NEW YORK STATE SENATE

THE STENOGRAPHIC RECORD

ALBANY, NEW YORK

May 3, 2021

3:20 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: The reading of the Journal.

THE SECRETARY: In Senate, Sunday, May 2, 2021, the Senate met pursuant to adjournment. The Journal of Saturday, May 1, 2021, was read and approved. On motion, Senate adjourned.

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

Presentation of petitions.

Messages from the Assembly.

The Secretary will read.

THE SECRETARY: Senator Hinchey

moves to discharge, from the Committee on Agriculture, Assembly Bill Number 4690 and substitute it for the identical Senate Bill 5751, Third Reading Calendar 738.

ACTING PRESIDENT MAYER: The substitution is so ordered.

THE SECRETARY: Senator Kaplan moves to discharge, from the Committee on Rules, Assembly Bill Number 7127 and substitute it for the identical Senate Bill 5742, Third Reading Calendar 795.

ACTING PRESIDENT MAYER: The substitution is 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: Thank you, Madam President.

Amendments are offered to the following Third Reading Calendar bills:

By Senator Comrie, on page 17,

Calendar Number 302, Senate Print 2939;

By Senator Kaplan, on page 18,

Calendar Number 374, Senate Print 534;

By Senator Sepúlveda, on page 27,

Calendar Number 541, Senate Print 2103;

And by Senator Liu, on page 32,

Calendar Number 626, Senate Print 1059.

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

Senator Gianaris.

SENATOR GIANARIS: I now wish to call up Senate Print 328, recalled from the Assembly, which is now at the desk.

ACTING PRESIDENT MAYER: The Secretary will read.

THE SECRETARY: Calendar Number 98, Senate Print 328, by Senator Persaud, an act to amend the Penal Law.

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

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

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

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

SENATOR GIANARIS: On behalf of Senator Persaud, I offer the following amendments.

ACTING PRESIDENT MAYER: The amendments are received.

SENATOR GIANARIS: Please call on Senator Lanza.

ACTING PRESIDENT MAYER: Senator Lanza.

SENATOR LANZA: On behalf of Senator Borrello, Madam President, I move to recommit Senate Print 422, Calendar Number 275 on the order of third reading, to the Committee on Transportation, with instructions to said committee to strike out the enacting clause.

ACTING PRESIDENT MAYER: It is so ordered.

Senator Gianaris.

SENATOR GIANARIS: Madam President, there will be an immediate meeting of the Rules Committee in Room 332.

ACTING PRESIDENT MAYER: There will be an immediate meeting of the Rules Committee in Room 332.

SENATOR GIANARIS: The Senate stands at ease.

ACTING PRESIDENT MAYER: The Senate will stand at ease.

(Whereupon, the Senate stood at ease at 3:23 p.m.)

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

ACTING PRESIDENT MAYER: The Senate will return to order.

Senator Gianaris.

SENATOR GIANARIS: Madam President, I believe there's a report of the Rules Committee at the desk.

Can we please take that up.

ACTING PRESIDENT MAYER: The Secretary will read.

THE SECRETARY: Senator Stewart-Cousins, from the Committee on Rules, reports the following bill:

Senate Print 6473, by Senator Gaughran, an act in relation to the

assessment of property owned by water-works corporations.

The bill is reported direct to third reading.

SENATOR GIANARIS: Move to accept the report of the Rules Committee.

ACTING PRESIDENT MAYER: All those in favor of accepting the report of the Rules Committee signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT MAYER: Opposed, nay.

(No response.)

ACTING PRESIDENT MAYER: The Rules Committee report is accepted.

Senator Gianaris.

SENATOR GIANARIS: Can we now take up the calendar, please.

ACTING PRESIDENT MAYER: The Secretary will read.

THE SECRETARY: Calendar Number 168, Senate Print 1868, by Senator Ritchie, an act in relation to authorizing the Town of Dekalb, in the County of St. Lawrence, to reduce the maximum speed limit on certain public

roadways.

ACTING PRESIDENT MAYER: There is a home-rule message at the desk.

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 168, voting in the negative:

Senator Skoufis.

Ayes, 61. Nays, 1.

ACTING PRESIDENT MAYER: The bill is passed.

THE SECRETARY: Calendar Number 260, Senate Print 2767A, by Senator Kennedy, an act to establish a private student loan refinance task force.

ACTING PRESIDENT MAYER: Read the last section.

THE SECRETARY: Section 5. 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, 62.

ACTING PRESIDENT MAYER: The bill is passed.

THE SECRETARY: Calendar Number 280, Senate Print 1509A, by Senator May, an act to amend the Transportation 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: Ayes, 62.

ACTING PRESIDENT MAYER: The bill is passed.

THE SECRETARY: Calendar Number 377, Senate Print Number 3966A, by

Senator Reichlin-Melnick, an act to amend the Public Health Law and the Social Services Law.

ACTING PRESIDENT MAYER: Read the last section.

THE SECRETARY: Section 3. This act shall take effect on the 180th day after it shall have become a law.

ACTING PRESIDENT MAYER: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MAYER: Senator Reichlin-Melnick to explain his vote.

SENATOR REICHLIN-MELNICK: Thank you, Madam President.

This is a very simple bill, because those of us who in our constituencies send our kids out, whether it's to school or other places, want to have the assurance that they are safe.

And when kids go to school, we know that teachers and employees and anybody else interacting with them will be checked against the state's Sex Offender Registry. And we know that if a kid goes to a summer camp, that summer camp must check their counselors and their employees against the state Sex Offender Registry.

But there has been a whole class of camps that has not had to do that, and these are single-purpose camps -- it could be a soccer camp, it could be a sailing camp, a chess camp, whatever it might be. And the employees and the counselors who work at these nonregistered children's single-use camps have never had to be checked against the state's Sex Offender Registry.

This bill will address that and will help keep our kids safe. Because I think so many people already assume that of course they must have been checked, and yet that has not been what the law says. And so I'm proud that we're moving this bill, and I think it will make a real difference and hopefully keep our kids safe from dangerous people.

Thank you for bringing it up. I vote yes.

ACTING PRESIDENT MAYER: Senator Reichlin-Melnick to be recorded in the affirmative.

Announce the results.

THE SECRETARY: Ayes, 63.

ACTING PRESIDENT MAYER: The bill

is passed.

THE SECRETARY: Calendar Number 396, Senate Print 944, by Senator Gaughran, an act to amend the Public Service 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: Ayes, 63.

ACTING PRESIDENT MAYER: The bill is passed.

THE SECRETARY: Calendar Number 417, Senate Print 2057, by Senator Sepúlveda, an act to amend the Civil Service Law.

ACTING PRESIDENT MAYER: Read the last section.

THE SECRETARY: Section 3. 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: Announce the results.

THE SECRETARY: Ayes, 63.

ACTING PRESIDENT MAYER: The bill is passed.

THE SECRETARY: Calendar Number 449, Senate Print 4778, by Senator Weik, an act in relation to authorizing the assessor of the Town of Brookhaven to accept an application for exemption from real property taxes.

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 449, voting in the negative: Senator Akshar.

Ayes, 62. Nays, 1.

ACTING PRESIDENT MAYER: The bill is passed.

Senator Lanza.

SENATOR LANZA: Madam President -- thank you, Senator Gianaris.

Madam President, I wanted to take a moment to congratulate Senator Weik on the passage of her first bill as a Senator.

ACTING PRESIDENT MAYER: Congratulations, Senator Weik.

(Applause.)

ACTING PRESIDENT MAYER: The Secretary will read.

THE SECRETARY: Calendar Number 495, Senate Print 1026, by Senator Ramos, an act to amend the Workers' Compensation 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 495, voting in the negative: Senator Lanza.

Ayes, 62. Nays, 1.

ACTING PRESIDENT MAYER: The bill is passed.

THE SECRETARY: Calendar Number 502, Senate Print 5025A, by Senator Serrano, an act creating a legislative task force on outdoor environmental education and recreation.

ACTING PRESIDENT MAYER: Read the last section.

THE SECRETARY: Section 5. 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 657, Senate Print 1201, by Senator Harckham, an act to amend the Public Health Law.

SENATOR LANZA: Lay it aside.

ACTING PRESIDENT MAYER: The bill is laid aside.

THE SECRETARY: Calendar Number 674, Senate Print 4716A, by Senator Hoylman, an act to amend the State Technology 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: Ayes, 63.

ACTING PRESIDENT MAYER: The bill is passed.

THE SECRETARY: Calendar Number 684, Senate Print 3402, by Senator Bailey, an act to amend the Real Property Tax Law.

ACTING PRESIDENT MAYER: Read the last section.

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

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 702, Senate Print 2019, by Senator Jackson, an act to amend the Education Law.

ACTING PRESIDENT MAYER: 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: In relation to Calendar 702, those Senators voting in the negative are Senators Borrello, Cooney, Helming, Jordan, Kennedy, Krueger, Lanza, Liu, May, Oberacker, Ortt, Palumbo, Rath, Reichlin-Melnick,

Ryan, Serino, Stec, Tedisco and Weik.

Ayes, 44. Nays, 19.

ACTING PRESIDENT MAYER: The bill is passed.

THE SECRETARY: Calendar Number 711, Senate Print 5509, by Senator Comrie, an act to amend the Vehicle and Traffic Law.

ACTING PRESIDENT MAYER: Read the last section.

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

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 712, Senate Print 6036, by Senator Brooks, an act to amend the Vehicle and Traffic Law.

ACTING PRESIDENT MAYER: Read the last section.

THE SECRETARY: Section 3. This

act shall take effect immediately.

ACTING PRESIDENT MAYER: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MAYER: Senator Helming to explain her vote.

SENATOR HELMING: Thank you, Madam Chair. I rise today to explain my vote.

Gold Award Girl Scouts tackle so many issues and drive such positive, lasting changes in their respective communities and far beyond. As a former Girl Scout, I'm proud to cosponsor and support this important bill.

I'm also proud to sponsor Senate Bill 2180, a bill somewhat similar that would create the New York State Veterans Remembrance License Plate. This plate is an opportunity to honor those who have given so much for our freedom.

One unique feature about this legislation is that it also creates a revenue source and a fund to establish -- eventually establish our first New York State-run veterans cemetery, which is so incredibly important.

So I'm hoping that the Majority will

see fit to bring this legislation forward this year. It's passed five years, but last year it never moved.

Madam Chair, I'm proud to support this legislation, and I vote aye. Thank you.

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

Announce the results.

THE SECRETARY: Ayes, 63.

ACTING PRESIDENT MAYER: The bill is passed.

THE SECRETARY: Calendar Number 738, Assembly Print Number 4690, substituted earlier by Assemblymember Lupardo, an act to amend the Agriculture and Markets 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: Ayes, 63.

ACTING PRESIDENT MAYER: The bill is passed.

THE SECRETARY: Calendar Number 742, Senate Print 5581, by Senator Breslin, an act to amend Chapter 589 of the Laws of 2015.

ACTING PRESIDENT MAYER: Read the last section.

THE SECRETARY: Section 3. 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 782, Senate Print 1745, by Senator Skoufis, an act to amend the Alcoholic Beverage Control 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: Ayes, 63.

ACTING PRESIDENT MAYER: The bill is passed.

THE SECRETARY: Calendar Number 795, Assembly Print 7127, substituted earlier by Assemblymember Bronson, an act to amend a chapter of the Laws of 2021.

ACTING PRESIDENT MAYER: Read the last section.

THE SECRETARY: Section 6. This act shall take effect on the same date and in the same manner as a chapter of the Laws of 2021.

ACTING PRESIDENT MAYER: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MAYER: Announce the results.

THE SECRETARY: In relation to Calendar 795, those Senators voting in the negative are Senators Borrello, Boyle, Felder, Gallivan, Griffo, Helming, Jordan, Lanza,

Martucci, Mattera, Oberacker, O'Mara, Ortt, Palumbo, Rath, Ritchie, Skoufis, Stec and Weik.

Ayes, 44. Nays, 19.

ACTING PRESIDENT MAYER: The bill is passed.

THE SECRETARY: Calendar Number 796, Senate Print 6362A, by Senator Kavanagh, an act to amend Chapter 381 of the Laws of 2020.

SENATOR LANZA: Lay it aside.

ACTING PRESIDENT MAYER: The bill is laid aside.

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

SENATOR GIANARIS: Thank you, Madam President. Let's please move to the supplemental calendar.

ACTING PRESIDENT MAYER: The Secretary will read.

THE SECRETARY: Calendar Number 868, Senate Print 6473, by Senator Gaughran, an act in relation to the assessment of property owned by water-works corporations.

ACTING PRESIDENT MAYER: Read the last section.

THE SECRETARY: Section 8. This

act shall take effect immediately.

ACTING PRESIDENT MAYER: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MAYER: Senator Kaminsky to explain his vote.

SENATOR KAMINSKY: Thank you, Madam President.

Residents of Long Island have been suffering under a private water company called American Water, which has been gouging ratepayers paying water bills in multiples in excess of what their neighbors and counterparts with public water have been paying.

Today's bill we think works out a comprehensive solution to that, that would take a large amount of the tax bill that gets passed along to customers and disburse that throughout Nassau County, as well as, more importantly, creating a public water authority that would then be able to municipalize and take over American Water, to get us off the path we are currently on.

I'm grateful to my fellow Senators and to Senate leadership and staff that helped

craft this bill.

Unfortunately, as we stand here today I don't have the greatest expectation that this will be a joint bill and it will end up being the law of the land. And that's unfortunate.

And when a resident asks me, Hey, why can't we work out a solution that can help delay and stop these increases that I can no longer afford, my answer to them is: There is no good reason. We can do this.

And so I say to anyone listening, we still stand here willing to work with any governmental body to help put these increases off, make sure that this water company is under control, and to work toward a more permanent solution that creates a public water authority.

So today we are showing that the Senate is ready for business. We think this bill is well thought out and can provide a good solution. We are hoping to move this forward, and we stand ready to work with anyone who will do so.

I vote in the affirmative. Thank you, Madam President.

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

Announce the results.

THE SECRETARY: Ayes, 63.

ACTING PRESIDENT MAYER: The bill is passed.

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

SENATOR GIANARIS: Let's move on to the controversial calendar, please.

ACTING PRESIDENT MAYER: The Secretary will ring the bell.

The Secretary will read.

THE SECRETARY: Calendar Number 657, Senate Print 1201, by Senator Harckham, an act to amend the Public Health 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 Senator Borrello be recognized and 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 Senator Borrello be recognized.

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

SENATOR BORRELLO: Thank you, Madam President.

I rise to appeal the ruling of the chair. This amendment is germane because the bill-in-chief deals with the Public Health Law and, for more than a year, the Governor has modified, extended and suspended numerous provisions of the Public Health Law.

As we all know, there's no industry that's been hit harder in New York State than the hospitality industry. It's been the largest economic casualty of this pandemic. And really no industry has suffered more under the Governor's absurd and arbitrary directives that have cost so many businesses their lives and the livelihoods of so many people in New York State.

You know, the Senate took a positive

step last week repealing the food-with-alcohol mandate. That's great, I'm glad we did that. But it really could have gone away a lot sooner. I mean, we started introducing a clean repeal of the Governor's executive authorities back in January, and I believe every day of session since.

So it could have gone away a lot sooner, and that probably would have saved hundreds if not more businesses in New York State from closing that will never reopen.

But we still have all these numerous harmful directives. You know, today we saw the Governor's introducing something else new, we're not quite sure what it's going to be, but it has something to do with capacity limits. So we still have these arbitrary and capricious rulings coming from our Governor that are really confusing New Yorkers altogether.

I don't think business owners or people that patronize businesses in our hospitality industry can tell you from one day to the next what the rule is. That's because we have lost control, as a State Legislature, of the process.

You know, right now we are going into what will be the beginning, the unofficial beginning of the summer tourism season, Memorial Day. And the Governor has said that we're going to let -- we're going to rescind the curfew on May 17th for outdoor areas but it's going to go till May 31st, the last day of Memorial Day weekend, for indoors.

That makes no sense. I don't understand why we're doing this, because we repealed the Governor's powers, we were told. So now there will be another nail in the coffin of our hospitality industry as they suffer with an arbitrary rule through what is, for many businesses in the tourism/hospitality industry, one of the busiest of the entire summer season.

So we continue to do this dance with the Governor. And instead, we should have done a long time ago what we still can do today, and that is to pass this amendment that will do a clean repeal of the Governor's authority so we can finally regain the transparency and the legislative authority that we need to ensure that New York's economy can get back on track. We are among the worst in the United States of America

right now. Our unemployment rate is still second only to Hawaii.

We are still suffering under these arbitrary and capricious directives. No matter how much we dress this up, no matter how many press releases we put out, the reality is New Yorkers lack the confidence to go back to work, to reopen their businesses and to feel like we are on the right path.

So let's pass this amendment today so that we can truly and finally repeal the Governor's executive authority.

Thank you.

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: By unanimous consent, 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 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 657, voting in the negative:
Senator Lanza.

Ayes, 62. Nays, 1.

ACTING PRESIDENT MAYER: The bill is passed.

The Secretary will read.

THE SECRETARY: Calendar Number 796, Senate Print 6362A, by Senator Kavanagh, an act to amend Chapter 381 of the Laws of 2020.

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 Senator Helming be recognized and 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 Senator Helming be recognized.

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

SENATOR HELMING: Thank you, Madam President.

I rise to appeal the ruling of the chair because the proposed amendment is clearly germane to Senate Bill 6362A, the bill before the house that we seek to amend.

Both Senator Kavanagh's bill, 6362A, and the amendment relate to the extension of both the tenant and commercial eviction moratoriums. Senator Kavanagh's legislation would extend the eviction moratoriums until August 31st of this year.

The proposed amendment before you would extended the eviction moratoriums until June 30th of this year, which mirrors the CDC's recommendation. More specifically, this amendment brings New York in line with the federal government guidelines.

Madam President, in the past the Majority has repeatedly ruled amendments proposed by the Minority are nongermane. However, I would ask in this instance what could possibly be more germane than a proposal to change a date on the bill in question? And honestly, from a human perspective, what could be more germane or more important than providing meaningful assistance to our fellow New Yorkers who are rightfully

concerned about losing their homes and properties?

We all agree there are thousands of tenants and landlords who are in desperate need of relief now. One study that I read -- it was a survey by the Census Bureau -- found that 42 percent of New Yorkers are living in households not current on rent or mortgage.

This widespread housing instability is also affecting the economy and placing a severe financial burden on property owners. Just about a week ago I had the privilege of meeting with an elderly woman who depends upon a rent payment from the apartment that's attached to her single-family home to help her meet her financial obligations. And they're not that great -- paying her taxes, getting her prescriptions, going to the grocery store.

She's devastated. I can't describe to you how emotional this meeting was. She's absolutely devastated financially and emotionally because she hasn't been paid rent in well over a year. What won't help her or anyone else who's in this situation is another moratorium.

Throughout this pandemic this body

has taken steps to extend support to struggling New Yorkers and our small businesses. This support included a moratorium on evictions intended to protect individuals and families who are unable to make their rent payments as a result of the state-mandated shutdown of our economy.

Unfortunately, hundreds of thousands of small-business landlords were not offered similar relief. They continue to do their best to meet their financial obligations while still providing housing to their tenants, including those who have been unable to pay.

But the time and the need for such extraordinary measures is rapidly coming to an end. Government officials across the state, including those in New York City, are preparing for a total reopening of our state. This reopening should include a June 30th end to the eviction moratorium consistent with the federal government. Small-business landlords should be given back control of their residential and commercial private properties.

To support both our tenants and our property owners who have suffered during this

historic pandemic, the Senate Majority should focus on delivering the more than 2 billion in federal relief funds that are intended for tenant relief.

Move the funding. No more excuses, no more stalling with moratoriums. This is the only way -- the only real way -- to ease the financial hardship of tenants and to allow local property owners to recoup the significant loss of rent accrued during this moratorium.

These dollars will be reinvested in our economy, as property owners will finally have the resources to meet their full financial commitments and make improvements to their properties. Extending this eviction moratorium beyond the federal guidelines would ignore the reality that our state is reopening and people are returning to work. Restrictions on nearly every industry have begun to be lifted while our small-business landlords continue to have their property rights restricted.

This bill, again, should be amended to reflect the CDC guidance and should expire once that date has passed.

During the Senate Housing Committee

debate on this bill, I asked Senator Kavanagh, the sponsor of the bill, why the need to extend the moratorium beyond the CDC recommendation, and the response included some feedback about public health and New York State's COVID-19 numbers.

But we've seen how more and more people are being vaccinated; thousands and thousands of New Yorkers have been vaccinated. And just yesterday the headlines of so many newspapers and media outlets was all about the Governor pointing out that our positivity rates are the lowest since last October of 2020. Hospitalizations are down, lowest since last November.

So based on the data and the science as well as the federal CDC guidelines, I don't see any real public health justification for extending these moratoriums beyond June 30th. Rather than continuing to kick this can down the road and watch people fall further and further into debt and into despair, this body should show real support for struggling families of both the tenants and property owners by not extending the moratorium beyond the CDC recommendations, but by demanding that the OTDA disburse the federal

tenant relief funding.

We all know, we've had these discussions here on this floor and in committee meetings, that if this money is not distributed by September 30th, it can be clawed back and sent back to Washington, D.C., or another state that will get the money out the door. We don't want that to happen. I don't believe that anyone here wants that to happen. But again, enough delays, enough excuses. We need to move the federal resources.

I believe we can accomplish this critical victory for tenants and restore the property rights of hundreds of thousands of small-business landlords in our state by working with the executive and the OTDA. But the Senate Majority must be willing to step up and do more than just put forward these moratorium bills.

For these reasons I'm asking my colleagues on both sides of the aisle who truly care about tenants and small businesses in the five boroughs and in every county of this state to vote in support of this amendment today. Failure to overrule the ruling of the chair is a failure to provide real help to our struggling

neighbors.

Thank you, Madam Chair.

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

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.

Senator Martucci.

SENATOR MARTUCCI: Thank you, Madam President. Through you, will the sponsor

yield for a question.

ACTING PRESIDENT MAYER: Senator Kavanagh, will you yield?

SENATOR KAVANAGH: Yes, Madam President.

ACTING PRESIDENT MAYER: The Senator yields.

SENATOR MARTUCCI: Thank you, Senator Kavanagh. Good to see you, as always.

SENATOR KAVANAGH: Good to see you.

SENATOR MARTUCCI: So my colleague Senator Helming just asked a question, which is a question that I'm hoping you can help me with: Why was the date of August 31st chosen for this piece of legislation in terms of extending the eviction moratorium through August 31st?

SENATOR KAVANAGH: Because it is -- through you, Madam President, because we believe that based on the data that we have reviewed and based on the recommendations of the CDC and our experience so far with the moratorium and the CDC's review of the effects of letting eviction moratoria expire prematurely, that four months seems like the right amount of time.

Obviously there's no perfect science

to that, but we put the moratorium in place at the end of December for four months and at this moment, based on the data that I've reviewed, we believe that four months is the right amount of time.

SENATOR MARTUCCI: Madam President, will the sponsor continue to yield.

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

SENATOR KAVANAGH: Yes, Madam President.

ACTING PRESIDENT MAYER: The Senator yields.

SENATOR MARTUCCI: So since what I'm hearing here is that public health is one of the drivers -- really the primary driver behind this piece of legislation, would you agree, then, that the CDC is a reliable source of public health information?

SENATOR KAVANAGH: Yes. And as you may note, the sponsor's memo for this bill cites a great deal of data from the CDC, which I'm sure you've had an opportunity to review.

The critical point is that the CDC is making decisions for the entire country based

on the data for the entire country. We are basing our decision today on the data for the State of New York, and the source of that data is the CDC, but they are asking a different question. They are asking about the rates of COVID transmission nationally. We are asking about the rates of COVID transmission in the state.

And as of today, the data justify an extension of this moratorium, just as the data in March justified a three-month extension of the national moratorium.

SENATOR MARTUCCI: Thank you, Madam President. Will the sponsor continue to yield.

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

SENATOR KAVANAGH: Yes, Madam President.

ACTING PRESIDENT MAYER: The Senator yields.

SENATOR MARTUCCI: So since that date of August 31st was chosen for local reasons -- when I say "local," I mean based on the State of New York's data -- could you share

maybe the names of public health experts or individuals who you consulted with to actually arrive at that date?

SENATOR KAVANAGH: Through you, Madam President, as I've already said, we relied on the extensive analysis -- that is updated every week for every state in the country -- of the CDC.

And as I noted before, the current -- in the memo that was written -- you know, this bill was introduced last week. As of that point, the COVID transmission rate, the community transmission rate in the state was more than twice the rate that CDC considers a high rate. And that was true in virtually every county in the state. The one state that had a low transmission rate -- I'm sorry, the one county in the state that had a low transmission rate was Hamilton County as of that moment.

We are, as has been noted, on a positive trend, both nationally and at the state level. But at the moment the most recent data from the CDC -- it's a weekly analysis of the case -- the community transmission case rate per 100,000 people. The most recent weekly summary

from the CDC says that that number statewide right now is at 188 cases per 100,000. That is considered a high rate.

The CDC in fact considers any rate above 100 per 100,000 a high rate. They don't have another category for "extraordinarily high rate." High is as high as it goes in their ranking system. So we have a rate that is nearly twice the rate that they would consider concerning.

For what it's worth, on March 28th when the CDC decided that a three-month extension applying to all 50 states was appropriate, the transmission rate per 100,000 was 129.86. So we have a very substantially higher rate than was present nationally when the CDC decided in late March to extend this moratorium through the end of June.

I also note that, you know, we don't know what the CDC would decide is the appropriate number nationally if they were to make that decision today. They made that decision in late March. They decided at that time that three months was the appropriate period.

SENATOR MARTUCCI: Will the sponsor

continue to yield.

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

SENATOR KAVANAGH: Yes, Madam President.

ACTING PRESIDENT MAYER: The sponsor yields.

SENATOR MARTUCCI: So while I understand all those facts and figures and data and it certainly sounds like here someone -- perhaps you, who crafted this bill -- went through and arrived at those conclusions with respect to New York's infection rates and picked this date of August 31st.

So I guess my question, very simply, is has the CDC -- given the fact that the CDC covers the entire country and different states have different infection rates, has the CDC released any guidance at all to individual states or individual regions in the country indicating that it would be appropriate to select a later date, as we have, based on data?

SENATOR KAVANAGH: Through you, Madam President. The CDC has not opined specifically about New York's eviction

moratorium, as far as I know.

And I would note that, Madam President, this is also a moratorium on the foreclosure for taxes and for mortgages and for tax lien sales against homeowners, and also against small landlords and also against small businesses and small commercial property owners. So this is a broader base.

And my colleague earlier in this session was talking about the struggles of small landlords, especially homeowners that might have tenants that they're using to cover their costs. It is important to note that what we're doing today is protecting all New Yorkers and their need for housing stability, not just residential tenants, although that's a very important part of what we're doing.

But with respect to eviction moratoria, the CDC, when they announced their very extensive order, to explain how they reviewed the situation and how they determined that a three-month extension was valid, was warranted at that time, they noted that they had done a review of moratoria at the state level and a review of states that had continued their

moratoria and a review of states that had allowed their moratoria to expire, and they found that the expiration of a moratorium caused, on average, a -- there was a 60 percent higher case rate after states allowed an eviction moratorium to expire than the states that did not allow those to expire. They corrected for other public health factors that were happening behind the scenes.

So effectively, the CDC has concluded that state-level eviction moratoria have prevented the spread of COVID-19 to the extent that states have kept them in place.

Secondly, I would note that the CDC specifies that states can and should take more stringent measures as appropriate in their state. That order is a minimum. It is effectively not in place in New York because our standards are more stringent and we join many states in the country that have adopted more stringent standards.

And again, CDC's analysis of those stringent standards has said if you allow them to expire prematurely, you are increasing the spread of COVID-19. And presumably the number of

New Yorkers or people in your state who will die.

SENATOR MARTUCCI: Thank you, Senator.

Madam President, will the Senator continue to yield.

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

SENATOR KAVANAGH: Yes, Madam President.

ACTING PRESIDENT MAYER: The Senator yields.

SENATOR MARTUCCI: So just to shift gears a little bit, to date, are you aware of a number -- do we know how many hardships have been filed in connection with this program, the Emergency Rent Relief Assistance Program, specifically?

SENATOR KAVANAGH: Madam President, through you, I think the -- my colleague is referring to hardships under the moratorium rather than under the COVID-19 Emergency Rental Assistance Program, which I'm happy to talk about as well.

There is no reliable number about that, because the main use of that form is for a

tenant to return it to their landlord when there is a rent demand or when there is an assertion that the landlord believes that the tenant might be subject to eviction.

So I've seen news reports of something on the order of tens of thousands of those being filed in court. But again, the principal purpose of those forms -- and again, I would note that those forms can be filed by residential tenants, residential homeowners, small landlords, small businesses, and in all those cases either trying to avoid eviction or foreclosure.

But again, unless you have a complete survey of all landlords in the state and their interactions with their tenants, that's not really a knowable number at this time.

SENATOR MARTUCCI: Thank you.

Madam President, will the sponsor continue to yield.

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

SENATOR KAVANAGH: Yes, Madam President.

ACTING PRESIDENT MAYER: The

Senator yields.

SENATOR MARTUCCI: Well, so since we don't know the exact number that have been filed, and presumably there are thousands and thousands -- or tens of thousands of these applications, are you aware of any cases where someone has falsified their application for a hardship?

SENATOR KAVANAGH: Through you, Madam President, I have heard and seen news reports in some cases with landlords or others asserting that a particular tenant is not telling the truth on that form, by the lights of the landlord. But I am not aware of any case where it has been demonstrated that a tenant or a homeowner or a small business owner or a small landlord has falsified that information.

SENATOR MARTUCCI: Thank you, Madam President. Will the sponsor continue to yield.

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

SENATOR KAVANAGH: Yes, Madam President.

ACTING PRESIDENT MAYER: The

Senator yields.

SENATOR MARTUCCI: So that having been said, Madam President, the previous eviction moratorium bill that we took up here did not include any income limits as the federal program had. And that program allows you to qualify if you made $99,000 individually last year or 198,000 if you filed jointly.

Does the extension that's on the floor today include any similar income limits?

SENATOR KAVANAGH: Through you, Madam President. We have made the decision -- the extension that is on the floor today does not change the underlying rules of the various moratoria that we're extending today.

There's certainly, you know, the opportunity for this Legislature to do that at any point. But what we're doing today is extending the moratoria. So there's nothing in this bill that would affect those criteria.

And the decision we have made is to the extent people are experiencing a hardship that might cause housing instability, that allowing a court process to go forward and possibly remove people from their homes, given

that we think there may be -- although my colleague's question before was about how many hardship declarations have been filed. We do have some data that suggests that somewhere between 800,000 and 1.2 million households, perhaps being two and a half or 3 million people in New York, in our state of under 20 million, are experiencing a hardship and are behind in their rent.

So the decision that we are making today, just as we've made many hard decisions during this pandemic to restrict certain economic activities, is to restrict the eviction process because we believe, based on the guidance from the CDC, that that is a necessary public health measure and will reduce the spread of COVID-19.

SENATOR MARTUCCI: Thank you.

Madam President, will the sponsor continue to yield.

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

SENATOR KAVANAGH: Yes, Madam President.

ACTING PRESIDENT MAYER: The Senator yields.

SENATOR MARTUCCI: Madam President, through you. So in essence, what I heard was that someone who has a net worth in the millions or tens of millions who can claim some negative financial hardship as a result of COVID would still qualify under this program. Is that correct?

SENATOR KAVANAGH: Through you, Madam President, I don't believe that the Senator heard that on this floor.

The moratorium requires that somebody declare that they have a hardship that prevents them from meeting their housing expenses, either their rent or their homeowner expenses. If they are having trouble paying their mortgages or their taxes and that would lead to housing instability -- or, in the case of tenants, if they are experiencing those things and they're having difficulty paying their rent -- then they can sign a form under penalty of law to indicate that to their landlord and to the courts, and at that point they are protected from eviction and they are protected from their home being taken from them by foreclosure.

SENATOR MARTUCCI: Thank you,

Madam President. Will the sponsor continue to yield.

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

SENATOR KAVANAGH: Yes, Madam President.

ACTING PRESIDENT MAYER: The Senator yields.

SENATOR MARTUCCI: So maybe I'll just go at it a little bit different way, then.

So if there were an individual who, say -- whose income was impacted by 50 percent, and this individual made $100,000 a year and their income was impacted by 50 percent -- however, that individual had a net worth that was, say, $20 million -- would it be possible for that individual to qualify under this program?

SENATOR KAVANAGH: Through you, Madam President, I am always careful not to predetermine the decisions that judges and others will make about how our laws should be interpreted.

But the question before any judge that was reviewing that, or any prosecutor that's determining whether the person signing that form

has committed perjury, is did they have a hardship that prevented them from being able to meet their housing expenses. And if somebody wants to decide that they had many millions of dollars and that those assets were liquid and therefore they did not experience a hardship that caused housing instability, then they wouldn't qualify.

If they have some -- if there's some reason they can't access that money, for example, or if they have a health risk that might prevent them from moving, maybe they're immunocompromised, maybe they haven't left their home in months -- there are a lot of factors that could be considered.

But as a general matter, what people are attesting to is that they've had a significant loss of income or a significant increase in expenses as a result of COVID, that those factors caused them to be at risk of losing their home and that hardship is causing them to be unable to meet their housing expenses, and that's the circumstances in which this bill covers them.

SENATOR MARTUCCI: Thank you,

Madam President. Will the sponsor continue to yield.

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

SENATOR KAVANAGH: Yes, Madam President.

ACTING PRESIDENT MAYER: The Senator yields.

SENATOR MARTUCCI: So shifting gears a little bit, as you may remember, Senator, we stood here with a great discussion, at about 3 a.m. the night that we closed out the budget, on the Emergency Rental Assistance Program. And this is a $2.4 billion program that was supposed to help our landlords and our tenants who need help now, need it now more than ever.

At the time you were very confident that OTDA was going to be able to get this program up and running very quickly so that way we could provide this immediate relief to our tenants and landlords. Would it be possible for you to give us an update on the program and how it's rolling out at this point?

SENATOR KAVANAGH: Through you, Madam President, I was indeed optimistic at that

point. I remain so, that that program -- that those several programs are going to assist those who are affected by this moratorium.

I would note that this is a public health measure and not a part of that program. We believe that a moratorium on evictions, as the CDC has demonstrated, reduces the spread of COVID, and that is the main purpose.

However, of course we're very aware that landlords and tenants and homeowners and small-business owners and commercial landlords are all struggling, and so we are very anxious to see those programs rolling out.

I was not present at an 11:30 a.m. press conference today held by the mayor and his staff, but I understand that they have said now, as of this morning, that that program will be up and running by the end of the month -- or the end of this month, May.

I began trying to get that funding out of the federal government last March. I introduced legislation that early to do it. I amended that legislation as the federal bills finally began to provide relief. And ultimately we got that language done in the budget, which

was signed about a week and a half ago now, that requires that program to be up and running as soon as practicable. I assume that OTDA is indeed putting that program in place as soon as practicable.

In addition to the $2.35 billion that is available for tenant applicant relief, there is also $100 million of state money. We have another bill that we're working on that I think will come to this floor soon carried by my colleague Senator Skoufis that will clarify the circumstances in which landlords can directly apply for that money, even if their tenant is not actively participating in that process.

And I would note also that we have a $600 million program for homeowner relief as well, direct homeowner relief where there's not a tenant present.

So it is important that that money get out as soon as possible. I've certainly been pushing for that and will continue to do so.

SENATOR MARTUCCI: Thank you.

Madam President, will the sponsor continue to yield.

ACTING PRESIDENT MAYER: Senator

Kavanagh, do you continue to yield?

SENATOR KAVANAGH: Yes, Madam President.

ACTING PRESIDENT MAYER: The Senator yields.

SENATOR MARTUCCI: Madam President, through you. The sponsor just mentioned something that I want to touch on, it was the piece of legislation that the sponsor introduced earlier in this session.

In fact, I remember it in my first committee meeting on the Housing Committee, this piece of legislation was heard. And I was very excited at that time to hear that there was going to be a voucher program put in place so that this money could be distributed.

We knew in late December that the first billion of rent relief was coming from the federal government. My question for the Senator is, why didn't we pass this legislation then? Why did we wait till the budget, and here we stand a month after the budget still with this issue completely unaddressed?

SENATOR KAVANAGH: Through you, Madam President. I share my colleague's

frustration that this program is not up and running as of this date.

However, just for context, the date the federal government -- the date the former president of the United States decided for the first time that any rent relief at all was warranted was around December 28th, if I'm not mistaken. That was the date he signed that piece of legislation that provided $1.3 billion.

Certainly I'm sure my colleague understands that the day the president signs the bill, the money is not sitting in an account ready for New York City to spend.

There was then subsequent guidance from the Treasury Department of the prior presidential administration that began to spell out how that money could be spent. There was then a change in administration -- it was touch and go there for a while on January 6th, but we got through it, and we have a new administration and a new Treasury Department that then put out additional guidance clarifying additional aspects of what states were able to do with that money.

We then had a subsequent piece of legislation in the new administration, with the

new Congress, that added about a billion dollars and once again changed the parameters under which people can spend that money.

So again, as the sponsor of this bill, I was keeping an eye on those things. I was amending the bill as we went. At some point, as we got close to the budget process, like things in Albany, this very big and important issue got rolled into that budget process.

You know, again, I've been ready and willing and able to discuss this at any point in the last year, really. But, you know, we have worked, you know, expeditiously to get the legislation passed and we are now looking to the executive branch to roll the program out.

SENATOR MARTUCCI: Thank you, Senator.

Madam President, will the Senator continue to yield.

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

SENATOR KAVANAGH: Yes, Madam President.

ACTING PRESIDENT MAYER: The Senator yields.

SENATOR MARTUCCI: So, Madam President, I completely share in my colleague's frustration with this state's habitual inability to distribute this money. I agree that this should have been done long ago. And perhaps -- in fact, if it was done, we might not be standing here having this debate today.

But, you know, many of my constituents right now who are property owners are paying their mortgages and some of the tenants -- many of the tenants that I represent are continuing to pay their rent on time every month. Does this bill provide anything for those people who have done the right thing, who have somehow made ends meet even in the face of all the challenges that we face economically?

SENATOR KAVANAGH: Through you, Madam President, this bill provides for the safety and health of all New Yorkers. Again, the principal purpose of this bill is to prevent another spike in COVID-19 infection rates that will undo the progress we've made in recent times.

We've made a fair amount of progress. Our infection rates are moderate

relatively to where they've been in the past, but they are still much higher -- very stubbornly high at the moment. We have -- about 30 percent of our population has gotten two doses of the vaccine or a complete regimen of the vaccine if they had a one-dose vaccine. We are not out of the woods yet.

And so the purpose of the bill is certainly to protect tenants and homeowners who are themselves having a hardship, as well as small-business owners and small landlords and small commercial property owners that are having a hardship. But its principal purpose is as a public health measure to prevent all of us from getting sick and from extending this pandemic unnecessarily, which would be what would occur if we were to allow these moratoria to expire prematurely.

SENATOR MARTUCCI: Thank you.

Madam President, will the sponsor continue to yield.

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

SENATOR KAVANAGH: Yes, Madam President.

ACTING PRESIDENT MAYER: The Senator yields.

SENATOR MARTUCCI: So through you, Madam President, I'm not sure that you've even had a chance to see it yet, but I had the opportunity before coming on the floor to have a chance to review a Bloomberg report which was released just a couple of hours ago, and in that report it talked about New York's $2.4 billion of emergency housing relief and how that money is expected to cover less than 80 percent of the total back rent and utilities as of March of this year.

And I know you pointed to the data before where you said somewhere between 800,000 and 1.2 million families are in need of some sort of rental support.

Do you believe that the $2.4 billion that's been allocated in the budget we passed just last month is going to be enough? And if not, what do we do when the money runs out?

SENATOR KAVANAGH: Through you, Madam President, I'm not sure what data Bloomberg or my colleague are referring to. But the data I have seen suggest to me that it is reasonably

likely that the money we've allocated will cover the full need in the state.

But obviously that depends on how long the emergency lasts and how much continuing hardship that we experience. And of course it depends on some things that are really unknowable, which is how much rent arrears are really out there. And no one has really truly reliable data on that.

One study that's been done on behalf of the 50 state housing agencies, the agencies like HCR in New York, suggested it was an analysis as of late October that through January, through the end of January, the total rent arrears would be between 1.4 and 2.2 billion dollars. So if it is on the very high end of that and we've continued to accrue arrears since then, we may in fact fall short with our $2.4 billion program.

Having said that, there is always a level of arrears that exists in the market. You know, it is unlikely that a hundred percent of all eligible tenants will apply for this program. It's unlikely that a hundred percent of landlords will participate in this program. And I do not

believe that in the near future, at least, there is a meaningful danger that this program is going to run out of money.

And I obviously, as someone who's been committed to ensuring that we cover the full need, would continue to fight for whatever funds are necessary. But I do think in the range of 1.4 to 2.2, the optimistic assumption is that it was closer to 1.4; the most pessimistic assumption is closer to 2.2. If it were indeed at the very high range and all the tenants in the state were to apply and be found eligible and receive the money, we may in fact need at some point down the road additional funds.

I will note that there is a mechanism to get additional funds. My colleague, even during the commentary on the amendment to the bill that was voted nongermane in this house, mentioned this provision, but it actually has been updated subsequent to the version she described. She had said that the -- there's a danger of losing the money if it's not spent by September.

What she's referring to is a provision in the federal law that says that after

a period of time the federal government will review the experiences of all the states who have received money, and those who have spent more than 50 percent of their money will be eligible for additional money, and those who have spent less than 50 percent of their money, some of their money might be reallocated to the states that have spent more than 50 percent.

It certainly behooves New York to get this money out the door to exceed that 50 percent mark. But the deadline for that is next March, 2022, not September 2021 as it was in the original provision. So we do have some time.

And again, it is my hope that if our -- if our rent arrears estimates are at the high end, we may indeed need additional federal funds, and I'm sure my colleague will join me in pushing for those funds.

SENATOR MARTUCCI: Thank you, Madam President. If the sponsor will yield, I have one final question for him. I thank him for his time.

ACTING PRESIDENT MAYER: Senator Kavanagh, do you yield?

SENATOR KAVANAGH: Yes,

Madam President.

ACTING PRESIDENT MAYER: The Senator yields.

SENATOR MARTUCCI: Thank you again for this robust debate, Senator.

My last question is this. You know, we've all heard -- well, I guess I'll start with this. Certainly my colleague Senator Helming brought this up before, is that our conference does not support the idea that there should be mass evictions immediately. In fact, we think that an appropriate date would be June 30th.

And, you know, when we look at the state's habitual inability to get $2.4 billion out of the door, almost all of which has come from the federal government, to tenants and landlords that are in need, it's just -- it's mind-boggling. And frankly, I agree with you and I hope that we're able to get that money out the door quickly so that we can potentially even receive more if needed.

But, you know, we've all heard from tenant advocates, myself included, that what must happen if these federal funds are not enough is that we must cancel rent. And today we have this

ballooning debt, tremendously ballooning debt that moves forward.

Do you feel like these extensions in the face of what could be insurmountable debt, especially in the face of this $2.4 billion that we have, is going to create a situation where effectively rent will have to be canceled because there will be no way to address it?

SENATOR KAVANAGH: Through you, Madam President, no, I do not.

I have from the beginning of this pandemic -- you know, I have great respect for the Cancel Rent movement in basically demonstrating the magnitude of this crisis and the need for aggressive action in response.

But I think that, you know, that phrase has become kind of, you know, a catchword for a broader desire to close the gap and make sure everybody is made whole. So, you know, there's an approach where you cancel rent and then you compensate the landlords. This approach is different, partly because it is based on the federal law, which requires that the tenant who has the rent arrears be an applicant.

So what we're doing here, instead of

canceling the rent and then compensating the landlords, we are having the tenants and the landlords apply jointly, put their data, and then paying the full amount of that rent.

And I don't believe that -- at this time, as I've said, I believe that $2.4 billion, with an additional $100 million that we've allocated, some of which will be available to landlords who either can't get in touch with their tenant, maybe because they've left, or tenants who decline to participate in this program, I do believe that we have the tools in place now to cover the vast majority of this need.

And again, with $600 million direct for homeowners, I think that will also be a huge help.

But I think that the problem we face now is not so much a problem of scarcity of funds as it is a need to distribute those funds. And then in the meantime, we, as many other states have -- and I would note that a number of states have extended their moratoria beyond June 30th, including Kansas and several other states that are not known as bastions of anti-landlordism.

But many states have decided, as we have, that we need a continuing public health measure in the meantime while we're working to distribute those funds. And it is not simply a question of whether those funds are adequate or not adequate, it is a question of whether we are willing to do what's necessary to prevent the spread of COVID-19.

And so we're taking this step today. And again, hopefully in the next few weeks, as was announced this morning, this program to begin to undo the financial damage of this crisis will take hold. But in the meantime, we're taking this step that is absolutely necessary to prevent COVID-19 from spreading.

And again, we will have opportunities to review these things again. Perhaps time will demonstrate that the Minority was correct and August 31st was unnecessary. But that would be a remarkable change in the trajectory of this pandemic based on the data we have right at this moment.

SENATOR MARTUCCI: Thank you. Thank you, Senator.

Thank you, Madam President, on the

bill.

ACTING PRESIDENT MAYER: Senator Martucci on the bill.

SENATOR MARTUCCI: So first I want to begin by thanking my colleague Senator Kavanagh for his responses today.

Look, I don't think that it's necessary to keep housing courts in our state closed to ensure public health. And simply what we're asking for here today is for this Legislature to stop interfering in the relationship between property owners and their tenants, because our courts have displayed that they can be safely open and continue to conduct business even in the face of COVID.

You know, earlier this month in a budget debate Senator Kavanagh and I had a very similar discussion, as I was saying, at 3 o'clock in the morning where we talked about the importance of the Emergency Rental Assistance Program. And as you may recall, that program was worth $2.4 billion, and it was aimed at helping tenants pay back rent.

Let me be crystal-clear. We do not want to see mass evictions, what we want to see

is this $2.4 billion put in the hands of our tenants and our landlords to address an absolutely mounting debt that has been just growing and growing and growing since March of last year.

That night Senator Kavanagh and I both shared optimism that OTDA and its program would not fall victim to the same failures that this state has fallen victim to again and again in terms of distributing this money. And here we stand a month later, similarly disappointed that we have done just that.

My office receives hundreds of calls every single week about this very issue, and we're hearing a lot from small-property owners. I can think of two right off the top of my head: A senior who's trying to sell her home in my district but can't. She's struggling to continue to support her home, has made the tough decision to sell the home that she loves so much, but has a tenant who she can't evict from the property in order to sell it. So she continues to struggle and just be absolutely consumed by mounting debt.

I also have another individual who called me who told me that he has to raid his

401(k) to come up with the money so that he can continue to support his property because his tenant has not paid him in over a year.

Again, what I'm not asking for today are mass evictions. What I'm asking for are these folks to have an opportunity and their day in court.

Again, like I said before, we were assured that this $2.4 billion would be distributed immediately to provide that relief. And the fact of the matter is we have had months, the Majority has had months to act on getting this money out even prior to the budget, and instead we sat on our hands and found ourselves at this point today. And between executive actions and laws passed here in this chamber, we will be well over a year into this moratorium before it's set to expire.

So despite enhanced unemployment, stimulus checks and other relief, we're still here today not giving our small landlords, so many of whom I represent, a fair shake and their day in court.

So, you know, again I'll end by saying I certainly share in my colleague's

frustration that this state has been unable to distribute the $2.4 billion. That absolutely needs to happen today as this debt just continues to mount. And for that reason, today I'll be opposing this bill -- again, I believe that our landlords deserve their day in court -- and I encourage my colleagues to do the same.

Thank you, Madam President.

ACTING PRESIDENT MAYER: Senator Palumbo.

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

ACTING PRESIDENT MAYER: Senator Kavanagh, do you yield?

SENATOR KAVANAGH: Yes, Madam President.

ACTING PRESIDENT MAYER: The sponsor yields.

SENATOR PALUMBO: Very good. Thank you, Brian, how are you?

I just have a few questions, if I may, regarding the court proceedings specifically, and a few specifics regarding an eviction proceeding.

And since you mentioned that there are essentially no changes -- it looks like we just changed the date from May 1st to August 2021 -- I did have some experience with some colleagues and constituents who had to deal with this enacted law that we're now extending regarding the section -- and I'm just looking on page 3, where the prohibition is regarding initiating eviction proceedings.

So I guess my first question to you is, does that also include the period of time that would involve sending a notice to a tenant? For example, a notice to terminate a month-to-month tenancy, where now they've been in for over 14 months, so it would be a 60-day notice or a 90-day notice.

Under this new bill, just by way of legislative intent so we can clarify those issues, could a landlord today or tomorrow send out a notice to terminate tenancy to at least start that 90-day clock, at which time they could then proceed with an eviction once the moratorium is lifted?

SENATOR KAVANAGH: I just wanted to -- yes. The short answer is yes, that notice

could be sent. In fact, the bill, the underlying bill contemplates landlords sending notices to their tenants.

The requirement is that they include in that notice the hardship declaration form so that if the tenant is having a hardship, they can return the hardship declaration to the landlord.

SENATOR PALUMBO: Will the sponsor yield for another question, please.

ACTING PRESIDENT MAYER: Senator Kavanagh, do you yield?

SENATOR KAVANAGH: Yes, Madam President.

ACTING PRESIDENT MAYER: The Senator yields.

SENATOR PALUMBO: Thank you, Senator.

And so in that regard, and I'm glad that you were able to clarify that, in the event that they serve a 90-day notice to terminate tenancy, a month-to-month tenancy, along with a hardship declaration, once that hardship declaration is filed, there is a stay that's entered by the court, does that stop the clock on that 90-day termination of tenancy notice?

SENATOR KAVANAGH: Through you, Madam President, I did want to consult with counsel on this.

And I do want to emphasize again that we get to write the laws, we don't always get to interpret them.

But in my mind the provision that my colleague is talking about is a provision that was added in the Housing Stability and Tenant Protection Act of 2019, and it said that basically if you have been in residence for multiple years, you need more than a month's notice to be removed, and if you've been there for three years or more, you need 90 days notice.

So it is my understanding of -- again, this is the bill we passed in December, that that notice could be filed and the notice would still be valid, but you wouldn't be able to take action in court if the tenant has a hardship until the expiration of the moratorium.

SENATOR PALUMBO: Thank you, Senator. Would you yield for another question, please.

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

SENATOR KAVANAGH: Yes, Madam President.

ACTING PRESIDENT MAYER: The Senator yields.

SENATOR PALUMBO: And I appreciate that, Senator, because I've had a number of practitioners and local judges who are concerned about that. Because technically, it's similar to a notice of claim when you're suing the municipality, where you need to have that, that is actually a prerequisite to suit that needs to be adequately pled within, say, a summons and complaint against a municipality, or in a special proceeding you must plead in your petition.

So just so that we're clear -- and I do appreciate that, that we've got -- the timeline would still be the same, but the notice to terminate tenancy or notice to quit, the clock would tick despite the hardship, and then when the moratorium is lifted, a petition could be filed with the 17-day window of service and all the other aspects, but that notice to terminate would be valid, just so we're clear.

I'm sorry to kind of ask the question again.

SENATOR KAVANAGH: Through you, Madam President, to the extent the intent of the Legislature were ever to be discerned from the proceedings today, I would just note that what my colleague is talking about is the text of a bill we passed in the waning days of December, which is not -- that particular provision is not before us today. I'm just speaking about my recollection and my understanding of it as of this moment.

But, you know, obviously these issues may have to be litigated. But that's -- my understanding is that there's nothing in this bill that would toll the -- toll the notice period from running, in the bill that we passed in December or the bill we're passing today.

SENATOR PALUMBO: Thank you, Senator.

And, Madam President, would the sponsor yield for another question, please.

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

SENATOR KAVANAGH: Yes, Madam President.

ACTING PRESIDENT MAYER: The

Senator yields.

SENATOR PALUMBO: Thank you, Senator.

And if I could even direct your attention on a similar issue to page 3, it says Section 4, that same paragraph, prohibition on initiation of eviction proceeding. If we go to the lower half of it, that there shall be no initiation of an eviction proceeding against the tenant until at least August 31st now, 2021, and in such event any specific time limit for the commencement of an eviction proceeding shall be tolled also until August 31, 2021.

So the commencement of an eviction proceeding will also be tolled, and the time limit -- they'll get, I guess, a break on any statute of limitations.

In that regard, under New York law you cannot file a special proceeding if a tenant is out of possession. So in the event a tenant vacates the property on August 29th, on September 1st is the -- since an eviction petition cannot be filed, can the owner then file a summary proceeding against that tenant or have they foregone that opportunity since the tenant

is now out of possession?

SENATOR KAVANAGH: So through you, Madam President, again, I want to emphasize that these are questions of court proceeding and how courts will interpret the statutes, which may vary by judge and may vary by court, and so I don't want to be the final word on this.

But it's my understanding that you would have an ability to pursue a judgment. You may have to do it in a court other than housing court, where you would normally do that -- have access to that summary proceeding.

I would also note that a bill that we expect to take up tomorrow is intended to allow landlords to get compensation where their tenant may have voluntarily left with some arrears in place, even if the tenant is not present or cooperating. So we are trying to address the landlord's needs in that circumstance.

If there are clarifications that the courts need or anybody else needs, obviously, as I said before, we could certainly change the provisions of underlying statute. Today we are putting in place an extension to ensure that it

does not expire. In fact, it expired effective Saturday if we don't take action today.

SENATOR PALUMBO: Thank you, Senator.

Madam President, if I could just go on the bill for a moment, because I have one more section that I'll come back and ask a few questions on.

ACTING PRESIDENT MAYER: Senator Palumbo on the bill.

SENATOR PALUMBO: Thank you, Madam President.

And see, that's the concern that I raise, because extending the -- any time limit for the commencement of an eviction to the same day has no effect. In fact, it's useless. Because we need to really -- and I would like the sponsor to consider extending it to maybe the end of September or October. Because the way it works in New York State, you're not allowed to sue for back rent.

So now we're talking 14 months. This will be close to 18, 19 months worth of rent. Say it's 15, $20,000 -- a significant sum, yes. But as a practicing lawyer, not many

lawyers are going to take a case in Supreme Court, which is -- the jurisdictional limit now has to go there. For me, for example, in the Hamptons and on the East End of Long Island, in the eastern end of my district, the jurisdictional limits of those town courts is $3,000.

But if you do it by way of a summary proceeding, the jurisdictional limit is virtually unlimited. You can get hundreds of thousands of dollars in back rent in a summary proceeding, but not in a small claim.

So now you're going to have to sue a full-blown lawsuit in Supreme Court for 15, $20,000 -- maybe a little more, maybe a little less. But ultimately any moderate number like that -- first of all, you're going to be paying your lawyer a lot of money, probably more than you're seeking to recover, and you're also going to have to go through a full-blown lawsuit -- depositions, interrogatories, bills of particulars, the whole shooting match.

And as it stands today in Suffolk County, if you were to certify for trial today, you're about a year and a half from

getting a jury. So -- or even a bench trial.

So this is something that will kick this money way, way, way down the road simply because the tolling of any time limit to bring an eviction proceeding ends the day before you're actually allowed to file an eviction proceeding.

So I would ask that the sponsor and the Majority consider making some changes to that particular bill, or that section of the bill, because if this has to go through, the landlords have absolutely no relief. And owners, particularly small owners who are looking to finance their buildings, where they have equity and collateral, by way of getting some of that rent back -- maybe even through a compromise, but they can't do it at a special proceeding.

So thank you, Madam President. Will the sponsor yield for just a few more questions, please.

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

SENATOR KAVANAGH: Through you, Madam President, if my colleague would indulge me, I just want to -- may want to respond to his comments just now, if that's okay. It's his -- I

think it's his time, so is -- may I respond?

SENATOR PALUMBO: Oh, certainly, I'm sorry. Yes, absolutely. Please. Please do, Senator. Thank you.

SENATOR KAVANAGH: Okay, thank you.

Just to note, the -- first of all, that the kind of harm that my colleague is talking about, you know, exists in times when we don't have a pandemic and we don't have a moratorium in place: A tenant could leave without -- with multiple months in arrears, and a landlord would have to go through some of the mechanisms that my colleagues describes.

But again, I would also note that this bill was passed in December. I would note that notwithstanding something -- well, let me -- let me actually just -- to the point, because it's his time, this moratorium was scheduled to expire May 1st. It's been in place for four months. If there are technical changes that my colleague or attorneys in the real estate industry or, frankly, attorneys for tenants think are necessary to clarify aspects of this, this is a state law, it can certainly be changed by the Legislature.

So if my colleague or anybody else there wants to talk about changes and thinks they're warranted, they can be considered. But what we're doing today is ensuring that the most basic protections of landlords and tenants and homeowners and small-business owners and small commercial property owners are in place going forward.

SENATOR PALUMBO: Thank you, Senator. I appreciate it.

Would you mind yielding for a few more questions, please.

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

SENATOR KAVANAGH: Yes, Madam President.

ACTING PRESIDENT MAYER: The Senator yields.

SENATOR PALUMBO: And in that regard, Senator, my concern too, then, is the backlog of courts, because we are going to have a year and a half worth of evictions that are now going to flood the courts.

Was there any consideration regarding allowing the proceedings to go forward,

however issuing a stay on the execution of the warrant of eviction? Meaning that they can go through the process, they can get their judgments, they can do what they have to do, but everything will be stayed until the moratorium expires, at which time then they could file that with the sheriff and remove the tenant. Was there any consideration in that regard?

SENATOR KAVANAGH: Through you, Madam President, this is a decision we made in December with the initial legislation.

And, you know, the conclusion we came to at that time, which we are now extending, is that a lot of the harm that would come from lifting an eviction moratorium would come from a million renter households being served with notice that they have to appear in court, and perhaps actually appearing in court. And that certainly would lead to a flood now of eviction cases.

There would also presumably be lots of foreclosures of homeowners, including tax foreclosures and mortgage foreclosures of small businesses. So what we've decided is that this activity of trying to adjudicate the hardship of

a million households is not an activity we can safely engage in during this pandemic.

Courts are continuing to function as necessary. There's an exception in this bill, for example, for instances where the tenant might be causing danger to other residents of the building or other people, or interfering with the peaceful enjoyment of other occupants of the building in their homes, and those cases are proceeding. There are also -- you can also proceed with cases where the tenant does not have a hardship.

But the bulk of the -- the cases that are being restricted here are the ones where they have a hardship. And by August, my assumption would be that in most cases those households are going to be applicants for the Emergency Rental Assistance Program and hopefully we'll be clearing these arrears out by then.

But a flood of evictions is exactly what we're trying to avoid, and we're especially trying to avoid it during this pandemic, which is very -- still very much a threat to our safety and health.

SENATOR PALUMBO: Thank you,

Senator. Would you yield just for one more question -- one or two more. I'm trying to get them in line.

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

SENATOR KAVANAGH: Yes, Madam President.

ACTING PRESIDENT MAYER: The Senator yields.

SENATOR PALUMBO: Thank you, Senator Kavanagh.

And really, regarding that hardship, but it's not limited to financial hardship. Right? So when we read these -- and it's in all of the different hardship forms, that one of the reasons could be moving expenses and difficulty you have securing alternative housing make it a hardship for me for relocate. Or even Section B, it's an "or," it's not an "and," inclusive, that someone would have an increased risk for severe illness or death, they're over the age of 65, or they have some sort of a disability or underlying medical condition, which may include but is not limited to being immunocompromised.

So if I have high blood pressure and

I'm 35 years old or I have some sort of a pulmonary issue, I fit the criteria. And regardless of my financial condition, they certainly would be able to honestly say "I have a hardship because I don't want to move because I have a physical ailment that puts me at higher risk." Right? Isn't that accurate?

SENATOR KAVANAGH: Through you, Madam President, that is not accurate.

The hardship declaration is not about the desire of the tenant to move or the desire of the homeowner to vacate their home. It is about having a hardship.

And the Section B he refers to is where you are asserting that vacating the premises and moving into new permanent housing would pose a significant health risk because you have one of those conditions that he mentioned. And so somebody who has a significant health risk and therefore can't move is protected from being forced out of their home during the pandemic.

SENATOR PALUMBO: And I understand. If you'd yield just for one more follow-up question, please.

ACTING PRESIDENT MAYER: Senator

Kavanagh, do you continue to yield?

SENATOR KAVANAGH: Yes, Madam President.

ACTING PRESIDENT MAYER: The Senator yields.

SENATOR PALUMBO: But my point is that that is not specific to a financial hardship. It could be a physical hardship, you have a sick child or something along those lines. That's the point I'm trying to make. Correct?

SENATOR KAVANAGH: Yes, Madam President, that is correct. There are -- there are -- for the eviction moratorium there are two distinct bases on which you could have a hardship. It could be because you're having a financial hardship that prevents you from being able to pay the rent or it could be because you have a condition that poses significant health risks if you are to be forced out of your home.

And that is -- it is the intent of the Legislature to protect all those folks, along with, again, homeowners, or protecting small-business owners from being pushed out of their small businesses. And our decision is that we want to protect people in those circumstances

during the pandemic as a means of preventing the spread of COVID-19.

SENATOR PALUMBO: Thank you, Senator.

On the bill, Madam President, please.

ACTING PRESIDENT MAYER: Senator Palumbo on the bill.

SENATOR PALUMBO: And I certainly appreciate the chairman's comments. And, you know, there's a lot of nuance to this. And obviously we all feel the pain of our constituents when it comes to these issues.

However, I believe there are some unintended consequences, and I've seen them in practical effect.

In my district, in Westhampton Village, a woman was called out of town for work, had a multimillionaire renting her home for less than market, who just didn't feel like leaving and going back to his multi-million-dollar brownstone in New York City. In fact, he finally left after the Post wrote an article and the man was shamed into leaving. But he was able to take advantage of this.

So there are some unintended consequences where it is not a specifically enumerated list of conditions or of situations. It's a very vaguely drafted hardship declaration. And quite frankly, when you look at the one section, moving expenses and difficulty I have securing alternative housing make it a hardship for me to relocate to another residence during the pandemic -- who isn't going to have a hardship to move anywhere during the pandemic? We're in a pandemic. This affects everyone. So that would apply to just about every human being in a home, in a rental or elsewhere.

And those are some real concerns that we have that unfortunately there are some bad actors. Overwhelmingly the people aren't, obviously. But this is not carefully drafted. In fact, Judge Marks was issuing administrative orders during the last year and a half regarding the execution of this, that there was no requirement that the tenant make a showing of financial hardship. There was at one point an AO for commercial buildings, but not residential.

And that was all during this fight that this one person was having, the owner of the

home, who because of work was coming back to New York and trying to move back with her five children, I believe it was, and her husband, back into her home. And this fella and his girlfriend just didn't want to go back to New York City, and they were hiding behind this. So there are no changes or clarifications made to this.

One last point. The hardship declarations are equally as available for landlords and owners of property to stay tax lien sales, to stay foreclosure proceedings. But the problem is this. We haven't been able to roll out this money and get it in the tenant's hands or even directly to the landlord's hands.

A landlord, an owner, is in significantly different shoes than a tenant. A tenant may not have assets. Typically, they don't, if they don't have a way to pay their rent. You can get a judgment against them.

And this is where we're going, because quite frankly we have 14 months, now working on 18 or 19 months of unpaid rent for people who are tenants who probably don't have significant means. And where are we going to go with this? Get a judgment against them that's

good for nothing or require the landlord to sue in Supreme Court and pay a lawyer tens of thousands of dollars in legal fees to recover probably less than they'll pay their lawyer.

And so who eats that? Well, the tenant can leave. They can find adequate new housing. And they can do what they can to maybe pay the judgment. If they don't have any assets, you can maybe garnish 10 percent of their wages. That is a very different effect than the small owner of a commercial property, of a residential property, of a building, that has now had -- yes, they can stave off the foreclosure, they can stave off the tax liens, they can stave all this off. But at the end of the day, they have collateral that's going to be taken.

So this sounds wonderful for tenants because tenants can dodge the bullet and they can figure out what they can figure out and maybe compromise when the eviction petitions are flooding the courts in September, when you have to file, serve them between 17 and 10 days, go to court, get a new date -- if you can even get on the docket. They get a mandatory 14-day extension. You're talking another month,

month and a half of unpaid rent.

I think most landlords are going to say, I'll do what I can to maybe save what I can save and significantly reduce that debt.

But in any event, those are the folks who we're leaving out in the cold right now. The landlords aren't the big bad landlords who are multi-, multi-hundred-millionaires and billionaires. The landlords I'm talking about are the ones in my district. Those are the folks who have two-or-three-unit buildings.

Those are the folks who rely on that income for a small commercial mixed-use building for their retirement, because they took their life savings and bought a six or seven hundred, $800,000, million-dollar, maybe, building. Yeah, that sounds like a lot. But when you take out a mortgage and you're dealing with debt service and dealing with the issues of obviously maintaining property in New York, which is not cheap -- any month, let alone a year and a half worth of lost rent can put you underwater for good. And that collateral will then ultimately be foreclosed upon at default interest rates, with attorney's fees, and the bank will get their money.

So this is what we have forgotten in this bill, that landlords need relief. And I know there's proposed legislation coming down the road. We have $2.4 billion sitting in an account, and nothing's been done. That's shameful.

So, my friends, this is a problem that we all need to deal with. And we get it. And I get the laudable intent of this bill. Certainly Senator Kavanagh has expressed his concerns, and they're genuine. We all agree that we're looking to get to the same place, just by different means.

And unfortunately, this is not the way to do it. I vote in the negative.

Thank you, Madam President.

ACTING PRESIDENT MAYER: 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 30. This act shall take effect immediately.

ACTING PRESIDENT MAYER: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MAYER: Senator Jackson to explain his vote.

SENATOR JACKSON: Thank you, Madam President.

So, my colleagues, I am rising to speak in support of this bill, which extends the COVID-19 Emergency Eviction and Foreclosure Prevention Act of 2020 and the COVID-19 Emergency Protect Our Small Businesses Act of 2021 until August 31st, 2021.

Many small business owners and resident tenants in my district or across New York State are still digging out from tremendous financial hardship in the shadow of the COVID-19 pandemic. And I've said before, in front of all of our colleagues, I represent 13 miles of Manhattan. And you may think that Manhattan has all of the wealth in the State of New York. I have tens of thousands of residents, tenants, that are struggling to survive.

And in fact, Madam President, they had planned a rally because of the deadline that was scheduled. And so that's why I'm here, in order to support an extension of this particular

bill.

So as New Yorkers begin to reopen once again, and slowly, it is fitting that small commercial tenants have the opportunity to keep their doors open and that many of our constituents have a place to live as they get back on their feet.

The federal government passed relief in March, and we did so as a state in April. But it will take another couple of months for that relief to reach these tenants as government agencies work to create the programs to deliver it.

That's why we need to extend this eviction moratorium. We already rose to the moment once as legislators of conscience to pass an eviction moratorium this year. Let's do it again. Let's help our small businesses open, continue to support all working families in our districts.

And I thank our colleague Senator Kavanagh for introducing this bill and defending it on the floor. And I vote aye, Madam President, and I ask you and my colleagues to do the same.

Thank you.

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

Senator Jordan to explain her vote.

SENATOR JORDAN: Madam President, I rise to explain my vote.

This measure before us extends both the tenant and commercial eviction moratoriums until August 31st. This bill accepts the fact that New York State was not able to help tenants or small businesses by May 1st, when the current moratoria were set to expire. In fact, today is May 3rd, and they've expired. That's just unacceptable.

New York State has been given just about $2.4 billion in federal assistance to be specifically distributed to tenants and landlords. I've asked, along with my conference, since last December that this relief be distributed. Today we heard the budget director state that the application for financial relief won't even be ready until the end of May. Our neighboring states are already distributing this money. New York must do the same.

If we keep kicking the can down the

road and excusing rent from being paid, it's highly likely that the federal monies that are given to us will not be enough to provide relief to all landlords. In fact, Moody's Analytics has already concluded that.

Amounts owed by tenants will have amounted to an unaffordable amount for them to pay back, and landlords will be left without any relief.

It's critical that we remember that landlords are business owners, and many are small businesses, mom-and-pop, not Fortune 500, many of whom are struggling, desperately trying to keep their heads and finances above water.

These small businesses annually incur significant operating, maintenance and repair costs. They have large loans that must be paid back. They daily have obligations to their families just like all New Yorkers. I've heard from countless landlords from across the 43rd Senate District; so many of them have taken a massive financial hit due to COVID.

New York should focus on getting immediate assistance into the hands of the small businesses that are landlords, that can't afford

to wait, rather than focusing on extending the eviction moratorium for four months, which in the long run does further damage to our landlords, who may never recover the rent due to them.

Just remember, time is money. It's for that very reason that I vote no.

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

Senator Kavanagh to explain his vote.

SENATOR KAVANAGH: Thank you, Madam President.

My colleagues and anyone who's watching this afternoon have heard a lot from me, so I'll be brief. I just want to make a few points.

First of all, once again, this really is one of a series of difficult emergency measures we've had to take during the COVID-19 pandemic in order to ensure that we keep New Yorkers safe -- not only the people who are directly protected by this, but the broader public that is still struggling with the question of when we are going to get past this pandemic and get back to normal.

So I want to thank the leader of this house, Andrea Stewart-Cousins, Carl Heastie in the Assembly, and the Assembly sponsor of this bill, Jeffrey Dinowitz, and all of the members who have supported it today.

I also want to just note that in the hard choices that we've had to make, there has been an evolution. The Minority of this house voted unanimously not to put a moratorium in place after the last week of December. So here we are four months later, and I am glad that we now have a consensus that we need this tool and that we need it to be in place at least through June 30th.

The difference between June 30th and August 31st is hard to know as of this moment. But as I said, the current data that we're looking at suggests that we have a substantially worse situation than we had on the day that the federal government decided a three-month national moratorium was appropriate.

So I just hope that whatever our political differences are here, and whatever the differences are we have about the necessity of this measure, that everybody understands that we

are not ready to go back to business as usual, that we are going to need to have continuing emergency measures -- both immediate, personal measures like wearing masks and keeping our distance and getting vaccinated, but also steps that curtail certain activities, and certainly including evictions and foreclosures on homeowners and small businesses.

So with that, Madam President, I vote aye.

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

Announce the results.

THE SECRETARY: In relation to Calendar 796, those Senators voting in the negative are Senators Akshar, Borrello, Boyle, Felder, Gallivan, Griffo, Helming, Jordan, Lanza, Martucci, Mattera, Oberacker, O'Mara, Ortt, Palumbo, Rath, Ritchie, Serino, Stec, Tedisco and Weik.

Ayes, 42. Nays, 21.

ACTING PRESIDENT MAYER: The bill is passed.

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

SENATOR GIANARIS: Thank you, Madam President. 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, Tuesday, May 4th, at 3:00 p.m.

ACTING PRESIDENT MAYER: On motion, the Senate stands adjourned until Tuesday, May 4th, at 3:00 p.m.

(Whereupon, at 5:02 p.m., the Senate adjourned.)