

WEDNESDAY, APRIL 3, 2024

1:15 P.M.

ACTING SPEAKER AUBRY: The House will come to order.

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

(Whereupon, a moment of silence was observed.)

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

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

A quorum being present, the Clerk will read the Journal of Tuesday, April the 2nd.

Mrs. Peoples-Stokes.

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

dispense with the further reading of the Journal of Tuesday, April the 2nd and that the same stand approved.

ACTING SPEAKER AUBRY: Without objection, so ordered.

Mrs. Peoples-Stokes.

MRS. PEOPLES-STOKES: Thank you, sir.

Colleagues and guests that are in the Chambers, I'd like to share a quote with you today from Roma Downey. She's an Irish eminy -- eminy -- an Irish-nominated actress -- Emmy-nominated actress and producer and author of inspirational content for the last 25 years. Her inspirational words for us today, *The redemption of our losses doesn't make the pain go away; it doesn't mean the loss didn't happen. But it does mean that even in the darkest moments there can be light again.* Again, these words from Roma Downey.

Mr. Speaker, our colleagues have on their desks a main Calendar and a debate list. After you have done any introductions or housekeeping we're going to take up Calendar Resolutions on Page 3. Then we will take up the following bills on debate. We're going to start with Calendar No. 201 by Ms. Solages, followed by Calendar No. 94 by Mr. Epstein, Calendar No. 110 by Ms. Paulin, Calendar No. 166 by Ms. Glick, Calendar No. 306 by Mr. Vanel, and Calendar No. 2 -- 324 by Ms. Glick. Again, Mr. Speaker, there may be a need for additional floor activity or conference needs as we proceed, but right now that's the general outline of where we're going, sir. If you have introductions or housekeeping, now would be a

great time.

Thank you, sir.

ACTING SPEAKER AUBRY: Thank you. We do have some housekeeping.

On a motion by Mr. Carroll, Page 12, Calendar No. 93, Bill No. 3499-A, the amendments are received and adopted.

On a motion by Mr. Gibbs, Page 28, Calendar No. 363, Bill No. A.860-A, the bill is amended as of A.860.

For the purposes of a introduction, Mr. Durso.

MR. DURSO: Thank you, Mr. Speaker, and welcome everybody to today's proceedings. Today I'm joined by my niece, Rory. Rory, can stand up. Rory is here today visiting our Chamber for the first time. I even know her -- both her parents were staffers one time here in the Assembly and Senate. Rory is my niece and also the niece of our member Taylor Darling. We'll explain that at another time.

(Laughter)

But Rory has been welcomed to our Chamber today and she's been walking around, meeting some of the members and she's very excited. Rory wants to be a schoolteacher in the future and also run for president.

So Mr. Speaker, if you could welcome our niece Rory to the Chambers today and give her all the cordialities of the floor, I would appreciate it, sir.

ACTING SPEAKER AUBRY: Certainly. On behalf

of Mr. Durso and Ms. Darling, the Speaker and all the members, we welcome you, Rory, here to the New York State Assembly, extend to you the privileges of the floor. As -- as a family member you always have privileges here. We hope to see you a lot over your time, and hopefully one day maybe here in a more professional capacity. Thank you for joining us. It's been a pleasure having you. Thank you.

(Applause)

We'll go to Resolutions on Page 3, Assembly 1065, the Clerk will read.

THE CLERK: Assembly Resolution No. 1065, Mr. Palmesano.

Legislative Resolution memorializing Governor Kathy Hochul to proclaim April 2024 as Organ and Tissue Donation Awareness Month in the State of New York, in conjunction with the observance of National Donate Life Month.

ACTING SPEAKER AUBRY: Mr. Palmesano on the resolution.

MR. PALMESANO: Yes, Mr. Speaker and my colleagues. I appreciate the opportunity to speak on this important resolution. As we know, every year in April we pass this resolution in conjunction with National Donate -- Donate Life Month. It's been a privilege for me to help lead this resolution with our Majority Leader over the past several years, I appreciate that very -- very much. But from 1992 to 2012, our former colleague and friend Jim Conte introduced and led this resolution on the floor. Those of you that did

not know Jim, he was a two-time kidney transplant recipient, a great human being, and a staunch and tireless advocate for the issue to promote organ donation awareness. Jim sat right in front of me here where Mr. Goodell sits. He was our Floor Leader, but he was also the heart and soul of our Conference. Unfortunately in 2012 we lost Jim. And although his passing left a hole in the heart of this Chamber, his memory and mission to promote organ donation awareness lives on. And it's incumbent upon us, each and every one of us, to carry on this important mission and message, because it is literally about saving lives.

Now, when Jim spoke about this issue, he spoke about it with emotion, he spoke about it with passion, and he spoke about the facts. So let me share some of the facts with all of us here in the Chamber today to give us some perspective. Nationally, right now we have 103,000 people waiting for an organ transplant. But right here in New York State, we have nearly 8,000 New Yorkers waiting for an organ transplant. Nearly 1,100 have been waiting for more than five years. We have 52 registries across our country and territories; New York is number 50 out of 52. We are ahead of Puerto Rico and New Jersey. The National Donation Registry is -- the rate is 40 -- or 64 percent, but New York is 50 at 47 percent. In New York we have the third-highest need for organ donors, but the third-worst organ donor enrollment rate. Last year, unfortunately we lost 400 New Yorkers waiting for a lifesaving organ transplant.

Mr. Speaker and my colleagues, this is unacceptable.

We can and we must do better. But when you want to talk about stats and -- and facts, this is probably the single-most important stat that you should know: A single person who donates at the time of their death can save up to eight lives and improve the lives of 75 others through eye and tissue donation. Again, one more time, a single person who donates at the time of their death can save up to eight lives and impact the lives of 75 others.

You know, I know this issue has touched many members of our Assembly family over the years and their families. Some are still serving in the Chamber, some are not. If you are, I definitely would encourage you to share your story if you're able to do so and want to, because the more we talk about it, the more we share our stories, the more we connect, the more we educate and the more we will continue to change these numbers for the positive. But I would like to just speak about some of the members who are no longer serving in this Chamber that I think it's important to know about.

A little over 32 years ago on this very Assembly floor on March 25, 1992, former Assemblyman Bill Hoyt suffered a heart attack and died. And we didn't know -- I guess my understanding to that very day, he was awaiting a heart transplant. His son Sam who succeeded him took that issue and continued to promote organ donation and tissue awareness for -- for years. Our former colleague Assemblyman Richard Brodsky, his daughter Willie received a kidney from his wife and he became a staunch advocate for the issue of organ donation. Unfortunately, our colleague Mr. Brodsky passed away in

2020. Our former colleague Felix Ortiz, the sponsor of Lauren's Law, became involved when his mother was in need of a kidney transplant, and Mr. Ortiz also led this resolution on the floor as well. So a lot of history. For me personally, Mr. Speaker and my colleagues, when I talk about this issue it's personal. I talk about my sister Teresa. My sister Teresa was a juvenile diabetic diagnosed at the age of 13. This disease ravaged her body over her lifetime and needed a new --new organs. So she had an organ -- a kidney -- a pancreas transplant in 2000 from the kindness of a stranger, and then in 2006 I had the privilege and opportunity to donate a kidney to my sister.

Unfortunately, my sister passed away in 2013. It wasn't because of the kidney, it was because of the juvenile diabetes and how it ravaged her body. But Mr. Speaker and my colleagues, I realized my sister Teresa was the lucky one. She had two transplants. I did not realize how terrible the numbers were until I stepped on the floor of the Assembly here in 2011. I have seen firsthand how organ donation can impact the families' quality of life and how it can save lives. But the good news, Mr. Speaker and my colleagues, we have made significant progress since 2011. We have helped bring more awareness and education and progress. When I used to talk about this issue back in 2011 and '12, I was talking about an organ donation rate for the State at 23 percent instead of where we are now at 47 percent. Instead of talking about nearly 8,000 New Yorkers, I was talking about more than 10,000 New Yorkers on the wait list. Instead of talking about 1,100 people waiting for five years, I was talking about 1,700 New

Yorkers waiting for five years. And then we passed Lauren's Law, named after Lauren Shields, the heroic 12-year-old who had a lifesaving heart transplant and then just -- not just lend her name, but she lent her face and powerful voice and became a fierce advocate for organ donation, which now when you go in to get your driver's license they ask you the question, *Do you want to be an organ donor*, you have to either answer yes or skip the question. You don't have to say yes, but you have to answer the question. In 2015 we allowed 16- and 17-year-olds to register (inaudible) become an organ donor. And personally, as a father I'll never forget when my -- my daughter and son came home with their -- their permits, and on that it said "organ donor." We didn't really discuss it, they did it on their own. And then several years ago in 2017, we made a substantial step when we activated and created an online organ donor registry. You just answer a few questions and you can be registered to be an organ donor.

So yes, Mr. Speaker and my colleagues, we have made progress, but we can still do more and must do a better job. And I understand when you think about this issue, we're thinking about one's own death so it might be paused. But I would say to you, you heard those numbers we talked about. What if it was your mom or dad, your brother or sister, your husband or wife, or God forbid, your son or daughter and they were in need of a lifesaving organ transplant? Maybe you might think about this issue a little differently.

You know, we pass a lot of bills in this House, some good, some not so bad, but this is an issue we should all wrap our

arms around because it actually saves lives. It doesn't require a lot of money, it doesn't require a lot of passing of bills. But it does require a commitment on our part to advocate, educate and promote awareness and education to people about the importance of being an organ donor. You may say, *What can I do?* If you're not an organ donor already, become an organ donor and register. Use your social media, your Facebook areas to promote organ donation. Put a link on your website. Partner with Donate Life and get those opportunities. We can get this question in front of more and more people. The more we put that question in front of people, they will say yes. People are generous and good if we get them. And we should put it on every form that we have in New York State. You know, when people are filing taxes we should ask the question. Any interaction the State has with New Yorkers, we should be asking that question because the more we ask the question, the more people will say yes.

And in conclusion, Mr. Speaker and my colleagues, I appreciate your patience. Individually, no one can do as much as Jim Conte did on this issue, but collectively, as a Body, we can do much more if we work together. We can continue to move this issue forward, continue to bring attention and awareness to educate the public about how this is saving lives. And that's what Jim would want us to do, and so I ask us, let's work together, let's help improve the quality of life of our -- our families and let's save lives.

Thank you, Mr. Speaker.

ACTING SPEAKER AUBRY: Mrs. Peoples-Stokes

on the resolution.

MRS. PEOPLES-STOKES: Thank you, Mr.

Speaker. I would like to join my colleague Mr. Palesamo [sic] and thanking him, actually, for submitting this resolution on a yearly basis. And I am always pleased and honored to stand up not just to support it, but to speak every one of his words. Without repeating what he said, it is so critical that people understand the value of being an organ donor. We've talked about this before in the Chambers, Mr. Speaker. None of us are going to get out of here alive, but that doesn't mean that we need to take all of our organs with us. And so there is an opportunity that we all have currently on our driver's license, and there's probably some other places where you can actually sign up to be an organ donor. My family was grateful that someone made that decision to sign up to be an organ donor, and as a result of it my now-deceased daughter was able to live at least four -- four additional years of her life. Because he donated his organ, she was able to get a kidney that literally gave her four years of life. And so it may seem like it's, you know, a little box you check off on your license, but it's a lot more than that. You will never know how many lives that you can -- that you can make sure they have a little bit of longevity and more life in terms of being healthy if you would just check that box on your license.

Now, I -- I do want to announce that on April the 16th, Mr. Palesamo [sic] and I are hosting a big event in The Well where we're having some folks from not just the national Donate Life

Association, but the Statewide as well as hopefully DMV that will be in place. There are a lot of people who come into our building on a regular basis, into the LOB. Encourage them to stop by that location. There should be somebody there with an application where you can at that point make a decision to be a donor. There are tons of organs that are in your body that may not transcend when you transcend, but they can be used by someone else. Give that some thought and consider it. The numbers are going down, we are looking better in New York, but we're -- we're a lot better than what the numbers look like. We could do better, we should do better, and there's no reason not to.

And so I would encourage everyone to take some time. You hear all the statistics that my colleague just gave out. They're real, they're factual. All these colleagues used to work on the legislation that he talked about. I knew every single one of them. But there's always a time when it's the time to do the right thing, and the right thing to do is to make yourself an organ donor at some point in your life. You could do it while you're alive, actually. We only need two [sic] kidneys, really, to live. So there are a ton of people who are walking around now with one kidney and they're living completely safe and healthy lives. You may just want to be a kidney donor without necessarily transitioning. But if you can't get to that, at minimum we should all be a donor on our driver's license.

I will end with that and again thank Mr. Palesamo [sic] for his leadership on this and other issues. And I hope to see you all somewhere in The Well on April 16th filling out that form or

bringing someone from your office or someone from your district in to fill that form out to become an organ donor. Thank you, Mr. Speaker.

ACTING SPEAKER AUBRY: Thank you.

Mr. Smullen on the resolution.

MR. SMULLEN: Thank you, Mr. Speaker. It's truly my honor today to speak on this resolution. I'm very proud to support Organ and Tissue Donor Awareness Month in the State of New York in conjunction with the Observance of National Donate Life Month. As I mentioned yesterday when we passed legislation on this topic, my wife Megan and I lost our son Alexander John Smullen, or AJ as his friends and family knew him, this past month. He passed away at Albany Medical Center on Wednesday, March 6th, right here in Albany, New York at the age of 14 following a fierce fight in the pediatric ICU after being hit by car in a tragic accident on Thursday, February 22, 2024. I'd like to thank all of the members of this Body who both visited us in the ICU, who attended his funeral, who sent cards, greetings, love and prayers for our beloved son. We listened each and every day, and one of the things that my wife and I have found solace in since his passing is this Donate Life program. You see, AJ gave the ultimate gift by participating in this lifesaving program. It's truly a non-profit program. It has organizations that health professionals, individuals in need whose lives have been affected, as you've heard. And I am forever proud of my son for participating in this program and helping save what we think at this point is five lives, five families who have been affected. We pray,

Megan and I do, each and every morning when we get up, for those families and for the lives that they've touched. And what I want to say today is that I will continue to advocate for this program, and I encourage all other local and State leaders to promote it on behalf of all New Yorkers, the 20 million of us who call New York State home. No parent ever wants to outlive their child, but if one must, then the Donate Life program is an incredible way to create some goodness out of tragedy.

I encourage everyone in this Body and to also encourage your colleagues in the Senate and the members of this Administration to help spread awareness of this program to our State. If we can spread awareness and education and promote legislation, more families like ours will hopefully be inspired to give the ultimate gift because it's truly a blessing to be able to give the gift of life to someone in need, and AJ's courage in doing so cannot be overstated.

I want to commend Assemblymember Palmesano for his perseverance on this issue, the Majority Leader for her steadfast leadership on this issue, and ask all of you to join me in our mission to update the Donate Life program for New York State.

Thank you.

(Applause)

ACTING SPEAKER AUBRY: Mr. Ari Brown on the resolution.

MR. A. BROWN: Thank you, Mr. Speaker. I want to thank Assemblymember Palmesano, certainly the Majority Leader

and our heroes, Megan, the Colonel and AJ for being the best emissaries for this issue. The Jewish people have survived intact more than any other group because we're -- we've left everything unchanged; our customs, our speech, mannerisms. I could speak to Moses if he were alive today, I could speak to Jesus in normal tongue. No other race, religion or creed can do that. We don't change our customs. So when I was a kid and they said, *Well, there's no such thing as organ donation* because they had this thing called (speaking foreign language), you have to come back with all of your organs. I said, *Really? God can't figure out a way if he's bringing us back anyway? Just throw me back whatever it is I'm missing.* Luckily, this is the one thing that actually changed. I always gave blood since I was 18 or 20, whatever it was, 18 years old, and I'm in the few gallon or 100-gallon mark, whatever it is. I had a friend a number of years ago who needed a kidney. I tested, I didn't match, and I kept testing over the years. I think it was October or September I got a call, *Mr. Brown, you're a match.* I said, *Great, let's do it because I got to get to Albany.* So December 11th I donated a kidney, and it turned out it was for another grandfather and a Purple Heart veteran, and we met. They said, *No, you've got to wait to meet.* I said, *You know, the grandfathers are gonna to meet. Forget about what your protocol is.* And I said to him one important thing, I said, *You better live forever, if not I'm gonna kill ya.*

(Laughter)

So I said, *Now that you have three kidneys and I have*

one, you know, make good use of it. Immediately when they transplanted he lit up and his wife said, *We have a life.* Imagine being hooked up several times a week to a machine for hours a day, there is no life at all. And I will tell everybody, I'm looking around the room, it's easy. I was out in less than 36 hours; yes, that was a record, but nevertheless, a little shoulder pain. Guys, this is really the simplest thing to do. I'm healthy, and thank God I see no adverse effects. I actually am benching, like, a little more, almost a little over three plates on each side. Do it, organ donation.

Thank you, sponsor, for -- for bringing this resolution.

(Applause)

ACTING SPEAKER AUBRY: Thank you.

Mr. Fitzpatrick on the resolution.

MR. FITZPATRICK: Thank you, Mr. Speaker. I, too, would like to rise and thank the sponsor and the Majority Leader for their support on this issue. And I'd just like to tell a little story about a member of my staff, my Chief-of-Staff Kathy Albrecht, who responded to an article in our local newspaper about a young girl suffering from a very rare disorder that caused her kidneys basically to die, and five people responded to this article to offer a kidney of theirs. And as the process of qualification began, two of the five failed and were not eligible, two others had a change of heart. They change their mind, decided they didn't want to go through the process. That left Kathy as the last possible donor standing. And the family

became a little bit worried and concerned that maybe Kathy would change her mind as well, and she said to the family, *Do not worry, I'm committed to doing this to help save your daughter.* And as time went on, shortly thereafter the young girl became ill. And she recovered, but they could not perform the transplant for 90 days. The young girl had to be healthy for at least 90 days before they could do the transplant. Again, the family became a little concerned that Kathy might change her mind. Kathy said, *Relax, I'm committed. I will donate my kidney to your daughter for however long it takes.* That time came, Kathy donated her kidney. She bounced back like Ari, 36 hours she was back on her feet, had none of the symptoms that can possibly happen to a live donor. She was back at work in a couple of days like nothing ever happened. That young girl lived for a number of years, she has since passed away, unfortunately. But she was given extra life because of the generosity of Kathy Albrecht, my Chief-of-Staff. Because of what Kathy did, her husband Dave, a retired NYPD officer, decided to donate a kidney of his to a stranger. *Just take one, I'm happy to give it to anyone who can use it.* I signed the back of my license and happily became a potential donor myself.

So, this is a wonderful program. I'm very proud of Kathy and Dave and everyone who has donated a kidney or has signed up. It's not a hard thing to do, we should all do it. And saving a life, it's -- it's worth every effort. So thank you, Mr. Speaker. And please sign up, everybody. Let's -- let's make this happen. New York should be number one, not number 50 or at the bottom of the heap in terms of

donation here. Thank you.

ACTING SPEAKER AUBRY: Thank you.

Mr. Goodell on the resolution.

MR. GOODELL: Thank you, sir. We've heard from several people that have been personally affected in multiple ways by giving a gift of life, and that's what organ donation is about. It's about a gift of life. You know, we as a society sometimes, we'll get together and we'll celebrate a hero. Now, somebody that showed up at an accident and saved somebody's life or was a first responder and ran into a building facing danger. But there are other heroes in this world. And a real hero in this world is someone who saves somebody else's life, and that's what organ donation is about. It's about giving the gift of life. I offered to give part of my liver to a neighbor who was very sick. I was rejected. It's not easy being rejected, and unlike Ari I didn't have the fortitude to keep trying. Ari, congratulations. My daughter donated a kidney to a classmate. Allowed that classmate to live a normal life. My cousin Ann, a very beautiful, vivacious young woman, was on vacation in Florida with her family, 56 years old, had a brain aneurysm, died on the spot in the hotel room with her family. You can imagine the devastation. Three young kids, a husband. But Ann had made the decision in advance to be an organ donor. So, you know, they kept her on life support until they made all the arrangements. And when I say it's a gift of life, it's a gift that keeps giving. Because that family got letters from all the people who got organs from Ann whose lives were forever changed. And what a

blessing to the family, as it will be for our Assemblymen colleagues.

So we all have an opportunity to be heroes. We all have an opportunity to change someone's life in an incredibly important and meaningful manner. So thank you to my colleagues on both sides of the aisle for their recognition of how incredibly important it is to be an organ donor.

Thank you, Mr. Speaker.

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. 1066, Mr. Cunningham.

Legislative Resolution memorializing Governor Kathy Hochul to proclaim February 7, 2024, St. Vincent Flag Day in the State of New York.

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

THE CLERK: Assembly Resolution No. 1067, Mr. Brabenec.

Legislative Resolution memorializing Governor Kathy Hochul to proclaim August 21, 2024, as Onion Appreciation Day in the State of New York.

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

adopted.

THE CLERK: Assembly Resolution No. 1068, Ms. Seawright.

Legislative Resolution memorializing Governor Kathy Hochul to proclaim April 2024, as Autism and Neurodivergence Awareness Month in the State of New York.

ACTING SPEAKER AUBRY: Ms. Seawright on the resolution.

MS. SEAWRIGHT: Thank you, Mr. Speaker. As Chair of the People with Disabilities Committee, I rise to speak about the importance of this resolution proclaiming the month of April as Autism and Neurodivergence Awareness Month in the State of New York. Neurodiversity [sic] Awareness Month is a time to challenge stereotypes and misconceptions about our neurological differences. The neurodiversity movement was launched by a woman named Judy Singer, an Australian sociologist who herself is on the autism spectrum. Singer saw neurodiversity as a social justice movement to promote equality of what she called "neurological minorities", people whose brains work in atypical ways. Another woman, Temple Grandin, a Ph.D scholar with autism, will be the SUNY State University of New York at Cobleskill commencement speaker and receiving an honorary doctorate. Her life story is playing on national TV right now, documenting the advancements that she has made in the agricultural field. All of us probably know and love someone with autism or who is neurodivergent. About 1 in 36 children have been

identified with Autism Spectrum Disorder, ASD. Thirty-one percent of children with Autism Spectrum Disorder also have an intellectual disability. Fifteen to 20 percent of the population is neurodivergent. Several recognized types of neurodivergence include autism, Asperger's Syndrome, dyslexia, dyscalculia, epilepsy, hypolexia, dyspraxia, ADHD, obsessive-compulsive disorder and Tourette Syndrome. Individuals with autism who are neurodiverse often have unique perspectives and ways of thinking that they can lead to breakthroughs in science, technology and other fields, such as Temple Grandin, whose breakthrough led to the humane treatment of slaughter houses.

It is important to recognize and work to respond to the needs of this vibrant population. We must all resolve to embrace our differences and make social spaces and fields inclusive of all. I cast my vote in the affirmative. Thank you.

ACTING SPEAKER AUBRY: Thank you.

On the resolution -- oh, I'm sorry. Mr. Santabarbara on the resolution.

MR. SANTABARBARA: Thank you, Mr. Speaker. I rise to support this resolution. As a State Legislator and a father of a son with autism, I want to thank the sponsor for bringing it forward and giving us an opportunity to recognize its meaning. Autism and neurodivergence are not merely abstract concepts, they are integral parts of our community affecting countless lives. We acknowledge this month of recognition and understand neurodivergence

encompasses a spectrum of conditions, including autism, dyslexia, ADHD and more. Each individual on the spectrum possesses unique abilities and challenges, deserving acceptance and support. Moreover, the disparities and diagnosis and access to resources among different demographics as highlighted by the CDC, deserve -- demand our attention and action. Too often, early signs of autism are overlooked or misunderstood, leading to delayed intervention and support. We must also recognize that autism is not solely defined by its challenges, it's part of a person's identity, enriching our communities with diverse perspectives and talents.

So by passing this resolution here today proclaiming April 2024 as Autism and Neurodivergence Awareness Month, we affirm our commitment to fostering inclusive communities where every individual, regardless of neurodiversity, can thrive. Together, let's advocate for greater understanding and acceptance, and support for those on the spectrum, ensuring they have the resources and the opportunities they deserve. Thank you, Mr. Speaker.

ACTING SPEAKER AUBRY: Thank you, sir.

Mr. Dais on the resolution.

MR. DAIS: My support for the resolution is for who I call my nephew, Noel. One of my best friend's sons was nonverbal from a young age. Their parents got the services to ensure that he could have a more productive life. Something I'm proud of being a New Yorker, we do a good job, better than most states, in providing resources for families that have children that are dealing with autism

or neurodivergence. We have to continue this support of our New Yorkers, to the families, to make sure they have access to the resources that will allow them to continue to provide -- I mean, to provide resources for their children so they can thrive. We have to understand the difficulties that parents face when they have children with autism, and when we do our legislation and when we think about what we care about in our budget and all the other legislative agendas, make sure we keep them in mind.

The one quick story I'll tell about Noel, he saw me from over 200 yards away in my car coming opposite ways. He got really excited and his dad wouldn't figure out why he was getting excited in his car seat. He had this amazing vision, and he could see -- and he could see me from across the way. His smile, how he lit up, I've seen it because I always gave him a big hug, treated him with a certain amount of respect because I realized he is special. I understand that the parents go through something so serious when they're dealing with this.

So I appreciate the resolution -- appreciate the resolution and I'm voting in the affirmative. Thank you.

ACTING SPEAKER AUBRY: Thank you.

Ms. Giglio.

MS. GIGLIO: Thank you, Mr. Speaker. I thank the sponsor for putting up this resolution, it's a very important resolution. And I'd just like to say that budgets are about priorities. And the DSPs, direct service professionals who take care of many people

throughout the State who have intellectual and developmental disabilities including autism and neurodivergence are really becoming scarce throughout the State. There is a shortage. I -- I want you to all recognize everybody that was here today with the movement to support our direct service professionals, our nurses, the people that cook in -- in these homes and in people's homes. It's a very special community, and like I said, priority -- budgets are a priority statement from the State. And I'm hoping that we can find consensus between the Assembly one-House and the Senate one-House to provide not only the COLA, but wage enhancements for the people that take care of people who have intellectual and developmental disabilities.

Thank you, Mr. Speaker.

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

THE CLERK: Assembly Resolution No. 1069, Ms. Solages.

Legislative Resolution memorializing Governor Kathy Hochul to proclaim April 2024, as Cesarean Awareness Month in the State of New York.

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

THE CLERK: Assembly Resolution No. 1070, Mr. Smith.

Legislative Resolution memorializing Governor Kathy Hochul to proclaim April 2024, as Mathematic -- Mathematics and Statistics Awareness Month in the State of New York.

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

We'll go to Page 22, Calendar No. 201, the Clerk will read.

THE CLERK: Assembly No. A07167, Calendar No. 201, Solages. An act to amend the Personal Property Law, in relation to prohibiting certain provisions in retail lease agreements.

ACTING SPEAKER AUBRY: Ms. Solages, a explanation has been requested.

And will we please, members, take your seats. We need a little quiet. If you have conversations, take them outside the Chamber.

Ms. Solages, proceed.

MS. SOLAGES: Thank you, Mr. Speaker. This bill would bar certain fees at the expiration of a motor vehicle lease. Fees that would be barred are levied solely for administrative, handling or clerical purposes. This bill would not bar fees levied if the driver exceeds contractual mileage allotment nor fees associated with damage done to the vehicle beyond normal wear and tear. So we're just tackling junk fees when it comes to returning vehicles upon lease expiration.

ACTING SPEAKER AUBRY: Mr. Goodell.

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

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

MS. SOLAGES: Yes.

ACTING SPEAKER AUBRY: Ms. Solages yields, sir.

MR. GOODELL: Thank you, Ms. Solages. I first want to get an understanding of what's covered or not covered by this bill.

MS. SOLAGES: Mm-hmm.

MR. GOODELL: So, if the vehicle is returned and it's empty, can the dealer charge to refill the vehicle with gas?

MS. SOLAGES: So, what we're doing is tackling administrative fees, handling fees and clerical fees. So if it's not clerical -- like, if it's not dealing with any of those three sections, then they can't charge those fees.

MR. GOODELL: So they could, then, charge to refill it --

MS. SOLAGES: That would be considered a junk fee.

MR. GOODELL: I'm sorry?

MS. SOLAGES: That would be considered a junk fee.

MR. GOODELL: A just fee.

MS. SOLAGES: Junk. A junk fee.

MR. GOODELL: What about cleaning the car? You know, vacuuming it out, detailing it, washing it, waxing it.

MS. SOLAGES: So many of these dealerships incorporate that when you negotiate, so it's in the -- in the, you know, the price of the lease when you go upon the negotiation of it. So that -- if they're charging a fee after the fact, that is -- that would be encompassed of the bill so they cannot charge an extra fee.

MR. GOODELL: So they would not be able to charge for cleaning, detailing it, waxing it, getting it ready for re-leasing or resale, correct?

MS. SOLAGES: So, that would be incorporated in the cost of -- of leasing the car. So if -- if they're doing it after the fact, that would -- that would be a fee that they can't levy.

MR. GOODELL: Now, one of the fees that's often levied at the end as I understand it is the cost of -- of relocating the vehicle.

MS. SOLAGES: Mm-hmm, commonly known as a destination fee.

MR. GOODELL: Yes. And is that prohibited by this bill?

MS. SOLAGES: That would be prohibited by this bill.

MR. GOODELL: What about the storage, temporary

storage of the vehicle? I mean, you bring it on Monday, even if the dealer doesn't call -- charge you the cost of relocating it, they may have to store it temporarily until it can be moved somewhere else. Is the temporary storage fee included or not included?

MS. SOLAGES: So, you know, we're talking about the different fees. So this bill would simply prohibit charging a turn-in fee or any sort of fee, a handling fee, administrative fee, when you turn in the motor vehicle at the end of the lease. And we see that this is a common thing that does happen. Just recently, the -- the Attorney General opened up an investigation on Nissan dealerships in New York City and Long Island, and they found that the dealerships were adding all these administrative dealership fees at the end, sometimes overcharging individuals \$7,000 -- \$7,000 to \$18,000 in the -- in the invoice after the fact. So these customers were unaware of that lease fees were happening. And so it's not fair when we're talking about the -- when consumers are lured into a promise of a low price, but at the end of the lease all of a sudden these fees are being added and levied onto the consumer.

MR. GOODELL: Now, I --

MS. SOLAGES: And so in this bill we're trying to make sure that especially as we're suffering an affordability crisis, we want to get rid of the -- the junk fees that they're -- they're dealing with and make our economy more transparent. Just saying that, you know, all this should be incorporated at the beginning into the price of the car, into the price of the lease, so that consumers are well aware

that this is coming through. And so adding these fees at the end without having the conversation with the consumer is -- is unexpected and unnecessary, unfair to the consumer.

MR. GOODELL: Now, you mentioned the Attorney General is initiating an investigation, which leads me to conclude that unfair fees that are unjustified by the contract are already prohibited, otherwise the Attorney General wouldn't be investigating it, correct?

MS. SOLAGES: So, many of these fees, like for example, you know, I'm a person who likes to lease cars, and so many of these administrative fees, you know, cleanup fees are actually, you know, they -- they exempt them. They get rid of the fees if you sign up for another lease.

MR. GOODELL: Right, but the Attorney General is only looking at fees that violate current law, correct?

MS. SOLAGES: So, they were -- they weren't looking -- they did an investigation on them and they were looking at -- they -- they were doing the investigation because there were reports of overcharging consumers and giving them inaccurate receipts. So they were --

MR. GOODELL: Maybe I'm not being clear in my question. Am I correct that overcharging and other abuses that the Attorney General were investigating are already barred under current law, correct?

MS. SOLAGES: Yes.

MR. GOODELL: Okay.

MS. SOLAGES: So, we did pass some type of legislation here -- let me look at my notes right here. So, we adopted the New York State Motor Vehicle Leasing Act, and so there was language that said that there cannot be, you know, you know, extensive or -- sorry, excuse me. There -- that certain expenses could not be levied, but we still see that happening so we want to make sure that we're clarifying the law so that we have transparency for our consumers.

MR. GOODELL: When you talk about the transparency, the 1994 Motor Vehicle Leasing Act does require all turn-in fees to be described in detail in the contract now, correct?

MS. SOLAGES: It does say that, yes.

MR. GOODELL: Now, does Pennsylvania or Connecticut or New Jersey bar turn-in fees?

MS. SOLAGES: And so this -- this -- I understand, but at the end of the day we're talking about New York State and consumers --

MR. GOODELL: No, I understand --

MS. SOLAGES: -- are purchasing cars in New York State.

MR. GOODELL: I'm sorry, my question was, do you know whether Pennsylvania, New Jersey or Connecticut impose these types of fees or bar those fees?

MS. SOLAGES: So, I don't have research, but my work as a New York State Legislator, my concern is for current New

Yorkers right now --

MR. GOODELL: Now, nothing in --

MS. SOLAGES: -- and making sure that New Yorkers who on average purchase cars in a local dealership in their neighborhood have transparency and accountability when it comes to purchasing a car.

MR. GOODELL: And nothing in this bill would prohibit a leasing company to take those charges that they would normally charge at the end and charge them at the beginning, correct?

MS. SOLAGES: So, this is outside of the scope of the bill. As turn-in fees -- so this is outside of the scope of the bill. Like, this bill would just allow for a clean break at the end of the lease.

MR. GOODELL: Gotcha. Thank you very much. I appreciate your comments.

MS. SOLAGES: Thank you.

MR. GOODELL: On the bill, sir.

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

MR. GOODELL: So, right now and for the last 30 years, since 1994 with the Motor Vehicle Leasing Act, all of the charges that you're going to incur when you lease a vehicle must by law be fair and reasonable and detailed in the lease agreement. The lease agreement you sign right upfront. And some of the bills that you're charged at the end, we know you have to be charged at the end

because you don't know what they're gonna be at the beginning, such as excess mileage. You know, at the beginning if you use more mileage than you're leasing the vehicle for, then you're gonna get a charge at the end. And the condition of the vehicle. If you have a fender bender or -- or more serious accident, you know at the end you're going to be facing a fee, and those fees can't be calculated in advance. But the lease agreements, in black and white, very transparent as required by current law, allow the leasing company to charge you a turn-in fee for the cost of cleaning the vehicle, doing the title work, doing the administration that has to be done -- you know it has to be done at the end -- and doing that administrative work. Now, it's my understanding that none of our neighboring states prohibit those fees from being charged at the end. This bill would require that those fees be charged at the front end. It doesn't save the consumers any money, it just requires that the consumers put up more of their hard-earned cash at the beginning of the lease rather than at the end. And so New York leasing companies are saying, *Wait a minute. We're competing with New Jersey and Connecticut and Pennsylvania, and they're all offering leases that involve less money upfront, yet the price to the consumer is exactly at the same because we have to charge the turn-in fees upfront and they charge the turn-in fees at the end and it puts us at a competitive advantage [sic] without any benefit to the consumer.*

And so let's be clear: No one in this room supports excessive charges. No one supports charges that violate the lease

agreement. If you do that, the Attorney General correctly and properly has the authority to investigate you; can and should. So the only question in this bill is, are we gonna require New York leasing companies to charge all these expenses upfront, creating an -- an additional financial burden for anyone who is of limited income and wants to lease a -- a car, who is planning to put a little bit aside every month if they need be to pay the closing expenses? Do we wanna force everyone to put up more money upfront? And do we want to put New York leasing companies at a competitive disadvantage from all the leasing companies right across the border who allow the customer to pay less money upfront with a clear understanding that they have a year or two years or however the length of the lease is, to come up with the closing expenses? Let's let the market act properly, as we have for the last 30 years. Let the dealers give a break to the consumer so they can get into a leased car without mortgaging their house with the upfront costs.

Thank you, sir.

ACTING SPEAKER AUBRY: Mr. Novakhov.

MR. NOVAKHOV: Thank you, Mr. Speaker.

Would the sponsor yield?

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

MS. SOLAGES: Yes.

ACTING SPEAKER AUBRY: Ms. Solages yields, sir.

MR. NOVAKHOV: Thank you very much. Just one quick question. Can the -- can those payments be kind of spread and put in the monthly --

MS. SOLAGES: I'm sorry, I couldn't hear the question. Could you just speaker louder?

MR. NOVAKHOV: Yeah, sure. A quick question. Those payments that needed to be paid in the -- in the front, in the beginning of the lease, right, before the lease, can they be put into the payments of the lease to spread out for the term of the lease?

MS. SOLAGES: So, just a point of clarification. A lot of these fees are waived when you continue to lease with the dealership. So, you know, when we talk about these fees, some of these are just used to pad the, you know, the profits of the car. So, for example, I leased a car the other day and because I continue to lease with one company, they waived all these administrative fees, you know, destination fees. And so some of these fees are just nonexistent, and so this is ensuring that we're not -- we're protecting New Yorkers from these unnecessary fees. So again, the -- we're just trying to ensure that these fees are not put to the consumer.

MR. NOVAKHOV: So, Mr. Goodell just -- just mentioned that this is not about eliminating the fees, this is about putting these fees -- instead of paying the fees at the end of the lease, paying them in -- in -- before the -- the lease; is that correct? Is that true?

MS. SOLAGES: So, this would not include any

mileage overages or the condition of the car. You know, those are standard fees that will still exist.

MR. NOVAKHOV: Right.

MS. SOLAGES: This bill would just basically say that -- excuse me -- it would prohibit any retail leasing agreement from containing such fees or charge so that such a clause in the lease could not be unforeseen. So, you know, some of these fees that are just used for the dealership would -- would not be levied on New Yorkers.

MR. NOVAKHOV: In other words, administrative fees, right?

MS. SOLAGES: Exactly. Administrative fees, you know, destination fee, storage fee even though they have --

MR. NOVAKHOV: Right, right. I understand, I understand. But are we -- does this bill eliminate these fees? Does this bill --

MS. SOLAGES: Yes, it eliminates it. It prohibits those fees from being translated to New Yorkers to the consumer.

MR. NOVAKHOV: Okay. All right. Thank you so much. Thank you.

MS. SOLAGES: Thank you.

ACTING SPEAKER AUBRY: Read the last section.

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

ACTING SPEAKER AUBRY: A party vote has been requested.

Ms. Walsh.

MS. WALSH: Thank you, Mr. Speaker. The Republican Conference will generally be in the negative on this piece of legislation; however, if there are any members who wish to vote in favor, they can do so at their desks. Thank you.

ACTING SPEAKER AUBRY: Thank you.

Mrs. Peoples-Stokes.

MRS. PEOPLES-STOKES: Thank you, Mr. Speaker. The Majority Conference is generally gonna be in favor of this consumer-friendly piece of legislation; however, there may be some that would desire to be an exception, they should feel free to do so at their seats. 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.

Page 12, Calendar No. 94, the Clerk will read.

THE CLERK: Assembly No. A03703, Calendar No. 94, Epstein, Carroll, Colton, Dickens, Dilan, Glick, Hevesi, Kim, Peoples-Stokes, Pretlow, L. Rosenthal, Simon, Pheffer Amato, Seawright, Reyes, Eachus, Lee, Cunningham. An act to amend the Public Health Law, in relation to the closure of nursing homes.

ACTING SPEAKER AUBRY: An explanation is

requested, Mr. Epstein.

MR. EPSTEIN: This amends the Public Health Law, requiring a 90-day notice about intention to close nursing homes in New York State.

ACTING SPEAKER AUBRY: Mr. Jensen.

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

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

MR. EPSTEIN: Only for the insightful ones, though.

ACTING SPEAKER AUBRY: Mr. Epstein yields.

MR. JENSEN: Thank you very much, Mr. Epstein. I appreciate that very detailed explanation of the bill. In this legislation, what exactly would the update to the Public Health Law pertain to in relation to the closure? What -- what are the specifics?

MR. EPSTEIN: So right now there are some regulations in place that require -- those regulations outline a framework to close a nursing home, it doesn't require any public notice or public participation before the closure happens. This requires, one, a statutory provision, not just regulations, and within those statutory language, requires public notification and an opportunity to comment on the proposed closure before the State Health Department allows the facility to close.

MR. JENSEN: So, in the public participation process of -- of your legislation, who would be notified of an impending

closure of a nursing home?

MR. EPSTEIN: Yeah, so the -- the people who would be notified are local community boards, local elected officials, and people who might be interested in the process, and might result in a public hearing as well.

MR. JENSEN: So it just would be notification to certain elected officials, not the public at-large?

MR. EPSTEIN: Well, it could -- it could happen to both. The bill requires notification to elected officials, and the elected officials could then notice the public at-large. They could also put it on their website if they're notifying the public at-large. But there isn't a mechanism that we're -- we're not requiring a hearing, which might be (inaudible) to the larger public, but it is -- once it gets notice out there, it'll get to the public at-large if they are interested in the issue.

MR. JENSEN: So I -- I know in the legislation it specifically outlines certain elected officials who would have to be notified, and correct me if I'm wrong. But it is the -- the local Chief Executive Officer, so the Mayor if in New York City or the county executive. If outside of New York City, the presiding officer of the county legislative Body, and if in New York City, the community board, correct?

MR. EPSTEIN: Those are -- those are the individuals that would notify as well as other local elected officials.

MR. JENSEN: Okay. Do any of those entities or elected officials have a statutory role through the Department of

Health in the potential closure of a nursing home?

MR. EPSTEIN: When you say "statutory role," what

--

MR. JENSEN: Do they have any say in whether or not a nursing home can close?

MR. EPSTEIN: I think every elected official has a say to whether --

MR. JENSEN: That's --

MR. EPSTEIN: -- the State Health Department will take guidance from us in making a determination about whether a facility should close.

MR. JENSEN: But under existing New York State law, does -- do they have any official role in the determination by the Health Commissioner or the Department of Health whether or not a nursing home can close?

MR. EPSTEIN: Is your question about whether they have a vote?

MR. JENSEN: No. What -- are they the ones making the determination whether or not there's a closure?

MR. EPSTEIN: No, the State Health Department will make the -- will be the sole entity that will make the determination whether it can close or not.

MR. JENSEN: Is -- is there any existing current state law or current Department of Health regulation that prohibits any elected official or community member -- member from voicing their

opinion to their local elected officials at the State level or the Department of Health on the potential closure of a nursing home?

MR. EPSTEIN: Well, I guess if they didn't know a nursing home would be closing, how would they know to comment? So the -- the law doesn't exist now, and the regulations don't require public notice, it just requires that -- that the nursing home that asked that it be closed give a 90-day window and then potentially close.

MR. JENSEN: Well, the people most directly impacted by the closure of a nursing home would be the residents of a nursing home. And under existing -- as you mentioned in your -- my initial -- answer to my initial question, is under State Health regulations there's already a 90-day notice that has to be furnished, including to the residents of a potential -- to-be-closed nursing home so that the people in a community most directly impacted, the residents and their family members, are already being notified under existing State Health regs. So my question is, is that I -- the -- the further mandated notification to community stakeholders, while important, isn't necessary because if there's gonna be a crisis to come, certainly that's gonna be known to the community at-large, as we've seen time and time again when nursing homes are being proposed to be closed. It seems as if a lot of the mandated updates to the Public Health Law are already contained in existing Department of Health regulations as it pertains to notification and ensuring safe discharge to other facilities for residents. Am I incorrect in that assumption?

MR. EPSTEIN: I'm not sure there was a question

there.

MR. JENSEN: There was, and it was really me ranting a little bit with a question just to make sure that I didn't get admonished by the Speaker.

MR. EPSTEIN: So if the question is, is the notification sufficient as it exists today I would say no.

MR. JENSEN: So -- so you don't think that the notification that's already under -- under -- being done by the Department of Health and the nursing homes to the residents and their family members is robust enough? You think it has to go a step further?

MR. EPSTEIN: Yeah. I -- an example, a nursing home that was closed down by me in -- in my part of the City, we found out after because the residents who were -- who were living there were -- they didn't have as much agency as other people in the community, so they didn't know the process to go through to get connected to the elected officials and we found out that process afterwards. And so we realized that they had approved the closure before we even got involved. This is an attempt to get people in front of the issue to be able to either preserve the nursing home or to kind of preserve the building to make sure that other non-profit uses are available.

MR. JENSEN: So in a situation with a possible closure, when you have this -- this notification that would take place under the terms of this -- this legislation, do you have a concern that

individuals, whether local elected officials or the community at-large, who may not have the understanding of Public Health Law or State Health regulations like you and I, it may exacerbate public panic because they don't understand all the requirements under State law which would be in place if this passed or what's currently in place under State Health regulations. Do you have a concern that that could cause undue panic because of confusion and the lack of knowledge?

MR. EPSTEIN: So, I don't think providing more notice to people about a nursing home that might close would create panic. It would create an opportunity to educate people in the community about the risk of potential closure and give those people in the community, as well as the residents who live there, an opportunity to seek alternative opportunities if they keep the facility open, transfer it to a new non-profit or continue to work with that facility to figure out what's causing the potential closure and maybe help turn that situation around.

MR. JENSEN: So in the legislation it says that this -- the entities that are alerted, the county executive/Mayor, the presiding officer of the legislative Body or the community board, if they believe that the closure is being done by -- because of something other than the health and safety of the residents, they have 45 days to convene a public hearing to pass on their viewpoint or their recommendations to the Department of Health. How would any of those entities know whether or not it's based on the health and safety of residents or because of financial reasons?

MR. EPSTEIN: So, they would be in communication with people who work there or reside there, like we do with other facilities, like we do with potential hospital closings or closing of units, to learn what the issues are and then make sure that we are educating people at the State Health Department about our concerns that -- to keep it open or not keep it open. Maybe we want it to close because it's -- the facility needs to close or maybe we want to keep it open, and these are the reasons why because we will then have gathered the information that maybe is not being provided directly to the State Health Department by the entity that's trying to close the facility.

MR. JENSEN: But if a facility is closing because of financial instability, whether or not a public hearing is held or a community believes that, no, no this -- this nursing home should stay open, it's -- it's not like all the community members are gonna say, *No, no, we're gonna to put up money or create a special tax district to fund the financial shortfall.* Because that's the financial reality that the community would have no ability to correct, and the recommendations to stay open would be non-viable because of our outdated reimbursement model through the Medicaid process, which is what causes most of the financial struggles that our nursing homes, non-profit and for-profit and county-owned and operated, are currently facing. So I guess --

MR. EPSTEIN: I would just say in response to that, that's exactly what happened down by me, where they -- we found out

after the fact that the facility was closing, the community rallied around the -- the facility to try to keep that nursing home around. We found another provider, Mount Sinai, to open up a long-term care facility in that site. The ribbon cutting for that new location happened last year. And it was really -- it was the community's response to say, *Okay, we need to keep this building in that -- in the neighborhood, and if we had known before the State Health Department was acting, we could have prevented this. But now we are working to rally behind it to kind of make sure that this care that's needed in our community continues to happen.*

MR. JENSEN: So, in that story I think that's great that the community came together and helped. But you're -- you're kind of proving my point in the fact that your community was able to do all that without this legislation becoming law. So I think the example that you bring up shows that the current State Health regulations in place already provide enough ability to effect a possible closure, and that this law is not necessary.

So I appreciate your answers to my questions and for sharing your story from your community about how you were able to effect that without a law being in place. So thank you, Mr. Epstein; thank you, Mr. Speaker.

ACTING SPEAKER AUBRY: Read the last section.

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

ACTING SPEAKER AUBRY: A party vote has been requested.

Ms. Walsh.

MS. WALSH: Thank you, Mr. Speaker. The Republican Conference will generally be in the negative on this piece of legislation. If there are members who wish to vote in the affirmative they may do so at their desks. Thank you.

ACTING SPEAKER AUBRY: Thank you.

Ms. Solages.

MS. SOLAGES: The Majority Conference will be voting in the affirmative, and those members who wish to vote in the negative can do so now at their desk.

ACTING SPEAKER AUBRY: Thank you.

The Clerk will record the vote.

(The Clerk recorded the vote.)

Mr. Epstein to explain his vote.

MR. EPSTEIN: Thank you, Mr. Speaker. I rise to explain my vote. So, right now in State law there are no provisions that oversee the closing of nursing homes. And like other facilities -- I think we talked about a hospital closing bill just yesterday -- it would really require a robust community oversight to ensure that the best interests of the neighborhood and the needs of that community are taken into account. This bill just makes sure that there's legislation in place that requires nursing homes that go through a process with the State Department of Health, and that there's community input in that process to assure that the neighbors knows what's happening and can act accordingly and can provide information directly to the State

Department of Health. This would just create a system and structure in place that doesn't exist now. I encourage my colleagues to vote in favor of this bill because I think it's really important for neighbors to have influence and prevent these tragedies from happening in closings that may be unnecessary for those neighborhoods.

I'm voting in the affirmative.

ACTING SPEAKER AUBRY: Mr. Epstein in the affirmative.

Mr. Burdick to explain his vote.

MR. BURDICK: Thank you, Mr. Speaker. I want to commend the sponsor for bringing this bill, and in the debate that we just heard he outlined the reasons why this can be very helpful. Because if the community learns about a possible closure, they can take action before that closure actually occurs and possibly find a solution to prevent that closure, all in the benefit to the community itself. And so this is a very simple procedure that can have a profound benefit to the community which that nursing home would serve.

I vote in the affirmative. Thank you.

ACTING SPEAKER AUBRY: Mr. Burdick in the affirmative.

Are there any other votes? Announce the results.

(The Clerk announced the results.)

The bill is passed.

Page 14, Calendar No. 110, the Clerk will read.

THE CLERK: Assembly No. A04060-A, Calendar

No. 110, Paulin, González-Rojas, Ardila, Bores, Burdick, Burgos, Colton, Gallagher, Lavine, Lee, Levenberg, Magnarelli, Raga, Rivera, Rozic, Shimsky, Simon, Stirpe, McDonough, Forrest, Kelles, De Los Santos, Seawright, Darling. An act to amend the Public Health Law, in relation to requiring menstrual products in public colleges and universities.

ACTING SPEAKER AUBRY: Read the last section.

THE CLERK: This act shall take effect immediately.

ACTING SPEAKER AUBRY: A party vote has been requested.

Mr. Goodell.

MR. GOODELL: Thank you. The Republican Conference is generally opposed to this legislation for the reasons I hope to be able to explain in a few minutes. But those who find my explanation unconvincing should vote yes.

ACTING SPEAKER AUBRY: Ms. Solages.

MS. SOLAGES: The Majority Conference will be voting in the affirmative. Those -- those members who wish to vote in the negative can do so now.

ACTING SPEAKER AUBRY: Thank you both.

The Clerk will record the vote.

(The Clerk recorded the vote.)

Mr. Goodell to explain his vote.

MR. GOODELL: Thank you. Thank you, sir. This bill is very simple. It provides that we, by law, would mandate that all

public colleges and universities provide menstrual products for free. I have three daughters. Our household covered their costs of personal care products, but once they went to college we thought it was time for them to pick up the cost of their own personal care products. So the question is at what point do we expect college students to be responsible for their own cost of personal care products? This bill says not until you graduate from college. And in the meantime, this bill would require every single resident in the State of New York that pays taxes to pay so that personal care products are, quote, at your expense rather than at the expense of the person who's in college who doesn't want to pay for their own personal care products. There comes a time when we become young adults and assume the responsibility for paying for our own personal care products, and I think college is a good time to start that process and stop asking the taxpayers to pay for everything.

Thank you, sir.

ACTING SPEAKER AUBRY: Mr. Goodell is in the negative.

Are there any other votes? Announce the results.

(The Clerk announced the results.)

The bill is passed.

Page 19, Calendar No. 166, the Clerk will read.

THE CLERK: Assembly No. A05856, Calendar No. 166, Glick. An act to amend the Alcoholic Beverage Control Law, in relation to renewals of licenses and permits.

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

MS. GLICK: Thank you, Mr. Speaker. The purpose of the bill is to require the State Liquor Authority to create a standardized form for comment by municipalities or community boards on renewals of licenses.

ACTING SPEAKER AUBRY: Mr. Goodell.

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

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

MS. GLICK: Sure.

ACTING SPEAKER AUBRY: Ms. Glick yields.

MR. GOODELL: Thank you, Ms. Glick. Why do we need a standard form?

MS. GLICK: Well, at least in -- there are 52 different community boards in New York City, there are numerous municipalities across the State. When there is going to be a renewal of a liquor license, it is an opportunity to weigh in. We think that it would be appropriate and easier if everyone was using a standard form so that the information that the State Liquor Authority would take into consideration would be easier for them to review because they are, in fact, obligated to review that information if there was, in fact, a standard form.

MR. GOODELL: Was this then requested by the

State Liquor Authority?

MS. GLICK: No, it was not. It was a matter of the fact that in my area I have three, now four community boards and they do things differently. And it seemed -- and in one community board I think -- well, in my district I think I have 1,000 licensed premises. That is just on-premise license. It has nothing to do with the liquor stores, the bodegas and the like where one can purchase for off-premise. And it is a compact, congested area, and so there are differences in the way in which Community Board 1 or 2 might collate their information than Board 3. And I assume that when you get the 52 community boards and perhaps the numerous municipalities around the State that people are doing things differently. The State Liquor Authority has a great deal of work to do, and it seems that it would be easier for data collection and certainly easier for them if they were simply reviewing standardized forms than whatever is presented to them by different entities based on those individual boards or municipalities thinking, *This is the best way to do it* or, *That's the best way to do it*.

MR. GOODELL: Have you heard anything from your community boards or others that expressed concern that the Liquor Authority was not reading and responding to their comments?

MS. GLICK: Oh yeah. Yes.

MR. GOODELL: So isn't that a problem with the Liquor Board [sic]?

MS. GLICK: Well, I think that it may be that -- well,

I -- let me take a half-step back. I think that there are a variety of concerns with the way in which the board may operate because there are a great many and increasing numbers of opportunities for liquor licenses to be disseminated. And so it seems as though one of the ways that we could ensure that the Liquor Authority was operating more efficiently and, therefore, maybe being more responsive to community concerns would be to make it easier for everybody to be providing their information and concerns or support, because many -- many of the licenses are supported. But it would make it easier for the board to be able to check things off if everything was provided to them in the same format.

MR. GOODELL: As you know, of course, under the -- under the Liquor Authority Law [sic] there's already published notice, right, of these renewals and residents are encouraged by the public notice to file comments. Would it be your expectation that if public comments came in, and sometimes they're sent directly to the Liquor Board [sic], would it be your expectation that the Liquor Board [sic] would read and consider those comments even if they were not on this particular form?

MS. GLICK: The Liquor Authority is obligated to take information from the public, but this is the standardized form that applicants for renewals have to provide. So it makes sense, I think, that there be a standardized form for municipalities and community boards. And of course I'm most familiar with the operation of community boards in my district and near my district where we do

have, as I said, on any given time, the community board could be reviewing dozens of these renewals and we have a fairly active community. And so during the general comment period and at -- at committee meetings which then make a recommendation to the full board, lots of people show up because they are well aware of the fact that there is an application pending. So this is just an attempt to make the work of the board more efficient and for the community boards to likewise -- which are unpaid, volunteer people who have been appointed and take this work seriously -- for them all to be on the same page, looking at the way in which the State Liquor Authority, because they would be creating the form, would like to receive the information.

MR. GOODELL: Now, as you know, there are multiple, multiple examples of -- in our statute where the Legislature creates a form. For example, in the Election Law there's a certain form you have to use for petitions, right, and certain forms for exceptions and declination. Even in the State Liquor Authority Act there are statutory-specified forms, statutory-specified notices. But this bill doesn't actually specify any particular form at all, it just delegates that responsibility to the Liquor Authority; is that correct?

MS. GLICK: Yes.

MR. GOODELL: Okay. Thank you very much for your comments. I certainly appreciate it. Thank you, Ms. Glick.

On the bill, sir.

ACTING SPEAKER ZACCARO: On the bill.

MR. GOODELL: This is an interesting bill because it doesn't just authorize the Liquor Authority to create a standardized response form, it mandates that not only the Liquor Authority create the standardized form, but that every municipality across the entire State of New York use the same State-mandated form in making comments to the Liquor Authority. My district is very, very different than Manhattan. I have 1,000 square miles, not 1,000 bars. On the other hand, I have 26 wineries which we'd love to send all of our wine to the 1,000 bars in my colleague's district. I would just suggest that maybe a Statewide standardized form that's mandated on local governments is not the most efficient way to move forward, and that instead we would -- should and can and should encourage the State Liquor Authority to consider all the comments that come in, regardless of whether they're on any standardized form, and make a thoughtful, careful decision. So rather than add more bureaucratic hurdles and more forms, I think we're better off to encourage the Liquor Authority to consider all comments regardless of how they come in, and make it a thoughtful and efficient determination.

I do appreciate my colleague's desire to help the Liquor Authority be more efficient. It's a desire I'm sure we both share, but I'm not sure that a Statewide mandated form is the right approach. Thank you, sir.

ACTING SPEAKER ZACCARO: Read the last section.

THE CLERK: This act shall take effect on the 120th

day.

ACTING SPEAKER ZACCARO: A party vote has been requested.

Mr. Goodell.

MR. GOODELL: Thank you, sir. The Republican Conference is generally opposed to this mandate, although you may have colleagues, my Republican colleagues that want to support it. And so if so, they should vote yes here on the floor of the Assembly. Thank you, sir.

ACTING SPEAKER ZACCARO: Thank you.

Ms. Solages.

MS. SOLAGES: Thank you, Mr. Speaker. The Majority Conference will be voting in the affirmative. Those who wish to vote in the negative can do so at this time.

ACTING SPEAKER ZACCARO: Thank you.

The Clerk will record the vote.

(The Clerk recorded the vote.)

Ms. Glick to explain her vote.

MS. GLICK: Thank you, Mr. Speaker. Let me just say that this is -- it is the State Liquor Authority which receives the information and has worked with community boards and municipalities, and I believe that they have the capacity to think through the differences in those different entities and could create a form that would, for them, make their work easier and more efficient. I don't understand why we would not want a State agency to request

that the information presented to them come in in a form that is easiest for them to process. But by the same token, nothing in the bill forbids anyone from making a comment on a -- in a different format. So if an individual doesn't have access to the form and wishes to communicate with the board, they can certainly do that.

And with that, I withdraw my request and vote in the affirmative, supporting efficiency in government. Thank you.

ACTING SPEAKER ZACCARO: Ms. Glick in the affirmative.

Mr. Novakhov to explain his vote.

MR. NOVAKHOV: So, it - it -- to explain my vote. Thank you, Mr. Speaker. It might seem like -- like a good bill, but I remember the situation in my district with my constituent who was waiting for his liquor license for nine months, for nine months, paying the rent, paying almost \$20,000 a month without having an ability of selling liquor in his restaurant. At the same time, the same owner had the liquor license with his previous restaurant for ten years. And I believe, I'm afraid, that this bill will create more bureaucracy. This bill will delay because everything, every piece of paper, every documentation that we send to the Liquor Authority, it takes months for them to respond of that. And I'm afraid that this legislation might create even more bureaucracy and will delay the Liquor Authority to issue licenses to bars and restaurants, and this is why I cannot support this bill. Thank you, Mr. Speaker.

ACTING SPEAKER ZACCARO: Mr. Novakhov in

the negative.

Are there any other votes? Announce the results.

(The Clerk announced the results.)

The bill is passed.

Mr. Goodell.

MR. GOODELL: Thank you, sir, for allowing me to make an introduction. We have with us as a special guest of Assemblyman Ari Brown, Theresa Gaffney, who is the Village Administrator of East Rockaway, and with her is her son John Gaffney. And as you know, of course the Village of East Rockaway is a great municipality on Long Island.

If you would please extend the cordialities of our House to Theresa Gaffney and her son John Gaffney on behalf of our colleague Ari Brown.

ACTING SPEAKER ZACCARO: Certainly. On behalf of Mr. Goodell, Mr. Brown, the Speaker and all the members, we welcome you to this Chamber. We extend to you the privileges of the floor. We hope that you have enjoyed today's proceedings, and we look forward to welcoming you back at another time. Thank you so much for joining us today.

(Applause)

Page 24, Calendar No. 306, the Clerk will read.

THE CLERK: Assembly No. A03502, Calendar No. 306, Vanel, Cruz. An act to amend the Executive Law and the Criminal Procedure Law, in relation to directing the superintendent of

State Police to develop and institute child-sensitive arrest policies and procedures for instances where police are arresting an individual who is a parent, guardian or other person legally charged with the care or custody of a child.

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

Mr. Vanel, an explanation has been requested.

MR. VANEL: This is a bill that amends the Executive Law and the Criminal Law [sic] in relations to directing the superintendent of State Police to develop and institute child-sensitive arrest policies and procedures for instances where the police are arresting an individual who is a parent or guardian or other persons legally charged with the care or custody of a child.

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

MR. GOODELL: Thank you, sir. The bill sponsor, Mr. Vanel, is really looking forward to a long, spirited debate -- or not -- and so at the risk of offending him and not giving him an opportunity to show up, I'd like to just speak on the bill.

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

MR. GOODELL: So this bill, as -- as our colleague mentioned, requires both the State Police as well as local police to develop and implement what are known as child-sensitive arrests.

And I certainly applaud the objective of having child-sensitive arrests. The problem is that no arrest of a parent is good for the child. If we're really sensitive about protecting children, we should refrain from doing activities that will result in the arrest of the parent and the incarceration of the parent. And there's just no way around it. If -- if mom or dad is sent to State prison, it's bad news for the kids, and the data is overwhelming, it's bad news for the kids. The problem is that while this bill is certainly well-intended and certainly offered in the right spirit, it creates extraordinary challenges for local law enforcement across this State. Because it requires them, when they're arresting a parent, to inquire whether or not there are any kids under the age of 18, make arrangements for their care. Including making phone calls to those who might be available, and otherwise really dealing like social workers.

Now, imagine you stop a parent for DWI. You do a roadside sobriety test and they blow three times higher than the maximum. You then wait on the side of the road while you arrange for childcare or you have an arrest warrant. You arrest their parents and their -- their house is filled with guns, money and drugs. But even more serious, and then you have to stop. You can't bring the parent into custody, you can't secure them, you can't take them to the station house for questioning until you make childcare arrangements. It gets even more difficult in the rural sections of the counties and with a lot of the local police officers who have just one person in a car. A lot of our municipalities do not have two people in a patrol car. And so

when they make an arrest, they need to deal with the inmate or the arrestee or the defendant, and they need to deal with it right then and there.

And so while I certainly appreciate the objectives of my colleague, thank you very much for that thoughtfulness, this is a huge unfunded mandate on local law enforcement which creates very difficult operational challenges to implement. And for that reason, while I appreciate the concern of my colleague, I can't support this particular bill because of its impact on local law enforcement and the costs and difficulties it would impose.

Thank you, sir.

ACTING SPEAKER ZACCARO: Thank you, Mr. Goodell.

Mr. Angelino.

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

ACTING SPEAKER ZACCARO: Mr. Vanel, will you yield?

MR. VANEL: Yes.

ACTING SPEAKER ZACCARO: The sponsor yields.

MR. ANGELINO: Thank you. Was there some sort of incident that precipitated this legislation?

MR. VANEL: Well, actually, yes. If I could take some time to let you know that there was a national study that

estimated of parents that were arrested, 67 percent were handcuffed in front of their children, 27 percent were reported -- reportedly had weapons drawn in front of their children, 4.3 -- 4.3 were reported to have a physical struggle in front of children. Furthermore, 3.2 were reported to have seen their parents pepper sprayed in front -- in front of their children. A study also found that children who witness arrests of someone in their household had a -- or that were recently arrested were 73 -- 73 percent more likely to have an elevated post-traumatic stress symptoms than children who did not have that arrested parent or witnessed that in front of them.

MR. ANGELINO: Thank you. And this legislation if passed and signed into law, any of those things you mentioned, they're not included in this legislation.

MR. VANEL: What this legislation does, it -- it allows for the Superintendent of State Police, in coordination with the OCFS and in coordination with the Criminal Services Division, the Criminal Justice Service Division, to come up with -- with protocols and processes for the State Police.

MR. ANGELINO: And when the Superintendent of the State Police and his staff come up with some recommendations on how to avoid some of these situations that you mentioned, you're going to accept that and we're not gonna have to come back and modify what -- what the officers can do?

MR. VANEL: We -- that's not in the bill. That -- that's is not in the bill. So they're going to come up with these

processes.

MR. ANGELINO: Right. And you -- and you're gonna to accept that?

(Pause)

MR. VANEL: Yes, we're making -- we're making them direct their -- their recommendations to the -- to the State Police, yes.

MR. ANGELINO: Okay. And -- and I heard our Floor Leader mention this -- this isn't just the State Police, it's all law enforcement agencies?

MR. VANEL: This is law enforcement agencies under the State -- under State auspices.

MR. ANGELINO: Under the what?

MR. VANEL: Under the State (inaudible) --

MR. ANGELINO: Okay. So, all -- all law enforcement agencies in New York. All right, thank you, sir.

Mr. Speaker, on the bill.

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

MR. ANGELINO: As the Floor Leader mentioned, I happen to be one of those officers who works solo in a car. My nearest backup sometimes is 12 miles away, sometimes they're a couple of blocks away. But at the time of an arrest, officers, myself included and many officers, are always cognizant of the -- of children being somehow harmed by what we're doing. Many times we walk

people out of the building, we'll walk them to the car and then secure them better than we would have if there weren't children present. Officers are pretty much cognizant of this all the time. But there's so many extenuating circumstances. I hope the Superintendent of the State Police is on his game when this happens because we can't mandate this to happen every time, all the time. There's police officers in wrestling matches in living rooms daily and, you know, we can't be -- put the safety of ourselves and others present in jeopardy when you have somebody who is, you know, resisting arrest. I think most officers are pretty -- pretty well cognizant. I -- I would look forward to training on this and having officers taught to be cognizant of it, but I think that's already in the DCJS basic course for police officers. I -- I do believe this is just one more thing that's going to make it more difficult. Not every agency is NYPD. You know, luckily, I've only had to work a few Sundays this past month, but this month coming I've got a couple of weekends and things are usually a little more dicey on weekends. And, you know, if I -- if I can get some body cam footage if I happened to make an arrest, you know, I would like to show it to the sponsor. And if there's children present, that you can see that, you know, we take great pains and effort, you know, not to make it a traumatizing experience. But most of the situations that officers get in, they want to take the easiest path, and it is the person being arrested who ultimately chooses and changes that path, and it's very difficult to be able to comply with something like this.

So I look forward to any other debate that may happen, and I thank the sponsor for his answers. Thank you, Mr. Speaker.

ACTING SPEAKER ZACCARO: Mr. McGowan.

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

ACTING SPEAKER ZACCARO: Mr. Vanel, will you yield?

MR. VANEL: Yes.

ACTING SPEAKER ZACCARO: The sponsor yields.

MR. MCGOWAN: Thank you, sir. I know you talked about a study; I believe you said it was a national study that led to creating this bill?

MR. VANEL: Yes.

MR. MCGOWAN: Can you describe a -- a scenario, just -- just as an example where this would come into play?

MR. VANEL: Well, we find that -- again, when in these situations, many times we find that, you know, you can imagine a parent, you know, me walking with my son or my child if I had a child and, you know, I get arrested, wrong guy, wrong person and, you know, and the police get overly aggressive while I have a, you know, a child with me. That is something that, you know, if -- if the police can take -- and again, that's why we're making sure that the Superintendent of Police [sic] or, you know, would talk -- would

figure out the proper processes and procedures to try to deal in that type of situation. We could imagine situations where if someone got arrested without the person -- without a child in -- you know, without the child in front of them or what have you and if they were the sole custodian of the child, that, you know, we -- that that would be interesting -- that would be important for us to know how to -- you know, if we need to provide services or what have you to care for the child or if that's -- if that's a situation that -- that -- you know, to be able to be cognizant of.

MR. MCGOWAN: So understanding -- I think one of my colleagues mentioned, you know, any arrests would be a traumatizing event, and you're describing somebody wrong place or wrong time. But it could be the right person charged with the right crime. But putting aside that just generally any arrest could be a traumatic experience to the person being arrested, to any witnesses in the vicinity, certainly a child, is there anything in the study or anything that has brought about the introduction of this legislation to say that police in New York have failed to look out for kids or -- or protect children in the scenario where they are making an arrest of an adult or a parent?

MR. VANEL: Yes. So this -- let's keep in mind that this situation is difficult. We're dealing with a difficult situation where these arrests affect not just the person being arrested, but families. And there are ripple effects. We want to make sure that we are dealing with, just like this bill talks about, making sure that the

State Police Superintendent -- the State -- the Superintendent of State Police, in conjunction with OCFS and in conjunction with the Criminal Justice Division, you know, come up with the proper policies and procedures. I can imagine it can be different in different regions, in different -- different -- different sides, State departments or what have you. And there are -- this is -- can be very State -- very fact specific. But we want to make sure that in certain scenarios that we keep in mind that there may be a child or children that are being affected.

MR. MCGOWAN: Does this bill contemplate rules or regulations that would call for -- you know, what about an exigency or an emergency situation where an arrest has to be made? And perhaps certain protocol in an ideal scenario when everyone's cooperative and, you know, the sun is shining and things are great, right, it goes according to plan. But what about an exigency? What about when a child is -- is -- is a victim of a crime or you have a -- a vehicle stop where a parent is under the influence or you have a weapon involved or the safety of the officer or the surrounding individuals, including a child, is -- is compromised or threatened? Does this bill talk about the creation of exceptions where perhaps the perfect scenario cannot be followed and the police will have to take other action to secure the safety of everyone involved in the arrest?

MR. VANEL: As I said, this is really complicated. This bill doesn't state what the cops should -- what the police should do in a situation or not. This talks about the Superintendent coming

up with the processes in order to do so, in conjunction with the two other State agencies because there are many contingents.

MR. MCGOWAN: So that's my question. You're proposing this, I would assume from your answers, saying that we need something in place.

MR. VANEL: Yes.

MR. MCGOWAN: What -- can you identify the failure or any failure by any law enforcement agency in a scenario where there's an arrest and we --we need something else? What are we missing under the law right now?

MR. VANEL: Yes, I've identified the studies of saying that when we don't have -- when it's -- when it's done wrong the children are adversely affected psychologically, they're adversely affected emotionally. So we want to make sure that this is part of the training. Just like we have training on a whole host of -- host of different points when it comes to the police processes, this is another one that -- that should be implemented.

MR. MCGOWAN: Okay. So understandably, again, the point that any arrest can be traumatic to -- to a witness or a child --

MR. VANEL: That's right, yes.

MR. MCGOWAN: You're talking about -- is this a national study that you're referencing? You're saying studies. I'm looking for examples in New York that calls for needing this law to be passed other than -- is there anything other than a national study that you've cited to this point?

MR. VANEL: We've -- we've cited a number of studies. Let me see if there were....

(Pause)

So, this is not -- yeah, this is not in response to anything that New York State did wrong in specific, but this is -- this is making sure that this would be a Statewide procedure for child-sensitive arrest policies.

MR. MCGOWAN: Do you know if there are already in place procedures and policies either at the State level or -- or a local municipality that they already have in place that -- that address the concerns that you've identified?

MR. VANEL: There's no uniform Statewide policy -- child-sensitive arrest policies.

MR. MCGOWAN: Okay, no uniform Statewide policy. But I think you've identified that the complicated nature of this, right? It's -- it's fact-specific, it's case-specific. But as you stand here today with this bill, are there -- you say there's no uniform standard, but that doesn't mean that there's no standard and that there aren't procedures or policies in place; isn't that correct? I mean, do you know if -- if any agency, either at the State level, local level, is missing or doesn't have a policy to address these very concerns that you've identified?

MR. VANEL: Again, this bill will -- will -- and if enacted will tell the Superintendent of State Police -- of State Police to be able to enact policies across the State with -- in conjunction with

the two agencies that we -- we already -- we already mentioned.

MR. MCGOWAN: So in other words, is this bill enabling policies and procedures?

MR. VANEL: Well, they're not in -- in place yet, right? So this bill would -- this bill, as stated, will direct the Superintendent of State Police to develop and institute these procedures. So it -- it would enable them to develop and institute these procedures.

MR. MCGOWAN: Okay. Thank you, sir. I appreciate your time.

Mr. Speaker, on the bill.

ACTING SPEAKER ZACCARO: On the bill.

MR. MCGOWAN: So, I appreciate my colleague's comments and responses to my questions, and certainly as I think has been stated, this is a -- a laudable goal to protect children, right, as best we can to protect children from traumatic events. And certainly, seeing a parent, guardian arrested would -- would most certainly qualify as that. The problem that I have is that we, as a State, perhaps are trying to micromanage a problem that I'm not sure exists because I -- I'm not satisfied by the statements made today that we have explored or -- or know that there are policies that are lacking, there are procedures that are lacking. In my entire career as an attorney, I've worked with police officers, and -- and especially being a -- a former special victims prosecutor dealing with child abuse cases and really sensitive matters, every law enforcement agency that I'd ever

worked with, protecting children and making sure that children are protected in every scenario is -- is at the top of their priority. Because some national study says that kids are traumatized by seeing a parent arrested, obviously, of course. But if an arrest has to be made either because someone has just committed a crime and the police have to effectuate an arrest or because there was -- there was a warrant after an investigation, presentation to a judge, you know, these things -- this is the reality: People commit crimes. I'm sorry to say in this Chamber that people do commit crimes in New York, and they are guilty of crimes and the police have to do their job to make those arrests. But by presenting bills like this it makes it as if, well, the police need to be supervised further because they're not -- they're not doing their part to -- to ensure safety of children. And I just don't see necessarily the correlation between this type of legislation and the justification that has been presented for it. I think if anything, we need to do a further examination to determine whether the rules and policies implemented throughout our State are sufficient. I would suspect that they are. Even if you have rules in place, arrests have to happen and, unfortunately, sometimes they happen in front of children. And I would bet that our police agencies in New York to do everything they can to ensure that the children are protected in the event that a parent or guardian or someone close to them is arrested.

So again, I understand the thought and I appreciate my -- my colleague and the sponsor of this bill presenting that goal, but I'm not sure this quite does it. I think this misses a few key areas

in this legislation, and for that, Mr. Speaker, I will be voting in the negative. Thank you, sir.

ACTING SPEAKER ZACCARO: Mr. Ramos.

MR. RAMOS: Mr. Speaker, would the sponsor yield for a few questions?

ACTING SPEAKER ZACCARO: Mr. Vanel, will you yield?

MR. VANEL: Yes.

ACTING SPEAKER ZACCARO: The sponsor yields.

MR. RAMOS: Mr. Vanel, I -- I, too, was a police officer for 20 years, and I was reading the bill. This bill doesn't dictate what a police officer should do or shouldn't do, right?

MR. VANEL: No, it does not.

MR. RAMOS: And we hear -- like we just heard now that sometimes a police officer has to arrest a person in front of the child. This doesn't prohibit that?

MR. VANEL: No, it does not.

MR. RAMOS: As -- as far as the rules and procedures, the Superintendent of Police make rules and procedures for police throughout the State, right?

MR. VANEL: Yes, that's correct.

MR. RAMOS: And as it -- it doesn't -- the -- if this gives the Superintendent the ability to come up with these protocols and it doesn't dictate what he should do, and some of the

circumstances that were spoken about here, if the -- you're putting this in the hands of a police agency to decide the proper protocols and they can consider those exigent circumstances, right, in their protocols?

MR. VANEL: That's correct.

MR. RAMOS: All right, thank you.

Mr. Speaker, on the bill.

ACTING SPEAKER ZACCARO: On the bill.

MR. RAMOS: Mr. Speaker, as a police officer I can tell you that many times we are second-guessed, sometimes Monday morning quarterbacked, and there's nothing more that protects a police officer than having well-defined rules and procedures. Then you know what you did wrong, you know what you should do. And it -- when you have everything in -- in a vague situation where you walk into a situation and nothing is defined, every police department can do things in a different way and then you get second-guessed, it's really a subjective opinion as to what happens to that police officer or whether the police officer did something wrong or he didn't.

So I submit that this bill actually helps police officers by defining their job very well and creating a circumstance that protects the public as well as the police officers.

ACTING SPEAKER AUBRY: Mr. Flood.

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

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

MR. VANEL: Yes.

ACTING SPEAKER AUBRY: Mr. Vanel yields, sir.

MR. FLOOD: Thank you. So prior to submitting this legislation, did you consult with any law enforcement agencies upon their opinions on what this bill was going to entail?

MR. VANEL: We haven't heard any concerns regarding the bill.

MR. FLOOD: Okay, but that -- that's not the question I asked. The question was, did you consult with any law enforcement?

MR. VANEL: We consulted with a number of different organizations that are associated with law enforcement.

MR. FLOOD: Could you clarify that, please?

MR. VANEL: The bill -- the bill itself would make sure that we consult with the, you know, with the Superintendent of State Police.

MR. FLOOD: Okay. Did you get an opinion from the District Attorneys Association?

MR. VANEL: No.

MR. FLOOD: Okay. I'm just looking at this bill, and so I -- I understand that you have -- you asked the Superintendent of State Police to architect this bill, and then you said with consultation to DCJS and the Office of Children and Family Services. Why haven't someone like the District Attorneys Association or more members of the PBA because, as you know, New York State is very big and

diverse. We have New York City, which is one of the most populated, dense areas in the world, and then we have rural counties where we have one house every several miles, and then we have suburbs. So wouldn't you think having more representation of each area would be a -- a better alternative than leaving it to the hands of essentially one person with law enforcement experience?

MR. VANEL: Well, we believe that the Superintendent of State Police is in the best position to be able to provide such Statewide policies in consultation with the other two agencies.

MR. FLOOD: Well, so that's -- you -- you also bring up DCJS, and with all due respect, there's one member of their Executive Board who has any experience in law enforcement. Miss -- whatever it is, Miss Gladden was a former prosecutor, but your, you know, your Commissioner prior to being Commissioner of DCJS had 30 years of media executive experience. No one in this Executive Board other than the -- what I just previously mentioned, has any law enforcement experience or any hands-on knowledge of how police works, the policing works in the State. So why is it that these people are being consulted on how police officers should take action?

MR. VANEL: Again, the bill directs the Superintendent of the State Police to be able to do so, in conjunction with these other two agencies. But the -- the Superintendent of State Police is going to be the one primarily putting this together.

MR. FLOOD: So, again, I understand what you're

saying, but is it wise to put a state as large and as populous and diverse as New York State to essentially to put in the hands of one person with law enforcement experience to come with up essentially all of the practices for the entire State?

MR. VANEL: The Superintendent -- Superintendent of State Police does that on many different -- a myriad of issues, and this is going to be another one of them.

MR. FLOOD: But essentially, I can -- I can assure you, I'm not a police officer, my twin brother is, though, and he's one of the rare people that has jurisdiction throughout the State as a member of the MTA. He goes wherever the railroads go. It's a lot different when he's policing in New York City than it is when you're -- you're up in, you know, rural Orange County or somewhere where there's more suburban you have more or less to think about, you have different scenarios. Wouldn't it be wise to say if we're going to make this broad-standing bill for every police officer in the State to follow this procedure, that we'd include more people in the process of coming up with these bills?

MR. VANEL: Again, no. This -- this bill is not directing any specific recommendation or any specific requirements, recommendations or policies. It's requiring the Superintendent of State Police who is -- oversees the State Police whether you're in New York City or Upstate or North Country. That's what they do. And in order to do so, that's -- you know, this will promulgate so that they, in conjunction with the two other agencies to be able to come up with

the proper procedures.

MR. FLOOD: I understand that. But you said -- like you said, he oversees State Police. He doesn't oversee county police, he doesn't oversee local police. He oversees the State Police. So there might be a different perspective from other agencies, especially other agencies where you don't get the State Police. Occasionally out on Long Island you might see a police -- like a State Police car on the highway somewhere on the Long Island Expressway. You don't see them in the towns and in the villages. You -- you just don't. So they don't necessarily have the same experience as our local police.

Now, I'm just gonna throw this out there: We say this a lot and, you know, my colleague said sometimes we come back and we're trying to make, you know -- we're trying to make fixes to things, unfortunately we're trying -- and we're also right now trying to make fixes to the bail reform laws which, again, were passed in 2019 without consulting the proper law enforcement agencies. So before we pass a bill that's gonna have longstanding, you know, and, you know, dramatic effects on the way police do their job, wouldn't it be smart to start the process by adding more opinions of local, city, urban, suburban police officers and people in LEO and people that prosecute these cases like district attorneys than just putting it in the hands of -- of the Commissioner of the State Police? I'm sorry, the Superintendent of the State Police.

MR. VANEL: I -- I'm not here to tell the Superintendent of the State Police how to do their jobs. I believe that

it's great for people -- for more stakeholders to participate in many -- in many of our decision-making and processes of what to do. But we're -- this bill directs the Superintendent of the State Police, again, and not alone, in conjunction with the two other agencies to be able to promulgate the proper protocols.

MR. FLOOD: Well, I understand. And with all due respect to the two other agencies, I believe the Department of Children and Families will do a great job looking out for the Department of Children -- and for the children of this issue, but my concern is also with the members of law enforcement. DCJS -- DCJS does not have any member over one with any background in law enforcement experience. I've read through the entire Executive bios; one prosecuted for the Attorney General's Office. None of them has any experience in law enforcement. We have more law enforcement experience in this Body than DCJS does. As a member of -- as a member of -- you know, I -- I grew up as a family of police officers; my grandfather, my uncle, my brother, my brother-in-law, several cousins. Each of them have represented different areas and each of them have done a very different job. So when you're saying we're gonna put all of the State's stakeholders and basically everything a police officer is going to do in the hands of one official from law enforcement, I just think that's unwise.

MR. VANEL: Well, listen, that -- the -- the -- what we have in place is we have a Superintendent of State Police, and that's our -- that's what we have. That's the process and procedures

that we have in place. And what we're -- what we're directing folks to do in this bill, again, we're not telling them how to arrest folks, how to arrest parents or not to arrest parents. And when we talk about arrests and child-sensitive arrest policies, we're talking about really at three different times; pre-arrest, the arrest and post-arrest. We want to make sure that at the end of the day that we have child-sensitive policies to make sure that we minimize the impacts on -- on the children.

MR. FLOOD: Well, I understand that. But as my colleague just mentioned, police officers already do this. When children are at the scene, another police officer comes and stays with them, they make arrangements. I mean, I don't understand where this is coming from, because have you ever heard of a situation where someone, a father, a mother is arrested and the police left children at the house by themselves to fend for themselves?

MR. VANEL: Unfortunately, yes. Unfortunately I've heard of many instances where -- where -- where there have been -- when there have been arrests or when there are criminal-related instances where children are left unattended. That happens, unfortunately.

MR. FLOOD: Can -- can you find me a -- you know, obviously not right now, but can you find me a specific instance of that happening?

MR. VANEL: Yes.

MR. FLOOD: Because I -- I got to be honest, I --

I'm hard to believe that to be accurate.

Anyway, Speaker, on the bill, please.

ACTING SPEAKER AUBRY: On the bill, sir.

MR. FLOOD: I'm going to pontificate a little here because unfortunately, we were at a press conference this morning talking about how we need to protect law enforcement. Unfortunately, we had a member of the New York -- NYPD murdered over the weekend. Police officers don't need more bureau -- bureaucratic nonsense telling them how to do their job. They go through basic. They're the ones out on the streets, they're the ones that know how to do their jobs. They're the ones that know how it is to come home to their families. Regardless of what this Body says, the majority, overwhelming majority of police officers do their job because they want to protect people. And so in a situation where, unfortunately, a parent is being arrested, those police officers at the scene want to protect those children just as much as they want to protect everyone else. To keep adding oversight and keep making it so that our police can't do their job, New York State is just becoming a less safe state. This is another reason why people flee New York, why people feel less safe in New York. Our police officers do an absolutely wonderful job. But they're handcuffed by the rules that this Body, the Senate and the Governor put into place over the last five years. These kind of bills make it harder for the police to do their jobs effectively.

Please, before we pass more ill-suited legislation, can

we, you know, take the time to speak to the members of the law enforcement community to get their input, not just simply say, *Oh, well, no one's had any, you know, opposition to it?* Do they even know? Why rush these things? Why -- why rush this when we can take the opportunity to really reach out and get law enforcement's, you know, perspective on this? Get the perspective of our District Attorneys Association who prosecute these matters. Bring them all into it.

I'm gonna vote no on this legislation and I hope my colleagues will do the same. Thank you.

ACTING SPEAKER AUBRY: Thank you.

Mr. Reilly.

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

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

MR. VANEL: Yes.

ACTING SPEAKER AUBRY: Mr. Vanel yields, sir.

MR. REILLY: Thank you, Mr. Vanel. So with this legislation, is there any mechanism in place? I guess a penalty for the State Superintendent of Police actually following through with this?

MR. VANEL: No.

MR. REILLY: Okay. So when it comes -- I saw it in Section C of the language of the bill, there's a section that says about education on how witnessing violence causes emotional harm to

children and how law enforcement can assist in minimizing the impact of such harm.

MR. VANEL: Yes.

MR. REILLY: Can you -- can you explain a little bit about what -- that portion?

MR. VANEL: Again, we're trying to see -- we're trying to -- that's what -- where the Superintendent would work in conjunction with the other agency -- with OCFS potentially to -- in some sort of maybe potential training to make sure that we minimize the effects of -- of -- of any potential interaction with the police for -- with the parents where children are -- are identifying that position.

MR. REILLY: Okay. So I noticed throughout the language of the bill it specifically states, *members of the State Police*. Now during the debate I heard that it would apply to local police departments, potentially law enforcement throughout the State. Can we be more clear on that? Is it strictly for the State Police or would it be the entire law enforcement community throughout New York State?

MR. VANEL: It's for the State and local law enforcement. Local law enforcement, I believe -- I believe uses it -- uses our policies as a guide, but we have jurisdiction over the State.

MR. REILLY: So as a -- so when you say "as a guide," you mean specifically they are recommendations for best practices? Would that be -- would that be what you're saying?

MR. VANEL: I -- I don't want to speak too strongly

on that but we have jurisdiction over the State Police.

MR. REILLY: So the State Police Superintendent has jurisdiction over local police departments?

(Pause)

MR. VANEL: So again, we have jurisdiction over the State Police, local law -- local -- local law organizations may use our processes as a guide, but we have jurisdiction over the State Police.

MR. REILLY: Okay. Thank you, Mr. Vanel.

On the bill, Mr. Speaker.

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

MR. REILLY: So, like local law enforcement like New York City, the New York City Police Department, they already have a huge patrol guide that has policies in place that are a guidance for police officers. And in one of the sections, it's specifically dealing with youth that are -- a family member is taken into custody. So those policies are in place in New York City Police Department. So the reason why I was asking my questions because I wanted to clarify that when this bill takes effect and it becomes law and it's signed by the Governor, that the Superintendent of Police and those other agencies that will put together the recommendations and the policies for State Police officers, that that is going to be used as a guide, a suggestion for other local authorities. And I think when -- when we look at it in the terms of best practices, I think that's something that local

departments should have an input with, and I think that's where we may get with those outside agencies being a part of it. So I'm looking forward to hearing a little bit more about it and seeing where it will go down the road we're talking about, but I think just a clarification that the State Superintendent of Police, this would mandate his agency take place with these policies that may be implemented and the other departments would be a guide. So thank you, Mr. Speaker. Thank you, Mr. Vanel.

ACTING SPEAKER AUBRY: Thank you, sir.

Read the last section.

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

ACTING SPEAKER AUBRY: A party vote has been requested.

Ms. Walsh.

MS. WALSH: Thank you, Mr. Speaker. The Republican Conference will generally be in the negative on this piece of legislation. If there are members who wish to vote yes, they may do so at their desks.

ACTING SPEAKER AUBRY: Thank you.

Mrs. Peoples-Stokes.

MRS. PEOPLES-STOKES: Mr. Speaker, the Majority Conference is generally going to be in favor of this piece of legislation; however, there may be some of our colleagues that would desire to be an exception, they should feel free to do so at their seats.

Thank you.

ACTING SPEAKER AUBRY: Thank you.

The Clerk will record the vote.

(The Clerk recorded the vote.)

Mr. Angelino to explain his vote.

MR. ANGELINO: Thank you, Mr. Speaker, to explain my vote. Under the reign of Cuomo II, there was the Police Improvement Act that was pushed upon every law enforcement agency in the State, and that required all agencies to follow the accreditation process. And the accreditation process of law enforcement, it's 2- or 300 different points that every agency has to adhere to. And every agency in the State has to have that included in their policy procedures manual. The reason there is no uniform policy over in New York State is because there's 500 police agencies in New York State. And hearing that the Superintendent of State Police has authority over those agencies was news to me. I was the administrator of a city police department for over 20 years and never once did the Superintendent of the State Police dictate anything in my agency. The other agencies that do have say over that agency in New York State is the New York State Sheriffs Association and the New York State Association of Chiefs of Police. They oftentimes collaborate with the New York State Police to help with policies and procedures. But a quick look-through the New York State accreditation process shows there's a policy that all agencies adhere to known as *safeguarding of children of arrested parents and caregivers*. So this is already

covered by DCJS and it's probably the reason this bill has been around since 2012. This bill has not changed since 2012 but law enforcement in New York State has. That makes this whole language of this legislation moot.

So hopefully I have convinced some of my colleagues to join me in voting no on this legislation. Thank you, Mr. Speaker.

ACTING SPEAKER AUBRY: Mr. Angelino in the negative.

Ms. Lunsford to explain her vote.

MS. LUNSFORD: Thank you very much. A few years ago a woman was arrested for shoplifting. Her three-year-old daughter was with her at the time. She was approached, detained and when she protested that she had done nothing wrong, she was pinned, handcuffed and pepper sprayed. Her three-year-old daughter fled the area, was left sobbing until another officer arrived on the scene and removed the child. That woman was ultimately given an appearance ticket for trespassing because they could find no evidence that she had been shoplifting. Above and beyond the trauma that three-year-old girl suffered in that moment, that was very likely her first interaction with law enforcement. And for too many young people, seeing a loved one arrested is their first contact with a police officer. When we see teens and young adults fleeing the police and we ask why, that's why. When we say that young people have no respect for the police, that's why. So I want to commend the sponsor for bringing forth this bill that will hopefully begin to repair that loss of trust and give young

people an opportunity to have a better interaction with law enforcement. As a daughter of a police officer I know that there are plenty of good police who mean very well, and I want to make sure that young people get to see that.

Thank you very much and I will be voting in the affirmative.

ACTING SPEAKER AUBRY: Ms. Lunsford in the affirmative.

Ms. Walker to explain her vote.

MS. WALKER: Thank you, Mr. Speaker, for allowing me to explain my vote. Again, this is nothing new. The International Association of Chiefs of Police have promulgated best practices for policies and procedures with respect to child sensitive arrests. The United States Department of Justice in a publication entitled the *Police Chief* also has best practices with respect to this very same issue. My mom was a foster parent, and many late nights she would receive children who were brought to her through the system after a parent had been arrested. I remember the shaking, devastated, tearful infants, toddlers who were crying out for their parents in that instance. And so feel how you may feel with respect to the criminalization or over-policing of communities whether wrongful or just. But the children are the innocent. But again, we have seen time and time again where they have suffered the most, the late and detrimental effects. The traumatization of watching their parents be arrested makes them suffer irreparable harm. So I, too, want to

commend the sponsor on this very important bill as we look out for the interest of the most vulnerable within our communities, our children who we want to ensure that when they grow up that their interactions with the police department is one that is memorable, is one that they believe that the police are there to serve and to protect their interest as opposed to demeaning and demoralizing their parents who they probably love more than anything else in this world.

So again, thank you and I vote in the affirmative.

ACTING SPEAKER AUBRY: Ms. Walker in the affirmative.

Mr. Flood to explain his vote.

MR. FLOOD: Thank you, Mr. Speaker. So I know there was some questions after I -- after I got some questioning about my colleagues of whether the State Police have jurisdiction over the local which of course they don't; however, this bill addresses that. So if you go down to Section 3, this amends the Criminal Procedure Law, Section 120.85 where it states, State and local law enforcement officers who arrest individuals *shall*, meaning that they must. It does it again in Section 140.17. State and local law enforcement officers who arrest an individual *shall*. So again, we are putting all of State Police's processes in the hand of one individual with law enforcement experience. This bill one, I think is unnecessary, two, if anything if this Body is dead set on passing it, it should go back to the drawing table and include more members of law enforcement from each specific area in suburb, urban, rural and let these law enforcement

officers come to the table and have a say in the process, not simply the Superintendent of the State Police because this effects every police officer throughout the State. I'm voting no, thank you.

ACTING SPEAKER AUBRY: Mr. Flood in the negative.

Mr. Novakahov to explain his vote.

MR. NOVAKHOV: Thank you, Mr. Speaker. I think if we would be voting for this bill back in 2019, I believe many of us would be in the affirmative. But unfortunately, this Legislative Body created so many bad bills, so many bills that are anti-enforcement, anti-police and pro criminal that we're just afraid that this -- this is going to be another bad anti-police and anti-policy enforcement bill, and for this reason I'm in the negative. Thank you, Mr. Speaker.

ACTING SPEAKER AUBRY: Mr. Novakahov in the negative.

Mr. Vanel to explain his vote.

MR. VANEL: (Mic cut out)

ACTING SPEAKER AUBRY: Hold on, Mr. Vanel. Your mic is a little low. Try that now.

MR. VANEL: Mr. Speaker, so this bill is a simple bill. This bill is not telling the police what to do with the proper procedures. This bill is telling the police, telling the Superintendent of State Police to come up with child sensitive arrest policies. We wanted to make sure that we -- we take care of the best interest of the

children. We're not against police. We want a safe community, but we also want to make sure that we protect the children. There's many instances where, as -- as my colleagues mentioned, where arrests happen, rightly or wrongly so, in front of the child and -- and the policies aren't -- the policies aren't in place. We also want to make sure that police officers have proper policies in place. We want to make sure that they have right rules. This is complicated and it's difficult, but we want -- we want to make sure that New York is a place that is safe and that we take care of the children. And also, we want to make sure that there are clear rules for the officers in positions where we can do so. I vote in the positive.

ACTING SPEAKER AUBRY: Mr. Vanel in the affirmative.

Mr. Goodell.

MR. GOODELL: Thank you, Mr. Speaker. Would you please withdraw this vote and proceed with a roll call vote? Thank you, sir.

ACTING SPEAKER AUBRY: The vote is withdrawn and a slow roll call has been requested. Members must come to the floor to cast your vote. Thank you.

A reminder, members you hearing my voice means that you should be on the way to the Chamber to cast your vote.

Mr. Hevesi to explain his vote.

Ladies and gentlemen, shh.

Thank you.

MR. HEVESI: So listen, the reason why I'm speaking on this bill is to congratulate the sponsor but I think there's a missed impression that this is an anti-police bill. Absolutely not in no way, any shape or form. First, you're asking the Superintendent of Police to make regulations for arrests and policies and procedures. That's what he does, he or she does. That's their job. And then the second thing is, it's not just that we're trying to avoid trauma because trauma is bad, but we're trying to avoid the long-term adverse childhood experiences of those trauma. So every kid if they see their parents slammed up against a car or somebody in their office at work, this does not say that the cops did anything wrong. I am pro cop, I got cops in my family, okay? But cops are doing everything right, if somebody in you're family is being arrested, that's a traumatic experience and what happens to traumatized kids? Exponentially more likely to fail out of school, exponentially more likely to wind up in the criminal justice system, exponentially more likely to get diseases because of the stress of the trauma. The reason why we're doing this is to protect kids, so this is not an anti-cop bill, this is hey, how can we let law enforcement guide us on how to do law enforcement better. That's all this is. So I don't understand the idea that this is an anti-cop bill, this is a pro kid bill and everybody should be supporting this bill today. Thank you. Mr. Vanel for bringing it to our attention. Thank you.

ACTING SPEAKER AUBRY: Mr. Hevesi in the affirmative.

Mr. Friend to explain his vote.

MR. FRIEND: Thank you Mr. Speaker, to explain my vote. Unfortunately last Friday we had a terrible incident happen in Chemung County in Big Flats. We had a shoplifter at Target, they weren't just stealing bread, they were stealing big screen TVs. This individual managed to drop those items before he left the store but the police pursued him. The Deputy Sheriff Investigator Michael Theetge apprehended the individual in the -- in the drive -- out in the drive area. Unfortunately the getaway driver thought it was in her best interest to hit both of them. Michael Theetge hit the car first protecting the shoplifter, the getaway driver immediately turned throwing both of those individuals to the ground. Once again, Deputy Investigator Michael Theetge protected the shoplifter and he cracked his head on the ground. He has been in critical condition ever since last Friday. Now why do I bring this up? Because we're looking at trauma, emotional harm. That doesn't just go one way. This was a parking lot in a shopping area with many people from the community. Where is it in that getaway driver's interest was it in the community and the children that she was right there having the best interest to go and hit a police officer? This education goes in both directions. The best education you give is to live a lawful life. Don't steal, don't shoplift, don't commit crime, don't do drugs. Simple rules to live by, that did not happen last Friday. This Deputy Sheriff is still in critical condition. My thoughts and prayers go out to he and his family. He has two young sons at home, a wife waiting for him to come home.

This could have all been prevented had she just not hit him, if she had been thinking forward. I vote in the negative.

ACTING SPEAKER AUBRY: Mr. Friend in the negative.

Mr. Anderson to explain his vote.

MR. ANDERSON: Thank you, Mr. Speaker, to explain my vote. Thank you, Mr. Speaker. I want to take a moment to thank the sponsor for introducing this critical piece of legislation. It's really important that our police agencies and all agencies across our State have policies in which they work with children. The reason why I took a moment to speak up on this piece of legislation, as a young Black boy growing up in Brooklyn and moving to Queens at a younger age, the main thing that our schools wanted to use as a tool to help with resolving conflict was calling the police, and at age seven I was handcuffed to a chair at a classroom and that wasn't a child sensitive response to a fight or a scuffle that I had with another student. I think that this piece of legislation would ensure that our police agencies know how to deal with a seven-year-old who has a scuffle with another student and knows how to deal with those things in a child sensitive way. This does not take away any powers from police. This does not take any powers away from EMS or any other responding agencies or entities. It ensures that we have a clear set of rules and guidelines across our agencies.

So I'm saddened that my colleagues across the aisle will take this as a opportunity to say that this is an anti-police piece of

legislation, but it certainly helps our police better understand how to resolve and work through those conflicts in that moment.

And for those reasons, Mr. Speaker, I withdraw my request and proudly vote in the affirmative.

ACTING SPEAKER AUBRY: Mr. Anderson in the affirmative.

Mrs. Peoples-Stokes.

MRS. PEOPLES-STOKES: Mr. Speaker, would you please have the Clerk recognize our colleagues that are on Zoom for their votes, please?

ACTING SPEAKER AUBRY: Clerk will record those on Zoom.

THE CLERK: Ms. Gallagher, for the record please state your name and how you wish to vote.

MS. GALLAGHER: (Mic off)

ACTING SPEAKER AUBRY: Her sound is --

MS. GALLAGHER: Hi. I'm Emily Gallagher and I vote yes.

THE CLERK: Ms. Gallagher in the affirmative.

Mr. McDonough, please state -- for the record, please state your name and how you wish to vote.

Mr. McDonough?

Mr. McDonough?

MR. MCDONOUGH: Yes. David McDonough in the negative.

THE CLERK: Mr. McDonough in the negative.

Ms. Sillitti, for the record, please state your name and how you wish to vote.

MS. SILLITTI: Gina Sillitti and I vote in the affirmative.

THE CLERK: Ms. Sillitti in the affirmative.

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

(The Clerk announced the results.)

The bill is passed.

(Applause)

Page 25, Calendar No. 324, the Clerk will read.

THE CLERK: Assembly No. A01903-A, Calendar No. 324, Glick, Bores. An act to amend the Executive Law, in relation to the development of uniform standards for the coloring of wind turbine rotor blades.

ACTING SPEAKER AUBRY: A explanation is requested however long you want to make it, Ms. Glick.

MS. GLICK: Well, happy to explain the bill. It would require the Office of Renewable Energy citing -- to establish standards for the coloring of a wind turbine blade in order to minimize bird collisions once a determination authorizing such blade coloring has been issued by the FAA. And I will say that there is currently a study being done by the U.S. Geological Survey with the U.S. Fish and Wildlife, the U.S. Department of Energy, Oregon State University

and others to determine the efficacy of this. It is -- it is an issue because there was an earlier study published in the *Journal of Ecology and Evolution* that found that by painting a single blade on a wind turbine it made it more visible to birds and reduced bird collisions by 72 percent. So that was a separate study and now the FAA has undertaken this more extensive review in Wyoming.

ACTING SPEAKER AUBRY: Mr. Manktelow.

MR. MANKTELOW: Thank you, Mr. Speaker.

Would the sponsor yield for a couple questions?

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

MS. GLICK: Certainly. That's why I stayed standing.

ACTING SPEAKER AUBRY: Ms. Glick yields.

MR. MANKTELOW: I'm sorry. I couldn't hear Ms. Glick.

MS. GLICK: That's why I stayed standing, Brian.

MR. MANKTELOW: Great to see you. Just back to the FFA, the Federal Aviation Administration, where are they -- where are they with this whole process right now?

MS. GLICK: Well, you know, we had this bill before us before based on the earlier study, and then we discovered that in fact we -- that this is controlled by the FAA and it is gratifying that the FAA working with -- that the study was undertaken with the understanding that the FAA would review the results of the study and

would act upon it depending on what the results of the study are.

MR. MANKTELOW: And does that also include the color black for the blade?

MS. GLICK: Yes, I believe in fact that is the color they are using.

MR. MANKTELOW: And -- and madam, who chose that color? Is there a significance to that color?

MS. GLICK: I think it was the contrast, white black.

MR. MANKTELOW: Is that more for the birds or more for the pilots?

MS. GLICK: Well, I would think that we would hope that pilots wouldn't be getting close to wind turbines.

MR. MANKTELOW: Okay. So if this does go through, and I think that study was done in Norway, correct?

MS. GLICK: Well, that first study. The current study that is being undertaken by -- in cooperation with a number of agencies is occurring now in Wyoming.

MR. MANKTELOW: So if -- if the determination is to go to a -- a single color blade to offset, you know, either the white ones or the light gray ones as --

MS. GLICK: They are white. They are supposed to be white under the FAA rules. I believe that they are all white. If one is perceiving some to be gray, that may have something to do with them not being clean, but they -- it is a white. It's required to be a white blade and what they are exploring is a single black blade.

MR. MANKTELOW: And is that the same color blade that was used in the Norway study as well?

MS. GLICK: I believe it was, but I don't have that information directly in front of me.

MR. MANKTELOW: And if this does go through, do you see an increased cost to the individuals putting these units up? Will that --

MS. GLICK: I can't imagine that that is anything but a de minimus change in their operation.

MR. MANKTELOW: So --

MS. GLICK: For all I know, they start out with a black blade and they paint it white.

MR. MANKTELOW: So as we look at different studies and you spoke about one just a few minutes ago, are we considering any pilot studies here in New York State?

MS. GLICK: Well, we don't have to - if you'll pardon the pun - reinvent the wheel. If in fact this study that is being undertaken by the array of agencies comes out with a determination, that would be -- the FAA would act on it and we would therefore not need to do a separate study. The purpose of this study is being done, as I said, by a coalition of US Government agencies to inform the FAA.

MR. MANKTELOW: And they're going to inform the FFA -- FAA of what? The color choice or --

MS. GLICK: Whether or not it is sufficiently

effective in order to make this a -- authorize it as a requirement or authorize it as permissive. I don't know what ruling would be made by the FAA because the study has not been completed.

MR. MANKTELOW: And they're looking at flight patterns of birds as well I'm assuming?

MS. GLICK: Well, I don't have in front of me all of the details of the protocols for the study but I have great confidence in the U.S. Fish and Wildlife, Department of Energy, U.S. Geological Survey, Renewable Energy Wildlife Institute and others to design the study and determine from the methodology whether or not this has the same dramatic improvement in avoiding bird collisions and thereby saving many birds.

MR. MANKTELOW: Well, the one study I did look at, the one that's actually complete that was done back a few years ago, the one that was done out in Norway, there were six individuals that had done that study and this is what they said. They said, *we recommend to either replicate this study preferably with more treated turbines or to implement the measure at new sites and monitor collision fatalities to verify whether similar results are obtained elsewhere and to determine to which extent the effect is generalizable.* So seeing this is done outside of New York State, when do you see us doing one in New York State?

MS. GLICK: Well, I think that it would be repetitive and unnecessary. I think that this study being done is -- we have to see what the results are, but I believe it's being designed in a way to

inform the FAA, and I don't think that -- and this is a larger study. I believe that they have worked on 28 turbines and are completing additional eight this year. So I, you know, methodology in designing studies, it is complicated which is why I think these various agencies are working together. Statistically they can make a determination as to whether or not the -- the painting of a single blade has had an effect. I presume that there is some control involved in some of the turbines within that area not being painted versus those that are and that is how you do a comparison, but the details of the entire study design is not available to me here but I suspect that the FAA will not act precipitously if it does not feel that there is a sufficient amount of data. It's possible that they could determine at the end of the study that an additional study needs to be taken or the results could be sufficiently dramatic that they believe that the de minimus cost of painting one blade of a turbine is, as I say, an insignificant economic cost that is worth saving a substantial number of birds and raptors' lives.

MR. MANKTELOW: So -- so -- so what's driving this legislation is actually saving the birds, correct? The birds and the bees because bees do get taken out by wind turbines as well.

MS. GLICK: Well, it's primarily focused on birds.

MR. MANKTELOW: Birds.

MS. GLICK: There is I think probably some other thought. Having looked at the U.S. Geological Survey website it looks like there may be some other consideration for a different type

of study for -- related to bats because bats echolocate as opposed to visual, so this is primarily birds.

MR. MANKTELOW: All right. I did a little research on this and I was -- I was really surprised that many of the major groups site that this study is being insufficient to establish a generalized theory of a painted blade on wind turbines minimizing the bird collisions, and some of these groups are here -- here in New York. The Audubon of New York, Alliance for Clean Energy, the American Bird Conservancy, Independent Power Producers of New York. And the individual, Joel Merriman, do you know who -- who that person is?

MS. GLICK: Oh yeah.

MR. MANKTELOW: So he even cited that it's too soon to bill this as a proven technique to minimize bird mortality at wind energy facilities. We're seeing many people refer -- refer to this paper as if it's a proven method. And I'm glad to hear that we are doing some other studies. What I'd really like to see is one or two pilot studies here in New York, because the migration of the birds that come through our State are much different than they are out in the Midwest. And speaking of that, so of the many different ways that we kill birds here in the United States, that birds are taken out, why are we pushing the wind turbines at this point?

MS. GLICK: Well, we're not -- that's the only thing that we're doing. Obviously we have had -- there are measures around bird safe glass. As an example, the Javits Convention Center was

known as a -- a killing site for birds because of the reflective glass. They redid the glass with threaded markings and it almost completely eliminated bird collision. So it's not the only thing we're doing, it's one thing that we're doing. There are -- when we do the tribute in light for a commemoration of 9/11, there are two very powerful beams that are up at night and they -- working with Cornell, they observe radar patterns during the migration because September is a migratory time and they shut the lights off when there is a significant number of birds moving because that -- those lights disoriented the birds. So we see some of our actions that are detrimental to wildlife and we try to address that, because it is important not to casually and carelessly have wildlife of various descriptions needlessly killed.

MR. MANKTELOW: So I did a little research on, you know, different ways that birds are taken out, and it really surprised me that the number one is by cats; 2.4 billion birds since 2013 have taken out that many birds. And then more surprisingly, the collisions with the birds in the glass that you just spoke about, about 599 million since '14, vehicle collision is at 72 or 214,500,000, collision with communication towers. But the other one that really caught my eye and I'm just wondering how we're going to deal with this, is the collision with power lines. Electrocutions of birds. And were already at 5,600,000. As we push electrification in New York, we're adding more and more power lines, overhead power lines. So what is our plan there to offset the death of the birds by adding more power lines?

MS. GLICK: Well, you know, the bill is not about, you know, I appreciate the detailed list of interactions that kill birds. Obviously, cats are a problem and I personally believe that nobody should let their cat out of the house. Cats that are roaming free are problematic, sometimes it is not for food, but sometimes it is. But lots of people let their cats out inexplicably so I think that's a bad idea.

MR. MANKTELOW: It's a lot of feral cats as well.

MS. GLICK: And there are certainly feral cats which is why I took one in -- but let me, I'm sorry, let me just respond. You asked about electric towers and I will say that there have been efforts by a number of electric companies to deal with the fact that many of the larger birds like osprey or eagles make nests on the towers and they actually have a process by which they put up a guard of some sort to protect birds of coming in and out of those nests. Now I don't know whether contact with every part of the wire is dangerous but -- there we go. I'm so sorry. Do you need your next 15?

MR. MANKTELOW: My time is up. I'll have a few more comments -- when I explain my vote. So thank you for your time --

MS. GLICK: Well, thank you.

MR. MANKTELOW: And we'll be chatting more, thank you.

ACTING SPEAKER AUBRY: Mr. Palmesano.

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

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

MS. GLICK: Yes, of course.

MR. PALMESANO: Thank you, Ms. Glick. I appreciate it. My colleague covered some of the areas. I did have some questions I wanted to ask, and I know you probably touched on them but just for the record.

Currently, New York's regulations require that wind turbines, towers and blades shall be FAA-approved white or off white colors to avoid the need for daytime aviation hazard lighting and the FAA standards currently state that wind turbines should be painted white or light gray. That's correct right now under the regulations, yes?

MS. GLICK: Yes.

MR. PALMESANO: Okay, thank you. So really this legislation, I know there's a study that you're talking about -- the study that's being done, this bill wouldn't take effect until after that study is completed --

MS. GLICK: Not even after the study is done. It wouldn't take effect until the FAA acts.

MR. PALMESANO: Right.

MS. GLICK: And that could be at the end of this study or the end of two other studies.

MR. PALMESANO: Okay. Does this bill exempt existing facilities or if the FAA came back and said something, would

they -- this bill doesn't exempt existing facilities --

MS. GLICK: It allows ours to set standards so I would imagine that they would take into consideration whether or not it was necessary or appropriate to require at replacement or repair a change.

MR. PALMESANO: Okay. If it does require a retrofitting of these existing facilities, do you envision that being a problem with the State meeting their CLCPA goals in any way whatsoever?

MS. GLICK: No. I -- I don't envision that the -- ours would probably give sufficient time for there to be -- if there needed to be a retrofit. All of these things are given time periods so I don't foresee that it would impact in any way on our ability to meet the CLCPA goals.

MR. PALMESANO: Okay. In your sponsor's memo I think you brought up where you said that fish and wildlife estimates there's 500 bird deaths -- 500,000 bird deaths annually from wind?

MS. GLICK: No, that was Brian.

MR. PALMESANO: Well, I'm just reading from your sponsor's memo that says the U.S. Fish and Wildlife service estimates that up to 500,000 bird deaths are attributed to collision with wind turbines. That's from your memo.

MS. GLICK: Well, then that's what the information that we had. It could be more now, it could be less.

MR. PALMESANO: No, I understand. So 500,000

and we want to avoid that from happening. I mean wouldn't one way to avoid it from happening is just not put them up in the first place?

MS. GLICK: Well, that would be of course one way to -- and in fact, we could meet our goals by going back to horse and buggy, but we're not going to do that.

MR. PALMESANO: So we're also not only -- with these bird strikes, are they on land? What about offshore? Because we have bird strikes that happen probably offshore and there's also issues with whales and marine life being impacted by, you know, some studies and people -- environmental advocates are coming out and speaking on it. Isn't that a concern as well? Isn't a --

MS. GLICK: Well, that may be a concern but the bill is focused on the painting of one turbine blade --

MR. PALMESANO: Right.

MS. GLICK: -- in order to make them more visible to birds and the study is going to, you know, try to ascertain if that is a significant adjustment to make it worthwhile.

MR. PALMESANO: Any reason why the color black is the main color to be used to paint the blade or is that not it? Could it be green, yellow or... I think the study --

MS. GLICK: I don't know how the study is designed so it's possible that they have tried some other colors, but the initial -- the initial attempt, which demonstrated in a small study, was black and I presume that that was about contrast. You know, some -- and it might have something to do with what the largest number of birds in

terms of color perception. I'm not a biologist so I'm not -- or an ophthalmologist, so I'm not certain what the receptors for birds are but I presume that that had something to do with the determination.

MR. PALMESANO: And so when these bird strikes happen, don't they also obviously -- because the blades are fiberglass and they're -- now you got particles of fiberglass going over to lands and soils when those collisions happen which isn't good for the land and the environment as well, wouldn't you agree with that?

MS. GLICK: Not necessarily.

MR. PALMESANO: Oh, so it is okay for fiberglass to be on land and soil and that's not problematic environmentally?

MS. GLICK: Well, I -- I don't -- you're asking me to assert that -- to affirm that your assertion is accurate and I don't know that to be true. So I'm not going to say, you know, yes what you have said is accurate and therefore I agree. I don't think it's a positive thing to be spraying fiberglass in the same way that I don't think we should be using lead in bullets but that's a different discussion..

MR. PALMESANO: That is a different discussion and I'll -- I'll accept your answer on that. With the smaller study that took place, that was my understanding that eight turbines and then four of them had paint on them, correct? And that's when they came out --

MS. GLICK: I'm sorry. I can't hear you.

MR. PALMESANO: On a smaller study, I think the one you're referred to and acknowledged is a smaller study, I think it

was done in Norway a few years ago, that had -- they painted four turbines. They painted four of the eight turbines, correct?

MS. GLICK: I -- I don't have that right in front of me.

MR. PALMESANO: And so, again, obviously you'll probably point to the fact that that's why there's bigger studies that are taken because the authors of that study when they -- when they put it out said that we must therefore be careful what we deduced from the experiment given the limited number of turbines -- turbine (inaudible). So with, you'll say, okay, that's why we need the bigger study that's going on right now.

MS. GLICK: Well, we frequently look at small samples. They give us an indication but then we decide that it's not sufficiently informative or dispositive of the thesis. So then we go back and we look at a larger sample, and that is what's being undertaken now. It's very possible that the Department of Energy in consultation will decide that they need yet another study and perhaps in another location, but that's to be determined after this one is done.

MR. PALMESANO: Sure. No, I appreciate that. So as far as the study that is going -- I thought you might have mentioned -- did you say some turbines are being tested now and they're painting them -- is that accurate or we're not sure where the study is or what's involved in that study?

MS. GLICK: They are definitely painting one blade on a larger number of turbines, but I did say without knowing exactly

what the methodology is involved in the design of the study, I presumed that they would have some that were similarly situated that were not being painted so they would have a comparison but I don't know that for sure. I'm just assuming that in most scientific experiments you have control and you have the -- what you're testing.

MR. PALMESANO: Right, and I can -- I can appreciate that. And as far as the paint, I mean I know we said black paint is being used on the ones in the Norway study. We don't know what the paints are going to be on the other ones that are being tested. Will this paint be like oil-based paint or water-based paint because of fiberglass you probably need oil-based paint, right? I know there's concerns about environmental kinds of oil-based paint.

MS. GLICK: I -- I really don't know. You know, it's always a question what exactly should you use on acrylic to clean it versus, you know, stone. So I am not designing or running the test. I presume those who are have determined which paints are most appropriate for the application.

MR. PALMESANO: Thank you, Ms. Glick, for your time. I appreciate it very much.

Mr. Speaker, on the bill.

MS. GLICK: Thank you.

ACTING SPEAKER AUBRY: On the bill.

MR. PALMESANO: Yes, Mr. Speaker, and my colleagues. I understand what the sponsor is trying to do here. I think there's a lot that needs to be looked at before we go down this road.

Obviously, you know, the initial study that was cited early on in the sponsor's memo was more narrow. To find out there's a more thorough study being done I think that's a positive sign that needs to be addressed. But I think also these guidelines really need to be kept at the Federal level and not the State level, and I also think we need to examine the issue of when we are going forward as far as whether they are retrofitting existing wind turbines and whether that -- I mean part of that concern is whether we meet our CLCPA goals now. I'm being honest with you. I would not hesitate to delay the CLCPA for a whole other host of reasons but that's another discussion. Obviously I know there's gotta be discussion between the FAA and Office of Renewable Energy, but right now we need more research and that -- hopefully that study brings us more of that research as we move forward. I guess I'll just pivot to this. I mean obviously with the windmills is all part of the CLCPA, the wind farms we see going up all over Upstate, New York, now they're going to be offshore. It's not really a dispatchable source of energy, it's not a reliable source of energy, it's not an importable source of energy. But we continue to see this land Upstate being penetrated by these windmills on our farmland. And I would say, too, I mean a lot of people don't like the way these windmills look now. And now they're going to have one of them painted a different color, this is just going to make it even look worse, I would think. I think, I mean I think a lot of people would think so to have one windmill with all white blades but then another black blade in there. I think that doesn't look too friendly to the eye

on the environmental side of that, but I think sometimes I think when we do this type of legislation it's more feel good legislation. If we want to strike -- we're talking about 500,000 bird strikes annually of birds dying. The simplest way, let's not just keep putting these things up. We also hear about in the -- in the ocean with the offshore wind that's being developed, we see people raising the alarm about whales dying and marine life being impacted. How come that's not being taken into consideration, but it's really kind of part of the whole CLCPA, Green New Deal for New York with the wind, the solar, which again is proliferating all over Upstate, New York. Taking our lands, our farmlands, it kind of goes into the same thing we have with the mining for lithium where in the African countries you see water, sewers, rivers being polluted in these countries. The same thing as we've talked about in the past with the cobalt mining that's being done by the children in the Democratic Republic of Congo, some 35- to 40,000 children are estimated working these artisan mines with these mining collapses has happened, killed them, paralyzed them and maimed them. That's problematic from my perspective as well. As part of this plan it just seems like -- with these policies the end justifies the means. I admit, I'm going a little bit off track on the specifics of the bill but windmills and wind farms are part of the CLCPA so I do think that it's -- it's -- it's -- it's ethical to what we're talking about here. And also, the other thing with the windmills, the process to produce the windmills, the siting of them has a negative environmental impact as well. I brought up the point with the

fiberglass, (inaudible) the fiberglass is spreading. We had a fire on a windmill in the Southern Tier and you could see the flames and the fiberglass blowing off. I don't think that's probably environmental-friendly, certainly not for the lands in Upstate New York on the farmers' lands where it's landing on their soil is not what is appropriate. But again, it just seems like in all these policies whether it's wind, solar, electric vehicles with the batteries where they're poisoning waters, rivers and streams with lithium mining in African countries, the cobalt mining with the children of the Congo mining for that. Just one thing after another and it's all part of an energy policy that does not make it more affordable or reliable and certainly not dispatchable so on a 24/7 demand. And I know it's feel good legislation because we can try to get this -- New York is only 0.4 percent of total global emissions .4. China just broke 29 percent and is now 30 percent of global emissions. And President Biden once said, and I don't agree with him on much, he said if China is not with us, we're wasting our time. I agree with President Biden, we're wasting our time on this policy, it's feel good. It's not going to make a significant impact on global emissions. But it is going to drive more and more New York families, farmers, businesses and manufacturers leaving the State and the nation leading in the outmigration -- outmigration crisis that we see happening each and every day in this State.

So for this reason and others, I'll be voting no but I do appreciate the sponsor's time on this legislation. Thank you.

ACTING SPEAKER AUBRY: Ms. Byrnes.

MS. BYRNES: Mr. Speaker, will the sponsor yield?

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

MS. GLICK: Sure.

MS. BYRNES: Thank you. All right. Obviously this is an important issue to you, which is why you're here if hundreds of thousands of birds are being killed by the wind turbines, obviously way more are being killed by wind turbines than pheasant or grouse during hunting season so it is an important issue. Would you support or does this bill support and include a moratorium on the construction of new wind turbines until we have bird-friendly blade protocols in place --

MS. GLICK: No.

MS. BYRNES: -- to stop the mass killings?

MS. GLICK: No, it does not.

MS. BYRNES: Okay. Mass killings can continue. 500,000 is a lot of dead birds.

MS. GLICK: Well, I would just say that there are lots of human activities that are damaging to wildlife of various descriptions as well as to our own health and well-being. And so we have seen from the use of fossil fuels that there are negative impacts on the environment from extractive industries.

MS. BYRNES: Correct.

MS. GLICK: We're trying to find different ways and

when we see what might be a problem we're trying to address it.

(Inaudible) solves everything.

MS. BYRNES: So you have identified a problem of hundreds of thousands of birds being killed and murdered by wind turbines and the --

MS. GLICK: It's not intentional. It's not -- it's not -- -- it's not intentional.

MS. BYRNES: All right. You also mentioned the importance and you referenced to human beings, too. Is there any study that goes into this -- this decision on the color of the blades that other than the birds that -- that any study that's taken into effect the color of the blades on the people that live underneath them or are otherwise effected by them? It's clear from all of the wind turbine manufacturers that I've spoken to, they recognize that there is a specific effect, they call it flicker. When the blades are going around depending on where the sun is in the sky, it can be a huge problem for homes that are in the shade and as those blades going around they call it flicker. (Making sound) In and out, in and out, in and out. Is there any studies about the effect of either the color of the blades on the -- or the rotation of the blades generally on human beings, or we only care about the birds?

MS. GLICK: Well, that could be a subject of a different bill. I look forward to you putting that forward, but this bill before the House relates to the -- this particular concern. But we, you know, we are happy to hear about other issues that maybe should be

subject to another or different study, but this is, you know, a fairly narrow bill and while some of the debate may have gone further afield, this is a pretty basic simple bill that would require one blade to be painted black, and right now it is the subject of a study and when there is a determination either after that study or perhaps some other studies by the government, we may see an action by the FAA which I would hope would require one blade to be painted, because I think it probably is helpful.

MS. BYRNES: On the bill.

ACTING SPEAKER AUBRY: On the bill.

MS. BYRNES: Thank you, Ms. Glick. I know you tried your best. The -- the main point here is that if the issue of the color of the blades is so important that we have to pass a bill now before there even apparently is a definitive study that's made, they're hoping to look at what it is in the future possibly retrograde if that's what's appropriate in the future, then if it is so important if literally there are hundreds of thousands of birds that are being killed as mentioned in the sponsor's memo, then we should not be building these wind turbines. Obviously, they're dangerous to wildlife and I know how much the Majority cares about preserving wildlife in this area so we should be supporting our wildlife in every form, be it bird or any other type. And also, if they're going to look at these things they should also be looking at the moratorium and that they should wait pending the study to make sure we know how to safely and effectively construct wind turbines in the future.

So for those reasons and others I will be voting no, Mr. Speaker. Thank you for your time, and thank you, Ms. Glick.

ACTING SPEAKER AUBRY: Thank you. Thank you very much.

Mr. DiPietro.

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

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

MS. GLICK: Sure.

MR. DIPIETRO: Thank you, Ms. Glick. You might have answered these so real quickly. This is only in New York, correct, this bill? Is this a nationwide study going on or --

MS. GLICK: This is not Congress. This is only --

MR. DIPIETRO: Just us, okay.

MS. GLICK: Just us.

MR. DIPIETRO: Is this -- I think -- quite understand -- is this retroactive to all the turbines that are up now or is this going -- if this happens will it be going forward with new ones being built?

MS. GLICK: The Office of Renewable Energy Siting would set the standard so they would make that determination.

MR. DIPIETRO: Okay. Did they -- because there's, I don't know, from what I understand, there's two ways to either paint it or actually manufacture the blade. Do you know the cost?

MS. GLICK: I don't have cost figures but I think that

it's a de minimus cost in terms of whether or not -- I don't know what it looks like when it's first manufactured, so I don't know if it's all just shiny and they have to paint it white and if they have to paint it white, painting one black would not seem to be a dramatic cost change.

MR. DIPIETRO: And I've got a lot of wind turbines in my district, hundreds. So if this happens who will -- who will actually pay? Will it be the manufacturer? Will it be the distributor? Will the towns that these are in -- where would the cost go to?

MS. GLICK: This would -- this would certainly not be a cost absorbed by the municipality. This would be by the energy company and that would be determined if it has to be -- you know, when you -- when you're purchasing you create specs, specifications, and the manufacturer is to those specifications. So I would assume that within the purchasing done by the energy company, I don't believe the energy companies are the manufacturers. I would assume that they would, within their specification, their contract, would specify that this comply with this regulation and then that's how it would be done. But it would certainly never be a -- a cost that would be assigned to the municipality.

MR. DIPIETRO: Right. Does -- right now wind energy is subsidized. Will these be included in the subsidy?

MS. GLICK: I -- I just think that that's completely, you know, distant from the bill. I think that it is the painting of a single blade. It would be in the manufacturer, it would be in the energy company's specifications. I don't think that it changes whether

something is subsidized or not, or the degree to which it's subsidized because I think it's a de minimus cost.

MR. DIPIETRO: Okay. There's a group from -- where I'm from it's actually called CAWTILE, it stands for Citizens Against Wind Turbines in Lake Erie. That's been a huge issue up where I am in my district and around Western, New York obviously. And I've been working with that group. Are -- are -- are you familiar that if -- from what I understand, if they paint these it's a different paint that they would use on the land-based wind turbines versus the ones that would go in the lake, and the -- the application that they would put on these in the lake is actually possibly toxic to the wildlife in Lake Erie or in the lakes. Are you familiar with that at all?

MS. GLICK: Well, not to the degree that some who have studied that, but obviously there is a difference in paint for marine applications. And that may be a -- of a different makeup than what we would put in our living room or dining room if we were painting, which is usually an acrylic latex paint but marine applications do use a -- I believe, use a different composition.

MR. DIPIETRO: They do, okay. That was it. Thank you, appreciate it.

On the bill, sir.

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

MR. DIPIETRO: Thank you. A number of issues here but why I'm imposed, this is -- these are all subsidized. So

whether it's retroactive or no, t they're going to be subsidized and it's going to drive up costs for what we're trying do is lower costs, especially when they talk about green energy, you're talking about actually driving up costs. The costs on these to install -- if they have to actually install a blade, say a manufactured blade, is going to be well over almost a half a million dollars by the time they manufacture it, get it out to the wind turbine, take one of those blades off, which is very expensive because up in my area those are 460 foot turbines, they're the large ones and each blade is up approximately over 200 feet from where it's attached so that -- that trying to get -- just to get up, it's not like you can just get on a ladder and take that down. So the cost on that is well over a half a million dollars, and when you're talking about hundreds of wind turbines, you're talking a lot, you know, 50- to \$100 million maybe or more and that's going to obviously drive up cost. It's not going to lower any costs to put a different color blade on.

The Lake Erie issue which we've been fighting for years is -- if they put those in and one blade falls if they do use the -- if the paint is the specialized, obviously they're going to say it won't effect the lake, but if it does fall into the lake, if something happens, you're looking at a contamination of an unfathomable and our goal is just to keep them all out of Lake Erie. So with that -- and then I just thought it was, you know, on a personal note where I'm very passionate, you know, we have -- when it's mentioned, you know, we have many activities that are harmful to humans, we're talking about

500,000 or a million birds killed, we're getting very upset about that. I just want to go back that there's been over 64 million babies killed. Human life, not animal life. So I'll leave it at that. Thank you, Mr. Speaker.

ACTING SPEAKER AUBRY: Thank you.

Mr. Goodell.

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

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

MS. GLICK: Andy, I look forward to it.

MR. GOODELL: Thank you, Ms. Glick. And I appreciate the comments you already had today, and I was crossing off my questions as my colleagues asked them and you answered them and I appreciate that.

These windmill blades are -- many of them are huge. I have often seen them on tractor trailers going down expressways with actual escorts. Are all the windmill blades currently painted or is the color of the current windmills part of the composition of the fiberglass that they're made of?

MS. GLICK: Earlier I said that I was not certain what it looked like at the point of manufacture. Although, when I went to Clinton Community College which interestingly has a wind turbine -- a turbine certification course, what I observed was at that time looked like it had been painted, but I can't tell you whether it was

embedded in the material or on the surface.

MR. GOODELL: Well, if --if they're currently all painted, then the cost of painting just one a different color presumably would not impose a huge new cost. But if they are not painted then obviously it is a -- a potential cost. Any idea what it would cost to paint a windmill blade of that size?

MS. GLICK: Am I doing it on the weekend at home or is this something I'm hiring someone?

MR. GOODELL: Presumably with a roller.

MS. GLICK: I have no idea. What would you imagine the cost to be?

MR. GOODELL: I -- I don't know what kind of paint they would use or the toxicity of the paint or whether they would prime it and how many coats or how often they would need to recoat it. So I just don't know and I was hoping that you had that knowledge.

MS. GLICK: We don't have that information before us, but we'll begin to look into that.

MR. GOODELL: Now, as you know, there's a substantial amount of controversy over the flicker effect of windmills on human health. There are a number of seminal articles initially suggesting that if there was a frequency above three hertz it posed measurable and significant impact on triggering photosensitive epilepsy. Will the painting of the windmills exacerbate that or reduce that impact on humans?

MS. GLICK: I have no idea if that's part of the

design or whether there is in fact, for all I know there is already a study underway. That was not what we were looking at. This particular issue was focused on the impact on bird life as opposed to human life. There may be studies going on now that I have no idea about.

MR. GOODELL: Your memo support, as my colleagues noted and cited, the U.S. Fish and Wildlife Services indicated as many as a half a million birds are killed annually with windmills, and of course we're building more and more windmills every day so presumably that number will continue to go up. To help me understand the perspective of that number of birds, a half a million a year, how is that compared to the number of birds that are killed with neonicotinoid treated seeds?

MS. GLICK: I don't have that information.

MR. GOODELL: Do we have any bird mortality data at all on neonicotinoid treated seeds?

MS. GLICK: I don't know that there is a direct study on that -- that the number of what we do know is that there was a -- we can attribute the number of birds deaths to certain things like building strikes, glass strikes and cats and the like, but we also know that there is a huge number of I think in the last ten years it was -- I don't want to misspeak because I don't have that in my notes but it was I think three billion -- 30 billion birds in the last ten years. And so clearly there are other things that are impacting including things like methane flares and the like that impact flying creatures like birds and

bats.

MR. GOODELL: Thank you again, Ms. Glick.

On the bill, sir.

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

MR. GOODELL: I share the bill sponsor's concern with bird mortality absolutely, and I think birds play a really important role in our overall ecosystem, sometimes it's a role that we don't fully appreciate. At the same time I'm not sure that painting one blade black is a black and white issue. I think it's more difficult and I agree with my colleagues I think on both sides of the aisle that this is surely a worthwhile area to study. And that study of course not only wants to evaluate the impact on birds but also needs to impact -- discuss the impact on flicker and whether or not it enhances or reduces photosensitive epilepsy seizures by people who live near these windmills. It should -- that study should analyze the cost-benefit ratio. How much are we talking about to paint these and are we painting these windmill blades with toxic paint, and if so, how much and how often do we have to repaint them? And it's not just a simple matter of spraying black paint because, as you know, windmills have to be very carefully balanced because if they're out of balance it destroys the windmill itself. So it's not like we can put several hundred pounds of paint on one blade and watch to see what happens. It's much more sophisticated. So absolutely agree with my colleagues' concern over bird mortality, but I would recommend that we do the study first

before we pass the legislation so that we know the cost-benefit ratio and we know the impact not only on bird mortality but on human health as well.

So for that reason, while I appreciate the intent, I think the bill may be premature and we should wait for the studies so that we know -- so that "we" know what we're doing when we pass legislation. Thank you, sir, and again thank you to my colleague.

ACTING SPEAKER AUBRY: Thank you.

Mr. Ari Brown.

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

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

MS. GLICK: Yes.

MR. A. BROWN: Thank you, Madam Sponsor. Unfortunately I've become somewhat of an expert in this field of wind turbines over the past year. Are you aware that most international studies and most countries require that the blades on the turbine be kept in their natural state of white and/or painted white for the specific reason of air traffic control visibility specifically at night, that's internationally?

MS. GLICK: Well, that has been the current circumstance and the study is -- there was a study to determine if there would be a difference. There seemed to be in a very small study a rather dramatic difference in bird strikes and so this -- at least here

there is this other study that's being undertaken. I have no idea if there are other countries that are similarly investigating on their part what the change in a one blade of a turbine would do for visibility.

Obviously, the FAA is not going to authorize this if it has a negative impact on the ability of pilots to see wind turbines.

MR. A. BROWN: Thank you, Madam Sponsor. Are you also aware the reason why the blades are never painted black or a monolithic/monotone color, and possibly only an adding of a stripe is because of this visibility issue and there isn't a single country anywhere that ever passed such a thing because of the danger?

MS. GLICK: Well, all I will say is that the wind industry is in terms of most of our work in renewable energy not of longstanding, but I also know that there are different kinds of wind turbines that are being explored, some in a conical configuration which may reduce by nature of its design the issue completely, and that may be something that in the future, smarter generations will be -- will create and will pose no threat either to aviation or dramatically to birds.

MR. A. BROWN: Thank you, Madam Sponsor. One last question, are you also aware that the reason why internationally suggested not to paint the blades and keep it as Mr. Goodell had suggested, keep it in its naturally-formed light gray pale or white shade is because of the excessive shedding of the fiberglass and other materials into the -- into the ocean? The bonding process and the chemical adhesion of the paint onto the -- onto the blades can't be

done simply with a latex borne paint which would be water soluble. It would have to be, as my colleague had suggested, something toxic and the shedding has caused in every study excessive deaths in most marine life and that's why it's almost strictly prohibited everywhere internationally except for this mysterious bill.

MS. GLICK: This what?

MR. A. BROWN: This unusually proposed bill.

MS. GLICK: Well, I don't think it's -- the bill is unusual in that it's proposing that we try to reduce bird strikes in this fashion. Obviously, the first study was in Norway which is another country, and so I think that there may be other places and I'm fascinated by the deep concern about toxic materials since we are constantly putting all manner of toxic materials in the ocean. And in, you know, are you aware of the fact that by 2050 there'll be more plastic in the ocean than fish? So I think it's great that we are raising these issues about toxicity. We're going to try to work as best we can to reduce toxic materials, and in fact renewable energy offers that possibility, but everything we do may have some downside. This may have less downside than pouring methane into the atmosphere.

MR. A. BROWN: Thank you Madam Sponsor.

Mr. Speaker, on the bill, please.

ACTING SPEAKER AUBRY: On the bill, sir.

MR. A. BROWN: While I commend the sponsor on her idealistic approach to try to save the environment, when we look at this particular bill in its entirety it actually has the total opposite

effect and that's irrefutable. The international studies, the international world forum when it comes to these wind turbines has determined that this process is dangerous and has not been done specifically because it puts passengers on planes at risk. That's why it should be left in its pale study and the shedding of the chemicals -- the shedding of the chemicals have been proven to damage and destroy the wildlife, and for that reason I'll be voting in the negative. Thank you, Mr. Speaker.

ACTING SPEAKER AUBRY: Thank you, sir.

Mr. Gallahan.

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

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

MS. GLICK: Yes.

MR. GALLAHAN: Thank you, Assemblywoman Glick. I have a few questions. What percentage of bird kills will this process eliminate?

MS. GLICK: Well, I think that's part of the study.

MR. GALLAHAN: And where can I find that study?

MS. GLICK: It is being done now, Mr. Gallahan.

MR. GALLAHAN: Oh, okay. So we're going to pass this before the study. Okay. So what about nighttime kills? Birds of prey in the evening are colorblind. I don't see that eliminating any of those nighttime kills.

MS. GLICK: Not everything we do is a hundred percent effective.

MR. GALLAHAN: And my last question would be, what would be your acceptable level of bird kills?

MS. GLICK: Well, that is not for me to determine. I think that everything that we do is balanced between the positive effect and the negative effect. And so if in fact the original small study, which demonstrated a 72 percent reduction in bird strikes is proven to be accurate, then I think that would be a worthy course of action to pursue.

MR. GALLAHAN: So instead of 500,000 bird kills a year we would be happy with 150,000 --

MS. GLICK: That -- that -- you know, I will take exception to the way in which you framed that for the record.

MR. GALLAHAN: Point well-taken.

Mr. Speaker, on the bill.

ACTING SPEAKER AUBRY: On the bill, sir.

MR. GALLAHAN: Years ago in the -- in the Tug Hill area they put up initially 177 windmills, and a good portion of those were put on a farmer's property that I hunted every year. And when they first went up, I went up as I always do to get permission to hunt his property and I inquired about those -- those windmills, and inquired about his farm. And he said Jeff, I don't have to farm anymore. I've sold all my farming equipment except for my front loader and my plows, my snow plows. I've been hired by the -- the

energy company to take care of the driveways for all these windmills. He said, I had -- I had to keep my front loader and my backhoe to dig a hole to put all the birds in because I'm in charge of picking up all the birds. So I asked him, how many birds do you get underneath the windmill in a month's time? He said I've never taken a count, but I can tell you within the first year there were over 10,000 birds killed by the windmills on my property, including hawks, owls and bald eagles. So my question to the sponsor in regards to how this is going to reduce and what is an acceptable level is -- is very important to me and without knowing that through a study that hasn't been completed yet, I'm not comfortable voting in the affirmative on this bill. I need more information on this bill and I think it's premature. I think that -- that it's a -- it's a grand idea. I think that we need to look into this because I've witnessed it firsthand and bird kills are -- are exceeding what I would ever deem acceptable right now. So with (inaudible), does the end justify the means? We don't know. And we won't know until the studies are done. So until those studies are done and I have more information and can make a reasonable assumption of what would happen, I will be voting in the negative. Thank you.

ACTING SPEAKER AUBRY: Read the last section.

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

ACTING SPEAKER AUBRY: A party vote has been requested.

Mr. Goodell.

MR. GOODELL: Thank you, sir. For the reasons mentioned by my colleagues, the Republican Conference is generally opposed. Those who wish to support it should certainly vote yes here on the floor of the Assembly. Thank you, sir.

ACTING SPEAKER AUBRY: Thank you.

Mrs. Peoples-Stokes.

MRS. PEOPLES-STOKES: Thank you, Mr. Speaker. The Majority Conference is going to be in favor of this piece of legislation; however, there may be a few of our colleagues that would like to be an exception, they should feel free to do so at their seats. Thank you.

ACTING SPEAKER AUBRY: Thank you.

The Clerk will record the vote.

(The Clerk recorded the vote.)

Mr. Manktelow to explain his vote.

MR. MANKTELOW: Thank you, Mr. Speaker, to explain my vote. I applaud the sponsor for bringing this forward because I -- I think the goal is very admirable. Of course we always want to save birds, absolutely. But one of the things I thought about as we debated this just a few minutes ago was about four to six weeks ago we debated an amendment to a bill that was passed last year called the Birds and the Bees bill in regards to neonics and I remember on this floor and we can go back and look at the transcripts, it's there, we talked about saving every bird and every bee. And my colleague asked the question what is acceptable? I guess my question

is if we can't get to an accessible number, if we can't stop this, are we going to put the same pressures, are we going to put a goal out there of 2029 that if we can't stop this, we're going to stop putting up windmills, we're going to stop doing solar projects because it's killing birds and bees? That's what we did to our farmers. We stopped it until 2029, then something's got to change. Are we going to keep the playing field level here? We talk about equity, we talk about fairness, we talk about doing things across the board. So if that's the case let's do it both ways. On one hand if we're going to hold our farmers accountable, then we better hold these power producers accountable as well.

So I will be voting no, and as a couple of my colleagues said, does the end justify the means? I go back to my Assembly partner over here when he talks about the children in the Congo. It just brings back to does it really justify the means? So thank you, Mr. Speaker and I'll be voting no.

ACTING SPEAKER AUBRY: Mr. Manktelow in the negative.

Mr. Lavine to explain his vote.

MR. LAVINE: (Mic cut out) this straightforward bill which simply says that the construction of the wind turbines ought to include consideration for the best color for the blades to be to minimize birds deaths. Unsurprisingly, there's been resistance to this straightforward bill and it's no surprise because the fossil fuel industry and one of our political parties has decided to conduct a war on

renewable energy. The majority of Americans, two-thirds, support green energy. And I'm pleased to report that America's first large-scale offshore wind project has just been completed off the shores of Long Island, it's the South Fork Wind Project which will produce 130 megawatts of power and enough to power 70,000 homes, 70,000 home represents 15 percent, 1-5 percent of the homes on Long Island. This is the wave of the future. It is obvious that our planet is heating up. Everyone understands that. Everyone who believes in science understands that. So we either confront global heating or we all perish. We don't want that. So I'm very pleased to vote in favor of this -- of this bill. Again, I just want to say this very simply, we either confront and master global heating or every single one of us perishes.

ACTING SPEAKER AUBRY: Mr. Lavine in the affirmative.

Are there any other votes? Announce the results.

(The Clerk announced the results.)

The bill is passed.

Mrs. Peoples-Stokes.

MRS. PEOPLES-STOKES: Mr. Speaker, if we could now turn our attention to Calendar No. 349, it's on Page 27. It is by Ms. Lunsford on debate.

ACTING SPEAKER AUBRY: The Clerk will read.

THE CLERK: Assembly No. A07494-B, Calender No. 349, Lunsford, Stirpe, Shimsky, Ardila, McMahon, Bronson, Lavine, González-Rojas, Dickens, Simon, Burdick, Sayegh,

Levenberg. An act to amend the Public Health Law and the Agriculture and Markets Law, in relation to requiring allergen labeling for prepackaged foods.

ACTING SPEAKER AUBRY: An explanation is requested.

MS. LUNSFORD: This bill all started by saying is responsive to an issue I encountered myself. My then three-year-old son was eating cookies from a bakery that we frequented all the time from a mixed collection of cookies we purchased a lot and he found himself accidentally ingesting walnuts. I, myself, checked the labeled on this box, it did not say that any of the cookies contained nuts. I myself even sampled the cookie, not knowing it contained ground walnuts. My son has anaphylaxis reactions to walnuts. He has a number of food allergies which is not uncommon. Most kids with food allergies are allergic to more than one food. And this incident sent my three-year-old to the hospital in an ambulance. He had to get an EpiPen shot at home. He had to get two more shots at the hospital and on top of the terror that he felt and that I felt, we also had a high deductible insurance plan and this cost me \$3,500. The purpose of this bill is to ensure that this doesn't happen to any other families. This bill requires that establishments like supermarkets, delis and bakeries that prepackage their own food for sale simply put a label on the prepackaged container that states if it contains any of the major food allergens that are described by the FDA.

ACTING SPEAKER AUBRY: Mr. Jensen.

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

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

MS. LUNSFORD: I will.

ACTING SPEAKER AUBRY: Ms. Lunsford yields, sir.

MR. JENSEN: Thank you very much, Ms. -- Ms. Lunsford. So with this legislation, certainly nobody here, myself included, wants any family to go through a similar situation that you and your son went through and probably countless people in the State have to deal with every year. But in this legislation, I think there's some confusion about exactly what the requirement is on the supermarkets, delis, bakeries would have to do. The way the bill is written, would they have to list every ingredient that is in that prepackaged thing; cookie, sandwich, pistachio cream puff, whatever it may be?

MS. LUNSFORD: No, they would only need to label the major allergens. The way the bill reads says that they must have a description of all ingredients and labels for major food allergens. So if it were to contain say peanut brittle, you might say it contains peanuts. If it contains flour, you might say flour, parenthesis, wheat. But it would only need to contain those ingredients on the label that were represented by the FDA as major food allergens.

MR. JENSEN: And I think in that context, I think

that would make sense, but what I'm concerned about is that the drafting of the legislative language is inconsistent with your legislative interpretation of what it says. Because certainly what it says on Page 2, starting at line 37, identifying all ingredients and labeling for major food allergens. I read that as saying that you have to list all the ingredients and label the major food allergens. That it's both things, not the ingredients that are the food allergens. So I think some of the issue that we had when this came before the Health Committee, is an inconsistency in the drafting of the legislation.

MS. LUNSFORD: I don't think it's an inconsistency as much as a ambiguous interpretation that I understand why that would read that way potentially so I'm glad we're having this conversation where we can clear this up on the floor. That this should be read as all ingredients and labeling for major food allergens.

MR. JENSEN: And I know this bill was amended from when it was in the Health Committee where previously it was a three month effective date that got extended to a year and I think it makes it a better bill. And I think it's worth with this the same as in the Senate not moving it, that it may be worth some sort of amendment before going to the Governor to ensure that there is no confusion moving forward.

In the context of the implementation, was there any thought to the burden that this may place on smaller businesses if they may not have the equipment to label these things? A small mom and pop deli in a very small community, that they might not have the

technology and equipment to actually follow through on the labeling.

MS. LUNSFORD: So I did have extensive conversations with the Business Council and with other various smaller retailers even not so small, your Stewart's, you know, not gigantic supermarkets, and that's part of the reason we decided to extend the effective date to give people a little bit more time to adopt the technology they need. Because right now your Wegmans, your Tops, they all have ingredient printers. This is a pretty common mechanism, even 7-Elevens for the most part. But all that would be required is a simple label that could frankly be printed out on a home printer that just says, you know, contains wheat, contains milk. It doesn't need to be a big long thing. So let's say you're a bodega and you regularly create prepackaged say breakfast sandwiches, you could say hey, here's a big pile that contains eggs sticker and you could just have that for your employees as they make those sandwiches to pop right on top.

MR. JENSEN: So I'm thinking about their sub.

MS. LUNSFORD: We're always thinking about their sub.

MR. JENSEN: Well, that is the world's greatest supermarket so it does make sense. But I think of Wegmans in ordering a sub and walking up to the sub counter, if I were to order a sub, you know, a turkey sub and I would see them make it, I know what's in it. If I walk five feet across from that, I can get a pre-made turkey sub. Wouldn't we still be able to fulfill the same purpose by

having the retailer to have a list of allergens that are in some of their most common prepackaged dishes so that Wegmans, for instance, for their rolls, it would have a list that would be at the sub counter and they would say okay, this is what's in our seeded everything roll. So that way when somebody who does have concerns about wheat allergy or some other allergy could walk up and say hey, I just want to see what your -- your allergy ingredient list is for this roll. Instead of having to mark every single turkey sub that they make and put out in a prepackaged setting.

MS. LUNSFORD: This is really designed for ease of the consumer and to ensure that notices are readily apparent. You, like me, have small children. You've been to the supermarket, the idea of having to walk up to the Wegmans sub counter on say a busy Saturday afternoon where there's a line of seven or eight people long to order subs to say hi, excuse me, if I could just -- if I could just get the -- it becomes very burdensome for some people and I know that busy parents often don't have time. As someone who has to look at food labels, I can tell you it's an onerous process and I'm frustrated frequently when I can't tell if something contains sesame or tree nuts or which tree nuts, because my son is allergic to some tree nuts and not other tree nuts. So it is just very burdensome for parents and for people who -- I mean there's almost 2 million New Yorkers who have food allergies. People carry EpiPens around with them everyday. So this is to ensure ease for the consumer and to make sure that people aren't being accidentally exposed to things that can kill them.

MR. JENSEN: Well, that's -- I think that's a laudable goal. I am absolutely not for arguing that we should do things to kill people but just trying to figure out the best way forward. And I didn't see it in this legislation but is there anything that speaks to the standardization of what that allergen sticker would have to be? Would it have to be a list of words? Could they put a picture of a walnut on an orange circle and stick that on, you know, maybe a chicken for an egg? Like is there a standardized --

MS. LUNSFORD: I believe people are notoriously challenged when it comes to ID'ing sketches of nuts, so we are going to just going to use the standards that are already prescribed by the FDA, which simply say that it needs to either say contains, colon, or whatever the allergens are or an ingredients list. You may choose to put an entire ingredients list on your product, and then it would just need to specify. In the event that the -- the allergen was part of a product like let's say for instance it was a mixed flour, and some of that flour was rice and some of that flour was wheat, you would need to specify that as part of what the flour contained, but all of that is per the regular labeling guidelines the FDA already puts out.

MR. JENSEN: So -- and this may be a silly question but for -- when it's very obvious that there is something that would fall in the FDA list. I'll use the walnut example that you brought up earlier, that if it's a chocolate and walnut cookie, that's what it's labeled as, being sold as, would they still have to put the label that there is walnuts on this even if it already says it's a chocolate and

walnut cookie?

MS. LUNSFORD: That is the FDA requirement. I believe that this -- the spirit of this law would require that. However, considering that the penalties for this are at the discretion of the Department of Health in a situation where it was very, very evident like that where the title of it was, you know pistachio creme brulee or what have you, that that may be sufficient to avoid a penalty. But I would encourage people to continue following the guidelines to label everything (inaudible).

MR. JENSEN: Okay. Thank you very much, Ms. Lunsford.

Mr. Speaker, on the bill.

ACTING SPEAKER OTIS: On the bill.

MR. JENSEN: I appreciate the sponsor asking or answering my questions. I do believe even after our conversation that the legislation should be amended to eliminate any unclear components of it about what would have to be labeled in the event this does become law. Additionally, I am concerned about the burden we would place on some of our smaller businesses in the State. You know, I think there's a way to do this that still allows families and individuals to know what allergens might be in prepackaged food items without having to label each food item individually every time they create it.

So once again, I appreciate the sponsor's answers. But I think there's a potentially better way that we could go about this.

Thank you, Mr. Speaker.

ACTING SPEAKER OTIS: Mr. Goodell.

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

ACTING SPEAKER OTIS: Will the sponsor yield?

MS. LUNSFORD: Of course.

MR. GOODELL: Thank you. How does this compare to the Food Allergen Labeling and Consumer Protection Act of 2004, that's the Federal Act.

MS. LUNSFORD: It remains consistent, but there are certain producers that are exempt from that when they make prepackaged food in the scenario. This would actually just take those delis, supermarkets, you know, small grocery stores and add them to that act so it would be consistent with the requirements as it pertains to major allergen (inaudible).

MR. GOODELL: And would a small deli, supermarket, or those other small businesses that you mentioned, meet the criteria of this law if they had a preprinted warning that they just slapped on and said warning, this project -- product may contain milk, eggs, wheat, tree nuts or other allergens?

MS. LUNSFORD: No. And actually that's part of why I bring this bill up, because virtually every product in a bakery comes into contact with nuts. So virtually every bakery uses nuts in something. Virtually every bakery uses eggs or milk and many people are not concerned about trace contamination. This was the issue that

happened to me. The cookies that my son routinely ate came from this package and it said made in a facility that processes nuts and milk and eggs but that was insufficient to describe the made of ground walnuts cookie that my son ate. So this is to ensure specificity that this may not just have trace contamination, it's not just being in a building, it's not just that we sometimes put nuts in this but this time we didn't. This particular product contains a major allergen.

MR. GOODELL: And so would you envision that these small businesses would have to actually measure in any way how much milk, egg, fish, shellfish, tree nuts, sweets, peanuts, sesame or soybean was in their product?

MS. LUNSFORD: No, so long as it contained any of those major allergens as an ingredient. That it was actually added to the product as a preparation or let's say you're using rolls you didn't bake. You can look at the ingredients on those pre-made rolls, presumably made of wheat and you would have to include that as well.

MR. GOODELL: So the major difference just to make sure I understand between this and the Federal labeling requirement is this supplies -- this bill would apply to mom and pop small delis, folks that make subs, sell them at grocery stores things like that and the Federal labeling only applies to food manufacturers?

MS. LUNSFORD: Yes.

MR. GOODELL: I see.

MS. LUNSFORD: So this is only for food that is

packaged, prepared, prepackaged and sold on the premises.

MR. GOODELL: Thank you for your comments.

MS. LUNSFORD: Thank you.

MR. GOODELL: Thank you, sir.

ACTING SPEAKER OTIS: Read the last section.

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

ACTING SPEAKER OTIS: A party vote has been requested.

Mr. Goodell.

MR. GOODELL: Thank you, sir. The Republican party is generally opposed to this for the reasons mentioned by my colleague, but some of us may want to support it for the reasons mentioned by our other colleagues. Those who wish to support it should vote yes on the floor. Thank you, sir.

ACTING SPEAKER OTIS: Mrs. Peoples-Stokes.

MRS. PEOPLES-STOKES: Thank you, Mr. Speaker. The Majority Conference is going to be in favor of this piece of legislation.

ACTING SPEAKER OTIS: The Clerk will record the vote.

(The Clerk recorded the vote.)

Ms. Lunsford to explain her vote.

MS. LUNSFORD: I want to thank my colleagues for allowing me to bring this bill to the floor. This is obviously a very

personal bill to me. The events of that day continue to haunt my son. He's very, very concerned about allergen exposure now getting poked with a number of needles will do that to you. But this is a bill that I think is going to genuinely save lives. It's going to certainly ensure better healthcare outcomes for millions of New Yorkers who suffer from food allergies and I just want to take a moment to appreciate all -- those of you who are supporting it. Thank you very much.

ACTING SPEAKER OTIS: Mr. Meeks to explain his vote.

MR. MEEKS: Thank you, Mr. Speaker. I'd like to commend the sponsor on this bill. I would like to share a quote and it's from the gospel artist Yolanda Adams and it's titled *What About The Children*. *What about the children to ignore is so easy. So many innocent children would choose the wrong way. So what about the children. Remember when we were children. And if not for those who loved us and who cared enough to show us, where would we be today.* I want to say thank you to the sponsor as a mother because there's certain experiences that you can relate to that me as a father I just could not relate to. I want to say thank you for advocating for not just your job but recognizing the challenges that you experience as a mother and advocating for all the children in New York State and this type of legislation is absolutely necessary and maybe one day it will be a national law to ensure that we all know across this country the ingredients that we are sharing with our children. Thank you, Mr. Speaker.

ACTING SPEAKER OTIS: Mrs. Peoples-Stokes.

MRS. PEOPLES-STOKES: Thank you, Mr.

Speaker, for the opportunity to explain my vote. I, too, would like to commend the sponsor of this piece of legislation. You know, very often as parents when we're raising our children, we have experiences that almost shake us to our core when you have to rush your baby off to the hospital. It's just -- it had to be very hurtful process for her to go to -- through, but for her to come through that realizing that other people could potentially have the same problem, should she not be willing to do something speaks volumes to her character and her desire to see that no other mother or parent has to ever see their children go through an experience of enjoying the cookie that they like not knowing that it had walnuts in it. So I really want to thank her for her work here and I'm pleased to vote in the affirmative.

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

(The Clerk announced the results.)

The bill is passed.

Mrs. Peoples-Stokes.

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

ACTING SPEAKER AUBRY: We have a piece of housekeeping.

On a motion by Ms. Hunter, Page 17, Calendar No. 142, Bill No. 85073, amendments are received and adopted.

We have several other fine resolutions, we will take them up with one vote.

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

(Whereupon, Assembly Resolution Nos. 1065-1070 were unanimously approved.)

Mrs. Peoples-Stokes.

MRS. PEOPLES-STOKES: I now move that the Assembly stand adjourned and that we reconvene at 10:30 a.m. Tuesday, April the 4th, tomorrow being a Session day.

ACTING SPEAKER AUBRY: The Assembly stands adjourned.

MRS. PEOPLES-STOKES: Thursday -- Thursday -- Thursday.

ACTING SPEAKER AUBRY: Thursday.

(Whereupon, at 5:39 p.m., the Assembly stood adjourned until Tuesday, April 4th at 10:30 a.m., Tuesday being a Session day.)