

**WEDNESDAY, MARCH 30, 2022**

**11:27 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 Tuesday, March 29th.

Mrs. Peoples-Stokes.

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

dispense with the further reading of the Journal of Tuesday, March the 29th and ask that the same stand approved.

ACTING SPEAKER AUBRY: Without objection, so ordered.

Mrs. Peoples-Stokes.

MRS. PEOPLES-STOKES: Thank you, sir. Happy Wednesday to those who are in the Chambers and those who are joining us remotely from their offices. I want to share a quote today as we start, Mr. Speaker, from a judge that many of us probably know now better than we've known her in the past because she's been so highly featured during the process of her interview for the U.S. Supreme Court. Her words for us today is, *Be open to new ideas, new experiences because you'll never know when someone else will have an interesting thought or when a new door will open to take you on to the journey of your dreams.* Mr. Speaker, these words are from Judge Ketanji Brown Jackson.

Colleagues should also be aware that you do have on your desk a main Calendar and a debate list. Mr. Speaker, it is always my honor to introduce new colleagues when they join us and we will have an opportunity to do that in a few moments. We will be introducing our newest member, Brian Cunningham, from the mighty 43rd Assembly District. Our principal work of the day, however, will be from -- from our debate list. We're going to start with Calendar No. 224 by Ms. Rosenthal, followed by Calendar No. 225 by Mr. Zebrowski, Calendar No. 288 by Ms. Solages, Calendar No. 392 by

Ms. Paulin, and Calendar No. 471 by Mr. Lavine. There may be a need for additional floor work as we proceed today, Mr. Speaker. If so, I will be happy to share that with you and colleagues.

That's the general outline of where we're going to start at today. If there's housekeeping, now would be an appropriate time. Thank you, sir.

ACTING SPEAKER AUBRY: No housekeeping, but we do have a resolution.

The Clerk will read the title of the resolution.

THE CLERK: Assembly Resolution No. 715, Mr. Heastie.

Assembly Resolution in relation to the election and seating of Brian A. Cunningham as a Member of the Assembly from the 43rd Assembly District.

ACTING SPEAKER AUBRY: The Clerk will record the vote on Resolution No. 715. 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.)

Are there any other votes? Announce the results.

(The Clerk announced the results.)

The resolution is adopted.

Mrs. Peoples-Stokes.

MRS. PEOPLES-STOKES: Mr. Speaker, what an honor and a pleasure to introduce Mr. Cunningham on the floor, our

brand-new colleague. Assemblymember Brian Cunningham was recently elected to represent, I might say the Mighty 43rd because that's what his predecessor always called it. His district includes the neighborhoods of Crown Heights, Lefferts Gardens [sic], Wingate and East Flatbush. Brian was raised in Flatbush by Jamaican immigrant parents who attended New York City public schools. He began his career as an advocate counselor for CAMBA, assisting young people reaching their academic goals and overcoming barriers. Brian served as a senior aide in numerous legislative offices from the New York State Senate to New York City Council, where he spearheaded initiatives for affordable housing issues, women's issues and at-risk youth and small business issues. Returning to the non-profit sector, Brian worked with Nazareth Housing on housing affordability. At that time he received the opportunity of a lifetime to serve as an aide in President Obama's My Brother's Keeper Alliance by mentoring and providing resources to underserved youth across the nation. Before being elected to the New York State Assembly, Brian was the Director of Neighbors in Action, a project of the Center for Court Innovation and the home of Save Our Streets Brooklyn. Brian currently lives in Flatbush with his wife, Stephanie.

Please join me in welcoming our brand-new member, Assemblymember Brian Cunningham to our Chambers.

ACTING SPEAKER AUBRY: Certainly. On behalf of the Speaker, Mrs. Peoples-Stokes and all the members, we welcome you here, Brian, to this new family that you have, the New

York State Assembly. We are so pleased to have you. Hope that your time here will be beneficial both to you, but also to the district that you represent. And our congratulations to your family, to your wife and your -- your mother who have come with you and your -- your family. Please know that you are family here and will always be family. Thank you so very much, and congratulations.

(Applause)

Don't expect this every time we introduce you.

(Laughter)

We will go to the debate list, page 26, Calendar No. 224, the Clerk will read.

THE CLERK: Assembly No. A06709-B, Calendar No. 224, L. Rosenthal, Meeks. An act to amend the Social Services Law, in relation to exempting certain income and resources provided to persons enrolled in certain pilot programs with direct cash transfers in determining eligibility for public assistance benefits; and providing for the repeal of such provisions upon expiration thereof.

ACTING SPEAKER AUBRY: Ms. Rosenthal, an explanation is requested, please.

MS. ROSENTHAL: This bill would exempt cash transfer funds received by individuals selected to participate in a pilot program aimed at determining the success of providing at-risk New Yorkers with a monthly cash transfer for a limited amount of time.

ACTING SPEAKER AUBRY: Mr. Simpson.

MR. SIMPSON: Thank you, Mr. Speaker. Would

the sponsor yield for a question, a few questions?

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

MS. ROSENTHAL: Yes.

ACTING SPEAKER AUBRY: The sponsor yields.

MR. SIMPSON: Good morning.

MS. ROSENTHAL: Good morning.

MR. SIMPSON: My first question is, so this program, how many people are part of this program or plan to be part of it?

MS. ROSENTHAL: Well, there are -- we know of three that will participate, but there may be some others that we don't know about yet. So one of them would be 30 people, another would be I think it's, like, ten and some other -- those small amounts.

MR. SIMPSON: So it's not limited to 30, there's other programs? Is that --

MS. ROSENTHAL: Well, right now we know of three.

MR. SIMPSON: So is there a maximum of 30? Is that --

MS. ROSENTHAL: No.

MR. SIMPSON: No? Okay, so there's no parameters on how many --

MS. ROSENTHAL: Well, it's -- it's not our money. It's philanthropy. It's not our money, it's not taxpayer money.

MR. SIMPSON: I -- I didn't hear that.

MS. ROSENTHAL: I said it's -- it's not coming from taxpayer money.

MR. SIMPSON: Where is the money coming from?

MS. ROSENTHAL: It's coming from different philanthropies. One of them is Chapin Hall at the University of Chicago. Another is Transition Age Youth Project from the Children's Defense Fund of New York.

MR. SIMPSON: Okay. So there's no county, State or --

MS. ROSENTHAL: No, not right now.

MR. SIMPSON: No involvement.

MS. ROSENTHAL: Not right now.

MR. SIMPSON: If -- if -- does this bill allow for that inclusion should somebody want to or is -- would you have to come back to the Legislature?

MS. ROSENTHAL: I believe we would have to come back for that.

MR. SIMPSON: So you're not firm on that, though.

(Pause)

MS. ROSENTHAL: Yeah. This could expand to other parts of the State.

MR. SIMPSON: I --

MS. ROSENTHAL: Yes, this could expand to other parts of the State.

MR. SIMPSON: Under this bill.

MS. ROSENTHAL: Yes.

MR. SIMPSON: Okay. So at 30 people, \$15,000 per year for a maximum of 60 months, I -- I think I -- do I have that correct in the bill?

MS. ROSENTHAL: Well, one of the programs is 500 a month or 1,000 a month to low-income mothers. These are the ones that we know that have made known that they want to do this in the State.

MR. SIMPSON: Okay. So, obviously we -- we want to avoid the fiscal cliff.

MS. ROSENTHAL: Correct.

MR. SIMPSON: But this pretty much by -- by funding by giving people cash --

MS. ROSENTHAL: Mm-hmm.

MR. SIMPSON: -- when do we expect to see -- I mean, how -- do you have any expectations of this program? Any --

MS. ROSENTHAL: Sure. These are pilot programs and they aim to study if supplementing the low amounts of cash assistance will improve people's housing stability, food stability, well-being, educational goals. How giving them this money for a certain period of time will affect their lives and improve their lives. And -- and that has been studied in other places and has been found to actually have great outcomes because people go on to -- instead of worrying and trying to scrape together funding to subsist on our



meager cash assistance - and in other states - they actually have time to go look for a job, enroll in education programs. And so then the aim of the study nationwide is to find out how giving this small extra cash from foundations and philanthropies affects the lives and changes the lives of people with very low income.

MR. SIMPSON: So if I understand you correctly, this has been done and studied before.

MS. ROSENTHAL: Yes.

MR. SIMPSON: And -- and there are results available that show --

MS. ROSENTHAL: There -- there are. There's a study in -- let me just find this here. There's a study that provided poor mothers with cash stipends for the first year of their children's lives, and it appears to have changed the babies' brain activity in ways associated with stronger cognitive development, a finding with potential implications for safety net policy. And -- and so from that study that was profiled in the *New York Times* in January, it showed that giving low-income mothers some extra cash allowed them to interact differently with their babies, not be stressed out and thinking about how to pay the rent all the time.

MR. SIMPSON: And I'll -- I'll share with you, I think that's important. But what about the goals of meeting their education needs or employment needs or skills to gain employment and not be relying on -- on a program that --

MS. ROSENTHAL: Well, yes. And -- and some

studies have shown that people, once this is over, move on to employment and other -- other ways to -- other paths to get off the cash assistance because they've had time to study and to get a job.

MR. SIMPSON: Okay. I think I might have one more question. So, do we have a budgeted amount? Is there -- is there inclusion in our budget discussions now for a potential cost?

MS. ROSENTHAL: Yes. So this bill says that whatever funding they receive does not have an impact on their public assistance dollars so they will not fall off the cliff. That they can take this 500 a month and that does not affect their eligibility for their current benefits. So it doesn't involve State funding. It doesn't involve anything except allowing their extra money not to be factored into their tax returns or eligibility.

MR. SIMPSON: So I just thought I heard you say 500 and right now it's currently 1,250 per month, right?

MS. ROSENTHAL: Well, different -- yeah, different programs have different amounts. So the Transition Age Youth Project starts at 500. So different programs give different amounts to their participants in their pilot project.

MR. SIMPSON: Okay. Okay, well, thank you.

MS. ROSENTHAL: Thank you.

MR. SIMPSON: Thank you, Mr. Speaker.

ACTING SPEAKER AUBRY: Thank you, sir.

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 Assembly print 6709-B. 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 articulated by my colleague. Those who want to vote for it can certainly do so here on the floor or by calling the Minority Leader's Office and advising them.

Thank you, sir.

ACTING SPEAKER AUBRY: Thank you.

Mrs. Peoples-Stokes.

MRS. PEOPLES-STOKES: Thank you, Mr. Speaker. The Majority Conference is generally going to be in favor of this piece of legislation. However, should there be folks who would like to vote and be as an exception, they should feel free to contact the Majority Leader's Office and their vote will be properly recorded.

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

(The Clerk recorded the vote.)

Ms. Rosenthal to explain her vote.

MS. ROSENTHAL: Thank you, Mr. Speaker, to

explain my vote. I wanted to clarify that this program -- this -- this piece of legislation will exempt research pilot program participants from having the income they get from these pilot programs, it would be disregarded. It has nothing to do with the State funding any number of programs, and it is not just for a program with 30 homeless youths -- youths. It's more expansive than that. It's at least three different programs covering different types of populations. So low-income women, foster kids, runaway and homeless kids. So it has different populations, and it's not limited to 30 participants. And I think this legislation will -- will help enhance the lives of many Black and Brown people, those who are LGBTQ+, as well as people who have subsisted on very low cash assistance and other benefits that do not allow them to emerge out of poverty. And that's the test of this pilot. And I think it's been successful in other parts of the country, and I wish great success to them here in New York State and I vote in the affirmative.

ACTING SPEAKER AUBRY: Ms. Rosenthal in the affirmative.

Are there any other votes? Announce the results.

(The Clerk announced the results.)

The bill is passed.

Mr. Goodell.

MR. GOODELL: Thank you, sir, for allowing me to interrupt our proceedings for an important introduction. We have with us several distinguished guests from the Bruderhof and Mount

Academy [sic], including Karl Wipf, Anita Wipf, Kaitlyn Arnold, Connor Kurtz, Hilda Huleatt, Jonathan Huleatt. And they're here with -- being sponsored and supported that because they're not in the area of Chris Tague, our Assembly colleague, Assembly colleague Brian Miller and Assemblymember Kevin Cahill. So on behalf of those Assemblymembers and the rest of us, please extend a warm welcome to these distinguished guests.

Thank you, sir.

ACTING SPEAKER AUBRY: Thank you. On behalf of Assemblymember Tague, Assemblymember Miller, Assemblymember Cahill, the Speaker and all the members, we welcome you here to the New York State Assembly. We extend to you the privileges of the floor. We hope that your trip here to Albany will be beneficial. Know that you are always welcome here and that we're pleased to have you. Thank you so very much for coming.

(Applause)

Page 26, Calendar No. 225, the Clerk will read.

THE CLERK: Assembly No. A06877, Calendar No. 225, Zebrowski, Lupardo, Thiele, Ashby, Galef, McDonald, Sayegh, Simon, Wallace, Byrnes, Walczyk. An act to amend the Insurance Law, in relation to allowing insurers to dispense with or defer inspections of private passenger automobiles prior to the provision of coverage for physical damage thereto.

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

MR. ZEBROWSKI: Thanks, Mr. Speaker. This is a great opportunity for my colleagues to do away with an unnecessary regulation that requires folks around the State to get a photo inspection, which is an outdated regulation from the 1970s that costs our constituents money and time. However, have no fear. If the insurance companies or carriers feel that it is saving them from insurance fraud, by the language of this bill they'll be able to continue the program.

ACTING SPEAKER AUBRY: Mr. Smith.

MR. SMITH: Thank you, Mr. Speaker.

On the bill.

ACTING SPEAKER AUBRY: On the bill, sir.

MR. SMITH: Thank you so much. So this bill is an interesting and very -- it's a simple bill, but it's very complex in the impact that it's going to have. The sponsor just detailed what the bill would do, eliminate Regulation 79 is, as mentioned, has been in law since 1978. But what it fails to really explain -- I'm just going to take a few minutes to explain what exactly the purpose of this is. A lot of people think of this program as a photo inspection program, something that for eight percent less -- fewer than eight percent of used vehicles in the State of New York, they need to take their vehicle to be photoed. And there's going to be three photos taken; one from the front side -- the front and one side view a photo's taken, another photo from the rear side view and another photo from inside the door. It takes about ten minutes. And the purpose of this regulation is to

detect possible insurance fraud, to prevent preexisting damage from being covered when a very small number of highly probable fraudulent activities could be happening. That is what is the impetus of this regulation. Today I stand in -- in support of this regulation, in opposition to this bill, for a number of reasons. So just to kind of explain this.

On Long Island the organization that houses and takes a look at this data is an organization called CARCO, and it's part of a larger organization of 1,400 employees on Long Island that are a high-tech security and fraud-fighting firm, works with some of the top Fortune 500 companies in the nation. They work internationally, this larger company. And one of their divisions, CARCO, about 300 employees in and around my district on Long Island. The purpose is they are working to mitigate fraudulent claims. Now, the program that we're talking about, in the last five years \$2.4 billion in fraudulent claims have been prevented because of this program. And I understand one of the reasons to support this program is there's a stated cost of about \$25 million to -- to run this program. But if you look at the cost benefit analysis, the fact that \$2.4 billion in potential fraudulent claims have been stopped, I think that it's really a drop in the bucket. It's noted that this bill would be optional. It would allow this program to continue if large insurance companies would like to continue. But the reason that we have the regulation in the first place is because larger insurance companies, they are looking more to acquire new customers and less about the potential fraud that goes on.

They're looking at not necessarily quality, but the quantity of claims. So under this regulation, which -- and I'm going to talk about a proposal to change the regulation in a couple minutes -- but under this regulation we are fighting fraud, and thus keeping insurance premiums a little bit lower. So under this we're talking about 300 good-paying jobs on Long Island that work in this industry. They work to fight fraud, fraudulent claims, and they also work with law enforcement to provide information and investing -- investigation of fraudulent and auto crimes. There's a long history of working with the Attorney General's Office and local law enforcement. The database that CARCO manages that is accessible is reviewed about 11,000 times a day in looking at these potential fraudulent claims. So this is something that -- look, it's not a photo-taking program. It's a fraud prevention program. And when we prevent fraudulent claims, we're keeping the rates lower for ratepayers. Now, it's important to middle-class families to keep the rates lower, but if you look at -- I'm going to say CEOs of larger insurance companies -- when they're looking at acquiring new customers, as rates goes up the money they make goes up. So in -- in many ways by eliminating this regulation or making it optional, the rich are getting richer and we're potentially hurting millions of New Yorkers as their insurance rates may go up. And you're hurting 300 families on Long Island who will, because of this bill, their jobs will be eliminated.

Now we're talking about -- let's talk a little bit about the program in and of itself. So we're talking about fewer than eight



percent of used vehicles. And what do they have to do? So for this what you're typically talking about, there's over 4,000 locations across the State of New York where you can take your vehicle. That may include your local insurance agent. You can go to their office, you can go to many auto repair shops, auto glass shops. I know on Main Street in my district in Holbrook, right down the street from my district office there's an auto glass shop and they're one of these locations. Every month about 150 people bring their vehicle through that auto glass shop, and in about eight to ten minutes they're able to take this -- these photos that are uploaded into this database, preventing fraudulent claims. It costs nothing to the ratepayer. And for that company, that auto glass company, now it's one more opportunity for them to get to meet a prospective client to say, *Hey, we're located on Main Street. If you have a ding, a dent on your auto glass, stop by. We can help service your needs.* So we're talking about not just that -- well, there's a lot of ancillary businesses impacted as well. And considering the fact that -- you know, I can't think of many -- or any other instances -- if you buy a house or if you switch insurance on your house, your insurance company is going to want to take a picture of the property that they're insuring to make sure there's not existing damages. And that's what this program does. It ensures that you're -- if you're one of these small number of vehicles, if you're switching to a new insurance company if you've been with them for fewer than two years, that you would take -- take your vehicle to get it photo inspected to make sure you don't already

have, you know, \$5,000 in auto body damage that now you're switching to a new insurance company and that would raise the rates for everyone.

So I think this is a very important program. There's significant opposition on this bill from the Long Island Association which represents generally business on Long Island, some members of law enforcement. And what I would say, because this -- this company, as was mentioned, state-of-the-art, high-tech. They're working with advanced technology, artificial intelligence when they're analyzing these photos. They've made a proposal to the Department of Financial Services to update the regulation to make an amendment to that which would allow people to self-inspect. So under their proposed update - which I'm hoping maybe this time next year we'll see that go into effect - this would make this issue a little bit of a moot point, where people can self-inspect. Right now most insurance companies, you can report a claim by taking a picture of any damage, send it in. Under this situation, with -- as long as the Department of Financial Services approves this amendment, motorists -- insured ratepayers will be able to take these three simple photos, upload it into this high-tech database to either the CARCO app or even integrated with their own insurance company's app and be able to do the self-inspection themselves. So this is something -- we don't want to throw the baby out with the bath water. We can keep a proven product that works, that keeps rates lower, and we can modernize it. And I know that CARCO on Long Island is looking to modernize that. We're

waiting for the State to take action. I'm actually circulating -- I -- I -- I'm the type of person, I don't like to offer up problems without offering up part of the solution. So regardless of how the members may vote on this bill, I would ask you to check your e-mails later today because I'm going to be sending around a letter asking them to take a look -- the Department of Financial Services to take a look at updating that regulation so that those who want to be able to self-inspect - it's very easy - they can take those photos themselves. And I have good news, because if you don't want to self-inspect there's over 4,000 locations across the great State of New York where you can take your vehicle and they will take ten minutes and take those photos for you. So at the end of the day, I -- I just want to make sure I didn't leave anything out. For every -- when I mentioned \$2.4 billion in auto claims prevented, fraudulent claims, we're talking about - and I'll just reiterate it - \$41 saved for every dollar invested in this program. I wish we had more programs like this in the State of New York.

So with that, I can't support this -- this -- this bill. This bill would put hundreds of people on Long Island, good-paying jobs. They're watching right now, concerned about the future for their families. What they do, I thank them for their good work keeping auto rates low, and I want to see them continue and model this. So I would ask everyone, I'm going to be sending that letter around. Please sign on to that letter to ask them to take -- the Department of Financial Services to take a look. Let people self-inspect. I -- I think that the

intention of this program is to make it easier. I think we can make it easier without throwing out the regulation. We can have the best of both worlds.

Thank you, Mr. Speaker. I think that concludes my comments. Thank you, sir, and thank you to the sponsor.

ACTING SPEAKER AUBRY: Thank you, sir.

Mr. DeStefano.

MR. DESTEFANO: Thank you, Mr. Speaker.

Regulation 79 helps fight auto insurance fraud. I'm going to mention a few things that my colleague just explained to you, but our districts border each other and what affects his district and also kind of affects mine and those around us. By documenting a vehicle's existence and physical condition plus vehicle operations and accessories to detect and defer fraud, that's the main purpose. Photo inspections continue to have a strong anti-fraud impact. Inspections have helped to avoid the 2.4 billion that my colleague just said, in preexisting fraud damage claims over the last five years. These discoveries saved insurers from paying \$128 million in false claims. The return on investment is compelling, as stated. Forty-one dollars of false claims were saved for every dollar of investment. We should not water down photo inspections in New York. Diminishing Regulation 79 would allow fraud losses to rise. Fraudsters would be emboldened to step up their criminal activities in the face of (inaudible) protection and deterrence. In turn, drivers could face premium increases thanks to mounting fraud losses against auto insurers. Diluting Regulation 79 will

sacrifice vital anti-fraud consumer protections and larger dollar savings for small gains in efficiency and -- and policy sales. Changing New York's Regulation 79 can also weaken vehicle photo inspections and anti-fraud protection that two other states that require them, Massachusetts and New Jersey. I'm just going to read something. Massachusetts, when they implemented this in 2008, collision claims increased by 50 percent, changing -- instead of regulatory modern -- modernization through new technology and maximizing carrier and consumer protection while retaining focus on high costs and fraud targets. Such collaborative efforts would be -- would benefit all stakeholders both in New York and across the U.S.A. and should be encouraged instead of tampering with Regulation 79.

I will be voting against this bill and I urge my colleagues to do the same. Thank you.

ACTING SPEAKER AUBRY: Thank you, sir.

Ms. Giglio.

MS. GIGLIO: Thank you, Mr. Speaker. And I agree that we should be looking at what other states are doing before we adopt laws here in New York State, and we should be following laws that work and prevent fraud, not laws that create fraud. I want to reiterate what my colleague just said that when Massachusetts adopted this in 2008 with its managed (inaudible) implementation, collision claim counts increased by 50 percent. Pre-insurance inspections declined by 87 percent. Those numbers don't lie. It's a fact that this will only create fraud and create more insurance claims and cost New

Yorkers more money in their insurance premiums. So I encourage my colleagues to vote in the negative on this bill.

Thank you.

ACTING SPEAKER AUBRY: Thank you, ma'am.

Read the last section.

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

ACTING SPEAKER AUBRY: The Clerk will record the vote on Assembly print 6877. 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 articulated by my colleagues. Those who would like to support it are certainly encouraged to vote on the floor of the Assembly in favor of it or call the Minority Leader's Office.

Thank you, sir.

ACTING SPEAKER AUBRY: Thank you.

Mrs. Peoples-Stokes.

MRS. PEOPLES-STOKES: Thank you, Mr. Speaker. The Majority Conference is generally going to be in favor of this piece of legislation. However, there may be colleagues that would desire to be an exception, they should feel free to contact the Majority Leader's Office. We will make sure their vote is properly

recorded.

Thank you, sir.

ACTING SPEAKER AUBRY: Thank you, Madam.

Mr. Zebrowski to explain his vote.

MR. ZEBROWSKI: Thanks, Mr. Speaker, and I -- I thank my colleagues for -- for their comments. However, I would disagree with them and -- and also some of the statistics cited. I mean, the fact of the matter is when this was put in 1977, since that time technology has advanced exponentially. We have things like CARFAX. We have now vin numbers that are standardized in the United States since I think the early or to mid-'80s, which we didn't have at the time that this first started. New York State started its own program in the '80s which weren't around when this first started. And we're in a far different place than when in the 1970s we started to require these types of photo inspections. Cars have gotten so advanced at this point that many folks and cars now have apps, they can tell you exactly whether your car is locked, where it is at any given time, whether the windows are down. And this has just become outdated. In terms of other states, I would suggest that we should look to other states as to what they're doing, and we are only one of five that still have this regulation. New Jersey put it in in 1980 and Massachusetts in 1979. I'm not exactly sure what we're referring to in 2008. I'll go back and check. But I believe they instituted it in 1979, Rhode Island in 1994 and Florida in 1990. Forty-five other states don't have this regulation, this unnecessary regulation on folks. And it

is a cost. It does cost them time. And the fear of insurance companies are that when you don't do this you're at risk of not having insurance. So if you don't go and get this photo taken, you may not have insurance, drive around without insurance, get into an accident or get pulled over and have an issue. It has just become outdated. I know there are companies and -- and one in Long Island that specializes in this, but I believe they do other things. And I believe they provide services, so this -- they're not completely dependent upon this program. The fact of the matter is we need to update our regulations. We need to take regulations off of folks that is costing them time and money. And lastly, the insurance companies are the ones that would lose if this program were successful. They have to pay out the claims. This makes it optional for the insurance companies, but I believe the vast majority of them, in all honesty, probably will drop this because the technology exists out there to make sure that these car aren't phantom cars without this program. So that's why I'll be voting in the affirmative, Mr. Speaker.

Thank you.

ACTING SPEAKER AUBRY: Mr. Zebrowski in the affirmative.

Mr. Gandolfo.

MR. GANDOLFO: Thank you, Mr. Speaker, to explain my vote. Should this legislation be enacted it would cost Long Island 300 well-paying middle-class jobs. That would mean 300 Long Island families would lose a source of income at a time when



expenses are up for everyone from gas to groceries. Inflation, as we all know, has really been impacting the middle- and working-class, probably in all of our districts.

So in passing this legislation it would really harm a lot of my constituents who work for CARCO where they would have to eliminate 300 jobs, so I'll be voting in the negative. Thank you, Mr. Speaker.

ACTING SPEAKER AUBRY: Mr. Gandolfo in the negative. Thank you, sir.

Mr. Goodell to explain his vote.

MR. GOODELL: Thank you, sir. When this regulation was first put into play in 1990, New York State saw an eight percent drop in fraudulent claims while our neighboring states saw a substantial increase. To say that we no longer need it is a little bit like a patient who thinks they no longer need their long-term maintenance drug because they're feeling well. We should not use the success of this program in reducing fraudulent claims as a justification for eliminating it.

Thank you, sir.

ACTING SPEAKER AUBRY: Mr. Goodell in the negative.

Mr. Goodell.

MR. GOODELL: Thank you, sir. Please record my colleague Mr. Gallahan in the affirmative. Thank you, sir.

ACTING SPEAKER AUBRY: So noted.

Mrs. Peoples-Stokes.

MRS. PEOPLES-STOKES: Mr. Speaker, would you please record our colleague Mr. Englebright in the negative on this piece of legislation?

ACTING SPEAKER AUBRY: So noted. Thank you.

Are there any other votes? Announce the results.

(The Clerk announced the results.)

The bill is passed.

Page 30, Calendar No. 288, the Clerk will read.

THE CLERK: Assembly No. A07813, Calendar No. 288, Solages. An act to amend the Public Health Law and Chapter 802 of the Laws of 1947 relating to facilitating the financing and effectuation of air terminals by the Port of New York Authority, in relation to requiring certain lactation accommodations in airports.

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

Read the last section.

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

ACTING SPEAKER AUBRY: The Clerk will record the vote on Senate print 3866. 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.)

Mrs. Peoples-Stokes to explain her vote.

MRS. PEOPLES-STOKES: Thank you, Mr.

Speaker, for the opportunity to explain my vote. I want to commend the sponsor of this legislation. It was not many years ago, Mr. Speaker, when the Women's Caucus -- the bicameral, bipartisan Women's Caucus realized that we needed to have lactation locations within the Capitol. And if you travel around the country you probably will notice that there are some airports who already provide this service, but there are some who do not. And sometimes I think it's incumbent upon us who know better to try to make sure that things happen that are in the best interests of women, children and families.

And so again, I want to commend the sponsor of this legislation and certainly am very pleased to be recorded as affirmative. Thank you, sir.

ACTING SPEAKER AUBRY: Mrs. Peoples-Stokes in the affirmative. Thank you.

Are there any other votes? Announce the results.

(The Clerk announced the results.)

The bill is passed.

Page 34, Calendar No. 392, the Clerk will read.

THE CLERK: Assembly No. A08449, Calendar No. 392, Paulin. An act to amend the Business Corporation Law and the Limited Liability Company Law, in relation to requiring certain companies and corporations to report certain data regarding the gender, race and ethnicity of their employees.

ACTING SPEAKER AUBRY: Ms. Walsh.

MS. WALSH: Thank you, Mr. Speaker.

On the bill.

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

MS. WALSH: So this bill requires certain corporations, employers who have at least 100 employees or if you're a Federal contractor that has at least 50 employees to file employer information regarding gender, race, and ethnicity and job type. So this bill basically requires information that's already required of these employers and contractors under Federal law through the EEO-1 form to file it again on a different form and then have that data reported specifically for each -- each company on the State website. So what it is is it's just an additional filing requirement, duplicative of one that's already required. The difference, though, is interesting. On the Federal form, the EEO-1 form, it takes this data that is reported and then it aggregates it and then reports it in an aggregated form. What this bill does is the information that's going to be on the State website will be specific to each company. So I obviously -- well, I think it's obvious -- one of the concerns that we've got with the bill is that it's just one more reporting requirement that we're putting on companies. One more thing upon another upon another. How many of these do we deal with every Session? I think that there's an issue of burden versus benefit. Sometimes this data is useful to people who are doing research, but I think that there's also perhaps another purpose in reporting this information specific to each employer of shaming. So if

-- if a company, for example, holds themselves as saying, *We're very diverse, we believe in diversity*, then there will be a searchable format, I assume, on the State website, but they're going to be able to look it up and -- and call them on it. And while I think that that transparency is always good, I find it interesting that as this Body and during the budget process we're dealing with transparency issues that this is the thing that we're deciding is the transparency thing that we want to focus on.

So, I just think that it's another reporting requirement, it's another burden on business. The information is already available on an aggregate form, and so I don't think that it's really necessary to do it. And I think that if we really want to look at transparency, we've got a lot of other things that we could get our House in order with as far as transparency goes, quite frankly.

So for those reasons I'm not going to support this bill. I would encourage my colleagues do to the same. Thank you.

ACTING SPEAKER AUBRY: Thank you.

Read the last section.

THE CLERK: This act shall take effect on the 730th day.

ACTING SPEAKER AUBRY: The Clerk will record the vote on Assembly print 8449. 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 number previously provided.

Yes, Mr. Goodell?

MR. GOODELL: Thank you, sir. After great deliberation, the Republican Conference is recommending against this legislation. But those who support it are certainly encouraged to vote in favor of it on the floor or by calling the Minority Leader's Office.

Thank you, sir.

ACTING SPEAKER AUBRY: Thank you, sir.

Mrs. Peoples-Stokes.

MRS. PEOPLES-STOKES: Mr. Speaker, the Majority colleagues are generally going to be in favor of this piece of legislation. However, there may be some that will decide to be an exception. Please feel free to contact the Majority Leader's Office. We will make sure your vote is properly recorded.

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. As mentioned by my colleague, this is a redundant requirement that just adds one more burden on all of our employers that fall within the scope of this without any corresponding benefit, and -- and that's why we're opposing it. Just for those who are concerned that I'm not fully awake this morning, it's a legitimate concern, of course. I would point out that Article 3, Section 16 of the New York State Constitution is also violated by this statutory provision that's being proposed, because the

State Constitution expressly prohibits incorporation by reference in a bill. And this bill purports to incorporate by reference not other New York State statutes even, but Federal regulations. And so the only way that anyone would actually know what this bill means is for them to look up a Federal regulation adopted by unelected bureaucrats or making rules in -- in Washington, D.C. And that's a direct violation of the State Constitution.

So for those who are interested in that legal technicality, I just wanted to make sure I brought it to your attention that this bill also suffers from constitutional infirmities in addition to being redundant and an unnecessary burden on industry. Thank you.

ACTING SPEAKER AUBRY: Mr. Goodell in the negative. Thank you.

Are there any other votes? Announce the results.

(The Clerk announced the results.)

The bill is passed.

Page 38, Calendar No. 471, the Clerk will read.

THE CLERK: Assembly No. A05913-A, Calendar No. 471, Lavine, Sayegh. An act to amend the Executive Law, in relation to establishing a Statewide campaign for the acceptance, inclusion, tolerance and understanding of diversity.

ACTING SPEAKER AUBRY: Read the last section.

THE CLERK: This act shall take effect April 1, 2023.

ACTING SPEAKER AUBRY: The Clerk will record

the vote on Assembly print 5913-A. 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.)

Mr. Lavine to explain his vote.

MR. LAVINE: I simply want to thank the Speaker for including this in our agenda for today, and I want to thank everyone voting for it. It's clear. There is too much hatred. Too much hatred in the United States and too much hatred in the State of New York. This will help us combat that hatred. And we must do this as we remember that hate groups exist. They exist in the form of AlertAmerica.News in Hauppauge. The Proud Boys have chapters in Rochester and Syracuse. And any number of other hate groups are established. This is how we fight them. This is our obligation as Americans to fight them.

Again, I'll be voting in the affirmative and thank everyone in this Chamber for her and his support.

ACTING SPEAKER AUBRY: Mr. Lavine in the affirmative.

Are there any other votes? Announce the results.

(The Clerk announced the results.)

The bill is passed.

Mrs. Peoples-Stokes.

MRS. PEOPLES-STOKES: Thank you, Mr.



Speaker, for the opportunity to interrupt our proceedings for an introduction. On behalf of our colleague Ms. Seawright, if you could please welcome Dylan Cline. He's the Director of Government Relations and SUNY Student Association and also an EOP student. As well as Brad Hutchinson, who is Ms. Seawright's son and a SUNY Trustee, President of SUNY's Student Association and a Ph.D. student, Mr. Speaker.

ACTING SPEAKER AUBRY: Certainly. On behalf of Ms. Seawright, the Speaker and all the members, we welcome you both here to the New York State Assembly, extend to you the privileges of the floor. And as family you're always welcome here. And you're so proud of mom and we are so proud of you guys. Thank you so very much, and hope that you will continue to join us on occasion and enjoy the proceedings of the day. Thank you so very much.

(Applause)

Mrs. Peoples-Stokes.

MRS. PEOPLES-STOKES: Thank you, Mr. Speaker, colleagues. If we could continue our work on our debate list we are going to go to Calendar No. 186. It's on page 21 by Ms. Glick. And then we're going to follow that up with Calendar No. 487. That's on page 40, that one is also by Ms. Glick.

ACTING SPEAKER AUBRY: Page 21, Calendar No. 186, the Clerk will read.

THE CLERK: Assembly No. A05728, Calendar No.

186, Glick, Gottfried, Abinanti, L. Rosenthal, Fahy, Colton, Jacobson, Steck, Perry, Paulin, Burdick, Kelles. An act to amend the Environmental Conservation Law, in relation to prohibiting the use of lead ammunition in the taking of wildlife on State-owned land and land contributing surface water to the New York City water supply.

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

We need to make sure Ms. Glick is unmuted, please.

MS. GLICK: Thank you.

ACTING SPEAKER AUBRY: You're welcome.

MS. GLICK: Very much appreciate it. Let me say a few things about this. The bill prohibits the use of lead ammunition when hunting on State land or on land that contributes surface water to the New York City water supply. Let me explain the genesis briefly. The bill is the result of conversations with folks who have been monitoring our bald eagle population. We've had great success in their rebound, but over the last many years we've seen more bald eagles sick with lead poisoning and, regrettably, dying of lead poisoning. Now, it's not only here. This is happening in other parts of the country, but we are concerned about New York. And the other thing I would say when we say that this is a prohibition on lead ammunition used when hunting on State land, let me point out that DEC has indicated in their Places to Hunt website that 85 percent of the State is privately-owned and that over 90 percent of hunters will hunt on private lands during hunting season. So this is a modest step

to try to clean the environment where we will have not only water going into New York City reservoirs, but on State land the -- while eagles and other raptors frequently hunt small mammals or fish, they do -- they are scavengers, so they will eat from gut piles and that presents a problem. So that is the purpose of the bill, which I believe is sufficiently limited in scope to not affect dramatically the -- the concerns that might be raised by sportsmen, but by the same token a lot of our eagles do reside around our reservoir areas.

ACTING SPEAKER AUBRY: Mr. Smullen.

MR. SMULLEN: Well, thank you for that long explanation. I've got quite a few questions. The first being is that why we have not had a public hearing on this question. 2.1 million sports people in New York State will be affected by this law, and I think it's appropriate. What -- why has there been no public hearings by this Body for this law?

MS. GLICK: Well, I think that it's a -- it's a reasonable and valid point, but perhaps it's because while there may be a large number of sportspersons who hunt, it is, as I pointed out, based on DEC's own information, over 90 percent of all hunters do hunt on private lands and we're talking about State lands.

MR. SMULLEN: So you did bring up private land. Will this ammunition ban apply at all on private land?

MS. GLICK: No.

MR. SMULLEN: So for the 2.1 million sportspeople that -- that potentially may be hunting, this will only affect State lands.

And what -- what specific types and classifications of State land will this apply to? Is that listed in the bill?

MS. GLICK: Yes. It applies to -- keep in mind that the State has a total acreage of 35 million acres. So this applies to wildlife management areas. Those are State-owned lands operated by DEC's Bureau of Wildlife. There are 125 of these, which comprise approximately 250,000 acres. And there are State parks, although I'm not -- I don't believe hunting is actually allowed in something that's designated as a State park. But there are DEC lands. These are lands -- area that contribute surface water to the New York City water supply. This land is managed by New York City DEP, and that amounts to about 135,000 acres. And State forests -- don't have a total acreage for State forests. But the parcels that are open for hunting are spread across 400 recreation areas in Delaware, Dutchess, Greene, Putnam, Schoharie, Sullivan, Ulster and Westchester Counties. And presumably, if 85 percent of the State is privately-owned, then no more than 15 percent of land would -- would be affected. Although, as I said before, I don't believe there's actual hunting on those lands that are designated as State parks.

MR. SMULLEN: Well, certainly in the Adirondack Park hunting is allowed in many of the different classified areas of the Adirondack Park. But it's fair to say that this legislation would affect about ten percent of New Yorkers that are in the sports community, and it would prevent them from recreating on State lands which are maintained for their benefit.

MS. GLICK: No, actually that's not true. They could certainly use non-lead ammunition. That's -- this does not prevent people from hunting on State land. It just prevents them from using lead ammunition. And after reviewing a great deal of the information, I will say that, you know, supply chain has affected ammunition as well as everything else, so -- as well as what has been a period of stockpiling of ammunition for whatever reason. But people who hunt are not usually using large amounts of ammunition. Usually large amounts of ammunition are used more in target practice.

MR. SMULLEN: Well, certainly the -- the change of ammunition will force hunters to incur additional expenses at the direct behest of the State if they wanted to continue to use the State lands, which they pay for. Could you tell me, do you know what the cost differential is between the new types of ammunition and the current types of ammunition which are allowed?

MS. GLICK: Well, our research indicates that there is -- if you are using what is viewed as premium lead ammunition versus a non-lead, there probably is not a large differential. If you're using a -- what is viewed as not premium, there probably is a slight additional cost, but it is minimal when you think about all of the costs that hunters choose to incur. Obviously, their rifle is the -- probably the most expensive. If they choose a scope when they're hunting, that is an additional cost. And all of the other accoutrements of hunting, from specific clothing and other tools, tree stands and the like, those are kind of the bigger purchases that are incurred as opposed to the

ammunition. But it could be an additional cost. But we on many instances have chosen to remove lead from our environment because it is a toxin. And I would suggest that lead actually fragments more than these other types of ammunition. And so it's probably healthier if you're going to be eating your venison that you, for your own health, should be using a non-lead ammunition.

MR. SMULLEN: Well, certainly that's the choice of the hunter. And the examples that you brought up are all the personal choices that hunters make given their freedoms in New York State and this country to buy what they want. But it's not the same as a 40 percent -- that's the estimates that I have, that the new types of ammunition are up to 40 percent more expensive than the current types of ammunition which are allowed obviously on private land, but also all around the United States. Can you tell me when lead was banned for water fowl hunting by Federal law?

MS. GLICK: 1991 by the Bush Administration.

MR. SMULLEN: And what's the -- what's the estimated amount of lead use in water fowl hunting versus the long-guns and the pistols type of hunting that we're talking about where this lead ammunition ban will take place? Is it (inaudible) 10 percent, is it 20 percent or it's 400 percent more or less ammunition we're talking about?

MS. GLICK: Could you repeat what your -- your point is?

MR. SMULLEN: My point is is that the current

types of lead ammunition are very small compared to the Federal ban on water fowl ammunition which has significantly contributed to the reduction of lead by the hunting community and is a -- was a huge big step. Do you know about how much more this is going to contribute to the overall lead use by hunters?

MS. GLICK: Well, obviously if a great deal of hunting is done on private lands and we continue to permit the use of lead on private lands, this will probably not be an overwhelming burden or a significant reduction. On the other hand, that's not a reason not to reduce on our lead -- you know, lead in the environment on our State lands. In some areas, particularly around the reservoirs, there are large colonies of eagles, and as -- and other raptors. And as I said, this -- the genesis of this came from people who monitor eagle health and other raptors and were very concerned by the amount of illness and death due to lead poisoning.

MR. SMULLEN: Well, I -- I thank you for that. I certainly share that. In fact, when I was Executive Director of the Hudson River-Black River Regulating District, I worked with the New York State's DEC's office for eagle protection to protect nesting pairs in the areas that I helped manage. But you did mention the water supply issue. Could you tell me what the New York City Department of Environmental Protection, what their parts-per-million standard is for lead in the New York City water supply?

MS. GLICK: Well, I will say that there is no amount of lead that is viewed as safe for human consumption. And while at

the moment there does not appear to be a measurable amount of lead in our reservoir system, we certainly don't want to be in a situation where that does develop. And in the same way, while if someone were to take a gallon of turpentine and pour it into the reservoir -- one reservoir, it probably wouldn't -- it would be diluted and probably wouldn't create a health concern. On the other hand, we certainly wouldn't suggest that that's a good thing to do. So any amount of lead is not good for human consumption. We are seeing other small mammals being -- finding lead in small mammals, which, you know, it's a food chain, and so we don't want to see this expanded. And there are other states that have done some studies on people who use wild game, who eat wild game, and they have, you know, slightly increased lead levels in their blood, and that is, you know, another reason for there to be a change. I know that it's always difficult, people don't want to be told what to do. I get that. But I do think that this is a modest measure that should not create large concern and would be helpful in limiting impacts on our wildlife and perhaps on some people.

MR. SMULLEN: Well, in fact, a quote from the New York City Department of Environmental Protection website, quote, "New York City water is virtually lead-free when it is delivered from the City's Upstate reservoir system", unquote. You know, however, quote, "Water can absorb lead from solder fixtures and pipes found in the plumbing and of some buildings or homes." So while this bill is concerned with eliminating lead from the New York City



water structure -- water supply, nothing is being done as far as water reservoirs that are contaminated in the actual system that delivers it to the people. Do you know how much has this Body appropriated on average for the last ten years to remove lead from the New York City water supply?

MS. GLICK: Well, what I will say is that we have had a Statewide concern about lead pipes and that is a country-wide issue. And we have added money, I think through the Environmental Protection Fund, for the remediation of lead pipes. So we're trying to remove lead in a number of ways. We've done it with gasoline, we've done it with paint. We are trying to do it with lead pipe infrastructure. Perhaps not as quickly as we ought to. And there -- are have been changes in buildings codes so that new construction does not include lead pipes. So there are a variety of ways in which we are trying to reduce lead in the environment because it is a toxin. It's particularly pernicious with young children. And if you have youngsters who might -- you know, kids have a tendency when they're toddlers especially, to pick things up and eat them. So you certainly don't want kids who are recreating in a wildlife management area to find a very small piece of something that they don't identify and put a speck of lead in their mouth. So I -- I don't think that this bill is the end all and be all, but I think it's a modest step.

MR. SMULLEN: I'm certainly -- I'm worried -- and I just received a memo from the Lead Free Kids organization and it's really a serious issue. But I don't think it's got anything to do -- the

causality has almost nothing to do with -- with lead ammunition.

Can we go back to the -- the bald eagle population? Can you tell us your appreciation of how the population has rebounded since being put on the Endangered Species Act and then removed from the Endangered Species list in 2007? How is New York's bald eagle population doing?

MS. GLICK: Well, we've had great success in its recovery.

(Buzzer sounding)

ACTING SPEAKER WOERNER: Thank you. Mr. Smullen.

MR. SMULLEN: I'd like to go to my second 15 if there are no others.

ACTING SPEAKER WOERNER: There -- there are two others. You can use your second 15.

MR. SMULLEN: Thank you very much, Madam Speaker. I do appreciate that, and my colleagues for allowing me to finish here. The likely --

MS. GLICK: We've done (inaudible).

MR. SMULLEN: And I want to -- I want to make sure that we have all the issues out on the table from a technical perspective. So back to the bill and its -- its impact. How much is this going to impact the bald eagle population in New York State? What is the estimate that this bill will help?

MS. GLICK: Well, first of all, we've had great

success in the recovery of bald eagles. That is a credit to many things, including having been on the Endangered Species List, taking D -- DDT out of the environment. And, however, just this week I was outreached to to say that five eagles had died in and around the Catskill Region from lead poisoning, and there are many others that are brought into rehab who are ill. So I don't think anyone can give you a specific number of how many eagles there are and how many might have lead poisoning, but what I will tell you is that there were among rehabbers a concern that what they were seeing were a serious increase in the number of bald eagles and some golden eagles, which usually aren't nesting here, that came in with lead poisoning as well as some other raptors. So the numbers, you know, I -- I don't think it's acceptable if we had five bald eagles dying a week of lead poisoning, I think that's a reason for concern.

MR. SMULLEN: Well, there are -- there are -- in fact, there are 426 breeding pairs that are followed in New York State. I don't know where five -- five eagles a week dying has come from. And I've certainly -- I've also seen the studies for golden eagles and California condors on which some of this research is based upon. But I would say overall that the success of the program has been extraordinary over the past decades, and particularly so in New York. There's -- there's been lots of -- lots of studies, and in fact there's been a study of studies that's -- that's been done on this. Why would -- given -- given our success, why wouldn't it simply be enough to educate hunters to show them that lead ammunition has, you know,

some potential minor effects on their own game as opposed to telling them and banning it on State land for, you know, what I think are dubious reasons? Isn't it always best to convince someone as opposed to compel them to do something?

MS. GLICK: Well, you know, New York State does -- and -- and other states have on things that matter to human health have made decisions to sometimes tell people rather than just educate them because sometimes you don't get people to come around until there's a mandate. There are still people, despite all of the information, despite all of the possibility of getting a ticket, there are some people who don't wear seat belts. I don't understand that. It's -- you know, it can save your life and yet people don't always wear seat belts, so -- even when you mandate it. So I believe in education. I believe in clear information. We've come through a pandemic and many people, despite, you know, years of evidence that, you know, you're protected by vaccines chose not to take it. In New York City they mandated for people who were working, and -- particularly with the public -- and many people then, with a mandate, made the decision that they would rather do that. So I -- I don't know. Human nature is what it is. Sometimes you can tell people what's good for them but they'll still drink gallons of, you know, soda.

MR. SMULLEN: Well, thank you very much for that explanation, and I think that it's very illustrative. It shows the different philosophies that we have about human nature and what -- how we get people to do the right thing in many ways.

So, Madam Speaker, may I go on the bill, please?

ACTING SPEAKER WOERNER: On the bill, sir.

MR. SMULLEN: Well, thank you very much, Madam Speaker. The success of the bald eagle comeback in New York has been nothing but extraordinary over the past decades. And I've watched with great pleasure to see the eagles in my district soar again, and to see nesting pairs be used for the education of literally thousands of our citizens on the Great Sacandaga Lake where the nesting pair that all can see as they -- as they go by on their boats regenerates years after year, sending eaglet less after eaglet into the forests of the Adirondacks. And I think it's been nothing but spectacular. But what we have here is a bill that's designed to compel people to do something which is not necessary, in my estimation. I've read through all of the studies that have been done on lead, and particularly in the eagle population in New York, and in fact there's been a recent study of studies done that I would like to quote from directly that the relationships, quote, "... between blood lead concentrations and health outcomes vary extensively." The study itself shows that there's -- that there may not be the correlation that's been implied here. But I also think it's a little bit disingenuous to link this to the New York City water supply. That we are going to have a -- a completely lead-free environment, but it's that -- that it's lead ammunition that is causing this great increase in the lead content of New York City's water supply when in fact it is not. The parts-per-million is not even operative. It's parts-per-billion that this could

possibly contribute to the water supply. But the water supply itself is because of lead piping that for hundreds of years has been used. And if there's a real culprit to be found in a -- and a bogeyman to go after, then it's the lead piping in the New York City Housing Authority or in the various public water systems that takes it to private homes in the great urban areas of our State. And I think that's a -- I think that's a real shame, because what this bill is designed to do is to target sportspeople, specifically hunters, to take something with which they have used for -- for decades and for generations. And would willingly change if the market would react and give them an alternative, an ammunition that is better, that gives a cleaner, quicker kill for their (inaudible). That perhaps gives them less chance of ingesting lead accidentally as they go about the harvest of the bounty of our land that they put on their tables each -- each year in New York State. Because this is in fact -- this is an anti-gun, anti-hunting bill disguised under environmental pseudoscience. It uses a methodology that wouldn't hold up in any public hearing, which is why I believe none has been held in this case. And alls it does is serve to anger those who know that the State continually compels them to do what they -- what they want them to do because of a philosophical difference in our governance. And just because you have the votes to do so doesn't make it right in their minds. And the reason I say that is in just three short years in this Body I have seen legislation that is anti-gun, that is anti-hunting. Let me give you just a -- a few high-level examples. Before this Body this year there is a bill that will tax ammunition

simply to make it more expensive for those who use ammunition lawfully and need it as part of their constitutional protections under the Second Amendment. Early in my tenure here we passed the red flag laws which -- which prohibit people's abilities to have redress and due process because they have guns. This year we've done the Ghost Gun Act, which is going to make it much more harder for gunsmiths and licensed gun dealers to help lawful abiding citizens go about their -- their exercise of the Second Amendment. Before I got here was the SAFE Act, and I -- I would remind that I hold a bill that would make the SAFE Act only applicable to the counties in New York City so the rest of us in New York could have this onerous restriction lifted on our constitutional rights. These bills have been introduced to have a deleterious effect on the lawful gun -- gun-owning community in New York. It's a strategy of a death by a thousand cuts. I'm hopeful that the United States Supreme Court will soon issue a decision which will push back on all of these actions. Because with the pistol licensing regulations and all of the various restrictions that we have on the Second Amendment rights that we have seem to apply only to those people in the areas of Upstate New York. And I -- I believe that this is wrong from a constitutional perspective, but I believe it's wrong from a legislative perspective that we should be micro-legislating in this manner. It's disingenuous, it's not right. And I urge all of my colleagues on both sides of the aisle to listen to what your constituents are saying and stand up for their rights. Stand up for what is right in this case, which is to not pass a blanket ban for something that does no

real harm to the environment.

For that reason I'll be voting against this. I urge all of my colleagues to do so. I thank the Speaker for the extension of the time and yield back the rest for my colleagues to continue. Thank you.

ACTING SPEAKER WOERNER: Thank you, Mr. Smullen.

Mr. Angelino.

MR. ANGELINO: Thank you, Madam Speaker. I'll go on the bill.

ACTING SPEAKER WOERNER: On the bill, sir.

MR. ANGELINO: So I listened intently to the sponsor's explanation of this, and a couple of comments sort of hit pretty hard and rang true to me when she said it's not dramatic and it's modest. This bill, 5728, will have a very dramatic impact on the county that I call home, where this county, Chenango County, per square mile has more State land than any county in the State. I also represent a good portion of Delaware County, and that county is nearly all New York City watershed. And I've done some research and I'm not quite so eloquent as my colleague who spoke before me, but this bill is based very similarly on a bill that passed in California some years ago. The raptor or scavenger or prey that they were trying to protect was the condor, and some years ago California banned lead ammunition in order to protect the condor. And here we are years later, and the studies that I read indicate there's been no reduction in



the amount of lead found in condors even though they passed this law. This law -- this bill, when passed into law, will just be another infringement on sportsmen and gun owners all over Upstate. This bill will ban ammo in State lands, but then it goes one sentence further and says and the waters -- or excuse me, the lands contributing to the waters for New York City drinking. And these State lands were once homesteads all over New York State, and in the '20s, '30s, these lands were purchased up and became wild forever. I reap the benefits of that. I hike these State lands almost each weekend that I'm home. And there's foundations all over, ruins of these homesteads. And in some places in Delaware County, entire villages rest at the bottom of these reservoirs. And if you scratch the surface of the land you're going to find around these foundations there's pottery, there's pipes, there's old milk cans. And there's also lumber. And this lumber was part of these homes, and I'm sure it was painted with lead paint. And when we're trying to say banning small lead shock pellets that likely pass through a target with very little fragmentation, I think it's disingenuous that we're picking on ammunition used on State land as a reason for poisoning the New York City water supply. The likely source of any lead in the environment and the drinking water is going to be miniscule, and the source is likely the things I just mentioned. There's ruins of houses and farmland all over these State lands. This ban is just one more infringement upon the people of my district. The people of Delaware County already feel as though they're a colony for New York City with their landscape, their water and now their way of

life of hunting being infringed upon by demanding that they use certain ammunition on -- on the State land and on the land adjacent to the waterways. The -- the people of Delaware County - it's a sparsely-populated county, as is my home county - some of these people rely upon hunting to feed their families. And this is just a mass attack on sportsmen, on hunters. I've held a big game hunting license for some years in New York State, and I'm pretty sure that the -- my targets have very little lead remaining inside after the -- the shot passes through the target. As my colleague said, this is just one more in the weekly scratching at the surface of gun rights and the demonization of anybody who owns a firearm in New York State.

I urge colleagues to listen to their constituents. I am the voice of Delaware County and the watershed, and the people who've talked to me are not happy with this, and I have expressed their concerns. I urge my colleagues to join me in voting no. Thank you, Madam Speaker.

ACTING SPEAKER WOERNER: Thank you, Mr. Angelino.

Ms. Byrnes.

MS. BYRNES: Thank you. Thank you, Madam Speaker. Will the -- will the sponsor yield? I do have a couple of questions.

ACTING SPEAKER WOERNER: Will the sponsor yield?

MS. GLICK: Certainly.

ACTING SPEAKER WOERNER: The sponsor yields.

MS. BYRNES: Thank you. Thank you, Ms. Glick. My question is, I want to verify a little bit the parameters of this bill. The bill refers to prohibiting the taking of wildlife. So, can we rely on this to make a formal determination that any target loads of any type sold in State which are commonly used for trap, skeet, sporting clays, any other number of shooting sports that target loads are exempt from this bill?

MS. GLICK: This bill refers only to the taking of wildlife using lead ammunition on State lands. So, target practice -- and as I said earlier, Ms. Byrnes, the -- people tend to use more ammunition when they're target practicing than when they're hunting.

MS. BYRNES: I understand. But are target loads -- and boxes actually say they're target loads. Are target loads exempt?

MS. GLICK: As long as they are being used for target practice and not in hunting.

MS. BYRNES: And this includes no matter where they're used, public, private, State. Whatever land they're used on, these would be legal?

MS. GLICK: Yes.

MS. BYRNES: Now, another question I have about the verbiage is, again, it refers to prohibiting the taking of wildlife. I just want to talk a little bit about the definition of "taking." It's not unusual, regrettably, that not all deer when they're shot down

immediately. They sometimes run and have to be tracked and then --

MS. GLICK: Yes.

MS. BYRNES: So, where do we consider the deer being taken? If the deer is shot on private land but runs into a State park, where has that deer been taken for purposes of your bill?

MS. GLICK: Well, I believe when you're hunting you have a -- you get a tag and there are bag limits, et cetera. It is where the hunter is that would be the operative determination. But taking does include -- and I -- I don't want to cite the -- I think it's in Article 11 -- taking and take include pursuing, shooting, hunting, killing, capturing, trapping, snaring, et cetera, and all lesser acts such as disturbing, harrying, worrying or placing -- or -- or any other device commonly used to take such animal.

MS. BYRNES: All right. So, using that definition, then, if a hunter lawfully on private land shoots a deer but the deer tramples onto State land and dies, then it would be illegal -- illegal for the hunter, because it's part of the taking process, to go on to the State land in order to gather and to gut the animal. Instead, you want the animals just because it's now illegal because it crossed a border to lay there and rot as opposed to being harvested? You know, if it -- I know that these are fine lines, but these are lines that our hunters every day of the week are going to have to deal with. So that's why we need answers.

MS. GLICK: Well, I appreciate that. I do not know how close people generally hunt to State land. It is perhaps something

that they should keep in mind. I do appreciate the fact, and certainly would not want someone to leave an injured animal, and I think sometimes that does happen. I think people take a shot and don't know whether they've hit an animal or not. Maybe they have and only injured it slightly. I believe good hunters - and this goes back to, you know, Teddy Roosevelt and the Fair Chase - believed that you ensured that once you took your shot that you determined whether or not the animal was injured. So, yes, if you are hunting and pursue an animal onto State land you should not be using lead ammunition on State land.

MS. BYRNES: But the lead ammunition has already been used. I'm just trying to say, are we at this point making it once that deer crosses from private land where everything that the hunter did was legally correct, onto State land which is barred and it's part of the overall taking process, at what point does the hunter's actions go from 100 percent legal to potentially illegal where that person, that hunter risks arrest for violating this bill?

MS. GLICK: Well, clearly, the intention is not to create a circumstance where people who are legally hunting on private land are in some way entrapped because the animal is pursued. Obviously, if an animal has been bleeding, if there were in fact a DEC warden, there would be -- it's clearly not the intent of this legislation to catch people out who have honestly pursued an animal from private land onto State land. But they should not be hunting -- they should not be hunting in the first instance on State land.

MS. BYRNES: Right. One other matter I want to address - and I don't want my time to run out - is on the issue of the ammunition. A lot of hunters pre-purchase their ammunition. They don't necessarily use it all in one year. It's probably sitting in their -- the closets or in their gun -- gun safes and so that the next time they go out they've got their gun. As you've said, it's kind of their apparatus with all their -- all their appropriate blaze orange and carrying cases, and they grab the bullets, whatever type they're using. Question. A lot of this weapon -- a lot of the ammunition has already been pre-purchased. People already own it. Are hunters going to be allowed to use ammunition that they have already legally bought?

MS. GLICK: Well, they can use it -- as DEC has pointed out, over 90 percent of hunter hunt on private land. So they can continue to use whatever ammunition they have. And I understand that there are -- you know, many people have large stockpiles for whatever reason. They can use that on private land. This is a limited -- you know it's a -- it is limited to about 15 percent of the State-owned land versus the private land. That there --

MS. BYRNES: But a significant -- no disrespect. But a significant part of land for a lot of our constituents, for a lot of our hunters. So already -- ammunition that has been pre-purchased legally will still be illegal to actually discharge from the weapon to hunt on State land, correct?

MS. GLICK: Yes. If they want to hunt on State land

--

MS. BYRNES: But --

MS. GLICK: -- they would have to use non-lethal -- they would -- non-lead ammunition.

MS. BYRNES: My last question, then, is if that would be illegal for someone who already bought it legally to use it on State land after the effective date of this bill, should it pass, my question becomes like when we have guns that are illegal and we have a lot of gun buyback programs to get illegal guns off of the streets, will you support that we should also then have a bill so that if it's illegal ammunition the State will buy back now made illegal ammunition that was previously purchased legally so that our hunters are in compliance and are not harmed by the fact that they engaged in activity in a lawful matter that the State is making illegal after the fact?

MS. GLICK: Well --

MS. BYRNES: Basically a bullet buyback.

MS. GLICK: If this bill was Statewide and included private lands, I would certainly think that that might be appropriate. But since it is so limited in scope, I think that it is unnecessary at this time. Obviously, a great many people who hunt also do target practice and probably use more ammunition target practicing than they do when they're hunting.

MS. BYRNES: No question.

MS. GLICK: And so -- I'm sorry?

MS. BYRNES: No question. It's not unusual to go

hundreds of rounds (inaudible) --

MS. GLICK: So I don't think -- I don't think this is burdensome. I reject the notion that this is in any way anti-gun or anti-hunting. It is in fact, in my humble opinion, would improve actually what people are personally. And I know people who hunt in order to supplement their family's food supply. And that may actually be more people, as people are struggling right now. So it's not anti-gun, but it is just trying to say use a more -- a less toxic substance. And certainly, if it was Statewide, Ms. Byrnes, I would think that we should think about some sort of exchange program. But it's not. It's only for State lands.

MS. BYRNES: On the bill. Thank you, Ms. Glick.

ACTING SPEAKER WOERNER: On the bill.

MS. BYRNES: I -- I do understand and I do appreciate the sponsor's sincerity with what she believes is necessary. I disagree vehemently, but I do understand. What has been said by my fellow members on this side of the aisle I think is exceedingly important that notwithstanding the fact that the sponsor indicated that this was not one further effort at curtailing the shooting sports or hunting in any form. I believe that it will exactly serve that purpose and, quite frankly, is designed for that.

I'll be voting no for this and many other reasons.

Thank you, ma'am.

ACTING SPEAKER WOERNER: Thank you, Ms. Byrnes.



Ms. Giglio.

MS. GIGLIO: Thank you, Madam Sponsor -- or Madam Speaker. Will the sponsor yield?

ACTING SPEAKER WOERNER: Ms. Glick, do you yield?

MS. GLICK: Certainly.

ACTING SPEAKER WOERNER: The sponsor yields.

MS. GIGLIO: Thank you. So, have you consulted with the New York State DEC and the forest rangers as to what effect this will have on them as far as enforcement and as far as deer population?

MS. GLICK: Well, we have had -- you know, DEC has been undertaking a review for some period of time. On DEC's website they do encourage the use of non-lead ammunition. It's not a requirement, they encourage it. They are undertaking a review. We had hoped that there would have -- they were supposed to produce their report from their stakeholders meetings that they've been having in early January. That hasn't happened. We look forward to that report. We believe that they -- in our conversations they understand our intent, which is not about strictly trying to protect the water supply for New York City, but rather around the reservoirs happen to be areas that are right with eagle pairs and other raptors. So it's not really just about trying to protect lead from getting into the water, but rather the wildlife in and around those areas. So we've had those conversations,

and I think that they're moving in that direction.

MS. GIGLIO: Thank you. Thank you very much. You've answered the question. And that's commendable. I agree. We should protect the water from lead contamination. I couldn't agree with you more. But the budget for enforcement in New York State I think would go up, and I think that it would be prudent and legislatively -- legislatively responsible to wait for that report before bringing this bill forward and making a decision on it, number one.

Do you know how many State parks New York State Police train in?

MS. GLICK: How many they train in?

MS. GIGLIO: Yup. Where they do their target practice and do their training.

MS. GLICK: Well, I think there are about 180 State parks. I think probably some of them are -- a significant number are in more -- aren't that large. So I would assume that there are probably many scores that they train in.

MS. GIGLIO: Okay. So you don't know how many State parks the New York State Police train in; is that accurate?

MS. GLICK: Yes.

MS. GIGLIO: Okay. So if you were to ban lead bullets in State parks where State Police do train, will the State Police have to find private facilities to train on? And do you know what the cost is associated with that in trying to find private facilities for our State Police to train in their target practice?

MS. GLICK: Well, first of all, the State Police probably have a significant number of their own areas that they are training in, but I don't think training includes hunting. So this is very specifically focused on hunting, so I'm not sure that that's -- your question's on point.

MS. GIGLIO: Okay. So you're saying that State Police would be able to use lead bullets to train on -- in State parks with this legislation?

MS. GLICK: Well, you know, I don't -- I don't want to be disingenuous in my response, but I don't know how much discharging of their weapons occur on State land in State parks.

MS. GIGLIO: Oh, well, I think that's an important question to answer.

Do you know how many tags are issued by New York State DEC?

MS. GLICK: Hmm. The number -- I -- I don't know whether I have a total number for -- there -- I think that there are some folks who have lifetime licenses. I think we do that maybe for veterans. So I think it's hard to identify how many people have hunting licenses that they renew every year which would -- I believe they're given a tag, maybe up to three in certain regions.

MS. GIGLIO: We don't really know the answer to that question either. Do you know how many car accidents from deer and wildlife on roadways occur in New York State?

MS. GLICK: No. Do you?

MS. GIGLIO: I know that there are probably more deer that are killed by car accidents than there are by hunters is what I'm being told in Suffolk County, in the area where I live. So --

MS. GLICK: I don't know that you have a -- I -- I don't know, is there a -- is there a season in Suffolk?

MS. GIGLIO: Oh, yeah. There are, and if the deer aren't killed they usually starve to death and die because the brushes and the bushes die off and they have no food so they starve to death if they're not shot. As a matter of fact -- Madam Speaker, on the bill. Thank you, Ms. Glick, for answering my questions or trying to answer my questions.

ACTING SPEAKER WOERNER: On the bill.

MS. GIGLIO: On the bill. This legislation, in my opinion, will be costly to the State. Not only will New York State Police have to find other areas to go and practice shooting at a time when law enforcement is under such scrutiny and we need to make sure our law enforcement has more training, we are taking facilities away from them, in my opinion, with this bill. You're also eliminating hunting, as far as I'm concerned, on State parks because the hunters are -- are -- they -- they use the bullets that they use. And as my colleague expressed, they have a stockpile of those bullets. I think it would be end hunting on State land, which would end license permits, which would end that revenue, also. The -- it's -- the deer populations would grow. Car accidents would increase. Insurance premiums would increase. And quite honestly, wildlife management is

important. And overpopulation will occur, disrupting the ecosystem. Overpopulation, higher carrying capacity, exceeding -- it will have an astounding effect on the environment. It will kill the shrubs, starving other animals that depends on those shrubs because of too much population on State lands. And I just think that this whole thing needs to be looked at more carefully before we look at this. I mean, the availability of lead bullets, the effectiveness of -- I'm sorry, rubber bullets compared to lead bullets in State parks. I think this is just too important of an issue to just pass by the Majority in the Assembly and the Senate without having answers to these very important questions. So I encourage my colleagues to put a pause on this because you're not only talking about, you know, not having lead in our water system, you're talking about overpopulation of wildlife which will have a detrimental effect to life and to wildlife in general. And it defeats the whole purpose, in my opinion. So years ago we had to have the Federal government come to Long Island and actually poll the land because there were so many deer and people were in accidents every -- every other day. I was in an accident a couple of months ago. Did \$10,000 worth of damage to my vehicle. It happens every day on Long Island. And this is an issue, in my opinion, will end deer hunting on State land. And it will also restrict our law enforcement in getting the training that they need in order to be more accurate in their shooting.

So, please, everybody vote no on this bill. Let's get the answers back to the questions I've asked before we do this and put

a pause on it. Thank you.

ACTING SPEAKER WOERNER: Thank you.

Mr. Manktelow.

MR. MANKTELOW: Thank you, Madam Speaker.

Would the sponsor yield?

ACTING SPEAKER WOERNER: Ms. Glick, do you yield?

MS. GLICK: Certainly.

ACTING SPEAKER WOERNER: Ms. Glick yields.

MR. MANKTELOW: Thank you, Ms. Glick. Just for clarification, this is to protect the safe water for New York City --

MS. GLICK: No.

MR. MANKTELOW: -- as well as the --

MS. GLICK: No.

MR. MANKTELOW: No?

MS. GLICK: That's not accurate.

MR. MANKTELOW: Okay. So it's not for the safe drinking water of New York City?

MS. GLICK: That not its primary purpose. The purpose of the lands around the reservoirs are by and large because there is a large congregation of eagles and other raptors in those protected lands. So it is more about protecting the wildlife as opposed to the water supply.

MR. MANKTELOW: And -- and also you had mentioned that there has been a study where the eagles are up-taking

the lead through eating decayed carcasses as they scavenge from other animals; is that correct?

MS. GLICK: That is what has been observed.

MR. MANKTELOW: Madam, observed by who?

MS. GLICK: By the individuals from both DEP and DEC that monitor the eagle populations around the State.

MR. MANKTELOW: Has there been any other studies on any of the other birds as far as, you know, looking at what their lead intake would be and if the lead is actually harming hawks, crows?

MS. GLICK: I do believe that there have been some ancillary observations from wildlife rehabbers. But as far as some extensive study in -- in some other jurisdictions around the country there have been -- in various sensitive wildlife areas, there have been partial non-lead ammunition requirements in many states for very specific areas where there is a great deal of congregation of different types of raptors primarily.

MR. MANKTELOW: Ms. Glick, you also mentioned earlier that there has been no lead found in the reservoirs around New York City; is that correct?

MS. GLICK: As far as I'm aware there is not -- I'm not sure that they regularly test, but I don't believe that the reservoirs are contaminated with lead at this point.

MR. MANKTELOW: Okay. And -- and I -- as I read the -- the board here in the Assembly Chambers, it says to -- on

land contributing service water to the New York City water supply. So we definitely do not want to get lead in the water, of course, and especially drinking water for -- for the many members of New York City as well as everyone else. For everyone. Do you know what the top ten sources of lead poisoning are?

MS. GLICK: Well, certainly in New York City we have a lot of old construction, and lead paint continues to be a problem as well as old lead service pipes. That is definitely an issue. We found it in our schools. And so, you know, there's been a long-term attempt to eliminate lead pipes. It's not just a New York State thing, it's across the whole bloody country. But clearly, lead pipes, lead paint that's in older construction. I think in the '70s lead paint was -- lead paint was prohibited.

MR. MANKTELOW: Yeah, absolutely. I'd like to share with you the -- what the ten top ten sources are. And you're absolutely right, the number one source is lead paint and particles from that type of dust. The second is dust from chipped paint, sandings from working on homes and other paints that have lead in it. The third is soil, all soil. And part of that is from the leaded gasoline from years ago, and also from leaded batteries and other contributing factors to that. The fourth, of course, is drinking water, as you said earlier. The fifth would be dust in the air. The -- the sixth will be folk medicines, cosmetics. Cosmetics that people put on their face, on their lips. Number seven is children's jewelry and toys. Number eight is the workplace and hobbies that people do, including lead-glazed



ceramics, china, leaded crystals, mainly from exporters. The ninth one is, believe it or not, imported candies and food. And most of that is from Mexico. They are by far the biggest contributor. And the last one, number 10, is imported spices from abroad. Some of those countries, Nigeria, Bangladesh, Pakistan, Morocco. Those are the top ten sources for lead.

So I'd like to go back to number four, the drinking water. Do you know where most of the lead comes from in drinking water in houses, in -- in factories? Do -- are you aware of where the lead is coming from?

MS. GLICK: As I said before, Mr. Manktelow, that is largely from lead service pipes and lead plumbing.

MR. MANKTELOW: So I would think that would probably be the number one source, I believe it is, for finding water -- or lead in the water within a home. Because I know in my own community when I was the former town supervisor we had gotten a New York State grant to help with those lead sources, especially from the hookup at the -- at the road or at the -- at the main into the houses. That's where most of the lead was coming from. Absolutely, we know that. And then within -- within the homes with all -- all of the solder. The other big source, as we've said and I think you said earlier, was leaded gasoline; is that correct?

MS. GLICK: Well, I would assume. We certainly saw that in New York City parks with sandboxes that were close to roadways. In many instances they had to completely remove all of the

sand from the sandbox to replace it. And that may still be a problem because of other contaminants that come from, you know, diesel trucks and so forth. So the -- the point of the bill is not to be eliminating all lead in the environment, though I think we should. We should be working on that, and we are in many of our -- much of our State environmental protection efforts are on trying to remove lead pipes. But I will say that the observation that raptors are finding -- we're finding raptors with lead poisoning. They're obviously not getting it from candy, jewelry, pottery or anything else.

MR. MANKTELOW: Sure.

MS. GLICK: It is coming from our environment that we should try to reduce that lead contamination.

MR. MANKTELOW: So -- so I know in our rural areas -- and I'm sure you've seen this, I think some of my colleagues have spoke about it. Road kill. You're familiar with road kill? The -- the dead carcasses that are on the road from being hit by trucks, tractors, cars. You're familiar with that, correct?

MS. GLICK: Of course. Sadly.

MR. MANKTELOW: I know that those carcasses end up getting pushed to the side of the road, and I know in my area I see many hawks, once in a while an eagle, not very often, crows eating those carcasses that have been dragged off the road into the sides of the road. And of course on the sides of those roads are the spoils of many, many years of contamination; oil, gasoline and probably most likely leaded gasoline. So I have a huge concern there

that, as you said earlier, the eagles are probably eating the spoils of carcasses and leftover innards of our -- from our hunters that are left out in the fields. And my belief is they'd have a better chance of getting lead poisoning from there than any other place. I know doing a little research, lead lasts in the ground for thousands of years. Thousands of years. And as we take a look at that and how we're going to clean that, as a farmer I always look at -- at what plant nutrients our -- our crops need. And are you familiar with any of the plants that can actually suck up and use lead to help get it out of the soil?

MS. GLICK: No.

MR. MANKTELOW: So I'll just share a couple of them with you, Ms. Glick, if that's okay. Goldenrod that we see all over New York State. Fescue, gets planted. But more importantly, sunflowers and corn. They do a great job of sucking up these unneeded minerals and actually cleaning our soils. So in -- in our EnCon Committee meetings we've talked about the neomix and getting that treatment off the seeds to improve the environment. But at the same time we need to improve our plants, our corn plants, our soybean plants, to suck some of those negative nutrients up out of the ground. I -- I just wanted to share that with you because when you take one thing away, it hurts another. And if you take this away it hurts the other side. So let's -- let's really think about the whole big picture as we really take a look at this and -- and the benefits of our -- of our plants that -- that were absolutely proven to take up this

negative lead that -- that's in the ground.

So I appreciate your time, I appreciate you answering my questions. I wish you the best back home.

And, Madam Speaker, on the bill.

ACTING SPEAKER WOERNER: On the bill, sir.

MR. MANKTELOW: Thank you. Again, as my colleagues have said here in the Chamber, there are so many different aspects to every single bill that comes to this floor. We could look at this bill, and looking at it it sounds good and we need to make sure our water is clean. We need to make sure we do take care of our -- of our creatures across New York State. Our birds, especially the eagles, as I've seen them firsthand in farming how beautiful a bird they are. And they are our national bird. Absolutely. But when we look at all this, before we implement a bill and the Governor signs it into law, let's take a big -- a bigger look at how this is going to affect other things going on in New York State. And -- and as I said, some of the benefits of our crops being grown in New York State is the uptake of bad nutrients that have been put in the soil hundreds and hundreds of years ago. Who knows how long. So, looking at the birdshot coming out of the shotgun at this point, I really think is irrelevant. As the -- as the sponsor said, we're not here to take up -- or take out every source of lead. But I believe in -- in my opinion and in my thoughts is we should go after the lead that is hurting the individuals the quickest and the easiest way. And as I talked about, Madam Speaker, the lead that are under our lines in the ground. The lead that's actually in the

houses. So before we start protecting the water that's going to come into those houses, why would we not go after the lead that is most harmful to human beings the quickest, and at the same time, looking at the sides of our roads, the property along the State roads and along all our highways. Maybe we should be planting sunflowers along our highways. It would do two things: It would absolutely beautify our State, it would stop all the birds from, you know, getting all of the road kill, and mostly it would take up some of that lead that's in that soil. So it's a -- it's a win-win. So I'm asking as we look at this piece of legislation and many others here on the floor, let's look at the whole big picture of how certain things do benefit other things and let's look at that before we implement something like this. Or, let's actually do a small pilot like we've talked about here earlier today. Let's look at a pilot program to do a five- or ten-year study before we implement something to see if it truly is beneficial for all of New York State or in certain areas.

So again, I thank you for your time, Madam Speaker. I thank the sponsor of the bill. And I will not support this at this time only because we -- we absolutely need to look at the big picture. So thank you, Madam Speaker.

ACTING SPEAKER WOERNER: Thank you, sir.

Mr. Lemondes.

MR. LEMONDES: Thank you, Madam Speaker.

On the bill.

ACTING SPEAKER WOERNER: On the bill, sir.

MR. LEMONDES: Thank you. As a result of the disingenuous nature of this bill based on disputable data resulting in infringement on Second Amendment rights of law-abiding citizens, I can't support this and I would urge all of you not to as well. Two facts I'd like to bring up that I can't believe haven't been mentioned either in the bill text or in the debate. One, hunting provides a lot of high-quality protein to homeless people throughout this State. An average deer provides 200 meals. Hunters for the Homeless provide this meat. Making it difficult for them to hunt results in increasing the challenge of feeding our homeless. Additionally, lead is naturally occurring in the environment. You can never eliminate lead. It's in our soil, it's naturally occurring, and no matter how hard we try we'll never eliminate it. Bioaccumulation mentioned by my colleague is a good endeavor that many of us as we practice agriculture engage in it's the right thing to do. It helps us provide you with higher quality food that's of less risk. Anecdotally I'll go as far as to say my family, my children, probably eat more game off of the land than any other family in this Chamber. We are very careful with how we prepare our food, how it is taken. And my 13-year-old and my 17-year-old know what a wound channel looks like and how to cut it out. And I'll say anecdotally without having their blood tested that they both seem fine. Additionally, I think this is a law or a bill that fails to take into account the unintended consequences. I will also offer anecdotally the lead weights from tires that fall off all over the place. And in the Adirondack Mountains where the acid precipitation and acid content

of our rain, although reduced over the last several decades, can contribute to lead in our waterways. That's something to consider. Each one of those weights of -- of what amount to in aggregate a lot more lead than is being fired in our State land than all of the bullets combined on an annual basis.

And the gut pile argument. Those of us that hunt don't try to take animals by shooting them in the abdomen. It just isn't done that way. That's not how you take an animal. That argument doesn't pass muster with me.

For those reasons, Madam Speaker, I cannot support this. I urge all of you to take into account science that's peer-reviewed before voting on this. Thank you.

ACTING SPEAKER WOERNER: Thank you.

Mr. Schmitt.

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

ACTING SPEAKER WOERNER: Ms. Glick, do you yield?

MS. GLICK: Certainly. Certainly.

ACTING SPEAKER WOERNER: Ms. Glick yields.

MR. SCHMITT: Thank you. What is the DEC's studies that you're referring to or other DEC studies that you're referring to regarding the concerns of use of lead ammunition?

MS. GLICK: Well, they -- currently, the DEC has had a stakeholder group that they have empaneled a wide range of

organizations, sportspeople as well as wildlife rehabbers and so forth. So they are going -- that's part of the discussion that is ongoing and has been for some time. We've asked them to provide us with their recommendations which, you know, everything's moved a little slower than we would have liked. But they have -- on their website they do encourage the use of non-lead ammunition, and I think that's probably a -- from a general desire to see less lead placed in the environment, in the same way that the military has been cleaning up their bases and their firing ranges and are using in many instances non-lead ammunition.

MR. SCHMITT: So as you pointed out, the DEC has decided and I think most of us -- not all of us can agree that our experts at the DEC are some of the best experts in the country when it comes to wildlife management. And I know that for a fact, traveling the country and meeting with other wildlife management agencies have chosen not to use their regulatory power to ban the use of lead ammunition -- lead-based ammunition at this point. As you pointed out, there is no scientific data that the DEC publically or otherwise has been able to provide, and the DEC is working with many stakeholders across the State to come up with sensible regulations or rules or voluntary programs. Even just this past year there was a push -- again, if somebody voluntarily chooses to hunt with another type of ammunition that's encouraged, why are we jumping the gun when we have a very well-respected process with all stakeholders involved ongoing?



MS. GLICK: Well, DEC might come out with a regulation that phases out lead ammunition. I -- I don't want to, you know, get ahead of them in that regard. Ultimately --

MR. SCHMITT: But is this not getting ahead of them.

MS. GLICK: One -- if you will permit me, one of your colleagues suggested a pilot program. I would suggest that to some extent this is, since it is limited in scope to what is not more than 15 percent of the State's land leaving open, and DEC indicates that over 90 percent of hunters hunt on private lands during hunting season. So -- and 85 percent of the State is privately owned. So --

MR. SCHMITT: So I'm --

MS. GLICK: This is, in effect, a pilot project.

MR. SCHMITT: So, I heard a prior colleague ask this question. I just wanted clarity because I'm not sure I heard the final answer. Somebody's utilizing private State land, they -- they legally and ethically harvest an animal on their private land, then that animal -- and I'm just -- I don't want to assume anything, but I'm assuming you have not harvested a deer yourself. Just so -- I don't want to go through something you might know yourself.

MS. GLICK: No, I have not.

MR. SCHMITT: Understandable. So you harvest a deer, we've all been there. It's totally understand -- agree with your sentiment about Teddy Roosevelt, ensuring that we have Fair Chase hunting. That's something I personally practice and would encourage

every hunter to practice. And if they didn't they're not an appropriate hunter, in my opinion. But things happen. You would love for the animal to -- to -- to be taken ethically and immediately and -- and have no issue. But many times that animal does continue to travel a certain distance, crosses lines. There are different rules and regulations for hunters if it does cross into other private property, et cetera. But what was that final answer? Would they be in violation if that animal crossed certain property lines and ended up in State land and that's where the field dressing occurred?

MS. GLICK: I think that this dilemma happens now with hunting. You could be hunting on land, private land, that is open to hunting and an animal might run onto land that is owned privately that has been posted. So I don't think that this is a new situation, and in the end I think the appropriate thing is for the animal to be dispatched.

MR. SCHMITT: So the animal -- and just to clarify, and I'm just -- I'm certainly --

MS. GLICK: I do not believe --

MR. SCHMITT: -- not the biggest expert. But the -- the animal is already successfully harvested but it has to be clean -- you know, it has to be field dressed somewhere else. It doesn't fall right on the spot. It happens frequently, even if we don't want that to be the case. Even the best hunter, much better than I, it -- it happens to. Just many factors that are involved. And then that animal then has to be field dressed -- and again, you are absolutely correct. There are

processes in place, but would the person hunting with a non-lead ammunition -- excuse me, with lead ammunition potentially face consequence enforced on them from this bill even if they were following the rules half-a-mile the other direction?

MS. GLICK: I have great faith that DEC can make the determination that the -- the bill itself does not address the issue --

MR. SCHMITT: So your intent is not to punish the person who is hunting on private land who does the right thing through that set of circumstances?

MS. GLICK: That -- that is -- it is certainly not my intent to create a circumstance where somebody who is essentially following all of the rules is in any way penalized because the animal drops on State land.

MR. SCHMITT: Now, you mentioned the amount of -- the percentages of hunting on private land versus public land. Based on DEC data we know there's about 700,000 New York residents who will engage in hunting on an annual basis, possibly upwards of 50-plus thousand visitors from other neighboring states and potentially around the world who want to come to New York and to engage in hunting. In my district and many districts across the State there are State parks. It's my understanding at least 80 to 81 State parks that allow some form of hunting, and now some don't allow non-archery hunting. So that -- obviously those places wouldn't be impacted by this at all because they only allow archery hunting. But there's a sizeable number of visitors and residents who partake.

Finding private land can be very difficult. Particularly for visitors, but particularly for -- for anybody. Finding private land to hunt is not always a guarantee, depending on where you come from, what situation you're in. It -- a lot people obviously can't afford their own private land to hunt on. They might not have a friend, a family member who has an acceptable piece of private land for them to hunt on. In my district in particular you have people who live in my district but come from Long Island, from the City to come up to -- to State land, and it's their most accessible, affordable place for them to participate in outdoor sporting recreation. Why mandate on them an additional burden or expense when the DEC has chosen to go with an optional encouraging route right now while working through with all concerned stakeholders? Why make it that much harder for out-of-State visitors who want to stimulate our economy and to help the proper management of our land and/or residents? Why would we put that extra burden on them at this point?

MS. GLICK: Well, I'm sorry I don't see it as an excessive burden. I think it is a di minimus amount of -- of all of the expenditure that they will incur; travel, rifle, additional accoutrement. I don't believe that purchasing a box of non-lead ammunition is an enormous barrier to people who want to --

MR. SCHMITT: Have you recently tried to purchase any ammunition?

MS. GLICK: To tell you the truth, I have not. But --

MR. SCHMITT: So I would encourage you to come

with me. The last time I tried to get a -- a box of ammunition I had to go to four different stores to find the appropriate ammunition that worked for -- for my firearm and for what I was hunting. And then even then it was not successful and I had to figure out something else with -- through -- through -- you know, to figure out to something else to go on my hunting trip. So it is now in particular very difficult for many people to find the appropriate ammunition without any additional regulation. So certainly, as you mentioned, if you're going hunting you're not going to need ten boxes of ammunition. You're going to need maybe one bullet, one box of ammunition. But even that, it's very difficult and it can be very difficult for people depending on where they're at. So this very well to you may seem like a minor burden, but it could be what stops somebody from being able to hunt on their only parcel of land they have a right to access. So I guess it's more of a -- a request or just a statement from -- from -- I could see why someone who hasn't gone through that process would think it's a minor burden. But somebody who -- I personally know many who have, that could be what prevents them, at least in -- during that season or in the short-term, from being able to successfully participate in their outdoor sporting tradition that they would like to partake in.

MS. GLICK: The bill takes effect in a year. That will be after, I believe, most of next season's hunting seasons. So people have time, if they are so inclined, to use State land. If this bill is signed into law it will not take effect until next year. So I think the people who want to hunt will have sufficient time to identify where

they can obtain the appropriate ammunition for their firearm.

MR. SCHMITT: Thank you, again, for going this back and forth. And -- and I would just highlight -- and I certainly understand hunting is not for everybody. I like it, I know many people do. Some don't want to participate. That's their choice. And, you know, I would certainly welcome you and extend an invite both as a member of the Assembly, a fellow colleague, as co-chair of the Legislative Sportsmen Caucus, I'd love to have you come, regardless of the outcome of this bill, not -- not to go -- I won't want to tell you to -- to harvest something with me, but I'd love to just have you come and go through the steps regarding this legislation and others going forward, because I'm sure this will not be the last piece of, you know, hunter regulation that we ever go through here in the Chamber, and just do it two hours in the life of someone who's engaging in -- in the sport of hunting and just see that something that seems like it could be a minor burden very well could be a major burden. And I'd would love for you to just go through that process and see how we actually execute fair chase hunting, how we actually go through the process of doing this. So, again, I'd certainly love to talk with you online, but I extend an invitation not to harvest anything, I don't -- if people don't want to do that, that's fine, but just go through that machination so you can see even a minor change can profoundly impact men and women of the State who engage in that profession or in that pursuit.

So, Madam Speaker, on the bill.

ACTING SPEAKER WOERNER: On the bill, sir.

MR. SCHMITT: This is certainly a -- a well-debated issue at the State and national level regarding regulation or banning of -- of ammunition containing lead. I think that we need to think broadly when it comes to overriding the will or mandating the will on the DEC. We have a renowned environmental conservation organization in the State that many other states rely on and work with across the country. The Legislative Sportsmen's Caucus is able to coordinate and meet various wildlife agencies across the country, and there's much respect for the State of New York, our scientists and our experts. And the fact that the DEC has chosen to not issue regulations and is working with stakeholders across political -- all political spectrums, experts who know much more than many of us in the Legislature on these issues is -- is something that speaks volumes, and is a reason why I will be opposing this legislation. I encourage members of either party to oppose this legislation and to let our experts, our renowned experts at DEC, do their job, work with the sportsmen's community and all interested stakeholders to do what's right, using the right scientific data and information. And I certainly encourage any of our colleagues, the sponsor or anyone else, to come with myself or many other colleagues who have even much more experience than I, you don't have to harvest anything, but at least come and see what a normal hunter's day and process is like so you know what you're doing and what we're doing when we put a little burden it turns out to be a big burden.

Thank you.

ACTING SPEAKER WOERNER: Thank you, Mr. Schmitt.

Mr. Salka.

MR. SALKA: Thank you, Madam Speaker. Would the sponsor yield for a question or two?

ACTING SPEAKER WOERNER: Ms. Glick, do you yield?

MS. GLICK: Certainly.

ACTING SPEAKER WOERNER: The sponsor yields.

MR. SALKA: Thank you. Thank you, Madam Sponsor. This is a hypothetical but I think it deserves an answer. If in fact -- and I -- I'm an avid hunter. And this -- this does happen, because my private land, which is a small piece, it's about 65 acres but it's surrounded by 1,400 acres of State land. And in my town, which is the Town of Brookfield, we have over 14,000 acres of State land. It's a beautiful setting. But if I wound an animal on my own property and I'm using lead shot, lead -- lead rounds and that animal, that deer, most likely deer, runs over onto State land, which there's a probability of it, can I dispatch that animal on that State land using that lead round?

MS. GLICK: I believe I have -- that that's been asked and answered.

MR. SALKA: And -- and I -- I'm sorry, I don't recall the answer. The answer was?



MS. GLICK: That the -- that I don't believe that DEC would view that as a violation. It's not the intent of this legislation to catch, as it were, someone out in -- doing something wrong. We're setting a standard that should be used. There are instances where an animal is not -- not everybody is, as one of your colleagues said, suggested that people who hunt, choose to shoot -- I -- I assume he was suggesting a head shot or a shoulder shot as opposed to a gut shot. But not everybody is a great shot, and animals do move. So it is my belief that if somebody in good faith operates using lead shot only on their private land and then the animal moves and is -- falls in State land, that dispatching the animal on State land would not be viewed as a violation.

MR. SALKA: But there's no particular in the bill that would prohibit a, let's say, overzealous representative of the DEC to be able to apply that because, in fact, there's no prohibition of that in the bill, I -- I'm assuming.

MS. GLICK: It does not speak to that. It does not speak to field dressing. But we believe that DEC understands the intent of the legislation.

MR. SALKA: Okay. Thank you. Now, part of this bill pertains to the New York City watershed for the public water supply for the City of New York, which we've agreed is pretty extensive now. And will it be a responsibility of the hunter to be able to recognize where those lands are, if they're marked accordingly, appropriately? I'm not even sure there's -- there might even be

topographical maps that indicate that. But will it be up to the -- I imagine it will up to the hunter to recognize those areas?

MS. GLICK: Well, actually, I do believe that DEC -- DEP, rather, over a number of years in conversation with communities that are host communities for their reservoirs have opened up some lands for hunting and other recreation. And I think that those are fairly well-defined in maps, and it would be appropriate in those areas that allow hunting - which is not all of it, for sure - but some parts of it for non-lead ammunition to be used for the purposes of hunting.

MR. SALKA: Okay. Thank you for those answers. Now, just a little bit more in the -- in the weeds on this issue. According to the research, the eagle, the bald eagle -- which I think is probably what we're talking about, that's the most predominant species in New York from what I understand -- has a range of about 225 miles. So if, in fact, that range includes private land and public land, the whole idea behind this is to minimize the threat to the well-being of the -- of the eagle. And by only -- the only way that you're going to be able to determine that is if you're presented with a sick eagle. Or sometimes field testing requires that you capture the eagle, you do a blood sample. Again, that's all up to the -- to the pros at the DEC. So what -- what's the probability that, in fact, they find an eagle that does have a higher than normal or any lead level, what's the probability that you can assume that that lead level was attained by the eagle eating on public land as opposed to private land? Because now the 85 -- the 85 percent as opposed to 15 percent private to public, how can you

determine where that eagle actually picked up that lead poisoning? Or is that in the DEC study that we haven't even heard of yet?

MS. GLICK: Well, while that was the impetus, the focus of the bill is on hunting and to limit the use of lead ammunition on State land. The -- a pilot, if you will. The eagles that have been monitored and observed may travel. It's true. But they also have large concentrations, for a variety of reasons, because the areas around the reservoirs have -- are less tenanted and are more wild that that has been -- they have been observed within those areas, and so one makes some presumption if you have an -- an eagle with an elevated lead level versus an eagle that is dying of lead poisoning, obviously there is a range of illness prior to death. So they're making an educated guess that those eagles may have obtained or ingested lead within the general area that they are hunting.

MR. SALKA: So this bill, the data that this bill is -- is based on -- and I -- I would hope it is based on some data -- is at best inconclusive at this point. I mean, we were supposed to get this report back in January according to what you stated earlier and we haven't seen anything yet. So don't you think this might be a bit premature? Don't we need more verifiable data to take the probability factor out or at least minimize the probability factor that this isn't really a cause of poisoning in -- in the eagle population? It seems to me like we're putting the cart before the horse a little bit here before we go ahead and pass -- pass a bill that's going to affect a number of people in the hunting community.

MS. GLICK: Well, with all due respect, Mr. Salka, I think that we moved incredibly slowly. It took years for the Environmental Protection Agency to deal with DDT and other toxic substances even though there was increasing evidence that that was, in fact, the cause. I -- I wish that we were more quick to recognize serious environmental problems. I don't know, we've moved from, you know, a 500-year storm to 700 -- you know, seven 500-year storms in various communities. Before people have said, *You know, it seems like the environment and the climate is changing.* So we are slow to react. And we're slow to react and DEC may be slow to react because they work so closely with sportsmen, which is a good thing. They may be more slow to react because they are trying not to offend. But the reality is that we know from a variety of things, including the fact that we see in studies that people who eat wild game frequently have an elevated lead level than people who don't.

MR. SALKA: And those are based on -- those are based on studies that were done on -- obviously studies done on people that consume higher amounts of -- of wild game? Was that -- is that coming out of the DEC or the DOH or...

MS. GLICK: No, that's not coming out of the DEC. That -- those were health studies that were done in a number of places including that wildly liberal place North Dakota, known for its very progressive politics in general. They were quite surprised that they were looking at food that had been provided to food banks and found quite to their surprise that 60 percent of the samples included some

amount of lead. So, you know, I -- I think it would be good for people. Look, I know people who hunt in order to feed their families.

MR. SALKA: So do I. Many people in my town do.

MS. GLICK: And I -- and I -- and I understand that. And I respect that. This is not about denying people the right to hunt. This is about saying we now probably know enough to suggest that you'd be better off not using lead ammunition for your food supply. And we really have tried to have our wildlife recover, things like eagles and raptors, and we probably would be better off if we were not using lead ammunition that might wind up in gut piles that scavenger animals ingest. That's really what this is about, and not about making it more difficult for people to hunt. Not making it more problematic for anyone. We just think that this is one area that really needs to be addressed over time for broad range of health of the wildlife in our environment and also, frankly, for people who are feeding their families.

MR. SALKA: Thank you, Madam Sponsor.

Madam Speaker, on the bill.

ACTING SPEAKER WOERNER: On the bill, sir.

MR. SALKA: Like many other bills that we consider and debate in this House, there are a number of assumptions made regarding the intent of the bill and what it's based on, and I think this is a classic example. The study that was supposed to be done in January, for whatever reason, obviously hasn't been done so there's really no data to base this on using that as a source. And again, the

number of assumptions that are made here what -- and to what extent our eagle population is being exposed to high levels of lead on either private land or public land, if you look at the probabilities that, you know, that 15 percent/85 percent public to private, the probabilities would be higher that eagles are, in fact, ingesting or have a higher probability of ingesting lead on private land, which is not in this bill.

So given that and given the -- a lot of variables in this bill, I'll be voting against this and I urge my colleagues to do the same. Thank you.

ACTING SPEAKER WOERNER: Thank you, Mr. Salka.

Ms. Glick on the bill.

MS. GLICK: Thank you, Ms. Speaker. And I want to thank my colleagues for raising issues and seeking clarification. I want to repeat that this is not an attempt nor will it end hunting in New York State. And it certainly isn't the intent of the bill. I was somewhat mystified at the concern that the State Police would not be able to train on State lands. The bill is focused on hunting, and I didn't think that that was part of our State Police training process. So I -- I think that's a specious argument. I will raise with the Body that for the past ten years the New York -- the United States military has been looking at cleaning up their own bases, their own shooting ranges, and utilize for military purposes what they refer to as an enhanced performance round - green bullets, if you will - which they have found because they do not fragment and they mushroom are

more lethal, fly truer and longer, can travel further. And so the ability to take wild game, large animals, is, one would assume, is based on their long history of reviewing this that it would be to the benefit of hunters, actually, to be using a bullet that is -- a round rather, the bullet is embedded in the round, that the enhanced performance rounds that the military use would be a benefit to our hunting population. Now, everything takes time to get into common use. People are always afraid of change. But I think it would be a benefit to everyone who is using their hunting to feed their families and certainly to deliver to food banks a non-toxic round. It just makes sense. This limitation is limited to State lands for the purposes of hunting. One of my colleagues suggested a pilot program. I would suggest that this is, in fact, that and it is not intended to create an undue burden to the sportsmen of the State. There are many hunters who, in fact, are choosing the non-lead ammunition. And I understand that change is always uncomfortable and nobody ever wants to be told what to do. You know, my first 15 years I didn't like my parents telling me what to do, although they certainly had every right to. But this is a modest proposal, one that does not infringe on anybody's rights and is not in any way intended to be either anti-gun or anti-hunting. It is pro-health and pro a clean environment, and a clean environment for the wildlife that people want to hunt.

So I appreciate the opportunity to be -- to add a little bit more to this debate and to clarify some of the specious arguments made by some of my colleagues, and hope that people will see the

virtue in voting for the bill. Thank you.

ACTING SPEAKER WOERNER: Thank you, Ms. Glick.

Read the last section.

THE CLERK: This act shall take effect January 1st, 2023.

ACTING SPEAKER WOERNER: The Clerk will record the vote on Calendar No. 186, A.5728. 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, Madam Speaker. The Republican Conference is generally opposed to this legislation for the reasons that have been articulated over the last few hours. But those who support it are certainly encouraged to vote yes on the floor or contact the Minority Leader's Office.

Thank you, Madam Speaker.

ACTING SPEAKER WOERNER: Thank you, Mr. Goodell.

Madam Majority -- Majority Leader.

MS. SOLAGES: Thank you. I would like to remind my colleagues that this is a Party vote. Majority members will be recorded in the affirmative, and if they wish to vote another way we inform them to contact the Majority Leader's Office and we will



announce your name accordingly.

ACTING SPEAKER WOERNER: Thank you.

(The Clerk recorded the vote.)

Mr. Walczyk to explain his vote.

MR. WALCZYK: Thank you, Madam Speaker, to explain my vote on this bill which bans certain types of ammunition in the State of New York that contain lead. In order to explain my vote I'm going to get a little help from a man named Frederick Douglass, who you may be familiar with as a freed slave, abolitionist, suffragist. You may have seen his face carved in stone on the Great Western Staircase right here in New York State's Capitol. And he said, *A man's rights rest in three boxes: The ballot box, the jury box and the cartridge box.*

And with that, Madam Speaker, I will be voting no on this unconstitutional bill.

ACTING SPEAKER WOERNER: Mr. Walczyk in the negative.

Ms. Kelles to explain her vote.

MS. KELLES: Thank you, Madam Speaker, to explain my vote. I just want to acknowledge we've had conversations about the risk of the lead poisoning given the facts that the land that we would be banning the use of lead in is only certain components of the land within New York State. But we do know that lead accumulates in the body. It accumulates in the teeth, the bones, the brain, the liver, the kidneys, fat tissue. If it accumulates in tissue,

that's how it works up the food chain. It works up the food chain in animals that traverse the entire area of all State land and all private land. And we know that all State land is within the feeding territory of the animals that are higher up on the food chain, working its way guaranteeing that if lead is in State lands it will work its way into the food chain. The fact that it is guaranteed and the fact that it is one of the most toxic metals that exists on the planet for health of animals, including humans, it is logical, therefore, that if there are substitutes for lead, then banning lead does not in any way restrict hunters' ability to do exactly what they want on these lands, and therefore it is completely irrational and illogical not to ban something that we know is highly toxic and unnecessary.

Therefore, I will be supporting this bill and I thank the sponsor for bringing it forward.

ACTING SPEAKER WOERNER: Thank you, Ms. Kelles.

Ms. Solages for exceptions.

MS. SOLAGES: Thank you, Madam Speaker. Could you please add my colleagues Assemblywoman Gunther and Wallace as an exception to this in the negative?

ACTING SPEAKER WOERNER: Mrs. Gunther and Ms. Wallace in the negative.

Are there any other votes? Announce the results.

(The Clerk announced the results.)

The bill is passed.

Page 40, Calendar No. 487, the Clerk will read.

THE CLERK: Assembly No. A09284-A, Calendar No. 487, Glick, Simon. An act to amend the Insurance Law, in relation to prohibiting insurers from excluding, limiting, restricting or reducing coverage on a homeowners' insurance policy based on the breed of dog owned.

ACTING SPEAKER WOERNER: Ms. Glick, an explanation has been requested.

Ms. Glick needs to be unmuted.

MS. GLICK: It's bad enough when I don't unmute myself. But thank you. We have passed a bill in the -- that would prevent insurance companies from using the breed of dog as an exclusion for homeowners' liability. It would prevent insurance companies from denying or refusing to renew a policy. That language we believe was quite clear in every way that homeowner liability insurance could not use the breed of a dog owned by a family as a reason to deny or refuse to renew or to limit their liability insurance. But the Department of Financial Services apparently, in conversation with some insurance companies, felt that we needed to close what was seen as -- I won't refer to it as a loophole, I think it was a misreading of the language. But this is essentially a chapter amendment that adds the language -- that adds the language to exclude, limit, restrict or reduce coverage under the policy or contract. So it is adding to our original language that said no insurer shall refuse to issue, renew, cancel or charge or impose an increased premium or rate for a policy

or contract or exclude, limit, restrict or reduce coverage under the policy or contract. So this was at the urging of the Department of Financial Services, and we believe fully clarifies the intent of the original statute.

ACTING SPEAKER WOERNER: Mr.

Blankenbush.

MR. BLANKENBUSH: Madam Speaker, on the bill.

ACTING SPEAKER WOERNER: On the bill, sir.

MR. BLANKENBUSH: Most of my adult life has been in the insurance industry, and I own my own insurance agency. And over the years the liability payments that come out of the homeowners' policies in my agency has -- has skyrocketed with dog bites. But I'm not going to go and talk about my own experience, I'm going to go by the facts and figures that the American Property Casualty Insurance Association has produced. And the first thing we'll go to is the earliest -- latest -- was -- the latest figures came from the 2019 homeowners' insurance liabilities claims that were paid out in that year 2019, and one-third of all homeowners' insurance liability claims were because of dog bites, costing about \$797 million that year, which now is up to \$44,760 a bite. That was an increase of about 14.7 percent from the year 2018. There's also 15 years of study that I'm not going to go through, but 15 years of study over the years that dog bites have increased nearly 100 percent over that 15-year period. Nearly 50 percent of those hospitalized because of a dog bite required treatment for skin and tissue infections, and more than half

received the costly procedures of skin grafting. While these national statistics are troubling, New York is the leader in highest average cost per dog bite claim going to 55,000 in the year -- 55,801 in the year 2019. Common sense would tell us that while any dog may attack and while any dog may be as gentle as a lamb, dogs of certain breeds may be more dangerous than others. You can look at the stats. You can look at 15 years. If you look at the last stats that were 2019. The study -- the study released in -- in those years shows, not surprisingly, that pit bulls and pit bull mixes, far and away top the list of those breeds involved not only in dog bites, but fatal attacks, along with some other dogs Rottweilers, German Shepherds and so on. Pit bulls illustrate (inaudible) breed, regardless of training, bears the likelihood of dangerous attacks. Not only are the pit bulls strong, but they don't bite like another -- like any other dog. A pit bull -- a pit bull clamps on with their jaws and their teeth. Not only do they do that, but the average of a thousand pounds per square inch of power that comes from a pit bull. And I'm only using pit bulls. There are other dogs, too, but for the brevity -- brevity of this discussion we'll just use pit bulls because of the facts that -- that are stated. Despite the data, legislative -- the Legislature adopted Chapter 545 of the Laws of 2021 and prohibited considerations of the dog breed by insurance like the sponsor has just explained. Given the high risk of breed dogs caused by injuries and multiple thousands of dollars, millions of dollars in claims, insurers still should retain some leeway to manage the significant risk. Now, what that really comes down to to us in this --in

this room, let's assume 150 of us - wherever they may be - 150 of us put money in my bucket of -- in my bucket here. This bucket is going to cover liability coverages on homeowners per claim. And all of us put in the money. Statistics will show us that most of the money coming out of that bucket is going to become because of a dog bite. Statistics show that. You can't argue the statistics. They're there. That's why I'm going with statistics only. So what happens? We're taking that money out of the bucket, we're paying the dog claims for the people who have dogs who are having the claims. So what do I have to do? I don't have a dog. I have to put my money into the bucket to cover their dog bites. Every -- and that's what going to happen across the board with insurers with consumers who are going to have to cover the cost of liability coverages coming out of your homeowners' policy because you own a pit bull. I don't own a pit bull. I don't want to be covering that liability. I don't want to be covering that risk. But this policy will certainly do that. You're talking about increased premiums. You're talking about to the consumers who are going to have to pay for other people's risk. I have nothing against dogs, I really don't. I -- I actually dog sit for my daughter's dog when they go on vacation. So I don't have anything against dogs. But I don't want to pay for it. I don't want to pay for the risk. But this bill, no matter what anybody says, across the industry, the money coming out of the insurance companies because of dog bites, because they cannot insure their risk properly, people are not willing to pay for the risk of having, say, a pit bull. But don't charge me. And that's what's

going to happen. We are -- we are now spreading that risk over everybody who owns a homeowners' policy in the State of New York, and it's going to happen that way because that's what has to happen. You took more money out of that bucket, you got to put the money back in the bucket to help pay those risks. And the more money that comes out of that bucket, the more money that has to go into the bucket. That's the way risk happens in the insurance industry.

I won't be supporting this bill and I hope my colleagues don't support this bill. But let me warn you, in a few years when you get your homeowners' policies your premiums are going to have to go up. Thank you, Madam Speaker.

ACTING SPEAKER WOERNER: Thank you, Mr. Blankenbush.

Mr. Lemondes.

MR. LEMONDES: Thank you, Madam Speaker.

Would the sponsor yield -- yield for a few questions?

ACTING SPEAKER WOERNER: Ms. Glick, will you yield?

MS. GLICK: Certainly.

ACTING SPEAKER WOERNER: Ms. Glick yields.

MR. LEMONDES: Thank you. If a study were to show that no breed is inherently more dangerous than another, wouldn't it then come down to propensity and capability of a dog to bite? For example, two dogs, both capable of biting. One is a Rottweiler, one is a Yorkshire Terrier. One can kill you, the other is

simply an annoyance.

MS. GLICK: Well, let me clarify one thing because we're -- this is sort of a chapter amendment. We've moved away from what the original statute indicates. So let me just clarify for the Body - and I'll do it quickly on your time, Mr. Lemondes - that insurance companies are allowed to cancel, deny, refuse to renew a policy for a dog that has been determined to be a dangerous dog under the Ag and Markets Law. So this isn't every dog that's had a series of dog bites, a dangerous dog. This provides the insurance company with that out. And there is no -- the property losses for homeowners, a property loss is much larger than the dog bite section and the insurance industry provides general categories. They do not allow for -- and the Insurance Committee has asked for breakdowns, they haven't gotten it. So, is one dog more likely to bite than another? Is one -- you know, I don't think that that's based on breed. That is usually based on individual personality and/or training.

MR. LEMONDES: Right. So then this -- this bill would eliminate that discretion from the insurers, which -- which I want to go on the record --

MS. GLICK: No, no. It -- it does not, in that it does allow for them to do underwriting. And the underwriting is to determine whether that animal has a history, in which case they can charge more, they can refuse to insure, they can cancel a policy.

MR. LEMONDES: And so taking this further, would you agree that characteristics would inform probability of an animal's



biting tendencies or not?

MS. GLICK: No, I don't -- I don't think that there's -- I don't think there's evidence to demonstrate that.

MR. LEMONDES: I think there's evidence to the contrary. For example, traits like inherent aggressiveness, ability to be socialized, size, bite pressure. All of these are factors that matter and should be considered. Would you agree?

MS. GLICK: Well, what I agree is that what we cannot determine and is quite true based on what police departments will tell people, that it's a good thing for you to have a dog because if a burglar believes that there's a dog they'll move on. So we can't prove the negative. But the insurance companies, for all we know, have actually benefitted tremendously from the fact that people own dogs and people who are nefarious actors who might want to burgle a house move on to the next one that doesn't have a dog. So they can't prove a negative, neither can I. But that is certainly a factor. When police or security personnel ask you what you can do to make your house more secure, one of the number one things is get a dog and increase your lighting.

MR. LEMONDES: Thank you. Thank you for your response to that. However -- Madam Speaker, on the bill.

ACTING SPEAKER WOERNER: On the bill, sir.

MR. LEMONDES: Thank you very much. I -- I think we can agree that as the population increases, the number of households will increase which will be encumbered by more dogs

which will equal more bites. I think it's -- it's okay to say -- and I think the average person of reasonable nature would conclude that those traits that I previously cited matter when deciding upon an issue like this. It would be akin to an insurance company being unable to differentiate between oceanfront water property and inland property. I think they need the discretion based on the data available, which I would find -- which I would say is indisputable, to be able to charge appropriately for the risk. So the situation cited by my colleague would be less -- that risk would be lessened among the insurable, not raised.

For those reasons, I cannot support this. And thank you very much, Madam Speaker.

ACTING SPEAKER WOERNER: Thank you, Mr. Lemondes.

Mr. Cahill.

MR. CAHILL: Thank you very much, Madam Speaker. Would the sponsor yield for a brief question?

ACTING SPEAKER WOERNER: Does the sponsor yield?

MS. GLICK: Yes, I certainly do.

ACTING SPEAKER WOERNER: Ms. Glick yields.

MR. CAHILL: Hello, Ms. Glick. And I hope you're feeling better.

MS. GLICK: Getting there.

MR. CAHILL: You look great. You don't look as

sick as I heard you are, so that's one good thing. Madam Speaker -- Deborah, can you just one more time explain what this specific piece of legislation is about as opposed to the generic issue that has been apparently relitigated here on the floor?

MS. GLICK: The -- the original bill indicated that you could not deny, cancel, refuse to renew a homeowners' liability insurance based solely on the breed of the dog that resides in the home. It did, however, allow for insurers to deny, refuse to ensure, cancel based on the fact that you have a dog that is deemed dangerous. In this particular measure we are simply adding at the request of the Department of Financial Services a few additional words - limit, restrict - to the list of things that one -- that an insurer couldn't do.

MR. CAHILL: Would -- would it be fair to characterize this amendment as a technical amendment to clarify the intention of the original legislation that most of us believe was pretty clear to begin with?

MS. GLICK: Yes. We felt that the actual reading of the -- of the original statute was sufficiently clear. But the Department of Financial Services asked us to add to that exclude, limit, restrict or reduce coverage, which we believe was inherent in the original language. But perhaps the -- we'll take the advice of the Department. And I will also say for the Body's information that even veterinarians have been unable to accurately identify many breeds, let alone from, you know, a visual observation, let alone an insurance underwriter. So, I would say this is a technical amendment clarifying

language. The original statute was well-litigated by the Body before and has been signed into law based on the fact that the Executive believed that underwriters should actually do underwriting and determine the danger.

MR. CAHILL: Thank you. Thank you, Ms. Glick. If I could continue to ask you a few more questions.

MS. GLICK: Sure.

MR. CAHILL: Apparently, you know, the old law school axiom you learned in your first year of torts class is *every dog gets one bite*. That does not hold true for legislators who want to relitigate and -- and reargue points that have been settled here on the floor. This is the second bite for some of these dogs. You heard a colleague cite statistics from the American Property and Casualty Insurance Association. Are you familiar with that study? And -- and just as a corollary when you're answering that, are you familiar with any other studies that talk about the dangerousness of dogs by breed?

MS. GLICK: Well, I don't think there are breakdowns that have been provided based on breeds specifically. I -- I'll leave it at that.

MR. CAHILL: So -- so this -- the -- the citation of statistics with the -- with the added caveat of statistics don't lie, but statistics are subject to interpretation. Would you agree with that?

MS. GLICK: Yes. Certainly. And -- and I would also say that it's my understanding that most liability property claims come from damaged property and not necessarily from dog bites.

MR. CAHILL: Thank you. And -- and in the citation of the statistics that you heard, was there a correlation between the number of claims and the breed of dog or was there just an assertion that particular breeds of dogs have been identified in extraordinary non-actuarial circumstances as having coincidentally been that breed of dog?

MS. GLICK: Certain --

MR. CAHILL: Did you follow that?

MS. GLICK: Well, certainly that's true. And we also do not have a breakdown on how many of these dog bite claims came from people who were breaking into the homes to begin with.

MR. CAHILL: Good point. Good point. Thank you very much, Ms. Glick. Get well soon. Looking forward to seeing you back here in the row, and thank you for carrying this important legislation.

Madam Speaker, on the bill.

ACTING SPEAKER WOERNER: On the bill.

MR. CAHILL: Madam Speaker, as I said we -- we learned in law school very early, it's one of the first lessons you learn when you first show up to school, *Every dog gets one bite*. It doesn't say every dog of a certain breed gets one bite, it says every dog gets one bite. Well, that's not universally true. What it stands for is the fact that there is no presumption of dangerousness of any dog. That if that dog shows a propensity to dangerousness, then yes, then the owner is liable. The owner is responsible if that dog shows a

propensity to dangerousness. Still, there is no assertion that that dangerousness is determined by breed. Now, I stand here as a former paperboy. In nature, that's the natural enemy of all dogs. And I will tell you that I was concerned when I went to a house with a pit bull. I was concerned when I went to a house with a Collie. I was really concerned when I went to the house that had a German Shepherd. But the only time I was ever attacked was by those little yippy dogs that came at my ankles, that never rose higher than the calf -- my calf. I don't think they would be classified as a dangerous breed of dog. But I'll bet you anything if our colleague took a deeper dive into the statistics that -- that they cited, they would find out that the vast majority of claims are by the little yippy dogs, the ones that nobody thinks they're dangerous. You go up to them in a grocery store - where they shouldn't be anyway, but they are - and you give them a little pet. So -- so we have here today a circumstance that was already fully discussed on the floor of this House about whether an insurance company can discriminate without any actuarial proof. And by the way, those entities that are claiming actuarial proof have refused to give the breakdown of that information, have refused to give the details of that information to allow us to determine whether there is a dangerousness associated with a breed based upon insurance experiences. But that point was already litigated. And what we said last year is insurance companies should not be discriminated against -- against homeowners based upon their breed of dog. And some insurance company - coincidentally, one that's about 175 feet from my

house - made a determination and wrote to the Department and said, *We found what we believe to be a loophole and we're not going to insure this.* And the Department of Financial Services came to us and said, *If this was your intention, State Assembly, when you passed this bill overwhelmingly, if this was your intention, State Senate, when you passed it overwhelmingly, if this was your intention, Governor Hochul when you signed this bill into law last December, please do this clarification so we don't wind up having a lot of expensive litigation in the State of New York with an insurance company that is what we believe over-interpreting what they believe to be an exception to the law, that we could resolve in the courts at great expense to the taxpayers of New York. But wouldn't it just be easier if you just clarified your intention?* And I'm very grateful that Ms. Glick said yes. And I'm very grateful that we are standing here today, hopefully passing this legislation that will avoid needless litigation down the road between an insurance company that doesn't want to adhere to the law and the Department that is trying to enforce the law that already exists.

Thank you, Madam Speaker.

ACTING SPEAKER WOERNER: Thank you, sir.

Mr. Zebrowski.

MR. ZEBROWSKI: Thanks, Madam Speaker.

On the bill.

ACTING SPEAKER WOERNER: On the bill, sir.

MR. ZEBROWSKI: I want to thank the sponsor for

her efforts in this area, and I know this is a chapter amendment. You know, we continue to hear on the floor of this Assembly and, you know, in various public areas, many times in the media an unfortunate stigmatization of certain breeds of dogs. I heard a lot about pit bulls today and a lot is as if there's a citation of some independent research out there that says that this breed of dog is particularly dangerous, scored poorly on a temperament test or something like that. The fact remains -- the fact is that pit bulls in general are a group of four different types of dogs: American Bully, the American Staffordshire Terrier, the Staffordshire Terrier Bull Terrier and the American Pit Bull Terrier. So oftentimes when these insurance companies or anybody else attempts to use the word *pit bull*, they just attempt to use that word as a whole without actually talking to a veterinarian or trying to get down to the specifics of the breed. And oftentimes, if it actually happens when you have an incident out there in the world, The Veterinarian Society at one point did a study and it showed that like of reported incidents, over 40 percent were erroneously reported as to the actual breed of dog, and that there's oftentimes a jump in any media report to report that breed without really any particular knowledge of what the breed actually is.

If you want to try to get some independent test, there actually is an American Temperament Test Society that you could go to where pit bulls or these four breeds of pit bulls actually score higher than average. This unfortunate rhetoric actually leads to a further marginalization of this -- these type of breeds of dogs which I think



actually pushes them further towards folks that are not interested in responsible pet ownership. And that is really what we should be looking towards. There was, at one point, this broader group of four breeds were known as sort of America's dog. If you think back to *The Little Rascals* and Petey, that was an American Staffordshire Terrier at one point. It was sort of a -- a very common type of dog that in some cases sort of would be known as, many people called a mutt, view different breeds, but sort of like what had the visual characteristics of one type of breed.

We shouldn't be stigmatizing one breed and attempting to buy into what oftentimes is -- is a jump to conclusion in media reports. What we should be attempting to do as a Legislature on the floor of the Assembly is attempting to promote responsible pet ownerships -- ownership, because when there's irresponsible pet ownership of any breed, many particular types of breeds, there can be grave consequences. There can be bites, there can be fatal incidences. It's not because of the particular breed, it's because of irresponsible pet ownership and I believe not having real and honest conversations with folks with not properly enforcing and investigating animal fighting rings and those type of things, and that's what leads to those type of incidences. Folks should not get a large breed dog if they can't handle a large breed dog, if they haven't talked with a veterinarian, if they don't know what it entails. Folks shouldn't get any dog if they're not prepared to properly train the dog, because all dogs need that type of socialization and training.

So I stand up to support the chapter amendment, support the sponsor's efforts, and to say that these conversations shouldn't devolve into generic villainization of certain types of breed without any citation of specific independent statistics. Thank you, Madam Speaker.

ACTING SPEAKER WOERNER: Thank you, Mr. Zebrowski.

Ms. Glick to close.

MS. GLICK: Thank you, Ms. Speaker. I understand that there is this concern. This is really a chapter amendment, it is technical in nature. But I do want to say that there are people who are generically afraid of all dogs, doesn't matter what size or shape, but it is important to understand that there is nothing inherent about any particular breed that makes that breed more dangerous or more likely to bite. On the other hand, people do get dogs sometimes for their own protection of either their property or their -- or someone in their family. I was out of the house when my parents got a German Shepherd, because my sister, my younger sister, was being left alone a lot. And Ginger, who we lovingly referred to as my sister Ginger, was with my mom for many, many years and it was a comfort because she was a big dog and peoples' reaction to big dogs are that, you know, *maybe I shouldn't mess with someone*. But, you know, if you sat down, Ginger was in your lap in two seconds and licking your face. We were glad people didn't know that when they were walking her, but you cannot tell by a book by its cover and you can't tell a dog by

its breed.

So this chapter amendment is just to clarify language at the request of the Department, but I do really want to impress upon people that you cannot identify the temperament or the behavior of a dog simply based on the breed that you may totally be misidentifying. And with that, I thank my colleagues and urge a solid yes vote on this technical amendment.

ACTING SPEAKER WOERNER: Thank you, Ms. Glick.

Read the last section.

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

ACTING SPEAKER WOERNER: The Clerk will record the vote on Calendar No. 487, A9284. This is a Party vote. Any member who wishes to be recorded as an exception to the Conference position is reminded to contact the Majority or Minority Leader at the numbers previously provided.

Mr. Goodell.

MR. GOODELL: Thank you, Madam Speaker. The Republican Conference is generally opposed to this legislation for the reasons articulated by my colleagues. Those who wish to vote for it can certainly do so here on the floor, or by calling the Minority Leader's Office. Thank you.

ACTING SPEAKER WOERNER: Thank you, Mr. Goodell.

Mrs. Peoples-Stokes.

MRS. PEOPLES-STOKES: Thank you, Madam Speaker. The Majority Conference is generally going to be in favor of this piece of legislation; however, there may be a few that want to be an exception. They should feel free to contact the Majority Leader's Office and we will be sure that their vote is properly recorded.

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

(The Clerk recorded the vote.)

Mr. Goodell to explain his vote.

MR. GOODELL: Thank you, Madam Speaker. My law firm has been involved in dog bite cases, and we dealt with a young girl who was bitten in the face and left with permanent facial scars. And the reason these dog bite cases result in such high damage awards is because they can have long-term horrific implications to the individual who has been bitten. Now, we've been told that there are no studies about different breeds; I have heard that, we've all heard that. And while it is certainly true that you can have a pit bull that's as gentle as a lamb and a Collie that might have a bad disposition, but there has been studies. There was a joint study by the Center for Disease Control, the American Veteran [sic] Medical Association and the Humane Society on breeds involved in fatal human attacks, and they look at all the data over a 20-year period. And contrary to some comments that have been made today, they did indicate that pit bulls and pit bull mixes far and away top the list of dangerous dogs,

followed by Rottweilers, German Shepherds, Huskies, Dobermans, Great Danes, and St. Bernards. I understand that any one of those animals might be a great dog that wants to jump in your lap and lick your face, but we should not ignore 20 years of data with a joint study coordinated with the Humane Society, the CDC and our veterans [sic] that show that, on average, there are certain breeds that are much more dangerous. And those who have those breeds, if they want insurance coverage, they should pay the premium, not everyone else. For that reason, I'll be voting no. Thank you, Madam Speaker.

ACTING SPEAKER WOERNER: Mr. Goodell in the negative.

Mr. Hawley to explain his vote.

MR. HAWLEY: Yes, Madam Speaker, to explain my vote, hopefully fairly succinctly. I agree with our floor leader, Mr. Goodell, and anyone can Google dog bites and see who the most dangerous breeds of dogs are. Like Mr. Blankenbush, I have been in the business for 40 years and I can relate to you that the Dachshund is not on that -- what we refer to as hot dog list. I have only been bitten once in my 40 years, and it was by a Dachshund. It bit me in the calf as I was leaving someone's house after I sold them a homeowner's policy and their first response was, *You're not going to sue me, are you?* Well, that would be like suing myself so obviously we didn't do that.

My son is a lawyer, and I'm just assuming that - stopped that phone call - I'm just assuming that this may actually open

the door for more litigation by our friends, the attorneys, those who practice in that particular area of expertise. And what will happen, we've already talked about this over and over again, the insurance premiums for the rest of you will go up. And so we're harming the very folks that we're trying to help. Keeping insurance premiums down, providing the best coverage as possible. Actuarially, insurance companies have released facts and figures on dogs that are more apt to bite, and we have heard about those and, as I said, we refer to those as the hot dog list. I would continue to urge all of my colleagues not to support this legislation, allow insurance companies, based on statistics and facts, use their actuarial expertise to make determinations of which homes to insure. Just like health insurance, the older you are, the more expensive it may be because statistically, you're apt to get sick. Life insurance, the same thing. Based on gender and age, it's going to be more expensive if you can get it.

So it's based on facts and figures, I would encourage all of you to back the businesses that are in the State of New York. Many insurance companies have left already, but I'm encouraging you to support those who are still here. Thank you.

ACTING SPEAKER WOERNER: Mr. Hawley in the negative?

MR. HAWLEY: That would be correct.

ACTING SPEAKER WOERNER: Thank you.

Mr. Ra.

MR. RA: Thank you, Madam Speaker. Just, you

know, I listened to the debate and, you know, my colleague was talking earlier about, you know, the clarifying nature of this bill so I think the bark of this bill is bigger than its bite and I'm going to vote in the affirmative.

ACTING SPEAKER WOERNER: Mr. Ra in the affirmative.

Mr. Byrne to explain his vote.

MR. BYRNE: Yes. Thank you, Madam Speaker, just to explain my vote. I listened to this debate several times now and I think this will probably be the last time, and I wanted to say thank you to colleagues on both sides of the aisle. This is actually one of the first times I really heard the debate that spoke to me that really shouldn't be so much about the propensity to bite, but the damage. And I heard that argument being made by many of our members in the Minority Conference, and I think that's definitely an argument that has merit. The larger the dog, perhaps the more damage the dog can do, but there's a part of this bill that is important to me because it's not just about specific breed or mixture of breeds, and we have tons of rescues that are mixed breeds that need owners, that need to be adopted, and I don't want to support a policy that could put any sort of other hindrance from people trying to get these animals a home, so I will be voting in the affirmative. Thank you.

ACTING SPEAKER WOERNER: Mr. Byrne in the affirmative.

Mr. Zebrowski.

MR. ZEBROWSKI: Thanks, Madam Speaker. Tried to find some data, and I did find a CDC report from the 20 year study. It does note -- does note that, number one, they were attempting to figure out whether breed specific legislation or anything like that was worth it and they came to -- to some conclusions. Three categories of strategies that can be considered preventing dog bites: Owner/public education, animal control at the community level, and bite reporting. And specifically, and I quote in the editorial note at the end of the CDC report, "Although some breeds were disproportionately represented in the fatal attacks described in this report, the representation of breeds changes over time. As a result, targeting a specific breed may be unproductive. A more effective approach may be to target chronically irresponsible dog owners." For those reasons and because my comments earlier where there is just no real data related to this topic, I encourage my colleagues to vote in the affirmative. Thank you, Madam Speaker.

ACTING SPEAKER WOERNER: Mr. Zebrowski in the affirmative.

Mr. Goodell.

MR. GOODELL: Thank you, Madam Speaker.

Please record the following colleagues in the affirmative: Mr. Ashby, Mr. DeStefano, Mr. Gallahan, and Mr. Schmitt. Thank you, Madam Speaker.

ACTING SPEAKER WOERNER: So -- so ordered.

Are there any other votes? Announce the results.



(The Clerk announced the results.)

The bill is passed.

Mrs. Peoples-Stokes.

MRS. PEOPLES-STOKES: Madam Speaker, if we could continue our floor activity today by going back to the very top of the list of the debate Calendar and starting with Calendar No. 4 which is on page 4 by Ms. Paulin; followed by Calendar No. 23 which is on page 7 by Ms. Paulin; followed by Calendar No. 34 which is on page 8 by Ms. Rozic; going to Calendar No. 54 on page 10 by Mr. Gottfried; followed by Calendar No. 67 on page 11 by Mr. Bronson. In that order, Madam Speaker. Thank you.

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

Page 4, Calendar No. 4, the Clerk will read.

THE CLERK: Assembly No. A00172, Calendar No. 4, Paulin, L. Rosenthal, Colton. An act to amend the Civil Practice Law and Rules, in relation to limited liability of persons jointly liable.

ACTING SPEAKER WOERNER: Ms. Paulin, an explanation is requested.

MS. PAULIN: Thank you so much. The bill provides that limited liability for persons held jointly liable shall not apply to any person who owns, manages and/or controls property who is found to have failed to provide security as required by law.

ACTING SPEAKER WOERNER: Mr. Montesano.

MR. MONTESANO: Thank you, Madam Speaker.

Will the sponsor yield?

MS. PAULIN: Absolutely.

ACTING SPEAKER WOERNER: Does the sponsor yield? The sponsor yields.

MR. MONTESANO: Thank you, Ms. Paulin. Just now, are you referring to limited liability companies or partnerships?

MS. PAULIN: I'm sorry?

MR. MONTESANO: Are you referring to limited liability companies or partnerships?

MS. PAULIN: What this bill is trying to address it's the -- is when the court -- when the jury decides to apportion liability between a landlord and a criminal knowing full well, frankly, that the criminal has no money. Those at risk are typically domestic violence victims, rape victims, and this will allow those victims to get an increased amount of money for -- for when the landlord has been irresponsible in not providing the security required by law or regulation.

MR. MONTESANO: When you talk about the landlord, what category of landlord are we speaking about? Are we talking about if the property is owned by a corporation, if it's owned by a limited liability company, if it's owned by a limited liability partnership?

MS. PAULIN: I think that we're talking about general ownership in whatever form that that ownership takes place for -- for property.

MR. MONTESANO: Okay. Well, because property owners, as a general rule, have insurance on their properties. So why are we not looking to that for the remedy that you're looking for?

MS. PAULIN: Well, we are, because on a practical basis, you know, a victim comes into a lawyer's office and says, *I was raped*, and what -- the reason that that was -- could occur is because there was a door that should have been locked that was unlocked and there were repeated criminals coming into that situation, and we warned that landlord over and over again that that lock should be taken care of. And so we know that that rapist came in because of that situation even though the landlord was warned. And so that victim goes to -- to their -- to a lawyer and says that there has to be some culpability on the part of the -- of that landlord. And so that insure -- that lawyer will go to the insurance company and, you know --

MR. MONTESANO: Just let me stop you for one second.

MS. PAULIN: Sure.

MR. MONTESANO: I understand all that, but I'm looking at your sponsor's memo and I'm looking at the text of the statute. And first of all, it seems like you're honing in on one type of criminal offense and that's a rape. And now you're mentioning, you know, some domestic violence. And I remember the case you're probably referring to, it happened a number of years ago, because it was in the newspapers. But your bill targets landlords that are owned -- that are held by limited liability companies or partnerships. So if

there's three owners in that limited liability company, they're only limited. Their liability is only limited to the percentage of interest they have in that company and to that ownership. So if a guy only owns ten percent, right, that's all he's going to be held liable for. You're looking to get around that and have the court disregard that and to impose the majority share of liability on these people. I mean, that's essentially what you're doing with this bill, and you're only doing it for particular types of offenses. So what happens to the person who is the victim of a burglary, a robbery, or a non-sexual assault?

MS. PAULIN: So the bill that we -- or the section of law that we're amending and the way we're amending it doesn't limit, you know, who the victim is. So it's just very -- it's just very typical that, you know, if someone was a victim of domestic violence they would be even more aware of the liability of the -- of the -- or the lack of security because they would be -- they have a known perpetrator and that perpetrator might have made attempts to get into the building.

The issue that you spoke to in terms of the, you know, a building being owned partially or in a -- be owned by multiple owners, let's say. They would typically have one insurance policy and that would be the place that they would be negotiating. So -- or with, you know, the lawyer to the lawyer in the insurance company. So I'm not sure I'm really understanding your concern with the, you know, when a -- when a building is owned by multiple people.

MR. MONTESANO: All right. Thank you, Ms. Paulin.

Madam Speaker, on the bill.

ACTING SPEAKER WOERNER: On the bill, sir.

MR. MONTESANO: Thank you. So this bill wants to hold the landlord fully responsible for an incident that takes place because of some lack of security, which is not even defined what security we're talking about. Is it lighting, is it alarms, is it door locks, is it codes to get in? So because the defendant who commits the crime may not be the money person, they want to shift the burden fully to the landlord to make up that difference, although the -- the facts of the case may not warrant that type of position to occur.

And it seems to me, reading the sponsor's memo, the intent of this legislation is to take care of only certain victims that are categories of sex crimes or domestic violence. And so if we're going to target landlords, then what happens to the other people that are residents of these buildings that are victims? Let's take a look at NYCHA housing. They're the poster child for every violation you can find for housing and for lack of security. More people are victimized in those buildings than you could ever calculate. So -- and of course, it's owned by NYCHA, try and sue them, try and collect anything from them. But now we're targeting the private landlords because a door lock is broken and doesn't work, or in the case that the sponsor points out, we have one landlord who just didn't pay attention to what he should have and they wanted him held accountable. But here we're

changing the body of law that affects cases Statewide because of something one individual did. So -- and now many buildings are held by corporations, they're held by limited liability corporations, companies, partnerships, and it's purposely done to limit the liability of how they hold that property. You may have two or three corporations in partnership to own a building, and based on the investment they have in the property or the shares they have in the LLC or corporation, that's where their liability is limited to. This seeks to circumvent that and to put liability on them, you know, to the fullest amount, especially when the perpetrator, A, is not found; we don't know who he or she is or, B, if he is caught and prosecuted, he or she of course probably has no money to pay.

So I think this is, you know, a targeted bill on landlords and it's going to, you know, result in unseen circumstances of what's going to happen when criminal conduct occurs on the premises. And this doesn't even make any provision that the landlord had notice of the defect and whatever the security issue is, is it because the lights were out in the hallway, the lights were out in the front of the house. Whatever security they have to begin with, if they're not on notice that it's defective, then it's wrong to, you know, hold them fully responsible and this bill does not address that. Thank you, Madam Speaker.

ACTING SPEAKER WOERNER: Thank you, sir.

Read the last section.

THE CLERK: This act shall take effect immediately.

ACTING SPEAKER WOERNER: The Clerk will record the vote on Calendar No. 4, A172. This is a Party vote. Any member who wishes to be recorded as an exception to the Conference position is reminded to contact the Majority or Minority Leader at the numbers previously provided.

Mr. Goodell.

MR. GOODELL: Thank you, Madam Speaker. The Republican Conference is generally opposed to this legislation for the reasons articulated by my colleague Mr. Montesano. Those who want to vote in favor of it can certainly do so here on the floor. Thank you, Madam Speaker.

ACTING SPEAKER WOERNER: Thank you, Mr. Goodell.

Madam Majority Leader.

MS. SILLITTI: Thank you, Madam Speaker. 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. I will then announce your name accordingly.

ACTING SPEAKER WOERNER: Thank you.

(The Clerk recorded the vote.)

Are there any other votes? Announce the results.

(The Clerk announced the results.)

The bill is passed.

Page 7, Calendar No. 23, the Clerk will read.

THE CLERK: Assembly No. A00338-A, Calendar No. 23, Paulin, Otis, Vanel, Colton, Sayegh, Zinerman. An act to amend the Public Service Law, in relation to requiring telephone companies to disclose information to subscribers regarding the backup power solution for their voice service equipment; and providing for the repeal of such provisions upon expiration thereof.

ACTING SPEAKER WOERNER: Read the last section.

THE CLERK: This act shall take effect on the 365th day.

ACTING SPEAKER WOERNER: The Clerk will record the vote on Calendar No. 23, A338. 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.)

Mr. Goodell.

MR. GOODELL: Thank you, Madam Speaker. Please record my colleague Mr. DiPietro in the negative on this bill. Thank you.

ACTING SPEAKER WOERNER: Mr. DiPietro in the negative.

Are there any other votes? Announce the results.

(The Clerk announced the results.)



The bill is passed.

Page 8, Calendar No. 34, the Clerk will read.

THE CLERK: Assembly No. A00477-A, Calendar No. 3 -- 34, Rozic, Aubry, Galef, Jean-Pierre, Nolan, Seawright, Epstein, Taylor, Cruz, Simon, Griffin, Dickens, Cook, Fernandez, Otis, Reyes, Wallace, Colton. An act to amend the Public Authorities Law, in relation to gender balance in State and local public authorities; and providing for the repeal of such provisions upon the expiration thereof.

ACTING SPEAKER WOERNER: Ms. Rozic, an explanation has been requested.

MS. ROZIC: Thank you, Madam Speaker. This bill would amend the Public Authorities Law to create a preference for women to be appointed to State and local authority boards. I can go into the statistics, but they're not great on where we are in gender parity, with rough estimate of only 20 percent of New York State and local authority boards made up of women.

ACTING SPEAKER WOERNER: Ms. Walsh.

MS. WALSH: Thank you. Will the sponsor please yield?

ACTING SPEAKER WOERNER: Will the sponsor yield?

MS. ROZIC: Gladly.

ACTING SPEAKER WOERNER: The sponsor yields.

MS. WALSH: Thank you so much. So we debated this bill last year, so here we go again. So I'm just going to start at the top if that's okay.

MS. ROZIC: Yeah, sure.

MS. WALSH: All right. So first, as far as this bill is concerned, what kinds of boards would -- would this apply to?

MS. ROZIC: These are local and State authority boards, including IDAs.

MS. WALSH: Okay. And how many of those are there in the State?

MS. ROZIC: There are hundreds of them at all levels of government.

MS. WALSH: Yeah, I was doing a little bit of research before this debate and as of 2018, there were 47 State authorities, 531 local authorities, including 109 IDAs and 292 not-for-profits. So can you just explain how this -- how this bill would work?

MS. ROZIC: Yeah, sure. So the preference in the program established basically says that when choosing someone for your local board, a preference would be granted to the candidates of a certain gender. Gender balance here means providing women candidates with a preference when appointing individuals to boards. Again, preference means the act of favoring one person over another that is inversely proportional providing, however, such favoring is not dispositive, so it's not the only factor, it's just a preference. The

appointing power would also be required to take all efforts to obtain lists of qualified candidates to be recommended for appointment in order to achieve gender balance. And all the State and local authorities under -- captured under this legislation would be required to note on their annual reports the number of appointed or reappointed board members in the last year, and the number of women board member appointed or reappointed in the last year.

MS. WALSH: So is it fair to say that there are basically two pieces to the bill, one has to do with recommendations for appointments to these boards and the other part is the actual appointment of individuals to the -- to the boards, is that -- would that be a fair statement?

MS. ROZIC: Sure.

MS. WALSH: Okay. So under the Supreme Court case of *U.S. v. Virginia*, the Court said that in order to grant a kind of preference like this, there needs to be an exceedingly persuasive justification. So I just want to ask you do you think that has been met here and why?

MS. ROZIC: Sure. I mean, 20 percent certainly reaches that threshold for me. I would agree with you that the Supreme Court has rejected any affirmative action program that is determined to be a quota, but this is not that. This is a preference. And the Court has upheld gender-based plans in California that required the Santa Clara Transportation Agency to consider gender as a factor when making recommendations or promotions to positions

that the agency determined were historically segregated based on gender. So the goals did not set aside particular numbers for the positions, and neither does this bill, but it aspires to a certain percentage or a certain amount of gender parity.

MS. WALSH: So I have heard a few terms, I've heard gender diversity, gender parity, and gender balance. So what exactly is the goal of this bill?

MS. ROZIC: To promote more candidates to apply for local and State authority boards and hopefully have an increased number of women on these boards.

MS. WALSH: And is there a set percentage that is the -- that is the goal?

MS. ROZIC: No.

MS. WALSH: Okay. So it's not like 50 percent or something like that?

MS. ROZIC: Again, this is not -- no. This is not a quota, it's a preference when interviewing and looking for candidates for these boards.

MS. WALSH: Okay. So -- now, the way that this bill works, the more lopsided, for lack of a better term, the board is male to female, the stronger the preference is though, correct?

MS. ROZIC: Yep.

MS. WALSH: Okay. So -- and then this bill would also sunset after ten years.

MS. ROZIC: Yes.

MS. WALSH: Okay. Now, is there any provision that deals with whether female applicants are available in a particular area? Like, let's say you have a rural area or you have a different part of the State or something, anything that talks about whether you even have an interest on behalf of women to be on a particular board?

MS. ROZIC: No, but I imagine women are 50 percent of the population and so there could be an effort undertaken in every county in the State to find qualified candidates.

MS. WALSH: So -- but despite maybe best efforts, let's just say that there is a scarcity -- I mean, you know, sometimes there's a board that's not, you know, maybe a particularly exciting board to sit on and there's just a scarcity of interest generally in serving on this board, male or female. Is there any -- is there any exclusion or any -- anything factored in in that kind of a situation?

MS. ROZIC: No. Again, it's just a preference to the pool of candidates that you've received.

MS. WALSH: Okay. So using a hypothetical, let's say that there is a male who is serving on a particular board who's very experienced, has served for quite awhile, is a very productive member of this board and his term comes up. Can he do another term on this board if the board is currently 100 percent male?

MS. ROZIC: Yes.

MS. WALSH: Okay. So that's where I think, and I remember this, too, last year we were talking about this, so if you look at -- if you look at Section 4 in the bill, it says, and I'm just going to

quote part of it as far as appointment, "An appointing power shall make recommendations, appointments, and reappointments to State and local authorities created," blah blah blah, "in a matter which will ensure a gender-balanced appointment or reappointment for each public authority." That seems to suggest that in that hypothetical that I gave you that if reappointment would not ensure -- of that gentleman, would not ensure a gender-balanced appointment or reappointment then that can't happen.

MS. ROZIC: Right, but in your hypothetical that you just gave me, you were not comparing this gentleman to another qualified woman. Right? You were just saying if you would like to be reappointed and there is no other applicants, then he would be reappointed.

MS. WALSH: Oh, okay. So let me change the hypothetical.

MS. ROZIC: If you're asking whether or not compared to a qualified woman --

MS. WALSH: Right.

MS. ROZIC: -- yes, the preference would be towards the woman candidate.

MS. WALSH: Very good. Okay. So I see the distinction there. So -- well, I kind of jumped ahead because before you make that reappointment, your first canvassing and recommending individuals to fill what would be a vacancy, right, when that person's term is up. So I understand that from the bill a list

would be developed and a search would be conducted and there would be names, including women's names of qualified women, for that appointment. So in that situation as you just said, if the board is 100 percent male, a productive, valuable member of that board, his term is coming up, rather than reappointing him this bill would say, *You need to choose a qualified woman off of the appointment list instead.*

MS. ROZIC: The preference.

MS. WALSH: The preference.

MS. ROZIC: Right. And it would be not dispositive. Again, it's a preference.

MS. WALSH: Okay. So when we say *preference*, does that mean that that does not -- that does not have to happen? Is that not a must, it's a may?

MS. ROZIC: Say that last part again?

MS. WALSH: When you say a gender preference, under the situation that we just talked about, the man would not be, right, would not be reappointed under that hypothetical, correct?

MS. ROZIC: Preference in the bill is meant the act of favoring one -- one person over another inversely proportional provided, however, such favoring shall not be dispositive. So it's not the only factor, but it is a factor.

MS. WALSH: But that doesn't make sense to me, quite honestly, because under Section 4 it says that an appointment will be made in a manner which will ensure a gender-balanced appointment or reappointment. It doesn't just say preference or

maybe, it just -- it will ensure. I mean, that to me -- I mean, I don't like to over-lawyer it, but I mean, as I'm parsing the bill, that's what it says to me is that's a must, that's not a may; but you disagree with that?

MS. ROZIC: Again, the intent of the bill is to provide preference to women who apply to be on boards.

MS. WALSH: Okay. Well, let's move -- let's move on because I don't think we probably agree on that, but let's keep going. I appreciate your intent to clarify the intent of the bill. Now, this language doesn't apply -- it only applies to gender, it does not apply to race or national origin or any other protected class, it only applies to gender, correct?

MS. ROZIC: Correct.

MS. WALSH: All right. And now why do it this way with this legislation versus just encouraging through, say, voluntary efforts that have been made by out, you know, private companies or organizations like -- and I want to give an example, like Goldman Sachs, for example, where Goldman Sachs updated its policy in -- starting this year in 2022 it's going to expect portfolio companies in the S&P 500 and the FTSE 100 to have at least one diverse director from an underrepresented ethnic minority group and that it will expand its expectations for public companies with ten or more board members to have at least two women on the board. Why not just do it that way through -- rather than a mandate, why not do it through just encouraging voluntary efforts like we're already seeing



with companies like Goldman Sachs?

MS. ROZIC: So I guess my question back to you is how would you do that? That is not currently being taken up by any State or local authority board on their own; in fact, the data is very clear, on the MTA Board, out of a 22 member board, only five are women; Thruway Authority out of an eight person board, only two, though kudos to them, the Chair is a woman. The New York Power Authority, out of six trustees, only one is a woman. The New York State Bridge Authority, out of five Commissioners only one is a woman. Long Island Power Authority, out of nine trustees only one is a woman. On various IDAs in Syracuse out of five, only one is a woman. Rockland County, there are five members, only one is a woman. Essex County there are no women on the board. I can keep going on and on and giving you a lot of different examples, but clearly the local and State public authority boards are not taking this up and so that's why we put this bill forward, to encourage that.

MS. WALSH: Well, I would respectfully suggest that one half of the bill has to do with recommendations for appointment and if the bill only focused on recommendations for appointment and not using preference in the actual appointments or reappointments, I think that there -- there -- that may be more of an encouragement of diversity rather than a mandate. But anyway, I appreciate your answers to my questions and, Madam Speaker, on the bill.

ACTING SPEAKER WOERNER: On the bill.

MS. WALSH: All right. So -- and I guess really that's where I come down on this particular bill. I do think, as one of the few women that served on my county's IDA a few years back, I understand that we do all benefit when we have more qualified women serving on these boards. I absolutely agree with that. I also think that it's also -- there's an important part where it's qualified and interested. I think gauging interest and creating a list of recommendations of women who are interested in serving on these boards and having the boards have to do that I think is -- is valuable. I think that that's a good idea.

I just want to close with Sandra Day O'Connor who was the first female woman on the Supreme Court stated, quote, "Society as a whole benefits immeasurably from a climate in which all persons regardless of race or gender may have the opportunity to earn respect, responsibility, advancement and remuneration based on ability." And I absolutely -- and I think we all agree with that. The question is how do we accomplish that? I think that this bill, in my opinion, goes a little bit too far by creating a mandate that's a little bit more heavy than I would prefer it to be. I'm okay with the idea of a recommendation for appointment, but I disagree with that part that I kept quoting from Section 4 which I think does create a problem where if there is a qualified man with experience who has been serving well on a board that this may have -- this legislation may have the unintended, perhaps, or maybe intended, consequence of not allowing him to be reappointed and continue to serve.

So for those reasons, I -- I appreciate the intent, I really do. I really appreciate the intent behind this bill. I just think for me it goes a little bit too far and in its current form, I cannot support it the way it's worded. So I will be voting in the negative and I would encourage my colleagues to consider whether this is the way that we want to encourage further diversity on some of these State and local authorities. Thank you, Madam Speaker.

ACTING SPEAKER WOERNER: Thank you.

Read the last section.

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

ACTING SPEAKER WOERNER: The Clerk will record the vote on Calendar No. 34, A477. This is a Party vote. Any member who wishes to be recorded as an exception to the Conference position is reminded to contact the Majority or Minority Leader at the numbers previously provided.

Mr. Goodell.

MR. GOODELL: Thank you, Madam Speaker.

Certainly the Republican Party encourages diversity and inclusion, but we are opposed to mandates that are based on sexual orientation or gender and for that reason, the Republican Conference will be generally opposed. Those who support it, of course, can vote affirmative here on the floor. Thank you.

ACTING SPEAKER WOERNER: Ms. Solages.

MS. SOLAGES: Madam Speaker, the Majority Party

will be in the affirmative. Those who want to vote against this great piece of legislation can contact the Majority Leader's Office and we will announce their name accordingly in the negative.

ACTING SPEAKER WOERNER: Thank you very much.

(The Clerk recorded the vote.)

Mr. Goodell.

MR. GOODELL: Thank you, Madam Speaker. Please record my colleague Mr. Schmitt in the affirmative. Thank you.

ACTING SPEAKER WOERNER: Mr. Schmitt in the affirmative.

Are there any other votes? Announce the results.

(The Clerk announced the results.)

The bill is passed.

Page 10, Calendar No. 54, the Clerk will read.

THE CLERK: Assembly No. A00832-A, Calendar No. 54, Gottfried, Dinowitz, Englebright, Galef, Paulin, Cusick, L. Rosenthal, Sayegh. An act to amend the Public Health Law and the Insurance Law, in relation to certain contracts or agreements by health maintenance organizations.

ACTING SPEAKER WOERNER: Mr. Gottfried, an explanation has been requested.

MR. GOTTFRIED: Yes, Madam Speaker. This bill prohibits three kinds of contracts by health plans. One is -- or contract

clauses. One is any contract or clause or policy that requires a health care provider to essentially offer the health plan the lowest price that it charges to any other customer, so essentially like a most favored nation clause. Second is it prohibits contracts, policies, et cetera, that prohibit a participating health care provider from referring a patient to an out-of-network provider, and the last is a prohibition to a health plan having anyone other than the patient's prescribing practitioner from switching the drug under a prescription.

ACTING SPEAKER WOERNER: Mr. Byrne.

MR. BYRNE: Thank you, Madam Speaker. Will the sponsor yield for some questions?

MR. GOTTFRIED: Yes.

ACTING SPEAKER WOERNER: The sponsor yields.

MR. BYRNE: Thank you, Chairman. A brief look at the history of this legislation. It looks like it goes back quite a few years. I found a similar bill back in 2002 and there was a debate on the floor I think back in 2014, and I noticed that this is an A-print. Are there any substantive changes in this bill that have been made over the last several years that you can detail?

MR. GOTTFRIED: I don't think so.

MR. BYRNE: Okay. As you mentioned I believe in your explanation, I know this bill does several things. There's one provision that prohibits HMO's, plans, insurers from utilizing clauses, referred in the sponsor's member and elsewhere, as a most favored

nation's clause which would entitled plans to reimburse providers at the lowest price charged by such provider to any other person, or I guess patient for the same treatment. My understanding is the Department of Financial Services frequently has declined to approve plans with such clauses or that language. How prevalent is this practice in our State?

MR. GOTTFRIED: I don't know. I don't know that anybody tracks that in any quantitative way, so I -- I don't know the answer to that.

MR. BYRNE: So would it be safe to argue that this is a solution, you know, in search of a problem? I mean, if we don't know how significant this is and a DFS does not seem to be approving this type of practice, is there a need to do -- to make this added prohibition?

MR. GOTTFRIED: Well, sometimes we do things to make sure that something bad doesn't happen. You know, if this were a very common practice, there are -- there might be some members who would say, *Gee, this is such standard practice, how on Earth could we go about outlawing it*, and -- but if it's rarely done, you say it's rarely done, why should we outlaw it? It's -- it's a bad practice, we shouldn't allow it. If -- if DFS has been preventing it from happening, that's terrific, but it would be stronger if it were in statute.

MR. BYRNE: Well, I do understand and appreciate, generally speaking, the need and value of individualized health care and medicine, but further limiting the ability of plans to get the best

price for their members, their plans' members, their customers, the provider's patients, our constituents. When we do that type of thing, it likely leads to increased rates or premiums. You know, I certainly want to be, you know, for providers to be compensated fairly that work extremely hard and do amazing work, generally speaking, but we also have to always balance that and be mindful with affordability for all New Yorkers, including those with coverage from private health plans. Now how, if it does, your legislation manage the growing costs of these services to the patient?

MR. GOTTFRIED: Well, health plans negotiate prices with providers. What -- the kind of practice that -- that I don't want is if -- if a doctor or a hospital or another provider offers a low price because, for example, they know that -- that a patient who doesn't have health coverage really can't afford the full price, or a patient who is out-of-network really can't afford a -- a full price. And so I think I would -- I would want to encourage that hospital or doctor to offer a lower price to that patient. I think we would all applaud that. What I would not want to have happen is the doctors or the hospitals compassionate pricing ensnaring that doctor or hospital being required to offer that same low price to an insurance company that has -- that takes in a lot of money from us.

MR. BYRNE: Well, I can understand that and appreciate the desire to help other folks that may not be grouped in with those -- with those plans. But I also just want to be mindful for, again, those plans' members, those patients, you know, those

constituents as well who are paying premiums, that are paying for that health coverage, that we want to try to make it affordable for them, too. And I know that's something that you're passionate about, there's, you know, a lot of things that we talked about, affordability and quality care, and that's just one element that I think any time we make changes like this, it's something that we have to raise as a concern.

I know another significant change and I believe you mentioned it, pertains to making it easier for providers to refer patients to out-of-network providers, right? Now, this legislation would prohibit, I want to make sure I say this carefully, prohibit insurer's ability to prohibit providers from referring a plans' member to another provider based on them being out-of-network. Now, can you cite any instance of any plans utilizing such a policy?

MR. GOTTFRIED: I can't cite you a name of one off the top of my head, no. But I am told by practitioners that that does go on. And, again, whether it -- whether you could -- whether you would say it doesn't go on and, therefore, this bill is preventive or whether it does go on and this bill is stopping a -- a pernicious practice, either way, the bill is a good idea. Health plans should not be prohibiting your doctor from referring you to an appropriate specialist.

MR. BYRNE: And I don't -- I don't believe that -- that, you know, I can't find an instance where that is occurring and another thing that is a very real consequence or is a result of when you're referring someone out-of-network, that comes at an increased



cost to that consumer, to that patient. Does this legislation do anything to change that, or to require the provider to notify said patient that, *We're going to refer you to another provider that's out-of-network. It's going to cost you a lot of extra money.* Is there any sort of requirement to the -- to the provider to do that in your legislation?

MR. GOTTFRIED: Well, there's no requirement today if -- I mean, your understanding is that doctors and hospitals today are perfectly free and not in any way restricted from referring someone out-of-network. There's no requirement that I'm aware of today that would provide that kind of notice. So I mean, I suppose someone in this Chamber might introduce a bill to say that, I don't know if anyone has, but -- so this bill doesn't really change the law on that point. It simply entitles your doctor to make a referral in your doctor's best judgment.

MR. BYRNE: Well, I believe that providers have that ability to do it now and most of us anecdotally through our own personal life experience, you know, you can get referred to another provider that may be out-of-network and then you have to plan and figure out how it's going to cost, how you're going to pay for it. You know, I did that in my personal life years ago when I was in high school getting spine surgery, going to a specialist outside of network and then you have to try to fight for reimbursement for your plans. It cost a lot of extra money so if -- it just seems that we're going to try to, again, put in some sort of remedy to something that -- there doesn't

seem to be a prohibition from plans that I found if I couldn't find an instance where they're telling their providers that you can't do this, but if that's going to come into play, it just seems only fair that there should be an added requirement to say, *Well, if you are going to refer patients out of the network*, you know, maybe the patient should know that it could cost more money when they make their decision of where they're going to seek care.

MR. GOTTFRIED: As I say, that's an interesting idea. Somebody might want to introduce a bill to say that. I don't know that anyone has introduced such a bill. As you -- as you probably know, all of the problems you've been talking about in the insurance industry, you know, the high prices that we pay in premiums, the biggest factors in those high prices are the fact that we pay for insurance company administrative costs and marketing and profit, and our premium dollars also pay for the enormous amount of administrative staff that doctors and hospitals have to hire to deal with insurance companies. And of course, the only reason we have the notion of in- and out-of-network is because of the practices of our insurance companies. And as you -- as you know, I have a bill that would completely eliminate that problem as well which, if we're lucky, we will debate on the floor later this year.

MR. BYRNE: I had a sense that's where that was going. Thank you, Mr. [Sic] Speaker, on the bill.

ACTING SPEAKER WOERNER: On the bill, sir.

MR. BYRNE: I want to thank the sponsor for taking

the time to -- to answer some of my questions and concerns. You know, again, laudable goals that we obviously all want quality, affordable health care and access to health care for our fellow New Yorkers. We have to balance a lot of those things to -- to make sure that, you know, again, people can afford the care that's -- that we're making available to them. And I know quality and affordable care is a priority of the sponsor because we've talked about it on many different policies, we just don't always agree on how we're going to get there.

Again, I understand and appreciate the importance of individualized health care and medicine. I understand that we want to help enable providers to be providing compassionate care. We have a lot of great options in New York State. There's Federally qualified health centers, there's a lot of different ways that we can expand access to care to people with perhaps lesser needs or means, lesser means. But again, I understand why, you know -- you know, providers probably don't want to necessarily always be worried about, you know, being reimbursed at the, quote, "best price." They want to be compensated fairly, but we also have to think about the consumer, and the consumer is the patient, the consumer is our constituents, and they're the members to the health plans. And there's concerns that while well-intentioned, this legislation is anti-consumer and that it will make -- drive up the cost for health plans. And while I appreciate the intents -- the intentions behind the sponsor's goals with this -- with this piece of legislation, I plan to vote in the negative and I appreciate his time. Thank you.

ACTING SPEAKER WOERNER: Thank you, Mr. Byrne.

Mr. Cahill.

MR. CAHILL: Thank you, Madam Speaker. Will the sponsor yield?

ACTING SPEAKER WOERNER: Will the sponsor yield?

MR. GOTTFRIED: Yes.

ACTING SPEAKER WOERNER: The sponsor yields.

MR. CAHILL: Thank you, Dick, and I think I'll do this every time you stand up to talk about any health care legislation. Thank you for your 50 years of dedication -- over 50 years of dedication to improving the health care for all New Yorkers, and I certainly appreciate --

MR. GOTTFRIED: Thank you.

MR. CAHILL: -- all of your efforts. I would like to ask you a few questions about this specific piece of legislation that largely deals not so much with health care, but with health insurance. Can you identify the payment requirements under the Medicaid program? How are providers paid under the Medicaid program and how is the fee that the provider is getting and fee-for-service Medicaid reimbursement situation determined?

MR. GOTTFRIED: Well, those rates are set by the State. The -- in the area, I believe it's limited to prescription drugs,

there is a requirement that -- a Federal requirement that Medicaid pay the lowest price of any -- of any payer.

MR. CAHILL: Right. So -- so when it comes to prescription drugs, at least there's a recognition that there is a methodology that requires the Medicaid health insurance plan to -- to extract the lowest price that a provider would charge for a given prescription.

MR. GOTTFRIED: Well, the -- the way Medicaid prices are on drugs are created is a complicated process.

MR. CAHILL: Yeah, I understand.

MR. GOTTFRIED: It also involves rebates and a variety of other things. And, of course, Medicaid is a -- is a public program. You know, we're talking here primarily about the general world of health plans.

MR. CAHILL: Right. So are you aware of any circumstance where Medicaid can require the provider of other services, other medical services or medical goods and services other than prescription, at the lowest price that they -- that they offer it at?

MR. GOTTFRIED: Well, I know Medicaid in every instance that I've ever, I think that I've ever heard of does, in fact, pay lower prices than -- than anybody else. Whether there is a, you know, a mandate for that I don't know. And that is, you know, partly why a great many providers do not accept Medicaid. But again, Medicaid is a public program serving a public purpose, not supporting stock holders, et cetera.

MR. CAHILL: Well, okay. That brings me to another interesting question. Would your bill apply to all health plans, whether they be privately held shareholder-owned publicly traded plans or not-for-profit entities that run a health plan?

MR. GOTTFRIED: Yes.

MR. CAHILL: Okay. And so like the Medicaid program, the not-for-profit health plans don't have shareholders either. If the logic holds true that we want to allow the Medicaid plan to economize using the lowest cost structure, why wouldn't we want to do that with our not-for-profit plans as well?

MR. GOTTFRIED: Well, there are some non-for-profit plans whose chief executives and other executives are paid an awful lot of money. So they may not draw something called a profit, but that doesn't mean they don't extract a lot of money from the plan. And nothing in this bill would stop those plans from bargaining, as plans do, to pay the lowest price they can borrow -- negotiate for. All this -- and this bill does not interfere with that in any way.

MR. CAHILL: I thought the language of it specifically said that would be prohibited, that a plan --

MR. GOTTFRIED: No --

MR. CAHILL: -- can't require a provider to charge them the lowest price.

MR. GOTTFRIED: If they get the lowest price it would be because they negotiated a price that turns out to be lower than what other people charge. What they can't do is negotiate with a,

let's say with a hospital that a given procedure's price is \$1,000 and then they discover that the hospital is offering that procedure to a -- to a patient for \$500 because the patient really can't afford it and has no coverage or is out-of-network, and then the hospital -- then the plan says, *Ah, you violated our clause. From now on, we're only paying you \$500.* That is what the bill would outlaw.

MR. CAHILL: Well, I mean, certainly we have the circumstance where a patient might get reimbursed under the bad debt and charity pool which would be a fractional amount of the bill based upon some other formula that would be even lower than half the price, and there are certainly providers who could give it away for free. What I think I'm reading your bill to say is that they cannot require by contract or any other means a provider to say, *We are going to give you the lowest price.* That doesn't mean there might be an exception out there for -- for a case of munificence or charity or some other business purpose, but -- but if a contract requires the lowest price, that would be a violation of this bill.

MR. GOTTFRIED: Yes.

MR. CAHILL: So I'm trying to square that with your previous statement that an insurance company couldn't negotiate with a hospital to get the lowest price possible if that is not the lowest price. It sounds to me like what this bill would do would be prohibit the very thing you said they could do.

MR. GOTTFRIED: No. It is one thing if you can bargain to pay \$1,000 for a procedure and it turns out that that's lower

than anybody else in town pays. It's another to have a contract clause that says whatever we pay you, it has to be lower than you charge anybody else.

MR. CAHILL: Gotcha. So in the case of, again, going back to Medicaid, if a Medicaid provider will not use a hospital or a doctor, we'll say a direct care provider. If a direct care provider publishes a schedule upon which Medicaid reimburses and that schedule says, you know, \$50 and then it turns out that they're charging everybody else \$25 and the Medicaid Inspector General gets wind of that, that provider can be charged with a crime. But in the case of a health care insurer for-profit, not-for-profit, self-insured plan that is regulated by the State in some instances, that if they did that very same thing not only would it not be a crime, it would not be allowed. That seems like something of an inconsistency. I would like to --

MR. GOTTFRIED: Well, I don't think so but I just want to make very clear that this bill does not apply to self-insured plans which we may not regulate.

MR. CAHILL: Right, and I understand that by and large we don't regulate self-insured plans, but there are the contracting with provider aspects of what a plan does has an impact on virtually all the business -- the book of business that an insurer has, and some of that insured business is regulated by the State of New York and some is not, but they don't have usually, at least in my knowledge or experience, separate contracts for the Federally regulated or, in my



view, Federally not regulated side of the plan and that which is subject to State regulation. So whether we intended to have an impact on those plans, it often does. And actually, you and I -- I think you and I would agree that that's not a bad thing.

MR. GOTTFRIED: Right.

MR. CAHILL: So I want to move on to another question about the out-of-network provider and whether a plan would be permitted to require a provider or limit a provider from -- from -- hold on one second.

Madam Speaker, can you ask this little coffee club to go someplace else and have their coffee.

ACTING SPEAKER WOERNER: Yes. We are on debate so please keep your voices down or take it to the back of the room.

MR. CAHILL: Thank you. Thank you, Madam Speaker; thank you, Dick, for your indulgence.

Out-of-network providers I think is where I was, but I also know what's playing at the movies tonight. So my question is -- is if a provider decided that they wanted to limit one of their contracted provider's ability to refer out-of-network for some reason other than to save money, would that also be prohibited under this law?

MR. GOTTFRIED: I'm not entirely sure what you're asking, but I think the answer is yes.

MR. CAHILL: Okay. So I'll give you an example.

MR. GOTTFRIED: I mean, the bill -- the bill says you can't bar a provider from referring someone out-of-network. It doesn't say what the -- what the plan's motive is for barring that.

MR. CAHILL: Right. So if a plan does it to economize, you know, and save the cost of insurance, that is somehow perhaps perceived by some to be inherently wrong, even though I don't necessarily perceive it that way, so I think less expensive insurance is good. But I also understand that there could be an arbitrary use of that power, that authority in circumstances that would not be to the benefit of the patient or the -- or the subscriber. So I understand we want to have some control over that. My question is in that circumstance where the insurer has recognized a pattern of referral, for example, of a specific provider who consistently refers out-of-network. And when they refer to that out-of-network provider, and congratulations to you for 90 percent fixing this problem, too, when they refer out-of-network, that other provider decides that they're not bound by the terms of the contract with the provider and somehow or another they decide that they're going to start dumbing the patient for what they believe that they're owed and have not been paid by either an insurance company or the doctor that referred them to that -- the doctor that referred the patient to them. What if there was that reason? What if that was the reason that some -- that some health insurance company decided that they had to limit a specific provider's ability to refer out-of-network, or what if there was a pattern that emerged where this Dr. A was a top shelf doctor, passed

every set of metrics that we offer on quality assurance, but had a pattern of referring patients to a doctor who doesn't meet those standards and they wanted to tell that doctor, *No, no. Stop referring to that out-of-network doctor. We didn't contract with that provider because he stinks, and we don't want to do business with him because he hurts our -- our members.* That would also be prohibited under your bill?

MR. GOTTFRIED: Well, the insurance company could certainly say that to the doctor. I think the notion that we should structure public policy around the assumption that it is common for health plans to be acting on such noble motives is unrealistic.

MR. CAHILL: Well, I would --

MR. GOTTFRIED: I'm sure -- I'm sure there has been a case in which a health client acted out of the goodness of its heart for the welfare of a patient. I've never had the sense from anybody other than an insurance company lobbyist that that is at all common or typical.

MR. CAHILL: Well, certainly you and I have different experiences, that's for sure, on this subject because I can tell you many, many instances where -- when many of you call my office for help with an insurance company and we contact the insurance company on behalf of a constituent of one of you because insurance companies have a relationship with the Insurance Chair. We advocate for a variety of things, including those instances that would assure

better quality care for patients and the insurance company's consistently abide and provide us that opportunity.

MR. GOTTFRIED: Actually, I think that proves my point because when they respond to a legislator calling to try to get them to stop doing something or to do something, I think that kind of proves that you can't count on them to act out of the goodness of their heart.

MR. CAHILL: Well, I would say the opposite, sir, and all due respect. I think it proves that it's a rare occurrence if one little tiny Assembly office can handle the -- that many of all of the complaints for the whole State of 19 million people. They're not very common complaints, but they do occur and when they occur we have interactions with the insurance companies and they -- and they oftentimes will talk about quality issues. They will talk about referral patterns or -- or other issues with providers. For example, a very common one is somebody goes for a procedure that requires anesthesiology and -- and -- and the anesthesiologist is not in-network. Everybody finds out later on and maybe they're not even in New York State and until there was a Federal law, there was some question whether we could regulate out-of-State providers in that way. But it happens and it happens with pretty regular frequency and we do end up resolving those issues, but my question was not does happen. My question was if it happened, would it be prohibited under your bill from having -- from the insurance company trying to place some control on that malfeasance, on that bad behavior?

MR. GOTTFRIED: If what they do rises to the level of being a contract or a policy and if you look at the words in the bill, then it would violate the bill.

MR. CAHILL: Thank you, Dick. I'm out of time.

ACTING SPEAKER WOERNER: Thank you, Mr. Cahill.

Read the last section.

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

ACTING SPEAKER WOERNER: The Clerk will record the vote on Calendar No. 54, A832. This is a Party vote. Any member who wishes to be recorded as an exception to the Conference position is reminded to contact the Majority or Minority Leader at the numbers previously provided.

Mr. Goodell.

MR. GOODELL: Thank you, Madam Speaker. The Republican Conference is generally opposed to this legislation. Those who support it are certainly free to vote in favor here on the floor of the Assembly. Thank you.

ACTING SPEAKER WOERNER: Thank you.

Mrs. Peoples-Stokes.

MRS. PEOPLES-STOKES: Thank you, Madam Speaker. The Majority Conference is generally going to be in favor of this piece of legislation; however, there may be some that would be in opposition. They should feel free to reach out to the Majority Leader's

Office, we'll be pleased to make sure your vote is recorded. Thank you.

ACTING SPEAKER WOERNER: Thank you.

(The Clerk recorded the vote.)

Mr. Cahill to explain his vote.

MR. CAHILL: Thank you, Madam, and soon to be Mr. Speaker, if you look behind you. I, again, I applaud and I thank the sponsor of this legislation for all his important and good work when it comes to improving health care for all New Yorkers and if I tell you I have been up nights thinking about what happens to New York State when he's not here to help shepherd some of this stuff through, and I'm not looking forward to that. But in this instance, I think we respectfully disagree.

This measure would apply not just to the greedy, shareholder-owned publicly traded companies that are out to steal your money and not give you health care, but it would also apply to the good companies that are trying to do the right thing. It would also apply to the not-for-profit insurance companies that yes, they pay executives sometimes a pretty good fraction of what a hospital executive makes, not nearly what the guy usually makes, or woman, but for still a pretty hefty sum.

But what we heard today is that what's good for government health plans is not good for private health plans. What's okay to do in some instances is not okay to do in other instances. And even if it's a good idea under this law if it were to become law in the

State of New York, their blanket would cover bad behavior, but it would also cover good behavior. It would also cover things that are being done on behalf of the patient. And for that reason, Mr. Speaker, and a couple of others that I didn't get to because my clock ran out, I will withdraw my request and respectfully vote in the negative.

ACTING SPEAKER AUBRY: And your clock didn't run out, but we're happy that you ended. Thank you.

Mr. Gottfried to explain his vote.

MR. GOTTFRIED: Yes, Mr. Speaker, just to clarify one of the issues that was discussed in the bill about a doctor who was sending patients out-of-network. The language of the bill, first of all, only applies to a contract written policy or written procedure prohibiting certain things. So if it's simply the health plan calling up, that would not be a contract written policy or written procedure. And, secondly, the limitation has to be based solely upon such health care provider's participation status with the -- with the health plan. And in the cases that we were talking about, the health plan would not be expressing a concern based solely on the -- the other provider's status in relation to the plan. So the -- the particular circumstance we were discussing would actually not be prohibited by the bill. And I'm happy to vote in the affirmative.

ACTING SPEAKER AUBRY: Mr. Gottfried in the affirmative.

Are there any other votes? Announce the results.

(The Clerk announced the results.)

The bill is passed.

Page 11, Calendar No. 67, the Clerk will read.

THE CLERK: Assembly No. A01171-A, Calendar No. 67, Bronson, Clark, Lunsford, Meeks, Wallace, Buttenschon, Rozic, Santabarbara, Lupardo, Hunter, Gunther, Steck, Stirpe, Jones, Magnarelli, Fahy, McMahon, Barrett, Woerner, Weprin, Gottfried, Cruz, Carroll, McDonald, Griffin, Simon. An act to amend the Insurance Law, in relation to health insurance coverage of outpatient care provided by a mental health practitioner and a clinical social worker; and to repeal certain provisions of such law relating thereto.

ACTING SPEAKER AUBRY: An explanation has been requested, sir.

MR. BRONSON: Yes, Mr. Speaker. This bill would require commercial insurance companies to reimburse for services provided by certain mental health practitioners.

ACTING SPEAKER AUBRY: Mr. Goodell.

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

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

MR. BRONSON: Yes, I will, Mr. Speaker.

ACTING SPEAKER AUBRY: The sponsor yields.

MR. GOODELL: Thank you, Mr. Bronson. Am I correct that this bill would specifically require all these insurance companies to contract or provide coverage for mental health



counselors, marriage and family therapists, creative art therapists, or psychoanalysts; is that correct?

MR. BRONSON: That is correct. All of those professions being licensed pursuant to Education Law and all of those professions having Master's Degrees and clinical requirements to get that licensure, and also all of them would only be allowed to practice under their scope of practice.

MR. GOODELL: And this requirement, this mandate on insurance companies would be -- would apply regardless of their existing composition of the network, correct?

MR. BRONSON: Yes.

MR. GOODELL: And do you have any projected cost to the insurance companies or to the policyholders of expanding this mandated coverage would be?

MR. BRONSON: I have not analyzed the cost associated with providing mental health services to those families and children who are in need of those services, especially as we are going through the COVID epidemic.

MR. GOODELL: Now, this bill in 2019 was vetoed by the Governor. Has there been any changes in the bill since they -- since it was vetoed?

MR. BRONSON: No, there has not. As you know, there are two companion bills to this related to Medicaid reimbursement, one bill associated with social workers and the other associated with mental health practitioners. The first bill was signed

into law in December by this Governor. The second bill was signed into law with an agreement for chapter amendments, which we did earlier this year. We strongly believe that this Governor has a perspective that differs from the prior Governor who vetoed that bill in 2019, and we also believe that this Governor is aligned with us in recognizing the extreme need that we have today for mental health services for our families.

MR. GOODELL: Now, as you mentioned there was a chapter amendment we passed within the last month, month-and-a-half perhaps, and that chapter amendment amended the original bill by excluding, if I recall, marriage and family therapists and creative art therapists from the scope of that mandated coverage; is that correct?

MR. BRONSON: No, that's not correct.

MR. GOODELL: What did it do?

MR. BRONSON: That -- that bill originally included marriage and family therapists. It included mental health counselors and it included psychoanalysts. The chapter amendment agreement was to remove psychoanalysts from that bill.

MR. GOODELL: It also removed creative art therapists, didn't it?

MR. BRONSON: We did not -- we did include creative art therapists in that bill.

MR. GOODELL: I see. Thank you very much. Again, I always appreciate your clarification on this legislation.

MR. BRONSON: Thank you.

MR. GOODELL: On the bill, sir.

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

MR. GOODELL: I have no doubt that marriage counselors can provide a very valuable service, as can creative art therapists and psychoanalysts and others, but every time we increase mandatory coverage in New York we increase the cost. And so what this does is it says, *We don't care if you're single, your insurance coverage must cover marriage and family therapists. We don't care if you don't have an artistic bone in your body, you must pay for and purchase coverage for creative art therapists.* And while, as I mentioned, these individuals may do valuable service, a preferable approach is to allow those who want that type of coverage to buy a rider and then those who want it can have it and those who don't want it, don't have to pay for it. And unfortunately, this bill requires everyone to pay higher insurance for coverage they may not want or need or desire. And I think a preferable approach is to let people buy what they want and not be forced to pay for things they don't want so that we can keep the cost as affordable as possible to all of our residents who are struggling to pay insurance costs. Thank you, sir.

ACTING SPEAKER AUBRY: Thank you.

Read the last section.

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

ACTING SPEAKER AUBRY: The Clerk will record

the vote on Assembly print 1171-A. This is a Party vote. Any member who wishes to be recorded as an exception to the Conference position is reminded to contact the Majority or Minority Leader at the numbers previously provided.

Mr. Goodell.

MR. GOODELL: Thank you, sir. Reflecting that we had 39 no votes last year, this will be a Party vote in the negative for the Republican Conference, but certainly those who support it can vote in favor of it if you're on the floor of the Assembly. Thank you, sir.

ACTING SPEAKER AUBRY: Thank you.

Mrs. Peoples-Stokes.

MRS. PEOPLES-STOKES: Thank you, Mr. Speaker. The Majority Party will generally be in favor of this piece of legislation; however, there may be a few that would desire to be an exception. If so, they should feel free to contact the Majority Leader's Office. We'll make sure their vote is properly recorded. Thank you, sir.

ACTING SPEAKER AUBRY: Thank you, Ma'am.

(The Clerk recorded the vote.)

Mr. Bronson to explain his vote.

MR. BRONSON: Yes, Mr. Speaker, to explain my vote. I would -- I would ask each of my colleagues while they're thinking about how they're going to cast their vote to take a step back. Think about the time that we're living in right now. Think about the

struggles and the stressors that our families are facing, in particular, because of COVID: Trying to teach their children at home, trying to get to work and at the same time having their children at home, wanting their children to be back at school but not being able to get back at school. And then the children not knowing what's going on and also hearing about war on their TV sets every single day.

This bill is about providing mental health services and, in fact, this bill is an extension of Timothy's Law that we passed a number of years ago that required parity within commercial insurance companies. And the Attorney General has brought lawsuits in connection with the lack of mental health services with these disciplines in the commercial insurance policies. And, in fact, in each of those settlements, the insurance companies to settle the case agreed to put a provision in their policies to include these mental health professionals.

Take a step back. Don't think about the cost of this bill to insurance companies. Don't think of the cost of this bill. What you should be thinking about is will this bill allow access to mental health services to our families and our children in this very difficult, trying time. Answer that question first and then press the green button to vote in the affirmative. I will be voting in the affirmative. Thank you, Mr. Speaker.

ACTING SPEAKER AUBRY: Thank you, sir. Mr. Bronson in the affirmative.

Are there any other votes? Announce the results.

(The Clerk announced the results.)

The bill is passed.

Mrs. Peoples-Stokes.

MRS. PEOPLES-STOKES: Mr. Speaker, if we could continue our work on the debate list, we're going to go to Calendar No. 120, it's on page 15 by Mr. McDonald; Calendar No. 140 on page 17 by Mr. Englebright; Calendar No. 178 which is on page 20, that one is also by Mr. Englebright; and Calendar No. 211 is on page 24 by Mrs. Galef; and Calendar No. 294, it's on page 31 by Ms. Solages. In that order, Mr. Speaker. Thank you.

ACTING SPEAKER AUBRY: Thank you.

Page 15, Calendar No. 120, the Clerk will read.

THE CLERK: Assembly No. A03241, Calendar No. 120, McDonald, Gottfried, Thiele, Epstein, Fahy, Cruz, Jacobson. An act to amend the Real Property Actions and Proceedings Law, in relation to special proceedings by tenants of dwellings outside the City of New York and certain counties for judgment directing deposit of rents and the use thereof for the purpose of remedying conditions dangerous to life, health or safety.

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

MR. MCDONALD: Thank you, Mr. Speaker. This bill would create Article 7-C of the Real Property Actions and Proceedings Law to allow tenants outside of New York City and the Counties of Nassau, Suffolk, Rockland and Westchester to bring a

special proceeding for judgment to remedy conditions dangerous to health, life or safety. Specifically, this bill would allow the appointment of a receiver to address these unsafe conditions which could be including lack of heat, lack of running water, light, electricity, adequate sewage disposal facilities, and any other conditions dangers to life, health or safety.

ACTING SPEAKER AUBRY: Mr. Goodell.

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

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

MR. MCDONALD: Yes, I do.

ACTING SPEAKER AUBRY: The sponsor yields.

MR. GOODELL: Thank you, Mr. McDonald. Under current law, there is a warranty of habitability that applies under Section 235-B of the Real Property Law. So don't tenants already have the right to offset rent if an apartment doesn't meet appropriate standards?

MR. MCDONALD: I think they do. What we're trying to accomplish here, we already had this established well into law in Article 7-A for New York City and the four other counties I mentioned, we just want to make this a Statewide consistent practice.

MR. GOODELL: All right, but with regard to the warranty of habitability under current law throughout Upstate New York, if an apartment doesn't meet appropriate standards, the tenant

has the warranty of habitability, right? And they can offset the rent to reflect the reduction in the value of the apartment that's attributable to any defect, correct?

MR. MCDONALD: Correct.

MR. GOODELL: And this bill eliminates that defense, correct?

MR. MCDONALD: This bill -- what this bill does, it allows the local government through a court proceeding with appropriate notice to designate a receiver to address and remedy the issues that are brought forward by the tenants, or it could be a local code enforcement officers or a civil -- or community officials.

MR. GOODELL: And I appreciate that and that was mentioned in your explanation, but going back to my question, this bill eliminates the defense of warranty of habitability, correct? It's on page 9, line 9, 8 and 9, right?

MR. MCDONALD: I'm sorry, could you repeat where that is?

MR. GOODELL: Sure. It's on page 9, starting on line 8, *The defense of warranty of habitability is inapplicable*. So in situations covered by this law, we would eliminate the warranty of habitability, correct?

MR. MCDONALD: I believe so.

MR. GOODELL: So then by eliminating the warranty of habitability, under this law a tenant would have to pay full rent even if their apartment has defects, whereas without this law a



tenant could reduce their rent. Why is that fair to tenants?

MR. MCDONALD: What was the last part of that question?

MR. GOODELL: Why -- why is that fair to tenants? Under current law they can reduce the rent, you got your warranty of habitability. Under this proposed law, tenants have to pay the full rent even if there's problems with the apartment. It seems that that is unfair to tenants. So --

MR. MCDONALD: And let me expand on this a little bit, because you raise a very valid point. You know, in a situation like this and to be honest with you, I don't think this will be a very frequently used vehicle, this is at a point and as former mayor I can attest to this, where the community, the code enforcement department, the appropriate officials, the tenants have kind of reached a point of no return where they've tried every measure known to mankind to engage the property owner, the landlord, whatever it may be, to remedy the situation. This is not meant by any stretch of the imagination to allow the tenant not to pay the rent. What would happen after going through a proper notification process, which as the legislation speaks into the nine pages, is quite significant. It allows the court of jurisdiction to appoint a receiver because at the end of the day, these situations need to be resolved. The rent that the tenant is still obligated to still pay would therefore go to the receiver who then would be charged with developing a plan, bring it to the court, which the judge would approve to remedy the issues.

MR. GOODELL: And I appreciate this in an alternative procedure, but this would require tenants to pay higher rent while those repairs are being made compared to the warranty of habitability. But let me go to the next question I have. So under this bill, all the rents would be paid directly to a receiver, correct?

MR. MCDONALD: That's correct.

MR. GOODELL: Now, a lot of times, of course, particularly with smaller landlords, they may borrow money in order to buy the apartment unit, they go to the bank, they get a mortgage on the building, the mortgage is a first lien. If the mortgage isn't paid, the bank forecloses. When a bank forecloses because it's a first lien, the bank's lien takes priority over all the tenant leases because it's first in line.

MR. MCDONALD: Mm-hmm.

MR. GOODELL: Is there any requirement under this that the bank payments be kept current by the receiver?

MR. MCDONALD: The receiver will have the responsibility to fulfill all of the obligations. From my perspective, the receiver steps into that position of being the property owner, or the property manager. Collects the rents, makes the repairs and, by the way, these are not superfluous repairs, it's not like they don't like the shade of paint on the walls, whatever it may be, these are critical repairs that the judge deems needs to be done in order to -- to really avoid what our goal is. We do not want to disrupt the tenant and have them leave a dwelling because of conditions that after several attempts

by the local government through code enforcement haven't been attended to.

MR. GOODELL: And I -- and I appreciate that you keep telling me what the purpose is and I appreciate that, I do --

MR. MCDONALD: Yeah. And let me just --

MR. GOODELL: But my question is, if I can, my question is very specific. I am looking at page 5, and page 5 gives the bank the right to spend even more money, but I didn't see anywhere in the language that the receiver is required to keep the bank payments current; did I miss anything in the language?

MR. MCDONALD: I don't think you've missed anything in the language.

MR. GOODELL: Okay. So now if an owner makes arrangements for a repair to the property, ironically, and doesn't pay the contractor for the repair, the contractor has a lien that's actually superior to the mortgage; it's a mechanic's lien. But under this scenario, none of the repair costs would ever have a priority over the mortgage, correct?

MR. MCDONALD: Could you repeat that scenario one more time, please?

MR. GOODELL: I -- I apologize?

MR. MCDONALD: Just repeat that one more time, that scenario you're laying out.

MR. GOODELL: Yes, certainly. So this envisions that the receiver will collect the rent, use that cash to make repairs,

right?

MR. MCDONALD: Correct.

MR. GOODELL: So under that scenario, the bank's lien always remains ahead of all the tenants.

MR. MCDONALD: Yes.

MR. GOODELL: Right? Which is different than the current scenario where if the owner makes a repair and for some reason doesn't pay the contractor, the contractor's mechanic lien actually jumps ahead of the mortgage. But this would take a different approach, leaving the mortgage lien primary above everything else than the cost of the repairs, correct?

MR. MCDONALD: Correct.

MR. GOODELL: Now, I see in order to begin this action there's a requirement that there's five days notice. That's your understanding, as well?

MR. MCDONALD: That's correct.

MR. GOODELL: But --

MR. MCDONALD: For this exact proceeding, that's correct.

MR. GOODELL: Right, for this type of proceeding. But am I correct that if the landlord begins an eviction action to get rid of a tenant who's not paying and that may be one reason why the landlord hasn't made the repairs, they don't give the -- the tenant five days notice, they have to give them 14 days notice before they give them a second notice which has to be 10-17, and then when they get

into court, the tenant's entitled to an automatic two week adjournment by statute, right, and that's assuming that the landlord can even get it into court.

So why is it that by law we need to say that a landlord will take anywhere from two to three months to do an evicted tenant who's not paying the landlord the money that the landlord needs to make a repair, but allowing the tenants to replace the landlord on just five days notice? Shouldn't the time frames be comparable? I mean, after all, if we want tenants paying the rents so that the landlord can make the repair, shouldn't the eviction time frames be the same?

MR. MCDONALD: So you're kind of melding together two issues, and I'm not disputing the fact that they're important issues, but we should be very clear that before a local government or one-third of the tenants, as it's noted here, actually gets to that point, we are probably looking at several months of code violations being sent to some responsible party for that entity. And by the way, the proceeding can start within five days, but if the property owner actually responded and say, *Hold -- hold on a second, I'm taking care of this*, or, *Hey, I'm not going to take care of this*, in most situations there's been no response at all and this is why -- I want to reinforce, I think this is a tool that will be seldom used. It's really more at the last end of the -- of the train in regards to trying to remedy a situation to help avoid the unfortunate situation where tenants would have to be evicted or removed out because the building is unsafe and inhabitable.

MR. GOODELL: Certainly. And as you can appreciate --

MR. MCDONALD: But your point about the schedules, I -- I understand that.

MR. GOODELL: Yeah, certainly. By the way, before a landlord gives a notice of eviction to a tenant --

MR. MCDONALD: Yeah.

MR. GOODELL: -- the landlord, likewise, does everything possible to collect the rent. And I would share with you, I -- I started an eviction proceeding last year in October and I did the notice, you know, the 14 days notice that, you know, demand, followed by the 10 to 17 day notice, and I got a note back from the court that said, *Thank you very much for giving the tenant about a month's notice, the earliest we can schedule you is in February, end of January.* Now, that meant that all of those notices that I just mentioned I had to repeat again in order to be in time or a properly time frame for January, and then we show up in January, automatically entitled to a two week adjournment. We show up two weeks later, gets another two week adjournment, the trial is now scheduled for April. Now, meanwhile my landlord is expected to make repairs even though they're not collecting any rent and the landlord to be in court under this law facing the appointment of a receiver in a week.

So why is it that we can have a tenant force the appointment of a receiver in one week when it takes, at a minimum,

two to three months assuming the court system is working and an action now, three to six months in reality.

MR. MCDONALD: Well --

MR. GOODELL: I mean, isn't -- shouldn't -- shouldn't those time frames be the same? After all, it's -- a landlord needs the rent who makes the repairs.

MR. MCDONALD: So a couple of comments to that. First of all, this legislation actually was drafted pre-pandemic when timelines were a little bit different and as we all know, we've been through a very extraordinary time with the pandemic. This House has gone through herculean efforts to protect tenants from being evicted during the pandemic, to actually help landlords receive funding for tenants who weren't paying. And then the real good news, Mr. Goodell, is if you're eviction proceeding is in April, April is this Friday so that's a good start.

That being said, to your point, you're bringing up really discussions we've had in past years in regards to the overall eviction proceedings. I just need to reinforce that it is several months in violations and notices that are sent to the landlord before we get to this step. So it's not really a surprise at this stage of the game that they want to start those proceedings. But the landlord actually has the opportunity, or an interested party, to actually say to the judge, *Hold on, five days notice, I am going to be doing this or I'm going to be doing that*. So the opportunity to respond, which has really been something that I'm striving for from landlords and, let's be clear, not

every tenant is perfect either by any stretch of the imagination. We have very challenging situations out there. But at the same token, what concerns me is when families are living in -- in dwellings, and I've seen this as a former mayor where the landlord just goes *sayonara* just no -- no responsible party, doesn't fulfill the local government's obligation to have a responsible party on record and at the end of the day, we need to do something because it's going to lead to disruption to the family and at least in the cities I represent, potentially damage to some beautiful historic properties.

MR. GOODELL: Thank you, Mr. McDonald.

On the bill, sir.

ACTING SPEAKER AUBRY: On the bill, sir.

MR. GOODELL: Thank you. We've gone through an unprecedented financial stress on landlords, especially our smaller landlords, the mom and pops that might own one or two apartments or a couple of houses, and we've gone through a system where we in the State Legislature said to tenants that they could self-certify that they didn't have the money to pay rent and we continued that rent moratorium for nearly two years. And then we said there's some funds available so if you apply for those funds, there's an automatic stay of any eviction proceedings even though the fund has no money in it. So now you can apply -- you can apply for a grant knowing there's no money there and you still get an automatic stay on the eviction. And then even if during this budget process, and I hope we do -- we restore funding, that funding only covers nine or ten months. It doesn't go



back the two years. And so having just, just devastated the finances of all these small landlords, mom and pops, people who have invested their life savings in the hope of being able to run a small real estate investment opportunity, we turn around and say you can't get rid of the tenant who's paying, but the tenant can have a receiver appointed in just five days notice.

That's fundamentally unfair.

Sir, is there anyone else who would like to speak on this?

ACTING SPEAKER AUBRY: You'd like your next 15?

MR. GOODELL: No, I only need an extra few.

ACTING SPEAKER AUBRY: You'll take the 15 and then when you're finished, give it back.

MR. GOODELL: Thank you. I will wrap it in a bow for you.

So unfortunately, in addition to being fundamentally unfair to the landlords, this bill ironically is also unfair to tenants. Why? Because under current law if an apartment has problems, the tenant can reduce the rent. It's a warranty of habitability. This bill eliminates the right for a tenant to reduce the rent because it eliminates the warranty of habitability. And so now this bill forces tenants to pay higher rent while the repairs are being made, whereas current law allows the tenants to pay lower rent until the repairs are done.

The second problem is this bill doesn't require that the receiver keep the mortgage current, or the taxes current, or the utilities current. And that's -- that can be devastating for the tenants, too, because when a mortgage goes into default, the mortgage takes priority over all those leases and as a result, the tenants face the possibility that their leases will be canceled as a matter of law. And of course if the taxes aren't paid, the building goes up for a tax sale.

So we have a situation that's grossly unfair to landlords and provides for a receiver to be appointed in five days notice when it takes the landlord, at best, two-and-half to three months to evict a nonpaying tenant who's not paying the rent that the landlord needs to maintain the property. No landlord in the State of New York wants to see their property deteriorate. That is their asset. They want to keep their apartment maintained and they want paying tenants so they can afford to maintain it. And this says since the State Legislature has devastated your finances and you can't evict a tenant who's not paying, we're going to appoint a receiver on extraordinarily short notice, not pay your mortgage, not direct (inaudible) to pay your taxes and, at the end, it's the tenants who pay so much more and risk the loss of their lease under this proposal.

This is not the right time or the right solution for this approach and for that reason, I'll recommend to my colleagues that they not support it. Thank you, sir, and I'm returning to you 12 minutes and 14 seconds.

ACTING SPEAKER AUBRY: We will gratefully

accept it. Thank you.

Read the last section.

THE CLERK: This act shall take effect immediately.

ACTING SPEAKER AUBRY: The Clerk will record the vote on Assembly print 3241. This is a Party vote. Any member who wishes to be recorded as an exception to the 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 I mentioned, and perhaps other reasons as well. But those who support it are certainly encouraged to vote in favor of it on the floor of the Assembly. Thank you, sir.

ACTING SPEAKER AUBRY: Thank you.

Mrs. Peoples-Stokes.

MRS. PEOPLES-STOKES: Thank you, Mr. Speaker. The Democratic Conference will generally be in favor of this piece of legislation; however, there may be some of our colleagues who would desire to be an exception. They should feel free to contact the Majority Leader's Office and we'll be pleased to make sure that their vote is properly recorded. Thank you, sir.

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

(The Clerk recorded the vote.)

Mr. McDonald to explain his vote.

MR. MCDONALD: Thank you, Mr. Speaker and I appreciate my comments -- my colleague's comments, excuse me. First of all, just to be clear, as I review this legislation there's nothing in here that says that the tenant will pay more in rent. The ongoing lease agreement continues on as is. If unfortunately it goes on for a couple of years, the administrator has the ability to renegotiate a lease. But there's nothing here that clearly states that the tenant's rent will increase. But just as importantly and as a former mayor and as one who's worked with the New York State Conference of Mayors on this legislation, we know that there's a natural tension between tenants and landlords at times, but it's a small percentage to be honest with you.

All we're asking for in this legislation is for Upstate and the rest of New York State to have the same process in place in the unfortunate circumstance that we have a situation where a landlord or property owner is not responsive. This is something that the City of New York and the surrounding Counties of Nassau, Suffolk, Westchester, and Rockland have been enjoying for a long period of time. And it's in my humble opinion that we expand this Statewide. Therefore, I encourage my colleagues to consider this legislation positively.

ACTING SPEAKER AUBRY: Mr. McDonald in the affirmative.

Mr. Goodell.

MR. GOODELL: Thank you, sir. Please record my

colleague Mr. Montesano in the affirmative. Thank you, sir.

ACTING SPEAKER AUBRY: So noted.

Are there any other votes? Announce the results.

(The Clerk announced the results.)

The bill is passed.

Page 17, Calendar No. 140, the Clerk will read.

THE CLERK: Assembly No. A04117, Calendar No. 140, Englebright, Thiele, Buttenschon, Otis, Epstein, L. Rosenthal, Glick, Galef, Jacobson, Griffin, Paulin, Niou, Colton, Simon, Lavine, Santabarbara, Bronson, Dickens, Abinanti, Lupardo, McMahon, Zebrowski, Seawright, Gottfried, Steck, Kelles, Zinerman, González-Rojas, DeStefano, Sillitti, Sayegh. An act to amend the Environmental Conservation Law, in relation to declaring the goal of the State of New York to source reduce, reuse, recycle, or compost no less than 85 percent of the solid waste generated by the year 2032.

ACTING SPEAKER AUBRY: Mr. Englebright, an explanation has been requested, sir.

MR. ENGLEBRIGHT: Thank you, Mr. Speaker. This is a bill to declare the goal of reducing the solid waste, setting that goal in order to achieve a whole series of related benefits.

ACTING SPEAKER AUBRY: Mr. Smullen.

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

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

MR. ENGLEBRIGHT: I yield.

ACTING SPEAKER AUBRY: The sponsor yields.

MR. SMULLEN: Well, thank you very much, Mr. Englebright. It's -- it's good to see you and talk about one of my favorite issues, which is recycling, because I know it's very important to all the residents of New York State, but particularly is impactful in the dense urban areas around New York City where there's -- there's a lot of -- a lot of stuff goes in and a lot of waste comes out and it's a -- I think it's a key issue going forward in our -- in the Committee in which we -- we serve.

MR. ENGLEBRIGHT: I would agree.

MR. SMULLEN: So I just -- I wanted to first ask, what is the current percentage that's recycled right now at this point? What is -- what is your guess and how are we doing as a State?

MR. ENGLEBRIGHT: We're not doing great as a State. On a nationwide basis, it's about 32 percent. We'd be a subset of that, but I don't have a precise figure for you.

MR. SMULLEN: So if we're looking at this as a goal, 85 percent is the -- is the goal in this bill; is that correct?

MR. ENGLEBRIGHT: No; 100 percent is the goal, but 85 percent would be the floor, not the ceiling. So we would set that as a goal in the general sense and hope for even better.

MR. SMULLEN: So if 85 percent is a floor then this becomes a mandate by the designated time frame to -- to make 85 percent?

MR. ENGLEBRIGHT: It's not a mandate, there's no penalties involved. But it is a goal. It does give us a benchmark to aspire toward and to begin to formulate a whole series of policies that would enable it.

MR. SMULLEN: And so from a -- from a State level working down into the local level, how would this bill work with the Department of Environmental Conservation and the various home rule authorities who do most of the work?

MR. ENGLEBRIGHT: That's a really great question, and an important one, because there needs to be cooperation between the State and municipalities. One of the mechanisms for that would be municipal grants. Those grants can be enabled through the Environmental Protection Fund. There's also technical assistance that is available through the agency. But there would need to be ongoing consultation and -- and educational process.

MR. SMULLEN: And so we're looking at money from the Environmental Protection Fund if this Environmental Bond Act passes in this budget and is approved by the voters. Would there be infrastructure that would be paid for in that -- in that regard for the counties to be able to -- to do -- hit a higher goal for recycling?

MR. ENGLEBRIGHT: If we adopt the goal then it's incumbent upon us to enable the -- the goal to be achieved. This measure doesn't build any money in in a specific formula or -- or figure, but I think it would logically follow that we would do everything we could to enable the Department to achieve its

responsibilities and -- and to help our local governments. I should point out that the -- the bill requires that the Department produce a plan. They would have to think things ahead a little bit. The goal is to achieve at least 85 percent by the year 2032 and in two-and-a-half years from now, the Department would have to produce a plan on how to get there.

MR. SMULLEN: So in -- in a few years we'll have a plan that in ten years we'll have this 85 percent goal achieved and --

MR. ENGLEBRIGHT: In ten years we would ideally have results, yes.

MR. SMULLEN: Yeah, I mean it's a -- it seems very ambitious to me from 30 percent, maybe that's the national level, maybe it's a little higher in New York, I'd be -- I'd be curious as to what the exact figure is county by county.

MR. ENGLEBRIGHT: It's something that our sister state in California has -- has already aspired toward. They've set a -- a goal with a floor of 65 percent. The European Union has a similar goal to this by the same target year of 2032.

MR. SMULLEN: Right. So I read that California is 75 percent, European Union 75 percent. So we in New York had to get at least ten percent better than -- than those two entities?

MR. ENGLEBRIGHT: Well, I hope New York can do that and, you know, I'm from that part of the State that was humiliated almost nightly when Johnny Carson was -- was on the television when we had the garbage barge traveling both hemispheres



searching for a place to take Long Island garbage. We really haven't progressed very much since the Mobro, that was the name of the garbage barge, wandered all the way to South America and then came back to Islip to deposit the garbage that it -- that nobody else wanted. Part of the moral of that story is that New York needs to do better and, in fact, instead of being the butt of ridicule for the world, I think we should lead our sister states and perhaps even be a world leader in showing how to reduce, reuse, recycle, and compost.

MR. SMULLEN: Well, certainly I -- I share that vision of only the minimum amount of required stuff goes into the dense urban area and the very minimum required would come out. And, you know, one of the ways I think we can do that, one of the provisions in this bill is composting. Is it going to be part of this plan to reduce food waste in -- in New York City to be able to help meet these targets?

MR. ENGLEBRIGHT: Part of why we ask the Department and give them two-and-a-half years to come up with the plan is to answer specific questions such as that. We don't have specificity or formulation at that level written into this measure.

MR. SMULLEN: So it's not very specific in that regard.

MR. ENGLEBRIGHT: It is not highly specific in that regard.

MR. SMULLEN: And what about construction debris that's -- some of which is brought out on trains and taken to

Upstate landfills? Is that -- are we going to have a plan to keep that somewhere in the -- in the dense urban area?

MR. ENGLEBRIGHT: C and D debris is an important part of our solid waste problem, if you will, and again, we would look to a master vision coming from the agency that we're handing additional authority to, and to the Commissioner of the DEC.

MR. SMULLEN: So I -- you know, I see the -- the idea behind the bill is sound and solid, but what -- what is in this bill or what will be in this study that we don't already do now that's going to suddenly, you know, make all these municipalities, you know, to cooperate with the State and have an epiphany that suddenly we're going to, you know, start doing what we should be doing all the time already. I'm -- I'm a little...

MR. ENGLEBRIGHT: Well, ten years isn't exactly sudden and as I already indicated, I mean, *Johnny Carson Show* has been -- he's deceased now and his show has been off the air for more than a decade so this isn't sudden, but it is catching up with reality. We need to really formulate meaningful policy and reduce the three Rs, reduce, reuse, and recycle. The main emphasis should be on reduce because that's the volume metric issue. I think our -- our Department of Environmental Conservation is primed for this. It isn't coming upon them, you know, like out of left field; this they've seen coming for some time.

MR. SMULLEN: Well, great. Well, thank you very much for your comments, Mr. Englebright.

MR. ENGLEBRIGHT: You're welcome.

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

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

MR. SMULLEN: So I -- I laud the effort to set a -- a lofty goal, a stretch goal, if you will, and try to achieve it, but I think it's important that a law that's passed in an area such as this that's going to be carried out by a department of the State government ought to be specific enough and ought to have resources attached with it to actually achieve that goal as opposed to this competing with other areas that would then have to draw resources, whether it's from the -- the Department's resources, maybe the new Environmental Bond Act or the Environmental Protection Fund. You know, I don't think it's a good idea to set a mandate because that's what my fear on these -- these goal bills are, is that we said, *Well, it's the sense of this Body that we ought to do X, Y, and Z by time A, B, and C*, but we don't provide a clear path from the *as is* where we are today to the *to be* where we want to be in ten years.

And I have a little experience in doing this because I -- I had done some planning, but I -- I actually welcome the opportunity to continue to work on this issue noting that -- that our colleagues in the Senate, you know, need to come up with something to support this, but I actually welcome the opportunity to work on the single-stream recycling issue because I think it's a key issue for New York State as a whole, you know, centered around the dense urban

areas and then many of the areas that provide materials and food stuff to support, you know, the dynamic engine that is New York City not only for our State, but for country and for the world. And I think this will be one of the great things that if we can go from where we are in the *as is* system to the *to be* system, if we get it right, we will set ourselves up for what I like to think are a hundred year infrastructure (inaudible) that are going to pay off many times over from the capital expended to the results that are achieved, and they will just make our State that much better and that much stronger.

So I look forward to working with the Chair on this in this regard, but in the meantime because of the lack of specificity, I won't be supporting this -- this bill today, but I would encourage all my colleagues to -- to make their own decisions in this regard. Thank you very much, Mr. Speaker.

ACTING SPEAKER AUBRY: Thank you, Mr. Smullen.

Mr. Walczyk.

MR. WALCZYK: Thank you for the opportunity, Mr. Speaker. I wonder if the sponsor would yield for some questions.

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

MR. ENGLEBRIGHT: I yield.

ACTING SPEAKER AUBRY: Mr. Englebright yields, sir.

MR. WALCZYK: Thank you. Through you, Mr.

Speaker, the -- the bill that you bring before us today has a goal of reducing by 85 percent the amount of solid waste. How is that measured? How is that 85 percent measured?

MR. ENGLEBRIGHT: It will be measured against what we're doing today. The yardstick would be on the basis of a percentage of our tonnage and volume of -- of solid waste.

MR. WALCZYK: Tonnage and volume? Is it either/or? How are you going to measure that?

MR. ENGLEBRIGHT: It's all of the above.

MR. WALCZYK: Okay. So both metrics, both the tonnage of solid waste and the cubic yardage of solid waste?

MR. ENGLEBRIGHT: Sure.

MR. WALCZYK: Both need to meet that -- that goal of 85 percent production. Okay.

MR. ENGLEBRIGHT: There's -- there's a lot of variability. We live in a temperate climate so when it rains, the waste that is picked up is a lot heavier. You can see this if you go to an incinerator, for example, you'll see on the day after it rained heavily they have a harder time burning the waste because it's wet.

MR. WALCZYK: Yep, that -- that makes --

MR. ENGLEBRIGHT: It's also heavier.

MR. WALCZYK: That makes -- that makes sense to me. Now, when we're talking about recycled materials and materials that you can pull out of there and meet this weight requirement, for example, which are -- which are the heaviest that you see an

opportunity to -- that the State really needs to capitalize on?

MR. ENGLEBRIGHT: Well, it's -- it's really everything mixed together. It's, you know, we don't have the waste for the most part segregated into materials that are -- that are separately measurable, with the exception perhaps of C and D, construction and demolition debris, and that's really rock material. A lot of cement, some metals, but metals are a small component.

MR. WALCZYK: So I'm --

MR. ENGLEBRIGHT: Metals are heavy --

MR. WALCZYK: And -- and following your example here, there isn't an anticipation that we're going to be finding a recycling process for concrete, for example, is there?

MR. ENGLEBRIGHT: Oh, I think concrete can be recycled. It's useful as -- as a subaggregate for roads. It's useful for construction of a variety of -- of shoreline hardening, not that I'm a big fan of shoreline hardening, but as sea level rises, we're going to have to protect New York City from being overwhelmed by the rise of sea level. We have a -- a variety of needs for recycled cementitious rock-like material, yeah.

MR. WALCZYK: Okay. I -- I see where you're going and I'd consider that more of a -- more of a repurpose or an upcycle than a full recycle. You're not -- you're not envisioning that we're going to break concrete down to its core elements --

MR. ENGLEBRIGHT: No.

MR. WALCZYK: -- and then recycle it into new

concrete --

MR. ENGLEBRIGHT: More in the manner that you just described.

MR. WALCZYK: -- to form something else out of it. Okay.

MR. ENGLEBRIGHT: Yeah.

MR. WALCZYK: Yeah. And that would -- and in that process, so if you're taking chunks of concrete from a construction project and instead of putting them in a landfill --

MR. ENGLEBRIGHT: Exactly.

MR. WALCZYK: -- you're saying both the bulk weight of that, if that's pulled out of the stream and repurposed that would count towards your 85 percent goal here.

MR. ENGLEBRIGHT: Sure.

MR. WALCZYK: Okay. What about glass?

MR. ENGLEBRIGHT: Glass is very recyclable. It's the classic, actually the old Coke bottles from the 1940s, '50s and '60s.

MR. WALCZYK: What's --

MR. ENGLEBRIGHT: Glass is very recyclable and -- and glass is actually a mineral. It's silica.

MR. WALCZYK: Through you, Mr. Chair, if the sponsor would continue to yield, what -- what happens with our glass in -- in large part today? Are we -- when we throw it into a single-stream bin or a source-separated or whatever the recycling situation in your local municipality is, you know, from a young age I

learned that you should rinse out the jar of spaghetti sauce real good because you wanted to make sure that that was a clean jar --

MR. ENGLEBRIGHT: You're a do -- a good (inaudible), yeah.

MR. WALCZYK: Sure. And -- and always have and I think many -- most members here also want to do the right thing --

MR. ENGLEBRIGHT: Sure.

MR. WALCZYK: -- by reducing, reusing, and recycling and being great stewards of our -- our land and environment.

MR. ENGLEBRIGHT: Absolutely.

MR. WALCZYK: What -- what happens to most of those bottles in the State of New York right now after we've washed them out and separated them by color or thrown them into a -- a bin that shows up at a MRF?

MR. ENGLEBRIGHT: Well, we have a bottle bill so those portions of the waste stream that are glass that are covered by the bottle bill are direct -- go directly back into the --

MR. WALCZYK: Through you, Mr. Chair, I'm not talking specifically about --

MR. ENGLEBRIGHT: You're talking about mayonnaise jars.

MR. WALCZYK: I think we're talking about recycling here not necessarily asking manufacturers to put a deposit on it and that's a separate bill for a different day --

MR. ENGLEBRIGHT: That's a separate bill and a



separate issue.

MR. WALCZYK: -- and I'd like to -- I'd like stick to the issue at hand, if that's okay.

MR. ENGLEBRIGHT: Absolutely.

MR. WALCZYK: What about those -- those glass products that we're actually putting into the recycling stream? What ultimately happens to that glass?

MR. ENGLEBRIGHT: They -- they're technically able to be recycled, but right now for the most part they're just being landfilled.

MR. WALCZYK: I'm --

MR. ENGLEBRIGHT: We don't have any --

MR. WALCZYK: One -- one more time for the -- for the record, Mr. Speaker, did you say that glass that we think that we're recycling is being thrown into the landfill?

MR. ENGLEBRIGHT: I'm sorry, can you repeat that?

MR. WALCZYK: Yeah. I'm asking you to confirm what you just stated. The glass that we believe that we're actually recycling, that's being thrown into the landfill?

MR. ENGLEBRIGHT: Some goes to the landfill. The -- the glass that we are able to collect, a good deal of it is not recyclable at the present time. We -- we don't have the kind of source separation or standards for manufacturers that give us the ability to bring that glass back into useful service. If you mix brown glass with

green glass with clear glass, you end up with muddy glass. It's not very economically recyclable. We have some programs for glass in which the glass is crushed and used as part of road aggregate; that's been done experimentally. We have some examples where the glass can be used as an aggregate in the creation of cement blocks. So there's some recycling capability. I anticipate that those early experiments, some -- some from 20 years ago on the recycling of glass have -- will give guidance to the DEC and in two-and-a-half years from now if -- if we're successful in passing this, the DEC will give us the details on how glass and other materials might be recycled.

MR. WALCZYK: I'm going to imagine -- through you, Mr. Speaker, I've got to imagine we're going to see a great increase, if -- if this bill becomes law, in the need for material recovery facilities, what we generally call MRFs. Do these material recovery facilities, do they like glass being in those facilities or do they degrade the other actually recyclable products that could be taken to market and help with a lot of environmental goals in our baseline which really comes down to some dollars here at the end of the day. Is glass helpful in a MRF or is it hurting?

MR. ENGLEBRIGHT: It -- it -- you'll find different opinions and different sites, but what I have heard most often and most frequently is that glass is a real problem. That it really messes up getting crushed glass mixed in with other materials and contaminating the entire stream.

MR. WALCZYK: Is there something in this

legislation or do you anticipate that the Department of Environmental Conservation is going to acknowledge this fact that both glass is going into our landfills currently even though most of us believe that we're recycling it, and then it actually degrades the rest of the recycling products that are going to market and are actually --

MR. ENGLEBRIGHT: It depends on how it's managed. We presently have pretty primitive management. So broken glass is a contaminant. Glass itself, if we're able to keep it separate, particularly if we're able to use sorting machines that separate the different colors of glass, that's very recyclable. And I anticipate that that will be something that the report from the Department will focus on and give us some guidance on.

MR. WALCZYK: Let's about the -- the -- if -- if you'd indulge, let's talk about the recyclability of glass because you did mention, you know, it's turned in to cullet, it may be separated by different colors and has a few different purposes. It -- does the concrete industry have a great interest in recycled glass cullet? Is there a good market for that? Is there an example in New York State or elsewhere, whether it's a sister state, as you put it, or some other place where concrete companies are saying, *Get me that recycled glass. I would prefer that over clean sand.*

MR. ENGLEBRIGHT: I have not heard that. I anticipate that if -- if we open a conversation -- I say "we." I'm really talking about the Department and in close coordination with our municipal partners, if we open a conversation with the industry that

we might find a way to enable the industry to make better use of crushed glass. They -- they really like natural aggregate. It's what they're used to, it's what they do on a daily basis. In some cases those industries also own their own sand quarries. So it's -- it's going to take a little bit of work, I think. But it's certainly a doable proposition.

Glass is infinitely recyclable. You can melt it. You can reform it --

MR. WALCZYK: I'm glad --

MR. ENGLEBRIGHT: -- Infinitely.

MR. WALCZYK: I'm glad you brought that --

MR. ENGLEBRIGHT: It's silicon dioxide. It -- chemically, it comes from quartz, which is a mineral. It's one of the main minerals of granite. It's the right kind of mineral.

MR. WALCZYK: Right. And -- and glass, my understanding is made from sili -- sand, you, in this process, are essentially saying the recycled glass in the future that we put back into this stream may be turned back into sand or any inferior product to sand. Then additional dollars and effort and energy could be put back into that sand in order to make it a glass product or for some other purpose, whether it be an aggregate for a base layer. Here's -- here's -- here's my question specifically on this, and I -- I wanted to pick on glass because when -- when you told me that bulk weight is a -- is a big part of this goal here, glass is one of the heaviest recyclables that we have. And so in order to meet that, you could actually put a policy forward today that puts additional glass into our recycling stream which would further degrade a lot of actually recyclable products,

whether it be cardboard, which there's great demand for right now and we're doing a pretty good job of it. Or whether it be all of the other things that go through a MRF, for example, has the potential to be degraded by the glass. And at the end of the day I'll look at the sum total of this thing, and I say why spend so much energy and time and effort to break this thing down when it's -- it's base things are cheap. It doesn't really have a terrible environmental degradation to it when it's in a landfill. It does take up some space and have some weight. But what do we really gain when we pour so much energy back into breaking down our glass in order to turn it back into that product?

MR. ENGLEBRIGHT: This measure doesn't speak to a formula. It calls upon the Commissioner and the Department to analyze the entire waste stream, with the priority on reduction in volume. It's interesting that you've focused on glass. Glass is one of the most recyclable materials, as I'm sure you know, that go -- goes into the waste stream. A more sophisticated separation process, possibly with more cooperation through education of our citizens so that there be source separation - that would be of great assistance to our municipalities - will produce glass that is very recyclable and is actually preferred over gravel for the foundries that melt silica to create glass. They'd rather use a -- a well-sorted glass material that's already gone through the process of production at least once.

MR. WALCZYK: I appreciate your answers.

I'll go on the bill very quickly, Mr. Speaker.

ACTING SPEAKER AUBRY: On the bill, sir.

MR. WALCZYK: So, I picked on glass specifically for the reasons I -- I stated already. It's one of the more heavy of the recyclable products. So if you're setting some imaginary metrics -- I think it's great. I mean, we always want to do things that are better for the environment. But here's the thing. We're not actually recycling glass, and it doesn't actually make sense to recycle glass. Why would you spend additional time, effort and money and fossil fuels to truck this stuff around, source separate it, when it actually degrades recyclable products that can go to market and help the entire process? When you do a one-size-fits-all and ignore that really -- and I know it's tough, right? From a young age my mother taught me, like, *Rinse out that bottle. It's going into the recycling bin. We're doing the right thing for the environment.* But then to learn that this stuff is actually -- if we break it down into cullet there's no market for it.

(Buzzer sounds)

Can I use some additional time, Mr. Speaker?

ACTING SPEAKER AUBRY: You're asking for another 15?

MR. WALCZYK: I am.

ACTING SPEAKER AUBRY: We do have other members. Do you want to come back to that 15?

MR. WALCZYK: I'm happy to come back. Thank you, Mr. Speaker.

ACTING SPEAKER AUBRY: Thank you.

Ms. Giglio.

(Pause)

Ms. Giglio?

MS. GIGLIO: Me?

ACTING SPEAKER AUBRY: Yes, ma'am.

MS. GIGLIO: Thank you. Mr. Englebright, will you please answer a question for me?

MR. ENGLEBRIGHT: Go ahead.

MS. GIGLIO: Thank you.

MR. ENGLEBRIGHT: What's your question?

MS. GIGLIO: So what is the estimated garbage by pounds each person in New York State produces a day? And I know you know the answer to this question.

MR. ENGLEBRIGHT: I don't know the answer to that question.

MS. GIGLIO: Okay. So --

MR. ENGLEBRIGHT: I think it would probably vary, dependent upon whether it's a rural or urban or suburban setting.

MS. GIGLIO: Okay.

MR. ENGLEBRIGHT: Whether it's a -- a family with six kids and they're all sharing the same meal preparation or if it's just a couple.

MS. GIGLIO: Okay. And as you know, the town to which you live in, which is also in my district, the Town of Brookhaven, the landfill will be closing in 2024.

MR. ENGLEBRIGHT: Right.

MS. GIGLIO: And where do you anticipate all of the garbage from Long Island and all over -- the garbage that goes into that landfill, where do you think that garbage will be going?

MR. ENGLEBRIGHT: I have a hope that we'll get an answer for that very important question. We provided a \$250,000 grant to the Town last year out of the Environmental Protection Fund. In speaking with the Supervisor of the Town and also the Supervisor of Babylon Town, both of those towns that have landfills, the last two landfills operational on Long Island. They're presently favoring going to the Waste Management Institute at SUNY at Stony Brook to ask them to answer the question that you rightly posed.

MS. GIGLIO: Yeah. Because there are also several transfer stations that are being proposed. I'm sure you're familiar with the one that is being proposed in Yaphank on that site over there and other landfill transition areas like in Medford for Gershow, for example. So I guess my concern is that once the landfills all close that the garbage, if we don't have solutions now, is going to be taken off of Long Island and it is going to be using a lot of gas in the trucks and the wear and tear on the roadways and the recyclables not being reused. I know in 2019 the Long Island Regional Planning Council was commissioned to come up with solutions for glass and for recyclables. And do you know where they are as far as that plan is concerned, the Long Island Regional Planning Council on how to cut down on garbage and then how to get it off of Long Island?

MR. ENGLEBRIGHT: I don't believe that that has



been - that study has been completed. I haven't seen a print of -- of any work product from that study. But I can tell you that I still had brown hair when Johnny Carson was making fun of the Town of Islip for its garbage barge. And we now, as you rightly point out, are kind of up against a deadline in two of our largest towns. So, that's why we provided a grant last year to enable the supervisor, the wonderful supervisors in both towns, to enable those supervisors to have some tools to work with to begin to really grapple with the difficult decisions that revolve around the closure of the landfills. The one in Brookhaven will close first, in about two more years, and two years after that, Babylon. And in, you know, in political time that's two -- two election cycles.

MS. GIGLIO: So that's coming up pretty quick.

MR. ENGLEBRIGHT: In the time of our State it's almost immediately.

MS. GIGLIO: Yeah. Thank you for answering my questions.

MR. ENGLEBRIGHT: You're welcome.

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

ACTING SPEAKER AUBRY: On the bill.

MS. GIGLIO: I think this is a lofty goal. I think it's a noble goal. And I think it's something that New Yorkers are going to have to start realizing that we are going to have to start reducing our garbage stream. With the cost of getting rid of garbage off of Long Island especially, it's -- I've seen the numbers increase 20, 30 percent

in municipalities with their, you know, their household waste. So I think it's a lofty goal. I think it's a good goal. I'm going to be supporting the bill. I think we need to come up with solutions, especially with wine country on the North Fork of Long Island and maybe helping those wineries reuse their wine bottles and offering incentives for that. And then maybe the State can subsidize or think about doing that so that we can keep our wineries running and up and going until we come up with solutions. We've been talking about pulverizing the glass and using it as shoulder beds and -- and trying to find different uses for it, and I just haven't seen any true reports that have proven how recyclables can be reused, and I think that that is something that we really need to focus on with all these landfills closing. Not only reducing our waste, but trying to figure out new markets for these recyclables. We used to get paid for the recyclables. We used to get paid for the glass. We used to get paid for the paper. We used to get paid for the plastic. Now it's costing to get rid of it. So, New Yorkers and Long Islanders especially pay a tremendous amount of money in taxes, and the garbage tax just seems to be going upward.

So I look forward to working with Mr. Englebright in coming up with some of these solutions and relieving some of these businesses rather than bills such as the bottle bills, which, you know, nobody even knows where that money goes, that five cents goes. So in order to help improve the garbage stream which is what the money should be going towards. It's going right to the supermarkets, and

what they're spending it on I'm not sure. But it's a -- it's a good thing to try and reduce our garbage. And for that I thank you and I will be supporting the bill but look towards finding new markets for recyclables and for our waste management.

Thank you.

ACTING SPEAKER AUBRY: Thank you.

Mr. Manktelow.

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

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

MR. ENGLEBRIGHT: I yield.

ACTING SPEAKER AUBRY: The sponsor yields.

MR. MANKTELOW: Thank you, sir. You had said at the beginning that DEC would take the lead on this in developing a goal or a way to get to working on a goal.

MR. ENGLEBRIGHT: That's what this -- this bill calls for, yes. It calls for thought, planning, anticipation and then action. A report would be delivered back to us in 2025.

MR. MANKTELOW: Are they aware of this at all, do you know? That this will --

MR. ENGLEBRIGHT: Oh, they're -- they're very aware. This is coming up like a bug on a windshield. They -- they know this is coming. You bet. They know about -- they know about this issue.

MR. MANKTELOW: Okay. One of my -- my questions would be, when they decide to help develop this, would we, as the State, reach out to our private companies? Companies that actually do this for a living, actually do it for profit? Or would we totally rely on DEC to do all of this and not really involve the private sector?

MR. ENGLEBRIGHT: Your question is a very good one and very insightful. Of course we should expect that the DEC will not shut their door and talk to themselves. They need to talk to all of the stakeholders. That's a very important part of this.

MR. MANKTELOW: So -- so do you think -- you just made a good point. Do you think it would behoove us as State legislators to maybe ask the private firms and companies to develop this and then they could reach out to DEC and have them help at a certain point?

MR. ENGLEBRIGHT: The DEC -- what the bill calls for is for the DEC to be responsible. I believe that that means they should allow information to flow in both directions. I don't think that we should become dependent upon the corporations that have a self interest. But I think that we should have an ongoing dialogue and -- and work closely with them in a problem-solving mode, and at the same time work with our municipal partners.

MR. MANKTELOW: Well, we too, at the county level when I was back home, we also had an MRF and we had single -- no, we had separate streams of recycling coming in. And one of

the biggest tools that we weren't very good at was somebody that was going to actually broker the material. You know, because prices go up and down you need someone to broker it that understands how to broker it. That understands the highs and the lows of selling recyclable products. And -- and I wouldn't believe that DEC would have anybody on board that could handle something like that.

MR. ENGLEBRIGHT: The -- the Department doesn't have those people on -- on their own staff, to my -- to the best of my knowledge. Although they have very knowledgeable people. The Department's main problem is that they are understaffed, not that the staff is under -- under-prepared or not well-educated. It's quite the opposite. The people there, from what I can tell, are highly qualified but just feel swamped because the agency has lost a third of its personnel in the last decade. They're beginning to rehire. This Commissioner assured us during the hearing just in January, a couple of months ago, that he was prioritizing some of the key hotspots in the environmental array of issues, and this is certainly one of those. I anticipate that he will be doing some hiring. But, yeah. They -- they need to talk to people in the field, people in the industry, people in local government and cast a broad net for insider information.

MR. MANKTELOW: Do you know who the biggest buyer of recyclables are?

MR. ENGLEBRIGHT: Yeah, it's going to vary depending upon what substance we're talking about, what commodity we're talking about. Of course until about three years ago it was

China, and they decided that they didn't like our mixed -- we really hadn't been giving them very pure or well-sorted plastics, for example, and they decided that they would just stop that. Some of the other Southeast Asian countries have picked up, but our municipalities have not been able to -- as you heard from some of the other comments, some of our local jurisdictions are still suffering because what used to be a revenue stream is now a costly loss of -- of income. Yeah, some -- some of the markets have recovered. It would depend, you know, upon the particular commodity.

MR. MANKTELOW: Well, you know, I think --

MR. ENGLEBRIGHT: Commodities aren't doing very well.

MR. MANKTELOW: You -- you made a great point. I think that's why it's so important to get the private sector, the businesses that actually do this, involved in this and let them be the frontrunner and let DEC be a side or a help to them when they're needed. Because they're going to be able to know the numbers, the true numbers of what it costs to move the material, where can it go. I would much rather see private entities push this forward with the help of DEC as an add-on or helping them to get them where you want to go.

MR. ENGLEBRIGHT: You talk like you know what you're doing. Were you a supervisor in a prior life?

MR. MANKTELOW: Sometimes I was, yes.

(Laughter)

MR. ENGLEBRIGHT: Because you have -- you have some -- some real insight here based on your questions. And yes, the -- the Department shouldn't try to go this alone. They really do need to reach out to everybody who is a stakeholder both in the private world and in the public world.

MR. MANKTELOW: Well, I thank you for that and you're absolutely right. I do agree with that. I think anything we can do to take the pressure off of DEC, because you and I both know they are overworked, understaffed, and we constantly keep adding more and more and more to their plate. And I applaud the Commissioner. He does a great job. He's also a veteran as well, and I know he knows how to lead. But you can only lead with what you have. And as we continue to throw electrification, looking at everything we have going on in New York State, it's a lot for them. I'm not sure they could get enough people to do the job. And that's why I think we, as legislators, really ought to try and push and get the private companies involved to take that pressure off of DEC and accomplish the mission that we need to do and we're set out to do because it will -- it will go quickly. We'll have a better understanding if it's profitable. And also, it takes a lot of that cost off the backs of taxpayers, and at the same time gives a private company the possibility of growing and hiring other people. So, just my thoughts.

MR. ENGLEBRIGHT: I would agree with everything you've just said. And you're a member of the Committee, a very valued member and obviously a knowledgeable one. And I

would be pleased to work with you and the other colleagues. This is not a partisan issue. This cuts across into the grain of all of our home communities, and the people who sent us are depending upon us to work together on this end. I look forward to doing that with you and -- and the others who have spoken.

MR. MANKTELOW: Thank you, Mr. Englebright. And I -- and I know you -- you're from Long Island. I know my colleague from Long Island and we have different parts of the State. Just -- I'm sorry, I just have one more quick question. I apologize.

MR. ENGLEBRIGHT: Certainly.

MR. MANKTELOW: I've been to New York City. I've been down to some of the locations where they load the trash trains - that's what we call them - that come up to Upstate New York. They bring the trash up there. Composting and recyclables and anything of that nature. Any time we decide to move that product someplace, you're moving dead weight. You're moving a product someplace away from where we're going to use it, mainly on the East Coast where the cities are. Is New York City itself, are they engaged to -- to working with the State to help develop something for New York City for the borough areas so we don't have to --

MR. ENGLEBRIGHT: They are. And we have a new administration who sent some of their environmental administrators up here just within the last two days. I think they're eager also to be in the problem-solving mode.

MR. MANKTELOW: Okay. I -- I appreciate your



time, Mr. Chair.

And on the bill, Mr. Speaker.

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

MR. MANKTELOW: As one of my colleagues said, this is -- this is a great option and a great time to again move New York State forward. But we, as legislators, need to make sure we do it in a way that's going to be profitable for the people that are going to deal with this stuff and with the products. And we have to get private business in there to take the -- the load off of our taxpayers. This is a way to do it. This is a way to find out if we can do it profitability. And involving the individual regions, Long Island, New York City, Upstate and making this work and making us leaders. I'm all for it. I -- I applaud the sponsor for bringing this forward and I would be more than willing to work with him, as we do already.

So I just say thank you again for bringing this forward, and thank you, Mr. Speaker, for the time to be allowed to speak.

ACTING SPEAKER AUBRY: Thank you, sir. Mr. Salka.

MR. SALKA: Thank you, Mr. Speaker. Would the sponsor yield for just a brief question? And -- and I'll make a few comments.

MR. ENGLEBRIGHT: I yield, Mr. Speaker.

ACTING SPEAKER AUBRY: Mr. Englebright

yields, sir.

MR. SALKA: Thank you, Mr. Englebright. And I -- I have to admit, this is one that you're proposing I really am enthused about. I think that every time -- if you're living in a rural area it seems to be -- and I grew up in the City, but I live in a rural area now -- it seems be that we're a little more conscientious about what we're throwing out because it means more to go to the transfer station and so forth and so on. So, you know, I -- I -- I applaud your efforts and look forward to working with you on this.

I -- I guess one of the things that doesn't seem like -- it just doesn't seem like they have enough time to do this. If in fact the DEC is going to have until 2025, that only give us seven years to implement what I think - and I would hope you would agree - is -- is really a cultural change. Because it seemed to be for a long time we were going full guns on recycling. It seemed to be something that people had in the back of their mind for a good portion of the time and how they managed their lifestyles. Would you agree that maybe that's kind of taken a backseat a bit?

MR. ENGLEBRIGHT: I would. And I think your observations about our time constraints are very accurate. We're really up against it. I think that's -- that's also why I wanted to bring up the garbage barge. That -- that's a third of a century ago. And we've wasted many of those years by not being attentive and not planning ahead. We needed to have done this yesterday, but tomorrow is going to be there with the sunrise and we should be ready

for it. This is on our watch, those of us who sit here today as members of this -- of this important legislative Body. So all we -- we can't recapture time lost, but we can do everything we -- we need to do by working together and drawing inspiration from experiences in each of our respective parts of the State, being empathetic and listening and then putting resources into place for our local municipal jurisdictions and our State Department of Conservation.

MR. SALKA: Yeah. And -- and I agree definitely. And you know, we know that the recycling market now is, more than ever, is something that depends on the international (inaudible). As you mentioned that we sold most of our recyclables for a long time to China and then for a host of reasons, right, we are no longer able to do that.

MR. ENGLEBRIGHT: I think -- I think we got lazy and presumptuous that that was going to continue, even if we gave them poorly-sorted materials that they would tolerate it. And they turned out not to be tolerant at -- at a point about three years ago and now we are literally paying for that.

MR. SALKA: Exactly. If -- if I may make a suggestion. If you put it in the back of your mind that, because as I've mentioned, it's a -- it's a cultural issue that we should start to orient children more into how to better manage, you know, what they're throwing away. Or maybe (inaudible) just thinking again about buying something that -- that they are just going to throw away.

MR. ENGLEBRIGHT: The education component of

this is the unifying need --

MR. SALKA: Exactly.

MR. ENGLEBRIGHT: -- at -- at all levels, be they rural or suburban or -- or -- or urban. And your -- your point's very well-taken. That's -- that's a key mechanism for ultimate success. Or if we don't do it, failure.

MR. SALKA: Thank you, sir.

If I may, Mr. Speaker, on the bill.

ACTING SPEAKER CUSICK: On the bill.

MR. SALKA: As -- as I mentioned, I applaud the sponsor. It's an ambitious goal, there's no doubt about it. But fortunately enough we live in a very ambitious country and a very ambitious State. And although I would beg to differ a little bit about whether or not we can do it in what is really an accelerated pace, I think it's a goal that's worth -- worth pursuing. It's something that is going to affect our children, our children's children. And if we don't do something about it we're going to be up to our waists in garbage, so I think it's very important.

Again, I appreciate the sponsor and I applaud your efforts. Thank you, sir.

MR. ENGLEBRIGHT: Thank you.

ACTING SPEAKER CUSICK: Mr. Brown.

MR. BROWN: Thank you, Mr. Speaker. Mr. Englebright, will the sponsor yield for a couple of questions?

ACTING SPEAKER CUSICK: Will the sponsor

yield?

MR. ENGLEBRIGHT: I yield.

ACTING SPEAKER CUSICK: The sponsor yields.

MR. BROWN: Thank you very much, sir. Just -- really, just a couple of questions relating to the actual study that's being done. Just reading in my notes it says it is authorized -- that the DEC is authorized to advise and cooperate with local planning units to achieve this goal. The local planning units, does that include any other State agencies?

MR. ENGLEBRIGHT: I didn't -- I didn't quite hear the last part.

MR. BROWN: The local planning units, does that relate to any other State agencies? Are they -- are any other State agencies involved with this study?

MR. ENGLEBRIGHT: It's mostly the DEC. They can consult with the Health Department, of course, for some of the materials such as hospital waste. But it's mostly DEC. We're not really expecting other State agencies to be really giving us a great deal of guidance. We hope that they cooperate. And -- and, for example, parks, the Department of State Parks can help by doing some things with source separation waste at the parks sites. Same with DOT, the State Thruway Authority and the Thruway stops. But the real guidance and -- and the real responsibility lies with the Department of Environmental Conservation.

MR. BROWN: Great. Thank you. And is the goal

of the measure to -- to implement a regional solid waste management program all over the State?

MR. ENGLEBRIGHT: I think we need to let the Department sort that out. The goal, of course, is a Statewide goal. This -- this is a measure for the whole State, yes. But a one-size-fits-all in terms of a strategy is probably not a very good structure to work as a framework for success. Because the State -- I mean, we're a State that's the size of a nation. We have a lot of different circumstances. As I've indicated, rural is very different from urban or suburban, and our population density varies greatly and the strategy is probably going to have to be varied as well. But we leave that in this bill to the Department to sort out.

MR. BROWN: Along those lines, will there be any public hearings held with regard to this?

MR. ENGLEBRIGHT: They're not called for, but I'm glad you asked the question because as this is such an important issue for all of our home jurisdictions, we're certainly going to be in public hearings on the budget as it affects this policy area with the EPF and -- and the availability of personnel within the Department to provide technical assistance and -- and grants through the EPF. So there are public hearings built into the budget process. I think you're asking, though, are we going to have separate hearings. I'm certainly open to that. We don't have anything built into the bill that calls for it. But I don't want to wait two-and-a-half years and then, you know, some of us won't be here in two-and-a-half years. Some of us will

have graduated to other responsible positions. So I think it does makes sense for us to keep that -- that door open. And it is a real likelihood, I think, that we'll be calling for the Department to come to a special hearing on this along the way between now and two-and-a-half years out.

MR. BROWN: Very good. Thank you.

Mr. Speaker, on the bill.

ACTING SPEAKER CUSICK: On the bill.

MR. BROWN: I -- I promised that I would be brief to myself because I understand this is the last bill of the day and I'm sure everybody would like to -- to go home. But I -- I just want to take a moment, and I applaud the sponsor for this measure. Some of my colleagues have brought up several points that I just wanted to kind of flush out a little more. I do see the importance of having public hearings on this. I do see the importance of bringing in other State agencies, and I do see the importance of looking at this from a regional approach. Because as we all know, what -- what may be good for Long Island may not be good for the North Country. So I -- I think looking at that in those terms is extremely important. I think we can all agree in this Chamber and also over down the hall in the Senate that we do have a solid waste crisis. And it's not looming, it's here. It's -- it's relevant not only for New York State, but also for Long Island. As Mr. Englebright has stated before, with the closure of the Brookhaven Landfill in a couple of years, it's going to become even more of a problem. But it's particularly important for Long

Island where our -- our number one export is actually our solid waste, our garbage. So current recycling has declined in recent years. And I understand that this is an aspirational study for the DEC to come up with a plan, and -- and so that we can avoid really becoming the -- the equivalent of the movie *WALL-E*, which as everyone may know is a -- is a cartoon movie, but it describes the Planet Earth which is full of garbage all around. So, the other portion of this, though, is very important and I think that it will be more relevant with some other bills that I believe are coming down, but right now all these costs are borne by the local municipalities. And it's -- it's unfair and it's causing the taxes of our local municipalities to go up. The fact that it gives the State ten years to come up with this plan I think makes a ton of sense rather than shipping our solid waste by road to Upstate New York and places like Ohio and Pennsylvania. So I -- I hope that there will be a Senate companion for this. I would like to see some amendments to it just to make the -- the study a little more comprehensive, a little more broad. But I believe that this is really important, along with, you know, working on the EPR bill and the bottle bill.

So I want to thank the sponsor for this measure and I'm pleased to vote in favor of the bill and encourage my colleagues to do the same. Thank you very much.

ACTING SPEAKER CUSICK: Read the last section.

THE CLERK: This act shall take effect immediately.

ACTING SPEAKER CUSICK: The Clerk will record the vote on A.4117. 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.)

Mr. Englebright to explain his vote.

MR. ENGLEBRIGHT: Thank you, Mr. Speaker. A couple of geological thoughts that come to mind here. One is looking at the classic work by Myron Fuller, *U.S. Geological Survey Professional Paper 71* published in 1914. The second plate shows the map of Long Island at the beginning of the last century. The marshes were magnificent. If you look at the marshes today, 60, almost 70 percent of our entire wetlands have been filled with solid waste. A terrible loss. We've heard some of my colleagues speak about moving solid waste off of Long Island to Upstate. They're talking about putting it into quarries, for the most part. In Ohio, the great quarries. I used to go there when I was much younger to collect fossils. It hurts me to think that we're going to be filling those -- those classic geological sites with -- with garbage. We need to do better. Part of that is to join together, and I -- I sense that we are -- are close to being joined together here on this issue and work together along with empowering the Department to do the same. And setting this goal is an important -- still, I must admit late, but not too late, I hope -- moment in the history of our State. We need to face this.

I thank all my colleagues for their -- their thoughtful comments and urge everyone to join in this effort. Working together, I think we can solve this problem. We don't need to send our waste to

the great Medusa quarries in -- in the suburbs of Cincinnati. That's nuts. We can do better.

Thank you, Mr. Speaker. I vote aye.

ACTING SPEAKER CUSICK: Ms. Griffin to explain her vote.

MS. GRIFFIN: Thank you, Mr. Speaker, for allowing me to explain my vote. As the Chair of the Legislative Commission on Toxic Substances and Hazardous Waste, I commend the sponsor for bringing this forward and I'm proud to cosponsor this impactful legislation. I am not proud of the fact that solid waste is our largest export on Long Island. It is essential that New York State lead in advocating for a strong reduce, reuse, recycle and compost program as we already are very behind. It's critical -- critical for us to increase the State's recycling rates. Landfills are costly and so is exporting solid waste. So a huge benefit of this policy is that a great deal of money will be saved by our municipalities throughout New York State, but especially on Long Island. We must work together to explore and enact comprehensive solutions to solid waste.

Thank you to our wise Chair of the Environmental Committee. I vote in the affirmative.

ACTING SPEAKER CUSICK: Ms. Griffin in the affirmative.

Mr. Fitzpatrick.

MR. FITZPATRICK: Thank you, Mr. Speaker. You know, all of us are consumers, and when we've consumed what we

purchased we throw it away. It goes into the garbage can and a couple times a week we put it out at the curb. It gets collected and it disappears. Or at least that's -- that's what most people think, it disappears. Well, it doesn't. And those of us who have served at the municipal level of government know that it's our job to put it somewhere. So I think this bill is a great idea. I want to offer my heartfelt thank you and congratulations to my colleague for sponsoring this. We happen to go back a long way together on this issue. Steve serves to the east of me. And I have little bit of history working on solid waste in the Town of Smithtown when we reorganized our commercial solid waste program, and I ended up taking a trip out to Tulsa, Oklahoma to study what was known as the "Tulsa Plan," which was a volume-based system of disposing solid waste. And we spent five days in Tulsa studying garbage and eating some good barbecue after -- after our meetings. But we implemented that program in the Town of Smithtown and it worked beautifully and it's been copied elsewhere. Recycling, I always considered myself a great recycler. I recycle everything in my house. I drove my kids and my wife crazy because, *That goes in the recycling bin. That goes in the recycling bin. Don't throw that out.* We need to do a better job. So we need to not necessarily consume less, but we've got -- we have to produce less packaging. And packaging is the real problem. And I don't want to see anybody lose their job because every package is somebody's job. Somebody produced this, and somebody -- we have to find a better way to package our products, reduce the volume, reduce the amount

of packaging because it doesn't disappear. It goes somewhere.

So I want to say thank you to my colleague. Steve, at this you're the best. And, you know, this is important for not just Long Island but for the entire State and the nation. Thank you.

ACTING SPEAKER CUSICK: Mr. Fitzpatrick in the affirmative.

Mr. Goodell.

MR. GOODELL: Thank you, sir. I'm glad to support this goal of 85 percent of recycling. This is not a new issue for us, certainly. Back in the 1990s the State required every municipality to develop a comprehensive solid waste management plan. As a requirement 30 years ago. And part of that comprehensive solid waste management plan, every municipality had to come up with plans on recycling, reuse, composting and reduction. And I know in my county, we did that. And when we implemented curbside pickups of glass, cardboard, cans. We were one of the first in the State and there was a great market for those products. And so we could actually operate it profitably. Thirty years later, there's been a huge push. A lot of other people have gotten into the recycling business. There's a glutton market. You can't give those products away. Some of those products you just can't give them away. And as my colleague Mr. Englebright noted, as a result we have curbside pickup. We have colleagues like my colleague Mr. Fitzpatrick that's studios about recycling. And after we have source separation and everyone's washing the glass it gets to the landfill and it's all dumped in. So if

you're serious about this -- this 85 percent reduction, and I think we are and should be, we also have to be serious about addressing the economics and developing markets where these recycling materials so that we're not spending millions of taxpayers' dollars to source cycle -- recycle only to dump it in the landfill. And so I appreciate the goal. Now the hard work comes in making sure we develop markets so that this will work and not just be a goal on paper.

So again, thank you to my colleagues and all the comments that were made today that are all, in my opinion, very thoughtful. Thank you, sir.

ACTING SPEAKER CUSICK: Thank you, Mr. Goodell. Mr. Goodell in the affirmative.

Are there any other votes? Announce the results.

(The Clerk announced the results.)

The bill is passed.

Mrs. Peoples-Stokes.

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

ACTING SPEAKER CUSICK: No housekeeping. We have a number of resolutions which will be taken up in one vote.

All in favor signify by saying aye; opposed, no. The resolution are adopted.

(Whereupon, Assembly Resolution Nos. 716-718 were unanimously adopted.)

Mrs. Peoples-Stokes.

MRS. PEOPLES-STOKES: Mr. Speaker, would you please call on Ms. Hunter for the purposes of an announcement?

ACTING SPEAKER CUSICK: Ms. Hunter.

MS. HUNTER: Yes, Mr. Speaker. We will need to have an immediate Majority Conference at the conclusion of our Session.

ACTING SPEAKER CUSICK: There will be an immediate Majority Conference after -- at the conclusion of Session.

Mrs. Peoples-Stokes.

MRS. PEOPLES-STOKES: I now move that the Assembly stand adjourned until 9:30, Thursday, March the 31st, tomorrow being a Session day.

ACTING SPEAKER CUSICK: The House stands adjourned.

(Whereupon, at 6:28 p.m., the House stood adjourned until Thursday, March 31st at 9:30 a.m., that being a Session day.)