NEW YORK STATE SENATE

THE STENOGRAPHIC RECORD

ALBANY, NEW YORK

May 15, 2006

3:03 p.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 WRIGHT: 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 WRIGHT: The invocation today will be given by the Reverend Peter Young.

REVEREND YOUNG: Dear God, as we gather in Your name in these closing days of the 2005-2006 session, we accept the strength of Your guidance to meet the challenges of these major pieces of legislation that are on our agendas.

We pray that You will guide us and help us in these decisions now and forever.

Amen.

ACTING PRESIDENT WRIGHT: Reading of the Journal.

THE SECRETARY: In Senate, Sunday, May 14, the Senate met pursuant to adjournment. The Journal of Saturday, May 13,

was read and approved. On motion, Senate adjourned.

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

And we welcome the Lieutenant Governor.

THE PRESIDENT: 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 Fuschillo.

SENATOR FUSCHILLO: Madam President, thank you very much.

On behalf of Senator Saland, I wish to call up Senate Print Number 6762, recalled from the Assembly, which is now at the desk.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: Calendar Number

546, by Senator Saland, Senate Print 6762, an act to authorize the Town of Wappinger.

SENATOR FUSCHILLO: I now move to reconsider the vote by which the bill was passed.

THE PRESIDENT: The Secretary will call the roll upon reconsideration.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 41.

SENATOR FUSCHILLO: I now offer the following amendments.

THE PRESIDENT: The amendments are received.

SENATOR FUSCHILLO: On behalf of Senator Spano, I wish to call up Senate Print Number 4155A, recalled from the Assembly, which is now at the desk.

ACTING PRESIDENT WRIGHT: The Secretary will read.

THE SECRETARY: Calendar Number 385, by Senator Spano, Senate Print 4155A, an act to amend the Vehicle and Traffic Law.

SENATOR FUSCHILLO: I now move to reconsider the vote by which the bill was passed.

ACTING PRESIDENT WRIGHT: Call the roll on reconsideration.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 41.

SENATOR FUSCHILLO: I now offer the following amendments.

ACTING PRESIDENT WRIGHT: The amendments are received.

SENATOR FUSCHILLO: On behalf of Senator Bonacic, on page number 43 I offer the following amendments to Calendar Number 726, Senate Print Number 6952A, and ask that said bill retain its place on Third Reading Calendar.

ACTING PRESIDENT WRIGHT: The amendments are received, and the bill will retain its place on the Third Reading Calendar.

SENATOR FUSCHILLO: On behalf of Senator Morahan, on page number 59 I offer the following amendments to Calendar Number 937, Senate Print Number 7664, and ask that said bill retain its place on Third Reading Calendar.

ACTING PRESIDENT WRIGHT: The

amendments are received, and the bill will retain its place on the Third Reading Calendar.

SENATOR FUSCHILLO: On behalf of Senator Marcellino, on page number 65 I offer the following amendments to Calendar Number 1002, Senate Print Number 6737, and ask that said bill retain its place on Third Reading Calendar.

ACTING PRESIDENT WRIGHT: The amendments are received, and the bill will retain its place on the Third Reading Calendar.

SENATOR FUSCHILLO: On behalf of Senator LaValle, on page number 64 I offer the following amendments to Calendar Number 995, Senate Print Number 1477, and ask that said bill retain its place on Third Reading Calendar.

ACTING PRESIDENT WRIGHT: The amendments are received, and the bill will retain its place on the Third Reading Calendar.

Senator Skelos.

SENATOR SKELOS: Mr. President, I

believe there's a substitution at the desk.

ACTING PRESIDENT WRIGHT: The Secretary will read.

THE SECRETARY: On page 57, Senator Morahan moves to discharge, from the Committee on Veterans and Homeland Security, Assembly Bill Number 2747 and substitute it for the identical Senate Bill Number 1500, Third Reading Calendar 918.

ACTING PRESIDENT WRIGHT: The substitution is ordered.

Senator Skelos.

SENATOR SKELOS: Mr. President, there's a resolution at the desk, 5170, by Senator Robach. If we could have it read in its entirety and move for its immediate adoption.

ACTING PRESIDENT WRIGHT: The Secretary will read.

THE SECRETARY: By Senator Robach, Legislative Resolution Number 5170, congratulating the Hilton High School Girls Cross Country Team and Coach Mike Szczepanik upon the occasion of capturing the Nike Team National Cross Country Championship.

"WHEREAS, Excellence and success in competitive sports can be achieved only through strenuous practice, team play and team spirit, nurtured by dedicated coaching and strategic planning; and

"WHEREAS, Athletic competition enhances the moral and physical development of the young people of this state, preparing them for the future by instilling in them the value of teamwork, encouraging a standard of healthy living, imparting a desire for success, and developing a sense of fair play and competition; and

"WHEREAS, The Hilton Girls Cross Country Team are the Nike Team Cross Country Champions; and

"WHEREAS, The second annual Nike Team Nationals Competition was held on December 3, 2005, in Portland, Oregon. The Hilton Girls Cross Country Team earned the all-expense-paid trip and participated from November 30 through December 4, 2005; and

"WHEREAS, Although the times were off due to the mud and water on the track, the Hilton Girls Cross Country Team defeated the

competition, scoring 85, with number-one-ranked Saratoga High School coming in second at 112. The race was 5,000 meters; and

"WHEREAS, Prior to the Nike event, the Hilton Girls Cross Country Team won their second consecutive Section Five title and Coach Mike Szczepanik was named Monroe County Section Five Coach of the Year; and

"WHEREAS, In addition to earning a spot to compete for the national title, runners had the opportunity to experience a weekend of events related to the sport, both on and off the course, including educational seminars and activities; and

"WHEREAS, The athletic talent displayed by this team is due in great part to the efforts of Coach Mike Szczepanik, a skilled and inspirational tutor, respected for his ability to develop potential into excellence; and

"WHEREAS, The team's overall record is outstanding, and the team members were loyally and enthusiastically supported by family, fans, friends and the community at large; and

"WHEREAS, The hallmarks of the Hilton Girls Cross Country Team, from the opening event of the season to participation in the championship, were a sisterhood of athletic ability, of good sportsmanship, of honor and of scholarship, demonstrating that these team players are second to none; and

"WHEREAS, Athletically and academically, the team members have proven themselves to be an unbeatable combination of talents, reflecting favorably on their school; and

"WHEREAS, Coach Mike Szczepanik Sports has done a superb job in guiding, molding and inspiring the team members toward their goals; and

"WHEREAS, Sports competition instills the values of teamwork, pride and accomplishment, and Coach Mike Szczepanik, Assistant Coach Jeff Merkel and these outstanding athletes have clearly made a contribution to the spirit of excellence which is a tradition of their school; now, therefore, be it

"RESOLVED, That this Legislative

Body pause in its deliberations to congratulate the Hilton Girls Cross Country Team, its members -- Amanda Griggs, Caileen Childs, Nicole Griffiths, Allison Sawyer, Caroline Schultz, Shelby Herman, Ashley Jones, Erin Pratt, Teresa Buechel, Kristen Campbell, Ashlea Keene, Hillary O'Sullivan, and Rebecca Smarcz -- and Coach Mike Szczepanik on their outstanding season and overall team record; and be it further

"RESOLVED, That copies of this resolution, suitably engrossed, be transmitted to the Hilton Girls Cross Country Team and to Coach Mike Szczepanik."

ACTING PRESIDENT WRIGHT: Senator Robach, on the resolution.

SENATOR ROBACH: Yes, Mr. President, if I could just rise to say how delighted I am to have the girls, their coach, some of their parents here joining us today.

This really was quite an accomplishment. I've been here for four years now, and we've had a lot of great young people through this chamber for different accomplishments, but this is my first one of

national caliber. And we're delighted to have them here.

In addition to overcoming successfully these rainy conditions, that cool track, and winning, they have really excited the entire community of Hilton. They are great, great kids. I think they have a cumulative average of 3.7 in addition to their great athleticism. Their work ethic, their personalities are just wonderful.

And I am so proud and privileged to represent them. I am glad they're here today to do this. You know, the only thing I can say is not only do they represent Hilton very well, New York State and its national championship of 20 other schools qualifying, I think they really epitomize everything a young student athlete should be, both in terms of attitude and accomplishment.

And I am really delighted again to recognize them, put this in the record so they can come back here with their kids, highlighting their record here in New York State.

And I would say, though he's not on

the floor, the only other team that made this national tournament from New York was Saratoga, which is represented by another Senator named Joe. But I want you to know that Joe Robach's girls there won this for Rochester and us. And I'm not going to let the Majority Leader forget that either.

If I could just take one minute, since the girls came down here for this. If I could ask them to stand very quickly. We having Amanda Griggs, Caileen Childs, Nicole Griffiths, Allison Sawyer, Caroline Schultz, Shelby Herman, Ashley Jones, Erin Pratt, Teresa Buechel, Kristen Campbell, Ashlea Keene, Hillary O'Sullivan, and Rebecca Smarcz. You've already been introduced or talked about: Coach Szczepanik and Coach Merkel.

Ladies, congratulations. Great job. Thanks for being with us here today in the Capitol.

(Applause.)

ACTING PRESIDENT WRIGHT: Senator Maziarz, on the resolution.

SENATOR MAZIARZ: Thank you very much, Mr. President.

I want to add my congratulations along with Senator Robach. Up until a few years ago, I represented the Hilton School District and the town of Parma and the western part of Monroe County.

And these champions are truly, as Senator Robach pointed out, they're not only great athletes but great students too, and that's really important.

And I want to welcome them to Albany, and their coaches, and offer my personal congratulations and the congratulations of all of us.

Many times here we see state champions every year, but very rarely do we get national champions here. And to achieve that great milestone at so young in life is a real tribute to you, to your coaches, and mostly to your parents.

Thank you, Mr. President.

ACTING PRESIDENT WRIGHT: On the resolution, all those in favor signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT WRIGHT:

Opposed, nay.

(No response.)

ACTING PRESIDENT WRIGHT: The resolution is adopted.

On behalf of Senator Bruno and all of the members of the New York State Senate, please accept our congratulations and appreciation for your visit to the Capitol and your representation of the State of New York. Best of luck.

Senator Skelos.

SENATOR SKELOS: Mr. President, there will be an immediate meeting of the Rules Committee in the Majority Conference Room.

ACTING PRESIDENT WRIGHT: There will be an immediate meeting of the Rules Committee in the Majority Conference Room.

SENATOR SKELOS: If we could stand at ease.

ACTING PRESIDENT WRIGHT: The Senate will stand at ease.

(Whereupon, the Senate stood at ease at 3:15 p.m.)

(Whereupon, the Senate reconvened

at 3:23 p.m.)

ACTING PRESIDENT WRIGHT: Senator Fuschillo.

SENATOR FUSCHILLO: Mr. President, may we please return to the reports of standing committees. I believe there's a report of the Rules Committee at the desk.

ACTING PRESIDENT WRIGHT: The Secretary will read.

THE SECRETARY: Senator Bruno, from the Committee on Rules, reports the following bill direct to third reading:

Senate Print 7909, by Senator Wright, an act to amend the Tax Law.

ACTING PRESIDENT WRIGHT: Senator Fuschillo.

SENATOR FUSCHILLO: Mr. President, I move to accept the report of Rules Committee.

ACTING PRESIDENT WRIGHT: All in favor of accepting the report please signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT WRIGHT: Opposed, nay.

(No response.)

ACTING PRESIDENT WRIGHT: The report is accepted.

Senator Fuschillo.

SENATOR FUSCHILLO: Mr. President, may we please have the reading of the noncontroversial calendar.

ACTING PRESIDENT WRIGHT: The Secretary will read.

THE SECRETARY: Calendar Number 432, by Senator Maziarz, Senate Print 5849B, an act to amend the Parks, Recreation and Historic Preservation Law.

ACTING PRESIDENT WRIGHT: Read the last section.

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

ACTING PRESIDENT WRIGHT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 55.

ACTING PRESIDENT WRIGHT: The bill is passed.

THE SECRETARY: Calendar Number 577, by Senator Maltese, Senate Print 101, an

act to amend the Real Property Tax Law.

ACTING PRESIDENT WRIGHT: Read the last section.

THE SECRETARY: Section 2. This act shall take effect June 1, 2007.

ACTING PRESIDENT WRIGHT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 55.

ACTING PRESIDENT WRIGHT: The bill is passed.

THE SECRETARY: Calendar Number 750, by Senator Spano, Senate Print 7316A, an act to amend the Labor Law.

ACTING PRESIDENT WRIGHT: Read the last section.

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

ACTING PRESIDENT WRIGHT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 55.

ACTING PRESIDENT WRIGHT: The bill is passed.

THE SECRETARY: Calendar Number

753, by Senator Maziarz, Senate Print 7321A, an act to amend the Labor Law.

ACTING PRESIDENT WRIGHT: Read the last section.

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

ACTING PRESIDENT WRIGHT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 56.

ACTING PRESIDENT WRIGHT: The bill is passed.

THE SECRETARY: Calendar Number 788, by Senator Marcellino, Senate Print 6862, an act to authorize.

ACTING PRESIDENT WRIGHT: Read the last section.

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

ACTING PRESIDENT WRIGHT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 53. Nays, 2. Senators Bonacic and Larkin recorded in

the negative.

ACTING PRESIDENT WRIGHT: The bill is passed.

THE SECRETARY: Calendar Number 841, by Senator Little, Senate Print 7347, an act to amend the Civil Service Law.

ACTING PRESIDENT WRIGHT: Read the last section.

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

ACTING PRESIDENT WRIGHT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 56.

ACTING PRESIDENT WRIGHT: The bill is passed.

THE SECRETARY: Calendar Number 842, by Senator Larkin, Senate Print 7355, an act to amend the Retirement and Social Security Law, and others.

ACTING PRESIDENT WRIGHT: Read the last section.

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

ACTING PRESIDENT WRIGHT: Call

the roll.

(The Secretary called the roll.)

ACTING PRESIDENT WRIGHT: Senator Duane.

SENATOR DUANE: Thank you, Mr. President.

I'm going to vote for this bill, which provides a disability retirement benefit for those veterans injured in combat. It's a very good bill.

But it does remind me that many New Yorkers, including veterans, suffer from posttraumatic stress disorder. And because we don't have Timothy's Law, they are unable to get help for this psychological problem.

So it's vital that we pass Timothy's Law this session, and I don't understand why we're not doing it. And so while I'm voting yes on this bill, I'm hopeful that in the very near future we will have Timothy's Law on the floor of the Senate and be able to vote for it.

Thank you, Mr. President.

ACTING PRESIDENT WRIGHT: Senator Duane recorded in the affirmative.

Report the results.

THE SECRETARY: Ayes, 56.

ACTING PRESIDENT WRIGHT: The bill is passed.

THE SECRETARY: Calendar Number 909, by Senator Volker, Senate Print 7147, an act to amend the Criminal Procedure Law.

ACTING PRESIDENT WRIGHT: Read the last section.

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

ACTING PRESIDENT WRIGHT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 55. Nays, 1. Senator Duane recorded in the negative.

ACTING PRESIDENT WRIGHT: The bill is passed.

THE SECRETARY: Calendar Number 913, by Senator Little, Senate Print 7346, an act to amend the Criminal Procedure Law.

ACTING PRESIDENT WRIGHT: Read the last section.

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

ACTING PRESIDENT WRIGHT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 55. Nays, 2. Senators Duane and L. Krueger recorded in the negative.

ACTING PRESIDENT WRIGHT: The bill is passed.

THE SECRETARY: Calendar Number 916, by Senator Balboni, Senate Print 178A, an act relating to the procurement process of homeland-security-related goods and services.

ACTING PRESIDENT WRIGHT: Read the last section.

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

ACTING PRESIDENT WRIGHT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

ACTING PRESIDENT WRIGHT: The bill is passed.

THE SECRETARY: Calendar Number 918, substituted earlier today by Member of the Assembly Towns, Assembly Print Number

2747, an act to amend the Real Property Tax Law.

ACTING PRESIDENT WRIGHT: Read the last section.

THE SECRETARY: Section 2. This act shall take effect on the first of January next succeeding.

ACTING PRESIDENT WRIGHT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

ACTING PRESIDENT WRIGHT: The bill is passed.

THE SECRETARY: Calendar Number 951, by Senator Wright, Senate Print 7520, an act to amend the Tax Law.

ACTING PRESIDENT WRIGHT: Read the last section.

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

ACTING PRESIDENT WRIGHT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

ACTING PRESIDENT WRIGHT: The

bill is passed.

THE SECRETARY: Calendar Number 959, by Senator Bonacic, Senate Print 7298, an act in relation to building aid payable.

ACTING PRESIDENT WRIGHT: Read the last section.

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

ACTING PRESIDENT WRIGHT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

ACTING PRESIDENT WRIGHT: The bill is passed.

THE SECRETARY: Calendar Number 965, by Senator Nozzolio, Senate Print 505, an act to amend the General Municipal Law.

ACTING PRESIDENT WRIGHT: There is a home-rule message at the desk.

Read the last section.

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

ACTING PRESIDENT WRIGHT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 56. Nays, 1. Senator Duane recorded in the negative.

ACTING PRESIDENT WRIGHT: The bill is passed.

THE SECRETARY: Calendar Number 975, by Senator Farley, Senate Print 6966, an act to amend the County Law.

ACTING PRESIDENT WRIGHT: There is a local fiscal impact note at the desk.

Read the last section.

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

ACTING PRESIDENT WRIGHT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

ACTING PRESIDENT WRIGHT: The bill is passed.

THE SECRETARY: Calendar Number 980, by Senator Saland, Senate Print 7238, an act in relation to creating the East Fishkill Public Library District.

ACTING PRESIDENT WRIGHT: Read the last section.

THE SECRETARY: Section 8. This

act shall take effect immediately.

ACTING PRESIDENT WRIGHT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

ACTING PRESIDENT WRIGHT: The bill is passed.

THE SECRETARY: Calendar Number 1003, by Senator Balboni, Senate Print 6822, an act to amend the Waterfront Commission Act.

ACTING PRESIDENT WRIGHT: Read the last section.

THE SECRETARY: Section 5. This act shall take effect upon enactment into law by the State of New Jersey legislation identical.

ACTING PRESIDENT WRIGHT: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT WRIGHT: Senator Balboni, to explain his vote.

SENATOR BALBONI: Yes, Mr. President.

This is the first of several measures that this house will be considering

dealing with port security.

After the Dubai Ports World controversy, we did a bunch of studies and investigations as to how the port security actually worked. And what we found out is that the Waterfront Commission that handles one-third of the security concerns at the port had insufficient capabilities when it came to determining who should be licensed and who should not in terms of the operation of the port.

And what we found out is that New Jersey has already passed this bill, and it is waiting for us to get our act together and pass the same bill, which would give the Waterfront Commission the ability to prevent someone from getting a license if they have any connection to terrorist groups.

I believe this is a very good step towards security, and I'm hopeful that the Assembly will join us and make sure that this becomes law for both states.

I vote aye, Mr. President. Thank you.

ACTING PRESIDENT WRIGHT: Senator

Balboni will be recorded in the affirmative.

Report the results.

THE SECRETARY: Ayes, 57.

ACTING PRESIDENT WRIGHT: The bill is passed.

THE SECRETARY: Calendar Number 1004, by Senator Padavan, Senate Print 7109, an act to amend the Waterfront Commission Act.

ACTING PRESIDENT WRIGHT: Read the last section.

THE SECRETARY: Section 6. This act shall take effect upon the enactment into law by the State of New Jersey identical legislation.

ACTING PRESIDENT WRIGHT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

ACTING PRESIDENT WRIGHT: The bill is passed.

THE SECRETARY: Calendar Number 1005, by Senator Leibell, Senate Print 7181, an act to amend the Waterfront Commission Act.

ACTING PRESIDENT WRIGHT: Read the last section.

THE SECRETARY: Section 8. This act shall take effect upon the enactment into law by the State of New Jersey identical legislation.

ACTING PRESIDENT WRIGHT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

ACTING PRESIDENT WRIGHT: The bill is passed.

THE SECRETARY: Calendar Number 1016, by Senator Wright, Senate Print 7909, an act to amend the --

SENATOR SAVINO: Lay it aside.

ACTING PRESIDENT WRIGHT: The bill is laid aside.

That completes the noncontroversial reading of the calendar.

ACTING PRESIDENT MORAHAN: Senator Fuschillo.

SENATOR FUSCHILLO: Mr. President, may we please have the controversial reading of the calendar at this time.

ACTING PRESIDENT MORAHAN: The

Secretary will read.

THE SECRETARY: Calendar Number 1016, by Senator Wright, Senate Print 7909, an act to amend the Tax Law.

SENATOR SAVINO: Explanation.

ACTING PRESIDENT MORAHAN: Senator Wright, an explanation has been requested.

SENATOR WRIGHT: Thank you, Mr. President.

SENATOR BRUNO: Before us this afternoon we have historic comprehensive energy legislation that, first of all, begins by reducing the sales tax on gasoline.

This is a bill that was -- the concept was first introduced this past fall by my colleague Senator Robach, has been before this house on several occasions, and has been adopted by this house. We have now reached an agreement with the Assembly so that we can move forward.

So the cornerstone of this bill this afternoon is to reduce the sales tax, cap it at a flat tax of 8 cents against a $2 threshold, which was the capped amount that we

had targeted and believe most local budgets are predicated on. It not only diminishes the increasing effect of sales tax, it also discontinues the practice of a tax upon a tax, which is a unique aspect of sales tax as it relates to gasoline.

We've all recognized that in previous debates on this floor we've spent a great deal of time talking about the global economy, the adverse affects of escalating gas prices and how that has hurt New Yorkers, the working men and women of this state, and the economy of this state. We have also very consciously recognized the limited impact that the State of New York can make on those gasoline taxes, that being the tax aspect of that gas price.

So we have gone a long way this afternoon, by reaching agreement, to reduce that tax by one-third, then cap it, and then make it a flat tax as we go forward. That, I believe, is historic in the history of sales tax as it relates to gasoline and is important assistance to the taxpayers of this state.

Furthermore, the bill contains

several additional elements, one at the behest and advance and sponsorship of my colleague, Senator Padavan, authorizing the City of New York to provide relief to its residents by eliminating the -- or reducing the sales tax on residential heating fuels. This authorizes the city to do that. It would certainly provide much-needed relief to many New Yorkers and is a relief that is currently being enjoyed by numerous residents across the state in other counties.

The bill further goes on to create a personal income tax credit for the replacement of home heating systems that are Energy Star-compliant, the intent being to foster a use of energy efficiency, greater conservation, and thereby ensuring long-term benefits and implementing a long-term policy that blends reduction of taxes with renewables, with energy efficiency and conservation.

A fourth piece provides that consumers will receive personal income tax credits for the purchase of home heating fuel that contains biodiesel. It establishes a

formula by law that incentivizes the utilization of biodiesel; again, a long-term aspect of our energy policy.

And the last piece requires that the State Thruway Authority and NYSERDA develop a plan by the end of this calendar year to make alternative fuels, such as ethanol, available at Thruway service areas.

When you look back at what started in the fall of this year under the leadership of Senator Bruno, and a number of energy initiatives that were advanced at that time and adopted with bipartisan support in this house, they have now in many instances become law, either through actions of this house, through the budget, or actions today.

So we look forward to advancing this bill, making it law and completing the process that we began last fall.

Thank you, Mr. President.

ACTING PRESIDENT MORAHAN: Thank you, Senator Wright.

Senator Sabini.

SENATOR SABINI: Mr. President, I believe there's an amendment at the desk. I

ask that the reading be waived and I be allowed to be heard on the amendment.

ACTING PRESIDENT MORAHAN: Reading of the amendment is waived and, Senator Sabini, you may be heard on the amendment.

SENATOR SABINI: Thank you, Mr. President.

What we do today is a good first step in this bill. It's a step that we offered to take last fall. But it's really a Band-Aid approach to what is, as I hope we all recognize, a much larger problem.

And that is the problem of increasing prices of fossil fuel, lessening supply, the fact that it's a global economy, that we all are affected, our gas prices are affected by the fact that the nations of China and India, two major powers in the world, are at the point in their auto economy where the United States was 60 or 70 years ago and they're catching up at a quick rate.

So our discussion here shouldn't be just about short-term political gain. We understand that the public is appalled at the

price of gas. It's even higher in Europe, $6 a gallon in London. The reality is that we need to get a comprehensive plan afoot.

And while putting a cap on the tax on gasoline by the gallon is a good thing, and I intend to support it, I think we can do better. And we can establish, in effect, a Marshall Plan for energy independence within New York State by New York State. So I offer an amendment which is in the form of Senator Parker's legislation, the "State Workforce Fuel Reduction and Conservation Act."

Americans consume six times the world average in energy consumption per year. We're the third most populous state in this union, containing 15 percent of the population of our country. So New York is a big user of energy, and New Yorkers are big users of energy.

We can make choices every day and every minute of the day to make things better for everyone -- turning machines off when not in use, buying energy efficient appliances, consumption conservation measures that we can use, doing sustainable energy measures that we

can do. But most of all, what this bill can do is to offer the advice of "Physician, heal thyself": We can direct the State of New York, through this amendment, to get its own energy house in order.

New York's agencies and authorities annually consume 50 million gallons of diesel fuel and 55 million gallons of heating oil a year. Our state's workforce numbers 160,000. Because the average American uses 500 gallons of gasoline each year, driving about 12,000 miles on average, at $3 per gallon, that's $1500 a year in fuel cost per worker. That needs to go down.

We should address things like nonessential driving by state employees. We should lessen the state use of SUVs. These things could be done by executive order today if the Governor wanted to. And although there have been modest efforts by the administration to enact by executive orders some energy-efficient standards for state buildings and vehicles, there really hasn't been the leadership we need.

This legislation aims to do that.

Implementing a strategy of conservation and efficiency measures, backed by strong educational components, outlined in this amendment will be an effective strategy.

We have to curtail our dependence on foreign oil, making historic strides in improving our environmental quality and reducing our energy consumption. Here are some bullet-point things that this amendment will address.

It directs OGS to review the state's vehicular fleet as well as the use of that fleet to determine whether alternative-fuel vehicles can be used and whether trip reduction can be used to reduce gasoline consumption.

The amendment would direct OGS to develop and properly promote a comprehensive car pooling program. It would direct all the state agencies to perform fuel-efficient audits of their own transportation systems and fleets. It would authorize agencies to implement commuter-trip reduction programs that would encourage employees who drive alone to work to consider using alternative

commuting modes such as carpool, mass transit, biking or even walking. And it would authorize agencies and authorities to permit alternative work schedules, telecommuting or other ways to save gasoline consumption.

It would direct the DMV to develop programs to educate the driving public on conservation techniques and would direct on OGS to develop a plan to reimburse state employees for their mass transit costs.

The best way to work our way out of this energy crisis is through a concentrated effort by everyone -- individuals, state government, all of us. Let's make New York a leader on this issue and support a state conservation program that would be in addition to the pennies we're going to save people, which is good, but I think none of us really believe that that measure is going to actually help solve New York's gasoline crisis.

So I urge a yes vote on the amendment and thank Senator Parker for his work on this bill, and I urge my colleagues to consider the amendment seriously and vote yes.

Thank you.

ACTING PRESIDENT MORAHAN: On the amendment, those Senators in agreement please signify by raising your hands.

THE SECRETARY: Those recorded in agreement are Senators Andrews, Breslin, Connor, Coppola, Diaz, Dilan, Duane, Gonzalez, Klein, L. Krueger, C. Kruger, Montgomery, Onorato, Oppenheimer, Paterson, Sabini, Savino, Schneiderman, Serrano, A. Smith, Stachowski, Stavisky, and Valesky.

ACTING PRESIDENT MORAHAN: The amendment is not agreed to.

Senator Robach.

SENATOR ROBACH: Yes, Mr. President. I rise to support this bill.

And I want to really applaud Senator Wright, the Energy chairman, Senator Padavan, Senator Bruno for making a bill I think that focused exclusively on just capping the gas tax originally, expanding that and even making it better. Including some of these other components is going to definitely help the overburdened men and women, working men and women of this state, overburdened taxpayers here. And I think that's exactly

what they're asking for.

Passing the bill last year on capping the gas tax and taking that lead role, I know -- whether it's been online petitions, any press events that we've had -- when people have been interviewed, overwhelmingly the public in New York has said they want some relief. And while no one is opposed to long-range plans, we have to do what we can do today. And sometimes a Band-Aid is better than just letting it bleed.

And so I'm very, very happy that we're today, that this house, through aggressive action, driving this issue, trying to save people, whatever it be at the pump and other places of energy, we are going to be able to get agreement with the other side and really give them some degree, some relief, I think is very, very meaningful, very, very important.

Again, other organizations -- AAA has had petitions, and it has been overwhelmingly supported by people all across this state, young and old, urban, suburban, you name it. So I think this is a good day

not only for the policy of giving something back but, more importantly, that by us driving it in this house and the public speaking up, we now have agreement in both houses.

And I want to applaud all involved. You know, again, not to sound too elemental, I'd say this is a populist move. And there's nothing wrong with us being populist; that's who we serve, the people we represent. And I've heard loud and clearly, being the prime sponsor of that gas cap bill, even from people in other people's districts, how much they want that. Today we're getting it done.

And I proudly cast my vote in the affirmative and encourage others to do so as well.

ACTING PRESIDENT MORAHAN: Senator Robach will be recorded in the affirmative.

Senator Padavan.

SENATOR PADAVAN: Thank you, Mr. President.

First, let me thank Senator Wright for his leadership and all of those who were involved in the development of this

legislation and negotiations with the Assembly to bring it to a point of fruition that we're dealing with today.

First let me comment on some of the things we heard in the course of the amendment that was proposed.

I would remind the members of this house that this state and this Senate has taken the leadership, time and time again, as it relates to developing alternative means of generating power and energy: stimulation of wind energy, hydroenergy, all ways of developing alternative sources of fuel other than fossil fuel. Which, was pointed out, is our major problem, since it's an international issue.

But even in this bill we go even further. I draw your attention to those portions of it that deal with alternative fuel credits, technology credits, developing alternative and better means of creating energy.

Green building credit; buildings that grow grass and other types of plants on their roofs to not only keep away heat but

also to reduce the need for air-conditioning.

Qualifying emerging technology credits. Credit for qualified fuel cell, electric generating equipment, biofuel production, and clean heating fuel credits.

All of these things are in this bill. So we're going even a step further, perhaps many steps further in terms of dealing with the broader issue of conservation and developing alternative fuels.

But I also want to talk about one item that Senator Wright did mention, and that relates to home heating fuel. Thirty-seven counties in New York State followed suit, meaning did what we as a state did, in eliminating the sales tax on home heating fuel. Several others have reduced their local sales tax.

The one major taxer is the City of New York. And if you go back in time to the creation of the Emergency Financial Control Board and other restrictions that were placed on the city, the sales tax was committed to pay off bonds. Well, that is no longer necessary.

And if you look at your home heating fuel, those of us in the city and elsewhere, mine has doubled. I have oil in my home. It has doubled in recent years. And that sales tax that the city continues to apply was a windfall, is a windfall.

Now, what this bill allows the city to do is to follow suit with all the other counties throughout New York State and eliminate the local sales tax, which is a substantial savings to homeowners and co-op dwellers and others in the City of New York.

Now, those of us in the city have a chore ahead of us. This is an authorization. We now have to get after our respective city councilmen and -women, and the mayor, to implement it. And there's going to be some resistance to do that. It has been a windfall, and we know the city has a surplus as a result of that windfall.

Just think of the millions and millions of dollars collected in sales taxes beyond that which were collected a couple of years ago, specifically related to home heating fuel. That, I believe, is something

that should be returned to the homeowners and others who have been subjected to that tax. So we will have a job of convincing them to implement this authorization.

But this is the first step, and the most important one. So again, Mr. President, I congratulate those who were involved in putting this all together and bringing us to the point that we're now at. And I will be voting aye.

ACTING PRESIDENT MORAHAN: Thank you, Senator Padavan. You will be recorded in the affirmative.

Senator Marcellino.

SENATOR MARCELLINO: Thank you, Mr. President.

I too would like to thank my colleagues Senator Wright, Senator Robach, Senator Padavan, and Senator Bruno for his leadership in working out an arrangement with the other house so that we could be voting on this bill today, this very important bill today.

I also want to thank the many men and women throughout the state who sent emails

and letters and made phone calls to members of the other chamber and got them to come up with legislation after a year or so when this house had passed, at least two times, a bill that would have capped the tax on gasoline and provided much needed to relief to our hardworking and overburdened drivers in this state, a much-needed bill. A lot of promises were made, a lot of rhetoric was given out, but no action on the other side until just recently, after the pressure was applied by the public, who said enough, enough is enough.

Gasoline prices have risen, have literally doubled -- more than doubled -- since 2003. But for a few lucky winners of the lottery, I don't know anybody in my district whose income has doubled in that same time frame.

This is a most difficult product. It is not a stand-alone product. It's not like a head of cabbage, where you can make a choice -- the price of cabbage goes up, you make a decision whether or not to buy it.

Gasoline affects everything. I live on Long Island; many of you live upstate,

in rural areas. We need our cars. They're not a luxury for us, they're a necessity. We have no mass transit to speak of. We're not the city. We don't have subways and buses that we can rely upon. We need our vehicles to get to and from school, to and from work, get our children to soccer games and all kinds of situations.

This is the most important thing. The price of milk is dependent upon the price of gasoline, because it's trucked in. Everything we have is trucked in to us in one way or another. Even turning on the switch is dependent upon the price of oil to get electricity. And as Senator Padavan rightly pointed out, home heating oil in the future, future months to come, it will get cold again soon, and we've got to address that too.

This bill takes major steps toward doing just that. It deals with the present problems on gasoline. It deals with the present pressure on the driving public and the middle class that doesn't have a lot of discretionary money to play with. Their funds are being eaten up. The average driver is

said to spend at least $5,000 a year on just gasoline. That's a huge amount of money out of their income.

So we need to address that. We need to give them relief. But we also go to the future, as Senator Wright correctly pointed out. We're looking to incentivize alternative fuels -- biodiesel to heat our homes, ethanol on the Thruway, in the gas stations, to fuel our vehicles. We're looking to do many different things, including increasing conservation by providing a home heating oil tax credit so that anybody who changes their home heating system can get a tax credit for that too.

This is a good piece of legislation. It deserves our support. I call on now all of our county legislators throughout this state to come together and pass that tax on too. This is not like the clothing tax. This is significant. We should be passing that on to our driving public and our constituents.

I also call upon the Governor to sign this bill as soon as he gets it. That's

a most important thing. Our taxpayers, the driving public, absolutely requires it -- no, I take that back. They demand it.

Ladies and gentlemen, I vote aye. I urge everyone in the chamber to join me in that call.

Thank you very much, Mr. President.

ACTING PRESIDENT MORAHAN: Thank you, Senator Marcellino.

Senator Alesi.

SENATOR ALESI: Thank you, Mr. President.

First of all, I'd like to thank Senator Wright and Senator Robach and all others, and of course Senator Bruno for his leadership on this issue.

I'd like to speak, as my colleagues have, on the benefits to our consumers and our taxpayers who have been overburdened for far too long with taxes.

But I think that I'd also like to take this opportunity, as chairman of the Committee on Commerce and Economic Development and Small Business to point out that this is an absolutely crucial thing that this

Legislature can do for those small businesses and large businesses, in fact, that rely on transportation, that uses gasoline and pays sales tax on that gasoline.

Yes, it is a good thing for all of our consumers, for those people who have to drive to work, for those people that have to pick their children up at care centers and things of that nature. But for every business that has a vehicle on the road that uses gasoline that has to pay sales tax, this is a very good thing for the economy of New York State.

And in terms of the savings that those businesses will enjoy, they will then pass on savings because they're lowering their cost of doing business. So the consumers in this state are not only going to save money when they're purchasing gasoline, but hopefully they'll also save on goods and services that are purchasing from our businesses and small businesses in New York State.

And actually, that's the kind of thing that can improve the economy and drive

economic activity. And it sends a powerful message to business that you can continue to rely on this Legislature to do good things. As we have shown with our tax cuts and incentives for business all across New York State, we want to help business in this state, we want to help retain and create jobs.

And we have heard this time and time again: This is a tax cut? Yes, it is. And tax cuts work.

ACTING PRESIDENT MORAHAN: Thank you, Senator Alesi.

Senator Bonacic.

SENATOR BONACIC: Thank you, Mr. President.

I too stand to thank Senator Bruno, Senator Wright, and my other colleagues in their leadership in passing this reduction in the gas tax.

You know, many constituents reached in and they were upset at the fast escalation of the way the prices jumped at the pump. They couldn't understand. And they said: Do something about it. What can you do? And I would try to be honest with them. I'll say:

It's limited what we can do. But we will do something that was in our control.

And we did that by reducing the sales tax 4 cents per gallon. And if the county wants to follow our lead, they could double this benefit to our constituents who rely heavily on their car.

But if we're ever going to look for a solution to the energy crisis, it's much bigger than us here. And it involves participation by the federal government, it involves having the oil industry more accountable if price gouging is going on, at the distributor level, at the retail level. And those that take advantage of volatility in the price should be punished severely.

Conservation. We have to be more intelligent and change our habits. And that is going to take time. Because, let's face it, New Yorkers and Americans are in love with their cars.

So it requires so many different attacks to the problem. And alternate energy of course is part of the solution, whether it's wind turbines, whether it's hydro. And

you've heard all of the other technology that's out there.

But, and last but not least, I think the auto industry and the way they make the cars, we have to have hybrids that will increase the mileage per car.

But in conclusion, these are long-term solutions. And I compliment my colleagues on the other side of the aisle that have raised some of these issues.

So we're not fooling ourselves here. We know there is some benefit today because we're just trying to show we're trying to help. But there's still pain out there. The price per gallon is still high. And it's looking at all of these areas long-term. Hopefully we can have a real national energy policy and we can produce long-term savings to our consumers and our businesses.

Thank you very much, Mr. President. I vote aye.

ACTING PRESIDENT MORAHAN: Thank you, Senator Bonacic. You will be recorded in the affirmative.

Senator Connor.

SENATOR CONNOR: Thank you, Mr. President.

You know, I have this feeling that I am part of a Legislature and that we as a Legislature are standing in front of a stampeding herd of elephants and we have one little pea shooter among us to stop them.

Because while I'm voting for this, and what we're doing today is something, and I guess something is better than nothing, I really don't think we ought to be proclaiming that we've solved the energy crisis and American dependence on Middle Eastern oil. This is a little teeny, tiny drop in a bucket here.

And unfortunately, there's very, very little the state can do. Yes, we can save people a few pennies a gallon and watch in a few weeks when the oil companies raise those prices and they creep up and those pennies are chewed up. And we can certainly, as a state government, encourage some development of alternative energy sources. But our resources as a state are woefully inadequate to really get something real going

that will solve this problem.

The economics of this bill kind of mystifies me. We want to stop people from smoking cigarettes, and we raise the taxes. And now we're hoping people will conserve gasoline and so we and try and lower the price. That's a little mystifying to me.

The interesting thing for my colleagues from upstate, and particularly from the suburbs and the far suburbs, is those beautiful homes with a quarter-acre or a half-acre, green upon all around them, are incredibly energy inefficient.

And those big old cities that we so often have turned our backs over these past decades, and from which people have fled to supposedly better environments -- if you look at all the studies now, a city like New York City is the most energy-efficient part of this state. Where people live in multiple dwellings, it is cheaper to heat. Where people depend on mass transit, it is cheaper to move people.

And when people move out in the suburbs and have to drive to get a quart of

milk and are heating a single-family home that the wind attacks from all four sides, depending on which way it's blowing, it's much, much, incredibly more inefficient. The energy consumption for a million or two people in a suburban setting doesn't even equal -- the energy, I should say, taken to sustain a city of 8 million does not even equal the amount of energy consumed by a couple of million people in the suburbs.

So it ought to readjust the way we think about things, not just in this aspect, but in where we think is the best way for the future. The future belongs to our rebuilding, reborn cities. That future belongs there unless America can figure out a way to get awfully cheap energy out of corn or some other replenishable organic substance.

I will vote for this because it's something and I guess it's all we can do, but we haven't exactly taken -- nor can we, this is not a criticism -- a giant stride towards solving the problem. Because the powers of the state government compared to the powers that vest in that enormous federal government

headed by those two big former oilmen, and the resources at their disposal, are what has to be focused in the right direction.

And that hasn't happened, and it's not likely we suddenly woke up in the last year and said: Oh, my, we have a problem. We've had this problem, we've known about this problem for a couple of decades. And the United States' response has been woefully inadequate, at times, virtually imperialistic, and, frankly, a "we got ours and forget about the world."

And you look at Brazil, which a couple of decades ago we described as part of the Third World, and Brazil is energy-self-sufficient because they looked ahead a couple of decades and figured out how to convert virtually after all their consumption to ethanol, which is replenishable every year when the crops come in.

So I appreciate the sponsors of this and the effort that went into coming up with this bill. But let's not kid ourselves. It's all we can do, and it's woefully, pitifully little that we're doing.

Thank you.

ACTING PRESIDENT MORAHAN: Thank you, Senator Connor. You will be recorded in the affirmative.

Senator Schneiderman.

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

ACTING PRESIDENT MORAHAN: Senator Schneiderman, on the bill.

SENATOR SCHNEIDERMAN: I join my colleagues on both sides of the aisle in strongly supporting some provisions of this bill.

I certainly think that the tax credit provisions are examples of what we can be doing at the state level. Senator Sabini's amendment offered examples of how we can save hundreds of millions of dollars a year. There are other bills that have been introduced. There are things that have been done in other states. Senator Connor is correct; this is mostly a federal problem. But there is a lot we can do at the state level.

The creativity shown by other states with energy planning, portfolio

standards, requiring energy-efficient mortgages, these are all things that the State of New York could do. Unfortunately, in the last decade we have lagged many other states in terms of energy policy.

I would also particularly like to commend my colleagues on the other side of the aisle for one modification of this bill that took place after many of us on this side of the aisle voted against an earlier version, that there is an effort now to provide for some -- to ensure that the savings from this legislation get passed through to the consumer.

But before we dislocate our shoulders patting ourselves on the back, I would urge that there is much more work to do on that front. There's not really a good mechanism in place to ensure that the consumers receive the benefits of this. I note that in the Times Union on May 12 there was a statement from someone, a spokesperson for the oil industry, that they doubted that the consumers would see any of it.

So let's make sure that if we're

going to try and pass something that is questionable as a matter of energy policy in an effort to help relieve consumers from the crushing burdens of higher fuel costs, that that money actually gets to the consumers, it is not a windfall for the oil companies. I note that in the Assembly they're looking at legislation to prevent that from happening.

We do have more work to do. There is a lot more we can do as a state. This is a step. I'm going to vote in support of this. But if we do not ensure that there is enforcement, as my colleagues on this side of the aisle have said repeatedly and have demonstrated their strong feelings about with their votes, it doesn't amount to anything.

So let's make sure this gets to the consumers. I will vote yes. I'm pleased that there is an effort to do that in this draft of the legislation. And I think this is something -- in spite of Senator Marcellino's exhortations, I think we may see this bill again if the Governor follows through on some of his earlier statements. And it may be that there are more things we can do to ensure that

consumers get the benefits at that point in time.

I will be voting yes, Mr. President. Thank you.

ACTING PRESIDENT MORAHAN: Thank you, Senator Schneiderman. You will be recorded in the affirmative.

Senator Volker.

SENATOR VOLKER: Mr. President, I thought we were kind of explaining our votes.

Let me just say very quickly that it's always fascinating to me that -- when I hear that the City of New York is efficient. The only reason that New York City is not in an absolute electric crisis is because of 9/11.

It's unbelievable the misunderstanding of New York City. We just don't have enough power to send down to you. Because New York City uses a tremendous amount of upstate power. When the new World Trade Center comes back up and the 10 percent that went down with it -- which is unbelievable, by the way -- New York City is going to have a crisis of epic proportions.

You can talk all you want about oil companies, but the fact that we have not allowed any new refineries in this country -- and your party has been very, very strong on that issue. You can't locate anything around New York City. It's refineries that are the problem. If we still had refineries in this country, we'd have low prices. But there's no sense in talking about it. What's done is done.

I just want to say one thing to you. When you repeal a sales tax, when you cap it, the benefit has got to go to the people. There's no way around it. I don't know how some oil person -- because a lot of the oil people don't even know how this stuff works.

I figure this will save my family -- I was trying to figure what it would save my family. And remember, we're upstaters. We're not in New York City, where you can take rapid transit and all that sort of stuff. We have to drive. You'll save between $200 and $300, is what I figure. We're not maximum drive -- if I was driving a

lot, it would be more. And I figured it out based on every fill-up of a gas tank.

So you say, Well, you might not save it. You've got to save it. Once you cap it, it's saved. There's no other way around it. That's the way it is. I mean, they can't get around it. The theory because it's confusing you can get around it is baloney.

And that's why New York City doesn't want to chip in, and that's why my county is not chipping in. Because my county -- who, by the way, is making money hand over fist, not only from gasoline, but from the Sabres winning in Buffalo. And it's a huge downtown cost. I'm told that the deficit has shrunk in Erie County by something in the area of $12 million to $15 million because of what's been happening, the activity in downtown Buffalo and in the County of Erie.

People have no idea what sports does when you sell everything and when you've got the hotels and motels filled up and all that. That's what the New York City wanted with the Olympics, and I understand that. It's huge.

But the bottom line is that we stood for a long time trying to get the Assembly to do something. I said, Well, why don't we suspend the whole sales tax until the end of the year? Well, the reason we don't do that is because the Governor would never go for that. And that probably would be such a huge amount of money, that could be a problem.

But by capping it at 2 bucks, it probably is going to cost the state in this fiscal year probably in the area of $300 million to $350 million. Which is a lot of money, but it's worth it given the times that we're in.

And by the fall, the prices will be below $2.50, which is fine. Remember, it will still be in effect, this $2. And if it goes below $2, it trips out. So you're at $2 and that's it. So there's no way you can lose; that is, the consumers. The people that say it can lose are probably federal people who don't know exactly what to do. Although they have done the right thing, and that is they got rid of the oxygenation, which ultimately will have some impact on the whole thing.

But I remind everybody, those four refineries in New Orleans, Louisiana, are still down. Two of them may never come back up again. Two of them are going to come back shortly. That's what tripped this whole crisis off.

Of course, there's one other thing. When the American oil companies controlled the marked, we had low prices. But thanks to environmentalism and the Clean Air Act and all the rest of the stuff, we lost control of the oil market. It's now run by people outside of this country. We can talk all we want about alternative fuels and all that. It's not the supply of oil. The problem is the distribution. It always has been, and it will be for about 30 to 40 years. It will be more the distribution than anything else.

But, you know, it's hard to deal with that because no one really wants to deal with it. Senator Wright is even more familiar with it than I am. But on the other hand, in this country we forget -- for instance, this state, by the way, has done more to clean up our air than any state in the union ever has.

The only reason we don't have the cleanest industrial state in the union is because of New Jersey. New Jersey's pollution drifts across New York City, Queens, and across that. Otherwise, we'd have the cleanest air in the darn country.

Buffalo, in Western New York, has the cleanest air of any new or old industrial city in the country. Never speaks of this, by the way, by the people in Western New York, but it's very clean.

The bottom line is this is going to save money. Senator Wright, good job; Senator Bruno, the members of our conference. Thank you for helping us, Senator Schneiderman and your people. We always appreciate the help.

ACTING PRESIDENT MORAHAN: Thank you, Senator Volker.

Senator Montgomery.

SENATOR MONTGOMERY: Yes, Mr. President. Thank you.

I want to rise and also thank Senator Wright, who has worked very hard on giving us at least a beginning of a way of addressing the energy crisis, especially the

gasoline-price crisis.

But I must say that the part that I'm very excited about that I think is incomplete, however, is the last part, I think it's Part E in the legislation, in that, where we refer to the role of NYSERDA, the New York State Energy Research and Development Authority.

NYSERDA has been extremely critical to having -- giving us an opportunity to explore some meaningful alternatives as it relates to conservation and energy use. And I think that we need to look at what they have been doing and to put some of that in force.

I.e., I think we need to look at the possibility of requiring that builders and developers plan for green construction in new construction. That is not being discussed, to my knowledge, or required of developers, certainly in New York City. I know that NYSERDA has been involved, certainly in New York City in particular, and around the state, in looking at helping buildings, existing housing developments retrofit so that they are able to utilize other sources for

their energy; i.e., fuel cell production as well as cogeneration and other energy sources, alternatives.

I think that it makes sense now for us to go back to NYSERDA and work with them to see that we can in fact implement on a broader scale some of those advances that they've already begun to make.

I wish that this legislation included incentives for people. I know that there is some -- I've had discussions with colleagues who say we don't need to provide incentives because people are already buying fuel-efficient cars.

But, Mr. President, when I look at our own parking lot downstairs, I see quite a number of gas-guzzlers. And I think that we need to go on a campaign to ask people to quit the gas-guzzlers.

At least we're making a statement that we think this is a very serious issue, not just for now, not just for addressing this emergency, but for looking long-term. We must, I think, become more energy independent, and one way of doing that is to change the way

that we look at how we ride around and what kinds of cars we purchase.

And lastly, Mr. President, Section E, for me, we need at least a Section F which talks a lot more about a heavy investment in the production end as it relates to alternative fuels. We have a huge agricultural potential in terms of the agriculture in our own state, making that very much a part of this energy-independent movement, and including them in our programs and our plans so that as we look to develop alternative sources of energy, we're looking at building an economy within our own state which is an early-on participant and beneficiary of this program.

So there are some missing pieces. I certainly am going to support this legislation, because I think it certainly is a beginning. But I think that I've heard many times Senator Marcellino refer to some of these issues. I hope that the majorities in both houses, the minorities in both houses -- all of us have ideas. I think we all have experiences of one sort of another, to one

degree or other with this program, with this -- with the need for us to address this issue comprehensively so that all of the constituents in the state, no matter where -- agricultural, rural, the suburbs, the cities -- that we're all able to come together and devise a plan that speaks to energy in our state.

So with that, Mr. President, I again thank Senator Wright. And I'm looking at Senator Marcellino, because I'm expecting him to come forward with some of his bills that he's promised that he is going to be working on. And hopefully we can have discussions together on what those might be.

Thank you very much.

ACTING PRESIDENT MORAHAN: Thank you, Senator Montgomery.

Senator Oppenheimer.

SENATOR OPPENHEIMER: Thank you.

I was just jogged out of my sort of somnambulant state here by a couple of things I've been listening to, and I'd like to talk very briefly about them.

The Regional Plan Association has

been pursuing what Senator Connor was just talking about for at least three decades now. And that is to make us aware that we don't have to get into our car if we look at things a little bit differently. And that is the rebuilding of center cities.

Now, this is in part determined by the need for residential dwellings close in to more vibrant cities. And so in Westchester County I am very pleased to say we are leading this movement, probably nationwide. We are in the process of just a very dynamic rebuilding of our cities.

White Plains, a very large city, New Rochelle, a large city, were in terrible decline. We have, over the last decade, attracted developers, and there are very large apartment houses, 30 stories high -- maybe that's overkill. But it is certainly a sign that we are turning around the economies of these inner cities that were in really bad shape about twenty years ago.

If that happens, that means that there will be less need to drive a car, because these cities are located on rail

lines. And the rail lines go into New York City; there are buses that fan out to all the other parts of the county.

This is really an emphasis that we have to really pursue, because we have to do less driving. It's not a question of cost. Believe me, the costs in America are much less than the costs in most other countries in the world.

So it's a question of we have to think of what the air quality is, we have to think of what we're doing to the earth, we have to think of what we're doing to the water. There's so many aspects to this. We have to learn to drive less.

Now, I agree if it's in some upstate area that is rural, that's another problem. But in your cities, I think you have your infrastructure in place. You don't have to attack and put residential areas in green spaces that we hope to remain open. And if we concentrate in the downtown areas, that's where your sewers are, that's where your water is, your fresh water, that's where your transportation is. And we have to really take

a look back at what the Regional Plan Association has been talking about for thirty years now. I just thought I'd enter that in the record.

I'm voting yes.

ACTING PRESIDENT MORAHAN: Thank you, Senator Oppenheimer. You will be recorded in the affirmative.

Senator Wright, to close.

SENATOR WRIGHT: Thank you very much, Mr. President. And I appreciate the observations of all of my colleagues this afternoon.

But I would point out that it's the taxpayers of this state that understand what we're doing today. And that is we're reducing their taxes. From what we can find in researching, we're reducing the sales tax on gasoline for the first time in the history of this state. That is something that we should all be proud of.

Yes, it has a positive impact on the cost of gasoline. Yes, that has a positive impact on the energy situation for working men and women who every day have to

pay the cost to drive to work, to drive to school, to drive for healthcare, to visit their family and friends, et cetera.

Regardless of whether you're in a rural portion of the state or a metropolitan area of the state, it will benefit you. Regardless of whether you're an individual or a small business, it will benefit you. It's all about making sure there is not a windfall tax achieved, be it at the state level -- we will be returning some $450 million to the taxpayers.

And with the efforts of local government -- and I would encourage each and every one of you to encourage your local governments to do likewise. If they adopt it, it doubles the impact in terms of the tax benefit to the consumer.

And we have thought about the consumer. Now, we've talked about making sure that competition will keep them honest. But we've also built in an enforcement piece, an enforcement piece using the Office of Consumer Affairs, using Taxation & Finance. And they have measures available to them -- the

Wholesale Pricing Index, they have access to provider and wholesaler's records. So there are means of enforcing this.

Our job was to provide a rather stiff penalty, $5,000 per incident per day. I believe that will go a long way to ensuring that 1 percent that may abuse the system is penalized. Most of the small businesses, men and women in small business in this industry are just as concerned about the price as we are.

So I think we've addressed the concerns that have been raised. As to some of the other concerns that have been advanced, to his credit the Governor has, in fact, moved ahead on alternative fuels. He has moved ahead on alternative vehicles. The Office of OGS is in the process of implementing a plan of CNG and stations to provide CNG at state facilities throughout this state, doing it on a statewide basis.

So I think the administration has been moving forward. I know that in working in partnership with them, we can continue to achieve advancements.

And while we're talking about sales tax today, and we're talking about other provisions of tax benefit, it's not just today. If you look at what has been accomplished in this legislative session, there's biofuel production tax credit, long term; cellulosic biofuel facilities investment, long term; clean fuel vehicle tax exemptions, long term. Sales tax exemptions for solar, long term. Fuel tax credits, long term. And appliance and equipment energy efficiency standards -- first in the nation -- long term.

The State of New York has a long history of addressing the energy concerns of its people, its taxpayers, its ratepayers. Today is but one more step to move forward to reduce the cost of living and working in New York State and at the same time setting an example for the nation of how energy policy should be addressed.

Mr. President, I thank my colleagues and I encourage their affirmative votes.

ACTING PRESIDENT MORAHAN: Thank

you, Senator Wright.

Debate is closed.

The Secretary will read a substitution.

THE SECRETARY: In relation to Calendar Number 1016, Senator Wright moves to discharge, from the Committee on Rules, Assembly Bill Number 11331 and substitute it for the identical Senate Bill Number 7909, Third Reading Calendar 1016.

ACTING PRESIDENT MORAHAN: Substitution is ordered.

The Secretary will ring the bell.

Read the last section.

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

ACTING PRESIDENT MORAHAN: Senator Saland, to explain his vote.

SENATOR SALAND: Thank you, Mr. President. I rise to commend Senator Wright.

I've been listening to the debate, and I think everybody agrees that this is not advanced as some panacea that's miraculously going to cure all the ills of everything

that's transpired to date, driving the gas costs to where they are currently. Certainly supply and demand, what's going on in the Middle East, and a host of other things that are involved are things well beyond our control. There has been some certainly comprehensive investigation and comprehensive action that more appropriately would occur on a national level.

Yet this is what we can do in the State of New York. This is giving a break to already overburdened taxpayers. This is doing our best to reduce the price at the pump as well as provide other means of alternatively dealing with fuels and fuel sources.

So again, my commendations to Senator Wright. And certainly I would support this measure and think we have managed to accomplish an agreement here which, after a great number of months in which the Senate was at the point, we have come to closure.

Thank you.

ACTING PRESIDENT MORAHAN: The Secretary will call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MORAHAN:

Senator Balboni, to explain his vote.

SENATOR BALBONI: Mr. President, this issue, if anyone takes a look at the media, you'll see a very healthy dose of skepticism. In addition to which, in this chamber itself, there are many concerns raised that in fact this is an imperfect solution.

But what must be kept in mind is that this is not only what New York State is doing for its state residents, but this is also part of a national effort. The National Conference of State Legislators has a report out that indicates that over half of the states in the nation are currently doing something to reduce taxes on gasoline.

And so we play an important role, not just in terms of what we're doing here specifically, but rather nationally to continue to put great pressure on the federal government to understand that they need to do something as it relates to taxes also.

And you know what, ladies and gentlemen, keep this in mind. With a $4 billion surplus, why not do this now.

I vote aye. Thank you.

ACTING PRESIDENT MORAHAN: Thank you, Senator Balboni.

Senator Nozzolio, to explain his vote.

SENATOR NOZZOLIO: Thank you, Mr. President.

Mr. President and my colleagues, this is an excellent step in the right direction. It is providing leadership and results for our already overburdened taxpayers, and I congratulate this house for accepting this measure.

Skyrocketing gasoline prices whether you drive to work, go to daycare, go to the grocery store, it's a way of life upstate, and upstate is hit hardest by the spike in gasoline prices and the spike in taxes as a result.

We've taken good steps here with this legislation. My colleagues are so right that a rational national energy policy needs to be established, it needs to be established in a variety of ways that ensures a broader supply, ensures alternative fuels, ensures

alternative vehicles, all of which we in New York are poised to establish posthaste.

But right now, immediately, this puts money in the pockets of our taxpayers who deserve it, and particularly those who need to drive so far to meet their everyday necessities. Results, results for our taxpayers.

I vote aye, Mr. President. It's an excellent measure, a step in the right direction.

ACTING PRESIDENT MORAHAN: Thank you, Senator Nozzolio. You will be recorded in the affirmative.

Senator DeFrancisco.

SENATOR DeFRANCISCO: I also vote aye.

And you know, I just want to address one part of the bill. I know there's many parts that are going to provide relief to taxpayers. I want to talk about the gasoline tax and one aspect of it that hasn't really been addressed yet.

When we first passed our bill in December, in order to cap the sales tax on

gasoline at sales prices of $2 a gallon, there was a very important point: not only to provide relief for the taxpayers, but to eliminate a windfall that the state was receiving.

We could talk about whether or not this is going to be a major impact on the cost of gasoline. It probably isn't. But what's happened is when the gasoline prices are going out of whack, beyond our control for the large part, the state is gaining a windfall and adding to the burden of the taxpayer as the price of gasoline goes up.

And since December, while we've been waiting for the Assembly to come along, there's been tens of millions of dollars that the state has collected from taxpayers that made their burden even greater on the price they pay for gasoline.

So this bill ends the windfall and allows the taxpayers to keep their dollars, instead of paying more taxes because the price is going up -- and it still may continue to go up -- to end that windfall. And to not end it would have been unconscionable.

I vote aye.

ACTING PRESIDENT MORAHAN: Thank you, Senator DeFrancisco. You will be recorded in the affirmative.

Senator Seward.

SENATOR SEWARD: Thank you, Mr. President. I rise to add my voice and my vote in favor of this very important legislation.

It's been said that we in New York cannot control gas prices. Obviously we cannot control the weather or the hurricanes that hit us last year. We can't control international oil consumption or oil production, for that matter. Many, many aspects of this issue beyond the reach of New York State.

However, there are some things we can control in New York, and the level of taxation and the way that we tax a gallon of gasoline is one such way that we can have some control over. And this legislation, by capping that tax, is real relief for overburdened taxpayers of this state.

Now, some have said it's only

pennies a gallon. But you know what? Those pennies add up. This bill will provide close to $400 million of relief for the motoring public in this state. That's real dollars, and that's certainly going to be helpful.

I was at a gas station a week or so ago, and a gentleman came up to me and said: "You know, Senator, I am not able to meet my mortgage payment this month because of these high gas taxes."

So this is an issue that hits New Yorkers in very practical ways. It hits that family budget. Because as the price of gas goes up, that money has to come from somewhere in a family's budget.

So I agree with my colleagues who said the State of New York should not be enjoying a financial windfall because of the high gas prices which have also increased the taxes. So this legislation deals with that.

I'm also very pleased that we're taking a balanced approach under this bill, promoting conservation through a tax credit for the replacement of home heating systems which are more efficient. Also promoting

alternative fuels and the distribution system for those fuels.

This is a well-balanced approach that helps everyday New Yorkers with an everyday problem that they face.

Mr. President, I vote aye.

ACTING PRESIDENT MORAHAN: Thank you, Senator Seward. You will be recorded in the affirmative.

Senator Leibell, to explain his vote.

SENATOR LEIBELL: Thank you, Mr. President. I'd like to also rise in support of this legislation.

I think we have all heard from the constituency, we have heard from the consumers of New York State at their outrage of the price of gasoline. This has especially impacted on those of us who represent districts that are more suburban and rural.

This legislation is certainly not a complete solution, but it does offer some degree of price and tax relief to our constituents. It gives us also an opportunity to examine this problem in greater depth.

This is a problem that has international implications, and it certainly is a problem that we are not going to see in our lifetimes get any better.

This legislation leads us, though, to a point in time where we can now aggressively consider alternative forms of energy. We should start to do that in New York State. We should start to do it more aggressively. I realize we can't establish a national energy policy. But if we were a separate economy in New York State, if we were going to be compared to other nations, we would be one of the largest economies in the world. That means that we can do certain things.

We in state government, also in municipal government, should lead the way. We should make sure that our energy sources, our vehicles, our buildings are heated by alternative sources.

So this is a good piece of legislation, but it only begins the debate.

Thank you, Mr. President.

ACTING PRESIDENT MORAHAN: Thank

you, Senator Leibell. You will be recorded in the affirmative.

Announce the results.

THE SECRETARY: Ayes, 58.

ACTING PRESIDENT MORAHAN: The bill is passed.

Senator Fuschillo.

SENATOR FUSCHILLO: Mr. President, is there any other business at the desk?

ACTING PRESIDENT MORAHAN: Yes, we have a motion.

SENATOR FUSCHILLO: Please recognize Senator Flanagan.

ACTING PRESIDENT MORAHAN: Senator Flanagan.

SENATOR FLANAGAN: Thank you, Mr. President.

On behalf of Mr. President, could we call up Print Number 3091A.

ACTING PRESIDENT MORAHAN: The Secretary will read.

THE SECRETARY: Calendar Number 698, by Senator Morahan, Senate Print 3091A, an act to amend the Banking Law.

SENATOR FLANAGAN: Mr. President, I ask that we move to reconsider the vote by which the bill was passed.

ACTING PRESIDENT MORAHAN: Call the roll on reconsideration.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58.

SENATOR FLANAGAN: Mr. President, I now offer the following amendments.

ACTING PRESIDENT MORAHAN: The amendments are received.

SENATOR FLANAGAN: Thank you.

ACTING PRESIDENT MORAHAN: Senator Fuschillo.

SENATOR FUSCHILLO: Mr. President, is there any other business at the desk?

ACTING PRESIDENT MORAHAN: There is no other business at the desk, Senator.

SENATOR FUSCHILLO: There being no further business, I move we adjourn until Tuesday, May 16th, at 3:00 p.m.

ACTING PRESIDENT MORAHAN: On motion, the Senate stands adjourned until Tuesday, May 16th, at 3:00 p.m.

(Whereupon, at 4:42 p.m., the Senate adjourned.)