NEW YORK STATE SENATE

THE STENOGRAPHIC RECORD

ALBANY, NEW YORK

January 26, 2021

11:08 a.m.

REGULAR SESSION

SENATOR ROXANNE J. PERSAUD, Acting President

ALEJANDRA N. PAULINO, ESQ., Secretary

P R O C E E D I N G S

ACTING PRESIDENT PERSAUD: The Senate will come to order.

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

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

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

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

ACTING PRESIDENT PERSAUD: Reading of the Journal.

THE SECRETARY: In Senate, Monday, January 25, 2021, the Senate met pursuant to adjournment. The Journal of Sunday, January 24, 2021, was read and approved. On motion, Senate adjourned.

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

Presentation of petitions.

Messages from the Assembly.

The Secretary will read.

THE SECRETARY: Senator Kaminsky

moves to discharge, from the Committee on Rules, Assembly Bill Number 956 and substitute it for the identical Senate Bill 891, Third Reading Calendar 44.

ACTING PRESIDENT PERSAUD: The substitution is so ordered.

THE SECRETARY: Senator Skoufis moves to discharge, from the Committee on Rules, Assembly Bill Number 1252 and substitute it for the identical Senate Bill 903, Third Reading Calendar 56.

ACTING PRESIDENT PERSAUD: The substitution is so ordered.

THE SECRETARY: Senator Savino moves to discharge, from the Committee on Rules, Assembly Bill Number 1251 and substitute it for the identical Senate Bill 1298, Third Reading Calendar 69.

ACTING PRESIDENT PERSAUD: The substitution is so ordered.

Messages from the Governor.

Reports of standing committees.

Reports of select committees.

Communications and reports from state officers.

Motions and resolutions.

Senator Gianaris.

SENATOR GIANARIS: Thank you, Madam President. Welcome to the rostrum.

On behalf of Senator Parker, on page 17 I offer the following amendments to Calendar 116, Senate Print 1453, and ask that said bill retain its place on Third Reading Calendar.

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

SENATOR GIANARIS: At this point I move to adopt the Resolution Calendar.

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

(Response of "Aye.")

ACTING PRESIDENT PERSAUD: Opposed, nay.

(No response.)

ACTING PRESIDENT PERSAUD: The Resolution Calendar is adopted.

Senator Gianaris.

SENATOR GIANARIS: Thank you,

Madam President.

At this time can we take up previously adopted Resolution 133, by Senator Persaud, read that resolution's title only, and recognize Senator Jackson on the resolution.

ACTING PRESIDENT PERSAUD: The Secretary will read.

THE SECRETARY: Senate Resolution 133, by Senator Persaud, recognizing January 24, 2021, as International Day of Education.

ACTING PRESIDENT PERSAUD: Senator Jackson on the resolution.

SENATOR JACKSON: Thank you, Madam President. My colleagues, good morning to everyone.

I rise to speak in support of our colleague Senator Persaud's -- who is acting president right now -- resolution.

Education is a human right. And my esteemed colleagues, education is the key to uplift all people -- not just in New York State, not just in the United States of America, but around the world.

Many of you know that I have been

fighting almost my entire adult life for the children of New York State to be able to receive a quality education no matter what they look like, who their parents are, what zip code they live in. I wish the same for all children around the world.

Education has twin impacts of personal betterment and societal benefit and contributes to poverty reduction and greater equality. It is how we come to know ourselves and our world and how we begin to make a difference in it. It is the goal and objective of many educators around the world who dedicate their lives to the noble profession of teaching.

We as elected public officials must support education with our words, our deeds, and of course our funding.

Madam President and my colleagues, I wholeheartedly support this resolution and proudly vote to recognize January 24, 2021, as International Day of Education. And I thank my colleague Senator Persaud for introducing the resolution.

ACTING PRESIDENT PERSAUD: The resolution was previously adopted on

January 20th.

Senator Gianaris.

SENATOR GIANARIS: Thank you, Madam President.

At the request of the sponsor, this resolution is open for cosponsorship.

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

Senator Gianaris.

SENATOR GIANARIS: Can we now take up the calendar.

ACTING PRESIDENT PERSAUD: The Secretary will read.

THE SECRETARY: Calendar Number 39, Senate Print 886, by Senator Rivera, an act to amend the Social Services Law and the Public Health Law.

ACTING PRESIDENT PERSAUD: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT PERSAUD: Read the last section.

THE SECRETARY: Section 2. This

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

ACTING PRESIDENT PERSAUD: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT PERSAUD: Announce the results.

THE SECRETARY: Ayes, 63.

ACTING PRESIDENT PERSAUD: The bill is passed.

THE SECRETARY: Calendar Number 40, Senate Print 887, by Senator Hoylman, an act to amend a chapter of the Laws of 2020.

ACTING PRESIDENT PERSAUD: Read the last section.

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

ACTING PRESIDENT PERSAUD: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT PERSAUD: Announce the results.

THE SECRETARY: In relation to Calendar Number 40, those Senators voting in the

negative are Senators Akshar, Jordan, Palumbo, Rath and Weik.

Ayes, 58. Nays, 5.

ACTING PRESIDENT PERSAUD: The bill is passed.

THE SECRETARY: Calendar Number 44, Assembly Print Number 956, substituted earlier by Assemblymember Jean-Pierre, an act to amend the Alcoholic Beverage Control Law.

ACTING PRESIDENT PERSAUD: Read the last section.

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

ACTING PRESIDENT PERSAUD: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT PERSAUD: Announce the results.

THE SECRETARY: Ayes, 63.

ACTING PRESIDENT PERSAUD: The bill is passed.

THE SECRETARY: Calendar Number 56, Assembly Print Number 1252, substituted earlier by Assemblymember Gunther, an act to amend the

Insurance Law.

ACTING PRESIDENT PERSAUD: 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 PERSAUD: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT PERSAUD: Announce the results.

THE SECRETARY: Ayes, 63.

ACTING PRESIDENT PERSAUD: The bill is passed.

THE SECRETARY: Calendar Number 69, Assembly Print Number 1251, substituted earlier by Assemblymember Reyes, an act to amend the Workers' Compensation Law.

ACTING PRESIDENT PERSAUD: Read the last section.

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

ACTING PRESIDENT PERSAUD: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT PERSAUD: Announce the results.

THE SECRETARY: Ayes, 63.

ACTING PRESIDENT PERSAUD: The bill is passed.

THE SECRETARY: Calendar Number 74, Senate Print 1303, by Senator Salazar, an act to amend the Public Health Law.

ACTING PRESIDENT PERSAUD: Read the last section.

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

ACTING PRESIDENT PERSAUD: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT PERSAUD: Announce the results.

THE SECRETARY: Ayes, 63.

ACTING PRESIDENT PERSAUD: The bill is passed.

THE SECRETARY: Calendar Number 134, Senate Print 1632, by Senator Mayer, an act to amend the Election Law.

ACTING PRESIDENT PERSAUD: Read the last section.

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

ACTING PRESIDENT PERSAUD: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT PERSAUD: Announce the results.

THE SECRETARY: In relation to Calendar Number 134, those Senators voting in the negative are Senators Borrello, Boyle, Griffo, Helming, Jordan, Martucci, Mattera, Oberacker, Ortt, Palumbo, Rath, Ritchie, Serino, Stec, Tedisco and Weik.

Ayes, 47. Nays, 16.

ACTING PRESIDENT PERSAUD: The bill is passed.

THE SECRETARY: Calendar Number 135, Senate Print 1644, by Senator Cooney, an act to amend the Election Law.

ACTING PRESIDENT PERSAUD: Read the last section.

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

ACTING PRESIDENT PERSAUD: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT PERSAUD: Senator Cooney to explain his vote.

SENATOR COONEY: Thank you, Madam President.

This legislation will impact and affect our senior citizen population, one of the most vulnerable populations during this pandemic, by giving them the right to vote via absentee ballot.

And I rise to share a personal story, if I will, that just seven years ago my own mother was in a nursing home in my home district in Rochester, Episcopal SeniorLife Communities. And despite needing advanced care, she still wanted to participate in her community. And this legislation will allow seniors like my mother, and others who want to participate, to safely do so.

Now, it's not lost on me as I stand here in this beautiful chamber, as a new Senator in the back row, first time speaking on a bill, that it's being done so as to enable people, New Yorkers, to exercise their right to vote. And that's what makes this country so great.

You see, I'm a kid who was adopted from an Indian orphanage, raised by a single parent. And now to be, as a new State Senator -- a great privilege, as an American and as a New Yorker. And voting is that fundamental part of our democracy which allows that opportunity for me and so many other New Yorkers to happen.

So I'm grateful for the opportunity to support this legislation, and I hope that future elections this year, despite this challenging period, will allow seniors to fully participate in our democracy.

I want to thank Andrea Stewart-Cousins, our leader, and our Elections chair, Zellnor Myrie, for their leadership in bringing this important legislation to the floor.

So thank you.

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

Announce the results.

THE SECRETARY: In relation to Calendar 135, voting in the negative:

Senator Helming.

Ayes, 62. Nays, 1.

ACTING PRESIDENT PERSAUD: The bill

is passed.

Senator Gianaris.

SENATOR GIANARIS: Madam President, let's pause to congratulate Senator Cooney on passing his first bill.

(Standing ovation.)

THE SECRETARY: Calendar Number 136, Senate Print 1705A, by Senator Hinchey, an act to amend the Election Law.

ACTING PRESIDENT PERSAUD: Read the last section.

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

ACTING PRESIDENT PERSAUD: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT PERSAUD: Announce the results.

THE SECRETARY: Ayes, 63.

ACTING PRESIDENT PERSAUD: The bill is passed.

Senator Gianaris.

SENATOR GIANARIS: Madam President, we have a large class of freshmen this year, so we're going to be doing this a lot, we hope. But

let's congratulate Senator Hinchey on passing her first bill as well.

(Standing ovation.)

THE SECRETARY: Calendar Number 143, Senate Print 2733, by Senator May, an act to amend the Election Law.

SENATOR BOYLE: Lay it aside.

ACTING PRESIDENT PERSAUD: Lay it aside.

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

SENATOR GIANARIS: Can we now move to the reading of the controversial calendar.

ACTING PRESIDENT PERSAUD: The Secretary will ring the bell.

The Secretary will read.

THE SECRETARY: Calendar Number 143, Senate Print 2733, by Senator May, an act to amend the Election Law.

ACTING PRESIDENT PERSAUD: Senator Boyle, why do you rise?

SENATOR BOYLE: Madam President, I believe there's an amendment at the desk. I waive the reading of that amendment and ask that you recognize Senator Borrello to be heard.

ACTING PRESIDENT PERSAUD: Thank you, Senator Boyle.

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

SENATOR BOYLE: Accordingly, Madam President, I appeal the ruling of the chair and ask that Senator Borrello be recognized.

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

SENATOR BORRELLO: Thank you, Madam President. It's nice to see you up there.

Madam President, we appeal the ruling of the chair because this proposed amendment is clearly germane to S2733, the bill before the house that we seek to amend. Both Senator May's bill and the amendment concern issues related to the state's political calendar.

On March 14, 2020, just 12 -- I'm sorry? Okay. On March 14, 2020, just 12 days after the Legislature enacted Chapter 23 of the Laws of 2020 to vest Governor Cuomo with unprecedented emergency powers to suspend laws and issue directives, he issued his third

executive order, 202.2, to amend Article 6 of the Election Law to reduce required numbers of signatures on petitions, pursuant to Section 6-136 of such law, to 1.5 percent of the enrolled voters required, or 30 percent of the stated threshold, whichever is less, and to shorten the period for collection of petition signatures, suspending such on Tuesday, March 17, 2020, at 5:00 p.m.

This executive order, 202.2, authorized by the same provisions our amendment now seeks to repeal, amended the exact same sections of the law and took the exact same action as Senator May's bill. Clearly germane, our amendment seeks now to return balance to the legislative process, state government, and our State Constitution.

When true emergencies exist, the Legislature and the Executive often come together to offer a combined front to combat them. That was the intent of the Legislature on March 2, 2020, nearly 11 months ago. Not knowing the extent of the coronavirus and its impact, Governor Cuomo asked for and was given sweeping new powers -- not just powers to suspend law,

which he had already enjoyed prior to that, for nearly 50 years, but now the constitutionally circumspect power to also make his own laws as well -- merging all powers in the state government into one person.

Article 3 of our State Constitution vests the legislative power of the State of New York exclusively in the Senate and Assembly. The Senate and the Assembly cannot transfer this legislative power, the power to make laws, to any other person or branch of government. But that's exactly what was done on March 2nd of 2020. It was done in good faith to try and combat an unknown emergency -- which our Constitution expressly says cannot be transferred -- but to offer this to the Executive at his request because it was unknown as to whether or not the Legislature could meet or effectively operate while the coronavirus raged in our state.

But since that time, two things have become eminently clear. First, this Legislature can and has continued to function during this crisis, passing legislation and meeting, albeit sometimes in new ways with technology.

And secondly, sadly, the Governor

has taken advantage of this good faith to not only address the COVID-19 crisis but also to advance his own political policies and ideas, many of which have nothing to do with this pandemic, and many others of which have caused great harm, from questionable nursing home actions to select and unfair business closings and to disenfranchising thousands of New Yorkers with changes to the Election Law.

The time for this constitutionally circumspect delegation of legislative powers must come to an end. It's time for the Legislature to reassert itself and reclaim its constitutional authority and obligations. That is exactly what this amendment will do. It will repeal the ability of the Governor to make laws on his own without the Legislature.

Madam President, we live in a republic, not a monarchy. We need to do our jobs as members that are duly elected to this Legislature, and not to cede this power to the Governor for political expediency. It's time for us to return to the constitutional obligation that we have to be a separate, coequal branch of government, and that's what this amendment will

do.

Thank you, Madam President.

ACTING PRESIDENT PERSAUD: Thank you, Senator.

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 overriding the chair signify by saying aye.

SENATOR BOYLE: Request a show of hands.

SENATOR GIANARIS: Madam President, we've agreed to waive the showing of hands and record each member of the Minority in the affirmative.

ACTING PRESIDENT PERSAUD: Without objection, so ordered.

Announce the results.

THE SECRETARY: Ayes, 20.

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

Are there any other Senators wishing to be heard?

Seeing and hearing none, debate is

closed. The Secretary will ring the bell.

Read the last section.

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

ACTING PRESIDENT PERSAUD: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT PERSAUD: Senator May to explain her vote.

SENATOR MAY: Thank you, Madam President.

And I want to thank the leadership of the Senate and of the Assembly for coming together to make sure that this important bill comes to a vote today. And to the Senate staff, to Shontell Smith and Chris Higgins, for working so hard on it, and the bill drafter, who came in at 10 o'clock on Saturday night to make sure it got in on time, I'm very grateful.

As you know, we have passed a lot of laws in the last two years to make it easier for New Yorkers to vote and to make it easier to know that our votes will be counted. But none of that matters if there's nobody on the ballot.

The typical way that candidates get

on the ballot is armies of volunteers go out, door to door, and collect signatures. And that is seriously unadvisable right now in a pandemic; in fact, it would be dangerous.

So this bill reduces the threshold for signatures to 30 percent of what it normally would be, in the hope that people can collect those signatures safely.

I, for example, on my Democratic Committee, usually have to collect 20 signatures per candidate. If I only have to collect four or five, I can do that in my immediate family and close circle of friends without jeopardizing myself or them.

So our hope is that this will be a way for people to get on the ballot safely and for voters to have choices on the ballot when the elections arrive.

So thank you very much. I vote aye.

ACTING PRESIDENT PERSAUD: Senator May will be recorded in the affirmative.

Senator Jackson to explain his vote.

SENATOR JACKSON: Thank you, Madam President.

My colleagues, I rise to explain my

support for my colleague Senator May, who we just heard from, her bill to reduce the number of signatures and the time frame to collect signatures.

And in the shadow of the COVID-19 pandemic, the primary concern should be about our constituents' health and safety. The national health crisis in 2020 pushed us to make changes to our electoral laws to protect the public. We've also come together to make ongoing changes this year, based on what we've learned so far. And that's a good thing.

In response to the lessons we learned from last year due to the ongoing pandemic, I support this bill to reduce the number of signatures statewide for designating petitions.

And don't get me wrong, I love to petition outside and talk to people. It's an exciting time to engage my constituents in the democratic electoral process. But my district includes neighborhoods in Northern Manhattan of Inwood and Washington Heights where the COVID-19 rate has been the highest in the borough, and this is not the time to force large amounts of

in-person interactions.

And we must allow the campaigns to safely coordinate the process of collecting signatures while respecting public health guidelines. My constituents and all candidates running within the 31st Senatorial District, and beyond, will appreciate this commonsense bill.

Madam President, I vote aye on the bill.

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

Announce the results.

THE SECRETARY: Ayes, 63.

ACTING PRESIDENT PERSAUD: The bill is passed.

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

SENATOR GIANARIS: Thank you, Madam President.

Is there any further business at the desk?

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

SENATOR GIANARIS: In that case I move to adjourn until Monday, February 1st, at

3:00 p.m., intervening days being legislative days.

ACTING PRESIDENT PERSAUD: On motion, the Senate stands adjourned until Monday, February 1st, at 3:00 p.m., intervening days being legislative days.

(Whereupon, at 11:30 a.m., the Senate adjourned.)