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NEW YORK STATE SENATE

THE STENOGRAPHIC RECORD

ALBANY, NEW YORK

February 15, 2023

12:44 p.m.

REGULAR SESSION

SENATOR ROXANNE J. PERSAUD, Acting President

ALEJANDRA N. PAULINO, ESQ., Secretary

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

2 ACTING PRESIDENT PERSAUD: The
3 Senate 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 PERSAUD: 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 PERSAUD: Reading
14 of the Journal.

15 THE SECRETARY: In Senate, Tuesday,
16 February 14, 2023, the Senate met pursuant to
17 adjournment. The Journal of Monday, February 13,
18 2023, was read and approved. On motion, the
19 Senate adjourned.

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

22 Presentation of petitions.

23 Messages from the Assembly.

24 The Secretary will read.

25 THE SECRETARY: Senator Breslin

1 moves to discharge, from the Committee on Rules,
2 Assembly Bill Number 608 and substitute it for
3 the identical Senate Bill 853, Third Reading
4 Calendar 62.

5 Senator Hoylman-Sigal moves to
6 discharge, from the Committee on Rules,
7 Assembly Bill Number 632 and substitute it for
8 the identical Senate Bill 860, Third Reading
9 Calendar 69.

10 Senator Stewart-Cousins moves to
11 discharge, from the Committee on Rules,
12 Assembly Bill Number 1286 and substitute it for
13 the identical Senate Bill 1317, Third Reading
14 Calendar 86.

15 Senator Comrie moves to discharge,
16 from the Committee on Rules, Assembly Bill
17 Number 979 and substitute it for the identical
18 Senate Bill 1333, Third Reading Calendar 101.

19 Senator Parker moves to discharge,
20 from the Committee on Rules, Assembly Bill
21 Number 2896 and substitute it for the identical
22 Senate Bill 1345, Third Reading Calendar 113.

23 ACTING PRESIDENT PERSAUD: So
24 ordered.

25 Messages from the Governor.

1 Reports of standing committees.
2 Reports of select committees.
3 Communications and reports from
4 state officers.

5 Motions and resolutions.

6 Senator Gianaris.

7 SENATOR GIANARIS: Thank you,
8 Madam President. Good afternoon.

9 So for today's session we're going
10 to simultaneously begin by calling a meeting of
11 the Judiciary Committee in Room 332, and carry on
12 with some resolutions.

13 So if you'd like to call the
14 committee meeting first, and then we will bring
15 up the resolutions.

16 ACTING PRESIDENT PERSAUD: There
17 will be an immediate meeting of the
18 Judiciary Committee in Room 332.

19 SENATOR GIANARIS: Madam President,
20 can we now begin by taking up two resolutions
21 simultaneously, previously adopted
22 Resolution 166, by Senator Mannion, and
23 previously adopted Resolution 171, by
24 Senator Tedisco, read the titles of those
25 resolutions, and we begin with Senator Mannion,

1 please.

2 ACTING PRESIDENT PERSAUD: The
3 Secretary will read.

4 THE SECRETARY: Senate Resolution
5 166, by Senator Mannion, congratulating the
6 Syracuse University Men's Soccer Team upon the
7 occasion of capturing the NCAA Division 1 Men's
8 Soccer Championship on December 12, 2022.

9 ACTING PRESIDENT PERSAUD: Senator
10 Mannion on the resolution.

11 SENATOR MANNION: Thank you,
12 Madam President.

13 It's my honor to be here today and
14 my honor to speak on behalf of my colleague
15 Senator May, who is in a budget hearing.
16 Syracuse University is in her district, but as a
17 native Syracusan, I am proud and honored and
18 pleased to share the moment.

19 I will read Senator May's comments,
20 and then I have a few of my own. I'll try to be
21 brief.

22 Syracuse University is New York's
23 college sports school. The university has a
24 proud history of sports excellence, with many
25 championships in men's basketball, a top flight

1 women's basketball team, strong programs in men's
2 and women's lacrosse. And there are names like
3 Ernie Davis, Carmelo Anthony, Felisha
4 Legette-Jack, and Oren Lyons that are very
5 familiar to fans of the Orange. And now, thanks
6 to our recent history, a new legend is being
7 born: The Syracuse University Men's Soccer Team.

8 Just a few months ago the Men's
9 Soccer Team won the program's first ever national
10 championship in 2022, defeating Indiana 7-6 in a
11 penalty kick shoot out. Goalkeeper Russell
12 Shealy was named the 2022 Men's College Cup
13 Defensive Most Outstanding Player, while Nathan
14 Opoku earned Most Outstanding Offensive Player.
15 They were joined on the All-Tournament Team by
16 Levonte Johnson, Curt Calov, Christian Curti, and
17 Jeorgio Kocevski.

18 The Orange finished the season
19 19-2-4. The 19 wins are the most in a single
20 season in school history.

21 Syracuse is the fourth-ever ACC
22 Program to win its regular season division,
23 conference tournament and NCAA National
24 Championship in a single season. The title marks
25 the 80th national championship in Syracuse

1 Athletics' history -- 31 team titles and
2 49 individual champions.

3 Head Coach Ian McIntyre became the
4 15th coach in Syracuse soccer history on
5 January 6, 2010, and has since led the team to
6 unprecedented heights. He has brought the team
7 to the National Championship, two NCAA Tournament
8 College Cups, and two ACC Conference Titles in
9 2015 and 2022.

10 Coach McIntyre was named the
11 National College Coach of the year in 2022, the
12 ACC Coach of the Year in 2014 and 2022, and the
13 Big East Coach of the year in 2012.

14 Coach McIntyre is a native of
15 England and recently became a United States
16 citizen.

17 The school has a record number five
18 players that were selected in the 2023 MLS
19 SuperDraft that includes Abdi Salim, Levonte
20 Johnson, Amferny Sinclair, Russell Shealy, and
21 Buster Sjoberg.

22 I appreciate the extended time,
23 Madam President, as those were Senator May's
24 comments. And as I said, I'm proud to stand here
25 and acknowledge Syracuse University Men's Soccer

1 Team national championships.

2 For my own comments, I will say
3 that -- in the words of Syracuse University
4 alumnus John Wallace -- "The Cuse is in the
5 house."

6 To Coach McIntyre and your staff,
7 and to the Syracuse Orange Soccer Team, to all
8 its educators, students and staff that helped
9 keep you fit, healthy and prepared to succeed in
10 the classroom and on the field, let me say
11 congratulations to all of you. And even more
12 than congratulations, as a native of Syracuse,
13 New York, let me say thank you.

14 Thank you for bringing so much joy
15 and pride to the City of Syracuse, to
16 Central New York, and to Orange fans
17 everywhere -- across the state, the country, and
18 the world. It is my honor, along with
19 Senator May, to host you today in the
20 State Capitol.

21 Forty-six years ago, as I was a
22 college freshman, I sat at Sutter's Mill and
23 watched a very cloudy, low-resolution,
24 large-screen television when Syracuse
25 University's Men's Basketball Team were up one to

1 Indiana University. The ending of that game did
2 not go well. Many of us remember that day like
3 it was yesterday.

4 But also, 20 years ago next month,
5 that same Syracuse University Basketball Team
6 went all the way into March Madness and won a
7 national championship.

8 I recall the block by Hakim Warrick
9 in football. I recall the two-point conversion
10 by Michael Owens. I remember where I was in
11 those exact moments on that day.

12 And I will always remember where I
13 was when Amferny Sinclair sent the ball into the
14 upper right-hand corner in a penalty kick. That
15 ended another storied chapter of magical and
16 unforgettable moments for another team from
17 Syracuse University that we can call champions.

18 And let me tell you, when that
19 winning kick went in, I could hear the resounding
20 cheers across the world, but particularly across
21 Syracuse, New York, with joy, congratulations,
22 adulation, and love.

23 Who did we beat that day? We beat
24 the Hoosiers. It took us 46 years to claim our
25 national championship over that university, but

1 we beat them the right way. We won the game the
2 right way, the honorable way, in the spirit of
3 competition and sportsmanship. And it was a
4 testament to the character, determination, and
5 competitive spirit of this team.

6 Syracuse University was up one goal
7 on that day. And when the game became tied, we
8 didn't let up. That determination, grit and
9 spirit carried through. Those are wonderful
10 reflections of values and character that embody
11 Syracuse University and Central New York.

12 You played with heart and passion,
13 as much as any other group of players that I've
14 ever seen. They came to Syracuse from all over
15 the world -- and I hope I don't miss a place, as
16 I'm sure I will -- from Canada, Germany,
17 Costa Rica, Ghana, Italy, Japan and Sweden, all
18 represented on this team.

19 Central New York is known as a
20 welcoming community, and it's my hope that
21 they've experienced that welcome in their time
22 here in Central New York.

23 I have to give a special shout out
24 to our local guys: Jeorgio Kocevski, who's from
25 Liverpool, New York. And then we have the Pagano

1 brothers -- Nino, who could not be with us today,
2 and Cheech, both graduates of Fayetteville
3 Manlius High School.

4 I got to meet them at my oath of
5 office this year, and that's because they have a
6 brother, Guiseppe, Joey Pagano, who is a
7 published journalist, an accomplished author, a
8 hard worker, and an important member of my own
9 staff. I know that Joey is proud of you guys
10 just like I am.

11 And I want to extend a special
12 congratulations to Coach McIntyre for leading
13 this team to victory. And the coach's own story,
14 from a player to his first coaching job at
15 SUNY Oneonta, and then Hartwick, and then with us
16 at SU, is a perfect example of how hard work,
17 doing things the right way, keeping your eyes
18 focused, leads us to success in careers and life.

19 Coach, your leadership and guidance
20 have truly made all the difference.

21 And for me, a former goalkeeper, I
22 have to say that our goalkeeper, Russell Shealy,
23 deserves every acknowledgment that he gets. It
24 is no fun to be standing on that line facing a
25 series of penalty kicks. But when those cheers

1 went up for Amferny Sinclair, they followed the
2 cheers when those saves were made by our
3 goalkeeper.

4 This championship is not just a
5 victory for all of you, but for the entire
6 Syracuse community. It's a reminder that when we
7 work together and we work hard, we can achieve
8 anything.

9 So welcome to the New York State
10 Senate chamber, and congratulations.

11 Madam President, I give you the
12 Syracuse University Men's Soccer Team, national
13 champions. Let's go, Orange!

14 Thank you.

15 ACTING PRESIDENT PERSAUD: Thank
16 you, Senator. Senator --

17 (Applause.)

18 ACTING PRESIDENT PERSAUD: Senator
19 Borrello on the resolution.

20 SENATOR BORRELLO: Madam President,
21 as a proud New Yorker, I would like to
22 congratulate the Syracuse University Soccer Team.

23 But on a personal note, as a proud
24 graduate of Purdue University, anyone that takes
25 out the Indiana Hoosier's are friends of mine.

1 Congratulations!

2 (Laughter.)

3 ACTING PRESIDENT PERSAUD: Thank
4 you, Senator.

5 Senator May on the resolution.

6 SENATOR MAY: Thank you,
7 Madam President.

8 And thank you, Senator Mannion, for
9 filling in. This was one of those days when
10 we're supposed to be in three places at once.

11 It was a pleasure to meet all of you
12 a few minutes ago, and I'm so grateful to you for
13 coming out here.

14 I can't add more except to say that
15 the story of this team was really a story of
16 selflessness, of playing as a team, of players
17 who would give up the chance to take a shot
18 because they thought one of their teammates could
19 do it better. It was a story that was something
20 that we all learned from, and you all taught us.
21 And we couldn't be prouder.

22 So thank you so much for giving us
23 this excitement in Syracuse, for bringing honor
24 to our school, our region, and for coming here
25 and honoring us with your presence here today.

1 Thank you.

2 ACTING PRESIDENT PERSAUD: Thank
3 you, Senator.

4 To our guests, I welcome you on
5 behalf of the Senate. We extend to you the
6 privileges and courtesies of this house.

7 Please stand and be recognized.

8 (Extended standing ovation.)

9 ACTING PRESIDENT PERSAUD: The
10 resolution was previously adopted on
11 January 10th.

12 Senator Gianaris.

13 SENATOR GIANARIS: Madam President,
14 I got jumbled up in announcing the resolutions
15 earlier. Let me set the record straight.

16 What we just heard was previously
17 adopted Resolution 166, which was Senator May's
18 resolution that Senator Mannion spoke on
19 originally.

20 And now we are going to take up two
21 resolutions together that are both
22 Senator Tedisco resolutions. So please take up
23 previously adopted Resolution 171 and previously
24 adopted Resolution 266, read those titles, and
25 then recognize Senator Tedisco.

1 ACTING PRESIDENT PERSAUD: The
2 Secretary will read.

3 THE SECRETARY: Senate Resolution
4 171, by Senator Tedisco, congratulating the
5 Shenendehowa Girls Varsity Volleyball Team and
6 Head Coach Lori Kessler upon the occasion of
7 capturing the 2022 New York State Class AA
8 Championship.

9 Senate Resolution 266, by
10 Senator Tedisco, congratulating the Shenendehowa
11 Boys Varsity Volleyball Team and Head Coach John
12 Coletta upon the occasion of capturing the 2022
13 New York State Public High School Athletic
14 Association Division I Championship.

15 ACTING PRESIDENT PERSAUD: Senator
16 Tedisco on the resolutions.

17 SENATOR TEDISCO: Thank you,
18 Madam President.

19 I want to congratulate Senator May
20 and Senator Mannion. One outstanding
21 championship is great.

22 But I'm proud to present to you two
23 outstanding championship teams in the same year,
24 the boys and girls from Shenendehowa High School,
25 the volleyball champions, both of them together.

1 And I want to say to you,
2 Madam President and my colleagues, the 44th State
3 Senate District is blessed to have many fine
4 academic institutions with outstanding students
5 who excel in the classroom as well as on athletic
6 fields and courts. And as I've said, one of
7 those schools is Shenendehowa High in the Town of
8 Clifton Park.

9 Shenendehowa is indeed a powerhouse
10 for its great academic and athletic programs.
11 With us today are not one, as I've mentioned, but
12 about two Shenendehowa volleyball teams that
13 truly excel to the highest level, becoming
14 New York State champions, both the boys and the
15 girls varsity volleyball teams.

16 Our first group I'd like to mention
17 are the honorees from Shenendehowa High School in
18 the Girls Volleyball Team, and Head Coach Lori
19 Kessler, along with Assistant Coach Nicole
20 McClure and another assistant coach,
21 Madalyn Frutchey.

22 The Shenendehowa Girls Varsity
23 Volleyball Team captured the 2022 New York State
24 Class AA championship with an impressive 25-23,
25 25-17, 25-18 triumph over Lancaster High School

1 on Sunday, November 20, 2022. Sorry to the
2 Senator who has that municipality in their
3 district; they tried to keep it closer.

4 These girls were unbeaten in
5 Suburban Council play 12-0, and compiled an
6 overall record of 22 and 5 on their way to the
7 Class AA title.

8 In addition to exceptional team play
9 between the lines, the Girls Volleyball Team from
10 Shenendehowa High School excelled in the
11 classroom, garnering a collective 93.13 grade
12 point average. Outstanding.

13 Not to be outdone, our second group
14 of honorees from Shenendehowa High School is the
15 Boys Varsity Volleyball Team and Head Coach
16 John Coletta, along with assistants Ross Halpern
17 and Mike Cuttita.

18 The Shenendehowa Boys Varsity
19 Volleyball Team captured the 2022 New York State
20 Public High School Athletic Association
21 Division I Championship with an impressive 32-20,
22 20-25, 25-12 and 25-22 triumph over Webster High
23 School on Saturday, November 19, 2022, right
24 around the corner here at the Albany Capital
25 Center. The Boys Team celebrated an undefeated

1 season, going 16-0 in league play and 26-0
2 overall, en route to the Division I title.

3 Like the girls team, the Boys
4 Volleyball Team also put the "scholar" in scholar
5 athlete, with a collective 92.67 grade point
6 average.

7 Each of these teams here with us
8 today recently held a clinic for younger kids
9 within their school district, helping them to
10 hone their own volleyball skills. This is not
11 only showing what great role models they are, but
12 also how bright the future is for the program at
13 large.

14 Madam President, in closing, I
15 cannot confirm this, and I can't say if all of
16 these athletes conspired to do so, but this just
17 happens to be the first state volleyball title in
18 school history for both teams. They did it the
19 same year, and they did it together.

20 Please welcome, congratulate, and
21 give great honor to these outstanding student
22 athletes and extend to them all the cordialities
23 of this august body and chamber, if you will.

24 ACTING PRESIDENT PERSAUD: Thank
25 you, Senator.

1 To our guests, I welcome you on
2 behalf of the Senate. We extend to you the
3 privileges and courtesies of this house.

4 Please stand and be recognized.

5 (Standing ovation.)

6 ACTING PRESIDENT PERSAUD: The
7 resolutions were previously adopted on
8 January 10th and January 18th.

9 Senator Gianaris.

10 SENATOR GIANARIS: Let us now take
11 up previously adopted Resolution 320, by
12 Senator Murray, read the title of that
13 resolution, and recognize Senator Murray, please.

14 ACTING PRESIDENT PERSAUD: The
15 Secretary will read.

16 THE SECRETARY: Senate Resolution
17 320, by Senator Murray, memorializing
18 Governor Kathy Hochul to proclaim February 2023
19 as Teach CTE Month in the State of New York.

20 ACTING PRESIDENT PERSAUD: Senator
21 Murray on the resolution.

22 SENATOR MURRAY: Thank you,
23 Madam President. Thank you for allowing me to
24 speak on what I think is a very important
25 resolution, as we proclaim February as Teach CTE

1 Month in New York.

2 For those that don't know what CTE
3 is -- and most do, but it stands for Career and
4 Technical Education. It is so important to do
5 this resolution today to increase awareness about
6 the amazing opportunities made available through
7 BOCES and in particular CTE programs, and also to
8 recognize the incredible work of the teachers and
9 instructors that share and pass along their
10 experience and their expertise in their
11 particular fields.

12 But it's also important to pass this
13 resolution to help spread awareness and clear up
14 a couple of misconceptions.

15 The first misconception -- and back
16 when I was in high school and I rode my dinosaur
17 to school, this was a misconception that, thank
18 God, has been I think debunked by now. And that
19 is that the best and brightest students didn't go
20 to BOCES.

21 I think we've changed that. We've
22 come a long way. I think that the students now
23 believe that they recognize that CTE programs
24 actually open up a whole world of opportunities
25 for them. So I think we've done a great job

1 moving past that misconception.

2 But there's another misconception.
3 And I'll get that to that after I tell you a few
4 stats about how important it is in regards to
5 teaching these kids and the CTE programs.

6 Forty-nine percent of the jobs in
7 New York State require special skills training.
8 Thirty-nine percent are trained at this level,
9 BOCES and CTE programs.

10 I'm proud to say there are 34 CTE
11 programs across the school districts that reside
12 in the Third Senate District. District 3 is also
13 home of Eastern Suffolk County BOCES as well as
14 the Eastern Long Island Academy of
15 Applied Technology that provides services to over
16 1,000 students across 29 career and technical
17 education programs. That is important because,
18 as I said, this is important career training.

19 Which leads me to the second
20 misconception. And I was guilty of this myself
21 as a lawmaker, when I first got in and I didn't
22 really know much about BOCES and CTE. I always
23 looked at that -- and maybe some of you have made
24 the same comment when speaking about it. And I
25 said, you know, BOCES and CTE is great because

1 not every kid is going on to college.

2 That was wrong. It's not an
3 either/or situation. I think we'd all be amazed
4 at how many BOCES and CTE grads do go on to
5 college and get college degrees. We've got to
6 stop presenting it as an "either/or" and present
7 it as more of an "and," because it opens up so
8 many opportunities.

9 I'll tell you a quick story. A
10 young lady went to Eastern Suffolk BOCES to learn
11 to cut hair. Obviously I was not one of her
12 clients.

13 (Laughter.)

14 SENATOR MURRAY: But she learned to
15 cut hair, she got her -- she graduated from
16 there, went on to college. As she was going to
17 college and getting her degree, on the side she
18 cut hair to earn money to pay for college. She
19 ended up graduating with a degree and no student
20 loan debt, or no debt at all, because she paid
21 for it from what she learned at CTE.

22 To make it even better, she
23 graduates with a degree -- I got a text this
24 morning from Lisa Mongiello, one of her teachers
25 at BOCES, who says she now teaches the barbering

1 CTE program at William Floyd High School in my
2 district.

3 That's one of many, many success
4 stories because of BOCES and CTE programs.

5 So I thank each and every one of you
6 as we join together to proclaim February as
7 Teach CTE Month and to continue to spread the
8 word out there about the importance of these
9 programs and the importance of opening up so many
10 great opportunities for our next generation.

11 So thank you, and thank you for your
12 support on this.

13 ACTING PRESIDENT PERSAUD: Thank
14 you, Senator.

15 The resolution was previously
16 adopted on February 7th.

17 Senator Gianaris.

18 SENATOR GIANARIS: At this time,
19 Madam President, we will open the resolutions we
20 took up for cosponsorship, at the request of the
21 sponsors.

22 ACTING PRESIDENT PERSAUD: The
23 resolutions are open to cosponsorship. Should
24 you choose not to be a cosponsor of the
25 resolutions, please notify the desk.

1 Senator Gianaris.

2 SENATOR GIANARIS: Let's take up
3 the reading of the calendar, please.

4 ACTING PRESIDENT PERSAUD: The
5 Secretary will read.

6 THE SECRETARY: Calendar Number 62,
7 Assembly Print 608, by Assemblymember McDonald,
8 an act to amend the Education Law.

9 ACTING PRESIDENT PERSAUD: Read the
10 last section.

11 THE SECRETARY: Section 2. This
12 act shall take effect on the same date and in the
13 same manner as a chapter of the Laws of 2022.

14 ACTING PRESIDENT PERSAUD: Call the
15 roll.

16 (The Secretary called the roll.)

17 ACTING PRESIDENT PERSAUD: Announce
18 the results.

19 THE SECRETARY: In relation to
20 Calendar Number 62, those Senators voting in the
21 negative are Senators Borrello, Helming and
22 O'Mara.

23 Ayes, 56. Nays, 3.

24 ACTING PRESIDENT PERSAUD: The bill
25 is passed.

1 THE SECRETARY: Calendar Number 69,
2 Assembly Print 632, by Assemblymember Dinowitz,
3 an act to amend the Domestic Relations Law.

4 ACTING PRESIDENT PERSAUD: Read the
5 last section.

6 THE SECRETARY: Section 4. This
7 act shall take effect on the 180th day after it
8 shall have become a law.

9 ACTING PRESIDENT PERSAUD: Call the
10 roll.

11 (The Secretary called the roll.)

12 ACTING PRESIDENT PERSAUD: Announce
13 the results.

14 THE SECRETARY: Ayes, 59.

15 ACTING PRESIDENT PERSAUD: The bill
16 is passed.

17 THE SECRETARY: Calendar Number 86,
18 Assembly Print 1286, by Assemblymember Pretlow,
19 an act to amend a chapter of the Laws of 2022.

20 ACTING PRESIDENT PERSAUD: Read the
21 last section.

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

24 ACTING PRESIDENT PERSAUD: Call the
25 roll.

1 (The Secretary called the roll.)
2 ACTING PRESIDENT PERSAUD: Announce
3 the results.
4 THE SECRETARY: Ayes, 59.
5 ACTING PRESIDENT PERSAUD: The bill
6 is passed.
7 THE SECRETARY: Calendar Number 90,
8 Senate Print 1322, by Senator Hoylman-Sigal, an
9 act to amend the Environmental Conservation Law.
10 ACTING PRESIDENT PERSAUD: Read the
11 last section.
12 THE SECRETARY: Section 3. This
13 act shall take effect on the same date and in the
14 same manner as a chapter of the Laws of 2022.
15 ACTING PRESIDENT PERSAUD: Call the
16 roll.
17 (The Secretary called the roll.)
18 ACTING PRESIDENT PERSAUD: Announce
19 the results.
20 THE SECRETARY: In relation to
21 Calendar 90, those Senators voting in the
22 negative are Senators Borrello, Griffo, Lanza,
23 Oberacker, O'Mara, Ortt, Rhoads and Stec.
24 Ayes, 51. Nays, 8.
25 ACTING PRESIDENT PERSAUD: The bill

1 is passed.

2 THE SECRETARY: Calendar Number
3 101, Assembly Print Number 979, by
4 Assemblymember Paulin, an act to amend the
5 Not-For-Profit Corporation Law.

6 ACTING PRESIDENT PERSAUD: Read the
7 last section.

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

10 ACTING PRESIDENT PERSAUD: Call the
11 roll.

12 (The Secretary called the roll.)

13 ACTING PRESIDENT PERSAUD: Announce
14 the results.

15 THE SECRETARY: In relation to
16 Calendar 101, those Senators voting in the
17 negative are Senators Ashby, Felder, Skoufis and
18 Walczyk.

19 Ayes, 55. Nays, 4.

20 ACTING PRESIDENT PERSAUD: The bill
21 is passed.

22 THE SECRETARY: Calendar Number
23 113, Assembly Print Number 2896, by
24 Assemblymember Alvarez, an act to amend the
25 Energy Law.

1 ACTING PRESIDENT PERSAUD: Read the
2 last section.

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

5 ACTING PRESIDENT PERSAUD: Call the
6 roll.

7 (The Secretary called the roll.)

8 ACTING PRESIDENT PERSAUD: Announce
9 the results.

10 THE SECRETARY: Ayes, 59.

11 ACTING PRESIDENT PERSAUD: The bill
12 is passed.

13 THE SECRETARY: Calendar Number
14 203, Senate Print 1212, by Senator Cleare, an act
15 directing the departments of Environmental
16 Conservation and Health to establish
17 environmental standards for ambient lead.

18 ACTING PRESIDENT PERSAUD: Read the
19 last section.

20 THE SECRETARY: Section 3. This
21 act shall take effect on the 90th day after it
22 shall have become a law.

23 ACTING PRESIDENT PERSAUD: Call the
24 roll.

25 (The Secretary called the roll.)

1 ACTING PRESIDENT PERSAUD: Announce
2 the results.

3 THE SECRETARY: Ayes, 59.

4 ACTING PRESIDENT PERSAUD: The bill
5 is passed.

6 THE SECRETARY: Calendar Number
7 312, Senate Print 2510A, by Senator Ramos, an act
8 to amend the Environmental Conservation Law.

9 ACTING PRESIDENT PERSAUD: Read the
10 last section.

11 THE SECRETARY: Section 2. This
12 act shall take effect on the 180th day after it
13 shall have become a law.

14 ACTING PRESIDENT PERSAUD: Call the
15 roll.

16 (The Secretary called the roll.)

17 ACTING PRESIDENT PERSAUD: Announce
18 the results.

19 THE SECRETARY: Ayes, 59.

20 ACTING PRESIDENT PERSAUD: The bill
21 is passed.

22 THE SECRETARY: Calendar Number
23 315, Senate Print 3328, by Senator Fernandez, an
24 act to amend the Environmental Conservation Law.

25 SENATOR WEIK: Lay it aside.

1 ACTING PRESIDENT PERSAUD: Lay it
2 aside.

3 THE SECRETARY: Calendar Number
4 354, Senate Print 4134, by Senator Parker, an act
5 to amend the Public Authorities Law.

6 SENATOR WEIK: Lay it aside.

7 ACTING PRESIDENT PERSAUD: Lay it
8 aside.

9 Senator Gianaris, that completes the
10 reading of today's calendar.

11 SENATOR GIANARIS: Thank you,
12 Madam President.

13 I believe there's a report of the
14 Judiciary Committee at the desk. Can we take
15 that up and recognize Senator Hoylman.

16 ACTING PRESIDENT PERSAUD: The
17 Secretary will read.

18 SENATOR GIANARIS: I'm sorry,
19 Madam President.

20 The Minority has requested time for
21 a party conference. So if we can stand at ease
22 while our colleagues conference, that would be
23 desirable.

24 ACTING PRESIDENT PERSAUD: The
25 Senate will stand at ease.

1 (Whereupon, the Senate stood at ease
2 at 1:13 p.m.)

3 (Whereupon, the Senate reconvened at
4 1:51 p.m.)

5 ACTING PRESIDENT PERSAUD: The
6 Senate will return to order.

7 Senator Gianaris.

8 SENATOR GIANARIS: Okay. Now,
9 Madam President, I believe there's a report of
10 the Judiciary Committee at the desk.

11 Can we take that up and recognize
12 Senator Hoylman.

13 ACTING PRESIDENT PERSAUD: The
14 Secretary will read.

15 THE SECRETARY: Senator
16 Hoylman-Sigal, from the Committee on Judiciary,
17 reports the following nomination:

18 As Chief Judge for the Court of
19 Appeals, the Honorable Hector D. LaSalle.

20 ACTING PRESIDENT PERSAUD: Senator
21 Hoylman-Sigal.

22 SENATOR HOYLMAN-SIGAL: Thank you,
23 Madam President.

24 I move the nomination of
25 Hector LaSalle to the position of Chief Judge of

1 the New York State Court of Appeals, and I ask
2 that you call on any other Senators wishing to be
3 heard.

4 ACTING PRESIDENT PERSAUD: Senator
5 Gianaris.

6 SENATOR GIANARIS: Thank you,
7 Madam President.

8 I'm going to leave it to some of my
9 colleagues, who I'm sure will take the
10 opportunity to express themselves about the
11 merits of this nomination. But I do want to just
12 give an overview to my colleagues and to the
13 public of what's going on today.

14 We are now here one month, roughly,
15 from when the Judiciary Committee took up this
16 nomination and voted on it. And yet some in our
17 state government have refused to accept or
18 acknowledge the constitutional right of this
19 legislative body, this Senate, to conduct its
20 business, as a separate branch of government, as
21 it sees fit.

22 The result has been a crisis. A
23 crisis where the top court has been without a
24 properly appointed Chief Judge for six months. A
25 crisis which is distracting us from the business

1 of an over \$200 billion budget proposal that is
2 critical as we continue our post-COVID recovery
3 efforts here in New York.

4 And once again the role of the adult
5 in the room has fallen to the Senate Majority.

6 (Reaction from Minority members.)

7 SENATOR GIANARIS: Proving my
8 point, we have snickers from the other side.

9 But our leader has stepped forward
10 and said: This state needs to move forward. We
11 have a budget to enact. We have a top court that
12 needs to be fully constituted. And we are taking
13 this matter to the floor today to resolve this
14 crisis.

15 To be clear, we maintain the
16 prerogative to determine the rules of operation
17 of this Legislature. And as such, this body has
18 decided to take up this vote on the floor today,
19 a decision that was made in the discretion of the
20 Senate and its leader.

21 And so as we move forward today and
22 the members are heard on this nomination and we
23 move forward to a vote, it should be absolutely
24 clear that this Senate is standing up to do the
25 right thing for the people -- not getting

1 concerned about ego and who wins and loses
2 battles, but what's important for the almost
3 20 million people in this state.

4 This is the right decision. I thank
5 my colleagues for their incredible patience and
6 determination as we went through this process.
7 It should not have come to this. And yet here we
8 are.

9 And so with that, Madam President, I
10 will be voting against this nomination, as I made
11 clearly publicly in the past, and I ask you to
12 call on any other Senators wishing to be heard.

13 Thank you.

14 ACTING PRESIDENT PERSAUD: Thank
15 you, Senator.

16 Senator Palumbo.

17 SENATOR PALUMBO: Thank you,
18 Madam President. On the resolution, please.

19 So I'm going to be fairly brief. We
20 have a few other members who wanted to make some
21 comments. But just in a quick response to some
22 of the comments we've heard today that this is a
23 distraction to this body.

24 Well, I've been a legislator for
25 10 years, and we can walk and chew gum. In fact,

1 we had ten distractions on this afternoon,
2 10 bills that we take up. We got, about two and
3 a half hours ago, notice -- miraculously -- that
4 out of necessity we needed to have a
5 Judiciary Committee -- have them convene.

6 So this is about two and a half,
7 maybe three hours ago now at this point. So in
8 three hours, we have advanced a 30-day-old or
9 more nomination to the floor. And I'm sure --
10 we've got a half an hour here to discuss it --
11 we'll probably be done in about an hour.

12 So the Chief Judge of the highest
13 court in the state of 20 million people is not a
14 distraction to me. And neither is the
15 Constitution. So I'm glad to see that at least
16 this nominee gets to come to the floor, because
17 that's what the Constitution dictates.

18 The Senate body can make its rules,
19 absolutely. But they need to do it within
20 constitutional parameters. The Constitution wins
21 over all. So when you start making rules that
22 are contrary to the Constitution, then of course
23 those rules are invalid.

24 And so we have now -- let's just --
25 a little bit of procedure as to how we got here.

1 Many of you know that the nominee was struck
2 down. We had weeks and weeks and weeks that the
3 first Chief Judge nominee of color was nominated
4 by the Governor, and it sat and sat. Our
5 conference took action, and we sued about a week
6 or so ago, last Thursday, in expedited fashion.

7 And this is important to note
8 because the briefing schedule was today the
9 opposition memos were due. So it came to
10 everyone's surprise -- a big media weekend, and
11 then come Monday, Tuesday, counsel gets involved
12 probably over the weekend. And so there was an
13 application to file a bigger brief, up to
14 35 pages, because there was more to talk about on
15 the opposition side. It was granted, and the
16 presiding judge in Suffolk County, Supreme Court
17 judge, said, "Great, I'm going to move oral
18 argument from 12:30 to 2 p.m. Friday, but this
19 train has left the station. We're going to get a
20 decision."

21 And so when you put your lawyer hat
22 on and you say, Well, now it's been fully
23 briefed, I anticipate that some smart lawyers on
24 both sides said, You know what, you have a
25 problem, because the Constitution mandates a

1 floor vote, period. Make whatever rule you want,
2 the Constitution controls.

3 The Senate, all these members -- not
4 just the couple of people on the committee -- a
5 committee, by the way, that can be manipulated at
6 any given time, as it was here. I mentioned it
7 on our first day when we adopted our rules. I
8 said, "Why are we adding three Democrats and one
9 Republican to the Judiciary Committee? That
10 doesn't make sense to me."

11 The rules, that are apparently
12 gospel, prescribe a two-to-one direct proportion
13 to the overall body, which is 42 to 21, two to
14 one. But that of course was still adopted, and
15 away it went. And we added three more members
16 from that side and one more from this side.

17 So when we think about all of this
18 now, in order to avoid a judicial decision and a
19 judicial resolution -- and Madam President, I'm
20 pleased that we're here. I am. And many of you
21 know that I support this nominee. I worked with
22 the nominee. He is an incredible jurist who
23 calls balls and strikes. And he's a plain old
24 liberal Democrat, which apparently isn't good
25 enough.

1 But in any event, we have this
2 before us and we have an entire body making the
3 decision, based upon a little gamesmanship,
4 hoping to render the lawsuit moot. So that the
5 courts can't say, As a matter of law, folks,
6 every judicial nominee goes to the floor of the
7 Senate.

8 And why is that significant?
9 Because there is a rule regarding mootness. And
10 I'm going to suggest to you folks that when
11 actions are taken in contravention to the law or
12 intended to evade a justiciable or an actual
13 decision by the court, it does not render it
14 moot.

15 So I look forward to Friday. Judge
16 Whelan will address that then.

17 Now, the nominee. Hector LaSalle,
18 as many of you know, born in Brentwood, from
19 immigrant grandparents, grew up in a regular
20 neighborhood, has an impeccable record. I
21 believe other -- members on the other side
22 actually said, you know what, your credentials
23 are what they are, but can you explain to me --
24 during our original hearing -- why you decided to
25 follow the law on this case?

1 Because that's the true intention,
2 that we have a significant constitutional
3 derivation. Is that the word I'm looking for?
4 Or we have a specific rule that's prescribed.
5 But we actually have an abrogation, rather, is
6 probably the word I'm looking for,
7 Madam President, that we're derelict in our
8 duties by not getting the nominee to the floor.

9 And this is of great concern,
10 because this seems to be a concern that the
11 Constitution is a distraction. That it's a
12 problem. And so we now have a group of members
13 who think that, Well, if we can't change the
14 Constitution, then let's change the courts.
15 Because we keep losing in courts. We've seen
16 that a couple of times in the past few months,
17 haven't we?

18 And because we keep losing, we're
19 sick of losing. The law is a distraction. The
20 Constitution is a distraction. We need to do
21 something different, so we're now going to pack
22 the court with activists who choose not to follow
23 the law.

24 Unlike Justice Hector LaSalle, who
25 simply calls balls and strikes. There were many

1 misrepresentations about his position on certain
2 cases.

3 The Cablevision case. It was a
4 motion to dismiss. It's a preliminary immediate
5 action where they say can the case proceed or
6 not. And the ruling was that it can proceed
7 through discovery. Very, very high threshold to
8 get something like that thrown out at that stage.
9 It's not a decision on the merits, essentially.

10 So I'm going to yield the rest of
11 the time to my colleagues, but I just wanted to
12 say that I'm glad to see it's here on the floor,
13 but unfortunately it's here for untoward reasons:
14 That this is once again a manipulation of the
15 process to avoid just a very simple ruling. We
16 need to have this issue resolved definitively,
17 not left to the whims of a Majority that feels
18 like they can choose the rules at any given time.

19 Thank you, Madam President.

20 ACTING PRESIDENT PERSAUD: Thank
21 you, Senator.

22 Senator Gounardes on the resolution.

23 SENATOR GOUNARDES: Thank you,
24 Madam President.

25 The responsibility to confirm a

1 Chief Judge to the New York State Court of
2 Appeals is an important one, one that I know I
3 take very seriously as a member of this body and
4 also as a member of the Judiciary Committee.

5 And though I greatly appreciate the
6 historic nature of Hector LaSalle's nomination to
7 be the next Chief Judge, for reasons I will
8 explain, I cannot and will not vote to support
9 his confirmation.

10 From the outset of this process I
11 committed myself, as I know many of my colleagues
12 did, especially on the Judiciary Committee, to a
13 rigorous and thorough review of Justice LaSalle's
14 nomination, including reading hundreds of pages
15 of his prior decisions in other cases, articles,
16 commentary from lawyers, legal experts and court
17 observers.

18 I had the chance to interview the
19 judge personally and ask him questions about --
20 that I had about his jurisprudence, his views of
21 the law. I raised concerns with him about some
22 of the cases that he had ruled in and discussed
23 issues that I saw within the judiciary as a whole
24 that would fall under his purview as the
25 Chief Judge.

1 And of course as a member of the
2 Judiciary Committee, we all participated in a
3 more than five-hour hearing on the nominee where
4 we asked questions, probed areas of inquiry.
5 Perhaps one of the most thorough and
6 comprehensive hearings we've had here on a
7 nomination in years.

8 And after taking all of that
9 information and hearing all of those answers, I
10 simply conclude that Justice LaSalle is not the
11 appropriate person to be the next Chief Judge of
12 the Court of Appeals. There are simply too many
13 cases and too many issues of great concern that
14 we have to confront and deal with in our
15 judiciary.

16 I'm glad Senator Palumbo brought up
17 the analogy of balls and strikes. An umpire
18 calls balls and strikes. A judge, we say, is an
19 umpire. They call balls and strikes, and that's
20 their job.

21 But as many heartbroken baseball
22 fans will know, it's not just about whether you
23 can call a ball and a strike. It's about how you
24 view the strike zone. And if you view the strike
25 zone generously, maybe you give that batter the

1 benefit of the doubt. Or, the other team, maybe
2 you give that pitcher the benefit of the doubt.

3 If you view that strike zone very
4 narrowly, well, maybe that pitcher's going to be
5 pretty upset with you when he hits one of those
6 corners, high and outside.

7 It's not enough to say someone can
8 call balls and strikes. It matters how you view
9 the strike zone. And in case after case, I found
10 significant concerns with how Justice LaSalle
11 views the strike zone.

12 And it's not just on the merits of
13 individual areas of law, it's on how he views the
14 law itself as a tool in our society. I asked
15 Justice LaSalle about the issue of issue
16 preservation, which is how cases even make it to
17 the Court of Appeals. If you know, you follow
18 the court, you know that the court has actually
19 taken fewer and fewer and fewer cases under the
20 previous chief judge. Now we're less than
21 90 cases a year, whereas five years ago, six
22 years ago, we were over 200. That means that
23 issues of great constitutional importance are not
24 getting decided by the constitutional highest
25 court in this state.

1 So what do we do about issue
2 preservation? Time and time again, when
3 Justice LaSalle had the opportunity to decide
4 cases in a fair-minded way and either decide for
5 a party or to pass the case on, all too often he
6 decided the wrong way. He saw the law as a
7 narrow tool and not as an expansive tool, a sword
8 and shield to protect the rights of litigants, to
9 protect the rights of workers, to protect the
10 rights of women and so many others.

11 That is a deep concern to me. And
12 especially with how our current Court of Appeals
13 has over the last number of years systemically
14 worked to narrow our state's laws -- which, by
15 the way, are some of the most expansive and
16 forward-thinking laws in the country in issues of
17 criminal justice and consumer protection and
18 workers' rights. Our current Court of Appeals
19 has narrowed their view of these incredibly
20 important laws.

21 So how can we put someone on the
22 bench who is going to continue that narrow view
23 on issues of great importance to the people of
24 this state?

25 And now let's think about it even

1 more, because we know what's happening in this
2 country. We know that at the federal level, our
3 Supreme Court, it's a complete mess. The
4 conservative bloc on the Supreme Court is
5 actively undermining Americans' fundamental and
6 civil rights. The list of cases is too long to
7 even go through.

8 So at a time when this is happening
9 at our national government, it's even more
10 important that our state judiciary, that our
11 state government, be both a bulwark and a beacon
12 in protecting and advancing the same rights that
13 our federal Supreme Court is so quickly eroding.

14 And so it's for these reasons,
15 Madam President, that I don't think that
16 Hector LaSalle is the right person to be the
17 Chief Judge of the Court of Appeals. This time
18 calls for a Chief Judge, simply put, who has a
19 more expansive view of the strike zone and will
20 take our court in a different direction.

21 And for that, I vote nay. Thank
22 you.

23 ACTING PRESIDENT PERSAUD: Thank
24 you, Senator.

25 Senator Gianaris.

1 SENATOR GIANARIS: Thank you,
2 Madam President. If I could just step in for a
3 moment. We have a former colleague who is
4 experiencing FOMO today as -- I saw him
5 eyeballing his old seat in the chamber.

6 But we are happy to have the Mayor
7 of New York City with us once again in the Senate
8 chamber.

9 Can you please welcome Mayor Adams.

10 ACTING PRESIDENT PERSAUD: Mayor
11 Adams, welcome.

12 (Standing ovation.)

13 ACTING PRESIDENT PERSAUD: Senator
14 Rhoads on the resolution.

15 SENATOR RHOADS: Thank you,
16 Madam President.

17 I've had the honor of serving in
18 this body for a total I think of -- what's today,
19 the 15th? -- 46 days. And I must say that what
20 I've witnessed over the course of the last
21 46 days has been interesting to say the least.
22 But particularly when we're talking about this
23 nomination, the way this nomination has been
24 handled in my view is an embarrassment.

25 The bottom line is that what we've

1 seen is an attempt not to have this day and not
2 to have this debate happen at all. And so to the
3 residents of this state -- through you,
4 Madam President, of course -- to the residents of
5 this state, this debate that you're seeing today
6 to talk about the merits of the highest justice
7 in the highest court in the State of New York
8 never would have happened.

9 My colleague Senator Gianaris rising
10 to voice his vote, he intends to vote no -- that
11 vote never would have happened if the Majority
12 had its way. Wouldn't have had a voice.
13 Wouldn't have had a vote. It would have just
14 been the members of the Judiciary Committee
15 alone.

16 And to look to see the lengths to
17 which the process has been abused in this case --
18 denying, trying to deny an eminently qualified
19 judge and historic figure as the first Latino to
20 be nominated as Chief Justice to the Court of
21 Appeals, denying him that opportunity to have his
22 day on the floor of this chamber.

23 We first started with changing the
24 composition of the Judiciary Committee. Stacking
25 the deck, so to speak, to make sure that we had

1 enough no votes to stop the nomination from going
2 forward.

3 Then disobeying the Senate's own
4 rules by refusing to report the nomination to the
5 floor of the Senate, despite the fact there was a
6 negative vote. This is a judicial nomination,
7 not a bill. That vote always should have come to
8 the floor, and it didn't. And it was only
9 because of the lawsuit that was filed by my
10 colleague Anthony Palumbo, on behalf of the
11 Minority, that forced today to happen.

12 And even today, even today, this
13 nomination is brought to the Judiciary Committee
14 off the floor without notice, without some of the
15 members of the Majority -- who, coincidentally,
16 publicly said they were voting in favor of the
17 LaSalle nomination -- conveniently not here.

18 We were told that the Constitution
19 of the State of New York was a distraction, that
20 this process, that this lawsuit, that this debate
21 was a distraction from the business of the
22 Senate. Nothing could be further from the truth.

23 On January 4th, each and every
24 person in this room raised their right hand and
25 swore an oath to the Constitution of the State of

1 New York. That's what this process is about:
2 Making sure we are faithful to the Constitution.
3 That's what this nomination is about: Making
4 sure that we are faithful to the Constitution,
5 making sure that we are faithful to the laws of
6 this state.

7 This is a conversation about
8 changing the strike zone, make no mistake.
9 That's exactly what this debate is right now.
10 Because what the Majority is doing, they're not
11 interested in somebody calling balls and strikes.
12 They're interested in somebody who's going to
13 call balls and strikes the way they want them
14 called. They don't want somebody who's going to
15 follow the law. They want somebody who's going
16 to interpret the law the way they want the law
17 interpreted.

18 That's not what a judge is supposed
19 to do. If you want to change the way the law is
20 interpreted, change the law. That's the job of
21 the legislature. The job of the judiciary is to
22 take the law as it's written, interpret it, and
23 apply it to the facts of an individual case.

24 That is what Judge LaSalle has done
25 throughout his entire career. A career, by the

1 way -- and this isn't somebody that we just kind
2 of picked at random, that the Governor picked at
3 random. This individual has risen through the
4 ranks to be the presiding justice of the
5 Second Department. This is a judge who's
6 eminently qualified and who has demonstrated in a
7 career with thousands of decisions that what he
8 does is follow the law.

9 So, my colleagues, I'm going to
10 apply -- or appeal to your sense of
11 reasonableness, your sense of rationality, your
12 sense of fairness.

13 And I'm going to ask you to look at
14 the larger picture here, because what we do today
15 has tremendous ramifications for what New York
16 State is going to look like for years to come.
17 Do we want a judiciary that is going to legislate
18 from the bench and is going to make us, who sit
19 here in this room, the members of the Assembly
20 who sit down the hall -- if that's what you want,
21 we may as well become irrelevant. We can just
22 let the judges make all the decisions as to what
23 the laws of this state are. That's the direction
24 that essentially, based on the comments I've
25 heard on the floor so far, that's the direction

1 essentially that you want this state to go in.

2 Don't do it. We have a
3 responsibility to the 20 million people of this
4 state to put people on the bench who are going to
5 follow the law. And I'm afraid today -- as my
6 colleague Senator Hoylman, the chair of the
7 Judiciary Committee, mentioned, I'm afraid that
8 this may be a fait accompli. That we already
9 know how this is going to turn out. That this
10 process from the very start has been nothing more
11 than a sham.

12 And so I want to take this moment,
13 to the people who are watching at home, to the
14 20 million people of the State of New York, and
15 apologize. Because that's not the way this
16 process is supposed to work. You deserve better.

17 And I hope that when a vote is
18 ultimately taken, I hope that common sense
19 prevails and that a good man, a good person, and
20 a person who will make an outstanding
21 representative of the people of this state, is
22 placed as presiding judge, as Chief Judge of the
23 highest court in this state, when the votes are
24 all counted.

25 So thank you, Madam President. I

1 yield the balance of my time.

2 ACTING PRESIDENT PERSAUD: Thank
3 you, Senator.

4 Senator Myrie on the resolution.

5 SENATOR MYRIE: Thank you,
6 Madam President.

7 New York is in the midst of a
8 climate crisis, an affordability crisis, a
9 safety-net hospital crisis, an education crisis.
10 And the very last thing that New Yorkers want is
11 a constitutional crisis.

12 I've taken two oaths to uphold the
13 Constitution in my life, one as an attorney, the
14 second as a Senator. So I will not be lectured
15 by any colleagues or anyone else about what that
16 oath means.

17 Big constitutional scholars we have
18 today. But when it comes to Black and brown
19 folks and our criminal legal system, nothing
20 about the Constitution. No due process, guilty
21 before trial, everybody looped into the same
22 circle. Nothing about upholding our Constitution
23 then.

24 So spare me the lecture about
25 upholding this Constitution. Because that is

1 what I do every single day.

2 And as it relates to the nomination,
3 we've also heard laudatory comments for this
4 nominee. But every member of the Judiciary
5 Committee in the Minority voted aye without
6 recommendation. If you believed in this nominee
7 so strongly, why not vote yes? Again, we will
8 not be lectured on the Constitution.

9 So I will be voting in the negative,
10 Madam President. But I want all New Yorkers to
11 watch what is happening today. Instead of the
12 focus on the most vulnerable in this state, the
13 people that need our attention the most, this is
14 what we're doing.

15 So I urge my colleagues to also vote
16 in the negative so that we can get back to the
17 people's work.

18 Thank you.

19 ACTING PRESIDENT PERSAUD: Thank
20 you, Senator.

21 Senator Borrello on the nomination.

22 SENATOR BORRELLO: Thank you,
23 Madam President.

24 You know, in this chamber we're very
25 proud and often talk about making history, how

1 we've made history in so many ways. We get it a
2 lot from my colleagues on the other side of the
3 aisle: We have made history today because
4 so-and-so is in this position.

5 Well, today we're making history by
6 not making history. The first Latino to be
7 nominated to the highest court. I am proud to
8 represent a very large Latino population for
9 upstate New York. In fact, largely Puerto Rican,
10 of Puerto Rican descent. They actually have
11 talked to me about Judge LaSalle. And they would
12 like to know why this historic nomination was
13 going down in flames. And I wasn't even going to
14 get a vote, as their representative -- until
15 today, I wasn't going to get a vote to show them
16 that they have a representative in the most
17 important highest court nomination in New York
18 State.

19 But then, all of a sudden, the
20 lawsuit happened, and so how magically we're
21 going to follow the Constitution now.

22 So it's really not about making
23 history with people of color or women. It's
24 about following what your special interests are
25 telling you to do. Because you have a lot of

1 people here that would love to see this very
2 qualified jurist sit in this position and
3 properly interpret the Constitution.

4 Instead, we're saying, Well, we only
5 like making history when it's people that aren't
6 going to aggravate our special interests. Or
7 that the socialists can support, and the
8 progressives can support. Then it's okay to make
9 history in that very narrow lane.

10 So I'm proud today that I get to
11 vote, that we as a Republican Conference are the
12 ones making history today and bringing this to
13 this floor vote. We brought this. And whether
14 or not the judge makes it, that's the history
15 that's being made today.

16 And the Constitution -- because we
17 hear a lot about this in this chamber also, how
18 we're protecting democracy, we're protecting the
19 Constitution. You shredded the Constitution in
20 this process. Shredded it. I won't be lectured
21 to either. You shredded the Constitution. And
22 today we brought it back.

23 And I'll be voting aye.

24 Thank you, Madam President.

25 ACTING PRESIDENT PERSAUD: Thank

1 you, Senator.

2 Senator Ryan on the nomination.

3 SENATOR RYAN: Thank you.

4 If you look at the rules about who
5 can become a judge, to become a Court of Appeals
6 head judge you have to live in New York State,
7 you have to be admitted to the practice of law
8 for 10 years, and you have to be a member of good
9 standing in the Bar Association. That's it. So
10 by those rules, probably every lawyer here is
11 qualified to be the head of the Court of Appeals.

12 But that's not where it stops. The
13 person who wants to be head of the Court of
14 Appeals has to come through a process.

15 And that person came through a
16 process, the person was given full consideration,
17 hours and hours of testimony. A wide range of
18 New Yorkers spoke out for his nomination, against
19 his nomination. I myself spent hours reading
20 appellate decisions. I refrained from making
21 public comments on this until the Judiciary
22 Committee met. It was a good meeting. People
23 asked questions on both sides. But at the end of
24 the day, only two people voted yes.

25 You hear today laudatory comments of

1 how this is the best judge ever. But the people
2 on the very committee didn't even vote yes. Now,
3 somehow, this is the best judge in the land. Oh,
4 boy, does the hypocrisy reign.

5 So I look at who should be on the
6 judge -- who should be a judge on the top Court
7 of Appeals through my prism. And my prism is
8 someone who's spent most of their career as a
9 lawyer helping the dispossessed. So how does the
10 court treat people in need? And I read a case
11 called Cablevision. And in that case, this judge
12 went out of his way to make it so you can sue
13 union members for doing their job. And then made
14 it easier for billionaires to squash little
15 people. I said, Gee, I don't like that case.

16 Then I read about some other
17 decisions in the reproductive rights area where,
18 once again, this judge went out of their way to
19 assert the rights of a crisis pregnancy center to
20 somehow give them equal footing to spread
21 disinformation to people in our society. And I
22 said, That doesn't seem like somebody who should
23 be leading New York State's highest court.

24 And then you look at some of the
25 criminal law decisions. You know, for a long

1 time it's been well established that you can't
2 say to somebody, You can't serve on a jury
3 because of your race. It took us an amazingly
4 long period of time to get to that point in
5 America -- the 1990s.

6 But somehow the nominee decided that
7 you could be taken off the jury because of the
8 color of your skin. But that's not race, and
9 that's okay. And once again, that doesn't sound
10 to me like somebody who we want leading New York
11 State's highest court.

12 So it's no wonder that the NAACP
13 Legal Defense Fund, various labor unions, and
14 reproductive rights groups around New York State
15 said to us: Please don't let somebody with these
16 viewpoints lead our highest court.

17 And we all know, based on what's
18 been happening in the Supreme Court, that it
19 turns out that people we put on these benches
20 matters. And it matters to the lives of common
21 everyday Americans and common everyday
22 New Yorkers.

23 New York has a broad and expansive
24 Constitution. You know, it's not a piece of
25 parchment with a turkey quill, it's a big

1 Constitution. And for generations the Court of
2 Appeals has given discretion to the Legislature
3 to say, It's your Constitution, you're the
4 Legislature, figure it out.

5 But what we've seen in the last
6 decade is a gradual tightening of that, saying
7 the Legislature does not have the ability to make
8 laws pursuant to the Constitution.

9 So New York State needs a chief
10 judge who has a broad vision of the law, has a
11 broad vision of how law affects society, and
12 knows that the decisions of those courts affect
13 everybody in society.

14 But the court cases we saw and read
15 gave an excessively narrow vision of the law, a
16 court with their handcuffs on: I can't work to
17 protect the rights to unionize. I can't work to
18 protect the rights of women. I can't work to
19 protect the rights of minorities to sit on
20 criminal justice panels. Narrow vision. Too
21 narrow for our broad Constitution.

22 So we need a Chief Judge in New York
23 State with a broad legal vision that can
24 interpret our broad Constitution. That's why I
25 voted no in committee, and that's why I am voting

1 no today.

2 ACTING PRESIDENT PERSAUD: Thank
3 you, Senator.

4 Senator Canzoneri-Fitzpatrick.

5 SENATOR CANZONERI-FITZPATRICK:
6 Thank you, Madam President.

7 I had the opportunity to speak
8 privately with Judge LaSalle, to participate in
9 the lengthy Judicial Committee review of him.
10 And I too have read many of his decisions.

11 I'm an attorney who's been
12 practicing for over 25 years, and I would not
13 hold my record against his because of his
14 experience as the judiciary on the Second
15 Department.

16 He has many credentials. He's a
17 union person from a union family. He has applied
18 the law that has been passed by the Legislature.
19 And that is the job of the Judiciary, to apply
20 the law. Not to legislate. This body and the
21 Assembly are the bodies that are tasked with
22 making legislation.

23 His job is to apply it. And if we
24 don't like the decisions coming out of our
25 Judiciary, then as a body that's our job to make

1 amendments and to change the law.

2 There has been very little notice
3 about this vote coming to the floor. And we had
4 a committee hearing on January 18th, but suddenly
5 there was a necessity that dictated that this
6 come to the Judiciary Committee for
7 reconsideration and a vote today.

8 The procedure is not proper for
9 anybody to -- our nominee is not even here and
10 was not available to be questioned again by our
11 committee. For those reasons, I think that the
12 process has been thwarted.

13 However, I am very happy that
14 everybody in this room gets to vote on this
15 nominee, because I do feel that his record is
16 impeccable and that he deserves our support.

17 I will be voting aye. Thank you.

18 ACTING PRESIDENT PERSAUD: Thank
19 you, Senator.

20 Senator Martins on the nominee.

21 SENATOR MARTINS: Madam President,
22 thank you very much for the opportunity.

23 I too, I want to thank --
24 Madam President, I want to thank the Majority for
25 allowing this matter to come to the floor.

1 I do believe that the Constitution
2 requires that the vote take place today. I would
3 have preferred that it took place a month ago.
4 But the reality is, as a member of the Judiciary
5 Committee, I had an opportunity to vote in
6 committee. But for all of those members who
7 represent the same number of constituents as I do
8 who don't sit on the committee, they should have
9 a voice in who the next person is as Chief Judge
10 of the Court of Appeals.

11 Now, I made clear during the hearing
12 that Judge LaSalle would not have been my choice
13 for Chief Judge. He's a Democrat, I'm a
14 Republican, I would have probably picked somebody
15 else. But I have been in this chamber and I have
16 participated in these hearings and in these votes
17 in the past, and I see the role of this chamber
18 perhaps a little differently.

19 The role of advice and consent is
20 not to substitute our judgment for that of the
21 Governor. The role of advice and consent is to
22 determine whether or not the person is qualified.

23 Now, I've heard people say that this
24 judge is too conservative. I've heard so many of
25 the members of this body go out, even before we

1 held hearings and before we had a discussion, and
2 tell the world that they were voting no.

3 That's their prerogative. I would
4 have preferred that they not do that and prejudge
5 a candidate before it actually came here, because
6 we do have a certain responsibility. But again,
7 that's everyone's prerogative.

8 I'll remind everyone, there isn't a
9 member of the Court of Appeals today that wasn't
10 nominated, appointed, and confirmed by this body
11 and by a Democrat Governor. Even the people who
12 are on the Court of Appeals today, whether the
13 Republicans were in the Majority or whether
14 Democrats were in the Majority -- go back and
15 look at the transcripts. Madam President, I
16 don't believe there's a single member of this
17 body, Democrat, who voted against any of the
18 members of the Court of Appeals that are sitting
19 on the Court of Appeals today. That goes for
20 Judge DiFiore before she left and goes for so
21 many others that are there today.

22 And yet here we are claiming that
23 the Court of Appeals is a conservative body and
24 that somehow doesn't reflect the values of this
25 state.

1 As a practicing attorney for
2 30 years, I understand what the role is of a
3 Supreme Court justice, of a trial court judge, of
4 an Appellate Division judge, and then of course
5 of the Court of Appeals. When we talk about the
6 narrowness of decisions that are made by trial
7 courts and by Appellate Division judges, that's
8 their role. It's not until you get to the Court
9 of Appeals that you actually get to discuss
10 policy and things of that sort. And even then,
11 the idea of judicial activism is one that I would
12 leave to this body in deciding which laws to pass
13 and which laws not to pass and to allow the Court
14 of Appeals the opportunity to make those
15 decisions. Because it's this body, not the
16 courts, that should be setting policy in this
17 state.

18 So out of respect for the process,
19 out of respect for the fact that it is the
20 Governor who appoints, given the parameters that
21 are placed before the Governor by a committee and
22 a select number of people who the Governor has
23 the right to choose from and advance, out of
24 respect for the fact that I have voted for
25 members of the Court of Appeals who are sitting

1 on the Court of Appeals today -- who I disagree
2 with philosophically, fundamentally, but yet
3 respect the fact that the Governor has the right
4 to make that appointment and that we as Senators
5 don't sit in judgment of that right but yet judge
6 their qualifications.

7 Madam President, I will be voting
8 aye because this judge, although again not a
9 person I would have recommended, not a person I
10 would have appointed, is undoubtedly qualified
11 given his experience, his history, and frankly
12 the unique perspective that he brings to this
13 court as a person who was raised in a Latino
14 family, in a Latino community, in a working
15 family community, whose parents were members of
16 unions -- the perspective he brings to the Court
17 of Appeals that doesn't exist on the Court of
18 Appeals today cannot be substituted. And I
19 believe he deserves our vote.

20 I'll be voting aye.

21 Thank you, Madam President.

22 ACTING PRESIDENT PERSAUD: Thank
23 you, Senator.

24 Senator Liu on the nomination.

25 SENATOR LIU: Thank you,

1 Madam President.

2 Just like in committee, I think I
3 might be the first nonlawyer to speak on this.

4 And I'm -- I'm not going to pretend
5 to be as well versed in our judicial system as my
6 friend Senator Martins is. In fact I don't think
7 most New Yorkers, or certainly not the 14 people
8 who are watching this right now, understand that
9 we have a New York State Supreme Court but that
10 it's not like the United States Supreme Court.
11 In fact, the Court of Appeals is our Supreme
12 Court.

13 And therefore it just becomes that
14 much more important. When we say an appointment
15 to Chief Judge of the Court of Appeals, we're
16 really talking about the top judge of the Supreme
17 Court of New York. That's what's at stake here.
18 And it's important that all of our fellow
19 New Yorkers understand that.

20 And while some may say in the past
21 we've done this or we've done that, times are
22 different now. It's different here in New York.
23 It's different nationally. It's certainly
24 different in our system of courts, whether they
25 be at the national level or on the state.

1 And that's how we have approached
2 this nomination. Not necessarily based on what's
3 happened in the past, but looking forward to the
4 future and what we expect our New York State
5 Supreme Court, the highest court, to deliver for
6 all of our constituents.

7 Speaking of constituents, I haven't
8 heard much from my constituents about this
9 nomination for the last month, month and a half.
10 There was some feedback right after the
11 nomination, but nothing thereafter.

12 What people are contacting me about
13 are our schools, healthcare. People need jobs,
14 they need housing. And, yes, a lot of other
15 things also. So when Deputy Majority Leader
16 Gianaris says we need to get past this and do the
17 people's work, that's exactly what we're doing
18 here today.

19 Madam President, I vote in the
20 negative. Thank you.

21 ACTING PRESIDENT PERSAUD: Thank
22 you, Senator.

23 Senator Stec on the nomination.

24 SENATOR STEC: Thank you,
25 Madam President.

1 This has been a very revealing
2 couple of months here in 2023. I've seen this
3 body encourage changing the way that our courts
4 work so that only four county Supreme Courts can
5 hear Election Law cases, and now 19 out of 63
6 Senators get to have a say-so on the Court of
7 Appeals nomination. Nineteen today, maybe
8 tomorrow it will be 21, maybe it will be -- you
9 know, whatever the whim of the Majority is, we'll
10 change the rules as we go.

11 My constituents and the constituents
12 of every one of us want us to have equal say on
13 these processes. The Constitution requires that
14 every -- that the Senate floor is where this is
15 decided.

16 You want to vote for or against him?
17 That's your business. I don't care. But my
18 constituents want to make sure that we're
19 following the Constitution and that every Senator
20 has a right -- not just 19 or 17 or 21 or
21 whatever number out of the hat you want to pick
22 as you change the rules on the fly in this
23 process.

24 You don't want to be distracted for
25 a month? Then let this have happened a month ago

1 so that we could have been further down the
2 process. This crisis is of your making, not
3 ours.

4 ACTING PRESIDENT PERSAUD: Thank
5 you, Senator.

6 Senator Lanza on the nomination.

7 SENATOR LANZA: Thank you,
8 Madam President.

9 Madam President, first I just want
10 to express my gratitude and happiness that the
11 report of the Judiciary Committee that was due to
12 arrive constitutionally on January 23rd has
13 finally arrived here on the floor. I suppose it
14 was on the Pony Express. But it is here, so we
15 won't argue that point, because this is what was
16 supposed to have happened on the 23rd and it is
17 here.

18 But I must say some of the reasons,
19 Madam President, that have been given for the
20 delay are really laughably childish.

21 This idea that the people's work
22 needs to be done and somehow this has been
23 getting in the way -- and yet we will not meet
24 here again for 13, 14, or 15 days.

25 The idea that somehow the delay has

1 caused some kind of irrefutable distraction, as
2 my good friend Senator Liu just mentioned, people
3 aren't even talking about it, asking about it.
4 So I asked the chairman of the committee, What is
5 the distraction? I still haven't gotten an
6 answer.

7 The idea that New York State is not
8 moving forward -- I think I heard it on the floor
9 from my colleagues across the aisle -- is not
10 moving forward because of this, I would agree.
11 And I think the people back home would agree that
12 New York State is not moving forward,
13 Madam President, but not because of this. It's
14 not moving forward because of policies that have
15 sadly come from this body and from this Capitol
16 here in New York that make it more difficult than
17 ever to make ends meet, that have made our state,
18 and especially my city, less safe than ever,
19 policies that have come here that prove, sadly,
20 that we don't have an energy policy, that people
21 are struggling, that people are running away
22 from.

23 And so yes, I think the people back
24 home would agree New York State is not moving
25 forward. But I don't think it has anything to do

1 with this nominee not coming to the floor of this
2 Senate in a timely and constitutional fashion.
3 But here we are, and it's -- the nominee is
4 before us.

5 You know, I've said this before. I
6 think people are sick of this kind of politics.
7 I think it's sometimes why people back home don't
8 trust us, any of us, either party. Because they
9 see these types of games being played.

10 We all know why this nominee did not
11 come to the floor on January 23rd. And it's
12 because this nominee refused to give the old wink
13 and nod that when he -- on the bench he would
14 refuse to honor the Constitution and he would
15 pass and support whatever radical agenda came by
16 his decision-making desk.

17 We all know and everyone knows
18 that's why this nominee was delayed in coming to
19 the floor, because he refused to do what any good
20 nominee for the bench should never do. And I
21 want to speak about this nominee.

22 This idea that he is not the best
23 judge ever? No one's saying that. I don't think
24 Judge LaSalle would say that. This -- this
25 ridiculous idea that's been put on the floor

1 that, well, you all voted without rec, you
2 Republicans. You loved him then, why did you do
3 that?

4 Well, I think it's because we stood
5 firm for the idea that the Constitution of the
6 State of New York matters. And the Constitution
7 says that the nominee should come to the floor.
8 And that's what "aye without rec" says. It says,
9 We're not going to give a recommendation at this
10 moment, but what we are saying, and the principle
11 we are voting in favor of, is that this nominee
12 should have come to the floor. And that's why we
13 did that. And now you'll hear those of us who
14 are going to vote in favor of this nominee.

15 And I would like to speak about the
16 nominee specifically. He is a Democrat. I am a
17 Republican. He was nominated by a Governor whom
18 I did not vote for. And what saddens me about
19 this and what has happened around Judge LaSalle
20 is this. That it seems that we have finally come
21 to a place, a very dark place, where being a
22 brilliant attorney, an enlightened judge who has
23 built a life and a record beyond reproach,
24 whether you talk to Republican judges, Democrat
25 judges, lawyers who have served before him, I

1 challenge you, I challenge any of you to find
2 anyone who has -- who says or who will tell you
3 that he is not everything that I am saying he is
4 right here.

5 Which is one of the most qualified
6 nominees, certainly in my tenure here in the
7 Senate, that has come before us, in terms of the
8 job that he is being nominated for. And again,
9 our politics -- his politics, my politics -- very
10 different. But I think of all the things we
11 consider here in the Senate, when it comes to the
12 judiciary, that is the time when we all have a
13 responsibility, every one of us, no matter what
14 you think and what your ideology is, to throw
15 politics aside. That's the time that we can come
16 together.

17 If we want to talk about
18 qualifications, if we want to talk about the
19 right or the wrong life experience, I think those
20 are legitimate conversations to be had when it
21 comes to a judicial nomination.

22 And I do want to thank
23 Senator Hoylman, the chair, because it was a very
24 lengthy committee hearing and people were able to
25 express themselves, and I think that's good for

1 all of us.

2 But today it is clear that being a
3 great judge, honoring the Constitution, being a
4 brilliant attorney, having decided hundreds --
5 and being associated with hundreds and hundreds
6 of cases, having that paper trail out there and
7 yet no one can really point to anything that
8 proves anything but this is a judge who has said
9 to the people of the State of New York, I am here
10 to serve you. I am here to uphold and protect
11 the Constitution of the United States, because it
12 is the Constitution, the only thing that stands
13 between all of us and our freedom, and tyranny.

14 And he has said, Even in those cases
15 where my personal opinions, my personal ideology,
16 my own politics would have me go in this
17 direction, I'm going to stay true to the
18 Constitution and go in the direction and stay in
19 the direction of the Constitution.

20 And this idea, this idea that we are
21 here having nothing to do with a certain lawsuit
22 that is happening, is again laughably childish.
23 People back home know what's happening here.
24 There's a case that's going to be discussed and
25 possibly decided in two days, and yet once again,

1 coincidentally, here we are, this rush to the
2 floor.

3 Again, I'm happy it's here on the
4 floor. But we all know the real reason why this
5 is happening. It's happening, clearly not
6 because my Democratic colleagues support this
7 nominee -- we've heard they don't. It's
8 happening because my Democratic colleagues know
9 that once again a court was going to decide that
10 they have acted unconstitutionally. And that's
11 not a lecture, that's just a reality.

12 And everyone knows that we are here
13 because that defeat -- I should say victory for
14 the Constitution -- is imminent, and so this is a
15 classic political game to stave off that reality
16 that's coming down the road.

17 So, Madam President, I wish this is
18 not how things worked here in Albany. It's been
19 going on like this for far too long.

20 Madam President, I'm going to vote
21 in favor of this nominee because I believe as an
22 attorney, as a citizen of New York, as a husband,
23 a father, as a member of the Senate, that while
24 his politics and mine are very different, I
25 believe this is precisely the kind of person that

1 should be serving the people of the State of
2 New York on the bench.

3 Madam President, I vote aye.

4 ACTING PRESIDENT PERSAUD: Thank
5 you, Senator.

6 Senator Breslin on the nomination.

7 SENATOR BRESLIN: Thank you,
8 Madam President.

9 I sit here as the longest-serving
10 member of this body and also the longest-serving
11 member of the Judiciary Committee. And I also
12 sit here, after all these years voting on judges,
13 voting on people in front of the Judiciary
14 Committee, and I have someone who's been here 46
15 days questioning my integrity.

16 This is a job. When we come here,
17 it's to do the right thing for people, to make
18 sure that we uphold our oath of office, which
19 people have talked about. And I don't disparage
20 the other side. They're the Minority; we're the
21 Majority. I spent 15 years in opposite
22 positions. But I never changed my philosophy.
23 I've voted for Republicans to become judge.

24 And now I took the time -- and I'm
25 one of those ones who never said how I was going

1 to vote, because I always thought it was best to
2 give everyone who's been nominated the
3 opportunity to be heard. Not maligned, heard,
4 and to understand.

5 And I met with the judge, and I
6 thought he was extremely nice. I thought he was
7 capable. But he didn't pass the total test, in
8 my estimate. No one was twisting my arm. I
9 waited patiently to again listen to the
10 five hours, five hours, in front of the
11 Judiciary Committee. And I know on your side, I
12 don't believe that you are wrong in what you --
13 how you voted. You have the right to vote aye
14 without recommendation. You did so. On our side
15 there were members who voted for the judge.

16 I read every decision available to
17 me. I even kidded some of my friends that I
18 should get CLE credit for it --

19 (Laughter.)

20 SENATOR BRESLIN: -- that I should
21 be able to get the five-year extension for my
22 yearly opportunity to take tests.

23 (Laughter.)

24 SENATOR BRESLIN: That did not
25 work.

1 But, you know, reading those cases,
2 talking with the judge for an extensive period of
3 time, you formulate an opinion. And my opinion
4 wasn't, ah, he's a bad guy or he's a bad judge.
5 I just said we can do better. And if I think
6 that, I should try to do it. Not go the other
7 way, not go this way, but to follow your beliefs.

8 And if I thought he was affecting
9 people -- and I -- when -- the preemptory
10 challenge decision, that was deplorable. And
11 there are other decisions I questioned. But I
12 listened, I listened, I listened.

13 And again, as I started, I don't
14 like and I have never done it to anyone on the
15 other side, this impugn their integrity. I want
16 them to vote their conscience. I want them to do
17 it after due diligence. I don't want someone
18 striking out and saying, You're dishonest and I'm
19 okay, I'm in the right.

20 There's no right or wrong. We're
21 doing what we think is best for this entire body
22 and for the people of the State of New York. And
23 we're here because I still believe, in my heart
24 of hearts, after reading the cases, too, that we
25 have the opportunity to make that decision at the

1 committee level. You disagree. You don't think
2 that's true. We want to get on with government,
3 and we're here so we can do that, that we have
4 another bite at the apple and that we all can
5 vote, come to a proper decision, and move on.

6 We don't want to be in arguments
7 with the other side, with the Governor. But our
8 obligation still remains, and it remains
9 consistent. It doesn't change because someone's
10 calling you something. It doesn't change
11 because, Well, he's not Irish, he can't be that
12 good. It doesn't change for any of a number of
13 factors.

14 Your point of view changes because
15 you think you can do better. And that's what our
16 obligation is each and every day, is to do
17 something better. And to go home and be proud of
18 what you did, not questioning your judgment, not
19 worrying about whether you went along for your
20 party or the other party. It's what you think is
21 the right thing to do. And I've tried to follow
22 that credo.

23 So to have it challenged, it is
24 upsetting, will continue to be upsetting. But
25 back to the major case. I think we can do

1 better. I think we can do better, and we will do
2 better.

3 I vote no.

4 ACTING PRESIDENT PERSAUD: Thank
5 you, Senator.

6 Senator Mayer on the nomination.

7 SENATOR MAYER: Thank you,
8 Madam President.

9 It's quite hard to follow my
10 distinguished colleague Senator Breslin there,
11 who speaks from the heart.

12 But I do think we're missing a part
13 of the conversation here today. There is a
14 context in which the people of this state woke up
15 to realize that judges really matter.

16 No one has mentioned what happened
17 last year when the United States Supreme Court
18 took away a right that every person in this
19 chamber, and every person in this state, and
20 frankly every woman, thought was theirs for
21 50 years. A majority of conservative judges did
22 that.

23 And then they overturned our
24 concealed carry law that had been in effect for
25 50 years, which gave us some semblance of

1 security that guns weren't going to be carried
2 around. You know who did that? Judges.
3 Conservative judges of the United States
4 Supreme Court.

5 And what happened in my district is
6 that people woke up and said, Are you kidding me?
7 Who you pick as judge really matters. It matters
8 to how you interpret these laws that we have made
9 here.

10 And after being in this Majority
11 since 2019, yes, we have passed some very
12 significant changes to the law. And we want to
13 ensure that when those cases get to the Court of
14 Appeals, the voices of us as legislators in the
15 Majority, and our intention when we passed those
16 bills, is heard and listened to.

17 We're not asking for a judge who
18 calls balls and strikes, as you said,
19 Senator Gounardes. We are asking for judges who
20 apply the law and understand the context of what
21 the implication of a decision means for millions
22 of New Yorkers.

23 And I too, I hold the judge in high
24 regard. I give him tremendous credit for all
25 that he's achieved. I had a productive personal

1 meeting with him. I read his cases. I spoke to
2 experts. And I came down with the feeling -- and
3 that's what you base this on -- and the decision
4 that he interpreted laws consistently narrowly,
5 as Senator Gounardes mentioned and many of my
6 colleagues have said.

7 And a narrow interpretation, in
8 cases in which a broader interpretation would
9 have meant a different outcome to the people
10 impacted by that decision, and a consistently
11 narrow interpretation of the law,
12 Madam President, really is a risk to our
13 individual constituents.

14 And so for me, this narrow reading
15 of the law in the cases that were mentioned
16 during the hearing in Judiciary is so impactful
17 and so important. We can't walk away from it
18 because it's hard, because it's uncomfortable.
19 No, this is our job, to do what is hard and
20 sometimes uncomfortable.

21 So for me, the narrow reading was
22 extremely instrumental in my no vote. But I want
23 to mention one other thing, which I shared
24 directly with the judge and was raised on my
25 behalf during the Judiciary Committee meeting.

1 I am looking for a Chief Judge who
2 understands the challenges our constituents face
3 when they deal with the court system. I am
4 looking for someone who is dedicated to improving
5 our judicial system. It does not work well
6 enough. No one wants to talk about that.

7 Why should it be that people cry in
8 the parking lot after they go to Family Court?
9 Why should it be that mothers cry after
10 City Court because they don't know how to manage
11 the process for their kid? Why should it be that
12 we don't have interpreters in every court in this
13 state where it is required?

14 Why aren't we having a conversation
15 about how to make our court system work for every
16 New Yorker? Every New Yorker, regardless.
17 Because our system of justice is for everyone.
18 It's not just for the lawyers. It's not just for
19 the privileged. It's for the people in all of
20 our districts who get a speeding ticket, who get
21 a ticket for their code violation.

22 And I am looking for a Chief Judge
23 who has a vision of how to improve our court
24 system.

25 So without any disrespect, without

1 any rancor, but based on the subject of what our
2 obligation is as Senators, I will be voting no.

3 ACTING PRESIDENT PERSAUD: Thank
4 you, Senator.

5 Are there any other Senators wishing
6 to be heard?

7 Senator Hoylman-Sigal to close.

8 SENATOR HOYLMAN-SIGAL: Thank you.
9 Thank you, Madam President.

10 And thank you to my colleagues on
11 both sides of the aisle.

12 You know, I think we should
13 stipulate that one thing that our colleagues
14 should be proud of is the level of discourse that
15 we have engaged in on the most important judicial
16 officer in the State of New York. Whether you're
17 eye without rec or for or opposed, haven't we
18 changed the game in Albany?

19 Contrary to what my colleagues said,
20 this is a new beginning for the way we review
21 judicial nominations, all nominations,
22 legislation, all matters of public import. I
23 think that's something we should be proud of.

24 We had a five-hour hearing where my
25 colleagues -- not only did they get CLE credit,

1 but they read every case, lawyers and nonlawyers
2 alike. We had discussions among our Senators on
3 this side of the aisle. We met with advocates.
4 We met with experts. We met with attorneys on
5 both sides, the business community, labor,
6 reproductive rights advocates, environmental
7 experts. I think we discussed this issue in a
8 way that we have set a new bar and raised that
9 bar for our body.

10 Let me also say that we are
11 disrupting the status quo because in fact we know
12 that the nominee was a member of our own party.
13 We know that the nominee was selected by a member
14 of our own party. You should be happy that we
15 are in fact looking under the hood and examining
16 a nominee's record to the extent that we have.

17 I'll also say that it's an important
18 day for the public. In addition to those five
19 hours of hearing -- of hearings, I don't think,
20 Madam President, there's been an issue that I've
21 been involved in that has received more feedback
22 from my constituents. I can't walk through
23 Zabar's or Citarella these days without a
24 constituent pulling me off to the side and
25 saying, How are you guys going to vote on this

1 nominee? Why did the Governor nominate this
2 individual? What are you guys going to decide?

3 That type of public engagement is a
4 product of what we have done here, again, to
5 raise the bar of public discourse.

6 And then, you know, I'd also say
7 that it's a very important day for justice,
8 because after this thorough vetting that our
9 colleagues on both sides of the aisle engaged in,
10 I think we have come to the conclusion that, as
11 has been said, we can find a better nominee to
12 lead this court.

13 And we need to do it ASAP, ASAP,
14 because we have a court system that is teetering
15 on the brink of disaster. There are backlogs, we
16 just discussed in our conference, growing daily
17 in our court system. New York City's Family
18 Court has a backlog of 81,000 cases. And those
19 are 81,000 cases where children may be in danger
20 because of domestic or parental violence. That's
21 a situation where domestic violence survivors may
22 be forced to stay in their homes because they
23 can't get a judge to adjudicate their matter.
24 That's the emergency here.

25 Finally I'll say that, you know, we

1 need -- we need better treatment of our most
2 vulnerable New Yorkers. And that's something I
3 think that was discussed in our hearings, and
4 that's something that we viewed this nominee
5 through the lens of protecting New York's most
6 vulnerable. That's why, in the end, we had
7 questions, whether it was Senator Skoufis's or
8 Senator Ryan's questions on the Cablevision case,
9 Senator Myrie's questions about the Bridgeforth
10 decision, Senator Ramos's concerns about cases
11 like Campanelli.

12 All of these were viewed through the
13 perspective in an attempt to understand how this
14 nominee will protect New Yorkers, mainly those
15 who don't have a fair shake, who oftentimes are
16 not represented in court, who may be new
17 New Yorkers and may not yet even be citizens.

18 I believe that our job was thorough
19 and fair. And then I'll add that, you know, we
20 don't want to spend the next days, weeks or
21 months continuing to discuss an issue that we can
22 decide now.

23 And I would say that the vote here
24 today is an affirmation of the work that we do in
25 our committees. Committees at the city, at the

1 state, or at the federal level are all deployed
2 by governmental entities because it's the most
3 efficient and fair and thorough way to review
4 legislation or nominees like the one before us.

5 We don't want to spend millions of
6 taxpayer dollars on litigation and leaving our
7 court system without a permanent leader for an
8 unknown amount of time. We've determined that it
9 is in the best interests of the state, of our
10 fellow New Yorkers, to put this nomination on the
11 floor and settle it once and for all.

12 Now, again, I feel like the nominee
13 is to be credited for his service. He's
14 dedicated his career to serving our state and our
15 fellow New Yorkers and the legal system as a
16 whole. And for that, I sincerely commend and
17 thank him, as I know we all do.

18 But the question before us today, is
19 the nominee the right person to lead an entire
20 branch of government into the future? We are
21 interested in changing the status quo, Senator,
22 because the status quo isn't working for all
23 New Yorkers. That's why we took the extra step
24 of having a five-hour hearing. That's why we
25 considered this nominee so thoroughly and bucked

1 our own state party chair, bucked our own party,
2 in many respects, stood up for what we believe
3 in, the values that we share as New Yorkers.

4 So it's with some trepidation that I
5 think we come to the conclusion that we do, but
6 we know that we're doing what we think is right.
7 Is this the person we want setting precedents
8 that will alter the course of New York's history
9 and law for years to come? I can't say with
10 confidence that that's the case. I think, as
11 Senator Mayer pointed out, the stakes are just
12 too damn high in Washington, with the
13 United States Supreme Court overturning our basic
14 rights and liberties and sending more and more of
15 those decisions down to the state courts, where
16 this nominee will have a deciding vote.

17 With so much at stake,
18 Madam President, there is no room for ambiguity.
19 There is no room to make a mistake on the part of
20 New Yorkers. I therefore am constrained to vote
21 in the negative.

22 Thank you.

23 ACTING PRESIDENT PERSAUD: Thank
24 you, Senator.

25 The question is on the nomination.

1 SENATOR GIANARIS: Madam President,
2 because we want every member's vote to be
3 properly recorded in the Journal, I would ask
4 that we take this up as a roll call vote.

5 ACTING PRESIDENT PERSAUD: A roll
6 call has been requested and so ordered.

7 The Secretary will call the roll.

8 (The Secretary called the roll.)

9 ACTING PRESIDENT PERSAUD: Announce
10 the results.

11 THE SECRETARY: Those Senators
12 voting in the negative are Senators Addabbo,
13 Bailey, Breslin, Brisport, Brouk, Chu, Cleare,
14 Comrie, Cooney, Felder, Fernandez, Gianaris,
15 Gonzalez, Gounardes, Harckham, Hinchey, Hoylman,
16 Jackson, Kavanagh, Kennedy, Krueger, Liu,
17 Mannion, Mattera, May, Mayer, Myrie, Parker,
18 Persaud, Ramos, Rivera, Ryan, Salazar,
19 Scarcella-Spanton, Serrano, Skoufis, Stavisky,
20 Stewart-Cousins and Webb.

21 Ayes, 20. Nays, 39.

22 ACTING PRESIDENT PERSAUD: The
23 nomination fails.

24 Senator Gianaris.

25 SENATOR GIANARIS: Thank you,

1 Madam President.

2 Thank you to my colleagues for being
3 as respectful as we could be during that process.

4 Can we now move to the reading of
5 the controversial calendar, please.

6 ACTING PRESIDENT PERSAUD: The
7 Secretary will ring the bell.

8 The Secretary will read.

9 THE SECRETARY: Calendar Number
10 315, Senate Print 3328, by Senator Fernandez, an
11 act to amend the Environmental Conservation Law.

12 ACTING PRESIDENT PERSAUD: Senator
13 Martins? We're on the --

14 SENATOR MARTINS: My apologies,
15 Madam President. If the sponsor would yield for
16 a few questions.

17 ACTING PRESIDENT PERSAUD: Will the
18 sponsor yield?

19 SENATOR FERNANDEZ: Through you,
20 Madam President, yes.

21 ACTING PRESIDENT PERSAUD: The
22 sponsor yields.

23 SENATOR MARTINS: Thank you,
24 Madam President. If the sponsor could --

25 SENATOR GRIFFO: Madam President --

1 ACTING PRESIDENT PERSAUD: Can we
2 have some order in the chamber, please.

3 SENATOR MARTINS: Madam President,
4 if the sponsor would provide clarity as to
5 whether or not, when setting these fence-line
6 measurements, whether a baseline will be
7 established prior to determining the amounts of
8 contaminants in the air.

9 SENATOR FERNANDEZ:
10 Madam President, would the Senator repeat --

11 SENATOR MARTINS: Sure.

12 SENATOR FERNANDEZ: Can they
13 repeat -- is the mic on?

14 SENATOR MARTINS: Madam President,
15 my understanding is that this bill would require
16 that air samples would be taken at the property
17 line for properties, certain properties in the
18 State of New York --

19 ACTING PRESIDENT PERSAUD: Senator,
20 could you hold one second, please.

21 Can we please have some order in the
22 chamber?

23 Senators by the door, could you
24 please step out and close the door. Thank you.

25 Go ahead, Senator.

1 SENATOR MARTINS: Thank you.

2 So my reading of this bill is that
3 it would require that air quality measurements
4 would be taken at the property line of properties
5 where there are major emitters. And so my
6 question is whether or not there will be a
7 baseline determination for the air quality, to
8 determine the increase in contaminants from the
9 emitter as opposed to just what the generic air
10 quality would be and -- without determining where
11 it came from.

12 SENATOR FERNANDEZ: Through you,
13 Madam President, that's determined by the DEC,
14 the Department of Environmental Conservation.

15 SENATOR MARTINS: Okay. But again,
16 Madam President, through you, if the sponsor
17 would continue to yield.

18 ACTING PRESIDENT PERSAUD: Will the
19 sponsor yield?

20 SENATOR FERNANDEZ: Yes.

21 ACTING PRESIDENT PERSAUD: The
22 sponsor yields.

23 SENATOR MARTINS: Just for clarity,
24 again, on this bill, regardless of what the DEC
25 does, is it the sponsor's intent that there be a

1 measurement taken of air quality at the property
2 line prior to determining the increase as a
3 result of any pollutants that are in the air from
4 a local emitter?

5 SENATOR FERNANDEZ: Madam
6 President, through you. Again, the DEC
7 determines what are the requirements and the
8 levels.

9 SENATOR MARTINS: Madam President,
10 then if the sponsor would continue to yield.

11 ACTING PRESIDENT PERSAUD: Will the
12 sponsor yield?

13 SENATOR FERNANDEZ: Sure.

14 ACTING PRESIDENT PERSAUD: The
15 sponsor yields.

16 SENATOR MARTINS: Perhaps then,
17 Madam President, if the sponsor would explain
18 what the purpose of the bill is and why we're
19 voting on this bill today.

20 SENATOR FERNANDEZ: Thank you.

21 The purpose of this bill is to
22 determine how much contaminants are at ground
23 level. We do have control as to what are the
24 contaminants coming out of said smokestacks in
25 these various locations, but we need to know what

1 is happening on the ground, the air that our
2 community is breathing.

3 This bill would allow us to enforce
4 regulation as to how much contaminants are at
5 breathing level.

6 SENATOR MARTINS: Madam President,
7 if the sponsor could would continue to yield.

8 ACTING PRESIDENT PERSAUD: Will the
9 sponsor yield?

10 SENATOR FERNANDEZ: Say that again?

11 ACTING PRESIDENT PERSAUD: Will the
12 sponsor yield?

13 SENATOR FERNANDEZ: Oh, yes. Sure.

14 ACTING PRESIDENT PERSAUD: The
15 sponsor yields.

16 SENATOR MARTINS: I appreciate the
17 bill. I appreciate the need for clean air. I
18 appreciate the fact that we all want clean air
19 for ourselves, our communities, our families. We
20 all rely on it, and we should pay more attention
21 to ensuring that we have clean air.

22 My question really goes to
23 determining polluters and whether or not we can,
24 through this bill, by monitoring air pollution at
25 the fence level or the property line level,

1 determine actually how much pollution is coming
2 from any particular emitter.

3 And I was hoping that the sponsor
4 would be able to give us some clarity, if we're
5 going to put monitors at that point, how do we
6 then determine where that pollution comes from
7 and who's responsible for it?

8 SENATOR FERNANDEZ: Well, the point
9 of this bill is to address for communities that
10 are right at the fence line of where the
11 emissions are coming from. Communities like the
12 Bronx and many other areas in the city and in the
13 state, actually, that are right up against these
14 factories that are emitting them.

15 So the DEC is given the opportunity
16 and actually the requirement to make sure that
17 they can measure how contaminated the air is
18 right at the fence line that is affecting the
19 communities.

20 So they have standards. We are
21 addressing those standards based on what's coming
22 out of the source. And you can actually see the
23 source in many places. In my district, it's
24 right across the street.

25 So this again would control the

1 measurements -- not control the measurements.
2 But this would determine how contaminated the
3 area is from where it came from, even by visual
4 means, to how it's hitting the community.

5 SENATOR MARTINS: Madam President,
6 if the sponsor would continue to yield.

7 ACTING PRESIDENT PERSAUD: Does the
8 sponsor yield?

9 SENATOR FERNANDEZ: Yes.

10 ACTING PRESIDENT PERSAUD: The
11 sponsor yields.

12 SENATOR MARTINS: Well, I certainly
13 appreciate the impact of industrial properties on
14 our local communities. And I would just reflect
15 that those aren't limited to the Bronx. We
16 certainly have them in Nassau County. I'm sure
17 we have them everywhere in the state.

18 And I appreciate the effort here of
19 trying to quantify and then obviously address air
20 pollution. I understand.

21 But my question is whether or not in
22 this particular bill there are any conditions
23 that take into account the air quality as a
24 baseline and then be able to determine the
25 increase that is attributable to any of the

1 surrounding properties that may be emitters.
2 Because without a baseline, I don't know that we
3 have a proper measurement.

4 Is that the intent of the sponsor in
5 putting this bill forward?

6 SENATOR FERNANDEZ: So to your
7 question -- or through you, Madam President, to
8 the question -- that is the point of this bill.
9 At the fence line of these properties we're
10 measuring how many contaminants are coming out,
11 knowing the contaminants that are already coming
12 out. We are checking what is the smoke that is
13 coming out of those smokestacks. We're testing
14 the same air at the fence line of this property.
15 And the matching of these chemicals, we can see
16 where it's coming from.

17 SENATOR MARTINS: Thank you,
18 Madam President.

19 If the -- through you, if the
20 sponsor would continue to yield.

21 ACTING PRESIDENT PERSAUD: Does the
22 sponsor yield?

23 SENATOR FERNANDEZ: Sure.

24 ACTING PRESIDENT PERSAUD: The
25 sponsor yields.

1 SENATOR MARTINS: Thank you.

2 Madam President, it's my
3 understanding that this is a bill that was passed
4 by this body last year, it was also passed by the
5 Assembly, and then was vetoed by the Governor.
6 And I see that it returns to us for consideration
7 in very much the same wording, verbiage that was
8 vetoed.

9 Have there been any changes to this
10 bill? Because, frankly, I haven't seen any.

11 SENATOR FERNANDEZ: There have not
12 been any changes because the veto was wrong, so
13 to say. The veto says that this was -- is
14 already being done, that it's a duplicate
15 measure, but that's incorrect.

16 This is adding another requirement
17 to measure the air, again, at ground level, not
18 just what's coming out of the sources.

19 SENATOR MARTINS: I see also --
20 Madam President, if the sponsor would continue to
21 yield.

22 ACTING PRESIDENT PERSAUD: Does the
23 sponsor yield?

24 SENATOR FERNANDEZ: Yes,
25 Madam President.

1 ACTING PRESIDENT PERSAUD: The
2 sponsor yields.

3 SENATOR MARTINS: If the sponsor
4 could tell us, based on her study in preparing
5 this bill, what this bill would do differently
6 than what the DEC requires, and -- so that we can
7 as a body be properly informed as to the
8 differences between what she is proposing in this
9 bill and what the DEC has proposed and the basis
10 of the Governor's veto.

11 SENATOR FERNANDEZ: What the bill
12 does different, is -- that was the question?

13 This bill limits -- okay, hold on.
14 This bill limits -- hold on one second. The
15 limits on stack emissions do not equate to what
16 is coming down from those stacks into our
17 community. And this bill is different because
18 it will now set regulations as to what is going
19 to come out based on how it's going to affect our
20 community and the surrounding community.

21 It does have this in guidance, but
22 at this moment it's not enforced. And that's the
23 problem. And that's why this bill is needed,
24 because we need to enforce the amount of
25 emissions that are falling into our communities

1 so we don't continue the crisis and epidemic of
2 asthma rates, of breathing impairments.

3 For years communities have been
4 ignored, again like mine -- and yours, as you
5 say -- and we are adding to the harm of the
6 health of our constituents. So this would
7 enforce those -- oh, what was the word? It would
8 enforce the act of -- of codifying the guidance,
9 making sure that we actually follow the guidance,
10 not just using it as a reference.

11 SENATOR MARTINS: Madam President,
12 if the sponsor would continue to yield.

13 ACTING PRESIDENT PERSAUD: Does the
14 sponsor yield?

15 SENATOR FERNANDEZ: Yes.

16 ACTING PRESIDENT PERSAUD: The
17 sponsor yields.

18 SENATOR MARTINS: So the concerns
19 that I have -- and certainly I would welcome and
20 frankly hope you can provide some clarity --
21 given weather conditions, wind conditions, wind
22 directions, whether it's raining, whether or not
23 there are any other weather anomalies at any
24 given time, would the sponsor concede that
25 weather will affect readings at a property line

1 for any number of factors that are included in
2 this bill?

3 SENATOR FERNANDEZ: That's part of
4 what monitoring is, to see how on any given
5 day -- whether it's a sunny day with no wind or a
6 rainy day or a snowy day or a windy day -- to see
7 how these emissions are falling into our
8 communities. So it's part of the practice that
9 we're trying to do.

10 SENATOR MARTINS: Madam President,
11 if the sponsor would continue to yield.

12 ACTING PRESIDENT PERSAUD: Does the
13 sponsor yield?

14 SENATOR FERNANDEZ: Yes.

15 ACTING PRESIDENT PERSAUD: The
16 sponsor yields.

17 SENATOR MARTINS: So understanding
18 that the weather conditions will affect the
19 readings and will either give higher readings or
20 lower readings, depending on those weather
21 conditions, can the sponsor speak to the
22 enforcement of these different criteria as a
23 proper measure of holding people accountable for
24 contaminants that are being placed in the air?

25 SENATOR FERNANDEZ: This bill goes

1 to DEC to set the level of penalties, and it's at
2 their discretion as to what it should be. Or
3 what they should be.

4 SENATOR MARTINS: Madam President,
5 on the bill.

6 ACTING PRESIDENT PERSAUD: Senator
7 Martins on the bill.

8 SENATOR MARTINS: Thank you.

9 And I want to thank the sponsor for
10 her answers, and I thank you for clarifying some
11 of these issues.

12 Madam President, the concern I
13 have -- look, we all want -- as I said earlier,
14 we all want clean air. It would be silly for us
15 to be arguing about the need for this kind of
16 oversight and holding polluters accountable.

17 I'm concerned about the method in
18 this bill that accomplishes that. I think there
19 are better methods of doing that. I think there
20 are requirements for emitters right at the
21 source, where we can measure the actual
22 pollutants that are leaving that facility and
23 going into the air.

24 But putting a monitor at a property
25 line some distance away and then accounting for

1 wind, rain, cloudy days, snow -- whatever the
2 condition happens to be -- will by its very
3 nature change that measurement. And then how
4 accurate will that be in holding that factory or
5 that industrial use accountable?

6 And so I'm concerned about the
7 variability included in this bill and the lack
8 of, frankly, proper measurements in terms of
9 holding people accountable or holding industries
10 accountable or holding that emitter properly
11 accountable.

12 Because depending on whether the
13 wind is blowing east or west, depending on where
14 that wind is, that reading at that property line
15 will change and will either increase or decrease
16 and not give us a proper measurement.

17 So we're passing laws today and
18 we're going to require the DEC to set limits, and
19 then we're going to fine people or companies and
20 hold them accountable to a variable standard.
21 And I don't think that's what we're supposed to
22 be doing.

23 So although I applaud the sponsor
24 and I think the bill is something that I would
25 like to get behind, if we can understand how we

1 can limit the variable and actually hold people
2 accountable and make sure that they reduce the
3 number of toxins that are going into the air and
4 ensuring cleaner air. I don't know how this bill
5 does that.

6 And so not understanding because of
7 those variables how this bill actually furthers
8 that, I'll be voting no, although I'm looking
9 forward to working with the sponsor and other
10 colleagues here in coming up with measures that
11 will actually reduce and hold accountable those
12 who would pollute our air.

13 So I thank the sponsor again. I
14 appreciate the effort. I agree with the effort.
15 But I can't vote for this bill. I'll be voting
16 no.

17 Thank you.

18 ACTING PRESIDENT PERSAUD: Thank
19 you, Senators.

20 Are there any other Senators wishing
21 to be heard?

22 Seeing and hearing none, debate is
23 closed. The Secretary will ring the bell.

24 Read the last section.

25 THE SECRETARY: Section 2. This

1 act shall take effect on the 90th day after it
2 shall have become a law.

3 ACTING PRESIDENT PERSAUD: Call the
4 roll.

5 (The Secretary called the roll.)

6 ACTING PRESIDENT PERSAUD: Senator
7 Fernandez to explain her vote.

8 SENATOR FERNANDEZ: Thank you,
9 Madam President.

10 I appreciate the -- my colleague on
11 your questions, because yes, this is a big
12 concern. How we are allowing our communities to
13 continue to live and thrive is a big concern of
14 all of us.

15 But this is a matter of
16 environmental racial injustices. Because like,
17 again, my community -- and as you said, yours,
18 and many other areas in the state that are made
19 up of low-income people of color, minority
20 communities, historically we have built
21 infrastructures not caring about who's there. We
22 have built factories and industries not caring
23 about the effects of its neighbors and the
24 environment around it.

25 And this bill would match what the

1 EPA is doing. This bill would allow DEC to set
2 the same standards that they did on the
3 smokestack, trying to do good by keeping the air
4 clean. But the air is right here in front of us,
5 the air is above us at the top of that stack.
6 And we need to set an enforcement on the
7 guidelines so we don't allow further contaminants
8 and poisons, really, to be in the air that we
9 breathe.

10 And I know you care about your
11 constituency as much as I care about mine. And I
12 encourage those that haven't voted yet to vote in
13 the affirmative, because we need to be stronger
14 and change what hasn't been working. The Clean
15 Air Act has been in existence 50 years, and we
16 still see high rates of asthma in our community.
17 We still see health impairments in our community.
18 So more should be done.

19 And we need to put these
20 enforcements on the guidelines so they're actual
21 rules and not just guidelines.

22 And I vote in the affirmative.

23 Thank you.

24 ACTING PRESIDENT PERSAUD: Senator
25 Fernandez to be recorded in the affirmative.

1 Senator Gounardes to explain his
2 vote.

3 SENATOR GOUNARDES: Thank you,
4 Madam President.

5 I want to thank Senator Fernandez
6 for this bill because as a result of
7 redistricting, a lot -- many of the neighborhoods
8 now in my new district that I have the honor to
9 represent have been detrimentally impacted by air
10 pollution and by contaminants spewing into
11 communities. I'm talking specifically about
12 Sunset Park and Red Hook and parts of Gowanus.
13 The BQE and the Gowanus, which tears through
14 these neighborhoods and has for generations, has
15 contributed to some of the highest asthma rates
16 certainly in the Borough of Brooklyn as well as
17 in the entire City of New York.

18 And now with the proliferation of
19 last-mile warehouses being opened up in the
20 neighborhood of Red Hook -- right now under
21 construction there are at least five warehouses
22 being built in a neighborhood that is one square
23 mile in size, and will add an additional
24 50,000 trucks a year to a community that is
25 already suffering from its unfair burden of truck

1 traffic and pollution.

2 These issues will only get worse.
3 And unless we start getting a handle on the
4 pollution that is spewing into the homes of our
5 constituents and into the lungs of the children
6 who live and play on these streets, we will never
7 be able to undo the harms that have been done
8 through decades of environmental racism.

9 And so I applaud Senator Fernandez,
10 because I think this bill is a very good start in
11 that direction and clearly we have a lot more
12 work to do. So thank you. And I vote aye.

13 ACTING PRESIDENT PERSAUD: Senator
14 Gounardes to be recorded in the affirmative.

15 Announce the results.

16 THE SECRETARY: In relation to
17 Calendar 315, those Senators voting in the
18 negative are Senators Borrello, Griffo, Helming,
19 Lanza, Martins, Oberacker, O'Mara, Ortt, Rhoads,
20 Rolison, Stec, Walczyk and Weber.

21 Ayes, 46. Nays, 13.

22 ACTING PRESIDENT PERSAUD: The bill
23 is passed.

24 Senator Gianaris.

25 SENATOR GIANARIS: Madam President,

1 on this eventful day we also have the occasion to
2 celebrate Senator Fernandez's first bill passing
3 the Senate.

4 (Standing ovation.)

5 ACTING PRESIDENT PERSAUD: The
6 Secretary will read.

7 THE SECRETARY: Calendar Number
8 354, Senate Print 4134, by Senator Parker, an act
9 to amend the Public Authorities Law.

10 ACTING PRESIDENT PERSAUD: Senator
11 Walczyk.

12 SENATOR WALCZYK: Thank you. Will
13 the sponsor yield?

14 ACTING PRESIDENT PERSAUD: Will the
15 sponsor yield?

16 SENATOR PARKER: Yes, ma'am, I will
17 yield. If you insist.

18 ACTING PRESIDENT PERSAUD: The
19 sponsor yields.

20 SENATOR WALCZYK: Through you,
21 Madam President, I noticed this was on the
22 Energy Committee agenda this week but actually
23 didn't go through the Energy Committee. So I've
24 got some Energy Committee questions for you
25 today.

1 But first, could you explain why
2 this was on an Energy Committee agenda and ended
3 up going through Rules to the floor?

4 SENATOR PARKER: Through you,
5 Madam President, because we did not have an
6 Energy Committee this week.

7 SENATOR WALCZYK: Very simple
8 answer.

9 Through you, Madam President, would
10 the sponsor continue to yield.

11 ACTING PRESIDENT PERSAUD: Does the
12 sponsor yield?

13 SENATOR PARKER: Through you,
14 Madam President, absolutely.

15 ACTING PRESIDENT PERSAUD: The
16 sponsor yields.

17 SENATOR WALCZYK: And why would a
18 bill like this not be considered by the
19 Finance Committee with such a large financial
20 impact on the State of New York?

21 SENATOR PARKER: Madam President,
22 through you. Where bills wind up in the New York
23 State Senate is a matter of referencing. That
24 referencing is done by the Majority Counsel's
25 office, and you should probably consult with them

1 about how the bill was referenced.

2 This particular bill does not
3 reference anything that's covered by the
4 Finance Committee. Although by Constitution,
5 being that we have so many constitutional
6 scholars here today, that any bill -- oh, maybe
7 all of you are U.S. constitutional scholars and
8 maybe not state constitutional scholars.

9 By the State Constitution, almost
10 any bill can in fact go to the Finance Committee.
11 This bill was not called there, nor was it
12 referenced there.

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

16 ACTING PRESIDENT PERSAUD: Does the
17 sponsor yield?

18 SENATOR PARKER: Yes,
19 Madam President.

20 ACTING PRESIDENT PERSAUD: The
21 sponsor yields.

22 SENATOR WALCZYK: I wasn't around
23 for the debate last year, but I see that there
24 were some changes. Would you explain what the
25 changes were between last year's version and this

1 year's bill?

2 SENATOR PARKER: Madam President,
3 the bill was just simply primarily updated. New
4 contexts, new dates, those kind of things. There
5 wasn't a lot of substantive things done to the
6 bill.

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

10 ACTING PRESIDENT PERSAUD: Does the
11 sponsor yield?

12 SENATOR PARKER: I do yield.

13 ACTING PRESIDENT PERSAUD: The
14 sponsor yields.

15 SENATOR WALCZYK: Was this
16 legislation originally crafted at the request of
17 the New York Power Authority?

18 SENATOR PARKER: Through you,
19 Madam President, it was not.

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

23 ACTING PRESIDENT PERSAUD: Does the
24 sponsor yield?

25 SENATOR PARKER: The sponsor does

1 yield.

2 ACTING PRESIDENT PERSAUD: The
3 sponsor yields.

4 SENATOR WALCZYK: How closely
5 aligned with the Executive Budget proposal is
6 this piece of legislation that we're taking up?
7 You know, we sat through a long committee hearing
8 yesterday on environmental conservation, energy
9 and agriculture, and I just wonder how closely
10 this is aligned with the Governor's Executive
11 Budget proposal.

12 SENATOR PARKER: Through you,
13 Madam President, it is somewhat aligned. There's
14 a lot of similarities. But this bill is a lot
15 more specific and a lot more detailed as it
16 relates to the operation and the kind of
17 sustainable projects that we'd like to see the
18 state engage in.

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

22 ACTING PRESIDENT PERSAUD: Does the
23 sponsor yield?

24 SENATOR PARKER: I do yield.

25 ACTING PRESIDENT PERSAUD: The

1 sponsor yields.

2 SENATOR WALCZYK: So on line 6 on
3 the first page -- you're outlining the beginning
4 of the bill here -- "The Authority is authorized
5 and directed to purchase, acquire, plan, design,
6 engineer, finance, construct, operate, manage,
7 improve and/or maintain any renewable energy
8 project."

9 Specifically when we're saying the
10 Authority, the New York Power Authority is
11 authorized and directed to acquire, what do we --
12 what do we mean specifically with that word
13 "acquire"?

14 SENATOR PARKER: Through you,
15 Madam President. The word "acquire" means to
16 possess. It means that you don't have something
17 and then you acquire it, you get it, you possess
18 it. Is that helpful?

19 SENATOR WALCZYK: It's slightly
20 helpful.

21 Through you, Madam President, if the
22 sponsor would yield for a follow-up question on
23 the word "acquire."

24 ACTING PRESIDENT PERSAUD: Does the
25 sponsor yield?

1 SENATOR PARKER: Yes, ma'am, I do,
2 I do yield.

3 ACTING PRESIDENT PERSAUD: The
4 sponsor yields.

5 SENATOR WALCZYK: So when we're
6 directing the New York Power Authority to acquire
7 renewable energy facilities, right next to the
8 word "purchase," if they're not buying a
9 renewable energy facility and they're acquiring a
10 renewable energy facility, what does the process
11 for the New York Power Authority to acquire a
12 facility look like?

13 SENATOR PARKER: Madam President,
14 you probably should check with the
15 Power Authority about how they acquire things.
16 We're giving them the -- some latitude in using
17 the various tools in their toolbox in the way
18 that they procure, acquire, possess, purchase,
19 buy, procure sustainable energy in -- in this
20 context.

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

24 ACTING PRESIDENT PERSAUD: Does the
25 sponsor yield?

1 SENATOR PARKER: The sponsor does
2 continue to yield.

3 ACTING PRESIDENT PERSAUD: The
4 sponsor yields.

5 SENATOR WALCZYK: So since the
6 New York Power Authority wasn't involved in the
7 crafting of this legislation, as you've -- you
8 said earlier, I would ask the sponsor of the
9 bill -- through you, Madam President -- if the
10 word "acquire" includes compensation for a
11 renewable energy project that currently exists in
12 the State of New York or whether the New York
13 Power Authority, by this legislation, will be
14 able to just take it over without any
15 compensation on a renewable energy project.

16 SENATOR PARKER: Madam President,
17 through you. I have not seen a -- a -- what's
18 the word I want to use. I have not seen a
19 program, deal, you know, opportunity that any
20 state agency has been engaged in in the State of
21 New York where they just take people's property.

22 So the assumption here is that
23 anytime the Power Authority, under this bill,
24 would acquire something, that there would in fact
25 be some fair exchange or compensation for what

1 they're acquiring.

2 SENATOR WALCZYK: Through you,
3 Madam President, if the sponsor would continue to
4 yield.

5 ACTING PRESIDENT PERSAUD: Does the
6 sponsor yield?

7 SENATOR PARKER: I do yield.

8 ACTING PRESIDENT PERSAUD: The
9 sponsor yields.

10 SENATOR WALCZYK: So if the
11 authority is authorized and directed to purchase
12 any renewable energy project, they're also
13 authorized and directed to acquire, to plan, to
14 design, to engineer, to finance, to construct, to
15 operate, to manage, to improve and/or maintain.

16 And I'm sorry to harp on this
17 definition, but largely this bill -- and we'll
18 get into it in a line of questioning here -- does
19 have to do with government takeover of what are
20 private assets currently existing in the State of
21 New York.

22 So I really would love an answer on
23 the difference between the New York Power
24 Authority going out and purchasing a renewable
25 energy facility versus acquiring a renewable

1 energy facility, as it's written by the sponsor
2 of this bill. Through you, Madam President.

3 SENATOR PARKER: We're in the
4 middle of a climate crisis. The climate crisis
5 is not one that is totally of our own making, but
6 we certainly in the State of New York over time
7 have contributed to it.

8 What we have done in the context of
9 the Democratic Majority over the last number of
10 years is craft a number of pieces of legislation
11 to help us address that. Chief of these things
12 being the -- what we lovingly call the CLCPA, the
13 Climate Leadership and Community Protection Act.

14 Part of what we are doing in that --
15 in the set of that legislation is really to
16 address a global problem and to have New York do
17 what it has always done, which is to be a leader
18 not just in the State of New York but globally.

19 We're in the middle of a budget
20 process, \$227 billion. If we were our own
21 country, we'd be the -- something like the
22 12th largest economy in the world. And so we
23 have an obligation, with that much economic
24 power, to be a leader on all things, including
25 climate change.

1 And so here we are on the precipice
2 of both disaster but also opportunity to change
3 our economy, change the way that we do things,
4 and have an impact. Which we've already had on
5 other states who are now following our lead to in
6 fact make sure that climate change does not
7 become a disaster not just for ourselves but for
8 generations to come.

9 What this legislation is is part of
10 a number of pieces of legislation that I have put
11 in, as the chairman of the Energy Committee, to
12 in fact use an "all of the above" approach. That
13 it's going to be important that the market get
14 involved in what we do. And so organizations
15 like the Independent Power Producers and the
16 Association for Clean Energy are probably going
17 to be at the forefront of doing most of the
18 generation work -- of the generation work, right,
19 of generating sustainable energy.

20 But if you ask the leaders of those
21 organizations today if every single project that
22 their members have in the pipeline got approved
23 could we in fact produce enough electricity that
24 we need in the State of New York, they will tell
25 you nothing, because no one would ever tell you

1 "No, I can't do it." But the reality is that
2 they can't, Madam President.

3 And so we need other people to step
4 up. We need utilities to step up. We need the
5 Power Authority, which provides energy in the
6 State of New York, also to step up. What this
7 bill simply does, it gives them the authority to
8 do that. And it lays out in very specific
9 fashion essentially as many means as we could
10 think of to allow them to get energy.

11 And whether that is working with
12 private developers or whether it means developing
13 it in-house, they are now, under this
14 legislation, if it is passed by both houses and
15 signed by the Governor, which we're hoping that
16 it will be, we then have the ability to join the
17 rest of the state in terms of pushing forward our
18 clean energy economy and making sure that we have
19 the sustainable energy that we need in order to
20 continue to lead this nation as a state of
21 industry, of economic progress, but also a place
22 that people want to raise their families.

23 And so while we harp on one word, it
24 is really part of a grander both sentence,
25 paragraph, bill and vision for this state in

1 order to build a clean energy economy.

2 SENATOR WALCZYK: And through you,
3 Madam President, if the sponsor would yield.

4 ACTING PRESIDENT PERSAUD: Does the
5 sponsor yield?

6 SENATOR PARKER: Absolutely.

7 ACTING PRESIDENT PERSAUD: The
8 sponsor yields.

9 SENATOR WALCZYK: It's the same
10 question in another way. What is the difference
11 between purchasing and acquiring a renewable
12 energy project if you're the New York Power
13 Authority?

14 SENATOR PARKER: Madam President,
15 through you. Once again, you should probably
16 talk to the head of the Power Authority and
17 understand the different tools that they have in
18 order to do projects.

19 SENATOR WALCZYK: Through you,
20 Madam President, I can see that I'm not going to
21 get an answer from the sponsor of the bill on the
22 first line of questioning, which was to define a
23 word in the front line of the bill today.

24 I'll move on to another question, if
25 he'd be so kind as to yield.

1 ACTING PRESIDENT PERSAUD: Does the
2 sponsor yield?

3 SENATOR PARKER: Yes, ma'am.

4 ACTING PRESIDENT PERSAUD: The
5 sponsor yields.

6 SENATOR WALCZYK: And through you,
7 Madam President. Does the New York Power
8 Authority currently operate nonrenewable
9 facilities?

10 SENATOR PARKER: Yes.

11 SENATOR WALCZYK: And through you,
12 Madam President, would the sponsor continue to
13 yield.

14 ACTING PRESIDENT PERSAUD: Does the
15 sponsor yield?

16 SENATOR PARKER: I do continue to
17 yield.

18 ACTING PRESIDENT PERSAUD: The
19 sponsor yields.

20 SENATOR WALCZYK: This bill, on
21 page 2, in Section 32, requires that they shut
22 down those peaker plants in New York City by
23 2031. Is that correct?

24 SENATOR PARKER: Yes, that is
25 correct.

1 SENATOR WALCZYK: And through you,
2 Madam President, would the sponsor continue to
3 yield.

4 ACTING PRESIDENT PERSAUD: Does the
5 sponsor yield?

6 SENATOR PARKER: I do continue to
7 yield.

8 ACTING PRESIDENT PERSAUD: The
9 sponsor yields.

10 SENATOR WALCZYK: Is there any
11 bearing, by the way that this legislation is laid
12 out, to the availability of other electrical
13 production in the area to replace? Or do they
14 have to shut down the peaker plants in 2031 no
15 matter what the grid is saying?

16 SENATOR PARKER: Madam President,
17 it is our collective hope that the State of
18 New York, which has a goal of 2050 to be net
19 zero, will get to our net-zero goal.

20 We also have some intermediate
21 goals, the most -- the closest one being a 2030
22 goal. And so we really expect to meet that goal,
23 and we're working to do real work, like passing
24 this legislation, in order to meet that goal.

25 So we expect that we will be there

1 and that we will shut -- we will be ending those
2 peaker plants really, frankly, hopefully before
3 then, but the idea is to get as much generation
4 plugged into the grid as fast as possible in
5 order to make that 2030 goal a reality.

6 SENATOR WALCZYK: Madam President,
7 my first sergeant in the army always said --

8 ACTING PRESIDENT PERSAUD: Senator,
9 are you on the bill?

10 SENATOR WALCZYK: I'd like the
11 sponsor to yield for a question, if he'd be so
12 kind.

13 ACTING PRESIDENT PERSAUD: Will the
14 sponsor yield?

15 SENATOR PARKER: I would be so kind
16 to yield for a question.

17 ACTING PRESIDENT PERSAUD: The
18 sponsor yields.

19 SENATOR WALCZYK: With a -- with a
20 little bit of latitude, my first sergeant used to
21 tell me, as a second lieutenant: Hope is not a
22 plan. And I just want to send that one before I
23 send the next question.

24 Through you, Madam President. So in
25 line 19 on page 2 of this bill, you're talking

1 about the funding streams necessary to make this
2 happen coming from the New York State Energy
3 Research and Development Authority. They're
4 largely -- they're largely funded through systems
5 benefit charges.

6 So through you, Madam President, how
7 much will New Yorkers expect their systems
8 benefit charges to increase if this bill is
9 enacted?

10 SENATOR PARKER: Madam President,
11 that is a calculation that we're still working
12 on.

13 SENATOR WALCZYK: And through you,
14 Madam President, if the sponsor would continue to
15 yield.

16 SENATOR PARKER: I do continue to
17 yield.

18 ACTING PRESIDENT PERSAUD: The
19 sponsor yields.

20 SENATOR WALCZYK: As I know you're
21 concerned about the affordability as we green our
22 economy here as well, do you think that those
23 systems benefit charges would double, would
24 triple, would quadruple?

25 SENATOR PARKER: Madam President,

1 there is no -- there is no expectation that you
2 will see even a doubling. There may be an
3 increase at points, but you also may have a
4 decrease in the systems benefit charge. It just
5 depends on how fast we're able to get things on
6 board.

7 Obviously if we bring -- the more
8 generation we create, the more transmission
9 opportunities that we create, the more
10 interconnection between new projects and the grid
11 that we facilitate, the faster we're able to go
12 through that process, the more energy,
13 sustainable energy we're able to bring into the
14 grid, that means not just a cleaner grid and a
15 cleaner New York, but a cheaper and more
16 affordable New York as well. And so the work is
17 towards doing that.

18 Criticism is also not a plan.
19 Right? And so I'm happy to look at any ideas
20 that anybody wants to bring forward that advances
21 the CLCPA. Right? But simply criticizing the
22 CLCPA and asking questions about affordability
23 doesn't actually get us to the ends. What gets
24 us to the ends is actually facilitating projects.

25 What this bill does is actually

1 facilitates projects. So when we pass this bill
2 and we're able to pass it in the Assembly and
3 then bring it to the Governor and the Governor
4 signs it, it will then open up a vista of
5 opportunities for the New York Power Authority to
6 do additional projects that they really -- we
7 need them to do because they have capacity, they
8 have understanding, they have knowledge that
9 actually can help this process and expand both
10 our access to cleaner energy, it will actually
11 lower our carbon footprint, it will actually
12 lower the prices of energy in consumer's homes,
13 and it will build full-time jobs at a living wage
14 with benefits.

15 And so that's why this bill is
16 important. That's why we continue to push
17 forward despite attempts to -- to -- you know, to
18 quash the process.

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

22 ACTING PRESIDENT PERSAUD: Does the
23 sponsor yield?

24 SENATOR PARKER: The sponsor does
25 yield.

1 ACTING PRESIDENT PERSAUD: The
2 sponsor yields.

3 SENATOR WALCZYK: Well, I didn't
4 get a definition on what it means to acquire.
5 But if we acquired everything without paying for
6 it, then maybe perhaps the sponsor is correct in
7 thinking that the systems benefit charges would
8 actually be reduced, because NYSERDA wouldn't
9 have to fund any renewable energy products if we
10 are in fact just taking them over and paying
11 nothing for the private industry that owns them
12 currently in the State of New York. I'm not sure
13 if that's the sponsor's intent.

14 But I do have a question about the
15 location. Where will these -- the renewable
16 energy projects that the New York Power Authority
17 is directed to build, where will they be located
18 in the State of New York?

19 SENATOR PARKER: All over the
20 state.

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

24 ACTING PRESIDENT PERSAUD: Does the
25 sponsor yield?

1 SENATOR PARKER: Yes, ma'am.

2 ACTING PRESIDENT PERSAUD: The
3 sponsor yields.

4 SENATOR WALCZYK: If the renewable
5 energy projects are going to be all over the
6 state, then what is the purpose of paragraph B on
7 page 2?

8 SENATOR PARKER: Madam President,
9 if he could give me some -- I don't have the bill
10 memorized. So what does it say?

11 SENATOR WALCZYK: Through you,
12 Madam President, I'd be happy to.

13 "The authority shall prioritize
14 funding, siting, building, and owning renewable
15 energy projects which actively benefit
16 disadvantaged communities as defined by the
17 Climate Justice Working Group; minimize harm to
18 wildlife, ecosystems, public health and public
19 safety; do not violate Indigenous rights or
20 sovereignty; and which are the most
21 cost-effective to the state according to the best
22 available cost modeling research. The types of
23 renewable energy projects the authority builds
24 shall be determined and prioritized in
25 consultation with affected labor unions and

1 community organizations via the New York State
2 Energy Research and Development Authority's
3 regional clean energy hubs," is what paragraph B
4 says.

5 SENATOR PARKER: Madam President, I
6 think that paragraph is self-explanatory.

7 However, in short, what it says is
8 that we need to pay attention to environmental
9 justice concerns while we go through this process
10 of building a clean energy economy and lowering
11 our carbon footprint in the State of New York.

12 One of the legislation that we
13 passed parallel to the CLCPA was one for an
14 environmental justice review bill, which I in
15 fact sponsored and authored that law as well.

16 And so part of what you have in this
17 legislation is speaking to that and understanding
18 that we're -- what happens in what we refer to as
19 EJ, environmental justice communities, is they
20 are the ones that are the most burdened. So part
21 of what this legislation says is that we're
22 supposed to be dealing with those burdens.

23 It also says that there are
24 sovereign lands in the State of New York, many of
25 which belong to First Nation peoples that we also

1 again can't violate. Right?

2 But -- and that those things should
3 be done within the context of the overseeing
4 authority, which in this particular case is
5 NYSERDA. Right? Which is in charge of the
6 scoping plan and doing a lot of the
7 sharp-end-of-the-sword work that has to be done
8 on implementing a plan that gets us to a place of
9 a clean energy future.

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

13 ACTING PRESIDENT PERSAUD: Does the
14 sponsor yield?

15 SENATOR PARKER: Yes, ma'am.

16 ACTING PRESIDENT PERSAUD: The
17 sponsor yields.

18 SENATOR WALCZYK: So the question
19 of where will these facilities be able to be
20 sited is still one that burns in my mind even
21 after reading and having some dialogue with you
22 about paragraph B here.

23 One of the -- one of the things,
24 especially when we're talking about community
25 organizations via the New York State Energy

1 Research and Development Authority's regional
2 clean energy hubs -- so the way that you've
3 written it, at least by my reading here, is that
4 the types of renewable energy projects the
5 authority builds shall be determined and
6 prioritized in consultation with these groups.
7 Am I reading that right?

8 SENATOR PARKER: Madam President, I
9 think that there's a couple of things to kind of
10 understand. The New York Power Authority is not
11 a state agency. The New York Power Authority is
12 an actual authority. So it's quasi-governmental.
13 So it doesn't operate exactly -- in fact, many of
14 these agencies like the MTA and the Port
15 Authority were created to give them some
16 flexibility in the market and work with them.

17 I don't know if any of these
18 authorities -- I have both worked -- I've been
19 working in government 30 years. Right?
20 Everything from working for the first
21 Governor Cuomo to working for the
22 State Comptroller, to even working for the
23 State Assembly. I have never seen a deal, I've
24 never seen a program, I've never seen anything
25 that we've gone in and we've just taken private

1 property from anybody. Right?

2 So the notion that all of a sudden
3 we're writing a bill that would do that, and that
4 that would be constitutional or even seen as a
5 real thing, is just ludicrous. And I'm not sure
6 why we're even examining that, because it's not
7 been part of the pattern of practice of the State
8 of New York or the agencies or the authorities
9 that we have empowered here in the State of
10 New York.

11 So when we look at this particular,
12 you know, aspect of the legislation, right, it's
13 really, again, going to some -- some length to --
14 to look at the various types of -- of operations
15 that the New York Power Authority has and making
16 sure that they have the proper authority in order
17 to usher in this clean energy economy by in fact
18 being able to develop enough sustainable energy
19 in the State of New York, particularly in places
20 in which there are environmental justice
21 communities and communities that are of
22 concern -- that may be impoverished communities,
23 they may be, you know, communities that are rural
24 and can't be -- and can't be easily gotten to.

25 But it is the Power -- we are giving

1 the Power Authority, right, the ability to go in
2 those places and to address their energy needs.
3 And so that's where we are in this particular
4 legislation in this particular area.

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

8 ACTING PRESIDENT PERSAUD: Does the
9 sponsor yield?

10 SENATOR PARKER: Yes, I yield.

11 ACTING PRESIDENT PERSAUD: The
12 sponsor yields.

13 SENATOR WALCZYK: So the -- the
14 question is the same, the role of community
15 organizations in siting renewable energy
16 facilities when the New York Power Authority is
17 mandated under this legislation to place them,
18 and they will be determined and prioritized by
19 community organizations that have to do with
20 regional clean energy hubs through NYSERDA --
21 what is their role? And how will they determine
22 and prioritize where these renewable energy
23 projects will be sited?

24 SENATOR PARKER: Madam President,
25 through you, just a point of clarification.

1 Will who determine?

2 SENATOR WALCZYK: Yeah, I'm happy
3 to -- happy to yield if the question is for me.

4 Through you, Madam President. So
5 for example, NYSERDA has regional clean energy
6 hubs. They have community organizations
7 officially affiliated. For example, CNY has the
8 Alliance for Green Energy, which on their website
9 describes themselves as rabble-rousers, which is
10 nice.

11 My question, I guess, is where would
12 these self-proclaimed rabble-rousers insert
13 themselves into the process of siting renewable
14 energy facilities in the State of New York? How
15 are they involved in this process?

16 SENATOR PARKER: Madam President.
17 So it's really important that as we -- it's
18 really important that we get community-based
19 organizations involved in the process,
20 particularly siting processes.

21 One of the -- one of the reasons
22 that we have environmental justice communities
23 now that have been burdened is because we
24 randomly in the past, when the Senate was
25 controlled by Republicans, we just sited

1 facilities all over the place willy-nilly.
2 Right? Because despite their interest in making
3 history today, they had no concern for
4 Puerto Rican communities or Black communities or
5 Indigenous communities any time prior to today.

6 And so -- so you had communities in
7 which Blacks and Latinos and Asians and Native
8 people lived in, and then all of a sudden
9 facilities were dropped on them. Or highways
10 were built to break their communities up. Right?

11 And then now we're saying let's not
12 continue to repeat that, it's a new day. Right?
13 And the Democratic Conference of the
14 State Senate, led by an African-American woman
15 for the first time -- the first time a woman has
16 ever led a legislative conference. In fact, I
17 don't think the Republicans have ever had a
18 leader who was a woman. Or African-American. Or
19 Latino.

20 And as much as we talk about, you
21 know, the shock about chief justices, I never saw
22 them forward a Latino chief justice in the time
23 that they ran for 70 contiguous years, anybody.

24 And so in the same process we look
25 here and we say no longer, with an

1 African-American chair of the Energy Committee,
2 are we going to willy-nilly burden Black, Latino,
3 Asian and First Nation communities with
4 facilities that may in fact have a detrimental
5 impact on their communities. And so we're going
6 to make sure that communities are involved in
7 those processes, to understand that when you go
8 into a community, you may not know all of the
9 intricacies of what's happening there, despite
10 your studies and your analysis and all the other
11 things that it's always so important to talk to
12 the people.

13 This provision simply makes that
14 possible. No less of what we do in almost every
15 other major process that the State of New York,
16 cities, municipalities, towns and the like are
17 engaged in every single day.

18 SENATOR WALCZYK: Madam President,
19 could I go on the bill?

20 ACTING PRESIDENT PERSAUD: Senator
21 Walczyk on the bill.

22 SENATOR WALCZYK: If this bill
23 simply authorized the New York Power Authority to
24 build new renewable energy projects, I might
25 support it.

1 The New York Power Authority doesn't
2 want this bill. They weren't involved in the
3 drafting of it and have in fact called it
4 unworkable in the past when asked. If this
5 becomes law, the New York Power Authority will be
6 required to purchase, acquire -- whatever that
7 means -- build and own all renewable energy
8 projects. This is a takeover of power production
9 in the State of New York.

10 You overregulate communities, you
11 shut down Indian Point, you slam the industry
12 with power prices, and you pretend like this is a
13 solution. This bill will be paid for on the
14 backs of taxpayers and ratepayers. We have the
15 ninth-highest electric rates in the nation.
16 New York is leading the country in outmigration.
17 The industry largely fled long ago.

18 And our solution, at least with this
19 bill that's proposed today, is to double down and
20 say we need more takeover. If only we had more
21 government involved in the process. NYPA hasn't
22 even built a facility in 15 years. And they
23 didn't ask for this. And they put so much on the
24 Power Authority -- which you're right, it is a
25 quasi-governmental organization. There is nobody

1 elected to the New York Power Authority.

2 This bill is actually opposed by the
3 Solar Energy Industry's Alliance, the Independent
4 Power Producers, ACE New York, the Offshore Wind
5 Alliance, Cypress Creek Renewables, Advanced
6 Energy United, New York Energy Storage, and even
7 NYPA. Which is why you had to stack the deck.
8 We didn't get to that part of the debate, but I
9 could see which direction it was going.

10 This bill stacks the deck.
11 Currently there's seven trustees in NYPA. Well,
12 we're not going to have the votes, we're not
13 going to be able to get it by the trustees here,
14 so no problem, we'll just add 10 more. Those 10,
15 do you think there's a Republican appointee to
16 them? Absolutely not. Democrats straight across
17 the board, guaranteed.

18 You bring up Judge LaSalle. Yup, I
19 see that repeating itself. It's exactly what
20 just happened in the Judiciary Committee. And
21 what do we do? We had to take you to court just
22 to uphold the Constitution.

23 You want greener power? Okay.
24 Incentivize companies to build here. Give hope
25 to industry that people will actually move here

1 and there will be a customer base in the future.
2 Eliminate regulatory hurdles, site nuclear power
3 facilities, accept biomass as renewable. You
4 want more affordable power, no problem.
5 Eliminate systems benefit charges instead of
6 doubling, quadripling -- quadrupling them.
7 Allow the market to provide more power, and
8 listen to the New York State Independent Systems
9 Operator.

10 This bill is a giant leap forward in
11 government takeover of power production. It will
12 take longer to go green, and it will be at an
13 exponential cost to ratepayers and taxpayers in
14 the State of New York.

15 The New York Power Authority doesn't
16 pay taxes. They don't even make good on most of
17 their agreements for power purchases. We know
18 this if we've represented a NYPA facility.

19 Remember what Margaret Thatcher said
20 about socialism, too, that eventually you're
21 going to run out of other people's money. This
22 is a socialist and communist takeover of our
23 electrical grid.

24 And Madam President, I vote no.

25 ACTING PRESIDENT PERSAUD: Are

1 there any other Senators wishing to be heard?

2 Seeing and hearing none, debate is
3 closed. The Secretary will ring the bell.

4 Read the last section.

5 THE SECRETARY: Section 8. This
6 act shall take effect immediately.

7 ACTING PRESIDENT PERSAUD: Call the
8 roll.

9 (The Secretary called the roll.)

10 ACTING PRESIDENT PERSAUD: Senator
11 Gonzalez to explain her vote.

12 SENATOR GONZALEZ: Good afternoon.
13 And thank you, Madam President.

14 As many of you know, I represent
15 district 59, a new Senate district that spans
16 from Queens to Brooklyn and parts of Manhattan.
17 I came to Albany with a mandate to deliver on
18 climate justice because District 59 is a
19 waterfront district, home to generations of
20 New Yorkers who have suffered at the hands of
21 fossil fuel companies.

22 My district produces a significant
23 portion of New York City's energy and contains
24 what is known as Asthma Alley in Astoria. My
25 district is home to Newtown Creek, the site of

1 the largest underground oil spill in the country,
2 and generations of Greenpointers who have
3 consequentially had loved ones die from cancer
4 and related illnesses.

5 For years neighbors in my district
6 have been fighting back. Mere blocks from our
7 district, the community has been organizing
8 against the North Brooklyn Pipeline. Over the
9 last few years neighbors in both Astoria and
10 Stuyvesant Town have organized and defeated
11 proposed new power plants.

12 District 59 is demanding that we
13 transition our energy sector away from fossil
14 fuels because, between asthma, cancer, storm
15 surges, they know all too well what happens if we
16 don't.

17 People in my district and around the
18 state know that an important step we can take to
19 transition off of fossil fuels is to expand what
20 NYPA does.

21 In the spring of 1931, 92 years ago,
22 then Governor FDR signed into law the Power
23 Authority Act creating NYPA, calling it the most
24 important legislative action of that year. FDR
25 made public power a central theme in his

1 gubernatorial campaign, framing the conversation
2 around greed, profit, and the exorbitant cost of
3 energy.

4 Similar to FDR's time, the cost of
5 energy today is far too high. And like FDR's
6 time, expanding the reach of public power can
7 make a difference.

8 While the central goal of
9 corporations will always be to earn profit for
10 their shareholders, publicly owned utilities are
11 driven by broader mandates. Nationwide, there
12 are nearly 2,000 public power entities. Their
13 track record is strong. Public power delivers
14 customers with cheaper, greener and more reliable
15 energy than privately owned utilities.

16 There is no better proof of the
17 track record of public power than NYPA, the
18 largest public power entity in the country.
19 Unlike FDR's time, however, we are living amidst
20 the most urgent crisis in human history. Time is
21 up on the climate crisis. And as elected
22 leaders, we must do everything in our power to
23 drastically reduce our emissions.

24 Profit-seeking corporations cannot
25 be trusted to scale up our renewable energy

1 production. The BPRa will allow NYPA to scale up
2 renewable production efficiently, allowing us to
3 fulfill mandates of the CLCPA.

4 Senator Parker's bill includes the
5 most aggressive timeline, the strongest labor
6 protections, and ensures that NYPA's actions are
7 aligned with the goals of the CLCPA, among other
8 essential provisions. As an organizer, as a
9 young person, and a proud Democratic Socialist --
10 and now a new Senator -- I could not be more
11 excited to vote yes on BPRa. This moment
12 represents years of work from climate activists,
13 organizers and the communities most impacted, and
14 coalition-building with labor.

15 ACTING PRESIDENT PERSAUD: Senator
16 Gonzalez, are you watching your time?

17 SENATOR GONZALEZ: I'm just
18 saying --

19 ACTING PRESIDENT PERSAUD: How do
20 you vote?

21 SENATOR GONZALEZ: I want to thank
22 everyone -- Senator Parker for his leadership,
23 and all the advocates who worked on this -- and I
24 vote aye.

25 Thank you.

1 ACTING PRESIDENT PERSAUD: Senator
2 Gonzalez to be recorded in the affirmative.

3 Senator Serrano.

4 SENATOR SERRANO: Thank you,
5 Madam President.

6 Upon consent, we're going to restore
7 Calendar 354 to the noncontroversial calendar.
8 Please take that up.

9 ACTING PRESIDENT PERSAUD: The bill
10 is restored to the noncontroversial calendar.

11 Read the last section.

12 THE SECRETARY: Section 8. This
13 act shall take effect immediately.

14 ACTING PRESIDENT PERSAUD: Call the
15 roll.

16 (The Secretary called the roll.)

17 ACTING PRESIDENT PERSAUD: Senator
18 Stec to explain his vote.

19 SENATOR STEC: Thank you,
20 Madam President.

21 I think my colleague and neighbor
22 that I share North Country districts with I think
23 adequately described what was going on here.
24 This is socialization of the energy sector in
25 New York State.

1 I'll remind people that as the
2 sponsor of this bill pointed out, this is an
3 authority. This is not a state agency. They're
4 quasi-judicial. They're quasi-do whatever they
5 want. And there's nothing quasi about the
6 \$2.2 billion of debt that NYPA already has:
7 \$2.2 billion of unconstitutional end run, we
8 don't need voter approval because it's an
9 authority not an agency, borrowing that the Power
10 Authority already owes, that the taxpayers
11 ultimately are still responsible for.

12 Two-point-two billion dollars that
13 NYPA owes, and that's just a drop in the bucket.
14 All of our authorities are \$329 billion,
15 329 billion-with-a-B dollars that the state
16 taxpayer is on the hook for and they were denied
17 an opportunity, as required by the Constitution,
18 to vote on because we created this little
19 loophole to create these authorities.

20 We are creating a monster in the
21 Power Authority. All that's going to happen is
22 ratepayers are going to pay more and it's going
23 to run amuck, and we're going to see the
24 socialization of a big sector of our government.

25 And that's why I'll be voting no.

1 ACTING PRESIDENT PERSAUD: Senator
2 Stec to be recorded in the negative.

3 Senator Brisport to explain his
4 vote.

5 SENATOR BRISPORT: Thank you,
6 Madam President.

7 You know, this body passed the Build
8 Public Renewables Act last year with the
9 understanding that climate catastrophe is not a
10 distant possibility but a present threat hanging
11 over the heads of every one of our constituents.

12 And yet in the face of this crisis,
13 the Governor looked at our bill and instead of
14 incorporating it into her budget, she came back
15 with a budget that posed her favorite question of
16 what if we did less. What if we did less? What
17 if we made it less democratic. What if we left
18 out workers in the process and didn't bother
19 talking to labor unions? What if we left out the
20 mandate for NYPA to build renewable generation?

21 It is absurd that we still need to
22 say this in 2023, but doing less to combat
23 climate catastrophe is a destructive and deadly
24 choice. We cannot play a game of seeing how
25 little we can get away with doing. The Build

1 Public Renewables Act is an important starting
2 point, and we need to do more.

3 As a proud Democratic Socialist, I
4 also vote aye.

5 ACTING PRESIDENT PERSAUD: Senator
6 Brisport to be recorded in the affirmative.

7 Announce the results.

8 THE SECRETARY: In relation to
9 Calendar Number 354, those Senators voting in the
10 negative are Senators Ashby, Borrello,
11 Canzoneri-Fitzpatrick, Griffio, Helming, Lanza,
12 Mannion, Martins, Mattera, Murray, Oberacker,
13 O'Mara, Ortt, Palumbo, Rhoads, Rolison,
14 Scarcella-Spanton, Stec, Tedisco, Walczyk, Weber
15 and Weik.

16 Ayes, 37. Nays, 22.

17 ACTING PRESIDENT PERSAUD: The bill
18 is passed.

19 Senator Serrano, that completes the
20 reading of the controversial calendar.

21 SENATOR SERRANO: Thank you.

22 Is there any further business at the
23 desk?

24 ACTING PRESIDENT PERSAUD: There is
25 no further business at the desk.

1 SENATOR SERRANO: I move to adjourn
2 until Monday, February 27th, at 3:00 p.m., with
3 the intervening days being legislative days.

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

8 (Whereupon, at 4:09 p.m., the Senate
9 adjourned.)

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