

MONDAY, JANUARY 30, 2023

2:40 P.M.

ACTING SPEAKER AUBRY: The House will come to order.

In the absence of clergy, we will pause for a moment of silence and consider the tragedy in Memphis and the loss of life of Tyre Nichols.

(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 Friday, January 27th.

Mrs. Peoples-Stokes.

MRS. PEOPLES-STOKES: Mr. Speaker, I move to dispense with the further reading of the Journal of Friday, January the 27th and ask that the same stand approved.

ACTING SPEAKER AUBRY: Without objection, so ordered.

Mrs. Peoples-Stokes.

MRS. PEOPLES-STOKES: Thank you, sir.

Colleagues and guests in the Chambers, Happy Monday. Happy Monday. Yes, Happy Monday. I am pleased, Mr. Speaker, to share with you a quote of the day, even though some people don't feel like being happy on Monday. This one again is from the Reverend Dr. Martin Luther King, and he shares with us that, *The function of education is to teach one to think intensively and to think critically. Intelligence plus character - that is the goal of true education.* I'm going to pass that one on to the Education Chair.

Mr. Speaker, members have on their desks a main Calendar and the main Calendar has a new bill on it, Mr. Speaker. After any introductions or housekeeping we're going to take up resolutions on page 3, and then were going to consent the new bill which is Calendar No. 4 by Ms. Paulin on page 4. And then we're going to start at page 5 and we're going to take up the following bills on debate: Rules Report No. 31 by Mr. Carroll, Rules Report No. 33 by Mr. McDonald, Rules Report No. 35 by Mr. Magnarelli, Rules Report No. 37 by Ms. Fahy, Rules Report No. 41 by Mr. McDonald. And after we have taken care of these bills, Mr. Speaker, I may

announce further legislative activity, but that's the general outline of where we're going today. So if you have any housekeeping now would be a great time.

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

Mr. Brook-Krasny for the purposes of a introduction.

MR. BROOK-KRASNY: Thank you, Mr. Speaker, my colleagues. It is my honor to introduce a very special individual and dear friend of mine here in Albany, Oleksiy Goncharenko. Mr. Goncharenko is here all the way from Ukraine, a place which as we all know needs our support and love now more than ever. Oleksiy is a Ukrainian politician, a member of the Ukrainian Parliament, a member of the Ukrainian Delegation to the Parliamentary Assembly of the Council of Europe and Vice President of the PACE Committee on Migration, Refugees and Internally Displaced Persons. He's also founder of the largest Ukrainian network of educational, cultural and volunteer centers - Goncharenko Centers. These centers help Ukrainians in small towns and villages improve their math and science skills and learn foreign languages. As a lawmaker and humanitarian, Mr. Goncharenko is not only a member of, quote, unquote, "For a Free Caucusus" in the Ukrainian Parliament, he's trying to bring democracy to nearby nations and heads the "For a Democratic Belarus" Caucus as well. After Russia launched a full-scale attack of Ukraine, Oleksiy knew he had to defend his homeland and took up arms as a member of the Ukrainian Territorial

Defense Forces. He literally exchanged this kind of button for the (inaudible) and fought the dictator in Ukraine. As a result, Oleksiy was sanctioned, of course, by the Russian Federation. I would like to remind this Body that as the world continues to turn, the war in Ukraine is still ongoing. And one of the major facts that we all need to remember that, yes, we're spending three percent of our military budget helping Ukraine, but with that three percent of our military budget, Ukraine fighters has already destroyed 50 percent of Russian Conventional Army. More families are separated and displaced by the day in Ukraine, and many Ukrainians are still without heat in their homes and the ability to feed themselves. If you can, please consider supporting Ukraine in any way that you can. Even flying a Ukrainian flag outside your home or office or right here. This displays solidarity with those living through a terrible war. Totally unfounded.

With that, Mr. Speaker, would you please award Mr. Goncharenko the cordialities of the House and welcome him to our Chamber, our People's House.

ACTING SPEAKER AUBRY: Certainly. On behalf of Mr. Brook-Krasny, the Speaker and all the members, Oleksiy, welcome to the New York State Assembly. We extend to you the privileges of the floor, our admiration for the work that you do and for your country and we hope that there will be a peaceful solution and conclusion of that war. Thank you so very much. Thank you for coming.

(Applause)

Page 3, resolutions, the Clerk will read.

THE CLERK: Assembly Resolution No. 60, Ms. Reyes.

Legislative Resolution memorializing Governor Kathy Hochul to proclaim January 26th, 2023 as the 210th Anniversary of the Juan Pablo Duarte Day in the State of New York.

ACTING SPEAKER AUBRY: Assemblywoman Reyes on the resolution.

MS. REYES: Thank you, Mr. Speaker. On January 26th we celebrate one of the Founding Fathers of the Dominican Republic, Juan Pablo Duarte, who along with Ramón Matias Mella and Francisco del Rosario Sánchez were the revolutionary visionaries of the Dominican independence movement. Juan Pablo Duarte was highly educated. He was a reformer, a liberal, who was exiled to Venezuela after numerous clashes with conservative political forces after the revolution. Duarte helped inspire and finance the Dominican War of Independence from Venezuela where he was welcomed and embraced by the people of Venezuela, and he died in Venezuela in July of 1876. Nearly one million Dominicans call New York State home, and Duarte reminds us that sometimes we have multiple homes, and regardless of where we end up the fight for liberty is a righteous one. Right now, currently in our State, we have many migrants who are coming here to change the fabric of our great State and our country and we should welcome that. Because the reality is that in all of our stories - not just the U.S one, but like my home country of the

Dominican Republic - many people have created that beautiful fabric of liberty and independence. I am proud to be one of five Dominicans here in the State Assembly, and with it we call ourselves the Dominican Caucus and we are proud to celebrate one of our Founding Fathers and the memory and the fight for freedom that we continue to fight for here in this Body as well.

Thank you.

ACTING SPEAKER AUBRY: Thank you.

Ms. Septimo on the resolution.

MS. SEPTIMO: As my colleague just said, we're here to celebrate Juan Pablo Duarte, who is considered father of the nation of the Dominican Republic. And we just heard that he -- he was a military leader, he was a political leader, but Juan Pablo Duarte was also an activist, a writer, a poet and someone who I think embodies the spirit of what it means to be Dominican. The spirit of activism. The spirit of bringing one's entire self to the work and recognizing that humanity exists in all of us and should be recognized at every step of the way.

So I am proud to stand today to rise to recognize Juan Pablo Duarte and all of the Dominicans living in New York State.

Thank you.

ACTING SPEAKER AUBRY: Thank you.

Ms. Tapia.

MS. TAPIA: On the resolution, thank you, Speaker. Juan Pablo Duarte was a visionary statesman and an intellectual who

played a pivotal role in the formation of the Dominican Republic. Born in 1813 in the City of Santo Domingo, he was opposed to the injustice and suffering of his countrymen from a young age. This inspired him to seek change and to work towards a better future for the people of the Dominican Republic. Duarte was a brilliant student who excelled in his studies. He traveled to Europe in the 1830s to further his education, where he was exposed to revolutionary ideas and ideologies that would shape his future political views. Upon his return to the Dominican Republic he became a fervent advocate for the independence and freedom of the Dominican Republic -- Republic which had occupied the country since 1822. In 1838 Duarte founded the secret society called La Trinitaria, which aimed to secure our independence and establish a free democracy -- a -- a free and Democratic Republic in the Dominican Republic. The society's members included some of the most influential people in the country, and they worked in secret to lay the foundations for a new nation. The leaves of efforts came to fruition in February 1844 when the Republic -- the Republic of the Dominican was (inaudible). He was -- he was instrumental in drafting the Constitution which established a Democratic system of government based on the principles of liberty, equality and justice. Duarte's legacy is one of the great sacrifice and devotion to the people of the Dominican Republic. He lived his life with a deep sense of purpose, always striving to improve the life of his fellow citizens. He remains an inspiration to Dominicans today and he's a national hero. Juan Pablo Duarte was a man ahead of his time.

He was a visionary leader who devoted his life to the cause of independence and freedom for the people of the Dominican Republic. His tireless efforts, dedication and sacrifice continue to inspire Dominicans today, and his legacy is a testament to the power of one person to make a difference in the world. Duarte will always be remembered as one of the Founding Fathers of the Dominican Republic and a symbol of hope and inspiration to future generations.

Thank you.

ACTING SPEAKER AUBRY: Thank you.

Mr. De Los Santos.

MR. DE LOS SANTOS: Thank you, Mr. Speaker, for the opportunity to speak on this important resolution. On my birthday today and as I turn old and as a proud Dominican-American, we honor the memory and the birth of our beloved father of the country, Juan Pablo Duarte. Today he would have been 210 years old. In addition to his leadership, his vision, his activism, his tireless sacrifices, selfless struggle and action that were essential and fundamental for the formation of what today we proudly call the beautiful Dominican Republic where we will always be grateful to his enormous contribution to our country and to the people of Dominican descent. (Speaking Spanish)

Thank you.

ACTING SPEAKER AUBRY: Thank you.

Mr. Alvarez on the resolution.

MR. ALVAREZ: Thank you, Mr. Speaker. We're

here to celebrate Juan Pablo Duarte. He was the only founder of nations that gave name to a republic, as an evidence in the oath made by the founders, fathers of our country, Dominican Republic. As a result of this he's not only the inspiration but also the creator of Dominican (inaudible). (Speaking Spanish)

Thank you.

ACTING SPEAKER AUBRY: Thank you.

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

THE CLERK: Assembly Resolution No. 61, Mr. McDonald.

Legislative Resolution memorializing Governor Kathy Hochul to proclaim May 1-7, 2023 as Tardive Dyskinesia Awareness 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.

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

THE CLERK: Assembly No. A00150, Calendar No. 4, Paulin, Cruz, Jean-Pierre, Reyes, Sayegh, DeStefano, Wallace, Steck, Taylor, Fahy, Jacobson. An act to amend the Vehicle and Traffic Law, in relation to the operation of all-terrain vehicles by minors.

ACTING SPEAKER AUBRY: The bill is laid aside.

Page 5, Calendar [sic] No. 31, the Clerk will read.

THE CLERK: Assembly No. A00631, Rules Report No. 31, Carroll. An act to amend the Real Property Law, in relation to requiring residential leases to include information on prior flood damage.

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

MR. CARROLL: Mr. Speaker, this is a chapter amendment where we strike the words "whether the leased premises has experienced" and then adds a knowledge requirement for the landlord when leasing the presence around whether or not a flood event has happened at the premises.

ACTING SPEAKER AUBRY: Mr. Goodell.

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

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

MR. CARROLL: I do.

MR. GOODELL: Thank you, Mr. Carroll. I -- I note the original bill required notice if the leased premises was in a 50-year floodplain, a 100-year floodplain or a 500-year floodplain; is that correct?

MR. CARROLL: The bill that we had passed last year or the original version of the bill before we passed that bill?

MR. GOODELL: The bill we passed last year.

MR. CARROLL: Yes.

MR. GOODELL: And so even though the landlord notified the tenant that the property -- well, let me back up. So, if the landlord notified the tenant that the property was in a 50-, 100- or 500-year flood zone, with that then absolve the landlord of any other notice requirements or does this require an additional notice over and above, advising the tenant that the property is in a flood zone?

MR. CARROLL: I -- I believe the bill -- and I'd like to keep our comments as much as possible to the chapter amendment before us and not the bill that we passed last year, Mr. Goodell. But I believe the bill here, the chapter amendment here requires the landlord to have knowledge, and if he does have knowledge that he or she then must provide some form of warning or notice to the lease -- to the lessor.

MR. GOODELL: So in addition to identifying -- and I apologize, I -- I misquoted the original. The original was whether or not it was in a FEMA-designated floodplain, 100-year or 500-year flood zone. If the landlord complies with that, this bill as amended would add one more requirement, a knowledge requirement.

MR. CARROLL: Yes.

MR. GOODELL: And I note that this new requirement doesn't actually -- isn't met if the landlord actually knows of a flood problem, right? It also triggers liability on the landlord if the landlord had -- should reasonably know.

MR. CARROLL: And I think that's -- yes, you're -- you are correct.

MR. GOODELL: So under what circumstances would a property not be in a FEMA-declared floodplain, a 100-year floodplain or a 500-year floodplain where the landlord should have reasonable notice or should reasonably know that the property is subject to flooding?

MR. CARROLL: Mr. Goodell, it might surprise you to know that I'm not a landlord. But I could imagine a situation where a landlord should reasonably know that his or her property is prone to flooding for a whole host of reasons. Maybe because they had personally witnessed flooding on -- on their property because of -- you know, I -- there are countless, countless variables. However --

MR. GOODELL: Can -- can -- I'm sorry. I was just going to say, and I understand and I'm with you if the landlord knows the property is subject to flooding. But the amendment expands landlord liability beyond what the landlord actually knows to include this phrase *or reasonably should know*. What steps can a landlord take to ensure that they don't have liability under the *reasonably should know*?

MR. CARROLL: Well, so, first I think our courts have defined reasonableness many, many times and I'm sure they will in this scenario as well. But we lay out pretty clearly between whether your piece of property is in a 100- or 500-year flood zone, whether you have direct knowledge or there are some other reasonable reason. And that does give some latitude, you are correct; however, I think in the many instances where property owners would have reason to

believe -- for instance, I'll give you an example, Mr. Goodell. In my area of Brooklyn, it's at the highest point of Brooklyn. Brooklyn's not too hilly of a place but it's at about 300 feet above sea level. But because we have old sewer systems and overworked sewer systems and clogged drains, there is constant flooding on blocks throughout my district whenever there is a large rainfall event. Any person who would be leasing property who had not shown up just one day prior would know that. And I think that's a reasonable standard, though none of those -- none of those homes are going to show up on a 100- or 500-year flood map from FEMA.

MR. GOODELL: And I appreciate that clarification. Now, as you know, when an owner buys property the seller is required to provide a property condition disclosure report or pay an extra \$500 off the purchase price.

MR. CARROLL: And they usually pay the \$500.

MR. GOODELL: And but if they do that, as you know, one of the questions on the property -- it's question 30 on the property liability disclosure report -- asks the seller, *Has this property experienced flooding* and there's three answers the seller can give: Yes, no, unknown. If the seller marks on the property condition statement "no", does the landlord meet his obligation or does the landlord need to do further research like contact --

(Indiscernible simultaneous speaking)

MR. CARROLL: So Mr. Goodell, I don't know how this is germane to this bill. This bill deals purely with renters, and

there's no obligation -- this bill has nothing to do with the sale of a home between a seller and a purchaser. This bill purely has to do with the fact that when there's a landlord leasing out a premises which he has done or she has done under their own free will, and this is a reasonable standard to put on someone if they want to do that to reasonably warn a potential tenant of a flood risk.

MR. GOODELL: So let me rephrase that question so you understand.

MR. CARROLL: Well, could you make it -- with all due respect, Mr. Goodell, if you could make it to the actual chapter amendment that would be really -- I would really appreciate that.

MR. GOODELL: Certainly, Mr. Carroll. And the chapter amendment imposes liability on the landlord if the landlord, quote, "reasonably should know --

MR. CARROLL: Yes.

MR. GOODELL: -- whether the property is subject to flooding." So my question is, does the landlord have a further obligation under this reasonable to know standard if when he bought the property question 30 on the property condition disclosure report said there was no known flooding? Is he then safe? Is it a safe harbor under this reasonable to know standard which is the bill that you're proposing?

MR. CARROLL: I -- I do not believe so.

MR. GOODELL: So even though the seller may give notification to the buyer and assurances to the buyer under the

property condition disclosure report that there's no flooding, the buyer, if he's a landlord, has to do further independent investigation?

MR. CARROLL: Mr. Goodell, a landlord -- a person who owns a piece of property has absolutely zero obligation to go out and rent it to a tenant. This bill says that if you want to get into that business, guess what? You need to take reasonable precautions and provide that tenant with reasonable information about flood risk. If that person doesn't want to get into that business, if that's too difficult, well, guess what? They can stay in the property themselves.

MR. GOODELL: So now a tenant of course might -- would notice that there's a property that's subject to flooding, want to buy flood insurance, correct?

MR. CARROLL: A tenant, yes.

MR. GOODELL: Yes. But am I correct that a tenant can only buy flood insurance if the property is in a FEMA floodplain, and so a 100- or 500-year flood zone?

MR. CARROLL: Mr. Goodell, how is this germane to this chapter amendment?

MR. GOODELL: Well --

MR. CARROLL: Mr. Speaker, none of these questions are germane to the chapter amendment. The chapter amendment's really simple. Do you have knowledge or reasonable knowledge of your piece of property that you were renting is in a flood zone.

MR. GOODELL: Right.

MR. CARROLL: That's it. There's nothing to do with whether you can or cannot buy flood insurance as a renter, nothing to do with whether when you purchase a home you can -- if the seller will hold a purchaser harmless if they lied on a document. What other random scenario would you like to ask me, Mr. Goodell, which has nothing to do with this chapter amendment?

MR. GOODELL: Thank you for your observations.

On the bill, sir.

(Laughter)

ACTING SPEAKER AUBRY: On the bill, sir.

MR. GOODELL: I think it's a lot easier for me to explain all the connections that those others might miss. So, under the original bill you had -- a landlord had to disclose if the property was in a FEMA flood plain, a 100-year floodplain or a 500-year floodplain. And this chapter amendment adds an additional requirement. And that is if the landlord knows that the property is subject to flooding -- and by the way, I don't have a problem with that. If you know it's subject to flooding you ought to tell the tenant. But then it goes on one step further and imposes liability on the landlord if the landlord, quote, "reasonably should know." And so the question is, under what scenario should the landlord who doesn't have actual knowledge, under what scenario should he reasonably know? Because that's what this chapter amendment imposes liability on. And so if the landlord buys the property and he gets a property condition disclosure report and question 30 says from the seller *no flooding* is the landlord safe to

assume he has no reason to know that there's flooding? And some may think that's irrelevant but if you're relying on the representations of a seller to know what's reasonable to know, that's very relevant, isn't it? And I think the answer is - at least from the sponsor - whether the seller told you there's no flooding is there might not even be relevant to whether the landlord should or has reason to know. I think it's very, very relevant. Landlords are not omnipotent. If they know it, they should disclose it. But if they don't know it, under what conditions are they liable? Now, if they're told there's no flooding they shouldn't be liable unless there's some reason to believe that that was inaccurate. So here you have a bill that purports to impose strict liability on landlords even though the property is outside of any known flood zone. Even though the tenant couldn't even buy flood insurance if they wanted to. I would say the fact they can't even buy flood insurance is most assuredly relevant to whether we're holding the landlord liable. We've read article after article after article bemoaning the housing crisis that's hitting New York City and other areas in the State. Yet every Session we come here and impose greater and greater liability on landlords. We're driving small landlords out of the business, and then we sit here on the floor of this Chamber and wring our hands because we don't seem to understand why we have a housing shortage. The two are connected. If we want more low-income housing, if we want more housing by small landlords, they have to be able to afford to do it. And every time we impose unreasonable liability, and in this case with this chapter

amendment, liability for a flooding condition you didn't even know existed. That's what the chapter amendment does, that's why I oppose it.

Thank you, sir.

(Applause)

ACTING SPEAKER AUBRY: Mr. DiPietro.

MR. DIPIETRO: Thank you, sir. Quickly on the bill.

ACTING SPEAKER AUBRY: On the bill, sir.

MR. DIPIETRO: Thank you, sir. Last summer -- I'm a landlord, I own property and I went to my town and -- just a quick story real quick -- I asked them about the floodplain because part of it was in a floodplain and the other part was not in a floodplain, the acreage and the buildings. And I asked them about the 100 and they said we've got some records and here's the data and they gave it to me and I said, *What about 500 years* and they just sort of laughed at me and said, *Well, we have some engineering reports but unfortunately nobody lived here 500 years ago*. So, not that there isn't that record, but the fact is that every landlord I've talked to, they do not look and immediately have something. They're looking at the last 50 years to 100 years when you buy a piece of property to look at what the flooding is. You go and actually inspect it. When you look at it you can tell in the spring and in the fall most of the time.

This bill had 34 no votes last year because it was just a bad bill for a lot of people, and I'll be voting no again on it this time

because the amendment actually makes it worse, it doesn't make it better. It's another attack on landlords and on people who are trying to provide a service to people so they can live. And as I've said, I've talked to people, I've done this many, many times in my life because I've been a property owner and a developer and this bill does nothing to help anyone. So I'll be voting no. Thank you, sir.

ACTING SPEAKER AUBRY: Mr. Carroll.

MR. CARROLL: On the bill.

ACTING SPEAKER AUBRY: On the bill, sir.

MR. CARROLL: To set the record straight, the chapter amendment actually makes the bill more preferential to landlords. Because the previous bill, all it states whether the leased premises has experienced any prior flooding. That would mean any prior flooding that had ever occurred that could have been documented would mean the landlord would have had to have given notice to the person leasing the premises. This actually restricts that by saying there must be some form of knowledge, and reasonable knowledge especially, saying that that's too high a standard. From a party that purports to believe in personal responsibility and say that people should figure out their own house before telling other people what to do with theirs is pretty rich. If somebody wants to get into the landlord business and it's too high a barrier to find out whether or not a piece of property floods, well, give me a break. That seems about the lowest bar possible to tell a person who is leasing a piece of property whether or not their possessions or their lives could be ruined

because of flooding, and that's why I'll be voting in the affirmative, Mr. Speaker.

ACTING SPEAKER AUBRY: Thank you.

Mr. Manktelow.

MR. MANKTELOW: Thank you, Mr. Speaker.

Would the sponsor yield for a question, please?

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

MR. CARROLL: Only if it's actually on the chapter.

ACTING SPEAKER AUBRY: Ladies and gentlemen, one thing. Mr. Carroll, members, there's no requirement that you yield, but once you've yielded you can't then define what it is that they can ask you.

(Applause)

Right? So let's understand that. So you may -- you --

MR. CARROLL: I'll yield.

ACTING SPEAKER AUBRY: You're within your right to say you will not yield, but you can't have -- define what they can ask you or not. All right?

MR. CARROLL: So Mr. Speaker, can I ask a question of you? So, they can ask me anything?

ACTING SPEAKER AUBRY: As long as it's on the bill. And there is a bill in front of us. Whether or not it's a chapter amendment or not, that is a bill, is it not?

MR. CARROLL: It is a bill.

ACTING SPEAKER AUBRY: Thank you.

Mr. Manktelow.

MR. MANKTELOW: I'm all set, sir.

ACTING SPEAKER AUBRY: Mr. Carroll said he yields.

MR. MANKTELOW: Thank you, Mr. Carroll. I'll -- I'll try to keep this relevant to the amendment. Are you familiar with agriculture at all?

MR. CARROLL: I've grown a tomato before.

MR. MANKTELOW: That's a great start. So -- so I guess my question is here, a lot of farmers lease property from other landlords, agricultural property. Will this affect those land leases as well?

MR. CARROLL: Land leases? I -- I -- I do not believe so. I believe these are for tenants.

MR. MANKTELOW: So, let me -- let me ask you this, then -- I'll try to simplify this a little bit. You own a bunch of property, I'm a farmer. I want to grow crops on your land. So I'm going to be your tenant, I'm going to rent that farmland from you, the property owner. So you may or may not have knowledge of that farmland flooding over the years, whether it's catastrophic, whether it's a hurricane, it doesn't matter. Will this affect me as a tenant -- as an agricultural tenant, will this bill affect me as well?

MR. CARROLL: As an agri -- you're not leasing property as a home.

MR. MANKTELOW: I am. Yes, sir.

MR. CARROLL: So you're leasing a home as well as an agricultural property.

MR. MANKTELOW: Well, on some leases it's everything. But my question is, and I think this is very relevant, if this ends up in a court and I just put in \$200,000 worth of new potatoes, it floods, you're the landlord. If this is in place I'm going to come after you because you didn't let me know; is that correct?

MR. CARROLL: This -- this bill is about landlord-tenant situations for leased premises. Apartments, homes. I -- I do not believe it has anything to do with the leasing of agricultural property.

MR. MANKTELOW: Okay, so ag land is not -- not part of this bill or this amendment, then?

MR. CARROLL: I -- I do not believe so. And it was not contemplated when this bill was drafted.

MR. MANKTELOW: Okay. Because some -- some farmland is leased within the residential area. Some farmland is leased within the city limits that could be zoned residential. I -- I just want to make sure --

MR. CARROLL: This bill is about residential property.

MR. MANKTELOW: Okay. But it's -- the farmland in -- in a residential area is residential property. I just want to make sure our ag producers are covered that they're not going to run into

issues with this bill.

MR. CARROLL: This bill is about the leasing of residential property; apartments, homes, et cetera.

MR. MANKTELOW: But it doesn't say it wouldn't affect farmland, either, even though it's residential property.

MR. CARROLL: Sure.

MR. MANKTELOW: I don't understand what sure means.

MR. CARROLL: It -- it does not expressly exclude it, but I do not believe it covers the leasing of agricultural property.

MR. MANKTELOW: Okay. So I understand that you don't believe it does, but when this bill passes, whether you believe it not is really irrelevant at that point. It's whoever that -- whoever this goes in front of if it ends up in front of a judge or a lawsuit. Whether you think it's relevant or not or whether you think it's part of the bill or not is really irrelevant to the farmer, to the ag producer and to the landlord. I just want to make sure.

MR. CARROLL: I believe the language is pretty clear that we are discussing a premises. And I think as a premises is defined that we are talking about an actual physical premises, a domicile where someone lives and not a agricultural field where someone may grow crops.

MR. MANKTELOW: Okay. If -- if it's at all possible -- I don't want to put any more workload on you on this, but if you could possibly let me know if that does include farmland I would

really appreciate it because I know there's a bunch of farmers that lease property and I just want to make sure we don't set them up for failure or the landlords as well.

MR. CARROLL: I don't believe this bill has anything do with farmland.

MR. MANKTELOW: All right. Well, I appreciate it.

Mr. Speaker, thank you so much for allowing me to ask the question and I tried to stay on topic, sir.

ACTING SPEAKER AUBRY: Thank you, Mr. Manktelow. And note that your comments upon are on record, so...

Are there any other votes? Excuse me.

Read the last section.

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

ACTING SPEAKER AUBRY: The Clerk will record the vote.

(The Clerk recorded the vote.)

Mr. Ardila to explain his vote.

MR. ARDILA: Thank you so much, Mr. Speaker. I want to take this time to thank the sponsor of this bill. And this is a very critical moment to address both the climate crisis and the housing crisis within our State, making sure that we're upholding the utmost transparency for tenants, making sure that they are protected so that they have preexisting information on prior floodings within their

residential homes. So as we move forward to address the climate crisis, I look forward to working with this Body to make sure that both tenants are protected and that we are taking safety-first measures to ensure flooding doesn't take place anymore in this State.

So thank you so much and I'll be voting in the affirmative.

ACTING SPEAKER AUBRY: Mr. Ardila in the affirmative.

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

(The Clerk announced the results.)

The bill is passed.

Page 5, Rules Report No. 33, the Clerk will read.

THE CLERK: Assembly No. A00966, Rules Report No. 33, McDonald. An act to amend the Real Property Actions and Proceedings Law, in relation to information available for inspection during certain special proceedings by tenants; and to amend a chapter of the Laws of 2022 amending the Real Property Actions and Proceedings Law relating to special proceedings by tenants of dwellings outside the City of New York and certain counties for judgment directing deposit of rents and the use thereof for the purpose of remedying conditions dangerous to life, health or safety, as proposed in legislative bills numbers S.6721 and A.3241, in relation to the effectiveness thereof.

ACTING SPEAKER ROZIC: An explanation is

requested, Mr. McDonald.

MR. MCDONALD: This legislation is a chapter amendment that makes two minor changes from last year's bill that we passed in this House. Number one, would replace the phrase county or city to be municipality, and number two, would move the effective date up to 180 days from the days of passage. Last year's bill had it effective immediately.

ACTING SPEAKER ROZIC: Mr. Goodell.

MR. GOODELL: Thank you, Madam Speaker.

Would the sponsor yield?

ACTING SPEAKER ROZIC: Will you yield?

MR. MCDONALD: I will yield.

ACTING SPEAKER ROZIC: The sponsor yields.

MR. GOODELL: Thank you, Mr. McDonald. I appreciate it. I note that the bill-in-chief deals with special proceedings by tenants to force repairs to property; is that correct?

MR. MCDONALD: Tenants and/or other entities like a municipality or a non-for-profit. But the intention of the bill is to protect the tenants and prevent any displacement of them.

MR. GOODELL: And it envisions an appointment of a receiver for that purpose, right?

MR. MCDONALD: That's correct.

MR. GOODELL: An administrator, I think it's called.

MR. MCDONALD: That's correct.

MR. GOODELL: And I note that in appointing the administrator the court would order that all rents be paid solely to the administrator, correct?

MR. MCDONALD: That's correct.

MR. GOODELL: And the original bill went on to say that --

ACTING SPEAKER ROZIC: One second, Mr. Goodell. Could we have some quiet in the Chamber, please? It's hard to hear and we're on debate. And could we close those back doors?

MR. GOODELL: I'm sorry, Mr. McDonald. You had another --

MR. MCDONALD: No, there was a little chatter going on in the back.

MR. GOODELL: I see. And I -- I note the original bill said that anyone who had a contract to collect those rents such as a property manager, that the order appointing the administrator would render those contracts, according to this, void and unenforceable. That's in your original, correct?

MR. MCDONALD: If that's what you're saying I trust your judgment.

MR. GOODELL: So, questions were raised how can we as the State Legislature pass legislation that renders existing contracts, quote, "void and unenforceable consistent with the U.S. Constitution which prohibits legislatures from affecting the validity of a contract." Does the amendment address that concern at all?

MR. MCDONALD: That amendment does not address that concern that you bring it up.

MR. GOODELL: I see. Now, the original just said that the administrator should go ahead and make whatever repairs were necessary, and the original did not require any competitive bidding or even impose a reasonable standard on the administrator. Has that been amended by this chapter?

MR. MCDONALD: There are only two amendments on this legislation that we're discussing today. One substitutes "city and county" with "municipality", and the other one extends the starting date 180 days.

MR. GOODELL: Now, the -- the original bill listed how all that rent was to be paid and the order in which it was to be paid. So it had to follow in order of priority. Payment for all work. The administrator, he gets paid second. Property tax liens, that's third. Emergency repair liens, fourth. The original didn't provide for any payments to the bank or the mortgage. Is that addressed by this chapter amendment?

MR. MCDONALD: It does not appear to be mentioned in this chapter amendment.

MR. GOODELL: Okay. And in going out to make these repairs, the original did not require any competitive bidding or any obligation on the part of the administrator to seek the best price. Is that addressed by this amendment?

MR. MCDONALD: That is not in this amendment.

MR. GOODELL: Now, I see the original said that the administrator shall not -- (coughing) -- excuse me, I'm choking up over this bill.

(Laughter)

MR. MCDONALD: Maybe that's a sign that maybe you want to stop.

(Laughter)

MR. GOODELL: Indeed, I would like to stop this bill.

(Laughter)

Now, I see the original said that the administrator, who is collecting 100 percent of the rent, quote, "shall not have any liability in his or her personal capacity", but then in the very next sentence went on to say that the appointment of the administrator who was collecting all the rent shall not relieve the owner of liability. So under the original, even though the owner was not collecting any rent, even though the owner was no longer responsible for making any repairs, the one and only person who was collecting all the rent and making all the repairs had no liability, and the owner who couldn't do anything kept liability. Does this amendment address that unfairness?

MR. MCDONALD: No, it doesn't. But let's be very clear: The owner, by the time this actually -- receivership actually goes into action, have plenty of opportunity to do an awful lot of things to repair the building. And more than likely because of a lack of response is what got us in this position in the first place.

MR. GOODELL: So the only thing, if I'm understanding your earlier comments correctly, the only thing that the amendment does is to expand the original bill, which in the past only applied to counties and cities, to cover every municipality; is that correct?

MR. MCDONALD: That is correct.

MR. GOODELL: Thank you very much for your comments.

On the bill, Madam Speaker.

ACTING SPEAKER ROZIC: On the bill.

MR. GOODELL: You know, once again we're faced with an original bill that was horrifically unfair to landlords. It said if a tenant complained about the condition of the property the court could point an administrator to collect 100 percent of the rents and use those rents to start making repairs. But there was no obligation that the administrator consult with the owner over what repairs were really necessary, whether a roof repair would have been adequate as opposed to replacing the entire roof, as an example. And for those of us who have gone through that process I can assure you a repair is often much less than a whole new roof. And it goes on to say that the administrator who is collecting all the rent pays himself, pays for the work, pays taxes, but doesn't have to pay the mortgage. And so the poor owner who is not collecting now a dime in rent is watching his mortgage go into default. And what's really amazing about the original bill is it expressly states that the administrator who is

collecting all the rent and is now solely responsible for the repairs has no liability for the condition of the property, but the landlord, the owner who no longer has any rent coming in, remains fully liable for any injuries that occur while the property is being administered by somebody else. Now rather than correct those glaring concerns, the chapter amendment expands the scope of these unfair provisions to every municipality in the State, and for that reason I will not be supporting it.

Again, thank you very much to my colleague for direct and straightforward answers. Thank you, Mr. Speaker, for allowing me to speak on this bill.

ACTING SPEAKER AUBRY: Read the last section.

THE CLERK: This act shall take effect immediately.

ACTING SPEAKER AUBRY: The Clerk will record the vote.

(The Clerk recorded the vote.)

Mr. McDonald to explain his vote.

MR. MCDONALD: Thank you, Mr. Speaker.

Because of the fact that we have a lot of new fresh faces here in the House that didn't hear the debate we had last year, I just want to make it clear to everybody. This is a simple expansion, as Mr. Goodell mentions, of what has been existing law in the State of New York for over 50 years in New York City and the suburbs. Upstate New York also has blight. That's why the Conference of Mayors, the Association of Towns, Association of Counties came forth, asked us to consider

this legislation because they don't feel tenants should be displaced in the situation where a landlord is not able to tend to their property. I do not look at this as being a tool used on a regular basis, but a tool that will be used appropriately to make sure that tenants aren't displaced. Because as we know, housing is a challenge, and once somebody has a secure place they shouldn't be dislodged because of the actions of others.

Thank you.

ACTING SPEAKER AUBRY: Mr. McDonald in the affirmative.

Are there any other votes? Announce the results.

(The Clerk announced the results.)

The bill is passed.

Mr. Goodell for the purposes of a introduction.

MR. GOODELL: Thank you, Mr. Speaker. It is my -- my great pleasure to introduce George and Nancy Madison. Mr. Madison was a former Member of the Assembly from Nassau County. He served eight terms here in the House beginning in 1978, which was a little bit before I considered running but certainly, as you know, made a substantial difference in our State. And of particular note is that you may have noticed how attentive and how diligent Mr. Slater has been today because these are his in-laws. And so if you're a new freshman Assemblyman you most assuredly want to be on your best behavior when your in-laws, a former Assemblymember, is here in the Chamber.

So on behalf of Mr. Ra and Mr. Slater, please welcome George and Nancy Madison. Thank you, sir.

(Applause)

ACTING SPEAKER AUBRY: On behalf of Mr. Ra, the Speaker and all the members, we welcome you here, sir, to the New York State Assembly. Once a member, always a member. You are always welcome here. Thank you for stopping by and visiting us. And while times have changed, most Assemblymembers are about the same as when you were here. Thank you so very much.

(Applause)

Page 6, Rules Report No. 35, the Clerk will read.

THE CLERK: Assembly No. A00983, Rules Report No. 35, Magnarelli. An act to amend the Real Property Actions and Proceedings Law, the Uniform City Court Act, the Uniform District Court Act, the Uniform Justice Court Act and the New York City Civil Court Act, in relation to jurisdiction of proceedings under the Tenant Dignity and Safe Housing Act; and the amend a chapter of the Laws of 2022, as proposed in legislative bills numbers S.4594-B and A.354-B, in relation to the effectiveness thereof.

ACTING SPEAKER AUBRY: A explanation is requested, Mr. Magnarelli.

MR. MAGNARELLI: Yes, Mr. Speaker. This bill amends a bill that we passed last year relating to special proceedings for a judgment directing repairs of conditions and other relief in residential real property, provides that proceedings may be maintained

(inaudible) any respondent with a legal obligation to maintain the property.

ACTING SPEAKER AUBRY: Mr. Goodell.

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

MR. MAGNARELLI: Yes, Mr. Speaker.

ACTING SPEAKER AUBRY: Mr. Magnarelli yields.

MR. GOODELL: Thank you, Mr. Magnarelli. I -- I note that one of the changes is that it now requires that anyone who has a legal obligation to maintain a premises consistent with the warranty of habit -- habitability is now liable for an order from the court to make repairs; correct?

MR. MAGNARELLI: They are -- they can be a respondent in -- in -- to the petition. It can be served.

MR. GOODELL: My first question --

ACTING SPEAKER AUBRY: One -- one minute, gentlemen. We are on debate. I would appreciate if the conversations are taken outside the Chamber, please. And if you are in the Chamber take your seats.

Proceed.

MR. GOODELL: So, the amendment extends the requirements and the liability for an order to include, for example, mortgagees, a bank, right? I'm looking at page 2, line 17.

MR. MAGNARELLI: I think that was the

bill-in-chief that was there from the beginning. It doesn't change anything there.

MR. GOODELL: Well, at least from my copy that language is underlined, indicating it's new language. So we're page 2, line 17.

MR. MAGNARELLI: Okay.

MR. GOODELL: Now, banks don't normally have an obligation to maintain property, do they?

MR. MAGNARELLI: Well, if they're renting the property this -- this would make it that they had to.

MR. GOODELL: Well --

MR. MAGNARELLI: If they're collecting the rents.

MR. GOODELL: So in other words, if the bank has foreclosed and has a receiver appointed then they would be responsible?

MR. MAGNARELLI: Exactly.

MR. GOODELL: But if they haven't foreclosed or begun foreclosure, they would not be liable under this?

MR. MAGNARELLI: Well, they wouldn't -- they wouldn't have any obligation under the warranty of habitability at that point.

MR. GOODELL: This also purports to extend liability to the extent that there's a legal obligation to maintain the premises to an executor. Do executors normally have any liability to maintain property that's within the State?

MR. MAGNARELLI: I think they do. If they're renting out the property they have an obligation to make sure it's habitable.

MR. GOODELL: And likewise, it extends liability to an agent of the owner.

MR. MAGNARELLI: Right.

MR. GOODELL: It's not often owners will have a management agent that collects rent.

MR. MAGNARELLI: Right.

MR. GOODELL: Rarely does that rental agent have responsibility to maintain. So this would only apply if the individual had a legal obligation to maintain as well as just collect the rent?

MR. MAGNARELLI: I'm -- I'm just not reading this. I'm reading this to say that they can be a respondent. In other words, they're acting as the landlord.

MR. GOODELL: But only if -- only if they have a legal obligation, right?

MR. MAGNARELLI: Well, they have a legal obligation. These people would have legal obligations under the scenarios that you're stating.

MR. GOODELL: Thank you for that clarification.

Now, I see that the -- one of the amendments requires the Office of Court Administration to promulgate instructions for tenants on how to sue their landlord. I assume those instructions should be printed at taxpayer expense on how to sue your landlord?

MR. MAGNARELLI: The OCA, yes. Office of Court Administration.

MR. GOODELL: And it says it must be published in English, Spanish and in other language spoken by limited English-proficient individuals in the juris -- judicial district. Is that every language that's spoken in --

MR. MAGNARELLI: I think that would be up to what's happening in each district. I don't think they have to do it across the board, but they might have to do it in a given circumstance.

MR. GOODELL: Now, the original bill authorized the judge to issue an order directing the repairs of the premises and monetary judgments consistent with a warranty of habitability and a reduction of future rent and then whatever else a judge wanted. Now, I see the amendment removes the reference to a monetary judgment in favor of the petitioner for the diminished value of real property, which is the standard for a violation of warranty of habitability. Does this mean now with the amendment that a tenant must elect remedies, must either begin an action for an offset of rent on the warranty of habitability or alternatively seek an order for repair?

MR. MAGNARELLI: I think it can seek the relief of the court. If you read the last part of that section it says whatever the court should deem appropriate. Maybe I didn't quote that exactly, but that's what it meant.

MR. GOODELL: So even though this chapter amendment removes all those other references to monetary judgments

you're saying the amendment is meaningless because a court can do whatever it wants?

MR. MAGNARELLI: I'm saying that, yes.

MR. GOODELL: Okay.

Now, I -- I note that under the provision dealing with summary proceedings, the chapter amendment provides that the court shall have jurisdiction of summary proceedings to recover possession of real property to remove tenants and to render judgment for rent due. So am I correct that that Section 204 on page 3 starting on line 35, am I correct, then, that even with this chapter amendment it's clear that the landlord could bring a counterclaim to evict a tenant for nonpayment, for example?

MR. MAGNARELLI: I don't think anything was changed there from the original bill that we passed last year.

MR. GOODELL: And so am I reading the original correct that that court would have jurisdiction on a counterclaim to evict the tenant?

MR. MAGNARELLI: I believe it would. I think what -- what we're trying to do here is to put the tenant's problems in front of a judge and then have the judge decide what is the proper thing to do going forward instead of waiting for a landlord to bring an eviction proceeding before a tenant can say anything as far as what has been happening to the tenant and the property.

MR. GOODELL: Now, the original did not have an affirmative defense by the landlord that the defective condition was

caused by the tenant. Does the chapter amendment address that issue and provide that as a defense?

MR. MAGNARELLI: I guess it doesn't directly address that, but I think that's what we're looking for to happen during these proceedings. That if there are defenses that the landlord has, they should be brought up at that point in time and left in front of a judge to decide what the appropriate action should be going forward.

MR. GOODELL: And am I correct that neither the original nor the chapter amendment provides as a defense that the landlord couldn't make the repairs because the tenant wasn't paying the rent and therefore the landlord didn't have the money to make the repair; is that correct?

MR. MAGNARELLI: That direct defense is not set out in the -- in the statute, no.

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

MR. MAGNARELLI: You're welcome.

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

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

MR. GOODELL: Well first, I appreciate my colleague's comments clarifying this language and I -- I think that's really important. I think it's important to note, as my colleague did, that this liability to repair property only applies to -- in a judgment, a court order directing the repairs only applies to those who have an

obligation to maintain the property in the first place. So I think that's important to recognize that the chapter amendment does not expand the liability of anybody to repair the property. I am concerned that it appears to eliminate the monetary damages that normally apply in a warranty of habitability situation. And the way the courts have dealt with a warranty of habitability is they have said that if you're renting a building or an apartment and you can't use part of it because the conditions of the property, you get an offset on the rent. You don't walk free, nor do you have to pay the full rent. And what the court does is compares the value of the property if it were in good repair compared to the value of the property when it's not in good repair and the tenant pays the lesser rent. This chapter amendment expressly removes that language. And of course the courts when they're interpreting chapter amendments or any statutory provision they assume, hopefully correctly, that when we make a change in the law we mean it. That we don't do it just for fun. So I believe that this chapter amendment would -- would be read as eliminating that option or reduction in rent if the tenant pursues an order directing repairs. In other words, a tenant would have to select which one he wants to do. Does he want an offset in the rent or does he want an order directing repairs? And I think that's the way this is and should be interpreted. I think it's, as my colleague mentioned, clear that if the tenant brings this action the landlord can bring a counterclaim for eviction, and he should. I mean, if you have a dispute between parties and they're in front of the court the court should resolve all the questions so you

don't have multiple lawsuits. And so I think that's -- that's positive. It leaves open a number of questions which I hope we can revisit, such as can the tenant seek an order for repair if the repair was needed because of the tenant's action. I think most of us would agree if a tenant damages something the tenant should fix it, not the landlord. And it doesn't deal with the situation which is a very, very real situation right now in New York where the landlord doesn't have money to make the repairs because the tenant hasn't been paying rent for years. When we went through the eviction moratorium which applied for years and then we followed that up with a special program to help tenants catch up while the condition of that program was if you provide for tenant relief the landlord couldn't bring an eviction action. You have landlords that haven't gotten any money in months and months and months, yet this law allows a tenant who hasn't paid to bring an action against the landlord even though the landlord under the other provisions of the law might not be able to evict. All of us are hoping to have as much affordable housing as possible, and we want it to be high-quality of course. We all agree on that. But we also hopefully recognize that we need to be fair and equitable to both landlords and tenants. Because if you're unfair to landlords, the landlords as a group will take their money out of the landlord business and they'll reinvest it somewhere else where they get a better rate of return, and you will have a shortage of housing which is exactly where New York State is right now because we have successfully driven out so many landlords from providing lower-cost housing.

Again, I appreciate the comments from my colleagues. I would hope to see more chapter amendments that bring more balance. I think these particular chapter amendments, though, are helpful. Thank you, Mr. Speaker.

ACTING SPEAKER AUBRY: Read the last section.

THE CLERK: This act shall take effect immediately.

ACTING SPEAKER AUBRY: The Clerk will record the vote.

(The Clerk recorded the vote.)

Mr. Goodell to explain his vote.

MR. GOODELL: Thank you, sir. I apologize to my colleagues for not being clear where I was coming out on this bill. I do appreciate the amendments. I think they make the bill better. But I think we have a long ways before I can support it. Last year there were 51 nos and I'll be voting no again this year.

Thank you, sir.

ACTING SPEAKER AUBRY: Mr. Goodell in the negative.

Are there any other votes? Announce the results.

(The Clerk announced the results.)

The bill is passed.

Page 6, Rules Report No. 37, the Clerk will read.

THE CLERK: Assembly No. A00990, Rules Report No. 37, Fahy. An act to amend the State Finance Law, in relation to the purchase or lease of zero emission vehicles and charging or

fueling infrastructure; and repealing certain provisions of the Executive Law relating thereto.

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

Ms. Fahy, an explanation has been requested.

MS. FAHY: Thank you, Mr. Speaker. This bill is another set of chapter amendments. It came out of a bill we did last year that tied to part of the commitments that we made on the Climate Leadership -- the CLCPA Leadership and Community Protection Act to move toward 100 percent carbon-free electricity by 2040. Our transportation sector at this point now composes about one-third of green gas -- greenhouse gas emissions, so it is very much something we are focused on. This bill would make some changes to a bill adopted last year. It would provide some crucial worker protection provisions for those who are current State employees with the retraining provisions as well as requiring OGS, the Office of General Services, to create a comprehensive plan to help transition and retrain those workers as well as promote electric vehicles and -- and the infrastructure and I'll stop there.

ACTING SPEAKER AUBRY: Mr. Palmesano.

MR. PALMESANO: Yes, Mr. Speaker. Will the sponsor yield for some questions, please?

ACTING SPEAKER AUBRY: Ms. Fahy?

MS. FAHY: Certainly.

ACTING SPEAKER AUBRY: Ms. Fahy yields, sir.

MR. PALMESANO: Thank you, Ms. Fahy. I know we talked about this bill last year a little bit, too. This is basically your legislation. I almost kind of refer to it as like a Buy American so they want -- your goal with this legislation is to make sure the materials are being processed for our electric vehicles whether it's the work being done, the production being done, the materials being used to process these electric vehicles are done in the U.S. That's the ultimate goal of this legislation, correct?

MS. FAHY: Yes, that's the ultimate goal which is something we are seeing as well at the Federal level an effort to move towards that as well.

MR. PALMESANO: Sure. And as you said, this is to meet the goals of the CLCPA and also the Climate Action Council would have to release its plan at the end of last year, correct?

MS. FAHY: Yes.

MR. PALMESANO: I'll get into my other questions. You know I talk about this issue a lot, you know, I've mentioned about the, you know, obviously the Democratic Republic of Congo - actually, I have their tie on today - and the child labor that's going on there and concerns that have been raised not just here in this Chamber, it's starting to be raised across the country and rightfully so. You mentioned that work trying to be done, the process being done here. Is any of this material being done here as far as cobalt mining, lithium mining, and what type of volume are we getting for that work?

MS. FAHY: I think very small at this point, and

we're just kind of at the elementary stages, if you will.

MR. PALMESANO: Sure.

MS. FAHY: But as you may know, in the Inflation Reduction Act that was passed last year, I think it's billions of more additional dollars are moving towards this. Given -- given all we hear about supply chain as well as some of the serious human rights violations that you have certainly talked about, we -- there is a recognized need across the board that we must increase domestic production. So we are seeing some of that. But I would say, again, at the very elementary stage --

MR. PALMESANO: Sure.

MS. FAHY: -- but that is part of where you're seeing money being pumped into and even the Governor as well. We -- we have monies here to encourage that.

MR. PALMESANO: I did want to talk about the waiver provision because I know when we talk about -- up in Nevada they're talking about lithium mining but it's not going on really. There's environmental concerns being raised out there as well in our country so not much is happening there. But the waiver provision. Basically, the Commissioner of OGS has the sole discretion to issue a waiver so we won't have to do the Buy American and we want to do the sourcing here. And certainly I'm going to kind of list a few things. If it's not in the public interest, if it provides unreasonable cost, if it increases the cost of contracts, if it can't be produced here and if we're not getting enough quantity. Those are reasons why the

Commissioner can issue a waiver that basically would allow the production and sourcing those materials from the Congo, from China, from -- from our African countries. True?

MS. FAHY: Yes, I think you've hit all the factors.

Yes.

MR. PALMESANO: Okay, great. How do you define public interest? Because it says what's in the public interest. I mean, what -- how do you envision public interest? Is it basically it's in the public interest if we can't get these materials that we have to have these waivers to produce these electric vehicles or do other factors come into play on -- on what defines public interest?

MS. FAHY: It -- it's the -- my understanding is it's somewhat of a standard definition and it's an exemption that applies when an agency, for instance, already has some type of an agreement with a foreign government to provide a blanket exception or exemption to the Buy American provision. So -- so it's the -- it is defined as -- as what we've seen at the Federal level as well.

MR. PALMESANO: Wouldn't you agree that if -- if our public interest is a top priority, if we see that there's -- our public interest generally might be a discussion on what the public interest is, if it's not being addressed should we slow down this process of this electric vehicle production, the battery -- the batteries, the -- the sourcing of materials, the cobalt and lithium? If there's concerns relative to the public interest shouldn't we slow this down a little bit to make sure the public interest is protected?

MS. FAHY: I would say the climate can't wait in general. We are seeing -- every year we're seeing billions upon billions spent in climate-related disasters. So, yes, we all -- you know, there -- there's a lot moving simultaneously --

MR. PALMESANO: Sure.

MS. FAHY: -- but I would say you can't slow this down because the sooner we move across the board the sooner we will address some of these over-arching --

MR. PALMESANO: I understand. So you're --

MS. FAHY: -- climate-related issues.

MR. PALMESANO: So you're saying we can't slow down, but we know that 70 percent of the cobalt that's extracted to produce batteries to power the electric vehicles is being hand-mined by children, some 35- to 40,000 children in the Democratic Republic of Congo. So it is your argument and the argument of your House that we shouldn't slow down, it's okay for that to go on while we get these vehicles made because of the work that they're producing?

MS. FAHY: I admire your advocacy and your attention to what is seen as a pretty egregious human rights violation, but we are looking at alternatives. We are growing alternatives and -- and that, too, needs to be addressed that is, as you know, getting more attention at the Federal level, those are international issues that are really beyond the scope of -- of what we're able to do here. But in the meantime we -- it's -- it's not as if we -- we can wait with one disaster to address another issue.

MR. PALMESANO: So I know what you said that we're -- we're trying to get to that process, but until then we have this waiver so we continue the process as it's going on right now, correct?

MS. FAHY: Yes.

MR. PALMESANO: Okay. In -- in past legislation we've put forward or we've always put our -- our stamp of what some of the things we should be looking for, and when we're talking about the production of these electric vehicles shouldn't we come to an agreement? If we understand -- I think you -- I'm sure you think child labor, what's going on, is -- is reprehensible, it shouldn't be happening. Couldn't we, as the Empire State, put provisions whether it's in our Comptroller as far as divestment, we divest from fossil fuels, we divest from gun manufacturers. We are divested from Russia because of Ukraine. I get that. But shouldn't we all be able to agree here that we should not be using child labor to produce these electric -- these materials for the producing these batteries for the electric vehicles? If we all agree, shouldn't we be able to -- I agree there's no child labor, so have these companies demonstrate to us that they aren't using child labor. They should be able to demonstrate that to us. There's well-documented proof by third-parties. Shouldn't we be able to agree to put that into our measures about what's in the public interest and safety?

MS. FAHY: My understanding is we have a lot of child labor laws in this country as well as internationally, but those are really international -- you know, those are more diplomacy issues and

a little bit hard to -- to put in this, but certainly are being addressed at the --at the national level. And again, it's a -- we recognize that there are violations. We have a lot of violations on clothing and -- and other materials. It doesn't mean we -- we stop clothing production. So where they are brought forward they are addressed. But again, I -- while I -- I share many of your concerns I think it goes beyond the scope of this.

MR. PALMESANO: Okay. What about environmental impacts? I mean --

MS. FAHY: I'm sorry?

MR. PALMESANO: Environmental impacts. I know a lot of people when we talk about fossil fuel they talk about environmental impacts, but we know the extraction of these materials. There's water pollution, there's rivers being polluted in these poorer countries because of the radioactive materials. And also, not just that, in those countries where it's being extracted and cleaned, it's being processed in China -- 87 percent of these materials are being processed in China and they're using coal energy to process this. That has a negative environmental impact. So in that case is this -- does the end justify the means with the child labor with the environmental negative impacts that are happening on these foreign countries as long as it's not happening in the U.S.?

MS. FAHY: No, I don't think the end justifies the means, but I do think that's why you're seeing more and more money being spent here in this country to find the alternative means. And --

and I'm very impressed that, again, billions are being spent most recently through the Inflation Reduction Act to make sure that we are growing a domestic source. And that's again, that's part of the gist of the entire bill is to push and promote and fund Buy American provisions so that we can control some of the sources and mine --

MR. PALMESANO: I understand.

MS. FAHY: -- some of these essential materials ourselves here domestically. And there are some early, you know, very promising practices in West Virginia and other states are showing some promise.

MR. PALMESANO: I want to switch to the cost.

MS. FAHY: Sure.

MR. PALMESANO: It talks in here about over the higher costs levels, unrecoverable -- you know, unreasonable costs. What is defined as cost? Is it the cost for the production of this to get the electric vehicles into our supply chain or does cost take into consideration the impact of this electrification will have on our consumers, whether it's for electric vehicles, whether it's for our school buses? Our school districts that have to -- are going to have a mandate for new school buses. Does the cost that you're talking about in this bill apply to the cost to the consumer here in the U.S. or is it only the cost used to produce the vehicles?

MS. FAHY: My understanding is the -- it's -- again, the waiver would allow for any unreasonable costs. The Governor just a year ago put in 17 million just to begin this conversion of the

State fleets that we adopted that in our budget. She has \$1 billion in her Make-Ready Program. So we are moving, but it's also how you look at those costs. I have two hybrid electric vehicles. They were a little bit more expensive up front, but I personally save a fortune in gas right now and in repair costs. So it's also how you look at those costs. But there's no dispute, especially with light trucks or vehicles there is a heavier upfront cost but we need to look at the overall operating dollars from a lifecycle perspective.

MR. PALMESANO: I mean -- isn't -- this is really a tremendous unfunded mandate on our school districts, isn't it? Given the fact that an electric school bus right now costs around \$400,000 whereas a traditional diesel school bus is around \$120,000? Wouldn't that be a significant unfunded mandate placed on our school districts with the costs that are going to be implemented with this?

MS. FAHY: This bill is about State fleets.

MR. PALMESANO: I understand.

MS. FAHY: The buses --

MR. PALMESANO: It's all part of the same -- all part of the same issue.

MS. FAHY: It was -- it was separate legislation that addressed that, but I will say again it's a lifecycle issue.

MR. PALMESANO: Okay.

MS. FAHY: And I -- my understanding is we put money in the budget last year to address the school buses to help incentivize that.

MR. PALMESANO: Five hundred million dollars, a drop in the bucket. Is it your belief that --

MS. FAHY: I'll work with you.

MR. PALMESANO: -- with New York contributing just 0.4 percent of the total global emissions and China's contributing 29 percent, has 1,000 coal plants, building more and just announced that they're going to expand their coal capacity by 70 gigawatts, is it your belief that us in New York by getting from .4 to zero we're going to make a true impact on global emissions when China's not doing their fair share, they're adding more coal? Should we continue to move forward with this and put it on the backs of all New Yorkers? Because no one -- no one is doing this other than New York really.

MS. FAHY: Absolutely. It is my belief that we need to lead because one of the things I love most about living in New York is that when New York takes on these issues and when New York leads, especially on climate change and climate leadership, we see a ripple effect. It begins to change the market. We did food packaging a few years ago and we're seeing food packaging change across the country. We've seen it even in the Chamber with paper cups as opposed to Styrofoam. So yes, I -- I do think it does make a difference because we are such a huge market in general, let alone for transportation, we're a huge market in this country and, yes, it will have a positive ripple effect.

MR. PALMESANO: So in your opinion it's okay for us to lead trying to get to zero while other states aren't helping us. It's

okay for us to lead on that, but when it comes to the child labor or the environmental impacts in -- in other countries, we shouldn't lead on that because it's up to the Federal government or international but yet we can lead here when no one else is joining us in China. It's not going to make an impact on our global emissions whatsoever. So we should lead on that and bankrupt farmers, families, manufacturers and have a continued exodus of people leaving our State? It's okay to lead on that but it's not okay for us to lead on the child labor violations that are going to produce these electric vehicles that this bill talks about?

MS. FAHY: I don't think it's the intent to bankrupt anyone.

MR. PALMESANO: Oh, it's not?

MS. FAHY: We need to have the incentives to move this. And just as the cost of your average electric vehicle has come down dramatically --

MR. PALMESANO: Not really.

MS. FAHY: -- and the cost of electric -- I own -- I own two hybrids.

MR. PALMESANO: They're not.

MS. FAHY: I know they've come down dramatically.

MR. PALMESANO: There was just an article in the paper that said -- that said --

MS. FAHY: Let me finish.

MR. PALMESANO: -- electric vehicles are up more

than --

MS. FAHY: Let me finish for a second, if you don't mind. So I do think that our leadership here is making a difference. It will bring down the costs and it will make a difference overall. I don't think we are out to bankrupt people. I think that once we lead the cost of all of this does come down, and in the meantime I hope it will -- may lead toward more in-migration if we have a healthier environment, healthier population as a result of -- of lowering these very unhealthy emissions.

MR. PALMESANO: Let me ask you another question on that. Businesses, when you talk to businesses, when you talk about their energy policy, when you ask them aren't the two most important things to them affordability and reliable? When they're running their products they need to know -- show -- it needs to go 24/7. Those products -- that power needs to go 24/7. So affordability and reliability are the two most important issues when you talk to businesses, manufacturers and farmers. It's not addressed in the CLCPA, it's not -- certainly not addressed in the Climate Action Council because they did not do a true cost-benefit analysis which we called for to show the full impact. So you think there will be a -- we will have more businesses come in, but you know these businesses when you talk to them, the cost and the cost of doing business, if they can't get affordable and reliable energy here in New York they're going to go someplace else; Pennsylvania or Ohio right on the border which we're doing right now.

MS. FAHY: We are moving away from State fleets and electrifying State fleets. But I will say the affordability, I can go weeks and weeks and weeks without buying gas. So there -- we have to look at the lifecycle issue of this. And yes, it may be a more upfront investment, but in the end we also have less maintenance on electric vehicles. Much less in the way of maintenance. So that, too, can bring down affordability costs. So I -- we're getting far afield from the State fleets, but I do think that these early investments can make a long-term difference. And again, there are upfront costs that we need to incentivize and spend, but if you look at the overall lifecycle it's the reason why you are seeing some electric vehicles become so popular and were out of demand for quite some time during -- out of -- the -- the supply was not there during the height of COVID on these electric vehicles.

ACTING SPEAKER MCDONALD: Mr. Palmesano, you have another 15 minutes.

MR. PALMESANO: Thank you. Thank you. I know you're thrilled about that, Pat.

(Laughter)

And I'm sure everyone is or not.

MS. FAHY: Yes, I'm sure.

MR. PALMESANO: I did want to address -- I don't have a lot more -- many more questions.

MS. FAHY: It's fine, it's fine.

MR. PALMESANO: Regarding the safety issue, we

see over and over again with these lithium ion batteries bursting into flames, combustion. You see the scooters in New York City time after time in apartment fires. People dying in fires. We saw the Felicity Ace, the cargo ship that sunk in -- in the Atlantic Ocean that had some 3,000, almost 4,000 vehicles, several hundred that were electric, that they couldn't put out that fire. We -- we -- we're worried about school buses with -- you know, these things -- I mean, there was just a Tesla out in California this past week I believe that they needed 6,000 gallons of water that just burst into flames out of the blue from combustion. I mean, what happens if that's a school bus with kids on it? Because, you know, you have these kids on school buses and it bursts into flames. What about the safety issues? Our fire departments aren't trained for this. What about -- what are we doing to help them through this legislation and other legislation on this issue?

MS. FAHY: Again, this is State vehicle fleets but I am following the safety and I'm happy to work with you on additional legislation on that --

MR. PALMESANO: (Inaudible)

MS. FAHY: -- especially with the electric bikes. My understanding on some of this is it's the battery. It's the sourcing of the battery as well as any damage to the batteries during -- during the manufacturing process or when owned. So there's -- there's a lot more to that story, but I'm -- but I'm happy to work with you on that. Again, it doesn't preclude the fact that overall that that is a very, very small

percentage of the market given the, you know, hundreds of thousands of electric vehicles and electric bikes that we have already on the road. Generally they are very safe. They're becoming a terrific alternative transportation. Again, this is -- this is about State --

MR. PALMESANO: I understand.

MS. FAHY: -- fleets, but safety is something we're beginning to look at and I'll be happy to look for you when I introduce additional legislation on that. Safety is a -- you know, whether it's gas-powered or electric, safety is always an issue with combustibility.

MR. PALMESANO: Thank you, Ms. Fahy. I appreciate your time.

Mr. Speaker, on the bill.

ACTING SPEAKER MCDONALD: On the bill, Mr. Palmesano.

MR. PALMESANO: My colleagues, I know I talk about this issue a lot. I'm not going to stop because I think this is a critical issue facing our State. I know this vehicle -- this bill is about electric vehicles, but this all -- this all follows through on the CLCPA which is going to be a major change to how things work in this State. Major implications to homeowners, ratepayers, businesses. I -- I debated the CLCPA back in 2019. I didn't oppose the CLCPA because I didn't think we should invest in renewable technology. We should and we are. My problem with the CLCPA is it's just New York going alone. This doesn't affect -- I mean, when you go to New York alone, we contribute just 0.4 percent of the total global emissions but

yet China contributes 29 percent, has 1,000 coal plants and building more. India contributes 7 percent. They're a poor country, they need the electricity, they're using coal energy. And Russia 4 percent. Those three constitute 40 percent of our global emissions. Do we really think they're going to help us with our -- our climate goals? Russia is building a \$110 billion oil Arctic port. They're not going to help us. We need -- we need fuel diversity. We -- right now in our portfolio we have natural gas, we have nuclear, we have wind and solar, we use propane, we use wood burning. We use these things. There should be diversity. That's how you protect. I mean, your 401(k), do you put all your 401(k) in cash or stocks or bonds? No. You diversify to protect your investment and to have resiliency. We should be doing the same thing with our energy portfolio, but unfortunately this Governor, this Legislature, the Majority chose to go in the direction of all your eggs in one basket for electrification. This is really just feel-good legislation, quite frankly. I know it talks about Buy America and (inaudible) sources from America and building here. There are -- this waiver is so big, the loophole is so big you can drive an electric vehicle through it because it's ridiculous. I mean, we're -- when you talk to families -- if you go talk to your neighbor, talk to your constituents and ask them what are the most important things to you when it comes to your energy supply? You give them the choice of renewable or green, affordable or reliable. They're going to say affordable and reliable first. No doubt about it. Remember the -- on your electric bills when it said, *Well, you can buy green energy*

for an extra five bucks on your energy bill? Not too many of our constituents do that. This is going to put a tremendous increase on the grid. California, you saw California told their -- their people out there, their residents out there, *Don't plug in your electric vehicles because we don't want to have a blackout.* I mean, this is what we're talking about. NYISO's already talking about clean reliability margins over the next two years. We're looking to rely on wind and solar, an intermittent source of energy. It's a recipe for disaster. Right now our peak demand for electricity use is in the summertime because of air conditioning use. As this gets implemented it's going to shift that demand to wintertime because of EV use and heating. Now can you imagine being in Buffalo or the North Country and having to rely on wind and solar to heat your home? That's a recipe for disaster, it's a recipe for blackouts. And when the heat's not on people will die, especially in those cold areas. We talk about electric vehicles all the time. I do, I know. These batteries are heavy. Significant range issues with these batteries. Significant range issues. Now -- right now you and I, we can get in our car, we can go drive down to Florida if you want or Maryland or Pennsylvania, wherever you want to go. When you need gas you get out, fill up for five minutes and then you have to get back -- you can get back on. Now you have to map out your route and find a charging station, wait 20 minutes to charge it. And with those range issues, our school buses, for example, they're going to have to buy more school buses because they're not going to have enough range to get one and they're going to have to charge one

and bring out another one. That's a significant cost as well. When you turn the heat on or when you turn the A/C on that drives the -- the charging down on these vehicles as well. There are significant safety issues. We talked about the -- we talked about the -- the scooter -- the electric scooters. You see the problem -- I read the articles in the paper all the time about New York City. Fire after fire. Family dying, family being burned. We saw the Felicity Ace cargo ship go into the Atlantic Ocean with an out-of-control fire where there were electric vehicles on there. Just out in California again this week a Tesla fire six -- they needed 6,000 gallons of water. This thing burst into flames on combustion while it was driving down a highway. Now picture that, ladies and gentlemen. If that was one of the school bus -- school buses with our children in it. Those school buses that are made by children in the Congo because of the batteries -- materials they're extracting to make that. And this unfunded mandate on the school -- school buses. I mean, right now an electric school bus you can get -- or a school bus right now you can get is about \$120,000 but these electric school buses, the costs continue to go up. They're about \$400,000, they're going to need more of them. You're going -- you're going to blow a hole in the school budget (inaudible) estimated it's going to increase the whole transportation budget for our schools by \$2.5 billion. I'll give you another example; the Horseheads School District. They had to do some evaluations. Just to bring the power in from the grid to the school, it's going to cost that school district \$10 million extra. Who's going to pay for that but the property taxpayers?

Another unfunded mandate. There's a community in my district in Hornell that they need to do upgrades. Estimated upgrade cost \$2 billion to meet the increased demand on the electric. That's a tremendous amount, ladies and gentlemen. When we talk about the NYISO, they have identified the reliability issues. We need 111 gigawatts of additional electricity generation, 111 gigawatts just to keep them -- right now we have 41 in our current capacity. So we're going to have to almost triple that. And China has added -- they're going to use 70 gigawatts of coal. They need to identify by 2040 to meet these goals 27 to 45 gigawatts of dispatchable emission-free resources and the technology is not there. The NYISO says it, the industry says it. We don't have the technology there. They don't know it, but we know we need this gap that needs to be filled. It has to be 24/7. Wind and solar is not 24/7. The technology is not there, but yet we continue to shut down reliable sources of energy like natural gas power plants. Again, what impact are we making with New York being .4 percent of the total global emissions? Again, with China 29 percent, 1,000 coal plants and building more. We will not make any impact on emissions whatsoever, so don't kid yourself. The cost of this is just going to be exorbitant. There is no true cost-benefit analysis done on this -- on the CLCPA. The Climate Action Council, even the -- Doreen Harris who is the co-chair said we have to see what we're going to do first before we're going to find out how it's going to be paid for. What people are going to pay for. The conversion costs. How many of you have told your -- your constituents that by 2030

when their gas boiler or furnace -- I know a lot has been talked about stoves -- when their gas boiler or furnace kicks the bucket that they can't replace it with a gas boiler or furnace. At that point in time they're going to have to fully electrify their home, pay up to \$35,000 plus more to convert their homes over with a geothermal heat pump. And it's not just doing that. You have to deal with the shell of your property (inaudible) of the circuit upgrades. There's a tremendous up -- up -- uptick in costs, not to mention the rate increases as well. I talked about the reliability, how we need an additional -- we need to have a total of 111 gigawatts of new generation. The reliability factor, cost, affordability, reliability. The increase in demand is going to be significant. Unprecedented build out ever for this. It's going to put more demand on the grid which will lead to blackouts if it's not secure. It's going to be very, very costly. It's already being paid up. You know, the power that New York City is getting from Quebec now that's coming down but only New York City benefits from, that power, if you might think it's for you, if it's a cold day and Canada needs it, guess who gets the power? Canada, not New York City.

Let's talk about increased property taxes. We know the generation that's coming from our power plants brings \$1.7 billion in property taxes. Now let's think about the utilities with the gas going under the ground. They pay taxes on those pipes when gas is going through it. If those pipes don't have gas going through it, who is going to make up that property tax burden other than the people who live in that community? Because the -- the tax liability does not go away, it

gets passed on to everyone else.

Let's talk about land use for a minute. Wind and solar take up exorbitant amounts of land and it's not reliable. It was -- in -- in the Climate Action Council they're talking about 60 gigawatts of additional solar, 60 gigawatts. Think about that. One gigawatt equals 1,000 megawatts. One gigawatt is equivalent to powering 750,000 homes. How much acres does that take up? Think about it from that perspective. One megawatt takes up eight acres of land. So you're talking about 60 gigawatts, you're talking about 480,000 acres of land. Well, where is that land going to come from? Upstate New York, of course. It's not going to go on New York City because you're all happy to have that land -- Upstate New York in your land. You talk about prime agricultural land being taken off the books because -- and who can blame the farmers for selling? They're killing them with the policies like the Farm Laborer Act and other bills that you pass through this House. Who can blame them for wanting to get some money for their property? But this is going to take up -- it's polluting our -- our Upstate viewpoints, our land. And why not -- and the thing that's ironic about it is that Upstate New York, 90 percent of our generation is emission free, 90 percent. Downstate it's 87 percent fossil fuel. It was 75, 77 percent (inaudible) to push to advocate the closure of Indian Point. How about New York City take the lead on this and put up solar panels on your properties, figure out ways to deal it there before Upstate New York has to sacrifice more of their land to do this?

And I talked about the child human rights issues. I don't understand how this House can sit there and say, *We're not going to do anything about, it's up to the Federal government, international. But we're going to lead on the other side as we shift more businesses and manufacturers out-of-State.* You're putting your head in the sand on this issue. Thirty-five to 40,000 kids in the Democratic Republic of the Congo are hand mining these materials for cobalt, which goes to make these electric vehicles. Kids are dying. They're being maimed. They're being paralyzed. You know how much they're getting paid? They're getting paid like a dollar or two a day; \$5 goes to their handler. When we talk about a minimum -- prevailing wage bill we passed the other day on electric vehicle charging stations, but these kids are getting paid a buck or two a day because they can't go to school because it costs them \$6 to go to school.

Our energy security. We are totally turning our energy security policy over to China with this full electrification. Eighty-seven percent of the materials, the cobalt, the lithium, whatever it may be, is being processed in China. How do they process it? They use coal energy. So what good is it for the environment there? You're going to have carbon leakage. My colleague from Chautauqua County talked about it, they had a natural gas power plant or a coal power plant they wanted to convert to natural gas. Environmentalists said, *No, no way.* Now they're importing their power from the dirtiest coal plant in the country. How's that smart policy -- climate policy? And we're going to lead. We're not going to

lead -- you're not going to lead on child rights issues or -- or -- or environmental issues in Africa or China or wherever it may be. It's like it's out of sight, out of mind. As long as it's not here, as long as the children aren't dying here and the environment is not being poisoned here it's okay if it's happening someplace else. I'll tell you, I just don't understand the mentality of this. It doesn't really make a lot of sense to me. We're not leading. All we're going to do is gonna just basically bankrupt families. As -- we've seen a continued exodus of 500,000 New Yorkers over the past two years. We're going to continue to see -- people want affordable and reliability and you're gonna see farmers, families, manufacturers and people continue to leave the State with these policies that are being pushed forward by this Majority and by this Governor. It's time to think of that for once instead of those policies.

Thank you.

(Applause)

ACTING SPEAKER AUBRY: Mr. Goodell.

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

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

MS. FAHY: Certainly.

ACTING SPEAKER AUBRY: Ms. Fahy yields.

MR. GOODELL: Thank you, Ms. Fahy. This bill, this chapter amendment, would require each State agency to purchase

zero emission vehicles where the components and parts were made in whole or a substantial part in the United States, correct?

MS. FAHY: Yes.

MR. GOODELL: Are there any currently any vehicles that meet that requirement?

MS. FAHY: There are some, but not -- you know, Tesla I guess is the primary one.

MR. GOODELL: Am I correct that Tesla batteries, though, use components from overseas?

MS. FAHY: Yes. Yes, they're sourced, although we are starting to see more sourcing in this country as I mentioned earlier and we're funding more of that sourcing in North Carolina, West Virginia and -- and elsewhere.

MR. GOODELL: But at the present time --

MS. FAHY: At the present -- and that's --

MR. GOODELL: -- there are no commercially-available vehicles that are made in whole or a substantial part from U.S.-produced batteries, for example?

MS. FAHY: Yes, and that's why part of why we have this waiver process.

MR. GOODELL: Okay. So we're starting out with a bill knowing that no commercially-available vehicles meet this criteria. And do we have any time frame when we think the first vehicle might actually meet these criteria?

MS. FAHY: Well, there's Rivian and there's another,

Lorian, that are -- you know, there are a couple of companies and there's Lion Electric that is local here, so there are some that are -- that are moving on this. And -- and again, the market -- there's a great statistic. Just -- just in two years we've seen a \$13 billion domestic EV investment in -- since 2020. So we are seeing all of GM and -- I mean, there's a host of vehicles that are coming online that are mostly made in America. So we are -- again, the market is changing very, very rapidly with electric vehicles.

MR. GOODELL: I'm correct, am I not, that even the GM, Ford vehicles rely on batteries that are produced using materials from overseas, correct?

MS. FAHY: Primarily as -- as well. And yes, but again, that's something that we're funding to change given all the problems we've had with supply chain issues on this and many related issues on regular cars and other cars and electric cars.

MR. GOODELL: And you would agree with me, right, that the battery is certainly a substantial part of the vehicle?

MS. FAHY: Absolutely. Absolutely.

MR. GOODELL: Now, I see that one of the waivers -- well, of course the first waiver is presumably there are no such cars currently being mass produced in the United States so that -- that's a pretty easy waiver, I suppose. But assuming at some point we actually manufacture the batteries and substantially all the vehicle in the United States, I see that it provides that there can be a waiver if it's not in the public interest.

MS. FAHY: Yes.

MR. GOODELL: Would you agree with me that if the source of the electricity needed to charge the vehicle is coming from a dirty source like coal, then it would be in the public interest not to require the purchase of that vehicle?

MS. FAHY: Again, just as we spoke earlier it has to be -- we have to have a holistic look at that. And, you know, depending on what part, while the intent is that it come from -- you know, rely on renewable sources. Certainly -- certainly if it's one part that may not be sourced the way we prefer it doesn't mean that the intent of trying to move toward electric vehicles. Again, I own -- I own a Chevy Volt. I don't know if every single part of that was made through renewable sources or some of those parts were made via coal -- coal-powered plant.

MR. GOODELL: All right. I --

MS. FAHY: And that's a difficult thing to track, and that's part of why -- that's part of why the gist of this entire chapter amendment is to move toward Buy American even if it's often hard to know.

MR. GOODELL: And am I correct, this -- this bill language does not, for example, provide an automatic waiver if the source of the electricity is coal power, for example? Because as you know, last year in the budget we mandated schools to go with electric school buses, and what that meant is that instead of using diesel engines made in New York State with the latest technology for air

emissions, all the school buses in the southern part of my district will now run on coal because that's where the power comes from, and it seemed to be a step backwards. But there's no express exclusion or waiver if the source of the power is not clean, correct?

MS. FAHY: Yes. Again, though --

MR. GOODELL: Yes, there is a waiver --

MS. FAHY: You can at the public --

MR. GOODELL: -- or no, there isn't?

MS. FAHY: Well, yes -- yes, there's no explicit language but if that is identified as a problem with the public interest or if it can't be produced sufficiently in this State or if it becomes an unreasonable amount, again, there's -- there's multiple criteria here. And, if you do get the waiver three years in a row there's no need to apply for it subsequently. So -- so, again, I think that we are trying to push Buy American policies, again, given the -- given the concerns we just heard raised over the last half-hour to -- but we know we have a ways to go. It doesn't mean that we don't need to move the market, however, toward electric vehicles because we do.

MR. GOODELL: Of course it's --

MS. FAHY: We've got to address the greenhouse gas emissions.

MR. GOODELL: I -- I assume you would agree with me that it's critically important that our emergency services can respond during emergencies. And we saw, for example, with that horrific snowstorm up in Buffalo that over 105,000 people lost all

power. And of course that loss of power was not just limited to residents, it would include anyone within that grid area. So am I correct that to ensure that snowplows operate in blizzards and State Police respond in emergencies, we would have backup diesel or fossil fuel generators at all those facilities to ensure reliability?

MS. FAHY: I'm sure we'll continue to have backup systems, and -- and again, the technology is addressing a lot of that as -- as we move forward. But yes, generators can also be based -- can be a part of this.

MR. GOODELL: So is it your intent that in calculating the cost-effectiveness of implementation, the cost of the diesel generators and the cost of the electrical infrastructure would be a factor to be included, not just the cost of the vehicle?

MS. FAHY: Yes. I think -- as I mentioned earlier, I think you -- we need to look holistically at it and we need to look at the lifecycle. And the more we see electric vehicles on the market -- there used to be a massive discrepancy between an all-electric vehicle and a non-electric vehicle. Now we're seeing them become more and more comparable when you do take into account all the lifecycle costs and the operating costs because remember, these vehicles require -- electric vehicles usually require less maintenance and repair. So there's a savings there. So, again, all of that -- all of that would need to be calculated in along with the -- the comments you mentioned.

MR. GOODELL: Now, I -- I know there are recent published reports that indicated that if New York were to convert all

of its vehicles to electricity, that would require roughly 60 percent of the world's cobalt production, 30 percent of global iodine, one-quarter of global lithium and 15 percent of all copper production. Are those numbers that are consistent with your understanding of the vast demand that would be put on those resources?

MS. FAHY: That's a snapshot figure for right now. Remember, this is going to take years and it is -- if you remember the original bill it's also replacement of vehicles. Many of our heavy-duty vehicles are pickup trucks. Those are on the streets for a decade or two, so we have a long phase-in on this. As we replace vehicles the technology will change and presumably as well a whole host of the sourcing materials will change. I mean, we have a -- there's a -- West Virginia is now exploring using coal waste to extract some rare earth method -- metals which may be used in some of these vehicles. So the technology is definitely catching up with the need here. And it's not as if -- if this bill passes tomorrow we're not going to change our State fleet tomorrow, we're going to be changing it over the next decade or two.

MR. GOODELL: Now as you know, New York State over the last several years has turned down every single application or permit request for a new generating station. And both the current Governor and the former Governor said they had no intent of ever approving a permit for new generating stations that use any type of natural gas or other fuel. And currently, even when you include Niagara Falls and our green energy production we are a long,

long ways from meeting even current demands. So my question is, based on the pace of green energy development in New York State and the huge gap even meeting current demands and the fact that New York State has turned down every new gas-generating plant while at the same time closing Indian Point two gigawatts and adding peaker rules that take another one-and-a-half gigawatts out of the market, when, if ever, do you envision we'll have enough power or is it your expectation we'll simply import more coal power from Pennsylvania or elsewhere?

MS. FAHY: I've heard the President of NYSERDA speak on this repeatedly, including in some of our hearings last -- last summer, that she does believe we are meeting the demand. We are actually rather excited here locally because we have a couple of plants coming online at the Albany Port and possibly the Coeymans Port for wind manufacturing positions to the tune of hundreds and hundreds of positions that will help install the -- the wind energy off -- off of Long Island. So we are -- we are growing our renewable energy as fast as we are making a number of these transitions. So again, I'm pretty optimistic that -- and I have heard -- we've seen the President of NYSERDA repeatedly address this issue and she seems quite optimistic that we are meeting our demands, meeting our needs. This is again about State fleets -- we're getting a little far afield -- and it is a replacement as well. We're not replacing State -- State fleets tomorrow. It is about replacing those vehicles as they -- as they turn over and as we fund that replacement.

MR. GOODELL: Thank you very much, Ms. Fahy.

MS. FAHY: Thank you.

MR. GOODELL: On the bill, sir.

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

MR. GOODELL: This is a great feel-good bill because it purports to be All-American. And it requires our State fleets and the DOT and every other State agency vehicle to be purchased that's all American or substantially all. There's a minor problem with the bill. It's not in the way it's drafted, I commend my colleague for the draftsmanship. The problem is there is not a single electric vehicle being commercially produced in the United States that meets these requirements. So if we pass a law that says all of our electric vehicles have to meet these requirements and no vehicle meets these requirements, what are we saying? That we want a feel-good bill that we know from the get-go can't be met? Is that what we're about? Now, we have exceptions, which I think is helpful. But one of the exceptions that's missing is an exception based on the source of the electricity. Does anyone in this Chamber think that having a coal-powered electric car is good for the environment? But a substantial portion of the power in the Southern Tier of New York State comes from a coal plant in Pennsylvania. So is that what we want to do? We want to mandate coal-powered vehicles for the State of New York so we can hoist a green environmental flag and pat ourselves on the back? I'm just suggesting that maybe we should

waive the requirement for an electric vehicle if the power itself comes from coal or some other dirty source. And then keep in mind as my colleague aptly pointed out, because our emergency services must be available 24/7 regardless of the weather or the -- or what's going on, that means under this bill all our emergency services would have to have generators. Backup fossil fuel generators. For those of you who are, you know, techies, you can verify that a diesel-powered generator or even a natural gas generator is not as clean as an efficient natural gas plant.

So I appreciate my colleague's desire to support All-American. Great idea. It's too bad this bill has no vehicles that would meet that criteria. Thank you, Speak -- Mr. Speaker, and again, thank you to my colleague.

ACTING SPEAKER AUBRY: Mrs. Peoples-Stokes.

MRS. PEOPLES-STOKES: Thank you, Mr.

Speaker. I want to commend the colleague who wrote this legislation, introduced it and honestly, with all due respect, passed it last year. So it may have been a feel-good bill last year, it's a feel- good -- feel-even-better bill this year because now it's attached to a chapter amendment. And by the way, a 45-minute chapter amendment on a bill that we already passed last year. I enjoyed the conversation, I think most of my colleagues enjoyed the conversation. But Mr. Speaker, with all due respect, American business is resilient and so if people think that there are not the availability of these type of vehicles now, wait 'til tomorrow. It could all very well change because

everyone knows what's happening to our environment, our climate as a result of the impact that we have lived as men and women in this world and impacted in a negative way. It's impacted on our life on a regular basis, and at some point those of us who understand, particularly those of us who have grandchildren or great-grandchildren, we want to see this world in the same condition it is right now for them. We want them to be able to live here. And we have to do some things to begin working on that. While it's difficult for people to accept change because change is hard - change is always difficult - at some point we have to say, *We're going to do this to protect our future for this reason.* And that's what we're doing here today.

And so I want to commend the young lady who introduced this legislation and I would ask that all my colleagues who in and around the Chambers to please make your way here so that we might cast our vote for a second time on this piece of legislation.

ACTING SPEAKER AUBRY: Read the last section.

THE CLERK: This act shall take effect immediately.

ACTING SPEAKER AUBRY: The Clerk will record the vote.

(The Clerk recorded the vote.)

Ms. Glick to explain her vote.

MS. GLICK: Thank you. I wanted to explain my vote. I just want to thank the sponsor of the chapter amendment for the discussion, and I hope going forward that as we discuss these

issues we take into account the cost to our State, to our taxpayers for recovery from extreme weather conditions that are only going to get worse and only going to increase. And the cost of increased insurance premiums because of the damage to their homes and their property. So let's just consider all aspects as we go forward in these kinds of discussions.

I withdraw my request and vote in the affirmative.

ACTING SPEAKER AUBRY: Ms. Glick in the affirmative.

Ms. Shimsky.

MS. SHIMSKY: Thank you, Mr. Chairman. I would like to thank the sponsor and everyone else who made this bill become a reality. We have so many problems that are related to fossil fuels. We have 390,000 children in this State who have asthma. And they are much more likely to get asthma if they are in a place where there is more concentrated use of fossil fuels. And those children with asthma miss school. Those children need school nurses to take care of them. There are all kinds of costs that come from going down the same road that we have been with fossil fuels. In terms of national security, everybody's complaining about inflation and the rising cost of energy. So much of that is due to the lack of stability in fossil fuel markets, especially, but not only, natural gas markets because of the war in Ukraine. If we have to build our economies around the next idea that Vladimir Putin has about world domination, we are going to be in pretty God-awful trouble.

We also have public safety. You can talk about electric vehicles all you want, but gas-powered vehicles are also extremely dangerous and -- and kill people on a regular basis, too. And I -- I associate myself with Assemblywoman Glick's comments about what's likely to happen with our physical environment, our infrastructure, our insurance costs. And let's not forget that we already have people dying in this world from -- from desertification from severe storms, some of them living in New York State and New York City. We have to move on. This is like the world 100 years ago when people who were attached to the horse and buggy said, No, we cannot do fossil fuels --

ACTING SPEAKER AUBRY: Ms. Shimsky, how do you vote?

MS. SHIMSKY: I vote in the affirmative. Thank you, Mr. Speaker.

ACTING SPEAKER AUBRY: Thank you so very much. Ms. Shimsky in the affirmative.

Mr. Ra.

MR. RA: Thank you, Mr. Speaker, to explain my vote. Number one, I -- I hear some of the frustration about some of the debates today and the argument is, *Oh, they're just chapter amendments*. But at the end of the day, chapter amendments come before us because this Body passes a bill, it gets sent to the Governor and the normal legislative process is the Governor either decides, *I'm going to veto this bill or I'm going to sign this bill into law*. What

happens with these is the Governor enters into a discussion with the sponsors in the two Houses, and those three individuals say, *Hey, this is palatable. This is what we're going to agree to so you don't veto the bill.* So I think it's entirely appropriate that when it comes back to us that the other 149 members of this House have an opportunity to weigh in on what the final product is going to be, and that the discussion we would have had on the entire language of the original bill and the chapter amendment if the process -- if, say, the bill -- bill had been vetoed and it hadn't been brought up in a -- in a forum that was more acceptable. So I think it's entirely appropriate that we have these discussions.

Now, about the bill-in-chief. My colleague has made the point about the mining of some of these minerals. And I think a bill like this which was designed to help protect American jobs and American workers, that's a policy consideration we're having as we're going through this transition to green energy. And I think it follows that we should also put into our policies trying to ensure that we are responsibly sourcing these materials, and I think that this chapter amendment actually is going to potentially increase the likelihood of us not doing so with all of these exceptions. I think if we're leading the way we should be helping increase that demand for those American-made products. And unfortunately, at the Federal level they just took actions that are going to make it less likely we're going to source those materials domestically, and bills like this are not helping lead the way on that issue.

So I vote in the negative. Thank you.

ACTING SPEAKER AUBRY: Mr. Ra in the negative.

Mr. Eachus.

MR. EACHUS: Thank you, Mr. Speaker. I want to thank the sponsor for bringing this forward. I noticed that one of the things which was interesting was the express dis -- disgust with the fact that cobalt is mined in the Congo and with child labor, and yet I watched those speaking on that issue pull out cell phones that have lithium ion batteries in them. So I'm wondering exactly how concerned they are. Now, I know I'm a freshman on this floor, but anybody who has studied my background, I have built solar cars and electric cars for 25 years. Back when we started we used lead acid batteries. Those were awful. Those were terrible as far as pollutants and how we mined those materials. I agree that lithium ion batteries are not perfect. But please understand that we are making progress every day in creating better batteries. Every day with materials that are not mined by youth and that are being mined here in the United States. So please make yourself aware of that. And if you'd like to talk to me about electric vehicles or solar cars I'm available at any time.

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

ACTING SPEAKER AUBRY: Mr. Eachus in the affirmative.

Ms. Fahy to explain her vote.

MS. FAHY: Thank -- thank you, Mr. Speaker. I just wanted to make a couple of other comments to address some of the comments made. And again, I -- I very much appreciate the support of so many colleagues on this as well as the Speaker for moving this forward. Again, this bill is about moving toward an electric vehicle State fleet with vehicles that are substantially made in this country. We know that most vehicles, even those that are manufactured here, they may not have parts that are all 100 percent American-made. But we are seeing Tesla, Chevy Corvette, Lucid, Ford, Rivian, Cadillac, VW, all -- the entire industry is pivoting toward electric vehicles. This is again also a phase-in for 2035, for parts of it 2040. It's also a replacement. We're not stopping business the way we know it. We also are -- just last year it was 2.8 billion spent on battery replacements and battery technology. So just as we heard the previous speaker speak, we are addressing all of these issues. And again, I do believe with climate change, as we started in the beginning, we are spending billions on climate change disasters just in this State. Billions. The more we address it now the more we address those disasters as well as those health concerns that you have also heard raised.

And with that I'm proud to vote in the affirmative.
Thank you, Mr. Speaker.

ACTING SPEAKER AUBRY: Thank you. Ms. Fahy in the affirmative.

Are there any other votes? Announce the results.

(The Clerk announced the results.)

The bill is passed.

Mrs. Peoples-Stokes.

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

ACTING SPEAKER AUBRY: We have neither housekeeping nor resolutions, Mrs. Peoples-Stokes. We are awaiting your command.

MRS. PEOPLES-STOKES: Then I now move that the Assembly stand adjourned until 2:00 p.m., Tuesday, January the 31st, tomorrow being a Session day.

ACTING SPEAKER AUBRY: The House stands adjourned.

(Whereupon at 5:21 p.m. the House stood adjourned until Tuesday, January 31st at 2:00 p.m., that being a Session day.)