

**THURSDAY, MARCH 10, 2022**

**10:24 A.M.**

ACTING SPEAKER AUBRY: The House will come to order.

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

(Whereupon, a moment of silence was observed.)

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

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

A quorum being present, the Clerk will read the Journal of Wednesday, March 9th.

Mrs. Peoples-Stokes.

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

dispense with the further reading of the Journal of Wednesday, March the 9th and ask that the same stand approved.

ACTING SPEAKER AUBRY: Without objection, so ordered.

Mrs. Peoples-Stokes.

MRS. PEOPLES-STOKES: Thank you, Mr. Speaker. Colleagues, welcome to our Chambers. Happy Thursday. I actually would like to share a quote today. This one from a gentleman, his name is John Maxwell. He is an American author, speaker, a pastor who has written many books primarily focusing on leadership. His books have sold millions of copies and often was on the *New York Times* Best Seller list. His words for us today, *The pessimist complains about the wind. The optimist expects it to change. But the leader changes the sails.*

With that, Mr. Speaker, colleagues should be aware that you have on your desk a main Calendar. We also have a debate list. And after there's any housekeeping we are going to take up resolutions that are on page 3. We will then work off of our debate list with the following bills on debate: Calendar No. 256 by Ms. Darling, Calendar No. 259 by Mrs. Barrett, 269 by Mrs. Barrett and Calendar No. 370 by Mr. Burke. Mr. Speaker, there may be a need for additional work on the floor. We will announce that when the time is appropriate. And we also may have to have conference needs, we will announce that as well.

So that's the general outline, Mr. Speaker. If you

have any housekeeping now would be a great time.

ACTING SPEAKER AUBRY: Certainly. We do have a bit of housekeeping.

On a motion by Mr. Steck, page 6, Calendar No. 17, Bill No. 263, the amendments are received and adopted.

On a motion by Ms. Rosenthal, page 9, Calendar No. 41, Bill No. 662, amendments are received and adopted.

On a motion by Ms. Rosenthal, page 41, Calendar No. 385, Bill No. 2344, amendments are received and adopted.

We will now go to page 3. Resolutions on page 3, Assembly No. 640, the Clerk will read.

THE CLERK: Assembly No. 640, Ms. Joyner.

Legislative Resolution memorializing Governor Kathy Hochul to proclaim March 2022 as Kidney Disease Awareness 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 No. 641, Mr. McDonald.

Legislative Resolution memorializing Governor Kathy Hochul to proclaim April 6, 2022 as Missing Persons 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.

On the debate list, Calendar No. 256, the Clerk will read.

THE CLERK: Assembly No. A07599, Calendar No. 256, Darling, Magnarelli, Galef, Zinerman, Fahy. An act to amend the Vehicle and Traffic Law, in relation to the secondary enforcement of certain motor vehicle equipment violations.

ACTING SPEAKER AUBRY: Ms. Darling, an explanation is requested.

MS. DARLING: Okay. One of the most common interactions that people have with law enforcement occurs during traffic stops. Often, however, there's a disparity in who is being stopped, especially for minor violations. According to 2020 research published by the Stanford Open Policing Project of a dataset of nearly 100 million traffic stops carried out across the United States, Black drivers were about 20 percent more likely to be stopped than White drivers relative to their share of the residential population. The study also found that once stopped, Black drivers were searched about 1.5 to 2 times as often as White drivers. As has been painfully demonstrated over the past few years in the news, these stops for minor violations have led to motorists dying at the hands of police. This bill is intended to reduce the number of traffic stops for minor nonmoving violations such as stickers on vehicle windows and objects placed or suspended in or on the vehicle, thereby reducing the possibility of a tragic outcome from such traffic stops.

ACTING SPEAKER AUBRY: Thank you.

Mr. Morinello.

MR. MORINELLO: Thank you. Will the speaker yield for a couple of questions?

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

MS. DARLING: I will yield.

ACTING SPEAKER AUBRY: Ms. Darling yields, sir.

MR. MORINELLO: Thank you. You just gave an explanation. So, is it my understanding and this Body's understanding that the purpose of this is more of a removal of bias as opposed to public safety?

MS. DARLING: You said a removal of?

MR. MORINELLO: Remove bias. Basically --

MS. DARLING: Yes.

MR. MORINELLO: Yeah. Okay. So public safety was not a consideration?

MS. DARLING: No, public safety is definitely a consideration because of the bias that some people have. Yes.

MR. MORINELLO: Okay. You also said minor violation. Is there somewhere in the Vehicle and Traffic Law or the Criminal Procedure Law that delineates between minor or major violations?

MS. DARLING: Well, this minor violation wouldn't lead to any points on your license. And this law pretty much

determines or allows to determine what the violation would be.

MR. MORINELLO: So --

MS. DARLING: And also, there are definitions of serious traffic violations and this is not included in that.

MR. MORINELLO: So your definition doesn't include the classifications in the Criminal Procedure Law, being violations, B misdemeanors, A misdemeanors and felonies. You've added another section that's not in the Criminal Procedure Law; am I correct on that?

MS. DARLING: Yes. These are traffic violations or equipment violations.

MR. MORINELLO: Okay. So this delineates between major and minor traffic violations.

MS. DARLING: It just -- this bill says that these two are secondary enforcement violations.

MR. MORINELLO: Okay. There's been an increased focus on driving while intoxicated, and many times if they're not showing any outwardly signs there needs to be a reason to stop a vehicle. So, with this legislation it would basically take away one of the tools that our law enforcement has to get troubled drivers off the road. Can I understand that?

MS. DARLING: I disagree. If we're looking for DWI infractions, where I live we have stops, we have stops set up at different areas and cops are definitely able to be able to make sure that they are monitoring -- especially during times -- at certain times at

night -- people who are under the influence and just checking to make sure that people are drinking -- or not driving irresponsibly while drinking.

MR. MORINELLO: What would -- what would occur if, in fact, there was hanging -- something hanging from the rearview mirror that actually was impairing the visibility of the driver? Would the police then be precluded from stopping that vehicle?

MS. DARLING: Yes, for that particular reason.

MR. MORINELLO: Okay. So in essence, there's no public safety component in this particular bill.

MS. DARLING: There is a public safety component. Because Black drivers are part of the public and they are not safe. So this bill is --

MR. MORINELLO: So --

MS. DARLING: This bill is here to ensure that we have some protections around the Black community. This country has done a great job criminalizing us, so right now certain things do seem a little piecemeal. But we have to provide those protections to make sure that people can leave their home, get in their car and return home safely. When we have these traffic violations and these stops, a lot of times this is the first time that we really have interactions with the police. And there are communities that are petrified of having interactions with the police. So, we want to make sure that we, again, have those provisions and protections so that something like a hanging air freshener does not lead to escalated incidents that have led to

death. We do not want that. So this is a protection where this has to be a second -- you have to pull them over for a moving violation or something else. You cannot simply pull somebody over because they have something hanging or something -- a sticker on their rear or front windshield. And you would be so shocked to find in my community how many people are pulled over for the slightest minor infractions. So this is just one level of protection that we desperately need in the State of New York. And the United States, if you ask me.

MR. MORINELLO: Do you know of any exceptions to the sticker or mirror -- or rearview mirror provision?

MS. DARLING: Yes. Whatever the Commissioner decides is necessary. Like registration stickers, inspection stickers. Anything the Commissioner of Motor Vehicles deems necessary.

MR. MORINELLO: So the State can exempt themselves from -- basically from certain regulations.

MS. DARLING: Yes, we -- we need those. We need those stickers on the windows.

(Laughter)

MR. MORINELLO: Thank you very much to the sponsor. I truly understand the reasoning behind this, and I appreciate your candor and your answering the questions in the manner you did.

MS. DARLING: Thank you, Judge.

MR. MORINELLO: On the bill. My only --

ACTING SPEAKER AUBRY: On the bill, sir.

MR. MORINELLO: My only concern with this



particular bill is I understand and I truly accept the underlying reason. But there's also the general public and not just a segment of the public. I also find it ludicrous that the State can exempt themselves from stickers, being inspection stickers and registration stickers, okay, which can still impair the view of someone. I would think that maybe in the future the sponsor might look at the entire bill and determine whether or not that is particularly necessary in our times.

I thank you very much.

ACTING SPEAKER AUBRY: Mr. Angelino.

MR. ANGELINO: Thank you, Mr. Speaker. On the bill.

ACTING SPEAKER AUBRY: On the bill, sir.

MR. ANGELINO: I understand the -- the background. What I don't understand is the -- the feeling that some people have towards police. I don't know what happens in other areas, but in the area -- the rural area I live in, people run to the police for help. The -- I don't know of anyone being afraid of the police ever, unless they were doing something wrong. Specifically on this, I want to remind people these are minor violations, and there are plenty of minor violations in the Vehicle and Traffic Law regarding dirt on license plates, lamps, decals, stickers. If we don't want the minor violations, then this is the place. We'll write them out of the law and they won't matter. That's happening in other areas. I do want to remind everybody here that minor traffic violations and police officers pulling over violators is real police work. And I'll give you the

example of Timothy McVeigh, who after blowing up the Oklahoma City State Office Building was stopped by a trooper for speeding. Joel Rifkin, the Long Island killer, was stopped and a female State Trooper knew something wasn't right and ultimately we found a body of a murdered female in the trunk. I myself made a minor traffic violation stop and saw a Boy Scout flashlight on the back seat of a car. A department store had been burglarized and a lot of -- a lot of items were taken. And some of the things we found in the store, the Boy Scout section they used all the flashlights to further their burglary and obviously they took one with them. So these are all examples of small minor violations that lead to real police work. And I'm -- I'm sorry for what happens in other areas that people would -- it breaks my heart to think that people would be afraid of a police officer. If this is necessary then why don't we just do away with the -- the legislation behind it and doesn't have to be a secondary violation?

Thank you very much, sir.

ACTING SPEAKER AUBRY: Thank you, sir.

Mr. Goodell.

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

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

MS. DARLING: I will yield.

ACTING SPEAKER AUBRY: Ms. Darling yields.

MR. GOODELL: Thank you. A couple of questions.

First, am I correct that this type of traffic ticket comes with no points attached?

MS. DARLING: Yes, there are no points.

MR. GOODELL: And there are a number of other traffic violations that have no points, right? Equipment-type violations?

MS. DARLING: Yes.

MR. GOODELL: Is there a reason why we're selecting this particular violation that has no points and not the other ones, or can we anticipate subsequent legislation that deals with other minor equipment violations?

MS. DARLING: Well as great as I am, I'm no fortune teller so I can't tell what's going to come for future legislation. But I can say that recent incidents have really spoken to the fact that certain measures are used disproportionately in certain communities against certain groups of people. So, we had a major, major incident, what, two years ago and this bill was born out of that to say, you know, we -- we had someone who lost their life because they had something hanging on their rearview mirror. And he's not the only person who's had that experience, as -- as the data shows. So, again, while we address the enormous systemic racism here in this country, it's -- it's really one -- one issue at a time, and this issue would really, really help my community to be able to say we do have protections against at least that.

MR. GOODELL: In reading this, it -- it appears that

the only remedy set forth in this statute is that if the only basis for a stop was something hanging in the window or windshield or rearview -- rear window that you couldn't issue a summons. Am I correct, then, that this would not preclude evidence that was otherwise discovered after the stop? So, for example, if the is vehicle is stopped for this basis and the officer comes up and realizes it's Timothy McVeigh, can he still arrest Timothy McVeigh or, you know, anyone else who's got an outstanding warrant? If he sees there's a gun on the floor can he arrest him if it's -- turns out the gun was illegal or a ghost gun? Is it an exclusion -- in other words, does the exclusionary rule kick in if the stop was based only on this basis?

MS. DARLING: Well, once this law is passed there can't be a stop based only on this basis. So there would have to be another reason why they were stopped.

MR. GOODELL: This doesn't preclude the stop, it just says it precludes the issuance of a ticket, correct?

MS. DARLING: It's not a reasonable basis to stop a driver.

MR. GOODELL: So then my question is, if for some reason an officer makes the stop based on just this ground, is it your intent that the exclusionary rule would kick in and any subsequent illegal activity that was discovered following that stop would be excluded from evidence?

MS. DARLING: Well, if this particular reason, this motor vehicle equipment violation, is why an officer stopped a driver,

they would not be able to stop the driver for this offense alone. So the answer to that is yeah.

MR. GOODELL: So let me just, so we're clear, give some examples. Let's say an officer stopped improperly --

MS. DARLING: Okay.

MR. GOODELL: -- stopped someone for this reason alone. When they walk up to the car they see a revolver on the floor and it turns out the revolver was a ghost gun or the driver was a convicted felon and the gun was not properly registered, can the officer then make an arrest based on what he views? And would that arrest still be valid even if the initial stop was not proper?

MS. DARLING: Okay. The trial judge would have to determine -- the trial judge would have to determine, because there would be a hearing, if the officer made a reasonable stop at that time. And the trial judge would have to consider all evidence.

MR. GOODELL: I see. Thank you very much, Ms. Darling. I appreciate your comments.

MS. DARLING: Thank you.

MR. GOODELL: On the bill, sir.

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

MR. GOODELL: As the sponsor noted, this traffic ticket has very limited consequences to the driver because there aren't any points associated with it. And I can assure you that the fine, unless the obstruction was very serious, would likewise be di

minimus. Of course, the reason the law is there in the first place is because sometimes the obstruction of the windshield is pretty significant. And as the sponsor acknowledged, if you have a significant obstruction on the windshield it can result in a very serious accident. You can easily miss a pedestrian or -- or have other problems with your vision. That's why the original bill is there. So even though there's no points, it can have serious consequences. But the most serious aspect of this bill is that, as my colleague mentioned, sometimes a stop on a relatively minor equipment violation can lead to a much, much more serious charge. And so a vehicle that's stopped for a minor traffic infraction, when the officer walks up if he sees an illegal gun he can make an arrest. And we've talked extensively about the problem with gun violence here. And this bill leaves it open that if the stop was based on obstructed windshield, that arrest might not hold up under the exclusionary rule. And so many times an officer will walk up and he'll look in, as my colleague noted, and they'll see stolen property in the car, or drugs. Or he'll realize there's an outstanding warrant for the driver. In my county, the -- I -- I understand that there -- there's a concern in other areas of the State that these minor traffic stops might be motivated by an improper motive. I understand and I appreciate that, and I urge every police department to ensure that the law is applied fairly and equitably to everyone. But we most assuredly do not want to eliminate the ability of our police to arrest someone for illegal firearms that are seen in a routine traffic stop, even for a minor equipment violation. Or to

confiscate drugs that they may see in a routine traffic stop. Or to respond to any other crime that occurs following a routine traffic stop such as this.

And so while this bill on its face is somewhat innocuous, the ramifications could be very serious. For that reason, I'll recommend that my colleagues not support this bill. But I do appreciate and support the sponsor's desire to ensure that all of our laws, including minor traffic infractions, are enforced in a fair and equitable manner without regard to race, color, creed, national origin, sex or any other improper classification.

Thank you very much to my -- to the sponsor for her answers, and thank you very much, Mr. Speaker.

ACTING SPEAKER AUBRY: Mrs. Peoples-Stokes.  
I'm sorry. Mr. Reilly.

MR. REILLY: Will the sponsor yield?

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

MS. DARLING: I'll yield.

MR. REILLY: Thank you, Ms. Darling.

MR. REILLY: Quick question in regards to this legislation. I noticed in -- in the wording it says anything affixed to the windshield like stickers, posters. Would tinted windows apply to this as an initial stop? Would that be prohibited?

MS. DARLING: That's a separate section of law, tinted windows.

MR. REILLY: Okay. So, if they -- if they happen to use a certain type of tint that could be considered a poster or a sticker, would that hinder a -- a vehicle stop as the initial reasonable cause to believe to stop?

MS. DARLING: No.

MR. REILLY: No. Okay. All right. Thank you. I just wanted to clarify.

ACTING SPEAKER AUBRY: Mr. Manktelow.

MR. MANKTELOW: Thank you. Would the sponsor yield for a question, please?

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

MS. DARLING: I'll yield.

MR. MANKTELOW: Good morning, Taylor. How are you?

MS. DARLING: Amazing. How are you?

MR. MANKTELOW: Good. Hey, just a -- just a question on this. I've heard from a lot of the colleagues here. Was there ever a -- a thought process or a -- a consideration of possibly just doing a pilot program in your area?

MS. DARLING: In -- in -- my area, no. There wasn't a pilot program because we considered the dataset from the study that I mentioned and the justification for the bill.

MR. MANKTELOW: So -- so no consideration.

MS. DARLING: No.



MR. MANKTELOW: Okay. That was the only question I had for you, so thank you very much.

MS. DARLING: No problem.

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

ACTING SPEAKER AUBRY: On the bill, sir.

MR. MANKTELOW: I applaud the sponsor for her -- her bringing that bill forward, especially for what's going on in her area and representing her district. My only concern is after listening to my colleagues this morning is that looking at the I-81 corridor, Route 90 crossing New York State, traffic coming from the south to the north up through Canada, I just want to be sure we don't tie the hands of our police officers and not allowing them to do some of these stops that are needed. And as we've heard this morning, some of these stops produce great - great outcomes and save lives.

So, I would love to support this for -- for the sponsor, but I do have concerns across the whole State. So, I will be voting no, but I -- I applaud the sponsor for looking out for her district. So thank you very much, Mr. Speaker.

ACTING SPEAKER AUBRY: Ms. Giglio.

MS. GIGLIO: Thank you, Mr. Speaker. Will the sponsor yield?

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

MS. DARLING: I yield.

MS. GIGLIO: Good morning.

MS. DARLING: Good morning.

MR. GIGLIO: So, just a question. So, in Long Island we often have traffic stops where we have officers standing on both sides of the roads and they check to make sure to your inspection is up, if you're up to date on your registration, and if not they pull you over. And, you know, oftentimes if there is something wrong in the car, if they have an odor of marihuana or they have -- there's some indication that there's something in the car or that's happening that's breaking the law. So on -- in this particular case, if an officer were to pull somebody over because there was an obstruction of the windshield or an obstruction of the rearview window and they were to see a gun on the street [sic] or they were to detect that somebody is using drugs in the car or an open container even, and they were to ask -- if it's a gun -- *Do you have a pistol permit* and they were to look at the gun and see if the registration or the gun type matches the serial number on the back of the pistol permit and it doesn't so they were to arrest them for having an illegal firearm, if that were to go to court would the fact that they have the illegal firearm hold up in court because the reason that they originally got pulled over was because of the obstruction of the window? (MAJOR runon sentence, but I couldn't find a way to break it up without it not making sense)

MS. DARLING: So, they would have to have a hearing and that would be up to the trial judge to examine all evidence and, you know, make their -- make their decision based on that. So the police officer would have to pretty much prove why he

stopped the vehicle in the first place, and it would be up to the trial judge to determine if that was a reasonable cause to stop the vehicle.

MS. GIGLIO: Okay. Well, I guess once this law is adopted then it wouldn't be a legal cause to pull the car over. So that's my concern. So thank you very much.

MS. DARLING: No problem. Thank you.

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

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

MS. GIGLIO: During the debate last year when we were talking about marihuana, legalizing marihuana, there were several cases that were brought up to me throughout the country, including in Colorado where there was suspect of illegal activity occurring in a car. And the car was pulled over for one reason and then when they opened it up they found out that there were kilos of cocaine and the case was dismissed because the reason that they pulled the car over was not a reason to pull the car over. So I fear that this is going to restrict a police officer's responsibility to protect the public and uphold the law. And I couldn't agree with my colleagues more in saying that if want to do away with obstruction of windshields and rearview windows, then that's what the law should be, not prohibiting an officer from pulling somebody over for violating New York State law.

Thank you, Mr. Speaker.

ACTING SPEAKER AUBRY: Mr. Salka.

MR. SALKA: Thank you, Mr. Speaker. Would the

sponsor yield for a question or two?

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

MS. DARLING: I'll yield.

MR. SALKA: Thank you very much. Do we have any numbers on incidences of accidents, occurrences that have happened because of obstruction of the windshield or the -- the rear window?

MS. DARLING: Not on hand.

MR. SALKA: So, possibly it could be remote or it could be of an impressive number enough to justify something like this? We really don't know?

MS. DARLING: No.

MR. SALKA: Okay. Thank you. Also, I'm not sure -- I'm not a lawyer, so I'm not exactly sure what the answer would be to this, but is there going to be a minimum fine attached to this offense? So, will someone get fined \$100 for this violation along with the State surcharge or is that up to the particular judge or how it's claimed?

MS. DARLING: One minute.

This bill doesn't alter the fines that are currently in place for this equipment violation.

MR. SALKA: So I know that some equipment violations --

MS. DARLING: And the maximum -- the maximum

fine is \$150.

MR. SALKA: Okay. Thank you. Because I know that sometimes along with the State surcharge some of these fines can, even for a minor violation, can be -- can be quite costly, especially someone of -- of meager means, if you will. So -- and I know everybody has to pertain to the law and adhere to the law. But to apply another law that might cause some kind of unduly fiscal stress on someone is -- is obviously of a concern of mine. But thank you. Thank you for your time.

MS. DARLING: Of course. Thank you.

ACTING SPEAKER AUBRY: Mrs. Peoples-Stokes.

MRS. PEOPLES-STOKES: Mr. Speaker, will the sponsor yield for a question, please?

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

MS. DARLING: I'll yield.

ACTING SPEAKER AUBRY: Ms. Darling yields.

MRS. PEOPLES-STOKES: There are a number of people, including my daughter who transitioned a few years ago, who were issued handicapped stickers, and you kind of hang them on your -- on your rearview mirror. Is that illegal to have that up there when you're driving?

MS. DARLING: Can you describe that again?

MRS. PEOPLES-STOKES: So there's a little sticker that you can -- not a sticker, a hanger that you hang over your

rearview mirror when you're driving so when you park people know that you have mobility issues and you need to be able to park in a handicapped parking space.

MS. DARLING: All right.

MRS. PEOPLES-STOKES: But so when you pull off and drive, is that illegal to have that still hanging is my question.

MS. DARLING: If it's hanging, yes.

MRS. PEOPLES-STOKES: If it's hanging.

MS. DARLING: Yes.

MRS. PEOPLES-STOKES: Yes. And so I -- I don't know about many people, but I actually live in a community where a lot of people ride around with that hanging there because they are handicapped. And when they get to the location were they want to be, they would like to park in a handicapped parking space without being ticketed for it. And so sometimes they don't remove it. And I guess my question -- reason for asking this is because I see so many people with that. Police would be consumed with stopping disabled people on a regular basis to ask them to remove the hanger and/or giving them a ticket. And/or in some cases if they're Black they could end up dead because that does happen in this country. Now, I'm not going to say that that's the officers's intention when he goes to work, but that is a result all too often. And so I -- I do understand my colleagues' concerns on the other side of the aisle regarding any changes in laws that could not allow officers to do what they think their job is, but I also understand the perspective from which this bill is intended. No

one should come to work to do their job from a racial lens, and all too often in America and in New York State that happens. This is an effort to try to stream that down just a little bit. And if it's effective it would be beneficial for everybody, including those people, hundreds of thousands of them, who have a tag hanging from their rearview mirror every day because they're handicapped.

Thank you, Mr. Speaker.

MS. DARLING: Thank you.

ACTING SPEAKER AUBRY: Read the last section.

THE CLERK: This act shall take effect immediately.

ACTING SPEAKER AUBRY: The Clerk will record the vote on Assembly print 7599. This is a Party vote. Any member who wishes to be recorded as an exception to their Conference position is reminded to contact the Majority or Minority Leader at the numbers previously provided.

Mr. Goodell.

MR. GOODELL: Thank you very much, sir. The Republican Conference is generally opposed to this legislation. Those who support it are free to vote in favor certainly on the floor of the Legislature -- many of our members are here -- or calling the Minority Leader's Office and we'll ensure their vote is properly recorded.

Thank you, sir.

ACTING SPEAKER AUBRY: Thank you.

Mrs. Peoples-Stokes.

MRS. PEOPLES-STOKES: Thank you, Mr.

Speaker. I'd like to remind my colleagues that this is generally going to be Majority members voting in the affirmative on this piece of legislation. However, if there are colleagues who choose not to, please feel to contact the Majority Leader's Office, your vote will be properly recorded.

Thank you, Mr. Speaker.

(The Clerk recorded the vote.)

ACTING SPEAKER AUBRY: Thank you, Mrs. Peoples-Stokes.

Ms. Jackson to explain her vote.

MS. JACKSON: Thank you, Mr. Speaker, for allowing me to speak on -- on the floor to explain my vote. I vote in the affirmative because, one, it's fortunate to be able to sit in this Body and say that police are seen as people to help, but unfortunately in my community that is not always the case. We live in the world of Sandra Bland. We live in a world where Black and Brown people, no matter if they're male or female, are stopped by the police and that one minor traffic stop turns into someone losing their life. And I believe the point is that our police officers have something better to do than to stop people by hanging things in their windows -- or stickers on their windows, rather, or hanging things in their rearview mirror -- in their -- and in their rearview mirror. And I get to see a lot people come into this -- this building, and a lot of us leave our little hanging sticker on our rearview mirror, and I would love our police officers to have something better to do than to stop us legislators who don't -- I'm



assuming are not coming here to do any harm or do any harm on our regular day to day. I'd rather see them have something else better to do. And I would love to see my people in the time have a space where they can interact with police and it not be to the detriment of their life. But that is not the case right now, so I thank the -- I want to thank the sponsor for this bill and I vote in the affirmative.

ACTING SPEAKER AUBRY: Ms. Jackson in the affirmative.

Ms. Hyndman to explain her vote.

MS. HYNDMAN: Thank you, Mr. Speaker, for allowing me to explain my vote. I want to thank the sponsor on this piece of legislation. And to my colleagues, every officer and everyone who's driving a car who's Black or Brown wants to make it home at the end of the day. But what countless men, Black men have heard, fathers brothers, uncles, cousins, husbands have heard a lot of times with these stops is that, *You fit the description*. So what we have to be mindful of the pieces of legislation we pass in the people's House have to move the needle to the center and not to the left or the right.

So for that -- for those reasons I commend the sponsor's legislation because as we know this happens throughout the State of New York and throughout the country. I vote yes. Thank you.

ACTING SPEAKER AUBRY: Ms. Hyndman in the affirmative.

Mr. Meeks to explain his vote.

MR. MEEKS: Thank you, Mr. Speaker, for an opportunity to explain my vote. I heard a colleague in the room earlier mention DWI. Something that affects a number of people in our community that we don't talk much about is DWB, driving while Black. It's a real thing. I've experienced it myself just a few years ago working as a labor organizer driving home after work, a long day at work, pulled up in front of my home. I get pulled over by a police officer. He immediately asked for my information, get my ID. *Oh, you're staying here? Yes, I live here and I happen to own here. Well, you need to use your signal when you pull into the curb. So, I'm going to let you go, I'm not going to bust your balls.* Well, he didn't know about the moment when he pulled up behind me and he put his lights on that would -- there was a level of anxiety that took place. There was a -- a -- a level of, *Will I survive this moment, this interaction?* So in that time there were prayers that were sent up to heaven asking God to cover me in this moment and let this interaction go smoothly. So, it wasn't so much that I was doing anything wrong, but it was an opportunity, I guess, they seize to pull someone over in an effort to police. However, not too far from my home an open air -- open air drug market, and that open air market drug market existed for some time. So I found it interesting that I was being pulled over, yet an open air drug market right up the street and no -- no policing in that particular area.

So I think that, you know, I'd like to thank the sponsor for this legislation. I think it's needed and I think that we

have to recognize that injustice anywhere is a threat to justice everywhere. So where it may not happen in your community, it could pose a threat to your community. Thank you. Thank you, sir.

ACTING SPEAKER AUBRY: Thank you, Mr. Meeks.

Mr. Anderson to explain his vote.

MR. ANDERSON: Thank you, Mr. Speaker, to explain my vote. Thank you. I want to commend the sponsor for introducing this critical piece of legislation. As a young legislator and as someone who uses the I-87, driving up here every week is something that I'm fearful of. It's something that my family is fearful of. Because just like my colleague said, driving while Black is a real thing here in the State of New York and all across this country. And so when we have a critical piece of legislation that understands the need to balance the safety on the roads while also balancing and making sure that there's racial sensitivity and understanding that our officers can't just stop folks, it's important to have and strike that balance. And I commend the sponsor for introducing this critical piece of legislation that understands that balance and so we can be a little less fearful, just slightly less fearful. Obviously we're still fighting against systemic racism and all the other elements of systemic racism, but this is a drop in the bucket to ensure that we continue that fight and to ensure that we don't have to drive in fear and we don't have to be behind the wheel in fear for having an air freshener or having a -- as -- as the Majority Leader said, having the decal for

someone who lives with a disability. These are the things that we don't want to be fearful of, and we want to drive in peace and in safety and create that balance.

And I again commend the sponsor for this piece of legislation and proudly vote in the affirmative.

ACTING SPEAKER AUBRY: Mr. Anderson in the affirmative.

Mr. Reilly to explain his vote.

MR. REILLY: Thank you, Mr. Speaker. So reading the legislation I clarified on debate about the tinted windows. One issue that I still think is that in the legislation it doesn't say about how much of a window can be blocked. And we see the high schools, you know, cheerleading competitions, we see people advertising things, and they put these little car wraps or pictures or posters on their windshields. If there was something that could actually ensure that we say how much of a windshield or a back rear window has to be open for view, that would be something that could help. But instead we're debating on whether a hanging thing -- and yes, I remember as a kid in Brooklyn, in Bensonhurst, people driving around with their little fuzzy dice, and yes, it did obstruct driving and it did cause injuries because of accidents, not to mention their feet out the window. But let's just say there is a way that we can fix this. And as for speaking about the disproportionate car stops in minority communities, I worked in those minority communities. I will tell you that we do need a little more empathy on both sides of the aisle, both sides of the community from

the police, and I ensure you that I will do my best to continue that effort. And, you know, those prayers that are made on car stops? As a police officer I made those prayers, too as I'm approaching. Because I can tell you in no way did I ever, ever want to fire my gun in the line of duty and I was thankful that I never did because that is something that you can never forget. I have been involved in shootings. I was right there as the gunfire was happening. It is something you never get past and I live with that every day. And I know our communities live with that every day. But I just think there's a little more that we could have did to make sure that there's a safety aspect of this for motorists on the road. Not necessarily for law enforcement, for the community-at-large.

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

ACTING SPEAKER AUBRY: Thank you. Ms. --  
Mr. Taylor.

MR. TAYLOR: Mr. Speaker, thank you. I rise to commend the sponsor of this piece of legislation. And I hear the conversation and I think there's merit on both sides. But I want to share and weigh in with my experience as a former military police officer. And to that degree, I remember some nights when things were slow. And young, looking for something to do and someone surely has done something wrong as I parked outside of the what they call the NCO (when you get to this part, come and see me) or the Enlisted Club because if you've been in there for a couple of hours, I'm sure it was not only dancing. So probably I can find probable cause with --

with -- with (inaudible) to it, if that makes sense. But when we talk about a hanging device from the rearview mirror, I think it intensifies the opportunity for someone to look for probable cause. And more times than not, the individual in that car that's being stopped, if they -- he or she is of color, are petrified. I've been stopped more times than the law allows. Even as a legislator coming up that Thruway. *Hey, you got a taillight out. Oh, you know your license plate thing is missing.* Probable cause is relevant in some places, but I think that it's far overreaching and subjective. We have to be careful as we try to protect officers that we also want the citizens of this country to feel equally as safe as they're going about their business.

So, for that, Mr. Speaker, I stand and commend the sponsor of this legislation. And we're splitting hairs about much of nothing. Much to do about nothing. In my opinion we need to just totally get rid of it and allow people as citizens around this country to drive through and from. But if I need a probable cause so minute that I have to see well, what's in your device I think it's far reaching and can be subjective. Well, why did you stop that vehicle? And if you do not have probable cause, then everything goes south after that. You must release that individual because you had no probable cause for stopping the vehicle in the first place. I heard the argument about something in another state where this was thrown out. That's unfortunate. But if you do not have the probable cause you cannot stop the vehicle and everything after that becomes --

ACTING SPEAKER AUBRY: Reverend, how do

you vote?

MR. TAYLOR: In the positive -- in the affirmative.

Thank you.

ACTING SPEAKER AUBRY: Thank you.

Ms. Lucas --

MR. TAYLOR: Thank you, Mr. Speaker.

ACTING SPEAKER AUBRY: -- to explain her vote.

MS. LUCAS: I think many people are passionate about this. Coming from East New York we are stopped while driving Black and we are stopped by walking Black. I myself have been pulled over in my own community driving around twice in one night. I was also pulled over with guns drawn in Manhattan. And so I completely understand the need for a bill like this. Unfortunately, it is not equitable when it comes to stops within the City. And we've watched over and over again as many people and young men and women are killed Upstate, in the south, in the City, and it's extremely important for us to identify and make sure that we are paying attention to what is happening regardless of where we live. And while it may not affect many of the Upstate legislators, this is something that we can't wait until something happens in our community for us to feel a need and understand the need for justice to be served. And because of my own personal experiencing -- experiences and me watching and having to pull over to film and watch as police address and deal with my brothers and my sisters within this community, this is the reason why it is extremely necessary for me to vote in the affirmative.

I commend my colleague for bringing this to surface and to exposing some of the injustices within this State. And again, I have to vote in the affirmative.

ACTING SPEAKER AUBRY: Ms. Lucas in the affirmative.

Ms. Darling to explain her vote.

MS. DARLING: Thank you for the opportunity to explain my vote. I would love for everyone in New York State and the United States to live in a place where when they see law enforcement that they feel safe and -- and they're grateful and they know that they're there to help. And I really hate this conversation and feeling of us versus them as we work hard to again create these protections for communities that have been targeted. And I just wanted to share hearing my colleagues' experiences, all my life I wanted to have a -- a beautiful Black son, and I have him now. And to have the stark difference between how I have to raise him and how he has to encounter the world and how to teach him how the world will encounter him versus my -- my daughter's, I pray I have the strength to handle that. I pray my child is not at the hand of someone because they feel like he shouldn't be here or that people who look like him are criminals. And yes, we're not going to be able to erase that feeling and that approach because it is in the fabric of our country. But it is our responsibility, especially here in New York State, to do all that we can to ensure that everyone here feels like they belong and they feel safe. And that is why we do this every day. And



I'm just so grateful to -- to be in a Body where many of us understand that. And for that reason I -- of course I'll be voting in the affirmative.

Thank you all so much.

ACTING SPEAKER AUBRY: Mr. Gibbs to explain his vote.

MR. GIBBS: Thank you, Mr. Speaker, for the opportunity to explain my vote. I also want to thank the sponsor for bringing it to the forefront. I, too, have been pulled over on a number of occasions, and whether it be five, ten minutes -- excuse me, five, ten miles over the limit or I may have switched the lanes without signaling. I -- I want to share with my colleagues who perhaps don't live in a policed district to just bear with me for a few seconds and imagine living in a district where -- where the police force is predominantly Black and Brown and you're pulled over simply because you're White. And because you switched lanes without signaling, now you're accosted at your door and window by an officer with his hand on the revolver while banging on your window with a flashlight. Very intimidating just for switching lanes without signaling. Now we have a bill that addresses being pulled over because you have something hanging over your rearview mirror, another justification to stop. I -- I just want -- want you all to imagine the fear that we go through driving and being pulled over. Seeing the siren, wondering is today your day? Will you survive the stop? Will the officer be kind? Will the officer be mindful that you have a family at home waiting for you? These are the things that we do and see and

experience in our district.

So I applaud the sponsor for the bill and I stand affirmative on my vote yes.

ACTING SPEAKER AUBRY: Mr. Gibbs in the affirmative.

Are there any other votes? Announce the results.

(The Clerk announced the results.)

The bill is passed.

Mr. Goodell for the purposes of an introduction.

MR. GOODELL: Thank you very much, Mr. Speaker. It is my great honor and privilege to introduce to all of our colleagues Joe Chenelly. Mr. Chenelly is the Executive Director of AMVETS here in New York State, and he comes to us with an extensive service to our country as a U.S. Marine for seven years serving in Afghan -- Afghanistan 2001-2002, Iraq in 2003-2004. Also, he served in Africa in 2002. I recognize that he served in the U.S. Marines, which has a special place in my heart since my daughter was also serving in Iraq during the same time period as a member of the U.S. Marines.

Please welcome Joe Chenelly as a guest of Assemblyman Hawley and welcome him to our Chamber. Thank you so much, sir.

ACTING SPEAKER AUBRY: Certainly. On behalf of Mr. Goodell, Mr. Hawley, the Speaker and all the members, sir, we extend to you the privileges of the floor. We are pleased and honored

that you've joined us, and we commend you for the service that you've provided this country and the sacrifices that you've made for all of us so that we can be free and we can have the kind of debates that you heard here today where we seek to find resolution to the problems of our world. Thank you so very much, and you are always welcome here.

(Applause)

Page 36, Calendar No. 259, the Clerk will read.

THE CLERK: Assembly No. A07605-A, Calendar No. 259, Barrett, Norris. An act to amend the Tax Law, the Executive Law, the Economic Development Law, the Public Officers Law, the Real Property Tax Law and the Military Law, in relation to expanding the definition of veteran to include members of the Commissioned Corps of the National Oceanic and Atmospheric Administration and the United States Public Health Service.

ACTING SPEAKER AUBRY: Mrs. Barrett, an explanation is requested.

MRS. BARRETT: Thank you, Mr. Speaker --

ACTING SPEAKER AUBRY: One minute. Let the crowd kind of clear out behind you.

MRS. BARRETT: It's my fan club. Where -- where are you sending them?

The purpose of this bill is to ensure that all persons recognized as a veteran under Federal law are also recognized as such under State law, which means including the Commission Corps of

NOAA, being the National Ocean -- Oceanic and Atmospheric Administration, and the U.S. Public Health Services.

ACTING SPEAKER AUBRY: Mr. Goodell.

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

MRS. BARRETT: Yes, sir.

ACTING SPEAKER AUBRY: Mrs. Barrett yields.

MR. GOODELL: Thank you, Mrs. Barrett. As you know, many of our local municipalities give a tax credit or a partial property tax exemption to veterans. Would this law automatically expand those who are getting the exemption for all of our local municipalities who have opted into that program?

MRS. BARRETT: No, this really just makes the law consistent with the State and the Federal government, and what municipalities do about tax exemptions is -- is a completely separate issue.

MR. GOODELL: So if a local municipality, for example -- and many in my district have -- if a local municipality gives a tax exemption for veterans, would this law if adopted then automatically increase the number of individuals eligible for that exemption?

MRS. BARRETT: They -- they can be if the municipality wants to do that, but it's not required. It's not -- it's not a part of passing this legislation.

MR. GOODELL: So if this law passes, would then

the municipalities still have the option of saying, *We're only giving a tax exemption for members of the Army, Air Force, Marine, Coast Guard?* I hope I haven't missed -- but not the Public Health --

MRS. BARRETT: And the Space Force, don't forget the new Space Force.

MR. GOODELL: Space Force but not the Public Health Service?

MRS. BARRETT: They would need to do it all together if they were doing any of them.

MR. GOODELL: It's all or nothing, right? Yeah, that's what I kind of thought. Isn't there a fundamental difference between serving in the Public Health Service where you're not on the front line, hopefully, of any conflict and serving on the front line as a member of the U.S. Marines, for example, in Afghanistan or Iraq or -- or elsewhere?

MRS. BARRETT: You don't think serving in a medical hospital and being under fire is on the front lines as a public health officer? I -- I think there are many different ways that people serve in the military, and the fact that the Federal government is including these two is -- is I think testament to the fact that they are as much on the front line as our other devoted and heroic service members.

MR. GOODELL: Thank you, Mrs. Barrett. I appreciate your comments.

On the bill, sir.

ACTING SPEAKER AUBRY: On the bill Mr. Goodell.

MR. GOODELL: Thank you very much, sir. There is no doubt in anyone's mind here that the National Oceanic and Atmospheric Administration does a phenomenal job helping us with weather predictions. And there's no doubt that the Public Health Service does a great job helping us address many public health issues. But I have two concerns. First, I think there is a fundamental difference between our U.S. military that are serving on the front lines or are in a service that could put them on the front lines in an armed conflict. I think there's a substantial and significant difference between that group of military officers and members of the military and those who are working here in the United States as part of a Federal bureaucracy. Part of the Public Health Service or part of NOAA. And while I appreciate that the Federal government may extend the opportunity for members of the Public Health Service to access V.A. services, I think that's great. And I support what the Federal government does in terms of offering benefits to all of its Federal employees. But I don't think that means that the State of New York should mandate that all of our local governments automatically extend all their veteran benefits to members of the Federal Public Health Service or NOAA. It's not our responsibility to mandate that local governments extend benefits to Federal bureaucrats that would never normally face the challenges and the risks of being a member of our active military that faces the challenges of being in battle.

And so for that reason I -- I will oppose this both because I think it's an unwarranted expansion and because I oppose imposing additional mandates on our local governments. Thank you, sir.

ACTING SPEAKER AUBRY: Thank you.

Mr. Smullen.

MR. SMULLEN: Thank you, Mr. Speaker. Would the sponsor yield for a question?

ACTING SPEAKER AUBRY: Mrs. Barrett, will you yield?

MRS. BARRETT: Yes.

ACTING SPEAKER AUBRY: Mrs. Barrett yields.

MR. SMULLEN: Mrs. Barrett, thank you very much for -- for bringing up this bill. I notice that it doesn't have a same-as sponsor in the Senate as of yet. Is that -- is that true?

MRS. BARRETT: Well, it doesn't exactly have a same-as. The bill was changed, but there is a Senate sponsor.

MR. SMULLEN: There -- there is a Senate sponsor in -- in the bill. Thank you. I didn't -- I didn't know this bill was coming up today or else I would have asked if I could -- could cosponsor it. I just wanted to be clear about it. The -- the various branches of the military at the Federal level are -- are clarified in Federal statute, including their ability to receive veterans benefits. And I've -- I've heard my colleagues, and -- and I just want to be clear that I consider the U.S. Public Health Service and the Nation Oceanic

Administration to be part of the military when they're called to do so, and it's under specific criteria under certain plans. But for instance, we did have U.S. Public Health Service officers serving in Afghanistan, and that would in some ways, although we -- we can make a distinction between combat branches in -- in the various military services and the non-combat support branch. This would be what would be considered a -- a service support branch. And it does so at the national level and it provides very valuable information to not only the full Federal government but all of the military. And it's -- it's really important that this -- this distinction and their role is -- is codified. And I -- generally speaking I'm in -- I'm in --

Mr. Speaker, on the bill. My -- my apologies.

ACTING SPEAKER DILAN: On the bill. And I think -- I think in general this is something that just -- it -- it codifies and clarifies it in New York State law. But as my colleague did also recommend, you know, I think the distinction needs to be made that it's still up to localities as to whether they -- whether they want Armed Services or some of these other services that are there because we've also got a sixth branch of the military now, which is the Space Force. And it's getting kind of divided up between -- it's not just Army, Navy Air Force, Marines, Coast Guard, Space Force, Public Health Service and a -- and a variety of other national level entities. But generally speaking I'm in favor of legislation like this and just urge my colleagues just to consider it at the national level, but then bring it down to the State level and allow municipalities the discretion as to



whether they want to extend that financial benefit that would -- that would occur at that level.

Thank you very much, Mr. Speaker.

ACTING SPEAKER DILAN: Mr. Angelino.

MR. ANGELINO: Thank you, Mr. Speaker. Will the sponsor yield for a couple of questions, please?

ACTING SPEAKER DILAN: Will the sponsor yield?

MRS. BARRETT: Yes, I will.

MR. ANGELINO: Hello. A couple of quick questions. I'm vaguely aware of NOAS [sic] and the job they do. I also am aware they do sometimes deploy --

MRS. BARRETT: I'm sorry, could you just speak up a little more clearly? I'm losing some of your words in the vast (inaudible) here.

MR. ANGELINO: Very well. I'm vaguely aware of this agency, and I do know that they have deployed in the past. Do you know how many of these --

MRS. BARRETT: Which agency are you speaking about? There's two agencies that we're talking about here.

MR. ANGELINO: What's the total population of these two agencies? I know I can find --

MRS. BARRETT: I don't know. If you know that, please share it with us.

MR. ANGELINO: Okay. I -- I don't think there's

many, so I don't -- and I don't know how many are in New York State, even. Does the U.S. government recognize these people as veterans?

MRS. BARRETT: Yes, that's the reason we're doing this.

MR. ANGELINO: Okay.

MRS. BARRETT: To make our State law -- that's I said in the explanation, to make our State law consistent with the Federal government.

MR. ANGELINO: Okay. I -- I didn't know this was coming up and -- or I would have done research and wouldn't have to ask these questions. But I'm -- I'm sure you're aware in your position on the Veterans Committee that veterans are also distinguished by where they served, when they served and what devices or decorations they might have. Are we going to try and do something like that with this?

MRS. BARRETT: No, that's not our intention.

MR. ANGELINO: Okay. I know some veterans if they served in combat they have a higher rating for their tax deduction and, then disabled and wounded. And again, I don't know because I -- I could have researched this but we're standing here now. Do these -- these veterans, do they receive some sort of discharge papers to prove?

MRS. BARRETT: Yeah, yes, they --

MR. ANGELINO: Okay.

MRS. BARRETT: They are --

MR. ANGELINO: Okay. I -- I voted yes on this already once, but I didn't know we were actually going to debate it because this will probably be a yes for me today, too. But --

MRS. BARRETT: We -- we didn't have to debate it.

MR. ANGELINO: Well, thank you very much.

Thank you, Mr. Speaker.

MRS. BARRETT: Thank you.

ACTING SPEAKER DILAN: Read the last section.

THE CLERK: This act shall take effect immediately.

ACTING SPEAKER DILAN: The Clerk will record the vote on Assembly 7605-A. This is a fast roll call. Any member who wishes to be recorded in the negative is reminded to record -- to contact the Minority or Majority Leader's Office at the numbers previously provided.

(The Clerk recorded the vote.)

Mr. Goodell to explain his vote.

MR. GOODELL: Thank you, sir. We are so blessed in this Chamber to have people with different backgrounds and experience, and -- and we see that in this discussion here today. So I have tremendous respect for Colonel Smullen. He's not the only colonel here, right next to him is another colonel as well. And they bring a wealth of experience to our -- to our Chamber and I'm thankful for that. When we pass legislation like this, we also need to recognize that it has impacts well beyond just those who predict the weather or help with the Public Health Service because it automatically increases

those who are eligible for exemptions on the local level. And of course more people who are paying less on property tax -- God bless them -- the more everyone else has to pay. And I would be supportive of this bill if it allowed local municipalities to make that choice for themselves. But I'm always hesitant when we pass legislation that has unintended financial consequences to all of our local governments which may force them to address how they're meeting the tax gap as we in the State graciously exempt more members of their community from having to pay tax. Last year we had 20 no votes on this, so my Caucus is pretty evenly split, and I think you saw today the great strength of having diverse opinions even within our Caucus.

So again, my -- my thanks to my colleague Colonel Smullen, thanks to the sponsor. I will be voting no because I don't think it's appropriate for us in the State to be extending tax exemptions automatically to all of our local governments. Thank you, sir.

ACTING SPEAKER DILAN: Thank you, Mr. Goodell.

Mr. Goodell.

MR. GOODELL: Thank you, Mr. Speaker. Please record my colleagues Mr. DiPietro and Mr. Tague in the negative.

Thank you, sir.

ACTING SPEAKER DILAN: Thank you.

Are there any other votes? Announce the results.

(The Clerk announced the results.)

The bill is passed.

Page 36, Calendar No. 269, the Clerk will read.

THE CLERK: Assembly No. A07696, Calendar No. 269, Barrett, Cusick, Woerner. An act to amend the Public Authorities Law, in relation to prohibiting development of Build-Ready sites on viable agricultural land.

ACTING SPEAKER DILAN: An explanation is requested, Mrs. Barrett.

MRS. BARRETT: Thank you. Thank you for your request. This legislation would prohibit the siting of renewable energy facilities on viable agricultural land by NYSERDA as part of their Build-Ready program.

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

ACTING SPEAKER DILAN: Mrs. Barrett, will you yield?

MRS. BARRETT: Yes, I will, sir.

ACTING SPEAKER DILAN: The sponsor yields.

MS. WALSH: Good morning, Mrs. Barrett.

MRS. BARRETT: Good morning, Ms. Walsh.

MS. WALSH: Has this bill been amended since we voted on it last year?

MRS. BARRETT: I'm sorry, I --

MS. WALSH: Has this bill been amended in any ways since we voted on it last year?

MRS. BARRETT: No. No, it's --

MS. WALSH: Okay. So just as a refresher for my colleagues, in July of 2019 the Legislature enacted the Climate Leadership and Community Protection Act, the Climate Act, which mandates in part that 70 percent of the Statewide electricity load come from renewable energy sources by the year 2030. Is that correct?

MRS. BARRETT: I'm sorry. Go ahead. I'm sorry. Did you have a question? I got lost.

MS. WALSH: I was asking you to just confirm that the Climate Act was requiring that by 2030, 70 percent of the Statewide electricity load needs to come from renewable energy sources, right?

MRS. BARRETT: If -- if that's what the CLCPA says, yes.

MS. WALSH: It does, in fact. Public Authorities Law Title 9-B authorizes NYSERDA to encourage the siting and development of renewable energy facilities by developing these Build-Ready sites, right?

MRS. BARRETT: Right.

MS. WALSH: Okay. So could you please just walk us through quickly how the process of developing a Build-Ready site works?

MRS. BARRETT: Well this -- what that bill does is -- is basically -- it doesn't take away from the farmers' rights to decide whether to enter a contract, but it -- it keeps NYSERDA from incentivizing viable agricultural land. So, the bill ensures that

Build-Ready sites are developed on previously disturbed sites. We've had many conversations here about why are we not on brownfields, why are we not on rooftops of warehouses, why are we going to farmland where we should be growing food for all of us and all of our constituents and their families? So, we are -- we are urging -- encouraging those sites -- it prohibits the development of this NYSERDA Build-Ready sites on the viable agricultural land and it prohibits NYSERDA from deeming viable agricultural land as underutilized sites. So they can't be identified as underutilized.

MS. WALSH: Okay. So when NYSERDA is trying to implement this Build-Ready program, the first thing that they do is they do a look, a broad look around the State to try to identify potential sites, right?

MS. BARRETT: Ideally, yes, that's what they do.

MS. WALSH: Right. And I think in the first year of the program what they did is they reached out and they invited nominations of different potential sites and they came up with I think, like, 14 of them. And they looked at those and then they also surveyed a little over 500 sites around the State in this first year. I just -- I finished reading their April 2021 report which kind of summarized what the first year of the program looked like. So, this bill specifically, though, getting to your -- to your bill specifically, it provides that when NYSERDA is identifying, screening and assessing potential project sites, the -- the phrases "viable agricultural land" shall not be deemed suitable for the development of the Build-Ready

sight. Correct?

MRS. BARRETT: Correct.

MS. WALSH: Okay. So, does the bill define what is considered to be viable agricultural land?

MRS. BARRETT: The -- actually, Ag and Markets Law defines it and it is land -- quote, "land that is highly suitable for a farm operation."

MS. WALSH: That's right, under Section 301 of the Ag and Markets Law.

MRS. BARRETT: You got it.

MS. WALSH: Yeah. Would you agree that that's rather a broad definition?

MS. BARRETT: I think it's a working definition that's in our law.

MS. WALSH: So it -- land highly suitable for a farm operation. And then later on in the Ag and Markets Law it talks about what -- what a farm operation consists of. It could be (inaudible), it could be different things. But the definition encompasses not just lands that are currently in production or that contain prime soils, but any land that could be used for agricultural purposes, right? Whether it's being currently used in agriculture at the moment. Correct?

MRS. BARRETT: I -- I think -- you know, we have seen over and over that, you know, that soil maps have identified the lands that are most viable and, you know, I think it's a home security -- Homeland Security issue to be sure that New York State can



continue to grow food for all of our families. So farmland protection is really critical.

MS. WALSH: Right. But what -- the point that I'm trying to make -- or the question I'm trying to ask is when you define something as being -- land highly suitable for a farm operation as being viable agricultural land you're not talking about -- like through the counties they have Soil and Water Conservation Districts. They go around, they take test samples, they do mapping to figure out where the areas of prime soil or where the really unique soil is. But this bill just says if it's viable -- if it's land that they consider highly suitable for a farm operation it's considered viable farm -- or viable agricultural land and it cannot be considered for one of these Build-Ready sites under NYSERDA.

MRS. BARRETT: It -- it could be part -- it's still -- the -- the farmer -- if the farmer really wanted to give up his farmland or her farmland and ensure that, you know, that it became a solar farm it -- it could still happen. What this bill does is it just keeps this viable farmland from being incentivized or being, you know, prioritized as a first place to go. And it's protecting farmland, protecting food production.

MS. WALSH: Right. So let's talk about that. So, at -- while it is true that a farmer could work directly with a developer, there are incentives to having this be a NYSERDA project, correct? What kinds of perks or benefits are there for the developer if this is a NYSERDA project?

MS. BARRETT: I don't really -- I'm not really sure do -- that's not what this bill does. So, yeah, NYSERDA's focus is for difficult to develop lands. That's the -- that was the intention of this Build-Ready project is to seek out those difficult to develop sites. So there are no incentives for these other things you're -- that you're describing.

MS. WALSH: Well, no, there absolutely are, I believe. It says the budget is \$71.8 million through 2025. It authorizes an additional \$50 million in clean energy funds. There are pilots, there are financial incentives that are in place. If you can get this to be a NYSERDA-designated Build-Ready site, there's an advantage to the developer to be able to come in and then that could trickle down to the farmer, too, as well.

MRS. BARRETT: I -- I don't believe that that's how it work -- works. I think those funds are other NYSERDA projects, not specifically for this farmland piece.

MS. WALSH: Well, no, I am not even talking about specifically farmland, Mrs. Barrett. I'm talking about just the program itself.

MRS. BARRETT: That's not what this bill is about.

MS. WALSH: Well, it -- but for you to say -- for you to represent that, well, the farmer could just work directly with a developer, there's nothing in this bill that would prevent it is kind of like saying to a member of the Minority party, *Well, if you think the bill is such a great idea why don't you bring a bill to the floor that will*

*do that?* I mean, the -- the fact of the matter is that this program is a program that you want to get into, whether you're a farmer or whether you happen to own a brownfield. It's beneficial. It fast-tracks a project and there are certain perquisites that come with being designated as a NYSERDA project.

But -- but let me move on anyway because I -- I don't want to run out of time. So, effectively -- well no, let me skip over that because you didn't -- you didn't agree with me on that. Let me give you an example. What if there is a coalition of sorts in a community where you have community partners, farmers, other interested parties who want to string together less productive acreage, steering development away from productive or prime soils? Using the Build-Ready program would help projects like this be more affordable to developers, thereby further protecting large losses of productive farmland. But under this bill, if it's considered to be viable agricultural land it's just completely struck from consideration under the NYSERDA program, right?

MRS. BARRETT: No. I -- there -- there's a lot of different programs that NYSERDA does and incentivize. This is one particular program which is called Build-Ready. It's the only one that we're talking about here. It's -- there's a lot of other ways that, you know, a community could be accessing NYSERDA funds. There's a lot of other, you know, routes to get there. But this is just this one particular program that is viable farmland and we want to be sure to protect it because I don't know if there's anybody else here, but I don't

want to give up eating. And I think our farm or foods that we grow here in New York State are -- are essential to our communities.

MS. WALSH: I don't think anybody is disputing that at all. What I'm saying is, let's say that a farmer is interested in having a portion of his land or her land that it -- that he does not believe or she does not believe is very productive, and to use that for a solar project. Let's say that the -- this particular farmer has hundreds and hundreds of acres and she has made the determination looking at her farming operation that there -- there is -- there's a certain area where it would be appropriate to do a colocation; to have farming in one area and have solar in another area. Would that type of a project be under -- under your bill, under this NYSEDA Build-Ready program, could that even be entertained?

MS. BARRETT: Yes.

MS. WALSH: It could -- really?

MRS. BARRETT: Yes.

MS. WALSH: Okay.

MRS. BARRETT: It's -- there are a lot of other programs besides this Build-Ready piece.

MS. WALSH: No, I'm not -- but I'm not talking about other programs --

MRS. BARRETT: These are all pieces --

MS. WALSH: I'm talking about under this program, could -- if you have -- if you're a farmer and you have some land that you believe would be appropriate for solar and some areas that you

would want to continue to farm, but if it's deemed viable agricultural land you can't even be considered, right?

MRS. BARRETT: No, I -- I disagree with --

MS. WALSH: You disagree.

MRS. BARRETT: -- that interpretation of it.

MS. WALSH: Okay. Okay. Well, let me -- let me ask you this. Under the 507 sites that were screened by NYSERDA as potential Build-Ready sites, do you happen to know how many were either considered to be greenfield or agricultural out of those 507 sites?

MRS. BARRETT: I don't know.

MS. WALSH: Yeah, 59. Fifty-nine were considered. And do you know how many of those 59 sites were closed because they were deemed unsuitable and no longer under consideration?

MRS. BARRETT: You're going to tell me. Go ahead.

MS. WALSH: Yeah, all of them were closed. None of them were considered to be suitable. So if the concern about that this bill represents is to protect viable farmland, it appears that based on NYSERDA's report from its first year in -- in operation under this Build-Ready program that none of the agricultural sites were considered suitable. All of them were rejected. Zero are on the priority site list which, by the way, contains five sites that were identified: A former industrial mine in St. Lawrence County, a former airport in Clinton County, a former correctional facility, a former

OPWDD site and an underutilized site in the City of Ogdensburg and the Town of Lisbon. So none of the priority sites are agricultural anyway. So why do we need this bill?

MRS. BARRETT: You're talking about different kinds of sites. We're talking about existing viable farmland. That's what NYSERDA does. That's where they're going into all of these other places to look at it and to understand, you know, is this viable, is this going to work? We're talking about clean farmland that we don't want to prioritize as a site for solar when it could be used for farming.

MS. WALSH: Potentially used, not -- it doesn't even mean that it's currently used for farmland.

MRS. BARRETT: Could is the word, could.

MS. WALSH: Okay. So -- okay. Thank you very much.

On the bill, Mr. Speaker.

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

MS. WALSH: Okay. In -- in my opinion this bill isn't necessary. As of April 20 -- 2021 NYSERDA report proves that there were zero Build-Ready sites that are in agriculture and are being considered. Fifty-nine agricultural sites investigated were all deemed unsuitable. So worries that prime agricultural land is going to be fast-tracked or forever lost to solar or raised in wind turbines isn't borne out by the evidence at all. It appears that the directive to NYSERDA to prioritize brownfields and the like is being followed, which is a

good thing. That being said, I could envision an appropriate agricultural site in the future. Not all agricultural land is prime soil, tillable productive land. A farmer should be able to make the pitch to potentially work with other community members to propose a Build-Ready site. Here's one: There's a priority site in an old abandoned airport which is next to a farmer's field that isn't being used for anything. Why not add the two together and make one great site? The bill -- this bill would prevent even the possibility of that happening. That's colocation or agrivoltaics. I had to look that up. That's why the Farm Bureau opposes this bill. The definition of viable agricultural lands is so broad, this bill would completely foreclose a potential project. Farmers need all the help that they can get. We talk all the time in this Chamber about food insecurity and how important farmers are, but in the next breath we tell them how much they can grow, how much they can charge. We regulate every single aspect of their business, and now we're shutting the door on a possible income stream for a farming operation.

Last year we had 43 no votes on this bill and bipartisan opposition. This bill hasn't changed at all since last year. I'll be voting no again on this bill and I'd encourage my colleagues to do the same. Thank you, Mr. Speaker.

ACTING SPEAKER AUBRY: Thank you.

Mr. Smullen.

MR. SMULLEN: Thank you very much, Mr. Speaker. Would the sponsor yield?

ACTING SPEAKER AUBRY: Mrs. Barrett, will you yield?

MRS. BARRETT: Yes.

ACTING SPEAKER AUBRY: Mrs. Barrett yields.

MR. SMULLEN: Thank -- thank you very much, Mrs. Barrett. Just to clarify the -- the definition of viable land, what is your appreciation right now of the amount of viable land that we're talking about that would be affected by the provisions of this bill?

MS. BARRETT: I -- I don't really have a sense. I have -- you know, in my own community there's farmland that is being sited for solar farms and there's a battle going on and I -- you know, I think that to suggest that this is not something that will happen in -- in New York State is, you know, is just not right. I -- I disagree with it completely.

MR. SMULLEN: Well, as terms of -- of viable agricultural land being taken out of production and then put under -- under the solar --

MRS. BARRETT: Incentivized is what this -- this bill -- is -- the issue here is we don't need to incentivize it because there are other programs that -- that farmers can, if they want to, go into a solar or partner with another community entity to -- to have renewables that they can use.

MR. SMULLEN: But to be clear, to be incentivized by a department of the New York State government to hit a particular amount of target megawatts under solar --



MRS. BARRETT: Right.

MR. SMULLEN: -- provision under the law --

MRS. BARRETT: Right.

MR. SMULLEN: Now, how would this -- how would this law affect the Governor's Office of Site Selection that prioritizes and fast-tracks large projects to hit the CLCPA targets?

MRS. BARRETT: The -- the ORIS, it has no impact on that. Those -- there are multiple other ways that, you know, that the government is incentivizing. This is just a fast track about farmland that we're trying to make sure that it doesn't happen so that farmland doesn't -- the farmland doesn't get taken over and, you know, and then no longer used right at the outset. It just -- it just slows down the process.

MR. SMULLEN: Sure, I understand. And so, you know, talking about farmland, I -- I live in a rural area, as you know. I've got many farmers who are finding that the economic incentives by the State are greater than the economic incentives regulated by the State to have land under agricultural production. You know, for instance, if you were a former dairy farmer that has hay, solar pays more than hay does in many economic models that they're faced with. Why -- why wouldn't they take that if there's no price supports for hay or for corn or for dairy that would allow them to -- to make money and -- and keep it viable and keep it under production?

MRS. BARRETT: They can. They absolutely can. There are multiple programs that they can do that.

MR. SMULLEN: I -- I'm not -- I'm not certain how -- you know, we're -- we're talking one provision of -- of definition under Ag and Markets Law and then another provision of production of actual food stuffs where the -- where the --

MRS. BARRETT: This is just -- it's a very limited program of -- that NYSERDA engages. It doesn't have anything with the ORIS process. It's just a -- a fast tracking and of -- of viable farmland that we're -- you know, that we're just asking not to have happen.

MR. SMULLEN: Sure. And -- and do you believe -- how long will solar fields be in existence typically in New York State?

MRS. BARRETT: Well, isn't that a good question. And what's going to happen to them afterward when technology changes? I don't know. Do you know?

MR. SMULLEN: Well, typically a municipality, at least the ones I'm familiar with, requires a solar farm to bond it so when it's -- when it's out of production it actually gets returned. Would that actually be preserving viable agricultural land for a period of anywhere from 20 to 40 years depending on the solar contract?

MRS. BARRETT: No.

MR. SMULLEN: It has to be taken out. There's a bond that says it has to be taken out and returned to its original state.

MRS. BARRETT: Right.

MR. SMULLEN: I guess there's an argument that could be made there.

Mr. Speaker, on the bill.

ACTING SPEAKER AUBRY: On the bill, sir.

MR. SMULLEN: I -- I really appreciate the sponsor's desire to preserve viable agricultural land. I'm also very sensitive to the various ages and stages that farmers are in their lives across New York State. And particularly to the unfriendly business climate that farmers have in New York State, particularly with national level dairy prices that have to be taken by farmers and some of the regulatory requirements and burdens that are placed on them by New York State where we're -- we're trying to tell the one class of people to produce food but we'll incentivize this other thing that the State is subsidizing at a much higher level. So it's putting people in a really -- a -- a terrible conundrum in my mind. For that reason, for the confusion that that is -- that there is in the agricultural community over the solar issue, on one hand the State government coming in heavy handed and saying, *Municipalities, you cannot regulate this anymore*. Because if a municipality has control of it then they say, *Well, this is really -- this is viable agricultural land. We shouldn't use this particular land for solar, we should use this land over here which is much better*. And we've got some really perverse incentives out there.

For that reason, I'll be voting no. Thank you very much, Mr. Speaker.

ACTING SPEAKER AUBRY: Thank you.

Mr. Sulk -- Mr. Salka. I'm sorry.

MR. SALKKA: Thank you, sir. Mr. Speaker, would

the sponsor yield for a question or two?

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

MRS. BARRETT: (Inaudible)

ACTING SPEAKER AUBRY: The sponsor yields.

MR. SALKA: Now, from what I understand this is just for sites under the Build-Ready program.

MRS. BARRETT: Yes.

MR. SALKA: And you explained that there are many programs that NYSERDA offers for incentives for development of solar and wind. Could, in fact, any of those programs open up the possibility of installation on those lands that aren't now or will be prohibited by -- as a Build-Ready site? In other words, kind of a front-door approach --

MRS. BARRETT: I'm sorry. Could you just -- I -- I lost some of your words, sir. Could this what?

MR. SALKA: All those programs, all those incentive programs, the other incentive programs --

MRS. BARRETT: Right.

MR. SALKA: -- that NYSERDA has --

MRS. BARRETT: Right.

MR. SALKA: Could those programs be used, utilized to, in fact, install a solar project on what I call tillable land?

MRS. BARRETT: Yes. Absolutely.

MR. SALKA: So in other words, by eliminating this

we are not eliminating the possibility that a -- a green project, if you will, can be -- could be applied to those -- those lands which are -- we're listing as viable agriculture? So there's a way around this.

MRS. BARRETT: Absolutely. This is really just limiting the fast-tracking of these lands through this Build-Ready program. The -- the same lands -- the -- the farmers' rights are still there and there are plenty of other incentives out there. I mean, I, you know, have been a champion, as all of you know, for our farmers and for farmland preservation and for the whole industry. So this is not something that is meant to undermine the agricultural sector of the New York State by any stretch of the imagination. It's just about making sure that we stop and we think and we preserve the lands if we can that are -- that are most productive for -- for food growth and -- and other agriculture.

MR. SALKA: But we just admitted that there is, via these under -- other, excuse me, other incentive programs that there's a possibility that it's inevitable that, let's say, if a farm has got 100 acres of land and because now with the outrageous price of fertilizers and fuel many of them are -- they're approaching here saying, *I can't even afford to plant this year*. So now if that, in fact, persists for the next couple of years that farmer is going to look at that property and he's going to say, *I'm paying taxes on this land and I can't even plant on it now because of the outrageous cost of being able to plant and fertilize and -- and till*. So, essentially, though, this is just kind of delaying the inevitable if, in fact, that farmer decides to exercise that option to

develop the land with a solar or wind project.

MRS. BARRETT: I'm going to disagree with you because I think there are other things that we should be doing in New York State to support those farmers to be able to continue growing food and using it in agriculture. So, I don't think we're delaying any inevitable at all.

MR. SALKA: Well, I -- I agree. We should be supporting our farmers in any way, shape or form, and that it's much more -- it's much more practical to grow food than to try to attain some what I feel is an unrealistic goal that 70 percent of the power by 2030. The State's got a real conundrum here is that they're setting again an unrealistic goal, and I have a feeling that if, in fact, they get closer to that -- the realization that that goal is not going to be attained, they are going to do whatever they can to --to -- to attain that goal.

But again, I appreciate you time to answer my questions. And we all support agriculture, we all support our farmers.

ACTING SPEAKER AUBRY: Read the last section.

THE CLERK: This act shall take effect immediately.

ACTING SPEAKER AUBRY: The Clerk will record the vote on Assembly print 7696. This is a Party vote. Any member who wishes to be recorded as an exception to their Conference position is reminded to contact the Majority or Minority Leader at the numbers previously provided.

Mr. Goodell.

MR. GOODELL: Thank you, sir. The Republican Conference is generally opposed to this legislation for the reasons mentioned by my colleagues. Those who support it are certainly free to and encouraged to vote for it here on the floor of the Assembly or call the Minority Leader's Office and we'll record your vote accordingly.

Thank you, sir.

ACTING SPEAKER AUBRY: Thank you.

Ms. Hyndman.

MS. HYNDMAN: I would like to remind my colleagues that this is a Party vote. Majority members will be recorded in the affirmative. If there are any exceptions I ask Majority members to contact the Majority Leader's Office at the number previously provided and their names will be announced accordingly.

Thank you, Mr. Speaker.

ACTING SPEAKER AUBRY: Thank you.

(The Clerk recorded the vote.)

Ms. Giglio to explain her vote.

MS. GIGLIO: Thank you, Mr. Speaker. To explain my vote. Coming from a very large agricultural district, it is very important -- and -- and a proponent of property rights -- I believe that it is up to a property owner to decide what their property should be used for and that New York State should not be having any prohibitions on that.

So I will be voting no, but I appreciate the speaker's

initiative in trying to preserve our food production. Thank you.

ACTING SPEAKER AUBRY: Ms. Giglio in the negative.

Mr. Tague.

MR. TAGUE: Thank you, Mr. Speaker. To explain my vote.

ACTING SPEAKER AUBRY: Please, sir.

MR. TAGUE: There's probably no one more in this Chamber that cares more about keeping our lands in agriculture. However, the failure of this law to explain viable agricultural lands is my reason for my no vote. Along with the Farm Bureau and many agricultural organizations, the failure was back in the budget two years ago when we allowed government agencies to take away local control and local Home Rule.

For those reasons, I'll be voting in the negative.

Thank you, sir.

ACTING SPEAKER AUBRY: Thank you.

Mr. Goodell to explain his vote.

MR. GOODELL: Thank you, sir. I'll -- I'll be voting no on this bill because I think it's one more nail in the coffin of our agricultural industry. I appreciate the stated desire of the sponsor to protect agricultural property. It's a -- an objective that both of us share, for sure. But if we're serious about preserving our agricultural industry in New York State, we need to look at what's happening in farm economics. We, as a state, are moving forward to dramatically



increase the cost of farming by imposing overtime standards that don't make sense in the context of farming operations. And we know because we've heard from literally thousands of farmers across the State as well as farm workers that those overtime standards are going to create horrific problems. A few years ago, we banned fracking, hydrofracking. And in my district farmers would use those natural gas wells to offset operating losses. We limit marijuana commercial licenses to one acre, so that didn't really help a real farm. So let's be serious. If we want to help farmers let's make it profitable for farming in New York and not impose more burdens on them.

Thank you, sir.

ACTING SPEAKER AUBRY: Mr. Goodell in the negative.

Mr. Walczyk.

MS. WALCZYK: Thank you, Mr. Speaker. To explain my vote. This bill pretends to protect agricultural and farmland but it tramples on property rights, putting farmers at a disadvantage in New York State. I know that there are fans in this Chamber of different forms of government, but farms in this State are not communes and I will be voting no.

Thank you, Mr. Speaker.

ACTING SPEAKER AUBRY: Mr. Walczyk in the negative.

Ms. Hyndman.

MS. HYNDMAN: Please record my colleagues in

the negative on this piece of legislation, Ms. Buttenschon and Mrs. Gunther.

Thank you.

ACTING SPEAKER AUBRY: So noted. Thank you.

Are there any other votes? Announce the results.

(The Clerk announced the results.)

The bill is passed.

ACTING SPEAKER AUBRY: Page 41, Calendar No. 370, the Clerk will read.

THE CLERK: Senate No. S07726, Calendar No. 370, Senator Skoufis (A08775, Burke). An act to amend the Public Health Law, in relation to directing the Department of Health to establish and implement an infection inspection audit and checklist on nursing homes.

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

MR. BURKE: Yes, I'm happy to. Thank you, Mr. Speaker. This bill amends Chapter 768 of the Laws of 2021 which established a program under the Department of Health for audits of nursing home competency on infection control. This chapter amendment would -- would clarify that the infection inspection control audit and checklist must be consistent with the infection control survey standard issued by the Federal government, and require nursing homes to meet all metrics on the checklist to be scored as in

compliance with infection control.

MR. BYRNE: Thank you for the explanation. Mr. Speaker, will the sponsor yield for a question?

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

MR. BURKE: Of course.

MR. BYRNE: Thank you, Mr. Burke. The question -- we went through this towards the end of the Session last year and I think the chapter amendment makes the bill improved and it does address some of the concerns that we raised about inconsistent -- inconsistencies with the Federal regulations that exist. But again, I'll ask some of the questions I think I asked last year. Who will be conducting these audits referenced in the bill? And do we know what the associated cost to the State would be?

MR. BURKE: Sure. So, the Department of Health will be conducting these audits. They're purposely external audits. Unfortunately, internal audits prove to not be that effective. And as far as costs, who knows? You know, we would hope that everyone would be in compliance and we wouldn't have to go through this 90-day cycle of -- of repeated inspections. But the Department of Health seems satisfied with these chapter amendments and I think that they are prepared to do this, and so that's -- these are the changes that we've made.

MR. BYRNE: Thank you for answering the questions.

Mr. Speaker, on the bill.

ACTING SPEAKER AUBRY: On the bill, sir.

MR. BYRNE: I want to thank the sponsor for answering my questions. And it was refreshing to see that it seems that our -- our new Governor paid attention to our debate last year because some of the chapter amendments address at least some of the concerns that were raised about inconsistencies with Federal regulations from the Center for Medicare and Medicaid Services. I would also add that there are still concerns that this could be duplicative, add costly penalties. It also increased costs to the State. And there is also concerns that have been expressed by groups like LeadingAge that in the context of the pandemic and staffing shortages that they already maintain a lot of administrative requirements, and redundant administrative requirements can actually divert staff from very important resident care responsibilities. And that is another concern that I have. I certainly appreciate the sponsor's goal. I don't question the motives of this legislation. I think what we're trying to accomplish is -- is certainly good. We want to make sure that we -- we have good care in these facilities that care for some of our loved ones and our most vulnerable, but we also need to make sure that we are just mindful of the cost that come with these new regulations and mandates on these facilities.

So I think the last time we voted on the original bill we had 43 no votes. I appreciate the amendment. I will still be voting no and recommend to my colleagues a vote in the negative. Thank

you, Mr. Speaker.

ACTING SPEAKER AUBRY: Thank you, sir.

Mr. Jensen.

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

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

MR. BURKE: Yeah, happy to.

ACTING SPEAKER AUBRY: Mr. Burke yields.

MR. JENSEN: Thank you, Mr. Burke. I just wanted to -- to build off some of the questions and comments of my -- my previous colleague. Oftentimes in nursing homes the infection control operations are overseen by a registered nurse. And while some of these amendments are positive, will the work -- any additional workload that puts in place some of these new infection control measures, will those take into account as direct patient care under previously passed 70/40 spending mechanisms?

MR. BURKE: They will.

MR. JENSEN: They will. Okay. I understand you mentioned earlier that the Department of Health has said that with their staffing difficulties throughout the pandemic they're prepared to fulfill the obligations of this legislation. That's -- is that correct?

MR. BURKE: Correct.

MR. JENSEN: Okay. Has the Department of Health -- I know even before the pandemic they were often months -- plenty

of months behind on annual inspections of nursing homes as well as months and months and months behind on investigations on resident and family complaints. Do you know if that situation is substantially different today?

MR. BURKE: I don't.

MR. JENSEN: Is there any concern that you have as the sponsor of this legislation that adding additional inspection mechanisms that are already covered by annual inspections and investigations into accusations of neglect and inappropriate action by care providers that this may add to even less ability to investigate those sorts of claims or conduct inspections by DOH?

MR. BURKE: I mean do I have con -- I have concerns about how we function and operate and oversee nursing homes in general and the cost that that's had on vulnerable people and families. But to not do this, no, I disagree that it's a duplicative service. It's -- it's obviously necessary. And after what we just went through, I think we need to do everything in our power -- I think everyone would agree -- maybe we disagree on how to do it, but we need to do everything in our power to ensure we don't have another, you know, nursing home epicenter public health catastrophe. And I think this is the best way to do that. If the Department of Health isn't meeting their capacity and need, then we need to hire more people at the Department of Health. But I think we need to at least give this a shot, see how it goes and then of course, you know, do our due diligence and have oversight when we have our -- our hearing period.

MR. JENSEN: Well -- and I -- and I think, you know, all of us would -- would agree in that respect that we want to make sure that we're keeping residents in long-term care safe and provide exceptional -- exceptional care. But these items are already required by -- under Federal law. They're already being inspected by the Department of Health. So I don't want to relitigate --

MR. BURKE: They're -- they're not, though. So the -- the Federal requirements are internal audits from the nursing home facilities themselves. This would be an external audit. So the standard -- the standards are now -- now we're making equal, but the requirement of a -- of an external audit, it prioritizes that and it gives it more urgency within State law as well.

MR. JENSEN: With all due respect, Mr. Burke, as somebody who worked in a nursing home and has gone through an annual inspection, they do inspect for infection control measures. They already are looking at these aspects of the operations of a nursing home. So we're asking them to continue to do the same thing, which we should be doing, but they should already be doing it in the first place. And if we're doing more annual inspections when they're supposed to be taking place, these things would be caught even earlier. So they -- I -- I do believe, and I think a lot of operators and -- and providers believe that it is duplicitous. But what's under the law right now, not necessarily this law, is that we are disincentivizing care providers from making capital investments that may actually make a difference in the care being provided. If a nursing home wants to

invest in greater air circulation measures to protect air purification and make sure it's -- the air is cleaner on a nursing floor, they, under laws that we passed last year, they're de incentivized from making that investment. So wouldn't we want to make more ability for nursing homes to invest in care staff, in the care environment rather than adding more and more inspections that may -- may be duplicative?

MR. BURKE: Again, I don't -- I don't think they are duplicative. But I would equate this to, you know, if -- if -- sort of a fire safety or any other very necessary safety standard. If it was effective, then we wouldn't have met the, I think, some of the challenges we've met throughout the COVID pandemic. We can't let it happen again. It's not duplicative. These aren't -- they are internal audits from the -- from the Federal standard. This does make them external. It needs to be done. And again, we may disagree on -- we may disagree on some of these things. We can all disagree or agree that we have to do a whole lot better and this is the effort to do that.

MR. JENSEN: Okay. Thank you, Mr. Burke. I appreciate you (inaudible). Thank you, Mr. Speaker.

MR. BURKE: Thank you.

ACTING SPEAKER AUBRY: Thank you.

Mr. Salka.

MR. SALKA: Thank you, Mr. Speaker. Will the sponsor yield for a question?

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



MR. BURKE: Yes, sir.

ACTING SPEAKER AUBRY: The sponsor yields, sir.

MR. SALKA: The question I have, the first one is will the DOH have any kind of consideration for the state of -- of the staffing of the nursing homes when it looks at these possible citations? In other words, to simplify it, if nursing homes which have been chronically short-staffed now for years and COVID-19 really underscored it and we saw the effects and the implications, when the DOH does go in and do these infection control inspections, which a lot of nursing homes already have in place, will they be able to maybe give it a bit of a subjective analysis, if you will, before they go and place heavy fines, kind of already kicking them while they're down. So will there will be any wiggle room at all when the DOH goes in to assess the infection control policies and their effectiveness?

MR. BURKE: Of course. I mean, so the effort here isn't to be punitive. The -- the effort is obviously to have a high safety standard. So it can be -- the fines can be up to a certain point depending on, you know, how -- how they're scaled and grow. But the effort is to sort of put the onus on the nursing homes to ensure they're doing everything in their power to prevent another pandemic, you know, creating them -- creating another sort of nursing home pandemic epicenter if something else does happen. So -- but I -- I would go back -- if you are a nursing home and you can't -- if you do not have the proper standards to prevent a -- a health outbreak within

your nursing home, should you be operating? I think that's a really important question. I understand the difficulties they have as an industry, but, you know, do we -- would I want to send my loved ones to a nursing home that -- that doesn't meet those standards? I wouldn't, and I don't think anyone else would. And I don't think anyone else should have to. They should have that -- it's hard enough putting a loved one in a nursing home. You'd have that comfort knowing that these standards are met. And so it's -- it's not punitive. It's not draconian. It's -- it's to urge them and push them to -- to meet these I think very reasonable standards.

MR. SALKA: Thank you. And I understand that the healthcare industry in this country is probably one of the most regulated industries in the world. And the scrutiny that hospitals and nursing homes are under already has been well-established. But again, my concern goes back to whether or not we are placing a somewhat punitive or unrealistic goal on these institutions that are already having a very, very difficult time even with basic staffing. Not only RNs, but CNAs, dietary, housekeeping. I mean, these are acute situations that were exacerbated by the -- by the pandemic. But we understand for a long time the nursing homes have really been between a rock and a hard place when it comes to adequate staffing, being able to balance their books and being able to, what is the most important thing, is to give the best patient care.

But those are a bit of my concerns. So I would appreciate it if the DOH would have the option of looking at these

situations and making sure that they're not painting these nursing homes into a corner. Because a closed nursing home is just as bad or can be worse than a nursing home that is not delivering as good of care as they can. So -- but I appreciate your time, Mr. Burke.

MR. BURKE: Thank you.

ACTING SPEAKER AUBRY: Mr. Goodell.

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

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

MR. BURKE: Of course.

ACTING SPEAKER AUBRY: Mr. Burke yields.

MR. GOODELL: Thank you, Mr. Burke. I -- I see that the proposed bill would require an audit to utilize a checklist that's consistent with the focus of infection control services standard set by the Federal Centers for Medicaid and Medicare, and that the facility, quote, "must meet all metrics on the checklist." How many metrics are there on this checklist?

MR. BURKE: I don't have that in front of me right now.

MR. GOODELL: Is it fair to say that some of the metrics are much more important than other ones?

MR. BURKE: I guess -- now that would be subjective, but -- but I -- I suppose.

MR. GOODELL: Wouldn't it make sense that

requiring DOH to do a follow-up survey within 90 days should be based on only those high priority metrics and not all metrics?

MR. BURKE: No. I -- I think setting a strong standard, especially in consideration of what's happened, is the most appropriate. Now, the previous bill did that, but, you know, we did receive a lot of push back and I think we even talked about it in our last debate how -- which I didn't -- I didn't necessarily disagree with, even on my own bill that -- that it was -- I'm trying to find the right word -- not convoluted, but complicated and -- and creates -- created even more difficulty for the Department of Health. This creates a -- a basic standard. And like I said, when it comes to fire safety we felt -- we want them to meet the highest standard, and we see what happens and unfortunately, what could happen (inaudible).

MR. GOODELL: We've heard repeated reports that the State Department of Health is seriously understaffed. Is that your understanding as well?

MR. BURKE: I have heard that.

MR. GOODELL: Do they have the staffing capabilities to implement this law?

MR. BURKE: They believe they do.

MR. GOODELL: Have you heard from them?

MR. BURKE: I have.

MR. GOODELL: We've also heard that there is substantial staffing issues affecting -- affecting all of our nursing homes. Do you know whether they have the staffing necessary to

respond to an inspection and the follow-up inspection within 90 days if they miss any one of the metrics?

MR. BURKE: I believe they do, and I -- and I believe they have a responsibility and they have to.

MR. GOODELL: And have you heard from any of the nursing homes or the associations that represent them confirming that they have the staffing to do this?

MR. BURKE: Not specifically, but I have not -- this -- obviously, this is a chapter so we're going back a couple years now. I did meet with some nursing home providers in 2021, 2020. But I haven't received significant push back from nursing home industry providers. I have -- I have not -- you know, you've -- you've been in this game a long time so you understand how it works. Generally, if there is strong opposition you hear about it and I have not faced that.

MR. GOODELL: Thank you very much, Mr. Burke. I appreciate your comments and insights.

On the bill, sir.

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

MR. GOODELL: Everyone here - Republican, Democrat, Independent, Conservative, Liberal - everyone here wants our nursing homes to be providing the best quality of care for our loved ones. That goes almost without saying. But I want to remind everyone we start from the same premise. We also recognize that when you ask a bureaucracy to create a checklist they're very adept at

creating long checklists. And as earlier debates on other laws have indicated, not all infractions are the same. Some infractions affect the life and safety of our residents and those are critical and absolutely we expect the nursing homes to meet them. Having been a county executive with a county nursing home for eight years I can also assure you that there are also items on those inspection reports that are not by any stretch of the imagination life-threatening or serious. So what this bill says is that if a nursing home fails to meet every metric -- I'm sorry, I shouldn't paraphrase. It says if it fails to meet all metrics on the checklist they automatically get a follow-up inspection within 90 days. And unfortunately, all our nursing homes are facing severe staffing shortages, and so when you face another inspection in 90 days you're devoting more resources to addressing the inspection than you are otherwise providing for patient care.

And so I certainly appreciate the sponsor's desire. This chapter amendment is also an improvement because it reflects the fact that we're not developing standards that are separate and distinct from the ones that already exist. That's a great improvement. And again, I appreciate my colleague's desire. But it would be I think very helpful for both the nursing home operators and our residents if we prioritize those shortcomings that are critical and would trigger a follow-up inspection and the devotion of times and staff to address from those who are not critical, and I hope that's a change that we can look at in the future.

Thank you, Mr. Speaker.

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 on Senate print 7726. This is a Party vote. Any member who wishes to be recorded as an exception to their Conference position is reminded to contact the Majority or Minority Leader at the numbers previously provided.

Mr. Goodell.

MR. GOODELL: Thank you, sir. The Republican Conference is generally opposed to this legislation. Those who support it are certainly encouraged to vote in the affirmative here on the floor or contact the Minority Leader's Office and we'll ensure that your vote is properly recorded.

Thank you, sir.

ACTING SPEAKER AUBRY: Thank you.

Mrs. Peoples-Stokes.

MRS. PEOPLES-STOKES: Colleagues, this is a Party vote in the affirmative. However, should any desire to vote in the negative, please feel free to contact the Majority Leader's Office and your vote will be properly recorded.

ACTING SPEAKER AUBRY: Thank you.

(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. If we could now go to Calendar No. 37. It's on page 9 and it's on debate by Ms. Paulin.

ACTING SPEAKER AUBRY: The Clerk will read.

THE CLERK: Assembly No. A00563-A, Calendar No. 37, Paulin, Galef, Jean-Pierre, Abinanti, Dinowitz, Englebright, Epstein, Hunter, Gottfried, McDonough, Reilly, Cook, Steck, Griffin, Otis, Vanel, Sayegh, Zinerman. An act to amend the Public Service Law, in relation to requiring certain notices to be provided to customers receiving telephone service through fiber optic-based telephone lines.

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

MS. PAULIN: Absolutely. The bill would require telephone corporations to provide notice to customers before initiating a change in a customer's telephone service from copper-based lines to fiber optic lines.

ACTING SPEAKER AUBRY: Mr. Palmesano.

MR. PALMESANO: Yes, Mr. Speaker. Will the sponsor yield for a few questions?

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

MS. PAULIN: I would be happy to.



ACTING SPEAKER AUBRY: Ms. Paulin yields, sir.

MR. PALMESANO: Thank you. And before I start, I just want say I know yesterday when I was debating our colleague I said I wasn't going to use the whole 15 minutes. Oops, sorry about that everyone. I'm -- I'm not going to make that pledge here, but I'm going to try my best to see how we can get through this discussion today with some questions to ask. So I guess my first question, Amy, is I know we're talking about fiber deployment. We all agree that we need to do all we can to expedite fiber deployment across our State as quickly as possible as efficiently as possible. Wouldn't you agree with that?

MS. PAULIN: Yes.

MR. PALMESANO: Especially after the remote experience -- learning experience our kids faced before -- during the COVID crisis and which was a problem even with the Internet technology and reliability was a problem before COVID but was just exacerbated after COVID. Is that an accurate assessment?

MS. PAULIN: I'm sorry.

MR. PALMESANO: I'm sorry. I'm just trying to emphasize the point that reliability and Internet access was a problem before COVID but it became exacerbated --

MS. PAULIN: Yes. Yes.

MR. PALMESANO: -- after COVID and we saw --

MS. PAULIN: Absolutely.

MR. PALMESANO: -- people having to line up outside of libraries and schools trying to get Internet access so they could do papers and things of that nature. So I know -- I understand the intentions behind your legislation here today, but I just -- I had a few questions to ask you, if I may.

Right now the FCC has a regulatory process when there's a copper retirement, correct? Where companies will notify the FCC that they plan to retire the copper in an area well before that retirement. There's a process right now that the FCC has in process when they -- when they retire copper to do fiber deployments, correct?

MS. PAULIN: Yes. There -- they had changed their process in the last couple of years to eliminate the notice and to simply require a posting on a website if they're going to come into an area and change from copper to fiber. So that was what prompted the bill.

MR. PALMESANO: So were these rules and regulations and notifications made because the companies aren't making -- are you saying the companies aren't making the notification to customers when they're doing the deployments?

MS. PAULIN: It's optional now. I know that, you know, locally, Verizon where a lot of us reside does still provide notice but it is optional. I also know that the -- that Verizon, being a big provider, doesn't object to this bill because they believe that notice is worthwhile which is why they're continuing to do it. But there are a lot of smaller companies, perhaps, and over time we may see that this

notice is not given to customers. So we want to ensure that it is.

MR. PALMESANO: I did want to ask -- you know, obviously, again, we're -- we know that the fiber is the preferred technology. And I know that you said that you're trying to work with organizations. Because one part of the bill that kind of concerns me because I know right now where companies are trying to make those notifications, when letters do go out they're notifying them within, you know, 30 to 60 days, sometimes 45 days. In your bill it talks about how any such notice shall be deemed to be approved by the Commission 90 days after the company applies to the Commission for approval. So the -- so the PSC can have up to 90 days to approve the communication that needs to go out to the -- to the customers so that the company wouldn't be able to go out there and do the deployment until they get that approval, so they would have to wait 90 days; isn't that correct?

MS. PAULIN: Yes. We -- we became aware today of the concern by the telephone corporations that that might be too long. We just learned about that concern. So we haven't -- didn't have time yet to check with the PSC whether it can be shortened. But I have told them and I'll say it on the floor, I'm very open-minded to shortening it. I would -- I would want to shorten it if it can be shortened, but I -- I just learned about it today for the first time, as I think you have as well.

MR. PALMESANO: Okay. Because I -- that was my other question when I looked at the language because if it's 90

days and then if there's an error or something they want corrected it goes back to the PSC. How much time would they have to do that? And that's just kind adds up in that time frame.

MS. PAULIN: I -- I agree. And I just want to answer one other small point that -- that I think you alluded to, and that is the reason we want to do this came up during storm Sandy and other storms, and it came with up with some of our emergency providers, for example, a local dentist we had who does emergency work. And with copper, the battery backup is done by the utility so that they maintain service during those storms, unlike fiber who converts to a battery system. And I have another bill I think on the floor to debate at another later point about notice when you have batteries, because the batteries don't have a long life and they need to be replaced and not everyone is aware. So because of that, these emergency health providers wanted the opportunity to maintain their copper, or at least one copper phone because they are maintained by the utilities, the service. So that was what -- and they wanted that option and -- and it seemed like they should get notice to be able to ask for that option.

MR. PALMESANO: Okay. And also -- I think also you mentioned about posting stuff on the website. So there is like, I know, like I think, a consumer guide out there that lets people know about the issues when they do deployment and where things stand from that perspective that -- that would have to access the Internet (inaudible).

MS. PAULIN: I don't know how many times you

check the Internet access of your telephone provider. I don't check it very often.

MR. PALMESANO: No, I agree. I just wanted to just clarify that. So when there is notification that is made, companies that are making notification, I know some are, you're saying some aren't, they're making that communication within a certain period of time frame. And then we're talking about the -- the 90 day time frame that you said there's some -- you know, we're looking to address.

So, Amy, I want to say thanks for your time on this and I'll just speak on the bill now. Thank you very much.

MS. PAULIN: Okay. Thank you so much.

MR. PALMESANO: I just want to commend the sponsor. Obviously, during this debate, you know, we find things out during discussions and -- and as bills come up. I applaud her for her willingness to work to try to find amendments because of the -- the concerns that are out there and the need to deploy as quickly as we can. And I think the FCC, you know, recognized the fact that they want to have uniformity with these rules and regulations to hopefully encourage this more efficient and critical fiber deployment, more efficiency with the preferred technology. And I think, you know, because the FCC really does develop the rules and policies regarding copper retirements and -- and the fiber deployment because it's a universal thing across the country that uniformity standard is important. I would hope that the FCC regulations would be good enough, but there might be some questions there, obviously. But I

think that uniformity that is in place, that has been in place with the FCC is the reason we're seeing companies and organizations investing billions of dollars into the infrastructure for that broadband deployment because when they know it's uniform across the country and that states have different rules and regulations, different requirements, whether it's notification or other regulations and reporting requirements. As we talked about the -- the time frame that the PSC has to review -- correspondence is going from a -- a company to a customer even though when, you know, these companies are probably already trying -- are already trying to do that -- those notifications through their current process. And I think we want to make sure that we're doing everything we can to be helpful and -- and make sure this deployment continues to progress in a quick, efficient manner rather than putting up more roadblocks and hindrances to that. We want to make sure we're not being duplicative in having the additional requirements and encourage this process to expedite. I think I was just concerned on the process of adding more burdens that can be placed on -- on those who are doing this deployment, getting that -- those changes and changing out the copper and putting in the fiber because we know it's the most efficient and improved technology. I think as we were talking about, we need to get the fiber deployment that's not going out fast enough. There continues to be hindrances and hurdles in this process. You know, what we've experienced over the past two years during COVID, the remote learning experience, we knew that access to a reliable Internet and technology was a problem

before COVID, especially in our Upstate rural areas for sure, that are having difficult times. And this problem just became more exacerbated during COVID and after, and we need to really redouble our efforts to make sure we're doing everything we can to take the hurdles and -- and the obstructions out of the way of getting the deployment of the broadband and fiber out there to our communities, especially in our rural areas. You know, many areas who aren't getting access to the Internet that they need that was promised, even though this Administration and the past Administration was saying we have universal broadband. We do not. We need to make sure we're putting that -- those hurdles and those burdens out of the way of the developers so they can make those deployments. I think that certainly one thing that we should be talking about more that we don't talk about more and that is what this Chamber did with the help of the Governor was when they placed -- placed in law a DOT right-of-way tax fee which was a pure money grab by the State of New York to collect dollars for resources, and which was a totally (inaudible) contradicts the goals and what we've been trying to produce and provide all along in this process about trying to get universal broadband and getting access to all those who need it. But this tax, DOT right-of-way tax has been in place for now for a couple of years, and the fact that this -- this Chamber, the Majority and the Governor hasn't eliminated that onerous tax which continues to be another hinder and burden for companies to be able to deploy fiber and broadband into their communities, particularly in our rural

communities. I think that's something we need to look at as part of this issue, and I think we have to continue to try to do everything we can to make sure that we're trying to have a universal requirement with the FCC guiding us versus the State and having a patchwork of regulations and rules.

So because of that and I think we have a lot of work to do on this, Mr. Speaker, I'm going to be voting in the negative. But I understand and I do applaud the -- the sponsor for looking out and trying to do amendments to try to make this process the sooner the better, so we'll see where those amendments go and if we can make the bill any better. But in the meantime, until then, until we see those, I'm going to be voting no on this legislation and -- and ask some of my colleagues to do the same. Thank you.

ACTING SPEAKER AUBRY: Read the last section.

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

ACTING SPEAKER AUBRY: The Clerk will record the vote on Assembly print 563-A. This is a Party vote. Any member who wishes to be recorded as an exception to their Conference position is reminded to contact the Majority or Minority Leader at the numbers previously provided.

Mr. Goodell.

MR. GOODELL: Thank you, sir. The Republican Conference is generally opposed to this bill. Those who wish to support it certainly are encouraged to vote in favor of the bill on the



floor or call the Minority Leader's Office and we will record your vote accordingly.

Thank you, sir.

ACTING SPEAKER AUBRY: Thank you, Mr. Goodell.

Mrs. Peoples-Stokes.

MRS. PEOPLES-STOKES: Thank you, Mr. Speaker. Majority colleagues will generally be in favor of this piece of legislation. However, should members decide to be an exception, please feel free to contact the Majority Leader's Office and we will properly record your vote.

Thank you, sir.

ACTING SPEAKER AUBRY: Thank you, ma'am.  
(The Clerk recorded the vote.)

Mr. Goodell to explain his vote.

MR. GOODELL: Thank you, sir. I will be voting no on this bill and encourage my colleagues to vote no because this bill makes the process of upgrading our telecommunications system slower and more burdensome by imposing multiple delays that could impact the ability of a telecommunication company to put in high-speed Internet. As mentioned by my colleague before, you could convert from the old copper to the state-of-the-art fiber optics. The utility company would have to send the PSC a proposed notice. The PSC would have 90 days to review it. If they made changes, the utility company would have to go back and make the changes. The

PSC would then have to face a second 90-day period. And once it's -- they sign off, the utility company would have to give a 45-day notice to the customers. So this bill potentially adds seven-and-a-half months or more to the process of upgrading our system to provide state-of-the-art fiber optics. And as we've seen particularly over the last two years with COVID, that state-of-the-art fiber optic system is so much faster and better for Internet access. I think we should be striving to expedite the process rather than slow the process down. And I greatly appreciate the sponsor's comments that she would look at amendments. I would hope that in the future we amend the bill before we vote on it rather than after we vote on it.

Thank you, sir.

ACTING SPEAKER AUBRY: Mr. Goodell 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, colleagues. Can we turn our attention now to Calendar No. 45? It's on page 10 sponsored by Ms. Wallace, and it is on debate, sir.

ACTING SPEAKER AUBRY: Page 10, Calendar No. 45, the Clerk will read.

THE CLERK: Assembly No. A00744, Calendar No. 45, Wallace, Abinanti, Vanel, Griffin, Zinerman, DeStefano, Sillitti,

Sayegh. An act to amend the General Business Law, in relation to the requirement that certain health clubs shall have at least one automated external defibrillator available upon the premises.

ACTING SPEAKER AUBRY: Ms. Wallace, an explanation has been requested.

MS. WALLACE: Yes. So this bill would require that healthcare clubs with 50 members or more have at least one AED, automated external defibrillator, on premises that is readily available for use.

ACTING SPEAKER AUBRY: Ms. Walsh.

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

ACTING SPEAKER AUBRY: Ms. Wallace, will you yield to Ms. Walsh?

MS. WALLACE: Yes.

ACTING SPEAKER AUBRY: The sponsor yields.

MS. WALSH: Thank you so much. Thank you, Mr. Speaker. So Ms. Wallace, what does the current law require? What size health -- health club needs to provide the AED currently?

MS. WALLACE: Currently the law requires 500 or more members.

MS. WALSH: And so what this bill does in part is it -- or really almost only effect of this bill is to take it from 500 down to 50 or more members; is that correct?

MS. WALLACE: That's absolutely correct.

MS. WALSH: Okay. And there's also another portion of the bill that I don't believe is being changed. Well, actually, let me ask it to you this way. It -- other than lowering the threshold for health club members before an AED has to be provided, is there anything else that this bill does or makes any change in the current law?

MS. WALLACE: No. I -- I think that that's really the intent of this bill. And I think the effect of this bill is just to lower it from 500 to 50. In the passage from the time that we originally had enacted 500, the cost of defibrillators have gone down significantly. There's a lot of research that shows that they are truly lifesaving. So I think it just makes a lot of sense to lower the threshold and have these more readily available.

MS. WALSH: So, would you mind just taking a look at -- it would -- it -- starting at line 6 of the bill? There appears to be an added section that says -- well, it says the 50 persons or more, and then it says available on the premises in a manner that provides obvious and ready accessibility to staff members and guests. Has that portion also been added?

MS. WALLACE: I -- I think it's probably more clarifying language to make sure that, you know, anybody in the facility knows where to find it if they need to immediately. Research shows that, you know, the more -- the quickly you can get to somebody, and it's simple enough now to use. You don't really any training and the machine tells you exactly how to use it.

MS. WALSH: And yet the bill -- the -- the language of the bill also says that the health club shall have in attendance at all times during staff business hours at least one individual performing employment or individual -- oh, one individual performing employment or individual acting as an authorized volunteer who holds a valid certification of completion of a course in the study of the operation of the AEDs. In other words, you need at least one trained person in how to use an AED available at the health club during all regular business hours, and that -- and that hasn't changed in this -- in this bill. That's the requirement that existed when it was 500 or more health club members, right?

MS. WALLACE: Correct.

MS. WALSH: Okay. So, but you're saying that the AED can be operated really by anybody. It's -- it's friendly enough now. So, I don't know, I have never used one but apparently it's useful enough for anybody even if you haven't gotten the training or certification?

MS. WALLACE: Yeah, I've never used one either, but that is my understanding from -- you know, my sister is actually a nurse and I know she teaches other people how to use it and she said it's very readily available, you know, easy -- easy to use.

MS. WALSH: Okay. Do you have any idea how many more health clubs in New York State will need to now comply if this bill is passed?

MS. WALLACE: I don't know how many. No.

MS. WALSH: Okay. Do you -- do you happen to know -- I don't either. Do you happen to know how many -- or how much money it costs to supply an AED? Not -- it just says AED in the bill. It doesn't talk about, like, whether it's a professional grade or whether it's not. Do you happen to know how much one of these things cost?

MS. WALLACE: Yes, I do. Most AEDs cost between \$1,500 to \$2,000. I think they have a lifespan about ten years. And there is a tax credit up to \$500 for any business that purchases.

MS. WALSH: Oh, that's great. Where's the tax credit through? Is it through the State?

MS. WALLACE: Yes.

MS. WALSH: Oh, okay. That's good to know. Okay. So, the other thing -- and both of us are attorneys, and I mean, I quickly tried to read the Court of Appeals case that's on point on the case with *Miglino v. Bally Total Fitness*, this 2013 case. Well, could you just kind of walk us through -- I understand that there is a Good Samaritan Law, we call it the Good Samaritan Law. What -- what are the liability concerns, if any, if say you -- say somebody starts to arrest at a health club and either the trained certified person doesn't respond in time or they respond and maybe don't use the AED or -- can you just walk through what the liability standard is for -- as far as the health club is concerned?

MS. WALLACE: Sure. And I hope I'm accurate.

It's been a while since I've looked at the Good Samaritan Law. But my understanding is if anybody were to use it there would be no liability on them for trying to save someone's life.

MS. WALSH: Okay. Yeah, I was looking at this *Miglino* case and it seemed to say that if there was gross negligence there -- there might be liability. I -- you know, but --

MS. WALLACE: I'm sorry, I didn't hear that.

MS. WALSH: If there was gross negligence there might be liability, but for ordinary negligence there -- there would not be. Is that --

MS. WALLACE: Yeah, I would expect in most circumstances it -- it wouldn't -- you know, especially given the ease of use of these devices it would, if anything, it would be in the ordinary negligence realm.

MS. WALSH: Very good. Okay. Thank you so much, Ms. Wallace.

Mr. Speaker, on the bill.

ACTING SPEAKER AUBRY: On the bill.

MS. WALSH: So, I think that this is going to be our first vote on this bill. It's come up a couple years in the past and -- and it kind of died on the Calendar. So, my thoughts on the bill are that the -- there is -- it is increasing a mandate on small business because you're going from businesses that have 500 or more members, which would be like a Bally's or like -- or like a big YMCA or something like that, to something that could be a lot smaller, a place that has only

50 or more members. So there is a cost associated with this that -- but it's interesting that there is a rebate. I think that that's great. Of course we want to save people's lives. If they're -- if they're trying to do something healthy and they're working out and they do happen to arrest, they are very, very helpful to have available. And I think that as far as the liability is concerned, there has been some concern that a health club would be subject to liability as a result of either having -- not having a trained employee who's there, able to use it, or one that can't get to the scene fast enough or that misuses it or opts not to use it to try to help an individual that has been stricken. But, you know, the -- the bottom line in the law, as we all know, is that, you know, you're -- the health club's probably going to get sued, and -- and they're just going to have to be subject to a lawsuit no matter what this bill provides. I mean, you're going -- you're going to sue everybody and then sort it out. So you're going to -- you're going to sue the club, you're going to sue the individual that either didn't provide the care or provided it in a way that's arguably improper. I mean, this *Miglino* case from the Court of Appeals was a case where the individual that responded to the person that was arresting had been trained but didn't -- opted not to use the AED that was there, and by the time the EMT or paramedics arrived, they tried to use it and it was too late to resuscitate the individual. So it was a wrongful death action. So I -- you know, I think that people who support this bill are going to say that even though it is going to be a cost on smaller businesses that there is a greater interest in trying to save lives. And people who are,



you know, going to health clubs have a reasonable expectation that if something happens that there's going to be something there that is going to help them to survive a heart attack.

So anyway, those are my thoughts on the bill. I -- I plan to support it, and -- but I think, you know, different colleagues may feel differently on it. But thank you to the sponsor of this bill. Thank you, Mr. Speaker.

ACTING SPEAKER AUBRY: Thank you.

Mr. DiPietro.

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

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

MS. WALLACE: Yes.

ACTING SPEAKER AUBRY: The sponsor yields, sir.

MR. DIPIETRO: Thank you. I just need a clarification. When I'm listening to this bill and I'm reading it, it goes from 500 to 50, I understand. What is the -- the -- is there -- does every club have to have someone trained on this during all open hours?

MS. WALLACE: That is current law, so that is unchanged.

MR. DIPIETRO: Okay. Well, in my district and I think there's one only a couple of miles from me, there's a number of

places call Snap Fitness and a lot of them are around the State. They're open 24/7. And if you're a member you can go in at any time, and I have gone in there at night. But how do you -- but they're not staffed 24 hours straight. So what is the law with -- how would that -- you handle that?

MS. WALLACE: So, the statute currently provides, which is unchanged, that it has to be staffed during -- I'm sorry, at all times during staffed business hours. So, you know, when you have staff there. If there's times that the facility is open and there's no staff there, I think that that would not fall within the scope of this bill.

MR. DIPIETRO: Oh, okay. That's what I needed to know. I thank you very much. I appreciate it.

Thank you, Mr. Speaker.

ACTING SPEAKER AUBRY: Thank you, sir.

Mr. Walczyk.

MR. WALCZYK: Thank you, Mr. Speaker. Would the sponsor yield for a quick question?

ACTING SPEAKER AUBRY: Will you yield?

MS. WALLACE: Yes.

ACTING SPEAKER AUBRY: The sponsor yields, sir.

MR. WALCZYK: Thank you. Through you, Mr. Speaker, the memo here, your sponsor's memo with this piece of legislation says no fiscal implications. It lists none as the -- the fiscal impact. And I know you talked about the price of the AEDs. So does

that mean there is -- there is no support financially for these gyms that would have an additional cost brought on them by this legislation?

MS. WALLACE: Well, you know, it did mention that there would be a -- there is a tax credit, so I guess it would depend upon how many -- how many people took advantage of that business tax credit. So I suppose to some extent that, you know -- normally, though, just -- if they did not use the tax credit there would be no fiscal impact.

MR. WALCZYK: And if a -- if an AED is a couple thousand dollars, what's the tax credit look like for something like that? And is that a part of this bill?

MS. WALLACE: No, it's under existing law that if you purchased an AED device it's up to a \$500 tax credit.

MR. WALCZYK: Okay, to help offset some of the cost. Thank you.

Mr. Speaker, on the bill.

ACTING SPEAKER AUBRY: On the bill, sir.

MR. WALCZYK: Throughout the last couple of years probably many of you have heard from these small gyms. I just want to make it clear to this Body before we take up this bill for a vote. You've probably heard from smaller gyms a lot, the 24-hour gyms that my colleague discussed and many others who were very disappointed by the Executive's shutdown of their business throughout this pandemic. I had three gyms, small gyms in my Assembly District that actually closed their doors permanently as a result of that

shutdown. And I think the last thing that we want to do is put additional mandates on gyms that are really struggling to get their foothold or may be able to open their doors once again. We should be asking the smaller health clubs and gyms, *What can we do to help you* instead of forcing new mandates down their throats.

So I will be voting against this bill, Mr. Speaker, and I would urge my colleagues to take these -- take these things into consideration when they cast their vote as well. Thank you.

ACTING SPEAKER AUBRY: Thank you, sir.

Mr. Goodell.

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

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

MS. WALLACE: Yes, I yield.

ACTING SPEAKER AUBRY: Ms. Wallace yields, sir.

MR. GOODELL: Thank you, Ms. Wallace. When we talk about a health club having 50 members, and just for some clarification, would that include, for example, a facility that offers ellipticals, treadmills, weightlifting equipment, that type of health equipment, or wellness equipment?

MS. WALLACE: Well, I -- I think if it's considered a health club where you have memberships, then yes.

MR. GOODELL: It's my understanding -- although

I've never visited it, of course -- that the State Legislature has a gymnasium or a health facility here in the Legislative Office Building; is that correct?

MS. WALLACE: I've actually never visited it myself, so -- but I -- I have heard there is one.

MR. GOODELL: I can only ask these questions for a few minutes because that's all the longer I can, you know, keep upright and keep things tight.

(Laughter)

But a facility like our own gymnasium, I know many members, other than myself, appreciate being able to exercise. Do we now have an obligation to staff that 24/7 so that when a member wants to use it there's a staff person trained in how to operate one of these defibrillators?

MS. WALLACE: No, I don't -- I don't think that this would require it to be staffed. But I would hope that given the lifesaving nature of these devices, we do actually have one in that gym.

MR. GOODELL: But this bill does require trained staff, right, for every health club?

MS. WALLACE: During -- during staffed hours, which I think, you know, the -- the facility you're speaking of I don't think has staff.

MR. GOODELL: So --

MS. WALLACE: So in other words, where you have

-- if you're open for business hours and you have staff at the front door checking memberships, that would be when you would need to have somebody trained.

MR. GOODELL: I noticed that a lot of hotels, motels and those types of facilities often have a really nice exercise room with exactly the same equipment that you would likely see in a nice health club. And of course many of those hotels and motels also have clubs of their own. I mean, you can be a member of Marriott or Hilton or whatever. Would they fall within this definition?

MS. WALLACE: So I would say most hotels, for example, like the ones many of us stay at here in Albany, would not qualify because they don't have memberships. But I do know sometimes a hotel might just for additional revenue open it up to memberships, and if they did and they had somebody staffing it then I guess it would fall within the scope of this bill.

MR. GOODELL: Of course we're all familiar with the Good Samaritan Law, which basically provides that if an individual renders aid and they have no obligation to render aid, their liability is limited to gross negligence. But doesn't this proposed bill create a statutory obligation to have a staff person who is there to provide aid?

MS. WALLACE: I'm sorry, repeat the question. I --

MR. GOODELL: Certainly. This legislation, as I read it, requires a staff person to operate this equipment. And so by statutory definition, that staff person would not be protected by the

Good Samaritan Law which only applies to volunteers, correct?

MS. WALLACE: I'm not sure. I don't -- I don't know the answer to that question.

MR. GOODELL: Okay. Thank you very much.  
On the bill.

MS. WALLACE: I do -- I just -- can I just -- for clarification sake, I don't know if this provides a little more information. Health club is defined as any commercial establishment offering instruction, training, assistance and/or facilities for the preservation, maintenance, encouragement and development of physical well-being. So I guess that's really not providing a whole lot of clarity, but I'm reading it for the record.

MR. GOODELL: Thank you, Ms. Wallace.  
On the bill, sir.

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

MR. GOODELL: Thank you. Certainly, the intent of this legislation is good. But when we apply a statutory mandate on staffing and training and equipment that we have been told runs anywhere from \$1,500 to \$2,000 a piece, that type of mandate can have some unintended consequences on the health of New Yorkers because these mandates target health clubs. And most of us will probably be of the opinion that a little exercise is probably a good thing and we ought to encourage it, and we ought to make it as easy and practical as possible. And unfortunately, when you have a

statutory mandate that requires staff there whenever the facility is open that are trained in a certain way, those staff members now have a statutory obligation, and so the facility is no longer protected by the Good Samaritan Law. It has a statutory obligation to ensure that this equipment is there and that you have staff. And I just used as a very simple example the health facilities that are here in the Capitol Building for the use of members. It's my understanding that you have to pay an extra fee, and we would then qualify. And that means we, as the Legislature, would be in violation of this law unless we have staff there, which we don't have in our budget, nor do most of these very small health clubs. And so while I appreciate the desire, it has very practical and expensive ramifications throughout the State of New York. And for those reasons I'll join some of my colleagues in opposing this legislation.

Thank you, sir.

ACTING SPEAKER AUBRY: Thank you.

Mr. Norris.

MR. NORRIS: Thank you, Mr. Speaker.

On the bill.

ACTING SPEAKER AUBRY: On the bill, sir.

MR. NORRIS: About ten years ago my next-door neighbor, who was a U.S. Navy veteran, was at a health club in my hometown of Lockport, New York. He had a heart attack right there. And fortunately, at that health club they had an AED and they knew how to use it and they saved his life. And I get to see him. I moved



couple years ago, but I still see him. I still see his family. I see his two daughters, his wife. And, you know, this bill is about public health and safety. And sometimes you have to do the right thing. And I understand. I am often a gentleman up here who's critical of mandates and spending and all of those things. But I can tell you firsthand that my former next-door neighbor is alive today because of an AED at a health club facility.

So my colleagues, please, on this bill do the right -- do the right thing. I can assure you, it will save lives. I commend the sponsor and I encourage all of my colleagues to please vote for this bill. Again, it will save lives, and my neighbor is alive today because of it.

Thank you, Mr. Speaker.

ACTING SPEAKER AUBRY: Read the last section.

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

ACTING SPEAKER AUBRY: The Clerk will record the vote on Assembly print 744. This is a fast roll call. Any member who wishes to be recorded in the negative is reminded to contact the Majority or Minority Leader at the numbers previously provided.

(The Clerk recorded the vote.)

Ms. Wallace to explain her vote.

MS. WALLACE: Thank you, Mr. Speaker. I want to thank my colleagues for supporting this legislation. It is truly lifesaving legislation. Just to clarify, I do not think that this requires

additional staffing. But it is truly a lifesaving device. Studies show that the survival rate has increased to 93 percent where one of these devices is on the premises compared to 9 percent where there is not one. And as I mentioned earlier, the cost is really minimal in comparison to the benefits. I, as my -- just like my colleague, I personally know two people whose lives were saved in two different instances because there was an AED device at the gym. And one of them was the father of two middle school twins. So those children now have a father as a result of this -- of -- of having an AED device there and I think it would be -- it would be beneficial to all of the facilities to have that.

So thank you very much.

ACTING SPEAKER LUNSFORD: Thank you, Ms. Wallace.

Mr. Aubry to explain his vote.

MR. AUBRY: Certainly, I want to commend the sponsor on this bill. I rise for two personal reasons: One, early in my career here I was here, we were in the Assembly and one of our members died under that eave -- eave over there of a heart attack. I'll never forget that. It was something that was just traumatic to the entire House. We lost a member and that was something you don't forget. It was Assemblyman Hoyt. Secondly, of course, I had a heart attack while exercising at the police academy. I was lucky because they had a CERT team there, and that CERT team came and revived me so that I'm here with you today. So there is nothing that we

shouldn't do to ensure that our people in this State are safe when they exercise, are taken care of. I know it may be an inconvenience at some level, however, those lives are immeasurable. You can't take a life back because of the cost of an -- an equipment. And so I just wanted to commend the sponsor and urge a yes vote on this very serious and very helpful piece of legislation.

Thank you, Madam Speaker.

ACTING SPEAKER LUNSFORD: Thank you, Mr. Aubry.

Mr. Byrne.

MR. BYRNE: Thank you, Mr. Speaker, to -- Madam Speaker, to explain my vote. Early defibrillation saves lives. We know that clearly. And I appreciate and respect what the sponsor is trying to accomplish with this legislation, and anything we can do to increase access to AEDs I think is a good thing. But doing it through a new mandate that switches the requirement for membership from 500 to 50 I think is a really large step. I think we could have lowered it to 400, to 300, to 250 to 100. We're going down to 50 as a requirement for membership. I think it's a really significant change. And I've seen us put forward new mandates in this Chamber and then a year later there's another one. We can go to 25.

I certainly appreciate what we're trying to do. I really admire the words that our colleagues have said earlier explaining their votes, and I understand why people are voting in the affirmative. But I do think it goes too far and I will be voting -- voting in the negative.

ACTING SPEAKER AUBRY: Mr. Goodell.

MR. GOODELL: Thank you, sir. I'm glad to see you are alive and well.

ACTING SPEAKER AUBRY: I share your gladness.

(Laughter)

MR. GOODELL: And with all due respect, please record my colleague Mr. Gallahan in the negative on this bill.

Thank you, sir.

ACTING SPEAKER AUBRY: So noted, sir.

Are there any other votes? Announce the results.

(The Clerk announced the results.)

The bill is passed.

Mrs. Peoples-Stokes for the purposes of an introduction.

MRS. PEOPLES-STOKES: Thank you, Mr. Speaker, for the opportunity to interrupt our almost-over proceedings for the purposes of introducing a guest of our colleague Khaleel Anderson. They are Rose Marie Duggan-Gulston. I believe they are in the rear here. She is a vice president of the Tenant Association and a member of Community Board Number 14. We also have Maggie Larkins. Maggie is the president of Redfern Houses on -- in the 31st Assembly District, and she's a member of Community Board 14 as well.

Mr. Speaker, if you would please welcome them to

our Chambers and provide them the cordialities of the House.

ACTING SPEAKER AUBRY: Certainly. On behalf of Mrs. Peoples-Stokes, the Speaker, Mr. Anderson and all the members, we welcome you here to the New York State Assembly. We extend to you the privileges of the floor. We're very happy that you've chosen to share that day -- this day with us. As a former community board member, I understand the sacrifice that you have put forward and we appreciate your civic mindedness that brings you both to that job and also here to visit us in Albany. Thank you so very much. Know that you're always welcome.

(Applause)

Mrs. Peoples-Stokes.

MRS. PEOPLES-STOKES: Mr. Speaker, do we have any further housekeeping or resolutions?

ACTING SPEAKER AUBRY: We do have two fine pieces of -- resolutions. We will take them 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. 642 and 643 were unanimously adopted.)

Mrs. Peoples-Stokes.

MRS. PEOPLES-STOKES: I now move that the Assembly stand adjourned until Friday, March the 11th, tomorrow being a Legislative day and that we reconvene at 2:00 p.m. on March the 14th, Monday being a Session day.

ACTING SPEAKER AUBRY: The Assembly stands adjourned.

(Whereupon, at 1:26 p.m., the House stood adjourned until Friday, March 11th, that being a Legislative day, and to reconvene on Monday, March 14th at 2:00 p.m., that being a Session day.)