TUESDAY, FEBRUARY 28, 2023 1:57 P.M.

ACTING SPEAKER AUBRY: The House will come to order.

The Reverend Dr. Damone Johnson will say a prayer.

REVEREND DAMONE JOHNSON: O Lord, our Lord how excellent is your name. And all the earth to You, O God, be the glory for the things Thou has done. O gracious and Almighty God, Thou who has created us and called us into existence. Thou who in thy infinite wisdom is placed in us a soul that cannot rest until it rests in thee. To You, O Creator, we come just now to acknowledge Your presence and to humbly bow before Thee to seek thy divine guidance for this august body of leaders. We are reminded in Your word that if we ask, it shall be given; if we seek, we shall find; if we knock, doors shall be opened unto us. So what we ask that a new spirit of unity, not satanists, permeate this group, let them know that

we are all one in Your spirit, yet this oneness cannot be made manifest until we each attune ourselves to Thee, Lord. We further ask that each will be granted the undeniable courage and creative intellect that what calls them to boldly go forth to do things that will transform hope into achievement. And will challenge them to move beyond mere perfunctory acts of lawmaking to serious legislation that will effectuate change in education, child nutrition, poverty so that justice will truly roll down like a mighty stream. Lord, we now knock at Your door of wisdom. Begin now to close the gaps of humanity so that we all will see sparks of divinity in each other. Then and only then will we be able to understand and appreciate the witness of joy, peace and containment that Thou has promised. Let now the words of each person's mouth, the meditations of our hearts, Lord, let them be acceptable in thy sight. You who are our strength and our redeemer and by Holy name we pray, amen.

MEMBERS: Amen.

ACTING SPEAKER AUBRY: Visitors are invited to join the members in the Pledge of Allegiance.

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

A quorum being present, the Clerk will read the Journal of Monday, February 27th.

Mrs. Peoples-Stokes.

MRS. PEOPLES-STOKES: Mr. Speaker, I move to dispense with the further reading of the Journal of Monday, February

the 27th and ask that the same shall stand approved.

ACTING SPEAKER AUBRY: Without objection, so ordered.

Mrs. Peoples-Stokes.

MRS. PEOPLES-STOKES: Thank you, Mr. Speaker. Colleagues and guests that are in the Chambers with us today on this final day of what some has called Black History Month and our country - although in a couple other countries - Black History Month doesn't happen until October, which happens to be the longest month, that was in Ireland as well as Canada. But here in America we celebrate Black History Month just for the month of February so we're going to end the last day of February with a quote from Booker T. Washington. Most of you all know Booker T. Washington. He was an American educator, an author, an orator, and an advisor to several presidents of the United States between 1890 and 1915. His words for us today, Success is to be measured not so much by the position that one has reached in life as the -- but as the obstacles which he has overcome in trying to succeed. Again, Mr. Speaker, colleagues, those words are from Booker T. Washington.

Members have on their desk a main Calendar. After there are any introductions and/or housekeeping we will be calling for the following committees to meet off the floor. Election Law first, followed by Codes, immediately followed by Rules. These meetings will produce an A-Calendar. Mr. Speaker, we will begin to work on the floor first by taking up resolutions on page 3. There may be

colleagues who will desire to speak on those as well. We will then take up the following bills on debate: Rules Report No. 95 by Mr. Rivera, Rules Report No. 88 by Ms. Walker, Rules Report No. 94 by Mr. Dinowitz, and Calendar No. 6 by Ms. Cruz. There may be a need, Mr. Speaker, to make additional announcement about further legislative activity. However, that is a general outline of where we're going to be going today. If you have introductions and/or housekeeping, now would be an appropriate time. Thank you, sir.

ACTING SPEAKER AUBRY: For the purposes of an introduction Mr. McDonald.

MR. MCDONALD: Thank you, Mr. Speaker. On behalf of myself and Member Fahy it's my honor and privilege to recognize and introduce Reverend Dr. Damone Paul Johnson who is a Senior Pastor of the Metropolitan New Testament Mission Baptist Church in Albany over in Arbor Hill, just a ten minute walk from here. He has been -- he began his pastoral minis -- ministry, excuse me, in 2003 and since that time the church has increased to over 1,200 new members. Under his leadership, the church has grown in ministry and mission and has completed a multi-million dollar building renovation project that will facilitate the ministry needs of this growing and thriving congregation in a beloved community. He is also a leader outside of his congregation and serves as a moderator of the Central Hudson Baptist Association. He also serves as the Vice-President-at-Large of the Empire Baptist Missionary Convention Congress of Christian Education. Just as importantly - and I know

Mr. Speaker yourself, and my -- myself and many others have had the opportunity to attend his services. He is powerful, he is passionate, he is a leader in every sense, and we ask that you continue to welcome him in the People's House.

SPEAKER HEASTIE: So before I do that, Mr. McDonald, I just want to add a few words of -- of Pastor Johnson. Without getting myself in trouble, he is my favorite non-district pastor, cause I don't want to get in trouble --

(Laughter)

-- at home and -- and I'm going to be real here. Most Sundays I'm watching his service by -- by Zoom. So for those of you who really need to feel an extraordinary word, you know, from a man of God who gets the human side of being human. I just urge you if you're in Albany go to his church. I'm going to be up here on Somos, I'm already telling you, Rev, if you allow me I want to come. I did tell him, you know, I want to hear *Order My Steps* again, that's my favorite song. And but the one thing that I -- I do want to say is because I do watch him virtually just about every Sunday, he's made me an honorary member, but I guess I should pay some honoree tithes, too. So I'm gonna -- you know -- but he is just such I'd say, you know, Dr. John -- Reverend Dr. Johnson and the church is just such a tremendous asset. We fund -- we help fund the -- the day camp so it's not just about -- and I always say the -- the greatest religious leaders don't just care about the -- the souls in there that are inside the walls of their church, they care about the souls in the greater community and I

don't think we could have any better example than that than -- than Pastor Johnson. So I just want to come out here, and so on behalf of myself and -- and John McDonald and of course, you know, Pat Fahy couldn't be here but your Assemblymember loves you and supports you as well. And to all of the members you are always welcome here, Reverend Johnson. You are a man of -- of God, a God-fearing God-loving God-messaging man among men and this Albany community is so blessed to have you. So you will always have the privileges of the floor and thank you for being here with us here today.

(Applause)

ACTING SPEAKER AUBRY: For the purposes of a introduction, Ms. Rosenthal.

MS. ROSENTHAL: Thank you, Mr. Speaker. I am speaking about a resolution. Should I do that now?

ACTING SPEAKER AUBRY: You might want to wait until the resolution's on the board, which it will.

MS. ROSENTHAL: That's what I thought it would be up there. After it's up I'll get up, thank you.

ACTING SPEAKER AUBRY: No problem. I thank you.

Ms. Hyndman for the purposes of a introduction.

MS. HYNDMAN: Thank you, Mr. Speaker. Please allow me to introduce this incredible group of young people from the 29th Assembly District and that is the Boys Scout Troop of 144B, 144G and Girl Scout Troop 4704 and the former Reverend of the

Presbyterian Church of Saint Albans Reverend Dr. Davis. All of you know the good work that Boy Scouts and Girl Scouts do. Some of you were probably Boy Scouts or Girl Scouts yourself, and I'm so proud that this church has continued to foster their relationship of grooming Boy Scouts and Girl Scouts. I have gone to many Eagle celebrations at the Presbyterian Church in Albans over the years. And I do want to recognize the troop leaders and the volunteers because the volunteers are so instrumental in making sure that they raise these young people to be the good citizens that we know them to be and sometimes we don't always highlight the good work that's done on behalf of these troops. I'm so proud that they're producing so many good citizens in our country. So I will introduce Scoutmaster Patrick Tomlinson (phonetic), Committee Chair Bridget Buckery Smith (phonetic), Girl Scout Tika Hutchinson (phonetic) and the many other volunteers. Please, Mr. Speaker, give them the -- the -- the -- you know what you do.

ACTING SPEAKER AUBRY: Yeah, I know what to do. Thank you.

(Laughter)

MS. HYNDMAN: I -- I just want to say why they're here. Why they're here is because Adirondack Council is doing an advocacy day and also the work that our Boy Scouts and Girl Scouts do throughout New York State. And if you had a chance -- if you haven't had the chance to visit the Adirondack you should and the history that's there, especially for former enslaved individuals who

went there to buy property so that they could vote. And their history is long and strong in the State of New York. So while they're advocating for clean water, wilderness and green job creations, on behalf of the beautiful Adirondack Park, thank you, Mr. Speaker, for allowing me to introduce them today. Thank you.

ACTING SPEAKER AUBRY: Certainly. On behalf of Ms. Hyndman, the Speaker and all the members, we welcome these Boy Scouts and Girl Scouts, Reverend, the volunteers, parents, everyone who participates in this great effort in southeast Queens here to the New York State Assembly. We give you the privileges of the floor. Hope that your trip here has been both instructive, fun and as well you have influenced some of the policymakers you've talked to. Continue that great work, we will always welcome you here. You have friends in Albany. Thank you so very much.

(Applause)

Mr. Jones for an introduction.

MR. JONES: Mr. Speaker, it's so great to have so many young minds here in the People's House and I am proud to have the New Vision [sic] government and law class at Franklin-Essex-Hamilton BOCES in Malone. We have students here from Salmon River, St. Regis Falls and Franklin Academy. Tracy Edwards, their teacher and advisor from Brushton-Moira has with her today Joryan Adams, Carson Hanna, Alexis LaClair, Mackenzie Major, Luke Pearsall, Zayne Pavlick, A.J. Robinson, Jr. and Rhea Work. They come down here every year. Miss Edwards brings a

group down here every year and they get to learn about government and get a feel for what we do here in the legislative process, they get to talk to legislators and ask them questions. So it's always great to have them here and Mr. Speaker, would you afford them the cordialities of the floor and welcome them to the People's House.

ACTING SPEAKER AUBRY: Certainly. On behalf of Mr. Jones, the Speaker and all the members, we welcome this extraordinary group of students and your advisor here to the New York State Assembly, extend to you the privileges of the floor. Hope that you've enjoyed your experience here in Albany. Glad that the snow wasn't as bad as predicted. Hope you will travel home safe and know that you are always welcome here. Thank you so very much for coming.

(Applause)

Mr. Beephan for an introduction.

MR. BEEPHAN: Good afternoon, Speaker, honorable colleagues. I rise for the purpose of introduction as I have four distinguished colleagues from my county here with me here today in the People's House. With me is Majority Leader and County Legislator Will Truitt, County Legislator Mike Polasek and County Legislator Tony D'Aquanni. These three gentlemen, along with another gentleman Ron Hicks who is our Assistant County Executive here in Dutchess County, have made it up here for NYSEG, as I'm sure many of our other colleagues have this week. And they are here advocating on behalf of Dutchess County and counties alike for their

interests in ensuring that they're looking out for their residents. So, Mr. Speaker, on behalf of the -- of yourself, my district, I ask that you -- you graciously extend the courtesies of the floor.

ACTING SPEAKER AUBRY: Certainly. On behalf of Mr. Beephan, the Speaker and all the members, we welcome these colleagues here to the New York State Assembly, extend to you the privileges of the floor. Thank you so much for serving your communities as well as you do. Continue that great service and know that you can always come here and visit with us and no doubt have conversations relative to trying to improve the relationships between counties and State. Thank you so very much.

(Applause)

Mr. Burdick for an introduction.

MR. BURDICK: Thank you, Mr. Speaker. I rise for the purpose of making an introduction of my constituent Andrea Weinreb, a resident of Chappaqua. And a few moments ago our colleague Linda Rosenthal had mentioned that there would be a resolution forthcoming which I'm joining her in. And Andrea Weinreb who has been trailblazing in giving attention to and raising funds for the treatment of lymphedema which is the swelling of the arm, the leg or other part of the body and gets bigger over time due to buildup of lymph fluid in the body. And it's often accompanied by cancer treatment. And in her own case, in fact, it was brought on by cancer treatment. She's a cancer survivor. She suffered lymphedema and recognizing that up to ten million Americans also suffer from it.

She and her husband Bruce set out to raise the awareness and raise funds joining the Lymphatic Education and Research Network and she's a founding member of its New York State chapter. So Assemblymember Rosenthal and I salute Andrea for her outstanding work. Mr. Speaker, I ask that you kindly extend the courtesies and privileges of the House to Ms. Weinreb.

ACTING SPEAKER AUBRY: Certainly. On behalf of Mr. Burdick, Ms. Rosenthal, the Speaker and all the members, we welcome you here to the New York State Assembly, extend to you the privileges of the floor. Our thanks and congratulations for all the tremendous work that you do to help those who suffer from that disease. Continue that great work and know you are always welcome here. Thank you so very much.

(Applause)

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

MRS. PEOPLES-STOKES: Thank you, Mr. Speaker, for allowing me to interrupt our proceedings for the purposes of an announcement -- or introduction. I have some constituents of mine in the Chambers as well. What a great day for constituents to show up in and support us in not only in our work but to see what we are doing here. First I have Murray Holman who is the Executive Director of an organization called Stop the Violence Coalition. It is a community-based group of people who work voluntarily in many occasions to help our young people be engaged with adults in their life

as they leave school, as they leave movie theaters and as they leave places where young people hang out and maybe sometimes tend not to know how to act when they do get out. Mr. Holman has always been there for them so I would ask that you please welcome him to our floor and also with him is Mr. Paul McQuillen. Paul as many of you may know, he's always been very active in the anti-gun violence community, he works really hard at that. He's done it for a number of years. And by the way, Mr. Speaker, he happens to be the uncle of one of our former colleagues Sean Ryan who is now Senator Ryan. So would you please offer them the cordialities of the floor and the privileges of our House. Thank you, sir.

ACTING SPEAKER AUBRY: Certainly. On behalf of Mrs. Peoples-Stokes, the Speaker and all the members, we welcome you both here to the New York State Assembly. We extend to you the privileges of the floor. Our thanks for the work that you're doing to ensure that our communities stay safe and that our young people travel a path that is going to be littered with success and not tragedy. Thank you so very much for doing your work.

(Applause)

Mrs. Peoples-Stokes for the purposes of a announcement.

MRS. PEOPLES-STOKES: Mr. Speaker, if you could please call our colleagues' attention to Election Law Committee being held in the Speaker's Conference Room immediately.

ACTING SPEAKER AUBRY: Election Law,

Speaker's Conference Room immediately, please proceed quietly. And we will go to resolutions on page 3, Assembly No. 136, the Clerk will read.

THE CLERK: Assembly No. 136, Ms. Rosenthal.

Legislative Resolution memorializing Governor Kathy Hochul to proclaim March 6th, 2023 as Lymphedema Day in the State of New York, in conjunction with the observance of the Eighth Annual World Lymphedema Day.

ACTING SPEAKER AUBRY: Ms. Rosenthal on the resolution. And now is the appropriate time but we will wait until they clear out so that we have a little more quiet for you.

(Pause)

Okay, Ms. Rosenthal. Thank you for your patience.

MS. ROSENTHAL: Sure. Thank you, Mr. Speaker. Today we will be adopting a resolution to once again proclaim March 6th as Lymphedema Day in New York State. Lymphedema is a painful condition that often occurs following treatment for cancer but many are also born with it, inherit it and develop it in their adult lives. Lymphedema causes extreme swelling of one's arms or legs or other areas and severely impairs a person's mobility. More than ten million people in the United States have lymphedema and while it may not be often discussed, this condition seriously can impact the quality of life making it critical that we continue our research that leads us to effective treatments and eventually a cure. In 2014 New York State became the first legislature in the world to recognize World

Lymphedema Day and I'm proud to say we've done so each year since. In addition to our World Lymphedema Day reso, we will also at the end be adopting a resolution in honor of Andrea Weinreb, a resident of Chappaqua, New York and Assemblymember Burdick's constituent who was diagnosed with lymphedema as a result of cancer treatment in 2007. Over the years Andrea Weinreb has been a tremendous advocate for education and fundraising efforts for lymphedema awareness. She's a founding member of New York State Chapter of Lymphatic Education and Research Network LE&RN and a prolific fundraiser. Andrea has been a powerful voice in Albany and Washington, D.C. for all those living with Lymphedema Day. After a few years of recognizing World Lymphedema Day virtually, I'm excited to have Andrea Weinreb along with her spouse Bruce and daughter Maggie here in the Chamber today. They are also joined by other tremendous advocates, Colleen McGuire, Deputy Director of LE&RN, along with one of LE&RN's volunteers, Anita Colonia. We're so grateful for all of their incredible work and for making the trip to Albany today for this cause. I send regards from the (inaudible) family to Andrea. They're snowed in so they can't be here. But -- they love you all as do I. Thank you.

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

Page 5, Rules Report No. 95, the Clerk will read.

THE CLERK: Senate No. S00834, Rules Report No.

95, Kavanagh (Rivera -- A02206). An act to amend the Environmental Conservation Law, in relation to the carpet collection program; and to amend a chapter of the Laws of 2022 amending the Environmental Conservation Law relating to establishing a carpet collection program, as proposed in legislative bills numbers S. 5027-C and A. 9279-A, in relation to the effectiveness thereof.

ACTING SPEAKER AUBRY: An explanation has been requested, Mr. Rivera. We are on debate. Please, members.

Thank you.

MR. RIVERA: Thank you. Before us this bill would provide technical amendments to Chapter 795 of the Laws of 2022 which require carpet manufactures to establish and fund a carpet collection program.

ACTING SPEAKER AUBRY: Mr. Goodell.

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

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

MR. RIVERA: Certainly.

ACTING SPEAKER AUBRY: Sponsor yields.

MR. GOODELL: Thank you very much, Mr. Rivera. Looking at the chapter amendments I see the first chapter amendment takes out the reference to commercial buildings or single or multi-family residential buildings from the definition of carpet, which I assume is designed then to reduce the scope of the original bill by

taking out any requirement that those facilities participate in this recycling program. Is that your understanding as well?

MR. RIVERA: That is not the case. What this does is it clarifies and instead of using all the wording that was there originally, it replaces it with consumer because consumer includes commercial as well.

MR. GOODELL: I see. So that change is just not actually narrowing the scope. It just one, make it clear that every consumer regardless of your nature is covered by this recycling provision.

MR. RIVERA: Correct.

MR. GOODELL: I see. There's a now new definition of a carpet collection program. Finance and implemented by the producers either individually or collectively. That's one of the chapter amendments?

MR. RIVERA: Correct.

MR. GOODELL: Am I correct then that because of -- with this chapter amendment a producer could establish a program individually.

MR. RIVERA: Correct.

MR. GOODELL: And if they establish a program individually, can they limit their free recycling services to carpets that were produced by that particular manufacturer?

MR. RIVERA: If their program spoke to that then, yes.

MR. GOODELL: I'm -- I'm sorry?

MR. RIVERA: If their program spoke to that then, yes.

MR. GOODELL: Now their program has to be approved by the DEC?

MR. RIVERA: Correct.

MR. GOODELL: And is there any provision that would give guidance to the DEC that they can approve a program by a producer that limits the recycling of their own recycling obligation to carpets that were produced by that particular producer?

MR. RIVERA: There is -- it's not needed and their limitations isn't there.

MR. GOODELL: And is it your intent then that the DEC could deny such a plan?

MR. RIVERA: Yes.

MR. GOODELL: And no obligation that they would have to accept a plan even though it met all the other criteria, correct?

MR. RIVERA: Correct. But not -- that's (inaudible) the scope of the bill. Well, the amendment at least.

MR. GOODELL: Now I see that one of the other amendments dealt with what a producer may -- well, the section that's on page 3, starting on line 36... a producer may not sell or offer for sale carpet to any person in the State unless... and then there were some changes, is implementing or participating in an approved plan, correct?

MR. RIVERA: That's correct.

MR. GOODELL: Is there any obligation that the DEC approve these plans within a certain time frame?

MR. RIVERA: Yes. And that time frame is extended.

MR. GOODELL: The effective date of this law is extended for three years but let's say a producer submits a plan on January 1st. Is there any statutory obligation that the DEC approve the plan within 60 or 90 or 120 days or -- or whenever. Is there any statutory requirement that the DEC actually review or approve or act on the plan within a -- a designated time frame?

MR. RIVERA: Well, truthfully the act doesn't take effect for two years until after this has been passed so, I guess I'd say that between that -- that two years plus the fact that the plan doesn't have to be adopted until 2026 is sufficient time.

MR. GOODELL: Now I see the original bill said the program was to be free to the consumer. That hasn't changed at all, correct?

MR. RIVERA: Correct.

MR. GOODELL: And it -- and it requires that the program be convenient to the consumer, that there hasn't been any change or any definition of what's meant by convenient?

MR. RIVERA: No change there.

MR. GOODELL: Now we provide that there is an extension of time of two years for the effective date of this bill, right?

MR. RIVERA: Correct.

MR. GOODELL: Then I see under the penalties provision there's been some amendments. Originally the penalties only applied to a producer, correct?

MR. RIVERA: Correct.

MR. GOODELL: And now it extends to representatives, a representative organization or a retailer, correct?

MR. RIVERA: Correct.

MR. GOODELL: So if you have an independent retailer, in my county we have several small independent retailers, they could be fined $500 a day if the producer over whom they have absolutely no control is selling a product that doesn't meet DEC's recycling program; is that correct?

MR. RIVERA: You're asking if whether the retailers themselves will be held responsible if the producer doesn't create a plan or a program?

MR. GOODELL: Correct. I mean that's on page 5, line 44 through 51. The chapter amendment now makes the retailer liable for up to a fine of $500 a day if for some reason the producer of the carpet they're selling doesn't have an approved plan, correct?

MR. RIVERA: No. My understanding of it is it's only a fine to the retailer if they don't -- not if they don't sell the product of a producer that doesn't have a plan, if they have a plan and don't follow it. So if they go against the program itself, not if the retailer doesn't.

MR. GOODELL: Well, there's no obligation on the part of the retailer to develop a plan, correct?

MR. RIVERA: That's correct.

MR. GOODELL: Now only the producer can develop the plan, right?

MR. RIVERA: Presumably with the retailers together.

MR. GOODELL: But this law makes it illegal for retailers to sell carpet unless the producer has an approved plan, correct?

MR. RIVERA: That's correct.

MR. GOODELL: And this section 27-3317 on page 5 imposes a fine of $500 a day on, according to the chapter amendment, retailers among others, correct?

MR. RIVERA: Yes.

MR. GOODELL: Is there any provision in the chapter amendment or the original bill that allows a retailer to sell their existing stock even if the producer doesn't come up with a plan?

MR. RIVERA: That's why there's additional time allotted.

MR. GOODELL: So the hope is they'll sell all their stock within the next two years and if a producer doesn't come up with a plan they just drop the line.

MR. RIVERA: Yes.

MR. GOODELL: Okay. Thank you very much. I

appreciate your comments and your thoughts on that.

MR. RIVERA: Thank you.

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

ACTING SPEAKER AUBRY: On the bill, sir.

MR. GOODELL: This is an interesting bill because what it does is it says that no producer of carpet can sell their carpet in New York State unless they have this recycling plan in place. And then it goes even beyond that and says if by chance a retailer who may be selling carpets from many producers is selling a carpet from a producer that doesn't have an approved plan the retailer faces a fine of $500 a day. This bill also requires that the producer's recycling plan be free, and there's no language in the bill itself that says free for carpets produced by that retailer. So if you're a carpet producer and you want to sell in New York, this law requires you to take carpet from anywhere, including from your competitors who may have sold that carpet years ago. And then you, the manufacturer, absorb the entire cost of the recycling. This of course will result in an obvious increase in the cost to consumers. And will encourage consumers to the maximum extent they can to save money buy their carpet out-of-state because this is a scenario that this statute sets up. A consumer can buy the carpet for a lot less from an out-of-state producer and then have their own carpet recycled at the producer's cost of the producers in New York State. So in other words, you want the best deal? You buy carpet from producer A from Pennsylvania or New Jersey or Connecticut, which is a fraction of the cost because

they're not incurring all these expenses and then you take your old carpet to producer B who's obligated by this law to take it for free. Occasionally, as in every day, the Business Council and others remind us how unfriendly New York State is to companies that want to do business here. And they could use this as Exhibit A where you fine retailers $500 a day if someone they don't have any control over, a producer, doesn't have a plan approved. And we say to producers, you got to recycle everyone's carpet including your competitors for free. And we all know that cost will be passed on to the people who can least afford it, the poor suckers in New York State who buy a carpet and pay a premium to have it recycled quote "for free." This had 39 -- 38 no votes. I recognize this is a chapter amendment and my colleague whom I appreciate for his straightforward answers had nothing to do with the chapter amendment except he got the privilege of trying to defend it. I certainly appreciate your comments, but this chapter amendment makes the original worse by extending liability to every retailer and for that reason I can't support it. Thank you, sir.

ACTING SPEAKER AUBRY: Thank you. Mr. -- Mrs. Peoples-Stokes for the purposes of a announcement.

MRS. PEOPLES-STOKES: Mr. Speaker, the Election Law has completed their work. Will you please ask our colleagues that are on Codes to head to the Speaker's Conference Room for a meeting.

ACTING SPEAKER AUBRY: Certainly. Codes in the Speaker's Conference Room immediately, please.

Mr. Pirozzolo.

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

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

MR. RIVERA: Yes, sir.

ACTING SPEAKER AUBRY: Sponsor yields, sir.

MR. PIROZZOLO: So I have a question. If this were to take effect, I would imagine that carpet retailers buy large amounts of carpet. What would happen to a carpet that's already in inventory for a producer that does not participate in this plan?

MR. RIVERA: That's a good question and I think that's one of the leading reasons why we produced this chapter amendment. Originally the bill spoke to a very short time frame. We've extended it to take into account those exact considerations. So the program itself doesn't take into effect for an additional two years, which should be ample time.

MR. PIROZZOLO: Well, how do you know it would be ample time? I mean are you familiar with the rate that carpet is sold and how many inventories? I mean you're talking about an entire factory's lot production I would imagine. And when you go into a carpet store, whether it's a private store or a chain store, there are many, many, many carpets to choose from, right? So, you don't know the turnover. So I mean how do we determine that two years was the right time for this disastrous amendment at all?

MR. RIVERA: I suppose what I'd say to that is considering the length of time it's taken other industries to produce similar programs, I think that it's more than adequate time to determine what's the best way, the most environmental-friendly way, and the most practical way to reduce what's going into landfills and instead could be recycled properly.

MR. PIROZZOLO: Thank you.

On the bill if I may.

ACTING SPEAKER AUBRY: On the bill, sir.

MR. PIROZZOLO: So once again this is a blatant example of this Body doing something simply because we can. And pun intended, we are ripping the carpet from under the feet of businesses in New York City, New York State and everywhere. Even for businesses that are not from New York State, we are discouraging every opportunity we get for businesses to do business in New York. We should be ashamed of ourselves. I will be voting no on this resolution and I suggest that everyone votes no on this resolution. Thank you, Mr. Speaker.

ACTING SPEAKER AUBRY: Thank you.

Mr. Brown.

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

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

MR. RIVERA: Yes, sir.

ACTING SPEAKER AUBRY: Mr. Rivera yields.

MR. A. BROWN: Now the bill in the chapter amendment starts off talking about manufactured articles that are used in affixed or placed on the floor and then kind of goes off the rails and specifies specifically carpeting. Do you not think that possibly this is going to give an unfair advantage to the other types of flooring? In other words, carpeting is mainly made and sold in the United States in the United States. Almost all of the laminate flooring, engineered flooring, other types of flooring are made outside of the United States, specifically China. Why exclude the recycling of the floor that's actually used in greatest quantities? Why limit it to the carpet, especially the carpeting that's made in America. Why drive business away from American manufactures specifically?

MR. RIVERA: So the question is why are we talking about recycling carpets and not vinyl or hardwood floor or any other --

MR. A. BROWN: No. I said the bill starts off right then goes off the rails a little bit and specifies fibers, materials and such.

MR. RIVERA: Well, I guess I'd say first that this is a chapter amendment to an existing bill. We're not looking to change the entirety of the bill. That's what that would do if we would pursue what you were mentioning. The other thing I'd say is that there's a pretty unique process by which carpet is made and it requires sort of a unique way of recycling. So the way we recycle carpet probably wouldn't be the way we recycle hardwood floor and that sounds like a

totally different bill that I suppose somebody could pursue if they chose.

MR. A. BROWN: Thank you, Mr. Sponsor.

Mr. Speaker, on the bill.

ACTING SPEAKER AUBRY: On the bill, sir.

MR. A. BROWN: I actually spoke to Mr. Englebright at length about this before he left and I thought we had a meeting of the minds on this particular issue. Now we have the recycling plans that exist already. Recycling cardboard, recycling steel and metal and copper and brass, it exists. If this is a product that's actually a recyclable material, let's incentivize the producers and the retailers to actually sell the product as the construction business does with the by-products of -- of their industry. We have to try to do everything we can, I believe, not to drive business away from doing business in New York and this is just another example of people just going to go to New Jersey or Connecticut and do the same and that's why I'll be voting in the negative. Thank you, Mr. Speaker.

ACTING SPEAKER AUBRY: Thank you, sir.

Mrs. Peoples-Stokes.

MRS. PEOPLES-STOKES: Thank you, Mr. Speaker. Would the sponsor yield for a question?

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

MR. RIVERA: Yes, sir.

ACTING SPEAKER AUBRY: Sponsor yields.

MRS. PEOPLES-STOKES: Can you just tell if you have any idea how much municipalities, say Erie County or maybe even Lancaster, spends on landfills where they have to place these carpets that have been sold by producers, sold by retailers, used by a consumer but because the consumer is a resident in that community it has to be placed in that municipality's landfill? Do you have any idea how much that costs (inaudible) --

MR. RIVERA: That's a really, really good question, thank you. I'd say across this country it's -- it's a huge number but I'd say even within the State of New York we're talking about millions of dollars that municipalities spend on landfills. Landfills that are not infinite spaces, that have their limitations in size, so it would -- it would be a great, great savings to local governments, but what I'd also say and something a bit more specific is that the EPA estimates that every year an estimated five billion tons of carpet waste goes into landfills, five billion tons. And to create a process by which carpets could be recycled properly would reduce what's going into landfills and in turn should reduce cost to municipalities.

MRS. PEOPLES-STOKES: Thank you. Are you aware of any sort of research that's happening by the carpet industry itself to determine procedures that they could possibly use to reduce that cost to the consumer and the governments that their consumers live in to --

MR. RIVERA: I'm -- I'm unaware of any research that the industry itself would out of sort of its benevolence look to

pursue this sort of thing on their own and I think that's why government sometimes has to make an effort to -- to push an industry towards safer and more long-term planning.

MRS. PEOPLES-STOKES: Thank you very much for your -- for your response. I want to thank you for introducing legislation, too, cause I think contrary to what some may think is an opportunity to push business somewhere else to do business, there are still some people who really like carpet that live in New York. I'm not one of those, but there's some people who still really like carpet. And I think what this kind of legislation does, particularly given that it doesn't even get implemented for two years, it gives not only the retailers, but it gives the industry and, quite frankly, it gives citizens an opportunity to begin thinking about what happens to this carpet after it's been used. And who ends up paying for it to go into a landfill. What is its implications on our landfills, our groundwater, et cetera, et cetera, et cetera, our environment as a whole. So I think this is a very progressive piece of legislation that pushes forward an idea that needs to be researched, needs to be looked at, needs to be figured out, because at the end of the day, at the very end of the day our negligence in this is having an impact on the quality of life of people, the quality of our environment and honestly on the cost of healthcare. So I want to honor the sponsor for introducing and I look forward to voting in favor of it.

ACTING SPEAKER AUBRY: Thank you. Mr. Manktelow.

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

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

MR. RIVERA: Yes, sir.

ACTING SPEAKER AUBRY: Sponsor yields, sir.

MR. MANKTELOW: Mr. Rivera, I just want to understand this, make sure I've got it clear. So a carpet retailer -- excuse me, a carpet retailer in my district has up until two years to get rid of all of their stock?

MR. RIVERA: No.

MR. MANKTELOW: No?

MR. RIVERA: No. We extended -- the chapter amendment extends the enactment of the program requirement for an additional two years past the two years that the original bill was passed. So it pushes it to 2026.

MR. MANKTELOW: 2026?

MR. RIVERA: Yeah.

MR. MANKTELOW: And at that time if any of their stock isn't sold, then what do they do with it?

MR. RIVERA: I -- I suppose what I'd say is it's the manufacturers and presumably the retailers will come together produce a program that is approved by the EPA. That program can speak to existing stock. So it would be no different whether they made it before or after. So the program that is agreed upon by the

industry will speak to that -- that situation.

MR. MANKTELOW: So -- so a retailer could have five or six-year-old stock and still be able to sell it?

MR. RIVERA: Yeah, because it's a matter of retailer -- I'm sorry. It's a matter of manufacturers having a program. If the manufacturer has a program whether they create the carpet today or yesterday, it's the purpose -- the purpose of this is to reward or to -- I should say, you know, grant the ability to sell the product once the company itself has a program that demonstrates how it's going to recycle the product.

MR. MANKTELOW: So what -- what happens here in New York as we see -- we see businesses leaving all the time. What happens to the retailer if the manufacturer decides not to sell in New York anymore?

MR. RIVERA: The thought is that because we ask retailers to come up with a program to recycle that that in itself will cause them to no longer do business and sell to the millions and millions of people who live in the State?

MR. MANKTELOW: Okay. So if my manufacturer leaves me hanging, what happens with my stock then?

MR. RIVERA: Say that again. I'm sorry.

MR. MANKTELOW: If my manufacturer that I was buying from decides to leave New York State and not provide product in New York State - carpet, what do I -- if I've got a bunch of that manufacturer's carpet in my warehouse, what do I do with it?

MR. RIVERA: So the question is whether -- well, if the company just doesn't have a program? Well then it shouldn't be selling the product.

MR. MANKTELOW: But what I'm saying is I've already -- you know, since COVID has happened the supply chain takes a long time to get supplies into stores and the Home Depots into wherever hardwares so a lot of our retailers are building stock to make sure they have stock available for their customers long-term, not just five months out, not just ten months out, sometimes 24 months out, sometimes 36 months out especially if they see a cost going up. So back to my question. If I have 36 months worth of retail carpet in my warehouse and my manufacturer decides not to do business in New York State, what do I do with that 36 months worth of carpet?

MR. RIVERA: So if you have enough product to where in which this manufacturer -- I'm sorry. If you have enough product that you haven't sold, you're the retailer in this scenario and the manufacturer decides to not register, to not produce a program towards recycling, I suppose it would be a scenario treated like if any other manufacturer chose not to register it, not to have a program.

MR. MANKTELOW: So then the business, the retailer is going to have to eat that supply?

MR. RIVERA: Not necessarily.

MR. MANKTELOW: So what is the other option?

MR. RIVERA: I suppose in a scenario that could get us all back to the manufacturer because the carpet isn't used or the

carpet isn't defaulting so why wouldn't they just take it back to the manufacturer or technically I suppose they can sell it out-of-state. That business doesn't necessarily have to lose the money. They can just sell out.

MR. MANKTELOW: So -- so it's going to put -- I apologize, it's going to put another undue process to the retailer. Now that business has to find a home for that carpet because the manufacturer decides not to do business in New York State.

MR. RIVERA: I suppose -- I suppose in any scenario the retailer would have to find a home for its product regardless.

MR. MANKTELOW: But what we're doing here is why can we not grandfather in every piece of carpet that a retailer has in their store at a time or ordered and not have a cutoff date beyond the cutoff date?

MR. RIVERA: Suppose what I'd say that is really what the purpose of the chapter amendment was. You know, we were originally were going to have this take effect much sooner. We extended it and it's onto industry to -- to convey that message and to act accordingly and to produce a program.

MR. MANKTELOW: There's no -- there's no guarantee I can sell that amount of stock that fast. So as a business I'm going to have to eat that.

MR. RIVERA: That's not necessarily going to be the case, but if that's the sort of take you want to have I suppose then that's your take. I think we've given retailers and the industry sufficient

time.

MR. MANKTELOW: How many retailers have you talked with?

MR. RIVERA: Oh, multiple retailers have been contacted through the process of this in its original form so there's nothing -- what we're debating here today are small technical amendments that truthfully speak to no change of what would happen to retailers so I'd say retailers are very much involved in the passage of this originally and received more than enough communication.

MR. MANKTELOW: Okay. I thank you for your time.

MR. RIVERA: Sure.

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

ACTING SPEAKER AUBRY: On the bill, sir.

MR. MANKTELOW: As we've already heard here on the floor, again it's so hard to do business in New York State. All I was asking the sponsor to do is the possibility of grandfathering in every piece of carpet stock that a retailer has. We need to give our businesses the break. We need to give them the opportunity to grow and be successful. Again, another thing that retailers have to deal with in New York State. He's right. The retailer could send it back to manufacturer across State lines and then me as a buyer going to go there and get my piece of carpet that I wanted. So it's -- I understand the -- I understand the bill, I understand where we want to go as a -- as a State, but sometimes we have to look at all aspects. We on this floor

are here to help all the people in New York State. And these retailers and manufacturers are part of New York State. So I just -- I cannot support this bill in this way. If there was a grandfathered time in for the stock that's in place maybe I could give it thought. So thank you, Mr. Speaker, for your time. Thank the sponsor for his time and I'll definitely be voting no. Thank you.

ACTING SPEAKER AUBRY: Thank you, sir.

Mrs. Peoples-Stokes for an announcement.

MRS. PEOPLES-STOKES: Thank you, Mr. Speaker. Codes has completed its work. Can you please ask the Rules Committee to join the Chair in the Speaker's Conference Room for an immediate meeting.

ACTING SPEAKER AUBRY: Rules Committee, people in the Speaker's Conference Room. Thank you.

The Clerk will read.

Oh, I'm sorry. Read the last section.

THE CLERK: This act shall take effect immediately.

ACTING SPEAKER AUBRY: A Party vote has been requested.

Mr. -- Ms. Wallace [sic], I'm sorry.

MS. WALSH: Surprise.

ACTING SPEAKER AUBRY: Looked up and there you were.

MS. WALSH: Yes. This is going to be a Party vote in the negative on behalf of the Republican Conference. If members

wish to vote in the affirmative they may do so at their desks. Thank you.

ACTING SPEAKER AUBRY: Thank you so much, Ms. Wallace [sic].

Mrs. Peoples-Stokes.

MRS. PEOPLES-STOKES: Thank you, Mr. Speaker. The Majority colleagues are generally going to be in favor of this progressive piece of legislation. However, there may be a few who choose to be an exception, they're welcome to cast their votes in Chambers and/or contact staff. Thank you, sir.

ACTING SPEAKER AUBRY: Thank you so much.

The Clerk will record the vote.

(The Clerk recorded the vote.)

ACTING SPEAKER ZACCARO: Announce the results.

(The Clerk announced the results.)

The bill is passed.

Mr. Goodell for the purpose of an introduction.

MR. GOODELL: Thank you, Mr. Speaker. On behalf of our colleague Assemblyman Scott Gray, it's my pleasure to introduce a number of distinguished guests from the Northern New York Library Network presumably all very well read. And joining us today are Paulette Roes, Angela Newman, Ginger Tebo, Kathy St. Laurent, Allison Combs, Matthew Corey, Meg Backus and Steve Kenworth. If you would welcome these guests to our Chamber and

I'm sure we all appreciate their work with the Northern New York Library Network. Thank you, sir.

ACTING SPEAKER ZACCARO: On behalf of Mr. Goodell, Mr. Gray, the Speaker and all the members we welcome you to the Chamber. We extend the privileges of the floor and we hope that you will enjoy our proceedings. Thank you.

(Applause)

Page 4, Rules Report No. 94, the Clerk will read.

THE CLERK: Assembly No. A02190, Rules Report No. 94, Dinowitz. An act to amend the Public Health Law, in relation to providing for the remote conduct of witnessing health care proxies.

ACTING SPEAKER ZACCARO: An explanation is requested.

Mr. Dinowitz.

MR. DINOWITZ: Sure. The purpose of the bill is to modernize certain aspects of completing health care proxies by offering varius remote witnessing procedures. My goodness. It's so noisy in here.

ACTING SPEAKER ZACCARO: Ms. Walsh.

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

MR. DINOWITZ: Just a couple?

MS WALSH: I promise.

MR. DINOWITZ: Okay.

ACTING SPEAKER ZACCARO: Sponsor yields

MS. WALSH: Okay, all right. So, I guess first for people -- our colleagues who might not know, what's the difference between a health care proxy and a living will, do you know?

MR. DINOWITZ: Well, it's a huge difference. A health care proxy is a much simpler procedure. There's a very simple form. You have the person who's giving -- who's signing the health care proxy sign it before two witnesses. A living will is a much more complicated legal procedure. And if one gives a health care proxy say to their spouse, it means that that spouse will be empowered to make certain health decisions should the individual not be able to. You know, if they're hospitalized, they can't speak, things like that.

MS. WALSH: So, as far as the health care decisions that a health care proxy can make, does that include DNR or do not resuscitate?

MR. DINOWITZ: Well, if -- if one wanted to have a DNR I would advise a person to have a DNR, a specific document to do that. The health care -- like in a living will it's very -- it specifies, you know, various things that you would want done, whereas the health care proxy sort of gives a general power to make decisions but a DNR is kind of a separate thing.

MS. WALSH: Okay. So -- but a health care proxy would allow somebody -- the person who's chosen to talk with doctors, review medical records, make decisions for that incapacitated or getting incapacitated person for them -- hopefully for their benefit, right?

MR. DINOWITZ: Right, if they're incapacitated.

MS. WALSH: If they're incapacitated.

MR. DINOWITZ: If they're not incapacitated then the proxy doesn't -- you know, it's not really in effect.

MS. WALSH: Absolutely. So it's important that the individuals who witness the health care proxy -- selecting, you know, who the proxy's going to be, that's -- that's an important role, the person who's witnessing, correct?

MR. DINOWITZ: Yes. I mean -- the best scenario is if somebody has let's say their spouse as an example, fill out health care proxies for each other while -- while they're healthy, you know. You don't do it once you're incapacitated, obviously. So typically somebody would give their spouse the proxy so that if he or she is incapacitated the other spouse would be able to -- would be empowered to make decisions and you have copies of it. Very often if you're going into surgery, for example, the doctor might ask you for a copy if there is a health care proxy.

MS. WALSH: Right. So let's say that the witness to the creation of the health care proxy doesn't know the patient, for example. What responsibilities would you say does the witness have to make sure that the patient has capacity and is willingly and without duress selecting and appointing the health care proxy?

MR. DINOWITZ: The job of the witness is simply to witness. I mean they're not really making those kind of judgments. You know, when somebody signs -- witnesses a will let's say and I

think you're much probably more familiar with them than I am because you practice law --

MS. WALSH: Yeah.

MR. DINOWITZ: -- they're saying that the person, you know, is -- is of sound mind. Here it's -- it's -- it's -- it's -- it's different. So I don't think they're really making that judgment. I mean obviously if -- if you've been asked to witness a health care proxy and you think the person is totally like, you know, can't do it then one would hope that you would exercise your own good judgment to not do. The time to fill out a health care proxy is when you're able to, not when you're not able to.

MS. WALSH: So -- so just so I understand. You don't believe that the witness to a health care proxy has any real role in figuring out whether the person is acting independently and willingly and free from any kind of duress?

MR. DINOWITZ: I -- I think the job of the witness is to be certain that the person whose -- whose health care proxy it is is in fact that person. They would show -- they would show ID. I mean I don't think it's one of these situations where somebody's sitting next to them out of the view of the camera, if that's -- I remember you brought that up in another debate on another issue.

MS. WALSH: Right.

MR. DINOWITZ: So their job would be to make sure that the -- that it's the person.

MS. WALSH: More like so the way you see it is

more like a -- like a notary, a notary public checks the ID and make sure that the person isn't personally known to them that they're showing that they are who they say they are.

MR. DINOWITZ: Well, I guess in a certain sense. Like in a notary the notary is not swearing to the validity of what he or she is notarizing so much as they're swearing that that's the signature of the person and that person signed it in front of me.

MS. WALSH: Okay. Okay. So, I can understand why this remote witnessing was allowed during a State of Emergency and during the pandemic but why -- why -- what's the rational for continuing it now?

MR. DINOWITZ: So the -- I would think in almost all cases the -- the witness would be somebody that is close to the individual. I mean it doesn't have to be but that's -- that's probably how it should be. Sometimes the person might be far away. They may live somewhere else in another state. So the fact that we did this during the pandemic, which is still with us, although thankfully diminishing and subsiding, I think highlighted the fact that technology has changed and we should be able to take advantage being that we're in the 21st Century of modern technology to give greater ability for people to do their health care proxy. You know they may not want somebody who's -- who's in the same room as them who they don't care for or trust to do it but they may want somebody who's not near them and this gives them that additional option.

MS. WALSH: Okay. Thank you very much, Mr.

Dinowitz. That was more than a couple but I appreciate your answers to my questions.

MR. DINOWITZ: You're welcome.

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

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

MS. WALSH: Thank you so much. So very briefly, my colleagues, I -- I have concerns about this bill because I -- I actually disagree with the sponsor as far as what the role is of the witness to a health care proxy. I -- I agree that it's not a living will and I agree that it's not a will but it's -- it's a very important designation of -- of a health care proxy. From the research I've done it -- a health care proxy can make critical -- has legal authorities -- legal authority to make medical -- critical medical decisions for the patient. They can talk to doctors, consult with medical -- consult medical records, make decisions about tests, procedures, surgeries, treatment and DNR. And although while it's true, as the sponsor indicated that do-not-resuscitate orders are often done directly in a hospital setting with hospital staff and put on file or with a physician sometimes they're not there. And -- and the other thing I would say is that while many of us encourage early estate planning, which would include a living will with -- with a specific directive, a health care proxy and a power of attorney and the whole package, DNRs and everything, very often people don't do that. And in fact I believe it was in the sponsor's memo they indicated that only about I think about 30 percent it said of New Yorkers have been utilized a health care proxy and it is a really

important and powerful document. And I think that a witness to a health care proxy from what I can research and find out it does include at least a minimal assessment of a person's capacity and voluntariness and independence and -- and the fact that they have to designate the proxy in a willing way that's free from duress. And I don't think that as a witness you should be doing that over Zoom or over Microsoft Teams. I think that during COVID I get it, we needed to make some allowances to allow for some efficiency and to -- and to protect people's health during that pandemic. But now to make it a permanent thing? I don't think it's really necessary and I think that this is one of those instances where we're always trying to balance efficiency against best practice and I think that here the best practice is for witnesses to be with the patient when they make this designation. That is the safest most reliable way and who knows what that witness might see in that hospital room or in that person's home as far as who's having any kind of influence against someone else, we don't know. But I think that I'm -- I'm pretty certain that somebody is not going to be able to spot something like that over some type of a -- of a Zoom platform or some kind of a virtual audio visual kind of a setup. So, for those reasons I'm not going to be able to support this bill. I -- I do think that I'm all for efficiency but I do think that for something that's this important I think that we need to do it the old fashioned way and that's face to face with eyes on, ears on and engaging with that patient to make sure that it's voluntary. So, for those reasons I'll be voting in the negative. Thank you, Mr. Speaker.

ACTING SPEAKER AUBRY: Thank you.

Read the last section.

THE CLERK: This act shall take effect immediately.

ACTING SPEAKER AUBRY: Party vote has been requested.

Mr. Goodell.

MR. GOODELL: Thank you, sir. The Republican Conference will be generally opposed for the reasons mentioned by Ms. Walsh. Those who support it can certainly vote so on the floor here in the Assembly. Thank you, sir.

ACTING SPEAKER AUBRY: Thank you. Mr. Benedetto.

MR. BENEDETTO: The Majority Conference will be in favor of this bill. But of course if anybody is opposed, they are free to do so.

ACTING SPEAKER AUBRY: Thank you.

The Clerk will record the vote.

(The Clerk recorded the vote.)

Are there any other votes? Announce the results.

(The Clerk announced the results.)

The bill is passed.

Page 6, Calendar No. 6, the Clerk will read.

THE CLERK: Assembly No. A00152, Calendar No. 6, Cruz, L. Rosenthal, Jackson, Kelles, Bores. An act to amend the Criminal Procedure Law, in relation to facilitating appellate review of

rulings that implicate issues of public concern.

ACTING SPEAKER AUBRY: An explanation has been requested.

MS. CRUZ: Thank you, Mr. Speaker. This bill would require the courts to review a denial of a motion to suppress evidence on appeal by ensuring that a court reviews such denials. The legislative intent of Section 710.70 will be further. And defendants can properly challenge the validity of an order denying their motions. Additionally, such review of an order denying a motion to suppress evidence will take place regardless of whether the defendant waives their right to appeal on that issue.

ACTING SPEAKER AUBRY: Mr. Goodell.

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

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

MS. CRUZ: Yes.

ACTING SPEAKER AUBRY: Sponsor yields.

MR. GOODELL: Thank you, Ms. Cruz. As you know, before a defendant can enter a plea of guilty, the court is obligated to go through a very clear and well-defined allocution that makes sure that the defendant fully understands what a guilty plea means, right?

MS. CRUZ: Yes.

MR. GOODELL: And in addition, every defendant is

entitled to legal counsel. And of course the defendant's legal counsel is obligated to make sure the defendant understands what the defendant is doing, correct?

MS. CRUZ: That's correct, yes.

MR. GOODELL: And one --

MS. CRUZ: Mr. Goodell, I'm going to ask you now that we're all here it tends to get a little bit louder, so if you can speak a little bit louder as well.

MR. GOODELL: Certainly.

MS. CRUZ: Thank you.

MR. GOODELL: So, under this bill even though the defendant pleads guilty --

MS. CRUZ: Mm-hmm.

MR. GOODELL: -- even though the court before you pleads guilty, explains in detail he's waiving certain rights including the right to appeal, even though his own legal counsel could explain that right and what he's waiving. Despite all that, this bill would give a defendant who pleads guilty the absolute right to appeal?

MS. CRUZ: Absolutely. Mr. Goodell, I think one of the things that has happened in practice is that -- that requiring giving up that particular right has become part of what the district attorney's office often does and when you are a young person, basically anyone, and you have to face the possibility of three years versus maybe a plea deal that says six months or less than that and that means you have to give up certain rights, sometimes even if you're innocent people are

willing to do that but that doesn't mean that someone's rights, constitutional rights should -- should completely be waived. And as a matter of fact the State Legislature back when 710 was initially passed had actually shown that our intent was not to give up that right. Not to have a defendant give up that right and to allow them to actually appeal.

MR. GOODELL: Separate and distinct from the waiver this bill would also allow an appeal of such a motion even if the defendant's counsel didn't preserve that right during -- during the hearing, correct?

MS. CRUZ: Hold on.

(Pause)

Yes.

MR. GOODELL: And the defendant could make that appeal even if his own legal counsel didn't argue against the suppression, correct?

MS. CRUZ: What do you mean argue against --

MR. GOODELL: Well --

MS. CRUZ: Actually went through the hearing and --

MR. GOODELL: Right.

MS. CRUZ: Yes.

MR. GOODELL: Are there any provisions of this bill that would allow the appellate court to dismiss when it was patently a correct ruling? That is the ruling on the lower court was

valid on its face and no cognizable legal argument or an extension for a legal theory would justify the appeal. Must the appellate division still take the appeal?

MS. CRUZ: Yeah, they can take the appeal. They'll be able to make whatever decision the court actually wants based on what's in front of them. This only gives the right to file the appeal.

MR. GOODELL: Thank you, Ms. Cruz. I appreciate your comments.

On the bill, sir.

MS. CRUZ: Thank you.

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

MR. GOODELL: So those who practice criminal law know that if you make a motion to suppress the evidence and the trial judge rules against you, you can preserve that for appellate review unless the defendant pleads guilty, admits the crime and as part of the plea deal of course when you agree that you're the defendant and you're guilty you give up the right to challenge your own guilty plea. That's what a guilty plea means. It doesn't mean I'm guilty unless I don't like the sentence in which case I reserve the right to withdraw my guilty plea. It doesn't mean I'm guilty but not really. Some states allow that. Nolo Contendere. We don't. And you are not even allowed to make a guilty plea until the judge explains exactly what that guilty plea means, and the judge then on the record asks the defendant do you understand and do you wish to plead guilty? And he

goes through each part of that allocution. And then the judge typically turns to the defense attorney and says, have you talked to your client about this guilty plea? And the defense lawyer says yes. If he says no by the way the proceeding stops. And the judge says well, talk to your client, okay? And so only after the defendant has talked to his own attorney and only after he's answered all these questions can he even enter a guilty plea. Now, a defense attorney will often make motions to suppress evidence for whatever reason and the judge will often rule on these sometimes dozens of these motions and sometimes the motion is borderline frivolous and everyone knows it. And so this bill says that the defendant can appeal every single denial of a motion to suppress evidence regardless of how valid the decision by the court was even though the appeal would otherwise be frivolous and even though they waived that right after being advised by their own lawyer and their own -- and by the judge and answering in their own volition that they are guilty. This is nothing more than a way to clog up our appellate division and give more rights to criminal defendants who have admitted the crime without any basis for an automatic appeal and an automatic consideration. For that reason I won't be supporting it and I know last year there was bipartisan opposition with 52 no votes. I hope we have the same level of bipartisan opposition this year. Thank you, sir.

ACTING SPEAKER AUBRY: Read the last section.

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

ACTING SPEAKER AUBRY: A Party vote have been requested.

Mr. Goodell.

MR. GOODELL: Thank you, sir. The Republican Conference is generally opposed to this legislation but all of those who are here can certainly vote in favor on the floor if they so desire. Thank you, sir.

ACTING SPEAKER AUBRY: Thank you.

Mrs. Peoples-Stokes.

MRS. PEOPLES-STOKES: Thank you, Mr. Speaker. The Majority Conference is generally going to be in favor of this piece of legislation. However there may be some colleagues who will desire to be an exception. They should feel free to cast their vote at their pleasure. Thank you, sir.

ACTING SPEAKER AUBRY: Thank you.

The Clerk will record the vote.

(The Clerk recorded the vote.)

Are there any other votes? Announce the results.

(The Clerk announced the results.)

The bill is passed.

Mrs. Peoples-Stokes.

MRS. PEOPLES-STOKES: Mr. Speaker, members have on their desks an A-Calendar. I'd like to advance that calendar.

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

Mrs. Peoples-Stokes.

MRS. PEOPLES-STOKES: Thank you, sir. Do you have any resolutions or further housekeeping?

ACTING SPEAKER AUBRY: We do have resolutions.

Resolution No. 141, the Clerk will read.

THE CLERK: Assembly No. 141, Mr. Gallahan.

Legislative Resolution celebrating the life and legacy of Matthew Hoose, Ontario County Clerk, devoted family man and distinguished member of his community.

ACTING SPEAKER AUBRY: Mr. Gallahan on the resolution.

MR. GALLAHAN: Thank you, Mr. Speaker. I stand today to present a legislative resolution celebrating the life and legacy of Matthew Hoose, Ontario County Clerk. There are certain outstanding members of our community who through their selfless commitment and dedication have served to better the quality of our life in our community and a measurable positive impact of the lives of our residents. Matt Hoose was one such individual. Matt was not only my friend and colleague for many years serving our residents of Ontario County as the County Clerk following in the footsteps of his grandfather, Ray Vecchi a position to which he aspired for most of his life. As a young boy Matt enjoyed hunting with his grandfather, working at the family bakery and was an accomplished athlete in baseball and bowling. Managing many prominent bowling alleys

across the Eastern United States before moving his young family back to his beloved City of Canandaigua, New York. Matt always maintained his dedication to being a supportive and encouraging figure in his children's lives. He involved himself with everything from coaching T-ball, to building sets for school musicals and being his family's eager chauffeur throughout their adventures. Matt, like myself, had a passion and a love for cooking, grilling and smoking meat. He was also an avid outdoorsman and an outdoor enthusiast on the golf course, fishing with his family and friends, or enjoying the Maine coastline with his cherished wife Amy. Matt was a very passionate man. Happiest when surrounded by family and friends. Matt will forever remain in the hearts of those who continue to love and remember him. In addition to his parents, Matt is survived by his loving wife Amy, his children Ryan, Taylor, Carson and Joy and his step-children Dylan, Ava and Fay. Matt's infinite selflessness and benevolence will shine through his family's vivid and happy memories. His insight and strength will forever serve as a beacon of love, light and hope to the countless lives he touched including mine and my family's. May he rest in internal peace my good friend.

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

Mrs. Peoples-Stokes, we do have other fine resolutions which we will take up with one vote. On the resolutions, all those in favor signify by saying aye; opposed, no. The resolutions

are adopted.

(Whereupon, Assembly Resolution Nos. 139-143 were unanimously approved.)

Mrs. Peoples-Stokes.

MRS. PEOPLES-STOKES: Thank you, Mr. Speaker. I now move that the Assembly stand adjourned until 10:30 a.m., Wednesday, March the 1st, tomorrow being a Session day.

ACTING SPEAKER AUBRY: The Assembly stands adjourned.

(Whereupon, at 3:32 p.m. the Assembly stood adjourned until Wednesday, March 1st at 10:30 a.m., Wednesday being a Session day.)