NEW YORK STATE SENATE

THE STENOGRAPHIC RECORD

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12:44 p.m.

REGULAR SESSION

SENATOR ROXANNE J. PERSAUD, Acting President

ALEJANDRA N. PAULINO, ESQ., Secretary

P R O C E E D I N G S

ACTING PRESIDENT PERSAUD: The Senate will come to order.

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

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

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

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

ACTING PRESIDENT PERSAUD: Reading of the Journal.

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

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

Presentation of petitions.

Messages from the Assembly.

The Secretary will read.

THE SECRETARY: Senator Breslin

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

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

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

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

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

ACTING PRESIDENT PERSAUD: So ordered.

Messages from the Governor.

Reports of standing committees.

Reports of select committees.

Communications and reports from state officers.

Motions and resolutions.

Senator Gianaris.

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

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

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

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

SENATOR GIANARIS: Madam President, can we now begin by taking up two resolutions simultaneously, previously adopted Resolution 166, by Senator Mannion, and previously adopted Resolution 171, by Senator Tedisco, read the tiles of those resolutions, and we begin with Senator Mannion,

please.

ACTING PRESIDENT PERSAUD: The Secretary will read.

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

ACTING PRESIDENT PERSAUD: Senator Mannion on the resolution.

SENATOR MANNION: Thank you, Madam President.

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

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

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

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

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

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

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

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

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

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

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

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

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

Team national championships.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Thank you.

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

(Applause.)

ACTING PRESIDENT PERSAUD: Senator Borrello on the resolution.

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

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

Congratulations!

(Laughter.)

ACTING PRESIDENT PERSAUD: Thank you, Senator.

Senator May on the resolution.

SENATOR MAY: Thank you, Madam President.

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

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

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

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

Thank you.

ACTING PRESIDENT PERSAUD: Thank you, Senator.

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

Please stand and be recognized.

(Extended standing ovation.)

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

Senator Gianaris.

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

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

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

ACTING PRESIDENT PERSAUD: The Secretary will read.

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

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

ACTING PRESIDENT PERSAUD: Senator Tedisco on the resolutions.

SENATOR TEDISCO: Thank you, Madam President.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

ACTING PRESIDENT PERSAUD: Thank you, Senator.

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

Please stand and be recognized.

(Standing ovation.)

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

Senator Gianaris.

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

ACTING PRESIDENT PERSAUD: The Secretary will read.

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

ACTING PRESIDENT PERSAUD: Senator Murray on the resolution.

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

Month in New York.

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

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

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

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

moving past that misconception.

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

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

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

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

not every kid is going on to college.

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

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

(Laughter.)

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

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

CTE program at William Floyd High School in my district.

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

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

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

ACTING PRESIDENT PERSAUD: Thank you, Senator.

The resolution was previously adopted on February 7th.

Senator Gianaris.

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

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

Senator Gianaris.

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

ACTING PRESIDENT PERSAUD: The Secretary will read.

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

ACTING PRESIDENT PERSAUD: Read the last section.

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

ACTING PRESIDENT PERSAUD: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT PERSAUD: Announce the results.

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

Ayes, 56. Nays, 3.

ACTING PRESIDENT PERSAUD: The bill is passed.

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

ACTING PRESIDENT PERSAUD: Read the last section.

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

ACTING PRESIDENT PERSAUD: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT PERSAUD: Announce the results.

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT PERSAUD: The bill is passed.

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

ACTING PRESIDENT PERSAUD: Read the last section.

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

ACTING PRESIDENT PERSAUD: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT PERSAUD: Announce the results.

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT PERSAUD: The bill is passed.

THE SECRETARY: Calendar Number 90, Senate Print 1322, by Senator Hoylman-Sigal, an act to amend the Environmental Conservation Law.

ACTING PRESIDENT PERSAUD: Read the last section.

THE SECRETARY: Section 3. This act shall take effect on the same date and in the same manner as a chapter of the Laws of 2022.

ACTING PRESIDENT PERSAUD: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT PERSAUD: Announce the results.

THE SECRETARY: In relation to Calendar 90, those Senators voting in the negative are Senators Borrello, Griffo, Lanza, Oberacker, O'Mara, Ortt, Rhoads and Stec.

Ayes, 51. Nays, 8.

ACTING PRESIDENT PERSAUD: The bill

is passed.

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

ACTING PRESIDENT PERSAUD: Read the last section.

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

ACTING PRESIDENT PERSAUD: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT PERSAUD: Announce the results.

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

Ayes, 55. Nays, 4.

ACTING PRESIDENT PERSAUD: The bill is passed.

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

ACTING PRESIDENT PERSAUD: Read the last section.

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

ACTING PRESIDENT PERSAUD: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT PERSAUD: Announce the results.

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT PERSAUD: The bill is passed.

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

ACTING PRESIDENT PERSAUD: Read the last section.

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

ACTING PRESIDENT PERSAUD: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT PERSAUD: Announce the results.

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT PERSAUD: The bill is passed.

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

ACTING PRESIDENT PERSAUD: Read the last section.

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

ACTING PRESIDENT PERSAUD: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT PERSAUD: Announce the results.

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT PERSAUD: The bill is passed.

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

SENATOR WEIK: Lay it aside.

ACTING PRESIDENT PERSAUD: Lay it aside.

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

SENATOR WEIK: Lay it aside.

ACTING PRESIDENT PERSAUD: Lay it aside.

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

SENATOR GIANARIS: Thank you, Madam President.

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

ACTING PRESIDENT PERSAUD: The Secretary will read.

SENATOR GIANARIS: I'm sorry, Madam President.

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

ACTING PRESIDENT PERSAUD: The Senate will stand at ease.

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

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

ACTING PRESIDENT PERSAUD: The Senate will return to order.

Senator Gianaris.

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

Can we take that up and recognize Senator Hoylman.

ACTING PRESIDENT PERSAUD: The Secretary will read.

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

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

ACTING PRESIDENT PERSAUD: Senator Hoylman-Sigal.

SENATOR HOYLMAN-SIGAL: Thank you, Madam President.

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

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

ACTING PRESIDENT PERSAUD: Senator Gianaris.

SENATOR GIANARIS: Thank you, Madam President.

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

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

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

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

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

(Reaction from Minority members.)

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

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

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

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

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

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

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

Thank you.

ACTING PRESIDENT PERSAUD: Thank you, Senator.

Senator Palumbo.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

misrepresentations about his position on certain cases.

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

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

Thank you, Madam President.

ACTING PRESIDENT PERSAUD: Thank you, Senator.

Senator Gounardes on the resolution.

SENATOR GOUNARDES: Thank you, Madam President.

The responsibility to confirm a

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

And now let's think about it even

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

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

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

And for that, I vote nay. Thank you.

ACTING PRESIDENT PERSAUD: Thank you, Senator.

Senator Gianaris.

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

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

Can you please welcome Mayor Adams.

ACTING PRESIDENT PERSAUD: Mayor Adams, welcome.

(Standing ovation.)

ACTING PRESIDENT PERSAUD: Senator Rhoads on the resolution.

SENATOR RHOADS: Thank you, Madam President.

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

The bottom line is that what we've

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

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

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

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

enough no votes to stop the nomination from going forward.

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

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

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

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

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

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

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

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

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

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

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

essentially that you want this state to go in.

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

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

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

So thank you, Madam President. I

yield the balance of my time.

ACTING PRESIDENT PERSAUD: Thank you, Senator.

Senator Myrie on the resolution.

SENATOR MYRIE: Thank you, Madam President.

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

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

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

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

what I do every single day.

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

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

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

Thank you.

ACTING PRESIDENT PERSAUD: Thank you, Senator.

Senator Borrello on the nomination.

SENATOR BORRELLO: Thank you, Madam President.

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

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

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

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

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

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

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

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

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

And I'll be voting aye.

Thank you, Madam President.

ACTING PRESIDENT PERSAUD: Thank

you, Senator.

Senator Ryan on the nomination.

SENATOR RYAN: Thank you.

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

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

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

You hear today laudatory comments of

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

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

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

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

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

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

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

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

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

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

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

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

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

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

no today.

ACTING PRESIDENT PERSAUD: Thank you, Senator.

Senator Canzoneri-Fitzpatrick.

SENATOR CANZONERI-FITZPATRICK: Thank you, Madam President.

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

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

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

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

amendments and to change the law.

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

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

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

I will be voting aye. Thank you.

ACTING PRESIDENT PERSAUD: Thank you, Senator.

Senator Martins on the nominee.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

I'll be voting aye.

Thank you, Madam President.

ACTING PRESIDENT PERSAUD: Thank you, Senator.

Senator Liu on the nomination.

SENATOR LIU: Thank you,

Madam President.

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

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

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

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

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

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

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

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

ACTING PRESIDENT PERSAUD: Thank you, Senator.

Senator Stec on the nomination.

SENATOR STEC: Thank you, Madam President.

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

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

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

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

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

ACTING PRESIDENT PERSAUD: Thank you, Senator.

Senator Lanza on the nomination.

SENATOR LANZA: Thank you, Madam President.

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

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

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

The idea that somehow the delay has

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

all of us.

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

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

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

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

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

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

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

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

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

Madam President, I vote aye.

ACTING PRESIDENT PERSAUD: Thank you, Senator.

Senator Breslin on the nomination.

SENATOR BRESLIN: Thank you, Madam President.

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

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

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

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

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

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

(Laughter.)

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

(Laughter.)

SENATOR BRESLIN: That did not work.

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

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

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

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

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

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

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

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

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

I vote no.

ACTING PRESIDENT PERSAUD: Thank you, Senator.

Senator Mayer on the nomination.

SENATOR MAYER: Thank you, Madam President.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

So without any disrespect, without

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

ACTING PRESIDENT PERSAUD: Thank you, Senator.

Are there any other Senators wishing to be heard?

Senator Hoylman-Sigal to close.

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

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

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

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

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

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

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

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

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

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

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

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

Finally I'll say that, you know, we

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

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

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

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

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

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

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

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

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

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

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

Thank you.

ACTING PRESIDENT PERSAUD: Thank you, Senator.

The question is on the nomination.

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

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

The Secretary will call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT PERSAUD: Announce the results.

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

Ayes, 20. Nays, 39.

ACTING PRESIDENT PERSAUD: The nomination fails.

Senator Gianaris.

SENATOR GIANARIS: Thank you,

Madam President.

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

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

ACTING PRESIDENT PERSAUD: The Secretary will ring the bell.

The Secretary will read.

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

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

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

ACTING PRESIDENT PERSAUD: Will the sponsor yield?

SENATOR FERNANDEZ: Through you, Madam President, yes.

ACTING PRESIDENT PERSAUD: The sponsor yields.

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

SENATOR GRIFFO: Madam President --

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

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

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

SENATOR MARTINS: Sure.

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

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

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

Can we please have some order in the chamber?

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

Go ahead, Senator.

SENATOR MARTINS: Thank you.

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

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

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

ACTING PRESIDENT PERSAUD: Will the sponsor yield?

SENATOR FERNANDEZ: Yes.

ACTING PRESIDENT PERSAUD: The sponsor yields.

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

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

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

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

ACTING PRESIDENT PERSAUD: Will the sponsor yield?

SENATOR FERNANDEZ: Sure.

ACTING PRESIDENT PERSAUD: The sponsor yields.

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

SENATOR FERNANDEZ: Thank you.

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

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

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

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

ACTING PRESIDENT PERSAUD: Will the sponsor yield?

SENATOR FERNANDEZ: Say that again?

ACTING PRESIDENT PERSAUD: Will the sponsor yield?

SENATOR FERNANDEZ: Oh, yes. Sure.

ACTING PRESIDENT PERSAUD: The sponsor yields.

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

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

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

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

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

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

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

So this again would control the

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

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

ACTING PRESIDENT PERSAUD: Does the sponsor yield?

SENATOR FERNANDEZ: Yes.

ACTING PRESIDENT PERSAUD: The sponsor yields.

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

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

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

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

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

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

SENATOR MARTINS: Thank you, Madam President.

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

ACTING PRESIDENT PERSAUD: Does the sponsor yield?

SENATOR FERNANDEZ: Sure.

ACTING PRESIDENT PERSAUD: The sponsor yields.

SENATOR MARTINS: Thank you.

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

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

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

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

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

ACTING PRESIDENT PERSAUD: Does the sponsor yield?

SENATOR FERNANDEZ: Yes, Madam President.

ACTING PRESIDENT PERSAUD: The sponsor yields.

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

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

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

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

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

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

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

ACTING PRESIDENT PERSAUD: Does the sponsor yield?

SENATOR FERNANDEZ: Yes.

ACTING PRESIDENT PERSAUD: The sponsor yields.

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

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

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

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

ACTING PRESIDENT PERSAUD: Does the sponsor yield?

SENATOR FERNANDEZ: Yes.

ACTING PRESIDENT PERSAUD: The sponsor yields.

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

SENATOR FERNANDEZ: This bill goes

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

SENATOR MARTINS: Madam President, on the bill.

ACTING PRESIDENT PERSAUD: Senator Martins on the bill.

SENATOR MARTINS: Thank you.

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

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

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

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

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

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

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

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

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

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

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

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

Thank you.

ACTING PRESIDENT PERSAUD: Thank you, Senators.

Are there any other Senators wishing to be heard?

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

Read the last section.

THE SECRETARY: Section 2. This

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

ACTING PRESIDENT PERSAUD: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT PERSAUD: Senator Fernandez to explain her vote.

SENATOR FERNANDEZ: Thank you, Madam President.

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

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

And this bill would match what the

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

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

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

And I vote in the affirmative. Thank you.

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

Senator Gounardes to explain his vote.

SENATOR GOUNARDES: Thank you, Madam President.

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

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

traffic and pollution.

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

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

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

Announce the results.

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

Ayes, 46. Nays, 13.

ACTING PRESIDENT PERSAUD: The bill is passed.

Senator Gianaris.

SENATOR GIANARIS: Madam President,

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

(Standing ovation.)

ACTING PRESIDENT PERSAUD: The Secretary will read.

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

ACTING PRESIDENT PERSAUD: Senator Walczyk.

SENATOR WALCZYK: Thank you. Will the sponsor yield?

ACTING PRESIDENT PERSAUD: Will the sponsor yield?

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

ACTING PRESIDENT PERSAUD: The sponsor yields.

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

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

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

SENATOR WALCZYK: Very simple answer.

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

ACTING PRESIDENT PERSAUD: Does the sponsor yield?

SENATOR PARKER: Through you, Madam President, absolutely.

ACTING PRESIDENT PERSAUD: The sponsor yields.

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

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

about how the bill was referenced.

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

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

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

ACTING PRESIDENT PERSAUD: Does the sponsor yield?

SENATOR PARKER: Yes, Madam President.

ACTING PRESIDENT PERSAUD: The sponsor yields.

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

year's bill?

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

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

ACTING PRESIDENT PERSAUD: Does the sponsor yield?

SENATOR PARKER: I do yield.

ACTING PRESIDENT PERSAUD: The sponsor yields.

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

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

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

ACTING PRESIDENT PERSAUD: Does the sponsor yield?

SENATOR PARKER: The sponsor does

yield.

ACTING PRESIDENT PERSAUD: The sponsor yields.

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

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

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

ACTING PRESIDENT PERSAUD: Does the sponsor yield?

SENATOR PARKER: I do yield.

ACTING PRESIDENT PERSAUD: The

sponsor yields.

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

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

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

SENATOR WALCZYK: It's slightly helpful.

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

ACTING PRESIDENT PERSAUD: Does the sponsor yield?

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

ACTING PRESIDENT PERSAUD: The sponsor yields.

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

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

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

ACTING PRESIDENT PERSAUD: Does the sponsor yield?

SENATOR PARKER: The sponsor does continue to yield.

ACTING PRESIDENT PERSAUD: The sponsor yields.

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

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

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

they're acquiring.

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

ACTING PRESIDENT PERSAUD: Does the sponsor yield?

SENATOR PARKER: I do yield.

ACTING PRESIDENT PERSAUD: The sponsor yields.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

order to build a clean energy economy.

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

ACTING PRESIDENT PERSAUD: Does the sponsor yield?

SENATOR PARKER: Absolutely.

ACTING PRESIDENT PERSAUD: The sponsor yields.

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

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

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

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

ACTING PRESIDENT PERSAUD: Does the sponsor yield?

SENATOR PARKER: Yes, ma'am.

ACTING PRESIDENT PERSAUD: The sponsor yields.

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

SENATOR PARKER: Yes.

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

ACTING PRESIDENT PERSAUD: Does the sponsor yield?

SENATOR PARKER: I do continue to yield.

ACTING PRESIDENT PERSAUD: The sponsor yields.

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

SENATOR PARKER: Yes, that is correct.

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

ACTING PRESIDENT PERSAUD: Does the sponsor yield?

SENATOR PARKER: I do continue to yield.

ACTING PRESIDENT PERSAUD: The sponsor yields.

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

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

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

So we expect that we will be there

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

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

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

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

ACTING PRESIDENT PERSAUD: Will the sponsor yield?

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

ACTING PRESIDENT PERSAUD: The sponsor yields.

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

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

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

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

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

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

SENATOR PARKER: I do continue to yield.

ACTING PRESIDENT PERSAUD: The sponsor yields.

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

SENATOR PARKER: Madam President,

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

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

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

What this bill does is actually

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

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

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

ACTING PRESIDENT PERSAUD: Does the sponsor yield?

SENATOR PARKER: The sponsor does yield.

ACTING PRESIDENT PERSAUD: The sponsor yields.

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

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

SENATOR PARKER: All over the state.

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

ACTING PRESIDENT PERSAUD: Does the sponsor yield?

SENATOR PARKER: Yes, ma'am.

ACTING PRESIDENT PERSAUD: The sponsor yields.

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

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

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

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

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

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

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

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

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

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

again can't violate. Right?

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

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

ACTING PRESIDENT PERSAUD: Does the sponsor yield?

SENATOR PARKER: Yes, ma'am.

ACTING PRESIDENT PERSAUD: The sponsor yields.

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

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

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

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

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

property from anybody. Right?

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

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

But it is the Power -- we are giving

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

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

ACTING PRESIDENT PERSAUD: Does the sponsor yield?

SENATOR PARKER: Yes, I yield.

ACTING PRESIDENT PERSAUD: The sponsor yields.

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

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

Will who determine?

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

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

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

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

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

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

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

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

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

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

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

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

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

ACTING PRESIDENT PERSAUD: Senator Walczyk on the bill.

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

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

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

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

elected to the New York Power Authority.

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

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

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

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

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

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

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

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

And Madam President, I vote no.

ACTING PRESIDENT PERSAUD: Are

there any other Senators wishing to be heard?

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

Read the last section.

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

ACTING PRESIDENT PERSAUD: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT PERSAUD: Senator Gonzalez to explain her vote.

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

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

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

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

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

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

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

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

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

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

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

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

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

production. The BPRA will allow NYPA to scale up renewable production efficiently, allowing us to fulfill mandates of the CLCPA.

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

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

SENATOR GONZALEZ: I'm just saying --

ACTING PRESIDENT PERSAUD: How do you vote?

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

Thank you.

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

Senator Serrano.

SENATOR SERRANO: Thank you, Madam President.

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

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

Read the last section.

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

ACTING PRESIDENT PERSAUD: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT PERSAUD: Senator Stec to explain his vote.

SENATOR STEC: Thank you, Madam President.

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

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

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

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

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

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

Senator Brisport to explain his vote.

SENATOR BRISPORT: Thank you, Madam President.

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

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

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

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

As a proud Democratic Socialist, I also vote aye.

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

Announce the results.

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

Ayes, 37. Nays, 22.

ACTING PRESIDENT PERSAUD: The bill is passed.

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

SENATOR SERRANO: Thank you.

Is there any further business at the desk?

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

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

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

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