NEW YORK STATE SENATE

THE STENOGRAPHIC RECORD

ALBANY, NEW YORK

May 19, 2021

3:26 p.m.

REGULAR SESSION

LIEUTENANT GOVERNOR KATHLEEN C. HOCHUL, President

SENATOR ROXANNE J. PERSAUD, Acting President

ALEJANDRA N. PAULINO, ESQ., Secretary

P R O C E E D I N G S

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

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

ACTING PRESIDENT PERSAUD: 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 Local Government, Assembly Bill Number 3489 and substitute it for the identical Senate Bill 4855, Third Reading Calendar 754.

ACTING PRESIDENT PERSAUD: The substitution is so ordered.

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

ACTING PRESIDENT PERSAUD: The substitution is so ordered.

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

ACTING PRESIDENT PERSAUD: The substitution is so ordered.

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

ACTING PRESIDENT PERSAUD: The substitution is so ordered.

Messages from the Governor.

Reports of standing committees.

Reports of select committees.

Communications and reports from state officers.

Motions and resolutions.

Senator Gianaris.

SENATOR GIANARIS: Thank you.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

ACTING PRESIDENT PERSAUD: The Secretary will read.

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

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

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

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

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

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

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

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

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

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

(The Secretary called the roll.)

THE SECRETARY: Ayes, 62.

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

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

ACTING PRESIDENT PERSAUD: The amendments are received.

SENATOR GIANARIS: Please recognize Senator Lanza.

ACTING PRESIDENT PERSAUD: Senator Lanza.

SENATOR LANZA: Thank you.

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

ACTING PRESIDENT PERSAUD: The

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

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

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

Senator Gianaris.

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

ACTING PRESIDENT PERSAUD: The Secretary will read.

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

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

ACTING PRESIDENT PERSAUD: Senator Parker on the resolutions.

SENATOR PARKER: Thank you, Madam President.

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

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

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

Anybody who knows Haitian people

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

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

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

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

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

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

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

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

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

(Laughter.)

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

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

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

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

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

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

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

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

Thank you, Madam President. I vote aye.

ACTING PRESIDENT PERSAUD: Thank you, Senator.

Senator Reichlin-Melnick on the resolutions.

SENATOR REICHLIN-MELNICK: Thank you, Madam President.

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

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

New York State.

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

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

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

Catherine Flon, the goddaughter of

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

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

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

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

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

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

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

Thank you, Madam President.

ACTING PRESIDENT PERSAUD: Thank you.

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

Senator Gianaris.

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

resolutions are open for cosponsorship.

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

Senator Gianaris.

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

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

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

ACTING PRESIDENT PERSAUD: The Secretary will read.

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

ACTING PRESIDENT PERSAUD: Read the last section.

THE SECRETARY: Section 2. This

act shall take effect immediately.

ACTING PRESIDENT PERSAUD: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT PERSAUD: Announce the results.

THE SECRETARY: Ayes, 63.

ACTING PRESIDENT PERSAUD: The bill is passed.

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

ACTING PRESIDENT PERSAUD: Read the last section.

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

ACTING PRESIDENT PERSAUD: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT PERSAUD: Announce the results.

THE SECRETARY: Ayes, 63.

ACTING PRESIDENT PERSAUD: The bill is passed.

THE SECRETARY: Calendar Number

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

ACTING PRESIDENT PERSAUD: Read the last section.

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

ACTING PRESIDENT PERSAUD: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT PERSAUD: Announce the results.

THE SECRETARY: Ayes, 63.

ACTING PRESIDENT PERSAUD: The bill is passed.

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

ACTING PRESIDENT PERSAUD: Read the last section.

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

ACTING PRESIDENT PERSAUD: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT PERSAUD: Announce

the results.

THE SECRETARY: Ayes, 63.

ACTING PRESIDENT PERSAUD: The bill is passed.

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

SENATOR LANZA: Lay it aside.

ACTING PRESIDENT PERSAUD: Lay it aside.

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

ACTING PRESIDENT PERSAUD: Read the last section.

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

ACTING PRESIDENT PERSAUD: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT PERSAUD: Announce the results.

THE SECRETARY: Ayes, 63.

ACTING PRESIDENT PERSAUD: The bill is passed.

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

SENATOR LANZA: Lay it aside.

ACTING PRESIDENT PERSAUD: Lay it aside.

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

ACTING PRESIDENT PERSAUD: 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 PERSAUD: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT PERSAUD: Senator Gaughran to explain his vote.

SENATOR GAUGHRAN: Thank you, Madam President.

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

public utilities, and so much more.

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

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

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

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

to comply with the law at all.

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

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

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

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

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

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

ACTING PRESIDENT PERSAUD: Announce the results.

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

Ayes, 50. Nays, 13.

ACTING PRESIDENT PERSAUD: The bill is passed.

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

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

ACTING PRESIDENT PERSAUD: Read the last section.

THE SECRETARY: Section 2. This

act shall take effect immediately.

ACTING PRESIDENT PERSAUD: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT PERSAUD: Announce the results.

THE SECRETARY: Ayes, 63.

ACTING PRESIDENT PERSAUD: The bill is passed.

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

ACTING PRESIDENT PERSAUD: Read the last section.

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

ACTING PRESIDENT PERSAUD: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT PERSAUD: Announce the results.

THE SECRETARY: Ayes, 63.

ACTING PRESIDENT PERSAUD: The bill is passed.

THE SECRETARY: Calendar Number

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

ACTING PRESIDENT PERSAUD: Read the last section.

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

ACTING PRESIDENT PERSAUD: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT PERSAUD: Announce the results.

THE SECRETARY: Ayes, 63.

ACTING PRESIDENT PERSAUD: The bill is passed.

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

ACTING PRESIDENT PERSAUD: Read the last section.

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

ACTING PRESIDENT PERSAUD: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT PERSAUD: Announce

the results.

THE SECRETARY: In relation to Calendar Number 787, 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 PERSAUD: The bill is passed.

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

ACTING PRESIDENT PERSAUD: Read the last section.

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

ACTING PRESIDENT PERSAUD: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT PERSAUD: Announce the results.

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

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

Ayes, 54. Nays, 9.

ACTING PRESIDENT PERSAUD: The bill is passed.

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

SENATOR GIANARIS: Lay it aside for the day.

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

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

ACTING PRESIDENT PERSAUD: 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 PERSAUD: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT PERSAUD: Announce

the results.

THE SECRETARY: Ayes, 63.

ACTING PRESIDENT PERSAUD: The bill is passed.

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

ACTING PRESIDENT PERSAUD: Read the last section.

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

ACTING PRESIDENT PERSAUD: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT PERSAUD: Announce the results.

THE SECRETARY: Ayes, 63.

ACTING PRESIDENT PERSAUD: The bill is passed.

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

ACTING PRESIDENT PERSAUD: Read the

last section.

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

ACTING PRESIDENT PERSAUD: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT PERSAUD: Announce the results.

THE SECRETARY: Ayes, 63.

ACTING PRESIDENT PERSAUD: The bill is passed.

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

ACTING PRESIDENT PERSAUD: Read the last section.

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

ACTING PRESIDENT PERSAUD: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT PERSAUD: Announce the results.

THE SECRETARY: Ayes, 63.

ACTING PRESIDENT PERSAUD: The bill

is passed.

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

ACTING PRESIDENT PERSAUD: 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 PERSAUD: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT PERSAUD: Senator Mannion to explain his vote.

SENATOR MANNION: Thank you, Madam President.

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

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

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

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

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

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

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

I proudly cast my vote in the

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

Thank you, Madam President.

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

Announce the results.

THE SECRETARY: Ayes, 63.

ACTING PRESIDENT PERSAUD: The bill is passed.

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

ACTING PRESIDENT PERSAUD: Read the last section.

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

ACTING PRESIDENT PERSAUD: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT PERSAUD: Announce the results.

THE SECRETARY: Ayes, 63.

ACTING PRESIDENT PERSAUD: The bill is passed.

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

ACTING PRESIDENT PERSAUD: Read the last section.

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

ACTING PRESIDENT PERSAUD: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT PERSAUD: Senator Akshar to explain his vote.

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

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

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

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

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

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

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

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

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

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

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

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

Thank you, Madam President.

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

Announce the results.

THE SECRETARY: In relation to

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

Ayes, 48. Nays, 15.

ACTING PRESIDENT PERSAUD: The bill is passed.

There is a substitution at the desk.

The Secretary will read.

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

ACTING PRESIDENT PERSAUD: Substitution so ordered.

The Secretary will read.

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

ACTING PRESIDENT PERSAUD: Read the last section.

THE SECRETARY: Section 2. This

act shall take effect immediately.

ACTING PRESIDENT PERSAUD: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT PERSAUD: Announce the results.

THE SECRETARY: Ayes, 63.

ACTING PRESIDENT PERSAUD: The bill is passed.

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

ACTING PRESIDENT PERSAUD: Read the last section.

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

ACTING PRESIDENT PERSAUD: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT PERSAUD: Announce the results.

THE SECRETARY: In relation to Calendar 917, 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 PERSAUD: The bill is passed.

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

ACTING PRESIDENT PERSAUD: Read the last section.

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

ACTING PRESIDENT PERSAUD: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT PERSAUD: Senator Parker to explain his vote.

SENATOR PARKER: Madam President, to explain my vote.

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

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

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

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

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

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

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

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

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

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

Announce the results.

THE SECRETARY: Ayes, 63.

ACTING PRESIDENT PERSAUD: The bill is passed.

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

ACTING PRESIDENT PERSAUD: Read the

last section.

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

ACTING PRESIDENT PERSAUD: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT PERSAUD: Announce the results.

THE SECRETARY: Ayes, 63.

ACTING PRESIDENT PERSAUD: The bill is passed.

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

SENATOR GIANARIS: Lay it aside for the day.

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

There is a home-rule message at the desk.

The Secretary will read.

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

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

ACTING PRESIDENT PERSAUD: Read the last section.

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

ACTING PRESIDENT PERSAUD: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT PERSAUD: Announce the results.

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

Ayes, 62. Nays, 1.

ACTING PRESIDENT PERSAUD: The bill is passed.

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

ACTING PRESIDENT PERSAUD: Read the last section.

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

ACTING PRESIDENT PERSAUD: Call the

roll.

(The Secretary called the roll.)

ACTING PRESIDENT PERSAUD: Announce the results.

THE SECRETARY: Ayes, 63.

ACTING PRESIDENT PERSAUD: The bill is passed.

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

ACTING PRESIDENT PERSAUD: Read the last section.

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

ACTING PRESIDENT PERSAUD: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT PERSAUD: Announce the results.

THE SECRETARY: Ayes, 63.

ACTING PRESIDENT PERSAUD: The bill is passed.

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

ACTING PRESIDENT PERSAUD: Read the last section.

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

ACTING PRESIDENT PERSAUD: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT PERSAUD: Announce the results.

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

Ayes, 61. Nays, 2.

ACTING PRESIDENT PERSAUD: The bill is passed.

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

ACTING PRESIDENT PERSAUD: Read the last section.

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

ACTING PRESIDENT PERSAUD: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT PERSAUD: Announce the results.

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

Ayes, 62. Nays, 1.

ACTING PRESIDENT PERSAUD: The bill is passed.

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

ACTING PRESIDENT PERSAUD: Read the last section.

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

ACTING PRESIDENT PERSAUD: Call the roll.

(The Secretary called the roll.)

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

Ayes, 52. Nays, 1.

ACTING PRESIDENT PERSAUD: The bill is passed.

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

ACTING PRESIDENT PERSAUD: Read the last section.

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

ACTING PRESIDENT PERSAUD: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT PERSAUD: Announce the results.

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

Ayes, 61. Nays, 2.

ACTING PRESIDENT PERSAUD: The bill is passed.

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

ACTING PRESIDENT PERSAUD: Read the last section.

THE SECRETARY: Section 2. This

act shall take effect immediately.

ACTING PRESIDENT PERSAUD: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT PERSAUD: Announce the results.

THE SECRETARY: Ayes, 63.

ACTING PRESIDENT PERSAUD: The bill is passed.

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

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

ACTING PRESIDENT PERSAUD: The Secretary will ring the bell.

The Secretary will read.

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

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

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

ACTING PRESIDENT PERSAUD: Thank you, Senator Lanza.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Thank you, Madam President.

ACTING PRESIDENT PERSAUD: Thank you, Senator Boyle.

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

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

SENATOR LANZA: Request a show of hands.

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

ACTING PRESIDENT PERSAUD: Without objection, so ordered.

Announce the results.

THE SECRETARY: Ayes, 20.

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

There is a substitution at the desk.

The Secretary will read.

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

ACTING PRESIDENT PERSAUD: The substitution is so ordered.

The Secretary will read.

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

Assemblymember Gunther, an act to amend the Labor Law.

ACTING PRESIDENT PERSAUD: 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 PERSAUD: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT PERSAUD: Announce the results.

THE SECRETARY: Ayes, 63.

ACTING PRESIDENT PERSAUD: The bill is passed.

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

ACTING PRESIDENT PERSAUD: Senator Palumbo.

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

ACTING PRESIDENT PERSAUD: Will the sponsor yield?

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

ACTING PRESIDENT PERSAUD: Senator Kavanagh will yield.

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

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

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

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

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

hands.

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

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

ACTING PRESIDENT PERSAUD: Will the Senator yield?

SENATOR KAVANAGH: Yes, Madam President.

ACTING PRESIDENT PERSAUD: Senator Kavanagh yields.

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

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

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

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

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

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

ACTING PRESIDENT PERSAUD: Does the sponsor yield?

SENATOR KAVANAGH: Yes, Madam President.

ACTING PRESIDENT PERSAUD: Senator Kavanagh yields.

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

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

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

This, I believe, expands that to some extent. Can you comment on that for me, please?

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

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

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

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

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

ACTING PRESIDENT PERSAUD: Senator Kavanagh, will you yield?

SENATOR KAVANAGH: Yes.

ACTING PRESIDENT PERSAUD: The Senator yields.

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

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

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

things where this is not required.

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

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

ACTING PRESIDENT PERSAUD: Will the Senator yield?

SENATOR KAVANAGH: Yes, Madam President.

ACTING PRESIDENT PERSAUD: The Senator yields.

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

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

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

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

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

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

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

mitigate those.

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

ACTING PRESIDENT PERSAUD: Senator, will you yield?

SENATOR KAVANAGH: Yes.

ACTING PRESIDENT PERSAUD: Senator Kavanagh yields.

SENATOR PALUMBO: Thank you, Senator.

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

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

comments in that regard?

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

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

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

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

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

SENATOR PALUMBO: Thank you, Senator Kavanagh.

On the bill, please, Madam President.

ACTING PRESIDENT PERSAUD: Senator Palumbo on the bill.

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

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

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

Then the burden is then on the

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

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

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

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

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

for their move?

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

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

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

clearly an act of concealment.

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

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

Thank you very much.

ACTING PRESIDENT PERSAUD: Thank you, Senator.

Are there any other Senators wishing to be heard?

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

Read the last section.

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

ACTING PRESIDENT PERSAUD: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT PERSAUD: Senator Kavanagh to explain his vote.

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

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

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

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

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

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

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

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

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

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

So on that basis I vote aye, Madam President.

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

Announce the results.

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

Ayes, 44. Nays, 19.

ACTING PRESIDENT PERSAUD: The bill is passed.

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

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

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

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

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

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

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

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

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