NEW YORK STATE SENATE

THE STENOGRAPHIC RECORD

ALBANY, NEW YORK

August 3, 2010

6:31 p.m.

REGULAR SESSION

SENATOR DIANE SAVINO, Acting President

ANGELO J. APONTE, Secretary

P R O C E E D I N G S

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

I ask all those present to rise with me and recite the Pledge of Allegiance.

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

ACTING PRESIDENT SAVINO: In the absence of clergy, may we all please bow our heads for a moment of silent prayer.

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

ACTING PRESIDENT SAVINO: The reading of the Journal.

The Secretary will read.

THE SECRETARY: In Senate, Monday, August 2, the Senate met pursuant to adjournment. The Journal of Saturday, July 31, was read and approved. On motion, Senate adjourned.

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

Presentation of petitions.

Messages from the Assembly.

Messages from the Governor.

Reports of standing committees.

Reports of select committees.

Communications and reports from state officers.

Motions and resolutions.

Senator Klein.

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

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

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

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

(Whereupon, the Senate stood at ease at 6:32 p.m.)

(Whereupon, the Senate reconvened at 8:03 p.m.)

ACTING PRESIDENT SAVINO: Senator Klein.

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

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

The Secretary will read.

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

Restored: Senate Print 6610C, Senate Budget Bill, an act to amend the Tax Law.

Reported: Senate Print 1863B, by Senator Klein, an act to amend the Private Housing Finance Law;

2251, by Senator L. Krueger, an act to amend the Emergency Tenant Protection Act;

5296A, by Senator Squadron, an act to amend the Administrative Code of the City of New York;

5509, by Senator Klein, an act to amend the Private Housing Finance Law;

8129B, by Senator Thompson, an act

to suspend;

8131, by Senator Dilan, an act to amend the Private Housing Finance Law;

8182, by Senator Espada, an act to amend Chapter 576 of the Laws of 1974;

8223, by Senator Espada, an act to amend the Labor Law;

8415, by the Senate Committee on Rules, an act to amend the Correction Law;

8424, by Senator Hassell-Thompson, an act to amend a chapter of the Laws of 2010;

8431, by the Senate Committee on Rules, an act to amend the Emergency Tenant Protection Act;

8451, by Senator Schneiderman, an act to amend the Civil Practice Law and Rules;

8454, by Senator Schneiderman, an act to amend the Labor Law;

And Senate Print 8465, by the Senate Committee on Rules, an act to repeal Part KK of a chapter of the Laws of 2010.

All bills ordered direct to third reading.

ACTING PRESIDENT SAVINO: All those in favor of adopting the report of the

Committee on Rules please signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT SAVINO: Opposed, nay.

(No response.)

ACTING PRESIDENT SAVINO: The Rules Committee report is adopted.

Senator Klein.

SENATOR KLEIN: Madam President, upon unanimous consent, I ask that the roll be opened for the two bills on the active list so that Senator Montgomery can vote on those bills.

ACTING PRESIDENT SAVINO: Upon unanimous consent, the Secretary will open the roll for each bill on the active list in order for Senator Montgomery to vote.

THE SECRETARY: Calendar Number 772, by Member of the Assembly Bing, Assembly Print Number 859, an act to amend the Private Housing Finance Law.

ACTING PRESIDENT SAVINO: Read the last section.

THE SECRETARY: Section 2. This

act shall take effect immediately.

ACTING PRESIDENT SAVINO: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT SAVINO: Senator Montgomery, how do you vote?

SENATOR MONTGOMERY: Yes.

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

The roll is closed on Calendar Number 772 and the bill is laid aside.

THE SECRETARY: Calendar Number 1421, by the Assembly Committee on Rules, Assembly Print Number 11523, an act to amend the Economic Development Law.

ACTING PRESIDENT SAVINO: Read the last section.

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

ACTING PRESIDENT SAVINO: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT SAVINO: Senator Montgomery, how do you vote?

SENATOR MONTGOMERY: Yes.

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

The roll is withdrawn; the bill is laid aside.

Senator Klein.

SENATOR KLEIN: Madam President, upon unanimous consent I ask that the roll be opened for the 15 bills on the supplemental calendar so that Senator Montgomery can vote on those bills.

ACTING PRESIDENT SAVINO: Upon unanimous consent, the Secretary will open the roll for each bill on the supplemental calendar in order for Senator Montgomery to vote.

The Secretary will read.

THE SECRETARY: In relation to Calendar Number 1291, Senator C. Kruger moves to discharge, from the Committee on Rules, Assembly Print Number 9710D and substitute it for the identical Senate Bill Number 6610C, Third Reading Calendar 1291.

ACTING PRESIDENT SAVINO: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1291, Assembly Budget Bill, Assembly Print Number 9710D, an act to amend the Tax Law.

ACTING PRESIDENT SAVINO: Read the last section.

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

ACTING PRESIDENT SAVINO: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT SAVINO: Senator Montgomery.

SENATOR MONTGOMERY: Yes.

(Pause.)

ACTING PRESIDENT SAVINO: Senator Klein.

SENATOR KLEIN: Madam President, can we also, upon unanimous consent, allow Senator Griffo to vote on the same bills.

ACTING PRESIDENT SAVINO: By unanimous consent, the Secretary will open the roll for each bill on the active list in order for Senator Griffo and Senator Montgomery to vote.

The Secretary will read.

THE SECRETARY: Calendar Number 772, by Member of the Assembly Bing, Assembly Print Number 859, an act to amend the Private Housing Finance Law.

ACTING PRESIDENT SAVINO: Read the last section.

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

ACTING PRESIDENT SAVINO: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT SAVINO: Senator Griffo, how do you vote?

SENATOR GRIFFO: No.

ACTING PRESIDENT SAVINO: Senator Griffo will be recorded in the negative.

The roll is withdrawn; the bill is laid aside.

The Secretary will continue to read.

THE SECRETARY: Calendar Number 1421, by the Assembly Committee on Rules, Assembly Print Number 11523, an act to amend the Economic Development Law.

ACTING PRESIDENT SAVINO: Read the last section.

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

ACTING PRESIDENT SAVINO: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT SAVINO: Senator Griffo, how do you vote?

SENATOR GRIFFO: Yes.

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

The roll is withdrawn; the bill is laid aside.

The Secretary will open the roll for each bill on the supplemental calendar in order for Senator Montgomery and Senator Griffo to vote.

The Secretary will read.

THE SECRETARY: Calendar Number 1291, Assembly Budget Bill, Assembly Print Number 9710D, substituted earlier today, an act to amend the Tax Law.

ACTING PRESIDENT SAVINO: Read the last section.

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

ACTING PRESIDENT SAVINO: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT SAVINO: Senator Griffo, how do you vote?

SENATOR GRIFFO: No.

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

Senator Montgomery previously voted in the affirmative.

The roll is withdrawn; the bill is laid aside.

The Secretary will continue to read.

THE SECRETARY: In relation to Calendar Number 1425, Senator Klein moves to discharge, from the Committee on Housing, Construction and Community Development, Assembly Bill Number 9854 and substitute it for the identical Senate Bill Number 1863B, Third Reading Calendar 1425.

ACTING PRESIDENT SAVINO: Substitution ordered.

THE SECRETARY: Calendar Number 1425, by Member of the Assembly Rosenthal, Assembly Print Number 9854, an act to amend the Private Housing Finance Law.

ACTING PRESIDENT SAVINO: Read the last section.

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

ACTING PRESIDENT SAVINO: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT SAVINO: Senator Montgomery, how do you vote?

SENATOR MONTGOMERY: Yes.

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

Senator Griffo, how do you vote?

SENATOR GRIFFO: No.

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

The roll is withdrawn; the bill is laid aside.

The Secretary will continue to read.

THE SECRETARY: In relation to

Calendar Number 1426, Senator L. Krueger moves to discharge, from the Committee on Housing, Construction and Community Development, Assembly Bill Number 465A and substitute it for the identical Senate Bill Number 2251, Third Reading Calendar 1426.

ACTING PRESIDENT SAVINO: Substitution ordered.

THE SECRETARY: Calendar Number 1426, by Member of the Assembly Jeffries, Assembly Print Number 465A, an act to amend the Emergency Tenant Protection Act of 1974 and the Administrative Code of the City of New York.

ACTING PRESIDENT SAVINO: Read the last section.

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

ACTING PRESIDENT SAVINO: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT SAVINO: Senator Montgomery, how do you vote?

SENATOR MONTGOMERY: Yes.

ACTING PRESIDENT SAVINO: Senator

Montgomery to be recorded in the affirmative.

Senator Griffo, how do you vote?

SENATOR GRIFFO: No.

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

The roll is withdrawn; the bill is laid aside.

The Secretary will continue to read.

THE SECRETARY: Calendar Number 1427, by Senator Squadron, Senate Print 5296A, an act to amend the Administrative Code of the City of New York.

ACTING PRESIDENT SAVINO: Read the last section.

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

ACTING PRESIDENT SAVINO: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT SAVINO: Senator Montgomery, how do you vote?

SENATOR MONTGOMERY: Yes.

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

Senator Griffo, how do you vote?

SENATOR GRIFFO: No.

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

The roll is withdrawn; the bill is laid aside.

The Secretary will continue to read.

THE SECRETARY: In relation to Calendar Number 1428, Senator Klein moves to discharge, from the Committee on Housing, Construction and Community Development, Assembly Bill Number 2361 and substitute it for the identical Senate Bill Number 5509, Third Reading Calendar 1428.

ACTING PRESIDENT SAVINO: Substitution ordered.

THE SECRETARY: Calendar Number 1428, by Member of the Assembly V. Lopez, Assembly Print Number 2361, an act to amend the Private Housing Finance Law.

ACTING PRESIDENT SAVINO: Read the last section.

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

ACTING PRESIDENT SAVINO: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT SAVINO: Senator Montgomery, how do you vote?

SENATOR MONTGOMERY: Yes.

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

Senator Griffo, how do you vote?

SENATOR GRIFFO: No.

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

The roll is withdrawn; the bill is laid aside.

The Secretary will continue to read.

THE SECRETARY: Calendar Number 1429, by Senator Thompson, Senate Print 8129B, an act to suspend hydraulic fracturing.

ACTING PRESIDENT SAVINO: Read the last section.

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

ACTING PRESIDENT SAVINO: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT SAVINO: Senator Montgomery, how do you vote?

SENATOR MONTGOMERY: Yes.

ACTING PRESIDENT SAVINO: Senator Montgomery in the affirmative.

Senator Griffo, how do you vote?

SENATOR GRIFFO: No.

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

The roll is withdrawn; the bill is laid aside.

The Secretary will continue to read.

THE SECRETARY: In relation to Calendar Number 1430, Senator Dilan moves to discharge, from the Committee on Rules, Assembly Bill Number 11408 and substitute it for the identical Senate Bill Number 8131, Third Reading Calendar 1430.

ACTING PRESIDENT SAVINO: Substitution ordered.

THE SECRETARY: Calendar Number 1430, by the Assembly Committee on Rules, Assembly Print Number 11408, an act to amend

the Private Housing Finance Law.

ACTING PRESIDENT SAVINO: Read the last section.

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

ACTING PRESIDENT SAVINO: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT SAVINO: Senator Montgomery, how do you vote?

SENATOR MONTGOMERY: Yes.

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

Senator Griffo, how do you vote?

SENATOR GRIFFO: No.

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

The roll is withdrawn; the bill is laid aside.

The Secretary will continue to read.

THE SECRETARY: In relation to Calendar Number 1431, Senator Espada moves to discharge, from the Committee on Rules, Assembly Bill Number 11410 and substitute it

for the identical Senate Bill Number 8182, Third Reading Calendar 1431.

ACTING PRESIDENT SAVINO: Substitution ordered.

THE SECRETARY: Calendar Number 1431, by the Assembly Committee on Rules, Assembly Print Number 11410, an act to amend Chapter 576 of the Laws of 1974 amending the Emergency Housing Rent Control Law.

ACTING PRESIDENT SAVINO: Read the last section.

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

ACTING PRESIDENT SAVINO: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT SAVINO: Senator Montgomery, how do you vote?

SENATOR MONTGOMERY: Yes.

ACTING PRESIDENT SAVINO: Senator Montgomery in the affirmative.

Senator Griffo, how do you vote?

SENATOR GRIFFO: Yes.

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

The roll is withdrawn; the bill is laid aside.

The Secretary will continue to read.

THE SECRETARY: Calendar Number 1432, by Senator Espada, Senate Print 8223, an act to amend the Labor Law.

ACTING PRESIDENT SAVINO: Read the last section.

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

ACTING PRESIDENT SAVINO: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT SAVINO: Senator Montgomery, how do you vote?

SENATOR MONTGOMERY: Yes.

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

Senator Griffo, how do you vote?

SENATOR GRIFFO: No.

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

The roll is withdrawn; the bill is laid aside.

The Secretary will continue to read.

THE SECRETARY: In relation to Calendar Number 1433, Senator Smith moves to discharge, from the Committee on Rules, Assembly Bill Number 11597 and substitute it for the identical Senate Bill Number 8415, Third Reading Calendar 1433.

ACTING PRESIDENT SAVINO: Substitution ordered.

THE SECRETARY: Calendar Number 1433, by the Assembly Committee on Rules, Assembly Print Number 11597, an act to amend the Correction Law.

ACTING PRESIDENT SAVINO: Read the last section.

THE SECRETARY: Section 2. This act shall take effect on the same date and in the same manner as a chapter of the Laws of 2010.

ACTING PRESIDENT SAVINO: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT SAVINO: Senator Montgomery, how do you vote?

SENATOR MONTGOMERY: Yes.

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

Senator Griffo, how do you vote?

SENATOR GRIFFO: No.

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

The roll is withdrawn; the bill is laid aside.

The Secretary will continue to read.

THE SECRETARY: In relation to Calendar Number 1434, Senator Hassell-Thompson moves to discharge, from the Committee on Rules, Assembly Bill Number 11612 and substitute it for the identical Senate Bill Number 8424, Third Reading Calendar 1434.

ACTING PRESIDENT SAVINO: Substitution ordered.

THE SECRETARY: Calendar Number 1434, by the Assembly Committee on Rules, Assembly Print Number 11612, an act to amend a chapter of the Laws of 2010 enacting the Health and Mental Hygiene Budget.

ACTING PRESIDENT SAVINO: Read

the last section.

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

ACTING PRESIDENT SAVINO: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT SAVINO: Senator Montgomery, how do you vote?

SENATOR MONTGOMERY: Yes.

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

Senator Griffo, how do you vote?

SENATOR GRIFFO: Yes.

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

The roll is withdrawn; the bill is laid aside.

The Secretary will continue to read.

THE SECRETARY: In relation to Calendar Number 1435, Senator Smith moves to discharge, from the Committee on Rules, Assembly Bill Number 2498 and substitute it for the identical Senate Bill Number 8431, Third Reading Calendar 1435.

ACTING PRESIDENT SAVINO: Substitution ordered.

THE SECRETARY: Calendar Number 1435, by Member of the Assembly Pretlow, Assembly Print Number 2498, an act to amend the Emergency Tenant Protection Act of 1974.

ACTING PRESIDENT SAVINO: Read the last section.

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

ACTING PRESIDENT SAVINO: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT SAVINO: Senator Montgomery, how do you vote?

SENATOR MONTGOMERY: Yes.

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

Senator Griffo, how do you vote?

SENATOR GRIFFO: No.

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

The roll is withdrawn; the bill is laid aside.

The Secretary will continue to

read.

THE SECRETARY: Calendar Number 1436, by Senator Schneiderman, Senate Print 8451, an act to amend the Civil Practice Law and Rules.

ACTING PRESIDENT SAVINO: Read the last section.

THE SECRETARY: Section 2. This act shall take effect on the same date and in the same manner as a chapter of the Laws of 2010.

ACTING PRESIDENT SAVINO: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT SAVINO: Senator Montgomery, how do you vote?

SENATOR MONTGOMERY: Yes.

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

Senator Griffo, how do you vote?

SENATOR GRIFFO: No.

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

The roll is withdrawn; the bill is laid aside.

The Secretary will continue to read.

THE SECRETARY: Calendar Number 1437, by Senator Schneiderman, Senate Print 8454, an act to amend the Labor Law and a chapter of the Laws of 2010.

ACTING PRESIDENT SAVINO: Read the last section.

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

ACTING PRESIDENT SAVINO: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT SAVINO: Senator Montgomery, how do you vote?

SENATOR MONTGOMERY: Yes.

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

Senator Griffo, how do you vote?

SENATOR GRIFFO: Yes.

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

The roll is withdrawn; the bill is laid aside.

The Secretary will continue to

read.

THE SECRETARY: In relation to Calendar Number 1438, Senator C. Kruger moves to discharge, from the Committee on Finance, Assembly Bill Number 11678 and substitute it for the identical Senate Bill Number 8465, Third Reading Calendar 1438.

ACTING PRESIDENT SAVINO: Substitution ordered.

THE SECRETARY: Calendar Number 1438, by the Assembly Committee on Rules, Assembly Print Number 11678, an act to repeal Part KK of a chapter of the Laws of 2010.

ACTING PRESIDENT SAVINO: Senator Klein.

SENATOR KLEIN: Madam President, I believe there's a message of necessity at the desk.

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

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

ACTING PRESIDENT SAVINO: The

question is on the acceptance of the message of necessity. All those in favor please signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT SAVINO: Opposed, nay.

(No response.)

ACTING PRESIDENT SAVINO: The message is accepted.

The Secretary will read the last section.

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

ACTING PRESIDENT SAVINO: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT SAVINO: Senator Montgomery, how do you vote?

SENATOR MONTGOMERY: Yes.

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

Senator Griffo, how do you vote?

SENATOR GRIFFO: Yes.

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

The roll is withdrawn; the bill is laid aside.

Senator Klein.

SENATOR KLEIN: Madam President, at this time I would like to call up Calendar Number 1432, Senate Print 8223 on the noncontroversial calendar.

ACTING PRESIDENT SAVINO: The Secretary will read.

THE SECRETARY: Calendar Number 1432, by Senator Espada, Senate Print 8223, an act to amend the Labor Law.

SENATOR LIBOUS: Lay it aside.

ACTING PRESIDENT SAVINO: The bill is laid aside.

Senator Klein.

SENATOR KLEIN: Madam President, I would like to call up Calendar Number 1291, Senate Print Number 6610C on the noncontroversial calendar.

ACTING PRESIDENT SAVINO: The Secretary will read.

THE SECRETARY: Calendar Number 1291, substituted earlier today, Assembly Budget Bill, Assembly Print Number 9710D, an

act to amend the Tax Law.

ACTING PRESIDENT SAVINO: Read the last section.

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

ACTING PRESIDENT SAVINO: Call the roll.

(The Secretary called the roll.)

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

SENATOR DeFRANCISCO: Yes, this is the long-awaited revenue bill. And I'm going to vote yes -- excuse me, to vote no. Don't want to get too excited.

(Laughter.)

SENATOR DeFRANCISCO: Just wanted to get everybody's attention.

I'm going to vote no on this bill. And without belaboring the point, we've discussed this on many occasions that many, many new taxes, to the tune of about $1.8 billion to $2 billion in new taxes are in this bill. Tax credits that provide jobs and were relied on by businesses have been eliminated or at least suspended if they ever

come back.

And in this time of austerity, we should be cutting our spending. And during the course of these budget discussions, we've outlined many amendments that would have reduced spending of the state, all of which were rejected.

So we're not just voting no on this revenue bill, we had alternatives that would have avoided these new taxes. And for that reason, I'm voting no on this bill.

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

Announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 1291 are Senators Alesi, Bonacic, DeFrancisco, Farley, Flanagan, Fuschillo, Griffo, Hannon, O. Johnson, Lanza, Larkin, LaValle, Leibell, Libous, Little, Marcellino, Maziarz, McDonald, Nozzolio, Padavan, Ranzenhofer, Robach, Saland, Seward, Skelos, Volker, Winner and Young.

Ayes, 32. Nays, 28.

ACTING PRESIDENT SAVINO: The

bill is passed.

Senator Klein.

SENATOR KLEIN: Madam President, I would like to call up Calendar Number 1438, Senate Print Number 8465 on the noncontroversial calendar.

ACTING PRESIDENT SAVINO: The Secretary will read.

THE SECRETARY: Calendar Number 1438, substituted earlier by the Assembly Committee on Rules, Assembly Print Number 11678, an act to repeal Part KK of a chapter of the Laws of 2010 amending the Tax Law.

ACTING PRESIDENT SAVINO: Read the last section.

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

ACTING PRESIDENT SAVINO: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT SAVINO: Announce the results.

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT SAVINO: The bill is passed.

Senator Klein.

SENATOR KLEIN: Madam President, at this time I would like to go back to Calendar Number 1432, Senate Print Number 8223 on the controversial calendar.

ACTING PRESIDENT SAVINO: The Secretary will read.

THE SECRETARY: Calendar Number 1432, by Senator Espada, Senate Print 8223, an act to amend the Labor Law.

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

Senator Young, on the bill.

SENATOR YOUNG: Thank you, Madam President.

I can't think of a worse bill to bring up at this time that hurts New York State's economy so badly. This bill would kill agriculture in New York State.

Agriculture is a $4.2 billion industry. That's how much money it pumps into the economy. And it's not just farmers, it's food processors. We have 22,000 food processors in New York State. They provide

hundreds of thousands of dollars for our state. They provide jobs. Small businesses will close if this bill passes, things like equipment dealers, hardwares, feed suppliers, seed suppliers.

And it just does not make sense. New York State's upstate economy has been hit very, very hard. It was suffering before the recession, and now it's dying. So I would urge my colleagues not to vote for this.

You know, last fall I was marching in a parade in Sinclairville, which is a small rural town in my district. And as I was going along the parade route, there was a man seated in a lawn chair. And as I went by, he grabbed my hand, he clutched my hand. He said, "I'm a farmer, I'm a dairy farmer." He said, "The milk prices are so bad I don't know what to do." And he looked up at me and his eyes filled with tears, and he said: "Is there any hope?"

This bill takes away any hope that we have for our farms surviving in New York State, and I would urge you to vote no.

Thank you.

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

Senator Volker, on the bill.

SENATOR VOLKER: Madam President, let me just speak very quickly.

As the senior Senator for all of upstate New York, I have to speak for a district which I represent which is about two-thirds a farm district. Over the last couple of years since this bill was put together, more people have said to me this bill represents a death knell for upstate's small farmers, particularly small farmers, for the potato farmers in particular, for a whole bunch of farmers.

And these are people, by the way, who have people that come from all over the country and serve on their farms. They are not, by the way, anti-immigrant, as some people believe; they are pro.

What this bill will do is finish the use of immigrants in New York. And the reason is that the cost will be so high that they will take people from the state itself, and the bargaining and all the rest of the

stuff that this bill entails will mean that they will no longer have immigrants on the farms in this state.

The sad part of this is that the religious people, who are the ones who are really pushing this bill, love people to death. They don't understand this is a death knell, not just for the farmers themselves, but for the people who they want to help, the seasonal employees.

I can't think of a worse bill at this time of the session for us to pass other than the one we just did pass, which was the budget bill. This bill, if it passes, will be recognized by upstate newspapers as the death knell for small farmers in New York, and there will be a huge attempt to get the Governor to veto it.

But the best way to deal with this is to understand something. If this is what a Democratic Senate is going to do, then you'd better watch yourselves, because a Republican Senate is never going to pass a bill like this. And there's a reason for it: Because we can't afford to have people that can't be

afforded in this state. We have to learn sometime.

There's many things we'd like to do. We'd love to do it. I've been on many of the farms on many, many occasions in upstate New York -- particularly, as I say, in the western New York area -- and we have a ton of farm people. And I want to say to you that yes, we need to help these seasonal workers wherever possible. And I in fact have cooperated with the groups in doing that.

But what we can't do is push the price of food up so high that, ironically, the people in New York City who use this food, if this bill passes, you'll see the cost of your food go up dramatically, I'll tell you right now. Because that's the problem with milk in this state.

This bill is a bombshell for food prices, it's a bombshell for small farmers and also for large farmers. Because the large farmers that have a lot of people in their operation are going to find they won't be able to afford them and they will have to make dramatic changes in the way that they farm in

this state.

This is a bad bill, and I ask all my colleagues to vote no.

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

Senator Espada, on the bill.

SENATOR ESPADA: Madam President, thank you very much.

I just wanted to spend a brief moment thanking a number of people. Firstly, Conference Leader Sampson, Senator Sampson, whose word and commitment I trust, I trusted, and it's here in living proof. This bill is here, he promised that it would get here and the debate should be had.

But it should be had and should be led with the truth, so let's take some backstrokes first and go back to the period of time in the Great Depression where the agriculture workers were left behind 70 years ago, exempted. No other category of employees failed to get the protections accorded most employees, but farmworkers were left out.

That was 70 years ago. And the arguments then were Jim Crow arguments,

because most of the agriculture workers were African-American workers. And the issues of this business model, the echoes still ring here today.

So the arguments haven't changed very much. This is not an anti-farm, an anti-farmer bill. This is a human rights bill that seeks to provide basic protections to farmworkers, employees, like employees that we have in other sagging recession-hit-hard industries.

Some would want to draw distinctions about seasonal work. Tourism is a seasonal industry. Construction is a seasonal industry. The bottom line is this is about employees, this is about workers, this is about worker rights.

During the '60s and the '70s, one man, one movement, led by Cesar Chavez, awakened the consciousness of America. And so we had, during that great period in our American history, we visited the streets, we marched, we prayed, the vigils were had, the protests were had, the consciousness of America was awakened. And many states,

California in particular, the largest, passed laws that protected farmworkers. The business model was visited then. There would be a meltdown of the agricultural industry, so they said then.

And in every state since then -- and, Madam President, you recall that you had landmark legislation with 33 votes in this chamber not too long ago, where arguments were made about whether we should provide basic protections to domestic workers.

And so we have been on this journey for quite some time, with mixed success. But in your legislation, your landmark legislation -- and God bless you, and I thank you -- we were the first state in the nation to lead with that kind of protection for domestic workers. With regard to farmworkers, we're way behind. We've been lagging behind.

And so other states have provided these protections and other states are suffering not because farmworkers have basic rights, but because this federal government and its policies vis-a-vis farmers and vis-a-vis that industry need to be reshaped,

need to be incentivized. Farmers need help.

These protections in no way violate that covenant that we should adhere to, and that is that farm work and the farming industry in all its component parts -- a $4 billion industry in this state -- deserves our support and protection.

And any argument that this bill is terrible for the industry is not dealing with the reality of what afflicts that industry. The issue is not its workers. The issue may be pricing, the issue may be how we market, how we promote, how we support it. But it certainly is not the people that toil in the fields and deal with the work that produces the meals that we eat on our dinner tables.

And so let's be clear about what we're talking about. This bill deals with various provisions. And I know folks want to talk, and we're going to talk. But let me get my piece in, because we've had a protracted debate on this for decades. We've had, you know, public hearings, we've had compromises. And we need to know what we're talking about.

In 1999 I was on a task force,

along with Senator Olga Mendez and many others that are still here, that dealt not with whether we should pay overtime or we should have disability benefits or workmen's compensation benefits, but hand-washing facilities, access to toilets, minimum wages. So not too long ago, 10 years ago, we were talking about whether or not people could have access to clean drinking water and toilets.

And we still have all sorts of rules that don't even respect gender. When we talk about women's rights, we can't for one moment, for one moment -- if we talked about it in domestic workers, we have to repeat that argument here tonight. Because these women that have spoken to us in public hearings, in transcripts of those hearings we have here, have told us -- let me just go right to it. Because when we talk about human rights, that's what we're talking about. When we're talking about basic protections, this is what we're talking about.

Senator Young asked the question at a public hearing about housing accommodations, and then Senator Young moved to a question:

"Did you see anybody get sexually assaulted when you were a farmworker?" And a Latina farmworker says: "I'm sorry, I don't understand."

"Did you see anyone sexually assaulted? Do you know of anybody who was sexually assaulted?" And Ms. Paz says: "Yes. I mean, yes, I was one of them."

The response from Senator Young was: "Well, did you report it? Did you report the assault?" Because if you didn't report it, then it didn't happen.

Now, we expelled a member of our body here whose victim or alleged victim said it never happened. But we acted on it. Fine, we acted on it. Why are we waiting for the reports to come in? We know what happened in the case of domestic workers with the abuse that was taking place in those apartment units and in those housing accommodations. We knew, we believed those women.

And I believe these women. There's a reason why they don't report. Their immigration status, fear of loss of job, shame of having to go public. But they've broken

down those barriers by themselves. They have reported to me and to anybody that gives them a fair hearing that it happens all the time there. That it happens on the farms. That the crew supervisors do it. That there's an exchange of sexual favors for some of the protections that are inherent in this bill; you may get some time off.

Imagine, 110 degrees -- we all went through that heat wave -- no rest day, no time off. Young children without protection of that. And the argument is that we must be this inhumane because the business model would be upset. Because somehow, if we introduce basic rights into this equation, and basic protections, that the farm industry -- a $4 billion industry in this state -- would evaporate, have a meltdown, and this bill would be responsible for that decline. That is utter nonsense. That is the outrage in this debate.

And so this bill, what it does do, very simply, is it provides for what our Constitution provides: Collective bargaining protections and rights, an overtime threshold.

Forty weeks? No, we say -- excuse me, 40 hours? No, we say 55 hours. Compromise. On piece-rate workers, compromise. On farm employees with respect to giving notice on work stoppages, a 21-days cooling-off period.

And 96 percent of the farms are exempt, 96 percent of the farms are exempt. We're talking about big farms, agribusiness here. We're not talking about mom and pop farmers. We're not talking about that dairy farmer or worker that asked those questions of Senator Young or others. No, we're talking about big business here.

Big business needs to be fair. Farmworkers need to be accorded that respect. And the time has come. We've had the prayers, as I said, we've had the lobbying, we've had the negotiations. The only question here is will we continue to ration out human rights to certain people and not to others based on the fear-mongering that goes on or based on the misconceptions about a business model that can, can tolerate, can flourish with increased worker protections.

They deserve that. We deserve

that. Agribusiness and farmers deserve that. We are better than what we have now. And I ask for the support of my colleagues.

Thank you, Madam President.

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

Senator Nozzolio, on the bill.

SENATOR NOZZOLIO: Thank you, Madam President, on the legislation before us.

There are many misconceptions proffered by Senator Espada on the merits or so-called merits of this legislation. Before I discuss and dispel some of those, I wish to talk about the process by which this measure came before the Senate.

With all the talk and rhetoric about process and reform, we are taking up a bill that was analyzed extensively by the Senate Agriculture Committee in at least a four-hour hearing earlier this year. And it is my understanding the topic was dealt with by the Senate Agriculture Committee, dismissed and defeated.

Yet for some reason, this measure comes before us at the 11th hour to discuss,

when in fact it was discussed extensively by the committee, dealt with during the deliberations by the committee in a nonpartisan fashion in the official record of the hearing of which Mr. Espada references.

So I think the process as to why measure is before us is seriously flawed. And those who brought it before us should be questioned about their commitment to legislative reform that we have heard so much about during the earlier portion of this legislative term.

New York agriculture competes in a worldwide market. What grows in Wayne County -- and whether that be a beautiful apple that is desired by many, the competitors for the consumer's dollar in purchasing that apple see much competition from Canada, from other states, from China, and from other countries in the globe. And for Senator Espada to say that New York agriculture can withstand or be sustained or needs to market itself better as a way to calm the problems and the challenges facing New York agriculture is extremely naive.

The truth of the matter is that the wages of farmworkers in New York State is 56 percent above the national average. That the accommodations of agriculture workers in New York State are regulated by the New York State Department of Agriculture and Markets, by the Department of Labor, by the United States Department of Agriculture, by the United States Environmental Protection Agency, by the United States Occupational Safety and Health Administration as well as New York OSHA. All these agencies are regulating the conditions of farmworkers.

What this bill is trying to do is regulate not the conditions of their housing or other amenities provided the seasonal worker in New York State, but actually regulate the hours worked, the choice of those hours worked, and mandating collective bargaining of all those workers.

Senator Espada cites other states that have achieved this legislation. What Senator Espada doesn't say is that the state of Wisconsin -- which is a dairy state, competes with New York dairy aggressively --

Wisconsin actually repealed this type of legislation because it found itself and this legislation so detrimental to the agriculture community, and made milk and cheese produced in Wisconsin uncompetitive with cheese and other milk products produced in other states, that it found itself repealing this very legislation that is proffered today.

The bottom line is the bottom line. And the bottom line says that this bill increases the cost of products produced by New York farmers. The bottom line says this bill will actually require fewer jobs, because there will be fewer opportunities because there will be fewer products sold by New York farmers. Because New York farmers will not be able to compete with not just other states, but other nations, Canada to the north, Mexico to the south, and of course now the global competition of Chinese agricultural products.

One thing that should also be made clear is that when Senator Espada mentioned Jim Crow and the entire subject, that was also mentioned at the hearing that we saw conducted by the Senate Agriculture Committee. Senator

Aubertine chaired that committee. Senator Young is the ranking member of the Senate Agriculture Committee. We all heard testimony that was mind-boggling that talked about many types of abuses of agriculture workers by farmers in this state.

Yet when pressed by Senator Young, when asked the question and asked the question time and again -- asked by Senator Young not to agriculture workers, but asked to Ms. Kennedy, who was there to talk on behalf of agriculture workers and made a sweeping indictment of the farmers of this state -- when pressed to present any evidence that there were particular sexual assaults or other assaults or other abuses of farmworkers, Ms. Kennedy, at the questioning of Senator Young, could not produce one, one specific fact where there was such an abuse of workers -- in fact, indicated that there were a few anecdotes that were discussed, but she did not present any of those such anecdotes to the appropriate authorities.

If someone is alleging sexual assault and they heard evidence of such a

violation, any member of this chamber receiving such information would have an immediate responsibility to present that information to the appropriate prosecutorial authorities.

So I think -- and, Senator, I really understand your compassion, but I do not understand why you would taint this issue by presenting that fact which was in fact dispelled at the committee and was presented for what it was, a sham. A sham indictment on the hardworking, God-fearing farmers in this state.

Madam President, this type of legislation presents New York farmers, who are working 14-hour days, seven days a week with their families, a few hired workers per farm, trying to make ends meet, trying to compete in a global marketplace, trying to fight elements -- we don't have the best weather in New York State. We don't have the best climate to grow. We have very short growing seasons. Yet our farmers are the most dedicated, most educated, most hardworking of any farmers in any state in the country.

To place this onerous regulation, for government to say you now must establish not just minimum wages, not just standards of housing, but hours and working conditions, makes New York agriculture uncompetitive.

As such, we must say we cannot tolerate this onerous proposal placed on the number-one industry in our state, because frankly, if it is placed on our number-one industry, agriculture will no longer be our number-one industry. Agriculture will decline in New York State, agriculture will not be competitive, agriculture jobs will leave New York State for other states like Wisconsin that had the wisdom, even after they enacted this legislation, to repeal it because it did not make sense.

Madam President, I urge everyone to reject this proposal and vote no.

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

Senator Ranzenhofer, on the bill.

SENATOR RANZENHOFER: Thank you, Madam President.

Just briefly, I rise in opposition

to this bill for a number of reasons. And quite frankly, I thought we had addressed many of these issues which are being raised this evening in very extensive hearings earlier in the year.

At the hearings earlier in the year it became pretty apparent to anybody who attended or read the transcripts that this is a bill which is bad for the farmers and it's bad for the farmworkers. This is a bill that's great for other states. This bill is good for Pennsylvania. This bill is good for Massachusetts, for Canada. Because what will happen is you will take those farmworkers and those farms that are now in New York, you will close down the farms in New York and all the workers will go to another state.

This is bad for business. As a matter of fact, during the hearing not only was this bill opposed, or a very similar form of this bill opposed by the Governor's labor commissioner, it was also opposed by the agricultural commissioner, because it's not good for New Yorkers.

In dealing with some of the issues

that we talked about there, right now you have farmers in this state who, in order to attract workers, have to provide health benefits, have to provide days off, have to provide overtime right now. So what you have is -- and this was -- we did some commentary after the bill was rejected. And one of the farmers in my district, Dale Stein, said, "Where can you go in New York State without a high school education and earn $35,000 a year with benefits?" This is what you have here.

You have farmworkers who are not in favor of this, you have farmers who are not in favor of this. And I just want to talk a little bit about the allegations that were made here this evening and again at the hearing about all the different forms of harassment and abuse that has taken place.

In my district we have a reporter from Genesee County who went undercover for the summer in response to a lot of these allegations, went to the farms throughout my community. No one knew that he was a reporter. And each and every one of you has a copy of his book on your desk; it was

delivered to you earlier in the year. I don't know if anybody read the book. But if you took the time to read the book, you'll hear the accounts of what really happens. Not what's exaggerated, not what's fabricated, but by somebody who went and lived among the farmworkers for a long period of time and dispelled a lot of these notions and a lot of these rumors and a lot of these reports which are being made here tonight, which were being made at the hearing.

I'm not saying that an isolated case doesn't exist here and there. But this report, unbiased, by a reporter, no ax to grind one way or the other, reported that this is a bunch of nonsense, it doesn't happen. And this is an individual who lived among the farmworkers for months.

So in summary, what I'd like to say is bad bill, bad process, bad for the workers, bad for the farmers, bad for New York State. I'll be voting against this bill. Thank you.

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

Senator Larkin, on the bill.

SENATOR LARKIN: Thank you, Madam President.

You know, I've listened to this. I remember a hearing about 10 or 12 years ago. And the biggest charade about it was that they had all these advocates, and all these advocates belonged to a special-interest group. And what they were worried about was they wanted to go to court and they wanted to sue the farmer.

And the outcome of it was the fact that the awards that they were making and the courts were awarding them, my big question to this one lawyer was, "And now what happens to this $350,000 that you achieved?" And, quite honestly, he looked at me and he said, "Senator, that belongs to our legal organization. We represented them."

You represented them, you got the 350, and what did you do with it? You put it in your pocket. You did nothing for the farmworkers.

And I'm insulted when someone knocks these farmers. I'd like to know how many people have ever gone out to some of our

farms upstate and really talked to some of the farmers and talked to some of the people.

Two weeks ago I went out to Goshen, in my district, and I asked some of them would you like this to happen and leave? And this gentleman said to me in perfect English -- he's been here 15 years -- he said, "My children go to St. Joseph's School, they participate in this here, I would never want to change it." He said, "If I owned this farm, I got news for you. People would be working harder."

He said, "If I go back to the country where I was, my children wouldn't have this school opportunity. My wife wouldn't have a refrigerator, a dishwasher. And I wouldn't be treated like a decent human being like I am."

What we're saying here tonight is that our farmers are the bottom of the pit of a cesspool, that all they're doing is greed for money. Probably the only one here that knows where it's at is Senator Breslin. I worked over in Menands at Harry Abel's farm -- you probably don't remember, you're too young,

Neil -- and there were a bunch of us from Troy, Menands, went to that farm to work.

And we worked Saturdays. We worked Sundays. Because you know why? Our families didn't have a lot. Harry Abel treated us as decent people, paid us every day that we worked.

But what you're trying to do here, Senator Espada -- and I appreciate what you're trying to do because of a special feeling and compassion. Nobody is going to deny you that.

But when you try to tell and demean our farmers, make them as if they are the world's worst -- what would happen if we closed the farms? Well, the vegetable growers of Orange County will tell you: We will close up, we'll leave. Why will we? Because we can't produce the vegetables and market them and make decent salary to pay our employees and to have something for ourselves.

I mean, I think this is asinine. It's already gone through a lot of hearings. And Senator Espada is talking about someone that had an incident and didn't do it. Come on. If one person seen it on the farm, a lot

of the others did.

Some of you ought to go and visit some of the farms, and you'll find these people, they're very happy with their quarters. They're very happy that they're involved in everything in the community. Lot of our places, we have community centers where we make sure that whatever is needed is provided to them.

And I take offense. I don't sit on the Ag Committee anymore, but I used to years ago. And I know a lot of these farmers and I know a lot of their workers who come back continuously. When we talk about some of the problems we have in agriculture, some of you ought to talk to your Congressmen and United States Senators from New York and tell them to do something about helping us with our storms that they talk big and do press releases and do not a damn thing to help the farmers. Because when you don't help the farm owners, you don't help the employees.

I think to pass this bill, in my district it will be the end of a lot of farms. Right now, with the competitiveness that's out

there and what's coming in from China, South America, a few other places, our farmers are struggling to make ends meet. And when you start to demean them, my question is why do they come back if we're so bad? Why out there, I can tell you names of five farms that are trying to bring somebody in. They can't come in. The federal government's got rules and regs on them.

But why are you so aggressive about saying we're going to do something for the worker, we're going to do A, B, C and D?

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

SENATOR ESPADA: I would just ask that my beloved Senator Larkin yield for a question.

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

SENATOR LARKIN: I most certainly will, Senator.

SENATOR ESPADA: I have great respect for you, Senator. Just go with me for a moment.

Fifty-five hours a week, 60 hours a

week, 70 hours a week, 80 hours a week, seven days a week, do you not think that any worker in our state deserves a day of rest?

SENATOR LARKIN: I most certainly do, Senator.

And just knowing that you were going to ask that, I prepared myself before, and I went out to eight farms in my district. Some of them are working 40, 45 hours, sometimes 50. Don't forget, when the weatherman says it's going to pour rain on Monday and here's this crop that's got to be done and Monday you'll never get to it, they work Sundays.

Now, if you owned a business and someone said it's going to flood tomorrow, or it's going to snow, you open up so that they can have shovels or whatever else there is.

I'm not saying it doesn't exist. Let's address that problem. But what you're doing is taking -- just like the media does and says we're dysfunctional, instead of identifying who "they" is.

SENATOR ESPADA: Through you, Mr. President, if I could just follow up.

ACTING PRESIDENT CRAIG JOHNSON: Do you wish to ask Senator Larkin to yield again, Senator Espada?

SENATOR ESPADA: Yes, I do, Mr. President.

SENATOR LARKIN: Yes.

ACTING PRESIDENT CRAIG JOHNSON: Senator Larkin yields.

SENATOR ESPADA: Thank you, Senator Larkin.

You are aware that in this bill that the worker can waive that rest day; that is, they would be going back to the fields after a very long week after all those long days, and they would continue to work, but the only reciprocity that they would have is time-and-a-half that is available to every other worker in our state.

Is there any good reason to exempt them from that?

SENATOR LARKIN: You know, the Farm Bureau has told me, and I'm sure others, that they agree with the day of rest.

But what you're trying to pin down -- and I say, again, I appreciate your

compassion for them. But don't you think the farmers who own that farm have appreciation of their workers? I know farmers who've had people 15 and 20 years. If they were not good, Pedro, I think you'd agree with me that you wouldn't want to go back to work where your conditions were that bad. Or if you were here and your home and others were provided for you, you would be proud to go and work for some of these people.

I mean, a lot of people in this chamber here who are talking about this have never visited a farm, never. And I'm saying to you there's a time and a place. But I also think that what you're going to do here is you're going to diminish the opportunities for these individuals that come here on an annual basis, and some that have stayed here for years. Their opportunity for pride, progression of their families, will diminish because there will be no farm there.

And I don't think that that's your intention. I know that personally that that's not your intention. But what you're doing here tonight, I would suggest to you that

somebody's worrying about saving face. I don't think there's a thing about saving face.

But if you really want to do this, I think that you, Senator Aubertine, Cathy, and a group of the rest of us here that have a clear interest in it really take this on the road and do a site evaluation ourself. Because you'll get people to say if there's something wrong.

You might not think so, but when you say that -- and my good friend Senator Nozzolio covered it. If there are as major issues that we think they are, maybe we'd better start looking at Farmer's Almanac and we'll find out how bad the weathers are going to be and find out what we're going to do.

But what we're trying to do here is take a little beetle and slam him with a sledgehammer. And that's going to kill him. And that's going to kill this industry that is so vital to us in America.

SENATOR ESPADA: Again, through you, Mr. President, I will reserve -- in the interest of time and out of respect for you, Senator, I will reserve many of these comments

that I'm trying to make through these questions when I explain the bill further later on.

But if I might just ask one more question.

ACTING PRESIDENT CRAIG JOHNSON: Senator Larkin, do you yield for one more question?

SENATOR LARKIN: Certainly, Senator.

SENATOR ESPADA: We know each other, we've served -- well, I've served here four terms. You've been here more terms. But each of those terms that I've served here, I had the distinct pleasure of serving with you.

And you know that it is not the intent of this legislation to bring harm and disrepute to farmers. The intent of this legislation, says the commissioner of the Department of Labor, in that very same hearing that you referenced that came before the Agriculture Committee, is to give very basic protections to workers -- the same kind of protections, again, that all other workers enjoy.

And also I should note that the Labor Committee had this very bill that you referenced that was before the Agriculture Committee. And since this is a labor issue, the Labor Committee did analyze it and did pass it. And in defiance of Senate rules, somehow the bill made its way to another Senator here who I have utmost respect for but clearly has an inherent conflict of interest, in my opinion -- a colleague of mine, a member of my conference, the Democratic Conference -- and then testimony was had. But testimony had been had throughout the state.

But with reference to this particular hearing, you will note that the Commissioner of Labor said we needed these protections, that the Governor has said that he would sign them, that the Assembly has passed, that Senator Aubertine as an Assemblyman voted for these protections.

And so there is, beyond this so-called rhetoric of trying to bring harm to farmers, there are farmers themselves, I have letters from farmers saying the time has come for these protections. There are editorial

boards throughout the state. Every labor union in this state is for this, interfaith councils are for this.

So I ask you, isn't it, isn't it clear and evident that this is not about hurting anyone, it's about helping to usher in a new era of worker protections for farmworkers.

SENATOR LARKIN: I still appreciate your compassion. But when you say to me the editorial boards -- you know what, show me an editorial board that's ever been out picking corn, picking apples, going out protecting from mudslides. They're sitting behind a white desk in a nice coffee shop and telling you about it.

Mr. Espada, if you want to do something for the farmworkers, I think you'd go back to step one and say I've never seen anybody from the Department of Labor in this administration or the previous in the farms in my area. And I've checked them. Have you ever seen them? No, the only time they come by is when the advocates come by to say are you working too many hours, are you doing

this, and the next thing you know there's a lawsuit.

And as I said before, that advocacy picked up X number of dollars. And what did the insulted individuals get? They got zero.

SENATOR ESPADA: Thank you, Senator Larkin.

Thank you, Mr. President.

SENATOR LARKIN: Madam President, all I have to say is if we're really serious about the industry, the agriculture industry, and we're interested in the workers -- we keep talking about the workers. But nobody talks about the person who has to do the organization of the farm, pay the bills, do all of the other things. We forget him. Because without that individual, you wouldn't need all these workers.

Thank you.

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

Senator Saland, on the bill.

SENATOR SALAND: Thank you, Madam President.

Madam President, Senator Espada

certainly was appropriate in making reference to the legacy of Cesar Chavez and what he did in California. But I would respectfully submit that comparing California, and certainly California in the 1970s, and New York would be like comparing apples and oranges or, perhaps more appropriately, apples and grapes. They have very little in common, as do the agricultural practices in either of the states have very little in common.

California and a number of other states -- states in the Midwest, some areas of the South -- have large corporate farms. New York lacks for large corporate farms. New York's agricultural industry is based on small family farms, people barely getting by, people who have in all likelihood a legacy or a tradition that binds them to the earth, that binds them to the practice of farming. They're doing what their fathers did, they're doing perhaps what their grandfathers or their great-grandfathers did.

The likelihood is if they stood back and looked at their plight, the extremely high cost of electricity, property taxes, the

vagaries of the weather -- New York is not exactly a Sunbelt state. It's not California. It's certainly not the Southeast. New York is subject to weather -- they would probably scratch their heads and say why am I doing this.

Now, the community I grew up in at one time was very heavily agricultural. And as the outflow from the metropolitan area came out, folks couldn't afford to hang onto their property and farm. Many of those farms right now are shopping strips, they're subdivisions. But I do have a number of farms in both the Dutchess County portion of my district and even more so in the Columbia County portion. Not a single solitary one of them is a corporate farm.

Now, it's easy to use the expression "dirt poor." Nobody is making a lot of money farming in my district. They're doing it because, in effect, it is virtually their heritage, it's what they do, it's what they know how to do.

When Senator Espada said -- and I don't know how he got there; his assertion, if

it's correct, is that it doesn't apply to 96 percent of the farms. Well, if that's the case, there's no need for this bill. Why would you need this bill if it doesn't apply to 96 percent of the farms? I mean, that's an oxymoron. So obviously it applies to more than 96 percent of the farms.

And in fact, in your bill you reduce from $20,000 to $6250 the threshold per quarter for the payment of unemployment insurance, and I believe also workers' comp, another burden on that poor farmer, the one who you imply is ravaging innocent women.

When you say there's no intention to disrepudiate, it certainly seemed to me from your comments -- I didn't attend the hearing -- that was one of the things you at the very least were implying.

And I would respectfully submit to you that when it comes to editorial boards, if in fact they've ever set foot on a farm, it's when they visited a friend's winery or perhaps their horse farm. The likelihood that they've ever set foot on a real farm is pretty slim, I'd say slim to none, particularly those who

write for the New York City newspapers, who in all likelihood get the bends when they get north of the Bronx unless they're visiting their friends in Westchester or in the Hamptons. And I'm not sure there's any farms left in either Westchester or the Hamptons unless of course they're horse farms.

This is about small business. Now, there is nothing that I have heard in my district nor one single solitary complaint that I have received that says somehow or other the people who work in these farms are being abused. I've been to a number of farms. To the extent that they have a modest number of temporary workers and some perhaps full-time workers, they certainly seem comfortable in their jobs.

We have daycare centers that work with the children in my district that work on these farms. There's every effort to try and accommodate the people who work on these farms where in fact the farmer can afford to hire these people.

So for those of you who haven't gotten north of the Bronx or haven't gotten

beyond Westchester County, what you should do -- it would be very enlightening -- is to drive up to Central New York, drive up to the Adirondacks, drive out to Western New York. I was just in the Finger Lakes region several weeks ago. Some lovely towns, some lovely towns in the area. A disproportionate number of boarded-up stores, areas that certainly look like they desperately needed economic development, not really a formula or legislation that was going to detract from their economic well-being.

The cornerstones of upstate New York historically were manufacturing and agriculture. Well, manufacturing at best is a shadow of its former self. And we won't delve into why that has happened. Farming remains a mainstay. And what you will do here will be, as I believe was mentioned a bit earlier, be part of the death knell, something akin to driving a stake through the heart of the agricultural industry in upstate New York.

This is an issue that certainly has great popularity in the media. This is an issue that certainly can tug at heartstrings.

But when people from my district first went north because they couldn't afford to farm in my district any longer, further north and further west, and when people move out of state if they want to continue to farm -- because, again, it's a heritage thing for many -- we cannot continue to put obstacles in their paths.

We cannot continue to create disincentives for them to do what has been part of their -- who wants to get up at that godawful hour in the morning and go and either work the fields or worry about bringing a harvest in, trying to beat the weather, worrying about when you have to milk your cows? There's no one in this room, with the possible exception of Senator Aubertine, who knows what it's like or, if they knew what it was like, would be willing to do it. Oh, I take -- Senator Young, also, I should mention.

So why would you want to dance on the grave of upstate New York? I'll leave you with that. Why would you want to dance on the grave of upstate New York?

Thank you, Madam President.

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

Senator Little, on the bill.

SENATOR LITTLE: Thank you, Madam President.

First of all, I join my colleagues in being quite surprised to have this bill presented to us this late in the day, this late in the year, especially after this bill -- a similar bill -- failed in the Agriculture Committee.

But my greatest concern is for the farmers in my district. I represent six counties, three of whom have a great number of farms: Washington, Clinton County, and Franklin County. However, they have far fewer farms than they had five, six, 10 years ago, because each and every year we can document that the number of farms in the North Country gets smaller and smaller. And the reason it gets smaller is because of the expense of trying to manage a farm and make it profitable when you have property taxes, high regulations, all kinds of increased costs with your ancillary products, and the weather to

contend with all at once. Utilities cost; energy for our farmers in New York State is very high as well. So the cost goes up and up and up, and yet the profit and the revenue from their product does not go up.

I have many apple orchards in the Champlain Valley in Washington County, and those farmers producing the apples in those apple orchards have to contend with bringing in workers from a foreign country in order to pick the apples for that five or six weeks in the fall. They pay adverse impact minimum wages, which is much higher than the average minimum wage in New York State. They also pay the transportation, they provide housing, and many of them provide special meals and cooks to come in with them.

They also have increased regulations on what they can use on their land, pesticides that they can use, and how they grow their apples, how they store their apples, and how they bring their apples to market.

And yet when they get to the market in the cities, they are side by side with

apples from foreign countries that are not under those regulations, that do not have those costs, and they have to compete with that price, which becomes harder and harder to do.

The bill before us is going to increase their costs enormously. Farmers in my district have all spoken to me about how onerous this bill is to them and the fact that it's going to really make them question whether or not they can remain in the farming business.

We all talk about New York State wine and making that a better product for New York State. We're increasing the cost of producing wine in New York State through this bill.

I have a cheese plant in northern New York. It's Cabot Cheese; it's the pride of New York. We're increasing the cost to them of being able to produce it.

So I would have to question all of my colleagues -- you know, I know many of you from the city look at this differently. But today we have big promotions that say buy

locally, know where your food is being produced, know what kind of food and what regulations and how the food is grown. You are going to find yourselves purchasing food from other states, other countries, and no longer being able to buy your product from New York State if we continue to make agriculture in New York State more and more expensive while the profit gets smaller and smaller. And we're going to lose more farms as a result.

Certainly I vote no, and I hope that most of my colleagues here will vote no, understanding what they are doing with this piece of legislation. Thank you.

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

Senator Maziarz, on the bill.

SENATOR MAZIARZ: Thank you very much, Madam President. On the bill.

You know, I think we all come here, we're very passionate. My friends on the other side of the aisle are very passionate about their issues, and we are about ours. And, you know, we hold these hearings and we

have advocates who are also very passionate, and they come in and they attempt to convince us of the righteousness of their cause and of their opinion on a particular issue.

And, you know, I think sometimes reality, reality is put in the background, or it's not -- you know, the reality of jobs and of trying to do business in New York State takes a back seat to everyone's passion.

You know, I live in an area where my neighbors are all farmers. Some of my family members operate farms in this state. And the reality is -- let's just take an instance of the dairy industry. And I know that Senator Young and Senator Volker and Senator Nozzolio and others represent farm areas; I think they know this. You know, New York used to have hundreds and hundreds of dairy operations. My wife's family had a dairy operation.

You know, today, with technology and with the improved processing of milk, they can ship milk into New York today from Ohio, from Indiana, from West Virginia, particularly from Pennsylvania, and it stays on the store

shelves now much longer than what it used to be. So there's a lack of that dependence on that small farmer down the street.

What the reality of this bill is going to be is that it's going to drive more small farmers out of business in New York. It's going to improve the farming community in our surrounding states, because that's where the food products are going to be coming from.

And I know and I respect my colleagues on the other side of the aisle, but the reality is that this is going to result in less farms. It's certainly going to put out small family farms; I think this is probably the death knell for them.

But the purpose of this bill is to help farmworkers. This is actually going to hurt farmworkers. There are going to be less opportunities in New York State, I guarantee you, if this bill is successful here today.

And I think it's important -- Senator Nozzolio mentioned it -- you know, because I think there's this perception again out there that farmworkers in New York State are totally unregulated, that nobody looks out

for their best interests. First of all, the reality is -- and I have sat at kitchen tables with farmers and their farmworkers, all eating at the same table at the same time, with all of their kids involved.

But the reality is that -- and Senator Nozzolio I think pointed it out very correctly -- that there are federal farm labor standards, there are New York State farm labor standards, there are DEC standards, there are EPA standards, there are so many standards, so many protections in place today that it just doesn't jibe with reality that farmworkers are not protected in this state today.

I don't know, I think this vote is probably going to be very close. It's getting very late. Madam President, I would just say to my friends on the other side of the aisle, take it from somebody who lives with farm families, who talks with farm families every day that I happen to be at home -- and I wish that was more days than I am -- this bill is not good for the agriculture industry in the State of New York, and I will be voting in the negative.

Thank you very much, Madam President, for the time.

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

Senator Young, on the bill.

SENATOR YOUNG: Thank you, Madam President. I just want to set the record straight on something that Senator Espada said.

He said, according to what one of the staff members wrote down as he was speaking, that during the hearing that we had I allegedly said to someone who said she was sexually assaulted, he said that I said "if you didn't report it, it didn't happen." That is patently false. That is just another outrageous statement from Senator Espada. And those are the kinds of arguments that really demean any kind of debate.

So I just want to the set the record straight in this chamber. And again, I will be voting no on this legislation because it's a job killer, it kills upstate, it kills Long Island farms, and it's a very, very bad bill.

Thank you, Madam President.

ACTING PRESIDENT SAVINO: Senator Young continues to be in the negative.

Senator Schneiderman, on the bill.

SENATOR SCHNEIDERMAN: Thank you, Madam President. I rise in support of this legislation.

And I think we are losing sight of what we're talking about here. We're talking about fundamental rights that are owed to every human being that works in the State of New York. We're talking about the essential American idea that all men and women should be created equal.

What's in this bill is that the workers at the very largest farms, only the top 4 percent of farms, will be entitled to collective bargaining protections that are available to every other type of worker. We're talking about one day of rest in seven -- and an optional day of rest, at that. We're talking about overtime pay if you work more than 55 hours a week -- not 40 hours a week, as is provided for other workers. We're talking about minimum standards of decency for

our fellow human beings.

And I think -- I feel as though this argument that, well, this is going to be expensive, this is going to cost money, is really missing the point. And I know that there are my colleagues here who are people of good conscience who have concerns, but I feel like we're in a little bit of a time warp.

Justice costs money, ladies and gentlemen. The idea of the United States is we are going to spend money to make sure we have a just society. Jury trials cost money. Making sure all of our children have schools where they can get a sound basic education costs money. And justice for working people costs money.

When we decided as a nation that working men and women would have collective rights to organize and fight for themselves, some workers were left out for reasons that had to do with racism, for reasons that had to do with a lot of things that we should be ashamed of today.

This bill corrects a historic wrong. Earlier this year we took one of those

categories of workers, domestic workers, and under the leadership of Senator Savino we brought them forward into the American ideal of equal justice under law. This bill would take the last group of workers, farmworkers, and bring them forward to participate fully in our society, to be treated fully as human beings as every other working man and woman should be in this country.

This bill is about basic justice. Do not get sidetracked. There are states that provide overtime. The largest agricultural state in the country, California, already does it. They haven't gone out of business.

We're not -- and people are saying, oh, we're going to have to buy fruits and vegetables from China. Our goal is not to pay people the same wages and provide the same benefits that are provided in China. And anyone who's making that argument I think is falling off the train that is the United States as we move forward towards more equality, towards more justice, towards making Thomas Jefferson's words ever more true that all men and women are created equal.

Let us move forward again tonight. Ladies and gentlemen, justice costs money. The enterprise of the United States costs money. All who contribute, all who work should share in the collective wealth that we create together. This corrects a wrong and bringings farmworkers into the same sunshine as other workers in this country. I think it's inconsistent with our duties as Americans to vote against this bill, quite frankly.

And I'd like to close with a statement that I think tells us what we have to do on this bill: "Labor of human beings is not a commodity nor an article of commerce and shall never be so considered or construed." Labor of human beings is not a commodity. This is not from the Communist Manifesto, this is from Article 1, Section 17 of the Constitution of the State of New York.

Let's live up to our constitutional duties. I urge everyone to vote yes.

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

Senator O. Johnson, on the bill.

SENATOR OWEN JOHNSON: Thank you, Madam President.

You know, I heard before that only one fellow here ever lived or worked on a farm, but I was born on a farm. I lived on a farm a good part of my life until I joined the Marines at 17. And it was my grandfather's farm.

And I know that there's a lot of difference between New York and California, and we have seasons here -- the spring, summer, fall and the season to plow your fields, the season to plant your crops, the season to cultivate the crops, the season to pick the crops.

And that's got nothing to do -- this bill is very impractical when you think about. You can't work more than so many hours a day, you can't work on the weekends. You plant when you have to. And we are also subject to something called the weather -- not only the climate, but the weather. And when the weather lets you, you go out in the field and you do it, and when it doesn't, you can't.

Now, it would be very hard for a

small farmer, a dirt farmer, which we had 18 acres of weeds and crops and everything like that. When you have that much work to do, you have to do it when it has to be done. Mother Nature tells you. And the crops, depending on how fast they grow, they show you when to pick them. And when the weeds start getting in there, they show you when to cultivate and get the weeds out of the rows of the food.

So the simple fact is this bill is impractical. There are already so much regulations, so many restrictions that you could hardly run a small farm like we had years ago. You certainly couldn't hire anyone to work because they want a certain day off every week. You can't do that. Then you want the weekend off when you have to take the crop in.

So I'm saying it's very impractical and I think it's very difficult and it would make a lot of farmers discouraged to think that they can have some interloper come and tell them, You made this guy work too many hours last week, you've got to get out of here

and fill these papers out.

We don't need all that stuff. Small farmers, a big part of this state, small farmers, they really know how to run their business. They have workers' comp, they have disability, they have all the other things that you have to have. But they don't need somebody else looking over their shoulder and telling them you let that guy work too many hours in addition to that.

It just -- what can I say? It was a great life on the farm. I grew up to be a nice boy. And that's about it. So -- but I think the bill should not be adopted in its present form.

Thank you. I vote no.

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

Senator Bonacic, on the bill.

SENATOR BONACIC: Thank you, Madam President.

I will be brief. I think my colleagues on this side of the aisle have spoken eloquently of the activities of farming.

I will just tell you that I was born and raised in Manhattan. I came to Orange County and I ran as a county legislator, and I got elected and my district was the black dirt industry. Now, the black dirt is in Pine Island. I didn't know anything about farming. But I found myself, in order to do my job better as a legislator, going to the farms, including produce farms, dairy farms, milking a cow and trying to trying to understood their life and their habits.

What I did see was the farmers put health centers in to take care of the workers. They had daycare. They had extended families. These same workers came from all different parts of the world, and they kept coming back to the same farms for 10 to 20 years. So for the farmer, this was his extended family that provided the work so he could survive.

If we were to proceed with this legislation on the smaller farmers, it is the kiss of death and it is a job killer. The John Deere people who sell equipment to the farmers -- farmers don't have the money to pay

for the equipment to run the farms; they give them paper. Livestock, the grain, the feed, they give it to the farmers all on credit.

And you know who really owns the farms? The banks own the farms. Because what's happened to the dairy industry, you heard it over and over again. The milk prices which you get on the open market doesn't pay for their costs of production. So what did they do? They say, "Boy, we've hit a terrible time, we're going to go borrow some more. Let's hope the bank gives us some more money so we can get through the next 12 months, this recessionary period. Maybe the milk prices will go up and we can keep our farms."

So if we put this level of expense on top of the farms, the banks will own the farms, they will foreclose, because the farmers will not have the ability to pay. When the upstate banks own the farms, there's not much demand for the subdivision market upstate because, you know, I don't have to tell you about what's happened to the real estate market. New construction is probably nil.

So you don't realize the ripple effect of what this will do to put farms out of business. I'm not even talking about the quality and the safety of the food. It will certainly drive consumer prices up if this bill gets passed. If we have less farms and we import more, whether it's China, Chile, or any other foreign countries, we have -- and I'm not here to throw a new element in, but agricultural terrorism is something that we have looked at over the years as a form of hurting America. And I'm not dramatizing.

My point is food grown in New York is watched closely for quality, safety. And if you put this layer of expense on, you will not only kill the farmer but all those horizontal industries who service the farms. It will be a job killer.

I know your heart is in the right place, Senator. You want to be more humane. But when Senator Schneiderman stands up and talks about the philosophy of justice -- social justice, by the way, should be borne by society as a whole and not as employers who are struggling to create jobs and are trying

to survive. And the philosophy of the Constitution on social justice does not pay the farmers' bills. And I don't have to tell Senator Aubertine the costs of energy in this state and the tax burden in trying to make a living.

So for all those reasons, this is a very bad public policy bill. It shows a lack of understanding of the culture of Manhattan and the culture of upstate. As an Assemblyman I tried to get my Assembly people from the city to come up to the farms, spend a day, do a tour, get more acquainted. We didn't have much luck with that.

I know your intentions are noble, but it's not going to work for this particular industry. I think it will do much more economical devastation than it will be for the rising tide of the workers you're trying to protect.

And the last point I want to make -- I didn't make the argument with domestic workers, but it's the same argument with farmworkers or domestic workers -- they come to this country for opportunity. And

whether they're legals or illegals, let's leave that aside. But they find a job here, they survive. And, you know, their children get medical benefits if they go into the hospital, and they get into our education system. And they're getting opportunities that they could never get from the country from whence they came.

Now, maybe they would like to do better, like all of us would like to do better. But they -- when you start talking of social justice to the extent that they're being punished or somehow deprived or degraded, if things were better in their country, they would never come here, they would stay there, and take the jobs and have a better quality of life.

So I would say, in conclusion, this would be a devastating job killer for upstate New York. I vote no.

Thank you, Madam President.

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

Senator Espada, again on the bill.

SENATOR ESPADA: Again, thank

you, Madam President.

I neglected in my opening comments to thank labor champion Senator Onorato. I thank him especially for allowing me the room to give this voice and advocacy the same kind of voice and advocacy that he gave so many years and continues to apply to these endeavors.

I wish to thank also the Justice for Farmworkers campaign so who for so many years toiled in the vineyards to get attention, to answer many of the questions.

The arguments haven't changed, Madam President. Seventy years ago the business model arguments were the same. In fact, you could go back to -- and I know folks don't want to hear this. The truth is painful. But the fact of the matter is there are direct parallels with slave labor. It was cheaper, it was better. Folks that understood their own benevolence thought that they weren't doing any harm.

And comparisons about what happens in other states, let me just say California has these provisions in this bill; they're

doing fine. Hawaii has these provisions; they're doing fine. Maryland's doing fine, Minnesota's doing fine. My birthplace, Puerto Rico, the Commonwealth of Puerto Rico is doing fine.

I'm a city kid from the South Bronx, but my grandparents had to toil in the fields dealing with sugarcane and tobacco in Puerto Rico. I was born on a farm.

So there are no unique experiences here. No one owns complete truth. But the facts, the facts are that the business model argument has prevailed for far too long. There will not be an economic meltdown of the agricultural farming industry in this state.

And the question has been asked and I think it should be answered who supports this besides people who know no better. Well, the people we represent support this. In a statewide poll, protection for farmworkers and equal rights, 79 percent -- upstate, rural, downstate, across the state, Republican, Democrat, Independent, 79 percent in favor of extending overtime protections. Ninety-one percent in favor of day of rest. Almost

70 percent in favor of collective bargaining. Eighty-five percent in favor of disability insurance.

And yet the boogeyman is still let out of the closet: Fear. Fear is the weapon and the adversary here to the truth. The truth is clear. People across this state support this. Farmworkers that do this, they should not be the only category that is exempted from basic human rights and protections.

And then, just to finish off, we don't know how this vote is going to turn out. But rest assured, rest assured that the struggle to provide basic protections for these workers will continue no matter what the vote.

But I especially want to thank this chamber for taking up this debate. It never happened. It happened tonight, and I'll be forever grateful. And so will the farmworkers and hardworking people of the State of New York.

I thank you, Madam President. I thank the chamber for its attention.

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

Senator Aubertine, to close.

SENATOR AUBERTINE: Thank you, Madam President.

On the bill, I certainly would never question the motives of those who advocate for farmworkers. Farmers, I believe, are farmworkers too, and we need to advocate for them as well.

But there are some facts that have been thrown around I think that are subject to question for sure. One of the facts, the first bullet on this fact sheet, says collective bargaining protections are limited to workers on farms with sales exceeding $650,000, exempting over 96 percent of the farms and covering only agribusiness.

Well, Madam President, that's difficult for me to believe. And I can give you some numbers just to kind of illustrate why it's so difficult for me to believe. A 250-cow dairy would produce gross sales well in excess of $650,000 a year. There are a lot of dairies in New York State that have far

more that would be far less than 4 percent of this total number. Ninety-six percent is erroneous at best. The number of farms that would be affected in this state would be huge.

You know, and I talk about dairy mainly because dairy is the one sector of agriculture that I know best. But in 2009 -- without question one of the worst years in dairy, not only in New York State but in the country -- there isn't a dairy farm in this state that cash-flowed, that made money, that could pay its bills. And it was illustrated earlier. And I would go so far as to say there would be very few dairy farms in this nation that cash-flowed.

Well, a lot of those 250-cow dairies and above do have hired labor. And I'd be willing to bet that all the labor on that farm was paid. And most of the labor was probably provided housing and provided other benefits as well. And you ask, well, how could a farm that doesn't cash-flow pay its labor. And again, it was pointed out earlier the way that's done is you borrow back into your equity.

The only guy on the farm in 2009 on a dairy farm that didn't get paid was the owner. All the labor got paid. The labor was looked out for. And the guy who in my opinion is labor, lost, the owner.

So I think that with all the best of intentions, the biggest problem we've got here is the lack of understanding as to what actually goes on on a farm. For the most part, it's not a hobby, it's a business. It's a business like any other business. And it was carved out back when the labor laws were put together for a reason.

The work on a farm is not easy, necessarily. It does take long hours, it is hard work, and people should be compensated for it. And no one should be exploited by it.

But this bill does not address any shortcomings that exist on farms today. This bill is a step in the wrong direction. Ultimately, I believe it will hurt farmworkers. Farmworkers run the potential of losing their jobs, losing their livelihoods. It will hurt farmers. Farmers run the risk of losing their businesses, their homes. It will

hurt consumers. Consumers run the risk of not being able to buy locally and being forced to buy food that's produced elsewhere in the world.

So again, with all the best of intentions, I do believe that this legislation will be harmful to the agriculture community. Agriculture has suffered mightily in the last 30 years. This state has lost nearly a farm a day for 30 years. That's not something we can sustain. And I believe that this legislation would lead to that trend continuing.

Thank you, Madam President.

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

Are there any other Senators -- I didn't think so.

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

ACTING PRESIDENT VALESKY: Read the last section.

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

ACTING PRESIDENT VALESKY: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT VALESKY: Senator Onorato, to explain his vote.

SENATOR ONORATO: Yes, Mr. President. I rise to vote aye and explain my vote.

Many states have already included the collective bargaining -- California, Oregon, Kansas, Louisiana, Hawaii, Maine, Nebraska, Massachusetts, Wisconsin, Arizona and New Jersey -- and they're all thriving today. They have not been negatively affected by this legislation.

Like New Jersey, the New York State Constitution states unequivocally that all employees shall have the right to collective bargaining. "Labor of humans is not a commodity nor an article of commerce and shall never be so considered or construed. Employees shall have the right to organize and to bargain collectively through representatives of their own choosing." New York State Constitution, Article 1, Section 17.

I vote aye and I urge you all to

vote aye also.

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

Senator Serrano, to explain his vote.

SENATOR SERRANO: Thank you, Mr. President.

I would like to thank the sponsor for ensuring that this bill came to the floor for a vote.

And it does provide some very basic protections for workers. I believe there's nothing special here. This is just some basic protections that in this country we believe should be afforded to all workers.

And historically there's always been resistance to any workers' rights movement. But yet and still, if we look at in the relatively short amount of time this nation has grown to be the strongest nation in the world because of our industries, our industries being so strong.

So I believe that this bill will not in any way weaken our wonderful farm

industry; indeed, it will make it stronger, because it will create and maintain an experienced workforce, a workforce that feels respected, a workforce that feels that they are vested in the industries that they are a part of.

So I believe that our role as Senators is not only to protect industries and the industries and their profit margins, but we are also Senators to protect people. And it is important that we move on this bill and vote yes on this bill to provide some very basic, basic rights to the very hard workers on the farms here in New York.

Thank you. I will vote yes.

ACTING PRESIDENT VALESKY: Senator Serrano to be recorded in the affirmative.

Senator Perkins, to explain his vote.

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

First I want to commend Senator Espada for the extraordinary leadership that he has provided, how well he has articulated

what is a very, very important concern that we all have in terms of making sure that the American ideal, especially as it relates to workers, is fulfilled by farmworkers as well as any other worker.

Again, it puts this Legislature, this Senate body, in the right place as happened with the domestic workers' bill in terms of recognizing the rights of the least amongst us and not accepting the fact that even as we are sensitive to the struggles of the farm industry and the need for support for that industry, we cannot allow that need to be at the expense of the needs of the workers who are also deserving of a fair wage.

I want to thank the movement for their vigilance and their persistence in bringing in matter before us, and I look forward to seeing this ultimately passed and ultimately seeing farms and the farm industry doing better by the farmers as well, because it's all good for all of us.

So thank you again, Senator Espada, for the work you've done, and thank the farmworkers for bringing this to our

attention. I vote aye.

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

Senator Alesi, to explain his vote.

SENATOR ALESI: Thank you, Mr. President.

This really is a fairly heavy issue for me because I understand what the Senator is trying to do here. And on the surface of it, it's very humanitarian.

But if you look at the ripple effects of what this is, not just from the standpoint of labor but from the standpoint of business as well, every farm that goes out of business because they can't afford the labor to sustain itself is going to have an effect on those people that sell livestock, the people that sell grains, the people that sell commodities, the people that drive the trucks, the people that have the refrigeration plants and the food processing plants.

All of those places are going to have a negative effect because farms are going to go out of business in upstate New York and

other areas around this state.

And unfortunately for that -- and I only have a minute to explain my vote -- if you think about this, someone told me, an apple farmer recently, that they can get 4 cents a gallon for concentrated apple juice out of China, China, which has an unlimited labor supply. Samoa, American Samoa just closed another cannery because they can have it done cheaper in Thailand, cheaper labor.

So as much as I'd like to protect the small businesses and the farms themselves, what we're really going to do here is have a devastating effect on those migrant laborers, those migrant laborers that are coming here to make a relatively decent living. The jobs won't exist for them. That's who we're going to hurt.

We're going to hurt everybody on that list that I just mentioned, and at the end of the day the migrant workers that have a better quality of life here and better earning potential here than they have at home. We will eliminate those jobs for those people, and they will have nothing.

As much as we think we want to help them, we are hurting them. I have to vote no.

ACTING PRESIDENT VALESKY: Senator Alesi to be recorded in the negative.

Senator Diaz, to explain his vote.

SENATOR DIAZ: Thank you, Mr. President.

You know, today I'm proud, I'm proud being a cosponsor of this bill. And I congratulate the sponsor, Pedro Espada, because of all the things that he had to do, all the things that he had to do to come to this point. He was relentless to be sure that today, tonight, this piece of legislation came to the floor.

Just a simple thing in the State of New York we are denying, we are denying human beings simple things like one day of rest in a week. So we are forcing people to work seven days -- no rest, no overtime, no sick days, nothing in the State of New York.

And Pedro Espada, Senator Pedro Espada is a champion for the needy tonight. And we are here saying we have to amend this thing and give the people the dignity that

they deserve.

And I hear people saying, oh, but if we do this, those people will have no jobs. So if we give them a day off and we give some basic benefits, they will have no job.

I'm pretty sure that then we have to keep bringing people from the outside. Because suppose that this goes through and we have all the rights, would you treat the American people, the people from the State of New York, the same way? So we have to bring them so we can exploit them and oppress them so we could have farms?

Well, if we do the benefits, then they at no time have jobs and don't take the jobs so the people from the state will take them. And you would not do that to them, right?

I'm voting yes.

ACTING PRESIDENT VALESKY: Senator Diaz to be recorded in the affirmative.

Announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 1432 are

Senators Alesi, Aubertine, Bonacic, DeFrancisco, Farley, Flanagan, Foley, Fuschillo, Griffo, Hannon, C. Johnson, O. Johnson, C. Kruger, Lanza, Larkin, LaValle, Leibell, Libous, Little, Maziarz, McDonald, Nozzolio, Ranzenhofer, Saland, Seward, Skelos, Stachowski, Valesky, Volker, Winner and Young.

Absent from voting: Senator Dilan.

Ayes, 28. Nays, 31.

ACTING PRESIDENT VALESKY: The bill fails.

Senator Klein.

SENATOR KLEIN: Mr. President, at this time can we briefly stand at ease. We expect to return at 10:30.

ACTING PRESIDENT VALESKY: The Senate will stand at ease until 10:30.

(Whereupon, the Senate stood at ease at 10:16 p.m.)

(Whereupon, the Senate reconvened at 10:37 p.m.)

ACTING PRESIDENT VALESKY: Senator Klein.

SENATOR KLEIN: Mr. President, at this time I would like to call up Calendar

Number 1427, Senate Bill Number 5296A on the noncontroversial calendar.

ACTING PRESIDENT VALESKY: The Secretary will read.

THE SECRETARY: Calendar Number 1427, by Senator Squadron, Senate Print 5296A, an act to amend the Administrative Code of the City of New York.

ACTING PRESIDENT VALESKY: Read the last section.

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

ACTING PRESIDENT VALESKY: Call the roll.

(The Secretary called the roll.)

(Pause.)

ACTING PRESIDENT VALESKY: Senator Squadron.

SENATOR SQUADRON: Mr. President, would you withdraw the roll call and lay the bill aside for the day, please.

ACTING PRESIDENT VALESKY: The roll is withdrawn, and the bill is laid aside for the day.

Senator Klein.

SENATOR KLEIN: Mr. President, at this time I'd like to call up Calendar Number 1426, Assembly Bill Number 2251 on the noncontroversial calendar.

ACTING PRESIDENT VALESKY: The Secretary will read.

THE SECRETARY: Calendar Number 1426, substituted earlier today by Member of the Assembly Jeffries, Assembly Print Number 465A, an act to amend the Emergency Tenant Protection Act of 1974.

ACTING PRESIDENT VALESKY: Read the last section.

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

ACTING PRESIDENT VALESKY: Call the roll.

(The Secretary called the roll.)

(Pause.)

ACTING PRESIDENT VALESKY: Senator Klein.

SENATOR KLEIN: Mr. President, can you please withdraw the roll call and lay the bill aside for the day.

ACTING PRESIDENT VALESKY: The

roll is withdrawn, and the bill is laid aside for the day.

Senator Klein.

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

ACTING PRESIDENT VALESKY: The Secretary will read the noncontroversial calendar, beginning with Calendar 1425.

THE SECRETARY: Calendar Number 1425, substituted earlier today by Member of the Assembly Rosenthal, Assembly Print Number 9854, an act to amend the Private Housing Finance Law.

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

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

THE SECRETARY: Calendar Number 1428, substituted earlier by Member of the Assembly V. Lopez --

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

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

THE SECRETARY: Calendar Number 1429, by Senator Thompson, Senate Print 8129B, an act to suspend hydraulic fracturing.

SENATOR LIBOUS: Lay the bill aside.

ACTING PRESIDENT VALESKY: The bill is laid aside.

THE SECRETARY: Calendar Number 1430, substituted earlier today by the Assembly --

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

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

THE SECRETARY: Calendar Number 1431, substituted earlier today by the Assembly Committee on Rules --

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

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

THE SECRETARY: Calendar Number 1433, substituted earlier today by the Assembly Committee on Rules, Assembly Print Number 11597, an act to amend the Correction

Law.

ACTING PRESIDENT VALESKY: Read the last section.

THE SECRETARY: Section 2. This act shall take effect on the same date and in the same manner as a chapter of the Laws of 2010.

ACTING PRESIDENT VALESKY: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT VALESKY: Announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 1433 are Senators Alesi, Bonacic, DeFrancisco, Farley, Flanagan, Fuschillo, Griffo, Hannon, O. Johnson, Lanza, Larkin, LaValle, Leibell, Libous, Little, Marcellino, Maziarz, McDonald, Nozzolio, Padavan, Ranzenhofer, Robach, Saland, Seward, Skelos, Volker, Winner and Young.

Ayes, 32. Nays, 28.

ACTING PRESIDENT VALESKY: The bill is passed.

THE SECRETARY: Calendar Number

1434, substituted earlier today by the Assembly Committee on Rules, Assembly Print Number 11612, an act to amend a chapter of the Laws of 2010 enacting the Health and Mental Hygiene Budget.

ACTING PRESIDENT VALESKY: Read the last section.

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

ACTING PRESIDENT VALESKY: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT VALESKY: The bill is passed.

THE SECRETARY: Calendar Number 1435, substituted earlier --

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

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

THE SECRETARY: Calendar Number 1436, by Senator Schneiderman, Senate Print 8451, an act to amend the Civil Practice Law and Rules.

ACTING PRESIDENT VALESKY: Read the last section.

THE SECRETARY: Section 2. This act shall take effect on the same date and in the same manner as a chapter of the Laws of 2010.

ACTING PRESIDENT VALESKY: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT VALESKY: Announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 1436 are Senators Alesi, Bonacic, DeFrancisco, Farley, Flanagan, Fuschillo, Griffo, O. Johnson, Lanza, Larkin, LaValle, Leibell, Libous, Little, Marcellino, Maziarz, McDonald, Nozzolio, Ranzenhofer, Robach, Saland, Seward, Skelos, Volker, Winner and Young.

Ayes, 34. Nays, 26.

ACTING PRESIDENT VALESKY: The bill is passed.

THE SECRETARY: Calendar Number 1437, by Senator Schneiderman, Senate Print 8454, an act to amend the Labor Law and a

chapter of the Laws of 2010.

ACTING PRESIDENT VALESKY: Read the last section.

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

ACTING PRESIDENT VALESKY: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT VALESKY: Announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 1437 are Senators Alesi, Bonacic, DeFrancisco, Flanagan, Fuschillo, Hannon, O. Johnson, Lanza, Larkin, LaValle, Leibell, Libous, Marcellino, Maziarz, Nozzolio, Onorato, Ranzenhofer, Saland, Skelos and Volker.

Ayes, 40. Nays, 20.

ACTING PRESIDENT VALESKY: The bill is passed.

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

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

ACTING PRESIDENT VALESKY: The Secretary will read the two-bill active list, noncontroversial.

THE SECRETARY: Calendar Number 772, by Member of the Assembly Bing --

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

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

THE SECRETARY: Calendar Number 1421, by the Assembly Committee on Rules, Assembly Print Number 11523, an act to amend the Economic Development Law.

ACTING PRESIDENT VALESKY: Read the last section.

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

ACTING PRESIDENT VALESKY: Call the roll.

(The Secretary called the roll.)

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

SENATOR MAZIARZ: Thank you very much, Mr. President. Just very briefly; I know's it's late.

I will be reluctantly voting yes on this bill. It's a real shame that the Assembly refused to give certainty to the Power for Jobs program. There was an excellent bill that passed this house.

And, you know, a lot of times -- and I hope some of the members of the press are listening -- we, we, the Senate members, all of us have taken a lot of hits this year for lack of bipartisanship, for some maybe not too respectful comments to each other and arguments and disagreements on the floor. But one area where we were really on the side of business, the side of employers, the side of employees, the side of labor, the side of just about every clear-thinking individual in this state, the Governor agreed with us on the Energize New York program, which would have given seven years of certainty to businesses to invest in the State of New York, and Assembly Speaker Silver turned it down.

And this is what we are left with yet again, another one-year extender to the Power for Jobs program, which is going to cost us jobs, cost us economic investment. It's

just a really sad yes vote.

Thank you, Mr. President.

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

Senator Foley, to explain his vote.

SENATOR FOLEY: Thank you, Mr. President. I certainly would like to echo Senator Maziarz's comments.

On Long Island the business community, with almost near unanimity, was in strong support of the Senate bill, which would have targeted more power in that particular region of the state. It was the one that garnered the most support. But as was just mentioned, we in sense have one-house bill support for it, so we need to do the extender for another year.

It's our hope and expectation moving forward that working with the business community both in our region and across the state that we can prevail upon the other house to support the superior legislation that will put more people to work, that will save jobs and will grow the economy of the State of

New York.

So I will be reluctantly supporting the bill before us today. However, efforts will be made going forward in the meanwhile to try to persuade the other house to eventually pursue and to adopt the Senate bill, which is the far more preferable bill.

Thank you, Mr. President.

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

Announce the results.

THE SECRETARY: Ayes, 60. Nays, 0.

ACTING PRESIDENT VALESKY: The bill is passed.

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

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

ACTING PRESIDENT VALESKY: The Secretary will ring the bells and place Calendar Number 1429 from the supplemental calendar before the house, controversial.

The Secretary will read.

THE SECRETARY: Calendar Number 1429, by Senator Thompson, Senate Print 8129B, an act to suspend hydraulic fracturing.

SENATOR LIBOUS: Explanation.

ACTING PRESIDENT VALESKY: Senator Thompson, an explanation has been requested.

SENATOR THOMPSON: First let me thank you for recognizing me on this very important piece of legislation.

This bill provides for a temporary suspension of issuance of new permits for horizontal drilling, often known as hydrofracking. It utilizes the practices of hydraulic fracturing in the state, it halts it until May 15th of 2011.

By delaying DEC's ability to issue permits until May 15, 2011, this bill provides the Legislature with the opportunity to consider a number of safeguards to make sure that, if we have drilling in New York, that we take the necessary precautions.

As many of you may or may not know, I did have the opportunity as the chair of the

En Con Committee to go to Pennsylvania twice to see both the positives and some of the shortcomings of hydraulic fracturing in Pennsylvania. We also had hearings and roundtables across the state to hear both sides of the issue.

I think that this proposal to make sure that we do not surrender our legislative authority to DEC, as some would suggest, gives us the opportunity to look at some of the things that have happened in the positive and some of the shortcomings in Pennsylvania and figure out, between now and next spring, what are the various pieces of legislation that we believe need to take place if we're going to have this type of function take place in the State of New York.

There are those who wanted us to wait three years or some may say four or five years, until the EPA study, which has been requested at the national level, takes place before we have it in New York.

I think this is a fairer way to go. It protects the leaseholders who are working with land companies, but also it protects the

environment.

We know that there's a number of positive things that happened in Pennsylvania, but we also know in Pennsylvania there have been shortcomings. We also know that there have been more than 1,000 cases of contamination documented in various states where this type of drilling has taken place.

It's an emerging technology. In fact, when we were in Pennsylvania it used to take them a couple of months to dig a well; now it takes them about 28 days. So as they learn from their mistakes, we have to make sure that we put all the safeguards in place.

One of the things that I think that is important, we all know about what happened down in the Gulf. And people say, well, you know -- as I said to some of the drilling companies, people never ask the question about when things go right. It's about that 1 or 2 or 3 percent of the times when things go wrong that they say, well, where was government? Where was the oversight? How did this happen?

And the same is true to the individuals, not just people in the more

popular place of Dimock, Pennsylvania, but there are people out in various parts of Pennsylvania that have experienced shortcomings as a result of the drilling.

And we have to make sure that if this is done in the State of New York that we've done our due diligence as a legislature and not say that we're going to wait and hope that DEC does it right.

We can't have it both ways. We can't say in one instance, you know, that DEC has too much control but on something of this magnitude that we say that we're going to surrender our legislative responsibility to DEC.

And so I think that this is a fair way to go. It gives the new governor a chance to come in, figure out what they want to do. And at the same time we can look at the more than 20-plus bills that are in the Assembly that have not been picked up in the Senate. We can look at a two-year review of the different things that have happened in Pennsylvania. And so that by the time that January comes along, we can really work

through the details and figure out where the state is going to go.

So any other questions, I'll take them. Thank you.

ACTING PRESIDENT VALESKY: Senator Libous.

SENATOR LIBOUS: Thank you, Mr. President.

Senator Thompson, would you yield for a series of questions.

ACTING PRESIDENT VALESKY: Senator Thompson, do you yield?

SENATOR THOMPSON: Yes.

ACTING PRESIDENT VALESKY: Senator Thompson yields.

SENATOR LIBOUS: Do you know how long hydrofracking has been around?

SENATOR THOMPSON: For many decades. This form of drilling is different, but hydrofracking has been around for a while.

SENATOR LIBOUS: And would the Senator continue to yield.

ACTING PRESIDENT VALESKY: Senator Thompson?

SENATOR THOMPSON: Yes.

ACTING PRESIDENT VALESKY: He yields.

SENATOR LIBOUS: On your tours of Pennsylvania, did -- you said you went to Dimock, Pennsylvania, and you said there was some contamination of wells. What did you learn there, Senator? Why were those wells contaminated?

SENATOR THOMPSON: There were a number of defects that happened. We went to Towanda, Pennsylvania, where that was kind of like the showplace place, but we also went to Dimock.

Part of the challenge is that over there, just like over here, they would drill 24 hours a day. Most state workers at some of our facilities, our inspectors, unless we change -- they drill seven days a week. So if we have it in New York, we need to make sure that inspections are taking place seven days a week, which that was not happening in parts of Pennsylvania.

And so once they dug more than a mile underground and you don't have inspections taking place, you have defective

wells. And once they're defective, it's hard to fix something that's already been cast a mile underground. So they had some defective wells.

SENATOR LIBOUS: Mr. President, would the Senator continue to yield.

ACTING PRESIDENT VALESKY: Senator Thompson?

SENATOR THOMPSON: Yes.

ACTING PRESIDENT VALESKY: The sponsor yields.

SENATOR LIBOUS: Senator Thompson, based on your visit to Dimock, who would you say was responsible for those defective wells?

SENATOR THOMPSON: I think that there's a combination of negligence. I'm not a lawyer, but just from my analysis -- and we put a 40-page report on our website -- I think it's a combination. Many of the industry people believe that Cabot Gas and Oil Company did an inferior job. But they're not the only ones that made mistakes.

Also I believe that because the State of Pennsylvania was so thirsty to get

this development opportunity that they did not have enough infrastructure in place making sure that they were inspecting the wells properly, making sure that landowners were protected.

We have certain protections on the books right now for our landowners, but we need additional ones, which I think I mentioned both publicly and privately.

So I think it's not just on the fault of the gas and oil companies, but also I believe that the state government did not do enough to protect the landowners and the folks who have to wait for gas and oil companies to bring them water each and every day.

SENATOR LIBOUS: Would the Senator continue to yield.

ACTING PRESIDENT VALESKY: Senator Thompson?

SENATOR THOMPSON: Yes.

ACTING PRESIDENT VALESKY: The sponsor yields.

SENATOR LIBOUS: So, Senator Thompson, I believe you're saying that -- who in the State of Pennsylvania was responsible

for this negligence?

SENATOR THOMPSON: I believe it's -- I think there are two entities that people are holding I think most accountable. One is their Department of Environmental Protection. And also I think that the state attorney general might be in a little hot water over this as well. But I think mainly the state Department of Environmental Protection is the most in hot water for not doing enough on this issue.

SENATOR LIBOUS: Would the Senator continue to yield.

ACTING PRESIDENT VALESKY: Senator Thompson?

SENATOR THOMPSON: Yes.

ACTING PRESIDENT VALESKY: The sponsor yields.

SENATOR LIBOUS: Senator, the exact number of wells that you saw contaminated in the entire state of Pennsylvania was how many?

SENATOR THOMPSON: I think maybe about three or four. But I didn't visit every well, but I can tell you that we did see a

number of them.

We also did see a lot of the erosion on some of the local roads. In fact, we went up in December or late November and we came back in the spring. In fact, the day we were out there they were actually fixing some of the roads that were, I would say, severely damaged as a result of the drilling.

We have to make sure that all of those issues, not just the water, the ponds, and some of the adjacent properties -- but also the infrastructure was severely damaged. I know that there are a number of people in the chamber that went there. We have to make sure that those things are adequately addressed, not just through the GEIS process but through legislative authority, through this body. We need to make sure that it's in the law, not just through the regulatory process.

SENATOR LIBOUS: So, Mr. President, through you again to Senator Thompson, your answer to that question was a couple of wells in the entire state of Pennsylvania were contaminated?

SENATOR THOMPSON: My answer was that those that I witnessed. And I'm not an engineer, I'm not a geologist. But I had the opportunity to see about three or four that had been impacted. And that was only over a two-day period of time.

And I think there's a lot of documentation out there on different websites, both governmental and nongovernmental, documenting some of the shortcomings.

As I said earlier, that there were successes. I mean, we had an opportunity to see a lot of the workers coming through the state in the region, traveling, lots of cars, lots of vehicles, lots of vendors, lots of suppliers. So there's some good.

But there's also some protections. For example, we witnessed wells being drilled right next to ponds, right next to farms. In fact, one of the houses that we went to, you can literally walk out the front door and walk about 50 or 60 steps and you will be at the front of the drill pad.

We must make sure that not only through the regulatory process but through the

legislative process that those issues are addressed in the State of New York.

So there were some positives, and I think I've been very clear about that. But I believe we've got to make sure we take all the precautions as well for our folks. Because again, people don't remember, when they go buy aspirin, when it's good. And when you buy that one bottle of aspirin and it's bad, they say where was the federal regulators or where was the EPA or FDA or whomever else when it goes bad.

SENATOR LIBOUS: Would the Senator continue to yield.

ACTING PRESIDENT VALESKY: Senator Thompson, do you continue to yield?

SENATOR THOMPSON: Yes.

ACTING PRESIDENT VALESKY: The sponsor yields.

SENATOR LIBOUS: Senator, could you share some of the positives that the folks in Pennsylvania shared with you, like the number of jobs that were created, the number of economic opportunities, the number of maybe millions of dollars in financial investment?

Did they share any of that with you in Pennsylvania?

SENATOR THOMPSON: Yeah, definitely. As I stated earlier, we witnessed firsthand some of the positives of the individuals who have leased land. There were some that, you know, have been able to make a lot of money.

But then there's also the individuals who put up their land and actually had to basically sign their land over, and then they didn't find the gas that they had envisioned.

So you have the pros and the cons. But in terms of individuals working, we had a chance to -- I went on the rigs. It was a very interesting experience. And I believe that it will create some jobs. However, it's at what cost?

So we have to make sure, again, that, you know, the same way those young men and women went into the Gulf and they were making good money, we have to make sure that those folks who live, you know, who live a couple of miles down the road, downstream,

that the water that they drink is going to be safe.

We have to make sure as well what I witnessed, when they -- you know, when you live out in some of these rural areas, when your well gets contaminated, you have to -- in Pennsylvania right now you have to wait until the oil or gas company brings you water to take a shower, to cook, to wash your clothes, et cetera, once your well is contaminated. And if they can prove that their well is outside of the buffer zone, then you're up you-know-what's creek.

So we have to make sure that we do everything. And there are a lot of vendors and suppliers from across the state of this state right now that do business in Pennsylvania that look forward to it coming here. And so that's why I said I think it can be positive.

We have to make sure that if it happens in New York that we have a tax, a severance tax. In Pennsylvania they didn't do it right, so they let them drill, and now the governor is leaving and they're trying to get

the money that many of us I think on both sides of the aisle would like to see to go for economic development and education and environmental protection. Well, they didn't do that first. And you know how that goes; once you let the cat out of the bag, it's hard to reel him back in.

And the governor of that state, who happens to be a Democrat, who was very supportive, is now trying to put the genie back in the bottle. So they messed up on the environmental aspect.

And then on the governmental side, in terms of trying to make sure they can hire more staff and they can do all those other good things, it's hard to get that -- get it back through the senate now in Pennsylvania.

SENATOR LIBOUS: Would the Senator continue to yield.

ACTING PRESIDENT VALESKY: Senator Thompson?

SENATOR THOMPSON: Gladly.

ACTING PRESIDENT VALESKY: The sponsor yields.

SENATOR LIBOUS: Senator, your

bill is an extended moratorium, which tells me you have a lack of faith or confidence in the work that the Department of Environmental Conservation is now doing in the State of New York.

Why would the Legislature need to tell them how much time to take? I would think that the scientists and the experts there know more than anybody in this room. And I find it somewhat amusing that we have to get into politics to tell them how much time to take.

Wouldn't you think that Commissioner Grannis and his people will make that determination based on the safety of the people of the State of New York, like they always have in the very strict way that they protect our environment?

SENATOR THOMPSON: Well, let me say this, sir. I believe that in terms of the DEC, I have a lot of respect for the DEC. And I believe that I have made it clear that we still have a legislative responsibility to provide direction and also legislative intent.

That has not taken place at this

point. We have not passed any bills related to the implementation process of hydraulic fracking in this state. So while the DEC is doing its part of examining the pros, the cons -- right? -- we also have a number of things that are happening outside of New York, both good and bad, as relates to this form of drilling.

So we're simply suggesting that as the DEC looks to finish its report later this year, and as many people submit various bills, and when at the same time we have a transition from one governor to another governor taking place, and as our neighbor next door in Pennsylvania will complete I believe their second year of drilling, we can assess two years of the pros and cons of Pennsylvania, we can look at some of these other states that had explosions and hiccups with drilling. And in addition to that, we can allow for the transition from one governor to another governor.

In addition to that, we can also examine the more than 25 bills that have been submitted on both sides of the aisle as

relates to this issue and figure out what's the best way to proceed. So that we're not moving in a hasty type of way, in a rushed kind of way, and that we do something that's fair and that's responsible, that's good for business and that's also very good for the environment and for the people who live here now and that will come after us.

That's why this way is a fairer, more responsible way. Unless, you know, unless we decide that we should wait for the EPA, which would be a three-to-five-year proposal.

SENATOR LIBOUS: Well, if you would continue to yield.

So then you're saying that the DEC is not going to come up with a fair and responsible way to determine the safety of hydraulic fracking, that it has to be done by a political body? And you even include the fact that a new governor is coming in. Why should that make any difference on a scientific determination on safety of hydraulic fracking and whether or not it should proceed on any timetable?

Maybe the DEC feels that it might need to take two or three years to do it in a safe manner. Why does the Legislature once again have to get involved, politics has to get involved? You referenced the fact there will be a different governor. I don't see what that has to do with the health and safety of hydraulic fracturing. And I happen to have complete faith and confidence in the Department of Environmental Conservation and the scientists and the professionals that work there, and I just don't understand why you don't.

SENATOR THOMPSON: Is there a question, sir?

SENATOR LIBOUS: Yeah, that's a question. I don't understand why you don't.

(Laughter.)

SENATOR THOMPSON: Through you, Mr. President. Senator Libous, there are a couple of things I can think of just off the top of my head that are important.

SENATOR LIBOUS: Senator, I want very much to listen to you, but there seems to be, Mr. President, a lot of chitter chatter in

the back. I know the hour is late, but this is very serious for Senator Thompson, very serious for me and some of the members in the chamber, and I would like to hear the Senator's answers.

SENATOR THOMPSON: Just a couple of quick things. There are a couple of things that the department is supporting that some of the local governments across the state are very concerned about.

For example, the commissioner and his department right now are positioning their final report to take away local control. Meaning that if you get a permit, right, you get a state permit, and say a local town, right now, through zoning -- which many of us understand, particularly those who have come from local government -- once that permit is approved in Albany, they give up all their rights for permitting and zoning at the local level.

That is something that I think that has not been resolved through their proposal. And if they figure at the end of the day on their way out that they still support it, are

we saying that we're going to give that right up and the 62 members of this body then have to go back and say, well, the former commissioner of DEC, we gave him the authority to allow drilling in your town or village even though you have local zoning laws for everything else except for some of these A, B, C, D and E? I don't think we can do that.

And there are a number of things in that proposal that would be a surrendering of authority from the State Legislature. So I think that we have to look at a number of these bills.

Some of the bills that have been submitted are good bills to make sure that we provide certain protections for local governments, for local taxpayers. There are landowner rights issues. We need to tweak some of those bills, discuss them, have some roundtables and figure out what are the best ways to move in the event that the DEC's final report doesn't meet our satisfaction.

So that's all I'm merely suggesting, that there are going to be things that you may say, "Antoine, I don't like that.

What are we going to do to fix it?" Or "They didn't go far enough."

For example, the Farm Bureau, I thought our report was strong, but their recommendations were a lot tougher than the recommendations that I put forward. And some of the things the DEC has moved on as recommendations from the Farm Bureau, some of them they have not. And they are going to look to us to say that, Well, they gave us the first round, now what is the Legislature going to do to fix it.

And that's why I believe we have a responsibility to make sure that if the DEC falls short, or if they go too far in certain areas, that we need to make those necessary adjustments.

SENATOR LIBOUS: Will the Senator continue to yield.

ACTING PRESIDENT VALESKY: Senator Thompson?

SENATOR THOMPSON: Yes.

ACTING PRESIDENT VALESKY: The sponsor yields.

SENATOR LIBOUS: Senator

Thompson, when the DEC put out requests and comments, do you know how many comments they got back from the general public of the State of New York?

SENATOR THOMPSON: I think they had approximately 10,000-plus comments. I know that we gave comments of almost 50 pages or so ourselves.

So I know they received a lot of comments. And whether -- and I believe they tried to make recommendations to some of those. But they have staff, they figure out what they like, what they don't like. And there are some things that they will ultimately agree with, some things they don't.

And you can be certain that if there's a constituent in one of these 62 districts that feel that their comments weren't adequately addressed, they're going to call their member of the Legislature or the Senate and say, "This issue is very important. I want you to submit a bill to address this issue." And we can't say then, "Well, the commissioner and his department made their decision, I'm not submitting a bill on that

particular issue."

I just don't think that that's, one, fair to the constituent, and I also don't believe that one agency should have total control over the future of our state.

SENATOR LIBOUS: Thank you, Senator.

If I could speak on the bill.

ACTING PRESIDENT VALESKY: Senator Libous, on the bill.

SENATOR LIBOUS: Senator, actually they got about 14,000 comments, and the commissioner and his agency not only are going to answer every one of those in the process, but they're actually going out in some cases and hiring health and scientific experts beyond the expertise of the department to answer those.

Senator Thompson, we probably are in more agreement than disagreement on the issue of hydraulic fracking, but where we disagree is when the political environment has to get involved, where we have to put this bill on the floor of the Senate and decide how much time an agency that specializes in

environmental protection in every aspect of the State of New York -- whether it comes to our brooks and streams and rivers or underground wells or any type of pollution or air pollution or ground pollution that could take place, they are the experts. This is what they do for a living. They're not legislators that get involved in a little bit of everything, but they are scientists and experts who are dealing with this.

Senator, I agree that they screwed up badly in Pennsylvania. I'm glad that you went to Pennsylvania. And I know that the DEC in New York is looking very carefully -- and I've said this time and time again, and I'll say it again tonight: Shame on the State of Pennsylvania, shame on their Department of Environmental Protection, as they call it, because they screwed up badly. They didn't keep an eye on those who are drilling. They didn't keep an eye on environmental factors on behalf of the citizens of that state.

And I know that the people at the Department of Environmental Conservation in the State of New York not only are learning

from that but are going to make sure that when we regulate and we begin the process of hydrofracking that it's going to be done in a safe, safe, safe manner and it's going to be done in a manner that protects the environment.

And, Senator, I always get concerned when I hear people say they worry about the water table and that's important. And as the commissioners told me, the water table goes down -- and again, I'm not a scientist or an expert -- about 800 feet, and in hydrofracking goes down about 2 miles, well below the water table.

So, you know, when I hear those arguments from time to time, I just wonder if the people who -- and I'm not saying you, sir, the people who bring those arguments up about contaminating the water table really understand what they're talking about. See, I believe that the DEC is the best agency in this state to move forward with safe drilling and in this case hydrofracking.

Now, let me take the other side of the issue that talks about the economics. I

too, like everybody in this chamber, care very deeply about the air quality, the drinking water.

And, Senator Thompson, you're right, I don't want to contaminate one well. And when someone does take that bad aspirin, you're right, you hear about how bad the company is and what takes place. And certainly the disaster, the shameful disaster in the Gulf does not help this whole process as we look to move forward.

But let me ask all of you in this chamber this. Please keep an open mind. Don't let the political process get involved here. Let the experts, let the people that we talk about day in and day out in the various conversations that take place on this floor about protecting our environment at the DEC, let them make the determination.

They're the people who understand. Let them make the scientific determination as to whether or not hydrofracking is going to be safe, and when it is going to be safe and we're going to move forward, how we do it in that process so that we don't contaminate any

wells.

Now let's talk about the economy. I live in upstate New York. I live in Broome County, and my district is Chenango, Broome and Tioga County. Some of you have to come to that part of the state. It's a beautiful part of the state. There's probably about 10, 12 counties in upstate New York, maybe a few more, that are involved in the drilling process and where Marcellus Shale for hydrofracking is actually one of the richest in the country, one of the richest in the country. They claim there's enough gas in the Marcellus Shale under upstate New York that can provide natural gas for this country for decades, many decades to come.

From an economic standpoint, the community I live in has been devastated. We used to be the central community for defense contracting. And as a matter of fact, a couple of years ago we got the presidential helicopter at Lockheed Martin. They hired almost 2500 people, average salary at about $90,000 a year, and then President Obama decided he was going to eliminate that

project. They laid those 2500 people off and another thousand on top of that.

Not only did that hurt us, but it also hurt the effect with local businesses. And it was unfortunate, because billions were spent across the country on stimulus money, and all they had to do was keep that project going.

Where am I going with this? We need jobs. The people that I represent, the farmers -- let's talk about them. The farmers have signed lease opportunities in some cases bringing hundreds of thousands, in some cases millions of dollars to them. Opportunities to pay off the back taxes on their farm. We talked about farmworkers rights a few minutes ago. We talked about the struggle that farmers have.

Well, many of the farmers in upstate New York now have an opportunity to pay the taxes off, to pay the high cost of agriculture, the equipment that they have to go -- those of you, Senator Aubertine and others, Senator Young, who have been involved in the process know the capital expenditure

that our farmers have to make. They now have an opportunity because there's an economic opportunity that has come to them, because their land is precious. Underneath their land is a very, very valuable mineral, and someone wants to pay them for that.

Now, I understand to extract that mineral it has to be done in a safe manner. And I think we're all on the same page there. It's just a matter of who controls that, whether the legislative body should control that or the DEC, the experts, should control it.

Let me just share some numbers with you in the community that I live in, Broome County, New York, a study that the county had done. Over the course of the next several years hydrofracking could spend, on 4,000 wells, $14 billion, $14 billion in the community. And that $14 billion, already our local governments have already decided that they've got to plan so that those roads, Senator, get fixed. Unlike in central Pennsylvania where they did destroy the roads. Because again, we want to be smarter than

them.

And the roads get fixed and companies start up, trucking companies, welders -- you know, I talked to the people at BOCES the other day and I said if we begin the process of hydrofracking in upstate New York, we'll have to start a new division of Broome-Tioga BOCES just to train welders. We could use maybe 2000, 3000, 4000 of them in the course of the next several years.

So this is a huge economic development opportunity. That's why I stand here extremely passionate at 11:30 at night. Over 65 percent of the people in my district support hydrofracking. Now, they support safe hydrofracking. They support it in a manner that it's not going to contaminate wells like they did in Pennsylvania, in a manner that it's not going to hurt the environment.

Because as I said to somebody the other day, who knows more about our environment than our farmers? Our farmers have been protectors of our environment for generations. So why now would they want to ruin the environment and the beautiful

landscape of the rolling hills of upstate New York and surrounding areas that have Marcellus Shale?

So, Madam President, I stand here very passionate on behalf of the people that I represent, all 300,000, those who are for drilling and those who are against drilling. Because like those who are against drilling for the environment, I too care about the environment. And those who are for drilling for the economic benefit and the future of our communities, I support them too.

I want to do this in the right way. But unlike some of my colleagues here, I have faith and confidence in the Department of Environmental Conservation of the State of New York. I believe they will be tougher. I believe they will be safer. And I believe they will overregulate. And I don't think that's a bad thing when it comes to hydraulic fracking, because others in the state of Pennsylvania and other places have made mistakes.

So, Madam President, on behalf of the people I represent, I stand here and say

that I am disappointed that the Legislature or politics needs to get involved in this process. I wish we would let those who are the experts, those who we hire in the department, those who are the scientists, those who are the geologists, those who understand -- not those of us who are generalists, who think that we understand what hydrofracking means and what hydrofracking does.

So, Madam President, I am going to have to oppose this bill vigorously tonight and into the future. I hope that it doesn't pass. Because I believe for the economic future of upstate New York, and quite frankly for the environmental safety, I want the DEC to make those decisions and not a legislative body.

ACTING PRESIDENT STEWART-COUSINS: Thank you, Senator.

Senator Winner.

SENATOR WINNER: Thank you, Madam President.

Four years ago Eliot Spitzer was running around upstate New York and referring

to areas such as mine and Senator Libous's as Appalachia, and even took some video of closed-down storefronts and the like and indicated that, you know, without the vision of him, I guess, that, you know, the economic prosperity would not recur in upstate New York.

And, you know, a lot of people bought into that message. And a lot of people have also indicated that there are problems in our region as far as jobs and economic development and opportunity.

And then comes along one of the biggest opportunities that we've ever seen probably in our lifetimes for our area, and there's oh, no, let's not go there, the environment's going to be ruined and you're going to experience these adverse economic impacts. And when asked to explain what are these adverse economic impacts that you don't want, we hear things like, well, you're going to have too much money and too many jobs and too much economic activity and therefore that's going to be an environmental problem for you.

And after all, as one environmental group said, after all, upstate is New York City's backyard, and we need to protect you from yourselves because you don't obviously have any idea what you're doing and therefore we need to protect you from having that pesky economic growth with all those jobs and other benefits.

And so, you know, I really -- while I recognize that Pennsylvania has made some mistakes, I also recognize that the history of what has gone on in New York has been very positive. And one thing I do know that Pennsylvania has experienced, and that is thousands and thousands of jobs, hundreds of millions of dollars if not billions of dollars in economic activity as a result of exploration for natural gas. And that is only supposed to be the tip of the iceberg as far as what can be experienced in our particular area.

And with the confidence that I have in the Department of Environmental Conservation, as Senator Libous so eloquently pointed out, this unfortunately is politics

rather than science. And I know that we have an opportunity to do this right, as we have done it right as far as the exploration that we have already undertaken in New York.

My district will not experience, probably, the Marcellus experience because it's just -- apparently the geology is not there. But we have certainly experienced the traditional Trenton-Black River exploration. And according to the recent statistics, two counties in my district are the largest gas producers right now in the State of New York, although it's declining.

And Marcellus will be an opportunity that of course will occur in other areas of the state, but predominantly in the east of my district. And it is extraordinary as far as its potential for economic growth and fundamental economic health for a state. I mean, what we just went through -- what was the bill we just went through? We just went through having to cut contingently a billion dollars out of our budget because we don't have any money, and money that we were counting on.

And here we have this tremendous resource opportunity to achieve great revenues for the State of New York on a safe basis with the confidence that we have bestowed on the Department of Environmental Conservation in the past, which has been successful.

Because I don't know -- and people, if they have, they can point them out; I don't think they have -- but we haven't had or experienced any of these horror stories that you hear anecdotally from other areas, other states, including Pennsylvania. We have been doing this exploration very safely and environmentally sound, and we will continue to do so. I am tremendously confident in the ability of the Department of Environmental Conservation to do that.

So, you know, it really is unfortunate that we're going to continue the onslaught on upstate New York in the spirit of Eliot Spitzer. Eliot's not back to help us get out of this Appalachia category, but hopefully cooler heads will prevail and that the science will trump politics as we go forward in this debate.

With that, if I could ask Senator Thompson if he would be willing to yield to just a couple or two or three questions to clarify some of the impact that you would see and the legislative intent here of this bill. I would be appreciative, because I don't know how this is supposed to work, and perhaps you can help us. Will the Senator yield.

ACTING PRESIDENT STEWART-COUSINS: Senator Thompson, will you yield?

SENATOR THOMPSON: Yes.

SENATOR WINNER: Senator, as you are obviously aware, a couple of years ago there was a debate over changing the spacing and whatever over in anticipation of, I think, perhaps some of this type of drilling. And in that there was a requirement that there be, I guess for leases, that certain leases be drilled out or there be production or exploration within a certain time period.

Now, this bill imposing a moratorium on permitting, how will that impact on several thousand leases that will otherwise expire between now and the expiration date or the sunset of the moratorium bill that you're

promoting? What will be the impact on those thousands of leases?

SENATOR THOMPSON: Through you, Madam President. In terms of the folks that have leases related to Marcellus Shale and hydrofracking, those folks will continue, I would imagine will continue to have leases if the companies choose to continue to lease with them. I'm certain many of them will. That's part of the reason why we felt that the one-year aspect would be a more fair ground.

But there's also recommendations by local governments and by the Farm Bureau which is in support of natural gas drilling. For example, there are a number of protections in the draft statement that was released by the DEC that did not give the landowners all the protections that they would like.

So, for example, in the 2010 list of legislative priorities by the New York State Farm Bureau it says "We support DEC requiring gas drilling companies to disclose their proprietary recipe for hydraulic fracturing fluid to the agency and to disclose to the public the list of chemicals in there."

It also talks about some of the licensing and regulation of gas and oil leasing agents.

It also talks about a number of things from Social Security numbers from leasing companies. When they do a lease right now, they can actually have your Social Security number in the county clerk's office.

So there are a number of things that need to be reformed that is from the 2010 list of the Farm Bureau. They put out a number of recommendations, everything from minerals, making sure that those landowners' mineral rights are protected, as well -- and I'm sure, as someone who is learned as you are on this issue, that there are a number of remedies that need to be protected.

But the short answer is they can keep their leases, they just will not have a permit until May 15th, which they probably are not going to get anyway because the DEC at the earliest won't finish until sometime in November or early December when we're out of session.

SENATOR WINNER: Well, will the Senator yield.

ACTING PRESIDENT STEWART-COUSINS: Senator, do you continue to yield?

SENATOR THOMPSON: Yes.

SENATOR WINNER: Well, Senator, I share your concern and your support for and I personally support most of those Farm Bureau recommendations, particularly the disclosure of the fracking fluids and the other types of things that we would expect and anticipate will be contained in the department's regulations.

But I think my question was -- again, I'd like to clarify -- in the event that a lease is to expire by its terms for its primary term between now and May of 2011, is it your statement that that lease will not on its face expire and will be tolled for the period of the moratorium?

SENATOR THOMPSON: I believe that the state is -- at least some of the folks have suggested that they want to stay in New York. That's between the landowners and the companies. This is a commodity that's not going away any time soon.

Clearly I understand that people

want the jobs. I've heard from landowners. And some landowners understand that even in Pennsylvania that landowners who thought that the big day was coming, the big payday didn't come. Some people were lucky. In Pennsylvania, for example, people had leases. Some of those leases were not that detailed, they were two-page leases, which I'm sure you probably heard about. And some of those expectations were not realized.

So we -- yes, they have leases. I believe that the issue of whether or not those companies will continue to lease from them, I think one company may not continue to lease and another company will step forward. I think going to the five-year proposal or waiting for EPA is a risk for New York for a couple of reasons, and that's why I wanted to go with the one-year bill. Because the EPA -- we may not agree with everything that the EPA sets forward. They may not give us the amount of protections that New York may need. You know, they have to do a national bill. Right? And as we all know, some of our laws are a lot more stringent than in other states.

And so that's why I have said that I would prefer for us to hammer out some of the details so that we can have a good standard and that if there are concerns on the part of the industry, homeowners, and rank and file residents, that we work through that.

We tried to work through the DEC's comment period. Over 10,000 comments have been submitted. Some person may say they agree, some person may say they disagree. Then we bring those recommendations, then it comes into our lap and we decide whether or not we have the votes to address any unresolved issues.

And so on the charge of the leasing, I think that people will continue to lease. It's a very precious commodity. I think Senator Libous is absolutely correct that it's a precious commodity, but we can't rush into it and then have to fix it and clean it up later.

And I can tell you this, Senator, that I've heard the concerns of landowners that do support it. They say we want to see drilling happen now, but we want it done the

right way. And I said to them that if we do it in New York, you can be certain, as long as I am involved, that I will make sure that we look at the total picture and that we take all the corrective steps.

And that's why I talked about the leasing issue, because there are a lot of problems with the leases in Pennsylvania. For example, in terms of one of the things that people should know is that in Pennsylvania right now they -- people sign a lease, they get a signing bonus and they don't know when they're going to get their first royalty check. There's no provisions in place to tell the landowner how much they're going to get every year and every month. All right? They always give them a generic number, and there's not like an annual reporting mechanism.

DEC is looking at some of those issues, but we have a responsibility to make sure that if DEC doesn't go far enough, that we don't have in a county a lot of folks having leases and they think that big payday is going to come and they don't even know how much gas is coming out of the well each and

every day.

And right now, in Pennsylvania, the person who has the well there, they don't know that information in an easily accessible way.

SENATOR WINNER: Will the Senator yield.

ACTING PRESIDENT STEWART-COUSINS: Senator Thompson, do you continue to yield?

SENATOR THOMPSON: Yes.

SENATOR WINNER: Senator, back in 2008 I believe that there were some 670 permits to drill gas wells issued in New York State. And I think there was something like 580 wells permitted for drilling in 2009.

Of those permits, do you know how many of them involved hydro fracturing?

SENATOR THOMPSON: I don't have the numbers in front of me, but I know that a significant number of well permits have been submitted. And they're basically on hold until we get through this process.

And I believe that people are anticipating this process coming to -- moving forward, but they understand that there are protections that need to be addressed.

SENATOR WINNER: Will the Senator yield.

ACTING PRESIDENT STEWART-COUSINS: Senator, do you continue to yield?

SENATOR THOMPSON: Yes.

SENATOR WINNER: Senator, you said that they were permitted but held. Those were permitted and drilled wells, were they not?

SENATOR THOMPSON: I don't have the information in front of me. I do know, as relates to this subject matter, that people have submitted permits. I don't have the exact number.

Oh, there are 58 hydrofracking permits before the DEC right now.

SENATOR WINNER: Before the DEC. However, of the wells that were drilled in 2008 and 2009, a large percentage of which were done by hydrofracking, do you have any statistics or indication as to whether or not there were any incidents, adverse environmental incidents with respect to any of those wells that were drilled in New York State in 2008-2009?

SENATOR THOMPSON: I'm not -- I'm not -- give me one second. Were you talking about vertical wells or -- vertical wells?

SENATOR WINNER: Yes.

SENATOR THOMPSON: Yeah, I don't have -- I don't have that information in front of me, but I can look into in.

SENATOR WINNER: But to your knowledge, you --

ACTING PRESIDENT STEWART-COUSINS: Are you asking Senator Thompson to continue to yield?

SENATOR WINNER: Yes.

ACTING PRESIDENT STEWART-COUSINS: Senator Thompson, do you continue to yield?

SENATOR THOMPSON: I do continue to yield.

But before I yield, I just want Senator Winner to understand that there's a fundamental difference between vertical drilling and horizontal drilling. And I'm certain you're aware that vertical drilling has been going on for many, many years.

There's a fundamental difference from going two miles down and a mile over. So

if we're going two files miles down and then we're going to go over a mile, you know there's a fundamental difference. The big issue is the fact that we have to push down two miles and then push over a mile. And that's where you get a lot of complications.

And that's not to suggest there have been not been complications with vertical drilling. It's just in America, and not just in this state, we have been doing vertical drilling in various forms for many, many years.

SENATOR WINNER: Thank you. Thank you, Senator.

SENATOR THOMPSON: Thank you.

SENATOR WINNER: Again, I just would hope that as we go forward with this debate that, again, science prevails and that we allow the DEC, who is extraordinarily capable and has been up-to-date, to be able to do their job and to be able to allow us, particularly in that so-called Appalachia area of upstate New York, to be able to receive the economic benefits that we so sorely need and that we so sorely deserve, and that we can do

so with fair, responsible, and environmentally safe natural gas exploration.

Thank you, Madam President.

ACTING PRESIDENT STEWART-COUSINS: Thank you, Senator.

Senator Parker.

SENATOR PARKER: Thank you, Madam President. On the bill.

ACTING PRESIDENT STEWART-COUSINS: Senator Parker, on the bill.

SENATOR PARKER: I'll try to be brief because I know that the hour is late. But this is a critical issue, and my activity on the Energy Committee and some of the comments I've heard today compel me to just address some of these issues.

You know, first in the context of energy and trying to talk about natural gas, the question is do we really need this kind of natural gas even if it's going to be, you know, creating all of this supposed economic activity.

And then the question next is what are we willing to give up for this level of economic activity. And I know that we all

want to see economic development, you know, upstate and around the country, but is it really worth it? That's the question tonight that we need to ask ourselves: Is it really worth it?

In the shadows of BP, where we are still cleaning up oil and still trying to figure out how you cap the well, is Marcellus Shale really worth it? The question is in the ruined rivers of Michigan, where, you know, they wiped out entire industries around fishing and tourism and people's drinking water, is Marcellus Shale really worth it?

We a couple of weeks ago in Pennsylvania -- and let me congratulate Senator Thompson both on his legislation but, more importantly, on his preparation for this debate. He really has been kind on the issue because he has not talked about the catastrophes and the loss of human life and spills and all kinds of things they've had in Pennsylvania doing this kind of hydrofracking work. And the question is, is it really worth it to do this? That we will be penny-wise and pound-foolish to take up this course of action

of allowing hydrofracking in the Marcellus Shale without proper study and preparation for both the energy use, the economic development, and more importantly the cleanup.

You are talking about endangering the watershed of New York City -- not just the single largest economic engine for the State of New York, but for the country. You are talking about also, in Syracuse, dealing with their watershed. Is it worth it to endanger our watersheds without proper preparation?

This bill does not say never do hydrofracking. In fact, just the opposite. It's saying, look, let's slow down, let's have a cooling-off period. Let's decide whether in fact it is really worth it, Madam President, to endanger the watersheds of New York City and Syracuse. It is in fact saying let's slow down and look at the opportunities that are here, and let's prepare for those economic opportunities.

Let's in fact slow down and give DEC a chance to properly look at this. Because, let's be clear, over the last two or three budget cycles we have decimated the

staffing of DEC and they are really not, frankly, quiet as it's kept, and maybe still quiet after, you know, a debate at 12:00 a.m., they're really not prepared to start dealing with this stuff in the manner in which it needs to be dealt with in terms of the scope and breadth and magnitude of the studies that need to be done in order to properly evaluate whether hydrofracking in the Marcellus Shale is in fact going to cause an ecological disaster that endangers the watersheds of New York City and Syracuse.

Now, as we start talking about watersheds, people should go back a couple of years to the state of Georgia and what it went through when it had a water shortage. People in New York City, are you prepared not to be able to have water run through your tap that you can drink? We right now currently both some of the best water in the entire nation. And although a lot of us, like Tom Duane, drink bottled water, everybody doesn't really need to in New York City. Up here in Albany, I can't really vouch for it, but down in Brooklyn, the water is fresh. Right? Oh,

Saratoga, all right. Economic development, right, for upstate. Right?

But the reality is that, you know, this high-pressure drilling using undisclosed chemicals, many of which we know are radioactive, many of which we know are carcinogens, many of which we know are toxic, many of which we know are poisonous, it is unsafe and really irresponsible for this Legislature to in fact go forward and allow DEC to go forward without a proper evaluation of what the circumstances are going to be behind doing hydrofracking in Marcellus Shale.

I think, frankly, it's something that we ought to seriously look at. I think this might be a great opportunity for the entire state. But it will not be worth it if we have another BP situation like they're dealing with in the Gulf Coast, Madam President. It will not be worth it if we just create another ecological disaster as they have created with oil spills in Michigan. It will not be worth it if we have a loss of life and explosions like they had in Pennsylvania.

And so this bill is a good bill. I

hope that my colleagues will do the right thing and slow down the process and make sure that we look before we leap on this important legislation.

ACTING PRESIDENT STEWART-COUSINS: Thank you, Senator.

Senator L. Krueger.

SENATOR LIZ KRUEGER: Thank you, Madam President.

I know the time is late, and I want to thank Senator Antoine Thompson for sponsoring this bill and the excellent presentation he made tonight about why we need to do this.

And I've heard my colleagues talk about all the potential good that can come economically from hydrofracking.

But the reason for this bill and the importance of a moratorium is we need to learn more before we continue down a road that can have devastating impacts on all our communities and all the people of New York State.

The one thing you need to remember when you're talking about environmental risks

and the impact of environmental harm is it doesn't have boundaries. For the good and the bad, there will be no boundary of a specific community or a specific county or a specific Senate district. If something goes wrong, the community will pay for it, the people who's land it is will pay for it, an extremely broad area of the state will pay for it, the health and safety of all New Yorkers will pay for it. The future of security, of whether we have clean water or have contamination that can last decades, will be paid for by all of us.

And Senator Thompson and Senator Parker just highlighted and reminded us again about some of the experiences that have gone on in other states, our neighboring states who, okay, we say we're going to do better, we're not going to make the mistakes of Pennsylvania, we're not going to have the disasters that we have seen there. But the thing is, government and the science of government isn't always fast enough to keep up with the changes in technology.

So for the record, I have a great deal of faith in our DEC. I actually voted to

confirm the commissioner of DEC, Pete Grannis, when many of my colleagues did not, because I have so much faith in him.

And yet I still don't think we should be satisfied with the DEC regulations that came out. I still believe it is a perfectly reasonable argument that we should have this moratorium, get more facts, do more research, recognize that the EPA under the Bush administration wasn't doing real science, the kind of science we need to do to ensure the protection of the people of New York State.

So for me, this is simple. Do the homework, give ourselves some more time to make sure we are not doing anything to do harm to the people of New York State or the future of the environmental stewardship of our state. That's all we're asking with this bill. Make sure we do it right, because the price to be paid if we get it wrong is beyond what any of us want to have to explain to our constituents.

I vote yes.

ACTING PRESIDENT STEWART-COUSINS:

Thank you, Senator.

Senator Thompson.

SENATOR THOMPSON: Yes, just on the bill.

ACTING PRESIDENT STEWART-COUSINS: Senator Thompson, on the bill.

SENATOR THOMPSON: Just a couple of quick things.

First, the Farm Bureau, why waiting for the DEC report is not enough. The Farm Bureau says: "We support an amendment to state law requiring that oil and gas leases on state lands should be subject to competitive bidding for royalties and bonus payments and be subject to audit and controlled by the New York State Comptroller."

They also support tracking and monitoring of all gas pipelines by the Public Service Commission. They also say that the New York State Department of Environmental Conservation Draft Supplemental Generic Environmental Impact Statement does not go far enough:

"We recommend that the DEC at the very least include the following" -- meaning

these issues were not addressed in their original proposal -- "a comprehensive assessment of impacts on the environment and human health by numerous gas wells."

In the town of Dimock, the town of Towanda they have a large concentration of wells in some of these very small towns, which is something that needs to be addressed.

A practical plan for the disposal of all wastewater that will be generated by hydraulic fracturing of numerous horizontal gas wells. That all expenses to county and local governments to implement these various studies be covered by the oil and gas companies. To develop and publish a statewide strategy to train and hire the many additional staff needed to enforce the final environmental impact statement by the DEC, because they recognize that the DEC does not have the amount of staff necessary to enforce this.

The last thing I want to talk about is when things go wrong. I understand that this is very important, and that's why I thought it worthy enough to go to Pennsylvania

not once but twice. I found it worthy enough to not only write comments but to actually make sure that we put together a 40-plus page report on this very important subject matter.

In Pennsylvania, in the month of July, two people were killed as a result of an explosion. We also know about in other states where people -- where there have been explosions, there has been contamination, and where people have asked the question where was government.

So without further ado, I just ask that we do the right thing, we give the new commissioner coming in in January the opportunity to examine this issue, give the Governor a chance to examine it. Let's look at the 20-plus bills and make sure that if it happens in New York, that it's done in a responsible way that none of us will have to go to Pennsylvania or go to your district or someone else's district and look at families and say that we could have done a better job.

So thank you, and I encourage my colleagues to support this piece of legislation.

ACTING PRESIDENT STEWART-COUSINS: Senator Schneiderman.

SENATOR SCHNEIDERMAN: Very briefly, Madam President.

I think this bill is as reasonable a way to deal with the difficult problem as you could possibly propose. Senator Thompson has simply introduced a bill that I strongly support that says let's hit pause. We're not hitting stop, let's hit pause.

This is a dangerous process. The stakes are tremendously high. The drinking water that sustains our cities, that sustains our industry, that sustains our agriculture -- and we heard a lot about the problems and the benefits of New York's agriculture earlier tonight -- is at risk. We have to take every step necessary to ensure that this is done right.

All this does is provide a delay. We're in a transition period where people are leaving the DEC. A new administration is coming in. Senator Thompson is suggesting the most prudent possible alternative. We know this is a dangerous technology. Madam

President, let's do it right.

I vote yes. I urge everyone here to vote yes. There is no one who is at risk more than our children. Let's do something for them. Let's take care of the earth, which is only entrusted to us, which we do not own. Let's take care of our water supply. Vote yes for Senator Thompson's bill.

Thank you, Madam President.

ACTING PRESIDENT STEWART-COUSINS: Thank you, Senator.

Senator Oppenheimer.

SENATOR OPPENHEIMER: Just very briefly also.

As Senator Schneiderman said, I think this is a moderate approach. The one that I had favored for quite a while was waiting for the EPA to come out with their determination. And that is further down the line. That is probably over two years away.

So considering what is at stake here, I think this is a moderate approach and I think one that we all should be following because there are so many potential mishaps along the way.

I vote yes.

ACTING PRESIDENT STEWART-COUSINS: Are there any other Senators wishing to be heard on the bill?

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

Read the last section.

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

ACTING PRESIDENT STEWART-COUSINS: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT STEWART-COUSINS: Senator Seward, to explain his vote.

SENATOR SEWARD: Yes, thank you, Madam President.

Approximately one-half of my seven-county district lies in an area of the state where Marcellus Shale is located below our surface, and the debate has raged the last two or so years, as has interest in that area on the part of gas companies looking to sign leases to drill. There's been a great debate locally, pros and cons of this entire process, and I have listened very intently to my --

ACTING PRESIDENT STEWART-COUSINS: May we have order, please.

SENATOR SEWARD: I have listened very intently to my constituents and done a lot of research on the issue.

And I certainly recognize that there are tremendous economic benefits to gas drilling for my region. There are obvious energy benefits. This is a clean-burning domestic source of energy, very important.

But there are also risks that need to be recognized and mitigated. And the DEC has been updating their rules and regulations governing the hydrofracking, the horizontal drilling, these new processes that will be associated with the Marcellus Shale. I want them to take all the time they need to study the science and develop a good rules and regulations to properly protect our area.

I'm going to vote yes on this piece of legislation because I believe that the May 15th date is a reasonable date that will accomplish a number of things. It says, to the DEC, take all the time that you need to fully explore the issues, review those 14,000

comments, to develop the right rules and regulations.

And once they release their final report, this May 15th date will give the public an opportunity to react to the product that DEC comes up with. It will give this Legislature also an opportunity to review and to fill any gaps or deal with any omissions. And, finally, it will give local governments an opportunity to get ready for gas drilling that may occur in their municipalities.

So I think this May 15th date is a reasonable compromise to the issue that, if gas drilling does come to our area, that it can be done right if we give it the proper time to do so.

So, Madam President, I vote aye.

ACTING PRESIDENT STEWART-COUSINS: Senator Seward to be recorded in the affirmative.

Are there any other Senators wishing to explain his or her vote?

(Multiple "no's" from the floor.)

ACTING PRESIDENT STEWART-COUSINS: Senator Alesi, to explain his vote.

(Groaning; laughter.)

SENATOR ALESI: Thank you, Madam President.

After listening for what seems like an eternity to some of my colleagues' comments, I appreciate the two minutes that I will take to explain my vote.

(Groaning.)

SENATOR ALESI: Make that a minute and a half now.

ACTING PRESIDENT STEWART-COUSINS: 1:41.

(Laughter.)

SENATOR ALESI: But who's counting, really.

ACTING PRESIDENT STEWART-COUSINS: I am.

SENATOR ALESI: Madam President and my colleagues, this bill really doesn't ask for any kind of a report, it simply provides a moratorium until May 15th of next year before any applications can be processed.

Some people think that that's unreasonable. I think it's consistent with my feelings where, when it comes to the siting of

windmills in this state, we have no real regulatory pattern, everything is done on a very local basis. And I can see from our experience with the siting of windmills that we might have moved too fast in some areas at great expense to local business and to our environment.

With that in mind, not because I'm opposed to fracking, and not because I'm opposed to the possible benefits that can be derived by exploiting the natural-gas shale that's available here, but because I think that it would provide us an opportunity -- even though no report is required, unfortunately, in this bill -- an opportunity to gain more knowledge on the subject.

So I'll vote yes on this.

ACTING PRESIDENT STEWART-COUSINS: Senator Alesi to be recorded in the affirmative.

Announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 1429 are Senators Aubertine, Griffo, Lanza, Libous, Little, Maziarz, Volker, Winner and Young.

Absent from voting: Senators Diaz and C. Kruger.

Excused from voting: Senators Golden and Savino.

Ayes, 48. Nays, 9.

ACTING PRESIDENT STEWART-COUSINS: The bill is passed.

(Applause from gallery.)

ACTING PRESIDENT STEWART-COUSINS: Senator Klein, that completes the reading of the controversial calendar.

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

ACTING PRESIDENT STEWART-COUSINS: Returning to motions and resolutions.

SENATOR KLEIN: Madam President, on behalf of Senator Espada, I wish to call up Print Number 6291, recalled from the Assembly, which is now at the desk.

ACTING PRESIDENT STEWART-COUSINS: The Secretary will read.

THE SECRETARY: Calendar Number 1264, by Senator Espada, Senate Print 6291, an act to amend the Social Services Law.

ACTING PRESIDENT STEWART-COUSINS:

Senator Klein.

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

ACTING PRESIDENT STEWART-COUSINS: The Secretary will call the roll on reconsideration.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT STEWART-COUSINS: Senator Klein.

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

ACTING PRESIDENT STEWART-COUSINS: The amendments are received.

SENATOR KLEIN: Madam President, on behalf of Senator Parker, on page number 27 I offer the following amendments to Calendar Number 1204, Senate Print Number 8296B, and ask that said bill retain its place on Third Reading Calendar.

ACTING PRESIDENT STEWART-COUSINS: Please allow us to just complete the housekeeping.

So ordered.

SENATOR KLEIN: Madam President, on behalf of Senator Klein -- myself -- I move that the following bill be discharged from its respective committee and be recommitted with instructions to strike the enacting clause: Senate Number 8232.

ACTING PRESIDENT STEWART-COUSINS: So ordered.

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

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

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

ACTING PRESIDENT STEWART-COUSINS: The Senate is adjourned to the call of the Temporary President, intervening days being legislative days.

(Whereupon, at 12:20 a.m., the Senate adjourned.)