NEW YORK STATE SENATE

THE STENOGRAPHIC RECORD

ALBANY, NEW YORK

March 25, 2021

11:11 a.m.

REGULAR SESSION

SENATOR ROXANNE J. PERSAUD, Acting President

ALEJANDRA N. PAULINO, ESQ., Secretary

P R O C E E D I N G S

ACTING PRESIDENT PERSAUD: 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 PERSAUD: 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 PERSAUD: The reading of the Journal.

THE SECRETARY: In Senate, Wednesday, March 24, 2021, the Senate met pursuant to adjournment. The Journal of Tuesday, March 23, 2021, was read and approved. On motion, Senate adjourned.

ACTING PRESIDENT PERSAUD: 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: Thank you, Madam President.

On behalf of Senator Salazar, on page 16 I offer the following amendments to Calendar 363, Senate Print 3291, and ask that the bill retain its place on Third Reading Calendar.

ACTING PRESIDENT PERSAUD: 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.

ACTING PRESIDENT PERSAUD: The Secretary will read.

THE SECRETARY: Calendar Number 117, Senate Print 1556, by Senator Parker, an act to amend the Public Service 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 117, those Senators voting in the negative are Senators Akshar, Borrello and Weik.

Ayes, 60. Nays, 3.

ACTING PRESIDENT PERSAUD: The bill is passed.

THE SECRETARY: Calendar Number 126, Senate Print 346, by Senator Kaplan, an act to amend the Tax Law.

ACTING PRESIDENT PERSAUD: Read the last section.

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

ACTING PRESIDENT PERSAUD: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT PERSAUD: Announce the results.

THE SECRETARY: In relation to Calendar 126, those Senators voting in the

negative are Senators Akshar, Borrello, Gallivan, Griffo, Helming, Jordan, Lanza, Oberacker, O'Mara, Ortt, Rath and Stec.

Ayes, 51. Nays, 12.

ACTING PRESIDENT PERSAUD: The bill is passed.

THE SECRETARY: Calendar Number 163, Senate Print 1317, by Senator Gaughran, 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 237, Senate Print 355, by Senator Hoylman, an act to amend the Environmental Conservation Law.

ACTING PRESIDENT PERSAUD: 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 PERSAUD: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT PERSAUD: Announce the results.

THE SECRETARY: In relation to Calendar 237, those Senators voting in the negative are Senators Akshar and Tedisco.

Ayes, 61. Nays, 2.

ACTING PRESIDENT PERSAUD: The bill is passed.

THE SECRETARY: Calendar Number 359, Senate Print 3866, by Senator Kennedy, an act to amend the Public Health Law.

ACTING PRESIDENT PERSAUD: Read the last section.

THE SECRETARY: Section 4. This act shall take effect on the first of January.

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 510, Senate Print 4201A, by Senator Savino, an act to amend the Civil Service Law.

SENATOR LANZA: Lay it aside.

ACTING PRESIDENT PERSAUD: Lay it aside.

THE SECRETARY: Calendar Number 532, Senate Print 5304, by Senator Reichlin-Melnick, an act to amend the State Finance Law.

ACTING PRESIDENT PERSAUD: Read the last section.

THE SECRETARY: Section 3. 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 532, those Senators voting in the negative are Senators Ortt and Palumbo.

Ayes, 61. Nays, 2.

ACTING PRESIDENT PERSAUD: The bill is passed.

THE SECRETARY: Calendar Number 584, Senate Print 4092, by Senator Hinchey, an act to amend the Environmental Conservation 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 587, Senate Print 4596, by Senator Kaminsky, an act to amend the Environmental Conservation Law.

ACTING PRESIDENT PERSAUD: Read the last section.

THE SECRETARY: Section 6. This act shall take effect on the 60th 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 587, those Senators voting in the negative are Senators Borrello, Gallivan, Griffo, Jordan, Lanza, Martucci, Oberacker, O'Mara, Ortt, Rath, Ritchie, Serino, Stec and Tedisco.

Ayes, 49. Nays, 14.

ACTING PRESIDENT PERSAUD: The bill is passed.

THE SECRETARY: Calendar Number 594, Senate Print 4738, by Senator Ramos, an act to amend the Labor Law.

ACTING PRESIDENT PERSAUD: Read the last section.

THE SECRETARY: Section 3. 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 594, voting in the negative:

Senator Griffo.

Ayes, 62. Nays, 1.

ACTING PRESIDENT PERSAUD: The bill is passed.

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

SENATOR GIANARIS: Thank you, Madam President. Can we move on to the controversial calendar, please.

ACTING PRESIDENT PERSAUD: The Secretary will ring the bell.

The Secretary will read.

THE SECRETARY: Calendar Number 510, Senate Print 4201A, by Senator Savino, an act to amend the Civil Service Law.

ACTING PRESIDENT PERSAUD: 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

Senator Tedisco be recognized.

ACTING PRESIDENT PERSAUD: 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 Senator Tedisco be recognized.

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

Senator Tedisco.

SENATOR TEDISCO: Thank you, Madam President.

I ask that you rule germane this amendment to fully repeal the Governor's emergency powers, as I believe it is especially relevant to this bill and the historic significance of this day, March 25th, which sadly has become a new day of infamy in New York State.

Exactly one year ago today, thanks to his vast pandemic emergency powers, which he still enjoys, the Governor issued an executive order that mandated that COVID-positive patients

be placed into nursing homes. We've come to understand that it was through the Governor's tragic actions that many of our 15,000 nursing home residents died from coronavirus.

Earlier this morning I joined several of my colleagues and the families of those nursing home residents who lost their lives, to commemorate this sad occasion and call for the state to set aside this date, moving forward, as a day of silent reflection in New York State for all those souls who needlessly lost lives.

We remember that every life lost was more than just a statistic. These individuals were someone's spouse, parent, grandparent and sibling, and they deserve justice.

Today I'm wearing this shamrock pin given to me by my constituent, Dave Mathias, of Clifton Park, in the 49th Senate District, in honor of his mother Doris, who lost her life to COVID-19 while in a Buffalo-area nursing home.

For close to a year, the Cuomo administration denied its March 25th executive order had any substantial impact in spreading the virus in our nursing homes as to what the

Governor himself defined as a wildfire through dry grass.

The Governor and his staff conspired to cover this fact up because it didn't fit with the false narrative in his book that he was Andrew Cuomo, the COVID slayer. Well, now we know he was Andrew Cuomo, the COVID purveyor.

It wasn't until the Attorney General issued a scathing report last month pulling back the veil of secrecy from the Cuomo administration and finding there was a 50 percent undercount of the total number of those who got the contagion in a nursing home and died and those who got it and died in a hospital.

After the Attorney General's bombshell report was released, Justice Kimberly O'Connor made a judgment on a lawsuit by myself and the Empire Center, saying that the Cuomo administration violated the Open Government Law, and ordered the full nursing home data be publicly released.

Now that the Cuomo administration is the subject of a federal criminal investigation by the FBI and the U.S. Attorney's Office in Brooklyn for its handling of the nursing home

cover-up, we must ensure that a terrible tragedy like this never happens again.

We also need an independent bipartisan state commission with subpoena power that I am sponsoring, with Assemblyman Ron Kim, to fully investigate the nursing home deaths to bring closure to the families of loved ones who lost their lives and learn what happened so we can be prepared for future pandemics.

We also need to create a penalty for violating New York's Open Government and Freedom of Information Law -- not just a violation, not just a slap on the wrist.

Earlier this month the Senate Majority had a chance to stand up to this Governor and fully restore the Legislature's role as an equal branch of government by fully repealing the Governor's emperor-like emergency powers. Unfortunately, I and many others believe they did not do so and instead passed a full repeal bill that actually extended the Governor's emergency powers indefinitely.

What's chilling is that the Governor still has the power to issue a new executive order to resend COVID-positive patients back into

nursing homes and repeat the terrible tragedy he caused one year ago, because one of those 60 executive orders repealed, on April 11th, his March executive order to mandate that they be put into nursing homes, causing this tragedy. He can adjust or repeal any of those 60 executive orders he has in place, according to the bill that passed a week or so ago.

Mr. President and my colleagues -- excuse me, Ms. President, Madam President -- let me get that right -- and my colleagues, today as we reflect and remember the 15,000 lives lost, let's honor their memories and begin to seek justice for their families by fully revoking the Governor's emergency powers.

Madam President, I ask to appeal the ruling of the chair and that this amendment be ruled germane. Thank you.

ACTING PRESIDENT PERSAUD: Thank you, Senator Tedisco.

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: By agreement, the entire Minority will be recorded in the negative, Madam President.

ACTING PRESIDENT PERSAUD: Without objection, so ordered.

Announce the results.

THE SECRETARY: Ayes, 20.

ACTING PRESIDENT PERSAUD: 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 2. This act shall take effect immediately.

ACTING PRESIDENT PERSAUD: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT PERSAUD: Senator Savino to explain her vote.

SENATOR SAVINO: Thank you,

Madam President.

On March 18th of 2020, Governor Cuomo signed emergency legislation guaranteeing job protection and pay for New Yorkers who had been quarantined as a result of the novel coronavirus, or COVID-19. At the time when the Governor signed the bill, he said: "No one should have to make the impossible choice between losing their job or providing for their family and going to work, especially during this pandemic."

At the time, we were just beginning to realize that we were on the brink of what would become the worst public health crisis that we would face in our lifetime. Within weeks we would be shutting down our economy -- restaurants, offices, retail, all nonessential businesses, schools, universities, shifting as many as possible to remote work and learning.

For some, the idea of remote work is impossible. Our essential workforce, our first responders -- police, fire, healthcare and corrections -- just cannot do it by broadband.

We placed new requirements on private employers to demand that they protect

their workforce and not punish them when they were forced to quarantine or take time due to exposure to COVID-19. We adopted rules right here in the State of New York; we told private employers how they had to treat their employees to protect them and their paychecks.

So it was shocking to find out that the New York City Department of Corrections was actually punishing their own employees for following the rules that we adopted right here in the State of New York.

Since last March, according to the Boards of Corrections in the City of New York, 1400 officers and staff have tested positive for COVID-19. Eight members have succumbed to the disease. Eight hundred ninety-three correction officers who tested positive and were forced to utilize their sick time to comply with the requirements that were set out by the Department of Health were declared to be chronically absent by the Department of Corrections in the City of New York.

This determination is considered an adverse disciplinary action that goes into effect after an officer has missed 11 days of work.

That determination can have an impact on their pay, promotion, hours and makes many of them vulnerable to potential layoffs.

The legislation that we are passing here today sends a clear message to not only the New York City Department of Corrections, but to all public employers, that we will not tolerate this type of punitive action against employees who show up and follow the laws and the rules that we write.

Thank you, Madam President. I vote aye.

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

Announce the results.

THE SECRETARY: Ayes, 63.

ACTING PRESIDENT PERSAUD: The bill is passed.

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

SENATOR GIANARIS: Madam President, I have another motion.

On behalf of Senator Parker, I wish to call up Senate 1453A, recalled from the Assembly, which is now at the desk.

ACTING PRESIDENT PERSAUD: The Secretary will read.

THE SECRETARY: Calendar Number 116, Senate Print 1453A, by Senator Parker, an act to amend the Public Service Law.

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

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

(The Secretary called the roll.)

THE SECRETARY: Ayes, 63.

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

SENATOR GIANARIS: I offer the following amendments.

ACTING PRESIDENT PERSAUD: The amendments are received.

SENATOR GIANARIS: Thank you, Madam President.

Is there any further business at the desk?

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

SENATOR GIANARIS: I move to adjourn until Tuesday, March 30th, at 3:00 p.m., intervening days being legislative days.

ACTING PRESIDENT PERSAUD: On motion, the Senate stands adjourned until Tuesday, March 30th, at 3:00 p.m., intervening days being legislative days.

(Whereupon, at 11:28 a.m., the Senate adjourned.)