

1 NEW YORK STATE SENATE

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4 THE STENOGRAPHIC RECORD

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9 ALBANY, NEW YORK

10 March 8, 2021

11 3:16 p.m.

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13
14 REGULAR SESSION

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18 SENATOR JAMAAL T. BAILEY, Acting President

19 ALEJANDRA N. PAULINO, ESQ., Secretary

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

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

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

13 ACTING PRESIDENT BAILEY: The
14 reading of the Journal.

15 THE SECRETARY: In Senate, Sunday,
16 March 7, 2021, the Senate met pursuant to
17 adjournment. The Journal of Saturday, March 6,
18 2021, was read and approved. On motion, Senate
19 adjourned.

20 ACTING PRESIDENT BAILEY: 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: Mr. President,
7 on behalf of Senator Kaplan, on page 24 I offer
8 the following amendments to Calendar 451,
9 Senate Print 23, and ask that said bill retain
10 its place on the Third Reading Calendar.

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

14 SENATOR GIANARIS: Let's take up
15 the reading of the calendar at this time.

16 ACTING PRESIDENT BAILEY: The
17 Secretary will read.

18 THE SECRETARY: Calendar Number
19 146, Senate Print 591, by Senator Benjamin, an
20 act to amend the Public Health Law.

21 SENATOR LANZA: Lay it aside.

22 ACTING PRESIDENT BAILEY: Lay the
23 bill aside.

24 THE SECRETARY: Calendar Number
25 149, Senate Print 1578A, by Senator Rivera, an

1 act to amend the Social Services Law.

2 ACTING PRESIDENT BAILEY: Read the
3 last section.

4 THE SECRETARY: Section 2. This
5 act shall take effect on the 180th day after it
6 shall have become a law.

7 ACTING PRESIDENT BAILEY: Call the
8 roll.

9 (The Secretary called the roll.)

10 ACTING PRESIDENT BAILEY: Announce
11 the results.

12 THE SECRETARY: Ayes, 63.

13 ACTING PRESIDENT BAILEY: The bill
14 is passed.

15 THE SECRETARY: Calendar Number
16 169, Senate Print 1269, by Senator Brooks, an act
17 to amend the Penal Law.

18 ACTING PRESIDENT BAILEY: Read the
19 last section.

20 THE SECRETARY: Section 3. This
21 act shall take effect on the 120th day after it
22 shall have become a law.

23 ACTING PRESIDENT BAILEY: Call the
24 roll.

25 (The Secretary called the roll.)

1 ACTING PRESIDENT BAILEY: Announce
2 the results.

3 THE SECRETARY: In relation to
4 Calendar 169, those Senators voting in the
5 negative are Senators Akshar, Biaggi, Borrello,
6 Brisport, Gallivan, Griffio, Helming, Jordan,
7 Myrie, Oberacker, O'Mara, Ortt, Ramos, Rath,
8 Ritchie, Salazar, Stec, Tedisco and Weik.

9 Ayes, 44. Nays, 19.

10 ACTING PRESIDENT BAILEY: The bill
11 is passed.

12 THE SECRETARY: Calendar Number
13 176, Senate Print 90, by Senator Kaminsky, an act
14 to amend the Agriculture and Markets Law.

15 ACTING PRESIDENT BAILEY: Read the
16 last section.

17 THE SECRETARY: Section 7. This
18 act shall take effect on the 90th day after it
19 shall have become a law.

20 ACTING PRESIDENT BAILEY: Call the
21 roll.

22 (The Secretary called the roll.)

23 ACTING PRESIDENT BAILEY: Announce
24 the results.

25 THE SECRETARY: In relation to

1 Calendar Number 176, voting in the negative:

2 Senator Brisport.

3 Ayes, 62. Nays, 1.

4 ACTING PRESIDENT BAILEY: The bill
5 is passed.

6 THE SECRETARY: Calendar Number
7 221, Senate Print 502, by Senator Breslin, an act
8 to amend the Insurance Law and the Vehicle and
9 Traffic Law.

10 ACTING PRESIDENT BAILEY: Read the
11 last section.

12 THE SECRETARY: Section 9. This
13 act shall take effect on the 270th day after it
14 shall have become a law.

15 ACTING PRESIDENT BAILEY: Call the
16 roll.

17 (The Secretary called the roll.)

18 ACTING PRESIDENT BAILEY: Announce
19 the results.

20 THE SECRETARY: Ayes, 63.

21 ACTING PRESIDENT BAILEY: The bill
22 is passed.

23 THE SECRETARY: Calendar Number
24 257, Senate Print 2204, by Senator May, an act to
25 amend the Education Law.

1 ACTING PRESIDENT BAILEY: Read the
2 last section.

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

5 ACTING PRESIDENT BAILEY: Call the
6 roll.

7 (The Secretary called the roll.)

8 ACTING PRESIDENT BAILEY: Announce
9 the results.

10 THE SECRETARY: In relation to
11 Calendar 257, those Senators voting in the
12 negative are Senators Lanza and Weik.

13 Ayes, 61. Nays, 2.

14 ACTING PRESIDENT BAILEY: The bill
15 is passed.

16 THE SECRETARY: Calendar Number
17 322, Senate Print 1728, by Senator Hoylman, an
18 act to amend the Business Corporation Law.

19 ACTING PRESIDENT BAILEY: Read the
20 last section.

21 THE SECRETARY: Section 31. This
22 act shall take effect on the 180th day after it
23 shall have become a law.

24 ACTING PRESIDENT BAILEY: Call the
25 roll.

1 (The Secretary called the roll.)

2 ACTING PRESIDENT BAILEY: Announce
3 the results.

4 THE SECRETARY: In relation to
5 Calendar 322, those Senators voting in the
6 negative are Senators Akshar, Borrello, Breslin,
7 Griffo, Hinchey, Jordan, Oberacker, O'Mara, Rath,
8 Tedisco and Weik.

9 Ayes, 52. Nays, 11.

10 ACTING PRESIDENT BAILEY: The bill
11 is passed.

12 THE SECRETARY: Calendar Number
13 323, Senate Print 2940, by Senator Comrie, an act
14 to amend the New York State Urban Development
15 Corporation Act.

16 ACTING PRESIDENT BAILEY: Read the
17 last section.

18 THE SECRETARY: Section 5. This
19 act shall take effect immediately.

20 ACTING PRESIDENT BAILEY: Call the
21 roll.

22 (The Secretary called the roll.)

23 ACTING PRESIDENT BAILEY: Announce
24 the results.

25 THE SECRETARY: In relation to

1 Calendar 323, those Senators voting in the
2 negative are Senators Oberacker, O'Mara, Ortt,
3 Palumbo and Stec.

4 Ayes, 58. Nays, 5.

5 ACTING PRESIDENT BAILEY: The bill
6 is passed.

7 THE SECRETARY: Calendar Number
8 439, Senate Print 2976, by Senator Harckham, an
9 act to amend the Mental Hygiene Law.

10 ACTING PRESIDENT BAILEY: Read the
11 last section.

12 THE SECRETARY: Section 4. This
13 act shall take effect on the 180th day after it
14 shall have become a law.

15 ACTING PRESIDENT BAILEY: Call the
16 roll.

17 (The Secretary called the roll.)

18 ACTING PRESIDENT BAILEY: Senator
19 Harckham to explain his vote.

20 SENATOR HARCKHAM: Thank you very
21 much, Mr. President.

22 As we know, the opioid crisis
23 continues through this country, and New York
24 State is no exception. Overdose death is
25 particularly pernicious during this pandemic.

1 People are particularly vulnerable
2 when they leave certain congregate care
3 settings -- for instance, treatment, a
4 correctional facility, or when they leave an
5 emergency room for an overdose. We want to save
6 those people's lives.

7 This is about meeting people where
8 they are and saving their lives. If someone has
9 been in a correctional setting or they've been in
10 treatment for a period of time, they may come out
11 and their craving is still there, but their
12 tolerance has weakened. And that's why they're
13 particularly susceptible to overdose and overdose
14 death.

15 So this legislation will address
16 that, in that everybody who's discharged from one
17 of those three settings will go home with
18 specific information educating them about
19 overdose, the risks associated with overdose, and
20 most importantly with naloxone or Narcan, which
21 is an opioid antagonist which is life-saving,
22 along with a further prescription.

23 So this body has responded in a
24 bipartisan way time and time again. I'm proud
25 that colleagues will be joining on this bill as

1 we continue to address the opioid crisis and try
2 to save lives.

3 I will voting aye. Thank you,
4 Mr. President.

5 ACTING PRESIDENT BAILEY: Senator
6 Harckham to be recorded in the affirmative.

7 Announce the results.

8 THE SECRETARY: In relation to
9 Calendar 439, those Senators voting in the
10 negative are Senators Gallivan, Griffo, O'Mara,
11 Ortt and Ritchie.

12 Ayes, 58. Nays, 5.

13 ACTING PRESIDENT BAILEY: The bill
14 is passed.

15 THE SECRETARY: Calendar Number
16 490, Senate Print 3372, by Senator Bailey, an act
17 to amend the Private Housing Finance Law.

18 ACTING PRESIDENT BAILEY: Read the
19 last section.

20 THE SECRETARY: Section 5. This
21 act shall take effect on the 240th day after it
22 shall have become a law.

23 ACTING PRESIDENT BAILEY: Call the
24 roll.

25 (The Secretary called the roll.)

1 ACTING PRESIDENT BAILEY: Announce
2 the results.

3 THE SECRETARY: Ayes, 63.

4 ACTING PRESIDENT BAILEY: The bill
5 is passed.

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

8 SENATOR GIANARIS: Can we now move
9 to the controversial calendar, please.

10 ACTING PRESIDENT BAILEY: The
11 Secretary will ring the bell.

12 The Secretary will read.

13 THE SECRETARY: Calendar Number
14 146, Senate Print 591, by Senator Benjamin, an
15 act to amend the Public Health Law.

16 ACTING PRESIDENT BAILEY: Senator
17 Lanza, why do you rise?

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

22 ACTING PRESIDENT BAILEY: Thank
23 you, Senator Lanza.

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

1 nongermane and out of order at this time.

2 SENATOR LANZA: Accordingly,
3 Mr. President, I appeal the ruling of the chair
4 and ask that you recognize Senator Borrello.

5 ACTING PRESIDENT BAILEY: The
6 appeal has been made and recognized, and
7 Senator Borrello may be heard.

8 SENATOR BORRELLO: Thank you,
9 Mr. President.

10 Today I rise to appeal the ruling of
11 the chair. The proposed amendment is germane to
12 the bill at hand because the bill at hand deals
13 with the Public Health Law, one of many areas of
14 the law that the Governor has issued countless
15 executive orders and directives.

16 And I know that my job today is to
17 actually prove that this amendment is germane,
18 but after seeing what we saw on Friday as far as
19 a law that was passed that was hailed by the
20 Majority as rescinding the Governor's executive
21 powers when it actually didn't, I would argue
22 that having something have to be germane is
23 certainly out the window at this point. We no
24 longer need to be germane, because that bill
25 certainly wasn't.

1 The title of S5357 states "an act to
2 amend the Executive Law in relation to the
3 termination of certain executive powers." But
4 clearly that title isn't germane to even the
5 language of the bill, which did nothing of the
6 sort. In fact, it removed the sunset clause and
7 it actually codified the Governor's authority
8 indefinitely.

9 So this amendment is far more
10 germane to this bill than S5357 was to removing
11 the Governor's emergency authority, so I ask that
12 this be heard and approved.

13 I know that my colleagues on the
14 other side of the aisle went back to their
15 districts and hailed that they had removed the
16 Governor's authority. However, all of us in the
17 chamber know that that bill did nothing of the
18 sort. A straight repeal wouldn't have required
19 weeks of negotiation --

20 ACTING PRESIDENT BAILEY: Senator
21 Gianaris.

22 SENATOR GIANARIS: Just a quick
23 reminder to Senator Borrello that he's referring
24 to a bill that is neither the one before the
25 house nor the amendment -- that is not germane --

1 that they are proposing.

2 I would also add that the amendment
3 they are approaching is technically flawed, since
4 they're amending a law that no longer exists,
5 since the Governor signed the law we passed on
6 Friday.

7 So in addition to the numerous
8 problems with this process we're undertaking, the
9 amendment couldn't even function the way it was
10 suggested.

11 But your point is that it is not
12 germane. I would just ask Senator Borrello to
13 stay on the question before the Senate right now.

14 ACTING PRESIDENT BAILEY: Thank
15 you, Senator Gianaris.

16 Senator Lanza, why do you rise?

17 SENATOR LANZA: Mr. President, I
18 would argue that Senator Borrello is making an
19 argument considering the germaneness of the
20 amendment before the house.

21 And to make that argument, he's
22 making the argument by contrast and not speaking
23 directly on any bill that is not before the house
24 but rather making a general argument about what
25 is germane and what is not.

1 ACTING PRESIDENT BAILEY: Thank
2 you, Senator Lanza.

3 I'd like to remind everyone in the
4 house if we could keep the remarks to the
5 point of the appeal.

6 Senator Borrello, you have the
7 floor.

8 SENATOR BORRELLO: Thank you,
9 Mr. President.

10 Well, then, the point of our
11 amendment is to truly actually strip the Governor
12 of his authority by a simple repeal. It's clear
13 that we are still under his thumb. That's really
14 what the point of this amendment is, is to truly
15 do a clean repeal of the Governor's authority.

16 Because right now, despite the
17 legislation that did pass, our restaurants are
18 still not able to stay open past 11 p.m. You
19 still have to order food with your drink. You
20 still have to be seated, not standing when you're
21 drinking alcohol. Our students can't go back
22 into the schools because of the six-foot rule.
23 Again, that's part of those executive orders.

24 Had we done this amendment in the
25 21 times prior to this that this amendment had

1 been proposed, then we wouldn't have any of those
2 restrictions that are still in place even today.

3 So even though this amendment may or
4 may not be germane -- I believe that it is -- I
5 once again point to the fact that we set a
6 precedent on Friday that germaneness is really no
7 longer necessary in this house.

8 So I would ask that you please
9 approve this amendment and rule it germane.

10 ACTING PRESIDENT BAILEY: Thank
11 you, Senator Borrello.

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

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

17 SENATOR LANZA: Request a show of
18 hands.

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

23 ACTING PRESIDENT BAILEY: Without
24 objection, so ordered.

25 Announce the results.

1 THE SECRETARY: Ayes, 20.

2 ACTING PRESIDENT BAILEY: The
3 ruling of the chair stands, and the bill-in-chief
4 is before the house.

5 Are there any other Senators wishing
6 to be heard?

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

9 Read the last section.

10 THE SECRETARY: Section 3. This
11 act shall take effect on the 120th day after it
12 shall have become a law.

13 ACTING PRESIDENT BAILEY: Call the
14 roll.

15 (The Secretary called the roll.)

16 ACTING PRESIDENT BAILEY: Announce
17 the results.

18 THE SECRETARY: Ayes, 63.

19 ACTING PRESIDENT BAILEY: The bill
20 is passed.

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

23 SENATOR GIANARIS: Mr. President,
24 is there any further business at the desk?

25 ACTING PRESIDENT BAILEY: There is

1 no further business at the desk.

2 SENATOR GIANARIS: I move that we
3 adjourn until tomorrow, Tuesday, March 9th, at
4 3:00 p.m.

5 ACTING PRESIDENT BAILEY: On
6 motion, the Senate stands adjourned until
7 Tuesday, March 9th, at 3:00 p.m.

8 (Whereupon, at 3:29 p.m., the Senate
9 adjourned.)

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