NEW YORK STATE SENATE

THE STENOGRAPHIC RECORD

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11:02 a.m.

REGULAR SESSION

LT. GOVERNOR MARY O. DONOHUE, President

STEVEN M. BOGGESS, Secretary

P R O C E E D I N G S

ACTING PRESIDENT LITTLE: The Senate will come to order.

I ask everyone present to please rise and repeat with me the Pledge of Allegiance.

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

ACTING PRESIDENT LITTLE: The invocation today will be given by the Reverend Charles J. Roof, Jr., Pastor of Calvary Baptist Church in Albany.

Reverend Roof.

REVEREND ROOF: Let us pray.

Holy God and Heavenly Father, we thank You for another day of grace.

We thank You for this beautiful place called New York State, and we thank You for the privilege of calling it home.

We thank You for these ladies and gentlemen that You've called to public service to minister to our needs. We ask for Your help upon this session today. We ask that You'll give each one here wisdom in decision-making. And, Father, we pray for a

productive year in the New York State Legislature.

We do pray, Father, for the family members of Coretta Scott King today, and we ask that You would comfort them during this time of loss.

We pray for New York's sons and daughters today who are fighting the battles in Iraq and Afghanistan and serving overseas around the world. We ask for success. We ask for safety of each one. We ask, Father, that You would comfort those families who've lost loved ones in this war against terror.

And we just ask, Father, that You would meet the needs of those around our state, other needs that are represented. We pray for those who are sick and hurting today, that You'd minister to their needs. We pray for those who are having a difficult year with finances, with increased utility costs. And we just pray You'll continue to meet needs and guide and direct each one.

We thank You for the privilege of serving You today. Be glorified in all that is done, we ask in Jesus' holy name.

Amen.

ACTING PRESIDENT LITTLE: Thank you.

Reading of the Journal.

THE SECRETARY: In Senate, Monday, January 30, the Senate met pursuant to adjournment. The Journal of Saturday, January 28, was read and approved. On motion, Senate adjourned.

ACTING PRESIDENT LITTLE: 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 Bruno.

SENATOR BRUNO: Madam President, myself, with Senator Breslin, have a privileged resolution at the desk. I would ask that it be read in its entirety and move

for its immediate adoption.

ACTING PRESIDENT LITTLE: The Secretary will read.

THE SECRETARY: By Senators Bruno and Breslin, Legislative Resolution Number 3373, celebrating the life and accomplishments of Morris "Marty" Silverman, noted philanthropist and distinguished citizen.

"WHEREAS, It is the custom of this Legislative Body to honor the life and accomplishments of citizens of the State of New York whose enduring gifts to the community and state will long be cherished; and

"WHEREAS, It is with deepest regret and sincerest sorrow that this Legislative Body records the passing of Morris 'Marty' Silverman, a noted philanthropist who donated millions of dollars to causes in the Albany area and beyond, and established the nation's richest prize for medical research; and

"WHEREAS, Morris Silverman, affectionately known as 'Marty,' died in Manhattan on Thursday, January 26, 2006, at the age of 93; and

"WHEREAS, Born in 1912 to Polish

immigrants, Morris Silverman grew up in Troy, New York, in a wood-frame house across the Hudson River from Albany, with his two sisters. After graduating from Troy High in 1930, he attended New York University and later Albany Law School, managing the Standard Oil gas station, located in South Troy, to help pay for tuition; and

"WHEREAS, After graduating from Albany Law School in 1936, Morris Silverman worked briefed with the Legal Aid Society in Albany, then moved to New York City with his wife, the late Dorothy, to become a businessman; and

"WHEREAS, Morris Silverman bravely served his country during World War II, retiring as a major. He was decorated with two Purple Hearts, two Bronze Stars, a Silver Star, four Battle Stars, and a Combat Infantry Badge, and he served as a lawyer to assist in the prosecution of Nazi war criminals; and

"WHEREAS, Morris Silverman built his fortune after returning home after World War II, starting what would become the largest family-owned leasing company in the country.

He later founded National Equipment Rental, which he sold in 1984, using the proceeds to establish the Marty and Dorothy Silverman Foundation; and

"WHEREAS, Many institutions and agencies, locally and nationally, benefited from his philanthropy, including Albany Law School, Albany Medical Center, the Sage Colleges, the Jewish chapel at the United States Military Academy at West Point, the Holocaust Museum in Houston, and children's literacy programs. Furthermore, the New York State Military Museum and Veterans Research Center in Saratoga Springs, New York, was established with his generous support; and

"WHEREAS, Morris Silverman's vision of Albany as an international center for law, medicine, and higher education led to the formation of University Heights Association, a unique consortium of four neighboring institutions -- Albany Law School, Albany College of Pharmacy, Albany Medical Center, and the Sage Colleges; and

"WHEREAS, Morris Silverman's vision and determination led to the purchase of the

New Scotland Avenue Armory, a key step in realizing the goal of University Heights; and

"WHEREAS, In 2000, Morris Silverman pledge $50 million to create the Albany Medical Center Prize in Medicine and Biomedical Research to be disbursed over the next century in annual awards worth $500,000. The largest medical research award in the United States, it is second in the world, only behind Sweden's $1.3 million Nobel Prize; and

"WHEREAS, Giving back and pulling oneself up were constant themes in Morris Silverman's life. He and his wife wrote a note to their three children in 1980 extolling the virtues of both: 'Remember, if you ever need a helping hand, you'll find one at the end of your arm. As you grow older you will discover that you have two hands, one for helping yourself, the other for helping others'; and

"WHEREAS, The sincere condolences of this Legislative Body are offered in great respect and honor to Morris Silverman's family. He is survived by his son, Lorin; his daughter-in-law, Patty; two daughters, Carol

and Joan; nine grandchildren -- Marc, Ama, Fae, Garey, Jeremy, Marna, David, Allison, and Seth -- and one great-granddaughter, Abigail; and

"WHEREAS, Armed with a humanistic spirit, imbued with a sense of compassion, and comforted by a loving family, Morris Silverman leaves behind a legacy which will long endure the passage of time and will remain as a comforting memory to all he served and befriended; now, therefore, be it

"RESOLVED, That this Legislative Body pause in its deliberations in a moment of silent tribute to Morris Silverman, whose unselfish concern for the welfare of others enhanced the lives of so many; and be it further

"RESOLVED, That a copy of this resolution, suitably engrossed, be transmitted to the family of Morris Silverman."

THE PRESIDENT: Senator Bruno.

SENATOR BRUNO: Thank you, Madam President and colleagues.

I'm glad to see so many young people here in the chamber -- who are

themselves champions that will be recognized later -- because when we celebrate Marty Silverman's life, we celebrate an individual who spent 93 years here on this earth and now, this weekend, went to another place. But Marty Silverman and the good things that he has left behind will go on affecting people's lives for generations.

Now, think about an individual who was born in Troy, New York -- born in Troy, New York, very humble beginnings, grew up unsatisfied with where he was in life, worked his way through college, through law school, and saw an opportunity.

Here's a poor kid struggling and working. And he told me this story himself, that he saw an ad for a couple of used cars. You want to talk about opportunity? And he bought those used cars, and he sold them within a week and I believe like doubled his money. He thought: Hey, this is the way to go, this is better than practicing law. See how smart he was?

(Laughter.)

SENATOR BRUNO: He went on to

build one of the largest leasing companies in the United States. That's why he could give away $50 million, building through the Renaissance Corp. that John Egan, who was a close friend of Marty's -- and John is here, and John himself has dedicated much of his life to public service. But he has implemented the University Heights program to improve the quality of life for people.

Marty always had a smile on his face. He was around here last year at age 92. He had more energy than most people here put together. And wherever Marty went, he handed out this, a real two-dollar bill. He gave me a stack of them. I wish he had given me a million of them, but he didn't.

But on the back of this two-dollar bill it says: "If it is to be, it is up to me." Just think about that as you go on to your life. If it is to be, it is up to me.

So I want to thank Marty -- his children, grandchildren, great- grandchildren, John, for being such a supporter -- for the legacy that he leaves, for sharing his wealth, for caring enough about you and about me and

about everybody here in New York State and in the Northeast with all of the good works that he has left behind.

Thank you, Madam President.

THE PRESIDENT: Thank you, Senator Bruno.

I also want to make remarks just briefly about my friend Morris Silverman. One of Marty's greatest tributes I think is the selection of John Egan to head Renaissance Corp. John, you really exemplify a lot of what we all loved and respected about Marty.

I have to say candidly, though, that his wit was tremendous, wisdom was excellent, his drive was unequaled. But all of those stellar qualities were exceeded by the size of Marty's heart. I never met anyone who had achieved so much and yet retained so much humility.

My hometown is Troy, New York, and his hometown will always remember Marty, first of all with affection, secondly with respect, and mostly with deep appreciation for all that he did for the Capital Region as well as our state.

I'd like us to observe a moment of silence now, before we vote on this resolution, in memory of Marty.

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

THE PRESIDENT: All in favor of the resolution please signify by saying aye.

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: The resolution is adopted.

Senator Bruno.

SENATOR BRUNO: Madam President, can we at this time adopt the Resolution Calendar, with the exception of Resolution 3312.

THE PRESIDENT: All in favor of so adopting the Resolution Calendar please signify by saying aye.

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: The Resolution Calendar is so adopted.

Senator Bruno.

SENATOR BRUNO: Madam President, can we at this time take up the privileged resolution by Senator Hugh Farley, 3312, have it read in its entirety, and move for its immediate adoption.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: By Senator Farley, Legislative Resolution Number 3312, congratulating the Amsterdam High School Rugged Rams Football Team upon the occasion of winning the Class A New York State Championship.

"WHEREAS, The State of New York takes great pride in acknowledging the outstanding achievements of its high school athletic teams; and

"WHEREAS, The Amsterdam High School Rugged Rams Football Team won the Class A New York State Championship following a 35-14 victory over Geneva at the Carrier Dome in Syracuse on November 26, 2005; and

"WHEREAS, The team, with a record of 11-2 for the season, was also victorious in

the Section II Super Bowl on November 4th, defeating Averill Park 42-14; and

"WHEREAS, They went on to defeat Indian River 33-8 for the Northern Regional Championship on November 11th and to defeat Harrison 20-10 for the Eastern Regional Championship on November 19th; and

"WHEREAS, Their impressive victory for the Class A State Championship is the school's first ever Class A title and the football team's first state title in ten years. The last title won by the school's football team was the Class B title in 1995; and

"WHEREAS, Player T.J. Czeski was named Most Valuable Player. He completed nine of 14 passes for 119 yards and two touchdowns, rushed for 78 yards, had five tackles, and intercepted a pass in the red zone; and

"WHEREAS, The team was honored with a parade through the city held on December 4, 2005. The streets were packed with adoring and proud fans despite the cold weather; and

"WHEREAS, The extraordinary 52-member team was led by Head Coach Pat

Liverio and his assistants; and

"WHEREAS, Their tremendous success and outstanding sportsmanship and teamwork are a wonderful inspiration to teams across New York State; and

"WHEREAS, The State of New York is proud to congratulate this group of extraordinary young men; now, therefore, be it

"RESOLVED, That this Legislative Body pause in its deliberations to congratulate the Amsterdam High School Rugged Rams Football Team upon the occasion of winning the Class A New York State Championship; and be it further

"RESOLVED, That copies of this resolution, suitably engrossed, be transmitted to the Greater Amsterdam School District and to Head Coach Pat Liverio."

THE PRESIDENT: Senator Farley.

SENATOR FARLEY: Thank you, Madam President.

I rise to salute this magnificent team which is in our gallery here, the champions, Class A champions for the state of New York.

Football in Amsterdam has been a tradition, from the Little Giants -- how many of you guys played for the Little Giants one time in your life? Raise your hand. They start -- they teethe on a football in Amsterdam.

These people are the state champions for New York State. And it's the first time in their history, incidentally.

Unfortunately, in the Super Bowl in Region II, they defeated Averill Park, which Senator Bruno is still wincing over, and our Lieutenant Governor comes from there, and our distinguished counsel up there lives in Averill Park. But those things happen in the line of football.

I'm also joined here on the floor with my colleague, who lives in Amsterdam and is a graduate of their school system, Assemblyman Paul Tonko, who's right over here. And we will be meeting with the team a little bit later.

But let me just say a couple words about this magnificent accomplishment. Not only did they go to the Carrier Dome and go

through and win the state championship, they played a magnificent team from Geneva.

And my dear friend and colleague Senator Nozzolio, we had a friendly wager. And he supplied us with a bushel of apples. And I offered them up in my district office in Amsterdam, and I think everybody in Amsterdam came to get one of your apples. I had to supplement that order a little bit because it was so popular.

But with that being said, I know that Senator Nozzolio is very, very proud of this team. And let me just say a word before I yield to Senator Nozzolio.

T.J. Czeski, who was named the Most Valuable Player, a remarkable young man who is on a full scholarship to Wagner University -- and that's in basketball, no less, so he's a dual threat in that area -- I know his family quite well.

And let me just say a word about their magnificent coach, Pat Liverio. I'll tell you, he's being looked at nationally. So we want to keep him in Amsterdam to go on and win more championships.

We're very, very proud of this magnificent team and particularly their scholarship and so forth. Incidentally, sitting with Assemblyman Tonko, we have the McDermotts, who have a son -- Mrs. McDermott has a son, and the grandfather is there. So we're very, very honored to have you here in our gallery.

And with that, I'm going to yield to Senator Nozzolio, who represented Geneva.

THE PRESIDENT: Senator Nozzolio.

SENATOR NOZZOLIO: Thank you, Madam President. And thank you, Senator Farley. On the resolution.

I rise to support the resolution authored by my good friend and colleague Senator Farley recognizing the tremendous success of the Amsterdam Rugged Rams.

As Senator Farley indicated, I represent the community of Geneva. And I am very proud to say that on the evening of Saturday, November 24th, I was seated in the Carrier Dome cheering on the Geneva Panthers.

That it was great to see, though, such a tremendous outpouring of support from

Amsterdam. The entire community had to travel a long way on a cold night, but they certainly were warm and heated the Carrier Dome and supported their Amsterdam team.

And I want to congratulate the players, the coaching staff, the administration for such a wonderful display of athleticism. You beat a very, very good team because you played very, very well. An outstanding game. An outstanding group of young men.

And I must also tell you that when I delivered that bushel of Red Jacket Orchard apples grown in Geneva to Senator Farley, I've never seen such pride on his face. Because he cared very much for his community. I know he took great interest in the development of this championship team.

Congratulations, State Champions. Congratulations, Senator Farley. Couldn't lose to a better colleague. And that I certainly want to congratulate you all for a job well done.

SENATOR FARLEY: Thank you very much, Senator Nozzolio.

And let me just say that this team, despite the snowstorm, despite everything that happened -- and it was snowing a lot harder than Amsterdam than it did here in Albany -- made it in here. And again, they are winners all the way. Congratulations, and we're very, very proud and happy to have you here.

Madam President, if you would please welcome this Championship Class A team.

THE PRESIDENT: I certainly will. But first I believe Senator Bruno would like to close.

SENATOR BRUNO: I would like to add my congratulations to this Class A championship team; to Senator Farley, for having the wisdom to have you in his district; and to Senator Nozzolio, for being such a good sport.

You know, losing is no fun. But somebody wins, somebody loses. And when somebody loses, you got to be good-natured about it. Like I don't resent the fact that you beat Averill Park.

(Laughter.)

SENATOR BRUNO: You're welcome in

the chamber, and we are respecting and honoring you.

But in a sincere way, you look around at each other: you are champions. And you are champions because you support each other. You're a team.

When you go on in life, you will fully appreciate what you have learned as a team where you support each other. Because you don't do much alone in this life, you do it as a team -- with support, giving support, being friends, getting friends. That's what life's all about.

So you are champions, and we congratulate you on what you have accomplished so far in your life and congratulate you on all the good things that you are going to do as you go on in your lives being champions. Congratulations.

And thank you, Madam President.

THE PRESIDENT: All in favor of the resolution please signify by saying aye.

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: The resolution is adopted.

And I have to say, I used to teach in Averill Park so I have some sentiments. But I have to defer to your excellence and to emphasize again that the qualities that made you successful in sports are definitely a sign of future success. So I wish you the very best.

Let's give them a big round of applause and a warm welcome to the New York State Senate.

(Extended applause.)

SENATOR FARLEY: Incidentally, this resolution, which Assemblyman Tonko has also sponsored in the Assembly, is open to everybody in this chamber. So if anybody would not like to be on it, please notify the desk.

THE PRESIDENT: Senator Bruno, do you have any objection to opening up the last resolution?

Senator Skelos, do you have any objection to opening up this resolution?

SENATOR SKELOS: No objection.

THE PRESIDENT: Then any member who do not does not wish to cosponsor the last resolution please notify the desk.

Senator Skelos.

SENATOR SKELOS: Madam President, Resolution 3369, by Senator Golden, he asks if we could open it up for sponsorship. Anybody that wishes not to sponsor it, they should notify the desk.

THE PRESIDENT: Any member who does not wish to cosponsor Senator Golden's resolution just referenced by Senator Skelos, please so notify the desk.

Senator Skelos.

SENATOR SKELOS: Madam President, if we could go to the noncontroversial reading of the calendar.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: Calendar Number 45, by Senator Fuschillo, Senate Print 785A, an act to amend the Tax Law, in relation to establishing.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 54.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 48, by Senator Golden, Senate Print 5984A, an act to amend the Tax Law, in relation to enabling.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 55.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 54, by Senator Flanagan, Senate Print 5966A, an act to amend the Real Property Tax Law, in relation to extending.

THE PRESIDENT: Read the last

section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 55.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 83, by Senator Marcellino, Senate Print 5763B, an act to amend the Tax Law, in relation to the alternative fuels credit.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 55.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 84, by Senator Wright, Senate Print 58 --

SENATOR SCHNEIDERMAN: Lay it aside.

THE PRESIDENT: The bill is laid aside.

THE SECRETARY: Calendar Number 85, by Senator Spano, Senate Print --

SENATOR SCHNEIDERMAN: Lay it aside.

THE PRESIDENT: The bill is laid aside.

THE SECRETARY: Calendar Number 86, by Senator Robach, Senate Print --

SENATOR SCHNEIDERMAN: Lay it aside.

THE PRESIDENT: The bill is laid aside.

THE SECRETARY: Calendar Number 87, by Senator Hannon, Senate Print 5970A, an act to amend the Tax Law, in relation to providing a sales and compensating use tax exemption.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 55.

THE PRESIDENT: The bill is passed.

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

SENATOR BRUNO: Madam President, can we ask that the bells be rung. We are going to now proceed to the controversial calendar.

THE PRESIDENT: The Secretary will ring the bell, and the members should return to their seats now so we can proceed with the controversial calendar.

Senator Skelos.

SENATOR SKELOS: Madam President, can we take up the controversial calendar now, beginning with Calendar Number 84, by Senator Wright.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: Calendar Number 84, by Senator Wright, Senate Print 5846A, an act to amend the Tax Law.

SENATOR LIZ KRUEGER: Explanation.

THE PRESIDENT: An explanation has been requested, Senator Wright.

SENATOR WRIGHT: Thank you, Madam President.

The bill before us this morning creates a new section, 28, of the Tax Law and provides tax credits for biofuel production plants.

The biofuel tax credit is calculated at 15 cents a gallon after production of 40,000 gallons, with a maximum tax credit of 2.5 million per taxpayer per year. The credit is available for a maximum of four years.

The credit may not lower taxes below the minimum tax fixed by law. If it does, it will be treated as a refundable overpayment of tax, but without any interest.

Biofuel includes both biodiesel and ethanol. The intent of the legislation is to encourage the development of the biofuel industry in New York State. New York is already using ethanol as a mix in its gasoline as a result of action of this Legislature banning the use of MBTE. And so as a result,

we need that as an additive to achieve compliance with federal air emissions standards.

Equally important, we're now currently importing that biofuel rather than producing it here in New York State and thereby creating jobs and adding to the economy of the state.

So by pursuing this tax incentive, we encourage an industry to develop in the state. That will have positive benefits for our agricultural industry. It in turn will have positive environmental impacts and have positive economic impacts.

THE PRESIDENT: Senator Krueger.

SENATOR LIZ KRUEGER: Thank you, Madam President. If the sponsor would please yield.

THE PRESIDENT: Senator Wright, will you yield for a question?

SENATOR WRIGHT: Yes, I will, Madam President.

THE PRESIDENT: You may proceed with a question, Senator.

SENATOR LIZ KRUEGER: Thank you.

We had an extensive debate on this last year. And since this is an A version, can I start off, have you amended this bill at all since last year?

SENATOR WRIGHT: This is the same version that was passed in September.

SENATOR LIZ KRUEGER: Thank you. Madam President, if the sponsor would continue to yield.

THE PRESIDENT: Senator Wright, do you continue to yield?

SENATOR WRIGHT: I will, Madam President.

THE PRESIDENT: You may proceed with a question.

SENATOR LIZ KRUEGER: Thank you.

You mentioned in your explanation that it would be up to $2.5 million per plant per year for no more than four years. Do we have any existing plants this would apply to in New York State?

SENATOR WRIGHT: We have several plants that are under consideration. We anticipate that by the end of the year there will be four plants in the state, two in the

Central New York area, one in Western New York, and one in the mid-Hudson.

SENATOR LIZ KRUEGER: Thank you.

Madam President, if the sponsor will continue to yield, please.

THE PRESIDENT: Senator Wright, do you yield?

SENATOR WRIGHT: I will continue to yield, Madam President.

THE PRESIDENT: You may proceed with a question, Senator.

SENATOR LIZ KRUEGER: Thank you.

There's been more attention, I think, around biofuels and ethanol production even since we last debated this bill, perhaps because of the radically rising costs of petroleum. And one of the new concerns that seems to be coming out in the literature is that the shifting of the use of agricultural products to ethanol and biofuels can actually dramatically raise the costs for others in the agriculture sector because those products suddenly are not available as easily for feed or for human consumption.

And I was wondering, since you

talked about the economics for New York State, whether anyone's done an analysis for us of what if any negative consequences there might be on other parts of our agricultural industry if we shift the use of these products to ethanol and/or biofuel production.

SENATOR WRIGHT: Madam President, I'm not aware of any detailed analysis that has been done.

The agricultural community, including the Farm Bureau, supports this legislation. So from their perspective, they do not anticipate any dramatically adverse impacts upon their industry.

In turn, of course, it's like any other commodity, there will be supply and demand issues initially. But once you have an existing capacity within the state, that sends a very clear signal to producers, be it corn or willow or whatever we're using to create the biofuel, that there will be a permanent market that they can sell into.

And as a result, I believe you will see supply in fact increase, and that will have a positive impact, providing a diverse

product to many of our farms throughout northern New York.

SENATOR LIZ KRUEGER: Thank you. Madam President, on the bill.

THE PRESIDENT: You may proceed on the bill, Senator Krueger.

SENATOR LIZ KRUEGER: Thank you, Madam President.

I appreciate the sponsor's responses to my questions.

I spoke out against this bill last time and voted against it, and I've done some additional homework since. But I have to say my concerns are that the State of New York needs to do more homework for itself before it goes down this road.

Once you start to open the door of tax exemptions and credits and encouragement for certain new industries -- and as the Senator clarified, we don't have this yet in New York, we're talking about having some in the pipeline -- I think it's incumbent on us in the government to figure out, before we start to incentivize a new type of business, what that impact would be for us, both for

other parts of the agriculture sector, whether there are differences out there between biofuels that use, as was said, hardwoods, grasses, nuts, as opposed to ethanol, where there has been some research showing that that is a seriously costly model for replacement of petroleum.

So while I am more open than I was a few months ago to the idea of exploring what could the State of New York do to increase the use of biofuels, particularly since I would argue that we need to do everything possible to decrease our use of petroleum products and decrease our dependence on foreign oil, I still think that the right type of legislation for us to be moving at this time is some kind of mandated research by government and the industries that would be affected in New York to figure out what is the right direction to go.

Because not all biofuels are equal or offer the best or the same options for us. And I think before we start to incentivize by giving away our tax dollars to particular industries or new developing industries, we

need to ask the question what will it really mean for us.

So I continue to argue that it's too early for us to pass this kind of bill and open up this door. I'll be voting no.

Thank you, Madam President.

THE PRESIDENT: Senator Marcellino.

SENATOR MARCELLINO: Yes, Madam President. Thank you.

I rise in support of this legislation. I use, as a classic example, a few years ago when I proposed the tax credit on hybrid vehicles and the hybrid technology, we didn't propose a tax credit for any particular car, we proposed a tax credit on the technology. Nobody was buying hybrid cars then. In my office was General Motors, Chrysler -- representatives, obviously -- and Ford. They were opposed to this: "Senator, it was an interim technology. It's not the future. Fuel cells is going to be the future." Well, fuel cells is hydrogen technology.

And I said to them, you know, then:

"It may be in the future, but you're 20, 30 years down the road before you're even close. Hybrids are going to be here."

Today, hybrids you can't buy. It's a six- to eight- to nine-month waiting list to buy hybrid cars. Who manufactures the vast majority of them? Japanese car makers. Who's laying off thousands of workers in this country? American car makers. Who's losing profits? American car makers. Who's losing jobs? American workers. It's an outrage.

We can wait and wait and wait and wait and wait. It doesn't help. Do you know who's going to be, ladies and gentlemen of the Legislature, who's going to be the largest manufacturer of cars in this country next year? Toyota. The largest manufacturer of cars is going to be Toyota. Not General Motors, not Ford, and not Chrysler. It's an outrage.

We cannot afford to wait. American car manufacturers seem to be waiting for some myth down the road. We can research things to death. It's time to move. In Brazil, gasoline in Brazil, 85 percent ethanol.

85 percent. That's nationwide. We could do that here. Ford is now beginning to develop their supersecret car which would operate on ethanol. Think what that would do for our economy. We produce more sugarcane than we can take. That's, by the way, where they get it from. They get it from sugarcane, not corn.

So the technologies that we want to incentivize have to be moved. Senator Wright is to be congratulated. We need to bring these types of vehicle, these types of plants, this type of industry online now and in incentivize them and grow them and grow jobs, literally, and grow ourselves out of this dependency on fossil fuels and foreign fuels. It's destroying this country and eventually will destroy the world.

Ladies and gentlemen, I think we should all support this bill wholeheartedly. It's the right thing to do.

THE PRESIDENT: Does any other member wish to be heard on this bill?

Then the debate is closed.

The Secretary will ring the bell.

Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE PRESIDENT: The Secretary will announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 84 are Senators Duane, Hassell-Thompson, and L. Krueger.

Those absent pursuant to Rule 9 are Senators Breslin, Johnson, Libous, Montgomery, M. Smith, Stavisky, and Trunzo.

Those Senators absent from voting: Senator Sampson.

Ayes, 47. Nays, 3.

THE PRESIDENT: The bill is passed.

The Secretary will continue to read.

THE SECRETARY: Calendar Number 85, by Senator Spano, Senate Print 5965A, an act to amend the Tax Law.

SENATOR SCHNEIDERMAN:

Explanation.

THE PRESIDENT: Senator Spano, an explanation has been requested.

SENATOR SPANO: Thank you, Madam President.

Last September, September 14th in New York City, the Investigations Committee conducted hearings on the surging prices of home heating fuel as well as gasoline taxes. We listened to testimony from everyone from the oil companies to the service stations and everyone in between.

We learned a lot at that hearing. We learned about the failed energy policies of the federal government. I would take it a step further; we heard that there are no energy policies of the federal government. And maybe tonight maybe we'll hear the president talk about cracking down on profits of oil companies. Because as we read today, Exxon, with a $10 billion surplus in the final quarter of the year, is something that is obnoxious to all of us.

We know there have been no refineries, no new refineries. We know that

there's a concentration of refineries in the Gulf Coast. And we recognize that those in Washington are pointing fingers of blame all over the place.

We also learned, of course, that there's nothing at all that we can do about that and that let us focus on what we can do to those people who we continue to call the overburdened taxpayers in our communities.

Who are more overburdened than our seniors? It's easy for us to say to our family members, lower the thermostat. But when you're a senior living in an apartment or living in a house, particularly in the metropolitan area of New York or all across New York State, it is not realistic to say, lower the heat.

So the alternative is for us to come up with a program, $140 million, that impacts 640,000 seniors across this state. We provide a $100 personal income tax credit to the renters, and we provide a $200 rebate check to those seniors who are eligible for the enhanced STAR program. It's a direct way of helping those people who are most in need

in this state.

And this has been an issue that we in the Senate have continued to take a leadership role on and hope to see passage of this soon so that the benefit will go directly to those seniors before April, so that they will see a benefit when they're seeing those heating fuel bills, when they open those bills.

Yes, consumption may be down, but the cost of heating fuel is significantly higher as a result of what's happening in Washington. But this is the best way that we can come up with to find a solution to lessening the burden on our seniors and our communities.

THE PRESIDENT: Senator Schneiderman.

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

THE PRESIDENT: You may proceed.

SENATOR SCHNEIDERMAN: This is the same bill, and the other legislation we're moving today is essentially the same, subject to changes in a few dates and technical

details, that we passed when we were here in September. And the objections that some of us had to this legislation is equally applicable to the legislation presented to us today.

What I find the most discouraging, frankly, is we are clearly in a time when the people of the State of New York are paying too much for gas, for oil, for energy. And I respectfully disagree with my friend and colleague Senator Spano that there's nothing we can do to deal with the lapses with the federal government. I mean, we certainly, for starters, we can withdraw our support from the parts of the federal government that are responsible for this catastrophe.

But second of all, the State of New York has tremendous power to develop an energy plan not to deal with this in a haphazard way, to deal with something that is fair to all the people of the State of New York. The reason we are not doing that is because the Energy Planning Board expired in 2002. The 2002 energy plan is badly outdated.

This is state policy. This is something we have the ability to remedy. So

what is required is leadership at the state level, what is required is a comprehensive energy plan not just to deal on a piecemeal basis with small parts of the problem, but to deal comprehensively with the explosion of energy prices in our state.

Now, this particular piece of legislation, again, I think we pointed out some problems with it when it came up in September. It is the same bill. It's not moving in the Assembly. It's not going anywhere. I'm not sure, on an energy bill, what the justification is for wasting the energy to reprint the exact same bill that hasn't moved forward at all. But this is a bill that many of us voted against because it clearly and blatantly discriminates against tenants and against renters.

I appreciate the fact that homeowners have problems with heating costs, but so do renters. And to continue to push a bill that provides a $200 credit to homeowners that meet certain qualifications, but only a $100 credit to tenants, to renters -- who very, very frequently have less resources, are

poorer than the homeowners -- is simply discrimination that we shouldn't accept.

It's not necessary for it to be in this bill. We pointed this out when it came up in September. This bill is not moving forward in the Assembly. I don't see any progress towards a comprehensive energy plan. Let's do this right. Let's not continue to press bills that aren't going anywhere and reprint them, at some cost of energy. Let's work towards passing something that can pass the Assembly, that can get done with the cooperation of the Executive. Let's move towards an energy plan.

And please, as we go forward, let's provide justice for all New Yorkers. Let's provide relief from energy costs for all New Yorkers. Let us not be, the Senate be the house that discriminates over and over again against renters and tenants. That's what this bill does. For that reason, I'm voting no.

And I would urge that we move forward and try and come up with some energy proposals that could pass the Assembly, that could become law, that could be a part of a

comprehensive energy plan.

Thank you, Madam President.

THE PRESIDENT: Senator Wright.

SENATOR WRIGHT: Thank you, Madam President.

I rise to recognize Senator Spano's efforts, because this effort commenced with Senator Spano in this house last September.

And it's because of that effort that a week ago we achieved an agreement dealing with the HEAP program and providing unprecedented commitment of state dollars to assist low- and moderate-income individuals across the State of New York, to the tune of $100 million.

This is an important component of a comprehensive approach to energy. Because we have provided HEAP money, we've called upon the federal government to provide additional HEAP money. And now we are providing a component to those individuals most in need, our senior population.

Now, the bill in fact is balanced. If one looks at square footage and utilization records, you'll find that renters typically

have smaller space than homeowners, typically have lower heating costs than homeowners. Consequently, you see the differential in the bill. Not discrimination, but in fact equal treatment, recognition of the differences in cost and impact.

So we in fact do have a balanced approach. We do have a bill that, when coupled with the additional appropriations last week to HEAP, provide a solution that is badly needed in this state.

I commend Senator Spano for his efforts, and I'm very pleased to join with him in supporting the bill today.

Thank you, Madam President.

THE PRESIDENT: Senator Parker.

SENATOR PARKER: Madam President, on the bill.

THE PRESIDENT: You may proceed on the bill.

SENATOR PARKER: First let me begin by thanking Senator Spano for his concern on this issue. Energy issues really should be really more on the front burner of what we are talking about this year and what's

going on in the State of New York, especially in the wake of Katrina and what we saw in terms of both rising fuel prices but also what's happening to our school districts, what's happening in people's homes.

I'm sure there's not any member here who hasn't gotten a significant amount of calls from constituents complaining about their heating bills. And I think that, you know, we really need to be working together to figure out how we in fact move forward to provided relief for seniors, for poor New Yorkers who can't afford to heat their homes and apartments.

However, this bill doesn't do that. This bill does not take us where we need to be. This bill provides a significant inequity. There's a significant lack of distribution of resources.

We have tried to deal with this issue. This bill would cost the state roughly around $300 million. And I think that that money could be better used in a program like the Temporary Home Energy Assistance Grant program. And I think that those kind of

programs, that really work on the federal model and really supplement what is being done by the federal government for folks who are not eligible for that program, really is the way we ought to be going.

So I want to rise not to oppose you, Senator Spano, but to work with you on creating a solution together that we think will help everybody equally across the state.

THE PRESIDENT: Does any other member wish to be heard?

Senator Krueger.

SENATOR LIZ KRUEGER: Thank you, Madam President. On the bill.

THE PRESIDENT: You may proceed.

SENATOR LIZ KRUEGER: Thank you.

Again I rise to argue against this bill. The Home Energy Assistance Program has been mentioned now several times by my colleagues. And yes, we put a hundred million dollars into that, although analysts argue that, given what the federal government has failed to do and the cost of home heating increases, that we really should have put in at least $200 million or $300 million into

HEAP, not $100 million.

So then suddenly we have a revisiting of a bill from September that would cost us that kind of money in a different model. We should be putting that money -- if we're prepared to put more state money into assisting low-income people with their ability to pay for heating in their homes, we should be putting that money into an existing successful program called HEAP.

But even HEAP tends to discriminate against renters versus homeowners, because the money shifts to the owners of the building for tenants, and that money is not always then reinvested into the building to ensure that it is weatherized, to ensure that rents don't go up disproportionately when the building owner has already received assistance from the HEAP program.

But this bill -- and the words were used before, and I have to emphasize it -- it does discriminate in several ways between people who own their own homes versus people who lease or rent theirs. And it's not just the $200 versus the $100 difference, it's also

the mechanism.

For the homeowners, it would be a rebate, a check in the mail from the Tax Department immediately and directly when you need the money. Like HEAP, that gives you money to pay your bill directly and immediately.

And for renters and leasers, it would be a tax credit, meaning you would have to learn somehow that there was a new credit for you out there, if you fell into certain categories; you would have to make an application for it through the Department of Tax and Finance; and you would have to hope that that worked through correctly and you got a credit against other taxes owed, not a check in the mail to pay your utilities when you need to.

And technically, the way the bill is written, in order to draw down that hundred dollars -- if you figured out that credit, if you got that paperwork in, if you ever got a response and got a credit on taxes, not a rebate check in the mail -- it would be dependent on being able to prove that you paid

separately for heat.

And of course the dilemma in the big cities of this state -- I won't speak for everywhere, but having done a little homework, about 90 percent of renters actually have their heat costs attached as part of their rent cost, or the bill technically comes as part of their landlord's costs, not a separate freestanding bill from a utility company.

So it's not clear to me how the vast majority of renters, even though their housing and heating costs are going up, would ever be eligible to apply even for this discounted, harder-to-get benefit.

So New York State should move forward with simple, tried-and-true models for ensuring that low-income people who can't afford to pay their heating bills get that money when they need it. HEAP is a program that exists. As was said by Senator Wright, we just proudly put a hundred million more into it. We could do more to adjust for some of the unfairness of the federal HEAP program, because we're now putting state money in.

That's where we should be focusing

our energy and our attention. And in fact we have support in both houses and I believe the Governor's chambers for HEAP, and we should be moving forward immediately on that.

So I will be voting against this bill. It goes in the wrong direction and it complicates the debate.

Thank you, Madam President.

ACTING PRESIDENT LITTLE: Thank you.

Is there any other Senator wishing to be heard?

Senator Marcellino.

SENATOR MARCELLINO: Madam President, just briefly on the bill.

ACTING PRESIDENT LITTLE: On the bill.

SENATOR MARCELLINO: I think it's important. I want to commend Senator Spano for this legislation. I think it's time and it's something that we need to do at this point in time.

But what I'm hearing from the other side about getting a policy, getting things done, you know, we're doing bills that we've

done before -- yeah, we're doing bills that we've done before. And the reason we're doing it, we're trying to prod, as Senator Bruno said at a press availability a couple of hours ago, is to get the other house to do something.

This house is passing legislation with an energy policy in mind, a current policy and a policy for long-term. We're doing something, or we're trying to. But in this state, it takes three legs of the stool to work. We need something from the other house.

If they don't agree with everything that is in our package, I urge them and I ask my colleagues to take a deep breath and urge their colleagues on the other side to pass a bill, pass their own version. We'll go to conference committees, resolve the issues as we've done in the past, and resolve our issues. I see no reason why they can't do that. But the Assembly has done nothing but talk.

Talk is cheap, and heating costs are expensive. So I suggest we move ahead on

this thing. Ladies and gentlemen, we should move this bill.

ACTING PRESIDENT LITTLE: Thank you, Senator Marcellino.

Senator Diaz.

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

ACTING PRESIDENT LITTLE: On the bill.

SENATOR DIAZ: It is understandable that the bill doesn't cover everything that we want and that there is more to be done.

However, I come from a district that represents a lot of senior citizens, homeowner senior citizens and all kinds of senior citizens. And this bill would provide the financial relief to New York seniors to assist them with their home heating bills this winter.

I know seniors that -- I know some seniors -- a lot of seniors in my district that, even though they are homeowners, some of them, and some of them are renting, they have to decide if they should buy their medicine,

to pay their rent, to pay their heating bills, or to purchase food.

So I understand that this bill doesn't go all the way that we want. But ladies and gentlemen, anything, anything, anything that could help senior citizens is good. For us to come here and to prevent some seniors to get some relief and some seniors to get something based on the fact that not everybody is going to get it, that's wrong.

I'm here to do anything possible, whatever I could do, to protect and to help senior citizens. In my district, throughout New York State, in anywhere, senior citizens are carrying a heavy burden. And we all should be concerned with that, and we all should be concerned in protecting senior citizens, and we all should be concerned doing for seniors whatever we can.

So even though this is not a perfect bill, it is a good bill. And I'm voting for it.

Thank you.

ACTING PRESIDENT LITTLE: Thank you, Senator Diaz.

Senator Hassell-Thompson.

SENATOR HASSELL-THOMPSON: Thank you, Madam President. Just two points on the bill.

ACTING PRESIDENT LITTLE: On the bill.

SENATOR HASSELL-THOMPSON: Senator Spano, you and I share contiguous communities. And certainly I would not like to go on the record as having anyone believe that I would not be supportive of any legislation that would give relief to seniors.

However, the two points that concern me greatly is that there's nothing in this bill that prohibits oil companies and retail outlets from raising the price next week or tomorrow, thereby undermining the entire notion of providing direct relief to New York consumers.

The second is that this tax relief may only encourage an increase in the amount of consumption of gasoline, which would then continue to cause the price of oil to rise.

So if we were able in some way to ensure that we were capping it so that the

relief -- we knew that the relief would go directly to consumers, I would be much more amenable to supporting this bill. However, I cannot.

Thank you, Madam President.

ACTING PRESIDENT LITTLE: Thank you, Senator.

Is there any other Senator wishing to be heard?

Senator Saland.

SENATOR SALAND: Thank you, Madam President.

I've listened to the debate, and I've certainly heard the comments in opposition to the bill. For those of us who own homes, we do know that, depending upon the size of your home, it's going to cost you more. The larger the home, the more to heat it. I considered myself fortunate this year to be able to lock in a price in fuel oil that was merely about 50 percent more than I had paid last year.

And contrary to what I think was the message I just heard, the fact of the matter is if you're paying for your own fuel

oil, the price of it being as expensive as it is, or I would think regardless, you don't squander that resource. You are very careful in what you set your term thermostat at, and you take great pains not to waste your heat.

So the size of the house -- 2,000, 3,000, 3,500 and perhaps much larger -- certainly is much larger than anything you're going to see in most apartments. The fact that you own a home and you're paying taxes and you're writing off your taxes, you're filing a return in which you take your deductions -- perhaps, as an apartment owner, you're merely taking a standard deduction. The difference between a rebate and a tax credit may well reflect the manner in which you are filing.

But certainly the vast majority of people who have homes are taking personal deductions for whatever it is costing them in the course of paying their taxes and, if they happen to own as distinguished from lease, paying their mortgage.

So I think it is certainly, at the very least, counterintuitive to assume that

Senator Spano's bill is going to drive up the cost of oil, because there's no consumer who's paying the price of his or her cost of heating that's going to indiscriminately drive up their own cost. What they're doing to do is, in a measured fashion, control how they're heating their homes.

As distinguished from somebody who may be in an apartment in which they're not paying for their heat and the heat continues to flow at rates far beyond what you would expect in an owned or leased residence in which somebody is paying for their own fuel oil.

So I commend Senator Spano for bringing this bill before us. I think it fills a need. I think it fills a critical need for seniors. And I think it fits very well in the package of bills we've seen today.

And I would hope that this debate somehow or other will incite our friends over in the other house to bring forth their own package, and perhaps from that we will be able to make some progress on behalf of the people of the State of New York.

Thank you.

ACTING PRESIDENT LITTLE: Thank you, Senator Saland.

Senator Spano, to close the debate.

SENATOR SPANO: Thank you, Madam President.

Just a couple of corrections on some of the things that were said. As Senator Krueger was talking about, and as well Senator Schneiderman, about negative impact on tenants, what we're talking about is giving a $100 tax credit to our tenants.

And every one of our tenants who live in buildings across the state do pay their fair share of heating that apartment. They may not pay it directly to the energy company or to the oil company, but they're paying it as a part of their base rent, and it's certainly our intention to cover all of those as a part of this.

With regard to my colleague from Westchester's comments, you know, the Attorney General right now is and should continue to go after those companies who are gouging. We should be looking at our statutes with regard

to gouging here. And there are recommendations that Senator Wright and others have made with regard to that issue.

It shouldn't mean that we shouldn't do anything here, though. You would have taken that argument when we talked about, a few years ago, limiting the sales tax on home heating fuels. Well, there's 41 counties in this state who have removed the sales tax on home heating fuels. You didn't see an increase in heating fuels as a result of that. The market wouldn't allow that. And if they did, we have an Attorney General who could go after them. And we need to encourage them.

I started off by saying that -- I didn't say we can't do anything about the federal government's lack of a federal policy, energy policy. I think we can. And the fact that we're standing here on the Senate floor in New York State speaking about the lack of energy policy is tantamount to us doing something about it. Maybe someone in Washington will listen to us, whether they be Republicans or Democrats, and that's our purpose in standing here today.

But we can also add to those issues that were raised by Senator Wright. We are standing here doing something. Senator Diaz said it, we are doing something. Any one of us can find a reason not to do something. But our seniors, when they open those bills every month, are going to look to us and say: What are you doing about it?

If you want to vote against this bill, that's your prerogative. But we are standing here saying to our seniors in this state: We recognize the struggles that you have. We are standing here talking about starting a process, asking for partnership from the Assembly, asking for partnership from Washington. And let's make this happen. It has to start somewhere, and it's starting here in the Senate.

ACTING PRESIDENT LITTLE: Thank you, Senator Spano.

The Secretary will ring the bell.

Read the last section.

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

ACTING PRESIDENT LITTLE: Call

the roll.

(The Secretary called the roll.)

ACTING PRESIDENT LITTLE:

Announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 85 are Senators Andrews, Connor, Duane, Hassell-Thompson, L. Krueger, Parker, Paterson, Schneiderman, Serrano, and A. Smith.

Those absent pursuant to Rule 9 are Senators Breslin, Johnson, Libous, Montgomery, M. Smith, and Stavisky.

Those Senators absent from voting: Senator Sampson.

Ayes, 46. Nays, 10.

ACTING PRESIDENT LITTLE: The bill is passed.

Senator Trunzo.

SENATOR TRUNZO: Madam President, Pursuant to Rule 9, I was required to be at a meeting of the Finance Committee, Standing Committee on Transportation, and I cast my vote as follows on a bill on the controversial calendar. On Bill Number 5846A, Calendar Number 84, I vote aye.

ACTING PRESIDENT LITTLE: Thank you, Senator Trunzo. The record will so reflect.

SENATOR TRUNZO: Thank you.

ACTING PRESIDENT LITTLE: The Secretary will read.

THE SECRETARY: Calendar Number 86, by Senator Robach, Senate Print 5968, an act to amend the Tax Law.

SENATOR LIZ KRUEGER: Explanation.

SENATOR SCHNEIDERMAN: Explanation.

ACTING PRESIDENT LITTLE: Senator Robach for an explanation, please.

SENATOR ROBACH: Gladly, Madam President.

This is a bill which would cap the sales tax on gasoline at $2 a gallon. Again, in a comprehensive package, something that will help all New Yorkers across the state -- upstate and downstate, young and old, for business transportation, family transportation, to again attempt to cut the amount of money people are paying for fuel at

the pump.

This is certainly something I've heard from greatly from my constituents as these spikes go on. And while I wish I had the magic wand to get into the profits, the large profits of some of the oil companies, this clearly is something we can do in our purview, sales tax, to help working men and women all across this state have to pay a little bit less for gas at the pump.

And I am hopeful -- this was brought up once before, passed this house overwhelmingly. We will do all we can to work with our colleagues on the other side of the aisle to get this implemented.

And I know this is an explanation, but let me caution everyone in the chamber. While to some degree I wouldn't say gas has become cheaper, because that's the wrong word, it has stabilized out somewhat. My guess is we will be seeing that increase as we move forward. Now is the time to act to help all our constituents.

And so hopefully this policy, again, to help people at the pump will move

forward.

ACTING PRESIDENT LITTLE: Thank you.

Senator Duane. No? I'm sorry.

Senator Schneiderman.

SENATOR SCHNEIDERMAN: Thank you, Madam President. Senator Duane will lead us in calisthenics.

On the bill. Thank you.

Once again, ladies and gentlemen, there is no basis for any assertion that anyone on this side of the aisle does not want to do something about high energy costs. My colleagues on this side of the aisle do represent most of the very poor communities in this state where people are burdened the most by energy costs, where people have to make decisions between heat and fuel. This is something that is of vital concern to everyone in this house. And I believe that, with all good faith, it's of vital concern to my colleagues on the other side of the aisle.

The problem I have with this bill, the problem I have with the approach we're taking in this house is that, frankly,

continuing to print and advance the same flawed bills over and over again does not in fact move the debate forward.

You want to move the debate forward with the Assembly? Let's show we're actually doing something. Let's take suggestions that make sense and do something with them.

The bill that we debated just a few moments ago, no one here objects to the effort in good faith to provide relief to seniors from increased home heating oil costs. The problem is when you look at a piece of legislation that's going to cost hundreds of millions of dollars and say, in fact, if you analyze it, the people who are most in need are not going to be eligible for this relief, then that's a problem. That's not something that's going to move forward. That's not something that's going to become law and provide relief to anyone.

This piece of legislation, once again, I thought we offered helpful suggestions in September. The sponsors have not seen fit to add any of those suggestions to improve the bills. This legislation does

not deal with the fact that sales taxes, which it would reduce on motor fuel and diesel motor fuel, are collected from wholesalers when they accept delivery of a shipment of fuel. This would give a break to wholesalers. Absolutely caps taxes for wholesalers, no question.

There is nothing in this bill, as there was nothing in September, to ensure or to even monitor whether or not those savings are passed to the retailers. There is nothing in this bill, as there was not in September, to ensure or even to find out if the savings are passed from the retailers to the consumers.

So once again we have a piece of legislation that sounds good, that's a one-house bill with no sponsor in the Assembly, that doesn't have corresponding legislation. Maybe it doesn't have corresponding legislation because it is, on its face, not particularly compelling.

This does not guarantee that one dollar goes to a consumer. Maybe it would. Maybe it would. Again, and I think perhaps the sponsor is a bit idealistic about oil

companies, saying that, you know, we do believe they will -- they want to reduce costs and they want to keep costs down. Maybe they do. But the relief is slow. A lot of money is left on the table at the wholesaler level and at the retailer level.

If we really want to help the consumers of this state, let's pass a bill like this and add in some provisions to ensure that the savings are passed on. Let's pass a bill like this that adds in provisions for monitoring where the savings go. That's easy to do.

As with the bill that we just were debating earlier, it's easy to do something that tries to ensure that the people most in need of relief from home heating oil costs, even if they're paying through their landlord and their landlord increases their rent and heating costs -- rent and utility costs, which is the way it's broken out in many cases -- they go up, but they wouldn't be eligible for Senator Spano's bill.

Let's make the modifications that make these bills better and not continue to

reprint and push bills that aren't going to go anywhere in their present form.

So I'm going to be against this bill for the same reasons we were against it in September. This does not guarantee any pass-through of the savings from the wholesalers to the retailers or from the retailers to the consumers. We need to do better than that. We need to take action on things like the proposal we made in September, on our side of the aisle, to change the price-gouging statutes for more effective enforcement of price-gouging laws in New York State.

Let's look at the overall picture and ensure that the people we are claiming to help actually will receive the benefits from the legislation. Until we do that, we're engaged in an exercise of one-house pandering, continuing to assert that we're solving problems that we're not in fact solving.

There is a lot we can do in this state to reduce energy costs. Senator Wright was absolutely correct when he said we have to look ahead, we have to anticipate the

direction of the markets. We should be a state with strong portfolio standards, reducing costs, using photovoltaic, using wind energy, using alternative fuels where they will save money for our consumers. We should have an energy plan to do that.

But the legislation that we're passing today I'm afraid is not getting the job done. Certainly this bill and the last bill, if you really analyze them, don't deliver the results, don't deliver the aid where it is most needed, do not guarantee that the consumers most in need will receive the benefits.

If we're going to spend our taxpayers' precious dollars, let's make sure it goes to the right place. Until we do that, Madam President, I will continue to vote no on this piece of legislation.

Thank you very much.

ACTING PRESIDENT LITTLE: Thank you, Senator Schneiderman.

Senator Winner.

SENATOR WINNER: Thank you, Madam President.

I listened with interest to Senator Schneiderman's comments with regard to his concern that the price savings on the sales tax relief will not be passed on to the consumers. And all I can say is that he certainly doesn't have a very good appreciation of the area in the state of New York from which I come from, or the area in the state of New York which is populated by our upstate senators.

Certainly those also that are on the borders of this state know that when you shop for gas and go across the line, that you have a price break. And for someone who drives down Route I-86 along the Pennsylvania border, all I know is I have to just hop off a little bit into Wilawana or some of these other communities on the Pennsylvania border, and guess what? What the price is is reflective of the difference in the tax. And it's right there in front of you.

So I would welcome you to take a drive up that road and shop in Pennsylvania. Or also, maybe if you want to hop across the line into New Jersey from Manhattan, you'll

find that the price of gas is substantially less over there because the taxes are less. And they're reflective almost exactly, day to day, as to the difference in the tax that is levied on a gallon of gasoline from the wholesale level to the retailer.

So if you believe at all in the competitive marketplace, you'll know that if you're paying less for that gallon of gas as a retailer, you're going to pass it along to the consumer. Because if you don't, your competitors certainly will in this marketplace.

So again, Madam President, this is a great idea to help our hard-pressed motorists out there in the state of New York. I heartily welcome the passage of this bill because it will go a long way to providing some relief to those particularly who live in the upstate regions who rely on their automobile, not only to work but to do almost anything as far as their travel needs.

So, Madam President, I commend Senator Robach for advancing this measure.

ACTING PRESIDENT LITTLE: Thank

you, Senator Winner.

Senator Volker.

SENATOR VOLKER: Madam President, I normally don't get into these esoteric debates, I call them. Because the funny thing about it is that, so my constituents understand, I'll have no problem with guaranteeing my constituents, if this bill became law, that they would pay cheaper amounts at the gas pump.

Now, I've been the first to admit to you, Eric, that if you lived in Manhattan that might be a different story. And part of the thing here is -- and I understand that you're protecting the Assembly. Because the Assembly really doesn't want to do a bill that decreases sales tax, because of course they want to spend it on different things and so forth.

And not that they don't want to keep energy costs down, but they'd like to be able to criticize the federal government, because we know there is very little that this house or either house can do about energy costs. We had our chance years ago and let

the environmentalists keep us from doing refineries and all that other stuff.

And as I always tell my constituents when they ask me, they say: Is there enough power in Western New York? I say: We got enough power for 40, 50 years. I say: We send so much power down to New York City because they can't bring themselves to build a refinery or a power plant or any of that stuff. We send 90 percent of our power down to the south.

But the key to this issue is I will guarantee you that if this bill passes in both houses, the gasoline prices will fall by the amount of the sales tax. It has to. You don't have to mandate it. I'll tell you one guy who will be happy to tell you that is a guy named Eliot Spitzer. He'll be all over these gas stations if they try to fool around with the gas pump prices.

And as a result, I can assure you that the problem here is -- I know it's hard for people to understand all this stuff. But, Senator, in upstate New York, I'll guarantee you that we and my constituents will

enormously benefit from this. And I wish we could do this only because it's a temporary kind of thing.

And you're right, it's not a solution. Because the solution lies in Washington, more than anything, and lies in an intention of people to determine that we're tired of allowing certain people in this country, people like Ralph Nader, to make decisions for us on energy that are outrageous. The Clean Air Act costs us about 30 to 40 cents per gallon on every gallon of gasoline. Now, we don't want to admit that, and we talk about all this stuff.

Western New York has the cleanest air in the whole Northeast, and yet we have to put some crap in our -- excuse me -- gasoline because the Clean Air Act says we have to. Everybody knows it doesn't do it anything. But we're supposed to put it in there. And then we have to have another refinery for that.

By the way, there's four refineries still down in Louisiana, four oil refineries. The last I knew, there were still four natural

gas refineries down, which is even worse for us. So I just want to point that out.

I'm in favor of this bill because I think it will give a temporary help to a lot of my people, my constituents, and I would hope -- and I think that even in Manhattan, where most people don't drive, it will actually have a good impact.

The Assembly takes the attitude, I think, Well, there's a better way to do this, because it will make some people, maybe the Governor, look better. Well, I don't care whether the Governor looks better, whether the Assembly looks better, whether we look better. I just want to see my constituents pay less for gas.

ACTING PRESIDENT LITTLE: Thank you, Senator Volker.

Senator Liz Krueger.

SENATOR LIZ KRUEGER: Thank you, Madam President. Will the sponsor please yield.

ACTING PRESIDENT LITTLE: Thank you. Will the sponsor yield for a question?

SENATOR ROBACH: Absolutely will.

ACTING PRESIDENT LITTLE: Thank you. Senator Robach yields.

SENATOR LIZ KRUEGER: Thank you.

How much per gallon would this bill save us?

SENATOR ROBACH: Approximately 7 cents a gallon for those counties that did not opt out of, on a gallon of gas.

SENATOR LIZ KRUEGER: Madam President, if the sponsor would continue to yield.

ACTING PRESIDENT LITTLE: Thank you. Do you continue to yield, Senator Robach?

SENATOR ROBACH: Yes.

ACTING PRESIDENT LITTLE: Yes, he does.

SENATOR LIZ KRUEGER: Thank you.

What average cost per gallon are you basing that 7 cents on?

SENATOR ROBACH: Well, actually, let me take that back.

If gasoline went up to $3 a gallon, as it had in some cases in upstate New York -- I don't know about downstate New York -- even

went above that, that savings would be on every cost over $2. Because obviously we're capping it at $2.

So let me take that back to specifically clarify where the savings would come from.

SENATOR LIZ KRUEGER: Madam President, if the sponsor will continue to yield.

ACTING PRESIDENT LITTLE: Thank you.

SENATOR ROBACH: Sure.

ACTING PRESIDENT LITTLE: The sponsor yields.

SENATOR LIZ KRUEGER: And the counties that would opt out in your bill, or would be allowed to, are whom?

SENATOR ROBACH: The way the legislation is is that counties would have to opt out not to give the full 7-cent rebate for every additional dollar over $2. Which is what we had predicated our budget reading on previously, what we estimated our revenue would be.

Perhaps part of the reason why we

have the windfall in the state may have come from, ironically, the spike in gas. So not only are the oil companies making a lot of money, perhaps New York State benefited from that -- I think which is the point of our bill -- at the cost of the taxpayers, which we like to give some of that money back to them or minimally at least ensure we're not continuing to take that from them as outgoing policy, as outgoing energy and taxation policy.

SENATOR LIZ KRUEGER: Madam President, if the sponsor would continue to yield.

ACTING PRESIDENT LITTLE: Thank you. Senator Robach, do you continue to yield?

SENATOR ROBACH: I do.

ACTING PRESIDENT LITTLE: The Senator yields.

SENATOR LIZ KRUEGER: Since there's been so much dialogue already on the floor today about the fact that this isn't actually a rebate to the consumer but, rather, a reduction in taxes above a certain dollar

amount, in a formula between wholesalers and retailers -- and there does seem to be disagreement on the floor as to whether or not consumers would ever see this, because it would in fact be within the decision-making of the oil wholesalers and perhaps even manufacturers that would determine that, not the actual individual gas station negotiating a lower price with the consumer -- since we seem to have disagreement about that, and yet earlier today we were told that the best way to help homeowners with their heating costs was a direct rebate check from the State Department of Finance, why wouldn't you approach this problem by offering a rebate or a credit directly to the consumers, a la the proposal of Senator Spano for home heating?

Why not go that road if the real concern is -- or one of the real concerns on this floor is will consumers ever see that money.

SENATOR ROBACH: Well, there's a number of ways I could answer that.

Home heating oil doesn't have a tax. So there is no tax to take off.

Secondly, we also don't know who those consumers and consumption or what level it is. I think this is a very fair way to help everybody in the system.

And again, if this is the goal. I think this is really what we disagree on. I am desperate to help my constituents have more money in their pocket. And ironically, not to digress, Eric Schneiderman and I may have similar districts, or at least an interest. I represent a lot of the lower-income people also. And I can assure you, from their mouths, not mine, every cent they have in their pocket is important to them.

This clearly, while you may not like the mechanism, it's called free enterprise. Just like when we did clothing tax and everything else, whatever consumers out there -- and if they're going to lower their price of gasoline, and I believe at least some of them, if not all of them, will initially; the rest will follow suit to be competitive.

The bottom line is it will put more money or at least give the opportunity for

people to save money at the pump. I think that is something we all agree on.

So we're here with this bill, and I would guess I'd turn it around and ask you what you could do in the other house to get something passed so we're not here in this rhetorical quagmire of once again delivering nothing to the constituents. That's what I'm concerned about.

SENATOR LIZ KRUEGER: Thank you. Madam President, on the bill.

ACTING PRESIDENT LITTLE: Thank you. Senator Krueger, on the bill.

SENATOR LIZ KRUEGER: Thank you. I appreciate my colleague's responses to my questions.

I'm not sure I agree on the 7 cents question, although you did clarify it, because I think the average cost now is about $2.50 a gallon statewide, although obviously we need to do a comparison. It's certainly much higher in my district. But I only have, shockingly, one gas station in my district. So I think it would probably be closer to 4 cents a gallon.

And I accept the challenge of many colleagues here, what are we going to do about this. And I would argue there are many things we could do about this, but this is still the wrong way to go, even in concern for our constituents.

One, you mentioned Senator Schneiderman and you both have lower-income constituents. The trick about sales taxes in general is it's not a really good way to address progressive or regressive taxation. This isn't a bill that will be more relevant for people based on their having lower income. One might even argue that there's a correlation of the more you drive, probably the higher your income, particularly because automobiles, auto insurance and of course now gasoline are so incredibly expensive. So it's not really the right model in tax policy for trying to address the problems of lower-income New Yorkers.

It also risks the problem of not addressing the real problem -- and I agree we all think there's a real problem -- because lowering taxes on petroleum products

statistically has been shown to not discourage use of petroleum products but, in many cases, actually encourage the continued use of petroleum products. Which most of us, I think, think is bad public policy in the state of New York and the country. It continues our dependence on foreign oil. It continues our usage of polluting products.

And Senator Volker blamed or credited Ralph Nader for the Clean Air Act. I'm not sure what the reality there is of Mr. Nader's role in the Clean Air Act. But speaking for, I think, most of the people of the state, the country, and the world, we really need cleaner air. It's really not clean enough. We have a global warming problem which is making Albany in January more delightful than usual, but in general is actually bad for us all.

And so continuing use of petroleum products and negating the need for regulation of clean air and a clean environment isn't really going to get us to our solutions either.

And unfortunately, I don't think

this bill will. I don't believe there is any way, despite my colleague Senator Winner's analysis, that of course they will lower their prices. I don't think there's any evidence that passing this bill translates to the entire oil/gas international conglomerate model of pricing that it's going to lower the price for consumers. And that there's so much better we could be doing, not pushing our colleagues in the other house to pass this --

ACTING PRESIDENT LITTLE: Excuse me, Senator Krueger.

Senator Robach, why do you rise?

SENATOR ROBACH: Senator Krueger, would you just yield for a question?

SENATOR LIZ KRUEGER: Oh, yes, absolutely.

ACTING PRESIDENT LITTLE: Senator Krueger, do you yield?

SENATOR LIZ KRUEGER: Absolutely.

ACTING PRESIDENT LITTLE: She yields.

SENATOR ROBACH: Do you think lowering or removing the tax on clothing helped the consumers in New York?

SENATOR LIZ KRUEGER: I think lowering the sales tax on clothing below $110, which I believe is the actual proposal you're referencing, encourages people to buy clothing under $110.

SENATOR ROBACH: So why do you think that this wouldn't help people who are -- because we don't know who they are. Though I would dis -- not disagree, I would say depending on where you live, how important your mode of transportation is or what options you have for transportation.

Certainly rural low-income people don't have the option of mass transit as we do in some of our larger cities. They do have to rely on that. Why do you think that wouldn't apply or help them?

SENATOR LIZ KRUEGER: Well, again, I think the way you asked the question, all right, would lowering the sales tax on clothing encourage people to buy clothing below $110, I think you and I would both agree yes.

And so I will answer your question with a reverse question. Do we want to,

quote, unquote, encourage people to use more petroleum gas products?

SENATOR ROBACH: You know what, I'm on the topic of what it costs. I probably don't disagree with you on energy policy or other stuff. But I think we're sticking our head in the sands if you don't think that people need to drive a certain amount to get to their place of work, to get their kids to where they need to go. And that certainly really is a very vital thing for my constituents.

I don't try to judge other people's districts. But I can tell you in mine, and I know a lot of other people's districts around here, it is in theirs. Since we cannot dictate the cost of gasoline by law -- that would be unconstitutional -- I would still ask you to look at, knowing that this will help them -- because I don't think the way you're suggesting it would really -- is pragmatic. You're saying we should try to do a rebate check to people who might not even own a car.

I would ask you to say let's look at what we're really at and what we could do

today, and then worry about energy consumption and these larger issues that are critically important at another time so we can get something done this session, this time, right now.

And maybe even work -- or even if we can get the Assembly to pass something, I'd be willing to go to a conference committee on it and talk about it. But let's do something like we did on clothes, how's that.

Thank you.

SENATOR LIZ KRUEGER: Madam President, thank you.

To continue on the bill, I appreciate the Senator's analysis. I think the debate I'm trying to have is tax policy and what the use of tax policy is.

Because no, I wouldn't -- I'm sorry, just to clarify, no, I wasn't suggesting a rebate even if you don't use a car to pay for gas, just to clarify, a la the proposal before that, you would only receive this if you actually had the expenses in heating.

But what I'm trying to say is there

are lot of ways we can go down the road of changing our tax policies to help New Yorkers or, one could argue, to hurt New Yorkers. This bill takes $200 million out of the budget. I ask you -- although I won't, since I didn't ask the sponsor to yield to more questions -- but I rhetorically ask all of us, what are we cutting out of the budget with the loss of that $200 million? That's a realistic question for us as legislators every time we make a change in tax policy, every time we give a tax cut or a credit or exemption.

And if you're asking a question about what's in the best interests of New Yorkers -- and I do not accept that this is a downstate/upstate fight or an argument over vehicles. We all recognize that at this point in history, until we solve the problem of being so dependent on petroleum products, that most of the people driving most of the cars will be using mostly oil to fill their gas tanks.

I'm saying that this Legislature and I agree. Both houses should come together, we should have an ongoing conference

committee, one on energy policy -- I totally support that. Another Senator suggested that earlier. It shouldn't be unique to any bill. We should have an ongoing conference committee between the two houses on energy policy. But I would challenge you, because your bill is a tax bill, we should have an ongoing conference committee on tax policies and on tax credits and exemptions.

Because I just said this bill, you say, will cost us $200 million. If you lack at our full tax expenditure/tax credit budget, right now in this year we're going to spend $28 billion in tax credits and exemptions, with a B. And that means that's $28 billion we're not collecting for other things.

And that forces to us make the kinds of decisions we have to make when we say are we going to cut a sales tax on clothing, are we going to cut a sales tax on oil, how much money do we give up from the coffers of our tax finance and revenue department when we make these decisions, and who is making them. And we shouldn't make them in a vacuum. We shouldn't make them one at a time, as this

bill proposes.

So I vote against this bill both because I don't think it's good energy policy, I also vote against this bill because I don't think it's good tax policy. But I completely agree that both houses and the Governor could sit down on energy policy and on tax policy and accomplish a great deal for all of our constituents in this session.

Thank you.

ACTING PRESIDENT LITTLE: Thank you, Senator Krueger.

SENATOR ROBACH: May I ask just one more question?

ACTING PRESIDENT LITTLE: Senator Robach.

SENATOR LIZ KRUEGER: Absolutely.

SENATOR ROBACH: I listened intently --

ACTING PRESIDENT LITTLE: Senator Krueger, do you yield to Senator Robach?

SENATOR LIZ KRUEGER: Oh, yes, I do, Madam President.

ACTING PRESIDENT LITTLE: The Senator yields.

SENATOR ROBACH: I think if I heard you correctly, then, your tax policy is you feel that we don't tax enough in New York? Is that what you're saying why you're opposed to taking this tax off the gas tax?

SENATOR LIZ KRUEGER: No, I certainly didn't say that.

SENATOR ROBACH: Oh, okay, I'm sorry, I thought that's what --

SENATOR LIZ KRUEGER: I said that every time we pass a bill that reduces taxes, we take revenue out of the budget; this bill, $200 million. We ought to be answering the question at the same time what won't we fund instead because we don't have that $200 million.

And I say that we should look at tax policy from the broader perspective of what is our entire tax policy, who are we taxying, who are we not, what are those tax exemptions and credits that we're not collecting to the tune of $28 billion, and let's put those all on the table and have a rational discussion.

SENATOR ROBACH: -- because I

would just point out that you understand that this also, we've never estimated the gas revenue side ever anticipating it going above $3 a gallon. Really not even above $2 a gallon, that was the rate. So in this particular case I would say we're not taking anything out of the coffers.

But on tax policy, certainly there's critical things we have to fund -- education, economic development, public safety, healthcare. But I think we are kind of saying this, I guess as a group over here, we think the tax policy's been pretty intensive for kind of the overburdened average New Yorker. This is one little thing we want to give them back which was a windfall to us. Hopefully you see it the same way.

SENATOR LIZ KRUEGER: Thank you, Madam President.

ACTING PRESIDENT LITTLE: Thank you. Thank you, Senator Krueger.

Senator Parker.

SENATOR PARKER: Madam President, on the bill.

ACTING PRESIDENT LITTLE: Thank

you. Senator Parker, on the bill.

SENATOR PARKER: Colleagues, we could do better. And I really -- I share, Senator Robach, your desperation over wanting to help your constituents. But as Senator Volker said, this is not a solution to the problem that we're trying to face.

I drive a car too. I represent a district where the vast majority of the people in my district, you know, live in one- or two-family homes. Many, many, many, many of them -- probably, from our estimation, too many of them -- own their own cars. You know, in a family of four there's probably three cars in my district per family of four.

So that being said is that I, like you, have been hearing the cries of my constituents who have been desperate to get some relief on energy issues.

But again, this is not an answer. Once again, here we are with a short-term solution to a long-term problem. I mean, we learned, as we looked at what has happened over time with energy prices, that they're going to go up, because we continue to use and

rely on fossil fuels. We continue to, in this state, not have an energy policy.

So we can sit around and we can bemoan and critique the federal government -- which is run by Republicans, I believe -- but we have no federal policy right now. And so, you know, what are we going to do in this state when we also don't have a state policy.

So, you know, it's better, I know, for some people to curse the darkness as opposed to trying to light a match. This, unfortunately, is not that match. This, unfortunately, does not provide light to the situation because it's again a short-term solution to a long-term problem. And we can do better.

When we start talking about partnerships and critiquing, you know, the way in which the process happens around here, if you want to start with partnerships, forget partnerships between this body and the Assembly, let's talk partnerships between that side of the aisle and this side of the aisle.

You know, we have conversations here all of the time where no one ever pays

attention to what we say. Let's have some real conversation. Let's have a -- here's an idea. Let's have a conference committee in the Senate. How about that?

How about, you know, instead of getting up -- if you don't want to have a three-hour debate about something, then, I don't know, let's do something novel and let's really have committee meetings that in fact work actually happens in the committee, where people actually have an opportunity to debate bills and to make policy recommendations on bills before they come to the floor. All right?

And we can do a working committee. I'm committed to that, and I think my colleagues are. So let's try that before we start going out and pointing fingers about partnerships.

The only thing, frankly, that stops anything in Albany from getting done is will. Simple will. And, colleagues, we can do better. We develop the will to say we're going to do something about energy policy, we'll do it. If we don't, we won't do it.

Just like last year we developed the will, all of a sudden, after 21 years, to do an on-time budget, and it happened. And if we have the will again, it will happen again.

So to say it's not going to happen because of this side or that side -- you know, it's not about pointing fingers. We shouldn't be trying to assign blame, we should be trying to develop solutions. And I think that we haven't kind of gone there to this point.

The sales tax that we're trying to get rid of I think frankly doesn't do the job and goes far enough. But I'm glad you brought up the issue of the sales tax on clothes, because I think that you're comparing, Senator Robach, apples and oranges.

When you look at the clothing sales tax versus the sales tax here, in this particular case you're talking about giving money -- and frankly, when you look at the 7 cents that you may be talking about per gallon, it's a minuscule amount of money, folks. This is not significant amounts of money. This is not hundreds of dollars, this is not even tens of dollars that you're giving

to people per purchase.

So let's -- but let's not pretend that we're trying to, you know, throw dollars back into the hands of people. When you're looking at what we ought to be doing, and not what we are doing, what we ought to be doing around sales tax on items that are $110 or less, what we're trying to do is not just put money back into, you know, the poorest New Yorkers' hands, but we're also trying to equalize the playing field and create more opportunities for our retailers to compete with the markets in Jersey and Connecticut, which oftentimes have either no or lower sales tax on those kind of items.

And so being that, you know, we're so happy about giving taxes back, I really hope that people around budget time will oppose your Governor's attempts to, for a third year, break the promise of giving people back the money that they promised to give them on the sales tax of $110, because that's currently not in his budget proposal. You know, we could do better on sales tax if you really want to start doing things to give back

stuff to people.

I wanted to address the issue that Senator Winner raised about gas prices and why gas prices are cheaper in Pennsylvania than they are here. And it's a good point, but sales taxes is not nearly the only thing.

There's really -- you know, the price of fuel is very, very complex, and it changes state to state based on a number of things, taxes just being one of them. Some of them have to do the policies that we as a Legislature set in terms of what kind of additives and preservatives and whatever things go into gas. Those things also have a significant impact on pricing. And so in fact, you know, forgoing these taxes may in fact not give you the tax break that you expect and still have people going across the line.

I frankly don't -- I frankly don't think that people in --

ACTING PRESIDENT LITTLE: Thank you. Senator Winner, why do you rise?

SENATOR WINNER: Will Senator Parker yield for a question?

ACTING PRESIDENT LITTLE: Thank you. Senator Parker, will you yield for a question?

SENATOR PARKER: I will yield when I'm finished, if that's okay.

ACTING PRESIDENT LITTLE: Thank you. The Senator wishes to conclude his remarks first.

SENATOR PARKER: I frankly don't understand why we care whether somebody goes to a Mobil station in New York State as opposed to Pennsylvania, because frankly the amount of traffic that's going to proceed over the border is not going to affect, you know, business in any kind of significant way.

And like I said, because of the amount of this transaction is so minuscule that people are not going to find a significant savings to keep them on this side of the aisle. So, you know, we can do better as we look to get that done.

So let's talk about some solutions for a second. And I think that, you know, nothing is guaranteed. But certainly we ought to understand the way in which these things

happen. Right now there is no effective way in which we monitor gas prices. So right now, you know, you can point to the Attorney General and say, Well, you know, he should do this and they should do that. But the reality is is that right now we have not provided for any division to go around and monitor where prices are going.

And so we would have to, you know -- you know, and if you want to put some more money in the budget for the Attorney General's office to develop an office of fuel enforcement, then let's have that conversation and let's figure out if that's worth doing. But right now it's not being done.

So to say that the federal government or the state government is doing it, right now no one is doing it. No one is systematically sampling, either randomly or in totality, gas stations and making sure that they are in fact providing the prices that they should be doing.

And I frankly don't even think that the Consumer Protection Board, as good as they are here in the State of New York, I'm not

even sure that they do it with any kind of regularity.

We could do better. We could do much better as it relates to making sure that enforcement happens and that when we in fact are handing down tax relief that those tax reliefs are actually getting to the people that we intend those tax reliefs to go for.

I want to conclude really on some solutions, because I really think that this debate is not about where we differ, Senator. I think this is about where we want to be helpful. And I'll say what I said before, is I'm as desperate as you are to provide some relief to consumers on this issue because I think that it's important.

But if we're going to look for where to get the best bang for our dollars, where we can create a significant economy of scale in fact to put dollars into such that we create relief for folks, the answer is public transportation. The answer is that when you put dollars into public transportation -- and I think that one of our major failures as a state government is not to provide the proper

types of public transportation in some of the suburban and rural areas.

So let's take the $200 million that looks to be a windfall, and let's take that $200 million and let's invest that. Instead of spending it, let's invest that back into public transportation and let's provide a way for your constituents, for the constituents around the state and the people around the state who are looking to get to work and get to their family's house and go shopping and do other things, for them to be able to do that in a way that both saves them money -- because we understand that public transportation is significantly cheaper than people driving their own cars.

And so if you want to look for a real savings for your constituents, public transportation is the answer.

I look forward to us working together in these conference committees between your side of the aisle and this side of the aisle.

And if Senator Winner has a question, I'll be happy to take it.

ACTING PRESIDENT LITTLE: Thank you.

The noise level is at point where it's difficult to hear. If we could keep it down, please.

Senator Winner.

SENATOR WINNER: Senator Parker, I appreciate your thoughts on gasoline prices and the fact that you're trying to distinguish the state of Pennsylvania for other reasons other than I believe are the facts.

Here's the state of facts. I mean, I live on the border of Pennsylvania and I have a very good familiarity with a wholesale dealer who owns a bunch of gas stations in New York and owns a bunch of gas stations in Pennsylvania. He's got the same truck. He takes the gas over to Chemung, New York, and fills up the tanks over there, and they have a certain price per gallon. Then he takes the same truck and drives a little ways away to Wilawana and Sayer and Athens, Pennsylvania, some other places that are just, you know, within a mile or so of the other gas station.

And you know the difference in the

price? The difference in the price is the sales tax. And that's exactly what he tells me.

So I beg to differ with you when you try to make these pronouncements about gasoline pricing policies based upon no experience. I have the experience of knowing and seeing and watching and driving down that particular area day in and day out, and that's the difference in the price.

So if you take the sales tax off, the difference between you and me and this side of the aisle and that side of the aisle is that we want to reduce the price of gasoline. You don't want to reduce the price of gasoline. I want to reduce the price of gasoline. And one way I know it's going to get reduced is to reduce the sales tax.

ACTING PRESIDENT LITTLE: Thank you, Senator Winner.

Senator Nozzolio.

SENATOR PARKER: Wasn't that a question?

SENATOR NOZZOLIO: Will Senator Parker --

SENATOR PARKER: I thought there was a question.

ACTING PRESIDENT LITTLE: There was a question, excuse me.

SENATOR PARKER: I'm not sure there was a question there, but let me respond to what I thought the question was, was -- and I'm guessing you're questioning whether I have experience in this or not.

I guess I drive a car like everybody else does. I didn't know that you were actually a gas owner. So unless you told me that you personally owned a gas station yourself and you were delivering it, I mean --

SENATOR WINNER: I'm familiar with someone who owns a gas station.

SENATOR PARKER: And so am I.

And we can talk about our experiences all the time. I'm the ranker on the Energy and Telecommunications Committee. I have actually gone places and talked to people about it. I've attended national conferences on this very subject to talk to people exactly about how this stuff gets done.

Let me say this. This is not a

matter of about whether that side of the aisle wants to reduce gas prices and whether we do or not. This is about how best to get that done.

I think we all agree that we would like to see more money in the hands of our constituents. And on that we don't disagree. I think where we disagree at is how to do that.

And I am not disagreeing with Senator Robach's attempt to do that. I'm arguing that this particular method is not the best method. We can do better. And I think we can do better by having a comprehensive energy policy for this state. I think we can do better by investing money into public transportation. I think we can do better by stop lying to ourselves and lying to the public, quite frankly, about how much money we're going to save them with these minuscule investments or tax relief that we're proposing.

So this is not a matter of us not wanting to do it. It's a matter about this not being the proper tool. And whenever you

get serious about wanting to talk about the proper tools, I'm more than happy -- my extension is 2580. Anybody here can give me a call and I'm happy to meet with them at any time to make sure that it gets done.

SENATOR WINNER: Will Senator Parker yield for a question?

ACTING PRESIDENT LITTLE: Thank you. Senator Parker --

SENATOR PARKER: Absolutely.

ACTING PRESIDENT LITTLE: Senator Parker yields.

SENATOR WINNER: Senator Parker, is it your statement on the floor that I'm lying to you when I suggest that Senator Robach's bill will reduce the price of gasoline by the amount of the sales tax that will no longer be charged? Are you suggesting that I'm lying to you?

SENATOR PARKER: No, I'm suggesting that it is insincere and that there is an overestimation of how important this tax, you know, rebate is going to be in terms of people's day-to-day spending habits.

SENATOR WINNER: So you're not

suggesting that I'm lying, we're lying to you.

SENATOR PARKER: I'm suggesting that there's an overestimation and that this is not the best way. We can do better. And that's what I've said continuously.

SENATOR WINNER: But you do agree that this will lower the price of gasoline?

SENATOR PARKER: I agree that this is an attempt to do that. I don't actually agree that this is going to in fact lower the price of gasoline and that's going to make a difference.

See, lowering the price of gasoline, when you say a generalization like that, yeah, but you may lower it by one cent. And at the end of the day, if I'm making a transaction --

SENATOR WINNER: Senator Parker.

SENATOR PARKER: -- and it costs me --

SENATOR WINNER: Senator --

SENATOR PARKER: You asked me a question. And if it costs me --

SENATOR WINNER: Senator, would you --

ACTING PRESIDENT LITTLE: Thank you. We need order. Order.

SENATOR SCHNEIDERMAN: I request that we go through the chair.

I appreciate the emotion in this debate, but let's try and follow procedure and rules, and we can get answers to all sincerely and passionately held questions. Thank you.

SENATOR WINNER: Madam President, I asked --

ACTING PRESIDENT LITTLE: Just a moment, please.

I would ask both Senator Winner and Senator Parker, please address your questions through the chair.

SENATOR PARKER: Yes, ma'am.

SENATOR WINNER: Will Senator Parker yield?

ACTING PRESIDENT LITTLE: Senator Parker, do you yield?

SENATOR PARKER: Yes.

ACTING PRESIDENT LITTLE: Senator Parker yields.

SENATOR WINNER: Senator, you said you don't necessarily agree that lowering

the sales tax on gasoline will lower the price. Now, would you agree that raising the sales tax would raise the price?

ACTING PRESIDENT LITTLE: Senator Parker.

SENATOR PARKER: Madam President, through you, this is a matter -- this whole matter is not about whether it actually lowers it, it's whether it's effective or not.

It may raise it -- raising it in general terms, yes, will raise it. Lowering it, yes, will lower it. The question is how much. And it's insincere to stand here and talk about this like it's significant. It's not a significant savings, Madam President.

That in fact, if we do this on a transaction that may cost you $40 or $50 -- it costs me $50 to fill up my vehicle from E. On that transaction, even if I save 7 cents, over the cost of the transaction it's less than a dollar that I'm saving.

I'm not clear that that less-than-a-dollar savings is enough savings for us to give up over $200 million worth of tax revenue. A better bang for the buck would

be to invest in public transportation.

A better way to do this is for us, as a state legislature and as a state government, to work together to get a comprehensive energy policy for this state. We can do better. And that's what I maintain.

ACTING PRESIDENT LITTLE: Thank you.

Senator Winner.

SENATOR WINNER: Thank you, Madam President, for the coherent discussion of gasoline pricing in the state of New York.

ACTING PRESIDENT LITTLE: Thank you, Senator Winner.

Senator Nozzolio.

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

Madam President and my colleagues, I thank Senator Robach for putting forth this bill. It's saying very clearly that we do not want one penny more of taxation on our already overburdened taxpayers. Simple as that.

We do not believe, those of us who support this legislation, that our taxpayers can afford to pay more in sales tax because of

international policies driving up the price of oil. Simply stated, that's what Senator Robach's bill does.

I did not intend to speak on this measure. But after hearing the dialogue from the other side of the aisle, I could not sit. Because what I heard was answers to Senator Robach's solution. He never intended it to be a total solution.

But I heard Senator Krueger say my constituents, that's all they have to do, is drive less and conserve more. And Senator Parker said that that's all my constituents have to do, is have more public transportation.

I think, with all due respect to my colleagues, they need to get out more. They need to come upstate. I guess that's your answer for helping the upstate economy: Drive less, get more buses. Frankly -- Senator Krueger is, I know, from Manhattan Island. You could put all of Manhattan Island in the center of the smallest county of my district. It takes at least 7, 8 miles for some people one way to travel to get a gallon of milk or a

loaf of bread. It takes many of my constituents at least a 60-, 70-mile round trip to go to work. You tell the lady in my district that has to pick up her children at daycare, a 20-mile round trip, that she should drive less.

I think that what you're suggesting may make sense in Manhattan. You've got public transportation that parenthetically, I should add, is supported by the sales tax revenue from my constituents who are forced to drive more. Your buses, your subways are second to none. And that's the way it should be, because there are subways and buses of our state. But the fact of the matter is they're subsidized, in large part, by upstate taxpayers who have to drive very far to and from work, to and from school, to and from grocery shopping, to and from daycare.

Senator Robach's bill says, simply, we want to help that burden. If you want to design comprehensive energy policy, I welcome you. We need that. We need it -- but it's a question, I think, not just for the state legislature but for the national legislature.

These are national and international issues.

What Senator Robach is trying to do is all he can do to stop the already tremendous crush of tax burden and cost burden to our upstate taxpayers and, in this case, our upstate motorists. And I think it's so naive for you to suggest that we drive less. Because, frankly, we don't have jobs. We need more jobs. We have to drive a long way to and from work, to and from commerce.

I think that this bill is the right bill at the right time. We need to reduce this burden.

Senator Robach, thank you for proffering it.

ACTING PRESIDENT LITTLE: Thank you, Senator Nozzolio.

Senator Padavan.

SENATOR PADAVAN: Thank you, Madam President.

I'm sure everybody in this chamber is familiar with the FOMC, the national body that periodically meets and determines monetary policy for this nation. They're meeting today, as I believe. All of the

measures of that group are economists in the main, as is its chairman, Mr. Greenspan.

We've heard time and time again these national leaders in our economy telling us that energy costs and the rise in these costs is a tax on the people in this nation. A tax. And that tax has reduced their ability to be consumers of other goods and services. And the net result on the economy is a negative.

Now, all of the bills we've dealt with today, including this one, have one primary purpose, and that is to reduce the magnitude of that tax. We can't set national monetary policy or national energy policy. But we can deal with a tax.

I also suggest to some of other colleagues over there that we can also walk and chew gum. Meaning that we can not only do this, but we can also advance transportation initiatives that increase the number of people getting on trains and buses and out of their cars. As a matter of fact, we did that recently with our proposals dealing with the Amtrak and other trains from New York all the

way to Buffalo up to Albany, getting more people out of their cars into trains.

We could also do it by getting more goods off of trucks and onto railcars. And there are proposals to do that. And we should encourage that. So we agree.

But the issue here is very, very direct. It's been said here time and time again, we are reducing the economic burden on the riders, the consumers of energy. Whether it's home heating fuel with Senator Golden's bill or drivers in their automobiles with this bill, we are reducing that burden. And no one should object to that.

If there are subtleties in the approach, let's resolve them. You talk about setting up dialogue with the other house. Fine, that's great. Let's do it. But let them pass some bills so we can do it together and we can make some sense out of all of this.

Thank you, Madam President.

ACTING PRESIDENT LITTLE: Thank you, Senator Padavan.

Senator Liz Krueger.

SENATOR LIZ KRUEGER: Thank you.

On the bill and in response.

ACTING PRESIDENT LITTLE: Thank you. On the bill, Senator Krueger.

SENATOR LIZ KRUEGER: Thank you.

I appreciate Senator Padavan's comments we can walk and chew gum and take deep breaths. And now that we are televised, we can also go to the tape.

So in response to the comments that I was told I made a few minutes ago, anyone who wants to rerun the comments, I did not criticize the people of upstate New York for needing to use their vehicles more than those of us who live in areas with public transportation. I said if you want to address the problems of people who have to use their vehicles, this isn't the right answer.

The right answer is to figure out how they can be less dependent on petroleum-driven vehicles. The answer in tax policy is to ask where are the tax burdens falling most unfairly and what can we in the New York State Legislature do to make a more fair and progressive tax system. Which requires evaluating our tax policies, not

doing one-house, one-sales-tax bills at a time.

And in technical fact, while it is true that New York City residents use public transportation more than the rest of the state -- I appreciate Senator Parker's arguments and in fact Senator Padavan's reconfirmation of that, that we should be doing more to expand our public transportation options throughout the state of New York, in suburban New York, in rural New York, and in urban New York -- that in fact the subsidies for public transportation are not disproportionately carried by upstate New Yorkers.

But in fact, when you look at the budget and you look at the distribution of tax revenue to public transportation and highways and roads, in fact it is just the opposite. There is disproportionately less of a supplement or a subsidy to urban public transportation users than to the rest of New Yorkers.

So I am delighted we are having this debate. I am delighted that now the

entire state can turn on their televisions and watch these debates and weigh in with their own views. I think it will make us a better government.

And I agree with everyone who said let's go to conference committees and let's figure out the big-picture problems, rather than spending our time on one-house small bills that won't accomplish our larger goals.

Again, I'll be voting no.

Thank you, Madam President.

ACTING PRESIDENT LITTLE: Thank you, Senator Krueger.

Are there any other Senators wishing to be heard?

Senator Wright.

SENATOR WRIGHT: Thank you, Madam President.

I want to commend Senator Robach for his leadership.

What we're talking about is simply a tax that is too high and every time the gas price goes up, the tax goes up. Simple. We're here to cut taxes. That's the objective. And every time we cut that

gasoline sales tax, whether it's state or local, we reduce the cost per gallon to every individual in this state, every business in this state. Everyone who pays that tax benefits, period. That's all we need to be focused on.

It is part of a comprehensive energy solution. But without a comprehensive energy solution, reducing the gasoline tax still has merit. And we are fully prepared to negotiate with the Assembly. We are fully prepared, as we did back in September when this idea was advanced and we advanced the senior heat bill. That led to the Assembly acting and providing us with a HEAP proposal that ended up with a compromise and us last week providing a hundred million dollars of assistance to the people of this state.

This is the same approach. We're fully prepared to negotiate. We're fully prepared to consider an alternative, but we haven't had one advanced. In the meantime, we're not going to just sit here and do nothing. And that's what the alternatives I'm hearing are being advanced: Let's study,

let's evaluate, let's analyze, let's delay further and maybe the prices will go down and we won't have to worry about cutting the taxes.

Well, that time is now. We should stand up, cut the taxes to the people of this state so they will have that direct benefit. It's a relatively simple equation. We stand up, we say, yes, we reduce taxes, the people of this state benefit. I don't understand how you can disagree with that proposal.

Thank you, Madam Chairman.

ACTING PRESIDENT LITTLE: Thank you, Senator Wright.

Senator Schneiderman.

SENATOR SCHNEIDERMAN: Thank you, Madam President. Very briefly; I realize people want to get out of town.

I think it is quite healthy for us to actually have a debate on energy issues, to the extent we're not degenerating into personal recriminations or geographic or other sorts of divisiveness.

I would suggest the following. Everyone's constituents feel they pay too much

for taxes. There is no question we want to reduce taxes. There's no question our energy costs are too high. Let's all settle down and try and come up with something better than simply passing the same bills over and over again.

Senator Volker suggested, which I gather on the other side of the aisle is considered one of the most -- you know, it's those offenses you have duels over, that I'm covering for the Assembly. Well, I'm not covering for the Assembly.

Ladies and gentlemen, I think you're covering for the Assembly if you think this whole system of us passing a bunch of one-house bills and pointing the finger at them and them passing one-house bills and pointing the finger at us is working with the voters. It's not. They're on to the game. They want results.

And with all due respect, everyone's in favor of reducing taxes. You know what doesn't reduce taxes? If we cut taxes in one area but, as we have found a way to do every year in the budget since I've been

here, miraculously we raise them in other areas, so that state and local taxes and fees go up and up and up. I think the Majority votes in all of those budgets, ladies and gentlemen.

So let's be honest about it. Let's not distort the facts. We are all in this together. We're not going to solve our state's energy problems by upstaters attacking downstaters or vice versa.

In fact, it is the case, pretty clearly documented by the Center for Governmental Responsibility in Rochester, that City of New York subsidizes the rest of the state between 7 and 11 billion dollars a year. I'm not saying, you know, give all that money back. But let's be honest and respectful about how we raise our taxes. Upstate sales taxes do not pay for the MTA. That's a regional tax.

So let's get the facts on the table. Let's have an honest debate about energy policy. Let's try and do away with the divisiveness. And let's do something that actually reduces energy costs. I don't think

you're hearing from people on this side of the aisle -- I think the debate got carried away -- that we object to some of the ideas you're advancing. We have to do something when taxes go up to make adjustments. We have to do something, as Senator Spano's bill attempted to address, about seniors and home energy costs.

We're saying let's do it better, let's make sure the relief is targeted to the consumers, to the people who actually suffer the worst from increases in energy costs. We welcome the opportunity to work with you on that. We're not doing anyone any good if we degenerate into a debate on, you know, what part of the state is hurting worse than other parts of the state.

All of the taxpayers in this state are hurting. We should be looking out for all of them. The energy costs are a tax, as Senator Padavan said, on everyone in the state. Let's not just focus on the sales taxes, let's focus on the costs of energy. We can improve efficiency, we can promote conservation. And it is in fact the position

of every conservation organization, liberal and conservative and bipartisan, in the country that we do drive too much. So I would respectfully suggest that that's not an offensive comment for someone for make as a part of an overall solution.

I'm going to vote against this bill because, once again, coming back to the specific legislation, I do have a concern over the failure to ensure that the savings are passed on from the wholesaler to the retailer and the retailer to the consumer.

I do not reject the suggestion others have made that this could result, this would result in some savings to some people. It's just not a good enough bill. We passed it in September; we should have improved it by now.

Let's not keep coming back with the same bill, ladies and gentlemen. Let's try and do a better job. We welcome the debate. We welcome the discussion. We should not end this session without enacting a comprehensive energy plan and moving forward on many of the issues that have been raised by members on the

other side of the aisle. But let's incorporate -- we do have some ideas over here also. Let's incorporate some of those ideas and let's try and move forward as one state together to solve our collective problems.

Thank you, Madam President.

ACTING PRESIDENT LITTLE: Thank you.

Senator Skelos.

SENATOR SKELOS: Madam President, I listened with great interest to Senator Schneiderman. And sometimes I think that some of the representatives from Manhattan are from another world and really do not understand the issues that confront people that have to use their cars on a daily basis.

Now, Senator Schneiderman talks about this imbalance of revenues from the city to other parts of the state. I believe last year this Legislature voted to cap the Medicaid costs within the state of New York, of which over 70 percent and probably higher go directly to help the taxpayers of New York City. Over 70 percent of the burden is New York City. And probably in the next year

or so it will be approximating a billion dollars.

So I think really when you govern or even more so when you look to lead -- and this is what this Majority does, is lead -- you look to strike a balance between the different regions of the state.

And what's critically important for those of us who live in suburban communities, but even more so those of us who live in upstate communities, is the fact that gasoline is expensive, people have to drive 55, 60 miles to go to their place of business. That costs a lot of money in sales tax.

And anything that we can do, even if it's $100 a year, $50 a year, when you cut some taxes here and there, it all adds up. And there are people that if we can save them $500, $1000 a year from different programs that have been brought forth by this Majority -- the rebate program with the STAR program, and I can go on and on -- to these individuals, it means a lot. It can be the difference between maybe a one-week vacation or not going on vacation, and it enhances

their quality of life.

So I would urge many of my colleagues that think saving a few dollars on the gasoline price is not lowering the cost, that they're simply wrong, and perhaps be a little bit more sensitive to the needs of those whose livelihood and their lives are dependent upon the use of an automobile.

ACTING PRESIDENT LITTLE: Thank you, Senator Skelos.

The debate is closed.

The Secretary will ring the bell.

Read the last section.

THE SECRETARY: Section 3. This act shall take effect on the 30th day.

ACTING PRESIDENT LITTLE: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT LITTLE: Senator Bonacic, to explain his vote.

SENATOR BONACIC: Thank you, Madam President.

I think this debate crystallizes the difference between Republicans and Democrats. Republicans want to cut taxes.

They want to help small businesses reduce their energy bills. The Democrats do not.

And this debate that I've heard today, whenever the Democrats get up and they try to justify why they don't want to cut taxes, it's, I think, the inaction of the other house that never takes the bills up to cut taxes. That is the fundamental difference between Republicans and Democrats.

I'm voting yes. Thank you, Madam President.

ACTING PRESIDENT LITTLE: Thank you. Senator Bonacic will be recorded in the affirmative.

Senator DeFrancisco, to explain his vote.

SENATOR DeFRANCISCO: I'm voting yes, and proudly.

And I think no one has mentioned up to this point a very simple concept of what's happened over the last -- I don't think anybody has mentioned it -- over the last year or so. And that is the state has received a windfall. A windfall. And by receiving a windfall, they're collecting taxes only

because of a market totally beyond our control.

If a state is receiving a windfall, you can talk all the policy you want to talk. We should give the money back. And that's what Senator Robach's bill does. We should give the money back.

Senator Nozzolio mentioned something very simple: Not one penny more. You say it's not enough? It's certainly more than nothing. And not passing this bill is nothing. And our consumers deserve that.

We need to continue the long-term solutions. The long-term solutions are the most important. But the short-term ones are all that we can do, and we're going to continue rolling these out.

And if you want to vote no, vote no. But we're going to make these things happen.

ACTING PRESIDENT LITTLE: Thank you. Senator DeFrancisco will be recorded in the affirmative.

Senator Wright, to explain his vote.

SENATOR WRIGHT: Thank you, Madam President.

I'm going to vote in favor of this bill because this will be the seventh bill that we've passed today, all of which comprise a comprehensive approach to addressing the energy issues in this state.

And I would note that all seven of those bills have passed with bipartisan support -- not unanimous, but certainly bipartisan support from all of the regions of this state, reflecting the comprehensiveness and appropriateness of the policy being advanced this morning by us.

Madam President, I vote aye.

ACTING PRESIDENT LITTLE: Thank you. Senator Wright will be recorded in the affirmative.

Senator Oppenheimer.

SENATOR OPPENHEIMER: Thank you, Madam President.

ACTING PRESIDENT LITTLE: To explain her vote.

SENATOR OPPENHEIMER: Yes, I'm changing my vote. But I have been with you on

all the other bills today.

But I'm changing my vote on this one, because I feel that the information that I heard, that it is the wholesaler who is going to be the beneficiary of this, and there is actually nothing that requires the wholesaler to pass it down to the retailer. And since prices on gasoline change every few days, there's no way to even follow this through.

I'm not interested in giving the wholesalers this benefit. The reason I like STAR and the programs that are going directly to people is because it directly benefits people. But I hear that this is only going to benefit the wholesaler and there's no way to make them pass it on.

So for that reason, I'm changing my vote from this autumn. It will be no.

ACTING PRESIDENT LITTLE: Thank you. Senator Volker will be recorded in the negative.

I'm sorry, I looked at Senator Volker. Senator Oppenheimer will be recorded in the negative. I apologize.

Senator Maziarz, to explain his vote.

SENATOR MAZIARZ: Madam President, I rise to support Senator Robach's legislation.

I think that lowering the sales tax -- I don't know how you can even dream that this benefits wholesalers more than it does the retailers, those people who drive to the pumps almost on a daily basis to fill up.

You know, ExxonMobil, Sunoco, Shell Oil Company are making billions of dollars in record profits because they're gouging. The State of New York is no better. They're doing the same thing by making this windfall profit on sales tax.

I agree with Senator Robach, capping this at $2 a gallon is absolutely the right way to go. And if it doesn't become the law in the State of New York, we clearly know that the blame rests with the other house because of their concern for one geographic area of this state over their concern for another geographic area.

Thank you, Madam President.

ACTING PRESIDENT LITTLE: Thank you. Senator Maziarz will be recorded in the affirmative.

Senator Volker, to explain his vote.

SENATOR VOLKER: Just very quickly, Madam President, to explain my vote.

You know, Suzi, by the way, I'm very much flattered that they thought that I was you.

But let me just say that I used to be chairman of Energy. And Jim Wright is much, much better at this than I am. But I could tell you something. There's no possible way that the sales tax cut is not going to be passed on to the consumers.

Yeah, the wholesalers. But if you look at the pump -- next time you go get some gasoline, look at the pump. What you'll find out is that the sales tax is shown right on there. If they don't reflect the sales tax, it's fairly -- it's easy to go in and get after the retailers and the dealers.

And that's basically what happened with the Attorney General when he went in and

fined several of my gas stations. What they did is they jumped ahead of the price increase. That is not that the price wasn't going up, but they knew it was coming, so they increased the price the day before instead of the day that they actually got the gasoline with the higher price. And one of them got fined, I think, $10,000 or something of that nature.

But the truth is, I know it's easy to say, Well, it's not going to get to the consumers. I'll guarantee you it will get to the consumers, no matter what they say. This is not for wholesalers. When you cut taxes, it's going to get to the consumers or else we will pounce on them, and "we" meaning the State of New York.

So my -- and I know that this is a political debate to a certain extent. But the truth is we are trying to cut taxes. And I know you want to, but don't believe this nonsense that because you cut at the wholesale level that it's not going to get to the consumers. Because it has to. Otherwise, our system will pounce on the people who don't

comply.

I vote aye.

ACTING PRESIDENT LITTLE: Thank you. Senator Volker will be recorded in the affirmative.

Senator Onorato, to explain his vote.

SENATOR ONORATO: Madam President, I plan on supporting this measure, but I think there is a little better way to do it.

And the thing that I would like to suggest again, that the tax should be based upon the gallonage rather than the price. Because the price fluctuates from day to day as we see it lately. During this gasoline shortage, I passed my gasoline station in the morning and in the afternoon it was 10 cents a gallon more than it was in the early morning. And I know he didn't receive a delivery between the morning and the afternoon.

And the other thing, Senator Volker mentions about the taxes, you see them alongside the gasoline thing? I don't see that anymore. I used to see it. You used to

see the price of the gasoline, the federal tax, the state tax, and the city tax. We don't have that listed alongside the gas pumps any longer.

And I think if we made that mandatory that the taxes be shown, perhaps the public will start getting on all of these legislators, not only on the state level but on the federal level, to bring the cost of it down. And do it by doing it on the gallonage, not the price.

I vote aye.

ACTING PRESIDENT LITTLE: Thank you. Senator Onorato will be recorded in the affirmative.

Senator Alesi, to explain his vote.

SENATOR ALESI: Thank you, Madam President. I've been listening with great interest, and I'd like to explain my vote as well.

Because Senator Nozzolio very passionately explained how necessary it is for those of us who live in upstate to rely on our vehicles and how expensive it can be when we have to fill those vehicles with fuel.

And, yes, Senator Schneiderman paraphrased a lot of what was said here by saying can't we all just get along. I guess I can agree with that too.

You know, it struck me, though, as someone who kind of has a love affair with New York City, that if it's being suggested that we drive a little less, then I don't know how, when all of those subways are rolling underneath New York streets, we can suggest to those taxicabs, the 20,000 of them that are running 24 hours a day, that they drive a little less.

How do you suggest to them, as small businesses or large businesses, and how do you suggest to all of those delivery trucks and how do you suggest to everybody that, aside from their own personal needs, relies on small business to provide the needs of everything that we need in our daily lives, whether it's a bread truck or whether it's somebody delivering parts to an appliance store, whatever it is -- how do you suggest to them that they drive a little less? You can't.

And if you look at it from the standpoint of the personal consumer, Senator Nozzolio made the best argument anybody could make for those of us who rely on our vehicles.

But let's look at New York City. Let's go to Manhattan and let's look at those congested streets. And what are they filled with? They're filled with cabs and they're filled with delivery trucks. It's business. It's enterprise. It's commerce.

And what we're saying is if you want to, join us in helping the constituency in Manhattan and those other areas of New York City that rely on that commerce, that rely on those small businesses, that they themselves rely on transportation that consume gasoline and pay taxes when they do buy that gasoline -- join us. Help us help you with your constituents and with all of those small businesses in New York City that have to pay taxes on gasoline as well. Join us. Join us and help us help you with your constituents.

Tax cuts work. They work just as easily in Manhattan as they work in upstate New York.

By way of explaining my vote, I'll be voting yes.

ACTING PRESIDENT LITTLE: Thank you. Senator Alesi will be recorded in the affirmative.

Senator Young, to explain her vote.

SENATOR YOUNG: Thank you, Madam President. I rise to support this bill for many reasons. And I too have listened very carefully to the debate here today.

And this whole argument about there's really not going to be any savings to the consumers is false, that the wholesalers are just going to get the break.

Senator Winner talked about the fact that his district is on the Pennsylvania line. So is mine. You just have to travel a short distance from the edge of my district to see lower prices.

But nowhere do I see it most greatly put forward as when you go on the reservations in my district. Because you know what? They're not collecting the state sales tax on the gasoline in the reservations in my district, and the price differential is

enormous.

You talk about the fact that people should drive less and this really doesn't hurt upstaters to have the high price in gasoline. Senator Nozzolio spoke very well about the impact. But I'll tell you some stories. I can tell you at least one right now.

In my district, access to healthcare is a huge issue. We have to drive to get to the hospital. And if somebody has a serious illness, they have to drive to Buffalo or Rochester, which can be anywhere from 75 to 90 miles away.

Recently I was talking to a constituent whose husband was seriously ill, gravely ill. He had to have a valve replaced in his heart, and there were complications. She was driving 75 miles to Buffalo every single day for two weeks, and she was out of her mind with worry. But what compounded that was the fact that her budget, her family's budget was being busted because she had a very difficult time paying for the gasoline.

You have to think about the real life consequences that people face across this

state and keep those in mind. People in this state feel like they're being taxed to death. And they are. They are. They need to have relief just to live their everyday lives, to be able to afford to stay in this state. And that's what this bill is about.

And I vote yes.

ACTING PRESIDENT LITTLE: Thank you. Senator Young will be recorded in the affirmative.

Senator Ada Smith, to explain her vote.

SENATOR ADA SMITH: Thank you, Madam President.

In a former life, directly out of college, I worked for a major oil company. And one of the things that we had to do late at night was to go and visit service stations throughout the five boroughs, Nassau and Suffolk County, because prices were not being shown at the pump from the wholesalers. The wholesalers were keeping the money, and the retailers were suffering and showing the higher prices.

So therefore, with this knowledge,

I clearly vote no.

ACTING PRESIDENT LITTLE: Thank you. Senator Ada Smith will be recorded in the negative.

Senator Robach, to explain his vote.

SENATOR ROBACH: Yes, very briefly.

I rise to support this bill, obviously. And I guess what I would say is, first and foremost, I think it is very good policy, long term or short term.

And secondly, I've appreciated the dialogue. There was someone made the suggestion that this bill was shortsighted. I think Senator Parker said I was insincere. I'll let you be the judge if those accusations are true.

But one thing I can tell you I am is a pragmatic person, and I like to be a populist. And I just ask you to run this over your head. If you think, if your constituents could vote directly for this bill, that they don't think it will help their bottom line, you're wrong. Because if this was a survey, I

would guarantee you that overwhelmingly, whether you're upstate or downstate, your constituents would vote yes.

And so I think, in the spirit of wanting to do something, and something that is popular with our constituents on an issue that's affecting them in their pockets, it's time for New York to make a different change. This is a start.

I'll be voting in the affirmative.

ACTING PRESIDENT LITTLE: Thank you. Senator Volker will be -- Senator Robach, excuse me, will be recorded in the affirmative.

Senator Meier, to explain his vote.

SENATOR MEIER: Thank you, Madam President.

I have to have to rise to thank everyone here for educating me because I've learned something valuable today. And it's the answer to a question, and the question is this.

When does a large organization, a large, powerful organization, when are they able to reap an obscene $200 million excess

profit and not get condemnation from the other side of the aisle? And the answer is, it's when that organization is government of the State of New York. Two hundred million dollars out of the pockets of the taxpayers of this state that we didn't count on when we enacted the budget last year.

Now, if you want to call what's going into Exxon's pockets obscene, what about what's going out of the pockets of my constituents and yours into the treasury of this state so that, oh, by the way, all of us can carve it up and spend it later. That's obscene. We ought to give it back.

I vote aye.

ACTING PRESIDENT LITTLE: Thank you. Senator Meier will be recorded in the affirmative.

Senator Parker, to explain his vote.

SENATOR PARKER: Madam President, I rise to vote no on this bill. Some of you may be surprised by that.

The difference between the Democrats and Republicans is not that you want

to do something and we want to do nothing, it's that we are not willing to trick the people of the State of New York to think that we're giving them a whole bunch of money when the reality is we're giving them dimes on the bushels, whatever.

I mean, this is not a significant savings. This is extremely short-term. There is nothing long-term about this proposal at all.

And, you know, when we really, you know, understand what people really want is they want -- they want services. They want things. And the reality is if you take this and you cost it out and you ask your voters would you rather -- and you poll them on this, would you rather have $10 back or would you rather us give you $200 million worth of services? And I bet you if you polled them on that question you would get a very, very different answer than the question that you posed them.

They would say absolutely every time that they'll take the $200 million in services, because they understand what that

means in terms of reducing their kids' tuition at CUNY and SUNY, they understand what that means in terms of having access to affordable housing, they understand what that means in terms of accessible and affordable and quality healthcare.

That's what they understand, not the tricks that we try to pull off in this chamber and call them tax breaks.

ACTING PRESIDENT LITTLE: Thank you. Senator Parker will be recorded in the negative.

The Secretary will announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 86 are Senators Andrews, Breslin, Diaz, Dilan, Duane, Hassell-Thompson, L. Krueger, Oppenheimer, Parker, Paterson, Schneiderman, and A. Smith.

Those Senators absent pursuant to Rule 9: Senators Libous and Stavisky.

Those Senators absent from voting: Senator Sampson.

Ayes, 46. Nays, 12.

ACTING PRESIDENT LITTLE: The

bill is passed.

Senator Johnson.

SENATOR JOHNSON: Madam President, pursuant to Rule 9, I was required to be at a meeting of the Finance Standing Committee, and I cast my votes as follows for the bills on the controversial calendar: 5846A, Calendar Number 84, aye; 5965A, Calendar Number 85, aye.

Thank you.

ACTING PRESIDENT LITTLE: Thank you, Senator Johnson. The record will so reflect.

Senator Breslin.

SENATOR BRESLIN: Thank you, Madam President. Pursuant to Rule 9, I was required to be at the Finance meetings. And I request that my votes be taken as follows. On S5846A, Calendar 84, an aye. And on S5965A, Calendar Number 85, aye.

Thank you, Madam President.

ACTING PRESIDENT LITTLE: Thank you, Senator. The record will so reflect.

Senator Malcolm Smith.

SENATOR MALCOLM SMITH: Thank

you, Madam President.

Pursuant to Rule 9, I was required to be in a public hearing for the Finance Committee. I'd like to have my vote recorded on the following controversial calendar bills. On Senate Bill 5846A, I vote aye. And Senate Bill 5965A, I vote aye also.

ACTING PRESIDENT LITTLE: Thank you, Senator. The record will so reflect.

Senator Montgomery.

SENATOR MONTGOMERY: Yes, Madam President. Pursuant to Rule 9, I was required to be at a public hearing on finance. And I would like to cast my votes as follows. On Senate Bill 5846A, Calendar Number 84, my vote is aye. And Senate Bill S5965A, Calendar Number 85, no.

ACTING PRESIDENT LITTLE: Thank you, Senator. The record will so reflect.

Senator Skelos, that completes the controversial reading of the calendar.

SENATOR SKELOS: Thank you, Madam President.

Is there any other business at the desk at this time?

ACTING PRESIDENT LITTLE: No, there is not.

SENATOR SKELOS: I just want to point out to the members of the Majority that there will be a conference following session.

And also to all the members that next week is a three-day week, so I know we all look forward to that.

And I move we adjourn in memory of Coretta Scott King -- and I'm sure at some future time we will do an appropriate recognition of her life -- and move we stand adjourned until Monday, February 6th, at 3:00 p.m., intervening days to be legislative days.

ACTING PRESIDENT LITTLE: Thank you.

On motion, the Senate stands adjourned until Monday, February 6th, at 3:00 p.m., intervening days being legislative days.

(Whereupon, at 1:46 p.m., the Senate adjourned.)