

1 NEW YORK STATE SENATE

2
3
4 THE STENOGRAPHIC RECORD

5
6
7
8
9 ALBANY, NEW YORK

10 February 1, 2021

11 3:05 p.m.

12
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 31, 2021, the Senate met pursuant to
17 adjournment. The Journal of Saturday,
18 January 30, 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 on behalf of Senator Kaplan, on page 13 I offer
8 the following amendments to Calendar 82, Senate
9 Print 531, and ask that said bill retain its
10 place on Third Reading Calendar.

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

14 SENATOR GIANARIS: Also on behalf
15 of Senator Kaplan, on page 16 I offer the
16 following amendments to Calendar 115, Senate
17 Print 931, and ask that said bill retain its
18 place on Third Reading Calendar.

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

22 Senator Gianaris.

23 SENATOR GIANARIS: At this time can
24 we take up previously adopted Resolution 132, by
25 Senator Persaud, read its title only, and

1 recognize Senator Persaud.

2 ACTING PRESIDENT BENJAMIN: The
3 Secretary will read.

4 THE SECRETARY: Senate Resolution
5 132, by Senator Persaud, recognizing February 1,
6 2021, as World Hijab Day.

7 ACTING PRESIDENT BENJAMIN: Senator
8 Persaud on the resolution.

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

11 On February 1, 2013, the first
12 annual World Hijab Day, or WHD, was born, by a
13 New Yorker. She was a resident who came to this
14 country from Bangladesh. Her name: Nezma Khan.

15 Ms. Khan experienced religious
16 insensitivity due to her hijab and events at the
17 World Trade Center on September 11th. Many of us
18 remember what happened to our Muslim brothers and
19 sisters after that.

20 The event takes place on
21 February 1st each year in 140 countries. Hijab
22 is an Arabic word meaning "barrier or partition."
23 As you can see, Mr. President, I am not wearing
24 it properly, but I'm trying.

25 In Islam, however, it has a broader

1 meaning. It is the principle of modesty and
2 includes behavior, as well as dress, for both
3 males and females.

4 The most visible form of the hijab
5 is the head covering that many Muslim women wear.
6 Today they're hosting an event where many of
7 these women are speaking about wearing their
8 hijabs.

9 The purpose of this unique holiday
10 is to recognize millions of Muslim women who
11 choose to wear the hijab and live a life of
12 modesty.

13 While New York is a melting pot of
14 various cultures and religious beliefs, with the
15 free will to believe in anything, World Hijab Day
16 promotes religious tolerance of Muslims and
17 Hijabi Muslim women in particular. On this day,
18 women of other religions are encouraged to
19 experience wearing a hijab for a day.

20 Since its introduction to the world,
21 WHD has been recognized by various news outlets
22 across the world. Also, in this body, we have
23 officially recognized World Hijab Day numerous
24 times since February 1, 2013.

25 To fully promote the idea of

1 educating others to maintain universal
2 solidarity, WHD grants non-Muslim citizens the
3 opportunity to develop a keener sense of
4 religious tolerance.

5 I am proud to sponsor this
6 resolution once again. Our chamber, our state,
7 our country, and the world generally need to be
8 more tolerant of others who are perceived to be
9 different from us.

10 To quote author and journalist
11 Joseph E. Osborne: "Tolerance is the positive
12 and cordial effort to understand another's
13 beliefs, practices and habits without necessarily
14 sharing or accepting them."

15 Thank you, Mr. President.

16 ACTING PRESIDENT BENJAMIN: Senator
17 Jackson on the resolution.

18 SENATOR JACKSON: Thank you,
19 Mr. President.

20 My colleagues, I rise to support my
21 colleague Senator Persaud's resolution to
22 recognize February 1st as World Hijab Day.

23 The veil has been a crucial but
24 contested symbol of Islam for centuries. Most
25 recently it has become a stand-in for an imagined

1 clash of civilizations, especially for
2 conservatives and religious fundamentalists both
3 in this country and abroad.

4 What usually goes on underneath the
5 surface in those debates is that some men are
6 saying women should wear one thing, while other
7 men are saying they should wear another. In the
8 end, it all boils down to patriarchy, and that's
9 not a good thing.

10 Instead, I encourage us to view the
11 hijab as this resolution frames it: "A choice, a
12 freedom, and a blessing." Women must have the
13 freedom to choose their clothing free of judgment
14 from others. If a woman's religious devotion, or
15 her desire for modesty, or any other motive which
16 leads her to don the hijab, then we should
17 support that decision as a society and lift her
18 up. Likewise, if a woman decides not to veil.

19 I commend our American Muslim
20 community and in particular Nezma Khan, from the
21 Bronx, who started World Hijab Day, for their
22 advocacy in the face of adversity. And I hope
23 that you, my colleagues, will join me in
24 supporting this resolution.

25 On the flyer that they put out, it

1 has at the top "World Hijab Day, February 1st."
2 And then it has the saying "My choice, my COVID
3 protection, my hijab."

4 Senator Persaud, let me thank you
5 for bringing this resolution to our esteemed
6 body. I say aye on it.

7 ACTING PRESIDENT BENJAMIN: The
8 resolution was previously adopted on
9 January 20th.

10 Senator Gianaris.

11 SENATOR GIANARIS: At the request
12 of Senator Persaud, that resolution is open for
13 cosponsorship.

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

18 Senator Gianaris.

19 SENATOR GIANARIS: Please take up
20 the reading of the calendar, Mr. President.

21 ACTING PRESIDENT BENJAMIN: The
22 Secretary will read.

23 THE SECRETARY: Calendar Number 32,
24 Senate Print 879, by Senator Benjamin, an act to
25 require the Department of Health of the State of

1 New York to conduct a study of the effects of
2 racial and ethnic disparities on infant
3 mortality.

4 ACTING PRESIDENT BENJAMIN: Read
5 the last section.

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

9 ACTING PRESIDENT BENJAMIN: Call
10 the roll.

11 (The Secretary called the roll.)

12 ACTING PRESIDENT BENJAMIN:
13 Announce the results.

14 THE SECRETARY: Ayes, 63.

15 ACTING PRESIDENT BENJAMIN: The
16 bill is passed.

17 THE SECRETARY: Calendar Number 67,
18 Senate Print 1296, by Senator Benjamin, an act
19 requiring the Department of Health of the State
20 of New York to conduct a review of the effects of
21 racial and ethnicity disparities on breastfeeding
22 rates.

23 ACTING PRESIDENT BENJAMIN: Read
24 the last section.

25 THE SECRETARY: Section 3. This

1 act shall take effect immediately.

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 88,
11 Senate Print 1463, by Senator Addabbo, an act to
12 amend Chapter 473 of the Laws of 2010.

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:
21 Announce the results.

22 THE SECRETARY: Ayes, 63.

23 ACTING PRESIDENT BENJAMIN: The
24 bill is passed.

25 THE SECRETARY: Calendar Number 90,

1 Senate Print 679A, by Senator Harckham, an act to
2 amend the Mental Hygiene Law.

3 ACTING PRESIDENT BENJAMIN: Read
4 the last section.

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

8 ACTING PRESIDENT BENJAMIN: Call
9 the roll.

10 (The Secretary called the roll.)

11 ACTING PRESIDENT BENJAMIN: Senator
12 Harckham to explain his vote.

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

15 It's a pleasure to see you from my
16 new location of my desk on this side of the
17 chamber. Thank you for hearing me.

18 I want to thank the Majority Leader
19 for this equity package. As we heard last year
20 from thousands of our constituents crying out
21 about inequities in our society and in our
22 systems, today's package goes a long way to start
23 to address that. And one of those systems is our
24 treatment system for substance use disorder.

25 And I want to thank

1 Assemblywoman Rosenthal for being the principal
2 sponsor of this bill.

3 And we heard about the need for this
4 bill last year when our bipartisan Task Force on
5 Opioids Addiction and Overdose Prevention toured
6 the state. And we heard of the treatment
7 deserts, we heard of the language barriers, the
8 cultural barriers, the gender barriers, the
9 gender identification barriers, and so much more.

10 So this council will address those,
11 made up of members appointed by the Governor, by
12 the Assembly leader, by the Majority Leader. And
13 they'll use data. This will be a data-driven
14 task force to identify what the systemic barriers
15 are for people throughout New York State, and
16 give us the data that we can use to address
17 those.

18 So I vote aye, and I encourage
19 everyone else to as well. Thank you, Mr. Chair.

20 ACTING PRESIDENT BENJAMIN: Senator
21 Harckham to be recorded in the affirmative.

22 Senator Helming to explain her vote.

23 SENATOR HELMING: Thank you,
24 Mr. President. I rise to explain my vote.

25 This bill proposes the creation of

1 the Council for Treatment Equity, which would
2 analyze current public health programs that
3 combat substance abuse. Important work. The
4 Council for Treatment Equity would focus on
5 sensitive public health interventions toward
6 underserved communities.

7 As we heard the sponsor say, the
8 Treatment Equity Advisory Board would consist of
9 13 members, six members appointed by Governor
10 Cuomo, six members by the Majority of the Senate
11 and the Assembly, and the final member is the
12 chairperson of the Conference of Local Mental
13 Hygiene Directors.

14 Mr. President, I have nothing
15 against the merits of this bill. Substance abuse
16 treatment disparities impact underserved
17 populations in communities across the entire
18 state. Which makes me question why the sponsor
19 has not provided for any Minority appointments.
20 This is truly not a political issue.

21 By not allowing a single Republican
22 appointee, I believe the sponsor is sending a
23 mixed message on equity. Therefore,
24 Mr. President, I will be voting in the negative
25 and I urge my colleagues on both sides of the

1 aisle to stand up for fair, nonpartisan
2 representation on the Council for Treatment
3 Equity by voting no.

4 Thank you, Mr. President.

5 ACTING PRESIDENT BENJAMIN:
6 Senator Helming to be recorded in the negative.

7 Announce the results.

8 THE SECRETARY: In relation to
9 Calendar 90, those Senators voting in the
10 negative are Senators Helming, O'Mara, Ortt and
11 Weik.

12 Ayes, 59. Nays, 4.

13 ACTING PRESIDENT BENJAMIN: The
14 bill is passed.

15 THE SECRETARY: Calendar Number 93,
16 Senate Print 1352, by Senator Serrano, an act to
17 amend the Education Law and the Public Health
18 Law.

19 ACTING PRESIDENT BENJAMIN: Read
20 the last section.

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

23 ACTING PRESIDENT BENJAMIN: Call
24 the roll.

25 (The Secretary called the roll.)

1 ACTING PRESIDENT BENJAMIN:

2 Announce the results.

3 THE SECRETARY: In relation to
4 Calendar Number 93, those Senators voting in the
5 negative are Senators Akshar, Borrello, Boyle,
6 Griffo, Helming, Jordan, Mattera, O'Mara, Ortt,
7 Palumbo, Rath, Serino, Tedisco, Weik. Also
8 Senators Oberacker, Ritchie and Stec.

9 Ayes, 46. Nays, 17.

10 ACTING PRESIDENT BENJAMIN: The
11 bill is passed.

12 THE SECRETARY: Calendar Number 94,
13 Senate Print 1407, by Senator Parker, an act to
14 amend the Education Law.

15 SENATOR HELMING: Mr. President, I
16 ask that we lay this aside.

17 ACTING PRESIDENT BENJAMIN: Lay it
18 aside.

19 THE SECRETARY: Calendar Number
20 105, Senate Print 410A, by Senator Biaggi, an act
21 to establish a Minority Coordinating Council on
22 Asthmatic Affairs.

23 ACTING PRESIDENT BENJAMIN: Read
24 the last section.

25 THE SECRETARY: Section 4. This

1 act shall take effect immediately.

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
11 106, Senate Print 646A, by Senator Sanders, an
12 act to direct the New York State Department of
13 Health to conduct a study on the incidences of
14 asthma in cities.

15 ACTING PRESIDENT BENJAMIN: Read
16 the last section.

17 THE SECRETARY: Section 3. 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 Announce the results.

24 THE SECRETARY: Ayes, 63.

25 ACTING PRESIDENT BENJAMIN: The

1 bill is passed.

2 THE SECRETARY: Calendar Number
3 108, Senate Print 1374, by Senator Sanders, an
4 act to amend the Public Health Law.

5 ACTING PRESIDENT BENJAMIN: Read
6 the last section.

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

9 ACTING PRESIDENT BENJAMIN: Call
10 the roll.

11 (The Secretary called the roll.)

12 ACTING PRESIDENT BENJAMIN:
13 Announce the results.

14 THE SECRETARY: Ayes, 63.

15 ACTING PRESIDENT BENJAMIN: The
16 bill is passed.

17 THE SECRETARY: Calendar Number
18 110, Senate Print 1451, by Senator Rivera, an act
19 to amend the Public Health Law.

20 ACTING PRESIDENT BENJAMIN: Read
21 the last section.

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

25 ACTING PRESIDENT BENJAMIN: Call

1 the roll.

2 (The Secretary called the roll.)

3 ACTING PRESIDENT BENJAMIN:

4 Announce the results.

5 THE SECRETARY: In relation to
6 Calendar 110, those Senators voting in the
7 negative are Senators Akshar, Borrello, Boyle,
8 Gallivan, Griffio, Helming, Jordan, Lanza,
9 Mattera, Oberacker, O'Mara, Ortt, Palumbo, Rath,
10 Ritchie, Serino, Stec, Tedisco and Weik.

11 Ayes, 44. Nays, 19.

12 ACTING PRESIDENT BENJAMIN: The
13 bill is passed.

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

16 SENATOR GIANARIS: Mr. President,
17 can we now take up the controversial calendar.

18 ACTING PRESIDENT BENJAMIN: The
19 Secretary will ring the bell.

20 The Secretary will read.

21 THE SECRETARY: Calendar Number 94,
22 Senate Print 1407, by Senator Parker, an act to
23 amend the Education Law.

24 ACTING PRESIDENT BENJAMIN:
25 Senator Helming, why do you rise?

1 SENATOR HELMING: Mr. President, I
2 believe there's an amendment at the desk. I
3 waive the reading of the amendment and ask that
4 you recognize Senator O'Mara to be heard.

5 ACTING PRESIDENT BENJAMIN: Thank
6 you, Senator Helming.

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

10 SENATOR HELMING: Accordingly,
11 Mr. President, I appeal the ruling of the chair
12 and ask that Senator O'Mara be recognized.

13 ACTING PRESIDENT BENJAMIN: The
14 appeal has been made and recognized, and
15 Senator O'Mara may be heard.

16 SENATOR O'MARA: Good afternoon and
17 thank you, Mr. President. I rise to appeal the
18 ruling of the chair on this amendment before the
19 desk.

20 I submit that the amendment is
21 germane to the bill at hand because this
22 amendment would restore balance between the
23 executive and legislative branches of this state
24 which has been missing for many, many months now.
25 It would assist with consumers and making

1 healthcare decisions based on the facts and
2 science, and not edicts from this Governor.

3 Mr. President, we have moved this
4 amendment six times already this year. It's
5 February 1st today. We've moved it six times;
6 this is the seventh time in the 2021 session. We
7 moved it two times last year during the two
8 separate weeks that we were in session after the
9 pandemic struck.

10 In all, it is now the ninth time
11 that this body is voting on this amendment to
12 terminate the Governor's emergency powers and to
13 get this legislative body back in the business of
14 checks and balances, to restore our appropriate
15 oversight role as the Legislature in this state.
16 Checks and balances.

17 Nine times we have brought this
18 amendment. Nine times -- I'm assuming today will
19 be the same -- every Republican is voting to
20 terminate the Governor's emergency powers. Nine
21 times every Democrat in this supermajority of
22 this State Senate is voting against, not
23 terminating the Governor's emergency powers.

24 You know, particularly in light of
25 the outstanding reports last week of the Attorney

1 General's investigation into the nursing home
2 debacle in this state, and the concealing by this
3 executive branch of the real numbers, of just how
4 poorly this state did for our senior citizens in
5 nursing homes, I for one think this Legislature
6 needs to get in the business of reviewing that as
7 an oversight priority in this state, and not take
8 the words of the Governor that says he's done
9 everything right and he's doing everything right
10 because he's the expert, or that the AG's report
11 is full and accurate. I don't know that it is,
12 and the numbers may be far worse than they're
13 actually shown.

14 We must take a look back that this
15 Attorney General was the hand-picked candidate by
16 this Governor when she ran for Attorney General.
17 It leaves those decisions in the fullness of that
18 investigation questionable -- and no finding in
19 that investigation on just what relation the
20 Governor's fateful order of sending
21 COVID-positive patients into nursing homes, just
22 what effect that had on the fatalities sustained
23 by our senior citizens in this state since March,
24 since the order was given.

25 Given today's New York Times article

1 highlighting the fact that nine senior Department
2 of Health administrators, top executives, have
3 quit, have resigned, have retired in recent
4 months, one can only surmise how much the
5 Governor's control of that agency has driven
6 those decisions for those career individuals to
7 flee a Department of Health that is not, in my
8 opinion, being consulted, not being considered,
9 and the Governor micromanaging this entire
10 pandemic without oversight of this legislative
11 body.

12 It's time that that comes to an end
13 and that this Legislature, this Senate, with a
14 supermajority, actually get involved in the
15 checks and balances of government, the oversight
16 of this Executive, which it handed off 11 months
17 ago. Eleven months that the Governor has had
18 complete dictatorial control of this government,
19 while the supermajority in this house sits by and
20 allows it to continue.

21 For those reasons, Mr. President, I
22 submit that this amendment is germane to the bill
23 at hand, and I urge a vote to overturn the ruling
24 of the chair. Thank you, Mr. President.

25 ACTING PRESIDENT BENJAMIN: Thank

1 you, Senator O'Mara.

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

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

7 SENATOR HELMING: Mr. President,
8 request a show of hands.

9 SENATOR GIANARIS: We've agreed,
10 Mr. President, to waive the showing of the hands
11 and record each member of the Minority in the
12 affirmative on this vote.

13 ACTING PRESIDENT BENJAMIN: Without
14 objection, so ordered.

15 Announce the results.

16 THE SECRETARY: Ayes, 20.

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

20 Are there any other Senators wishing
21 to be heard? Seeing and hearing none, debate is
22 closed.

23 The Secretary will ring the bell.

24 Read the last section.

25 THE SECRETARY: Section 3. This

1 act shall take effect December 1, 2021.

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

12 SENATOR GIANARIS: Mr. President,
13 on behalf of Majority Leader Stewart-Cousins, I
14 hand up the following committee assignments for
15 the Majority Conference.

16 ACTING PRESIDENT BENJAMIN: The
17 hand-up is received and shall be filed in the
18 Journal.

19 SENATOR GIANARIS: Is there any
20 further business at the desk?

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

23 SENATOR GIANARIS: I move to
24 adjourn until tomorrow, Tuesday, February 2nd, at
25 3:00 p.m.

1 ACTING PRESIDENT BENJAMIN: On
2 motion, the Senate stands adjourned until
3 Tuesday, February 2nd, at 3:00 p.m.
4 (Whereupon, at 3:28 p.m., the Senate
5 adjourned.)

6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25