NEW YORK STATE SENATE

THE STENOGRAPHIC RECORD

ALBANY, NEW YORK

February 2, 2022

3:27 p.m.

REGULAR SESSION

SENATOR SHELLEY B. MAYER, Acting President

ALEJANDRA N. PAULINO, ESQ., Secretary

P R O C E E D I N G S

ACTING PRESIDENT MAYER: The Senate will come to order.

I ask everyone present to please rise and recite the Pledge of Allegiance.

(Whereupon, the assemblage recited the Pledge of Allegiance to the Flag.)

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

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

ACTING PRESIDENT MAYER: Reading of the Journal.

THE SECRETARY: In Senate, Tuesday, February 1, 2022, the Senate met pursuant to adjournment. The Journal of Monday, January 31, 2022, was read and approved. On motion, the Senate adjourned.

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

Presentation of petitions.

Messages from the Assembly.

The Secretary will read.

THE SECRETARY: Senator

Reichlin-Melnick moves to discharge, from the Committee on Rules, Assembly Bill Number 8762 and substitute it for the identical Senate Bill 7774, Third Reading Calendar 145.

ACTING PRESIDENT MAYER: So ordered.

THE SECRETARY: Senator Bailey moves to discharge, from the Committee on Rules, Assembly Bill Number 8739 and substitute it for the identical Senate Bill 7789, Third Reading Calendar 158.

ACTING PRESIDENT MAYER: So ordered.

THE SECRETARY: Senator Kaplan moves to discharge, from the Committee on Rules, Assembly Bill Number 8694 and substitute it for the identical Senate Bill 7791, Third Reading Calendar 159.

ACTING PRESIDENT MAYER: So ordered.

THE SECRETARY: Senator Hinchey moves to discharge, from the Committee on Rules, Assembly Bill Number 8717 and substitute it for the identical Senate Bill 7813, Third Reading Calendar 177.

ACTING PRESIDENT MAYER: So ordered.

THE SECRETARY: Senator Kaplan moves to discharge, from the Committee on Rules, Assembly Bill Number 8744 and substitute it for the identical Senate Bill 7820, Third Reading Calendar 184.

ACTING PRESIDENT MAYER: So ordered.

THE SECRETARY: Senator Kennedy moves to discharge, from the Committee on Rules, Assembly Bill Number 8714 and substitute it for the identical Senate Bill 7832, Third Reading Calendar 191.

ACTING PRESIDENT MAYER: So ordered.

THE SECRETARY: Senator Kaminsky moves to discharge, from the Committee on Rules, Assembly Bill Number 8724 and substitute it for the identical Senate Bill 7833, Third Reading Calendar 192.

ACTING PRESIDENT MAYER: So ordered.

THE SECRETARY: Senator Brisport moves to discharge, from the Committee on Rules,

Assembly Bill Number 8706 and substitute it for the identical Senate Bill 7841, Third Reading Calendar 199.

ACTING PRESIDENT MAYER: So ordered.

THE SECRETARY: Senator Kavanagh moves to discharge, from the Committee on Rules, Assembly Bill Number 8749 and substitute it for the identical Senate Bill 7831, Third Reading Calendar 292.

ACTING PRESIDENT MAYER: So ordered.

THE SECRETARY: Senator May moves to discharge, from the Committee on Rules, Assembly Bill Number 8839 and substitute it for the identical Senate Bill 7886, Third Reading Calendar 300.

ACTING PRESIDENT MAYER: So ordered.

Messages from the Governor.

Reports of standing committees.

Reports of select committees.

Communications and reports from state officers.

Motions and resolutions.

Senator Gianaris.

SENATOR GIANARIS: Thank you, Madam President.

There will be an immediate meeting of the Rules Committee in Room 332.

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

SENATOR GIANARIS: The Senate stands at ease.

ACTING PRESIDENT MAYER: The Senate will stand at ease.

(Whereupon, the Senate stood at ease at 3:30 p.m.)

(Whereupon, the Senate reconvened at 3:38 p.m.)

ACTING PRESIDENT MAYER: The Senate will return to order.

Senator Gianaris.

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

ACTING PRESIDENT MAYER: The Secretary will read.

THE SECRETARY: Senator

Stewart-Cousins, from the Committee on Rules, reports the following bills:

Senate Print 8172A, by Senator Gianaris, an act to amend the State Law;

Senate Print 8185A, by Senator Gianaris, an act to amend the State Law;

Senate Print 8196, by Senator Gianaris, an act to amend the State Law;

Senate Print 8197, by Senator Gianaris, an act to amend the State Law.

All bills reported direct to third reading.

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

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

(Response of "Aye.")

ACTING PRESIDENT MAYER: Opposed, nay.

(Response of "Nay.")

ACTING PRESIDENT MAYER: The Rules Committee report is accepted.

Senator Gianaris.

SENATOR GIANARIS: Let's take up

the reading of the calendar, please.

ACTING PRESIDENT MAYER: The Secretary will read.

THE SECRETARY: Calendar Number 145, Assembly Print Number 8762, by Assemblymember Kelles, an act to amend the Public Health Law.

ACTING PRESIDENT MAYER: Read the last section.

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

ACTING PRESIDENT MAYER: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MAYER: Announce the results.

THE SECRETARY: In relation to Calendar Number 145, those Senators voting in the negative are Senators Akshar, Helming, Lanza, Oberacker, Ortt and Weik.

Ayes, 57. Nays, 6.

ACTING PRESIDENT MAYER: The bill is passed.

THE SECRETARY: Calendar Number 158, Assembly Print Number 8739, by

Assemblymember Hevesi, an act to amend the Family Court Act.

SENATOR GIANARIS: Lay it aside for the day.

ACTING PRESIDENT MAYER: The bill is laid aside for the day.

THE SECRETARY: Calendar Number 159, Assembly Print Number 8694, by Assemblymember Thiele, an act to amend the Transportation Law.

ACTING PRESIDENT MAYER: Read the last section.

THE SECRETARY: Section 2. This act shall take effect on the same date and in the same manner as a chapter of the Laws of 2021.

ACTING PRESIDENT MAYER: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MAYER: Announce the results.

THE SECRETARY: Ayes, 63.

ACTING PRESIDENT MAYER: The bill is passed.

THE SECRETARY: Calendar Number 177, Assembly Print Number 8717, by

Assemblymember Englebright, an act to amend the Environmental Conservation Law.

ACTING PRESIDENT MAYER: Read the last section.

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

ACTING PRESIDENT MAYER: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MAYER: Announce the results.

THE SECRETARY: In relation to Calendar Number 177, those Senators voting in the negative are Senators Helming and O'Mara.

Ayes, 61. Nays, 2.

ACTING PRESIDENT MAYER: The bill is passed.

THE SECRETARY: Calendar Number 184, Assembly Print Number 8744, by Assemblymember McDonald, an act to amend the Executive Law.

ACTING PRESIDENT MAYER: Read the last section.

THE SECRETARY: Section 2. This act shall take effect on the same date and in the

same manner as a chapter of the Laws of 2021.

ACTING PRESIDENT MAYER: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MAYER: Announce the results.

THE SECRETARY: Ayes, 63.

ACTING PRESIDENT MAYER: The bill is passed.

THE SECRETARY: Calendar Number 191, Assembly Print Number 8714, by Assemblymember Burke, an act to amend the Business Law.

SENATOR O'MARA: Lay it aside.

SENATOR GIANARIS: Lay it aside for the day, please.

ACTING PRESIDENT MAYER: The bill is laid aside for the day.

THE SECRETARY: Calendar Number 192, Assembly Print Number 8724, by Assemblymember Thiele, an act to amend the Environmental Conservation Law.

ACTING PRESIDENT MAYER: Read the last section.

THE SECRETARY: Section 5. This

act shall take effect on the same date and in the same manner as a chapter of the Laws of 2021.

ACTING PRESIDENT MAYER: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MAYER: Announce the results.

THE SECRETARY: Ayes, 63.

ACTING PRESIDENT MAYER: The bill is passed.

THE SECRETARY: Calendar Number 199, Assembly Print Number 8706, by Assemblymember Jean-Pierre, an act to amend the Education Law.

ACTING PRESIDENT MAYER: Read the last section.

THE SECRETARY: Section 2. This act shall take effect on the same date and in the same manner as a chapter of the Laws of 2021.

ACTING PRESIDENT MAYER: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MAYER: Announce the results.

THE SECRETARY: In relation to

Calendar Number 199, those Senators voting in the negative are Senators Borrello, O'Mara and Ortt.

Ayes, 60. Nays, 3.

ACTING PRESIDENT MAYER: The bill is passed.

THE SECRETARY: Calendar Number 292, Assembly Print Number 8749, by Assemblymember Cymbrowitz, an act to amend the Private Housing Finance Law.

ACTING PRESIDENT MAYER: Read the last section.

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

ACTING PRESIDENT MAYER: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MAYER: Announce the results.

THE SECRETARY: In relation to Calendar Number 292, those Senators voting in the negative are Senators Akshar, Boyle, Gallivan, Griffo, Helming, Jordan, Lanza, Martucci, Mattera, Oberacker, O'Mara, Ortt, Palumbo, Ritchie, Serino, Stec, Tedisco and Weik.

Ayes, 45. Nays, 18.

ACTING PRESIDENT MAYER: The bill is passed.

THE SECRETARY: Calendar Number 300, Assembly Print Number 8839, by Assemblymember Wallace, an act to amend the Public Health Law.

ACTING PRESIDENT MAYER: Read the last section.

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

ACTING PRESIDENT MAYER: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MAYER: Announce the results.

THE SECRETARY: In relation to Calendar Number 300, voting in the negative: Senator Tedisco.

Ayes, 62. Nays, 1.

ACTING PRESIDENT MAYER: The bill is passed.

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

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

ACTING PRESIDENT MAYER: There is a substitution at the desk.

The Secretary will read.

THE SECRETARY: Senator Gianaris moves to discharge, from the Committee on Rules, Assembly Bill Number 9039A and substitute it for the identical Senate Bill 8172A, Third Reading Calendar 420.

ACTING PRESIDENT MAYER: The substitution is so ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 420, Assembly Print Number 9039A, by Assemblymember Zebrowski, an act to amend the State Law.

SENATOR O'MARA: Lay it aside.

ACTING PRESIDENT MAYER: The bill is laid aside.

ACTING PRESIDENT MAYER: There is a substitution at the desk.

The Secretary will read.

THE SECRETARY: Senator Gianaris moves to discharge, from the Committee on Rules, Assembly Bill Number 9167 and substitute it for the identical Senate Bill 8196, Third Reading

Calendar 422.

SENATOR O'MARA: Lay it aside.

ACTING PRESIDENT MAYER: The substitution is so ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 422, Assembly Print Number 9167, by Assemblymember Zebrowski, an act to amend the State Law.

SENATOR O'MARA: Lay it aside.

SENATOR GIANARIS: Madam President, is there a message of necessity at the desk on this bill?

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

SENATOR GIANARIS: Move to accept the message of necessity.

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

(Response of "Aye.")

ACTING PRESIDENT MAYER: Opposed, nay.

(Response of "Nay.")

ACTING PRESIDENT MAYER: The

message is accepted.

Senator Gianaris.

SENATOR O'MARA: Lay it aside.

ACTING PRESIDENT MAYER: The bill is laid aside.

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

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

ACTING PRESIDENT MAYER: The Secretary will ring the bell.

The Secretary will read.

THE SECRETARY: Calendar Number 420, Assembly Print Number 9039A, by Assemblymember Zebrowski, an act to amend the State Law.

ACTING PRESIDENT MAYER: Senator O'Mara, why do you rise?

SENATOR O'MARA: Will the sponsor yield for a few questions.

ACTING PRESIDENT MAYER: Senator Gianaris, do you yield?

SENATOR GIANARIS: Yes, I do.

ACTING PRESIDENT MAYER: The Senator yields.

SENATOR O'MARA: Thank you, Madam President.

Senator, we have before us here on this supplemental active list the redistricting legislation for the congressional districts coming out of the 10-year census, as we do when they are redrawn. You're the sponsor of this legislation.

How many -- we went through a process whereby we had an Independent Redistricting Commission, didn't come out with unified maps. We're here now, it went through the LATFOR process, is my assumption.

Since we had no conclusion of the Independent Redistricting Commission, how many public hearings has the Majority held on these lines, these congressional district lines?

SENATOR GIANARIS: The -- there were extensive public hearings over many months, with thousands of public submissions, that were held by the commission during its process. And that public record was what we had reviewed as we went through our process as well.

SENATOR O'MARA: Did the State Legislature --

ACTING PRESIDENT MAYER: Excuse me, Senator O'Mara. Are you asking the Senator --

SENATOR O'MARA: Madam President, will the sponsor yield.

SENATOR GIANARIS: Yes.

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

SENATOR GIANARIS: Yes, I do.

ACTING PRESIDENT MAYER: The Senator yields.

SENATOR O'MARA: These maps now are drawn by the Democrat supermajorities of both houses of the State Legislature, separate and apart from the Independent Redistricting Commission.

Did the State Legislature, either the Senate or the Assembly, hold any public hearings to get input on the maps that you have unilaterally drawn?

SENATOR GIANARIS: There were numerous public hearings over many months with thousands of submissions --

SENATOR O'MARA: Did you have any hearings --

SENATOR GIANARIS: Can I finish my

answer, please?

SENATOR O'MARA: You said the same thing before, and it's not responsive.

SENATOR GIANARIS: It's the same answer.

SENATOR O'MARA: It isn't.

Madam President, will the sponsor continue to yield?

ACTING PRESIDENT MAYER: Senator O'Mara, I think he was continuing to answer your question. Let him finish, please, and you can go to the next question.

SENATOR GIANARIS: Thank you, Madam President.

As I stated already, there was extensive public input that we reviewed and adopted as the public record as we went through this process.

There wasn't -- let me give a further explanation, since Senator O'Mara is -- seems riled up today.

There is an incredible time pressure on what we're doing that we tried to fix -- and many Republicans opposed -- that would have given us more time. However, petitions are due to

start March 1st. The boards of elections tell us they need about a month to put their process in place before petitions start. It is after February 1st, so we're already at the time for these maps to be done.

And therefore we adopted the public hearing and -- public records, rather, of the commission's process as our public record that guided us.

SENATOR O'MARA: Madam President, will the sponsor continue to yield.

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

SENATOR GIANARIS: Yes.

ACTING PRESIDENT MAYER: The Senator yields.

SENATOR O'MARA: Yes, Senator Gianaris, we are a little riled up today with these maps that have come out, introduced less than 72 hours ago, with absolutely no public comment on these bills that are before us that draw the congressional maps for New York State for the next 10 years.

Now we're being rushed to vote on them. In redistricting processes in the past,

the political calendar has been altered because of this process taking a little bit longer. Is that correct?

SENATOR GIANARIS: I'm not sure it's correct because the political calendar ran later in the past. So a decade ago the primaries were in September, not in June, mostly because the Republican majority then refused to move the primaries earlier. It was one of the great things we did when we took the majority.

But as a result, the entire political calendar moves much faster than it did a decade ago.

SENATOR O'MARA: Madam President, will the sponsor continue to yield.

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

SENATOR GIANARIS: Yes.

ACTING PRESIDENT MAYER: The Senator yields.

SENATOR O'MARA: During the less than 72 hours that these two bills have been in print -- well, actually, Senator Gianaris, when was the S8196, the chapter amendment, when was that submitted?

SENATOR GIANARIS: That was yesterday.

SENATOR O'MARA: Madam President, will the sponsor continue to yield?

ACTING PRESIDENT MAYER: Do you continue to yield?

SENATOR GIANARIS: Yes.

ACTING PRESIDENT MAYER: The Senator yields.

SENATOR O'MARA: We have a chapter amendment to the original redistricting bill that's less than 72 hours old, and that chapter amendment, to a bill that hasn't even passed yet, is less than 24 hours old.

Can you explain to me or to us what the distinctions are? What's being cleaned up in the chapter amendment bill?

SENATOR GIANARIS: I'm happy to do that. I don't know if Senator O'Mara wants to wait until we're actually debating that bill, which was also laid aside. But I'm happy to answer it now if he'd prefer.

SENATOR O'MARA: Madam President, through you, if the sponsor will continue to yield.

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

SENATOR GIANARIS: Yes.

ACTING PRESIDENT MAYER: Yes.

SENATOR O'MARA: Senator Gianaris, I don't care if we debate these bills together. There's not going to be a lot of discussion on the chapter amendment. I can wait on that if you'd prefer.

SENATOR GIANARIS: I'm happy to. But whatever your preference is.

SENATOR O'MARA: Well, we'll proceed then, Madam President, if the sponsor will continue to yield.

ACTING PRESIDENT MAYER: Do you continue to yield?

SENATOR GIANARIS: Yes.

ACTING PRESIDENT MAYER: The Senator yields.

SENATOR O'MARA: There has been -- within these 72 hours since the first bill was introduced drawing these congressional lines, there's been 60 or so community, political and voter rights organizations that have said that it was imperative that at least one public hearing

be held on these maps to engage all New Yorkers, and specifically groups that are protected by the Voting Rights Act.

The list of these groups includes the Center for Law and Social Justice; Latino Justice; PRLDEF; the Asian American Legal Defense and Education Fund; Common Cause; NAACP, New York's Conference.

Why did this State Senate body not convene one public hearing on the maps that we have before us today?

SENATOR GIANARIS: Because we didn't have time to do so. And there was already an extensive public record of input on this issue.

SENATOR O'MARA: Madam President, if the sponsor will continue to yield.

ACTING PRESIDENT MAYER: Do you continue to yield?

SENATOR GIANARIS: Yes.

ACTING PRESIDENT MAYER: The Senator yields.

SENATOR O'MARA: In 2014, New Yorkers, in a constitutional amendment, overwhelmingly voted to create a redistricting

process that was designed to be bipartisan. And that bipartisan process of the Independent Redistricting Commission unfortunately failed to yield an agreed-upon map even though it was a bipartisan process.

And can you tell me, in the last 72 hours -- or in the drafting of this bill we have before us how many, if any, Republicans were involved in the discussions of how these lines were going to be drawn?

SENATOR GIANARIS: Well, Senator O'Mara, I don't know, because I didn't check the party registration of everyone that was involved in the process.

SENATOR O'MARA: Through you, Madam President, if the sponsor would continue to yield.

ACTING PRESIDENT MAYER: Do you continue to yield?

SENATOR GIANARIS: Yes.

ACTING PRESIDENT MAYER: The Senator yields.

SENATOR O'MARA: Through you, Madam President.

Since the close of the Independent

Redistricting Commission process and the Senate Democrat supermajority drawing the lines and submitting the legislation we have before us today, did you receive any input from any Republicans on that map?

SENATOR GIANARIS: Once again, I was not checking the registration status of anyone that was rendering opinions on what was happening.

SENATOR O'MARA: Madam President, if the sponsor will continue to yield.

ACTING PRESIDENT MAYER: Do you continue to yield?

SENATOR GIANARIS: Yes.

ACTING PRESIDENT MAYER: The Senator yields.

SENATOR O'MARA: Through you, Madam President.

The redistricting attorney, the counsel at the Brennan Center has been quoted as "I think the maps that are proposed in New York for Congress really in a lot of ways are a master class in gerrymandering. They take maps that were very responsive and had a lot of competition, and they take out a number of

Republican incumbents very strategically."

How do you respond to that claim from the Brennan Center?

SENATOR GIANARIS: That gentleman is mistaken.

SENATOR O'MARA: He's mistaken.

SENATOR GIANARIS: He's mistaken.

SENATOR O'MARA: Does -- through you, Madam President, if the sponsor will yield.

ACTING PRESIDENT MAYER: Do you continue to yield?

SENATOR GIANARIS: Yes.

ACTING PRESIDENT MAYER: The Senator yields.

SENATOR O'MARA: Does the legislation before us that has drawn this set of congressional maps incorporate in any way the Unity Coalition map?

SENATOR GIANARIS: Can I ask Senator O'Mara to clarify who he's referring to when he references that organization?

SENATOR O'MARA: The Center for Law and Social Justice.

SENATOR GIANARIS: Oh, the group that you had just mentioned.

SENATOR O'MARA: Yes.

SENATOR GIANARIS: Okay. As I mentioned earlier, there were --

SENATOR O'MARA: It comes from the New York Voting Rights Consortium, which is a coalition of those groups that I had mentioned.

SENATOR GIANARIS: I wasn't sure you were referring to the same group. Thank you, Senator O'Mara.

As I mentioned earlier, the public record that the commission had established was the public record that we reviewed. I believe that coalition submitted extensive testimony through that process, and their input was reviewed and I imagine in places we agreed with their approach.

SENATOR O'MARA: Madam President, if the sponsor will yield.

ACTING PRESIDENT MAYER: Do you continue to yield?

SENATOR GIANARIS: Yes.

ACTING PRESIDENT MAYER: The Senator yields.

SENATOR O'MARA: Did you as the sponsor of this legislation have any

conversations directly with the members of the Unity Coalition as this specific legislation was being drafted?

SENATOR GIANARIS: Me personally? No.

SENATOR O'MARA: Through you, Madam President, if the sponsor will continue to yield.

ACTING PRESIDENT MAYER: Do you continue to yield?

SENATOR GIANARIS: Yes.

ACTING PRESIDENT MAYER: The Senator yields.

SENATOR O'MARA: Do you know if any Senators of the Democratic side of the aisle here, or your staff, had conversations and input from the Unity Coalition during the process of drafting the bill before us?

SENATOR GIANARIS: I don't know. But their positions are very well documented and thorough, and we reviewed their submissions very carefully. And so we're very well aware of what they're advocating.

SENATOR O'MARA: Through you, Madam President, if the sponsor will continue to

yield.

ACTING PRESIDENT MAYER: Do you continue to yield?

SENATOR GIANARIS: Yes.

ACTING PRESIDENT MAYER: The Senator yields.

SENATOR O'MARA: Senator Gianaris, would you agree that part of the acceptable and desired process of redistricting is to seek communities of interest and look out for those community interests and who's going to represent them -- how the map is drawn -- and not divide those interests?

SENATOR GIANARIS: Yes. Among numerous factors, that is an important one.

SENATOR O'MARA: Madam President, if the sponsor will continue to yield.

ACTING PRESIDENT MAYER: Do you continue to yield?

SENATOR GIANARIS: Yes.

ACTING PRESIDENT MAYER: The Senator yields.

SENATOR O'MARA: In New York City, the Asian community is growing rapidly. It now makes up 13 percent of the city's 8 million

residents. New York's Congressional District 6 is 44 percent Asian as it's drawn. Why weren't other nearby areas added to the district to ensure that it was majority Asian for that community of interest?

SENATOR GIANARIS: The state map of districts is interwoven, and you can't look at one district in a vacuum. Surrounding that district are other districts that have pluralities of -- and I use the word "Hispanic" because that's the term that the Census uses -- but that have pluralities of Hispanic voters that had to be -- we had to make sure avoided retrogression as well.

And so as you're putting all the pieces together of the map, there are competing factors that all need to be considered.

District 6 did maintain its status as a plurality Asian district to the same degree it currently is, and there are other districts throughout the state that -- where communities of interest, similar communities of interest actually increased their unification and percentage as a part of that district.

SENATOR O'MARA: Through you,

Madam President, if the sponsor will continue to yield.

ACTING PRESIDENT MAYER: Do you continue to yield?

SENATOR GIANARIS: Yes.

ACTING PRESIDENT MAYER: The Senator yields.

SENATOR O'MARA: Is there any district, congressional district as drawn in this legislation that creates a district with a majority Asian population?

SENATOR GIANARIS: No, but there are none currently either.

SENATOR O'MARA: Through you, Madam President, if the sponsor will continue to yield.

ACTING PRESIDENT MAYER: Do you continue to yield?

SENATOR GIANARIS: Yes.

ACTING PRESIDENT MAYER: The Senator yields.

SENATOR O'MARA: Hispanics, using that term as used by the Census, now represent 29 percent of New York City's population. In this plan, New York District 13 and New York

District 15 are both more than 50 percent Hispanic.

Do you know, is the citizen voting age population of Hispanics in those districts more than 50 percent?

SENATOR GIANARIS: It's my understanding that the CVAP data that you're referring to has not yet been provided to us in a complete fashion by the Census Bureau. So whatever numbers -- I mean, the numbers you're asking for don't exist in an accurate form at this time.

SENATOR O'MARA: Through you, Madam President, if the sponsor will yield.

ACTING PRESIDENT MAYER: Do you continue to yield?

SENATOR GIANARIS: Yes.

ACTING PRESIDENT MAYER: The Senator yields.

SENATOR O'MARA: Senator Gianaris, certainly we could adjust our political calendar to make sure that we get the redistricting process correct. So wouldn't it be better to have that kind of information to rely upon so we know exactly what's in the districts that you're

drawing?

SENATOR GIANARIS: The political calendar is set, and part of the calendar is set by court order. The federal elections have to take place in June, the primaries, and then the calendar works backwards from there, where petitions begin March 1st. And the boards of elections need finality now.

SENATOR O'MARA: Through you, Madam President, if the sponsor will continue to yield.

SENATOR GIANARIS: Yes.

ACTING PRESIDENT MAYER: Yes, the Senator continues to yield.

SENATOR O'MARA: There have been instances in the past where we have adjusted that political calendar for the petition-carrying period, shortening that period and also lessening the number of petitions required during that shortened period because of other extenuating circumstances. Correct?

SENATOR GIANARIS: If you say so. I'm not -- I won't dispute that. Probably yes.

SENATOR O'MARA: Through you, Madam President, if the sponsor will continue to

yield.

ACTING PRESIDENT MAYER: Do you continue to yield?

SENATOR GIANARIS: Yes.

ACTING PRESIDENT MAYER: The Senator yields.

SENATOR O'MARA: These -- the political calendar is easily altered by actions of this body, actions that would affect a period of time of less than a month. Yet we're racing forward here with legislation and district lines that are going to be in effect for the next 10 years.

And some time, some ability for the public to actually review these lines should be important to everybody in this body and the State Legislature, that they're drawn fairly and appropriately and not based on inappropriate or improper determinations, political determinations -- gerrymandering, as it is certainly referred to.

But Senator Gianaris, the --

ACTING PRESIDENT MAYER: Senator O'Mara, are you asking whether Senator Gianaris continues to yield?

SENATOR O'MARA: I thought I did, Madam President.

ACTING PRESIDENT MAYER: No.

SENATOR O'MARA: But yes, will the sponsor yield.

ACTING PRESIDENT MAYER: Do you continue to yield?

SENATOR GIANARIS: I do.

ACTING PRESIDENT MAYER: Yes, thank you. He yields.

SENATOR O'MARA: In the maps as you've drawn them, Senator Gianaris, how many majority African-American districts are in this plan of voting age population?

SENATOR GIANARIS: Once again, we do not have the final voting age population data. And it's my understanding that there is no expectation that final voting age population data will be forthcoming in the next couple of months.

SENATOR O'MARA: Madam President, if the sponsor will continue to yield.

ACTING PRESIDENT MAYER: Do you continue to yield?

SENATOR GIANARIS: Yes.

ACTING PRESIDENT MAYER: The

Senator continues to yield.

SENATOR O'MARA: Well, I can tell you that from our analysis of these districts, there are zero districts in this plan that have a majority voting age population of African-Americans.

However, in this plan Districts New York 5, New York 8 and New York 9 are all more than 40 percent African-American and adjacent to each other. Why was it not possible to draw those lines in a way that created a majority African-American population of voting age district?

SENATOR GIANARIS: Well, I want everyone to be clear about what Senator O'Mara is suggesting right now. We currently -- he referenced three districts that are currently represented by African-American members of Congress. And he's suggesting cannibalizing them to have one district with an outright majority which would dilute the voting power of the African-Americans that would remain in whichever district you were taking them from.

And we are legally obligated not to allow that kind of retrogression.

SENATOR O'MARA: Through you, Madam President, if the sponsor will continue to yield.

ACTING PRESIDENT MAYER: Do you continue to yield?

SENATOR GIANARIS: Yes.

ACTING PRESIDENT MAYER: The Senator yields.

SENATOR O'MARA: Congressional New York 3. This is a particularly egregiously drawn district, starting way out east on Long Island, in Smithtown, Suffolk County, running along the northern edge of Long Island, along the Long Island Sound, up through Westchester County, including in Rye, some 60 miles in length through heavily populated parts of New York State.

And between the beginning in Smithtown and the end in Rye, there are incredibly narrow passages of this district through Queens and the Bronx, very narrowly.

What precedent is there in any maps ever drawn before in this state, congressional maps, to pass a congressional district through two boroughs of New York City to connect

Long Island to Westchester?

SENATOR GIANARIS: Well, our belief is that -- and Senator O'Mara referenced it as he was outlining the direction of this district, that it went along Long Island Sound -- that the communities we're talking about are all Sound Shore districts, Sound Shore neighborhoods, so to speak. So they share a common interest, they share common issues, particularly as it relates to environmental concerns around the waterfront. And that is why the district was drawn the way it was.

SENATOR O'MARA: Thank you, Senator Gianaris.

Madam President, will the sponsor continue to yield for a couple of questions --

ACTING PRESIDENT MAYER: Do you continue to yield?

SENATOR O'MARA: -- a couple of questions on the chapter amendment bill --

SENATOR GIANARIS: Yes.

SENATOR O'MARA: If you don't mind taking those up now --

SENATOR GIANARIS: Yes.

SENATOR O'MARA: -- before we go

through the process of voting on these.

ACTING PRESIDENT MAYER: The Senator yields.

SENATOR O'MARA: So one of these -- the second bill here we're considering is a chapter amendment of the overall congressional district maps. That is -- that first bill is, as I said, less than 72 hours old. This chapter amendment is less than 24 hours old.

What are the differences -- what's being corrected in this chapter amendment before we even pass the underlying bill? Since it was rushed through, what's being changed? What were the mistakes?

SENATOR GIANARIS: Yes, thank you. Thank you for that question, Senator O'Mara.

First of all, the first bill that we're actually on right now was not rushed through. We are meeting all constitutional requirements for aging. Those requirements exist because that's the period that was deemed appropriate to allow for public review before we take a vote.

But to get to your specific question about the chapter amendment, it was a drafting

error that needed to be corrected, which affected absolutely no population. So there's no population difference between the bill-in-chief and the chapter amendment.

SENATOR O'MARA: Through you, Madam President, if the sponsor will continue to yield.

ACTING PRESIDENT MAYER: Do you continue to yield?

SENATOR GIANARIS: Yes.

ACTING PRESIDENT MAYER: The Senator yields.

SENATOR O'MARA: So is it the position of this Democrat Majority of the New York Senate that we couldn't afford to wait another 48 hours to correct the bill-in-chief and do it in all one bill?

SENATOR GIANARIS: We are -- since the technical amendment was truly technical, it has no substantive impact on the maps, and given the time pressures that we already spoke about, the decision was that we should move this as quickly as we can within the requirements before us.

SENATOR O'MARA: Through you,

Madam President, if the sponsor will continue to yield.

ACTING PRESIDENT MAYER: Do you continue to yield?

SENATOR GIANARIS: Yes.

ACTING PRESIDENT MAYER: The Senator yields.

SENATOR O'MARA: Now, the -- a chapter amendment bill is before us. What is the legal authority that we have in this body to pass a chapter amendment to something that's not even a chapter yet? Because we haven't passed the first bill and it hasn't been signed by the Governor.

SENATOR GIANARIS: Well, as Senator O'Mara well knows, this bill will be passed before we get to the chapter amendment. That's why it's coming up next. We haven't done it yet.

SENATOR O'MARA: Through you, Madam President, if the sponsor will continue to yield.

ACTING PRESIDENT MAYER: Senator, do you yield?

SENATOR GIANARIS: Yes.

ACTING PRESIDENT MAYER: The

Senator yields.

SENATOR O'MARA: The bill may well be passed by this house, but will not be a chapter yet because it's not a chapter until the Governor signs it into law.

So what is the legal authority for us to pass an amendment to a chapter that is not yet a chapter?

SENATOR GIANARIS: Madam President, that is something that happens routinely in this chamber, including probably too many instances to count when my colleagues across the aisle were in charge.

SENATOR O'MARA: Through you, Madam President, if the sponsor will continue to yield.

ACTING PRESIDENT MAYER: Do you continue to yield?

SENATOR GIANARIS: Yes.

ACTING PRESIDENT MAYER: The Senator yields.

SENATOR O'MARA: First I can assure you there have been far more chapter amendments through this body in the last three years than probably the 10 years combined before the prior

majority. But that's really neither here nor there.

And generally -- and they have been chapter amendments upon bills that were actually chapters. They were amendments that were agreed upon at the time it was signing the chapter that the amendment would come later, usually in the next session.

But this bill, since it's less than 24 hours old, comes with a message of necessity from Governor Hochul that New York State can't afford to wait another 48 hours, not even if we waited until 12:01 a.m. on the third day to do it, that would not impact the political activities in this state.

Senator Gianaris, has the New York State Legislature in its history ever passed a redistricting bill with a message of necessity?

SENATOR GIANARIS: This is the first time in almost a hundred years that my side of the aisle has been in a position to know the answer to that, Senator O'Mara. So you can tell me going back to the '30s, if the Republican majorities ever did it.

But the fact is it is a very common

process. It is a process you engaged in in the majority. It's a process we've engaged in at other times. And there's absolutely nothing wrong with the way we're doing this.

SENATOR O'MARA: On the bill, Madam President.

ACTING PRESIDENT MAYER: Senator O'Mara on the bill.

SENATOR O'MARA: Absolutely nothing wrong with rushing through a congressional redistricting process that's going to be in effect for 10 years. Nothing wrong with not even waiting the required three-day waiting period, which is pretty insignificant in and of itself. Nothing wrong with the majorities of the Senate and the Assembly getting together, unilaterally drawing these maps with no outside public input, no public hearing whatsoever, in a rush to ram these through for the expediency of the majorities of this house.

It is totally improper to be pushing this through without the public input of which I have talked about throughout the debate here. This process is rushed. It's ignoring communities of interest, particularly in regards

to ethnicity and race.

This is a sad day in New York State's history that we can't give the citizens of New York State 72 hours to review and provide input on a bill creating the congressional districts for the next 10 years in this state.

This is a travesty. The public was clear in 2014, when the Independent Redistricting Commission was set up, that the public wants politics, as much as possible, out of the redistricting process.

Now, the commission failed to get the reports together or to agree on a common set of maps. That, I will submit, was preordained to fail, set up to fail by the majority in this body and in the State Assembly, that their appointees to the commission, the independent commission, were under no circumstances to agree on a common set of maps.

That their -- then again, this past year, the majorities of the Senate and the Assembly, the supermajorities, moved further congressional -- further constitutional amendments to alter this Independent Redistricting Commission, which the voters

overwhelmingly rejected at the polls.

The citizens of New York have been left out of this process. They're ignored. And this process is the result of unilateral action by supermajorities in each house of this Legislature, with no input from the public and certainly no input from the Republican side of the aisle.

Thank you, Madam President.

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

Seeing and hearing none, debate is closed. The Secretary will ring the bell.

Read the last section.

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

ACTING PRESIDENT MAYER: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MAYER: Announce the results.

Senator Gianaris to explain his vote.

SENATOR GIANARIS: Thank you, Madam President. I just want to clarify a couple

of things that came up as part of the debate.

First of all, the redistricting plan in I think it was 2002 was passed by a Republican majority with messages of necessity in this chamber. I don't know if Senator O'Mara is paying attention right now, but he might want to take notes since he seemed to think otherwise before. So it is a very common practice in this chamber that we are undertaking.

And I'm especially amused by critiques of the process, since this is a process -- if it was designed to fail, it was designed by them. And many of us who were here 10 years ago said that it was a bad process for exactly this reason. When you set up a commission with equal numbers of both parties, you're going to get deadlocked. Okay?

So if you don't like what was designed, you shouldn't have designed it that way. We wouldn't have done it that way. We're just dealing with the process that you handed us when we succeeded in taking you out as the majority.

So we're doing the best we can with the limited time frame, because you didn't want

to change the calendar either, and we've come up with fair maps that this state can be proud of.

I proudly vote yes, Madam President.

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

Announce the results.

THE SECRETARY: In relation to Calendar Number 420, those Senators voting in the negative are Senators Akshar, Borrello, Boyle, Gallivan, Griffo, Helming, Jordan, Lanza, Martucci, Mattera, Oberacker, O'Mara, Ortt, Palumbo, Rath, Ritchie, Serino, Stec, Tedisco and Weik.

Ayes, 43. Nays, 20.

ACTING PRESIDENT MAYER: The bill is passed.

Senator Gianaris.

SENATOR GIANARIS: Madam President, we have agreed to restore the remaining bill to the noncontroversial calendar.

ACTING PRESIDENT MAYER: The bill is restored to the noncontroversial calendar, and the Secretary will read.

THE SECRETARY: Calendar Number 422, Assembly Print Number 9167, by

Assemblymember Zebrowski, an act to amend the State Law.

ACTING PRESIDENT MAYER: Read the last section.

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

ACTING PRESIDENT MAYER: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MAYER: Announce the results.

THE SECRETARY: In relation to Calendar Number 422, those Senators voting in the negative are Senators Akshar, Borrello, Boyle, Gallivan, Griffo, Helming, Jordan, Lanza, Martucci, Mattera, Oberacker, O'Mara, Ortt, Palumbo, Rath, Ritchie, Serino, Stec, Tedisco and Weik.

Ayes, 43. Nays, 20.

ACTING PRESIDENT MAYER: The bill is passed.

Senator Gianaris.

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

ACTING PRESIDENT MAYER: There is

no further business at the desk.

SENATOR GIANARIS: I move to adjourn until tomorrow, Thursday, February 3rd, at 10:00 a.m., when we can do this all over again.

ACTING PRESIDENT MAYER: On motion, the Senate stands adjourned until Thursday, February 3rd, at 10:00 a.m.

(Whereupon, at 4:23 p.m., the Senate adjourned.)