

1 NEW YORK STATE SENATE

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3
4 THE STENOGRAPHIC RECORD

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8
9 ALBANY, NEW YORK

10 May 19, 2021

11 3:26 p.m.

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13
14 REGULAR SESSION

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18 LIEUTENANT GOVERNOR KATHLEEN C. HOCHUL, President

19 SENATOR ROXANNE J. PERSAUD, Acting President

20 ALEJANDRA N. PAULINO, ESQ., Secretary

1 P R O C E E D I N G S

2 ACTING PRESIDENT PERSAUD: The
3 Senate will come to order.

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

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

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

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

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

15 THE SECRETARY: In Senate, Tuesday,
16 May 18, 2021, the Senate met pursuant to
17 adjournment. The Journal of Monday, May 17,
18 2021, was read and approved. On motion, the
19 Senate adjourned.

20 ACTING PRESIDENT PERSAUD: Without
21 objection, the Journal stands approved as read.

22 Presentation of petitions.

23 Messages from the Assembly.

24 The Secretary will read.

25 THE SECRETARY: Senator

1 Reichlin-Melnick moves to discharge, from the
2 Committee on Local Government, Assembly Bill
3 Number 3489 and substitute it for the identical
4 Senate Bill 4855, Third Reading Calendar 754.

5 ACTING PRESIDENT PERSAUD: The
6 substitution is so ordered.

7 THE SECRETARY: Senator Mayer moves
8 to discharge, from the Committee on Elections,
9 Assembly Bill Number 2168 and substitute it for
10 the identical Senate Bill 6216, Third Reading
11 Calendar 879.

12 ACTING PRESIDENT PERSAUD: The
13 substitution is so ordered.

14 THE SECRETARY: Senator Breslin
15 moves to discharge, from the Committee on
16 Environmental Conservation, Assembly Bill Number
17 6389 and substitute it for the identical Senate
18 Bill 5725, Third Reading Calendar 980.

19 ACTING PRESIDENT PERSAUD: The
20 substitution is so ordered.

21 THE SECRETARY: Senator Mannion
22 moves to discharge, from the Committee on
23 Disabilities, Assembly Bill Number 7120A and
24 substitute it for the identical Senate Bill
25 6382A, Third Reading Calendar 989.

1 ACTING PRESIDENT PERSAUD: The
2 substitution is so ordered.

3 Messages from the Governor.
4 Reports of standing committees.
5 Reports of select committees.
6 Communications and reports from
7 state officers.

8 Motions and resolutions.

9 Senator Gianaris.

10 SENATOR GIANARIS: Thank you.

11 Madam President, amendments are
12 offered to the following Third Reading Calendar
13 bills. This is a lengthy list.

14 By Senator Kaplan, page 13, Calendar
15 82, Senate Print 531A;

16 By Senator Hoylman, page 15,
17 Calendar 208, Senate Print 566;

18 By Senator Skoufis, page 23,
19 Calendar 464, Senate Print 1625;

20 By Senator Hoylman, page 24,
21 Calendar 515, Senate Print 4402;

22 By Senator Kaplan, page 26,
23 Calendar 561, Senate Print 4615;

24 By Senator Kaplan again, page 26,
25 Calendar 562, Senate Print 4703;

1 By Senator Rivera, page 31,
2 Calendar 666, Senate Print 5118;

3 By Senator Kaplan, page 36,
4 Calendar 753, Senate Print 4614;

5 By Senator Brooks, page 36,
6 Calendar 758, Senate Print 5758;

7 By Senator Sanders, page 39,
8 Calendar 800, Senate Print 6070.

9 By Senator Gaughran, page 45,
10 Calendar 898, Senate Print 1318;

11 By Senator Parker, page 46,
12 Calendar 906, Senate Print 3034;

13 And by Senator Comrie, page 21,
14 Calendar 411, Senate Print 3156.

15 ACTING PRESIDENT PERSAUD: The
16 amendments are received, and the bills shall
17 retain their places on the Third Reading
18 Calendar.

19 SENATOR GIANARIS: I also wish to
20 call up the following bills, which were recalled
21 from the Assembly and are now at the desk:

22 Senate Print Numbers 523, 412, 4485,
23 1442, 612A, 2936, 2819, and 1201.

24 ACTING PRESIDENT PERSAUD: The
25 Secretary will read.

1 THE SECRETARY: Calendar Number
2 406, Senate Print 523, by Senator Hoylman, an act
3 to amend the Civil Practice Law and Rules.

4 Calendar Number 438, Senate Print
5 412, by Senator Biaggi, an act to amend the
6 Mental Hygiene Law and the Racing, Pari-Mutuel
7 Wagering and Breeding Law.

8 Calendar Number 817, Senate Print
9 4485, by Senator Harckham, an act to amend the
10 Private Housing Finance Law.

11 Calendar Number 87, Senate Print
12 1442, by Senator Addabbo, an act to amend the
13 Agriculture and Markets Law.

14 Calendar Number 330, Senate Print
15 612A, by Senator May, an act to amend the
16 Elder Law.

17 Calendar Number 335, Senate Print
18 2936, by Senator Kaminsky, an act to amend the
19 Environmental Conservation Law.

20 Calendar Number 772, Senate Print
21 2819, by Senator Addabbo, an act to amend the
22 General Business Law.

23 Calendar Number 657, Senate Print
24 1201, by Senator Harckham, an act to amend the
25 Public Health Law.

1 SENATOR GIANARIS: Move to
2 reconsider the vote by which these bills were
3 passed.

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

6 (The Secretary called the roll.)

7 THE SECRETARY: Ayes, 62.

8 ACTING PRESIDENT PERSAUD: The
9 bills are restored to their place on the
10 Third Reading Calendar.

11 SENATOR GIANARIS: I offer the
12 following amendments on the aforementioned bills.

13 ACTING PRESIDENT PERSAUD: The
14 amendments are received.

15 SENATOR GIANARIS: Please recognize
16 Senator Lanza.

17 ACTING PRESIDENT PERSAUD: Senator
18 Lanza.

19 SENATOR LANZA: Thank you.

20 Madam President, on behalf of
21 Senator Jordan, on page 31 I offer the following
22 amendments to Calendar Number 680, Senate Print
23 Number 2091, and ask that said bill retain its
24 place on the Third Reading Calendar.

25 ACTING PRESIDENT PERSAUD: The

1 amendments are received, and the bill shall
2 retain its place on the Third Reading Calendar.

3 SENATOR LANZA: Additionally,
4 Madam President, on behalf of myself,
5 Senator Lanza, on page 34 I offer the following
6 amendments to Calendar Number 709, Senate Print
7 Number 4299, and ask that said bill retain its
8 place on the Third Reading Calendar.

9 ACTING PRESIDENT PERSAUD: The
10 amendments are received, and the bill shall
11 retain its place on the Third Reading Calendar.

12 Senator Gianaris.

13 SENATOR GIANARIS: At this time,
14 Madam President, we're going to take up two
15 resolutions at once. So please take up
16 previously adopted Resolution 61 and previously
17 adopted Resolution 409, both by Senator Parker,
18 read those resolutions, and recognize
19 Senator Parker.

20 ACTING PRESIDENT PERSAUD: The
21 Secretary will read.

22 THE SECRETARY: Senate Resolution
23 61, by Senator Parker, memorializing Governor
24 Andrew M. Cuomo to proclaim May 18, 2021, as
25 Haitian Flag Day in the State of New York.

1 Senate Resolution 409, also by
2 Senator Parker, memorializing Governor Andrew M.
3 Cuomo to proclaim May 20, 2021, as Haitian Unity
4 Day in the State of New York, in conjunction with
5 the observance of Haitian Heritage Month.

6 ACTING PRESIDENT PERSAUD: Senator
7 Parker on the resolutions.

8 SENATOR PARKER: Thank you,
9 Madam President.

10 I rise first to say it's about time
11 that we had a president presiding from Brooklyn.
12 Let me just put that on the record.

13 As you know, I represent the
14 21st District in Brooklyn, which is part of
15 Canarsie and part of Flatlands, but principally
16 Flatbush and East Flatbush, Midwood, Ditmas Park,
17 Windsor Terrace and Park Slope. I represent the
18 largest concentration of people of Haitian
19 descent outside of Haiti in the world.

20 And so it's really a pleasure and an
21 honor to have an opportunity to recognize, in
22 this grand body, both Haitian Unity Day but also
23 Haitian Flag Day, referred to as "De Jou Me,"
24 which is May 18th.

25 Anybody who knows Haitian people

1 knows that they're a very proud people, and
2 rightfully so. Haiti was the first country in
3 the Western Hemisphere to get its freedom out of
4 colonization from any country, but in this case
5 from France. And it wasn't an easy fight that
6 they went through. And they say that the second
7 biggest fight they went through outside of
8 freedom was trying to decide on their flag. And
9 it took a number of times, and they eventually
10 came up with red, white and blue and a slogan
11 that reads "Liberty or Death."

12 And they finally -- again, it wasn't
13 until May 18, 1803, in which the flag of Haiti
14 was decided upon. And Catherine Flon sewed the
15 original flag on the last day that they had put
16 together a congress to decide on the flag.

17 And again, there's no really greater
18 symbol of their everlasting dedication to
19 independence or the triumphs that Haitian people
20 have gone through than their flag. And again, we
21 celebrate that time and Haitian Unity Day around
22 the same time.

23 And Haiti is an island nation not
24 too far from the U.S., about 90 miles or a
25 hundred-something miles away from Florida. And

1 again, the fight that it went through to get away
2 from France was big. I wanted to acknowledge the
3 contributions of Jean-Jacques Dessalines, who
4 actually was born into enslavement but became the
5 general of the army and really was really one of
6 the major tacticians of the Haitian independence.
7 And really Jean-Jacques Dessalines is really
8 somebody who is really known as kind of the major
9 tactician of the Haitian Revolution.

10 And of course if anybody knows
11 anybody, it's Toussaint L'Ouverture, who was
12 essentially, you know, the head of the
13 revolution, kind of the George Washington, if you
14 may, of Haiti -- even though he preceded George
15 Washington. But unfortunately, he went to France
16 to negotiate a treaty and the treacherous French
17 captured him and executed him.

18 But that really was in part the
19 strength of the Haitian people, who saw the death
20 of their leader and recommitted themselves to
21 freedom.

22 Haitian people have migrated to the
23 United States really since the 1700s. And
24 they're saying that there are probably over
25 200,000 people of Haitian descent in New York.

1 Right? I think it's probably more than that,
2 because of what the Census is saying, but I think
3 we have that many in my district.

4 (Laughter.)

5 SENATOR PARKER: But it's become a
6 place in which Haitian people have contributed a
7 great deal, you know, to our communities across
8 the State of New York, but particularly in places
9 like New York. Some of the people -- as I talk
10 about Haitian Unity Day, some of the Haitian
11 people who have given to the United States are
12 people like Jean Baptiste Point Du Sable, who was
13 born in Haiti and was first permanent resident of
14 Chicago and known as the "Father of Chicago."

15 You're talking about people like
16 Jean-Michel Basquiat, who was a Brooklyn native
17 and became famous for his profound and
18 thought-provoking artwork and his social
19 commentary to discuss social inequities and to
20 promote social mobility amongst contemporary
21 artists. His work is really, really influential
22 by other artists, and even poets pay attention to
23 Basquiat and the work that he's contributed.

24 John James Audubon. Some people
25 don't know, when they talk about the Audubon

1 Society, that you're talking about somebody who
2 is of Haitian descent. Born in Haiti and, again,
3 one of the founders of the Audubon Society in the
4 late 1800s. And it's named after him because of
5 his reputation and his deep appreciation and
6 concern around the natural world. And his name
7 has become synonymous with avian life, wildlife
8 protection, and environmental conservation all
9 over the world.

10 And then we have, you know, the
11 folks in the State Legislature. People like
12 Rodneyse Bichotte, the Assemblywoman of the
13 42nd Assembly District in Brooklyn. People like
14 Clyde Vanel, from Queens. Kim Jean-Pierre,
15 Assemblywoman from Suffolk County, Long Island.
16 Phara Souffrant Forrest, also from Brooklyn. And
17 Mathylde Frontus, from Coney Island, in Brooklyn
18 as well. All part of the Haitian delegation here
19 in the State Legislature.

20 And so, again, I want to thank
21 everybody in this body for giving me the time and
22 yourselves celebrating Haitian culture and the
23 contributions that they have made and the
24 indelible mark, not for just the progression of
25 equality and independence, but upon the

1 development of the eclectic expressions of art,
2 literature, politics, economics and all endeavors
3 of life.

4 Haitian Americans have had an impact
5 on the United States, not just here in New York
6 but really across the country. And today we
7 recognize them and we congratulate them for all
8 their accomplishments and for their contributions
9 to the great State of New York.

10 Thank you, Madam President. I vote
11 aye.

12 ACTING PRESIDENT PERSAUD: Thank
13 you, Senator.

14 Senator Reichlin-Melnick on the
15 resolutions.

16 SENATOR REICHLIN-MELNICK: Thank
17 you, Madam President.

18 And thank you, Senator Parker, for
19 introducing these resolutions.

20 I'm proud to rise in support of
21 these resolutions for Haitian Unity Day and
22 Haitian Flag Day, and proud to be representing
23 most of Rockland County, which is home to the
24 third-largest community of Haitian Americans in
25 the United States and the second largest in

1 New York State.

2 So under the military leadership of
3 Francois Toussaint L'Ouverture, the grandson of
4 an African chief, and Jean-Jacques Dessalines,
5 making the Haitian revolution was a major turning
6 point in the history of the world, with
7 repercussions that extended far beyond this
8 Caribbean nation.

9 Under the leadership of Jean-Jacques
10 Dessalines, Haiti declared independence in 1804.
11 The Haitian National Anthem, La Dessalinienne, is
12 named after him to honor his fervent efforts to
13 protect the independence of Haiti from foreign
14 intervention and imperialism.

15 Towards the end of this revolution,
16 the Congress of Arcahaie convened to unite the
17 command of the Revolutionary Army under one
18 authority, and to adopt a flag. The flag debate
19 lasted the entire day, and finally the congress
20 adopted the blue and red bicolor which is the
21 flag of Haiti. It's said that Jean-Jacques
22 Dessalines himself ripped the white part of the
23 French flag out as a symbol of freeing the
24 Haitian people from the French oppressors.

25 Catherine Flon, the goddaughter of

1 Jean-Jacques Dessalines, had sewed the original
2 flag on the last day of the congress, and the
3 generals swore an oath of "Liberty or Death" on
4 the flag, which was to lead the slaves to victory
5 and freedom. The blue and the red represent the
6 Black and Mulatto Haitians banding together for
7 independence.

8 And after struggling for years to
9 rid their territory of both slavery and
10 imperialism, the Haitian revolutionaries were
11 able to achieve these goals. There is no greater
12 symbol of their everlasting dedication to an
13 independent Haiti than the flag which represents
14 their triumphs.

15 The Haitian Revolution ignited a
16 groundbreaking change in the history of the
17 modern world by enabling hundreds of thousands of
18 African slaves worldwide, and tens of thousands
19 of free persons of color to find the wherewithal
20 to unite in the quest for individual and
21 collective liberty.

22 The descendants of these
23 revolutionaries were so proud of them that
24 students of Haitian backgrounds within the
25 United States dress with the colors of the flag

1 throughout the week of May 18th, celebrating when
2 the flag was first created.

3 And since the 1700s many Haitian
4 people have migrated to the United States,
5 resulting in approximately 200,000 Haitians
6 residing in the State of New York, including
7 upwards of 20,000 Haitian residents in the 38th
8 State Senate District. This long-lasting
9 influence that Haitian Americans have had on our
10 country can be seen through not only the
11 progression of equality and independence, but
12 also upon the development of expressions of arts
13 and literature in our culture.

14 That's why I am proud to stand with
15 this body to recognize May 18th as Haitian Flag
16 Day and May 20th as Haitian Unity Day. I'm proud
17 to support this resolution.

18 Thank you, Madam President.

19 ACTING PRESIDENT PERSAUD: Thank
20 you.

21 The resolutions were previously
22 adopted on January 12th and March 2nd.

23 Senator Gianaris.

24 SENATOR GIANARIS: Madam President,
25 at the request of Senator Parker, these

1 resolutions are open for cosponsorship.

2 ACTING PRESIDENT PERSAUD: The
3 resolutions are open for cosponsorship. Should
4 you choose not to be a cosponsor of the
5 resolutions, please notify the desk.

6 Senator Gianaris.

7 SENATOR GIANARIS: As long as we're
8 still on motions and resolutions, on behalf of
9 Senator Hinchey, on page 31 I offer the following
10 amendments to Calendar 664, Senate Print 4085,
11 and ask that said bill retain its place on
12 Third Reading Calendar.

13 ACTING PRESIDENT PERSAUD: The
14 amendments are received, and the bill shall
15 retain its place on the Third Reading Calendar.

16 SENATOR GIANARIS: Let's please
17 take up the calendar at this time.

18 ACTING PRESIDENT PERSAUD: The
19 Secretary will read.

20 THE SECRETARY: Calendar Number
21 283, Senate Print 2241, by Senator Ritchie, an
22 act to amend the Highway Law.

23 ACTING PRESIDENT PERSAUD: Read the
24 last section.

25 THE SECRETARY: Section 2. This

1 act shall take effect immediately.

2 ACTING PRESIDENT PERSAUD: Call the
3 roll.

4 (The Secretary called the roll.)

5 ACTING PRESIDENT PERSAUD: Announce
6 the results.

7 THE SECRETARY: Ayes, 63.

8 ACTING PRESIDENT PERSAUD: The bill
9 is passed.

10 THE SECRETARY: Calendar Number
11 298, Senate Print 694, by Senator Kaplan, an act
12 to amend the Executive Law.

13 ACTING PRESIDENT PERSAUD: Read the
14 last section.

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

17 ACTING PRESIDENT PERSAUD: Call the
18 roll.

19 (The Secretary called the roll.)

20 ACTING PRESIDENT PERSAUD: Announce
21 the results.

22 THE SECRETARY: Ayes, 63.

23 ACTING PRESIDENT PERSAUD: The bill
24 is passed.

25 THE SECRETARY: Calendar Number

1 350, Senate Print 1577, by Senator Rivera, an act
2 to amend the Social Services Law.

3 ACTING PRESIDENT PERSAUD: Read the
4 last section.

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

7 ACTING PRESIDENT PERSAUD: Call the
8 roll.

9 (The Secretary called the roll.)

10 ACTING PRESIDENT PERSAUD: Announce
11 the results.

12 THE SECRETARY: Ayes, 63.

13 ACTING PRESIDENT PERSAUD: The bill
14 is passed.

15 THE SECRETARY: Calendar Number
16 593, Senate Print 2802, by Senator Bailey, an act
17 to amend the Labor Law.

18 ACTING PRESIDENT PERSAUD: Read the
19 last section.

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

22 ACTING PRESIDENT PERSAUD: Call the
23 roll.

24 (The Secretary called the roll.)

25 ACTING PRESIDENT PERSAUD: Announce

1 the results.

2 THE SECRETARY: Ayes, 63.

3 ACTING PRESIDENT PERSAUD: The bill
4 is passed.

5 THE SECRETARY: Calendar Number
6 596, Senate Print 5490B, by Senator Hinchey, an
7 act to amend the Labor Law.

8 SENATOR LANZA: Lay it aside.

9 ACTING PRESIDENT PERSAUD: Lay it
10 aside.

11 THE SECRETARY: Calendar Number
12 640, Senate Print 5267B, by Senator May, an act
13 to amend the Highway Law.

14 ACTING PRESIDENT PERSAUD: Read the
15 last section.

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

18 ACTING PRESIDENT PERSAUD: Call the
19 roll.

20 (The Secretary called the roll.)

21 ACTING PRESIDENT PERSAUD: Announce
22 the results.

23 THE SECRETARY: Ayes, 63.

24 ACTING PRESIDENT PERSAUD: The bill
25 is passed.

1 THE SECRETARY: Calendar Number
2 694, Senate Print 5472, by Senator Hoylman, an
3 act to amend the Real Property Law.

4 SENATOR LANZA: Lay it aside.

5 ACTING PRESIDENT PERSAUD: Lay it
6 aside.

7 THE SECRETARY: Calendar Number
8 696, Senate Print 977A, by Senator Gaughran, an
9 act to amend the Public Authorities Law and the
10 Not-For-Profit Corporation Law.

11 ACTING PRESIDENT PERSAUD: Read the
12 last section.

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

16 ACTING PRESIDENT PERSAUD: Call the
17 roll.

18 (The Secretary called the roll.)

19 ACTING PRESIDENT PERSAUD: Senator
20 Gaughran to explain his vote.

21 SENATOR GAUGHRAN: Thank you,
22 Madam President.

23 Public authorities have existed in
24 this state for decades. They've helped to build
25 our Thruway, our subways, railroads, many of our

1 public utilities, and so much more.

2 But public authorities were
3 originally created with one of the purposes being
4 to insulate the public decisions from the elected
5 officials of the state, including elected
6 officials of local governments. And today we now
7 have about 600 public authorities.

8 So that makes it so much more
9 important that whether it's a statewide, regional
10 or local authority, there is clear transparency
11 and strong oversight by other levels of
12 government. And that's what this legislation
13 does.

14 We have an Authorities Budget
15 Office. It is truly an independent agency, and
16 it mandates that all public authorities have to
17 provide detailed information, especially
18 information about how they spend public funds on
19 an annual basis.

20 However, under current law, if they
21 don't provide the information or they provide the
22 wrong information, or they violate the law in
23 some way with the information they provide, this
24 agency has no ability to really do anything. And
25 some public authorities believe they don't have

1 to comply with the law at all.

2 So this bill seeks to correct that
3 problem. It will give public authorities, when
4 they are violating the law, alleged to be
5 violating the law or omitting important
6 information, simply the ability and plenty of
7 time to either correct it or to state publicly
8 why they disagree and why they believe they are
9 in compliance with the law.

10 Authority board members are also
11 supposed to do educational training on the
12 various subjects that they are involved in. Some
13 members just ignore this. So this will establish
14 a process to say that if you're a member of a
15 public authority and you blatantly don't want to
16 do any continuing legal education as is required
17 by law, you can be removed.

18 And I think most importantly, if
19 somebody in a public authority knowingly and
20 intentionally lies on public documents that they
21 submit, this bill will now give the Authorities
22 Budget Office the ability simply to refer that
23 information to the proper authorities.

24 So whether it's the MTA, Long Island
25 Power Authority, local water or sewer authorities

1 or local IDAs or any other authority in the
2 state, we will finally have some real oversight.

3 All authorities work for the people
4 and are accountable to the people, and none of
5 them are above the law. So I vote in the
6 affirmative, Madam President. Thank you.

7 ACTING PRESIDENT PERSAUD: Announce
8 the results.

9 THE SECRETARY: In relation to
10 Calendar 696, those Senators voting in the
11 negative are Senators Akshar, Borrello, Gallivan,
12 Griffo, Helming, Jordan, Oberacker, O'Mara, Ortt,
13 Rath, Ritchie, Serino and Stec.

14 Ayes, 50. Nays, 13.

15 ACTING PRESIDENT PERSAUD: The bill
16 is passed.

17 Calendar Number 709 is high and will
18 be laid aside for the day.

19 THE SECRETARY: Calendar Number
20 754, Assembly Print 3489, substituted earlier by
21 Assemblymember Galef, an act to amend the
22 Real Property Tax Law.

23 ACTING PRESIDENT PERSAUD: Read the
24 last section.

25 THE SECRETARY: Section 2. This

1 act shall take effect immediately.

2 ACTING PRESIDENT PERSAUD: Call the
3 roll.

4 (The Secretary called the roll.)

5 ACTING PRESIDENT PERSAUD: Announce
6 the results.

7 THE SECRETARY: Ayes, 63.

8 ACTING PRESIDENT PERSAUD: The bill
9 is passed.

10 THE SECRETARY: Calendar Number
11 783, Senate Print 1830, by Senator Skoufis, an
12 act to amend the Executive Law.

13 ACTING PRESIDENT PERSAUD: Read the
14 last section.

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

17 ACTING PRESIDENT PERSAUD: Call the
18 roll.

19 (The Secretary called the roll.)

20 ACTING PRESIDENT PERSAUD: Announce
21 the results.

22 THE SECRETARY: Ayes, 63.

23 ACTING PRESIDENT PERSAUD: The bill
24 is passed.

25 THE SECRETARY: Calendar Number

1 785, Senate Print 3145, by Senator Sanders, an
2 act to amend the Executive Law.

3 ACTING PRESIDENT PERSAUD: Read the
4 last section.

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

7 ACTING PRESIDENT PERSAUD: Call the
8 roll.

9 (The Secretary called the roll.)

10 ACTING PRESIDENT PERSAUD: Announce
11 the results.

12 THE SECRETARY: Ayes, 63.

13 ACTING PRESIDENT PERSAUD: The bill
14 is passed.

15 THE SECRETARY: Calendar Number
16 787, Senate Print 3676, by Senator Comrie, an act
17 to amend the Banking Law and the Insurance Law.

18 ACTING PRESIDENT PERSAUD: Read the
19 last section.

20 THE SECRETARY: Section 3. This
21 act shall take effect September 1, 2021.

22 ACTING PRESIDENT PERSAUD: Call the
23 roll.

24 (The Secretary called the roll.)

25 ACTING PRESIDENT PERSAUD: Announce

1 the results.

2 THE SECRETARY: In relation to
3 Calendar Number 787, those Senators voting in the
4 negative are Senators Akshar, Borrello, Boyle,
5 Gallivan, Griffio, Helming, Jordan, Lanza,
6 Martucci, Mattera, Oberacker, O'Mara, Ortt,
7 Palumbo, Rath, Serino, Stec, Tedisco and Weik.

8 Ayes, 44. Nays, 19.

9 ACTING PRESIDENT PERSAUD: The bill
10 is passed.

11 THE SECRETARY: Calendar Number
12 825, Senate Print 5728A, by Senator Gounardes, an
13 act to amend the Administrative Code of the City
14 of New York.

15 ACTING PRESIDENT PERSAUD: Read the
16 last section.

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

19 ACTING PRESIDENT PERSAUD: Call the
20 roll.

21 (The Secretary called the roll.)

22 ACTING PRESIDENT PERSAUD: Announce
23 the results.

24 THE SECRETARY: In relation to
25 Calendar 825, those Senators voting in the

1 negative are Senators Borrello, Gallivan,
2 Helming, Lanza, Martucci, Oberacker, O'Mara, Rath
3 and Ritchie.

4 Ayes, 54. Nays, 9.

5 ACTING PRESIDENT PERSAUD: The bill
6 is passed.

7 THE SECRETARY: Calendar Number
8 843, Senate Print 4534, by Senator Brouk, an act
9 to amend the Mental Hygiene Law.

10 SENATOR GIANARIS: Lay it aside for
11 the day.

12 ACTING PRESIDENT PERSAUD: The bill
13 will be laid aside for the day.

14 THE SECRETARY: Calendar Number
15 846, Senate Print 556, by Senator May, an act to
16 amend the Alcoholic Beverage Control Law.

17 ACTING PRESIDENT PERSAUD: Read the
18 last section.

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

22 ACTING PRESIDENT PERSAUD: Call the
23 roll.

24 (The Secretary called the roll.)

25 ACTING PRESIDENT PERSAUD: Announce

1 the results.

2 THE SECRETARY: Ayes, 63.

3 ACTING PRESIDENT PERSAUD: The bill
4 is passed.

5 THE SECRETARY: Calendar Number
6 858, Senate Print 6352, by Senator Addabbo, an
7 act to amend the Racing, Pari-Mutuel Wagering and
8 Breeding Law.

9 ACTING PRESIDENT PERSAUD: Read the
10 last section.

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

13 ACTING PRESIDENT PERSAUD: Call the
14 roll.

15 (The Secretary called the roll.)

16 ACTING PRESIDENT PERSAUD: Announce
17 the results.

18 THE SECRETARY: Ayes, 63.

19 ACTING PRESIDENT PERSAUD: The bill
20 is passed.

21 THE SECRETARY: Calendar Number
22 879, Assembly Print 2168, substituted earlier by
23 Assemblymember Jacobson, an act to amend the
24 Election Law.

25 ACTING PRESIDENT PERSAUD: Read the

1 last section.

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

4 ACTING PRESIDENT PERSAUD: Call the
5 roll.

6 (The Secretary called the roll.)

7 ACTING PRESIDENT PERSAUD: Announce
8 the results.

9 THE SECRETARY: Ayes, 63.

10 ACTING PRESIDENT PERSAUD: The bill
11 is passed.

12 THE SECRETARY: Calendar Number
13 880, Senate Print 1231, by Senator Gianaris, an
14 act to amend the General Municipal Law.

15 ACTING PRESIDENT PERSAUD: Read the
16 last section.

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

19 ACTING PRESIDENT PERSAUD: Call the
20 roll.

21 (The Secretary called the roll.)

22 ACTING PRESIDENT PERSAUD: Announce
23 the results.

24 THE SECRETARY: Ayes, 63.

25 ACTING PRESIDENT PERSAUD: The bill

1 is passed.

2 THE SECRETARY: Calendar Number
3 887, Senate Print 6277, by Senator Mannion, an
4 act to amend the Mental Hygiene Law.

5 ACTING PRESIDENT PERSAUD: Read the
6 last section.

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

10 ACTING PRESIDENT PERSAUD: Call the
11 roll.

12 (The Secretary called the roll.)

13 ACTING PRESIDENT PERSAUD: Senator
14 Mannion to explain his vote.

15 SENATOR MANNION: Thank you,
16 Madam President.

17 Informed public policy comes from
18 the gathering and analyzing of data. OPWDD has a
19 mandate to provide services in an equitable
20 manner to individuals in need. How are we to
21 understand where services are needed, by whom,
22 and are services being provided equitably across
23 the state without this information?

24 That's why I'm proud to sponsor
25 legislation that requires OPWDD to include in

1 their comprehensive five-year strategic plan
2 important demographic information related to age,
3 race, ethnicity, residence type, primary
4 language, and average Medicaid expenditures on
5 services.

6 This is also about openness and
7 transparency. This demographic information is
8 crucial to the state to fully fund services and
9 assure that no community is left behind.

10 A recent study found that minority
11 communities receive disability services at rates
12 9 to 23 percent lower than white individuals, and
13 that expenditures were nearly 50 percent lower
14 for non-white participants.

15 We need to make sure that this is
16 not happening in New York State. OPWDD already
17 collects demographic information; however, such
18 information is not widely available to the
19 public.

20 By including demographic data in the
21 state's comprehensive five-year plan, the state
22 can then appropriate necessary funding for
23 outreach to underrepresented communities who may
24 need additional support services.

25 I proudly cast my vote in the

1 affirmative, and I'm proud to sponsor this
2 legislation.

3 Thank you, Madam President.

4 ACTING PRESIDENT PERSAUD: Senator
5 Mannion to be recorded in the affirmative.

6 Announce the results.

7 THE SECRETARY: Ayes, 63.

8 ACTING PRESIDENT PERSAUD: The bill
9 is passed.

10 THE SECRETARY: Calendar Number
11 899, Senate Print 1333, by Senator Krueger, an
12 act to amend the Executive Law.

13 ACTING PRESIDENT PERSAUD: Read the
14 last section.

15 THE SECRETARY: Section 2. This
16 act shall take effect on the 90th day after it
17 shall have become a law.

18 ACTING PRESIDENT PERSAUD: Call the
19 roll.

20 (The Secretary called the roll.)

21 ACTING PRESIDENT PERSAUD: Announce
22 the results.

23 THE SECRETARY: Ayes, 63.

24 ACTING PRESIDENT PERSAUD: The bill
25 is passed.

1 THE SECRETARY: Calendar Number
2 900, Senate Print 1795, by Senator Bailey, an act
3 to amend the Correction Law.

4 ACTING PRESIDENT PERSAUD: Read the
5 last section.

6 THE SECRETARY: Section 4. This
7 act shall take effect on the 120th day after it
8 shall have become a law.

9 ACTING PRESIDENT PERSAUD: Call the
10 roll.

11 (The Secretary called the roll.)

12 ACTING PRESIDENT PERSAUD: Senator
13 Akshar to explain his vote.

14 SENATOR AKSHAR: Madam President,
15 thank you very much for your indulgence.

16 Here in Albany there are certain
17 issues, in my humble opinion, that transcend
18 politics. And when it comes to substance use
19 disorder, that is one of those issues.

20 We have, for the last three years,
21 had very measured and deliberate conversations in
22 the Alcoholism and Substance Abuse Committee, in
23 the Crime Victims, Crime and Corrections
24 Committee; I have had personal conversations with
25 the sponsor of this bill. And we have gotten to

1 a place today that looks completely different
2 than we were in 2019.

3 So I wanted to take a moment to
4 thank the sponsor for having those -- what I
5 describe as very important conversations about
6 what this bill looks like, what the real-world
7 implications of the bill are.

8 And I would say this, that those who
9 manage correctional facilities by and large have
10 an incredibly difficult job to do, but medically
11 assisted treatment programs within the confines
12 of correctional facilities do in fact work. And
13 collectively, as a state, we need a buy-in from
14 everybody who is involved in that process.

15 Locally we've secured hundreds of
16 thousands of dollars to provide this programming
17 within the confines of correctional facilities.
18 And I would say this respectfully, that we have
19 not experienced the expected outcomes from those
20 programs that we would have liked to see. So
21 that sends a very clear message that in fact we
22 must do better.

23 This bill, as currently authored,
24 does three things that I think are incredibly
25 important for everyone to understand and realize.

1 That it is a program that is in existence for
2 those that want to participate. Not every single
3 person must participate. And it of course gives
4 the option of those in charge of correctional
5 facilities to partner with outside agencies to
6 provide these services, which I think is
7 critically important.

8 And the last issue I raise is that
9 where we end up in terms of the financial
10 responsibility is a far cry from where we began.
11 We were at 4 million; we're at 20 million now.

12 So I thank the sponsor for
13 listening, I thank the sponsor for being willing
14 to have meaningful conversations about getting
15 that number up. We certainly have more work to
16 do -- 20 million doesn't come close enough to the
17 need statewide.

18 But I feel much better today than I
19 did in 2019, and that's why I will be voting in
20 the affirmative.

21 Thank you, Madam President.

22 ACTING PRESIDENT PERSAUD: Senator
23 Akshar to be recorded in the affirmative.

24 Announce the results.

25 THE SECRETARY: In relation to

1 Calendar 900, those Senators voting in the
2 negative are Senators Borrello, Gallivan, Griffo,
3 Helming, Jordan, Martucci, Mattera, Oberacker,
4 O'Mara, Ortt, Rath, Ritchie, Serino, Stec and
5 Tedisco.

6 Ayes, 48. Nays, 15.

7 ACTING PRESIDENT PERSAUD: The bill
8 is passed.

9 There is a substitution at the desk.

10 The Secretary will read.

11 THE SECRETARY: Senator Kaminsky
12 moves to discharge, from the Committee on
13 Finance, Assembly Bill Number 3476 and substitute
14 it for the identical Senate Bill 2934,
15 Third Reading Calendar 903.

16 ACTING PRESIDENT PERSAUD:
17 Substitution so ordered.

18 The Secretary will read.

19 THE SECRETARY: Calendar Number
20 903, Assembly Print Number 3476, by
21 Assemblymember Abbate, an act to amend the
22 Retirement and Social Security Law.

23 ACTING PRESIDENT PERSAUD: Read the
24 last section.

25 THE SECRETARY: Section 2. This

1 act shall take effect immediately.

2 ACTING PRESIDENT PERSAUD: Call the
3 roll.

4 (The Secretary called the roll.)

5 ACTING PRESIDENT PERSAUD: Announce
6 the results.

7 THE SECRETARY: Ayes, 63.

8 ACTING PRESIDENT PERSAUD: The bill
9 is passed.

10 THE SECRETARY: Calendar Number
11 917, Senate Print 2014, by Senator Jackson, an
12 act to amend the Administrative Code of the City
13 of New York.

14 ACTING PRESIDENT PERSAUD: Read the
15 last section.

16 THE SECRETARY: Section 6. This
17 act shall take effect immediately.

18 ACTING PRESIDENT PERSAUD: Call the
19 roll.

20 (The Secretary called the roll.)

21 ACTING PRESIDENT PERSAUD: Announce
22 the results.

23 THE SECRETARY: In relation to
24 Calendar 917, those Senators voting in the
25 negative are Senators Akshar, Borrello, Boyle,

1 Gallivan, Griffo, Helming, Jordan, Lanza,
2 Martucci, Mattera, Oberacker, O'Mara, Ortt,
3 Palumbo, Rath, Ritchie, Serino, Stec, Tedisco and
4 Weik.

5 Ayes, 43. Nays, 20.

6 ACTING PRESIDENT PERSAUD: The bill
7 is passed.

8 THE SECRETARY: Calendar Number
9 935, Senate Print 5054, by Senator Parker, an act
10 to amend the Mental Hygiene Law.

11 ACTING PRESIDENT PERSAUD: Read the
12 last section.

13 THE SECRETARY: Section 2. This
14 act shall take effect on the 180th day after it
15 shall have become a law.

16 ACTING PRESIDENT PERSAUD: Call the
17 roll.

18 (The Secretary called the roll.)

19 ACTING PRESIDENT PERSAUD: Senator
20 Parker to explain his vote.

21 SENATOR PARKER: Madam President,
22 to explain my vote.

23 I rise to vote aye on this bill. I
24 think this bill is critically important. There's
25 probably no corner of this great state -- or even

1 the country, for that matter -- that is not in
2 fact dealing with the issue of drug and substance
3 abuse. And so it really is important for us to
4 define what the treatment around these modalities
5 provides.

6 And so my bill, S5054, enacts a bill
7 of rights for individuals receiving treatment in
8 chemical dependency programs across the state.

9 A lot of times the existing law just
10 doesn't provide enough so people understand, when
11 they're going through these programs, what they
12 need. And so, you know, for instance the rights
13 of nursing home residents, in that bill of
14 rights, are explicitly defined in state law and
15 required to be posted in nursing home facilities
16 in six languages. We don't do the same kind of
17 thing with drug treatment programs.

18 The current right of a patient in a
19 chemical dependency program is really far too
20 obscure for the average person. And so this
21 bill, by clearly enumerating the individual's
22 rights, and the patient's, for these treatment
23 facilities, we will help provide protections and
24 awareness to those vulnerable patients. And by
25 requiring that the bill of rights be placed in

1 conspicuous places, this legislation will provide
2 adequate notices to patients.

3 Now, some of these rights that we
4 are laying out in this legislation include the
5 right to participate in developing a treatment
6 plan, the right for an individual to receive an
7 explanation of the services they're going to
8 receive, and a right to privacy of treatment.

9 And again, we want to make sure that
10 it's posted in a place that is conspicuous so
11 that everyone can see it and understand what
12 their rights are.

13 And so I vote aye. I'm hoping my
14 colleagues will vote aye. And I thank you for
15 this opportunity, Madam President.

16 ACTING PRESIDENT PERSAUD: Senator
17 Parker to be recorded in the affirmative.

18 Announce the results.

19 THE SECRETARY: Ayes, 63.

20 ACTING PRESIDENT PERSAUD: The bill
21 is passed.

22 THE SECRETARY: Calendar Number
23 937, Senate Print 6044, by Senator Harckham, an
24 act to amend the Mental Hygiene Law.

25 ACTING PRESIDENT PERSAUD: Read the

1 last section.

2 THE SECRETARY: Section 2. This
3 act shall take effect on the 180th day after it
4 shall have become a law.

5 ACTING PRESIDENT PERSAUD: Call the
6 roll.

7 (The Secretary called the roll.)

8 ACTING PRESIDENT PERSAUD: Announce
9 the results.

10 THE SECRETARY: Ayes, 63.

11 ACTING PRESIDENT PERSAUD: The bill
12 is passed.

13 THE SECRETARY: Calendar Number
14 942, Senate Print 1964, by Senator Brooks, an act
15 to amend the General Municipal Law.

16 SENATOR GIANARIS: Lay it aside for
17 the day.

18 ACTING PRESIDENT PERSAUD: The bill
19 will be laid aside for the day.

20 There is a home-rule message at the
21 desk.

22 The Secretary will read.

23 THE SECRETARY: Calendar Number
24 945, Senate Print 4608, by Senator Palumbo, an
25 act to authorize the Town of Brookhaven, County

1 of Suffolk, to alienate and discontinue the use
2 of certain parklands.

3 ACTING PRESIDENT PERSAUD: Read the
4 last section.

5 THE SECRETARY: Section 5. This
6 act shall take effect immediately.

7 ACTING PRESIDENT PERSAUD: Call the
8 roll.

9 (The Secretary called the roll.)

10 ACTING PRESIDENT PERSAUD: Announce
11 the results.

12 THE SECRETARY: In relation to
13 Calendar Number 945, voting in the negative:
14 Senator Skoufis.

15 Ayes, 62. Nays, 1.

16 ACTING PRESIDENT PERSAUD: The bill
17 is passed.

18 THE SECRETARY: Calendar Number
19 949, Senate Print 5380, by Senator Akshar, an act
20 to amend the General Municipal Law.

21 ACTING PRESIDENT PERSAUD: Read the
22 last section.

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

25 ACTING PRESIDENT PERSAUD: Call the

1 roll.

2 (The Secretary called the roll.)

3 ACTING PRESIDENT PERSAUD: Announce
4 the results.

5 THE SECRETARY: Ayes, 63.

6 ACTING PRESIDENT PERSAUD: The bill
7 is passed.

8 THE SECRETARY: Calendar Number
9 959, Senate Print 6469, by Senator Hinchey, an
10 act to amend the Real Property Tax Law.

11 ACTING PRESIDENT PERSAUD: Read the
12 last section.

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

15 ACTING PRESIDENT PERSAUD: Call the
16 roll.

17 (The Secretary called the roll.)

18 ACTING PRESIDENT PERSAUD: Announce
19 the results.

20 THE SECRETARY: Ayes, 63.

21 ACTING PRESIDENT PERSAUD: The bill
22 is passed.

23 THE SECRETARY: Calendar Number
24 966, Senate Print 2857, by Senator Kavanagh, an
25 act to amend the Penal Law.

1 ACTING PRESIDENT PERSAUD: Read the
2 last section.

3 THE SECRETARY: Section 11. This
4 act shall take effect immediately.

5 ACTING PRESIDENT PERSAUD: Call the
6 roll.

7 (The Secretary called the roll.)

8 ACTING PRESIDENT PERSAUD: Announce
9 the results.

10 THE SECRETARY: In relation to
11 Calendar 966, those Senators voting in the
12 negative are Senators Brisport and Myrie.

13 Ayes, 61. Nays, 2.

14 ACTING PRESIDENT PERSAUD: The bill
15 is passed.

16 THE SECRETARY: Calendar Number
17 967, Senate Print 3791, by Senator Comrie, an act
18 to amend the Penal Law.

19 ACTING PRESIDENT PERSAUD: Read the
20 last section.

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

23 ACTING PRESIDENT PERSAUD: Call the
24 roll.

25 (The Secretary called the roll.)

1 ACTING PRESIDENT PERSAUD: Announce
2 the results.

3 THE SECRETARY: In relation to
4 Calendar Number 967, voting in the negative:
5 Senator Brisport.

6 Ayes, 62. Nays, 1.

7 ACTING PRESIDENT PERSAUD: The bill
8 is passed.

9 THE SECRETARY: Calendar Number
10 980, Assembly Print Number 6389, substituted
11 earlier by Assemblymember Fahy, an act to amend
12 Chapter 141 of the Laws of 2014.

13 ACTING PRESIDENT PERSAUD: Read the
14 last section.

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

17 ACTING PRESIDENT PERSAUD: Call the
18 roll.

19 (The Secretary called the roll.)

20 THE SECRETARY: In relation to
21 Calendar Number 980, voting in the negative:
22 Senator Brisport.

23 Ayes, 52. Nays, 1.

24 ACTING PRESIDENT PERSAUD: The bill
25 is passed.

1 THE SECRETARY: Calendar Number
2 982, Senate Print 6173, by Senator Lanza, an act
3 to amend Chapter 395 of the Laws of 1978.

4 ACTING PRESIDENT PERSAUD: Read the
5 last section.

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

8 ACTING PRESIDENT PERSAUD: Call the
9 roll.

10 (The Secretary called the roll.)

11 ACTING PRESIDENT PERSAUD: Announce
12 the results.

13 THE SECRETARY: In relation to
14 Calendar 982, those Senators voting in the
15 negative are Senators Akshar and O'Mara.

16 Ayes, 61. Nays, 2.

17 ACTING PRESIDENT PERSAUD: The bill
18 is passed.

19 THE SECRETARY: Calendar Number
20 989, Assembly Print 7120A, substituted earlier by
21 Assemblymember Jackson, an act to amend
22 Chapter 352 of the Laws of 2005.

23 ACTING PRESIDENT PERSAUD: Read the
24 last section.

25 THE SECRETARY: Section 2. This

1 act shall take effect immediately.

2 ACTING PRESIDENT PERSAUD: Call the
3 roll.

4 (The Secretary called the roll.)

5 ACTING PRESIDENT PERSAUD: Announce
6 the results.

7 THE SECRETARY: Ayes, 63.

8 ACTING PRESIDENT PERSAUD: The bill
9 is passed.

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

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

14 ACTING PRESIDENT PERSAUD: The
15 Secretary will ring the bell.

16 The Secretary will read.

17 THE SECRETARY: Calendar Number
18 596, Senate Print 5490B, by Senator Hinchey, an
19 act to amend the Labor Law.

20 ACTING PRESIDENT PERSAUD: Senator
21 Lanza, why do you rise?

22 SENATOR LANZA: Madam President, I
23 believe there's an amendment at the desk. I
24 waive the reading of that amendment and ask that
25 Senator Boyle be recognized and heard.

1 ACTING PRESIDENT PERSAUD: Thank
2 you, Senator Lanza.

3 Upon review of the amendment, in
4 accordance with Rule 6, Section 4B, I rule it
5 nongermane and out of order at this time.

6 SENATOR LANZA: Accordingly,
7 Madam President, I appeal the ruling of the chair
8 and ask that Senator Boyle be recognized.

9 ACTING PRESIDENT PERSAUD: The
10 appeal has been made and recognized, and
11 Senator Boyle may be heard.

12 SENATOR BOYLE: Madam President, I
13 rise to appeal the ruling of the chair.

14 The proposed amendment is germane to
15 the bill because the bill at hand relates to
16 unemployment applications, and as we have seen
17 over the past year, countless people have become
18 unemployed, many due to the Governor's closures
19 of businesses.

20 For over a year the Governor has
21 handed down mandates hurting businesses and
22 New Yorkers all across the Empire State. His
23 decisions have grown increasingly arbitrary and
24 are not looked at as rooted in science. More
25 than two months ago, the Majority in both houses

1 passed a bill that supposedly rescinded the
2 Governor's emergency powers. But we all know it
3 didn't change a thing and the Governor's reign
4 continues.

5 Here we are, almost three weeks
6 after the Governor's powers were originally set
7 to expire, and we are in the same place as where
8 we were before: One man making all the state's
9 decisions, with no oversight or any science to
10 back up his arbitrary edicts and directives.

11 We just saw it with the CDC mask
12 guidelines. The CDC says we don't need masks.
13 The Governor kept them on New Yorkers for several
14 days until today.

15 The Governor, who is beleaguered by
16 scandals, is still the only person deciding how
17 we do basic activities here in New York. For
18 example, things like bring our pets to the
19 veterinarian. To this day, New Yorkers must wait
20 outside while their pets go into the vet,
21 according to guidance issued by the Department of
22 Ag & Markets a year ago, on May 20th of 2020.

23 This order is one of dozens of
24 superfluous orders that New Yorkers are still
25 living under, even as sports stadiums and large

1 venues open up. I recently had to bring my dog
2 Indie to the vet. I had to stay outside while
3 she went in. You should see my dog, she's very
4 cute, and she was scared.

5 It's time not only that the
6 Governor's emergencies end, but it's time to end
7 the state of emergency and all the arbitrary
8 directives that are set to go.

9 Madam President, as we get towards
10 the summer, it's going to get hotter and hotter.
11 And as we drive down our streets and look at our
12 veterinarians' offices, we're going to see a
13 bunch of New Yorkers standing outside in the heat
14 while their poor little puppies and kittens are
15 on the inside without them. Unless the Majority
16 finds this amendment germane, I'm going to blame
17 you.

18 Thank you, Madam President.

19 ACTING PRESIDENT PERSAUD: Thank
20 you, Senator Boyle.

21 I want to remind the house that the
22 vote is on the procedures of the house and the
23 ruling of the chair.

24 Those in favor of overruling the
25 chair please signify by saying aye.

1 SENATOR LANZA: Request a show of
2 hands.

3 SENATOR GIANARIS: Madam President,
4 we've agreed to waive the showing of hands and
5 record each member of the Minority in the
6 affirmative.

7 ACTING PRESIDENT PERSAUD: Without
8 objection, so ordered.

9 Announce the results.

10 THE SECRETARY: Ayes, 20.

11 ACTING PRESIDENT PERSAUD: The
12 ruling of the chair stands, and the bill-in-chief
13 is before the house.

14 There is a substitution at the desk.

15 The Secretary will read.

16 THE SECRETARY: Senator Hinchey
17 moves to discharge, from the Committee on Labor,
18 Assembly Bill Number 6337B and substitute it for
19 the identical Senate Bill 5490B, Third Reading
20 Calendar 596.

21 ACTING PRESIDENT PERSAUD: The
22 substitution is so ordered.

23 The Secretary will read.

24 THE SECRETARY: Calendar Number
25 596, Assembly Print Number 6337B, by

1 Assemblymember Gunther, an act to amend the
2 Labor Law.

3 ACTING PRESIDENT PERSAUD: Are
4 there any other Senators wishing to be heard?

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

7 Read the last section.

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

10 ACTING PRESIDENT PERSAUD: Call the
11 roll.

12 (The Secretary called the roll.)

13 ACTING PRESIDENT PERSAUD: Announce
14 the results.

15 THE SECRETARY: Ayes, 63.

16 ACTING PRESIDENT PERSAUD: The bill
17 is passed.

18 THE SECRETARY: Calendar Number
19 694, Senate Print 5472, by Senator Hoylman, an
20 act to amend the Real Property Law.

21 ACTING PRESIDENT PERSAUD: Senator
22 Palumbo.

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

1 ACTING PRESIDENT PERSAUD: Will the
2 sponsor yield?

3 SENATOR KAVANAGH: On behalf of
4 Senator Hoylman, the sponsor of the bill, I
5 yield.

6 ACTING PRESIDENT PERSAUD: Senator
7 Kavanagh will yield.

8 SENATOR PALUMBO: Thank you,
9 Senator Kavanagh. Good afternoon.

10 I just have a few questions
11 regarding the way this changes overall real
12 estate transactions.

13 I see on the first page that prior
14 to the signing of the contract for sale of a
15 residential premises, the seller would now be
16 required to file a mandatory disclosure statement
17 of the property conditions. Is that accurate?

18 SENATOR KAVANAGH: I would say that
19 the requirement that the disclosure statement be
20 filed is already in law.

21 But there is a mild penalty that we
22 understand has become kind of considered a cost
23 of doing business rather than a penalty, where
24 the seller, if they fail to give the form to the
25 buyer, they pay \$500 at the point title changes

1 hands.

2 So this bill eliminates that
3 \$500 provision and leaves in place the
4 requirement that this form be included with
5 residential real estate transactions. It also
6 adds a much narrower provision that requires
7 landlords to make certain disclosures to renters.

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

11 ACTING PRESIDENT PERSAUD: Will the
12 Senator yield?

13 SENATOR KAVANAGH: Yes,
14 Madam President.

15 ACTING PRESIDENT PERSAUD: Senator
16 Kavanagh yields.

17 SENATOR PALUMBO: And I agree with
18 that, Senator Kavanagh.

19 And just to expound on it a little
20 bit, essentially a buyer has the option under
21 current law to either file a disclosure statement
22 or pay 500 -- give a \$500 credit to the purchaser
23 in lieu of filing that disclosure statement. And
24 the \$500 option is going to be repealed by this
25 particular bill, is that accurate?

1 SENATOR KAVANAGH: Yeah, I'm not
2 sure I can -- and, you know, bear with me,
3 because I'm not the sponsor of this bill and I'm
4 not a member of the Judiciary Committee. But,
5 you know, I think that, you know, I have the
6 option -- that I have the option not to speed or
7 to pay a speeding ticket doesn't mean I don't
8 have a requirement not to speed.

9 In this case, there is a \$500
10 penalty associated with not filing this form. We
11 understand that declining to file the form has
12 become fairly routine in the industry, and that
13 undermines the basic intent of this law which was
14 passed in 2001, which was to provide information
15 to buyers about various information that is known
16 to the seller.

17 And that -- we understand that
18 disclosure requirement broadly, in -- in -- with
19 respect to flooding but also other issues, has
20 been thwarted by the industry just adopting this
21 practice of paying the \$500 instead of providing
22 the form.

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

1 ACTING PRESIDENT PERSAUD: Does the
2 sponsor yield?

3 SENATOR KAVANAGH: Yes, Madam
4 President.

5 ACTING PRESIDENT PERSAUD: Senator
6 Kavanagh yields.

7 SENATOR PALUMBO: Thank you,
8 Senator. And now in that regard and in my
9 experience handling these transactions for many
10 years, that ultimately you advise your client:
11 Look, you cannot -- you don't have to do this
12 statement for a mere \$500 because, obviously, if
13 you make an inaccurate statement there could be
14 some liability.

15 So in that regard, when we juxtapose
16 that, I guess my question is how is this
17 different than the current state of the law
18 where -- and I've litigated these cases -- where
19 if a seller actively conceals a defect, you can
20 sue and recover damages. That's the current
21 state of the law.

22 So now that we're adding this
23 disclosure statement that becomes mandatory, how
24 would you reconcile that with that aspect where
25 you still have remedies, as we stand here today?

1 This, I believe, expands that to some extent.

2 Can you comment on that for me, please?

3 SENATOR KAVANAGH: Again, it's my
4 understanding that this provision -- that you pay
5 \$500 and that is perceived by many in the
6 industry to be a substitute for filing a
7 disclosure -- is unusual, perhaps unique to
8 New York.

9 We understand that real estate
10 transactions happen all over the country without
11 such a, you know, mild penalty, you just had sort
12 of a mere \$500 -- that that's something that has
13 grown up in New York over the course of many
14 years and is not -- again, it is contrary to the
15 legislative intent of the law, which is to ensure
16 that whatever knowledge the current owner of the
17 property has is transmitted to the potential
18 buyer so that they can have the full information
19 that is available.

20 So, you know, I think the effect of
21 this will be probably that -- and, you know, I'm
22 very aware that you have a lot more experience
23 with how these transactions play out. But I
24 assume that you would advise clients that you
25 might have previously advised to pay the \$500,

1 you'll now advise them that there's a legal
2 requirement that they fill out the form. And
3 they'll do so, and more information will be
4 available to potential buyers.

5 SENATOR PALUMBO: Would you yield
6 for another question, Senator Kavanagh, please.

7 ACTING PRESIDENT PERSAUD: Senator
8 Kavanagh, will you yield?

9 SENATOR KAVANAGH: Yes.

10 ACTING PRESIDENT PERSAUD: The
11 Senator yields.

12 SENATOR PALUMBO: Thank you,
13 Madam President. And through you.

14 Now, as far as that credit is
15 concerned, outside of that, this form will have
16 to be signed in every real estate transaction, is
17 that accurate?

18 SENATOR KAVANAGH: Right. So my
19 short answer to that was going to be no, not all
20 real estate transactions. But my counsel has
21 provided a little more detail there, reminding me
22 that in a -- so, first of all, this is about
23 one-to-four-family homes. It is not about
24 condos, it's not about co-ops. There are also
25 other exceptions like foreclosure sales and other

1 things where this is not required.

2 So it's certainly not every
3 transaction, but it is every instance where a
4 one-to-four-family home is sold to a buyer. It's
5 the bulk of those transactions.

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

8 ACTING PRESIDENT PERSAUD: Will the
9 Senator yield?

10 SENATOR KAVANAGH: Yes, Madam
11 President.

12 ACTING PRESIDENT PERSAUD: The
13 Senator yields.

14 SENATOR PALUMBO: And thank you. I
15 wasn't very clear with my question, so that
16 clarifies it.

17 So if it's a one-to-four-family
18 home, they must file this disclosure form. My
19 question is, is there any way that this form can
20 be waived? For example, if the parties agree to
21 a reduced price to purchase the property as-is,
22 with all defects, which is done very commonly in
23 real estate transactions.

24 Is there any sort of waiver or other
25 agreement that the parties can establish between

1 the two of them to avoid having to file this
2 disclosure statement?

3 SENATOR KAVANAGH: There is nothing
4 in this provision of law or in the bill before us
5 that would provide for that. I suppose the
6 enforceability of such an agreement, you know, to
7 the extent to which it undermines the intent of
8 this law and is enforceable or not enforceable,
9 would be a question for courts.

10 But again, the intent of this
11 legislation -- which, again, has been on the
12 books for 20 years -- is to ensure that there is
13 disclosure of these things. Because in addition
14 to protecting the buyer, there's a public policy
15 purpose in ensuring that people know about things
16 like toxins and flood risk and other things.

17 And so the goal, in the wisdom of
18 the Legislature about two decades ago, was to
19 adopt this kind of disclosure, as has been done
20 in many states. And the goal is to get that
21 information out so that parties who are selling
22 might become more aware of resiliency or remedies
23 that they could offer while they still own the
24 property, and certainly buyers can also be aware
25 of the potential risks and how they might

1 mitigate those.

2 SENATOR PALUMBO: Madam President,
3 through you, would Mr. Kavanagh yield for another
4 question, please.

5 ACTING PRESIDENT PERSAUD: Senator,
6 will you yield?

7 SENATOR KAVANAGH: Yes.

8 ACTING PRESIDENT PERSAUD: Senator
9 Kavanagh yields.

10 SENATOR PALUMBO: Thank you,
11 Senator.

12 So despite the fact that we have
13 lawyers in New York -- which is fairly rare
14 compared to other states -- the buyer has their
15 own property inspection, they have a separate
16 title company that is ultimately going to
17 guarantee that there are no other encroachments
18 and so forth. I presume the sponsor and whomever
19 supports this legislation feels that this duty,
20 this additional duty is now a requirement that
21 should be placed upon the seller and not the
22 buyer to do their due diligence.

23 Hence, the caveat emptor/buyer
24 beware theory that no longer exists with respect
25 to this form, in my opinion. Do you have any

1 comments in that regard?

2 SENATOR KAVANAGH: Yeah, I would --
3 Madam President, through you, I would not
4 characterize this in that way.

5 First of all, the form explicitly
6 states that this is about certain conditions and
7 information concerning the property known to the
8 seller. They say it is not a warranty of any
9 kind by the seller or by any agent representing
10 the seller. It is not a substitute for any
11 inspection or tests. And the buyer is encouraged
12 to obtain his or her own independent professional
13 inspections and environmental tests and is
14 encouraged to check public records pertaining to
15 the property.

16 This form is nothing more or less
17 than a disclosure of information that is actually
18 known to the seller -- and, again, some of the
19 information that the seller might be aware of may
20 not be readily available in public records, like,
21 you know, the fact that there was a significant
22 water encroachment in the basement a year ago.

23 And so the goal here of the original
24 legislation and the goal of what we're doing
25 today is to just ensure that that information, to

1 the extent it is known to the seller, is
2 disclosed to the buyer.

3 SENATOR PALUMBO: Thank you,
4 Senator Kavanagh.

5 On the bill, please,
6 Madam President.

7 ACTING PRESIDENT PERSAUD: Senator
8 Palumbo on the bill.

9 SENATOR PALUMBO: And Senator
10 Kavanagh -- I appreciate him answering these
11 questions. And he is very well -- well-versed in
12 this area, as is certainly the sponsor.

13 But here's the problem I see with
14 this. That -- and as Senator Kavanagh said, this
15 is about simply known defects and disclosure
16 before the contract of sale is signed.

17 Now, let's go through this in the
18 real sense as to how this works in the real
19 world. This disclosure form will be filed.
20 There's a mistake that the seller made --
21 unintentional -- and then you have an inspection,
22 who the buyer pays, who inspects and finds a
23 defect. Say, for example, termite damage is in
24 this.

25 Then the burden is then on the

1 seller to amend this property disclosure
2 statement as soon as practicable and whether or
3 not they falsely wrote -- or falsely filed the
4 original disclosure statement trying to conceal
5 it, when ultimately the inspector caught it.
6 They had a very thorough inspector, and they got
7 it. They were hoping they'd miss this termite
8 damage, which may significantly devalue the
9 contract price.

10 Now what are we doing? We're
11 litigating -- because if it's significant damage,
12 there will be a lawsuit -- and the seller, the
13 little guy, is now burdened with litigating
14 practicability, whether they amended it in time,
15 they're litigating whether or not this was an
16 intentional or unintentional omission. And we
17 have a company that's collecting money to provide
18 an inspection. We also have a title company.
19 Those of us who own homes have paid a significant
20 title bill because they ensure encroachments and
21 metes and bounds and they ensure this property
22 that you -- that basically what you're proposing
23 to buy is actually what you're buying.

24 So this new affirmative duty does
25 not provide the opportunity for a seller to say:

1 Look, I'm not actively concealing anything.
2 Under current law, if someone is in fact trying
3 to hide something and being sneaky, they are
4 liable. But they have now this affirmative duty
5 to try and disclose things like have you been
6 denied access to the property -- that's an easy
7 one, and in Section 6 -- or has anyone made a
8 formal legal claim challenging your title to the
9 property? Has anyone made a claim. It should
10 actually be are you aware of. Although, later
11 on, it is within the knowledge -- if someone
12 makes a false statement, they are liable for
13 actual damages.

14 So quite frankly, this -- and the
15 intent of this is obviously laudable, that we
16 don't want people being sneaky or otherwise
17 concealing defects to a buyer and selling their
18 home as quickly as they can. But when someone
19 buys something as-is, that's part of the
20 negotiated price. If someone is moving to Texas
21 quickly and they're in an as-is contract for
22 their home in New York, when are they going to be
23 able to practicably amend the disclosure
24 statement? Or when can they actually afford to
25 break that contract because they need the money

1 for their move?

2 This is the reality of life, that
3 people do this, they sell their home for lesser
4 amounts, as is, take it or leave it.

5 Now, you may have someone who's
6 slick, maybe even, God forbid, a lawyer who wants
7 to represent themselves. They can litigate this
8 to death in New York. Come on back to
9 New York and -- in my district, in Suffolk County
10 Supreme Court, you can spend the next four years
11 of your life not getting a dollar from me and
12 fighting over whether or not you were trying to
13 conceal that termite damage from me. Or that
14 water damage that was found in the basement.

15 So these are the type of things that
16 that \$500 credit was meant to avoid. In fact, it
17 was smart, in the interest of freedom of contract
18 and disclosure. Again, just to make it clear,
19 active concealment still involves liability. If
20 the seller actively conceals -- in the case that
21 I litigated, there were false walls up.
22 Million-dollar home. Very -- clearly there was
23 an intent to hide defects and ceiling joists that
24 were bowing. They didn't fix it, they put up a
25 false wall and covered it with Sheetrock. That's

1 clearly an act of concealment.

2 But for these other things, there
3 are issues of fact that will create lawsuits and
4 undue burdens on the little guy, on the seller of
5 a one-to-four-family home.

6 And quite frankly, Madam President,
7 I don't think this is appropriate. And I get the
8 intent, it's a laudable intent. But
9 unfortunately, the way this is drafted, it's
10 going to be an excessive duty to put on our
11 homeowners in New York State.

12 Thank you very much.

13 ACTING PRESIDENT PERSAUD: Thank
14 you, Senator.

15 Are there any other Senators wishing
16 to be heard?

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

19 Read the last section.

20 THE SECRETARY: Section 5. This
21 act shall take effect on the 180th day after it
22 shall have become a law.

23 ACTING PRESIDENT PERSAUD: Call the
24 roll.

25 (The Secretary called the roll.)

1 ACTING PRESIDENT PERSAUD: Senator
2 Kavanagh to explain his vote.

3 SENATOR KAVANAGH: Thank you,
4 Madam President. And thank my colleague for the
5 debate today.

6 I just wanted to make a few points
7 in explaining my support for this bill and to
8 respond to a couple of things that have been
9 said.

10 First of all, it's -- I just want
11 to, at the most basic level, remind everyone that
12 there is a so-called little guy, or perhaps a
13 little gal, on each side of this transaction.
14 This is not just about the needs of property
15 sellers, there's also the needs of property
16 buyers. And as much as it might be burdensome
17 for a seller to have to disclose certain
18 information, it's equally burdensome for buyers
19 not to have that information.

20 The second thing is that there is no
21 damage that's going to result from simply filling
22 out the form and submitting it to the buyer. And
23 in fact even if one were to fail to disclose
24 something on that form, the damages that a
25 potential buyer might get would be the damage of

1 actual harm to them for that information not
2 having been provided in the form.

3 That means it has to be something
4 that a professional inspector did not detect. It
5 means there has to be some problem with the
6 property down the road that causes damage to the
7 buyer. And in this case what we'd be saying is
8 if that damage to the buyer is caused by a seller
9 misleading the buyer or failing to disclose
10 information that they have access to, then the
11 buyer would have some recourse.

12 This bill basically fairly allocates
13 the burdens to the respective parties. It says
14 the seller should say what they know. It doesn't
15 require them to say things they don't know.

16 And again, it will help us in a
17 broader public policy way with respect to
18 flooding, which is one of the focuses of this
19 bill, but also some of the other dangers that are
20 supposed to be disclosed through this existing
21 law. Which, again, has been on the books for
22 20 years.

23 I'd also just note that we deal with
24 many parties that are involved in these
25 transactions. We have not gotten any

1 communication in opposition to this bill from
2 realtors, from any of the formal bar associations
3 that represent buyers and sellers in these
4 transactions. And I think that's because this is
5 the norm in the rest of the country. And what
6 we're doing today is reestablishing the basic
7 intent of this bill here in New York.

8 So on that basis I vote aye,
9 Madam President.

10 ACTING PRESIDENT PERSAUD: Senator
11 Kavanagh to be recorded in the affirmative.

12 Announce the results.

13 THE SECRETARY: In relation to
14 Calendar 694, those Senators voting in the
15 negative are Senators Akshar, Borrello, Boyle,
16 Griffo, Helming, Jordan, Lanza, Martucci,
17 Mattera, Oberacker, O'Mara, Ortt, Palumbo, Rath,
18 Ritchie, Serino, Stec, Tedisco and Weik.

19 Ayes, 44. Nays, 19.

20 ACTING PRESIDENT PERSAUD: The bill
21 is passed.

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

24 SENATOR GIANARIS: Returning to
25 motions for a moment, on behalf of

1 Senator Kaminsky, on page 16 I offer the
2 following amendments to Calendar 240,
3 Senate 1185B, and ask that said bill shall retain
4 its place on Third Reading Calendar.

5 ACTING PRESIDENT PERSAUD: The
6 amendments are received, and the bill shall
7 retain its place on the Third Reading Calendar.

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

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

12 SENATOR GIANARIS: Move to adjourn
13 until tomorrow, Thursday, May 20th, at 11:00 a.m.

14 ACTING PRESIDENT PERSAUD: On
15 motion, the Senate stands adjourned until
16 Thursday, May 20th, at 11:00 a.m.

17 (Whereupon, at 4:29 p.m., the Senate
18 adjourned.)
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