

**WEDNESDAY, JANUARY 29, 2020**

**10:50 A.M.**

ACTING SPEAKER AUBRY: The House will come to order.

The Reverend Elia will offer a prayer.

REVEREND DONNA ELIA: Let us pray. Holy One, giver of all good gifts, we take this moment to rest in You. Thank You for this legislative Body and staff, for their energy, intelligence, imagination and love. Thank You for each one taking on the honorable call to public service, and empower their vision for strengthening our communities and our State. For any who need an extra measure of healing for themselves or their families, we ask it. For the moments when challenges seem daunting, we ask You to empower them to find a way forward. Be a gentle and powerful presence here and now.

On this day, we are particularly mindful of persons with disabilities. Thank You for the self advocates among the disability community, and for the family members who have inspired change in laws and attitudes. Help us to value varied abilities. We pray also for those who struggle with invisible disabilities, and help us to work together to remove barriers, whether of attitude, language or structure, and may we build a world that creates space for each person to develop to his or her complete and beautiful capacity. In Your Holy Name we pray, Amen.

MEMBERS: Amen.

ACTING SPEAKER AUBRY: 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 Tuesday, January 28th.

Mrs. Peoples-Stokes.

MRS. PEOPLES-STOKES: Mr. Speaker, I move to dispense with the further reading of the Journal of Tuesday, January the 28th and ask that the same stand approved.

ACTING SPEAKER AUBRY: Without objection, so ordered.

Mrs. Peoples-Stokes.

MRS. PEOPLES-STOKES: Mr. Speaker, before giving the members an opportunity to see where we're going today, I

want to just share a quote. It's a quote that I think is really significant in these days and times. This one comes from Mamie Till-Mobley. Mamie Till was an American educator and an activist. She was the mother of Emmett Till, who was murdered in Mississippi on August the 28th in 1955 at the age of 14. In spite of her sorrow, Amy [sic] says, "With each day, I give thanks for the blessings of life - the blessings of another day and the chance to do something with it. Something good. Something significant. Something helpful. No matter how small it might seem, I want to keep making a difference."

With that, Mr. Speaker, members should be aware that there is on their desk a Calendar, there's a main Calendar. After any introductions and/or housekeeping, we're going to take up resolutions on page 3, including one by Mr. Steck, and a package of bills in association with today's Legislative Disability Awareness Day. There will be a need for a Majority Conference at the conclusion of our work today on the floor and, of course, we will be checking with our colleagues on the other side to see what their needs will be.

That is a general outline, Mr. Speaker. If there are any introductions, now would be the appropriate time.

Actually, I have an introduction.

ACTING SPEAKER AUBRY: Mrs. Peoples-Stokes for an introduction.

MRS. PEOPLES-STOKES: Thank you, sir. Thank you very much. I am super pleased and honored to introduce this young lady that's been moving around our Chamber since yesterday.

She is stunningly beautiful. Her name is Violet Cusick, she is the daughter of our colleague, and she's wearing a dress that matches the flag she holds.

(Laughter)

She's super smart, and would you please welcome her to our Chambers.

(Applause)

ACTING SPEAKER AUBRY: On behalf of Mrs. Peoples-Stokes, the Speaker and all the members, we welcome this darling here to the New York State Assembly. She has already visited the Rostrum and made it her own --

MRS. PEOPLES-STOKES: Yes.

(Laughter)

ACTING SPEAKER AUBRY: -- and we expect that that is in the blood in the Cusick family. Thank you so very much for being with us. You make this day brighter. Thank you. And she pays no attention.

(Applause)

(Pause)

MRS. PEOPLES-STOKES: Mr. Speaker, if we could now go to page 3 and resolutions.

ACTING SPEAKER AUBRY: The Clerk will read.  
Page 3, resolutions.

THE CLERK: Assembly Resolution No. 728, Mr. Steck. Legislative Resolution memorializing Governor Andrew M.

Cuomo to proclaim Wednesday, January 29th, 2020, as the New York State Assembly Legislative Disabilities Awareness Day.

ACTING SPEAKER AUBRY: Mr. Phillip Steck on the resolution.

MR. STECK: Thank you very much, Mr. Speaker. As Chair of the Task Force on People with Disabilities, I'm very excited to announce that today we are celebrating the 40th Annual Legislative Disabilities Awareness Day. I'm honored and proud to be cosponsoring today's event. And as we always do on this important day, today we will be taking up a resolution and a package of legislation in honor of Disabilities Awareness Day, which show our commitment to New York's disability community. And we are also hosting a fair consisting of over 40 organizations and two seminars to highlight the priorities and needs of New Yorkers with disabilities. We thank all who are participating today to honor the important goals of integration, inclusion and independence.

I do want to add, of course, that the legislation that we are doing today is far from the complete set of what we do in support of people with disabilities; there are other -- there's other legislation coming down the road. And also, we have a tremendous budget fight on our hands because some of the programs that are very near and dear to the heart of this community have been cut by the Executive, and we certainly will be working on that.

So, Mr. Speaker, I ask that you extend your usual warm greetings and courtesies of the House to our guests, and I thank

you, my colleagues, our hard-working Assembly staff, our guests from all over the State and, in particular, Speaker Heastie, who has been very supportive of the Task Force on People with Disabilities, Minority Leader Barclay, Assemblymember Aileen Gunther, Chair of the Mental Hygiene Committee, and Assemblymember Melissa Miller for cosponsoring today's events with me. Thank you.

ACTING SPEAKER AUBRY: Thank you, sir.

Mr. Epstein on the resolution.

MR. EPSTEIN: Thank you, Mr. Speaker. I just rise in support of this resolution. As we know in New York, almost up to 70 percent of people with disabilities are unemployed or out of the workforce. New York needs to continue to be a leader to advance the struggles of people with disabilities, creating opportunities on housing, services, education and employment. We need to be better. We need to be stronger. Acknowledging Disability Awareness Day is an important step forward in that acknowledging it's a real issue, acknowledging we need to do something. I'm proud to support this resolution today. Thank you.

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. 729, Ms. Hyndman. Legislative Resolution memorializing Governor Andrew M. Cuomo to proclaim January 2020, as Peace 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.

MRS. PEOPLES-STOKES: Mr. Speaker, if we could now turn our attention to page 12, Calendar No. 50, it's legislation by Member Lifton. It's first vote of the day.

ACTING SPEAKER AUBRY: The Clerk will read.

THE CLERK: Assembly No. A01092, Calendar No. 50, Lifton, Cahill, Cook, Dinowitz, Gottfried, Ortiz, Paulin, Rivera, Benedetto, Englebright, Cusick, Colton, Bronson, Perry, Simon, Mosley, Seawright, Steck, Williams, Reyes, Wallace, Buttenschon, Santabarbara, Epstein. An act to amend the Civil Rights Law, in relation to waiving the State's Sovereign Immunity to claims under the Americans with Disabilities Act of 1990, the Fair Labor Standards Act of 1938, the Age Discrimination in Employment Act of 1967, and the Family and Medical Leave Act.

ACTING SPEAKER AUBRY: On a motion -- excuse me. 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.)

Mrs. Peoples-Stokes.

MRS. PEOPLES-STOKES: Mr. Speaker and colleagues, this is our first vote of the third week, third day -- first

vote, third day of the fourth week of the 243rd legislative Session. If you're in and around the Chambers, we would ask that you would cast your vote with some speed so that we might move to our next agenda item.

ACTING SPEAKER AUBRY: First vote of the day, members. If you are in your seats or in the Chamber, please vote now. If you are in the sound of our voice, come to the Chamber and vote. Thank you.

Are there any other votes? Announce the results.

(The Clerk announced the results.)

The bill is passed.

Mrs. Peoples-Stokes.

MRS. PEOPLES-STOKES: Mr. Speaker, if we can go to page 27, Calendar No. 140 on debate by Ms. Dickens.

ACTING SPEAKER AUBRY: The Clerk will read.

THE CLERK: Assembly No. A03385-A, Calendar No. 140, Dickens, Santabarbara, Fall, Seawright. An act to amend the Public Officers Law, in relation to the accessibility of public hearings and meetings.

ACTING SPEAKER AUBRY: Ms. Dickens, an explanation is requested. Members, we are on debate. Please.

MS. DICKENS: Thank you, Mr. Speaker. Our colleague, Assemblymember Steck, helped pass legislation to bolster anti-discrimination protections for New Yorkers with disabilities in recognition of January 29th, today, being Disabilities Awareness Day.



Last year, the Assembly passed this legislation that I am putting forth today to offer opportunities for municipalities to provide hearing devices. But we passed it in the Assembly for assemblages of no more -- or no -- had to be more than 100 persons in attendance.

Recognizing, of course, the tax that might present a financial hardship for some villages, municipalities and townships, we wrote into the legislation a financial hardship clause that has no centralized contract; therefore, allowing the municipalities to see if they have the capability of paying, yet being able to offer hearing devices to aid those that are hearing impaired. The reasonable efforts includes accessing fiscal capability to attain hearing aid equipment. Each municipality, township will follow their usual procurement methods and assess what, if any, equipment will fit their needs. An interpreter would appear to be the more economical way to provide this service, often for those that are hearing impaired in the community.

I concur with our colleagues [sic] when he says, and I quote, "Each and every one of us has the right to live our lives with dignity and to be given and treated with respect." That does not change for New Yorkers with disabilities. This legislation enhances that reasoning, adding protections ensuring that all New Yorkers are able to participate independently in public hearings that most times input often negatively upon the quality of life -- all and not merely those of us that are not hearing impaired. As a 504 member, I am acutely aware of many of our obsolete and/or discriminatory laws that need changing. I urge my colleagues to please support this legislation

as, today, we celebrate and recognize today as Disabilities Awareness Day. Thank you.

ACTING SPEAKER AUBRY: Thank you.

Ms. Walsh.

MS. WALSH: Thank you, Mr. Speaker. Will the sponsor yield for a few questions?

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

MS. DICKENS: Absolutely.

ACTING SPEAKER AUBRY: Ms. Dickens yields.

MS. WALSH: Thank you. Appreciating the fact that this is coming -- this bill is coming from a very good place. I do just have some questions about who it would apply to and the cost of the process. So, the bill actually has two parts, does it not, first that a qualified interpreter, if a written request is made, will be provided at a public meeting, that's the first part of the bill. And then second, that equipment will be installed in hearing rooms which can hold 100 or more people unless there would be an undue hardship; is that correct?

MS. DICKENS: Yes, that's correct.

MS. WALSH: Thank you. So what levels of government would this bill apply to?

MS. DICKENS: This would apply to public meetings, not private meetings, but public meetings because that's what we can legislate on is on the public hearings and public facilities. And not every township or every village has a public building, and

many of them do it together. And so, it would give a larger crowd and -- and those that are hearing impaired frequently are not allowed to participate because they don't hear what's going on themselves, and this will alleviate -- help to alleviate this problem.

MS. WALSH: So would it be fair to say that the levels of government that are impacted by this bill would be everything from the village level, town, county, you know, all the way up; is that correct?

MS. DICKENS: Yeah, that's correct.

MS. WALSH: All right, thank you. So, if a village, for example, did not have meeting space that was capable of seating 100 or more people, then this bill would not apply; is that correct?

MS. DICKENS: No, it's for 100 or more.

MS. WALSH: For 100 or more, correct. So in a small village, for example, that has a small, maybe an old building, they might not have a room that would hold 100 or more people.

MS. DICKENS: They would not be impacted upon this legislation if it's under 100 people in attendance.

MS. WALSH: That's -- okay, great. So it's not the size of the government or the -- how rich or poor the community is or the size of the community, the size of the deaf or hard of hearing community that is really the issue here, it's really the size of the room that would be used for the public meeting, whether it was capable of holding over 100 individuals.

MS. DICKENS: Well, if -- if -- if -- if a room cannot

hold 100 persons, we would assume the fire department would not allow 110 people in a room that only could accommodate 25.

MS. WALSH: And fair enough. But also, the reverse of that is also true, correct, ma'am? Because if -- if the building -- if the room could hold over 100 people, but there were only maybe three people in attendance at a particular meeting, this bill would still apply and require that it be equipped to accommodate individuals who are hard of hearing or deaf.

MS. DICKENS: If the meeting has less than 100 people, period, they're exempt from this all together.

MS. WALSH: Understood, thank you. So, in the bill it talks a little bit about "undue hardship" and explains when these accommodations would not need to be provided. Could you talk about what that means, "undue hardship," under this bill.

MS. DICKENS: If a municipality, a township or a county has difficulty in paying -- because they can look up -- there's no centralized contract. So if they look up to find that there are several companies that provide such equipment and they have varying costs, they would need to have that -- those companies come out and assess the needs for that building, the age of the building, the electricity for the building, a varying amount of things that -- that would impact upon putting equipment to be installed. And once they get the cost, they can determine whether they -- their budget would allow them to be able to pay for whatever devices has been recommended for them.

MS. WALSH: So it would be up to the judgment and discretion of that government entity as to whether it presented an undue hardship to them.

MS. DICKENS: That's correct.

MS. WALSH: All right. And is there any enforcement mechanism in the bill? For example, if -- if there's a very, say, wealthy community that had a budget big enough to cover making these accommodations, but they were not made under the guise of saying that it was an undue hardship, is there any way to -- to enforce the bill that you've written here?

MS. DICKENS: No, there's really no -- more endowed financially county that -- that has the capability of paying for such devices and says they don't. They still have two years in which there might be different agencies that might contest that within their -- their municipality.

MS. WALSH: So they would be -- the -- the municipality would be subjecting themselves to the possibility of some legal action for failing to make the changes called for in this bill; is that correct?

MS. DICKENS: Well, only, I think, if they -- if they obviously can afford it and then say they cannot. It might be asked before it goes to legal how did they arrive at that.

MS. WALSH: And how would it be determined if they could obviously afford it?

MS. DICKENS: What determines that?

MS. WALSH: Yes.

MS. DICKENS: Well, they would look at the budget that they have for the year, the past year, and the cost that it would be to put in whichever contracted device that they were talking about using. Or they could look at an interpreter, as well.

MS. WALSH: Well, that brings up another point. So, some individuals know American Sign Language and some individuals who are hard of hearing do not. So, it's really -- you can't equate an interpreter with the installation of equipment for the hard of hearing. You're really -- it could be apples and oranges, correct, for the -- it depends on the individual with disability and what their -- what process they use in order to improve their ability to hear.

MS. DICKENS: That's correct, but individuals frequently request, at least at many meetings that I've have been at, individuals have requested interpreters and/or a device.

MS. WALSH: Okay. Now, speaking of cost, because you had mentioned something about the cost. How much would it cost to, on average, to outfit or to reequip or retrofit a building with the kind of devices that we're talking about under this bill?

MS. DICKENS: That cost is going to be varying, and it would depend upon the age of the building. It would depend upon the -- the -- whether the electricity has been upgraded in -- in -- in the near past. There's variables that would come into play as to the cost of -- of outfitting such a room.

MS. WALSH: All right.

MS. DICKENS: And the size, as well.

MS. WALSH: So previously when this bill has been debated, I believe that last year the sponsor indicated that the average cost was somewhere in the range of \$2,500 to \$4,000 to --

MS. DICKENS: Yes.

MS. WALSH: -- to do this work.

MS. DICKENS: Yes.

MS. WALSH: Okay. So -- but it could be -- it could be considerably more than that; would you agree?

MS. DICKENS: It could be, because it depends upon the age of the building. You know, it depends upon all the variables that we've just discussed that might impact upon the cost of installation.

MS. WALSH: And does the sponsor know whether the Assembly itself complies with this rule right now?

MS. DICKENS: Well, we may not have all of our hearings done so -- but if we've been asked, we have tried to provide interpreters.

MS. WALSH: Okay. Very good.

MS. DICKENS: But also, we do have closed captioning at Session.

MS. WALSH: Very good. And thank you very much for answering my questions, madam sponsor.

And on the bill, sir.

ACTING SPEAKER AUBRY: On the bill, Ms. Walsh.

MS. WALSH: So I think that, again, this is a very laudable goal. We want to make sure that people in our community, whatever their abilities, have an opportunity to participate in our government. So, I do -- I do commend the sponsor for bringing this forward. I am concerned regarding the cost, particularly to small towns and villages that may not have the budgets. I do appreciate the undue hardship provision that was placed in the bill, but I don't know that that really fully addresses the -- the unfunded mandate that is placed on the local communities.

I -- I did a quick search and saw that one company estimated that a typical installation for a larger venue like an auditorium or a senior center or a church could cost upwards of \$5- to \$35,000. So, I am concerned about the cost. It does represent an unfunded mandate on -- on our municipalities and local governments and if they don't do it, they are subjecting themselves to possible litigation. So for those reasons, I will not be supporting this bill, but I thank the sponsor.

ACTING SPEAKER AUBRY: Read the last section.

THE CLERK: This act shall take effect January 1st, 2022.

ACTING SPEAKER AUBRY: The Clerk will record the vote.

(The Clerk recorded the vote.)



Ms. Niou to explain her vote.

MS. NIOU: First, I want to commend the sponsor for this bill. I think that this bill is a very, very important bill for all of us. I actually learned sign language when I was in high school and I feel like so often, there are voices that are lost when we are not considering the -- the -- when we're not considering the inclusion of them in our policy. And I think that this is a rare opportunity for us to actually make that consideration. We talk about the cost of how much it might be to have an interpreter or have hearing assistance provided, but we never think about the cost of their voices lost in our conversations about all of the policies that we're working on, especially the ones that are regarding the disability community or folks who are hard of hearing. And so, we need to make sure that we are providing that and I just wanted to say this bill is very, very important to all of us and for -- for some of us, we're living with a hidden disability, it is even more important to make sure that we are voicing our -- our thoughts. So, thank you so much for allowing me to speak and I vote in the affirmative. Thank you.

ACTING SPEAKER AUBRY: Ms. Niou in the affirmative.

Mr. Goodell.

MR. GOODELL: Thank you, Mr. Speaker, to explain my vote. I appreciate the sponsor's intent, and it's one that I think we, in general, support, making hearings more available. But I think it's really important that we, as the Assembly, lead by example.

We don't comply with this bill ourselves. There's nothing that prevents us from complying it, but we don't comply ourselves. We don't have an interpreter here. We don't have assisted hearing devices here. We should start by showing leadership by example.

Second, we are now in the budget process. It's so easy for us to pass legislation that imposes costs on others. If we're serious about improving this area, we, as the Assembly, should provide the funds so that all of our school districts and all of their gymnasiums and auditoriums and all of our fire departments and all their meeting rooms, and villages and towns and counties have the funds to do what we are asking for them. And we hear from our local officials on every level, every year about how we impose costs on them without providing the funding. And while we expect them to comply with a tax cap, we don't ask them to move forward without recognizing that we are imposing costs on them.

So, because I'm opposed to unfunded mandates and because we're not leading by example and because we're not providing the funding and because we're not even doing it ourselves, let's look at a higher level, lead by example, provide the funding and move forward. Thank you, sir.

ACTING SPEAKER AUBRY: Mr. Goodell in the negative.

Ms. Simon.

And can we please hold down the chatter in the back, please. We have people explaining their votes.

MS. SIMON: Thank you, Mr. Speaker.

ACTING SPEAKER AUBRY: Ms. Simon, proceed.

MS. SIMON: Thank you, Mr. Speaker. I want to commend the sponsor for this bill. This is the kind of bill that we need to be doing in the State Assembly. It is also codifying what has long been Federal law. And so, while I understand that for certain municipalities and certain organizations they haven't been able to keep up, the ADA will be 20 years -- 30 years old this year and many of these institutions receive Federal funding so they would be required to comply with the Rehabilitation Act that's been in effect since 1973. So, if we can help people get this on their radar screen and help enforce and bring this information to organizations so that they know that they need to provide assistive listening systems and sign language interpreters, because it is also a State law, then we're doing the right thing here and I think that we should lead by example. I know that our proceedings are all livestreamed with captions. I think maybe many of our members don't realize that, but they are. So, the Assembly is, in fact, complying in large respect with those requirements of the Americans with Disabilities Act. And I just want to thank the sponsor again and everybody and encourage everybody to vote for this bill. Thank you very much.

ACTING SPEAKER AUBRY: Ms. Simon in the affirmative.

Ms. Dickens.

MS. DICKENS: Permission to explain my vote.

ACTING SPEAKER AUBRY: Please.

MS. DICKENS: There's a couple things. One is that captioning is provided for every Session here in the Assembly. In addition, the Assembly does have interpreters available for all hearings that we have here in the Capitol. So, the -- the Assembly is attempting to aid and help those that have hearing impairment. In addition, we do laws and make requirements at -- at every budget season, as what was said, and many of them has a cost factor to it, but most of them, unlike this one, does not have a hardship clause to aid municipalities and not having to pay into that if they are unable to afford it.

However, I think it's time that we take the step to stand up for all New Yorkers and not just those of us that have been given the good grace of not suffering with hearing impairment, but for all New Yorkers so that they can be a part and participate in a quality of life that should be available to all of us. I vote in the affirmative, and thank you.

ACTING SPEAKER AUBRY: Ms. Dickens in the affirmative.

Mr. Manktelow to explain his vote.

MR. MANKTELOW: Thank you. I'd like to explain my vote as I want to applaud the sponsor for this bill. I think it's a great bill. I think it's a bill that's well overdue. I think we need to do this for each and every individual of this State, absolutely. But I also know, being a past local official, a town supervisor, a county

legislator, speaking with some of my local people last night here in Albany, knowing just how hard it is to do the budget again this year. The many expenses that we have at the local level is just astronomical and every piece of legislation that we pass in this House without attaching a funding source to that piece of legislation to helping -- to help our local officials back home, our local taxpayers back home, is really absurd for us to do that. We know that, we know that the people we represent, the people we care about, they want to do these things, they're for these things, but they just can't afford it. And dealing with the tax cap and talking with our local officials again last night about some of the costs that we weren't prepared for because of the bail reform is just not doable. And I have grave concern that we're not going to be able to do this.

But sponsor, I do thank you for this piece of legislation. I do want to support it, but we need to put a funding source to it. So, if we can do that, I will absolutely support this piece 100 percent, but right now I can't until we can get that funding source there. Mr. Speaker, thank you.

ACTING SPEAKER AUBRY: Mr. Manktelow in the negative.

Are there any other votes? Announce the results.

(The Clerk announced the results.)

The bill is passed.

Mrs. Peoples-Stokes.

MRS. PEOPLES-STOKES: Thank you, Mr.

Speaker. We're-- I'm going to interrupt our proceedings to do an introduction on behalf of our colleague, Ms. Fahy, as well as Disabilities Legislative Awareness Day, and introduce the young lady who has been selected as this year's Viscardi Award recipient, Lindsay Miller. Lindsay is actually here today. She is also joined by her mom, Nancy.

Mr. Speaker, we have heard this over the years, but I think it's due to be repeated that the Viscardi Award is in honor of a guy by the name of Dr. Henry Viscardi, Jr. He's a well-known Long Island resident and founder of the Henry Viscardi School, for his long-time commitment to advocacy on the behalf of people with disabilities. The doctor was born with a disability and dedicated his life to advocating for disability rights, eventually becoming the trusted advisor to every U.S. President from Franklin D. Roosevelt to Jimmy Carter. Upon his death, we decided to honor his dedication and commitment to advocacy on behalf of people with disabilities.

This year, I have the privilege of presenting Lindsay Miller, the Executive Director of the New York State Association of Independent Living, with the 16th Annual Legislative Disabilities Awareness Henry Viscardi, Jr. Advocacy Award. Lindsay is the Executive Director of her organization. She has helped to grow the organization in a major way to benefit the people living with disabilities in and around the Albany area. Mr. Speaker, would you join -- provide Ms. Miller with all of the cordialities of the floor, congratulate her on being honored this year, and extend to her and her

mom the cordialities of the floor.

ACTING SPEAKER AUBRY: Certainly. On behalf of Ms. Fahy, Mrs. Peoples-Stokes, the Speaker and all the members, we welcome you here to the New York State Assembly. We extend to you the privileges of the floor. Our congratulations on receiving this award. I'm sure your mother is as proud of you as we are as proud of you. We hope you will continue this great work, certainly helping those who are in need of the kind of assistance that your organization provides is a marvelous thing. Keep up that good work and continue to enjoy this year, and thank you.

(Applause)

Mrs. Peoples-Stokes.

MRS. PEOPLES-STOKES: Mr. Speaker, for the purposes of another announcement, it is my honor and a pleasure to have this opportunity to introduce on behalf of our colleague, Member Pheffer Amato, these -- the Torah Academy Girls High School, high level educational institution located in Rockaway, Queens. Aren't they stunning? The school produces well-rounded students who not only excel in their academics, but they succeed throughout the rest of their lives. They are joined by the staff, Cecile Wieder, who is the Principal; Mrs. Noy, who is an Assistant Principal; Mindy Alter is the language arts teacher; Mrs. Gibber is the social studies teacher, and Ms. Jacobowitz is the teacher's -- social studies and science teacher. So, Mr. Speaker, as you can see, the Torah Academy is preparing young ladies for a high level of life after they've completed their

education here at this institution. Would you please, on behalf of Ms. Pheffer Amato, extend your cordial greeting to them and welcome them to our Chambers.

ACTING SPEAKER AUBRY: Certainly. On behalf of Ms. Pheffer Amato, the Speaker and all the members, we welcome both students and staff and Principal here to the New York State Assembly, the People's House. We commend you on the work that you're doing in school and the progress you are making in your lives. Continue that great work. Know that you always have the privileges of the floor and that we're always pleased to see you here in Albany and also back in Queens, as I'm sure Ms. Pheffer Amato will be very pleased to see you back in Queens. Thank you so very much. And continue the great work of the school.

(Applause)

Mrs. Peoples-Stokes.

MRS. PEOPLES-STOKES: We can continue on our Calendar, we're going to go to Calendar No. 156, that's on page 29, by Mr. Weprin, on debate.

ACTING SPEAKER AUBRY: The Clerk will read.

THE CLERK: Assembly No. A03923, Calendar No. 156, Weprin, Cusick, Benedetto, Abinanti, Mosley, Seawright, Stern, Reyes, Buttenschon, Otis, Santabarbara, Fall. An act to amend the Executive Law, in relation to requiring counties to maintain a confidential registry of people of all ages with disabilities for evacuation and sheltering during disasters.



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

MR. WEPRIN: Thank you, Mr. Speaker. This bill would require counties to maintain a confidential registry of people of all ages with disabilities for disaster preparedness. It amends Section 23-A of the Executive Law to require that local counties compile and maintain a list of people of all ages with disabilities located within the county. The purpose is to assist local governments with identifying such information, the County Department of Health, the County Department of Social Services and/or the County Department of Mental Health or any such other County Department or agencies are authorized to provide information pursuant to maintaining a confidential registry. It will greatly aid localities in preparing for and responding to disasters. It creates a standardized registry in all counties and allows information to be sent out quickly and efficiently in case of an emergency. It will help protect persons with disability of all ages. Thank you.

ACTING SPEAKER AUBRY: Ms. Walsh.

MS. WALSH: Thank you, Mr. Speaker, will the sponsor yield?

ACTING SPEAKER AUBRY: Mr. Weprin, will you yield?

MR. WEPRIN: Absolutely, with pleasure.

ACTING SPEAKER AUBRY: Mr. Weprin yields.

MS. WALSH: And just from the outset, because Mr.

Weprin is behind me, I hope you don't take any offense that I'm going to be kind of pointing myself forward, so...

MR. WEPRIN: I won't take it personally.

MS. WALSH: Okay, thank you.

Mr. Weprin, I wanted to ask you -- so currently under the Executive Law, counties do have the permission to maintain a registry like this; is that correct?

MR. WEPRIN: They have the permission, but it's -- but it's not mandated. And, as you know, in the past number of years, we've had increased amount of natural disasters, which would necessitate this even more.

MS. WALSH: Thank you. So my understanding is that back in maybe like the 2005-2006 timeframe, there were some hearings done, and it was found at that time that not very many counties were maintaining a registry such as this. Do you know how many counties are currently maintaining a registry?

MR. WEPRIN: I do not know. There may be more with the increase in natural disasters, but in any case, this can save lives and it should be mandated to all counties in the State.

MS. WALSH: Okay. So without knowing how many counties are already doing this, we want to mandate all 62 to do it; is that -- is that right?

MR. WEPRIN: Correct.

MS. WALSH: Okay. So what specifically would be included on the registry? The name of the individual, the address of

the individual -- could you just go through that, please?

(Pause)

MR. WEPRIN: My understanding is it's -- it could be potentially different information county by county depending on the County Executive and the Legislature, but the basic idea would be to identify that particular individual with a disability in the case of disaster and where they're located and what their disability is.

MS. WALSH: Okay. Does the bill specifically say what needs to be included in the registry?

MR. WEPRIN: I don't believe it does.

MS. WALSH: Okay.

MR. WEPRIN: It authorizes the emergency individuals to enter their location to help out in case of a disaster.

MS. WALSH: And who is it that's identifying the individuals with disabilities to be included on the registry?

MR. WEPRIN: Well, it's a voluntary registry by the individual, so they would submit, you know, their names - either them or an immediate family member could submit the names of that individual.

MS. WALSH: Okay. So it's completely voluntary, and they would be self-identifying the nature of their disability; is that correct?

MR. WEPRIN: That is correct.

MS. WALSH: All right. And what do you believe would be the cost that would be incurred by each individual county for

setting up and maintaining such a registry?

MR. WEPRIN: A few years ago a similar bill passed both Houses and was vetoed by the Governor, and at that time he determined it would be about \$10 million. I would estimate that cost has gone down because of advances, you know, with the Internet, with public information, with computer information. So, I would guess it would be less than it was identified a few years ago as being \$10 million.

MS. WALSH: Okay, very good. But we -- it's really an undetermined cost, we really don't know what it would cost?

MR. WEPRIN: Well, I would anticipate it would be less than \$10 million.

MS. WALSH: Less than \$10 million, okay. And who would the registry information be shared with? What entities would be -- have access to this information?

MR. WEPRIN: It would be basically the agencies I referenced in my introduction who basically would be involved in the case of an emergency.

MS. WALSH: All right. So would that possibly include a local police department or a local fire department?

MR. WEPRIN: Yes, it would.

MS. WALSH: Okay. I believe in the past, you had indicated that you would like the information to be shared with as many entities as possible in order to ensure the safety of the people on the registry; is that correct?

MR. WEPRIN: That is correct.

MS. WALSH: Okay. And lastly, I think there's something called Smart 911, there's a system that's available Statewide, so would this provide -- this registry provide some -- something that that type of system would not?

MR. WEPRIN: Well, you know, this -- we believe that system, you know, is not being used by everybody and this would basically encourage people and families of people with disabilities to make sure that -- that their location is known and that their disability is known, which would require additional assistance. So, this would be in addition to that. We believe this will make it -- identify more individuals in need.

MS. WALSH: And lastly, for the -- for the counties that have already undertaken to establish a registry, have already expended whatever money and man hours and women hours needed in order to set this thing up, would this bill impose an additional requirement that they then can form whatever process they've been following to what the bill requires?

MR. WEPRIN: I think it would be depend county by county on the current program, but the idea behind this is we want to get as many individuals identified by the various counties and in the registry in the case of an emergency.

MS. WALSH: And who would be making -- what agency or group would be making the determination about whether an existing county registry met muster, you know, under this bill if it's

passed and sign into law?

MR. WEPRIN: It would be determined county by county by the local authorities.

MS. WALSH: Very good. Thank you.

Mr. Speaker, on the bill.

ACTING SPEAKER PICHARDO: On the bill.

MS. WALSH: So, once again, I do very much agree with the idea behind this bill. I think it's important. I checked with the Emergency Services Coordinator in the county that I represent. They already have it. I really was genuinely interested to find out how many counties have done this. I mean, this bill has been kind of kicking around since 2006 and I think that from the time that hearings were held in 2005 and '6 when it was said that there were very -- a very limited number of counties that were doing it, I would venture to guess that out of our 62 counties, you know, I can't really guess how many are doing it because we don't know.

I just think that a better course of action might be before we impose a mandate on all counties to create a registry, that we figure out how many are already doing it, because this may be a solution in search of a problem. I do think that it's going to result in, for the counties that haven't done it, an unfunded mandate. And for those counties that have already done it, they may have to change around the process that's already been working for them in order to comply with this bill. So, I do thank the sponsor for the bill, but I don't think in this present form that I will be supporting it. Thank you.

ACTING SPEAKER PICHARDO: Read the last section.

THE CLERK: This act shall take effect January 1st.

ACTING SPEAKER PICHARDO: The Clerk will record the vote.

(The Clerk recorded the vote.)

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

(The Clerk announced the results.)

The bill is passed.

Mrs. Peoples-Stokes.

MRS. PEOPLES-STOKES: Mr. Speaker and my colleagues, if we can now move to our next item on debate, it is Calendar No. 266 by Mr. Dilan, and it's on page 48 of our Calendar.

ACTING SPEAKER AUBRY: The Clerk will read.

THE CLERK: Assembly No. A07331, Calendar No. 266, Dilan, Weprin, Otis, Buttenschon, Santabarbara, Seawright. An act to amend the Executive Law, in relation to clarifying that reasonable accomodation to enable a person with a disability to use and enjoy a dwelling includes the use of an animal to alleviate the symptoms or effects of a disability.

MR. GOODELL: An explanation, please.

ACTING SPEAKER AUBRY: Mr. Goodell asked for an explanation, Mr. Dilan.

MR. DILAN: Thank you, Mr. Goodell. This bill --

the purpose of bill is to provide clarifying language for individuals with a disability to allow an animal in their dwelling unit that such animal alleviates the symptoms or the conditions of their disability.

ACTING SPEAKER AUBRY: Mr. Goodell.

MR. GOODELL: Would the sponsor yield?

MR. DILAN: Certainly, Mr. Goodell.

ACTING SPEAKER AUBRY: Mr. Dilan yields.

MR. GOODELL: Thank you, Mr. Dilan. Just so we're clear on what current law is, under current law -- under current law, service dogs, seeing eye dogs, specially-trained dogs for those who are disabled already covered, correct?

MR. DILAN: Yes.

MR. GOODELL: And so anyone who has a service dog or a guide dog or hearing dog, this bill doesn't apply to them at all, they're already covered?

MR. DILAN: Yes.

MR. GOODELL: So what animals then would this apply to if we're not talking about guide dogs, service dogs or hearing -- or seeing eye dogs?

MR. DILAN: Well, I think the answer to that would be, certainly the language says "an animal," as you've read. That can be very broad, but I think the key here is any animal that provides a reasonable -- that a homeowner or a co-op board can provide a reasonable accommodation for such animal, and it has to be proven that that animal actually provides a alleviation of the symptoms of the



tenant's disability.

MR. GOODELL: Would this then include emotional support animals, for example, for those who --

MR. DILAN: It can be, in the cases of depression, yes.

MR. GOODELL: As you know, there's been a great deal of controversy over perceived abuses of the emotional support animals, particularly flying on airplanes. And part of the challenge has been that there's no standards on what constitutes an emotional support animal, no training requirements, no restrictions that otherwise apply. Does this bill address that issue by requiring that animals that fall within this be specifically-trained or meet other certification requirements?

MR. DILAN: So this bill wouldn't specifically address the qualifications of said dog in terms of what the dog is able to do. But I think where it gets narrowed down is, one, the dog has to have the -- has to have been proven to alleviate the symptoms. And in underlying court cases, there have been individuals who have provided medical evidence to a court from a psychologist or a doctor that their animal has done exactly that.

MR. GOODELL: You mentioned the dogs, but of course, as you also acknowledge, this is not limited to dogs, right?

MR. DILAN: It's not limited to a dog, yes.

MR. GOODELL: And it would cover presumably cats?

MR. DILAN: Could you repeat that? I'm sorry, Mr. Goodell.

MR. GOODELL: Presumably it would also cover cats?

MR. DILAN: Yes.

MR. GOODELL: And birds or other animals?

MR. DILAN: It could, yes.

MR. GOODELL: Now the Federal guidelines when it applies to emotional support animals expressly prohibits certain animals from flying on an airplane, for example. It may be news to some, but you're not allowed, notwithstanding a famous movie, you're not allowed to take snakes, reptiles, ferrets, rodents or spiders on an airplane. But this bill doesn't contain any similar limitation, correct?

MR. DILAN: It doesn't contain any similar limitation, but, Mr. Goodell, as you know the State Legislature and the State Government doesn't regulate airplanes; that would be a function of the Federal government and the FAA. But I certainly believe that within the clarifying language here that the Department of Human Rights requested, it allows for a judge to make a discretion based on what is reasonable for a homeowner to accommodate within their building. So if a certain animal couldn't be accommodated by such dwelling unit and the owner was able to show proof that such animal couldn't be accommodated, it wouldn't be permitted.

MR. GOODELL: Now, this legislation applies to any dwelling, correct?

MR. DILAN: It is -- it is open to any dwelling, but underlying case law has shown that, you know, largely the problems exist in co-op units, but it applies to any dwelling.

MR. GOODELL: But it would, by its terms -- I mean, it's not limited to apartments.

MR. DILAN: It's not limited.

MR. GOODELL: So, this language would also apply, for example, to a condominium complex or a cooperative?

MR. DILAN: It's not limited.

MR. GOODELL: Or an Airbnb?

MR. DILAN: Well, I would -- that's where, you know, frankly at this point in time, I couldn't give you an answer. I would -- I don't know the rules on Airbnb's per se; it's in other section of, you know, Housing Law, but my opinion, I would certainly think that this would be for a lawful permanent tenant in a building that was lawful to be inhabited by a long-term tenant that also had a disability. So, I'm not sure how an Airbnb, in this case, would -- would apply.

MR. GOODELL: Does this language limit the definition of "dwelling unit" to one in which it's a long-term tenancy or an ownership interest or anything of that nature?

MR. DILAN: You know, it says "dwelling unit" in -- in the language. I don't think it provides a definition in the section that is being sought to be changed. It may -- the definition of a dwelling may exist in other sections of the Human Rights Law, but I'm almost certain that, you know, how we deal with short-term stays in

Airbnb's are not addressed.

MR. GOODELL: Now, many condos or cooperatives, as part of their bylaws, prohibit pets, in large part because sometimes pets can be very disruptive to the other owners or the other occupants. What documentation would be allowed for a condominium or a cooperative or a management company or a landlord to request in evaluating whether or not an animal, who was not a service animal, or a seeing eye dog or a guide dog, but a, you know, emotional support animal. What documentation can they legitimately request? So, for example, does this bill authorize them to request medical documentation?

MR. DILAN: Well, the -- the -- the bill -- the bill doesn't, but what I would say in underlying case law, there have been cases that have gone to courts and before Administrative Law Judges in which, you know, the -- the disabled individual that had the pet, you know, certainly brought the case, provided the medical evidence and not only did the State Department of Human Rights agree with the disabled that was discriminated against, but, you know, certainly the courts of our State have also agreed. In those cases, one in particular, they allowed -- you know, they ordered, you know, said co-op board to allow the tenant to keep the dog and also awarded monetary damages.

MR. GOODELL: So, that's under existing law?

MR. DILAN: In other cases, all right, of where the disabled did not provide medical relief and prove medical relief, the

outcomes weren't as positive.

MR. GOODELL: So if the courts are already addressing this issue and doing a -- an analysis, why do we need this?

MR. DILAN: Well, in my opinion, the State Department of Human Rights requested this because there had to be clarifying language that says that an animal that alleviates the symptoms of someone's disability is also protected. I think in the -- in the past language it was certainly implied, but because of the case law that came forward, they felt the need to add this as clarifying language. And I think it could be both beneficial to tenants, disabled tenants and homeowners because when -- certainly if I'm part of a co-op board and there's existing case law that I could potentially discriminate and I know that the damages to, you know, my co-op could be in the range of \$10,000 to \$7,500, I certainly have law that clarifies that my co-op could be at risk to that amount and it would allow me to follow the law and, you know, save my -- my organization of monetary damages.

MR. GOODELL: I appreciate those comments.  
Thank you very much, Mr. Dilan.

On the bill.

MR. DILAN: Thank you, Mr. Goodell.

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

MR. GOODELL: Unfortunately, we have seen extensive documentation and considerable data on how the concept of

an emotional support animal has been abused, not just in New York, but across the nation. And, unfortunately, because that concept has been so often abused because there are no recognized certification or training standards, many disability advocates have expressed great concern over eliminating the distinction between highly-trained service dogs or guide dogs and all other animals that an individual might claim somehow helps them address an undefined condition.

Recently, for example, a number of nationally-leading disability advocates outlined the problem when you eliminate the distinction between highly-trained service and guide dogs and all the other animals that are out there that people want to keep as pets. For example, the President and Chief Executive of the World Service for the Blind said, quote, "An untrained pet masquerading as a service animal is a growing problem, and that confusion over service dogs, especially those that are highly trained to help people with disabilities, that confusion with emotional support dogs that require no training cloud the issue for disability advocates."

Gerry DeRoche, who is the Chief Executive Officer of the National Education for Assistance Dog Services said, quote, "Fraudulent service or support animals can displace legitimate animals, particularly when there's limited opportunities." Dave Favre, who is Editor-in-Chief of the Animal Legal and Historic Center at the University of Michigan said, quote, "Fraudulent cases erode trust about service animals," and he went on to say, "Abuse is everywhere." And the reason we have this widespread abuse when it comes to

emotional support animals is because all of us who have pets will reassure everyone else that we love our pet and our pet is a great comfort. And when we come home from spending several frustrating days in Albany, it's great to have that unequivocal love from a pet that jumps in our lap. And only later do we have to discuss with our spouse how they had to clean up after the pet all week while we were gone.

So while we recognize that our pets give us emotional support, that doesn't mean that we should wholesale -- state there's no difference between a highly-trained guard dog -- or, I'm sorry, a guide dog, highly-trained guide dog, which is essential for someone with disabilities, and a pet that merely helps alleviate our own concerns with frustration or stress. I would also note that in a disability, the great concerns raised by the advocates, there's great concerns raised by tenants. And the tenant advocates are very much aware of the fact that if you are in an apartment building, or a co-op or a condo, and your next door neighbor has an untrained pet who likes to wake you up when you like to sleep, it is a real problem. And it's not a real problem with highly-trained seeing eye dogs and guide dogs and service dogs, because they are specifically trained to be housebroken and to be good neighbors. But it's a real problem with untrained pets. And if you're a condo owner or a cooperative and the apartment next door keeps you awake all night, good luck selling your unit. It's worthwhile for you to pay for your neighbor to go on vacation when you're trying to sell the unit, because otherwise you will face severe

damages.

And finally, keep in mind that many people have serious allergies. My wife is allergic to cats. It's not that she doesn't like them, she loves them, but the dander and the fur and the hair creates an allergic reaction that's not at all uncommon. So, as we open up all of our apartments to pets, we want to keep in mind the impact that it has on other tenants who are also paying rent. For these reasons, we need to tighten this bill before it moves forward and I would recommend a vote against it. Thank you, Mr. Speaker and, again, thank you to my colleague.

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. Simon to explain her vote.

MS. SIMON: Yes, thank you, Mr. Speaker. I want to just clarify -- I want to commend the sponsor for this bill, and to also clarify some questions that were raised by other speakers. Number one, it's very clear in the law what the difference is between a pet, a companion animal and a service animal. I'd like to suggest that everybody Google, "Guide to the use of Service Animals in New York State," the joint report by the City Bar and the State Bar, compiled a very extensive report on the use of service animals. I was one of the authors of that report.



The reality is that service animals are trained. The vast majority are trained by their owners to do for them what it is they need done. Guide dogs are a wholly different set -- subset of that, that are even more highly trained because of the population that those guide dogs serve. They cannot be confused with service animals, but they are a subset of service animal, and service animals are not pets, they have -- and their owners have different rights under the law. And I just want to clarify that for everyone so they're not confused. Thank you.

ACTING SPEAKER AUBRY: Ms. Simon in the affirmative.

Mr. Dilan to explain his vote.

MR. DILAN: Certainly, and I'd like to thank Ms. Simon for that clarification. I was just about to do that, so there won't be a need for me to do that part of it. But I do also want to clarify that in this bill, we are not opening up the entire housing stock of -- for pets. You know, obviously this is specifically for those who are disabled and for those who can medically show that, you know, their animal alleviates their symptoms.

Now, in -- in a prior governmental life, you know, I was the Chair of the Housing and Buildings Committee. We had legislation that in -- in statute would allow all of New York City's apartments to have pets, whether you were disabled or not. That bill never came to the floor because I had believed that it was the right of a building owner or organization certainly to, you know, make that

rule that we did not need that in law. But in the case of someone who is disabled and needs additional services than everyone else to get by and deal with their symptoms, I certainly believe that is correct and I vote in the affirmative.

ACTING SPEAKER AUBRY: Mr. Dilan in the affirmative.

Are there any other votes? Announce the results.

(The Clerk announced the results.)

The bill is passed.

Mrs. Peoples-Stokes.

MRS. PEOPLES-STOKES: Mr. Speaker, if we can take up our last debate for today. We're going to go to Calendar No. 346 by Mr. Hevesi, and it's actually on page 60.

ACTING SPEAKER AUBRY: The Clerk will read.

THE CLERK: Assembly No. A08994, Calendar No. 346, Hevesi, Glick, Jaffee, Barron, Colton, Mosley, Epstein, Buttenschon, Otis, Santabarbara, Seawright, Reyes. An act to amend the Social Services Law, in relation to establishing factors to be considered when a health care practitioner upon examination has a different opinion from an applicant's treating health care practitioner's opinion as to an applicant's disability.

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

MR. HEVESI: Good, afternoon, Mr. Speaker; good afternoon, my colleagues. This bill we have seen before. We passed

it out of this House last year, also passed the Senate, then the Governor vetoed it and sent a veto message that is frankly devoid of facts and nonsensical - I'll get to that in a second. But just for the underlying bill, this bill was designed to address a specific problem for people with disabilities when they go to apply for public assistance. They get treated, not treated, diagnosed by a doctor who works for the local Social Services district, based off of one visit with that doctor, and then they are put in jobs that they are simply not capable of maintaining. So many people with disabilities are then unable to comply with the work requirements, they lose their public assistance because they're unable to work, therefore they -- it hurts them, they lose money and it hurts the county because they become homeless.

So this bill mirrors Federal law and basically what it does is it allows the weight of the treating physician, not the doctor that is employed by the local services district, but the treating physician who has a history with that patient, under certain circumstances. Now, let me get to the Governor's veto message.

Number one, Veto Message No. 179, the Governor states that the bill is unnecessary. Well, for all of the disabled persons who've been knocked off of public assistance because they were made to work in jobs that they simply were not capable of handling, I would say that that's a little offensive. He would also suggest that safeguards already exist, but couldn't point out the safeguards so, frankly, there are none. In the veto message, the Governor also says this bill could

encourage fraud or erroneous decisions by doctors. Well, first, for fraud, we lifted the language for this bill right from a Federal statute where they do the same thing, and there's been no problems with fraud.

And the last piece is he's trying to stop erroneous decisions by doctors without expertise. Let me address that specifically. This bill gives controlling weight to the person's doctor, but only under certain circumstances. One of those circumstances is the expertise of the doctor. This bill prohibits a doctor who is a foot doctor from diagnosing Multiple Sclerosis and using it as a reason that somebody should not get benefits.

So, I find the Governor's veto, frankly, nonsensical and when he bats stuff our way like this, we're just going to bat it back with facts and be on the side of the people in the disabled community who have been hurt by OTDA and local Social Service districts.

ACTING SPEAKER AUBRY: Mr. Goodell.

MR. GOODELL: Thank you, Mr. Speaker. Would my colleague yield?

ACTING SPEAKER AUBRY: Mr. Hevesi, will you yield?

MR. HEVESI: Yes, sir, Mr. Goodell.

ACTING SPEAKER AUBRY: Mr. Hevesi yields.

MR. GOODELL: Thank you, Mr. Hevesi. You mentioned the veto and you mentioned your disagreement with the language of the veto message.

MR. HEVESI: Yes.

MR. GOODELL: Has there been any change in the language of this bill as a result of that veto or for any other reason?

MR. HEVESI: No. Since I felt that the veto message was devoid of facts, we felt no need to change the bill.

MR. GOODELL: And have you met with any of the Governor's staff or the Governor himself to discuss this?

MR. HEVESI: I have not met with the Governor myself. I'm sorry, I'm trying not to chuckle on that one. But also, our staff has had conversations. But, we after those conversations, decided, no, we're just going to send it back and we'll keep sending it back. And also, we will make the public aware that the Governor is allowing a circumstance where people with disabilities are repeatedly kicked off of public assistance.

MR. GOODELL: Now you mentioned that many people with disabilities are sanctioned when they are unable to perform any work or training activities. As you know, the Office of Temporary and Disability Assistance publishes a very comprehensive list of data reporting on almost every aspect of their program. Can you advise us how many people with disabilities are actually sanctioned?

MR. HEVESI: Are actually sanctioned?

MR. GOODELL: Yes.

MR. HEVESI: Well, in New York City, the number is almost zero now because several years ago - this is a different topic,

but related - we passed a bill by former Chairman Keith Wright to end the sanction process and impose a conciliation process. So, in the City of New York, that policy has been going I believe since 2015, so very few people are sanctioned. However, Upstate is still -- the rest of State - and I hate that term, I'm from the City, but I hate that term - but the rest of State is still able to sanction people. We had a bill from Ms. Hunter, my colleague, was passed here last year that would mirror the conciliation process that the City of New York is currently employing. The Governor vetoed that, as well and, by the way, that veto message was devoid of fact, as well.

So, I don't know the exact number of how many people were sanctioned, but we know that sanctions are occurring in large numbers in Upstate New York.

MR. GOODELL: But in terms of your district or New York City, the number of people that are sanctioned is near zero?

MR. HEVESI: I don't want to say near zero, I'd say very low --

MR. GOODELL: Very low.

MR. HEVESI: -- because we took steps proactively as a Legislature to stop the process.

MR. GOODELL: And so -- okay, I appreciate that. You mentioned that this language tracks or mirrors Federal law.

MR. HEVESI: Yes, sir.

MR. GOODELL: But isn't it clear that Federal law is black and white, that a medical determination is not the same as a

disability determination?

MR. HEVESI: Yeah, do me a favor, Andy, because we go through this every couple years this bill has gone through. Could you do me a favor and explain your distinction between the two and then I'll -- I'll elaborate why I -- I don't think the distinction is necessary.

MR. GOODELL: Certainly. So the reference under the Federal regulations is 20 CFR 416.927, for all those who are writing that down. And what it says is, "Opinions that you are disabled," that's the subtitle, and it says, "We," meaning the Federal Social Security Administration, "we are responsible for making the determination or decision about whether you meet the statutory definition of disability. In so doing, we review all the medical findings and other evidence that support a medical sources statement that you are disabled." It goes on to say, "A statement by a medical source that you are, quote, "disabled," closed quote, or, quote, "unable to work," closed quote, "does not mean that we will determine that you are disabled. That is an opinion reserved to the Commissioner. We use medical sources, including your treating source, to provide evidence, including opinions on the nature and severity of your impairment, and although we consider opinions from medical sources on issues such as whether your impairment meets or equals the requirements, your residual functioning capacity or the application of vocational factors, the final responsibility for deciding these issues is reserved to the Commissioner."

I think that's fairly self-explanatory, but basically in the Federal model, they say we'll listen to what your medical expert says your physical condition is, but we make the vocational determination as to whether that means you're disabled. And, as you know, under the old system there was a Dictionary of Occupational Titles that had over 12,000 occupations listed with criteria. And so on the Federal model, the determination of whether you're disabled for purposes of the Federal determination is a vocational decision which includes medical evidence, as well as other evidence.

MR. HEVESI: Yup.

MR. GOODELL: This language that you're suggesting does not make it clear that the determination of disability would remain with the State, correct? It says the doctor would make not only a medical decision, but a disability decision.

MR. HEVESI: I -- I -- I understand the logic of trying to distinguish between the two, but I would suggest that to distinguish, it's a distinction without a difference, and here's why: So, when a person with a disability -- a disabled person, a person with disabilities goes before a doctor that's contracted by the Department of Social Service, what we've been finding is that that specific doctor is underdiagnosing or overdiagnosing, okay, because they don't have a history and, therefore, that diagnosis is being used to determine their work capacity. It may be a two-step process, Andy, but it's part of that two-step process and, therefore, the people with disabilities are being placed into jobs that they cannot do.



So, the -- the law -- the language of the Federal statute that you just mentioned is not what we track in the bill. What we track in the bill is that -- a different section of Federal law where we give controlling weight to the disabled persons' doctor under certain conditions. So, I understand there's a -- you think there's a distinction, but I'm telling you that the diagnosis then leads to a determination by the DSS which is problematic. So, we're trying to get both in one shot.

MR. GOODELL: The next -- and I appreciate that. I think what I quoted were the regulations that implemented the language -- statutory language you were referring to, and perhaps --

MR. HEVESI: But we don't put that in this bill and we don't put that in the statute on purpose. We're not grabbing their regs and putting it in here.

MR. GOODELL: All right. So, I'm just saying that if you wanted to consider changing the bill in a way that the Governor might -- and others might find more palatable, you might want to include in your language a distinction between a medical opinion and a disability determination.

MR. HEVESI: You know, it's interesting, Andy, so, if -- if that was in the veto message, I would have considered and we could have a conversation about that, but that's not what I got back.

MR. GOODELL: I -- I didn't write the veto message.

MR. HEVESI: Good, then we can remain friends.

(Laughter)

MR. GOODELL: Under the -- I wanted to just review the current process to look at what safeguards are in place right now. So under current law and current regulations, if an individual wants to apply for a disability determination and they submit an application to the Department of Social Services accompanied by whatever medical records or information or opinions they desire, that's the first step. If the Department agrees, then they're granted the disability determination, right?

MR. HEVESI: Mmhmm.

MR. GOODELL: If the Department doesn't agree, then it goes to a second step. I just want to make sure we're on the same wavelength. The second step is it's referred to a medical examiner, you said hired by the local Social Services Department, but it's a medical examiner approved by the State, not the locals.

MR. HEVESI: Yeah, but on the payroll of the DSS, but, yes, you're right.

MR. GOODELL: And so if that physician agrees with the applicant, the determination is final, they become classified as disabled. If they don't agree, then they can appeal, so there's a third step, an administrative appeal.

MR. HEVESI: Can I -- can I touch on the steps before you go to the third one?

MR. GOODELL: Certainly.

MR. HEVESI: So, you're right about the first step. The second step, numerous court cases, and I can hand them to you

offline, have indicated that the doctors that we're referring to that are hired by the Social Services Districts that are vetted by OTDA have felt pressure to overdiagnose or underdiagnose. That's the issue we're trying to get at. So, the second step is problematic. And you're right, they have a right to appeal the decision and I believe you're fourth step will be they go to a fair hearing; am I correct?

MR. GOODELL: Yes. So the fair hearing, I wanted to just --

MR. HEVESI: Sure.

MR. GOODELL: -- get a sense of whether you thought the fair hearing process was working, because it looks like there were about 42,000, 43,000 people who are classified as disabled for work.

MR. HEVESI: Right.

MR. GOODELL: That's on a monthly average. It looks like there were just under 11,000 requests for hearings.

MR. HEVESI: Right.

MR. GOODELL: Apparently, a little more than half of them were resolved because there were only 4,900 hearings held. Of those, there were only 609 that were reversed. So, I mean, it seems like a very small -- it seems the system is working, but the number that were reversed and affirmed is it about the same, by the way, roughly 600.

MR. HEVESI: So -- so you are right, your numbers would indicate that. But I'm going to need your help, Andy, post this

Session and post -- post Budget. I believe that the Fair Hearing Process in New York State is a mess and I would like to tell you that our Social Services Committee, which you are on, will be holding a hearing on fair hearings, because we have found that there are circumstances which somebody goes to get their due process rights, has a fairing hearing, the judge, the Administrative Law Judge rules in a case and then the agencies don't comply with the ruling. We've had that as a number of cases. Also, we've had people, particularly with disabilities, who have trouble getting to these hearings. So, there's a real problem with the fair hearing process and I believe the people are being denied their rights. But, that's not for this bill, but I promise you post-budget, I would like to work with you and my colleagues on both sides of the aisle to address the fair hearing process to make it fair.

MR. GOODELL: And I assume that we'll have a fair public hearing on the fair hearing process?

MR. HEVESI: Yes, this is a hearing about fair hearings, that's correct.

MR. GOODELL: Thank you, Mr. Hevesi, I appreciate your comments.

MR. HEVESI: Thank you, sir. I appreciate it.

MR. GOODELL: On the bill, sir.

(Pause)

On the bill, sir.

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

MR. GOODELL: A fundamental obligation of all of us is to make sure the system is fair, but also to protect the taxpayers. So, the current system is a system of checks and balances to accomplish both objectives. It's fair to taxpayers, because the final decision as to whether an individual is disabled is made by the Department of Social Services. Their role is two-fold: One, to make sure those who are truly disabled are properly classified as disabled. That's one of their primary goals. And their second goal is to minimize waste, fraud and abuse and to block those who aren't truly disabled. They have both roles. And the system reflects multiple checks and balances. So, they're required to consider the applicant's medical information. If they question it, they're required to have an independent medical review by an individual who is not approved just by them, but is approved by the Department of Social Services here in Albany, OTDA. If the applicant disagrees with that, they go to a third step which is a fair hearing in front of an impartial hearing officer. And if they still disagree, it goes to a fourth step, which is a judicial review. All four steps, all four steps designed to protect the applicant, but also to protect the taxpayer.

But this bill changes that equation. This bill says the applicant's hired expert will make a determination on whether the applicant is entitled to benefits from the State, not the State itself. And we're told that this change is consistent with Federal regulations or Federal approach, but in reality, the Federal law is absolutely clear. The Social Security Administration Disability Division, they are

absolutely clear - the applicant's expert doesn't determine whether you're disabled for Social Security, the Social Security Administration does. And that's the way the system should work.

All of us, particularly Upstate, are very, very much aware of the huge cost of Social Services and the fact that in many of our counties, Social Services accounts for 70, 80, 90 percent of our entire tax levy. So, we're very sensitive about the impact on taxpayers. We want to be fair, but we don't want to be foolish. The current system has multiple checks and balances, and we cannot and should not put the applicant and their expert in charge of whether the applicant qualifies for benefits rather than an independent evaluation by our own local experts. Thank you, Mr. Speaker, and thank you, Mr. Hevesi, for your comments.

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.)

Are there any other votes? Announce the results.

(The Clerk announced the results.)

The bill is passed.

Mrs. Peoples-Stokes.

MRS. PEOPLES-STOKES: Mr. Speaker, if we can go to page 60, we're going to take up three bills all in -- in a row.

They're going to be Cusick, Calendar No. 347; Steck, Calendar No. 348 and Lavine, Calendar No. 349, in that order, Mr. Speaker.

ACTING SPEAKER AUBRY: The Clerk will read.

THE CLERK: Assembly No. A08996, Calendar No. 347, Cusick, Lupardo, Blankenbush, Colton, Weprin, Stern, Walsh, Hunter, Mosley, Buttenschon, Otis, Santabarbara, Reilly, Seawright, Fall, Palmesano. An act to amend the Tax Law and the Labor Law, in relation to establishing a small business tax credit for the employment of disabled persons; and providing for the repeal of such provisions upon expiration thereof.

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.

The Clerk will read.

THE CLERK: Assembly No. A09004, Calendar No. 348, Steck, Reyes, Colton, Simon, Jaffee, De La Rosa, DeStefano, Crouch, Mosley, Cook, Stern, D'Urso, Englebright, Santabarbara, M. G. Miller, Barron, Zebrowski, Rivera, Dickens, Romeo, Gottfried, Montesano, Morinello, Kolb, Walsh, Cruz, Buttenschon, Otis, Weprin, L. Rosenthal, Frontus, Seawright, Griffin, Fall, Niou, Jacobson, M. L.

Miller, Palmesano, Epstein. An act to amend the Executive Law, in relation to establishing the Office of the Advocate for People with Disabilities.

ACTING SPEAKER AUBRY: Ms. Walsh.

MS. WALSH: Thank you, Mr. Speaker, on the bill.

ACTING SPEAKER AUBRY: On the bill, ma'am.

MS. WALSH: I want to commend the -- the sponsor, Assemblyman Steck, for bringing this bill forward. This bill would establish the Office of the Advocate for People with Disabilities. As many of you know, about 25 years ago I was told by my son's pediatrician that my son might have a little Autism, and I had absolutely no idea what that meant. It really just spun our family into a lot of confusion and a need for knowledge, and really not knowing where to turn. And, I mean, I'm happy to report that all these years later, my son's made great gains and is living a very happy life, but I also think that, you know, both his father and I are people with education and means. And I think that, you know, we had a distinct advantage in utilizing the resources that were out there and trying to get the best result for my son. Even as I came to the Assembly a few years ago, I came and it was another whirlwind, right? I didn't know, you know, how -- how to -- how to work within this system and I was finally able to reach out and find individuals and colleagues and people that were able to help me and to guide me to understand better how to do my job.

It's the same for individuals and families who are



dealing with all kinds of disabilities. There are issues related to housing, employment - which has been mentioned already today - education, aging, mental health. It covers so many different areas and disciplines and very often in my office, I'm fortunate enough to have a lot of people who are great experts in all of these fields come and visit me with great ideas for helping individuals with disabilities, but they don't necessarily know where to go. There is no clearinghouse for that kind of information. They don't know how to get it in the budget. They don't know how to get legislation passed. There is no one that I'm aware of right now at the State level who is taking a look at the other 49 states in this nation and saying what are they doing? What -- what can we lift that's been positive and has worked in other states and how can we best help the people of our State who are dealing -- who are exhausted, who are dealing with a loved one who has disabilities that they want to be able to help.

So, I think -- I -- one of the things I believe in strongly is for smaller government, not larger government, so it should be remarkable, maybe, to you that I am so supportive of this bill which would create this Office of the Advocate for People with Disabilities. This position would be an entity within the New York State Department of State. It would advise and assist all other State agencies in developing policies designed to help meet the needs of persons with disabilities. I really rise -- I am preaching to the choir here. When this bill came up last year, we were unanimous in our Body; it was vetoed by our Governor. And the reason for the veto, as

expressed, was that it was budgetary. So, I -- I implore the Governor, please, I know it's a difficult budget year, but this is an investment that we, as a State, need to make in a growing population of individuals with disabilities who, if they receive timely help and resources and assistance, they can make gains. They will make gains. But let's not make it just the people with the education and the means who are able to get the better results for their kids. Let's make it for everybody.

So, I proudly support this legislation. I thank the sponsor for bringing it forward. Thank you, Mr. Speaker.

ACTING SPEAKER AUBRY: Thank you.

Read the last section.

THE CLERK: This act shall take effect --

ACTING SPEAKER AUBRY: Hold on one minute.  
Mr. Sayegh.

MR. SAYEGH: Thank you very much, Mr. Speaker. I just wanted to also commend the sponsor and to really, as we walk the halls of the LOB and we see the many organizations and agencies that provide some sort of services for people with disabilities, it really should always remind us that individuals with disabilities, many start -- or we start recognizing their disability through the educational system or through their pediatricians early on. And we realize, most of us that are involved in education, that recognizing those needs and providing services at the earliest stages is extremely beneficial, whether it's a rise of Autism and other related disabilities children have, physical, emotional, sometimes children go on doing poor in

school because nobody recognized they needed glasses or they needed a hearing aid, they couldn't hear the teacher, and expanding special education and expanding services beyond the pre-K to 12.

And the realization is that no matter how much services we provide, special ed children in public education and other educational systems, we sometimes fail to realize when they graduate from high school or they leave high school and they enter career paths or they -- they go on to live a life that's productive and meaningful and worthy, that necessary services sometimes are lacking. And -- and now I think we're beginning to realize that many adults, to live a fruitful life, need these continuing services throughout their lives. And a lot of the legislation and the bills that we've been looking at, we've been passing, truly focuses on many initiatives that make the quality of life more fruitful for people with disabilities.

So, I urge my colleagues to continue to realize it's a lifetime commitment for those individuals, and they look forward to legislation and they look forward to our support to make sure that they can live their life as normal as possible. Thank you very much.

ACTING SPEAKER AUBRY: Thank you.

Read the last section.

THE CLERK: This act shall take effect April 1st, 2021.

ACTING SPEAKER AUBRY: The Clerk will record the vote.

(The Clerk recorded the vote.)

Mr. Steck to explain his vote.

Mr. Phillip Steck.

MR. STECK: I thank my colleagues for their very kind and eloquent remarks and vote in the affirmative.

ACTING SPEAKER AUBRY: Mr. Phillip Steck in the affirmative.

Are there any other votes? Announce the results.

(The Clerk announced the results.)

The bill is passed.

The Clerk will read.

THE CLERK: Assembly No. A09005, Calendar No. 349, Lavine, Lifton, Romeo, Otis, Buttenschon, Santabarbara, Seawright, Weprin. An act to amend the Tax Law, in relation to providing a tax credit for universal visitability; and providing for the repeal of such provisions upon expiration thereof.

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.

Mrs. Peoples-Stokes.

MRS. PEOPLES-STOKES: Mr. Speaker, do we

have any further housekeeping or resolutions?

ACTING SPEAKER AUBRY: We have numerous fine resolutions which we will take up with one vote.

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

(Whereupon, Assembly Resolution Nos. 730-732 were unanimously approved.)

Mrs. Peoples-Stokes.

MRS. PEOPLES-STOKES: Mr. Speaker, could you call on Mr. Otis for an announcement?

ACTING SPEAKER AUBRY: Mr. Otis for the purposes of an announcement.

MR. OTIS: Good afternoon. There will be an immediate meeting of the Democratic Conference in the Speaker's Conference Room upon the conclusion of Session.

ACTING SPEAKER AUBRY: Democratic Conference, Speaker's Conference Room at the end of Session.

Mrs. Peoples-Stokes.

MRS. PEOPLES-STOKES: I now move that the Assembly stand adjourned until Thursday, January the 30th, tomorrow being a Legislative day, and that we reconvene at 2:00 p.m., February the 3rd, Monday being a Session day.

ACTING SPEAKER AUBRY: The Assembly stands adjourned.

(Whereupon, at 12:55 p.m., the Assembly stood

adjourned until Thursday, January 30th, Thursday being a Legislative day, and to reconvene on Monday, February 3rd at 2:00 p.m., Monday being a Session day.)