

TUESDAY, MAY 16, 2023

2:46 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 Monday, May 15th.

Ms. Solages.

MS. SOLAGES: Mr. Speaker, I move to dispense with the further reading of the Journal of Monday, May 15th and that

the same stands approved.

ACTING SPEAKER AUBRY: Without objection, so ordered.

Ms. Solages.

MS. SOLAGES: Well thank you, Mr. Speaker. As always, we're going to begin the day with a wonderful quote from a proud New Yorker, Eleanor Roosevelt. She said that "the future belonged to those who believe in the beauty of their dreams." And so Eleanor Roosevelt was an American public figure, a diplomat, a pacifist and an activist, and she was the First Lady of the United States from 1933 to 1945.

So with that, Mr. Speaker, if I could have the members' attention so that we could announce the schedule for the day. Members have on their desk a main Calendar. We also have a debate list. And after any housekeeping and introductions we will call for the following committees to meet, which is Corporations and Ways and Means. We will begin our floor work by taking up a resolution on page 3, and we will continue with where we left off yesterday with consent starting with Calender 208 on page 20, through Calender 218. We will then work off the debate list as follows: Calendar No. 38 by Mr. Zebrowski; Calendar No. 79 by Mr. Gibbs; Calendar No. 144 by Ms. Shimsky; and Calendar No. 159 by Mr. Colton. I will announce any further floor activity as we proceed. There will be a need for Majority Conference in the Hearing Room C and at the conclusion of our work from the floor. As always, I will

consult with the Minority regarding their Conference needs.

So with that as a general outline, Mr. Speaker, if there's any housekeeping and introductions, now would be the appropriate time.

ACTING SPEAKER AUBRY: No housekeeping, Ms. Hyndman [sic]. However, we do have introductions.

Ms. Hyndman for the purposes of a introduction.

MS. HYNDMAN: Thank you, Mr. Speaker. So today I'd like to introduce to the New York State Assembly, about 30 schools from School District 29 on their Civics Day in our Capitol. So we have schools, and I'm going to try to get them all together: PS 38, 109, 134, 195, 15, 147, 37, 52, 270, 131, 208, 35, 116, 289, 118, 156, 355, 251, 36, 132, 59, 192, 176, PS 95, 181, 136 and 135 Excelsior Prep High School and Eagle Academy. These schools are all in District 29, the school district, not the Assembly district, and we wanted to make sure they understand how important State government is. So they've been able to visit several offices, Senate offices, and Assembly offices, and I have to thank our Superintendent, Dr. Bonds, who is here who made this all happen, the principals who were able to join us, the social workers, the parent chaperons, but most of all these children because they are our future and as a graduate of PS 34 and IS 109, I strongly recommend that we encourage our public school students to be involved in civic education. So they've gotten a dose of what it's like to be here for the day. So, Mr. Speaker, if you would afford them all the cordialities of the House, and I'm sure when they

go back to the district they'll make sure they understand how important State government is. Thank you, Mr. Speaker.

ACTING SPEAKER AUBRY: Certainly. On behalf of Ms. Hyndman, the Speaker and all the members, we welcome these students from the district here to the New York State Assembly. We extend to you the privileges of the floor. We thank and congratulate both the principal and teachers, and everyone who came and assisted these students. We hope your trip here to Albany has been beneficial, that you will spend a little time with us and watch us as we legislate, but also that you will get the sense of quite frankly the majesty of the building that we do our work in. Thank you so very much, we're so happy that you came.

(Applause)

Ms. Reyes for the purposes of a introduction.

MS. REYES: Thank you, Mr. Speaker. We have within us today some distinguished guests from the Bronx. The Garifuna Coalition USA, is a non-profit 501(c)3 tax-exempt organization headquartered in the South Bronx. It was founded On May 9th, 1998, and incorporated May 28th, 1999. The mission of the Garifuna Coalition USA Inc. is to advocate for the rights of Garifuna immigrants and strengthen civic participation within the community by nurturing local leadership through educational and cultural programs that bring together community members across racial and ethnic lines. It seeks to improve the social, economic, civic and cultural conditions of New York's Garifuna community, and among

them, we have two of my constituents, José Francisco Ávila, who is the founder of the Garifuna Coalition USA and Ms. Rosemary Ordonez-Jenkins, who is also a leader within the organization. Please, Mr. Speaker, welcome them and extend the cordialities of the floor, thank you.

ACTING SPEAKER AUBRY: Certainly. On behalf of Ms. Reyes, Mr. Burgos, the Speaker and all the members, we welcome you here to the New York State Assembly, extend to you the privileges of the floor. The Garifuna community is well-known here in Albany and we're always pleased to see you every year that you join us. Continue that great work, we hope to see you again next year at this time and for a similar celebration. Thank you so very much.

(Applause)

Mr. Kim for the purposes of an introduction.

MR. KIM: Thank you, Mr. Speaker, for allowing me to interrupt the procedures for an introduction of a special guest in the Chamber today. We are joined by Ambassador Mikio Mori, Consul General to Japan in New York, as well as community leaders and business leaders from the Japanese community that's standing behind us who have joined us; thank you so much for taking the time to visit. They were here today to be at the Governor's Executive Chamber for the AAPI Heritage Month celebration, but they also decided to come and send their greetings on the floor with us today. Ambassador Mori is very focused on continuing to build better relations between the Japanese and Asian and New York communities. He recently

published an op-ed in the *New York Daily News*. You can look it up, NYC and Japan go way back. The deep ties between America's honor city and East Asia's honored nation, where he talks about the ongoing relationship, not just, you know, enjoying the Japanese culture, but enjoying Japanese baseball players but really, you know, taking the next step of making Asians and Japanese-Americans feeling like they truly belong in this country and not just always being pitted against other communities to compete to try to fit in. And it is a beautiful solidarity-building message that he is promoting and we're all here for him and his leaders as they come up to visit us in Albany. I hope that you can extend the cordialities of the floor to the Ambassador and Japanese leaders.

ACTING SPEAKER AUBRY: Certainly. On behalf of Mr. Kim, the Speaker and all the members, Ambassador, we welcome you here to the New York State Assembly, to your delegation, as well. We appreciate that you've taken time enough to come here to Albany and share this day with us. We know that your mission is about peacefulness and collaboration between our great countries, we believe in that. We will continue to work with that with you. Thank you so very much for being here.

(Applause)

Mr. Goodell for the purposes of a introduction.

MR. GOODELL: Thank you very much, Mr. Speaker. It is my great pleasure to introduce Judge Stephen Cass, the Chautauqua County Surrogate Court Judge. And in Chautauqua

County, Judge Cass is as synonymous with Surrogate Court. His father - also Judge Cass, Willard Cass - served for 28 years, and when he retired, Judge Stephen Cass was appointed to fill the vacancy, and he has already served another 25 years so more than a half-century of Surrogate Court practice in Chautauqua County. Mr. Cass, it's such a pleasure to have him here and as our Surrogate Court Judge, because he combines the unique characteristics of being friendly, practical, compassionate and knowledgeable. He graduated from Allegheny College and then came up to Albany Law School. He's doing a phenomenal job here in Chautauqua County. And just a side note, I am so thankful he has also hired very friendly, helpful staff who correct all my papers every time I file them. But if you would extend the courtesies of Judge Cass and express our appreciation of Chautauqua County and welcome him to the Chamber, I would appreciate it. Thank you, sir.

ACTING SPEAKER AUBRY: Certainly. On behalf of Mr. Goodell, the Speaker and all the members, Your Honor, we welcome you here to the New York State Assembly, extend to you the privileges of the floor. Thank you for taking this lifetime of work in taking care of the people in Chautauqua County, and as well living bond, the heritage that your father left you. Continue the great work, and we hope to see you again in Albany very soon. Thank you.

(Applause)

Mr. Maher for the purposes of a introduction.

MR. MAHER: Thank you, Mr. Speaker. I rise today

to introduce two amazing individuals from Orange County, both of them operate in the Town of Montgomery where I was born and raised. The first is Heather Bell who is the President and CEO of the Orange County Chamber of Commerce. Heather and her team have really reinvigorated the local business community in Orange County. She has so much passion and with her ability to really bring people together, she really has maximized the way that our business community operates and ensured that disposable income is brought to the people that need to really benefit from it the most. The second guest is Sharon Toney-Finch who is the Founder and Chair of the YIT Foundation. YIT is named after her premie baby, Yerik Israel Toney. Yerik was born at one pound, and he fought for his life for seven months before he passed away, and Sharon created this foundation to help other premie babies and their families with cost, transportation to hospitals, and so many other things that she just didn't have the support for when she was in the military. She has created this foundation which also now creates opportunities for homeless veterans and those that are in need who have served our country. Sharon herself did two combat tours in the Army, in Iraq, and is a Purple Heart recipient. Please extend the cordialities of the floor, Mr. Speaker.

ACTING SPEAKER AUBRY: Certainly. On behalf of Mr. Maher, the Speaker and all the members, Heather and Sharon, we welcome you here to the New York State Assembly, extend to you the privileges of the floor. Thank you for the work that you're doing

in your respective communities and that you have turned in some cases tragedy into helping others. We appreciate that. We salute you and applaud you for that. Please know you always have a friend here in Albany. Thank you so very much.

(Applause)

Mr. Curran for the purposes of a introduction.

MR. CURRAN: Thank you, Mr. Speaker. It is my pleasure to introduce to this House Judge Margaret Reilly, who is the Nassau County Surrogate. Judge Reilly started her judicial career on the District Court in Nassau County in 1998. She moved to the Supreme Court in 2012 and she was then elected to the Surrogates Court in 2016, Mr. Speaker. She is a wonderful surrogate on behalf of the residents of Nassau County. And if I also might note, her father, Joseph Reilly, was a member of this House in 1966 to 1982. And when I was talking to the Judge earlier today, it's been so long since she's been up here, the last time she was up here, my side of the aisle was in the Majority. And that's a long time, Mr. Speaker. So I'm going to ask you to please welcome Judge Reilly to the Chamber and extend all the cordialities.

ACTING SPEAKER AUBRY: Certainly. On behalf of Mr. Curran, the Speaker and all the members, Judge, we welcome you here to the New York State Assembly, extend to you the privileges of the floor. And as a part of this House, you're a part of our family because of your father. We extend the privileges that you always will have whenever you come visit us, know that we welcome

you and thank you for the work that you're doing in your county.

Thank you.

(Applause)

Mr. Norris for the purposes of a introduction.

MR. NORRIS: Thank you, Mr. Speaker. It is truly my honor to introduce to this House a very good friend of mine who was elected in 2021 Niagara County's Court Judge and Surrogate, John Ottaviano. And I must say that when you look over your career in life there are individuals that help you along the way. So a real quick story. When I was an intern in the Lockport Mayor's Office back in 1993 as a high school student and then in 1994, John Ottaviano ended up being the Corporation Counsel. And John encouraged me to go into public service and pursue the law. I consider him a dear friend, a mentor, and I appreciate everything he's done for me and he's doing a tremendous job as our County Court Judge and Surrogate after serving 25 years as a Corporation Counsel in the City of Lockport. And, Mr. Speaker, if I could just share one ironic story. One of my predecessors in this House, the great Matt Murphy was an Assemblymember here for 18 years, late '70s through 1992, and his son, the County Court Judge, the late Matthew Murphy - his son, Judge Murphy, he served as a County Court Judge for a long time, and John Ottaviano is a successor to Assemblymember Murphy's son, Judge Matt Murphy on the bench. So it just brings it all together and it would just really mean so much to me if you could extend the courtesies of the House to my good friend, Judge John Ottaviano from

Lockport, New York.

ACTING SPEAKER AUBRY: Certainly. On behalf of Mr. Norris, the Speaker and all the members, we welcome you here, Your Honor, to the New York State Assembly. We extend to you the privileges of the floor. And coincidentally, when I first came to the New York State Assembly, I sat next to Matt Murphy, we had a crew of Irishmen and me, and so I got to know him very well, he was very kind and took good care of a rookie in those days. Thank you so very much for the service that you continue to provide your county. Thank you so very much.

(Applause)

Ms. Rosenthal for the purposes of a introduction.

MS. ROSENTHAL: Thank you, Mr. Speaker. I wanted to introduce to you a group of middle school students and their teacher, Gabriel Kaplan who are visiting Albany today from the Abraham Joshua Heschel School in my district on the Upper West Side. They make the trip each year to see the State Capitol, visit the New York State Museum and learn about State government. They're a great group of seventh grade students and they're very eager to learn about the work that we do here in this Chamber. I hope they've enjoyed their time here and I look forward to seeing them come back another time. I'm not actually sure they're in the Chamber. I don't think they're in the Chamber. Can I peace out 'til they come in? Thank you.

ACTING SPEAKER AUBRY: Certainly. On behalf

of Ms. Rosenthal, the Speaker and all the members, we welcome these students here to the New York State Assembly, extend to you the privileges of the floor. Hope you have enjoyed your trip to Albany and we look forward to you returning to us next year as eighth graders, I believe. Thank you so very much.

(Applause)

We're going to wait a minute until we clear that door in the back, please.

(Pause)

Mr. Epstein for the purposes of a introduction.

MR. EPSTEIN: Thank you, Mr. Speaker. I rise for an introduction. We're honored to have Surrogate Court Judges here from around the State who have joined us in the back, and I want to specifically call out my Surrogate, Rita Mella, who has been a long time friend and luckily we went to the same law school together and when I was sworn in, she swore me in and I'm really privileged to have them here and I ask you to offer them the cordialities of the House.

ACTING SPEAKER AUBRY: Certainly. On behalf of Mr. Epstein, the Speaker and all the members, we welcome this distinguished Body here to the New York State Assembly, extend to you the privileges of the floor. Hope that you've had a beneficial time here in Albany. Continue the great work that all of you do. Please know that you're always welcome here in our particular Chamber. Thank you so very much.

(Applause)

Mr. Conrad for the purposes of a introduction.

MR. CONRAD: Thank you, Mr. Speaker. I would like to piggyback on the introduction Mr. Epstein gave to our Surrogate Judges. I'd like to also recognize the Honorable Acea Mosey and as well as a former member, Matt Titone, who has joined us here today as part of the Surrogates. Thank you.

ACTING SPEAKER AUBRY: Certainly. On behalf of Mr. Conrad, the Speaker and all the members, we welcome both the -- the -- Your Honor here, as well as our former member who needs no introduction, also always has the privileges of the floor as a past member and a part of our family. Please continue the great work all of you are doing. We do appreciate it and always pleased to see you back. Thank you so very much.

(Applause)

Mr. Pretlow for the purposes of an introduction.

MR. PRETLOW: Thank you, Mr. Speaker. I'd like to interrupt the proceedings for the purposes of an introduction. It seems that today is Surrogate's Day in New York, and a lot of our colleagues are talking nice things about their Surrogates, I guess because they're afraid if they should go intestate that these guys and women will take care of their -- their life's work. But I'd like to introduce today my Surrogate from Westchester County who actually hails from Mount Vernon, the Honorable Brandon Saul, Surrogate of Westchester County. Thank you.

ACTING SPEAKER AUBRY: Certainly. On behalf of Mr. Pretlow, the Speaker and all the members, Your Honor, we welcome you here to the New York State Assembly. We extend to you the privileges of the floor. Happy that you came and shared this day with us, hope the trip to Albany has been beneficial and you will know you're always welcome back. Thank you so very much.

(Applause)

Mr. Sayegh for the purposes of a introduction.

MR. SAYEGH: Thank you very much, Mr. Speaker. I rise as we have a conference of Big 5 School Districts. Yonkers, New York, third largest city in this State, has nearly 27,000 children. And today, I'm glad to welcome to the Chambers two very outstanding students and their teachers from the Gorton High School of Yonkers, Ameila Cancel, a 12th grader, and Issa Naber, a 12th grader, who is also the high school valedictorian. Along with teacher, Terence Foley. It's really tremendous to have all the students representing urban school districts, displaying outstanding success. We can extend the courtesy of the Chamber, Mr. Speaker.

ACTING SPEAKER AUBRY: Certainly. On behalf of Mr. Sayegh, the Speaker and all the members, we welcome these students, fine students, here to the New York State Assembly, extend to you the privilege of the floor. Hope you have enjoyed your trip here to Albany and we will look forward to seeing you again.

And Ms. Rosenthal for the purposes of an introduction.

MS. ROSENTHAL: Thank you, Mr. Speaker. I want to introduce a group of middle school students, and their teacher, Gabriel Kaplan, who are visiting Albany today from the Abraham Joshua Heschel School in my district on the Upper West Side. They make the trip each year to see the State Capitol, to visit the State Museum, and to learn about our State government. They're a great group of 7th grade students and they're very eager to learn about the work that we do here. I hope they've enjoyed their time and I look forward to seeing them back in the district and back here next year. So Mr. Speaker, if you could please give them a warm welcome and offer them the cordialities of the House.

ACTING SPEAKER AUBRY: Sounds like déjà vu to me, but in any event, we'll -- on behalf of Ms. Rosenthal, the Speaker and all the members, we welcome these great students here to the New York State Assembly, and to your teacher, extend to you the privileges of the floor. Glad that you are here, hope that you will come back next year. Please enjoy your trip today and return home safely. Thank you.

(Applause)

Ms. Solages for the purposes of a announcement.

MS. SOLAGES: If I could have members' attention. Can the Corporation [sic] Committee go to the Speaker's Conference Room, there is a committee meeting. So members of the Corporation [sic] Committee please go to the Speaker's Conference Room.

ACTING SPEAKER AUBRY: Corporations to the

Speaker's Conference Room immediately, thank you very much.

We will go to page 3, resolutions. Assembly No. 469, the Clerk will read.

THE CLERK: Assembly No. 469, Ms. Seawright. Legislative Resolution memorializing Governor Kathy Hochul to proclaim April 2023, 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 in support of this important resolution to proclaim Autism and Neurodivergence Awareness Month in the State of New York. Neurodiversity Awareness Month is a time to challenge stereotypes and misconceptions about our neurological differences. All of us probably know and love someone with autism or who is neurodivergent. About one in 36 children has been identified with Autism Spectrum Disorder, known as ASD. Thirty-one percent of children with ASD have an intellectual disability. Fifteen to 20 percent of the population is neurodiverse. Several recognized types of neurodivergence include Autism, Asperger's Syndrome, Dyslexia, Hyperlexia, Obsessive Compulsive Disorder known as OCD, and Tourette Syndrome. Autism is a disease with significant unmet patient needs and it is a complex developmental disability that typically appears during the first three years of life, and affects a person's ability to communicate

and interact with others. It is important to recognize and work to respond to the needs of this vibrant population. Individuals with autism and who are neurodiverse often have unique perspectives in ways of thinking that can lead to breakthroughs in science, technology and other fields. I proudly cast my vote in the affirmative on this very important resolution. Thank you.

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

THE CLERK: Assembly No. 470, Ms. Solages.
Legislative Resolution memorializing Governor Kathy Hochul to proclaim May 4-10, 2023, as Late Onset Hearing Loss Awareness Week in the State of New York.

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

THE CLERK: Assembly No. 471, Mr. Burdick.
Legislative Resolution memorializing Governor Kathy Hochul to proclaim May 14-20, 2023, as Food Allergy Awareness Week in the State of New York.

ACTING SPEAKER AUBRY: Mr. Burdick on the resolution.

MR. BURDICK: Thank you, Mr. Speaker, for the opportunity to speak to this resolution which actually came from a very bright and persistent 14-year-old resident of my district, Jared

Saiontz who last year came to me and explained how he suffers from 26 life-threatening food allergies, and asked if I would introduce the resolution last year, which I did, and which this Chamber of course unanimously approved. And he brought to my attention the fact that some 32 million Americans suffer from food allergies, and each year some 50,000 to 125,000 end up in the emergency room. These life-threatening food allergies are symptoms that really need to be known more widely, and the purpose of this resolution is to increase awareness. And so I thank my colleagues for the support, and that support has been on both sides of the aisle for which I'm very grateful. Thank you, Mr. Speaker.

ACTING SPEAKER AUBRY: Thank you, sir.

Ms. Darling on the resolution.

MS. DARLING: Thank you, Mr. Speaker, for allowing me to speak on this resolution, and thank you to the sponsor for introducing this important resolution. Researchers estimate that 32 million Americans have food allergies, including 5.6 million children under the age of 18. About 40 percent of children with food allergies are allergic to more than one food. Protecting our New Yorkers must remain our top priority and allergies can be life-threatening for many people, which is why having access to epinephrine can be the difference between life and death for someone that is suffering from an allergic reaction. Hundreds of people die from anaphylaxis every year with many of the deaths being preventable had the individual had immediate access to epinephrine. This is why I've introduced the EPI

Act, which will take a bold step toward saving lives to ensure greater accessibility to epinephrine for New Yorkers living with life-threatening allergies, and we will fight to pass this act here in New York State. Thank you.

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

THE CLERK: Assembly No. 472, Mrs. Gunther. Legislative Resolution memorializing Governor Kathy Hochul to proclaim May 2023, as Mental Health Awareness Month in the State of New York.

ACTING SPEAKER AUBRY: Mr. Zaccaro on the resolution.

MR. ZACCARO: Thank you, Mr. Speaker. I rise to speak today -- on today's resolution because mental health is one of the most pressing public health challenges of our time. And we must treat the mental health crisis as nothing less than a great threat to our collective future. Many New Yorkers are hurting. Coming out of a world-altering pandemic, layered on top of longstanding and social and economic inequalities that have made life too hard for too many. And I'm proud that I joined this Body just a couple of weeks ago in voting for a State Budget that prioritized a \$1 billion appropriation that represents the most significant commitment to mental health in this State's history. And I encourage my colleagues today to join me in doing all that we can do to transform our approach and continue to

lay the groundwork for a healthy, happier and more resilient New York. Thank you, Mr. Speaker, today for allowing me to interrupt today's proceedings to speak on such an important resolution.

ACTING SPEAKER AUBRY: Thank you, sir.

Mr. Gandolfo.

MR. GANDOLFO: Thank you, Mr. Speaker. I rise today to commend the sponsor of this resolution, the Chairman of our Mental Health Committee. As the Ranker of the Mental Health Committee I always appreciate the fact that most of the bills that come through pass with unanimous consent because we all recognize that we have to do more to address the mental health crisis we're facing, especially among school-aged children. We've experienced, especially in my district, a disturbingly high number of teen suicides among high school children. So although I did have issues with many portions of the budget this year, I was very happy to see an investment made in mental health. I think it is going to do -- go a long way, but we can still do more to invest in this. Over the recent years we have done better as a State, and I think as a country with our -- with our attitude towards treating mental health as part of your overall physical health. So again, I'm thankful to the sponsor for bringing this resolution and I'm proud to support it.

ACTING SPEAKER AUBRY: On the resolution, all those in favor signify by saying aye; opposed, nay. The resolution is adopted.

THE CLERK: Assembly No. 473, Mr. DeStefano.

Legislative Resolution memorializing Governor Kathy Hochul to proclaim July 2023, as Culinary Arts 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 No. 474, Mr. Cunningham.
Legislative Resolution memorializing Governor Kathy Hochul to proclaim August 31, 2023, as Trinidad and Tobago 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 No. 475, Mr. Miller.
Legislative Resolution memorializing Governor Kathy Hochul to proclaim December 12, 2023, as Poinsettia Day in the State of New York.

ACTING SPEAKER AUBRY: On the resolution, all those in favor signify by saying aye; opposed. The resolution is adopted.

Page 20, Calendar No. 208, the Clerk will read.

THE CLERK: Assembly No. A04946-A, Calendar No. 208, Tague. An act to amend the Tax Law, in relation to extending the authorization for Otsego County to impose additional rates of sales and compensating use taxes.

ACTING SPEAKER AUBRY: Home Rule message is at the desk. Read the last section.

THE CLERK: This act shall take effect immediately.

ACTING SPEAKER AUBRY: The Clerk will record the vote.

(The Clerk recorded the vote.)

Are there any other votes? Announce the results.

(The Clerk announced the results.)

The bill is passed.

THE CLERK: Assembly No. A04976-A, Calendar No. 209, Simpson. An act to amend the Tax Law, in relation to extending the authorization granted to the County of Essex to impose an additional one percent of sales and compensating use taxes.

ACTING SPEAKER AUBRY: Home Rule message is at the desk. Read the last section.

THE CLERK: This act shall take effect immediately.

ACTING SPEAKER AUBRY: The Clerk will record the vote.

(The Clerk recorded the vote.)

Are there any other votes? Announce the results.

(The Clerk announced the results.)

The bill is passed.

THE CLERK: Assembly No. A05339-A, Calendar No. 210, Jones. An act to amend the Tax Law, in relation to extending the authorization granted to the County of Franklin to

impose an additional one percent of sales and compensating use taxes.

ACTING SPEAKER AUBRY: Read the last section.
Home Rule message is at the desk. Read the last section.

THE CLERK: This act shall take effect immediately.

ACTING SPEAKER AUBRY: The Clerk will record the vote.

(The Clerk recorded the vote.)

Are there any other votes? Announce the results.

(The Clerk announced the results.)

The bill is passed.

THE CLERK: Assembly No. A05340-A, Calendar No. 211, Jones. An act to amend the Tax Law, in relation to extending the authorization granted to the County of Clinton to impose an additional one percent of sales and compensating use taxes.

ACTING SPEAKER AUBRY: Home Rule message is at the desk. Read the last section.

THE CLERK: This act shall take effect immediately.

ACTING SPEAKER AUBRY: The Clerk will record the vote.

(The Clerk recorded the vote.)

Are there any other votes? Announce the results.

(The Clerk announced the results.)

The bill is passed.

Ms. Solages.

MS. SOLAGES: Mr. Speaker, will you please call the Ways and Means Committee to the Speaker's Conference Room?

ACTING SPEAKER AUBRY: Certainly. Ways and Means, Speaker's Conference Room immediately, please.

The Clerk will read.

THE CLERK: Assembly No. A06322, Calendar No. 213, Lupardo, Friend. An act to amend the Tax Law, in relation to extending the authorization of the County of Broome to impose an additional one percent of sales and compensating use taxes.

ACTING SPEAKER AUBRY: Home Rule message is at the desk. Read the last section.

THE CLERK: This act shall take effect immediately.

ACTING SPEAKER AUBRY: The Clerk will record the vote.

(The Clerk recorded the vote.)

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

(The Clerk announced the results.)

The bill is passed.

THE CLERK: Assembly No. A06358-A, Calendar No. 214, Weprin, De Los Santos. An act to amend the Banking Law and the Real Property Law, in relation to credit line mortgages.

ACTING SPEAKER ZACCARO: The bill is laid aside.

THE CLERK: Assembly No. A06547, Calendar No.

217, Gunther. An act to amend Chapter 373 of the Laws of 1998, amending the Public Authorities Law relating to the powers of NYSARC, Inc., in relation to the effectiveness thereof.

ACTING SPEAKER ZACCARO: Read the last section.

THE CLERK: This act shall take effect immediately.

ACTING SPEAKER ZACCARO: 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.

THE CLERK: Assembly No. A06592, Calendar No. 218, Braunstein. An act to amend the Local Finance Law, in relation to the sale of bonds and notes of the City of New York, the issuance of bonds or notes with variable rates of interest, interest rate exchange agreements of the City of New York, the selling of bonds at private sale, the refunding of bonds, and the down payment for projects financed by bonds; to amend the New York State Financial Emergency Act for the City of New York, in relation to a pledge and agreement of the state; and to amend Chapter 142 of the Laws of 2004, amending the Local Finance Law relating to interest rate exchange agreements of the City of New York and refunding bonds of such city, in relation to the effectiveness thereof.

ACTING SPEAKER ZACCARO: Read the last

section.

THE CLERK: This act shall take effect immediately.

ACTING SPEAKER ZACCARO: The Clerk will record the vote.

(The Clerk recorded the vote.)

Mr. Goodell to explain his vote.

MR. GOODELL: Thank you, sir. This bill extends -- extends the authorization for the City of New York to sell its bonds that are private sale without having to go through competitive bidding. This is an extension of a temporary bill that was first enacted 45 years ago, puts a whole new meaning to temporary, and it's been extended ever since. There are three reasons why I will be voting no on this bill. First, competitive bidding has been proven over history to give us the best price. That's why it's required by law for all other municipalities with a couple of exceptions. And in this case, competitive bidding is used by every other municipality including Suffolk, Nassau, Westchester, and all the other counties across the State with just a couple of exceptions to get the best price on the bond. Second, competitive bidding ensures that everyone has a fair and equal opportunity to bid on it. There aren't winners -- there aren't winners and losers, there's not those who are in favor with the administration and those who are opposed. Open competitive bidding gives everyone an equal opportunity. Third, competitive bidding avoids the risk of collusion or corruption.

New York City has 125 billion in debt. That means

an extraordinary small difference in the interest rate has huge financial ramifications. You know, a ten percent difference in the interest rate, one-tenth of one percent, you can run the numbers 1.2 billion. So there's absolutely no justification to continuing this temporary authorization. It should expire, it's good government to require open competitive bidding, it's good government to give everyone a fair and equal chance, and it's good government to have an open transparent process rather than an administration selecting who are the winners and who are the losers when dealing with 125 billion in debt issuance. For that reason I'll oppose it. Thank you, sir.

ACTING SPEAKER ZACCARO: Mr. Goodell in the negative.

Are there any other votes? Announce the results.

(The Clerk announced the results.)

The bill is passed.

Ms. Solages for the purpose of an introduction.

MS. SOLAGES: On behalf of Ms. Buttenschon, I'd like to welcome three distinguished guests from the Proctor High School in Oneida County. We have Summer Woo a student, Kimani Thomas another student, and we have their teacher Lydia Mullen who are here visiting the Chamber. So if you could extend the cordialities of the House to these fine guests we'd much appreciate it.

ACTING SPEAKER ZACCARO: Certainly. On behalf of the Speaker and Member Buttenschon and the members here in the State Assembly, we welcome these distinguished guests to the

Chamber. We extend the privileges of the floor and we hope that you enjoy today's proceedings. Thank you.

(Applause)

Page 9, Calendar No. 38, the Clerk will read.

THE CLERK: Assembly No. A03683, Calendar 38, Zebrowski, Otis, Colton, Jacobson. An act to amend the Public Service Law, in relation to complaint procedures and retaining billing records for a certain period of time.

ACTING SPEAKER ZACCARO: An explanation has been requested, Mr. Zebrowski.

MR. ZEBROWSKI: Thank you, Mr. Speaker. This bill would require the PSC to respond to rate-related complaints within 90 days. It also requires utility corporations to maintain customer billing records for eight years.

ACTING SPEAKER ZACCARO: Mr. Lemondes.

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

ACTING SPEAKER ZACCARO: The sponsor yield?

MR. ZEBROWSKI: Yes, I'll yield.

ACTING SPEAKER ZACCARO: The sponsor yields.

MR. LEMONDES: Thank you, Mr. Zebrowski. Could you comment on the ability of this bill, if its -- if its changes are recommended to raise administrative costs; would it do so?

MR. ZEBROWSKI: I don't think it would. Are you talking about for the utility corporation or PSC?

MR. LEMONDES: Either. Would it raise administrative burden?

MR. ZEBROWSKI: Well, so for the PSC, currently they have to respond to complaints, but there isn't a time frame. And we've received complaints from constituents saying that they've filed complaints and they don't get a response in a timely manner, or don't get a written response. So this would codify that and it should be done within 90 days and that it be written. So given that, this isn't a brand-new process. It's just codifying some specific time frames and the process I don't think that it -- it would result in, you know, an increase in costs.

As for the utility corporations, this aligns the law with what is current practice, while also recognizing that -- let me -- let me explain it this way. Current practice is for when you have a -- a complaint for the review period on bills to be six years, but customers have two years to file that complaint. So if the customers wait about two years and file the complaint, and the utility companies aren't keeping eight years of data, then they won't have the six years to look at. So this makes sure that the utility companies have the data necessary if a customer avails themselves of that two-year ability to file a complaint so that they can then go back and look at the six years of data. So, once again, I don't think this is really reinventing the wheel, if you will. It's I think cleaning up the statute to make sure that

the right data is there for when customers file their complaints.

MR. LEMONDES: Thank you. One question on that. It seems as if six years is -- is perfectly fine. What precisely is inadequate about that? I mean, what's the number of cases where people come that far after to dispute a bill?

MR. ZEBROWSKI: Six years is -- is fine if someone files the complaint four years or earlier. If they file the complaint almost immediately. But they have about two years to file the complaint. So if they avail themselves, so say they file their complaint one year after the complained upon period, and they're only keeping six years of data, they would only have five years back from that complaint period, not the six. If they go -- if they wait two years, and file the complaint, and they're only keeping six years of data in the complaint period, they'll only have four years back of the period. So this seeks to align the data recordkeeping part of the statute to what is accepted practice for reviewing a customer's billing data at six years if they wait that year or two after or before they realize there was a complaint, there was a problem and file that complaint.

MR. LEMONDES: Understood. However, don't you think that the additional recordkeeping burden would be transferred onto ratepayers?

MR. ZEBROWSKI: I mean in this day and age of cloud computing and data, I'm not sure that the extra two years is going to cost a lot of additional money. I mean I'm sure these companies have pretty expansive recordkeeping and cloud computing,

or a backup server computing capacity that gets you (inaudible) -- and some might be doing it right now anyway because they already have to go back six years and -- and they may have already run into this problem and are keeping the eight years. So I don't really see it as a major cost (inaudible).

MR. LEMONDES: Okay, thank you. I appreciate your responses.

Mr. Speaker, on the bill.

ACTING SPEAKER ZACCARO: Mr. Lemondes on the bill.

MR. LEMONDES: Thank you. I think the -- the bottom line here is I'll be voting in the negative. The -- the precautions are already in place; however, adding additional administrative burden will eventually no matter what transfer to ratepayers and higher rates. So again, for those reasons, I -- I will be voting in the negative and urge all my colleagues to do the same. Thank you, Mr. Speaker.

ACTING SPEAKER ZACCARO: Mr. Lemondes in the negative.

Mr. Goodell.

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

ACTING SPEAKER ZACCARO: Will the sponsor yield?

MR. ZEBROWSKI: Yes, I'll yield.

ACTING SPEAKER ZACCARO: The sponsor yields.

MR. GOODELL: Thank you, Mr. Zebrowski. As my colleague noted, there's a current six year statute of limitations for recordkeeping. This bill makes it eight years. This bill is effective immediately upon adoption. Does that mean that all these utility companies will immediately be out of compliance?

(Pause)

MR. ZEBROWSKI: So we're statutorily establishing the eight years, but I don't believe it's statutorily at six years right now, I think it's common practice to be six years. So they're going to have to come into compliance. If they don't have any of the data, they're not going to be able to -- to produce it so they'll have to start going forward for eight years.

MR. GOODELL: So is there a penalty if a utility doesn't maintain records currently for eight years?

(Pause)

MR. ZEBROWSKI: So the bill doesn't establish any additional penalties. It would default to the Public Service Commission's Enforcement Authority and any broad penalties they can assess, I would assume the Public Service Commission would take into account that the -- if the bill passes and is signed into law this year sometime that that's when it was established. So I -- I wouldn't see a penalty for not complying with a statute that didn't exist before today but we didn't set up the penalty.

MR. GOODELL: I see. And am I correct that the current statute of limitations for this type of action would be a breach of contract presumably is six years?

(Pause)

MR. ZEBROWSKI: Um, I'm not sure. Since it's a -- so you're assuming they avail themselves of the Public Service Commission process and then go to court?

MR. GOODELL: Either way.

MR. ZEBROWSKI: Because I'm not changing a statute of limitations here. I'm requiring a recordkeeping practice of the utility so --

MR. GOODELL: So then my question is, what is the time requirement for a consumer to file a complaint with the PSC?

MR. ZEBROWSKI: So remember, we're not talking about statute of limitations so I think they have two years after. So then it -- it would be within that five years. They have two years after to file the complaint. What this does is extends -- well, it doesn't extend. It establishes the time period that the utility has to keep the records to eight years. And as I've tried to explain before, you need the eight years in order to comply with the six-year lookback requirement, because if the customer avails themselves of the full -- the full two-year complaint time period they have, then you'll have to look back six years from the time. Let me -- let me take a pause and try to explain this to you better.

MR. GOODELL: No, no. I -- I think you've done a

great job.

So a consumer can file a complaint, if I -- if I understand you.

MR. ZEBROWSKI: Yeah.

MR. GOODELL: And -- and that complaint can relate back eight years. They have two years to file it after they no longer get the service and they can go back eight years to relook.

MR. ZEBROWSKI: That's not how I understand it. Maybe it would be helpful for the debate if we -- if I gave you a hypothetical?

MR. GOODELL: Sure.

MR. ZEBROWSKI: So we're in 2023 today, right? So if there was a great related complaint that's happening right now, the customer would have until 2025 to file that complaint. And then in order to look back and to resolve that complaint, to look back six years, it would need to be eight years if they filed the complaint in 2025 because you'd need to go six years back from today. But it's not extending it eight years by which to file the complaint, you still have to file that complaint within the two years of practice. This is just the recordkeeping requirement.

MR. GOODELL: And then this bill requires the PSC to review those eight years of records and render a recommendation or a decision within 90 days?

MR. ZEBROWSKI: I think it's six years is the practice by which, you know, to review. So if there was a --

(Pause)

-- if the utility -- so if the utility has done what's known as a demand charge and it uses a retroactive sort of billing process, in order to determine whether or not that billing practice was correct, it would be based upon historical -- historical usage data. And I believe the accepted practice is to look at six years in order to get that historical average usage data.

MR. GOODELL: I see. I think I -- I think I understand it. Thank you, Mr. Zebrowski.

On the bill, sir.

MR. ZEBROWSKI: Thank you.

ACTING SPEAKER AUBRY: On the bill, sir.

MR. GOODELL: I appreciate my colleague's desire to get to a fast resolution from the PSC, but it is a little amazing, isn't it, that we say a consumer can wait two years, file a complaint, expect a utility company to produce eight years of records, expect the PSC to review presumably all eight years of records and render a decision in 90 days. You have to wonder, where's the consumer been for the last eight years? And as my colleague noted, this bill imposes a new recordkeeping requirement of eight years on utilities which is not in existence now and there's no phase-in. So on day one, whether a utility company is in compliance or not, it's problematic since this bill imposes they retroactive eight-year recordkeeping.

So I appreciate my colleague's desire to have quick decisions from the PSC. I think a better way to get quick decisions is

to require quick complaints. A fast complaint from the consumer, if the consumer makes a timely complaint, it's reasonable to expect the Public Service Commission to make a timely response, but allowing the consumer to make a complaint and go back eight years and expect a response from the PSC in 90 days is unreasonable. Thank you, sir.

ACTING SPEAKER AUBRY: Thank you.

Read the last section.

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

ACTING SPEAKER AUBRY: A Party vote has been requested.

Mr. Goodell.

MR. GOODELL: Thank you, sir. The Republican Conference is generally opposed to this bill. Those who support are certainly encouraged to vote yes here on the floor. Thank you, sir.

ACTING SPEAKER AUBRY: Thank you.

Ms. Solages.

MS. SOLAGES: Thank you, Mr. Speaker. The Majority Conference will be voting in the affirmative.

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 11, Calendar No. 79, the Clerk will read.

THE CLERK: Assembly No. A04009, Calendar No. 79, Gibbs, Epstein, Levenberg, Kelles, Hyndman, De Los Santos, Simone, Taylor, Fall, Zaccaro, Weprin, Burdick, Bichotte Hermelyn, Bores, Lee, Reyes, Hevesi, Pretlow, Cunningham, Jean-Pierre, Hunter, Lucas, Tapia, Chandler-Waterman, Ardila, Colton, Wallace, Simon, Dickens. An act to amend the Correction Law, in relation to providing notice of voting rights to persons released from local jails.

ACTING SPEAKER AUBRY: An explanation is requested?

Mr. Goodell.

MR. GOODELL: No, just on the bill, sir.

ACTING SPEAKER AUBRY: Oh! On the bill.

MR. GOODELL: Thank you, sir. This bill requires that incarcerated individuals who are being released from local jails be provided information reminding them that they are eligible to vote and if they haven't already registered, giving them a copy of a voter registration form. I want to remind my colleagues that if you have been -- if you're incarcerated in a local jail, it's because you've been arrested for a misdemeanor. And no one in New York State loses their right upon being arrested for a misdemeanor. Your rights to vote are only suspended when you are arrested and convicted of a felony. So there's really no need for this. The individuals who go into a local jail don't lose their voting rights. When they come back out, they have the exact same voting rights that they had when they went in. And so

there's no really need to notify them of any of this.

I would also point out that what is unique about this bill is it only explains voting rights to those who have been arrested and convicted of a misdemeanor but doesn't provide for any voting notification or rights to those who buy a new home and relocate, and those law-abiding taxpaying residents have to reregister because they have a new residence and it doesn't require a notification of your right to vote when you file your income taxes or apply for a permit or engage in the business activity, but only for those who are being released having been convicted of a misdemeanor. And so I don't think it's necessary, but I certainly appreciate the general perspective of encouraging voting by everybody. Thank you, sir.

ACTING SPEAKER AUBRY: Thank you.

Mr. Gibbs.

MR. GIBBS: Thank you, Mr. Speaker. And I agree with Member Goodell, but under those circumstances, people wouldn't believe they didn't have the right to vote. Many people, including State and Local officials, are confused to whether a person has been through the criminal justice system has lost the right to vote, and if so when he or she regains voting rights. Simply put, anyone who is not incarcerated for a felony conviction or on parole for a felony conviction retain the right to vote. People arrested have not lost the right to vote. Persons detained in jails pre-trial have not lost the right to vote and even can vote by absentee ballot while they are in jail. Persons convicted of misdemeanors never lose their right to vote

whether they're in jail, on probation or have completed their supervision. In fact, anyone on probation is eligible to vote, even felons who have completed their parol supervisions are eligible to vote. It's only persons incarcerated for a felony or on parole for the conviction of a felony who have lost their right to vote.

So this bill would require the local correction facilities to provide notice of voting rights to persons being released so that such persons will know whether and when they are eligible to vote, how to register to vote and have information about the mechanics and the importance of voting. In addition, in 2021, New York passed legislation to restore the rights to vote to the people with felony convictions automatically upon release from prison. The State Legislature recognized that facilitating reentrance in the voting process should be an essential component. And I'll say it again slowly. It should be an essential component of rehabilitation and reintegration. So when you tell an incarcerated individual whether it's a female or male, once they're released "hey, you have the right to vote" you essentially giving that person a sense of being, a sense of belonging. You're humanizing that person again. You're giving that person a right to participate politically. So I thank the former sponsor of the bill, Rozic for it and I thank Goodell. Thank you, Mr. Speaker.

ACTING SPEAKER AUBRY: Thank you, Mr. Gibbs.

Mr. Angelino.

MR. ANGELINO: Thank you, Mr. Speaker. I have

two words: Unfunded mandate. Thank you.

ACTING SPEAKER AUBRY: Thank you, Mr. Angelino.

Read the last section.

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

ACTING SPEAKER AUBRY: A Party vote has been requested.

Mr. Goodell.

MR. GOODELL: Following the lead of my colleague, I have two words: Party vote.

(Laughter)

The Republican Conference is generally opposed, but certainly those who support it are encouraged to vote yes on the floor. Thank you, sir.

ACTING SPEAKER AUBRY: Thank you.

Mr..

MR. VANEL: This is a Party vote. The Majority will be in the affirmative. If you'd like to vote opposite of that, you must come into the House.

ACTING SPEAKER AUBRY: Thank you, sir.

The Clerk will record the vote.

(The Clerk recorded the vote.)

Are there any other votes? Announce the results.

(The Clerk announced the results.)

I have two words: It passed.

(Laughter)

Mr. Goodell for the purposes of a introduction.

MR. GOODELL: Thank you, sir. On behalf of our colleagues Assemblymembers Reilly, Tannousis, Fall and Pirozzolo, I would like to introduce some well-respected and very active individuals from Staten Island; Carol Bolloch who is the Executive Director of the Staten Island Pride Center; Lisa Sloan who is the Deputy Director and Jennifer Sammartino who is the Executive Director of the Staten Island Community Television, as well as Cara Liander. If you would extend the privileges and the cordialities of the House to these distinguished guests I would appreciate it on behalf of our colleagues. Thank you, sir.

ACTING SPEAKER AUBRY: Certainly. On behalf of the entire Staten Island delegation, the Speaker and all the members, we welcome you here to the New York State Assembly. We extend to you the privileges of the floor. Thank you for joining us here in Albany on this beautiful day, and we hope that your trip will be both informative and enjoyable and that you'll travel home safe. Thank you so much for being with us.

(Applause)

Page 14, Calendar No. 144, the Clerk will read.

THE CLERK: Assembly No. A05948, Calendar No. 144, Shimsky. An act to amend the Navigation Law, in relation to equipment to be carried on vessels.

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

MS. SHIMSKY: Thank you, Mr. Chairman. This bill would amend the State Navigation Law to create parity with the United States Coast Guard Federal Regulations enacted on April 20th, 2022, with regard to recreational vessel safety equipment. We agreed to do this pursuant to the Federal State Recreational Boating Safety Cooperative Agreement, also of the year 2020. To wit, this would require every rowboat, canoe, and kayak to be equipped with an efficient whistle. It changes the regulations for various types of fire extinguishers, requires that fire extinguishers -- disposable fire extinguishers within after -- after 12 years of use be discontinued and replaced, and it also makes certain requirements for using the engine cutoff switch on boats smaller than 26 feet.

ACTING SPEAKER AUBRY: Mr. Goodell.

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

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

MS. SHIMSKY: Absolutely.

ACTING SPEAKER AUBRY: Ms. Shimsky yields, sir.

MR. GOODELL: Thank you, Ms. Shimsky. I have a copy of the memorandum agreement. Where in this memorandum of agreement does it talk about the need for whistles for kayaks,

rowboats and canoes?

MS. SHIMSKY: In -- in Section 4(f), which is at the bottom of page one, specifies that the State shall, to the fullest extent practicable and ever to conform its laws, rules and regulations to Federal law.

MR. GOODELL: And where in the Federal law is there any requirement that rowboats, canoes and kayaks have a whistle?

MS. SHIMSKY: Okay. Title 33, Navigation and Navigable Waters, Chapter I, Department of Homeland Security, Subchapter E, Inland Navigation and Rules, § 86.01 Whistles.

MR. GOODELL: And what's it state?

MS. SHIMSKY: Would you like me to read the whole thing, sir?

MR. GOODELL: No, just the section dealing with whistles as it relates to kayaks, canoes and rowboats.

MS. SHIMSKY: Okay. It provides -- just to summarize -- it provides whistle requirements for vessels greater and lesser than 20 meters in length. And obviously a kayak is a vessel, which is either greater or lesser than 20 meters in length.

MR. GOODELL: Well, in fact every single boat in the world is either greater or lesser than 20 meters (inaudible/cross-talk) --

MS. SHIMSKY: That's correct which is -- that is correct, which is why our law specifies what it does.

MR. GOODELL: I see. And what does it state about -- does it have any language at all specifically about whistles on rowboats, kayaks or canoes?

MS. SHIMSKY: This particular subsection does not. There may be another section somewhere in the CFR dealing with how one defines a vessel but I think everyone can agree that a kayak is a vessel.

MR. GOODELL: I see. I was -- I was surprised to see that when I looked at the Department of Parks, Recreation and Historic Preservation Marine Division Regulations, and they also published a guide, you know, on motor safety. They are very clear that they're recommending everybody have the same type of fire extinguishers, which I understand is really a nomenclature change rather than a substantive change, but they're entirely silent about the need for whistles on rowboats, kayaks or canoes. Is there any explanation from Parks, Recreation and Historic Preservation about why they make absolutely no mention of that?

MS. SHIMSKY: Obviously it is up to Parks to post that information, but Parks looked at the wisdom of making our State laws comport with the Coast Guard regulations, and they entered an agreement which required them to do so.

MR. GOODELL: Well, our research staff actually reached out to the Office of Parks, Recreation and Historic Preservation and asked them of their opinion of this bill. Was this is a program bill at their request, because we didn't get any response back

from them.

MS. SHIMSKY: This was originally put into the budget by the Governor's office.

MR. GOODELL: I see. And it was taken out of the budget?

MS. SHIMSKY: It was taken out of budget to handle as a normal bill.

MR. GOODELL: I see. And of course you're -- you're familiar that in order to operate a canoe, kayak or rowboat it takes both hands, right?

MS. SHIMSKY: Yes.

MR. GOODELL: Unless you're planning on going in circles. So if it takes both hands in order to power a rowboat, kayak and canoe, how are you supposed to use a whistle? You're not talking about a foot operator.

MS. SHIMSKY: Well, sometimes in an imperfect situation, Mr. Goodell, you have to -- you have to pick your moment, and if you are in serious distress, if your kayak is starting to sink for example, you're feeling chest pains, something, you will grab your last best chance at calling attention to yourself which would be the whistle.

MR. GOODELL: I see. And as you know unlike a car horn, which I found in New York City actually means several different things depending on how long it's blown at you, but unlike a car horn, a marine whistle has very clear meaning. It's a means of

communication. So using your example of somebody is feeling a chest pain and wants to draw attention, how many blasts of the whistle should they use?

MS. SHIMSKY: I think they better blow out whatever they can and I suspect that in the context of this situation people will look over and be able to assess the situation. Now the United States Coast Guard promulgated these regulations three years ago. They certainly are probably the leading experts in the entire country on navigation. They feel that this is the best safety measure in what may admittedly be an imperfect situation and I agree with them.

MR. GOODELL: I see. And now this bill doesn't require any safety certificate or training of those who operate a rowboat, kayak or canoe, right? So there's no requirement that they actually know what they are conveying to the other operators when they're blowing the whistle; is that correct? There's no -- there's no training requirement in this, right?

MS. SHIMSKY: That is correct.

MR. GOODELL: And there's no licensing requirement yet in New York State to use a canoe, kayak or rowboat. Does this also apply to shells?

MS. SHIMSKY: I believe it's -- let's see -- let's see the exact language.

(Pause)

Every vessel and every rowboat, canoe and kayak. I think it would -- I think it would include shells.

MR. GOODELL: Okay. I mean most people who crew would -- would point out there's a lot of difference between a shell and a rowboat but it's your intent, at least, that it applies to both?

MS. SHIMSKY: Well, it does say every vessel.

MR. GOODELL: Now are there any exceptions for like whitewater canoeing or kayaking or -- well, you wouldn't take a rowboat in whitewater unless you're insane, but is there any exception for whitewater kayaking or canoeing?

MS. SHIMSKY: There is not.

MR. GOODELL: I see. Is there any requirement that a raft have a whistle?

MS. SHIMSKY: Well, a raft is a vessel. Of course if you tie together logs to make a raft to get off of a desert island I assume that you have bigger problems than this law.

MR. GOODELL: No doubt. What about paddleboards?

MS. SHIMSKY: I think a paddleboat would be a vessel under this law, yes.

MR. GOODELL: You would characterize it as a rowboat? I mean it's not really a canoe or a kayak, right?

MS. SHIMSKY: Well, Section 2 says every vessel. And we do specify rowboat, canoe and kayak but I should think a vessel is a vessel.

MR. GOODELL: Okay. Well, again, I appreciate your thoughts.

On the bill, sir. Again, thank you for your comments.

ACTING SPEAKER AUBRY: On the bill, Mr.

Goodell.

MR. GOODELL: Now some of these questions are just a little bit lighthearted, because I cannot imagine anyone in a kayak whitewatering in the State of New York dropping their paddle or stopping the paddle in order to use a whistle, you just wouldn't do it. And in fact if you're in a kayak or a canoe or a paddleboard, you cannot use a whistle unless you put down your paddle. Paddling takes two hands, rowing takes two hands. Now you might say *why do we care?* Well, there's two reasons I would suggest that this bill is ill-advised. First, New York relies on literally millions and millions of tourism dollars. And these are people that come from other states where we don't regulate what you have to carry when you're in a kayak. And the last thing we want to do in this multi-million dollar business is to start arresting people because they're kayaking somewhere in the State on a little river or maybe they're whitewatering kayaking and they don't have a whistle. I think we are better off, as a matter of public policy, welcoming residents from other states and encouraging them to come here rather than arresting them upon arrival with their kayak, canoe or rowboat.

The second reason I think it's ill-informed is I don't think there's really any need for it. The Department of Parks, Recreation and Historic Vessels publishes an annual report on boating accidents. So in 2021, you want to know how many accidents there

were involving canoes? Two people. One fell overboard and the other was ejected. Now, I assume that means the canoe tipped over. Neither of which would have been helped with a whistle. Now kayaking is a little bit more difficult, I do kayaking with my wife. And five people fell -- tipped over and one fell overboard, I'm not quite sure how you fall overboard on a kayak because you're next to the water anyway but none of those six people would have been benefited by a whistle. Now the good news, by the way, is we've seen a dramatic reduction in the last 20 years in the number of boating accidents of all kind -- all kinds but I don't think we have to regulate this relatively safe recreational activity, which leads me to the next question. Who is going to enforce this? Are we going to have State Police kayak inspectors? Are we expecting the Coast Guard, *pull over, do you have a whistle?* And last I would remind you that when you blow a whistle it means something different than *hello, I'm here*. I know that's -- in New York City you get a little tap and the car next to you taps the horn just for a minute, right? Beep. It means hello. And here I told my wife don't panic, they're just letting you know that, you know, we have four lanes of traffic in these three marked lanes, that's all. But, on canoeing -- or on motor -- on marines, you know, one short blast means you're passing port to port - for those who aren't familiar with port and starboard - and that means you're going to the right of the other vehicle. And two short blasts means you're going to the left and three means you're going in reverse. Hey, what do you think four short blasts means with a horn or a whistle on the water?

Hey, trick question. It doesn't mean anything. Five short blasts means you're in distress. And so, you know, we set up a system where we regulate where we don't need to regulate, we're inhospitable to our tourism which is a multi, multi-million dollar business. We require people to carry whistles but don't tell them what it means when they blow them. My friends, we just don't need this law. And for that reason I won't be supporting it. But again, thank you to my colleague.

ACTING SPEAKER AUBRY: Miss Byrnes.

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

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

MS. SHIMSKY: Yes.

ACTING SPEAKER AUBRY: Ms. Shimsky yields, ma'am.

MS. BYRNES: My apologies for keeping my back to you but I know that we're required to, but no offense. What is -- what's the purpose in a kayak in having a fire extinguisher?

MS. SHIMSKY: I do not believe that kayaks are covered under the classes of vehicles that require a fire extinguisher. I mean granted a fire extinguisher would -- would be a problem on a kayak, but they're not required on kayaks.

MS. BYRNES: All right. I -- I thought that it was a whistle and a fire extinguisher that were required in kayaks.

MS. SHIMSKY: It's mechanically-propelled vessels

that require the fire extinguisher presumably because they're at an increased risk of fires.

MS. BYRNES: All right. So -- so any form of kayak or for that matter rowboats are -- there's no requirement of a fire extinguisher.

MS. SHIMSKY: That's correct.

MS. BYRNES: Okay. Thank you.

MS. SHIMSKY: Sure.

ACTING SPEAKER AUBRY: Thank you.

Mr. Pirozzolo.

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

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

MS. SHIMSKY: Yes.

MR. PIROZZOLO: So I -- I fail to get, what was the reason for this legislation? What are we trying to solve?

MS. SHIMSKY: We are trying to align our boating safety regulations with those of the United States Coast Guard that's important in light of our cooperative agreement with the Federal government on patrolling waters where we have concurrent jurisdiction which includes the Hudson River, the areas around Long Island and New York City, presumably Lakes Erie and Ontario, for example -- oh, and the St. Lawrence River probably, too.

MR. PIROZZOLO: Okay. So nowhere in there did I

hear you say to *help save a person's life*. It's not like we've had a tragedy where for the loss of a whistle someone would still be alive.

MS. SHIMSKY: Well, not every Federal law necessarily specifies what its lifesaving potential are but that's the point of having safety equipment on -- on a boat.

MR. PIROZZOLO: So I mean I could whistle right now, I could use my fingers to whistle. So would that contribute to being a whistle? I mean is there special regulation that a whistle has to be there, because I'm sure that some of us with our own fingers could whistle just as loudly.

MS. SHIMSKY: Well, unfortunately some of us are not that talented. The -- the regulation does require a technological whistle.

MR. PIROZZOLO: Do these whistles work when wet?

MS. SHIMSKY: Yes.

MR. PIROZZOLO: Okay. So if a rowboat is supposed to have a whistle, in my district there's Clove Lakes Park. There is a concession that rents rowboats. Who's supposed to supply the whistle? The person renting the boat or the concession who's going to rent the boat to the consumer?

MS. SHIMSKY: Presumably it would be the owner of the boat.

MR. PIROZZOLO: Well -- so I don't like the boat on a presumption, I'd like to know the answer. Do we have an answer?

Because, you know, maybe I don't know is not an answer.

MS. SHIMSKY: Yeah. There are -- there are other situations like this, for example, life vests. And those are not -- that's not an onus that's put on the paid passenger, that is an onus that's put on the owner of the boat. I have no reason to believe it would be otherwise in this case.

MR. PIROZZOLO: Well, so again, I mean I don't want to belabor the issue but that really wasn't an answer, that was talking about life vests. So if I were to go into Clove Lakes Park and rent a rowboat or any of the other lakes and maybe rent a ducky or a paddle boat or whatever it is, the person at the rental counter should say *here you go, sir, here's your whistle*.

MS. SHIMSKY: Or I know on kayaks, for example, there are bungee cords everywhere. You could just tie one on a bungee cord and that way people have it.

MR. PIROZZOLO: Okay, but again, that's not what I asked. The person renting from the establishment will say *here you go, sir, here's your whistle*.

MS. SHIMSKY: I suppose that's right.

MR. PIROZZOLO: Okay. So again --

MS. SHIMSKY: Either they would give it or it would be tied to the boat already.

MR. PIROZZOLO: I don't know, that's what I'm asking. That's what I'm trying to find out.

MS. SHIMSKY: Well, we -- we do allow, you know,

a certain amount of discretion in these things with -- with owners of property. I think people can decide what's best.

MR. PIROZZOLO: So could we not use that discretion to let people decide what's best as to whether or not this Assembly should be writing a law for a whistle that we don't know -- so if I rent the boat they say *here is your life preserver*.

MS. SHIMSKY: Well, number one, this is potentially lifesaving, number two it aligns us with Coast Guard regulations with the senior partner with whom we have joint enforcement responsibilities in our multi-jurisdictional waterways.

MR. PIROZZOLO: But we don't know if any lives have been lost for the lack of a whistle. And so (inaudible/cross-talk) --

MS. SHIMSKY: I can't name you five names, no.

MR. PIROZZOLO: Okay. So I mean my concern would really be for the individuals. So now, what's the fine to be assessed to a business, a municipality? Is there any exemption if it's the municipality that rents out the whistle, what if it's a government boat launch where you can rent a ducky and not get a whistle? Is there a penalty?

MS. SHIMSKY: There is a fine not less than \$25, not more than \$100. The whistle itself costs -- if you go on Amazon, I tried it last month, it costs ten.

MR. PIROZZOLO: Okay. And so getting back before I said, you know, if you use your fingers you can whistle. Is

there a decibel rating for these whistles?

MS. SHIMSKY: There are decibel ratings for the whistles, yes.

MR. PIROZZOLO: So if an individual could prove that they could use their fingers to create that same decibel, would they be excluded from this?

MS. SHIMSKY: The answer to your question is no, they need the whistle.

MR. PIROZZOLO: So thank you very much. I appreciate you going through all of that.

If I may on the bill, please.

ACTING SPEAKER AUBRY: On the bill, sir.

MR. PIROZZOLO: So I think with that conversation we have just learned that there's really no usefulness to this other than it aligns to somebody else's possible regulations. There's no lifesaving benefit that we know of, no lives have been lost, but this is just more paper and more something to put into the -- to the system of why we need to have a whistle. Not one good valid reason was given as far as saving a person's life. We don't know, there's supposed issues as to whether someone will say *here sir, here ma'am, here's your whistle* just like they say *here's your life preserver*, I don't see any possible reason for this bill to make sense other than just because, once again, we are doing what we so famously do and that's create red tape. I am opposed to this and I would ask everybody to please be opposed to this, how could you be for it?

ACTING SPEAKER AUBRY: Thank you.

Mr. Novakhov.

MR. NOVAKHOV: Thank you, Mr. Speaker. Just a couple of questions, will the sponsor yield?

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

MS. SHIMSKY: Yes.

ACTING SPEAKER AUBRY: Ms. Shimsky yields.

MR. NOVAKHOV: Thank you very much. First of all thank you very much for trying to make the boater's life safer, I'm a boater myself and I understand how important it is. Just a few questions. So are inflatable floaters considered to be vessels and are they required to have the whistle?

MS. SHIMSKY: You mean dinghies?

MR. NOVAKHOV: Inflatable... they're --

MS. SHIMSKY: Well, you've got dinghies, you've got water wings. I assume you mean dinghies; am I correct?

MR. NOVAKHOV: There's -- there's some like inflatable -- I don't know how to call them. There's many, many types of inflatables on the water. So how do you understand if they need a whistle or not?

MS. SHIMSKY: Okay. It's our understanding that that would not be included.

MR. NOVAKHOV: So inflatables are excluded in this.

MS. SHIMSKY: Yes.

MR. NOVAKHOV: Okay. Even if it's an inflatable row -- rowboat.

MS. SHIMSKY: You mean like a dinghy?

MR. NOVAKHOV: Yeah, like inflatable boat, yeah.

MS. SHIMSKY: Okay. It's -- because it's inflatable it's a different situation so it --

MR. NOVAKHOV: So --

MS. SHIMSKY: -- as far as we could tell it would not apply.

MR. NOVAKHOV: So all inflatables, regardless of their size, are excluded.

MS. SHIMSKY: Right. I mean obviously if someone comes up with a Queen Mary size inflatable one day we may have to revisit.

MR. NOVAKHOV: Okay, thank you. And one more question is when the vessel is rented --

MS. SHIMSKY: Mm-hmm.

MR. NOVAKHOV: -- who will pay the fine? The actual boater or the owner of the boat?

MS. SHIMSKY: I believe that fines run with the owner of the boat but we're going to check and see.

MR. NOVAKHOV: Okay, thank you.

(Pause)

MS. SHIMSKY: Okay. We are not sure.

MR. NOVAKHOV: All right.

MS. SHIMSKY: But presumably any enforcement agent, whether it was the State Police or the Coast Guard or so on, would know what the rules are and would side accordingly because this isn't the only safety regulation there is.

MR. NOVAKHOV: Okay. Thank you very much. I don't have any other questions. Thank you.

ACTING SPEAKER AUBRY: Thank you, sir.

Read the last section.

THE CLERK: This act shall take effect January 1st, 2024.

ACTING SPEAKER AUBRY: A Party vote has been requested.

Mr. Goodell.

MR. GOODELL: Thank you, sir. The Republican Conference is generally opposed to this legislation but those who support it are certainly welcome and encouraged to vote yes here on the floor of the Assembly. Thank you, sir.

ACTING SPEAKER AUBRY: Thank you. Ms. Solages.

MS. SOLAGES: The Majority Conference will be voting in the affirmative.

ACTING SPEAKER AUBRY: Thank you. The Clerk will record the vote.

(The Clerk recorded the vote.)

Mr. Goodell to explain his vote.

MR. GOODELL: Thank you, sir. When I was young I had a wooden whistle and it wouldn't whistle. So I got a steel whistle and it still wouldn't whistle. And finally I got a tin whistle and now of course I can whistle. Apologies to our stenographers. I -- I've been a licensed marine pilot engineer for about 30 years and one of the amazing things when you go through that process and you become licensed is you realize how little anyone knows about the rules of the road when it comes to the waterways, and it can create problems. I was actually involved in a lawsuit once where there was a collision and one of the people said *well, I blew my whistle* and I said *well, what did you blow?* And he said *well um, um, um, it was three short blasts.* I said *okay. You realize you indicated you were going in reverse, no wonder you had an accident.* So it's well-meaning and just to be clear for everyone here, I recommend that if you're out on the Great Lakes or in the Hudson in the middle of New York Harbor or you're out where there's a lot of boat traffic, it's a good idea to have a whistle. I just don't think it's a good idea that we mandate it and make it subject to a \$25 to \$100 fine and impose that much more on our tourism and hospitality industry. I -- I just don't think it's really necessary, but certainly there's a lot of things that we don't have to legislate that we certainly think are a good idea. And if you're in a large open body, whether or not you know what the hell you're saying when using the whistle, it's probably a good idea to have it. Thank you, sir. I'm voting no because I don't think we need to legislate on

this level. Thank you, sir.

ACTING SPEAKER AUBRY: Mr. Goodell in the negative.

Mr. Morinello.

MR. MORINELLO: Thank you. I raced sailboats for over 35 years and I know of no sailor that does not have a nautical whistle attached to their life equipment. I also have a cottage on Lake Ontario and a whistle and a kayak or a rowboat or a regular boat can be lifesaving. Nautical whistles will carry the sound maybe a mile, maybe two miles. And when you're out there and you're in trouble you need to get somebody's attention. I don't approve of the fine part of it, but I can tell you this, whistles are lifesavers when you're on the water. Thank you, and I vote yes.

ACTING SPEAKER AUBRY: Mr. Morinello in the affirmative.

Ms. Shimsky to explain her vote.

MS. SHIMSKY: Thank you, Mr. Chairman. We enforce our waters of multi-jurisdiction with the Federal government through the United States Coast Guard. They have asked, pursuant to our regulations, that we update our boating safety regulations. As we know, boating safety equipment can save lives. There hasn't been much in the way of discussion about the fire extinguishers and the use of the cutoff switches, but in terms of the whistles if you have a problem, you are in distress, even if you don't speak the language, getting someone's attention can very easily be a lifesaver. That's the

point of this legislation. That's why the Coast Guard has it as a matter of Federal Law. That's why we should have it as a matter of State law, not to mention that the Federal government helps us patrol these waters and they help fund the patrol of these waters. So when they asked us to the fullest extent possible endeavor to conform our laws, rules and regulations with theirs, I think we should do it, especially when it's something as self-evidently commonsensical. So I will be voting in the affirmative.

ACTING SPEAKER AUBRY: Ms. Shimsky in the affirmative.

Are there any other votes? Announce the results.

(The Clerk announced the results.)

The bill is passed.

Page 16, Calendar No. 159, the Clerk will read.

THE CLERK: Assembly No. A02570, Calendar No. 159, Colton, L. Rosenthal, Walker, Cook, Seawright, Dickens, Taylor, Glick, Williams, Rivera, Darling. An act to amend the Public Authorities Law, in relation to providing notification to customers of bed bug infestations on MTA subways, trains and buses.

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

MR. COLTON: Yes, surely, thank you, Mr. Speaker. This bill requires the MTA to provide notice of bedbug infestation on MTA subways, trains or buses as a measure of public safety and public health within 24 hours after the infestation has been discovered.

Such notification may include notification through the MTA's web page or by e-mail or text message, which the MTA is regularly maintaining.

ACTING SPEAKER AUBRY: Mr. Goodell.

MR. GOODELL: Thank you, sir. I -- I would ask the sponsor to yield for some questions.

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

MR. COLTON: Mr. Goodell, surely I will yield.

ACTING SPEAKER AUBRY: Mr. Colton yields.

MR. GOODELL: Thank you Mr. Colton. We don't have the MTA in Upstate, you know, it's a New York City phenomenon. Are there any beds on the MTA?

MR. COLTON: I have not heard of any deaths from bedbugs --

MR. GOODELL: No --

MR. COLTON: -- however, bedbugs cause a tremendous financial expense to anyone who is unfortunate enough to have the infestation in their home. And they can be carried on clothing of riders or on even the shoes of riders and you wouldn't believe how many constituents in my district have complained to me when they hear of bedbugs in the subways or buses.

MR. GOODELL: I see. So even though there's no beds in the subway, the subways are exposed to bedbugs; is that correct?

MR. COLTON: The subways are -- have had numerous incidents of bedbug infestation and that bedbug can be carried on someone's clothing when they sit down. The -- the bedbugs may crawl off or jump off, and as a result when another rider comes and sits in that seat and they may also, you know, carry that bedbug to their home and it costs thousands of dollars to undue a bedbug infestation.

MR. GOODELL: Certainly. Now according to the Department of Health, roughly five percent of the apartments in New York City suffer from bedbug infestations, which means there's about 827,000 apartments affected. And applying that number to the 5.2 million people that ride on the subway, that means there's roughly 125,000 riders on the MTA every single day that come from bedbug-infested apartments. Wouldn't it just be easier to put a sign at every subway entrance saying *Warning - 125,000 of your passengers -- fellow passengers come from bedbug-infested apartments.*

MR. COLTON: I think that when you put a sign in every station, in effect it has the same effectiveness as if you put a sign in no stations. The problem here is that most people, even in bed bug-infested homes, do not carry the bedbugs around with them. But it is considerably possible that they could do so and when it happens it creates a lot of upset and confusion. And as a matter of transparency when bedbugs are discovered on a particular bus or train, it really is a matter of giving alert, a notice to people, so they may decide if they don't want to take the chance they could choose another line or

another way of transportation for that particular day. Bedbugs have been known - and these are incidences that have happened - where a conductor claims he was bitten by a bedbug and it caused a four hour delay in the line because people were panicked. There's been instances where bedbug infestation has been found on a particular train in the Queens, which again totally disrupted service. So giving the riders a notice, which can be done very efficiently and very -- with no burdensome cost to the MTA, just like if a train breaks down, they have a system set up where they can provide a notice on their website or on various e-mail or text alerts that people have asked to receive and they can easily provide that notice and people could decide whether or not they want to use that particular line that day. So I think it's a matter of, you know, transparency to riders, which in many ways will -- which if it's done, will encourage people not to panic if they see a bedbug or at least to be more cautious when they sit down.

MR. GOODELL: I -- I appreciate that concern.

According to the CDC, approximately two to 300,000 children in New York City suffer from head lice. And applying that to the New York City subway, that means roughly 45,000 people every single day are on the New York City subways with head lice. Should we also send out a public service announcement warning passengers about head lice or communicable diseases or other health risks for riding on the subway?

MR. COLTON: I'm not an expert in head lice.

However, I do not believe the problem is the same as it is with

bedbugs. In a -- in a city with millions of people if -- and bedbugs generally do not get carried around on people, head lice basically doesn't jump off a person and jump onto another. Bedbugs might, but in a city of millions of people, bedbugs on -- infesting on a -- in an office or in a school or in a train -- transit train, are a real fear that make people panic. And I think it's not any great effort that has to be made in providing the notice because the MTA already has a system in place which provides a notice when a train breaks down or when there's a delay. So this is just a slight extension of updating that notice and -- and giving consumers, you know, some alert as to that there may be a problem on this line at this time.

MR. GOODELL: Sure. So assuming hypothetically -- hypothetically, of course, that the MTA becomes aware that one of their lines has been infested by bug beds from one of the 125,000 people who came riding it daily from bedbug-infested apartments, and they then send out this alert, *Warning - we found a bedbug on the A-line*. What do you envision that the passengers that would normally rely on that A-line, as an example, to get to and from work will do? I mean it's not like they're going to walk to work, right?

MR. COLTON: There are alternatives. And one of their alternatives is to make sure they look before they sit.

MR. GOODELL: Agreed.

MR. COLTON: If you see a bedbug, you're not going to just sit on it because it may very well jump on you and get in your clothing and cost you thousands of dollars in damage if it then gets

carried to your house or wherever you happen to be going.

MR. GOODELL: You envision a public campaign on the MTA kind of like the Homeland Security does, you know, if you see it, report it.

MR. COLTON: I think that it's certainly -- you know, the degree of, you know, urgency is not the same as if you would see certain other things on the subway. But I think that this is a case of making the report with the little effort that is needed to make, it is certainly worthy of requiring that that report be made. It has caused panic sometimes when there's no report and all of a sudden people see bedbugs or a conductor in one case was bitten by a bedbug, because they do bite and it set off hours of delay during a rush hour because there was no prior report alerting people to the possibility.

MR. GOODELL: Now would you envision that this report would say, you know, a bedbug was reported on the L-line last night but we cleaned it up so you're okay to ride today?

MR. COLTON: I don't think they need to do to say that they cleaned it up. I think that it's clear that they obviously will clean it up. Although, I will say one state actually - not New York - one state actually required them to remove it, to clean it up if any infestation was found. I don't think that's necessary,

MR. GOODELL: Well, what could be a better (inaudible/cross-talk) --

MR. COLTON: -- but I think when we say -- the riders and their piece of mind, they know that there's a system in

place. And by the way, I don't know that seeing one bedbug is going to, you know, set off, you know, an infestation. The wording is used if there's an infestation, which probably would be more than just one isolated bedbug, but that I don't think we have to legislate on. I think we have to use common sense on that.

MR. GOODELL: I would agree, absolutely. Thank you, Mr. Colton. I appreciate your insights and comments.

On the bill, sir.

ACTING SPEAKER AUBRY: On the bill, sir.

MR. GOODELL: I certainly appreciate my colleague's concern about the health and safety of other passengers on the MTA. And I'm sure that's a concern that extends for all of us, not just those on the MTA but the other eight million residents in the City of New York, or maybe there's more. I've lost count. But, when you're transporting 5.2 million people daily, the statistics are that somewhere between an eighth of a million and a quarter of a million of those riders are coming from a household that has bug bites. Every single day there's 125,000 to 200,000 people who are riding the MTA who come from bedbug-infested apartments. And there's about 40- to 45,000 who likely have head lice. And there's tens of thousands of subway riders daily on the MTA that have various other serious communicable diseases, and that doesn't count all the people who get sick on the MTA. Riding the MTA is dangerous to your health. But I don't think putting a warning sign or having it on the scroll or having the conductor make those announcements really helps us, because

most of the 5.2 million people who are riding on the subway aren't going to be able to say you know what, yesterday there were 125,000 people on the subway system with bedbugs, I'm going to walk to work today. Or there are 45,000 people with head lice, I'm going to walk to work today. I mean it's just one of those things we have to take into account. So I appreciate my colleague's concern for the health and welfare of everyone, it's a concern I share. I just don't think putting warnings on all the MTA trains and buses warning people of how many tens of thousands of people who are infected of contagious diseases or other problems are riding daily. I think that would hurt ridership without a noticeable and appreciable benefit to public health or to the sustainability of the MTA. Thank you, sir. And again, thank you to my colleague.

ACTING SPEAKER AUBRY: Mr. Pirozzolo.

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

MR. COLTON: Yes, I will yield.

ACTING SPEAKER AUBRY: Mr. Colton yields.

MR. PIROZZOLO: So being a person who is using MTA services, thank you, you know, I certainly appreciate it. The questions I ask are really so that I could speak to my constituency a little bit more intelligently. It says infestation. Do we have a determination as what infestation is?

MR. COLTON: I think that the commonsense interpretation is what would apply here. When you see a number of

them in either in a station or a subway car or a train, then it's an infestation. If it's just one alone, I don't think you may not even, you know, notice it, but if somebody notices it and the -- first of all, the train probably has to be taken out of service and secondly, people should be given a notice of it. There's not huge amounts of notice being given out.

MR. PIROZZOLO: No, again, I'm not opposing. I just, you know, want to talk about it. So what the infestation is would be a good question, who determines if it's an infestation. And then like you just said, if the subway is being pulled out of service when that determination is made, you know, I would want the notification to be sooner than 24 hours, but if that bus or that vehicle is taken out of service, then any notice is pretty much going to be too late because it's already being taken care of.

MR. COLTON: Well, the issue is that where -- if there's an infestation - and that means more than just one, you'd have multiple bedbugs - the -- basically the MTA would make a judgment as to, you know, whether there was an infestation.

MR. PIROZZOLO: Right. Then that car gets pulled out of service immediately.

MR. COLTON: And I -- I would think that's what they would do. I mean as I said, in another state they actually required the railroad authority to pull those cars out of service and treat them immediately. I don't think that's necessary here.

MR. PIROZZOLO: Do we require it?

MR. COLTON: We don't require it but the MTA does it for business -- good business reasons.

MR. PIROZZOLO: Well, I appreciate it, but then again -- and I will be voting in favor, okay? But the thing is if that -- if an infestation is discovered and found and the vehicle removed, then I don't know the benefit, you know, necessarily of the notice 24 hours later after the problem is fixed, but I certainly like the intent. I do have those questions on how I could explain to my constituency on what an infestation is and who's the board that makes that determination so if that information could be getting to me eventually I would be appreciative.

MR. COLTON: And as I -- as I, you know, said, my office has received many, many complaints of people being afraid, you know, of such an infestation. And the reason why they have so much fear in a -- in a city like New York City, if you in fact end up with a bedbug infestation it means washing all your clothes, immediately putting all bedding in a sealed plastic bag, washing it at very high temperatures, it means probably getting rid of your mattress, it probably means getting rid of rugs in that room, so it easily could amount to thousands of dollars. So people do not want to have bedbugs in their house. It's a very big problem. And their mind is put at rest if they know at least that if the MTA discovers bedbug infestation, that they at least will notify them and that may make them be able to take certain precautions so they don't end up with that kind of an expensive problem.

MR. PIROZZOLO: It makes me feel a little bit better. So what I think you're saying is that the notification would be that there was an infestation on the Q-line yesterday and if you were on that yesterday you should look into making sure that you're safe. Not -- not you shouldn't take it today because that vehicle's already been removed from service.

MR. COLTON: Yeah. Well, I would actually, you know, say that the notification that we send within 24 hours to give a time period and that will accomplish what you very wisely suggested, but it also could be sooner than 24 hours. The MTA could do that and it is possible that somebody was going to take the A train but they could take a bus instead. It's -- it's possible that somebody might go to a different station. They could walk to the next station rather than take the station that the infestation had been reported on. So there is, you know, a transparency, a right that riders have to know if there was a problem and then they make their decision how they can best protect themselves from that problem.

MR. PIROZZOLO: I appreciate it, thank you.

On the bill if I may.

MR. COLTON: Thank you.

MR. PIROZZOLO: On the bill, sir.

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

MR. PIROZZOLO: So I certainly appreciate it and as I said, I would support the legislation but I do have the concern of

that if an infestation has been determined and we're pulling the vehicle, someone's not going to walk to a different station because the vehicle's already been pulled. So to me it seems of more the notification is for letting ridership know that a subway or a vehicle you used prior yesterday, the day before, had that infestation, you might want to take a look. So a little bit of clarity. I don't think we're going to be preventing anything but maybe more of maintenance for people to check if they were on that infected line. Thank you, sir.

ACTING SPEAKER AUBRY: Thank you.

Read the last section.

THE CLERK: This act shall take effect immediately.

ACTING SPEAKER AUBRY: Party vote has been requested.

Mr. Goodell.

MR. GOODELL: Thank you, sir. The Republican Conference is generally opposed, but I suspect that we have members that will be supporting this legislation and if so they are certainly encouraged to vote yes on the floor. Thank you, sir.

ACTING SPEAKER AUBRY: Thank you.

Ms. Solages.

MS. SOLAGES: The Majority Conference will be voting in the affirmative. Thank you.

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.

Ms. Solages.

MS. SOLAGES: Thank you, Mr. Speaker. We'll continue our work today with three more bills. Calendar No. 175 by Ms. Reyes; Calendar No. 65 by Mr. Alvarez and Calendar No. 160 by Pheffer -- by Mrs. Pheffer Amato.

ACTING SPEAKER AUBRY: Thank you. Page 18, Calendar No. 175, the Clerk will read.

THE CLERK: Assembly No. A05653-B, Calendar No. 175, Reyes, Williams, Otis, Walsh. An act to amend the General Business Law, in relation to the price gouging of medicine.

ACTING SPEAKER AUBRY: On a motion by Ms. Reyes, the Senate bill is before the House. The Senate bill is advanced. Read the last section.

THE CLERK: This act shall take effect immediately.

ACTING SPEAKER AUBRY: The Clerk will record the vote.

(The Clerk recorded the vote.)

Ms. Reyes to explain her vote.

MS. REYES: Thank you, Mr. Speaker. Price gouging of medicine is a well-documented and significant issue that interferes with the ability of many people to access necessary medication and contributes to soaring profits of some pharmaceutical

corporations. Price gouging of medications has a racially disparate impact on people in communities of color. Less affluent communities in general are disproportionately impacted as well by price gouging the medicine. Under current law, price gouging is illegal only during an abnormal disruption of markets caused by a declared state of emergency in this State. This bill would specifically add drug shortage to the list of reasons for declaring a state of emergency. Therefore, if a drug shortage reaches a degree to which a state of emergency is declared, the Attorney General is authorized to determine, by the same section of the law, whether consumers are being subject to price gouging of any medicines and will be able to take action against such practices. This is a step in a number of measures we can take to protect consumers in our State, and I will be voting in the affirmative. Thank you.

ACTING SPEAKER AUBRY: Ms. Reyes in the affirmative.

Are there any other votes? Announce the results.
(The Clerk announced the results.)

The bill is passed.

Page 10, Calendar No. 65, the Clerk will read.

THE CLERK: Assembly No. A04620, Calendar No. 65, Alvarez. An act to amend the General Business Law, in relation to availability for sale of advertised merchandise.

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

MR. ALVAREZ: This law will enable New York State to enforce longstanding Federal Trade Commission regulation and policy. Court orders in 1972 New York City regulations on bait advertising. Bait advertising is the practice of making an (inaudible) offer to sell a product which the advertiser does not intend or when to sell to (inaudible) a consumer into establishment where it's suspected other purchase -- other purchase will be made. In addition, many retailers currently have policies regarding the entrance of rain check so it is not currently mandated by the law. This bill puts into a statute ensuring that business have rain check policy in place.

ACTING SPEAKER AUBRY: Mr. Mikulin.

MR. MIKULIN: Mr. Speaker, will the sponsor yield?

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

MR. ALVAREZ: Yes, sir.

ACTING SPEAKER AUBRY: Mr. Alvarez yields.

MR. MIKULIN: Just a few quick questions. This bill pertains to rain checks. So basically if something's on sale, then the store would have to provide a rain check to the customer; is that correct?

MR. ALVAREZ: That's correct.

MR. MIKULIN: Now isn't there already Federal law regarding this? So why is it that we need to extend the Federal law -- extend upon the Federal law where they already seem to have covered this?

MR. ALVAREZ: It is, but this put onus of proof on the seller to honor the advertising instead of on the consumer to prove that they were bait and switch victims.

MR. MIKULIN: Okay. Wouldn't you think that this particular bill when it comes down to produce, the availability of that produce, let's say if the retailer couldn't provide that availability, wouldn't -- wouldn't you say that this bill would discourage then the grocery store to provide sales?

MR. ALVAREZ: Well, I'll say no. While food and food products will be exempt under this enactment, they are covered and have been for several years by Federal Trade Commission rules where retailers are similarly required to offer rain checks for food and for product.

MR. MIKULIN: Okay. But if now I am a -- let's say I'm a retailer. Why would I provide a sale if I know that now I have to provide a rain check for it? Maybe I can't get the item again or maybe I can't obtain the item and I have a lot of it now, I can't ensure that.

MR. ALVAREZ: Well, they have to -- to prove that they tried to get it.

MR. MIKULIN: Okay. And wouldn't now -- let's say they, you know, in a normal market, okay, we have sales. Wouldn't the normal market cover what it is that it is that you're seeking to -- to do? So now I have a sale, maybe I want to sell all this product because I have too many of them. If we have the items, then I can of course sell them. But if I offer the sale now and the items are

gone and now there's a -- they have to provide a rain check, why would the -- the person selling the items say I should provide a sale on this?

(Pause)

Basically -- I'll rephrase it. Don't the normal market forces what they adequately police from availability?

MR. ALVAREZ: Yes.

MR. MIKULIN: Thank you so very much.

On the bill, Mr. Speaker.

ACTING SPEAKER AUBRY: On the bill, sir.

MR. MIKULIN: What this bill does is we tell producers now that they must provide a rain check. When government comes on in and starts telling people who are selling products what it is that they should do, they start to change what it is that they do do. Meaning if the government is going to tell a producer now that they must provide a rain check, then most likely if I'm selling a product I will not put it on sale. This does not benefit consumers because now consumers could possibly purchase an item at a cheaper price, but now since this law is going to be put into effect, the person selling the item says I'm not going to put a sale on -- on this because I don't know if I'm going to be able to -- I don't know if I'm going to be able to actually obtain the product into the future. So with that being said, I'm going to vote in the negative and I encourage my colleagues to do the same. Thank you.

ACTING SPEAKER AUBRY: Thank you.

Mr. Jensen.

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

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

MR. ALVAREZ: Yes, sir.

ACTING SPEAKER AUBRY: Sponsor yields.

MR. JENSEN: Thank you very much, Mr. Alvarez. This legislation deals with advertisements for merchandise for sale. What advertisements would be covered under the text of this legislation? More specifically what forms of advertisement?

MR. ALVAREZ: There is no distinction among this type of (inaudible) formats in the bill.

MR. JENSEN: So going back to what Mr. Mikulin said, if he's a produce retailer and he's offering Pink Lady apples at a sale price in a circular, something that goes in the Sunday paper, this legislation would say that there has to be either how many of those Pink Lady's are available or something that says only 1,000 Pink Lady apples are available as part of this sale price, correct?

MR. ALVAREZ: It is, but remember that food are covered by the Federal guidelines.

MR. JENSEN: Okay. So if I am a retailer who's selling refrigerators and I have a print advertisement but I also have advertisements on television and I'm offering a sale on Maytag refrigerators, would I have to abide by the components of this

legislation and say that I only have 13 Maytag refrigerators available at X price or would I have to say that come buy my refrigerators, but no rain checks for you. I'd have to put that in my advertisement on television.

MR. ALVAREZ: I believe so, yes.

MR. JENSEN: Okay. So if I am a car dealer and I'm advertising on digital advertisement on websites, I'd have to have all this text on a small graphic advertisement that may be on a side panel of a website.

(Pause)

MR. ALVAREZ: We have an exception under this law that if the advertising is through a mail or through online then you don't have to.

MR. JENSEN: What section of the bill is that, sir?

MR. ALVAREZ: It's the first page, item number ten.

MR. JENSEN: Where it says the advertisement is made in relation to mail order merchandise as regulated by Section 396 of this article?

MR. ALVAREZ: Was the question that you asked about --

MR. JENSEN: No.

MR. ALVAREZ: -- order online?

MR. JENSEN: No. My question was if you're -- if you're having varied sources of advertisement advertising a sale price on an item, would that cover every type of advertisement that a

business may advertise a sale price in, whether it's print, whether it's television, whether it's radio? Radio you can't print the components of this legislation. Television, would you have to say it, would you have to put it on the screen in little text that nobody can read? If you have digital advertising it's a small graphic as it is. So my question is, does this bill speak specifically towards print advertisement or is it every advertisement that every retailer in the State would use to advertise items for sale?

MR. ALVAREZ: I'm afraid it's every advertisement except for what you just described right now.

MR. JENSEN: Except for mail order or the exception --

MR. ALVAREZ: Correct.

MR. JENSEN: -- which are one of a kind items.

MR. ALVAREZ: Correct.

MR. JENSEN: Okay. So going back to the example of a retailer that sells home goods; stoves, refrigerators, lawn mowers and they are large pieces of home items. They offer, they -- they abide by the provisions of this legislation, they say they only have 15 available at a certain price. They have 30 people come in, 15 get to purchase one, 15 get a rain check. The onus is going to be on the retailer to make sure when they reorder that appliance in that specific model that they order 15 plus everything else they ordered for their stock to have in their storage room for those people holding a rain check, correct?

MR. ALVAREZ: Yes.

MR. JENSEN: So even though based on the metrics that they use as a business, they'd be forced to order more than they would typically need because of outstanding rain checks?

MR. ALVAREZ: I mean yes?

MR. JENSEN: Is there any obligation on a person holding the rain check that they have to follow through and actually purchase the thing that now the retailer has ordered and exhausted their resources on to fulfill their end of this legislation?

MR. ALVAREZ: I mean part of the law say that -- well, part of the bill say that they have to prove that they made the effort to get that merchandise.

MR. JENSEN: No, I understand that. But I'm saying if I am a home goods retailer and I order every quarter 15 Maytag refrigerators but for some reason the quarter before they didn't sell, now I have too many, I have to offer them for sale so I can clear out valuable storage space in my stockroom. I offer them for sale because I need to move them out, they're still being produced, they still exist. But now instead of ordering 15 more for the next quarter, now I have to order 30 even though the business data says that I'm not going to be able to sell 15 because before I haven't so you have to have more room being taken up in your stockroom for things that you may not be sure will sell even though you have outstanding rain checks. So what I'm saying is you're putting a onus on businesses to spend more capital to potentially meet the needs of outstanding rain checks, correct?

(Pause)

MR. ALVAREZ: I mean following your example, right?

MR. JENSEN: Mm-hmm.

MR. ALVAREZ: So it's a business decision if they want to put all the 50 on rain check or just 15 or 20 of those 50. It's up to the business.

MR. JENSEN: It's not up to the business, though, because they still have a business model they have to follow. And if they're ordering -- they don't order -- I never sold refrigerators or any other home goods items or I've never been a retailer. But I imagine that there is a planning process on when they decide to order things. And Mr. Mikulin talked about if there's things that aren't available, we just went through COVID where we had massive failings in our supply chain. So you may be ordering items more than 120 days in advance. So how can you be sure -- you may set your ordering idea up based on the economic realities of your line of business. But now if you have outstanding rain checks, now you've thrown off that entire internal supply chain and economic decision-making off because you're having to satisfy the potential that somebody comes in with a rain check after 120 days to get something that you offered for sale when you're trying to clear up stock.

MR. ALVAREZ: But again it's -- it's -- it's -- it's based on the strategy of your business. If you have 100 TV, right?

MR. JENSEN: Mm-hmm.

MR. ALVAREZ: And you don't want to offer the 100 TV as a rain check, you can say out of the 100 I'm just going to put 50, but it's up to you as a business owner, and it's based on your strategy that -- that you want to -- to use to sell your -- your -- your product.

MR. JENSEN: Okay. Mr. Alvarez, so I remember we had a vigorous debate about this last year with the previous sponsor of this legislation. And the justification she used for why she introduced this bill back in the early 2000s was that in her Westchester community she had people who were going in to buy a sale item and then the sale item was essentially - I think you said it, too, in your explanation - a bait and switch and then people were being forced to buy an item or spend more money than they had originally planned on and it was being thought of, in her respect, as deceptive business practices. Would that be your assessment as well about why this legislation is needed?

MR. ALVAREZ: I'll tell you this: Yes first, but I don't believe that this is just exclusive for Westchester County.

MR. JENSEN: No no. I just --

MR. ALVAREZ: I have constituents in my district --

MR. JENSEN: No, I understand.

MR. ALVAREZ: I have constituents in my district that complain about the same thing.

MR. JENSEN: So I guess at what point do we put an onus on the consumer to not spend money they don't want to spend?

If they know they're only going to spend \$2,000 on a home appliance and they get there and those \$2,000 appliances are gone but all there is is \$2,700 appliances, at what point do we put an onus on the consumer and say I'm not going to spend that money today or I'm going to maybe go to a different store. At what point do we take away the onus on New Yorkers to make our responsible decision based on their own decision-making prowess?

MR. ALVAREZ: I -- I -- I don't believe that this bill is going against an honest business. They are in business that use that tactic to get consumer to their store and that's what we are (inaudible) --

MR. JENSEN: But why are we thinking that consumers can't see that, that they can't see that they're being baited and switched or that they're being taken advantage of? Shouldn't a consumer know that if they're only going to want to spend a certain amount of money that they will not spend more than that? Shouldn't there be an onus on the consumer to make a responsible decision on their own?

MR. ALVAREZ: Remember, the consumer went to your store because they saw false advertisement, right? And when they get to your store they find out that what you advertising is not the -- it's not the real -- the reality.

MR. JENSEN: But nobody's forcing them to turn over a credit card and spend money.

MR. ALVAREZ: I -- I -- I believe you're right on

that but once I move from my house after what you advertise --

MR. JENSEN: Mm-hmm.

MR. ALVAREZ: -- I'm expecting to see what you advertise on your store. And once I'm there if I need it, you know, I may be tempt to do what you initially intend to do with the false advertisement.

MR. JENSEN: But isn't -- isn't there an inherent sense that sale items are for sale and that you are not the only person who may want that item and that you may have to compete with other people based on the passage of time?

(Pause)

I mean every supermarket in New York State sells an apple at a sale price. Should we presume that every supermarket has to have a collection of 60 million apples so that every New Yorker can come in and buy three apples at that sale price? I mean we do grow a lot of apples but I don't know how feasible that is.

MR. ALVAREZ: Yeah. So remember, the business always has the option to say this item is not on real check -- on rain check.

MR. JENSEN: But -- but -- so going back to the advertisement question, they may not because if you're doing a radio advertisement, how do you -- not to circle back completely, but if you're advertising a sale price on the radio, how do you even abide by this? You can't put anything in print on a radio.

MR. ALVAREZ: So they can announce it.

MR. JENSEN: So they're paying X amount of dollars for a 15 second advertisement, you want them to take up five seconds explaining their rain check policy instead of telling people what items they have for sale or are selling at that time? You think that is an important use of their money?

MR. ALVAREZ: This is not about what I think.

MR. JENSEN: No, it is. It's your bill.

MR. ALVAREZ: This is -- this is -- this is about what the business strategies are, right? If your strategy is to use the radio to advertise a product and pay whatever amount they're going to charge you, that's on you as a business owner.

MR. JENSEN: No, it is about what you think, Mr. Alvarez. It is your piece of legislation. So you could have changed it from the previous sponsor in any way you want. So it is reflective of what you believe that people should do. And if it's about print advertisement, the circulars that come in the Sunday paper that's one thing because it can be printed, you can have exclusions for the entire advertisement on the bottom. Some forms of advertisement don't have that ability.

MR. ALVAREZ: I believe I know that. I mean you are advertising your product on the radio. There is no way to print anything, you have to -- you have to announce.

MR. JENSEN: Okay. Thank you, Mr. Alvarez. I appreciate it.

MR. ALVAREZ: Thank you.

MR. JENSEN: Thank you, Mr. Speaker.

ACTING SPEAKER AUBRY: Thank you, sir.

Mr. Gandolfo.

MR. GANDOLFO: Thank you, Mr. Speaker. Will the sponsor yield for a couple more questions?

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

MR. ALVAREZ: Absolutely, sir.

ACTING SPEAKER AUBRY: Mr. Alvarez yields.

MR. GANDOLFO: So I have a question regarding the notification portion of this bill. To my understanding if a rain check is issued for a product, the holder of that rain check would have to be notified that it's back in stock within 15 days of it becoming back in stock?

(Pause)

MR. ALVAREZ: I'm afraid it's ten days.

MR. GANDOLFO: I'm sorry. Could you repeat?

MR. ALVAREZ: Ten days.

MR. GANDOLFO: So they'd have to be notified within ten days of the item coming back.

MR. ALVAREZ: Yes.

MR. GANDOLFO: And that would apply to like a grocery item like canned goods, produce? All the rain check holders would have to be notified within the ten days?

MR. ALVAREZ: Remember some of the products

are covered by the Federal -- by the Federal, right? Food.

MR. GANDOLFO: Okay. So what would constitute a notification? Would it have to be a phone call, e-mail, text message, letter?

(Pause)

MR. ALVAREZ: It's a phone call, sorry.

MR. GANDOLFO: It would have to be a phone call?

MR. ALVAREZ: Yes.

MR. GANDOLFO: So I'm speaking from my personal experience. I spent time working as a cashier at ShopRite and once or twice a year we ran the -- excuse me -- the can can sale, it was a week long sale, ton of canned goods up for sale and rain checks were a commonplace in this instance because people would be walking out with carts and carts full of canned goods. So you have a week long sale, say, you know, 2- or 3,000 rain checks are issued for canned tomatoes. There happened to be a run on canned tomatoes that particular week. Would every single holder of that rain check, which could be a lot of people, we issued a lot, they would all have to receive a phone call informing them that the canned tomatoes were back in stock at the sale price.

(Pause)

MR. ALVAREZ: Look. First, food is covered by the Federal government, right? But yes, everybody needs to receive a phone call about it, yes.

MR. GANDOLFO: So -- and what is the penalty if

someone is not notified, like a single person.

(Pause)

MR. ALVAREZ: I believe this bill doesn't address penalty.

MR. GANDOLFO: There's no penalty?

MR. ALVAREZ: There is already a law for unfair business practice.

MR. GANDOLFO: Okay. So presumably if you violate this there's a fine of some sort.

MR. ALVAREZ: Yeah.

MR. GANDOLFO: So my -- my concern with this is I know Mr. Mikulin talked about people not having sales anymore, but I would worry that places like supermarkets and sales like this they save a lot of people a lot of money when they stock up on these goods. If they were to just now advertise they're no longer offering rain checks, they would be exempt; is that correct?

(Pause)

MR. ALVAREZ: The Federal government has already a law that -- to that.

MR. GANDOLFO: Okay. Thank you, sir.

Mr. Speaker, on the bill.

ACTING SPEAKER AUBRY: On the bill, sir.

MR. GANDOLFO: Just briefly. One thing I am concerned about with legislation like this is you make it so onerous for stores that want to offer the rain check for these goods that are on sale

to save people money, but the process is so onerous that they'll just advertise that they will no longer offer these rain checks. For example the sale I mentioned, a lot of people would stock up on cheap canned goods. And if they weren't in stock typically the store would offer a rain check. If you're going to be faced with the proposition of having your employees contact potentially at least 1,000 people by phone to notify them now that that item is back in stock, which could be a \$1.50 can of string beans or something, and if you fail to contact someone I believe the fine would be somewhere around \$5,000 per instance. So if you were a store or some kind of retailer, why would you even bother potentially getting hit with a \$5,000 fine over trying to offer a sale on \$1 can of beans or something? So I worry that this will just harm the consumer in the end, Mr. Speaker. Thank you for indulging me.

ACTING SPEAKER AUBRY: Thank you.

Mr. Angelino.

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

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

MR. ALVAREZ: Certainly, yes.

ACTING SPEAKER AUBRY: Yes, the sponsor yields.

MR. ANGELINO: Thank you, Mr. Speaker. So sir, following up on my two colleagues, their examples, specifically my

colleague directly in front when he was talking about refrigerators. They're an expensive item, they go on sale, people think, you know, nows the time to get one, they show up and my gosh, the last one was sold but I'll give you a rain check and we'll honor that price. I'm going to try and find one for you. They're -- they're a hard to find item but I'm going to get it for you. Is there anything in your bill that requires the consumer to follow through and purchase this item?

MR. ALVAREZ: I'm afraid that the consumer doesn't have to purchase the item.

MR. ANGELINO: Okay. So a -- a retailer does have to go to the expense of getting that hard to find item and get it restocked, get it there, prep it and then call and they can say no, we changed our mind.

MR. ALVAREZ: I'm afraid that -- that is correct.

MR. ANGELINO: Thank you, sir.

On the bill, sir.

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

MR. ANGELINO: I'm afraid I won't be able to support this bill for that reason alone. Thank you.

ACTING SPEAKER AUBRY: Thank you, sir.

Mr. Novakhov.

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

MR. ALVAREZ: Yes.

ACTING SPEAKER AUBRY: Mr. Alvarez, will you yield.

MR. NOVAKHOV: Thank you, Mr. Alvarez.

ACTING SPEAKER AUBRY: Mr. Alvarez yields.

MR. NOVAKHOV: Thank you very much. Well, first of all, usually items for sale is something businesses trying to get rid of. And how do you expect the business to provide the same item for the same price if they don't have this item anymore and they cannot purchase it from the wholesaler from the same price? Like they have to cover the cost from their own pocket, like maybe I don't understand something.

MR. ALVAREZ: No. The business doesn't have to do that. They just have to prove that they intend to acquire the products.

MR. NOVAKHOV: Okay. So just the intention --

MR. ALVAREZ: Yeah. They have to -- they have to make reasonable effort.

MR. NOVAKHOV: Got it. Another question is, how much time the business is allowed to have in order to remove the advertising when the items advertised as on sale are out of stock?

(Pause)

MR. ALVAREZ: Can you repeat the question, please?

MR. NOVAKHOV: Sure. How much time the business is allowed to have in order to remove the advertising when

the items advertised as for -- on sale or for sale are out of stock? So I'm running -- yeah, please.

(Pause)

MR. ALVAREZ: I mean this -- this bill don't address that you have to specify how many days you have to keep the rain check on the -- on the product, right? So technically you can say the same day this is not on -- on rain check -- on rain check anymore.

MR. NOVAKHOV: So if I'm running ads let's say on television, right, and in this ad I'm saying that this furniture is for -- is on sale currently and cost \$999 instead of 2,000. Now the store is out of stock of the sale items. But the advertising is -- is still going, it is still been showing on television because the -- the way I've been -- I've been working in radio advertising business and television advertising business for over 20 years and I -- you know, I -- I know how things work.

MR. ALVAREZ: Mm-hmm.

MR. NOVAKHOV: So everything is programmed in advance. So it's impossible to remove the advertisement the same -- the same day. Let's say the furniture store owner calls the advertising departments of the radio station or television station and says I don't have these items anymore. Please remove the ad. It's going to -- it may take up to a week to remove that ad.

MR. ALVAREZ: What we're saying here is that the rain check -- if you don't have the rain check available for such article, you have to now offer the rain check for within 120 more days.

MR. NOVAKHOV: So it doesn't specify anything on the advertising part of it. Do I understand that correctly?

(Pause)

MR. ALVAREZ: That is correct. This doesn't address how long the sales have to -- to be.

MR. NOVAKHOV: Okay. Thank you.

ACTING SPEAKER ZEBROWSKI: Mr. Goodell.

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

ACTING SPEAKER ZEBROWSKI: Will the sponsor yield?

MR. ALVAREZ: Yes.

ACTING SPEAKER ZEBROWSKI: The sponsor yields.

MR. GOODELL: I am going to do my absolute best not to ask a question that has already been asked, but if so, just let me know. So I see that one of the exceptions is that you can advertise a specific number of items that are available for sale and it says at the onset of the sale, correct?

MR. ALVAREZ: Yes.

MR. GOODELL: So let's say I have 15 refrigerators using that example. Apparently we're into refrigerators today and I placed the advertisement, it might take a week in advance and somebody comes to me during that week and I'm down to 15. Now you're saying I can't sell any before the sale because I would then have

less than 15 and would be in violation?

(Pause)

MR. ALVAREZ: Definitely you can sell it, but you're going to -- you're going to be obligated if someone comes after that asking for that advertisement.

MR. GOODELL: I see. Now one of the other exceptions is that I can clearly and conspicuously state that a rain check is not available, right? And then I'm out from this but there's a little bit of a catch. If I say no rain checks, I can't sell the same product for 120 days; is that correct?

(Pause)

MR. ALVAREZ: You -- you cannot sell it on the same price for 120 days.

MR. GOODELL: Well, it says will not be offered for sale for at least 120 days, right? I mean I can't sell it, right, for 120 days.

MR. ALVAREZ: At the same price, no.

MR. GOODELL: Where does it say "same price?" I'm looking at page 1, line 18. It just says will not be offered for sale for at least 120 days. Looking at lines 17 and 18. This exclusion may only be used if the article will not be offered for sale for at least 120 days from the expiration date of the advertisement, right?

(Pause)

MR. ALVAREZ: The intent of the bill is that they cannot sell it for the advertised -- for the advertised price within 120

days. Maybe there is a -- a mistake -- a technical mistake in the language.

MR. GOODELL: Maybe we can look at fixing that, because otherwise let's say I'm having a sale at ShopRite with soup and I put in there, you know, I'm selling this soup but there's no rain check. And then once I sold it, someone comes in and asks for that rain check or that soup and I say *no soup for you, come back in four months*. Thank you. Thank you, sir.

MR. ALVAREZ: Thank you, Mr. Goodell.

MR. GOODELL: I appreciate your comments.

ACTING SPEAKER ZEBROWSKI: Thank you, Mr. Goodell.

Read the last section.

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

ACTING SPEAKER ZEBROWSKI: A Party vote have been requested. Mr. Goodell.

MR. GOODELL: Thank you, sir. The Republican Conference is generally opposed to this language that is written but those who support it are certainly welcome to vote in favor here on the floor. Thank you, sir.

ACTING SPEAKER ZEBROWSKI: Thank you.

Ms. Solages.

MS. SOLAGES: The Majority Conference will be voting in the affirmative. Thank you.

ACTING SPEAKER ZEBROWSKI: Thank you, Ms. Solages.

The Clerk will record the vote.

(The Clerk recorded the vote.)

Mr. Blankenbush to explain his vote.

MR. BLANKENBUSH: Yes. This bill was introduced first in 1995. It was a bad bill then and it's a bad bill now. Thank you, Mr. Speaker.

ACTING SPEAKER ZEBROWSKI: Mr. Blankenbush in the negative.

Mr. Jensen to explain his vote.

MR. JENSEN: Thank you, Mr. Speaker. My grandfather loved a good rain check, just ask the people at the Latta Road Wegmans. However, if we're concerned about consumers being perpetrated by fraud of consumers, that would be a good reason for them to utilize the Consumer Fraud Division of the Attorney General's Office. I will be voting in the negative for many of the reasons that I and my colleagues expressed on the floor. Thank you, Mr. Speaker.

ACTING SPEAKER ZEBROWSKI: Mr. Jensen in the negative.

Are there any other votes? Announce the results.

(The Clerk announced the results.)

The bill is passed.

Ms. Solages for an introduction.

MS. SOLAGES: Thank you. Could you please help

me introduce Sydney Edwin? She is the National Conference of State Legislatures State Rep for New York State and we know NCSL fosters collaboration and exchange amongst ideas amongst state legislators nationwide. So if you could extend the cordialities of the House, I would really appreciate it.

ACTING SPEAKER ZEBROWSKI: Sure, absolutely. On behalf of Ms. Solages, the Speaker and all the members, we welcome you here to the Chambers. We thank you for all you're doing for our House, our Legislature and legislatures across the country, and we extend the privileges of the floor and hope you enjoy the proceedings today. Thank you.

(Applause)

Ms. Solages.

MS. SOLAGES: Can you please recognize, Mr. Jacobson?

ACTING SPEAKER ZEBROWSKI: Mr. Jacobson.

MR. JACOBSON: Thank you for your support. I know many of you felt a void today because we did not have conference but you're in luck. We're going to have conference for the Majority right after Session but it's going to be in Hearing Room C, not B, C. So we will see you --

ACTING SPEAKER ZEBROWSKI: Majority Conference, Hearing Room C.

Ms. Solages.

MS. SOLAGES: I guess there's no rain check today.

So Mr. Speaker, do you have any further housekeeping or resolutions?

ACTING SPEAKER ZEBROWSKI: We do. We have one piece of housekeeping.

On a motion by Ms. Rozic, page 18, Calendar No. 174, Bill No -- Assembly 5610-C, the amendments are received and adopted.

We also have a number of fine resolutions that we'll take up with one vote. All those in favor signify by saying aye; all those opposed say nay; the resolutions are adopted.

(Whereupon, Assembly Resolution Nos. 476-482 were unanimously adopted.)

Ms. Solages.

MS. SOLAGES: I now move that the Assembly stands adjourned and that we reconvene at 11:00 a.m., May 17, tomorrow being a Session day.

ACTING SPEAKER ZEBROWSKI: The House stands adjourned until 11:00 a.m. tomorrow.

(Whereupon, at 6:10 p.m., the House stood adjourned until Wednesday, May 17th at 11:00 a.m., that being a Session day.)