

1 NEW YORK STATE SENATE

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3  
4 THE STENOGRAPHIC RECORD

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8  
9 ALBANY, NEW YORK

10 August 3, 2010

11 6:31 p.m.

12  
13  
14 REGULAR SESSION

15  
16  
17  
18 SENATOR DIANE SAVINO, Acting President

19 ANGELO J. APONTE, Secretary

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

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

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

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

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

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

13 ACTING PRESIDENT SAVINO: The  
14 reading of the Journal.

15 The Secretary will read.

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

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

24 Presentation of petitions.

25 Messages from the Assembly.

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

6 Motions and resolutions.

7 Senator Klein.

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

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

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

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

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

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

24 ACTING PRESIDENT SAVINO: Senator  
25 Klein.

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

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

8                   The Secretary will read.

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

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

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

18                  2251, by Senator L. Krueger, an act  
19      to amend the Emergency Tenant Protection Act;

20                  5296A, by Senator Squadron, an act  
21      to amend the Administrative Code of the City  
22      of New York;

23                  5509, by Senator Klein, an act to  
24      amend the Private Housing Finance Law;

25                  8129B, by Senator Thompson, an act

1           to suspend;

2                       8131, by Senator Dilan, an act to  
3           amend the Private Housing Finance Law;

4                       8182, by Senator Espada, an act to  
5           amend Chapter 576 of the Laws of 1974;

6                       8223, by Senator Espada, an act to  
7           amend the Labor Law;

8                       8415, by the Senate Committee on  
9           Rules, an act to amend the Correction Law;

10                      8424, by Senator Hassell-Thompson,  
11           an act to amend a chapter of the Laws of 2010;

12                      8431, by the Senate Committee on  
13           Rules, an act to amend the Emergency Tenant  
14           Protection Act;

15                      8451, by Senator Schneiderman, an  
16           act to amend the Civil Practice Law and Rules;

17                      8454, by Senator Schneiderman, an  
18           act to amend the Labor Law;

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

22                      All bills ordered direct to third  
23           reading.

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

1 Committee on Rules please signify by saying  
2 aye.

3 (Response of "Aye.")

4 ACTING PRESIDENT SAVINO:

5 Opposed, nay.

6 (No response.)

7 ACTING PRESIDENT SAVINO: The  
8 Rules Committee report is adopted.

9 Senator Klein.

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

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

19 THE SECRETARY: Calendar Number  
20 772, by Member of the Assembly Bing, Assembly  
21 Print Number 859, an act to amend the Private  
22 Housing Finance Law.

23 ACTING PRESIDENT SAVINO: Read  
24 the last section.

25 THE SECRETARY: Section 2. This

1       act shall take effect immediately.

2                   ACTING PRESIDENT SAVINO:     Call  
3       the roll.

4                   (The Secretary called the roll.)

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

7                   SENATOR MONTGOMERY:     Yes.

8                   ACTING PRESIDENT SAVINO:     Senator  
9       Montgomery to be recorded in the affirmative.  
10                   The roll is closed on Calendar  
11       Number 772 and the bill is laid aside.

12                   THE SECRETARY:     Calendar Number  
13       1421, by the Assembly Committee on Rules,  
14       Assembly Print Number 11523, an act to amend  
15       the Economic Development Law.

16                   ACTING PRESIDENT SAVINO:     Read  
17       the last section.

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

20                   ACTING PRESIDENT SAVINO:     Call  
21       the roll.

22                   (The Secretary called the roll.)

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

25                   SENATOR MONTGOMERY:     Yes.

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

4                   The roll is withdrawn; the bill is  
5     laid aside.

6                   Senator Klein.

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

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

17                  The Secretary will read.

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

24                  ACTING PRESIDENT SAVINO:  
25    Substitution ordered.



1                   The Secretary will read.

2                   THE SECRETARY:     Calendar Number  
3                   1291, Assembly Budget Bill, Assembly Print  
4                   Number 9710D, an act to amend the Tax Law.

5                   ACTING PRESIDENT SAVINO:     Read  
6                   the last section.

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

9                   ACTING PRESIDENT SAVINO:     Call  
10                  the roll.

11                  (The Secretary called the roll.)

12                  ACTING PRESIDENT SAVINO:     Senator  
13                  Montgomery.

14                  SENATOR MONTGOMERY:     Yes.

15                  (Pause.)

16                  ACTING PRESIDENT SAVINO:     Senator  
17                  Klein.

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

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

1                   The Secretary will read.

2                   THE SECRETARY:     Calendar Number  
3       772, by Member of the Assembly Bing, Assembly  
4       Print Number 859, an act to amend the Private  
5       Housing Finance Law.

6                   ACTING PRESIDENT SAVINO:     Read  
7       the last section.

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

10                  ACTING PRESIDENT SAVINO:     Call  
11       the roll.

12                  (The Secretary called the roll.)

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

15                  SENATOR GRIFFO:     No.

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

18                  The roll is withdrawn; the bill is  
19       laid aside.

20                  The Secretary will continue to  
21       read.

22                  THE SECRETARY:     Calendar Number  
23       1421, by the Assembly Committee on Rules,  
24       Assembly Print Number 11523, an act to amend  
25       the Economic Development Law.

1                   ACTING PRESIDENT SAVINO:     Read  
2     the last section.

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

5                   ACTING PRESIDENT SAVINO:     Call  
6     the roll.

7                   (The Secretary called the roll.)

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

10                  SENATOR GRIFFO:     Yes.

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

13                  The roll is withdrawn; the bill is  
14     laid aside.

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

19                  The Secretary will read.

20                  THE SECRETARY:     Calendar Number  
21     1291, Assembly Budget Bill, Assembly Print  
22     Number 9710D, substituted earlier today, an  
23     act to amend the Tax Law.

24                  ACTING PRESIDENT SAVINO:     Read  
25     the last section.

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

3                   ACTING PRESIDENT SAVINO:     Call  
4     the roll.

5                   (The Secretary called the roll.)

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

8                   SENATOR GRIFFO:     No.

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

11                   Senator Montgomery previously voted  
12    in the affirmative.

13                   The roll is withdrawn; the bill is  
14    laid aside.

15                   The Secretary will continue to  
16    read.

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

24                   ACTING PRESIDENT SAVINO:  
25    Substitution ordered.

1 THE SECRETARY: Calendar Number  
2 1425, by Member of the Assembly Rosenthal,  
3 Assembly Print Number 9854, an act to amend  
4 the Private Housing Finance Law.

5 ACTING PRESIDENT SAVINO: Read  
6 the last section.

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

9 ACTING PRESIDENT SAVINO: Call  
10 the roll.

11 (The Secretary called the roll.)

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

14 SENATOR MONTGOMERY: Yes.

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

17 Senator Griffo, how do you vote?

18 SENATOR GRIFFO: No.

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

21 The roll is withdrawn; the bill is  
22 laid aside.

23 The Secretary will continue to  
24 read.

25 THE SECRETARY: In relation to

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

7                ACTING PRESIDENT SAVINO:  
8       Substitution ordered.

9                THE SECRETARY:       Calendar Number  
10       1426, by Member of the Assembly Jeffries,  
11       Assembly Print Number 465A, an act to amend  
12       the Emergency Tenant Protection Act of 1974  
13       and the Administrative Code of the City of  
14       New York.

15               ACTING PRESIDENT SAVINO:       Read  
16       the last section.

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

19               ACTING PRESIDENT SAVINO:       Call  
20       the roll.

21               (The Secretary called the roll.)

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

24               SENATOR MONTGOMERY:       Yes.

25               ACTING PRESIDENT SAVINO:       Senator

1           Montgomery to be recorded in the affirmative.

2                     Senator Griffo, how do you vote?

3                     SENATOR GRIFFO:       No.

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

6                     The roll is withdrawn; the bill is  
7           laid aside.

8                     The Secretary will continue to  
9           read.

10                    THE SECRETARY:       Calendar Number  
11           1427, by Senator Squadron, Senate Print 5296A,  
12           an act to amend the Administrative Code of the  
13           City of New York.

14                    ACTING PRESIDENT SAVINO:       Read  
15           the last section.

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

18                    ACTING PRESIDENT SAVINO:       Call  
19           the roll.

20                    (The Secretary called the roll.)

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

23                    SENATOR MONTGOMERY:       Yes.

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

1 Senator Griffo, how do you vote?

2 SENATOR GRIFFO: No.

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

5 The roll is withdrawn; the bill is  
6 laid aside.

7 The Secretary will continue to  
8 read.

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

16 ACTING PRESIDENT SAVINO:  
17 Substitution ordered.

18 THE SECRETARY: Calendar Number  
19 1428, by Member of the Assembly V. Lopez,  
20 Assembly Print Number 2361, an act to amend  
21 the Private Housing Finance Law.

22 ACTING PRESIDENT SAVINO: Read  
23 the last section.

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



1                   ACTING PRESIDENT SAVINO:     Call  
2     the roll.  
3                   (The Secretary called the roll.)  
4                   ACTING PRESIDENT SAVINO:     Senator  
5     Montgomery, how do you vote?  
6                   SENATOR MONTGOMERY:        Yes.  
7                   ACTING PRESIDENT SAVINO:     Senator  
8     Montgomery to be recorded in the affirmative.  
9                   Senator Griffo, how do you vote?  
10                  SENATOR GRIFFO:        No.  
11                  ACTING PRESIDENT SAVINO:     Senator  
12     Griffo to be recorded in the negative.  
13                  The roll is withdrawn; the bill is  
14     laid aside.  
15                  The Secretary will continue to  
16     read.  
17                  THE SECRETARY:        Calendar Number  
18     1429, by Senator Thompson, Senate Print 8129B,  
19     an act to suspend hydraulic fracturing.  
20                  ACTING PRESIDENT SAVINO:     Read  
21     the last section.  
22                  THE SECRETARY:        Section 2. This  
23     act shall take effect immediately.  
24                  ACTING PRESIDENT SAVINO:     Call  
25     the roll.

1 (The Secretary called the roll.)

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

4 SENATOR MONTGOMERY: Yes.

5 ACTING PRESIDENT SAVINO: Senator  
6 Montgomery in the affirmative.

7 Senator Griffo, how do you vote?

8 SENATOR GRIFFO: No.

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

11 The roll is withdrawn; the bill is  
12 laid aside.

13 The Secretary will continue to  
14 read.

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

21 ACTING PRESIDENT SAVINO:  
22 Substitution ordered.

23 THE SECRETARY: Calendar Number  
24 1430, by the Assembly Committee on Rules,  
25 Assembly Print Number 11408, an act to amend

1 the Private Housing Finance Law.

2 ACTING PRESIDENT SAVINO: Read  
3 the last section.

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

6 ACTING PRESIDENT SAVINO: Call  
7 the roll.

8 (The Secretary called the roll.)

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

11 SENATOR MONTGOMERY: Yes.

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

14 Senator Griffo, how do you vote?

15 SENATOR GRIFFO: No.

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

18 The roll is withdrawn; the bill is  
19 laid aside.

20 The Secretary will continue to  
21 read.

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

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

3 ACTING PRESIDENT SAVINO:  
4 Substitution ordered.

5 THE SECRETARY: Calendar Number  
6 1431, by the Assembly Committee on Rules,  
7 Assembly Print Number 11410, an act to amend  
8 Chapter 576 of the Laws of 1974 amending the  
9 Emergency Housing Rent Control Law.

10 ACTING PRESIDENT SAVINO: Read  
11 the last section.

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

14 ACTING PRESIDENT SAVINO: Call  
15 the roll.

16 (The Secretary called the roll.)

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

19 SENATOR MONTGOMERY: Yes.

20 ACTING PRESIDENT SAVINO: Senator  
21 Montgomery in the affirmative.

22 Senator Griffo, how do you vote?

23 SENATOR GRIFFO: Yes.

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

1                   The roll is withdrawn; the bill is  
2       laid aside.

3                   The Secretary will continue to  
4       read.

5                   THE SECRETARY:       Calendar Number  
6       1432, by Senator Espada, Senate Print 8223, an  
7       act to amend the Labor Law.

8                   ACTING PRESIDENT SAVINO:       Read  
9       the last section.

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

12                  ACTING PRESIDENT SAVINO:       Call  
13       the roll.

14                  (The Secretary called the roll.)

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

17                  SENATOR MONTGOMERY:       Yes.

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

20                  Senator Griffo, how do you vote?

21                  SENATOR GRIFFO:       No.

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

24                  The roll is withdrawn; the bill is  
25       laid aside.

1                   The Secretary will continue to  
2           read.

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

9                   ACTING PRESIDENT SAVINO:  
10          Substitution ordered.

11                  THE SECRETARY:       Calendar Number  
12          1433, by the Assembly Committee on Rules,  
13          Assembly Print Number 11597, an act to amend  
14          the Correction Law.

15                  ACTING PRESIDENT SAVINO:       Read  
16          the last section.

17                  THE SECRETARY:       Section 2. This  
18          act shall take effect on the same date and in  
19          the same manner as a chapter of the Laws of  
20          2010.

21                  ACTING PRESIDENT SAVINO:       Call  
22          the roll.

23                  (The Secretary called the roll.)

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

1                   SENATOR MONTGOMERY:     Yes.  
2                   ACTING PRESIDENT SAVINO:     Senator  
3                   Montgomery to be recorded in the affirmative.  
4                   Senator Griffo, how do you vote?  
5                   SENATOR GRIFFO:     No.  
6                   ACTING PRESIDENT SAVINO:     Senator  
7                   Griffo to be recorded in the negative.  
8                   The roll is withdrawn; the bill is  
9                   laid aside.  
10                  The Secretary will continue to  
11                  read.  
12                  THE SECRETARY:     In relation to  
13                  Calendar Number 1434, Senator Hassell-Thompson  
14                  moves to discharge, from the Committee on  
15                  Rules, Assembly Bill Number 11612 and  
16                  substitute it for the identical Senate Bill  
17                  Number 8424, Third Reading Calendar 1434.  
18                  ACTING PRESIDENT SAVINO:  
19                  Substitution ordered.  
20                  THE SECRETARY:     Calendar Number  
21                  1434, by the Assembly Committee on Rules,  
22                  Assembly Print Number 11612, an act to amend a  
23                  chapter of the Laws of 2010 enacting the  
24                  Health and Mental Hygiene Budget.  
25                  ACTING PRESIDENT SAVINO:     Read

1 the last section.

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

4 ACTING PRESIDENT SAVINO: Call  
5 the roll.

6 (The Secretary called the roll.)

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

9 SENATOR MONTGOMERY: Yes.

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

12 Senator Griffo, how do you vote?

13 SENATOR GRIFFO: Yes.

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

16 The roll is withdrawn; the bill is  
17 laid aside.

18 The Secretary will continue to  
19 read.

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



1                   ACTING PRESIDENT SAVINO:

2       Substitution ordered.

3                   THE SECRETARY:     Calendar Number  
4       1435, by Member of the Assembly Pretlow,  
5       Assembly Print Number 2498, an act to amend  
6       the Emergency Tenant Protection Act of 1974.

7                   ACTING PRESIDENT SAVINO:     Read  
8       the last section.

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

11                  ACTING PRESIDENT SAVINO:     Call  
12      the roll.

13                  (The Secretary called the roll.)

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

16                  SENATOR MONTGOMERY:     Yes.

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

19                  Senator Griffo, how do you vote?

20                  SENATOR GRIFFO:     No.

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

23                  The roll is withdrawn; the bill is  
24      laid aside.

25                  The Secretary will continue to

1 read.

2 THE SECRETARY: Calendar Number  
3 1436, by Senator Schneiderman, Senate Print  
4 8451, an act to amend the Civil Practice Law  
5 and Rules.

6 ACTING PRESIDENT SAVINO: Read  
7 the last section.

8 THE SECRETARY: Section 2. This  
9 act shall take effect on the same date and in  
10 the same manner as a chapter of the Laws of  
11 2010.

12 ACTING PRESIDENT SAVINO: Call  
13 the roll.

14 (The Secretary called the roll.)

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

17 SENATOR MONTGOMERY: Yes.

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

20 Senator Griffo, how do you vote?

21 SENATOR GRIFFO: No.

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

24 The roll is withdrawn; the bill is  
25 laid aside.

1                   The Secretary will continue to  
2       read.

3                   THE SECRETARY:       Calendar Number  
4       1437, by Senator Schneiderman, Senate Print  
5       8454, an act to amend the Labor Law and a  
6       chapter of the Laws of 2010.

7                   ACTING PRESIDENT SAVINO:       Read  
8       the last section.

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

11                  ACTING PRESIDENT SAVINO:       Call  
12      the roll.

13                  (The Secretary called the roll.)

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

16                  SENATOR MONTGOMERY:       Yes.

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

19                  Senator Griffo, how do you vote?

20                  SENATOR GRIFFO:       Yes.

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

23                  The roll is withdrawn; the bill is  
24      laid aside.

25                  The Secretary will continue to

1 read.

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

8 ACTING PRESIDENT SAVINO:  
9 Substitution ordered.

10 THE SECRETARY: Calendar Number  
11 1438, by the Assembly Committee on Rules,  
12 Assembly Print Number 11678, an act to repeal  
13 Part KK of a chapter of the Laws of 2010.

14 ACTING PRESIDENT SAVINO: Senator  
15 Klein.

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

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

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

25 ACTING PRESIDENT SAVINO: The

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

4 (Response of "Aye.")

5 ACTING PRESIDENT SAVINO:  
6 Opposed, nay.

7 (No response.)

8 ACTING PRESIDENT SAVINO: The  
9 message is accepted.

10 The Secretary will read the last  
11 section.

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

14 ACTING PRESIDENT SAVINO: Call  
15 the roll.

16 (The Secretary called the roll.)

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

19 SENATOR MONTGOMERY: Yes.

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

22 Senator Griffo, how do you vote?

23 SENATOR GRIFFO: Yes.

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

1                   The roll is withdrawn; the bill is  
2       laid aside.

3                   Senator Klein.

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

8                   ACTING PRESIDENT SAVINO:     The  
9       Secretary will read.

10                  THE SECRETARY:     Calendar Number  
11       1432, by Senator Espada, Senate Print 8223, an  
12       act to amend the Labor Law.

13                  SENATOR LIBOUS:     Lay it aside.

14                  ACTING PRESIDENT SAVINO:     The  
15       bill is laid aside.

16                  Senator Klein.

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

21                  ACTING PRESIDENT SAVINO:     The  
22       Secretary will read.

23                  THE SECRETARY:     Calendar Number  
24       1291, substituted earlier today, Assembly  
25       Budget Bill, Assembly Print Number 9710D, an

1 act to amend the Tax Law.

2 ACTING PRESIDENT SAVINO: Read  
3 the last section.

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

6 ACTING PRESIDENT SAVINO: Call  
7 the roll.

8 (The Secretary called the roll.)

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

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

15 (Laughter.)

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

18 I'm going to vote no on this bill.  
19 And without belaboring the point, we've  
20 discussed this on many occasions that many,  
21 many new taxes, to the tune of about  
22 \$1.8 billion to \$2 billion in new taxes are in  
23 this bill. Tax credits that provide jobs and  
24 were relied on by businesses have been  
25 eliminated or at least suspended if they ever

1       come back.

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

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

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

14                   Announce the results.

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

24                   Ayes, 32.   Nays, 28.

25                   ACTING PRESIDENT SAVINO:     The



1 bill is passed.

2 Senator Klein.

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

7 ACTING PRESIDENT SAVINO: The  
8 Secretary will read.

9 THE SECRETARY: Calendar Number  
10 1438, substituted earlier by the Assembly  
11 Committee on Rules, Assembly Print Number  
12 11678, an act to repeal Part KK of a chapter  
13 of the Laws of 2010 amending the Tax Law.

14 ACTING PRESIDENT SAVINO: Read  
15 the last section.

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

18 ACTING PRESIDENT SAVINO: Call  
19 the roll.

20 (The Secretary called the roll.)

21 ACTING PRESIDENT SAVINO:  
22 Announce the results.

23 THE SECRETARY: Ayes, 60.

24 ACTING PRESIDENT SAVINO: The  
25 bill is passed.

1 Senator Klein.

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

6 ACTING PRESIDENT SAVINO: The  
7 Secretary will read.

8 THE SECRETARY: Calendar Number  
9 1432, by Senator Espada, Senate Print 8223, an  
10 act to amend the Labor Law.

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

14 Senator Young, on the bill.

15 SENATOR YOUNG: Thank you, Madam  
16 President.

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

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

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

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

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

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

25             Thank you.

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

3                   Senator Volker, on the bill.

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

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

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

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

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

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

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

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

1       afforded in this state. We have to learn  
2       sometime.

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

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

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

1       this state.

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

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

6               Senator Espada, on the bill.

7               SENATOR ESPADA:       Madam President,  
8       thank you very much.

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

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

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

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

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

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

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



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

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

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

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

1       need to be incentivized. Farmers need help.

2               These protections in no way violate  
3       that covenant that we should adhere to, and  
4       that is that farm work and the farming  
5       industry in all its component parts -- a  
6       \$4 billion industry in this state -- deserves  
7       our support and protection.

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

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

25              In 1999 I was on a task force,

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

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

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

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

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

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

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

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

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

9 Imagine, 110 degrees -- we all went  
10 through that heat wave -- no rest day, no time  
11 off. Young children without protection of  
12 that. And the argument is that we must be  
13 this inhumane because the business model would  
14 be upset. Because somehow, if we introduce  
15 basic rights into this equation, and basic  
16 protections, that the farm industry -- a  
17 \$4 billion industry in this state -- would  
18 evaporate, have a meltdown, and this bill  
19 would be responsible for that decline. That  
20 is utter nonsense. That is the outrage in  
21 this debate.

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

1       Forty weeks? No, we say -- excuse me,  
2       40 hours? No, we say 55 hours. Compromise.  
3       On piece-rate workers, compromise. On farm  
4       employees with respect to giving notice on  
5       work stoppages, a 21-days cooling-off period.

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

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

25             They deserve that. We deserve

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

4               Thank you, Madam President.

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

7               Senator Nozzolio, on the bill.

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

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

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

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

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

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

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



1           The truth of the matter is that the  
2           wages of farmworkers in New York State is  
3           56 percent above the national average. That  
4           the accommodations of agriculture workers in  
5           New York State are regulated by the New York  
6           State Department of Agriculture and Markets,  
7           by the Department of Labor, by the United  
8           States Department of Agriculture, by the  
9           United States Environmental Protection Agency,  
10          by the United States Occupational Safety and  
11          Health Administration as well as New York  
12          OSHA. All these agencies are regulating the  
13          conditions of farmworkers.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

22                   Senator Ranzenhofer, on the bill.

23                   SENATOR RANZENHOFER:     Thank you,  
24          Madam President.

25                   Just briefly, I rise in opposition

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

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

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

25 In dealing with some of the issues

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

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

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

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

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

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

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

25 Senator Larkin, on the bill.



1                   SENATOR LARKIN:     Thank you, Madam  
2     President.

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

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

19                  You represented them, you got the  
20    350, and what did you do with it? You put it  
21    in your pocket. You did nothing for the  
22    farmworkers.

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

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

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

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

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

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

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

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

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

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

1 of the others did.

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

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

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

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

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

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

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

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

20               SENATOR LARKIN:     I most certainly  
21       will, Senator.

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

25               Fifty-five hours a week, 60 hours a

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

4 SENATOR LARKIN: I most certainly  
5 do, Senator.

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

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

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

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

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

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

6                   SENATOR LARKIN:     Yes.

7                   ACTING PRESIDENT CRAIG JOHNSON:  
8       Senator Larkin yields.

9                   SENATOR ESPADA:     Thank you,  
10      Senator Larkin.

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

19                   Is there any good reason to exempt  
20      them from that?

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

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

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

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

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



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

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

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

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

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

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

4                   But if I might just ask one more  
5       question.

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

9                   SENATOR LARKIN:       Certainly,  
10      Senator.

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

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

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

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

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

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

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

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

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

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

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

6                   SENATOR ESPADA:     Thank you,  
7       Senator Larkin.

8                   Thank you, Mr. President.

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

19                   Thank you.

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

22                   Senator Saland, on the bill.

23                   SENATOR SALAND:     Thank you, Madam  
24       President.

25                   Madam President, Senator Espada

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

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

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

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

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

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

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

1       it's correct, is that it doesn't apply to  
2       96 percent of the farms. Well, if that's the  
3       case, there's no need for this bill. Why  
4       would you need this bill if it doesn't apply  
5       to 96 percent of the farms? I mean, that's an  
6       oxymoron. So obviously it applies to more  
7       than 96 percent of the farms.

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

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

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



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

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

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

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

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

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

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

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

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

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

25 Thank you, Madam President.

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

3                   Senator Little, on the bill.

4                   SENATOR LITTLE:     Thank you, Madam  
5     President.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

18               Senator Maziarz, on the bill.

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

5                   Senator Young, on the bill.

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

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

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

1                   Thank you, Madam President.

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

4                   Senator Schneiderman, on the bill.

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

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

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

1       our fellow human beings.

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

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

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

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

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

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

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

1                   Let us move forward again tonight.

2           Ladies and gentlemen, justice costs money.

3           The enterprise of the United States costs  
4           money. All who contribute, all who work  
5           should share in the collective wealth that we  
6           create together. This corrects a wrong and  
7           bringings farmworkers into the same sunshine  
8           as other workers in this country. I think  
9           it's inconsistent with our duties as Americans  
10          to vote against this bill, quite frankly.

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

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

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

25                   Senator O. Johnson, on the bill.

1                   SENATOR OWEN JOHNSON:     Thank you,  
2     Madam President.

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

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

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

25                  Now, it would be very hard for a



1       small farmer, a dirt farmer, which we had  
2       18 acres of weeds and crops and everything  
3       like that. When you have that much work to  
4       do, you have to do it when it has to be done.  
5       Mother Nature tells you. And the crops,  
6       depending on how fast they grow, they show you  
7       when to pick them. And when the weeds start  
8       getting in there, they show you when to  
9       cultivate and get the weeds out of the rows of  
10      the food.

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

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

1 and fill these papers out.

2 We don't need all that stuff.

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

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

16 Thank you. I vote no.

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

19 Senator Bonacic, on the bill.

20 SENATOR BONACIC: Thank you,  
21 Madam President.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

21              Thank you, Madam President.

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

24              Senator Espada, again on the bill.

25              SENATOR ESPADA:     Again, thank

1       you, Madam President.

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

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

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

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



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

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

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

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

1       70 percent in favor of collective bargaining.  
2       Eighty-five percent in favor of disability  
3       insurance.

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

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

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

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

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

3                   Senator Aubertine, to close.

4                   SENATOR AUBERTINE:     Thank you,  
5       Madam President.

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

11                  But there are some facts that have  
12      been thrown around I think that are subject to  
13      question for sure.  One of the facts, the  
14      first bullet on this fact sheet, says  
15      collective bargaining protections are limited  
16      to workers on farms with sales exceeding  
17      \$650,000, exempting over 96 percent of the  
18      farms and covering only agribusiness.

19                  Well, Madam President, that's  
20      difficult for me to believe.  And I can give  
21      you some numbers just to kind of illustrate  
22      why it's so difficult for me to believe.  A  
23      250-cow dairy would produce gross sales well  
24      in excess of \$650,000 a year.  There are a lot  
25      of dairies in New York State that have far

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

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

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

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

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

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

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

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

5 So again, with all the best of  
6 intentions, I do believe that this legislation  
7 will be harmful to the agriculture community.  
8 Agriculture has suffered mightily in the last  
9 30 years. This state has lost nearly a farm a  
10 day for 30 years. That's not something we can  
11 sustain. And I believe that this legislation  
12 would lead to that trend continuing.

13 Thank you, Madam President.

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

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

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

20 ACTING PRESIDENT VALESKY: Read  
21 the last section.

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

24 ACTING PRESIDENT VALESKY: Call  
25 the roll.

1 (The Secretary called the roll.)

2 ACTING PRESIDENT VALESKY:

3 Senator Onorato, to explain his vote.

4 SENATOR ONORATO: Yes,

5 Mr. President. I rise to vote aye and explain  
6 my vote.

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

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

25 I vote aye and I urge you all to

1       vote aye also.

2                   ACTING PRESIDENT VALESKY:

3       Senator Onorato to be recorded in the  
4       affirmative.

5                   Senator Serrano, to explain his  
6       vote.

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

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

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

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

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



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

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

15 Thank you. I will vote yes.

16 ACTING PRESIDENT VALESKY:

17 Senator Serrano to be recorded in the  
18 affirmative.

19 Senator Perkins, to explain his  
20 vote.

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

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

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

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

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

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

1 attention. I vote aye.

2 ACTING PRESIDENT VALESKY:

3 Senator Perkins to be recorded in the  
4 affirmative.

5 Senator Alesi, to explain his vote.

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

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

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

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

1 other areas around this state.

2 And unfortunately for that -- and I  
3 only have a minute to explain my vote -- if  
4 you think about this, someone told me, an  
5 apple farmer recently, that they can get  
6 4 cents a gallon for concentrated apple juice  
7 out of China, China, which has an unlimited  
8 labor supply. Samoa, American Samoa just  
9 closed another cannery because they can have  
10 it done cheaper in Thailand, cheaper labor.

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

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

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

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

5                   Senator Diaz, to explain his vote.

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

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

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

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

1       they deserve.

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

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

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

19                  I'm voting yes.

20                  ACTING PRESIDENT VALESKY:

21      Senator Diaz to be recorded in the  
22      affirmative.

23                  Announce the results.

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

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

8 Absent from voting: Senator Dilan.

9 Ayes, 28. Nays, 31.

10 ACTING PRESIDENT VALESKY: The  
11 bill fails.

12 Senator Klein.

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

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

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

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

22 ACTING PRESIDENT VALESKY:  
23 Senator Klein.

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

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

3                ACTING PRESIDENT VALESKY:     The  
4       Secretary will read.

5                THE SECRETARY:     Calendar Number  
6       1427, by Senator Squadron, Senate Print 5296A,  
7       an act to amend the Administrative Code of the  
8       City of New York.

9                ACTING PRESIDENT VALESKY:     Read  
10      the last section.

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

13               ACTING PRESIDENT VALESKY:     Call  
14      the roll.

15                       (The Secretary called the roll.)

16                       (Pause.)

17                ACTING PRESIDENT VALESKY:  
18      Senator Squadron.

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

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

25                       Senator Klein.



1                   SENATOR KLEIN:     Mr. President, at  
2                   this time I'd like to call up Calendar Number  
3                   1426, Assembly Bill Number 2251 on the  
4                   noncontroversial calendar.

5                   ACTING PRESIDENT VALESKY:     The  
6                   Secretary will read.

7                   THE SECRETARY:     Calendar Number  
8                   1426, substituted earlier today by Member of  
9                   the Assembly Jeffries, Assembly Print Number  
10                  465A, an act to amend the Emergency Tenant  
11                  Protection Act of 1974.

12                  ACTING PRESIDENT VALESKY:     Read  
13                  the last section.

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

16                  ACTING PRESIDENT VALESKY:     Call  
17                  the roll.

18                  (The Secretary called the roll.)

19                  (Pause.)

20                  ACTING PRESIDENT VALESKY:  
21                  Senator Klein.

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

25                  ACTING PRESIDENT VALESKY:     The

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

3 Senator Klein.

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

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

10 THE SECRETARY: Calendar Number  
11 1425, substituted earlier today by Member of  
12 the Assembly Rosenthal, Assembly Print Number  
13 9854, an act to amend the Private Housing  
14 Finance Law.

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

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

19 THE SECRETARY: Calendar Number  
20 1428, substituted earlier by Member of the  
21 Assembly V. Lopez --

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

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

1                   THE SECRETARY:     Calendar Number  
2     1429, by Senator Thompson, Senate Print 8129B,  
3     an act to suspend hydraulic fracturing.

4                   SENATOR LIBOUS:     Lay the bill  
5     aside.

6                   ACTING PRESIDENT VALESKY:     The  
7     bill is laid aside.

8                   THE SECRETARY:     Calendar Number  
9     1430, substituted earlier today by the  
10    Assembly --

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

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

15                  THE SECRETARY:     Calendar Number  
16    1431, substituted earlier today by the  
17    Assembly Committee on Rules --

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

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

22                  THE SECRETARY:     Calendar Number  
23    1433, substituted earlier today by the  
24    Assembly Committee on Rules, Assembly Print  
25    Number 11597, an act to amend the Correction

1 Law.

2 ACTING PRESIDENT VALESKY: Read  
3 the last section.

4 THE SECRETARY: Section 2. This  
5 act shall take effect on the same date and in  
6 the same manner as a chapter of the Laws of  
7 2010.

8 ACTING PRESIDENT VALESKY: Call  
9 the roll.

10 (The Secretary called the roll.)

11 ACTING PRESIDENT VALESKY:  
12 Announce the results.

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

22 Ayes, 32. Nays, 28.

23 ACTING PRESIDENT VALESKY: The  
24 bill is passed.

25 THE SECRETARY: Calendar Number

1 1434, substituted earlier today by the  
2 Assembly Committee on Rules, Assembly Print  
3 Number 11612, an act to amend a chapter of the  
4 Laws of 2010 enacting the Health and Mental  
5 Hygiene Budget.

6 ACTING PRESIDENT VALESKY: Read  
7 the last section.

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

10 ACTING PRESIDENT VALESKY: Call  
11 the roll.

12 (The Secretary called the roll.)

13 THE SECRETARY: Ayes, 60.

14 ACTING PRESIDENT VALESKY: The  
15 bill is passed.

16 THE SECRETARY: Calendar Number  
17 1435, substituted earlier --

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

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

22 THE SECRETARY: Calendar Number  
23 1436, by Senator Schneiderman, Senate Print  
24 8451, an act to amend the Civil Practice Law  
25 and Rules.

1                   ACTING PRESIDENT VALESKY:     Read  
2     the last section.

3                   THE SECRETARY:     Section 2.   This  
4     act shall take effect on the same date and in  
5     the same manner as a chapter of the Laws of  
6     2010.

7                   ACTING PRESIDENT VALESKY:     Call  
8     the roll.

9                   (The Secretary called the roll.)

10                  ACTING PRESIDENT VALESKY:  
11     Announce the results.

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

20                  Ayes, 34.   Nays, 26.

21                  ACTING PRESIDENT VALESKY:     The  
22     bill is passed.

23                  THE SECRETARY:     Calendar Number  
24     1437, by Senator Schneiderman, Senate Print  
25     8454, an act to amend the Labor Law and a

1 chapter of the Laws of 2010.

2 ACTING PRESIDENT VALESKY: Read  
3 the last section.

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

6 ACTING PRESIDENT VALESKY: Call  
7 the roll.

8 (The Secretary called the roll.)

9 ACTING PRESIDENT VALESKY:  
10 Announce the results.

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

18 Ayes, 40. Nays, 20.

19 ACTING PRESIDENT VALESKY: The  
20 bill is passed.

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

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

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

4                   THE SECRETARY:     Calendar Number  
5     772, by Member of the Assembly Bing --

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

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

10                  THE SECRETARY:     Calendar Number  
11     1421, by the Assembly Committee on Rules,  
12     Assembly Print Number 11523, an act to amend  
13     the Economic Development Law.

14                  ACTING PRESIDENT VALESKY:     Read  
15     the last section.

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

18                  ACTING PRESIDENT VALESKY:     Call  
19     the roll.

20                         (The Secretary called the roll.)

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

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



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

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

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

1       just a really sad yes vote.

2               Thank you, Mr. President.

3               ACTING PRESIDENT VALESKY:

4       Senator Maziarz to be recorded in the  
5       affirmative.

6               Senator Foley, to explain his vote.

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

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

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

1 New York.

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

8 Thank you, Mr. President.

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

12 Announce the results.

13 THE SECRETARY: Ayes, 60. Nays,  
14 0.

15 ACTING PRESIDENT VALESKY: The  
16 bill is passed.

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

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

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

1                   The Secretary will read.

2                   THE SECRETARY:     Calendar Number  
3                   1429, by Senator Thompson, Senate Print 8129B,  
4                   an act to suspend hydraulic fracturing.

5                   SENATOR LIBOUS:     Explanation.

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

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

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

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

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

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

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

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

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

1 environment.

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

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

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

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

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

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

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

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

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

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

5 ACTING PRESIDENT VALESKY:  
6 Senator Libous.

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

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

11 ACTING PRESIDENT VALESKY:  
12 Senator Thompson, do you yield?

13 SENATOR THOMPSON: Yes.

14 ACTING PRESIDENT VALESKY:  
15 Senator Thompson yields.

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

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

21 SENATOR LIBOUS: And would the  
22 Senator continue to yield.

23 ACTING PRESIDENT VALESKY:  
24 Senator Thompson?

25 SENATOR THOMPSON: Yes.



1                   ACTING PRESIDENT VALESKY:     He  
2     yields.

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

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

14                  Part of the challenge is that over  
15    there, just like over here, they would drill  
16    24 hours a day. Most state workers at some of  
17    our facilities, our inspectors, unless we  
18    change -- they drill seven days a week. So if  
19    we have it in New York, we need to make sure  
20    that inspections are taking place seven days a  
21    week, which that was not happening in parts of  
22    Pennsylvania.

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

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

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

7 ACTING PRESIDENT VALESKY:  
8 Senator Thompson?

9 SENATOR THOMPSON: Yes.

10 ACTING PRESIDENT VALESKY: The  
11 sponsor yields.

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

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

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

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

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

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

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

18              ACTING PRESIDENT VALESKY:  
19       Senator Thompson?

20              SENATOR THOMPSON:       Yes.

21              ACTING PRESIDENT VALESKY:       The  
22       sponsor yields.

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

1 for this negligence?

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

12 SENATOR LIBOUS: Would the  
13 Senator continue to yield.

14 ACTING PRESIDENT VALESKY:  
15 Senator Thompson?

16 SENATOR THOMPSON: Yes.

17 ACTING PRESIDENT VALESKY: The  
18 sponsor yields.

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

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

1       number of them.

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

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

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

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

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

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

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

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

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

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

13 SENATOR LIBOUS: Would the  
14 Senator continue to yield.

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

17 SENATOR THOMPSON: Yes.

18 ACTING PRESIDENT VALESKY: The  
19 sponsor yields.

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

1 Did they share any of that with you in  
2 Pennsylvania?

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

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

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

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



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

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

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

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

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

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

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

18             SENATOR LIBOUS:       Would the  
19      Senator continue to yield.

20             ACTING PRESIDENT VALESKY:  
21      Senator Thompson?

22             SENATOR THOMPSON:       Gladly.

23             ACTING PRESIDENT VALESKY:       The  
24      sponsor yields.

25             SENATOR LIBOUS:       Senator, your

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

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

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

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

25 That has not taken place at this

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

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

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

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

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

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

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

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

14                 SENATOR THOMPSON:       Is there a  
15                 question, sir?

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

18                 (Laughter.)

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

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

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

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

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

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

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

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

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

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



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

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

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

18             SENATOR LIBOUS:       Will the Senator  
19      continue to yield.

20             ACTING PRESIDENT VALESKY:  
21      Senator Thompson?

22             SENATOR THOMPSON:     Yes.

23             ACTING PRESIDENT VALESKY:     The  
24      sponsor yields.

25             SENATOR LIBOUS:       Senator

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

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

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

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

1 particular issue."

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

6 SENATOR LIBOUS: Thank you,  
7 Senator.

8 If I could speak on the bill.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 wells.

2 Now let's talk about the economy.

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

17 From an economic standpoint, the  
18 community I live in has been devastated. We  
19 used to be the central community for defense  
20 contracting. And as a matter of fact, a  
21 couple of years ago we got the presidential  
22 helicopter at Lockheed Martin. They hired  
23 almost 2500 people, average salary at about  
24 \$90,000 a year, and then President Obama  
25 decided he was going to eliminate that

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

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

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

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



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

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

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

1       them.

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

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

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

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

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

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

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

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

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

19                ACTING PRESIDENT STEWART-COUSINS:

20      Thank you, Senator.

21                Senator Winner.

22                SENATOR WINNER:       Thank you, Madam  
23      President.

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

11                  SENATOR THOMPSON:       Yes.

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

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

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

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

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

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

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

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

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

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

24               SENATOR WINNER:       Well, will the  
25       Senator yield.

1                   ACTING PRESIDENT STEWART-COUSINS:

2           Senator, do you continue to yield?

3                   SENATOR THOMPSON:     Yes.

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

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

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

25                   Clearly I understand that people

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

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

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

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

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

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

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

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

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

1 every day.

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

5 SENATOR WINNER: Will the Senator  
6 yield.

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

9 SENATOR THOMPSON: Yes.

10 SENATOR WINNER: Senator, back in  
11 2008 I believe that there were some 670  
12 permits to drill gas wells issued in New York  
13 State. And I think there was something like  
14 580 wells permitted for drilling in 2009.

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

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

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



1                   SENATOR WINNER:     Will the Senator  
2     yield.

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

5                   SENATOR THOMPSON:     Yes.

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

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

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

17                  SENATOR WINNER:     Before the DEC.  
18     However, of the wells that were drilled in  
19     2008 and 2009, a large percentage of which  
20     were done by hydrofracking, do you have any  
21     statistics or indication as to whether or not  
22     there were any incidents, adverse  
23     environmental incidents with respect to any of  
24     those wells that were drilled in New York  
25     State in 2008-2009?

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

4                   SENATOR WINNER:       Yes.

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

8                   SENATOR WINNER:       But to your  
9     knowledge, you --

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

13                  SENATOR WINNER:       Yes.

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

16                  SENATOR THOMPSON:     I do continue  
17     to yield.

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

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

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

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

13             SENATOR WINNER:     Thank you.

14      Thank you, Senator.

15             SENATOR THOMPSON:    Thank you.

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

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

3 Thank you, Madam President.

4 ACTING PRESIDENT STEWART-COUSINS:

5 Thank you, Senator.

6 Senator Parker.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

25             And so this bill is a good bill. I



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

5                   ACTING PRESIDENT STEWART-COUSINS:

6       Thank you, Senator.

7                   Senator L. Krueger.

8                   SENATOR LIZ KRUEGER:       Thank you,  
9       Madam President.

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

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

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

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

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

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

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

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

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

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

24 I vote yes.

25 ACTING PRESIDENT STEWART-COUSINS:

1 Thank you, Senator.

2 Senator Thompson.

3 SENATOR THOMPSON: Yes, just on  
4 the bill.

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

7 SENATOR THOMPSON: Just a couple  
8 of quick things.

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

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

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

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

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

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

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

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

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

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

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

1                   ACTING PRESIDENT STEWART-COUSINS:

2           Senator Schneiderman.

3                   SENATOR SCHNEIDERMAN:       Very  
4           briefly, Madam President.

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

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

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

1       President, let's do it right.

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

9               Thank you, Madam President.

10              ACTING PRESIDENT STEWART-COUSINS:

11       Thank you, Senator.

12              Senator Oppenheimer.

13              SENATOR OPPENHEIMER:     Just very  
14       briefly also.

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

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



1 I vote yes.

2 ACTING PRESIDENT STEWART-COUSINS:

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

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

7 Read the last section.

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

10 ACTING PRESIDENT STEWART-COUSINS:  
11 Call the roll.

12 (The Secretary called the roll.)

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

15 SENATOR SEWARD: Yes, thank you,  
16 Madam President.

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

1                   ACTING PRESIDENT STEWART-COUSINS:

2           May we have order, please.

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

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

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

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

1        comments, to develop the right rules and  
2        regulations.

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

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

17               So, Madam President, I vote aye.

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

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

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

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

1 (Groaning; laughter.)

2 SENATOR ALESI: Thank you, Madam  
3 President.

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

8 (Groaning.)

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

11 ACTING PRESIDENT STEWART-COUSINS:  
12 1:41.

13 (Laughter.)

14 SENATOR ALESI: But who's  
15 counting, really.

16 ACTING PRESIDENT STEWART-COUSINS:  
17 I am.

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

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

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

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

17 So I'll vote yes on this.

18 ACTING PRESIDENT STEWART-COUSINS:

19 Senator Alesi to be recorded in the  
20 affirmative.

21 Announce the results.

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

1                   Absent from voting: Senators Diaz  
2                   and C. Kruger.

3                   Excused from voting: Senators  
4                   Golden and Savino.

5                   Ayes, 48. Nays, 9.

6                   ACTING PRESIDENT STEWART-COUSINS:  
7                   The bill is passed.

8                   (Applause from gallery.)

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

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

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

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

20                  ACTING PRESIDENT STEWART-COUSINS:  
21                  The Secretary will read.

22                  THE SECRETARY: Calendar Number  
23                  1264, by Senator Espada, Senate Print 6291, an  
24                  act to amend the Social Services Law.

25                  ACTING PRESIDENT STEWART-COUSINS:

1 Senator Klein.

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

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

8 (The Secretary called the roll.)

9 THE SECRETARY: Ayes, 59.

10 ACTING PRESIDENT STEWART-COUSINS:  
11 Senator Klein.

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

14 ACTING PRESIDENT STEWART-COUSINS:  
15 The amendments are received.

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

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

25 So ordered.

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

7                   ACTING PRESIDENT STEWART-COUSINS:  
8     So ordered.

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

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

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

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

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

24  
25