

WEDNESDAY, JUNE 2, 2021

12:48 P.M.

ACTING SPEAKER AUBRY: The House will come to order.

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

(Whereupon, a moment of silence was observed.)

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

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

A quorum being present, the Clerk will read the Journal of Tuesday, June 1st.

Mrs. Peoples-Stokes.

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

dispense with the further reading of the Journal of Tuesday, June the 1st and ask that the same stand approved.

ACTING SPEAKER AUBRY: Without objection, so ordered.

Mrs. Peoples-Stokes.

MRS. PEOPLES-STOKES: Thank you, Mr. Speaker. Just reminding colleagues that I'm happy to see them all in Chambers again today and appreciate those who are joining us remotely as well. This is the second Session day of the 22nd week of the 244th legislative Session. The quote I would like to share today, Mr. Speaker, is from Robert Francis Kennedy. Most folks know him as RFK, he -- and some folks know him as Bobby. He was an attorney and the former U.S. Attorney General from 1961 to 1964. His words, *Few have -- will have the greatness to bend history itself, but each of us can work to change a small portion of events, and in the total of all those acts we will be written in the history of this generation.* Again, Mr. Speaker, those are words from Robert Francis Kennedy.

Colleagues do have on their desk a main Calendar, a debate list and an A-Calendar with 124 new bills on it. Mr. Speaker, I'd now like to advance that A-Calendar.

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

MRS. PEOPLES-STOKES: Thank you so much, sir. After housekeeping and introductions we will begin our work taking

up resolutions on page 3, and then we're going to continue consenting new bills on the main Calendar, beginning with Rules Report No. 236 on page 13 through Rules Report No. 278, which is on page 21. We are also going to be working off of the debate list that is on your desk, as well as we're going to consent the A-Calendar. That's the general outline. It's a lot to get done, but we certainly can get it all done today and I want to encourage colleagues to stay with us. And this is what we have, Mr. Speaker.

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

First, a little housekeeping.

On a motion by Ms. Kelles on the A-Calendar, page 26, Rules Report No. 404, Bill No. 7768, amendments are received and adopted.

On a motion by Mr. Sayegh on the main Calendar, page 9, Rules Report No. 177, Bill No. 4629-C, the bill is restored to its previous print.

And we will begin on page 3, Assembly No. 359, the Clerk will read.

THE CLERK: Assembly Resolution No. 359, Mr. Cusick.

Legislative Resolution memorializing Governor Andrew M. Cuomo to proclaim June 2, 2021, as Global Running Day in the State of New York.

ACTING SPEAKER AUBRY: On the resolution, all

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

THE CLERK: Assembly Resolution No. 360, Mr. Cymbrowitz.

Legislative Resolution memorializing Governor Andrew M. Cuomo to proclaim June 6, 2021, as Cancer Survivors Day in the State of New York.

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

THE CLERK: Assembly Resolution No. 361, Mr. Bronson.

Legislative Resolution memorializing Governor Andrew M. Cuomo to proclaim October 11, 2021, as Coming Out Day in the State of New York --

ACTING SPEAKER AUBRY: On the resolution --

THE CLERK: -- in conjunction with the observance of National Coming Out Day.

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

THE CLERK: Assembly Resolution No. 362, Mr. Gottfried.

Legislative Resolution memorializing Governor Andrew M. Cuomo to proclaim October 14, 2021, as Children's

Environmental Health Day in the State of New York.

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

THE CLERK: Assembly Resolution No. 363, Ms. Zinerman.

Legislative Resolution memorializing Governor Andrew M. Cuomo to proclaim October 4-10, 2021, as Active Aging Week in the State of New York.

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

THE CLERK: Assembly Resolution No. 364, Mr. Byrne.

Legislative Resolution memorializing Governor Andrew M. Cuomo to proclaim October 2021, as Eczema Awareness Month in the State of New York.

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

THE CLERK: Assembly Resolution No. 365, Mr. Epstein.

Legislative Resolution memorializing Governor Andrew M. Cuomo to proclaim November 1, 2021, as Vegan Day in the State of New York.

ACTING SPEAKER AUBRY: Mr. Epstein on the resolution.

MR. EPSTEIN: Thank you, Mr. Speaker. I rise in support of this resolution. World Vegan Day is an annual event celebrated by people around the world on November 1st. The purpose of World Vegan Day is to celebrate the champion of vegan lifestyle, talking about health, animal welfare and environmental benefits. Incorporating vegan diets could help attain our CLCPA goal and move to look forward to zero greenhouse emissions. Two out of three Americans have stopped or reduced their meat consumption according to Cambridge University researchers, and the growth of vegan foods across the country has -- has tripled in the last decade.

I encourage people to join me on November 1st for World Vegan Day and move forward toward a vegan diet. Thank you, Mr. Speaker.

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

Page 13, Rules Report No. 236, the Clerk will read.

THE CLERK: Assembly No. A07329, Rules Report No. 236, Zebrowski. An act to amend Chapter 329 of the Laws of 2009, amending the Family Court Act and the Social Services Law relating to removing special powers granted to the Society for the Prevention of Cruelty to Children, in relation to the effectiveness thereof.

ACTING SPEAKER AUBRY: Read the last section.

THE CLERK: This act shall take effect immediately.

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

Read the last section.

THE CLERK: This act shall take effect immediately.

ACTING SPEAKER AUBRY: The Clerk will record the vote on Senate print S.6392. 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 number previous -- numbers previously provided.

(The Clerk recorded the vote.)

First vote of the day, members.

Are there any other votes? Announce the results.

(The Clerk announced the results.)

The bill is passed.

THE CLERK: Assembly No. A07353, Rules Report No. 237, Bronson, McDonald, Abbate, Galef, Jacobson, Simon. An act to amend the Labor Law, in relation to requiring the Department of Labor to provide information to employers about shared work program eligibility and benefits.

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

THE CLERK: Assembly No. A07384, Rules Report No. 238, Thiele. An act to amend Chapter 643 of the Laws of 2019 amending the Local Finance Law, relating to establishing a electronic open auction bond sale pilot program, in relation to the effectiveness thereof.

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

Read the last section.

THE CLERK: This act shall take effect immediately.

ACTING SPEAKER AUBRY: The Clerk will record the vote on Senate print 6587. 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 bill is passed.

THE CLERK: Assembly No. A07386, Rules Report No. 239, Williams, Zebrowski. An act to amend the Executive Law, in relation to providing that there is no exemption from the requirement of nondiscrimination in advertisements and inquiries for the rental of an apartment in an owner-occupied two-unit dwelling, or for the rental of rooms in an owner-occupied dwelling, and that engaging in discriminatory advertising or inquiries will cause the

property to no longer be exempt from full coverage by the nondiscrimination provisions of the Human Rights Law.

ACTING SPEAKER AUBRY: The bill is laid aside.

THE CLERK: Assembly No. A07390, 2 -- Rules Report No. 240, Williams, Otis. An act to amend the Executive Law, in relation to including certain for-profit entities in the definition of educational institution.

ACTING SPEAKER AUBRY: Read the last section.

THE CLERK: This act shall take effect immediately.

ACTING SPEAKER AUBRY: The Clerk will record the vote on Assembly print 7390. 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 bill is passed.

THE CLERK: Assembly No. A07403-A, Rules Report No. 241, Septimo. An act to amend the Agriculture and Markets Law, in relation to requiring the Department of Agriculture and Markets to develop and maintain a database of New York State farms and farm products.

ACTING SPEAKER AUBRY: Read the last section.

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

ACTING SPEAKER AUBRY: The Clerk will record the vote on Assembly print 7403-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.)

Are there any other votes? Announce the results.

(The Clerk announced the results.)

The bill is passed.

And Ms. Septimo, that is your first, we're sure, of many.

(Applause)

With almost certainty, they won't get up and clap at the next one.

The Clerk will read.

THE CLERK: Assembly No. A07405-A, Rules Report No. 242, Bronson, Griffin. An act to amend the Education Law, in relation to extending certain exemptions for persons employed as mental health practitioners, psychologists and social workers.

ACTING SPEAKER AUBRY: Read the last section.

THE CLERK: This act shall take effect immediately.

ACTING SPEAKER AUBRY: The Clerk will record the vote on Assembly print 7405-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.)

Are there any other votes? Announce the results.

(The Clerk announced the results.)

The bill is passed.

THE CLERK: Assembly No. A07417-A, Rules Report No. 2 -- 243, Santabarbara. An act to amend the Vehicle and Traffic Law, in relation to the maximum dimension and weight limitations of certain vehicles proceeding to and from a portion of the New York State Thruway.

ACTING SPEAKER AUBRY: Read the last section.

THE CLERK: This act shall take effect immediately.

ACTING SPEAKER AUBRY: The Clerk will record the vote on Assembly print 7417-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.)

Are there any other votes? Announce the results.

(The Clerk announced the results.)

The bill is passed.

THE CLERK: Assembly No. A07465, Rules Report No. 244, Cruz. An act to amend the Civil Service Law, in relation to the promotion and administration of scheduled exams.

ACTING SPEAKER AUBRY: On a motion by Ms.

Cruz, the Senate bill is before the House. The Senate bill is advanced.

Read the last section.

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

ACTING SPEAKER AUBRY: The Clerk will record the vote on Senate print 2057. 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 votes? Announce the results.

(The Clerk announced the results.)

The bill is passed.

THE CLERK: Assembly No. A07466, Rules Report No. 245, Englebright, Colton, L. Rosenthal, Santabarbara, Gunther, Zebrowski, Cook, DiPietro, Galef. An act to amend the Real Property Tax Law, in relation to granting municipalities the authority to provide real property tax exemptions for certain Cold War veterans.

ACTING SPEAKER AUBRY: Read the last section.

THE CLERK: This act shall take effect immediately.

ACTING SPEAKER AUBRY: The Clerk will record the vote on Assembly print 7466. 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 bill is passed.

THE CLERK: Assembly No. A07478, Rules Report No. 246, Cusick, Jacobson. An act to amend the Election Law, in relation to increasing the number of registrants an election district may contain with the approval of the county board of elections; authorizes increase of county committee.

ACTING SPEAKER AUBRY: Read the last section.

THE CLERK: This act shall take effect immediately.

ACTING SPEAKER AUBRY: The Clerk will record the vote on Assembly print 7478. 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 bill is passed.

THE CLERK: Assembly No. A07480, Rules Report No. 247, Walker. An act to amend the Election Law, in relation to the representation of newly-formed political parties.

ACTING SPEAKER AUBRY: The bill is laid aside.

THE CLERK: Assembly No. A07481, Rules Report No. 248, Jones, Stirpe. An act to amend the Agriculture and Markets Law, in relation to import of dairy products and payment from the Milk Producers Security Fund.

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

Read the last section.

THE CLERK: This act shall take effect on the 60th day.

ACTING SPEAKER AUBRY: The Clerk will record the vote on Senate print 6714. 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 bill is passed.

THE CLERK: Assembly No. A07487, Rules Report No. 249, Fall, Rozic. An act to amend the General Business Law, in relation to debt collection procedures related to identity theft.

ACTING SPEAKER AUBRY: Read the last section.

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

ACTING SPEAKER AUBRY: The Clerk will record the vote on Assembly print 7487. 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 bill is passed.

THE CLERK: Assembly No. A07488, Rules Report No. 250, J.D. Rivera, Dinowitz, Hevesi, Rodriguez, Meeks, Mamdani, Seawright, Jackson, Galef, Gottfried, Fahy, McMahon. An act to amend the Insurance Law, in relation to prohibiting the exclusion of coverage for losses or damages caused by exposure to lead-based paint.

ACTING SPEAKER AUBRY: The bill is laid aside.

THE CLERK: Assembly No. A07489, Rules Report No. 251, Wallace, Zebrowski, Otis. An act to amend the Executive Law, in relation to victim compensation for unlawful surveillance crimes.

ACTING SPEAKER AUBRY: Read the last section.

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

ACTING SPEAKER AUBRY: The Clerk will record the vote on Assembly print 7489. 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 bill is passed.

THE CLERK: Assembly Bill No. A07490, Rules Report No. 252, Glick. An act to amend the Education Law, in relation to the maximum percentage of students that can be exempted from the admission requirements for graduate-level teacher and educational leader programs.

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

Read the last section.

THE CLERK: This act shall take effect immediately.

ACTING SPEAKER AUBRY: The Clerk will record the vote on Senate print 5666. 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 proved.

(The Clerk recorded the vote.)

Ms. Walsh to explain her vote.

MS. WALSH: Thank you, Mr. Speaker. This bill would amend the Education Law to increase the percentage of any incoming class that could be exempt from selection criteria for graduate-level teacher and leader education programs, which is currently set at 15 percent, and this bill would increase it to 50 percent. So that means that while we do want to encourage excellence and rigorous instruction for our graduate-level teachers, this says that instead of 15 percent who would not meet criteria potentially because maybe they're a bad test taker and maybe they have other potential and

they should be allowed into the program even though they don't meet the criteria, I really feel like increasing it to 50 percent is -- is going a little bit too far.

So, for that reason, I won't be able to support this bill.
Thank you, Mr. Speaker.

ACTING SPEAKER AUBRY: Ms. Glick on the bill.

MS. GLICK: Thank you, Mr. Speaker. To explain my vote. Back when we did the APPR, which many people objected to because it was a foolish policy, this had been roped in, eliminating the flexibility for graduate education programs to select the best people, those who can communicate. Someone who may have had a -- a bad grade in an early year in college may not be able to recover up to a 3.0. And so it just seemed that we were denying people who were perhaps great communicators from being able to participate. And it was a big problem for the education programs to be able to figure out whether they had 12 percent, 18 percent of people who fit into that exemption. So, we want to trust our programs to make good decisions and we repealed a lot of the APPR foolishness. This is a remnant of that.

And so I withdraw my request and vote in the affirmative.

ACTING SPEAKER ROZIC: Ms. Glick in the affirmative.

Mr. Goodell.

MR. GOODELL: Thank you, Madam Speaker.

Please record my colleagues Mr. DiPietro, Mr. Fitzpatrick and Mr. Montesano in the negative in addition to those who have voted against this legislation on the floor.

Thank you, Madam.

ACTING SPEAKER ROZIC: Thank you, Mr.

Goodell.

Are there any other votes? Announce the results.

(The Clerk announced the results.)

The bill is passed.

THE CLERK: Assembly No. A07491-A, Rules Report No. 253, Glick. An act to amend the Education Law, in relation to SUNY admission requirements for graduate-level teacher and educational leader programs.

ACTING SPEAKER ROZIC: Read the last section.

THE CLERK: This act shall take effect immediately.

ACTING SPEAKER ROZIC: The Clerk will record the vote. This is a fast -- oh -- on Assembly A.7491-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. Goodell to explain his vote.

MR. GOODELL: Thank you, Madam Speaker.

Many professions and many graduate schools require either a graduate education, a GRE score, a law school requires an L-SAT. Accounting

schools require, often, a special accounting degree or a test score. This bill eliminates any requirement or a minimum GRE score for graduate teachers. And while I appreciate that sometimes all of us have challenges in undergraduate school, in particular classes sometimes it can draw down our GPA. The purpose of a graduate entry exam, the GRE, is to test our general knowledge in a number of fields that reflects, hopefully, years of knowledge and experience. And I'm concerned that we appear to be reducing all of the standards and prerequisites for teachers while at the same time we expect them to teach more and do an ever-better job at teaching our most precious resource, our children.

And for that reason, I'll be voting against this. Thank you, Madam.

ACTING SPEAKER ROZIC: Mr. Goodell in the negative.

Mr. Tague to explain his vote.

MR. TAGUE: Thank you, Madam Speaker. For the same reasons mentioned by my esteemed colleague, please mark me down as voting in the negative on this bill as well. Thank you.

ACTING SPEAKER ROZIC: Mr. Tague in the negative.

ACTING SPEAKER AUBRY: Mr. Goodell.

MR. GOODELL: Thank you, sir. In addition to the negative votes on the floor, please record the following colleagues in the negative on this legislation: Mr. DiPietro, Mr. Fitzpatrick, Mr.

Montesano, Mr. Smullen and Mr. Tague.

Thank you, sir.

ACTING SPEAKER AUBRY: So noted. Thank you.

Are there any other votes? Announce the results.

(The Clerk announced the results.)

The bill is passed.

THE CLERK: Assembly No. A07499, Rules Report No. 254, Barnwell, Kim, Barron. An act to amend the Elder Law, in relation to the definition of social adult day services.

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

Read the last section.

THE CLERK: This act shall take effect immediately.

ACTING SPEAKER AUBRY: The Clerk will record the vote on Senate print 6526. 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 bill is passed.

THE CLERK: Assembly No. A07504, Rules Report No. 255, Joyner. An act to amend the Workers' Compensation Law,

in relation to allowing the New York State Insurance Fund to enter into agreements with private insurance providers to cover out-of-State work.

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

Read the last section.

THE CLERK: This act shall take effect immediately.

ACTING SPEAKER AUBRY: The Clerk will record the vote on Senate print 6196. 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 bill is passed.

THE CLERK: Assembly No. A07506, Rules Report No. 256, Clark, Bronson, Lunsford, Meeks. An act to amend the Executive Law and the Public Authorities Law, in relation to securing grease traps and interceptors at food establishments.

ACTING SPEAKER AUBRY: Read the last section.

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

ACTING SPEAKER AUBRY: The Clerk will record the vote on Assembly print 7506. 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 bill is passed.

THE CLERK: Assembly No. A07508, Rules Report No. 257, Pheffer Amato, Pretlow. An act to amend the Racing, Pari-Mutuel Wagering and Breeding Law, in relation to improvement of operation in thoroughbred racing.

ACTING SPEAKER AUBRY: Read the last section.

THE CLERK: This act shall take effect immediately.

ACTING SPEAKER AUBRY: The Clerk will record the vote on Assembly print 7508. 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 bill is passed.

THE CLERK: Assembly No. A07518, Rules Report No. 258, Zinerman. An act to amend the Arts and Cultural Affairs Law, in relation to quorum of the Council of the Arts.

ACTING SPEAKER AUBRY: Read the last section.

THE CLERK: This act shall take effect immediately.

ACTING SPEAKER AUBRY: The Clerk will record the vote on Assembly print 7518. This is a fast roll call. Any member who wishes to be recorded in the negative is reminded to contact the Majority or Minority Leader at the numbers previously provided.

(The Clerk recorded the vote.)

Ms. Zinerman to explain her vote.

MS. ZINERMAN: Thank you, Mr. Speaker --

ACTING SPEAKER AUBRY: One minute, Ms. Zinerman.

Can I have a little order back there? The member is trying to explain her vote.

MS. ZINERMAN: Thank you, Mr. Speaker for -- for permission to explain my vote. New York State is an international hub for arts and culture and is a major driver of our New York State economy. I hail from the 56th District, representing the historic neighborhoods of Bedford-Stuyvesant and Crown Heights where we are known for our vibrant commercial corridors, our artisanal food -- food, our architecture and world-class artists. This year New York State, the New York State Legislature, made record investments in arts by providing funding for business to reopen and to put artists back to work. The agency responsible for ensuring this work is the New York Council of the Arts. This bill will establish a quorum of appointed members of the Council who are entitled to vote on matters under consideration and will have the power and authority to act on the Council's behalf. We want to ensure that nothing impedes the

work of supporting our non-profits and our artists.

So, I vote in the affirmative.

ACTING SPEAKER AUBRY: Ms. Zinerman in the affirmative.

Are there any other votes? Announce the results.

(The Clerk announced the results.)

The bill is passed.

Ms. Zinerman, this is your first bill. You have achieved that (inaudible).

(Applause)

Enjoy today's victory. It comes very rarely.

(Laughter)

The Clerk will read.

THE CLERK: Assembly No. A07531, Rules Report No. 259, Gunther. An act to amend the Education Law, in relation to allowing a suspending authority to condition the early return of a student on such student's voluntary participation in counseling or certain classes.

ACTING SPEAKER AUBRY: Read the last section.

THE CLERK: This act shall take effect immediately.

ACTING SPEAKER AUBRY: The Clerk will record the vote on Assembly print 7531. 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 bill is passed.

THE CLERK: Assembly No. A07536, Rules Report No. 260, Dinowitz, Galef, Cymbrowitz, Sillitti, Englebright, Zinerman, Davila, Fahy. An act to amend the Penal Law, in relation to the forgery of immunization records.

ACTING SPEAKER AUBRY: The bill is laid aside.

THE CLERK: Assembly No. A07541, Rules Report No. 261, Otis, Abinanti, Burdick, Galef, Paulin, Rozic, Sayegh, Seawright, Thiele, Zebrowski, Simon. An act to amend the Public Service Law, in relation to the contents of emergency response plans required to be submitted to the Public Service Commission by electric corporations.

ACTING SPEAKER AUBRY: The bill is laid aside.

THE CLERK: Assembly No. A07564, Rules Report No. 262, Burke, Fahy. An act to amend the Education Law, in relation to encouraging the elimination of the use of certain single-use plastic items at State University of New York and City University of New York campuses.

ACTING SPEAKER AUBRY: Read the last section.

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

ACTING SPEAKER AUBRY: The Clerk will record the vote on Assembly print 7564. 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 bill is passed.

THE CLERK: Assembly No. A07565, Rules Report No. 263, Clark. An act to amend Chapter 192 of the Laws of 2011, relating to authorizing certain healthcare professionals licensed to practice in other jurisdictions to practice in this State in connection with an event sanctioned by New York Road Runners, in relation to extending the provisions thereof.

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

Read the last section.

THE CLERK: This act shall take effect immediately.

ACTING SPEAKER AUBRY: The Clerk will record the print on Senate print -- record the vote on Senate print 6818. 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 bill is passed.

THE CLERK: Assembly No. A07566, Rules Report No. 264, Stirpe. An act to amend Chapter 109 of the Laws of 2020 relating to establishing a State Disaster Emergency Loan Program, in relation to the effectiveness thereof.

ACTING SPEAKER AUBRY: Read the last section.

THE CLERK: This act shall take effect immediately.

ACTING SPEAKER AUBRY: The Clerk will record the vote on Assembly print 7566. 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 bill is passed.

THE CLERK: Assembly No. A07572, Rules Report No. 265, Buttenschon, Lupardo. An act to amend Part I of Chapter 61 of the Laws of 2017 amending the Tax Law relating to operational expenses of certain gaming facilities, in relation to the effectiveness thereof.

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

Read the last section.

THE CLERK: This act shall take effect immediately.

ACTING SPEAKER AUBRY: The Clerk will record the vote on Senate print 6832. 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. Salka to explain his vote.

MR. SALKA: Thank you, Mr. Speaker. I would like to commend the sponsor of this bill. We all realize how important the gaming industry is to the economies of New York State and our local communities, and this will affect advantageously a track in my district called Vernon Downs. It's a big economic driver for my communities. There are many, many people that are employed by it, so the economic impact locally is -- is huge. So, I want to thank -- commend the sponsor for bringing this bill forward. And as we open New York State back up again, this is going to become even more important that we sustain these kinds of operations. But, again, thank you.

ACTING SPEAKER AUBRY: Mr. Salka in the affirmative.

Are there any other votes? Announce the results.

(The Clerk announced the results.)

The bill is passed.

THE CLERK: Assembly No. A07576, Rules Report No. 266, Jean-Pierre. An act to amend the Education Law, in relation to the issuance of diplomas to youth who are placed, committed, supervised, detained or confined in certain facilities.

ACTING SPEAKER AUBRY: Read the last section.

THE CLERK: This act shall take effect immediately.

ACTING SPEAKER AUBRY: The Clerk will record the vote on Assembly print 7576. 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 bill is passed.

THE CLERK: Assembly No. A07595, Rules Report No. 267, Otis, Jacobson. An act to amend the Labor Law, in relation to requiring copies of certain documents physically posted in a workplace to be made available to employees electronically.

ACTING SPEAKER AUBRY: The bill is laid aside.

THE CLERK: Assembly No. A07604, Rules Report No. 268, Glick. An act to amend the Education Law, in relation to mandatory continuing education for architects.

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

Read the last section.

THE CLERK: This act shall take effect on the 550th day.

ACTING SPEAKER AUBRY: The Clerk will record

the vote on Senate print 6783. 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 bill is passed.

THE CLERK: Assembly No. A07623, Rules Report No. 269, Cusick. An act to amend the Criminal Procedure Law, in relation to defendant's right to a supporting deposition.

ACTING SPEAKER AUBRY: Read the last section.

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

ACTING SPEAKER AUBRY: The Clerk will record the vote on Assembly print 7623. 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 bill is passed.

THE CLERK: Assembly No. A07630, Rules Report No. 270, McMahon. An act to amend the Not-for-Profit Corporation Law, in relation to exempting the East Amherst Fire Department, Inc. from the requirement that the percentage of non-resident fire

department members not exceed 45 percent of the membership.

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

Read the last section.

THE CLERK: This act shall take effect immediately.

ACTING SPEAKER AUBRY: The Clerk will record the vote on Senate print 6703. 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 bill is passed.

THE CLERK: Assembly No. A07657, Rules Report No. 271, Bichotte Hermelyn. An act to amend Chapter 81 of the Laws of 1995, amending the Vehicle and Traffic Law and other laws relating to the enforcement of support through the suspension of driving privileges, in relation to the effectiveness thereof.

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

Read the last section.

THE CLERK: This act shall take effect immediately.

ACTING SPEAKER AUBRY: The Clerk will record

the vote on Senate print 7016. This is a fast roll call. Any member who wishes to be recorded in the negative is reminded to contact the Majority or Minority Leader at the numbers previously provided.

(The Clerk recorded the vote.)

Ms. Walsh to explain her vote.

MS. WALSH: Thank you, Mr. Speaker. To explain my vote. So, I will definitely be supporting this extender of two years allowing DMV to continue to suspend driver's licenses of individuals who have failed to make child support payments. I would note, however, that I think that -- and I have -- I have a bill to do this, you know, this is a shameless plug -- but I think that it's important to allow a support magistrate in appropriate circumstances to grant kind of like we would a conditional license in instances where an individual is behind on their child support but they need their car in order to get to work to make money to pay their child support. So, I think that that would be an important thing that we should take a look at going forward and -- but I will be supporting this bill.

Thank you.

ACTING SPEAKER AUBRY: Ms. Walsh in the affirmative.

Are there any other votes? Announce the results.

(The Clerk announced the results.)

The bill is passed.

THE CLERK: Assembly No. A07680, Rules Report No. 272, Dinowitz. An act to amend the Criminal Procedure Law, in

relation to notifying victims of crimes electronically.

ACTING SPEAKER AUBRY: Read the last section.

THE CLERK: This act shall take effect on the 30th day.

ACTING SPEAKER AUBRY: The Clerk will record the vote on Assembly print 7680. 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 bill is passed.

THE CLERK: Assembly No. A07696, Rules Report No. 273, Barrett, Barron. An act to amend the Public Authorities Law, in relation to prohibiting development of build-ready sites on viable agricultural land.

ACTING SPEAKER AUBRY: The bill is laid aside.

THE CLERK: Assembly No. A07701, Rules Report No. 274, Hunter. An act to amend the Insurance Law, in relation to improving insurance consumer servicing options.

ACTING SPEAKER AUBRY: Read the last section.

THE CLERK: This act shall take effect immediately.

ACTING SPEAKER AUBRY: The Clerk will record the vote on Assembly print 7701. 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 bill is passed.

THE CLERK: Assembly No. A07706, Rules Report No. 275, Davila. An act to amend the Family Court Act and the Criminal Procedure Law, in relation to juvenile delinquency charges of violations in the family court.

ACTING SPEAKER AUBRY: The bill is laid aside.

THE CLERK: Assembly No. A07713, Rules Report No. 276, Jackson. An act to amend the Penal Law and the Criminal Procedure Law, in relation to pleas of guilty and removal of adolescent offender proceedings to the family court.

ACTING SPEAKER AUBRY: Read the last section.

THE CLERK: This act shall take effect immediately.

ACTING SPEAKER AUBRY: The Clerk will record the vote on Assembly print 7713. 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 bill is passed.

THE CLERK: Assembly No. A07723, Rules Report

No. 277, Jean-Pierre. An act to amend the Social Services Law, in relation to information provided to unlicensed or unregistered child day care providers by the Office of Children and Family Services; and to amend a chapter of the laws of 2021 amending the Social Services law, relating to information provided to unlicensed or unregistered child day care providers by the Office of Children and Family Services, as proposed in legislative bills numbers S.5081 and A.1860, in relation to the effectiveness thereof.

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

Read the last section.

THE CLERK: This act shall take effect immediately.

ACTING SPEAKER AUBRY: The Clerk will record the vote on Senate print 7008. 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, sir. Please record my colleagues Mr. DiPietro and Mr. Montesano in the negative on this legislation.

Thank you, sir.

ACTING SPEAKER AUBRY: Thank you. So noted.

Are there any other votes? Announce the results.

(The Clerk announced the results.)

The bill is passed.

THE CLERK: Assembly No. A07726, Rules Report No. 278, L. Rosenthal. An act to amend the Social Services Law, in relation to allowing persons applying for or receiving public assistance to be interviewed by phone or other digital means; and to amend a chapter of the Laws of 2021 amending the Social Services Law relating to allowing persons applying for or receiving public assistance to be interviewed by phone, as proposed in legislative bills numbers S.3223-A and A.5414, in relation to the effectiveness thereof.

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

Mrs. Peoples-Stokes.

MRS. PEOPLES-STOKES: Mr. Speaker, if we could bring our attention now to our debate list. We are going to start with Rules Report No. 139 by Mr. Conrad. Followed up by Rules Report No. 69 by Ms. Rosenthal, Rules Report No. 78 by Mr. Dinowitz, Rules Report No. 79 by Ms. Simon and Rules Report No. 154. That one is by Mrs. Gunther. In that order, Mr. Speaker. Thank you.

ACTING SPEAKER AUBRY: Thank you.

Page 6, Rules Report No. 139, the Clerk will read.

THE CLERK: Assembly No. A07288, Rules Report No. 139, Conrad. An act to amend Chapter 413 of the Laws of 2003

amending the Labor Law relating to the Self-Employment Assistance Program and other matters, in relation to extending the effectiveness thereof.

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

And Mr. Conrad, an explanation has been requested, sir.

MR. CONRAD: Yes. This bill would extend the Self-Employment Assistance Program, otherwise known as SEAP, for two additional years until December 7, 2023. SEAP gives individuals who are starting their own business while receiving unemployment benefits. This program has been extremely successful in helping individuals who are likely to exhaust their regular unemployment insurance benefits to develop and establish their own careers in New York State, and as the State economy continues to recover from the devastating impacts from COVID-19, this extension of this program will give individuals another pathway towards full-time employment and financial independence. It's been very successful here in New York since 1994 and has been extended every two years since.

ACTING SPEAKER AUBRY: Mr. Goodell.

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

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

MR. CONRAD: Yes.

MR. GOODELL: Thank you, Mr. Conrad. So, based on your explanation as I understand it, if a person's laid off and they participate in this program, the Self-Employment Assistance Program, they could still collect full unemployment even if they're working full-time on a self-employed basis, is that correct?

MR. CONRAD: Correct.

MR. GOODELL: And is their income that they receive from self-employment then considered an offset in any way to their unemployment?

MR. CONRAD: I don't believe so.

MR. GOODELL: Do you know how many individuals are participating in this program?

MR. CONRAD: As of 2017 we had 950 -- 9,560 people who received training through that program, and it's about 1 percent of unemployment right now.

MR. GOODELL: Since 2017 you said?

MR. CONRAD: Yes.

MR. GOODELL: So approximately 2,000 a year.

MR. CONRAD: Roughly.

MR. GOODELL: 2,500.

MR. CONRAD: Mm-hmm.

MR. GOODELL: Thank you very much. No other questions.

On the bill, sir.

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

MR. GOODELL: I appreciate efforts to help people get back on their feet as fast as possible and become employed, and the Self-Employment Assistance Program is -- is helpful in that regard. As a self-employed individual, I certainly have experienced starting up a business and oftentimes as a self-employed individual it takes time for your business to pick up. And so, you know, when I went back into private practice, you know, the first month I started doing legal work. I billed in the second month, got paid in the third month. And so I appreciate the cash flow issues that are associated with self-employment. At the same time, I'm sensitive to the fact that in the meantime, while a person is working in self-employment and hopefully successfully collecting revenue, the employer, under this program, is being charged in full for the unemployment expense. And as we're coming out of COVID, most of us are painfully aware that the Unemployment Fund is upside down to the tune of about \$4 billion. And unemployment rates across New York State are skyrocketing. Many of the businesses in my community, small businesses, are reporting unemployment rate increases in the 300 to the 350 percent range. And as a small business owner I can attest that the unemployment rate for my law firm, which did not lay off a single person during COVID, is now up to 9.75 percent of payroll. And so we have a situation here where there's no offset on the unemployment expense of an employer for individuals who are in this program, even

though they may be earning a significant amount of money. And so while I support the program I think it's also appropriate to modify the program to provide an offset against the unemployment benefits as these individuals ramp up their self-employment.

And so for those reasons, while I appreciate what the program does, I'd like to see it tweaked so that someone is not double-dipping, working full-time, being paid full-time and collecting full-time employment. And when we get that tweak, you can count me as supporting it. In the meantime, I will be voting against it and recommend the same to my colleagues. Thank you, sir.

ACTING SPEAKER AUBRY: Mr. Conrad on the bill.

MR. CONRAD: On the bill. One of the points I want to drive home about this program is claimants may only be approved once for participation in SEAP. And they have to hit these qualified benchmarks that consist of basically attending classes, working a business plan out. And they cannot restart a business, they have to go into a new one. So I -- I think this is a big, successful program. It's been touted since 1994, since I was a sophomore in high school and watched my own father use this program to start his own business as well as some people in this Chamber.

Thank you. I will be voting in the affirmative.

ACTING SPEAKER AUBRY: Read the last section.

THE CLERK: This act shall take effect immediately.

ACTING SPEAKER AUBRY: The Clerk will record

the vote on Senate print 6697. 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, sir. In addition to the negative votes on the floor of the Assembly, please record my colleagues Mr. DiPietro and Mr. Fitzpatrick in the negative.

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 5, Rules Report No. 69.

THE CLERK: Assembly No. A00430, Rules Report No. 69, L. Rosenthal, Zebrowski, Gottfried, Cahill, Perry, Weprin, De La Rosa, Cruz, Abinanti, Colton, Simon, Otis. An act to amend the Civil Rights Law, in relation to electronic monitoring.

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

MS. ROSENTHAL: Hi. I just got unmuted. This bill requires private employers who engage in monitoring or intercepting electronic communication of any employee by any electronic device or system to provide notice of such monitoring.

ACTING SPEAKER AUBRY: Mr. Goodell.

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

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

MS. ROSENTHAL: Yes.

ACTING SPEAKER AUBRY: Ms. Rosenthal yields.

MR. GOODELL: Thank you, Ms. Rosenthal. I note that this bill is very clear that it does not apply to New York State or any of its agencies or any subdivisions. It only applies to the private sector. Why is it that this legislation only applies to the private sector and doesn't apply to us here in the Legislature or to the Governor or any State or local political entities?

MS. ROSENTHAL: Well, as you know, the -- the public sector is largely unionized, and so this is something that could be better addressed through collective bargaining. I would note, however, that every time you turn on your -- your computer provided by the Assembly, there is notice that says all sorts of things you can't do and -- on -- on this computer, so...

MR. GOODELL: I'm familiar with that notice, but is there anywhere in that notice that says that your communications may be intercepted?

MS. ROSENTHAL: I'm not sure exactly. I know it says a lot of other things and I think we all know that it is the property of the Assembly.

MR. GOODELL: Is it your belief that private sector

employees don't know that the computer at their work station is owned by the company and not them?

MS. ROSENTHAL: And you know, it's -- it's important that you be informed. You shouldn't have to infer it, you should be informed in so many words.

MR. GOODELL: So it's your belief that private sector employees need to be told that the computer that was here when you arrived is not owned by you, it's owned by the company and should be used -- used only for company purposes. Is that your position?

MS. ROSENTHAL: That's what the bill says.

MR. GOODELL: I see. But public employees who arrive at a comparable desk and sit down, they don't need to be told?

MS. ROSENTHAL: As I said, that is something that is negotiated out in a collective bargaining agreement.

MR. GOODELL: Does this exclude those private companies that have a collective bargaining agreement?

MS. ROSENTHAL: No, it does not.

MR. GOODELL: Does it include public entities? Towns, villages, cities, fire districts that do not have a collective bargaining agreement?

MS. ROSENTHAL: It's private, not -- so the villages, towns, et cetera, it does not apply to them.

MR. GOODELL: I see. Now, I understand of course that New York State for many, many years has had provisions

prohibiting the interception of -- or mechanical overhearing of conversations under Penal Law Section 250.05. Why is it your belief that Section 250.05 of the Penal Law is not already sufficient?

MS. ROSENTHAL: You know, I don't have that section in front of me. But I proposed this bill a while ago because I felt that people needed to be made aware that the -- they -- they should watch what they use the computer for because it is not their own private property.

MR. GOODELL: I see. And would you think that the -- the objectives of this bill would be met if companies put a little sticker on their company-owned computers that said to the employee, *This is a company-owned computer. You can only use it for company business?*

MS. ROSENTHAL: You know, I'm not sure that a little sticker that someone might or might not see would be sufficient. But this is not something onerous. This is actually for the employees own protection.

MR. GOODELL: I see.

MS. ROSENTHAL: It has to be written, but not, like, a sticky.

MR. GOODELL: I see. How does this legislation differ from the Federal Electronic Communications Privacy Act that was enacted back in 2007?

MS. ROSENTHAL: I don't have that piece of legislation in front of me.

MR. GOODELL: I see. This bill itself was introduced in 2006 initially, wasn't it?

MS. ROSENTHAL: Absolutely. Absolutely.

MR. GOODELL: So this bill is --

MS. ROSENTHAL: And you know what we've had since 2006? We've had shopping days and people get fired for things like this. I don't want to advertise any particular company, but you can shop all day at discounts, allegedly. I don't want anyone to lose their job because they participated in such a thing, and without knowing that the company could monitor their -- their moves on the computer or on the phone.

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

On the bill, sir.

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

MR. GOODELL: This legislation was initially introduced in 2006, and since then the Federal Electronic Communications Privacy Act was enacted that imposed privacy standards nationally and prohibited anyone from intentionally intercepting or trying to intercept any wire, oral or electronic communication without their consent. And so this is an area that's already been covered by Federal law for about 15 years. And in addition, the New York State Penal Law Section 250.05 also gives everyone in the State of New York protection against unauthorized

wire tapping or electronic interception. What this bill says is notwithstanding 15 years of Federal legislation and our own Penal Law, we need one more law that imposes civil liability on employers and requires them to make sure that when they hire someone they tell them something that I think all of us should think is obvious. And that is, when you come to the workplace and you're using a company-owned telephone, company-owned computer, that company-owned equipment is for company business and not for you to search the Internet. It's not for you to catch up on Facebook or place your orders on the Internet. It's really here for you to work on company business. And I'm -- I don't think the bill is necessary. I think it flies in the face of common sense. But believe me, even though it may not be necessary, the fines that can be imposed of up to \$500 for each alleged violation are real, and they hit our businesses at a time when they're struggling to come out of the COVID-related recession.

I'm also very uneasy when we, as the Legislature, impose requirements that apply to everyone but us. And if it's such a great idea, let's start by applying it to ourselves, and if it works great for us then let's think about applying it to small business, not the other way around. And for those reasons I recommend against this legislation. And I -- I note that in the past that there's been considerable opposition, although it hasn't come up for a vote in a decade. But the last time it came up for a vote there were 56 no votes. Most of those folks are busy at home now, having retired, using their own computer, placing their own Internet orders. But for those of us

who are still here, I'd recommend against it for the reasons I mentioned.

Thank you, sir.

ACTING SPEAKER AUBRY: Mr. Lawler.

MR. LAWLER: Thank you, Mr. Speaker. Will the sponsor yield?

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

MS. ROSENTHAL: Yes.

ACTING SPEAKER AUBRY: Ms. Rosenthal yields, sir.

MR. LAWLER: Thank you. Just a -- a -- a brief question. Does your legislation speak at all to whether or not an employee is -- if they are in the course of committing any criminal offense by utilizing the equipment and how the employer must respond to that? For instance, let's say they're made aware that the employee is conducting some sort of criminal act. Are they supposed to notify the employee that they are going to be monitoring their equipment?

MS. ROSENTHAL: Well, this is broad notice that the employee should be aware that the company, the employer, may be monitoring. It doesn't speak to anything beyond that notice.

MR. LAWLER: Okay. So, just so I'm clear. If somebody is, in fact, committing a criminal offense using, for instance, a company-owned cell phone and the employer is made

aware of it. The employer obviously may want to look at that telephone. They should notify first the employee that they're going to be looking at that telephone?

MS. ROSENTHAL: Well, they will have already noticed the employee that they may be looking at that phone, so I don't think anything beyond that at this point is needed.

MR. LAWLER: Okay. Thank you.

On the bill, Mr. Speaker.

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

MR. LAWLER: As my colleague pointed out, it's commonsense if you are using a company-owned piece of equipment - a telephone, a computer - you should use that for the sole purpose of conducting company business. If you are foolish enough to use that for something else, it should come as no surprise that a business owner may want to know that or may have a problem with that.

So for that reason and for many of the reasons that my colleague outlined, this bill just seems illogical and unnecessary in so many ways. And so I will be voting against it.

ACTING SPEAKER AUBRY: Ms. Walsh.

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

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

(Pause)

MS. ROSENTHAL: Okay. I was muted. Sorry.
Yes, I will answer.

MS. WALSH: Thank you. Ms. Rosenthal, does -- does this bill cover situations where a company car has been issued to an employee or perhaps the employee drives for a living and there are these trackers that you can put inside the cars, or does this more have to do with computer and phone use and if you've got more of a desk job, would you say?

MS. ROSENTHAL: It doesn't address cars.

MS. WALSH: Okay. So it's only -- okay, in the workplace kind of stuff. Okay. And I think you already answered this earlier, but just to confirm. There -- there really are two notices that are required from this bill, then there's the initial notice upon -- written noticed upon hiring to all employees, and then there's also the notice that's got to be made in a conspicuous place that's readily available for viewing, correct?

MS. ROSENTHAL: No, that's not really double notice. I mean, the -- the essential one is that upon hiring, so you know, and then, you know, in a -- in a maybe a pamphlet about the company rights, employee rights, things like that.

MS. WALSH: Oh, okay. I thought that it also had to be posted. No?

MS. ROSENTHAL: I -- I --

MS. WALSH: Line 17, "Each employer shall also post the notice of electronic monitoring in a conspicuous place which

is readily available for viewing by its employees who are subject to electronic monitoring."

MS. ROSENTHAL: Oh, I'm sorry. I'm sorry. That's, like, in a breakroom.

MS. WALSH: Like in a breakroom. Yeah, along with all the 600 other posters that they have to have up. All right. Thank you so much.

MS. ROSENTHAL: Yeah, along with all the other required posters and -- and notices.

MS. WALSH: That's right. Thank you so much.

MS. ROSENTHAL: Sure.

ACTING SPEAKER AUBRY: Read the last section.

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

ACTING SPEAKER AUBRY: The Clerk will record the vote on Assembly print 430. 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, Mr. Speaker. The Republican Conference is generally opposed to this legislation. Those who support it are encouraged to call the Minority Leader's Office and we'll properly record your vote. Thank you, sir.

ACTING SPEAKER AUBRY: Thank you.

Mrs. Peoples-Stokes.

MRS. PEOPLES-STOKES: Thank you, Mr.

Speaker. Our Majority Conference will generally be in favor of this piece of legislation. Colleagues deciding to be an exception should contact the Majority Leader's Office and we'll be pleased to record your vote properly. Thank you.

(The Clerk recorded the vote.)

ACTING SPEAKER AUBRY: Thank you.

Ms. Rosenthal to explain her vote.

MS. ROSENTHAL: Thank you. To explain my vote. There is a Federal law that has certain exceptions, but it allows employers to monitor their employees' electronic communications. This bill does not say they cannot monitor, that just that they have to provide notice. So this is a needed bill. It confers protections upon employees. As any of us who has sat before a computer for hours on end knows the temptation to go browse other sites than the one you're on is great. This is so employees can keep in their minds that this is a computer that the company may monitor if they choose, and it's -- it's just that kind of warning.

And I vote in the affirmative.

ACTING SPEAKER AUBRY: Ms. Rosenthal in the affirmative.

Mrs. Peoples-Stokes.

MRS. PEOPLES-STOKES: Mr. Speaker, aside from our colleagues that voted in the Chambers we have two additional

colleagues that would like to be registered in the no. One is Mr. O'Donnell and the other is Mr. Santabarbara.

ACTING SPEAKER AUBRY: So noted.

Are there any other votes? Announce the results.

(The Clerk announced the results.)

The bill is passed.

Page 5, Rules Report No. 78, the Clerk will read.

THE CLERK: Assembly No. A01450, Rules Report No. 78, Dinowitz, Galef, Williams, Colton, Dickens, Gottfried, Seawright, Zebrowski, Reyes, Abinanti, Barron. An act to amend the General Business Law, in relation to requiring notice of mandatory arbitration clauses in certain consumer contracts.

ACTING SPEAKER AUBRY: Mr. Goodell.

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

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

MR. DINOWITZ: Yes, I do.

ACTING SPEAKER AUBRY: Mr. Dinowitz yields.

MR. GOODELL: Thank you, Mr. Dinowitz. As I understand it, this bill attempts -- or accomplishes two objectives: First, it adds the word "employment" in terms of defining what's meant by consumer goods or a mandatory arbitration clause thereby extending the restrictions or prohibitions on mandatory arbitration to employment contracts as well, correct?

MR. DINOWITZ: Yes.

MR. GOODELL: And then the second provision is to require that in the event there is an arbitration clause, a representative shall disclose the mandatory arbitration clause to the consumer and presumably to the employee, is that correct?

MR. DINOWITZ: Yes, it is.

MR. GOODELL: And if for some reason, let's say it's an employee, they forgot that that was disclosed to them in their written employment agreement, what is the remedy?

MR. DINOWITZ: I'm sorry. You're saying if they forgot to tell them?

MR. GOODELL: Right. I mean, it's a written employment contract, and for whatever reason the employee says, *I -- I don't remember hearing about binding arbitration.* What is the remedy that the employee could seek?

MR. DINOWITZ: I would imagine it would render it null and void.

MR. GOODELL: The entire contract or just that clause?

MR. DINOWITZ: What do you mean, the clause?

MR. GOODELL: Well, I mean, the -- there's a binding arbitration clause in their contract. If the employee claims that they didn't read it or weren't aware of it --

MR. DINOWITZ: The clause that mandates binding arbitration. It has to be disclosed and explained to the consumer. If

it's not, then it's not there.

MR. GOODELL: I see. So the defense would be the employee could claim that they don't have to comply with the binding arbitration, correct?

MR. DINOWITZ: I would think so, yeah.

MR. GOODELL: Is there any exclusion under this bill for employment agreements that are the result of collective bargaining?

MR. DINOWITZ: I don't think that this makes reference to collective bargaining agreements.

MR. GOODELL: So it would apply regardless of whether it's a collective bargaining agreement or whether it was an individual written employment agreement, correct?

MR. DINOWITZ: No. This is referring to individual situations. I'll read it right here. It refers to contracts for consumer goods, services or employment. So we're not talking about, like, a -- a bargaining between a union and the employee. We're talking about individuals here. What happens all too often is people sign contracts. They have no choice, either you sign it or you don't, take it or leave it, and in the contract all too often is a binding arbitration clause. And as we all know, and as you may not agree, but as we all know, when something goes to binding arbitration, it -- most of the time the consumer loses out.

MR. GOODELL: (Inaudible)

MR. DINOWITZ: And the data -- the data shows

that overwhelmingly the consumer loses out. So at a minimum, even if we can't stop that, we want to make sure that the consumer knows that that's what he or she is getting -- getting into.

MR. GOODELL: I see. Before I leave that subject, though, of the prior question, there's nothing in this language that exempts the provisions -- these provisions from a collective bargaining agreement, correct? This language is silent as it relates to collective bargaining agreements?

MR. DINOWITZ: There's nothing in here that makes reference to anything other than what's on the face of the bill. This is a very short, simple bill.

MR. GOODELL: I see. Now, I note that last week we passed a number of bills supported by the Majority that imposed mandatory binding arbitration on the MTA, the Bridge Authority, Upstate Transit. I mean, half-a-dozen different organizations. Why is that binding arbitration good, but private sector binding arbitration in the employment contracts are bad?

MR. DINOWITZ: Well, I would love to answer that but unfortunately those weren't my bills so I'm not in a position to do that. But as I previously mentioned, these mandatory arbitration clauses are overwhelmingly running against consumers. I'm not saying that the people -- that the arbitrators are, you know -- I'm not saying they're corrupt or anything like that, don't get me wrong. But they basically go with the company, not with the person. And I know you and I would certainly agree that since we both represent, I don't

know, somewhere around 130,000 people as opposed to companies, that we want to look after the little people, the little guy, the little -- the little women in our districts rather than always siding with the businesses.

MR. GOODELL: Well, one of the most common references in employment contracts, consumer contracts that involve binding arbitration is a reference to the American Arbitration Association, which has very clear standards for arbitrator neutrality. Neither party actually selects the arbitrator, it's selected by the American Arbitration Association. Is it your position that the arbitration provisions of the American Arbitration Association are inherently flawed and biased?

MR. DINOWITZ: My position is that when contracts such as these goes to arbitration, the net result is that they overwhelmingly go against consumers --

MR. GOODELL: (Inaudible)

MR. DINOWITZ: Not companies, but let me just finish. But here, what this bill does is it just mandates disclosure. Disclosure. It doesn't change anything other than mandating disclosure. And I'm sure we would all agree that we would want our constituents, consumers, to have the information that they need before they sign a contract.

MR. GOODELL: And now, what percent of arbitration decisions go against the consumer and what percent go in favor of the consumer?

MR. DINOWITZ: I can't give you an exact number because I don't have it in front of me, but I believe the number is overwhelming.

MR. GOODELL: I see. Do you have studies that reflect that?

MR. DINOWITZ: There are studies like that, absolutely.

MR. GOODELL: I see. And those come from the American Arbitration Association that report on their findings, or...

MR. DINOWITZ: I don't know what the American Arbitration Association reported. But we know that that's the reality. And as I said, we want to make sure, at a bare minimum, that our constituents know what they're getting themselves into, that they have the information they need. Why would anybody -- I can't imagine you would want your constituents to sign a contract without knowing what's in the contract.

MR. GOODELL: Indeed. As an attorney, I always recommend that they read everything before they sign it.

Thank you very much, Mr. Dinowitz. I appreciate it.

MR. DINOWITZ: You are so welcome, Mr. Goodell.

MR. GOODELL: On the bill, sir.

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

MR. GOODELL: Actually, the data I've seen is very

strong in support of independent arbitration. The American Arbitration Association itself has a well-deserved reputation of independence and is well-respected not just in New York State but around the nation. As we're coming out of COVID, we've been advised that the -- by the Office of Court Administration that there's nearly a million cases backlogged in New York State courts, and many of the New York State courts are just now starting to fully reopen. For most consumers, they need a decision. They need to know, what are their rights, what are their remedies. And we have long recognized that arbitration provides a fast, inexpensive, efficient and fair mechanism for resolving disputes, especially in the commercial consumer relationship. No consumer can afford to go to a Supreme Court, for example, and you start out by filing almost \$300 or \$400 in just filing fees to walk through, whereas an arbitration provides a fast and inexpensive alternative.

I'd also point out that this bill would apply -- and it says the term mandatory arbitration clause shall mean a term or provision contained in a written contract for, among other things, employment. And there's no exclusion for collective bargaining agreement, which is, of course, as we all know, a written contract. And so the irony is this language here would actually supercede all of the written collective bargaining agreements that we have in New York State. And so before we move forward on language that brings into question all of those arbitration provisions that are in collective bargaining agreements and restricts the use of this very fast and

efficient and generally well-accepted mechanism for resolving disputes, we should clarify the language and look to what we can do to help consumers bypass our clogged, expensive and inefficient court system.

For that reason I'll be opposing this legislation.

Thank you, sir.

ACTING SPEAKER AUBRY: Read the last section.

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

ACTING SPEAKER AUBRY: The Clerk will record the vote on Assembly print 1450. 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. Certainly, those who wish to support it should contact the Minority Leader's Office and we'll record your vote in the affirmative.

Thank you, sir.

ACTING SPEAKER AUBRY: Thank you.

Mrs. Peoples-Stokes.

MRS. PEOPLES-STOKES: Thank you, Mr. Speaker. The Majority Conference will generally be in favor of this piece of legislation. However, colleagues desiring to be an exception

should feel free to contact the Majority Leader's Office and your vote will be properly recorded.

(The Clerk recorded the vote.)

ACTING SPEAKER AUBRY: Thank you, ma'am.

Mr. Dinowitz to explain his vote.

MR. DINOWITZ: Thank you. Much of what was just said by my good friend over there was really not relevant to what the bill does. Certainly, the contract negotiations between labor and management, not relevant. People want to have their day in court. Mandatory arbitration agreements deny people their day in court, and if they're going to be denied their day in court they should at least know that what's going to happen. And that's all this bill calls for. It simply says that there has to be disclosure. It doesn't say you can't have a mandatory arbitration agreement because we can't do that. But it does say that we have to have disclosure. I'm sure all of us would agree that we want the people we represent to be disclosed important information to them, namely, in this case, that they're signing a contract which they often have no choice but to sign, but that they know exactly what's involved here.

So with that I vote yes and I urge all of my colleagues to vote yes.

ACTING SPEAKER WALLACE: Mr. Dinowitz in the affirmative.

Mr. Goodell.

MR. GOODELL: Thank you, Madam Speaker.

Please record my colleague Mr. Montesano in the affirmative. Thank you, Madam.

ACTING SPEAKER WALLACE: So noted.

Are there any other votes? Announce the results.

(The Clerk announced the results.)

The bill is passed.

Page 5, Rules Report No. 79, the Clerk will read.

THE CLERK: Senate No. S00858, Rules Report No. 79, Senator Gounardes (A01893, Simon, Englebright, Steck, Richardson, Otis, Jacobson, Forrest). An act to amend the Labor Law, in relation to wage theft.

ACTING SPEAKER WALLACE: An explanation has been requested.

MS. SIMON: Thank you. This bill seeks to get rid of a wage theft loophole that was created by the courts and which has led to a distinction between deducting from wages and failing to pay wages, thus preventing many employees from recovering underpayments of wages. This bill would clarify that there is no exception for the -- to liability for the unauthorized failure of an employer to pay wages, benefits or wage supplements.

ACTING SPEAKER WALLACE: Mr. Goodell.

MR. GOODELL: Thank you. Ms. Simon, I understand that this legislation relates specific -- I apologize, would Ms. Simon yield?

MS. SIMON: Yes.

MR. GOODELL: Thank you, Ms. Simon.

ACTING SPEAKER WALLACE: Ms. Simon yields.

MR. GOODELL: I kind of jumped the gun and jumped in on that. I understand that -- that this bill is really aimed at employers that may have a -- a wage deduction like a payroll deduction of some sort that the employee apparently hasn't authorized. Is that the purpose that this is aimed at?

MS. SIMON: No. This is aimed at employers who are just failing to pay their employees. Under the Labor Law, that's prohibited. However, there has been some confusion by the courts as to what was intended.

MR. GOODELL: Could you explain that confusion? Because I thought it was pretty clear that employers had to pay their employees or they'd be facing a substantial civil and even criminal penalties.

MS. SIMON: Well, you know, Mr. Goodell, I agree with you. I think it is pretty clear. However, some courts have determined that there was a distinction between deducting in the language that was used in Section 193 and simply failing to pay someone. And so there were a couple of -- there have been a couple of cases. The first one I think it's important -- it's instructive, perhaps, to go back to the very beginning which was a case called *Gottlieb*, where the court found that Section 198 was not substantive and -- which the Legislature disagreed with and amended in 1997 to say that all employees shall have the right to recover full wages, benefits and

wage supplements accrued during the six years previous to the commencing of such an action. Unfortunately, in a subsequent case, the *Malinowski* case, the court thought *Gottlieb* came after the amendment and so, therefore, ignored the amendment that the Legislature had passed. But, in fact, the Legislature amended 197(a) because of *Gottlieb* because *Gottlieb* was wrong. And so this has led to confusion with courts being all over the place and people not actually being able to collect pay for the work that they have done.

MR. GOODELL: I see. So it's -- it's your view that the -- the court system has simply misinterpreted prior legislation enacted by this Legislature?

MS. SIMON: Yes, exactly.

MR. GOODELL: I see. Thank you very much, Ms. Simon.

On the bill.

ACTING SPEAKER WALLACE: On the bill.

MR. GOODELL: Thank you, Madam. And I appreciate the sponsor's comments. I think we all agree that wage theft is inappropriate. We actually have multiple provisions including criminal sanctions that apply if an employer does not pay wages that are due and owing. The National Federation of Independent Businesses sent us a memo in opposition noting that while this legislation appears to be a minor correction, it intentionally exposes almost every major employer and specifically small businesses without advanced legal consult or administrative departments to

additional liability and legal costs. They recommended against it, noting that 47 percent of small business owners anticipate that they may not survive the pandemic, and that this is not a good time to add potential additional legal fees and expenses on small businesses.

So with that concern, I won't be supporting it.

Although I absolutely agree with the sponsor that wage theft is and should be and shall remain illegal in New York State. Thank you.

ACTING SPEAKER WALLACE: Read the last section.

THE CLERK: This act shall take effect immediately.

ACTING SPEAKER WALLACE: The Clerk will record the vote on Assembly -- Senate 858. This is a fast roll call. Any member who wishes to be recorded in the negative is reminded to contact the Majority or Minority Leader at the numbers previously provided.

(The Clerk recorded the vote.)

Ms. Simon to explain her vote.

MS. SIMON: Thank you. This bill seeks to correct and close a loophole that was created by the courts who drew an interesting distinction between deducting wages unfairly from an employee and simply failing to pay them, as if failing to pay them in the first place was allowed under the Labor Law. It is clearly not. That distinction has been rejected by some courts, most notably in *Ryan v. Kellogg Partners International -- Institutional Services*. And this bill would -- would codify the finding of that court that said that

such a distinction is entirely improper. That New York employers must pay the wages of their employees, whether it's wages, benefits or wage supplements under Labor Law Section 193. There is no reason for small employers, before or after the pandemic, to simply fail to pay their employees. And so the opposition that has been leveled by the organization that was mentioned by my colleague is simply misplaced. This bill would not do anything that would harm small employers. It simply says if someone works for you, we do not have involuntary servitude in this country. You must pay your employee.

Thank you.

ACTING SPEAKER WALLACE: Ms. Simon in the affirmative.

Mr. Steck to explain his vote.

MR. STECK: I want to thank my colleague Assemblymember Simon for introducing this legislation. When I first started in the area of employment law this was a matter that was not in dispute, that Section 193 not only prohibited unlawful deduction from wages, but prohibited not paying employees at all. But over time that has been eroded and we need to stop the erosion.

So I thank Assemblymember Simon for introducing this very important legislation. I vote in the affirmative.

ACTING SPEAKER WALLACE: Mr. Steck in the affirmative.

Mr. Goodell.

MR. GOODELL: Thank you, Madam Speaker. In

addition to the negative votes on the floor please record my colleague Mr. Walczyk in the negative. Thank you, Madam Speaker.

ACTING SPEAKER WALLACE: Thank you.

Are there any other votes? Announce the results.

(The Clerk announced the results.)

The bill is passed.

Page 6, Rules Report No. 154.

THE CLERK: Assembly No. A00181-A, Rules Report No. 154, Gunther, Colton, Perry, Englebright, Steck, Cook, Abinanti, Barron, Jacobson. An act to amend the Labor Law and the Education Law, in relation to the hours worked by nurses.

ACTING SPEAKER WALLACE: An explanation has been requested.

MRS. GUNTHER: This bill would add home care nurses to mandatory overtime restrictions in the Labor Law by establishing that no healthcare employer shall require a nurse to work more than their regularly-scheduled home care visits. This would apply to healthcare employers who are home care service agency licensed pursuant to Article 36 of the Public Health Law. Current law only prohibits healthcare employers from requiring a nurse to work more than their regularly scheduled work hours, but does not include home care settings. This bill would not prohibit voluntary overtime assignments, but would simply prohibit home care agency services from placing additional burdens on to their workers by forcing them to work overtime in non-emergent situations.

ACTING SPEAKER WALLACE: Mr. Goodell.

MR. GOODELL: Thank you, Madam Speaker.

Would the sponsor yield?

MRS. GUNTHER: I knew it.

ACTING SPEAKER WALLACE: The sponsor yields.

MR. GOODELL: I -- I hope that was a yes.

MRS. GUNTHER: That's a very big yes.

MR. GOODELL: Thank you, Mrs. Gunther. You provide an exception from the mandatory overtime where an employer can require mandatory overtime even with this legislation. Would you explain what that exception is?

MRS. GUNTHER: Only in an emergent situation. So if there was some catastrophic kind of situation, then they could mandate overtime. The same thing that happens in acute care facility. If there is a hurricane, et cetera. A bus accident is another example. If there's an emergent situation like that that, say, the nurse that's going to cover the next shift is unable because of a crazy storm or something, then it would -- that would be an exception. So if you have a patient on a ventilator or something like that, you have to make sure that you make a provision for someone, you know, on a ventilator or on an IV, on a tube feeding or something like that. So only in a -- in an emergent situation would they require that.

MR. GOODELL: Of course we're all painfully aware of the challenges that our healthcare profession went through during

the recent COVID pandemic where many healthcare staff, including nurses, of course, would call in and they were quarantined for two weeks. No advance notice to the employer at all. Yet of course, as you point out, healthcare patients that were relying on them, whether it's a ventilator or an IV or something like that. In your opinion would a situation like COVID and the resulting quarantining or other absences constitute an emergency that would allow a healthcare provider to require overtime as a term and condition of employment?

MRS. GUNTHER: In a situation -- if there's a Federal, State or county declaration of emergency.

MR. GOODELL: So it would apply to this bill even if it had been enacted would be in effect still today, right? Because we still have a state of emergency.

MRS. GUNTHER: That would be correct.

MR. GOODELL: I see. Thank you. That was very helpful.

On the bill, Madam Speaker.

ACTING SPEAKER WALLACE: On the bill.

MR. GOODELL: I appreciate the knowledge and expertise of the sponsor who was a registered nurse, I believe, for many years and certainly has a lot of knowledge in the nursing area. As we know, there are many employers that are very clear with their employees right from the time they're hired, that overtime might be part of the terms and conditions of their employment. And we're familiar with it in many situations. If you work for the highway

department, you know the day you take the job that if there's a heavy snowfall, even if there's not a state of emergency declared you may be putting in overtime. And certainly, utility workers are another example. Firemen, certainly an example. Our police officers and a lot of our first responders. They all understand when they sign up for the job that with that obligation is the potential of mandatory overtime. And they do so anyway because they recognize the greater good that they have to wrestle with. And whether it's a fireman who recognizes that they have an obligation for mandatory overtime during the middle of fighting a fire or our police and other first responders or our highway department. All of them recognize that their job is not always nine to five. And what this bill says, though, that when it comes to home nursing, absent a state of -- a declared state of emergency, you can't expect nurses as part of their terms and conditions for home care to be available for mandatory overtime. And unfortunately, what that does is it puts patient care second and not first. Imagine if this bill applied to firemen in the middle of a fire, they walk off the job, *thanks, I'm done. I have a barbecue scheduled with my family.* Or a highway department employee. *Sorry, it's still snowing. You can't get home. Thank goodness my wife is waiting for me in front of the fire at home.* The same should apply to nurses. We ought to allow home health agencies to make it clear when they hire a nurse that patient needs come first. And if we have patients on a ventilator or we have patients on an IV and we need you to work overtime, you have to be available. And so I think it's a mistake in the

context of our public safety objectives to outlaw the possibility of mandatory overtime in a critical healthcare field.

And therefore, I will be opposing this bill. Thank you, Madam Speaker.

ACTING SPEAKER WALLACE: Mr. Salka.

MR. SALKA: Thank you, Madam Speaker. Will the sponsor yield for a question and -- and a comment?

MRS. GUNTHER: Sure. Sure.

MR. SALKA: I -- I know that all the years I worked in healthcare we got mandated all the time. Fourteen, 16-hour shifts were quite common when staff was very stressed when the hospital was busy. We know that when you are mandated it's because you need to be there to care for your patients. Do you think it's limiting this -- the absence here by just saying that it needs to be an emergency?

MRS. GUNTHER: Okay, so there's a few --

MR. SALKA: (Inaudible)

MRS. GUNTHER: There's four different things: A healthcare disaster; a Federal, State and county declaration of emergency where the employer determines there is an emergency. So if there's a -- a -- a catastrophic hurricane or whatever and then the employer determines there is an emergency which necessitates the provision of safe patient care. So we have done that. Ongoing medical or surgical procedure in which the nurse is actively involved. So there are caveats to this bill.

MR. SALKA: So we know how short-staffed most of these institutions are and most of these organizations. Nurses and other ancillary personnel are kind of burning the candle at both ends. So inevitably, you're going to get people that call in. That's going to create an issue with continuity of care.

MRS. GUNTHER: Again, if it necessitates someone to be mandated to stay because there's an emergent situation or -- and the employer decides that you need to stay because there's not enough nurses on the floor, there is that caveat in the bill, so which -- and I have to say that when we discussed this, as you and I know, that we worked in an acute care facility, that most of us are dedicated employees, that we would not leave our patients --

MR. SALKA: Of course.

MRS. GUNTHER: -- at least most of us wouldn't leave our patients, you know, without the appropriate care. That's why we do what we do. So I -- I think this is an important bill. I think that it kind of goes to the point where for a long time you and I know that someone knew when we got on the floor of the hospital, whether you're respiratory or you're drawing blood, that even before we got there there was no one that was coming in to take our place. That's what we're trying to do. We're encouraging more people to come into the field, but also, it's the administrators' duty to make sure that after that 12-hour shift there's someone coming in afterwards. And often they can call in per diem nurses or other kind of personnel, both respiratory -- you know, we can call in per diems and they do

come in. So I think this is an important piece of legislation, so that -- you know, a lot of people are leaving our field, so this actually will improve the quality of -- of working conditions in the acute care facilities and facilities in home care and all over.

MR. SALKA: I guess one part of your comment, too, lends me to this question is, why is it just limited to nurses? Because we know that home health aides, therapists, occupational therapists, respiratory, physical therapists, you know, people that do involve themselves in home care also, why would it be limited to this? Because basically it's the same situation with all those other professions (inaudible).

MRS. GUNTHER: So, that's Chapter 2 and Chapter 3. You're absolutely right. We should make -- we should make accommodations for all of our healthcare practitioners. You're absolutely right.

MR. SALKA: Thank you very much.

ACTING SPEAKER WALLACE: Mr. Manktelow.

MR. MANKTELOW: Thank you, Madam Speaker. Would the sponsor yield for one question, please?

MRS. GUNTHER: Yes.

MR. MANKTELOW: Thank you, Mrs. Gunther. Just one question just for clarification. So if I'm a -- if I'm a home health aide or a home nurse --

MRS. GUNTHER: Right.

MR. MANKTELOW: And I'm at somebody's home

and the person that's supposed to relieve me for some reason can't show up, what happens in that situation?

MRS. GUNTHER: Well, if the patient's in a critical condition you would call the home healthcare and they probably would try to call somebody else in. But you can't -- you know, that's part of the oath that we take as nurses, is that we're not going to leave somebody, you know, if it's in a precarious situation. So you would call the home health agency and they would try to get someone to come in after you. So if it's an emergent situation, if it's a critical situation, then the agency can ask you to please stay.

MR. MANKTELOW: Okay. So, if -- if you're my employee and I say, *Mrs. Gunther, you need to stay for -- until I get somebody to replace you*, you would stay then, correct?

MRS. GUNTHER: Yeah. Any ongoing medical or surgical procedure in which a nurse is actively engaged and needed, they would stay. So those are the exceptions.

MR. MANKTELOW: Okay. Thank you very much for answering the question.

MRS. GUNTHER: You're welcome.

MR. MANKTELOW: Thank you, Madam Speaker.

ACTING SPEAKER WALLACE: Read the last section.

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

ACTING SPEAKER WALLACE: The Clerk will

record the vote on A.181-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. Goodell to explain his vote.

MR. GOODELL: Thank you, Madam Speaker. I appreciate the desires reflected in my colleagues' comments on both sides of the aisle. No employer wants overtime. Every employer wants to minimize overtime because overtime costs the employer either time-and-a-half or on weekends or holidays sometimes double time. So every employer has a tremendous financial incentive to minimize overtime. But the reality of the situation is that often overtime is critical in order to meet a higher priority, such as ensuring patient care. And we've seen that in particular in the healthcare field where we've seen a real shortage of skilled nursing and support staff throughout rural Upstate New York. And so I'm concerned that we pass legislation that makes it illegal for a private employer to require their employees to be available for overtime when necessary to ensure the life, health and safety of their patients.

So for that reason I will be voting no. But I recognize that we want to minimize overtime with our nursing staff to prevent burnout, as my colleague mentioned, and we want to encourage more and more nurses to enter the field so that hopefully this type of legislation becomes unnecessary. In the meantime, though, I think employers need that level of flexibility and that's why I will be voting

no. Thank you, Madam.

ACTING SPEAKER WALLACE: Mr. Goodell in the negative.

(Pause)

Mr. Goodell.

MR. GOODELL: Thank you, Madam Speaker. The older I get, the more I'm concerned that those nurses will be available even if it means mandatory overtime to come and visit me at home. And apparently sharing that concern and voting against this legislation is Assemblymember Mr. Byrne, Ms. Byrnes, Mr. DiPietro, Mr. Fitzpatrick and Mr. Jensen.

Thank you, Madam Speaker.

ACTING SPEAKER WALLACE: 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, Madam Speaker. I want to continue our debate list. We're now going to go to Calendar No. 350, Assembly Bill No. 2382 by Ms. Weinstein. Followed by Rules Report No. 165, Assembly Bill No. 2356 by Ms. Woerner. Followed by Rules Report No. 184, Assembly No. 5029 by Ms. Paulin. Followed by Rules Report No. 192, Assembly No. 57 -- 5773 by Ms. Glick. Followed by Rules Report No. 221, Assembly Bill No. 6906 by Mr. Otis. And finishing up this particular segment of

debates will be Rules Report No. 232, Assembly Bill No. 7272 by Ms. Rosenthal. In that order, Madam Speaker.

ACTING SPEAKER WALLACE: Page 40, Calendar No. 350, the Clerk will read.

THE CLERK: Assembly No. A02382, Calendar No. 350, Weinstein, Galef, Zebrowski, O'Donnell, Fahy, Peoples-Stokes, L. Rosenthal, Dinowitz, Seawright, Glick, Weprin, Taylor, Reyes. An act to amend the Civil Practice Law and Rules and the Judiciary Law, in relation to consumer credit transactions.

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

Mr. Goodell.

MR. GOODELL: Thank you, Madam Speaker.

On the bill.

ACTING SPEAKER WALLACE: On the bill.

MR. GOODELL: Thank you, Madam Speaker. This bill does two things: It creates the Consumer Credit Fairness Act that imposes multiple requirements on any collection of consumer debt, credit card debt, retail debt or any other consumer debt. These are a number of disclosure requirements that would apply to any entity collecting on consumer debt. The second thing, however, is that it also cuts the statute of limitations in half from six years - which is based on a written contract - to just three years. And unfortunately, it has an unanticipated consequence. When you cut the collection time

in half it forces collection companies to accelerate the legal process, resulting in a judgment. And it reduces the flexibility of a collection company to work out a mutually-satisfactory arrangement with the consumer. So right now with a six-year statute of limitations, debt collectors are free to call a consumer and say, *Hey, look, let's talk about an installment payment. As long as your installment payment plan is resolved within the statute of limitations we'll work with you.* And they have six years to work with them. Under this bill it would cut that time in -- in half. And so even if you were able to reach an installment payment agreement, you'd have it paid off in three years or you waive your right to get a judgment. And so the unintended consequence of this bill is it's going to force debt collectors to get judgments against consumers much faster and much more often because they have half as much time to work on a mutually-satisfactory arrangement.

And for that reason I will oppose it and recommend that my colleagues also oppose it. Thank you, Madam Speaker.

ACTING SPEAKER WALLACE: Read the last section.

THE CLERK: This act shall take effect immediately.

ACTING SPEAKER WALLACE: The Clerk will record the vote on A.2382. 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. Those who would like to vote in favor of it, though, should contact the Minority Leader's Office.

Thank you, Madam Speaker.

ACTING SPEAKER WALLACE: Thank you, Mr. Goodell.

Mrs. Peoples-Stokes.

MRS. PEOPLES-STOKES: Thank you, Madam Speaker. Majority colleagues are generally going to be in favor of this one. However, there may be some who would desire to be an exception. They should feel free to contact the Majority Leader's Office and we will properly record their vote.

Thank you, ma'am.

(The Clerk recorded the vote.)

ACTING SPEAKER WALLACE: Ms. Weinstein to explain her vote.

MS. WEINSTEIN: Yes, thank you, Madam Speaker. This bill would -- will prevent creditors and debt buyers from exploiting gaps in New York's CPLR and court rules and will level the playing field for pro se defendants. That's consumers without attorneys, who are the vast majority of people who are sued on consumer debt. And contrary to what has been proposed in opposition to this bill, this bill is strongly supported by consumer advocates as the

-- right now, actually, there are a three-year statute of limitations on many credit card companies because the statute of limitations relates to the home base of the parent of the credit card issuers. So, Discover cards, Chase and Capital One are all in states incorporated that currently have a three-year statute of limitations. We passed this bill four times before. This will be the fifth, and the real one that counts. And one thing I would say, this bill now has the support of the Credit Bar. These are the attorneys who sue on this debt because we -- and also the bankers who previously opposed this bill are neutral on it and no longer oppose it. And part of the reason is we accommodated some concerns of opposition, and the debt is no longer extinguished after the three years. It can still be collected, but it cannot be sued upon. And paying a small amount as often as encouraged by a creditor does not revive the statute of limitations. We also codify the existing OCA rules, court rules, to make sure that there's proper notification. If there's -- both when applying for a full judgment and in other circumstances.

With that, Madam Speaker, I vote in the affirmative.

ACTING SPEAKER WALLACE: Ms. Weinstein in the affirmative.

Mr. Lawler to explain his vote.

MR. LAWLER: Thank you, Madam Speaker. My only comment is I'm just amazed at the new and innovative ways that we find in this Body to make it more difficult to do business in the State of New York. Cutting the statute of limitations from six years to

three years on debt collections is really just quite remarkable, especially at a time that we are increasing the years by which, for instance, wage theft that an employee may go after an employer for wage theft. So it's really just remarkable. Every day we find new ways to make it harder and harder for people in the State of New York to do business and that's why they continue to leave in droves and open their businesses in other states, and it will continue with bills like this.

So I vote in the negative.

ACTING SPEAKER WALLACE: Mr. Lawler in the negative.

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

(The Clerk announced the results.)

The bill is passed.

Page 8, Rules Report No. 165.

THE CLERK: Assembly No. A02396-A, Rules Report No. 165, Woerner, DeStefano, Montesano, Stirpe, Barron, Jones. An act to amend the Public Service Law, in relation to requirements for certain contracts for attachments to utility poles and the use of utility ducts, trenches and conduits.

ACTING SPEAKER JONES: An explanation is requested, Ms. Woerner.

MS. WOERNER: Thank you. This bill would remove barriers to investment and deployment of high-speed

broadband in underserved areas of the State by streamlining the process by which pole attachment applications are made, and establishing an equitable and fair cost-sharing mechanism for pole replacement costs performed in response to an attachment request.

ACTING SPEAKER AUBRY: Mr. Palmesano.

MR. PALMESANO: Yes, thank you, Mr. Speaker.

Will the sponsor yield for some questions?

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

MS. WOERNER: Yes, Mr. Speaker.

ACTING SPEAKER AUBRY: The sponsor yields.

MR. PALMESANO: Thank you, Ms. Woerner. I just have some questions. The first, I agree. Broadband expansion is needed. We need to do that. I just have some questions regarding this bill and how it implements that and the goal of trying to do that. First, right now the Public Service Commission has a policy that maintains that a company (inaudible) pole to be upgraded to pay for that work, correct? So if someone is adding an attachment that will be upgraded right now, the Public Service requires that company to pay for the pole under their policy, correct?

MS. WOERNER: That is correct. The Public Service Commission does require that --

MR. PALMESANO: Right.

MS. WOERNER: As distinct from the Federal -- the FCC, which governs most states' telecommunications, which has a

different rule that provides an equitable distribution between the pole attacher and the pole owner.

MR. PALMESANO: So right now, a -- a company doing an attachment, they have three options available to them. They can rent space on the poles and pay for the pole replacement if the existing pole can't handle the added weight of the wires they want to attach to the poles. That's one. Or two, they can buy into the pole line. Or three, they can install their own lines, correct? Those are the options available to them right now, correct?

MS. WOERNER: I believe those are options available to them, but the principal mechanism is the option to attach to an existing pole and pay rent to that pole owner.

MR. PALMESANO: Right. So under this guideline -- so that's not obviously a fair or reasonable request as far as if an upgrade needs to be done to the pole?

MS. WOERNER: I'm sorry, I did not --

MR. PALMESANO: So under the guidelines right now that's not a fair or reasonable guideline to follow other than doing the attachment and paying the rent?

MS. WOERNER: I'm sorry, Mr. Palmesano. Could you please --

MR. PALMESANO: I know --

MS. WOERNER: -- speak a little more clearly?

MR. PALMESANO: Yes. So right now those three guidelines, from your perspective, are not fair or reasonable as far as

moving forward and trying to do broadband development, correct?

MS. WOERNER: What is not fair and reasonable is that when a pole attacher requests to attach to a pole and the pole owner determines through the Make-Ready process that that pole must be replaced, if that pole was already fully depreciated and ready to be replaced anyway, the pole owner is passing 100 percent of the cost of that pole replacement on to the attacher even though the pole was due to be replaced regardless of whether an attachment was made. And further, the ratepayers for that utility have been paying for the cost of -- of the anticipated retirement of that pole. So the utility companies are essentially being paid twice for the replacement of the same pole. I think that's unfair.

MR. PALMESANO: So -- it's -- it's an asset that's available to them. So right now, though, with this plan that you're looking at, just like a house is an asset, a pole is an asset if there's still value to that pole for the company and to the ratepayer. So right now, with this plan, wouldn't this be really a cost shift from the private company that's doing the bill out to the utility company or the other company that owns that pole, which would have to be passed on to their ratepayers or their customers as well under the proposal?

MS. WOERNER: So, under the regulatory framework today, utility companies are accruing depreciation expense against the anticipated retirement of that pole. So what this bill would do is say if that pole has been fully depreciated, meaning the ratepayers have already paid in advance for the -- for the retirement of

that pole, then the attaching company does not have to pay for the attachment to the pole. However, if the pole needs to be lengthened or widened, the incremental cost associated with not replacing in kind but replacing with something larger to accommodate the attachment, that incremental cost would be borne by the attacher.

MR. PALMESANO: Okay. And right now when a new pole is removed and it was disposed of, who pays for that cost of that disposal and removal and shipping it out and shipping it? That -- that falls on the utility owner, correct?

MS. WOERNER: It's part --

MR. PALMESANO: For -- for the pole --

MS. WOERNER: -- it is part of the cost of replacing it, yes.

MR. PALMESANO: Right. And the property taxes that are paid on that pole, that is paid by the pole owner, correct?

MS. WOERNER: Actually, the property taxes are kind of an interesting subject. So, the pole owner pays property taxes, but the pole attacher pays a property tax based on the cost of construction. So when the cost of construction includes 100 percent of the pole -- of the pole replacement, both the pole owner and the pole attacher are paying the exact same property taxes on that pole, even though it is only the pole owner who owns the pole.

MR. PALMESANO: Okay. So if -- if there is a -- is -- we can agree while if there is a cost shift because there's a new pole has to be put up and -- and the pole owner has to assume that cost --

MS. WOERNER: No, I don't think we actually do agree that there's a cost shift.

MR. PALMESANO: Okay.

MS. WOERNER: What I said was is that the ratepayers have already been paying -- throughout the life of that pole, the ratepayers have already been paying for it in advance. They have -- in essence, a portion of their rate is set aside in advance, in reserve, for paying for it. Because utilities are allowed to accrue depreciation expense against the future replacement of that pole. So if it is a replacement in kind and the pole was fully depreciated, there is no cost shift. And what this bill says is, if the bill -- if a -- if a pole is not fully depreciated, then whatever the net book value is, the pole attacher is going to pay that net book value. Plus if there's any incremental expenses associated with a taller or wider pole, they'll pay that as well.

MR. PALMESANO: All right. So these companies are allowed to be benefiting from this change in language that we're putting in place as these companies attach to the pole. Some do not service directly to consumers. Is there anything stopping a company from not passing those savings on to the consumer and not -- and just keeping those savings for their own operations? There's nothing in this bill that would address that, correct?

MS. WOERNER: So is your question is there anything in the bill that would stop the broadband companies from not just pocketing the savings?

MR. PALMESANO: Right. Well, if you've got (inaudible) draft servicing certain customers and then -- then that -- that -- they're getting savings from -- from this bill that's going to be taking place, so that's why it's going to go that particular broadband company, where the utility -- the other company's (inaudible) are going to be paying for those costs.

MS. WOERNER: So, just to give you a sense of why this is such an interesting and important subject, I think we can -- we've got a comparison for a program -- or a proposal for broadband poles in Schroon Lake, and it was originally proposed in 2014, not completed, and but then they proposed it again in 2016. And the difference from 2014 to 2016 is one year is before the New York broadband and one year is after the New York broadband. So, same project, same number of poles. In the first one, 2014, it called for 11 new poles, and the total cost estimate for this project to install it was \$52,462. Now two years later, with no changes in any of the aspects of this project, the cost went from \$52,462 to \$135,610. And suddenly, 11 new -- 11 poles more needed to be replaced. Again, no difference 2014 to 2016. But the utility company that owns these poles decided that they would pass the cost off to the broadband company who had received public moneys to -- to do the broadband expansion. So the public dollars, the taxpayer dollars that we put into this project would not go as far as because the utility company that owns the pole decided that they were going to shift the cost of the maintenance of their infrastructure on to the new broadband provider

that was asking to be attached. So these are not -- what we're trying to do is lower the cost of broadband so that more customers can be served.

MR. PALMESANO: Sure.

MS. WOERNER: But this is not about saving the broadband companies money that they can put in their pockets. This is about making sure that all of our constituents who live on rural roads can get access to broadband that they can afford.

MR. PALMESANO: Right. And I can appreciate that. There's another question on the technical side, legal side, because I know there's really -- isn't there a question with this last legislation whether it will exist -- interfere with existing contracts that are in place and that, you know, basic impacts contract law? And also, the other concern is because it is private property and what's being mandated in this bill also constituting a taking, which would be a violation of the New York State Constitution and could propose legal challenges as we move forward because you're dealing with changing some contracts that are in place and possible concerns relative to taking a property. Isn't that something that could jeopardize the language of what the intent of this bill is trying to do?

MS. WOERNER: I -- I don't -- I don't see how it would qualify as a *taking*. What we are saying is, you -- you have already fully depreciated and you have -- you have retained the -- you have accrued the expenses -- the expense dollars necessary to do the maintenance that has been approved in your rate case. You cannot

double dip and then also charge a broadband company for the same pole.

MR. PALMESANO: All right. And one last question, really, before I speak. I appreciate your time. Wouldn't if you really want to do -- make the progress in expanding broadband to our rural areas, wouldn't probably a better solution, the best solution be to remove the disastrous and costly burdensome DOT right-of-way tax fee that your Conference negotiated with the (inaudible) as part of the budget in 2019? Wouldn't it be better to relieve that burden right now that would help to -- which has stymied investment into the broadband market with cost? Wouldn't that be a better approach to -- if you really want to help get that broadband development?

MS. WOERNER: Mr. Palmesano, there are many things that are getting in the way of broadband expansion to our rural communities. The DOT right-of-way tax is one of them. But so is this. And -- and this -- we have data from real companies that show us that the way the -- the PSC is regulating the utility companies with respect to pole ownership and pole attachment is providing a loophole that allows these projects to be more than double what they were before the broadband money was available.

MR. PALMESANO: Okay. Thank you, Ms. Woerner, for your time.

Mr. Speaker, on the bill.

ACTING SPEAKER AUBRY: On the bill, sir.

MR. PALMESANO: Certainly, I -- I applaud the

sponsor for her intentions with this legislation. There's just some points I wanted to bring up because I'm concerned about some of the language in this bill. No one is a bigger supporter of broadband expansion than myself. We've heard the claims from this Governor that 98 percent of the people of the State of New York have broadband access. That's not true. We know that this experiment didn't work in our schools and teaching our children. We know a build-out is required and necessary and we need it now. And I think the questions regarding this and how this works with the poles is how that's paid for and is it fair and equitable relative to a private company that's doing this build-out and whether the concerns are whether this is being subsidized by ratepayers from our utilities and other companies that -- where these poles are owned by. And I'm concerned about a cost shift that could happen with this issue. And, again, I think the other point that I brought up, too, is you know, regarding these savings that will be brought upon these broadband companies, we want to ensure that those savings are pass on, indeed, to the customer. I would like to see more language to address that issue. Certainly, I think -- again, I mentioned the DOT right-of-way tax fee that's about \$250 million, again, that was negotiated with this Chamber leadership, the Majority in this House, with the Governor which has stymied the investment and been a hindrance and burdensome and costly to our municipalities, to our providers as well. The other fact is the pole owners pay for the disposal costs of the poles. Pole -- pole owners are paying for the property tax (inaudible), the property taxes. The pole

owners are now going to be asked to pay for the build-out of our private companies, you know, with new poles maybe that might not be needed. And I guess I'm concerned about a shift to other customers in areas -- in those areas where they're in the rural areas that are going to be burdened with this on their utility bill, whether it's payable through a rate (inaudible) or whether they get a surcharge on their bill. And I know when we go through and look at how these rates are regulated, our utilities are regulated rates. But the competitive marketplace on the broadband is -- is private market. I think -- I think there are certainly questions that will be looked at with this legislation as we move forward from a legal perspective relative to contract law. I'm concerned about that. And also regarding -- you know, because we are talking about private property, in the -- the taking of private property. I think that's something that could face a legal challenge, which we want to do what we can to expand broadband. I think that's one issue. I think the other thing is, it always seems like we're always trying to legislate a solution which sometimes causes additional problems and fees for others. I think probably the best thing to do is try and get our stakeholders together and work together on a solution. It seems like that never happens with this Chamber on bills. We've seen it in the criminal justice side of the aisle. You don't bring the stakeholders together to find solutions and answers. Instead it is really typical of all the legislation we see here. It never happens about trying to get our -- our stakeholders together to find a solution, to work together to find a practical solution that could benefit everyone. It

doesn't just -- it's happening here, I think, in this bill. I think bringing all those interests together -- I believe there's task force talking about this. We should be giving them the report and see where we can address and find our common goal. But at the end of the day, I think the best thing we could do, the first step we should be doing and we should have taken a long time ago and should have never happened a long time ago, a couple years ago, is let's get rid of that burdensome cost, the DOT right-of-way -- right-of-way fee tax that is placed on our providers that we want to expand broadband into our neighborhoods and to our communities in our rural areas. It's a disincentive for them to invest. They're not going to invest because of those costs. It's a disincentive for our municipalities who have to pay for that cost. That would be a step right now that we could take to move forward to address this issue. But again, I think we need to keep moving forward on this issue. I just wish there was more dialogue. And those are just some of the concerns I have regarding this legislation.

Because of those concerns I'll be voting in the negative. Thank you.

ACTING SPEAKER AUBRY: Mr. Goodell.

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

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

MS. WOERNER: Yes, Mr. Speaker.

ACTING SPEAKER AUBRY: The sponsor yields,

sir.

MR. GOODELL: Thank you, Ms. Woerner. I appreciate your discussion on depreciation and cost allocation and all those great accounting terms. And so I was hoping you could just fill out a few more details for those of us who are not necessarily accounting majors. When it comes to poles, am I correct that there is a designated life expectancy that the utility uses in terms of the length of time on which they can depreciate a pole?

MS. WOERNER: Yes. I believe it's 20 years.

MR. GOODELL: And so at the end of that 20-year period, whether the pole actually needs to be replaced may depend on a number of factors; where the pole was placed, whether it was in the shade or in the sun, whether it's in wet ground or dry ground, gravel ground. All those play into whether or not the pole is actually replaced, correct?

MS. WOERNER: That is correct.

MR. GOODELL: And so, a utility company makes a replacement of the pole not based on its designated accounting depreciation schedule, but on the actual physical condition of the pole, correct?

MS. WOERNER: That is correct.

MR. GOODELL: And when they do a depreciation, this depreciation is for accounting purposes. They don't actually put aside sinking funds, right? They have a long-term capital replacement policy that's based on the physical needs of the poles, not based on

accounting back-office operations, correct?

MS. WOERNER: In their rate case they will typically include a reserve for pole replacement, and that's reflected in the accruals -- the accrued depreciation expense that is set aside for pole replacement costs.

MR. GOODELL: So, looking at how this bill actually applies to those accounting principles, am I correct, then, that if a cable company wants to attach lines to a pole and the existing pole doesn't have the capacity for the new line, it's maxed out already in terms of its load-carrying capacity, and the pole has been in the ground for more than 20 years, the utility company is not only obligated to replace the pole, but is obligated to pay the full cost of the replacement even though the utility company from a physical perspective might have left the pole in for another five or ten years, is that correct?

MS. WOERNER: That is correct. And they will have -- they will have accrued a depreciation expense to cover the cost of that, and -- and the pole attacher will pay rent on top of that for having the privilege of being located on their pole.

MR. GOODELL: And in the meantime, of course, they incur a cash flow upfront cost of replacing a whole -- it could be an entire line, right, that was put in the same year. They could replace the entire line even though they would not normally been planned to do that based on the physical condition of the poles.

MS. WOERNER: My understanding is that in any

given project, about 10 percent of the poles are the ones that need to be replaced. So not every pole needs to be replaced. Most poles can, in fact, accommodate an additional attacher with some modification, perhaps, to the -- the alignment of the -- the other attachments.

MR. GOODELL: Now, you mentioned that the Public Service Commission closely regulates the rates of the utility companies and their profitability and their rate of return, all those great financial aspects. Does the Public Service Commission also regulate the profitability of broadband companies?

MS. WOERNER: They do not.

MR. GOODELL: Internet companies.

MS. WOERNER: They do not. And that is perhaps one of the other things that we ought to do is make broadband a regulated utility.

MR. GOODELL: I see. Is there anything under present law, including PSC regulations, that prevent a utility company from negotiating what the cost allocation would be for the additional -- an additional line on their poles?

MS. WOERNER: There is -- there is not. And in fact, some of the utility companies do provide -- do take that approach and provide an equitable cost sharing that is -- that represents the percentage of replacement costs that the -- that the attacher is causing. But not all of them do.

MR. GOODELL: Thank you very much, Ms. Woerner. I appreciate your insights and your thoughts on this bill.

MS. WOERNER: Thank you.

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

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

MR. GOODELL: Right now, the way the current law works is it's a matter of negotiation between the utility company and an Internet service provider over what the charge will be when the Internet service provider wants to run a line on the utility's poles. And a lot of times the utility companies will say to the Internet provider, *If we have to replace a pole in order to accommodate your line, we want you to pay for the cost of replacing that pole.* As the sponsor noted, from an accounting perspective that pole may have been fully depreciated, but from a practical perspective that pole might have years of life left in it. And so you can understand why the utility company would want to say to an Internet provider, *If you're forcing us to replace a pole that we weren't planning to replace for maybe five or ten more years, that's creating a cash flow issue for us and we want you to help us on that.* And under the current law, the free market addressed what those charges are. If the utility company imposes a cost that's too high, the Internet company won't use them and the utility company loses revenue. And so it's a matter of negotiation, and it reflects the relative financial viability of both the utility company, the costs up front, the opportunity for both of them to be successful. And by and large, we rely on the free market system, right, in virtually every single situation involving corporate

negotiations on cost sharing. And by and large it works very -- very well. Now, ironically, as pointed out by my colleague, when it comes to Internet expansion New York State seems to take a schizophrenic approach. You're never quite sure which personality you're talking to. On one hand we say, *Oh, we want broadband expansion, especially in the rural areas so we need to reduce the cost by having utility companies pick up more of the cost. We're not charged (inaudible) the cost replacement.* Then we say, *We want to have broadband expansion so we want to make funding available.* And then we turn around and in the next breath, and a different personality speaks up -- almost like Sybil -- and says, *Oh, by the way, you can only charge \$15 a month, which doesn't cover your cost of running the line.* And the utility companies -- or the Internet company says, *And you want us to expand so we can lose more money, right? What planet are you guys on?* Well, we're on the planet of Albany. We're circling somewhere from the third rock from the sun, I think. And then we say, *And by the way, if you have the audacity to run new lines we'll make sure you pay us a line charge, a right-of-way charge because we surely don't want to make that type of infrastructure affordable in New York State.*

So I appreciate the desire of my colleague within the schizophrenic framework to try to help expand broadband. Congratulations. I support your effort and I appreciate it. And sadly, the remedy that's being proposed is a sidestep to a free and fair market system and impose an artificial cost allocation from a high, which I don't think is the best approach. Instead, let's suggest that we get all

those personalities into one room and see if we can communicate them, perhaps with the help of a seance, so that we can come up with one consistent policy that makes sense for everyone.

In the meantime, I -- I will not be supporting this legislation for the reasons mentioned by my colleagues and others. But I certainly appreciate the desires of my colleague and the sponsor to try to move us forward in this interesting and challenging area. Thank you, Mr. Speaker.

ACTING SPEAKER AUBRY: Mr. Smullen.

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

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

MS. WOERNER: Certainly.

MR. SMULLEN: Thank you, Ms. Woerner. I really appreciate that. This is -- this is a great conversation to be having in public. I really -- I really do appreciate it. Because this is an issue, of course, in my district it's very serious, especially in this pandemic, for the four reasons that I believe broadband is important. First and foremost is for our children to have access to school online, whether it's online instruction or the access to the materials that they need to study. Secondly, especially in this pandemic, is people that have learned to telecommute. They work from home and they need this service. The third reason is telemedicine, telehealth. I love it when my seniors can visit their doctor from their very home, no matter

where it is in New York State. And lastly, and very importantly, it's for commerce. People use broadband, they use information technology to do business at a rapid rate. And we have accelerated ten years of technological change into one year of the pandemic. And I think it's time to act now to get broadband service to all of our New Yorkers.

But I've got some questions for you. And I think what's very important is, who are you talking about right now when you say who doesn't have access to service that would be helped by this bill?

MS. WOERNER: Well, I can -- I can tell you that I probably have 25 e-mails from constituents who are currently unable to receive -- to get broadband because the expansion has not reached their roads. They tend to be in areas that are, you know, four houses per mile. Not -- not dense enough to meet the break-even point which over the last couple of years has gone from four houses per mile to over 12 houses per mile is the break-even point.

MR. SMULLEN: And seeing you're the sponsor nodding, you even see in some areas it may be as high as 25 per mile, depending on what the age of your infrastructure is in those areas.

MS. WOERNER: It's true. New York State has the oldest grid and the oldest infrastructure in the -- in the United States.

MR. SMULLEN: And go figure. So in -- in the sins of our past where we haven't invested in infrastructure are now coming to bite us here today, particularly in this time of need when

we're talking about -- what -- what is the average cost per mile to run fiber-optic broadband service to a house?

MS. WOERNER: The average cost per mile? I think I have that --

MR. SMULLEN: Approximately.

MS. WOERNER: Hang on.

MR. SMULLEN: It's not a trick question, I just want to know how much does it cost and how many miles are we talking about here that will be affected by the incentive of this bill?

MS. WOERNER: I apologize, I don't have on the top of my head the -- the cost per mile. I have other costs, but not that one.

MR. SMULLEN: Thank you very much for that. You know, what -- what I think we're talking about is only a very limited part of New York State. Maybe as few as 5 percent of the population, but an area far from primarily rural districts where there's zero access to broadband. Not just that people can't afford it, but there is zero access to it. They can't get it. And I think it's very important that we forcibly in State policy try to go ahead and get that.

So, we talked a little bit about the poles and the pole issues. I don't want to talk about pole taxes, but I want to talk about taxes on the number of poles that we have here. Is this -- this bill that you're proposing, what is the approximate number of poles, then, in New York State that this would affect? For those that have sufficient service, that the providers are making money, whether it's for electric

utilities or broadband utilities. But now we're talking about a separate class here where we're going to maybe use multiple uses on rural poles. How many are we actually talking about here, in your guesstimate?

MS. WOERNER: The -- what I have been told by the CLEC that it is about 10 percent of the polls need to be fully replaced.

MR. SMULLEN: So it's a significant number, but it would be an investment in New York's future if the State were to incentivize it not only through this bill, but through other means such as reducing the taxes so people could then afford to replace the poles?

MS. WOERNER: I want to just make it clear that in the rate case that the utilities make on a periodic basis to the PSC, included in their rate case is an allocation of money to go towards pole replacement. So they are already approved to collect money from their ratepayers to fund the upgrade of their infrastructure. So that is -- the financing of pole infrastructure is already provided for in the utility's rate case.

MR. SMULLEN: So, I do understand that, but we may need to accelerate that in order to provide that. Or is there another way of perhaps lowering some of the standards to be able to let poles age out or to, in fact, attach more broadband to public utility poles that are already under these -- this rate case. Is there any exceptions that can be made to the standards, or is that another artificial distinction which is causing more pressure on to the

situation?

MS. WOERNER: Well, you know, the -- the engineering on a pole is set by Federal safety standards. So there are specific standards that the pole owner and pole attacher have to comply with in terms of the loading on a pole. So the distance between wires, where the power supply has to go, all of those things are dictated by some Federal safety standards. So I don't think anybody would want to reduce the safety standards, particularly in -- in areas where, you know, we don't have -- we don't have a lot of infrastructure to -- to deal with it if things go down.

MR. SMULLEN: And -- and what about people doing it themselves? Where they -- where they could choose to connect themselves to the nearest pole from which the service is available.

MS. WOERNER: I think that is a great idea. And, in fact, I think there was a -- there's a -- there's a town -- an individual in a town in Upstate who's doing that with the approval of SLIP networks or the assistance of SLIP networks. I believe they are making that happen.

MR. SMULLEN: I mean, certainly, one of the ideas that has been discussed is municipalities of whatever size actually developing broadband cooperatives, similar to the way rural electrical cooperatives were built back in -- in the 30's for electrification. Are there any other innovative solutions out there such as wireless technology that are on the horizon that we can look to in this big

discussion? Really, this has been a ten-year discussion that we're having and it's going to continue after this bill. Are there any other potential game-changers out there?

MS. WOERNER: Well, I think there are always -- you know, that's the nice thing about technology, is that we continue to have smart engineers that invent the next generation of technology that is better, faster, cheaper. And so I think we -- we always want to be open to innovative solutions that take advantage of the latest innovation. But one of the things that we know about the current technologies that are available today is that even the wireless technology depends on some amount of wired broadband. So, the ability to bring fiber on the network of poles that we have is really critical both to wireless solutions as well as to wired solutions.

MR. SMULLEN: Thank you very much, Ms. Woerner. I really appreciate your comments.

Mr. Speaker, on the bill.

ACTING SPEAKER AUBRY: On the bill, sir.

MR. SMULLEN: The sponsor has really hit on a point which needs to be brought up, which is that -- that not only is our -- our infrastructure outdated, but some of our policies are outdated as far as deploying of new technology and how it gets actually deployed on a Statewide basis sort of thing. I hope to have that to be part of the discussion. One of the big outcomes of this pandemic is that broadband service is a necessity. I didn't say it's a public utility, I said it's a necessity for New Yorkers. And we need to

work very hard and very smart and very much together to be able to get our public policy apparatus -- the Public Service Commission, the public utilities, the broadband companies and all of the regulatory agencies that -- that incentivize this -- to get it right. Because I think we're only talking about 5 percent of New York residents which have zero broadband service. The first thing that needs to be done is that our broadband study bill that was in the budget needs to be aggressively implemented so we know exactly who does and who does not have Internet service in New York, the capability to access it. I'm not talking about the capability to afford it. That's a -- that's an issue that's already been addressed in the budget. But the capability to access it. And I -- and I urge my -- ask all of those involved in this conversation to work together to be able to get this problem solved. We've taken ten years of technological change and compressed it into one year. And the demands coming out of this pandemic are -- are quite clear and they're quite obvious. And I urge all of my colleagues to act in a bipartisan manner when it comes to solving this, including on this bill, which I have issues with but I will be voting in favor of.

Thank you, Mr. Speaker.

ACTING SPEAKER AUBRY: Thank you.

Mr. Simpson.

MR. SIMPSON: Thank you, Mr. Speaker. I would just like to thank the sponsor for bringing forth this important bill. This is important enough that it's going to affect my district, which is one of the most rural districts with many people that do not have

access to broadband. But then again, those providers that are in my communities -- in my -- my communities are being mandated to pay -- or to provide \$15-a-month broadband service. So we have government involving themselves in a private entity, but we also have government policies that is creating a situation where a publicly-funded initiative to expand broadband in the Adirondacks and our rural communities is being negatively impacted by the current policies. We need to change that. This is a first step. This isn't the only thing that needs to be done, there are many things. And I believe it was in 2018, 2019 the Governor appointed -- or set up a Broadband Cellular Task Force. And they actually have a report, but we haven't seen that report yet. I haven't seen it. I'm very much interested in seeing what work was done. There are very informative people that were part of that task force that I think it would help us moving forward.

So, I would just like to say that I fully support this piece of legislation and I urge my colleagues also to support it. Thank you, Mr. Speaker.

ACTING SPEAKER AUBRY: Thank you, sir.

Mr. Jones.

MR. JONES: Excuse me. Will the sponsor yield?

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

MS. WOERNER: Yes.

MR. JONES: Thank you, Ms. Woerner. And I just

have a few quick questions. Does the ratepayer for the utility company already pay for that pole?

MS. WOERNER: Yes. It is embedded in the rate case that the utility has made.

MR. JONES: Okay. Another question. When the broadband company puts -- when they go through that assessment and they have to put that pole up, they also pay for that pole as well, correct?

MS. WOERNER: So when a broadband attacher is required to -- to replace the pole as part of the make ready work, yes, they would pay for the full cost of the pole replacement -- we're talking about today's law. They would be -- pay for the full cost of the pole replacement and then they're going to pay a property tax based on the cost of construction. So they pay taxes on -- on the money that they have spent to replace a pole that they don't own that they have to pay rent on.

MR. JONES: Thank you for answering that, that was my next question, three quick questions. They are paying property tax on that, as well, for a pole that they do not own. That is correct.

MS. WOERNER: That is correct.

MR. JONES: So -- the question here is -- well, on the bill, Madam Speaker.

ACTING SPEAKER RAJKUMAR: On the bill.

MR. JONES: I want to first of all thank you -- thank the sponsor for bringing this piece of legislation up here to be voted

on on the floor here. It is very important -- a very important piece of legislation. And my colleagues bring up some great points here, they really do, as far as DOT tax, as far as the regulations and the requirements and the permitting that small broadband -- small broadband companies have to go through here in New York State to reach our most rural areas, and to reach a lot of areas that my colleagues serve here.

But I'm going to talk about the bill -- on the bill. And as the sponsor so elegantly has said, these monies are going from the broadband company, which are taxpayers dollars a lot of them, are going to the utility company for a pole that in most cases the ratepayer has already paid for. So I think all of us should just question that. We should question why are ratepayers paying that -- for that pole in the first place or they're -- they're under contract and it's a supplemented fund, which the sponsor did explain, but why are we asking the broadband companies that, in a lot of these cases, they're paying again through taxpayer money. So that pole is being paid for twice by consumer -- once by consumers and once by taxpayers, mostly the same person or the same people that are doing it.

This is a good bill. We're trying to get broadband service to everyone here in New York State like many of my colleagues have said. There may be -- they may have issues with this bill, but what we're trying to do is streamline the process to cut down the cost, to get broadband and Internet service to all of our residents here in New York State. And a lot of cases, which the sponsor said

and many of my colleagues have said, comes down to rural areas, hard to serve areas, and it's important to put things in perspective when many years ago the Governor came out with this, and the Broadband Office came out with this last mile, you know, *We're going to do the final mile*. Well, in many of our areas, and I know several of my colleagues have spoken about it, that last mile sometimes can be 10, 15, 20, 30 miles. So we're talking about serving underserved areas that really need to make sure that we make that dollar go as far as we can. And when we're talking about taxpayer dollars supplementing a lot of these small broadband companies, we need to make sure we utilize that as much as possible, and that's what this bill is doing.

Thank you very much to the sponsor for bringing this forward. We've had many discussions about it with many of our colleagues here, and this will help do that. We can talk about the other issues for sure, and we should, the right-of-way tax, the permitting process, all of this - my colleagues bring up very good points in that, but right now we're trying to deal with this issue and we certainly should deal with those issues moving forward and we need to do that, but I want to commend the sponsor on this and I will be supporting this piece of legislation.

ACTING SPEAKER RAJKUMAR: Read the last section.

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

ACTING SPEAKER RAJKUMAR: The Clerk will

record the vote on Assembly 2396-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.)

Ms. Woerner to explain to her vote.

MS. WOERNER: Thank you, Madam Speaker, for allowing me to explain my vote. If broadband, as -- as many of our colleagues have said this afternoon, is not -- is not an option anymore, it is -- it is a requirement to be part of a 21st Century economy. It affects how people learn. It affects how people gain health care. It affects how we do commerce. And that we have a percentage of people in New York State who have zero access has been proven -- we -- we've demonstrated over the last year what the impact of that is.

There are many reasons why we don't have good broadband access to 100 percent of our communities, but one of the reasons is that the regulation of how pole attachment is done is -- does not provide for equitable cost sharing. What this bill does is ensure that there's a fair and equitable cost share between the pole owner and the pole attacher to keep the cost of broadband low. Why do we do that? Because every dollar that gets spent on this pole replacement is a dollar that's not invested in bringing broadband to another house in the State. And that's what we're trying to do, is maximize the number of houses as quickly as possible who get access to broadband so they that can live a 21st Century life.

With that, I vote in the affirmative. Thank you.

ACTING SPEAKER RAJKUMAR: Ms. Woerner in the affirmative.

Mr. Goodell to explain his vote.

MR. GOODELL: Thank you, Madam Speaker. As the debate today indicated, there's a lot of conflicting and great points on both sides of this issue. On one hand, we certainly want to make it more affordable to expand broadband Internet access, especially in the North Country and in the rural areas. And this bill will certainly make it cheaper for broadband providers to co-locate on poles owned by utility companies. Of course, at the same time we recognize that as it's cheaper for the broadband company to pay less to co-locate, it also means then, of course, that our utility rates will likely not go down because they won't have this offsetting revenue. So all of us in the rural sections are also very much concerned about utility rates. I'm always concerned when the Legislature intercedes and takes over from the private market, the free competitive system, and where we impose our will rather than let the market forces govern.

And so I'm deeply torn since I have constituents who most assuredly would like to have broader broadband access, I also have constituents who struggle every month to pay their utility bill and would find it a great relief if the utility company had more revenue and so they could avoid future rate increases. We called for a fast vote, reflecting the fact that many of our members will be on different sides of this issue. For me, I will be voting in favor of it, but I

certainly acknowledge the concerns that were raised so eloquently by my colleagues on both sides. Thank you, Madam Speaker.

ACTING SPEAKER RAJKUMAR: Mr. Goodell in the affirmative.

Mr. Palmesano to explain his vote.

MR. PALMESANO: Yes, Mr. [sic] Speaker. I know I spent some time debating this -- this bill and discussion on it, concerns that I brought up that I do have as we move forward, but I, you know, listening to the debate and the discussion and -- and looking what the ultimate goal is, I am going to vote yes for this bill. I do think the concerns I brought up are legitimate concerns. I think they are ones that are going to be impactful as we move forward. I wish we could have our -- our people get together in a room, get the stakeholders together in a room, which never happens on -- on things we do. This legislation I think was, you know, a step ahead of that. I wish we could get our stakeholders in a room to come together for a -- for a solution.

But I think, you know, given the situation that we're facing particularly in our rural areas, we need to work together to try to expand broadband the best we can and make sure that that's working. I'm hopeful that this legislation will do this, but we certainly have a long way to go and I do think that right of way deal (inaudible) needs to go -- needs to go now, it never should have been there in the first place. But based on, you know, listening to the discussion and my thoughts on this reflecting -- being from a rural area, I know the

impact that our rural communities are having right now trying to get the broadband to those areas. I'm going to be supporting this legislation with a yes vote. Thank you.

ACTING SPEAKER RAJKUMAR: Mr. Palmesano in the affirmative.

Mr. Manktelow to explain his vote.

MR. MANKTELOW: Thank you, Madam Speaker. First of all, I wanted to say thank you to the sponsor for bringing this forward and being well prepared. It was much appreciated. I will be supporting this bill, I think it's a good bill, but I do agree with my colleagues that we should get all the players around the table and see if we can't bring them together and make this work better. As -- as a farmer for many years, I've bought my fair share of utility poles, believe me. And I always don't agree with the way they depreciate it. So again, I just thank the sponsor and I think it's the right move at this time and I applaud you for doing this and I look forward to supporting it. Thank you.

ACTING SPEAKER RAJKUMAR: Mr. Manktelow in the affirmative.

Mr. Lemondes to explain his vote.

MR. LEMONDES: Thank you, Madam Speaker. Despite the flaws in the bill, I am happy to support it on behalf of the 8,000 homes in my district that are rural, that are either unwired or underwired. And having struggled through this with my own business in a rural area, I fully understand the perspective of all families,

especially if they have children, what this challenge entails for them. I've watched my own kids struggle. We were unable 2013, '14, '15, and '16 before we got modern technology, we were unable to really transact e-commerce for -- for our own business. And for those reasons, I will be supporting this bill. Thank you.

ACTING SPEAKER RAJKUMAR: Thank you.

And are there any other votes? Announce the results.

(The Clerk announced the results.)

The bill is passed.

Page 9, Rules Report No. 184.

THE CLERK: Assembly No. A05029-A, Rules Report No. 184, Paulin, Englebright, Thiele, L. Rosenthal, Glick, Galef, Epstein, Steck. An act to amend the Environmental Conservation Law, in relation to prohibiting the use of certain grades of fuel oil.

ACTING SPEAKER RAJKUMAR: Mr. Goodell.

MR. GOODELL: Thank you, Madam Speaker.

Would the sponsor yield?

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

MS. PAULIN: Happy to.

MR. GOODELL: Thank you, Ms. Paulin. I think this bill is fairly straightforward. It say that over the period through July 1, 2023 we'll phase out number 6 fuel oil as a source of heating oil for commercial buildings, is that correct?

MS. PAULIN: Yes, similarly to what New York City and Westchester have already done.

MR. GOODELL: And I -- by the way, I have relatively few objections to that -- to the bill, which is great, I'll be supporting it, but my question is this: What is our long-term plan? I mean, we blocked natural gas pipelines, we're shutting down Indian Point, which is electrical, we're banning number 6 fuel oil. What's the long-term plan for heating New York City and Westchester? Or is there one?

MS. PAULIN: Oh, they -- New York City -- well, Westchester I'm more familiar with. I know that they also, effective 2020 in a bipartisan fashion, also prohibits now oil 4. So what the oil companies have done is they have really converted to biofuels that are much better for the environment, and so that's really what the legislation in New York City and Westchester and now this are trying to encourage. So we're certainly not banning all fossil fuels. We couldn't at this stage until we have enough renewables to be able to -- to really sustain our energy market, but we are forcing a better type of oil to be used in these buildings.

MR. GOODELL: Thank you.

ACTING SPEAKER AUBRY: Read the last section.

THE CLERK: This act shall take effect immediately.

ACTING SPEAKER AUBRY: The Clerk will record the vote on Assembly print 5029-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.)

Are there any other votes? Announce the results.

(The Clerk announced the results.)

The bill is passed.

Page 10, Rules Report No. 192, the Clerk will read.

THE CLERK: Assembly No. A05773, Rules Report No. 192, Glick, Simon, De La Rosa, Englebright, Rozic, Cruz, Williams, Epstein, Reyes, Gottfried, Joyner, Ramos, Fall, Fernandez, Weprin, Griffin. An act to amend the Executive Law, in relation to equal pay disclosure with respect to State contracts.

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

MS. GLICK: Certainly, Mr. Speaker. As you know, there -- despite the fact that there have been prohibitions on wage discrimination, there is a wage gap that has persisted for based on gender, race, and ethnicity. The bill would simply require businesses and organizations that are bidding on State contracts to submit data on employee compensation to the State Comptroller based on job categories, race, gender, ethnicity, and other information that the -- the Comptroller might deem appropriate so that all of our contractors can demonstrate precisely how employee friendly they are in and how they are work assiduously to close any wage gap.

ACTING SPEAKER AUBRY: Mr. Goodell.

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

MS. GLICK: Sure.

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

MS. GLICK: Absolutely.

ACTING SPEAKER AUBRY: Ms. Glick yields, sir.

MR. GOODELL: Thank you, Ms. Glick. Obviously I -- I would -- or I should say I assume we are hoping that this information will be available in some sort of either in a searchable database or a report that can help us better understand differences in wages, is that correct?

MS. GLICK: Well, I think that over time, the Comptroller's Office has tried to put up more and more information that would be of use to the public. And this situation, I would assume that that would likewise be available with the proviso that it would not be revealing any specific worker information or, you know, any particularly proprietary information, it would be sort of aggregated information.

MR. GOODELL: And do you envision that within a particular wage category with a particular employer, they would report a range of wages or just the average within that work category?

MS. GLICK: Well, I think that it would probably be an average because there are factors that could be -- differentiate between individual employees who are still within a certain category;

some may have been on the job longer. And so you want to see that by gender, race, ethnicity that, on average, there isn't a major difference.

MR. GOODELL: So would you envision, just as an example, that if you had an employment classification, let's say a back office, something equivalent to account clerk typist in the public sector, but somebody, you know, who's coordinating the payment of receipts, bills, things of that nature, that it would report the average income for that description, that job by age, race, gender?

MS. GLICK: Yes.

MR. GOODELL: And not just company wide?

MS. GLICK: I'm sorry?

MR. GOODELL: And not -- between this -- and not just overall between multiple different employment categories.

MS. GLICK: Right. I think that it would be appropriate to have, as you've suggested, somebody who is in a nonmanagerial position not being lumped in with a managerial position. You want to see that at different levels that the -- that jobs that are similar in nature are being compared, not everyone in a particular firm across the board because as I mentioned, clearly somebody's in a managerial position versus a more administrative position might not have anywhere near the same kind of compensation.

MR. GOODELL: Certainly. And of course, as we both know, a lot of times some of the factors that you mentioned, like

seniority or educational background or experience can have a significant impact on salary even within a job -- the same job classifications. A senior teacher with a master's degree, for example, in a high school earns a lot more than a freshman teacher who just has a bachelor's degree, irrespective of their age, race, color, religion, national origin or anything like that. Do you envision that this data will also report on other factors that explain wage differential such as seniority, experience, or education within the job category?

MS. GLICK: I -- I think in general that will average out because I do believe that, you know, certainly through this pandemic we have seen a dramatic loss of jobs, particularly for women. And so as a -- a contractor is bidding on a State contract, it's utilizing the power of the purse of the State that they would want to demonstrate that they have worked assiduously to narrow the wage gap that has regrettably persisted.

MR. GOODELL: Do you envision that these reporting requirements as it relates to wages would only apply to those employees that are involved in the State project or would it apply to every employee in the company?

MS. GLICK: Well, you know, I -- I think that some of these will be regulations that will be promulgated by the Comptroller. I would think that at the very least it would be New York State employees.

MR. GOODELL: And New York State employees, all of them or just those involved in a State contract, for example.

MS. GLICK: Well, I think that it might be more than just those that are specific to the contract because the contractor that would be bidding on a job will -- you know, the contract may be very discrete for the delivery of a certain service, but there are other people who work in the company that are a part of making certain that that contract is fulfilled.

MR. GOODELL: How does this bill differ from Executive Order 162 which imposed certain wage reporting requirements on contractors working with the State?

MS. GLICK: Well, I -- I would say that the Executive Order is a -- is a little broad and says that specifically the data produced by contractors does not specifically include any salary information for contracted employees and, as a result, cannot be used for identifying inequities in salary payments. So I think the very notion that the Executive Order excludes some of that information is exactly why this legislation is necessary.

MR. GOODELL: Thank you very much, Ms. Glick. As always, I appreciate your comments and perspective.

MS. GLICK: Well, it's always a -- a pleasure to debate with you, however brief it might have been. But I want to say that I cannot stand that large screen and I can't wait until we are beyond that, or I've gotten a haircut, one or the other, whichever comes first.

MR. GOODELL: Well, thank you, Ms. Glick. I -- I'm glad to report I finally got a haircut, but I share your -- your desire

to be back in person in full.

On the bill.

ACTING SPEAKER AUBRY: On the bill, Mr.

Goodell.

MR. GOODELL: As -- as we all appreciate, one of our objectives -- in fact, one of the top priorities for State government when we go out and bid is try to get the very best price for the taxpayers and the best quality, and we do that by maximizing competition. So if we impose detailed reporting requirements that require anyone who is submitting a bid to the State of New York to provide detailed reports on all of their wages that they pay, it will obviously cost that bidder money to create those reports, and those costs will be passed on in the terms of a higher bid price, and it will also discourage some companies from even submitting a bid to the State of New York because a lot of private companies, quite frankly, don't think it's any business of the State to know what they're paying their employees. And some companies will be very reluctant to submit a bid to the State because they're very sensitive for competitive reasons on what they pay their employees and they don't want to publish to their competitors what they are paying to varying different -- to different job categories.

I would also point out that those who have done detailed analysis of the wage gap point out that there are a number of factors that need to be considered to actually understand what's going on, including seniority, including the type of job, including whether or

not mandatory overtime is part of the expectation. All those factors need to be evaluated in considering whether or not there's a wage gap and, if so, to what extent. And in fact, a lot of more recent studies indicate that women college graduates, by and large, earn about 105 percent more than men up until child-rearing age, and then many of them drop out of the labor force to raise kids, and thank goodness they do because they do a phenomenal job, but as a result, they drop behind men in terms of seniority and salary when they rejoin the labor force.

Unfortunately, this bill on one hand imposes somewhat detailed and expensive and maybe even onerous requirements on private companies that want to work with New York State, but on the other hand, doesn't give us enough information to really understand whether or not a wage gap actually exists and to what extent. To make it particularly difficult, as -- as the sponsor and -- and I've discussed, and I appreciate her comments very much, what makes it particularly difficult is it's unclear in this legislation whether a contractor is obligated to report only the wages of those employees that are involved in the State contract or whether they're obligated to provide that wage information to all of their employees, including those who are not involved in the State contract. And so think about that. If you're a large company and you want to be involved in helping build a -- a bridge or something else, maybe you're involved in a project in -- in, you know, one corner of the State, you don't necessarily want to have to disclose all the wages paid by all of the employees in the entire company in New York State. And this

language is unclear and it should be clear.

Because of the burdensome reporting requirements and the fact that much of this reporting could involve misleading information, as well as confidential information, it should be no surprise that the Business Council, Associated Builders and Contractors, and others that do contracting with the State are very much opposed to this legislation. Thank you, Mr. Speaker and, again, thank you to my colleague for her thoughtful answers.

ACTING SPEAKER AUBRY: Ms. Glick.

MS. GLICK: Thank you, Mr. Speaker, on the bill. I -- I understand that there are those who don't want to disclose the level of wage discrepancy that exists in their businesses, but when you are using taxpayer dollars, we should use the power of the purse to move people towards more equitable and appropriate compensation. It's actually good for many companies to say, *You know, we don't have that much of a wage gap, or we have no wage gap.* And that would encourage people to seek employment with them, let alone the fact that the -- the social benefit for the use of our own State dollars to encourage business to eliminate what has been a persistent problem of underpaying women and people of color.

So I appreciate this -- this opportunity to clarify my position and I hope that everybody will be supporting a bill that simply encourages the disclosure of aggregate wage information, not what Sarah Jones and Bob Smith are personally being paid, but demonstrating whether or not they have closed the gap, which is the

goal that we should all be supporting. Thank you, Mr. Speaker.

ACTING SPEAKER AUBRY: Thank you, Ms. Glick.

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 5773. 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 particular legislation, but those who support it should contact the Minority Leader's Office so we can properly record their vote. Thank you, Mr. Speaker.

ACTING SPEAKER AUBRY: Thank you.

Ms. Hyndman.

MS. HYNDMAN: Mr. 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, we ask Majority members to contact the Majority Leader's Office at the number -- number previously provided and then their names will be announced accordingly. Thank you.

ACTING SPEAKER AUBRY: Thank you, Ms. Hyndman.

(The Clerk recorded the vote.)

Mr. Goodell.

MR. GOODELL: Thank you, sir. In addition to the affirmative votes on the floor, please record the following colleagues in the affirmative: Mr. Ashby, Mr. Miller, Ms. Miller, Mr. Schmitt, and Mr. Walczyk. Thank you, sir.

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 12, Rules Report No. 221, the Clerk will read.

THE CLERK: Assembly No. A06906, Rules Report No. 221, Otis, Abinanti, Seawright, Simon, Stirpe. An act to amend the Real Property Law, in relation to requiring landlords to mitigate damages when commercial tenants vacate premises in violation of the terms of the lease.

MR. GOODELL: Explanation, please.

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

MR. OTIS: This legislation restores the law in New York for commercial leases to the duty to mitigate damages in cases where a tenant has left in the middle of the lease. That was the law of New York State until 1995 when a Court of Appeals decision took away the duty to mitigate for commercial leases and that was interpreted for residential leases, as well. In 2019 we passed

legislation to restore that duty to residential leases. This legislation will restore that duty to commercial leases.

This is a good piece of legislation for business, especially in this time where we are recovering from COVID. Many small businesses maybe with a few locations have downsized and owe their full rent on their leases and they will -- that duty would still be there, but we are providing the duty to mitigate damages to the property owners to make a reasonable attempt to try and rent the space, and everyone would benefit. The legislation that was passed in 2019 had language in the bill that would apply here, as well, to make the burden very reasonable for property owners, reasonable good faith efforts if they can't rent the space, the tenant who left would still be obligated to pay the rent. But the real issue here is that some of these small businesses are still viable businesses who -- who maybe left a location or two, and this will help them survive as we move into the post-COVID economy.

So I hope you will all support the measure. It makes sense. I'd also add that the duty to mitigate damages generally around the country is a pretty standard piece of law jurisprudence that most states never did what New York did and abandoned the duty to mitigate so I think we should restore this principle to commercial contracts and help our small businesses.

ACTING SPEAKER AUBRY: Mr. Goodell.

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

ACTING SPEAKER AUBRY: Mr. Otis, will you yield, sir?

MR. OTIS: Of course.

That was yes, Mr. Goodell. Eager to hear from you.

ACTING SPEAKER AUBRY: Mr. Otis yields.

MR. GOODELL: Thank you, Mr. Otis. In a commercial lease context, often, not always, but almost always, both parties are represented by attorneys and often, these lease agreements involve extensive negotiation. Is there any provision in this law that allows a well-represented commercial tenant and a well-represented commercial landlord to opt out of these provisions as part of their negotiated agreement?

MR. OTIS: There is not and, in fact, to -- for the public policy goal here, those kinds of provisions if they were included in a lease would be void. And I think that's the right policy choice if we think that the duty to mitigate is a -- a value that we -- we want to continue. And I'll say in talking to some commercial landlords who are in little shopping area situations, little -- small retail area, and they see a landlord, neighboring landlord who has left a space vacant because they -- they still have the claim on the previous tenant, that's not good for commerce, that's not good for business. This will encourage getting spaces filled. And again, though, if the landlord, making a reasonable effort, cannot fill the space, the -- the duties of the tenant that had to leave early are not discharged.

MR. GOODELL: Now, under current law, absent a

negotiated agreement to the contrary, am I correct the tenant has a Common Law ability to seek a subtenant to mitigate damages, right? The tenant, absent some contractual provision otherwise, certainly has the right to mitigate damages on their own, correct?

MR. OTIS: That is true, although many commercial leases preclude that flexibility on the part of the tenant, but that is correct.

MR. GOODELL: Now, as you can appreciate, commercial leases, particularly ones in malls, have a lot of provisions about default and sometimes liquidated damages, reflecting the fact that there's a lot of symbiotic relationship between retailers. And so if you have a base tenant that goes out and refuses to work with you or stay in the building, it can affect the sales in all the other rental units. Does this agreement, therefore, then ban a liquidated damage clause that isn't -- it doesn't have a liquidated -- or offsetting damage provision like this, duty to mitigate?

MR. OTIS: I -- I don't think it would, but I think that the fact pattern that you raise is an argument for the bill. I think that in that mall situation, again, lots of empty shops in a mall are going to hurt the whole mall. And again, the language in the -- the law that would be involved here is the duty on the landlord, good faith effort to rent the property according to the landlord's resources and abilities, to take reasonable and customary actions to rent the premises. And in a mall setting, you know, there are customary dos and don'ts, so you -- you -- if you have a certain kind of store to location that they -- they

have left and next door is a -- a different kind of business, you -- it would not be that landlord's obligation to put a competing business in a mall right next to a competitor. So the law is -- values reasonableness, customary circumstances and I -- I -- I truly believe that in the commercial setting, tenants and landlords should have the benefit of this provision that we gave for residential leases two years ago.

MR. GOODELL: And you raise a great point.

Oftentimes, a commercial lease agreement has restrictions on who can occupy other spaces. So if you're in a mall, for example, they may restrict the number of shoe stores, for example. Does the language of this bill acknowledge that the landlord is not necessarily free to put anybody into that? Is -- is there any language in this that reflects that?

MR. OTIS: Well, the language of -- the language of the law that this bill amends, again, the language I just read you about the -- the customary actions, reasonable, that reasonableness language in the -- in the existing law I think would cover exactly that situation.

MR. GOODELL: As you know, in other context outside of the lease agreement arrangements, mitigated damages is an affirmative defense that can be raised by a party that breaches a contract, but the burden of proof then lies on the party that's raising the affirmative defense. Why do we change the burden of proof and require the landlord, who admittedly has done nothing wrong in most situations, who has not been the one that breached the lease, why do we shift the burden of proof onto the landlord and not keep it on the

defaulting party as an affirmative defense?

MR. OTIS: In these circumstances, the burden is not a very high burden to show a reasonable effort to list the property, to take normal, not extraordinary steps -- normal step would be very easy to demonstrate. And that's why the -- the phrasing and language of this section in 2019 was sensitive to just those kinds of issues, not to have an undue burden or showing of a burden on the landlords.

MR. GOODELL: Is it a defense by the landlord that the landlord, in fact, did arrange for multiple other commercial tenants, but those commercial tenants went into a different shopping mall? Or does this impose an affirmative duty on the landlord to fill the particular vacancy that was created by the breach of the agreement?

MR. OTIS: Reasonable efforts only. It does not require that the landlord be successful. The landlord may not be able to be successful and there -- there is no penalty if a space cannot be filled. The -- the vacating -- premature vacating tenant would still be liable for the original lease.

MR. GOODELL: Thank you very much, Mr. Otis. I appreciate your comments.

On the bill, sir.

ACTING SPEAKER AUBRY: On the bill, sir.

MR. GOODELL: Thank you, Mr. Speaker. In a commercial lease context, the parties are almost invariably represented by skilled lawyers, and they negotiate what the terms and

conditions of that lease agreement are. And they -- they certainly can negotiate if they desire an obligation to mitigate damages. They can include, for example, as part of that negotiation the right of the tenant to sublease so that the tenant themselves can mitigate damages. But what this bill says that if you have a commercial landlord and they've negotiated in good faith with a commercial tenant who is well represented by attorneys, we don't care what their agreement is. Think about that for a minute. We don't care, according to this law, what they negotiate. Because if they negotiated a straight fee for five years, for example, broken down into monthly, quarterly, or annual payments with no mitigation, we're saying we don't care. Tenant breaches the agreement, no fault of the landlord, the landlord's still entitled to be paid, we don't care, we're going to breach your own agreement and not allow you to collect damages. And some of us may say, *Well, look, if you can find a tenant to fill in that space, you ought to do it*, and it's not that simple. It's not that simple because the commercial landlord may have multiple spots that he's trying to fill. And this puts an affirmative duty on the landlord to fill first the spot that was created by a tenant who broke their agreement and breached it. And unlike any other commercial context where we say if you breach the agreement, if you're the defaulting party, you can raise this as an affirmative defense, but you have the burden of proof; in this context we reverse the burden of proof and then saying -- say to the breaching party, *You have to defend yourself*, we say to the innocent party, *You have to prove that you are unable to mitigate damages*. It's

backwards.

We've seen landlords, commercial landlords across New York State just absolutely hammered with COVID, and with a loss of revenue. And this, in my opinion, is the wrong time to say that we are going to ignore what you negotiated, we're going to void parts of your contract that were signed in good faith with the advice of legal counsel, we're going to impose a new affirmative duty on you and we're going to make it harder for you to survive, all in violation of the prohibitions in the Federal Constitution that ban us from impairing the existence on the validity of an existing contract. For that reason, I'll be opposed to this and I recommend that my colleagues also vote against it. Thank you, sir.

ACTING SPEAKER AUBRY: Read the last section.

THE CLERK: This act shall take effect immediately.

ACTING SPEAKER AUBRY: The Clerk will record the vote on Assembly print 6906. This is 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, Mr. Speaker. The Republican Conference recognizes the validity of competitively negotiated private contracts that have the benefit of counsel and will generally oppose efforts to void those contracts by legislation. Thank you, sir.

ACTING SPEAKER AUBRY: Thank you.

Ms. Hyndman.

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

ACTING SPEAKER AUBRY: Thank you, Ms. Hyndman.

(The Clerk recorded the vote.)

Are there --

(Pause)

Are there any other votes? Announce the results.

(The Clerk announced the results.)

The bill is passed.

Page 13, Rules Report No. 232, the Clerk will read.

THE CLERK: Assembly No. A07272, Rules Report No. 232, Rosenthal. An act to amend the Private Housing Finance Law, in relation to voting, election and referendum procedures; to requirements regarding mutual housing companies considering dissolution and/or reconstitution; to certain duties of a board of directors of a limited-profit housing company; and to prohibiting certain limited-profit housing companies from voluntarily dissolving during the State disaster emergency declared in response to the outbreak of COVID-19.

ACTING SPEAKER AUBRY: Mr. Fitzpatrick.

MR. FITZPATRICK: Thank you, Mr. Speaker.

Would the sponsor yield for a few questions?

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

MS. ROSENTHAL: Yes, of course.

ACTING SPEAKER AUBRY: Ms. Rosenthal yields, sir.

MR. FITZPATRICK: Thank you, Linda. The -- if I could just ask you very simply, what is the -- the purpose of this legislation? We -- we have a process that is already, I believe, very thorough and -- and, frankly, lengthy. Why is -- what is the need for this legislation, in your view?

MS. ROSENTHAL: Okay. Well, the need for this legislation is borne out by the hundreds upon hundreds of Mitchell-Lama residents who -- who live in co-ops and they have noticed that there is a dramatic need for good governance, transparency, and -- and a better system for holding voting for electing the board and for considering requests for privatization at this moment.

MR. FITZPATRICK: Well, what are the -- if you -- if you look at the current rules, a 365 day notice period, a two-thirds majority requirement, how -- what is -- what is wrong with those two provisions? A year lag time is pretty lengthy and two-thirds majority is -- is substantial. What's -- what is the problem here?

MS. ROSENTHAL: Well, what -- what we have found and, you know, there were plenty of Mitchell-Lamas in my neighborhood, in the urban renewal area and -- and across the -- the City, we have found that boards of directors have been elected, they maintain their positions for years. Elections are often not held. The majority of the shareholders are in the dark when it comes to actions taken by the board. The boards who desperately want to privatize keep imposing upon the shareholders round after round of -- of trying to privatize. And the way that things are conducted in Mitchell-Lamas, for example, the over abundant use of proxies to -- to -- for people to vote, the secrecy, the lack of meetings. There's a great need to shine some light on the operations of the boards in all these co-op Mitchell-Lamas.

MR. FITZPATRICK: Well, there are already requirements and rules that they need to follow. What you have is a -- a pure form of representative democracy here where these members of the board are elected internally, they run -- they run for the office. Where is -- there's already sufficient transparency and -- and safeguards. You know, a few people may not like the results or may not like the people who are in those positions of authority, but they can certainly, you know, work to un-elect them or run for the office themselves. What's -- what's wrong with doing that? Why do we need to have government come in and impose additional regulation over and above regulations that are already fairly strict?

MS. ROSENTHAL: Well, I mean, the government

has a -- has a role. The government HCR and HPD have a role in -- in the management and the supervision of all these -- these Mitchell-Lamas in the first place. You know, I wish things were as bright and open as you describe, but the way the system is set up, for example, one person can collect proxies from all the residents and thereby control their vote. So let's say that person is a member of the board. Collect your proxy and everyone on your floor -- it is a bit coercive to demand your proxy and then vote the way you want to.

MR. FITZPATRICK: But how --

MS. ROSENTHAL: And board members have power. And so we've switched that to an absentee ballot kind of vote so that each person is responsible for sending in their own absentee ballot without being pressured by anyone to vote your way --

MR. FITZPATRICK: Let me -- let me just stop you there. When you talk -- no one gives -- you give your proxy willingly or voluntarily to the -- to the person who ask -- asks for it --

MS. ROSENTHAL: Would that if it were so.

MR. FITZPATRICK: -- there's coercion involved. Well, can you give me an example of what that coercion looks like, what -- how is that game played? Enlighten me, please.

MS. ROSENTHAL: Well, let's say the board wants to do a certain project and you in apartment 6K really doesn't want to. They come knocking on your door and they say, *I want your proxy*. It's the same way politics is run. The more powerful try to impose their will on the less powerful. And let's say you need that person to

approve a project in your apartment on your floor. It is the -- the governance is designed to maintain those in power, in power in perpetuity. It's difficult to change members of the board because of the proxy system. Because shareholders are in the dark about many things that happen in meetings because some bylaws don't require the board to meet in public at all. And so some boards never meet. It is very difficult for shareholders to get any information about what is going on in these board meetings and what it obligates the shareholders to do.

MR. FITZPATRICK: Well, rather than taking this one-size-fits-all approach, why not make tweaks rather than a wholesale rash change here? If you want more transparency then let's -- let's get a little more transparency. If you want to change the proxy system, maybe we can change the law there, but to -- to, you know, to do what you're doing here to me looks like you're changing -- you're moving the goalposts in a sense where, you know, a scalpel is what's necessary and here I think we're taking more of a meat axe approach. You know, why -- you know, 80 percent instead of two-thirds just seems to me an overreach here.

MS. ROSENTHAL: You know, I -- I don't think that this is a meat axe. I have collaborated with coalitions of shareholders who represent thousands of people who reside in Mitchell-Lamas. They are demanding more transparency. And it has been decades since they've gotten anything they've needed in order to get more transparency. This bill will accomplish some of the basic benchmarks

of transparency. You know, someone runs for the board, they shouldn't win because no one else can control who votes. It should be fair and open, and it's not right now.

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

MS. ROSENTHAL: Thank you, Mike.

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

ACTING SPEAKER AUBRY: On the bill, sir.

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

ACTING SPEAKER AUBRY: On the bill.

MR. FITZPATRICK: Thank you. I -- I appreciate the -- the sponsor's effort here and, yeah, I'm -- I'm sure there are some tweaks that could be made and perhaps should be made to the Private Housing Finance Law with regard to governance of Mitchell-Lama complexes. But I think what is proposed here goes much too far. I -- you know, a 365 day notice period is quite substantial. Two-thirds is certainly fair rather than 80 percent, you know, requiring that the ballots only be mailed to the specific apartment rather than to the person's mailing address if they are living out of town for a few months I think is not fair to them.

But all that being said, I -- I think this is a case of, you know, moving the goalposts rather than taking a more measured approach. I will be voting no on this legislation and would encourage my colleagues to consider voting no as well. It's -- it's well-intended, but I think it needs -- it does not need to be this extreme, frankly. But

I thank the sponsor for -- for her time. Thank you, Mr. Speaker.

ACTING SPEAKER AUBRY: Thank you, sir.

Mr. Goodell.

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

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

MS. ROSENTHAL: You know, it's not a proper debate without Mr. Goodell being one of the speakers, so of course.

ACTING SPEAKER AUBRY: I think that means she'll yield, Mr. Goodell.

MR. GOODELL: Well, thank you very much, Ms. Rosenthal, and I will do my best to be proper.

I just had a couple of questions to follow up on my colleague's thoughtful inquiries. If you want a -- if you want an absentee ballot under this law, can you apply for it online?

MS. ROSENTHAL: I will look that up, but are you -- are you saying we should model the Mitchell-Lama absentee ballot request on New York State's?

MR. GOODELL: No, I'm just trying to find out the facts, ma'am.

MS. ROSENTHAL: Okay, sir. One moment. It doesn't specify, actually.

MR. GOODELL: I see. And to apply for one of these absentee ballots, do you have to give any type of voter ID?

MS. ROSENTHAL: No, you do not. But you have to live in the building.

MR. GOODELL: And do you have to sign the absentee ballot, right? It has to be your signature?

MS. ROSENTHAL: Yes.

MR. GOODELL: Can you use --

MS. ROSENTHAL: It actually has a two-envelope requirement.

MR. GOODELL: I see. And does -- can you use an electronic signature?

MS. ROSENTHAL: It doesn't address that, so probably not at the moment.

MR. GOODELL: And can the board of directors ask for a signature verification? You know, something to compare the signature on the affidavit ballot to -- maybe a driver's license or a government ID?

MS. ROSENTHAL: It does not specify; however, people who live in Mitchell-Lamas have signed numerous documents over their time living there, so if anyone wanted to compare, they could, but the bill is silent on that part.

MR. GOODELL: Does this legislation provide for early voting if you want to vote in person?

MS. ROSENTHAL: No.

MR. GOODELL: I saw, and I thought it was a really positive attribute, that one tenant couldn't go around and collect

proxies, correct?

MS. ROSENTHAL: Yes, and that is often what happens today.

MR. GOODELL: And -- but can that one tenant collect absentee ballots or do those absentee ballots have to be mailed directly back?

MS. ROSENTHAL: They have to be mailed back.

MR. GOODELL: So this legislation is really designed to prevent that type of ballot harvesting, right?

MS. ROSENTHAL: Correct.

MR. GOODELL: Now, in many things, particularly in politics we -- we look at a majority rule, but in this case it's not a majority rule that governs, is that correct?

MS. ROSENTHAL: It has specific percentages that have to be attained.

MR. GOODELL: And that's 80 percent, am I correct?

MS. ROSENTHAL: Yes, it is.

MR. GOODELL: So 21 percent of the tenants could control an election and block the desires of the vast majority, is that correct?

MS. ROSENTHAL: I think reaching 80 percent threshold when it comes to privatizing a Mitchell-Lama that was designed to be the home for middle-income people is not unreasonable.

MR. GOODELL: I see. Now, you provided that the -- the ballots have to be mailed not to the individual but to the apartment. Does that also apply for an absentee ballot?

MS. ROSENTHAL: The absentee ballot I -- I suppose would have the address where the person needs it mailed.

MR. GOODELL: And can the corporation automatically send out absentee ballots, or do they only send out absentee ballots upon request?

MS. ROSENTHAL: They send them out upon request because no -- no one can tell who will be home and who will not be home during the election.

MR. GOODELL: Now, presumably since this requires a 365 day advance notice, that that notice to be thoughtful and carefully considerate would want to include the major terms and conditions of the proposal. If there's a change in those terms and conditions during the prior year, presumably we would want a follow-up notice, wouldn't we?

MS. ROSENTHAL: Well, I think -- I mean, nothing prevents that, but I think once you've set out the rules then there should be no need to change them.

MR. GOODELL: I see. And if there is a follow-up notice, does that start the 365 day clock running new?

MS. ROSENTHAL: I don't believe so, but I -- I would have to check that.

MR. GOODELL: Thank you very much, Ms.

Rosenthal. I appreciate all your comments.

Thank you very much, Mr. Speaker.

ACTING SPEAKER AUBRY: Read the last section.

THE CLERK: This act shall take effect immediately.

ACTING SPEAKER AUBRY: The Clerk will record the vote on Assembly print 7272. 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, Mr. Speaker. The Republican Conference is generally opposed to this legislation, but certainly anyone who would like to vote for it should send in an absentee ballot as -- I'm just kidding. Just call the Minority Leader's Office and we'll record your vote. Thank you, sir.

ACTING SPEAKER AUBRY: Thank you very much.

Mrs. Peoples-Stokes.

MRS. PEOPLES-STOKES: Thank you, Mr. Speaker. Our Democratic colleagues are generally going to be in favor of this bill; however, should there be members who would like to be an exception, please feel free to contact the Majority Leader's Office and we will properly record your vote.

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

(The Clerk recorded the vote.)

Mr. Epstein to explain his vote.

MR. EPSTEIN: Thank you, Mr. Speaker. I rise to explain my vote. I want to thank the sponsor for introducing and getting this bill to the floor. I have numerous Mitchell-Lamas in my district. I have one in the process of trying to opt out. The risk of losing 1,000 affordable apartments in my community in a neighborhood that's gentrifying rapidly every day, we need these units for our middle-income families, and we also need to ensure that the money is not being spent as cooperative money to make sure that some people who want to move toward privatization can do that. This sets higher standards and goals to prevent this kind of privatization as we continue to need these Mitchell-Lama units. In a City where we see thousands of units of affordable housing coming off the rolls, one way to make sure we keep them is to ensure we create higher standards for Mitchell-Lama units. I encourage my colleagues to vote in favor of this bill. I will be doing the same. Thank you, Mr. Speaker.

ACTING SPEAKER AUBRY: Mr. Epstein 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, my

colleagues, we are going to continue on our debate list. And if you could just start at the top of the second page, Calendar No. 3, 935 by Mr. Carroll; Calendar No. 137, Assembly Bill No. 113 by Mr. Perry; Calendar No. 153, Assembly Bill No. 5845 by Mr. O'Donnell; Calendar No. 157, Assembly Bill No. 518 by Ms. Rosenthal; and Calendar No. 174, Assembly Bill No. 5040 by Mr. Dinowitz. In that order, Mr. Speaker. Thank you.

ACTING SPEAKER AUBRY: Thank you.

Page 22, Calendar No. 3, the Clerk will read.

THE CLERK: Assembly No. A00935, Calendar No. 3, Carroll, Colton, Seawright, Otis, Gottfried, Vanel, Sayegh, Zinerman, Barron. An act to amend the Public Authorities Law, in relation to requiring the New York City Transit Authority Advisory Council to investigate, report and make recommendations on instructing the public on how to react when an individual falls onto authority facility tracks.

ACTING SPEAKER AUBRY: Mr. Goodell.

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

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

MR. CARROLL: Yes, Mr. Speaker.

ACTING SPEAKER AUBRY: Mr. Carroll yields, sir.

MR. GOODELL: Thank you, Mr. Carroll. As -- as

sometimes happens, we have great discussions off the floor and today was no exception and I appreciate your comments earlier, so I just wanted to share some of those comments with our colleagues because I thought they were very insightful. While this bill talks about requiring the MTA to come up and make recommendations as to signage to instruct the public on how to act if someone falls on the track, a subway track, your hope is that it actually involves more than just signing, is that correct?

MR. CARROLL: Thank you, Mr. Goodell. What I believe what this bill will do is it will allow for the New York City Transit Authority to study this matter for when an individual falls onto subway tracks in New York City, which happens approximately 150 times a year, to come up with what are the best practices if you witness a fellow passenger falling onto the tracks, what should you do. And I could think of many areas where they would come up with different recommendations to instruct other passengers on what to do if they see an individual fall into the tracks.

MR. GOODELL: Would this also contemplate potential changes on the track, for example, panic buttons, for example, that passengers could push if they saw somebody fall on the track to notify the operator that there's a situation occurring just on the tracks? Is that something that might be contemplated in this type of review?

MR. CARROLL: I -- I -- I think that very well could be contemplated. I think that there are best practices throughout the

world from -- you and I talked earlier about there are gates in certain subway systems around the world that protect people from falling into the tracks, to be it a panic button, to be it, you know, a phone to call, to be it a way to signal a conductor or a motorman to stop the tracks or to alert that individual that someone is, in fact, on the tracks. But I think that's the reason why we would like the New York City Transit Authority to study this and to actually report back what is the best practice, because this does unfortunately happen approximately 150 times a year. And in many years, a number of individuals died because they have fallen on the tracks. And so we should come up with a best practice so that that does not happen and if it does, we find a way to make sure that person is as safe as possible.

MR. GOODELL: Thank you very much, Mr. Carroll.

On the bill, sir.

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

MR. GOODELL: Thank you. When I first read this bill which called for the MTA to do a study related to signage to instruct the public on how to react if someone falls on the tracks, my concern was that for liability reasons the MTA really has no choice on signage but to say something like do not jump on the tracks to help whoever fell down under any circumstances, instead, you know, dial 9-1-1 or call for assistance. Because if the MTA gave any other signage instruction, it would be opening itself up for liability. And so my concern was if the MTA puts all these signs out that says you

know, take out your cell phone, you know, you might be able to say, *Well, this is The Daily News*, obviously that wouldn't be on it, on the sign but, you know, I'm very, very worried about signs that say don't help your fellow passenger who may have fallen down, just call 9-1-1.

But as the sponsor noted, this bill has a potential to go well beyond that. And many subway systems, as you know, don't have an open platform that runs the entire length. They have openings in the platform where the train typically stops and passengers can get on and off. And, you know, that alone would reduce the likelihood that you'd fall off by about 90 percent. And as the sponsor noted, there may be technology that we can implement. Panic buttons, for example, on the platform where you push it, it would activate a lighting system or a warning system where the motorman would know that there's a problem up ahead and that he ought to be slowing down the train and taking precautions in advance. And as the sponsor pointed out to me privately, you know, every car has an emergency stop on it for this type of situation.

So while I was concerned about the language of this bill, it's clear the sponsor has a much broader objective and hopefully those other initiatives will help reduce the number of fatalities on the New York City subway system from people who fall off every year and get injured as a result. So accordingly, I will be supporting it. Thank you, sir.

ACTING SPEAKER AUBRY: Thank you, Mr. Goodell.

Read the last section.

THE CLERK: This act shall take effect immediately.

ACTING SPEAKER AUBRY: The Clerk will record the vote on Assembly print 935. 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.)

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

(The Clerk announced the results.)

The bill is passed.

Page 28, Calendar No. 137, the Clerk will read.

THE CLERK: Senate No. S00290, Calendar No. 137, Senator Myrie (Perry, Mitaynes, Seawright, Barron, Simon, Jackson--A00113). An act to amend the Debtor and Creditor Law, in relation to exempting a debtor's interest in his or her rent-stabilized lease from bankruptcy proceedings.

ACTING SPEAKER PHEFFER AMATO: Mr. Fitzpatrick.

MR. FITZPATRICK: Thank you, Madam Speaker. Would the sponsor yield for a couple of questions?

ACTING SPEAKER PHEFFER AMATO: Will you yield, Mr. Perry?

MR. PERRY: With pleasure, Mr. Fitzpatrick.

MR. FITZPATRICK: Thank you, Nick. I -- nice to

see you. And, you know, this -- looking at this bill, I don't know whether it's a housing bill or a Bankruptcy Law bill. It looks more like a bankruptcy bill masquerading as a housing bill and since I'm Zooming from home, I did not have the benefit of staying at a Holiday Inn Express last night, so I will give it my best effort to sound intelligent with regard to Bankruptcy Law. But the -- what is, in your view, what the bill -- what you're hoping to do is -- is -- it basically codifies a -- a previous court proceeding, but what is the justification for allowing a debtor's interest in a rent-stabilized lease be exempt as an asset? How do you -- how do you equate the two?

MR. PERRY: Because I'm sure that you understand that if you have any valuables, any assets in bankruptcy, that's not protected, it is vulnerable.

MR. FITZPATRICK: Well, true, and there are exemptions under the Bankruptcy Law for a number of important benefits, but is -- is a -- is -- but how -- what -- how do you justify an interest in a rent-stabilized unit you don't own, that's not something the debtor owns, it's -- it's something he or she leases, they do not own it --

MR. PERRY: So --

MR. FITZPATRICK: -- being that it is considered a -- an exempt asset, is that -- how is that fair to the building owner who -- where you have a debtor who owes rent and will now -- will now be able to stay, thereby taking away the ability of that building owner to lease that unit to someone who can pay the rent?

MR. PERRY: So I'm trying to pick the question out of your statement, and I think you're asking about exemptions of assets, and you may have suggested that a home is not a --

MR. FITZPATRICK: Let me try it again. How do you justify an interest or a rent stabilized lease as an asset? It's not something the debtor ever owned. It's --

MR. PERRY: So Mr. Fitzpatrick, I don't want to imagine, but most people live in what they call a home, do you?

MR. FITZPATRICK: I'm sorry, Nick, I didn't hear you clearly.

MR. PERRY: I said most people live in what we call a home, do you?

MR. FITZPATRICK: Yes.

MR. PERRY: Is that valuable to you?

MR. FITZPATRICK: Yes, it is and I happen to own my home.

MR. PERRY: Other than the -- the price of the home or the dwelling, it has much more value to you than just how much you could fetch for it if you put it at sale, right?

MR. FITZPATRICK: Well, it does, Nick, but the question is --

MR. PERRY: It is -- it is --

MR. FITZPATRICK: -- how do you justify -- how do you justify --

MR. PERRY: The question is --

MR. FITZPATRICK: Wait, let me finish. How do you justify labeling a -- a lease as an asset? When you are renting something, you do not own it; how do you justify that?

MR. PERRY: Okay. Let's say if I'm a landlord and I rent my house, I think what I'm renting is an asset, right?

MR. FITZPATRICK: You own the asset, you are --

MR. PERRY: Yeah, because your question -- your original question is how is it an asset and I'm just trying to -- I don't think it should be hard to convince you or anyone else here that home, whatever it is, is an asset. You can value it to the extent that you think is fair, but home is an asset. A question as to what -- whether or not it is an asset, I would like to do some study to find out if there's any way it can identify as a non-asset.

MR. FITZPATRICK: Well, I would, you know, basically here the court agrees with your interpretation that a lease is an asset and it would be exempt from a bankruptcy proceeding. I would argue I would disagree with that decision. You know, the bill rewards tenants to the detriment of the building owner. You know, you can consider your home your castle or an asset, you can call it whatever you want, but if you are renting it, you don't own it and, therefore, it is not really an asset. But the court disagreed and sided with your interpretation rather than the building owner's interpretation. But anyway, thank you, Nick, I appreciate your time and Mr. [sic] Speaker, on the bill.

ACTING SPEAKER PHEFFER AMATO: On the bill.

MR. FITZPATRICK: Thank you, Madam Speaker. The -- the court has made the decision and the Federal court agreed with the lower court so, you know, a lease department is considered, you know, an asset in a bankruptcy proceeding and I will not pretend to know anything about bankruptcy law, but I do know that when you lease something, if you're renting something you don't own it. And why that is now allowed, you know, a lease, a rent stabilized lease is now considered a public benefit. It may be a benefit to the renter, but it is not an asset that they own and should be able to pass on or be exempt from in a bankruptcy proceeding. It's unfair to the building owner who cannot relet the premises to a new tenant and continue to pay his or her tax bill, utility bills, et cetera, that loss of revenue due to a tenant in bankruptcy makes it difficult for that building owner to meet his or her obligations. But the court has spoken and it will -- I disagree with it and I will be voting no, but I thank you, Madam Speaker, and thank you, Nick, for your time.

ACTING SPEAKER PHEFFER AMATO: Read the last section.

THE CLERK: This act shall take effect immediately.

ACTING SPEAKER PHEFFER AMATO: The Clerk will record the vote on Senate 290. 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. But those who support it are encouraged to call the Minority Leader's Office so we can properly record your vote. Thank you, Madam.

ACTING SPEAKER PHEFFER AMATO: Thank you, Mr. Goodell.

Mrs. Peoples-Stokes.

MRS. PEOPLES-STOKES: Thank you, Madam Speaker. Our Conference is generally going to be in the affirmative on this one; however, there could be some of our colleagues who would like to be an exception. They should feel free to contact the Majority Leader's Office and their vote will be properly recorded.

ACTING SPEAKER PHEFFER AMATO: Thank you, Mrs. Peoples-Stokes.

(The Clerk recorded the vote.)

Are there any other votes? Announce the results.

(The Clerk announced the results.)

The bill is passed.

Page 28, Calendar No. 153.

THE CLERK: Assembly No. A05845, Calendar No. 153, O'Donnell. An act to amend the Criminal Procedure Law, in relation to grand jury proceedings.

ACTING SPEAKER PHEFFER AMATO: Mr.

Tannousis.

MR. TANNOUSIS: Thank you, Madam Speaker.

Will the sponsor yield for some questions, please?

ACTING SPEAKER PHEFFER AMATO: Mr.

Tannousis, please lift your mic.

MR. TANNOUSIS: I apologize. Will the speaker yield for some questions -- will the sponsor yield for some questions?

ACTING SPEAKER PHEFFER AMATO: Will the sponsor yield?

MR. O'DONNELL: Of course I will, thank you.

ACTING SPEAKER PHEFFER AMATO: The sponsor yields.

MR. TANNOUSIS: Thank you, Mr. O'Donnell. Mr. O'Donnell, the current law in New York State is that every time there is a grand jury proceeding, there is a judge on call to answer any disputes or any questions in regards to the proceeding either from the prosecutor or from the defense counsel, is that correct, Mr. O'Donnell?

MR. O'DONNELL: Yes, it is.

MR. TANNOUSIS: Okay. And is it also correct that once a indictment is received that the grand jury minutes are then reviewed by a Supreme Court Judge, is that correct?

MR. O'DONNELL: I believe they have -- you have to make a motion for that, but yes, they do review them.

MR. TANNOUSIS: Yes, but it happens in every --

almost basically every single case.

MR. O'DONNELL: That's correct.

MR. TANNOUSIS: Now, I know that this bill states that a judge should be present for the proceeding. Do you mean that the judge has to be present in the grand jury during the entirety of the grand jury presentation? Is that the intention of this bill?

MR. O'DONNELL: No. Where do you see that in my bill?

MR. TANNOUSIS: I saw that in the -- states here -- well, is that -- is that your bill or is not that -- is that not the case as far as this bill is concerned?

MR. O'DONNELL: That is not the case, sir.

MR. TANNOUSIS: Okay. And my understanding is that in addition to the testimony of public servants, the testimony of eyewitnesses and victims will also be made public, is that correct?

MR. O'DONNELL: That is not correct.

MR. TANNOUSIS: That is not correct.

MR. O'DONNELL: That is not correct.

MR. TANNOUSIS: What exactly will be made public in terms of these grand jury presentations?

MR. O'DONNELL: After a grand jury has refused to return a felony indictment and/or return a misdemeanor charge involved, a party may make an application to a judge to release that information. The information that I -- that is sought is the criminal charge or the charges submitted, legal instructions provided by the

Assistant District Attorney, the testimony of all public servants who testified in an official capacity, and all people who provided expert testimony. And the testimony of other persons redacted -- redacted so that they -- their discovery of their names and other data is not possible.

MR. TANNOUSIS: So then it will include eyewitness testimony or witnesses, is just -- that -- their information, their personal information, including their contact information, will be redacted, is that correct, sir?

MR. O'DONNELL: That's correct.

MR. TANNOUSIS: Okay. So I want to ask you about a hypothetical, and it actually has to relate to a case that I actually prosecuted as an Assistant DA in the Bronx. And I want you to tell me under this hypothetical if this eyewitnesses' testimony would be released. There are two individuals walking in the street, let's say for argument's sake, A and B, and while the individuals are walking in the street, Individual A sees another unknown individual that he had an argument with previously, takes out a gun and shoots that individual. They both run away. Individual B, realizing that what Individual A did was wrong decides that he's going to contact the police and he wants to cooperate with the District Attorney's Office, and he testifies in a grand jury. Under this bill, will Individual B's testimony be released to the general public?

MR. O'DONNELL: In order for anything to be released to the public, somebody must make an application to the

court and the court must find three separate, independent factors: A significant number of members of the general public are likely aware that a criminal investigation has been conducted; and, B, a significant number of members of the general public are likely aware of the identity of the subject against whom the criminal charge was made; and three, there is significant public interest in disclosure. The hypothetical you put before me does not meet that test.

MR. TANNOUSIS: Okay. Just to be clear, and I just want to -- I just want to be clear. The law in New York State currently is that we have a sealed grand jury proceeding, correct, sir?

MR. O'DONNELL: That is the current law, yes; this changes that law.

MR. TANNOUSIS: Okay. Thank you very much.

On the bill, Madam Speaker.

ACTING SPEAKER PHEFFER AMATO: On the bill.

MR. TANNOUSIS: Okay. You know, this bill is dangerous, and I'll explain why. For eight years, I served as a prosecutor serving the good people of the Bronx and the good people of Staten Island. And I prosecuted violent felony cases. And in violent felony cases, the victims, the eyewitnesses, they are scared to proceed, they're scared for their safety, they're scared for the safety of their families. And one of the reasons why they would cooperate is because they took solace in the fact that a grand jury proceeding was sealed, it was secret.

This law, no matter which way we term it, takes away that secrecy. It takes away the District Attorney's ability to be able to tell that victim that the grand jury proceeding would be sealed and up until the indictment. So for those reasons, I am strongly voting against this bill and I implore my colleagues on both sides of the aisle to vote against it, as well. Thank you very much, Madam Speaker.

ACTING SPEAKER PHEFFER AMATO: Mr. Reilly.

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

MR. O'DONNELL: With pleasure, sir.

MR. REILLY: Thank you, Mr. O'Donnell. So a couple of questions. I see in the bill about the public servant, and it's safe to assume that public servant definition will include police officers?

MR. O'DONNELL: Yes.

MR. REILLY: Okay, so --

MR. O'DONNELL: And elected officials, Mr. Reilly.

MR. REILLY: Go ahead.

MR. O'DONNELL: And elected officials, as well.

MR. REILLY: Okay. So if you have an undercover police officer who is testifying in a grand jury and there was no true bill and someone puts in a request, will the undercover police officer's name be divulged to the public?

MR. O'DONNELL: No.

MR. REILLY: Is there anything in the bill that precludes or actually codifies that to ensure?

MR. O'DONNELL: Yes. The language says the court, after they find the three part test that I previously mentioned, even if he meets that test the court can still limit partial or even full disclosure if they find a reasonable likelihood that the disclosure will endanger, identify a witness or a grand juror, or jeopardize public safety, or is in the contrary to the interest of justice. So if a court makes a determination that the name of a public servant who was undercover should not be released, it will not be released.

MR. REILLY: Okay, thank you.

MR. O'DONNELL: You're welcome.

MR. REILLY: So in regards to my colleague who spoke before me and gave the example of two individuals, A and B, if say Individual A was a star, whether it's a singing performer, a movie star, and they testified in a grand jury and they were a victim and, say, someone who is a dear fan puts in a request. Would that satisfy the three prong test that you mentioned?

MR. O'DONNELL: I have not now nor have I ever aspired to be a judge, and I would be very blunt that conversations and questions about celebrities being threatened is not very pleasant to me or my family; however, I hardly think that would meet the test that a significant number of members of the general public are likely aware of it or that that creates public interest. And even if it did, the information would be redacted in the case for somebody who is living,

as my family did for a number of years, with death threats.

MR. REILLY: Mr. O'Donnell, I want to clarify, that question that I asked had nothing to do with anything personal. It's actually -- I was relating it to a case that I actually worked on in 1999 in Midtown and it involved a rap performer and a movie star. So that's what I was relating to, so I just wanted to --

MR. O'DONNELL: I apologize, I was not questioning your motive, sir. I was just informing you that I've lived my life with a celebrity in it and have lived with the downside of what that means which includes living with a death threat for a number of months.

MR. REILLY: And I appreciate that. And just for clarification, as a former police officer, I actually had death threats against me, as well, and some of my colleagues, which was documented due to cases that I was involved in. But I have a couple more questions.

MR. O'DONNELL: Okay.

MR. REILLY: Is there anything in the law, in the current existing law that allows grand jury minutes and testimony to be publicly viewed after a judge renders a decision?

MR. O'DONNELL: Well, recently in Rochester, the case out of Rochester which was prosecuted by the Attorney General Tish James, she went to the court and asked for the grand jury minutes to be released and they agreed to do so.

MR. REILLY: So -- so in essence, there already is a

mechanism in place that provides transparency for those that may be interested in finding that information.

MR. O'DONNELL: I don't believe so because I wrote this law after the Eric Garner case, and the Eric Garner case, after he testified in the grand jury, the police officer involved only had two things to say: *I didn't intend to hurt him, I didn't intend to hurt him*. And as a criminal defense lawyer, I knew very well what that meant. That meant that the ADA in that room did not tell the grand jurors that you could indict someone in a homicide-related matter without intending to harm them. And so it seemed to me at the time that public servants, District Attorneys who are elected like you or I, have an obligation to do justice and that includes giving the options that are appropriate to a grand jury. And I'm fairly certain in that case they did not do that.

MR. REILLY: Okay. So just stepping back a little bit to the answer that you gave me about the case in Rochester. My question was is there any mechanism in place in the laws today currently that allow that information to be provided and if I'm not mistaken, your answer was the Attorney General applied for a motion and was granted that motion by a judge in New York State, is that correct?

MR. O'DONNELL: Yes, but in that case the Attorney General was the prosecutor. So I'm not sure that anybody else but the prosecutor would have been allowed to make that motion. My bill allows anyone to make the motion, and if they meet the

standard, they are entitled to that information.

MR. REILLY: So under -- under this law -- under this bill if enacted, the local media, if the case has significant presence in the community or concern in the community, the media can be included in the applicant process?

MR. O'DONNELL: Yes, that's the purpose. The purpose is to allow the greater public to know what happens inside a grand jury when what the general public knows about the case from the media seems to contradict the conclusion of the grand jury.

MR. REILLY: So just for clarification for those who may not know, do you know how many people sit on a grand jury, how many citizens?

MR. O'DONNELL: My recollection was it was between 18 and 24, is that correct?

MR. REILLY: Yeah, I think so.

MR. O'DONNELL: Okay.

MR. REILLY: So we have -- let's take, for instance, we have 23 members on a grand jury. They're presented the evidence, the circumstances surrounding the case and they're given the charges that are being presented and they render either a true bill or a no true bill, which means that there's no probable cause to continue to trial, correct?

MR. O'DONNELL: Well, they could also issue a misdemeanor charge of prosecutor's information; yes, that's correct.

MR. REILLY: Okay. So -- so the issue this bill is

addressing is the fact that there's no true bill, no indictment so then a criminal prosecution will continue?

MR. O'DONNELL: I'm sorry, I didn't follow you.
Can you ask that again?

MR. REILLY: What this bill -- what your bill is trying to rectify is the fact that the grand jury decided after deliberating the case that was presented before them, they decided that there was no probable cause so that a trial will not commence, and this bill would present the fact that you think the grand jurors were wrong, is that correct?

MR. O'DONNELL: No. My guess is the District Attorney was wrong. The District Attorney -- the ADA in the room either threw the case or didn't put enough evidence in or didn't give them the options that were available to them. And since the DA, like you and me, are elected, the people who elect her or him should be entitled to know what they did in that room that resulted in the case being dismissed. And sometimes now that case, the primary witness, is a video tape that we all saw over and over again.

MR. REILLY: I understand, and I recall the video and, you know, it was -- it was very tragic to watch, it was very hard to watch but, of course, there -- in a specific case you're talking about, but there's always other factors around and in no way am I downplaying the severity of the incident. What I -- what I would like to clarify, though, is if this is targeting prosecutors, Assistant -- Assistant District Attorneys or District Attorneys themselves, why

wouldn't the bill be concise to ask for prosecutors to be more transparent about the charges they present -- they present in a specific case in a grand jury and not even give the possibility of endangering witnesses that testify in a grand jury? Wouldn't that be more suffice if the overall arching goal is to ensure that prosecutors are doing what they're supposed to do?

MR. O'DONNELL: That's a great question, sir, and if somebody had asked me to explain the bill and how it got here, I would have done that. This is two bills that have been amalgamated into one. The first bill was written by Carl Heastie, our Speaker, before he was elected Speaker and our Body passed it. That had to do with disclosing the testimony of certain people. My bill, which was written after the Eric Garner case, was only about disclosing to the public what the charges were and what the District Attorney told the grand jurors. Those two bills were merged into one, but they are very clear about the fact that they can limit disclosure, full or partial, if there's a reasonable likelihood that it will endanger, identify a witness, or -- or create a threat to public safety. So that exists, and that loophole is so large that a judge can make determination that that's the case.

MR. REILLY: Thank you, Mr. O'Donnell.

MR. O'DONNELL: It's my pleasure.

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

ACTING SPEAKER AUBRY: On the bill, sir.

MR. REILLY: So what I'm hearing throughout the

debate is that we're going to give judges judicial discretion over what gets released in a grand jury case that does not render a true bill. It is ironic that we pick and choose when we want to give judges judicial discretion. We don't give judicial discretion when it comes to bail, and this is all about criminal justice reform. Well, this is about a level playing field, but who is really getting the level playing field. It is a targeted effect on certain individuals that we are looking to expose, because why? Because we're not happy with what our fellow citizens swore to do in a grand jury. They are to evaluate the facts and circumstances before them. We can't pick and choose when we are going to say our fellow citizens did their civic duty when they serve on a grand jury. We should be thankful for them taking their responsibilities seriously. This will jeopardize the sanctity of the grand jury process and I implore all my colleagues to vote no. Thank you.

ACTING SPEAKER AUBRY: Mr. Angelino.

MR. ANGELINO: Thank you, Mr. Speaker. Will the sponsor yield?

ACTING SPEAKER AUBRY: Mr. O'Donnell, will you yield?

MR. O'DONNELL: Certainly.

ACTING SPEAKER AUBRY: Mr. O'Donnell yields.

MR. ANGELINO: Thank you, Mr. Speaker. I only have a couple questions because my astute colleagues have already

asked many of my questions and have been answered. Just for clarification, I think one of the first questions was about a judge being in the room and the very first line it says -- it adds a new paragraph a-1, *a judge or Justice of the Supreme Court*. Is that part of your bill or was that one from the Speaker prior to his ascension?

MR. O'DONNELL: It is, yes.

MR. ANGELINO: Okay. So a judge or a Supreme Court Justice will be in the grand jury room?

MR. O'DONNELL: Is that what it says?

MR. ANGELINO: Yes.

MR. O'DONNELL: It says a judge or Justice of the Superior Court?

MR. ANGELINO: Correct, and I assume it's amending who is allowed in the grand jury, because it's pretty lengthy of who's allowed in there, and why would that be there if it weren't?

MR. O'DONNELL: I believe it relates to the next paragraph, which has to do with an interpreter.

MR. ANGELINO: Okay. I don't know, because the next paragraph is -- it mentions interpreters are allowed in there.

MR. O'DONNELL: Well, what I believe it was intended to do was to ensure that when an interpreter is present, a judge or Justice is with them.

MR. ANGELINO: Oh, okay.

MR. O'DONNELL: Not that every grand jury has to have a judge sitting in it.

MR. ANGELINO: Okay. That was just a --

MR. O'DONNELL: That was not what it meant.

MR. ANGELINO: Thank you. That was just clarification, because when my colleague asked about that, I thought your answer was immediately going to be yes because I was looking right at it. Thank you. Under my questions, I was wondering, hundreds of years of juris prudence have required grand juries to be secret; why was that?

MR. O'DONNELL: I can't tell you, but I'm sure it has nothing to do with sanctity. Sanctity has to do with being pure and holy. I don't believe that's what this is about.

MR. ANGELINO: Okay. This is about what then?

MR. O'DONNELL: This is about sunlight and bringing things in the dark into the light --

MR. ANGELINO: Okay.

MR. O'DONNELL: -- so that the process of prosecuting people, the decisions that are made to determine who gets prosecuted and who doesn't has been held behind the closed door that has led to some conclusions that some people think are imbalanced. This provides an opportunity, in very limited cases, for the people who feel that way to gather some information and some, perhaps, some closure.

MR. ANGELINO: So the word we hear a lot right now is *transparency*, and this is going to add to that, I'm sure. The example -- I wasn't quite sure when my other colleague from Staten

Island mentioned officers' names are going to be exempted, and any witnesses' name is going to be excepted to the rule; no witness names?

MR. O'DONNELL: Redacted as necessary to prevent discovery of their names and personal data.

MR. ANGELINO: The --

MR. O'DONNELL: So please remember, this is an application made to a judge and the judge has the power to say, I'm not going to give you all of that because partial disclosure or full disclosure will create a reasonable likelihood that it would endanger or identify a witness or a grand juror. That's in the power of the judge.

MR. ANGELINO: So is it also --

MR. O'DONNELL: So there are some people who would say that they should prevent all identities of police officers, but the reality is in order to meet the threshold of getting the application considered, it has to be in the general public eye. The officer's name in Staten Island with Eric Garner was known to the entire public at the time that they finished that grand jury presentation. He gave a press conference. Releasing his name is not giving away his identity, we all know who that is.

MR. ANGELINO: And by releasing the grand jury minutes, even with names redacted, you don't think that's going to be a safety issue for any officer? And we'll use your example. You don't think that's a public safety issue for him?

MR. O'DONNELL: To the degree that Officer Pantaleo, as a public safety problem, it is not because information

would be released under this bill, it's because there was a videotape on my TV and on my computer every single day having the world look at his behavior and decide whether or not it was appropriate or not.

MR. ANGELINO: Thank you. Moving on. You know, it seems to me that the case that we're talking about is the cigarette -- non-tax cigarette case in New York which involved the police officer who came back with no bill. Are there other public servants that you can think of that go through the grand jury and have no bill indicted -- no indictment on that?

MR. O'DONNELL: Well, there are a number of very prominent cases of members of our Body and members of the State Senate, and there's knowledge that they are -- have been arrested and could it be that somebody wants to know that information? Could be.

MR. ANGELINO: But the arrest doesn't always require a grand jury to be convened to hear the evidence for a felony indictment.

MR. O'DONNELL: No, that's true but, if there was no arrest, then there's no public information that the grand jury is hearing information. There are grand juries this day throughout the State of New York which are hearing information that's secret. No one knows who the object is and no one knows who the witnesses are. There's no way that those kind of cases could ever rise to this State, because they have to be something that the general public is aware.

MR. ANGELINO: Okay. When you were talking about the case of the untaxed cigarettes --

MR. O'DONNELL: The Eric Garner case; yes, sir.

MR. ANGELINO: Yes. I don't like to say the name of anybody, because I don't want to get -- I don't want to be frowned upon by Mr. Aubry.

MR. O'DONNELL: Well, the problem -- I'll tell you what the problem is. If I don't say the name, I get criticized for not saying the name.

MR. ANGELINO: I understand.

MR. O'DONNELL: So he's an American, a New Yorker who died at the hands of a police officer, so I say his name.

MR. ANGELINO: Okay. And what was the Detective's name?

MR. O'DONNELL: Pantaleo.

MR. ANGELINO: If grand jury proceedings were secret, was that one ever made public?

MR. O'DONNELL: No, it was not.

MR. ANGELINO: Then how did you know he said, *I didn't mean to kill him*?

MR. O'DONNELL: Because he held a press conference after he testified.

MR. ANGELINO: Okay. I didn't know.

MR. O'DONNELL: I watched it on TV.

MR. ANGELINO: Okay. I'm only peripherally aware of that case.

MR. O'DONNELL: It's okay.

MR. ANGELINO: I'm from quite a ways Upstate, but I think everybody remembers when it happened, it was -- it was awful.

MR. O'DONNELL: So I know that -- from no secret information, I know that because he held a press conference and those are the words he uttered.

MR. ANGELINO: Okay, thank you. And I was going to bring up the case in Rochester, but -- that there is a mechanism to release that, and is a District Attorney different from the Attorney General of the State? Is that why that happened because she's the Attorney General?

MR. O'DONNELL: I would say that because her office was the prosecuting entity, the court was more inclined to grant it than not.

MR. ANGELINO: Okay. Well, thank you very much, Mr. Speaker, and I thank the sponsor for answering all those questions. I appreciate it very much.

On the bill.

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

MR. ANGELINO: It seems that this is just another way to make a police officer's job more difficult. We all know that there's a lot of dislike and discontent about the profession of law enforcement, and this is just one more thing that singles out police officers because of the strong dislike and hatred that is being bestowed

upon them for doing their job. It's not -- it's not an easy job and it doesn't happen perfectly, and I am so embarrassed and ashamed when somebody dies at the hands of a law enforcement officer needlessly. But this bill is going to also cause problems because there's a reason grand jury proceedings were secret for so long because details of information come out and people are allowed to speak freely. And without that knowledge of secrecy, there's going to be a lot of times that a witness to something may second-guess or may hesitate to speak.

We heard a lot about public safety reasons, but I think there's going to be a lot of personal safety reasons for all the witnesses in some of these cases. There's a lot of emotion involved in this and for hundreds of years, grand jury proceedings were secret and it probably ought to stay that way. Thank you very much, Mr. Speaker.

ACTING SPEAKER AUBRY: Thank you, sir.

Mr. Goodell.

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

MR. O'DONNELL: Of course, Mr. Goodell.

ACTING SPEAKER AUBRY: Mr. O'Donnell, will you yield? Mr. O'Donnell yields.

MR. GOODELL: Thank you, Mr. O'Donnell. I see that anyone can make a motion to have this information disclosed. Is there any requirement that the person making a motion have any articulated reason for making the motion? For example, that they're a

reporter or they live in the area, or is there any reason they need to articulate to make a motion?

MR. O'DONNELL: Well, the bill does not require any articulated reason.

MR. GOODELL: I see that if a person makes a motion for the disclosure of this information, the court is required to give notice to the people. Is there any statutory requirement that the court notify the witness or the defendant that such a motion was made?

MR. O'DONNELL: No.

MR. GOODELL: I see.

MR. O'DONNELL: Please remember that in most circumstances, the defendant does not appear in front of the grand jury, although they sometimes do. I was very successful in putting people into grand juries. I would presume it's the obligation of the prosecutor to inform any witnesses or people who testified of the application.

MR. GOODELL: Does this statutory language provide any right for a witness or a defendant to appear and object?

MR. O'DONNELL: No.

MR. GOODELL: I see.

MR. O'DONNELL: They make an application and the judge has to make a determination whether or not the conditions are satisfied and then after that, whether or not there's a likelihood disclosure that endanger or create harm. So I would presume a good

DA, ADA, upon telling the witness is involved would make their position known about this disclosure to the judge in question.

MR. GOODELL: We would certainly hope so. I see that this legislative language require the testimony of all public servants to be disclosed, and then there's an exception that unless that testimony might, for example, jeopardize and identify current or future criminal investigation or create a threat to public safety, is that correct?

MR. O'DONNELL: Yeah.

MR. GOODELL: So it is entirely possible, then, that the testimony of an undercover officer might be fully disclosed as long as that wouldn't jeopardized a current or future investigation, correct?

MR. O'DONNELL: It's been a very long while since my full-time criminal defense days, Mr. Goodell, but my recollection that there is a procedure where they can close a courtroom and prevent information about undercovers, particularly in drug cases, in order to protect them and to allow them to continue to do their work. So if I were a DA, which I never was, but if I was and there was a case involving somebody who testified where that was the case, I would certainly make an application citing that provision to say this should not be included.

MR. GOODELL: Thank you very much, Mr. O'Donnell.

On the bill, sir.

ACTING SPEAKER AUBRY: On the bill, Mr.

Goodell.

MR. GOODELL: There are many reasons why we in the public want to keep grand jury testimonies secret. One reason, obviously, is to protect the identity of witnesses. For some witnesses, particularly witnesses to a violent crime that may have a great deal of publicity, are extremely sensitive about the identity and anything they say can sometimes be used to identify them. And of course we want to maintain these grand jury proceedings secret to protect the identity and the methods and the manner in which criminal investigations are conducted. And so even if that doesn't threaten a pending or a current investigation, the very approach they took, who they talked to, the witnesses they contacted, who rolled and who didn't, all that can be extraordinarily sensitive in the context of a prior criminal investigation.

And one that people that -- one of the persons that might have the greatest desire to maintain confidentially is an innocent defendant who has been falsely accused of a potential crime and who appears in front of the grand jury or his attorney can appear and successfully defends himself, and the last thing he wants is some reporter selectively quoting testimony from that otherwise secret grand jury proceeding in a way that paints him with a horrific brush. And I would note that those of us who are legislators are particularly sensitive to the fact that sometimes we are the victims of false claims and, in fact, if there's a claim made against us and it goes in front of the Legislative Ethics Commission, it's a misdemeanor, a

misdeemeanor, for any of those members on that Ethics Commission to disclose any of their discussion.

So when it comes to ourselves and the confidentiality of an investigation about us, we make it a crime for someone to disclose anything about the investigation; yet, when it's an investigation of somebody else and their reputation is on the line, this bill opens up all that information even after the grand jury has concluded that they were not guilty and, in fact, it's only if they conclude it's not guilty that this kicks in. And ironically, even though we know that witnesses may fear for their lives depending on what testimony is disclosed, and we know that public officers are deeply concerned about the testimony, and even though we know that the defendant in one of these cases has his entire career and reputation on the line, this bill does not require the court to give any of those parties notice, not required at all. No opportunity for any of those people to appear in front of the court and argue why that confidential information is not disclosed. And for those reasons, I'll be joining many of my colleagues in opposing this bill. Thank you, sir.

ACTING SPEAKER AUBRY: Thank you.

Mr. Lawler.

MR. LAWLER: Thank you, Mr. Speaker. And as much as I would enjoy a discussion with my colleague, I'm going to speak on the bill.

ACTING SPEAKER AUBRY: On the bill, sir.

MR. LAWLER: In our country, we have the

presumption of innocence. What this bill will do is ensure that trials are conducted in the court of public opinion and by the press. Very simply, this bill targets law enforcement and seeks to go after the reputation of anyone in law enforcement that is not indicted because this Body somehow deems that they should have been. What's interesting is that this Body has passed so many bills over the last many years, such as Ban the Box, and the idea that if you've been convicted of a crime, that should not impact you in the future. And people should not know, employers should not know that you were convicted of a crime; yet, what this bill does is say if you've not even been indicted, the public should know that you really should have been found guilty. That's the intention here. The presumption of innocence is thrown out the window. We allow parole for cop killers, for unrepentant child rapists and murderers and, yet, somebody who is not indicted, we want to ruin their reputation.

The sponsor said this is about sunlight. Well, that's interesting. Let's talk about sunlight. This Body every year adopts rules, Rule 8, what does Rule 8 do? Ensure that there is no sunlight. This Body exempts itself from FOIL. It says my personnel records should not be subject to FOIL.

MS. GLICK: Point of order. Is this discussion now on the bill?

ACTING SPEAKER AUBRY: Mr. Lawler, you are staying on the bill, are you not?

MR. LAWLER: Oh, absolutely. I'm just pointing out

the hypocrisy of this Body in passing legislation that puts other people's records out in the public view. We should hold ourselves to the same standard. I'm sorry if that's upsetting to you.

But the bottom line is if we're going to pass legislation where an indictment was not issued and we're going to make sure that that information is public, I sure hope this Body will hold itself to the same standard. As my colleague pointed out, when there are Assembly ethics investigations, those records are not released. It's a misdemeanor to release it. But here, we're going to make sure that somebody who is not indicted has their reputation besmirched, but not in this Body. The rules can't apply to us. What a sad statement. The State does not need to do a grand jury, by the way. They can arrest somebody and hold a preliminary hearing. They don't need to go this route if you're concerned about sunlight. The State can bring charges, hold a preliminary hearing. That's out in the public.

Judicial discretion, we're leaving it up to the judges, okay. As my colleague said, judicial discretion is important. Judges should be allowed to look at the facts and make determinations; yet, when we passed Cash Bail, somehow we didn't think judicial discretion was important.

I'll end on this. We have a Judiciary Committee that is actively investigating whether or not to impeach. I sure hope every single document, every single interview, every single allegation is released at the request of any member in this Body. And for all of those reasons, I will be voting no on this bill.

ACTING SPEAKER AUBRY: Mr. O'Donnell on the bill.

MR. O'DONNELL: I know I must have gotten your attention when I'm lectured by members of the other side about the presumption of innocence. As a full-time public defender for seven years, that is all I fought for. And the reality is, the grand jury process is broken. You want to say it's not broken, but it is broken. Justice is not dispensed fairly in this City and this State, and part of the reason is the way grand juries are run.

This bill would apply to 1 percent of the cases in a grand jury, and then there are procedures in place to ensure the safety of the public, the safety of officers, the safety of witnesses, the safety of grand jurors. Yes, we don't have to go to a grand jury. We can go to a preliminary hearing, but you know what that is? That's open to the public. That allows everyone to watch what happens in there. They get to see the faces and see their names, and they get to hear how and what an ADA says. In the case of Breonna Taylor, the grand jury was never offered the possibility of indicting for her death. And the prosecuting entity who I believe was the Attorney General went on TV and said, *Oh, yeah, I told them that. I told them that.* Well, it turns out he lied.

And so this is a minor fix. This is not throwing anybody under the bus. This is not attacking anyone. Everyone should do their job to the best of their ability and if they make a mistake and the world sees it, the world needs to see that we can get to

justice. Get to justice. So I will say Eric Gardner's name and point out that justice was not done. And I hope that we pass this bill to get us a little closer to justice and away from highfalutin words like *sanctity* that don't belong in this conversation. I'll be voting yes.

ACTING SPEAKER AUBRY: Read the last section.

THE CLERK: This act shall take effect on the 30th day.

ACTING SPEAKER AUBRY: The Clerk will record the vote on Assembly print 5845. 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.

Ms. Walsh.

MS. WALSH: Thank you, Mr. Speaker. The Minority Conference will be generally voting in the negative on this bill, but if anybody wishes to have their vote recorded in the affirmative, they should contact the Speaker's office and our -- we'll adjust the vote to reflect what they want. Thank you.

ACTING SPEAKER AUBRY: Thank you.

Mrs. Peoples-Stokes.

MRS. PEOPLES-STOKES: Thank you, Mr. Speaker. The Majority Conference will generally be voting in favor of this legislation that will help move us towards justice; however, those who desire not to do so should feel free to contact the Majority Leader's Office and your vote will be properly recorded.

ACTING SPEAKER AUBRY: Thank you very much.

(The Clerk recorded the vote.)

Mr. Barron to explain his vote.

MR. BARRON: Thank you, Mr. Speaker. To explain my vote. You know, it's incredible to hear some of the analogies that just don't connect whatsoever. We want to thank the sponsor of this bill in our community tremendously, because I've been involved in countless cases where when we got to the grand jury, I heard this phrase over and over again, *no true bill*. *No true bill*, especially when it comes to police. It doesn't matter what you've seen on camera. It doesn't matter what the eyewitnesses, forensic evidence, no true bill means no indictment and that is a protection of killer cops that allows them to continue to kill with impunity.

You know, the grand jury procedure, I want to see how an Assistant DA who works all year closely with police, I want to see how he's presenting forensic evidence. I want to see how he or she is presenting eyewitnesses. I want to see how they draw in conclusion and coming up with their theories of how they justify the killing of innocent Black and Brown people. I want that to be public. And to say that's putting people at risk, an indictment is just a charge. There's public trial jurors who have to make convictions. They're public. The public has to see them convict somebody, send someone to jail but, yet, your privacy is not protected.

So this is bogus. This is just a continue to allow these

Assistant District Attorneys to work closely with the police department and grant them impunity from indictments no matter what the evidence says. So I'll be voting in the affirmative. A judge said they're -- an ADA has so much --

ACTING SPEAKER AUBRY: Mr. Barron, you have elapsed your time to explain your vote. Thank you.

MR. BARRON: I vote in the affirmative.

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

MR. DURSO: Thank you, Mr. Speaker. To explain my vote. I'm not an attorney, nor do I want to act like one, nor do I really want to be one. But what I take out of this bill, I look at everything plain and simple. What I take out of this bill is there's a possibility of putting victims, people that protect us every day, and the people that are brave enough to come forward and come to these grand jury testimonies and put their -- if you want to say, possibly their lives on the line depending on what the case could be, in danger. That's not what we're supposed to do. We're supposed to protect these people that are brave enough to do these things.

Again, like I said, I'm not an attorney, but speaking to a couple while I was here during the debate, if you are witness to a crime, you could be subpoenaed, correct? You could be subpoenaed, brought into court to testify, and if you don't abide by that subpoena, you could face charges, you could be put in prison. So now those people that maybe we're making fearful to come out and testify

because their names could possibly be given out or read in some kind of grand jury testimony, we're making them afraid to possibly testify to do the right thing. To me, what we do in this Body all the time is we're trying to protect the victims, protect those that protect us and protect the ones that are brave enough to come forward. I don't feel that this bill does that. I don't feel that it's putting the victims, the ones that protect us every day, that put their lives on the line every day and the ones that are brave enough to come forward first. I don't believe it's looking out for their best interest so, therefore, I'll be voting in the negative. Thank you.

ACTING SPEAKER AUBRY: Mr. Durso in the negative.

Mrs. Peoples-Stokes.

MRS. PEOPLES-STOKES: Thank you, Mr. Speaker, for the opportunity to explain my vote. I have actually been voting in the affirmative on this one since 2017 and I am of the opinion that secrets are not good things to keep because often behind secrets are some ugly truths that impact a lot of people in a very, very wrong way. And so I want to commend the sponsor of this legislation. This is actually probably the third sponsor of this one, but it still makes sense for justice to not be blind. It should be open and available to the people. So I look forward to voting in the affirmative on this one and I want to thank the sponsor for allowing me to have the opportunity to do so.

ACTING SPEAKER AUBRY: Mrs. Peoples-Stokes

in the affirmative.

Mrs. Peoples-Stokes.

MRS. PEOPLES-STOKES: Mr. Speaker, I have a few of our colleagues that would like to be an exception on A5845: Mr. Santabarbara, Mr. Colton, Ms. Buttenschon, and Mr. Sayegh.

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 29, Calendar No. 157, the Clerk will read.

THE CLERK: Assembly No. A00518-A, Calendar No. 157, L. Rosenthal, Englebright, Otis, Cook, Weprin, Abinanti, Galef, Carroll, Reyes, Epstein, Fahy, Griffin, Colton, Steck, Jacobson, Seawright, Gottfried, Simon, Kelles, Dickens, McMahon, Gallagher, Burdick, Sillitti, Baron, Burke, Jackson. An act to amend the Environmental Conversation Law, in relation to prohibiting coal tar in pavement products.

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

Mr. Goodell.

MR. GOODELL: Thank you, sir.

On the bill.

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

MR. GOODELL: This bill would prohibit the sale of any pavement sealers, driveway sealers that contain coal tar. And apparently the concern is that coal tar may itself contain carcinogens. In particular, products or chemicals that are known as PAHs. But first I would note that on the Federal level the EPA has not listed coal tar as hazardous, although it has noted that PAHs can be carcinogenic. Before you think our world will be safe if we simply eliminate driveway sealers that contain coal tar, I would warn you that PAHs also appear in our diet, including barbecued, grilled, broiled and smoked meats, roasted, baked and fried foods, breads, cereals, grains. And the highest levels of PH -- PAH are found in steak, chicken, hamburgers, shellfish as well. So when we ban a product that contains some carcinogens -- and just so we're all clear, I would never recommend that you paint your house with driveway sealer or in any, any conceivable way consume it. It's also important to recognize that those driveway sealants protect the asphalt from deteriorating, and when it does, the asphalt itself releases toxic chemicals. So the purpose of the sealant is to protect the asphalt underneath it, and the material underneath the sealant has its own flavors of chemicals that are of environmental concern. So, I believe that it is not necessary to ban this product that is used and has been used successfully in New York State for decades to seal driveways successfully without any known environmental impact in general, and certainly not when compared with the PAHs that we all so readily consume whenever we go to a barbecue.

So for those reasons, I would recommend a no vote to my colleagues. Thank you, sir.

ACTING SPEAKER AUBRY: Thank you, Mr. Goodell.

Read the last section.

THE CLERK: This act shall take effect immediately.

ACTING SPEAKER AUBRY: The Clerk will record the vote on Senate print 4095-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. Those who wish to be an exception should call the Leader's -- Minority Leader's Office so we can record your vote. Thank you.

ACTING SPEAKER AUBRY: You're quite welcome.

Mrs. Peoples-Stokes.

MRS. PEOPLES-STOKES: Thank you, Mr. Speaker. Our Majority Conference would -- will be in support of this piece of legislation. However, there may be some that will choose to be an exception. They should feel free to contact the Majority Leader's Office and they'll be pleased to record their vote.

(The Clerk recorded the vote.)

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

Ms. Rosenthal to explain her vote.

MS. ROSENTHAL: Thank you -- thank you, Mr. Speaker. To explain my vote. I am extremely gratified that after years of trying to pass this bill into law, we are on the precipice of doing so today. We have long known of the risks of coal tar sealants to children, to aquatic life, to people who should not be exposed to cancer-causing agents because of the PAHs that are in coal tar sealant. There are -- there's asphalt sealant which can work just as well, and a new generation of sealant that can do the same job as coal tar but -- but not pollute or endanger anyone's health. I have been helped along the way by so many advocates, and I just want to thank a few of them. Jeremy Cherson of the Riverkeeper Tom and his Coal Tar Free America. Bobbi Wilding and Kathy Curtis, Clean & Healthy New York. Liz Moran, NYPERG. Kate Kurera and Rob Hayes, Environmental Advocates of New York. Caitlin Ferrante, Sierra Club. And this year we have many, many memos from NRDC, LCV, Food & Water Watch, Earthjustice, Citizens Campaign for the Environment, Buffalo Niagara Waterkeeper, Chautauqua-Conewango Consortium, Surfrider Foundation, Save the Sound, Peconic Baykeeper and the New York Climate and Reality Chapters Coalition [sic].

I thank you all for your -- for your vote and I thank you for helping to protect the lungs and the health and the lives of all

those who've been hurt and damaged by coal tar. I vote in the affirmative.

ACTING SPEAKER AUBRY: Ms. Rosenthal in the affirmative.

Mr. Goodell.

MR. GOODELL: Thank you, sir.

ACTING SPEAKER AUBRY: You're welcome.

MR. GOODELL: The entire "W" delegation in the Republican Conference is supporting this, both Mr. Walczyk and Ms. Walsh.

Thank you, sir.

ACTING SPEAKER AUBRY: So noted.

Mrs. Peoples-Stokes.

MRS. PEOPLES-STOKES: Thank you, Mr. Speaker. Our colleague Ms. Buttenschon will be recorded in the negative on this one.

ACTING SPEAKER AUBRY: So noted.

Are there any other votes? Announce the results.

(The Clerk announced the results.)

The bill is passed.

Page 31, Calendar No. 174, the Clerk will read.

THE CLERK: Assembly No. A05040, Calendar No. 174, Dinowitz, Gottfried, L. Rosenthal, Pichardo, Cook, Benedetto, Perry, Barron, Reyes, De La Rosa, Rodriguez. An act to amend the Administrative Code of the City of New York, the Emergency Tenant

Protection Act of 1974, the Emergency Housing Rent Control Law and the Real Property Law, in relation to prohibiting charges for legal fees.

THE CLERK: On a motion by Mr. Dinowitz, the Senate bill is before the House. The Senate bill is advanced.

Mr. Fitzpatrick.

MR. FITZPATRICK: Yes, thank you, Mr. Speaker.

Did we get an explanation?

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

MR. DINOWITZ: Sure. And it's good to see you in person, kind of, Mike.

MR. FITZPATRICK: Yes.

MR. DINOWITZ: This bill would prevent -- or prohibit a landlord -- I can't -- I can't have the mask and the glasses on.

Okay. This bill would prohibit a landlord from including any legal fees not awarded pursuant to a court order on any correspondence to tenants.

MR. FITZPATRICK: Very good. Would the sponsor yield for a couple of questions?

MR. DINOWITZ: Yes.

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

MR. DINOWITZ: I will.

MR. FITZPATRICK: Thank you, Mr. Speaker.

Thank you, Jeff. Jeff, you know, currently under Real Property Law Section 234 provides that in any action or summary proceeding, unless it's a default judgment, the landlord may recover attorneys fees and/or expenses incurred as a result of a failure of the tenant to perform any covenant or agreement contained in the lease. That is -- so what you're -- what -- what are you -- are you saying 234 no longer applies? Or you're trying to toss that --

MR. DINOWITZ: What I'm saying is this, and I'll try to be brief. Because some landlords try to find every way possible to add to the bills, so often what they will do, what some of them will do is tack on a legal fee. If a tenant is a couple of days late, the next month's bill could have a significant legal fee attached to it. And of course most of the landlords, certainly the large landlords, you know, they have attorneys on retainer. It's not like it's costing them anything, in my opinion. What we want to make sure is that if a landlord is going to charge a legal fee, that it's sanctioned and ordered by the court.

MR. FITZPATRICK: Well, what would that legal fee -- what would that legal fee be for if the tenant is in arrears and not paying what is owed? You know --

MR. DINOWITZ: Well, let's say a tenant is late --

MR. FITZPATRICK: The -- the landlords
(inaudible) have to go -- go to court --

MR. DINOWITZ: I'm sorry. If a tenant is late and a

landlord, therefore, sends out a bill with a legal fee when they -- when they were not necessarily legal expenses. So what this bill does, it -- it says the landlord can get a legal fee, no question about it, it's just that a judge has to order it.

MR. FITZPATRICK: But -- but under Section 234, you know, the -- the landlord may recover fees involved in, you know, the -- the -- you know, the adjudication or the, you know, the conduct of -- of their business, you know, in providing a safe place to live in return for rent. When that is -- when that contract is violated they have the right to seek redress in the court, and Section 234 permits recovery of that fee through the rent.

MR. DINOWITZ: But what happens is many landlords will simply, without authority, put a legal fee onto the rent bill and a lot of tenants are afraid and, therefore, might pay the fee. But what this bill would make clear is that the landlord may be eligible to get a legal fee, but it would have been to be if a judge orders it.

MR. FITZPATRICK: But if -- if you're claiming that a landlord is doing this just to pad the rent, if you will, if that's what you're accusing them of doing, they're -- one, the tenant does not have to pay it and would be able to file a claim with the, you know, I guess it's -- well, in Suffolk County we have a Bureau of Consumer Affairs. Is there a similar bureau in the City of New York or go to, say, the District Attorney or their local council member or Assemblymember if -- if something not kosher is going on here?

MR. DINOWITZ: Well, let me -- I'm not suggesting that all landlords are doing the wrong thing. Some landlords do the wrong thing, and -- and that's what we're going after here. Some landlords will put the legal fee on the bill -- on the rent bill and inappropriately. And so we want to make clear that a landlord can get legal fees if a judge orders it.

MR. FITZPATRICK: But if a --

MR. DINOWITZ: Let me --

MR. FITZPATRICK: Yeah --

MR. DINOWITZ: The onus should not have to be on the tenant to go to court to try to reverse a fee that shouldn't have been there in the first place. It should be on the landlord who's asking for the fee to go to court to get the fee.

MR. FITZPATRICK: Understood. But if -- if -- you know, let me just ask you simply, if -- let's say someone calls your office and says, *I think the landlord is imposing a fee and it's not right*, how do you -- how do you guide that tenant if -- you know, what -- what course of action do you recommend to them? There is -- is there a forum where that tenant, you know, can take that complaint if -- if something -- if they believe the landlord is imposing a legal fee that he or she may believe is -- is warranted under Section 234, but may not, what -- what redress does the tenant have? There has to be something if -- if they're doing -- if the landlord is not proceeding properly.

MR. DINOWITZ: Well, I can tell you what we do in

our office. Number one, in many cases we will call the landlord or the managing agent and tell them that we believe the fee should not be on there and sometimes they will respond appropriately. But the tenant does have the right to go to court. But it -- it shouldn't be -- the onus should not be on the tenant to have to do that. And you know, for many people, especially in the Bronx where these -- I -- I can't speak for the other places around the State, but I know this is happening in the Bronx and I image it's happening elsewhere -- these are huge amounts of money very often, and not everybody can afford to take a day off from work. Not everybody has jobs like some of us do where we have a little more flexibility. Many people, if they take off from work they don't get paid for the day. People can't afford to do this, and in a sense it's -- tenants are put in a situation where they either pay the fee which shouldn't be there in the first place, or they fight it and they lose money by not going to work. So it's really a serious problem. And it's not only these fees, there are other fees, but we're talking about legal fees right now. The best recourse is to do this bill and I would strongly urge you, Mike, to support this bill because I know that you want to do what's right for everybody.

MR. FITZPATRICK: Well, I certainly do, Jeff. But I -- I would -- I would argue that if there is a legitimate issue here that requires a court appearance, then the tenant must appear in court. And you wouldn't be going to court if there wasn't a legitimate issue to adjudicate.

MR. DINOWITZ: Well, not necessarily. You're

assuming that the land -- there is a legitimate --

MR. FITZPATRICK: Well, the landlord --

MR. DINOWITZ: -- issue, that the landlord is in the right. And what I'm saying is the landlord is not necessarily in the right.

MR. FITZPATRICK: Jeff, what actions do -- do tenant associations or what role does a tenant association play in assisting a tenant where you feel an illegitimate fee is added to the rent here? I mean, you have -- you have organizations such as tenant associations, local groups. You know, council offices, Assembly offices that will render assistance. I know I do in my district --

MR. DINOWITZ: Most buildings do not have tenant associations. Some do. But people can go to their elected official's office, whether it's the Assemblymember, the council member, as you mentioned. There are organizations, legal services organizations that provide assistance to people who cannot otherwise afford to deal with the situation. So, there are avenues tenants have. But they shouldn't have to go to the great lengths to not pay that which they shouldn't be paying in the first place.

MR. FITZPATRICK: Well, if they -- if they go to court, Jeff, and they are in the right, then they won't have to pay that fee.

MR. DINOWITZ: No, they'll just have to pay by losing a day's salary --

MR. FITZPATRICK: And the landlord would have

to pay it, correct?

MR. DINOWITZ: Or maybe more than a day because not everything gets resolved right away because not every tenant will have a -- a lawyer in court. In New York City some people can get lawyers and some people can't. It depends upon whether they qualify, what zip code they're in. So they can go to court without an attorney, but the landlord will always have an attorney so they're at a distinct disadvantage in that sense.

MR. FITZPATRICK: Mm-hmm. Okay. Jeff, thank you very much.

MR. DINOWITZ: You're welcome.

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

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

MR. FITZPATRICK: The problem -- the problem with this bill, in my opinion, is -- is that it is very one-sided. And, you know, there are going to be disputes between landlords and tenants. And Section 234 permits the landlord to recover legal fees. It works both ways. It's designed to prevent frivolous actions being brought against a landlord, and vice versa. So it's there for a reason. So what -- what the sponsor is attempting to do is to stack the deck in favor of the tenant unfairly, I believe, and will create a situation where you may see an increase in frivolous lawsuits and actions or complaints against the landlord. The landlord will not be able to get his or her

day or fairness in court here. It's -- it's a one-way street. You know, you're prohibiting the collection of attorneys fees by landlords except by court order, but it doesn't place that same prohibition on tenants and that is absolutely unfair.

So for that reason I would urge a consideration of a no vote. This bill just goes too far. You know, the landlords -- in the in the New York State Assembly, you know, the landlord is always in the wrong, and that's -- it's not fair to the people who work very hard to provide quality housing for their customers, for their tenants. And but when disputes arise there has to be fairness on both sides. This bill would remove that. Thank you, Mr. Speaker.

ACTING SPEAKER AUBRY: Thank you, Mr. Fitzpatrick.

Mr. Braunstein.

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

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

MR. DINOWITZ: Yes, I will.

ACTING SPEAKER AUBRY: Mr. Dinowitz yields.

MR. BRAUNSTEIN: Thank you, Jeff. This bill makes changes to the 2019 Housing Tenant Protection Act. When we did the Housing Tenant Protection Act, we inadvertently included co-ops as part of that law. And my question is, does this legislation apply to co-ops?

MR. DINOWITZ: That's a very good question. I don't think this legislation changes -- it -- it doesn't talk about co-ops.

MR. BRAUNSTEIN: Well, neither did the Housing Tenant Protection Act but it applied to co-ops.

MR. DINOWITZ: Well, when you say co-ops, you mean renters living in co-op buildings, right?

MR. BRAUNSTEIN: No. No. I meant shareholders in a co-op.

MR. DINOWITZ: Oh. No. No. Rental -- the operation or rental of a residential unit -- no, it's rentals, it's not co-ops.

MR. BRAUNSTEIN: Okay. I mean, I'm -- I'm going to vote for this and I'm going to take your word for that because, you know, when we look -- when we did the Housing Tenant Protection Act the word "tenant" was included to include shareholders of a co-op. Now, in -- in a co-op situation where we're dealing with the apportioning of legal fees, it's not a deep-pocketed landlord that picks up the expense of the litigation costs, it's the other shareholders who have to pay that attorney.

MR. DINOWITZ: Right.

MR. BRAUNSTEIN: So, you know, I -- while I understand that how this applies to a traditional landlord-tenant relationship, I have concerns about whether it applies to co -- share -- shareholders in a co-op. So, you know, I'll vote for it with the understanding from you, the sponsor, that it doesn't apply to co-ops.

But if it does, I would suggest that maybe we see if we can make amendments before --

MR. DINOWITZ: Well, first of all, I -- I think your concerns regarding co-ops were well -- well-founded and we -- as you know, because I agree with you on that. But this -- to me, this is clear and I just want to say for the record it talks about an owner, a lessor or an agent. It doesn't talk about -- it doesn't talk about co-ops, and the intent is not for it to apply to co-ops. It's simply landlord-tenant.

MR. BRAUNSTEIN: Okay. Okay, thanks, Jeff.

MR. DINOWITZ: Okay.

ACTING SPEAKER AUBRY: Read the last section.

THE CLERK: This act shall take effect immediately.

ACTING SPEAKER AUBRY: The Clerk will record the vote on Senate print 2014. 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 generally opposes this legislation, but those who support it should contact the Minority Leader's Office and we'll certainly make sure your vote is properly recorded.

Thank you, sir.

ACTING SPEAKER AUBRY: Thank you.

Mrs. Peoples-Stokes.

MRS. PEOPLES-STOKES: Thank you, Mr.

Speaker. The Majority Conference will be voting in favor of this one. However, there may be some of us that will desire to be an exception. They should feel free to contact the Majority Leader's Office and we'll be more than pleased to properly record your vote.

(The Clerk recorded the vote.)

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

MRS. PEOPLES-STOKES: Mr. Speaker, if we could -- if you would please record our colleague Mrs. Gunther in the negative on this one.

ACTING SPEAKER AUBRY: So noted.

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, colleagues, if we could now turn our attention to the advanced A-Calendar and turn to page 3, we're going to begin our work on the A-Calendar with Rules Report No. 279 by Mr. Cahill. And we will follow through with this for as long as we can go, Mr. Speaker.

Thank you.

ACTING SPEAKER AUBRY: On the A-Calendar, colleagues, page 3, Rules Report No. 279, the Clerk will read.

THE CLERK: Assembly No. A00086-A, Rules

Report No. 279, Cahill. An act to amend the Navigation Law, in relation to rate for pilotage on the Hudson River.

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

Read the last section.

THE CLERK: This act shall take effect immediately.

ACTING SPEAKER AUBRY: The Clerk will record the vote on Senate print 5354. 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 bill is passed.

THE CLERK: Assembly No. A00182, Rules Report No. 280, Gunther, Bronson. An act to amend the Public Health Law, in relation to healthcare and wellness education and outreach programs on the donation of postnatal tissue and fluids.

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

Read the last section.

THE CLERK: This act shall take effect in 120 days.

ACTING SPEAKER AUBRY: The Clerk will record

the vote on Senate print 3209. 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 bill is passed.

THE CLERK: Assembly No. A00229-C, Rules Report No. 281, Paulin, Hunter, Jacobson. An act to amend the Municipal Home Rule Law, in relation to the division of a county into districts for the apportionment of members of is local legislative Body.

ACTING SPEAKER AUBRY: The bill is laid aside.

THE CLERK: Assembly No. A00453, Rules Report No. 282, Pheffer Amato, Colton. An act to amend the Environmental Conservation Law, in relation to the filling of borrow pits in Jamaica Bay; and to amend Chapter 288 of the Laws of 2014 amending the Environmental Conservation Law relating to the filling of borrow pits in Jamaica Bay, in relation to making the provisions of such chapter permanent.

ACTING SPEAKER AUBRY: Read the last section.

THE CLERK: This act shall take effect immediately.

ACTING SPEAKER AUBRY: The Clerk will record the vote on Assembly print 453. 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 bill is passed.

THE CLERK: Assembly No. A00529-A, Rules Report No. 283, L. Rosenthal, Lupardo, Pheffer Amato, Peoples-Stokes, De La Rosa, Seawright, Simon, Jean-Pierre, Richardson, Niou, Williams, Gunther, Davila, Joyner, Solages, Hunter, Glick, Hyndman, Walker, Paulin, Darling, Cruz, Fernandez, Griffin, Gottfried, J. Rivera, Dilan, Aubry, Steck, Pichardo, Barron, Colton, Zinerman, Otis. An act to amend the Social Services Law, in relation to providing feminine hygiene products at no cost to adults and children receiving temporary housing assistance.

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

Read the last section.

THE CLERK: This act shall take effect immediately.

ACTING SPEAKER AUBRY: The Clerk will record the vote on Assembly [sic] print 6572. 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 bill is passed.

THE CLERK: Assembly No. A00690, Rules Report No. 284, Rozic, Weprin, Colton, Walker, Fernandez, De La Rosa, Cruz, Rodriguez, Burdick. An act to amend the Correction Law, in relation to providing notice of voting rights to persons released from local jails.

ACTING SPEAKER AUBRY: The bill is laid aside.

THE CLERK: Assembly No. A00924-A, Rules Report No. 286, Paulin, Galef, Abinanti, Carroll, Cook, Dinowitz, Gottfried, Lupardo, Richardson, L. Rosenthal, Zebrowski, Montesano. An act to amend the Public Officer's Law, in relation to amending the definition of a "public Body."

ACTING SPEAKER AUBRY: Read the last section.

THE CLERK: This act shall take effect immediately.

ACTING SPEAKER AUBRY: The Clerk will record the vote on Assembly print 924-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.)

Are -- are there any other votes? Announce the results.

(The Clerk announced the results.)

The bill is passed.

THE CLERK: Assembly No. A00998-A, Rules Report No. 287, Buttenschon, Stirpe, Griffin, Frontus, Gunther, Woerner, Hunter. An act to in relation to conducting a study on the use of solid antimicrobial materials for touch surfaces in the construction of public buildings.

ACTING SPEAKER AUBRY: Read the last section.

THE CLERK: This act shall take effect immediately.

ACTING SPEAKER AUBRY: The Clerk will record the vote on Assembly print 998-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.)

Are there any other votes? Announce the results.

(The Clerk announced the results.)

The bill is passed.

THE CLERK: Assembly No. A01324-A, Rules Report No. 288, Magnarelli, Gunther, Woerner, Wallace, Galef, Bronson, Steck, Buttenschon, Griffin, Stirpe, Zebrowski, Hunter, Jacobson, Sillitti, Colton. An act to amend the Volunteer Firefighters Benefit Law and the Volunteer Ambulance Workers' Benefit Law, in relation to increasing temporary total disability benefits.

ACTING SPEAKER AUBRY: Read the last section.

THE CLERK: This act shall take effect immediately.

ACTING SPEAKER AUBRY: The Clerk will record

the vote on Assembly print A.1324-A. This is a fast roll call. Any member who wishes to be recorded in the negative is reminded to contact the Minority or Majority 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 bill is passed.

THE CLERK: Assembly No. A01414-A, Rules Report No. 289, Lupardo, Vanel, Angelino, McMahon, Thiele, Santabarbara, Dickens, Cusick, Hawley, Tague, McDonald, Colton. An act to amend the Civil Service Law, in relation to paid leave for members of the Civil Air Patrol.

ACTING SPEAKER AUBRY: Read the last section.

THE CLERK: This act shall take effect immediately.

ACTING SPEAKER AUBRY: The Clerk will record the vote on Assembly print 1414-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.)

Are there any other votes? Announce the results.

(The Clerk announced the results.)

The bill is passed.

THE CLERK: Assembly No. A01456, Rules Report

No. 290, Byrne. An act to amend Highway Law, in relation to designating the "Atomic Veterans Memorial Bridge."

ACTING SPEAKER AUBRY: Read the last section.

THE CLERK: This act shall take effect immediately.

ACTING SPEAKER AUBRY: The Clerk will record the vote on Assembly print 1456. 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. Byrne to explain his vote.

MR. BYRNE: Thank you, Mr. Speaker. To explain my vote. In 2018 I attended a Memorial Day service in Westchester County, and at that service a local veteran named Ed Gettler spoke and reminded all in attendance of the brutal realities of war, specifically the early use and testing of atomic and nuclear weapons. Mr. Gettler's words have stayed with me since that day. The reality is, our atomic veterans are underrecognized, and to change this we must continue to promote the awareness of the incredible sacrifice made by our service members who worked closely with atomic materials. That is why I believe this legislation is important to not only the community I represent, but to our entire State and for the remembrance of these remarkable military heroes. It's especially fitting that we're passing this today considering the many Memorial Day services held on Monday and this past weekend. This legislation will designate the pedestrian bridge crossing the Taconic State

Parkway in the Town of Yorktown within Westchester County as the Atomic Veterans Memorial Bridge. For my colleagues who may be unfamiliar with the area or this particular bridge, you may know it by another name. The New York-New Jersey Trail Conferences website acknowledges that many people still refer to it as the, quote, "Bridge to Nowhere." In fact, the bridge does go somewhere. While modest in size, it is a beautiful structure that crosses both the north and southbound strips of the Parkway and connects a network of local trails and open spaces for all people to enjoy. With the passage of this legislation, vehicles traveling under and people walking over the bridge will come to know it as something else. It is a bridge that will now serve as an important memorial to remember all our courageous atomic veterans. Relatively, it's a small acknowledgement of the great sacrifice that our Armed Services members made throughout the period of 1945 to 1963 when the U.S. military conducted over 235 nuclear tests. More than 220,000 American service workers participated in these tests, and as a result undoubtedly experienced levels of exposure to atomic substances. Over the years many of these atomic veterans suffered through and ultimately succumbed to various radiation-induced medical illnesses. This legislation will help --

ACTING SPEAKER AUBRY: Mr. --

MR. BYRNE: -- ensure that the dedication of these brave patriots is properly recognized by (inaudible) this new bridge --

ACTING SPEAKER AUBRY: Mr. Byrne, how --
how do you vote?

MR. BYRNE: -- and commemorate these heroes.

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

ACTING SPEAKER AUBRY: Mr. Byrne in the affirmative.

Mr. Schmitt to explain his vote.

MR. SCHMITT: Thank you, Mr. Speaker. To explain my vote. I first want to thank my colleague for sponsoring this legislation, and I want to give particular recognition to Ed Gettler, whose service was as a petty officer electrician -- electrician's mate third class. His service as an atomic veteran and his lifelong mission to ensure that all atomic veterans who served our country are recognized is something that needs to be continued, to be recognized and applauded. This is just another step in bringing more public awareness to the service of atomic veterans. Over 235 atmospheric nuclear weapons tests occurred in the Pacific, ensuring that over 220 -- 220,000 U.S. servicemen and women participated in it and had exposure to these tests leading to, in many times, long-term medical problems that they -- might have shortened their life or caused them much difficulty later in life. The atomic veterans showed us the best of American exceptionalism. The service men and women who volunteered, willing to push the bounds of our scientific knowledge and of our abilities to ensure we were the most strongly positioned country in the world at the time, as we still are, but when it came to emerging atomic and nuclear technologies to keep our country safe and to keep the free world safe.

So I want to thank the sponsor, I want to thank Ed and I want to thank all of the atomic veterans who are still living and those who are no longer with us and their families for their sacrifice on their nation. I'll be voting yes. Thank you.

ACTING SPEAKER AUBRY: Thank you.

Are there any other votes? Announce the results.

(The Clerk announced the results.)

The bill is passed.

THE CLERK: Assembly No. A01538-A, Rules Report No. 291, Gottfried, McDonald, Otis, Burgos, Reyes, González-Rojas, Zinerman. An act to amend the Civil Rights -- Civil Practice Law and Rules, in relation to the rate of interest on a judgment for medical debt.

ACTING SPEAKER AUBRY: The bill is laid aside.

THE CLERK: Assembly No. A01561-C, Rules Report No. 292, Santabarbara, Gunther, Buttenschon, Magnarelli. An act establishing the New York State Rural Ambulance Services Task Force; the providing for the repeal of such provisions upon expiration thereof.

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

Read the last section.

THE CLERK: This act shall take effect immediately.

ACTING SPEAKER AUBRY: The Clerk will record

the vote on Senate print 3503-C. 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. Santabarbara to explain his vote.

MR. SANTABARBARA: Thank you, Mr. Speaker.

To explain my vote. As we look towards rebuilding our communities stronger than before, we must address the unique challenges our rural areas are facing, especially when it comes to healthcare. In particular, ambulance services that continue to face distinct challenges that the recent public health crisis has only made worse. An alarming number of these lifesaving services have been forced to close their doors in recent years. State support for these organizations has become critical. But the reality is, many ambulance services here in Upstate have been operating short-staffed for years and these challenges have increased over time. In addition to the financial strain that's affecting their ability to stay open, these services are also facing a shortage of EMTs and paramedics. That's why I authored this bill to establish a new Rural Ambulance Task Force. This task force will review and report on the number of services that are available in rural areas and assess the need for these services as well as things like reimbursement structures and the barriers and challenges that have led to this shortage. This is a critical step towards identifying long-term solutions and setting clear goals that will help us stabilize this rural healthcare need. When an ambulance is called, every second counts.

And we've already seen too many ambulance services close their doors, and we simply can't risk seeing more do -- do exactly the same. Not when lives are on the line. We can't let this issue fall by the wayside, especially now when access to these critical services is more important than ever. It's absolutely critical that we seek out innovative solutions and implement them, and this bill will allow us to do just that.

And I'm pleased to cast my vote in the affirmative.

ACTING SPEAKER AUBRY: Mr. Santabarbara in the affirmative.

Are there any other votes? Announce the results.

(The Clerk announced the results.)

The bill is passed.

THE CLERK: Assembly No. A01605, Rules Report No. 293, Dinowitz, Gottfried, Seawright, Stirpe, Bronson. An act to amend the Civil Practice Law and Rules, in relation to grounds for vacating an arbitration award on the basis of partiality of the arbitrator.

ACTING SPEAKER AUBRY: Read the last section.

THE CLERK: This act shall take effect immediately.

ACTING SPEAKER AUBRY: The Clerk will record the vote on Senate print -- Assembly print A.1605. 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.)

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

(The Clerk announced the results.)

The bill is passed.

THE CLERK: Assembly No. A01665, Rules Report No. 294, Cahill. An act to amend the Highway Law, in relation to designation a portion of the State highway system as the "Ulster County Korean War Veterans' Memorial Highway."

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

Read the last section.

THE CLERK: This act shall take effect immediately.

ACTING SPEAKER LUNSFORD: The Clerk will record the vote on Senate 4074. 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: Madam Speaker.

ACTING SPEAKER LUNSFORD: Mrs. Peoples-Stokes.

MRS. PEOPLES-STOKES: If you would please record our colleague Mr. Barron as a negative on this one. Thank you.

ACTING SPEAKER LUNSFORD: So recorded.

Are there any other votes? Announce the results.

(The Clerk announced the results.)

The bill is passed.

THE CLERK: Assembly No. A01921, Rules Report No. 295, Paulin, Cook, Cymbrowitz, Abinanti, Gunther, Weprin, Hevesi, Stirpe, DiPietro, Brabenec, Fahy, Colton, Norris, Barrett, Pheffer Amato, Dinowitz, Lalor, Zebrowski, Steck, Hunter, Bronson, Solages, Peoples-Stokes, De La Rosa, B. Miller, Morinello, Fitzpatrick, Dickens, Magnarelli, Pichardo, Santabarbara, J.M. Giglio, McDonough, Aubry, L. Rosenthal, Englebright, Lavine, Joyner, Seawright, M. Miller, Fernandez, Fall, Reilly, Reyes, Salka, Wallace, Jacobson, Jean-Pierre, Manktelow, Taylor, Benedetto, Stern, Griffin, Buttenschon, Eichenstein, Lupardo, Woerner, Angelino, McDonald, Lemondes, Jensen, Lawler. An act to amend the Education Law, in relation to the use of oral medications by optometrists.

ACTING SPEAKER LUNSFORD: On a motion by Ms. Paulin, the Senate bill is before the House. The Senate bill is advanced. The bill is laid aside.

THE CLERK: Assembly No. A01953, Rules Report No. 296 Cruz, Santabarbara. An act to amend the Mental Hygiene Law, in relation to the Autism Detection and Education Program and mapping of autism locations.

ACTING SPEAKER LUNSFORD: Read the last section.

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

ACTING SPEAKER LUNSFORD: The Clerk will record the vote on Assembly 1953. 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 bill is passed.

THE CLERK: Assembly No. A02183, Rules Report No. 297, Pretlow, Paulin. An act to amend the Highway Law, in relation to designating a portion of the State highway system as the "Dr. Martin Luther King, Jr. - Michael Henry Schwerner Memorial Bridge."

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

Read the last section.

THE CLERK: This act shall take effect immediately.

ACTING SPEAKER LUNSFORD: The Clerk will record the vote on Senate 3887. 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 bill is passed.

THE CLERK: Assembly No. A02193, Rules Report No. 298, Dinowitz, Gottfried, Seawright. An act to amend the Civil Practice Law and Rules, in relation to arbitration awards in consumer and employment disputes.

ACTING SPEAKER LUNSFORD: Read the last section.

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

ACTING SPEAKER LUNSFORD: The Clerk will record the vote on Assembly Bill 2193. 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.)

Any there other votes? Announce the results.

(The Clerk announced the results.)

The bill is passed.

THE CLERK: Assembly No. A03081, Rules Report No. 299, Peoples-Stokes. An act to amend Real Property Actions and Proceedings Law, in relation to prohibiting the registration of mortgages in default prior to the filing of a notice of pendency.

ACTING SPEAKER LUNSFORD: The bill is laid aside.

THE CLERK: Assembly No. A03093, Rules Report No. 300 Fahy, Griffin, Buttenschon, Sillitti, Stern, Simon, Smith. An act to amend the Education Law, in relation to certain factors considered in the determination of hazardous child safety zones.

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

Read the last section.

THE CLERK: This act shall take effect immediately.

ACTING SPEAKER LUNSFORD: The Clerk will record the vote on Senate 1925. 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 bill is passed.

THE CLERK: Assembly No. A03136-A, Rules Report No. 301, Epstein, Gallagher, Steck, Jackson, Dinowitz, Gottfried. An act to amend the Education Law, in relation to preventing institutions from implementing contingencies on the receipt of State funding.

ACTING SPEAKER LUNSFORD: The bill is laid

aside.

THE CLERK: Assembly No. A03222-A, Rules Report No. 302, Hunter. An act to amend the Insurance Law, in relation to excess disability insurance.

ACTING SPEAKER LUNSFORD: On a motion -- on a motion by Ms. Hunter, the Senate bill is before the House. The Senate bill is advanced.

Read the last section.

THE CLERK: This act shall take effect immediately.

ACTING SPEAKER LUNSFORD: The Clerk will record the vote on Senate 5760. 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 bill is passed.

THE CLERK: Assembly No. A03456, Rules Report No. 303, McDonald, Buttenschon, Otis, Colton. An act to amend the State Administrative Procedure Act, in relation to designating a small business liaison.

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

Read the last section.

THE CLERK: This act shall take effect immediately.

ACTING SPEAKER LUNSFORD: The Clerk will record the vote on Senate 33. 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 bill is passed.

THE CLERK: Assembly No. A03483-B, Rules Report No. 304, Sillitti, Conrad, Jean-Pierre, Septimo, Lavine, Salka, Montesano, Morinello, Smullen, Lemondes, Durso. An act to amend the Highway Law, in relation to designating a portion of the State highway system in the Village of North Hills as the "Lance Corporal Matthew A. Falcone Memorial Bridge."

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

Read the last section.

THE CLERK: This act shall take effect immediately.

ACTING SPEAKER LUNSFORD: The Clerk will record the vote on Senate 3107-B. 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 bill is passed.

THE CLERK: Assembly No. A03891, Rules Report No. 305, Ramos, Simon, Paulin, Reyes, Seawright, Jean-Pierre, Fahy, Cook, Aubry, De La Rosa, L. Rosenthal, Hunter, Frontus, Epstein, Hevesi, Bichotte Hermelyn, Colton, Dickens, McDonough, Galef, Nolan, Fernandez, Perry, Taylor, Gottfried, McMahon, McDonald, Englebright, Durso, Jackson, Mitaynes, Zinerman, Abinanti, Tannousis, Kelles, Quart, Barron, Sillitti, Steck, Byrnes, Forrest, Lavine, Zebrowski, González-Rojas, Wallace, Weprin, Cruz, Anderson, Clark, Jacobson, Dinowitz, Thiele, Pichardo, Dilan, Glick, J. Rivera, Stern, Rodriguez, Rajkumar, Burgos. An act to amend the Domestic Relations Law, in relation to increasing the age of consent for purposes of marriage to the age of 18; and to repeal certain provisions of such law relating thereto.

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

Read the last section.

THE CLERK: This act shall take effect on the 30th day.

ACTING SPEAKER LUNSFORD: The Clerk will record the vote Senate 3086. 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. Ramos to explain his vote.

MR. RAMOS: Thank you, Ms. Speaker. I proudly sponsor this bill, a bill that raises the marriage age to 18. A bill that I call Nalia -- the Nalia bill after a young lady who several years ago came to my office and pleaded that we change law and raise the law to 18 because of her case in which she was forced to marry at the age of 14. The horrors of her story compelled my heart to come up with this bill and build on some work that was done several years ago that raised the age to 17, but really to right this wrong. We -- anything under 18 is under the control of parents. Children don't have a choice if a child objected. It's unreasonable to expect a child to go through any kind of court proceeding, especially when there's a Catch 22 and young children under 18 cannot enter into a contract with an attorney to -- to represent them. It just leaves them in legal limbo in the situation where parents have control over them. And then certainly family can take part in the decision for marriage, but this would happen after they're 18. They could certainly do that as an adult where they have an option. I'd like to thank Unchained, an organization of advocates who've worked behind the scenes to try and make this bill a reality. And, you know, now I'm very proud that this is a -- many people on both sides of the aisle supported this bill. I know years ago this bill had to be negotiated to raise it up to 17, but

human rights are not negotiable. And the right for women to not be placed in a situation where there is an abusive relationship going on beyond their control and without remedy is something we should never allow.

I urge all my colleagues to vote yes, and I proudly vote yes to Nalia's bill.

ACTING SPEAKER LUNSFORD: Mr. Ramos in the affirmative.

Mr. Goodell.

MR. GOODELL: Thank you, Madam Speaker. I will be supporting this legislation, but I -- I do note that while we're raising the age of marriage to 18, New York State is leaving the age of consent for sexual relationships at 17 and it might make sense for us to have both of them on the same age.

Thank you.

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

(The Clerk announced the results.)

The bill is passed.

THE CLERK: Assembly No. A04059, Rules Report No. 306, Abbate, Steck. An act to amend the Education Law, in relation to deductions of benefits of certain retired members.

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

Read the last section.

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

ACTING SPEAKER LUNSFORD: The Clerk will record the vote on Senate 4308. 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 bill is passed.

THE CLERK: Assembly No. A04218, Rules Report No. 307, Thiele. An act to amend the Criminal Procedure Law, in relation to granting uniformed court officers in the Village of Sag Harbor in Suffolk County peace officer status.

ACTING SPEAKER LUNSFORD: Read the last section.

THE CLERK: This act shall take effect immediately.

ACTING SPEAKER LUNSFORD: The Clerk will record the vote on Assembly bill 4218. 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 bill is passed.

THE CLERK: Assembly No. A04251, Rules Report No. 308, Weprin, Cruz. An act to amend the Correction Law and the Penal Law, in relation to establishing merit time allowance credits and certain administrative privileges credits for local correctional facilities.

ACTING SPEAKER LUNSFORD: The bill is laid -- oh. On a motion by Mr. Weprin, the Senate bill is before the House. The Senate bill is advanced. The bill is laid aside.

THE CLERK: Assembly No. A04328-A, Rules Report No. 309, Englebright, Lupardo, Solages, L. Rosenthal, Galef, Otis, Griffin, Barnwell, Burdick, Fahy, Lunsford. An act to amend the Environmental Conservation Law and the Economic Development Law, in relation to establishing a State Geological Trail.

ACTING SPEAKER LUNSFORD: Read the last section.

THE CLERK: This act shall take effect immediately.

ACTING SPEAKER LUNSFORD: The Clerk will record the vote on Assembly bill 4328-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.)

Are there any other votes? Announce the results.

(The Clerk announced the results.)

The bill is passed.

THE CLERK: Assembly No. A04341-A, Rules Report No. 310, Walker, Aubry, Dickens, Perry, Barron, Williams, Colton, Niou, De La Rosa, Simon, Cook, Englebright, Jean-Pierre, Taylor, Cruz, Epstein, Rodriguez, Zinerman, Bichotte Hermelyn. An act to amend the Private Housing Finance Law, in relation to Affordable Housing Corporation grants.

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

Read the last section.

THE CLERK: This act shall take effect on the 240th day.

ACTING SPEAKER LUNSFORD: The Clerk will record the vote on Senate bill 3372. 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.)

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

(The Clerk announced the results.)

The bill is passed.

Mrs. Peoples-Stokes.

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

ACTING SPEAKER AUBRY: We have both, Mrs. Peoples-Stokes.

On a motion by Mr. Zebrowski, page 36, Calendar No. 284, Bill No. A.394, amendments are received and adopted.

On behalf of Mr. Abinanti, Assembly bill recalled from the Senate. The Clerk will read the title of the bill.

THE CLERK: An act to amend Chapter 63 of the Laws of 2021.

ACTING SPEAKER AUBRY: Motion to reconsider the vote by which the bill passed the House. The Clerk will record the vote.

(The Clerk recorded the vote.)

The Clerk will announce the results.

(The Clerk announced the results.)

The bill is before the House and the amendments are received and adopted.

Privileged Resolution No. 372, the Clerk will read.

THE CLERK: Assembly Resolution No. 372, Mr. Barron.

Legislative Resolution commemorating the 100th anniversary of the destruction of Tulsa's Black Wall Street.

ACTING SPEAKER AUBRY: On the resolution, Mr. Barron.

MR. BARRON: Thank you, Mr. Speaker. You know, we've heard a lot this week about Tulsa and 1921 Black Wall Street. It was a disaster. It was a race riot. We understand prior to that it was one of the most prosperous communities, Black communities in the country. They even discovered oil there and had their own schools and had their own movie theaters and had their own cultural institutions. But Tulsa wasn't unique. Tulsa was a part of an era, a time where Black communities were popping up all over the place. About 50 in Oklahoma. We had also in Florida, 1923. Florida flourished, Rosewood. And 1789 we had North Carolina, Wilmington flourished, because prior to that point in time, Black communities were flourishing all over the West because Abe Lincoln and others didn't want Black people a part of the United States, he wanted them liberated and deported back to Africa. That's how the Liberia country was put together because of Africans in America that Lincoln and others wanted others to deport. In 1916 Marcus Garvey came from Jamaica and built a community in Harlem. He had one of the largest organizations in the world of African people. Over 2 to 10 million people were a part of Marcus Garvey's movement. So Tulsa comes after that. It was influenced by Garvey. Tulsa and Rosewood and all those were influenced by Garvey. But it also shows that colonial capitalism created disasters. Once we were told we -- you didn't want us a part of your communities, we built our own and we flourished. But the jealousy and envy of that led to racists in cahoots with the government to destroy. Over 300 of us were killed, thousands lost

their homes, thousands were arrested. Today in Tulsa, the President of the United States, Biden, goes to Tulsa and offers rhetoric, not reparations. Because after Tulsa was destroyed by the racist government and citizens of that area, they rebuilt it because of our African resilience. They rebuilt it. And then came the next racist policies of eminent domain. They built a highway through Tulsa. Today, on the north side, people -- Black people are suffering on the south side, White people are flourishing. And the President goes there and offers rhetoric but no reparations for the victims of Tulsa. Some that are still alive today.

So as we honor Tulsa today, we should fight hard for reparations. As we honor Tulsa today we should realize that the colonialism of capitalism which still impacts our communities, we are domestic colonies, our Black communities, of a colonial capitalist system. Tulsa is a prime example of what happens when Black people stick together, rise up and how they can unite and build some of the best communities in the world. From Timbuktu to Tulsa to right here. Weeksville in Brooklyn and to Seneca Village where Central Park used to be, these were flourishing Black communities. But eminent domain, Central Park, destroyed that community and now we have to rise up as a people, take the example of Tulsa and let's build East New York, Brownsville, Harlem and all the communities where we are the majority. We should control the means of production, the politics, the economics, the land, the businesses and especially the police. Honor Tulsa by rising up and uniting and doing in our communities what was

done then.

Thank you.

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

We have, Mrs. Peoples-Stokes, numerous other fine resolutions. We will take them up with one vote.

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

(Whereupon, Assembly Resolution Nos. 366-371 were unanimously adopted.)

Mrs. Peoples-Stokes.

MRS. PEOPLES-STOKES: Mr. Speaker, I now move that the Assembly stand adjourned until 10:00 a.m., Tuesday -- Thursday, January [sic] the 3rd, tomorrow being a Session day. 10:00 a.m. Thursday, June the 3rd, tomorrow being a Session day.

(Whereupon, at 8:34 p.m., the House stood adjourned until Thursday, June 3rd at 10:00 a.m., Thursday being a Session day.)