NEW YORK STATE SENATE

THE STENOGRAPHIC RECORD

ALBANY, NEW YORK

January 22, 2025

11:57 a.m.

REGULAR SESSION

SENATOR SHELLEY B. MAYER, Acting President

ALEJANDRA N. PAULINO, ESQ., Secretary

P R O C E E D I N G S

ACTING PRESIDENT MAYER: The Senate will come to order.

I ask everyone present to please rise and recite the Pledge of Allegiance.

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

ACTING PRESIDENT MAYER: In the absence of clergy, let us bow our heads in a moment of silent reflection or prayer.

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

ACTING PRESIDENT MAYER: Reading of the Journal.

THE SECRETARY: In Senate, Tuesday, January 21, 2025, the Senate met pursuant to adjournment. The Journal of Monday, January 20, 2025, was read and approved. On motion, the Senate adjourned.

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

Presentation of petitions.

Messages from the Assembly.

Messages from the Governor.

Reports of standing committees.

Reports of select committees.

Communications and reports from state officers.

Motions and resolutions.

Senator Gianaris.

SENATOR GIANARIS: Good morning still, Madam President.

I move to adopt the Resolution Calendar.

ACTING PRESIDENT MAYER: All those in favor of adopting the Resolution Calendar please signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT MAYER: Opposed, nay.

(No response.)

ACTING PRESIDENT MAYER: The Resolution Calendar is adopted.

Senator Gianaris.

SENATOR GIANARIS: Let's take up the calendar now, please.

ACTING PRESIDENT MAYER: The Secretary will read.

THE SECRETARY: Calendar Number 14, Senate Print 739, by Senator Ramos, an act to

amend the Labor Law.

ACTING PRESIDENT MAYER: Read the last section.

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

ACTING PRESIDENT MAYER: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MAYER: Announce the results.

THE SECRETARY: Ayes, 43.

ACTING PRESIDENT MAYER: The bill is passed.

THE SECRETARY: Calendar Number 16, Senate Print 741, by Senator Webb, an act to amend the Real Property Tax Law.

ACTING PRESIDENT MAYER: Read the last section.

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

ACTING PRESIDENT MAYER: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MAYER: Announce the results.

THE SECRETARY: Ayes, 45.

ACTING PRESIDENT MAYER: The bill is passed.

THE SECRETARY: Calendar Number 17, Senate Print 742, by Senator Addabbo, an act to amend the Insurance Law.

ACTING PRESIDENT MAYER: Read the last section.

THE SECRETARY: Section 4. This act shall take effect on the same date and in the same manner as a chapter of the Laws of 2024.

ACTING PRESIDENT MAYER: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MAYER: Announce the results.

THE SECRETARY: Ayes, 45.

ACTING PRESIDENT MAYER: The bill is passed. (Pause.)

There's a substitution at the desk. The Secretary will read.

THE SECRETARY: Senator Hinchey moves to discharge, from the Committee on Elections, Assembly Bill Number 417 and substitute it for the identical Senate Bill 780,

Third Reading Calendar 54.

ACTING PRESIDENT MAYER: The substitution is so ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 54, Assembly Bill Number 417, by Assemblymember Lupardo, an act to amend the Agriculture and Markets Law.

ACTING PRESIDENT MAYER: Read the last section.

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

ACTING PRESIDENT MAYER: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MAYER: Announce the results.

THE SECRETARY: Ayes, 53.

ACTING PRESIDENT MAYER: The bill is passed.

THE SECRETARY: Oh, I'm sorry.

In relation to Calendar 54, those Senators voting in the negative are Senators Canzoneri-Fitzpatrick and Mattera. Pardon me.

Ayes, 51. Nays, 2.

ACTING PRESIDENT MAYER: The bill is passed.

THE SECRETARY: Calendar Number 66, Senate Print 792, by Senator Ramos, an act to amend the Labor Law.

ACTING PRESIDENT MAYER: Read the last section.

THE SECRETARY: Section 4. This act shall take effect on the same date and in the same manner as a chapter of the Laws of 2024.

ACTING PRESIDENT MAYER: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MAYER: Announce the results.

THE SECRETARY: In relation to Calendar 66, those Senators voting in the negative are Senators Oberacker, O'Mara, Stec, Walczyk and Weber.

Ayes, 49. Nays, 5.

ACTING PRESIDENT MAYER: The bill is passed.

THE SECRETARY: Calendar Number 67, Senate Print 793, by Senator Hinchey, an act to

amend the Arts and Cultural Affairs Law.

ACTING PRESIDENT MAYER: Read the last section.

THE SECRETARY: Section 2. This act shall take effect on the same date and in the same manner as a chapter of the Laws of 2024.

ACTING PRESIDENT MAYER: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MAYER: Announce the results.

THE SECRETARY: Ayes, 56.

ACTING PRESIDENT MAYER: The bill is passed.

There's a substitution at the desk.

The Secretary will read.

THE SECRETARY: Senator Hinchey moves to discharge, from the Committee on Rules, Assembly Bill Number 414 and substitute it for the identical Senate Bill 795, Third Reading Calendar 69.

ACTING PRESIDENT MAYER: The substitution is so ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 69,

Assembly Bill Number 414, by Assemblymember Lupardo, an act to amend the Agriculture and Markets Law.

ACTING PRESIDENT MAYER: Read the last section.

THE SECRETARY: Section 2. This act shall take effect on the same date and in the same manner as a chapter of the Laws of 2024.

ACTING PRESIDENT MAYER: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MAYER: Announce the results.

THE SECRETARY: In relation to Calendar 69, voting in the negative:

Senator Brisport.

Ayes, 58. Nays, 1.

ACTING PRESIDENT MAYER: The bill is passed.

THE SECRETARY: Calendar Number 77, Senate Print 803, by Senator Palumbo, an act to amend a chapter of the Laws of 2024.

ACTING PRESIDENT MAYER: Read the last section.

THE SECRETARY: Section 3. This

act shall take effect immediately.

ACTING PRESIDENT MAYER: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MAYER: Announce the results.

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT MAYER: The bill is passed.

THE SECRETARY: Calendar Number 81, Senate Print 807, by Senator May, an act to amend a chapter of the Laws of 2024.

ACTING PRESIDENT MAYER: Read the last section.

THE SECRETARY: Section 2. This act shall take effect on the same date and in the same manner as a chapter of the Laws of 2024.

ACTING PRESIDENT MAYER: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MAYER: Announce the results.

THE SECRETARY: In relation to Calendar 81, voting in the negative: Senator Palumbo.

Ayes, 58. Nays, 1.

ACTING PRESIDENT MAYER: The bill is passed.

THE SECRETARY: Calendar Number 95, Senate Print 821, by Senator Stewart-Cousins, an act to amend the Real Property Tax Law.

ACTING PRESIDENT MAYER: Read the last section.

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

ACTING PRESIDENT MAYER: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MAYER: Announce the results.

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT MAYER: The bill is passed.

THE SECRETARY: Calendar Number 98, Senate Print 824, by Senator Krueger, an act to amend the Environmental Conservation Law.

SENATOR LANZA: Lay it aside.

ACTING PRESIDENT MAYER: The bill is laid aside.

Senator Gianaris, that completes the

reading of today's calendar.

SENATOR GIANARIS: Let's take up the one bill on the controversial calendar, please.

ACTING PRESIDENT MAYER: The Secretary will ring the bell.

The Secretary will read.

THE SECRETARY: Calendar Number 98, Senate Print 824, by Senator Krueger, an act to amend the Environmental Conservation Law.

ACTING PRESIDENT MAYER: Senator Borrello, why do you rise?

SENATOR BORRELLO: Madam President, will the sponsor yield for a question.

ACTING PRESIDENT MAYER: Will the sponsor yield?

SENATOR KRUEGER: Yes, Madam Chair, I will.

ACTING PRESIDENT MAYER: The sponsor yields.

SENATOR BORRELLO: All right. Through you, Madam President.

Senator Krueger, so these are changes that have been made to the so-called Climate Superfund Act. In the first section

you've actually changed the language to assert that companies are required to pay into the fund based on the amount of historic greenhouse gas emissions attributed to greenhouse gas-producing fossil fuels, which they are responsible for extracting and refining -- that's the addition -- because the use of those products derived from such fossil fuels caused that pollution.

So now the original language stated that companies are required to pay into the fund because the use of those products caused the pollution. It was much simpler. So why this change? Why is this change necessary?

(Pause.)

SENATOR KRUEGER: Because after discussion with economic experts, it was concluded that it would be simpler to simply evaluate based on their extraction, not necessarily all the different things that happened with their products once they extracted them.

SENATOR BORRELLO: Madam President, will the sponsor continue to yield?

ACTING PRESIDENT MAYER: Do you continue to yield?

SENATOR KRUEGER: Yes.

ACTING PRESIDENT MAYER: The sponsor yields.

SENATOR BORRELLO: So you're saying that the fuel itself, the energy which is being produced and provided, is all that -- you're narrowing the focus, essentially?

SENATOR KRUEGER: We're narrowing the focus to specifically how much each of these companies that will be assessed actually extracted, either in oil, gas or coal, during each year.

SENATOR BORRELLO: Madam President, will the sponsor continue to yield?

ACTING PRESIDENT MAYER: Do you continue to yield?

SENATOR KRUEGER: Yes.

ACTING PRESIDENT MAYER: The sponsor yields.

SENATOR BORRELLO: So for these emissions, is it your intent as the sponsor to have the DEC calculate those emissions based on national impact? In other words, companies that maybe have -- are in other states? How are we going to come to that decision as to who's having

this impact and where they're from?

SENATOR KRUEGER: So the -- through you, Madam President. The agency will be responsibility for the regulations and for developing the model they will use, so I can't speak for our agency yet.

But the analysis that we used to develop the bill was based on international data that has been collected by economists on the quantity of extraction in -- I think going back almost 75 years, although this bill only applies to the years 2000 forward. And so that we know that X amount of pollution caused by oil, gas and coal is caused by a formula of who did what in each year. And with that information, which they have, you can determine there are X number of people in the world and Y number of those people live in New York State. Therefore, we're applying the damage from an international scale down to the per capita cost for us here in New York.

SENATOR BORRELLO: Madam President, will the sponsor continue to yield.

ACTING PRESIDENT MAYER: Do you continue to yield?

SENATOR KRUEGER: Yes.

ACTING PRESIDENT MAYER: The sponsor yields.

SENATOR BORRELLO: So you're talking about economists. But, you know, isn't it really up to the DEC to try to calculate those emissions, then, from -- let's say from a refining operation in Texas? Isn't it really the DEC who's going to make that determination?

SENATOR KRUEGER: Yes. Through you, Madam President. Yes, I believe I said the agency, so it would be DEC, will be making the final determination of responsibility, but based on established data and economic analysis.

SENATOR BORRELLO: Madam President, will the sponsor continue to yield.

ACTING PRESIDENT MAYER: Do you continue to yield?

SENATOR KRUEGER: Yes.

ACTING PRESIDENT MAYER: The sponsor yields.

SENATOR BORRELLO: So you mentioned previously that we are essentially -- you're assessing this fine, tax, call it what you want, for the way power has been produced right up

until 2024, and say from 2000 to 2024.

So correct me if I'm wrong, you are essentially fining them for the way they are producing energy and delivering it to New York right now. That nothing has changed, we've continued to ask them to deliver this energy to us because we need it, but we're going to fine them for doing so. Is that correct?

SENATOR KRUEGER: Through you, Madam President. Their products are destroying our climate and costing us an enormous amount of money, billions of dollars a year, right here in New York that we, the taxpayers of New York, are now picking up all of the tab for that damage.

With this legislation, we are assessing these specific companies a relatively small share of the total tab for this action.

SENATOR BORRELLO: Madam President, will the sponsor continue to yield.

ACTING PRESIDENT MAYER: Do you continue to yield?

SENATOR KRUEGER: Yes.

ACTING PRESIDENT MAYER: The sponsor yields.

SENATOR BORRELLO: But we're still

asking them to provide that energy to us, right? Are we saying please don't do it anymore because it's destroying the planet? Are we saying that? Please do not provide that energy to New York anymore in that manner?

SENATOR KRUEGER: Through you, Madam President. We have passed other laws where we are attempting, as quickly as possible, to not need to use oil, gas and coal for energy because of the scientific fact that it is doing so much damage to our climate and to everyone's lives here in New York.

So we are not per se saying "Please don't sell to us." We are saying actually by X year you can't sell to us for certain purposes. And we are trying, as quickly as possible -- although I would argue we could do a better job -- to shift to sustainable green energy sources so that we actually can say to people throughout the State of New York: You've got a better option, don't buy their products.

But we are also saying to all of these companies -- and some are doing a better job -- change your business model, sell us energy that isn't destroying the planet, we'll be

interested in working with you.

SENATOR BORRELLO: Madam President, will the sponsor continue to yield.

ACTING PRESIDENT MAYER: Do you continue to yield?

SENATOR KRUEGER: Yes.

ACTING PRESIDENT MAYER: The sponsor yields.

SENATOR BORRELLO: So regardless, though, we are asking them to still deliver this fuel to us. We have no alternative really that would supply enough energy to New York State. So why would we not wait until there was an alternative before assessing a fine for the product that we're asking for them to deliver that we so crucially need to power this state?

SENATOR KRUEGER: We don't ask them to deliver to us. It's their decision to want to sell their products in New York State. They could actually decide not to sell their products in New York State. I don't think any of them will make that decision, because then they'll lose out to their competition, who will continue to sell to us.

But in fact our job as a legislature

and under state law is to move as quickly as possible away from their products to alternatives.

So we are in this gray area of history where we know what we have to do, we aren't getting there fast enough. And so we are asking the companies that are still causing the damage to help us pay some of the cost of that damage. But actually they don't have to be in this business anymore if they choose not to be.

And again, I think the smartest people in energy have already learned the lesson of wanting to move to green sustainable energy as an alternative to simply being in the oil, gas and coal business, because they know there is no future economic win for them from remaining in this business. And when they're smart businesspeople, they want to win the energy fights of the future, which are all about green energy and sustainable energy.

So it's not us questioning or asking them to do something because we need it. We unfortunately do use it. We're trying to use less of it because it's in all of our best interests. But we're also asking them to pay a

share of the damage they have caused, which is consistent with other laws that have already been on the books in this state and in this country since as early as the late '70s. We have a federal Superfund bill which hits up the polluters of land -- even though we don't say what you were doing was necessarily illegal at the time, but you did cause this, and so now we're making you pay a share of the cleanup cost.

We did this with GE in the Hudson River when we learned that the PCBs that they were leaking into the Hudson River were destroying our greatest river. And we didn't say what you were doing was illegal when you did it. We're saying, You have to help pay for the damage you caused.

So this is very consistent with other laws that are recognized at the federal and state levels around this country.

SENATOR BORRELLO: Madam President, will the sponsor continue to yield.

ACTING PRESIDENT MAYER: Do you continue to yield?

SENATOR KRUEGER: Yes.

ACTING PRESIDENT MAYER: The

sponsor yields.

SENATOR BORRELLO: You bring up things like PCBs and other things that were unknown at the time. But we're actually -- we're actually fining them for something that they're doing it right now that we desperately need.

But also we have regulations and we have, you know, agencies that oversee the production of energy and the delivery of energy. So, you know, with utilities, for example, that are getting the energy from these energy companies, are they not regulated by the Public Service Commission in their operations?

SENATOR KRUEGER: Of course our utilities are regulated by the Public Service Commission. This would not apply to utilities. This would apply to producers of oil, gas and coal.

So it's -- this is not an assessment on any of our utilities.

SENATOR BORRELLO: Madam President, will the sponsor continue to yield.

ACTING PRESIDENT MAYER: Do you continue to yield?

SENATOR KRUEGER: Yes.

ACTING PRESIDENT MAYER: The sponsor yields.

SENATOR BORRELLO: So does the Public Service Commission ever prevent fossil fuel companies from providing energy to those utilities? You're talking about alternatives.

SENATOR KRUEGER: I would have to check whether the PSC actually has the authority to say a specific company in the oil or gas business is prevented from selling in New York State. I don't think we have that law. I would check.

But that's not really the relevant point here in this bill. This is an assessment on the companies that are in fact the largest producers of oil, gas and coal and hence oil, gas and coal pollution, and an assessment on them for the damages that they are doing to the environment and hence the people of New York.

And, yes, I'm not disputing that this activity was still legal probably everywhere in these years. I guess I would dispute the statement that my colleague made that if somebody didn't know it was polluting, maybe it wasn't their fault. Using the GE PCB example, I

believe, to quote the questioner.

But in fact we know that the oil, gas and coal companies knew in 2000 and even knew in the 1970s how damaging their products were to the environment. They just pretty successfully buried all the research about it.

SENATOR BORRELLO: Madam President, will the sponsor continue to yield.

ACTING PRESIDENT MAYER: Do you continue to yield?

SENATOR KRUEGER: I do.

ACTING PRESIDENT MAYER: Yes, the sponsor yields.

SENATOR BORRELLO: So I'm going to go back to the Public Service Commission here. So in Section 30 of the Public Service Law it states that "It is hereby declared to be the policy of this state that the continued provision of all or any part of such gas, electric and steam services to all residential customers without unreasonable qualifications or lengthy delays is necessary, necessary, for the preservation of the health and general welfare, and it is in therefore the public interest.

So during that period of the covered

activity, which is up till last year, literally just a couple of months ago, this chapter amendment essentially broadens this, and it's the statutory policy of the State of New York to continue to provide this.

So it says that natural gas and providing it is in the best -- is in the public service. That's the interests of New York State residents, and the health of New York State residents. That's what's in Section 30 of the Public Service Law.

So how can we (inaudible) if we're actually mandating it?

SENATOR KRUEGER: Well, again, we're not mandating anything other than an assessment in this law. If my colleague would like to introduce a bill to change that section of Public Service Law to clarify that in fact oil and gas and coal is not in the best interest of the State of New York, I might even cosponsor it with you.

SENATOR BORRELLO: Madam President, will the sponsor continue to yield.

ACTING PRESIDENT MAYER: Do you continue to yield?

SENATOR KRUEGER: Yes.

ACTING PRESIDENT MAYER: The sponsor yields.

SENATOR BORRELLO: We'll see. I don't think so. But we'll see.

So this is going to -- you're essentially going to send a bill to these companies. And we're going to guess that they're probably not going to pay that bill. So is there money budgeted in this year's budget for the very costly litigation this is going to take to get them to try to pay these bills?

SENATOR KRUEGER: Through you, Madam President. There is in the chapter amendment a formula change so that there is money available to the State of New York to draft the regs to prepare for the model of collecting the money and ultimately for billing the money, which would not be effective until 2028. So it would not be relevant to this year's budget.

And in fact we also assume -- because I don't know whether anybody's going to get to this question -- that somebody might decide to sue us, and so we'll be in court. We, the Legislature, don't represent our laws in

court. The Attorney General's office does. And we worked with the Attorney General on making sure the language of this bill was as strong as possible and consistent with her understanding of how laws need to be written.

And she will, I believe, very competently represent us in court at the time that we might get sued. But so far I don't believe there's any lawsuits.

SENATOR BORRELLO: Madam President, will the sponsor continue to yield?

ACTING PRESIDENT MAYER: Do you continue to yield?

SENATOR KRUEGER: Yes.

ACTING PRESIDENT MAYER: The sponsor yields.

SENATOR BORRELLO: So I think in a roundabout way you're saying that it's the Attorney General's responsibility. The Attorney General I don't think is an expert on international energy or national energy policy or anything in that matter, so likely they're going to have to hire an outside firm. So are we going to increase the Attorney General's budget specifically for the enforcement, if you will, of

this bill we're sending to energy producers?

SENATOR KRUEGER: Through you, Madam President. I believe that I'm being asked a question that we can't possibly know the answer to now because there is no lawsuit filed.

I do know that our Attorney General was very supportive of this legislation. So I will not presume to know what might happen if and when somebody sues the State of New York.

SENATOR BORRELLO: Madam President, on the bill.

ACTING PRESIDENT MAYER: Senator Borrello on the bill.

SENATOR BORRELLO: Thank you, Senator Krueger.

So folks, here's what we're saying. We need this energy here in New York State. We are actually billing them for damage caused by the way that energy companies produced and delivered energy to New York State up until literally a month ago, 2024.

But we're saying please continue to do it. In fact, we have in our Public Service Commission regs you must do this for the health and welfare of every New Yorker. But we are

actually sending you a bill to do it.

Now, they have two choices, essentially. They have the choice of no longer delivering energy to us, which would be catastrophic, because we don't have a way to power New York without it. But we think it's horrible and it's, you know, causing the end of times, but please continue to do it.

The other option is -- which is probably -- likely going to happen -- they're just going to pass the costs along to every consumer in New York State. Every business, every family, every person that heats their home, puts gas in their car, turns the light switch on. They're going to pass that cost along.

We've already seen record increases in the cost of the energy. And we hear about affordability and the importance of affordability in New York State. We're going in the wrong direction here. We are assessing a surcharge that essentially is going to be passed along to every single New Yorker, and expecting them to suck it up and pay it because we need the energy. But we're going to pretend, through this virtue-signaling boondoggle called the

Climate Superfund Act, that we're going to pay for it somehow.

Everything is unraveling, folks. This whole idea that New York is somehow going to be the -- lead the way in transitioning away from reliable sources of energy is nothing -- it's just nothing but virtue signaling. So we're going to pretend that we're going to bill them for this and that somehow they're just going to pay the bill, but continue to supply the vital energy that we need.

This is a disastrous runaway train, and it needs to stop. And I'll be voting no.

Thank you, Madam President.

ACTING PRESIDENT MAYER: Thank you.

Senator Walczyk, why do you rise?

SENATOR WALCZYK: Thank you, Madam President. Would the sponsor yield for some questions?

ACTING PRESIDENT MAYER: Senator Krueger, do you yield?

SENATOR KRUEGER: Yes, I will.

ACTING PRESIDENT MAYER: The sponsor yields.

SENATOR WALCZYK: Through you,

Madam President. This is a chapter amendment on a bill that was already passed, is that correct?

SENATOR KRUEGER: Correct.

SENATOR WALCZYK: And through you, Madam President, would the sponsor continue to yield.

ACTING PRESIDENT MAYER: Do you continue to yield?

SENATOR KRUEGER: Yes.

ACTING PRESIDENT MAYER: The sponsor yields.

SENATOR WALCZYK: I notice that the -- what you're calling the cost recovery, the window and time frame changed from the years 2000-2018 to the years 2000-2024. Is that correct?

SENATOR KRUEGER: Correct.

SENATOR WALCZYK: And through you, Madam President.

ACTING PRESIDENT MAYER: Do you continue to yield?

SENATOR KRUEGER: Yes.

ACTING PRESIDENT MAYER: Yes, the Senator yields.

SENATOR WALCZYK: Adding those

additional six years, you're projecting that your cost recovery from these fossil fuel companies moves from $3 billion to $75 billion, is that correct?

SENATOR KRUEGER: No. It's 3 billion, on average, per year for 25 years, adding up to 75 billion.

SENATOR WALCZYK: Thank you for that.

SENATOR KRUEGER: So the -- the estimate per year did not change.

SENATOR WALCZYK: Thank you for that clarification.

Through you, Madam President, would the sponsor continue to yield?

ACTING PRESIDENT MAYER: Do you continue to yield?

SENATOR KRUEGER: Yes.

ACTING PRESIDENT MAYER: The sponsor yields.

SENATOR WALCZYK: So within that window, in 2012 Superstorm Sandy hit the State of New York. And I know you talk a lot in this legislation, within the intent and a lot of the language here, focusing on storms, recovery,

resiliency, that kind of thing.

Are you familiar with the New York State Strategic Oil or Fuel Reserve.

SENATOR KRUEGER: I know we have one.

SENATOR WALCZYK: Through you, Madam President, will the sponsor continue to yield.

ACTING PRESIDENT MAYER: Do you continue to yield?

SENATOR KRUEGER: Yes.

ACTING PRESIDENT MAYER: The Senator yields.

SENATOR WALCZYK: Are you familiar with the purpose of the New York State Strategic Fuel Reserve?

SENATOR KRUEGER: Without reading the statute, I'm going to take the leap that it is to ensure that in situations of emergency we have our own supply that we can draw upon in unique situations.

SENATOR WALCZYK: The good sponsor remembers well. Would she continue to yield?

SENATOR KRUEGER: Yes.

ACTING PRESIDENT MAYER: Do you

continue to yield?

SENATOR KRUEGER: Yes, I do.

ACTING PRESIDENT MAYER: The Senator yields.

SENATOR WALCZYK: And through you, Madam President, who's the end-user in those states of emergency from the New York State Strategic Fuel Reserve that was set up after Superstorm Sandy?

SENATOR KRUEGER: Again, I don't have the statute in front of me. But since it's a state reserve, I'm assuming the State of New York would have the ability to decide when and where to use its reserve.

SENATOR WALCZYK: Well done.

Through you, Madam President, would the sponsor continue to yield.

ACTING PRESIDENT MAYER: Do you continue to yield?

SENATOR KRUEGER: I do.

ACTING PRESIDENT MAYER: The Senator yields.

SENATOR WALCZYK: So for the pleasure of providing New York State the fuel that we require NYSERDA to hold in a fuel reserve

for a state of emergency, how much will fuel companies be charged if this is put into law?

SENATOR KRUEGER: I don't believe there's any specific bill to any specific fuel company.

I don't know where we buy the oil we put in our reserve. I'm sure the -- my colleague might be able to know that answer.

Again, there are far more companies that sell oil and gas and coal products than would be hit with this assessment. The assessment of $3 billion per year spread over an estimated up to 40 internationally, enormously large companies, is the equivalent of change in the cushions in the boardroom.

So I actually don't believe that there would be any impact in cost for the fuel in our reserve fund in any situation.

SENATOR WALCZYK: Through you, Madam President, would the sponsor continue to yield.

ACTING PRESIDENT MAYER: Do you continue to yield?

SENATOR KRUEGER: Yes, I do.

ACTING PRESIDENT MAYER: The

sponsor yields.

SENATOR WALCZYK: And just to answer the question that was embedded in that, very quickly. NYSERDA has an approved list for fuel companies.

But I'm glad that you brought up which companies may be supplying fuel, because on page 4, line 29 of this chapter amendment you change the definition of "entity." The original bill said including foreign nations. And this has stricken that language. Why are we striking foreign nations from this legislation that you're proposing here today?

SENATOR KRUEGER: To simplify our assignment. Because it was explained that trying to collect debt from a foreign nation is an enormously complicated assignment that would unlikely be effective. And so we did say that one probably won't work, so we struck foreign nations.

SENATOR WALCZYK: And through you, Madam President, would the sponsor continue to yield.

ACTING PRESIDENT MAYER: Do you continue to yield?

SENATOR KRUEGER: Yes.

ACTING PRESIDENT MAYER: The sponsor yields.

SENATOR WALCZYK: When you refer specifically to foreign nations, are you talking about companies that are international in nature, are owned by multiple different foreign nations?

Can you -- what can you tell me about the definition there?

(Pause.)

SENATOR KRUEGER: No, we're not striking collecting from companies that are in foreign nations or even necessarily companies that may be partially owned by foreign nations.

But we made explicit we're not going to try to collect from the foreign nation themselves, who may be partial owners or partly in control or even -- and we don't know -- in total control of any specific company.

SENATOR WALCZYK: Through you, Madam President, would the sponsor continue to yield.

ACTING PRESIDENT MAYER: Do you continue to yield?

SENATOR KRUEGER: Yes. Yes.

ACTING PRESIDENT MAYER: The sponsor yields.

SENATOR WALCZYK: And so Saudi Aramco of the Kingdom of Saudi Arabia, they'd be exempt from this legislation?

SENATOR KRUEGER: Through you, Madam President, I don't know the corporate ownership structure of that company specifically. So the answer could be yes, if it is totally within the ownership and control of the actual nation. Or it could be no because they are only perhaps owned by or partially owned by representatives of that nation. It gets a little confusing in some countries.

SENATOR WALCZYK: Thank you. And I think after this line of questioning, I hope that that's cleared up.

If the sponsor would continue to yield.

SENATOR KRUEGER: Yes.

ACTING PRESIDENT MAYER: The sponsor yields.

SENATOR WALCZYK: British Petroleum out of the United Kingdom, would they be exempt from this legislation?

(Pause.)

SENATOR KRUEGER: Through you, Madam President. Again, without looking through the complete corporate ownership rules of British Petroleum, we believe that they would be included. They are a company that sells product directly here in gas stations here, has companies doing distribution here.

So I think that we could make the case that that is not the government of Great Britain simply because it's called British Petroleum.

SENATOR WALCZYK: Through you, Madam President, would the sponsor continue to yield?

ACTING PRESIDENT MAYER: Do you continue to yield?

SENATOR KRUEGER: I will.

ACTING PRESIDENT MAYER: The Senator yields.

SENATOR WALCZYK: I was under the impression from the language in this legislation that this was specifically about companies that extract and refine oil, but you mentioned selling and distributing.

Does this legislation impact every seller and distributor as well of fossil fuels?

SENATOR KRUEGER: There's a variety of tests within this construct, so in order to meet the due process clause one has to show that this is a company that in fact is doing business in the State of New York and selling product in the State of New York.

But my colleague is correct, that company also has to be the extractor of the product from coal, oil, gas sources.

SENATOR WALCZYK: Through you, Madam President, would the sponsor continue to yield.

SENATOR KRUEGER: Yes.

ACTING PRESIDENT MAYER: Yes, the sponsor continues to yield.

SENATOR WALCZYK: TotalEnergies, a French large fossil fuel company, would they be exempt from this legislation?

SENATOR KRUEGER: Same analysis that I gave you for British Petroleum.

SENATOR WALCZYK: And through you, Madam President, would the sponsor continue to yield.

ACTING PRESIDENT MAYER: Do you continue to yield?

SENATOR KRUEGER: Yes.

ACTING PRESIDENT MAYER: The sponsor yields.

SENATOR WALCZYK: How about PetroChina?

SENATOR KRUEGER: The same analysis will have to be applied. And same answer from me. I do not know what the corporate structure of PetroChina is in relationship to national ownership.

Again, it's a little tricky in some countries that have different rules of government and ownership than what we perhaps are more familiar with in the U.S. or the European Union countries.

SENATOR WALCZYK: Through you, Madam President, would the sponsor continue to yield.

ACTING PRESIDENT MAYER: Do you continue to yield?

SENATOR KRUEGER: Yes.

ACTING PRESIDENT MAYER: The sponsor yields.

SENATOR WALCZYK: I can appreciate that the plane in global oil markets is a tricky thing, but this legislation does exactly that, so I appreciate your patience while I ask these questions.

PetroChina of the Chinese Communist nation, which is a command economy, would they be exempt from this legislation or not?

SENATOR KRUEGER: Through you, Madam President. I don't know.

And again, it would be the responsibility of our state agency to use an -- a test to evaluate what companies would end up on this list. And I think they would probably have more time and expertise to answer my colleague's question as to corporate structure and ownership.

I mean, today we learned that China has some very different rules on TikTok and Apple and some other items. So I guess it's constantly a moving target that happily is not our responsibility. And the State of New York will figure it out by the time we have our regs in place.

SENATOR WALCZYK: Through you, Madam President, would the sponsor continue to

yield.

ACTING PRESIDENT MAYER: Do you continue to yield?

SENATOR KRUEGER: Yes.

ACTING PRESIDENT MAYER: The sponsor yields.

SENATOR WALCZYK: Enbridge, Incorporated, one of the larger oil companies in our neighbors to the north, in Canada. Would they be exempt from this legislation?

SENATOR KRUEGER: I think I have the same answer for any company you give me. I have not studied the corporate ownership structure, and so I do not know how to answer what the relationship might be between any company and the nation that they claim is their base.

SENATOR WALCZYK: Through you, Madam President, will the sponsor continue to yield.

ACTING PRESIDENT MAYER: Do you continue to yield?

SENATOR KRUEGER: Yes, of course I do.

ACTING PRESIDENT MAYER: The

sponsor yields.

SENATOR WALCZYK: How about ExxonMobil, Chevron or Phillips 66?

SENATOR KRUEGER: I'm pretty sure they would be included, and they are not sovereign nations. Sometimes you think they are, but I'm pretty sure they're not.

SENATOR WALCZYK: Through you, Madam President, would the sponsor continue to yield.

SENATOR KRUEGER: Yes.

ACTING PRESIDENT MAYER: The sponsor yields.

SENATOR WALCZYK: I appreciate and I think it was pretty illuminating how certain you were that the United States fuel companies were definitely not exempt from this bill, with a lot of questions hanging out there for others.

If ExxonMobil extracts oil from Iraq and refines it in Galveston, would this legislation apply to the extraction or to the refining or to the distribution? And at which point are you pulling out your $75 billion of flesh from that company?

(Pause.)

SENATOR KRUEGER: It's based on the company doing the extraction. So if they extract in Galveston, if they extract in another country but it's that company who's in fact the one who's handling the extraction, that then it gets applied to them.

And again, it's not 75 billion on any one company. It's no more than 3 billion annually across the entirety of companies that this bill would apply to. So I don't actually think the sentence taking a -- was it a pound of flesh of $75 billion from one company? I don't want to misspeak you -- that that's never going to be the case.

SENATOR WALCZYK: Through you, Madam President, would the sponsor continue to yield.

ACTING PRESIDENT MAYER: Do you continue to yield?

SENATOR KRUEGER: Yes.

ACTING PRESIDENT MAYER: The sponsor yields.

SENATOR WALCZYK: So just as I understand it, if -- I mean, a lot of these oil companies that provide us the energy that we need

every single day -- I mean, even over 60 percent of the electricity in New York State currently, just the electricity, is based on fossil fuel consumption.

But if these companies are based in the United States of America, that's where the full penalty and weight would come in. So if their extraction, their refining, and then their distribution and their ownership are all in the United States of America, for sure this would have its full weight.

But companies that are perhaps owned and operated by other foreign nations, extracting their crude in foreign areas, refining it in foreign areas, and then bringing it to market in the United States another way, may be wholly exempt from this legislation? Is that how I understand it?

SENATOR KRUEGER: The only exemption is for the nation itself, not companies that are necessarily based in any given country.

And I guess my colleague is making an argument that I also support, that we should get off of oil, gas and coal and not be dependent on them, because the vast majority of it is from

other countries where we absolutely don't have any control either of the behavior or the cutting off of product that we have needed.

So the goal here, frankly, to move into green energy that we can produce ourselves here in this country is to decrease our dependence on behaviors in other countries that we both may not support but may actually also hold us hostage to their bad policies.

So I think it's another argument not just for this piece of legislation, but for us moving as quickly as possible off of any kind of dependence on foreign oil, gas or coal products.

SENATOR WALCZYK: Through you, Madam President, would the sponsor continue to yield.

ACTING PRESIDENT MAYER: Do you continue to yield?

SENATOR KRUEGER: Yes.

ACTING PRESIDENT MAYER: The sponsor yields.

SENATOR WALCZYK: I certainly would not make that suggestion. As I pointed out, right now, today, just to keep the lights on in New York State, over 60 percent of our mix is

based on fuel consumption. We're not even talking about transportation and heat and everything else that powers.

As it's negative 70 degrees -- or negative 7 degrees at my home this morning, it would be literal suicide to cut gas off from New York State today. So I wouldn't make that suggestion.

The original bill disallowed the building of infrastructure like seawalls. And I know a lot of the focus here is on storm recovery, resiliency. Does this chapter amendment allow the state to emplace seawalls or other types of critical infrastructure, or does it continue to require cattails and only natural things be in the place where we're concerned about flooding and storms?

SENATOR KRUEGER: So uses of the money, when we get it, will be determined by our state agencies in a broad interpretation of the best interests of mitigation and replacement of things that are being destroyed.

So I for one would personally probably support seawalls, since I come from an island called Manhattan and the federal

government recently did a study saying that if we don't build a seawall in the bay between Manhattan, Brooklyn and Staten Island, part of my island will soon be underwater. So I certainly am not someone who would stand up here and say we should never consider seawalls.

SENATOR WALCZYK: Through you, Madam President, would the sponsor continue to yield.

ACTING PRESIDENT MAYER: Do you continue to yield?

SENATOR KRUEGER: Yes.

ACTING PRESIDENT MAYER: The sponsor yields.

SENATOR WALCZYK: I'm glad that you said we're listening to guidance from the federal government on that end.

On page 9, line 32, you mention community organization grant programs are actually going to be a component of this money that you're taking from fossil fuel companies. How will community organizations and grants to those community organizations be applied here? What's the intent of those monies?

SENATOR KRUEGER: Through you,

Madam President. There is an established model in environmental issues of having community participation in what should be done. We use them all the time, at least in my neck of the woods, to bring the community in to evaluate what the problems are and what they think the best answers for it would be.

And I think that's also the same intention with this legislation, to allow the communities to participate in what they see as the priorities and the best solutions to the problems they are having caused by climate change.

SENATOR WALCZYK: And through you, Madam President, will the sponsor continue to yield.

ACTING PRESIDENT MAYER: Do you continue to yield?

SENATOR KRUEGER: Yes.

ACTING PRESIDENT MAYER: The sponsor yields.

SENATOR WALCZYK: The same section of your bill also mentions nonprofit organizations. How would nonprofit organizations fit into the mix here? Why are they getting

grants through this legislation from the fossil fuel money that you're extracting?

SENATOR KRUEGER: Through you, Madam President. It's mostly the same answer, that there are many not-for-profit organizations -- again, maybe not in my colleague's neck of the woods, but I certainly work with not-for-profit organizations who work on urban planning, who work on planning for solutions to environmental problems.

I happen to know Long Island is filled with quality organizations that are very focused on addressing the intents and sometimes unique issues facing Long Island from climate change damage. And so I can easily see a role for them in being of assistance here. Whether they would apply for or be eligible for any specific kind of grant, I have no idea.

SENATOR WALCZYK: Through you, Madam President, would the sponsor continue to yield?

ACTING PRESIDENT MAYER: Do you continue to yield?

SENATOR KRUEGER: I do.

ACTING PRESIDENT MAYER: The

sponsor yields.

SENATOR WALCZYK: In your legislative intent it states that recent science has determined that the largest 100 fossil-fuel-producing companies are responsible for more than 70 percent of global greenhouse gas emissions since 1988 and therefore bear a much higher share of responsibility for climate damage to New York State than is represented by the 75 billion being assessed them.

So was the 75 billion determined based on a ratio of total quantifiable damage that has been found?

SENATOR KRUEGER: Yes, Madam President, it is.

SENATOR WALCZYK: And through you, Madam President, would the sponsor continue to yield.

SENATOR KRUEGER: Yes.

ACTING PRESIDENT MAYER: The sponsor yields.

SENATOR WALCZYK: How exactly was that calculated?

SENATOR KRUEGER: By a group of economists who have been working on documenting

the impact of climate damage, the growth in climate damage, and calculations on what share of that climate damage was being done through the extraction of oil, gas, and coal products.

I can get you full reports. I don't have it memorized.

SENATOR WALCZYK: Through you, Madam President, would the sponsor continue to yield.

ACTING PRESIDENT MAYER: Do you yield?

SENATOR KRUEGER: Yes.

ACTING PRESIDENT MAYER: The sponsor yields.

SENATOR WALCZYK: So was that calculation based on the share of emissions in the State of New York? Or was that based on emissions globally?

SENATOR KRUEGER: Global emissions.

The interesting thing about damage to air and water, it doesn't understand borders. It just spreads out everywhere.

So it's global emissions damage and then a calculation on per capita in the world subsetted down to the State of New York.

SENATOR WALCZYK: I see.

Through you, Madam President, would the sponsor continue to yield.

SENATOR KRUEGER: Yes.

ACTING PRESIDENT MAYER: Do you continue to yield?

The sponsor yields.

SENATOR WALCZYK: So even if we had already electrified and we no longer were burning any fossil fuels in the State of New York, we'd still be able to apply this legislation today?

SENATOR KRUEGER: Through you, Madam President, yes. This is based on the historic damage done and the actual costs we are facing now.

So damage that was done in 1988, even though we don't go back that far in our analysis, is actually damage being applied to us today with the increased storms and fires and rising sea levels and destruction of our natural resources.

So the costs are here now, even if the action taken to cause them may have been multiple decades ago.

SENATOR WALCZYK: And through you,

Madam President, would the sponsor continue to yield.

ACTING PRESIDENT MAYER: Do you continue to yield?

SENATOR KRUEGER: I do.

ACTING PRESIDENT MAYER: The sponsor yields.

SENATOR WALCZYK: Who pays that 75 billion bill at the end of the day?

SENATOR KRUEGER: Again, it would be 3 billion annually distributed across the companies determined by DEC to fit in the category of who we can assess.

And there wouldn't be an across-the-board exact equal assessment because it might be one of them did five times as much as the 35th largest. So it would be a distributional assessment based on their share of the damage caused.

SENATOR WALCZYK: And through you, Madam President, would the sponsor continue to yield.

ACTING PRESIDENT MAYER: Do you continue to yield?

SENATOR KRUEGER: I'm sorry, I was

getting a clarification, if you'd just wait one more second.

SENATOR WALCZYK: Sure.

(Pause.)

SENATOR KRUEGER: The companies that this could apply to are only companies responsible for over 1 billion tons of carbon emissions during this period. So that's another subset of removing companies not being assessed.

I'm sorry, I just wanted to make sure I got your last question done correctly.

And now I'm happy to take your next session.

ACTING PRESIDENT MAYER: Senator Walczyk, you have about four minutes left.

SENATOR WALCZYK: On the bill.

ACTING PRESIDENT MAYER: Senator Walczyk on the bill.

SENATOR WALCZYK: Thank you.

Who pays the $75 billion bill, over $3 billion every year? Not oil and gas companies, as my colleague put it. Those costs pass directly to consumers. Those consumers are New Yorkers. They are people represented by every single one in -- every single person in

this chamber.

And as we talk about affordability, this is exactly the wrong direction, pushing additional costs for pet projects onto the consumers that absolutely need that energy to heat their home, to dry their clothes, to drive to the grocery store and to work. This cost is going to pass directly on to consumers.

Was anything done in this legislation to mitigate that cost for them? Absolutely not. Could you have repealed the gas tax and taken that money, a different route, to apply to our roads and bridges to lessen the gas tax in the State of New York? Absolutely you could. Was that done? No, it wasn't. No cost-mitigating measures whatsoever. This can only make New York more unaffordable.

And I'll be voting no, Madam President. Thank you.

ACTING PRESIDENT MAYER: Senator Rhoads, why do you rise?

SENATOR RHOADS: Will the sponsor yield to a question.

ACTING PRESIDENT MAYER: Senator Krueger, do you yield?

SENATOR KRUEGER: Of course I do.

ACTING PRESIDENT MAYER: Yes, the Senator yields.

SENATOR RHOADS: Thank you, Senator Krueger.

Through you, Madam President, let's ask that question. Is there anything in your legislation that would prevent these companies that are being assessed your Climate Superfund tax from passing that cost on to consumers?

SENATOR KRUEGER: Yes. Thank you for the question.

And just for the record, in answer to the earlier almost question, New York's residents are paying a hundred percent of the costs now. We're attempting to shift some of the cost burden to these large multinational companies. So it does not increase the cost by passing this bill. It actually shifts some of those costs to the companies most responsible for causing the problem.

No, this will not translate into increased costs for the consumers of current use. Because, again, let's say there are 300 companies that sell oil and gas in the State of New York,

and let's say there are 25 ultimately that are hit with this assessment. The economists, including Nobel Prize economists, have pointed out that textbook economics show that these assessments will not be passed on with higher prices because they are fixed costs that do not affect the cost of the products these companies are continuing to make.

Additionally, because these companies will not be paying equal assessment amounts, there will be no market pressure -- there will be market pressure preventing one company from charging a higher rate because they will be outcompeted by the companies that don't charge a higher rate.

We even have laws in New York State that gas stations owned by different companies in specific geographic areas can't really change their prices in relationship to a local average.

So I am very confident, based on world economists telling me this, that this kind of assessment will have no impact on our prices for these products while we continue to use them, but it will bring in some of the money we are now all paying 100 percent of the costs for.

SENATOR RHOADS: Will the sponsor continue to yield.

ACTING PRESIDENT MAYER: Do you continue to yield?

SENATOR KRUEGER: Yes.

ACTING PRESIDENT MAYER: The Senator yields.

SENATOR RHOADS: Through you, Madam President. Senator Krueger, so the answer to that question is no, there's nothing in your legislation that would prevent companies that are being assessed this Climate Superfund tax from passing that cost to consumers?

SENATOR KRUEGER: In this legislation there's this thing called a business model which explains why they will not be able to pass these costs on, because it's not in their best interest.

SENATOR RHOADS: Will the sponsor continue to yield.

ACTING PRESIDENT MAYER: Do you continue to yield?

SENATOR KRUEGER: Yes.

ACTING PRESIDENT MAYER: The Senator yields.

SENATOR RHOADS: So your understanding, Senator, is that companies that pay this will not pass that cost on to consumers because of economic models.

SENATOR KRUEGER: Yes. Because these companies are very good at maximizing their profits, and they will not want to see a decrease in their profits from decreased sales because of what to them is actually a relatively tiny assessment on their overall profits.

SENATOR RHOADS: Will the sponsor continue to yield.

ACTING PRESIDENT MAYER: Do you continue to yield?

SENATOR KRUEGER: Yes.

ACTING PRESIDENT MAYER: The Senator yields.

SENATOR RHOADS: Thank you. Through you, Madam President.

So your understanding, then, is that the $75 billion that's going to be assessed will not result in any increase to a homeowner that is using oil to provide heat to their home, that is using propane to provide heat to their home, that is using gasoline to fuel their vehicle, a

company that is using petroleum products to manufacture plastics in the State of New York -- none of those costs are going to be translated to the end-user, you can guarantee that the full $75 billion will be borne simply by the companies and not by the end-users of those products. That's -- that's what you're telling us?

SENATOR KRUEGER: I cannot guarantee anything, obviously. And we all know that companies sometimes use excuses to raise their prices when in fact they -- it is not consistent with reality.

Right now I have certain companies who, because we hit them with a congestion price on their trucks, are charging an additional dollar per bottle of beer in my Manhattan in-zone area, as if a $21 cost to a truck per day would translate to $1 per bottle when that would assume they had only 21 bottles of beer on their truck, which seems pretty unlikely.

So you can never assume companies won't take advantage of and spin story lines. But just to use one company -- and again, we're talking about companies that are making billions and billions and billions of dollars in profits

every year. And we're talking about an assessment that would be split 3 billion per year over some of the largest of these companies in the world.

Again, they could decide to do what they wish to do, but it would be competitively foolish for them to price themselves out of the market in New York.

SENATOR RHOADS: Will the sponsor continue to yield.

ACTING PRESIDENT MAYER: Do you continue to yield?

SENATOR KRUEGER: Yes.

ACTING PRESIDENT MAYER: The Senator yields.

SENATOR RHOADS: So these -- so I understand -- if I understand correctly what you're saying, these economists that you're relying upon say that there's no relationship between the cost of producing a product and the price that you ultimately charge for the product, is that -- is that -- these economists, is that what you're saying.

SENATOR KRUEGER: No, I'm not saying that there's no relationship between the

cost of a product and what you sell the product for.

They're saying that when you look at the value of the assessment to any of these companies or the cost to any of these companies versus the risk to them to increase their prices, in competition with lots of other companies that won't need to raise their prices at all and won't even be able to justify it, that they will make the decision it is not in their best interest to do so. Particularly at a time when there is so much pressure on them all to stop producing and selling these products to us.

Again, while it's not in the direct question, implied in this question is why do we have to pay so much for all these products. And the answer is we shouldn't have to, because we shouldn't be dependent on these products. We should shift as quickly as possible to green, sustainable energy that we can produce ourselves.

The previous questioner pointed out what if he couldn't heat his house with oil in this weather, and that would be pretty disturbing. So we have other laws that make sure, through our CLCPA and our electrification

law, that we will always make sure we are ensuring reliability of products to keep people's homes warm.

But the fact is probably -- and I don't know where you live exactly or what kind of building you live in, but hydrothermal options and heat pumps is probably a much more both sustainable and ultimately cheaper way to heat your house, and then you wouldn't have to be dependent on those products anyway.

But that wasn't really the question, but it ties into the whole bigger assignment: Let's get off of these products as quickly as possible and then we don't even have to have this fight anymore.

SENATOR RHOADS: Thank you.

Will the sponsor continue to yield.

ACTING PRESIDENT MAYER: Do you continue to yield?

SENATOR KRUEGER: Yes.

ACTING PRESIDENT MAYER: The sponsor yields.

SENATOR RHOADS: Are you familiar with the due process clause of the Fifth and 14th Amendments to the United States

Constitution?

SENATOR KRUEGER: Well, it certainly came up quite a bit in the discussions around this legislation, yes. I won't claim to be expert. For the record, everyone here knows I am not a lawyer and I really don't like to delve into constitutional law questions. I refer those to constitutional lawyers. But I'll do my best.

SENATOR RHOADS: Well -- if the sponsor will continue to yield.

ACTING PRESIDENT MAYER: Do you continue to yield?

SENATOR KRUEGER: Yes.

ACTING PRESIDENT MAYER: The sponsor yields.

SENATOR RHOADS: In drafting this legislation and in drafting the amendments to the legislation, was any consideration given to the due process clauses of the Fifth and 14th Amendments?

SENATOR KRUEGER: Certainly the 14th Amendment. (To counsel.) Fifth Amendment also? (Pause.)

The way the law was written -- and again, it was why we appreciate the chapter

amendment -- that only those companies that in fact would get due process under our Constitution would be the companies that this law would apply to.

SENATOR RHOADS: Thank you, Madam President. Will the sponsor continue to yield?

ACTING PRESIDENT MAYER: Do you continue to yield?

SENATOR KRUEGER: Yes.

ACTING PRESIDENT MAYER: The sponsor yields.

SENATOR RHOADS: And, Senator, you're aware of the fact that these due process protections of the Fifth and the 14th Amendments apply to corporations, not just to individuals, correct?

SENATOR KRUEGER: Yes.

SENATOR RHOADS: So if I can -- will the sponsor continue to yield.

ACTING PRESIDENT MAYER: Do you continue to yield?

SENATOR KRUEGER: Yes.

ACTING PRESIDENT MAYER: The sponsor yields.

SENATOR RHOADS: So if I understand the process, on page 2 of the bill, at line 19 --

SENATOR KRUEGER: I'm sorry. Excuse me, Madam President. I think I'm only answering on the chapter amendments. Is that a change, that reference?

SENATOR RHOADS: Yes.

SENATOR KRUEGER: Okay, that's a change in the chapter amendment.

SENATOR RHOADS: Sure, it's a change.

SENATOR KRUEGER: Thank you.

SENATOR RHOADS: That the money that would be charged to the fund is based upon (reading) the amount of historic greenhouse gas emissions attributable to greenhouse gas-producing fossil fuels which they are responsible for extracting and refining, because the use of products derived from such fossil fuels caused such pollution. No finding of wrongdoing is required.

SENATOR KRUEGER: That is what is written. What's the question?

Sorry. Through you, Madam President, I don't know what the question

is, but I am reading the same section of that law.

SENATOR RHOADS: So it's your -- so we in this legislation, we as the Legislature are making a finding, without there being any due process of law, that they are responsible, without any evidence of wrongdoing, for creating the problem.

SENATOR KRUEGER: Through you, Madam President. This is all based on civil law, not a criminal finding of wrongdoing. And so it's not even attempting to argue whether the actions they were taking were violating some criminal law.

But yes, it has been proven through endless scientific research reports that these activities of extracting fossil fuels are responsible for the greenhouse gas emissions.

SENATOR RHOADS: So who's -- will the sponsor continue to yield.

ACTING PRESIDENT MAYER: Do you continue to yield?

SENATOR KRUEGER: I do.

ACTING PRESIDENT MAYER: The sponsor yields.

SENATOR RHOADS: So is it the Legislature or the courts that are making that determination?

SENATOR KRUEGER: Well, the Legislature is passing a law and now hopefully a chapter amendment to a law.

If a lawsuit is brought and attempts to make the claim that fossil fuel emissions are not causing the climate change crisis that is growing, that would be determined by the courts. I can't answer that question.

SENATOR RHOADS: Will the sponsor continue to yield.

ACTING PRESIDENT MAYER: Do you continue to yield?

SENATOR KRUEGER: Yes.

ACTING PRESIDENT MAYER: The sponsor yields.

SENATOR RHOADS: Senator Krueger, on page 5 you reference the term in -- at line 38, "A responsible party shall be strictly liable, without regard to fault, for a share of the cost recovery amount, which shall be used for the costs of climate change adaptive infrastructure projects, including their

operation and maintenance, supported by the fund."

You use the term "strictly liable." So again, here, there is no opportunity for any of these corporations to demonstrate their absence of fault. The Legislature is making that determination. Is that correct?

(Pause.)

SENATOR KRUEGER: Thank you.

The language is taken directly from the federal Superfund law as the precedent. So apparently strict liability is the model that has been used by this country -- I think the federal Superfund law was passed in 1980 or went into effect in 1980. I'd have to double-check that. But we took that directly from -- conceptually from that.

And then on page 7, from the chapter amendment, there are models where companies can in fact challenge their responsibility through DEC.

SENATOR RHOADS: Will the sponsor yield to another question?

ACTING PRESIDENT MAYER: Do you continue to yield?

SENATOR KRUEGER: Yes.

ACTING PRESIDENT MAYER: The sponsor yields.

SENATOR RHOADS: But in the federal Superfund Act, if there is a Superfund site, that's contamination tied to a specific site by a specific identifiable company, is that not correct?

SENATOR KRUEGER: Yes.

SENATOR RHOADS: But in this legislation you are -- will the sponsor yield to another question? Sorry.

ACTING PRESIDENT MAYER: Do you continue to yield?

SENATOR KRUEGER: Yes.

ACTING PRESIDENT MAYER: The sponsor yields.

SENATOR RHOADS: Thank you.

But in this legislation you are potentially charging the hundred largest carbon-emission producers regardless of whether the fossil fuels that created these emissions were extracted in the State of New York, were refined in the State of New York, were sold in the State of New York, were used in the State of

New York. Not based upon the ties to any specific company, but based on the fact that they produced fossil fuels and -- which were utilized somewhere in the world.

Is that not correct?

(Pause.)

SENATOR KRUEGER: Through you, Madam President. So as, again, I believe I tried to answer in previous questions, there are multiple tests the state will apply as to whether a company falls into the category of companies to be assessed.

But if they meet those tests and they are in that list, then that leaves them with the question -- I believe to try to answer my colleague -- were they responsible for emissions into the atmosphere? And if the answer is yes, then yes, they are liable for a share of the damage done by those emissions.

I suppose if -- a company could try to make the argument, well, yes, they also were releasing the emissions from their actions into the atmosphere, but for some unique reason their process didn't cause climate damage, as opposed to the other 99 companies evaluated. That could

be an interesting argument. But I don't think anyone actually believes that case could be made.

SENATOR RHOADS: Will the sponsor continue to yield.

ACTING PRESIDENT MAYER: Do you continue to yield?

SENATOR KRUEGER: Yes.

ACTING PRESIDENT MAYER: The Senator yields.

SENATOR RHOADS: And you've also said, Senator Krueger, in response to a few questions that were asked on the topic, that no one company is going to wind up having to bear the burden of the full contributions, the full $75 billion that you're extracting from this industry. Is that correct?

SENATOR KRUEGER: Yes, Madam President. Over 25 years it would be 75 billion, 3 billion annually, applied to some number of companies, certainly not one company.

SENATOR RHOADS: And will the sponsor continue to yield?

SENATOR KRUEGER: Yes.

ACTING PRESIDENT MAYER: The sponsor yields.

SENATOR RHOADS: Senator Krueger, what is the definition of joint and several liability?

(Pause.)

SENATOR KRUEGER: So I believe that the joint and several liability section is that if for some reason some number of companies are not able to be held liable, that that would apply to the remaining companies within the control group.

SENATOR RHOADS: Will the sponsor continue to yield?

ACTING PRESIDENT MAYER: Do you continue to yield?

SENATOR KRUEGER: Yes.

ACTING PRESIDENT MAYER: The sponsor yields.

SENATOR RHOADS: Would that also mean that if some company or number of companies could not pay their obligation, that that obligation would then in turn shift to any remaining companies?

(Pause.)

SENATOR KRUEGER: The answer is no, this bill would not apply in that situation.

SENATOR RHOADS: Will the sponsor continue to yield.

ACTING PRESIDENT MAYER: Do you continue to yield?

SENATOR KRUEGER: Yes.

ACTING PRESIDENT MAYER: The sponsor yields.

SENATOR RHOADS: Joint and several -- my understanding of joint and several liability is that if you're in for a penny, you're in for a pound. So if you're one of the hundred, and 99 other companies wind up being unable to pay, there is one company that would ultimately be responsible, regardless of their proportionate share of the cost. That is the definition of joint and several liability.

So there is a scenario where you could have a small number of companies winding up having to pay for costs beyond their proportionate share.

(Pause.)

SENATOR KRUEGER: Again, thank you for the time. Have to go to law school in my spare time.

So my understanding is that the way

this law is written, it would be if one large corporation, let's say ExxonMobil, had a variety of subsidiary companies under their control and there was some argument for why some subset of their obligation couldn't apply to all of their subsidiaries, then the umbrella organization would have to pick up that cost. Rather than divvying it up among maybe 30 of their subsidiaries.

But that this bill does not imply or require joint and several liability that goes across companies so that if somehow the worst company figured out how to get themselves out of it, that their share of the cost would apply to other companies. That this bill does not do that.

SENATOR RHOADS: We certainly have a difference of opinion on that, but I thank you for your response, Senator Krueger.

Madam President, on the bill.

ACTING PRESIDENT MAYER: Senator Rhoads on the bill.

SENATOR RHOADS: What I think we have here, and what I think has been demonstrated in the questioning, is that we have a fundamental

misunderstanding of what is going to happen as a result of this legislation.

The notion that there is any economist who would credibly say that the cost of $75 billion that will be extracted, regardless of the period of time, is not going to be borne by the ultimate end-user is simply absurd. Because when you go to the gas pump -- and we heard during the course of the questioning that large domestic corporations like ExxonMobil, like Texaco, like Shell, other domestic oil producing companies, are the ones who are going to bear the ultimate cost of that 75 billion.

Companies are not in business to simply provide a service. Companies are in business to make money. And if we do something to impact their profit, they're going to make up that profit by charging additional prices to the end-user, to the consumer.

So make no mistake, anyone that's watching here today, anybody who's watching on TV or at home. When you take $75 billion away from companies, companies that produce the fuel that you use to be able to heat your home -- propane, natural gas, oil -- when they produce the gas

that goes into your gas tank to fuel your vehicles, when they produce the petroleum products that are used in the manufacture of plastics, that are used in the manufacture of clothing, that are used in the manufacture of everything that we use in our everyday lives, you are going to be paying a portion of that tax.

Coal-producing companies that power the electricity that's supposed to be fueling the CLCPA, right, our full electrification of everything, coal is used to produce some of that electricity. Electricity is going to be more expensive as a result of the $75 billion that this Legislature is deciding that it is going to extract from particular companies, without being able to produce any evidence of pollution that's caused here in the State of New York by any of those specific companies.

We spoke a little bit about due process, and I appreciate Senator Krueger's explanation with respect to that. But the notion that the Legislature is using the Superfund Act, where you have an identifiable corporation that has caused an identifiable harm at an identifiable location, as the model for this

legislation is also absurd, respectfully.

Because now you are saying, by power of the Legislature -- not by power of the courts -- that you are the judge, you are the jury, and you are the executioner. That the DEC has no requirement to show that any company has produced any identifiable climate change within the State of New York.

That they can be charged even if they have no connection to the State of New York, even if fuel wasn't -- even if oil, natural gas, whatever it may be wasn't extracted here, wasn't refined here in the State of New York, wasn't sold in the State of New York, wasn't even used in the State of New York.

Without a judge, without a jury, without any opportunity to be heard -- that is the very definition of a violation of due process.

And so this legislation is troubling on a number of levels.

I would also mention, however, though I do find it interesting that the way this legislation is now crafted, it is every domestic producer of energy is going to wind up having to

pay into this $75 billion fund -- but look at who's exempt. Right? Wholly owned subsidiaries of foreign governments would be exempt from this legislation.

And where do you usually have wholly owned subsidiaries of governments? Communist nations like Venezuela, right, who is the owner of Citgo. Or the Russian government, which is the owner of Lukoil. They won't have to pay.

So we're imposing this burden on every domestic manufacturer, which is going to be paid by every one of us to heat our home, to fuel our vehicles, and to manufacture the products that we use everyday. But we are exempting wholly owned subsidiaries that are contributing to the problem but get away scot-free.

Madam President, for a variety of reasons, I will be voting no on this legislation. I would encourage my colleagues to do so as well. And I think ultimately, after New York State must spend a considerable sum of money having to defend -- of taxpayer dollars having to defend the onslaught of litigation that this legislation will unquestionably cause, we will have spent all that money and we will not realize any of the

$75 billion that this money is ultimately going to extract -- attempts to extract from these companies.

Thank you, Madam President.

ACTING PRESIDENT MAYER: Thank you.

Senator Tedisco, why do you rise?

SENATOR TEDISCO: I'd like to ask the sponsor a question.

ACTING PRESIDENT MAYER: Senator Krueger, do you yield?

SENATOR TEDISCO: If she would yield.

SENATOR KRUEGER: Yes.

ACTING PRESIDENT MAYER: Yes, the Senator yields.

SENATOR TEDISCO: Thank you, Senator.

I just have one question. I know it's -- we've got a long way to go home for some people, so ...

You seem to agree with -- and I listened to the discussion -- that these companies should not pass this on, this cost, this $3 billion a year, this $75 billion, to the consumer. Is that your position, that they

should be responsible for just paying that fee and that's a part of the model that will work out.

SENATOR KRUEGER: It's my position, based on review by people much smarter than myself, that these companies will choose not to increase their costs based on this assessment because it will put them at a competitive disadvantage with their competitors who do not have to pay this assessment.

And this assessment, despite a number that sounds very large, is actually a very small amount for any of the companies who would be assessed.

SENATOR TEDISCO: Okay, so will she yield for another question now, because --

ACTING PRESIDENT MAYER: Do you yield for another question? Although you said one.

SENATOR KRUEGER: You said one, but let's go for it. Certainly. I'll give you two, Senator Tedisco.

(Overtalk.)

SENATOR TEDISCO: But you didn't answer the question, so I have to get at least an

answer for --

ACTING PRESIDENT MAYER: Do you continue to yield?

SENATOR KRUEGER: Yes, I said yes.

ACTING PRESIDENT MAYER: The Senator yields.

SENATOR TEDISCO: So the question is, do you agree that that money should not be passed on -- you feel they won't do it, pretty sure the model says that. So you agree it should not be passed on to the consumer.

So let me follow up by this. You're nodding your head, so I take that as yes, you agree, they should pay it and not the consumer.

But then you said sometimes back in the debate you can't guarantee anything. But that's not the truth.

What I'm asking you lastly, now, can you take this bill off the floor and put an amendment in there to guarantee it? Because if you really believe you won't want it to be passed on and you believe the model works that way, there's no problem with that. If we guarantee it by putting it into the legislation, there's no problem, because you -- you do believe that

they're going to pay it because the model says that.

You're so sure that model -- see, we're dealing with our constituents on this side of the aisle. When we guarantee something and say the model is going to do something, we really fully believe it. So if you fully believe it, could you take down this bill, put the -- because we've done this before on bills, that it wouldn't pass on to the consumer, and other types of taxes and fees on businesses.

So would you guarantee that by really -- because the constituents are watching, and they heard what you said: The model's going to work, it's never going to be passed -- what would the problem ever be of you putting in an amendment of this to say it could never be passed on to the consumer? And that would be great for all of us, we could go home knowing in our heart she was really guaranteeing that.

ACTING PRESIDENT MAYER: Senator Tedisco --

SENATOR TEDISCO: What do you think?

ACTING PRESIDENT MAYER: -- what is

your question?

SENATOR KRUEGER: I got the question.

ACTING PRESIDENT MAYER: Okay.

SENATOR KRUEGER: Thank you, Senator Tedisco.

What I can guarantee our constituents is if we don't move this legislation, we are passing the whole 75 billion, guaranteed, over those 25 years.

What this bill does is attempt -- who knows how it will drag out in court? Who knows what companies will say what? But if we don't do this, I guarantee your constituents, my constituents will be paying a hundred percent of the freight on at least $75 billion worth of climate damage in our state over the next 25 years.

We're paying a hundred percent of the freight now. This bill is an attempt to hold those responsible for at least some share of the cost of the damage they have caused. That's the guarantee.

Thank you, Madam President.

SENATOR TEDISCO: Thank you,

Senator.

On the bill.

ACTING PRESIDENT MAYER: Senator Tedisco on the bill.

SENATOR TEDISCO: So I heard two things today. The Senator who has put this forth to put $75 billion of more cost on people who make the energy that the consumers are going to have to buy, she can't guarantee that it's not going to be passed on to the consumers. If she did, she'd put an amendment in here.

Then she has said that definitely they're going to have to pay 75 billion because she's going to extend this tax to them. Well, now she's a climatologist, I guess, because she's guaranteed that there's $75 billion worth of problems going to happen for our consumers.

You know, you've got to be a special person to have all those skills. You've got to be a great -- well, you've got to be the best, the best economist I ever heard and the best climatologist, to know those factors.

And I think my constituents know better than that. They want to deal with facts, not ideas and thoughts and policies and

philosophies. Because if all this climate control was working, we wouldn't have to look at when -- you know, we put this bus thing in. It costs 130 million -- $130,000 for a bus, a regular school bus. Now we're going to make them go electric, $450,000. And they had a deadline when all our schools are going to have to put that in place.

Well, the energy people say we can do that, but we won't have the energy to give you -- you can put the chargers, you can get the school buses -- when the time comes on that deadline you give us. So all these deadlines are coming back to us, and we have to rethink those and move them forward.

And this is another policy which looks good when you're going towards an election year, that we're going to clean up everything. But when the facts aren't and the figures aren't there and you're not a specialist in any of these fields that you're talking about, and you won't guarantee it by putting it in the bill -- and that would be a simple thing because we've done it before -- I think the constituents are looking at us now and saying it's kind of like a pig in a

poke. And we don't go for pig in a poke on this side of the aisle, for the most part.

So thank you very much, and thank you for answering my question. And I'll be voting no on this.

ACTING PRESIDENT MAYER: Senator Gianaris.

SENATOR GIANARIS: Madam President, we've agreed to restore this bill to the noncontroversial calendar.

Please take it up that way.

ACTING PRESIDENT MAYER: Read the last section.

THE SECRETARY: Section 10. This act shall take effect on the same date and in the same manner as a chapter of the Laws of 2024.

ACTING PRESIDENT MAYER: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MAYER: Senator Harckham to explain his vote.

SENATOR HARCKHAM: Thank you very much, Madam President.

I want to thank the sponsor for bringing this bill forward and for negotiating

chapter amendments with the Governor.

You know, in New York we have a model that the polluter pays. And in my district -- you know, we hear a lot of talk about our constituents -- my constituents are paying both ways. First of all, the oil companies have been enjoying record profits the last four years, some earnings so great they're larger than major capitalist nations, gouging our constituents at the gas pump. That's why energy prices are so expensive. Also because of the geopolitical forces, but it's because of the price of fossil fuel.

But secondly, these oil companies knew in the 1970s that their products would cause harm, they would cause heating of the planet, and they understood the damage that that heating would do. And like the tobacco companies, they covered that up, and now we are paying the price. My constituents are paying the price.

Since I first started in public service as a county legislator, they've rebuilt the grid in my district four times. That's a billion-dollar price tag that the ratepayers in my district are picking up. Regularly driven

climate storms; roads, bridges, culverts washed out. We replaced one section of the Saw Mill River Parkway that was prone to flooding from climate-driven storms -- 70 million for one mile of road.

My constituents are paying for that. That is unjust and unfair. So this notion that somehow we are scot-free and adding a cost is not accurate. The folks who caused this pollution, who caused this damage, need to pay for the resiliency for us and our constituents who have to live with this.

I vote aye.

ACTING PRESIDENT MAYER: Senator Harckham to be recorded in the affirmative.

Senator Lanza to explain his vote.

SENATOR LANZA: Madam President, I'm going to be voting against this bill.

I really think it will cause far more harm than good. I think it's a bit rich, as we stand in this beautiful, climate-controlled, warm, well-lit chamber, as it's zero degrees outside, and they want to blame the people who make it possible.

When I go home, I'm going to thank

God, I'm going to tell my constituents: Turn the heat on and thank God you can. And if my colleagues across the aisle want to tell their constituents to turn the heat off and freeze to death, that's their business.

I vote no.

ACTING PRESIDENT MAYER: Senator Lanza to be recorded in the negative.

Announce the results.

THE SECRETARY: In relation to Calendar 98, those Senators voting in the negative are Senators Ashby, Borrello, Bynoe, Canzoneri-Fitzpatrick, Chan, Gallivan, Griffo, Helming, Lanza, Martins, Mattera, Murray, Oberacker, O'Mara, Ortt, Palumbo, Rhoads, Rolison, Stec, Tedisco, Walczyk, Weber and Weik.

Ayes, 36. Nays, 23.

ACTING PRESIDENT MAYER: The bill is passed.

Senator Gianaris.

SENATOR GIANARIS: Is there any further business at the desk?

ACTING PRESIDENT MAYER: There is no further business at the desk.

SENATOR GIANARIS: I move to

adjourn until Monday, January 27th, at 3:00 p.m., with intervening days being legislative days.

ACTING PRESIDENT MAYER: On motion, the Senate stands adjourned until Monday, January 27th, at 3:00 p.m., with the intervening days being legislative days.

(Whereupon, at 1:26 p.m., the Senate adjourned.)