

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

NEW YORK STATE SENATE

THE STENOGRAPHIC RECORD

ALBANY, NEW YORK

January 22, 2025

11:57 a.m.

REGULAR SESSION

SENATOR SHELLEY B. MAYER, Acting President

ALEJANDRA N. PAULINO, ESQ., Secretary

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

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

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

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

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

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

13 ACTING PRESIDENT MAYER: Reading of
14 the Journal.

15 THE SECRETARY: In Senate, Tuesday,
16 January 21, 2025, the Senate met pursuant to
17 adjournment. The Journal of Monday, January 20,
18 2025, was read and approved. On motion, the
19 Senate adjourned.

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

22 Presentation of petitions.

23 Messages from the Assembly.

24 Messages from the Governor.

25 Reports of standing committees.

1 Reports of select committees.

2 Communications and reports from
3 state officers.

4 Motions and resolutions.

5 Senator Gianaris.

6 SENATOR GIANARIS: Good morning
7 still, Madam President.

8 I move to adopt the
9 Resolution Calendar.

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

13 (Response of "Aye.")

14 ACTING PRESIDENT MAYER: Opposed,
15 nay.

16 (No response.)

17 ACTING PRESIDENT MAYER: The
18 Resolution Calendar is adopted.

19 Senator Gianaris.

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

22 ACTING PRESIDENT MAYER: The
23 Secretary will read.

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

1 amend the Labor Law.

2 ACTING PRESIDENT MAYER: Read the
3 last section.

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

6 ACTING PRESIDENT MAYER: Call the
7 roll.

8 (The Secretary called the roll.)

9 ACTING PRESIDENT MAYER: Announce
10 the results.

11 THE SECRETARY: Ayes, 43.

12 ACTING PRESIDENT MAYER: The bill
13 is passed.

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

17 ACTING PRESIDENT MAYER: Read the
18 last section.

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

21 ACTING PRESIDENT MAYER: Call the
22 roll.

23 (The Secretary called the roll.)

24 ACTING PRESIDENT MAYER: Announce
25 the results.

1 THE SECRETARY: Ayes, 45.

2 ACTING PRESIDENT MAYER: The bill
3 is passed.

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

7 ACTING PRESIDENT MAYER: Read the
8 last section.

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

12 ACTING PRESIDENT MAYER: Call the
13 roll.

14 (The Secretary called the roll.)

15 ACTING PRESIDENT MAYER: Announce
16 the results.

17 THE SECRETARY: Ayes, 45.

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

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

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

1 Third Reading Calendar 54.

2 ACTING PRESIDENT MAYER: The
3 substitution is so ordered.

4 The Secretary will read.

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

9 ACTING PRESIDENT MAYER: Read the
10 last section.

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

13 ACTING PRESIDENT MAYER: Call the
14 roll.

15 (The Secretary called the roll.)

16 ACTING PRESIDENT MAYER: Announce
17 the results.

18 THE SECRETARY: Ayes, 53.

19 ACTING PRESIDENT MAYER: The bill
20 is passed.

21 THE SECRETARY: Oh, I'm sorry.

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

1 Ayes, 51. Nays, 2.

2 ACTING PRESIDENT MAYER: The bill
3 is passed.

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

7 ACTING PRESIDENT MAYER: Read the
8 last section.

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

12 ACTING PRESIDENT MAYER: Call the
13 roll.

14 (The Secretary called the roll.)

15 ACTING PRESIDENT MAYER: Announce
16 the results.

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

21 Ayes, 49. Nays, 5.

22 ACTING PRESIDENT MAYER: The bill
23 is passed.

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

1 amend the Arts and Cultural Affairs Law.

2 ACTING PRESIDENT MAYER: Read the
3 last section.

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

7 ACTING PRESIDENT MAYER: Call the
8 roll.

9 (The Secretary called the roll.)

10 ACTING PRESIDENT MAYER: Announce
11 the results.

12 THE SECRETARY: Ayes, 56.

13 ACTING PRESIDENT MAYER: The bill
14 is passed.

15 There's a substitution at the desk.

16 The Secretary will read.

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

22 ACTING PRESIDENT MAYER: The
23 substitution is so ordered.

24 The Secretary will read.

25 THE SECRETARY: Calendar Number 69,

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

4 ACTING PRESIDENT MAYER: Read the
5 last section.

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

9 ACTING PRESIDENT MAYER: Call the
10 roll.

11 (The Secretary called the roll.)

12 ACTING PRESIDENT MAYER: Announce
13 the results.

14 THE SECRETARY: In relation to
15 Calendar 69, voting in the negative:
16 Senator Brisport.

17 Ayes, 58. Nays, 1.

18 ACTING PRESIDENT MAYER: The bill
19 is passed.

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

23 ACTING PRESIDENT MAYER: Read the
24 last section.

25 THE SECRETARY: Section 3. This

1 act shall take effect immediately.

2 ACTING PRESIDENT MAYER: Call the
3 roll.

4 (The Secretary called the roll.)

5 ACTING PRESIDENT MAYER: Announce
6 the results.

7 THE SECRETARY: Ayes, 59.

8 ACTING PRESIDENT MAYER: The bill
9 is passed.

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

13 ACTING PRESIDENT MAYER: Read the
14 last section.

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

18 ACTING PRESIDENT MAYER: Call the
19 roll.

20 (The Secretary called the roll.)

21 ACTING PRESIDENT MAYER: Announce
22 the results.

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

1 Ayes, 58. Nays, 1.

2 ACTING PRESIDENT MAYER: The bill
3 is passed.

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

7 ACTING PRESIDENT MAYER: Read the
8 last section.

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

11 ACTING PRESIDENT MAYER: Call the
12 roll.

13 (The Secretary called the roll.)

14 ACTING PRESIDENT MAYER: Announce
15 the results.

16 THE SECRETARY: Ayes, 59.

17 ACTING PRESIDENT MAYER: The bill
18 is passed.

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

22 SENATOR LANZA: Lay it aside.

23 ACTING PRESIDENT MAYER: The bill
24 is laid aside.

25 Senator Gianaris, that completes the

1 reading of today's calendar.

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

5 ACTING PRESIDENT MAYER: The
6 Secretary will ring the bell.

7 The Secretary will read.

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

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

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

15 ACTING PRESIDENT MAYER: Will the
16 sponsor yield?

17 SENATOR KRUEGER: Yes, Madam Chair,
18 I will.

19 ACTING PRESIDENT MAYER: The
20 sponsor yields.

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

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

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

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

14 (Pause.)

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

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

24 ACTING PRESIDENT MAYER: Do you
25 continue to yield?

1 SENATOR KRUEGER: Yes.

2 ACTING PRESIDENT MAYER: The
3 sponsor yields.

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

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

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

15 ACTING PRESIDENT MAYER: Do you
16 continue to yield?

17 SENATOR KRUEGER: Yes.

18 ACTING PRESIDENT MAYER: The
19 sponsor yields.

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

1 this impact and where they're from?

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

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

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

24 ACTING PRESIDENT MAYER: Do you
25 continue to yield?

1 SENATOR KRUEGER: Yes.

2 ACTING PRESIDENT MAYER: The
3 sponsor yields.

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

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

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

17 ACTING PRESIDENT MAYER: Do you
18 continue to yield?

19 SENATOR KRUEGER: Yes.

20 ACTING PRESIDENT MAYER: The
21 sponsor yields.

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

1 until 2024, and say from 2000 to 2024.

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

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

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

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

20 ACTING PRESIDENT MAYER: Do you
21 continue to yield?

22 SENATOR KRUEGER: Yes.

23 ACTING PRESIDENT MAYER: The
24 sponsor yields.

25 SENATOR BORRELLO: But we're still

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

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

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

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

1 interested in working with you.

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

4 ACTING PRESIDENT MAYER: Do you
5 continue to yield?

6 SENATOR KRUEGER: Yes.

7 ACTING PRESIDENT MAYER: The
8 sponsor yields.

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

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

25 But in fact our job as a legislature

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

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

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

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

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

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

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

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

22 ACTING PRESIDENT MAYER: Do you
23 continue to yield?

24 SENATOR KRUEGER: Yes.

25 ACTING PRESIDENT MAYER: The

1 sponsor yields.

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

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

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

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

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

23 ACTING PRESIDENT MAYER: Do you
24 continue to yield?

25 SENATOR KRUEGER: Yes.

1 ACTING PRESIDENT MAYER: The
2 sponsor yields.

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

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

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

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

1 believe, to quote the questioner.

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

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

9 ACTING PRESIDENT MAYER: Do you
10 continue to yield?

11 SENATOR KRUEGER: I do.

12 ACTING PRESIDENT MAYER: Yes, the
13 sponsor yields.

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

25 So during that period of the covered

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

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

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

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

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

24 ACTING PRESIDENT MAYER: Do you
25 continue to yield?

1 SENATOR KRUEGER: Yes.

2 ACTING PRESIDENT MAYER: The
3 sponsor yields.

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

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

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

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

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

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

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

12 ACTING PRESIDENT MAYER: Do you
13 continue to yield?

14 SENATOR KRUEGER: Yes.

15 ACTING PRESIDENT MAYER: The
16 sponsor yields.

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

1 this bill we're sending to energy producers?

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

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

10 SENATOR BORRELLO: Madam President,
11 on the bill.

12 ACTING PRESIDENT MAYER: Senator
13 Borrello on the bill.

14 SENATOR BORRELLO: Thank you,
15 Senator Krueger.

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

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

1 actually sending you a bill to do it.

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

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

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

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

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

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

14 Thank you, Madam President.

15 ACTING PRESIDENT MAYER: Thank you.

16 Senator Walczyk, why do you rise?

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

20 ACTING PRESIDENT MAYER: Senator
21 Krueger, do you yield?

22 SENATOR KRUEGER: Yes, I will.

23 ACTING PRESIDENT MAYER: The
24 sponsor yields.

25 SENATOR WALCZYK: Through you,

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

3 SENATOR KRUEGER: Correct.

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

7 ACTING PRESIDENT MAYER: Do you
8 continue to yield?

9 SENATOR KRUEGER: Yes.

10 ACTING PRESIDENT MAYER: The
11 sponsor yields.

12 SENATOR WALCZYK: I notice that
13 the -- what you're calling the cost recovery, the
14 window and time frame changed from the years
15 2000-2018 to the years 2000-2024. Is that
16 correct?

17 SENATOR KRUEGER: Correct.

18 SENATOR WALCZYK: And through you,
19 Madam President.

20 ACTING PRESIDENT MAYER: Do you
21 continue to yield?

22 SENATOR KRUEGER: Yes.

23 ACTING PRESIDENT MAYER: Yes, the
24 Senator yields.

25 SENATOR WALCZYK: Adding those

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

5 SENATOR KRUEGER: No. It's
6 3 billion, on average, per year for 25 years,
7 adding up to 75 billion.

8 SENATOR WALCZYK: Thank you for
9 that.

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

12 SENATOR WALCZYK: Thank you for
13 that clarification.

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

16 ACTING PRESIDENT MAYER: Do you
17 continue to yield?

18 SENATOR KRUEGER: Yes.

19 ACTING PRESIDENT MAYER: The
20 sponsor yields.

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

1 resiliency, that kind of thing.

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

4 SENATOR KRUEGER: I know we have
5 one.

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

9 ACTING PRESIDENT MAYER: Do you
10 continue to yield?

11 SENATOR KRUEGER: Yes.

12 ACTING PRESIDENT MAYER: The
13 Senator yields.

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

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

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

24 SENATOR KRUEGER: Yes.

25 ACTING PRESIDENT MAYER: Do you

1 continue to yield?

2 SENATOR KRUEGER: Yes, I do.

3 ACTING PRESIDENT MAYER: The
4 Senator yields.

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

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

15 SENATOR WALCZYK: Well done.

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

18 ACTING PRESIDENT MAYER: Do you
19 continue to yield?

20 SENATOR KRUEGER: I do.

21 ACTING PRESIDENT MAYER: The
22 Senator yields.

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

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

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

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

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

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

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

22 ACTING PRESIDENT MAYER: Do you
23 continue to yield?

24 SENATOR KRUEGER: Yes, I do.

25 ACTING PRESIDENT MAYER: The

1 sponsor yields.

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

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

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

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

24 ACTING PRESIDENT MAYER: Do you
25 continue to yield?

1 SENATOR KRUEGER: Yes.

2 ACTING PRESIDENT MAYER: The
3 sponsor yields.

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

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

10 (Pause.)

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

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

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

23 ACTING PRESIDENT MAYER: Do you
24 continue to yield?

25 SENATOR KRUEGER: Yes. Yes.

1 ACTING PRESIDENT MAYER: The
2 sponsor yields.

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

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

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

18 If the sponsor would continue to
19 yield.

20 SENATOR KRUEGER: Yes.

21 ACTING PRESIDENT MAYER: The
22 sponsor yields.

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

1 (Pause.)

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

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

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

16 ACTING PRESIDENT MAYER: Do you
17 continue to yield?

18 SENATOR KRUEGER: I will.

19 ACTING PRESIDENT MAYER: The
20 Senator yields.

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

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

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

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

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

15 SENATOR KRUEGER: Yes.

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

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

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

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

1 ACTING PRESIDENT MAYER: Do you
2 continue to yield?

3 SENATOR KRUEGER: Yes.

4 ACTING PRESIDENT MAYER: The
5 sponsor yields.

6 SENATOR WALCZYK: How about
7 PetroChina?

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

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

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

21 ACTING PRESIDENT MAYER: Do you
22 continue to yield?

23 SENATOR KRUEGER: Yes.

24 ACTING PRESIDENT MAYER: The
25 sponsor yields.

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

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

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

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

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

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

1 yield.

2 ACTING PRESIDENT MAYER: Do you
3 continue to yield?

4 SENATOR KRUEGER: Yes.

5 ACTING PRESIDENT MAYER: The
6 sponsor yields.

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

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

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

21 ACTING PRESIDENT MAYER: Do you
22 continue to yield?

23 SENATOR KRUEGER: Yes, of course I
24 do.

25 ACTING PRESIDENT MAYER: The

1 sponsor yields.

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

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

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

11 SENATOR KRUEGER: Yes.

12 ACTING PRESIDENT MAYER: The
13 sponsor yields.

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

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

25 (Pause.)

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

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

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

18 ACTING PRESIDENT MAYER: Do you
19 continue to yield?

20 SENATOR KRUEGER: Yes.

21 ACTING PRESIDENT MAYER: The
22 sponsor yields.

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

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

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

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

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

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

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

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

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

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

17 ACTING PRESIDENT MAYER: Do you
18 continue to yield?

19 SENATOR KRUEGER: Yes.

20 ACTING PRESIDENT MAYER: The
21 sponsor yields.

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

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

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

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

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

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

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

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

10 ACTING PRESIDENT MAYER: Do you
11 continue to yield?

12 SENATOR KRUEGER: Yes.

13 ACTING PRESIDENT MAYER: The
14 sponsor yields.

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

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

25 SENATOR KRUEGER: Through you,

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

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

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

17 ACTING PRESIDENT MAYER: Do you
18 continue to yield?

19 SENATOR KRUEGER: Yes.

20 ACTING PRESIDENT MAYER: The
21 sponsor yields.

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

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

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

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

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

22 ACTING PRESIDENT MAYER: Do you
23 continue to yield?

24 SENATOR KRUEGER: I do.

25 ACTING PRESIDENT MAYER: The

1 sponsor yields.

2 SENATOR WALCZYK: In your
3 legislative intent it states that recent science
4 has determined that the largest 100 fossil-fuel-
5 producing companies are responsible for more than
6 70 percent of global greenhouse gas emissions
7 since 1988 and therefore bear a much higher share
8 of responsibility for climate damage to New York
9 State than is represented by the 75 billion being
10 assessed them.

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

14 SENATOR KRUEGER: Yes,
15 Madam President, it is.

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

19 SENATOR KRUEGER: Yes.

20 ACTING PRESIDENT MAYER: The
21 sponsor yields.

22 SENATOR WALCZYK: How exactly was
23 that calculated?

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

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

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

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

10 ACTING PRESIDENT MAYER: Do you
11 yield?

12 SENATOR KRUEGER: Yes.

13 ACTING PRESIDENT MAYER: The
14 sponsor yields.

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

19 SENATOR KRUEGER: Global emissions.
20 The interesting thing about damage
21 to air and water, it doesn't understand borders.
22 It just spreads out everywhere.

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

1 SENATOR WALCZYK: I see.

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

4 SENATOR KRUEGER: Yes.

5 ACTING PRESIDENT MAYER: Do you
6 continue to yield?

7 The sponsor yields.

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

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

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

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

25 SENATOR WALCZYK: And through you,

1 Madam President, would the sponsor continue to
2 yield.

3 ACTING PRESIDENT MAYER: Do you
4 continue to yield?

5 SENATOR KRUEGER: I do.

6 ACTING PRESIDENT MAYER: The
7 sponsor yields.

8 SENATOR WALCZYK: Who pays that
9 75 billion bill at the end of the day?

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

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

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

23 ACTING PRESIDENT MAYER: Do you
24 continue to yield?

25 SENATOR KRUEGER: I'm sorry, I was

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

3 SENATOR WALCZYK: Sure.

4 (Pause.)

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

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

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

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

16 SENATOR WALCZYK: On the bill.

17 ACTING PRESIDENT MAYER: Senator
18 Walczyk on the bill.

19 SENATOR WALCZYK: Thank you.

20 Who pays the \$75 billion bill, over
21 \$3 billion every year? Not oil and gas
22 companies, as my colleague put it. Those costs
23 pass directly to consumers. Those consumers are
24 New Yorkers. They are people represented by
25 every single one in -- every single person in

1 this chamber.

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

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

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

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

22 SENATOR RHOADS: Will the sponsor
23 yield to a question.

24 ACTING PRESIDENT MAYER: Senator
25 Krueger, do you yield?

1 SENATOR KRUEGER: Of course I do.

2 ACTING PRESIDENT MAYER: Yes, the
3 Senator yields.

4 SENATOR RHOADS: Thank you,
5 Senator Krueger.

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

11 SENATOR KRUEGER: Yes. Thank you
12 for the question.

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

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

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

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

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

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

1 SENATOR RHOADS: Will the sponsor
2 continue to yield.

3 ACTING PRESIDENT MAYER: Do you
4 continue to yield?

5 SENATOR KRUEGER: Yes.

6 ACTING PRESIDENT MAYER: The
7 Senator yields.

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

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

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

21 ACTING PRESIDENT MAYER: Do you
22 continue to yield?

23 SENATOR KRUEGER: Yes.

24 ACTING PRESIDENT MAYER: The
25 Senator yields.

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

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

11 SENATOR RHOADS: Will the sponsor
12 continue to yield.

13 ACTING PRESIDENT MAYER: Do you
14 continue to yield?

15 SENATOR KRUEGER: Yes.

16 ACTING PRESIDENT MAYER: The
17 Senator yields.

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

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

1 company that is using petroleum products to
2 manufacture plastics in the State of New York --
3 none of those costs are going to be translated to
4 the end-user, you can guarantee that the full
5 \$75 billion will be borne simply by the companies
6 and not by the end-users of those products.
7 That's -- that's what you're telling us?

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

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

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

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

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

9 SENATOR RHOADS: Will the sponsor
10 continue to yield.

11 ACTING PRESIDENT MAYER: Do you
12 continue to yield?

13 SENATOR KRUEGER: Yes.

14 ACTING PRESIDENT MAYER: The
15 Senator yields.

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

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

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

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

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

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

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

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

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

16 SENATOR RHOADS: Thank you.

17 Will the sponsor continue to yield.

18 ACTING PRESIDENT MAYER: Do you
19 continue to yield?

20 SENATOR KRUEGER: Yes.

21 ACTING PRESIDENT MAYER: The
22 sponsor yields.

23 SENATOR RHOADS: Are you familiar
24 with the due process clause of the Fifth and
25 14th Amendments to the United States

1 Constitution?

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

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

11 ACTING PRESIDENT MAYER: Do you
12 continue to yield?

13 SENATOR KRUEGER: Yes.

14 ACTING PRESIDENT MAYER: The
15 sponsor yields.

16 SENATOR RHOADS: In drafting this
17 legislation and in drafting the amendments to the
18 legislation, was any consideration given to the
19 due process clauses of the Fifth and
20 14th Amendments?

21 SENATOR KRUEGER: Certainly the
22 14th Amendment. (To counsel.) Fifth Amendment
23 also? (Pause.)

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

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

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

8 ACTING PRESIDENT MAYER: Do you
9 continue to yield?

10 SENATOR KRUEGER: Yes.

11 ACTING PRESIDENT MAYER: The
12 sponsor yields.

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

18 SENATOR KRUEGER: Yes.

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

21 ACTING PRESIDENT MAYER: Do you
22 continue to yield?

23 SENATOR KRUEGER: Yes.

24 ACTING PRESIDENT MAYER: The
25 sponsor yields.

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

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

7 SENATOR RHOADS: Yes.

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

10 SENATOR RHOADS: Sure, it's a
11 change.

12 SENATOR KRUEGER: Thank you.

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

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

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

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

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

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

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

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

21 ACTING PRESIDENT MAYER: Do you
22 continue to yield?

23 SENATOR KRUEGER: I do.

24 ACTING PRESIDENT MAYER: The
25 sponsor yields.

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

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

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

12 SENATOR RHOADS: Will the sponsor
13 continue to yield.

14 ACTING PRESIDENT MAYER: Do you
15 continue to yield?

16 SENATOR KRUEGER: Yes.

17 ACTING PRESIDENT MAYER: The
18 sponsor yields.

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

1 operation and maintenance, supported by the
2 fund."

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

8 (Pause.)

9 SENATOR KRUEGER: Thank you.

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

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

22 SENATOR RHOADS: Will the sponsor
23 yield to another question?

24 ACTING PRESIDENT MAYER: Do you
25 continue to yield?

1 SENATOR KRUEGER: Yes.

2 ACTING PRESIDENT MAYER: The
3 sponsor yields.

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

9 SENATOR KRUEGER: Yes.

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

13 ACTING PRESIDENT MAYER: Do you
14 continue to yield?

15 SENATOR KRUEGER: Yes.

16 ACTING PRESIDENT MAYER: The
17 sponsor yields.

18 SENATOR RHOADS: Thank you.

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

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

5 Is that not correct?

6 (Pause.)

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

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

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

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

3 SENATOR RHOADS: Will the sponsor
4 continue to yield.

5 ACTING PRESIDENT MAYER: Do you
6 continue to yield?

7 SENATOR KRUEGER: Yes.

8 ACTING PRESIDENT MAYER: The
9 Senator yields.

10 SENATOR RHOADS: And you've also
11 said, Senator Krueger, in response to a few
12 questions that were asked on the topic, that no
13 one company is going to wind up having to bear
14 the burden of the full contributions, the full
15 \$75 billion that you're extracting from this
16 industry. Is that correct?

17 SENATOR KRUEGER: Yes,
18 Madam President. Over 25 years it would be
19 75 billion, 3 billion annually, applied to some
20 number of companies, certainly not one company.

21 SENATOR RHOADS: And will the
22 sponsor continue to yield?

23 SENATOR KRUEGER: Yes.

24 ACTING PRESIDENT MAYER: The
25 sponsor yields.

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

4 (Pause.)

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

11 SENATOR RHOADS: Will the sponsor
12 continue to yield?

13 ACTING PRESIDENT MAYER: Do you
14 continue to yield?

15 SENATOR KRUEGER: Yes.

16 ACTING PRESIDENT MAYER: The
17 sponsor yields.

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

23 (Pause.)

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

1 SENATOR RHOADS: Will the sponsor
2 continue to yield.

3 ACTING PRESIDENT MAYER: Do you
4 continue to yield?

5 SENATOR KRUEGER: Yes.

6 ACTING PRESIDENT MAYER: The
7 sponsor yields.

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

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

21 (Pause.)

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

25 So my understanding is that the way

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

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

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

20 Madam President, on the bill.

21 ACTING PRESIDENT MAYER: Senator
22 Rhoads on the bill.

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

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

3 The notion that there is any
4 economist who would credibly say that the cost of
5 \$75 billion that will be extracted, regardless of
6 the period of time, is not going to be borne by
7 the ultimate end-user is simply absurd. Because
8 when you go to the gas pump -- and we heard
9 during the course of the questioning that large
10 domestic corporations like ExxonMobil, like
11 Texaco, like Shell, other domestic oil producing
12 companies, are the ones who are going to bear the
13 ultimate cost of that 75 billion.

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

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

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

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

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

1 legislation is also absurd, respectfully.

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

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

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

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

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

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

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

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

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

1 \$75 billion that this money is ultimately going
2 to extract -- attempts to extract from these
3 companies.

4 Thank you, Madam President.

5 ACTING PRESIDENT MAYER: Thank you.

6 Senator Tedisco, why do you rise?

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

9 ACTING PRESIDENT MAYER: Senator
10 Krueger, do you yield?

11 SENATOR TEDISCO: If she would
12 yield.

13 SENATOR KRUEGER: Yes.

14 ACTING PRESIDENT MAYER: Yes, the
15 Senator yields.

16 SENATOR TEDISCO: Thank you,
17 Senator.

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

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

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

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

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

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

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

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

23 (Overtalk.)

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

1 answer for --

2 ACTING PRESIDENT MAYER: Do you
3 continue to yield?

4 SENATOR KRUEGER: Yes, I said yes.

5 ACTING PRESIDENT MAYER: The
6 Senator yields.

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

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

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

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

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

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

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

21 ACTING PRESIDENT MAYER: Senator
22 Tedisco --

23 SENATOR TEDISCO: What do you
24 think?

25 ACTING PRESIDENT MAYER: -- what is

1 your question?

2 SENATOR KRUEGER: I got the
3 question.

4 ACTING PRESIDENT MAYER: Okay.

5 SENATOR KRUEGER: Thank you,
6 Senator Tedisco.

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

11 What this bill does is attempt --
12 who knows how it will drag out in court? Who
13 knows what companies will say what? But if we
14 don't do this, I guarantee your constituents, my
15 constituents will be paying a hundred percent of
16 the freight on at least \$75 billion worth of
17 climate damage in our state over the next
18 25 years.

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

24 Thank you, Madam President.

25 SENATOR TEDISCO: Thank you,

1 Senator.

2 On the bill.

3 ACTING PRESIDENT MAYER: Senator
4 Tedisco on the bill.

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

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

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

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

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

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

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

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

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

6 ACTING PRESIDENT MAYER: Senator
7 Gianaris.

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

11 Please take it up that way.

12 ACTING PRESIDENT MAYER: Read the
13 last section.

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

17 ACTING PRESIDENT MAYER: Call the
18 roll.

19 (The Secretary called the roll.)

20 ACTING PRESIDENT MAYER: Senator
21 Harckham to explain his vote.

22 SENATOR HARCKHAM: Thank you very
23 much, Madam President.

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

1 chapter amendments with the Governor.

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

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

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

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

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

13 I vote aye.

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

16 Senator Lanza to explain his vote.

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

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

25 When I go home, I'm going to thank

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

6 I vote no.

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

9 Announce the results.

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

17 Ayes, 36. Nays, 23.

18 ACTING PRESIDENT MAYER: The bill
19 is passed.

20 Senator Gianaris.

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

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

25 SENATOR GIANARIS: I move to

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

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

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

9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25