NEW YORK STATE SENATE

THE STENOGRAPHIC RECORD

ALBANY, NEW YORK

March 4, 2021

3:08 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, Wednesday, March 3, 2021, the Senate met pursuant to adjournment. The Journal of Tuesday, March 2, 2021, was read and approved. On motion, Senate adjourned.

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

Presentation of petitions.

Messages from the Assembly.

The Secretary will read.

THE SECRETARY: Senator Mayer moves

to discharge, from the Committee on Local Government, Assembly Bill Number 5471 and substitute it for the identical Senate Bill 4945, Third Reading Calendar 450.

ACTING PRESIDENT BENJAMIN: Substitution 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, can we move right on to taking up the calendar, please.

ACTING PRESIDENT BENJAMIN: The Secretary will read.

THE SECRETARY: Calendar Number 95, Senate Print 1519, by Senator Bailey, an act to amend the Education Law.

ACTING PRESIDENT BENJAMIN: Read the last section.

THE SECRETARY: Section 13. This act shall take effect two years after it shall

have become a law.

ACTING PRESIDENT BENJAMIN: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT BENJAMIN: Announce the results.

THE SECRETARY: In relation to Calendar Number 95, those Senators voting in the negative are Senators Helming and Mannion.

Ayes, 61. Nays, 2.

ACTING PRESIDENT BENJAMIN: The bill is passed.

THE SECRETARY: Calendar Number 156, Senate Print 983, by Senator Gaughran, an act to amend the Village 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 160, Senate Print 1202, by Senator Harckham, an act in relation to directing the State Board of Real Property Tax Services to conduct a study on real property tax saturation.

ACTING PRESIDENT BENJAMIN: Read the last section.

THE SECRETARY: Section 4. This act shall take effect immediately.

ACTING PRESIDENT BENJAMIN: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT BENJAMIN: Announce the results.

THE SECRETARY: In relation to Calendar Number 160, voting in the negative: Senator Akshar.

Ayes, 62. Nays, 1.

ACTING PRESIDENT BENJAMIN: The bill is passed.

THE SECRETARY: Calendar Number 178, Senate Print 2135, by Senator Hinchey, an act to amend the Agriculture and Markets Law.

ACTING PRESIDENT BENJAMIN: Read the last section.

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

ACTING PRESIDENT BENJAMIN: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT BENJAMIN: Announce the results.

THE SECRETARY: Ayes, 63.

ACTING PRESIDENT BENJAMIN: The bill is passed.

THE SECRETARY: Calendar Number 179, Senate Print 2199, by Senator Kennedy, an act to amend the Agriculture and Markets 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 191, Senate Print 1560, by Senator May, an act to amend the Elder Law, the Executive Law, and the Administrative Code of the City of New York.

SENATOR LANZA: Lay it aside.

ACTING PRESIDENT BENJAMIN: Lay it aside.

THE SECRETARY: Calendar Number 265, Senate Print 2585, by Senator Brisport, an act to amend the Social Services 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 BENJAMIN: Announce the results.

THE SECRETARY: Ayes, 63.

ACTING PRESIDENT BENJAMIN: The bill is passed.

THE SECRETARY: Calendar Number 346, Senate Print 484A, by Senator Krueger, an act to amend the Public Health Law and the Civil Rights Law.

ACTING PRESIDENT BENJAMIN: Read the last section.

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

ACTING PRESIDENT BENJAMIN: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT BENJAMIN: Announce the results.

THE SECRETARY: Ayes, 63.

ACTING PRESIDENT BENJAMIN: The bill is passed.

THE SECRETARY: Calendar Number 378, Senate Print 4345, by Senator Brouk, an act to amend the Public Health Law.

SENATOR GIANARIS: Lay it aside for the day, please.

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

THE SECRETARY: Calendar Number 418, Senate Print 3396, by Senator May, an act to

amend the Agriculture and Markets 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 BENJAMIN: Senator May to explain her vote.

SENATOR MAY: Thank you, Mr. President.

And before I say anything else, I want to welcome to the floor a former member of this august body, CeCe Tkaczyk, who is sitting here behind me.

And she's here partly because she now owns CeCe's Wool Yarns and more, and this bill has to do with placing New York-grown fibers into the New York Grown & Certified program that's run by the Department of Agriculture and Markets.

So in January, the whole world noticed when Bernie Sanders wore Vermont-made

mittens at the inaugural. And my amazing, brilliant, and somewhat competitive staffer Kristin Williams, who's also here, immediately said, "Why can't we do this in New York? Why can't we elevate New York-made fibers the same way?"

And so we introduced this bill, which will allow makers of wool and mohair and alpaca and cashmere as well as plant-based fibers like hemp and flax, to be part of this program so the state can lift up these products and so that we can also engage our fabric designers and fashion designers in really creating a home-grown industry that uses the products, the sustainably grown products that we have here in New York State.

As you know, Mr. President, I am a knitter. And I like to go to local yarn stores and farmers' markets and find locally produced yarns. And I took up the challenge, and I have a response to Bernie Sanders {raising mittened hands}: "I heart New York."

(Laughter.)

SENATOR MAY: We need more New York grown and certified fiber products in New York.

I vote aye. Thank you.

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

Announce the results.

THE SECRETARY: Ayes, 63.

ACTING PRESIDENT BENJAMIN: The bill is passed.

THE SECRETARY: Calendar Number 450, Assembly Bill Number 5471, substituted earlier by Assemblymember Otis, 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, 63.

ACTING PRESIDENT BENJAMIN: The bill is passed.

THE SECRETARY: Calendar Number 455, Senate Print 549A, by Senator Sanders, an

act to amend the Agriculture and Markets Law.

ACTING PRESIDENT BENJAMIN: Read the last section.

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

ACTING PRESIDENT BENJAMIN: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT BENJAMIN: Announce the results.

THE SECRETARY: Ayes, 63.

ACTING PRESIDENT BENJAMIN: The bill is passed.

THE SECRETARY: Calendar Number 461, Senate Print 4072, by Senator Hinchey, an act to amend the Agriculture and Markets 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 462, Senate Print 4707, by Senator Parker, an act to amend the Agriculture and Markets Law, the Tax Law, and the Environmental Conservation Law.

ACTING PRESIDENT BENJAMIN: Read the last section.

THE SECRETARY: Section 9. This act shall take effect on the 90th day after it shall have become a law.

ACTING PRESIDENT BENJAMIN: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT BENJAMIN: Senator Borrello to explain his vote.

SENATOR BORRELLO: I'm sorry, Mr. President, and the bill -- which bill are we on? I'm sorry.

ACTING PRESIDENT BENJAMIN: Bill Number 462. Calendar 462, I apologize.

SENATOR BORRELLO: Thank you. My apologies. Thank you, Mr. President.

First of all, I want to thank the

sponsor for this bill today, and I'll certainly be supporting it.

But I do want to express some concerns. You know, our farmers are the great stewards of our land and they certainly play an important role in reducing our greenhouse gas emissions. So while we're having this conversation today about farmers and their ability to sequester carbon, the Agriculture Advisory Panel within the CLCPA is also having this conversation and has been for several months.

So my hope today is that we are not diminishing their work or duplicating the hundreds of hours that they have spent on this panel to come to an agreement and certainly to have a recommendation.

So while we're on the topic of tax credits for farmers, I'd also like to advocate to the Majority, as you finalize the one-house budget, to not only accept the Executive's proposal to extend the farm workforce retention credit, but increase it, as Senator Hinchey's bill asks.

So again, I'm proud to support this

bill, and I will certainly be voting aye.

Thank you.

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

Announce the results.

THE SECRETARY: Ayes, 63.

ACTING PRESIDENT BENJAMIN: The bill is passed.

THE SECRETARY: Calendar Number 463, Senate Print 4892, by Senator Hinchey, an act to amend the Agriculture and Markets 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 May to explain her vote.

SENATOR MAY: Yes, thank you.

I want to congratulate Senator Hinchey on this bill, and the Governor on creating the Nourish NY program, which is a really important program for connecting our farms

to the people in need of food in this state.

As somebody who represents both a city and an entire rural county, I often hear people trying to divide our state and say it's the rural versus the urban or upstate versus downstate. But Nourish NY is one of those great programs that really reminds us that we are one state, that we need each other, and when we work together -- when the farmers and the food banks work together, when the urban communities in need reach out to the farmers -- we are all better off for it.

And so I'm grateful for this bill, and I proudly vote aye.

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

Senator Rath to explain his vote.

SENATOR RATH: Thank you, Mr. President.

First and foremost, I want to thank the sponsor for this bill, and all the other cosponsors.

I rise to explain my vote and also to proclaim my support for our agricultural champions across New York State.

In general, this pandemic has been devastating, but undoubtedly all New Yorkers have risen to the challenge and faced incredible, incredible odds and defeated those odds time and time again. This bill recognizes the heroic role that our agricultural sector and our farmers have played during the pandemic.

When supply chains crumbled in the midst of this pandemic, our farmers and our agricultural communities rose up and worked together to ensure that their crops would not go to waste. The agricultural communities rallied and provided critical support to organizations who needed it the most. Our soup kitchens, our pantries and our food banks saw an influx of these local agricultural products during a period in which their resources were very scarce.

In fact, in my district, the 61st, specifically Genesee County, tremendously contributed to the Nourish NY program.

I've also volunteered personally for numerous soup kitchens and pantries across my district, as well as FeedMore WNY, which stretches across Western New York supporting people who have food insecurity. And I know

firsthand how important these food supply chains are and food access is for residents and Western New Yorkers.

I proudly vote aye for this bill to codify Nourish NY. And again, I thank our agricultural workers and farms across New York State who have worked tirelessly to make this program successful.

Thank you.

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

Senator Borrello to explain his vote.

SENATOR BORRELLO: Thank you, Mr. President.

I'd like to start off first by thanking the chairman of the Agriculture Committee, and the person I am proud to co-prime sponsor with, and that is Senator Hinchey. Thank you so much for bringing this forward.

You know, a lot has been said about the impact of this pandemic. A lot has been said about the food insecurities that we faced. And it's laid bare the insecurity that we have in our food supply chain here in New York. The great

State of New York, with so many vast resources, was crippled during this pandemic. We saw long, endless lines of people at food banks that could not get food. Meanwhile, we watched as our farmers let crops rot in their fields, dumped milk.

The Nourish NY program helped to stop that. It helped over 4,000 farmers and the families that they support get their product to the market and also get it to our food banks, most importantly.

It allowed people that were unable to know whether or not they would have food on the table for their family, to have that security.

And now, with this bill, Nourish NY will become a permanent recurring fixture for New York State. That's critically important because now our farmers can count on that income, on being able to get rid of their surplus food and bring nutritious, locally grown food to the people that need it most and our food banks across New York State.

This is an incredible opportunity for us to bridge that gap, as was said

previously, between our rural areas and our urban areas, between upstate and downstate. This bill truly is a nonpartisan and certainly universal way for us to say that here in New York State, we care about our farmers, we care about our families, and we care about security for everyone.

This is an amazing opportunity. I'm glad to be a part of it. Again, I'd like to thank our cosponsors as well, Senator Jordan and Senator Krueger. Also, over in the Assembly, our champion, Catalina Cruz, who has stepped up and brought this forward. This is an amazing opportunity and I think a bright spot in otherwise dim and dark days here in Albany.

Thank you.

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

Senator Hinchey to close.

SENATOR HINCHEY: As was said, this pandemic has laid bare the extreme inequities across our society and shown us just how fragile our systems, especially our food systems, truly are.

No matter where you live, you

deserve access to healthy, fresh food. That is a right we should afford all people across our state.

At the height of the pandemic, we saw farmers dumping milk and produce dying on the vine while New Yorkers lined up at food banks searching for help to feed their families. All too often, these food drives would run out of food before they got to everyone.

We all know that New York is an ag state, and that this is absolutely unacceptable.

The Nourish NY program has become a silver lining in a very dark time, giving farmers the relief they needed as their markets dried up, and providing locally grown, farm-fresh food to people wondering where their next meal would come from.

It's a program that brings together all of New York State -- regardless of party, upstate and downstate. It shows how much we need each other and how, when we work together, great things happen.

I'm proud to sponsor the bill that makes Nourish NY a permanent program, and I'm proud to do so in a bipartisan fashion with my

colleague Senator Borrello and joining together both regions of New York with our Assembly sponsor and downstate colleague Assemblywoman Cruz.

And with that, I vote aye.

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

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 to the controversial calendar, Mr. President.

ACTING PRESIDENT BENJAMIN: The Secretary will ring the bell.

The Secretary will read.

THE SECRETARY: Calendar Number 191, Senate Print 1560, by Senator May, an act to amend the Elder Law, the Executive Law, and the Administrative Code of the City of New York.

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 Jordan 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 Jordan.

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

SENATOR JORDAN: Mr. President, I rise to appeal the ruling of the chair.

I respectfully argue that this amendment is germane to the bill-in-chief because the bill-in-chief deals with the definition of elder abuse and creates protections for one of the most vulnerable populations, the elderly, our seniors.

And when the Governor, using his emergency powers, issued his March 25th nursing home deadly directive, he failed to protect that

group.

This amendment aims to restore oversight to the Legislature by removing these extraordinary emergency powers that, among many negative consequences, harmed our seniors and led to the tragic loss of 15,000 lives.

Earlier this week was the one-year anniversary of the Legislature granting these emergency powers to the Governor. At that time we were faced with many unknowns and needed the ability to quickly adapt to help move the state through the worst of this pandemic.

However, here we are, a whole year later, and we still have one man running the show -- one-man rule in this state -- and making all of the decisions, every single one.

And many of the mandates and orders he has passed down are causing great harm to our nonprofits, our municipalities, our schoolchildren, and our businesses in every industry across the state.

My office is flooded with calls from constituents asking for help or relief, yet our hands are tied. We know a majority of the members of this house want to repeal these powers

from the Governor and get back to doing the work that we were sent here to do.

My colleagues in the Republican conference have been trying to do this since last May. But in recent weeks, with mounting scandals continuing to plague our embattled Governor, many of our colleagues across the aisle have finally, finally echoed that call.

We've seen press releases and reports in the media, yet every day not one member of the Majority has stood up to do the right thing -- not one. And this is the 21st time that we have advanced this amendment.

The deal that was announced a few days ago by Democrats in both houses to supposedly remove the Governor's powers just doesn't cut it. That bill allows the Governor to keep and extend his powers. It's insulting to the intelligence of New Yorkers. It's a sham rescission decision.

But you'll hear more about that in the next 24 hours and on this Senate floor tomorrow. We need a straight repeal that will finally bring back oversight, accountability, and restore the Legislature as coequal branch of

government.

I know there are many colleagues across the aisle that agree and know we need a straight repeal. And I implore you to do the right thing. I implore all of my Senate colleagues to do the right thing. Just do it. Do it now.

Our constituents are counting on us to get back to work. I ask that we don't continue to use procedural maneuvering to stifle a vote on this important amendment, which I'm confident would pass overwhelmingly because it's the right thing to do for all New Yorkers.

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

Thank you.

ACTING PRESIDENT BENJAMIN: Thank you, Senator Jordan.

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

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

SENATOR LANZA: Request a show of hands.

SENATOR GIANARIS: Mr. President, we've agreed to waive the showing of hands and record each member of the Minority in the affirmative.

ACTING PRESIDENT BENJAMIN: Without objection, so ordered.

Announce the results.

THE SECRETARY: Ayes, 20.

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

Are there any other Senators wishing to be heard?

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

Read the last section.

THE SECRETARY: Section 7. 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 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, Friday, March 5th, at 10:00 a.m.

ACTING PRESIDENT BENJAMIN: On motion, the Senate stands adjourned until Friday, March 5th, at 10:00 a.m.

(Whereupon, the Senate adjourned at 3:31 p.m.)