NEW YORK STATE SENATE

THE STENOGRAPHIC RECORD

ALBANY, NEW YORK

May 9, 2011

3:18 p.m.

REGULAR SESSION

SENATOR JOSEPH A. GRIFFO, Acting President

FRANCIS W. PATIENCE, Secretary

P R O C E E D I N G S

ACTING PRESIDENT GRIFFO: The Senate will come to order.

I ask all present to please rise and join with me as we recite the Pledge of Allegiance to our Flag.

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

ACTING PRESIDENT GRIFFO: In the absence of clergy, I ask all to bow your heads in a moment of silent reflection.

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

ACTING PRESIDENT GRIFFO: The reading of the Journal.

THE SECRETARY: In Senate, Sunday, May 8, the Senate met pursuant to adjournment. The Journal of Saturday, May 7, was read and approved. On motion, Senate adjourned.

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

Presentation of petitions.

Messages from the Assembly.

The Secretary will read.

THE SECRETARY: Senator Maziarz moves to discharge, from the Committee on Energy and Telecommunications, Assembly Bill Number 6270B and substitute it for the identical Senate Bill Number 3407A, Third Reading Calendar 143.

ACTING PRESIDENT GRIFFO: Substitution so ordered.

Messages from the Governor.

Reports of standing committees.

Reports of select committees.

Communications and reports of state officers.

Motions and resolutions.

Senator Breslin.

SENATOR BRESLIN: Thank you, Mr. President.

On behalf of Senator Adams, I move that the following bill be discharged from its respective committee and be recommitted with instructions to strike the enacting clause: Senate Number 3706.

ACTING PRESIDENT GRIFFO: So ordered.

SENATOR BRESLIN: Finally, on behalf of Senator Addabbo, I move that the following bill be discharged from its respective committee and be recommitted with instructions to strike the enacting clause: Senate Number 1259.

ACTING PRESIDENT GRIFFO: So ordered.

SENATOR BRESLIN: Thank you, Mr. President.

ACTING PRESIDENT GRIFFO: Thank you, Senator Breslin.

Senator Valesky.

SENATOR VALESKY: Thank you, Mr. President.

On behalf of Senator Klein, on page 31 I offer the following amendments to Calendar Number 310, Senate Print 3889, and ask that said bill retain its place on the Third Reading Calendar.

ACTING PRESIDENT GRIFFO: The amendments are accepted and the bill will retain its place on the Third Reading Calendar.

SENATOR VALESKY: Also,

Mr. President, I wish to call up my bill, Print Number 656, recalled from the Assembly, which is now at the desk.

ACTING PRESIDENT GRIFFO: The Secretary will read.

THE SECRETARY: Calendar Number 11, by Senator Valesky, Senate Print 656, an act to amend the Environmental Conservation Law.

ACTING PRESIDENT GRIFFO: Senator Valesky.

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

ACTING PRESIDENT GRIFFO: Call the roll on reconsideration.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 53.

ACTING PRESIDENT GRIFFO: Senator Valesky.

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

ACTING PRESIDENT GRIFFO: The amendments are received.

Senator Libous.

SENATOR LIBOUS: Thank you, Mr. President. I have a handful here, so if you and the members would bear with me.

On behalf of Senator Grisanti, on page 20 I offer the following amendments to Calendar Number 102, Senate Print Number 2686, and ask that said bill retain its place on the Third Reading Calendar.

ACTING PRESIDENT GRIFFO: The amendments are received, and the bill will retain its place on third reading.

SENATOR LIBOUS: On behalf of Senator Bonacic, on page 26 I offer the following amendments to Calendar Number 225, Senate Print 2143A, and ask that said bill retain its place on the Third Reading Calendar.

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

SENATOR LIBOUS: Thank you, Mr. President.

On page 33 I offer the following amendments to Calendar Number 344, Senate Print Number 3764 and ask that said bill

retain its place on the Third Reading Calendar.

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

SENATOR LIBOUS: Again on behalf of Senator Bonacic, on page 40 I offer the following amendments to Calendar Number 416, Senate Print 2135, and ask that said bill retain its place on Third Reading Calendar.

ACTING PRESIDENT GRIFFO: The amendments are received, and the bill will retain its place on third reading.

SENATOR LIBOUS: Mr. President, I now wish to call up Resolution Number 1337, which is now at the desk.

ACTING PRESIDENT GRIFFO: The Secretary will read.

THE SECRETARY: Legislative Resolution Number 1337, by Senator Griffo, urging the New York State Congressional delegation.

SENATOR LIBOUS: Mr. President, I now move to reconsider the vote by which this

resolution was passed.

ACTING PRESIDENT GRIFFO: Call the roll on reconsideration.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 53.

SENATOR LIBOUS: Mr. President, I now move to recommit my resolution to the Committee on Finance.

ACTING PRESIDENT GRIFFO: So ordered.

Senator Libous.

SENATOR LIBOUS: Mr. President, on behalf of Senator Hannon, on page 37 I offer the following amendments Calendar Number 389, Senate Print 4376, and ask that said bill retain its place on the Third Reading Calendar.

ACTING PRESIDENT GRIFFO: The amendments are received, and the bill will retain its place on third reading.

SENATOR LIBOUS: Thank you, Mr. President.

And finally, on behalf of Senator Nozzolio, on page 39 I offer the following amendments to Calendar Number 410, Senate

Print Number 476, and then ask that said bill retain its place on the Third Reading Calendar.

ACTING PRESIDENT GRIFFO: The amendments are received, and the bill will retain its place on third reading.

SENATOR LIBOUS: Mr. President.

ACTING PRESIDENT GRIFFO: Senator Libous.

SENATOR LIBOUS: Thank you, Mr. President. I wasn't sure if you saw me.

Mr. President, I believe there's a privileged resolution at the desk by Senator Espaillat. May we please have the title read, and I believe the Senator would like to be called on, and then move for its adoption.

ACTING PRESIDENT GRIFFO: The Secretary will read.

THE SECRETARY: Legislative resolution by Senator Espaillat, honoring Ms. L. Ann Rocker for her ceaseless dedicated service to her community.

ACTING PRESIDENT GRIFFO: Senator Espaillat.

SENATOR ESPAILLAT: Thank you,

Mr. President.

Colleagues, we are joined here by a special person, someone who has been a resident for 46 years of the West Harlem community. She is in the balcony.

And she has been a strong supporter of a healthy community. She has been a person that has worked very closely with her neighbors when the North River Sewage Treatment Plant was installed just a few blocks away from her home some 25 years ago. But she continues to advocate for the safety and the health and the interests of our communities and tries to mitigate the effects that this sewage treatment plant has on the immediate community.

As you know, Mr. President, many of the neighborhoods throughout the City of New York suffer from environmental issues. She has been a strong and steadfast supporter of neighbors and families in their quest to have clean air, to have better conditions not only for those but most importantly for our children.

So I am happy to have her here.

She was one of the folks that was instrumental in negotiating with the state to have the Riverbank State Park installed where now thousands of families and children benefit from those amenities.

So I am happy to have Ms. Ann Rocker here with us today. She's a true environmental champion. And I'm happy to have her here in the State Senate in Albany, New York.

Welcome to Albany, Ms. Rocker.

(Applause.)

ACTING PRESIDENT GRIFFO: Thank you, and we welcome you.

The question is on the resolution. All in favor signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT GRIFFO: Opposed?

(No response.)

ACTING PRESIDENT GRIFFO: The resolution is adopted.

Senator Libous.

SENATOR LIBOUS: Thank you, Mr. President.

I believe that Senator Espaillat has another privileged resolution at the desk. May we please have the title read, call on the Senator, and we'll move for its adoption.

ACTING PRESIDENT GRIFFO: The Secretary will read.

THE SECRETARY: Legislative resolution by Senator Espaillat, commending Rosa Zorilla for her dedication in preserving her community's housing resources and recognizing her as a leader and an inspiration to the members of her community.

ACTING PRESIDENT GRIFFO: Senator Espaillat.

SENATOR ESPAILLAT: Thank you, Mr. President.

Accompanying Ms. Rocker we have another woman who's a strong advocate for housing. And as you all know, this year is a big housing year where we'll be taking on legislation hopefully to renew the rent laws and strengthen tenant protection. And she has been one person that has been a strong advocate for tenants' rights.

They sort of like live in the same

neighborhood, so we have a dynamic duo here today. And I'm happy to have Ms. Zorilla, Rosa Zorilla, here representing the Hamilton Heights/West Harlem community.

She organizes tenants. She has been part of the TIL program that empowers tenants in having their own apartments, their own building. She has been one that has denounced violations in buildings that are sometimes very serious and present a clear and present danger to families and children.

So thank you, Ms. Zorilla, for coming to Albany and joining us all here in the State Senate, and we welcome you as well. Thank you.

(Applause.)

ACTING PRESIDENT GRIFFO: Thank you and welcome.

The question is on the resolution. All in favor signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT GRIFFO: Opposed?

(No response.)

ACTING PRESIDENT GRIFFO: The

resolution is adopted.

Senator Libous.

SENATOR LIBOUS: Mr. President, can we now go to the reading of the noncontroversial calendar.

ACTING PRESIDENT GRIFFO: The Secretary will read the noncontroversial calendar.

THE SECRETARY: Calendar Number 7, by Senator Diaz, Senate Print 331A, an act to amend the Elder Law.

ACTING PRESIDENT GRIFFO: Read the last section.

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

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 77, by Senator Young, Senate Print 863A, an act to amend the Real Property Tax Law.

ACTING PRESIDENT GRIFFO: Read

the last section.

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

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 133, by Senator Lanza, Senate Print 2938A, an act to enact Michelle and Jordan's Law.

ACTING PRESIDENT GRIFFO: Read the last section.

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

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 143, substituted earlier today by Member of the Assembly Crespo, Assembly Print Number

6270B, an act to amend the Public Service Law.

ACTING PRESIDENT GRIFFO: Read the last section.

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

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: In relation to Calendar Number 162, Senator LaValle moves to discharge, from the Committee on Local Government, Assembly Bill Number 5028 and substitute it for the identical Senate Bill Number 3176, Third Reading Calendar 162.

ACTING PRESIDENT GRIFFO: Substitution so ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 162, by Member of the Assembly Sweeney, Assembly Print Number 5028, an act to amend the Real Property Tax Law.

ACTING PRESIDENT GRIFFO: Read

the last section.

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

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 234, by Senator Grisanti, Senate Print 1737A, an act to amend Chapter 616 of the Laws of 1992.

ACTING PRESIDENT GRIFFO: Read the last section.

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

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 242, by Senator Young, Senate Print 2839A, an

act to amend the Soil and Water Conservation Districts Law.

ACTING PRESIDENT GRIFFO: Read the last section.

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

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT GRIFFO: The bill is passed.

The Secretary will continue to read.

THE SECRETARY: Calendar Number 263, by Senator Flanagan, Senate Print 1834, an act to amend the General Business Law.

ACTING PRESIDENT GRIFFO: Read the last section.

THE SECRETARY: Section 2. This act shall take effect on the 60th day.

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59. Nays,

1. Senator Duane recorded in the negative.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 264, by Senator Alesi, Senate Print 3736A, an act to --

SENATOR LIBOUS: Lay it aside for the day.

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

THE SECRETARY: Calendar Number 308, by Senator Martins, Senate Print 3210A, an act to amend the Penal Law.

ACTING PRESIDENT GRIFFO: Read the last section.

THE SECRETARY: Section 3. This act shall take effect September 1, 2011.

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57. Nays, 3. Senators Dilan, Duane and Montgomery recorded in the negative.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 309, by Senator Grisanti, Senate Print 2877A, an act to amend the Environmental Conservation Law.

ACTING PRESIDENT GRIFFO: Read the last section.

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

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 56. Nays, 4. Senators Carlucci, Klein, Rivera and --

ACTING PRESIDENT GRIFFO: Senator Libous.

SENATOR LIBOUS: Just hold the roll call on that for one second.

ACTING PRESIDENT GRIFFO: The roll call will be held.

SENATOR LIBOUS: Mr. President, can we withdraw the roll call and lay the bill aside for the day.

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

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT GRIFFO: The roll call is withdrawn and the bill is laid aside for the day.

The Secretary will continue to read.

THE SECRETARY: Calendar Number 313, by Senator Lanza, Senate Print 4226, an act to amend the General City Law.

ACTING PRESIDENT GRIFFO: Read the last section.

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

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 366, by Senator DeFrancisco, Senate Print 3297, an act to amend the Education Law.

ACTING PRESIDENT GRIFFO: Read the last section.

THE SECRETARY: Section 4. This act shall take effect six months after it shall have become law.

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 367, by Senator Libous, Senate Print 3964B, an act to amend the Education Law.

ACTING PRESIDENT GRIFFO: Read the last section.

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

ACTING PRESIDENT GRIFFO: Senator Libous.

SENATOR LIBOUS: I want to explain my vote.

ACTING PRESIDENT GRIFFO: Senator Libous to explain his vote.

SENATOR LIBOUS: Thank you, Mr. President.

This bill is pretty

straightforward. It says that -- it requires, if you're going to be a superintendent in a New York State school district, that you live in the State of New York. It doesn't restrict you to the county, it doesn't restrict you to any specific region. You just have to be a resident and live in the State of New York. To me, that makes a lot of sense.

Now, moving forward, those individuals who are under -- Mr. President, I can't hear myself speak.

ACTING PRESIDENT GRIFFO: Can we have order in the chamber, please [gaveling].

SENATOR LIBOUS: Thank you. Thank you. That's much better.

Mr. President, if you're already under contract, you're grandfathered in. If you're in the middle of a contract negotiation, you're grandfathered in. But moving forward, I think it only makes sense that if you're going to be a superintendent in one of our great school districts in the State of New York, that you live in the State of New York. Period.

ACTING PRESIDENT GRIFFO: Senator

Libous to be recorded in the affirmative.

Announce the results.

THE SECRETARY: Ayes, 56. Nays, 4. Senators Marcellino, Oppenheimer, Rivera and Stavisky recorded in the negative.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 382, by Senator LaValle, Senate Print 3442, an act to amend the Education Law.

ACTING PRESIDENT GRIFFO: Read the last section.

THE SECRETARY: Section 4. This act shall take effect on the 180th day.

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 394, by Senator Grisanti, Senate Print 3917, an act to amend Chapter 581 of the Laws of 2005.

ACTING PRESIDENT GRIFFO: Read

the last section.

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

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 406, by Senator Maziarz, Senate Print 191 --

SENATOR BRESLIN: Lay it aside.

ACTING PRESIDENT GRIFFO: Lay it aside.

THE SECRETARY: Calendar Number 413, by Senator DeFrancisco, Senate Print 1072, an act to amend the Tax Law.

ACTING PRESIDENT GRIFFO: Read the last section.

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

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 417, by Senator Libous, Senate Print 2461, an act to amend the Executive Law.

ACTING PRESIDENT GRIFFO: Read the last section.

THE SECRETARY: Section 3. This act shall take effect on the first of April.

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT GRIFFO: Senator Libous to explain his vote.

SENATOR LIBOUS: Mr. President, I just want to explain my vote.

This is a bill that we had before this house a couple of years ago. It's called Honesty in Permitting. And basically it means that state agencies have to process permits, teaching certificates, nursing certificates, things that our constituents want, that they have to do it in a timely manner.

And depending on what the normal time that they produce these instruments, that

they have a little bit of cushion. But sometimes we hear the horror stories how people applied for a teaching certificate and three, four months go by and they've been offered a position and they can't teach because the Education Department hadn't given them the teaching certificate.

That's just one example. I'm sure you can go on and on -- State Liquor Authority, a whole host of other places.

This is a fair and reasonable bill, and all it says is that state government has to perform for our constituents in a very timely manner.

Thank you.

ACTING PRESIDENT GRIFFO: Senator Libous to be recorded in the affirmative.

Announce the results.

THE SECRETARY: Ayes, 59. Nays, 1. Senator Montgomery recorded in the negative.

ACTING PRESIDENT GRIFFO: The bill is passed.

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

SENATOR LIBOUS: Thank you, Mr. President. Can we now take up the controversial calendar.

ACTING PRESIDENT GRIFFO: The Secretary will ring the bell.

The Secretary will read.

THE SECRETARY: Calendar Number 406, by Senator Maziarz, Senate Print 191, an act to amend the Public Service Law.

ACTING PRESIDENT GRIFFO: Senator Krueger.

SENATOR LIZ KRUEGER: Thank you. If the sponsor would please yield to some questions.

ACTING PRESIDENT GRIFFO: Senator Maziarz, do you yield?

SENATOR MAZIARZ: Absolutely, Mr. President.

ACTING PRESIDENT GRIFFO: Senator Krueger.

SENATOR LIZ KRUEGER: Thank you very much.

I didn't ask you for an explanation, Senator Maziarz, because we have visited this bill before in the past. But can

you tell me --

SENATOR MAZIARZ: Thank you. I appreciate it.

SENATOR LIZ KRUEGER: Thank you. Are there --

SENATOR MAZIARZ: I have a four-page explanation here, Senator. But go ahead.

SENATOR LIZ KRUEGER: Oh, do you want to read that?

SENATOR MAZIARZ: No, no, go ahead.

(Laughter.)

SENATOR LIZ KRUEGER: So because you and I have debated this bill in the past, as have quite a few other members here in the house today, can you tell me have we really changed anything from the last time we saw a bill like this on the floor, your bill?

SENATOR MAZIARZ: Well, I think this bill is much more comprehensive. It does take in the current aspects of the environmental justice regulations as set forth by the DEC. It does establish a fund for intervenors. It recognizes intervenors as

just about any individual, any group within a community setting that could intervene and have access to the intervenor funds.

Senator, I think some of those provisions were in previous versions of this bill, but they're even stronger, I think, in this particular bill, Senator.

SENATOR LIZ KRUEGER: Okay. Senator Maziarz, this seems to be an --

ACTING PRESIDENT GRIFFO: Senator Krueger, are you asking Senator Maziarz to yield?

SENATOR LIZ KRUEGER: Excuse me. Mr. President, if through you the Senator would yield to another question.

SENATOR MAZIARZ: Yes, Mr. President.

ACTING PRESIDENT GRIFFO: The Senator yields.

SENATOR LIZ KRUEGER: Thank you.

This appears to fast-track the process for siting power plants. Are there any power plants in process now that need to be fast-tracked?

SENATOR MAZIARZ: Through you,

Mr. President. Senator, I'm not so sure that I would agree with your characterization that this is a fast-tracking. I think this is maybe a tracking, if you will, putting together a process.

I think if you looked at this bill and all the sections in the law and all the requirements that a permittee must go through, you're looking at, best-case scenario, Senator, probably a two, two-and-a-half-year process of just siting and permitting. So I'm not so sure that it's fast-tracking.

Quite frankly, Senator, with the current energy market, particularly the demand of downstate New York -- Westchester, the City, Long Island -- the plans that are currently being discussed more so -- and I think if we're trying to slow down anything, Senator, it's the importation of power from other states -- from New Jersey, from Canada -- which of course will take away New York jobs and particularly, you know, those people in the power industry, members of the IBEW and so forth.

So I wouldn't characterize this as

fast-tracking. I mean, there are proposals right now, to get back to your -- maybe more specifically to your question, to site generation, you know, in all forms, solar, wind generation. Yes.

SENATOR LIZ KRUEGER: Mr. President, if through you the sponsor would continue to yield.

ACTING PRESIDENT GRIFFO: The sponsor yields.

SENATOR LIZ KRUEGER: Thank you.

Under the previous Article X siting law we had a situation where applicants could site multiple small plants within a very close geographic area to avoid the Article X siting process. But in fact which, when you looked at them in total, created a greater problem from an environmental hazard perspective than if there had been one large one. What, in your bill, would change this from not continuing?

SENATOR MAZIARZ: Senator, this does include that type of application. Actually, Senator, there would be required a preapplication, a prescreening by the DEC, by,

by the way, the DEC, Department of Health, department of ESDC, NYSERDA and I think Parks, Recreation and Historic Preservation. But this would require both the prescreening for all the applicants, both the large and the small, Senator Krueger.

And it would be accumulative. If they came in with an application for several small plants, the DEC would be required under this law, and the PSC, to look at it in an accumulative way.

SENATOR LIZ KRUEGER: Mr. President, if through you the sponsor would continue to yield.

ACTING PRESIDENT GRIFFO: The sponsor yields.

SENATOR MAZIARZ: I do, Senator.

SENATOR LIZ KRUEGER: Thank you.

Senator, I understand as I read this bill that the bill established a comprehensive siting process that applied to new power plants with a net generating output of 80 megawatts or more, so that in fact you could do multiple smaller plants near each other so that the impact was far greater than

80 megawatts.

So explain to me again how we would stop the problems that we've been seeing, particularly in urban areas and downstate New York through your legislation.

SENATOR MAZIARZ: Even those -- even -- I'm sorry, Mr. President. Could you repeat the question, Senator? There was another conversation.

SENATOR LIZ KRUEGER: I understand. Through you, Mr. President.

So we've seen problems under the past law because there was an 80-megawatt cutoff and anything below that, you were allowed to do multiple side-by-side and skip a process.

Why in this bill haven't we lowered the 80-megawatt capacity to something lower and explicitly made it you can't do multiple sites next to other?

SENATOR MAZIARZ: Through you, Mr. President. What we're trying to do, Senator, is not stop a smaller generator, particularly, let's say, a farmer with maybe three or four windmills or maybe, you know,

some expansive solar project on agricultural property that may be 20 megawatts or less or just near the threshold.

We have to draw the line somewhere, Senator. And, you know, wherever we draw the line, somebody is not going to be happy with it.

Now, you know, if you're going to build a power plant, you know, a generating station, you know, the chances are in order to turn a profit -- and, you know, we want private-sector investment in the energy field. You need it. The ISO says that you need it particularly in downstate New York, in your district, Senator, in other districts that are represented by downstate Senators, that if we don't get it, you know, in a couple of years your constituents are going to suffer from brownouts, perhaps blackouts. You know, it could be California of six years ago.

So, Senator, what we're looking at is for a private -- private investment, private-sector job creation. And that the chances of them, a private-sector company coming in and building a plant that's anything

less than -- draw the line. We draw it at 80 -- they're probably not going to do it, Senator.

So I guess the short answer would be -- which is not so short -- is we had to draw a line somewhere, Senator.

SENATOR LIZ KRUEGER: Mr. President, if through you the sponsor would continue to yield.

ACTING PRESIDENT GRIFFO: The sponsor continues to yield.

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

Just for the record, because drawing the line is an important question here, the Assembly bill draws the line at 20 megawatts. I believe that the Senate Democrats in a previous session had proposed drawing it at 30 megawatts.

I think the concern here is your bill draws the line at 80 megawatts -- and you're right, we're all going to need more energy in the future. We need a better, more modern electric grid. We need alternative,

cleaner energy production sites.

But I guess the good news is we've got, according to the state, enough energy to make it through 2020 without any new power plants. That's according to the 2010 Reliability Needs Assessment by the New York State Independent Systems Operator -- Operators, I think it is.

So my concern again is 80 megawatts is the standard we used in the past that has created so many problems, particularly in urban areas.

So the next question, so your bill would keep it at 80 megawatts. And while there would be a process, you could still attempt to game the system by siting multiple smaller plants in close proximity to avoid being stopped. Could we talk about particulate -- sorry, I have to get my notes out -- the concern about airborne pollutants through the level of particulate matter in the air and the 2.5 cutoff that I believe remains in your bill.

When I first was taking office in my Senate district, Con Edison -- which is my

power producer -- was, quote, unquote, upgrading an older power plant and arguing that they didn't really need to follow the clean air laws because they were upgrading as opposed to building new. But there was a huge debate around the level of carbon dioxide small particulate emissions, referred to as PM2.5, which includes mercury and other toxins defined by the federal government as toxins.

And so what are we doing in this new proposed bill to protect communities -- particularly urban, dense communities -- from a continued exposure to particulate emissions from the bad, dirtier kinds of power plants?

SENATOR MAZIARZ: Through you, Mr. President.

First of all, let me just comment -- go back a little bit earlier to your previous comment about the Assembly's threshold of 20 megawatts, the Senate's threshold of 80 megawatts. I suspect, Senator, that this bill -- hopefully, we pass it today -- that when the Governor engages in this issue, that the Assembly may pass a version and that the threshold may actually

end up somewhere between 20 and 80. So I want to comment on that.

Regarding the clean air standards, Senator, this bill would require that not just a new generating facility but a retrofit of an existing generating facility would have to meet the clean air interstate rules as identified by the DEC.

SENATOR LIZ KRUEGER: Thank you.

Mr. President, if through you the sponsor would continue to yield.

SENATOR MAZIARZ: Certainly, Mr. President.

ACTING PRESIDENT GRIFFO: The sponsor yields.

SENATOR LIZ KRUEGER: Thank you.

Would nuclear generating facilities operate under this siting bill? Or would there be a need for the state to do another piece of legislation to deal with the much more complex issues of siting nuclear generating facilities?

SENATOR MAZIARZ: This bill exempts -- nuclear plants are federally regulated, Senator. And this bill exempts

federally regulated facilities.

SENATOR LIZ KRUEGER: So -- excuse me, Mr. President. If through you.

So this bill, going forward, would continue the pattern of New York State not having its own regulations to review siting of new nuclear generating facilities?

SENATOR MAZIARZ: Yes.

SENATOR LIZ KRUEGER: Even though other states have gone forward with their own legislation to have requirements above and beyond what the Nuclear Regulatory Commission requires for nuclear sites.

SENATOR MAZIARZ: I'm not familiar with what other states are doing, Senator.

SENATOR LIZ KRUEGER: Thank you.

What would happen with coal-fired -- excuse me. Mr. President, if through you the sponsor would continue to yield.

What would happen with coal-fired facilities in the context of your siting bill?

ACTING PRESIDENT GRIFFO: Repeat the question, Senator Krueger.

SENATOR LIZ KRUEGER: How would

this siting bill apply to coal-fired facilities?

SENATOR MAZIARZ: Well, any siting of a new coal facility would have to meet the air quality standards. I think, according to the current DEC standards, that may be extremely difficult.

But I think what's even better news, Senator Krueger, is that a retrofitting of any existing coal facility would have to meet those standards too. They would basically have to meet the standards.

And it wouldn't be impossible, Senator; it would be extremely expensive.

SENATOR LIZ KRUEGER: Thank you.

Again, Mr. President, if the sponsor would continue to yield.

SENATOR MAZIARZ: Certainly, Mr. President.

ACTING PRESIDENT GRIFFO: The sponsor yields.

SENATOR LIZ KRUEGER: Thank you.

So but you could do siting of new coal-fired facilities under this law. We would be allowing that to happen.

SENATOR MAZIARZ: If they met the air quality standards set forth by the DEC, yes, they could.

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

ACTING PRESIDENT GRIFFO: Senator Krueger on the bill.

SENATOR LIZ KRUEGER: I want to thank the sponsor for his explanation.

I want to argue that we should be voting no on this bill, and I'm hoping my colleagues will join me in this.

One, if this is not a fast-tracking for something that needs to be done right away -- and the sponsor, by his own statements, believes that a final siting bill for the State of New York would be somewhere between the bill he's proposing today and the bill that the Assembly is passing -- I, speaking for myself, don't know why I would want to vote for a bill that will leave so many unanswered questions out there.

There's not an urgent need to do this. And in fact, he agrees it's not a fast-tracking bill. It goes too far. It

doesn't address nearly enough of the environmental concerns that have been raised over and over in this state around the siting of power plants.

Yes, we want clean energy. We want more energy. We want a modern grid. Imagine if we could create the jobs by making New York State's grid comparable to other states in the country, other regions. The Southwest has done an amazing job at upgrading their grid, which then allows them to move cleaner energy farther distances than we have the ability to do here in New York State.

This bill would continue the model basically that we had in place up until a few years ago when it sunsetted. And that bill and the law that we had in place allowed for the building of dirty energy sites. It allowed for the building of many small dirty sites next to each other, particularly in Queens and the Bronx in New York City. It gave the energy companies too much freedom to stretch too far their interpretation of environmental law and protecting clean air in our communities.

I appreciate that the Legislature wants to have a siting bill in New York State. And I appreciate that we need to move negotiations with the Governor and the Assembly and the Senate. But handing us a bill that addresses none of the concerns from the past, that actually doesn't recognize the new information we have about the dangers of siting nuclear power plants, the even newer information we have, if you read the New York Times this weekend, that the Nuclear Regulatory Commission is doing an exceptionally bad job at regulating nuclear energy in this country and therefore states need to take it upon themselves to be much more careful and wary in regulation and oversight of new and existing nuclear power plants.

That we should make it explicit that you cannot build coal plants in this state. And we should make it explicit that there are certain numbers of the maximum megawatts that we will allow in a bill. We should make it explicit as to not being able to collocate multiple plants within specific

geographic areas. We should make it explicit that because of environmental justice concerns that too many of the dirty plants get located in the poorest communities.

We should make it explicit that New York State is going to be watching carefully and making sure that any plant that is built in the State of New York has the cleanest technology possible and is sited in the fairest process possible.

So I think we can get there, Mr. President. I do. But I don't see how I could vote yes on this bill that doesn't even walk us down the road farther than the bill that sunsetted that I think many of my colleagues on both sides of the aisle didn't recognize or support as being a 21st-century model of siting new power plants in the State of New York. So I'll be voting no.

Thank you very much, Mr. President.

ACTING PRESIDENT GRIFFO: Thank you, Senator Krueger.

Senator Diaz on the bill.

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

I just would like to express my appreciation to Senator Liz Krueger for standing on behalf of communities that are suffering, communities that are being subject of this kind of miniplants that on a daily basis are emitting pollution.

Especially, Senator Krueger, I would like to thank you for standing up for my community. The one that I represent, the South Bronx, is one -- is the biggest community with asthma rates in the United States, and these kind of miniplants are contributing to that.

When they say that they will not pass 80 megawatts, it is -- there's a trick there. Because what they do -- see, Mr. President, in Queens, when you cross the river from Queens to Hunts Point, it's less than one mile. Less than one mile when you cross -- but you got a plant in Queens and one other one in the Bronx. So they say that both of them, they don't pass the 80 megawatts. The only thing is that they circumvent that limit by making plants with 79 megawatts. So by doing that, they are not violating the law,

because the law said that they cannot go over 80 megawatts at that close distance.

But that's what happened to our people. They're killing our people with this thing.

And I am proud to stand here next to Ms. Krueger. We have many differences, Liz Krueger and myself, in many different -- in two issues. Not in many issues, in two issues. But today I have to say that I'm honored and I appreciate, Liz Krueger, you are standing up for people in my district that need all of us to stand by them and to bring them a better environment, better health, better air, and stop this thing.

So I'm voting no on this bill. Thank you.

ACTING PRESIDENT GRIFFO: Senator Gianaris.

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

ACTING PRESIDENT GRIFFO: On the bill.

SENATOR GIANARIS: I want to stand in solidarity with my colleagues

Senator Diaz and Senator Liz Krueger.

The issue of power-plant siting is one that is very dear to me. I represent a Senate district that produces over 60 percent of the electricity that powers New York City on a daily basis. For some reason the power industry has decided that western Queens is among the most welcoming places for its facilities. Unfortunately, that has some significant health consequences for the people that live there.

Senator Diaz referenced the high asthma rates in the South Bronx. Well, as he also mentioned, northwest Queens and the South Bronx are separated only by a small piece of the East River. And so many of the health effects that are experienced there are also experienced in western Queens and, not coincidentally, in some communities that are of lower income and communities of color. Which was actually proven 10 years ago in a lawsuit that was filed against the minigenerators that have been referenced throughout the debate on the floor today.

The 80-megawatt threshold is

significant for me because it was an agency of our government -- it wasn't even a private company -- that exploited that loophole 10 years ago and dropped eleven 79.9-megawatt facilities throughout the City of New York, completely avoiding scrutiny under the then-existing Article X.

There is also no provision in this bill that would adequately deal with communities that have been overburdened and carrying more than their fair share of the burden for the power production in New York.

I would prefer to see something in the bill that would insist upon a net emissions reduction in communities that are overburdened, should there be any new facilities approved. I would prefer to see the threshold number reduced from 80 megawatts to protect these communities.

I appreciate that the sponsor has indicated this is a first step in a negotiation that will likely yield different results by the time something is enacted. But the fact is, as the bill stands today before this house, it is not something that I am

comfortable supporting. And I will be voting no and encourage my colleagues to do the same.

ACTING PRESIDENT GRIFFO: Is there any other Senator wishing to be heard?

Hearing none and seeing none, debate is closed. The Secretary will ring the bell.

The Secretary will read the last section.

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

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT GRIFFO: Senator Maziarz to explain his vote.

SENATOR MAZIARZ: Thank you very much, Mr. President. To explain my vote.

First I want to thank my cosponsor, Senator Kevin Parker, on this particular piece of legislation --

(Audience reaction.)

SENATOR MAZIARZ: -- Senator Kevin Parker, my cosponsor, the ranking member and very knowledgeable member of the Senate

Energy Committee, and also Senator Tom O'Mara, who worked on this issue very diligently with me.

I do want to -- during the course of the debate, Mr. President, the year 2020 was mentioned, as we won't have any problems until 2020. Well, if we're going to have problems in 2020, we can't start building in 2019. And by the way, the ISO would disagree with that 2020 estimate. They think it's more like 2015.

And it's going to be mostly -- mostly the immediate impact, immediate negative impact of the lack of generation is going to be in the City of New York, in some of the neighborhoods that were mentioned.

Now, clearly everyone is concerned about the health and welfare of all communities in this state. There is not a power plant that could be built in this state that is going to have harmful effects to any particular neighborhood. The DEC, the regulators, the Governor, the people who sit on both sides of the aisle in this house would just not allow it.

My colleague Senator Krueger mentioned about how the Southwest of the United States has become much more energy-proficient, maybe, has made a lot of positive steps toward generation. Senator, they did that primarily by licensing, developing, and building nuclear power plants. So certainly I think that would be very difficult under this piece of legislation because I don't think -- the siting would be nearly impossible given all the federal regulations and the timing of recent events.

So I just think that this is a very important piece of legislation. We see now, Mr. President, how generation is coming more and more from out-of-state. We saw the mayor of the City of New York and the New York Power Authority making an agreement with a company in New Jersey to import power into the City of New York. You know how that power is going to be generated in New Jersey? Almost exclusively from coal plants.

Now, the coal -- the poor air doesn't know the state boundaries. We have to do more generation here in the State of

New York.

Thank you very much, Mr. President. I vote in the affirmative.

ACTING PRESIDENT GRIFFO: Senator Maziarz to be recorded in the affirmative.

Senator O'Mara to explain his vote.

SENATOR O'MARA: Thank you, Mr. President. I rise to explain my vote in support of this legislation, something I worked on with Senator Maziarz and appreciate his leadership on this issue.

I spent six years in the Assembly as a sponsor and cosponsor of this legislation, a few of those years as ranking minority member in the Assembly working to move this forward.

We've waited eight years now since the expiration of Article X in New York State. We need this power generation. And we've seen the results of not having Article X, which was renowned in the country for being a leader and a model for energy power plant siting in the country.

And we've failed to renew that over the past eight years, keeping up with our

demands in this state to meet the needs of our residents, of our consumers of electricity, and our businesses so we can supply electricity at an affordable rate in this state.

We've fallen further and further behind without moving this legislation forward. I'm proud to support it today.

We need to work further, as well, on Article VII legislation so that we can get the power from where it's produced to where it's needed and maybe avoid some of the problems that have been raised by the other side of the aisle on this matter.

But it's a complex matter that we need to move forward on and not sit back and wait till somebody else acts. Because if we sit back and wait for conservation methods -- which are great -- they're not going to meet our demands. We're not going to keep up. And as Senator Maziarz said, it's going to be too late to site a power plant even under Article X at that point to meet our demands in the future.

So I vote in support of this

legislation. Thank you, Mr. President.

ACTING PRESIDENT GRIFFO: Senator O'Mara to be recorded in the affirmative.

Announce the results.

THE SECRETARY: In relation to Calendar Number 406, those recorded in the negative are Senators Adams, Addabbo, Avella, Breslin, Diaz, Dilan, Duane, Espaillat, Gianaris, Hassell-Thompson, L. Krueger, C. Kruger, LaValle, Montgomery, Oppenheimer, Peralta, Rivera, Sampson, Serrano, Squadron, Stavisky and Stewart-Cousins.

Absent from voting: Senators Parker and Huntley.

Ayes, 37. Nays, 22.

ACTING PRESIDENT GRIFFO: The bill is passed.

Senator Libous.

SENATOR LIBOUS: Thank you, Mr. President.

Mr. President, is there any further business at this desk?

ACTING PRESIDENT GRIFFO: There is no further business before the desk, Senator Libous.

SENATOR LIBOUS: Mr. President, there is one other piece of business that you might want me to do.

Senator Skelos would like to hand up the following committee assignment, Mr. President. Could you have it please filed.

ACTING PRESIDENT GRIFFO: The notice will be filed in the Journal.

Senator Libous.

SENATOR LIBOUS: Thank you, Mr. President.

There being no further business before the Senate today, the Senate will adjourn until Tuesday, May 10th, at 3:00 p.m.

ACTING PRESIDENT GRIFFO: On motion, the Senate stands adjourned until Tuesday, May 10th, at 3:00 p.m.

(Whereupon, at 4:11 p.m., the Senate adjourned.)