NEW YORK STATE SENATE

THE STENOGRAPHIC RECORD

ALBANY, NEW YORK

March 3, 2021

3:14 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: Reading of the Journal.

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

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

Presentation of petitions.

Messages from the Assembly.

Messages from the Governor.

Reports of standing committees.

Reports of select committees.

Communications and reports from state officers.

Motions and resolutions.

Senator Gianaris.

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

ACTING PRESIDENT BENJAMIN: The Secretary will read.

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

ACTING PRESIDENT BENJAMIN: Senator Thomas on the resolution.

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

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

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

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

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

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

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

Consumer Protection Week.

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

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

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

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

Senator Gianaris.

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

cosponsorship.

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

Senator Gianaris.

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

ACTING PRESIDENT BENJAMIN: The Secretary will read.

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

SENATOR LANZA: Lay it aside.

ACTING PRESIDENT BENJAMIN: Lay it aside.

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

ACTING PRESIDENT BENJAMIN: Read the last section.

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

ACTING PRESIDENT BENJAMIN: Call

the roll.

(The Secretary called the roll.)

ACTING PRESIDENT PERSAUD: Announce the results.

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

Ayes, 48. Nays, 15.

ACTING PRESIDENT PERSAUD: The bill is passed.

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

ACTING PRESIDENT PERSAUD: 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: Announce the results.

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

Ayes, 57. Nays, 6.

ACTING PRESIDENT PERSAUD: The bill is passed.

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

ACTING PRESIDENT PERSAUD: Read the last section.

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

ACTING PRESIDENT PERSAUD: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT PERSAUD: Announce the results.

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

Ritchie.

Ayes, 54. Nays, 9.

ACTING PRESIDENT PERSAUD: The bill is passed.

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

ACTING PRESIDENT PERSAUD: 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: Announce the results.

THE SECRETARY: Ayes, 63.

ACTING PRESIDENT PERSAUD: The bill is passed.

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

ACTING PRESIDENT PERSAUD: 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 PERSAUD: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT PERSAUD: Announce the results.

THE SECRETARY: Ayes, 63.

ACTING PRESIDENT PERSAUD: The bill is passed.

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

ACTING PRESIDENT PERSAUD: 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: Announce the results.

THE SECRETARY: Ayes, 63.

ACTING PRESIDENT PERSAUD: The bill

is passed.

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

ACTING PRESIDENT PERSAUD: Read the last section.

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

ACTING PRESIDENT PERSAUD: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT PERSAUD: Announce the results.

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

Ayes, 61. Nays, 2.

ACTING PRESIDENT PERSAUD: The bill is passed.

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

ACTING PRESIDENT PERSAUD: Read the last section.

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

ACTING PRESIDENT PERSAUD: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT PERSAUD: Senator Benjamin to explain his vote.

SENATOR BENJAMIN: Thank you, Madam Chair.

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

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

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

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

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

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

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

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

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

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

Thank you.

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

Announce the results.

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

Ayes, 62. Nays, 1.

ACTING PRESIDENT PERSAUD: The bill is passed.

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

ACTING PRESIDENT PERSAUD: Read the last section.

THE SECRETARY: Section 8. This

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

ACTING PRESIDENT PERSAUD: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT PERSAUD: Announce the results.

THE SECRETARY: Ayes, 63.

ACTING PRESIDENT PERSAUD: The bill is passed.

THE SECRETARY: Calendar Number 337, Senate Print 3211A, by Senator Ramos, an act to amend the Environmental Conservation 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 338, Senate Print 3321, by Senator Kaminsky, an act to amend the Environmental Conservation 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 340, Senate Print 4371B, by Senator Biaggi, an act to amend the Environmental Conservation Law.

SENATOR GIANARIS: Lay it aside for the day.

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

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

SENATOR LANZA: Lay it aside.

ACTING PRESIDENT BENJAMIN: Lay it aside.

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

ACTING PRESIDENT BENJAMIN: Read the last section.

THE SECRETARY: Section 10. 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 426, Senate Print 3887, by Senator Bailey, an act to amend the Highway 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.

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

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

ACTING PRESIDENT BENJAMIN: The Secretary will ring the bell.

The Secretary will read.

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

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

SENATOR PALUMBO: Thank you, Mr. President.

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

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

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

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

ACTING PRESIDENT BENJAMIN: Senator Gianaris.

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

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

SENATOR GIANARIS: Thank you.

SENATOR PALUMBO: I apologize for that.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

ACTING PRESIDENT BENJAMIN: Senator Gianaris.

SENATOR GIANARIS: I'm sorry to

interrupt Senator Palumbo again.

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

SENATOR PALUMBO: Understood, Senator.

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

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

ACTING PRESIDENT BENJAMIN: Thank you, Senator Palumbo.

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: We have agreed to waive the showing of hands and record the entire Minority in the affirmative, Mr. President.

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 3. This act shall take effect immediately.

ACTING PRESIDENT BENJAMIN: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT BENJAMIN: Senator Thomas to explain his vote.

SENATOR THOMAS: Thank you, Mr. President.

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

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

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

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

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

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

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

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

I vote in the affirmative.

Thank you.

ACTING PRESIDENT BENJAMIN: Senator

Thomas to be recorded in the affirmative.

Announce the results.

THE SECRETARY: Ayes, 63.

ACTING PRESIDENT BENJAMIN: The bill is passed.

The Secretary will read.

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

ACTING PRESIDENT BENJAMIN: Senator Borrello.

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

ACTING PRESIDENT BENJAMIN: Does the sponsor yield?

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

ACTING PRESIDENT BENJAMIN: The sponsor yields.

SENATOR BORRELLO: Thank you, Mr. President.

Hello, Senator Brisport.

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

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

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

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

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

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

ACTING PRESIDENT BENJAMIN: Does the sponsor yield?

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

ACTING PRESIDENT BENJAMIN: The

sponsor yields.

SENATOR BORRELLO: Thank you.

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

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

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

SENATOR BORRELLO: Okay, thank you.

Will the sponsor continue to yield, Mr. President?

ACTING PRESIDENT BENJAMIN: Does the sponsor yield?

SENATOR BRISPORT: Yes.

ACTING PRESIDENT BENJAMIN: The

sponsor yields.

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

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

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

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

SENATOR BORRELLO: Mr. President,

will the sponsor continue to yield.

ACTING PRESIDENT BENJAMIN: Will the sponsor yield?

SENATOR BRISPORT: Yes.

ACTING PRESIDENT BENJAMIN: The sponsor yields.

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

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

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

SENATOR BORRELLO: Mr. President,

will the sponsor continue to yield.

ACTING PRESIDENT BENJAMIN: Does the sponsor yield?

SENATOR BRISPORT: Yes.

ACTING PRESIDENT BENJAMIN: The sponsor yields.

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

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

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

ACTING PRESIDENT BENJAMIN: Does the sponsor yield?

SENATOR BRISPORT: Yes.

ACTING PRESIDENT BENJAMIN: The sponsor yields.

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

are right now.

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

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

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

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

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

ACTING PRESIDENT BENJAMIN: Does the sponsor yield?

SENATOR BRISPORT: Yes.

ACTING PRESIDENT BENJAMIN: The sponsor yields.

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

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

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

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

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

ACTING PRESIDENT BENJAMIN: Does the sponsor yield?

SENATOR BRISPORT: Yes.

ACTING PRESIDENT BENJAMIN: The sponsor yields.

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

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

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

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

ACTING PRESIDENT BENJAMIN: Does

the sponsor yield?

SENATOR BRISPORT: Yes.

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

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

SENATOR BORRELLO: Oh, I'm sorry.

ACTING PRESIDENT BENJAMIN: The sponsor yields.

SENATOR BORRELLO: I'm getting ahead of myself.

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

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

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

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

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

ACTING PRESIDENT BENJAMIN: Does the sponsor yield?

SENATOR BRISPORT: Yes.

ACTING PRESIDENT BENJAMIN: The sponsor yields.

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

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

And in lines 20 through 29 on

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

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

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

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

SENATOR BORRELLO: Thank you very much, Senator.

On the bill.

ACTING PRESIDENT BENJAMIN: Senator Borrello on the bill.

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

obviously causing pollution. I understand that.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Thank you, Mr. President.

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

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

Read the last section.

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

ACTING PRESIDENT BENJAMIN: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT BENJAMIN: Senator Skoufis to explain his vote.

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

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

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

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

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

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

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

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

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

Thank you, Mr. President.

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

Announce the results.

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

Ayes, 41. Nays, 22.

ACTING PRESIDENT BENJAMIN: The bill is passed.

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

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

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

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

ACTING PRESIDENT BENJAMIN: On

motion, the Senate stands adjourned until Thursday, March 4th, at 3:00 p.m.

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