NEW YORK STATE SENATE

THE STENOGRAPHIC RECORD

ALBANY, NEW YORK

January 12, 2021

11:15 a.m.

REGULAR SESSION

SENATOR BRIAN A. BENJAMIN, Acting President

ALEJANDRA N. PAULINO, ESQ., Secretary

P R O C E E D I N G S

ACTING PRESIDENT BENJAMIN: 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 BENJAMIN: 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 BENJAMIN: The reading of the Journal.

THE SECRETARY: In Senate, Monday, January 11, 2021, the Senate met pursuant to adjournment. The Journal of Friday, January 8, 2021, was read and approved. On motion, Senate adjourned.

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

Presentation of petitions.

Messages from the Assembly.

Messages from the Governor.

Reports of standing committees.

Reports of select committees.

Communications and reports from state officers.

Motions and resolutions.

Senator Gianaris.

SENATOR GIANARIS: Mr. President, I move to adopt the Resolution Calendar.

ACTING PRESIDENT BENJAMIN: All in favor of adopting the Resolution Calendar please signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT BENJAMIN: Opposed, nay.

(No response.)

ACTING PRESIDENT BENJAMIN: The Resolution Calendar is adopted.

Senator Gianaris.

SENATOR GIANARIS: At this time can we take up the calendar, Mr. President.

ACTING PRESIDENT BENJAMIN: The Secretary will read.

THE SECRETARY: Calendar Number 10, Senate Print 514, by Senator Sepúlveda, Concurrent Resolution of the Senate and Assembly proposing an amendment to Section 15 of

Article VI of the Constitution relating to the New York City Civil Court.

ACTING PRESIDENT BENJAMIN: The Secretary will call the roll on the resolution.

(The Secretary called the roll.)

ACTING PRESIDENT BENJAMIN: Announce the results.

THE SECRETARY: Ayes, 62.

ACTING PRESIDENT BENJAMIN: The resolution is adopted.

THE SECRETARY: Calendar Number 11, Senate Print 515, by Senator Gianaris, Concurrent Resolution of the Senate and Assembly proposing an amendment to Sections 2, 4, 5, 5-a and 5-b of Article 3 of the Constitution.

SENATOR LANZA: Lay it aside.

ACTING PRESIDENT BENJAMIN: Lay it aside.

THE SECRETARY: Calendar Number 12, Senate Print 517, by Senator Gianaris, Concurrent Resolution of the Senate and Assembly proposing an amendment to Section 5 of Article 2 of the Constitution.

ACTING PRESIDENT BENJAMIN: Call the roll on the resolution.

(The Secretary called the roll.)

ACTING PRESIDENT BENJAMIN: Senator Rath to explain his vote.

SENATOR RATH: Yes, thank you, Mr. President.

On Senate 517, I concede that it is paramount that all voters have the opportunity to participate in the election process. However, as with the package that we approved yesterday as well as today, this legislation represents an enormous administrative burden and fiscal burden on our Board of Elections and our counties -- also, an enormous burden on the poll watchers as well as the voters themselves.

With no dedicated increase or specific stream of funding, how are localities supposed to handle such a vast increase in voter participation? Minnesota, which is one-quarter of the size of New York, had 350,000 people show up to register and to vote on Election Day. If you use that same math, that's 1 million people who will come on Election Day to register and to vote.

The purpose of the current 10-day period is to ensure the accuracy of the voter

rolls and to avoid errors. The reality of the situation is that our Boards of Elections rely on this time period to process and validate and ensure the accuracy of the registration information. It is incumbent on this body to ensure that our local officials have the ability to do so to give those guarantees, provide those guarantees, without interjecting any chaotic elements into the election process.

For these reasons I will be voting against Senate 517.

Thank you, Mr. President.

ACTING PRESIDENT BENJAMIN: Senator Rath to be recorded in the negative.

Announce the results.

THE SECRETARY: In relation to Calendar 12, those Senators voting in the negative are Senators Akshar, Borrello, Gallivan, Griffo, Jordan, Lanza, Martucci, Mattera, Oberacker, O'Mara, Ortt, Rath, Ritchie, Serino, Stec, Tedisco and Weik.

Ayes, 45. Nays, 17.

ACTING PRESIDENT BENJAMIN: The resolution is adopted.

THE SECRETARY: Calendar Number

13, Senate Print 528, by Senator Jackson, Concurrent Resolution of the Senate and Assembly proposing an amendment to Article 1 of the Constitution.

SENATOR LANZA: Lay it aside.

ACTING PRESIDENT BENJAMIN: Lay it aside.

THE SECRETARY: Calendar Number 27, Senate Print 874, by Senator Parker, an act to amend the Education Law.

ACTING PRESIDENT BENJAMIN: Read the last section.

THE SECRETARY: Section 4. This act shall take effect on the same date and in the same manner as a chapter of the Laws of 2020.

ACTING PRESIDENT BENJAMIN: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT BENJAMIN: Announce the results.

THE SECRETARY: Ayes, 62.

ACTING PRESIDENT BENJAMIN: The bill is passed.

THE SECRETARY: Calendar Number 35, Senate Print 882, by Senator Persaud, an act

to amend the Social Services Law.

ACTING PRESIDENT BENJAMIN: Read the last section.

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

ACTING PRESIDENT BENJAMIN: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT BENJAMIN: Announce the results.

THE SECRETARY: Ayes, 62.

ACTING PRESIDENT BENJAMIN: The bill is passed.

THE SECRETARY: Calendar Number 48, Senate Print 895, by Senator Liu, an act to amend the Insurance Law.

ACTING PRESIDENT BENJAMIN: 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 2020.

ACTING PRESIDENT BENJAMIN: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT BENJAMIN:

Announce the results.

THE SECRETARY: Ayes, 62.

ACTING PRESIDENT BENJAMIN: The bill is passed.

THE SECRETARY: Calendar Number 52, Senate Print 899, by Senator Serrano, an act to amend the Environmental Conservation Law.

ACTING PRESIDENT BENJAMIN: 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 2020.

ACTING PRESIDENT BENJAMIN: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT BENJAMIN: Announce the results.

THE SECRETARY: In relation to Calendar Number 52, those Senators voting in the negative are Senators Akshar, Borrello, Gallivan, Griffo, Jordan, Lanza, Oberacker, O'Mara, Ortt, Rath, Ritchie, Serino, Stec and Tedisco.

Ayes, 48. Nays, 14.

ACTING PRESIDENT BENJAMIN: The bill is passed.

THE SECRETARY: Calendar Number 57, Senate Print 904, by Senator Comrie, an act to amend the Not-For-Profit Corporation Law.

ACTING PRESIDENT BENJAMIN: 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 2020.

ACTING PRESIDENT BENJAMIN: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT BENJAMIN: Announce the results.

THE SECRETARY: Ayes, 62.

ACTING PRESIDENT BENJAMIN: The bill is passed.

THE SECRETARY: Calendar Number 58, Senate Print 905, by Senator Harckham, an act to amend a chapter of the Laws of 2020 relating to establishing the Real Property Tax Exemption Task Force.

ACTING PRESIDENT BENJAMIN: Read the last section.

THE SECRETARY: Section 4. This act shall take effect on the same date and in the

same manner as a chapter of the Laws of 2020.

ACTING PRESIDENT BENJAMIN: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT BENJAMIN: Announce the results.

THE SECRETARY: In relation to Calendar Number 58, those Senators voting in the negative are Senators Akshar, Borrello, Gallivan, Griffo, Jordan, Lanza, Martucci, Mattera, Oberacker, O'Mara, Ortt, Palumbo, Rath, Ritchie, Serino, Stec, Tedisco and Weik.

Ayes, 44. Nays, 18.

ACTING PRESIDENT BENJAMIN: The bill is passed.

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

SENATOR GIANARIS: Mr. President, at this time we will take up the controversial calendar, starting with Calendar Number 13.

ACTING PRESIDENT BENJAMIN: The Secretary will ring the bell.

The Secretary will read.

THE SECRETARY: Calendar Number 13, Senate Print 528, by Senator Jackson,

Concurrent Resolution of the Senate and Assembly proposing an amendment to Article 1 of the Constitution.

ACTING PRESIDENT BENJAMIN: Senator Lanza, why do you rise?

SENATOR LANZA: Mr. President, I believe there's an amendment at the desk. I waive the reading of that amendment and ask that Senator Stec be recognized and heard.

ACTING PRESIDENT BENJAMIN: Thank you, Senator Lanza.

Upon review of the amendment, in accordance with Rule 6, Section 4B, I rule it nongermane and out of order at this time.

SENATOR LANZA: Mr. President, accordingly, I appeal the chair's ruling and I ask that Senator Stec be recognized.

ACTING PRESIDENT BENJAMIN: The appeal has been made and recognized, and Senator Stec may be heard.

SENATOR STEC: Thank you.

Mr. President, I appeal the ruling of the chair. The proposed amendment is germane to the bill at hand because it too embodies a right granted to every New Yorker in our

Constitution, the right to three separate but equal branches of government.

This amendment would repeal the powers granted to the Governor which allow the executive branch to exclusively and unilaterally rule throughout a declared state of disaster emergency without any input from the state legislators chosen to provide a voice for the New Yorkers who elected them.

Many challenges have arisen throughout this pandemic, but the most recent one exemplifies the utmost need to restore balance to our state government: The inefficient and ineffective rollout by the Governor of the COVID-19 vaccine.

The Department of Health and Human Services began publicly discussing the expedited process to create and distribute the COVID-19 vaccine on March 30, 2020. That was nine months ago, nine months prior to the release of the vaccine for distribution.

While counties have had plans in place for decades on how to effectively execute such an undertaking, the Governor ignored this infrastructure and instead used the power of the

executive order to take full control of vaccine distribution. He first chose to put hospitals in charge of distributing the vaccine, the same hospitals we are trying desperately not to overwhelm. Each day a new announcement, a new executive order.

He has touted that we have relied on the science and data to combat this pandemic, yet refuses to collaborate with those more knowledgeable to ensure the most effective and expedient distribution of the most important undertaking of our generation.

The failure of this vaccine distribution rollout is inexcusable and completely avoidable. New York has faced insurmountable challenges in the face of the COVID pandemic, yet we have seen firsthand that exclusive authority and control only sows more chaos and confusion.

We must take this opportunity to restore balance in our democratic process and return governance based in collaboration and equality, as intended. In short, the Legislature must stop abdicating our constitutional authority and obligations and reestablish ourselves as an

independent, coequal branch of government as the Constitution of the State of New York requires.

It is for these reasons I urge my colleagues to support this amendment.

Thank you, Mr. President.

ACTING PRESIDENT BENJAMIN: Thank you, Senator Stec.

I want to remind the house that the vote is on the procedures of the house and the ruling of the chair.

Those in favor of overruling the chair signify by saying aye.

SENATOR LANZA: Request a show of hands.

SENATOR GIANARIS: Mr. President, we've agreed to waive the show of hands and record each member of the Minority in the affirmative on this bill.

ACTING PRESIDENT BENJAMIN: Without objection, so ordered.

Announce the results.

THE SECRETARY: Ayes, 20.

ACTING PRESIDENT BENJAMIN: The ruling of the chair stands, and the bill-in-chief is before the house.

Senator Borrello on the bill.

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

First of all, let me say that I agree with the sponsor in the aspirational goal that we should all have clean water and fresh air. My opposition to this bill today is merely on the unintended consequences this bill may have, including opening up a Pandora's box of litigation.

However, I do agree, absolutely, that we need to be focused on clean water and clean air. But those are just goals. Right now we have a serious issue facing us here in New York State.

Our Governor is looking to place industrial wind turbines in our freshwater lakes. These massive structures, made of steel and concrete and plastic and that are forged in foreign countries under horrific conditions, will be placed in our Great Lakes -- Lake Erie, where I live, Lake Ontario -- and could be placed in every freshwater lake in New York State unless we act to stop this.

So I'm appealing to everyone who

supports this bill, everyone who supports clean water and fresh air, that we do not allow this crony capitalism agenda to harm our freshwater. Lake Erie alone is a source of drinking water for more than 11 million people. Across this state, from the Great Lakes to the Finger Lakes, we rely on our freshwater lakes for our drinking water, for supplying our businesses with needed water.

The Great Lakes are the largest source of freshwater in the world -- 20 percent of the freshwater in the world is in the Great Lakes, in our backyard here in New York State, and we are going to threaten it for a political purpose.

I'm not opposed to renewable energy. I am opposed to destroying our Great Lakes, the quality of life, having a negative impact on the environment and the ecology in order to serve a bogus politically driven agenda.

So those of you that are in support of this, I commend you and I also ask you to stand with us as we push back against this deadly and dangerous push to put industrial wind turbines in our freshwater lakes -- which, by the

way, is not done anywhere else in the world. I do not want to be the guinea pig for something that could be disastrous and have a disastrous impact on so many New Yorkers.

Thank you, Mr. President.

ACTING PRESIDENT BENJAMIN: Senator Stec.

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

ACTING PRESIDENT BENJAMIN: Does the sponsor yield?

SENATOR JACKSON: Sure, the sponsor will yield.

ACTING PRESIDENT BENJAMIN: The sponsor yields.

SENATOR STEC: Thank you.

Happy New Year, Senator. A couple of quick questions, if I may.

Is the word "clean" or the word "healthful" that appear in the bill defined anywhere in the legislation before us?

SENATOR JACKSON: In response, Mr. President, clean and fresh water is, in my opinion, a human right, a right for all of us in

our state and in our country and our world.

And obviously it's not defined in the Constitution and in this amendment, but that issue, if necessary to be defined, will be defined by advocates and people that it negatively or positively affects. That's what -- the discussions that have to take place.

Just like in the Campaign for Fiscal Equity, the Constitution of the State of New York said that everyone is entitled to a sound, basic education, where the highest court in the State of New York said -- equated a sound, basic education to an adequate education. And it defined that in a decision. It said, meaning the highest court in the State of New York said, that an adequate education means that every child should have the opportunity to graduate from high school knowing how to read, knowing how to write, knowing how to serve on a jury, and being able to hold competitive employment. A lawsuit had to be filed in order for the court to decide what the entitlement was for a sound, basic education.

I hope that that's not the case in defining clean water and clean air. But if necessary, then that's what has to happen.

So I am hoping that we, the people, will come together and make sure that everyone is protected to have clean air and clean water. I hope that's the case.

And I hope, as my colleague said, Senator Borrello, that no one puts their political agenda in this. This is not about politics. This is about every family and every individual having the right to have that clean water and clean air.

And so that's my response to you.

SENATOR STEC: Mr. President, if the sponsor would yield for one more question, please.

ACTING PRESIDENT BENJAMIN: Will the sponsor yield?

SENATOR JACKSON: Yes.

ACTING PRESIDENT BENJAMIN: The sponsor yields.

SENATOR STEC: Thanks, Senator Jackson.

I just moved over from the Assembly; I'm familiar with the constitutional amendment process. This is second passage of this constitutional amendment. I've been

involved in several others through the EnCon Committee. And one of the insistences that I recall in the past was that at some point between first and second passage, it's normal to have enabling legislation that will further lay out and maybe address some of the concerns I and others have about the ambiguity of the words "clean" and "healthful."

Is there enabling legislation that's currently in existence and is corresponding with this second passage?

SENATOR JACKSON: I am not aware. There may be, but I am not aware.

I do know that from a constitutional point of view, we had -- we passed it last year, we're passing the language this year to include that as an amendment to the Bill of Rights with respect to the clean air, clean water, and a healthful environment.

SENATOR STEC: Thank you, Senator.

Mr. President, on the bill.

ACTING PRESIDENT BENJAMIN: Senator Stec on the bill.

SENATOR STEC: Thank you very much.

Certainly no one in this room is opposed to the goal and the aspiration in achieving clean air, clean water, or a healthful environment. However, we are a Legislature. And if nothing else, we've learned in the last few weeks: Words matter. We need to be very cautious and careful with our language. We are passing a law, we are not passing goals.

For a law to be fair and a law to be just, it must be understandable, it must be enforceable, it must be measurable. I'm all for clean air and clean water. Who isn't? But in the face of ambiguity, you will have distrust, you will have lawsuits, you will have costs. And I'm trying to avoid that.

You know, so my concern with this legislation is essentially that we're throwing something out there that we have not well defined. And for that reason, I think that we need to exercise caution, we need to be a little more detailed in our work. And for that reason, I'll be opposing second passage of this amendment.

Thank you, Mr. President.

ACTING PRESIDENT BENJAMIN: Are

there any other Senators wishing to be heard?

Seeing and hearing none, debate is closed.

The Secretary will ring the bell.

Call the roll on the resolution.

(The Secretary called the roll.)

ACTING PRESIDENT BENJAMIN: Senator Jackson to explain his vote.

SENATOR JACKSON: Thank you, Mr. President.

So, my colleagues, I rise in order to support this bill which I'm introducing. And today, by adding 15 words to the Constitution of the State of New York, we will help shape the future of New York. Those powerful words are: "Each person shall have a right to clean air and water and a healthful environment." You would think that I shouldn't even have to say that we include that.

Adding this amendment to the current New York Bill of Rights will provide important protections that advance environmental justice. I hope these rights will soon be constitutional rights for all New Yorkers and will safeguard our ability to sustain healthy

lives and economies.

New Yorkers will finally have the right to take legal action for a clean environment, because it will be in the State Constitution. And we will finally have safeguards requiring government to consider the environment and our relationship to Mother Earth in the decision-making process.

Many hands have helped shape this bill through the years, and they deserve great credit for their advocacy, wisdom and persistence. And I thank you to these fine organizations such as Environmental Advocates of New York, the Adirondack Mountain Club, Further Generations, Delaware Riverkeepers, and WE ACT for Environment Justice.

This would not have happened without them, and we won't win a constitutional victory here without all of us coming together and bringing forward this powerful message to our communities.

And I agree with my colleague, this should not be a political agenda on anyone's part. It should be for the betterment of all of the people of our great state. And that's my

goal and objective.

And so I look forward to working together to make environmental justice a reality for every person in our state. And I vote aye, Mr. President.

ACTING PRESIDENT BENJAMIN: Senator Jackson to be recorded in the affirmative.

Senator May to explain her vote.

SENATOR MAY: Thank you, Mr. President.

Yesterday we took up issues about the right to the vote, and last month we talked about the right to having a house -- a roof over your head. But none of these rights make any difference if you don't have the right to drink clean water and breathe clean air.

For too long we have treated these as privileges. And because they've been treated as privileges, they have been denied to some of the people least powerful among us, including many children, people living in poverty, and many communities of color. They find themselves burdened with environmental health risks that the rest of us can barely imagine.

My district lies in ancestral lands of the Haudenosaunee Confederacy. The Haudenosaunee Confederacy is a system of governance based on a world view that always considers the effects of your decisions on seven generations to come. The Haudenosaunee Confederacy was also the basis for the design of the United States Constitution. But sadly, we left out the fundamental underpinnings of that world view that have made the Haudenosaunee Confederacy so successful over the years.

I am very proud to support moving our own understanding of the rights of New Yorkers closer to that traditional view that the Haudenosaunee have given to us, and I proudly vote aye.

ACTING PRESIDENT BENJAMIN: Senator May to be recorded in the affirmative.

Senator Hinchey to explain her vote.

SENATOR HINCHEY: Thank you, Mr. President.

As a new Senator, I am honored to cosponsor this bill, and I thank my colleague Senator Jackson for bringing forward this

constitutional amendment guaranteeing New Yorkers the right to clean air, clean water, and a healthful environment.

I believe we can all agree that access to clean air and clean water should be a basic human right. And yet in 2020 in many places across my district and across New York State in general, people are suffering. They're suffering with poisoned water sources and aging infrastructure that contaminates their water, leaving them sick and with no other option than to purchase and use bottled water.

This is unacceptable. It's clear that to date we have not done enough to protect our environment or the people that live here.

I am proud that one of my first votes as Senator is to codify these basic rights into our State Constitution. New Yorkers deserve access to clean water, clean air, and a healthful environment. By making it a part of our Constitution, we get one step closer to making sure that this is true for all residents of our state and can more seriously work to ensure that the great resource of our environment is protected for years to come.

This constitutional amendment is critical to the health and safety of New Yorkers and is a needed step in combating climate change. And for these reasons, I am proud to be here to vote aye on it today.

ACTING PRESIDENT BENJAMIN: Senator Hinchey to be recorded in the affirmative.

Announce the results.

THE SECRETARY: In relation to Calendar 13, those Senators voting in the negative are Senators Akshar, Borrello, Gallivan, Griffo, Helming, Jordan, Oberacker, O'Mara, Ortt, Rath, Ritchie, Serino, Stec and Tedisco.

Ayes, 48. Nays, 14.

ACTING PRESIDENT BENJAMIN: The resolution is adopted.

The Secretary will read.

THE SECRETARY: Calendar Number 11, Senate Print 515, by Senator Gianaris, Concurrent Resolution of the Senate and Assembly proposing an amendment to Sections 2, 4, 5, 5-a and 5-b of Article 3 of the Constitution.

ACTING PRESIDENT BENJAMIN: Senator Palumbo.

SENATOR PALUMBO: Thank you, Mr. President. Will the sponsor yield for a few questions, please.

ACTING PRESIDENT BENJAMIN: Does the sponsor yield?

SENATOR GIANARIS: Yes, Mr. President.

ACTING PRESIDENT BENJAMIN: The sponsor yields.

SENATOR PALUMBO: Thank you, Senator. And Happy New Year.

SENATOR GIANARIS: Good morning.

SENATOR PALUMBO: Good morning.

I just have a few questions regarding the need to bring this amendment, in that the redistricting commission was established in 2020 -- it's been in existence for almost a year now -- and the State Budget provides that compensation and reimbursement of expenses would be provided to them.

Can you tell us how much money, if any, has been appropriated for the commission as of today?

SENATOR GIANARIS: {Mic off; inaudible.} I know there's been concerns about

the money not flowing quickly enough, and I share those concerns. So I don't know what exact amount has been allocated thus far, but I agree that it should start flowing so the commission can do its business.

SENATOR PALUMBO: Now, this commission of course --

ACTING PRESIDENT BENJAMIN: Senator Palumbo, are you asking a question?

SENATOR PALUMBO: Oh, yes. Mr. President, would the sponsor yield for another question, please.

ACTING PRESIDENT BENJAMIN: Does the sponsor yield?

SENATOR GIANARIS: Yes.

ACTING PRESIDENT BENJAMIN: The sponsor yields.

SENATOR PALUMBO: And thank you. Thank you again, Senator.

And as far as this commission is concerned, that they had the opportunity to vote on the district maps and redistricting by seven of 10 members. And we've added a new provision now that I'll read -- it adds Section 5-b to Article 3 of the Constitution, which states "If

the commission does not vote on any redistricting plan or plans, for any reason, by the date required for submission of such plan by this article, the commission shall submit to the Legislature all plans in its possession, both completed and in draft form, and the data upon which such plans are based."

Could you tell me the need for that particular provision?

SENATOR GIANARIS: Sure. That's just to provide for a contingency that the original amendment did not consider. There was no specific provision that indicated what would happen in that scenario, and so we thought it would be better to make it clear.

SENATOR PALUMBO: Understood. And it's --

ACTING PRESIDENT BENJAMIN: Senator Palumbo.

SENATOR PALUMBO: Would the sponsor yield for another question?

ACTING PRESIDENT BENJAMIN: Does the sponsor yield?

SENATOR GIANARIS: Yes.

ACTING PRESIDENT BENJAMIN: The

sponsor yields.

SENATOR PALUMBO: Thank you again, Senator. I'm trying to get used to the rules of the new house, you know? Been down the hall for many years.

ACTING PRESIDENT BENJAMIN: I'll remind you.

SENATOR PALUMBO: Thank you again.

So, Senator, regarding that provision, I don't see anything in this proposed amendment that would provide the specific amount of votes needed by each house in the event they don't vote. So if they approve it by seven of 10 votes, is my understanding, then it would just -- it would be -- it would be approved by 60 percent of each house. If they cannot reach seven of 10 votes, then it was two-thirds of each house would have to override that or ultimately adopt the map.

So my question to you is if they don't vote at all, I don't see any provision that would indicate what the specific vote by the houses would be needed. Is it a majority, is it a supermajority, or is it 60 percent?

SENATOR GIANARIS: Existing

language, Senator Palumbo, is also silent on that issue. The existing language does not provide for this scenario at all. And so we're not trying to tinker with whatever the existing language would have said in that circumstance. We just wanted to provide some guidance to what would happen if the commission fails entirely, doesn't produce a single map by the appropriate vote.

SENATOR PALUMBO: Will the sponsor yield for another question?

ACTING PRESIDENT BENJAMIN: Does the sponsor yield?

SENATOR GIANARIS: Yes.

ACTING PRESIDENT BENJAMIN: The sponsor yields.

SENATOR GIANARIS: You're getting it now, Senator.

SENATOR PALUMBO: Thank you again, Senator.

And so what would the vote need to be in the event that there's no vote by the commission, the maps are submitted to the Legislature -- what would we need to pass and approve maps now, what percentage specifically,

if you can at least indicate for that intent, please.

SENATOR GIANARIS: In that scenario -- which again I think we're all hoping doesn't occur, because we hope the commission is able to come to an agreement. But in that scenario, we would be back to passing a piece of legislation like any other, so that would be a simple majority, presumably.

SENATOR PALUMBO: So then would the sponsor yield for one more question?

ACTING PRESIDENT BENJAMIN: Does the sponsor yield?

SENATOR GIANARIS: Yes.

ACTING PRESIDENT BENJAMIN: The sponsor yields.

SENATOR PALUMBO: Just so I'm clear, so it would be just a simple majority would ultimately approve the map.

SENATOR GIANARIS: Yes.

SENATOR PALUMBO: Okay, thank you.

Will the sponsor yield for another question?

ACTING PRESIDENT BENJAMIN: Does the sponsor yield?

SENATOR GIANARIS: Yes.

ACTING PRESIDENT BENJAMIN: The sponsor yields.

SENATOR PALUMBO: Now, Senator, regarding the drawing of maps, this somewhat significantly changes the manner in which maps are drawn, the existing manner we've been relying upon for decades.

So my concern is -- and if you could explain to me and try and alleviate that concern -- that once this is ratified, once it goes through a vote, it's certified, the commission will have held public hearings and drawn maps, and then the process will change very quickly and they need to submit the new maps by January.

Can you alleviate those concerns or explain to me why that provision was necessary to change the manner in which we draw maps?

SENATOR GIANARIS: Yes. And Senator Palumbo, thank you for the question.

To start with, you make an interesting point, that this is changing the way things have been done for decades. And I think the existing standards and processes have led to

some of the worst gerrymandered maps the country has seen, which has been a stain on New York in terms of our redistricting process.

So for the most part the change in standards were accomplished in the existing new -- "new" meaning in the last, you know, recently approved amendment in 2014. So a lot of the standards are already changed. I believe the one significant change we make here is to remove the incentive for cities to be divided throughout the state, which has been one of the worst gerrymandered tools used by your predecessors in the majority when they drew the maps.

SENATOR PALUMBO: So would the sponsor yield for another question, please.

ACTING PRESIDENT BENJAMIN: Does the sponsor yield?

SENATOR GIANARIS: Yes.

ACTING PRESIDENT BENJAMIN: The sponsor yields.

SENATOR PALUMBO: Thank you again, Senator.

So in that regard, when we look at page 2, it also allows you to now not only split the cities, but we also have stricken the clause

at line 45: "No counties shall have four or more Senators unless it shall have a full ratio for each Senator." So that's stricken.

So we could now basically have any county who may have an unlimited number of Senators, is that accurate?

SENATOR GIANARIS: I'm sorry, Senator Palumbo, I was reading the provision while you were finishing your question. Would you mind repeating it?

SENATOR PALUMBO: In light of the fact that that's stricken, there is no ultimate fallback provision limiting the number of Senators per county. So now that that will no longer be in law or in our Constitution, we now have an unlimited number of Senators could be apportioned to any county. Is that accurate?

SENATOR GIANARIS: Right, that's -- that's a provision -- some of what we've done in this amendment is conform the State Constitution to existing constitutional norms. There's a lot of unconstitutional language that just sits in our Constitution and has been left there because it's not really applicable.

So that's a one-person, one-vote

issue. You cannot restrict the number of Senators in particular counties. The original Constitution of the State of New York hundreds of years ago had strict limits that way, kind of the way the U.S. Senate is apportioned, and that has been deemed unconstitutional for many years in this country. So that's -- that's more of a clean-up provision, I think, that you're referring to.

SENATOR PALUMBO: Thank you for your time, Senator Gianaris.

Mr. President, on the bill, please.

ACTING PRESIDENT BENJAMIN: Senator Palumbo on the bill.

SENATOR PALUMBO: Thank you again, Mr. President.

Now, this is an Independent Redistricting Commission that was overwhelmingly approved by the voters. It has not been funded, and it has not acted. Quite frankly, this particular amendment handcuffs that commission to the extent that they will not, I suspect, be able to reach an agreement on maps. Then what happens? The fallback is it comes to this house and the Assembly, and by a simple majority

vote -- this is a nuclear option that we have created. And we all saw what a fiasco that was on the federal level.

We now have a simple majority to draw district lines. That is a problem. And quite frankly, when we get to page 2, that line 47, we are now striking the limit of four or more Senators, that you cannot have more than -- you can't have four or more unless there is a full complement. Meaning, based on population, you have that number.

Now, when you look at the population of New York State as of 2019, we had 19.45 million individuals in New York State. Divide that by 63 Senate districts, that's 308,730 per district.

Now, when you put that into the population, for example, of New York City, in the five boroughs it was 8.4 million. So New York City has enough bodies, enough of a population for 27.2 Senate districts. That's 28 Senators in New York City alone.

And the reason why, I suspect, that this original provision included a limit on Senators was so that you could not specifically

gerrymander. When we talk about gerrymandering, you're choosing your voters instead of your voters choosing you.

And quite frankly, striking that provision to limit four Senators is for no reason other than gerrymandering. When you think about this and you think of the breakup of some of the counties in our state, we are losing people in droves from primarily upstate, as we've heard over many years now, for various reasons that we don't need to get into. But the population upstate is shrinking.

By proportion, New York City has more people in it -- more than 28 districts, quite frankly. But now when you have some of the breakdown, for example, Republican to Democrat, some counties are 60, 90, 85 percent one party and the balance, all others.

So now that you can have more than four Senators representing a county, you can slice off some of that more favorable to any particular party and meander them into the suburbs. I'm out on the east end of Long Island, I'm Senate District 1, as we all know -- First District first, as the great Ken LaValle used to

say for many, many years in this house. That you could stretch my district, which is about a fifty-fifty breakup between Republican and Democrat, that you run my district all the way into the city and take a few election districts, or more than a few, and add and soften the ratio to make mine primarily more, for example, Democratic.

And then the other districts that were essentially 85, 90 percent Democrat, when my good friends and colleagues who represent those districts go on vacation after the primary -- they don't even have a general election that's really contested -- they'll soften that district a little to maybe 75 percent of their party, and then the balance would water down the rest.

So, my friends, this is the concern that we have with this bill, that this is clearly -- and it may have been done for other reasons, but the unintended consequence is clearly going to allow gerrymandering, which is exactly what we don't want to happen. And the Legislature should not be choosing voters, the voters should be choosing us.

As a result, I'll be voting in the

negative, and I urge my colleagues to do the same.

Thank you, Mr. President.

ACTING PRESIDENT BENJAMIN: Senator Boyle on the bill.

SENATOR BOYLE: Mr. President, on the bill.

I want to thank my colleague Senator Palumbo for a great debate on this piece of legislation.

There's nobody in this chamber that supports the idea of redistricting reform more than I do. As a matter of fact, many years ago when I served in the New York State Assembly, they redistricted my district in a way that most people couldn't believe -- took a line miles away down my block, around my house, and back up the other block. The New York Times referred to me as the poster boy for redistricting reform in an editorial.

We need redistricting reform, and this piece of legislation lessens that ability.

Ten years ago we decided on a bipartisan basis to make it an independent, a truly independent redistricting commission. What

happened since then, the majorities changed, and suddenly the reform-minded Democrats in the Majority are in the majority now and they're not so reform-minded.

I would say that this is an important piece of legislation, but not one that we should be doing on the first day of our legislative session.

There's an adage that some of my colleagues on the Majority side use: Read the room. I want to remind my colleagues it's a metaphor, it's not literal. I think the Majority Conference in this building, in this chamber, thinks that "reading the room" means reading the Democratic Conference Room, and that they all want this bill on this floor today, and a couple of election reform bills.

Reading the room, in my mind, is looking outside of this in what New Yorkers want. Every single one of us have our phones ringing off the hook of our constituents, millions of them, looking for vaccines. It is an utter disaster. Are we here today pressuring the Governor to do a better job, doing legislation to bring vaccines to millions of New Yorkers? No.

We're doing this piece of legislation and some minor Election Law reforms.

Let's read the room. Let's listen to millions of New Yorkers, get vaccines. Mr. President, I vote no.

ACTING PRESIDENT BENJAMIN: Senator Gianaris on the bill.

SENATOR GIANARIS: Thank you, Mr. President.

I want to address a little bit of what was said here, because it's laughable to hear the complaints from the Minority. Because what they are most upset about is that we're unraveling the grossly unfair redistricting that they have implemented for decades in this state.

I have the advantage or disadvantage, depending on your point of view, of having been here long enough to have lived through the last redistricting. And we had some of the worst lines, where communities are divided just to keep Democrats from getting elected, just to keep communities of color from having representation. It was gross, and we're fixing it.

Now, the Republicans are so bad at

what they do that we managed, this last election, to win those seats anyway. And so in the City of Rochester, in the City of Syracuse, where communities were intentionally divided to maintain Republican representation, in contradiction to what the voters actually wanted, we're fixing that.

So yes, we were able to overcome it politically because in fact it was the Republicans that hadn't read the room of the entire state in terms of what the people of this entire state wanted their representatives to advocate for. But we should fix it going forward so that never again do we have to deal with that kind of gross abuse of a democratic process by the now Minority.

And so, Mr. President, what the Republicans see as unfair is really just the restoration of fairness, allowing communities to actually be properly represented, as good government advocates should support.

So, Mr. President, I obviously encourage a yes vote on this important legislation. It will do wonders for restoring faith in our democracy, at least at the state,

while it's being torn apart by some folks nationally.

And I would just give a little bit of advice to my colleagues in the Minority. Despite their best efforts at gerrymandering through the years, they are still deeply in the minority. And if they would like to get out of there, and or at least take steps in that direction, they should not complain when we're trying to make the elections more fair. They should actually listen to the people of this state and start holding beliefs in accordance with what New Yorkers would prefer.

Thank you, Mr. President.

ACTING PRESIDENT BENJAMIN: Are there any other Senators wishing to be heard?

Seeing and hearing none, debate is closed.

The Secretary will ring the bell.

Call the roll on the resolution.

(The Secretary called the roll.)

ACTING PRESIDENT BENJAMIN: Senator Martucci to explain his vote.

SENATOR MARTUCCI: Thank you, Mr. President.

Let us be clear about what we're here doing today. The Majority is voting to gut a bipartisan independent commission, and instead is looking to interject new rules that will allow the Majority to control the redistricting process.

This is exactly the partisan nonsense that my constituents back home are sick of seeing here out of Albany. At a time when our small businesses are on life support and our communities are being ravaged by the pandemic, this Majority has chosen to help themselves rather than help their constituents, and that's sad.

Moreover, I'm not asking you to take my word for it. Good government groups like Citizens United {sic} and the League of Women Voters have also condemned this proposal. Any time the Republican Conference and Mike Martucci stands in unison with Citizens Union and the League of Women Voters and we actually agree on a proposal, that should be a clue that something is rotten in the bill.

If you care about fairness, if you care about bipartisanship like me, and if you

want to step away from the toxic politics of the moment and step toward ways that we can work together on good policy, you need to oppose this amendment today.

Mr. President, I vote nay and encourage my colleagues to do the same.

ACTING PRESIDENT BENJAMIN: Senator Martucci to be recorded in the negative.

Senator Lanza to explain his vote.

SENATOR LANZA: To explain my vote, Mr. President, thank you.

You know, I take exception to some of the comments that were made regarding what happened in the past. Let's remember, in the last 50 years the Republican Party never held control over the three -- the two houses of the Legislature and the executive branch. Which meant that anything that has happened over the last 50 years was bipartisan, was as a result of compromise between Democrats and Republicans.

And when there is compromise, when there is bipartisan work, when there is cooperation between the parties, that's when the people are best served.

You know, let's say it's true that

in the past the Republicans were so wrong, were so prejudiced, were so inequitable with respect to redistricting that we ended up with this injustice here in New York. Let's say that's true -- which it's not, in my opinion, humble.

That is not an excuses to make things worse, to go further in a partisan direction. If you believe that what happened in the past was wrong, then you should not repeat that offense as an excuse -- the old adage, two wrongs don't make a right. But beyond that, you shouldn't double down, which is what is happening here.

You know, the people voted. They wanted independence here. A reform-minded people, on both sides of the aisle, came together years ago and said, you know, we've got to fix this, there are issues here, let's have an independent council do this.

And so when we talk about the preference of the voters, we know what it is, very clearly. They want independence. This legislation takes us in the opposite direction.

And yes, I agree with Senator Gianaris: You have to be careful when you talk

about majorities, the tyranny of the majority. People ought to fear majorities in government, especially unanimous majorities. Because that's when people stop listening to each other.

And that's what we see here. We see a move away from independence to a new system where one party is going to make all the decisions. And whether it's the Republican Party or the Democratic Party, that never works out for the people of the State of New York or anywhere else in this country.

And so, accordingly, I vote no.

ACTING PRESIDENT BENJAMIN: Senator Gianaris to explain his vote.

SENATOR GIANARIS: Thank you, Mr. President.

Of course we're not making this worse, we're making it better. I appreciate that Senator Lanza thinks that removing the unfair obstacles they intentionally put in the way is making things worse. It's making it worse for them, I suppose, because they were building in unfair and antidemocratic advantages -- antidemocratic with a small "d" -- into this process.

And yes, those that agreed to this amendment almost a decade ago, and signed onto it, should be criticized. And I criticized everyone, including the Governor, when he agreed to it with you.

But the tradition in this chamber has been -- in the Capitol, I should say -- has been that each house takes care of its own lines and everybody else signs off on it. And so it was not a bipartisan agreement in the sense that the Executive and the Assembly sat there and drew the lines of the Senate collaboratively with the Senators -- they just agreed to whatever you wanted them to do.

And so let's just be clear that what we're doing now is actually creating a fair process, actually removing partisanship from this commission, which was intentionally built in as part of that rotten deal almost a decade ago.

And I enjoyed Senator Martucci's accidental slip of the tongue when he referred to Citizens United supporting this. Of course, Citizens United is an entity that's known with one of the most antidemocratic rulings that the Supreme Court of this country has ever made,

allowing free flowing of dark money into our campaigns. I'm sure he meant Citizens Union.

But this has been an issue that has divided the good government community. NYPIRG and Common Cause opposed this amendment at the time and support the amendment we're putting forward today. And I believe the good government groups that were supporting it back then thought it was merely the best they can get with an unfair Republican majority driving the train in this house.

So this is an improvement. This is something that will create less partisanship and more independence in the process, and I encourage everyone to vote yes, as I am.

Thank you, Mr. President.

ACTING PRESIDENT BENJAMIN: Senator Gianaris to be recorded in the affirmative.

Announce the results.

THE SECRETARY: In relation to Calendar 11, those Senators voting in the negative are Senators Akshar, Borrello, Boyle, Gallivan, Griffo, Helming, Jordan, Lanza, Martucci, Mattera, Oberacker, O'Mara, Ortt,

Palumbo, Rath, Ritchie, Serino, Stec, Tedisco and Weik.

Ayes, 42. Nays, 20.

ACTING PRESIDENT BENJAMIN: The resolution is adopted.

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

SENATOR GIANARIS: Is there any further business at the desk, Mr. President?

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

SENATOR GIANARIS: In that case I move to adjourn until Tuesday, January 19th, at 3:00 p.m., with intervening days being legislative days.

ACTING PRESIDENT BENJAMIN: On motion, the Senate stands adjourned until Tuesday, January 19th, at 3:00 p.m., with intervening days being legislative days.

(Whereupon, at 12:07 p.m., the Senate adjourned.)