

TUESDAY, MAY 15, 2018

10:30 A.M.

ACTING SPEAKER AUBRY: The House will come to order.

In the absence of clergy, let us pause for a moment of silence.

(Whereupon, a moment of silence was observed.)

Visitors are invited to join the members in the Pledge of Allegiance.

(Whereupon, Acting Speaker Aubry led visitors and members in the Pledge of Allegiance.)

A quorum being present, the Clerk will read the Journal of Monday, May 14th.

Mr. Morelle.

MR. MORELLE: Thank you, Mr. Speaker. I move

to dispense with the further reading of the Journal of Monday, May 14th, and ask that the same stand approved.

ACTING SPEAKER AUBRY: Without objection, so ordered.

Mr. Morelle.

MR. MORELLE: Thank you very much, Mr. Speaker. Ladies and gentlemen, I will give some direction on our schedule in just a moment. But I do want to note that on this day in 1970, President Richard Nixon appointed Colonel Elizabeth P. Hoisington and Colonel Anna Mae Hays as brigadier generals, making them the first women ever to achieve the rank in the history of the United States military.

And under the heading of "Did You Know," did you know that the first Farm Bureau was created in 1911 in Broome County? That part of the district was located in the 122nd Assembly District represented by Mr. Crouch. A farmhand named John Barron served as the first representative of the Broome County Farm Bureau, which was overseen by the Binghamton Chamber of Commerce from 1911 to 1914. In 1914, the Bureau began to operate independently of the Chamber, and soon Farm Bureaus were created all over the country. Today, thousands of members make up the American Farm Bureau to help advocate for agricultural education, funding and support.

With that little bit of history, Mr. Speaker, let's make a little of our own today. Members have on their desks a main

Calendar and a debate list. After any introductions, and if you have housekeeping, we will continue our consent of the new bills on the main Calendar beginning with Calendar No. 857, which is located on page 79. We will also work from the debate list, including taking up a number of the housing bills which we began yesterday afternoon. Members of the following committees should be prepared, as we will be calling committees from the floor. That will include the Governmental Employees Committee, the Health Committee, Local Governments, Environmental Conservation and Ways and Means. So, again, if you're a member of any of those committees, please pay special attention to notices from the desk.

So, with that, Mr. Speaker, as an outline of our work this afternoon, if there are any introductions and housekeeping, this is the time to take them up.

ACTING SPEAKER AUBRY: Certainly. An introduction from Mr. Goodell.

MR. GOODELL: Thank you very much, Mr. Speaker. It's my great pleasure to introduce several members of our volunteer fire service from Chautauqua County who have made the drive safely here. And it's such -- such a pleasure for all of us when we deal with experts in any field, and certainly, these individuals are experts in the fire service, in emergency management. And they came here to bring me up to speed on pending bills. So if I ask any intelligent question on any of these bills, you know who to blame or who to give credit to. So, joining us today from my county, John

Griffen, Mike Volpe, Julius Leone, Burt Swanson, and Larry Barter.

Please extend the greetings and cordialities of the House to these great leaders in our volunteer fire service.

ACTING SPEAKER AUBRY: Certainly. On behalf of Mr. Goodell, the Speaker and all the members, also Ms. -- Ms. Wallace, the -- we welcome you here to the New York Assembly. We extend to you to you the privileges of the floor, commend you on the work that you're doing to keep your community safe. Thank you for the volunteer time that you put in, and certainly our appreciation, and hope that you can continue that great work. Thank you, and I hope you enjoy the Session today.

(Applause)

Mr. DenDekker for an introduction.

MR. DENDEKKER: Thank you, Mr. Speaker. I just want to remind everybody today is a very, very important day. It is the day for us to defend our trophy in basketball. Tonight at 6:00 p.m, the game is on between members of the Legislature and the Lexington School For the Deaf. These young boys and girls that are coming here tonight are coming to take back this trophy (indicating), and I need each and every one of you there tonight to help cheer on the team so we can retain and teach these younguns that we mean business.

(Laughter)

So tonight at 6:00 p.m. at the Tech Valley Middle School at 321 Northern Boulevard, you are welcome to cheer on the team and our coach, Jeff Aubry.

Ladies and gentlemen, I'll see you all tonight!

(Applause)

ACTING SPEAKER AUBRY: Thank you, Mr.

DenDekker. I think.

(Laughter)

(Pause)

Mr. Morelle.

MR. MORELLE: Thank you, Mr. Speaker. Had I only known, I would have noted on this day in history the first introduction of an inanimate object on the floor of the New York State Assembly. But, well worth it, I'm sure.

Before we go to bills, let's take up resolutions on page 3, beginning with Assembly Resolution No. 1181 by Mr. Pichardo. I understand he wishes to be heard on the resolution.

ACTING SPEAKER AUBRY: Mr. -- first, Mr. Goodell for an introduction before we take up the resolutions.

MR. GOODELL: Thank you very much, Mr. Speaker. I looked back, and it was almost like déjà vu to see Assemblywoman Janet Duprey sitting in the same seat that she sat in for years here in the Assembly. It almost felt like a homecoming to see her. I'm so delighted that Janet has joined us again for today. And please extend the cordialities of our Chamber to Mrs. Duprey.

ACTING SPEAKER AUBRY: Certainly. On behalf of Mr. Goodell, the Speaker and all of us, Janet, always welcome to see you here. Former member, you are -- always have the privileges

of the floor, and we are always so happy that you have had a chance to join us. Good to see you. Thank you.

(Applause)

The Clerk will read.

THE CLERK: Assembly Resolution No. 1181, Mr. Pichardo.

Legislative Resolution memorializing Governor Andrew M. Cuomo to proclaim -- declare March 11th, 2018 to April 12th, 2018 as Garifuna-American Heritage Month in the State of New York.

ACTING SPEAKER AUBRY: Mr. Pichardo on the resolution.

MR. PICHARDO: Well, first of all, thank you, Mr. Speaker, for allowing me to interrupt the proceedings and talk about this illustrious community that I have the honor of representing along with a lot of my colleagues in the County of the Bronx. First of all, today we are celebrating Garifuna-American Heritage Month, not only in Albany, but in the State of New York. And I'll just speak a little bit about the accomplishments and everything that the Garifuna community not only means to the Bronx, but to this State. They have scholars, they have captains of industry, they have community leaders. Folks who really decide and really push the idea of making sure that if a community succeeds, everybody succeeds. And I understand they're on their way to the Chambers right now to hear us talk about this resolution. And some of my colleagues from the Bronx County will

be talking on this resolution as well, but I want to take this opportunity to recognize the accomplishments and the contributions of this wonderful community that they call -- that they call the Bronx home.

So again, Mr. Speaker, I -- I ask for my colleagues' indulgence in helping us pass this resolution and celebrating a community that not only means so much to me personally, but also that has done so much for the State. Thank you, Mr. Speaker.

ACTING SPEAKER AUBRY: Ms. Fernandez on the resolution.

MS. FERNANDEZ: Good morning, Mr. Speaker, and everyone in the Chamber. Thank you so much for allowing me to speak on this resolution. I join with Assemblymember Pichardo and others in recognizing the Garifuna-American Heritage Month, and I celebrate with them for being here today. Members of the Garifuna-American heritage pay tribute to the common culture and bonds of friendship that unite the United States and the Garifuna countries of Belize, Guatemala, Honduras, Nicaragua, St. Vincent and the Grenadines. The Garifuna-American Month provides an opportunity for us to recognize the significance of their contributions to the quality and character of life, and through the many events and activities throughout the month for all the people to gain a greater appreciation of Garifuna Heritage (sic) Month. I am very grateful and happy to have them come here today. Hopefully, they'll be walking in any minute. And congratulations on the acknowledgements.

Thank you.

ACTING SPEAKER AUBRY: Mr. Taylor.

MR. TAYLOR: I rise just to also support the resolution. And one of the things -- the Garifuna group is one of the fastest-growing people group in New York City, and we serve in the same church. So, I extend a warm welcome, and I would offer the support, as my colleagues have already brought up, that you would welcome them here today. And thank you so much.

ACTING SPEAKER AUBRY: Mr. Crespo.

MR. CRESPO: Thank you, Mr. Speaker. I -- I also rise to welcome and celebrate the Garifuna community that is represented here today. There will be a --an event later tonight for folks to get to know this incredible group of people, who, throughout their history, have been able to maintain their culture, their language, their religion. Their -- their society has stayed together despite the challenges. This is a group of people in their history who have never been colonized. They have disbursed, but remained true to their heritage and who they are. They have made an incredible mark in our communities. They are a significant and growing population in the Borough of the Bronx, and we have seen their contributions time and time again. They're a -- a beautiful culture, a beautiful group of people who give so much back. And I'm -- I'm grateful that we have developed the relationship that we have. We hosted an event called Abrazo Garifuna, where we celebrate and recognize leaders within the community. And -- and as many of you know, and maybe have heard already, it is interesting that many folks did not even know that the

Garifuna community existed. It wasn't until a tragedy in the Bronx, the famous -- infamous Happy Land fire, a nightclub that was burned to the ground with over 100 individuals, members of the Garifuna community, who perished that night. And it is throughout that incident that many folks came to realize that the Garifuna community existed and what their history was. And if you haven't read or if you haven't heard, you really should look it up. It's a unique community, but one that contributes tremendously. And they are proud citizens, they are proud Americans, but they are more than everything -- anything, proud Garifunas, and today we celebrate them and thank them for their contributions.

(Applause)

ACTING SPEAKER AUBRY: Mr. -- Mr. Barron on the resolution.

MR. BARRON: Thank you, Mr. Speaker. I rise to honor the Garifuna community, and not only have -- for what they've done here in New York City and the Bronx, but what they mean to us historically. A lot of people, we understand about the Haitian revolution and what all of the Haitian revolutionaries meant to us. But there's also a man by the name of Joseph Chatoyer, a revolutionary of the Black Carib wars, of the Garifuna wars that led to all of us thinking about liberation and freedom because of the shining example that the Garifuna people exhibited during their fights against the British and the French. They stood up for freedom. They're not talked about enough in history as others are, but it is your example that led to

a lot of enslaved people on the plantations of America -- like Harriet Tubman and Nat Turner and others -- to rise up and fight for freedom. So not only do we honor you for what you've done presently, but for what you mean to us historically as an African people, because we are all one African people, no matter where we've come from. As Dr. John Henrik Clarke said, *We're not who we are based upon where the boats dropped us off, but we're who we are based upon where the boats picked us up from.* And that was Africa. We are one people. We honor you today.

So I stand today to join my colleagues in honoring a great heritage of an African people who were freedom fighters, who resisted and won. Congratulations.

(Applause)

Ms. Bichotte on the resolution.

MS. BICHOTTE: Thank you, Mr. Speaker, for allowing me to speak on this resolution. I would like to thank the sponsor for introducing this resolution commemorating Garifuna-American Heritage Month. I want to say hello to all of you, to my brothers and sisters, my Garifuna brothers and sisters. As a Haitian-American, a descendent of -- of African liberators, I share with you the love and the spirit of which you come in today. And so I join my colleagues in opening and welcoming you here today in the Assembly. We thank you for the history, for the love. For the precedence that you and my ancestors, all of us together as one, as an African people, as our colleague had mentioned earlier, to make us

who we are today; free and liberate (sic).

So, we thank you, we honor you, and we love you, too. Thank you.

(Applause)

Mr. Lentol on the resolution.

MR. LENTOL: Thank you, Mr. Speaker. I want to join my colleague from Brooklyn and also all of my friends from the Garifuna community who are here. For the past several years, I've been able to join you at your festivities with a great deal of fanfare. And more important than anything else, the joy that I found in celebrating with this community has been tremendous. And I want to thank Mr. Crespo and Mr. Pichardo and former Senator Diaz, who's now a Council Member, for inviting me to this wonderful celebration of those folks from the Bronx who will never be forgotten to any of us here in the New York State Assembly.

Would you please welcome them, Mr. Speaker.

ACTING SPEAKER AUBRY: Mr. Blake on the resolution.

MR. BLAKE: Thank you, Mr. Speaker, and -- and colleagues. It -- it is always a joy to see our sisters and brothers from the Garifuna community. Any time I see Jose and Rosemary and everyone who has been such great allies repeatedly, when you think about their respective culture, of course whether it be Honduras and St. Vincent and all collectively, we're just grateful. You know, we -- we can't have the Bronx and the diversity that we have if it wasn't for

the Garifuna community, especially when we think about the Afro-Caribbean community and culture that exists, we are grateful for them. Personally, you know, when you think about the close to 200,000 people that are Garifuna in New York, it's a reason why our communities have been able to be made stronger and better. The entrepreneurship that we've been able to do, the leadership in the community, the civic engagement, and it just continues to show the beauty and power of the community. So I'm grateful to you. We continue to celebrate you not just in this month, but all of the time, and our district in the Bronx is made so much better because of the Garifuna people.

So God bless you, and thank you for always being here.

(Applause)

ACTING SPEAKER AUBRY: Mr. -- Ms. -- excuse me. Mrs. Arroyo on the resolution.

MRS. ARROYO: Thank you, Mr. Speaker. In plain Spanish, the Garifuna community, a group that we are proud of, that is a very progressive group that are members of our community in the Bronx. They are always active and always an example for our young generations to learn how to work and fight in this society. And never turn your head down, but have your head up and be proud of what you are. But we are very proud of you in the Bronx. Thank you for visiting us. God bless all of you.

(Applause)

ACTING SPEAKER AUBRY: Mr. Perry on the resolution.

MR. PERRY: Thank you, Mr. Speaker. All of us who -- first, let me congratulate my colleagues who put this resolution forward, and I'm pleased to join you each year. And certainly, it's important that we not forget the history of the Garifuna-American community. Many of us share that history. Our ancestors overcame the challenges and the ravages of slavery. And we have survived with much of our culture, even though those challenges made it very difficult just to maintain some of what we brought with us from Africa. The Garifuna people, as we know it, were never defeated or fully colonized, and not -- are not only in the Bronx, but in Brooklyn and other parts of the -- -- the -- this Western hemisphere.

So it is my pleasure to join with my colleagues to welcome you to Albany, and to encourage you to keep celebrating and -- and honoring your heritage, and we join you in that endeavor today. And Mr. Speaker, please grant them all the courtesies and privileges of the House. Thank you.

(Applause)

ACTING SPEAKER AUBRY: On the resolution, all those in favor signify by saying aye; opposed, no. The resolution is adopted.

THE CLERK: Assembly --

(Applause)

ACTING SPEAKER AUBRY: Ms. Hyndman for an

introduction.

MS. HYNDMAN: Good morning. I rise today to celebrate Delta Sigma Theta Sorority, Incorporated.

Sorors, will you rise with me?

Today in Albany we are celebrating Delta Days in the Capitol, a sorority founded on sisterhood and public service. In the Assembly right now we have four members of Delta Sigma Theta Sorority, Incorporated: Assemblymember Rodneyse Bichotte, Assemblymember Tremaine Wright, Deputy Speaker Earlene Hooper and myself. This is our second Delta Day since we have been here, and a sorority that over -- with over 250,000 members and over 1,000 chapters around the world, celebrating the communities and making sure we give our all with our five-point program. So today I'd like to introduce certain -- certain sorors that are in the back: Lisa Copeland, City Council Member from Mount Vernon. I'd also like to introduce Judith Joseph Jenkins, New York Metro Social Action Coordinator; Yolanda Caldwell, soror, Vice President of the Albany Alumni Chapter; Rosia Blackwell Lawrence, Eastern Regional Director; and Donna Bullock, Upstate New York City Coordinator. So today you may see my sorors throughout the Capitol, because we are about our business, and we want to make sure that we protect the communities that we serve throughout the State of New York and throughout this country.

So, without any further ado, I would ask you, Mr. Speaker, to introduce and to give the cordialities of the House to the

women Delta Sigma Theta Sorority, Incorporated.

ACTING SPEAKER AUBRY: Certainly. On behalf of Ms. Hyndman, Ms. Hooper, Ms. Bichotte, Ms. Wright, the Speaker and all the members, we welcome this fine group of Deltas here to the New York State Assembly. We extend to you the privileges of the floor. We congratulate you on such a successful program that you have run in this State and across the country. Please continue that great work, and always feel welcome to come back and visit us. Thank you so much.

(Applause)

The Clerk will read.

THE CLERK: Assembly Resolution No. 1182, Ms. Rosenthal.

Legislative Resolution memorializing Governor Andrew M. Cuomo to proclaim May 13-19, 2018 as Prevention Week in the State of New York.

ACTING SPEAKER AUBRY: On the resolution, all those in favor signify by saying age; opposed, no. The resolution is adopted.

THE CLERK: Assembly Resolution No. 1183, Mr. D'Urso.

Legislative Resolution memorializing Governor Andrew M. Cuomo to proclaim May 25th, 2018 as Long Island Sound Day in the State of New York.

ACTING SPEAKER AUBRY: On the resolution, all

those in favor signify by saying aye; opposed, no. The resolution is adopted.

THE CLERK: Assembly Resolution No. 1184, Mrs. Gunther.

Legislative Resolution memorializing Governor Andrew M. Cuomo to proclaim May 2018 as Mental Health Month in the State of New York.

ACTING SPEAKER AUBRY: On the resolution, all those in favor signify by saying aye; opposed, no. The resolution is adopted.

Mr. Morelle.

MR. MORELLE: Thank you, Mr. Speaker. Before I begin, I would like to ask members of Governmental Employees Committee to join Mr. Abbate in the Speaker's Conference Room. Governmental Employees.

ACTING SPEAKER AUBRY: Governmental Employees, Speaker's Conference Room.

Mr. Morelle.

MR. MORELLE: Thank you, sir. If we could now turn our attention to page 79 of the main Calendar, I'd like to begin consenting with Calendar No. 857 by Mr. Perry.

ACTING SPEAKER AUBRY: The Clerk will read.

THE CLERK: Assembly No. A00350-A, Calendar No. 857, Perry. An act to amend the Public Officer's Law, in relation to the unauthorized release of sealed records.

ACTING SPEAKER AUBRY: The bill is laid aside.

THE CLERK: Assembly No. A01599, Calendar No. 858, Magnarelli, Gottfried, Abinanti. An act to amend the Civil Practice Law and Rules, in relation to the venue for certain special proceedings.

ACTING SPEAKER AUBRY: Read the last section.

THE CLERK: This act shall take effect immediately.

ACTING SPEAKER AUBRY: The Clerk will record the vote.

(The Clerk recorded the vote.)

Mr. Morelle.

MR. MORELLE: Thank you, Mr. Speaker. Ladies and gentlemen, this is our first vote of the morning -- it's still morning -- and so please cast your votes. Yes, yes, yes, or no, but we'd prefer yes, obviously. And I'd like to ask members who can hear the sound of our voices to make their way over so they can cast their first vote of the day.

ACTING SPEAKER AUBRY: First vote of the day, members. Please, if you're in your seats, vote now. If you're in the sound of our voice, please come to the Chamber and cast your vote.

ACTING SPEAKER JENNE: Are there any other votes? Announce the results.

(The Clerk announced the results.)

The bill is passed.

THE CLERK: Assembly No. A01646-A, Calendar

No. 859, Rozic, Abbate, Barrett, Bichotte, Blake, Brindisi, Cahill, Colton, Cook, Curran, Cusick, Dilan, DiPietro, Fahy, Fitzpatrick, Galef, Gunther, Hevesi, Hooper, Hunter, Hyndman, Jaffee, Jean-Pierre, Jenne, Joyner, McDonough, M.G. Miller, Montesano, Mosley, Otis, Perry, Pichardo, Ra, Raia, Ryan, Santabarbara, Simon, Skoufis, Steck, Stirpe, Walker, Zebrowski, Peoples-Stokes, Castorina, D'Urso, Pheffer Amato, Wallace, Stern. An act to amend the Executive Law, in relation to the performance of a study regarding homeless persons who are veterans in the State of New York.

ACTING SPEAKER JENNE: The Clerk will read.
Read the last section.

THE CLERK: This act shall take effect on the 90th day.

ACTING SPEAKER JENNE: The Clerk will record the vote.

(The Clerk recorded the vote.)

Are there any other votes? Announce the results.

(The Clerk announced the results.)

The bill is passed.

Mr. Morelle.

MR. MORELLE: Thank you, Madam Speaker. Mr. Gottfried advises me that members of the Health Committee should make their way to the Speaker's Conference Room for a Committee on Health in the Speaker's Conference Room.

ACTING SPEAKER JENNE: Thank you. Members,

Health Committee in the Speaker's Conference Room.

The Clerk will read --

MR. MORELLE: Madam Speaker?

ACTING SPEAKER JENNE: Oh --

MR. MORELLE: Madam Speaker --

ACTING SPEAKER JENNE: Yes.

MR. MORELLE: -- I'm sorry. Could you just ask
for a little --

ACTING SPEAKER CLERK JENNE: Yes.

MR. MORELLE: -- order here.

ACTING SPEAKER JENNE: Could we have a little
quiet so that we can proceed with our work?

MR. MORELLE: Thank you.

ACTING SPEAKER JENNE: Thank you.

We still need to have a little bit more quiet in the
Chamber, please. If you can find your seats.

The Clerk will read.

THE CLERK: Assembly No. A02464-A, Calendar
No. 860, Dinowitz, Gottfried, Ortiz, Steck, Pichardo, Mosley, Blake,
Seawright, Bichotte, Cook, Colton, Galef, Buchwald. An act to
amend the General Obligations Law, in relation to mandating greater
levels of disclosure by non-fiduciaries that provide investment advice.

ACTING SPEAKER AUBRY: The bill is laid aside.

THE CLERK: Assembly No. A03080-B, Aubry,
Perry, Arroyo, Barrett, Steck, Rivera, Gottfried, Cook, Jaffee, Davila,

Lupardo, Mosley, Ortiz, Peoples-Stokes, Quart, Weprin, L. Rosenthal, Lifton, Abinanti, Pretlow, Bichotte, Barron, Walker, Blake, Rodriguez, Fahy, Titone, McDonald, Cahill, Joyner, Jenne, Benedetto, Solages, Richardson, Pichardo, Hyndman, Stirpe, Titus, Kim, Simotas, Otis, Jean-Pierre, Dickens, Bronson, Hunter, Rozic, Carroll, Crespo, De La Rosa, Dilan, Vanel, D'Urso, Galef, Taylor, Niou, Pellegrino.

An act to amend the Correction Law, in relation to restricting the use of segregated confinement and creating alternative therapeutic and rehabilitative confinement options.

ACTING SPEAKER AUBRY: The bill is laid aside.

THE CLERK: Assembly No. A03091, Calendar No. 862, Cymbrowitz, Crespo, Montesano, Ortiz, Colton. An act to amend the Mental Hygiene Law, in relation to requiring the Office of Alcoholism and Substance Abuse Services to develop training materials for health care providers and qualified health professionals to encourage implementation of the Screening, Brief Intervention, and Referral to Treatment program.

ACTING SPEAKER AUBRY: Read the last section.

THE CLERK: This act shall take effect immediately.

ACTING SPEAKER AUBRY: The Clerk will record the vote.

(The Clerk recorded the vote.)

Are there any other votes? Announce the results.

(The Clerk announced the results.)

The bill is passed.

Mr. Morelle.

MR. MORELLE: Thank you, Mr. Speaker. I'd like to ask members of the Local Governments Committee to join Mr. Magnarelli in the Speaker's Conference Room. Local Governments in the Speaker's Conference Room.

ACTING SPEAKER AUBRY: Local Governments, Speaker's Conference Room.

Mr. Morelle.

MR. MORELLE: Yes, thank you, Mr. Speaker. I understand Mr. Goodell will have an introduction in just a moment. But before that, let me just give the three bills that I'd like to take up next in this order: First, Calendar No. 485 by Mr. Zebrowski, which is on page 49 of the main Calendar. Follow that with Calendar No. 827 by Mr. Mosley, which is on page 76. And then in this group, I'd like to conclude with Calendar No. 20 by Ms. Linda Rosenthal on -- on page 5.

ACTING SPEAKER AUBRY: Mr. Goodell for the purposes of an introduction.

MR. GOODELL: Thank you very much, Mr. Speaker, for allowing me to interrupt the proceedings. On behalf of Assemblyman Crouch and Assemblywoman Lupardo, I'm very pleased to introduce a number of individuals here -- who are here with the Greene County Legion Girls Leadership Program. This is a program sponsored by the American Legion Post 692. The adults with them are Larry Bourque, who's the Commander; Victor Jenks, who's

the Vice Commander; Wendy Myers, who's the ELA teacher at Greene Central School. And joining us in the Chambers to observe how effective and official we are at addressing legislation are Sara Tanzini, Claire Moxley, Mallory Fowler, McKenna Sergi and Ciara Gun -- Gunderson.

So, if you would please extend their cordialities on behalf of both Mr. Crouch and Ms. Lupardo, I'd certainly appreciate it. Thank you, Mr. Speaker.

ACTING SPEAKER AUBRY: Certainly. On behalf of Mr. Crouch, Ms. Lupardo, the Speaker and all the members, we welcome this distinguished group here to the New York State Assembly. We extend to you the privileges of the floor. We thank you for the work that you're doing, helping our young people be strong and productive. Continue that great work, and you are always welcome here. Thank you.

(Applause)

And, Mr. Goodell for another introduction.

MR. GOODELL: Thank you, Mr. Speaker. We're very pleased to introduce a number of distinguished guests on behalf of Assemblyman Norris, Assemblyman Hawley and Assemblyman Morinello. Here with us is Tim Yeager, who is the Genesee County Emergency Services Coordinator; Jonathan Schultz, the Niagara County Emergency Service Coordinator; and Dan and Nick Culver, they're with the East Shelby Fire Company. And of course, we certainly appreciate the expertise that they bring here, share with us on

important issues affecting our county. We also are prayerful that there are no emergencies in any of those counties, since we have all these great people up here. And I'm sure if they are, they'll be contacted immediately.

So, on behalf of Assemblymen Norris, Hawley and Morinello, if you could extend our greetings and cordialities, I would appreciate it.

ACTING SPEAKER AUBRY: Certainly. On behalf of Assemblymember -- Assemblymember Norris, Assemblymember Hawley and Assemblymember Morinello, we welcome this distinguished group here to the New York State Assembly, extend to you the privileges of the floor, hope that you have enjoyed the proceedings so far, and will have had a productive trip here to Albany, and that you continue your fine work. Thank you so very much.

(Applause)

The Clerk will read.

THE CLERK: Assembly No. A06967, Calendar No. 485, Zebrowski, Cook, Hooper, Vanel, Cahill, Jaffee, Gottfried, Colton, Niou. An act to amend the Real Property Law, in relation to requiring landlords to mitigate damages if a tenant vacates a premises in violation of the terms of the lease.

ACTING SPEAKER AUBRY: An explanation is requested, Mr. Zebrowski.

MR. ZEBROWSKI: Sure. Thank you, Mr. Speaker. What this bill would do would be to establish what many people

would already consider to be a common law requirement, which is that landlords would have a duty to mitigate damages in the case where a tenant has broken the lease.

ACTING SPEAKER AUBRY: Mr. Goodell.

MR. GOODELL: Thank you very much. Would the sponsor yield?

ACTING SPEAKER AUBRY: Will you yield, sir?

MR. ZEBROWSKI: I'll yield.

ACTING SPEAKER AUBRY: The sponsor yields.

MR. GOODELL: Thank you very much, Mr.

Zebrowski. I had a couple of questions just to make sure we understand how this would work in actual practice. First, this bill applies to any premises occupied for dwelling purposes. Was it your intent that it applied only to residential units, as opposed to a commercial lease of a large building?

MR. ZEBROWSKI: Yes.

MR. GOODELL: Now, of course, the vast majority of leases are short-term; a year, or two years. But in some parts of our State we have very, very long lease terms. For example, in the Seneca Nation, individual homes are leased from the Nation for periods of upwards of 99 years. Would it be your intent that the Nation of Indians would also have to comply with these provisions?

MR. ZEBROWSKI: My intent would be that any landlord would have a duty to mitigate the damages under any lease.

MR. GOODELL: Regardless of the length of the

lease?

MR. ZEBROWSKI: Yes, regardless of the length. At the end of the day, if there is somebody else to rent the premises, then there are, in many ways, no damages. So, like in many other duties under the law and other cases, there's a duty to mitigate those damages, and not just sit back and, you know, punish the tenant by letting those damages accrue.

MR. GOODELL: Now, your bill would require the landlord to rent the premises at, quote, "fair market value." Who is determining what the fair market value is? Recognizing that, as you know, these rates go up and down as market conditions go up and down. So --

MR. ZEBROWSKI: Right.

MR. GOODELL: -- what the old lease rate was might be higher or lower --

MR. ZEBROWSKI: Right.

MR. GOODELL: -- than the new rate.

MR. ZEBROWSKI: Right. So I think fair market value is a generally-accepted term in -- in real estate law. And so, I'll give you an example of what it's not, right? So, if a tenant breaks the lease, the landlord can't go out, and it wouldn't be a good faith effort under fair market value to only list it at three times the rent of what anything else is in the area. That wouldn't be a good faith effort, and that wouldn't be fair market value. Nor, quite frankly, would it be to go out and maybe allow a friend to rent the premises at one-tenth of

the value of what the fair market is. So, what is generally accepted as the going rental rates within the jurisdiction or the area, would be what would qualify for that.

MR. GOODELL: If a landlord re-rented the premises and the rent that they were able to achieve was higher than the original rent, is it your position under this bill that the tenant would get the benefit of that higher rent as an offset against any unpaid rent that might still be outstanding?

MR. ZEBROWSKI: No, the -- the tenant -- the only benefit to the tenant is there would be no damages for the period for which the premises was re-let, going forward. But, look, if there was a month gap, if you will, reasonable amount of time while the person is listing it, and the -- and the tenant is getting out of the premises, then those damages would still be damages that could be sued for in court.

MR. GOODELL: Some lease agreements, particularly for a longer term, have a liquidated damage clause, which takes the normal damage calculation and says if you leave earlier, there's a re-renting charge, if you will, instead of normal damages. Would it be your position that this would make those provisions that are negotiated between a landlord and a tenant no longer enforceable as contrary to public policy?

MR. ZEBROWSKI: Well --

MR. GOODELL: Just a -- a simple example. When I was leasing a house when I first got out of law school, I had to break

the lease early, and my lease required me to pay two months rent as a lease termination fee. And that was irregardless of whether they were able to re-rent it immediately, or it stayed vacant for the rest of the lease. Would the liquidated damage clause be banned under the last sentence of this bill?

MR. ZEBROWSKI: I think it would. I think the courts will sort this out. But under that fact pattern, I believe that that would be an attempt just to get around this bill. At the end of the day, if the person re-let the premises, there would be no damages. So, whether you're expediting those damages or collecting them as they accrue for not taking a good faith effort to mitigate, I would say you're violating this section of law either way.

MR. GOODELL: Keep in mind, a liquidated damage clause can be -- it can go both ways. It can be a real benefit to the tenant as well, because if the landlord has trouble re-renting it, the liquidated damage clause may actually be less than the damages that would otherwise apply. Why do we want to have a universal prohibition against the liquidated damage clause?

MR. ZEBROWSKI: I'm not sure that there's too many instances out there where the tenant is being benefitted by a liquidated damages clause. I think that in most of these situations, it's not necessarily an arm's length contractual relationship. Certainly, the landlord has a bit more power in those situations, and I can't imagine that the tenant is benefitted in any way through those.

MR. GOODELL: I note also in this that you -- you

state that, *The burden of proof shall be on the party seeking to recover damages*. If a tenant is suing to get their unreturned security deposit, they would then bear the burden of proof of establishing that the landlord did not re-rent in a timely manner?

MR. ZEBROWSKI: I think the burden of proof goes to the landlord who's trying to get the money back from the tenant they're suing for damages. I don't know that in that case were it's a security, which would be a different action that is relevant to this statute.

MR. GOODELL: Now, this language states that if the landlord rents the premises for fair market value, then the lease automatically ends as it relates to the prior tenant, and you have a new lease. What if he re-rents it for less than fair market value? Does the original lease continue? What happens then?

MR. ZEBROWSKI: So, in that situation, the old lease would be expired. There'd be a new lease, a new person in there. So, certainly, the old tenant wouldn't have an ability to just walk into the new tenant's premises. However, there would be an ability for the landlord to seek out damages for the difference between the prior lease and the new lease. Assuming, of course, that that person complied with the statute and did so in a good faith effort at fair market value.

MR. GOODELL: Thank you very much. I appreciate your comments and clarification.

On the bill.

ACTING SPEAKER AUBRY: On the bill, Mr.

Goodell.

MR. GOODELL: In most contract situations, the common law in New York State has been that the person that's damaged has to make reasonable efforts to mitigate their damages. And that makes great practical sense, especially if -- if you're not sure you'll ever collect the damages anyway. And so, most landlords, when they have a tenant that vacates the premises prior to the expiration of the lease, they do everything they can to get that -- those premises cleaned up and rented again to a new tenant for a rent that's as high as they can get. And it's to their financial advantage to do so, because otherwise they're chasing after a tenant that they may not even know where that tenant is, and the ability to collect for damages is always problematic when you're chasing after someone. So, the current system, as a practical matter, doesn't make this a big issue. As a practical matter, landlords are going to be out there doing everything they can to re-rent it. The challenge that we have is when we put in statutory language that says that the landlord has to proceed in good faith and due diligence to rent at fair market value, it raises a whole bunch of -- a "whole bunch," that's a very technical phrase -- it raises a number of subjective issues: What's meant by good faith? Did you take too long in cleaning up the apartment? Did you take too long in making the repairs? Should you have advertised it in different locations? Did you move fast enough to get a new tenant in? Was the new lease high enough, or too high, as was mentioned by my colleague? Charging too much of a lease payment would be a

violation, charging not enough would be a violation. So, it opens up a whole series of subjective issues into this area, where the private-sector market has been working quite well for, literally, over a century since this rule was first enunciated in the 1800s. So, while I certainly appreciate the fact in most contracts, there's an obligation to mitigate damages, as correctly noted by my colleague, I think we need to be careful that we're not opening up a whole series of other issues inadvertently.

Thank you very much, Mr. Speaker.

ACTING SPEAKER AUBRY: Read the last section.

THE CLERK: This act shall take effect immediately.

ACTING SPEAKER AUBRY: The Clerk will record the vote.

(The Clerk recorded the vote.)

Are there any other votes? Announce the results.

(The Clerk announced the results.)

The bill is passed.

Mr. Morelle.

MR. MORELLE: Thank you, Mr. Speaker. I'd like to ask members of the Environmental Conservation Committee to join Mr. Englebright in the Speaker's Conference Room. En Con in the Speaker's Conference Room.

ACTING SPEAKER AUBRY: En Con, Speaker's Conference Room, immediately.

Mr. Goodell for the purposes of an introduction.

(Pause)

MR. MORELLE: Mr. Speaker?

ACTING SPEAKER AUBRY: Mr. Morelle.

MR. MORELLE: While Mr. Goodell is -- is finishing up, let me, if I might, interrupt for the purposes of an introduction of guests of Mr. Blake who have joined us back at the Chamber. These are students and chaperones from the Buchtel Community Learning Center in Akron, Ohio, who are visiting during the 10th Annual New York Civil Leadership Academy. They have been here over the past, I think, tenth year. This is their tenth visit to the State Capitol, and we're always delighted to have these young people and their chaperones observing our legislative process, and wish them well in their journeys in --in the future. And if you'd please extend, on behalf of Mr. Blake and the members, all the cordialities of the House.

ACTING SPEAKER AUBRY: Certainly. On behalf of Mr. Blake, the Speaker and all the members, we welcome these extraordinary students here to the New York Assembly, the People's House. We extend to you the privileges of the floor, hope that you have enjoyed the proceedings and your time here in New York. And safe journeys back to your home state. Thank you so very much.

(Applause)

Mr. Goodell.

MR. GOODELL: Thank you, Mr. Speaker. On behalf of Assemblymember Will Barclay, it's my great honor to

introduce the Fire Chief for the City of Fulton Fire Department, David Eiffe. He joins us from the City of Fulton, and he's here with many other distinguished guests. If you would please extend our thanks and appreciation for his service on behalf of his residents in keeping that City safe, and for his efforts to promote fire safety across the State.

Thank you very much, sir.

ACTING SPEAKER AUBRY: Certainly. On behalf of Mr. Barclay, the Speaker and all the members, sir, we welcome you here to the New York Assembly, extend to you the privileges of the floor. Our congratulations and thanks for the work that you do keeping our communities safe, and hope that you continue that fine work. Thank you. You are always welcome here.

(Applause)

The Clerk will read.

THE CLERK: Assembly No. A01628, Calendar No. 827, Mosley, Davila, Walker, Joyner, Bichotte, Arroyo, O'Donnell, De La Rosa, Barron, Perry, Gottfried. An act to amend the Administrative Code of the City of New York, the Emergency Tenant Protection Act of 1974 and the Emergency Housing Rent Control Law, in relation to adjustment of maximum allowable rent.

ACTING SPEAKER AUBRY: An explanation is requested. Please, we need to quiet the House down.

One minute, Mr. Mosley.

(Pause)

Shh. It's not quiet enough, ladies and gentlemen.

Proceed, sir.

MR. MOSLEY: Thank you, Mr. Speaker. This legislation would make consistent the rental adjustment a landlord may charge a tenant for the total cost incurred for an individual apartment improvement. It would also require department -- the Department of Housing and Community Renewal to issue a schedule of reasonable costs for repairs, based on regional costs so that landlords don't purposely try to deregulate an apartment through improvements. DHCR is also given the authority to approve or disapprove such increases related to the schedule, in whole or in part, based upon proof of expenses submitted by the landlord. Finally, this legislation would also give new tenants and DHCR a breakdown of how the increases --how the increase in rent was computed, and the information that a tenant needs to challenge an increase. This information will be given at the time of the rental increase, rather than after a tenant challenges an increase.

ACTING SPEAKER AUBRY: Mr. Fitzpatrick.

MR. FITZPATRICK: Thank you --

ACTING SPEAKER AUBRY: Ladies and gentlemen, please.

MR. FITZPATRICK: Thank you, Mr. Speaker.

Would the sponsor yield?

ACTING SPEAKER AUBRY: Will you yield, Mr. Mosley?

MR. MOSLEY: Certainly.

ACTING SPEAKER AUBRY: The sponsor yields.

MR. FITZPATRICK: Thank you, Walter. What's -- what led to -- you to believe there's a need to change the rules as they currently exist? What's --

MR. MOSLEY: Well --

MR. FITZPATRICK: -- what's the rationale?

MR. MOSLEY: As in my district, and probably many of my colleague -- our -- our colleagues' districts, what we're seeing now is a pervasive sense of entitlement by many -- some bad actors in terms of landlords -- not all, obviously -- who have used their powers to improve -- make nominal improvements to individual apartments in a -- in an effort to accelerate a -- a point where they can get to the threshold of vacancy decontrol, and henceforth, taking many apartment units off the affordable housing stock in an effort to put them back on the open market. In a sense, what they're doing is playing -- inflating numbers through individual apartment improvements, while at the same time not being regulated, nor having the ability to justify these improvements. And this is something that's pervasive in my district, which is flooded -- which has over 16,000 rent-regulated apartments, but each year we're seeing, by far, so many individuals who have found that their rent-regulated apartments are off the rolls because of these nominal expenses, which are permanent, unfortunately, and as a result, those rents continue to grow and increase, which, obviously, leads to so many people not being able to live in these affordable houses.

MR. FITZPATRICK: Are -- are these -- now, these improvements that you speak of, are they done while the apartment is occupied, or are the majority done when the apartment is vacated and they make the individual --

MR. MOSLEY: It varies.

MR. FITZPATRICK: -- the individual improvements?

MR. MOSLEY: It varies. I can't say exactly, you know, how many were done while an apartment was vacant, or while the apartment was actually used. But we hear it back and forth on -- on both sides, when certain apartments are improved upon, or tenants are forced out, major capital improvements to the individual apartments are made, while at the same time, similar apartment units in the same building are not tended to, and as a result, the ones that are vacated are -- are almost -- they almost look like they're totally different apartment units. And as a result, they are deregulated, taken off the affordable housing unit list, and as a result, we have one less unit where we can get a working-class men and women -- middle-class men and women to actually afford the rents on that particular unit.

MR. FITZPATRICK: You -- you said the apartments that are not attended to, is that because the tenant has refused the improvement, said, *No, thanks -- Thanks, but no thanks. I don't want the increased rent, so I'll -- I'll do without the improvement?*

MR. MOSLEY: No --

MR. FITZPATRICK: You know, maybe a

refrigerator or a --

MR. MOSLEY: -- quite -- quite the opposite.

MR. FITZPATRICK: -- or a new range? Or --

MR. MOSLEY: Quite the opposite. Many of these -- if not -- I would say almost all of these tenants want the improvements --

MR. FITZPATRICK: Sure.

MR. MOSLEY: -- but, unfortunately, we have some bad actors who continue to perpetuate this notion that, *If I can -- if I can make their units as inhabitable as possible, they will eventually move.* And this is something that we -- is pervasive throughout my county and throughout my district. So, very rare is it that a person says, *No, I don't want these improvements.* But at the same time, we also understand that we're finding that this to be a practice that's systemic throughout --

MR. FITZPATRICK: But -- but --

MR. MOSLEY: -- my district and throughout the Downstate region.

MR. FITZPATRICK: But Walter, the tenant -- the tenant understands -- they go into this with their eyes open. They understand that if they say, *I want the improvement, I'm accepting that rent increase.* Correct?

MR. MOSLEY: Well, what this bill would also allow for us to do is that these rents increases would only be temporary. Right now, they're permanent. And as a result, we're --

we're seeing -- seeing an escalation of improvements that are being made and stacked upon one -- stacked upon each other in perpetuity, which allows for people that live in my district who have fixed incomes, who, maybe their salary has not grown, but as a result, they're -- they continue to be rent burdened by most of their rent -- most of their monthly income going to rent. So, to me, I think that this bill would kind of negate some of those practices, while at the same time understanding that apartments need to be proved -- improved upon, and that the tenants understand that, going in, that they understand that, you know, every time a -- a passing year goes, that they're things that need to be improved upon. So, I think everybody understands the relationships, and I think they understand, you know, what is needed to keep an apartment hab -- inhab -- habitable, as well as upgrading -- an an apartment unit, but at the same time we want to make sure that we don't do this at the expense of working-class men and women.

MR. FITZPATRICK: Okay. Very good. Thank -- thank you, Walter.

MR. MOSLEY: Thank you.

MR. FITZPATRICK: Mr. Speaker, on the bill. This

--

ACTING SPEAKER AUBRY: On the bill, Mr. Fitzpatrick.

MR. FITZPATRICK: We had -- we had an interesting day yesterday, starting out with this housing package with

these bills. And, you know, again, we have an established set of rules that the building owners play by, and that the tenants understand as well, because they signed the lease, and they understand what the rules are when they enter into the lease. So, the effect -- I believe the effect of this legislation will be to discourage improvements to individual apartments, and what will happen is, the property owners will either keep that unit off the market or non-rent it until they decide, or the tenant decides whether they want -- or whether DHCR gives them the approval to do the -- the improvement to the apartment. And what will happen is, you'll see fewer apartments updated or improved, and the increased paperwork and the increased bureaucracy that this legislation will force on the property owners will discourage them from making these improvements. So here, again, we have a situation where the goalposts are being moved in an effort to slow down any rent increases. And I understand that there is a desire to keep that rent from reaching the level at which it would become de -- deregulated upon vacancy. But, again, tenants will suffer, the buildings will not be improved, the apartments will not be improved. So you kind of have a Catch-22. And yeah, there may be some bad actors, and no doubt there are -- there may be a few bad actors in the -- in the industry. There are no doubt bad actors who are tenants who are trashing their apartments and not behaving as good tenants should and, therefore, we end up with a system that incentivizes building owners to want to move people like that out and get that rent moving upward. But the bottom line here is, this is going to keep apartments off the market.

It's going to prevent individual apartments from being improved as they should, and all in all, the problem continues to get worse, people find it more and more difficult to find affordable housing. And the City, again, by making the landlord, the building owner, the property owner, the villain, it eases the pressure on the City to do what it needs to do, to either change zoning or create opportunities for developers to come in and fill that need.

So, for those reasons, I would encourage a no vote on this legislation, Mr. Speaker. Thank you very much. Thank you, Walter.

ACTING SPEAKER AUBRY: Read the last section.

THE CLERK: This act shall take effect on the 90th day.

ACTING SPEAKER AUBRY: The Clerk will record the vote.

(The Clerk recorded the vote.)

Ms. Richardson to explain her vote.

MS. RICHARDSON: Thank you, Mr. Speaker. I really have to commend the sponsor of this piece of legislation. As you know, I proudly represent the 43rd Assembly District, which encompasses Crown Heights, Prospect-Lefferts Gardens and East Flatbush. And we have some severe issues where affordable housing is concerned. Our district is home to the third-highest concentration of rent-stabilized apartments in the State of New York. And I am here to tell you that on the ground there is a numbers game being played by

landlords as it regards to the rents. They are using so many loopholes, such as vacancy decontrol, MCIs, as well as IAI's -- which this bill addresses -- to increase the rent, to bring rents to a level where they are able to destabilize apartments out of rent stabilization, and bringing units to market rates rents, which is well above what our residents can afford.

In addition, I thank God for the oversight that this bill provides. Because large at times, DCR -- or DHCR, excuse me, would approve the upward, you know, tick of the rent without coming to check to ensure that the work is properly done, or that work that the landlord said that they did was, in fact, completed.

So, I think that this bill is very timely, and I thank the People's House for voting in the affirmative, which I do as well.

ACTING SPEAKER AUBRY: Ms. Richardson in the affirmative.

Are there any other votes? Announce the results.

(The Clerk announced the results.)

The bill is passed.

Mr. Morelle.

MR. MORELLE: Thank you, Mr. Speaker. Our final committee of the day off the floor is about to take place. Members of the Ways and Means Committee should join Ms. Weinstein in the Speaker's Conference Room. Ways and Means in the Speaker's Conference Room.

ACTING SPEAKER AUBRY: Ways and Means,

Speaker's Conference Room.

Mr. Morelle.

MR. MORELLE: Thank you, Mr. Speaker, for allowing a brief interruption for the introduction of a number of distinguished folks who have joined us who are involved with prevention groups from around the State. They're here are guests of Ms. Rosenthal, Ms. Lupardo and Mr. Ortiz. And I'd like to acknowledge the groups who have joined us to observe our proceedings, beginning with the New York City Board of Education Substance Abuse Prevention and Intervention; the "Let's Talk Safety" group, which is in Mr. Gottfried's district; the Hamilton-Fulton-Montgomery Council, which is from Mr. Santabarbara and Mr. Butler's districts; also joining us are the Single Parent Resource Center, located in Mr. Quart's district; the Ibero-American Action League, which is in Mr. Gantt's district; the Casa Trinity group, which is in Mr. Friend's district; the Our Lady of Lourdes Memorial Hospital, which is, as I indicated, in Ms. -- or Ms. Lupardo's district; and in -- Mr. Palumbo's district is represented by the Riverhead Community Awareness Program. All of these fine groups and the individuals who represent them are doing incredible work in our State, and have joined us today as our guests to observe the legislative proceedings.

And if you'd please extend all the privileges of the floor to these outstanding groups, we'd appreciate sir.

ACTING SPEAKER AUBRY: Certainly. On behalf

of Ms. Rosenthal, Ms. Lupardo, Mr. Ortiz, Mr. Gottfried, Ms. Friend -- Mr. Friend, Mr. Quart, Mr. Santabarbara, Mr. Butler, Mr. Gantt, Mr. Palumbo, the Speaker and all the rest of the members, we welcome these distinguished groups here to the New York Assembly. We commend you on the work that you are doing in these communities. We hope that you will continue that work. You are always welcome here. This is the People's House, and we have a commitment to trying to help the communities of the State of New York. Thank you so very much for being here.

(Applause)

Mr. Ra.

MR. RA: Thank you, Mr. Speaker. I have the pleasure of introducing some guests of our colleagues here. On behalf of Assemblyman Garbarino, Mr. Raia, Mr. Smith and Mr. Murray, John Lorenzo has joined us in the Chamber. He's a small business owner on Long Island, focusing in land title insurance, and is also very involved in numerous local community organizations.

So, if you can extend the cordialities of the House and welcome him, I'd appreciate it. Thank you.

ACTING SPEAKER AUBRY: Certainly. On behalf of Mr. Garbarino, Mr. Raia, Mr. Smith, Mr. Murray, we welcome you gentlemen here to the New York State Assembly, extend to you the privileges of the floor, hope that you have enjoyed our proceedings. Always wish that you will come back and join us, and continue the great work you do in your neighborhoods. Thank you so very much.

(Applause)

Mr. Ra for a second.

MR. RA: Thank you, Mr. Speaker. We also have a few -- a few more fire individuals who are here. So, on behalf of Mr. DiPietro, we are joined by Mark Schaefer, who is the Chief of the Blossom Fire Company; and Melissa Schaefer, who's the Director of the Blossom Fire Company. They're visiting us from Elma, New York. And we also have, on behalf of Mr. Tague, the Schoharie County Fire Coordinator, Chief Matt Brisley; Jefferson Fire Chief William Bivona; and Worcester Fire Department Chief Jim Empie.

If you can extend the cordialities of the House to those individuals.

ACTING SPEAKER AUBRY: Certainly.

(Applause)

On behalf of Mr. DiPietro, Mr. Tague, the Speaker and all the members, we welcome you here to the New York State Assembly. We commend you on the work that you do in keeping your communities safe. We hope that you will continue that work, and that you will prosper in the work that you do. Thank you so very much for being here.

(Applause)

And, Mr. Ra.

MR. RA: Thank you, Mr. Speaker. One more. On behalf of Mr. DiPietro, we are joined in the Chamber today by Melissa Hartman, who is the Town of Eden Supervisor; and Mary Hosler, who

is the Town of Evans Supervisor.

If you can extend to them the cordialities of the House. Thank you.

ACTING SPEAKER AUBRY: Certainly. On behalf of Mr. DiPietro, we welcome these town supervisors here to the New York State Assembly, extend to you the privileges of the floor. Thank you for joining us here in Albany. Hope that you continue and are successful in taking care of your communities. Thank you so very much for the work that you do as a public servant. Thank you.

(Applause).

The Clerk will read.

THE CLERK: Assembly No. A00268, Calendar No. 20, L. Rosenthal, Ortiz, Mosley, Gottfried, Davila, Pichardo, Bichotte, Colton, Joyner, Walker, Dinowitz, Blake, Glick, De La Rosa, Barron. An act to amend the Administrative Code of the City of New York and the Emergency Housing Rent Control Law, in relation to the establishment of rent adjustments; and repealing certain provisions of the Administrative Code of the City of New York relating thereto.

ACTING SPEAKER AUBRY: An explanation is requested, Ms. Rosenthal.

Shh. We're on debate.

(Pause)

MS. ROSENTHAL: This bill would -- did you ask for an explanation? Yes? I don't know --

ACTING SPEAKER AUBRY: An explanation was

requested, Ms. Rosenthal.

MS. ROSENTHAL: Thank you, Mr. Speaker. This bill would create parity between rent control and rent stabilization by capping increases for rent-controlled apartments at a level equal to the average of the previous five rent increases under the Rent Guidelines Board for one-year stabilized renewal leases.

ACTING SPEAKER RICHARDSON: Mr. Goodell.

MR. GOODELL: Thank you, Madam Speaker, would the sponsor yield?

MS. ROSENTHAL: Yes -- oh, you have to ask me that.

ACTING SPEAKER RICHARDSON: Will you yield, Ms. Rosenthal?

MS. ROSENTHAL: I will.

ACTING SPEAKER RICHARDSON: Okay.

MR. GOODELL: Ms. Rosenthal, yesterday we talked about regulating the rent increases on rent-stabilized apartments. This would extend rent controls on rent-controlled apartments, right?

MS. ROSENTHAL: No --

MR. GOODELL: It would reduce rent-controlled apartments?

MS. ROSENTHAL: No, no, the rent control -- it would change the way increases are calculated for people living in rent-controlled apartments, which is different than rent-stabilized.

MR. GOODELL: Right. And under our current law, a landlord can increase the rent on a rent-controlled apartment up to seven-and-half percent until they reach the maximum base rental, at which point they're capped; is that correct?

MS. ROSENTHAL: Well, they are allowed -- there's a maximum base rent, and a maximum collectible rent, but that does end up being -- it's allowed probably 7.5 every year.

MR. GOODELL: And of course going back, if you go back five years, then what you're doing is changing the rules of the game by saying, *You may have been involved in a rent-controlled apartment, you signed a contract to be in that program. You've been following all the rules and regulations, you knew what the policies were and you knew the standards. You're complying with all those, and now we're changing the rules?*

MS. ROSENTHAL: Well, let me explain that. Rent control has been in existence for about 52 years now, since 1946. The people who currently live in rent-controlled apartments -- and it's sadly down to about 22,000 apartments, when we used to have maybe a million or more -- so, the people who currently live in rent-controlled apartments, the majority are elderly, on fixed incomes. And when they get such a huge increase every year, they are unable to afford to pay the rent.

MR. GOODELL: Well, just to be clear, under current law, the increase is capped to seven-and-half percent, right?

MS. ROSENTHAL: It depends what the maximum

collectible and maximum base rent is.

MR. GOODELL: But it -- they can only increase it by a maximum of seven-and-a-half percent until they reach the maximum base rent, correct? That's the current --

MS. ROSENTHAL: Well --

MR. GOODELL: -- law.

MS. ROSENTHAL: -- "only" is an incorrect modifier. But, 7.5, yes.

MR. GOODELL: And the maximum base rent is rent that's established by the Division of Housing and Community Renewal, right --

MS. ROSENTHAL: Yes. Yes.

MR. GOODELL: -- as a fair and reasonable rent for these types of apartments.

MS. ROSENTHAL: Yes. It is a very antiquated formula, which HCR (sic) agrees. And I've had meetings with them. There are probably only two people left who truly understand this formula, because it is archaic, it is not with the times, and it does not serve the public adequately.

MR. GOODELL: Now, I appreciate --

MS. ROSENTHAL: Because --

MR. GOODELL: -- the fact that it's been about 50 years that these apartments have been rent-controlled. That was -- I -- I think that's what you mentioned earlier, 50-some years.

MS. ROSENTHAL: Mm-hm.

MR. GOODELL: But, as you know, of course, for over 250 years, we've had a U.S. Constitution which provides that no state shall pass any law impairing the obligations of contracts. Isn't that exactly what this bill does?

MS. ROSENTHAL: You know, we've done many, many laws over the years that have changed conditions when a program was initially developed.

MR. GOODELL: And has this issue been ever authorized or approved by the courts under the context in which you're proposing here today?

MS. ROSENTHAL: I don't know that this particular issue was brought to the courts to change it. That's why we're trying to change it here on the floor, because the seniors who live in those apartments, some of them now pay more rent than their rent-stabilized neighbors. And that's because it's 7.5 percent. The increase adds up. In addition to getting a 7.5 percent increase, these tenants are also obligated to pay a fuel passalong, which is another burden on them that no other tenant has to pay.

MR. GOODELL: And for any tenant that happens to be in a rent-controlled apartment where the rent is higher than a rent-stabilized apartment, they, of course, are free to move at the end of their lease, should they desire --

MS. ROSENTHAL: Excuse me, I --

MR. GOODELL: I'm not, by the way, in any way suggesting that moving is --

MS. ROSENTHAL: -- you know at 85 years old, where is someone going to move to?

MR. GOODELL: Excuse me, let me just finish. I'm not in any way suggesting that moving is an easy thing, particularly if you've been in an apartment for a long, long time. But, that's the way the market works, right?

MS. ROSENTHAL: Actually, we --

MR. GOODELL: It has that flexibility?

MS. ROSENTHAL: -- we are a more compassionate society than that, and we try to look after our elderly, especially when they live in communities that they have built, that they are the foundation of, that they have endured the bad times, that they live in this apartment that generally the landlord neglects, that they are generally harassed because the landlord covets their apartment. So, to tell someone who's 85 and has lived in their apartment for 47-something years, *You can move*, actually spells the death of that tenant.

MR. GOODELL: And roughly, what percent of rent-controlled apartments that are well below the maximum base rent are still being charged the rent amount that exceeds that of a rent-stabilized apartment?

MS. ROSENTHAL: I don't --

MR. GOODELL: I mean, normally --

MS. ROSENTHAL: -- I don't have that number.

MR. GOODELL: -- it's the other way around.

Normally, a rent-stabilized apartment has significantly higher rentals. I mean, that's why we have the difference between rent-controlled and rent-stabilized. It's -- so it's got to be a very, very small fraction of rent-controlled apartments that are higher than rent-stabilized, correct?

MS. ROSENTHAL: I'm -- I would not agree with that.

MR. GOODELL: And what percent --

MS. ROSENTHAL: I'd say the average rent --

MR. GOODELL: -- is the difference, then?

MS. ROSENTHAL: -- is probably \$2,000. And I must say that the tenants who live in my district and are rent-controlled come to my office and my colleagues' offices, talking about how they send in their rent checks and the landlord purposely does not cash them. And many other tricks to make them feel harassed. Because they're nice apartments, they obviously need to be updated, but the landlord's looking for who can fetch a higher rent. I've met a tenant -- well, she was 95, and her landlord was trying to evict her as a rent-controlled tenant. So, these tenants need our protection. And they also need a relief from the high rent they are -- they are paying.

MR. GOODELL: Thank you very much for your comments, Ms. Rosenthal.

On the bill.

ACTING SPEAKER RICHARDSON: On the bill, Mr. Goodell.

MR. GOODELL: Thank you, Madam Speaker.

Generally speaking, rent-controlled apartments rent for much, much lower than rent-stabilized apartments, and that's because they've been controlled. And under the current scenario that we have, our Division of Housing Community Renewal, a governmental agency, sets a maximum base rent for all rent-controlled apartments. And under current law, if the landlord is charging substantially less than the government-approved maximum base rent, the landlord can gradually raise that rent up until it reaches the maximum base rent. So, the -- there is cap under current law. And what this bill says is, *We don't care what your expenses have been, we don't care if your utilities have gone up, we don't care if your maintenance costs have gone up, we don't care if you're upgrading the apartment. With some exceptions, you cannot raise the rent faster than you've raised it for the last five years.* There's two problems with that approach: First of all, it punishes all those landlords who have done exactly what we hoped they will do by minimizing rent increases in prior years by saying, *If you acted in a responsible manner and minimized rent increases in the last five, we're going to punish you in the future by making sure you can't raise it more in the future.* And the long-term effect is that landlords will take that into account and not give the break that we hope they give whenever they can.

The second problem with this legislation is it's unconstitutional because it changes the contractual rules of the game in the middle of a contract. And just because government may be a

party to a contract doesn't mean we get to rewrite the rules so they don't exist, rewrite the contracts. And that's expressly prohibited by the Federal Constitution.

And the last thing is, we're always balancing the desire for high-quality housing with the rents. And we know if we artificially suppress the rents, it results in the landlord's inability to maintain the apartments at the level that we believe should be appropriate.

For these reasons and others, I and many of my colleagues will have concerns with this bill.

Thank you, Madam Speaker. And thank you, sponsor, for your comments.

ACTING SPEAKER RICHARDSON: Read the last section.

THE CLERK: This act shall take effect on the 180th day.

ACTING SPEAKER RICHARDSON: The Clerk will record the vote.

(The Clerk recorded the vote.)

Assemblymember Epstein to explain his vote.

MR. EPSTEIN: Thank you, Ms. Speaker, for the opportunity to explain my vote today. I just wanted to be clear about what we're talking about for rent-controlled apartments. When we're talking about increases, we're not talking about actual cost changes for landlords. They use what's called the "price index of operating costs."

And it says, the price of paper has gone up from this amount to this amount, so that means landlords' expenses have theoretically gone up. That's actually not what's happened. When landlords use less paper, that's not included in the price index of operating costs. So, when the HCR (sic) is setting rent increases for rent-controlled apartments, they're basing it on theoretical problems, not actual issues that are going on. So, what we're seeing is rent-controlled tenants see -- seeing serious rent increases, when the reality is the market doesn't support that, and the cost changes in landlords isn't supporting that. So, the idea that we're helping landlords and dealing with the cost changes is just not true.

The second issue is that we're suppressing rent is no further from the truth. The reality is, that what rent-controlled apartments are doing, are keeping people in communities. The few rent-controlled tenants that are left in my district are there because they've lived there. They raised their kids here, their grandchildren are there. And what they'll do is trying to stay and hold on. And we're seeing what the rent-controlled increase is doing, which are outweighing the rent-stabilized increases, is pushing those low-income tenants out.

The last issue is what I think is really an unfounded constitutional claim. We change the laws all the time. The idea that because we're changing a law here, it's got a constitutional question, is no further from the truth. The -- the U.S. Constitution talks about contracts, but not saying that the Legislature, in its wisdom, can

modify rules. Like we modified the rent-stabilized rules when we deregulated vacancy decontrol. When we -- you've talked about changing the rules around rent control, when we took away rent control in 1971. We change the rules all the time, and those have been upheld. What we're trying to do is change the rules now to improve the life of low-income tenants, and that's what our obligations are to do today.

And I support this bill, and I withdraw my request and vote in the affirmative. Thank you.

ACTING SPEAKER RICHARDSON: Mr. Epstein in the affirmative.

ACTING SPEAKER AUBRY: Are there any other votes? Announce the results.

(The Clerk announced the results.)

The bill is passed.

Mr. Morelle.

MR. MORELLE: Thank you, Mr. Speaker, for allowing a brief interruption. We are so happy to have as guests of Mr. DenDekker, the girls basketball team from Lexington School for the Deaf, as well as the boys basketball, as well as the cheer squad. And we are so excited to have them in the Chambers. Mr. DenDekker indicated that there was a -- an athletic competition this afternoon that would be taking place. I understand it's the first time that this is a co-ed team from Lexington will be playing. And if I could just give you an indication of how good the girls basketball team is, you'll

understand why this is co-ed this year. This will be a big benefit for the team. The girls basketball team won first place at the Eastern Schools for the Deaf Athletic Association Tournament in Ohio -- in Ohio School for the Deaf, it took place there. It had been 20 years since Lexington won the trophy, so this is a big deal. This year the team did win, and take first place in the Metro League, where they play. It's the second-straight Metro Championship. The team was 17 and 2, which is obviously, a -- an amazing record. The boys basketball team took fourth place at the ESDAA tournament at Western Pennsylvania School for the Deaf. That also back in February. And special recognition went to -- to Steve Salmon for making the All-Tournament Basketball Team. I should say that on the girls' side that Yenifer Garcia, Gigi Zheng and Heidi de la Rosa made the All-Tournament team. And we're also joined by the cheer squad. They won second place at the ESDAA cheerleading tournament, which took place in February. Special recognition going to Aaron and Jordan Laikram for making the All-Tournament Team for cheerleading.

These are delightful and accomplished young people. They're here with their chaperones. We're always delighted to have them in the Chambers. And I know, however, despite their significant athletic accomplishments and achievements, that you, Mr. Aubry, will lead victory for the legislative team tonight. I have no doubt.

But if you could -- while they're relaxing and enjoying the proceedings, if you could please extend the cordialities of

the House.

ACTING SPEAKER AUBRY: Certainly. On behalf of Mr. DenDekker, myself, all of the Queens delegation, the Speaker and all the members, we welcome these extraordinary athletes here to the New York State Assembly. We extend to you the privileges of the floor. We hope that today's experience will be meaningful to you. We look forward to seeing you tonight in the athletic competition, and we hope that everybody leaves with a smile. And so, thank you so very much for being here.

(Applause)

Mr. Morelle.

MR. MORELLE: Yes. Thank you, Mr. Speaker. We have two more bills to take up as part of our housing package. So, if we could take these two in this order: I'd like to take up first, Calendar No. 846 by Mr. Taylor, which is on page 78 of the main Calendar, and then go to Calendar No. 305 by Miss -- Ms. Rosenthal, which is on page 31.

ACTING SPEAKER AUBRY: The Clerk will read.

THE CLERK: Assembly No. A09816, Calendar No. 846, Taylor, Cymbrowitz, Barron. An act to amend the Administrative Code of the City of New York, the Emergency Tenant Protection Act of 1974, and the Civil Practice Law and Rules, in relation to rent overcharges.

ACTING SPEAKER AUBRY: An explanation is requested, Mr. Taylor.

MR. TAYLOR: Thank you, Mr. Speaker. Under current law, a tenant challenges a rent regulation statement, a court or DHCR cannot consider certain years beyond the four-year statute of limitations. This bill would allow the court or DHCR to consider and determine a legal regulated rent in a year where a landlord has not timely filed an annual rent registration statement.

ACTING SPEAKER AUBRY: Mr. Fitzpatrick.

MR. FITZPATRICK: Thank you, Mr. Speaker.

Would the sponsor yield for a couple of questions?

ACTING SPEAKER AUBRY: Will you yield, Mr. Taylor?

The sponsor yields.

MR. TAYLOR: Yes.

(Laughter)

MR. FITZPATRICK: Thank you, Mr. Speaker --

ACTING SPEAKER AUBRY: The sponsor yields.

MR. FITZPATRICK: Thank you, Mr. Taylor.

MR. TAYLOR: Thank you, Mike.

MR. FITZPATRICK: Al, the -- so, let me ask you why-- what --what's the rationale for this legislation? Why is a four-year statute of limitations not sufficient?

MR. TAYLOR: Well, if -- if a landlord or their agent fails to file in a timely fashion -- let me give you the case. It would be *Cintron versus Calogero*. And in that case, the incident started in 1987 where they believed there was a lack of services, and DHCR

said, *Hey, we're going to allow you to get a -- a -- a reduction in your rent.* But it didn't take place. So, move forward to 2003, and when the courts looked at it, they could only go back to 1999. So, the years prior to that were not able -- they were not able to go back and look at. So, this would allow them to look at it, either because the landlord has failed, or they intentionally did not file the necessary annual information.

MR. FITZPATRICK: So -- so, under *Cintron*, the case you state, that -- that happened more than four years prior?

MR. TAYLOR: Yes.

MR. FITZPATRICK: It did. Okay.

MR. TAYLOR: It began in 1987. And they -- they had gone to DHCR on numerous occasions -- in fact, they were given three, as I understand, three opportunities for rent reduction, and somehow it didn't take place. So when the court is hearing it with the new manage -- new owners of the property here in 2003, they can only go back to four years. This bill would allow you to go back an additional four years on that. But only the courts or DHCR could do that.

MR. FITZPATRICK: Only the court. So -- so what was -- what was -- where was the failure to not implement that rent -- that rent reduction under that case? Whose -- whose -- who made that mistake, or who made that failure? Was that --

MR. TAYLOR: Probably some lawyer.

MR. FITZPATRICK: DHCR? Or -- or... okay.

(Laughter)

MR. TAYLOR: I'm not sure on which side, though.

MR. FITZPATRICK: Okay. Very good. So -- so what you're -- what you're seeking here is an additional -- besides any rate reduction -- or rent reduction, rather, that would occur within those four years, you would seek additional rent reduction beyond the four-year statute of limitations?

MR. TAYLOR: Yeah, that -- that's the purpose of this bill, to move that back, to grant the courts or DHCR an opportunity to look beyond that current four years. Because if the landlord decides to file, and they don't file in a timely fashion, they could bring three or four or more items together, and so it's one lump. And if it's -- if it happened in this case, 1999, you would not see what they did and how they did it. And this information would only go to those that are seeking a lease with the landlord and/or the current occupants of that apartment.

MR. FITZPATRICK: Okay. Very good. Very good. So they're -- okay. So, regardless of who is at fault, Al --

MR. TAYLOR: Yes.

MR. FITZPATRICK: -- regardless of who is at fault, if it's not the fault of the landlord, then the landlord is being unfairly targeted here for further rent reductions. We already know that because of rent stabilization, rents are already artificially depressed. So, where is the fairness in this?

MR. TAYLOR: I'm glad you asked that question. I

believe the fairness would exist in that the landlord or his agents file properly in a timely fashion and this doesn't affect them. But if they're not doing it, then this is going to impact them. And this is not a judgment that they automatically lose, but it's an opportunity to look at it and say -- at the situation and say, *Hey, did you do it right?* And if you did it right, there's no problem. There are no fees. Only if you fail to do what was proper in the first place.

MR. FITZPATRICK: Right. Okay. Very good.

MR. TAYLOR: In my understanding.

MR. FITZPATRICK: All right. Very good. Well, thank you, Al. I appreciate your -- thank you very much.

MR. TAYLOR: Thank you, Mike.

MR. FITZPATRICK: Mr. -- Mr. Speaker, on the bill.

Again, I think the legislation has a worthy intent, but we have a statute of limitations for a reason; it's to protect the interests of both sides. So, as the sponsor stated, even if -- if -- even if the landlord is not at fault, there's a potential exposure here. So, I think this would have, you know, a negative impact on -- again, it's another impediment that we are putting in front of property owners who are providing a much-needed service, housing, for people. And a statute of limitations of four years is not unfair. It is reasonable. And I think that's the operative term here. It is a reasonable statute of limitations. So, if, you know, the landlord is encouraged to do the right thing, a four-year statute of limitations is more than enough. It is not necessary -- again, another attempt here to move the -- you know,

move the goalposts, just make things a little more difficult for people who are trying to provide housing for a community that needs much, much more of it. This is not going to help developers come in and provide more affordable housing. It's another disincentive, and it creates just increased exposure, increased expense, and just more problems. It will flood -- you'll see a flood of new -- of new cases against landlords if you allow the statute of limitations to stretch beyond the four years.

For those reasons, I would advise a no vote on this legislation. Thank you, Mr. Speaker.

Thank you, Al.

ACTING SPEAKER AUBRY: Read the last section.

THE CLERK: This act shall take effect immediately.

ACTING SPEAKER AUBRY: The Clerk will record the vote.

(The Clerk recorded the vote.)

Mr. Crespo to explain his vote.

MR. CRESPO: Thank you, Mr. Speaker. I want to commend the sponsor of this bill. This is an important bill, and -- and he did a great job of passionately and eloquently explaining how it impacts many of our constituents. I've seen time and time again in my district office, families who have been subjected to rent overcharges, oftentimes having received subpar living conditions in many of those units. This is a deterrent to make sure that owners do the right thing; that they file the right paperwork, that they register the units and the

proper amount of rent so as to keep those prices where they need to be. I am extremely impressed by his work on this bill and, more importantly, by getting the gentleman sitting right in front of me to vote yes as well.

Thank you, Mr. Speaker. I vote in the affirmative.

(Laughter)

MR. SCHIMMINGER: I'm for Al.

ACTING SPEAKER AUBRY: Are there any other votes? Announce the results.

(The Clerk announced the results.)

The bill is passed.

(Applause)

First bill, Mr. Taylor. You'll never forget it.

Congratulations.

Mr. Morelle.

MR. MORELLE: Thank you, Mr. Speaker. I want to interrupt just for a -- an introduction, if I might, of Mr. David Zapsky, who has joined us in the Chamber as a guest of Mr. Buchwald. Mr. Zapsky -- Zapsky is a veteran of Operation Desert Storm, and was part of some recognition here in -- in the other House this morning, and we wanted to acknowledge him. He served in the Air Force from 1989 to 19 -- 18 -- 1996 -- that would be a trick -- as a communication information securities systems manager, and has also -- he serves currently at the Federal Reserve Bank of New York, and lives in the Town of Bedford, where he's also created -- helped create the Veterans

Advisory Committee for his fellow veterans. And we're delighted to have him in the Chambers and observing our legislative proceedings.

I also note that he has -- there's another special guest who has joined Mr. Buchwald and Mr. Zapsky in the Chamber, and that's our former member, dear friend and member of the now other House of the Legislature, Senator Shelley Mayer.

So, if you'd please acknowledge all these fine individuals and extend the cordialities of the House.

ACTING SPEAKER AUBRY: Certainly. On behalf of Mr. Buchwald, the Speaker and all the members, we welcome you here, sir, to the New York State Assembly. We extend to you the privileges of the floor. Our gratitude for the service you've provided this country and that you are also currently providing other members of the Armed Forces.

And, of course, Shelley, welcome back. We miss you, but you're not that far away. Thank you so very much. It's happy -- we're happy to have you.

(Applause)

The Clerk will read.

THE CLERK: Assembly No. A04003, Calendar No. 305, L. Rosenthal, Gottfried, Mosley, Barron, Glick. An act to amend the Administrative Code of the City of New York, in relation to the filing of an overcharge complaint.

ACTING SPEAKER AUBRY: An explanation is requested, Ms. Rosenthal.

MS. ROSENTHAL: This bill codifies two 2010 cases, Cintron and Grimm, regarding tenants' rights in determining rent overcharge complaints.

ACTING SPEAKER AUBRY: Mr. Fitzpatrick.

MR. FITZPATRICK: Thank you, Mr. Speaker.

May I ask the sponsor a couple of questions?

ACTING SPEAKER AUBRY: Ms. Rosenthal, will you yield?

MS. ROSENTHAL: Yes.

ACTING SPEAKER AUBRY: Ms. Rosenthal yields.

MR. FITZPATRICK: Thank you, Mr. Speaker, thank you, Linda. This is not unlike the -- the prior bill. Why -- why is four years, which is a long period of time, 48 months, not sufficient to resolve these -- these issues?

MS. ROSENTHAL: Well, tenants need as long a lookback period as possible, because there are many instances where the landlord overcharged them, and they've been paying the wrong rent for years. So, going back longer than four years allows a more accurate picture of the history of the rent in that apartment.

MR. FITZPATRICK: I see. Okay. Very good. Linda, thank you very much.

MS. ROSENTHAL: Thank you.

MR. FITZPATRICK: Mr. Speaker, on the bill.

ACTING SPEAKER AUBRY: On the bill, Mr.

Fitzpatrick.

MR. FITZPATRICK: I -- I completely understand the rationale behind the sponsor introducing this legislation and the prior -- the prior legislation as well. Again, this is -- from our standpoint, the four-year statute of limitations is more than fair. Forty-eight months is a long period of time. More than enough time to bring the necessary action to the proper authorities at DHCR for adjudication. What this -- the unintended consequence of this legislation, I fear, will be an opening of the floodgates for more overcharge complaints, thereby increasing -- increasing not only the number of cases, but just the administrative headaches and just the increased expense to adjudicate these. Therefore, I would recommend a no vote. Forty-eight months is long enough.

And I would just also say in the future, maybe, if I could make a recommendation that when we do this again, that Ms. Rosenthal be limited to only two bills. This is kind of piling on. I just --

(Laughter)

Just kidding, Linda. I was just --

ACTING SPEAKER AUBRY: Above your pay grade, Mr. Fitzpatrick.

MR. FITZPATRICK: Thank you. Thank you, Mr. Speaker. And thank you, Linda.

ACTING SPEAKER AUBRY: Read the last section.

THE CLERK: This act shall take effect immediately.

ACTING SPEAKER AUBRY: The Clerk will record the vote.

(The Clerk recorded the vote.)

Mr. Goodell to explain his vote.

MR. GOODELL: Thank you very much, Mr. Speaker. I just wanted to share a -- a note of appreciation. Over the last two days, we've discussed 10 housing bills and debated all 10. And I wanted to express appreciation to my colleagues in the Majority for their comments and responsiveness. But also, a special appreciation to Mr. Fitzpatrick, the Ranker on Housing, who debated the vast majority. And I think all my colleagues should be very thankful that Mr. Fitzpatrick, rather than I, was the one that took on the challenge of debating all these.

Thank you very much.

(Applause)

ACTING SPEAKER AUBRY: Ms. Rosenthal to explain her vote.

MS. ROSENTHAL: Thank you, Mr. Speaker. I'd like to point out that the Assembly Majority has put on -- has a package of 10 bills that will help tenants, help preserve our affordable housing stock in the City, which is sorely needed as we keep losing rent-regulated apartments, as more and more people can't afford to stay in the City, and people cannot afford to come into the City and find an apartment at a reasonable rent unless they're going to share it with five of their closest friends in a one-bedroom. This particular bill

codifies Cintron, where HCR (sic) awarded rent-reduction orders, yet the landlord did not comply with the court order, and the tenant filed a complaint where the court then determined that you could go past four years to see the accurate amount. In Grimm, the court said a four-year statutory period is not enough when you're dealing with the issue of a fraud complaint, which we know is an all-too-frequent occurrence. So, that's the intent of this bill and all the rest of the bills, is to keep the people who are living in rent-regulated apartments safe under the warranty of habitability so they can stay and continue to contribute to city they love.

I vote in the affirmative.

ACTING SPEAKER AUBRY: Ms. Rosenthal in the affirmative.

Mr. Gottfried.

MR. GOTTFRIED: Thank you, Mr. Speaker. Just an -- an observation on the volume of some members' work, and why we do that. Ecclesiastes says, *Whatsoever thy hand findeth to do, do it with thy might; for there is no work, nor device, nor knowledge, nor wisdom in the grave, whither thou goest.* I am delighted to join with all of my colleagues in cheering on this work, and voting in the affirmative.

ACTING SPEAKER AUBRY: Mr. Gottfried in the affirmative.

Are there any other votes? Announce the results.

(The Clerk announced the results.)

The bill is passed.

Mr. Morelle.

MR. MORELLE: Actually, Mr. Speaker, before we go to the bill I'm going to take up next, I believe Mr. Goodell has an introduction to make.

ACTING SPEAKER AUBRY: Certainly.

Mr. Goodell for an introduction.

MR. GOODELL: Thank you very much, Mr. Speaker, for allowing me to interrupt our proceedings. On behalf of Assemblyman Mr. DiPietro, we're pleased to have with us the Attica Correctional Facility Color Guard. I didn't know they had one, but I think it's great that they not only have one, but they're here visiting us.

So if you would kindly extend the privileges of the floor to the Attica Correctional Facility Color Guard, I would appreciate it. Thank you, Mr. Speaker.

ACTING SPEAKER AUBRY: Certainly. On behalf of Mr. DiPietro, the Speaker and all the members, gentlemen, we welcome you here to the New York State Assembly. We extend to you the privileges of the floor, commend you on the public service work that you're doing, as also being the honor guard for Attica Facility. Thank you so very much for being here.

(Applause)

Mr. Morelle.

MR. MORELLE: Thank you, Mr. Speaker. If we could take up Calendar No. 209 by Ms. Simotas, which is on page 32

(sic) of the main Calendar.

ACTING SPEAKER AUBRY: The Clerk will read.

THE CLERK: Assembly No. A02646-A, Calendar No. 209, Simotas, Quart, Bronson, Solages, Braunstein, Bichotte, Steck, Seawright, Simon, Brindisi, Paulin, Barrett, Hevesi, McDonald, Lavine, Cymbrowitz, Mosley, Buchwald, Morelle, Dinowitz, Rozic, L. Rosenthal, Murray, Otis, Lifton, Jean-Pierre, Pellegrino, Wright. An act to amend the Insurance Law, in relation to insurance coverage of in vitro fertilization and other fertility preservation treatments.

ACTING SPEAKER AUBRY: An explanation is requested, Ms. Simotas.

MS. SIMOTAS: This bill amends the Insurance Law to require all insurance policies to provide coverage for in vitro fertilization and fertility preservation treatments. This bill also provides a clear definition of infertility as a disease. And finally, the bill would require coverage for fertility preservation services for cancer patients.

ACTING SPEAKER AUBRY: Mr. Goodell.

MR. GOODELL: Thank you very much for that explanation.

On the bill.

ACTING SPEAKER AUBRY: On the bill, sir.

MR. GOODELL: I appreciate the sponsor's compassion and sympathy for those who are wrestling with infertility and her desire to expand insurance coverage for in vitro fertilization.

My concern is that every year we, as legislators, are asked to approve more mandatory health insurance coverages. We are now around 60-some mandatory coverages. Every time we add mandatory coverage, we increase the cost of insurance for everyone across the State of New York, and as a result, we end up with unanticipated consequences. First, as the cost goes up, the number of people who can afford health insurance goes down. And numerous empirical studies on the cost elasticity of health insurance show that that ratio can be as high as one to one. A one percent increase resulting in a one percent reduction in health insurance coverage. The second thing that happens is the mandatory coverages go up and the costs go up, is that employers respond by increasing deductibles. And the net effect, then, is that rather than having better health coverage in New York State, we have no health coverage until the deductible is met. And unlike almost any other product that we, as consumers, buy, when it comes to health insurance in New York State, we, as the Legislature, have made it impossible for consumers to select the coverage they need and want. And, you know, think about that. Almost any other product you want to buy, you can decide the level of coverage you want, the expense you want. You can go to, in car insurance, different coverages, different deductibles, all that. But in New York State when it comes to health insurance, we mandate over 60 -- or about 60 mandatory coverages. So while each one, individually, might sound good, the cumulative impact is that we are reducing health coverage for thousands of New Yorkers who won't be able to afford an increase, or

are facing higher deductibles and copays as we add more and more mandated services.

For that reason, I will be reluctant to support this bill, even though I certainly appreciate the sponsor's desire to help others.

Thank you very much, Mr. Speaker.

ACTING SPEAKER AUBRY: Mr. Cahill.

MR. CAHILL: Thank you, Mr. Speaker. Will the sponsor yield to a few questions?

ACTING SPEAKER AUBRY: Ms. Simotas, will you yield?

MS. SIMOTAS: Of course I yield.

ACTING SPEAKER AUBRY: Ms. Simotas yields.

MR. CAHILL: Thank you, Ms. Simotas, Mr. Speaker.

Currently, is in vitro fertilization a covered benefit under our health insurance plans in New York State?

MS. SIMOTAS: Yes, it is.

MR. CAHILL: Yes, it is. So --

MS. SIMOTAS: In vitro -- I'm sorry. Could you repeat your question?

MR. CAHILL: Is in vitro fertilization cov -- a covered benefit under --

MS. SIMOTAS: It is not a covered benefit.

MR. CAHILL: Are fertilization services a covered benefit?

MS. SIMOTAS: They are not covered -- they are not required cover -- covered benefits. I would tell you that New York -- in New York State, there's some insurance companies that allow for in vitro. I will tell you that we mandate coverage in this State for a disease, not a treatment. This bill would not trigger a State mandate, because it merely reflects advances in medicine, and not new coverage. It's very similar to what we did in 2012 when we allowed oral chemotherapy to be covered. You know, cancer was a -- was a covered disease. However, we allowed for additional coverage because of -- because of advances in technology. This is all this bill does. We are not looking to cover a new disease. Infertility has been covered since 1990. For some weird reason, in vitro fertilization was never a benefit that was -- it was never a procedure that was covered. And now all I want to do is make sure that all insurance com -- companies cover in vitro.

MR. CAHILL: Mr. Speaker, Ms. Simotas, many of us have an impression of what in vitro fertilization involves, and it -- we often hear about these multiple births and -- and, you know, 10 children being born at once, or five children being born at once because of the methodology that's used. Is -- is that the current state of the science in this area?

MS. SIMOTAS: It is not the current state of the science. In vitro makes sure that you -- it -- it chooses which -- what -- what to implant in somebody's uterus, and it actually reduces the instances of multiple births. So, in essence, what this bill would allow

is a reduction in long-term health costs that are associated with multiple births.

MR. CAHILL: Well, you anticipated my next question as to whether this would increase health care costs, keep them the same, or reduce them.

MS. SIMOTAS: In the long term, I believe that it will reduce the long-term health care costs associated with families who want to -- who want to -- for couples who want to have families.

Thank you.

Thank you very much, Mr. Speaker.

MS. SIMOTAS: Thank you.

ACTING SPEAKER AUBRY: Read the last section.

THE CLERK: This act shall take effect immediately.

ACTING SPEAKER AUBRY: The Clerk will record the vote.

(The Clerk recorded the vote.)

Ms. Rosenthal to explain her vote.

MS. ROSENTHAL: Thank you, Mr. Speaker, to explain my vote. I'd like to commend the sponsor on this great bill, which she -- she has -- in response to so many individuals and couples and families that find that they cannot have children without the assistance of medical -- of medicine. It doesn't come easily to them to get pregnant and have children, so medicine has advanced beyond our laws that cover such interventions. And I know the heartbreak of many who simply cannot have a family with children because they

can't afford these treatments.

So, this is a great step ahead for them. I thank the sponsor, and I vote in the affirmative.

ACTING SPEAKER AUBRY: Ms. Rosenthal in the affirmative.

Ms. Bichotte.

MS. BICHOTTE: Thank you, Mr. Speaker, for allowing me to explain my vote. I, too, want to commend the sponsor of this bill. I -- I was once carrying and I lost my child, and because I'm of older age, it's been difficult. And since then, the testimonies of how many couples and women trying to conceive, or trying to create a family, has been noticeable. And many testimonies have been addressed and shared with me of these difficulties. It's a very -- it's a silent issue. And many couples cannot have children because they simply cannot afford it. Not to mention, we have a lot of -- we have a lot of women who miscarry, for unknown reasons, and they look to the assistant advanced medical technologies to help create a family. So, I am in big support of this. I think New York State needs to be progressive and be on board with other states that allow in vitro fertilization. In the long run, it will save us money. But again, we got to think about the many families and the many New Yorkers that we want to help.

So again, I want to thank the sponsor of this bill, and I vote in the affirmative.

ACTING SPEAKER AUBRY: Ms. Bichotte in the

affirmative.

Ms. Simotas to explain her vote.

MS. SIMOTAS: Thank you, Mr. Speaker. It's important to understand that it's estimated that one in eight couples struggle with infertility, and the condition can have lasting physical, emotional and financial impacts. Since 1990, New York has required insurance companies to cover infertility, but IVF was explicitly excluded from a coverage option. Today, IVF is the gold standard of care. This is a very rare instance in which the law expressly excludes a recognized, widely-used medical procedure from coverage requirements. This bill would correct that issue and bring our laws in line with the advancements in medical technology. It simply updates the statute to provide New Yorkers the best option for establishing the families that they need.

I encourage all of my colleagues to vote in the affirmative, and I thank you very much.

ACTING SPEAKER AUBRY: Ms. Simotas in the affirmative.

Are there any other votes? Announce the results.

(The Clerk announced the results.)

The bill is passed.

Mr. Morelle.

MR. MORELLE: Thank you, Mr. Speaker. I'm delighted to have as a guest of Mr. Pretlow a distinguished visitor this afternoon; Kristyn Briez Reed, who is the head of the Mt. Vernon

Veterans Service Agency. As the Director, she works on, obviously, focusing on modernization of their office and making sure that veterans in their community receive much-needed services. Ms. Reed is also a -- was a member of the United States Air Force as a Communication Navigation Mission System Specialist after graduating from Mt. Vernon High School. And she comes from a distinguished group of members of her family, including her father, sisters, grandfathers, uncles and cousins, who all served in the United States military. We're delighted to have her, and -- and Mr. Pretlow is delighted to have her in the Chambers observing our proceedings, and we're delighted to have her.

If you could please extend all the the cordialities of the House to Ms. Reed.

ACTING SPEAKER AUBRY: Certainly. On behalf of Mr. Pretlow, the Speaker and all the members, Ms. Reed, we welcome you here to the New York State Assembly. We extend to you the privileges of the floor. We thank you for the service you have provided this country, and now the services that you are providing those who have served along with you. Thank you so very much. Continue that great work, and we are always happy to have you.

(Applause)

Mr. Morelle.

MR. MORELLE: Thank you, Mr. Speaker. I understand you have housekeeping and resolutions to take up.

ACTING SPEAKER AUBRY: Yes, we do.

On behalf of Ms. Jaffee, page 55, Calendar No. 524, Bill No. 7555-A, I offer the following amendments and move their adoption.

We have numerous fine resolutions. We will take them up on one vote.

On the resolutions, all those in favor signify by saying aye; opposed, no. The resolutions are adopted.

(Whereupon, Assembly Resolution Nos. 1185-1188 were unanimously adopted.)

Mr. Morelle.

MR. MORELLE: Yes, thank you, Mr. Speaker. I want to note a time change in tomorrow's Session. In just a moment, I'll call for our adjournment for the day, but we will be here tomorrow morning at 9:30, in Session. Ladies and gentlemen, 9:30. We will also have -- the Veterans Committee will take place off the floor. So, members of that Committee, be apprised that we will call you off the floor. We've informed Mr. DenDekker of that.

So, with that, Mr. Speaker, I now move that the Assembly stand adjourned until 9:30 a.m., Wednesday, May 16th. Tomorrow, ladies and gentlemen, is a Session day.

ACTING SPEAKER AUBRY: The Assembly stands adjourned.

(Whereupon, at 1:44 p.m., the Assembly stood adjourned until Wednesday, May 16th at 9:30 a.m., that being a Session day.)

