

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
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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, Griffo, 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