NEW YORK STATE SENATE

THE STENOGRAPHIC RECORD

ALBANY, NEW YORK

March 17, 2021

3:08 p.m.

REGULAR SESSION

SENATOR SHELLEY B. MAYER, Acting President

ALEJANDRA N. PAULINO, ESQ., Secretary

P R O C E E D I N G S

ACTING PRESIDENT MAYER: 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 MAYER: 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 MAYER: Reading of the Journal.

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

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

ACTING PRESIDENT MAYER: 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: Thank you, Madam President.

Amendments are offered to the following Third Reading Calendar bills:

Sponsored by Senator Reichlin-Melnick, page 25, Calendar 444, Senate 3967.

And by Senator Thomas, on page 33, Calendar 535, Senate 4265.

ACTING PRESIDENT MAYER: The amendments are received, and the bills shall retain their place on the Third Reading Calendar.

SENATOR GIANARIS: On behalf of Senator Rivera, I wish to call up Senate Print 4893, recalled from the Assembly, which is now at the desk.

ACTING PRESIDENT MAYER: The Secretary will read.

THE SECRETARY: Calendar Number

372, Senate Print 4893, by Senator Rivera, an act to amend the Public Health Law.

SENATOR GIANARIS: I now move to reconsider the vote by which the bill was passed.

ACTING PRESIDENT MAYER: The Secretary will call the roll on reconsideration.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 56.

ACTING PRESIDENT MAYER: The bill is restored to its place on the Third Reading Calendar.

SENATOR GIANARIS: I offer the following amendments.

ACTING PRESIDENT MAYER: The amendments are received.

SENATOR GIANARIS: At this time, Madam President, can we take up the reading of the calendar.

ACTING PRESIDENT MAYER: The Secretary will read.

THE SECRETARY: Calendar Number 187, Senate Print 671, by Senator Sanders, an act to amend the Banking Law.

ACTING PRESIDENT MAYER: Read the last section.

THE SECRETARY: Section 2. This act shall take effect on the 60th day after it shall have become a law.

ACTING PRESIDENT MAYER: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MAYER: Announce the results.

THE SECRETARY: In relation to Calendar Number 187, those Senators voting in the negative are Senators Akshar, Borrello, Boyle, Gallivan, Griffo, Helming, Jordan, Lanza, Martucci, Mattera, Oberacker, O'Mara, Ortt, Palumbo, Rath, Ritchie, Serino, Stec, Tedisco and Weik.

Ayes, 43. Nays, 20.

ACTING PRESIDENT MAYER: The bill is passed.

THE SECRETARY: Calendar Number 213, Senate Print 2004, by Senator Jackson, an act to amend the Public Officers Law.

ACTING PRESIDENT MAYER: Read the last section.

THE SECRETARY: Section 2. This act shall take effect on the first of September.

ACTING PRESIDENT MAYER: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MAYER: Senator Tedisco to explain his vote.

SENATOR TEDISCO: Thank you, President, President and my colleagues.

This bill deals with a significant and serious issue and concern. And in some ways I think it purports to solve the problem of a lack of openness and transparency and honesty as we relate to the FOIL system, Freedom of Information Act, and the open government laws in New York State.

I hasten to say that we have an Executive on the second floor, a Governor, who's a pretty good communicator -- such a good communicator and such a good actor that our friends in Hollywood gave him an Emmy.

Well, he may deserve an Emmy for communication and acting, but he will never get an Emmy for transparency, openness and honesty. In fact, if anybody within listening range of me is interested in whether an Emmy can tarnish, probably all you have to do is go to his office

and look on the mantel, and you'll find out it can tarnish very quickly, and so can somebody's reputation who lies, distorts, covers up and hides the truth.

This particular bill is serious in relationship to the issue it purports to solve. It's not serious about doing it, though, and I'll tell you why.

Maybe you have had the experience I have had, the media has had, groups have had to try to FOIL for information that should be given and open to the public, a hallmark of our representative democracy. I can tell you what the game plan is every single time I've done that. Every single time I've done that, an administrator, a commissioner, a decisionmaker who I tried to FOIL for information -- and I'm pretty sure a lot of my colleagues may have had the same thing happen to them, or the media -- they keep moving the goalposts farther and farther and farther down the field -- in fact, so far it's outside of the stadium. And sometimes you can never get the information.

The most egregious example of that is being investigated right now, and it should be

investigated right now. We didn't lose 7,000 or 8,000 people, our most vulnerable population, one of the worst tragedies -- one of the worst tragedies in the history of New York State -- we lost 15,000 of our most vulnerable population in nursing homes.

You know how long it took to get that information from Freedom of Information in the FOIL process? Forever. The only reason why we got it is because the AG did an investigation and she came out and said: 50 percent undercount, it's not 7,000 or 8,000, it's 15,000.

I had the opportunity, with the Empire Center -- and by the way, we had hearings, we asked Commissioner Zucker for the answers, we FOIL'd him, the Empire Center FOIL'd about six to eight months ago. The goalposts kept moving: We can't give you the answer this month. Two more months, can't give you then answer then. Two more months.

So what did they do, the Empire Center? They sued the Governor, DOH, Commissioner Zucker, the State of New York. And I'm told it's $5,000 to $10,000, the legal fees, to do that.

Judge Kimberly O'Connor, after those six to eight months, came back with a directive, a judgment. You know what she said? The Governor, State of New York, Zucker, DOH violated the Open Government Law. Let me repeat that: Violated the open government law, and you have to give those numbers.

Well, they gave them. That's why we know it wasn't 7,000 deaths, it was 15,000 deaths and may still be rising right now.

But she said something else. The Governor, State of New York, you have to pay those legal fees. You know what? The Governor didn't pay any legal fees. Commissioner Zucker didn't pay any legal fees. DOH didn't pay any legal fees. The taxpayers who I'm talking to now paid the legal fees. They're all indemnified.

Time and time and time again when they defy the Open Government Law, they don't give that information out that the public has the right to know in a timely and orderly fashion, nobody pays the penalty here in New York State. They just go about their ways. Nothing to see here, just keep right on going.

Well, the taxpayers paid $5,000 to

$10,000 for those legal fees. It was the penalty that the judge gave -- not to the taxpayers, but they paid it.

This bill basically says, Well, we make a mistake out here -- which is not a mistake, defying the Open Government Law -- and we catch you at it, we're just going to use taxpayers' money more often to pay for the mistake that they make -- not a mistake, I'm sorry I said that -- the denial that they make.

That's wrong. That doesn't give them the impetus or the desire to do what's right. And that's when you get a FOIL, you are asked for information that should be public information -- especially when 15,000 of our most vulnerable population die because of an executive order or a good portion of it on March 25th. And then sometime in April, he says, Ah, we're going rescind that, we made a little bit of a mistake.

Yeah, that's a little bit of a mistake. And then you write a book and because it doesn't fit your narrative, you hide those numbers for eight months to 10 months and we've got to sue the State of New York for that.

We can't continue this. This bill

does not solve that. You know what solves that? Not a violation if you don't give the information to the public they deserve, a real penalty.

In other words, the judge should have been able to say, Hey, you broke the law, you violated the Open Government Law, you violated the Freedom of Information Act. Governor, you got to pay $500. That's your fine, $500. Not from your campaign fund, not from taxpayers' dollars, not from an indemnification. Commissioner Zucker, you've got to pay $500. Not of taxpayers' dollars, you're denying this information. You have an obligation above and beyond everybody to adhere to the law.

And this Open Government Law, this transparency law is extremely important. Because we can see what happens when they go unabated, when we didn't know that it wasn't 7,000, that it was larger and larger and kept growing and growing.

Now, we could have involved ourselves more, but they wouldn't give us the numbers. DOH wouldn't, the commissioner wouldn't, the Governor wouldn't. And you know what? When the judge made that determination and

said you have to pay for the legal fees, that poured salt in the wounds of taxpayers of this state, of all New Yorkers, but most of all of the family members who lost those 15,000 loved ones because of the situation and the numbers and the lying and distortion and cover-up that took place.

It poured salt in their wounds because they didn't get any justice. It was their tax dollars. It was their loved ones who lost their lives. And who paid the fine for the legal fees?

Well, we have an investigation now. Hopefully that investigation will lead us to do a real bill, a serious bill that says we as elected officials who make the laws have to adhere to the laws. And when it's public information, we have to provide that public information.

Madam President, I'm going to vote no on this bill. But you bring a bill to the floor that gives a real penalty for Governors and for decisionmakers and for commissioners and for elected officials who hide the truth and public information. I'll vote for that on any day.

But I vote no on this bill today.

Thank you, Madam Speaker -- President.

ACTING PRESIDENT MAYER: Senator Tedisco to be recorded in the negative.

Announce the results.

THE SECRETARY: In relation to Calendar 213, those Senators voting in the negative are Senators Gallivan, Lanza and Tedisco.

Ayes, 60. Nays, 3.

ACTING PRESIDENT MAYER: The bill is passed.

THE SECRETARY: Calendar Number 321, Senate Print 1114, by Senator Liu, an act to amend the Public Authorities Law, the Executive Law, and the Public Officers Law.

ACTING PRESIDENT MAYER: Read the last section.

THE SECRETARY: Section 9. This act shall take effect on the 120th day after it shall have become a law.

ACTING PRESIDENT MAYER: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MAYER: Announce

the results.

THE SECRETARY: Ayes, 63.

ACTING PRESIDENT MAYER: The bill is passed.

THE SECRETARY: Calendar Number 328, Senate Print 78A, by Senator Hoylman, an act to amend the Elder Law.

ACTING PRESIDENT MAYER: Read the last section.

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

ACTING PRESIDENT MAYER: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MAYER: Announce the results.

THE SECRETARY: In relation to Calendar 328, those Senators voting in the negative are Senators Akshar, Borrello, Lanza, O'Mara and Ortt.

Ayes, 58. Nays, 5.

ACTING PRESIDENT MAYER: The bill is passed.

THE SECRETARY: Calendar Number 447, Senate Print 4064, by Senator Gaughran, an

act to amend the Town Law.

ACTING PRESIDENT MAYER: Read the last section.

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

ACTING PRESIDENT MAYER: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MAYER: Announce the results.

THE SECRETARY: In relation to Calendar 447, voting in the negative:

Senator Griffo.

Ayes, 62. Nays, 1.

ACTING PRESIDENT MAYER: The bill is passed.

THE SECRETARY: Calendar Number 489, Senate Print 3132, by Senator Kavanagh, an act to amend the Private Housing Finance Law.

ACTING PRESIDENT MAYER: Read the last section.

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

ACTING PRESIDENT MAYER: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MAYER: Senator Kavanagh to explain his vote.

SENATOR KAVANAGH: Thank you, Madam President. Just very briefly.

This is a bill that would create the New York Main Street Development Center. It is based on an existing program that the Homes and Community Renewal runs, but the purpose of the bill would be to codify that program and ensure that it has the resources necessary to serve the purpose of this program.

The purpose being to make sure that our smaller communities, our traditional Main Street areas have the resources they need to redevelop, to develop affordable housing, and also to develop business opportunities that serve low- and moderate-income in those communities.

So it's an important initiative, and I thank my colleagues for supporting it today and note that, you know, this is a bipartisan bill. I'm joined by Senator Helming, the ranking member of the Housing Committee, and many colleagues in supporting it.

But thank you. I vote aye.

ACTING PRESIDENT MAYER: Senator Kavanagh to be recorded in the affirmative.

Announce the results.

THE SECRETARY: Ayes, 63.

ACTING PRESIDENT MAYER: The bill is passed.

THE SECRETARY: Calendar Number 514, Senate Print 2986, by Senator Brouk, an act to amend the Penal Law.

ACTING PRESIDENT MAYER: Read the last section.

THE SECRETARY: Section 3. This act shall take effect on the first of January.

ACTING PRESIDENT MAYER: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MAYER: Senator Brouk to explain her vote.

SENATOR BROUK: Thank you, Madam President. Good afternoon.

I think it's important to highlight the importance of this bill. As we live in an increasingly digital world, especially as COVID-19 has forced many of us to communicate with friends, loved ones and colleagues

extensively through our phones and our computers. And if we are truly to protect ourselves and our children, New York State's laws have to keep up with the ways that our interaction with technology is changing.

The use of sexually explicit images to harm and threaten people -- a crime largely committed against women, teenagers and LGBTQ individuals -- is an emerging and increasing threat that must be addressed by our state. So many of our laws fail to take into account the gendered nature of crimes, and they rarely offer protection for women and our LGBTQ communities, who are especially vulnerable to this type of exploitation.

The responsibility to prove harm, to seek justice, and to figure out how to survive these devastating experiences is a lonely and often difficult road for victims. And that's why the passing of this bill today is such a powerful statement by the Senate. And that this type of coercion and harassment is not okay, and that we are willing to stand up to protect those most vulnerable to sexual exploitation.

I thank my colleagues for their

support and attention to this really, really important matter. Thank you.

ACTING PRESIDENT MAYER: Senator Brouk to be recorded in the affirmative.

Announce the results.

THE SECRETARY: In relation to Calendar Number 514, voting in the negative: Senator Brisport.

Ayes, 62. Nays, 1.

ACTING PRESIDENT MAYER: The bill is passed.

THE SECRETARY: Calendar Number 519, Senate Print 4086, by Senator Hinchey, an act to amend the Tax Law.

SENATOR LANZA: Lay it aside.

ACTING PRESIDENT MAYER: Lay it aside.

THE SECRETARY: Calendar Number 533, Senate Print 5305, by Senator Reichlin-Melnick, an act to amend Chapter 83 of the Laws of 1995.

ACTING PRESIDENT MAYER: Read the last section.

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

ACTING PRESIDENT MAYER: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MAYER: Announce the results.

THE SECRETARY: In relation to Calendar Number 533, voting in the negative: Senator Lanza.

Ayes, 62. Nays, 1.

ACTING PRESIDENT MAYER: The bill is passed.

THE SECRETARY: Calendar Number 543, Senate Print 3762, by Senator Breslin, an act to amend the Public Health Law.

SENATOR LANZA: Lay it aside.

ACTING PRESIDENT MAYER: Lay it aside.

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

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

ACTING PRESIDENT MAYER: The Secretary will ring the bell.

The Secretary will read.

THE SECRETARY: Calendar Number 519, Senate Print 4086, by Senator Hinchey, an act to amend the Tax Law.

ACTING PRESIDENT MAYER: Senator Lanza, why do you rise?

SENATOR LANZA: Madam President, I believe there's an amendment at the desk. I waive the reading of that amendment and ask that you recognize Senator Weik to be heard.

ACTING PRESIDENT MAYER: 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, Madam President, I appeal the ruling of the chair and ask that you recognize Senator Weik.

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

SENATOR WEIK: Thank you, Madam President.

The bill-in-chief would establish a gift for a substance use disorder education and recovery. This amendment is germane because over

the past year, the impact of the pandemic and so many of the Governor's mandates have led to an increase of substance abuse and mental health issues.

So many have struggled and continue to struggle due to the many restrictions and edicts passed down by the Governor over the last year. We can all agree some were and still are. Many were done at the whim of the Governor and his inner circle, with little scientific or factual evidence.

And many of those unnecessary mandates that continue to harm us are still in effect because our colleagues across the aisle continue to refuse to take a vote on this amendment that would actually strip the Governor of his emergency powers.

The bill that was passed in this house just a few weeks ago just didn't do what we need it to do, and that is to truly restore the Legislature as a coequal branch of government.

During that debate many of these unnecessary directives came up, such as the need to buy food with alcoholic drinks or arbitrary curfews for restaurants and gyms, and colleagues

on both sides of the aisle agree there's no basis for them. But they remain in effect today because despite the claims by the Majority, the Governor continues to call all the shots.

We are well past the time to truly remove the Governor's powers, especially now with mounting investigations, scandals, and allegations that have severely compromised his ability to lead, at a time when this state is demanding leadership.

He is under increased pressure to resign, and there is an impeachment investigation launched by the Assembly. What is guiding his decision making process at this critical time? It is a time that the Governor is more concerned with his own political future than the interests of New Yorkers.

New Yorkers need and deserve better. For this reason, Mr. -- Ms. -- Madam President, excuse me, I strongly urge you to reconsider your ruling, and I urge all my colleagues to support this amendment.

ACTING PRESIDENT MAYER: Thank you, Senator.

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

ACTING PRESIDENT MAYER: Without objection, so ordered.

Announce the results.

THE SECRETARY: Ayes, 20.

ACTING PRESIDENT MAYER: 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 4. This act shall take effect immediately.

ACTING PRESIDENT MAYER: Call the

roll.

(The Secretary called the roll.)

ACTING PRESIDENT MAYER: Announce the results.

THE SECRETARY: Ayes, 63.

ACTING PRESIDENT MAYER: The bill is passed.

THE SECRETARY: Calendar Number 543, Senate Print 3762, by Senator Breslin, an act to amend the Public Health Law.

ACTING PRESIDENT MAYER: Senator Palumbo.

SENATOR PALUMBO: Thank you, Madam President. Will the sponsor yield for a few questions, please.

ACTING PRESIDENT MAYER: Senator Breslin, do you yield?

SENATOR BRESLIN: Certainly.

ACTING PRESIDENT MAYER: The Senator yields.

SENATOR PALUMBO: Thank you, Senator Breslin. How are you? Nice to see you.

SENATOR BRESLIN: Good. And you?

SENATOR PALUMBO: I have a few questions, if I may, regarding this bill.

And just generally, it looks as though there will be a lot of impact on possibly costs on the industry. So is there any sort of a fiscal impact statement with regard to the impacts on either the industry, the state or something else?

SENATOR BRESLIN: Well, yes. If you know anything about the PBMs, they're not regulated now, so the information isn't as accessible as it might ordinarily be.

And they were, you know, originally hired by health plans, unions, others to do particular kinds of work, which has been accelerated over a number of years. And it's now estimated that PBMs in the United States make about $315 billion a year.

SENATOR PALUMBO: Will the sponsor continue to yield, Madam President.

ACTING PRESIDENT MAYER: Senator Breslin, do you continue to yield?

SENATOR BRESLIN: The sponsor yields.

ACTING PRESIDENT MAYER: The Senator yields.

SENATOR PALUMBO: Thank you,

Senator. I appreciate that.

Well, as a result of this legislation then, where will those costs be passed off and saved by the consumer? I understand what the intent of this legislation is, of course, but what do you have as far as effect on the industry, if you may?

SENATOR BRESLIN: I'll kind of break it down a little bit. Pharmacy benefit managers enter into contracts with health plans and others in that category. And they first go to manufacturers, kind of establish prices, go to pharmacies. And now it's expanded so that PBMs, pharmacy benefit managers, are really in contact with every level of the transportation of drugs between and among people who need them and people who create them.

And so once -- excuse me -- the money, we're not sure where it goes, because it goes to people along that chain.

This bill would create some fiduciary relationships between the two contract parties, that being the initial healthcare plan and the PBMs, so that they know where the money -- they're paying for a service, the

service is provided. If there's other monies along that pathway, there has to be full disclosure and those monies put in trust, to be divided up in a fair and equitable way.

SENATOR PALUMBO: Thank you.

Will the Senator continue to yield, please.

ACTING PRESIDENT MAYER: Senator Breslin, do you continue to yield.

SENATOR BRESLIN: Certainly, I yield.

ACTING PRESIDENT MAYER: The Senator yields.

SENATOR PALUMBO: Well, thank you, Senator.

And there was a very similar bill, almost the identical bill that passed both houses last year, and the Governor vetoed it. And in his veto memo he indicated that that fiduciary relationship that you mentioned and a few other things were of significant concern.

So before we get into the fiduciary questions, after that veto was issued and prior to the reprint and issuance of this legislation, did you have any conversations with any of the

stakeholders that were otherwise impacted, possibly the unions, employers, health plans and so forth?

SENATOR BRESLIN: The stakeholders are the pharmacies, the people who are serving the ultimate consumer. And that ultimate consumer, the patient, is the real stakeholder.

And if there's $315 billion being made by that process, there's only one group that suffers, and that's the patients.

So this bill would give the light of day to the whole transaction, make it open and informative, and would preclude anyone in the chain breaking -- breaking their vow of a contractual relationship with the other.

SENATOR PALUMBO: Thank you, Senator. Would you continue to yield, please.

ACTING PRESIDENT MAYER: Senator Breslin, do you continue to yield?

SENATOR BRESLIN: I continue to yield.

ACTING PRESIDENT MAYER: The Senator yields.

SENATOR PALUMBO: Well, thank you, Senator.

And on page 2 of the bill, regarding that fiduciary relationship, I've gotten some concerns from various groups regarding that language. Because once we've created this fiduciary duty, now it's certainly heightened the obligation -- we don't need to go into the legal lesson there, we all understand that, clearly.

That would lead to additional litigation, particularly because, and I'll point you to one section --

SENATOR BRESLIN: I can't hear you.

SENATOR PALUMBO: Sure, certainly. I'll point -- if I may point to one section in that regard, where -- at line 42, "Where there is a conflict in the pharmacy benefit manager's duty or obligation under this paragraph to the covered individual and any other party, the duty or obligation to the covered individual shall be primary."

And regarding that section, also including a private right of action in this bill, there have been some concerns expressed to me that this would lead to -- clearly lead to litigation and ultimately of that result of that very high duty, being the fiduciary duty, those

costs would be borne by the industry and therefore passed off to the consumer.

So can you please address that and alleviate some of those concerns?

SENATOR BRESLIN: I would suggest that the reason for that paragraph is exactly the opposite. It protects the insured. It protects the insured from monies being diverted from the process.

And in fact, if there is legal action necessary, then that legal action would prevent and protect the patient from any undue passage of dollars away from that stream that I indicated before.

SENATOR PALUMBO: Thank you very much, Senator.

On the bill, please, Madam President.

ACTING PRESIDENT MAYER: Senator Palumbo on the bill.

SENATOR PALUMBO: And thank you, Senator Breslin. And I appreciate that conversation and your input.

And in the interests of full disclosure, when I was down the hall last year, I

voted for this bill. Because we need to regulate PBMs. I think the industry agrees with that, and we all do.

So I am going to vote yes on this bill, but I do have some reservations. And those were what the Governor brought up in his veto memo, and what I've been hearing from the industry, who expressed those exact same concerns. To create this fiduciary obligation is possibly an unreasonable aspect to this regulation.

Do we need to regulate them? Absolutely. And what I'm concerned about is that good government involves every stakeholder. We've seen that with some other massive legislation that we've run through these houses in the past few years, where we didn't include everyone in the conversation -- pros, cons and otherwise -- to create smart, good legislation that balances all of these concerns.

And we've had to make huge amendments on major items that passed in the budget, such as bail reform and so forth. That's a conversation for a different day.

So I am voting yes, because we do

need to regulate this industry, without question, on behalf of the consumer. However, I just do have some reservations.

I expect, whether it's this Governor or a different one that's on the second floor, we may be doing this again next year. So I think we just need to tweak that language ever so slightly to modify reasonably those concerns and that language.

But in any event, Madam President, I vote aye. Thank you.

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

Seeing and hearing none -- oh, Senator Breslin.

SENATOR BRESLIN: To explain my vote, please.

ACTING PRESIDENT MAYER: Senator Breslin, we will wait one minute till we get to that.

ACTING PRESIDENT MAYER: Seeing and hearing none, debate is closed. The Secretary will ring the bell.

Read the last section.

THE SECRETARY: Section 5. This

act shall take effect on the 90th day after it shall have become a law.

ACTING PRESIDENT MAYER: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MAYER: Senator Breslin to explain his vote.

SENATOR BRESLIN: Thank you very much, Madam President.

This is an enormous day in the healthcare industry, when we talk about pharmacy benefit managers nationally making $315 billion -- in some cases, they say it's more than the manufacturer itself. And that original role in relation to entering into a contract with an HMO or a union or other large groups, to fulfill a particular individual responsibility, has grown to the point where these PBMs own pharmacies.

These PBMs have relationships with manufacturers where there's transfers of different profit incentives and monies that aren't being accounted for. The -- getting into the PBMs owning pharmacies, controlling mail orders -- demanding mail orders -- has run

private pharmacies out of business. Eighty percent of the pharmacies in the United States, the PBMs, are controlled by the three major pharmacies. We have to change that.

This bill will bring the light of day to pharmacy benefit managers, and it will do much to make the consumer pay a lesser amount for the proper drugs.

Thank you, Madam President. I vote aye.

ACTING PRESIDENT MAYER: Senator Breslin to be recorded in the affirmative.

Announce the results.

THE SECRETARY: In relation to Calendar Number 543, voting in the negative: Senator Gallivan.

Ayes, 62. Nays, 1.

ACTING PRESIDENT MAYER: The bill is passed.

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

SENATOR GIANARIS: Going back to motions for a moment, Madam President, on page 12 I offer the following amendments to Calendar 186,

Senate 166A, and ask that said bill retain its place on the Third Reading Calendar.

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

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

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

SENATOR GIANARIS: I move to adjourn until tomorrow, Thursday, March 18th, at 11:00 a.m.

ACTING PRESIDENT MAYER: On motion, the Senate stands adjourned until Thursday, March 18th, at 11:00 a.m.

(Whereupon, the Senate adjourned at 3:40 p.m.)