NEW YORK STATE SENATE

THE STENOGRAPHIC RECORD

ALBANY, NEW YORK

February 10, 2021

11:16 a.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: Reading of the Journal.

THE SECRETARY: In Senate, Tuesday, February 9, 2021, the Senate met pursuant to adjournment. The Journal of Monday, February 8, 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 Mannion

moves to discharge, from the Committee on Rules, Assembly Bill Number 4686 and substitute it for the identical Senate Bill 4380, Third Reading Calendar 313.

ACTING PRESIDENT BENJAMIN: The substitution is so ordered.

THE SECRETARY: Senator Ramos moves to discharge, from the Committee on Rules, Assembly Bill Number 4447 and substitute it for the identical Senate Bill 4381, Third Reading Calendar 314.

ACTING PRESIDENT BENJAMIN: The substitution is so ordered.

THE SECRETARY: Senator Savino moves to discharge, from the Committee on Rules, Assembly Bill Number 4357 and substitute it for the identical Senate Bill 4382, Third Reading Calendar 315.

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, on behalf of Senator Mayer, on page 24 I offer the following amendments to Calendar 245, Senate 136A, and ask that said bill retain its place on Third Reading Calendar.

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

SENATOR GIANARIS: Can we now take up the reading of the calendar.

ACTING PRESIDENT BENJAMIN: The Secretary will read.

THE SECRETARY: Calendar Number 114, Senate Print 858, by Senator Gounardes, an act to amend the Labor Law.

ACTING PRESIDENT BENJAMIN: Read the last section.

THE SECRETARY: Section 5. 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, 63.

ACTING PRESIDENT BENJAMIN: The bill is passed.

THE SECRETARY: Calendar Number 172, Senate Print 1408, by Senator Gianaris, an act to amend the Criminal Procedure Law and the Civil Practice Law and Rules.

ACTING PRESIDENT BENJAMIN: 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: Senator Jackson to explain his vote.

SENATOR JACKSON: Thank you, Mr. President.

So, my colleagues, I rise -- it's my understanding this relates to enacting the "New York No Citizen Is Above the Law Act." It provides that the period of immunity from prosecution for a criminal or civil action that a defendant is entitled to by virtue of holding the

President of the United States office, shall not apply to calculation of the time limitation applicable to the commencement of such actions.

So I support this bill. No one -- and I repeat again -- no one is above the law. Period. Today, with this bill, we move forward to bear out that truth. Our state, New York State, the Empire State, must set an example. We must undo and overcome the bad precedent established during the past four years.

Nefarious acts and abuses of power were normalized by the previous president and his administration. No individual who held or holds the office of President of the United States should be allowed to employ stall tactics to have the statute of limitations expire on a crime he or she allegedly committed, thereby obstructing justice.

Lady Justice shall remain impartial. And we must use the law to hold those who abuse power and commit crimes accountable, even if they serve at the highest office in our nation.

I want to thank Senator Gianaris and my colleagues for bringing this bill to the floor, and I urge colleagues on both sides of the

aisle to join me in voting aye.

Thank you, Mr. President.

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

Senator Gianaris to explain his vote.

SENATOR GIANARIS: Thank you, Mr. President.

This bill is key for one important reason, and that is accountability. Some people will say, Well, certain presidents are out of office now, so why do this? Let it pass.

But if there was malfeasance and we don't have accountability and hold someone accountable for what they have done, we are only inviting trouble in the future. History is riddled with such examples.

And what we're doing here today is making sure that should something happen, that a loophole does not allow a president to avoid culpability. Statutes of limitations for crimes for the most part run about five years for felonies. A presidential term is four years. So essentially the entire statute could run or just about run while someone enjoys presidential

immunity, thus avoiding the possibility of prosecution.

What this bill will do is stop the clock from running so that authorities will have the opportunity to investigate and bring charges without regard to the four-year period -- or possibly eight years, in the future, if someone is reelected -- where a president enjoys immunity.

And so I'm proud that we're doing this today. I'm glad that the past is the past, but we have to make sure it doesn't once again become the future. And the way to do that is making sure we hold people accountable if they're discovered to have done things that were outside the confines of the law.

I'll be voting yes. Thank you, Mr. President.

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

Announce the results.

THE SECRETARY: In relation to Calendar 172, those Senators voting in the negative are Senators Akshar, Borrello, Boyle, Felder, Gallivan, Griffo, Helming, Jordan, Lanza,

Martucci, Mattera, Oberacker, O'Mara, Ortt, Palumbo, Rath, Ritchie, Serino, Stec, Tedisco and Weik.

Ayes, 42. Nays, 21.

ACTING PRESIDENT BENJAMIN: The bill is passed.

THE SECRETARY: Calendar Number 175, Senate Print 339, by Senator Persaud, an act to amend the Social Services Law.

ACTING PRESIDENT BENJAMIN: Read the last section.

THE SECRETARY: Section 3. This act shall take effect October 1, 2021.

ACTING PRESIDENT BENJAMIN: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT BENJAMIN: Announce the results.

THE SECRETARY: In relation to Calendar 175, those Senators voting in the negative are Senators Akshar, Borrello, Boyle, Gallivan, Griffo, Helming, Jordan, Oberacker, Ortt, Palumbo, Rath, Stec and Weik.

Ayes, 50. Nays, 13.

ACTING PRESIDENT BENJAMIN: The

bill is passed.

THE SECRETARY: Calendar Number 188, Senate Print 1015, by Senator Benjamin, an act to amend the Banking Law.

SENATOR LANZA: Lay it aside.

ACTING PRESIDENT BENJAMIN: Lay it aside.

THE SECRETARY: Calendar Number 194, Senate Print 1801, by Senator Savino, an act to amend the State Technology 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, 63.

ACTING PRESIDENT BENJAMIN: The bill is passed.

THE SECRETARY: Calendar Number 195, Senate Print 1273, by Senator Brooks, an act to amend the Mental Hygiene Law.

ACTING PRESIDENT BENJAMIN: Read the last section.

THE SECRETARY: Section 2. This act shall take effect on the 120th day after it shall have become a law.

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.

THE SECRETARY: Calendar Number 200, Senate Print 2997, by Senator Parker, 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 60th day after it shall have become a law.

ACTING PRESIDENT BENJAMIN: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT BENJAMIN:

Announce the results.

THE SECRETARY: In relation to Calendar Number 200, those Senators voting in the negative are Senators Akshar, Borrello, Gallivan, Griffo, Jordan, Lanza, Martucci, Oberacker, O'Mara, Ortt, Rath, Ritchie, Serino, Stec, Tedisco and Weik.

Ayes, 47. Nays, 16.

ACTING PRESIDENT BENJAMIN: The bill is passed.

THE SECRETARY: Calendar Number 222, Senate Print 714, by Senator Breslin, an act to amend the Insurance 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: Ayes, 63.

ACTING PRESIDENT BENJAMIN: The bill is passed.

THE SECRETARY: Calendar Number 253, Senate Print 1313, by Senator Gaughran, an act to amend the Public Authorities Law.

ACTING PRESIDENT BENJAMIN: Read the last section.

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

ACTING PRESIDENT BENJAMIN: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT BENJAMIN: Announce the results.

THE SECRETARY: In relation to Calendar 253, those Senators voting in the negative are Senators Akshar, Jordan, Helming, Kaplan, Martucci, Oberacker, O'Mara, Ortt, Rath and Ritchie.

Ayes, 53. Nays, 10.

ACTING PRESIDENT BENJAMIN: The bill is passed.

THE SECRETARY: Calendar Number 311, Senate Print 13, by Senator Kaplan, an act to amend the Penal Law.

SENATOR LANZA: Lay it aside.

ACTING PRESIDENT BENJAMIN: Lay it aside.

THE SECRETARY: Calendar Number 312, Senate Print 14, by Senator Hoylman, an act to amend the Penal Law.

ACTING PRESIDENT BENJAMIN: Read the last section.

THE SECRETARY: Section 9. 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 Hoylman to explain his vote.

SENATOR HOYLMAN: Thank you, Mr. President, for this opportunity to speak on this bill, which is called the José Webster Untraceable Firearms Act.

José was tragically shot and killed by two strangers just 10 days after his 16th birthday, while walking his girlfriend home, blocks away from his home in the Bronx.

His sister Natalie said José had a smile that would light up the room. When José

was killed, she channeled the immense grief and loss she had into determination to protect other families from that heartbreak. We might not be passing this bill today, Mr. President, without her work. So I want to take this moment to thank Natalie and to honor her family.

We pass this legislation today in memory of José and the 36,000 other Americans killed by gun violence each year.

I'd also like to note, Mr. President, that we're taking up this important bill on a week, three years ago, that 17 students and staff members of Marjory Stoneman Douglas High School in Parkland, Florida, were killed in a horrific mass shooting.

The José Webster Untraceable Firearms Act is going to create the strongest protections in the nation against what we call "ghost guns." Those are dangerous and untraceable weapons with no serial numbers that circumvent New York's gun safety laws.

Its provisions include a prohibition on the possession of ghost guns by anyone other than a licensed gunsmith; a prohibition on the sale of ghost guns entirely; a requirement that

anyone manufacturing a gun in New York have a gunsmith license; and a requirement for gunsmiths to serialize all firearms, rifles, shotguns, frames and receivers they manufacture, and to register any of them that aren't otherwise covered by law with the Division of State Police.

Due partly to the unrest caused by the COVID-19 pandemic, Americans have spent this last year panic-buying guns at truly shocking rates. Nationally, nearly 40 million guns were sold in 2020, roughly 10 million more than the preceding year. Many of these sales were to first-time gun buyers. One trade organization estimated roughly 8.5 million Americans bought a gun for the first time last year.

And there's no end in sight. Gun sales nationwide hit a record high in January 2021, a 75 percent increase compared to the same month the previous year.

Since we can't track them right now, we don't know for sure how many ghost guns are out there. But one thing seems certain -- their sale is exploding. In the months of the COVID-19 pandemic at the beginning, at least 16 online retailers put out statements apologizing for

shipping delays due to exceptionally heavy demand. One said: "We feel like the sales are up like it's Black Friday."

All this comes during a period of growing unrest and violence. We saw the tragic events at the U.S. Capitol last month. One of the terrorist groups involved in this dangerous insurrection have embraced ghost guns as the most convenient way to get a weapon.

This is an incredibly dangerous moment, one that demands action from New York. But it's not simply the proliferation of guns that is concerning. Federal law contains a dangerous loophole allowing retailers to sell unfinished firearm frames and receivers, which even an amateur can quickly and easily turn into a fully functional weapon with just a few tools and materials.

Since these frames and receivers aren't considered to be firearms, their sale doesn't require a background check, and they're not required to have a serial number. This makes them virtually untraceable by law enforcement.

For these retailers, this isn't some unintended consequence, it's the whole point.

It's common to see these kits advertised using phrases like "The only gun you truly own is the one they don't know about." Or emblazoned with statements like "Here's your serial number," accompanied by a picture of someone flipping the middle finger.

A review by Everytown for Gun Safety of 114 prosecutions involving ghost guns found that nearly half of the defendants would not have passed a criminal background check.

Law enforcement across the state has recovered these dangerous weapons. In July 2020, the Nassau police found 22 ghost guns and a bomb-making-material kit at a home in Farmingdale on Long Island. The Monroe County DA's office announced in September 2019 that it had recovered 10 to 12 fully functional Glock-style ghost guns. And just last week a man in Saratoga County admitted to conspiring to build and sell ghost guns to eager buyers here in the State of New York.

It's about time we put a stop to it. Our legislation, together with Senator Kaplan's, is going to crack down on the sale and possession of these dangerous weapons and make sure

law enforcement has the necessary tools to track the manufacture and sale of guns here in New York.

I want to thank our Majority Leader, Andrea Stewart-Cousins, for continuing to make gun safety a priority; as well as my counsel who worked on this legislation, Kendall Jacobsen, who is now with Everytown for Gun Safety; New Yorkers Against Gun Violence; Giffords; Brady United Against Gun Violence; and Moms Demand Action.

Enough is enough, Mr. President. The rising specter of ghost guns must stop. With this legislation, we will make sure it does.

I vote aye.

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

Announce the results.

THE SECRETARY: In relation to Calendar 312, those Senators voting in the negative are Senators Akshar, Borrello, Brisport, Gallivan, Griffo, Helming, Jordan, Lanza, Oberacker, O'Mara, Ortt, Rath, Ritchie, Stec and Tedisco.

Ayes, 48. Nays, 15.

ACTING PRESIDENT BENJAMIN: The

bill is passed.

THE SECRETARY: Calendar Number 313, Assembly Number 4686, substituted earlier by Assemblymember Burgos, an act to amend the Election 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 Number 313, those Senators voting in the negative are Senators Akshar, Borrello, Gallivan, Griffo, Jordan, Martucci, Oberacker, O'Mara, Ortt, Palumbo, Rath, Ritchie, Serino, Stec and Tedisco.

Ayes, 48. Nays, 15.

ACTING PRESIDENT BENJAMIN: The bill is passed.

THE SECRETARY: Calendar Number 314, Assembly Print Number 4447, substituted

earlier by Assemblymember Gallagher, an act in relation to removing the option to file an opportunity to ballot petition in the June 2021 primary election.

SENATOR LANZA: Lay it aside.

ACTING PRESIDENT BENJAMIN: Lay it aside.

THE SECRETARY: Calendar Number 315, Assembly Print Number 4357, substituted earlier by Assemblymember Sillitti, an act in relation to the election of county committee members.

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 Number 315, voting in the negative: Senators Lanza and O'Mara.

Ayes, 61. Nays, 2.

ACTING PRESIDENT BENJAMIN: The bill is passed.

THE SECRETARY: Calendar Number 316, Senate Print 4430, by Senator Ryan, an act to amend the Education Law.

ACTING PRESIDENT BENJAMIN: Read the last section.

THE SECRETARY: Section 6. 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, 63.

ACTING PRESIDENT BENJAMIN: The bill is passed.

Senator Gianaris.

SENATOR GIANARIS: Mr. President, let us pause to recognize that is Senator Ryan's first bill passing the Senate.

(Standing ovation.)

ACTING PRESIDENT BENJAMIN: Senator Gianaris, that completes the reading of today's calendar.

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

ACTING PRESIDENT BENJAMIN: The Secretary will ring the bell.

The Secretary will read.

SENATOR GIANARIS: Will you go to Calendar Number 314, please.

ACTING PRESIDENT BENJAMIN: The Secretary will read.

THE SECRETARY: Calendar Number 314, Assembly Number 4447, by Assemblymember Gallagher, an act in relation to removing the option to file an opportunity to ballot petition in the June 2021 primary election.

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

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

ACTING PRESIDENT BENJAMIN: Thank you, Senator Lanza.

Upon review of the amendment, in accordance with Rule 6, Section 4B, I rule it

nongermane and out of order at this time.

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

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

SENATOR OBERACKER: Thank you, Mr. President. Mr. President, I rise to appeal the ruling of the chair.

The proposed amendment is germane to the bill at hand because the Governor over the summer issued an executive order that eliminated the opportunity to ballot process for the June 2020 primary elections, and this bill would eliminate the opportunity to ballot process for June 2021 primary elections.

Mr. President, I would argue there is nothing more germane that this house could act upon than restoring our power as a coequal branch of government.

At the onset of the pandemic, it was necessary for the Legislature to grant emergency powers to the Governor to help the state react quickly to protect public health and safety. One

of the Governor's 2020 executive actions included exactly what we are being asked to vote on today, removing the option to file an opportunity to ballot petition in the June 2021 primary election.

I ask my colleagues across the aisle, what's the rush? This bill is challenging our election process that we've had historically for years. We should be addressing the bills that involve the Department of Health and our nursing homes. There are thousands of families who have lost loved ones. These families deserve justice and closure.

You know, it was mentioned yesterday, bills by the Democratic Conference have been introduced and went through the Health Committee, which I am a member of, in relation to nursing homes. Why aren't we discussing those today?

The time has come for the Legislature to get priorities reset. New Yorkers are depending upon us as elected officials to get them answers on the losses of their loved ones in nursing homes, getting shots in the arms of the most vulnerable, and getting our economy back on

track.

We were elected to be a voice for our constituents and be part of a system of checks and balances the way our government was designed to work. We cannot do that until we work together as a Legislature to reassert our constitutional authority to represent New York State as a coequal branch.

The time has passed to do what is right and do our job. For these reasons -- for these reasons, Mr. President, I strongly urge you to reconsider your ruling. Thank you.

ACTING PRESIDENT BENJAMIN: Thank you, Senator Oberacker.

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, please.

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?

Senator Boyle.

SENATOR BOYLE: Mr. President, would the sponsor or a Senator yield for some questions?

ACTING PRESIDENT BENJAMIN: Will the Senator yield?

SENATOR GIANARIS: I yield.

ACTING PRESIDENT BENJAMIN: The Senator yields.

SENATOR BOYLE: Mr. Leader, just so I understand this bill, can you explain what an opportunity ballot is?

SENATOR GIANARIS: Sure. An opportunity ballot is the mechanism in law that normally would allow someone who is not a member of a political party to petition to allow their

name to be written in in a primary for that party's election.

SENATOR BOYLE: Okay, so how would this proposed law --

ACTING PRESIDENT BENJAMIN: Senator Boyle, are you asking --

SENATOR BOYLE: Oh, I'm sorry, Mr. President. Would the sponsor yield? Does the Senator yield?

ACTING PRESIDENT BENJAMIN: Does the Senator yield?

SENATOR GIANARIS: Yes.

ACTING PRESIDENT BENJAMIN: The Senator yields.

SENATOR BOYLE: Thank you, Mr. President.

So in practice, how would this work? A given candidate, for example, how would that -- or it would stop them from doing something?

SENATOR GIANARIS: When there's an uncontested contest for a party's nomination -- so either there would be no candidates or only one candidate -- the law allows for someone else, who is not a member of that party, who would -- if someone was a member of the party, they would

petition through the normal process. But if not, this process exists to give voters the opportunity to write in that name in addition to either no name or the one name that might be seeking the nomination.

SENATOR BOYLE: Will the Senator continue to yield?

ACTING PRESIDENT BENJAMIN: Does the Senator yield?

SENATOR GIANARIS: Yes.

ACTING PRESIDENT BENJAMIN: The Senator yields.

SENATOR BOYLE: Senator, just a hypothetical. Say I'm a young Democratic Socialist living in New York City and there is no Democratic Socialist Party, so I register with the Working Families Party. I have a long-time Democratic incumbent City Councilperson, and I say I can do a better job than they can, I want to run for that seat.

I realize that I'm not going to be able to win on the Working Families Party alone, so I want to run a OTB or a primary against them on the Democratic line.

Would I be able to do that, or could

the Democratic chairperson there say, No, we're not going to allow you to do that?

SENATOR GIANARIS: If there is no -- if there are not multiple candidates already seeking the Democratic nomination, then yes, the OTB process would allow the opportunity for that person to have their name written in on the ballot.

SENATOR BOYLE: But they couldn't do it if this became law.

SENATOR GIANARIS: For this year. I mean, this is a pandemic-related issue that is mimicking what we did last year. Last year the opportunity to ballot process was canceled so as to avoid the opportunity for COVID to spread while people are petitioning. And so we're trying to limit public exposure. This is only for this year's election cycle.

SENATOR BOYLE: Will the Senator continue to yield?

ACTING PRESIDENT BENJAMIN: Does the Senator yield?

SENATOR GIANARIS: Yes.

ACTING PRESIDENT BENJAMIN: The Senator yields.

SENATOR BOYLE: We've passed a number of bills because of the pandemic. As you say, we're all concerned about people being out there getting too many signatures.

So for the major parties, we've simply lowered the number of signatures required to get on the ballot. Right? Why are we doing away with OTB? Why don't -- to protect people, why don't we just lower the number of signatures needed to OTB to make it easier, rather than make it impossible?

SENATOR GIANARIS: Like I said, this bill mimics what was done last year in the 2020 cycle. It seems that people were satisfied with what we did there. There needs to be some standards for the major parties, or else you won't have major party nominees.

The OTB process is a very rarely used process. Realistically, it is hardly ever used -- or not to my knowledge ever been used -- against the major parties, so it really comes down to just the two remaining minor parties.

And so the conclusion was it worked last year, let's just do the same thing this year until we're through with COVID-19.

SENATOR BOYLE: Would the Senator yield for one more question?

ACTING PRESIDENT BENJAMIN: Does the Senator yield?

SENATOR GIANARIS: Yes.

ACTING PRESIDENT BENJAMIN: The Senator yields.

SENATOR BOYLE: Senator, if I'm not registered with a party, I'm unaffiliated, and I want to run for City Council this year, would this bill presumably stop me from doing that if I want to run on the Republican line or the Democratic line and the chairman does not want to allow me to do that?

SENATOR GIANARIS: Well, it won't allow you to run for the nomination of a major party without the support of the chairman of the party. But there is nothing prohibiting anyone from submitting independent nominating petitions for November, as has always been the case.

And in that circumstance I think we may have already passed the bill that lowers the number of signatures for those petitions.

SENATOR BOYLE: One more question, Mr. President.

ACTING PRESIDENT BENJAMIN: Does the Senator yield?

SENATOR GIANARIS: Yes.

ACTING PRESIDENT BENJAMIN: The Senator yields.

SENATOR BOYLE: So other than Staten Island, Senator, you presumably have to be a Democrat running in New York City to get elected to the City Council, would you think?

SENATOR GIANARIS: You might want to ask Senator Lanza whether Staten Island has anything to do with this.

(Laughter.)

SENATOR GIANARIS: Senator Lanza says it's true.

No. No, there have been Republican elected officials elected in various parts of the city over time. And if the Republican Party didn't have such extreme views out of touch with the people of New York, maybe they'd have more.

SENATOR BOYLE: Mr. President, on the bill.

ACTING PRESIDENT BENJAMIN: Senator Boyle on the bill.

SENATOR BOYLE: My colleagues, I

hear both in New York State and across the nation Democrats continually say the Republicans want to disenfranchise people, we're trying to stop people from being able to vote, be able to run for office. To them I say, look at this bill. A clearly unconstitutional bill that will stop people, millions of New Yorkers, who are not registered with one or two of the major parties, from running for office this year.

I'm all in favor of protecting people from the pandemic, which is why I think they should actually make it easier -- lower the number of signatures required for an OTB. This stops millions of New Yorkers from exercising their constitutional right to run for office.

It's an outrageous thing, and we need to vote it down. I vote in the negative, and urge all my colleagues to vote no as well.

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 314, those Senators voting in the negative are Senators Boyle, Brooks, Gallivan, Helming, Lanza, O'Mara, Palumbo, Serino and Ryan.

Ayes, 54. Nays, 9.

ACTING PRESIDENT BENJAMIN: The bill is passed.

Senator Gianaris.

SENATOR GIANARIS: Can we now move to Calendar 311, please, Mr. President.

ACTING PRESIDENT BENJAMIN: The Secretary will read.

THE SECRETARY: Calendar Number 311, Senate Print 13, by Senator Kaplan, an act to amend the Penal Law.

ACTING PRESIDENT BENJAMIN: Senator Palumbo.

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

ACTING PRESIDENT BENJAMIN: Does the sponsor yield?

SENATOR KAPLAN: Yes, Mr. President.

ACTING PRESIDENT BENJAMIN: The sponsor yields.

SENATOR PALUMBO: Thank you. And thank you, Senator Kaplan.

Generally speaking, of course, this piece of legislation would create some new crimes with respect to possession of an unfinished frame or receiver, and it does a few different things. And I would just like to address, if I can, a few of them.

The first being that if you could explain to me the definition of unfinished frame or receiver. I see it's any material that does not constitute the frame or receiver of a firearm, rifle or shotgun, but has been shaped or formed in a way for the purposes of becoming one of those items, or may be readily made by milling, drilling, or other means.

Is that accurate?

SENATOR KAPLAN: That is accurate, Mr. President.

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

ACTING PRESIDENT BENJAMIN: Does the sponsor yield?

SENATOR KAPLAN: Yes.

ACTING PRESIDENT BENJAMIN: The sponsor yields.

SENATOR PALUMBO: So, Senator, could you tell me the reason for this legislation and why we feel it's necessary at this time?

SENATOR KAPLAN: This has been an issue that has been brought up by a lot of law enforcements throughout the state. And this is basically a very dangerous loophole that we are trying to correct and fix today.

SENATOR PALUMBO: Would the sponsor yield for another question?

ACTING PRESIDENT BENJAMIN: Does the sponsor yield?

SENATOR KAPLAN: Yes, Mr. President.

ACTING PRESIDENT BENJAMIN: The sponsor yields.

SENATOR PALUMBO: So if I could direct your attention to line 10 -- really, 9 and

10. And it says that "and which may be readily made into a functional firearm or receiver through milling, drilling or other means."

Can you tell me what you mean by "or other means" in this section at line 10?

SENATOR KAPLAN: I can simply tell you this legislation is dealing with any material that is -- piece of material that has had its size or external shape -- if it has been altered for transportation or storage, it doesn't apply. But any piece that could come to you and you can simply drill a few holes and assemble it, which would make a working gun, is what we're trying to prevent.

And simply, these receivers, unfinished receivers, don't have a serial number on them, so they cannot be traced by law enforcement.

That's what we're trying to prevent, to make sure that these unfinished receivers and frames have a serial number and the purchaser goes through a background check.

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

ACTING PRESIDENT BENJAMIN: Does

the sponsor yield?

SENATOR KAPLAN: Yes, Mr. President.

ACTING PRESIDENT BENJAMIN: The sponsor yields.

SENATOR PALUMBO: And Senator -- and I certainly understand that, and that's already addressed. In fact, we have other bills on the agenda today that will address something that is otherwise concealed, doesn't obtain a serial number -- that's already current law.

My issue is, to what extent are we saying it can be modified? So if I order something from Amazon for my barbecue that's a hunk of metal and I'm able to fabricate that into something that can -- and the language is "readily discharge a shot capable of causing serious physical injury or death," that would then be a piece of a firearm.

But this is so vague with respect to "or other means" or "by milling or drilling." So my question to you is, to what extent does it need to be at least representative of a piece of a firearm, of a frame or receiver -- because a frame or a receiver can't hurt anybody. All

together, they can.

So my question is, how expansive is this? And what is your intent regarding that particular language, please?

SENATOR KAPLAN: So the bill is very clear. On the third line it says it has to be shaped or formed in any way for the purpose of becoming the frame or receiver of a firearm, rifle or shotgun, and which may be readily made into a functional firearm or receiver through milling, drilling or other means.

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

ACTING PRESIDENT BENJAMIN: Will the sponsor yield?

SENATOR KAPLAN: Yes, Mr. President.

ACTING PRESIDENT BENJAMIN: The sponsor yields.

SENATOR PALUMBO: Thank you, Mr. President. And thank you, Senator Kaplan.

So I know we may agree to disagree on that, and I'll comment on that a little more in a little bit.

But in the lower part, the other

section, you add now two new crimes of criminal possession of a weapon, that if someone now possesses this unfinished frame or receiver -- I guess when you add to Section 265.02, which is criminal possession of a weapon third degree, if I recall correctly, and that's a D felony -- that we're adding these new sections that if someone now possesses not a firearm, but an unfinished receiver, this hunk of metal, they would therefore be guilty of criminal possession of a weapon. Is that accurate?

SENATOR KAPLAN: This bill gives six months to people to go ahead and get their unfinished frame or receiver, have it assembled, and make it finished and have a serial number attached to it.

SENATOR PALUMBO: Understood. Thank you, Senator Kaplan. On the bill, please, Mr. President.

ACTING PRESIDENT BENJAMIN: Senator Palumbo on the bill.

SENATOR PALUMBO: Thank you, Mr. President.

And now -- there are so many consequences to a bill like this, my friends.

Let's think about this. I was a prosecutor for many years, handled hundreds of gun cases. When someone presents -- or say someone commits a robbery with something that is not a firearm, it mitigates robbery.

If they display -- if you do this {aiming gesture} in your pocket, that displays what appears to be a firearm, that's robbery in the first degree.

If you are arrested and they recover the piece of metal -- really, a toy -- say it's a hammerless gun, it now mitigates to robbery in the second degree.

We have provisions in our law as to what a firearm is. If I have a hammerless pistol and I have a previous felony conviction and I'm arrested with that, that's essentially a toy. Or I have something that is not -- and I've said this -- it's been charged to trial juries, grand jury -- readily capable of producing a shot that can cause serious physical injury or death, it's not a gun.

This is now -- this hunk of metal that may, by drilling, milling or other means -- which I would submit to you, folks, is ultimately

fabricating it as a blacksmith into something that can maybe, possibly in the future produce a shot -- it's a piece of metal now. It's a barbecue tool now, but ultimately it could possibly, maybe, become a piece of a firearm -- I'm now guilty of a crime.

And how is this going to escalate -- when we talk in this body all the time about criminal justice reform and how that there are pretextual stops of defendants -- now what? They get arrested for having a hunk of metal in their pocket, they're now guilty of a felony if they have a criminal conviction, under the second section here.

So this is something that is so expansive and so far over the line that the unintended consequences will be aggravation of criminal conduct in a way that I don't believe the sponsor intends.

And quite frankly, are we going to now include this in the robbery statute? If I'm arrested with a knife in my pocket, obviously that's a weapon. If I'm arrested now, after committing other crimes, and I have an unfinished receiver in my pocket -- not a defaced firearm

without a serial number; that's a separate crime, and we already have provisions for that. Not a ghost gun, which we're going to deal with today, which is a concealed firearm or that's untraceable.

This is a piece of metal, this is a piece of junk that we're now going to include in the criminal justice system to the extent that mere possession of it, with even just a prior misdemeanor conviction, is a violent felony.

So, my friends, this is incredibly vague, this is a terrible infringement not only on our rights -- I believe it's generally unconstitutional -- but I think the unintended consequences are going to go the other way as well.

I urge a no vote. Thank you.

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

Senator Lanza.

SENATOR LANZA: Mr. President, to explain my vote.

ACTING PRESIDENT BENJAMIN: We'll come to that.

SENATOR LANZA: Oh, I'm sorry.

ACTING PRESIDENT BENJAMIN: Seeing and hearing none, debate is closed.

The Secretary will ring the bell.

Read the last section.

THE SECRETARY: Section 5. This act shall take effect on the 120th 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 very much, Mr. President.

Once again in this chamber we're making history by passing the Scott J. Beigel Unfinished Receiver Act.

Very simply, the consequence of this bill is it will save lives in this state. We don't know how many lives, but it probably will save a lot of lives. It will make our state and our neighbors safer.

So I want to thank Senator Kaplan for her diligence, perseverance in making sure that we pass this bill again, and hopefully it

becomes law.

I want to talk about Scott Beigel, who was murdered in the 2018 Parkland massacre, whom this bill is named after in his memory. I've gotten to know his parents quite well, Linda Beigel Schulman and Michael Schulman, who have now committed their lives to making sure that we are protecting citizens of this country from unnecessary gun violence.

And, you know, the last few weeks we've heard a lot about right wing conspiracy theories, including that Scott's murder was not real. Well, I want to tell you his murder was real. His life was certainly real. He stood in the doorway and pushed all these young students into his classroom, locked it, and then took the bullet and died. That was real.

And so it is so important today that we move forward in this state in enacting this legislation so that not only can we honor Scott, but we can honor him by making sure that we continue to try to do everything we can to save the lives of New Yorkers and Americans.

So, Mr. President, I vote in the affirmative -- or Madam President, I vote in the

affirmative. We had a little switch there.

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

Senator Lanza to explain his vote.

SENATOR LANZA: Madam President, it's so great to see you.

You know, I understand if you are on the side of eliminating people's freedom to protect themselves and you feel so strongly about that that you believe the Second Amendment no longer has a place in American culture and society.

But this legislation goes so far afield that it's barely even related, in my mind, to that cause. I mean, the title itself, "unfinished receiver." It does not even ban guns, it bans, as Senator Palumbo cited, just about anything.

I mean, what next? The screw you need to assemble a shotgun is going to be something that you're not allowed to possess in the State of New York? I can't even imagine how this legislation would pass constitutional muster. It is so void for vagueness that, as Senator Palumbo said, I can imagine a young man

or a young woman walking the streets of New York City -- in the Bronx, in Manhattan, Staten Island, Brooklyn, Queens -- and being pulled over or stopped because they're carrying a pipe that's used in a plumbing fixture, where a police officer would, if this becomes law, could reasonably have probable cause to place that individual under arrest. I mean, that's how vague this is.

And that's what will happen when we start in such a frenzy, in terms of our radical beliefs, start to just ban anything and infringe upon liberty to such a degree that things that none of us in this chamber, including the sponsor, would want to see happen will begin to happen. And that's what this legislation does.

This criminalizes the possession of ordinary objects that you see every day. And I won't list them, but even an empty flashlight tube could be the predicate for an arrest in the State of New York if this becomes law. And there will be someone in law enforcement that will do that, because this piece of legislation gives them the opportunity.

So because it is so vague, because

of the unintended consequences -- and I believe they are unintended -- that I surely believe will occur, Madam President, I cast my vote in the negative.

ACTING PRESIDENT PERSAUD: Senator Lanza to be recorded in the negative.

Senator Kaplan to explain her vote.

SENATOR KAPLAN: Thank you, Madam President.

I proudly rise today as the sponsor of this bill. And I would like to make one clarification. This bill simply deals with a piece of material that can readily be made into a functional frame or receiver, and into a functional gun. It does not deal with a piece of material or a tube or a metal. It is specifically one piece that is made and meant to be made into a functional gun, despite what my colleagues on the other side say.

The Scott J. Beigel Unfinished Receiver Act is a bill that was brought by my residents. And it is up to me to make sure that I take action that our communities are safe from gun violence. And today, as we approach a somber date on the calendar marking three years since

the tragedy in Parkland, Florida, we are taking action to close a dangerous loophole that lets far too many untraceable weapons fall into the hands of people who would otherwise be unable to obtain a gun legally.

Here in New York, we have passed some of the strongest safety laws in the nation, and we did it with the support of our residents, who are sick and tired of the epidemic of gun violence they are seeing across this nation. But sometimes even the strongest laws have their weaknesses, and today we're going to fix that.

Under federal law, it is perfectly legal to sell a mostly completed receiver that just about anyone can turn into a gun like an AR-15 in a few simple steps. The process can take as little as an hour, and there are YouTube videos that walk you through the process. And by the time the video is over, you've got yourself a brand-new untraceable AR-15 with no records, no serial number, and you never had to go through a background check to get it.

If you think this sounds like an egregious end run around our well-intentioned gun safety laws, you are not alone. When asked his

feelings on the topic of 80 percent finished receivers, Tom King, the president of the New York State Rifle and Pistol Association -- also a board member of the National Rifle Association -- said the following: "These 80 percent guns are providing a way for prohibited people to buy a firearm," referring to people who don't have a gun permit or are otherwise prohibited from possessing a gun.

He went on to explain that self-assembled guns provide a way for competition shooters to make a custom-fitted firearm, but that such weapons should have serial numbers and be registered because, in his words, it appears what was meant to be something for competitive shooters and serious shooters to build their own unique firearms may be turning into a criminal enterprise.

So to recap, we have a problem that is universally recognized by the head of New York State's Rifle and Pistol Association, who again, as I mentioned, is a board member of NRA; every major law enforcement organization around the state; every major gun safety organization around the state and the nation; our State Attorney

General; and countless residents across my district and the entire state.

And today, we have the opportunity with this simple bill to fix this problem and make our communities safer. I believe that's the definition of common sense.

I'm especially proud to carry this bill, because this bill also pays tribute to a true hero. Scott J. Beigel senselessly lost his life to gun violence at Marjory Stoneman Douglas High School in Parkland, Florida, on February 14, 2018. Scott was a hero, an MSD teacher who gave his life to heroically protect his students.

I dedicated this legislation to Scott's honor and his memory. And because I know this bill will save lives, just like Scott did, I dedicated this legislation to Scott as a reminder to all of us just what's at stake here. We know that when we don't take action to strengthen our gun safety laws, our communities are less safe. Our schools are less safe. Our families are less safe. And the unfortunate reality is that there are too many parents in this country who will lay their head down on a tear-stained pillow each night wishing someone had done more, wishing that

someone had taken action.

There are so many people who are taking action here today to ensure our communities are safer, by passing commonsense laws like the Scott J. Beigel Unfinished Receiver Act and the José Webster Untraceable Firearms.

First and foremost, thank you to our leader, Andrea Stewart-Cousins, for always ensuring that the safety of our communities is paramount and that we're passing good laws that are responsive for the needs of our residents.

Thank you to Senator Brad Hoylman for his tireless work on gun violence prevention legislation, going back for years, and for his partnership on this legislation package today.

And most importantly, thank you to Linda Beigel Schulman and Michael Schulman, Scott's parents, who propelled this issue forward with raw honesty and humanity and their unending love for their son. This is a victory for every resident of the State of New York, and it could not have happened without your efforts, Linda and Michael. Thank you.

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

ACTING PRESIDENT PERSAUD:

Senator Kaplan to be recorded in the affirmative.

Announce the results.

THE SECRETARY: In relation to Calendar 311, those Senators voting in the negative are Senators Akshar, Borrello, Boyle, Brisport, Gallivan, Griffo, Helming, Jordan, Lanza, Martucci, Oberacker, O'Mara, Ortt, Palumbo, Rath, Ritchie, Serino, Stec, Tedisco and Weik.

Ayes, 43. Nays, 20.

ACTING PRESIDENT PERSAUD: The bill is passed.

SENATOR GIANARIS: Madam President, can we now take up Calendar Number 188, please.

ACTING PRESIDENT PERSAUD: The Secretary will read.

THE SECRETARY: Calendar Number 188, Senate Print 1015, by Senator Benjamin, an act to amend the Banking Law.

ACTING PRESIDENT PERSAUD: Senator Palumbo.

SENATOR PALUMBO: Thank you, Madam President. Would the sponsor yield for a few questions, please?

ACTING PRESIDENT PERSAUD: Will the sponsor yield?

SENATOR BENJAMIN: Yes.

ACTING PRESIDENT PERSAUD: The sponsor will yield.

SENATOR PALUMBO: Thank you, Senator Benjamin. Good to see you down here with us plain old Senators once, you know what I mean?

And I know you have a seat, because it's right here. But I'm glad that we can face each other, dealing with the issues that we're dealing with. You're waiting for your microphone to turn on.

So, Senator, I'll -- and I'll cut to the chase on my questions. I've had some people express concerns to me regarding this bill, because private prisons are already banned in New York, and now this is banning a bank, a local bank's ability to engage in commerce and contracts with and lend money to contractors who are otherwise working with private prisons.

So would you mind doing me a favor and please explaining the necessity of this bill, and if you could possibly alleviate those concerns, that would be great.

SENATOR BENJAMIN: Sure. Thank you.

So, Senator Palumbo, one of the things -- when I joined the Senate in 2017, I was very concerned about the fact that in the State of New York, the New York State Comptroller had a small allocation that was being invested in private prisons. And I introduced a bill at that time, worked with the Comptroller, and he divested from private prisons any allocation in the pension funds.

Which then led to the question and concern around other forms of financing. As you know, you can lend to private prisons, there's credit facilities, a range of other financing instruments. And to me, if New York State has made a decision that we do not want to be in the private prison business, we don't want to own or operate private prisons, we should not have state-chartered banks that have the ability to lend to private prisons.

And so to be very clear, because I've heard this comment before that says, well, this becomes a slippery slope, you start with private prisons, it becomes something else and

then something else. My argument is that if New York State has outlawed something, then we should not allow New York State-based entities to participate with that space at all.

And so one of the things that I believe this bill does is it states affirmatively that not only do we not want to invest in private prisons, we also do not want any sort of financing -- preferred equity, loans, any other sort of financing in private prisons. And I don't think that that is at odds with sort of building the businesses of banks. We want banks to do well. We just don't want them to engage in businesses that the state finds illegal.

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

ACTING PRESIDENT PERSAUD: Will the sponsor yield?

SENATOR BENJAMIN: Sure.

ACTING PRESIDENT PERSAUD: The sponsor yields.

SENATOR PALUMBO: Well, thank you, Senator, and I appreciate that explanation. But banks are in the business of money, they're not in the business of prisons. So it's a

politically unfavorable thing -- and we understand that, for reasons that we don't even need to get into, that private prisons be eliminated. And I get that. But they're dealing now with just the act of lending and making money, which is business.

We already have tremendous restrictions on our banks in New York State, and now we're adding one that almost seems to be more of a symbol than anything.

So can you please alleviate some concerns or address how this doesn't now affect commerce outside of New York State in case a local bank wants to deal with another state that somehow is maybe inadvertently -- not even inadvertently, but is somehow collaterally dealing with a private prison?

And that is a slippery slope, is another concern, that we would ultimately now have these more politically unfavorable areas of commerce that we will further restrict these banks and restrict them into oblivion where they can't even compete now.

SENATOR BENJAMIN: You know, it's a very simple bill, so I think -- I want to make

sure that we're clear on what we're referring to.

So what this bill does, it would allow no -- it will prohibit any state-chartered banking institution from providing financing or investing in the stocks, securities or other obligations of an entity that owns or operates a private correctional facility.

So when you -- so that's really -- it's very specific. It doesn't -- it isn't broad and have broader tentacles, which I think I was hearing you mention. It basically says if you are an entity that owns or operates a private correctional facility, that state-chartered bank cannot lend or invest in them.

So I think that's pretty tight. And I think part of what facilitates my argument is the fact that we've already said that we don't want to be, as New York State, in the business of owning or operating private correctional facilities. So it doesn't create a lot of room, in my view, for other -- for expansion into other topics.

And I would also submit -- you know, I've had this bill for three years now, and we have not received any state-chartered bank's

letter of opposition, no -- not a memo. So we believe that I think state-chartered banks in New York don't find this to be particularly onerous on them. We'd obviously and happily communicate with them if they feel that way.

But I do believe that this bill really helps us to be very clear that this is not an industry we want in New York State. We don't want our financing, within any capacity, to help these businesses.

And I won't -- you know, last year and the year before I'd start waxing poetic around my issues with private prisons. I will avoid that this year. Particularly as it's get-away day, I won't get into all that with you today. So I'm going to stay focused on what you want to talk about.

But I will say to you that the private prison industry profits off of incarceration. I'll leave it at that. And to me, that's really a harmful business to be in. And I don't believe New York State should in any way -- we are the financial capital of the world, and I don't believe that any bank in New York State should do that.

And by the way, I would submit to you, Bank of America and a number of major banks have on their own said, We will choose not to lend to private prisons. So I do think -- you know, Bank of America does pretty well, a number of these big banks do very well. If they've made a decision on their own to not lend to private prisons, there must be something in their business model that says to them this is a risky business, this is something that's not in our best interests, and so we're choosing to stay away from it.

I just want to make sure that we are very clear on the record, New York State does not want to be in this business. We don't want to lend to this business. We think this business should go away. At least I believe that way, I believe that. And I think this bill does not hurt banks. And so that's -- that's why I feel comfortable with it.

SENATOR PALUMBO: Thank you very much, Senator Benjamin. I appreciate your comments.

Madam President, on the bill, please.

ACTING PRESIDENT PERSAUD: Senator Palumbo on the bill.

SENATOR PALUMBO: Thank you, ma'am.

And, look, maybe because I'm a less government is more kind of guy, my concern is that we already have tremendous restrictions on banks in New York State. And to further restrict them from investing -- and as I mentioned during the debate, that they're in the business of money. They're not in the business of prisons.

And it's not as if -- they're probably going to soon be in the business of drugs when we legalize marijuana, which I think is coming our way. Are we going to restrict that further because that could ultimately lead to some -- to addiction problems, and with all the stresses of the pandemic?

So I won't get too far afield, I'll stay on this bill, of course. But the bottom line is I think this is a terrible idea to restrict it to an unfavorable area of commerce, because we did what we can do in the State Legislature. We prohibited them in New York State. That's great. But now we're prohibiting banks from investing in otherwise maybe a huge

conglomerate. Because other states are not New York.

And quite frankly, I'm not thrilled with government-run agencies anyway -- i.e., NYCHA. We can have that discussion for how many -- how many years. I mean, ask the Native American population how they feel about government-run programs. So there are certain situations where private business can do better than government. Story for another day.

But my point is this, that this is restricting commerce to the extent that I think it's interfering with outside contracts. This could potentially be a tortious interference with independent businesses' ability to lend.

So I believe that those are issues. And quite frankly, I urge the industry -- that had expressed concerns to me -- to possibly express those to Senator Benjamin. He certainly seems open to adjusting the bill in order to alleviate some of those concerns.

So in its current form, Madam President, I unfortunately am going to be voting no. Thank you very much.

ACTING PRESIDENT PERSAUD: Are

there any 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 2. This act shall take effect immediately.

ACTING PRESIDENT PERSAUD: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT PERSAUD: Senator Borrello to explain his vote.

SENATOR BORRELLO: Thank you, Madam President.

You know, as the ranking member of the Banks Committee -- which I am proud to be on, but it also concerns me because we only can affect change on state-chartered banks. And in New York State, the financial capital of the world, we have seen a tremendous decline in the number of state-chartered banks. This is largely due to the fact that it's become more and more difficult to do business as a state-chartered bank.

And they are -- the banks are community banks. These are the banks that lend

to people that otherwise might not get loans. These are the banks that are part of our community, that participate in philanthropy. We need state-chartered banks.

And now here we are. And I respect and appreciate Senator Benjamin's position on this. And I think he's being a little modest, because the Bank of America -- which is a federally chartered bank which would not be impacted by this law -- changed its position largely due to your advocacy, to the Senator's advocacy.

That's the path, in my opinion. The path is advocacy to make those changes so that they see that there's -- this is maybe not something that -- a business that we want to be in.

When we tell them to do it instead of asking them to do it, that's where it becomes an issue for me, because of the fact that ultimately we are making this unfair competition.

And as far as the slippery slope, I believe it's a slippery slope. Because in government, and as a businessperson myself, it always starts with one and then it kind of rolls

downhill to others.

So do we say to state-chartered banks you can no longer invest in automobile companies because of greenhouse gas emissions, you can no longer invest in a beverage company because they sell sugary beverages and we know sugar is bad? That is the slippery slope that starts with a bill like this.

Wonderful intention, I understand that. My concern is continuing to burden our state-chartered banks and making them -- hopefully not making them something that no longer happens and there's no more state-chartered banks in New York.

So I will also be voting nay. Thank you.

ACTING PRESIDENT PERSAUD: Senator Borrello to be recorded in the negative.

Senator Benjamin to explain his vote.

SENATOR BENJAMIN: Thank you, Madam President.

I want to thank Senator Borrello for his comments. It is true that I was aggressively advocating to Bank of America and other banks to

sort of divest from the private prison industry. And we are fortunate that Bank of America and other banks made that decision.

However, I want to state, as it relates to New York, a couple of points. One is, you know, the information that I'm receiving is that part of the reason why New York State has less chartered banks than it has in the past has been because of acquisition. There have been a number of federally chartered banks that have been acquiring state-chartered banks, thus reducing the amount of state-chartered banks.

And we can go back and forth about if that's a good idea or not. But there is evidence that speaks to that point, so I want to make sure we put that in the conversation.

Also, I want to reiterate a point that I made earlier that this bill was introduced in 2019. Not one state-chartered bank has come to us to say that they find any of the provisions -- and it's a very simple bill -- of this onerous.

And quite frankly, as the Senator mentioned, they are in the business of lending to -- of community-related lending. Right? We

want them to help finance, you know, sort of automobiles and finance community centers and things in the community. I don't want them financing private prisons. And this is the reason why this bill is here.

And I would reiterate again, we in New York City have stated that we do not want private prisons. It's illegal in New York State. So if we say, as New York State, we do not want to have the private prison industry here, why do we then allow a loophole where state-chartered banks can lend to what we're saying we don't want? To me, that's inconsistent.

And what this bill helps to do is to sort of tie these things together in a way that I think people can feel good about. I would imagine, if I'm working at a bank, I want to go home and feel good about what I do for a living. I don't want to think that I'm part of lending to industries that profit off incarceration or profit off of racism or profit off of things that we generally find objectionable.

But as it relates to law, I do think that this is not -- does not create a slippery slope because we already say that private prison

correctional facilities in the State of New York should be illegal.

So this is a very clean, tight thing. And I would look -- if there are banks with concerns, we'll talk to them. But we think this is the right way to move forward.

And I want to thank our Majority Leader, Andrea Stewart-Cousins, for bringing this bill to the floor. And I look forward to this bill becoming law and New York State being finally completely out of the private prison business. Thank you.

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

Announce the results.

THE SECRETARY: In relation to Calendar Number 188, 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 PERSAUD: The bill is passed.

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

SENATOR GIANARIS: Thank you, Madam President.

Going back to motions for a moment, on behalf of Senator Brooks, on page 17 I offer the following amendments to Calendar Number 153, Senate 1378, and ask that said bill retain its place on Third Reading Calendar.

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

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

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

SENATOR GIANARIS: Move to adjourn until Monday, February 22nd, at 3:00 p.m., intervening days being legislative days.

ACTING PRESIDENT PERSAUD: On motion, the Senate stands adjourned until Monday, February 22nd, at 3:00 p.m., intervening days being legislative days.

(Whereupon, at 12:27 p.m., the Senate adjourned.)