NEW YORK STATE SENATE

THE STENOGRAPHIC RECORD

ALBANY, NEW YORK

September 1, 2021

12:08 p.m.

EXTRAORDINARY SESSION

SENATOR BRIAN A. BENJAMIN, Acting President

ALEJANDRA N. PAULINO, ESQ., Secretary

P R O C E E D I N G S

ACTING PRESIDENT BENJAMIN: 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 BENJAMIN: 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 BENJAMIN: Senator Gianaris.

SENATOR GIANARIS: Mr. President, first let me welcome all our members back to the physical presence in the chamber. It's so good to have the room full again and be here today to do our work. I hope everyone has had a safe summer, and I know that all the Senators have been tending to their districts and to their constituents. There are a lot of people in need, and I know everyone here has been working incredibly hard, so a word of thanks to all the Senators.

And a word of congratulations to you, Mr. President. You are --

(Lengthy standing ovation.)

SENATOR GIANARIS: Senator Benjamin is still Senator Benjamin until next week, so we appreciate having him with us today. And it's comforting to know that one of the many responsibilities he will continue to have is to preside over this chamber --

(Laughter.)

SENATOR GIANARIS: -- so we'll be seeing more of him.

But we look forward to working with you in your new capacity, Mr. President, and we know you're going to do a terrific job for the people of this state.

Now I believe that Governor Hochul has sent us a proclamation -- it feels really nice to say that, I'm sure we can all agree.

(Laughter.)

SENATOR GIANARIS: Can we please read that proclamation, which is at the desk.

ACTING PRESIDENT BENJAMIN: There is a proclamation from the Governor at the desk.

The Secretary will read.

THE SECRETARY: "Pursuant to the power vested in me by Article IV, Section 3, of the Constitution, I hereby convene the Senate and the Assembly of the State of New York in Extraordinary Session, at the Capitol, in the City of Albany, on the first day of September, 2021, at 12 o'clock p.m., for the purpose of:

"1. Considering legislation I will submit with respect to:

"A. Extending the eviction moratorium for residential and commercial tenants;

"B. Expanding funding and broadening eligibility for rental assistance to allow tenants to remain in their homes and ensure payments to landlords and homeowners;

"C. Allowing for safe attendance of certain public meetings by remote means; and

"D. Such other subjects as I may recommend.

"2. Acting on previously delayed gubernatorial nominations.

"Given under my hand and the Privy Seal of the State in the City of Albany this 31st day of August in the year 2021.

By Governor Kathy Hochul."

ACTING PRESIDENT BENJAMIN: The Secretary will call the roll to ascertain a quorum.

THE SECRETARY: Senator Addabbo.

SENATOR ADDABBO: Here.

THE SECRETARY: Senator Akshar.

SENATOR AKSHAR: Present.

THE SECRETARY: Senator Bailey.

SENATOR BAILEY: Present.

THE SECRETARY: Senator Benjamin.

ACTING PRESIDENT BENJAMIN: Present.

THE SECRETARY: Senator Biaggi.

(No response.)

THE SECRETARY: Senator Borrello.

SENATOR BORRELLO: Present.

THE SECRETARY: Senator Boyle.

SENATOR BOYLE: Here.

THE SECRETARY: Senator Breslin.

SENATOR BRESLIN: Present.

THE SECRETARY: Senator Brisport.

SENATOR BRISPORT: Present.

THE SECRETARY: Senator Brooks.

SENATOR BROOKS: Here.

THE SECRETARY: Senator Brouk.
SENATOR BROUK: Present.
THE SECRETARY: Senator Comrie.
SENATOR COMRIE: Present.
THE SECRETARY: Senator Cooney.
SENATOR COONEY: Present.
THE SECRETARY: Senator Felder.
SENATOR FELDER: Present.
THE SECRETARY: Senator Gallivan.
(No response.)
THE SECRETARY: Senator Gaughran.
SENATOR GAUGHRAN: Here.
THE SECRETARY: Senator Gianaris.
SENATOR GIANARIS: Here.
THE SECRETARY: Senator Gounardes.
SENATOR GOUNARDES: Present.
THE SECRETARY: Senator Griffo.
SENATOR GRIFFO: Here.
THE SECRETARY: Senator Harckham.
SENATOR HARCKHAM: Here.
THE SECRETARY: Senator Helming.
(No response.)
THE SECRETARY: Senator Hinchey.
SENATOR HINCHEY: Present.
THE SECRETARY: Senator Jackson.

(No response.)
THE SECRETARY: Senator Jordan.
SENATOR JORDAN: Present.
THE SECRETARY: Senator Kaplan.
SENATOR KAPLAN: Present.
THE SECRETARY: Senator Kavanagh.
(No response.)
THE SECRETARY: Senator Kennedy.
SENATOR KENNEDY: Here.
THE SECRETARY: Senator Krueger.
SENATOR KRUEGER: Present.
THE SECRETARY: Senator Lanza.
SENATOR LANZA: Here.
THE SECRETARY: Senator Liu.
SENATOR LIU: Here.
THE SECRETARY: Senator Mannion.
SENATOR MANNION: Present.
THE SECRETARY: Senator Martucci.
SENATOR MARTUCCI: Present.
THE SECRETARY: Senator Mattera.
SENATOR MATTERA: Here.
THE SECRETARY: Senator May.
SENATOR MAY: Here.
THE SECRETARY: Senator Mayer.
SENATOR MAYER: Here.

THE SECRETARY: Senator Myrie.
SENATOR MYRIE: Here.
THE SECRETARY: Senator Oberacker.
SENATOR OBERACKER: Here.
ACTING PRESIDENT BENJAMIN: Senator Gianaris, a quorum is present.
SENATOR GIANARIS: Has Governor Hochul and the Assembly been informed that the Senate is ready to proceed?
ACTING PRESIDENT BENJAMIN: Both the Governor and the Assembly have been informed that the Senate is ready to proceed.
SENATOR GIANARIS: I now hand up the following resolution and ask for its immediate adoption.
ACTING PRESIDENT BENJAMIN: The Secretary will read.
THE SECRETARY: Senate Resolution 1, by Senator Stewart-Cousins, providing for the introduction of bills in the Senate during the Extraordinary Session.
"RESOLVED, That notwithstanding any provision of the rules to the contrary, all bills introduced when the Senate is in Extraordinary Session shall be by the

Committee on Rules or on message from the Assembly, and shall be referred to the Committee on Rules of the Senate, with the exception of any bills making an appropriation which shall be referred to the Committee on Finance of the Senate pursuant to Section 23 of the Legislative Law."

ACTING PRESIDENT BENJAMIN: The question is on the resolution. All in favor signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT BENJAMIN: Opposed?

(No response.)

ACTING PRESIDENT BENJAMIN: The resolution is adopted.

Senator Gianaris.

SENATOR GIANARIS: Please call on Senator Lanza for an announcement.

ACTING PRESIDENT BENJAMIN: Senator Lanza.

SENATOR LANZA: Mr. Lieutenant Governor, Mr. President.

First, I join Senator Gianaris saying it's great to see everyone here together.

We, Senator Gianaris and I, felt abandoned and alone --

(Laughter.)

SENATOR LANZA: -- for most of session. But again, it's very encouraging to see all the members here in their seats.

Mr. President, there will be an immediate meeting of the Republican Conference in Room 315 of the Capitol.

ACTING PRESIDENT BENJAMIN: Senator Gianaris.

SENATOR GIANARIS: No one would like to be trapped here with Senator Lanza and nobody else.

(Laughter.)

SENATOR GIANARIS: Yes, Senator Savino does.

There will also be an immediate meeting of the Majority Conference in Room 332.

ACTING PRESIDENT BENJAMIN: There will be an immediate meeting of the Majority Conference in Room 332.

SENATOR GIANARIS: The Senate will stand at ease.

ACTING PRESIDENT BENJAMIN: The

Senate will stand at ease.

(Whereupon, the Senate stood at ease at 12:14 p.m.)

(Whereupon, the Senate reconvened at 2:57 p.m.)

ACTING PRESIDENT BENJAMIN: The Senate will return to order.

Senator Gianaris.

SENATOR GIANARIS: Mr. President, there will be an immediate meeting of the Finance Committee in Room 124, followed upon its conclusion by a meeting of the Rules Committee in Room 332.

ACTING PRESIDENT BENJAMIN: There will be an immediate meeting of the Finance Committee in Room 124, immediately followed by a meeting of the Rules Committee in Room 332.

SENATOR GIANARIS: The Senate will stand at ease.

ACTING PRESIDENT BENJAMIN: The Senate will stand at ease.

(Whereupon, the Senate stood at ease at 2:58 p.m.)

(Whereupon, the Senate reconvened at

4:43 p.m.)

ACTING PRESIDENT BENJAMIN: The Senate will return to order.

Senator Gianaris.

SENATOR GIANARIS: Mr. President, I believe there's a report of the Rules Committee at the desk. Can we take that up, please.

ACTING PRESIDENT BENJAMIN: The Secretary will read.

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

Senate Print 1, by Senator Kavanagh, an act to amend subpart A of Part BB of Chapter 56 of the Laws of 2021.

The bill reports directly to third reading.

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

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

(Response of "Aye.")

ACTING PRESIDENT BENJAMIN: Opposed, nay.

(No response.)

ACTING PRESIDENT BENJAMIN: The Rules Committee report is accepted.

Senator Gianaris.

SENATOR GIANARIS: I believe there's also a report of the Finance Committee at the desk. Can we take that up.

ACTING PRESIDENT BENJAMIN: The Secretary will read.

THE SECRETARY: Senator Krueger, from the Committee on Finance, reports the following bill: Senate Print 2, Senate Budget Bill, an act to amend Chapter 53 of the Laws of 2021.

The bill reports directly to third reading.

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

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

(Response of "Aye.")

ACTING PRESIDENT BENJAMIN: Opposed, nay.

(No response.)

ACTING PRESIDENT BENJAMIN: The Finance Committee report is accepted.

Senator Gianaris.

SENATOR GIANARIS: At this point let's take up the reading of the calendar, please.

ACTING PRESIDENT BENJAMIN: The Secretary will read.

THE SECRETARY: Calendar Number 1, Senate Print 5001, by Senator Kavanagh, an act to amend subpart A of Part --

SENATOR LANZA: Lay it aside.

SENATOR GIANARIS: Before we lay it aside, Mr. President, is there a message of necessity at the desk?

ACTING PRESIDENT BENJAMIN: There is a message of necessity at the desk.

SENATOR GIANARIS: Move to accept the message of necessity.

ACTING PRESIDENT BENJAMIN: All in favor of accepting the message of necessity signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT BENJAMIN: Opposed?

(Response of "Nay.")

ACTING PRESIDENT BENJAMIN: The message is accepted, and the bill is before the house.

Lay it aside.

THE SECRETARY: Calendar Number 2, Senate Print 5002, Senate Budget Bill, an act to amend Chapter 53 of the Laws of 2021.

SENATOR GIANARIS: Is there is a message of necessity at the desk?

ACTING PRESIDENT BENJAMIN: There is a message of necessity at the desk.

SENATOR GIANARIS: Move to accept the message of necessity.

ACTING PRESIDENT BENJAMIN: All in favor of accepting the message of necessity signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT BENJAMIN: Opposed?

(Response of "Nay.")

ACTING PRESIDENT BENJAMIN: The message is accepted.

Senator Gianaris.

SENATOR LANZA: Lay it aside.

ACTING PRESIDENT BENJAMIN: Lay it aside.

Senator Gianaris, that completes the reading of the calendar.

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

ACTING PRESIDENT BENJAMIN: The Secretary will ring the bell.

The Secretary will read.

THE SECRETARY: Calendar Number 1, Senate Print 5001, by Senator Kavanagh, an act to amend subpart A of Part BB of Chapter 56 of the Laws of 2021.

ACTING PRESIDENT BENJAMIN: Senator Helming.

SENATOR HELMING: Thank you, Mr. President. Mr. President, will the sponsor yield for a question?

ACTING PRESIDENT BENJAMIN: Will the sponsor yield?

SENATOR KAVANAGH: Yes, Mr. President.

ACTING PRESIDENT BENJAMIN: The sponsor yields.

SENATOR HELMING: Thank you. It's good to see you again, Senator.

SENATOR KAVANAGH: Good to see you too.

SENATOR HELMING: New York has known since last December that it would be getting billions of dollars in federal aid to assist tenants and property owners devastated by this pandemic, yet here we are nine months later and still only 10 percent of these funds have been distributed. The problem is not the eviction moratorium, the problem is getting the money out the door.

Senator Kavanagh, my first question is has the federal government established a due date for moving the federal dollars?

SENATOR KAVANAGH: Through you, Mr. President, there are several distinct due dates. The federal money that is available to New York State, which totals $2.6 billion, was allocated in two different pieces of legislation.

The first of them amounted to about $1.1 billion dollars, and there is a deadline that a significant portion of that money be obligated by -- a deadline that a significant

portion of that money be obligated by September 30th. It's -- 65 percent of that money is supposed to be obligated by that date.

To be obligated, it either has to be paid out to a landlord or be the subject of an application that has been approved.

We believe at this point that New York State has met that obligation, in that the state's current amount obligated or approved for payment as of August 23rd was $808,471,000. So that would more than meet that 65 percent threshold.

SENATOR HELMING: Through you, Mr. President, will the sponsor continue to yield.

ACTING PRESIDENT BENJAMIN: Does the sponsor yield?

SENATOR KAVANAGH: Yes, Mr. President.

ACTING PRESIDENT BENJAMIN: The sponsor yields.

SENATOR HELMING: Senator Kavanagh, is there a September due date?

SENATOR KAVANAGH: I do not believe that there is a distinct September due date. I

believe that the current due date is in October.

ACTING PRESIDENT BENJAMIN: Through you, Mr. President, will the sponsor continue to yield?

ACTING PRESIDENT BENJAMIN: Does the sponsor yield?

SENATOR HELMING: Senator Kavanagh, you and I have had this discussion about moving ERAP monies out time and time again, and extending the eviction moratorium. Last December when we passed the first residential eviction moratorium, I asked about the extension and if you thought, you know, would we be extending it again. And then we passed the commercial eviction moratorium; I asked the question.

And then when we passed the legislation to extend the residential moratorium until August 31st of this year, at that time it was indicated to me that there was no expectation that we would need to extend.

And yet here we are. And my question is, what is the rationale for a blanket extension of the eviction moratorium to January 15, 2022? The CDC's recent moratorium was linked to high levels of community

transmission of COVID.

SENATOR KAVANAGH: First of all, Mr. President, just to clarify. By October we would be past that deadline. The deadline is September 30th. So until September 30th, you have no federal obligation to have spent the money.

So the deadline that we were discussing before is a September 30th deadline. And again, I believe that the state has currently met that deadline. That's for the first tranche of the money.

In terms of the need to continue to have a moratorium in place: First of all, I would note that the moratorium that we're talking about today is somewhat different than the moratorium we were talking about at the end of April and the beginning of May, in that this moratorium permits a party whose action is restricted by the moratorium -- either a foreclosing, someone trying to foreclose against a homeowner or a small business or a landlord trying to foreclose against a tenant in either a commercial or a residential context -- it permits that party to challenge the declaration

of hardship of the party that would be protected.

So that is a very significant change. Perhaps we'll talk about that some more.

But when we had a conversation in late April and early May, the question was not just about the rental assistance program which had yet to be up and running at all, that that program began accepting applications on June 1st -- it was very much a conversation about the incidence of COVID transmission in our localities.

And there was a period after that May 1st discussion where rates of transmission had declined somewhat in New York. But sadly, Mr. President, we are back in a situation where rates of COVID transmission are high in almost every part of the state. The CDC, as I think we discussed in May, rates transmission as high if you're seeing more than a hundred cases per 100,000 residents in the course of a week. The current member as of August 27th from the state profile report of the CDC is that New York State had 161 cases per 100,000 residents throughout the state, and in 53 counties in our state that rate was high within the boundaries of the

county, and that includes all of the most populous counties of the state.

In addition, in that same week that ended on -- just a few days ago, on the 27th, we had 174 deaths throughout the state. That number is up 29 percent compared to the preceding week, and that preceding week was up a significant percentage from the week before.

So the bottom line is COVID transmission rates, because of the delta variant, because of the lack of levels of vaccination that are sufficient to create what is sometimes called herd immunity, we do have a very significant COVID-19 problem. It is still a significant public health threat. And these moratoria have always been about protecting the public health of New Yorkers.

SENATOR HELMING: Through you, Mr. President, will the sponsor continue to yield.

ACTING PRESIDENT BENJAMIN: Does the sponsor yield?

SENATOR KAVANAGH: Yes, Mr. President.

ACTING PRESIDENT BENJAMIN: The

sponsor yields.

SENATOR HELMING: Senator Kavanagh, I listened to what you had to say, and it leads me to the next question, is why is an eviction moratorium applied when there seems to be no other limitations that have been placed on other activities which pose -- which also pose a significant transmission risk of COVID-19?

SENATOR KAVANAGH: Through you, Mr. President. You know, I don't have an ability to impose restrictions myself on some activities that I might think are appropriate.

But the bill that we are talking about today imposes a moratorium on displacing people from their homes when -- if they're facing a hardship. It also imposes a moratorium on displacing people from small businesses who might be having a hardship.

With respect to the residential context -- this is actually mentioned specifically in the legislative findings of this bill -- there is very strong evidence that eviction moratoria are effective as public health measures.

When we discussed this in May, there

had been a study -- it was not yet peer-reviewed, it was brand-new, it was preliminary -- but the CDC had cited it in indicating that they thought moratoria should continue at the state level.

It has now been peer-reviewed. It's been published in a reputable academic journal. And it reviewed the state moratoria in 43 states plus the District of Columbia, and they found, correcting for many other variables -- correcting for school and business closures, correcting for mask mandates, correcting for a series of other public health measures -- they found that eviction moratoria had a significant benefit in reducing the spread of COVID. And they found that when moratoria were lifted, it took a few weeks, but about six weeks after that date the rates of COVID were very substantially higher and the rates of death in those states were very substantially higher. And they concluded, the researchers did, that that was a result of prematurely lifting eviction moratoria.

And it is logical, Mr. President, to think that. Because when people are evicted from their homes, they often go into congregate settings, they often share spaces with others,

they often become homeless. And in any case, the process of moving does expose people.

So again, we are -- what we are doing here is taking a public health measure based on the best science that we have available to us.

SENATOR HELMING: Through you, Mr. President, if the sponsor will continue to yield.

ACTING PRESIDENT BENJAMIN: Does the sponsor yield?

SENATOR KAVANAGH: Yes, Mr. President.

ACTING PRESIDENT BENJAMIN: The sponsor yields.

SENATOR HELMING: The other thing that works to help people keep their homes is to give them the money that they need to pay their back rent, to get them caught up and to make the landlords whole.

Nobody wants to evict people from their homes, especially in the wake of a pandemic. After speaking to so many tenants and property owners alike, I have to say -- and Senator Kavanagh, I'm sure you found this as

well -- that most New Yorkers don't want to evict people. They don't want to go through the hassle of it, they don't want to disrupt people's lives.

However, as we all know, people in New York State, from one end of the state to the other, they're in crisis. They're in crisis mode. And this body, this body keeps extending the eviction moratorium, and we're doing very little to move the money out.

So my question is, what do we do -- what we do in this chamber, it has consequences. The programs that are voted on here have been hurting real people, real New Yorkers. There have been so many media features on how tenants and small property owners have been impacted. Just recently there was one that really caught my eye. It talked about an upstate Air Force veteran who's become homeless because the tenants refused to pay their rent.

She went, she served her country, she came home, she started a small business -- and now she's homeless, living in her car, because her tenants haven't paid their rent. That's on this body for not making sure that the money gets moved out.

But I could go on and on about the horror stories about the tenants and the small property owners who are maxing out their credit cards, who are cashing in retirement programs, if they have it, and their life insurance programs, to try and make ends meet.

So, Senator Kavanagh, I wanted to let you know, to facilitate greater support for tenants and property owners, earlier this summer Senator Boyle and I led two virtual roundtables with housing community stakeholders. One we focused on New York City, and the second one was on upstate. We've submitted our recommendations to so many of you, including New York's Office of Court Administration.

One of the top recommendations, and I believe something that needs to happen if we're going to address this crisis, is opening our housing courts to help bring more eligible applicants into the ERAP program. We need to have OTDA staff at the courts.

So, Senator Kavanagh, my question is, why aren't we focused on utilizing the housing courts, particularly in New York City, where legal representation of the tenant is

mandated, as the best possible venue to resolve issues as to the eligibility for ERAP and other safety-net funding that's available?

SENATOR KAVANAGH: Mr. President, there were several questions there --

SENATOR HELMING: There was one, at the end.

SENATOR KAVANAGH: -- and perhaps a couple of statements I'd like to respond to.

First of all, we are indeed very concerned about the effectiveness of the CERAP program. There are several provisions in this bill that are intended to improve that program, the CERAP program being the COVID-19 Emergency Rental Assistance Program.

We did, this body, along with my colleague Senator Persaud, the chair of the Social Services Committee, and the Housing Committee, did hold a hearing a week and a half ago. I know my colleague was unable to attend that hearing in person, it was in Brooklyn. But we did have a hearing where we had OTDA testify, and we took about eight hours of testimony from all parties affected by this, including landlords and tenants and advocates. And we had the head

of the New York City Housing Court System come and testify in person about what they're doing to ensure that they are prepared and that people have their day in court, to the extent the law permits that.

We are taking steps today to make sure that that program is able and ready to serve the people it's supposed to serve.

We are increasing the amount of money that is allocated for that program. We are now -- as of the budget, it was $2.35 billion of federal money. It is now $2.6 billion. We are creating a separate fund of $250 million. My colleague Senator Skoufis had passed a bill in this chamber earlier in this session that was intended to allow for the state to use money to cover the costs of landlords that are not coverable by the federal appropriation. That bill -- we are now clarifying the purpose of that and increasing the funding for that up to $250 million.

And the prior bill had not been signed by the prior Governor, but we do have a three-way agreement that the Governor will sign that program into law.

We have worked very hard to make sure that OTDA accelerates its implementation of that program. We were all very publicly critical when no money had been out the door as of the end of June; a modest amount had gone out as of the end of July. But New York was dead last, initially, in getting money out the door.

I'm happy to report that, as I mentioned before, if you take the total amount that New York has approved and spent, plus the amount it has approved for applicants but not yet spent, New York now has the number-one amount allocated -- sorry, obligated as a percentage of our total allocation in the country. We've rapidly, because of the attention of this body and our colleagues in the Assembly and others, we have rapidly pushed for the Executive to address that program.

Similarly, we have a new Governor who right at the beginning of her tenure has made it a priority to make this program work and also to make sure the moratorium is in place.

In terms of using the courts, Mr. President, as I mentioned, the moratoria that we're talking about today are very different

moratoria, in that in the previous versions of this, whether it be a small business owner or a homeowner or a tenant or indeed a small landlord who is trying to avoid foreclosure on their property, signing a declaration under penalty of law was sufficient to grind the process that was being used against them to a halt. You were protected upon self-certification.

There was a ruling of the U.S. Supreme Court, six to three, that said that at least in the context of residential tenants, that having self-certification was not sufficient, it violated the due process rights of landlords. So the moratorium we're talking about today will give any party who is hoping to benefit from a court proceeding that had previously been stayed by a declaration of hardship, they will now have the opportunity to challenge that declaration in court. So basically we are giving people their day in court.

We have also added a provision in the residential tenant context where if a residential tenant has declared a hardship and they go to court and the judge -- if the judge finds that they don't have a hardship, then they

are not protected by the moratorium at that point. If the judge finds they do have a hardship, we have a provision in this bill we're debating today that says that the stay of the case is premised on the tenant applying to CERAP.

So we do expect that the result of this is that more tenants, many of whom are probably not aware that there's a rental assistance program because of limitations in outreach and advertising, we think that the effect of this bill will be that many more tenants will become aware of the program and will apply and now will set the process in motion for landlords to get their rent paid.

I just want to say one more thing, which is I am perplexed by the notion that somebody was made homeless because of the moratoria that we're talking about today. And I read the same New York Post story that my colleague did, and I am perplexed because there is no mechanism to remove somebody from their home if they're having a hardship.

And the situation my colleague described would certainly have constituted a hardship for that woman who was a veteran and was

covered by that article. So I don't know how that person became homeless, but it is laws like this that prevent people like that from becoming homeless.

SENATOR HELMING: Through you, Mr. President, if the sponsor will continue to yield.

ACTING PRESIDENT BENJAMIN: Does the sponsor yield?

SENATOR KAVANAGH: Yes, Mr. President.

ACTING PRESIDENT BENJAMIN: The sponsor yields.

SENATOR HELMING: So I appreciate everything that you shared, Senator Kavanagh. I didn't ask specifically about the hardship declaration, the Supreme Court ruling and the changes that have been made.

I was trying to be more proactive in suggesting that -- open up the courts. Let's get people there. Let's get OTDA representatives there. Let's help connect people with the services that are available.

And the other thing is it's my understanding that the court system has the names

of the owners and the tenants involved in the eviction action. Do you have any idea why that information isn't made available to OTDA directly so that outreach can occur with all the affected parties?

SENATOR KAVANAGH: Through you, Mr. President, I just want to note there is nothing about this law that closes the courts. The courts' decision to be open, to the extent they can be open, is a result of their decisions about how they can do their operations during COVID.

And again, this bill, this moratorium, the series of moratoria that we're talking about today, each of them has a provision where the party challenging -- the courts are open to any person who wants to challenge the hardship declaration who has a good faith -- who's willing to articulate a good faith belief that they believe that the moratorium should not apply because the person does not have a hardship.

In terms of outreach, I'm not sure I fully understand the question. We have focused very much in our oversight of OTDA on asking

questions about how the outreach is working and to what extent we can improve that. We know that outreach is something that was delegated by this program to many of the localities, including localities like New York City that opted into the statewide program. But we are very focused on ensuring that there is greater outreach.

Those of us in elected office can certainly play a role in notifying our own constituents, as many of us already have done in -- and, you know, so many of us have already taken that step to notify our own constituents.

The Governor had last week announced that an additional million dollars would be available for outreach.

I would also note, with respect to using the courts, that this bill provides $25 million of additional funds for attorneys to advise tenants and others who might be involved in these processes. And it is very likely that the advice they're going to get from their attorneys is to apply for the CERAP program because it is both the best way to protect yourself from eviction, but also the best way to get your rent paid so that you as a tenant are

relieved of the financial burden of unpaid rent and of course your landlord has the money to maintain their building and everybody gets to move on with their lives.

SENATOR HELMING: Through you, Mr. President, if the sponsor will continue to yield.

ACTING PRESIDENT BENJAMIN: Does the sponsor yield?

SENATOR KAVANAGH: Yes, Mr. President.

ACTING PRESIDENT BENJAMIN: The sponsor yields.

SENATOR HELMING: Thank you.

Senator Kavanagh, there's so much I'd like to ask you about. You and I, we've debated this issue so many times. I carry the bill, I put my little yellow stickies on it because I read it in detail, I formulate my questions.

Unfortunately, today I have not been able to read the details or understand the nuances. And I think that's so critically important because we have to understand the consequences of anything we do here. And the

reason why I couldn't do that is because the bill wasn't available.

I got a draft copy early this morning. Last time I checked LRS, at 1:30 this afternoon, the bill was not available. I believe there may have been a number, but no text or language.

You and I have received correspondence from landlords' associations who are asking questions: What's in this? What does it contain? What can we do? How do we share our thoughts and our opinions?

I'm really concerned about the lack of transparency, the ability to really delve into this bill and understand the details. One of the things that jumped out at me as I was scanning through, though, is that it seems to me that this bill allows certain individuals and business owners to delay paying their taxes, whether it's their school taxes, whatever property taxes -- the towns, the cities, the villages and, like I said, the schools.

And I'm wondering about the impacts to these taxing jurisdictions by allowing these certain individuals to delay payment until

January 15, 2022. Were any of these potentially impacted taxing jurisdictions consulted?

SENATOR KAVANAGH: So just to respond to a couple of things my colleague said.

And first of all, I am a very big believer in transparency and certainly in reviewing and carefully marking up the bills that come before us. I do know that there has been a long history of things in Albany being done at the last minute. I know that when my colleagues on the other side of the aisle were in the majority, there were often things that people on my side of the aisle now had to review on very short notice and vote upon. So I think -- you know, I think it's a pattern we've seen in the past.

I do also know that our staff, as this emergency measure came together, did share drafts of this, at least somewhat before it was printed, so that the Minority would have an opportunity to review what was being proposed.

But, you know, I stipulate that this has come together very quickly. And again, partly that is because we are in an emergency situation and we're taking emergency measures,

and it did take some time for the Governor's office and the two houses to come to an agreement on what we were going to do today.

But, you know, I'm happy to -- I'm here to answer questions. I'm happy to, you know, help the -- my colleagues on both sides of the aisle sort of sort out what we're trying to do today.

In terms of the tax provisions, I think the provisions that my colleague is referring to are the provisions that prevent tax lien sales and foreclosures of homeowners. And so there is nothing in this bill that says that homeowners don't have to pay their taxes, they don't have an obligation to pay their taxes.

But we are doing for homeowners in this bill roughly what we are doing for renters in this bill, which is to say if you are having a hardship and you sign a hardship declaration, you cannot be subject to those very aggressive adverse actions. You can't have a foreclosure because of taxes, you can't have a foreclosure because of an unpaid mortgage, and you can't have a tax lien sale until -- no earlier than January 15th.

And again, we think that is necessary and appropriate because we know that many homeowners are struggling to pay those things because of COVID and because of the actions we've taken to limit the pandemic. And so we think it would be inappropriate for the government or the banks to take those actions against homeowners.

And I would note that those provisions have effectively been in place since we passed the prior version of this bill in December and renewed it in May. And the only difference now is just as we have provided with the residential eviction provisions, we have provided that the bank -- that banks may challenge the declaration of hardship, because as private parties we think they are entitled to that same level of due process that residential landlords would be entitled to.

SENATOR HELMING: Through you, Mr. President, if the sponsor will continue to yield.

ACTING PRESIDENT BENJAMIN: Does the sponsor yield?

SENATOR KAVANAGH: Yes,

Mr. President.

ACTING PRESIDENT BENJAMIN: The sponsor yields.

SENATOR HELMING: Just a quick comment. I think people not paying -- this body should better understand the impacts of people who may not be paying their village taxes, their town taxes, the school taxes and more. It has an impact on those taxing jurisdictions.

In this chamber we often talk about the importance of equitable access to services and so much more. Senator Kavanagh, does this legislation allow for a paper application process to help those New Yorkers who we talk about often who may not have access to broadband services, who may not have access to computers, or who may just not be technically savvy?

SENATOR KAVANAGH: Through you, Mr. President, there was a decision early on that applications would not be accepted on paper partly because of the experience of the program that we attempted to roll out last summer, which was a very small and limited rental assistance program. But we understood from the state housing agency that was charged with running that

program that they found processing paper applications to be enormously challenging and was an obstacle to actually getting people relief.

What we have set up instead is a system where there is an online portal through which the applications go, and there is an extensively and well-staffed helpline so people can get assistance over the phone. And there is a network of local governments and community organizations who have been funded to ensure that people have the assistance necessary to apply for this program. And that means landlords as well as tenants have the assistance available to them that is necessary so they can get applications into the system.

Now, I will acknowledge -- as we all have -- that those aspects of this program, just like many other aspects of this program, were very slow to get up and running. We know that that online portal had some very serious glitches; it would crash sometimes, people would -- material would be lost. And so we pushed very hard for OTDA to improve the quality of that portal, improve its reliability.

And we heard testimony at the

hearing I mentioned before that many of the organizations who were supposed to be spending time working on the difficult cases, doing the outreach, were instead -- their time was taken up by trying to get the most basic applications through the portal.

So we think that the portal is now dramatically improved. We know that 176,000 households have now found their way to having an application pending. So we think that's all working better.

And, you know, the idea that making paper and pen a way to apply for this, I'm not sure it is -- I certainly want everybody to have the opportunity to access it. I'm not sure that that would be the best way to achieve that goal.

SENATOR HELMING: Through you, Mr. President, I'd like to explain my vote.

ACTING PRESIDENT BENJAMIN: Senator Helming on the record.

SENATOR HELMING: Senator Kavanagh, I would --

ACTING PRESIDENT BENJAMIN: I'm sorry, Senator Helming on the bill.

I'm a little rusty, I apologize.

SENATOR HELMING: I would implore you to investigate the paper access. I tried the portal myself, went in there. There are a number of glitches with that system. And if you're not tech savvy, it's never going to work.

What's being proposed today, extending the moratorium, is really -- again, I've said this before, it's kicking the can down the road and it's not really solving any problems. In my opinion it's creating just more uncertainty and angst for tenants and property owners who are really and truly afraid of losing their homes. They feel like they're just falling further and further behind and it's less and less likely that they're going to get out of the woods.

This legislation does nothing to help us move the money -- which I truly believe is what we need to be focused on. To me this is another empty promise to the people of New York State, the people who are in crisis.

I will be voting no. And as the ranking member of the Housing Committee, I'm going to continue to be an outspoken advocate providing both solutions and recommendations on

how to get these resources into the hands of those who have been waiting for well over a year.

Thank you, Mr. President.

ACTING PRESIDENT BENJAMIN: Senator Boyle.

SENATOR BOYLE: Thank you, Mr. President.

Will the sponsor yield for a couple of questions?

ACTING PRESIDENT BENJAMIN: Does the sponsor yield?

SENATOR KAVANAGH: Yes, Mr. President.

ACTING PRESIDENT BENJAMIN: The sponsor yields.

SENATOR BOYLE: Thank you, Chairman.

The last time the Majority extended this program, you and I debated, and I asked you, Do you think this will be the last time? You said: I think it will, I hope it will, but we can't be certain. I understand.

There are millions of New Yorkers out there that think this bill is just a furtherance of the idea of canceling rent

forever. There are many small property owners in New York State that think that their business investment, their life savings is going to go down the tubes because they're never going to be able to get rent from their tenants.

I'm asking you, Chairman, how low is enough? Since we've spoken last time, the percentages of positivity rates in COVID has gone up and down -- 1 percent, 3 percent, 4 percent, whatever the case may be. I'm asking you, how low is enough for you to say it's time to end this moratorium?

Also, if you don't want to answer that, how high is enough? If New York State gets to 70 percent vaccination rates, is that enough: Okay, time to end the moratorium? What are the parameters, what are the criteria you're looking for to finally end this moratorium?

SENATOR KAVANAGH: Through you, Mr. President. I think I do recall the conversation we had, and I think one of the things I noted at that point, that we had already, by the beginning of May, learned that the COVID-19 pandemic, if anything, is hard to predict.

And I think at that time -- I don't recall if the delta variant of COVID-19 was yet something we were even talking about. I think it had been discovered in other countries, but I don't think it was a prominent thing in New York. But it has become a prominent thing since then.

And I don't -- I cannot today set a precise threshold for when we would decide that public health measures like the ones we're talking about today will be unnecessary. But I can tell you that New York is currently 60 percent above the point that CDC considers a high rate of transmission.

And there are times since May 1st where we've dipped below that, where we did not have a high rate of transmission, where the cumulative effect of masking and social distancing and business closures and vaccinations were having that effect.

Sadly, because many people have declined to get vaccinated for various reasons -- and that's a conversation for another day -- and because we have a new and much more virulent strain of COVID-19, which is much more contagious although it does not appear to be much more

deadly once you get it, we are still in a situation where, as I mentioned, 161 people for every 100,000 people in New York were infected in the course of a single week and 174 people died.

And you may -- I think it's important that we not become inured to these statistics, to say only 174 New Yorkers were killed by this disease last week.

We are still in a pandemic. And that is not just true downstate, it's not just true upstate, it is true in 53 of the 62 counties in our state, that we have a high rate of transmission within those counties.

So from my perspective it is not a close call whether we need public health measures. We certainly do. It is important that we calibrate them properly, and it is important that we implement them in ways that are fair to all parties.

We are taking several steps today to make sure that these measures are fair to landlords, especially small landlords. And we are also taking steps to make sure there are additional resources to pay the rent of landlords, including landlords who have a tenant

that accumulated lots of arrears and is long gone. We are putting aside a separate fund of money using state dollars -- above and beyond the 2.6 billion in federal dollars -- to ensure that those arrears are paid so those landlords can be made whole.

I have tremendous sympathy for any landlord who's done the right thing in the pandemic and housed people and taken care of their buildings as best they can.

We are trying to get beyond this pandemic. That means taking steps to diminish the transmission of COVID, to diminish that death rate, which has been rising week by week now pretty steadily. And it also means eliminating the economic harm and diminishing the economic harm that people are going to experience both now and in the long term.

It is my goal that all of the arrears that have been built up for landlords throughout the state during this period are paid. It may take additional federal money at some point to do that. But the goal of the programs that we're talking about today is to pay the arrears of landlords, who I understand are

frustrated.

SENATOR BOYLE: Through you, Mr. President, will the sponsor continue to yield?

ACTING PRESIDENT BENJAMIN: Does the sponsor yield?

SENATOR KAVANAGH: Yes, Mr. President.

ACTING PRESIDENT BENJAMIN: The sponsor yields.

SENATOR BOYLE: Senator, I understand your point.

However, as far as I know, this emergency ended. Did the former Governor not end the emergency in New York State? And your point is that there's going to be a different -- there's the delta variant now. And there's going to be another variant and another variant and another variant.

Many health experts believe this is going to be like the flu. We're going to have this forever. We're going to have vaccines hopefully to help us, and boosters or whatever the case may be, but it is going to be with us.

That's why I'm asking you to be more

specific or talk to your colleagues in the Majority to be more specific about giving us some criteria so we know when this moratorium will end. It can't be subjective, like you said. It just can't be. It has to be objective.

What are the criteria to end this eviction moratorium? If you can't do it right now, talk to your colleagues and get us numbers so we know when to tell our small property owners -- and your small property owners -- you can finally get rent or you can finally evict a tenant who's not paying rent.

SENATOR KAVANAGH: Through you, Mr. President. It -- we are -- I don't think there is a clean, unambiguous answer as to exactly when each public health measure has outlived its usefulness.

I know that when you have high rates of transmission in just about every county in the state, that you need public health measures.

I will continue to have this dialogue with my colleague and anyone else who wants to have this dialogue. But the other thing is that what we're doing today is not preventing people from collecting rent. The rent is

becoming due. And again, we are working very hard to ensure that we have programs that are adequate to pay that rent so that landlords have their expenses covered.

The moratorium is about preventing people from being evicted, from being displaced from their homes, from being displaced from their small businesses, during a pandemic that has caused both economic hardship and continues to cause enormous danger to people from the perspective of public health.

SENATOR BOYLE: Through you, Mr. President, will the sponsor continue to yield.

ACTING PRESIDENT BENJAMIN: Does the sponsor yield?

SENATOR KAVANAGH: Yes, Mr. President.

ACTING PRESIDENT BENJAMIN: The sponsor yields.

SENATOR BOYLE: Chairman, so this -- the COVID-19 Emergency Rental Assistance Program was created during the state budget, correct?

SENATOR KAVANAGH: Yes.

SENATOR BOYLE: Negotiated during that. And it was intended at that time that the Office of Temporary and Disability Assistance -- OTDA, as we call it -- was there to -- was supposed to create the applications, approve the applications and send the checks. They're administering the program, correct?

SENATOR KAVANAGH: Yes.

SENATOR BOYLE: Okay. Through you, Mr. President, would he continue to yield.

ACTING PRESIDENT BENJAMIN: Does the sponsor yield?

SENATOR KAVANAGH: Yes, Mr. President.

ACTING PRESIDENT BENJAMIN: The sponsor yields.

SENATOR BOYLE: So are you aware that Office of Temporary and Disability Assistance Commissioner Michael Hein indicated recently that his office currently doesn't have enough applications to expend all the resources dedicated to this rental assistance program?

Do they -- my question to you is, does OTDA have the ability to administer this program? And assuming they do, they don't have

enough applications to get the checks out. What is the current status, and where do you expect it to be in the next month or two?

SENATOR KAVANAGH: Through you, Mr. President, I am aware of -- I've spoken with the commissioner many times. We did have the commissioner testify at our hearing for about two and a half hours. And we also heard, again, another six hours of testimony from landlords and tenants and advocates on all sides, and some policy experts.

The current status is that OTDA has 176,000 applications that have been submitted statewide. There are additional applications that have been submitted to the localities that are running their own programs, including Onondaga and Monroe and Islip and Hempstead and Yonkers -- and I think I'm leaving one out.

But the -- there -- there are 176,000 applications pending in the state program. Of those applications, 46,000 have been approved. A total of $203 million had been paid out as -- these numbers are as of August 23rd. And I mentioned that the total that has been obligated but not paid is $605 million, for a

total of $808 million that is either paid or obligated for an application that has been reviewed and found -- where the applicant has been found to be eligible.

I also mentioned that we are all aware that OTDA was very slow to get this program out. The law that we passed in April said it should be as soon as practicable. I had -- I and others had actually pushed for us to actually pass that law sooner than April and not wait for the budget process. I had proposed a piece of legislation and updated it by early February as a way of implementing the federal program.

But the big frustration that people have, that landlords in particular have, that there's been no money I think comes in part from the fact that it took the prior administration in Washington about 10 months -- that's the presidential administration and also the Congress, it took them 10 months to allocate any money at all that was earmarked for rental assistance.

And had we addressed the rental crisis last spring and last summer and last fall as we went, we would not have built up this

situation where many, many landlords had enormous amounts of arrears and enormous amounts of rent had not been paid to them.

But we've been working diligently since then in New York. We did pass this law, we said it should be -- the program should be set up as soon as practicable. It turned out to be June 1st when applications were available. We immediately noticed some of the glitches that my colleague, the ranker on the Housing Committee, was speaking about. And we have pushed for those to be addressed, and they are -- many of them have been addressed, and we continue to push that.

I will note that the glitches have affected tenants trying to get into the system and also landlords trying to get into the system. We are trying to get to the bottom of those and make sure that that program is spending money rapidly.

And I will note again that New York State is now number one in the country in terms of the percentage of our money that is attached to an application that has been approved. So we are making progress. But the -- you know, that

progress and that work needs to continue.

SENATOR BOYLE: Mr. President, on the bill.

ACTING PRESIDENT BENJAMIN: Senator Boyle on the bill.

SENATOR BOYLE: Thank you, Mr. Chairman.

When I first heard that the Majority was going to extend this eviction moratorium, I assumed -- we only got the bill recently -- that it was going to be through October, maybe mid-November max. I was absolutely shocked that you're talking about January 15th.

This emergency has been over. People are not paying rent when they're able to. And small business -- small landowners in New York State think that they're never going to get rent again and their life savings are going down the tube.

Mr. Chairman, you were talking about the time frame over course of the last year. Let me tell you about a little time frame going forward. This eviction moratorium is extended to January 15th. What happens around January 15th? Choosing candidates for next year's elections.

Is the Majority going to end this moratorium when they're about to get the nomination or not get the nomination?

Maybe you'll extend it to June, early June. What happens then? Primaries. Are you guys going to vote against your constituents and have them kicked out just before the primaries? I don't think so.

This thing could go on and on and on. That's why I'm demanding and my colleagues are demanding objective criteria for when this eviction moratorium is going to end. We want to protect tenants. Nobody wants to kick people out. Small property owners want to get rent, they want to have their investment protected and their homes protected.

Please do the right thing. Let's vote negative on this.

Thank you, Mr. President.

ACTING PRESIDENT BENJAMIN: Senator Akshar.

SENATOR AKSHAR: Mr. President, thank you. Will the sponsor yield?

ACTING PRESIDENT BENJAMIN: Will the sponsor yield?

SENATOR KAVANAGH: Yes, Mr. President.

ACTING PRESIDENT BENJAMIN: The sponsor yields.

SENATOR AKSHAR: Thank you.

Can a property owner apply directly for ERAP funding?

SENATOR KAVANAGH: Through you, Mr. President, a property owner can initiate the application process. But under the federal law there must be a tenant who is ultimately the applicant for the money. If there is not a tenant who is eligible under the program, then the federally funded program cannot be used to pay any arrears that have accrued.

However, this body -- and again, my colleague Senator Skoufis sponsored a measure that was the beginning of addressing that problem, and we are expanding it today. We are putting $250 million of state money that can be used for tenants who might be ineligible for the program -- and again, all of these payments are going to landlords -- but to pay the rent to landlords where the tenant might be ineligible because the tenant's income is above the federal

threshold.

But in addition, $125 million of that is specifically allocated for landlords where they do not have a tenant who can apply, either because the tenant has vacated or because the tenant is declining to participate.

SENATOR AKSHAR: Mr. President, through you, if the sponsor would continue to yield.

ACTING PRESIDENT BENJAMIN: Does the sponsor yield?

SENATOR KAVANAGH: Yes, Mr. President.

ACTING PRESIDENT BENJAMIN: The sponsor yields.

SENATOR AKSHAR: So a property owner does in fact have recourse if their tenant is lazy and just simply doesn't want to apply for the Emergency Rental Assistance funding.

SENATOR KAVANAGH: Through you, Mr. President. If the tenant is not paying their rent and does not apply to the CERAP program and does not submit a hardship application, the landlord would have all of their normal remedies. They can go to court on a nonpayment case, they

can threaten to evict.

If the tenant has not applied to the CERAP program but does submit a hardship application, under the bill we're passing today the landlord would have the recourse of promptly challenging the declaration of hardship, and then there would be a hearing to determine whether the tenant is having a hardship.

If the tenant is not having a hardship at that point, then the landlord would have all of their normal remedies.

If the tenant is having a hardship as found by a judge at that point who does not find the hardship declaration invalid, the case would be stayed, but that would come with a requirement that the tenant apply to the rental assistance program.

So in any -- in all of those cases, if the tenant is having a hardship and can't pay their rent, they should be in the CERAP program.

If they can pay their rent or they're lazy, as my colleague said, and just choosing not to act, the landlord has all their normal remedies.

SENATOR AKSHAR: Mr. President,

through you, if the sponsor will continue to yield.

ACTING PRESIDENT BENJAMIN: Does the sponsor yield?

SENATOR KAVANAGH: Yes, Mr. President.

ACTING PRESIDENT BENJAMIN: The sponsor yields.

SENATOR AKSHAR: I know there are many -- there are thousands of tenants that should be involved, that should apply to the ERAP program. But the reality is, regardless of if people in this room don't want to believe it, the reality is is that people aren't applying because they are lazy and they don't want to be part of the program.

So the question very specifically is in that instance -- I am a tenant, I in fact have a hardship, but I'm just lazy, I don't want to apply for the funding -- does Senator Rath have the ability then to apply to be made whole in terms of the money that he is owed by the tenant?

SENATOR KAVANAGH: Through you, Mr. President. Just in that hypothetical, the Senator's colleague to his right is the landlord.

You're asking if the landlord has the right to apply?

SENATOR AKSHAR: Yes.

SENATOR KAVANAGH: Yeah, the first option should be for the tenant to apply.

And in fact the -- we've had this concept that the first thing is -- you know, there's a $2.6 billion fund that is intended to pay the rent of eligible tenants. So the bill we're doing today should improve matters from the perspective of that hypothetical.

And I -- you know, there are a lot of tenants out there, I don't want to speculate about -- you know, in any human population some people are lazy, some people are diligent. But just accepting the hypothetical for the moment, the first step, if a landlord has a tenant not applying for the CERAP program, they are not protected by the eviction protections of CERAP, if they're signing a hardship declaration, the first step would be the landlord can do their normal approach, which is to go to court.

In the alternative, if they have -- if they don't want to go to court, they don't want to challenge a hardship declaration, instead

they want to try to get money directly from this program that we're setting up with this bill, they can apply for the assistance that we are making available through state funds. And they would just have to make it clear that they have a tenant who is refusing to apply to the CERAP program.

But again, if I were advising landlords, I would say make sure you are genuinely working with your tenants to try to get them to apply, make sure they're aware of the program. And -- but if they absolutely refuse to apply, we are providing an alternative way for the rent arrears on that apartment to be paid.

SENATOR AKSHAR: Mr. President, through you, if the sponsor would continue to yield.

ACTING PRESIDENT BENJAMIN: Does the sponsor yield?

SENATOR KAVANAGH: Yes, Mr. President.

ACTING PRESIDENT BENJAMIN: The sponsor yields.

SENATOR AKSHAR: Have there been any changes in the definition of hardship in this

iteration of the eviction moratorium? How are you defining a hardship?

SENATOR KAVANAGH: (Conferring.) I wanted to make sure that there is nothing in here that I'm not aware of that our counsel is aware of.

But the hardship declaration form effectively was a definition of hardship. And again, the tenants and homeowners and others seeking to benefit from that protection were allowed to self-certify they had that.

We're now making it clear in this law that that is the definition of hardship we're talking about. Because now the question of whether that declaration of hardship is valid is going to be decided by judges. So there's no change in the definition.

SENATOR AKSHAR: Mr. President, through you, if the sponsor would continue to yield.

ACTING PRESIDENT BENJAMIN: Does the sponsor yield?

SENATOR KAVANAGH: Yes, Mr. President.

ACTING PRESIDENT BENJAMIN: The

sponsor yields.

SENATOR AKSHAR: I wonder if you would indulge me and just describe what hardship is. Can you remind me of what the definition of hardship is? How does one meet that criteria?

SENATOR KAVANAGH: I can -- do you want a sort of synopsis of it, or would you like to hear all the criteria?

SENATOR AKSHAR: A synopsis would be great, just in interests of time.

SENATOR KAVANAGH: Yeah. So there are a series of steps, but basically it is an inability to pay your rent or your other financial obligations -- again, to your landlord or, you know, the hardship might be to -- the financial obligations in the context of a homeowner might be financial obligations to a bank or to a taxing authority.

But it's basically an inability to make those payments due to a significant loss of household income during the COVID-19 pandemic, increased necessary out-of-pocket expenses related to that -- childcare responsibilities or responsibilities of care for somebody who's sick because of the COVID-19 pandemic has negatively

affected your ability to do those things -- and moving expenses or related difficulty in securing alternative housing make it a hardship to relocate to another location.

In addition, there is a separate kind of hardship if the inability to vacate the premises and move into new housing would be because you personally have a particularized heightened risk to your health because of COVID-19.

So those are the general standards. And again, all of those financial elements I mentioned, it's not just -- you don't just have to assert you've had some increased expenses. You have to assert that those conditions are preventing you from meeting your financial obligation -- your obligation to pay rent, your obligation to pay your mortgage, your obligation to pay your taxes.

SENATOR AKSHAR: You don't sign it under the penalty of perjury, do you, as a tenant declaring a hardship?

SENATOR KAVANAGH: You sign it under penalty of law. So it would be -- it would be illegal to sign that form if you don't believe

it to be true.

SENATOR AKSHAR: Mr. President, through you, if the sponsor would continue to yield.

ACTING PRESIDENT BENJAMIN: Does the sponsor yield?

SENATOR KAVANAGH: Yes, Mr. President.

ACTING PRESIDENT BENJAMIN: The sponsor yields.

SENATOR AKSHAR: The same as a landlord would be -- would sign in terms of whether he or she was having a hardship because -- for nonpayment of rent? Equal, are they -- is it equal?

SENATOR KAVANAGH: Through you, Mr. President. The provisions are congruent in all of these.

Again, this hardship process protects tenants who are having trouble paying their rent to their landlords. It protects small landlords who are having trouble -- and homeowners who are having trouble paying their mortgage or their taxes. It also affects small business owners who might be evicted or

foreclosed upon. And the language is parallel.

There are -- the biggest difference is that the provisions about being too sick to move don't apply to landlords who are trying to avoid being foreclosed upon if they're -- you know, if it's not displacing them from their home.

But the language is parallel. And we did focus a great deal the last time we debated this on tenants who might be lying on these forms; we did not focus so much on landlords who might be lying on these forms or homeowners who might be lying on these forms or small business owners that might be lying on these forms. The standard that people have to attest to is basically the same.

SENATOR AKSHAR: Mr. President, through you, will the sponsor continue to yield?

ACTING PRESIDENT BENJAMIN: Does the sponsor yield?

SENATOR KAVANAGH: Yes, Mr. President.

ACTING PRESIDENT BENJAMIN: The sponsor yields.

SENATOR AKSHAR: Just back on the

hardship issue, I want to make sure that nowhere in the definition does it address one's personal laziness, one's lack of personal responsibility or their complete disregard for the property owner's property. Nowhere does it -- nowhere does it address that, right?

SENATOR KAVANAGH: Through you, Mr. President. There are provisions in the legislation that we're talking about today that address potential disregard for the property of the landlord.

But certainly a predilection for disregarding the property rights of the landlord wouldn't be the basis for a claim of hardship.

SENATOR AKSHAR: Mr. President, through you, if the sponsor would continue to yield.

ACTING PRESIDENT BENJAMIN: Does the sponsor yield?

SENATOR KAVANAGH: Yes, Mr. President.

ACTING PRESIDENT BENJAMIN: The sponsor yields.

SENATOR AKSHAR: What evidence does a tenant need to produce to show or prove the

hardship?

SENATOR KAVANAGH: Through you, Mr. President. Until this point the hardship declaration was something the tenant could self-certify to.

With the legislation we're passing today, the landlord in the case of a residential tenant or, you know, the other parties in the case of other situations where the declaration form would be signed, has a right to go into court and get a hearing on the question of whether there's a hardship.

Because there's a wide range of circumstances in which one could be claiming a hardship, we are not specifying precisely what evidence would be available -- would be necessary.

My understanding -- and I am not a practitioner in housing cases, but my understanding is that evidentiary standards and court processes tend to be somewhat more casual than we might see in other contexts, so it's unlikely there's going to be depositions or elaborate discovery.

I think the way I would expect this

to occur is that the -- again, if it's a residential tenant, the landlord challenges the hardship form, a hearing is scheduled, and the landlord and the tenant or their legal representatives are going to present their respective cases for why there is or is not a hardship, and then the judge is going to rule.

SENATOR AKSHAR: Mr. President, through you, just a couple more questions and I'll close, if the sponsor would be so kind.

ACTING PRESIDENT BENJAMIN: Does the sponsor yield?

SENATOR KAVANAGH: Yes, Mr. President.

ACTING PRESIDENT BENJAMIN: The sponsor yields.

SENATOR AKSHAR: I just want to ask a question about the distribution of the funds moving forward.

It's my understanding that there will be a tiered system or a system in which categories are made. Is that a fair assessment?

SENATOR KAVANAGH: I'm not sure what the -- I guess I would answer is my colleague referring to the CERAP funds or to the

sort of alternative state hardship funds?

SENATOR AKSHAR: Mr. President, through you, I'm talking specifically about the ERAP funding. And let me just try to articulate a little bit better.

You talked about median income, right? Eighty percent to 100, and then above 100 percent. I'm just wondering if there will be -- or there's going to be categories in which monies will be distributed. You know, I may fit in one category or another.

SENATOR KAVANAGH: So I appreciate the question.

When we passed the initial CERAP legislation, there was a 30-day period during which there were a series of priorities that were included in the state legislation -- priorities for small landlords, priorities for people with certain conditions that might make them particularly vulnerable if they were unable to pay their rent.

And there was also a provision that for the first 30 days the allocation between New York City and non-New York City be sort of structured a little bit. But that was only for

the first 30 days of the program.

At this point the only priorities that exist within the federally funded CERAP program are those that are in the federal law, and that bill says that states are required to prioritize people who are below 50 percent of the area median income over those who are above 50 percent of area median income. And they're also supposed to prioritize people who are currently experiencing long-term unemployment.

Beyond that, the program ought to work on a more or less first-come-first-served basis statewide. Again, there are -- 176,000 applicants have been submitted, and about 130,000 of them the state hasn't made a decision one way or the other on. So they will continue to process those.

We are adding an ability for residents of localities that opted out of that original state program to apply to this program as soon as their localities certify that they've run out of money and they're closing their local programs. But again, those people will just apply as the program becomes available to them.

There is -- just for clarity, the

hardship fund has two components to it. It is -- on the one hand it is for landlords who can't access CERAP because they don't have a tenant who is the applicant. About half of the money, $125 million, is expected to go to that portion of the program.

There is also $125 million for landlords where there is a tenant but the tenant is ineligible for CERAP. And the ineligibility there would be ineligibility because their income is above 80 percent of the area median income.

So tenants who otherwise qualify for CERAP but their income is above 80 percent would have their rent arrears paid by the state funds, because we can't use the federal funds to pay rent for people who are above 80 percent of the area median income.

SENATOR AKSHAR: Mr. President, through you, if the sponsor would continue to yield.

ACTING PRESIDENT BENJAMIN: Does the sponsor yield?

SENATOR KAVANAGH: Yes, Mr. President.

ACTING PRESIDENT BENJAMIN: The

sponsor yields.

SENATOR AKSHAR: You talked a little while ago, I think, with one of my colleagues about money that's been obligated or approved. That doesn't necessarily equal or equate to out the door, right, into the hands of tenants and/or property owners, is that a fair assessment?

SENATOR KAVANAGH: Yes, that's correct. And about $200 million has gone out the door from the state program. Another $600 million has been obligated but not paid.

The $200 million makes New York about the 20th most successful state at getting money out the door. Again, we went from dead last to 20th. We are the number-one state in terms of total amount paid and obligated.

But I will tell you, the difference between those numbers is of very significant concern to me. We heard testimony as of our hearing that in 41,000 cases the tenant had been approved but the landlord has yet to do their part to complete the application.

And we are seeking from OTDA much better information about why that is, because I

personally don't believe that OTDA has demonstrated that in all 41,000 cases it's because the landlord is declining to participate. We want to make sure that landlords have every opportunity to complete their portion of an application and get that money into their hands.

But again, a total of $800 million of applications have been approved from the perspective of the tenant being eligible.

SENATOR AKSHAR: Mr. President, on the bill.

ACTING PRESIDENT BENJAMIN: Senator Akshar on the bill.

SENATOR AKSHAR: First and foremost, I thank the sponsor for answering my questions.

I offer, you know, the following remarks based on conversations that I've had with people in my district, my constituency.

If I were a journalist, if I were part of the press corps, the front page would be easy for me tomorrow; it would say "Train Wreck" on it. Because quite frankly, as lawmakers, we are in fact supposed to be problem solvers. And what we are doing, we are kicking a dented can

down the road once again.

And what is happening, quite frankly, is this policy is highlighting just how ineffective and inept state government actually is. The reality is is that it shows how disconnected from everyday New Yorkers that we currently are.

The ERAP program, we talked a lot about that today. The fact is there are thousands and thousands of tenants who are simply too lazy to fill out the paperwork and get involved in the program, because there's no incentive for them to be part of the program. You are staying in someone's home, you are living in their property, and there are no repercussions for not paying.

So I think what we're doing today is we're sending -- or at least some of us in this body are sending a very clear message to the property owners that exist in the State of New York. If you maintain your property, if you pay your taxes, if you have invested your hard-earned money and bought property for other people to live, we don't care about you.

I heard about having tremendous

sympathy for property owners. If we had sympathy for property owners, if this body cared as much as we claim that we do, we would get every single dollar out the door into the hands of the property owners that are struggling.

That's not happening, in my humble opinion, because the reality is is that that is not what some want. There is a desire to eviscerate the rights of property owners and allow people to live rent-free forever. You could be hit by a bus walking down the road and there are some in this statehouse that would blame COVID.

Mr. President, I vote no.

ACTING PRESIDENT BENJAMIN: Senator Borrello.

SENATOR BORRELLO: Thank you, Mr. President. Will the sponsor yield for a question?

SENATOR KAVANAGH: Yes, Mr. President.

SENATOR BORRELLO: Thank you. Thank you, Senator Kavanagh.

I think we can probably both agree that part of the reason that we are here today to

kick this can down the road a little bit further is because of the previous Governor's disastrous rollout of the Emergency Rental Assistance Fund. I know you've been talking about how we've improved, but the numbers I've seen are that we are at a dismal 7 percent of the federal money, the $3.7 billion that has actually been allocated to tenants and property owners.

So even though the Governor is now gone and we have a new Governor, it's the same process, it's the same bureaucrats, it's the same red tape, it's the same confusing and in some cases inept process that's brought us here.

What makes you think that this is going to get any better?

SENATOR KAVANAGH: Through you, Mr. President, the -- I guess I just have to begin by saying I do not agree that we are here kicking the can down the road, so I presumably can't agree on the reason we're kicking the can down the road today.

What we are doing with respect to the moratorium is reinstating and strengthening a critical public health measure. And we discussed that at length before. The eviction moratorium

is necessary to ensure that New Yorkers who may be in a variety of circumstances don't lose their homes, whether they be renters or homeowners, and also that small business owners are not displaced during this period.

So that -- the moratorium we're doing, we're doing it all in one bill because these things are all related. But there are distinct and necessary reasons to reinstate and extend the moratorium because it is our best backstop to prevent people from losing their homes.

In terms of the effectiveness of this program, I would first of all note -- and to, you know, something my colleague said previously, I and many others in this chamber began advocating for very large amounts of money to be available to pay the rent in March of 2020.

By the end of March of 2020, I and many others in this chamber were calling for very large-scale rental assistance -- not just assistance to individuals through unemployment or cash assistance to individuals, we were calling for the rent to be paid. In fact, I recall asking for $100 billion of federal money, which

New York might have gotten as much as 10 billion of.

There has been a consistent advocacy on this side of the aisle for rent to be paid to landlords who have built up arrears because of COVID-19.

In terms of the effectiveness of the program, it is the same agency running it, but we have seen a dramatic improvement in that program in recent weeks, partly because of the advocacy of this chamber, partly because of our hearing -- and I should note that attendance at that hearing was bipartisan, even though it was in Brooklyn and some of my of colleagues had to travel some distance.

We have seen a program that had approved nobody for -- to be eligible for that program as of the end of June, that has now found 46,000 applications eligible since the end of June, in that two-month period. We have seen that program accelerate. It is now operating as rapidly -- actually, more rapidly than any program in the country, and that is because we have -- partly because we have engaged in intense advocacy, and we will continue to do so.

So -- and again, we are working with landlords, we are working with tenants to ensure that the money goes out the door as quickly as possible.

SENATOR BORRELLO: Mr. President, will the sponsor continue to yield.

ACTING PRESIDENT BENJAMIN: Does the sponsor yield?

SENATOR KAVANAGH: Yes, Mr. President.

ACTING PRESIDENT BENJAMIN: The sponsor yields.

SENATOR BORRELLO: Through you, Mr. President, do you happen to know what the average rent is in New York State, monthly rent? Monthly rent.

SENATOR KAVANAGH: Through you, Mr. President, I don't think I have those numbers off the top of my head. I know it varies very widely from -- depending on what part of the state you're in.

SENATOR BORRELLO: Mr. President, will the sponsor continue to yield.

ACTING PRESIDENT BENJAMIN: Does the sponsor yield?

SENATOR KAVANAGH: Yes, Mr. President.

ACTING PRESIDENT BENJAMIN: The sponsor yields.

SENATOR BORRELLO: Well, I'll give you a little bit of information. So according to rentcafe.com, in Manhattan the average monthly rent is $3,872.

Now, that's obviously Manhattan. So let's cut that in half, roughly, and let's say it's $2,000 a month statewide. For the last 15 months, people didn't have to pay their rent. So at $2,000 a month for the last 15 months, that's $30,000.

There are 7.3 million occupied homes in New York State; 46.2 percent of them are rentals. So that's roughly 3.35 million rental units in New York State. Let's assume, very conservatively, that 150,000 of them are behind on their rent to the tune of $30,000. I think that's probably very, very conservative. That's $4.5 billion. We've only got 3.7, which we haven't gotten out the door at all -- and again because, as Senator Akshar pointed out, we have tenants that are not willing to participate.

So what are we going to do for those property owners that are billions of dollars in debt -- when we can't even get them the money now, what are we going to do when that runs out? Because we have, very conservatively, $4.5 billion owed, and I think that's extremely conservative.

SENATOR KAVANAGH: Through you, Mr. President. I appreciate -- you know, there are no fully reliable estimates of the total arrears that have been built up during the COVID-19 pandemic in New York State.

We did have folks from the Furman Center who have done a lot of analysis and are also aware of the kind of state of analysis on these issues around the country. We also had somebody from Rutgers and the Princeton Eviction Lab, who are experts in estimating these sorts of things.

We don't have reliable estimates. The estimates my colleague just used seem quite high to me. The average payment out of this program, which might be a kind of a more reliable indicator of how much rent might need to be paid -- the average payment in the initial round

of payments to tenants was $14,000 per household.

So at $14,000 per household, you get something on the order of 200,000 payments if you include both the -- if you include the $2.85 billion that we have available through both the federal funding and the state funding.

The big concern as of about a month ago -- and my colleague mentioned this before -- was the question of whether New York would be spending money rapidly enough that we wouldn't lose out from an important provision in the federal law which will reallocate money from states that have lesser need and demonstrate less of a need to states that have a greater need.

New York was in danger of being a state that had not demonstrated our need because we were unable to get our money out. That has changed. Again, New York is now number one in the country in terms of allocating money on a percentage basis -- and of course we have a lot more money than many of the smaller states -- that $800 million figure.

We stand to benefit from a process that reallocates money from states that do not demonstrate an ability to spend it, largely

because they're likely to have less need than New York, to the states that have more need.

So from my perspective, what we ought to do is encourage everybody to apply to this program, assess their eligibility for the program, determine the cost of that, and then ensure that we cover the full cost of those arrears through federal funding and through state funding if necessary.

SENATOR BORRELLO: Mr. President, will the sponsor continue to yield.

ACTING PRESIDENT BENJAMIN: Does the sponsor yield?

SENATOR KAVANAGH: Yes, Mr. President.

ACTING PRESIDENT BENJAMIN: The sponsor yields.

SENATOR BORRELLO: With all due respect, I think we're a long way from thinking we're going to get somebody else's money when we can't spend our own here in New York. But I'll give you that as an optimistic view of the situation.

You know, we're relying a lot on the courts to do this, right? We're going to have

them try to figure out who is actually -- suffers a hardship. When you talk about a hardship and an income loss, this is a long discovery process. And right now we have courts that won't even schedule an eviction hearing -- schedule a hearing, I should say, unless there is a hardship application filed.

So what happens when these folks eventually get there and their hardship is found to not be correct? This could be two years in arrears. What happens for that property owner when that person is deemed not able to be eligible for the program and that two years of back rent -- what happens to that, what's going to happen to those people?

SENATOR KAVANAGH: Through you, Mr. President, I'm not sure the experience with the courts to date on this is terribly instructive of how it's going to be once we pass this law.

Prior to two and a half weeks ago when the U.S. Supreme Court ruled if a tenant filed a hardship declaration, the case was automatically stayed -- and in fact, if you provided the declaration to your landlord, they

couldn't file a case. With the bill we're passing today, if somebody wants to sue their tenant for eviction, they should first inquire whether they've applied to the CERAP program, because the CERAP program is designed such that people won't be evicted while their application is pending.

The -- if they do not have a CERAP application and the tenant doesn't file a hardship declaration, they can proceed. If the tenant does file a hardship declaration, they get a hearing on the question of whether that hardship declaration is valid.

Courts that normally handle housing cases will not be handling the volume of cases they normally would have to carry because, if nothing else, 176,000 households who are in arrears are not being processed by the courts, they're being processed by OTDA.

So again, courts are going to have to make tough choices about how to function safely and properly during COVID, but there's nothing about this bill that prevents a landlord from having their day in court.

SENATOR BORRELLO: Thank you,

Mr. President. On the bill.

ACTING PRESIDENT BENJAMIN: Senator Borrello on the bill.

SENATOR BORRELLO: I want to thank Senator Kavanagh for engagement today with all of us.

You know, I think we're relying a lot on the fact that the courts that are already backlogged because of COVID, that are already bottlenecked, are now going to have to go through the painful process of trying to determine whether or not someone truly has a hardship. It's going to take months, even years, for those cases to get through our courts. I think that's pretty obvious.

So what's going to happen in the meantime? We've already seen property owners that are at the end of their rope. They've depleted their savings, they've run up their credit cards, some of them have actually abandoned their properties because they can't take care of them anymore.

We are harming one group of people to benefit another because we don't have the wherewithal to say enough is enough. So why are

we doing this? Why do we know -- we know these folks are going to get behind on their taxes, to get behind on their mortgages, that we're going to have more properties going into disrepair, becoming zombie properties, more properties that are going to end up going into tax auctions. Why are we doing this?

We're saying we're doing it because we want to protect tenants. But I don't think we're protecting tenants because we are going to actually collapse the rental market in New York State.

So what happens then? I think what the real intention is. We don't really like private property rights here in New York State, apparently. We don't think people should be able to own a piece of property and rent it to someone in the private market, so we want to break the back of that market. That's the intention here.

What we're saying is either you can afford to buy and maintain your own home or you should be forced to live in some kind of a government-controlled rental situation. We all know how great government-run properties are. They are the epicenters of crime across this

nation.

We want to bring more of that to New York State. We want to break the back of the private fair market rental housing situation here in New York so that we can rebuild it in some kind of a government-controlled light.

We are increasing the haves and have-nots in New York State. We're becoming almost like a Third World country in some ways. We're not going to let people have the dignity of being able to have their home and not have to worry about the government determining where they get to live.

That's what I think the real situation is here. That's the real goal here, is to break the back of the rental market in New York State.

Well, millions of people live in rental properties right now, and we've said to them: Don't pay your rent, and now you're going to be $15,000 in debt. Then what's going to happen? People that typically don't have much money in the bank are now faced with $15,000 in back rent. What are we going to do about that?

And by the way, that's if we stop

today. What happens if this takes another six months, a year, and these people are tens of thousands of dollars in debt? We're going to have to confront that issue also. Are we going to forgive that debt on behalf of the property owners that are already hanging on by a thread? What are we going to do?

We can't get the money out the door now as it is, we know that. We've given people zero incentive to actually want to apply so that they can work with the property owners to pay their rent, because there is no penalty for them to continue to not to pay the rent.

We are creating a multi-billion-dollar crisis that ultimately is going to break the back of the private rental market in New York State. And that's a shame.

I'll be voting no. Thank you, Mr. President.

ACTING PRESIDENT BENJAMIN: Senator Rath.

SENATOR RATH: Thank you, Mr. President. Will the sponsor yield for some questions?

ACTING PRESIDENT BENJAMIN: Does

the sponsor yield?

SENATOR KAVANAGH: Yes, Mr. President.

ACTING PRESIDENT BENJAMIN: The sponsor yields.

SENATOR RATH: Thank you.

I have some clarifying questions actually on a different aspect of this bill that has to do with the Open Meetings Law provisions.

My first question is, what bodies at the state level of government will fall within the scope of this legislation?

SENATOR KAVANAGH: Through you, Mr. President, we have crafted the provisions that my colleague is talking about -- and just for anybody who -- just for clarity, we are suspending certain aspects of the Open Meetings Law that would normally require a public body, as defined by that law, to permit members of the public to view or listen to the proceedings of that body in person. And we are basically suspending the requirement that they make that in-person.

We are not suspending many other provisions of the Open Meetings Law that are

intended to ensure that our governmental bodies act in the light of day and with transparency.

The bill that we are considering today is very broad in terms of extending those -- that exemption, the option to not meet in person, to public bodies, and it includes virtually any body, any public body that the Open Meetings Law applies to currently. So public authorities, local governments, you know, all kinds of -- we've crafted the language as broadly as possible.

I would note that it would not apply to this chamber. But like that -- the Assembly and the Senate are just about the only bodies I can think of that this language wouldn't apply to.

SENATOR RATH: Through you, Mr. President, will the sponsor continue to yield.

ACTING PRESIDENT BENJAMIN: Does the sponsor yield?

SENATOR KAVANAGH: Yes, Mr. President.

ACTING PRESIDENT BENJAMIN: The sponsor yields.

SENATOR RATH: Thank you.

I want to clarify that a little bit, Senator, with regards to what you just said.

Would state commissions such as JCOPE and the Independent Redistricting Commission be authorized to hold remote meetings without requiring in-person access to those meetings?

SENATOR KAVANAGH: Through you, Mr. President. The bill before us applies to any public body to which the Open Meetings Law is subject, and to the extent that law applies. We're not changing the underlying applicability of the Open Meetings Law.

So for example, the Open Meetings Law does not apply to our court system. They have other laws that specify when hearings should be open and when they should be closed. So this bill would have no effect on the court system.

(Conferring.) And my counsel is confirming what I suspected to be true, which is that JCOPE is not currently subject to the Open Meetings Law, so it is unaffected by the bill before us.

SENATOR RATH: Through you,

Mr. President, will the sponsor continue to yield?

ACTING PRESIDENT BENJAMIN: Does the sponsor yield?

SENATOR KAVANAGH: Yes, Mr. President.

ACTING PRESIDENT BENJAMIN: The sponsor yields.

SENATOR RATH: Further clarification, Senator. I think you indicated that the State Legislature in its sessions, its meetings, and its hearings will not fall within the scope of this legislation. Is that correct?

SENATOR KAVANAGH: That is correct.

SENATOR RATH: Through you, Mr. President, will the sponsor continue to yield?

ACTING PRESIDENT BAILEY: Will the sponsor yield for a question?

SENATOR KAVANAGH: Yes, Mr. President.

ACTING PRESIDENT BAILEY: The sponsor yields.

SENATOR RATH: This question has to do with if this is a choice for public bodies or

if this is a mandate for public bodies.

In other words, would a public body have to conduct remote meetings, or is that an option for them to conduct remote meetings?

SENATOR KAVANAGH: Through you, Mr. President, this bill authorizes localities to conduct remote meetings, as my colleague sort of summarizes, but does not require. Any body that wants to continue to operate in its normal fashion under the Open Meetings Law is entitled to do that.

SENATOR RATH: Through you, Mr. President, will the sponsor continue to yield?

ACTING PRESIDENT BAILEY: Will the sponsor yield?

SENATOR KAVANAGH: Yes, Mr. President.

ACTING PRESIDENT BAILEY: The sponsor yields.

SENATOR RATH: Hypothetically, could a public body hold a public meeting in person and preclude the public from participating in it remotely?

SENATOR KAVANAGH: (Conferring.)

The bill does not change the manner in which a public body holds an in-person meeting if they choose to hold an in-person meeting. The bill permits meetings to be held remotely.

So if a meeting is held in person and, again, it meets the Open Meetings Law requirements, the preexisting ones, the ones that apply before we pass this bill today, this bill has no effect on that.

If they choose to avail themselves of the flexibility that this bill requires, they would still have to ensure that people can view and -- or hear the proceedings, they would have to require that they be recorded, they would have to require that there be a transcript of the proceedings that is published after the meeting. But that's the special provisions here. If they're running a standard meeting under the Open Meetings Law, this bill has no effect.

SENATOR RATH: Through you, Mr. President, will the sponsor continue to yield?

ACTING PRESIDENT BAILEY: Will the sponsor yield?

SENATOR KAVANAGH: Yes.

ACTING PRESIDENT BAILEY: The sponsor yields.

SENATOR RATH: You know, I have concerns that this change in the Open Meetings Law could be used to intentionally block or stifle input from communities who are having remote meetings, public bodies that are having remote meetings.

Say you have activist groups that perhaps a county legislature or a town board doesn't want to have as a part of the discussion. Maybe they rile people up, maybe they make them uncomfortable. Do you think that it's possible that these public bodies could intentionally block or stifle public input through utilization of remote meetings?

SENATOR KAVANAGH: Through you, Mr. President, I would say the jury is out on whether remote -- the move to remote meetings that we saw in a very widespread way during COVID has had benefits in terms of public participation or drawbacks and to what extent those are balanced.

We've had many people who have said that the ability to view proceedings from their

home in the evening rather than going in person to a public meeting has been beneficial in terms of attendance, in terms of the ability to know what's going on.

But I don't think that there is anything special about this bill that would sort of enable public bodies to dramatically curtail what the Open Meetings Law requires, which is basically an opportunity to view and listen to the proceedings.

I think, you know, people in public life who are inclined to make things difficult for people may, even under the Open Meetings Law's broadly applicable provisions, attempt to do that. This bill is intended to allow public bodies -- and I would note in response to many, many requests that we do this, including many in my open community who are very concerned about the spread of COVID when forced by the Open Meetings Law to have in-person proceedings -- it is to basically allow them to balance the need for continuing to do the business of government and to do it in an open way, with the need to ensure that people aren't being crowded into tight places and spreading COVID-19.

But I don't think there's anything about this bill -- and I am certainly a very big proponent of open government and transparency, and I don't think there's anything in this bill that will be, you know, terribly detrimental to that goal.

And I would also note that this bill expires on January 15th, along with the other provisions that we're considering today.

SENATOR RATH: Thank you.

Through you, Mr. President, will the sponsor continue to yield?

ACTING PRESIDENT BAILEY: Will the sponsor yield?

SENATOR KAVANAGH: Yes, Mr. President.

ACTING PRESIDENT BAILEY: The sponsor yields.

SENATOR RATH: Thank you to the sponsor. This is actually my last question.

We all know that universal broadband, high-speed internet access, continues to be a major problem across New York State. There are things called broadband deserts, and these broadband deserts are urban, they're

suburban, they're rural and they're agricultural.

Would local governments potentially block residents from attending meetings because they are unable to view them virtually due to these broadband deserts?

SENATOR KAVANAGH: Through you, Mr. President, I think there is a differential ability in our population to participate in public meetings for all kinds of reasons.

There are all kinds of obstacles. There are people that don't have the ability to have childcare so they can go to a meeting while their children are being cared for by somebody else. There are people with disabilities that make it difficult for them to get to certain places and participate.

So there are disparities now. There will presumably continue to be disparities under this bill. But again, there may be some who find it easier to view what their public agencies are doing in realtime because it is available online, rather than having to go perhaps a great distance or to an inconvenient place to be there in person.

In addition, this bill requires that

the proceedings be recorded and that they be available to be viewed or listened to, and it requires that a transcript be made. So there are a variety of ways somebody can get the benefit of understanding what the body is doing without being there in person under this bill.

And I don't think it -- there are lots of disparities; we always try to address them. I don't think this bill increases the disparities in any significant way.

SENATOR RATH: Thank you to the sponsor. And thank you, Mr. President.

ACTING PRESIDENT BAILEY: Thank you, Senator Rath.

Senator Jordan.

SENATOR JORDAN: Mr. President, I rise to speak on the bill.

ACTING PRESIDENT BAILEY: Senator Jordan on the bill.

SENATOR JORDAN: This bill fails to address the growing financial crisis that our mom-and-pop small landlords are enduring. Because in reality, the vast majority are not getting reimbursed for the months of rent they are due.

Since 2020 my focus has been trying to help the mom-and-pop landlords that are struggling to make ends meet. I'm talking about the average, everyday folk that we see on Main Street. Mom-and-pop landlords are our family, friends, and our neighbors. Many of us, probably all of us serving in this chamber know someone that has a small rental property that was supposed to help supplement their income or assist in paying for their retirement.

Mom-and-pop small landlords won't get rich off of their rental property by any means, but it's their proud piece of the American dream. And sadly, their American dream has become an American nightmare, a nightmare of no money coming in and expenses still having to get paid. A nightmare of a never-ending succession of state and federal government kicking the can down the road. And a nightmare of the very program that was supposed to be helpful and instead is hurting them.

Our mom-and-pop landlords are small businesses. They carry heavy mortgages, utilities, maintenance and upkeep as well as long-term debt. They have families, children,

college funds, car payments and health insurance costs as well. In short, they have all of the expenses that we all have plus the cost of their properties. And they have faced 18 months of financial devastation because of misguided state and federal eviction policies and misfiring, malfunctioning programs that were supposed to help but aren't.

I have numerous mom-and-pop small landlord businesses throughout my 43rd Senate District. I've continually heard from them throughout the pandemic. Many haven't received a single payment for 18 months -- 18 months -- and some of them even more. It's unfair, it's wrong, and it's unconscionable. Imagine if you went without your paycheck for 18 months. How would you feel? What would you do?

I can tell you how mom-and-pop landlords are feeling because I've actually listened to them. Mom-and-pop landlords feel desperate, ignored, taken advantage of and scapegoated. They're frustrated and disappointed, and rightfully so.

The Emergency Rental Assistance Program, or ERAP's unrealistic, unworkable

requirements made a bad situation even worse for these mom-and-pop small landlords who are struggling financially because of the unintended consequences of this program.

There are more problems with the landlord ever receiving all of the money due to them than we ever even originally thought. First, cooperation is needed between the tenant and the landlord in the application process. They each have required documents and information to enter into the program portal.

Second, the tenant's rent will be paid only if the household's income or calendar-year income is at or below the prescribed percentage of the area median income. Tenants may find out in the application process that now they don't qualify, meaning that the landlord goes unpaid.

Third, only up to 12 months of rental-arrear payments for rents accrued on or after March 13, 2020, can be paid. And then there's an additional three months of rental assistance that can be paid if the household is expected to spend 30 percent or more of their gross monthly income to pay for rent.

This is problematic considering that many landlords are owed more than the 12 months, or even more than the 15 months rent, and the number of months owed may continue to add up based on this measure today.

Fourth, no late fees can be charged, which help to pay late fees owed by mom-and-pop landlords.

The reality of these deficiencies is that mom-and-pop landlords won't be able to recoup their total losses and that some, not all, rent scofflaws have absconded from rental premises without sharing necessary information needed for the ERAP application process, hence the lack of cooperation.

And as far as money being put aside today for instances such as this, the ERAP portal does not give access to anything without tenant cooperation at this point in time.

This lack of active cooperation as required under ERAP can prevent the processing of rightful claims by landlords to recoup any of their losses via ERAP.

The result: Mom-and-pop small landlords are being denied the financial relief

they deserve and were promised.

As recently noted in Real Estate Weekly, only 4 percent of the state's $2.6 billion of federal rent relief funds have reached tenants and landlords, so billions in relief for mom-and-pop landlords are stuck in the muck and mire of Albany's bureaucratic bottleneck. Sadly, tenants thus far appear to be the only constituency that the Majority has been concerned about.

And yes, I want to help tenants also. We all want to help people that are hurting. I know and we know that COVID-19 has caused countless hardships, to say nothing of its devastating human toll. However, we are one and a half years into this with many, many individuals continuing to live rent-free. But it's not free for the mom-and-pop-landlord small businesses that haven't received a dime for 18 months.

Mom-and-pop property owners provide a good deal of the nation's affordable housing and a lot of the housing here in New York City. Malfunctioning measures like ERAP and Albany's seeming indifference to the financial plight of

mom-and-pop small landlords place that provision of affordable housing at risk.

When we first took up the rent eviction moratorium, I spoke on this very floor asking would landlords ever paid back. Sadly, my concern proved prescient. Federal and state government has continually kicked that can far down the road while mom-and-pop landlords struggle to hang on.

The promise of more months of rent-free living without money getting into the hands of these property owners is just too much to bear. Because this bill doesn't fix any of the problems I spoke about and fails to help mom-and-pop landlords, I'll be voting in the negative.

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

Seeing and hearing none, the debate is closed.

(Pause.)

ACTING PRESIDENT BAILEY: The Secretary will ring the bell.

Read the last section.

Senator Gianaris.

SENATOR GIANARIS: Mr. President, by consent with the Minority, we're going to return this bill to the noncontroversial calendar to record the vote.

ACTING PRESIDENT BAILEY: Restore the bill to the noncontroversial calendar.

Read the last section.

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

ACTING PRESIDENT BAILEY: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT BAILEY: Senator Gianaris to explain his vote.

SENATOR GIANARIS: Thank you, Mr. President. And thank my colleagues for coming up at this critical moment to continue to do the work that the people of New York require us to do.

There's a confluence of events that made this legislation necessary. You've heard a lot of it during the debate, but I want to outline it again in my brief vote explanation.

First of all, we are sitting here on September 1st with the eviction moratorium we had

in place in the state having expired as of midnight last night. We have the delta variant of COVID that continues to wreak havoc in our communities. We had an unfortunate anti-tenant Supreme Court decision from the U.S. Supreme Court that required us to fix the way we had originally written this law. And as has been pointed out by many on both sides of the aisle, we had an emergency rent relief program that was administered in a disastrous fashion by the previous administration.

As of this point, we all know the Cuomo administration was hobbled by its own scandals the last several months, was extremely distracted, and much of the executive branch of government was paralyzed, including the administration of this important program.

Thankfully Governor Hochul has said this is a priority of hers to get right. But in the meantime, to get that over $2 billion into the pockets of tenants and landlords to make people whole, we need more time. And so we're passing this legislation to give another four months for that money to get into the right hands, make people whole, keep them in their

homes at a time when it's more important than ever.

So if we all sit here and we talk about wanting to prevent homelessness, wanting to help people who are housing-stressed, wanting to help the small landlords who are waiting for rent to be paid, the way to do it is to extend the moratorium and get that rent relief money out the door.

I heard a lot of my colleagues on the other side of the aisle talking about the need to make mom-and-pops, I think was the term -- mom-and-moms, pop-and-pops, whatever you want to call it -- but the need to make these landlords whole. Well, it doesn't help make them whole if we don't pass this bill and they end up evicting their tenants. That doesn't help them get the money.

So keeping people in their homes, moving the rent relief money ultimately to the landlords is the way to accomplish that. That's what we're doing here today. And I thank my colleagues for supporting this bill.

I proudly vote yes.

ACTING PRESIDENT BAILEY: Senator

Gianaris to be recorded in the affirmative.

Senator Brisport to explain his vote.

SENATOR BRISPORT: Thank you, Mr. President.

Allowing evictions during a pandemic is fatal. This is not hyperbole or assumption, it is an established fact. The CDC reviewed national studies and found that the removal of eviction moratoria in other states led to over 10,000 deaths.

Even before an eviction leads someone in a densely packed and dangerous shelter, it turns their life upside down through a long and confusing court case. Many will risk losing jobs each time they miss work for court or struggle to figure out what to do with their children every time they have to appear in front of a judge. Some won't even make it to court because they can't afford travel expenses or because they have no internet access for a virtual hearing.

Allowing evictions to proceed will destroy lives and it will end lives.

We have heard a lot about two sides:

Balancing the needs of landlords with the needs of tenants. I want to make it absolutely clear that this is a false equivalence. There are two separate questions being considered today. First, how to ensure people do not lose their homes during a pandemic; and second, how to ensure landlords continue to profit off of their extra housing.

One and only one of these questions is life or death. That is the question we answer by preventing foreclosures and evictions.

All over the nation choices like this one are being made, choices that come down to lives versus profits. Following a year of record deaths and of record profits for some, this is a moment in history for us to stand up and say no more. No more choosing policies that we know will kill large numbers of people for the sake of profit. No more perpetuating nonsensical right-wing narratives and false equivalencies. No more ignoring science and rationality whenever they happen to be politically inconvenient.

We can decide here in New York and all over this nation that we have seen too much of what happens when our very lives are deemed

less important than someone's profits.

Although I think we should go much further, I vote aye on this bill.

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

Senator Oberacker to explain his vote.

SENATOR OBERACKER: Thank you, Mr. President.

Edward Everett was a former governor of Massachusetts who was the premier speaker at the Gettysburg Address. He spoke for two hours from memory. Our president, Abraham Lincoln, came and spoke for two minutes. Everybody remembers Abraham Lincoln's address. I will take a lesson from history and keep this short.

I will be voting no. I will be voting no because you can be a good person with a kind spirit and still let others know when you've had enough. I'll be voting no because I know when enough is enough. I will be voting no because I know when a hand up turns into a handout. And I will be voting no because my property owners in my district have suffered long enough.

Old keys do not unlock new doors. Band-Aids need to be removed to start the healing process, and my district needs to begin healing. And for that to happen, I need to vote no on this piece of legislation.

Thank you.

ACTING PRESIDENT BAILEY: Senator Oberacker to be recorded in the negative.

Senator Mayer to explain her vote.

SENATOR MAYER: Thank you, Mr. President.

Today's vote on this bill provides the necessary balance of protection for tenants and landlords, both of whom face tremendous and foreseeable challenges as a result of the pandemic, which I point out to my colleagues continues to this day.

With enormous credit to Majority Leader Stewart-Cousins, who heard the voice of all of our constituents, this extension and modification threads the needle between protecting tenants who, through no fault of their own, lost their income, fell behind on rent and legitimately fear losing their homes, and landlords who have been waiting month after month

for promised relief as the moratorium was extended. We have heard from both, and today we address the needs of both.

The prior administration failed to get the money out the door. We are committed to making sure that happens. For me, with 247,000 low-income tenants in Westchester, we must do better and we will do better.

I cannot help but speak out against the comments of some of my colleagues on the other side that portray every rental tenant as a lazy cheater seeking to destroy small landlords. I invite you to visit my district, where thousands of rental tenants simply cannot pay their rent and landlords are anxious to get this money as well.

There is a solution, and we are seeking to enact that solution today. Yes, there are tenants who take advantage. And yes, some landlords do as well. But everyone is suffering, and we are trying to come up with a practical solution, and we have done so.

This bill attempts to find the right balance to ensure that tenants are kept in their homes and we get money out the door. I vote aye,

and I trust that with a new Governor, a strong Legislature with a voice that will not be silenced, and thousands of New Yorkers -- landlords and tenants alike -- waiting for relief, we have taken an essential step forward today.

I vote aye.

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

Senator Rivera to explain his vote.

SENATOR RIVERA: Thank you, Mr. President.

A lot of what I was going to say was just said by Senator Mayer. In particular, the fact that we need to be balanced about the way that we approach these policies. But for me, the core of this entire conversation is about keeping people in their homes.

I'll remind everyone that my district, the 33rd District in the Northwest Bronx, has about 66,000 units of rent stabilized apartments. And the median income is about $30,000 a year. One of my colleagues was talking about how maybe this was what was needed for a yearly, you know -- to pay their rent.

Well, some of the folks in my district, a full family of four makes about $30,000.

Those are the folks that I -- whose doors I knock on, because in the last couple of weeks one of the things that I've done, along with my staff, is we've knocked physically on hundreds of doors in my district. And guess what, to some of my colleagues -- they are not lazy. I feel offended by that.

When you have a government like the one that we had just until a couple of days ago, Mr. President -- which we can all agree was horrendous. I know that the air is very much crisper and the light shines brighter now that we don't have that knucklehead on the second floor. So certainly we can definitely agree that the money did not go out the door at the speed that it needed to go.

I laud the current administration, which as was pointed out earlier, went from 50th to first in the nation at moving the money out the door. But we still need to have it happen.

But what happened, folks? We didn't have language access, it was burdensome to begin with, you had no real outreach done. When I was

knocking on hundreds of doors and three-quarters of the people didn't even know the program I was talking about -- these are not lazy people. That is an offensive thing to say. Because the folks that I'm talking about are the folks that are coming into my district office, calling my office for months, and whose doors I knock on, who are telling me that they're afraid that they might be thrown out on the street.

Obviously we need landlords to get their money. But we cannot, as you say, kick the can down the road. What we're doing here is we're giving ourselves a little bit more time. Because apparently, Mr. President, as I finish, what my colleagues would have us do is to have the moratorium go away and then obviously have thousands of people thrown on the street. Because obviously that's going to not only make their lives better, Mr. President, but certainly in the middle of a global pandemic -- obviously these folks will not be impacted at all.

So since my colleagues would rather have that, I'm glad that they're voting no. But I, Mr. President, will vote in the affirmative with the responsive Majority to make sure they

keep people in their homes, get the money in the pockets of landlords, and make sure that we can have New Yorkers be better.

Thank you, Mr. President.

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

Senator Serino to explain her vote.

SENATOR SERINO: Thank you, Mr. President.

I decided not to ask any questions today because we really didn't get any definitive answers. And I have to tell you, the tenants and small property owners that are struggling did not need this special session today, they needed answers. They needed real solutions. And they needed guarantees, which they did not get.

You have to fix this program. This money should have been out the door yesterday. And it's not about profit, it's about people. We're not New York City, a lot of us; we're in upstate New York where we have those little mom-and-pops and seniors that are just trying to survive.

You've had months and months to get this -- to actually try to get this right. And

quite frankly, New Yorkers just don't trust you. And I have to say I don't either. In Finance today I asked a question about landlords getting the money, and I was told that they would get it in October. Now I just heard on the floor it's going to be four months. God, we're not even out of session.

So, you know, here we are too in a place where the funding that's allowed under the program is not even going to cover the full time that many of these small landlords have been without rent. And it's only going to compound the debt that the renters owe.

And all we're talking about is rent right now, but think about all of the maintenance and everything else that people have to do, and the taxes and taxes that they have to pay, the upkeep. That's not even being mentioned today. And that's going to fall on the owners of those properties.

Because there are a huge number of New Yorkers who are being totally left behind in all of this -- hardworking, property-tax-paying New Yorkers who rent out their homes to make ends meet who have actually fell through the cracks.

I think about when I was a single mom working two and three jobs, living paycheck to paycheck, and being a small landlord was only one of the tools that I had to keep my head above water. And I have heard from countless small property owners who are in that same place today -- single parents, seniors on fixed incomes, immigrants who bought property to live their American dream, which has quickly become the American nightmare. And what are we doing for them today? Absolutely nothing.

Add insult to injury, there is no guarantee that following year that they might get the money for the previous year. That following year, there's no guarantee that they're going to get paid, and then they're going to have to keep those tenants. And the court -- the court is so backed up I don't even see how they're going to even get to those cases.

And mark my words, when this is all over -- and it will be over some day -- we're going to have an even more severe affordable housing crisis. And that's not even being addressed today. Nobody is talking about that.

And so often it's these mom-and-pop

landlords that provide real affordable housing without all of the red tape of government-run housing. And those mom-and-pop landlords are going to get out of this rental business and sell these properties the minute they can because they don't trust the state. And as a result, we're going to be left with government housing and slumlords who only care about cashing that government check.

By kicking this can down the road, you're creating a serious, serious long-term problem and it's ultimately going to hurt the very people that you're trying to help. That's why I'll be voting no. Not because I don't care about the tenants, but because I do. And I know they cannot afford to pay the long-term consequences of the actions that you've taken here today.

Thank you, Mr. President.

ACTING PRESIDENT BAILEY: Senator Serino to be recorded in the negative.

Senator Biaggi to explain her vote.

SENATOR BIAGGI: Thank you, Mr. President.

This summer, as you've also heard

from Senator Rivera, I set out to make sure that every single neighborhood in District 34 was aware of the COVID relief programs that we passed this year in the Senate. I went from Pelham to Mt. Vernon to Woodlawn to Riverdale to Kingsbridge, Pelham Parkway, Hunts Point, City Island -- everywhere we possibly could go. The South Bronx, all of the places that have been the hardest hit, not only in New York by COVID but also in the entire country.

And the one thing that I can guarantee that I did not see when I talked to all of my constituents was laziness. I saw hardworking, kind, earnest, struggling people.

So let's talk about laziness for a second. Ignoring the science is lazy. Being fed talking points because they're convenient is lazy. Not being clear or telling the truth and lying is lazy.

Evictions trap families who are often low-income to begin with into a cycle of poverty and trauma, not to mention that each new eviction will only exacerbate our public health crisis. The Bronx currently has the highest unemployment rate and the greatest number of

pending eviction cases.

So what do we think will happen to them if we don't actually extend the eviction moratorium today? Failing to extend this moratorium while our state is grappling with a continued surge would be a equivalent of handing thousands of New Yorkers a death sentence. And if that's not compelling enough for you, extending -- failing to extend the eviction moratorium is also very cruel.

I heard also this rhetoric about handouts. What do we do in times of need? What do we do when somebody falls down or somebody needs some help? We put out our hand.

Today I am proud to vote aye because we know that the hard truth is this: For those who have experienced the most loss and hardship because of COVID, this pandemic is far from over. And no longer can we ask tenants and small landlords -- because guess what, this bill also protects landlords, imagine that -- to bear the brunt of this ongoing pandemic.

I'm very proud to stand with my colleagues and vote in favor of this bill.

Thank you very much.

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

Senator Harckham to explain his vote.

SENATOR HARCKHAM: Thank you, Mr. President. I originally was not going to speak on this bill. There was an exhaustive debate. I wanted to thank Senator Kavanagh for laying out factually exactly what this bill doesn't do, and for your leadership on this issue.

I want to thank our new Governor for taking what was a failing program in terms of getting funds out the door and making it a priority and making New York number one in committed funds to landlords. And let's make that quite clear. Every dollar in all of these programs is going to landlords.

And I want to thank our Majority Leader for negotiating and for her leadership in negotiating with the Governor and with the Assembly on this.

I was really struck by some of the language that -- you know, one of the Senators mentioned that her constituents were real

New Yorkers. And so when I think to myself are my constituents who are struggling to pay their rent or struggling to pay their mortgage not real New Yorkers? Are the landlords in my district who are struggling to make expenses not New Yorkers? You know when we demonize and we do this upstate/downstate thing and we start using code words -- you know, we talk about personal responsibility and lazy. You know, it's easy to do when you don't have the votes to impact policy. Oh, let's just demonize. Let's just throw them all out.

But you know what? That's not good housing policy, it's not good health policy, it's not good economic policy. Sure, let's throw 500 to 800,000 New Yorkers out on the street. And guess what? You're not going to fill a single new apartment because those folks don't have a dime.

So, you know, I just wanted to stand and say that I am firmly voting for this. It may not be a perfect bill, but we're navigating waters that we have never been in before. And I think it's incumbent upon all of us to work together as New Yorkers and stop demonizing and

separating.

I vote aye.

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

Senator Weik to explain her vote.

SENATOR WEIK: Thank you, Mr. President.

I participated in the public hearing for ERAP, and I clearly heard OTDA state that this is a tenant-centric program. And yet the program is designed to get funds directly into the hands of property owners. And these owners, these property owners are the people who pay taxes. They pay their mortgage. They pay for the maintenance and upkeep of these properties. So that without these property owners, these tenants would not have a safe place to live or operate a business.

Seven municipalities opted to opt out and administer their own program. I represent one of those seven in the Town of Islip. Two of those municipalities were present at the hearing, Monroe County and the City of Yonkers. And when I asked them why they chose to administer it themselves, they said that they

know their constituents best and were able to be more effective and more efficient. And when I asked them did they feel they were successful, they said yes.

We see that no money has gone out the door, leaving property owners stranded and beholden to tenants. And clearly local control has proven to be far better and far more effective. And when we see landlords getting that funding into their pockets, they're able to provide a better and healthier space for those tenants. If those property owners do not have that funding, those tenants are out of luck and basically on the street anyway.

And so we need to make sure that that money goes directly into the property owners' pockets, and that this program is just not doing that. And for that reason, my vote is in the negative.

ACTING PRESIDENT BAILEY: Senator Weik to be recorded in the negative.

Senator Krueger to explain her vote.

SENATOR KRUEGER: Thank you.

I can be very quick because I realize that Senator Harckham said everything I

wanted to say and said it extremely well.

I don't understand this house thinking this is a "them or us" fight. This is real life-and-death issues for everyday New Yorkers whether they're an everyday New Yorker who might own property or an everyday New Yorker who rents property and can't afford to pay the rent. Why? Because we're in the middle of a world pandemic.

New York City's unemployment rate is over 10 percent, twice the national average. The unemployment benefit program completely ends on September 5th, and we're sitting here on September 1st. So get ready for another million New Yorkers to have less money than they have now. And COVID delta is 13 times as transferable as the version we already have lived through, or most of us have lived through.

So this is absurd to be turning this into hostile spin against each other. Can government admit that we haven't done it as well as we should, we haven't gotten the money out the door as fast as we could? Yes. I'm fine with saying yes. We didn't do it fast enough. We have to speed it up. And you know what, we're

going to have to come up with more money. Because one thing that a Senator did say that I agreed with was this isn't solving our housing crisis. We had a housing crisis and an affordability crisis before we ever knew what the word COVID meant. And it will be bigger and worse when we're done with COVID.

But we can't leave hundreds of thousands of New Yorkers homeless because of ridiculous positions people think they ought to be taking on the floor today.

I vote yes, Mr. President. Thank you.

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

Senator Jackson to explain his vote.

SENATOR JACKSON: Thank you, Mr. President.

My colleagues, I rise to speak in favor of extending the C and ERAP, putting in place a new eviction moratorium and modifying the Open Meetings Law to provide safe virtual access for public gatherings.

Virtual meetings have dramatically increased civic participation, allowing our

communities to be more involved and better understand how our government works at all levels.

But the main reason is to protect all tenants across New York. And my colleagues, you've heard me say before that I have the most rent-regulated units in the entire State of New York, 68,000 -- second only to Gustavo Rivera. And I also have homeowners that are small mom-and-pop owners too. We all do. But 800,000 tenants and their families are depending on us, the Legislature and Governor Hochul, to save them from being evicted from their homes.

Some of my colleagues have called struggling tenants lazy. We've heard this. And I need to address that charge. I encourage you to come to my district in Manhattan, full of essential workers and working-class families, and look these struggling tenants in the eyes to tell them that. You know where they will tell you to go, right?

The stories of hardship my staff and I have encountered during this pandemic would break your heart right open. No one would choose to live in fear of losing their homes. Housing

insecurity has always been present, but the pandemic has accelerated it. Families I meet are deciding between food and healthcare and rent. If lucky, they can pick two. They're moving into smaller apartments and doubling up with relatives and friends even more than before the pandemic. The C/ERAP programs have been slow to get funds out, and we know that, so the eviction moratorium must continue while we get more applications in the door.

My colleagues, this is not about downstate versus upstate, urban versus suburban or rural, this is about helping all New Yorkers no matter where they live. We must get our tenants to fill out the C and ERAP applications so landlords can get the money they're entitled to. The time is now. We can't wait.

And I vote yes for the over 1.5 million tenants and families that have been waiting for us to do our job.

Thank you, Mr. President.

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

Senator Akshar to explain his vote.

SENATOR AKSHAR: Mr. President,

thank you.

You know, these are not partisan talking points. This is not partisan rhetoric. This is my reality. I'm not suggesting for one moment that my friend from the Bronx didn't experience what he experienced. I believe, in fact, that he is telling the truth. He is advocating for his constituency.

I am not sorry that I have offended some people in this room today. I'm not. Because I spoke from the heart and I spoke on behalf of the people that I represent.

You know what is lazy? It's setting up a program that can't get out of its own way. I don't give a damn if we put $10 billion into the pot of money, if we can't get it into the hands of struggling New Yorkers in Manhattan, struggling New Yorkers in the Bronx, what difference does it make? What difference does it make how much money is in the pot if we can't get it out the door?

So with all due respect, I spoke about the reality of the people in the 52nd Senate District. And dammit, that's exactly what I was elected to do. So you know who I

didn't offend? I didn't offend the people back in 52. I made them proud today because I stood up and I fought for them. I fought for -- I'm fighting for Charlie Aiello. I'm fighting for Maryanne Burke. I'm fighting for Mike Dunlap and so many more.

Mr. President, I vote no.

ACTING PRESIDENT BAILEY: Senator Akshar to be recorded in the negative.

Senator Gaughran to explain his vote.

SENATOR GAUGHRAN: Thank you, Mr. President.

Our priority should be to make sure that this state gets our tenants and our landlords, who are in economic distress, this emergency rental money as soon as possible. Too many New Yorkers are hurting. And yes, this state has failed to get this money out at anything close to a timely fashion.

But fortunately our new Governor has been working very hard to turn that around. And that's why we do need to give qualifying New Yorkers more time to get this money.

I believe, though, that it is

imperative that any New Yorker who is facing a hardship should immediately apply for these funds.

And honestly, I am disappointed that this legislation does not require that tenants immediately apply for these funds and it does not include additional funding to assist those tenants and landlords in immediately applying for these funds as a condition. Because I think the failure to include such a provision ultimately is going to hurt those tenants that are most in distress the most.

But I do say and plead with tenants across this state who qualify for these funds: Please apply immediately, because these funds will run out. And when the moratorium ends on January 15th, you may very well get these -- or have the ability to acquire these funds legally, but the funding will no longer be there. And therefore I think it is imperative that people apply for this as quickly as possible.

Very quickly, Mr. President, on the Open Meetings Law aspect, this is a temporary measure. I do not believe we should be doing this type of virtual meeting for local

governments and agencies on a permanent basis. But I do want to clarify a discussion before that I think was posed by a question with Senator Rath.

This bill does not stop public participation, to the extent that it exists in this state. Our Open Meetings Law does not actually mandate that agencies and authorities and local governments have the traditional public participation at hearings, open mics that many of us are used to particularly with our local governments. Perhaps we should modify the law to include that at some point.

But to the extent a community or an agency or an authority already permits that type of public participation to ask questions, that will continue. They will have to include a virtual aspect -- unless, of course, they decide they want to amend their local laws.

So I vote in the affirmative, Mr. President.

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

Senator May to explain her vote.

SENATOR MAY: Thank you,

Mr. President.

I rise to express my gratitude to Senator Kavanagh, to the Majority Leader, to the central staff and my colleagues who worked so hard to negotiate a bill that not only will help keep people out of homelessness but will speed resources to landlords in need of those resources.

I want to particularly call out one quiet provision of this bill that we haven't heard about today, and that is the additional appropriation for legal services for tenants facing eviction.

This is something that tenants in New York City take for granted, but in the rest of the state they are expected to show up in court, often for the legal battle of lives, and without representation. These are people who are at the end of their resources, by definition, people who are truly facing a crisis for themselves and their families, and to expect them to mount a solid legal case in those circumstances is totally unrealistic and just adding insult to injury.

So I'm pleased that we have added

this funding into this bill. It's only temporary. I do hope my colleagues will join me in taking up the cause of making sure that such support is available to tenants throughout this state on a more permanent basis.

But in the meanwhile, I'm proud to vote aye for this bill.

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

Senator Lanza to explain his vote.

SENATOR LANZA: Thank you, Mr. President.

I agree with Senator Harckham, we ought not be demonizing anyone here. A tenant who has a real hardship is not a bad person. But nor is my neighbor, a single mom working two jobs, trying to stay in her home, who has a renter that told her a year ago, I'm not paying your rent, and you can't evict me. She's not a profiteer. She's a good person. She's not a demon.

I'll tell you what's lazy. It's lazy to act compassionate by spending someone else's money. You really care? My neighbors are bad people? Open up your doors. There are a lot

of people on Staten Island that don't have homes. Open up your door, invite them in. Let them stay as long as they want free of charge.

Our new Governor, she inherited a beautiful mansion across the state. A lot of rooms. Governor, open the door. Let them in. It was a song, it was a very good song.

(Laughter.)

SENATOR LANZA: Open the door, let them in. Let them stay. Don't charge them. If that's compassion, be compassionate.

I have a lot of neighbors who when I get home tomorrow are going to say, When do I get my rent? And sadly, I'm going to have to say, once again, I do not know.

You know, this is not about anyone saying people ought to be evicted. I don't want to see anybody thrown into the street before COVID, during COVID, after COVID. None of us want to see that. But there are people on the other side of the equation -- good people too -- that are struggling and are going to struggle longer and further because of this legislation.

I know -- and I listened to Senator Kavanagh the last time say, Senator Lanza, you're

wrong, don't worry, there are all these protections, all these provisions. They're going to get their money. We're going to protect both sides of the equation. We're going to protect the tenant and we're going to protect the landlord, the homeowner. Don't worry.

And I thought -- Senator Kavanagh is a smart man, a good man, an honest man -- that my neighbors would be protected. And I went home, and I am here today to report to you they have not -- it doesn't matter, they don't care what the reason is. The money can't get out the door, there's a bureaucracy, there's a glitch, there's a computer. They don't care. All they know is they have not been paid. And they're on the verge of losing everything also.

And so I listened today intently, and I heard the same guarantees. And there is new language that sounds good. The last one sounded okay; this one sounds a little better. A landlord, a homeowner, they could apply themselves. If you pass this hoop and go over that hurdle and you're in this tier and that tier and the other tier, and you've waited six months or nine months or a year -- now all of a sudden

they could do something.

I wish it were true. I hope and pray it is true. But if we're back here in six months or next month or a year from now and these homeowners still have not been given their rent, then that is a disgrace. And I fear that's going to happen.

If you mean what you say, let the landlord apply now without any preconditions. Let them apply now. Let them not have to wait for a tenant. I understand a word was used inartfully, but I have hundreds of homeowners who have begged, who have pleaded with their tenant to apply, and they refuse. Call them whatever you want, it doesn't matter, the words don't matter. What matters is they're not doing it. They may have a good reason. It may be because they're fearful. It may be because there's no incentive to do it. If they're living somewhere for free, why should they change anything? Maybe because their hardship is so terrible that they don't have the wherewithal to do this.

If you care about the landlords, let them apply. Let them apply now. Let them get their money now. And if you care about the

landlord -- and if I'm wrong and you say, once again, Senator Lanza, you're wrong, they're going to get it, we'll guarantee it, stand up in this chamber and tell all those homeowners, I promise you at the end of the day, a year from now, two years from now, and you didn't get your rent, I promise you New York State is going to give you a check and make it up to you and make you whole.

Because this legislation doesn't do that, Mr. President, I vote no.

ACTING PRESIDENT BAILEY: Senator Lanza to be recorded in the negative.

Senator Sanders to explain his vote.

SENATOR SANDERS: Thank you, Mr. President. Good to see you up there, as usual.

I want to thank Senator Kavanagh and all of those who worked hard on these -- what was brought before us today.

You know, at a time like this you can really look and see what type of leaders we have. Do we have the type of leadership that is designed to bring us to the highest place, or are we going to descend into name calling, whistles -- dog whistles and all of these other

things?

In the 10th Senatorial District, we reject the false dichotomy that it's landlord versus tenant. We say we're all in this together. We say there is a way to help all of these people and we have to help all of them. Are there extremes, are there greedy landlords and greedy tenants? Sure, you're going to find some of those. But the vast majority of people -- at least in my district -- are going to be good, hardworking people who want to move forward.

And it's for them that we try to do something about it. We don't just look at one or two outliers and say this is what happened. From the 10th Senatorial District we say we are really angry at the last administration that did not move this money as they should have. That's a shame, and we should put that where it should be.

But we also say that we are going to protect tenants, we're not going to toss them into the street in the middle of a COVID -- the delta variant. Come on. What Dickensian ideas are we coming up with? At the same time, we are not going to let small landlords lose their

little bit of the American dream either. We can do something, and this does something.

Now, will it do everything that we need it to do? God willing, it will. We can only try to figure this out. We're in a pandemic, my friends. We've never been here before. We are making an airplane in the sky. We're going to make some things right and some things we're going to have to keep working at till we get it right.

I return to the issue of leadership. Again, leaders must learn to turn to each other and not on each other. Dog whistles don't help at a time like this. We are all New Yorkers. At least in the 10th, we hold on to that dream.

And that's why I'm voting aye, Mr. President, because I want to save tenants and I want to save the small landlords, and I think you could do both of them today.

Thank you very much, sir.

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

Senator Salazar to explain her vote.

SENATOR SALAZAR: Thank you, Mr. President.

Multiple Senators today have cited public housing in their remarks in a derogatory and insulting context. That if people can't afford to pay rent, that they should be punished and sent to live in public housing. That public housing is being used as a threat. That is unacceptable.

I have the honor of representing 25 public housing developments, NYCHA developments, in my district. That's tens of thousands of people and families who pay rent, who are hardworking, and who deserve better than this. It is telling to me, when I hear legislators speak so negatively about public housing tenants -- who are not the primary beneficiaries of ERAP, in part because we, all of us as the state, are their landlord.

But this bill is about providing financial relief for private landlords whose tenants cannot afford to pay rent during a global pandemic and economic crisis. That is what we're doing here today.

We cannot wish away this pandemic, and we cannot ignore the suffering of tenants and struggling homeowners. And that is why I'm proud

to vote aye on this bill.

Thank you.

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

Senator Ortt to explain his vote.

SENATOR ORTT: Thank you, Mr. President.

It's been a spirited debate, and a lot of things have been said. And a lot of things we debate in this chamber in my time here sort of straddle two sides. There's the practical and there is the philosophical.

Generally, on the philosophical, we're not going to see eye to eye. Sometimes on the practical we may. But apparently, even on this today, we do not see eye to eye.

Practically speaking, you've heard a lot of criticism or talk about fearmongering. Well, it's fearmongering to suggest that the minute the moratorium expired, the landlords were hauling people out of the apartments and evicting them. That is just not happening. We all know that. Some housing -- most housing courts aren't even open. They're not even able to process the evictions that would be there to begin with.

They're going to be backlogged for the better part of a year.

There are landlords that would love it if evictions happened that quickly, but they don't. That's the reality. Nothing is more fearmongering than suggesting there's mass evictions like one paper did this morning, as if in the 12 hours that has elapsed between the expiration of the moratorium and when we could get ourselves here to Albany, that somehow tens of thousands of people were going to be out on the street. That is simply not true. It's not how it works.

We've heard about COVID -- we need to do this moratorium because of the pandemic, for health reasons. COVID is not going anywhere. Yes, there's the delta variant, there's peaks and valleys. But we have no idea when we will be out of this pandemic. So are my colleagues who used the pandemic suggesting we're going to just keep extending the moratorium as long as COVID is with us?

We heard a lot about disparaging comments. I wasn't here for some of them, but I will tell you when I hear things like

"money-grubbing profiteer," that's a pretty disparaging comment. I think about the Air Force veteran who lives in her car. She's a money-grubbing profiteer, I guess. She just happened to be one who served her country. But she hasn't been paid in two years. She hasn't been paid in two years because of the inaction of the Majority and their former ally, Andrew Cuomo.

She hasn't been -- we have not got this money out the door. And today -- he wasn't my ally, and you know that to be true. You can call him if you want.

(Laughter.)

SENATOR ORTT: I don't have his cell either.

But I will tell you this. We -- we want people out there tonight to believe we have not been able to get this ERAP money out there in the past 17 months, but somehow we're going to get it out in the next four.

I can't even believe my colleagues across the aisle believe that's true. We're going to be right here come January, having this same debate, only then it will be, Well, now it's cold outside, we can't put people out on the

street when it's cold outside. There's going to be -- you know, COVID's still going to probably be here, I suspect. Unfortunately.

So practically speaking, what are we actually doing? All we're doing is extending the moratorium. That's all we are solving at the moment. Despite everyone in this chamber realizing the crisis that was out there. And we have billions of dollars -- somebody said, you know, it's charitable to do handouts when times are tough. This has got to be one of the biggest handouts I've -- billions of dollars, billions of dollars to keep people in their homes.

Most landlords don't want to evict people who are paying. They want people in the apartments, they want people in the units. So nobody would be happier than the landlord if this money was out. They would be not even made whole, because they won't be made whole. But the tenants, they would be up to speed, they'd be paid up and they would have a roof over their head.

So when we're drawing parallels, the moratorium solves the problem for the tenant for the time being. But it doesn't solve it

permanently. It doesn't solve it permanently. So practically, this bill does nothing. It just kicks the can down the road, as has been said numerous times.

But very quickly, philosophically, because this is just as important. There are people on this floor and in this chamber and in the other house who simply -- this isn't about COVID, it's not about a moratorium, and you can hear it in the arguments. They don't believe in evictions. Evictions fundamentally are wrong. Private property owners do not have the right to evict someone from their property. And that is -- we are never going to agree on that, that that is the position.

And that is clearly the position. I believe this is just a slow roll to canceling rent. We've effectively canceled it as of now. It's been canceled for two years. No one's paid. And some of my colleagues talk about the -- we've got to buy time to get the money out the door. We need an incentive. People aren't going to go for the ERAP money if there's no incentive.

I have recommended and suggested to the previous occupant of the second floor -- and

the current -- let's get OTDA employees in housing courts, right there: Sir, you're facing eviction, sign up for the ERAP program, we'll get you taken care of. Boom, you're good for the next year.

But no, we're not doing that, because that's not really the goal. The goal, and as has been for some of my colleagues, has been to demonize -- if we're going to talk about demonization, they have demonized landlords and property owners since the day they showed up. And maybe that's good politics where they live. Maybe that is. But it's bad policy. It is bad policy.

We are heading for a housing crisis in this state. We are eviscerating rights of private property owners, and we're doing nothing for the tenants, because they won't have places to live. Because the people who own these places are going to walk away. They're not going to fix them up. That's happening right now. And we aren't doing anything to solve it.

There's a lot of points made across -- a lot of talking points on both sides, a lot of bullet points. But the fact remains

that in the 17 months since this pandemic has been going on, we haven't gotten anywhere near the money we should have out the door. And this Legislature today wants us to believe that over the next four months we're going to get it all out the door because we have a new Governor.

So I hope she's watching. I hope she's watching, because I had hoped better from her as part of this negotiation as well.

And we'll see. I bet we'll be back here in January having the same debate. Because it's not about ERAP, it's not about OTDA, it's about ending evictions, good-cause evictions. It's about undermining property rights. That's what's going on here. And don't take my word for it. Look at the words of members of the Majority.

Mr. President, I vote no.

ACTING PRESIDENT BAILEY: Senator Ortt to be recorded in the negative.

Senator Kavanagh to close.

SENATOR KAVANAGH: Thank you, Mr. President.

You know, my colleagues and anybody who's still watching at home has heard a lot from

me today, so I'll keep this brief.

I just want to get back to where we started and to note that many of us in this chamber have said from the beginning two important things. First of all, we are committed to making sure that no one loses their home because of the hardship caused by this pandemic. That's the public health hardship and also the financial hardship.

There's been a lot of focus on tenants today. There hasn't been much talk from my colleagues on the other side of the aisle about kicking the can down the road with respect to homeowners. Or kicking the can down the road with respect to small businesses.

We've had this one example that's been mentioned several times of someone who is somehow homeless and living in her car because of -- ostensibly because of a moratorium that prevents anybody in the state from being pushed out of their home, so they have to live in their car.

I -- again, I read the story that has been referred to in the media. And there is nothing that we have done that pushes somebody

out of their home into their car. Very much the opposite. We are committed in this state to making sure that nobody loses their home because of the financial or the public health hardship.

The second is that many of us have been committed and very vocal from the beginning that this is not about eliminating the obligation to pay rent. I said repeatedly an eviction moratorium is not a rent holiday. And I said repeatedly that we need billions and billions of dollars.

The longest part of this crisis that has caused so much of the frustration that we've seen is the first 10 months of this crisis, during which there was no meaningful assistance to pay rent from our federal government. There was money to pay small businesses certain things, there was money to pay -- to compensate for unemployment, which was very welcome. But our federal government, the former White House and the Congress that was in place until the very last days of December, declined to provide any meaningful aid while states like ours were struggling to meet our most basic needs.

We are now eight months past that

point. We of course bear some responsibility in New York for the fact that this program has been relatively slow. But, you know, my colleague from Staten Island, where I hail from, said that I'm an honest man and a smart man. I don't know if I'm a smart man. But I and many of my colleagues on this side of the aisle are engaged in an honest effort to ensure that the second half of this program, the second half of what I just talked about, is working, that we are getting financial relief to landlords.

I should note -- we haven't discussed this today, but there's also a $600 million program for homeowners that we allocated in the budget. That program is supposed to be available around the second week of September. And that should also assist some of the landlords that we've talked about today who are living in one- and two-family homes and may have tenants as well as that building providing their home.

I want to, you know, just end by -- this has been a long debate today. It's also been a long debate over the course of many months as to how to do this. I want to really thank my

colleagues, particularly my colleagues in the Majority, but all of my colleagues who have voiced their concerns about this, their effort, anyone who has sincerely engaged in the effort to solve this problem.

I also want to just thank the staff. You know, it's been a very challenging time to negotiate this. I want to thank Nic Rangel in particular, who I think has stepped out of the chamber; Kenan Kurt; Chris Friend; Tamara Frazier; Gabe Paniza, especially for his help on the Open Meetings Law provisions; Allison Bradley; David Friedfel; and of course Eric Katz and Shontell Smith, who really, you know, manage so much of what we do here and do it so well.

I also want to thank everybody who participated in the hearing. It was a very productive hearing where we did shed light on the difficulties of this program. It was bipartisan. I particularly thank Senator Weik for coming some distance as the ranker of the Social Services Committee, and also our chair of the Social Services Committee, Senator Persaud, who cochaired that and led that.

I also want to thank -- you know, in

the Assembly we've had many partners on this. These bills have been put together over many years, the ones we're renewing today. But our Social Services chair Assemblywoman Rosenthal, and Jeff Dinowitz, who's the sponsor of this bill, and Steve Cymbrowitz, who's been a great partner as the Housing chair over there, and of course Carl Heastie, who joins our great leader, Andrea Stewart-Cousins, who really has engaged in this from the beginning and really has been committed to making sure that we get everybody in New York through this crisis, the housing crisis and so many other crises we've faced.

And it is a breath of fresh air that we have a new Governor who really has, from the moment it became clear she was going to be the Governor, has stepped up and said we are going to solve these problems, we are going to address the deficiencies of this program, and we're going to move forward.

And I honestly -- as I always am -- believe that the fact that we have processed 45,000 applications basically in the course of the last month puts us well on track that landlords and tenants will see a fundamentally

different result in the next few months. I think we are addressing the difficulties of this program and we're moving forward.

But in the meantime, the eviction moratorium and the foreclosure moratorium, in both the residential and commercial context, is a backstop that is necessary to prevent New Yorkers from being displaced. And that is essential, and the public health implications of doing otherwise would be grave.

So Mr. President, with that, I vote aye.

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

Announce the results.

THE SECRETARY: In relation to Calendar Number 1, those Senators voting in the negative are Senators Akshar, Borrello, Boyle, Felder, Gallivan, Griffo, Helming, Jordan, Lanza, Martucci, Mattera, Oberacker, O'Mara, Ortt, Rath, Ritchie, Serino, Tedisco and Weik.

Ayes, 38. Nays, 19.

ACTING PRESIDENT BAILEY: The bill is passed.

The Secretary will read.

THE SECRETARY: Calendar Number 2, Senate Print 5002, Senate Budget Bill, an act to amend Chapter 53 of the Laws of 2021.

ACTING PRESIDENT BENJAMIN: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT BENJAMIN: Announce the results.

THE SECRETARY: Ayes, 57.

(Pause.)

ACTING PRESIDENT BENJAMIN: Senator Gianaris.

SENATOR GIANARIS: Once again, by consent, can we please return this bill to the noncontroversial calendar.

ACTING PRESIDENT BENJAMIN: So ordered.

Read the last section.

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

ACTING PRESIDENT BENJAMIN: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT BENJAMIN: Announce the results.

THE SECRETARY: Ayes, 57.

ACTING PRESIDENT BENJAMIN: The bill is passed.

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

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

Please take that up and recognize Senator Krueger on that report.

ACTING PRESIDENT BENJAMIN: The Secretary will read.

THE SECRETARY: Senator Krueger, from the Committee on Finance, reports the following nominations:

As chair of the Cannabis Control Board, Tremaine Wright.

ACTING PRESIDENT BENJAMIN: Senator Krueger.

SENATOR KRUEGER: Thank you.

I stand to move the nomination of Tremaine Wright as the chair of the Cannabis Control Board to the floor.

I am interested in hearing from any Senator who would like to speak on his, her or

their behalf, and then I will speak afterwards.

Thank you, Mr. President.

ACTING PRESIDENT BENJAMIN: Senator Bailey on the nomination.

SENATOR BAILEY: Thank you, Mr. President.

I just -- I wanted to speak about the nomination of Tremaine Wright, someone who is being nominated to be the chair of the Control Board.

She is someone who I have worked with on a very important piece of the legislation in this house related to diversity and inclusion called the CROWN Act, which was the first piece of legislation that would -- that outlawed discrimination against individuals who choose to wear natural hair. So she's no stranger to diversity and inclusion.

Additionally, I was also a member of Mel King Fellows with her, where we were able to speak about economic development and economic democracy.

And in the conversation that I had with her in the Finance Committee, she pledged to look towards worker ownership in terms of this

cannabis base, which is something that I think will be critically important.

So based upon her work in the Legislature and her commentary today and, again, her extremely skilled background, I proudly will vote in favor of this nomination.

I proudly vote aye, Mr. President. Thank you.

ACTING PRESIDENT BENJAMIN: Senator Sanders on the nomination.

SENATOR SANDERS: Thank you, Mr. President.

I'm the type of guy, I always like to say to a person's face what I say to their back. So I'm -- it's a very interesting thing, this here.

Let me say this, sir. This creation of this commission, this is one of the most important things that we can do in New York State. We have to get it right. We have to figure out how to use these funds to create social and economic justice. That is a task that's beyond just about anyone. So I have had concerns over that idea.

I've had the pleasure of speaking to

Ms. Wright by phone and having to -- expressing my concerns and hearing how she would deal with these concerns. I have come from that with the understanding that there's an open ear there. And that is the most important thing, because no one knows it all, especially not me. There's an open ear there, and there's at least an idea that this is larger than just one person.

So I'm glad that I'm able to come to the conclusion that we're going to -- that Ms. Wright may be right for the job. She may be --

(Groans.)

SENATOR SANDERS: Yeah, I said it.

(Groans.)

SENATOR SANDERS: She's -- well -- well -- yeah, thank you kindly. Too bad you didn't think of it.

She may be right for the job, so that's why I'm going to vote yes on this.

Thank you very much.

ACTING PRESIDENT BENJAMIN: Senator Jackson on the nomination.

SENATOR JACKSON: Thank you, Mr. President.

My colleagues, I rise in support of Tremaine Wright to be the chair of the Cannabis Commission.

If you look at her resume, this is an individual that has been highly educated, went to Duke University, went to University of Chicago Law School. She's been involved in activities there -- Edwin Mandel Legal Clinic, Chicago Law Foundation, Law Students Association.

Besides that, she did a lot of pro bono work dealing with, for example, Volunteers of Legal Services' Incarcerated Mothers Program, a volunteer attorney, and the Association of the Bar of the City of New York regarding fraud cases -- I mean New York Fund.

But here's someone that basically here in the Assembly, when she was a member of the Assembly, she was the chair of the Black, Latino and Asian Caucus. Now, you know in a caucus with over 65 members that you have to have your act together.

And so from everything that I know about her, she is capable of leading the cannabis crew, along with obviously the executive director, who was the counsel to the committee

that I chaired, the Cities Committee.

So I wholeheartedly support her and I just wish her and everybody else luck in moving this forward on behalf of New York State.

Thank you.

ACTING PRESIDENT BENJAMIN: Senator Krueger on the nomination.

SENATOR KRUEGER: Thank you very much.

So yes, Ms. Wright moved through the Committee on Finance to the floor. I know Assemblywoman Wright from her time in the Assembly. We worked on several bills together. And you've heard about her resume, and anyone here can look at it. But she has an extraordinary diverse background with a commitment to public service throughout her entire life.

And as many of us learned today, she had sort of one day's notice to decide to take this job, and she doesn't even know what she's going to get paid. But you know what? I think that also reflects on her character and her willingness to jump into an incredibly important job that will matter for so many New Yorkers.

And it's a challenge to create a new authority that has responsibility for recreational adult-use marijuana, CBD hemp products, and medical marijuana, all of which are intended and designed to expand as models in the State of New York under the legislation.

And I personally, having worked so hard on that legislation, look forward to working with our new Governor, the nominees we're moving through tonight, and the more and more people we will see moving into the creation of the cannabis authority or, as one of my colleagues just said, the cannabis crew.

(Laughter.)

SENATOR KRUEGER: Because it's a valuable thing to do for the State of New York, and so many different communities and people will be positively affected.

So I certainly am urging my colleagues for a yes vote tonight. Thank you, Mr. President.

ACTING PRESIDENT BENJAMIN: The question is on the nomination of Tremaine Wright as chair of the Cannabis Control Board.

All in favor say aye.

(Response of "Aye.")

ACTING PRESIDENT BENJAMIN: Opposed?

(Response of "Nay.")

ACTING PRESIDENT BENJAMIN: The nominee is confirmed.

(Applause.)

ACTING PRESIDENT BENJAMIN: The Secretary will read.

THE SECRETARY: As executive director of the State Office of Cannabis Management, Christopher Alexander.

ACTING PRESIDENT BENJAMIN: Senator Krueger.

SENATOR KRUEGER: Another fine nominee from the Governor, Christopher Alexander, for the position of executive director of the new cannabis authority.

And I welcome my other colleagues to speak first.

ACTING PRESIDENT BENJAMIN: Senator Bailey on the nomination.

SENATOR BAILEY: Thank you, Mr. President.

Madam Governor, thank you for this

choice. As I said in the Finance Committee, you could not have picked a better executive director than Chris Alexander. If you don't know his name, you're hearing it now. Mark our words, this man will make an impact on the legalization of cannabis because he already had.

Now, imagine me a freshman State Senator walking in and not knowing what this chamber was about, not knowing what this job was about. But I had a meeting about -- and I remember the bill number, S3809 -- and I had a meeting with the Drug Policy Alliance, and walks in Chris Alexander.

And at that point we wanted to get a sealing bill done, and Chris worked incredibly hard with me as a member of the Minority to get the ball up almost to the goal line, but we weren't able to get it there.

But that showed me who he was. That showed me that he was willing to fight for what he believed in, and he was willing to do so in a reasonable, decent and efficient manner.

Now, as time goes on, we're lucky to have Chris as a member of our team in the State Senate once we gained the Majority. And I

remember it was a Sunday afternoon and we're having a conversation and I get a call from Chris. And Chris says, "I don't know if we can get legalization, but how do you feel about being the sponsor on decrim?" And I said "As long as Diane and Liz are okay" --

(Laughter.)

SENATOR BAILEY: That's the first thing I said. And they were both okay.

And Chris walked me through it. And he said, "This isn't the perfect bill, but this is the bill that's going to get us way further than where we were before."

And if you're talking about someone who knows about the ins and outs of cannabis law, it's Chris Alexander. And if you're talking about someone who can understand all sides of the conversation, whether it's advocate, government or private sector, it's Chris Alexander. And if you're talking about someone who can step up to the task, it's Chris Alexander.

And mind you, I'm not sure how many of us knew that while he was up here burning the midnight oil, he was in law school. He was in law school at the best law school, CUNY School of

Law, law in the service of human needs. And that's exactly what Chris Alexander embodies, law in the service of human needs, utilizing the law as a vehicle for good, positive change.

Now, if you talk about the pinch hitters in baseball, in 2020, you know, Dorothy wasn't able to help us through the 50-a, but Chris -- Codes wasn't in his portfolio, but he stepped right in and prepared us for monumental debate on one of the most comprehensive police packages in the world. This is a gentleman who was ready to roll.

He's someone again who has been working in the private sector, the advocacy sector, and in government. And as the executive director of OCM, I am excited about what he is going to be able to help us accomplish to achieve equity in the state. Because the purpose of the legalization of cannabis was to level the playing field, and nobody knows about leveling the playing field more than Chris Alexander.

I want to let the rest of my colleagues speak, but I just want to close with this. It is great to see people elevate in positions where they can do the most good, and

Chris Alexander, you're going to do the most good.

I proudly vote aye on your nomination, Chris.

ACTING PRESIDENT BENJAMIN: Senator Savino on the nomination.

SENATOR SAVINO: Thank you, Mr. President.

I don't know how I'm going to follow that, Senator Bailey.

I spoke earlier today in the Finance Committee, so first I want to congratulate Assemblywoman Tremaine Wright on your appointment. Those of you who follow the Finance Committee heard my concerns earlier today. But I do offer my full support and advice and willingness to work with her on the implementation of the Office of Cannabis Management and the challenges that she and all of them will face in the creation and the standing up of what is probably one of the most complicated industries that this state will ever put together.

But I know that it will be made that much easier because the executive director that

has put forward by our Governor, Kathy Hochul, and nominated and confirmed today by the Senate, is Chris Alexander.

He is everything that Jamaal -- Senator Bailey said. I describe him every time in one word, as brilliant. When I met him here in the Senate as Senator Krueger's counsel working on cannabis policy a couple of years ago, he was clearly the smartest young staffer I had ever encountered.

He had a quick mind. He absorbed this information -- which is incredibly complicated -- better than anyone I had ever encountered. He could -- he could take in the information, spit it out. He learned what was happening all across the country. He helped us shape the legislation.

And in fact, he is one of the reasons why we are where we are today, on the cusp of creating a legal regulated market, incorporating the medical program, improving it, making it better.

We had a conversation this morning; he is fully committed to implementing the medical improvements that we voted on earlier this year

that were stalled by the previous Governor and his administration. And I know we're going to do it right because Chris Alexander knows what's at stake.

So I am really thrilled to be standing here and saying I support the confirmation of Chris Alexander as the executive director, because I know that he and the team that he puts around him and the Cannabis Board that is going to be nominated by the Majority Leader, Andrea Stewart-Cousins, her appointments, Carl Heastie's appointments, are going to be up to the task of not making the mistakes that other states have made because they're going to learn from those states.

They're going to do it right in New York. It's going to be a collaborative approach. And it's going to be led by someone like Chris Alexander, who is brilliant beyond his years.

I proudly vote aye on his confirmation. Thank you, Mr. President.

ACTING PRESIDENT BENJAMIN: Senator Myrie on the nomination.

SENATOR MYRIE: Thank you,

Mr. President.

And I think my colleagues have spoken much more eloquently than I can as to Chris Alexander's qualifications. I want to speak for a second about the historic nature of his nomination and what that means for people in my community.

We passed legalization in part to correct a wrong that has been disproportionately inflicted on communities like mine -- the overpolicing, the aggressive nature of incarceration, the jailing that happened as a result of marijuana. And many of those victims looked like you, Chris.

And so what it means to have you be the executive director for the people that have borne the brunt of our state's addiction to mass incarceration really is beyond anything that can be said in this chamber.

So I will be voting very proudly in the affirmative for your nomination because not only are you exceptionally qualified, but it is a historic and a symbolic nomination that will mean so much for so many people that we represent.

So I proudly vote in the

affirmative, Mr. President.

ACTING PRESIDENT BENJAMIN: Senator Sanders on the nomination.

SENATOR SANDERS: Mr. President, since the former speakers have apparently taken my speech, I won't give that to you.

I will say this. The burden that's going to be placed on the shoulders of these folk is incredible. And we will -- all I can say is that I'm sure that all of my colleagues will be there with you trying to do everything that we can to move this forward.

I am comforted by the fact you're from that great place called Queens. And that means that I know that no matter what they throw at you, it won't stick.

Thank you very much, Mr. President.

ACTING PRESIDENT BENJAMIN: Senator Borrello on the nomination.

SENATOR BORRELLO: Thank you, Mr. President.

So being in the Finance Committee meeting, I got a chance to speak with the nominees. They both seem very capable.

However, I am still concerned about

the manner in which we got to this point. You know, we passed the legalization of recreational marijuana back in, what, March. And in that time, in the last six months, there's been a lot of chaos and confusion out there. A lot of fraud has been perpetrated.

So to overcompensate, now we are here voting on nominees. My colleague Senator O'Mara asked both of them, When did you first speak with the Governor about assuming this very important role? "Yesterday" was the answer. So yesterday was when they first spoke with the Governor about assuming a role.

The question was also, How much are you going to be paid? "We don't know."

How much is your budget to build this staff that you're going to need to execute what other states have, quite frankly, failed at? Senator Savino pointed that out quite clearly. California is already subsidizing their recreational marijuana industry. So what's your budget to build a staff that can do what 16 other states haven't been able to do, which was get it right? "We don't know" was the answer.

So I'm not saying they're not

capable. I'm not saying that they aren't qualified. But I am saying we don't have any answers to those very important questions.

I've been a business owner for 30 years. I've hired a lot of people. I've fired a lot of people. But they usually know from the beginning what their salary is going to be, what their budget is, what their task is, what the mission is. These poor folks don't know any of that.

We've overcompensated to make up for the fact that we've created a vacuum for the last six months. And I think you're throwing these people to the lions, quite honestly.

We need to fix this law that's horribly flawed. We need to correct the problems. And we need to actually learn from the mistakes that the other states made prior to this. We didn't do that. We said, how can we prove that New York was the most progressive. That was the only litmus test. And now we have a law that is already creating problems, and we have some folks that are going to have a very big task at hand.

I'm voting no today because we

haven't had the proper time to vet these people to ensure that if we're actually going to do the job, they can do the job. They seem like they can, in the few minutes that we had to speak with them. But even they didn't know they were going to do this job 24 hours ago. How can we expect them to not be set up for failure?

I'll be voting no. Thank you.

ACTING PRESIDENT BENJAMIN: Senator Jackson on the nomination.

SENATOR JACKSON: Thank you, Mr. President.

I rise in order to support Chris Alexander for the executive director of the Cannabis Control Board.

You just read the first sentence of his background: Chris Alexander, 30. Lives in St. Albans, Queens. He's a criminal justice reform advocate and policy expert focusing on drug policy.

You look at his resume, you look at his education, you look at his history as far as, you know, in school. He's been speaking at the Bar Association and Spectrum and discussing the Department of Health recommendations to legalize

adult-use cannabis. Bottom line is, he is right for the job.

And with Tremaine Wright, working together, the chair and executive director, they're going to do it. Understanding they don't have the details as to what their salary is and what the budget is. But they have the determination to get it done on behalf of all New Yorkers.

So, Mr. President, I wholeheartedly support the nomination.

ACTING PRESIDENT BENJAMIN: Senator Krueger on the nomination.

SENATOR KRUEGER: Thank you, Mr. President. I enjoyed listening to all my colleagues.

I think government and public service by its definition is realizing it can make things better, it can create things, it can take great leaps into sometimes unknown futures.

So yes, I think that both of our nominees, Tremaine and Chris, are to some degree taking a leap into an unknown future because they have the opportunity to help shape exactly what this model is going to be in New York and whether

we are successful or not. And whether or not we need to make legislative changes. I've never believed just because you pass a bill it means your job is done as a legislator. You have to make sure it actually works.

But I've known Chris Alexander, I feel like since he was a child. And that he was born for this job. And I knew him when I started taking on the challenge of writing this legislation seven, eight years ago, with my chief of staff, who's sitting up behind Chris now, who worked also so hard on this.

And I met Chris as an advocate, and he was there helping me understand the issues, helping me meet the right people and talk to the right people about what we needed to do. And then he became a staffer to the Senate Dems, and he was there literally helping us write every language, every word in that bill, and helping us negotiate it with our colleagues in the Assembly and the Governor's office.

And I knew the night we passed the bill in March -- I didn't even have to ask, I knew when I got off the floor that Chris Alexander was going to show up at my office,

wherever he was supposed to be that night. But I knew he would be here in Albany, as he was, as he showed up in my office. Because even after he left being counsel to the Senate Dems, when I would have questions I would text him and he would give me the answers, because he is so committed to this.

So it's not strange that he would accept a job without knowing the salary. And his wife and beautiful daughter have to make sure he can pay the mortgage and feed them, and I'm sure we will ensure that happens. But this is a true commitment to public service -- this job, this man together.

And I am very, very proud to be able to support his confirmation, and I urge all of my colleagues, take that risk with everyone that we can do this well in New York, because we're putting together the right people.

So thank you, Kathy Hochul, for moving on this so quickly, even though you must be drowning in issues to deal with. But understanding six months of nothing wasn't satisfactory and we needed to get going.

So I hope my colleagues will join me

in voting for Chris Alexander tonight.

Thank you, Mr. President.

ACTING PRESIDENT BENJAMIN: The question is on the nomination of Christopher Alexander as executive director of the State Office of Cannabis Management.

All in favor say aye.

(Response of "Aye.")

ACTING PRESIDENT BENJAMIN: Opposed?

(Response of "Nay.")

ACTING PRESIDENT BENJAMIN: The nominee is confirmed.

(Extended applause.)

ACTING PRESIDENT BENJAMIN: Senator Gianaris.

SENATOR GIANARIS: Mr. President, thank you.

And congratulations to the confirmed nominees, particularly Chris Alexander, who as you all could tell has deep relationships and friendships here in the Senate. So we wish him well in his new endeavor.

At this time, Mr. President, please recognize our leader, Andrea Stewart-Cousins.

ACTING PRESIDENT BENJAMIN: Senate Majority Leader Andrea Stewart-Cousins.

SENATOR STEWART-COUSINS: Thank you so much.

And good evening to everyone, especially to you, Mr. President, soon to be our Lieutenant Governor. So it's good to see you.

(Applause.)

SENATOR STEWART-COUSINS: I was going to try and make a deal to make sure you're here all the time.

(Laughter.)

SENATOR STEWART-COUSINS: I don't know how that's going to work, but anyway.

And it's also good to see everybody here in the chamber. It's been a while since we've been able to gather together, and I guess part of what we're doing today is symbolic of what's happening, where we've been and how we are hopefully, incrementally, getting back. And that's what today is about.

I really want to thank all of my colleagues for returning to Albany to address the critical issues that have been plaguing our shared constituents across all of New York State.

You know, after the U.S. Supreme Court struck down the federal eviction moratorium, we in the Senate Majority knew we had to take quick and decisive action to protect New Yorkers still struggling economically due to the COVID-19 pandemic. Today we're standing up for tenants, for homeowners, for small landlords, for small businesses who are experiencing financial hardship, by extending New York's moratorium on residential and commercial evictions as well as foreclosures.

We're also increasing emergency aid and access to this aid for both tenants and small landlords.

We've made it clear that we'll continue to fight to keep people in their homes and ensure that every individual who qualifies for these protections receives them.

That's why I want to thank Governor Hochul and Speaker Heastie for their partnership and their leadership in addressing the critical issues we face today. I'm confident that this is a sign of continued collaboration and cooperation between the branches of government.

And I also want to thank Senator Brian Kavanagh, our Housing chair.

(Applause.)

SENATOR STEWART-COUSINS: Thank you so much, Senator, for your work on this legislation and your tireless advocacy.

And of course while I'm thanking, I do want to thank my staff, and you named all of them. But they worked tirelessly, day and night for the past few days, to get this done. Thank you, Shontell and Nic and --

(Applause.)

SENATOR STEWART-COUSINS: New York State's government must work effectively to address the needs of New Yorkers as the delta variant continues to cause significant harm and the economic impacts that it has on this pandemic remain.

New York must once again be a shining beacon for the rest of the nation. We've been working hard with our new Governor, after months of delay by the previous administration, to get CERAP funds -- which we've made improvements to today -- out the door and into the hands of landlords to keep people in their

homes.

Just a month ago, I have to remind you that we were 50th in the nation in terms of releasing this federal money that we all begged for and our Congress worked so hard to get us. We were 50th in the nation in terms of releasing the federal money.

While we've improved since, we clearly need more time to get the money out of the door and into the hands of the people that are in desperate need. Today is a promising start.

I also, while I'm standing here, want to remind all New Yorkers that those who apply for CERAP are automatically protected from eviction while their application is still pending. And tenants whose CERAP application is approved receive 12 months of eviction protection.

The Democratic Majority strongly encourages any New Yorker at risk of being evicted to submit a CERAP claim. It's the most effective way to protect yourself and your loved ones at this time, and your Senators stand ready to guide you through the process.

Additionally, Governor Hochul will be sending increased community liaisons to neighborhoods who will be able and willing to assist residents with their applications.

We've also taken steps together to move our historic marijuana legislation closer to implementation with our great nominees. I want to congratulate the Governor on her appointments -- again, Tremaine Wright, who will be the chair of our Cannabis Control Board, and our own Christopher Alexander, executive director of the Office of Cannabis Management.

We are looking forward to your leadership and a partnership again to make sure that New York gets it right.

In closing, today we are showing New Yorkers and the rest of the nation that our state's leaders are ready and willing to take action to support our economy, support our state, and to support our residents in need.

So again, thank all of you for being here. Thank you for doing your jobs. We will be back before you know it.

(Laughter.)

SENATOR STEWART-COUSINS: Enjoy

your Labor Day --

(Laughter.)

SENATOR STEWART-COUSINS: -- and safe travel. And I'll see you back here.

(Standing ovation.)

ACTING PRESIDENT BENJAMIN: Before we conclude our business, let us bow our heads for a moment of silence as we remember and honor the 13 servicemembers who lost their lives last week at the close of the war in Afghanistan.

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

ACTING PRESIDENT BENJAMIN: Thank you.

Senator Gianaris.

SENATOR GIANARIS: Mr. President, I believe there's a concurrent resolution at the desk. Please read it in its entirety, and I move for its immediate adoption.

ACTING PRESIDENT BENJAMIN: The Secretary will read.

THE SECRETARY: Senate Resolution 2, by Senator Stewart-Cousins, Concurrent Resolution of the Senate and Assembly relative to the adjournment of the Extraordinary Session of

the Legislature sine die.

"RESOLVED, That the Legislature hereby adjourn sine die the Extraordinary Session initially convened on Wednesday, September 1, 2021."

ACTING PRESIDENT BENJAMIN: The question is on the resolution. All in favor signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT BENJAMIN: Opposed?

(No response.)

ACTING PRESIDENT BENJAMIN: The resolution is adopted.

Senator Gianaris.

SENATOR GIANARIS: I move to adjourn this extraordinary session sine die.

ACTING PRESIDENT BENJAMIN: The extraordinary session is adjourned sine die.

(Whereupon, at 8:01 p.m., the Senate adjourned.)