

1 NEW YORK STATE SENATE

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4 THE STENOGRAPHIC RECORD

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8
9 ALBANY, NEW YORK

10 January 11, 2022

11 3:41 p.m.

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13
14 REGULAR SESSION

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18 SENATOR ROXANNE J. PERSAUD, Acting President

19 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, Monday,
16 January 10, 2022, the Senate met pursuant to
17 adjournment. The Journal of Sunday, January 9,
18 2022, 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 Gaughran

1 moves to discharge, from the Committee on Rules,
2 Assembly Bill Number 8591 and substitute it for
3 the identical Senate Bill 7623A, Third Reading
4 Calendar 12.

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

7 Messages from the Governor.

8 Reports of standing committees.

9 Reports of select committees.

10 Communications and reports from
11 state officers.

12 Motions and resolutions.

13 Senator Gianaris.

14 SENATOR GIANARIS: Thank you,
15 Madam President.

16 I move to adopt the Resolution
17 Calendar.

18 ACTING PRESIDENT PERSAUD: All in
19 favor of adopting the Resolution Calendar please
20 signify by saying aye.

21 (Response of "Aye.")

22 ACTING PRESIDENT PERSAUD: Opposed,
23 nay.

24 (No response.)

25 ACTING PRESIDENT PERSAUD: The

1 Resolution Calendar is adopted.

2 SENATOR GIANARIS: Please take up
3 the reading of the calendar.

4 ACTING PRESIDENT PERSAUD: The
5 Secretary will read.

6 THE SECRETARY: Calendar Number 12,
7 Assembly Print Number 8591, by
8 Assemblymember Thiele, an act to amend
9 Chapter 417 of the Laws of 2021.

10 ACTING PRESIDENT PERSAUD: Read the
11 last section.

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

14 ACTING PRESIDENT PERSAUD: Call the
15 roll.

16 (The Secretary called the roll.)

17 ACTING PRESIDENT PERSAUD: Senator
18 Gaughran to explain his vote.

19 SENATOR GAUGHRAN: Thank you,
20 Madam President.

21 This legislation, on just a
22 temporary basis, will give our school districts,
23 towns, cities, villages the options to hold
24 remote meetings pursuant to the Governor's
25 orders.

1 We have to face reality that with
2 Omicron, this virus is spreading faster than it
3 ever has before. And we have situations now
4 where our school boards and our municipalities
5 may not even have quorums to operate. So this is
6 just an emergency measure as we get through this
7 period, which I hope ends as quickly as possible.

8 And yes, it does also apply to the
9 State Legislature, and that we, pursuant to our
10 own rules, may meet remotely. The purpose of
11 that is that again, with Omicron, you can have
12 members of the State Legislature who will not be
13 able to be present, perhaps for a month or more,
14 simply because either their health is impacted or
15 they're required to quarantine because of a
16 contact they may have. And that means that the
17 people that we represent will not have their
18 voices heard on so many important matters that
19 will be coming before this Legislature.

20 Now, I do believe as it relates to
21 government and local governments, our
22 municipalities, that we should be looking at
23 other ways to take advantage of this technology
24 that we have so that when we move out of this
25 COVID situation, we can enhance public

1 participation: Meetings can be held in town hall
2 with remote opportunities as well.

3 So again, this is a temporary
4 measure. And I vote in the affirmative,
5 Madam President.

6 ACTING PRESIDENT PERSAUD: Senator
7 Gaughran to be recorded in the affirmative.

8 Senator Helming to explain her vote.

9 SENATOR HELMING: Thank you,
10 Madam President.

11 I rise today to explain my vote in
12 opposition to this legislation.

13 Madam President, I am voting no
14 because it is my strongly held belief that the
15 ability for a public body -- such as a school
16 board, a local town board, village board, city
17 council -- the decision whether or not to host a
18 remote meeting should not be tied directly or
19 specifically to the Governor's State of Emergency
20 Declaration.

21 These bodies and the people who
22 elect these bodies to serve should have the
23 ability to make these decisions independent of
24 the Governor's actions.

25 For these reasons, I am voting in

1 the negative.

2 Thank you, Madam President.

3 ACTING PRESIDENT PERSAUD: Senator
4 Helming to be recorded in the negative.

5 Senator Hoylman to explain his vote.

6 SENATOR HOYLMAN: Thank you,
7 Madam President.

8 First I want to thank
9 Senator Gaughran for this important piece of
10 legislation and for his leadership on it.

11 You know, when the pandemic made it
12 unsafe to conduct public business in person,
13 New York City community boards, many of which I
14 represent -- six, to be exact -- and many other
15 public bodies successfully transitioned to video
16 conferencing software to host their meetings. In
17 the process, these public bodies have
18 demonstrated how useful these tools are for all
19 who wish to participate in our democracy.

20 We saw participation levels,
21 diversity in participation, increase in these
22 important deliberative bodies. Parents with
23 children, who might not otherwise have been able
24 to take hours off of their evenings at community
25 board meetings before now, Zoom in to discuss

1 local concern. Those with disabilities and
2 mobility issues, who have previously struggled to
3 get around town to a church basement or a high
4 school cafeteria, now have the opportunity to
5 easily attend public meetings to have their
6 voices heard.

7 Videoconferencing has been a boon to
8 our democracy and empowered countless New Yorkers
9 to participate in their communities more fully.
10 And while these incredible benefits have helped
11 so many, the primary goal has been to keep
12 New Yorkers healthy during this deadly pandemic.

13 With the statute enabling these
14 remote meetings expiring on June 15th, something
15 had to be done. Senator Gaughran's bill to
16 extend those important provisions and tie them to
17 the current State of Emergency Declaration is
18 going to help New Yorkers stay safe while we
19 experience this ongoing surge of Omicron.

20 This will allow remote options to
21 continue as long as public health conditions
22 require such options to exist. As new
23 technologies emerge to improve the way we
24 communicate and interact as a society, we must
25 adapt and ensure our statutes reflect the new

1 reality.

2 The benefits we have seen from
3 allowing videoconferencing have been critical
4 during this pandemic, but could continue to
5 benefit New Yorkers long after the pandemic is a
6 distant memory. I believe that we should provide
7 a long-term solution for public bodies consisting
8 of volunteer officials to continue to use
9 videoconferencing. And I've introduced
10 legislation to permanently empower New York City
11 community boards and other voluntary
12 organizations to continue to use
13 videoconferencing.

14 I vote aye, Madam President.

15 ACTING PRESIDENT PERSAUD: Senator
16 Hoylman to be recorded in the affirmative.

17 Announce the results.

18 THE SECRETARY: In relation to
19 Calendar 12, those Senators voting in the
20 negative are Senators Akshar, Borrello, Boyle,
21 Gallivan, Helming, Jordan, Lanza, Martucci,
22 Oberacker, O'Mara, Ortt, Rath, Serino, Stec,
23 Tedisco and Weik.

24 Ayes, 47. Nays, 16.

25 ACTING PRESIDENT PERSAUD: The bill

1 is passed.

2 THE SECRETARY: Calendar Number 17,
3 Senate Print 7689, by Senator Hinchey, an act to
4 amend the Public Service Law.

5 ACTING PRESIDENT PERSAUD: Read the
6 last section.

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

10 ACTING PRESIDENT PERSAUD: Call the
11 roll.

12 (The Secretary called the roll.)

13 ACTING PRESIDENT PERSAUD: Senator
14 Helming to explain her vote.

15 SENATOR HELMING: Thank you,
16 Madam President.

17 I rise today to explain my vote in
18 favor of this legislation.

19 While I voted against the original
20 bill, I believe that my concerns and the concerns
21 of local broadband developers have been
22 addressed. This is definitely a step in the
23 right direction.

24 However, if we truly want to expand
25 services to more areas of the state, this body

1 needs to take at least a second step. And that
2 second step, in my opinion, is passing Senate
3 Bill 2659, which repeals the fiber optic tax.
4 That tax, if you recall, was incorporated into
5 the State Budget by our former Governor.

6 By eliminating the fiber optic tax,
7 we can reduce the cost of broadband buildouts and
8 encourage the further expansion of broadband
9 service to every single area of New York State.

10 Now, many times on this floor you
11 have heard me talk about the concerns of rural
12 New Yorkers. But the truth is we have broadband
13 and also cellular dead zones in many of our
14 cities and suburban areas, as well as our rural
15 communities.

16 My bill, Senate Bill 2659, the fiber
17 optic tax repeal legislation, was introduced in
18 July of 2020. It's been sitting in the
19 Transportation Committee for 18 months. Everyone
20 in this body understands the importance of
21 providing equitable broadband services to all
22 New Yorkers. We all want to improve and grow
23 access for individuals, businesses and students,
24 for health, education and economic reasons.

25 That's why I urge the Majority and

1 the chair of Transportation to bring S2659 to
2 this body for a vote. Let's repeal the fiber
3 optic tax and expand broadband services.

4 I vote aye on this amended
5 legislation.

6 ACTING PRESIDENT PERSAUD: Senator
7 Helming to be recorded in the affirmative.

8 Senator Stec to explain his vote.

9 SENATOR STEC: Thank you,
10 Madam President. I too rise to -- in support of
11 this amendment.

12 However, I was in the affirmative on
13 the original bill because I feel that not only
14 what we're doing here today, but more is required
15 to facilitate pole erection and replacement on
16 new poles. That process needs to be streamlined.
17 I think that this bill still allows for that
18 process to happen, but more needs to be done.

19 And my colleague just mentioned one
20 important aspect I want to reiterate -- and we
21 talked about this in the budget on debate last
22 year -- that the fiber tax, which was enacted in
23 the 2019 budget, is an impediment on building out
24 the rest of broadband throughout the rural parts
25 of New York State. We are not all at 99 percent,

1 as the previous Governor had touted on his way
2 out the door, and more work needs to be done.

3 I think it's important to point out
4 to this body that while I've heard from many
5 fiber suppliers that they are not building out
6 because of the fiber tax, in the three years
7 since we enacted that in the 2019 budget, only
8 \$8 million has been collected -- 8 million with
9 an M.

10 So it's not a big revenue generator,
11 but it is preventing -- we've put in a half a
12 billion dollars in the first round of broadband
13 programs which were built out, and unfortunately
14 a lot of that money did go to make-ready and pole
15 replacement, which is what this bill is talking
16 about.

17 But the other aspect we're falling
18 short on is that we have a lot of fiber optic
19 costs that are turning away our companies wanting
20 to build out the rural parts of the state. And
21 \$8 million on a half-a-billion-dollar investment
22 that the taxpayers made -- Governor Hochul in her
23 State of the State mentioned that she wants to
24 put in an additional billion dollars. And I
25 applaud that. We need to finish the job, so I

1 applaud the Governor for wanting to move this
2 forward.

3 But again, this \$8 million over
4 three years that we've collected is enough right
5 now where it is preventing fiber suppliers from
6 building out in the rural parts of the state.

7 So I would encourage -- there's a
8 few bills out there that would get this done.
9 Senator Helming just mentioned hers. But that,
10 and another thing that is not in legislation but
11 the Senate should be aware of is that recently,
12 on its own, without legislation, the Department
13 of Transportation has required broadband
14 suppliers to perform surveys on all state
15 highways when they're -- not the cable companies,
16 not the power companies, not the phone companies,
17 but fiber optic companies that are laying the
18 broadband, they're required to survey for DOT
19 where they're building out. And that is another
20 significant impediment to building out.

21 So while this bill and this chapter
22 amendment is a step in the right direction,
23 there's two more pieces of the puzzle that
24 absolutely have to be addressed: The fiber tax,
25 which was done in the budget and has only raised

1 \$8 million, and the survey costs. Those two
2 things are preventing investment in our
3 broadband.

4 So with that, I will support this
5 bill, but again I encourage the body to look for
6 more ways to continue to move this ball forward.

7 Thank you, Madam President.

8 ACTING PRESIDENT PERSAUD: Senator
9 Stec to be recorded in the affirmative.

10 Announce the results.

11 THE SECRETARY: Ayes, 63.

12 ACTING PRESIDENT PERSAUD: The bill
13 is passed.

14 THE SECRETARY: Calendar Number 19,
15 Senate Print 7691, by Senator Mayer, an act to
16 amend the County Law.

17 ACTING PRESIDENT PERSAUD: Read the
18 last section.

19 THE SECRETARY: Section 2. This
20 act shall take effect on the same date and in the
21 same manner as a chapter of the Laws of 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: Ayes, 63.

3 ACTING PRESIDENT PERSAUD: The bill
4 is passed.

5 THE SECRETARY: Calendar Number 21,
6 Senate Print 7693, by Senator Harckham, an act to
7 amend the Mental Hygiene Law.

8 ACTING PRESIDENT PERSAUD: Read the
9 last section.

10 THE SECRETARY: Section 3. This
11 act shall take effect on the same date and in the
12 same manner as a chapter of the Laws of 2021.

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 26,
22 Senate Print 7698, by Senator Comrie, an act to
23 amend the Real Property Actions and Proceedings
24 Law.

25 ACTING PRESIDENT PERSAUD: Read the

1 last section.

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

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 Number 26, those Senators voting in the
12 negative are Senators Akshar, Borrello, Boyle,
13 Gallivan, Griffo, Helming, Jordan, Lanza,
14 Martucci, Mattera, Oberacker, O'Mara, Ortt,
15 Palumbo, Rath, Ritchie, Serino, Stec, Tedisco and
16 Weik.

17 Ayes, 43. Nays, 20.

18 ACTING PRESIDENT PERSAUD: The bill
19 is passed.

20 THE SECRETARY: Calendar Number 32,
21 Senate Print 7704, by Senator Breslin, an act to
22 amend the Insurance Law.

23 ACTING PRESIDENT PERSAUD: Read the
24 last section.

25 THE SECRETARY: Section 2. This

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

3 ACTING PRESIDENT PERSAUD: Call the
4 roll.

5 (The Secretary called the roll.)

6 ACTING PRESIDENT PERSAUD: Announce
7 the results.

8 THE SECRETARY: Ayes, 63.

9 ACTING PRESIDENT PERSAUD: The bill
10 is passed.

11 THE SECRETARY: Calendar Number 33,
12 Senate Print 7705, by Senator Hoylman --

13 SENATOR LANZA: Lay it aside.

14 ACTING PRESIDENT PERSAUD: Lay it
15 aside.

16 THE SECRETARY: Calendar Number 36,
17 Senate Print 7708, by Senator Rivera, an act to
18 amend the Public Health Law.

19 ACTING PRESIDENT PERSAUD: Read the
20 last section.

21 THE SECRETARY: Section 3. This
22 act shall take effect on the same date and in the
23 same manner as a chapter of the Laws of 2021.

24 ACTING PRESIDENT PERSAUD: Call the
25 roll.

1 (The Secretary called the roll.)

2 ACTING PRESIDENT PERSAUD: Announce
3 the results.

4 THE SECRETARY: Ayes, 63.

5 ACTING PRESIDENT PERSAUD: The bill
6 is passed.

7 THE SECRETARY: Calendar Number 37,
8 Senate Print 7709, by Senator Kaminsky, an act to
9 amend a chapter of the Laws of 2021.

10 ACTING PRESIDENT PERSAUD: Read the
11 last section.

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

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: In relation to
21 Calendar Number 37, voting in the negative:
22 Senator Akshar.

23 Ayes, 62. Nays, 1.

24 ACTING PRESIDENT PERSAUD: The bill
25 is passed.

1 THE SECRETARY: Calendar Number 39,
2 Senate Print 7711, by Senator Parker, an act to
3 amend a chapter of the Laws of 2021.

4 ACTING PRESIDENT PERSAUD: Read the
5 last section.

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

9 ACTING PRESIDENT PERSAUD: Call the
10 roll.

11 (The Secretary called the roll.)

12 ACTING PRESIDENT PERSAUD: Announce
13 the results.

14 THE SECRETARY: In relation to
15 Calendar Number 39, those voting in the negative
16 are Senators Lanza and Ortt.

17 Ayes, 61. Nays, 2.

18 ACTING PRESIDENT PERSAUD: The bill
19 is passed.

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

22 SENATOR GIANARIS: Let's take up
23 the controversial calendar at this time.

24 ACTING PRESIDENT PERSAUD: The
25 Secretary will ring the bell.

1 The Secretary will read.

2 THE SECRETARY: Calendar Number 33,
3 Senate Print 7705, by Senator Hoylman, an act to
4 amend the Penal Law.

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

7 SENATOR LANZA: Madam President, I
8 believe there's an amendment at the desk. I
9 waive the reading of that amendment and ask that
10 you recognize Senator Tedisco to be heard.

11 ACTING PRESIDENT PERSAUD: Thank
12 you, Senator Lanza.

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

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

19 ACTING PRESIDENT PERSAUD: The
20 appeal has been made and recognized, and
21 Senator Tedisco may be heard.

22 Senator Tedisco.

23 SENATOR TEDISCO: Thank you,
24 Madam President, for recognizing me.

25 As I put forth this amendment, I'd

1 just like to mention to those members on the
2 other side of the aisle who are not in the room
3 today -- for the obvious reasons, but who are
4 watching -- that the contents of this amendment
5 is actually a bill. It's a piece of legislation.
6 It's a piece of reform legislation. In the
7 Senate, it's S01521. In the Assembly it's A1705.

8 And it's bipartisan. It's sponsored
9 by Republicans and it's sponsored by Democrats,
10 because we're all one when it comes to public
11 safety.

12 The bill for reform that is before
13 you right now relates to reforming an agenda that
14 has failed miserably over the last three years
15 that has emanated from the other side of the
16 aisle. And that's just a fact. It can't be
17 refuted.

18 It can't be refuted because as I
19 pick up these articles from -- well, locally it's
20 the Times Union, it's the Gazette, there's the
21 Democrat and Chronicle -- 319,000 New Yorkers
22 walked out of the State of New York in this past
23 census year, voted with their feet. New York, of
24 the 50 states in the nation, was number one in
25 outmigration, irrefutable, at the bottom of the

1 list in population growth.

2 You don't have an agenda that's
3 working for the people of your state when year
4 after year after year -- and as the Times Union
5 says this time around, from July '20 to July
6 2021, New York's population fell by 319,000
7 people, the largest numeric decline of any state
8 in the country, according to the Census Bureau
9 estimates.

10 Now, there's a lot of parts of why
11 your agenda has failed over the last three years,
12 and I imagine it's going to continue to fail.
13 But this addresses, this amendment, the most
14 important failure that's taken place.

15 I don't know about the calls you're
16 getting in your office or what you're seeing on
17 your social websites. People are afraid to leave
18 their homes, they're afraid to walk the
19 streets -- they're certainly afraid in the big
20 city of New York City -- they're afraid to go to
21 the grocery store. And it's not the pandemic,
22 and it's not the weather in New York. This has
23 been happening before the pandemic ever took
24 place, this exodus.

25 And you know what? There was a deep

1 dive just before the pandemic looking at why we
2 were number one in outmigration in around 2019.
3 Fifteen percent of the population -- number one
4 in outmigration -- who left, you know where they
5 went? New Jersey. My colleagues and the
6 citizenry watching, New Jersey's not exactly the
7 sunny, balmy place in the Northeast. Nobody's --
8 well, I shouldn't say nobody.

9 The reason why they're leaving, and
10 the most important part of this reform -- relates
11 to why everything else pales in its sight -- and
12 it's public safety.

13 You passed the so-called criminal
14 justice reform cash bail bill. And I looked in
15 the dictionary. "Reform" means to make something
16 better and work more effectively. There's
17 another word which really relates to what you've
18 done. It's deform. You've deformed public
19 safety in New York State.

20 It's a revolving door of danger and
21 disaster. It's a get-out-of-jail-free card.
22 It's a catch and release. It's endangering the
23 very individuals which you made the argument for
24 that we need these reforms. You said individuals
25 in low-income and minority neighborhoods need

1 this because they're being discriminated against.
2 You know who's being discriminated against? The
3 people who are breaking the law from those
4 neighborhoods who judges have to release because
5 you took all discretion away from them.

6 Unfortunately, there are high levels
7 of crime in neighborhoods with minorities and
8 low-income individuals. And they're going back
9 to those neighborhoods and innocent law-abiding
10 citizens -- which you said you were going to
11 protect and make justice be equal because of this
12 reform you've put forth.

13 Now, the way it happened is you went
14 behind closed doors, you went in secret. Law
15 enforcement, the judiciary, district attorneys --
16 you gave them lip service, the professionals.

17 I've got a question for you. I've
18 got a question for the other side of the aisle as
19 I present this amendment. The one voice from one
20 political affiliation, from one region of the
21 state -- that's you, who control the Senate, the
22 Assembly and the Governor's office. I want to
23 ask you this question.

24 Three hundred nineteen thousand
25 people left the state. When enough people leave

1 the State of New York, go to that U-Haul -- who
2 happens to be doing very well as a business, one
3 of the top businesses now because they're really
4 using those U-Hauls -- when those people, enough
5 of them, go to U-Haul, pack up those trucks and
6 leave the State of New York, who is going to pay
7 for a \$212 billion budget -- the infrastructure,
8 education, healthcare, the disabled, the mental
9 health needs that we have, all the programs built
10 into that?

11 You know who's going to be left?

12 You know what the statistics show? We have a
13 large increased percentage of seniors in New York
14 State, and we're lower expectations for births.
15 Why? Because young people and their families are
16 leaving the State of New York, young people and
17 their families are not coming to the State of
18 New York because you're not incentivizing them to
19 come.

20 I want to ask you, how are you going
21 to pay for all those services when year after
22 year we're number one in outmigration? Now let's
23 look what happened in regards to that. It's not
24 only that they've left. We're one of seven
25 states, because of that outmigration, who lost

1 another representative in Washington. I hear on
2 this floor many times: Why don't we bring home
3 the bacon? Why aren't our congressmen bringing
4 home money?

5 We're losing representation because
6 we're losing population, because people are
7 voting with their feet. They're afraid. It's
8 the top issue. Everything pales when you neglect
9 public safety. We're behind Florida now. We
10 were number three in population; we're number
11 four now.

12 Add to that this. I think my
13 colleagues understand what this is, but maybe the
14 viewers don't understand when I say this. We are
15 number one in Tax Freedom Day in New York State.
16 Number one. Add to this all the population --
17 we're number one in Tax Freedom Day. You know
18 what Tax Freedom Day is? It's the middle of May,
19 for anybody and everybody who works in New York
20 State, who actually takes \$1 home to pay their
21 mortgage, pay their car payments, pay their
22 tuition, put food on their table.

23 January, February, March, April,
24 May -- that's five months of socialization, five
25 months of the State of New York taking their tax

1 dollars before they let them take one tax dollar
2 home. I don't think that's a good record. That
3 might have something to do with U-Haul doing so
4 well and the people walking out of the State of
5 New York.

6 Look. If this continues, if your
7 agenda continues, if you don't make it safer and
8 don't support this amendment to do it -- and I'll
9 explain it, it's pretty simple, right now --
10 we're not going to be the Empire State, we are
11 moving towards the Empty State. People are
12 leaving in droves. It's not "I Love New York"
13 anymore, it's "I Leave New York" or "I Left
14 New York."

15 We do love New York. We want it to
16 be a better place. But the agenda has to change.

17 Now, Governor Hochul -- I'm not the
18 only one to mention 319,000 people leaving the
19 state. She mentioned it in her State of the
20 State message. She also touched on public
21 safety, but she really didn't give you an answer.

22 I'm going to give you an answer.
23 Give discretion back to judges. Give discretion
24 back to judges. Give discretion back to judges
25 to consider the individuals before them being a

1 danger to themselves or others in their
2 community.

3 Do I say give back the discretion
4 they had before? Look, I know the audience I'm
5 talking to. I know you're never going to support
6 that. But this makes eminent common sense. And
7 let me tell you the three areas that it deals
8 with.

9 Under the present circumstances,
10 someone breaks the law -- now, you've got a whole
11 bunch of crimes now which you classify as
12 nonviolent. You know, home break-ins,
13 burglaries, carjackings. Okay, you've done that.
14 But if somebody comes before a judge and we allow
15 the judge -- this is one of these areas to give
16 them discretion -- is able to look in that
17 person's background and they have a serious
18 felony -- not arrest. An arrest, a conviction
19 and paid the penalty for a serious violent
20 felony -- the judge should have the ability to
21 consider whether they're a danger to themselves
22 or others in confinement. Cash bail, get them
23 off the streets.

24 Two other areas this bill would give
25 them the opportunity to have consideration if

1 they're a danger to themselves or others.

2 You know, we're giving them one bite
3 at the apple. They're coming before the judge,
4 the judge's hands are tied, they're released.
5 Three thousand five hundred individuals, just
6 over the last year, recommitted serious crimes.
7 Three thousand five hundred. Now, it's many more
8 because our law enforcement individuals can only
9 catch maybe 50, 60, 70 percent of those who break
10 the law. So it's above 3,500.

11 As the good Senator Ortt, our
12 leader, says: You guys have the habit of saying
13 if it impacts one person's life. This impacted
14 3,500 individuals' lives, and their families.
15 And of course above that, because there's a lot
16 more people who broke the law that they probably
17 didn't catch.

18 This bill says this reform: If we
19 give you a bite at the apple, we give you a
20 ticket, we let you go, no cash bail, you have a
21 timetable to show up and you break the law again,
22 why should not the judge have the discretion in
23 that particular case to say "We gave you a
24 chance," look at the case, consider whether
25 they're a danger to themselves or others, and say

1 "Cash bail, we're going to confine you"?

2 The third case is this. We've let
3 people go -- thanks for the applause, Lanza.
4 We've let people go. And what have they done?
5 They have run. Now here's what's happening. Our
6 law enforcement officials who arrested these
7 people, who are limited in case -- and don't
8 forget about the fact that you want to unfund the
9 police. Oh, don't tell you didn't mean it. You
10 broke it, it's yours now. Okay?

11 You want to diminish the men and
12 women out there, but yet you release these people
13 where they have to chase the individuals they
14 arrested once and are breaking the law again, and
15 then you have to chase them because they're
16 running. Because they know if they run, many
17 times when they come back they're released again.

18 In cases where you've given them
19 that responsibility to come, and they run, why
20 shouldn't the judge have the opportunity to
21 consider the fact that you would be a danger to
22 yourself or a danger to others?

23 In those three limited areas, if I
24 had my druthers, would I repeal and bring the
25 professionals in? Listen I'm not against

1 criminal justice reform. I think it's a good
2 idea to do the best we can for our victims and,
3 to be fair, to those who are alleged predators
4 and criminals. But this is not working. You
5 can't deny it. Three thousand five hundred
6 individuals recommitted crimes. People are
7 afraid to walk the streets. I'm sure they're
8 calling your office like they're calling my
9 office.

10 Madam President and my colleagues,
11 if you've got a better idea than this to reform
12 if, I'd love to vote for it. But as it is right
13 now, it's failing miserably. I move the
14 amendment and I ask for your consideration.

15 Thank you so much.

16 ACTING PRESIDENT PERSAUD: Thank
17 you, Senator.

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

21 Those in favor of overruling the
22 chair, signify by saying aye.

23 SENATOR LANZA: Request a show of
24 hands.

25 SENATOR GIANARIS: Madam President,

1 we have agreed to waive the showing of hands and
2 record each member of the Minority in the
3 affirmative, as we have throughout the pandemic.

4 ACTING PRESIDENT PERSAUD: Without
5 objection, so ordered.

6 Announce the results.

7 THE SECRETARY: Ayes, 20.

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

11 The Secretary will read.

12 THE SECRETARY: Calendar Number 33,
13 Senate Print 7705, by Senator Hoylman, an act to
14 amend the Penal Law.

15 ACTING PRESIDENT PERSAUD: Read the
16 last section.

17 THE SECRETARY: Section 3. This
18 act shall take effect on the same date and in the
19 same manner as a chapter of the Laws of 2021.

20 ACTING PRESIDENT PERSAUD: Call the
21 roll.

22 (The Secretary called the roll.)

23 ACTING PRESIDENT PERSAUD: Announce
24 the results.

25 THE SECRETARY: In relation to

1 Calendar Number 33, those Senators voting in the
2 negative are Senators Akshar, Borrello, Gallivan,
3 Griffo, Helming, Jordan, Lanza, Oberacker,
4 O'Mara, Ortt, Rath, Ritchie, Stec and Tedisco.

5 Ayes, 49. Nays, 14.

6 ACTING PRESIDENT PERSAUD: The bill
7 is passed.

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

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

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

14 SENATOR GIANARIS: Move to adjourn
15 until tomorrow, Wednesday, January 12th, at
16 11:00 a.m.

17 ACTING PRESIDENT PERSAUD: On
18 motion, the Senate stands adjourned until
19 Wednesday, January 12th, at 11:00 a.m.

20 (Whereupon, at 4:14 p.m., the Senate
21 adjourned.)
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25