NEW YORK STATE SENATE

THE STENOGRAPHIC RECORD

ALBANY, NEW YORK

February 8, 2021

3:53 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, Friday, February 5, 2021, the Senate met pursuant to adjournment. The Journal of Thursday, February 4, 2021, was read and approved. On motion, Senate adjourned.

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

Presentation of petitions.

Messages from the Assembly.

Messages from the Governor.

Reports of standing committees.

Reports of select committees.

Communications and reports from state officers.

Motions and resolutions.

Senator Gianaris.

SENATOR GIANARIS: Can we proceed to the reading of the calendar, Mr. President.

ACTING PRESIDENT BENJAMIN: The Secretary will read.

THE SECRETARY: Calendar Number 68, Assembly Print Number 957, by Assemblymember Galef, an act to amend Chapter 598 of the Laws of 1938.

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, 63.

ACTING PRESIDENT BENJAMIN: The

bill is passed.

Senator Gianaris.

SENATOR GIANARIS: Mr. President, thank you for indulging my delay.

That was Senator Reichlin-Melnick's first bill, so please congratulate him.

(Standing ovation.)

ACTING PRESIDENT BENJAMIN: Congratulations, Senator Reichlin-Melnick, on your first bill.

The Secretary will read.

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

SENATOR LANZA: Lay it aside.

ACTING PRESIDENT BENJAMIN: Lay it aside.

THE SECRETARY: Calendar Number 80, Senate Print 1309, by Senator Breslin, an act to amend the Real Property Tax Law.

ACTING PRESIDENT BENJAMIN: Read the last section.

THE SECRETARY: Section 3. This

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

ACTING PRESIDENT BENJAMIN: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT BENJAMIN: Senator Ryan to explain his vote.

SENATOR RYAN: Thank you, Mr. President.

Changes to 485-a were a long time in coming in New York State. It was a program originally designed to incentivize landlords and developers to redo old buildings in New York State, but boy did it fall far from its original purpose.

We've had scandals in Albany, we've had scandals in Syracuse, scandals in Buffalo, people building buildings with a vending machine in the basement and saying that is a mixed-use building. We've had people building office buildings with a bathroom in the laundry area to say that makes it a mixed-use residential building.

So we did some good work last year or this year; this is a bill to do chapter

amendments on that. But the 485-a program as it's been changed is going to get back to its original purpose of rehabilitating old buildings. And that's what we need. In our aging cities, you can couple that with your historic tax credits, and we're going to move our downtowns forward.

So I thank you for the opportunity to explain my vote, Mr. President, and I vote in the affirmative.

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

Announce the results.

THE SECRETARY: In relation to Calendar 80, 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, Tedisco and Weik.

Ayes, 44. Nays, 19.

ACTING PRESIDENT BENJAMIN: The bill is passed.

THE SECRETARY: Calendar Number 112, Senate Print 1353, by Senator Kavanagh, an act to amend the Public Housing Law.

SENATOR GIANARIS: Lay it aside temporarily.

ACTING PRESIDENT BENJAMIN: Lay it aside temporarily.

THE SECRETARY: Calendar Number 122, Senate Print 590, by Senator Benjamin, an act to amend the Alcoholic Beverage Control Law.

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: In relation to Calendar 122, those Senators voting in the negative are Senators Martucci and Skoufis.

Ayes, 61. Nays, 2.

ACTING PRESIDENT BENJAMIN: The bill is passed.

THE SECRETARY: Calendar Number 124, Senate Print 112, by Senator Kaplan, an act to amend the Executive Law.

ACTING PRESIDENT BENJAMIN: Read the last section.

THE SECRETARY: Section 3. This act shall take effect on the 90th day after it shall have become a law.

ACTING PRESIDENT BENJAMIN: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT BENJAMIN: Senator Reichlin-Melnick to explain his vote.

SENATOR REICHLIN-MELNICK: Thank you, Mr. President.

Housing discrimination has a long and terrible history in this country. For more than half of the 20th century, housing discrimination was legal. Restrictive covenants made whole neighborhoods off-limits to black or Hispanic or Jewish buyers, and other groups. Redlining was official government policy, and it made it difficult or impossible for black buyers to get mortgages. Suburban developments like Levittown prevented black Americans, including veterans, from buying homes. And when all this failed, efforts to desegregate were often met with violent racial attacks.

The Civil Rights Act and the Fair Housing Act ended much of this discrimination, but patterns of residential housing segregation have persisted. Newsday's reporting in 2019 showed this wasn't accidental. Over a three-year period, Newsday conducted a detailed experiment to assess discrimination in the real estate industry on Long Island, using so-called paired testers where two individuals with similar finances but of different races attempted to buy a house from a real estate agent.

Newsday found discrimination against Asian buyers in 19 percent of cases, against Hispanic buyers in 39 percent of cases, and against black buyers in 49 percent of cases. While white buyers were steered to communities that were overwhelmingly white, the minority buyers were shown houses in neighborhoods that already had higher concentrations of black, Hispanic or Asian residents. And in other cases, agents required documents and imposed conditions on black, Hispanic and Asian buyers they did not impose on white buyers.

In the aggregate, these actions

showed -- and they clearly perpetuated -- patterns of racial segregation.

So following Newsday's report, the Senate took action with an investigation conducted by three Senate committees, and a report outlining findings and recommendations. Today we're passing a number of bills that came out of this investigation, and I'm proud to be supporting them.

I just want to note that this bill is particularly important because it requires the Attorney General to conduct annual covert fair housing testing to assess compliance with fair housing laws throughout the state, essentially taking Newsday's groundbreaking investigation statewide and making it an ongoing feature of state law.

These investigations will surely uncover additional discrimination, but perhaps most importantly, the knowledge that undercover investigations are being conducted may have a significant deterrent impact on real estate agents who might be tempted to discriminate.

Passing this package will move New York along the path of progress towards our goal,

where society is free of housing discrimination.

I'm proud to vote yes.

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

Announce the results.

THE SECRETARY: Ayes, 63.

ACTING PRESIDENT BENJAMIN: The bill is passed.

THE SECRETARY: Calendar Number 130, Senate Print 715, by Senator Thomas, an act to amend the Executive 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: Senator Ryan to explain his vote.

SENATOR RYAN: Thank you, Mr. President. I rise to explain my vote.

The Division of Human Rights was established in New York State with all good

intentions to provide a streamlined mechanism to resolve cases of housing discrimination. But there was a big loophole built into the penalty phase of this, and it limited what judges could do if they found out that somebody had discriminated.

And you often had cases where somebody would be found to have discriminated, but there was zero damages and zero penalties available. Here is why, Mr. President.

Damages were only assessed if in fact the person who was the victim of discrimination couldn't find an apartment right away, had to go to a homeless shelter. But in upstate cities where there's a relatively soft market, you could be discriminated against in the morning and get an apartment in the afternoon. And that would lead to a judge finding that the landlord discriminated, but there is zero damages and zero penalty.

This bill fixes this. And this bill fixes this by allowing the judge, even if there's no other damages, to put a penalty, a strict penalty of $25,000 against somebody who discriminates for their first time, up to $75,000

for repeat offenders.

This will send a message to the landlord community throughout New York State that we do not tolerate housing discrimination. And it will give us the opportunity to continue to strive to uphold the promise of the Fair Housing Act of 1968.

So I thank Senator Thomas for his hard work on this issue and identifying this way to close the loophole. And, Mr. President, I cast my vote in the affirmative.

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

Announce the results.

THE SECRETARY: In relation to Calendar 130, those Senators voting in the negative are Senators Akshar, Borrello, Gallivan, Griffo, Helming, Jordan, Lanza, Oberacker, O'Mara, Ortt, Rath and Stec.

Ayes, 51. Nays, 12.

ACTING PRESIDENT BENJAMIN: The bill is passed.

THE SECRETARY: Calendar Number 225, Senate Print 538B, by Senator Kaplan, an act to amend the Real Property Law.

ACTING PRESIDENT BENJAMIN: Read the last section.

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

ACTING PRESIDENT BENJAMIN: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT BENJAMIN: Senator Kaplan to explain her vote.

SENATOR KAPLAN: Thank you, Mr. President.

I want to start by thanking my Majority colleagues for their partnership and investigation and hearings that brought us here today.

I'd also like to thank Newsday for sparking the flame with their "Long Island Divided" investigation series that uncovered the widespread problem of minority homebuyers being treated unequally on Long Island.

And most importantly, I'd like to thank our Majority Leader, Andrea Stewart-Cousins, for ensuring that this Majority will always stand up for what's right and advance

a just agenda that supports all New Yorkers.

There's no disputing the fact that we have a problem on Long Island when it comes to unequal treatment of minority homebuyers. And we also know that it is not a victimless crime or offense, so it demands our action and attention.

Fixing this problem going forward, and ensuring everyone is treated fairly, is going to rely on better education and training for real estate professionals as well as stronger enforcement to deter bad actors from engaging in harmful, illegal tactics.

I'm proud to sponsor this legislation today as a part of the Senate Majority's effort to ensure all homeowners are treated equally, to ensure that all real estate brokers and salespeople undergo implicit bias education, and to set up a strong covert fair housing testing program to ensure industry's compliance with fair housing laws.

This package of legislation is an important step forward, but by no means is the end to our mission to ensure equal treatment for all New Yorkers looking to start a family and live their American dream. It is a task that

will require every one of us to continue to be vigilant and to continue to speak out when we see injustice taking place in our community.

And with that I proudly vote aye, Mr. President.

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

Announce the results.

THE SECRETARY: In relation to Calendar Number 225, voting in the negative: Senator Lanza.

Ayes, 62. Nays, 1.

ACTING PRESIDENT BENJAMIN: The bill is passed.

THE SECRETARY: Calendar Number 226, Senate Print 945B, by Senator Gaughran, an act to amend the Real Property Law and the State Finance Law.

ACTING PRESIDENT BENJAMIN: Read the last section.

THE SECRETARY: Section 3. This act shall take effect on the 60th day after it shall have become a law.

ACTING PRESIDENT BENJAMIN: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT BENJAMIN: Senator Gaughran to explain his vote.

SENATOR GAUGHRAN: Thank you, Mr. President.

Newsday's important investigation revealed what so many of us already knew: Racial discrimination and segregation continue to persist on Long Island. That's why it's so important for us as legislators to address this.

Last year we took a very important first step and we passed legislation that I sponsored that will now revoke the license of a real estate broker or salesperson if they violate our human rights laws.

We continue to hold hearings, to deliberate. And I want to thank Leader Stewart-Cousins for making all of this happen and moving this along.

And you know, we are in a pandemic. We're dealing with very difficult health issues, economic issues. But, you know, in the State Legislature we can deal with other issues as well. And that's why I am so proud of this package and also the legislation that I am

sponsoring today which will create an Antidiscrimination in Housing Fund.

This will help to bring us to a more equitable society here in New York, and it will make sure that it doesn't matter, you are entitled to the American dream, whether it's on Long Island or anywhere in this state, regardless of your race, religion, national origin, skin color, creed, sexual orientation, gender identity or expression, age, military status, sex, marital status or disability.

I vote in the affirmative, Mr. President. Thank you.

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

Announce the results.

THE SECRETARY: In relation to Calendar 226, those Senators voting in the negative are Senators Gallivan, Oberacker and O'Mara.

Ayes, 60. Nays, 3.

ACTING PRESIDENT BENJAMIN: The bill is passed.

THE SECRETARY: Calendar Number 227, Senate Print 1448, by Senator Hoylman, an

act to amend the Real Property Law.

SENATOR LANZA: Lay it aside.

ACTING PRESIDENT BENJAMIN: Lay it aside.

THE SECRETARY: Calendar Number 229, Senate Print 2131A, by Senator Skoufis, an act to amend the Real Property 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: In relation to Calendar Number 229, those Senators voting in the negative are Senators Griffo, Lanza, Oberacker and Tedisco.

Ayes, 59. Nays, 4.

ACTING PRESIDENT BENJAMIN: The bill is passed.

THE SECRETARY: Calendar Number 230, Senate Print 2132B, by Senator Skoufis, an

act to amend the Real Property Law.

ACTING PRESIDENT BENJAMIN: Read the last section.

THE SECRETARY: Section 5. This act shall take effect on the first of July.

ACTING PRESIDENT BENJAMIN: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT BENJAMIN: Announce the results.

THE SECRETARY: In relation to Calendar 230, those Senators voting in the negative are Senators Borrello, Helming, Lanza, Oberacker and Rath.

Ayes, 58. Nays, 5.

ACTING PRESIDENT BENJAMIN: The bill is passed.

THE SECRETARY: Calendar Number 231, Senate Print 2133A, by Senator Skoufis, an act to amend the Real Property Law.

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:

Senator Serino to explain her vote.

SENATOR SERINO: Thank you, Mr. President.

Since taking office, I have not supported bills that would increase or implement new fees. I have a personal conflict with this bill in particular, and as such I've asked to be excused from voting on it.

ACTING PRESIDENT BENJAMIN: Without objection, so ordered.

SENATOR SERINO: Thank you, Mr. President.

ACTING PRESIDENT BENJAMIN:

Announce the results.

THE SECRETARY: In relation to Calendar 231, those Senators voting in the negative are Senators Addabbo, Akshar, Borrello, Gallivan, Griffo, Helming, Jordan, Lanza, Martucci, Oberacker, O'Mara, Ortt, Palumbo, Ritchie, Stec, Tedisco and Weik.

Ayes, 45. Nays, 17. Senator Serino excused.

ACTING PRESIDENT BENJAMIN: The bill is passed.

THE SECRETARY: Calendar Number 232, Senate Print 2157A, by Senator Thomas, an act to amend the Real Property Law.

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: Senator Thomas to explain his vote.

SENATOR THOMAS: Thank you, Mr. President.

I also want to thank the leader for pushing forward this package on housing discrimination, because this should not be happening in our communities again.

In 2019, Newsday published a three-year investigation of discrimination by real estate agents, revealing evidence of widespread separate and unequal treatment of minority potential homebuyers and minority

communities on Long Island. Additionally, the investigation revealed that Long Island's dominant residential brokering firms appeared to be helping to solidify racial separations.

In response, the New York State Senate conducted three separate hearings after subpoenas were served on agents and brokers. The testimony revealed several issues, including lack of supervision and lack of deterrence, among other issues.

In order to rectify the lack of deterrence, I introduced S715, which passed this house a few minutes ago, designed to deter violations of the Human Rights Law in relation to fair housing discrimination. Fines are increased to 25,000 for the first offense, 50,000 for the second, and 75,000 for the third.

And in order to rectify the lack of supervision, I introduced this current bill, S2157A, to hold office managers to the same standard as licensed real estate brokers.

For many Americans, owning a home is a step towards obtaining their American dream. The purchase of a home is a huge financial decision for potential buyers, and the real

estate industry should be acting ethically.

These two bills, along with those filed by my colleagues, are going to make sure this does not happen again. Discrimination has no place in our communities.

I vote in the affirmative. Thank you.

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

Announce the results.

THE SECRETARY: In relation to Calendar 232, those Senators voting in the negative are Senators Gallivan, Griffo, Lanza, Oberacker, O'Mara, Rath and Tedisco.

Ayes, 56. Nays, 7.

ACTING PRESIDENT BENJAMIN: The bill is passed.

THE SECRETARY: Calendar Number 233, Senate Print 2525A, by Senator Kavanagh, an act to amend the Real Property Law.

SENATOR LANZA: Lay it aside.

ACTING PRESIDENT BENJAMIN: Lay it aside.

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

SENATOR GIANARIS: Mr. President, can we go back to Calendar 112, remove the temporary lay-aside, and take that bill up, please.

ACTING PRESIDENT BENJAMIN: The Secretary will read.

THE SECRETARY: Calendar Number 112, Senate Print 1353, by Senator Kavanagh, an act to amend the Public Housing Law.

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: Senator Kavanagh to explain his vote.

SENATOR KAVANAGH: Thank you, Mr. President, and distinguished colleagues both here in the chamber and participating in today's proceedings remotely.

I rise to explain my vote on Senate Bill 1353, which establishes an obligation to affirmatively further fair housing among state

agencies and those receiving state housing funds.

As you know, Mr. President, this bill, along with the entire legislative package that we're taking up today, seeks to put an end to widespread discriminatory practices that were detailed first by an extraordinary exposé published by Newsday, on Long Island, and subsequently detailed in a lengthy report on fair housing that was recently issued by Senators Skoufis, Thomas and myself and the Committees on Housing, Construction and Community Development, Investigations and Government Operations, and Consumer Protection.

The report and much of today's package is based on testimony from stakeholders at the two Senate hearings; document requests; of course Newsday's findings, and various policy meetings and research conducted by members of the committee and the committee staff.

This bill intends to address housing discrimination as it manifests itself across the state, not just in the home sale market, which was the focus of Newsday, but the broad range that we see discrimination. It seeks to amend the Public Housing Law in relation to

establishing that requirement of affirmatively furthering fair housing.

Mr. President, that means going beyond merely refraining from discrimination or enforcing minimal standards. It requires that housing agencies and other state agencies, anybody involved in the housing space, and any locality receiving housing money of any kind from the state, to take meaningful steps to further our goal of fair housing by identifying and overcoming patterns of segregation, eradicating racially and ethnically concentrated areas of poverty, and reducing disparities in opportunity and eliminating disproportionate needs for housing that are being unmet.

The purpose of the bill and the entire legislative package, to provide transparency and accountability in the housing industry for the benefit of all New Yorkers.

Now, I would note that this is not a new idea. The Fair Housing Act at the federal level in 1968 required a statutory requirement that all federal recipients of money affirmatively further fair housing. There was an attempt early on to implement that, but it

largely went dormant for many years until the Obama administration in 2015 put forth a set of regulations that were intended to implement it.

Unfortunately, the Trump administration effectively suspended those regulations and made it such that that obligation is no longer in effect at the moment for much of the country.

The report we've put out urges the Biden administration to reinstate that at the federal level. But in the meantime, it's a great step forward to be reinstating at the state level.

I'd like to again thank our leader, Senators Skoufis and Thomas, who cochaired the hearings, and all of our colleagues that participated in this process. It's my hope that our legislation, including this bill and the others in the package, will usher in a new era of equality and justice for homebuyers and renters throughout the state.

And with that, Mr. President, I vote aye.

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

Senator Jackson to explain his vote.

SENATOR JACKSON: Thank you, Mr. President. And, my colleagues, I rise this afternoon in order to support this bill that was just introduced and explained by Senator Kavanagh.

Housing is a human right. And housing discrimination denies people that right. And it is evident that fair housing advances economic opportunities and helps close the wealth gap that has historically disadvantaged communities of color for generations.

Our communities of color are still reeling from the devastating effects of decades-long discriminatory practices, including redlining and disinvestment in communities. As a legislator, I know.

As an African-American black man, 26 years old, I was discriminated, in my opinion, when I was looking for an apartment in Washington Heights, where I currently live. When I went and asked for an application because I saw all of these windows vacant on the third floor, the super said, "I'm sorry, we have somebody we gave the application already. So when we give out an

application, we don't give out any more." I said, "Well, how do you know that they will qualify," this, that and the other. The bottom line, I left without an application.

I found out where the managing agent office was, and I went out there. And at the time I was working for the State of New York. I know I didn't show my badge. I may have given him my business card, which said "State of New York, Department of Labor Special Agent."

Well, I got an application. And they said, "You know that you would have to produce your W-2s," and I said "No problem." "You know you would have to produce your wife's W-2." "No problem." Within a week, I had the apartment.

Now, did I go into court? I didn't have to go into court. But I do know that approximately a year or two later that a black couple went up to Riverdale to look for an apartment, and they saw it and they said, "I'm sorry, it has already been taken." And they felt that they were getting shafted, being discriminated against, and they went to Fair Housing. And the Fair Housing people sent a

white couple up there with the same basic educational level and the same income -- and no problem, they got the apartment. Well, it was in the New York Times about the discriminatory practices.

So as a legislator, I am actively seeking to create more diverse inclusive communities, whether it's upstate, in the Hudson Valley or Long Island or in New York City. We are working together in this chamber to overcome historic segregation patterns and eradicate racially and ethnically concentrated poverty areas.

This legislation paves the way for our state agencies to affirmatively further fair housing is their mission moving forward. Strengthening the state's role in this matter will help us combat the systemic challenges like those that cropped up on Long Island in recent years and the ones that I described which happened a long time ago.

It will also help us to achieve a generally fair housing and prevent discrimination in public and private housing, protecting tenants and buyers alike.

My thanks to Senator Kavanagh for drafting this bill, and to the other drafters of the bills in this package for your work in advancing a fair housing framework that moves us towards justice.

I proudly, Mr. President, vote aye.

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

Announce the results.

THE SECRETARY: Ayes, 63.

ACTING PRESIDENT BENJAMIN: The bill is passed.

Senator Gianaris.

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

ACTING PRESIDENT BENJAMIN: The Secretary will ring the bell.

The Secretary will read.

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

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

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

ACTING PRESIDENT BENJAMIN: Thank you, Senator Lanza. Upon review of the amendment, in accordance with Rule VI, Section 4B, I rule it nongermane and out of order at this time.

SENATOR LANZA: Mr. President, accordingly, I appeal the ruling of the chair and ask that Senator Jordan be recognized.

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

SENATOR JORDAN: Thank you, Mr. President.

I rise to appeal the ruling of the chair. The proposed amendment is germane to the bill at hand, because the bill at hand deals specifically with the trauma that frontline workers experience.

As we have maneuvered throughout COVID-19, our frontline workers have had countless executive orders implemented by

Governor Cuomo. There has been a lack of clarity and order with these numerous orders, and now we are hearing about one of the latest directives.

The amendment I put forth on behalf of our conference would finally restore checks and balances of our state government and see the State Legislature become a coequal branch of government once again.

This will be the 12th time that we find ourselves in a position to reassert ourselves and reestablish the necessary separation of powers so vital to our democracy.

The case has been made by my Senate Republican colleagues and me all year, even stemming backing to last May, when we first forced a vote on this motion. New Yorkers have endured the arbitrary economic restrictions, the fumbled vaccine rollout, and the disastrous and deadly nursing home scandal. Fast forward to today. Governor Cuomo and his administration are still neck deep in these controversies. In fact, these things have gotten worse.

And what has the state done to restore the necessary checks and balances? We've heard threat after threat, but that's all it's

been so far: All talk and no action.

On vaccines, finally, we saw the Governor last week, without any advance notice, add new eligibility for New Yorkers with comorbidities. My colleagues and I love the idea, but we wish we could see more collaboration between the Executive and local governments in vaccinating more New Yorkers. Keep in mind that our county governments have been ready, willing and able to administer mass vaccine in instances such as this pandemic.

In terms of economic restrictions imposed by the Governor, to give an example that hits close to home in my 43rd Senate District, does it make any sense why bowling alleys are open yet so many billiard halls remain closed? They operate in much the same way. Bowling alleys have reserved lanes; billiard halls, reserved tables. Both clean equipment used between reserved groups. Both can provide social distancing while playing the game.

The Governor refuses to explain his arbitrary edicts unless he finds time in one of his press briefings -- where reporters aren't even given adequate time to ask important

questions.

But this is what happens when you put one person in charge and when one person overstays his time. The Governor is not a king. One-person rule is antithetical to democracy.

Another thing that happens when one person is put in charge, that person starts to mistakenly believe he's unaccountable to anyone but himself.

We all saw the AG's bombshell report on nursing homes. We've seen the mass exodus of Health Department officials. And I'm sure you've seen our conference's calls for an independent investigation, calls that have been ongoing for months.

This issue is a stain on the Governor and a disgrace to the entire state. The nation needs to stop its stonewalling. And that's why I'm urging the Senate Majority to stop turning a blind eye to his administration's failings today.

Again, today will mark the 12th time we vote on this commonsense good-government amendment. Ten times since the beginning of this year. But forget the past. Stand with us today.

We know for a fact that some of you want to. So do it. Stand with us now. This issue is bigger than partisan politics. It's about doing what's right and the State Legislature reasserting its rightful prerogative as a coequal branch of our state government.

Nothing is stopping our colleagues from voting on this amendment today, at least nothing we know about publicly. We all know it's the right thing to do. For these reasons, Mr. President, I strongly urge you to reconsider your ruling.

ACTING PRESIDENT BENJAMIN: Thank you, Senator Jordan.

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

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

SENATOR LANZA: Request a show of hands.

SENATOR GIANARIS: Mr. President, we've agreed to waive the 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, 20.

ACTING PRESIDENT BENJAMIN: 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, the debate is closed. The Secretary will ring the bell.

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: Senator Brouk to explain her vote.

SENATOR BROUK: Good afternoon, everyone.

We're living through unprecedented times right now, and this piece of legislation will provide much-needed research on the adverse

effects of COVID-19 on the essential frontline workers who have tirelessly supported New Yorkers throughout this pandemic.

Just last week I hosted a virtual town hall on the mental health needs of essential workers in the 55th District in Rochester, and we heard from more than 100 of our community's healthcare providers, teachers, laborers and small business owners who are struggling with not just their physical health, but also their mental health, as they keep our communities running.

They shared stories of juggling childcare at home, work outside of the home, and worrying about keeping their families safe and cared-for while they care for us. Workers told of the mental stress of working long days under impossible conditions with little time to rest, reflect or recover.

But anecdotal evidence is not enough. We need this task force to study and report out on the adverse impacts that COVID-19 is having on our frontline workers. And even more crucially, our government and our service providers need these recommendations to effectively meet those workers' mental health

needs.

I'm proud to support this bill today to ensure that our essential workers are heard, understood and acknowledged, and that they get the care they need after they have cared for us so well during this pandemic.

Thank you.

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

Announce the results.

THE SECRETARY: Ayes, 63.

ACTING PRESIDENT BENJAMIN: The bill is passed.

Senator Gianaris.

SENATOR GIANARIS: Mr. President, let's celebrate Senator Samra Brouk's first bill.

(Standing ovation.)

ACTING PRESIDENT BENJAMIN: Congratulations to Senator Brouk on your first bill.

The Secretary will read.

THE SECRETARY: Calendar Number 227, Senate Print 1448, by Senator Hoylman, an act to amend the Real Property Law.

ACTING PRESIDENT BENJAMIN: Senator

Boyle.

SENATOR BOYLE: Will the sponsor yield for some questions?

ACTING PRESIDENT BENJAMIN: Will the Senator yield?

SENATOR KAVANAGH: Mr. President, standing in for the sponsor, I'm happy to yield.

ACTING PRESIDENT BENJAMIN: The Senator yields.

SENATOR BOYLE: I didn't realize it was going to be you. This is going to be a tougher one now.

(Laughter.)

SENATOR KAVANAGH: I won't tell Senator Hoylman.

(Laughter.)

SENATOR BOYLE: Mr. President, I would like to ask a question. I believe, it seems to me, that this is a solution in search of a problem. I've done hundreds and hundreds of closings and have never seen this issue of a signature.

So this bill would require the Secretary of State of New York to promulgate rules requiring real estate brokers and

salespersons to legibly write his or her name and license number on any document requiring a signature. It's my understanding that the New York State Department of State has not received a single complaint of a consumer being unable to identify a real estate salesperson or broker.

My question to you, Senator, is do you have any examples of members of the public who have been harmed or fraudulently mistreated by a real estate professional who has been seeking a signature and not being able to find them?

SENATOR KAVANAGH: Thank you, Mr. President.

Yeah, this bill originated with some concerns that were raised in Queens by former Assemblymember Michael DenDekker, who originally drafted the bill, where it appeared that someone was attempting to pass themselves off as a real estate professional licensed by the state, but was not in fact so.

So the idea of this bill is -- the initial idea of this bill was simply that there be a clear identification. We issue brokers and

salespeople a number, they are required by law already to carry a card that has identifying information, but the public is generally unaware of that.

This bill, as my colleague has noted, only applies when the licensed professional is required to sign a document. And it simply requires that they identify themselves clearly with a printed name and this number that's already been issued to them.

SENATOR BOYLE: Mr. President, on the bill.

ACTING PRESIDENT BENJAMIN: Senator Boyle on the bill.

SENATOR BOYLE: As the Senator said, this is already done, basically. Real estate professionals are required to carry a card that clearly mentions their name and real estate number. There are identifying features.

There are some bad apples, probably, but there are ways to do this without making it law that they legibly write their name and number.

I would just say that there's a good number of these bills. I commend Newsday for the

investigation. And I think that part of the answer is training. Some of these bills do that; I think it's great.

I would say that when these training classes do take place, they should include one of the most important things. None of us want to see discrimination in real estate. Just make it illegal or prohibit real estate professionals from answering any questions about school districts.

When I read the articles in Newsday and I attended the hearings down on Long Island, the vast majority of these realtors are honest, not racists, not bigots, good people. I know personally a couple of them that were involved in the articles. They just simply answered questions about the school districts which were problematic.

We don't want to have any discrimination, and this bill is not the answer. So I'll vote in the negative on this.

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 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: In relation to Calendar Number 227, those Senators voting in the negative are Senators Addabbo, Akshar, Borrello, Boyle, Cooney, Gallivan, Gaughran, Griffo, Helming, Jordan, Lanza, Martucci, Mattera, Oberacker, O'Mara, Ortt, Palumbo, Rath, Reichlin-Melnick, Ritchie, Serino, Skoufis, Stec and Tedisco.

Ayes, 39. Nays, 24.

ACTING PRESIDENT BENJAMIN: The bill is passed.

The Secretary will read.

THE SECRETARY: Calendar Number 233, Senate Print 2525A, by Senator Kavanagh, an act to amend the Real Property Law.

ACTING PRESIDENT BENJAMIN: Senator

Martucci.

SENATOR MARTUCCI: Thank you, Mr. President. Through you, will the sponsor yield for a question?

ACTING PRESIDENT BENJAMIN: Does the Senator yield?

SENATOR KAVANAGH: Happy to do so, Mr. President. Happy to be back, feeling more myself now.

(Laughter.)

ACTING PRESIDENT BENJAMIN: The sponsor yields.

SENATOR MARTUCCI: Thank you, Mr. President.

This bill requires every real estate broker and every real estate agent to collect demographic data on every real estate transaction. And we're talking about properties listed or shown, the location of such properties, the disposition of every offer received, and whether or not a closing occurred.

How is the Department of State equipped in terms of funding, staffing, and overall capability to handle the expansive amount of data that will be sent in from the state's

approximately 50,000 real estate agents and brokers?

SENATOR KAVANAGH: Through you, Mr. President.

As has been noted, this legislation will require licensed brokers and salespersons to request voluntary disclosure of various demographic data that all relates to protected characteristics under current law, and to retain such data and to provide a report to the Secretary of State.

I would note that this bill comes out of recommendations from Professors Max Besbris of the University of Wisconsin and Jacob Faber of NYU, and also our Fred Freiberg, who is of the Fair Housing Justice Center, all of whom were very instrumental in the committees' work on the package that we're seeing today.

But my colleague is misunderstanding the aspect of the bill that requires data to be reported to the Secretary of State. The bill requires the details of this to be retained for two years by the broker or the salesperson, but it only requires that a summary of that data be provided annually to the Secretary of State, in a

form that the Secretary of State would provide.

SENATOR MARTUCCI: Thank you.

Mr. President, will the sponsor continue to yield?

ACTING PRESIDENT BENJAMIN: Does the sponsor yield?

SENATOR KAVANAGH: Yes, Mr. President.

ACTING PRESIDENT BENJAMIN: The sponsor yields.

SENATOR MARTUCCI: This bill memo indicates that there will be a cost to the state to implement the bill. Does the bill include any appropriation to cover the cost?

SENATOR KAVANAGH: Through you, Mr. President, we don't believe that there would be a substantial cost to this bill. There are other bills in this package that expand the funding available for fair housing work, and we think this is very much a part of that.

But on the other hand, we're in the midst of a budget process, and the Executive agencies are certainly free, if they think that this is more than the usual cost that might be added by a routine incremental change in their

very substantial regulatory responsibilities, they're free to certainly request additional appropriations for that.

I will notice that every single person who is required to submit this report is already paying a pretty substantial fee to be licensed by the state. And this should be a very minimal cost of the overall cost of regulating those sales professionals.

SENATOR MARTUCCI: On the bill, Mr. President.

ACTING PRESIDENT BENJAMIN: Senator Martucci on the bill.

SENATOR MARTUCCI: I want to begin by thanking my colleague Senator Kavanagh for answering my questions and addressing my questions today.

What we have here I believe is a very well meaning piece of legislation, but like much of what goes on here in this chamber and in Albany in general, it's being passed without knowing what the real cost to taxpayers will be and where the money will come from to successfully implement the suggested program.

This is exactly the kind of thing

that the folks in my district are so frustrated with. This bill, and others that we're considering here today, assumes bad intent on the part of nearly 50,000 real estate agents operating in our state, and places additional burdens on all of them for the alleged past sins of just a few.

Because this bill has a fiscal impact but provides no funding, and because it does not demonstrate that the Department of State can effectively handle these new responsibilities, I'm forced to oppose this legislation.

Thank you, Mr. President.

ACTING PRESIDENT BENJAMIN: Senator Palumbo.

SENATOR PALUMBO: Thank you, Mr. President. Would the sponsor yield for a question, please.

ACTING PRESIDENT BENJAMIN: Does the sponsor yield?

SENATOR KAVANAGH: Yes, Mr. President.

ACTING PRESIDENT BENJAMIN: The sponsor yields.

SENATOR PALUMBO: Thank you, Senator Kavanagh.

Just by way of clarification, on page 1, lines 10, 11, 12, 13 there, generally, if the client refuses to give the information, or gives an incomplete answer, would the broker be in compliance with their duties under this proposed legislation?

SENATOR KAVANAGH: Yes.

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

ACTING PRESIDENT BENJAMIN: Does the sponsor yield?

SENATOR KAVANAGH: Yes, Mr. President.

ACTING PRESIDENT BENJAMIN: The sponsor yields.

SENATOR PALUMBO: Thank you, Senator.

And if they are noncompliant, could you please describe what the sanction would be for that willful or even negligent noncompliance? And that's kind of two questions in one, if you don't mind breaking that up. Or if you'd like me to, I certainly will.

SENATOR KAVANAGH: Through you, Mr. President. If the -- I assume that the -- my colleague's question refers to if the broker or the salesperson were not complying with this new requirement. The Secretary of State has broad authority to oversee this industry and the licensed professionals under it, and violating this rule, like violating many other rules, might result in a decision by the Secretary of State to take enforcement action.

But there's no specific penalty associated with this particular collection or data requirement that this bill would impose.

SENATOR PALUMBO: Thank you, Senator. And would you yield for one more question, please. Through you, Mr. President.

ACTING PRESIDENT BENJAMIN: Does the sponsor yield?

SENATOR KAVANAGH: Yes.

ACTING PRESIDENT BENJAMIN: The sponsor yields.

SENATOR PALUMBO: Thank you, Senator.

And I see here there's kind of a catch-all section, 442-e of the Real Property

Law, on violations, that it would ultimately be that the Attorney General would prosecute it, but the penalty would ultimately be a misdemeanor, in the first few lines of it: "Misdemeanors; triable in court of special sessions. Any person who violates any provision of this article shall be guilty of a misdemeanor," of a crime. And by reference, that of course would now include this new section, 442-m.

So my question to you is in light of the fact that your proposed legislation is silent, it's ultimately a crime for noncompliance, just so I can be clear, if a broker does not comply with this newly proposed legislation that's before us here today.

SENATOR KAVANAGH: Through you, Mr. President. Would my colleague mind, since the provision he's citing is not in the bill before us, if he could repeat the section of law that he's referring to, just so we can take a look?

SENATOR PALUMBO: Certainly. certainly. It's 442-e. And this is a proposed section -- in Section 1. The proposed bill is 442-m. So it's earlier in that title.

It just says "Violations. Section 1. Misdemeanors; triable in court of special sessions. Any person who violates any provision of this article shall be guilty of a misdemeanor."

And I can read further, if you'd like. "The commission of a single act prohibited by this article shall constitute a violation thereof. All courts of special session, within their respective territorial jurisdictions, are hereby empowered to hear, try and determine such crimes, without indictment, and to impose the punishments described by law therefor."

So actually, now that I read all the way through, that's somewhat inconsistent in its own language.

But it would at least be a violation. In the way that I read this, that any violation of the overall article would ultimately be a misdemeanor. And that's where I'm looking for some clarification, if you don't mind, Senator. Through the president.

(Brief pause.)

SENATOR KAVANAGH: So, you know, just wanted to consult with counsel, since again

that provision is not before us in this bill.

But just generally -- just to respond, first of all, generally, there are a variety of provisions in the Real Property Law, and that provision that you're speaking of seems to have been on the books for a while. And yet it does not -- it does not -- we did discuss this bill at some length with representatives of the industry, including the realtors themselves, as well as others in the real estate industry. The objections we've gotten to date have not been about subjecting anybody to a misdemeanor, but more the kind of -- you know, the complexity of -- the administrative burden of complying with this, and how it might affect their interactions with customers.

Having said that, you know, you raise an important point. We will take a look at it. It is not our intent to create a -- you know, a misdemeanor out of a minor violation of the law. Perhaps if somebody were willfully and consistently refusing to comply with a law like this, maybe it would be elevated to that.

But, you know, you raised the point and we will take a look it and certainly ensure

that we have a clear understanding of that before it is signed into law.

SENATOR PALUMBO: Terrific. Thank you, Senator.

On the bill, Mr. President, please.

ACTING PRESIDENT BENJAMIN: Senator Palumbo on the bill.

SENATOR PALUMBO: Thank you.

And, Senator Kavanagh, I certainly do appreciate that clarification, and I do appreciate the fact that you're going to certainly take a look at that, because obviously this is very important data that we need to compile.

As stated by some of my colleagues on this floor, that investigation revealed some atrocities that we all are offended by, and we need to make sure we get to the bottom of it. And I get it. And I'm sure this is absolutely the appropriate and laudable intent.

But unfortunately, with -- I think generally that article is not the best drafted article under the Real Property Law that I've seen. We have a lot of issues with it, I think generally, that kind of overlap. But as a

catch-all provision, that's a concern. That I don't think the failure to just collect information -- that I would suggest is a little bit sensitive to get from someone, to ask them in your first interaction with them, You want to be a client, and I would like to know all of this personal information, including ethnicity, origin, ethnic origin, those sort of things -- gender, how you're identifying. I think that this may open up a can of worms.

But we need to get to that result in a reasonable fashion. And I think we're all in agreement with that. I would just ask that we certainly take a further review on the language of this bill, because I think that the unintended consequence will be quite severe.

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 2. This act shall take effect on the 90th day after it shall have become a law.

ACTING PRESIDENT BENJAMIN: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT BENJAMIN: Senator Kavanagh to explain his vote.

SENATOR KAVANAGH: Thank you, Mr. President. I appreciate the opportunity to explain my vote and clarify just a couple of points that were raised by colleagues in today's debate.

First of all, one of my colleagues mentioned that this is a broad response to a few wrongdoers. I just want to note that the Newsday investigation and our subsequent investigation really did demonstrate that a lot of these behaviors that a bill like this is addressed at, and the other bills in the package are addressed at, are really widespread. In about half of all instances where a black prospective homebuyer walked into a broker's office in Long Island, they experienced discriminatory treatment. And that has been well-documented now.

So a bill like this that is intended to create a broad framework to understand how this process is working for all homebuyers in the

state is really sorely needed.

The second thing I would just note, my colleague mentioned that this is sensitive information. Race and ethnicity and gender are of course sensitive topics for some, but it is not unusual these days for us to be asked basic demographic information to provide on a voluntary basis for the purpose of ensuring that other entities are complying with their obligations to be fair and to treat people equally.

So I would envision this being done like many other forums, where you're asked these questions, it's clear that it's optional, you can skip them if you want to, or you can include them if you desire as a client.

It should be noted that systems like this do collect a great deal of demographic data, even though they're voluntarily. And in fact, this bill is modeled on a current law which is national which requires every single mortgage application to include this kind of demographic data and the outcome of that application. And in that case, as my colleague noted, it would be burdensome for the administrative agency and the enforcement agency to receive all the individual

transactions with respect to mortgages. That is the law. The -- each client in that information is reported directly.

In this case, all we're doing is having an annual summary of this data. We think this is a reasonable balancing act for a very big problem that we've seen. And we think that this will be part -- along with the rest of this package, be part of our state digging our way out of what we view as a very significant problem.

And with that, I'll be voting in the affirmative.

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

Announce the results.

THE SECRETARY: In relation to Calendar 233, those Senators voting in the negative are Senators Akshar, Borrello, Boyle, Gallivan, Griffo, Helming, Jordan, Lanza, Martucci, Mattera, Oberacker, O'Mara, Ortt, Palumbo, Rath, Ritchie, Serino, Stec, Tedisco and Weik.

Ayes, 43. Nays, 20.

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: Move to adjourn until tomorrow, Tuesday, February 9th, at 3:00 p.m.

ACTING PRESIDENT BENJAMIN: On motion, the Senate stands adjourned until Tuesday, February 9th, at 3:00 p.m.

(Whereupon, at 4:50 p.m., the Senate adjourned.)