attempt to address part of that. It in fact
10 will reduce the cost of heating oil. I have a
11 district that has a large number of
12 single-home owners, small residences,
13 essentially, that use this heating oil. So
14 I'm extremely supportive and excited that we
15 have taken at least one small step to address
16 this issue.

17 And, Mr. President, I therefore
18 vote aye for this bill.

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

22 THE SECRETARY: Senator Morahan,
23 excused.

24 Senator Nozzolio.

25 ACTING PRESIDENT VALESKY:

1 Senator Nozzolio, to explain his vote.

2 SENATOR NOZZOLIO: Thank you,
3 Mr. President.

4 Mr. President and my colleagues, I
5 rise because I believe we are one New York.
6 But I strongly believe that a portion of our
7 state is totally ignoring the dramatic and
8 almost desperate economic crisis that exists
9 in upstate New York. And that this
10 legislation adds to the burden of doing
11 business, of producing jobs, of making the
12 upstate economy work again. Government should
13 not be the problem.

14 Here, with this legislation
15 ignoring the needs and the dramatic situation
16 that upstate faces, is reason enough to vote
17 against the legislation. And, Mr. President,
18 that's why I wish to be recorded in the
19 negative against the bill.

20 ACTING PRESIDENT VALESKY:
21 Senator Nozzolio to be recorded in the
22 negative.

23 The Secretary will continue.

24 THE SECRETARY: Senator Onorato.

25 SENATOR ONORATO: Aye.

1 THE SECRETARY: Senator
2 Oppenheimer.

3 SENATOR OPPENHEIMER: Yes.

4 THE SECRETARY: Senator Padavan.

5 SENATOR PADAVAN: Nay.

6 THE SECRETARY: Senator Parker.

7 ACTING PRESIDENT VALESKY:

8 Senator Parker, to explain his vote.

9 SENATOR PARKER: Yes, Mr.
10 Chairman.

11 First, let me just congratulate
12 Bill Perkins for his intrepid work and
13 leadership on this issue. There is nothing,
14 frankly, more important than the stewardship
15 of our planet. And if we have not learned
16 that from what's been happening with the
17 greenhouse effect and what's been happening
18 with the high asthma rates, when we see
19 earthquakes and tidal waves and tsunamis and
20 all these other things that are happening,
21 this all is part of it. And not even a
22 mention of the BP disaster. Right?

23 And so, you know, we know how
24 harmful this is. One of the things we ought
25 to do -- and as you have the chairman of the

1 Energy Committee in the Senate on your side of
2 the aisle, you ought to interact with him to
3 find ways that we can get people off of oil.
4 We need to be moving away from this situation
5 anyway.

6 In the same way that we have, you
7 know, stopped smoking in buildings, we have to
8 progress. And it's going to be difficult.
9 This is what we call the transition. And
10 transitions are painful, but they're
11 necessary. We need to be moving towards a
12 society where we are not dependent on, you
13 know, foreign oil consumption, where we're
14 not -- our addiction to foreign oil has to be
15 broken. And if it has to be done, you know,
16 cold turkey, then so let it be.

17 But there are lots of programs to
18 help people move to alternative energy and do
19 things that need to be done so they can heat
20 their homes. But certainly taking sulfur out
21 is an important first step. I applaud you,
22 Senator Bill Perkins, and thank you so much
23 for doing this. And I really encourage my
24 colleagues to vote aye as I will be voting
25 aye.

1 ACTING PRESIDENT VALESKY:

2 Senator Parker to be recorded in the
3 affirmative.

4 THE SECRETARY: Senator Peralta.

5 SENATOR PERALTA: Yes.

6 THE SECRETARY: Senator Perkins.

7 ACTING PRESIDENT VALESKY:

8 Senator Perkins, to explain his vote.

9 SENATOR PERKINS: Thank you very
10 much. I'm going to be brief. But, Senator
11 Libous, I love you too. And I have a high
12 regard for what you do on behalf of your
13 conference. And I in no way question the
14 sincerity of what you're trying to do for the
15 people of your community or the people of the
16 state. I would urge you not to do the same
17 with me and my colleagues as well.

18 As you may recall, we had a
19 discussion earlier in which the date was
20 different than the date that you're talking
21 about now. The date that was offered was
22 1012. Now we're talking about 2014. So I'm
23 concerned about the moving target as we move
24 forward to correct what we all recognize is a
25 problem not just for New York City but for

1 New York State as well.

2 And I believe that this
3 legislation, as a result of some of the input
4 that you have made and some of your other
5 colleagues have made, is a giant step towards
6 that end. We all are winners on this, no
7 matter what part of the state that we come
8 from. Your constituents will breathe better
9 and all of our constituents will save money by
10 virtue of this legislation. And if in fact
11 any corrections need to be made, thanks to
12 your input and others, the Governor is
13 available to take those into consideration.

14 So I think that we protest too much
15 and that we may be denigrating each other
16 unnecessarily in our passion to represent our
17 neighborhoods, to represent our areas. This
18 is good legislation. This is not intended to
19 be a problem for anybody. And in fact the
20 proof will be that it is not and will not be.

21 Thank you so much. I vote aye.

22 ACTING PRESIDENT VALESKY:

23 Senator Perkins to be recorded in the
24 affirmative.

25 The Secretary will continue to call

1 the roll.

2 THE SECRETARY: Senator
3 Ranzenhofer.

4 SENATOR RANZENHOFER: No.

5 THE SECRETARY: Senator Robach.

6 SENATOR ROBACH: Yes,
7 Mr. President, to explain my vote.

8 ACTING PRESIDENT VALESKY:
9 Senator Robach, to explain his vote.

10 SENATOR ROBACH: I have to say
11 I'm a little bit surprised and shocked by some
12 of the comments over there.

13 And you're right, while we all want
14 to solve this, we also talk about words in
15 this chamber all the time: Cooperation,
16 fairness, equity. And I really, I'm missing
17 it here.

18 Not only have you heard a very
19 cogent reason not to make the people pay the
20 acute price who aren't in the area where the
21 greatest pollution is, but then even more
22 egregious to me, and I don't know if -- I hope
23 this is omission and not arrogance and
24 unfairness, but then you don't include in the
25 bill 4 and 6 oil which heats Manhattan and all

1 the big property buildings, and those are
2 conveniently carved out of the bill, making
3 this tremendously unfair and quite frankly
4 adding a lot of hypocrisy to those speeches on
5 how you really want to solve the problem.

6 Now, we could do this a different
7 way. We could have changed the date, we could
8 have included those things. You're the
9 sponsor of the bill. People have asked you,
10 we talked about it on this floor at great
11 length. And I appreciated all the comments
12 and listened to every one of them, unlike some
13 people.

14 But now there's really no choice.
15 What could have been something very good and
16 inclusive is really something very exclusive
17 and something unfair to a certain part of the
18 state.

19 And you're right, Senator Perkins,
20 there is a lot of frustration on my
21 constituents and a lot of us over here that
22 that happens too much, we feel, where the
23 weight and the specialty always goes to one
24 portion of the state, which is rarely mine.
25 It's always that part in the southern part of

1 the state, New York City. And we could have
2 avoided that.

3 So before, you know, we all
4 celebrate, I hope, since we couldn't get you
5 to change it today, I hope we'll go back and
6 revisit this and really make it a little bit
7 better so everybody can stand -- and I have to
8 tell you, after listening to the debate today,
9 anybody, whether they're either side of the
10 aisle, who votes for this for upstate New York
11 is not looking out for the best interests of
12 their constituents.

13 I vote no.

14 ACTING PRESIDENT VALESKY:

15 Senator Robach to be recorded in the negative.

16 THE SECRETARY: Senator Saland.

17 SENATOR SALAND: No.

18 THE SECRETARY: Senator Sampson.

19 SENATOR SAMPSON: Yes.

20 THE SECRETARY: Senator Savino.

21 SENATOR SAVINO: Yes.

22 THE SECRETARY: Senator
23 Schneiderman.

24 SENATOR SCHNEIDERMAN: Yes.

25 THE SECRETARY: Senator Serrano.

1 SENATOR SERRANO: Yes.
2 THE SECRETARY: Senator Seward.
3 SENATOR SEWARD: No.
4 THE SECRETARY: Senator Skelos.
5 SENATOR SKELOS: No.
6 THE SECRETARY: Senator Smith.
7 SENATOR SMITH: Yes.
8 THE SECRETARY: Senator Squadron.
9 SENATOR SQUADRON: Yes.
10 THE SECRETARY: Senator
11 Stachowski.
12 SENATOR STACHOWSKI: Yes.
13 THE SECRETARY: Senator Stavisky.
14 SENATOR STAVISKY: Yes.
15 THE SECRETARY: Senator
16 Stewart-Cousins.
17 SENATOR STEWART-COUSINS: Yes.
18 THE SECRETARY: Senator Thompson.
19 SENATOR THOMPSON: Yes.
20 THE SECRETARY: Senator Valesky.
21 SENATOR VALESKY: Yes.
22 THE SECRETARY: Senator Volker.
23 SENATOR VOLKER: No.
24 THE SECRETARY: Senator Winner.
25 SENATOR WINNER: No.

1 THE SECRETARY: Senator Young.

2 SENATOR YOUNG: To explain my
3 vote.

4 ACTING PRESIDENT VALESKY:
5 Senator Young, to explain her vote.

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

8 You're right, Senator Perkins, we
9 are very passionate about our neighborhoods
10 and about our communities. And that's why we
11 expressed our concerns today about how this
12 hurts our neighborhoods and our communities.

13 And you know, I respect you very
14 much. I respect Senator Montgomery very much.
15 But it sounds very disingenuous to me when you
16 say that the people in our regions are winners
17 that this doesn't hurt the people in our
18 regions, that it protects them. It's not
19 true. It's not true. People are hurting in
20 upstate New York. We have an economic crisis
21 going on. People have lost their jobs.
22 People can't afford to pay their bills.

23 And I can't believe -- in fact, I'm
24 shocked that my colleagues, especially the
25 Democrats from upstate New York, would vote to

1 either raise home heating fuel prices or
2 create a shortage next year where people who
3 depend on home heating oil aren't going to be
4 able to get it. How can you do that? And how
5 can you sit there and say that you're making
6 people winners and not hurting people? You
7 are hurting people today.

8 I am shocked by this. I vote no.

9 ACTING PRESIDENT VALESKY:

10 Senator Young to be recorded in the negative.

11 Announce the results.

12 THE SECRETARY: Ayes, 32. Nays,
13 29.

14 ACTING PRESIDENT VALESKY: The
15 bill is passed.

16 The Secretary will continue to read
17 the controversial calendar.

18 THE SECRETARY: Calendar Number
19 846, by Senator Stewart-Cousins, Senate Print
20 7400A, an act to amend the General Municipal
21 Law.

22 ACTING PRESIDENT VALESKY: Are
23 there any Senators who wish to be heard on the
24 bill?

25 Hearing none, the debate is closed.

1 The Secretary will ring the bells.

2 The Secretary will read the last
3 section.

4 THE SECRETARY: Section 17. This
5 act shall take effect on the first of January.

6 ACTING PRESIDENT VALESKY: Call
7 the roll.

8 (The Secretary called the roll.)

9 ACTING PRESIDENT VALESKY:
10 Announce the results.

11 THE SECRETARY: In relation to
12 Calendar Number 846, absent from voting:
13 Senators Breslin, Golden, Marcellino and
14 Padavan.

15 Ayes, 57. Nays, 0.

16 ACTING PRESIDENT VALESKY: The
17 bill is passed.

18 The Secretary will proceed with the
19 reading of the controversial supplemental
20 active list.

21 Members are asked to stay in the
22 chamber.

23 THE SECRETARY: Calendar Number
24 1001, by Senator L. Krueger, Senate Print
25 4526, an act to amend the Legislative Law.

1 ACTING PRESIDENT VALESKY:

2 Senator Griffo.

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

5 As I look at this -- and I
6 recognize, I think we all do, that if there's
7 anything flawed, it is the framework and the
8 process of the state budget. And the intent
9 here is noteworthy and admirable, but it's the
10 content that concerns me.

11 And what I look at here is the fact
12 that we've talked about the idea behind this
13 is to model it after the Congressional Budget
14 Office. And I think that is a good idea. But
15 unfortunately, some of the concerns that I
16 find in this bill is it's somewhat modeled
17 after but I believe that we have to mirror the
18 Congressional Budget Office. If we are going
19 to do this --

20 SENATOR ROBACH: Can we have a
21 little order in here? I can't even hear. Can
22 we get a little order in here, Mr. President?

23 SENATOR GRIFFO: Thank you.

24 If we're really going to undertake
25 this process, then I think that we should

1 really make an effort to mirror the
2 Congressional Budget Office to allow to us
3 really do it properly.

4 Some of the concerns with this bill
5 is the criteria and qualifications and
6 credentials of the director, deputy director,
7 and staff. There's no specific requirements.
8 It's very general in its statement of purpose.

9 Also, the term and length of
10 service of the executive director. At this
11 point in time the bill specifies a seven-year
12 term, and there's really difficulty in
13 determining how you may remove that director
14 if there was cause.

15 And the other thing would be that I
16 don't believe there's enough significant
17 tasking for the assignments that would be
18 required and important in undertaking this
19 responsibility. The Congressional Budget
20 Office has been in effect for over 35, and it
21 has truly been a nonpartisan and professional
22 operation in Congress.

23 For instance, the director, if we
24 talk about the difference again between what
25 is stipulated in the bill and what I think

1 would even make this a better bill is that the
2 director of the Congressional Budget Office
3 has to be approved without regard to political
4 affiliation and solely based on the fitness to
5 perform duties. There is no such requirement
6 on qualifications for office set forth in this
7 bill.

8 Also, the director of the
9 Congressional Budget Office can be removed by
10 resolution of the House of Representatives and
11 Senate. This bill does not provide for the
12 ability to remove the director for
13 circumstances that may be necessary.

14 So I think that, again, the intent
15 is good. I do believe that it's important. I
16 had a bill, a similar bill talking about the
17 necessary independence -- an independent
18 budget operation so that we can have objective
19 and professional analysis. But I think that
20 this really, while it's a beginning in the
21 right direction, doesn't bring us to where we
22 really need.

23 And when you know that we have had
24 78 days without a state budget here, when we
25 see that deadlines have been ignored, and when

1 we know that current laws have been violated,
2 I think it's important that we go and do this
3 right.

4 And while this concept is good and
5 we should pursue it, I think we need to move
6 forward with truly making this not a model of
7 the Congressional Budget Office, but let's
8 mirror the Congressional Budget Office. The
9 reforms are essential and necessary. I would
10 hope that we could respect the current laws
11 before we move over to new ones. But if we're
12 going to do it, let's do it right, and let's
13 truly model it after the Congressional Budget
14 Office, which has proven itself.

15 So that's my perspective, and I
16 thank you for the opportunity to be heard,
17 Mr. President.

18 ACTING PRESIDENT CRAIG JOHNSON:
19 Thank you, Senator Griffo.

20 Senator Liz Krueger, on the bill.

21 SENATOR LIZ KRUEGER: Thank you
22 very much. I just rise to explain a bit about
23 my bill.

24 And I want to thank Senator Griffo
25 for his constructive comments. I know that

1 there was a hostile amendment that he had
2 earlier, but he pulled it back -- which was
3 his right -- which, again, looked at a number
4 of the pieces of the Congressional Budget
5 Office.

6 It is true this is not an exact
7 model of the Congressional Budget Office. In
8 fact, I don't think New York State could do
9 that right away. For one thing, it has a much
10 broader range of responsibilities at the
11 federal level than the state. I think that I
12 couldn't get away with proposing we create a
13 Congressional Budget Office at the state level
14 at this time because the economic cost would
15 be so dramatic.

16 When they started the Congressional
17 Budget Office, they had a \$44 million price
18 tag for it and it had responsibilities beyond
19 what I think we can have here. The federal --
20 if we used the federal model exactly, we would
21 have to reproduce legislative budget office
22 models or arms for the Department of Budget,
23 Tax and Finance, the Comptroller's Office,
24 ESDC, ORPS. So this is a smaller model.

25 But I want to highlight that I

1 think we can get something started and then we
2 can see how it grows based on its
3 effectiveness. So I do appreciate Senator
4 Griffo's comments and some of the
5 recommendations that were made in his hostile.
6 And I think that if we could pass this bill
7 and get a legislative budget office, we could
8 see all the potential of what we could do
9 together and we could grow it over the years.

10 What does it do? As Senator Griffo
11 pointed out, it's the idea of creating an
12 independent nonpolitical financial analysis
13 and forecasting entity, as opposed to a
14 partisan, politically driven committee. It is
15 headed by a director who would be appointed by
16 joint resolution of the Senate and Assembly
17 for a seven-year term, with hiring resting in
18 the director.

19 We thought a seven-year term made
20 sense because it wouldn't be tied into any
21 governor's schedule of coming in or going out
22 with governors and would allow -- I'm sorry,
23 could I ask for a little quiet in the chamber?

24 ACTING PRESIDENT CRAIG JOHNSON:
25 Senator Krueger has requested order in the

1 chamber.

2 SENATOR LIZ KRUEGER: Thank you,
3 Mr. President.

4 The legislative budget office would
5 provide us all -- regardless of party,
6 regardless of house -- with specific
7 information about true cost estimates on
8 budget items, on legislative items, economic
9 analysis for the state.

10 I hope that we will not only pass
11 this bill but will also pass a piece of
12 legislation I believe may come up later in the
13 week or next week for GAAP budgeting for the
14 state. In order for the state to truly move
15 into generally accepted accounting principle
16 budgeting, we need --

17 ACTING PRESIDENT CRAIG JOHNSON:
18 Senator DeFrancisco, why do you rise?

19 SENATOR DeFRANCISCO: Will
20 Senator Krueger yield to a question?

21 ACTING PRESIDENT CRAIG JOHNSON:
22 Senator Krueger, will you yield to a question?

23 SENATOR LIZ KRUEGER: Could I
24 just complete my description? And then I'd be
25 happy to take any questions.

1 SENATOR DeFRANCISCO: Absolutely.

2 SENATOR LIZ KRUEGER: Thank you.

3 ACTING PRESIDENT CRAIG JOHNSON:

4 Senator Krueger.

5 SENATOR LIZ KRUEGER: Thank you
6 so much.

7 In order to move successfully into
8 GAAP budgeting and other important budget
9 reform, you really need to be able to have
10 objective information about what things cost
11 and what things are costing us over time. And
12 in fact the legislative budget office would
13 empower the Legislature -- both houses, both
14 parties, because everybody would get the same
15 information -- to challenge now the de facto,
16 I suppose the de facto positions of the
17 Department of Budget for the Governor.
18 Because if we don't have the information to
19 challenge what the Governor's office is
20 telling us things cost or will cost or will
21 bring in, we don't have the ability to be
22 equal players in budget negotiations and in
23 three-way legislation.

24 This is a very successful model not
25 only on the federal level, as my colleague

1 Senator Griffo has highlighted, but is also
2 very successful in quite a few other states
3 who have already implemented nonpartisan
4 fiscal offices. Nationwide, 44 state
5 legislatures have nonpartisan fiscal offices,
6 including the City of New York, as the largest
7 city in the State of New York, having an
8 independent budget office. California created
9 the first nonpartisan legislative fiscal
10 office in 1941. Tennessee's Office of
11 Legislative Budget Analysis is the nation's
12 newest joint legislative fiscal.

13 There are years of documentation
14 about why LBOs or IBOs work. Again, 44 states
15 have gone down that road. And I am hoping
16 very much that even if we don't agree
17 completely on what the specific functions will
18 be over the long term, that my colleagues in
19 both houses are going to want to move this
20 legislation and get us started. Because in
21 honesty, if other states have already gone
22 down that road since the '40s, I think it's
23 time for New York State to give a successful
24 model a try.

25 And now I'd be happy to answer any

1 questions of Senator DeFrancisco. Thank you.

2 ACTING PRESIDENT CRAIG JOHNSON:

3 Senator Carl Kruger.

4 SENATOR CARL KRUGER: Thank you,
5 Mr. President.

6 I guess, you know, confusion from
7 time to time reigns. And the short title of
8 this is "creates the nonpartisan legislative
9 budget office." Quite frankly, first we have
10 to recognize the fact that this is Albany,
11 New York, and not Washington, D.C. And this
12 is the State Legislature and not the Congress.
13 And we have a legislative budget office, and
14 they call it the Senate Finance Committee in
15 this house. And the shared responsibilities
16 are between the majority and my partner, the
17 ranking member on the minority side.

18 I think that this would be an
19 intrusion. We already have a State
20 Comptroller. We have a mechanism and a
21 methodology where we can examine the budget,
22 where we can come to negotiated agreements.
23 And quite frankly, I think that this takes us
24 in the wrong direction.

25 Thank you.

1 ACTING PRESIDENT CRAIG JOHNSON:

2 Thank you, Senator Kruger.

3 Senator Fuschillo.

4 SENATOR FUSCHILLO: Would the
5 sponsor yield to a few questions,
6 Mr. President.

7 ACTING PRESIDENT CRAIG JOHNSON:
8 Senator Krueger, would you yield to Senator
9 Fuschillo for some questions?

10 SENATOR LIZ KRUEGER: Thank you.
11 Certainly, Senator Fuschillo.

12 ACTING PRESIDENT CRAIG JOHNSON:
13 Senator Fuschillo.

14 SENATOR FUSCHILLO: Thank you,
15 Senator Krueger.

16 In your memo you state that it's
17 estimated the operating budget will be
18 \$2 million. And is that money taken from the
19 Senate Finance Committee and the Assembly Ways
20 and Means?

21 SENATOR LIZ KRUEGER: The
22 estimate is \$2 million, of which \$1 million
23 will come from each house.

24 There's an assumption, despite my
25 colleague Senator Carl Kruger's concern, that

1 we would be doing away with the Finance
2 Committees or the Finance staff. That's
3 absolutely not true. But we would shift some
4 of the money from each house into a
5 legislative budget office.

6 Which would be doing, by the way, a
7 significant percentage of the work that now is
8 often duplicated in both houses because we
9 have no model for this.

10 SENATOR FUSCHILLO: What is the
11 budget of the --

12 ACTING PRESIDENT CRAIG JOHNSON:
13 Senator Fuschillo, do you wish --

14 SENATOR FUSCHILLO: Would the
15 sponsor yield for another question?

16 ACTING PRESIDENT CRAIG JOHNSON:
17 Senator Krueger, would you continue to yield
18 for Senator Fuschillo?

19 SENATOR LIZ KRUEGER: Yes, of
20 course, Senator.

21 ACTING PRESIDENT CRAIG JOHNSON:
22 Senator Fuschillo.

23 SENATOR FUSCHILLO: So you're
24 going to be reducing the Senate's Finance
25 Committee's budget for staff, personnel,

1 administrative abilities by a million dollars.
2 Would that result in laying off employees in
3 the New York State Senate that are currently
4 assigned to Senator Kruger's committee?

5 SENATOR LIZ KRUEGER: To answer
6 your question, it would be a million dollars
7 from each house. It wouldn't necessarily come
8 from the current distribution of how either
9 house, either side, distributes their money.

10 Again, I would argue that the
11 legislative budget office providing both
12 fiscal and to some degree legislative
13 analysis, because so much of our legislation,
14 the analysis that needs to be done is based on
15 the financial cost of the legislation, that it
16 would be a relatively minimal loss to any of
17 us for a much greater gain.

18 SENATOR FUSCHILLO: Would the
19 sponsor continue to yield, Mr. President?

20 ACTING PRESIDENT CRAIG JOHNSON:
21 Senator Krueger, will you continue to yield?

22 SENATOR LIZ KRUEGER: Certainly.

23 SENATOR FUSCHILLO: Thank you,
24 Senator.

25 In your memo you state that funding

1 for the legislative budget office will be
2 redirected from the Senate Finance Committee
3 and the Assembly Ways and Means. So I'll ask
4 again, are you going to be taking a million
5 dollars out of the budget for the Senate
6 Finance Committee? Because your memo says you
7 are.

8 SENATOR LIZ KRUEGER: Again, I
9 don't -- I would recognize that my memo may
10 not be exactly parallel to the legislation. I
11 don't believe the legislation requires it come
12 from the Finance budget specifically. And I
13 believe, as we know, those are a moving target
14 as to how much money is put into any
15 subsection of Senate staff in any given year.

16 SENATOR FUSCHILLO: Thank you.
17 Would the Senator continue to yield,
18 Mr. President?

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

21 SENATOR LIZ KRUEGER: Yes, of
22 course, Mr. President.

23 ACTING PRESIDENT CRAIG JOHNSON:
24 Senator Fuschillo.

25 SENATOR FUSCHILLO: Thank you,

1 Senator.

2 In your -- I'll refer to the bill,
3 not the memo anymore, because I think the memo
4 is incorrect, based on your statements. But
5 it says here that "be charged with the duty of
6 rendering anticipated revenue forecast reports
7 to the Legislature and the Governor for the
8 purpose of facilitating passage of the state
9 budget in a timely manner."

10 SENATOR LIZ KRUEGER: I'm sorry,
11 I couldn't hear you, excuse me. Could you
12 repeat that, please?

13 SENATOR FUSCHILLO: On page 2(c),
14 in Section 1 -- or Section 77(c), it says here
15 that they're going to render anticipated
16 revenue forecasts on the Governor's budget.

17 SENATOR LIZ KRUEGER: Yes.

18 SENATOR FUSCHILLO: In a timely
19 manner. What exactly does that mean? You
20 don't set parameters that after the budget is
21 produced by the Governor, within 30 days they
22 have to report to the Legislature. You just
23 state -- you leave it wide open that there's a
24 timely manner.

25 SENATOR LIZ KRUEGER: We have

1 actual budget law that sets timeline for the
2 revenue forecasting for the budget each year.
3 So it would be that this responsibility would
4 shift to the LBO. It doesn't change the
5 timelines that we have in existing law in
6 New York State.

7 SENATOR FUSCHILLO: Would the
8 Senator continue to yield, Mr. President?

9 ACTING PRESIDENT CRAIG JOHNSON:
10 Senator Krueger, do you continue to yield?

11 SENATOR LIZ KRUEGER: Certainly.

12 SENATOR FUSCHILLO: Now, your
13 title is laudable, "Nonpartisan Legislative
14 Budget Office." But I'm trying to think about
15 what isn't duplicated already by what Senator
16 Kruger said in the Senate Finance Committee,
17 by the ranking member of the Finance Committee
18 in the Republicans, and also in the Assembly
19 on both sides.

20 A report is submitted -- now this
21 is nonpartisan -- to the Temporary President,
22 who's a Democrat right now, and the Speaker of
23 the Assembly, who's a Democrat right now. Why
24 wouldn't your bill include the minority as
25 well as in both houses, if it's truly

1 nonpartisan?

2 SENATOR LIZ KRUEGER: That's a
3 legitimate concern, I agree. That was not my
4 intent, to prevent that material from coming
5 to either side, either party.

6 SENATOR FUSCHILLO: Thank you
7 very much, Senator.

8 SENATOR LIZ KRUEGER: Thank you.

9 SENATOR FUSCHILLO: Just on the
10 bill, Mr. President.

11 ACTING PRESIDENT CRAIG JOHNSON:
12 Senator Fuschillo, on the bill.

13 SENATOR FUSCHILLO: Again, I'll
14 state that the title "Nonpartisan Legislative
15 Budget Office" is something that is laudable
16 and sounds great, but I don't really see how a
17 goal like that is attainable here.

18 And I don't know whether or not
19 there is ample dollars to fund a \$2 million
20 another government bureaucratic operation here
21 in the State of New York when people are
22 calling for less government, they're calling
23 for reducing the size of government, we're
24 calling for a cap on state expenditures. Yet
25 we're creating another office that seems,

1 Mr. President, as a duplication of services.

2 Now, there's no statutory
3 requirement that this legislative body has to
4 do anything with the reports, whether it's in
5 a timely manner or not. And that's not even
6 spelled out in the bill. But it concerns me
7 that it's really the party of power in a joint
8 legislative body, Assembly and Senate, that's
9 going to determine who heads up this, quote,
10 unquote, nonpartisan legislative budget
11 office.

12 Thank you very much, Mr. President.

13 ACTING PRESIDENT CRAIG JOHNSON:

14 Thank you, Senator Fuschillo.

15 Senator Krueger.

16 SENATOR LIZ KRUEGER: Thank you
17 so much.

18 My colleagues, based on the
19 concerns raised by Senator Fuschillo about
20 lack of detail in the draft of this bill, I
21 would like to withdraw it for chapter
22 amendments myself. Thank you.

23 ACTING PRESIDENT CRAIG JOHNSON:

24 The bill will be laid aside for the day.

25 Senator Smith, that completes the

1 reading of the controversial supplemental
2 active list.

3 SENATOR SMITH: Yes, I have some
4 motions, Mr. President.

5 ACTING PRESIDENT CRAIG JOHNSON:
6 Returning to motions and resolutions.

7 Senator Smith.

8 SENATOR SMITH: Yes. On behalf
9 of Senator Breslin, on page number 20 I offer
10 the following amendments to Calendar Number
11 490, Senate Print 6954B, and ask that said
12 bill retain its place on Third Reading
13 Calendar.

14 ACTING PRESIDENT CRAIG JOHNSON:
15 Amendments received.

16 Senator Smith.

17 SENATOR SMITH: Yes, thank you
18 very much, Mr. President.

19 On behalf of Senator Aubertine, I
20 wish to call up his bill, Senate Print 6303,
21 recalled from the Assembly, which is now at
22 the desk.

23 ACTING PRESIDENT CRAIG JOHNSON:
24 The Secretary will read.

25 THE SECRETARY: Calendar Number

1 104, by Senator Aubertine, Senate Print 6303,
2 an act to amend the Agriculture and Markets
3 Law.

4 ACTING PRESIDENT CRAIG JOHNSON:
5 Senator Smith.

6 SENATOR SMITH: Yes,
7 Mr. President. I now move to reconsider the
8 vote by which this bill was passed.

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

12 (The Secretary called the roll.)

13 THE SECRETARY: Ayes, 61.

14 ACTING PRESIDENT CRAIG JOHNSON:
15 Senator Smith.

16 SENATOR SMITH: Mr. President, I
17 offer the following amendments.

18 ACTING PRESIDENT CRAIG JOHNSON:
19 Amendments received.

20 Senator Smith.

21 SENATOR SMITH: Yes,
22 Mr. President. I ask that we will stand at
23 ease for about 10 minutes. I ask members to
24 stay close to the chamber, as we will be
25 starting back abruptly.

1 And would you please recognize
2 Senator Libous.

3 ACTING PRESIDENT CRAIG JOHNSON:
4 Senator Libous.

5 SENATOR LIBOUS: During that
6 10-minute at ease, if we could have a quick
7 Republican conference, please.

8 ACTING PRESIDENT CRAIG JOHNSON:
9 During the 10-minute period the Senate will
10 stand at ease, the Republican conference will
11 have a conference in the Republican Conference
12 Room.

13 The Senate will stand at ease.

14 (Whereupon, the Senate stood at
15 ease at 4:09 p.m.)

16 (Whereupon, the Senate reconvened
17 at 5:09 p.m.)

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

20 Senator Klein.

21 SENATOR KLEIN: Mr. President, if
22 we can briefly return to motions and
23 resolutions.

24 ACTING PRESIDENT VALESKY:
25 Returning to motions and resolutions.

1 Senator Klein.

2 SENATOR KLEIN: Mr. President, on
3 behalf of Senator Squadron, I wish to call up
4 Print Number 5283, recalled from the Assembly,
5 which is now at the desk.

6 ACTING PRESIDENT VALESKY: The
7 Secretary will read.

8 THE SECRETARY: Calendar Number
9 519, by Senator Squadron, Senate Print 5283,
10 an act to amend the Tax Law.

11 ACTING PRESIDENT VALESKY: Senat
12 or Klein.

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

16 ACTING PRESIDENT VALESKY: The
17 Secretary will call the roll on
18 reconsideration.

19 (The Secretary called the roll.)

20 THE SECRETARY: Ayes, 61.

21 ACTING PRESIDENT VALESKY: Senat
22 or Klein.

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

25 ACTING PRESIDENT VALESKY: The

1 amendments are received.

2 SENATOR KLEIN: Mr. President, on
3 behalf of Senator Squadron again, on page 24 I
4 offer the following amendments to Calendar
5 Number 622, Senate Print Number 5287C, and ask
6 that said bill retain its place on Third
7 Reading Calendar.

8 ACTING PRESIDENT VALESKY: So
9 ordered.

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

13 ACTING PRESIDENT VALESKY: The
14 Secretary will proceed with the reading of the
15 supplemental active list.

16 THE SECRETARY: Calendar Number
17 675, by Senator Stavisky, Senate Print --

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

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

22 THE SECRETARY: Calendar Number
23 691, by Senator Sampson --

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

1 ACTING PRESIDENT VALESKY: The
2 bill is laid aside for the day.

3 THE SECRETARY: Calendar Number
4 692, by Senator Sampson --

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

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

9 THE SECRETARY: Calendar Number
10 698, by Member of the Assembly Sayward,
11 Assembly Print Number 9829, an act to
12 authorize certain healthcare professionals.

13 ACTING PRESIDENT VALESKY: Read
14 the last section.

15 THE SECRETARY: Section 2. This
16 act shall take effect July 21, 2010.

17 ACTING PRESIDENT VALESKY: Call
18 the roll.

19 (The Secretary called the roll.)

20 THE SECRETARY: Ayes, 61.

21 ACTING PRESIDENT VALESKY: The
22 bill is passed.

23 THE SECRETARY: Calendar Number
24 845, by Member of the Assembly Canestrari,
25 Assembly Print Number 10137, an act to amend

1 Chapter 534 of the Laws of 1993.

2 ACTING PRESIDENT VALESKY: Read
3 the last section.

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

6 ACTING PRESIDENT VALESKY: Call
7 the roll.

8 (The Secretary called the roll.)

9 THE SECRETARY: Ayes, 61.

10 ACTING PRESIDENT VALESKY: The
11 bill is passed.

12 THE SECRETARY: Calendar Number
13 912, by Member of the Assembly Sweeney,
14 Assembly Print Number 10025A, an act to
15 authorize the Long Island Progressive
16 Missionary Baptist Churches.

17 ACTING PRESIDENT VALESKY: Read
18 the last section.

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

21 ACTING PRESIDENT VALESKY: Call
22 the roll.

23 (The Secretary called the roll.)

24 THE SECRETARY: Ayes, 60. Nays,
25 1. Senator Bonacic to be recorded in the

1 negative.

2 ACTING PRESIDENT VALESKY: The
3 bill is passed.

4 Senator Klein, that concludes the
5 reading of the supplemental active list.

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

8 ACTING PRESIDENT VALESKY: The
9 desk is clear.

10 SENATOR KLEIN: Mr. President,
11 there being no further business, I move we
12 adjourn until, Friday, June 18th, at 10 a.m.

13 ACTING PRESIDENT VALESKY: On
14 motion, the Senate stands adjourned until
15 Friday, June 18th, at 10:00 a.m.

16 (Whereupon, at 5:12 p.m., the
17 Senate adjourned.)

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