NEW YORK STATE SENATE

THE STENOGRAPHIC RECORD

ALBANY, NEW YORK

March 8, 2021

3:16 p.m.

REGULAR SESSION

SENATOR JAMAAL T. BAILEY, Acting President

ALEJANDRA N. PAULINO, ESQ., Secretary

P R O C E E D I N G S

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

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

ACTING PRESIDENT BAILEY: The reading of the Journal.

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

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

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

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

ACTING PRESIDENT BAILEY: The Secretary will read.

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

SENATOR LANZA: Lay it aside.

ACTING PRESIDENT BAILEY: Lay the bill aside.

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

act to amend the Social Services Law.

ACTING PRESIDENT BAILEY: Read the last section.

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

ACTING PRESIDENT BAILEY: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT BAILEY: Announce the results.

THE SECRETARY: Ayes, 63.

ACTING PRESIDENT BAILEY: The bill is passed.

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

ACTING PRESIDENT BAILEY: Read the last section.

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

ACTING PRESIDENT BAILEY: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT BAILEY: Announce the results.

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

Ayes, 44. Nays, 19.

ACTING PRESIDENT BAILEY: The bill is passed.

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

ACTING PRESIDENT BAILEY: Read the last section.

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

ACTING PRESIDENT BAILEY: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT BAILEY: Announce the results.

THE SECRETARY: In relation to

Calendar Number 176, voting in the negative: Senator Brisport.

Ayes, 62. Nays, 1.

ACTING PRESIDENT BAILEY: The bill is passed.

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

ACTING PRESIDENT BAILEY: Read the last section.

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

ACTING PRESIDENT BAILEY: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT BAILEY: Announce the results.

THE SECRETARY: Ayes, 63.

ACTING PRESIDENT BAILEY: The bill is passed.

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

ACTING PRESIDENT BAILEY: Read the last section.

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

ACTING PRESIDENT BAILEY: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT BAILEY: Announce the results.

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

Ayes, 61. Nays, 2.

ACTING PRESIDENT BAILEY: The bill is passed.

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

ACTING PRESIDENT BAILEY: Read the last section.

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

ACTING PRESIDENT BAILEY: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT BAILEY: Announce the results.

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

Ayes, 52. Nays, 11.

ACTING PRESIDENT BAILEY: The bill is passed.

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

ACTING PRESIDENT BAILEY: Read the last section.

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

ACTING PRESIDENT BAILEY: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT BAILEY: Announce the results.

THE SECRETARY: In relation to

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

Ayes, 58. Nays, 5.

ACTING PRESIDENT BAILEY: The bill is passed.

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

ACTING PRESIDENT BAILEY: Read the last section.

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

ACTING PRESIDENT BAILEY: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT BAILEY: Senator Harckham to explain his vote.

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

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

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

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

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

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

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

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

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

Announce the results.

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

Ayes, 58. Nays, 5.

ACTING PRESIDENT BAILEY: The bill is passed.

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

ACTING PRESIDENT BAILEY: Read the last section.

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

ACTING PRESIDENT BAILEY: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT BAILEY: Announce the results.

THE SECRETARY: Ayes, 63.

ACTING PRESIDENT BAILEY: The bill is passed.

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

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

ACTING PRESIDENT BAILEY: The Secretary will ring the bell.

The Secretary will read.

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

ACTING PRESIDENT BAILEY: 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 Borrello to be heard.

ACTING PRESIDENT BAILEY: 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 Borrello.

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

SENATOR BORRELLO: Thank you, Mr. President.

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

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

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

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

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

ACTING PRESIDENT BAILEY: Senator Gianaris.

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

that they are proposing.

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

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

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

ACTING PRESIDENT BAILEY: Thank you, Senator Gianaris.

Senator Lanza, why do you rise?

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

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

ACTING PRESIDENT BAILEY: Thank you, Senator Lanza.

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

Senator Borrello, you have the floor.

SENATOR BORRELLO: Thank you, Mr. President.

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

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

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

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

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

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

ACTING PRESIDENT BAILEY: Thank you, Senator Borrello.

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 BAILEY: Without objection, so ordered.

Announce the results.

THE SECRETARY: Ayes, 20.
ACTING PRESIDENT BAILEY: 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 now closed. The Secretary will ring the bell.
Read the last section.
THE SECRETARY: Section 3. This act shall take effect on the 120th day after it shall have become a law.
ACTING PRESIDENT BAILEY: Call the roll.
(The Secretary called the roll.)
ACTING PRESIDENT BAILEY: Announce the results.
THE SECRETARY: Ayes, 63.
ACTING PRESIDENT BAILEY: The bill is passed.
Senator Gianaris, that completes the reading of the controversial calendar.
SENATOR GIANARIS: Mr. President, is there any further business at the desk?
ACTING PRESIDENT BAILEY: There is

no further business at the desk.

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

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

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