

TUESDAY, JUNE 11, 2019

3:29 P.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, June 10th.

Mrs. Peoples-Stokes.

MRS. PEOPLES-STOKES: Mr. Speaker, I move to

dispense with the further reading of the Journal of Monday, June the 10th and ask that the same stand approved.

ACTING SPEAKER AUBRY: Without objection, so ordered.

Mrs. Peoples-Stokes.

MRS. PEOPLES-STOKES: Thank you, Mr. Speaker, for an opportunity to share today's quote with my colleagues, guests that are in the Chambers [sic], as well as staff. This one is from Zig Ziglar. He was an American author, salesman and a motivational speaker. And it says, Mr. Speaker, "In many ways, effective communication begins with mutual respect, communication that inspires and encourages others to do their best."

With that, Mr. Speaker, I would like to say to our colleagues that they do have on their calendar -- desks a main Calendar and a debate list. After there are any introductions and/or housekeeping, we will take up resolutions on page 3 and then continue consent with our Calendar, beginning with Rules Report No. 69 which is on page number five. Members also should know that even though the Codes Committee has already been called, there will be also a need for Ways and Means and Rules. These committees will produce an A-Calendar.

And that is a general outline, Mr. Speaker. If there are any introductions and housekeeping, now would be the appropriate time.

ACTING SPEAKER AUBRY: Housekeeping first,

Mrs. Peoples-Stokes.

On a motion by Mr. Braunstein, page 18, Calendar No. 215, Bill No. 420-A, amendments are received and adopted.

On a motion by Mr. Perry, page 20, Calendar No. 226, Bill No. 1385-A, amendments are received and adopted.

On a motion by Mr. Weprin, page 38, Calendar No. 516, Bill No. 5254-B, amendments are received and adopted.

For the purposes of an introduction, Mr. Byrne.

MR. BYRNE: Thank you, Mr. Speaker, for allowing me for the purpose -- to -- to interrupt the proceedings for the purposes of an introduction. I am joined today by my grandmother, Jane Byrne; my aunt Isabel Byrne Milano; and my father, Dan Byrne. My grandmother, Jane, was born on April 21, 1928 and graduated from North Tarrytown High School in 1945 before attending Syracuse University. Jane married Frank Byrne, a US Marine and World War II Veteran, now deceased. On August 4, 1951 had seven children - good old Irish family, seven children - 16 grandchildren, and now has seven great-grandchildren. She is currently a member of the Immaculate Conception Church in Irvington, New York. Is a co-facilitator of its Centering Prayer Group. She was an aide to the Grand Marshal at the 2009 St. Patrick's Day Parade in Sleepy Hollow -- I think that's in Mr. Abinanti's district. And she's a member of the Peace of Christ Healing and Hope Ministry, as well as a member of the Contemplative Outreach of Westchester, New York. My Aunt Isabel was just honored this past year as the Grand Marshal for the Sleepy Hollow St.

Patrick's Day Parade. She's been an entrepreneur and businessowner in Ardsley for many years, and was a member of the Village Board in Irvington for a number of years. My father, Dan Byrne, other than raising yours truly and his two kids, two other kids other than myself, has five grandchildren and has been a 45-plus year member of the UWUA, the Utility Workers Union of America, as a lineman with Con Edison.

If you could, Mr. Speaker, please extend the cordialities of the House -- of the House and give them a great big welcome to our State's Capitol.

ACTING SPEAKER AUBRY: Certainly. On behalf of your grandson, your son, your nephew, the Speaker and all the members, we welcome this great Byrne family here to the New York State Assembly, extend to you the privileges of the floor. As family, you are always welcome here. I'm sure you're so proud of what that young man has done and his accomplishments, as we are proud of what you guys have accomplished. Thank you so much, and you are always welcome. Thank you.

(Applause)

Mr. Ortiz for the purposes of an introduction.

MR. ORTIZ: Thank you, Mr. Speaker, for allowing me to interrupt the proceedings. I would like to present to -- to this Body a group of artists that came from China, came from different parts of the globe. They are here for the first time in the Empire State Building, in our great Capitol and our great State of New York doing

an exhibition of their art. And they are going to be in the Empire State Building in Room 7. And I would like to introduce to you the Contemporary Chinese and Western Art Group. Mr. Pedro Cuni, who is a member of the Arts Review Committee; Tiffany Zhu, Assistant Director of the Asian Pacific New York Contemporary Art Center; Yang Yi, Chairman of Overseas Chinese Artists Association; Pei Zhuangxin, artist; Wei Hai, artist; Huang Yulin, artist; and Miss Ildiko Balogh Batho, artist. And is the wonderful people that came here to for the first time to present their artwork to all of us here in the Capitol.

Mr. Speaker, I wish you can give them the cordialities of the House. Thank you.

ACTING SPEAKER AUBRY: Certainly. On behalf of Mr. Ortiz, the Speaker and all the members, we welcome these distinguished artists here to the New York State Assembly, extend to you the privileges of the floor. Thank you for joining us and sharing your art with us here today. We hope that this has been a trip that is beneficial to you, because surely, it has been beneficial to us. And welcome to this New York State. Thank you so very much.

(Applause)

Mr. Rivera for an introduction.

MR. RIVERA: Thank you, Mr. Speaker, for the opportunity to introduce a -- a group of very active and very, very concerned community leaders from throughout -- from Mount Vernon to other parts of the City of New York, the Bronx, who are here today.

Today if you look at the headlines in the papers, you -- you see in one paper where a helicopter pilot lost his life. So I know our heart goes out to the family of the pilot. The other tragedy is -- is Ortiz, David Ortiz, a former ball player with the Red Sox who -- who was shot while on vacation. Why am I saying this? Because the group of activists and leaders that are here -- and if you allow me, these are their names: Donny Kaybon Rivers, raise your hand -- Fred -- Mariam Frampton, raise your hand; Ronald Savage, a former State Committee person, very active in the Bronx; and Sheik Mussah Dramon, who I learned how to videotape. He's in the balcony videotaping me now. They have three TV studios that cover everything we do Citywide in New York. So I don't have to videotape any of you right now. We're being videotaped. And they also have Internet radio. So they understand the importance of sharing and really giving our constituents on-the-spot, breaking news. We don't have to wait after 6:00. We do it right away.

So, Mr. Speaker, I also have my full staff here, all right. And I have two students, two students. One is Regina Reid, stand up, Regina. Regina is an intern going to college right here. Her mother is Tammy Higgins, who used to work for us at the Assembly. This young lady is very fortunate that her grandparents came to this great country of ours 40 years ago from where? Honduras. And her mother, who is my Chief-of-Staff, was born in the United States. They're very fortunate that their parents came at a time where we welcomed with open arms every -- everybody. And guess what? You

know who the President was 40 years ago? Ronald "Tough Guy" Reagan. But it was a different America where we opened our arms to everyone. But this particular group, five years ago they were the group that made us aware that Claudette Colvin was the first person, a young lady, African-American, who really before Rosa Parks refused to get off the bus. And that's what's really added to the spark, giving us the civil rights that we enjoy today.

Mr. Speaker, on behalf of this great State, we know that this Assembly, the entire Assembly, has done amazing job trying to control gang violence and violence at the hand of a gun. Gang violence. Will you please give them your traditional, historical, unique way of welcoming people into this Chambers [sic]. Thank you.

ACTING SPEAKER AUBRY: I can't outdo you, Mr. Rivera.

(Laughter)

On behalf of Mr. Rivera, the Speaker and all the members, we welcome this distinguished group here to the New York State Assembly, commend you on the work that you're doing, extend to you the privileges of the floor, and encourage you to continue that work to continue for the safety and well-being of our young people in our communities. And to the young people who have joined Mr. Rivera and their staff, you are also welcome and extended the privileges of the floor. Thank you so very much. Keep up that good work. I hope you've enjoyed your trip to Albany.

(Applause)

We'll go to resolutions on page 3, starting with Resolution No. 521, the Clerk will read.

THE CLERK: Assembly Resolution No. 521, Mr. Blake.

Legislative Resolution memorializing Governor Andrew M. Cuomo to proclaim June 2019, as Immigrant Heritage 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.

THE CLERK: Assembly Resolution No. 522, Mr. Zebrowski.

Legislative Resolution memorializing Governor Andrew M. Cuomo to proclaim June 12, 2019, as Filipino Independence 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. 523, Ms. Woerner.

Legislative Resolution memorializing Governor Andrew M. Cuomo to proclaim June 16-22, 2019, as Family Physician Week 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. 524, Mr. Schmitt.

Legislative resolution memorializing Governor Andrew M. Cuomo to proclaim June 23-29, 2019, as Lightning Safety Awareness Week in the State of New York.

ACTING SPEAKER AUBRY: Mr. Smith [sic] on the resolution.

MR. SCHMITT: Thank you, Mr. Speaker. On the resolution. This week marks ten years ago as a student at Catholic University of America in Washington, DC, I stepped off the Metro system and was struck by lightning. I, thankfully, survived, and as the doctors said had a best case of a worst-case scenario. Certainly, I'd like to say that I'm super-charged now, might have a little bit to do with it. I, thankfully, don't have to charge my iPhone anymore, I just hold it in my hand and it -- it never dies. But -- but in all reality, it was certainly a frightening experience ten years ago this week, and it really opened my eyes to the danger and the safety precautions that are necessary when it comes to lightning strike safety and lightning strike awareness. It's considered the underrated killer, but we all see it, especially in the summertime. Lightning strikes occur in the United States 25 million times a year, and can reach over 50,000 degrees Fahrenheit, more than the -- the surface of the sun. It can come out of nowhere with little warning, and if you do not take the proper

precautions to seek safety, especially if you're outside -- but there -- that's also a misnomer. You can be struck in your home. Many people have been struck and killed while in their home on the phone, using their computer, television, even showering, running the water cleaning dishes.

So, I appreciate all the colleagues in bipartisan fashion who signed on to this resolution, and I would urge everyone to do all they can to educate their constituents, especially during the summer months here in the State of New York, of the need to be prepared. If -- if you hear thunder, seek shelter and be prepared to wait it out. It's not worth it. I can tell you, it is not worth having that that happen. And it is true, you're more likely to be struck multiple times than you are to be struck one time. You're more struck -- you're more likely to be -- to win the lottery than you are to be struck by lightning. I was able to win the lottery on life that day, I can tell you that, Mr. Speaker.

Thank you.

ACTING SPEAKER AUBRY: Thank you.

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

THE CLERK: Assembly Resolution No. 525, Mr. Brabenec.

Legislative Resolution memorializing Governor Andrew M. Cuomo to proclaim October 2019, as German-American Heritage 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.

THE CLERK: Assembly Resolution No. 526, Mr. Rivera.

Legislative Resolution memorializing Governor Andrew M. Cuomo to proclaim June 22, 2019, as Gang-Free Zone 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.

Mrs. Peoples-Stokes.

MRS. PEOPLES-STOKES: Mr. Speaker, if we can now go to page 5 and start our consent at Rules Report No. 75.

ACTING SPEAKER AUBRY: The Clerk will read.

THE CLERK: Assembly No. A04069, Rules Report No. 75, Barrett. An act to legalize, validate, ratify and confirm the actions of the Spackenkill Union Free School -- Union Free School District notwithstanding the failure to timely file final building cost reports with the Education Department.

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.)

Mrs. Peoples-Stokes.

MRS. PEOPLES-STOKES: Colleagues, this is our first vote of today. If you are in and around the Chambers [sic], please cast your vote. First vote of today.

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

Mr. Palmesano to explain his vote.

MR. PALMESANO: Yes, Mr. Speaker and my colleagues. I rise to support this legislation. I've talked on this subject before. I'm going to talk on it again, and I may talk on it again later. There are several of these bills that are pending before our House by 15 to 20 school districts across the State, some from your side of the aisle, some from our side of the aisle. I know we tried do this as part of the budget process, but the Governor did not allow it to be a part of the budget process. This bill, probably along with all the other bills that we're beginning to introduce were all vetoed last year. I got the call around New Year's Eve last year from the Governor's office saying, "We're vetoing the bill." My suggestion and my plea to this House is let's put every one of these bills in one piece of legislation. Let's send it to the Governor. Let's pass it here, send it to the Governor. If the Governor wants to veto it, so be it. He can veto it. That's his constitutional authority to veto it. But it's also our constitutional in this -- in this House to override a veto -- veto if we

deem it necessary. I think we should override a veto and tell this Governor that we're standing with our school kids, we're standing with our school districts, our administrators, our principals, our superintendents. It's not right to penalize the school district because of some financial paperwork filings or clerical errors or whatever it may be. It sends the wrong message. There's no reason for him to hold this money and hold these kids and penalize these kids every year. We're going to go through the same thing. He's going to veto them all again, one-by-one later in the year. Let's put them in one bill, let's send it to him. Let him veto it, and then let's come back here and override this veto and send the message to our school kids again that, *We stand with you now and forever*. So, let's veto -- let him make the veto, but let's override the veto. Let's take back some of our authority. We've been complaining that the Governor has so much authority. Well, this is our right to take some of that back. Let's override the veto to send a message to the Governor, *We're not going to let you hold these kids hostage and penalize our school children*.

So I will be voting in the affirmative and urge us to act in the future.

ACTING SPEAKER AUBRY: Mr. Palmesano 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, thank you for allowing me to interrupt the proceedings to introduce some very special guests of our colleague, Member Solages. She has with her Reverend Steven Milazzo and George Miller. They are from the Bethlehem Assembly of God Church in Valley Stream in Rosedale. Mr. Speaker, this church, under the direction of this wonderful Reverend, has something in their community called Hope Day. And just the most recent Hope Day that they held in the communities, they had 24,000 people.

So if you would please give Reverend Milazzo and his guest, Mr. Miller, and greetings -- offer them the cordialities of our House and welcome them to our Chambers [sic].

ACTING SPEAKER AUBRY: Certainly. On behalf of Ms. Solages, Reverend, we welcome you here to the New York State Assembly. We extend to you the privileges of the floor. We also welcome your guest, Mr. -- here to the New York State Assembly. We hope that you continue the great work that you're doing in your community. Please continue that. 24,000 is an impressive number for anyone. Thank you so very much.

(Applause)

The Clerk will read.

THE CLERK: Assembly No. A04079-B, Rules Report No. 76, Joyner, Lupardo, Vanel, Williams, Hyndman, Ortiz, D'Urso, Lentol, Englebright, Crespo, Zebrowski, Jaffee, Dickens, Braunstein, Mosley, Barron, Gunther, Taylor, Ramos, Arroyo, Lavine,

Perry, DenDekker, Cook, Barnwell, Blake, Davila, Colton, DeStefano, Ra, Cruz, Griffin, Frontus, Sayegh, M.G. Miller, Buttenschon, Cusick. An act to amend the General Municipal Law and Retirement and Social Security Law, in relation to increasing certain special accidental death benefits.

ACTING SPEAKER AUBRY: Read the last section.

THE CLERK: This act shall take effect July 1, 2019.

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: Assembly No. A04432, Rules Report No. 77, Abbate, Colton. An act to amend the Retirement and Social Security Law, in relation to accidental disability retirement for uniformed court officers and peace officers employed in the Unified Court System.

ACTING SPEAKER AUBRY: On a motion by Mr. Abbate, the Senate bill is before the House. The Senate bill is advanced, and the bill is laid aside.

THE CLERK: Assembly No. A04771, Rules Report No. 78, Stern. An act to legalize, validate, ratify and confirm the actions of the Huntington Union Free -- Free School District notwithstanding the failure to timely file final building cost reports

with the Education Department.

ACTING SPEAKER AUBRY: On a motion by Mr. Stern, the Senate bill is before the House. The Senate bill is advanced.

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, sir. On -- on -- on my own behalf and on behalf of Assemblymember Palmesano, I support this resolution -- or this bill that ratifies and clarifies that the administerial mistake that was made many years ago should be rectified by this Legislature. I urge my colleagues to support this bill and about 20 other bills for school districts all across our State, and urge our good Governor to put the needs of our children first rather than the technicalities of these administrative oversights and approve all the bills.

Thank you, sir.

ACTING SPEAKER AUBRY: Mr. Goodell and Mr. Palmesano in the affirmative. It's a double-speak.

Are there any other votes? Announce the results.

(The Clerk announced the results.)

The bill is passed.

THE CLERK: Assembly No. A04816, Rules Report

No. 79, Colton, Weprin, Zebrowski, Jaffee, Lavine, M.G. Miller, Arroyo, McDonough, Blake, Lawrence, Abinanti, Dickens, D'Urso, Gottfried, Montesano, Cruz, Cook, Fernandez. An act to amend the Penal Law, in relation to prohibiting the manufacture, transport or shipment of undetectable knives and prohibiting the possession of such knives.

ACTING SPEAKER AUBRY: The bill is laid aside.

THE CLERK: Assembly No. A04849, Rules Report No. 80, Jean-Pierre, Hunter, Hyndman, Lavine, Ortiz, Dickens, Niou, Simon, Englebright, Raia, Palumbo, Smith, Mikulin, Williams, Taylor, Fernandez, Mosley, Ramos, Arroyo, D'Urso, Titus, Cook, Lawrence, Finch, Peoples-Stokes, Richardson. An act to amend the Tax Law, in relation to exempting certain distributions from eligible retirement plans for income tax purposes.

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: Assembly No. A05104, Rules Report No. 81, Davila, Weprin, Blake. An act to amend the Correction Law, in relation to integrating community supervision programs into an

individual's employment, educational or vocational training schedule.

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: Thank you, Mr.

Speaker, for allowing the interruption in our proceedings to introduce one of our colleague's guests. Mr. Abinanti has with him today in our Chambers [sic] Jessica Hunsberger. Jessica is the Chair of the Social Studies Department at Sleep -- Sleepy Hollow Middle and High School. And she's brought students with her, Mr. Speaker.

Could you please welcome them on behalf of Mr. Abinanti to our Chambers [sic] and give them the cordialities of the floor.

ACTING SPEAKER AUBRY: Certainly. On behalf of Mr. Abinanti, the Speaker and all the members, we welcome you here to the New York State Assembly, the People's House, extend to you the privileges of the floor. Hope that your educational year, which I'm sure is coming to a close, has been a good one, that you have a great summer. And we hope to see you back. And to the teacher,

thank you so much for the work that you do to protect and nurture the children's minds. Thank you so very much.

(Applause)

The Clerk will read.

THE CLERK: Assembly No. A05194, Rules Report No. 82, DenDekker, Sayegh, DeStefano, Raynor, Buchwald. An act to amend the General Business Law, in relation to requiring motor vehicle dealers to search for recalls and make certain repairs prior to selling a used motor vehicle.

ACTING SPEAKER AUBRY: The bill is laid aside.

THE CLERK: Assembly No. A05201, Rules Report No. 83, Walker. An act to amend the Executive Law, in relation to the requirements for notaries public and commissioners of deeds relating to certain instruments affecting real property.

ACTING SPEAKER AUBRY: The bill is laid aside.

THE CLERK: Assembly No. A05301, Rules Report No. 84, Abbate, Wallace, Colton, Woerner, Ramos, Steck, McDonough, Weprin, Griffin, Buttenschon, Jacobson, Benedetto, Santabarbara, Jaffee. An act to amend the Retirement and Social Security Law, in relation to certain disabilities of university police officers appointed by the State University of New York.

ACTING SPEAKER AUBRY: On a motion by Mr. Abbate, the Senate bill is before the House. The Senate bill is advanced.

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: Assembly No. A05350, Rules Report
No. 85, Cymbrowitz, Blake. An act to amend the Private Housing
Finance Law, in relation to the aggregate annual income of low-
income persons or families eligible for accommodations in a company
project.

ACTING SPEAKER AUBRY: On a motion by Mr.
Cymbrowitz, the Senate bill is before the House. The Senate bill is
advanced.

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: Assembly No. A05406, Rules Report
No. 86, Raynor, Griffin. An act to authorize the Commissioner of

General Services to transfer and convey certain unappropriated State land to the Village of Freeport.

ACTING SPEAKER AUBRY: On a motion by Ms. Raynor, the Senate bill is before the House. The Senate bill is advanced. Home rule message is at the desk.

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.

Ms. Raynor, as I can tell you know, it's your first.

(Applause)

The Clerk will read.

THE CLERK: Assembly No. A05442, Rules Report No. 87, Goodell. An act to legalize, validate, ratify and confirm that actions of the Panama Central School District notwithstanding the failure to timely file final building cost reports with the Education Department.

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. Barclay to explain his vote.

MR. BARCLAY: Thank you, Mr. Speaker, to explain my vote. On behalf of myself, Mr. Goodell and Mr. Palmesano, I want to say this is a terrific bill. We shouldn't be penalizing schools for clerical errors. I look forward to working in a bipartisan manner. And if this gets vetoed, I'd urge the House to override the veto.

Thank you, Mr. Speaker.

ACTING SPEAKER AUBRY: Thank you, sir. But I don't believe we have a -- a place where you can announce the vote of three other members, though it has been done today. But in any event....

Mr. Barclay in the affirmative.

Mr. Dinowitz to explain his vote.

MR. DINOWITZ: I've been waiting all year to lay one of his bills aside, but I decided not to. So I vote yes.

(Laughter)

ACTING SPEAKER AUBRY: Mr. Dinowitz 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, could --

could you please call the Ways and Means Committee to the Speaker's Conference Room?

ACTING SPEAKER AUBRY: Committee on Ways and Means, Speaker's Conference Room. Ms. Weinstein awaits us.

The Clerk will read.

THE CLERK: Assembly No. A05459, Rules Report No. 88, Bronson, D'Urso, Blake, Fahy, Steck, Colton, Reyes. An act to amend the State Finance Law, in relation to the cost effectiveness of consultant contracts by State agencies.

ACTING SPEAKER AUBRY: The bill is laid aside.

THE CLERK: Assembly No. A06471, Rules Report No. 90, Cruz, DenDekker, McDonald, Epstein, Vanel, Arroyo, Jean-Pierre, M.G. Miller, Dickens, Fall, Rivera, Sayegh, Gottfried, Cook, Williams, Ortiz, Simon, Blake, McMahon, Jaffee, Griffin, Montesano, McDonough, Mikulin, Glick, Mosley, Colton, Abbate, Niou. An act to amend the Mental Hygiene Law, in relation to reviewing suicide prevention programs periodically.

ACTING SPEAKER AUBRY: On a motion by Ms. Cruz, the Senate bill is before the House. The Senate bill is advanced.

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. Cruz to explain her vote.

MS. CRUZ: Thank you, Mr. Speaker. Latina adolescents have the highest rates of teen suicide in New York State. We have seen these numbers increase with children of drastically young ages committing or attempting to commit suicide. Suicide is the second-leading cause of deaths in -- in adolescent Latinas. A pervasive sadness and a sense of hopelessness underlines their high rates of suicide and suicide attempts. Most of these young women are immigrant or U.S.-born children of immigrants living in communities like mine that lack the support mechanisms to integrate new Americans and their families into complexities of our society. I've introduced this bill which would require the Office of Mental Health to periodically review suicide prevention programs, establish licensed, certified and fund the office to ensure that the needs of individuals at risk of suicide are being met, and ensuring that programs are culturally- and linguistically-appropriate, and that they address the special risk factors for minority and under-represented populations.

And on behalf of a loved one in my family who about five years ago attempted to commit suicide, it is my honor to vote in the affirmative. Thank you.

ACTING SPEAKER AUBRY: Ms. Cruz in the affirmative.

ACTING SPEAKER FALL: 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 now go to our debate list, Calendar No. 53 -- we're going to start with Calendar No. 265. It is on page 24 [sic], it's by Ms. Jaffee. Then we're going to go to Calendar No. 376. It's on page 31 by Ms. Joyner. And from there we'll go to Calendar No. 317. It's on page 28 by Mr. Stirpe. And number four, we'll go to Calendar No. 274. It's on page 25 by Ms. Rozic. In that order, Mr. Speaker.

ACTING SPEAKER FALL: The Clerk will read.

THE CLERK: Senate No. S04413, Calendar No. 265, Senator Metzger (A06678, Jaffee, Colton). An act to amend the Labor Law, in relation to notice of employee rights and remedies.

ACTING SPEAKER FALL: Mr. Goodell.

MR. GOODELL: Thank you, Mr. Speaker.

On the bill.

ACTING SPEAKER FALL: On the bill.

MR. GOODELL: Many individuals may recall this bill came up last year. One of the things it did was required employee handbooks to include in the handbook information regarding employees' rights and remedies as it related to reproductive health rights. And the original language of the bill, many of us thought was inconsistent with the US Supreme Court decision in the Hobby Lobby case because it failed to provide an adequate exception for religiously-held beliefs. This bill does not address any of the issues that were raised in the original bill that had extensive opposition, but it

does move the effective date for one provision back by 60 days. So, it's an interesting dilemma for many of us. We may have voted against the original bill for many reasons, and this just makes the original bill slightly delayed which is maybe slightly better.

So with that confusing explanation, I look forward to the vote. Thank you, sir.

ACTING SPEAKER FALL: Thank you.

Read the last section.

THE CLERK: This act shall take effect immediately.

ACTING SPEAKER FALL: 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: Assembly No. A00754-A, Calendar No. 7 -- 376, Joyner, Ortiz, Gottfried, Simon, Barron, D'Urso, Jaffee, Colton, Perry, Weprin, Cruz, Reyes, Jean-Pierre, Williams, Dickens, Lavine. An act to amend the Judiciary Law, in relation to requiring the Office of Court Administration to collect and maintain data on limited English-proficient litigants in the State.

ACTING SPEAKER FALL: Mr. Goodell.

MR. GOODELL: Thank you very much, Mr. Speaker. This bill requires the Office of Court Administration to collect information on litigants who are in our courts that have limited

English proficiency. In committee, there were a number of no votes because this bill originally applied to even the smallest town and village courts. I wanted to commend the sponsor who made amendments to this bill to remove the requirement for those small town and village courts so that the information that is collected is basically collected now from the courts of record. I think that information will be much more useful, and it will not result in an unfunded mandate on our local governments.

So in appreciation to that amendment and the more appropriate scope, even though I voted no in committee, I'll be voting yes on the floor and recommend the same to my colleagues.

ACTING SPEAKER FALL: Read the last section.

THE CLERK: This act shall take effect in 180 days.

ACTING SPEAKER FALL: 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 you could please call the Rules Committee to the Speaker's Conference Room. Rules to the Speaker's Conference Room.

ACTING SPEAKER FALL: Rules Committee to the Speaker's Conference Room.

The Clerk will read.

THE CLERK: Assembly No. A00446, Calendar No. 317, Stirpe, Ryan, Arroyo, D'Urso, Burke, Colton, Carroll, Wallace, Reyes, Crespo, Cook, Nolan, Thiele, Zebrowski, Taylor, Ortiz, Gottfried, Griffin, Blake, Jaffee, DeStefano, Montesano, Ra, Glick, McDonough, Steck. An act to amend the Labor Law, in relation to the calculation of weekly employment insurance benefits for workers who are partially unemployed; and repealing certain provisions of such law relating thereto.

ACTING SPEAKER FALL: An explanation has been requested, Mr. Stirpe.

Can we have some quiet in the Chamber, please?

Proceed.

MR. STIRPE: Thank you, Mr. Speaker. Unlike every -- nearly every other state, New York's unemployment insurance program calculates partial unemployment benefits on the number of days worked per week, rather than the claimant's actual part-time earnings. Under current law, claimant benefits are reduced by 25 percent for each day worked per week, regardless of how many hours they worked on any such day. This means that after four days of working part-time, they receive zero benefits. This often serves as a disincentive for totally unemployed workers to find part-time work --

ACTING SPEAKER FALL: Excuse me, Mr. Stirpe.

Can we have some quiet in the Chamber? We're on debate.

Please proceed.

MR. STIRPE: This often services as a disincentive for totally unemployed workers to find part-time work, consequently increasing pressure on the Unemployment Insurance Trust Fund. This bill would revise the calculation of partial unemployment benefits by establishing a partial benefit credit based on the claimant's weekly benefit rate for total unemployment, which would then be applied against the claimant's actual weekly earnings. This would result in a more reasonable computation of partial unemployment benefits that is proportionate to claimants' wages. This bill represents a necessary step towards ensuring that New York's unemployment insurance program provides partially-unemployed workers with the support they need to meet the most basic needs as they work towards full-time employment.

ACTING SPEAKER FALL: Mr. Goodell.

MR. GOODELL: Thank you, Mr. Speaker. Would the sponsor yield?

ACTING SPEAKER FALL: Will you yield?

MR. STIRPE: Sure.

ACTING SPEAKER FALL: The sponsor yields.

MR. GOODELL: Thank you very much. Just so we all understand what this bill would do, as I understand it under this bill, if a person who is on unemployment got a part-time job and his income from the part-time job was equal to or less than 50 percent of his unemployment benefits, he would keep all the income he earned.

Is that correct?

MR. STIRPE: That's correct.

MR. GOODELL: And so at that point, he would be earning 150 percent more than he would under the current system.

MR. STIRPE: That's correct.

MR. GOODELL: And even though he is earning 50 percent of his income on part-time employment, there is no offsetting cost savings to the employer under this bill, correct?

MR. STIRPE: Yes.

MR. GOODELL: And then if he earned more than 50 percent, there would be a dollar-for-dollar reduction in his unemployment benefit, correct?

MR. STIRPE: That's correct.

MR. GOODELL: So, what incentive would there ever be for anyone to get part-time employment more than 50 percent?

MR. STIRPE: Well, if you're unemployed and you get part-time work, you're a lot more likely to get a full-time job. Employers can see, you know, what abilities you have, and if they're looking to finally fill that spot with a full-time employee, most likely you'll get hired. Now, the incentive is that the amount of money paid in unemployment is not really a lot of money. So, it doesn't really pay people to stay on unemployment as long as they can. And this -- you know, you would at least want people to be looking for work or working during this period instead of staying home, which happens, I think most of the time, based on the ways rules are right now.

MR. GOODELL: Now, the current unemployment benefit is calculated as 50 percent of your weekly earnings up to \$450, right?

MR. STIRPE: That's correct.

MR. GOODELL: Wouldn't it make sense simply to reduce your unemployment benefit by 50 percent of what you earn? And that way, both the employers and the employees would benefit from the part-time employment and there would be no disincentive for the employee to continue to move up that employment ladder.

MR. STIRPE: Would you repeat that first part? What did -- what you said.

MR. GOODELL: Certainly. The current benefit is calculated at 50 percent of your weekly earnings. So wouldn't it make more sense if we want to encourage people to work part-time, to allow them to keep half of their benefit, the other half going against the unemployment benefit, and in that way both the employee and the employer would do better and there would be an incentive until they reached their full employment capacity under the previous calculations. Wouldn't that be a much smoother, easier system?

MR. STIRPE: Well, I think the big problem is the -- a lot of the people on unemployment -- unemployment are low-wage workers, restaurants. You know, they have unstable schedules and they have a very difficult time getting by even with what they get in unemployment. Let's take, for example, a minimum-wage worker who is eligible for full unemployment insurance benefits of \$160 and earns

\$120 doing part-time work over a four-day period, and they could still be eligible for unemployment benefits. In this case, their partial benefit credit would be calculated at \$80. So the minimum credit of \$100 would apply. With the claimant's earnings equal to \$120, any such amount above the partial benefit credit, or \$20, would be subtracted from the claimant's maximum benefit rate, making them eligible for \$140 partial unemployment benefits. So if you put them both together, that's still only \$260. It's not a lot of money. I don't know how many people -- that would be an incentive just to stay home and, you know, try not to get a full-time job.

MR. GOODELL: Thank you very much for those comments and clarification.

On the bill, sir.

ACTING SPEAKER FALL: On the bill.

MR. GOODELL: First, I -- I absolutely agree with my colleague that we ought to amend the Workers' Compensation Law to encourage people to take part-time employment. Where we disagree is what that amendment ought to look like. Under the current law, as my colleague correctly noted, if an individual works at all during a day, that individual loses one-quarter of their weekly unemployment. And so, you can help out your neighbor, he gives you ten bucks for helping him mow his lawn. Boom, you lose 25 percent of your unemployment. As a result, many people who are on unemployment cannot afford to take a part-time job. So, it is a serious issue, and I -- I commend my colleague for looking at it. Where we

disagree is how we should approach it. And my recommendation is that we recognize that the current system pays you half of what you made, and so the easiest way to encourage people to engage in employment, part-time employment, is allow them to keep half of what they make. And so if you went to work, your income would go up by 50 percent of what you brought, the other 50 percent would reduce the cost to the employer. It's a win-win. Unfortunately, that's not the way this bill is structured. The way this bill is structured, the employee who's working part-time keeps 100 percent of their income until they get up to half of what they earn, and then they get to keep nothing. It's a 100 percent tax on earnings from 50 to 100 percent. Dollar-for-dollar reduction. And I know of very few employees who get up enthusiastically in the morning to go to work with a 100 percent tax on income. And that's basically what it would be. It would be a dollar-for-dollar reduction.

So while I support the concept of trying to help unin -- part-time workers, I think it's a great idea. A system that allows them to make 150 percent of what they would make on the first 50 percent and nothing, zero, on the next 50 percent, is a system that is not going to encourage people to work more than 50 percent. And we're going to hit a fiscal cliff, and they'll stay there financially until their unemployment goes out. And I don't want to trap anybody in this system. As my colleague pointed out, we want to encourage them all to move forward. And I think because of this fiscal cliff is the reason why the National Federation of Independent Businesses and other

business groups oppose this particular approach to solving this problem.

Thank you very much, Mr. Speaker. And again, my appreciation to the colleague to looking at this issue and looking for solutions.

ACTING SPEAKER FALL: Read the last section.

THE CLERK: This act shall take effect immediately.

ACTING SPEAKER FALL: 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: Assembly No. A00629, Calendar No. 274, Rozic, Wallace, Mosley, Magnarelli, Ortiz, Simon, Jean-Pierre, Walker, Benedetto, Crespo, Glick, De La Rosa, D'Urso, Pheffer Amato, Hyndman, Gottfried, Blake, Rivera, Dickens, Seawright, Weprin, L. Rosenthal, Colton, Solages, Montesano, Griffin, Stirpe, Williams, Cruz, Fernandez. An act to amend the General Business Law, in relation to prohibiting businesses from charging a price for goods on the basis of gender.

ACTING SPEAKER FALL: An explanation has been requested, Ms. Rozic.

MS. ROZIC: Thank you, Mr. Speaker. This bill would prohibit the discriminatory practice relating to the cost of goods

of a substantially similar or like kind on the basis of a person's gender. According to a study by the City Department of Consumer Affairs, it was found that on average products for women cost seven percent more than similar products for men. And in a similar study by the Government Accountability Office just last year, five out of ten product categories that were analyzed, including personal care products targeted to women, sold at a higher average price than those targeted for men after controlling for certain factors.

ACTING SPEAKER FALL: Mr. Ra.

MR. RA: Thank you, Mr. Speaker. Will the sponsor yield for a few quick questions?

MS. ROZIC: Yes.

ACTING SPEAKER FALL: Will yield.

MR. RA: Thank you. So I -- I just had a question in terms of the operation of this. I think certainly we have -- you know, we're selling the same or very similar items, you know, and it's just a difference of color or something like, or marketing to male or female there certainly should not be a discrimination and, you know, upcharging. But my question is, just in terms of how this definition of this prohibition is, would it account for things like, you know, marketing costs and -- and designs and research and things of that nature?

MS. ROZIC: So they have to be substantially similar, which means that they share the same brand, they share the same functional components, they share 90 percent of the same materials or

ingredients. It doesn't go into services, which are like, you know, like dry cleaning services. And it is based on a model that we found that worked in other states, and in Florida and California, in particular.

MR. RA: All right. Thank you very much. Thank you, 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.

Mrs. Peoples-Stokes

MRS. PEOPLES-STOKES: Thank you, Mr. Speaker. I would like to advance the A-Calendar.

ACTING SPEAKER AUBRY: On Mrs. Peoples-Stokes' motion, the A-Calendar is advanced.

Mrs. Peoples-Stokes.

MRS. PEOPLES-STOKES: Just to make members aware, we won't be dealing with the A-Calendar today. We will be taking it up on tomorrow. We're going to continue on our debate list, Mr. Speaker. Next we're going to have Calendar No. 195. This is on page 18 by Mr. Abbate. And then Calendar No. 311 is on page 28. It is also by Mr. Abbate. And finally, last we will have Calendar No.

198. It's on page 19 by Ms. Weinstein.

ACTING SPEAKER AUBRY: Page 16, Calendar No. 195, the Clerk will read.

THE CLERK: Assembly No. A05342, Calendar No. 195, Abbate, Reyes, Griffin, Colton. An act to amend the Civil Service Law, in relation to resolution of disputes in the course of collective negotiations.

ACTING SPEAKER AUBRY: On a motion by Mr. Abbate, the Senate bill is before the House. The Senate bill is advanced.

Mr. Goodell.

MR. GOODELL: An explanation, please.

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

MR. ABBATE: This bill would provide an equal reduction in workforces. Basically, it's a bump and retreat bill.

ACTING SPEAKER AUBRY: Mr. -- Mr. Abbate is brief.

Mr. Goodell.

MR. GOODELL: Thank you, Mr. Abbate, for that brief explanation. Would you yield for questions?

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

MR. ABBATE: Yes.

ACTING SPEAKER AUBRY: Yes, he does.

MR. GOODELL: Thank you very much, Mr. Abbate. As you noted in your explanation, this would be --

MR. ABBATE: It's just a change -- I think I explained the second bill instead of the first bill.

MR. GOODELL: As you noted, this bill would require binding arbitration for various Upstate regional transit authorities, correct?

MR. ABBATE: Gotcha. Okay, yeah, I explained the bump and retreat bill and not the transit. Let me just -- this bill would authorize the Niagara Frontier, the Rochester-Genesee and the Capital District to use compulsory arbitration policies. Am I correct on that one now?

MR. GOODELL: And am I correct that under current law, the way it works is these organizations negotiate hopefully in good faith with their employees. If they don't reach agreement, then they can ask for assistance from PERB, the Public Employees Relations Board, and PERB can help, come in and mediate. If they still don't reach agreement, PERB can provide a -- a fact-finding report and recommendations, and if they still don't reach agreement, then it goes to the legislative Body for a final determination. Is that the current process?

MR. ABBATE: Yes. And I think as we explained last time, last year at this time, this basically in its work in New York City, it speeds up the process. And I was asked by our Senators from Upstate thinking this would speed up the process -- this would speed

up the process rather than going through PERB and everything else if it was compulsory.

MR. GOODELL: But the net effect of this bill would eliminate the authority and the ability of the local legislative Body to make the final determination reflecting the interests of the taxpayers and the interests of the public and the interests of the employees, right? It would eliminate the authority of the local governing Body to make the final determination. Is that correct?

MR. ABBATE: Yes.

MR. GOODELL: Now, I note that we've had a -- a number of bills come before us that would restrict or eliminate binding arbitration in a number of different consumer transactions, and the sponsors of those bills said that there were problems with binding arbitration, hence their bills. Why is arbitration recommended in this context and not in some of those other contexts? Can you explain the differences?

MR. ABBATE: No. The only thing I could explain is that as the Chair of our Government Employees, this bill was given to me by my Senate colleagues from in that area, and asking me that they think this would be a worthwhile cause --

ACTING SPEAKER AUBRY: Shh. One minute, one minute.

Ladies and gentlemen, shh. We need a little less noise, please. Members behind me, shh. Please.

Proceed.

MR. ABBATE: You know, as I said, it was given to me by my colleagues in the Senate from up in those regions, asking me, as the Chair, if I would do this bill and they thought this was a better way to go. And some of your colleagues from around your area and up there think this is the way to go in the Senate and they wanted it. It was done in the past by a -- a Republican Senator, now a Democratic Senator. So back and forth, both parties seem in the Senate that they would like the bill.

MR. GOODELL: Very good. Well, thank you very much, Mr. Abbate.

On the bill, sir.

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

MR. GOODELL: Again, thank you to my colleague. Under the current process, what happens is the local government, the elected leaders, those who have been elected by their residents and by the taxpayers, they had the final say. And so reflecting the fact that those local community leaders who have been elected reflect the interests in their community, it's appropriate under the current law that they are the ones that make the final decision. They're the ones that have to deal with the tax ramifications or the fee ramifications. They're the ones that have to negotiate all the rest of the terms and conditions and balance the competing interests. What this bill does is eliminate the ability of your local elected officials to make that kind of decision. And instead of the local elected officials, the very people

who have been elected to represent those residents, instead of those elected officials making that decision, the decision will be made by outside arbitrators. Those are people that come in from outside your community, who have never been elected by your residents, who don't live in your residence -- in your residential area. They don't live there. They don't have to deal with the consequences of their decision. They come in, they issue an edict and it's -- it's binding. There's no other option. And since I have a great deal of respect for the people who are elected on the local level, whose responsibility it is to balance all those obligations, I would prefer that our local elected officials make that decision rather than an outside arbitrator who doesn't necessarily have any connection to the community.

For that reason, I'll be opposing it. Thank you, 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.)

Mr. Fitzpatrick to explain his vote.

MR. FITZPATRICK: Thank you, Mr. Speaker, to explain my vote. This -- I would urge a no vote on this legislation because a certain county executive who I'm very friendly with, when I asked him how -- what we can do here in Albany to help keep the cost of living in a particular county under control, his response was, *Fix*

binding arbitration. This is a recipe for higher costs and lower service, lower quality of service, if it's allowed to proceed. It is -- by removing the authority of the elected officials in this -- in this relationship I think is the wrong way to go. And binding arbitration has done great damage to us in -- in Suffolk County, I know for sure. And this should not be allowed to spread elsewhere.

So, thank you.

ACTING SPEAKER AUBRY: Mr. Fitzpatrick in the negative.

Are there any other votes? Announce the results.

(The Clerk announced the results.)

The bill is passed.

THE CLERK: Assembly No. A07248, Calendar No. 311, Abbate, Colton, Santabarbara, Simon. An act to amend the Civil Service Law, the Public Authorities Law and the Military Law, in relation to suspension or demotion upon the abolition or reduction of positions for labor class and noncompetitive titles; and to repeal Section 80-a of the Civil Service Law relating thereto

ACTING SPEAKER AUBRY: On a motion by Mr. Abbate, the Senate bill is before the House. The Senate bill is advanced.

Mr. Ra.

MR. RA: An explanation, please.

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

MR. ABBATE: Sure. This is the bill I started to explain before, but the purpose of this bill is to extend bump and retreat rights for all employees, especially noncompetitive and labor class, in the event of the reduction in the workforce.

ACTING SPEAKER AUBRY: Mr. Ra.

MR. RA: Thank you, Mr. Speaker. Would the sponsor yield?

MR. ABBATE: Yes.

ACTING SPEAKER AUBRY: Mr. Abbate yields.

MR. RA: Thank you. So, you know, I just have a few questions on this. I know we have these different classifications under our Civil Service Law. Would these types of protections not ordinarily be subject to collective bargaining for these -- for this group of employees?

MR. ABBATE: Yes -- well, this is the labor class and noncompetitive... what do you call it, an hourly wage people on a lower scale of things. Basically, the Executive Branch, but they are covered under our contracts.

MR. RA: So, though -- but normally, you know, contracts might be negotiated that would, you know, extend these types of protections to -- to this class of individuals.

MR. ABBATE: Yeah, but there's no statutory provision for the working -- you're right, but there is no statutory provision, you know, for the working class right now, and that's why we wanted to put this in there.

MR. RA: Okay. And I -- I -- I just --

MR. ABBATE: The other classes are done by statute.

MR. RA: Correct. So then, you know, if we were to make this statutory change, you know, what -- what would then be the distinction between those different classes?

MR. ABBATE: Yeah. What basically this would do, you know, and I said it's the labor class, if -- and I'll use an example. In our buildings, if you had a -- a team of ten custodians working in -- in our Legislative Office Building and one got promoted - well, moved up to, like, the head of that labor class - that detail and then reductions in the workforce came, and say he would lose his job, all this is saying that he can go back to his previous position before someone else fills that in. So that's what we're looking to do to maintain. And that happens almost in every other class except the labor class. You know, so he moves up to, you know, second in charge of that detail of ten custodians. A crisis comes on the -- on the State level or county level, they cut back on the -- you know -- and I wouldn't even call them the "supervisor" -- but on that detail, he can lose his job. If someone just hired in that other class, you know, maintains the job, this is saying he has the right to go back, or she has the right to go back to her old position before someone else is hired to fill that.

MR. RA: All right. Thank you very much.

Mr. Speaker, on the bill.

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

MR. RA: Thank you, Mr. Speaker. So, the concern that has been raised with regard to this by groups like the Conference of -- of Mayors and other, you know, entities that are representing municipal government is that ordinarily they negotiate these types of protections in collective bargaining. So, you know, these -- these protections haven't been extended to these class of workers in the past. This will be, you know, changing that and extending this protection to that class of workers. So, you know, I think we certainly understand the -- the concept and the theory behind protecting -- protecting workers should there be a situation where, you know, layoffs become necessary. But -- but this is extending to a new class of -- of workers, and -- and as a result there has been opposition raised by the representatives of the municipal governments, and I know that many of our colleagues may be opposing this bill as a result.

Thank you, Mr. Speaker.

ACTING SPEAKER AUBRY: Read the last section.

THE CLERK: This act shall take effect in 90 days.

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: Assembly No. A05621, Calendar No. 198, Weinstein, Seawright, Taylor. An act to amend the Domestic

Relations Law and the Family Court Act, in relation to child custody forensic reports.

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

MS. WEINSTEIN: Yes, Mr. Speaker. Just by way of a little background. Currently a court can order a mental health evaluation of parties and their children by a court-appointed forensic evaluator in a custody and visitation case. It's an aid in making a decision. We call those, as I said, forensic visitations -- forensic evaluation, rather. It is the practice around the State, and it varies from courtroom to courtroom as to -- and county and county as to who can have access to those reports. What this proposal does is it gives litigants, their counsels, of any of the attorney for the child in child custody and visitation cases the right to obtain a copy of the forensic report and the underlying data that would allow the party to adequately -- well, first of all, to see if there are errors in the report and to adequately be able to defend themselves in their -- in the custody visitation action.

I'd be happy to answer quest -- specific questions. I know --

ACTING SPEAKER AUBRY: Ms. Walsh.

MS. WALSH: Thank you. Will you -- will the sponsor yield?

MS. WEINSTEIN: Surely.

ACTING SPEAKER AUBRY: The sponsor yields.

MS. WALSH: Thank you, Ms. Weinstein. So, as you said, this has to do with forensic custody evaluations. The bill speaks to forensic mental health professionals, probation service, child protective service or other person authorized by statute. Any of those entities could produce a forensic custody evaluation. Is that correct?

MS. WEINSTEIN: Yes. That's correct.

MS. WALSH: Okay. And could you just speak a little bit about what the components are of a forensic custody evaluation? What goes -- what goes into them?

MS. WEINSTEIN: The components of that --

MS. WALSH: The components, yes.

MS. WEINSTEIN: It would be -- there -- there would be possibly interviews with the child. There may be interviews with family members commenting on the child's behavior, the home environment. Those type of -- there could be a psychological evaluation of -- of one of the family members. So, that kind of information.

MS. WALSH: Right. I -- I agree with you there. I think that there can be a battery of psychological tests for both parents, possibly the child. Interviews with all parties, a review of medical records, school records. Interviews with collateral sources such as teachers, day care providers. Mental health record review, and also interviews with extended family members. Is that -- is that correct?

MS. WEINSTEIN: Yes. Yes, that is.

MS. WALSH: And the purpose of a forensic custody

evaluation is an evaluation of issues relating to the psychological and developmental needs of the child and the extent to which each parent possesses the willingness and ability to meet the routine and unique needs of the child. Would -- would you say that that's accurate?

MS. WEINSTEIN: That's a general sense of the purpose. It's -- though the purpose is to be able to give guidance to the court, obviously, in the -- in the proceeding to be able to make a determination as to custody and visitation.

MS. WALSH: Thank you. Would you agree with me that if you take a look at all of the things, the components to a forensic custody evaluation that the raw data could be quite voluminous and technical?

MS. WEINSTEIN: There are times -- certainly, there would be -- there might be a lot, there are times they -- there might be less amounts. But in terms of the background material, it would be more extensive than the actual report itself. Yes, I would agree.

MS. WALSH: Okay. So that all of that raw data, however, you know, that's collected, the psychological tests, all the things that we already just talked about, they would get boiled down into a report. And but this bill, this proposal, would allow the parties and their counsel and the attorney for the child to not only receive a copy of the report, but also all of the underlying data. Is that correct?

MS. WEINSTEIN: Yes. Yes.

MS. WALSH: Okay.

MS. WEINSTEIN: Unless the court were to restrict

in some way the -- the release of that information.

MS. WALSH: Okay. What -- what is it -- what is it that led to this proposal? What was it -- what is it that is so wrong with the way that it's currently handled? What's the genesis for the bill?

MS. WEINSTEIN: Well, the genesis comes from people in the field who are in various courts. In some courts, this information is fair -- the actual report is routinely given to the -- to the attorneys to the parties. In some courts, attorneys are restricted to not even get a copy of the report, but to sit in a chair -- in a room in a courthouse and take some notes. These reports, as you mentioned, can be fairly extensive, and they determine the custody of the children. So, it's important in the defense of -- for the families and the parties in their -- in their defense of the action or in their proponent of the action that they get to see the information that the court is going to see, and to be able to determine if there are errors that they would want to address as they move forward. So the idea is to have some uniformity. There are -- very clearly allows the court to, in those instances where there's concern that the information might not be kept private, to be able to restrict the dissemination of that information. They could do it preemptively, or they can do it once the -- the information is -- is shared with the parties.

MS. WALSH: And the court can currently craft an order which does that, which protects or admonishes the parties and their counsel to not disclose certain aspects of the report. Isn't that

correct?

MS. WEINSTEIN: They -- they can, but right now the parties aren't able to get it. When a -- when a party is not represented, they have difficulty sometimes in being able to see the underlying -- see the report, let alone, you know, not to mention the underlying data. So there's always an ability for the court to have a restrictive order. But we explicitly in -- in this legislation say that the default position is release of the report, release of the underlying data. We have a uniform standard then, and the court can, if -- if necessary, based on past behavior or projected behavior, restrict -- have a -- a restrictive access to some of the information, or -- and will at the time that the information is given, would admonish the parties about -- that this is private information not to be disclosed.

MS. WALSH: So is it -- is it true that under the current situation -- the way it works in the county where I practice, for example, in family court, the -- the parties themselves don't get a chance to read the report, but their attorneys do. And their attorneys read them and then they can summarize them for the clients so that the client has an idea of where -- how the evaluator is coming out or what the findings are. But the -- the attorneys aren't allowed to take the report out of court with them, and the parties aren't able to see. And the -- the attorneys aren't able to see all of the underlying notes and data. That's how it works in the -- in the county where I -- where I practice. But as you say, there could be, around the State, different ways of dealing with this. And I understand that part of the reason for

the bill is to provide a sense of uniformity, and I get that.

One question I had, I wasn't quite sure. Would this bill apply to court-ordered investigations under Section 1034 of the Family Court Act which would get into CPS and their investigations? Would that be considered a forensic evaluation under the terms of the bill? Because it talks about Child Protective Service creating -- as a -- as a --

MS. WEINSTEIN: I think only in terms of being an evaluator --

MS. WALSH: Okay.

MS. WEINSTEIN: -- not in terms of the procedure itself.

MS. WALSH: Okay. All right. Thank you for that clarification. That was one of the things that the New York Public Welfare Association was concerned about in one of their notes.

So, you spoke a little bit earlier and I'd like to get back to the idea that -- of when we have pro se litigants because that, I think, is part of the rationale behind the bill as well and I want to kind of dive into that a little bit. So when you have a pro se litigant, you don't have an attorney for that person going in to review the report under our current model, the way that things gets handled. So it seems to me as though there's a kind of a delicate balance between the due process rights of the pro se litigant versus the concerns about what may or may not happen if that individual gets the whole report and what they may or may not do with it on social media, talking to friends

and neighbors and, frankly, anybody that will listen if they're angry enough to talk about the other party in a way that's unflattering and could have a really detrimental impact on the child. I mean, would you agree that that's the balance that we're trying to strike here. Is that correct?

MS. WEINSTEIN: Well, you know, I -- I guess I would argue that -- or I would respond that in terms of concerns of an angry parent -- you know, an angry parent go -- taking this information, going onto some social media, there's nothing that prevents them from doing that in advance of the report. They still have the -- they currently can go online in whatever various form and trash their, you know, their -- the parent of the child. That kind of action before they would get access to the report would probably trigger in -- in the judge -- in the court's order a restriction on perhaps them even getting access at all to the report if they've had already a history of having shown -- if it can be shown a history of their having been online or doing other things to disparage the other parent or to say things about the child. So I'm not too worried about that potential. I do think that the court has an ability to let people know that they would be held in contempt if they violate the order. It could affect the outcome of the -- the court's decision if they were to disseminate the information in violation of -- of the court order. So, we do have that -- those protections that I -- I would go back to this being the default position and the ability for a court to craft an order that could restrict access to the report or access the underlying information if it was

brought to their attention the potential of this individual to release this information in some public forum.

MS. WALSH: And -- and again, I would say to you that even under our current law, the courts have and do craft orders to prevent that very thing from happening. And to me, I think that the difference to me is that it's -- it's one thing for one party to trash another party on social media or whatever. It's another thing to be given all of this great information from a third-party, qualified -- presumably qualified forensic custody evaluator, often somebody who is a psychologist or somebody that's going to be administering very definite tests. I mean, it's one thing for an angry spouse or ex to call the other person a narcissist, but it's quite another thing to have it right there in black and white that it's -- that that person has been diagnosed with that or, you know, being a sociopath or any of the other nasty things that -- that are often shared during these custody battles. So, I do think that that's a little bit different.

But getting back also to the pro se scenario, I think that if we talk about this balance between a pro se litigant's due process rights and the fear of harm, irreparable harm to the child or to a victim, perhaps a domestic violence victim who is a party to this particular matter. Anybody who would be vulnerable. But of course, I -- you know, I -- I'm particularly thinking of the children. It just seems as though this bill addresses that delicate balance by turning the entire file - data, raw data, everything - over to the party.

I would note that there has been a considerable, I

think, amount of opposition to the bill, and the -- the New York State Bar Association opposes it. The New York City Bar Association opposes it. The New York Public Welfare Association opposes it. The Women's Bar Association of New York State opposes it. And although the Trial Lawyers and OCA don't take any position specifically on the bill, the -- there are requests for an amendment that had been made by OCA which would, again, try to address this privacy concern a little bit more. So I do think that there are -- although I -- I do think that there is a -- a genuine, you know, reason for trying to advance the bill, I do think that there are a number of people who are concerned with it.

So, thank you for answering my questions. I appreciate it.

MS. WEINSTEIN: Sure.

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

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

MS. WALSH: Thank you. So as many of you know, I practice in -- in family court almost exclusively representing children, and it is my experience in my family court that the courts do want to limit access to these forensic custody evaluations. They are extremely detailed. They often include a battery of psychological tests, the -- I can't remember what the -- what the name of it is, it's like the MMPI or -- it's like a personality inventory. We want to encourage the people that are undergoing this -- these evaluations to

be candid, to be forthcoming with information about themselves, their possible limitations. Their feelings about their -- their former partner, their children. We want the children, when they're interviewed, to be candid and not believe or think that their family member or their parents are going to see what they have to say and going to --

(Buzzer sounding)

ACTING SPEAKER AUBRY: Your first 15 are gone. However, there is no one behind you if you want to extend.

MS. WALSH: If I could extend, thank you.

ACTING SPEAKER AUBRY: You're more than welcome.

MS. WALSH: Thank you. I don't think I'm going to need 15. I just want to say that I think that the interests of -- of the privacy and candor of this very delicate process is something that I believe that this bill really does create a problem. And I think that that's -- that's recognized by the amount of opposition that there is within the Bar Associations, both for the State, the City, the Women's Bar, against this bill. So I do think that there are some proposed amendments from OCA that if they can be incorporated might be helpful in addressing some of the privacy concerns, but overall, if you -- if you were to ask a practitioner in family court, they -- they're very -- they would be very worried, as I am, about this bill. I think that the way that they're currently handled, these forensic custody evaluations, is appropriate, and I think that the harm that could -- that could come to bear on a child when the -- when the parents are battling like this, I

think we really have to be very cognizant of that and err on the side, I think, of keeping privacy and confidentiality as part of the process rather than just letting all of this out.

So for those reasons, I -- I don't think that this bill is a very good idea and I would urge my colleagues to vote in the negative. Thank you.

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. Weinstein to explain her vote.

MS. WEINSTEIN: Since it was raised during the debate, I just wanted to mention that the -- in explaining my vote that the number of domestic violence organizations who serve domestic violence victims are very supportive of this legislation, including the Lawyers Committee Against Domestic Violence, which is a coalition of almost 200 lawyers. And they point out the severe consequences of restricting access are underscored when survivors who have the courage to seek judicial intervention face losing custody of their children when forensic experts fail to properly identify and analyze the domestic violence.

For this reason and others, I urge my colleagues to vote yes.

ACTING SPEAKER AUBRY: Ms. Weinstein 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, any further housekeeping and/or resolutions?

ACTING SPEAKER AUBRY: We have housekeeping and resolutions. Housekeeping first.

On a motion by Ms. Solages, page 35, Calendar No. 484, Bill No. 2176, amendments are received and adopted.

On behalf of Ms. Hunter, Bill No. 2880, Assembly bill recalled from the Senate. The Clerk will read the title of the bill.

THE CLERK: An act to amend the Insurance Law.

ACTING SPEAKER AUBRY: Motion to reconsider the vote by which the bill passed the House.

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 before the House and the amendments are received and adopted.

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. 527-536 and 543 were unanimously adopted.)

Mrs. Peoples-Stokes.

MRS. PEOPLES-STOKES: Mr. Speaker, I now move that the Assembly stand adjourned until 10:00 a.m., Wednesday, June the 12th, that being a Session day.

ACTING SPEAKER AUBRY: The Assembly stands adjourned.

(Whereupon, at 6:19 p.m., the House stood adjourned until Wednesday, June 12th at 10:00 a.m., that being a Session day.)