NEW YORK STATE SENATE

THE STENOGRAPHIC RECORD

ALBANY, NEW YORK

June 17, 2010

11:32 a.m.

REGULAR SESSION

SENATOR DAVID J. VALESKY, Acting President

ANGELO J. APONTE, Secretary

P R O C E E D I N G S

ACTING PRESIDENT VALESKY: The Senate will please come to order.

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

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

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

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

ACTING PRESIDENT VALESKY: The reading of the Journal.

The Secretary will read.

THE SECRETARY: In Senate, Wednesday, June 16, the Senate met pursuant to adjournment. The Journal of Tuesday, June 15, was read and approved. On motion, Senate adjourned.

ACTING PRESIDENT VALESKY: 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 Klein.

SENATOR KLEIN: Mr. President, on behalf of Senator Breslin, on page number 31 I offer the following amendments to Calendar Number 749, Senate Print Number 4869A, and ask that said bill retain its place on Third Reading Calendar.

ACTING PRESIDENT VALESKY: So ordered.

Senator Klein.

SENATOR KLEIN: Mr. President, I believe there are substitutions at the desk. I ask that we make the substitutions at this time.

ACTING PRESIDENT VALESKY: The Secretary will read the substitutions.

THE SECRETARY: On page 5, Senator Breslin moves to discharge, from the

Committee on Rules, Assembly Bill Number 10038A and substitute it for the identical Senate Bill Number 4767B, Third Reading Calendar 37.

On page 8, Senator Valesky moves to discharge, from the Committee on Rules, Assembly Bill Number 8300A and substitute it for the identical Senate Bill Number 5722A, Third Reading Calendar 169.

On page 15, Senator LaValle moves to discharge, from the Committee on Rules, Assembly Bill Number 4422 and substitute it for the identical Senate Bill Number 1656, Third Reading Calendar 353.

On page 15, Senator Parker moves to discharge, from the Committee on Rules, Assembly Bill Number 9186B and substitute it for the identical Senate Bill Number 6079B, Third Reading Calendar 379.

On page 19, Senator Morahan moves to discharge, from the Committee on Rules, Assembly Bill Number 10791 and substitute it for the identical Senate Bill Number 7253, Third Reading Calendar 470.

On page 40, Senator Duane moves to

discharge, from the Committee on Rules, Assembly Bill Number 11343 and substitute it for the identical Senate Bill Number 7826, Third Reading Calendar 879.

And on page 46, Senator Huntley moves to discharge, from the Committee on Rules, Assembly Bill Number 11351 and substitute it for the identical Senate Bill Number 8060, Third Reading Calendar 936.

ACTING PRESIDENT VALESKY: Substitutions ordered.

Senator Klein.

SENATOR KLEIN: Mr. President, can you please recognize Senator Padavan for a floor motion.

ACTING PRESIDENT VALESKY: Senator Padavan.

SENATOR PADAVAN: Mr. President, I wish to call up my bill, Print Number 4893, recalled from the Assembly, which is now at the desk.

ACTING PRESIDENT VALESKY: The Secretary will read.

THE SECRETARY: Calendar Number 77, by Senator Nozzolio, Senate Print 4893, an

act to amend the Executive Law.

ACTING PRESIDENT VALESKY: Senator Padavan.

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

ACTING PRESIDENT VALESKY: The Secretary will call the roll on reconsideration.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT VALESKY: Senator Padavan.

SENATOR PADAVAN: I believe we're restoring this bill on the Third Reading Calendar, am I not?

ACTING PRESIDENT VALESKY: So ordered.

Senator Klein.

SENATOR KLEIN: Mr. President, can you please recognize Senator Little. She has an important announcement to make.

ACTING PRESIDENT VALESKY: Senator Little.

SENATOR LITTLE: Thank you,

Mr. President.

I have the sad responsibility today of asking for a moment of silence and asking my colleagues to join me in that, on the loss of a life by a young Army fellow from my district.

Benjamin Osborn, age 27, who's a graduate of Lake George High School, was killed in a combat mission on Tuesday in Afghanistan. Ben had served three years in the Army. This was his second tour of duty. He spent 15 months in Iraq. He had been in Afghanistan since April.

He leaves behind his mother and father, Beverly and Bill Osborn of Lake George his sister and three brothers, and his new wife, who he had just married in February of this past year, Nicole LaPier of South Glens Falls.

Ben is a real hero. He was in a combat mission; there were about 20 of them. They were being assaulted by a larger Taliban group. His command leader said "I need a gunner," and Ben Osborn stepped forward to be that gunner. And he lost his life.

I spoke with his mother, Beverly, this morning, and they are leaving at noon to go to Dover Air Base, where they will receive his remains sometime during the night.

But I'd just like to ask all of you to take a moment and offer a prayer and a moment of silence for this family, who are heartbroken by the loss of their son, but are truly proud about his service.

And we are very fortunate, all of us, as we know, to have young men and women who are willing to serve on a volunteer basis, to serve in harm's way and to be the person who steps forward and says "I'll do that," even though they know that the outcome could be the loss of their life, as it was for Benjamin Osborn.

Thank you. And if you would stand and join me for a moment of silence and remember this family in your prayers today.

ACTING PRESIDENT VALESKY: If all Senators, staff and visitors would please rise to observe a moment of silence in memory of Benjamin Osborn.

(Whereupon, the assemblage

respected a moment of silence.)

Senator Klein.

SENATOR KLEIN: Mr. President, there will be an immediate meeting of the Veterans, Homeland Security and Military Affairs Committee, followed by an immediate meeting of the Crime Victims and Corrections Committee in the Majority Conference Room.

Pending the return of the Crime Victims and Corrections Committee, may we please stand at ease.

ACTING PRESIDENT VALESKY: There will be an immediate meeting of the Veterans, Homeland Security and Military Affairs Committee, followed by a meeting of the Crime Victims, Crime and Corrections Committee in the Majority Conference Room.

Pending the return of the Crime Victims, Crime and Corrections Committee, the Senate will stand at ease.

(Whereupon, the Senate stood at ease at 11:39 a.m.)

(Whereupon, the Senate reconvened at 1:24 p.m.)

ACTING PRESIDENT VALESKY: The

Senate will come to order.

Senator Klein.

SENATOR KLEIN: Mr. President, at this time can we please go to a reading of the calendar.

ACTING PRESIDENT VALESKY: The Secretary will proceed with the reading of the noncontroversial calendar.

THE SECRETARY: Calendar Number 28, by Senator Perkins, Senate Print 1145C, an act to amend --

SENATOR LIBOUS: Lay it aside.

ACTING PRESIDENT VALESKY: The bill is laid aside.

THE SECRETARY: Calendar Number 329, by Senator Huntley, Senate Print 3119C, an act to amend the Vehicle and Traffic Law.

ACTING PRESIDENT VALESKY: Read the last section.

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

ACTING PRESIDENT VALESKY: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT VALESKY: The bill is passed.

THE SECRETARY: Calendar Number 459, by Senator Dilan, Senate Print 5711B, an act to amend the Highway Law.

ACTING PRESIDENT VALESKY: Read the last section.

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

ACTING PRESIDENT VALESKY: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT VALESKY: The Secretary will announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 459 are Senators LaValle, Ranzenhofer and Skelos.

Ayes, 58. Nays, 3.

ACTING PRESIDENT VALESKY: The bill is passed.

THE SECRETARY: Calendar Number 540, by Senator Valesky, Senate Print 7198B, an act to amend the Highway Law.

ACTING PRESIDENT VALESKY: Read

the last section.

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

ACTING PRESIDENT VALESKY: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT VALESKY: The bill is passed.

THE SECRETARY: Calendar Number 693, by Member of the Assembly McEneny, Assembly Print Number 9944, an act to amend the Public Health Law.

ACTING PRESIDENT VALESKY: Read the last section.

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

ACTING PRESIDENT VALESKY: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT VALESKY: The bill is passed.

THE SECRETARY: Calendar Number 712, by Member of the Assembly Weinstein,

Assembly Print Number 6922, an act to amend the Civil Practice Law and Rules.

ACTING PRESIDENT VALESKY: Read the last section.

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

ACTING PRESIDENT VALESKY: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT VALESKY: Announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 712 are Senators Bonacic, DeFrancisco, Farley, Golden, Griffo, O. Johnson, Lanza, LaValle, Skelos and Winner. Also Senator Nozzolio. Also Senator Little. Also Senator Saland.

Ayes, 48. Nays, 13.

ACTING PRESIDENT VALESKY: The bill is passed.

THE SECRETARY: Calendar Number 716, by Senator Aubertine, Senate Print 7099, an act to amend the Agriculture and Markets Law.

ACTING PRESIDENT VALESKY: Read

the last section.

THE SECRETARY: Section 4. This act shall take effect on the 120th day.

ACTING PRESIDENT VALESKY: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT VALESKY: The bill is passed.

THE SECRETARY: Calendar Number 720, by Senator Dilan, Senate Print 7439, an act to amend the Vehicle and Traffic Law.

ACTING PRESIDENT VALESKY: Read the last section.

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

ACTING PRESIDENT VALESKY: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT VALESKY: The bill is passed.

THE SECRETARY: Calendar Number 738, by Member of the Assembly Galef, Assembly Print Number 10869, an act to amend the Real

Property Tax Law.

ACTING PRESIDENT VALESKY: Read the last section.

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

ACTING PRESIDENT VALESKY: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT VALESKY: The bill is passed.

THE SECRETARY: Calendar Number 742, by Senator Adams, Senate Print 5767, an act to amend the Military Law.

ACTING PRESIDENT VALESKY: Read the last section.

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

ACTING PRESIDENT VALESKY: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT VALESKY: The bill is passed.

THE SECRETARY: Calendar Number

745, by Senator Hassell-Thompson, Senate Print 7864, an act to amend the Correction Law.

ACTING PRESIDENT VALESKY: Read the last section.

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

ACTING PRESIDENT VALESKY: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT VALESKY: Senator Robach, to explain his vote.

SENATOR ROBACH: Yes, Mr. President, just very briefly, to explain my vote.

This bill gives inmates more time off for participating in programs that they already participate in, but then would allow them to get out earlier. I would have no problem if this bill was only for nonviolent felons, but this is for anyone incarcerated. I hear all across my district strong concerns with people that are already getting out, in the public's opinion, too early who have committed murders, violent offenses.

I just went through a petition

drive for an individual in my community, Walt Casper, let out at the earliest time possible, who very meticulously planned out and murdered his wife, the mother of his own children, only -- shockingly -- to get out very, very early in the process.

I think this bill would be much better and do the job if it only affected nonviolent felons rather than everyone in the criminal justice spectrum, especially those who have already preyed, maimed and murdered people in our community. So for that reason I'll be voting in the negative.

ACTING PRESIDENT VALESKY: Senator Robach to be recorded in the negative.

Announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 745 are Senators Bonacic, DeFrancisco, Flanagan, Fuschillo, Golden, Griffo, Hannon, O. Johnson, Lanza, Larkin, LaValle, Libous, Little, Marcellino, Maziarz, McDonald, Nozzolio, Ranzenhofer, Robach, Saland, Skelos, Winner, Young. Also Senators Alesi, Farley and Padavan.

Ayes, 35. Nays, 26.

ACTING PRESIDENT VALESKY: The bill is passed.

THE SECRETARY: Calendar Number 748, by Member of the Assembly Pheffer, Assembly Print Number 4916, an act to amend the Insurance Law.

ACTING PRESIDENT VALESKY: Read the last section.

THE SECRETARY: Section 3. This act shall take effect on the 90th day.

ACTING PRESIDENT VALESKY: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT VALESKY: The bill is passed.

THE SECRETARY: Calendar Number 778, by Senator Thompson, Senate Print 4949A, an act to amend the Environmental Conservation Law.

ACTING PRESIDENT VALESKY: Read the last section.

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

ACTING PRESIDENT VALESKY: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT VALESKY: The bill is passed.

THE SECRETARY: Calendar Number 781, by Senator Klein, Senate Print 5508A, an act to amend the Alcoholic Beverage Control Law.

ACTING PRESIDENT VALESKY: Read the last section.

THE SECRETARY: Section 6. This act shall take effect on the 180th day.

ACTING PRESIDENT VALESKY: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT VALESKY: The bill is passed.

THE SECRETARY: Calendar Number 789, by Senator Stachowski, Senate Print 6970, an act to amend the Alcoholic Beverage Control Law.

ACTING PRESIDENT VALESKY: Read

the last section.

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

ACTING PRESIDENT VALESKY: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT VALESKY: The bill is passed.

THE SECRETARY: Calendar Number 792, by Member of the Assembly Reilly, Assembly Print Number 10772, an act to amend the Public Officers Law.

ACTING PRESIDENT VALESKY: Read the last section.

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

ACTING PRESIDENT VALESKY: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60. Nays, 1. Senator Golden recorded in the negative.

ACTING PRESIDENT VALESKY: The bill is passed.

THE SECRETARY: Calendar Number

813, by Member of the Assembly Reilly, Assembly Print Number 7162B, an act to amend the Tax Law.

ACTING PRESIDENT VALESKY: Read the last section.

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

ACTING PRESIDENT VALESKY: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT VALESKY: The bill is passed.

THE SECRETARY: Calendar Number 814, by Senator C. Johnson, Senate Print 7350A, an act to amend the Public Officers Law.

ACTING PRESIDENT VALESKY: Read the last section.

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

ACTING PRESIDENT VALESKY: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61. Nays,

0.

ACTING PRESIDENT VALESKY: The bill is passed.

THE SECRETARY: Calendar Number 832, by Senator Adams, Senate Print 5213A, an act to amend the Criminal Procedure Law.

ACTING PRESIDENT VALESKY: Read the last section.

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

ACTING PRESIDENT VALESKY: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT VALESKY: The bill is passed.

THE SECRETARY: Calendar Number 837, by Member of the Assembly Paulin, Assembly Print Number 8645B, an act to amend the Alcoholic Beverage Control Law.

ACTING PRESIDENT VALESKY: Read the last section.

THE SECRETARY: Section 4. This act shall take effect on the 30th day.

ACTING PRESIDENT VALESKY: Call

the roll.

(The Secretary called the roll.)

ACTING PRESIDENT VALESKY:

Senator Klein, to explain his vote.

SENATOR KLEIN: Mr. President, to explain my vote.

This bill amends the Alcoholic Beverage Control Law to encourage those who sell alcohol, and their employees, to make sure that they attend training classes to reduce underage drinking.

When you look at the numbers, they're quite startling. Freshmen in high school, over 50 percent have tried alcohol. Seniors in high school, 35 percent have knowingly got into a car with someone who is under the influence.

I think this legislation will offer important incentives for those who run liquor establishments to make sure that their employees take these classes. Because the licenses that actually have been given, they can actually get 25 percent off on their civil penalty if they attend these classes.

So I think it's the incentive

that's needed, because if you look at the State Liquor Authority's programs that they run around the state, they're not in very high attendance. So we're not doing everything possible to make sure we're adequately educating people to the problems of underage drinking and how to spot someone and make sure someone does not purchase alcohol if they're underage.

So of course I vote yes, Mr. President.

ACTING PRESIDENT VALESKY: Senator Klein to be recorded in the affirmative.

Announce the results.

THE SECRETARY: Ayes, 61. Nays, 0.

ACTING PRESIDENT VALESKY: The bill is passed.

THE SECRETARY: Calendar Number 846, by Senator Stewart-Cousins, Senate Print 7400A, an act to amend the General Municipal Law.

ACTING PRESIDENT VALESKY: Read the last section.

THE SECRETARY: Section 17. This act shall --

SENATOR HANNON: Lay it aside.

ACTING PRESIDENT VALESKY: The bill is laid aside.

THE SECRETARY: Calendar Number 848, by Senator Dilan, Senate Print 7438, an act to amend the Vehicle and Traffic Law.

ACTING PRESIDENT VALESKY: Read the last section.

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

ACTING PRESIDENT VALESKY: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT VALESKY: Announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 848 are Senators Bonacic, DeFrancisco, Farley, Flanagan, Fuschillo, Griffo, O. Johnson, Lanza, Larkin, Libous, Little, Maziarz, Nozzolio, Ranzenhofer, Robach, Saland, Skelos, Volker, Winner and Young.

Ayes, 41. Nays, 20.

ACTING PRESIDENT VALESKY: The bill is passed.

THE SECRETARY: Calendar Number 858, by Senator Perkins --

SENATOR LIBOUS: Lay it aside.

SENATOR KLEIN: Lay the bill aside for the day, please.

ACTING PRESIDENT VALESKY: The bill is laid aside for the day.

THE SECRETARY: Calendar Number 861, by Senator Adams --

SENATOR KLEIN: Lay it aside for the day, please.

ACTING PRESIDENT VALESKY: The bill is laid aside for the day.

THE SECRETARY: Calendar Number 867, by Member of the Assembly Gottfried, Assembly Print Number 9550A, an act to amend the Public Health Law.

ACTING PRESIDENT VALESKY: Read the last section.

THE SECRETARY: Section 2. This act shall --

SENATOR LIBOUS: Lay it aside.

ACTING PRESIDENT VALESKY: The

bill is laid aside.

THE SECRETARY: Calendar Number 876, by Senator Dilan, Senate Print 7885A, an act to amend the Vehicle and Traffic Law.

ACTING PRESIDENT VALESKY: Read the last section.

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

ACTING PRESIDENT VALESKY: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT VALESKY: The bill is passed.

THE SECRETARY: Calendar Number 931, by Senator Aubertine, Senate Print 4823, an act to amend the Public Authorities Law.

ACTING PRESIDENT VALESKY: Read the last section.

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

ACTING PRESIDENT VALESKY: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT VALESKY: The bill is passed.

THE SECRETARY: Calendar Number 936, substituted earlier today by the Assembly Committee on Rules, Assembly Print Number 11351, an act to amend the Public Authorities Law.

ACTING PRESIDENT VALESKY: Read the last section.

THE SECRETARY: Section 3. This act shall take effect on the same date and in the same manner as Chapter 95 of the Laws of 2010.

ACTING PRESIDENT VALESKY: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT VALESKY: The bill is passed.

THE SECRETARY: Calendar Number 948, by Member of the Assembly Kavanagh, Assembly Print Number 7917D, an act to amend the Vehicle and Traffic Law.

ACTING PRESIDENT VALESKY: Read the last section.

THE SECRETARY: Section 3. This act shall take effect on the 60th day.

ACTING PRESIDENT VALESKY: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT VALESKY: Senator Squadron, to explain his vote.

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

This bill was written in response to a tragedy that happened in my district in Chinatown a little over a year ago where two young children were tragically killed when a delivery van ran them over.

This bill will not bring Hayley and Diego back, but hopefully it will send the message that careless driving is in many cases as dangerous as other driving infractions on the road, as reckless driving or other things that can lead to tragedy. And it will send the message that you need to exercise due care and be incredibly careful when you're behind the wheel, because the consequences of not doing so can too often be tragic.

Hopefully this is a bill that won't

lead to lots of folks having increased penalties, but instead will lead to lots of folks driving just a little bit more safely and will save lives.

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

ACTING PRESIDENT VALESKY: Senator Squadron to be recorded in the affirmative.

Senator DeFrancisco, to explain his vote.

SENATOR DeFRANCISCO: Yes, I voted no because I think in the Penal Law the theory is that if you're reckless or intentionally causing various types of events, you should be found to be guilty of a criminal offense.

This bill actually changes that theory that simply if you're negligent or careless, you can be determined to be guilty of a criminal offense, because there's provisions in here for a Class B misdemeanor.

I think that really changes criminal law substantially, and it's a -- although the offense here is only a

B misdemeanor, I think such a dramatic change in philosophy as far as the criminal law is concerned should be subject to some kind of hearings or something if we're going to change the law this dramatically, and that's why I'm voting no.

ACTING PRESIDENT VALESKY: Senator DeFrancisco to be recorded in the negative.

Senator Bonacic, to explain his vote.

SENATOR BONACIC: Thank you, Mr. Chairman.

I think when you look on the face of this bill, we certainly don't want cars hitting children or bicycles getting in the way and hurting people. That's not the problem with the bill. The problem is we're engaging in a slippery slope when you start to criminalize acts of negligence.

And that's the reason I'm voting no, why I voted no in committee.

Thank you, Mr. Chairman.

ACTING PRESIDENT VALESKY: Senator Bonacic to be recorded in the

negative.

Announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 948 are Senators Alesi, Bonacic, DeFrancisco, Farley, Flanagan, Golden, Hannon, O. Johnson, Larkin, LaValle, Libous, Marcellino, Maziarz, Skelos and Volker. Also Senator Lanza. Also Senator Saland. Also Senator Ranzenhofer. Also Senator Young. Also Senator Winner. Also Senators Little and Leibell.

Ayes, 39. Nays, 22.

ACTING PRESIDENT VALESKY: The bill is passed.

THE SECRETARY: Calendar Number 977, by Senator Hassell-Thompson, Senate Print 5043A, an act to amend the Social Services Law.

ACTING PRESIDENT VALESKY: Read the last section.

THE SECRETARY: Section 2. This act shall take effect on the 90th day.

ACTING PRESIDENT VALESKY: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT VALESKY: The bill is passed.

SENATOR LIBOUS: Mr. President.

ACTING PRESIDENT VALESKY: Senator Libous.

SENATOR LIBOUS: Thank you, Mr. President. Would you pull aside the lay-aside on bill number -- I've been corrected by Senator Padavan. Please remove the lay-aside on 867.

Thank you, Mr. President. And thank you, Senator Padavan.

ACTING PRESIDENT VALESKY: Thank you, Senator Libous.

The lay-aside on Calendar Number 867 is removed. The Secretary will place Calendar Number 867 before the house, noncontroversial.

THE SECRETARY: Calendar Number 867, by Member of the Assembly Gottfried, Assembly Print Number 9550A, an act to amend the Public Health Law.

ACTING PRESIDENT VALESKY: Read the last section.

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

ACTING PRESIDENT VALESKY: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60. Nays, 1. Senator Golden to be recorded in the negative.

ACTING PRESIDENT VALESKY: The bill is passed.

Senator Golden.

SENATOR GOLDEN: Put me up on that bill, please.

ACTING PRESIDENT VALESKY: The Secretary will announce the results.

THE SECRETARY: In relation to Calendar Number 867: Ayes, 61. Nays, 0.

ACTING PRESIDENT VALESKY: The bill is passed.

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

Senator Klein.

SENATOR KLEIN: Mr. President, at this time can we please go to a reading of the supplemental active list.

ACTING PRESIDENT VALESKY: The Secretary will proceed with the reading of noncontroversial supplemental active list.

THE SECRETARY: Calendar Number 1001, by Senator L. Krueger, Senate Print 4526 --

SENATOR LIBOUS: Lay it aside.

ACTING PRESIDENT VALESKY: The bill is laid aside.

THE SECRETARY: Calendar Number 1008, by Senator Savino, Senate Print 5634, an act to amend the Public Authorities Law.

ACTING PRESIDENT VALESKY: Read the last section.

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

ACTING PRESIDENT VALESKY: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT VALESKY: The bill is passed.

THE SECRETARY: Calendar Number 1015, by Senator L. Krueger, Senate Print 6680, an act to amend the Social Services Law.

ACTING PRESIDENT VALESKY: Read the last section.

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

ACTING PRESIDENT VALESKY: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT VALESKY: Senator Liz Krueger.

SENATOR LIZ KRUEGER: Thank you very much.

My colleagues, perhaps we're not understanding the bill, for those of you who are voting against it. This is a bill that's pretty much a technical amendment to current public assistance social services law.

In social services law, for public assistance recipients, they are allowed to have a car with a Blue Book value of up to $9,300. They might only have $400 of actual equity in it. If they are looking for work or working, they can have a car worth $9,300. If they are not, at this moment in time, looking for work or working, the car's value can only be $4,000, although that can change from week

to week.

Which means right now a woman with a disabled child or a woman who had just given birth who has a car that might have a Blue Book value of $6,000, with maybe equity in it of only $600, would not be allowed to receive public assistance because she wouldn't be able to -- or would have to give up her car.

Now, in New York City this truly doesn't matter. But for many parts of the state, this will leave people with no automobile to get food for their family, to get to medical appointments, to a week later be eligible to look for a job. They won't be able to get a job, they won't be able to get off public assistance.

For food stamps, we already have no resource cap on one car. And in fact, modernizing and simplifying this process again is simply a fair and right thing to do. I'm urging a yes vote by all.

Thank you, Mr. President.

ACTING PRESIDENT VALESKY: Senator L. Krueger to be recorded in the

affirmative.

Announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 1015 are Senators Alesi, Bonacic, DeFrancisco, Farley, Flanagan, Golden, Griffo, Hannon, Larkin, LaValle, Libous, Marcellino, Maziarz, Nozzolio, Ranzenhofer, Robach, Seward, Skelos, Volker, Winner and Young. Also Senators Leibell and Saland.

Ayes, 38. Nays, 23.

ACTING PRESIDENT VALESKY: The bill is passed.

THE SECRETARY: Calendar Number 1022, by Senator Savino, Senate Print 7451, an act to amend the Labor Law.

ACTING PRESIDENT VALESKY: Read the last section.

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

ACTING PRESIDENT VALESKY: Call the roll.

(The Secretary called the roll.)

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

SENATOR BONACIC: On the bill, just explaining my vote.

You know, daycare is something we all seek. There's not enough daycare facilities in the State of New York. You have working mothers that have to spend a good portion of their paycheck for people to take care of their children.

When you go in the direction of start unionizing childcare, you're going to start to drive the expenses up and up and up, putting so much pressure on middle-class families where maybe both spouses are working and they need someone to take care of young children.

For that reason, I'm voting no. Thank you, Mr. Chairman.

ACTING PRESIDENT VALESKY: Senator Bonacic to be recorded in the negative.

Senator Savino, to explain her vote.

SENATOR SAVINO: Thank you, Mr. President.

Certainly I share Senator Bonacic's

concern about the cost of daycare and the lack of access to affordable daycare. But I think we need to be clear what we're doing with this piece of legislation.

In 2007, the governor of the state at the time, Eliot Spitzer, extended collective bargaining rights to childcare workers through an executive order. All this bill does is codify into law what has been in practice since 2007.

The childcare workers were given the right to organize through that executive order in an effort for them to help increase the reimbursement rate for daycare providers. The majority of daycare providers are not paid directly by parents. In fact, far too many of them are paid through the voucher system that's tied to the eligibility of the parent.

So what this will do is codify into law what's been in practice in the State of New York for the past three years.

Thank you, Mr. President.

ACTING PRESIDENT VALESKY: Senator Savino to be recorded in the affirmative.

Announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 1022 are Senators Bonacic, O. Johnson, Ranzenhofer and Skelos.

Ayes, 57. Nays, 4.

ACTING PRESIDENT VALESKY: The bill is passed.

Senator Klein, that completes the reading of the noncontroversial supplemental active list.

Senator Seward, why do you rise?

SENATOR SEWARD: Mr. President, I would ask unanimous consent -- we had fits and starts in terms of starting session. I was on a lengthy phone call when the number of bills went through. And I would ask permission to be voted in the negative on Calendar Number 748, 848, and 948. All the 48s.

ACTING PRESIDENT VALESKY: Senator Klein, Senator Libous, Senator Seward has asked for unanimous consent.

SENATOR KLEIN: We grant unanimous consent, Mr. President.

ACTING PRESIDENT VALESKY: With

unanimous consent, Senator Seward to be recorded in the negative on Calendar Numbers 748, 848, and 948.

SENATOR SEWARD: At least I'm consistent.

ACTING PRESIDENT VALESKY: Yes, you are.

SENATOR SEWARD: Thank you.

ACTING PRESIDENT VALESKY: Senator Klein.

SENATOR KLEIN: Mr. President, there's a resolution at the desk by Senator Antoine Thompson. I ask that the title of the resolution be read and move for its immediate adoption.

ACTING PRESIDENT VALESKY: Senator Klein, has this resolution been deemed privileged and submitted by the office of the Temporary President?

SENATOR KLEIN: Yes, it has, Mr. President.

ACTING PRESIDENT VALESKY: The Secretary will read.

THE SECRETARY: By Senator Thompson, legislative resolution commending

Juneteenth of Buffalo, Inc., upon the occasion of hosting the 35th Consecutive Juneteenth Festival, to be held June 13 through 20, 2010.

ACTING PRESIDENT VALESKY: The question is on the resolution. All in favor signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT VALESKY: Opposed, nay.

(No response.)

ACTING PRESIDENT VALESKY: The resolution is adopted.

Senator Maziarz, why do you rise?

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

I, like Senator Seward, was also out of the chamber on a phone call -- not quite as long as his phone call. But if I could ask unanimous consent to be recorded in the negative on Calendar Number 459, I would appreciate that, Mr. President.

Thank you.

ACTING PRESIDENT VALESKY: Senator Klein?

SENATOR KLEIN: Unanimous consent

is granted, Mr. President.

ACTING PRESIDENT VALESKY: With unanimous consent, Senator Maziarz to be recorded in the negative on Calendar 459.

Senator Klein.

SENATOR KLEIN: Mr. President, at this time can we please go to a reading of the controversial calendar.

ACTING PRESIDENT VALESKY: The Secretary will ring the bells.

The Secretary will proceed with the reading of the controversial calendar.

THE SECRETARY: Calendar Number 28, by Senator Perkins, Senate Print 1145C, an act to amend the Environmental Conservation Law.

ACTING PRESIDENT VALESKY: Senator Libous.

SENATOR LIBOUS: Mr. President, I have an amendment at the desk. I ask that you waive its reading and call on me, please.

ACTING PRESIDENT VALESKY: The amendment is here at the desk. The reading of the amendment is waived, Senator Libous, and you're recognized to speak on the amendment.

SENATOR LIBOUS: Thank you, Mr. President.

This legislation is something that I know that Senator Perkins has brought before this body on a number of occasions. And on a number of occasions, I've spoken with Senator Perkins on this and asked him if he would make some amendments to it.

And I know that he has made some changes, but I think the changes that were going to be acceptable to those of us who represent particularly upstate and those consumers around the state who depend on home heating oil, we are very much concerned that this bill is going to raise our prices.

Mr. President, there seems to be a lot of noise in the chamber. Thank you, Mr. President.

And we're very concerned that our prices for home heating oil goes up.

Now, the other day we passed a bill that deals with the heat program for certainly people throughout the state who are on a low income and have a problem with heating their homes and doing renovations to their homes.

And quite frankly, this particular bill is going to be devastating to everyone who heats their home with oil in my district.

And the problem is that the price from the refinery, the manufacturer, is going to go up, because all we ask here is for a little bit of time.

I think what Senator Perkins is trying to do here is quite noble, and we understand that the parts per million need to come down in Number 2 oil. We agree with that. The problem is we don't believe that it can be done as quickly as the sponsor would like it to be done, because the manufacturers are telling us that they can't. And quite frankly, it will take 18 months to two years before they get permitted to be okay to do it.

So all we're asking in this amendment -- and quite frankly, Mr. President, this amendment is the same as a bill that Senator Stachowski has in that would basically say we'll take Number 2 oil to 500 parts per million and change the date to 2014. We don't think that's unreasonable to help people throughout the state who are on home heating

oil.

And many people do not have access to natural gas -- that's a whole subject for another day -- but quite frankly, they depend on oil to heat their homes. And we talked earlier about some of those areas that we all represent in upstate New York that are extremely rural. This bill will make it prohibitive for them to afford home heating oil.

So again, Mr. President, what this amendment does, it does not say what we are against what Senator Perkins is trying to do to help folks environmentally. All it's asking for is a little bit more time, to 2014.

Thank you, Mr. President.

ACTING PRESIDENT VALESKY: Thank you, Senator Libous.

Those Senators voting in support of the nonsponsor motion to amend Calendar Number 28 should raise their hands.

Announce the results.

THE SECRETARY: Ayes, 31. Nays, 30.

ACTING PRESIDENT VALESKY: The

motion fails.

Are there any Senators who wish to be heard on the debate?

SENATOR LIBOUS: Yes, I would like an explanation on the bill, please, from the sponsor.

ACTING PRESIDENT VALESKY: Senator Perkins, an explanation of the bill has been requested by Senator Libous.

SENATOR PERKINS: Thank you very much, Mr. President, and also Senator Libous, for your appreciation of the significance of this bill that essentially is trying to reduce the content of sulfur that has been so hazardous environmentally and healthwise for so many of us, not only in the City of New York but upstate as well, I might add.

And clearly we know that home heating oil is essentially the same as diesel fuel, except there are virtually no limits to the level of sulfur that can be in it. On average, the current sulfur content in home heating oil is 2600 parts per million. This bill will limit it to 15 parts per million beginning in July 2012.

Now, originally, as you know, we were trying to do this as per 2011. As per the discussions we had, we extended it to 2012 and were hopeful there would be some kind of compromise that would be suitable, but in fact that's not possible at this point in time, apparently.

Compounding the problem is the rate at which New York consumes home heating oil. With 2.6 million households using home heating oil, New York leads the nation in the amount of home heating oil consumed. Most disturbingly, 79 percent of this consumption occurs in the New York metropolitan region and thus creates a localized pollution problem due to the increase in hazardous particulate matter, which contributes to aggravated asthma, increased cancer risks, heart and lung disease, and even premature death.

Over the last five years alone, asthma rates among New Yorkers are consistently higher than the U.S. population as a whole. In fact 300,000 children in New York City have been diagnosed with asthma, and hospitalizations cost approximately

$10,000 per visit and over 240 million a year.

This legislation will save money, and in these times of financial hardship we cannot afford to ignore this cost saver. This legislation will not only serve as a cost saver to the state, but also to individual consumers and the heating oil industry.

So in conclusion, again, this limits sulfur content in Number 2 heating oil to no greater than 15 parts per million beginning July 1, 2012, and it authorizes the Governor, after consultation with NYSERDA, to make exceptions by executive order for considerations of scarcity.

I vote aye on this and encourage my colleagues to do the same. Thank you very much for your support.

ACTING PRESIDENT VALESKY: Senator Libous.

SENATOR LIBOUS: Thank you, Mr. President. Would the sponsor yield for a series of questions?

ACTING PRESIDENT VALESKY: Senator Perkins, will you yield?

SENATOR PERKINS: Yes, by all

means.

ACTING PRESIDENT VALESKY: The sponsor yields.

SENATOR LIBOUS: Thank you Senator Perkins.

Mr. President, Senator Perkins just mentioned that there's a high level of pollution in the New York metropolitan area. Senator Perkins, why did you not just make this bill pertain to the New York metropolitan area, and why did you have it affect the entire state?

SENATOR PERKINS: Because it's a statewide problem. I just pointed out particularly how it affects the New York metropolitan area.

SENATOR LIBOUS: Thank you.

Mr. President, will he continue to yield?

ACTING PRESIDENT VALESKY: Senator Perkins, do you continue to yield?

SENATOR PERKINS: Yes, sir.

ACTING PRESIDENT VALESKY: The sponsor yields.

SENATOR LIBOUS: Senator, if it's

a statewide problem, did you examine the ramifications of this statewide problem to those of us who have home heating oil customers in rural areas of upstate New York?

SENATOR PERKINS: Through you, Mr. President, as you know, we surely did and in fact had some negotiations with you and our colleagues in the upstate area to try to be helpful towards that end.

SENATOR LIBOUS: Thank you.

Mr. President, would he continue to yield?

ACTING PRESIDENT VALESKY: Senator Perkins, do you continue to yield?

SENATOR PERKINS: Yes, sir.

ACTING PRESIDENT VALESKY: The sponsor yields.

SENATOR LIBOUS: And, Mr. President, through you. Senator Perkins, what did you change to be helpful to my upstate colleagues as it pertains to their home heating oil constituents?

SENATOR PERKINS: Well, through you, Mr. President, we obviously changed the date. And we were hopeful that we could

change even more, but at this point in time this is the best that we could do.

SENATOR LIBOUS: And through you, Mr. President.

ACTING PRESIDENT VALESKY: Senator Libous.

SENATOR LIBOUS: Senator, it is the date that's the problem here. It is the dates that is going to increase the cost of home heating oil to our constituents. So by changing the date I believe a year, how does that help the refineries and those who produce the product to get up to speed within an adequate period of time -- everyone's telling us it's going to take three to four years; other states have said it takes three to four years -- without increasing the cost of home heating oil to those who depend on it?

SENATOR PERKINS: Through you, Mr. President. Well, we did have the negotiation in which we expected certain changes to be made, as per the request. And at this point in time there's no evidence that any efforts have been made to accommodate the bill.

SENATOR LIBOUS: Mr. President, again, I guess I'll respond to that. I mean, an effort was made just a few moments ago in the form of an amendment to try to accommodate the bill.

But if the Senator would continue to yield.

ACTING PRESIDENT VALESKY: Senator Perkins, will you continue to yield?

SENATOR PERKINS: Yes, I will.

ACTING PRESIDENT VALESKY: The sponsor yields.

SENATOR LIBOUS: Senator, what effect is this bill going to have on domestic home heating oil supplies for those of us outside of the metropolitan New York area?

SENATOR PERKINS: Well, you know, the bill includes an opportunity for the Governor, as I pointed out earlier, to make exceptions by executive order if there's -- for considerations of scarcity, number one.

And we also have been told that some of the problems have been overstated in terms of the scarcity.

SENATOR LIBOUS: Mr. President,

would he continue to yield.

ACTING PRESIDENT VALESKY: Senator Perkins, do you continue to yield?

SENATOR PERKINS: Yes, sir.

ACTING PRESIDENT VALESKY: The sponsor yields.

SENATOR LIBOUS: Senator, I guess I'm really concerned because I think it will have a very negative effect on home heating oil supplies. Because wouldn't you agree with me that by not giving the refineries time to change over and meet the qualifications, that the supply will then diminish because they won't be able to produce it to sell it because it would not have met the qualifications of your bill?

SENATOR PERKINS: Through you, Mr. President. You know, we have 2.6 million households in New York using home heating oil. We believe that the producers will adapt to this new approach such that it will mitigate the kind of concerns that you have.

SENATOR LIBOUS: Would Senator Perkins continue to yield.

ACTING PRESIDENT VALESKY:

Senator Perkins, do you yield?

SENATOR PERKINS: Yes, sir.

ACTING PRESIDENT VALESKY: The sponsor continues.

SENATOR LIBOUS: Senator Perkins, as I said before, I understand what you're trying to do. And I have said to you on a number of occasions in the past that the issue here is the time. The issue is the time for these refineries to be able to change over to meet the standards that you have in your bill. And I have no problem with the standards, sir.

But what do I tell a senior citizen or a family of seniors, two folks in their 80s that depend on, live in -- the other day I used Candor, New York. I guess I'll use Bainbridge, in Chenango County. We'll switch counties. Rural community; they depend on home heating oil or they don't stay warm in the wintertime, because there's no way that they can get natural gas or any other alternative.

How do I tell them that the supply is now gone or the cost has doubled because of a regulation that was put on by the

Legislature that just all they had to do was give the refinery a couple more years to get up to speed, but now the supply has been limited because of that legislation?

SENATOR PERKINS: Through you, Mr. President.

Again, we're very sympathetic to the concerns of the seniors and those who, from your point of view, would be adversely affected. As I pointed out, again, there is a provision for the Governor to respond to the scarcity that you suggest, number one.

Number two, I believe that the time is now for us to move forward, having tried to create the kind of accommodations that we believe will help us overcome the problems that you're concerned about. And so I guess we have an irreconcilable difference from that point of view. But I know that we have made good faith efforts in the best interests of all New Yorkers to try to address your concerns as well as the larger concern about the reduction of sulfur.

SENATOR LIBOUS: Would the Senator continue to yield.

ACTING PRESIDENT VALESKY:
Senator Perkins, do you continue to yield?
SENATOR PERKINS: Yes.
ACTING PRESIDENT VALESKY: The sponsor continues to yield.
SENATOR LIBOUS: Senator, again, you stress that you care very much about the environment and sulfate, but yet in New York City many large residential folks and office buildings use Number 6 heating oil. Why doesn't your bill include them?
SENATOR PERKINS: Would you repeat the question, please?
ACTING PRESIDENT VALESKY: Senator Libous, would you mind repeating your question?
SENATOR LIBOUS: Oh, yes. I'm sorry, Senator. I said in New York City many large residential units and office buildings use Number 6 formula heating oil. Why doesn't your bill include them?
SENATOR PERKINS: Through you, Mr. President, I think that that is a concern that we will take a look at moving forward.
SENATOR LIBOUS: So, Senator, you

stressed earlier, sir, that you were concerned about the metropolitan area, but yet many people in the metropolitan area will be exempt and yet many people outside the metropolitan area will now have a tremendous hardship. I don't see that as fair.

SENATOR PERKINS: Through you, Mr. President, this bill is fair to the people of the State of New York as it puts us on track to try to reduce sulfur for all in the state. And obviously it's a project, it's a piece of legislation that allows for the Governor to intervene where necessary to make up for any shortcomings such as the type that you're talking about.

SENATOR LIBOUS: Will the Senator continue to yield.

ACTING PRESIDENT VALESKY: Senator Perkins, do you continue to yield?

SENATOR PERKINS: Yes.

ACTING PRESIDENT VALESKY: The sponsor yields.

SENATOR LIBOUS: Senator, wouldn't you agree that it's more fair for those building owners in New York City than it

is for the senior citizens and the poor folks on fixed incomes who live in rural areas of New York State?

SENATOR PERKINS: I'm sorry, would you repeat yourself, please?

ACTING PRESIDENT VALESKY: Senator Libous, would you repeat your question for Senator Perkins?

SENATOR LIBOUS: It must be my -- is my mike on? Because usually I have quite a melodious tone. I'm sorry.

SENATOR PERKINS: Well, today you might be talking a little lower because of your concerns about the people upstate.

SENATOR LIBOUS: Mr. President, my question for Senator Perkins was wouldn't you say that this legislation was more fair to the building owners of New York City than it is to the folks on fixed incomes who depend on home heating oil in the rest of New York State.

SENATOR PERKINS: No. Through you, Mr. President, no, I wouldn't say that. And in fact, again, I think that if -- as I point out to you, if exceptions need to be

made, the bill allows for the kind of changes that if they're real, if they're -- then the Governor will be able to make those changes.

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

ACTING PRESIDENT VALESKY: Senator Libous, on the bill.

SENATOR LIBOUS: I'm going to make an impassioned plea to all of my colleagues on both sides of the aisle today. While I certainly and I believe everybody in this chamber applauds the fact that environmentally, Senator Perkins has a goal here, I think we all have that same environmental goal.

But the issue here is whether or not these companies can get up to speed quick enough, or will they eliminate the supply of home heating oil for those of us who represent communities in this state that depend on it. I say it will hurt the supply. The demand will be great. Those who can get it will pay two and three times more than they've had to pay this winter.

This bill is not fair to the people

outside of the New York metropolitan area. As I said a few moments ago, Number 6 heating oil is eliminated from this bill. Number 6 is used by many, many massive residential centers in the city -- high-rises, I guess, Senator Padavan, you'd call them -- and businesses in the city.

So while my colleague is being extremely noble here on trying to provide a better environment, he is not being reasonable as to how he approaches that.

ACTING PRESIDENT VALESKY: Senator Perkins, why do you rise?

SENATOR PERKINS: Through you, Mr. President, I'd like to ask you a question.

ACTING PRESIDENT VALESKY: Senator Libous, would you yield to a question?

SENATOR LIBOUS: As soon as I'm done, I'd be happy to. Thank you, Senator. Okay?

ACTING PRESIDENT VALESKY: Proceed.

SENATOR LIBOUS: Thank you. So I appeal to anyone here today, all we're asking that we change the date, we get a couple of

more years. We want to meet the environmental standards.

Now, let me go further to share with you that there are other states who have approached this and they have all had sufficient time to begin to make those changes. It's here in many various documents that I have. I'm not going to bore you by reading them.

But I will tell you that for whatever reason, once again, New York State has to be unreasonable. We have to be unreasonable in this case to the homeowners, to the taxpayers, to the folks who live in the communities or the rural areas of this state that depend on home heating fuel.

Mr. President, I would ask that my colleagues vote against this. I would ask that my colleague Senator Perkins amend the bill to 2014. And I would tell you right here that I will assure you that I will vote for it when that time comes, and I believe that many of our colleagues in this chamber would vote for it.

But right now we cannot put any

more additional burden on those folks who are on fixed incomes who live in rural areas of this state, because what this bill is going to do, it is going to shut off their supply of home heating oil. It is going to increase the cost tremendously for those who have the money and can negotiate the opportunity to get it.

So, Mr. President, I'm not being unreasonable here, I just reach out to the sponsor and ask him please, please amend this bill to 2014.

ACTING PRESIDENT VALESKY: Senator Libous, will you at this time yield to a question?

SENATOR LIBOUS: Yes.

ACTING PRESIDENT VALESKY: Senator Perkins.

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

I just wanted to -- for the record, you are aware that the mayor, with regard to your concern about New York City, is in the process of developing regs on Number 4 and Number 6 healing oil. Are you?

SENATOR LIBOUS: I'm sorry?

SENATOR PERKINS: Are you aware that the mayor of the City of New York is in the process of developing regs on Number 4 and Number 6 oil?

SENATOR LIBOUS: I'm not aware, Mr. President. But I am aware that there are no regs in this bill.

SENATOR PERKINS: Okay. Thank you.

ACTING PRESIDENT VALESKY: Thank you, Senator Libous.

Senator Fuschillo.

SENATOR FUSCHILLO: Thank you very much, Mr. President. Would the sponsor yield to a question?

ACTING PRESIDENT VALESKY: Senator Perkins, do you yield?

SENATOR PERKINS: Yes.

ACTING PRESIDENT VALESKY: The sponsor yields.

SENATOR FUSCHILLO: Senator, I agree with the intent of your bill, and I think it's laudable, and I think everybody else does, with the protection of the environment. But I just want to ask you a few

questions.

I received a lot of memos and phone calls in opposition. And when I read some of them, where it says the two-year lead time provided in this bill is simply not enough -- another one says that it is virtually impossible for the industry to meet so quickly and extremely difficult.

My question to you is that on Senator Libous's amendment, there were 31 members that said yes to it, Republicans and two Democrats. And if Senator Morahan was here -- God willing, if he was here -- the amendment would have been approved.

If it's as simple as laying the bill aside, amending it, agreeing to what 31 out of 61 members here in the house agree to -- and you probably have a tremendous amount of support as the sponsor of the amendments to do it -- my question is why not just lay it aside, amend the bill, and we'll take it up and vote for it? And we'll have an agreement, we'll have a law here that everybody can agree with.

SENATOR PERKINS: Thank you,

Mr. President. I appreciate your interest. However, I believe the bill allows for the Governor to intervene in some of the areas where these concerns were raised. And I believe the discussions that we had led us to including that type of provision so that we can move forward instead of delaying it.

SENATOR FUSCHILLO: Thank you, Senator.

Just on the bill, Mr. President.

ACTING PRESIDENT VALESKY: Senator Fuschillo, on the bill.

SENATOR FUSCHILLO: While I agree with the intent, I agree with Senator Libous. My concern in this environment, this economic environment, is that this may not be attainable. And if you do that, you put the industry at a tremendous disadvantage to do this.

I would ask Senator Perkins, as the debate goes on and questions come, that in this time he thinks about that and really thinks about laying the bill aside and amending the bill to come back up to this floor when he would probably have a tremendous

amount of support.

Thank you, Mr. President.

ACTING PRESIDENT VALESKY: Thank you, Senator Fuschillo.

Senator Marcellino.

SENATOR MARCELLINO: Thank you, Mr. President. I'm not going to ask any questions, Senator, because I think a lot of them have been raised and asked. What I'm going to make is basically a statement.

States around us -- New Jersey, Maine, Connecticut -- are moving back the time frame. New Jersey in particular, where the refineries are that produce these products, these home heating products. New Jersey is going in 2012 to 500 parts per million and in 2016 to 15 parts per million.

If New York insists and if you are successful and if we go to 15 parts per million while New Jersey, upwind of us, is at 500, you gain nothing. You gain absolutely nothing with respect to air quality, which is what you're trying to achieve. You're trying to achieve a goal of clear air.

Now, I've got two children --

they're older now -- but asthmatics, and we lived through it. When I taught in the City of New York, we used to joke that we could see the air we breathed. We were tough people, going into the city, because you could see that haze, that bubble over the city that you could breathe. And asthma is a problem. We all know that. Lung disease is a problem. We all know that.

This bill isn't going to solve your problem. It's only going to raise the costs, because the industry is going to pass the costs of changing their technology, changing their pipelines -- because they're going to have too. They can't use the same pipelines, they've got to flush them clean with the product they have before they can put new product in.

So it's going cost them money. That's going to go to your clients. That's going to go to the people who buy home heating fuel all over this state. Why you're going upstate, I don't know. They don't have an attainment, they don't have an air quality problem. They're not the downstate region.

We're the non-attainment area, downstate. Upstate is not.

By forcing the state and thereby by forcing the manufacturers to put the fuel into the state, they're going to raise their costs and they're going to pass it on to the consumers. We cannot -- as Senator Fuschillo rightly points out, Senator Libous correctly pointed out, this is not the time to do that. This is not the time to do that.

You could get what you want Senator, you could get what you want by simply amending the bill to go to 500 parts per million by 2012 and then to 15 parts per million by 2016, and we would vote for it. And you would get the same air quality improvement you want but will not achieve by this current bill.

I know what you want to do, Senator, but the bill as written won't achieve your goal. That's simply science. It won't achieve it. Because upwind states are having a higher parts per million in their home heating fuel, and the wind will blow the particulates over our state, and particularly

in the downstate region, and we're not going to get the benefit of the change. We're going to get the cost, but we're not going to get the benefit that you want to achieve.

So again, I would urge that we perhaps take a step back. I understand when you put a bill up, nobody likes to give something up. You've got it in hand; nobody likes to walk away from something. We've produced it. You'll get the bill. You could do the bill this session. We're not going away tomorrow. We're not leaving town next week. You know that. We're here.

This bill could easily be laid aside, amended to the standards that I've just mentioned to you, aged accordingly or get a message from the Governor, whatever is required, and you'll get the votes to pass the bill. I'd vote for it. And I know many of my colleagues -- I can't speak for all of them, but I know many of them would, would vote for to it accordingly, and I'm sure you'd get two more votes from your side at the very least for a changed bill.

So I would urge you, Senator,

please, do the responsible thing. This is the responsible thing. Let's put New York in line with the states around us, because that's important. Otherwise, everything you want to get, you're not going to get because the wind's going to blow it away. I would urge that you do this, sir. I really would. Unfortunately, if it doesn't happen, I'm going to vote against this bill.

I do not want to do that. I have fought all the years I'm here and chaired this committee, the Environmental Committee, when I was chair, and ranker now, I have supported legislation on air quality. I have supported standards. But we tried to do them in concert and make them regionally. We did the e-waste bill, it took us a while because we wanted it done regionally so that we didn't increase costs unnecessarily on anybody. And we got what we wanted. We got a good e-waste bill this year. We've done that before, we can do it again.

Senator, please, be reasonable. Lay the bill aside, let's amend it, let's do the thing. You'll get the votes. I will vote

for your bill as amended. I cannot support this bill as it stands now. I will be voting no.

ACTING PRESIDENT VALESKY: Thank you, Senator Marcellino.

Senator Farley.

SENATOR FARLEY: Thank you, Mr. President.

You know, I was rather surprised to see the majority of this house vote for the amendment because of the concerns that they have for the heating fuel that is in the upstate region.

I have a very diverse district. It's very urban, and about half of it is very rural, three counties that not only is rural, there's no access to gas or any other kind of fuel to heat their homes. And if I hear a complaint, particularly in the cold winter, it's the poor and the elderly that are on fixed incomes that say what a burden it is to try to heat their homes. And generally speaking, these people live in homes that are not as well insulated as they should be, and they turn the thermostat down.

You know, the other side, my colleagues on the other side of the aisle, you're very concerned always, and I applaud you for that, for the poor and the elderly and so forth. But you know, this is a tremendous burden on the poor and the elderly that exists in the area that does not have access to natural gas. And boy, there's a -- I think that's almost everybody in the rural upstate area.

And there's no question about it that this is going to put a tremendous price on the cost of fuel oil because there isn't any access and they're not going to be able to conform. All that this house or this side and the majority of the house is asking for is a change in the date, that Senator Stachowski actually has been promoting. I think it's very reasonable.

And it boggles my mind, Senator, why this accommodation can't be made on behalf of so many people in this state. Because it doesn't affect just your area, it affects the entire state, and it hurts a lot of poor and elderly that are on fixed incomes.

And I urge people to vote against this bill until it's amended.

ACTING PRESIDENT VALESKY: Thank you, Senator Farley.

Senator Larkin.

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

ACTING PRESIDENT VALESKY: Senator Larkin, on the bill.

SENATOR LARKIN: You know, I don't want to rehash everything that's been said here. But, you know, in my district lots of people say to me, Why don't we separate from New York City? Everything that's done is good for New York City, to h--- with the rest of the state.

Now, this bill is talking about Number 6 heating oil to take care of all the buildings. But what about our people upstate? What about them? What are we saying?

And, you know, the other thing, Senator Perkins, that my people say is when are you going to sit down and act like human beings and work together for a common cause? This is common. Senator Libous, Senator

Fuschillo, Senator Marcellino said we will support you. Why won't we sit down and show the people of this state and this nation that we're not ashamed to look at a bill and say, you know, a little bit of this, it will show the American people and most importantly New Yorkers that we're willing to work together for a common good.

Now, by changing the date on this -- nobody has convinced me on your side of the aisle that this is good the way it is. Two of your members voted with us. If Senator Morahan was in good health, he would have been here and we would have had the 32 votes and then you would have had something bad.

But what we're saying is don't be afraid, there's nothing wrong with the bill. I've been in this house 18 years, and I've seen bills pulled. And we made them better. And we made the people proud of us that we were willing to sit back, make some changes, and do something that was right.

Now, I'd like to ask you to think, every one of you on both sides of the aisle, what's so wrong with saying hold it, hold it,

let's do something for the people. Because since January this year, we've done a hell of a lot of nothing. We're 70-some days past a budget. Here's an opportunity to show the people that we're not going to profit New York City over the state, we're going to take care of the needs of the state as a whole, not preferential treatment for New York City.

Because that's exactly what people are saying. I had a phone call while this debate was going on, and this dealer said to me: "You know what, Bill? I think maybe I'm going to shut down this year, because I don't think you people care about us. You care about yourself and not about the needs of the people of the State of New York."

I don't know all of the mechanics, Senator Perkins, on how much this does and or how much that doesn't. I count on my colleague Senator Marcellino, who's been the expert on this for years. So why don't we just say we're going to do one for the team? The team is the State of New York. "Team" is not spelled with an I. And we can make it sound not just good, but we can show the

people of this state that we're willing to make amends and changes when it will profit, benefit the rest of the state.

Thank you, Mr. President.

ACTING PRESIDENT VALESKY: Thank you, Senator Larkin.

Senator Little.

SENATOR LITTLE: Thank you, Mr. President.

I can say with confidence that the area I represent has probably got the cleanest air in New York State. Obviously, the fewest people per square mile and all. But certainly not only does it have the cleanest area, but it also has some of the coldest temperatures in the state. And if you watch the Weather Channel during the winter months, I'm sure you're all familiar with Saranac Lake, which is usually the coldest spot in New York State, and that's in my district. We have so many people who have to rely upon oil heat because natural gas is not available in a lot of places. Their only other choice is wood or propane. And they also are on fixed incomes, not huge incomes, and it's a real hardship.

So I think I would like to join, I know I would like to join my colleagues here today, Senator Perkins, in asking you if you would amend the bill, if you would take this bill back. If the problem is in New York City, amend it to just New York City. If you believe it should be statewide, amend it to a date that is reasonable.

We have been here since January. We have a budget bill we haven't done yet. I would guarantee we're probably going to be here next week. You could bring the bill in on Monday with the amendments, and I believe that you would get more support than you are going to get for this bill today. And I really ask you to do this on behalf of all the people of New York State, particularly for the people of my district, who you would be creating a tremendous hardship by the passing of this piece of legislation as it exists today.

Thank you.

ACTING PRESIDENT VALESKY: Thank you, Senator Little.

Senator LaValle.

SENATOR LaVALLE: Thank you, Mr. President.

Some four or more years ago I was the sponsor of this legislation, so I'm aware of the components that go into this. And it has been mentioned here one of the issues is the effective date. The other issue is the parts per million and at what points in time that will come in.

But there's one more component, and I would ask if the sponsor would yield to a question. Senator Perkins?

ACTING PRESIDENT VALESKY: Senator Perkins, do you yield?

SENATOR PERKINS: Through you, Mr. President, yes.

ACTING PRESIDENT VALESKY: Senator LaValle, the sponsor yields.

SENATOR LaVALLE: Through you, Mr. President. Senator Perkins, one of the things that I recall on this legislation when I had the sponsorship of it was a component dealing with the technology of the oil burner and changes that had to be made. Is that true today? Will individuals have to make changes

in the nozzle or other parts of their system?

SENATOR PERKINS: Through you, Mr. President, no. The answer is no.

SENATOR LaVALLE: No changes? Okay, thank you.

SENATOR PERKINS: Thank you.

SENATOR LaVALLE: On the bill, Mr. President.

ACTING PRESIDENT VALESKY: Senator LaValle, on the bill.

SENATOR LaVALLE: You know, as I've said, I had the sponsorship of this legislation. And one of the key elements is the effective date. I've heard my colleagues here not peppering the sponsor with a whole lot of questions, but it's all about the effective date.

So many times as sponsors of legislation, or even as chairs of committees, we find that industry, you know, drags its feet and they get hard-nosed. We as legislators, on the other side, should not dig our heels in. Collectively, we have heard that the 2014 date should be one that would allow us to get where we want to get.

Senator Marcellino talked about something -- and I had a situation today -- he talked about his children with asthma. I think I have over the years supported the Lung Association and clean air measures. I called my daughter today -- I don't want to bore everyone here. She wasn't home, but I got my grandson, who was home. I said, "Justin, what are you doing home? You should be in school." "Oh," he said, "my asthma is really bad today."

So I say that because every one of us has a family member who struggles with asthma. And we want, as a policy matter, to move toward cleaner air, cleaner air. And we could do that, make a bold statement in this Legislature by simply changing the effective date from 2012 to 2014 -- two years -- to allow everyone to gear up. To do it and pass legislation that is truly in the interest of all New Yorkers, all New Yorkers.

So, Senator Perkins, I ask you, as many of the other colleagues have, make the change. Let's make together a bold statement towards cleaner air. 2014 does it.

Thank you, Mr. President.

ACTING PRESIDENT VALESKY: Thank you, Senator LaValle.

Senator Young.

SENATOR YOUNG: Thank you, Mr. President.

You know, heating your home is not a luxury, it's a necessity. And the further north you go in New York State, the more brutal weather becomes and the more brutal the winters become. And whether you're in Buffalo or Olean or Watertown, Potsdam, wherever you go in upstate, as you drive around the countryside you see the landscape dotted with home heating fuel stations.

And this hurts a lot of people if this legislation is passed in the form that it currently has. People are hurting across this state. They're hurting because they've lost their jobs. Dairy farmers are suffering because of the dairy crisis with record low milk prices. We have senior citizens who can't afford to pay their bills now. We have the working poor in upstate New York.

And I can't understand why my

colleague will not consider a simple amendment to this bill that would make it palatable for everybody, would make it work for everybody, and would allow us to still have the goal -- which is very laudable -- of having cleaner air.

So I join with the pleas of my colleagues who say to Senator Perkins please change the date on this bill. Don't hurt our seniors, don't hurt the working poor, don't hurt our dairy farmers, don't hurt upstate New York. Because if this bill passes the way that it is now, it will unfortunately do all those things.

ACTING PRESIDENT VALESKY: Thank you, Senator Young.

Senator Padavan.

SENATOR PADAVAN: Thank you, Mr. President. I'd like to just address two aspects of the discussion that we have had so far.

First, the sponsor indicates, and rightly so, that the area of this state that's most impacted by sulfur content is in the City of New York. And why is that so? Because of

the concentration with high-rise apartments, office buildings all over the City of New York, particularly in Manhattan -- using Number 4 and Number 6 oil predominantly, not at all covered by this legislation.

That's part of the problem. What the solution there is, I'm not sure, but it's not solved. So when we talk about the sulfur content issue in the City of New York, let us be clear that we're only dealing with part of that issue with this bill.

Now, at the same time, if I knew with certainty, reasonable certainty, that the capacity for producing this type of fuel existed in this nation anywhere, and certainly in our region, I might have a different view as to how I'm going to vote. But I've been reading over all of the inputs that I've received, and from every source -- U.S. East Coast refineries, Canadian and Virgin Island refineries, United Refinery Company, and so on -- they're all telling us that they currently do not have the capacity to produce this fuel in the time frame we are seeking for them to accomplish.

Now, you know, there's the old saying you can't stick a 10-pound weight in a 5-pound bag. It's not there. It's simply not there.

Now, part of the problem that refineries have been experiencing is that during the economic downturn, some of them shut down their capacity, shut down entire refineries. Valero, the largest refiner in this country, shut down one or more of their facilities because of the economy and the lack of need, particularly in the manufacturing sector, of fuel.

Now, what we would be asking them to do is to open up those refineries, and it takes a great deal of time to do that. You just don't turn on a switch. It takes a year or so to get a refinery on line.

In addition, in order to produce this type fuel, this Number 2 fuel, in the configuration that we want it to produce it, existing facilities would have to be modified. It requires reengineering. And I've been forced to go back to my college course in organic chemistry to remember what that might

require with a petroleum organic product of this sort. And it's not easy. That would take a great deal of time.

So on one hand, we don't have the capacity. On the other hand, to produce the capacity, we need a lot of time to do it, and we certainly can't do it in the time frame this bill requires. That's what all the refiners are saying. They're not saying they don't want to sell this fuel, they're not saying they don't want to make this fuel. As a matter of fact they might make more profit with this fuel. They're say they can't. Now, you say they can; they say they can't.

This would be a terrible, terrible tragedy if we put into law a requirement that people have to acquire, buy a product that's simply not available. Then what do they do? There are countries in South America where they sell fuel on the black market. They go across national lines because of certain regulations and restrictions and all kinds of things. I don't think you want to do that. I think you're far too astute, intelligent an individual. You don't want to do that.

So as has been asked here and been asked in a very, I think, gentle way and in a reasonable way and in a positive way, amend this bill, give us the time to do what the industry needs, and then we'll be home free. We'll achieve what we want to achieve. And maybe in the process we could also start including some of those other types of fuels that are polluting our environment in New York City.

ACTING PRESIDENT VALESKY: Senator Perkins, why do you rise?

SENATOR PERKINS: I just wanted to ask, again, a question of the Senator.

ACTING PRESIDENT VALESKY: Senator Padavan, do you yield to a question?

SENATOR PADAVAN: Yes.

ACTING PRESIDENT VALESKY: Senator Padavan yields.

SENATOR PERKINS: I just want to be clear that you did hear -- you point out that the Governor has the opportunity to address some of the concerns that you brought up in terms of the scarcity of the type --

SENATOR PADAVAN: I'm sorry,

Senator, I'm not hearing you.

SENATOR PERKINS: The Governor -- the bill allows for the Governor to intervene, in consultation with NYSERDA, when it comes to some of the concerns that have been addressed already. Like scarcity, for instance.

SENATOR PADAVAN: Well, I'm not sure I understand fully what that means. But if there's a mandate of time on this -- excuse us if we're breaking the rules here. But if there's a mandate on time in terms of when the effective date is, I don't know what the Governor is going to be able to do to undo that either -- unless the bill allows him to overrule that time frame at some future date.

And I don't think that's in your bill. If it is, I'd be interested in knowing that.

SENATOR PERKINS: Okay. Thank you.

ACTING PRESIDENT VALESKY: Senator Alesi.

SENATOR ALESI: Thank you, Mr. President.

I appreciate the points of view on

both sides of the aisle. And I have great respect for Senator Perkin's efforts here. Because as we all know, the main goal, over a reasonable period of time while we're dealing with elements of the environment, is to improve the environment. That's good for everybody.

But I think Senator Libous made a compelling argument when he was talking about a reasonable period of time, and some of my colleagues also in asking for just a little more time before this is implemented. In fact, if you pay close attention to the bill, it says this act shall take effect immediately. That means as soon as the Governor signs it. Immediately. With the date prescribed in there, obviously.

But I would like to ask if Senator Perkins would be kind enough to yield for a simple question.

I'm sorry, Mr. President, I thought you were going back to your seat to vote yes with it.

ACTING PRESIDENT VALESKY: Proceed.

SENATOR ALESI: Mr. President, would Senator Perkins yield?

ACTING PRESIDENT VALESKY: Senator Perkins, will you yield?

SENATOR PERKINS: Yes.

ACTING PRESIDENT VALESKY: The sponsor yields.

SENATOR ALESI: Thank you, Senator. Thank you for your efforts. I think there's no dispute that you're trying to do something good here.

However, it's very, very clear to me and some of my colleagues that this just makes this happen too soon. And because it covers the entire State of New York and not just those areas that are defined as non-attainment areas -- it covers the whole State of New York -- that this has a very negative effect on those of us who live upstate.

In this new Section 19, as you correctly point out, there is a provision that says the Governor, by way of executive action, can stop this temporarily from being put into effect. You could also draw from that that

maybe while it's in effect, that he could suspend it temporarily, although that's not specifically said in there. But he can do this after consulting with NYSERDA.

And so my question to you, Senator, is this. I'm looking through all of those people who are in favor of the bill and who are not in favor of the bill, and I do not see NYSERDA in here on any of these memos. Where is NYSERDA on this particular bill?

SENATOR PARKER: I assume that the Governor's support of this bill is significant in terms of NYSERDA's point of view. But generally speaking, they don't issue a position on this.

SENATOR ALESI: Thank you, Mr. President. If I may continue.

ACTING PRESIDENT VALESKY: Senator Alesi.

SENATOR ALESI: If Senator Perkins would continue to yield.

ACTING PRESIDENT VALESKY: Senator Perkins, will you continue to yield?

SENATOR PERKINS: Yes.

ACTING PRESIDENT VALESKY: The

sponsor continues.

SENATOR ALESI: With all respect, Senator, setting your assumptions aside, my question was where does NYSERDA stand. And if your assumption is that they haven't taken a position on this, then could I conclude that you haven't consulted with NYSERDA on this in the crafting of this bill?

SENATOR PERKINS: Through you, Mr. President, I have not personally consulted with them about their position on the bill. However, I do know that they have not sent any communication in opposition either.

And again, I think that the support of the Governor for the bill indicates that there will be some support from NYSERDA as well.

SENATOR ALESI: Thank you.

Mr. President, one other question, if I may.

ACTING PRESIDENT VALESKY: Senator Perkins?

SENATOR PERKINS: By all means.

ACTING PRESIDENT VALESKY: The sponsor continues to yield.

SENATOR ALESI: Senator, as you know, sometimes it's a little difficult to hear around here. But I think when you were responding to Senator Libous, you said something about the mayor of New York. I think you said "Are you aware that the mayor of New York" -- and then I couldn't hear the rest of that.

SENATOR PERKINS: Through you, Mr. President. Yes, the mayor of New York, who's in support of this bill, is also in the process of developing regs on Number 4 and Number 6 oil.

SENATOR ALESI: I'm sorry, Mr. President. In the process of what?

SENATOR PERKINS: Developing some regs with regard to Number 4 and Number 6.

SENATOR ALESI: Through you, Mr. President. Will he continue to yield?

ACTING PRESIDENT VALESKY: Senator Perkins, do you continue to yield?

SENATOR PERKINS: Yes.

ACTING PRESIDENT VALESKY: The sponsor yields.

SENATOR ALESI: Senator Perkins,

why is he in the process of doing that?

SENATOR PERKINS: Through you, Mr. President, I guess he wants to be ready in time for the implementation of this legislation.

SENATOR ALESI: Mr. President, through you. May I continue?

ACTING PRESIDENT VALESKY: Senator Perkins?

SENATOR PERKINS: Yes.

ACTING PRESIDENT VALESKY: The sponsor yields.

SENATOR ALESI: Senator Perkins, is that because the area that we know as Manhattan, which is in the non-attainment area, does this bill not apply to Manhattan?

SENATOR PERKINS: Through you, Mr. President, it does apply.

SENATOR ALESI: So it applies to all of the areas in the non-attainment area, then? Through you, Mr. President.

SENATOR PERKINS: Through you, yes.

SENATOR ALESI: Thank you.

Mr. President, on the bill, if I

may.

Thank you, Senator Perkins for your help.

ACTING PRESIDENT VALESKY: Senator Alesi, on the bill.

SENATOR ALESI: I think it's very clear -- and I don't know how many different ways that we can say this. But I think it is clear through this legislation that the Governor is mentioned prominently in this bill, as Senator Perkins correctly points out, as having the power to suspend this legislation after consulting with NYSERDA. It seems odd to me at this point that we have had, at least according to the sponsor, no interaction with NYSERDA at all, and yet they figure prominently into how this bill would work as well.

And I think it's also compelling for all of us to understand, and I'll say slightly differently what all of my other colleagues have said, is that this bill applies statewide and yet it refers in the legislative memo to those areas that are non-attainment areas. Meaning that they don't

meet the federal standards for healthy air.

Senator Little correctly pointed out that in her district they have the cleanest air in all of New York State. And one might conclude from that that this would be beyond necessary from the environmental standpoint, but she also concluded -- and I agree -- that this would have deleterious effects to those individual homeowners who are going to have to pay significantly more price per gallon for this kind of heating oil.

And if you look at the contrast between those areas in the New York City region that, maybe rightfully so, need to have more help in attaining healthier air, those areas upstate that are going to be equally impacted probably don't.

If you look at the kinds of homes that are being heated in upstate New York, by and large we are not in a vertical society. Not most of our residential lives in high-rise apartments, we live in single-family home. If you think about that, a single-family home, there is no synergy. You don't pick up any advantage from your neighbor who's 200 yards

away as you do when you're living in a vertical society and you have the advantage of heating that whole vertical building with maybe a thousand apartments in it.

So now while you have the coldest area of the state, as compared to New York City -- and whether it is in the Adirondacks or if it's on the southern shore of Lake Erie or Lake Ontario where the Canadian wind, the Artic Express, comes across and hits every one of those single-family homes like a 10-cent razor blade -- I think that was the term I remember hearing -- it is freezing cold. And you have to turn the heat up. And when you turn the heat up to keep your home warm, it costs you more money. And under this plan, even though we don't really need it upstate for air quality, it's going to cost even that much more.

Now, it doesn't matter whether we're middle-class or low-income people or elderly, we're all going to be impacted negatively by a bill that really is designed for New York City and the New York City metropolitan area. And I applaud that. Love

to help you with that.

But all I'm saying is this. I don't know if there's another way I can say it. My colleagues have said it. Cut us some slack. Every time we turn around, we're getting killed by New York City. I love New York City. I still believe it's the economic engine of the state. And we desperately need New York City. We're all part of it. But we should not be suffering under a bill that is meant to take care of the non-attainment areas, which is mostly New York City, when we live upstate, where it's cold, where we live in single-family homes, and we're going to pay more. Whether we're capable of paying more, whether we're elderly and frail, or whether we're young families in a single-family home trying to make life better, we're getting killed.

The mayor is working on something. I'm glad for that. But the mayor is from New York City. So is the Governor. So is everybody else that's running this state right now. Now, we were able to have some rational, in my view, some rational response from a

couple of the upstate Senators from the other side of the aisle on that amendment. That tells me clearly that those two out of three upstate Senators -- that would have embraced the amendment that would have just put this off a little bit longer so that we could maybe be carved out or at least accommodated -- understand how vitally important it is not to impact upstate New York so negatively when the real intent of this bill is to do something for New York City. And appropriately so.

So, my colleagues, we're on the main bill. I'm simply asking again -- and Senator Perkins is a dear friend of mine. And I enjoy his company, and I applaud his efforts. I'm simply asking, again, take a step back, just amend this bill slightly to help the people in upstate New York, come back with it Monday. I can't speak for my colleagues, but I'd pretty much bet if I got them all in a room alone, they'd see life my way. We'd support your bill.

Please, Senator Perkins, help us out in upstate.

ACTING PRESIDENT VALESKY: Thank

you, Senator Alesi.

Senator Owen Johnson.

SENATOR OWEN JOHNSON: Thank you, Mr. President.

You know, I spent quite a few years in environmental activities, including being the chairman of the Environmental Conservation Committee in the Senate. And I have always had a strong interest in air quality and water quality. When I started right off talking with DEC and other people, they said to me, Well, you can do a lot of things and we should do a lot of things and we have done a lot of things to clean the air, but unless you can change the breeze coming up from Jersey, you won't make much difference in your communities on Long Island. And that's probably true.

In any event, as you all know, automobile inspections and standards have been ratcheted down and down. The cars are very clean. They've added ethanol to the gasoline to make the air cleaner. And we're still in a non-attainment area, with all we've done.

Now, we can't change the air coming up the coast. We can't get a block of fresh

air and park it over our communities and keep it there, because air keeps moving. Not only around Long Island, obviously, or New York City, but even in the Adirondacks. Senator Little said they've got the cleanest air up there. But you know what? Their air is polluted by the midwest power plants, and they have acidic lakes with no fish in their lakes because of the acid from the midwest power plants.

So we can't change a lot of the surroundings. We should try to work together with our surrounding states, though, and get the air as clean as we can by matching the standards of the surrounding states, which has been proposed as an amendment here. Now, that amendment should be adopted. We should match that clean as we can. And what am I going to tell you here? I've got so many things to say.

In any event, the only discernible benefit -- or change, I should say, not benefit. The only discernible change from changing this little bit of air quality in fuel, varying it lower than the surrounding

states, will not make our air one bit cleaner. The discernible benefit, if you want to say, or change is that we're going to pay more for our fuel oil. Now, that doesn't make an awful lot of sense, does it, when you're not cleaning the air at all, you still have the same air coming from Jersey, the same air from the surrounding states. That we should match their standard and that we could do that inexpensively and avoid increased costs for people who buy the fuel oil.

That's about all I can say. So I think that the suggested changes by Senator Marcellino to match the other standards is the right thing to do. It'll be doing the best we can for air quality at the moment, and we won't be bankrupting our people.

Thank you.

ACTING PRESIDENT VALESKY: Thank you, Senator Johnson.

Senator DeFrancisco.

SENATOR DeFRANCISCO: I just want to stand up briefly. I'm not going to make the same argument. I just want to state for the record that I agree with Senator

Stachowski. I agree with him strongly that this bill should not be effective until 2014, and I support his bill, which was our amendment.

And I agree with Senator Aubertine as well, who voted for that amendment, who obviously feels the same way, because he represents an upstate community, that this bill should not go into effect, the requirement, until 2014.

And I also agree with what I know is Senator Valesky's belief in his heart that it should be 2014. And I hope we have their support when we vote against this bill.

Thank you.

ACTING PRESIDENT VALESKY: Thank you, Senator DeFrancisco.

Are there any other Senators who wish to be heard on the bill?

Seeing none, the debate is closed.

The Secretary will ring the bells. All Senators are asked to proceed to the chamber for the purposes of a roll call.

Senator Libous.

SENATOR LIBOUS: Mr. President,

I'd like to call a slow roll call on this bill.

ACTING PRESIDENT VALESKY: Seeing the required five Senators rise, the roll will be called slowly.

The Secretary will read the last section.

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

ACTING PRESIDENT VALESKY: Call the roll slowly.

THE SECRETARY: Senator Adams.

SENATOR ADAMS: Yes.

THE SECRETARY: Senator Addabbo.

SENATOR ADDABBO: Yes.

THE SECRETARY: Senator Alesi.

SENATOR ALESI: No.

THE SECRETARY: Senator Aubertine.

SENATOR AUBERTINE: Yes.

THE SECRETARY: Senator Bonacic.

SENATOR BONACIC: No.

THE SECRETARY: Senator Breslin.

SENATOR BRESLIN: Yes.

THE SECRETARY: Senator

DeFrancisco.

SENATOR DeFRANCISCO: No.

THE SECRETARY: Senator Diaz.

ACTING PRESIDENT VALESKY: Senator Diaz, to explain his vote.

SENATOR DIAZ: Thank you, Mr. President.

I'd just like to thank Senator Perkins, because the County of the Bronx and the district that I represent is one of the more affected areas with asthma and respiratory diseases. Even myself, the other day, I just found that I am with asthma too. And that's what happens to people in the district that I represent.

So, Senator Perkins, thank you for your concern and your bill. It helps -- even myself will be helped with that bill. So thank you, and I'm voting yes.

ACTING PRESIDENT VALESKY: Senator Diaz to be recorded in the affirmative.

THE SECRETARY: Senator Dilan.

SENATOR DILAN: Yes.

THE SECRETARY: Senator Duane.

SENATOR DUANE: Yes.
THE SECRETARY: Senator Espada.
SENATOR ESPADA: Yes.
SENATOR LIBOUS: Mr. President --
ACTING PRESIDENT VALESKY: Senator Libous.
SENATOR LIBOUS: -- is this a slow roll call? Are not members supposed to orally give their vote, or are we on a hand vote?
ACTING PRESIDENT VALESKY: This is a slow roll call. Members are voted orally.
SENATOR LIBOUS: First of all, we can't hear any members voting. We only hear Tommy giving the result of the vote.
ACTING PRESIDENT VALESKY: I would ask that Senators project as they vote so that the Secretary may record the vote accurately.
SENATOR LIBOUS: In that vein, Mr. President, could you please tell me how the last three people voted?
ACTING PRESIDENT VALESKY: Senators Dilan, Duane, and Espada recorded in

the affirmative.

SENATOR LIBOUS: Thank you, Mr. President.

ACTING PRESIDENT VALESKY: The Secretary will continue to call the roll slowly.

THE SECRETARY: Senator Farley.

SENATOR FARLEY: No.

THE SECRETARY: Senator Flanagan.

SENATOR FLANAGAN: No.

THE SECRETARY: Senator Foley.

SENATOR FOLEY: Mr. President.

ACTING PRESIDENT VALESKY: Senator Foley, to explain his vote.

SENATOR FOLEY: Thank you, Mr. President.

This bill is very, very important to Long Island and that particular region of New York State. When I was chair of the Health Committee in the County Legislature, we had plenty of testimony over a period of years about the, let's say, high, high levels of pollutants within that given region.

This particular bill that Senator Perkins has put forward will in the short

term, mid-term, and long term help clean up the air of our particular region.

I want to thank Senator Perkins for putting this bill forward. Notwithstanding the issue of the timing, the substance of this bill will enable Long Islanders to breathe easier as time goes on. That's why I strongly support the bill and vote in the affirmative, Mr. President. Thank you.

ACTING PRESIDENT VALESKY: Senator Foley to be recorded in the affirmative.

THE SECRETARY: Senator Fuschillo.

SENATOR FUSCHILLO: No.

THE SECRETARY: Senator Golden.

SENATOR GOLDEN: No.

THE SECRETARY: Senator Griffo.

SENATOR GRIFFO: No.

SENATOR ADAMS: Mr. President, point of order.

ACTING PRESIDENT VALESKY: Senator Adams, why do you rise?

SENATOR ADAMS: Point of order. If I recall, in order to do a vote, you're

supposed to be in your chair. Senator Golden was marching around somewhere. You know, he disappears a lot when important votes come on. So I just wanted to make sure that he was in his chair when he made his vote.

(Laughter.)

SENATOR GOLDEN: Thank you, Senator Adams.

(Laughter.)

ACTING PRESIDENT VALESKY: Senator Golden to be recorded in the negative.

SENATOR GOLDEN: That's correct. Thank you.

ACTING PRESIDENT VALESKY: The Secretary will continue to call the roll.

THE SECRETARY: Senator Hannon.

SENATOR HANNON: No.

THE SECRETARY: Senator Hassell-Thompson.

ACTING PRESIDENT VALESKY: Senator Hassell-Thompson, to explain her vote.

SENATOR HASSELL-THOMPSON: Thank you, Mr. President. Let me project my voice loudly so that all can hear me vote in the affirmative.

I, like Senator Diaz, represent the Bronx, with the highest incidences of asthma. And until we have found what the single cause is, everything that we do has the possibilities of adding to the rise in asthma among our children as well as adults. Therefore, loudly I affirm in support of Senator Perkins' bill.

Thank you, Mr. President.

ACTING PRESIDENT VALESKY: Senator Hassell-Thompson to be recorded in the affirmative.

THE SECRETARY: Senator Huntley.

SENATOR HUNTLEY: Yes.

THE SECRETARY: Senator C. Johnson.

SENATOR CRAIG JOHNSON: Yes.

THE SECRETARY: Senator O. Johnson.

SENATOR OWEN JOHNSON: No.

THE SECRETARY: Senator Klein.

SENATOR KLEIN: Yes.

THE SECRETARY: Senator L. Krueger.

ACTING PRESIDENT VALESKY:

Senator Liz Krueger, to explain her vote.

SENATOR LIZ KRUEGER: Thank you.

Well, I sat and listened carefully to the debate. And I guess I was confused by a couple of things. But I am quite sure I am voting yes for this bill.

Just for the record, the air moves around. So whether we think we live in a slightly dirty area airwise or a clean area airwise, the thing about air is it keeps moving everywhere. So it affects us all when there's pollution.

Second, it was made very clear that if there is any shortage of the correct new low-sulfur, high-efficiency fuel, that the Governor will have the power to extend timelines with this legislation.

So with this legislation we're going to do what is needed for the environment. It will be a win/win for all areas of the State of New York. Yes, my area is a particularly high-danger area. But also the fuel is more efficient, so you're actually going to burn less of it. So I'd even debate the cost issue.

So yes, I'm happy to loudly proclaim yes I support the bill. Thank you, Mr. President.

ACTING PRESIDENT VALESKY: Senator Liz Krueger to be recorded in the affirmative.

The Secretary will continue.

THE SECRETARY: Senator C. Kruger.

SENATOR CARL KRUGER: Yes.

THE SECRETARY: Senator Lanza.

SENATOR LANZA: No.

THE SECRETARY: Senator Larkin.

SENATOR LARKIN: No.

THE SECRETARY: Senator LaValle.

SENATOR LaVALLE: No.

THE SECRETARY: Senator Leibell.

SENATOR LEIBELL: No.

THE SECRETARY: Senator Libous.

SENATOR LIBOUS: To explain my vote, Mr. President.

ACTING PRESIDENT VALESKY: Senator Libous, to explain his vote.

SENATOR LIBOUS: Mr. President, Senator Perkins, I like you, I think you're a

good legislator, but I'm disappointed today. I'm disappointed.

I'm disappointed in my other colleagues, particularly those from downstate. Over the last 22 years, I've voted for a number of major pieces of legislation that helped people on Long Island and the City of New York, because it's all part of the state. And I hear from my colleagues on the other side of the aisle that we're one New York. I hear it often from my friend and colleague Senator Smith and others.

Well, I'm disappointed. We explained to you that this bill hurts the upstate rural communities, the consumers who heat their home with oil. This is going to cost them more money. We're not being unreasonable. We care about asthma, we care about air quality and control. And we asked the sponsor on a number of occasions -- number one occasion, if it's a problem in the City of New York and in Long Island, then make the bill pertain to the City of New York and Long Island. But no, we're going to make this statewide.

And then what do you do is you impose restrictions. People will not get home heating oil next year, I'm telling you. But you won't care, because you'll be in the City of New York. You don't heat, as Senator Alesi and others said, your home with home heating fuel.

So I'm disappointed. I'm very disappointed. When we stand up and share with you the differences -- because this is a different state, even though we're one New York State. Upstate -- and I see that, Senator Hassell-Thompson. You don't have to show me your watch. I have one. I know my time is running out. But this is important enough for me for make a point. Shame on you for not being open-minded enough to respect those who don't live in the City of New York or on Long Island.

ACTING PRESIDENT VALESKY: Senator Libous, how do you vote?

SENATOR LIBOUS: I vote no.

ACTING PRESIDENT VALESKY: Senator Libous to be recorded in the negative.

The Secretary will continue.

THE SECRETARY: Senator Little.
SENATOR LITTLE: No.
THE SECRETARY: Senator Marcellino.
SENATOR MARCELLINO: No.
THE SECRETARY: Senator Maziarz.
SENATOR MAZIARZ: No.
THE SECRETARY: Senator McDonald.
SENATOR McDONALD: No.
THE SECRETARY: Senator Montgomery.
ACTING PRESIDENT VALESKY: Senator Montgomery, to explain her vote.
SENATOR MONTGOMERY: Mr. President, to explain my vote.
I am voting yes on this. I'm quite confused by Senator Libous, all due respect, Senator. You chastise us because we say one New York, because we believe one New York. But then, on the other hand, you say but leave us out, leave the upstate constituents out, don't protect their environment. So I'm a little bit confused by that.
I think this is really a good bill. We really need this bill in the State of

New York. We are one of the highest users of fuel oil for heating purposes. And we also have pockets in our state where there is a very high concentration of incidents of chronic ailments related to pollution in the environment, auto and home heating and public transportation and et cetera.

So this particular bill is an attempt to address part of that. It in fact will reduce the cost of heating oil. I have a district that has a large number of single-home owners, small residences, essentially, that use this heating oil. So I'm extremely supportive and excited that we have taken at least one small step to address this issue.

And, Mr. President, I therefore vote aye for this bill.

ACTING PRESIDENT VALESKY: Senator Montgomery to be recorded in the affirmative.

THE SECRETARY: Senator Morahan, excused.

Senator Nozzolio.

ACTING PRESIDENT VALESKY:

Senator Nozzolio, to explain his vote.

SENATOR NOZZOLIO: Thank you, Mr. President.

Mr. President and my colleagues, I rise because I believe we are one New York. But I strongly believe that a portion of our state is totally ignoring the dramatic and almost desperate economic crisis that exists in upstate New York. And that this legislation adds to the burden of doing business, of producing jobs, of making the upstate economy work again. Government should not be the problem.

Here, with this legislation ignoring the needs and the dramatic situation that upstate faces, is reason enough to vote against the legislation. And, Mr. President, that's why I wish to be recorded in the negative against the bill.

ACTING PRESIDENT VALESKY: Senator Nozzolio to be recorded in the negative.

The Secretary will continue.

THE SECRETARY: Senator Onorato.

SENATOR ONORATO: Aye.

THE SECRETARY: Senator Oppenheimer.

SENATOR OPPENHEIMER: Yes.

THE SECRETARY: Senator Padavan.

SENATOR PADAVAN: Nay.

THE SECRETARY: Senator Parker.

ACTING PRESIDENT VALESKY: Senator Parker, to explain his vote.

SENATOR PARKER: Yes, Mr. Chairman.

First, let me just congratulate Bill Perkins for his intrepid work and leadership on this issue. There is nothing, frankly, more important than the stewardship of our planet. And if we have not learned that from what's been happening with the greenhouse effect and what's been happening with the high asthma rates, when we see earthquakes and tidal waves and tsunamis and all these other things that are happening, this all is part of it. And not even a mention of the BP disaster. Right?

And so, you know, we know how harmful this is. One of the things we ought to do -- and as you have the chairman of the

Energy Committee in the Senate on your side of the aisle, you ought to interact with him to find ways that we can get people off of oil. We need to be moving away from this situation anyway.

In the same way that we have, you know, stopped smoking in buildings, we have to progress. And it's going to be difficult. This is what we call the transition. And transitions are painful, but they're necessary. We need to be moving towards a society where we are not dependent on, you know, foreign oil consumption, where we're not -- our addiction to foreign oil has to be broken. And if it has to be done, you know, cold turkey, then so let it be.

But there are lots of programs to help people move to alternative energy and do things that need to be done so they can heat their homes. But certainly taking sulfur out is an important first step. I applaud you, Senator Bill Perkins, and thank you so much for doing this. And I really encourage my colleagues to vote aye as I will be voting aye.

ACTING PRESIDENT VALESKY: Senator Parker to be recorded in the affirmative.

THE SECRETARY: Senator Peralta.

SENATOR PERALTA: Yes.

THE SECRETARY: Senator Perkins.

ACTING PRESIDENT VALESKY: Senator Perkins, to explain his vote.

SENATOR PERKINS: Thank you very much. I'm going to be brief. But, Senator Libous, I love you too. And I have a high regard for what you do on behalf of your conference. And I in no way question the sincerity of what you're trying to do for the people of your community or the people of the state. I would urge you not to do the same with me and my colleagues as well.

As you may recall, we had a discussion earlier in which the date was different than the date that you're talking about now. The date that was offered was 1012. Now we're talking about 2014. So I'm concerned about the moving target as we move forward to correct what we all recognize is a problem not just for New York City but for

New York State as well.

And I believe that this legislation, as a result of some of the input that you have made and some of your other colleagues have made, is a giant step towards that end. We all are winners on this, no matter what part of the state that we come from. Your constituents will breathe better and all of our constituents will save money by virtue of this legislation. And if in fact any corrections need to be made, thanks to your input and others, the Governor is available to take those into consideration.

So I think that we protest too much and that we may be denigrating each other unnecessarily in our passion to represent our neighborhoods, to represent our areas. This is good legislation. This is not intended to be a problem for anybody. And in fact the proof will be that it is not and will not be.

Thank you so much. I vote aye.

ACTING PRESIDENT VALESKY: Senator Perkins to be recorded in the affirmative.

The Secretary will continue to call

the roll.

THE SECRETARY: Senator Ranzenhofer.

SENATOR RANZENHOFER: No.

THE SECRETARY: Senator Robach.

SENATOR ROBACH: Yes, Mr. President, to explain my vote.

ACTING PRESIDENT VALESKY: Senator Robach, to explain his vote.

SENATOR ROBACH: I have to say I'm a little bit surprised and shocked by some of the comments over there.

And you're right, while we all want to solve this, we also talk about words in this chamber all the time: Cooperation, fairness, equity. And I really, I'm missing it here.

Not only have you heard a very cogent reason not to make the people pay the acute price who aren't in the area where the greatest pollution is, but then even more egregious to me, and I don't know if -- I hope this is omission and not arrogance and unfairness, but then you don't include in the bill 4 and 6 oil which heats Manhattan and all

the big property buildings, and those are conveniently carved out of the bill, making this tremendously unfair and quite frankly adding a lot of hypocrisy to those speeches on how you really want to solve the problem.

Now, we could do this a different way. We could have changed the date, we could have included those things. You're the sponsor of the bill. People have asked you, we talked about it on this floor at great length. And I appreciated all the comments and listened to every one of them, unlike some people.

But now there's really no choice. What could have been something very good and inclusive is really something very exclusive and something unfair to a certain part of the state.

And you're right, Senator Perkins, there is a lot of frustration on my constituents and a lot of us over here that that happens too much, we feel, where the weight and the specialty always goes to one portion of the state, which is rarely mine. It's always that part in the southern part of

the state, New York City. And we could have avoided that.

So before, you know, we all celebrate, I hope, since we couldn't get you to change it today, I hope we'll go back and revisit this and really make it a little bit better so everybody can stand -- and I have to tell you, after listening to the debate today, anybody, whether they're either side of the aisle, who votes for this for upstate New York is not looking out for the best interests of their constituents.

I vote no.

ACTING PRESIDENT VALESKY: Senator Robach to be recorded in the negative.

THE SECRETARY: Senator Saland.

SENATOR SALAND: No.

THE SECRETARY: Senator Sampson.

SENATOR SAMPSON: Yes.

THE SECRETARY: Senator Savino.

SENATOR SAVINO: Yes.

THE SECRETARY: Senator Schneiderman.

SENATOR SCHNEIDERMAN: Yes.

THE SECRETARY: Senator Serrano.

SENATOR SERRANO: Yes.
THE SECRETARY: Senator Seward.
SENATOR SEWARD: No.
THE SECRETARY: Senator Skelos.
SENATOR SKELOS: No.
THE SECRETARY: Senator Smith.
SENATOR SMITH: Yes.
THE SECRETARY: Senator Squadron.
SENATOR SQUADRON: Yes.
THE SECRETARY: Senator Stachowski.
SENATOR STACHOWSKI: Yes.
THE SECRETARY: Senator Stavisky.
SENATOR STAVISKY: Yes.
THE SECRETARY: Senator Stewart-Cousins.
SENATOR STEWART-COUSINS: Yes.
THE SECRETARY: Senator Thompson.
SENATOR THOMPSON: Yes.
THE SECRETARY: Senator Valesky.
SENATOR VALESKY: Yes.
THE SECRETARY: Senator Volker.
SENATOR VOLKER: No.
THE SECRETARY: Senator Winner.
SENATOR WINNER: No.

THE SECRETARY: Senator Young.

SENATOR YOUNG: To explain my vote.

ACTING PRESIDENT VALESKY: Senator Young, to explain her vote.

SENATOR YOUNG: Thank you, Mr. President.

You're right, Senator Perkins, we are very passionate about our neighborhoods and about our communities. And that's why we expressed our concerns today about how this hurts our neighborhoods and our communities.

And you know, I respect you very much. I respect Senator Montgomery very much. But it sounds very disingenuous to me when you say that the people in our regions are winners that this doesn't hurt the people in our regions, that it protects them. It's not true. It's not true. People are hurting in upstate New York. We have an economic crisis going on. People have lost their jobs. People can't afford to pay their bills.

And I can't believe -- in fact, I'm shocked that my colleagues, especially the Democrats from upstate New York, would vote to

either raise home heating fuel prices or create a shortage next year where people who depend on home heating oil aren't going to be able to get it. How can you do that? And how can you sit there and say that you're making people winners and not hurting people? You are hurting people today.

I am shocked by this. I vote no.

ACTING PRESIDENT VALESKY: Senator Young to be recorded in the negative.

Announce the results.

THE SECRETARY: Ayes, 32. Nays, 29.

ACTING PRESIDENT VALESKY: The bill is passed.

The Secretary will continue to read the controversial calendar.

THE SECRETARY: Calendar Number 846, by Senator Stewart-Cousins, Senate Print 7400A, an act to amend the General Municipal Law.

ACTING PRESIDENT VALESKY: Are there any Senators who wish to be heard on the bill?

Hearing none, the debate is closed.

The Secretary will ring the bells.

The Secretary will read the last section.

THE SECRETARY: Section 17. This act shall take effect on the first of January.

ACTING PRESIDENT VALESKY: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT VALESKY: Announce the results.

THE SECRETARY: In relation to Calendar Number 846, absent from voting: Senators Breslin, Golden, Marcellino and Padavan.

Ayes, 57. Nays, 0.

ACTING PRESIDENT VALESKY: The bill is passed.

The Secretary will proceed with the reading of the controversial supplemental active list.

Members are asked to stay in the chamber.

THE SECRETARY: Calendar Number 1001, by Senator L. Krueger, Senate Print 4526, an act to amend the Legislative Law.

ACTING PRESIDENT VALESKY:

Senator Griffo.

SENATOR GRIFFO: Thank you, Mr. President.

As I look at this -- and I recognize, I think we all do, that if there's anything flawed, it is the framework and the process of the state budget. And the intent here is noteworthy and admirable, but it's the content that concerns me.

And what I look at here is the fact that we've talked about the idea behind this is to model it after the Congressional Budget Office. And I think that is a good idea. But unfortunately, some of the concerns that I find in this bill is it's somewhat modeled after but I believe that we have to mirror the Congressional Budget Office. If we are going to do this --

SENATOR ROBACH: Can we have a little order in here? I can't even hear. Can we get a little order in here, Mr. President?

SENATOR GRIFFO: Thank you.

If we're really going to undertake this process, then I think that we should

really make an effort to mirror the Congressional Budget Office to allow to us really do it properly.

Some of the concerns with this bill is the criteria and qualifications and credentials of the director, deputy director, and staff. There's no specific requirements. It's very general in its statement of purpose.

Also, the term and length of service of the executive director. At this point in time the bill specifies a seven-year term, and there's really difficulty in determining how you may remove that director if there was cause.

And the other thing would be that I don't believe there's enough significant tasking for the assignments that would be required and important in undertaking this responsibility. The Congressional Budget Office has been in effect for over 35, and it has truly been a nonpartisan and professional operation in Congress.

For instance, the director, if we talk about the difference again between what is stipulated in the bill and what I think

would even make this a better bill is that the director of the Congressional Budget Office has to be approved without regard to political affiliation and solely based on the fitness to perform duties. There is no such requirement on qualifications for office set forth in this bill.

Also, the director of the Congressional Budget Office can be removed by resolution of the House of Representatives and Senate. This bill does not provide for the ability to remove the director for circumstances that may be necessary.

So I think that, again, the intent is good. I do believe that it's important. I had a bill, a similar bill talking about the necessary independence -- an independent budget operation so that we can have objective and professional analysis. But I think that this really, while it's a beginning in the right direction, doesn't bring us to where we really need.

And when you know that we have had 78 days without a state budget here, when we see that deadlines have been ignored, and when

we know that current laws have been violated, I think it's important that we go and do this right.

And while this concept is good and we should pursue it, I think we need to move forward with truly making this not a model of the Congressional Budget Office, but let's mirror the Congressional Budget Office. The reforms are essential and necessary. I would hope that we could respect the current laws before we move over to new ones. But if we're going to do it, let's do it right, and let's truly model it after the Congressional Budget Office, which has proven itself.

So that's my perspective, and I thank you for the opportunity to be heard, Mr. President.

ACTING PRESIDENT CRAIG JOHNSON: Thank you, Senator Griffo.

Senator Liz Krueger, on the bill.

SENATOR LIZ KRUEGER: Thank you very much. I just rise to explain a bit about my bill.

And I want to thank Senator Griffo for his constructive comments. I know that

there was a hostile amendment that he had earlier, but he pulled it back -- which was his right -- which, again, looked at a number of the pieces of the Congressional Budget Office.

It is true this is not an exact model of the Congressional Budget Office. In fact, I don't think New York State could do that right away. For one thing, it has a much broader range of responsibilities at the federal level than the state. I think that I couldn't get away with proposing we create a Congressional Budget Office at the state level at this time because the economic cost would be so dramatic.

When they started the Congressional Budget Office, they had a $44 million price tag for it and it had responsibilities beyond what I think we can have here. The federal -- if we used the federal model exactly, we would have to reproduce legislative budget office models or arms for the Department of Budget, Tax and Finance, the Comptroller's Office, ESDC, ORPS. So this is a smaller model.

But I want to highlight that I

think we can get something started and then we can see how it grows based on its effectiveness. So I do appreciate Senator Griffo's comments and some of the recommendations that were made in his hostile. And I think that if we could pass this bill and get a legislative budget office, we could see all the potential of what we could do together and we could grow it over the years.

What does it do? As Senator Griffo pointed out, it's the idea of creating an independent nonpolitical financial analysis and forecasting entity, as opposed to a partisan, politically driven committee. It is headed by a director who would be appointed by joint resolution of the Senate and Assembly for a seven-year term, with hiring resting in the director.

We thought a seven-year term made sense because it wouldn't be tied into any governor's schedule of coming in or going out with governors and would allow -- I'm sorry, could I ask for a little quiet in the chamber?

ACTING PRESIDENT CRAIG JOHNSON: Senator Krueger has requested order in the

chamber.

SENATOR LIZ KRUEGER: Thank you, Mr. President.

The legislative budget office would provide us all -- regardless of party, regardless of house -- with specific information about true cost estimates on budget items, on legislative items, economic analysis for the state.

I hope that we will not only pass this bill but will also pass a piece of legislation I believe may come up later in the week or next week for GAAP budgeting for the state. In order for the state to truly move into generally accepted accounting principle budgeting, we need --

ACTING PRESIDENT CRAIG JOHNSON: Senator DeFrancisco, why do you rise?

SENATOR DeFRANCISCO: Will Senator Krueger yield to a question?

ACTING PRESIDENT CRAIG JOHNSON: Senator Krueger, will you yield to a question?

SENATOR LIZ KRUEGER: Could I just complete my description? And then I'd be happy to take any questions.

SENATOR DeFRANCISCO: Absolutely.

SENATOR LIZ KRUEGER: Thank you.

ACTING PRESIDENT CRAIG JOHNSON: Senator Krueger.

SENATOR LIZ KRUEGER: Thank you so much.

In order to move successfully into GAAP budgeting and other important budget reform, you really need to be able to have objective information about what things cost and what things are costing us over time. And in fact the legislative budget office would empower the Legislature -- both houses, both parties, because everybody would get the same information -- to challenge now the de facto, I suppose the de facto positions of the Department of Budget for the Governor. Because if we don't have the information to challenge what the Governor's office is telling us things cost or will cost or will bring in, we don't have the ability to be equal players in budget negotiations and in three-way legislation.

This is a very successful model not only on the federal level, as my colleague

Senator Griffo has highlighted, but is also very successful in quite a few other states who have already implemented nonpartisan fiscal offices. Nationwide, 44 state legislatures have nonpartisan fiscal offices, including the City of New York, as the largest city in the State of New York, having an independent budget office. California created the first nonpartisan legislative fiscal office in 1941. Tennessee's Office of Legislative Budget Analysis is the nation's newest joint legislative fiscal.

There are years of documentation about why LBOs or IBOs work. Again, 44 states have gone down that road. And I am hoping very much that even if we don't agree completely on what the specific functions will be over the long term, that my colleagues in both houses are going to want to move this legislation and get us started. Because in honesty, if other states have already gone down that road since the '40s, I think it's time for New York State to give a successful model a try.

And now I'd be happy to answer any

questions of Senator DeFrancisco. Thank you.

ACTING PRESIDENT CRAIG JOHNSON: Senator Carl Kruger.

SENATOR CARL KRUGER: Thank you, Mr. President.

I guess, you know, confusion from time to time reigns. And the short title of this is "creates the nonpartisan legislative budget office." Quite frankly, first we have to recognize the fact that this is Albany, New York, and not Washington, D.C. And this is the State Legislature and not the Congress. And we have a legislative budget office, and they call it the Senate Finance Committee in this house. And the shared responsibilities are between the majority and my partner, the ranking member on the minority side.

I think that this would be an intrusion. We already have a State Comptroller. We have a mechanism and a methodology where we can examine the budget, where we can come to negotiated agreements. And quite frankly, I think that this takes us in the wrong direction.

Thank you.

ACTING PRESIDENT CRAIG JOHNSON: Thank you, Senator Kruger.

Senator Fuschillo.

SENATOR FUSCHILLO: Would the sponsor yield to a few questions, Mr. President.

ACTING PRESIDENT CRAIG JOHNSON: Senator Krueger, would you yield to Senator Fuschillo for some questions?

SENATOR LIZ KRUEGER: Thank you. Certainly, Senator Fuschillo.

ACTING PRESIDENT CRAIG JOHNSON: Senator Fuschillo.

SENATOR FUSCHILLO: Thank you, Senator Krueger.

In your memo you state that it's estimated the operating budget will be $2 million. And is that money taken from the Senate Finance Committee and the Assembly Ways and Means?

SENATOR LIZ KRUEGER: The estimate is $2 million, of which $1 million will come from each house.

There's an assumption, despite my colleague Senator Carl Kruger's concern, that

we would be doing away with the Finance Committees or the Finance staff. That's absolutely not true. But we would shift some of the money from each house into a legislative budget office.

Which would be doing, by the way, a significant percentage of the work that now is often duplicated in both houses because we have no model for this.

SENATOR FUSCHILLO: What is the budget of the --

ACTING PRESIDENT CRAIG JOHNSON: Senator Fuschillo, do you wish --

SENATOR FUSCHILLO: Would the sponsor yield for another question?

ACTING PRESIDENT CRAIG JOHNSON: Senator Krueger, would you continue to yield for Senator Fuschillo?

SENATOR LIZ KRUEGER: Yes, of course, Senator.

ACTING PRESIDENT CRAIG JOHNSON: Senator Fuschillo.

SENATOR FUSCHILLO: So you're going to be reducing the Senate's Finance Committee's budget for staff, personnel,

administrative abilities by a million dollars. Would that result in laying off employees in the New York State Senate that are currently assigned to Senator Kruger's committee?

SENATOR LIZ KRUEGER: To answer your question, it would be a million dollars from each house. It wouldn't necessarily come from the current distribution of how either house, either side, distributes their money.

Again, I would argue that the legislative budget office providing both fiscal and to some degree legislative analysis, because so much of our legislation, the analysis that needs to be done is based on the financial cost of the legislation, that it would be a relatively minimal loss to any of us for a much greater gain.

SENATOR FUSCHILLO: Would the sponsor continue to yield, Mr. President?

ACTING PRESIDENT CRAIG JOHNSON: Senator Krueger, will you continue to yield?

SENATOR LIZ KRUEGER: Certainly.

SENATOR FUSCHILLO: Thank you, Senator.

In your memo you state that funding

for the legislative budget office will be redirected from the Senate Finance Committee and the Assembly Ways and Means. So I'll ask again, are you going to be taking a million dollars out of the budget for the Senate Finance Committee? Because your memo says you are.

SENATOR LIZ KRUEGER: Again, I don't -- I would recognize that my memo may not be exactly parallel to the legislation. I don't believe the legislation requires it come from the Finance budget specifically. And I believe, as we know, those are a moving target as to how much money is put into any subsection of Senate staff in any given year.

SENATOR FUSCHILLO: Thank you. Would the Senator continue to yield, Mr. President?

ACTING PRESIDENT CRAIG JOHNSON: Senator, do you continue to yield?

SENATOR LIZ KRUEGER: Yes, of course, Mr. President.

ACTING PRESIDENT CRAIG JOHNSON: Senator Fuschillo.

SENATOR FUSCHILLO: Thank you,

Senator.

In your -- I'll refer to the bill, not the memo anymore, because I think the memo is incorrect, based on your statements. But it says here that "be charged with the duty of rendering anticipated revenue forecast reports to the Legislature and the Governor for the purpose of facilitating passage of the state budget in a timely manner."

SENATOR LIZ KRUEGER: I'm sorry, I couldn't hear you, excuse me. Could you repeat that, please?

SENATOR FUSCHILLO: On page 2(c), in Section 1 -- or Section 77(c), it says here that they're going to render anticipated revenue forecasts on the Governor's budget.

SENATOR LIZ KRUEGER: Yes.

SENATOR FUSCHILLO: In a timely manner. What exactly does that mean? You don't set parameters that after the budget is produced by the Governor, within 30 days they have to report to the Legislature. You just state -- you leave it wide open that there's a timely manner.

SENATOR LIZ KRUEGER: We have

actual budget law that sets timeline for the revenue forecasting for the budget each year. So it would be that this responsibility would shift to the LBO. It doesn't change the timelines that we have in existing law in New York State.

SENATOR FUSCHILLO: Would the Senator continue to yield, Mr. President?

ACTING PRESIDENT CRAIG JOHNSON: Senator Krueger, do you continue to yield?

SENATOR LIZ KRUEGER: Certainly.

SENATOR FUSCHILLO: Now, your title is laudable, "Nonpartisan Legislative Budget Office." But I'm trying to think about what isn't duplicated already by what Senator Kruger said in the Senate Finance Committee, by the ranking member of the Finance Committee in the Republicans, and also in the Assembly on both sides.

A report is submitted -- now this is nonpartisan -- to the Temporary President, who's a Democrat right now, and the Speaker of the Assembly, who's a Democrat right now. Why wouldn't your bill include the minority as well as in both houses, if it's truly

nonpartisan?

SENATOR LIZ KRUEGER: That's a legitimate concern, I agree. That was not my intent, to prevent that material from coming to either side, either party.

SENATOR FUSCHILLO: Thank you very much, Senator.

SENATOR LIZ KRUEGER: Thank you.

SENATOR FUSCHILLO: Just on the bill, Mr. President.

ACTING PRESIDENT CRAIG JOHNSON: Senator Fuschillo, on the bill.

SENATOR FUSCHILLO: Again, I'll state that the title "Nonpartisan Legislative Budget Office" is something that is laudable and sounds great, but I don't really see how a goal like that is attainable here.

And I don't know whether or not there is ample dollars to fund a $2 million another government bureaucratic operation here in the State of New York when people are calling for less government, they're calling for reducing the size of government, we're calling for a cap on state expenditures. Yet we're creating another office that seems,

Mr. President, as a duplication of services.

Now, there's no statutory requirement that this legislative body has to do anything with the reports, whether it's in a timely manner or not. And that's not even spelled out in the bill. But it concerns me that it's really the party of power in a joint legislative body, Assembly and Senate, that's going to determine who heads up this, quote, unquote, nonpartisan legislative budget office.

Thank you very much, Mr. President.

ACTING PRESIDENT CRAIG JOHNSON: Thank you, Senator Fuschillo.

Senator Krueger.

SENATOR LIZ KRUEGER: Thank you so much.

My colleagues, based on the concerns raised by Senator Fuschillo about lack of detail in the draft of this bill, I would like to withdraw it for chapter amendments myself. Thank you.

ACTING PRESIDENT CRAIG JOHNSON: The bill will be laid aside for the day.

Senator Smith, that completes the

reading of the controversial supplemental active list.

SENATOR SMITH: Yes, I have some motions, Mr. President.

ACTING PRESIDENT CRAIG JOHNSON: Returning to motions and resolutions.

Senator Smith.

SENATOR SMITH: Yes. On behalf of Senator Breslin, on page number 20 I offer the following amendments to Calendar Number 490, Senate Print 6954B, and ask that said bill retain its place on Third Reading Calendar.

ACTING PRESIDENT CRAIG JOHNSON: Amendments received.

Senator Smith.

SENATOR SMITH: Yes, thank you very much, Mr. President.

On behalf of Senator Aubertine, I wish to call up his bill, Senate Print 6303, recalled from the Assembly, which is now at the desk.

ACTING PRESIDENT CRAIG JOHNSON: The Secretary will read.

THE SECRETARY: Calendar Number

104, by Senator Aubertine, Senate Print 6303, an act to amend the Agriculture and Markets Law.

ACTING PRESIDENT CRAIG JOHNSON: Senator Smith.

SENATOR SMITH: Yes, Mr. President. I now move to reconsider the vote by which this bill was passed.

ACTING PRESIDENT CRAIG JOHNSON: The Secretary will call the roll on reconsideration.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT CRAIG JOHNSON: Senator Smith.

SENATOR SMITH: Mr. President, I offer the following amendments.

ACTING PRESIDENT CRAIG JOHNSON: Amendments received.

Senator Smith.

SENATOR SMITH: Yes, Mr. President. I ask that we will stand at ease for about 10 minutes. I ask members to stay close to the chamber, as we will be starting back abruptly.

And would you please recognize Senator Libous.

ACTING PRESIDENT CRAIG JOHNSON: Senator Libous.

SENATOR LIBOUS: During that 10-minute at ease, if we could have a quick Republican conference, please.

ACTING PRESIDENT CRAIG JOHNSON: During the 10-minute period the Senate will stand at ease, the Republican conference will have a conference in the Republican Conference Room.

The Senate will stand at ease.

(Whereupon, the Senate stood at ease at 4:09 p.m.)

(Whereupon, the Senate reconvened at 5:09 p.m.)

ACTING PRESIDENT VALESKY: The Senate will please come to order.

Senator Klein.

SENATOR KLEIN: Mr. President, if we can briefly return to motions and resolutions.

ACTING PRESIDENT VALESKY: Returning to motions and resolutions.

Senator Klein.

SENATOR KLEIN: Mr. President, on behalf of Senator Squadron, I wish to call up Print Number 5283, recalled from the Assembly, which is now at the desk.

ACTING PRESIDENT VALESKY: The Secretary will read.

THE SECRETARY: Calendar Number 519, by Senator Squadron, Senate Print 5283, an act to amend the Tax Law.

ACTING PRESIDENT VALESKY: Senator Klein.

SENATOR KLEIN: Mr. President, I now move to reconsider the vote by which this bill was passed.

ACTING PRESIDENT VALESKY: The Secretary will call the roll on reconsideration.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT VALESKY: Senator Klein.

SENATOR KLEIN: Mr. President, I offer the following amendments.

ACTING PRESIDENT VALESKY: The

amendments are received.

SENATOR KLEIN: Mr. President, on behalf of Senator Squadron again, on page 24 I offer the following amendments to Calendar Number 622, Senate Print Number 5287C, and ask that said bill retain its place on Third Reading Calendar.

ACTING PRESIDENT VALESKY: So ordered.

SENATOR KLEIN: Mr. President, at this time can we please go to a reading of the supplemental active list.

ACTING PRESIDENT VALESKY: The Secretary will proceed with the reading of the supplemental active list.

THE SECRETARY: Calendar Number 675, by Senator Stavisky, Senate Print --

SENATOR KLEIN: Lay the bill aside for the day, please.

ACTING PRESIDENT VALESKY: The bill is laid aside for the day.

THE SECRETARY: Calendar Number 691, by Senator Sampson --

SENATOR KLEIN: Lay the bill aside for the day, please.

ACTING PRESIDENT VALESKY: The bill is laid aside for the day.

THE SECRETARY: Calendar Number 692, by Senator Sampson --

SENATOR KLEIN: Lay the bill aside for the day, please.

ACTING PRESIDENT VALESKY: The bill is laid aside for the day.

THE SECRETARY: Calendar Number 698, by Member of the Assembly Sayward, Assembly Print Number 9829, an act to authorize certain healthcare professionals.

ACTING PRESIDENT VALESKY: Read the last section.

THE SECRETARY: Section 2. This act shall take effect July 21, 2010.

ACTING PRESIDENT VALESKY: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT VALESKY: The bill is passed.

THE SECRETARY: Calendar Number 845, by Member of the Assembly Canestrari, Assembly Print Number 10137, an act to amend

Chapter 534 of the Laws of 1993.

ACTING PRESIDENT VALESKY: Read the last section.

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

ACTING PRESIDENT VALESKY: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT VALESKY: The bill is passed.

THE SECRETARY: Calendar Number 912, by Member of the Assembly Sweeney, Assembly Print Number 10025A, an act to authorize the Long Island Progressive Missionary Baptist Churches.

ACTING PRESIDENT VALESKY: Read the last section.

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

ACTING PRESIDENT VALESKY: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60. Nays, 1. Senator Bonacic to be recorded in the

negative.

ACTING PRESIDENT VALESKY: The bill is passed.

Senator Klein, that concludes the reading of the supplemental active list.

SENATOR KLEIN: Mr. President, is there any further business at the desk?

ACTING PRESIDENT VALESKY: The desk is clear.

SENATOR KLEIN: Mr. President, there being no further business, I move we adjourn until, Friday, June 18th, at 10 a.m.

ACTING PRESIDENT VALESKY: On motion, the Senate stands adjourned until Friday, June 18th, at 10:00 a.m.

(Whereupon, at 5:12 p.m., the Senate adjourned.)