NEW YORK STATE SENATE

THE STENOGRAPHIC RECORD

ALBANY, NEW YORK

March 31, 2022

12:32 p.m.

REGULAR SESSION

SENATOR JAMAAL T. BAILEY, Acting President

ALEJANDRA N. PAULINO, ESQ., Secretary

P R O C E E D I N G S

ACTING PRESIDENT BAILEY: 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 BAILEY: In the absence of clergy, may we bow our heads for a moment of silent reflection or prayer.

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

ACTING PRESIDENT BAILEY: Reading of the Journal.

THE SECRETARY: In Senate, Wednesday, March 30, 2022, the Senate met pursuant to adjournment. The Journal of Tuesday, March 29, 2022, was read and approved. On motion, the Senate adjourned.

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

Presentation of petitions.

Messages from the Assembly.

The Secretary will read.

THE SECRETARY: Senator Kaplan

moves to discharge, from the Committee on Investigations and Government Operations, Assembly Bill Number 5913A and substitute it for the identical Senate Bill 123A, Third Reading Calendar 88.

ACTING PRESIDENT BAILEY: So ordered.

THE SECRETARY: Senator Thomas moves to discharge, from the Committee on Consumer Protection, Assembly Bill Number 6938B and substitute it for the identical Senate Bill 5924C, Third Reading Calendar 132.

ACTING PRESIDENT BAILEY: So ordered.

THE SECRETARY: Senator Kaminsky moves to discharge, from the Committee on Environmental Conservation, Assembly Bill Number 9589 and substitute it for the identical Senate Bill 8595, Third Reading Calendar 736.

ACTING PRESIDENT BAILEY: So ordered.

THE SECRETARY: Senator Stewart-Cousins moves to discharge, from the Committee on Investigations and Government Operations, Assembly Bill Number 8895A and

substitute it for the identical Senate Bill 8266, Third Reading Calendar 738.

ACTING PRESIDENT BAILEY: So ordered.

Reports of standing committees.

Reports of select committees.

Communications and reports from state officers.

Motions and resolutions.

Senator Gianaris.

SENATOR GIANARIS: Mr. President, we're going to start with an immediate meeting of the Rules Committee in Room 332.

I don't expect it will take very long, but let's call that now and then return for the work on the floor.

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

SENATOR GIANARIS: The Senate will stand at ease.

ACTING PRESIDENT BAILEY: The Senate will stand at ease.

(Whereupon, the Senate stood at ease at 12:34 p.m.)

(Whereupon, the Senate reconvened at 12:43 p.m.)

ACTING PRESIDENT BAILEY: The Senate will return to order.

Senator Gianaris.

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

ACTING PRESIDENT BAILEY: The Secretary will read.

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

Senate Print 8552, by Senator Myrie, an act to amend the Election Law;

Senate Print 8658, by Senator Gaughran, an act to amend Chapter 258 of the Laws of 2020;

Senate Print 8665, by Senator Stewart-Cousins, an act extending the time within which certain elected and appointed officials may take or file their oaths of office or official undertakings.

All bills reported direct to third reading.

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

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

(Response of "Aye.")

ACTING PRESIDENT BAILEY: Opposed, nay.

(No response.)

ACTING PRESIDENT BAILEY: The Rules Committee report is adopted.

Senator Gianaris.

SENATOR GIANARIS: Moving on to resolutions, can we take previously adopted Resolution 2096, by Senator Ramos, read its title, and recognize Senator Ramos.

ACTING PRESIDENT BAILEY: The Secretary will read.

THE SECRETARY: Senate Resolution 2096, by Senator Ramos, memorializing Governor Kathy Hochul to proclaim March 31, 2022, as Cesar Chavez Day in the State of New York.

ACTING PRESIDENT BAILEY: Senator Ramos on the resolution.

SENATOR RAMOS: Thank you,

Mr. President.

I rise today in honor of Cesar Chavez, his legacy and heroic efforts to bring dignity to the farm fields of California. He's perhaps one of the most important heroes to union organizers and American-Latinos alike. And as someone who checks off both of those boxes, I draw inspiration from his persistence and fearlessness every day.

Cesar Chavez led mostly Mexican immigrant farmworkers in the fight for better wages, improved health and safety conditions, joining Filipino farmworkers in the historic Delano grape strike and promoting nonviolent organizing through public fasts and national boycotts. Because when the people who feed the world by toiling in the fields are themselves deprived of the basic rights of feeding, sheltering and caring for their own families, our entire community is made sick.

In 1968, he undertook a hunger strike to demand free and fair elections, an end to the deadly use of pesticides, and the defense of farmworkers and their children from exploitative labor practices.

It took them five long years to win increased pay and the right to unionize. He said: "This solution to this deadly crisis will not be found in the arrogance of the powerful, but in solidarity with the weak and helpless. I will pray to God that this fast will be a preparation for a multitude of simple deeds for justice, carried out by men and women whose hearts are focused on the suffering of the poor and who yearn with us for a better world. Together, all things are possible."

And I can't help but draw some parallels to the current moment. We're celebrating the formation of the first farmworker union in the history of New York State -- at Pindar Vineyards in Peconic, New York, part of RWDSU Local 338 -- since we passed the Farmworker Fair Labor Practices Act in 2019.

And we're still fighting for excluded workers, who went on hunger strikes themselves last year to draw attention to the plight of New Yorkers who are excluded from unemployment despite paying their taxes.

And today we fight to ensure that 60,000 undocumented children have access to safe

and quality childcare in this year's budget.

Resolutions like today's always honor the best in our heroes, but as humans our heroes too are flawed. Chavez encouraged union members to join border lines to prevent immigrants from crossing into the U.S., thinking it undermined the efforts of the farmworkers to organize.

He would later change his posture to support amnesty, but for years this had been used as an excuse for the labor movement to not support the rights for undocumented immigrants. And today we know this is wrong. New York State knows this is wrong. We know that we all do better when we all do better. Whether it's farm work or construction, our labor movement is more powerful because our struggles are connected and because we fight poverty shoulder to shoulder.

I leave you with my favorite quote from this imperfect man: "Once social change begins, it cannot be reversed. You cannot uneducate the person who has learned to read. You cannot humiliate the person who feels pride. You cannot oppress the people who are not afraid

anymore. We have seen the future, and the future is ours."

I vote aye.

ACTING PRESIDENT BAILEY: Thank you, Senator Ramos.

Senator Gaughran on the resolution.

SENATOR GAUGHRAN: Thank you, Mr. President.

And thank you so much, Senator Ramos, for this important resolution today.

You know, it's not too many times you get the opportunity in this chamber to actually age yourself, but Cesar Chavez was actually somebody that had a strong influence on my life when I was very young, simply by watching the television and looking at, you know, the horror in the way the farmworkers were being treated.

So there were a group of students in my high school, and we all got together and we organized our own club to go out every single day to all of the supermarkets, to stand there with flyers and to urge shoppers not to buy grapes.

And obviously it was a very small

part of the effort, but I know it took place all over the United States of America. And eventually they were able to win their rights because of support from across the country, but mostly because of the brave men and women who struggled, who were working, you know, in the farms at that point in time.

So I very proudly vote yes for this resolution. Thank you.

ACTING PRESIDENT BAILEY: Thank you, Senator Gaughran.

The resolution was previously adopted on March 22nd.

Senator Gianaris.

SENATOR GIANARIS: Senator Ramos would like to open this resolution for cosponsorship.

ACTING PRESIDENT BAILEY: The resolution is open for cosponsorship. Should you choose not to be a cosponsor of the resolution, please notify the desk.

Senator Gianaris.

SENATOR GIANARIS: I have a motion here, Mr. President.

On behalf of Senator Parker, on

page 32 I offer the following amendments to Calendar 710, Senate Print 2933, and ask that said bill retain its place on the Third Reading Calendar.

ACTING PRESIDENT BAILEY: So ordered.

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

ACTING PRESIDENT BAILEY: The Secretary will read.

THE SECRETARY: Calendar Number 88, Assembly Print Number 5913A, by Assemblymember Lavine, an act to amend the Executive Law.

ACTING PRESIDENT BAILEY: Read the last section.

THE SECRETARY: Section 2. This act shall take effect April 1, 2023.

ACTING PRESIDENT BAILEY: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT BAILEY: Announce the results.

THE SECRETARY: Ayes, 63.

ACTING PRESIDENT BAILEY: The bill is passed.

THE SECRETARY: Calendar Number 132, Assembly Print Number 6938B, by Assemblymember Epstein, an act to amend the Education Law.

ACTING PRESIDENT BAILEY: Read the last section.

THE SECRETARY: Section 2. This act shall take effect on the 30th day after it shall have become a law.

ACTING PRESIDENT BAILEY: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT BAILEY: Senator Thomas to explain his vote.

SENATOR THOMAS: Thank you, Mr. President.

Transcripts are a record of a student's education. They are not and were never meant to be tools for debt collection. And yet thousands of New Yorkers are currently unable to obtain their transcripts from higher education institutions across the state because they owe even small amounts of money -- from tuition fees to library fines and parking tickets -- to the universities and the colleges they attend.

This practice is known to some as "transcript ransoming." Transcript withholding is a disruptive, counterproductive and harmful practice that prevents students from being able to transfer credits, reenroll in school to finish their degrees, or obtain jobs that could help them pay their balances.

Each withheld transcript represents a student who was denied the opportunity to pursue a chosen career path, denied access to social and economic mobility through higher education, and ultimately denied access to the American dream.

My legislation will stop the practice of transcript withholding as a debt collection tool and ensure our students have the tools they need to thrive, especially in these exceptionally challenging times.

I thank Leader Stewart-Cousins for bringing this bill to the floor, and my Senate colleagues for their support in standing up for students across New York State.

I vote in the affirmative. Thank you.

ACTING PRESIDENT BAILEY: Senator

Thomas to be recorded in the affirmative.

Senator Persaud to explain her vote.

SENATOR PERSAUD: Thank you, Mr. President.

As you may remember, the last time this legislation came to the floor, I voted against it. And I asked many questions, because of the life I lived prior to coming to the Legislature.

This year, even though there are flaws in the legislation, I will support the legislation, with the caveat that my Senate sponsor revisits the flaws that I explained to him that are in the legislation.

Transcript withholding is not done frivolously. As a former college registrar and university registrar, I know the process. Oftentimes a student who owes tuition for an entire semester or more will transfer to another institution, pay higher tuition sometimes, and forget the institution that they owe their money to.

The colleges and universities must have some protection. We have to look at the flaws, as I explained to my colleague, in the

legislation -- and he's promised that they are going to look at that.

So for those reasons -- not that I want to withhold any student's transcript, but there are flaws in the legislation. But I will support the legislation.

Thank you, Mr. President.

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

Announce the results.

THE SECRETARY: In relation to Calendar Number 132, those Senators voting in the negative are Senators Akshar, Borrello, Boyle, Gallivan, Griffo, Helming, Jordan, Lanza, Martucci, Mattera, Oberacker, O'Mara, Ortt, Palumbo, Rath, Serino, Stec, Tedisco and Weik.

Ayes, 44. Nays, 19.

ACTING PRESIDENT BAILEY: The bill is passed.

THE SECRETARY: Calendar Number 509, Senate Print 8276A, by Senator Mayer, an act to amend the Education Law.

ACTING PRESIDENT BAILEY: Read the last section.

THE SECRETARY: Section 11. This

act shall take effect immediately.

ACTING PRESIDENT BAILEY: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT BAILEY: Senator Mayer to explain her vote.

SENATOR MAYER: Thank you, Mr. President.

This important bill recognizes the lingering effects of COVID on students, teachers and administrators by decoupling state assessments from the annual professional performance reviews and tenure decisions for both teachers and principals during this 2022-2023 school year.

It is extremely important because under federal law, New York State is required to administer these state tests -- in fact, today is the second day for the ELA test -- for ELA and math for students in Grades 3 through 8, and in science for students in Grades 4 and 8.

These assessments are traditionally used as a factor in determining teacher and principal reviews and the granting of tenure under New York State law.

In 2020, at the onset of the pandemic, the federal government approved a one-year waiver of these testing requirements, but has since required states to administer this grade-level testing. And in fact, however, far fewer students have participated in the tests. And in 2021, four out of 10 students participated in the state's ELA and math tests. But in a typical year, 80 percent participate.

So it is absolutely not an accurate, fair or just way to evaluate our students or our teachers and principals.

This test cannot and should not be used to adequately measure gains in student performance and should not be used as an instrument to measure the performance of teachers and principals -- who, I might add, have done an extraordinary job during the most challenging times in schools.

The bill has the backing of the New York State United Teachers, the New York State School Boards Association, New York State Council of School Superintendents, the New York State School Administrators Association, and the BOCES of New York State.

This is a commonsense, overdue bill. I'm so pleased -- and I thank the leader for allowing us to bring this to the floor. And I'm hopeful my colleagues in the Assembly will pass it, it will be signed, so that teachers and principals know that this year they will not be judged on these unjust ways of determining their merit.

I vote aye.

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

Announce the results.

THE SECRETARY: Ayes, 63.

ACTING PRESIDENT BAILEY: The bill is passed.

THE SECRETARY: Calendar Number 573, Senate Print 739A, by Senator Biaggi, an act to amend the Domestic Relations Law and the Executive Law.

ACTING PRESIDENT BAILEY: Read the last section.

THE SECRETARY: Section 6. This act shall take effect on the 90th day after it shall have become a law.

ACTING PRESIDENT BAILEY: Call the

roll.

(The Secretary called the roll.)

ACTING PRESIDENT BAILEY: Announce the results.

THE SECRETARY: In relation to Calendar Number 573, those Senators voting in the negative are Senators Akshar, Borrello, Griffo, Helming, Jordan, Oberacker, O'Mara, Ortt, Rath, Skoufis and Tedisco.

Ayes, 52. Nays, 11.

ACTING PRESIDENT BAILEY: The bill is passed.

THE SECRETARY: Calendar Number 613, Senate Print 1355, by Senator Serrano, an act to amend the Parks, Recreation and Historic Preservation Law.

ACTING PRESIDENT BAILEY: Read the last section.

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

ACTING PRESIDENT BAILEY: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT BAILEY: Announce the results.

THE SECRETARY: In relation to Calendar Number 613, those Senators voting in the negative are Senators Helming, Jordan and Serino.

Ayes, 60. Nays, 3.

ACTING PRESIDENT BAILEY: The bill is passed.

THE SECRETARY: Calendar Number 655, Senate Print 3791, by Senator Comrie, an act to amend the Penal Law.

ACTING PRESIDENT BAILEY: Read the last section.

THE SECRETARY: Section 3. This act shall take effect immediately.

ACTING PRESIDENT BAILEY: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT BAILEY: Announce the results.

THE SECRETARY: Ayes, 63.

ACTING PRESIDENT BAILEY: The bill is passed.

THE SECRETARY: Calendar Number 696, Senate Print 1207, by Senator Kaminsky, an act to amend the Public Authorities Law.

ACTING PRESIDENT BAILEY: Read the

last section.

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

ACTING PRESIDENT BAILEY: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT BAILEY: Announce the results.

THE SECRETARY: Ayes, 63.

ACTING PRESIDENT BAILEY: The bill is passed.

Calendar Number 710, the bill is high and will be laid aside for the day.

THE SECRETARY: Calendar Number 736, Assembly Print Number 9589, by Assemblymember Griffin, an act to amend Chapter 77 of the Laws of 2010.

ACTING PRESIDENT BAILEY: Read the last section.

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

ACTING PRESIDENT BAILEY: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT BAILEY: Announce the results.

THE SECRETARY: Ayes, 63.

ACTING PRESIDENT BAILEY: The bill is passed.

THE SECRETARY: Calendar Number 738, Assembly Print Number 8895A, by Assemblymember Paulin, an act to amend Chapter 566 of the Laws of 2019.

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

Read the last section.

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

ACTING PRESIDENT BAILEY: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT BAILEY: Announce the results.

THE SECRETARY: Ayes, 63.

ACTING PRESIDENT BAILEY: The bill is passed.

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

SENATOR GIANARIS: Please take up

the supplemental calendar.

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

The Secretary will read.

THE SECRETARY: Senator Myrie moves to discharge, from the Committee on Elections, Assembly Bill Number 9508 and substitute it for the identical Senate Bill 8552, Third Reading Calendar 742.

ACTING PRESIDENT BAILEY: The substitution is ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 742, Assembly Print 9508, by Assemblymember Walker, an act to amend the Election Law.

ACTING PRESIDENT BAILEY: Read the last section.

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

ACTING PRESIDENT BAILEY: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT BAILEY: Announce the results.

THE SECRETARY: Ayes, 63.

ACTING PRESIDENT BAILEY: The bill is passed.

THE SECRETARY: Calendar Number 743, Senate Print 8658, by Senator Gaughran, an act to amend Chapter 258 of the Laws of 2020.

ACTING PRESIDENT BAILEY: Read the last section.

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

ACTING PRESIDENT BAILEY: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT BAILEY: Announce the results.

THE SECRETARY: Ayes, 63.

ACTING PRESIDENT BAILEY: The bill is passed.

There is a substitution at the desk.

The Secretary will read.

THE SECRETARY: Senator Stewart-Cousins moves to discharge, from the Committee on Rules, Assembly Bill Number 9607 and substitute it for the identical Senate Bill 8665, Third Reading Calendar 744.

ACTING PRESIDENT BAILEY: The

substitution is ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 744, Assembly Print Number 9607, by Assemblymember Heastie, an act extending the time within which certain elected and appointed officials may take or file their oaths of office or official undertakings.

ACTING PRESIDENT BAILEY: Read the last section.

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

ACTING PRESIDENT BAILEY: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT BAILEY: Announce the results.

THE SECRETARY: In relation to Calendar Number 744, those Senators voting in the negative are Senators Akshar, Borrello, Boyle, Griffo, Helming, Jordan, Oberacker, O'Mara, Ortt, Rath, Stec and Tedisco.

Ayes, 51. Nays, 12.

ACTING PRESIDENT BAILEY: The bill is passed.

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

SENATOR GIANARIS: Mr. President, is there any further business at the desk?

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

SENATOR GIANARIS: I move to adjourn until Monday, April 4th, at 3:00 p.m., with the intervening days being legislative days.

ACTING PRESIDENT BAILEY: On motion, the Senate stands adjourned until Monday, April 4th, at 3:00 p.m., with intervening days being legislative.

(Whereupon, at 1:02 p.m., the Senate adjourned.)