

1 NEW YORK STATE SENATE

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4 THE STENOGRAPHIC RECORD

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9 ALBANY, NEW YORK

10 March 26, 2013

11 5:49 p.m.

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13
14 REGULAR SESSION

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18 SENATOR DAVID J. VALESKY, Acting President

19 FRANCIS W. PATIENCE, Secretary

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

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

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

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

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

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

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

16 The Secretary will read.

17 THE SECRETARY: In Senate, Monday,
18 March 25th, the Senate met pursuant to
19 adjournment. The Journal of Sunday, March 24th,
20 was read and approved. On motion, Senate
21 adjourned.

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

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

10 I do have a motion, Mr. President.
11 On behalf my friend and colleague Senator
12 Zeldin, I move that the following bill be
13 discharged from its respective committee and be
14 recommitted with instructions to strike the
15 enacting clause. It would be Senate Print 3709,
16 Mr. President.

17 ACTING PRESIDENT VALESKY: So
18 ordered.

19 Senator Libous.

20 SENATOR LIBOUS: Mr. President, at
21 this time could we have the noncontroversial
22 reading of the calendar, please.

23 ACTING PRESIDENT VALESKY: The
24 Secretary will read.

25 THE SECRETARY: Calendar Number

1 113, by Senator Maziarz, Senate Print 1119A, an
2 act to amend the Environmental Conservation Law.

3 ACTING PRESIDENT VALESKY: Read
4 the last section.

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

7 ACTING PRESIDENT VALESKY: Call
8 the roll.

9 (The Secretary called the roll.)

10 ACTING PRESIDENT VALESKY: Senator
11 Maziarz.

12 SENATOR MAZIARZ: Mr. President,
13 just to very briefly explain my vote.

14 I appreciate my colleagues' support
15 of this legislation. I just want to note that
16 both the chair of the EnCon Committee,
17 Senator Grisanti, the ranking Democratic member,
18 Senator Avella, and the ranking Democratic
19 member of the Energy Committee are cosponsors of
20 this legislatiOn.

21 This legislation is very positive
22 for business in the State of New York and it's
23 very positive for the environment in the State
24 of New York. You know, a few years ago I passed
25 an Article 10 siting bill, and at that time

1 Senator LaValle remarked on the number of the
2 memos of support that we had from environmental
3 and business groups. This is the same type of
4 legislation. This bill both helps the
5 environment and it helps business.

6 Over 40-plus years ago, there was an
7 accident on Staten Island with what they thought
8 at the time was liquefied natural gas, and it was
9 not, ironically enough. And the Legislature back
10 then overreacted; they banned liquefied natural
11 gas. Today New York is the only state, the only
12 state that bans liquefied natural gas.

13 UPS wants to convert all of their
14 trucks in Florida, Texas, Georgia, New Jersey,
15 California and New York to liquefied natural gas
16 to save the environment and to save their company
17 money. Imagine, thousands of UPS trucks burning
18 diesel fuel or liquefied natural gas, what that's
19 going to do for the environment and save that
20 company a whole lot of money.

21 They could do it in all those other
22 states except New York. They were stunned to
23 hear that. We can change that. Obviously I do
24 not speak for the Governor, but the Governor, in
25 some private conversations he had in the City of

1 Buffalo with one business organization, is very
2 interested in this legislation.

3 So I vote in the affirmative.

4 Thank you, Mr. President.

5 ACTING PRESIDENT VALESKY: Senator
6 Maziarz in the affirmative.

7 Senator O'Mara.

8 SENATOR O'MARA: I'd like to rise
9 in support of this legislation and thank
10 Senator Maziarz for moving this long overdue
11 legislation in New York to allow the
12 transportation and storage of LNG.

13 We've been behind the curve in
14 New York in allowing our trucking fleets to make
15 the switch from diesel to cleaner-burning
16 compressed natural gas and, in this case, liquid
17 natural gas that provides much greatly reduced
18 emissions in the transportation of goods and
19 merchandise across our state.

20 We have locomotives that are turning
21 to LNG alternatives for fueling of this, and it's
22 the trend of the future and something that we
23 definitely have needed to do here in New York for
24 a long time.

25 So I vote aye.

1 ACTING PRESIDENT VALESKY: Senator
2 O'Mara in the affirmative.

3 Senator Little to explain her vote.

4 SENATOR LITTLE: Thank you,
5 Mr. President.

6 I'd like to thank Senator Maziarz
7 for putting forth this bill.

8 In my district I have International
9 Paper, which employs over 600 people in Essex
10 County, and they are awaiting a natural gas line
11 that will be installed probably by 2014 coming
12 down from Vermont and spending I believe it's
13 over \$70 million for that.

14 In the meantime, they have expressed
15 an interest and almost a real necessity to put in
16 one of these liquid natural gas provisions so
17 that they could begin the transfer of oil to
18 natural gas.

19 So I think this is a very important
20 bill and certainly is going to help my district
21 and those who are employed by International
22 Paper. I vote aye.

23 ACTING PRESIDENT VALESKY: Senator
24 Little to be recorded in the affirmative.

25 Announce the results.

1 THE SECRETARY: In relation to
2 Calendar Number 113, those recorded in the
3 negative are Senators Gipson, LaValle and
4 Martins.

5 Ayes, 52. Nays, 3.

6 ACTING PRESIDENT VALESKY: The bill
7 is passed.

8 THE SECRETARY: Calendar Number
9 193, by Senator Skelos, Senate Print 1905, an act
10 to amend the Penal Law.

11 ACTING PRESIDENT VALESKY: Read the
12 last section.

13 THE SECRETARY: Section 4. This act
14 shall take effect on the first of November.

15 ACTING PRESIDENT VALESKY: Call the
16 roll.

17 (The Secretary called the roll.)

18 ACTING PRESIDENT VALESKY: Senator
19 DeFrancisco.

20 SENATOR DeFRANCISCO: Yes, I'm
21 going to vote aye on this bill.

22 And the importance of it was just
23 seen in Onondaga County where a librarian and her
24 10-year-old daughter were in their car in a mall
25 frequented by everybody, a huge mall in the

1 area -- Great Northern Mall -- were abducted in
2 their car, driven to a location, the 10-year-old
3 girl was raped and the mother was killed.

4 And these crimes dealing with cars
5 with children in them and taking these cars, you
6 know, we do have to increase penalties to make
7 that happen, to make the right thing happen.

8 He should have been in jail for
9 another offense. And ironically, sadly,
10 horrifically, he had been on some type of
11 probation in federal court. He was out of jail
12 with an ankle bracelet, and he was able to
13 disconnect the signal and no one noticed that.

14 I mean, you know, I don't know
15 what's going on in the world. But we do need
16 stronger penalties for people who simply should
17 not be in the world committing these crimes, they
18 should be behind bars.

19 So this is an important bill, and I
20 vote aye.

21 ACTING PRESIDENT VALESKY: Senator
22 DeFrancisco to be recorded in the affirmative.

23 Announce the results.

24 THE SECRETARY: Ayes, 54. Nays,
25 1. Senator Parker recorded in the negative.

1 ACTING PRESIDENT VALESKY: The bill
2 is passed.

3 THE SECRETARY: Calendar Number
4 209, by Senator Larkin, Senate Print 284, an act
5 to amend the General Business Law.

6 ACTING PRESIDENT VALESKY: Read the
7 last section.

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

10 ACTING PRESIDENT VALESKY: Call the
11 roll.

12 (The Secretary called the roll.)

13 THE SECRETARY: Ayes, 55.

14 ACTING PRESIDENT VALESKY: The bill
15 is passed.

16 THE SECRETARY: Calendar Number
17 251, by Senator Fuschillo, Senate Print 779, an
18 act to amend the Penal Law.

19 ACTING PRESIDENT VALESKY: Read the
20 last section.

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

23 ACTING PRESIDENT VALESKY: Call the
24 roll.

25 (The Secretary called the roll.)

1 THE SECRETARY: Ayes, 55.

2 ACTING PRESIDENT VALESKY: The bill
3 is passed.

4 THE SECRETARY: Calendar Number
5 255, by Senator Golden, Senate Print 2244, an act
6 to amend the Penal Law.

7 ACTING PRESIDENT VALESKY: Read the
8 last section.

9 THE SECRETARY: Section 2. This
10 act shall take effect on the first of November.

11 ACTING PRESIDENT VALESKY: Call the
12 roll.

13 (The Secretary called the roll.)

14 THE SECRETARY: Ayes, 55.

15 ACTING PRESIDENT VALESKY: The bill
16 is passed.

17 THE SECRETARY: Calendar Number
18 256, by Senator Klein, Senate Print 2261, an act
19 to amend the Penal Law.

20 ACTING PRESIDENT VALESKY: Read the
21 last section.

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

24 ACTING PRESIDENT VALESKY: Call the
25 roll.

1 (The Secretary called the roll.)

2 THE SECRETARY: Ayes, 54. Nays,

3 1. Senator Montgomery recorded in the negative.

4 ACTING PRESIDENT VALESKY: The bill
5 is passed.

6 Senator Libous, that completes the
7 noncontroversial reading of the calendar.

8 SENATOR LIBOUS: Mr. President, the
9 Senate will stand at ease, but we will call a
10 Finance Committee meeting in Room 332 at 8:15, a
11 Finance Committee meeting at 8:15 in Room 332.

12 Until then, the Senate will stand at
13 ease.

14 ACTING PRESIDENT VALESKY: Meeting
15 of the Senate Finance Committee at 8:15 in
16 Room 332. The Senate stands at ease.

17 (Whereupon, the Senate stood at ease
18 at 5:59 p.m.)

19 (Whereupon, the Senate reconvened at
20 8:30 p.m.)

21 ACTING PRESIDENT VALESKY: Senator
22 Libous.

23 SENATOR LIBOUS: Mr. President,
24 there will be a meeting of the Finance Committee
25 at 9:00 a.m. in Room 332, a meeting of the

1 Finance Committee at 9:00 a.m. in Room 332.

2 ACTING PRESIDENT VALESKY: I think
3 you probably mean 9:00 p.m., Senator Libous.

4 SENATOR LIBOUS: Nine p.m., I'm
5 sorry. No wonder Rebecca is looking at me like I
6 have two heads.

7 (Laughter.)

8 SENATOR LIBOUS: I'm already
9 thinking about going home.

10 (Laughter.)

11 ACTING PRESIDENT VALESKY: The
12 Senate Finance Committee will meet at 9:00 p.m.
13 in Room 332 of the Capitol.

14 The Senate will stand at ease.

15 (Whereupon, the Senate stood at ease
16 at 8:31 p.m.)

17 (Whereupon, the Senate reconvened at
18 9:26 p.m.)

19 ACTING PRESIDENT VALESKY: Senator
20 Libous.

21 SENATOR LIBOUS: Mr. President,
22 could we go back to reports of standing
23 committees. I believe there's a report of the
24 Finance Committee at the desk.

25 ACTING PRESIDENT VALESKY: There is

1 a report of the Finance Committee at the desk.

2 The Secretary will read.

3 THE SECRETARY: Senator
4 DeFrancisco, from the Committee on Finance,
5 reports the following bills:

6 Senate Print 2600E, Senate Budget
7 Bill, an act making appropriations;

8 Senate 2601A, Senate Budget Bill, an
9 act making appropriations;

10 Senate 2603E, Senate Budget Bill, an
11 act making appropriations;

12 Senate 2606D, Senate Budget Bill, an
13 act to amend Chapter 59 of the Laws of 2011;

14 Senate 2607D, Senate Budget Bill, an
15 act in relation in school district eligibility;

16 And Senate 2609D, Senate Budget
17 Bill, an act to amend the Tax Law.

18 All bills ordered direct to third
19 reading.

20 ACTING PRESIDENT VALESKY: Senator
21 Libous.

22 SENATOR LIBOUS: Mr. President, can
23 I now move that we accept the report of the
24 Finance Committee.

25 ACTING PRESIDENT VALESKY: All

1 those in favor of accepting the report of the
2 Finance Committee signify by saying aye.

3 (Response of "Aye.")

4 ACTING PRESIDENT VALESKY: Opposed,
5 nay.

6 (Response of "Nay.")

7 ACTING PRESIDENT VALESKY: The
8 report of the Finance Committee is accepted.

9 Senator Libous.

10 SENATOR LIBOUS: Mr. President, I
11 think we need to just chill for a minute as they
12 put the supplemental calendar on everybody's
13 desk, and then we'll get moving.

14 (Pause.)

15 ACTING PRESIDENT VALESKY: Senator
16 Libous.

17 SENATOR LIBOUS: Mr. President, if
18 we could bring a little order to the house.

19 ACTING PRESIDENT VALESKY:

20 (Gaveling.) Senator Libous.

21 SENATOR LIBOUS: We will now have
22 the noncontroversial reading of Supplemental
23 Calendar 26A, please.

24 ACTING PRESIDENT VALESKY: The
25 Secretary will read.

1 THE SECRETARY: Calendar Number
2 273, Senate Budget Bill, Senate Print 2600E, an
3 act making appropriations.

4 SENATOR GIANARIS: Lay it aside.

5 ACTING PRESIDENT VALESKY: The bill
6 is high.

7 Senator Libous.

8 SENATOR LIBOUS: The bill is high;
9 please lay it aside.

10 ACTING PRESIDENT VALESKY: The bill
11 is high and will be laid aside.

12 THE SECRETARY: Calendar Number
13 274, Senate Budget Bill, Senate Print 2601A, an
14 act making appropriations.

15 SENATOR GIANARIS: Lay it aside.

16 ACTING PRESIDENT VALESKY: The bill
17 is laid aside.

18 THE SECRETARY: Calendar Number
19 275, Senate Budget Bill, Senate Print 2603E, an
20 act making appropriations.

21 SENATOR GIANARIS: Lay it aside.

22 SENATOR LIBOUS: The bill is high;
23 lay it aside, please.

24 ACTING PRESIDENT VALESKY: The bill
25 is high and will be laid aside.

1 THE SECRETARY: Calendar Number
2 276, Senate Budget Bill, Senate Print 2606D, an
3 act to amend Chapter 59 of the Laws of 2011.

4 SENATOR GIANARIS: Lay it aside.

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

7 THE SECRETARY: Calendar Number
8 277, Senate Budget Bill, Senate Print 2607D, an
9 act in relation --

10 SENATOR LIBOUS: The bill is high;
11 lay it aside.

12 ACTING PRESIDENT VALESKY: The bill
13 is high and will be laid aside.

14 THE SECRETARY: Calendar Number
15 278, Senate Budget Bill, Senate Print 2609D --

16 SENATOR LIBOUS: That bill is also
17 high. Could we lay it aside, please.

18 ACTING PRESIDENT VALESKY: The bill
19 is high and will be laid aside.

20 Senator Libous, that completes the
21 noncontroversial reading of Senate Supplemental
22 Calendar 26A.

23 SENATOR LIBOUS: Mr. President, can
24 we have the controversial reading of the
25 calendar, please.

1 ACTING PRESIDENT VALESKY: The
2 Secretary will ring the bells.

3 The Secretary will read.

4 THE SECRETARY: Calendar Number
5 274, Senate Budget Bill, Senate Print 2601A, an
6 act making appropriations.

7 SENATOR GIANARIS: Point of
8 clarification, Mr. President.

9 ACTING PRESIDENT VALESKY: Senator
10 Gianaris, why do you rise?

11 SENATOR GIANARIS: Because we've
12 been dealing with a lot of bills tonight, I just
13 want to clarify. This is the Legislature and
14 Judiciary Budget?

15 ACTING PRESIDENT VALESKY: That's
16 correct.

17 SENATOR GIANARIS: Thank you.

18 ACTING PRESIDENT VALESKY: Read the
19 last section.

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

22 ACTING PRESIDENT VALESKY: Senator
23 Krueger.

24 SENATOR KRUEGER: Thank you.

25 Mr. President, the Budget Reform Law

1 Section 54 --

2 ACTING PRESIDENT VALESKY: Senator
3 Krueger, are you speaking on the bill?

4 SENATOR KRUEGER: It's a point of
5 order on the bill, Mr. President. Thank you.

6 We do have, unlike two nights ago,
7 the report on the enacted state fiscal year on
8 our desks. But also the same law I was
9 referencing the other night requires that before
10 voting upon appropriation bills submitted by the
11 Governor, each house shall have on its desks not
12 only the full report of such bill and then the
13 full report on the entire budget.

14 So my question is, since this is an
15 appropriation bill and it has aged more than
16 three days, do we have a report on the bill on
17 our desks?

18 ACTING PRESIDENT VALESKY: Senator
19 DeFrancisco.

20 SENATOR DeFRANCISCO: The answer to
21 that question is yes.

22 The report dealing with the
23 Legislative and Judiciary Budget bill is on
24 page 60 and 61 of the booklet entitled "Report on
25 the Enacted State Fiscal Year 2013-2014 Executive

1 Budget."

2 SENATOR KRUEGER: Through you,
3 Mr. President, I want to thank the sponsor.

4 I have a follow-up point of order
5 for you. Is it not the requirement of the Senate
6 that a memo be on our desks describing the
7 substance of each bill? Is there a memo on this
8 bill on our desks?

9 ACTING PRESIDENT VALESKY: Senator
10 DeFrancisco.

11 SENATOR DeFRANCISCO: I don't know
12 what you define as "memo." But there are 61
13 concise pages outlining each of the budget bills
14 in this report. Whether this is called a report,
15 a memo or both, this satisfies the requirement
16 that you just mentioned.

17 SENATOR KRUEGER: Through you,
18 Mr. President. Thank you.

19 Well, I accept that the Report on
20 the Enacted State Fiscal Year 2013-2014 Executive
21 Budget describes sections of each bill. And I
22 accept, as my colleague just highlighted, that
23 the sections on the Legislative and Judiciary
24 Budget bill are on pages 60 and 61.

25 But I'm not sure I do agree that

1 this is a memo to the bills, because this simply
2 talks about what has changed or is different in
3 the budget bills, not the full details of the
4 bill. So I'm not sure it does meet the standard
5 of a memo on the bill.

6 So I suppose it's a point of order
7 and I'm asking you for your understanding of
8 whether this meets the definition of memos on
9 specific bills.

10 ACTING PRESIDENT VALESKY: Yes,
11 Senator Krueger, specific to your point of order,
12 I believe that this bill is appropriately before
13 the Senate and we are moving it forward under the
14 controversial calendar.

15 If you wish to appeal my ruling,
16 you're certainly willing to do that.

17 SENATOR KRUEGER: No, I would
18 disagree with the ruling but I won't appeal it.
19 Thank you, Mr. President.

20 ACTING PRESIDENT VALESKY: Are
21 there any other Senators who wish to be heard?

22 Seeing none, the debate is -- I'm
23 sorry, Senator Parker. On the bill?

24 SENATOR PARKER: Yes, on the bill.
25 Thank you, Mr. President.

1 ACTING PRESIDENT VALESKY: Senator
2 Parker on the bill.

3 SENATOR PARKER: And I'll try to be
4 brief.

5 Where do you start with a bill like
6 this? There is so much wrong. And I know that
7 this bill is dealing with primarily the
8 Legislature and Judiciary, and in many cases you
9 don't have a particular problem with this bill.

10 But I find this whole -- both the
11 process and this whole budget objectionable. The
12 process is objectionable to have, again, this
13 process with four men in a room. To not have any
14 of the leaders in the room -- not to have any
15 African-Americans, Latinos, Asians or women
16 involved in the process is objectionable.

17 To have a process in which the
18 Governor bullies us through a budget that doesn't
19 have the things that are important for our
20 communities in it is objectionable.

21 I represent a community that's
22 served by Downstate Medical Center in the heart
23 of Brooklyn. We have not addressed the issues of
24 the financial crisis or the privatization of that
25 institution. We've failed as a legislature to

1 deal with high-needs districts across the state
2 by not living up to our promise for the Campaign
3 for Fiscal Equity lawsuit.

4 We also are cutting \$250 million to
5 New York City schools. We are cutting about
6 \$90 million to the developmentally disabled
7 communities, with only a partial restoration. A
8 lack of progress in terms of women and minority
9 business development. Although I applaud
10 Senator Smith and others who made sure that the
11 \$3 million is back in the budget for the
12 disparity study, we have yet to do what we need
13 to do to have enough cumulative resources in the
14 agencies around the state that would allow an
15 MWBE agenda to be successfully implemented by the
16 agencies.

17 The lack of marijuana
18 decriminalization and the NYPD oversight and
19 accountability through an independent inspector
20 general needs to be done. And we can do that
21 through the budget today and tomorrow.

22 Failing to provide a real living
23 wage. We really, frankly, ought to be ashamed of
24 ourselves for coming with a proposal that says
25 that \$9 over three years is what we ought to be

1 doing for the people of the State of New York.

2 They deserve better. We could do better.

3 Pension-smoothing scheme -- and I
4 know they've corrected some of it, but it's just
5 really not the right thing for us to be doing.
6 It's going to not only burden the next generation
7 of retirees, but I think it's going to ultimately
8 bankrupt our municipalities. I think it's not
9 the right way to go.

10 Failure to fix New York's
11 unemployment insurance and taxing New Yorkers
12 with an unnecessary utility tax. This 18-a
13 assessment surcharge with a three-year phaseout
14 that was supposed to phase out this year -- and
15 we're now kicking the can down the road for three
16 years -- is certainly not the way to go.

17 And lastly, without a DREAM Act, I
18 cannot find a way to vote for this bill or any
19 part of the budget. I vote nay.

20 ACTING PRESIDENT VALESKY: Thank
21 you, Senator Parker.

22 The Secretary will ring the bells.

23 Read the last section.

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

1 ACTING PRESIDENT VALESKY: Call the
2 roll.

3 (The Secretary called the roll.)

4 ACTING PRESIDENT VALESKY: Senator
5 Kennedy to explain his vote.

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

8 I rise to support this portion of
9 the budget and to speak on a very important
10 program that I've been advocating for, along with
11 many of my colleagues here in the chamber, for
12 quite some time now. And I thank my colleagues
13 for joining us in making this program a reality:
14 CASA, court-appointed special advocates, the
15 specially trained and supervised volunteers
16 appointed by a Family Court judge to advocate for
17 the best interests of children in foster care and
18 in the Family Court system oftentimes in cases of
19 abuse and neglect.

20 Think about that for a second,
21 children who are abused and neglected. As the
22 father of three, that hits home particularly
23 strong. Those words are difficult to hear.

24 But the fact of the matter is these
25 kids are out there. And without the CASA

1 program, they'd likely have no one standing up
2 for them. When children are abused or severely
3 neglected, they must rely on adults to help them
4 obtain justice and services. That's the intent
5 of the social service and Family Court systems.
6 But all too often these systems are fraught with
7 escalating caseloads and reduced resources.
8 Vulnerable children slip through the cracks.

9 That's where CASA comes in. The
10 program provides necessary training for over a
11 thousand CASA volunteers serving nearly 4,000
12 children across New York State.

13 CASA's collective mission is a safe
14 and permanent home for every child. CASA helps
15 to secure loving homes for abused and neglected
16 children by investigating and monitoring cases
17 involving children in foster care. The CASA
18 volunteer is very often the single constant in a
19 child's life at the most crucial time, providing
20 a powerful voice that says "I care" when no one
21 else seems to.

22 Simply put, CASA volunteers are the
23 guardian angels of our Family Court system and
24 oftentimes the lone voice for these abused and
25 neglected children.

1 Finally, April, which is right
2 around the corner, is Child Abuse Prevention
3 Month. CASA volunteers work to prevent child
4 abuse every single day. On behalf of the
5 thousands of children they serve, I support them
6 in their efforts.

7 Again, Mr. President, I vote aye.
8 Thank you.

9 ACTING PRESIDENT VALESKY: Senator
10 Kennedy in the affirmative.

11 Senator DeFrancisco to explain his
12 vote.

13 SENATOR DeFRANCISCO: Yes. Since
14 most of you in this room sat through many of the
15 budget hearings, I just want to mention some of
16 the things that were in this budget that people
17 advocated for and were changed from the
18 Governor's budget.

19 First of all, the legislative budget
20 is flat. Even though we have a 63rd Senator, an
21 additional cost because of that, it's flat. That
22 also includes the Assembly as well, it's flat.

23 The Judiciary budget went up less
24 than 1 percent, and most of that was as a result
25 of costs of pensions. With respect to -- it was

1 mentioned already that CASA was restored. There
2 was a lot of support among this Legislature for
3 that. Also, there was an increase in funding for
4 civil legal services that is funded by the
5 judiciary and other programs that we had
6 requested.

7 So I appreciate the comments of
8 Senator Kennedy. I know many others have argued
9 about that same issue. And I think it's a great
10 judiciary and an even greater legislative budget
11 in these very trying economic times.

12 Thank you, Mr. President. I vote
13 aye.

14 ACTING PRESIDENT VALESKY: Senator
15 DeFrancisco in the affirmative.

16 Senator Gipson to explain his vote.

17 SENATOR GIPSON: Thank you,
18 Mr. President.

19 I rise in support of this bill. But
20 I do, however, want to point out that it is now
21 9:45 in the evening. There is really no logical
22 reason why we should have to be here at this hour
23 of night voting on these important bills that
24 contain over \$142 billion of decisions that we
25 will have to make before the sun comes up.

1 This is a vampire bill. I believe
2 that we can do better. If we would support my
3 Vampire Voting Act bill that I presented to this
4 floor, there would be no reason for us to be here
5 now. And our constituents, who have had a long
6 day's work and who are now headed off to bed,
7 would be able to stay up and actually be a part
8 of these important deliberations.

9 Thank you.

10 ACTING PRESIDENT VALESKY: Senator
11 Gipson, how do you vote?

12 SENATOR GIPSON: As I said at the
13 beginning, I am voting yes.

14 ACTING PRESIDENT VALESKY: Senator
15 Gipson in the affirmative.

16 Announce the results.

17 THE SECRETARY: In relation to
18 Calendar Number 274, those recorded in the
19 negative are Senators Espaillat, Hoylman,
20 Latimer, Parker and Sampson.

21 Ayes, 55. Nays, 5.

22 ACTING PRESIDENT VALESKY: The bill
23 is passed.

24 THE SECRETARY: Calendar Number
25 276, Senate Budget Bill, Senate Print 2606D, an

1 act to amend Chapter 59 of the Laws of 2011.

2 ACTING PRESIDENT VALESKY: Senator
3 Gianaris.

4 SENATOR GIANARIS: Mr. President, I
5 believe there's an amendment at the desk. I ask
6 that a reading of the amendment be waived and
7 that Senator Parker may be heard on the
8 amendment.

9 ACTING PRESIDENT VALESKY: Senator
10 Gianaris, I have reviewed the amendment that is
11 at the desk and rule it out of order. It
12 attempts to direct appropriations. As such, it
13 is an impermissible substitution under Article 7
14 of the Constitution.

15 SENATOR GIANARIS: Mr. President, I
16 appeal the decision of the chair, and I ask that
17 Senator Parker be heard on the appeal in order to
18 explain the amendment.

19 ACTING PRESIDENT VALESKY: Senator
20 Parker on the appeal.

21 SENATOR PARKER: Thank you,
22 Mr. President.

23 The amendment I offer would prevent
24 the closing of SUNY Downstate Hospital as
25 proposed by this budget's legislation and provide

1 for a stabilization plan that actually stabilizes
2 and preserves care.

3 It would eliminate language that
4 would allow for the privatization of services at
5 SUNY downstate and instead promote the
6 continuation of care. This amendment also would
7 vest the Legislature with authority to approve a
8 stabilization plan proposed by the SUNY Board of
9 Trustees.

10 Mr. President, as you know, the
11 members of the Brooklyn delegation have worked
12 day and night to try and save SUNY Downstate from
13 closure. Years of poor management and difficult
14 economic conditions have crippled the hospital.
15 Yet now is not the time to give up on the fourth
16 largest employer in Brooklyn. Now is not the
17 time to sell the Long Island College Hospital,
18 contract out essential primary care service, and
19 hand over day-to-day administration to a
20 for-profit entity as proposed by this bill.

21 This current bill in front of us
22 also, as relates to Long Island College Hospital,
23 intends on selling off a \$500 million asset
24 without any legislative oversight. Never before
25 have we done such a thing, and I think now is the

1 wrong time to start selling off large assets and
2 eliminating legislative oversight.

3 Instead, the amendment I propose
4 would prevent the closing of services, require
5 legislative approval of a turnaround plan, and
6 guarantee participation by all relevant
7 stakeholders as the board of trustees works out
8 with our communities to save SUNY Downstate.

9 This amendment will be paired with
10 another amendment which would actually also -- we
11 need to include \$150 million in stabilization
12 funding necessary to stabilize the facility.

13 SUNY Downstate contributes
14 \$1.3 billion to the state's economy and returns
15 \$12 to the local economy for every dollar that's
16 invested by the state.

17 One in three doctors in Brooklyn
18 were trained at SUNY Downstate, and half of
19 Brooklyn's medical specialists were trained at
20 the facility. Eighty percent of SUNY Downstate's
21 graduates live and practice in New York City.
22 SUNY Downstate takes in over 80,000 visits per
23 year. And this is, I think, more than enough
24 reason for us to accept this amendment and to
25 save this institution.

1 ACTING PRESIDENT VALESKY: Thank
2 you, Senator Parker.

3 On the appeal of the ruling of the
4 chair, all in favor of overruling the chair
5 signify by saying aye.

6 SENATOR GIANARIS: Show of hands,
7 please, Mr. President.

8 ACTING PRESIDENT VALESKY: Those in
9 a favor of overruling the chair signify by
10 raising your hand.

11 (Show of hands.)

12 ACTING PRESIDENT VALESKY: The
13 Secretary will announce the results.

14 THE SECRETARY: Ayes, 26.

15 ACTING PRESIDENT VALESKY: The
16 ruling of the chair stands.

17 Senator Rivera.

18 SENATOR RIVERA: Mr. President, I
19 wonder if the sponsor would yield for a few
20 questions.

21 ACTING PRESIDENT VALESKY: Senator
22 DeFrancisco, do you yield?

23 SENATOR DeFRANCISCO: Yes, I would.

24 ACTING PRESIDENT VALESKY: The
25 sponsor yields.

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

3 I wanted to take some time to --
4 first of all, just for the record, I obviously
5 would have preferred what Senator Parker just
6 laid out to be something that we approved,
7 because, obviously, having -- this is a very
8 important institution, SUNY Downstate. And so I
9 would have preferred that we resolved it in the
10 way that Senator Parker just proposed in his
11 amendment.

12 But as we are speaking on this
13 particular budget bill, I wanted to specifically
14 ask a few questions -- Mr. President, through
15 you -- of Part Q of this particular budget bill.
16 I wanted to -- first of all, through you,
17 Mr. President, if the sponsor could just briefly
18 kind of state what the purpose of this particular
19 section is. Let's start there and then work our
20 way through the sections.

21 SENATOR DeFRANCISCO: Well, the
22 purpose of the section of the bill is to do our
23 best to not only save Downstate but also to make
24 it a vibrant facility for the same people that
25 Senator Parker mentioned it was important to have

1 this institution a viable institution.

2 In the period of time in which there
3 were budget negotiations, the determination by
4 the negotiators was that we should get a report,
5 a sustainability plan from SUNY, and that's got
6 to be done by June 1st of this year, in just a
7 couple of months, and submit that plan to the
8 Legislature to come up -- to provide us
9 recommendations on how to save it.

10 And it also calls for some funding
11 to be made available by SUNY, and hopefully to be
12 matched by the federal government through
13 Medicaid, to provide some initial funding to get
14 Downstate back operating. But that funding will
15 not happen until we see what the report is, or
16 until the report is finalized.

17 So rather than rush to a result and
18 just throw money at it -- like LICH was thrown at
19 it in the past, which caused more problems for
20 Downstate than they had before LICH was merged
21 into Downstate -- a more prudent plan would be to
22 make sure that it's done in a deliberate way, and
23 that's what's happening. I don't think anybody
24 in this Legislature, no matter where we live,
25 want to lose Downstate Hospital.

1 ACTING PRESIDENT VALESKY: Senator
2 Rivera.

3 SENATOR RIVERA: Through you,
4 Mr. President, if the sponsor would continue to
5 yield.

6 ACTING PRESIDENT VALESKY: Senator
7 DeFrancisco.

8 SENATOR DeFRANCISCO: Yes.

9 ACTING PRESIDENT VALESKY: The
10 sponsor yields.

11 SENATOR RIVERA: Thank you,
12 Mr. President.

13 I agree with you, no one in the
14 Legislature and I don't think anybody in the
15 State of New York would want an institution like
16 this, that provides such basic services to an
17 important part of our state, for it to go away.

18 But I actually want to dig a little
19 bit deeper. Could you tell me, particularly on
20 Section 2, there's a mention of a sustainability
21 plan. You mentioned it yourself. Could you tell
22 me what the definition of a sustainability plan
23 is? What are the parameters for a sustainability
24 plan?

25 SENATOR DeFRANCISCO: Well, I don't

1 think there's a definition in the bill. But
2 "sustainability" and "plan" have plain meanings.
3 The sustainability is to make sure it continues
4 as a viable hospital. And a plan is how they
5 propose that this is going to happen.

6 SENATOR RIVERA: Through you,
7 Mr. President, if the sponsor would continue to
8 yield.

9 ACTING PRESIDENT VALESKY: Senator
10 DeFrancisco.

11 SENATOR DeFRANCISCO: Yes.

12 ACTING PRESIDENT VALESKY: The
13 sponsor yields.

14 SENATOR RIVERA: Thank you,
15 Mr. President.

16 Do you not believe it is necessary
17 for us to lay out some specifics as far as what
18 the parameters of a sustainability plan should
19 be, to make sure that -- everything that you've
20 been saying about the institution and how
21 important it is to maintain it, wouldn't it have
22 been important to include language that was
23 specific in that regard in the language itself of
24 the bill?

25 SENATOR DeFRANCISCO: Yes, as far

1 as the more parameters that you lay in the bill,
2 the less flexibility SUNY has to try to find a
3 viable solution.

4 And I don't think anybody in this
5 Legislature really wants to limit SUNY from
6 making a reasonable plan that they feel will
7 work, since some of the money is going to come
8 from the SUNY coffers, and since they have two
9 other hospitals that are currently existing and
10 they run hospitals in a specific way. I think
11 the concept was to give them the most flexibility
12 we could.

13 SENATOR RIVERA: Through you,
14 Mr. President, if the sponsor would continue to
15 yield.

16 SENATOR DeFRANCISCO: Yes.

17 ACTING PRESIDENT VALESKY: Senator
18 DeFrancisco yields.

19 SENATOR RIVERA: Thank you,
20 Mr. President.

21 I understand the issue of
22 flexibility. But again, would it not have been
23 wiser to at least set some parameters as far as
24 perhaps services that should be maintained, as
25 far as populations that should be served?

1 If we're talking about the impact
2 that the close of this institution or changes to
3 this institution would have, would it not have
4 been prudent to include language that was -- I
5 understand the issue about flexibility. We're
6 not going to have a listing of three or four
7 pages that outline exactly what a sustainability
8 plan should have.

9 But at least some general parameters
10 to make sure that the institution would continue
11 to exist and in a way that would continue to
12 provide the services that are necessary for the
13 population that it serves. Through you,
14 Mr. President, would that not have been prudent?

15 SENATOR DeFRANCISCO: That's one
16 school of thought. I just think the more
17 flexibility, the better.

18 In Section 3 there's also some
19 language that says that such sustainability plan
20 shall include the elimination and/or reduction of
21 acute ambulatory and supportive services that are
22 not necessary or financially sustainable and any
23 additional measures necessary to achieve such
24 restructuring and achieve financial stability.

25 I think that's the primary word,

1 financial stability. One plan just a couple of
2 years ago was to acquire LICH. Well, that didn't
3 bring financial stability. The hospital,
4 Downstate, was hemorrhaging millions every
5 month.

6 So I guess the guidelines are we
7 want it sustainable, we want it to be a viable
8 part of our healthcare system. And secondly, we
9 want to make sure that the plan comes up with
10 something that's financially feasible so we don't
11 have another problem two or three years down the
12 road.

13 SENATOR RIVERA: Through you,
14 Mr. President, if the sponsor would continue to
15 yield.

16 SENATOR DeFRANCISCO: Yes.

17 ACTING PRESIDENT VALESKY: The
18 sponsor yields.

19 SENATOR RIVERA: Thank you,
20 Mr. President.

21 Through you, Mr. President. Senator
22 DeFrancisco, earlier you referred to a report --

23 SENATOR DeFRANCISCO: Pardon me?

24 SENATOR RIVERA: If I'm not
25 mistaken -- we can go do the transcript -- you

1 referred to a report that this language would
2 require to be produced at the end of this
3 process, something of that nature. I don't
4 recall finding language that referred to a
5 report.

6 SENATOR DeFRANCISCO: I don't think
7 there was a report. It's a plan, a
8 sustainability plan. I don't remember using the
9 word. If I did, then I was mistaken.

10 SENATOR RIVERA: You were referring
11 to the plan itself.

12 SENATOR DeFRANCISCO: The plan.

13 SENATOR RIVERA: Through you,
14 Mr. President, if the sponsor would continue to
15 yield.

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

18 SENATOR DeFRANCISCO: Yes, I do.

19 ACTING PRESIDENT VALESKY: The
20 sponsor continues to yield.

21 SENATOR RIVERA: Thank you,
22 Mr. President.

23 I want to get to one part, which is
24 we were talking -- well, I'm going to go by
25 sections. Moving on to Section 5 for a second,

1 you referred to it earlier as far as the timeline
2 is concerned. I want to talk about that timeline
3 a little bit. If I'm not mistaken, the bill as
4 written would require for a plan to be created by
5 June 1st and then approved within two weeks by
6 June 15th to be implemented. Not approved, but
7 implemented.

8 If I'm not mistaken, that is the
9 language that is included in the bill. I have a
10 couple of questions about that. Let's start with
11 this one, through you, Mr. President.

12 Do you feel that that is both enough
13 time for a plan to be put together and, more
14 importantly, for it to be implemented?

15 SENATOR DeFRANCISCO: Well, I guess
16 you're damned if you do and you're damned if you
17 don't. On the one hand, you want something to be
18 done, now so the negotiators put a short leash
19 on it, so the report would be done by June 1 and
20 that the plan would begin to be implemented two
21 weeks later.

22 So I guess that's the compromise.
23 We can't do it right now, but we want to make
24 sure that this doesn't -- the situation doesn't
25 get worse before something concrete is done.

1 SENATOR RIVERA: Mr. President,
2 through you, if the sponsor would continue to
3 yield.

4 ACTING PRESIDENT VALESKY: Senator
5 DeFrancisco.

6 SENATOR DeFRANCISCO: Yes.

7 ACTING PRESIDENT VALESKY: Senator
8 DeFrancisco yields.

9 SENATOR RIVERA: I want to make
10 sure that I understand the exact context of
11 "dammed if you do, damned if you don't." No,
12 actually I don't, which is why I'm going to ask
13 for clarification.

14 Do you mean to say that you would
15 have written the language differently, or do you
16 mean to say that the folks that are
17 implementing or would be asked to implement --

18 ACTING PRESIDENT VALESKY: Senator
19 Libous.

20 SENATOR LIBOUS: Mr. President, if
21 I could ask both Senators to direct everything
22 through the chair, it would be a lot easier for
23 us to follow. Thank you. I'm getting older, and
24 it's harder for me to follow the debate.

25 SENATOR RIVERA: Thank you, Senator

1 Libous.

2 Mr. President, through you.

3 ACTING PRESIDENT VALESKY: Senator
4 Rivera.

5 SENATOR RIVERA: Referring to an
6 answer to a prior question that Senator
7 DeFrancisco made related to a comment "damned if
8 you do, damned if you don't," I just want to
9 clarify that term, since I did not understand
10 it. Perhaps you did, Mr. President.

11 Does it relate either to how he
12 would have negotiated the language or would have
13 put the language forth differently? Or does he
14 refer to the folks that would be implementing the
15 plan, would they be damned if they don't, damned
16 if they do? I'm just repeating through you,
17 Mr. President, what was answered earlier.

18 SENATOR DeFRANCISCO: What I meant
19 by that was -- I thought it was clear. But what
20 I meant by that was on the one hand you're saying
21 you're unhappy that there's nothing for Downstate
22 to keep the thing open in this budget. And on
23 the other hand, when we have a short leash to get
24 a comprehensive financial and other plan by SUNY
25 by June 1 and then implement it by June 15, that

1 that's -- do we have enough time.

2 So on the one hand we're being
3 criticized for not doing something now, and on
4 the other hand we are being criticized or
5 questioned on such a short leash and a short time
6 to begin implementation. You're either damned if
7 you do or you're damned if you don't.

8 SENATOR RIVERA: Through you,
9 Mr. President, if the sponsor would continue to
10 yield.

11 ACTING PRESIDENT VALESKY: Senator
12 DeFrancisco.

13 SENATOR DeFRANCISCO: Yes.

14 ACTING PRESIDENT VALESKY: The
15 sponsor yields.

16 SENATOR RIVERA: Thank you,
17 Mr. President.

18 I would think, through you -- thank
19 Senator DeFrancisco for that clarification. I
20 will also just for the record state that I was
21 making sure that I knew exactly what he meant and
22 that really what I'm trying to establish is if
23 you -- whether it is believed that this is a
24 prudent timeline. I'm going to take it to mean
25 that Senator DeFrancisco believes that it is a

1 prudent timeline.

2 But I want to actually move down a
3 couple of sections to Section 6. And this is one
4 that, Mr. President, I want to make sure that we
5 really explore, because this is the one that, to
6 be honest with you, causes me the most -- is one
7 of the most concerning parts of this whole bill.

8 Through you, Mr. President, could
9 the sponsor describe, generally speaking, the
10 purpose of this particular section of the bill?

11 SENATOR DeFRANCISCO: I'm sorry, I
12 missed the last part of the question. Referring
13 to paragraph 6, what would you like to know about
14 that?

15 SENATOR RIVERA: Through you,
16 Mr. President, if Senator DeFrancisco, if the
17 sponsor could tell us, first of all, the purpose
18 of Section 6 of this bill.

19 SENATOR DeFRANCISCO: Well, in the
20 effort, once again, to move to a solution as
21 quickly as possible, this section allows for the
22 waiver of certain provisions of the law and
23 allows Downstate or Upstate to enter contracts
24 without competitive bidding or requests for
25 proposals.

1 In other words, we want to get a
2 decision made quickly on the sustainability plan
3 and we want implementation to happen as quickly
4 as possible. And if we had to then, after a plan
5 was formed, then competitively bid, wait another
6 6 months, another 8 months while the hospital is
7 hemorrhaging money, there's less chance of it
8 becoming a viable organization again. That's the
9 purpose of the language.

10 SENATOR RIVERA: Through you,
11 Mr. President, if the sponsor would continue to
12 yield.

13 SENATOR DeFRANCISCO: Yes.

14 ACTING PRESIDENT VALESKY: The
15 sponsor yields.

16 SENATOR RIVERA: Thank you,
17 Mr. President.

18 Through you, there's language in
19 this legislation, particularly in this section,
20 which refers to State Finance Law 112 to State
21 Finance Law 163, and to Education Law 355. I was
22 wondering, through you, if the sponsor could tell
23 us what those particular sections of the law
24 refer to.

25 SENATOR DeFRANCISCO: They refer

1 to, in each of those areas of the law, the
2 requirement of competitive bidding or RFPs.
3 Depending upon the section, it has those
4 requirements for contracting by the state.

5 This would, as it relates to each
6 one of those sections, whether it's competitive
7 bidding or RFPs, would give SUNY the opportunity
8 to waive that competitive bidding process or RFP
9 process.

10 SENATOR RIVERA: Through you,
11 Mr. President, if the sponsor would continue to
12 yield.

13 SENATOR DeFRANCISCO: Yes.

14 ACTING PRESIDENT VALESKY: The
15 sponsor yields.

16 SENATOR RIVERA: Through you,
17 Mr. President. So in all these instances where
18 we're talking about one of them -- for the
19 record, State Finance Law 212 requires any
20 contract of \$50,000 or more for all agencies
21 except OGS and \$85,000 and above for OGS to be
22 reviewed and approved by the Comptroller before
23 it's effective. State Finance Law 163
24 establishes standards for state agencies to
25 follow in regards to procurement, including

1 operating principles for evaluating offers and
2 awarding contracts. And Education Law 355
3 authorizes the board, as it refers to the SUNY
4 Board of Trustees, authorizes the board to
5 execute contracts and includes requirements to
6 purchase the lowest purchase price under the
7 competitive process.

8 In all of these instances -- through
9 you, Mr. President. So what this section is does
10 is exclude -- I want to make sure that I'm clear
11 with this -- it excludes the institution of SUNY
12 Downstate from any and all of these pieces of the
13 law. Is that correct? Through you,
14 Mr. President.

15 SENATOR DeFRANCISCO: I don't have
16 the Finance Law in hand, or the Education Law.
17 Or the Economic Development Law, Section 142.
18 But the intent of this was as to those sections
19 as it relates to competitive bidding and RFP,
20 Downstate won't have to do it. The reason why,
21 it's an emergency situation. We've got a
22 critical situation there, and everyone knows
23 about it. And if you don't provide this
24 flexibility to implement a plan quickly, the
25 hospital might not survive. And we don't want

1 that to happen.

2 So of course competitive bidding is
3 a wonderful thing. So are RFPs, and we use them
4 all the time. But when you have an emergency,
5 you've got to do something outside the box. And
6 for this case, this emergency authority is only
7 given to the Downstate situation.

8 SENATOR RIVERA: Through you,
9 Mr. President, if the sponsor would continue to
10 yield.

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

13 SENATOR DeFRANCISCO: Yes.

14 ACTING PRESIDENT VALESKY: The
15 sponsor yields.

16 SENATOR RIVERA: Through you,
17 Mr. President. So in this instance not only does
18 it remove it from these particular sections of
19 the law, but as far as oversight, as far as
20 whether there would be an agency -- whether --
21 it's actually, first of all, whether the
22 Legislature would be able to look into what's
23 happening there, Mr. President. Or more
24 importantly, if the Comptroller would be able to
25 look into the expenditures that are made in the

1 middle of this process.

2 Does this section or does any other
3 section of this law actually allow for either the
4 Legislature or the Comptroller to look more
5 specifically into the expenditures that are made
6 through this emergency plan?

7 SENATOR DeFRANCISCO: The plan,
8 first of all, has to be approved by the
9 Commissioner of Health. So there's some
10 oversight there. That's number one.

11 Number two, just like any other
12 state expenditures, the Comptroller's office
13 obviously has some oversight of state
14 expenditures.

15 In addition, there was actually even
16 a section in here that Downstate shall post on
17 its website for a period of no less than 15 days
18 a description of proposed goods and services to
19 be provided under various contracts. The
20 criteria for contractor selection.

21 So there's actually public
22 disclosure of what they're doing in addition to
23 the oversight of the Health Department as well as
24 the Comptroller's office.

25 And by the way, for those in the

1 state -- I know there's some in the state who
2 don't like the idea of this kind of flexibility
3 generally. Again, it's only for downstate, and
4 it's only for a period of one year, thinking that
5 that's the crucial period of time with which
6 things have to be done. And by that time I
7 imagine the state will know one way or the other
8 what else has to be done to save the hospital and
9 go back to the regular procedures.

10 SENATOR RIVERA: Through you,
11 Mr. President, if the sponsor would continue to
12 yield.

13 ACTING PRESIDENT VALESKY: Senator
14 DeFrancisco?

15 SENATOR DeFRANCISCO: Yes.

16 ACTING PRESIDENT VALESKY: The
17 sponsor yields.

18 SENATOR RIVERA: Thank you,
19 Mr. President.

20 So on the issue specifically,
21 Mr. President, of contracting -- and that's one
22 that I want to make sure we establish for the
23 record. So on issues of contracting, which may
24 include anything and everything that could
25 potentially happen in this institution, whether

1 it's providing medical services, whether it's
2 maintenance of the facilities, whether it's
3 renovation of the facilities, in any and all
4 contracts that might be made by this institution
5 during this process of restructuring, I want to
6 talk specifically about the oversight on those
7 contracts.

8 It seems to me -- and maybe I've
9 interpreted the language wrong, but it seems to
10 me that the Department of Health and the
11 Commissioner of Health have no oversight over
12 those contracts. And if they do, I'd like --
13 through you, Mr. President -- if the sponsor
14 could correct me. But it seems to me that they
15 do not have that authority.

16 SENATOR DeFRANCISCO: I wasn't
17 paying attention, I'm sorry.

18 (Laughter.)

19 SENATOR DeFRANCISCO: I was trying
20 to get another question clarified. But I will
21 pay attention this time.

22 SENATOR RIVERA: Through you,
23 Mr. President --

24 ACTING PRESIDENT VALESKY: Please
25 restate your question, Senator Rivera.

1 SENATOR RIVERA: I will absolutely
2 restate my question, Mr. President.

3 As I understand it, the language
4 does not allow for the Department of Health or
5 the Commissioner of Health specifically to have
6 oversight over the contracting that is done
7 during this period of restructuring by this
8 entity. And "contracts" understood to be
9 anything and everything that this entity could
10 do -- and I'll repeat again for the record --
11 whether we're talking about medical services
12 directly, whether we're talking about remodeling
13 facilities, whether we're talking about providing
14 food or other types of services. In any and all
15 of these instances, it seems to me that the
16 Department of Health and the Commissioner of
17 Health do not have oversight over the contracts.

18 And furthermore, if the contracts,
19 as I heard the sponsor state earlier, that this
20 period of this emergency plan would be only for
21 one year, I do not find language in this section
22 or in any other section that would bar any type
23 of contract that could be made during this period
24 when there is no oversight that goes beyond that
25 period of a year. So if the sponsor could

1 clarify that for me, please.

2 SENATOR DeFRANCISCO: As far as the
3 oversight, remember, the plan that's got to be
4 prepared by June 1 is a plan that has to be
5 approved by the Commissioner of Health. So as a
6 practical matter, he can put whatever parameters
7 he wants on it that the Downstate has to follow.

8 And if he thinks he needs specific
9 authority to reject a part of the plan or not
10 allow them to go to a longer-term contract, that
11 can be handled in the rejection of the plan. And
12 that once the plan is in place, the commissioner
13 oversees what they're doing to make sure that
14 they are in compliance with the plan.

15 So it's not that there's no
16 oversight, it's just that there's more
17 flexibility for that emergency period.

18 SENATOR RIVERA: Through you,
19 Mr. President, if the sponsor would continue to
20 yield.

21 ACTING PRESIDENT VALESKY: Senator
22 DeFrancisco.

23 SENATOR DeFRANCISCO: Yes.

24 ACTING PRESIDENT VALESKY: The
25 sponsor yields.

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

3 The process as just described by the
4 sponsor referred to whether the plan is
5 accepted. As we discussed prior, an earlier
6 section of the bill states that the process would
7 be within two weeks -- the damned if you don't,
8 damned if you do part of the conversation -- two
9 weeks for the proposal to be put into effect and
10 be implemented.

11 What if, during that period of time,
12 the Department of Health rejects the plan? What
13 would happen then?

14 SENATOR DeFRANCISCO: Well, I would
15 assume that SUNY would get back to the drawing
16 board very quickly. And I don't think it's a
17 matter of -- what's planned here, I think, is a
18 submission. And while they're submitting it, I'm
19 sure there has to be discussions with the
20 Department of Health as the plan is being
21 developed to make sure they're not going in the
22 wrong direction.

23 So again, the short leash is to try
24 to get things moving. I would imagine that if
25 they needed legislative authority, for example,

1 after the -- remember, it's while we're still in
2 session, the Legislature. I imagine if it's
3 rejected on June 15th they could come back here
4 and say, Wait, we need two more weeks, or we need
5 whatever we need.

6 But hopefully there will be
7 discussions as the plan is developed to make sure
8 the planners are accommodating what the
9 Commissioner is really looking for. And I would
10 be surprised if that process hasn't already
11 begun, quite frankly.

12 SENATOR RIVERA: Through you,
13 Mr. President, if the sponsor would continue to
14 yield.

15 SENATOR DeFRANCISCO: Yes.

16 ACTING PRESIDENT VALESKY: The
17 sponsor yields.

18 SENATOR RIVERA: So, Mr. President,
19 let's play hypothetical for a second, just
20 because I want to make sure that we understand
21 what excluding this particular entity from these
22 laws, these sections of the law that I mentioned
23 before, exactly what it means. Let's say that
24 there is a plan put forth by June 1st, it is
25 approved and put into effect by June 15th, and on

1 July 30th, during this new -- the folks that have
2 taken over, have put together this plan and
3 they're putting it forth, then they enter into a
4 contract which actually goes -- let's say it's a
5 five-year contract. Which, as we stated before,
6 would not be eligible for any type of oversight.

7 And as I understand it, because
8 we're excluding it from State Finance Law 112,
9 there would no longer be oversight from the
10 Comptroller's office over that contract until,
11 you know, until after it's ratified. And if the
12 contract is ratified -- and I would like some
13 clarification from the sponsor -- if the contract
14 is ratified and it's a contract that goes way
15 beyond the year that there's supposed to be
16 restructuring, what happens then?

17 SENATOR DeFRANCISCO: First of all,
18 we're in an emergency situation. And if we ask
19 the presidents of SUNY Upstate and Stony Brook
20 whether they would like more flexibility so they
21 can get some things done for their colleges, they
22 would jump for joy to have that ability. What
23 we're doing is giving the most flexibility we can
24 to get this done.

25 Now, of course there's always a risk

1 that a contract isn't going to be as good as it
2 could have been. There's always going to be a
3 risk that something extends longer than we want
4 it to extend. But if the program doesn't work,
5 Downstate won't be paying any of their bills
6 soon. So whoever is contracting with SUNY under
7 this plan I think would have to look carefully on
8 whether or not this plan makes sense from both
9 sides.

10 So we're taking a risk. Of course
11 we are. But the alternative is making them go
12 through months and months of bidding while
13 Downstate goes further and further in a hole.
14 When you balance those interests, you could come
15 up with 15 hypotheticals of risks. The risk of
16 something -- not doing anything or doing
17 something on a slow pace is not worth it.

18 SENATOR RIVERA: Through you,
19 Mr. President, if the sponsor would continue to
20 yield.

21 SENATOR DeFRANCISCO: Yes.

22 ACTING PRESIDENT VALESKY: The
23 sponsor yields.

24 SENATOR RIVERA: Thank you,
25 Mr. President. I only have a few more questions

1 on this issue and then I'm moving briefly to
2 another.

3 If we move to Section 9,
4 Mr. President, it adds a new section to the
5 Public Health Law that would allow SUNY
6 Downstate, among other institutions, to
7 participate in the Delivery System Reform
8 Incentive Payments program. That's DSRIP. Is
9 this a waiver program that New York State
10 currently -- through you, Mr. President, is there
11 a waiver program that currently New York State
12 participates in?

13 SENATOR DeFRANCISCO: Yes.

14 SENATOR RIVERA: Through you,
15 Mr. President, if the sponsor would continue to
16 yield.

17 ACTING PRESIDENT VALESKY: Senator
18 DeFrancisco, do you yield?

19 SENATOR DeFRANCISCO: Yes.

20 ACTING PRESIDENT VALESKY: The
21 sponsor yields.

22 SENATOR RIVERA: Thank you,
23 Mr. President.

24 It is my understanding that this is
25 part of a Medicaid 1115 waiver that the State of

1 New York has not currently submitted an
2 application for. As I understand it, only the
3 State of California and the State of Texas are
4 currently participating in this current Medicaid
5 waiver.

6 So, Mr. President, through you, does
7 the sponsor have any other information about
8 whether the state has actually applied for this
9 particular waiver?

10 SENATOR DeFRANCISCO: I guess the
11 answer is that we do this with various other
12 waivers, this particular process. And you're
13 absolutely correct. So when I say that we do
14 these things now, we do.

15 On this particular waiver, you're
16 correct, we haven't applied for it yet. But
17 obviously this allows for what it says in the
18 bill, assuming that we do obtain that approval by
19 the federal government.

20 SENATOR RIVERA: Through you,
21 Mr. President, if the sponsor will continue to
22 yield.

23 SENATOR DeFRANCISCO: Yes.

24 ACTING PRESIDENT VALESKY: The
25 sponsor yields.

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

3 So am I to understand, then, that we
4 are including a section here in the law which
5 would allow this institution to get access to
6 funding through a waiver program that we have not
7 applied for? And, furthermore, that it is a part
8 of a larger waiver proposal process that we have
9 already been in for over a year, perhaps, that --
10 and that we have.

11 So if already for over a year in
12 this waiver process we've been asking for all
13 sorts of money from the federal government, are
14 we saying, then, that -- I did not find language
15 here; maybe I can get clarification from the
16 sponsor. But I did not find language that says
17 that the state is going to apply for this. Are
18 we going to then amend the process that's already
19 been ongoing for a year to make sure that we
20 would get access to money from this waiver?

21 SENATOR DeFRANCISCO: We need the
22 authority for this because the -- what we're
23 going to be asking for from the federal
24 government is what is needed in furtherance of
25 the sustainability plan. There's already

1 discussions with the Department of Health and the
2 federal government that we are going to make this
3 application, the reason we're going to make this
4 application. But depending upon what the plan is
5 will depend upon the exact nature of the waiver
6 request.

7 Now, I would assume we could also
8 just leave this out and, once the waiver is
9 granted, come back, pass another bill to allow
10 for what we want to allow for here. But
11 obviously this just gives us the authority. If
12 we never get the waiver approval, this section
13 would be moot.

14 SENATOR RIVERA: Through you,
15 Mr. President, if the sponsor would continue to
16 yield.

17 ACTING PRESIDENT VALESKY: Senator
18 DeFrancisco?

19 SENATOR DeFRANCISCO: Yes.

20 ACTING PRESIDENT VALESKY: The
21 sponsor yields.

22 SENATOR RIVERA: I actually want to
23 go back briefly to Section 6, because there's one
24 thing that I missed and I want to make sure that
25 I get clarification, Mr. President. Section 6,

1 again, is the one that deals with opting out of
2 certain areas of the law which would allow for
3 some level of oversight from different entities,
4 the Comptroller being one of them. And also, as
5 we said, to allow for more flexible -- utilizing
6 the language of the sponsor, a more flexible
7 process by which we could contract more quickly
8 and more efficiently.

9 What is the consideration in this
10 process -- I do not see language that refers to
11 MWBEs, particularly whether there is any type of
12 standard that will be set to make sure that --
13 yes, flexibility is obviously important. But if
14 we're talking about an institution that is in
15 Brooklyn and is obviously surrounded by many
16 minority and women-owned business enterprises
17 that could perform some such services that we're
18 talking about, is there something in the
19 language -- through you, Mr. President -- that
20 would allow or that establishes any type of
21 standards as it refers to MWBEs for this
22 particular institution and this particular plan?

23 SENATOR DeFRANCISCO: The section
24 that waives some of these provisions and gives
25 flexibility from these provisions does not have a

1 section in the section dealing with minority and
2 women-owned businesses.

3 So we're not exempting the
4 university from any existing law or existing
5 executive order by the chief executive, of all of
6 those laws. It just gives flexibility and waives
7 the provisions of the specific laws that are
8 listed here, sections of the laws that are listed
9 here.

10 SENATOR RIVERA: Through you,
11 Mr. President, if the sponsor would continue to
12 yield.

13 SENATOR DeFRANCISCO: Yes.

14 ACTING PRESIDENT VALESKY: The
15 sponsor yields.

16 SENATOR RIVERA: Thank you,
17 Mr. President.

18 So just to be clear, State Finance
19 Law 112, which requires any contract over \$50,000
20 for all agencies except OGS and \$85,000 for OGS
21 to be reviewed and approved by the Comptroller
22 before it's effective -- for example, that
23 particular section of the law -- or State Finance
24 Law 63, which is about evaluating offers and
25 awarding contracts, so you're saying that even

1 though there is no language in the legislation
2 that we're considering today to make sure that
3 MWBEs are considered as far as the targets that
4 we're trying to hit in different agencies across
5 the state, that that is going to be -- that we
6 should assume that even though there is no
7 requirement for the normal process to be
8 undertaken to make sure that the contracts that
9 are entered into by a state agency or a state
10 entity are good, fair contracts, that even though
11 all of those requirements are waived, that the
12 requirement that refers to MWBEs -- through you,
13 Mr. President -- is going to continue to be
14 observed and respected?

15 SENATOR DeFRANCISCO: That's my
16 reading of this bill. I don't administer
17 contracts and I don't enforce women- and
18 minority-owned business regulations. I'm just
19 saying the bill does not waive those other
20 provisions that currently exist.

21 SENATOR RIVERA: Through you,
22 Mr. President, if the sponsor would continue to
23 yield.

24 SENATOR DeFRANCISCO: Yes.

25 ACTING PRESIDENT VALESKY: The

1 sponsor yields.

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

4 I skipped over a very important
5 section; I want to make sure we go back to it.
6 And that's Section 7.

7 SENATOR DeFRANCISCO: I would hope
8 so.

9 (Laughter.)

10 SENATOR RIVERA: You were thinking
11 I was going to skip it, but that's the one that
12 you're most ready -- I'm sorry, Mr. President,
13 through you. I'm thinking that the sponsor might
14 be particularly ready for questions regarding
15 this section, so I shall, through you, ask them.

16 This particular section refers to
17 allowing access to for-profit corporations to
18 operate part or some of the entity. Through you,
19 Mr. President, is that a correct interpretation?

20 SENATOR DeFRANCISCO: Correct.

21 SENATOR RIVERA: Through you,
22 Mr. President, if the sponsor would continue to
23 yield.

24 SENATOR DeFRANCISCO: Yes.

25 SENATOR RIVERA: Thank you,

1 Mr. President.

2 There is language in here that
3 refers specifically to allowing access for a
4 private institution to potentially run the
5 day-to-day operations of the entity. Is that a
6 correct interpretation? Through you,
7 Mr. President.

8 SENATOR DeFRANCISCO: Potentially.
9 However, there's a provided "however" in here as
10 well, which says that any such contracts with
11 for-profit entities shall be authorized only upon
12 approval by the Commissioner of Health and the
13 Director of the Division of the Budget of a
14 request by the Chancellor demonstrating financial
15 need of the State University healthcare facility.

16 So it gives that flexibility, but
17 there's a leash on that flexibility, the leash
18 being held by the Commissioner of Health as well
19 as the Budget Director.

20 SENATOR RIVERA: Through you,
21 Mr. President, if the sponsor would continue to
22 yield.

23 SENATOR DeFRANCISCO: Yes.

24 SENATOR RIVERA: Mr. President, as
25 far as that leash is concerned, that leash does

1 not have one part of the leash that extends to us
2 as the Legislature or another one that extends
3 itself to the Comptroller, is that correct? To
4 continue the metaphor.

5 SENATOR DeFRANCISCO: Excuse me, I
6 won't use the word "leash," I won't use the words
7 "damned if you do and damned if you don't."

8 Very clearly, it has to be subject
9 to the approval of both the Commissioner of
10 Health and the Budget Director. They are the
11 administrators of the hospital as well as the
12 overall state budget. So we don't normally
13 administer anything. And I hope we never do
14 administer trying to save a hospital, because I
15 don't know that we'd ever get it done.

16 And so this is -- there is this
17 oversight and there is this protection.

18 SENATOR RIVERA: Through you,
19 Mr. President, if the sponsor would continue to
20 yield.

21 ACTING PRESIDENT VALESKY: Senator
22 DeFrancisco.

23 SENATOR DeFRANCISCO: Yes.

24 ACTING PRESIDENT VALESKY: The
25 sponsor yields.

1 SENATOR RIVERA: I want to actually
2 move on to a different part to ask a few
3 questions. I might come back briefly to the
4 Part Q, but I want to ask a couple of questions
5 about Part P that has to do with the Mental
6 Hygiene Stabilization Fund. I think some of my
7 colleagues are going to be going a little bit
8 deeper into this, but I want to ask specifically
9 about the -- let's ask first -- I'm sorry.

10 Through you, Mr. President, if the
11 sponsor would please explain the overall purpose
12 of the Mental Hygiene Stabilization Fund.

13 SENATOR DeFRANCISCO: Part?

14 SENATOR RIVERA: Through you,
15 Mr. President, if the sponsor would take Part P,
16 which refers to the Mental Hygiene Stabilization
17 Fund -- would explain the purpose of the Mental
18 Hygiene Stabilization Fund.

19 SENATOR DeFRANCISCO: Well, this
20 one I have a tough time with because my Part P
21 deals with OTB and assistance with the cost of
22 Medicare premiums, et cetera, et cetera. Maybe I
23 got the wrong bill here. Part P?

24 SENATOR RIVERA: Through you,
25 Mr. President, I believe Part P as in Peter.

1 SENATOR DeFRANCISCO: I think Part
2 O, unless my numbers are wrong, relates to the
3 stabilization fund.

4 SENATOR RIVERA: Through you,
5 Mr. President, my apologies. I was mistaken. It
6 is Part O.

7 So yes, if the sponsor -- through
8 you, Mr. President -- could explain the main
9 purpose of Part O, the Mental Hygiene
10 Stabilization Fund.

11 SENATOR DeFRANCISCO: Okay, I
12 needed help on this one. And basically what it
13 is is that the -- we have been charged by the
14 federal government of a billion-one, or a little
15 more than that, of overpayments on Medicaid.

16 So the purpose of the stabilization
17 fund is to start saving for when we have to pay
18 these bills back over time. And that is the
19 reason for the bill.

20 SENATOR RIVERA: Through you,
21 Mr. President, if the sponsor will continue to
22 yield.

23 ACTING PRESIDENT VALESKY: Senator
24 DeFrancisco, do you continue to yield?

25 SENATOR DeFRANCISCO: Yes, I do.

1 ACTING PRESIDENT VALESKY: The
2 sponsor yields.

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

5 So this refers to the conversation
6 that we've had -- a lot of conversations that
7 we've had over the last couple of weeks related
8 to the Office for Persons With Developmental
9 Disabilities and the cuts to that particular
10 agency; is that correct?

11 SENATOR DeFRANCISCO: That's
12 correct. But that issue is in a different bill,
13 the Aid to Localities bill.

14 SENATOR RIVERA: Through you,
15 Mr. President, if the sponsor would continue to
16 yield.

17 SENATOR DeFRANCISCO: Yes.

18 ACTING PRESIDENT VALESKY: The
19 sponsor yields.

20 SENATOR RIVERA: If I understand it
21 correctly, Mr. President, yes, he is correct, the
22 sponsor is correct, Aid to Localities refers to
23 the particular money that has been -- funds that
24 have been allocated for that particular agency.

25 But if I'm not mistaken, this

1 particular fund in this bill deals with transfers
2 that are to happen between the Department of
3 Health and OPWDD for the purposes of covering
4 some of the gap that's going to exist because of
5 the overpayments that the sponsor referred to
6 earlier. So I want clarification on that to see
7 if I am correct.

8 SENATOR DeFRANCISCO: You're
9 correct.

10 SENATOR RIVERA: Through you,
11 Mr. President, if the sponsor would continue to
12 yield.

13 SENATOR DeFRANCISCO: Yes.

14 ACTING PRESIDENT VALESKY: The
15 sponsor yields.

16 SENATOR RIVERA: Thank you,
17 Mr. President.

18 There's two different periods that
19 are covered, Mr. President, in this bill as it
20 refers to -- and some of the analysis that we've
21 made as far as the numbers that are going to go
22 through the stabilization fund. This is funding
23 that is going to be allocated from the Department
24 of Health over to OPWDD to cover some of the
25 shortages that are obviously going to exist at

1 that agency because of the cuts we're going to be
2 discussing much more of a little bit later,
3 certainly during Aid to Localities.

4 I want to discuss specifically the
5 outyears, not only 2013-2014 but, more
6 specifically, 2014 and 2015. Because it seems,
7 and I want clarification on this from the
8 sponsor, Mr. President, it seems that we've
9 identified \$445 million in the outyears to be
10 appropriated for the Mental Hygiene Stabilization
11 Fund. However, it seems that what we're doing is
12 we're counting on money that perhaps would be
13 coming from the federal government.

14 So it seems that the analysis that
15 we've made of the numbers tells us that what's
16 happening, Mr. President, is that we're assuming
17 or we're wishing that in 2014 and 2015 this
18 \$445 million is given to us from the federal
19 government, and therefore we would be able to
20 plug the hole that would exist in this particular
21 fund that we're creating with this bill.

22 Is that correct? Mr. President,
23 through you.

24 SENATOR DeFRANCISCO: Well, we're
25 always trying to maximize reimbursement from the

1 federal government for Medicaid. So of course
2 we're wishing that more funds come in. But the
3 purpose of the stabilization fund is to make sure
4 that we will have the funds available from our
5 own budget in the event that those additional
6 funds don't come in from the federal government.

7 SENATOR RIVERA: Mr. President, on
8 the bill.

9 ACTING PRESIDENT VALESKY: Senator
10 Rivera on the bill.

11 SENATOR RIVERA: Thank you,
12 Mr. President.

13 First of all, I'd like to thank
14 Senator DeFrancisco, with his able help from his
15 able staffers, who was able to answer some of the
16 questions that I had. I'm a little bit clearer
17 on some --

18 SENATOR DeFRANCISCO: Excuse me. I
19 really knew all that stuff, but I asked every so
20 often.

21 (Laughter.)

22 SENATOR RIVERA: Apologies to
23 Senator DeFrancisco, through you, Mr. President.
24 Of course you did.

25 So now that I have a little bit more

1 clarification, I can say right off the bat,
2 Mr. President, that I'll be voting in the
3 negative on this piece of legislation for a few
4 reasons.

5 First of all, I'd like to kind of go
6 over -- when we're talking about SUNY Downstate,
7 I would agree wholeheartedly with my colleague
8 that no one in New York, no one in this
9 Legislature, certainly, would want this
10 institution to close. And I know many of my
11 colleagues are going to be talking about that
12 more at length, since it impacts them directly
13 and their constituents directly.

14 But personally I believe that the
15 proposal that we have in front of us is not the
16 correct way to address it, for a couple of
17 different reasons. Number one, it is stated
18 specifically in the legislation that the
19 hospital -- that SUNY Downstate is a teaching
20 hospital and that the purpose of the bill is to
21 maintain its status as a teaching hospital. And
22 I believe wholeheartedly that an institution that
23 produces the majority of doctors of color in this
24 particular area of the state should remain open
25 and should continue to be viable.

1 However, I believe also that when
2 we're talking about this institution we have to
3 look at it both as -- not only as a teaching
4 hospital, but also as a service provider. We're
5 talking about what is it that this institution
6 does. Certainly it gives us excellent doctors.
7 But also it gives us or gives people in Brooklyn
8 access to basic health services that would not be
9 available if this institution didn't exist.

10 It is my belief that the language,
11 in the way that it is organized right now, does
12 not provide for that to be the case. As opposed
13 to that, it allows for a level of flexibility --
14 and this is a word that was used over and over
15 again by the sponsor -- which I believe
16 ultimately is vagueness and does not guarantee
17 that the services will continue to exist.

18 Furthermore, as has been pointed out
19 by my colleague Senator Parker a few times during
20 the last couple of days, it is the fourth-largest
21 employer in Brooklyn. And that should also be
22 taken into consideration when we're thinking
23 about what's going to happen with this
24 institution.

25 So to just refer to it -- we want to

1 make sure we maintain it as a teaching hospital,
2 certainly. But if there's nothing in the
3 language that gives us a sense of whether it will
4 maintain its position as a basic service provider
5 to millions of Brooklynites, that is a problem.
6 And as being the fourth-largest employer, we
7 should be concerned about whether this
8 institution is going to continue to exist.

9 Second, transparency and
10 accountability. We have been talking about
11 this -- we talk about this very much on this
12 floor. And certainly I know that many of us are
13 committed to making sure that the people that we
14 represent know exactly what it is that we are
15 doing up here.

16 As it refers to what is happening
17 here and what I read the language to be, it
18 really reminds me a little bit of what's
19 happening right now in Michigan. In Michigan, as
20 I'm sure that many of you folks are aware, there
21 is a conversation right now about emergency
22 managers. These are people that in emergency
23 financial situations are put in control -- in the
24 case of Michigan, of municipalities or cities,
25 like just happened to Detroit -- and then we're

1 talking about the ability of these particular
2 individuals to do what they feel they should or
3 what they feel they must without any level of
4 accountability, any level of transparency, any
5 level of oversight.

6 I have a problem with that. And I
7 believe that we should all have a problem with
8 that. While I certainly think that there is a
9 need for an institution that is under duress to
10 act in ways that it feels it needs to act to save
11 itself, I believe that what is happening here is
12 that we are taking away two leashes, to use some
13 of the terms that were used by the sponsor,
14 specifically to us as a Legislature and to the
15 entity that in the State of New York is
16 responsible for making sure that the dollars that
17 are hard-earned tax dollars our constituents give
18 us are used appropriately and well, and that is
19 the Comptroller.

20 That is excised from this
21 institution. It seems to be a bubble that is
22 created where no transparency, no accountability
23 and no oversight exists.

24 And finally, the issue of
25 privatization. We are allowing -- again, for the

1 sake of flexibility, for the sake of trying to
2 save this institution, which I believe we all
3 must do -- for private entities to enter into any
4 type of arrangements that they might with this
5 institution.

6 But again, I have been very
7 concerned about this and I have spoken about this
8 on the floor before. We're talking about a
9 long-standing tradition of nonprofit healthcare
10 in the State of New York. And while I certainly
11 believe that the people of Brooklyn deserve to
12 have this institution continue to exist, we
13 should be very concerned when we are allowing a
14 private institution -- which is unnamed at this
15 time; we do not know what this organization is,
16 what it could be. But we are creating a
17 situation where this entity could potentially run
18 the day-to-day operations of this hospital.

19 Now, the issue I have with that is
20 that if you have a for-profit institution, a
21 for-profit entity, it's right there in the name,
22 "for profit" as opposed to "for care." If we
23 allow this institution that, as I mentioned
24 before, serves so many of our constituents in
25 Brooklyn, and we're saying that we're going to

1 inject an institution that might be making
2 decisions based on what kind of money they're
3 going to make, as opposed to what kind of care
4 they can provide, we should always be concerned
5 that that is happening.

6 And finally, as it relates to the
7 Mental Hygiene Stabilization Fund -- and I know
8 many of my colleagues will speak about this as
9 well, as it relates to the service of OPWDD and
10 what I think ultimately we are doing as an entity
11 in the Legislature, which ultimately is tragic,
12 because we are taking services away from the
13 folks that are the most needy in this state and
14 we are not doing enough to make sure we continue
15 to serve those folks. This Mental Hygiene
16 Stabilization Fund makes certain assumptions
17 about what kinds of money we're going to be
18 getting in the future.

19 So we're talking about an agency
20 that provides services that are absolutely
21 necessary to the most needy New Yorkers, and we
22 are saying, Well, we're thinking that maybe the
23 federal government will perhaps give us this
24 money in the future, and we're talking about
25 \$445 million that we are leaving there.

1 Ladies and gentlemen, these are just
2 two parts that I wanted to make sure that we went
3 at length into because I believe that both of
4 them are incredibly important for what we need to
5 do in the State of New York to provide access to
6 basic healthcare to New Yorkers all across the
7 state.

8 I do not believe that in just these
9 two instances -- in one we are just relying on
10 the goodwill of the federal government for almost
11 \$500 million of budget for this particular
12 agency, and in the other we are opening up what I
13 believe is ultimately an unwise decision to try
14 to save this particular institution in this
15 particular way.

16 I believe that there's better ways
17 to do it. I wish that we were a part of the
18 conversation more directly to make sure that this
19 would have happened differently. I know that
20 many of my colleagues here that live and
21 represent Brooklyn and that represent millions of
22 New Yorkers down there would have really wanted
23 to be part of that conversation. It is
24 unfortunate and disappointing that we were not.

25 The product that came out of those

1 conversations I believe is inadequate, and
2 ultimately I will be voting in the negative.

3 Thank you, Mr. President.

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

6 Senator LaValle on the bill.

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

9 First let me thank the chairman of
10 the Finance Committee. He did really a stellar
11 job, and it shows of his involvement in this
12 issue that he was able to move through a very
13 detailed set of questions.

14 Senator Hannon has been involved,
15 myself, and a number of staff people. I would
16 tell you that the meetings that have taken place
17 were very comprehensive, very long, and every
18 detail was looked at for not just a short period
19 of time, for many, many months, six months.

20 I felt that Senator Golden was my
21 shadow. Every time I turned around, he was there
22 asking the same question.

23 I want to make comments that I think
24 supplement and complement the remarks made by the
25 chairman of the Finance Committee.

1 We are dealing, Senator Rivera and
2 members of this body, with a problem that is a
3 \$16 million hemorrhaging problem of Downstate.
4 Of that \$16 million, about \$4 million is from
5 LICH. So it is a very dramatic problem. It has
6 been the purpose of the negotiations -- and
7 people know where we started -- that this
8 hospital remain as a teaching hospital and that
9 it remain as a public, public entity. And it's
10 cited, and I'll talk about it when we get to that
11 section.

12 I'm going to try, Senator Rivera, to
13 go through your questions going through it by
14 section.

15 One of the things that was mentioned
16 about the restructuring, well, the restructuring
17 is needed and a sustainability plan is needed and
18 the language in here for the purpose of achieving
19 fiscal viability while preserving its status as a
20 teaching hospital, as a teaching hospital. So
21 that language was put in there very
22 deliberately. And as you know, we excluded
23 language that would have made this a pilot for
24 private or otherwise.

25 The sustainability plan that's going

1 to be developed by the chancellor is done in
2 consultation with labor representatives,
3 community representatives, and other regional
4 stakeholders. And -- this is very important,
5 because I think you mentioned transparency -- and
6 will allow for public comment and input from
7 consumers of healthcare services in the
8 development of this plan,

9 We talked about the June 1st, and
10 the members of the respective chairs of Finance,
11 Health and Higher Education will have notice of
12 that plan. But the importance of the June 15th
13 plan -- remember, we have a hospital that's
14 hemorrhaging, and we have to come up with a plan
15 that's going to draw down money to keep it open.
16 So that's why the June 15th date was put in
17 there, so that we have a plan.

18 And by the way, this Legislature has
19 asked the State University for a plan
20 repeatedly. At Senator DeFrancisco's hearing on
21 SUNY, we got an outline of a plan Dr. Williams
22 talked about. And he talked about, you know, the
23 reconfiguration and he talked about things that
24 he was doing to try and reduce that hemorrhaging.

25 Now, in order to get -- and we'll

1 get to the money -- you have to have certain
2 metrics. And we were very sensitive to labor and
3 maintaining the public aspect. But in order to
4 meet -- and this was, I think, agreed by all of
5 the parties, as we struggled with language, was
6 that to meet those metrics you needed some
7 flexibility. And so last year we gave SUNY
8 flexibility in procurement of goods, not
9 services. There was a whole debate on that, and
10 we were very, very sensitive at that time.

11 Just to give you an idea, the
12 contract, the contract for the hiring of a
13 consultant took nine months through the process
14 of OCS and the Attorney General, nine months.
15 So, Senator, if you're hemorrhaging at
16 \$16 million a month, you can't sustain, you know,
17 a process that's going to have the meter run:
18 Ka-ching, ka-ching, ka-ching.

19 So it was done -- I'll yield when I
20 get done. I'll yield when I get done.

21 ACTING PRESIDENT VALESKY: Senator
22 Rivera, Senator LaValle will yield after he
23 finishes his remarks.

24 SENATOR RIVERA: Oh, after he
25 finishes, yes. Thank you, Mr. President.

1 SENATOR LaVALLE: To show you the
2 sensitivity, we limited the contracts. And
3 they're here delineated in Section 6 that you
4 talked about: Consultant services, revenue
5 collection and billing services, electronic and
6 medical health records, insurance eligibility and
7 verification services. And we also allow for
8 clinical services pursuant to the sustainability
9 plan.

10 But here's the most important
11 language on page 3: That such contracts shall
12 not be of such scope or nature as to alter the
13 character of Downstate Hospital as a public
14 hospital and shall be limited, shall be limited
15 in terms of the percentage. Fifteen percent
16 unless there's an exigency that takes place, and
17 then it only can go up 5 percent, or limited to a
18 total of 20 percent.

19 During the budget hearing
20 Dr. Williams was very, very specific in terms of
21 talking about a plan. And one of the things
22 that -- and Senator Hannon has talked about
23 this -- is the change, the change in healthcare
24 that has taken place. And so we're in a new
25 world today. And in order to be competitive,

1 Dr. Williams, as part of his testimony before the
2 Finance Committee, talked about relationships
3 with other providers in the Brooklyn area and
4 wherever, in order to provide to the people of
5 that area continued quality healthcare and done
6 in such a way that meets the economics in today's
7 healthcare world.

8 The last thing I just want to say is
9 that it is important, that June 15 date, because
10 we have to start putting together a plan to
11 access the monies that we need. And one of those
12 things -- and I get a kick in the healthcare
13 world, where everything is an acronym. And if I
14 told you DSRIP, that's Delivery System Reform
15 Incentive Payment.

16 So in order to get those monies and
17 other monies, that we need to have a plan and be
18 able to perform that plan. You have -- and
19 Senator DeFrancisco has said this repeatedly --
20 you have the involvement of the Commissioner of
21 Health and the Director of the Division of the
22 Budget. And you know, if he were in this
23 chamber, you could probably talk to him about the
24 Q section and he could tell you with great
25 specificity what is behind all of this.

1 Some of the things that are not here
2 in this bill are things that people are working
3 on. Because you don't go from today's date to
4 June 1st and have a plan and access of money.

5 So this, I would tell you, was a
6 priority. And as a matter of fact, in higher
7 education I think we did great things for the
8 community colleges. And this issue has
9 overshadowed everything that we have done in
10 higher education because of its importance. My
11 colleague to the right, Senator Golden, has been
12 like a tick.

13 (Laughter.)

14 SENATOR LaVALLE: And hopefully --

15 SENATOR GOLDEN: Is that the best
16 word you could find?

17 SENATOR LaVALLE: I was going to
18 say a burr, but --

19 (Laughter.)

20 SENATOR LaVALLE: Senator, I'll
21 yield.

22 SENATOR RIVERA: Mr. President, if
23 Senator LaValle would yield for one question.

24 SENATOR LaVALLE: Yes.

25 ACTING PRESIDENT VALESKY: Senator

1 LaValle yields.

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

4 While I certainly will not comment
5 on the insect qualities or nonqualities of
6 Senator Golden, I think we can all agree that
7 certainly he was very insistent on this.

8 The question that I have either for
9 Senator LaValle or for the sponsor or anyone
10 else, really, is why was the only Brooklyn
11 Senator invited to these conversations Senator
12 Golden? As I figure, I don't know if Senator
13 Parker, Senator Adams, Senator Montgomery or
14 Senator Squadron, either or any of them, were
15 invited to any of these conversations.
16 Specifically Senator Squadron, since it is in his
17 district. I just want to know if the sponsor
18 would yield for that. Oh, and Senator Sampson,
19 too. Apologies.

20 SENATOR LaVALLE: Senator, in part,
21 as chairs, you are involved in this issue.

22 But I can tell you, I've had
23 conversations with the ranking member of the
24 committee, Senator Stavisky. And I would tell
25 you, she was up-to-date on everything that was

1 going on. I had a conversation with
2 Senator Squadron, and he seemed very aware what
3 was going on and even had ideas.

4 So I don't think that this was
5 done -- I think you have responsibilities as
6 chair, and I think that's why, you know, we're
7 involved to that degree.

8 And Senator Golden's involved
9 because I'm telling you, for six months Senator
10 Golden has been a shadow. So if anyone else was
11 the same shadow, I would have shared whatever
12 information I had.

13 SENATOR RIVERA: Thank you,
14 Mr. President.

15 ACTING PRESIDENT VALESKY: Senator
16 Squadron on the bill.

17 SENATOR SQUADRON: Thank you,
18 Mr. President. Actually, if the sponsor would
19 yield. I'll wait.

20 ACTING PRESIDENT VALESKY: Senator
21 LaValle, do you yield?

22 SENATOR LaVALLE: Yes.

23 ACTING PRESIDENT VALESKY: Senator
24 LaValle yields.

25 SENATOR SQUADRON: If Senator

1 LaValle would yield, that's -- I appreciate that
2 as well. Thank you very much.

3 Senator LaValle, the sponsor when he
4 was here referred to the fact that in the 2010
5 merger between Downstate and LICH, LICH, in his
6 words, had money thrown at it. Do you remember
7 how much money, state money was given to help the
8 merger between Downstate and LICH?

9 SENATOR LaVALLE: I'm going to get
10 you an accurate figure on that.

11 SENATOR SQUADRON: Thank you.

12 SENATOR LaVALLE: Now, Senator,
13 just anticipating where you're going to go with
14 this questioning -- and I'll get you a number --
15 you will know as part of our process that we in
16 the Legislature, by law, define other entities or
17 individuals to be responsible for certain
18 transactions. And so SUNY, the board and the
19 chancellor, certainly when it comes to
20 acquisition of properties -- wherever they are,
21 wherever they are in the SUNY system -- will make
22 those decisions.

23 SENATOR SQUADRON: Perhaps the
24 sponsor -- I thank Senator LaValle for that. I'm
25 asking about state money, state HEAL grant money.

1 SENATOR LaVALLE: By the way,
2 Senator Squadron, I'm told that that transaction
3 was done in 2010. So you would probably have
4 better knowledge than I in the year 2010.

5 SENATOR SQUADRON: One of the few
6 years on which I may have better knowledge,
7 Senator LaValle.

8 Through you, Mr. President, I do --
9 if the sponsor knows, it was \$63 million in state
10 HEAL grant money that went to the merger of SUNY
11 Downstate and LICH, \$63 million that was spent as
12 part of a promise that healthcare in Brooklyn,
13 from one part of the borough to another, for
14 millions of people, would be preserved and
15 expanded and would have the support of SUNY and
16 of the state. And as Senator LaValle points out,
17 it was in 2010.

18 If Senator LaValle would yield for
19 another question.

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

22 SENATOR LaVALLE: Yes.

23 ACTING PRESIDENT VALESKY: Senator
24 LaValle yields.

25 SENATOR SQUADRON: Thank you.

1 Through you, Mr. President, is
2 Senator LaValle aware of the valuation that the
3 Comptroller recently put on the LICH real estate?

4 SENATOR LaVALLE: Not until you
5 told me at 5:30 on Sunday night.

6 SENATOR SQUADRON: If the sponsor
7 would continue to yield.

8 SENATOR LaVALLE: Yes.

9 ACTING PRESIDENT VALESKY: Senator
10 LaValle yields.

11 SENATOR SQUADRON: Not to keep
12 everyone in suspense, but Senator LaValle was not
13 familiar with the valuation of the LICH real
14 estate until Sunday night after this bill had
15 printed?

16 SENATOR LaVALLE: Let's go back to
17 my response. When we talk about acquisition of
18 property, that is a decision that the SUNY board
19 and the chancellor make.

20 And as you know, the focus has been
21 on the terrible failure that LICH was. And we in
22 this Legislature did not make that deal or get
23 into it, that was made by those individuals that
24 by law we designate to make those decisions.

25 SENATOR SQUADRON: If Senator

1 LaValle would continue to yield.

2 SENATOR LaVALLE: Yes.

3 ACTING PRESIDENT VALESKY: Senator
4 LaValle yields.

5 SENATOR SQUADRON: Is Senator
6 LaValle suggesting -- through you,
7 Mr. President -- that it was SUNY dollars that
8 were spent in order to acquire LICH and to create
9 that merger?

10 SENATOR LaVALLE: Well, SUNY
11 dollars or state dollars. Is that what you're
12 inferring?

13 SENATOR SQUADRON: I'm just asking
14 for a clarification from Senator LaValle, who has
15 spoken about SUNY's responsibility to acquire
16 real estate and/or assets. And I'm asking if the
17 implication is that this was somehow SUNY
18 dollars.

19 SENATOR LaVALLE: They are dollars
20 that the State University had for a capital
21 investment that at the time the board made a
22 decision, based on a plan and based on what I
23 talked about before about where we are with
24 healthcare today, to try and expand the reach in
25 providing healthcare services.

1 I would say most of the time our
2 boards, the SUNY board makes good decisions.
3 This was a bad deal that went worse.

4 SENATOR SQUADRON: If the sponsor
5 would continue to yield.

6 ACTING PRESIDENT VALESKY: Senator
7 LaValle?

8 SENATOR LaVALLE: Yes.

9 ACTING PRESIDENT VALESKY: Senator
10 LaValle continues to yield.

11 SENATOR SQUADRON: Thank you. And
12 I thank Senator LaValle for his response.

13 It was \$63 million in state HEAL
14 funding, which is approved by the Commissioner of
15 the Department of Health, that went to that
16 merger, from the State Department of Health HEAL
17 grants. And the valuation of the State
18 Comptroller in the report that the State
19 Comptroller did at the request of some members of
20 this body that came out at the beginning of this
21 year, the valuation for the real estate was in
22 the neighborhood of \$500 million. That's half a
23 billion, with a B, dollars for LICH.

24 With that information, is the
25 sponsor aware of the recent vote the SUNY board

1 took to apply to the State Department of Health
2 to close LICH?

3 SENATOR LaVALLE: Senator, yes, I'm
4 aware of it. But those dollars, when we make
5 decisions, we access -- as we will in allowing
6 this sustainability plan and allowing Downstate
7 to be viable fiscally and remain open as a
8 teaching hospital. Because we're using as -- the
9 state, in making a decision, is using or will use
10 federal dollars.

11 So to just say, well, this is HEAL
12 grant money, well, SUNY made that decision
13 because they could access HEAL grant money to
14 make this deal happen -- and I don't think you're
15 suggesting -- I mean, it's great today, looking
16 back, to be an armchair quarterback and say it
17 wasn't a good deal. I think the people of
18 Brooklyn felt that this was what they wanted, was
19 a good deal to provide healthcare services to
20 that community.

21 So, you know, sometimes we look back
22 with the experience and the knowledge that we
23 have today and say, well, it wasn't a good deal,
24 we squandered \$63 million.

25 And by the way, if I recall, at 5:30

1 on Sunday you told me that the value of LICH was
2 \$400 million, not \$500 million. So we've upped
3 it by \$100 million.

4 SENATOR SQUADRON: If the sponsor
5 would continue to yield.

6 SENATOR LaVALLE Yes.

7 ACTING PRESIDENT VALESKY: Senator
8 LaValle yields.

9 SENATOR SQUADRON: Senator LaValle
10 is correct that the low conservative assessment
11 of the property would be \$400 million. The State
12 Comptroller's report said it was \$500 million,
13 regardless.

14 And while I appreciate the answer
15 overall, there was not an answer to the question
16 to as to what the SUNY board recently voted to
17 do. It recently voted to apply to the State
18 Department of Health to chose LICH. It has not
19 yet received that approval from the State
20 Department of Health. And we certainly are going
21 to do everything we can to forestall that
22 approval. But we know that it's on the table,
23 it's something the SUNY board has now voted twice
24 to do, once outside of the law, once within the
25 law.

1 The question is, in the response
2 Senator LaValle suggested that it's going to be
3 federal money that's going to shore up SUNY
4 Downstate or whatever portion of SUNY Downstate
5 continues to survive. Senator LaValle is
6 suggesting that it's not going to be any of the
7 real estate valued between \$400 million and
8 \$500 million -- the \$400 million, let's call it
9 the conservative Sunday afternoon estimate;
10 \$500 million being the State Comptroller's
11 estimate -- that none of that \$400 million to
12 \$500 million will be used to shore up SUNY
13 Downstate?

14 SENATOR LaVALLE: Senator, I would
15 say that I'm somewhat confused, because LICH is
16 hemorrhaging at \$4 million a month and has for
17 some period of time. So I don't want to get into
18 the decision-making of whether LICH stays open or
19 not. But I have not heard anything that you have
20 said on how you're going to deal with that
21 \$4 million. Now -- \$4 million a week, a week,
22 I'm told.

23 Now, in here we have a
24 sustainability plan. As part of that plan,
25 Senator, they could, they could, based on your

1 remarks and your input -- and when we spoke on
2 Sunday, your input did not fall on deaf ears. I
3 mean, it sounded like when you're hemorrhaging
4 the way you are, anything should be on the table
5 for consideration.

6 But I -- well, I'll just end it
7 there, put a period.

8 SENATOR SQUADRON: If the Senator
9 would continue to yield.

10 SENATOR LaVALLE: Yes.

11 ACTING PRESIDENT VALESKY: Senator
12 LaValle yields.

13 SENATOR SQUADRON: I appreciate
14 that.

15 To be clear, I have not posited
16 anything in these questions other than just an
17 understanding of the process and an understanding
18 of what was known and considered in the room
19 through the process that you described quite
20 fully previously.

21 Let me just ask one more time, very
22 directly, \$400 million to \$500 million worth of
23 real estate in a hospital that's been around over
24 a hundred years that may get shut down, is it the
25 Senator's understanding that those dollars will

1 go to SUNY Downstate, will not go to SUNY
2 Downstate? And if not, what is the Senator's
3 understanding as to where those dollars will go?

4 SENATOR LaVALLE: Senator, the
5 restructuring says subject to the approval of the
6 Commissioner of Health, the director of the
7 Division of Budget. And of course there's
8 involvement, as we talked, in the development of
9 the sustainability plan, the chancellor shall
10 consult with labor representatives, community
11 representatives, and other regional stakeholders.

12 So the answer to your question is
13 that in the process of the sustainability plan,
14 and ultimately the June 15th date where we have
15 to start putting real money on the table to keep
16 things operating, that could evolve. So the
17 answer is it could. Not our role, by statute.
18 Other individuals are delegated to make that
19 responsibility, that plan, which is to keep the
20 hospital fiscally viable so that it can operate
21 as a public teaching hospital.

22 SENATOR SQUADRON: Thank you. On
23 the bill.

24 ACTING PRESIDENT VALESKY: Senator
25 Squadron on the bill.

1 SENATOR SQUADRON: This is deeply,
2 deeply concerning. The bill is deeply
3 concerning. Tonight's conversation only adds to
4 that concern. We're talking about an entire
5 hospital system here with multiple campuses, one
6 of which is currently at risk of being shut down
7 within 90 days. In fact, its employees have
8 received 90-day notices. One that has gotten a
9 vote from the SUNY board to be shut down has not
10 yet received approval from the Department of
11 Health, and again, we will fight against that
12 approval.

13 We're talking about a hospital
14 system that's critical to Brooklyn, every one of
15 its campuses. The relationship with the medical
16 school, as Senator Rivera and Senator Parker have
17 both spoken about tonight. We're talking about
18 \$400 million to \$500 million of real estate and a
19 hospital that has existed over 150 years nestled
20 within a residential community.

21 In fact, the largest buildings
22 within that community which were allowed to be
23 built because of the community benefit attached
24 to the building of those buildings. And we're
25 having a conversation in which there is no

1 knowledge as to the relationship between that
2 hospital and that campus, that \$400 million to
3 \$500 million.

4 At what point would any member of
5 this Legislature recommend that we take
6 \$500 million in state assets and say, to any
7 other entity, "Good luck, go on, do your best"?
8 Especially when those assets are linked to an
9 institution that, as Senator LaValle and Senator
10 DeFrancisco and colleagues on my side of the
11 aisle have so eloquently talked about, is at such
12 serious risk at this moment. It makes no sense
13 at all.

14 Senator LaValle twice quoted a
15 provision of Part Q of this bill and twice
16 excised a key phrase: "The chancellor shall, to
17 the maximum extent practicable, allow for public
18 comment and input from consumers of health
19 services in the development of the plan." None
20 is required. None, zero. None.

21 In Section 8 of the bill, it says:
22 "Notwithstanding the provision of any law, rule
23 or regulation to the contrary, a portion of such
24 monies credited" -- those are dollars that SUNY
25 gets -- "may be transferred to a State University

1 account as requested by the State University
2 chancellor or his or her designee." Do you know
3 what that means? Not one dollar has to go to
4 protecting SUNY Downstate overall, not one dollar
5 of that \$500 million of real estate.

6 You know what else? Not one
7 community voice has to be listened to. Not one
8 ounce of concern about the value for the
9 community if LICH shuts down has to be
10 considered -- not by SUNY, not by the Executive.

11 "Don't worry, the Legislature will
12 have a say." No, it won't. There's no
13 legislative input in this at all. None.

14 No community input, no legislative
15 input, \$500 million of real estate that the state
16 paid for three years ago, \$63 million -- not SUNY
17 dollars, state HEAL grants -- as part of this
18 merger, in addition to other aid and to all the
19 Medicaid dollars that flow here.

20 This is simply unacceptable. It's
21 unacceptable for every corner of Brooklyn, from
22 the heart of my district to central Brooklyn and
23 across the state. It's not acceptable that we
24 would say "Good luck with Downstate, see ya
25 later, we're done." And that's what this bill

1 does.

2 I urge every one of my colleagues to
3 vote against it in order to protect healthcare in
4 our state, in order to protect health education,
5 and in order to protect transparency and the
6 process by which we deal with state assets as a
7 legislature, as a legislative body.

8 And if none of that works, please
9 just briefly consider my district. Consider the
10 community that has playgrounds that exist and
11 were promised as part of the development of this
12 hospital. Consider a community that depends on
13 the emergency services and the other medical care
14 that my community is able to get. And consider
15 if someone said to you \$500 million of state
16 assets in your community were going to be sold to
17 the highest bidder with no regard for community
18 input and no voice for your representatives.

19 I urge a no vote on the entire
20 bill. Thank you, Mr. President.

21 ACTING PRESIDENT VALESKY: Thank
22 you, Senator Squadron.

23 Senator Parker on the bill.

24 SENATOR PARKER: Thank you,
25 Mr. President. On the bill.

1 There are two kinds of people in the
2 world. There are people right now who are sick,
3 and then the rest of us who at some point are
4 going to be sick. And the question is when the
5 rest of us get sick, is there going to be an
6 institution in our community that protects us?

7 There's frankly nothing more
8 important than your health. Right? Senator
9 Sampson likes to say "Your health is your
10 wealth." It's been the biggest conversation
11 we've had in this country over the last four
12 years as we've had a President who's made it his
13 ambition to in fact do a healthcare plan that
14 incorporates as many people as possible.

15 And what do we do on the heels of
16 that? On the heels of that we come into a
17 community that needs healthcare badly, and we gut
18 it. And I'm not even just talking about this
19 bill. We started with the Berger Commission six
20 years ago, eight years ago. That was the first
21 Berger Commission. Then we went to Berger II,
22 because that wasn't enough, we hadn't cut enough
23 then. So instead of us looking and managing the
24 process in which healthcare was changing in our
25 state, we decided that we were going to go in and

1 instead of, you know, using the scalpel, we
2 decided to use Berger and a hatchet. And so,
3 willy-nilly, we started talking about closing
4 institutions.

5 Mr. President, my objection to this
6 bill is about everything that it takes away from
7 our communities. And I want to thank Senator
8 DeFrancisco and Senator LaValle for their work,
9 and obviously Senator Golden for his input and
10 doggedness in terms of raising this to an issue.
11 I don't blame them for this. Because we knew
12 this was a problem seven, eight months ago when
13 the SUNY chair came to us and told us this was a
14 problem.

15 And almost immediately we reached
16 out to the Governor and said "Let's have a
17 meeting." And up until this moment, I am yet to
18 have a meeting with the Governor, and my
19 colleagues are yet to have a meeting with the
20 Governor to talk about this important issue.

21 And I get that I'm not a chair of a
22 committee and we're not in the majority. But you
23 know what? My district is impacted by this
24 hospital and by the medical school. My
25 constituents use that hospital and they go to the

1 medical school. The people who work at that
2 hospital and the medical school live in my
3 district.

4 And so how could you deny me and my
5 colleagues a conversation and then walk around
6 and act like this is a better process? That's
7 what's so offensive. Walk around like, you know,
8 all the dysfunction is gone. Yeah, the
9 dysfunction is gone because you're getting an
10 on-time budget and you're getting it three times
11 in a row and you get to say, Yeah, you know, I
12 did, you know, better than everybody else and,
13 you know, everybody jump up and look at me
14 because, you know, I can make everybody do what I
15 want them to say.

16 But this is not what democracy is
17 about. The whole process of this budget rips at
18 the very fabric of our constitution, the very
19 thing that's supposed to protect us and give our
20 folks voice. I'm not here because Kevin Parker
21 is important. I'm here because fortunately -- or
22 unfortunately, depending on where you stand --
23 the people of the 21st Senatorial District
24 thought that I was the best voice to come to
25 Albany and represent them on issues. I'm not

1 standing here for me. I'm standing here for the
2 318,000 people I represent. And we have here a
3 document that takes away their right to be
4 involved in the process that affects their
5 healthcare.

6 We thought a number of years ago
7 that we were having a problem. And understand,
8 the problems with private hospitals,
9 Mr. President, has been going on for a number of
10 years. We almost closed Wyckoff. We had a
11 significant problem at Brookdale. Interfaith
12 right now is about to close. Brooklyn Hospital
13 was about to close. We closed Caledonia. We
14 closed St. Mary's. You know, we closed private
15 hospital after private hospital. Then we saw
16 Long Island College Hospital on the block and
17 we're like, we can't let one more go down.

18 We spoke to the folks at SUNY, we
19 spoke to the folks at Downstate and said, "Look,
20 is there something we could do to help?" They
21 said yes. They said yes.

22 Now, as you know, I'm a very smart
23 man. But I'll admit I don't know everything
24 about hospitals and how they run, particularly
25 hospital finance. So when a director of the

1 medical center says to me, "Yeah, we can do this,
2 we can figure this out and we can make the
3 economics work," a number of us in this chamber
4 said we should make it work because healthcare
5 anywhere in the borough of Brooklyn is good for
6 healthcare everywhere in the borough of
7 Brooklyn.

8 And we had learned both through our
9 experience on 9/11 and, you know, other things
10 that had gone on that in emergencies you
11 oftentimes don't have enough access to quality
12 healthcare around the borough. So we said yeah,
13 let's do this. It wasn't me or Senator Daniel
14 Squadron, you know, crunching the numbers and
15 figuring this out. We got it from them.

16 And in the audit that we've gotten
17 now from the State Comptroller, we find out that
18 the exact thing that was the problem was lack of
19 oversight. There wasn't enough oversight. There
20 wasn't enough oversight of SUNY, there wasn't
21 enough oversight of Downstate Medical Center, of
22 the hospital. And we all agreed, when they made
23 changes they came in and did the things that had
24 to be done.

25 All we've been asking here,

1 Mr. Governor, is to be part of the process. And
2 instead of being part of the process, you've cut
3 us out of the process even more by not giving us
4 enough money to figure this out and then saying,
5 Okay, I'm going to give you a truncated timetable
6 you have to come up with this plan -- oh, yeah,
7 and by the way, you're not involved in it as a
8 Legislature. So forget the 318,000 people I
9 represent, the almost 320,000 that Senator Adams
10 represents, the 316,000 people that Senator
11 Sampson represents, the 320,000 people that
12 Senator Montgomery represents, forget the 314,000
13 people -- no, it's actually more than that, like
14 322,000 people that Senator Dilan represents.

15 Forget all of those people that we
16 represent; you're going to make all the decisions
17 by yourself. That's how we got into this problem
18 in the first place. So instead of creating more
19 oversight, we've created now less oversight over
20 the same thing. It has now, Mr. President,
21 become the definition of insanity.

22 And your solution is to privatize
23 everything, when I just finished telling you the
24 hospitals that are going out of business in
25 Brooklyn are the private hospitals. You can't

1 make this up. So all the private hospitals are
2 going out of business, so what do we do to
3 improve healthcare? Privatize it. And wonder
4 why people have government jokes.

5 This does not even begin to address
6 the needs of the people in our community. And
7 part of what everybody is not talking about here
8 is they're planning to lay off almost a thousand
9 people. With the proposed closing of Long Island
10 College Hospital, they have already put into
11 effect laying off 500 people just at Long Island
12 College Hospital, the vast majority of those
13 being 1199 workers.

14 In addition to that, with this
15 proposal there will be upwards of 200 people laid
16 off at Downstate Medical Center. Somewhere,
17 between 200, possibly up to 400 people laid off
18 as a result.

19 So, you know, people want to vote
20 for this, understand that you're voting to take
21 away the jobs of somewhere between 600 to 900
22 people in Brooklyn. That's not a vote I can
23 take. Not when there are alternatives. Not
24 when, for \$150,000, we can figure this out. You
25 have that much in HEAL money sitting around right

1 this minute.

2 So you can decide that the
3 fourth-largest employer in Brooklyn is too big to
4 fail, Mr. Governor, and say I'm going to take all
5 the HEAL money, I'm going to give it to
6 Downstate, let's save the hospital, let's work on
7 this together, let's have a collaborative
8 process. In the same way that we didn't have a
9 collaborative process doing the entire budget,
10 there was no collaborative process talking about
11 Downstate.

12 And then we want to talk about how
13 great the government is working. It works better
14 when at least there's a conversation. We had a
15 problem last year with Kingsboro, and this is
16 what part of what surprised me. We had a problem
17 with Kingsboro Psychiatric Center last year, and
18 we went to the Governor and said we had a
19 problem.

20 We met with the Governor
21 bipartisanly, and not just Brooklyn. It was
22 Brooklyn, it was Staten Island, it was Democrats,
23 it was Republicans. And we had like four or five
24 meetings, and we worked the issues at Kingsboro
25 Psychiatric Center. Which I thought was a much

1 more difficult situation.

2 I'm floored that the Governor and
3 his staff could not find a way to bring people
4 into a room and figure out a collaborative
5 process to in fact help Downstate get through
6 this. And instead what we get is more of the
7 same. It's political bullying after legislative
8 bullying after political bullying.

9 Mr. President, Downstate contributes
10 \$1.3 billion to the state economy. That's a lot
11 of money. Are we ready to let that go? Are we
12 ready just to tell all of these health workers
13 that they no longer can go to a school? Because
14 again, without a teaching hospital, you're not
15 going to have a medical school.

16 And as much as I know that I think
17 that Chairman and Chairman LaValle were involved
18 in this process and they think this is the right
19 thing to do, they both have SUNY hospitals in
20 their districts. And if this proposal was on
21 your hospital, Senator LaValle, or this proposal
22 was on Senator DeFrancisco's hospital, in
23 Upstate, you wouldn't be voting for this. I
24 can't imagine that you would vote for this
25 proposal for your own hospital. I'm certainly

1 not going to vote for it for mine.

2 And I'm asking my colleagues an
3 accommodation, and to vote no on this budget.
4 Let's go back to the drawing board, let's fix
5 this. Because Downstate is too big to fail.

6 ACTING PRESIDENT VALESKY: Thank
7 you, Senator Parker.

8 Senator Golden on the bill.

9 SENATOR GOLDEN: Thank you,
10 Mr. President.

11 I stand to express my support for
12 this year's state budget. I want to thank my
13 colleagues Senator LaValle and Senator Hannon for
14 their commitment to SUNY and to healthcare.

15 And it's the conference here and the
16 Republican Conference and the IDC and the Senate
17 Democratic leadership that will in fact fight to
18 make sure that there is public healthcare here in
19 the State of New York.

20 This budget holds the line on taxes
21 and controls spending. And both of these
22 measures are critical to New York's economic
23 health and continues to move our state forward.
24 This budget sends a clear and strong message of
25 New York's commitment to job creation.

1 And as chair of the Senate Select
2 Committee on Science, Technology, Incubation and
3 Entrepreneurship, I am excited that we will be
4 expanding incubator development throughout this
5 state. These incubators will allow inventors and
6 small business people to make their visions a
7 reality while creating jobs and increasing our
8 state's local tax bases. This budget provides
9 real opportunity to small business. And I am
10 pleased that we're able to save the Brooklyn
11 HealthWorks program, which helped over 1,000
12 small businesses get healthcare.

13 This budget helps create growth
14 through the extension of the film tax credit for
15 five more years. And it also puts \$942 million
16 into education across this state. This budget
17 restores prescription drug consumer choice for
18 lifting a mandate to fill prescriptions via mail
19 order if the prices are the same at your
20 neighborhood pharmacy.

21 We have taken many steps forward on
22 behalf of many New Yorkers with this year's state
23 budget, but our work is not done. We should not
24 consider this budget finished or complete by any
25 means. This is not a time for the Senate or the

1 Assembly to pat themselves on the back for
2 completing a state budget on time for the third
3 year in a row. Our work is not yet done.

4 Ask any senior citizen if our job is
5 done. Ask any parent or child with special needs
6 if our job is done. Ask any doctor or nurse who
7 works at SUNY Downstate if our job is done. They
8 will give you the same answer as I am going to
9 give you now, and that answer is no.

10 I am voting to support this budget.
11 I do not consider negotiations on this document
12 over. In the days and weeks ahead, I will work
13 with the members of both the Senate and the
14 Assembly, I will work with the advocates of the
15 healthcare professionals to revisit and discuss
16 the funding agreements for the budget for the
17 Office for People With Developmental Disabilities
18 and for the State University of New York at
19 Downstate.

20 But we need to do more than talk.
21 We need to pull together and achieve real
22 results. To thousands of New Yorkers, this
23 budget runs the risk of breaking up families and
24 bankrupting homes. I, for one, pledge to you now
25 that I will not ignore the plight of New Yorkers

1 with special needs. This chamber has a long and
2 proud tradition of caring for our most vulnerable
3 New Yorkers, from State Senator William Conklin,
4 who sat right here in this body, and in 1958 he
5 started the Guild for Exceptional Children in
6 Brooklyn. And Senator Frank Padavan, who in 1976
7 authored the Padavan Law that allowed for group
8 homes in our communities.

9 We owe it to these great statesmen
10 to continue the tradition of caring for those who
11 cannot care for themselves. I will not ignore
12 the needs of the employees and the patients of
13 SUNY Downstate.

14 And I challenge my colleagues,
15 everyone in this chamber, to continue the work we
16 are starting now with the passage of this year's
17 state budget and join with me in finding
18 practical, realistic, responsible solutions to
19 these problems. These are not situations that
20 will go away, and we cannot for one minute allow
21 these New Yorkers -- our friends, our neighbors
22 and our families -- to be forgotten just because
23 of the passage of these bills.

24 I will be voting aye on this bill,
25 Mr. President, and hopefully we'll get a

1 resolution to Downstate and to those who are the
2 most needy across this great state, our
3 developmentally disabled.

4 Thank you, Mr. President.

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

7 Senator Adams on the bill.

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

10 I want to thank Senator Golden for
11 his support around the Downstate issue. And I'm
12 just going to be brief. And I agree with both
13 Senator Golden and Senator LaValle. You know,
14 this is a very important issue, particularly when
15 you look at that district where the people that
16 use the hospital, Downstate Hospital and Long
17 Island College Hospital, which covers central
18 Brooklyn as well as Cobble Hill, Red Hook, with
19 LICH.

20 In the central Brooklyn area, you
21 know, one out of five that people that live in
22 that area are living in poverty. Two out of five
23 are on Medicaid. And when you see the need,
24 that's why you probably see so much passion
25 around this issue.

1 And so I'm hoping that we can move
2 forward and continue the fight as both Senator
3 LaValle and Senator Golden indicated, that we
4 have to ensure that the hospital remains open.

5 I'm concerned, and when you look at
6 the bill to remove the Comptroller, the
7 Comptroller out of the process of procurement,
8 that raises a concern for me. I'm concerned that
9 when you allow the one year of emergency
10 procurement process, that there are not a lot of
11 safeguards in place. And that's part of the
12 problem on why we're here in the first place,
13 because some of those safeguards were not
14 followed.

15 And I'm concerned that the numbers
16 that were thrown out by Senator Squadron and
17 Senator LaValle was \$500,000 for LICH, but I'm
18 hearing the numbers towards between \$700,000 to a
19 billion dollars for that property. I know that
20 area very well. I patrolled that area as a
21 police officer, and I saw it turn the corner. I
22 realize that it is a very attractive and
23 lucrative real estate in the Borough of
24 Brooklyn.

25 So the question becomes we should

1 all be part of the conversation. I'm encouraged
2 when Senator Golden stated that the next step is
3 to be inclusive and ensure that all those who are
4 impacted by the decision of what's going to
5 happen to Downstate, it should be a conversation
6 that we should all be a part of.

7 One thing is for sure. The
8 sustainability study, I don't see a final comment
9 on what happens with the sustainability study.
10 Are we saying the hospital is not going to
11 close? And I don't think that's laid out in the
12 bill after the sustainability study is done of
13 what happens at the conclusion of that.

14 We need Downstate. We need
15 Downstate not only to be an effective hospital
16 and to turn the corner, but we also need it
17 because of what it produces. It produces a
18 quality product. The number of healthcare
19 professionals that leave Downstate, they don't
20 flee, they remain inside the Borough of Brooklyn
21 and provide much needed services.

22 And I think we can't dismiss what
23 Senator Parker stated. We're creating a model.
24 That model cannot only impact Downstate, but it
25 can impact Upstate when you look at Syracuse

1 Hospital. It can impact Long Island when you
2 look at Stony Brook. So the model that we're
3 creating is a model that can be duplicated and
4 impact all of us that know how important it is to
5 have a hospital in our districts that's going to
6 provide a vital service.

7 So I'm not comfortable with the
8 language of the bill. I'm comfortable with the
9 conversation that came from both my colleagues
10 who were intimately involved in how this is going
11 to shake out. I'm going to vote no on the bill,
12 but I'm going to participate, yes, in organizing
13 with both Senator LaValle, Senator Golden,
14 Senator Stavisky and my colleagues who represent
15 both LICH and both Downstate, so we can come to
16 some form of a solution that we won't lose these
17 hospitals, because they provide a vital service.

18 Thank you, Mr. President.

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

21 Senator Peralta on the bill.

22 SENATOR PERALTA: Thank you,
23 Mr. President.

24 The gutting of SUNY Downstate and
25 the march toward hospital privatization are

1 travesties. And that's what several of my
2 colleagues have been addressing tonight. But I'd
3 like to discuss a budget item that appears not to
4 have made the final version, standard wages for
5 nursing home workers.

6 This commonsense measure would have
7 helped create a smooth transition to a
8 managed-care system. It would have ensured
9 quality care for vulnerable and ailing seniors
10 who need and deserve the best we can give them.
11 It would have helped make sure that our seniors
12 can forge stable, long-term relationships with
13 caregivers that they know and trust, which has
14 been shown to demonstrably improve their quality
15 of life.

16 It would have served to prevent the
17 kind of high staff turnover that jeopardizes the
18 quality of care and even the very safety of
19 nursing home residents. It also would have made
20 certain that the hardworking and dedicated
21 individuals who care for our seniors are paid a
22 fair wage sufficient to keep them on the job.

23 Mr. President, we're not talking
24 about people who are getting rich, we're talking
25 about individuals who do vitally important but

1 often thankless jobs in exchange for an average
2 of just over \$30,000 a year. This provision did
3 not require these workers to be paid
4 exorbitantly; in fact, it didn't even specify a
5 dollar amount at all. All it did was ask the
6 Commissioners of Labor and Health to make an
7 informed annual determination as to what standard
8 wage would be needed to "ensure the retention of
9 a qualified workforce capable of providing
10 high-quality care to the residents of nursing
11 homes." Best of all, we could have had all these
12 benefits for seniors and workers without an extra
13 dime in Medicaid spending.

14 Now, here's the interesting part,
15 Mr. President. Unlike some other provisions that
16 I would have liked to see in this budget, this
17 was actually already in the Governor's proposal.
18 And you know what? I'm pretty sure it wasn't the
19 Assembly who fought to get it out of the
20 proposal, because they included it in their
21 one-house budget. So according to basic
22 deductive reasoning, the only answer is that the
23 majority members of this chamber decided not to
24 help our seniors and the people who dedicate
25 their lives for caring for them.

1 Who decided that a race to the
2 bottom was preferable to ensuring a qualified
3 workforce? I can't even begin to guess the
4 reasons why they expended political capital to
5 make sure this was removed from the budget. But
6 I can tell you that this decision was absolutely
7 wrong. Our seniors and our workers deserve
8 better.

9 So I agree with Senator Golden when
10 he says our job is not done. And that's why I'm
11 voting nay on this bill and I'm asking all my
12 colleagues to do the same.

13 Thank you.

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

16 Senator Tkaczyk on the bill.

17 SENATOR TKACZYK: Thank you,
18 Mr. President. Would the sponsor yield to a few
19 questions in the mental health, OASAS, and
20 developmental disabilities portion of the
21 budget.

22 ACTING PRESIDENT VALESKY: Hold for
23 one moment, Senator.

24 Senator DeFrancisco, do you yield to
25 Senator Tkaczyk?

1 SENATOR DeFRANCISCO: Yes.

2 ACTING PRESIDENT VALESKY: The
3 sponsor yields.

4 SENATOR TKACZYK: Thank you,
5 Mr. President.

6 On Part A of the mental hygiene
7 Article 7 bill --

8 SENATOR DeFRANCISCO: Can you speak
9 up just a bit, please? Thank you.

10 SENATOR TKACZYK: On Part A of the
11 mental hygiene budget there's a section related
12 to prescriber prevails. It says that language is
13 included that requires managed-care providers to
14 offer prescriber prevails for prescription drugs
15 in the antidepressant, antiretroviral,
16 antirejection, seizures, epilepsy, endocrine,
17 hematologic and immunologic therapeutic classes.

18 My question is, the antidepressants
19 are included. Are antipsychotics also included
20 in this?

21 SENATOR DeFRANCISCO: Yes.

22 SENATOR TKACZYK: Yes, they are.
23 Even though they're not listed, they are
24 included? Through you.

25 SENATOR DeFRANCISCO: You said Part

1 A?

2 SENATOR TKACZYK: Yes.

3 SENATOR DeFRANCISCO: Yes, it's my
4 understanding that they are included. If I can
5 find the bill, that would be helpful. (Pause.)

6 Okay, there's a little confusion --
7 may I answer?

8 ACTING PRESIDENT VALESKY: Yes.

9 SENATOR DeFRANCISCO: There's a
10 little confusion. The Governor chose to
11 eliminate provider prevails, and that was
12 rejected. So we're the same as we were before
13 this year. In other words, existing law is still
14 in effect.

15 SENATOR TKACZYK: Okay, thank you.

16 Will the sponsor yield for another
17 question.

18 SENATOR DeFRANCISCO: Yes.

19 ACTING PRESIDENT VALESKY: Senator
20 DeFrancisco yields.

21 SENATOR TKACZYK: Thank you.

22 The bill also includes seizure and
23 epilepsy medications that are allowed to be
24 prescribed as written. As you probably know,
25 many patients with depression and bipolar

1 disorder, for example, receive a regimen of
2 medications. Many are receiving these
3 medications in combination with their
4 antipsychotic and/or antidepressants, quote,
5 unquote, off-label prescriptions of antiseizure
6 or epilepsy drugs.

7 Is the off-label prescribing of
8 these medications to meet people's mental health
9 needs included in prescriber prevails?

10 SENATOR DeFRANCISCO: All I can
11 tell you, the law has not changed. If they were
12 included before this budget period, they're still
13 included now. I don't know chapter and verse
14 what the former law was, all I know is that we
15 wanted to change the Governor's recommendation
16 with respect to provider prevails, and we did.
17 So current law is still in existence.

18 SENATOR TKACZYK: Thank you.

19 Will the sponsor yield for another
20 question?

21 SENATOR DeFRANCISCO: Yes.

22 ACTING PRESIDENT VALESKY: The
23 sponsor yields.

24 SENATOR TKACZYK: This is on Part H
25 on the mental health bill that covers the

1 Community Mental Health Reinvestment Act. The
2 budget includes an extension of the Community
3 Mental Health Support and Workforce Reinvestment
4 Program.

5 We currently have 2800 beds in 17
6 psychiatric facilities. So during the course of
7 the coming fiscal year, if there is a bed
8 reduction -- a few beds, a floor, a unit -- what
9 will happen to those savings? Will they go into
10 community mental health services?

11 SENATOR DeFRANCISCO: That's an
12 academic question, if I understood it correctly,
13 because there's no additional beds authorized to
14 be closed in this budget.

15 So the question if it were closed
16 what would happen, I don't think -- it can't
17 happen, since we didn't authorize any more bed
18 reductions.

19 SENATOR TKACZYK: Will the sponsor
20 continue to yield.

21 SENATOR DeFRANCISCO: Yes.

22 ACTING PRESIDENT VALESKY: The
23 sponsor yields.

24 SENATOR TKACZYK: It's my
25 understanding that we're still in the process of

1 downsizing 2800 beds. And we may not have a
2 facility close, but we could potentially see a
3 few beds or a unit or a floor close and be
4 downsized. And each of these beds costs the
5 state about \$370,000 per year.

6 So my question is, if we for example
7 have 20 beds, 20 out of 2800 close this year, we
8 could potentially save \$7.4 million.
9 Theoretically, if that happens, how much of that
10 money would go through to the Community
11 Reinvestment Act to community mental health
12 services?

13 SENATOR DeFRANCISCO: It would be
14 100 percent in the following fiscal year that the
15 closure took place.

16 SENATOR TKACZYK: So any beds we
17 closed this year would -- we would recover?

18 SENATOR DeFRANCISCO: The monies
19 would go back in the community the following
20 fiscal year.

21 SENATOR TKACZYK: Okay. Thank
22 you. Will the sponsor continue to yield.

23 SENATOR DeFRANCISCO: Sure.

24 ACTING PRESIDENT VALESKY: The
25 sponsor yields.

1 SENATOR TKACZYK: Under Part N, the
2 human services COLA, how many years have we been
3 deferring the human services COLA.

4 SENATOR DeFRANCISCO: Four or five
5 years.

6 SENATOR TKACZYK: Thank you.
7 Would the sponsor continue to yield
8 for another question.

9 SENATOR DeFRANCISCO: Yes.

10 ACTING PRESIDENT VALESKY: The
11 sponsor yields.

12 SENATOR TKACZYK: There's another
13 part in the budget that covers OASAS. We have
14 expanded access to gambling across the state in
15 the last few years, and our racinos are among the
16 most successful in the country. Do we have in
17 this budget any additional funding for compulsive
18 and problem gambling?

19 SENATOR DeFRANCISCO: No, not any
20 additional money.

21 SENATOR TKACZYK: Thank you.
22 Would the sponsor continue to
23 yield?

24 SENATOR DeFRANCISCO: Yes.

25 ACTING PRESIDENT VALESKY: The

1 sponsor yields.

2 SENATOR TKACZYK: Regarding the
3 developmental disabilities portion of the budget,
4 at the budget hearings we discussed with the
5 Commissioner the potential impact of a 6 percent
6 cut that was proposed by the Governor. She could
7 not explain what impact that cut would have on
8 the developmental disabilities providers.

9 This budget includes a 4.5 percent
10 cut. What is the impact on the developmental
11 disability providers under that cut?

12 SENATOR DeFRANCISCO: What effect?
13 It depends on how the cut takes place.

14 I think the Governor's intent is to
15 try to make sure it only occurs in the
16 administrative costs of the system, as opposed to
17 direct patient care, because the reason the money
18 had to be cut to pay back the federal government
19 for overpayments, one of the main things cited
20 was salaries of hundreds of thousands of dollars,
21 in some cases \$500,000 to some of the operators.

22 So we tried, by the way, in the
23 Senate and the Assembly budgets both, to restore
24 the entire amount, but the Governor felt that
25 that would not be the right thing to do since it

1 would almost be showing that we were not taking
2 seriously our violations in the past.

3 So, to me, he would like to do --
4 there's several things he mentioned, was reducing
5 provider administrative costs, achieving
6 administrative efficiencies, pursuing audit
7 recoveries of misuse of funds by providers,
8 providing alternative payment models, services
9 and programming to improve or transform
10 services.

11 So he's trying to reform how the
12 delivery is made rather than simply ignoring the
13 fact that we had to pay back the federal
14 government because we did not do things properly
15 in this area in the budget.

16 SENATOR TKACZYK: Will the sponsor
17 continue to yield.

18 SENATOR DeFRANCISCO: Yes.

19 ACTING PRESIDENT VALESKY: The
20 sponsor yields.

21 SENATOR TKACZYK: Is there any
22 language in this budget that describes how those
23 cuts will be implemented? Specifically.

24 SENATOR DeFRANCISCO: There are
25 references to the cuts in the Aid to Localities

1 bill which will be coming up tomorrow.

2 (Laughter.)

3 SENATOR TKACZYK: Will the sponsor
4 continue to yield?

5 SENATOR DeFRANCISCO: Yes.

6 ACTING PRESIDENT VALESKY: The
7 sponsor yields.

8 SENATOR TKACZYK: Before we get to
9 tomorrow, is there -- I would like to know if you
10 have any response to what is the impact this cut
11 will have on the provider communities.

12 SENATOR DeFRANCISCO: Well, I can
13 tell you it's 4.5 percent. How that affects an
14 individual provider, I don't know the answer to
15 that. But we will be -- I'll try to look into it
16 more carefully when we get to the Aid to
17 Localities bill to see if I can get a more
18 precise response for you.

19 SENATOR TKACZYK: Thank you.

20 On the bill, Mr. President.

21 ACTING PRESIDENT VALESKY: Senator
22 Tkaczyk on the bill.

23 SENATOR TKACZYK: I would like to
24 share with the chamber how these cuts will affect
25 the OPWDD provider community in my district.

1 In Albany County, a recent census of
2 Albany County shows we have 1,808 people served
3 by the Medicaid-funded OPWDD programs. Medicaid
4 services paid for in 2012 was \$74.8 million.
5 This 4.5 percent cut means they will lose
6 \$3.4 million. Combine that with the elimination
7 of the 2 percent the COLA, it will cost them
8 \$1.5 million this year, as it did last year and
9 the year before. For the 2013-2014 fiscal year,
10 Albany County developmental disability providers
11 and the people they serve will lose \$4.8 million
12 in funds this year in this budget.

13 In Greene County, 188 people are
14 served by OPWDD programs. Medicaid services paid
15 for was \$7.3 million. This will 4.5 percent cut
16 means they will lose \$327,000. The elimination
17 of the 2 percent COLA will cost them \$140,000
18 this year, as it did last year and the year
19 before. So for the 2013-2014 fiscal year, Greene
20 County providers and the people they serve will
21 lose \$473,000 in this budget.

22 Montgomery County. The census shows
23 429 people served in Medicaid-funded OPWDD
24 programs. The services paid for in 2012 was
25 \$21 million. This 4.5 percent cut means they

1 will lose almost a million dollars. The
2 elimination of the 2 percent COLA will cost them
3 \$432,000. So for the 2013-2014 fiscal year,
4 Montgomery County providers and the people they
5 serve will lose \$1.43 million in funds this
6 year.

7 In Schenectady County, 1,219 people
8 served in Medicaid-funded OPWDD programs.
9 Medicaid services paid for was \$49.6 million.
10 This 4.5 percent cut means they will lose
11 \$2.2 million. The elimination of the 2 percent
12 COLA will cost them almost a million, as it did
13 last year and the year before. So for 2013-2014,
14 Schenectady providers and the people they serve
15 will lose \$3.2 million in funds this year in this
16 budget.

17 In Ulster County, almost 825 people
18 are served. They are getting services of
19 \$338 million. This will 4.5 percent cut means
20 they will lose \$1.77 million. The 2 percent COLA
21 will cost them \$770,000. And so for the
22 2013-2014 fiscal year, Ulster County providers
23 and the people they serve will lose \$2.5 million
24 in funds this year.

25 These are real cuts. These impact

1 real people, real providers, real jobs. And we
2 still don't have the answers on how is this going
3 to impact the people we're serving in this
4 agency, in this budget, in this state. These are
5 people who rely on us to care for them. We have
6 to make sure we are not hurting our ability to
7 care for people who have no other option. We
8 need to make sure we're covering the services and
9 the group homes that keep these people in an
10 environment that we think is one that sustains
11 their quality of life.

12 I will be voting no on this budget
13 bill. Thank you.

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

16 Senator Stavisky.

17 SENATOR STAVISKY: Thank you,
18 Mr. President.

19 First, let me be very clear: I was
20 not part of the negotiations on this bill.
21 However, I do appreciate the discussions that I
22 had with Senator LaValle. The information that I
23 received, quite frankly, is what I read in the
24 newspapers.

25 But let me just be very, very brief

1 and say that there are several parts of this bill
2 that have me troubled.

3 Number one obviously is the future
4 not just of Downstate but of SUNY and medical
5 education in New York State. Because if SUNY
6 Downstate has a problem today, tomorrow I'm
7 afraid it may well be Upstate and Stony Brook.

8 Secondly, these are problems
9 involving our educational institutions but also
10 the healthcare delivery system in the State of
11 New York. And I come from a county that has lost
12 many hospitals in the last four or five years.
13 We are terribly underbedded. And I don't want to
14 see this extend to other parts of the state.

15 The SUNY re -- it's not a
16 restructuring of SUNY, as I see it; it's more a
17 dismemberment. We're putting SUNY Downstate into
18 a separate class. And privatization is one area
19 that's already been discussed. But I am troubled
20 by the lack of accountability in the whole
21 restructuring or the whole dismemberment process,
22 the lack of competitive bidding. All of these
23 issues I think are a problem.

24 The other reason I am going to vote
25 against this bill is the lack of support for the

1 developmentally disabled, the people with
2 developmental disabilities. The 6 percent cut is
3 unconscionable and absolutely must be reversed.

4 Thank you, Mr. President.

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

7 Senator Krueger.

8 SENATOR KRUEGER: Thank you.

9 It's hard to imagine not all the
10 questions were asked, but I would like to ask a
11 question of the sponsor.

12 ACTING PRESIDENT VALESKY: Senator
13 DeFrancisco, do you yield?

14 SENATOR DeFRANCISCO: Yes.

15 ACTING PRESIDENT VALESKY: The
16 sponsor yields.

17 SENATOR KRUEGER: Thank you.

18 Through you, Mr. President, is there
19 a section in this bill that creates a basic
20 health plan, a BHP, in New York State? Because
21 there's been several studies showing that if we
22 were to establish the basic health plan, we would
23 potentially be saving the State of New York
24 between \$467 million and a billion dollars in the
25 next several years. And that New York basic

1 health plan would assure that people between 139
2 and 200 percent of poverty could be eligible for
3 benefits under the ACA, provide lawful immigrants
4 from zero to 200 percent of poverty to be able to
5 participate, and an estimated 617,000 enrollees
6 in New York State could be provided healthcare
7 benefits in New York State while we were
8 collecting 95 percent of a premium subsidy from
9 the federal government.

10 So does this bill have in it the
11 establishment of a basic health plan?

12 SENATOR DeFRANCISCO: No. It's
13 optional by the federal government. There's a
14 work group that's called for under this budget
15 bill to study whether we should do that or not.

16 SENATOR KRUEGER: I want to thank
17 the sponsor.

18 On the bill.

19 ACTING PRESIDENT VALESKY: Senator
20 Krueger on the bill.

21 SENATOR KRUEGER: So many people
22 pointed out so many issues over the last several
23 hours about reasons not to support this bill.
24 But I do throw in at this late hour the fact that
25 originally a basic health plan was supposed to be

1 part of this budget bill. And in fact, New York
2 State is several years behind the ball of where
3 we should be in maximizing our opportunities to
4 draw down federal money and ensuring that as many
5 people as possible get health insurance in
6 New York State.

7 But when you realize that New York
8 State's savings could be between \$467 million and
9 nearly \$1 billion, citing two studies, one by the
10 Community Service Society and one by the Urban
11 Institute in Washington -- the Urban Institute
12 only being half a billion, Community Service
13 Society being nearly a billion -- that when we
14 talk about all these things we're cutting --
15 services for people with developmental
16 disabilities, closing of critical hospital core
17 services in the borough of Brooklyn, an inability
18 to explain how we're actually going to fund the
19 second year of a new created fund to try to get
20 us through the first year -- and yet for all the
21 things we're doing in this bill that people have
22 argued so articulately do great harm to our
23 communities, specifically special-need and
24 low-income communities, we're not taking
25 advantage of an ability to increase our savings

1 and maximize money to provide healthcare to
2 people, we're studying it.

3 Except it's already been studied to
4 death. We don't need to study it, we should do
5 it. And then maybe we would have less arguments
6 over what we have to cut because we don't have
7 the money.

8 So I could tell you there are things
9 in this bill I like, and I do. And I can tell
10 you some people have raised, Well, how could you
11 vote against a bill that implies you're voting
12 against all this healthcare funding in the State
13 of New York, because of course there is funding
14 for healthcare in this bill. But there are so
15 many mistakes.

16 And I can't be more articulate than
17 my colleagues already have been. But we could
18 have done better. And in fact on some key
19 issues, we did better in the original bill and
20 then it was pulled out by my colleagues in the
21 Senate. And on other critical issues, we forgot
22 to ask the people in the communities who will be
23 most impacted.

24 So for me, it's actually pretty
25 easy, Mr. President. I can't vote yes on this

1 bill. I'll vote no.

2 Thank you.

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

5 Seeing no other Senators who wish to
6 be heard, the debate is closed.

7 The Secretary will ring the bells.
8 Senators are asked to proceed immediately to the
9 chamber so that we may move forward with the roll
10 call.

11 Read the last section.

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

14 ACTING PRESIDENT VALESKY: Call the
15 roll.

16 (The Secretary called the roll.)

17 ACTING PRESIDENT VALESKY: Senator
18 Dilan to explain his vote.

19 SENATOR DILAN: Yes,
20 Mr. President. I rise to indicate that I voted
21 no on this bill because I cannot vote for a bill
22 that authorized giving away Long Island College
23 Hospital to SUNY without legislative involvement
24 or oversight on an asset that's estimated to be
25 worth anywhere from \$500 million to a billion

1 dollars. Without this involvement, I cannot vote
2 for this bill. This is not acceptable.

3 Further, I cannot vote for this bill
4 because I believe it's just the first step to the
5 closure of the Downstate Medical Center and/or
6 its privatization.

7 For these reasons, I vote no.

8 ACTING PRESIDENT VALESKY: Senator
9 Dilan to be recorded in the negative.

10 Senator Gipson to explain his vote.

11 SENATOR GIPSON: Thank you,
12 Mr. President.

13 I will be voting no on this bill.
14 This is the health and mental hygiene bill. This
15 is the bill where we are supposed to be helping
16 all the people in this state that are in
17 desperate need of our help. And instead what we
18 are doing, because of the bad decisions that were
19 clearly made in this bill, is we are sucking the
20 lifeblood out of those who need our help the
21 most.

22 This is a vampire bill. It is now
23 two minutes after midnight. There is no reason
24 we should be here this late. Certainly voting on
25 a bill that is so important to all the people of

1 this state, I cannot bring myself to vote any
2 other way than no.

3 Thank you, Mr. President.

4 ACTING PRESIDENT VALESKY: Senator
5 Gipson to be recorded in the negative.

6 Announce the results.

7 THE SECRETARY: In relation to
8 Calendar Number 276, those recorded in the
9 negative are Senators Adams, Addabbo, Avella,
10 Breslin, Dilan, Espaillat, Gianaris, Gipson,
11 Hassell-Thompson, Hoylman, Kennedy, Krueger,
12 Latimer, Montgomery, O'Brien, Parker, Peralta,
13 Perkins, Rivera, Sampson, Sanders, Serrano,
14 Squadron, Stavisky, Stewart-Cousins and Tkaczyk.

15 Ayes, 34. Nays, 26.

16 ACTING PRESIDENT VALESKY: The bill
17 is passed.

18 Senator Libous, that completes the
19 controversial reading of Senate Supplemental
20 Calendar 26A.

21 SENATOR LIBOUS: Mr. President, is
22 there any other business that the Senate must
23 take up on this legislative day?

24 ACTING PRESIDENT VALESKY: There is
25 none.

1 SENATOR LIBOUS: There being no
2 further business that the Senate may conduct on
3 March 26th, and pursuant to Senate rule -- can I
4 have some order, Mr. President?

5 ACTING PRESIDENT VALESKY:
6 (Gaveling.)

7 SENATOR LIBOUS: -- and pursuant to
8 Senate Rule 6, Section 2, I move that we adjourn
9 until Wednesday, March 27th, at 12:06, at which
10 time we will take up the remaining budget bills.

11 ACTING PRESIDENT VALESKY: All in
12 favor of adjourning until Wednesday, March 27, at
13 12:06 --

14 SENATOR LIBOUS: 12:06 a.m.

15 ACTING PRESIDENT VALESKY: -- at
16 12:06 a.m., signify by saying aye.

17 (Response of "Aye.")

18 ACTING PRESIDENT VALESKY: Opposed,
19 nay.

20 (Response of "Nay.")

21 ACTING PRESIDENT VALESKY: The
22 motion is accepted.

23 The Senate stands adjourned until
24 Wednesday, March 27th, at 12:06 a.m., at which
25 time we will take up the remaining budget bills.

1 (Whereupon, at 12:04 a.m., the
2 Senate adjourned.)
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