

1 NEW YORK STATE SENATE

2
3
4 THE STENOGRAPHIC RECORD

5
6
7
8 ALBANY, NEW YORK

9
10 March 3, 2021

11 3:14 p.m.

12
13
14 REGULAR SESSION

15
16
17
18 SENATOR BRIAN A. BENJAMIN, Acting President

19 ALEJANDRA N. PAULINO, ESQ., Secretary

1 P R O C E E D I N G S

2 ACTING PRESIDENT BENJAMIN: The
3 Senate will come to order.

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

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

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

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

13 ACTING PRESIDENT BENJAMIN: Reading
14 of the Journal.

15 THE SECRETARY: In Senate, Tuesday,
16 March 2, 2021, the Senate met pursuant to
17 adjournment. The Journal of Monday, March 1,
18 2021, was read and approved. On motion, Senate
19 adjourned.

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

22 Presentation of petitions.

23 Messages from the Assembly.

24 Messages from the Governor.

25 Reports of standing committees.

1 Reports of select committees.

2 Communications and reports from
3 state officers.

4 Motions and resolutions.

5 Senator Gianaris.

6 SENATOR GIANARIS: At this time,
7 Mr. President, we're going to take up previously
8 adopted Resolution 404, by Senator Thomas, read
9 that resolution's title only, and recognize
10 Senator Thomas.

11 ACTING PRESIDENT BENJAMIN: The
12 Secretary will read.

13 THE SECRETARY: Senate Resolution
14 404, by Senator Thomas, memorializing Governor
15 Andrew M. Cuomo to proclaim March 1-7, 2021, as
16 Consumer Protection Week in the State of
17 New York, in conjunction with the observance of
18 National Consumer Protection Week.

19 ACTING PRESIDENT BENJAMIN: Senator
20 Thomas on the resolution.

21 SENATOR THOMAS: Thank you,
22 Mr. President. I rise today for National
23 Consumer Protection Week.

24 National Consumer Protection Week
25 began in 1998 to help educate consumers about

1 their credit and debit, how to stop telemarketing
2 calls, how to safely shop online, and how to tell
3 if you are being scammed or if your identity is
4 being stolen.

5 While much has changed since 1998,
6 the great tradition of National Consumer
7 Protection Week has continued and remains as
8 vital as ever in our efforts to protect consumers
9 across the nation.

10 Every year in the beginning of
11 March, consumer protection organizations come
12 together to host educational events and provide
13 instructional materials through publications,
14 social media, and other websites.

15 This week is an opportune time to
16 highlight the efforts of the New York State
17 Division of Consumer Protection, the Department
18 of Financial Services, and the New York State
19 Attorney General's Office for their ongoing
20 dedication to assisting, educating and empowering
21 consumers across New York State.

22 As chair of the Consumer Protection
23 Committee, I am responsible for the welfare of
24 New York's more than 19 million consumers, which
25 is why I am a proud participant in National

1 Consumer Protection Week.

2 This year I have created a special
3 online consumer protection resource base for my
4 constituents, with the goal of helping them
5 identify and navigate the top consumer protection
6 issues in New York State. This page is available
7 on my Senate website and across my social media
8 platforms.

9 Education and awareness remain
10 critical tools in protecting consumers from fraud
11 and scams, which have evolved and changed in our
12 increasingly digital world. It is my hope that
13 we can use this week as an opportunity to educate
14 ourselves as consumers and encourage others to
15 study up on how to protect themselves and make
16 the best choices in the marketplace.

17 With that in mind, I am proud to
18 introduce this resolution to proclaim March 1-7,
19 2021, as Consumer Protection Week in the State of
20 New York. Thank you.

21 ACTING PRESIDENT BENJAMIN: The
22 resolution was previously adopted on March 2nd.

23 Senator Gianaris.

24 SENATOR GIANARIS: Senator Thomas
25 would like to open that resolution for

1 cosponsorship.

2 ACTING PRESIDENT BENJAMIN: The
3 resolution is open for cosponsorship. Should you
4 choose not to be a cosponsor of the resolution,
5 please notify the desk.

6 Senator Gianaris.

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

9 ACTING PRESIDENT BENJAMIN: The
10 Secretary will read.

11 THE SECRETARY: Calendar Number
12 145, Senate Print 238, by Senator Thomas, an act
13 to amend the Social Services Law.

14 SENATOR LANZA: Lay it aside.

15 ACTING PRESIDENT BENJAMIN: Lay it
16 aside.

17 THE SECRETARY: Calendar Number
18 189, Senate Print 1566, by Senator Sanders, an
19 act to amend the Banking Law.

20 ACTING PRESIDENT BENJAMIN: Read
21 the last section.

22 THE SECRETARY: Section 2. This
23 act shall take effect on the 90th day after it
24 shall have become a law.

25 ACTING PRESIDENT BENJAMIN: Call

1 the roll.

2 (The Secretary called the roll.)

3 ACTING PRESIDENT PERSAUD:

4 Announce the results.

5 THE SECRETARY: In relation to
6 Calendar Number 189, those Senators voting in the
7 negative are Senators Akshar, Borrello, Gallivan,
8 Griffo, Helming, Jordan, Martucci, Oberacker,
9 O'Mara, Ortt, Palumbo, Rath, Stec, Tedisco and
10 Weik.

11 Ayes, 48. Nays, 15.

12 ACTING PRESIDENT PERSAUD: The bill
13 is passed.

14 THE SECRETARY: Calendar Number
15 215, Senate Print 2725, by Senator Krueger, an
16 act to amend the Legislative Law.

17 ACTING PRESIDENT PERSAUD: Read the
18 last section.

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

21 ACTING PRESIDENT PERSAUD: Call the
22 roll.

23 (The Secretary called the roll.)

24 ACTING PRESIDENT PERSAUD: Announce
25 the results.

1 THE SECRETARY: In relation to
2 Calendar 215, those Senators voting in the
3 negative are Senators Akshar, Gallivan, Helming,
4 Jordan, Oberacker and Ortt.

5 Ayes, 57. Nays, 6.

6 ACTING PRESIDENT PERSAUD: The bill
7 is passed.

8 THE SECRETARY: Calendar Number
9 256, Senate Print 3126A, by Senator Parker, an
10 act to amend the Public Service Law and the
11 Energy Law.

12 ACTING PRESIDENT PERSAUD: Read the
13 last section.

14 THE SECRETARY: Section 4. This
15 act shall take effect on the 90th day after it
16 shall have become a law.

17 ACTING PRESIDENT PERSAUD: Call the
18 roll.

19 (The Secretary called the roll.)

20 ACTING PRESIDENT PERSAUD: Announce
21 the results.

22 THE SECRETARY: In relation to
23 Calendar 256, those Senators voting in the
24 negative are Senators Borrello, Gallivan, Griffo,
25 Jordan, Oberacker, O'Mara, Ortt, Rath and

1 Ritchie.

2 Ayes, 54. Nays, 9.

3 ACTING PRESIDENT PERSAUD: The bill
4 is passed.

5 THE SECRETARY: Calendar Number
6 278, Senate Print 1271, by Senator Brooks, an act
7 to amend the Vehicle and Traffic Law.

8 ACTING PRESIDENT PERSAUD: Read the
9 last section.

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

12 ACTING PRESIDENT PERSAUD: Call the
13 roll.

14 (The Secretary called the roll.)

15 ACTING PRESIDENT PERSAUD: Announce
16 the results.

17 THE SECRETARY: Ayes, 63.

18 ACTING PRESIDENT PERSAUD: The bill
19 is passed.

20 THE SECRETARY: Calendar Number
21 279, Senate Print 1502, by Senator Breslin, an
22 act to amend the Vehicle and Traffic Law.

23 ACTING PRESIDENT PERSAUD: Read the
24 last section.

25 THE SECRETARY: Section 2. This

1 act shall take effect on the 120th day after it
2 shall have become a law.

3 ACTING PRESIDENT PERSAUD: Call the
4 roll.

5 (The Secretary called the roll.)

6 ACTING PRESIDENT PERSAUD: Announce
7 the results.

8 THE SECRETARY: Ayes, 63.

9 ACTING PRESIDENT PERSAUD: The bill
10 is passed.

11 THE SECRETARY: Calendar Number
12 292, Senate Print Number 3996, by
13 Senator Reichlin-Melnick, an act to amend the
14 Real Property Tax Law.

15 ACTING PRESIDENT PERSAUD: Read the
16 last section.

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

19 ACTING PRESIDENT PERSAUD: Call the
20 roll.

21 (The Secretary called the roll.)

22 ACTING PRESIDENT PERSAUD: Announce
23 the results.

24 THE SECRETARY: Ayes, 63.

25 ACTING PRESIDENT PERSAUD: The bill

1 is passed.

2 THE SECRETARY: Calendar Number
3 332, Senate Print 841, by Senator Biaggi, an act
4 to amend the Environmental Conservation Law.

5 ACTING PRESIDENT PERSAUD: Read the
6 last section.

7 THE SECRETARY: Section 2. This
8 act shall take effect January 1, 2023.

9 ACTING PRESIDENT PERSAUD: Call the
10 roll.

11 (The Secretary called the roll.)

12 ACTING PRESIDENT PERSAUD: Announce
13 the results.

14 THE SECRETARY: In relation to
15 Calendar Number 332, those Senators voting in the
16 negative are Senators Helming and O'Mara.

17 Ayes, 61. Nays, 2.

18 ACTING PRESIDENT PERSAUD: The bill
19 is passed.

20 THE SECRETARY: Calendar Number
21 333, Senate Print 914, by Senator Benjamin, an
22 act to amend the Environmental Conservation Law
23 and the Public Health Law.

24 ACTING PRESIDENT PERSAUD: Read the
25 last section.

1 THE SECRETARY: Section 4. This
2 act shall take effect on the 90th day after it
3 shall have become a law.

4 ACTING PRESIDENT PERSAUD: Call the
5 roll.

6 (The Secretary called the roll.)

7 ACTING PRESIDENT PERSAUD: Senator
8 Benjamin to explain his vote.

9 SENATOR BENJAMIN: Thank you,
10 Madam Chair.

11 I want to rise today to talk about
12 this bill that will set specific standards for
13 lead in the environment, standards that should
14 have been established a long time ago to protect
15 the health and safety of our constituents.

16 You know, this bill will mandate
17 that the state set up safe standards for lead in
18 the environment and create a framework so that
19 compromised sites can be cleaned up.

20 You know, this issue was raised in
21 my community by my constituents in Park West
22 Village, a very diverse community, an apartment
23 complex where an empty lot between the complex
24 and a school, P.S. 163, which serves students
25 from pre-K to the fifth grade, was slated to see

1 a new 20-story development occur on the parking
2 lot.

3 And when the residents, utilizing
4 folks who wanted to help out, got a sense of what
5 was happening underneath the ground, it turned
6 out that there would be dangerous chemicals that
7 would have come to the forefront if this project
8 moved forward. And so there's been a continued
9 fight to help stop this from happening.

10 But the one thing that became clear
11 is there is no lead standard in New York. And as
12 a result, there was no way to stop it.

13 And I wanted to make sure that we
14 brought a bill to the floor -- and I want to
15 thank our Majority Leader for allowing this bill
16 to come to the floor -- to begin the process of
17 having standards so that we can make sure that
18 our seniors, our children, our most precious
19 gifts, that they are protected from lead.

20 You know, in communities of color,
21 lead is -- communities of color have some of the
22 highest rates of lead. There's a study by NYPIRG
23 that shows that 94 percent of lead poisoning in
24 New York City was found in children of color,
25 with 47 percent of court cases regarding lead

1 poisoning coming from the Bronx, the poorest
2 county in New York State, despite the borough
3 only making up 17 percent of the city's
4 population.

5 So this is not just an environmental
6 issue, it's also a racial justice issue. And I
7 want to thank the leader for bringing this to the
8 floor, and I proudly vote aye on this bill.

9 Thank you.

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

12 Announce the results.

13 THE SECRETARY: In relation to
14 Calendar Number 333, voting in the negative:
15 Senator Ortt.

16 Ayes, 62. Nays, 1.

17 ACTING PRESIDENT PERSAUD: The bill
18 is passed.

19 THE SECRETARY: Calendar Number
20 334, Senate Print 1031B, by
21 Senator Stewart-Cousins, an act to amend the
22 Environmental Conservation Law.

23 ACTING PRESIDENT PERSAUD: Read the
24 last section.

25 THE SECRETARY: Section 8. This

1 act shall take effect on the 30th day after it
2 shall have become a law.

3 ACTING PRESIDENT PERSAUD: Call the
4 roll.

5 (The Secretary called the roll.)

6 ACTING PRESIDENT PERSAUD: Announce
7 the results.

8 THE SECRETARY: Ayes, 63.

9 ACTING PRESIDENT PERSAUD: The bill
10 is passed.

11 THE SECRETARY: Calendar Number
12 337, Senate Print 3211A, by Senator Ramos, an act
13 to amend the Environmental Conservation Law.

14 ACTING PRESIDENT BENJAMIN: Read
15 the last section.

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

18 ACTING PRESIDENT BENJAMIN: Call
19 the roll.

20 (The Secretary called the roll.)

21 ACTING PRESIDENT BENJAMIN:
22 Announce the results.

23 THE SECRETARY: Ayes, 63.

24 ACTING PRESIDENT BENJAMIN: The
25 bill is passed.

1 THE SECRETARY: Calendar Number
2 338, Senate Print 3321, by Senator Kaminsky, an
3 act to amend the Environmental Conservation Law.

4 ACTING PRESIDENT BENJAMIN: Read
5 the last section.

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

8 ACTING PRESIDENT BENJAMIN: Call
9 the roll.

10 (The Secretary called the roll.)

11 ACTING PRESIDENT BENJAMIN:
12 Announce the results.

13 THE SECRETARY: Ayes, 63.

14 ACTING PRESIDENT BENJAMIN: The
15 bill is passed.

16 THE SECRETARY: Calendar Number
17 340, Senate Print 4371B, by Senator Biaggi, an
18 act to amend the Environmental Conservation Law.

19 SENATOR GIANARIS: Lay it aside for
20 the day.

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

23 THE SECRETARY: Calendar Number
24 341, Senate Print 4378A, by Senator Brisport, an
25 act to amend the Environmental Conservation Law.

1 SENATOR LANZA: Lay it aside.

2 ACTING PRESIDENT BENJAMIN: Lay it
3 aside.

4 THE SECRETARY: Calendar Number
5 406, Senate Print 523, by Senator Hoylman, an act
6 to amend the Civil Practice Law and Rules.

7 ACTING PRESIDENT BENJAMIN: Read
8 the last section.

9 THE SECRETARY: Section 10. This
10 act shall take effect immediately.

11 ACTING PRESIDENT BENJAMIN: Call
12 the roll.

13 (The Secretary called the roll.)

14 ACTING PRESIDENT BENJAMIN:
15 Announce the results.

16 THE SECRETARY: Ayes, 63.

17 ACTING PRESIDENT BENJAMIN: The
18 bill is passed.

19 THE SECRETARY: Calendar Number
20 426, Senate Print 3887, by Senator Bailey, an act
21 to amend the Highway Law.

22 ACTING PRESIDENT BENJAMIN: Read
23 the last section.

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

1 ACTING PRESIDENT BENJAMIN: Call
2 the roll.

3 (The Secretary called the roll.)

4 ACTING PRESIDENT BENJAMIN:
5 Announce the results.

6 THE SECRETARY: Ayes, 63.

7 ACTING PRESIDENT BENJAMIN: The
8 bill is passed.

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

11 SENATOR GIANARIS: Let's move on to
12 the controversial calendar.

13 ACTING PRESIDENT BENJAMIN: The
14 Secretary will ring the bell.

15 The Secretary will read.

16 THE SECRETARY: Calendar Number
17 145, Senate Print 238, by Senator Thomas, an act
18 to amend the Social Services Law.

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

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

25 ACTING PRESIDENT BENJAMIN: Thank

1 you, Senator Lanza.

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

5 SENATOR LANZA: Accordingly,
6 Mr. President, I appeal the ruling of the chair
7 and ask that you recognize Senator Palumbo.

8 ACTING PRESIDENT BENJAMIN: The
9 appeal has been made and recognized, and
10 Senator Palumbo may be heard.

11 SENATOR PALUMBO: Thank you,
12 Mr. President.

13 With respect to this amendment
14 that's before the desk today and the germaneness
15 of it, the underlying bill-in-chief has to do
16 with obviously nurses, frontline workers, having
17 them get paid their normal rate when they're
18 taking care of a family member.

19 And I absolutely encourage it. I
20 support this bill wholeheartedly. Those folks
21 have been really dealing with some difficult
22 times over this past year.

23 And this amendment that I'm bringing
24 before this house again now is the 19th time my
25 conference has done so. And when we think about

1 what the purposes of this is, is obviously we've
2 had a long and grueling pandemic process that
3 we've dealt with now for a year. And the
4 Governor has had unilateral control. And we did
5 this and we heard --

6 ACTING PRESIDENT BENJAMIN: Senator
7 Gianaris.

8 SENATOR GIANARIS: I'm sorry,
9 Senator Palumbo, we do have a very strict rule in
10 the chamber about wearing masks while people are
11 speaking. So I would ask Senator Palumbo to
12 please --

13 SENATOR PALUMBO: Oh, certainly,
14 Senator Gianaris. I apologize. I figured with
15 the social distancing I was able to remove my
16 mask, but certainly.

17 SENATOR GIANARIS: Thank you.

18 SENATOR PALUMBO: I apologize for
19 that.

20 So we've brought this 19 times, and
21 the house has struck it down every time. And
22 here we are again. And we had a failure to act
23 on each one of those occasions. We find out on
24 February 7th there was a secret phone call that
25 there was specific information that's been

1 requested for a month that was intentionally
2 concealed. We failed to act.

3 We had the Governor dealing with
4 other unrelated matters, sexual harassment
5 matters. One complaint, we failed to act.
6 Another complaint, we failed to act.

7 And then within the past 24 hours I
8 see, with much fanfare, that we've reached an
9 agreement to terminate the Governor's powers.
10 And I breathed a sigh of relief, to an extent. I
11 said, The horse has been long out of the barn,
12 but I'm so glad that now the two Majorities --
13 the Democrats in the Senate, the Democrats in the
14 Assembly -- have finally come to their senses.

15 And then I got a copy of the bill
16 this morning. So I take a look at S5357, and as
17 I read through it and started to digest the bill,
18 I saw that there's actually a typo in the first
19 line, in the title: An act to amend the
20 Executive Law in relation to the termination of
21 certain executive powers. In fact, my friends,
22 that's supposed to read "extension" of those
23 powers.

24 The current situation we're in has
25 the Governor's powers, by sunset provision, on

1 April 30th ending. And we're out of this, and
2 it's done. I have heard from hundreds and
3 hundreds of constituents, restaurant owners --
4 when is this going to end? And they all said:
5 At the very least, we have a sunset provision for
6 April 30th, thank goodness.

7 And then I hear we're taking this up
8 on Friday, in two days. If this is so important,
9 why don't we have a message of necessity before
10 us? And why that might even be possible is I
11 hear at the Governor's press conference today it
12 was an agreement that he was included in this
13 discussion, with no sunset.

14 And let me direct you to some areas
15 of this bill that are making matters worse. This
16 helps nothing. Because now the Governor --
17 page 2, line 24A -- the Governor may extend or
18 modify any directive by executive order that has
19 been issued and remains in effect on the
20 effective date of this act, for additional 30-day
21 increments in a manner provided for in this
22 section.

23 The section provides that the
24 Legislature and committee chairs get information
25 on why he's doing it, as long as it's relative to

1 a public health crisis -- which is what we're
2 in -- and they can comment. Quite frankly -- we
3 said this previously outside of this chamber --
4 well, the good news is I'm a State Senator and
5 I'm an American; I've been commenting for almost
6 a year. We can all comment as much as we like.

7 And you know what happens when the
8 Governor gets those comments? He has to take
9 them under advisement.

10 Mr. President, I don't even know
11 what that means. It does not invalidate any of
12 his directives. And it also provides, well, the
13 Legislature can revoke those powers by joint
14 resolution. We have that power right now. By
15 joint resolution or other acts of this body and
16 the Assembly together, we can pull his powers.
17 And that's what we've been asking for, and that's
18 what this amendment does.

19 So the other provisions, there's
20 another one that allows us to terminate the
21 executive orders again if we choose to do so as a
22 Legislature. That's already in Executive Law
23 29A. That exists.

24 This is a wonderful press release.
25 And it's disingenuous. This legislation that

1 we're going to be taking up in two days does
2 nothing. So now everyone's to go back to their
3 district, and I think some people who are for it
4 are going to say, Thank goodness we revoked his
5 powers, we terminated his powers.

6 What we just did, with no sunset
7 provision, allows the Governor to issue executive
8 orders, just like he can today. Every 30 days
9 after, we're at some point given the ability to
10 comment on a public website by the legislative
11 chairs and the Legislature.

12 It actually -- it -- I was
13 breathless when I read this. This is terrible,
14 what you're planning on doing in two days in the
15 Majority.

16 So this is something that has
17 obviously been lauded by the Governor today, by
18 media outlets. They're terminating his powers,
19 finally. But on Saturday, if this bill gets
20 through this house and the Assembly and a
21 restaurant owner calls me and says, So great,
22 what's different --

23 ACTING PRESIDENT BENJAMIN: Senator
24 Gianaris.

25 SENATOR GIANARIS: I'm sorry to

1 interrupt Senator Palumbo again.

2 We are going to have ample time to
3 debate the bill he's talking about on Friday when
4 we bring it up in this house. I would ask him to
5 please keep his comments to the hostile amendment
6 that's before us right now. Thank you.

7 SENATOR PALUMBO: Understood,
8 Senator.

9 And at the end of the day, these
10 reasons, these underlying reasons are why this
11 amendment is so critical. Because it would
12 seem -- and the reason why I would suggest,
13 Mr. President, that these comments are germane
14 and relative to this bill is because yes, there
15 is a new joint resolution and bill in the system
16 for Friday that would seem to do what we're
17 asking for today, but it doesn't under any
18 circumstances.

19 I ask that the ruling of the chair
20 be overruled, please. Thank you.

21 ACTING PRESIDENT BENJAMIN: Thank
22 you, Senator Palumbo.

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

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

3 SENATOR LANZA: Request a show of
4 hands.

5 SENATOR GIANARIS: We have agreed
6 to waive the showing of hands and record the
7 entire Minority in the affirmative,
8 Mr. President.

9 ACTING PRESIDENT BENJAMIN: Without
10 objection, so ordered.

11 Announce the results.

12 THE SECRETARY: Ayes, 20.

13 ACTING PRESIDENT BENJAMIN: The
14 ruling of the chair stands, and the bill-in-chief
15 is before the house.

16 Are there any other Senators wishing
17 to be heard?

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

20 Read the last section.

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

23 ACTING PRESIDENT BENJAMIN: Call
24 the roll.

25 (The Secretary called the roll.)

1 ACTING PRESIDENT BENJAMIN: Senator
2 Thomas to explain his vote.

3 SENATOR THOMAS: Thank you,
4 Mr. President.

5 I rise today on behalf of Christine
6 Scheppa, a mother, nurse, fighter and one of the
7 strongest people I know. Chris is the driving
8 force behind this critical legislation, and I
9 want to share her story with you today.

10 In May of 2016, Chris received a
11 call that changed her life forever. Her son
12 Vincent, a recent graduate of Garden City High
13 School, was in a skateboarding accident and left
14 with permanent catastrophic injuries.

15 Since that day, Chris, who is a
16 registered ER nurse, has been fighting for the
17 right to stay in her home and take care of her
18 son full-time. Her fight has been anything but
19 easy.

20 Current state law does not allow a
21 mother to earn a nurse's salary while taking care
22 of a son or daughter. Chris spent 48 grueling
23 hours a week working three separate nursing jobs,
24 taking care of strangers, just so that she could
25 make enough to care for Vinny.

1 Meanwhile, over 15 nurses cycled in
2 and out of the Scheppa home, many of them unable
3 to provide the same level of care that Chris
4 could provide for her own son.

5 This is a painful story and is a
6 story that's common among caregivers in New York
7 City. It needs to change. That is why I am
8 honored to sponsor this legislation named for my
9 constituent Vincent Scheppa, who passed away just
10 a couple of weeks ago on February 17, 2021.

11 No mother, no family should have to
12 endure the emotional and physical hardship of
13 being unable to care for their loved ones when
14 they are perfectly qualified to provide full-time
15 care. My greatest hope is that this bill can
16 serve as a testament to Vinny's memory by giving
17 caregivers more precious hours with their loved
18 ones.

19 I want to thank Chris Scheppa for
20 her tireless advocacy, and all the caregivers
21 across our state for the crucial and often
22 unappreciated work they do.

23 I vote in the affirmative.

24 Thank you.

25 ACTING PRESIDENT BENJAMIN: Senator

1 Thomas to be recorded in the affirmative.

2 Announce the results.

3 THE SECRETARY: Ayes, 63.

4 ACTING PRESIDENT BENJAMIN: The
5 bill is passed.

6 The Secretary will read.

7 THE SECRETARY: Calendar Number
8 341, Senate Print 4378A, by Senator Brisport, an
9 act to amend the Environmental Conservation Law.

10 ACTING PRESIDENT BENJAMIN: Senator
11 Borrello.

12 SENATOR BORRELLO: Thank you,
13 Mr. President. Will the sponsor yield for some
14 questions.

15 ACTING PRESIDENT BENJAMIN: Does
16 the sponsor yield?

17 SENATOR BRISPORT: Through you,
18 Mr. President, I do.

19 ACTING PRESIDENT BENJAMIN: The
20 sponsor yields.

21 SENATOR BORRELLO: Thank you,
22 Mr. President.

23 Hello, Senator Brisport.

24 So the -- I understand the intent of
25 this bill, and I certainly appreciate that, but

1 there are some issues here that I think are
2 troubling as far as the reliability.

3 So the New York Independent System
4 Operators came out last year saying that the
5 New York City electrical grid will have
6 reliability concerns as soon as 2023, due to
7 existing DEC peak emission reduction rules.

8 So with that in mind, does this
9 legislation require any type of a study to be
10 conducted in order to -- you know, a reliability
11 study for the grid as part of removing these
12 peaker facilities?

13 SENATOR BRISPORT: Through you,
14 Mr. President. That study did not take into
15 account future generations, and we are expecting
16 a lot more generation through renewable energy to
17 come online in accordance with the CLCPA in the
18 coming years.

19 SENATOR BORRELLO: Mr. President,
20 will the sponsor continue to yield.

21 ACTING PRESIDENT BENJAMIN: Does
22 the sponsor yield?

23 SENATOR BRISPORT: Through you,
24 Mr. President, yes.

25 ACTING PRESIDENT BENJAMIN: The

1 sponsor yields.

2 SENATOR BORRELLO: Thank you.

3 Now, my question is, is there a
4 study that's going to be done? Because it sounds
5 like what DEC has done -- they have a rule, but
6 they have some flexibility. You're now -- by
7 codifying this in legislation, you are now
8 requiring that this happens. Even if DEC
9 determines that it could threaten the reliability
10 of our electrical grid in New York and deny power
11 to millions of New Yorkers, they still will have
12 to follow this legislation.

13 So will a study be done to ensure
14 that we don't have a reliability issue and don't
15 have a problem with our grid?

16 SENATOR BRISPORT: Through you,
17 Mr. President. NYISO is required to do a study,
18 and they will do so in accordance with this bill.

19 SENATOR BORRELLO: Okay, thank you.

20 Will the sponsor continue to yield,
21 Mr. President?

22 ACTING PRESIDENT BENJAMIN: Does
23 the sponsor yield?

24 SENATOR BRISPORT: Yes.

25 ACTING PRESIDENT BENJAMIN: The

1 sponsor yields.

2 SENATOR BORRELLO: So do you have
3 any concerns for the future of the reliability
4 of -- for power for New York City at this point?
5 I mean, right now you've got power that's derived
6 from lots of places, but -- you know, upstate,
7 Long Island -- but do you have any concerns for
8 the future reliability?

9 Do you have confidence that with
10 this bill passing we won't have any reliability
11 issues and that we will not jeopardize power
12 supply, especially in extreme weather events, for
13 the people of New York?

14 SENATOR BRISPORT: Through you,
15 Mr. President. This bill requires them to submit
16 a feasibility and a plan to convert to
17 100 percent renewable energy and battery storage
18 to ensure that that plan -- and the department
19 has to agree that that plan is one that will not
20 jeopardize the local community in terms of its
21 reliability.

22 I would also add that these peakers
23 tend not to be used for more than 15 percent of
24 the time during the year.

25 SENATOR BORRELLO: Mr. President,

1 will the sponsor continue to yield.

2 ACTING PRESIDENT BENJAMIN: Will
3 the sponsor yield?

4 SENATOR BRISPORT: Yes.

5 ACTING PRESIDENT BENJAMIN: The
6 sponsor yields.

7 SENATOR BORRELLO: So the sponsor
8 said that it requires that we go to 100 percent
9 renewables. Senator, are you aware that we
10 already import about 25 percent of our power from
11 other places, including old-fashioned coal plants
12 in places like Homer City, Pennsylvania, which
13 are just spewing pollution into the air?

14 So does this bill then require that
15 we no longer import any power from anywhere else,
16 that we rely 100 percent on renewable power in
17 New York State, we will not import any more power
18 ever again when this bill passes?

19 SENATOR BRISPORT: Through you,
20 Mr. President, we are in the middle of the
21 construction of a lot of new renewable energy in
22 New York State, and this bills takes into account
23 the amount that will be constructed in New York
24 State.

25 SENATOR BORRELLO: Mr. President,

1 will the sponsor continue to yield.

2 ACTING PRESIDENT BENJAMIN: Does
3 the sponsor yield?

4 SENATOR BRISPORT: Yes.

5 ACTING PRESIDENT BENJAMIN: The
6 sponsor yields.

7 SENATOR BORRELLO: With all due
8 respect, you didn't answer my question, sir. Are
9 we going to no longer import power from other
10 states when this bill -- which is what this bill
11 calls for?

12 SENATOR BRISPORT: Through you,
13 Mr. President. Our goal is to move to
14 100 percent renewable energy no matter where it
15 comes from.

16 SENATOR BORRELLO: Mr. President,
17 will the sponsor continue to yield.

18 ACTING PRESIDENT BENJAMIN: Does
19 the sponsor yield?

20 SENATOR BRISPORT: Yes.

21 ACTING PRESIDENT BENJAMIN: The
22 sponsor yields.

23 SENATOR BORRELLO: So again, we
24 still haven't gotten an answer to the question if
25 we're still going to be importing power like we

1 are right now.

2 Where I am in Western New York, we
3 shut down the power plant. It cost lots of jobs.
4 The Governor came to town, said we were going to
5 renew, we're going to repower this plant with
6 natural gas, clean-burning natural gas. And then
7 he pulled the plug on it.

8 Instead, we spent hundreds of
9 millions of dollars to run transmission lines to
10 places like Homer City, Pennsylvania, which are
11 just old-fashioned, outdated coal plants. And
12 now 25 percent of Western New York's power comes
13 from that.

14 So again, I'm asking you, are we
15 going to stop importing power from other states?

16 SENATOR BRISPORT: Through you,
17 Mr. President, this is what the CLCPA is about.
18 It mandates that we stop importing dirty energy
19 and move to completely 100 percent renewable
20 energy.

21 SENATOR BORRELLO: Mr. President,
22 will the sponsor continue to yield?

23 ACTING PRESIDENT BENJAMIN: Does
24 the sponsor yield?

25 SENATOR BRISPORT: Yes.

1 ACTING PRESIDENT BENJAMIN: The
2 sponsor yields.

3 SENATOR BORRELLO: Okay. With all
4 due respect, that's not what it says. The CLCPA
5 actually says that we'll no longer generate power
6 here in New York State. It doesn't preclude us
7 from importing that power.

8 I don't see that as the case.
9 because if that were the case, why are we now
10 spending lots of -- millions and millions of
11 dollars to run transmission lines right now?

12 So you're saying the CLCPA says that
13 by 2030 we will not -- we will have 70 percent
14 renewable power even here -- even those -- even
15 the power that's coming from other states, other
16 areas, other countries -- like Canada, for
17 example. Are we -- so we're seriously not going
18 to be importing any more power from coal plants?

19 SENATOR BRISPORT: Through you,
20 Mr. President. The CLCPA says to move to a
21 carbon-free electrical grid: 70 percent by 2030,
22 100 percent by 2040. It would be impossible to
23 be importing energy from coal plants or any other
24 fossil fuel and be in accordance with those
25 stipulations.

1 SENATOR BORRELLO: Okay.

2 Mr. President, will the sponsor continue to
3 yield?

4 ACTING PRESIDENT BENJAMIN: Does
5 the sponsor yield?

6 SENATOR BRISPORT: Yes.

7 ACTING PRESIDENT BENJAMIN: The
8 sponsor yields.

9 SENATOR BORRELLO: Thank you.
10 Thank you very much for indulging me also.
11 Appreciate that.

12 How many acres of solar farms, how
13 many acres of on-shore and offshore wind turbines
14 will be required in order to meet that? Do we
15 have any idea? Do we have enough land in
16 New York State to supply that much renewable
17 energy? Do we have any idea?

18 SENATOR BRISPORT: Through you,
19 Mr. President. Respectfully, these are now
20 questions about the CLCPA, not the conversion of
21 peaker plants specifically to 100 percent
22 renewable energy.

23 SENATOR BORRELLO: Mr. President,
24 will the sponsor continue to yield?

25 ACTING PRESIDENT BENJAMIN: Does

1 the sponsor yield?

2 SENATOR BRISPORT: Yes.

3 SENATOR BORRELLO: Okay, let me
4 rephrase that question then --

5 ACTING PRESIDENT BENJAMIN: Whoa,
6 whoa, whoa. Let the sponsor yield.

7 SENATOR BORRELLO: Oh, I'm sorry.

8 ACTING PRESIDENT BENJAMIN: The
9 sponsor yields.

10 SENATOR BORRELLO: I'm getting
11 ahead of myself.

12 So specifically speaking to the loss
13 of power that these peaker plants being closed
14 will now -- you know, we'll no longer have that
15 peaker plant -- how many acres of solar farms and
16 how many wind turbines will we need in New York
17 State in order to make up for that? For the loss
18 of those peaker plants, excuse me.

19 SENATOR BRISPORT: Through you,
20 Mr. President. This is not a bill to shut down
21 peaker plants or to close peaker plants, it's a
22 bill to require them to switch over to
23 100 percent renewable energy.

24 They can get a five-year extension,
25 and if they are unable to do so, then they may

1 close. But we expect most of them to be able to
2 do this. This is existing technology. In fact,
3 in Ulster County in 2019 a peaker plant was
4 replaced with 20 megawatts of battery storage.

5 SENATOR BORRELLO: Mr. President,
6 will the sponsor continue to yield?

7 ACTING PRESIDENT BENJAMIN: Does
8 the sponsor yield?

9 SENATOR BRISPORT: Yes.

10 ACTING PRESIDENT BENJAMIN: The
11 sponsor yields.

12 SENATOR BORRELLO: So, you know,
13 battery storage is a little different dynamic
14 than supplying peak power, because, you know,
15 obviously that happens during extreme events --
16 heat, cold.

17 In fact, I think one of the
18 questions that I have here is if you're going
19 to -- you talk about this five-year extension.
20 So -- but it says that if there's any
21 determination -- essentially, I think your
22 legislative line reads "Peaker plant emissions
23 contribute to adverse health effects in
24 environmental justice communities."

25 And in lines 20 through 29 on

1 page 4, it states that DEC may only grant an
2 application for an extension if the continued
3 operation of the peaker plant would not result in
4 adverse health impacts.

5 So a few lines further, you say --
6 first you say they clearly do that. Then you're
7 saying the only way that you can get an
8 extension, that five-year extension, is if they
9 don't do that.

10 So effectively, aren't you saying
11 that nobody is going to be able to get that
12 extension?

13 SENATOR BRISPORT: Through you,
14 Mr. President. We are not making a blanket
15 statement about peaker plants. This would be a
16 case-by-case evaluation through the department --
17 through the DEC.

18 SENATOR BORRELLO: Thank you very
19 much, Senator.

20 On the bill.

21 ACTING PRESIDENT BENJAMIN: Senator
22 Borrello on the bill.

23 SENATOR BORRELLO: I understand
24 that these peaker plants are something that in
25 many communities are often considered to be

1 obviously causing pollution. I understand that.

2 But what we're doing in New York
3 State now is instead of doing a slow roll, a
4 responsible, thoughtful conversion -- using, for
5 example, natural gas as a bridge fuel, to repower
6 these plants using existing natural gas resources
7 that we have an abundance of in New York State --
8 instead we're going to this knee-jerk reaction
9 where we're going to shut things down.

10 And now all of a sudden we're saying
11 that we're not going to have these peaker plants.
12 Well, if you look at what happened in Texas --
13 and we can debate why or how, but the reality is
14 people lost power for an extended period of time.
15 People died as a result of the unreliable nature
16 of their power in New York.

17 Now we're going to bring that idea
18 to New York State by getting rid of these peaker
19 plants. Now we're saying it's because we want to
20 protect people's health, and I understand that.
21 But right now New York State is ramping up its
22 importing of power from dirty old-fashioned
23 outdated plants in places like Homer City, PA.

24 We used to be energy-independent.
25 We were going to be powered with natural gas at

1 the plant in Dunkirk, where I live, dramatically
2 reducing those greenhouse gas emissions,
3 dramatically reducing the carbon footprint.
4 Instead, we're bringing power in from the
5 dirtiest plants in North America.

6 It's a lie. It's a shell game.
7 We're saying we're converting to renewable power;
8 we're not.

9 I can tell my wife that I'm eating
10 salads and I'm on a diet, but if I've got a
11 drawerful of candy bars in my desk and that's
12 what I'm eating when I go to work, I'm not going
13 to be losing any weight.

14 And that's what New York is doing.
15 We're now reducing our commitment -- we're not
16 reducing our reliance on fossil fuel. Quite the
17 opposite. We're saying we're going to take as
18 much as we need from wherever we have to, and
19 then we're going to put up a bunch of wind
20 turbines and solar panels and tell people, We're
21 renewable, we're saving the environment. It's a
22 lie.

23 And unfortunately, getting rid of
24 these peaker plants now changes that lie into a
25 dangerous lie, a dangerous lie that ultimately is

1 going to result in an unreliable source of power
2 for New York State.

3 I get where we're going here. And I
4 think we can get there. But we don't have to get
5 there by cutting ourselves off at the knees.
6 That's what this is going to do.

7 And there are many other pieces of
8 legislation that I'm sure we're going to see that
9 we're all going to be going out of our way to
10 congratulate ourselves. But here's the reality.
11 We aren't doing a single thing that is going to
12 reduce the amount of carbon output and pollution
13 one iota if we continue down this path. We're
14 going to continue to import power.

15 We have to reduce our demand, folks.
16 That's what it's all about. That's not
17 happening.

18 So this is just another part of the
19 shell game, and I'll be voting no.

20 Thank you, Mr. President.

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

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

25 Read the last section.

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

3 ACTING PRESIDENT BENJAMIN: Call
4 the roll.

5 (The Secretary called the roll.)

6 ACTING PRESIDENT BENJAMIN: Senator
7 Skoufis to explain his vote.

8 SENATOR SKOUFIS: Thank you very
9 much, Mr. President.

10 I certainly appreciate the intent
11 behind this bill, and I join my colleague and
12 many colleagues in wanting to accelerate the
13 transition away from dirty fossil fuel plants,
14 including peaker plants.

15 And, you know, I will say just a
16 broad exception I take is that, you know, we very
17 deliberately, over many years, addressed this
18 very issue and others in the CLCPA in 2019. And
19 so it is a little strange to me that we are
20 taking this one particular piece out of the CLCPA
21 and doing something differently with it.

22 But my fundamental concern here is
23 that this bill, in my opinion, has been
24 fast-tracked in such a way that we have not fully
25 or even duly considered the financial impact

1 associated with this bill in those communities
2 that host peaker plants.

3 And so I host two in my Senate
4 district, in North Rockland and in the Town of
5 Newburgh. Each contributes \$2 million to
6 \$3 million annually to the local school districts
7 and local municipalities. And yes, there is a
8 mitigation fund set up. It is inadequate. But
9 the simple matter of fact is this bill is
10 brand-new, basically, has been fast-tracked, and
11 will have a deleterious financial impact on two
12 sets of communities in my Senate district.

13 I do hope that before this bill
14 moves completely through the Legislature that we
15 can have a more comprehensive and robust
16 conversation about that financial impact that
17 needs to be addressed.

18 We all want to do away with the
19 pollution, but we also don't want to lay off
20 hundreds of teachers in the process of taking out
21 of these communities an enormous if not the
22 largest ratable taxpayer in these school
23 districts and municipalities.

24 And so for those reasons,
25 regretfully, I'll have to vote no on this bill.

1 Thank you, Mr. President.

2 ACTING PRESIDENT BENJAMIN: Senator
3 Skoufis to be recorded in the negative.

4 Announce the results.

5 THE SECRETARY: In relation to
6 Calendar 341, those Senators voting in the
7 negative are Senators Akshar, Borrello, Boyle,
8 Gallivan, Gaughran, Griffio, Helming, Jordan,
9 Lanza, Martucci, Mattera, Oberacker, O'Mara,
10 Ortt, Palumbo, Rath, Ritchie, Serino, Skoufis,
11 Stec, Tedisco and Weik.

12 Ayes, 41. Nays, 22.

13 ACTING PRESIDENT BENJAMIN: The
14 bill is passed.

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

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

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

21 SENATOR GIANARIS: Then I move to
22 adjourn until tomorrow, Thursday, March 4th --
23 members should pay attention, because we have
24 moved the time to 3:00 p.m. tomorrow.

25 ACTING PRESIDENT BENJAMIN: On

1 motion, the Senate stands adjourned until

2 Thursday, March 4th, at 3:00 p.m.

3 (Whereupon, at 3:52 p.m., the Senate
4 adjourned.)

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25