

1 NEW YORK STATE SENATE

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3
4 THE STENOGRAPHIC RECORD

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7
8 ALBANY, NEW YORK

9 January 19, 2021

10 3:12 p.m.

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13
14 REGULAR SESSION

15
16
17
18 SENATOR BRIAN A. BENJAMIN, Acting President

19 ALEJANDRA N. PAULINO, ESQ., Secretary

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

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

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

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

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

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

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

15 THE SECRETARY: In Senate, Sunday,
16 January 17, 2021, the Senate met pursuant to
17 adjournment. The Journal of Saturday,
18 January 16, 2021, was read and approved. On
19 motion, Senate adjourned.

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

22 Presentation of petitions.

23 Messages from the Assembly.

24 Messages from the Governor.

25 Reports of standing committees.

1 Reports of select committees.

2 Communications and reports from
3 state officers.

4 Motions and resolutions.

5 Senator Gianaris.

6 SENATOR GIANARIS: Mr. President,
7 let me begin, as we have been, by congratulating
8 the Buffalo Bills on another victory this week.
9 Now they have two more to go, two more to go
10 before the season ends.

11 Can you please call an immediate
12 meeting of the Rules Committee in Room 332.

13 ACTING PRESIDENT BENJAMIN: There
14 will be an immediate meeting of the
15 Rules Committee in Room 332.

16 SENATOR GIANARIS: The Senate will
17 stand at ease.

18 ACTING PRESIDENT BENJAMIN: The
19 Senate will stand at ease.

20 (Whereupon, the Senate stood at ease
21 at 3:13 p.m.)

22 (Whereupon, the Senate reconvened at
23 3:26 p.m.)

24 ACTING PRESIDENT BENJAMIN: The
25 Senate will return to order.

1 Senator Gianaris.

2 SENATOR GIANARIS: Is there a
3 report of the Rules Committee at the desk?

4 ACTING PRESIDENT BENJAMIN: There
5 is a report of the Rules Committee at the desk.

6 The Secretary will read.

7 THE SECRETARY: Senator
8 Stewart-Cousins, from the Committee on Rules,
9 reports the following bills:

10 Senate Print 18A, by Senator Mayer,
11 an act to amend the Labor Law;

12 Senate Print 471A, by
13 Senator Kaplan, an act establishing the "COVID-19
14 Emergency Protect our Small Businesses Act of
15 2021";

16 Senate Print 1042A, by
17 Senator Ramos, an act to amend the Labor Law;

18 Senate Print 1184, by
19 Senator Gianaris, an act to amend the
20 Criminal Procedure Law and the Civil Practice
21 Law and Rules;

22 Senate Print 1197, by
23 Senator Persaud, an act to amend the Labor Law;

24 Senate Print 1295, by
25 Senator Gounardes, an act to amend the Labor Law;

1 Senate Print 1296, by
2 Senator Benjamin, an act requiring the Department
3 of Health of the State of New York to conduct a
4 review of the effects of racial and ethnic
5 disparities;

6 Senate Print 1297, by
7 Senator Reichlin-Melnick, an act to amend the
8 Chapter 598 of the Laws of 1938;

9 Senate Print 1298, by
10 Senator Savino, an act to amend the Workers'
11 Compensation Law;

12 Senate Print 1299, by
13 Senator Sanders, an act to amend the Labor Law;

14 Senate Print 1300, by
15 Senator Persaud, an act to amend a chapter of the
16 Laws of 2020;

17 Senate Print 1301, by Senator Brouk,
18 an act to direct the Commissioner of
19 Mental Health to create a workgroup;

20 Senate Print 1302, by Senator Ramos,
21 an act to amend the Labor Law;

22 Senate Print 1303, by
23 Senator Salazar, an act to amend the
24 Public Health Law;

25 Senate Print 1304, by

1 Senator Gounardes, an act to amend the
2 Public Authorities Law;

3 Senate Print 1305, by
4 Senator Hinchey, an act in relation to directing
5 the Commissioner of Agriculture and Markets to
6 work with the state's land grant university
7 system;

8 Senate Print 1306, by
9 Senator Kennedy, an act to amend a chapter of the
10 Laws of 2020;

11 Senate Print 1307, by
12 Senator Palumbo, an act to amend the
13 Insurance Law;

14 Senate Print 1308, by
15 Senator Cooney, an act to amend the
16 General Municipal Law;

17 Senate Print 1309, by
18 Senator Breslin, an act to amend the
19 Real Property Tax Law;

20 Senate Print 1310, by
21 Senator Breslin, an act to amend the
22 Election Law;

23 Senate Print 1554B, by
24 Senator Kavanagh, an act to amend the
25 General Business Law; and

1 Senate Print 1630A, by Senator
2 Savino, an act to amend the General Business Law.

3 All bills reported direct to third
4 reading.

5 SENATOR GIANARIS: Move to accept
6 the report of the Rules Committee.

7 ACTING PRESIDENT BENJAMIN: All in
8 favor of accepting the report of the
9 Rules Committee signify by saying aye.

10 (Response of "Aye.")

11 ACTING PRESIDENT BENJAMIN:
12 Opposed, nay.

13 (No response.)

14 ACTING PRESIDENT BENJAMIN: The
15 report is accepted and before the house.

16 SENATOR GIANARIS: Please take up
17 the reading of the calendar.

18 ACTING PRESIDENT BENJAMIN: The
19 Secretary will read.

20 THE SECRETARY: Calendar Number 15,
21 Senate Print 862, by Senator Gaughran, an act to
22 amend a chapter of the Laws of 2020.

23 ACTING PRESIDENT BENJAMIN: Read
24 the last section.

25 THE SECRETARY: Section 2. This

1 act shall take effect on the same date and in the
2 same manner as a chapter of the Laws of 2020.

3 ACTING PRESIDENT BENJAMIN: Call
4 the roll.

5 (The Secretary called the roll.)

6 ACTING PRESIDENT BENJAMIN:
7 Announce the results.

8 THE SECRETARY: In relation to
9 Calendar Number 15, those Senators voting in the
10 negative are Senators Akshar and O'Mara.

11 Ayes, 61. Nays, 2.

12 ACTING PRESIDENT BENJAMIN: The
13 bill is passed.

14 THE SECRETARY: Calendar Number 16,
15 Senate Print 863, by Senator Gaughran, an act to
16 amend a chapter of the Laws of 2020.

17 ACTING PRESIDENT BENJAMIN: Read
18 the last section.

19 THE SECRETARY: Section 2. This
20 act shall take effect on the same date and in the
21 same manner as a chapter of the Laws of 2020.

22 ACTING PRESIDENT BENJAMIN: Call
23 the roll.

24 (The Secretary called the roll.)

25 ACTING PRESIDENT BENJAMIN:

1 Announce the results.

2 THE SECRETARY: In relation to
3 Calendar Number 16, those Senators voting in the
4 negative are Senators Akshar and O'Mara.

5 Ayes, 61. Nays, 2.

6 ACTING PRESIDENT BENJAMIN: The
7 bill is passed.

8 THE SECRETARY: Calendar Number 19,
9 Senate Print 866, by Senator Brooks, an act to
10 amend the Executive Law.

11 ACTING PRESIDENT BENJAMIN: Read
12 the last section.

13 THE SECRETARY: Section 2. This
14 act shall take effect on the same date and in the
15 same manner as a chapter of the Laws of 2020.

16 ACTING PRESIDENT BENJAMIN: Call
17 the roll.

18 (The Secretary called the roll.)

19 ACTING PRESIDENT BENJAMIN:
20 Announce the results.

21 THE SECRETARY: Ayes, 63.

22 ACTING PRESIDENT BENJAMIN: The
23 bill is passed.

24 THE SECRETARY: Calendar Number 22,
25 Senate Print 869, by Senator Hoylman, an act to

1 amend the Public Health Law.

2 ACTING PRESIDENT BENJAMIN: Read
3 the last section.

4 THE SECRETARY: Section 2. This
5 act shall take effect on the same date and in the
6 same manner as a chapter of the Laws of 2020.

7 ACTING PRESIDENT BENJAMIN: Call
8 the roll.

9 (The Secretary called the roll.)

10 ACTING PRESIDENT BENJAMIN:
11 Announce the results.

12 THE SECRETARY: In relation to
13 Calendar Number 22, those Senators voting in the
14 negative are Senators Boyle, Gallivan, Griffo,
15 Ortt and Serino.

16 Ayes, 58. Nays, 5.

17 ACTING PRESIDENT BENJAMIN: The
18 bill is passed.

19 THE SECRETARY: Calendar Number 23,
20 Senate Print 870, by Senator Felder, an act to
21 amend the General Business Law.

22 ACTING PRESIDENT BENJAMIN: Read
23 the last section.

24 THE SECRETARY: Section 3. This
25 act shall take effect on the same date and in the

1 same manner as a chapter of the Laws of 2020.

2 ACTING PRESIDENT BENJAMIN: Call
3 the roll.

4 (The Secretary called the roll.)

5 ACTING PRESIDENT BENJAMIN:
6 Announce the results.

7 THE SECRETARY: Ayes, 63.

8 ACTING PRESIDENT BENJAMIN: The
9 bill is passed.

10 THE SECRETARY: Calendar Number 29,
11 Senate Print 876, by Senator Comrie, an act to
12 amend a chapter of the Laws of 2020.

13 ACTING PRESIDENT BENJAMIN: Read
14 the last section.

15 THE SECRETARY: Section 2. This
16 act shall take effect on the same date and in the
17 same manner as a chapter of the Laws of 2020.

18 ACTING PRESIDENT BENJAMIN: Call
19 the roll.

20 (The Secretary called the roll.)

21 ACTING PRESIDENT BENJAMIN:
22 Announce the results.

23 THE SECRETARY: In relation to
24 Calendar Number 29, those Senators voting in the
25 negative are Senators Akshar, Griffio and Ortt.

1 Ayes, 60. Nays, 3.

2 ACTING PRESIDENT BENJAMIN: The
3 bill is passed.

4 THE SECRETARY: Calendar Number 34,
5 Senate Print 881, by Senator Brooks, an act to
6 amend the Executive Law.

7 ACTING PRESIDENT BENJAMIN: Read
8 the last section.

9 THE SECRETARY: Section 2. This
10 act shall take effect on the same date and in the
11 same manner as a chapter of the Laws of 2020.

12 ACTING PRESIDENT BENJAMIN: Call
13 the roll.

14 (The Secretary called the roll.)

15 ACTING PRESIDENT BENJAMIN:
16 Announce the results.

17 THE SECRETARY: In relation to
18 Calendar Number 34, voting in the negative:
19 Senator Boyle.

20 Ayes, 62. Nays, 1.

21 ACTING PRESIDENT BENJAMIN: The
22 bill is passed.

23 THE SECRETARY: Calendar Number 37,
24 Senate Print 884, by Senator Gounardes, an act to
25 amend the Real Property Law.

1 ACTING PRESIDENT BENJAMIN: Read
2 the last section.

3 THE SECRETARY: Section 2. This
4 act shall take effect on the same date and in the
5 same manner as a chapter of the Laws of 2020.

6 ACTING PRESIDENT BENJAMIN: Call
7 the roll.

8 (The Secretary called the roll.)

9 ACTING PRESIDENT BENJAMIN:
10 Announce the results.

11 THE SECRETARY: In relation to
12 Calendar Number 37, those Senators voting in the
13 negative are Senators Borrello, Gallivan, Jordan,
14 O'Mara, Palumbo, Rath and Stec.

15 Ayes, 56. Nays, 7.

16 ACTING PRESIDENT BENJAMIN: The
17 bill is passed.

18 THE SECRETARY: Calendar Number 42,
19 Senate Print 889, by Senator Kaplan, an act to
20 amend the Economic Development Law.

21 SENATOR LANZA: Lay it aside.

22 ACTING PRESIDENT BENJAMIN: Lay it
23 aside.

24 THE SECRETARY: Calendar Number 51,
25 Senate Print 898, by Senator Thomas, an act to

1 amend the Financial Services Law.

2 ACTING PRESIDENT BENJAMIN: Read
3 the last section.

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

6 ACTING PRESIDENT BENJAMIN: Call
7 the roll.

8 (The Secretary called the roll.)

9 ACTING PRESIDENT BENJAMIN:
10 Announce the results.

11 THE SECRETARY: In relation to
12 Calendar Number 51, those Senators voting in the
13 negative are Senators Akshar, Borrello, Boyle,
14 Gallivan, Griffio, Jordan, Lanza, Martucci,
15 Mattera, Oberacker, O'Mara, Ortt, Palumbo, Rath,
16 Ritchie, Serino, Skoufis, Stec, Tedisco and Weik.

17 Ayes, 43. Nays, 20.

18 ACTING PRESIDENT BENJAMIN: The
19 bill is passed.

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

22 SENATOR GIANARIS: Can we now read
23 the supplemental calendar, please.

24 ACTING PRESIDENT BENJAMIN: The
25 Secretary will read.

1 THE SECRETARY: Calendar Number 59,
2 Senate Print 18A, by Senator Mayer, an act to
3 amend the Labor Law.

4 ACTING PRESIDENT BENJAMIN: Read
5 the last section.

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

8 ACTING PRESIDENT BENJAMIN: Call
9 the roll.

10 (The Secretary called the roll.)

11 ACTING PRESIDENT BENJAMIN: Senator
12 Mayer to explain her vote.

13 SENATOR MAYER: Thank you,
14 Mr. President.

15 I rise to explain my vote on S18A,
16 the bill to require the State Department of Labor
17 to enhance outreach and greatly expand
18 participation in the state's shared work program.

19 This program gives thousands of
20 New Yorkers the ability to continue to work at
21 reduced hours and still receive unemployment
22 insurance, while providing New York employers the
23 ability to save money by reducing payroll costs
24 without losing valued employees.

25 In the face of COVID, shared work

1 should be a key tool in the labor toolbox, and
2 yet it is dramatically underutilized. Currently
3 in New York State only about 3,000 plus employers
4 use this program.

5 In 1985, New York State adopted its
6 first work sharing legislation, following
7 authorization by Congress. In addition, as a
8 point of personal privilege, the bill signed by
9 then-Governor Mario Cuomo was based in part on
10 the strong advocacy of my husband, Lee Smith,
11 then general counsel to the State Labor
12 Department.

13 He knew the history of the idea of
14 shared work, first pioneered by Harry Van
15 Arsdale, then president of the Local 3 of the
16 IBEW. Through their system of periodic
17 furloughs, they showed that partial pay and
18 partial unemployment kept people in that
19 employer's workforce and retained access to
20 workplace benefits. It was a brilliant idea
21 then, and it has worked extremely well for
22 Local 3 over the years.

23 However, nationally, according to
24 the National Governors Association, in 2020,
25 while almost 70 percent of America's workforce

1 has access to some type of work sharing benefit,
2 during the first months of the COVID pandemic
3 only about 0.78 percent of all UI claimants were
4 using it.

5 President-elect Biden has called for
6 significant enhancement of this program, and we
7 hope that happens.

8 Personally, I'm grateful to have
9 worked with Commissioner Reardon to conduct such
10 outreach sessions this fall in Westchester,
11 cooperatively with the Westchester County
12 Association. This bill would require that kind
13 of effort to be replicated statewide in the face
14 of such dramatic economic loss in all of our
15 communities.

16 This is a necessary step to protect
17 employees while allowing employers to reduce
18 costs. I vote aye and encourage my colleagues to
19 do the same. This is the kind of smart,
20 progressive legislation this body should support.

21 Thank you, Mr. President.

22 ACTING PRESIDENT BENJAMIN: Senator
23 Mayer to be recorded in the affirmative.

24 Announce the results.

25 THE SECRETARY: Ayes, 63.

1 ACTING PRESIDENT BENJAMIN: The
2 bill is passed.

3 THE SECRETARY: Calendar Number 60,
4 Senate Print 471A, by Senator Kaplan, an act
5 establishing the "COVID-19 Emergency Protect Our
6 Small Businesses Act of 2021."

7 SENATOR LANZA: Lay it aside.

8 ACTING PRESIDENT BENJAMIN: Lay it
9 aside.

10 THE SECRETARY: Calendar Number 61,
11 Senate Print 1042A, by Senator Ramos, an act to
12 amend the Labor Law.

13 ACTING PRESIDENT BENJAMIN: Read
14 the last section.

15 THE SECRETARY: Section 3. This
16 act shall take effect on the 30th day after it
17 shall have become a law.

18 ACTING PRESIDENT BENJAMIN: Call
19 the roll.

20 (The Secretary called the roll.)

21 ACTING PRESIDENT BENJAMIN: Senator
22 Mayer to explain her vote.

23 SENATOR MAYER: Thank you,
24 Mr. President.

25 I also rise to express my strong

1 support and thank Senator Ramos and our leader,
2 Senator Andrea Stewart-Cousins, for bringing this
3 bill to the floor.

4 Like many of my colleagues, I have
5 thousands of constituents who work two part-time
6 jobs in order to make ends meet and, frankly, to
7 afford the cost of housing in the suburbs of
8 New York City. For many of them, they have been
9 laid off by one job and retained the other, but
10 the other was a five-day-a-week job, and that in
11 and of itself disqualified them from
12 unemployment.

13 That does not make sense, it is not
14 fair, and it really hurt the constituents of my
15 district and I suspect of so many others.

16 This bill is a strong step in the
17 right direction. We need to continue to expand
18 unemployment insurance during this time of great
19 stress, and this is a long overdue change. I
20 commend Senator Ramos and the Majority Leader.
21 Thank you for bringing this bill to the floor.

22 I vote aye.

23 ACTING PRESIDENT BENJAMIN: Senator
24 Mayer to be recorded in the affirmative.

25 Announce the results.

1 THE SECRETARY: In relation to
2 Calendar Number 61, voting in the negative:
3 Senator Rath.

4 Ayes, 62. Nays, 1.

5 ACTING PRESIDENT BENJAMIN: The
6 bill is passed.

7 SENATOR GIANARIS: Mr. President,
8 we have one more member we're getting in the
9 chamber to explain her vote.

10 SENATOR RAMOS: Apologies,
11 Mr. President. I am getting used to my new
12 bearings here.

13 ACTING PRESIDENT BENJAMIN: No
14 problem. Senator Ramos to explain her vote.

15 SENATOR RAMOS: Thank you so much,
16 Mr. President.

17 I want to start by thanking our
18 super-duper Majority Leader, Andrea
19 Stewart-Cousins.

20 I'm so proud to be passing this bill
21 today at a time when New Yorkers need a helping
22 hand the most. I think in lieu of the Governor
23 raising taxes on the wealthy as soon as he
24 should, we are finally allowing approximately
25 500,000 part-time workers in New York State to be

1 able to access unemployment benefits in a way
2 that they haven't been able to before.

3 It's unfortunate that our system has
4 long been antiquated and has denied New Yorkers a
5 disproportionate portion of their hard-earned
6 hours of work.

7 And so we're correcting this wrong
8 today, and I'm looking forward to having a much
9 more robust partial unemployment insurance system
10 that will help many, many more New Yorkers and
11 significantly contribute to our economy in that
12 way. So thank you, Mr. President.

13 And I of course want to thank our
14 Majority Leader, Andrea Stewart-Cousins, for her
15 support as well.

16 ACTING PRESIDENT BENJAMIN:
17 Senator Ramos to be recorded in the affirmative.

18 Announce the results.

19 THE SECRETARY: Ayes, 62. Nays, 1.

20 ACTING PRESIDENT BENJAMIN: The
21 bill is passed.

22 THE SECRETARY: Calendar Number 62,
23 Senate Print 1197, by Senator Persaud, an act to
24 amend the Labor Law.

25 ACTING PRESIDENT BENJAMIN: Read

1 the last section.

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

4 ACTING PRESIDENT BENJAMIN: Call
5 the roll.

6 (The Secretary called the roll.)

7 ACTING PRESIDENT BENJAMIN: Senator
8 Borrello to explain his vote.

9 SENATOR BORRELLO: Thank you,
10 Mr. President.

11 I can tell you that there are
12 businesses across New York State that are
13 breathing a tremendous sigh of relief. Many
14 other states before us have passed an
15 unemployment insurance experience rating hold
16 harmless, which is what this bill would do. I'd
17 like to thank the sponsor.

18 And also, this is something that
19 myself and Senator Helming have introduced, I
20 believe back in April. That's why I said
21 businesses are waiting on pins and needles. This
22 is perhaps the number-one issue I have heard,
23 across the board, for business owners in our
24 state: The fact that when this pandemic hit,
25 many of them were forced to close, and those

1 people had to collect unemployment insurance,
2 obviously. But then we had the unintended
3 consequence of the enhanced benefit from the
4 federal government, which made things far worse
5 for our business owners.

6 I can tell you, speaking from
7 personal experience as a business owner in
8 New York State, my wife watched the pile of
9 unemployment claims on her desk pile up as she
10 struggled to hire people to work in our
11 businesses. So it was really an unfair,
12 unintended consequence.

13 As a result, NFIB and other
14 organizations that represent small businesses has
15 said that the likely result of this would be
16 unemployment insurance rates doubling, on
17 average, doubling for our businesses here in
18 New York State. This would have been a death
19 knell for our small businesses that are already
20 hanging on by a thread.

21 So this is a start, a great start,
22 to provide long overdue assistance for our small
23 businesses. So Mr. President, I am glad to have
24 this bill, glad that it is passing this house,
25 and once again I'd like to thank the sponsor.

1 And hopefully we'll have more bills like this
2 come through this chamber.

3 Thank you.

4 ACTING PRESIDENT BENJAMIN: Senator
5 Borrello to be recorded in the affirmative.

6 Announce the results.

7 THE SECRETARY: Ayes, 63.

8 ACTING PRESIDENT BENJAMIN: The
9 bill is passed.

10 THE SECRETARY: Calendar Number 63,
11 Senate Print 1554B, by Senator Kavanagh, an act
12 to amend the General Business Law.

13 ACTING PRESIDENT BENJAMIN: Read
14 the last section.

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

17 ACTING PRESIDENT BENJAMIN: Call
18 the roll.

19 (The Secretary called the roll.)

20 ACTING PRESIDENT BENJAMIN: Senator
21 Kavanagh to explain his vote.

22 SENATOR KAVANAGH: Thank you,
23 Mr. President. I just rise briefly to, you know,
24 note the step that we're taking today.

25 You know, many of our -- in most of

1 our communities throughout the state, our
2 restaurants are struggling. They're struggling
3 because of course a lot of their normal business
4 has not been permitted during COVID-19. And that
5 is necessary and appropriate as a public health
6 measure.

7 But at the same time, as in many
8 areas, COVID has exposed, you know, underlying
9 conditions that have been problematic for a long
10 time. One of them is that, increasingly, online
11 delivery services -- which have become an
12 essential part of the industry -- that permit
13 people to go on an online application and order
14 food, increasingly have been charging our
15 restaurants exorbitant fees for their services,
16 fees that cannot be avoided and fees that often
17 exceed just the necessary fee in order to deliver
18 food.

19 So this bill sets a cap on that. It
20 does it for the duration of the COVID emergency
21 plus a period subsequent to that. I will say
22 today that we're doing it during the COVID-19
23 emergency. I will be looking to revisit that
24 when this emergency expires, because we've had
25 legislation on this topic for a while. We have

1 gotten some concern from people in the industry
2 about this, and we will be considering those.

3 But it's a very big step that we're
4 taking today to protect our restaurants, to
5 ensure that they can function and that they can
6 do business and that they're not unduly burdened
7 by these delivery services.

8 I vote aye. Thank you.

9 ACTING PRESIDENT BENJAMIN: Senator
10 Kavanaugh to be recorded in the affirmative.

11 Announce the results.

12 THE SECRETARY: In relation to
13 Calendar Number 63, those Senators voting in the
14 negative are Senators Akshar and Savino.

15 Ayes, 61. Nays, 2.

16 ACTING PRESIDENT BENJAMIN: The
17 bill is passed.

18 THE SECRETARY: Calendar Number 64,
19 Senate Print 1630A, by Senator Savino, an act to
20 amend the General Business Law.

21 ACTING PRESIDENT BENJAMIN: Read
22 the last section.

23 THE SECRETARY: Section 2. This
24 act shall take effect on the 60th day after it
25 shall have become a law.

1 ACTING PRESIDENT BENJAMIN: Call
2 the roll.

3 (The Secretary called the roll.)

4 ACTING PRESIDENT BENJAMIN: Senator
5 Savino to explain her vote.

6 SENATOR SAVINO: Thank you,
7 Mr. President. Good to see you up there.

8 ACTING PRESIDENT BENJAMIN: Good to
9 see you too.

10 SENATOR SAVINO: So I know we just
11 heard from Senator Kavanaugh on his bill that
12 spoke about third-party delivery apps. I actually
13 voted no on that bill. I have some proposed
14 changes to that bill that I hope to see come to
15 this floor, and I'll be able to vote for it in
16 the future.

17 But third-party delivery apps have
18 been an integral part of allowing restaurants who
19 have been inordinately affected during this
20 pandemic to be able to operate. But one of the
21 things we have seen is that sometimes there is
22 some ambiguity in the relationship that exists
23 between third-party delivery apps and the very
24 restaurants that have become dependent upon them.

25 And one of the things that we have

1 found is that third-party delivery apps were
2 listing restaurants on their sites without the
3 approval or the written consent of those
4 restaurants. And that put them in a position
5 where they did not know who was delivering for
6 them, who was controlling their image, who was
7 promoting them, who was marketing them. And that
8 had put them at a competitive disadvantage, and
9 sometimes put them in a position where their
10 customers were receiving products that might have
11 been contaminated, that were not properly
12 transported, and they had no control over that.

13 So this legislation would simply
14 require that a third-party delivery app, before
15 it can transport products from a merchant,
16 particularly restaurants, to a consumer, must
17 have a written authorization between that entity
18 in order to do business with them. Very simple.

19 You should know who's coming into
20 your restaurant to pick up your product to
21 deliver to your customer. It should be clear, it
22 should be in simple language, and you should have
23 that relationship ahead of time. And that is
24 what this bill is about.

25 Thank you, Mr. President.

1 ACTING PRESIDENT BENJAMIN: Senator
2 Savino to be recorded in the affirmative.

3 Announce the results.

4 THE SECRETARY: In relation to
5 Calendar Number 64, voting in the negative:
6 Senator Martucci.

7 Ayes, 62. Nays, 1.

8 ACTING PRESIDENT BENJAMIN: The
9 bill is passed.
10 Senator Gianaris, that completes the
11 reading of the supplemental calendar.

12 SENATOR GIANARIS: Can we now take
13 up the reading of the controversial calendar,
14 please.

15 ACTING PRESIDENT BENJAMIN: The
16 Secretary will ring the bell.

17 The Secretary will read.

18 THE SECRETARY: Calendar Number 42,
19 Senate Print 889, by Senator Kaplan, an act to
20 amend the Economic Development Law.

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

23 SENATOR LANZA: Mr. President, I
24 believe there's an amendment at the desk. I
25 waive the reading of that amendment and ask that

1 you recognize Senator Gallivan to be heard.

2 ACTING PRESIDENT BENJAMIN: Thank
3 you, Senator Lanza.

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

7 SENATOR LANZA: Mr. President,
8 accordingly I appeal the chair's ruling and ask
9 that Senator Gallivan be recognized and heard.

10 ACTING PRESIDENT BENJAMIN: The
11 appeal has been made and recognized, and Senator
12 Gallivan may be heard.

13 SENATOR GALLIVAN: Thank you,
14 Mr. President.

15 I appeal the ruling of the chair.
16 The proposed amendment is germane to the bill at
17 hand because it deals with small businesses at a
18 time when they are facing unprecedented
19 challenges, and this amendment would restore
20 checks and balances in the state's handling of
21 the coronavirus pandemic.

22 For 322 days the Governor has had
23 unilateral control of the coronavirus response.
24 His policies have resulted in thousands of
25 layoffs, business closures, and irreparable harm

1 to many industries of the state -- one in
2 particular, the food service and restaurant
3 industry, which has faced unique and devastating
4 challenges.

5 On March 16, 2020, the Governor
6 announced the prohibition on indoor dining and
7 gave restaurants and bars only two days to evolve
8 their business into takeout and delivery only.
9 While able to continue accepting patrons through
10 takeout and delivery services, restaurants and
11 bars were forced to lay off dedicated staff, and
12 many even closed their doors for good.

13 Finally, in mid-June, restaurants
14 around the state began reopening in Phase 3,
15 subject to reopening guidance. On July 16th the
16 Governor instituted the "three strikes" policy
17 establishing fines and threats of closure on
18 restaurants and bars, along with instituting
19 policies that prohibited establishments from
20 solely serving alcohol to patrons.

21 This struggle continued until
22 October, when the Governor once again moved the
23 goal post and announced a new microcluster
24 strategy, which established yellow, orange and
25 red zones, each with varying metrics.

1 On November 6, 2020, parts of Erie
2 County met the state's metrics to classify as a
3 yellow zone, which permitted indoor and outdoor
4 dining but limited table capacity to four
5 individuals and required bars and restaurants to
6 close at 10 p.m. for on-premise consumption.

7 By November 18th, the majority of
8 Erie County was designated as an orange zone,
9 which prohibited indoor dining. It didn't end
10 there.

11 On December 10th, the Governor
12 announced yet another new metric to determine
13 microcluster focus zones having to do with
14 hospital capacity. For orange zone
15 qualification, this required a region had to
16 reach 85 percent hospital capacity.

17 And then, on December 11th, the
18 Governor provided what he called "probably the
19 most informative data" showing only 1.43 percent
20 of cases are traceable to restaurants and bars --
21 1.43 percent.

22 This justifiably created chaos and
23 confusion, since no part of Erie County had
24 reached the new metric, yet indoor dining
25 remained shut down. This questionable

1 science-and-data-driven policy undoubtedly raised
2 not only questions but also tensions. More than
3 90 restaurants and bars challenged the orange
4 zone dining restrictions.

5 And only on January 13, 2021, just
6 last week Erie County Court found in maintaining
7 much of Erie County in an orange zone for well
8 over two months, the Department of Health was not
9 relying on the established metrics and
10 inconsistent designations were utilized
11 statewide.

12 Most importantly, the court could
13 not find evidence that the state had a rational
14 basis for the orange zone designation in
15 Erie County, and that bars and restaurants in the
16 area suffered irreparable harm and thousands of
17 layoffs, loss of income and revenue, potential
18 foreclosure, and hardship upon all Erie County
19 residents.

20 The court permitted those involved
21 in the lawsuit the ability to operate under
22 yellow zone restrictions pursuant to established
23 COVID-19 interim guidance.

24 The court's recognition of the
25 arbitrary nature of this style of management

1 throughout the pandemic only amplifies the
2 justification to rescind the extraordinary powers
3 the Governor continues to wield.

4 In the wake of this ruling, the
5 Governor's own counsel announced all bars and
6 restaurants located within orange zones could now
7 operate under the rules governing yellow zones.

8 The Executive's walking back of his
9 own policies is in and of itself an
10 acknowledgment of the arbitrariness in this
11 decision-making and thus further confirmation
12 that it is time that the Legislature acts to
13 restore balance in our state government by
14 rescinding the unilateral authority granted to
15 the Governor and fulfills its constitutional
16 obligation.

17 For these reasons, Mr. President, I
18 ask that you reconsider and rule this amendment
19 germane.

20 ACTING PRESIDENT BENJAMIN: Thank
21 you, Senator Gallivan.

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

25 Those in favor of overruling the

1 chair signify by saying aye.

2 (Response of "Aye.")

3 SENATOR LANZA: Request a show of
4 hands.

5 SENATOR GIANARIS: Mr. President,
6 we've agreed once again to waive the showing of
7 hands and record each member of the Minority in
8 the affirmative.

9 ACTING PRESIDENT BENJAMIN: Without
10 objection, so ordered.

11 Announce the results.

12 THE SECRETARY: Ayes, 20.

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

16 Are there any other Senators wishing
17 to be heard?

18 Seeing and hearing -- oh, sorry.
19 Senator Jordan.

20 SENATOR JORDAN: Yes, hi. Thank
21 you, Mr. President.

22 Will the sponsor yield for
23 questioning?

24 ACTING PRESIDENT BENJAMIN: Does
25 the sponsor yield?

1 SENATOR KAPLAN: Yes,
2 Mr. President.

3 ACTING PRESIDENT BENJAMIN: The
4 sponsor yields.

5 SENATOR JORDAN: Thank you.
6 What is the difference between this
7 bill and Senate Bill 7350, which was the
8 underlying bill chaptered as 339 of the Laws of
9 2020?

10 SENATOR KAPLAN: Through you,
11 Mr. President, this bill ensures the agencies
12 will provide the information to the Department of
13 Economic Development and includes, more
14 specifically, related information about
15 employment-level requirements and ownership
16 requirements.

17 The technical changes made are to
18 move this mandate from the Executive Law to
19 Economic Development Law and remove the
20 limitation as to 50 or fewer.

21 And finally, the amendment directs
22 agencies to provide the information by July 1,
23 2021, to give departments more time to comply.
24 And the original date was 180 days after the
25 effective date.

1 SENATOR JORDAN: Will the sponsor
2 yield for another question?

3 ACTING PRESIDENT BENJAMIN: Will
4 the sponsor yield?

5 SENATOR KAPLAN: Yes,
6 Mr. President.

7 ACTING PRESIDENT BENJAMIN: The
8 sponsor yields.

9 SENATOR JORDAN: It is my
10 understanding that in this bill the requirement
11 for the Empire State Development Corporation to
12 publish this information was now removed. Is
13 that correct?

14 SENATOR KAPLAN: Yes, it is
15 supposed to -- through you, Mr. President, ESD is
16 supposed to put this information out on their
17 website.

18 SENATOR JORDAN: Will the sponsor
19 yield?

20 ACTING PRESIDENT BENJAMIN: Does
21 the sponsor yield?

22 SENATOR KAPLAN: Yes.

23 ACTING PRESIDENT BENJAMIN: The
24 sponsor yields.

25 SENATOR JORDAN: So Empire State

1 Development Corporation is still going to publish
2 the listing of the businesses?

3 SENATOR KAPLAN: Through you,
4 Mr. President. The agencies are going to share
5 their information with the Empire Development
6 agency, and they are going to post it on their
7 website.

8 SENATOR JORDAN: Thank you,
9 Senator Kaplan.

10 On the bill.

11 ACTING PRESIDENT BENJAMIN: Senator
12 Jordan on the bill.

13 SENATOR JORDAN: While I voted yes
14 on the original bill, I'll be a no vote today,
15 because this chapter amendment completely
16 undercuts the purpose of the original bill by no
17 longer requiring that this list of available
18 programs to assist small businesses to be
19 published by the Empire State Development
20 Corporation.

21 It seems that during a pandemic,
22 where many small businesses are struggling, we
23 shouldn't be rolling back provisions of law
24 designed to help the small businesses.

25 Thank you.

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

3 Seeing and hearing none, debate is
4 closed.

5 The Secretary will ring the bell.

6 Read the last section.

7 THE SECRETARY: Section 3. This
8 act shall take effect on the same date and in the
9 same manner as a chapter of the Laws of 2020.

10 ACTING PRESIDENT BENJAMIN: Call
11 the roll.

12 (The Secretary called the roll.)

13 ACTING PRESIDENT BENJAMIN:
14 Announce the results.

15 THE SECRETARY: In relation to
16 Calendar Number 42, those Senators recorded in
17 the negative are Senators Akshar, Borrello,
18 Gallivan, Jordan, Lanza, Oberacker, O'Mara, Ortt,
19 Rath, Stec, Tedisco and Weik.

20 Ayes, 51. Nays, 12.

21 ACTING PRESIDENT BENJAMIN: The
22 bill is passed.

23 The Secretary will read.

24 THE SECRETARY: Calendar Number 60,
25 Senate Print 471A, by Senator Kaplan, an act

1 establishing the "COVID-19 Emergency Protect Our
2 Small Businesses Act of 2021."

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

5 SENATOR LANZA: Mr. President, I
6 believe there's an amendment at the desk. I
7 waive the reading of that amendment and ask that
8 you recognize Senator Helming to be heard.

9 ACTING PRESIDENT BENJAMIN: Thank
10 you, Senator Lanza.

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

14 SENATOR LANZA: Accordingly,
15 Mr. President, I appeal the chair's ruling and
16 ask that Senator Helming be recognized.

17 ACTING PRESIDENT BENJAMIN: The
18 appeal has been made and recognized, and
19 Senator Helming may be heard.

20 SENATOR HELMING: Thank you,
21 Mr. President.

22 On the germaneness of this bill,
23 Mr. President, this amendment is germane because
24 both of these bills apply to small businesses.

25 Even before the pandemic, New York

1 had one of the worst business climates in the
2 country, which made it difficult for our small
3 businesses to thrive. Pair that with the
4 devastating effects of the pandemic, many of
5 these businesses, as we all know, are facing a
6 horrible threat.

7 One step that this chamber should
8 take immediately is to cut taxes on small
9 businesses to give them a better chance of
10 surviving this pandemic.

11 For this reason, Mr. President, I
12 ask that you reconsider your determination.

13 ACTING PRESIDENT BENJAMIN: Thank
14 you, Senator Helming.

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

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

20 (Response of "Aye.")

21 SENATOR LANZA: Request a show of
22 hands, Mr. President.

23 SENATOR GIANARIS: Once again,
24 Mr. President, we've agreed to waive the showing
25 of hands and record each member of the Minority

1 in the affirmative.

2 ACTING PRESIDENT BENJAMIN: Without
3 objection, so ordered.

4 Announce the results.

5 THE SECRETARY: Ayes, 20.

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

9 Senator Helming.

10 SENATOR HELMING: Mr. President,
11 will the sponsor please yield to questions.

12 ACTING PRESIDENT BENJAMIN: Does
13 the sponsor yield?

14 SENATOR KAPLAN: Yes,
15 Mr. President.

16 ACTING PRESIDENT BENJAMIN: The
17 sponsor yields.

18 SENATOR HELMING: Through you,
19 Mr. President. Senator Kaplan, thank you for
20 yielding to questions. I have just a couple of
21 them.

22 During the past year there were
23 several hearings, public hearings that were held,
24 roundtables, et cetera, where businesses from
25 across the State of New York were invited to

1 share their concerns, what they're -- to talk
2 about what they're experiencing during the
3 pandemic. I know, Senator Kaplan, you hosted
4 several of those events. I attended them. They
5 were fantastic.

6 And the feedback that we had from so
7 many small businesses during those roundtables
8 and hearings was they were looking for primarily
9 two things from their state legislators. One,
10 they were looking for us to be stronger advocates
11 at the federal level, for additional federal
12 funding. And two, they were looking for some
13 sort of relief from unemployment insurance. They
14 wanted to be held harmless for things they
15 weren't responsible for during the pandemic.

16 So those two issues were identified.
17 Senator Kaplan, what I'm wondering is -- I'm sure
18 you've spoken to a lot of small businesses since
19 those hearings and while this drafting this bill,
20 considering their input. What types of needs
21 were identified by the small businesses?

22 SENATOR KAPLAN: Through you,
23 Mr. President.

24 I really am very appreciative to
25 hear Senator Helming saying that we all need to

1 be, all in one voice, asking our federal
2 government to help us and help our small
3 businesses because of the pandemic and what
4 they're going through.

5 With that said, yes, we all know
6 that the small businesses are hurting right now
7 due to the pandemic. And this bill seeks to hit
8 the pause button on eviction and foreclosure
9 proceedings on small businesses through May 1,
10 2021, and also offers protections for small
11 landlords of commercial properties, again through
12 May 1, 2021.

13 Part A of this bill creates a
14 commercial eviction moratorium for small
15 businesses of 50 or fewer employees and creates a
16 standardized hardship declaration form to be used
17 by tenants and landlords in order to take
18 advantage of the protection offered by this
19 legislation.

20 Part B of this bill creates a
21 moratorium on commercial foreclosures of small
22 businesses of 50 or fewer employees that have 10
23 or fewer properties that they are renting. In
24 addition, Part B also provides tax lien
25 protection and negative credit recording

1 protection for the same small business property
2 owners.

3 I'd like to also point out this has
4 been a collaborative piece of legislation that
5 has taken into account many suggestions from
6 different stakeholders and has carried -- and has
7 earned the support of the National Federation of
8 Independent Business in New York.

9 And with that, I'm happy to answer
10 any other questions that you might have.

11 SENATOR HELMING: Thank you.

12 Through you, Mr. President, will the
13 sponsor continue to yield?

14 ACTING PRESIDENT BENJAMIN: Does
15 the sponsor yield?

16 SENATOR KAPLAN: Yes,
17 Mr. President.

18 ACTING PRESIDENT BENJAMIN: The
19 sponsor yields.

20 SENATOR HELMING: So I heard an
21 explanation of the bill, a summary of the bill,
22 if you will, but not a specific answer to the
23 question on what specific needs were identified
24 in the small businesses you spoke with.

25 When I'm speaking with businesses,

1 they're looking for long-term assistance from
2 this body. They are struggling. You drive
3 around Albany, you drive in New York City, you
4 drive anywhere in the state and you see our
5 business districts are suffering. Businesses are
6 closing down.

7 Yelp did a national study last year;
8 the conclusion was that between April and
9 September, roughly 160,000 businesses closed
10 their doors. That averages out to about -- well,
11 more than 800 closures a day.

12 Then there's the data from the
13 University of California that the number of
14 closures could be even higher. With the
15 university's data, that bumps that figure up to
16 nearly 317,000 businesses that have closed
17 between February and September of 2020. That
18 bumps the daily average up to 15,000 closures.

19 So, Senator Kaplan, I guess my
20 question is when we think about this bill and the
21 short-term aspect of it, that it only -- it kicks
22 the can down the road until May, can you tell me
23 how many businesses are going to be able to
24 reopen or stay open because of this bill?

25 SENATOR KAPLAN: Through you,

1 Mr. President. We've learned that we can't
2 really count on the federal government, based on
3 what we've seen this past year. We know our
4 small businesses are hurting. We are really
5 hoping that we will get another set of loans or
6 grants from the federal government with the new
7 administration -- but the fact is the small
8 businesses need our help right now.

9 This legislation basically is a way
10 for us to help these small businesses and create
11 an easier and earlier mechanism for these small
12 businesses to survive and not to fail. Giving
13 them an opportunity of breathing time until
14 May 1st, and hopefully by then we will get more
15 funding from the federal government that would be
16 very helpful with our small businesses.

17 SENATOR HELMING: Through you,
18 Mr. President, will the sponsor continue to
19 yield?

20 ACTING PRESIDENT BENJAMIN: The
21 sponsor yields.

22 SENATOR KAPLAN: Yes,
23 Mr. President.

24 SENATOR HELMING: So according to a
25 New York Times article that I read, they said

1 that one-third of all New York State small
2 businesses may be gone, just lost forever.
3 Owners have said they've exhausted the funding
4 that's come through federal agencies and local
5 assistance.

6 And, Senator Kaplan, I know you're
7 probably aware that New York City has a
8 commercial lease assistance program. This
9 program helps businesses with issues such as
10 signing a new lease, amending, renewing or
11 terminating a lease.

12 Did you look into programs that are
13 currently operating successfully in New York and
14 consider applying them statewide before
15 introducing this bill?

16 SENATOR KAPLAN: Through you,
17 Mr. President. Again, what this bill basically
18 does, it puts a pause to let a small business to
19 get their footing.

20 I'm more than happy to also discuss
21 with my colleagues and come up with more ways we
22 can help our small businesses. Our small
23 businesses are the backbone of our communities
24 and our state, and they're really important for
25 our economy. And we want to do everything in our

1 power. That's why we took this action and have
2 this legislation, to put everything on pause and
3 give them an opportunity to survive through these
4 difficult times, with the hope that they will get
5 more funding -- and we will get more funding --
6 through the federal government.

7 SENATOR HELMING: Through you,
8 Mr. President, will the sponsor continue to
9 yield.

10 ACTING PRESIDENT BENJAMIN: Does
11 the sponsor yield?

12 SENATOR KAPLAN: Yes,
13 Mr. President.

14 ACTING PRESIDENT BENJAMIN: The
15 sponsor yields.

16 SENATOR HELMING: So over and over
17 again I hear about putting things on pause. The
18 problem is is that we can't pause COVID. We're
19 trying, but we even fumbled on the rollout of the
20 vaccine, and we have no bills here before us to
21 even deal with that.

22 But going back to New York State and
23 hoping to receive additional federal dollars,
24 we're -- we know that's going to happen. But
25 Senator Kaplan, what I'd like to know, and I

1 asked this question when the tenant bill came up,
2 is the State of New York did receive federal
3 dollars. Where is that funding? In your
4 opinion, is that funding being successfully
5 utilized to support small businesses?

6 SENATOR KAPLAN: Well, I have to
7 say that there has been different programs. And
8 I really encourage every small business to look
9 into ESD and see what can be really applicable to
10 their business, and also take advantage of all
11 the federal grants and loans that have been
12 available.

13 Again, what this bill does -- it's
14 not saying stop paying rent. It is not saying
15 stop paying your mortgage. It simply says if you
16 are struggling, you get some time, breathing
17 room, to sort out your situation without looming
18 of eviction or foreclosure.

19 SENATOR HELMING: Through you,
20 Mr. President, will the sponsor continue to
21 yield?

22 ACTING PRESIDENT BENJAMIN: Does
23 the sponsor yield?

24 SENATOR HELMING: Senator Kaplan,
25 the funding that New York State has received --

1 ACTING PRESIDENT BENJAMIN: Does
2 the sponsor yield? Does the sponsor yield?

3 SENATOR KAPLAN: Yes,
4 Mr. President.

5 ACTING PRESIDENT BENJAMIN: The
6 sponsor yields.

7 SENATOR HELMING: Thank you.

8 Senator Kaplan, so the funding that
9 the state has received from the federal
10 government, in your opinion has it been
11 successfully utilized to support small
12 businesses?

13 SENATOR KAPLAN: Through you,
14 Mr. President, I think I answered the question.

15 SENATOR HELMING: Through you,
16 Mr. President, will the sponsor continue to
17 yield.

18 ACTING PRESIDENT BENJAMIN: Does
19 the sponsor yield?

20 SENATOR KAPLAN: Yes,
21 Mr. President.

22 ACTING PRESIDENT BENJAMIN: The
23 sponsor yields.

24 SENATOR HELMING: I did not hear a
25 yes or no response to the question how is the

1 funding being successfully utilized to support
2 small businesses.

3 When we had a very similar bill on
4 this floor and we were talking about residential
5 evictions and pausing those, there was talk about
6 a hundred -- I think it was \$100 million that the
7 state had received and \$60 million was still
8 sitting there.

9 So I guess, Senator Kaplan, I'll ask
10 one more time. In your opinion, has New York
11 State -- have they handed out or have they
12 supported small businesses by distributing the
13 full amount of federal dollars that have been
14 earmarked for the state for small businesses?

15 SENATOR KAPLAN: Through you,
16 Mr. President. I know that there was money
17 available. It is on the ESD website, you have to
18 qualify. I've urged every business that has had
19 this conversation with us, and with different
20 chambers, for them to go ahead and look and see
21 if those funds would be applicable to them.

22 SENATOR HELMING: Through you,
23 Mr. President, will the sponsor continue to
24 yield?

25 ACTING PRESIDENT BENJAMIN: Does

1 the sponsor yield?

2 SENATOR KAPLAN: Yes,
3 Mr. President.

4 ACTING PRESIDENT BENJAMIN: The
5 sponsor yields.

6 SENATOR HELMING: Senator Kaplan,
7 so you are saying that right now small businesses
8 can go to a certain website to apply for state
9 funding assistance, there are dollars available
10 for small businesses through the state for the
11 pandemic specifically?

12 SENATOR KAPLAN: Through you,
13 Mr. President, I believe I've answered this.

14 That's not really what this bill is
15 dealing with. If Senator Helming has a question
16 about the bill, I'm more than happy to answer
17 those questions.

18 SENATOR HELMING: Through you,
19 Mr. President, will the sponsor continue to
20 yield?

21 ACTING PRESIDENT BENJAMIN: Does
22 the sponsor yield?

23 SENATOR KAPLAN: Yes,
24 Mr. President.

25 ACTING PRESIDENT BENJAMIN: The

1 sponsor yields.

2 SENATOR HELMING: So,
3 Senator Kaplan, again, we've -- I've heard how
4 this bill pauses, and it may be able to help some
5 small businesses by buying them some time before
6 their rent is due again.

7 But again, when I ask the question
8 how many businesses could be helped or what type
9 of specific assistance businesses are looking
10 for, or even if the funding that we've already
11 received from the federal government has been
12 appropriately rolled out to small businesses, I
13 haven't really gotten an answer.

14 Which leads me to this question:
15 Will the Legislature need to revisit this bill
16 again after May 2nd when the moratorium expires?

17 SENATOR KAPLAN: Through you,
18 Mr. President, this legislation just deals with
19 the moratorium going until May 1, 2021.

20 I also would really like to point
21 out Senator Helming authored an article called
22 "Let's Do the Work We Were Elected To Do." And
23 that's why -- that was the premise for this bill.
24 That's why, when I heard from a lot of my
25 constituents that they tried speaking with their

1 landlords, although a lot of landlords really
2 tried to make and work with their tenants because
3 they understood they were going through a
4 difficult time, some landlords decided not to do
5 that. And they want their rent, and they want it
6 in whole and they want it on time.

7 What we are trying to do with this
8 bill is to give a little relief to those small
9 businesses that are on the brink of failing, to
10 put a pause so that they could still go ahead for
11 the next few months, hopefully with them getting
12 more assistance from the federal government.

13 SENATOR HELMING: Through you,
14 Mr. President, will the sponsor continue to
15 yield.

16 ACTING PRESIDENT BENJAMIN: Does
17 the sponsor yield?

18 SENATOR KAPLAN: Yes,
19 Mr. President.

20 ACTING PRESIDENT BENJAMIN: The
21 sponsor yields.

22 SENATOR HELMING: So the amendment
23 that I have on the floor right now on behalf of
24 the Republican Conference, it's a bipartisan
25 bill, it has bipartisan support. In fact,

1 Senator Kaplan is the sponsor of the hostile
2 amendment today.

3 Senator Kaplan, when it comes to
4 helping small business making ends meet, have you
5 considered more direct assistance that would
6 benefit the majority of small businesses, such as
7 a tax holiday or a period of tax forgiveness?

8 SENATOR KAPLAN: Through you,
9 Mr. President. Again, I'm going to go back, we
10 are here on this bill. I'm more than happy to
11 discuss other bills with Senator Helming and try
12 to really do whatever we can so this body can
13 voice and be an advocate for small businesses.
14 But right now we're dealing with this bill, and
15 I'm happy to answer questions with regard to this
16 bill.

17 SENATOR HELMING: Through you,
18 Mr. President, will the sponsor continue to
19 yield?

20 ACTING PRESIDENT BENJAMIN: Does
21 the sponsor yield?

22 SENATOR KAPLAN: Yes,
23 Mr. President.

24 ACTING PRESIDENT BENJAMIN: The
25 sponsor yields.

1 SENATOR HELMING: Thank you,
2 Senator Kaplan.

3 So a question. If a tenant were to
4 provide an attestation of hardship to a
5 commercial property owner and then close the
6 business or vacate the property, can the property
7 owner begin the eviction process prior to
8 May 1st?

9 SENATOR KAPLAN: Through you,
10 Mr. President. Senator Helming, can you please
11 repeat your question again?

12 SENATOR HELMING: Sure. Through
13 you, Mr. President.

14 If a tenant were to fill out the
15 hardship application for a commercial property
16 owner and then closes his or her business or
17 vacates the property, can the property owner
18 begin the eviction process prior to May 1st?

19 SENATOR KAPLAN: So if the tenant
20 leaves the property of their own free will,
21 there's no need for the eviction proceeding to go
22 ahead.

23 SENATOR HELMING: Through you,
24 Mr. President. On the bill.

25 ACTING PRESIDENT BENJAMIN:

1 Senator Helming on the bill.

2 SENATOR HELMING: Regarding the
3 last comment, if a tenant walks without paying
4 their rent, there is an issue.

5 But on the bill, the amended
6 bipartisan legislation I brought forward on
7 behalf of the Republican Conference would provide
8 real -- and I stress real -- meaningful tax
9 relief for struggling businesses.

10 SENATOR GIANARIS: Mr. President.

11 SENATOR HELMING: This is a goal we
12 all share --

13 ACTING PRESIDENT BENJAMIN: Senator
14 Gianaris.

15 SENATOR GIANARIS: We have taken up
16 the hostile amendment and dispatched it. I've
17 given a lot of leeway to Senator Helming to ask
18 her questions, but she keeps harping on an
19 amendment she proposed that has not been taken up
20 by this house.

21 So please keep your comments or
22 questions germane to the bill on the floor.

23 SENATOR HELMING: Through you,
24 Mr. President, I was done questioning. I was on
25 the bill.

1 ACTING PRESIDENT BENJAMIN:

2 Senator Helming on the bill.

3 SENATOR HELMING: If there's one
4 thing that Democrats and Republicans agree on,
5 it's that small businesses are the backbone of
6 our state's economy.

7 As I said, my amendment had
8 bipartisan support. Let's bring it to the floor
9 for a vote and provide New Yorkers with real hope
10 and more assurance that their jobs will be there
11 in the future.

12 When the Senate passed S9114 last
13 year, the deputy floor leader compared the tenant
14 eviction moratorium legislation to sticking a
15 finger in a dike. And I completely agreed with
16 him at that time, and I would go one step further
17 now and say that like our tenants, our businesses
18 need something more than a temporary fix.

19 The amendment provides real relief
20 and long-term certainty for small businesses and
21 the hundreds of thousands of employees who work
22 for them, people who wake up every morning
23 wondering if they will have a job. Small
24 businesses are built on personal inspiration and
25 a lot of hard work, sweat equity and tears. Many

1 people sink their life savings into their dreams.
2 New York has always been there to encourage their
3 entrepreneurial spirit. It was that spirit that
4 built this state.

5 During the pandemic, the federal
6 government stepped up and provided PPP and other
7 programs to help businesses. The City of
8 New York and many of our regional banks have
9 started programs to assist employers devastated
10 by COVID. A number of counties across this state
11 have even used their federal CARES Act to provide
12 funding to assist businesses.

13 Yet where is New York State? Late
14 last year, in a very similar floor debate, we
15 were told that help is coming. Yet the concerns
16 of small businesses have yet to be addressed.
17 Their concerns have taken a back seat to
18 virtually every other concern throughout the
19 start of this legislative session.

20 Mr. President, I offer that we must
21 do better and we can do better. I urge my
22 colleagues to vote for the amendment on the
23 floor, and I urge the sponsor to take a more
24 holistic approach to helping our businesses and
25 reinvigorating our state.

1 Thank you, Mr. President.

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

4 Senator Lanza.

5 SENATOR LANZA: Mr. President,
6 unfortunately I'm going to be voting in the
7 negative on this piece of legislation. I think
8 the sponsor's intentions are meritorious --

9 ACTING PRESIDENT BENJAMIN: Senator
10 Lanza, are you on the bill?

11 SENATOR LANZA: Yeah. I'm sorry,
12 on the bill, Mr. President.

13 ACTING PRESIDENT BENJAMIN: Senator
14 Lanza on the bill.

15 SENATOR LANZA: Yes.

16 I think the sponsor's intentions
17 here are meritorious, and I understand what she's
18 trying to do.

19 But I'm with Senator Helming, who
20 was harping on what we in the Republican
21 Conference have been harping on over the last
22 nine months, which is that the irrational,
23 arbitrary, capricious policies and edicts being
24 handed down by this state are not only not
25 helping the people of the State of New York, as

1 we find ourselves at the top of the list
2 worldwide in terms of the death rate from the
3 COVID pandemic, but are actually destroying
4 families and small businesses from one end of the
5 state to the other.

6 And what we continue to harp on is
7 that these small businesses need real relief.
8 This may offer some small measure of relief,
9 granted. I agree. But in many cases this may
10 end up having small businesses find themselves in
11 an even deeper hole come May, June and July.
12 Because it really does, to use the expression
13 again, kick the can down the road.

14 What businesses need is real relief,
15 they need funding, they need grants. And most of
16 all, Mr. President, they need to be allowed to do
17 what they want to do, which is go back to work,
18 to provide for themselves and for their
19 employees, to do what they set out to do, to live
20 the American dream, to do nothing more than work.
21 To have their businesses open. That's what we
22 need. And we need to find a way to do it
23 rationally and safely.

24 But we need to do that,
25 Mr. President. And we're going to keep harping

1 on that here on this side of the aisle. And I
2 know my friends on the other side of the aisle
3 want to see that happen as well.

4 But I'm with Senator Helming with
5 respect to this legislation. It doesn't go
6 nearly far enough in terms of helping and
7 delivering real relief to the small businesses
8 across the State of New York. When it comes time
9 for a vote, Mr. President, I'll be in the
10 negative.

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

13 Seeing and hearing none, debate is
14 closed.

15 The Secretary will ring the bell.

16 Read the last section.

17 THE SECRETARY: Section 5. This
18 act shall take effect immediately.

19 ACTING PRESIDENT BENJAMIN: Call
20 the roll.

21 (The Secretary called the roll.)

22 ACTING PRESIDENT BENJAMIN:
23 Senator Kaplan to explain her vote.

24 SENATOR KAPLAN: Thank you,
25 Mr. President.

1 First and foremost, I want to thank
2 Shontell Smith, Eric Katz, Nic Rangel, Kenan
3 Kurt, Jellisa Joseph, Adrielle Douglas, and many
4 members of the Senate central staff who worked
5 with me in making this legislation the best that
6 it can be.

7 Our small businesses have been hit
8 hard by this pandemic, and they need our help if
9 they're going to survive these challenging times.
10 And as Senator Lanza said, this is a relief, a
11 relief for a few months so that they can get back
12 on their feet.

13 As the chair of the Committee on
14 Commerce, Economic Development and Small
15 Business, I believe it's my solemn duty to look
16 at the New York small business and do everything
17 I can to help support them through this pandemic.
18 The COVID-19 Emergency Protect Our Small
19 Businesses Act, which I am proud to sponsor, will
20 hit the pause button on eviction and foreclosure
21 proceedings for small businesses that are
22 struggling, giving them a shot at survival and
23 giving them the opportunity to get back on their
24 feet without the looming threat of being closed
25 down for good just because they have fallen

1 behind during the pandemic.

2 This full package of legislation
3 being passed by the Senate Majority today will be
4 a lifeline to New York's small business
5 community. And I'm extremely grateful to our
6 Majority Leader, Andrea Stewart-Cousins, for
7 making this issue a priority and bringing these
8 bills to the floor today to help save our small
9 businesses.

10 I vote aye, Mr. President.

11 ACTING PRESIDENT BENJAMIN:
12 Senator Kaplan to be recorded in the affirmative.

13 Senator Gianaris to explain his
14 vote.

15 SENATOR GIANARIS: Thank you,
16 Mr. President.

17 I want to congratulate
18 Senator Kaplan for her tremendous effort in
19 coming up with many of the bills we're passing
20 today, and this one in particular, because I
21 heard some of my Republican colleagues who can't
22 accept that something is actually helpful for
23 businesses in this state and want to support it.

24 I should point out that this bill
25 that they don't seem to like has the support of

1 the Business Council of New York State, the
2 Partnership of New York City, and NFIB. So if
3 they have a concern that this is not something
4 that helps small businesses, they should take it
5 up with the entities that represent those
6 businesses in this state, all of whom support
7 this legislation and the package we're passing
8 today.

9 So I proudly cast my vote in the
10 affirmative, and I thank Senator Kaplan for her
11 good work.

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

14 Announce the results.

15 THE SECRETARY: In relation to
16 Calendar Number 60, those Senators voting in the
17 negative are Senators Borrello, Boyle, Gallivan,
18 Griffo, Helming, Jordan, Lanza, Martucci,
19 Mattera, Oberacker, O'Mara, Ortt, Palumbo, Rath,
20 Ritchie, Stec, Tedisco and Weik.

21 Ayes, 45. Nays, 18.

22 ACTING PRESIDENT BENJAMIN: The
23 bill is passed.

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

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

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

5 SENATOR GIANARIS: In that case, I
6 move to adjourn until tomorrow, which will be a
7 great day in our nation with the inauguration of
8 a new president taking us out of the dark days of
9 the last four years. And in deference to that,
10 we're going to adjourn until 10:30 a.m. tomorrow,
11 a little bit earlier than usual so that we can
12 all enjoy the festivities after we adjourn our
13 own session.

14 ACTING PRESIDENT BENJAMIN: On
15 motion, the Senate stands adjourned until
16 Wednesday, January 20th, at 10:30 a.m.

17 (Whereupon, at 4:25 p.m., the Senate
18 adjourned.)

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