NEW YORK STATE SENATE

THE STENOGRAPHIC RECORD

ALBANY, NEW YORK

March 1, 2021

3:39 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: As we reflect or pray in recognition of the anniversary of the first case of COVID-19 detected in New York, let us remember that more than 512,000 Americans and 47,000 New Yorkers have died from this deadly virus.

Let us pray for their families and friends, that they find healing and solace. And let us pray for continuing progress in distributing the vaccines, that we may reach the light at the end of this dark tunnel and begin to rebuild a better society in the wake of such enormous tragedy.

Reading of the Journal.

THE SECRETARY: In Senate, Sunday, February 28, 2021, the Senate met pursuant to adjournment. The Journal of Saturday, February 27, 2021, was read and approved. On motion, Senate adjourned.

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

Presentation of petitions.

Messages from the Assembly.

The Secretary will read.

THE SECRETARY: Senator Gounardes moves to discharge, from the Committee on Civil Service and Pensions, Assembly Bill Number 3354B and substitute it for the identical Senate Bill 2588A, Third Reading Calendar 304.

ACTING PRESIDENT BENJAMIN: The substitution is so ordered.

THE SECRETARY: Senator Gounardes moves to discharge, from the Committee on Civil Service and Pensions, Assembly Bill Number 3988 and substitute it for the identical Senate Bill 4681, Third Reading Calendar 371.

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, we're going to begin by taking up the reading of the calendar, please.

ACTING PRESIDENT BENJAMIN: The Secretary will read.

THE SECRETARY: Calendar Number 119, Senate Print 1034A, by Senator Gianaris, an act to amend the Labor Law.

ACTING PRESIDENT BENJAMIN: Read the last section.

THE SECRETARY: Section 4. 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: Senator Gianaris to explain his vote.

SENATOR GIANARIS: Thank you, Mr. President.

Thank you to my colleagues for supporting this important proposal.

We are one year from the beginning of COVID impacting our state, and too many people have passed and gotten sick because we didn't take adequate steps in that time to protect the frontline workers, people who continued to go to work both because they had to, to provide for their families, and also to keep our communities running during the pandemic.

This bill today would require strict guidelines that employers would have to put into place at their places of employment to make sure that their workers are protected against airborne diseases like the coronavirus -- standards as it relates to PPE, air filtration, social distancing, et cetera, that for too many was lacking over the last several months.

It also empowers workers, through a workplace safety committee made up of employees, to monitor and report failures to comply with these regulations.

And so this was a bill that came

together with the support of a lot of representatives of organized labor, activists around workplace safety. And I'm appreciative to all of them, and to my colleagues, for taking this important step to make things better for those we've been relying on so much over the last year.

So I certainly vote in the affirmative, and I thank my colleagues who are also voting yes.

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

Announce the results.

THE SECRETARY: In relation to Calendar 119, those Senators voting in the negative are Senators Borrello, Gallivan, Griffo, Helming, Jordan, Lanza, Oberacker, O'Mara, Ortt, Palumbo, Rath, Ritchie, Serino, Stec, Tedisco and Weik.

Ayes, 46. Nays, 16.

ACTING PRESIDENT BENJAMIN: The bill is passed.

THE SECRETARY: Calendar Number 161, Senate Print 1209, by Senator Kaminsky, an act to amend the Town 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, 62.

ACTING PRESIDENT BENJAMIN: The bill is passed.

THE SECRETARY: Calendar Number 164, Senate Print 1393, by Senator Brooks, an act in relation to authorizing the Town of Babylon to grant Long Island Teen Challenge of West Babylon a real property tax exemption.

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 164, voting in the negative are Senators Akshar and O'Mara.

Ayes, 60. Nays, 2.

ACTING PRESIDENT BENJAMIN: The bill is passed.

THE SECRETARY: Calendar Number 197, Senate Print 1579A, by Senator Parker, an act to amend the Real Property Actions and Proceedings 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 197, 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, 42. Nays, 20.

ACTING PRESIDENT BENJAMIN: The bill is passed.

THE SECRETARY: Calendar Number 243, Senate Print 1239, by Senator Mayer, an act to amend the Education 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, 62.

ACTING PRESIDENT BENJAMIN: The bill is passed.

THE SECRETARY: Calendar Number 304, Assembly Number 3354B, substituted earlier by Assemblymember Fall, an act to amend the Civil Service Law and the Labor Law.

SENATOR LANZA: Lay it aside.

ACTING PRESIDENT BENJAMIN: Lay it aside.

THE SECRETARY: Calendar Number 360, Senate Print 17A, by Senator Mayer, an act to amend the Labor Law.

ACTING PRESIDENT BENJAMIN: Read the last section.

THE SECRETARY: Section 2. This act shall take effect 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 360, those Senators voting in the negative are Senators Akshar, Borrello, Helming, Jordan, Lanza, Oberacker, O'Mara, Ortt, Rath, Serino, Tedisco and Stec.

Ayes, 50. Nays, 12.

ACTING PRESIDENT BENJAMIN: The bill is passed.

THE SECRETARY: Calendar Number 365, Senate Print 3470, by Senator Kennedy, an act to amend the Labor 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, 62.

ACTING PRESIDENT BENJAMIN: The bill is passed.

THE SECRETARY: Calendar Number 367, Senate Print 4049, by Senator Ramos, an act to amend the Labor 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, 62.

ACTING PRESIDENT BENJAMIN: The bill is passed.

THE SECRETARY: Calendar Number 371, Assembly Number 3988, substituted earlier by Assemblymember Abbate, an act to amend the Retirement and Social Security 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 Gounardes to explain his vote.

SENATOR GOUNARDES: Thank you, Mr. President.

I rise to thank my colleagues in support of this legislation.

Throughout the last year -- and it's amazing how today has been the one-year mark since we know that we had our first death in New York City from the COVID virus, we have lost hundreds of public workers across the state, but no place greater than in New York City, where

literally hundreds of people who had no choice but to go to work every single day, putting their lives on the line at a time when we didn't know what was coming down the pike, passed away from this virus.

Last year the Legislature approved a death benefit bill to support those family members of the loved ones that we lost, and now we are doing the very simple step but very important and symbolic step of extending the eligibility of that death benefit, which had previously expired on December 31st.

I thank my colleagues for doing this. This is the right thing to do for the family members of public servants from Buffalo down to Brooklyn, out to the tip of Long Island, who sadly gave their lives to the city, the state, their counties, all in the service of protecting others. And I thank everyone for their support.

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

Announce the results.

THE SECRETARY: Ayes, 62.

ACTING PRESIDENT BENJAMIN: The

bill is passed.

Senator Gounardes {sic}, that completes the reading of today's calendar.

SENATOR GIANARIS: Please go to the reading of the controversial calendar.

ACTING PRESIDENT BENJAMIN: The Secretary will ring the bell.

The Secretary will read.

THE SECRETARY: Calendar Number 304, Assembly Number 3354B, by Assemblymember Fall, an act to amend the Civil Service Law and the Labor Law.

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 Helming 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 you recognize Senator Helming.

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

SENATOR HELMING: Thank you, Mr. President.

Mr. President, I rise to appeal the ruling of the chair because the proposed amendment is clearly germane to Senate Bill 2588, the bill before the house that we seek to amend.

Both the bill before us, Senator Gaughran's bill, and the amendment, Senator Biaggi's bill, deal specifically with pandemic-related actions. More specifically, the amendment states the State Legislature is an independent, coequal branch of government with the constitutional authority and responsibility to make laws.

Under the State Constitution, the Legislature is a coequal branch of government. But now, it is not. We are spectators.

Today is March 1st. Exactly one year ago today, the first case of COVID-19 was confirmed in New York State. Two days later, the Legislature granted Governor Cuomo his emergency

pandemic powers.

Here we are, one year later -- one year later and more than a month since the Attorney General's report on nursing homes that confirmed for me and many of my colleagues on both sides of the aisle that it is long past time to end the Governor's emergency powers.

Since the AG's report, it's been an avalanche of sad and concerning news. The loss of more than 15,000 nursing home and long-term-care residents to COVID-19. The deliberate withholding of information by the Department of Health. Ongoing federal investigations. And amidst all of this, small businesses are still hurting. People are still unemployed, families are still struggling, and kids are still not back in school full-time.

Decisions about how and when businesses can operate, who can get the vaccine, and where and when -- this is about decisions on whether families can see their moms and dads in nursing homes, when and if students can go back to school five days a week.

We as lawmakers must have a say in these decisions. The Legislature must help lead

our state's recovery. We need to work on this together, the legislative and executive branches both, not the executive branch alone, especially in light of what's happening now.

So again, I call on my colleagues to act today. End the Governor's extraordinary powers. Restore the lawful role of the Legislature. Reinstate our coequal branches of government and our systems of checks and balances. Vote now for this bipartisan amendment for the good of the government and the people we represent. Let's finally get this done.

For these reasons, Mr. President, I strongly urge you to reconsider your ruling.

ACTING PRESIDENT BENJAMIN: Thank you, Senator Helming.

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 have agreed to waive the showing of hands and

record each member of the Minority in the affirmative.

ACTING PRESIDENT BENJAMIN: Without objection, so ordered.

Announce the results.

THE SECRETARY: Ayes, 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, 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: Senator Borrello to explain his vote.

SENATOR BORRELLO: Thank you, Mr. President.

I have to say that I struggled with this bill greatly -- not because people do not

need the time to get a vaccine, but because of the impact it will have on so many small businesses.

You know, there's really no allocation for part-times. You know, if someone is hiring someone to watch their children, are they going to have to give them that four hours paid time off?

But at the end of the day I've decided to support this bill, mostly because of the tremendous lack of vaccine that we have here in New York State and the way the Governor has handled the rollout of this vaccine distribution. He's made it political.

I have people in my district driving hours to get a vaccination, taking whatever appointment might be available, no matter how far away it is, so they can get this much-needed vaccination.

So while I really am concerned about the impact on our small businesses, this is really important because of the way the Governor has handled the rollout of this vaccine distribution. We cannot really afford to let someone pass up an open appointment. It's like

hitting the lottery for some people right now. That speaks to the poor way this has been handled and continues to be handled by this Governor and by this administration.

So I am voting yes today in the hopes that this will help some folks get their vaccine as soon as they can.

Thank you.

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

Senator Gounardes to explain his vote.

SENATOR GOUNARDES: Thank you, Mr. President.

Again I rise, I want to thank my colleagues in support of this legislation. because what we're trying to do here is make it as frictionless and as easy as possible for every single person in this state to be able to go and get their vaccine, their COVID-19 vaccine.

And, you know, to my colleague Senator Borrello, you know, we all struggle with the vaccine administration. And it's a shame that the federal government under the prior administration failed to have a coordinated

national strategy on vaccinations, failed to prepare us for adequate supply, and that we are now all struggling -- my constituents are struggling with the same issues yours are, as I'm sure many of our colleagues are, because of the failures of the prior administration to roll out the vaccines properly and to prioritize those states that were hardest-hit by the COVID-19 virus.

But we're taking steps to make that better. We're now taking steps with this bill to make it easier for people to be able to take the time that they need to go get their vaccine, both of their doses if they're taking a vaccine that requires two doses, to be able to have time to recuperate.

And we are doing this in the same way that we have acted on previous issues to give people paid leave for other important health matters -- most recently and most notably, our cancer screening bill that we passed two years ago.

So we are using the same model that we've used in the past. This is something that is tried and true for both employees and

employers in the State of New York. And I think it's going to go a long way to help people get the vaccines that we need.

And thankfully, over the last couple of weeks we have seen a significant uptick in the number of vaccines that have been shipped to New York. We have seen a significant uptick in the numbers of vaccinations. We're still not where we want to be, and I'll agree with you on that, but we've certainly made progress over the last couple of weeks -- thankfully, in that we have an administration in Washington that's listening to us.

I vote aye.

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

Senator Lanza to explain his vote.

SENATOR LANZA: Thank you, Mr. President.

I want to thank the sponsor, Senator Gounardes, for this legislation.

As my colleague Senator Borrello stated, it's so important that we here in the Legislature do anything and everything that we

can do to get these vaccines into the arms of the people of the State of New York.

You know, I find it ironic that we're talking about the federal government. The federal plan or lack of plan seemed to have worked for the other 49 states. New York, at the bottom of the heap here, is having a hard time getting vaccines to people.

We all know the reason. It's because Dr. Zucker had no plan, zero plan. He was too busy lying to the people of the State of New York instead of making sure that he was putting into place a policy that would allow New Yorkers from one end of the state to the other to get this vaccination.

So I commend Senator Gounardes. We need legislation like this. As long as Dr. Zucker's not going to do his job, I'm glad that Senator Gounardes and this body is doing its job.

Mr. President, I vote in the affirmative.

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

Announce the results.

THE SECRETARY: Ayes, 62.

ACTING PRESIDENT BENJAMIN: The bill is passed.

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

SENATOR GIANARIS: Thank you, Mr. President.

Is there a report of the Finance Committee at the desk?

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

The Secretary will read.

THE SECRETARY: Senator Krueger, from the Committee on Finance, reports the following nomination:

As Deputy Comptroller for New York City, Office of the State Comptroller, Rahul Jain.

ACTING PRESIDENT BENJAMIN: Senator Gianaris.

SENATOR GIANARIS: Mr. President, I move the nomination of Rahul Jain as Deputy Comptroller for New York City within the Office of the State Comptroller.

ACTING PRESIDENT BENJAMIN: The

question is on the nomination of Rahul Jain as Deputy Comptroller for New York City, in the Office of the State Comptroller.

All in favor say aye.

(Response of "Aye.")

ACTING PRESIDENT BENJAMIN: Opposed?

(No response.)

ACTING PRESIDENT BENJAMIN: Rahul Jain has been confirmed as Deputy Comptroller for New York City in the Office of the State Comptroller.

Senator Gianaris.

SENATOR GIANARIS: Congratulations to Rahul Jain.

Is there any further business at the desk, Mr. President?

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

SENATOR GIANARIS: I move to adjourn until tomorrow, Tuesday, March 2nd, at 3:00 p.m.

ACTING PRESIDENT BENJAMIN: On motion, the Senate stands adjourned until Tuesday, March 2nd, at 3:00 p.m.

(Whereupon, at 3:58 p.m., the Senate adjourned.)