NEW YORK STATE SENATE

THE STENOGRAPHIC RECORD

ALBANY, NEW YORK

February 2, 2021

3:03 p.m.

REGULAR SESSION

SENATOR BRIAN A. BENJAMIN, Acting President

ALEJANDRA N. PAULINO, ESQ., Secretary

P R O C E E D I N G S

ACTING PRESIDENT BENJAMIN: The Senate will come to order.

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

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

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

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

ACTING PRESIDENT BENJAMIN: The reading of the Journal.

THE SECRETARY: In Senate, Monday, February 1, 2021, the Senate met pursuant to adjournment. The Journal of Sunday, January 31, 2021, was read and approved. On motion, Senate adjourned.

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

Presentation of petitions.

Messages from the Assembly.

The Secretary will read.

THE SECRETARY: Senator Benjamin

moves to discharge, from the Committee on Rules, Assembly Bill Number 989 and substitute it for the identical Senate Bill 865, Third Reading Calendar 18.

ACTING PRESIDENT BENJAMIN: The substitution is so ordered.

THE SECRETARY: Senator Gounardes moves to discharge, from the Committee on Rules, Assembly Bill Number 980 and substitute it for the identical Senate Bill 1295, Third Reading Calendar 66.

ACTING PRESIDENT BENJAMIN: The substitution is so ordered.

THE SECRETARY: Senator Sanders moves to discharge, from the Committee on Rules, Assembly Bill Number 966 and substitute it for the identical Senate Bill 1299, Third Reading Calendar 70.

ACTING PRESIDENT BENJAMIN: The substitution is so ordered.

THE SECRETARY: Senator Persaud moves to discharge, from the Committee on Rules, Assembly Bill Number 973 and substitute it for the identical Senate Bill 1300, Third Reading Calendar 71.

ACTING PRESIDENT BENJAMIN: The substitution is so ordered.

THE SECRETARY: Senator Brouk moves to discharge, from the Committee on Rules, Assembly Bill Number 1250 and substitute it for the identical Senate Bill 1301, Third Reading Calendar 72.

ACTING PRESIDENT BENJAMIN: The substitution is so ordered.

THE SECRETARY: Senator Gounardes moves to discharge, from the Committee on Rules, Assembly Bill Number 1259 and substitute it for the identical Senate Bill 1304, Third Reading Calendar 75.

ACTING PRESIDENT BENJAMIN: The substitution is so ordered.

THE SECRETARY: Senator Gianaris moves to discharge, from the Committee on Rules, Assembly Bill Number 2574 and substitute it for the identical Senate Bill 2076, Third Reading Calendar 139.

ACTING PRESIDENT BENJAMIN: 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: Mr. President, I move to adopt the Resolution Calendar.

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

(Response of "Aye.")

ACTING PRESIDENT BENJAMIN: Opposed, nay.

(No response.)

ACTING PRESIDENT BENJAMIN: The Resolution Calendar is adopted.

Senator Gianaris.

SENATOR GIANARIS: There will be an immediate meeting of the Rules Committee in Room 332.

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

SENATOR GIANARIS: The Senate will stand at ease.

ACTING PRESIDENT BENJAMIN: The Senate will stand at ease.

(Whereupon, the Senate stood at ease at 3:05 p.m.)

(Whereupon, the Senate reconvened at 3:13 p.m.)

ACTING PRESIDENT BENJAMIN: The Senate will return to order.

Senator Gianaris.

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

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

The Secretary will read.

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

Senate Print 538A, by Senator Kaplan, an act to amend the Real Property Law;

Senate Print 945A, by Senator Gaughran, an act to amend the Real Property Law and the State Finance Law;

Senate Print 1448, by Senator Hoylman, an act to amend the Real Property Law;

Senate Print 1984, by Senator Jackson, an act to amend the Education Law;

Senate Print 2131A, by Senator Skoufis, an act to amend the Real Property Law;

Senate Print 2132A, by Senator Skoufis, an act to amend the Real Property Law;

Senate Print 2133, by Senator Skoufis, an act to amend the Real Property Law;

Senate Print 2157, by Senator Thomas, an act to amend the Real Property Law;

Senate Print 2525, by Senator Kavanagh, an act to amend the Real Property Law;

Senate Print 2555, by Senator Brisport, an act to establish a task force on educator diversity in New York State;

Senate Print 4000, by Senator Rivera, an act to amend the Education Law; and

Senate Print 4001, by Senator Biaggi, an act to amend the Labor Law.

All bills reported direct to third reading.

SENATOR GIANARIS: Move to accept

the report of the Rules Committee.

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

(Response of "Aye.")

ACTING PRESIDENT BENJAMIN: Opposed, nay.

(No response.)

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

SENATOR GIANARIS: Please take up the calendar, Mr. President.

ACTING PRESIDENT BENJAMIN: The Secretary will read.

THE SECRETARY: Calendar Number 18, Assembly Print 989, substituted earlier by Assemblymember Solages, an act to amend the Public Health Law.

ACTING PRESIDENT BENJAMIN: Read the last section.

THE SECRETARY: Section 2. This act shall take effect on the first of January.

ACTING PRESIDENT BENJAMIN: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT BENJAMIN: Announce the results.

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT BENJAMIN: The bill is passed.

THE SECRETARY: Calendar Number 53, Senate Print 900, by Senator Rivera, an act to amend the Public Health Law.

ACTING PRESIDENT BENJAMIN: Read the last section.

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

ACTING PRESIDENT BENJAMIN: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT BENJAMIN: Announce the results.

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT BENJAMIN: The bill is passed.

THE SECRETARY: Calendar Number 66, Assembly Print 980, substituted earlier by Assemblymember Abbate, an act to amend the Labor Law.

SENATOR JORDAN: Lay it aside.

ACTING PRESIDENT BENJAMIN: Lay it aside.

THE SECRETARY: Calendar Number 70, Assembly Print 966, substituted earlier by Assemblymember Solages, an act to amend the Labor Law.

ACTING PRESIDENT BENJAMIN: Read the last section.

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

ACTING PRESIDENT BENJAMIN: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT BENJAMIN: Announce the results.

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT BENJAMIN: The bill is passed.

THE SECRETARY: Calendar Number 71, Assembly Print Number 973, substituted earlier by Assemblymember Williams, an act to amend a chapter of the Laws of 2020.

ACTING PRESIDENT BENJAMIN: Read

the last section.

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

ACTING PRESIDENT BENJAMIN: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT BENJAMIN: Announce the results.

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT BENJAMIN: The bill is passed.

THE SECRETARY: Calendar Number 72, Assembly Print Number 1250, substituted earlier by Assemblymember Gunther, an act to direct the Commissioner of Mental Health to create a workgroup and report regarding frontline worker trauma.

SENATOR GIANARIS: Lay it aside for the day.

ACTING PRESIDENT BENJAMIN: The bill will be laid aside for the day.

THE SECRETARY: Calendar Number 73, Senate Print 1302, by Senator Ramos, an act to amend the Labor Law.

ACTING PRESIDENT BENJAMIN: Read

the last section.

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

ACTING PRESIDENT BENJAMIN: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT BENJAMIN: Announce the results.

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT BENJAMIN: The bill is passed.

THE SECRETARY: Calendar Number 75, Assembly Print Number 1259, substituted earlier by Assemblymember Dinowitz, an act to amend the Public Authorities Law.

ACTING PRESIDENT BENJAMIN: Read the last section.

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

ACTING PRESIDENT BENJAMIN: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT BENJAMIN: Announce the results.

THE SECRETARY: In relation to Calendar Number 75, those Senators voting in the negative are Senators Akshar, Borrello, Boyle, Gallivan, Griffo, Helming, Lanza, Martucci, Mattera, Oberacker, Rath and Weik.

Ayes, 49. Nays, 12.

ACTING PRESIDENT BENJAMIN: The bill is passed.

THE SECRETARY: Calendar Number 77, Senate Print 1306, by Senator Kennedy, an act to amend a chapter of the Laws of 2020 establishing the Adirondack Road Salt Reduction Task Force.

ACTING PRESIDENT BENJAMIN: Read the last section.

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

ACTING PRESIDENT BENJAMIN: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT BENJAMIN: Senator Kennedy to explain his vote.

SENATOR KENNEDY: Thank you, Mr. President.

I rise in support of this bill today

creating the Adirondack Road Salt Reduction Task Force, a badly needed solution to a major problem in our 6.2-million-acre Adirondack Park.

Despite New York's attempts over the years to protect the Adirondacks, the use of salt has been found to negatively impact the lakes and watersheds in the area. The ecological damage has already been significant and is predicted to only get worse if we don't act now.

Salt in surface water and groundwater releases heavy metals and other toxic substances, threatening the welfare of humans and animals alike. The single biggest culprit is the use and overuse of road salt during winter months -- which, in higher elevations, can last almost half the year.

Environmental impact can turn into economic impact. According to the Adirondack Park Agency, over 3600 businesses call this park home, employing thousands of New Yorkers and driving the local economy.

This task force, with representation from a wide range of partners, will study and examine the problem in detail and issue suggested recommendations as to how to address the use of

salt on roadways.

This bill was moved forward in partnership with many strong advocates across New York who are committed to protecting our environment and our wildlife. This bill was years and years in the making, so many people and organizations are to thank.

I first want to thank our Majority Leader, Andrea Stewart-Cousins, for bringing this bill to the floor and prioritizing our environment. I want to thank the head of the En Con Committee, Senator Kaminsky, and former Senator Betty Little for their leadership, as well as Assemblyman Jones.

Many organizations, including the Adirondack Council, ADK Action, Adirondack Watershed Institute, the Sierra Club, Citizens Campaign for the Environment, Environmental Advocates and the New York League of Conservation Voters, all worked to make this bill a reality.

Because of their dedication, Mr. President, we're taking a step forward in prioritizing the preservation of New York's great outdoors. And I'm proud to join with all of these individuals, organizations, and the greater

community in this fight.

Thank you once again, and I proudly vote aye on this bill.

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

Announce the results.

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT BENJAMIN: The bill is passed.

THE SECRETARY: Calendar Number 81, Senate Print 1310, by Senator Breslin, an act to amend the Election Law.

ACTING PRESIDENT BENJAMIN: Read the last section.

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

ACTING PRESIDENT BENJAMIN: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT BENJAMIN: Announce the results.

THE SECRETARY: In relation to Calendar 81, those Senators voting in the negative are Senators May and Reichlin-Melnick.

Ayes, 59. Nays, 2.

ACTING PRESIDENT BENJAMIN: The bill is passed.

THE SECRETARY: Calendar Number 107, Senate Print 1172, by Senator Rivera, an act to amend the Public Health Law.

ACTING PRESIDENT BENJAMIN: Read the last section.

THE SECRETARY: Section 2. This act shall take effect on the first of January.

ACTING PRESIDENT BENJAMIN: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT BENJAMIN: Announce the results.

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT BENJAMIN: The bill is passed.

THE SECRETARY: Calendar Number 137, Senate Print 2074, by Senator Mayer, an act to amend the Labor Law.

ACTING PRESIDENT BENJAMIN: Read the last section.

THE SECRETARY: Section 2. This act shall take effect on the same date and in the

same manner as a chapter of the Laws of 2020.

ACTING PRESIDENT BENJAMIN: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT BENJAMIN: Announce the results.

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT BENJAMIN: The bill is passed.

THE SECRETARY: Calendar Number 139, Assembly Print 2574, substituted earlier by Assemblymember Walker, an act to amend the Election Law.

SENATOR JORDAN: Lay it aside.

ACTING PRESIDENT BENJAMIN: Lay it aside.

THE SECRETARY: Calendar Number 142, Senate Print 2558, by Senator Kennedy, an act to amend the Vehicle and Traffic Law.

SENATOR GIANARIS: Lay it aside for the day.

ACTING PRESIDENT BENJAMIN: Lay it aside for the day.

THE SECRETARY: Calendar Number 171, Senate Print 1351, by Senator Hoylman, an

act to repeal Section 240.37 of the Penal Law.

ACTING PRESIDENT BENJAMIN: Read the last section.

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

ACTING PRESIDENT BENJAMIN: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT BENJAMIN: Senator Brisport to explain his vote.

SENATOR BRISPORT: Thank you, Chair.

I am so, so proud to vote yes on this bill today. I remember in 2009 lobbying my State Senator, and my friends to lobby their State Senators, to pass same-sex marriage. And I remember how much it stung to see that vote fail in the State Senate.

We as a body have come so far in advancing queer rights, and so I'm so proud of everything that we have done. In the wake of Black Lives Matter, arising and expanding last summer, it's important to note that black lives can only matter if we ensure that black trans lives matter too.

I'd like to thank Senator Hoylman and thank the advocates for making this happen today. Thank you.

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

ACTING PRESIDENT PERSAUD: Senator Benjamin.

SENATOR BENJAMIN: Thank you, Madam Chair.

You know, I rise to support an amazing bill by an amazing colleague. I want to thank Senator Hoylman for bringing this bill to the floor.

And it's important because in 1976 there was a loitering law -- anti-loitering law that was put in place that has caused so much pain since then. You know, I was born in 1976, so I know that's 44 years ago. And what that law allowed was for the police to apprehend anyone they assumed to be engaging in sex work, without any evidence.

Whenever you give discretion for someone to use their judgment, what is going to be embedded in that is whatever opinions they have around the parties. And unfortunately, in

the case of this, one of the reasons why it's named "walking while trans" is because there are so many Black and Brown trans members of our community who have been subjected to overincarceration based on the opinions of a few police officers.

And that, to me, is incorrect. It reminds me of why we fought so hard, Madam President, to end stop and frisk. Stop and frisk was predicated upon the same assumption of "I think someone could be doing something wrong, so then I'm going to search them and see what happens." Unfortunately, Senator Hoylman, as you know, in this case people were incarcerated as a result of perception by police officers.

So I'm glad to stand here today as we undo this wrong. I want to apologize to all of the members of the trans community -- and the community at large, but particularly the trans community, because they've been overafflicted by this.

And it's important that we apologize because it was government law that created this crisis in the first place. And so we, as the government, need to apologize and do the right

thing, which is what we're doing today.

I want to thank the leader, Andrea Stewart-Cousins, for bringing this bill to the floor. And I want to personally thank one of my constituents, Tonya Walker, who I gave last year a Woman of Distinction Award to. She's a trans woman. I gave her that distinction because of the incredible work that she has done. And I heard countless stories of how this law, this law overincarcerated people of the trans community.

So I am glad to be part of correcting that wrong today with all of you, and I want to thank the New York State Senate for doing the right thing today.

Thank you.

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

Senator Reichlin-Melnick to explain his vote.

SENATOR REICHLIN-MELNICK: Thank you, Madam Chair.

I am proud to stand in support of the LGBT community of New York and in support of this bill. This bill repeals a criminal offense called "loitering for the purposes of

prostitution."

And that's a good thing, because this is a criminal offense that has been disproportionately applied to discriminate against the LGBT community and communities of color. The language of the law is ambiguous and is subject to the implicit biases of those applying it, and so repealing this offense will mean one less discriminatory law will exist in the State of New York.

Its repeal is rightfully being celebrated by a broad coalition of individuals and organizations committed to promoting equality and fair treatment for all.

And what this bill does not do, in spite of what some who are trying to stir up anger for their own political gain have claimed, what this bill does not do is legalize prostitution. There will still be several laws on the books, as there should be, which ensure that engaging in or attempting to engage in prostitution, patronizing a person for purposes of prostitution, or promoting prostitution are all crimes.

Furthermore -- and I'm speaking now

directly to my constituents who may have heard misleading attacks on this bill -- the specific charge of loitering for the purposes of prostitution that this bill repeals has not been used to charge anyone in our Senate district for nearly a decade. Repealing this law will have no negative impact whatsoever on public safety in our community.

Even the District Attorneys Association of the State of New York supports the repeal of this harmful law. The statute has come to be used in ways that wrongly profile people and even leads to their arrest, based on nothing more than gender expression or appearance, they said. And they added: "It is an important and necessary step to repeal this law if we are to remedy injustices and regain the trust of all communities."

And finally, on the topic of political attacks, for some people who say this chamber should be focused on other things, let me say that in one month we have passed bills to expand voting rights, to help small businesses, protect commercial tenants, fix problems with the unemployment system, address racial inequalities

in healthcare, and yes, we've still found the time to do what we have a moral obligation to do, end inequality in our criminal justice system. We can walk and chew gum at the same time.

And I am proud to be voting yes on this bill.

ACTING PRESIDENT BENJAMIN: Senator Reichlin-Melnick to be recorded in the affirmative.

Senator Jackson to explain his vote.

SENATOR JACKSON: Thank you, Mr. President. I rise, my colleagues, in order to speak on this bill, which commonly is called the "walking while trans." But it's really a situation that this bill is a long time coming.

The "walking while trans" ban has criminalized our trans and gender-nonbinary community for decades, especially those who engage in sex work. These people have been charged and locked up for years in Rikers Island simply for walking outside. And if you don't know Rikers Island, it's a jail in New York City.

My own staffer who helped me put together these remarks experiences harassment as a white, gender-nonbinary femme person from

ordinary passersby and even from the police. But they said to me: "RJ, I have it so much easier than Black and Brown trans families who don't have the shield of whiteness or business casual attire to protect them. We have to get rid of this law now." And I'm quoting him, his expression of "now." We can't wait.

It shouldn't matter the color of your skin, your gender, or what you're wearing. This bill gets at a core human right. Just like our efforts to end stop and frisk policies that targeted Black and Brown men. Every New Yorker has a right to walk in public without fear of law enforcement rounding them up simply for existing.

I thank all the advocates who have kept up the pressure of us to do the right thing. And to Senator Brad Hoylman, who's here, let me thank you, as the lead sponsor of this. There's so many people that are so appreciative of your leadership in bringing this forward.

And to our Majority Leader Andrea Stewart-Cousins, for the courage to get this bill across the finish line in our chambers.

I proudly vote aye on this bill. Thank you, Mr. President.

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

Senator Salazar to explain her vote.

SENATOR SALAZAR: Thank you, Mr. President.

There really should be no doubt at this point that the enforcement of the loitering statute known as "walking while trans" has been deeply biased against people based on their race and on their gender.

According to court monitoring data collected by the Red Umbrella Project, before the Brooklyn DA's office sought to curb the number of arrests for this charge in our borough, 94 percent of the people who were charged in Brooklyn under this law were Black women.

More recently, it was reported that of all arrests for this charge in New York, close to half of those charged were Black, and 42 percent were Latinx, most of whom are trans women.

This bill has been especially important to me due to the harm that the "walking while trans" statute has caused in my own district in East New York and Bushwick, where

we've historically seen the highest number of arrests for this charge in the state.

By passing Senator Hoylman's bill today to finally repeal this harmful statute, we are affirming the right of trans women and of all New Yorkers to move through the world without fear of being criminalized because of their gender identity, because of their race, or simply because of their physical appearance.

Thank you to Senator Hoylman for being a champion for this bill for years. And thank you to our Majority Leader Andrea Stewart-Cousins for prioritizing this bill that is so deeply meaningful and liberating for our communities.

I'm proud to vote aye.

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

Senator Hoylman to explain his vote.

SENATOR HOYLMAN: Thank you, Mr. President.

You know, it's a rare moment in this chamber when you get to stand and speak on behalf of the dignity of an entire group of people. And that's what we're doing today, and what a

privilege. And how humbling.

I'm thinking today, Mr. President, about that extraordinarily powerful moment from this past summer's Black Lives Matter protest. It happened on that warm Sunday afternoon in June, midway through Pride Month. More than 15,000 New Yorkers had gathered outside of the Brooklyn Museum to march for justice -- 15,000. And this March was led by transgender women of color. They reminded the crowd that the modern movement for LGBTQ rights -- for my rights, for my husband's rights, for the rights of our children -- was led by transgender women of color, including Marsha P. Johnson and Sylvia Rivera.

Mr. President, I join you in that apology to the transgender community. And we're on the Senate floor today to reaffirm that message we heard at the Brooklyn Museum: Black Trans Lives Matter.

I'm also reflecting on that powerful march as I cast my vote. The bill we're casting today repeals an outdated and infamous part of our Penal Code, Section 240.37. Just a series of numbers, but it gives police the power to stop or

detain transgender women or any woman, really, particularly women of color, immigrants, and LGBTQ youth, for simply walking down the street and dressing the way they want to and hanging out with whom they wish.

The statute is used in ridiculous ways to target New Yorkers. People have been arrested under the statute for reasons such as wearing a "black jacket, blue jeans and gray boots," according to the police report. Or "shorts and a tank top." Carrying condoms in their purse. Or waving to a Lyft to get a ride home. One officer even testified that this statute could be used to stop any New Yorker who wore -- and I'm quoting from the testimony here -- "pretty much anything other than a nun's outfit."

This statute has been clearly used in a disproportionate way. In 2019, 82.5 percent of people arrested under this law were Black or Latinx. Recently an organization said: "Enforcement of this law leads to harassment and unjust arrests, undermines trust in our systems, and has no value in protecting members of our community." "Leads to harassment and unjust

arrests, undermines trust in our systems, and has no value in protecting members of our community." I'll say it again.

Want to guess which organization said that? That was the District Attorneys Association of the State of New York. DAs across this state have come out in favor of the bill we're passing today, and for good reason. They write in their letter that "The time has come to eliminate this discriminatory and counterproductive law."

I'm proud that New York becomes the first state, Mr. President, to roll back this discriminatory statute. It's my hope that our progress today will light a spark that ignites nationwide, inspiring other states with similar statutes, like California and Illinois, to repeal these outdated and transphobic laws.

I'm grateful to Senate Majority Leader Andrea Stewart-Cousins and Codes Committee Chair Jamaal Bailey for their unwavering support of this bill and LGBTQ and transgender rights. I appreciate our colleagues, including Senator Salazar, our coprime sponsor; Senator Ramos, who represents so many constituents targeted by this

unjust statute; and 37 of our colleagues who cosponsored this bill.

Thanks to Assembly sponsor Amy Paulin, who advocated for this bill, and New York City Councilmember Carlina Rivera, who passed a City Council resolution in support.

And most importantly, I'm grateful to the brave leaders from the transgender community who spoke up and spoke out to make this bill a reality: Trans women, including TS Candii, Kiara St. James of the New York Transgender Advocacy Group; Bianey Garcia; Norma Ureiro; Melissa Brudo; Mariah Lopez, the spiritual daughter of Sylvia Rivera. Francis Steele, Jaylee Bratlee, Ceyenne Doroshow, and many others -- others who we don't even know, who courageously told their stories even if it wasn't easy.

They spoke up because they knew they could turn the pain of the transgender community -- which I'm sorry to say includes monumental pain, suffering, and even death -- into advocacy to help make New York a more equal and just place for everyone.

You know, Mr. President, I spoke to

a woman who's been advocating for this bill today named Kiara St. James. She expressed to me how her community has felt like a second-class citizen. Anytime she and her girlfriends come to Midtown just to have fun, like so many of us do on a regular basis, they face the risk of being stopped by the police, falsely accused of criminal activity, harassed and arrested under the statute that we're repealing today. Can you imagine having the specter of arrest hanging over your every move? Well, that's been the reality for so many transgender women of color.

She said this feeling of constant prosecution for crimes you didn't commit, of nobody believing you or believing in you, has led to what she calls a malaise of hopelessness, a malaise of hopelessness for so many of her transgender sisters which leads to drug abuse and sex work.

Kiara thinks this law today, with it, we can turn the corner for all of her sisters. She sees them going to college and technical school and getting degrees, reclaiming their dignity and humanity. Kiara says she's so proud that New York is leading the nation by

being the first state legislature to strike down the "walking while trans" ban.

I proudly vote aye, Mr. President.

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

Announce the results.

THE SECRETARY: In relation to Calendar 171, those Senators voting in the negative are Senators Akshar, Borrello, Boyle, Felder, Gallivan, Griffo, Helming, Jordan, Martucci, Mattera, Oberacker, Ortt, Palumbo, Rath, Serino and Weik.

Ayes, 45. Nays, 16.

ACTING PRESIDENT BENJAMIN: The bill is passed.

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

SENATOR GIANARIS: Can we now move to the controversial calendar, please.

ACTING PRESIDENT BENJAMIN: The Secretary will ring the bell.

The Secretary will read.

THE SECRETARY: Calendar Number 66, Assembly Print 980, substituted earlier by Assemblymember Abbate, an act to amend the

Labor Law.

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

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

ACTING PRESIDENT BENJAMIN: Thank you, Senator Jordan.

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

SENATOR JORDAN: Accordingly, Mr. President, I appeal the ruling of the chair and ask that Senator Rath be recognized.

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

SENATOR RATH: Thank you, Mr. President.

I rise to appeal the ruling of the chair. The proposed amendment is germane to the bill at hand because this bill allows collaboration in addressing operations for public employees during a declared state of emergency

involving a communicable disease.

Our proposed amendment would also encourage collaboration between the Executive and the Legislature in addressing the state's response to COVID-19 by rescinding the Executive's complete authority. For these reasons, Mr. President, I strongly encourage you to reconsider your ruling.

At the start of the pandemic back in March of 2020, we had no idea what would unfold and allowed the Governor to have total Executive power to deal with the pandemic issues quickly, which was needed at the time.

Fast forward to today. We are now over 300 days later, and these gubernatorial emergency powers are no longer needed. In fact, my Senate Republican colleagues and I have consistently attempted to strip these powers of the Governor, to no avail.

Surely we can all agree that the time for centralized government decision-making has come to an end.

In general, our Legislature, our State Legislature's voice has been blunted. All the while, we are not getting the answers the

public is demanding of us, especially on vaccinations and deaths in our nursing homes.

Last month each and every member in this body swore an oath to the voters of New York State to uphold their values and represent their interests. The time to act is now for us and our constituents across New York State to rescind the Governor's expanded executive powers.

Checks and balances, I believe, are mission-critical to a successful state government. As members of the Legislature we are doing our state and our constituencies a disservice by not taking back our constitutional role in New York State. Frankly, it is time we put the responsibility of governing back on the shoulders of the New York State Legislature.

We tried demanding transparency and accountability yesterday in a committee meeting, yet my good friend and colleague Senator Tom O'Mara was muted, and his request was shot down. This was extremely disrespectful, in my opinion, and unexpected from our esteemed Democrat colleagues here in the State Senate. We are supposed to be working together even if we don't always agree.

Mr. President, coequal branches and checks and balances are important words in government. These words are supposed to mean something. Simply put, let's get back to work.

Again, for these reasons, I encourage you to reconsider your ruling. Thank you, Mr. President.

ACTING PRESIDENT BENJAMIN: Thank you, Senator Rath.

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

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

SENATOR JORDAN: Request a show of hands.

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

ACTING PRESIDENT BENJAMIN: Without objection, so ordered.

Announce the results.

THE SECRETARY: Ayes, 18.

ACTING PRESIDENT BENJAMIN: The

ruling of the chair stands, and the bill-in-chief is before the house.

Senator Rath.

SENATOR RATH: Thank you, Mr. President. I have a clarifying question on the bill.

ACTING PRESIDENT BENJAMIN: So you'd like to ask the --

SENATOR RATH: I'd like to ask the Senator a question.

ACTING PRESIDENT BENJAMIN: Okay. Does the Senator yield?

SENATOR GIANARIS: I will yield, Mr. President.

ACTING PRESIDENT BENJAMIN: The Senator yields.

SENATOR RATH: Thank you, Mr. President.

The original chapter bill, No. 168, was signed and became effective on September 7, 2020. In the approval memo the Governor states that the intent of this technical amendment is to extend the deadline for adoption of a final plan to April 1, 2021. Section 4 of the bill being considered right now requires that a draft plan

be submitted to the applicable labor management committee no later than 150 days from the effective date of the original chapter and finalized plan to be adopted by April 1st of 2021.

Is the intent of this bill to require public employees to submit a draft plan 150 days from the effective date of the original chapter, which was September 7th of 2020?

SENATOR GIANARIS: Mr. President, the intent was to do that. This chapter amendment is obviously happening today, and the timeline is stressed. I believe the public employers. Which I think is what Senator Rath meant to say, are committed to making a good faith effort to provide opportunity for comments from representatives of labor, and the representatives of organized labor are understanding of this and okay moving ahead with that process.

SENATOR RATH: Thank you, Mr. President. Would the sponsor continue to yield?

ACTING PRESIDENT BENJAMIN: Does the Senator yield?

SENATOR GIANARIS: Yes.

ACTING PRESIDENT BENJAMIN: The Senator yields.

SENATOR RATH: Thank you.

Are you aware that this means that the draft proposals are due this Thursday?

SENATOR GIANARIS: As I said, Mr. President, the timeline is stressed because of the way this chapter amendment came down. We are obviously in an emergency situation, dealing with an emergency that is imminently affecting millions of people, and so we certainly don't want to hold up the provision of safety for public employees throughout the state.

Representatives of both labor and management are okay moving ahead, with the understanding there will be a good-faith effort made by all parties involved to comply as best as they can.

SENATOR RATH: Thank you, Mr. President. Would the Senator continue to yield for another question.

ACTING PRESIDENT BENJAMIN: Does the Senator yield?

SENATOR GIANARIS: Yes.

ACTING PRESIDENT BENJAMIN: The Senator yields.

SENATOR RATH: Thank you.

Do we expect the Governor to sign this by Thursday?

SENATOR GIANARIS: I don't know exactly when the Governor intends to sign it, but I believe the Governor is in support of this legislation. This was the result of an agreement with the Executive.

SENATOR RATH: Thank you, Mr. President. Would the sponsor continue to yield.

ACTING PRESIDENT BENJAMIN: Does the Senator yield?

SENATOR GIANARIS: Yes.

ACTING PRESIDENT BENJAMIN: The Senator yields.

SENATOR RATH: Thank you.

One last question. I think we need to be working on more of a heads-up when it comes to public employers. Was that considered, the timeline, in the passage of this legislation and two days from now this goes into effect?

SENATOR GIANARIS: I'm not sure

what the Senator means by a heads-up to the employers. But I will stress again that this is a chapter amendment to a law that was passed in the fall. And that both the employer and employee side of the equation all understand why we're moving as quickly as we are and will do their best to comply in good faith with the provisions of this law.

SENATOR RATH: Thank you, Mr. President.

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

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

Read the last section.

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

ACTING PRESIDENT BENJAMIN: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT BENJAMIN: Announce the results.

THE SECRETARY: In relation to Calendar Number 66, those Senators voting in the negative are Senators Akshar and Rath.

Ayes, 60. Nays, 2.

ACTING PRESIDENT BENJAMIN: The bill is passed.

The Secretary will read.

THE SECRETARY: Calendar Number 139, Assembly Number 2574, substituted earlier by Assemblymember Walker, an act to amend the Election Law.

ACTING PRESIDENT BENJAMIN: Senator Rath.

SENATOR RATH: Thank you, Mr. President. Will the sponsor yield for questions.

ACTING PRESIDENT BENJAMIN: Does the sponsor yield?

SENATOR GIANARIS: I will yield.

ACTING PRESIDENT BENJAMIN: The sponsor yields.

SENATOR RATH: Thank you, Mr. President.

When California enacted the automatic voter registration, there were 150,000 errors on registrations within the first year, and at least 1500 people that were ineligible to vote yet were registered to vote. Some people

may say to themselves, Well, 1500 votes is not a lot. But if you look at the race right here in New York State, the 22nd Congressional District, only a handful of votes will decide the winner of that race.

Do you have any concerns that New York will experience similar registration errors?

SENATOR GIANARIS: No.

SENATOR RATH: Thank you, Mr. President. Will the sponsor continue to yield?

ACTING PRESIDENT BENJAMIN: Does the sponsor yield?

SENATOR GIANARIS: Yes.

ACTING PRESIDENT BENJAMIN: The sponsor yields.

SENATOR RATH: Does this bill still contain the presumption of innocence provision of the original bill?

SENATOR GIANARIS: Yes.

SENATOR RATH: Thank you, Mr. President. Will the sponsor continue to yield?

ACTING PRESIDENT BENJAMIN: Does

the sponsor yield?

SENATOR GIANARIS: Yes.

ACTING PRESIDENT BENJAMIN: The sponsor yields.

SENATOR RATH: How would a prosecutor prove someone intentionally did not opt out of a voter registration?

SENATOR GIANARIS: Well, Mr. President, there are ample examples throughout the country of prosecutors developing and using evidence against people who commit malfeasance. I imagine it would unfold the same way as it does in any other instance of prosecution.

SENATOR RATH: Thank you, Mr. President. Will the sponsor continue to yield?

ACTING PRESIDENT BENJAMIN: Does the sponsor yield?

SENATOR GIANARIS: Yes.

ACTING PRESIDENT BENJAMIN: The sponsor yields.

SENATOR RATH: Does this bill contain the provision that someone can register to vote even if they are not providing a

signature?

SENATOR GIANARIS: This bill does nothing to change the law in that regard.

SENATOR RATH: Thank you.

Mr. President, will the sponsor continue to yield?

ACTING PRESIDENT BENJAMIN: Does the sponsor yield?

SENATOR GIANARIS: Yes.

ACTING PRESIDENT BENJAMIN: The sponsor yields.

SENATOR RATH: Thank you.

It appears that the chapter amendment delays the implementation of the automatic voter registration at several agencies. Why the delay at these agencies?

SENATOR GIANARIS: This bill is the result of discussions with the Executive, who as the overseer of these agencies believed that the ones that were delayed needed an extra year to fully implement the provisions of the law.

SENATOR RATH: Mr. President, will the sponsor continue to yield?

ACTING PRESIDENT BENJAMIN: Does the sponsor yield?

SENATOR GIANARIS: Yes.

ACTING PRESIDENT BENJAMIN: The sponsor yields.

SENATOR RATH: Will these agencies need funding to implement the enrollment system?

SENATOR GIANARIS: It depends, is the answer. The Department of Motor Vehicles, for example, is already registering people under a different process, so they can likely use whatever mechanism is already in place.

But yes, for additional agencies that are adding this service, they would need to dedicate some resources to it, and time, which is likely why the Executive requested additional implementation time.

SENATOR RATH: Thank you, Mr. President. Will the sponsor continue to yield?

ACTING PRESIDENT BENJAMIN: Does the sponsor yield?

SENATOR GIANARIS: Yes.

ACTING PRESIDENT BENJAMIN: The sponsor yields.

SENATOR RATH: How was it decided which agencies would automatically register

voters?

SENATOR GIANARIS: That was the result of determinations and discussions with the Executive in terms of which agencies had the necessary information to make determinations about eligibility.

So certain agencies, for example, have citizenship, age, address information, and others do not. So the choice was made to select agencies that were best equipped to determine eligibility.

SENATOR RATH: Thank you.

Mr. President, will the sponsor continue to yield?

ACTING PRESIDENT BENJAMIN: Does the sponsor yield?

SENATOR GIANARIS: Yes.

ACTING PRESIDENT BENJAMIN: The sponsor yields.

SENATOR RATH: Thank you.

Was there the consideration of the administrative and sort of bureaucratic work, additional work that these agencies are going to be required to do when it comes to automatic voter registration within their organizations?

SENATOR GIANARIS: Yes.

SENATOR RATH: Thank you, Mr. President. Will the sponsor continue to yield?

ACTING PRESIDENT BENJAMIN: Does the sponsor yield?

SENATOR GIANARIS: Yes.

ACTING PRESIDENT BENJAMIN: The sponsor yields.

SENATOR RATH: One of the main arguments for automatic voter registration is it will increase turnout. Is there evidence of this?

SENATOR GIANARIS: Well, Mr. President, every time we have made it easier for people, eligible people, to enroll and to participate in elections, we have seen a concomitant increase in turnout.

So if we take the estimated 1 to 2 million people in New York State who are eligible but not registered to vote and put them on the rolls, it will almost inevitably lead to a dramatic increase in turnout.

SENATOR RATH: Thank you, Mr. President.

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

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

The Secretary will read the last section.

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

ACTING PRESIDENT BENJAMIN: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT BENJAMIN: Announce the results.

THE SECRETARY: In relation to Calendar Number 139, those Senators voting in the negative are Senators Akshar, Borrello, Boyle, Gallivan, Griffo, Helming, Jordan, Lanza, Martucci, Mattera, Oberacker, O'Mara, Ortt, Palumbo, Rath, Ritchie, Serino, Stec and Weik.

Ayes, 43. Nays, 19.

ACTING PRESIDENT BENJAMIN: The bill is passed.

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

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

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

SENATOR GIANARIS: I move to adjourn until tomorrow, Wednesday, February 3rd, at 11:00 a.m.

ACTING PRESIDENT BENJAMIN: On motion, the Senate stands adjourned until Wednesday, February 3rd, at 11:00 a.m.

(Whereupon, at 3:55 p.m., the Senate adjourned.)