

WEDNESDAY, JUNE 5, 2024

11:07 A.M.

ACTING SPEAKER AUBRY: The House will come to order.

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

(Whereupon, a moment of silence was observed.)

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

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

A quorum being present, the Clerk will read the Journal of Tuesday, June the 4th.

Mrs. Peoples-Stokes.

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

dispense with the further reading of the Journal of Tuesday, June the 4th, and that the same stand approved.

ACTING SPEAKER AUBRY: Without objection, so ordered.

Mrs. Peoples-Stokes.

MRS. PEOPLES-STOKES: Thank you, sir. I would like to share a quote with those in the Chambers with us today. Actually, our colleague, Mary Beth Walsh, gave me a book earlier this week that was written by her son and, you know, Mary Beth has talked about her son very dearly on this floor many a time, and I almost feel like I know the challenges he had just going through life, but getting to the point where he could just literally climb towers all over Adirondack Park was a very inspiring thing and he wrote this book. And inside this book there was a quote from Ashley Rice, actually it's a poem, and it touched me, and I'm pretty sure it touched her son, too, that's why he put it in his book. And Ashley's words for us today, *When the task at hand is a mountain in front of you, it may seem hard to climb. But you don't have to climb it all at once - just one step at a time. Take one small step, one small step, and another, and you'll find the task at hand that was a mountain in front of you is a mountain that you've climbed.* Again, these words by Ashley, and it was in the foreword of Terry Hynes book that he wrote called *Climbing New Heights* [sic]. Those are Ashley's words today, so thank you, Mary Beth, for sharing.

(Applause)

Mr. Speaker, members have on their desk a main Calendar and a debate list. We're going to be calling for the following Committees off the floor: Ways and Means, and Rules. These Committees are going to produce an A-Calendar, which we will take up today. After you have done any housekeeping and/or introductions, we're going to begin to take up Rules Report No. 341 by Mr. Anderson on consent. We will then work off the debate list, beginning with the following bills -- by the way, Mr. Speaker, all these bills are going to be Rules Report bills, and we're going to start with 148 by Mr. Otis; 157 by Ms. Reyes; 159 by Ms. Bichotte Hermelyn; 189 by Ms. Fahy; 197 by Mr. Burdick; 222 by Ms. Shimsky; 226 by Mr. Bronson; 241 by Mr. Zebrowski; 246 by Mr. Lavine; and 254 by Ms. Fahy. There probably will be a need to announce additional floor activity at some point, Mr. Speaker. When that comes up, I'll be happy to do so. And once again, we have another very long day ahead of us. I appreciate patience and cooperation of so far this week, and I fully anticipate that we'll have the same cooperation today as well.

That is where we're at, Mr. Speaker. If you have introductions or housekeeping, now would be a great time.

ACTING SPEAKER AUBRY: Well, Mrs. Peoples-Stokes, take note of the -- June the 4th [sic], there are no introductions and no housekeeping.

(Applause)

And joy fills the Chamber.

Mrs. Peoples-Stokes for an announcement.

MRS. PEOPLES-STOKES: Mr. Speaker, would you ask the Ways and Means Committee to go to the Speaker's Conference Room immediately, please.

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

(Pause)

ACTING SPEAKER EACHUS: Page 19, Rules Report No. 341, the Clerk will read.

THE CLERK: Assembly No. A09099, Rules Report No. 341, Anderson, Davila, Ardila, Weprin, Bichotte Hermelyn, Chandler-Waterman, Steck, Otis, Burdick, Shrestha, Hyndman, Fitzpatrick, Colton, Seawright, Zinerman, Dais, Taylor. An act to amend the Insurance Law, in relation to establishing a captive insurance program for commuter vans, black cars, ambulettes and paratransit vehicles, and small school buses.

ACTING SPEAKER EACHUS: Read the last section.

THE CLERK: This act shall take effect immediately.

ACTING SPEAKER EACHUS: 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 8, Rules Report No. 148, the Clerk will read.

THE CLERK: Assembly No. A02729, Rules Report No. 148, Otis, Seawright, Simon, Stirpe, Sayegh. An act to amend the Real Property Law, in relation to requiring landlords to mitigate damages when commercial tenants vacate premises in violation of the terms of the lease.

ACTING SPEAKER EACHUS: An explanation has been requested.

MR. OTIS: Thank you, Mr. Goodell. This legislation deals with the legal concept of the duty to mitigate damages in real estate situations. Before 1995, it was the law in New York and it's law throughout most of the country today that landlords have a duty to mitigate damages in a case where a tenant leaves in the middle of a lease, and that mitigation of damages is an attempt, a reasonable attempt to try and re-lease the apartment to mitigate those damages.

In 1995, a Court of Appeals decision took away that responsibility for commercial leases and residential leases, and in 2019 we restored that duty for residential leases. This bill takes the next step and brings that duty back for the situation of commercial leases. And I will say that the -- the language in the existing law that exists for residential leases gives great deference to the judge in terms of flexibility in terms of how this happens, but the law reads, *The landlord shall, in good faith and according to the landlord's resources and abilities take reasonable and customary actions to rent the*

premises at fair market value, or the agreed upon rate during the term of the tenancy. And so I emphasize the language and the lack of this being that high of a burden on landlords, they need to make a reasonable effort, not knock themselves out if they can't re-lease the property, there isn't a penalty or real burden if they make those efforts.

I'd also say that from a business point of view, it's good to have this provision because if you are in a commercial setting and there is a vacant space next to you, another retail setting, you don't want that to stay open unnecessarily. And without this change in law, there's no real incentive for a landlord to release the property if they're still getting rent from the tenant who left. I'd also say at this moment, Mr. Goodell, you and I have discussed this bill and other bills that relate to contracts and commercial real estate in past years, and I know you are leaving us in this section -- this Session, unfortunately these discussions have been I think credit-worthy for law school course credit I think, good discussion and you -- I want to compliment your great skill at debating a wide variety of issues every day in this Legislature, and we thank you for that. I think in the area, my senses is at it relates to commercial real estate, you really do know what you're talking about. So I appreciate the dialogue and any -- any further questions, but that's the -- the explanation and again, thank you for what you give to this House in terms of intelligent questions and discussion on a whole host of issues.

ACTING SPEAKER EACHUS: Mr. Goodell.

MR. GOODELL: Would the sponsor yield?

ACTING SPEAKER EACHUS: Will the sponsor yield?

MR. OTIS: Of course.

ACTING SPEAKER EACHUS: He -- the sponsor yields.

MR. GOODELL: Mr. Otis, thank you very much for those kind words. I just had to eliminate half of my nasty comments and questions.

(Laughter)

Thank you very much, that was very kind. And you're right, most of my practice has been focused on real estate the last 40 years and it does include commercial real estate. And typically on a commercial real estate, for example, let's say a store that's going into a mall, all the parties are typically represented by attorneys, which is very different than a residential real estate agreement. Is there any reason why under current law those parties that are represented by attorneys couldn't put this in the negotiated lease?

MR. OTIS: Well, so -- and in other years you've asked the question if there was a liquidated damages clause would that preempt this, and I think that the correct legal answer based upon the existing statute is that -- that if the liquidated damage clause did not violate the language of that provision you probably could have it, but if it did, you could not. So it would be a fact-specific judgment that the judge in that case would hopefully make a rational judgment on.

MR. GOODELL: But certainly under current law,

the parties could negotiate an obligation on the part of the landlord to re-rent the property and mitigate damages, they could put that right in lease, correct?

MR. OTIS: Or -- or they could do that unilaterally.

MR. GOODELL: Certainly.

MR. OTIS: Even if it wasn't in the lease, a landlord has the ability to -- to do that, that's correct.

MR. GOODELL: Now, under current law, the duty of a party to mitigate damages is raised as an affirmative defense, in other words, you've been damaged, somebody else breaches a contract, you sue them for damages and the other side says, *Well, if you had taken these various steps, you would have reduced the amount I owe you in damages*, but it's the burden of proof on the party who's trying to avoid paying those damages for their own breach. They breached it, they have the burden to prove. This changes it, right, and puts the burden of proof on establishing mitigation on the landlord who did nothing wrong, correct?

MR. OTIS: Well, to the extent that the 2019 law changed that burden in residential leases, and to the extent that that statute also gives great deference to judges to mediate these situations, the answer to your question would be partially yes, but with some flexibility.

MR. GOODELL: Well, in fact, the actual statutory language we're looking at today says, and I quote on line 17, "The burden of proof shall be on the party seeking to recover damages."

MR. OTIS: Well -- and so what I'm saying is that law changed the burden of proof, the 2019 law did, but the -- but the -- this section has also been interpreted as giving the judge a broad flexibility in mediating these situations.

MR. GOODELL: So just so everyone is clear, in the commercial context, the burden of proof is currently on the party that breaches the agreement to show that the landlord should have or could have mitigated damages. If we pass this bill today, that burden of proof shifts from the person who breached the contract to the commercial landlord, correct?

MR. OTIS: To the extent that the minimal, reasonable, good faith efforts are followed through, yes, it shifts the burden, but it's not that high of a burden. It is an easy thing for a landlord to do, traditional and customary things to see if they can list the property and get somebody into that space. So I think that the way you present it, it is not creating a new, stark reality. It's some deference in terms of a burden, but it's a burden that's easily satisfied.

MR. GOODELL: But if it's that easy, then why doesn't the landlord and the tenant -- why doesn't the tenant simply negotiate in the commercial lease in the first place? I mean, all these terms and conditions are subject to negotiation, both parties are fully represented, there's typically thousands and thousands of dollars at risk. Why do we as the State Legislature have to override the competitive negotiations between those well-represented parties?

MR. OTIS: Well, we, in -- in this context and other

contexts sometimes as a matter of public policy make that judgment. In this section of law, we made that judgment in 2019. The bill proposed here extends that principal to commercial leases. And it, again, I think there's another benefit there to avoid unnecessarily empty storefronts, which benefits other businesses, that is a -- a reason why this is a good piece of legislation to enact.

MR. GOODELL: Now, of course if you walk into a mall, as an example, those are all commercial leases, in this case retail leases. You note that a lot of the stores have very substantial and expensive, unique characteristics. I mean, you might pass a sporting goods store that has, you know, a rock wall on it, for example, or the shoe store with a swish or all those very customized, and sometimes very expensive modifications to the property. Under this law, wouldn't the landlord be subject to a loss of rental if they were unable or unwilling to make those investments?

MR. OTIS: I don't think so because I think that the -- the statute has reasonable and customary actions. So that in the mall situation where there may be particular needs in that space and you wouldn't want to necessarily put two shoe stores right next to each other, those sorts of things that are particular and given the discretion given to judges in this case -- in these cases, the landlord would be given the kind of discretion to make intelligent business judgments for each of those locations.

MR. GOODELL: Now, we talked just briefly about liquidated damages. Many times in a contract there'll be a liquidated

damage clause, the parties recognize they may not know in advance what the damages will be, but they have a reasonable range. So they agree in advance that if one party breaches, the amount of damages will be a certain amount. Does this override that?

MR. OTIS: Well, to the extent it violates the -- the public policy section of the existing law, it would be, as I said earlier, a fact-based determination dependent upon the nature of how those liquidated damages were -- were drafted.

MR. GOODELL: Many commercial leases authorize the tenant to sublease, and there's terms and conditions, of course. Does this law require a tenant who is breaching the lease themselves to engage in a good faith effort to sublease it in an effort to mitigate damages that occur to the landlord caused by the tenant's breach?

MR. OTIS: Well, the -- the -- I don't think that the law covers that situation precisely, but that again, the judge would be making reasonable judgments about the landlord's situation here and the -- as it relates to subleases, initial -- the owner of the property sometimes has limitations on subleases, as well, even if they allow them, there's usually restrictions.

MR. GOODELL: Those restrictions of course are quite common in mall context because you don't want the mall to be filled with competitors next to each other, right? And so typically in a mall lease negotiation, there's an agreement amongst all the tenants over who can be in and who can't be in, if you will, for all those reasons. Are those factors, those restrictions that apply also available

to the commercial landlord to say, *The reason I couldn't rent it to another fast food business is because I already have agreements with other tenants that there'd only be a certain number of fast food restaurants*, as an example.

MR. OTIS: Yes, I think I spoke to that in an earlier answer, as well, under the reasonable language in the law.

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

Sir, on the bill.

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

MR. GOODELL: And thank you, Mr. Otis.

MR. OTIS: Thank you, Mr. Goodell. Always a pleasure.

MR. GOODELL: When you're dealing with a residential context, it's not -- it's actually unusual for a residential tenant to have a -- a lawyer involved in the lease negotiations, and typically the lease agreement that the tenant gets is a pretty standard lease, often it's a preprinted form. And when the tenant leaves in a residential context, very rarely does a landlord need to do anything unique or special to the space in order to re-rent it. I mean, they might have to clean it up, they might have to repaint it. In New York City they might have to do lead abatement that costs more than the value of the apartment, but generally speaking there's not a lot that the landlord has to do.

The situation in a commercial context is very different. In a commercial context, both parties are typically represented by lawyers, experienced lawyers. And those leases are typically very custom. And during that lease negotiation, the parties are certainly capable of negotiating that the landlord will try to re-rent, that's what they can do now. And if the landlord pushes back and says no, I won't do it, it's reflected in the lease rate. In other words, if the landlord has the duty to mitigate, the rent's going to be higher because the landlord is taking on more risk. And so we can't step -- we can't and shouldn't step in the middle and rewrite the lease agreements that have been carefully negotiated with lawyers between large companies to change the fundamental terms and conditions. As we mentioned, these lease agreements often contain a liquidated damage clause and they say, look, if the tenant breaches, depending on how much time was left on the lease, the tenant agrees in advance to pay a certain amount. That helps both the tenant and the landlord. It limits the liability to the tenant to an amount they know, and it helps the landlord know what their revenue stream is going to be.

Now, unlike a residential unit, almost all these large commercial projects have bank financing, and that bank financing is secured in large part by the commercial leases themselves. And so when a large developer goes to a bank and they say, I need, you know, several million dollars to build this mall, the bank says, show me your lease agreements so that I know you will have enough revenue to cover the mortgage. What this law does is rewrites all those lease

agreements, and instead of saying that the tenant has to pay liquidated damages so the bank loan can be paid, it puts a burden on the landlord who may or might not be able to re-rent it. And that raises the risk to banks and may actually jeopardize the bank financing, or be reflected in higher interest rate.

This is a complex area, the parties are well represented. There's a lot of ramifications that go way beyond what this bill talks about and deals with the fundamental ability of a commercial company to build out the space to meet the needs of a particular tenant. If you are like me and routinely stop by, say, Auto Zone for parts, that's almost a weekly event for me, you'll know, there's a giant sign that says, Auto Zone, you'll know the way it's set up and the way the storage is and the way the shelving is is all unique, and the landlord often participates in those renovations. And if that company pulls that one store out, it's the landlord that has to clean it all up and take it out, and they incur those costs. Under current law, the burden of proof is on the tenant who violated the lease to say that the landlord should have taken more appropriate steps to reduce the loss. This changes it so that the burden of proof is not on a person who breached the contract, it's not on the person who violated the contract, the burden of proof is on the innocent landlord.

My friends, we in Albany should not pretend, and I'm not pretending, that we know more than all the highly represented parties who are negotiating these contracts in thousands and thousands of unique situations and have us step in and rewrite their contracts.

And if we do, please keep in mind, it will likely change all the lease negotiations, the mortgage interest rate, the ability to borrow the money, the rent that's charged, and all those underlying financial factors that they know better than we do and that's why we shouldn't change this.

And for those reasons, the last time we had a vote on this, we had 34 -- 48 no votes, I believe, and I would recommend that we still let commercial entities negotiate their own leases. Thank you, sir.

ACTING SPEAKER EACHUS: Mr. Flood.

MR. FLOOD: Thank you. Would the sponsor yield for just a few questions?

ACTING SPEAKER EACHUS: Will the sponsor yield?

MR. OTIS: Of course.

ACTING SPEAKER EACHUS: The sponsor yields.

MR. FLOOD: Thank you. So my colleague just pointed out again on line 17 that the -- the burden of proof sits on the landlord on this. So is it safe to presume that the burden of proof on fighting the fair market value of the property could fall on the landlord?

MR. OTIS: No. This section -- the section you're reading from is existing law in residential leases so judges and lawyers are dealing with handling the administration of this provision now, and what was your question again?

MR. FLOOD: So it says it's going to be, because you had said it here that they have to -- in line 17 it's to terminate the previous tenant's lease to mitigate damages, otherwise the tenants -- sorry. If the landlord rents the premises at fair market value or at a rate agreed upon, whichever is lower. So that would mean either the rate that the lease gave or the fair market value if that fair market value is lower than the agreed upon rate.

MR. OTIS: Yeah.

MR. FLOOD: So I'm assuming it would be upon the landlord to determine what that fair market value is if that burden of proof is on them; is that correct?

MR. OTIS: Ultimately if it's litigated, this is existing law so judges are already refereeing these kinds of circumstances. The way I read this circumstance is if they get full -- the full val -- the full rent that was in the lease, then the -- the tenant is no longer has to pay because they're getting the full thing. If they're short, I'm not totally sure how judges are administering that, but the fair market value piece of this would be determined by the judge.

MR. FLOOD: Okay, okay. But if the burden of proof is on the -- the landlord to do this is, the judge isn't go out to determine what that is, they're going to put the onus on those attorneys, and I can assure you this is someone who handles a lot of real estate in my private practice, that to determine the fair market value of commercial properties is far more expensive and far more difficult than finding a fair market value of a residential property.

MR. OTIS: The good faith effort requirement in the law is primarily rests upon making the good faith effort to lease the property. And so I -- I -- I think you're not focusing on the right language -- the correct language from --

MR. FLOOD: Oh, no, no, no. I understand what you're saying, but I'm focusing on exactly what I'm thinking as as someone who's been in these proceedings, who's been in court where there's been, you know, where I've had tenants who are landlords who had built them an entire restaurant custom fittings, all these things for the tenant to breach later on and then be stuck with a standard similar to this. They would lose massive amounts of money and then discourage reinvestment. Not only that, you would be hell-bent to find someone that could now fall into those specific parameters of that lease. So...

MR. OTIS: In your -- your -- what you dealt with, you're dealing with a residential tenant or a commercial tenant?

MR. FLOOD: Commercial tenant.

MR. OTIS: Okay. This section of law doesn't get applied commercial tenants.

MR. FLOOD: I understand. But I understand that the -- from what I'm saying is I understand the process of trying to release a specific site that has all different modifications. So like in an example of a restaurant, it's not as easy just to get maybe it's not open like a housing, you can just get anyone. If it's pre-fitted to hit a restaurant, you probably need another restaurant coming in there and

each restaurant is different. So the fair market value may be difficult to determine, and what I'm saying is who's going to bear the cost of having to do that, because I assure you when you go into judge's chambers, they're not going to do that for you because it's going to cost money, they're going to put that onus on someone; appraisers, et cetera.

MR. OTIS: I would hope and I think the law intends that the judge mediate and referee those situations, will ask questions and do the fact-finding to allow that to happen.

MR. FLOOD: Well, I understand but even on the residential side, if you're trying to determine the value of the property, a judge is going to say well, I want to see an appraisal.

MR. OTIS: Well, this is what judges do.

MR. FLOOD: Again --

MR. OTIS: I mean that -- that is -- that's what we ask judges to do.

MR. FLOOD: And so but now the onus is now on the land -- the tenant. I mean I apologize. The onus is now on the landlord to determine that. So now the landlord hasn't breached but now the landlord has to reach into his pocket to pay for an appraisal to prove to the court what he's being owed and then potentially take less than what they had agreed upon. That's just -- I don't know about you, but that to me sounds like it's just unbelievably unfair to a landlord who did nothing but the terms of their lease. I mean is that a fair assessment?

MR. OTIS: No. I think what is the thing to focus on here is the public policy goal of not having unnecessarily vacant commercial space, and the negative impact that that has on other businesses and on the economic health of a neighborhood or a mall.

MR. FLOOD: Okay. I --

MR. OTIS: So there is -- we're making public policy judgments when we deal with legislation like this and that is why some of the tradeoffs that you're concerned about are really going to get mediated and refereed by a judge and that's the way it should be.

MR. FLOOD: Well, I'm just confused about this because the economic harm that lands on a specific, you know, landlord that owns say a strip mall, he's the one taking that financial burden. So why are we putting all the onus on him to remediate a situation that he would've done anyway in construction where there's now would be more helpful to him because honestly, the landlords know having vacant properties on their site is going to be less beneficial than having a full site, but right now you're basically saying we don't care that you breached, we're going to force you to accept less and then add on top of that all of the costs of determining what, you know, have you been trying to recover. It seems detrimental and substantially more detrimental to the landlord who at this point it sounds like what you're saying this bill is trying to protect, than it is to the breaching party.

MR. OTIS: Well, we can have an honest disagreement about how we read the fact situation there. I respect

your view, but I -- I disagree with -- with the assumptions there. I think that this is necessarily -- not necessarily an economic loss for the landlord. It may work out that he does better by getting a new tenant in there as opposed to leaving it vacant and hoping he's going to be able to recover from a tenant who left and -- and may or may not be able to pay their legal obligations ultimately.

MR. FLOOD: Thank you.

Mr. Speaker, on the bill, please.

ACTING SPEAKER EACHUS: On the bill, Mr. Flood.

MR. FLOOD: And I thank you to my colleague for his answers. Again, we're going to have to agree to disagree. As someone who has been in litigation with commercial properties, you know, by -- by shifting the burden of proof to the party seeking damages when we already have contracts that lays it out and you already have a lease with terms and agreement and now you're asking them to flip the cost of litigation, flip the cost of any appraisals, things of that nature, this is just anti-business. I mean in a state that's rated 50 out of 50 for the least business-friendly, we should be doing things to help encourage and stimulate business, not drive more people away and more people away from trying to do business in this State. Though I understand and I believe that the sponsor of this bill has, you know, generally good intentions, I think the unintended consequences of this legislation are going to make it harder and harder for businesses to operate in this State. So I will be in the negative and I

encourage my colleagues to do the same. Thank you.

ACTING SPEAKER EACHUS: Mr. McGowan.

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

ACTING SPEAKER EACHUS: Will the sponsor yield?

MR. OTIS: Yes, I will.

ACTING SPEAKER EACHUS: The sponsor yields.

MR. McGOWAN: Thank you, sir. I just have a couple questions just to clarify some of the -- the statements that were made by my colleagues. So essentially how this would work, a breaching tenant, the landlord would be required to make good faith efforts to mitigate that loss, and if in fact could recover let's say the -- the value of the rent that was owed by the breaching tenant with a new tenant, there would be no -- essentially no cause of action. That would be a part of recovery if the landowner was able to recover the same value. Is that -- is that fair? Is that how this would work?

MR. OTIS: Correct. In fact the existing law in the residential setting at that point it would terminate the old lease.

MR. McGOWAN: So the fair market value, what if there had been a change? And I know we can't predict every situation certainly here in this debate, but what if there was a change and the fair market value was actually less than the rent that was supposed to be paid by the now breaching tenant? Just using simple numbers, let's say the rent is \$5,000, a tenant breaches, is no longer paying that, the

landlord then can rent on the fair market value, let's say is 4,000. And now as a new tenant who's paying 4,000, that delta, that \$1,000 difference, would the landlord be able to bring an action to recover that in damages from the -- from the breaching tenant?

MR. OTIS: Yes. That is the way, duty to mitigate, operate so the -- the original tenant would still be liable for that difference.

MR. McGOWAN: Okay. What about any costs incurred by the landlord as a result of the tenant's breach? For instance, any broker's fees that have to be paid in trying to get a new tenant, again, following this duty to mitigate or any other costs like that? Would that be something that the landlord could seek to recover from the breaching tenant?

MR. OTIS: Again, this is defined in the existing statute. Take reasonable and customary actions to rent the premises, and the other line in here that is of significance, according to the landlord's resources and abilities. So the -- the law as was written in 2019 left flexibility for judges to be fair and reasonable as it relates to exercising that provision. And I would also say that before 1995, the law in New York State was residential properties and commercial properties were handled equally under the law as it related to this issue, duty to mitigate damages, duty to make reasonable efforts to release a property. And we only now since 2019 when we brought it back to residential have left commercial hanging out there. For the rest of the country, the general rule is the duty to mitigate is handled

the way that I'm proposing we equalize it here, and this is a longstanding -- duty to mitigate damages is, as I know you know as an accomplished attorney, is sort of one of the pillar principles of contracts law. And again, while -- why course credit will be provided to everyone who checks in for this debate, this is one of the longstanding principles of contracts law that we're really just seeking to reassert in the commercial setting the way it used to be.

MR. McGOWAN: Okay. Thank you, sir. Okay. I think that answered my questions, I appreciate it.

Mr. Speaker, on the bill.

ACTING SPEAKER EACHUS: On the bill, Mr. McGowan.

MR. McGOWAN: I certainly understand the goal here and I appreciate the sponsor's comments and the intent here, and I certainly understand, you know, the duty to mitigate is something that I think reasonably is pursued. Obviously if you have a landlord with renting a commercial space, commercial tenant breaches, abandons the property, litigation is costly, litigation pursuing that rent that is owed, pursuing a remedy for that breach, I think a reasonable landlord would probably say look, maybe there's a way I can mitigate this finding a new tenant, but there's costs incurred with that. And I think that when you're talking about the commercial space and albeit might have been handled back, you know, pre '95 or in other states, when it comes down to a commercial relationship is dealing with pretty much in every situation what we call sophisticated entities who

are represented by counsel who can negotiate all these things under current law. So I have an issue with the State, us as a Body stepping in and telling sophisticated parties, commercial entities how to handle their business, and I think that they're certainly capable of doing that. I don't think we need to -- to be doing that. I understand it and I understand the goal here from a policy perspective, but I think, too, we have to look at there are consequences when -- when you breach a contract and certainly to a commercial entity should know that and be aware of that. So I think that mitigation is probably going to happen in most instances anyway. I think that mitigation, some type of damages provision would be involved and can be negotiated within a contract already, we don't need this law to do that. And I think requiring it is going to result in some unintended consequences rather than enforcing consequences for a breaching party. So for those reasons I will be in the negative. Thank you, sir.

ACTING SPEAKER EACHUS: Mrs. Peoples-Stokes for an announcement.

MRS. PEOPLES-STOKES: Mr. Speaker, if you could please call the Rules Committee to the Speaker's Conference Room immediately.

ACTING SPEAKER EACHUS: Rules Committee to the Speaker's Conference Room immediately.

Ms. Byrnes.

MS. BYRNES: Thank you. Will the sponsor yield?

ACTING SPEAKER EACHUS: Will the sponsor

yield?

MR. OTIS: Yes.

ACTING SPEAKER EACHUS: The sponsor yields.

MS. BYRNES: I believe if I heard correctly a moment ago you had indicated, and correct me if I'm wrong, that if there is a new tenant and it rents for less so that there's still like it was 5,000, they rent for 4-, so there's still \$1,000 less that that would effectively -- or that they could still -- the landlord could still sue for that \$1,000 to the former tenant. Was that correct?

MR. OTIS: I don't know --

MS. BYRNES: I thought that's what you said but maybe I'm incorrect.

MR. OTIS: I don't know that a lawsuit is necessarily necessary in that the leaving tenant still has that obligation. They were not released of their obligation. So if you brought in somebody at a -- a lesser rent, they would have had been discharged for part of their obligation but not all of their obligation.

MS. BYRNES: The reason --

MR. OTIS: The way the statute reads.

MS. BYRNES: And the reason I'm asking and unless I'm misreading the statute, it looks like it indicates that -- that it would -- back on line 14 and 15, that once in effect a new lease, it would terminate the previous tenant's lease and mitigate damages otherwise recoverable against the previous tenant because of the tenants vacating of the premises. I was reading that section to indicate that -- that

basically that would let the previous tenant off the hook and that there could be no further litigation.

MR. OTIS: I read it the other way, but I think after this debate is over, maybe you and I can share a ride over to Albany Law School and we'll get a ruling.

MS. BYRNES: (Laughter), that -- that would work. No, but anyway, that is a concern and hopefully -- but your -- your intention with this bill is that a subsequent lease, lower amount, would basically end the -- any ability of the landlord to go after the tenant. Or you think they should be able to go after the tenant -- tenant one, tenant number one.

MR. OTIS: The -- the tenant is not fully up -- is not fully discharged of their obligation unless the new tenant is paying that full amount as I -- as I read the section but...

MS. BYRNES: All right. And that's the way you read it and your intent as the sponsor is that the landlord could still go after tenant number one for their losses.

MR. OTIS: Again, we're dealing with an existing section of law that -- that is being refereed by judges today as it relates to residential leases. I -- I mean the bottom line here is for -- for everybody listening, I don't think this is much of a burden. All this does is require good faith, simple, reasonable efforts to try and re-lease the property. If they can't do it, the original tenant who left is still obligated to pay what they walked away from and whatever follow-through is involved with that is still going to go on. So I just

don't think it is that great a burden, because the way the law was written in 2019 didn't set the burden that high. It has all these, you know, reasonable best of abilities kinds of language. So I -- I -- I think actually everyone's comfort level should be better, not worse based upon the discussion that we've had in this dialogue today.

MS. BYRNES: Thank you, sir.

ACTING SPEAKER EACHUS: Read the last section.

THE CLERK: This act shall take effect immediately.

ACTING SPEAKER EACHUS: A party vote has been requested.

Mr. Goodell.

MR. GOODELL: Thank you, sir. The Republican Conference is generally opposed to this legislation. Those who support it should certainly vote yes on the floor. Thank you, sir.

ACTING SPEAKER EACHUS: Mrs. Peoples-Stokes.

MRS. PEOPLES-STOKES: Mr. Speaker, the Democratic Conference is going to be in favor of this piece of legislation; however, there may be a few that would desire to be an exception. They should feel free to do so at their seats. Thank you, sir.

ACTING SPEAKER EACHUS: The Clerk will record the vote.

(The Clerk recorded the vote.)

Mr. Flood to explain your vote.

MR. FLOOD: Thank you, Mr. Speaker. And with all due respect to my colleague, I do appreciate him, you know, taking the time to debate this. The plain language in the bill indicates otherwise (inaudible). When we talk about if a landlord can mitigate damages for taking a less amount. It says it right here in the statute. If the landlord rents the premises at fair market value or at the rate agreed to during the term of the tenancy, the new tenant's lease shall once in effect terminate the previous tenant's lease and mitigate damages which would otherwise be recoverable against the previous tenant. Meaning that if he finds something for fair market value which is then lower than the previous lease, that once they fall into that term, otherwise recoverable damages would be mitigated. Meaning that the landlord is stuck for the money that he has lost under this. That's -- for that reason I voted no and I encourage my colleagues to do the same.

ACTING SPEAKER EACHUS: Mr. Flood in the negative.

Mr. Otis to explain your vote.

MR. OTIS: Just a little -- a little follow-up on a few of these things. On the issue of lawyers being part of the thing, we in other cases - and I did a bill a few years ago having to do with Yellowstone injunctions for you commercial lawyers in the audience. Putting back the -- the right for -- that were -- was taken away by the Court of Appeals, and in that case the Legislature sometimes says

having lots of lawyers involved doesn't take away the ability of the Legislature to make public policy decisions about what rights landlords and tenants have in these situations, and so another one of the issues that we discussed in -- in our -- our time together.

On the -- on the issue here, if they receive the issue that Mr. Flood just mentioned, if they receive less than fair market value I assume in the plain reading of this statute, that the tenant that left would still be obligated for some level of difference but this would get mediated by the judge. So I think this is a good legislation. I think that we should do the reform that we did for residential tenants, for commercial tenants, restore the law to what it was pre-1995 and actually, this is better than the law before 1995 because the reasonable language that we put in in 2019 did not exist in sort of the common law version of duty to mitigate that existed before 1995. Thank you. I vote aye.

ACTING SPEAKER EACHUS: Mr. Otis in the affirmative.

Ms. Simon to explain your vote.

MS. SIMON: Thank you, Mr. Speaker. I wanted to just say that number one, I commend the sponsor for introducing this bill. I'm happy to vote in favor of it and to just point out that at least in my career as a lawyer, I never represented a plaintiff who didn't have to mitigate damages. I don't see any reason why that should not also be the case for a commercial landlord. Thank you.

ACTING SPEAKER EACHUS: Ms. Simon in the

affirmative.

Are there any other votes? Announce the results.

(The Clerk announced the results.)

The bill is passed.

Page 9, Rules Report No. 157, the Clerk will read.

THE CLERK: Assembly No. S06635, Rules Report No. 157, Senator Ramos (Reyes, Dinowitz, Epstein, DeStefano, Simon, Jean-Pierre, Colton, Darling, Forrest, Cruz, Burgos, Dilan, Raga, Jacobson, L. Rosenthal, Santabarbara, Lucas, Otis, Sillitti). An act to amend the Workers' Compensation Law, in relation to claims for mental injury premised upon extraordinary work-related stress.

ACTING SPEAKER EACHUS: An explanation has been requested.

MS. REYES: This bill would expand the ability to follow Workers' Compensation claim for mental injury, premised upon extraordinary work-related stress incurred at work to all employees.

ACTING SPEAKER EACHUS: Ms. Walsh.

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

ACTING SPEAKER EACHUS: Will the sponsor yield?

MS. REYES: Yes.

MS. WALSH: Thank you very much.

ACTING SPEAKER EACHUS: The sponsor yields.

MS. WALSH: So can you -- could you just speak a little bit about what our current law in Workers' Compensation allows? And then we can get into a little bit about how this bill changes that.

MS. REYES: Sure. So the current Workers' Compensation, this section of the law, gives this ability to claim mental extraordinary mental stress injury to police officers, firefighters, emergency and medical technicians, paramedics, emergency dispatchers or other persons certified to provide medical care in emergencies.

MS. WALSH: Okay. And so I guess people will do it this way. So then this bill then removes that, just strikes the who the person's got to be --

MS. REYES: Correct.

MS. WALSH: -- as far as their job and expands it to any employee, right? Clerical employee, you know, anybody.

MS. REYES: It replaces it with the word *worker*.

MS. WALSH: Yeah, it replaces it with the word *worker* so it's any worker at all. And under our existing law, why did we previously, if you know, why did we have it limited to police officers, firefighters, emergency medical technicians or paramedics, for example, who are providing medical care in emergencies or an emergency dispatcher, too, I think is included.

MS. REYES: Yeah. That delineation was added in the 2017 budget. I -- I couldn't tell you the reasons why they chose

those specific professions, but we know that they are professions that experience extraordinary work-related stress as well that we are looking to capture by striking this out and replacing it with the word *worker*.

MS. WALSH: But don't you think that that was the reason why those jobs -- those types of jobs were put in there with an understanding -- just like we have in other areas of the law, like a heart presumption for a firefighter or a police officer. The idea that you're -- you're responding and you're under extraordinary stress in the way you're doing your job, so the idea of having a purely mental health injury or a PTSD, for example, without physical injury would not be, you know, surprising if you're in those types of fields, right?

MS. REYES: Yeah, and I think -- look, when we write laws sometimes we miss some things and that is the process and the reason why we're here every year, right, to amend laws that need some work. This statute was definitely one of those where there are workers who experience extraordinary stress at work that we didn't capture. And lately, particularly post-pandemic, we've seen how there are instances of extraordinary stress that can lead to PTSD. And I think that when we debated this bill last year, we talked about the supermarket workers in Buffalo at the Tops supermarket who experienced extraordinary stress after an active shooter. Absolutely nurses and healthcare workers who are not captured under first responder but experience extraordinary stress during -- during the surge of COVID. We also heard from correction officers who aren't --

who aren't captured in the current language who experience extraordinary stress every day in -- in their work setting.

MS. WALSH: Okay. And just moving ahead looking at the existing law, the existing law requires that you -- that you showed that your -- your purely mental injury occurred, you know, in a work-related emergency. And then in this bill, that language is struck so it does not have to be incurred in a work-related emergency, correct?

MS. REYES: No, that's not true.

MS. WALSH: I thought that that had been struck out. You know, work-related emergency. Line 8.

MS. REYES: There is still a burden of proof that the worker would have to meet, but the reason why it was struck out is because some work-related stress doesn't rise to the level of an emergency, but it's still a stressful event.

MS. WALSH: So in other words it might be cumulative stress built over a period of time, not one -- one emergency call or one day in the life that created that -- that injury, correct?

MS. REYES: Potentially it could be, but this gives the discretion to the Workers' Compensation Board to decide that. And what we've seen is that these cases of work-related stress because they don't fit the criteria of those professions are just dismissed and this would just give the ability for workers to have the Workers' Compensation Board review their claims. It doesn't mean that they'll

automatically get -- be granted.

MS. WALSH: No, I understand, yes, absolutely. So, so the way that the bill reads now is it says, worker files a claim for mental injury premised upon extraordinary work-related stress incurred. So that's their burden of showing to the Workers' Comp, the hearing officer, that when it goes -- when it goes to a hearing -- it goes to a hearing, they have to -- that's their burden of proof. Extraordinary work-related stress occurred at work and it has to be shown that it's at work --

MS. REYES: Yeah.

MS. WALSH: -- that has also been added, okay. So what about the part -- I was a little confused about line 9, 10, 11 where it says, upon a factual finding that the stress was not greater than that which usually occurs in the normal work environment. So in other words, it can be - and I don't want to put words in your mouth. What are we trying to get at with the addition of that -- with that language which was in the original law that's not being struck here? You don't have to show that it was an unusual day, you don't have to show that it was a particularly stressful work environment, it should just be a normal work environment? What does that mean? I was just confused by that. Thank you.

(Pause)

MS. REYES: So it's saying that the -- the stressful situation does not need to be greater than the usual normal level of stress incurred during the normal course of a work environment -- or

the workday. So, for example, if you have a group of workers experiencing an increased level of stress because of conditions or circumstances at work, that can't become the new normal that that level of stress is acceptable because it's becoming the new normal. It's kind of understood that that is not considered part of the normal course of stress-related work.

MS. WALSH: Okay, all right. So the worker has to allege extraordinary mental -- injury premised upon extraordinary work-related stress but the -- but it could be a normal work environment. It just might be a normal work environment where the new normal or the way that that work environment is is it's just a stressy sort of environment, kind of like this one, right?

MS. REYES: I'm going to -- I'm going to use the -- I'm going to use COVID again kind of like the height of the surge as a an example for that.

MS. WALSH: Okay.

MS. REYES: During that time, it was very stressful. Was that the normal, no. But it was the -- the level of stress that everybody was experiencing every day, for days on end and the employer can say that's normal, but it's actually not normal. It is extraordinary.

MS. WALSH: Okay. Would you agree that when you don't have a physical injury and your consti -- I mean New York took a step in, I think it was in 2017 as you said, and allows a Workers' Comp claim where there's no physical injury. It can be a

purely mental injury and that already is a lot more generous than a lot of other states do. Would you -- would you agree with that?

MS. REYES: Yeah, but it's restricted to these professions.

MS. WALSH: Yeah, right. But what I'm saying is is that you don't have to have a physical injury plus a mental injury. You can just have a mental injury and bring this Workers' Comp claim in New York.

MS. REYES: Yes.

MS. WALSH: Yeah. Under our existing law and then as this gets expanded to more types of workers.

MS. REYES: If you -- if you fall under these categories, these professions, yes.

MS. WALSH: Okay.

MS. REYES: But we're saying that there are other workers that have experience and can experience extraordinary levels of stress at work that rises to the level of PTSD and their claims should just be heard by the Workers' Compensation Board and considered.

MS. WALSH: Okay. How many more -- do you have any idea of how many more claims are anticipated as a result of this change in the law?

MS. REYES: That's difficult to innumerate.

MS. WALSH: Yeah, I would agree with that. So then figuring out how much more it may cost is very difficult to assess

because we don't know how many more claims there might be.

MS. REYES: Correct. And we're not saying that the claims have to be paid. We're just saying that they should be reviewed and evaluated like every other Workers' Comp claim.

MS. WALSH: Yeah. So, you know, I think as you gave examples about nurses, corrections officers, I could certainly -- I think we can all think of different professions that weren't in that original list in the law that may very well be able to make out meritorious claims. Was there any consideration made when drafting this legislation to simply add those types of job titles rather than completely opening the doors wide open to any employee?

MS. REYES: I think it would just be difficult for us to try and decide which professions should get the privilege of being able to have their claims heard by the Workers' Compensation Board. I think any worker should have the opportunity to bring a claim forward and have its day in court.

MS. WALSH: All right. I think -- who -- as claims are paid out under this section, who -- who's going to be paying for this? Whatever that number is, we don't know what it is. Who pays for it?

MS. REYES: Who pays for Workers' Comp?

MS. WALSH: Yeah.

MS. REYES: And we all pay into Workers' Comp and the employers pay into Workers' Comp.

MS. WALSH: Whose rates are likely to go up as a

result of more being paid out for Workers' Comp claims?

(Pause)

MS. REYES: Yeah, it's like all Workers' Comp -- Workers' Comp claims, it would be the insurance carrier. But this is again, limited to extraordinary stress. It's -- we anticipate it's going to be a very limited number of claims.

MS. WALSH: You do?

MS. REYES: We -- yes, we do.

MS. WALSH: Wow. Any reason why you would think that there would be not very many claims brought under this?

MS. REYES: Because it's extraordinary. It would be under extraordinary stressful situations.

MS. WALSH: Yeah, but just like in any -- I mean any lawsuit can be brought alleging anything, you know. I mean you can sue anybody you want. Same thing here. I mean you're giving every single worker in the State of New York an opportunity, whether they can ultimately prove it or not, you're giving them an opportunity to completely overwhelm and gum up a really arguably fraught kind of functioning Workers' Comp system as it is, and you're basically just opening the doors wide open. Why do you think that there won't be a lot of claims? Maybe -- are you saying that there won't be a lot that will actually get paid out, or that there won't be a lot of claims?

MS. REYES: I don't think that every claim rises to the level of extraordinary stress.

MS. WALSH: Absolutely agree with that. I

absolutely agree with you, that does not prevent people from bringing them but yeah, I gotcha, okay.

So you mentioned that the higher costs would be borne by the insurance companies but don't the insurance companies just turn around and pass those costs along -- along to higher rates paid by the businesses of the State of New York? Businesses pay for this, don't they? More claims, more payouts.

MS. REYES: Yeah, potentially. If -- if there are more -- more payouts.

MS. WALSH: Okay. All right. Well, thank you very much for answering my questions.

Mr. Speaker, on the bill.

ACTING SPEAKER AUBRY: On the bill, Ms. Walsh.

MS. WALSH: So, again, maybe it's a theme based on the previous bill that we were just debating. We were talking about what an absolutely unfriendly business environment we have here in the State of New York. We are dead last or close to last, I've lost track. It's at the very, very, very bottom as far as business friendliness. This type of complete change to our Workers' Compensation Law is only going to make it that much harder for businesses. The New York Insurance Association stated in their opposition memo that it called this an unprecedented, unmanageable, high level of uncertainty since the bar for filing these claims and the proof for establishing an extraordinary stress claim has now been

significantly lowered and the ability to make such claims has been significantly expanded to all persons in the workplace. So let's talk about stress for a minute. Are we all feeling a little bit of stress today? Maybe a little bit of stress this week? Who works and doesn't feel stress? We all do, right? If you -- if you can say that I feel today, because I'm operating on four hours of sleep and we're passing hundreds of bills a day, I'm feeling stressed out. I'm going to continue. You can bring a Workers' Compensation claim, you know. If you're a clerical worker in your place of employment and the person in the carrel or the cubicle next to you has -- has been bullying you in your mind, you can bring a Workers' Compensation claim, and whether these claims ultimately get paid out is another thing. But can you even imagine the number of claims that can be brought before the Workers' Compensation Board? It's going to be -- it's going to be a significant -- potentially significant change to the point where the sponsor doesn't know how many more claims, doesn't know how much more it's going to cost, but wants to make the change anyway. The reason why we had the law, our current law, the way that it is right now was an understanding that there are certain jobs that are extraordinarily stressful by their very nature. People who are emergency dispatchers, EMTs, paramedics, police, fire, we know. We have other laws on the books that recognize that if they have a heart attack while they're doing their job, we're going to presume that it was work-related. That's why we do that. And so the Workers' -- the Workers' Compensation change is going to be a big change. This was

vetoed back in 2023 following significant opposition in this Body. I just -- I want to talk a little bit about how amorphous and undefined the kind of term stress is. We use that word, we toss it around all the time. And there's nothing in here except for saying that it needs to be at a high level or extraordinary. It doesn't really say anything else about it. So we all have a sense of what's normal and what's kind of a stressy work environment. This just let's all of those claims come in. So as the New York Insurance Association said, the term "extraordinary work stress" is left undefined, and amorphous. Such would mean that it would be very difficult to actually determine what "stress" is actually uniquely attributable to work, as compared to stress that is intertwined with the vagaries and vicissitudes of life, and intrinsically a part of the human condition. So that's -- I think that that's why this was vetoed by the Governor. The Governor recognized that this bill by -- by doing what it does, comes with a significant cost and that the New York Compensation Insurance Rating Board's public actuary noted that these cost estimates are highly imprecise giving the scope of compensation this proposal could potentially deliver. We, as a Body, have made significant investments through the budget process in our mental health system and in improving mental health. Making this change the way that it's being made is -- is not a good idea, because it opens just the barn doors wide open to all kinds of claim and whether they ultimately prevail or don't prevail, it's going to impact our businesses, it's going to raise the rates for businesses, and my God, in this time of inflation and in outmigration and in businesses

shuttering up in New York State, do we really want to add one more thing on the back of our businesses? I will be voting in the negative. I strongly encourage my colleagues to do the same. And I do thank the sponsor for her answers to my questions. Thank you, Mr. Speaker.

ACTING SPEAKER AUBRY: Mr. Novakahov.

MR. NOVAKHOV: Thank you, Mr. Speaker. Will the sponsor answer a few questions?

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

MS. REYES: Yes.

ACTING SPEAKER AUBRY: The sponsor yields.

MR. NOVAKHOV: Thank you very much. So I've been a business owner for basically all my life and this is why I'm very interested to learn more about this legislation. First of all, how much more the businesses will pay for increased Workers' Comp?

MS. REYES: The bill doesn't speak to that. It's not germane to the bill.

MR. NOVAKHOV: But this bill will, you know, this bill will be consequences of paying more. I mean, do you agree that businesses will pay more?

MS. REYES: I don't necessarily agree with that. And I haven't made an analysis of cost. All we're trying to say is that we're expanding this right to workers that currently exist in law, right? And the Workers' Compensation Board already evaluates stress and uses the word "stress", it's already in -- in law. We're just saying that

for extraordinary stress, workers will be able to bring a claim. I couldn't tell you what the cost is. The bill doesn't speak to that.

MR. NOVAKHOV: Okay. So working on this bill we don't know the financial consequences for the businesses; is that true?

MS. REYES: We can't anticipate who brings a claim and if it prevails or if it doesn't.

MR. NOVAKHOV: Okay. Who will evaluate the level of stress?

MS. REYES: I'm sorry?

MR. NOVAKHOV: Who will evaluate the level of stress?

MS. REYES: Who will evaluate it.

MR. NOVAKHOV: Who will say this stress is extraordinary and this stress is regular stress? Who will determine that?

MS. REYES: The Workers' Compensation Board. They currently do that now. It's their responsibility to do that.

MR. NOVAKHOV: Do you know how they do it?

MS. REYES: I don't know how the Workers' Compensation Board does that.

MR. NOVAKHOV: Do they have like psychiatrists or psychologists --

MS. REYES: Well, a doctor has to sign off on -- on those claims. On just similar like to physical injury that has to be

signed off by a doctor. For mental injury a doctor, a psychiatrist, whoever the professional is that the Workers' Compensation Board deems.

MR. NOVAKHOV: With a physical or mental injury we know the diagnosis. We know -- we know if the person have a pain in his leg or arm or has a depression --

MS. REYES: There are physical injuries that you can't physically see. Similarly this is an injury that you can't see.

MR. NOVAKHOV: Yeah, but we know even in psychiatry we know the diagnosis. We know that this is depression for example, right?

MS. REYES: But we're not -- we are not saying depression. We are saying PTSD.

MR. NOVAKHOV: Right. We're talking about stress. So I'm curious who will evaluate the level of stress -- the level of extraordinary stress. So we don't know that as well, right?

MS. REYES: Yeah. It's the Workers' Compensation Board and a physician. Exactly what they do now for this section of the law.

MR. NOVAKHOV: Do they evaluate stress now?

MS. REYES: Yes, they do.

MR. NOVAKHOV: Okay. So they do evaluate stress but they don't -- but there's no legislation to -- for the employee to get compensated for the stress. Do you understand it correctly?

MS. REYES: No. I think you're misunderstanding.

This currently happens, and it happens for some professions, not for all workers.

MR. NOVAKHOV: Can you give us an example?

MS. REYES: Yes, it's in the bill. Police officers, firefighters, emergency medical technicians, paramedics and other persons certificated to provide medical care in emergencies or an emergency dispatcher. So the board -- the Workers' Compensation Board already does this for those professions.

MR. NOVAKHOV: So does this bill extend to other professions as well?

MS. REYES: Correct.

MR. NOVAKHOV: Okay. Can you give me an example of another profession where stress --

MS. REYES: Correction officer.

MR. NOVAKHOV: Correction officer.

MS. REYES: Nurse, doctor, (inaudible)

MR. NOVAKHOV: So anyone. Assemblymember?

MS. REYES: You would have to prove extraordinary stress.

MR. NOVAKHOV: Extraordinary stress. Okay, good. So how to avoid fraud, which I'm sure will be associated with this legislation because, you know, I can just say, you know, I'm under extraordinary stress now, I'm stressed out because we're working 12, 13 hours a day with extraordinary stress. Are you agreeing with extraordinary stress?

MS. REYES: No --

(Inaudible/cross-talk)

I may be under extraordinary stress but --

MR. NOVAKHOV: Right, right, right. So how do you think we will avoid the fraud, which I believe will be enormous in this -- after this legislation will be passed and signed by the Governor, because I mean anyone can claim extraordinary stress.

MS. REYES: Sure, but the Workers' Compensation Board still has to evaluate that claim, right, and they have to -- you have to have a doctor sign off on that. It's not just saying *I am claiming extraordinary stress*. It has to rise to the level of stress that is above and beyond the every day work environment.

MR. NOVAKHOV: Right. So we don't know how much it's going to cost -- for the business to -- how much more business will be pay for Workers' Compensation. We don't know exactly how extraordinary stress, what extraordinary stress is and how it's going to be evaluated, I'm sorry.

MS. REYES: We do know -- we do know how it's evaluated. The Workers' Compensation Board evaluates it and a physician who can diagnose PTSD will determine if that person is indeed --

MR. NOVAKHOV: Okay, but we don't know how to avoid fraud which will be associated with this legislation.

MS. REYES: The same way you avoid fraud now, the same way you avoid fraud now in Workers' Compensation claims.

Like this is a structure that already exists. All the mechanisms you're asking me about already exists.

MR. NOVAKHOV: So why an employee can't just quit the job if this job is it too stressful for the employee?

MS. REYES: It's not about every day stress. It's not about my job is stressful. This is about extraordinary stress --

MR. NOVAKHOV: Okay. So my job --

MS. REYES: -- and similarly -- and similarly --

MR. NOVAKHOV: My job is extraordinary stress --

MS. REYES: -- and similarly I would argue that when police officers sign up for the force, when firefighters sign up to be firefighters, that job is inherently stressful, right? And we don't say to them *well, you should just quit because you're stressed, you know, you should've never become a police officer.* That's not what we're saying. What we're saying is that there are circumstances and we recognize that in the normal course of work, and we recognize it for these professions that there are extraordinary circumstances where somebody may be experiencing stress that is unlike your every day course of work. And we're saying that -- those circumstances can also exist in other professions that we haven't delineated in the law, and that's why we are saying that we are opening it up to other workers who can potentially also experience extraordinary stress at work.

MR. NOVAKHOV: Well, I believe if I'm experiencing extraordinary stress being a nurse or a bus driver, you know, I just realize that I can't continue working as a bus driver or a

nurse anymore.

MS. REYES: Right.

MR. NOVAKHOV: Right?

MS. REYES: If you -- if you have an instance as a bus driver where you are in an accident and you lose some of your passengers that may be children or whomever, that's an extraordinary stressful event that can cause you to not be able to function at work every day. And that is the purpose of Workers' Compensation so that we can get those people help and support while they can get better to return back to work.

MR. NOVAKHOV: All right. Thank you so much. Thank you for answering the questions. Thank you. I appreciate it. Thank you, Mr. Speaker.

ACTING SPEAKER AUBRY: Read the last section.

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

ACTING SPEAKER AUBRY: A party vote has been requested.

Mr. Goodell.

MR. GOODELL: Thank you, sir. The Republican Conference is generally opposed to this legislation. Those who support it should certainly vote yes on the floor. Thank you, sir.

ACTING SPEAKER AUBRY: Thank you.

Mrs. Peoples-Stokes.

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

piece of legislation. There may be a few that desire to be an exception. They should feel free to do so at their seats. Thank you, sir.

ACTING SPEAKER AUBRY: Thank you.

The Clerk will record the vote.

(The Clerk recorded the vote.)

Mr. Goodell to explain his vote.

MR. GOODELL: Thank you, sir. As you know, in the last few years we've seen some very alarming trends that actually threaten the strength and vitality of New York State. The latest Census status data showed that we lost 200,000 residents in net last year, over 500,000 over the last three years. And why are the people leaving? It's very simple. They have better opportunities elsewhere. They can make more money elsewhere, their cost of doing business is lower, there are more employment opportunities. Contributing to that exodus is the fact that we in New York impose so many expenses on our employers it's harder for them to be profitable, it's harder for them to pay more, it's harder for them to even survive in New York State.

According to a recent study conducted by the Department of Consumer Affairs, New York State ranked number two in the highest Workers' Comp rates in the nation. Our Workers' Comp rates were 69 percent higher than the national average. So does this legislation bring our Workers' Comp rates lower? No. It puts them higher. Does it encourage more job growth in New York State? No. It makes it more difficult and more expensive to be in New York

State. Does it address the factors that are causing a huge outmigration? No. It does the opposite. Perhaps it would be good for the future of New York State if we focused on how we can bring the cost of doing business in New York closer to the national average rather than driving it even further recognizing that we are already 69 percent higher than the national average.

So while I support the desire to help those who are stressed out, by so doing we stress out thousands of families who now have to move out of the State in order to obtain employment. Thank you, sir. I vote no.

ACTING SPEAKER AUBRY: Mr. Goodell in the negative.

Mr. Novakahov to explain his vote.

MR. NOVAKHOV: Thank you, Mr. Speaker, for the opportunity to explain my vote. Well, first of all, I would like to thank the sponsor for the dialogue and that was a great example with the bus driver and indeed, the bus driver would be stressed if he gets in an accident and, you know, something happens with the -- with the passengers. However, why I -- you know, why I'm in the negative, why I can't support this bill is because in my belief when we are doing legislation like this, we need to understand the financial consequences for the businesses -- for the small businesses. So because we don't know -- there's not enough research to understand how much that would be for the small -- how much more that will be for the small businesses. It's another burden on the small businesses. So maybe

that's a good legislation. I don't know yet because I don't have enough information. I need to know -- we all need to know and the businesses have a right to know how much more that would cost them. And for this reason unfortunately, unfortunately, I cannot support this legislation. Thank you, Mr. Speaker.

ACTING SPEAKER AUBRY: Thank you. Mr. Novakhov in the negative.

Mr. Steck to explain his vote.

MR. STECK: Thank you, Mr. Speaker. Most of the domestic outmigration last year originated in the five boroughs of New York City which lost a combined 162,310 people. I would venture to say that has to do with largely with the very high cost of rent in New York City which the Minority conference assiduously defends at every opportunity. I vote in the affirmative.

ACTING SPEAKER AUBRY: Mr. Steck in the affirmative.

Mr. Bronson.

MR. BRONSON: Yes, Mr. Speaker. I rise to explain my vote and to commend the sponsor of this piece of legislation. You know it's very interesting that we keep hearing this rhetoric that Workers' Comp is so costly to business and I being a business owner until midnight of December 31st of last year certainly appreciate that. But it's just not true. Workers' Comp premiums have gone down, gone down over the last decade. The assessments on Workers' Comp has gone down over the last decade. So, you know, we need to be

careful about just claiming Workers' Comp costs are so high in New York State when indeed the reforms we've taken have reduced the cost of businesses over the last decade.

Also, there's a misunderstanding of this bill. This bill merely is saying for all workers as a defense when a claim is controverted that the employer or the insurance company cannot use that the stress in its factual finding is not greater than that which usually occurs in the normal work environment. That's all this bill does. It's an evidentiary bill. It expands it to all workers versus just police officers and firefighters, but the bill is an evidentiary bill, and it makes more fair to injured workers who have extraordinary stress as a result of their job. It has to be connected to the job. So this is a good bill because it will protect injured workers who have stress resulting, extraordinary stress resulting because of their workplace experience with that connection. With that, I withdraw my request and I vote in the affirmative.

ACTING SPEAKER AUBRY: Mr. Bronson in the affirmative.

Mr. Lavine.

MR. LAVINE: It's already years that I've been listening to the argument that New York State is absolutely the worst place, forget about it, in the United States of America. Perhaps on the face of the globe. I don't see it that way. And while I'm sure that there are some entities that based solely on some narrow considerations would find us to be perhaps not as attractive to

businesses as Alaska or North Dakota, I'm not too likely to want to live in Alaska or in North Dakota and I've lived in remote parts of the United States. And I just want to close by saying that I think we all respect CNBC's business acumen. CNBC relates -- well, I'm glad that that causes some laughter for you when I think that that may be a laughter of embarrassment, but we are ranked by CNBC. And I'm going to close with something that you may find interesting, those of you who are laughing. We ranked 20th as amongst the best places to live but that includes factors such as workforce strength, infrastructure, the strength of our economy, quality of life, inclusion, the cost of doing business, technology, innovation and education and access to capital. New York remains the economic capital of not only the United States and the world, and for those of you who wish to live in some of these states that you've seem to think are so ideal, I would only suggest having lived in some of those parts of the United States you might think twice about that. I'm happy to stay here in New York State. I vote in the affirmative. Thank you.

ACTING SPEAKER AUBRY: Mr. Lavine in the affirmative.

Ms. Walsh to explain her vote.

MS. WALSH: Thank you, Mr. Speaker. So I just want to address some of the comments that were just made recently. One -- so two things are really happening with this bill. And the first is as we've talked about, instead of recognizing certain categories of workers that have inherently stressful jobs like police, firefighters,

we're just opening up to every employee in the State of New York. That's the first thing that's happening. The second thing is we're eliminating the need to show a work-related emergency and we're just saying it's at work. So the example that was given about the bus driver and the big crash, that would be an example of a work-related emergency. We're wiping that out. This can be a situation where it's just day-to-day stressful environment, maybe with co-workers, I think it could lead to a lot of very questionable claims. I think that it could lead to a lot of abuse and I know -- I have a great deal of confidence in the Workers' Compensation Board, but I know that this is going to increase their workload substantially. We don't know how much any of that is going to cost or how that's going to have to be budgeted for or the people that are going to have to be added there. I just -- you know, I know for sure that we can all quote different statistics, but just because we're quoting a statistic doesn't mean it's rhetoric. Just because maybe you don't like the statistic. We lead the nation in outmigration. We do. We are one of the least friendly states for business in the country. Now it's not all because of Workers' Comp, some of it's because of the CLCPA goals that -- that companies are just saying we can't meet them, we don't want to meet them, we're going to shut it off and we're going to go to a state that's friendlier to us. So it's not just *this* that's driving businesses out and I hope no one took my arguments to mean that, but it certainly does not help. It doesn't help to alleviate any of the reasons why companies are leaving and the people that go along with them.

So again, I'll be voting in the negative and thank you,
Mr. Speaker.

ACTING SPEAKER AUBRY: Ms. Walsh in the
negative.

Are there any other votes? Announce the results.

(The Clerk announced the results.)

The bill is passed.

Mr. Goodell for the purposes of a introduction.

MR. GOODELL: Thank you very much, Mr. Speaker. It is my great pleasure to introduce to our Chamber some remarkable guests. We have with us Jetsyn and Lennyn Hoffman, and they're both 21 months old. I'm not quite sure which one of those twins is older. Both of these twins have brothers, Tytan and Houstyn and they are the sons -- daughters, rather, of Jeffrey Hoffman and Marissa Hoffman, and Jeffrey Hoffman is a remarkable pitcher with the Philadelphia Phillies. His pitches are 50 percent higher and more reliable than my car. They're here with their very proud grandmother. They call her "mimi" but I call her Michelle Krege. Please welcome Michelle Krege and her granddaughters Jetsyn and Lennyn to our Chambers. Thank you, sir.

ACTING SPEAKER AUBRY: Certainly. On behalf of Mr. Goodell, we have -- we have substitutes for those delicious, beautiful young ladies. Whether or not you'll accept them as substitutes I don't know. However, on behalf of Mr. Goodell, the Speaker and all the members, we welcome you here to the New York

State Assembly wherever you may be and we extend to you the privileges of the floor and hope you come back and join us in order to take advantage of that. And as for the two waving in the back, good try. Thank you very much.

(Applause)

Page 9, Rules Report No. 159, the Clerk will read.

THE CLERK: Assembly No. A06042-B, Rules Report No. 159, Bichotte Hermelyn, Stirpe, Colton, Cruz, Jean-Pierre, Jackson, Gibbs, Levenberg, Seawright, Epstein, Sillitti, Ardila, Hyndman, Simon, Lucas, Gunther, Aubry, Davila, Weprin. An act to amend the Insurance Law, in relation to requiring insurance policies to provide coverage for transvaginal ultrasounds during pregnancy.

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

MS. BICHOTTE HERMELYN: Thank you, Mr. Speaker. This bill would require commercial insurance coverage of medically necessary transvaginal ultrasounds for care and treatment during pregnancy when recommended by nationally-recognized clinical practice guidelines.

ACTING SPEAKER AUBRY: Ms. Walsh.
MS. WALSH: Thank you, Mr. Speaker. Will the sponsor yield for just a couple questions?

MS. BICHOTTE HERMELYN: Sure.

ACTING SPEAKER AUBRY: The sponsor yields.
MS. WALSH: Thank you very much. So I saw that

it's going to say when recommended by nationally-recognized clinical practice guidelines, and then I was looking at the bill that says for the purposes of this subparagraph that means guidelines informed by a systematic review of evidence and an assessment of the benefits and risks of alternative care options intended to optimize patient care developed by independent organizations or medical professional societies utilizing a transparent methodology and reporting structure and with a conflict of interest policy. So that's a lot of words. My question is, is there more than one, I mean, nationally-recognized clinical practice guideline related to this kind of treatment?

MS. BICHOTTE HERMELYN: I mean there's -- what I would say that the insurance companies can look at their peer national recognized clinical practice guidelines. There are -- there are multiple, and it could be a situation where they can look at the peer national recognized.

MS. WALSH: Okay. So there are -- I thought that there were two, because I was doing a little bit of research on this. It looks like there was more than one. So my question is, what do we do if they don't agree, those different guidelines? Doesn't that present a problem?

MS. BICHOTTE HERMELYN: So we don't see a conflict because they all see the peer review -- they're all part of the same peer review group, and so they all look at all the same -- of the peer evidence. So we just don't foresee a conflict.

MS. WALSH: Okay. I'm sorry I don't understand

that answer. So they are different. How are they all --

MS. BICHOTTE HERMELYN: They're coming from the same peer review evidence-based guidelines.

MS. WALSH: Okay.

MS. BICHOTTE HERMELYN: And if they are different, they're slightly different.

MS. WALSH: Well, what if under one set of guidelines there would be a recommendation that this type of treatment would be provided and another set of guidelines would not? I mean how do we resolve that?

MS. BICHOTTE HERMELYN: Well, at the end of the day remember, this -- we still leave it in the insurer's hands to decide, and they will look at their own peer review evidence-based guidelines. So the insurers still have the last say.

MS. WALSH: Okay. So like, for example, I was looking through and it looked like -- it did look like there were different -- insurance companies had different protocols that were out there. Aetna, Cigna, Blue Cross Blue Shield, they all had different protocols so -- so basically, let's say for example, like, I don't know, I'm just going to pick one, Blue Cross Blue Shield says that a particular instance with this patient it would not be recommended that they be able to have this treatment paid. Are you saying that they would then just go through the same process that they normally would to contest that or to say that they wanted to get it paid? Would it get resolved during that kind of administrative process or how do we --

how do we take care of that? Because you're not calling out any specific clinical practice guidelines in the bill.

MS. BICHOTTE HERMELYN: Well, I mean at the end of the day, I mean they can go to, you know, at length to go back to the insurers, because the insurers will actually, you know, be -- have the last say in terms of whether they're going to perform that particular procedure on that particular patient. My question is, I don't understand what the issue, though. The issue is we're arguing protocols, right? We're arguing whether a patient will have two transvaginal ultrasound versus another patient or versus that same patient having one transvaginal ultrasound. What is the harm? This is to prevent babies or prevent pre-term labor which could eventually having an infant not, you know, surviving your life. So what's the issue here?

MS. WALSH: Well, okay. So, for example, Blue Cross Blue Shield opposes this bill. And they say that mandating coverage, even when recommended by nationally-recognized clinical practice guidelines may lead to questions of coverage when different guidelines have different recommendations. As a result, such tests could be performed indiscriminately. So what's your response to that?

MS. BICHOTTE HERMELYN: Right. My response is look, national [sic] recognized clinical practice guidelines mean evident [sic] based clinical practice guidelines informed by a systematic review of evidence and assessment of the benefits in risk of alternative care options intended to optimize patient care developed

by independent organizations or medical professional societies utilizing a transparent methodology [sic] and reporting structure and with a conflict of interest of policy. So, you know, to your point in the event there's a conflict between nationally-recognized clinical practice guidelines, the insurer would likely be required to provide coverage when at least one recommends the service. However, as mentioned, it is still at the insurer's discretion to make that decision.

MS. WALSH: And I think that that's what we want. We want an insurer to work and consider and use criteria based on evidence and the unique circumstances of each patient to determine the best screening modality. And I think the concern that's being raised by some of the insurers is that by setting treatment requirements in statute, it interferes with that process. That's the nature of the opposition of the bill. I don't know if you --

MS. BICHOTTE HERMELYN: I mean insurance companies, they just -- a lot of them just don't want to pay. They just don't want to pay and, you know, we're -- we're putting some of these bills in place because we want people to live. We want people to have access to healthcare. We want people to have the resources that they need. And, and, you know, in many cases the insurance company should be paying. I mean we're paying lots of money in our coverage plans. And so this is -- this is -- this is really nothing. I mean this is just a routine transvaginal ultrasound. This is to prevent, you know, infants or a pregnancy that could potentially be at risk. You know, we're trying to find ways that mothers don't die, expectant mothers

don't die or babies don't die while they're going through this whole journey of planned parenthood. So I just don't understand why we're even arguing this. I mean when -- when we ask insurance companies hey, we need screening for HPV, you know, there's a whole big issue around that. We want these screenings to prevent risk, you know.

MS. WALSH: Thank you very much. I appreciate your comments.

Madam Speaker, on the bill.

ACTING SPEAKER SIMON: On the bill.

MS. WALSH: You know, I want to make it very, very clear to anybody listening that I have no issue at all it with this -- with this procedure. It's -- it's an excellent procedure and in some cases it really can help a woman to keep a pregnancy and to be able to make, you know, better health decisions who need it, or even women who are not pregnant and are trying to get pregnant, it's a great procedure. I think the only point that's really being raised, trying to raise during debate is that insurance companies just need to know what the rules are, and when the bill is worded in a way that kind of generally defines what a nationally-recognized clinical practice guideline would be but doesn't really lay out what that guideline is, there could be -- and it's a mandate that's being placed on it, fine, but they just need to know what the rules are, and their concern is that if you could potentially have - and the sponsor indicated that there are - different guidelines that could meet that criteria as outlined in the bill. So the insurance companies are just saying, you know, if we're going

to be required to provide coverage based on a set of guidelines, we just want to know what happens if the guidelines don't agree. So, you know, that being said, I think, you know, I -- I -- I don't really have any -- any other issues with the bill other than just that concern about just making sure that if we're placing a requirement for coverage on an insurance company that they know what they're supposed to be covering and what they're not. And the point really that they were trying to make, I think, in their opposition to the bill was really that, you know, these are unique determinations that need to be made patient by patient applying guideline to the thoughtful way. And that, you know, when we mandate things during -- in legislation in set treatment requirements, it kind of can get in the way of doing that unique analysis on a per patient basis. So those are the concerns and I thank the sponsor for her answers. Thank you very much, Madam Speaker.

ACTING SPEAKER SIMON: Ms. Bichotte
Hermelyn.

MS. BICHOTTE HERMELYN: On the bill. I just wanted to know that during a transvaginal ultrasound a pregnancy care provider places a device inside the patient's vaginal canal. In early pregnancy this ultrasound helps to detect a fetal heartbeat or determine how far along you are in your pregnancy, gestational age. Images from a transvaginal ultrasound are clearly in early pregnancy as compared to abdominal ultrasound. A doctor might recommend a transvaginal ultrasound during a pregnancy to monitor the heartbeat of

a fetus, look at the cervix for any changes that could lead to complications such as miscarriage or premature delivery, examine the placenta for abnormalities and identify the source of any abnormal bleeding, diagnose of possible miscarriage and it's to also to confirm an early pregnancy.

But I want to take this time to -- to share with you a heartbreak story of Carolyn Spiro-Levitt and her husband Josh. They lost their son Eli Parker Levitt when he was born prematurely at 23 weeks in 2020. At 20 weeks during a routine appointment, Carolyn was told that she was three centimeters dilated, nearly fully efface and about to go into labor due to a condition, cruelly named *incompetent cervix*. And up until that point, the Levitts believed that everything was fine with their pregnancy. This condition can be treated and addressed if caught in time through easy to conduct testing. Tragically because Carolyn was not tested for the condition earlier in her pregnancy, their son Eli passed away shortly after being born. This is vital, lifesaving legislation that will protect mothers by requiring insurance companies to cover important preventative medical procedures for pregnant moms in New York, especially as we face maternal mortality crisis. We've heard the gross statistics on record-high infant and maternal health complications and we know that many mothers, especially black mothers are disproportionately at risk. I know this all too well as someone who lost my first child Jonah Bichotte Cowan, due to negligent healthcare. We passed a law in his name to make motherhood safer and I've taken the lead in the fight

ever since. Now I'm here with my healthy baby boy Daniel, four years -- six years later and now our crisis has only worsened. Infant mortality risen for the first time in two decades and the vast majority of these deaths are preventable. An incompetent cervix also known as cervical insufficiency occurs when weak cervical tissues causes or contributes to premature birth or loss of an otherwise healthy pregnancy. Before pregnancy a woman's cervix, the lower part of the uterus that connects to the vagina, is normally closed and rigid. As pregnancy progresses and a woman prepares to give birth, the cervix gradually softens, decreases in length and opened. If a woman has an incompetent cervix, the cervix might begin to open too soon causing premature birth. Performing a test and examination on all expecting women, helps to ensure better birth outcomes. Cervical incompetence is a known risk factor to pre-term birth and is responsible for five percent of extremely pre-term deliveries. The United States is one of the most dangerous developed nations for pregnant mothers and their babies. Nearly ten percent of all babies in the U.S. are born prematurely. Premature birth and its complications are the leading cause of death in babies in the U.S. Of the babies who survive, many have longstanding health problems including cerebral palsy, developmental disabilities, chronic lung disease and issues with vision and hearing. According to the CDC, more than 80 percent of the pregnancy-related deaths in the United States are preventative -- preventable, and with lifesaving medical procedures out of reach for so many, even those with insurance, we all -- we are well past due to

pass this law and make motherhood safer for all. One out of every 200 mothers goes through this trauma of losing a child due to preventable complications. We should be instituting preventative measures to reduce this. Ultrasounds are important. Highly encourage precautionary and preventative procedures routinely performed on mothers. We give ultrasounds to check on babies, again heartbeat, muscle tone, movement and overall development. To check if you're pregnant with twins, triplets, or more. To check if your baby is the head first position before birth, to examine your ovaries and uterus for health issues. It is infuriating that insurance will not cover a procedure that can save a mom and her child's life. It is an insult to our communities facing devastating health consequences. Transvaginal ultrasounds are generally considered safe and have no known harmful effects and are routine procedures.

In New York they are out of reach for countless expectant moms, especially those most at risk. That's why I'm urging the Assembly to pass this law to make vital transvaginal ultrasounds affordable and available for pregnant persons in New York. We ask in the Assembly to vote this not only in the name of my late son Jonah Bichotte Cowan, but in the name of why I introduced this bill, in the name of the late Eli Parker Levitt. Thank you.

ACTING SPEAKER SIMON: Thank you.

Mr. DiPietro.

MR. DIPIETRO: On the bill.

ACTING SPEAKER SIMON: On the bill.

MR. DIPIETRO: Thank you, Ms. Speaker. I rise in support of this bill. I have the ultrasound bill here in the Assembly, which says that before a pregnancy every women should be able to see the ultrasound. Did you know that over 85 to 90 percent, 85 percent approximately of women who see an ultrasound will keep the baby. But did you know a higher percentage of men when they see an ultrasound want to keep the baby. Unfortunately, Planned Parenthood and other pro-abortion industries will not allow an ultrasound. I stand behind any bill that provides ultrasounds to women. This bill no doubt will convince women to keep a baby if they have doubts. This will help. This will save one more baby's life, maybe a lot more. I am all for ultrasounds. They have proven to be effective. I also have the heartbeat bill. And I'm just saying that because with this ultrasound bill I'd love to see my ultrasound bill get put on the floor and pass and I'd love to give it to any one of my colleagues.

I was at a school last week doing a government class to high schoolers, and my position on life came up and I explained it, but I did have one high school senior girl start arguing with me and telling me that life doesn't begin until the 22nd week of pregnancy. And I tried very passionately to explain to her that it does and I explained about the ultrasound. I said if you could see the ultrasound, I can give you scientific facts where the heartbeat is within six to eight days.

ACTING SPEAKER SIMON: Mr. DiPietro, can you confine your remarks to this bill. Please?

MR. DIPIETRO: I am, this is exactly about the bill. This is about ultrasound and about how it affects people's ideas and their mindset of pregnancy. That's what this does. This ultrasound bill, that's exactly what it does, to help women and to help them make that decision. So please, may I proceed? So the girl at this school when I told her about ultrasounds and how they affected, she didn't want to hear it. So I'm hoping with this bill, with my bill, that we have an opportunity to change lives, to change the mindset of women and men so that when they see this ultrasound and this bill will help save possibly some lives but also some attitudes and also some ideas that people have about pregnancy.

So I will be voting for this bill. I would ask that one of my colleagues pick up my ultrasound bill also since they pretty much do the same thing. They help women make decisions and help in their health. Thank you.

ACTING SPEAKER SIMON: Thank you.

Mr. Lavine.

MR. LAVINE: This is a real good bill, and I just want to thank everyone who has spoken with respect to this bill. And I'm speaking on the bill. And in conclusion, I just want to simply say that I had certainly wanted to make a nice contribution to Planned Parenthood but it had just escaped my mind, but I do want to thank the -- all who spoke about Planned Parenthood today because when Session is over this evening and I'm not in the LOB or in the State Capitol, I'll be making another nice big contribution to Planned

Parenthood.

ACTING SPEAKER SIMON: Thank you.

Read the last section.

THE CLERK: This act shall take effect January 1st, 2026.

ACTING SPEAKER SIMON: 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 10, Rules Report No. 189, the Clerk will read.

THE CLERK: Assembly No. A09213-A, Rules Report No. 189, Fahy, Dinowitz, Weprin, Glick, Colton, Lucas, Simon, Shimsky, Slater, Burdick, Forrest, Thiele, Epstein, L. Rosenthal, Simone, Seawright. An act to amend the Navigation Law, in relation to financial responsibility for the liability of a major facility or vessel.

ACTING SPEAKER SIMON: An explanation has been requested, Ms. Fahy.

MS. FAHY: Thank you. Thank you, Mr. Speaker [sic]. This bill, which I've had some version of for I think almost ten years, it amends the liability provisions of Article 12 of the New York Navigation Law, which are sections of the law containing environmental protections and oil spill compensation fund. Article 12

of this law already requires that any entity have responsibility for oil discharge and are held liable. This -- this bill, though, it requires that they show that they have financial surety to cover any type of accident or remediation should there be a spill or accident.

ACTING SPEAKER SIMON: Mr. Goodell.

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

ACTING SPEAKER SIMON: Will the sponsor yield?

MS. FAHY: Sure.

MR. GOODELL: Thank you very much, Ms. Fahy. Does this bill expand its scope to cover petroleum storage facilities that were not previously covered?

MS. FAHY: Yes.

MR. GOODELL: And so aren't these petroleum storage facilities already regulated by the DEC?

MS. FAHY: Yes.

MR. GOODELL: And aren't they already contained within earth and berms to prevent any spillage from leaving the premises?

MS. FAHY: Yes, but this is to demonstrate -- again, this is to demonstrate increased -- well, it's increased accountability and it makes sure that in addition to being legally liable that they have the surety as well.

MR. GOODELL: Am I correct that these petroleum

storage facilities have had only minor spills in the past, that we haven't had any major spills; is that correct?

MS. FAHY: There have been some minor ones, but as we know many vessels have had more -- more problems.

MR. GOODELL: And with regard to the surety requirements, what are the current requirements for petroleum storage facilities?

MS. FAHY: The \$25 a gallon.

MR. GOODELL: Per gallon or --

MS. FAHY: Per barrel. Sorry, per barrel.

MR. GOODELL: That's what this would impose, correct?

MS. FAHY: Yes. This -- this would have the inflation adjusted annually where appropriate.

MR. GOODELL: And the -- that amount would be \$25 per barrel plus inflation, right?

MS. FAHY: Plus inflation.

MR. GOODELL: And what is the current criteria for oil storage facilities?

MS. FAHY: That's it.

MR. GOODELL: Now, of course, we have oil storage facilities around the State. That's how we get gasoline in our cars, right?

MS. FAHY: Yep.

MR. GOODELL: What impact will that have on the

gas prices?

MS. FAHY: I would think it should be negligible if any, because in many ways this is strengthening accountability. It's very focused on prevention and, you know, it's factoring in any risks of the layers of responsibility we think will be helpful here.

MR. GOODELL: Now, of course, each gas station that we pass has anywhere from 15- to 30,000 gallons of underground storage tanks filled -- hopefully filled with petroleum products. Does this apply to them?

MS. FAHY: No, unlikely. It should be more than 400,000 gallons. These are major facilities.

MR. GOODELL: Can we talk a little bit about its impact on railroads?

MS. FAHY: Impact on?

MR. GOODELL: Railroads.

MS. FAHY: Yes.

MR. GOODELL: So what -- what does this impose as it relates to railroads?

MS. FAHY: It requires disclosure.

MR. GOODELL: Now the amount of the bond for railroads, am I correct that it's based on the worse case scenario?

MS. FAHY: Yes, and as established by DEC.

MR. GOODELL: I see. And can you tell me, have we ever experienced in New York State a oil spill by a railroad that wasn't cleaned up by the railroad?

MS. FAHY: In New York State we've had a number of spills, but all of them have been somewhat contained. Keep in mind, however, we've had an increase in the number of spills and accidents, and when I first did this bill it was actually based on some horrific accidents particularly the Lac-Mégantic in Quebec, Canada where 47 people were killed and the railroad was insured but only to the tune of \$25 million and it was a multi-billion dollar disaster. We've seen a similar incident in East Palestine [sic], Ohio and while we've had -- we've had a number of incidences here in New York just in the last five years. None of them have been catastrophic, but there was one, for instance, in East Aurora just in 2020, a small village in Erie County, where there was a derailment. And again, it was -- the train was filled with propane and they hadn't even provided the correct number of cars or content. That train happened to be on its way to Albany and was transporting highly flammable petrol chemicals. At that time Senator Schumer did call on the Federal Railroad Administration and conducted an investigation and called on better safety measures. So while we are not addressing that, we are ensuring that they have the surety or the insurance to cover any catastrophic accident and make sure that we, you know, which we think will help with better safety standards. So we've had a number, you know, there's four or four just in the last few years. Again, none of them have been catastrophic, but certainly around the country and in Canada we have seen catastrophic incidences.

MR. GOODELL: Well, thank you for outlining the

situations where there's been a spill. My question is a little different. My question is, has there ever been a situation in New York State where the railroad failed to clean up the spill or failed to pay the damages? Has there ever been such a situation where the railroad didn't pay, and if so when and where?

MS. FAHY: At this point, the incidences I mentioned were all addressed by the railroads. But let's keep in mind those railroads were often from out-of-state, they travel across the country, they travel in from Canada and more. There have been incidences, and while this addresses New York and we haven't had specific incidents in New York, this is about ensuring that those trains, once they hit New York they are fully insured to address the liability or cover the liability that they now already carry. So while no specific incidences in New York, we certainly have seen those around the country.

MR. GOODELL: You mentioned several spills around the country and in foreign countries. In any of those spills, did the railroad fail to clean it up or pay the damages?

MS. FAHY: Well, we know in East Ohio or -- sorry, East Palestine [sic], Ohio we know that that is very much tied up in litigation, and in certainly in Canada, not that far in Quebec, certainly they -- they failed. And since then -- since then I should note, that Canada has increased those liability costs to make sure that there is surety or bonds to cover any liability. New Jersey has done so, California and others have done so as a result of some of these major

accidents.

MR. GOODELL: New York has, of course, its Oil Spill Prevention Control and Compensation Trust Fund.

MS. FAHY: Yep.

MR. GOODELL: How much is in that fund currently?

MS. FAHY: It's in the tens of millions -- I don't have an updated number on that, but it is -- it certainly is not, not fair to address any catastrophic accidents.

MR. GOODELL: But we don't know how much is in that.

MS. FAHY: I don't have an -- I don't have an updated number. It's certainly not in the billions. The last time I checked I thought it was in the tens of millions, but I don't have an updated number. Nothing --

MR. GOODELL: Now we also --

MS. FAHY: -- nothing to address anything like this, again, which is why we're pushing some type of insurance, surety bond or other letter of credit.

MR. GOODELL: Am I correct that that fund contains more than the insurance requirements that are contained in this?

MS. FAHY: I'm sorry, Mr. Goodell. What was that?

MR. GOODELL: I was just questioning whether or not that fund already contains more in the fund than the insurance

requirements imposed by this. But you don't know how much is in the fund so I apologize for that question.

MS. FAHY: No, and remember, the fund is not established to cover all of this. That is part of why we want to make sure that there is a full insurance and demonstration of a full insurance especially for any type of catastrophic incident.

MR. GOODELL: Of course the Federal Interstate Commerce Commission Termination Act of 1995 deals specifically with Federal preemption over this area. The railroads have suggested that any provision that's inconsistent with the Federal standards is clearly preempted and in fact, the ICCTA, the Interstate Commerce Commission Termination Act Agency has interpreted preemption to apply to quote, "any form of State or local permitting or pre-clearances by its nature could be used to delay a railroad, the ability to conduct some or all of its operations or proceed with activities that the board is authorized." Isn't this a State effort to require some type of preclearance or local standards that could impact on railroad transportations in violation of the Federal preemption?

MS. FAHY: We have repeatedly looked at the preemption issues here. This bill is not preempted. Laws such as the Federal law, the Oil Pollution Act of 1990 or OPA 90, set minimum standards on oil prevention and spills and it explicitly allowed states to impose additional requirements. This bill does not directly conflict with any specific requirements of that or any Federal law and it allows us to add layers of protection and responsibility. Again, this -- we've

been -- we've been down this road quite a bit on this bill and that is why we're addressing just the insurance piece of it or the surety piece of it. This is to reenforce what we already have at the Federal level. And as -- as I'm sure you are aware, very much it is a state's rights issue to protect our own natural resources, especially when they are not covered by Federal regulation. And again, we've seen too many examples, too many near catastrophic disasters and that is again why this bill does discuss a preparedness for worst case scenarios, because we've seen worse case scenarios even if we haven't seen them here in New York.

MR. GOODELL: Now this section of the law is contained in the Navigation Law.

MS. FAHY: Yes.

MR. GOODELL: And it requires the department to calculate the reasonable worse case scenario.

MS. FAHY: Yes.

MR. GOODELL: Which department would be doing that, that analysis under the Navigation Law?

MS. FAHY: The intent is DEC. There is consultation language I think with DFS.

MR. GOODELL: Okay. And is there any cap on that potential liability that railroads would have to cover?

MS. FAHY: It's a disclosure and that is again part of the negotiation on this.

MR. GOODELL: But I mean we have a cap, right,

on vessels, that's one million. Is there any cap on railroad liability?

MS. FAHY: They just -- there is no cap but they have to disclose what they have.

MR. GOODELL: If a railroad is unwilling to --

MS. FAHY: It's based on Washington -- State of Washington Law in 2018 where we had some examples of this.

MR. GOODELL: If a railroad fails or refuses to post a bond to cover a worse case scenario, what is the remedy?

MS. FAHY: If they fail, the bill explicitly notes that it would be unlawful. The bill explicitly notes that it would be unlawful to operate a vessel that is non-compliant with the surety of requirements laid out in this bill.

MR. GOODELL: Does that mean then if a railroad is refusing to provide a surety or insurance policy for a worse case scenario that the State of New York would shut down a railroad?

MS. FAHY: State of New York has the ability to -- to cite them. Yeah, to make it -- yeah. I mean they have to show that requirement just as we have other requirements when people -- again, as I mentioned, we have the right to protect our own natural resources. And we are addressing the -- just as we can inspect those trains when they come into these borders as we do, this is another requirement that would be added on to show that they can cover. They already have the liability. This is showing that they would have the surety. So the legal liability is there. This is requiring the surety.

MR. GOODELL: Thank you.

On the bill.

Thank you, Ms. Fahy.

MS. FAHY: Thank you.

ACTING SPEAKER AUBRY: On the bill, sir.

MR. GOODELL: This is another example of New York State increasing the cost of doing business. It's an expensive solution looking for a problem. As my colleague noted we have no examples in the 250+ years of New York State where a railroad caused a spill of oil where they didn't clean it up and pay for it. Now the railroads that are going through New York State, whether it's Conrail or Norfolk Southern or any other railroad, their balance sheet is better than ours. They have more cash. They have a better cash flow and their balance sheet is better than the State of New York. We have never had a problem. Their balance sheet is better than ours. We already have a requirement in terms of a trust fund to back it up if for some reason something went awry, and we already have Federal standards. And as my colleague pointed out, under this bill, if a railroad was unwilling to post a bond or a surety which costs money which is then passed on to the customers, which then results in higher prices for consumers, if they didn't do that, my colleague suggested we could shut down the railroad. Wouldn't that create interesting supply challenges. Now just because we can impose additional cost on consumers that use railroads doesn't mean we ought to do it. This is thankfully preempted by Federal regulations because the Federal Government has said because interstate railroads are such a vital part

of our national economy, states can't enact laws that interfere with that interstate commerce. Thank goodness. This would also, by the way, require the railroads to disclose all their contracts for insurance coverage and reinsurance and sureties, some of which may have confidential information they don't want to share with their competitors, whether it's trucking companies or other railroads. So if we haven't had a problem in over 200 and some years, since the railroads were built in this country, if the railroads' balance sheet is better than ours as the State of New York, if they are already required under Federal regulations to carry appropriate liability coverage, we don't need to increase the cost of doing business in New York State and have those costs passed on to our consumers who are hoping that at some point in our career we help reduce their cost rather than increase their cost of living in New York.

For that reason I will not be supporting it, but again, I thank my colleague for her answers and her insights. Thank you, Mr. Speaker.

ACTING SPEAKER AUBRY: Ms. Fahy.

MS. FAHY: Just a quick response on that. While I appreciate that it may be rare that New York wants to be proactive instead of reactive, I do think that this is important to be proactive here because -- because of some of the horrific accidents including the one just one year ago in East Palestine [sic], Ohio where costs are now already over \$1 billion and 115,000 gallons of vinyl chloride of hazardous -- separate hazardous material, not petroleum. We are

focused on petroleum products, but other hazardous materials ended up in their waterways there in Ohio. We -- in Lac-Mégantic again, the railroad there after killing 47 people and devastating an entire town with a multi-billion dollar cost, the railroad went bankrupt and only had 2,500 -- 25 million in insurance. We have had -- the EPA estimates that we have had some type of train chemical accidents every -- a couple, one every a few days to a week, and in 2022 there were 188 accidents around the country, 177 in 2021. I think the thought that we might be proactive here. Again, the liability is already on the part of the railroads. This is making sure that that liability is covered so that they can or demonstrate there that they would be financially responsible via insurance surety bonds or letters of credit. Thank you, Mr. Speaker.

ACTING SPEAKER AUBRY: Read the last section.

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

ACTING SPEAKER AUBRY: A party vote has been requested.

Mr. Goodell.

MR. GOODELL: Thank you, sir. Hopefully we're on the right track on this bill. The Republican Conference is generally opposed, but certainly those who want to head on a different track can vote yes. Thank you, sir.

ACTING SPEAKER AUBRY: Ms. Solages.

MS. SOLAGES: The Majority Conference will be

voting in the affirmative. Those who choo -- choo -- choose to vote in the negative can do so at their desks.

ACTING SPEAKER AUBRY: The Clerk will record the vote.

Thank you both.

(The Clerk recorded the vote.)

Are there any other votes? Announce the results.

(The Clerk announced the results.)

The bill is passed.

Page 11, Rules Report No. 197, the Clerk will read.

THE CLERK: Senate No. S09379, Rules Report No. 179, Senator Harckham (Burdick, L. Rosenthal, Colton, Seawright, Otis, Thiele--A09712). An act to amend the Environmental Conservation Law, in relation to prohibiting the application of pesticides to certain local freshwater wetlands.

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

MR. BURDICK: Certainly, thank you. This bill would allow local governments to prohibit the application of certain pesticides for freshwater wetlands linked to drinking water or Class A water bodies.

ACTING SPEAKER AUBRY: Mr. Simpson.

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

MR. BURDICK: Certainly.

ACTING SPEAKER AUBRY: Mr. Burdick yields, sir.

MR. SIMPSON: Good afternoon. We're -- we're here again on this bill. This is -- I think it's been before us twice already, this is the third time; am I correct?

MR. BURDICK: Not really, because this is substantially revised from the prior versions.

MR. SIMPSON: Could you explain what's changed from the prior bill?

MR. BURDICK: Certainly, be happy to. This has been substantially reduced in scope. The prior bills -- the prior bill would pertain to the certain limitations, all freshwater wetlands within a particular municipality. What this is doing is it narrows that down only to those wetlands that are hydrologically connected to -- to drinking water. In particular, it would stay -- it provides the provisions of this section shall apply only to those wetlands which are hydrologically connected to any reservoir, reservoir stem, Class A waterway or other source of public water supply. In addition, there's an exemption that has been added to it; the provisions of this section shall not be construed to prohibit or limit the use of application of pesticides in connection with commercial agricultural activities, nor to contradict any other provisions of this chapter relating to such use. So it's a significant narrowing.

MR. SIMPSON: So could you tell me how many acres that involves in New York State?

MR. BURDICK: No, I can't.

MR. SIMPSON: Well, there's about a million acres or more. That's after the implementation of the legislation that was passed in 2022, 2023, the Wetlands Protection Act --

MR. BURDICK: Well, that's --

MR. SIMPSON: Hold on a second, please. Most wetlands are connected hydraulically [sic] to most reservoirs.

MR. BURDICK: So it isn't quite accurate what you're stating, because for wetlands that right now exceed 12.4 acres, they're regulated by the DEC. And right now, freshwater wetlands are -- that are handled by localities are exclusively those that under 12.4 acres. And, in fact, that's gonna narrow further in connection with the reference that you just made -- made because beginning in 2028, that threshold is going to be reduced to 7.4 acres. So I think that your statement is inaccurate.

MR. SIMPSON: There's 1,400 municipalities. Is that taking into account how many municipalities that could be affected by --

MR. BURDICK: No, I think that's inaccurate as well, with due -- due respect, because this only pertains to those municipalities that have, in accordance with the Environmental Conservation Law enabling statute, adopted a freshwater wetlands law, and there are approximately 70 that have done so.

MR. SIMPSON: Okay. So Article -- are you familiar with Article 24 of the Environmental Conservation Law?

MR. BURDICK: Pretty well, yes.

MR. SIMPSON: Well, this bill amends Article 24.

MR. BURDICK: That's correct.

MR. SIMPSON: Article 24 provides for the delegatory [sic] scheme to allow local governments to enact local freshwater wetland regulations and seek delegation of permitting authority from the Department of Conservation. It's my contention that it's not for the regulation of pesticides, which in Article 33 -- I don't know, are you familiar with Article 33?

MR. BURDICK: I have some familiarity, yes.

MR. SIMPSON: Article 33 is actually the section of law that -- I've got to find my paper here -- that deals with the delegation of -- preemptive delegation and does not contemplate local regulation. So, you know, there's a difference between the two sections of law; one deals with the wetlands, other one is with the pesticide preemptive actions. This doesn't amend Article 33; am I correct?

MR. BURDICK: Mr. -- I'm sorry, but is there a question?

MR. SIMPSON: Yes. Does this amend Article 33?

MR. BURDICK: No, it does not.

MR. SIMPSON: Do you agree that Article 24 deals with wetlands regulations and permitting of the authority from the Department of Environmental Conservation and Article 33 is actually the section that deals with pesticide regulations?

MR. BURDICK: They operate independently, Mr. Simpson.

MR. SIMPSON: Excuse me, I didn't understand you.

MR. BURDICK: Well, they operate independently.

MR. SIMPSON: Okay. I'm going to move on.

What is the definition of commercial agriculture?

MR. BURDICK: I think we would look to the Agriculture and Markets Law for that.

MR. SIMPSON: Is there a definition for commercial ag, though? It's -- it's exempt according to your bill, sir.

MR. BURDICK: That would be within the province of the DEC to determine the extent of that exemption.

MR. SIMPSON: But this regu -- this -- this change in law is giving local authority to a State policy dealing with the regulation of pesticides. So now we've still got the interaction between two agencies and deciding who's in and who's out, who's affected, who's not.

MR. BURDICK: There's interaction between the DEC and the localities with some regularities, so I don't think that there's anything unusual or inappropriate about that.

MR. SIMPSON: Well, I just -- I ask that question because I'd never heard of the distinction between commercial ag and agriculture, so it raises the question of who would be affected adjacent to these wetlands or, you know, close enough to be affected by a local municipality making the decision of whether they could use pesticides

or not in their agricultural operation.

MR. BURDICK: Well, I think the -- the language here is pretty plain, as I just read, which -- and I can repeat it -- and that is that the provisions of this section shall not be construed to prohibit or limit the use or application of pesticides in connection with commercial agricultural activities, nor to contradict any other provisions of this chapter relating to such use. And this chapter, being Chapter 24 of the Environmental Conservation Law, would be construed in -- through the DEC, and I'm sure that any concerns could be resolved in that fashion.

MR. SIMPSON: Which pesticides are you -- have been brought to your attention that you're concerned with that you would want to take over -- give municipalities the authority to make decisions whether they're allowed or not?

MR. BURDICK: At this point, you would go to the definition of pesticides, which is in existing law under Section 33-0101 of the Environmental Conservation Law.

MR. SIMPSON: Still, is there a specific pesticide? Is there a concern -- I'm trying to extrapolate what the concern is when we're dealing with a bill that on the out -- on the face of it seems to undermine the great work that we've done in New York through DEC's efforts in regulating pesticide use in New York.

MR. BURDICK: So a municipality may have a greater concern, particularly since we're talking about drinking water. Now, you know, I don't think that we would put pesticides on our

cereal, and I don't think that we would prefer to have pesticides in our drinking water. And I think that municipalities recognize, as science does, the inextricable link between wetlands and drinking water because whatever leeches into the groundwater is going to affect drinking water. And that was one of the reasons why I narrowed the scope of it, because the greatest concern that I've heard from municipalities is the impact on drinking water. We in the State are spending tens of millions of dollars to take contaminants out of drinking water. It would seem logical and reasonable that we would take steps to prevent that at the source.

MR. SIMPSON: I think it's very important to protect our drinking water, but isn't that the job of the Department of Health who oversees our drinking water, as well as releases from wastewater facilities and clean water? I mean, that's all working through Environ -- Environmental Conservation, Department of Health. We have standards to meet for all drinking water.

MR. BURDICK: Right, and I -- I think that we want to do what we can to assist our local governments to be in a better position to meet those standards and to ensure that those standards on a going-forward basis will be met. And --

MR. SIMPSON: So we are --

MR. BURDICK: I'm sorry. Go ahead, Mr. Simpson.

MR. SIMPSON: So am I right to conclude -- to come to the conclusion that we're not meeting those standards with our current agencies?

MR. BURDICK: What I'm suggesting, Mr. Simpson, is that in order to maintain the purity of drinking water, one of the components in that is to prevent any contaminants to go into the drinking water so that thresholds will not become exceeded. And, you know, there's some that will argue that a lot of what we find in the way of contaminants do have their source in pesticides.

MR. SIMPSON: Okay.

MR. BURDICK: And -- and we are finding almost on weekly basis that those chemicals, those pesticides, those contaminants that in the past were deemed to be safe, and those levels that were deemed to be safe, in fact, are not. There had been a time when DDT was considered -- could be used with abandon, only to find that it had deleterious effects. There was a time when asbestos was considered to be absolutely safe, only to find that it was a carcinogen. And so we're dealing, in many respects, with trying to take preventative measures in order to protect public health.

MR. SIMPSON: So I want to ask you, who's gonna make this decision? It's gonna give municipalities the authority to decide what pesticides can be used, what can't. Will that be a town board, will that be a town supervisor, will that be a consultant? Who will make that decision in those municipalities?

MR. BURDICK: So, you know, I -- I think that it's helpful to understand -- and -- and I appreciate your question. Like you, I have a high regard for local government. I come out of local government. I feel local governments do a pretty good job. And in

this particular area of wetlands protection, they've been doing this job since the late 1970s, shortly after the adoption -- the enactment of the Federal Clean Water Law. And so in terms of who makes decisions, the law is pretty well set, and this obviously is to make some little change in it to allow, on a very limited basis, greater authority to local governments to try to protect the wetlands that are within the scope of their authority.

MR. SIMPSON: Would a local government be able to stop the treatment for mosquitoes or black flies?

MR. BURDICK: I'm sorry, just --

MR. SIMPSON: Would a town board be able to make a decision whether their streams and wetlands are treated with BTI -- I don't know if you've ever heard of BTI. In the North Country I'm not sure if you've ever experienced black flies or mosquitoes, but we actually -- I was a town supervisor, I came from local government. We had a black fly treatment program and we used a product called BTI, and that was approved by DEC for many, many years in the Adirondacks. Would this give an -- give a local government authority to say no, we -- it's not acceptable?

MR. BURDICK: So, there's another provision in this that I'd like to bring to your attention.

MR. SIMPSON: I'm familiar with the decision, I just asked the questions.

MR. BURDICK: No, no, because -- because it's relevant to your question. And it would depend upon how that

particular pest, call it, would be characterized. And that is a proviso that any such law or ordinance, and in this case, we're talking about a local law that would have to be adopted if this were to be enacted. It doesn't happen all by itself, it's not self -- it -- it would be need to be that the locality adopts a further local law in order to give effect if this bill were to be enacted. But to go on, it says, *Provided, however, that such law or ordinance shall not prohibit pesticide applications for the control of invasive species identified pursuant to Title 17 of Article 9 of this chapter, pests of significant public health importance, noxious weeds designated by the Department as injurious to ecosystem health, or for the protection of critical navy -- native plant species.*

So the reason I'm reading that section is because the Department ultimately could make a determination with respect to that particular pest or insect which is attempted to be controlled. And depending upon the outcome of that determination, it may be determined that that particular pesticide, in fact, could be applied.

MR. SIMPSON: As clear as swamp water.

On the bill, Mr. Speaker.

ACTING SPEAKER AUBRY: On the bill, sir.

MR. SIMPSON: Thank you. Mr. Speaker, this is -- this may be an amended bill, narrower in scope according to the sponsor, but as you can see, it's a little confusing. We're gonna go back to the DEC, we may not agree with the DEC. It seems to come up with all sorts of scenarios that are in question that ultimately will be decided by local governments who are closest to the people, and I

can tell you as the town -- former town supervisor, when I brought up black fly treatment, that became a very heated topic. You had people that were for it, people that were against it, and there were people that came up with science that said this was not good for the environment, others said according to DEC there was no impact, and unfortunately, those decisions are being made at a different level, not with the resources that our own State agency, the New York State Department of Environmental Conservation has.

So in this rare moment, I would like to express that I do agree with the Executive in their decision to veto this message and -- and what she said: *This bill would undermine the integrity of DEC's robust pesticide program, its wetland protection program, and its protections for freshwater wetlands.* And she goes on to say, *Further, this bill would lead to confusion and the inconsistent application of State laws leading to unintended consequences for pesticide regulation in New York.* I couldn't have any expressed it any better and, therefore, I cannot support this bill. I do appreciate the sponsor's concern for water quality, but I think this bill certainly leads to a lot of other questions and unanswered questions, and I would urge all my colleagues to not support this bill. Thank you.

ACTING SPEAKER AUBRY: Thank you, sir.

Mr. Miller.

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

MR. BURDICK: Certainly.

ACTING SPEAKER AUBRY: The sponsor yields.

MR. MILLER: Okay, I'm -- I was a former supervisor also, and I'm sure there's a lot of former supervisors in this -- in this room here today, and I just have some questions for you, Mr. Burdick. What departments would you -- what State departments and Federal departments would you be using to -- to get their expertise for your new created department in your town -- town government to make these decisions?

MR. BURDICK: Well, that -- are you talking about what department within a municipal government?

MR. MILLER: No, what State departments and Federal departments would you -- would you use to -- to have your newly-created town department ask the questions to make your decisions to -- to ban these pesticides? Would you use the Department of Health, would you use the DEC, the EPA?

MR. BURDICK: I -- I really don't anticipate that these issues would up with any kind of frequency. I chaired the Wetlands Control Commission at the Town of Bedford for some nine years, and there were few instances in which we needed to connect with either the Department of Agriculture or the DEC, and those really only arose in instances of which there was any kind of disagreement between the property owner seeking a wetlands permit and the town. And, frankly, they were few and between, but we simply had contacted them to -- to get their interpretation. And in fact, because of the exemption that would be in this bill, it probably

would not even involve the Ags -- Ag Department with much frequency at all. And -- and so I don't see that we would have the need to do so. For the Town of Bedford, the way that it was handled is that there's a separate Wetlands Control Commission. In other municipalities, the Wetlands Law is handled through their planning boards.

MR. MILLER: Okay, but the pesticides being used, they're all regulated pesticides that are okayed by the DEC, the EPA. And I guess the question I have, how -- how could a town committee or town department determine what pesticides would adversely affect these wetlands if they're already being regulated by these State and Federal agencies? I -- I just don't know how far -- how far, you know -- are you gonna hire scientists, are you gonna hire technicians to go out there and monitor pesticide levels in -- in these rivers and these wetlands and then come back and decide that this certain pesticide you feel and the Town of X shouldn't be there, but the DEC says it's okay?

MR. BURDICK: You know, I appreciate your question but -- but I think that it rests upon a misunderstanding of the -- of this bill. And this bill would provide the locality with the ability to prohibit all pest -- pesticides. Again, as I mentioned before, the property owner can question that and could assert that it's being used, the pesticide, in order to deal with a particularly noxious plant, invasive plant or pest. But the municipality itself can, from the starting point, state that no pesticides are to be applied to the wetlands

in question. And in terms of hiring consultants, I think it's very good practice, and I think most local governments do that when it comes to technical issues. In the case of the Town of Bedford's Wetland Control Commission, for the entire time that it had been in existence, that Commission, and it goes back decades, they had a wetland scientist who was a consultant to the Town of Bedford in -- in reviewing permit applications. And I think it's very good practice to do so regardless of this particular bill, because they should have an idea of what particular activity it is that the property owner is proposing, and the extent to which, if any, it would have a significant adverse impact upon the wetlands in question.

MR. MILLER: Okay. So when we think of pesticides, the first thing that comes to most of our minds are insecticides, but pesticides could be fertilizers, also. So that would be something you would be looking at with your wetlands commission in your town, on fertilizer use. You know, we talk about the commercial agriculture and we should be talking about commercial business such as golf courses and forestry projects.

Mr. Speaker, on the bill.

ACTING SPEAKER AUBRY: On the bill, sir.

MR. MILLER: You know, I think this -- this bill is well-intended, but I think that the town governments really need to listen to the DEC and -- and the E -- EPA and, you now, other agencies out there on -- on what pesticides are safe to use and what pesticides aren't safe to use. We've had a lot of these debates over the

last few years on various pesticides, and these -- these topics keep on coming up. I -- being a former town supervisor, I don't know if that's something that all towns will -- will want do or if that's something that we're gonna look at down the road, but I'm gonna vote in the negative and I urge all my other colleagues to do the same.

Thank you.

ACTING SPEAKER AUBRY: Thank you.

Ms. Giglio.

MS. GIGLIO: Thank you, Mr. Speaker. Will the sponsor yield?

ACTING SPEAKER AUBRY: Mr. Burdick?

MR. BURDICK: (Inaudible)

ACTING SPEAKER AUBRY: Mr. Burdick yields.

MS. GIGLIO: Thank you, Mr. Burdick. So, after the Committee meeting, I did hand you a letter from the Farm Bureau of New York that expressed that they still have concerns, even though they applaud you for modifying the bill and to exclude commercial agriculture. But as my colleague stated before, does your bill or the statute define what commercial agriculture is?

MR. BURDICK: Well, thank you for the question. And it's interesting, because the first that I heard from the Farm Bureau on this was the Memo of Opposition. I certainly would have been happy to have the conversations with the Farm Bureau earlier and, in fact, I tried reaching them several months ago but, unfortunately, had not heard back. I'm sure that any kind of ambiguity

or any kind of concern could be handled through a chapter amendment.

MS. GIGLIO: That sounds great. Thank you, I appreciate that. And then my next question for you is do local governments have to notify the New York State DEC prior to adopting a local law to restrict pesticides in wetlands, or can they just adopt a local law?

MR. BURDICK: The enabling statute does not require notification to the DEC.

MS. GIGLIO: Okay. So who currently approves all pesticides in New York State, and how is that done?

MR. BURDICK: So, that's really not within the scope of this bill. As I mentioned before, pesticide is a defined term and the regulation, determination of the pesticide is done by the DEC.

MS. GIGLIO: Okay. Are you familiar with fish kills?

MR. BURDICK: Yes.

MS. GIGLIO: Okay. So we've had many of them on Long Island where the bluefish chase the bunker in and the water in shallow areas is starving of oxygen and, therefore, the bunker die and the bluefish die because there's no oxygen. So this pesticide restriction that local governments could apply, these local pesticides also deal with invasive species and other mosquitoes and things like that that are really nuisances in shallow areas, especially with the invasive species. So a municipality that has never had a fish kill with

200,000 fish washing up on the shores may not know that if they adopt this local law and that those pesticides couldn't be applied for the invasive species, that it could starve the water of oxygen and therefore create a potential fish kill. So my question to you is, the DEC regulates what pesticides could be used in the State, and they agree with the EPA, and are all of those pesticides that the DEC and the EPA approve highly regulated in the State of New York?

MR. BURDICK: I'm sorry, what's the question?

MS. GIGLIO: Is -- can anybody just go out and put a pesticide on a wetland or in a -- on a farm, or anywhere, without it being regulated by the New York State DEC who confers with the EPA? Can anybody just apply pesticides in a wetland without that pesticide being regulated by the New York State DEC?

MR. BURDICK: There definitely is regulation on part of the DEC in terms of licensing, applicators to do it, and in order to ensure that the license -- the licensee, in fact, is applying it properly and only is applying approved pesticides, if that's your question.

MS. GIGLIO: Yes, it is. And does -- is it a requirement that a locality have a scientific research done, or take that into consideration when banning pesticides in wetlands?

MR. BURDICK: No.

MS. GIGLIO: It's not. Okay. So it's strictly up to the municipality, which could just not be paying attention to what actually benefits the environment as a whole where these pesticides are strictly enforced.

Thank you for your answers to my questions.

MR. BURDICK: You're very welcome.

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

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

MS. GIGLIO: So agriculture, I'm surrounded by agriculture on Long Island. We have the Sound, we have the Bay. We have farmers that pay a lot of money for these pesticides, and they can only use them when they ask the DEC, *Hey, can you come take a look at this so I can use this pesticide because I'm having this problem*, and then the DEC gives them a permit to actually apply the pesticide.

So for the towns to be able to say, you know, *We don't care about how much money the State has spent with the Department of Environmental Conservation, how much -- how many hours they've spent, you know, going back and forth with the Environmental Protection Agency, the Federal agency that oversees pesticide use, you know, that we don't care*. And, you know what? Local governments can just adopt a law restricting a pesticide that has been evaluated and over-evaluated by scientists and experts in the industry. And where I believe in local control and I believe the importance of it, unless you have the staffing that the State has to regulate and permit these pesticides to make sure that they are safe and, you know, it's -- in one of these (inaudible) it's that the pesticide does -- does not pose a reasonable certainty of harm. And these are all questions that our great New York State DEC agencies look at in

evaluating public health.

And so for those reasons I will be voting in the negative, but I look forward to working with my colleague with a chapter amendment to better describe what commercial agriculture is, and then also to have some sort of relationship between the local government that would adopt this and the DEC to make sure that they are not disrupting an ecosystem.

Thank you, Mr. Speaker.

ACTING SPEAKER AUBRY: Thank you.

Mr. Manktelow.

MR. MANKTELOW: Thank you -- thank you, Mr. Speaker. Would the sponsor yield?

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

MR. BURDICK: Of course, thank you.

ACTING SPEAKER AUBRY: Mr. Burdick yields.

MR. MANKTELOW: Thank you, Mr. Burdick. Can you give me a definition of what public water would be?

MR. BURDICK: I'm sorry, a definition of?

MR. MANKTELOW: Of what public water would be in this bill?

MR. BURDICK: Well, in -- in the bill it identifies the -- those waterways that would be covered by this, and I can read that to you again, and that is the provisions of this section shall apply only to those wetlands which are hydrologically connected to any

reservoir, reservoir skim, Class A waterway, or other source of public water supply.

MR. MANKTELOW: So -- so I guess my question is, what is the other source of public water supply?

MR. BURDICK: I'm sorry?

MR. MANKTELOW: What is the other source of public water supply?

MR. BURDICK: What is the source?

MR. MANKTELOW: Yeah. You said or another source of public water supply. What -- what would that be?

MR. BURDICK: There could be multiple sources, it could be groundwater, it could be a stream or a river that is flowing into a reservoir. There could be multiple sources.

MR. MANKTELOW: Okay. Would that also be considered water that would go into a well in a -- in a home property?

MR. BURDICK: That would not be a public water supply.

MR. MANKTELOW: So drinking water out of a well is not considered public water, then?

MR. BURDICK: Drinking out of a well is -- unless it's a well that's serving, say, a whole condominium association in which -- and, by the way, public water supply is defined by the Department of Health.

MR. MANKTELOW: Okay.

MR. BURDICK: Because it's regulated by the

Department of Health, which goes back to the questions of standards that the DOH applies to water quality.

MR. MANKTELOW: And you had said earlier in the debate that you had reached out to the Farm Bureau. Who did you reach out to?

MR. BURDICK: You know, I -- I don't have that in front of me, but I believe it was their Legislative Director.

MR. MANKTELOW: And you did that via phone call, via e-mail?

MR. BURDICK: By a phone call.

MR. MANKTELOW: By phone call?

MR. BURDICK: Yes, sir.

MR. MANKTELOW: And what did they tell you?

MR. BURDICK: I didn't hear back.

MR. MANKTELOW: I'm sorry?

MR. BURDICK: I did not hear back, I did not get a return phone call.

MR. MANKTELOW: So you called the Farm Bureau and you had no one talk back to you about it?

MR. BURDICK: I left a message and did not hear back.

MR. MANKTELOW: And you said several times, how many times did you do that?

MR. BURDICK: No, I think I said that I called earlier, a few months ago.

MR. MANKTELOW: Yeah, I think you said you've reached out several times to them and no one had gotten back to you. We could check -- we could -- well, that doesn't matter. So I just want to know, because I find it hard being a farmer, being a Farm Bureau member, why they would not reach out to you or get back to you, especially with a bill like this?

MR. BURDICK: I -- I agree with you. It bewilders me, too.

MR. MANKTELOW: Okay. So another question, back -- my -- my partner behind me had talked about commercial ag. Can you tell me again what you consider commercial ag?

MR. BURDICK: I would look, actually, as a point of reference, to what the Ags and Market Law provides for that.

MR. MANKTELOW: So -- so this bill -- this wording in your bill, you really don't know what it means, then?

MR. BURDICK: I just gave you a reply as to what I would look to and what I think DEC or others reasonably would look to.

MR. MANKTELOW: Well, as a farmer and knowing many farmers, commercial farmers, farmers that just grow for themselves, which is really considered a noncommercial farmer, a commercial farmer is someone who grows produce, grows some kind of crop not for their own selves but for someone else or for sale or for a canning company. That's what a commercial farmer is. So hopefully that will clarify that a little bit for you.

Pesticides. I have a commercial pesticides license, I have an agricultural pesticide license. Do you know what a pesticide label looks like on a pesticide container?

MR. BURDICK: I've seen them, yes.

MR. MANKTELOW: And what do they say?

MR. BURDICK: Well, it'll give the chemical composition of the pesticide, it'll have certain warnings on them, I think have certain descriptions as to how they may be applied and how they can't be applied.

MR. MANKTELOW: So what -- what's the number one warning on a pesticide label?

MR. BURDICK: I'm sorry?

MR. MANKTELOW: Do you know what the number one warning is on a pesticide label?

MR. BURDICK: No.

MR. MANKTELOW: Okay. It's about harm to an individual, to the applicator, just to let you know. And in that whole label, Mr. Burdick, it tells you where you can spray, around what water sources, and the definition of the chemical that you're using, whether it will harm water fowl, whether it will harm fish. So right there alone really, really puts a -- a damper -- or it gives us a direct definition of where we can spray and where we cannot spray. And this is done primarily from the EPA to start with and then DEC following up. As a farmer, I know and I trust that the EPA from the Federal side, our DEC offices -- I'll wait 'til you're done talking. I -- I

don't want you to miss anything. And I know that working with our DEC agents and the people that we work with, they know exactly what these chemicals are going to do or not do. And we have some really, really defined definitions of what we can spray and how we can spray. My concern as a former town supervisor, as a former town board member, as a former county legislator is we all come and go just like in this -- in this House. We -- you and I are gonna come and go whether we like it or not. And if we're gonna give this much power to a local town board, who's gonna set those guidelines and who's gonna keep those guidelines in place for the next town board? How does that work?

MR. BURDICK: Well, you know, I -- I do have, as I stated earlier, a pretty high regard for the competency of local government and, you know, I certainly hope that you're not casting aspersions on them because I think that they can handle these things pretty well. There's some pretty complex matters that wetlands laws deal with for over 60 years, and so I -- I do think that they'll have the wherewithal to figure this one out.

MR. MANKTELOW: And if they do not have the wherewithal, where would they reach out to?

MR. BURDICK: Well, I -- I don't know what you -- you said you were a town supervisor yourself as well?

MR. MANKTELOW: For nine years, yes, sir.

MR. BURDICK: Well, I -- you know, I looked to, as I mentioned before, if there's a matter that I'm not completely

conversant with, then I'm gonna look to my counsel, I'm gonna look to competent consultants who can help us through it. And I'm sure you did the same sort of thing in -- in -- you know, during your tenure as supervisor. And I have every confidence that localities would do likewise. And I -- I would also add that in the decades that the wetlands laws have been in place, there are very, very few instances in which there's some kind of outcry as to them being fairly applied and, in fact, not doing a good job in protecting public health and the welfare of the community in general.

MR. MANKTELOW: Yeah, I agree. Seeing you -- this is the bill that's been brought up again, we talked about commercial ag earlier. How many farmers have you talked to about this bill?

MR. BURDICK: I have not.

MR. MANKTELOW: How many town boards have you talked to about this bill?

MR. BURDICK: Several in my -- in my municipal -- I mean, in my Assembly District.

MR. MANKTELOW: And where is your Assembly District?

MR. BURDICK: It's in Westchester County, northern Westchester, which has some semi-rural areas.

MR. MANKTELOW: Semi-rural. So what percentage of the semi-rural areas are -- are actually farming communities, is it 5 percent, 10 percent?

MR. BURDICK: You know, I don't know the percentage, but we do have farms in the 93rd Assembly District in North Salem and Lewisborough and Pound Ridge, in -- in Bedford.

MR. MANKTELOW: Awesome.

MR. BURDICK: I think also in Newcastle.

MR. MANKTELOW: So as you go further West, especially up in the Syracuse, Rochester, Buffalo area, much more predominantly ag whether it's fruit, whether it's dairy, whether it's potatoes, onions, field crops. Did you talk to any one of those farms or communities about this?

MR. BURDICK: Western New York? No, I have not.

MR. MANKTELOW: So it's basically just around your area?

MR. BURDICK: That's correct.

MR. MANKTELOW: All right. I appreciate you answering the questions, Mr. Burdick. I do think that there's far more questions that should be investigated or talked about prior to bringing this to a -- to a law, but I do thank you for answering the questions.

MR. BURDICK: You are very welcome, sir.

MR. MANKTELOW: Thank you.

Mr. Speaker, on the bill.

ACTING SPEAKER AUBRY: On the bill, sir.

MR. MANKTELOW: Again, as we get towards the end of Session, sir, we bring many, many bills forward. And much

like big government, we think we can put things out there that will help everyone across an area. And I have no problem with the sponsor promoting this in his district, maybe in his small community where he lives. But when we start promoting this Statewide, again, without bringing those players to the table, without bringing DEC -- and I will -- I will do a favor for the sponsor, I will follow up with the Farm Bureau to find out why they did not get back to him because as a Farm Bureau member, that bothers me, sir. As a farmer, that bothers me. We pay dues, we expect them to advocate for us, and I believe they would, so I'll find that answer.

But again, we're putting things in place that a lot of people don't have any idea what really goes on in life. Nobody really knows what happens when you apply a pesticide. I'm very fortunate to have the opportunity to do it for 30-plus years. I know the ins and outs. Am I perfect? Absolutely not. Have I ever made a mistake? Absolutely. But we know where the guidelines are, we know where to talk, where to get the information from, and now we're gonna throw town board members, village trustees, countywide, when we already have the experts in place, telling us as ag producers what we can, where we can and how we can spray our materials. And I can tell the sponsor and I can tell all of you here that there's no greater advocate for the public safety of our water than farmers or ag producers -- excuse me, ag producers, in New York State. We love what we have, we love where we are, and we're going to protect the environment. That is the number one priority for all of us.

So again, as a few of my other colleagues have stated, I understand the process of the bill, I understand where the -- where the sponsor wants to go with this. I don't agree without some kind of training plan, without a succession plan when town boards roll over and move out and someone else moves in. How are we going to make sure those issues stay in the forefront and also stay in place? As a farmer, we need that consistency. So we know five years, ten years, 15 years, 20 years down the road, all of a sudden we're not going to change, or if a town board changes, three people on the board, *Oh, by the way, we're gonna change this.* Because we're gonna put our farmers out of business. And again, we're gonna do a disrespect to our farmers, to our ag community, and I -- I just think without having them -- without having those things in place, we really need to do that first, again, putting the cart before the horse, but more so, not talking to the horse before the cart was put on.

So again, I will be voting in the negative. I commend the sponsor for what he's trying to do here, but there are some questions. So thank you, Mr. Speaker, for allowing me to speak. Thank you, Mr. Burdick, for taking the time to answer my questions, much appreciated.

ACTING SPEAKER AUBRY: Mr. Goodell.

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

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

MR. BURDICK: Certainly will.

ACTING SPEAKER AUBRY: Mr. Burdick yields, sir.

MR. GOODELL: Thank you, Mr. Burdick, and thank you for answering all these questions. I also appreciate your efforts to narrow the scope of this bill in the past and thank you on both counts. I see that this bill applies to local governments. Does local government include the City of New York?

MR. BURDICK: It would apply, but I'm not sure that any of the boroughs -- well, maybe Staten Island, but I don't know whether there exists any local freshwater wetlands laws within the City of New York.

MR. GOODELL: And I see that it -- it applies specifically -- and you pointed out it was specifically about reservoirs, reservoir stem, Class A waterways, correct?

MR. BURDICK: That's correct.

MR. GOODELL: So am I correct, then, that it would apply to the New York City watershed that feeds all of their 19 reservoirs?

MR. BURDICK: It certainly would, yeah. I mean -- and, in fact, in my neck of the woods we have New York City water reservoirs that could well be affected and protected by this.

MR. GOODELL: And so in other words, this statutory provision would allow the City of New York to regulate pesticide applications in wetlands extending up 125,000 -- 125 miles

and over 2,000 square miles of land; is that correct?

MR. BURDICK: It really does depend upon whether or not there's a hydrological connection.

MR. GOODELL: Right, but I'm talking about the size of their water supply covers 2,000 square miles and goes 125 miles up to the West and North of New York City, and from what you told me, New York City by local law could then regulate all that land as it relates to pesticide applications, correct?

MR. BURDICK: You have to start -- what this bill provides is for those municipalities that have a freshwater wetlands law, then it would give them the authority to adopt a further local law, augmenting it based on the statutory authority that this bill would confer. And so I do think that what you're describing is well beyond the scope of what this would provide.

MR. GOODELL: I would hope so, and perhaps if we get a chance to clarify that in the future we can do so. Thank you, Mr. Burdick.

Sir, on the bill.

ACTING SPEAKER JONES: On the bill.

MR. GOODELL: The concern that I have is that when you first read this, it says a local government that's implemented a freshwater wetlands protection law in accordance with a local law can regulate all the watershed within the area of its reservoir. And as my colleague pointed out, this provision would include the City of New York. The City of New York has the largest system of watershed

collection in the world that extends for 125 miles outside of New York City, it crosses several counties and it encompasses over 2,000 square miles. So while on the face this looks like it's pretty narrowly crafted, when you realize it applies to allowing the City of New York to govern wetland pesticide -- or pesticide use anywhere in 2,000 square miles outside of the City of New York, it's really quite an expansive law. And for those reasons and the reasons mentioned by my colleague, I will not be supporting it. I would, however, commend the sponsor who is working on narrowing this bill to address his specific concerns. I appreciate his willingness to do that and I hope he continues that process as we move forward.

Thank you, Mr. Speaker.

ACTING SPEAKER JONES: Mr. Tague.

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

MR. BURDICK: I certainly will, thank you.

MR. TAGUE: Thank you, Mr. Burdick, appreciate it. Just a couple of quick questions. It says -- the bill's title, "certain local freshwater wetlands." Can you lay out what exactly that definition is?

MR. BURDICK: It's actually set out in the Environmental Conservation Law. This is not creating a new definition of freshwater wetlands, it's already within the Environmental Conservation Law. It's actually a pretty long section, but it's already defined.

MR. TAGUE: Now, does this only attest to property that is owned by a locality, or is this also considered with private property as well?

MR. BURDICK: It would include private property.

MR. TAGUE: So this means that a golf course may be affected by this law?

MR. BURDICK: That's correct.

MR. TAGUE: A municipal park may be affected by this law?

MR. BURDICK: It -- it may be. A lot of municipalities in adopting a local law will exempt their own property. In the Town of Bedford when I was supervisor, we did not do that, but it could.

MR. TAGUE: Well, my -- our colleague, Mr. Goodell, brought up a very good point, and I have a lot of reservoirs in my district and right even in home county which provides water to the New York City -- to New York City through the New York City watershed. So am I correct to understand that the local government where these reservoirs are would now have control over pesticides that are used near those reservoirs, or does the New York City Council, or New York City watershed have the authority?

MR. BURDICK: So, let's go back to the fundamentals on this. We're talking about what a locality is permitted to regulate. What they're permitted to regulate are not the reservoirs themselves, but freshwater wetlands. And what this bill is doing is it's

narrowing it further to state that it only applies to those with a hydrological connection to a public water supply.

MR. TAGUE: But you and I both know that you could make a connection from just about any wetland to some -- some sort of waterway, especially if you live in rural Upstate New York where I'm from. See, this again, to me, sir, is where we make legislation site-specific to a certain area and we forget that there are 18 other million people that live in the State in different regions that are -- that are unique. And when we put these laws together, sometimes we don't think of how it's gonna affect other areas within the State of New York. My understanding is that's why we have an EPA, that's why we have a DEC, that's why we have a New York watershed, is for these folks to monitor and make sure that different communities, different areas, businesses are in compliance with Federal and State law. I don't really feel that it's the job of town government to make those types of laws and to make sure that people are in compliance with those laws. That's why we have experts at DEC, that's why we have experts at DEP, that's why we have experts at the EPA. And I think that it's best left in their hands to make those decisions, not town government.

Again, as I just said, town government across the State of New York is very unique. You probably have more people where you served as town supervisor in your town than I have in my entire home county. Your -- the people that sit on that board in your town and the town supervisor is probably a full-time job. Not in my

town, it's a part-time job. They get \$2,000 a year to do the job. The only full-time employees we have is the town clerk -- a town clerk and a highway superintendent. So I just -- it burns me. And, again, as -- as Mr. Goodell said, I -- I appreciate what you're trying do here and I -- and I get it. But when we make these laws that cover the whole State of New York, sometimes we just plain don't think of how other folks live or what the priorities are in those communities. This is also a big hit to agriculture, okay, as my friend that sits before me here had spoke about.

So I guess that's kind of where I'm at with this.

MR. BURDICK: Thank you.

MR. TAGUE: You're welcome. I'm good; if you're good, I'm good. I'm voting no, Mr. Speaker.

(Laughter)

MR. BURDICK: I didn't know whether there would be a question there.

MR. TAGUE: Just so you know, I will be voting no --

(Laughter)

-- thank you.

ACTING SPEAKER JONES: I think everyone's good.

(Laughter)

Read the last section.

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

day.

ACTING SPEAKER JONES: A party vote has been requested.

Mr. Goodell.

MR. GOODELL: Thank you, sir. The Republican Conference will be generally opposing this legislation for the reasons that have been stated. Those who wish to support it should certainly vote yes on the floor. Thank you, Mr. Speaker.

ACTING SPEAKER JONES: Ms. Solages.

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

ACTING SPEAKER JONES: The Clerk will record the vote.

(The Clerk recorded the vote.)

Mr. Burdick to explain his vote.

MR. BURDICK: Thank you, Mr. Speaker. I wish to thank the Speaker for allowing this bill to come to the floor, and I wish to thank Program and Counsel, particularly Michelle Milot, her -- her significant work in helping us -- in putting this new bill together.

You know, I start from the standpoint of having come out of local government, that local governments are uniquely situated to deal with local problems. And I feel that they can handle complex matters, I have a high regard for local government. And I also

recognize that the DEC, while doing a very good job to the extent they can, are highly limited in their resources. And that, I think, is one of the reasons why there has been for decades now, the regulatory framework which did delegate to localities the opportunity to be able to regulate local wetlands in order to provide for public health, and for other benefits which wetlands provide.

And so this simply is to provide and to have respect for Home Rule, which is a very strong tradition rooted in this State. And I believe that this could provide a great benefit to the preservation of our wetlands and to ensuring that future generations -- in fact, earlier than that, I would assume -- are not beset with the problem of having to take out harmful chemicals that find their way into our drinking water.

So I vote in the affirmative and urge my colleagues to do likewise. Thank you, Mr. Speaker.

ACTING SPEAKER JONES: Mr. Burdick in the affirmative.

Ms. Walsh to explain her vote.

MS. WALSH: Thank you, Mr. Speaker. So I, too, came up through local government, and I would say that in the town that I sat on that town board had -- I think we had in our town about, I don't know, 9,000 residents or something like that. So consider the fact that town to town throughout our State, there's a great, great variety. There's a variety in terms of, you know, experience and knowledge and hours to go to the job. So I -- I don't cast any

aspersions at town board members, I was one, and we all certainly do our best, but -- but there's a real variety.

I just wanted to speak very briefly about Article 33. Article 24 of the State -- of the Environmental Conservation Law provides for a delegatory scheme to allow local governments to enact local freshwater reg -- wetlands regulations and seek delegation of permitting authority from the Department of Environmental Conservation. This scheme is for the regulation of fresh -- freshwater wetlands and not for the regulation of pesticides. Article 33 is preemptive of delegation and does not contemplate local regulation. I think that rather than this bill, I would prefer to provide better resources to DEC because I think that that will allow for more consistent results as we move across the State, town to town, county to county, rather than having it done piecemeal.

So for that -- for those reasons I will be voting in the negative. Thank you, Mr. Speaker.

ACTING SPEAKER JONES: Ms. Walsh in the negative.

Are there any other votes? Announce the results.

(The Clerk announced the results.)

The bill is passed.

Page 12, Rules Report No. 222, on a motion -- the Clerk will read.

THE CLERK: Assembly No. A10350, Rules Report No. 222, Committee on Rules (Shimsky). An act to amend the

Judiciary Law, the Civil Practice Law and Rules, the Court of Claims Act, the New York City Criminal Court Act, the Uniform District Court Act, the Uniform City Court Act, the Uniform Justice Court Act, the Criminal Procedure Law and the Family Court Act, in relation to filing by electronic means; to amend Chapter 237 of the Laws of 215 amending the Judiciary Law, the Civil Practice Law and Rules and other laws relating to the use of electronic means for the commencement and filing of papers in certain actions and proceedings, in relation to the effectiveness thereof; and to repeal certain provisions of the Civil Practice Law and Rules, the Criminal Procedure Law and the Family Court Act, relating to court filings.

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

An explanation has been requested.

MS. SHIMSKY: Thank you, Mr. Speaker. This bill helps move forward incrementally the 25-year effort on the part of OCA to move the practice of e-filing through our court system.

ACTING SPEAKER JONES: Mr. Goodell.

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

ACTING SPEAKER JONES: Will the sponsor yield?

MS. SHIMSKY: Absolutely.

ACTING SPEAKER JONES: The sponsor yields.

MR. GOODELL: Thank you, Ms. Shimsky. I think you mentioned in your opening comments that this is an OCA bill, Office of Court Administration, right?

MS. SHIMSKY: The Chief Administrative Judge would be the one who would -- who is the top of the pyramid at administering.

MR. GOODELL: And you've been asked to sponsor and, in a sense, defend this bill at the request of OCA?

MS. SHIMSKY: I sought the bill out. From what I understand, there's been a lot discussion over the years about this, and we got it to a place where everyone, including OCA, members of this Body, felt comfortable with it.

MR. GOODELL: So just so we all understand my personal prejudice, I should tell you that I routinely refer to OCA as "Out of Control Court Administrators, "Obnoxious Court Administrators", "Odious -- you get the general sense.

MS. SHIMSKY: I'm sorry to hear that.

MR. GOODELL: Yeah, I'm not a fan. In fact, I -- in my experience going back four years, some of the worst legislation I've ever seen that's burdened the State of New York judicial system has come from OCA. So with that prejudice in mind, please bear with me. I wanted to make sure that my prejudice wasn't in any way imputed to you.

MS. SHIMSKY: Or to the rest of the Body who is responsible and spending a lot time crafting a good, compromised

piece of legislation.

MR. GOODELL: Indeed. It -- thank you for making that clear.

So my first question now, this bill purports to give OCA the authority to mandate that every town, village and city court do electronic filing, correct?

MS. SHIMSKY: It gives the Chief Administrative Judge the authority to work together with the local governments, the local bars, to put together either optional or mandatory systems. Of course, there are exceptions for members of the bar who are not capable of using the electronic systems, as well as for pro se litigants.

MR. GOODELL: But the decision is made by OCA, right? It says -- I'm looking on page 4, line 37, participation in this program may be required or may be voluntary, as provided by the Chief Administrator of OCA, correct?

MS. SHIMSKY: After the Chief Administrative Judge consults with the localities, the level of courts and the bars that are relevant.

MR. GOODELL: But at the end of the day, it's OCA that can mandate it, correct?

MS. SHIMSKY: Ultimately, somebody has to make the decision and it's the Chief Administrative Judge.

MR. GOODELL: Thank you. Now, this is the same Chief Administrator that shut down all the court systems and wouldn't allow any eviction actions unless they were being contested, the same

OCA Administrator that the kept court system open for months and months and months after the rest of the economy opened, even though judges sit behind huge benches with guards to keep people at least ten or 20 feet away? That's the same Court Administrator, right?

MS. SHIMSKY: Well --

MR. GOODELL: Oh, wait. I -- I apologize, Ms. Shimsky. Did my prejudice come through again?

MS. SHIMSKY: I -- I think we've got to go issue by issue here, Mr. Goodell.

MR. GOODELL: My apologies.

So you said that the OCA Administrator would make this ultimate decision after consulting various people, and it's a list.

MS. SHIMSKY: And -- and actually to that point, Mr. Goodell, for the county courts, the county clerk must sign off.

MR. GOODELL: Okay. And -- but there's a list, that's on page 5.

MS. SHIMSKY: Yes.

MR. GOODELL: And it says for participation in this program is to be required, OCA has to consult with the organized bar -- and we're talking about lawyers, not alcoholic beverage, right? The organized bar.

MS. SHIMSKY: Right, right.

MR. GOODELL: And then not-for-profit legal service providers, assigned lawyers, unaffiliated attorneys -- I'm not quite sure what they are.

MS. SHIMSKY: I believe those are attorneys who are in solo practice.

MR. GOODELL: Okay. And any other persons as deemed appropriate, correct?

MS. SHIMSKY: Mm-hmm. Yeah, a full -- a full range of stakeholders.

MR. GOODELL: But not listed by statute anyway, certainly within the discretion would be any of the village clerks or the town judges, or the village judges; is that correct? They're not listed.

MS. SHIMSKY: They -- they are not specifically mentioned in that subsection but, obviously, if members of all of the relevant parts of the bar in a local area are part of the conversation, they'll end up being part of that conversation as well.

MR. GOODELL: Thank you. Now, this is very clear that if you don't have a lawyer, no matter what OCA mandates for lawyers, you can appear without complying with these electronic filing requirements, correct?

MS. SHIMSKY: That is correct, it's completely optional for pro se litigants.

MR. GOODELL: So as long as your client appears first without you, then you're excluded from the e-filing? Or do you have to then subsequently re-file?

MS. SHIMSKY: Well, I should think that if you are appearing pro se, the -- the rules are optional for you, but when you engage an attorney, the rules would apply to that attorney to the extent

that the attorney is covered by those rules.

MR. GOODELL: And so we then expect a dual system, one for people who are represented by attorneys and everybody else, correct?

MS. SHIMSKY: Well, it's still the same court system and everything, but there are people who do not have -- who would not have to e-file, that is true, and that is the way many systems throughout the country operate now.

MR. GOODELL: I see.

MS. SHIMSKY: That's pretty much the way everybody operates now because I think just about everyone has exceptions for pro se litigants.

MR. GOODELL: I have several towns that only have a couple thousand residents, they'd still have a separate justice court. I have villages that are less than 500 residents, some of which have a village court. Is there any exception for towns or villages that want to opt out because they don't have the electronic capability for electronic filing?

MS. SHIMSKY: There is no exception as such but, again, I am sure that the Chief Administrative Judge, after listening to the various stakeholders, will certainly take that into account.

MR. GOODELL: And this is the same Chief Administrative Judge that didn't -- never mind, I'm sorry. I keep going down that --

MS. SHIMSKY: Who kidnapped the Lindbergh baby

and all of that, I get it.

MR. GOODELL: Yeah. Is there any funding, grant money or otherwise, to enable all these towns and villages, particularly the smaller ones, to convert their systems over to electronic filing?

MS. SHIMSKY: Not at this point, but you should note that this is not -- there is not going to be a mandate in a particular location that's going to be taking place, say, on the 120th day. This simply creates a situation where the Chief Administrative Judge is authorized to begin these conversations and this process. So if funding is required, there will be definitely time down the road to have that conversation.

MR. GOODELL: Thank you very much, and thank you for your patience and your efforts to keep me on track.

MS. SHIMSKY: And thank you for -- for the years of fun, Mr. Goodell.

MR. GOODELL: Thank you.

On the bill.

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

MR. GOODELL: I'm mindful of my time, but I wasn't kidding when I said OCA comes out with the craziest bills and rules and requirements that you can imagine. And when I say that I refer to them as obnoxious court administrators, or out-of-control court administrators, it is a phrase that resonates throughout the State

of New York by every Bar Association, every licensed attorney, and virtually every judge. I mean, if you think that judges like OCA, think again. My terms are mild compared to theirs. I've had judges set up meetings with some representatives of OCA that were proposing some cockamamie idea, and the judges privately said to me, *You're meeting with the Chief Administrative Judge, so of course I'm not gonna con -- argue with them in front of you, but this is the stupidest proposal I've heard in my entire career.* It happens over and over. It's astounding.

And I'll just give a couple of simple examples. OCA came up with this bright idea that if you win a motion for summary judgment, which means that there are no issues of fact, based on the undisputed facts, you win. OCA came up with this requirement that if you didn't get a court order signed within 60 days, your motion for summary judgment is automatically dismissed. What's that mean? There's no disputed facts, the court has held there's no disputed facts, and now the court has to schedule a trial. What, we're gonna impanel a jury when no there's disputes of fact? That's the type of OCA rule we have to deal with.

Now, the good news about electronic filing is that it overcomes one of the other stupid OCA rules that we've been suffering for for about two decades, and that was the stupid OCA rule that said whenever you make a motion you have to attach to the motion all your prior papers. So we used to start out with a, you know, a two-page motion, maybe on a mortgage foreclosure, and then you had a counter motion. It had to include their first two pages, and

then in a subsequent motion, you had to include it all. And then maybe there's a deposition, you include that. And then you made a third motion and you include everything. By the time you were done, you were filing papers that were six inches thick on a two-page motion. That was an OCA rule. Why? Because apparently the judges were incapable or unable to keep a file, like everyone else in the world would do, and simply open the file. My God, our files were, like, two-feet thick. Thank you, OCA.

Now the good news. I told you I wanted to say some good news. The electronic filing eliminated the need to file everything every time you opened your -- your briefcase, because with electronic filing you can just go down the list and click them on your own. So thank God after 20 years of being brutalized by OCA, we've come up with a way around it.

Now, OCA wants to extend its tentacles of unreasonable control over our village and town courts and force them, without being required to even talk to them, to go with electronic filing. So what electronic filing are we talking about in village and town courts? Oh yeah, that's right, small claims actions. You now have to do electronic filing for small claims? For God's sakes, it's a one-page sheet. And we expect these village and town clerks that work for only a few dollars a week to now master this new program, put in the computer software, put in all the filing and data retrieval mechanisms, and our judges who are just above volunteer in these small village courts, to master a new system just because some

administrator in Albany who doesn't even know where the hell my county is can assert their unreasonable control.

Now, I wanted to make it clear at the beginning and as I will at the end, I am not directing any of my criticism toward the bill sponsor, who I think is a fine legislator. But in case you missed my talk, I hate OCA.

(Laughter)

Thank you.

(Applause/Laughter)

ACTING SPEAKER JONES: Read the last section.

THE CLERK: This act shall take effect immediately.

ACTING SPEAKER JONES: A party vote has been requested.

Mr. Goodell.

MR. GOODELL: Well, I feel so much better getting that off my chest.

(Laughter)

Although I should have been much more discreet since I'm going back into private practice.

(Laughter)

But -- but getting back on the subject, the Republican Conference, I hope, is generally opposed to this, but those who want to support it are certainly able to vote for it on the floor. Thank you, sir.

ACTING SPEAKER JONES: Mrs. Peoples-Stokes.

MRS. PEOPLES-STOKES: Thank you, Mr. Speaker. Now that we know how Mr. Goodell feels about OCA --

(Laughter)

-- in his last week with us here, it's -- it's been a great ride, though, Mr. Goodell. It's been a great ride. I'm going to come back next year and I'm gonna be sorry that you're not here, but... I hope that when you get back to OCA they're going to remind you that you said -- that you said on the floor today they were stupid, a couple times --

(Laughter)

-- and used the word "hell" a couple times, too. But, you know, you're a very good attorney, you'll get past -- I'm sure you'll get past all their rules and regulations.

So Mr. Speaker, the Democratic Conference is gonna be in favor of this piece of legislation, even though some of us don't like OCA either.

(Laughter)

But however, there may be a few that would like to be an exception, they should feel free to use -- just vote at their seats.

ACTING SPEAKER JONES: The Clerk will record the vote.

(The Clerk recorded the vote.)

Ms. Shimsky to explain her vote.

MS. SHIMSKY: Thank you very much, Mr. Speaker. Just about every court in the country has gone to e-filing

because it is cheaper for the litigants. It is more convenient, it saves a lot of time, and it's better for the environment. Even pro se litigants, especially those who have to drive 40 or 50 or more miles to the courthouse, often find e-filing a really good idea and end up using it for their cases as well. For 25 years, New York State has been moving in the direction of more e-filing. This bill is part of that motion, and considering how prevalent computers are in our society at this point, it's certainly time to take the next step and move it further. In terms of our local courts, as I said, there will be time to figure out how to help ease them along in the most cost-effective way possible. But we do have to ask ourselves, does it make sense to continue a futile attempt to wall off communities from the 21st Century, or do we recognize the need to move forward and then work with them, as this bill models, to -- to move into a direction that is better for all litigants, attorneys and the judicial system.

And to Mr. Goodell, good luck in your continued legal practice.

ACTING SPEAKER JONES: Ms. Shimsky in the affirmative, I assume?

MS. SHIMSKY: Oh, that's correct.

ACTING SPEAKER JONES: Okay.

Mr. Flood.

MR. FLOOD: Thank you, Speaker. And so as I do want to laud the sponsor of this bill as, you know, we are in a system where we use technology at all, but as a practicing attorney and

someone who was just filing an order to show cause last week, this -- nothing about this e-filing system is easy. It was much easier to simply walk into a clerk's office to have them take a look at the papers. If there was something slightly wrong, you could walk over, make a quick change. It's not that way anymore. It's not simple, it's not easy on paralegals who have been working there for 40 years, it's not easy on attorneys. So -- let alone it's not gonna be easy on the general public.

I will echo some of my colleague's comments about OCA not being the most friendly organization to attorneys and judges. I -- I still have a lot more -- a longer practice to go, so I'm not gonna say anything too much. But maybe OCA needs to go and make some more steps to make this a more user-friendly process before mandating that the entire State go to this because unfortunately, it's not a very easy process. You think it's simple by just simply going online and clicking a few buttons and getting it submitted, it's not that way. It's quite complex and it's not easy for the average attorney, let alone -- let alone a pro se litigant.

So I vote in the negative, I encourage my colleagues to do the same. Thank you.

ACTING SPEAKER AUBRY: Mr. Flood in the negative.

Are there any other votes? Announce the results.

(The Clerk announced the results.)

The bill is passed.

Page 12, Rules Report No. 226, the Clerk will read.

THE CLERK: Assembly No. A00373-B, Rules Report No. 226, Bronson, Taylor, Darling, Rozic, Cruz, Glick, L. Rosenthal, Simone, Lavine, Bores, González-Rojas, Seawright, Benedetto, Reyes, Weprin, Brabenec, Sillitti, Raga, Slater, Braunstein, Dinowitz, Durso, Zebrowski, Ardila, Steck, Ra, Burgos, Epstein, Rajkumar, Gibbs, Tapia, Hyndman, Berger, Lee, Burdick, Jacobson, K. Brown, Bendett, Reilly, McDonough, Pheffer Amato, Mikulin, Walsh, Santabarbara, Stern. An act to amend the Labor Law, in relation to inclusion of certain off-site custom fabrication as public work for the purposes of payment of prevailing wage; and providing for the repeal of certain provisions upon expiration thereof.

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

MR. BRONSON: Yes, Mr. Speaker. This bill would close a loophole and would require, consistent with the New York State Constitution, the payment of prevailing wage for certain off-site custom fabrication performed specifically for the public works project.

ACTING SPEAKER AUBRY: Mr. Tague.

MR. TAGUE: Thank you, Mr. Speaker. Through you, will the sponsor yield for some questions?

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

MR. BRONSON: Yes, I will, Mr. Speaker.

ACTING SPEAKER AUBRY: The sponsor yields, sir.

MR. TAGUE: Thank you. My first question is, I have some questions myself of -- as whether this legislation as written violates Federal law and, more specifically, would be the Taft-Hartley Act. Would you like to respond to that?

MR. BRONSON: Yes. We do not believe that this would violate the Taft-Hartley Act. Indeed, the legislation specifically excludes projects that are funded through Federal dollars.

MR. TAGUE: Okay. Now the other question that I have, is the prevailing wage rate being paid for the location that the fabrication is taking place, or is the prevailing wage rate for the -- being paid for the job location?

MR. BRONSON: It would be based on the location of the public works project.

MR. TAGUE: Okay. So this is one of the first problems that I have: If you're doing a job in East Seneca, okay, but your shop is in, let's say, Buffalo, and let's say that the prevailing wait rage [sic] classification for a fabricator is different. So that person is getting paid for the West Seneca classification prevailing rate, correct?

MR. BRONSON: So, this -- what this -- this bill is not gonna change the way classifications are determined currently. It will continue to follow Labor Law 220 which requires the jurisdiction to report to the Department of Labor. The Commissioner would in turn set the classifications and set the prevailing rate. So it -- we're

not changing that in any way and, you know, that has worked well under Labor Law 220, and certainly we believe it will continue to work under 220 (inaudible).

MR. TAGUE: Is there a -- is there a fab -- is there a rate now for a fabricator, and is that the classification of the job?

MR. BRONSON: There are rates for people who are engaged in, you know, brick and mason work, for electricians, for laborers, and if those folks are involved in fabrication, then whatever that trade is would be the prevailing rate that would be for that classification.

MR. TAGUE: Okay. I appreciate that, as always, Harry.

What happens if the fabrication is taking place out-of-State or even out of the country?

MR. BRONSON: So, we -- this would anticipate that the prevailing rate would apply to that work nonetheless, even though it's in a different state. And we believe that we have authority to do that as a -- as a market participant in -- in E-commerce.

MR. TAGUE: So in other words, if you -- if -- if a contractor were to contract with somebody from Canada, you feel that -- because this -- this is starting to get into where I think that this isn't completely legal, and I think that this is gonna -- there's gonna be a big legal challenge to this legislation if the Governor passes it. But are you telling me that the New York State Department of Labor can file suit against a Canadian company for not following the prevailing

wage rate law?

MR. BRONSON: There is existing case law that shows that a state which has an interest in the way their taxpayers dollars are spent or otherwise that they, indeed, can require work that's performed in the different state with the fabricated product coming to New York State that we can have -- we can have -- require our -- constitutionally required in Labor Law 220, require prevailing rate to apply.

MR. TAGUE: Is there a mechanism in place or in this legislation that provides curriculum or education to teach contractors how they can be in compliance with these mandates and understand the difference? Because -- and I'll just put this out there, Harry. As you know, I worked in this industry --

MR. BRONSON: Mm-hmm.

MR. TAGUE: -- for almost 30 years. And when you're doing prevailing wage rate with different classifications of job, usually those that work on road construction crews or HVCC [sic], they're used to doing this every day, ten hours a day, 12 hours a day. But when you get into doing prefabrication and work like this back at the shop, they may be working on your project -- project for 45 minutes, another project for an hour that may not be a prevailing rate wage job. This is, to me, this is a bookkeeper's nightmare, a bookkeeper's nightmare.

MR. BRONSON: So, I -- I appreciate that, and certainly, I -- I believe that the Department of Labor would be willing

to assist contractors in understanding this in a better way. The bill itself doesn't specifically require any type of education in that regard. But we would want contractors to get this right and, you know, again, I -- I want to reiterate, though, the language of the proposed legislation specifically says that this will only apply to fabrication that is solely and specifically designed and engineered for installation in the public works project.

MR. TAGUE: Well, that, again -- and that's another question that I have here, and you may or may not be able to answer it. However, if you have equipment on a job and you have to make a piece for that piece of equipment to be able to do a certain task on the job, and I guess whether you bring it back to the shop to do it or you do it out on the job, is that -- is that going to include this law? The people doing that work, are they now gonna have to get paid under that classification as a fabricator or whatever we're gonna name it?

MR. BRONSON: So this only relates to the custom fabrication as it relates to the construction and renovation and the rest of the words that are under existing 220 that deems it to be construction work.

MR. TAGUE: Okay. Well, I appreciate it, as always. I appreciate our conversations with regards to these construction issues and thank you for your hard work, Harry.

On the bill, Mr. Speaker.

MR. BRONSON: Thank you.

ACTING SPEAKER AUBRY: On the bill, sir.

MR. TAGUE: As I had mentioned earlier with the back-and-forth questions with the -- with the Chairman, this bill as newly drafted, I believe and I think many others believe, likely violates the Taft-Hartley rules by forcing a contractor to pay wages. As union contractors operating under negotiated collective bargaining agreements, which we all call -- also call CBA, the objection is not to apply prevailing wage rates for this work. Objections can be broken into three categories: Legal limitations due to Federal law; the impossibility of correctly administrating such law; and keeping New York with other -- keeping New York competitive with other jurisdictions. Worker safety and efficiency and the vagueness of the legislation are my biggest reasons for being opposed.

The Labor Management Relations Act of 1947, most commonly known as the Taft-Hartley Act, restricts payments to workers unless such payments are specified in a written agreement with the employer. Currently, electrical contractors negotiate with representative unions on a regional basis to set wage and benefit standards for their geographic area. Under this bill, an electrician working under a negotiated CBA in one region would be required to be paid the prevailing rate of a region to which the component is sent. For example, in the case that a fabrication shop in Syracuse is building components for a housing project in New York City, the electrician in Syracuse would be paid the prevailing rate for New York City. However, this is not compliant with Federal law because the electrician in Syracuse is working under a negotiated CBA in the

Syracuse region and is not bound by New York City. The proposed legislation can -- can face significant legal challenges of the Taft-Hartley Act. Explicitly, it prohibits unions from forcing employers to assign work to employees in a different bargaining unit or location that initially agreed upon. This creates a legal conflict when requiring a fabricator in one region to be paid the prevailing wage of another region, as proposed in this piece of legislation.

Additionally the tart -- the Taft-Hartley Act outlines various unfair labor practices and the jurisdiction of the National Labor Relations Board to enforce these provisions. Section 10-a grants the NLRB the authority to prevent any person from engaging in unfair labor practices. This includes jurisdiction over disputes arising from the imposition of differing regional wage rates, potentially making parts of the proposed legislation unenforceable under Federal law. Similar state laws have been overturned due to conflicts with Federal law. This bill's requirements can result in costly legal battles that would ultimately burden taxpayers, and of course delay public works projects, and as I mentioned in the debate, impossible, impossible, administration requirements.

You know, continuing the example above, a prefabrication shop in Syracuse may be building components for projects across the State all under one roof. An electrician may be building components that will be used in projects in various regions of the State, all within the same hour. Under this bill, the time taken to build each component for each region would need to be tracked, and

the prevailing wage for the project destination would need to be correctly applied for that time in a single hour. In just a single hour an electrician building these components may be required to be paid several different prevailing rates for the same hour. Similarly, it would need to be tracked for each component, whether the component is headed for a public or a private job.

And lastly, I want to touch on the competitiveness and antibusiness climate that we already have in New York State. Over the past several years, many customers are switching to prefabricated components for jobs for a mult -- a multitude of reasons, but most importantly, worker safety and efficiency. Workers are safer in a controlled environment off site with a single trade-building component. If this work were to be done on the job site where all the various trades are engaging in their work, the risk of injury and accidents increases. And secondly, it is more efficient to build components off site than install them on the job site. If this bill were to become law and the impossible administration requirements were placed on prefabrication work, customers would face a choice either to do the work on site or by components, as I mentioned, from out-of-State or even out-of-country, neither of which benefits New York workers. Comparing New York's competitiveness with neighboring states shows that business and jobs would be driven out of New York State with more favorable regulations.

Mr. Speaker, I also would just like to mention that there are actually many labor organizations and unions that are

actually opposed to this legislation, and I'd like to just for the record list some of them off: National Electrical Contractors, Sheet Metal and Air Conditioning Contractors, Mechanical Contractors, sub -- Subcontractors Trade Association. I got more here, I promise you. Construction Industry Association of Rochester, Associated Builders and Contractors, Construction Industries Employees Association, Empire State Associated Builders and Contractors, NFIB, CEA of Central New York. The list goes on and on and on.

And I want to just leave you with this in closing: The Government Center for Governmental Research at the Empire Center estimates that these mandates could, on top of everything else that we discussed, drive up the cost of construction as much as 25 percent. And again, this is just an administrative nightmare for both contractors, skilled workers, DOL and DOT. For those reasons, I will be voting in the negative and I would surely ask my colleagues to do the same. Thank you, Mr. Speaker, and thank you, Mr. Sponsor.

ACTING SPEAKER AUBRY: Thank you.

Ms. Giglio.

MS. GIGLIO: Thank you, Mr. Speaker. Will the sponsor yield?

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

MR. BRONSON: Yes, I will, Mr. Speaker.

ACTING SPEAKER AUBRY: The sponsor yields.

MS. GIGLIO: Thank you. So how does this relate

to, say you want to buy products that are being produced off site from New Jersey or Connecticut? How do we enforce that prevailing wage law if a public works project chooses to buy their off site curtain walls or fabricated projects? How do we -- how do we isolate that to New York?

MR. BRONSON: First of all, the bill would only authorize requiring prevailing rate to be paid if that fabrication is solely and specifically for that public works. And the way we would enforce it would be to put them on notice. You know, you know the process, you're in this industry. So, the department or -- or the department of jurisdiction indicates to the DOL that they're engaging and have entered into a contract for public works. The Commissioner looks and analyzes the classification of workers necessary for that project and then issues directives regarding the prevailing rate. This would be the exact same thing, it would just go to that prefabrication outfit that's in, say, New Jersey.

MS. GIGLIO: Okay. Yeah, I really -- I mean, I want to thank you for the bill because I feel like it -- it levels the playing field for all contractors, and it's not based on your demographic location where you may pay your workers a higher salary because the cost of living there is higher rather than another part of the State. So it levels the playing field, and it also allows for workers within that jurisdiction to potentially get that work where transportation costs would be less and other factors and off site fabrication would be less.

So I -- I like the bill with that regard, I'm just

concerned that if a public works decides to get, say, products that are fabricated in New Jersey or Connecticut, that we are not going to be able to enforce that prevailing wage even -- because they may not even have the potential to file the certified payroll with New York State Department of Labor if it's an out-of-State company. So that's my only concern with the bill. But I will be supporting the bill and then hopefully we'll be able to tighten that up a little bit to say that public works projects should be bought from, because most of it is funded by the government, New York State, and by counties and by municipalities that that work, it stays in the State of New York. So thank you.

MR. BRONSON: Thank you for your support.

MS. GIGLIO: Thank you, Mr. Speaker. I'll be voting in the affirmative.

ACTING SPEAKER AUBRY: Thank you.

Read the last section.

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

ACTING SPEAKER AUBRY: A party vote has been requested.

Mr. Goodell.

MR. GOODELL: Thank you, sir. The Republican Conference will be generally opposed by -- for the reasons that have been stated, although several of my members will want to vote yes for the reasons stated. So it's a party vote no, but those members who

support it should certainly vote yes on the floor. Thank you, sir.

ACTING SPEAKER AUBRY: Thank you.

Mrs. Peoples-Stokes.

MRS. PEOPLES-STOKES: Thank you, Mr. Speaker. The Democratic Conference is gonna be voting in support of this legislation; however, there may be a few that desire to be an exception. They should feel free to do so at their seats. Thank you, sir.

ACTING SPEAKER AUBRY: Thank you, ma'am.

The Clerk will record the vote.

(The Clerk recorded the vote.)

Mr. Bronson to explain his vote.

MR. BRONSON: Yes, Mr. Speaker, I abstain for the purposes of explaining my vote. You know, some of you may or may not know, I've been working on this issue since roughly 2006 and I'm pretty pleased that this bill is here on the floor for a full vote. But let me remind folks, this comes from the New York State Constitution.

Article 1, Section 17 says: *Labor of human beings is not a commodity nor an article of commerce and shall never be so considered or construed. No laborer, worker or mechanic in the employ of a contractor or subcontractor engaged in the performance of any public work shall be paid less than the rate of wages prevailing in the same trade or occupation in the locality within the State where such public work is located.* This is a constitutional requirement. And because things have changed, technology has changed, or for the mere purpose

of avoiding paying prevailing wage, folks have started using off site fabrication. This closes that loophole. This requires that we pay prevailing rate, as the Constitution tells us we must. It helps the workers because they're getting paid a good wage with benefits and supplements. It helps our local economy because those workers, in turn, will be contributing to the economy.

This bill is the right thing for us to do. I'm thankful it has bipartisan support, and I'm thankful for all the folks who have come to me to say, *Let's give it a go again, Harry. Let's give it a go and see if we can get off site fabrication right-sided so that workers are getting paid their constitutional right to the prevailing rate.* We believe we have made changes to deal with the Federal conflict that might exist, and we believe that we are following case law that authorizes this State, as a market participant, to be able to have the ability to require prevailing rates --

ACTING SPEAKER AUBRY: Mr. --

MR. BRONSON: -- from other states.

ACTING SPEAKER AUBRY: Mr. Bronson?

MR. BRONSON: With that, I withdraw my request and I vote in the affirmative. Thank you, Mr. Speaker.

ACTING SPEAKER AUBRY: Mr. Bronson in the affirmative.

Mr. Ra to explain his vote.

MR. RA: Thank you, Mr. Speaker. Last fall I had the opportunity with a number of colleagues to go visit with -- with a

business and a group of workers who do some of this type of work, particularly these were sheet metal workers, and they walked us through their design process and everything that they do; highly-skilled individuals who deserve to be paid a fair and prevailing wage. So I think that this bill is important to close the loophole, as the sponsor had indicated. If these materials were being done on site, they would be subject to prevailing wage, so that's all this does. And it ensures that when we are expending public funds for public works, that we pay a prevailing wage which is consistent with the New York State Constitution, as the sponsor just -- just stated.

So, I'm proud to be a cosponsor and cast my vote in the affirmative. Thank you.

ACTING SPEAKER AUBRY: Mr. Ra in the affirmative.

Mr. Durso to explain his vote.

MR. DURSO: Thank you, Mr. Speaker. I rise to explain my vote. I also was with the -- with Mr. Ra on that onsite fabrication with the sheet metal workers, again, to see that the work that they do and the skilled craftsmanship that they -- they possess, again, it's something that I'm -- I'm glad to support, be a cosponsor. I was also happy to see that the drafting process was put into the bill. I want to thank the sponsor for being able to do that, and thank the sponsor for protecting labor here in New York State and all our workers. Thank you, sir.

ACTING SPEAKER AUBRY: Mr. Durso in the

affirmative.

Are there any other votes? Announce the results.

(The Clerk announced the results.)

The bill is passed.

Page 13, Rules Report No. 241, the Clerk will read.

THE CLERK: Assembly No. A04363, Rules Report No. 241, Zebrowski, Magnarelli, Weprin, McDonough, McMahon, Glick, Solages, Hunter, Hyndman, Septimo, Sayegh. An act to amend the Uniform Justice Court Act, in relation to establishing minimum educational requirements of certain town and village justices.

ACTING SPEAKER AUBRY: Mr. Zebrowski, an explanation has been requested, sir.

MR. ZEBROWSKI: Sure, thank you, Mr. Speaker. This bill would take a modest step in addressing a over centuries-old problem of non-attorneys dispensing justice, or many times the lack of justice, in our town and village justice courts across the State of New York. Study after study has shown that these non-attorney judges are subject to more discipline, they are subject to being removed from the bench at a higher percentage than -- than attorneys. And there has been exposé after exposé, probably the most famous of which was in the mid-2000s by the *New York Times* who reviewed court records and also went into various courts. And when you read that article it's just shocking, the type of situations that New Yorkers have found themselves in. You know, the -- the idea that non-attorneys should be judges dates back to Colonial times, times when there were not many

attorneys around. And it's so incredibly out-of-date that I can't believe we're still talking about it here on the floor of the Assembly. And -- and I've certainly drafted other bills that would go even further, but this is the one that is the compromise bill that's on the floor today. So this would allow towns or villages to, at that local option, require that their justices be attorneys.

ACTING SPEAKER AUBRY: Mr. Flood.

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

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

MR. ZEBROWSKI: Yes, I'll yield.

ACTING SPEAKER AUBRY: The sponsor yields, sir.

MR. FLOOD: So, it -- it would be fair to say that town and village justices other than maybe the random arraignment here and there, they're not taking on felony work, is it -- that would be correct?

MR. ZEBROWSKI: Correct.

MR. FLOOD: All right. You know that, like you said, this is a century-olds [sic] law that we've had in place. And it's fair to say that the most -- the highest charges that people would be seeing would basically, in one of these courts, be a misdemeanor charge, you're not gonna see anything greater than that; is that correct?

MR. ZEBROWSKI: Correct. They can be arraigned

for felonies at times.

MR. FLOOD: Yeah, they're arraigned at felonies but they're not -- they're not adjudicating the felonies?

MR. ZEBROWSKI: Correct.

MR. FLOOD: There are, I think -- I believe there's nine other states in the country that allow, you know, non-law school-trained or non -- non-bar-admitted judges to adjudicate misdemeanors. Would you happen to know who -- which any of them are?

MR. ZEBROWSKI: Yeah, nine out of 50; Texas, Arizona, Nevada, Colorado, Louisiana, South Carolina and Mississippi.

MR. FLOOD: Great. What is the common denominator between all of those states and New York?

MR. ZEBROWSKI: I don't know.

MR. FLOOD: Many of -- all of those states in either part or whole have extremely rural areas with very low population.

MR. ZEBROWSKI: Are there other states that have rural areas or just those?

MR. FLOOD: No, there's absolutely other states that have rural, those -- but -- so when a non-attorney is elected to the bench, do they simply just show up on January 1st with a gavel and say, *Here we go*, or is there some type of training procedure through there?

MR. ZEBROWSKI: No, there's a training procedure.

MR. FLOOD: Right. And it's -- and who -- do you

know who administers that?

MR. ZEBROWSKI: OCA and the State Magistrates Association.

MR. FLOOD: Okay. And now, in order to take the bench a non-attorney would first have to take that and complete a -- they need to file with their local clerk's office a certificate course indicating that they've taken that test, correct?

MR. ZEBROWSKI: Correct.

MR. FLOOD: There's also more regulation through that, isn't there? They do have -- similar to continuing legal education they have other classes that they have to take, correct?

MR. ZEBROWSKI: I think that's the main training that they have to do.

MR. FLOOD: Well, actually under the State Magistrates Association town justices must also take 12 hours every year of in-classroom instruction, and non-lawyers must also pass a test on top of that information.

MR. ZEBROWSKI: They have to do 12 hours of training to -- to dispense justice in courts?

MR. FLOOD: And they have to do a written examination, correct.

MR. ZEBROWSKI: Wow. You can sense my sarcasm, but 12 hours?

MR. FLOOD: Yeah, 12 hours and pass a written examination. And again, you and I both went to law school --

MR. ZEBROWSKI: Right.

MR. FLOOD: Most of these things that come in are traffic offenses, they're, you know, small-time litigation, landlord-tenant. We're not talking about, you know, great legal minds here.

MR. ZEBROWSKI: If you're someone getting evicted it's not small.

MR. FLOOD: Or if you're a landlord trying to evict, I mean, this Body makes it almost impossible. We give them -- people 18, 24 months. So, I mean --

MR. ZEBROWSKI: Also somebody that should be able to depend upon someone understanding and being trained in the law from the bench.

MR. FLOOD: Okay. Now, are -- once a non-attorney justice is put on the bench, are they just thrown out to the wolves or -- or is there support systems out there for them?

MR. ZEBROWSKI: Well, OCA and the State Magistrates Association I think gives them support.

MR. FLOOD: Um, actually -- yeah, so over recent years they've made substantial financial and material contributions to help alleviate the burden. So we don't see this -- you know, I'm from Suffolk County, New York. There may be a non-appointed -- there may be a non-attorney judge there somewhere. I've never came across one. I -- I don't believe there's one out in Nassau, probably not in the City, probably not in Upper Westchester. But as we go further west and we go further north, populations become smaller, we have villages

of maybe 500 people, 600 people, where you may not really have a pool of lawyers that are either willing or able to serve as justices.

What would you have them do?

MR. ZEBROWSKI: Well, first of all, there must be some lawyers because the folks that represent people between -- before these justices have to be lawyers. So I think there's a disconnect, right? The people that --

MR. FLOOD: Well, not necessarily because I'm an attorney, my -- my practice is in Port Jefferson. I can come take a client in Albany, but an Albany attorney can't be a justice in the Village of Port Jeff. So you may --

MR. ZEBROWSKI: No, my point is --

MR. FLOOD: -- you may have a small --

ACTING SPEAKER AUBRY: Gentlemen, gentlemen. Question, answer, question, answer. Let him complete.

MR. FLOOD: My apologies.

ACTING SPEAKER AUBRY: Thank you.

MR. ZEBROWSKI: And I apologize as well. My point is the -- the lawyers who practice in those courts have to be lawyers, right? Just because it's a rural area doesn't mean that well, we don't have lawyers, we allow lay people to represent people. But somehow we have this quirk where the person that's actually -- the person that's arguing the case must be a lawyer, but the person that's deciding the case is allowed to -- to not be a lawyer. So in those rural areas, I have to assume that there are lawyers. But if somehow there

are not, as I said to start, this is a compromise bill and this allows the municipality to do it. Now in all honesty, as you may gather from my comments explaining the bill, I don't think this really goes far enough. But we are a system of compromises, and so this is what is on the floor. So I don't -- I don't think in those scenarios that the local government would opt into this system.

MR. FLOOD: Okay. And I can understand your point, but I -- I do know then -- you know, our Conference, we have seen substantial opposition from this from these areas because I know, you know -- I know you come from an area of high population, fairly.

MR. ZEBROWSKI: Fairly high, yeah. I mean, well, if you ask someone in Manhattan, not high, but someone Upstate, yes, high.

MR. FLOOD: Yes. So, but when you go -- and like you said, as -- as an attorney you can go in any court and practice. But not every -- not every village has an ability to let an outside justice come in. I mean, I've practiced all over the place, but that doesn't mean that I can go and sit up in, you know, Onondaga County as a village justice. I -- I don't -- I don't meet their, you know, their residency requirements,

MR. ZEBROWSKI: Right. Um --

MR. FLOOD: So those justices -- I understand your point, but --

MR. ZEBROWSKI: So two things, if -- if I could. One, I don't think in Onondaga County or whatever other county, it's

really the towns and the villages, that they would adopt this. We're giving them the option. But number two, we have adopted bills for a variety of villages that have allowed residency requirement exemptions so that somebody from a -- an adjoining -- and even though I'm in a -- a Downstate county, there are a couple judges that are -- are not attorneys, and we also have a couple of villages that have taken advantage of that, gotten special legislation and have folks.

MR. FLOOD: I understand that, but would it be fair to say that if you have a village election and you have people running for, you know, village justice or town justice not from the area that your electorate may not have the best idea of who they're actually voting for?

MR. ZEBROWSKI: Would they -- would they know somebody from the area better than somebody outside the area, presumably?

MR. FLOOD: I would -- I would assume in a village of 5- or 600 that most people know each other. I mean, I know most people I went to school with and I went to -- you know, I live in a much bigger area.

MR. ZEBROWSKI: Right.

MR. FLOOD: So --

MR. ZEBROWSKI: Yeah, they might know the person better. Maybe they went to high school with the person. I'm not sure that's the criteria for who should be dispensing justice, but they might know the person better.

MR. FLOOD: I -- I understand that. But, you know, when you're voting for someone, usually you have an idea of who they are, where they are as a person. Maybe you know people who know them. Most local -- most local elections have that sort of local feel where you have an idea of who you're voting for.

MR. ZEBROWSKI: Yeah.

MR. FLOOD: In this situation you may not.

MR. ZEBROWSKI: But I think that's part of the problem, right? This isn't somebody who's, you know, running the local parks and this isn't somebody that, you know, may be dealing with local sanitation. This is somebody making decisions on property, on liberty for folks in a court system. The folks have to be admitted to the bar to argue before them. I -- I don't think it's the same as other elected municipal positions.

MR. FLOOD: I can see part of your point, but I also see that -- I mean, regardless of what position it is, if you have an idea of the person and an idea of how that person's behavior is and what their mannerisms are or how they act, you might have a better idea of who you're voting for, regardless of what the position is. That's just all I'm saying. I believe this also brings up, however, another issue with that, is that if this village or court or town decides to adopt these laws, they could essentially then appoint in a small district, say there's only one person with their hand in the air, and his two friends sit on the city council or the town village board. They can essentially just take away that choice and say, *Well, he's the only one that's qualified*

for it, he's gonna be it. Is that fair to say could possibly happen under this?

MR. ZEBROWSKI: Sometimes you can't -- you don't have an ideal situation. And so if you had a scenario where it was a non-attorney or an attorney, I still think that attorney is better trained to make the legal decisions necessary in a court system.

MR. FLOOD: That could be true. I -- I also think there are other judges out there that string together nonsense and come up with, I -- I don't know, their own determinations on what's guilty and what's not. That -- you know, so I -- I don't necessarily think when many have justice, it necessarily means that someone with a law degree can, you know, just look at the statute and say, *This is the law and this is what we're gonna uphold* compared to one that's trained. I think on the part of that person who is litigating it might have a better understanding of it or understanding how to make the arguments.

MR. ZEBROWSKI: I -- I -- I hear you. There's certainly folks that could be admitted to the bar that could run afoul of ethics or anything else. But that's why I think we should look at the data, and over the past ten years 20 -- 20 percent of the complaints received by the Judicial Commission were against town and village justices, but 72 percent of the public decisions involved them. So it was 120 out of the 167 public decisions and 90 of those 120.

MR. FLOOD: Okay. I -- I do understand that but --

MR. ZEBROWSKI: Seventy-five percent were the non-attorneys.

MR. FLOOD: I understand that. I -- I believe there's also -- in the State there's approximately 1,800 village and town justices, of which I think about 700 of them are non-attorney justices. So if this is going to affect, you're -- you're taking up about, you know, a third or 60 percent or so or, you know -- I'm sorry, about 40 percent of all the justices of these town and village courts have to go find and elect new judges. Is the time frame of what you're trying to do with this even practical?

MR. ZEBROWSKI: I think it is. Once again, it's a local option. So I actually think if this passes and gets signed into law, it won't go as far as I would like it, because I don't think a lot of those jurisdictions are going to do it, but some may.

MR. FLOOD: All right. Well, thank you for your questions [sic].

MR. ZEBROWSKI: Thank you.

MR. FLOOD: Mr. Speaker, on the bill, please?

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

MR. FLOOD: You know -- and -- and I do value my colleague's input and I do think at some point that this is an imperfect system. However, I think we need to look at the unintended consequences of what can happen with this of all of a sudden we have a shortfall of judges. When we talk about village and town justices in very small areas, very rural areas, you may not have a whole lot of people putting their hands up and saying, *I want to do this*, or you may

have the opportunity for someone to come in and take advantage of the situation and kind of lock down the courts forever because they're the only ones available to do this. We've had this situation in place for several hundred years. I -- I just think this is -- we don't have a really serious problem here. I know what the counselor said and I've looked at a lot of these complaints. Most of them are a wrong application of the law, maybe overzealous in a bail proceeding, something like that. Most of those bail reform laws have been changed and completely taken out of the hands of judges, so that's not even an issue anymore. And I -- I think we, by doing this, could actually be looking in a couple years to come back and make changes because of the lack of available justices in an area, or the over -- the abuse of the system by basically leaving these small villages and towns with little to no choice of who they elect.

For this reason, I believe -- I -- I believe this bill should go back to the drawing table and tinker a little bit more. I -- I do appreciate what my colleague is trying to do. It is an imperfect system, I'll be the first one to admit it. But I think if we rock the boat too much it's gonna get too difficult for litigants and too difficult for the rural and small villages and communities. So I'll be voting in the negative. Thank you.

ACTING SPEAKER AUBRY: Thank you.

Ms. Byrnes.

MS. BYRNES: Thank you. I'd like to just be heard on the bill.

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

MS. BYRNES: Thank you. I've listened for the last few minutes about a number of these statements that have been made on the floor here, and I must say that, you know, I was a judge in the City of Rochester for ten years. Even when I was an Assistant District Attorney assigned to town and village courts many decades ago, frequently they were lay judges. And now where I live, which is in one of the most rural areas of the State, a significant number of our judges are lay judges. I happen to live in a town and a village where one of the lay judges has been there for over 30 years. He's one of the most respected judges in the -- in the court system throughout the State for the magistrates. Ironically, the other one is a law clerk to a Supreme Court judge who lives in town. So we both have an attorney judge and we have lay -- very educated lay judge. We have no problems with either one of those gentlemen. You know, the -- the judges that I've seen, be they attorney judges or be they non-attorney judges, they take their jobs seriously, they take their training seriously. They have administrative judges from the Office of Court Administration who oversee them all the time. All of the requirements for all of the court systems including audits apply to them as well. They are overseen strenuously by the Office of Court Administration. The Magistrates Association also offers routinely all of the information in the world that any magistrate needs in order to have -- educate themselves or to know how to handle any case that's in front of them, should the judge be they attorney or non-attorney have

any questions about how to handle something.

So I really think that while this is, quote, unquote, "giving towns and villages the option," it clearly is step one. As the sponsor said, he had other more strenuous bills, this was the compromise for now. So we know there's more coming, we know that lay judges are being targeted. But they are doing a good job, especially in our rural areas. And I do want to talk a little bit about that, because right now with the number of attorneys that are now working for public defenders, conflict defenders, our county law departments for social services, the vast majority of all of the attorneys that even a few years ago when I was the law clerk to a county court judge in Livingston County, all -- the vast majority of the attorneys that were in private practice are -- are now all working for the government. They've all gotten jobs with the system because we have created so many jobs with the systems, including, I would point out, public defenders who are present at every arraignment in all of these town and village courts. These judges aren't getting up in the middle of the night and making willy-nilly decisions. They are there already with attorneys for the defendants in person. So this is not an uneducated group of people. So we have a very small pool of attorneys. Many of the towns and villages who may have only 1-, 2- or 3,000 -- 3,000 residents do not -- do not have attorneys who live in their towns or villages. And that is true. And even in my village we have no lawyer who has a shingle out practicing law in my town. There are none anymore, they're all working for the government. The

few that are out there would have a lot of conflicts. If they tried to be a judge, then they have conflicts when they would go to represent somebody in a village court. So a lot of attorneys don't want to be judges because it presents them in a conflict where then they can't perform their jobs in other ways. So we have to look at this as a broader spectrum. All in all, I really think they do a good job. It disturbs me to hear how this Body thinks so little of people that invest in their jobs. We've all come here from different jobs in different ways, yet each of us believes we're doing our job right and we're doing it the right way for our constituents. Why should we cast dispersions on other people who are doing their jobs?

All I want to leave you with is obviously this bill is here is because it's going to be post -- or it's going to be voted on and it's gonna get passed. I know that. But I think it's unfair and it's sad how much you attack these judges, many of whom have spent countless hours and countless decades making sure that they were doing their job correctly. Thank you. I'm voting no.

ACTING SPEAKER AUBRY: Mrs. Peoples-Stokes.

MRS. PEOPLES-STOKES: Will the sponsor yield for one question, please?

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

MR. ZEBROWSKI: Of course I yield.

ACTING SPEAKER AUBRY: Mr. Zebrowski yields.

MRS. PEOPLES-STOKES: Would -- would this bill be a mandate that towns and villages would have to decide to change the status of their judges' education?

MR. ZEBROWSKI: No, it would be at their option.

MRS. PEOPLES-STOKES: Okay. Thank you.

ACTING SPEAKER AUBRY: Read the last section.

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

ACTING SPEAKER AUBRY: A party vote has been requested.

Mr. Goodell.

MR. GOODELL: Thank you, sir. The Republican Conference is generally opposed to this. Those who wish to support it can certainly vote yes on the floor. Thank you, sir.

ACTING SPEAKER AUBRY: Thank you.

Mrs. Peoples-Stokes.

MRS. PEOPLES-STOKES: Mr. Speaker, the Democratic Party is gonna be in favor of this piece of legislation. If those -- someone would like to be an exception they should feel free to vote at their seats. Thank you.

ACTING SPEAKER AUBRY: Thank you.

The Clerk will record the vote.

(The Clerk recorded the vote.)

Ms. Wallace to explain her vote.

MS. WALLACE: Thank you, Mr. Speaker, for giving me the opportunity to explain my vote. I represent a town that

has almost 90,000 residents, and yet both of the judges in that town do not hold law degrees. Nothing about this bill is going to force that town to change that. This bill just says the town can, if it chooses to, can mandate it. But it really is up to the town itself. It is a local control bill. This is not a bill where the State is saying you must do this. I do feel compelled to stand up, though, because I vehemently disagree with some of the comments that were made during this debate about the education of the judges. To somehow equate 12 hours of training to three years in law school and passing the bar exam is absolutely ridiculous. Twelve hours -- a student in law school is -- is -- in one week does 12 hours of training.

So, you know, I really think that this is a bill that is about local control and -- but I also think that we should be encouraging municipalities to man -- to encourage law -- lawyers to have these positions because we know when somebody goes before a judge in a criminal proceeding, the prosecution has to be a lawyer and the person representing the defendant has to be a lawyer. And it's kind of ridiculous that the judges themselves don't have to be lawyers. So I do support this legislation which again, does not force municipalities to do anything, it just gives them the option.

Thank you, and I vote in the affirmative.

ACTING SPEAKER AUBRY: Ms. Wallace in the affirmative.

Mr. Eachus to explain his vote.

MR. EACHUS: Thank you, Mr. Speaker, for

allowing me to explain my vote. Over the last couple of weeks I find out that I'm in the minority here in this Assembly because I am not a lawyer. And I respect every lawyer that sits here in this House, because I've always thought that lawyers have had much better training, much better schooling, and that, one, they understand the law much better than I would, and number two, they actually understand the English language better than I do. Because any time we get these bills, I can hardly understand what they're saying in the legalese language. And so I personally would like somebody sitting on the bench who is going to make a judgment about an issue that I might have, having more backing, more -- excuse me, education, more experience in this than just an average, you know, person who we might pick off the street. I also -- I -- I am not putting down anybody else on this floor. I have a master's, but not in law. And I also don't understand where the word "option" is lost on some of these folks, because as my colleague just mentioned, this is not "shall" or "will" or anything else like that.

So in those terms I am glad to -- and I thank the sponsor for doing this, I am glad to vote in the affirmative.

ACTING SPEAKER AUBRY: Mr. Eachus in the affirmative.

Mr. Steck to explain his vote.

MR. STECK: This debate reminded me of when I was a very young lawyer and one of the first cases I had in court was in front of a non-lawyer judge in a town which certainly had plenty of

lawyers. And the non-lawyer judge enforced a restrictive covenant against an aerobics instructor, prohibiting her from giving classes at a local school. Then I had another one where the town justice, another non-lawyer, went to the local paper and attacked the defendant in the case and we had to sue the judge and thankfully the judge was represented by the Attorney General's Office and we were able to resolve the matter.

But for -- based on my experience, I vote in the affirmative.

ACTING SPEAKER AUBRY: Mr. Steck in the affirmative.

Are there any other votes? Announce the results.

(The Clerk announced the results.)

The bill is passed.

Page 14, Rules Report No. 246, the Clerk will read.

THE CLERK: Assembly No. A06889-A, Rules Report No. 246, Lavine, Wallace, Kim, Steck, Hevesi, Simon, Zebrowski, Simone, Dinowitz, Burgos. An act to amend the Civil Practice Law and Rules, in relation to arbitration.

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

MR. LAVINE: Of course. So, this bill revises arbitration rules concerning the location of multiple-party arbitration, the procedure for serving notice of intention to arbitrate, the right to legal representation in arbitration, and regulations regarding fees,

expenses and breaches in employment or consumer arbitration. To be a little more specific, it would allow arbitration proceedings to occur in any court and county where any of the parties seeking arbitration reside, do business or where the arbitration was held or is pending. It would address fees, expenses and breaches of arbitration agreements in employment or consumer arbitration, including provisions for payment of fees and costs, consequences of nonpayment, sanctions for breaches and procedures for continuing or withdrawing from arbitration. The idea here is to protect New York State's consumers.

ACTING SPEAKER AUBRY: Mr. Goodell.

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

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

MR. LAVINE: Of course.

ACTING SPEAKER AUBRY: Mr. Lavine yields, sir.

MR. GOODELL: Thank you, Mr. Lavine. You mentioned a couple of ways this changes the current law. If I could, I'd like to just kind of walk through those so we understand the nature and the extent of the changes.

MR. LAVINE: So with all due respect, can I just mention something?

MR. GOODELL: Certainly.

MR. LAVINE: We have worked together for many

years, and you have been a great legislator and you are a great country lawyer. And I also want to mention one other thing, and I think you and I, I'm almost positive, are the only people in this room who are gonna know what I'm talking about. But in a very difficult situation some years ago, you really, really did what was right in a very difficult interpersonal situation, and you stood very tall to represent the people -- the extraordinary people who are on our staff, and I thank you for that.

MR. GOODELL: Well, thank you for those nice comments. I have no idea what you're talking about --

(Laughter)

But I am -- I'm most hopeful that at least you know what this bill is about.

(Laughter)

Thank you, Mr. Lavine. You mentioned that there's a change in venue or the opportunity to bring the lawsuit. What is the current law and how does that compare with what this provides? I have in front of me what this provides, this provides that you can bring an action in any location where any of the parties reside. What's the current law?

MR. LAVINE: Well, as opposed to the present system, the current system in which the places where somebody can arbitrate or begin a lawsuit are specified in the contractual relationship. We now, as you well know, in -- in lines 3 to 6 of the bill provide that where there are multiple parties who are seeking

arbitration against the same party or parties, the proceeding may be brought in any court and county where any of the parties seeking arbitration reside or are doing business or where the arbitration, if it's going on, was held or is pending.

MR. GOODELL: So under the current law the arbitration has to be brought where the parties specify by contract?

MR. LAVINE: Well, where the -- the party that drew the -- drew the contract specified. It's -- the parties drawing the contract are generally not going to provide for a venue to be set in a -- in a place that's not convenient to the party drawing the contract. I'm sure when you -- when you're being a good lawyer draw contracts dealing with these arbitration issues, you make sure that that's the case.

MR. GOODELL: Now, we honor those venue provisions and contracts outside the scope of arbitration, correct?

MR. LAVINE: Generally speaking, yes.

MR. GOODELL: And of course you often see them in contracts involving national companies. For example, if you rent a car, they'll say if you want to bring a lawsuit regarding this agreement or insurance contracts or student loan agreements, it specifies where the lawsuit has to be commenced, correct?

MR. LAVINE: In those contracts, very often referred to as adhesion contracts where parties don't have equal bargaining power, that is certainly the case.

MR. GOODELL: Now ironically, when I borrowed

money for my student loan going to law school, the standard preprinted contract, as you point out, it was a standard preprinted contract provided for venue in the City of Albany. And of course back then, being younger and smarter, I had no intentions whatsoever of ever going to Albany. So I crossed it out.

MR. LAVINE: (Laughing) Life is full of irony, isn't it, Mr. Goodell?

MR. GOODELL: It sure is. So I crossed it out and put Chautauqua. They still gave me the loan, as long as I paid the interest they were happy.

MR. LAVINE: But even then, before law school, you had the makings of a good lawyer.

MR. GOODELL: So -- so we're still allowing those contract provisions to apply when it comes to a lawsuit, but not when it comes to arbitration?

MR. LAVINE: Not when it comes to arbitration or lawsuits that stem from arbitration.

MR. GOODELL: Then second, the second area you talked a lot about related to fees. Now, obviously, a lot of times an arbitration agreement will specify who pays what fees. So if -- it's not uncommon if you initiate the arbitration, you might pay the initiation fee to kick it off. Oftentimes they split the cost of the arbitration, sometimes they award it to the winning party. That -- all those contractual provisions are changed or overridden by this statute. This statute provides that the person who wrote the contract pays all those

fees and expenses, correct?

MR. LAVINE: And that's at line 29 of page 2. It's not a lengthy bill, by the way. It's about 100 -- as you know, it's about 170 lines, and most of them, or at least half of them are duplicative.

MR. GOODELL: So even if the party who drafted the agreement wins the arbitration, the party who drafted the agreement has to pay all of the arbitration expenses?

MR. LAVINE: Well, this says the drafting party shall pay certain fees and costs before the arbitration can proceed. If the fees or costs are -- are not paid, then there's big trouble for the party drafting the -- the contract.

MR. GOODELL: And if the drafting party wins the arbitration, does the drafting party get reimbursed for those fees?

MR. LAVINE: That -- let me give you a very un-lawyerly answer. I'm not 100 percent sure one way or another, but this bill doesn't, I don't think, address that.

MR. GOODELL: I see. Okay. Then this bill adds a series of sanctions.

MR. LAVINE: Yes.

MR. GOODELL: And all those sanctions apply just to the drafter of the agreement; is that correct?

MR. LAVINE: Yes.

MR. GOODELL: Thank you. I have no other questions. Again, thank you very much, Mr. Lavine.

On the bill, sir.

ACTING SPEAKER AUBRY: On the bill, sir.

MR. GOODELL: Thank you. Our courts have repeatedly pointed out that arbitration is often a very fast and efficient way, often much faster and more efficient and less expensive than the court system itself. And so we have a long history in New York State of supporting arbitration agreements because at the end of the day they tend to be very much consumer-friendly. They're also business-friendly because no business wants to be tied up in court. And so it provides a fast, efficient, cost-effective way to resolve disputes. But it's not just New York State that favors arbitration agreements, it's not just our court system or our Court of Appeals. Arbitration agreements are favored on a national level and, in fact, there's a national Federal law dealing with arbitration. And the Congress felt so strongly in favor of arbitration, they actually provide that states don't have the power to implement arbitration procedures that impact the Federal -- Federal arbitration law. So as my colleague points out, oftentimes these arbitration provisions are contained in insurance contracts or maybe if you rent a car or you borrow money, and they're all designed for the benefit of both parties. And like any contract, including the one I signed before I went to law school, yeah, the consumer can always cross it out. Rarely do they ever read it, much less change it, but it's a contract, and like every other contract it's entitled to be enforced. And, in fact, the U.S. Constitution says we, as a Legislature, do not have the power to impair the validity of an existing contract. So what's this do? This bill says that let's say your insurance company

and you say any arbitration proceedings have to be done in Albany, as an example, because that's where your corporate headquarters are.

You sell insurance policies throughout the State of New York. Under this they can bring an arbitration proceeding in any place in the State of New York.

Let me give you another example. Let's say you rent a car in Cleveland because you want to drive home. I'm not sure that agreement would be subject to this, but if so, you can bring a lawsuit in Cleveland. Or let's say it in a different way. You rent a car in New York and you drive it to Florida. This bill purports to give you standing to sue the company in Florida or bring an arbitration in Florida even though the company doesn't have any presence there never consented to be the subject of arbitration there.

But the most anti-arbitration provision in this is the fact that the company that has the arbitration clause in their contract has to pay the costs for any arbitration brought against it. Now, think about that. We're saying to every business in the State of New York that uses an arbitration clause in their loan documents or anywhere else that if someone brings an action against them they have to pay the costs of someone bringing an action against them. And as my colleague pointed out, if they win, they don't get it back. So this puts the entire cost and burden on the companies that have the contract, even if they win and that's just simply unfair.

So my friends, I don't know why we have this hostility toward arbitration. Most of the arbitration contracts I've seen

say that the parties split the cost. Some of them say the winning party pays. This, by law, says that the company pays up front even if there's no basis for the arbitration, even if they win 100 percent, it's an obligation on the company and it's one more way for New York to say to all of our businesses who pay all of our friends and relatives who are struggling to make it successful here in New York that, *We are raising your cost of doing business and we don't care if you're right or wrong, you are going to be paying more if you have an arbitration agreement and anyone brings an action against you even if they're wrong.* That's not something I feel comfortable supporting and I hope you don't either.

Thank you, sir.

ACTING SPEAKER AUBRY: Read the last section.

THE CLERK: This act shall take effect immediately.

ACTING SPEAKER AUBRY: A party vote has been requested.

Mr. Goodell.

MR. GOODELL: Thank you, sir. The Republican Conference is generally opposed, those who support it should certainly vote yes on the floor. Thank you, sir.

ACTING SPEAKER AUBRY: Mrs. Peoples-Stokes.

MRS. PEOPLES-STOKES: Mr. Speaker, the Majority Conference is generally gonna be in favor of this piece of legislation.

ACTING SPEAKER AUBRY: Thank you.

The Clerk will record the vote.

(The Clerk recorded the vote.)

Are there any other votes? Announce the results.

(The Clerk announced the results.)

The bill is passed.

Mrs. Peoples-Stokes.

MRS. PEOPLES-STOKES: Thank you, Mr. Speaker, for the opportunity to interrupt our proceedings briefly to make an introduction for our colleague Aileen Gunther. She has guests in the Chambers; Joe Andre, Tammy Andre and Jack Andre. And the Andre family is from Wallkill, New York.

ACTING SPEAKER AUBRY: Certainly. On behalf of Mrs. Peoples-Stokes, Mrs. (Audio cuts out) Gunther, the Speaker and all the members, we welcome the Andre family here to the New York State Assembly, extend to you the privileges of the floor. Our thanks for spending this day with us and spending some time with Mrs. Gunther, keeping her company as we close the Legislative Session in the next couple of days. Hope you've had a great trip, hope you enjoy the summer. Good to see you.

(Applause)

Page 14, Rules Report No. 254, the Clerk will read.

THE CLERK: Senate No. S07807-A, Rules Report No. 254, Senator Serrano (Fahy, Thiele, Seawright, Lunsford, Lucas, Shimsky, McDonald, Simon, Tapia, Santabarbara, Bores, Kelles, DeStefano, Shrestha--A08274A). An act to amend the Parks,

Recreation and Historic Preservation Law, in relation to establishing standards for trail closures on the Empire State Trail.

ACTING SPEAKER AUBRY: Mr. Goodell.

MR. GOODELL: Thank you, sir.

On the bill.

This bill does two items. First, it makes it clear that if portions of the Empire State Trail are closed for any reason, the Office of Parks and Recreation is responsible for coming up with the detour. As you all know, the Empire State Trail is a great, great asset. It crosses both publically-owned property, as well as privately-owned property, and from time to time because of a storm or whatever, they have to close a section of the trail. This makes it clear that if they close a section of trail, including a section that crosses private land, not the private landowner, but the State Office of Parks and Recreation will arrange for a detour; great change.

My concern on this is it has a second provision, and the second provision says the owner, which would include a private owner, the owner of any segment of the trail designated as a portion of the Empire State Trail shall ensure that such segment of trail remains open when practical. Well, as is often the case with our trail system, we often get rights or easements to cross private property, and this bill imposes a statutory obligation on that private owner who may have graciously allowed us to use their land for this trail to now maintain it.

And so it's great we're relieving the private owners of an obligation to come up with a detour, but it's -- my concern is by

imposing a statutory obligation on maintenance, we may inadvertently discourage private owners for making their land available for a great asset like the trail. And so some of my members will want to vote yes because we lift that burden of coming up with a detour, and others may want to vote no because we impose a statutory duty on a private owner to maintain the trail. Thank you, sir.

ACTING SPEAKER BRAUNSTEIN: Ms. Fahy.

MS. FAHY: Thank you, Mr. Speaker, on the bill as well. The Empire State Trail is -- has become quite an economic engine of tourism here in this State. It was just launched in 2017, yet it's all -- it is the longest single-State multi-use trail in the nation, 750 miles. It's now up to eight million visitors per year, eight million visitors and generating \$274 million in -- in economic tourism activity per year; it's quite a success.

However, when the trail has been closed, and we've seen a couple of incidences of that, which I'll be happy to talk about. One was at the floods -- the devastating floods just a year-and-a-half ago in Dutchess County, a year-and-a-half ago here when the Dunn Memorial Bridge was out, there's a few places where we've had closures with absolutely no notification. We have only six, only six private entities that own parts of this trail. All we are requiring of those private entities is that they notify the Commissioner of Parks, notify the Commissioner. The Commissioner then will post the detour signs, because what's happened in a few of these incidences is that cyclists and pedestrians have been left in the lurch, at times for weeks

on end, until detour signs are put up. When the Dunn Memorial Bridge was out, it was a five-mile detour, very difficult if you are a cyclist or a pedestrian.

So again, the requirement is upon the Department of Parks and Recreation, the only requirement on the private landowners who, by the way, voluntarily gave their land, or gave an easement for this Empire State Trail, but it is a notification one to help with awareness and to post those detours. I'll just quickly note, the six private entities include, National Grid - not exactly a small, private owner - Bard College, the Wallkill Valley Land Trust, Honeywell Corporation, Parkside Estates and Apartment Complex, and the Town of Amherst Volunteer Fire Department. So this is a good and a needed bill given what a tremendous economic engine the Empire State Trail has been, which is why it's so important to those eight million visitors that we post simple detour signs when we've had a tree fall, when we've had a flood or anything like that. And with that, Mr. Speaker, I do urge support for this legislation. Thank you.

ACTING SPEAKER BRAUNSTEIN: Read the last section.

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

ACTING SPEAKER BRAUNSTEIN: The Clerk will record the vote.

(The Clerk recorded the vote.)

Are there any other votes? Announce the results.

(The Clerk announced the results.)

The bill is passed.

Mrs. Peoples-Stokes.

MRS. PEOPLES-STOKES: Mr. Speaker, if we could continue on our debate list, all of these are going to be Rules bills: 255 by Mr. Eachus; 264 by Ms. Cruz; 268 by Mr. Vanel; 299 by Mr. McDonald; 324 by Ms. Paulin; and 326 by Mr. Bores. In that order, Mr. Speaker. Thank you.

ACTING SPEAKER BRAUNSTEIN: Page 14, Rules Report No. 255, the Clerk will read.

THE CLERK: Assembly No. A08310-C, Rules Report No. 255, Eachus, Lee, L. Rosenthal, Rozic, González-Rojas. An act to amend the General Business Law, in relation to the sale of bicycles with electric assist and micromobility devices.

ACTING SPEAKER BRAUNSTEIN: On -- on a motion by Mr. Eachus, the Senate bill is before the House. The Senate bill is advanced.

Explanation has been requested, Mr. Eachus.

MR. EACHUS: This bill requires retailers to provide with the sale of their bicycles with electric assist, e-scooters and other micromobility devices a notice to attach to each compelling proper and legal operation. I'd like to mention that this particular bill will allow Mr. Goodell to sell his e-bike when he's through with it, it in no way affects him because it's only on retailers.

(Laughter)

ACTING SPEAKER BRAUNSTEIN: Thank you for the explanation.

Mr. Slater.

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

ACTING SPEAKER BRAUNSTEIN: Mr. Eachus, will you yield?

MR. EACHUS: Certainly.

MR. SLATER: Thank you very much, sir. So can you explain to us based on your bill and your explanation, what is the problem that you're trying to rectify here?

MR. EACHUS: The problem that we're trying to rectify here is actually kind of an educational and safety problem. We are having more and more e-bikes, e-scooters, those types of micromobility vehicles all throughout the State, and the folks are not aware of where they can actually drive them or ride them, so they must become aware of what the local laws are.

MR. SLATER: And how does this sticker, the notice that you're proposing, how does that educate them on where they're able to ride these modes of transportation?

MR. EACHUS: The -- it's actually defined that the notice will say always yield to pedestrians and follow traffic laws. Riding on the sidewalk may be illegal; consult your local laws.

MR. SLATER: And does it direct them where they can consult their local laws?

MR. EACHUS: It does not.

MR. SLATER: And so if you're riding from one municipality to another and the local laws change, how is the motorist expected to know that?

MR. EACHUS: Well, I think it's like any mobility device, you should know, you know, for instance, if I could use like, skateboards. In some municipalities, skateboards are allowed, they're allowed on sidewalks. In others, they're not. We are giving credit to these folks that are using these devices, these vehicles, the thought that they can find out what the laws are if they are crossing over borders.

MR. SLATER: I understand. And are limited-use motorcycles included in this legislation?

MR. EACHUS: No, they are not.

MR. SLATER: Just give me one second here, I thought I saw that they were included.

(Pause)

MR. EACHUS: For instance -- for instance, mopeds are limited-use motorcycle and they are not included in this bill.

(Pause)

MR. SLATER: I understand; I see that as well. Thank you for the clarification, I appreciate that. Are there currently any other notices that are required on these e-bikes and scooters?

MR. EACHUS: Not that I'm currently aware of at this time --

MR. SLATER: And does it --

MR. EACHUS: -- dealing with traffic laws or pedestrian.

MR. SLATER: Or does anyplace else on the e-bike or scooter, is there anyplace else that we currently require any type of notification, sticker or label to be placed?

MR. EACHUS: No, I don't believe so.

MR. SLATER: Okay. So this will be the first?

MR. EACHUS: Yes.

MR. SLATER: And we -- you mentioned resale. So talk to me quickly if you can about what if one of our colleagues wants to resell their e-bikes, are they required to have that sticker already on it, or where does that responsibility fall?

MR. EACHUS: No, it strictly lies with retailers. And the penalties lie against the retailer, so we're talking about the stock in the retailer store.

MR. SLATER: And is the retailer expected to produce that sticker?

MR. EACHUS: At this point, we give that to -- that responsibility to - just a moment - Department of State.

MR. SLATER: So the Department of State is going to be the agency that produces the sticker, and it's the retailer's responsibility to obtain that sticker from the Department of State?

MR. EACHUS: I wouldn't say that the Department of State is going to produce that sticker, they're going to somehow

enforce that that sticker is produced.

MR. SLATER: And it's up to the retailer to obtain, or to produce that sticker?

MR. EACHUS: Yes.

MR. SLATER: I understand. And what about for the motorists themselves? If they're -- if they're riding a scooter or e-bike that does not have that sticker, what is the enforcement agency in -- in that type of scenario?

MR. EACHUS: There is none.

MR. SLATER: There is none. So there's no requirement then for the motorist to have it on their bike or their scooter, only if they're buying a new bike or scooter from a retailer, for the retailer to make sure that there is a notice on that bike or scooter.

MR. EACHUS: That is correct.

MR. SLATER: Okay, all right. Well, thank you very much to the sponsor, I appreciate the answers to my questions.

MR. EACHUS: You're welcome; thank you.

MR. SLATER: Thank you, Mr. Speaker.

ACTING SPEAKER AUBRY: Mr. Durso.

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

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

MR. EACHUS: Certainly.

ACTING SPEAKER AUBRY: Sponsor yields.

MR. DURSO: Thank you, Mr. Eachus. So just to pick up on what my colleague was talking about, you said the retailer would be responsible for providing the sticker?

MR. EACHUS: For putting the sticker on the vehicle.

MR. DURSO: So they would have to -- so if I was going to any big box store or anything like that that is selling these electric bikes, scooters, whatever it is that falls within this legislation, they're responsible for actually placing the sticker on that vehicle?

MR. EACHUS: Well, they're -- they may already have the stickers on some of those vehicles, but if they're not on there the answer would be yes.

MR. DURSO: Okay, so you're saying that they may already have them on there, is that then done by the producer of that vehicle --

MR. EACHUS: It could be.

MR. DURSO: -- prior to being shipped to a store?

MR. EACHUS: It could well be, yes.

MR. DURSO: How would they know what each individual municipality within, let's say, Long Island, which has many different towns and villages, each individual one know if they're allowed to use or not to use it in those areas?

MR. EACHUS: Well again, I can reread the notice, but it says simply at the end of it, consult local laws.

MR. DURSO: Well, no, I understand that, and I don't want to use names of companies, but let's say there's company X that builds these e-bikes or scooters. They're shipping them to bigger box stores that are in the areas, but there's multiple municipalities that fall within, like I'm just using Long Island because that's where I'm from, for example.

MR. EACHUS: I love Long Island.

MR. DURSO: I know you do, you're from there originally. So how would they know where someone would be riding that bike? That's what I'm saying -- it just seems like a very -- it's a -- I'm not saying it's a bad idea, I'm just saying how are they going to know put the proper sticker on that e-bike prior to the sale?

MR. EACHUS: If it's a retailer here in New York State, that retailer is responsible for having that sticker on that vehicle.

MR. DURSO: Even if they're based out of New York State -- if they're not based in New York State? So if it's a big box store company that's based out of Colorado but they have stores here.

MR. EACHUS: Yes.

MR. DURSO: They're responsible for knowing what New York State laws are and having those stickers provided to those stores that fall within New York State?

MR. EACHUS: Well, what would happen in that particular case is if a big box store is going to sell them here in New York State, they're responsible for knowing that that sticker needs to be on that vehicle.

MR. DURSO: Okay. And now -- and who'd you say would be enforcing those -- the law saying that it has to have a sticker on it?

MR. EACHUS: The Department of State. They're going to come up with the stickers, and they're also going to be responsible for enforcing.

MR. DURSO: So in other words, I live in the Village of Massapequa Park. If they have an ordinance saying that you cannot ride those on the sidewalk, it's up to the village, right, to enforce that?

MR. EACHUS: Yes, that -- that would -- now you're going into what the actual laws are for a particular municipality; that's correct.

MR. DURSO: Okay. So -- but you're saying that all e-bikes, right, or someone -- if I already have one does not have to have the sticker on it, correct?

MR. EACHUS: Correct.

MR. DURSO: Who is to know when I bought that e-bike?

MR. EACHUS: Well, again, we're not checking e-bikes or e-scooters out on the road, we're not requesting that any authority or jurisdiction stop them out on the road unless they are breaking that municipality's laws. We are simply saying that if this is being sold in even a store of any type, if an authority walked into that store, it should have a sticker on that bike.

MR. DURSO: So this -- this bill is really for the

store.

MR. EACHUS: The retailer.

MR. DURSO: Not for the purchaser, essentially, or the person riding it, it's really more for the store that have to provide the sticker, correct?

MR. EACHUS: To provide, yes, but -- but it is for the actual rider because it's -- as I mentioned when I started off it's educational. It is informing the purchaser that pedestrians have the right of way. It's informing that in many places you cannot ride on the sidewalks, and it's informing there are other local laws for each municipality that you should be aware of if you're riding this e-bike in that municipality.

MR. DURSO: Okay. So -- and again, I don't mean to repeat myself, so I apologize.

MR. EACHUS: That's all right.

MR. DURSO: I'm just trying to understand what the mechanism is in place to make sure that they know where that e-bike or scooter is going to be driven, whether -- whether or not it's purchased at the proper place, if I bought it out-of-State, not bought it out-of-state, if I bought it in a different county, town, village, if they're going to have the proper sticker or law in place, or understanding of the law, the education correctly done for that purchaser of that e-bike or scooter, if they don't know which municipality has which laws.

MR. EACHUS: Well, we leave that up to the purchaser. I mean, it's left up to the purchaser right now even if you

don't have the sticker on your particular e-bike or e-scooter, whatever it might be, that you still should be abiding by the laws for that municipality if you're riding that in that municipality.

MR. DURSO: Agreed, okay. Thank you, sir. I appreciate your answers.

MR. EACHUS: You're welcome, thank you.

MR. DURSO: Thank you, Mr. Speaker.

ACTING SPEAKER AUBRY: Ms. Walsh.

MS. WALSH: Thank you, Mr. Speaker.

On the bill.

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

MS. WALSH: So I don't know if this is just turning into a kind of a sleep deprived airing of grievances today, but I'm going to let you all in on a little pet peeve of mine. When I am getting ready in the morning to go to work, I often have the news on, and the weather people now lately have been saying -- they tell me whether I can wash my car on a particular day, they tell me what kind of coat I should be wearing on a particular day, if I should be wearing a heavy coat, if I should be wearing -- they tell me if I should be carrying an umbrella on that particular day. And I find that very irritating because I have enough intelligence to stick my head out the window and figure out how to dress myself, what -- whether I need an umbrella or not, and -- and, you know, it just bothers me. And I believe that this bill is very well-intentioned. Let me just read to you, though, what the notice actually says: Notice - always yield to pedestrians and follow

traffic laws. Riding on the sidewalk may be illegal; consult local laws. That's what the sticker says. I mean, I feel like instead of the Department of State, it ought to be the Department of the Obvious. I mean, really. I just -- I -- I appreciate the desire to keep everybody safe on the roads but, you know, I would -- I would really hope that just, you know, we had campaigns before that encouraged people to wear seat belts, or to, you know, click it or ticket, or -- everything's got to rhyme, too, that bothers me, as well --

(Laughter)

-- but -- or you have to wear a helmet, you know, which you do, you really should, but I mean do we really need to have a law that mandates a sticker that doesn't really give you any information that you as a walking, breathing, functioning human being shouldn't already know? Thank you very much, Mr. Speaker.

ACTING SPEAKER AUBRY: I'm afraid to tell you you're welcome.

Mr. Eachus.

MR. EACHUS: On the bill.

ACTING SPEAKER AUBRY: On the bill, sir.

MR. EACHUS: Interesting comments from my colleagues, and I appreciate all the questions and statements. I just made mention just a short while ago that I was in the minority because I am not a lawyer. I am a teacher, and I taught for 40 years as many of you already know, and I taught high schoolers. I would love to think that what my colleague mentioned, about I think I can call it common

sense, really applied, but having dealt with these teenagers and middle schoolers for 40 years, unfortunately I can't always say that common sense is there. And, you know, we know this. We can walk right outside of this building and we can see some signs that say "No Skateboarding." One would think that, again, something that's common sense on a sidewalk would occur to an individual. But unfortunately we take every precaution we can in here to protect all of our citizens here in New York State, and that's strictly what this is, it's a safety thing and an educational thing for both our constituents and those who might be on sidewalk or wherever and also those who are purchasing it.

So once again, I thank everybody for their comments and I hope you will support this bill.

ACTING SPEAKER AUBRY: Read the last section.

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

ACTING SPEAKER AUBRY: The Clerk will record the vote.

(The Clerk recorded the vote.)

Mr. Flood to explain his vote.

MR. FLOOD: Thank you. And I do appreciate the sponsor's comments. But as he was speaking, it just reminds me, what happened to parents just doing their job? When did we lose all common sense where parents can just look at your child and say what's the matter with you? Like, why is it on businesses to have to

put, you know, warnings about every little thing, like hey, don't drive this motorized scooter in a packed sidewalk. I have an uncle, and I still have him, you know, but he instilled in us early in life certain values, and he used to have a saying, stupid's for life. Maybe instead of, you know, fining retailers because they don't put a sticker on, they're going to jack up the fines on the guy that's actually driving through the street or through the crowded sidewalk so that maybe he won't do it again, and place the blame on the appropriate party. I -- honestly, I think this State we just, one little thing after little thing suck money out of employees, out of businesses and put the blame on -- on parties that just don't deserve it. Why not hold the person that's responsible for the accident responsible? I vote negative. I would encourage my colleagues to do the same.

ACTING SPEAKER AUBRY: Mr. Flood in the negative.

Mr. Goodell.

MR. GOODELL: Thank you, sir. I very much appreciate that many of my colleagues are not attorneys and they bring a wealth of perspective and experience and common sense to the Chamber, including the bill sponsor, and so I thank you. And before we let the attorneys off, we may recall the reason why your McDonald's cup says, warning, on your coffee, warning, the contents may be hot is because some lawyers got involved and sued McDonald's when apparently their client, who ordered hot coffee, didn't realize it was actually going to be hot. And so when you look at

products and you see all these warnings like, you know, on a rectal thermometer, do not use orally, or on dishwashers, don't let your children play inside them, or irons that say don't iron while wearing your clothes, or food processors that say don't remove the food while the processor is operating, or even scooters that say this product moves when being used. You can thank lawyers for helping all of us understand those concepts so that we don't find ourselves in an embarrassing situation of actually like cutting ourselves with a power tool, or electrocuting ourselves when we're trying to dry the hair while still taking a shower. I'm voting no just because I think my constituents don't know the law and so wouldn't know what to do with a sticker that said follow the law. That's to say that my constituents are very thoughtful and always law-abiding. Thank you.

ACTING SPEAKER AUBRY: Mr. Goodell in the negative.

Are there any other votes? Announce the results.

(The Clerk announced the results.)

The bill is passed.

Page 16, Rules Report No. 264, the Clerk will read.

THE CLERK: Assembly No. A09122, Rules Report No. 264, Cruz, De Los Santos, Simone, Kelles, Simon, Raga, Taylor, Seawright, Levenberg, Otis, Walker, Davilla, Glick, Zaccaro, Zinerman, L. Rosenthal, K. Brown. An act to amend the Criminal Procedure Law, in relation to requiring accurate interpretation of statements made by deponents with limited English proficiency in

accusatory instruments and supporting depositions.

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

Ms. Cruz, an explanation has been requested.

MS. CRUZ: Thank you, Mr. Speaker. New York is a linguistically diverse State and some New Yorkers are not fully proficient in English. In the criminal justice context, this becomes an issue when a New Yorker who is not fully proficient in English seeks to report a crime. How can a person who is not proficient in English relate facts of an evidentiary character to law enforcement officials if he, she, or they cannot speak or write English. The solution is rather simple, to require that law enforcement officials use qualified translators who can translate the deponent's accusations into English, and then require that these individuals submit affidavits affirming what they did, as well as their qualifications. The proposed legislation would ensure that deponents have their allegations accurately translated by someone who is qualified to translate them, while also putting defendants on sufficient notice of the facts given rights to the factual allegations levied against them.

ACTING SPEAKER AUBRY: Mr. Morinello.

MR. MORINELLO: Thank you, Mr. Speaker.

Would the sponsor yield for a few questions?

MS. CRUZ: Of course, Judge. Thank you.

ACTING SPEAKER AUBRY: Ms. Cruz yields.

MR. MORINELLO: Thank you. So what this is,

when it starts out, we have an alleged incident; would I not -- would I be correct?

MS. CRUZ: I'm sorry, can you repeat that?

MR. MORINELLO: The initial process would be an alleged incident that someone --

MS. CRUZ: That's correct.

MR. MORINELLO: -- that someone wants to report. So we have two -- two individuals. We have one that is English-speaking, and we'll take another scenario that is non-English speaking. So a non-English speaking complainant would go to the police, correct?

MS. CRUZ: Yes.

MR. MORINELLO: And they would either have a bilingual or a friend come to explain if they were non-speaking -- non-English speaking under the current circumstances.

MS. CRUZ: Well, yes and no; it depends on which part of the State. They could sometimes end up coming with someone to the police station. Sometimes that happens, and sometimes you have a police station that don't have an interpreter or access to one, that's generally where you would see the example you're providing. But then in other instances, as is common often in New York City or other police stations where you have agencies that have a contract with OGS, there would be an interpreter often by phone.

MR. MORINELLO: Okay. But basically, that statement begins a legal process; am I not correct?

MS. CRUZ: It can, but it doesn't always.

MR. MORINELLO: Well, if there's a complaint, it's got to go through a legal process.

MS. CRUZ: Yes.

MR. MORINELLO: So give me an instance where a complaint from a complainant would not proceed to a criminal process.

MS. CRUZ: Well, they can go to the police and the police might say what you're alleging is not a crime.

MR. MORINELLO: I'm sorry?

MS. CRUZ: They might go to the police, that sometimes happens, make an allegation, and the police might say this is not a crime.

MR. MORINELLO: Well, but they would make -- but should there be, the next phase would be to issue an information, or an accusatory incident--

MS. CRUZ: That's right.

MR. MORINELLO: -- correct? That accusatory instrument would be against a alleged defendant, or an alleged perpetrator, correct?

MS. CRUZ: So far, yes.

MR. MORINELLO: So at that particular point, depending on whether it's a felony or a mis -- no, before that there would be an arraignment, correct?

MS. CRUZ: Well, that would depend if --

MR. MORINELLO: No, there's always --

MS. CRUZ: -- in the particular --

MR. MORINELLO: -- whether, whether --

MS. CRUZ: All things being equal, yes.

MR. MORINELLO: Whether there's -- it's a felony or misdemeanor, there would have to be an arraignment, correct? At that arraignment, let's take a scenario where you have a non-speaking defendant, okay, with an accusatory instrument. At that point, the court and OCA provides an interpreter, which is certified, either by telephonic or in person, depending on the location; would that not be correct?

MS. CRUZ: Yes.

MR. MORINELLO: Okay. And let's take the other scenario where you have a non-speaking complainant and an English-speaking defendant, either way that defendant is going to be arraigned, correct?

MS. CRUZ: That's correct.

MR. MORINELLO: And at that arraignment, that information which is forming the basis of the accusatory instrument would either be translated by an OCA court certified translator, correct?

MS. CRUZ: Hold one sec.

(Pause)

MR. MORINELLO: Well, Ms. Cruz, as a sitting judge, I had to call OCA many times.

MS. CRUZ: I understand that, but you asked me a question, Judge, so --

MR. MORINELLO: I realize that, but what I was going to tell you is I know the answer because I've had to do it.

MS. CRUZ: Then why ask me, Judge? You have to give me the opportunity. It's not fair. If you ask me a question, we want to put it on the record, then allow me to answer it.

MR. MORINELLO: All right, thank you. I was just trying to assist you because I've experienced it and I was trying to be helpful. I'm sorry, okay?

MS. CRUZ: Great.

MR. MORINELLO: I apologize for knowing the answer. So once the arraignment is complete, okay --

MS. CRUZ: Can I ask -- can I ask for a favor, Judge? If we -- we have always been very respectful of each other when we're debating.

MR. MORINELLO: Right.

MS. CRUZ: The answer that you gave me, it's completely unnecessary because if we're going to put something on the record, we're going to have a conversation, there's no need for the snark, there's no need to be disrespectful of each other. I'm nothing but respectful to you and I appreciate if we can just stick to the facts and to the law.

MR. MORINELLO: Well, I stand corrected. I just seen you need -- you needed to inquire of somebody next to you, so I

was just trying to be that person and assist you.

MS. CRUZ: Thank you, Judge.

MR. MORINELLO: Okay, that's the only reason, because I've had to do it. So once that happens, once the arraignment -- well -- is complete, at that particular point depending on whether -- if it's a misdemeanor it could either go to plea or trial, but at every stage the State will provide through OCA a certified interpreter; am I not correct?

MS. CRUZ: Not -- as it stands right now, not at every stage, and often the initial stage where the complainant is providing facts to the police about the incident can often be -- it's often very important and that's at the point where right now we don't -- we don't require a certified interpreter to actually interpret the facts that then go into the information -- the certified interpreter generally comes in once you're in court.

MR. MORINELLO: Well, that's what I'm talking about.

MS. CRUZ: Yes.

MR. MORINELLO: When we proceeded to that point. So from the point of the arrest, through the rest of the process, Office of Court Administration mandates that there be -- and they certify the interpreters; am I not correct?

MS. CRUZ: Yes.

MR. MORINELLO: So at the point of the arraignment forward, there will always be a certified interpreter,

correct?

MS. CRUZ: By -- from the arraignment on, yes.

MR. MORINELLO: From the arraignment on.

MS. CRUZ: Mm-hmm.

MR. MORINELLO: So from that point, if it's a misdemeanor it will stay in the local court, and depending on whether the defendant or the complainant is non-English speaking, because of the rules of OCA there will be an interpreter certified; am I not correct?

MS. CRUZ: Yes.

MR. MORINELLO: Okay. If it's a felony and they waive the preliminary hearing, or if there's a preliminary hearing, depending on the language barrier.

MS. CRUZ: At that point, it doesn't -- at any point once they're in the court process, quote-unquote, there's always an interpreter if -- especially if the defendant does not speak English.

MR. MORINELLO: All right. So I'm a little confused as to what the necessity at the initial complaint stage is to have a certified interpreter if throughout the legal process both the complainant is protected, and the defendant is protected.

MS. CRUZ: Well, arguably we would say that in a State like ours where there's so many people that don't have English as their native language and that even if they speak English it might not be proficient, that in order to even get to the process of being in court, all of the factual statements that are said before that are extremely

important for the accuracy of actually defending the right of the accused, but definitely protecting the person who is making the accusation as the supposed victim.

MR. MORINELLO: All right. So let's take the victim, okay, and this is -- you're worried about -- your focus is on the fact that that particular victim's statement has to be accurate; am I not correct?

MS. CRUZ: I'm worried about both individuals, whoever it is that is not an English-speaking participant, for lack of a better word, whether it's a defendant or the victim. I want to make sure that whatever information is being gathered and put into the information, which is I believe the name of the document, the initial document, we want to make sure that it's accurate. It saves the State money, because if it's not accurate by the time we get to court, it could be overturned. So we want to make sure that we are as accurate as possible through the entire process.

MR. MORINELLO: So would it be a fair statement to say that a victim needs to have justice as quickly as they can and as proper as they can?

MS. CRUZ: I think that's a statement we could all agree with, yes.

MR. MORINELLO: Okay. Well, do -- it -- do you know whether or not police departments at this point in this State have the resources or have a certified interpreter on staff at all times?

MS. CRUZ: I don't think that they have it as staff at

all times, but my understanding is that there is an OGS contract that they can enter into, or that most of them have entered into, where they can provide interpreters via telephonically.

MR. MORINELLO: Okay. So it's your statement that -- and your belief that there is actually an agreement that they can enter into.

MS. CRUZ: That's my understanding, yes.

MR. MORINELLO: Okay. So do you anticipate that there might be any delays in locating a proper interpreter at that particular point, which then would compromise the victim?

MS. CRUZ: I suspect that unless it's an obscure language, most services are pretty quick in obtaining a person over the phone who speaks that other language.

MR. MORINELLO: Okay. So what do you do in a rural area that doesn't have access to that interpreter and the victim is not given her or his justice in a timely fashion?

MS. CRUZ: Given that most of these interpreting services, especially in rural areas, are used by phone, I suspect that an officer would be able to get somebody on the phone very quickly. Again, unless it's an obscure language, there should not be a problem.

MR. MORINELLO: And let's take the obscure language, okay? In New York City I'm sure that it's easier to find an obscure language, correct?

MS. CRUZ: You would think. I've had in my past live cases where it took me a week to get an interpreter. But in

instances like that, you can actually -- this is where the friend that you described in the beginning of your example can come in and be able to interpret for them. And we would -- we would -- they would just have to sign a -- I think the language is in here, give me one second.

MR. MORINELLO: Sure.

MS. CRUZ: There's a short statement that they're able to sign off on. The statement in English would be drafted by the interpreter along with the affidavit stating their qualifications, and affirming the accuracy of the translation. So even if they're not court certified, in those few instances where you have a language that's not very common, there would be a possibility to use that self-testing affidavit of accuracy.

MR. MORINELLO: So would it be fair to say that should that situation occur, it would be sufficient to be able to use either a police officer that's bilingual or a friend of the victim who translates for that victim?

MS. CRUZ: That's a -- I -- I would be much more comfortable with the friend of the victim than with a police officer being the interpreter, not for anything other than they're the ones who have to enforce the law, and so I would want to make sure that it's somebody who is completely outside of that. But I think ultimately that would be up to a court to determine.

MR. MORINELLO: Okay, thank you. So again, throughout the process as we've discussed, it's my understanding that once -- once a -- an accusatory instrument is filed, from that point on

whether it's the victim or the defendant are protected by certified court interpreters under the auspices of Office of Court of Administration.

MS. CRUZ: That's what I've seen in practice, as well, yes.

MR. MORINELLO: I apologize --

MS. CRUZ: That's what I have seen in practice, after arraignment on ones that are in court.

MR. MORINELLO: Okay. Thank you.

On the bill.

Thank you.

MS. CRUZ: Thank you.

ACTING SPEAKER AUBRY: On the bill, sir.

MR. MORINELLO: It just seems that our criminal justice system protects both victims and defendants throughout. The language barrier that this is focused on, the fear is, number one, the cost to smaller departments will delay justice for the victim. Number two, at every stage that victim will have the opportunity to have a certified interpreter go over that statement with them. Number three, any delays could impact that particular victim and not bring them justice. I believe that this is an overreach, I believe that it is not necessary and I urge my colleagues to vote no on this. Thank you.

ACTING SPEAKER AUBRY: Mr. Angelino.

MR. ANGELINO: Thank you, Mr. Speaker. Would you ask the sponsor if she'll yield?

ACTING SPEAKER AUBRY: Ms. Cruz, will you

yield?

MS. CRUZ: Absolutely.

ACTING SPEAKER AUBRY: Ms. Cruz yields, sir.

MR. ANGELINO: I had the luxury of sitting right next to the questions as they were being asked, but I still managed to come up with a couple of my own. The -- so -- you know I'm from a rural area, cell phone coverage, no good. A lot of times -- I can tell you exactly the situation, the Town of Smyrna, New York, lumber mill, they have a lot of H-2A workers there who are Spanish speaking, and occasionally there is an altercation or something happens and we get involved. We usually try to find a neutral employee to translate for us to get the gist of that. So, so far we're okay, so we find out there was a fight, he did this, he hit that, or whatever. It's only at the point that we're drafting an information we have to have somebody?

MS. CRUZ: Well, yes, because that information, all of the specific facts that you put into the information as an officer are what then gets used by the District Attorney to determine whether -- do we charge anything? What are those charges and how to move forward, and we want that to be as specific as possible. So if it is an emergency and you have to respond right then and there, you may not have that time.

MR. ANGELINO: Right.

MS. CRUZ: But if you are trying to figure out, am I arresting this person and then I have to pass on what's in the information over to the DA, that is what the bill requires, that

whatever information is being used by the -- by law enforcement from a deponent, that could be the victim or if you're putting information of the accused in there as well, that's what has to be translated.

MR. ANGELINO: Okay. So a lot of times if it's he-said/she-said cut and dry, will you let the complainant or deponent to sign. Does this also include statements that -- are the information is based upon? So the statement from the victim, that also has to be --

MS. CRUZ: Yes.

MR. ANGELINO: Okay. The --

MS. CRUZ: And I would argue that that's even more important because if you need a statement from a victim to determine why the crime had been committed and what is the crime, you want to make sure that the DA has information that is as accurate as possible. And you mentioned the example of in a rural area having people that speak Spanish, I'm not sure how many people are familiar with this, but depending on the country you come from, a single word can have ten different meanings in Spanish and it can completely change the meaning of whatever you're being told, so we want to make sure that it is as accurate as possible.

MR. ANGELINO: Do you think that a -- I heard when the Judge was asking, you mentioned telephonic. Do you think a telephone -- a telephone conversation is better trusted than a person who is actually there and sees the -- hears the voice inflection and sees the person?

MS. CRUZ: I think for interpretation purposes I've

seen in practice, and this is more, I've seen better interpretations sometimes by phone than in person, and vice versa.

MR. ANGELINO: Okay. And what about the English -- the use of English in sign language, which we actually encounter just about as frequently. This is only spoken word, this is not sign language?

MS. CRUZ: This bill does not contemplate that.

MR. ANGELINO: Okay, and because sometimes sign language they write out their own statement and --

MS. CRUZ: You just gave me an idea for my next bill.

MR. ANGELINO: Okay. Well, thank you very much. Thank you, Mr. Speaker.

MS. CRUZ: Thank you.

ACTING SPEAKER AUBRY: Thank you.

Mr. McGowan.

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

MS. CRUZ: Absolutely.

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

MS. CRUZ: Yes.

MR. MCGOWAN: Thank you. I'm just -- I'm just trying to understand how this bill impacts, I guess, current process. So ultimately this is dealing with any time the accusatory instrument is an

information, which contains non-hearsay factual allegations supplied by, you know, a complainant, right. That has to have a certified translator, correct?

MS. CRUZ: That has to have an affidavit from someone certifying that they have -- they are qualified translators and that the information is accurate to the best of their knowledge.

MR. MCGOWAN: Okay. So in a situation where the police and the District Attorney move forward with the complaint that has not yet been converted to an information, right, so it does contain hearsay, and then later on decides to convert that to information with a supporting deposition. That process isn't changed here, correct?

MS. CRUZ: No.

MR. MCGOWAN: So someone can make a complaint to the police, perhaps in a more rural area or in the -- the middle of the night, or early morning hours, for whatever reason no one is there to be able to provide this translation, the police could make an arrest --

MS. CRUZ: Go ahead, continue.

MR. MCGOWAN: -- the police could make an arrest and accusatory instrument could be filed that's a complaint that doesn't have that extra non-hearsay requirement, that's not changed by this, correct?

MS. CRUZ: Yeah no, I think you're correct, it wouldn't be triggered at that point.

MR. MCGOWAN: And we're only dealing with misdemeanors here, right?

MS. CRUZ: No, it's for everything.

MR. MCGOWAN: So can you explain to me how this impacts felony charges?

MS. CRUZ: I'm not understanding your question, like, you're asking what way it would be different?

MR. MCGOWAN: Yes.

MS. CRUZ: It wouldn't be different than what is used now. The only thing that it touches is the certifying of the translation, but it doesn't really touch the other areas of the process.

MR. MCGOWAN: Well, there's no requirement under law now that the felony complaint be converted to an information, correct?

MS. CRUZ: Not that I'm aware of.

MR. MCGOWAN: Right. The next step would be to proceed to grand jury, which would be live testimony, there is no written supporting depositions.

MS. CRUZ: Well, you do have the instances where the initial charge is a misdemeanor and then gets upgraded to a felony based on the accusatory instrument.

MR. MCGOWAN: Well, the up-charging, right, that -- but that could be done through the grand jury process, but again, there's no requirement that a felony -- I mean, there's no such thing as a felony information, correct?

MS. CRUZ: No, I don't think there is.

MR. MCGOWAN: That's what the grand is jury.

MS. CRUZ: Yeah.

MR. MCGOWAN: Okay.

MS. CRUZ: But you see, if you're involving a grand jury, you're going to have -- you're now in the court system that the Judge mentioned, you would have an interpreter, so...

MR. MCGOWAN: One-hundred percent, we're on the same page with that, right?

MS. CRUZ: Yeah.

MR. MCGOWAN: So I'm just trying to understand, this really only deals with misdemeanors that, by law, in order for the prosecution to proceed --

MS. CRUZ: Well, in practice, yes.

MR. MCGOWAN: Let me just finish, right, so to stay ready for trial, to proceed, right, assuming a COC is filed to comply with all these new discovery laws and everything, right, assuming all that's done, but to convert a complaint and be able to proceed to trial on a misdemeanor you need an information.

(Pause)

MS. CRUZ: When the person first walks into a police station to make an accusation, you don't always know if it's going to be a misdemeanor or a felony, and that's when it would be triggered, because at the point where they're coming into the station to make a complaint, or, you know, in a rural area they call the police

over, you don't know at that point what it's going to be. And so what we're saying is at the point where the police is taking all the information that hypothetically would end up in an information or leading to a charge, you -- we are asking that that information, and it's confusing because what we know as information and what's information are two different things, but --

MR. MCGOWAN: I'm with you.

MS. CRUZ: -- what -- what the narrative, let's call it the narrative that then goes into the information, you don't know at the beginning if it's just going to be an information because it's going to be a misdemeanor or it's going to end up leading to a felony.

MR. MCGOWAN: So are you saying that before, again, depending on the jurisdiction, right, some places the police charge, they file charges, or the District Attorney files charges, and I've worked in both jurisdictions where both things can happen. Are you saying that before charges can be filed, whether it's a complaint, a misdemeanor complaint, misdemeanor information, or felony complaint, that we have to have this extra certification in order to even charge the defendant?

MS. CRUZ: I don't think the bill -- the bill does not contemplate timeline. The bill contemplates the idea that someone who doesn't speak English is going to the police and saying this is what's happened to me, I'm a victim of X-Y-Z, and at that point when they're a perceived victim, that's when we're requiring a certified translator.

MR. MCGOWAN: So in the instance where, and whoever it is, but they're not a certified interpreter or translator, whether it's a police officer or the victim's friend, when they come in and an allegation is made accusing someone else of a crime, are you saying that the police cannot charge until they get this statement certified?

MS. CRUZ: We're not saying they cannot charge. I think in that instance it would depend on the circumstances.

MR. MCGOWAN: Okay. So there's nothing in this bill that prohibits charging -- I understand, and when we use the word "information" meaning the type of accusatory instrument, right?

MS. CRUZ: That's right.

MR. MCGOWAN: But the police could proceed and the District Attorney could proceed at least initially on a complaint that's not converted yet to an information. This doesn't --

MS. CRUZ: Yes. We're not touching that, yes.

MR. MCGOWAN: Okay. So it's only -- the scenario would involve later on if once the charging decision is made, the person is charged, right, because they have a translation, it will be not certified, in order for them to create an accusatory that could proceed at least at the misdemeanor level, they have to get it converted to an information, right?

MS. CRUZ: Yeah, yes.

MR. MCGOWAN: Okay. So none of that has changed. It's just the requirement to convert a complaint to an

information --

MS. CRUZ: Or whatever the accusatory instrument would be if it would cause a felony.

MR. MCGOWAN: But there is no -- but that only happens at grand jury. So there's no -- there's no supporting deposition with a felony indictment --

MS. CRUZ: Yes, that's correct.

MR. MCGOWAN: Right, that's the grand jury, that would be the grand jury, right, okay. So again, this only applies to misdemeanors.

MS. CRUZ: Yes, initially, but I want to remind you of the example I gave of the up-charging. In an instance like that, you begin with the accusatory instrument and then it eventually turns into something else.

MR. MCGOWAN: But you could only do that if you file a felony complaint again. Unless the law has been completely rewritten that I'm not aware of, in order to proceed with a prosecution of anyone with a felony, you have to have an indictment unless the defendant waives --

MS. CRUZ: That's correct.

MR. MCGOWAN: -- and there's an empirical of information.

MS. CRUZ: That's correct.

MR. MCGOWAN: But putting that situation aside, so again, in order to proceed with the prosecution of somebody, under

this bill, this is only dealing with misdemeanors that require it to be converted to an information containing non-hearsay, factuality (inaudible), right?

MS. CRUZ: The bill does not specifically say that it applies to misdemeanors. I understand what you're saying that in practice that's the way that it could play out --

MR. MCGOWAN: Well, I think on the rest of the law. I think this in conjunction with the rest of the CPL and Penal Law, that's the only way it can play out.

MS. CRUZ: Yeah.

MR. MCGOWAN: Okay. So -- okay.

MS. CRUZ: But you know, ultimately I never want to rule some sort of other scenario, so I'm going to say yes, but maybe.

MR. MCGOWAN: Okay, we'll go with that. Okay, thank you very much for your time, I appreciate it.

MS. CRUZ: Thank you.

MR. MCGOWAN: Sir, on the bill.

ACTING SPEAKER AUBRY: On the bill, sir.

MR. MCGOWAN: You know, I think ultimately there's perhaps some confusion of what exactly we're talking about here. I mean, look, at the end of the day, we cannot impose laws that restrict the police from making arrests. We're talking about a probable cause determination, which is very far below beyond a reasonable doubt which is required to convict someone of a crime. So my concern here is that perhaps this puts too much of a burden on police

and prosecution when they have a good faith basis. If somebody comes in with a friend or there's a police officer, I mean, I have -- I represent police departments that have, you know, that have jurisdiction over areas with substantial Spanish-speaking residents, Haitian Creole speaking, Yiddish speaking residents, so the police are in tune to who they represent and have proper -- the proper ability to relate to those individuals and take a complaint. What we don't want our bills that impede the police ability to go out and make arrests when there's a good faith basis provided to them which could then further endanger public safety.

So ultimately this bill I think at the end of the day this does only apply to misdemeanors, by operation of the rest of the Criminal Procedural Law, because any felony charge does not require information, which is a type of accusatory instrument requiring non-hearsay factual allegations that would ultimately be replaced by a grand jury action or District Attorney's office. So, you know, I have concerns with this bill. I think it's in some ways brought attention, but ultimately that's the job of the defense attorney, right, as someone who practices criminal defense, you know, that would ultimately be the job to challenge the voracity and accuracy of those statements. So I don't think we should be doing the job of the defense attorney, that's really what we're doing here. So I think it's a bit of a reach, I think it's unnecessary, and for those reasons, sir, I will be respectfully voting in the negative. Thank you, sir.

ACTING SPEAKER AUBRY: Thank you.

Mr. Lavine.

MR. LAVINE: Thank you. Will the sponsor yield?

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

MS. CRUZ: Of course.

ACTING SPEAKER AUBRY: There she is.

MR. LAVINE: So someone who is arrested has got a right to a speedy arraignment, and someone who is the victim of a crime has a right to make sure that the police and the prosecutors process that -- process the matter. So I'm -- and I'm sorry, I'm just a little confused, it's a long time since I was in the criminal courts of the State of New York. And we have spoken about what happens when someone comes to the precinct and makes a complaint, but what about the scenario where law enforcement is out on the streets and they witness, let's assume, a robbery. And they arrest someone and the victim is not conversant -- or fully conversant in English. In order for them to comply with this proposed law, is it going to require extra time to be able to locate an interpreter and then to do the deposition that the interpreter is supposed to execute before the matter can go to the initial judge or magistrate?

MR. CRUZ: Do you mean like before they arrest them, even in your scenario they actually saw a crime occur?

MR. LAVINE: They've actually -- they see a crime in process.

MS. CRUZ: No, they -- it wouldn't have to wait.

You know, if they saw a crime happen, the police make the arrest, what would we would ask is that in that instance if they're going to also take a statement, but they also saw it happen, from the victim who doesn't --

MR. LAVINE: Yes.

MS. CRUZ: -- speak the language, they do something as simple as pick up a phone and call the whatever number their station has given them to get an interpreter, and I'm going to use the example of the NYPD, my understanding is that they have like a card that has different languages, the person points to it, they call, they get the information, and these companies are generally certified interpreters. So all they'd have to do once they do all the paperwork is get something that says we translated, it's correct, and everybody keeps it moving.

MR. LAVINE: And that translation, that deposition by the interpreter, separate deposition, that must accompany whatever court papers are filed?

MS. CRUZ: Yes.

MR. LAVINE: All right, thank you.

MS. CRUZ: Thank you.

ACTING SPEAKER AUBRY: 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: Thank you, sir. The Republican Conference is generally opposed for the reasons mentioned by my colleagues. Those who support it are certainly welcome to vote yes on the floor. Thank you, sir.

ACTING SPEAKER AUBRY: Thank you.

Mr. Hevesi.

MR. HEVESI: Thank you, Mr. Speaker. This will be a party vote in the affirmative. Any of my colleagues who wish to vote no, please call John Knight, I'll give you the cell number, it's 9 --

(Laughter)

You can do so at your desks. Thank you very much.

ACTING SPEAKER AUBRY: Thank you, Mr. Hevesi.

Mr. -- I'm sorry.

The Clerk will record the vote.

(The Clerk recorded the vote.)

Mr. Angelino to explain his vote.

MR. ANGELINO: Thank you, Mr. Speaker, to explain my vote on 9122. Cops on patrol are doing the best that they can all the time, and I heard a couple of times, it's as simple as picking up a phone. And I've got to tell you, there's sometimes making a phone call is as simple as driving a patrol car nine miles to a hilltop to get service. The -- the situation of an officer on patrol coming across a crime in progress, making an arrest, which has happened, where you

see something taking place and you're not near a phone, you have no service, you're doing the best you can, and they might end up with the actor in the back seat and the victim in the front seat trying to -- trying to get to a station. Things on the road are just not as simple as they are here in the Chambers, as described. I -- nobody wants to deny a victim their right to accuse somebody, and nobody wants to take away the rights of the accused, and I just only hope that an officer on patrol doing the best he can using a family member, or there's even been cases where the actor has helped translate what is being said, that we can get something on paper that later on can be an amendment in court. But the things that happen out on the street, just -- one size does not fit all and what happens in this room is so far different than what an officer on patrol is going to experience. I appreciate the cordialities that myself and the sponsor had back and forth. I did not read the bill and I appreciate her answering my questions, but I'll be voting no. Thank you, Mr. Speaker.

ACTING SPEAKER AUBRY: Mr. Angelino in the negative.

Ms. Cruz to explain her vote.

MS. CRUZ: Thank you, Mr. Speaker. I just want to reassure everyone, this bill is meant to ensure that our system works. The reality is that people in New York speak more than just English, and sometimes they don't speak English at all. But they also deserve the protections that our State provides, they deserve to feel safe, and they deserve to be able to go to the police when they don't, and have

the person who aggrieved them arrested if that is case. And the person who is accused also deserves their day in court. And this is done to ensure that whatever is done throughout the entire process is accurate, is correct, and it leads to justice. We are not doing an unfunded mandate, there's already contracts with OGS. We're not asking police to do anything that many of them aren't already doing. And to note, many police officers are actually told by their precincts that they are not allowed to be interpreters because we want to make sure that there is an independent person that is doing the translation and ensuring its accuracy. The only thing that this bill does is say you now need to sign a little document that says this is accurate, and provide that document saying that you are a -- a qualified interpreter, and then that goes on with the rest of the process in court to ensure that the victim has justice and that if the person committed a crime, they have all the information needed to defend themselves. Thank you, and I'll be voting in the affirmative.

ACTING SPEAKER AUBRY: Ms. Cruz in the affirmative.

Mr. Zaccaro to explain his vote

MR. ZACCARO: Thank you, Mr. Speaker. It is a universal truth that New York is a diverse multilingual melting pot where from around the world -- for people who are around the world call our State home. This Chamber has passed many bills whose intent is to insist non-English speakers ensure that they're treated equally and that their rights are upheld and the bill before us today is

no different. Requiring qualified translators to be present and to translate verbal or written statements from a non-English speaking deponent should not be viewed as overly burdensome. By enacting this legislation we're not only upholding the principles of fairness and equality under the law but also ensuring the integrity of our legal system. I urge all my colleagues to stand on the side of justice today and support this legislation. And by doing so we send a clear message that in our pursuit of a more just society no one will be left behind because of the language that they speak. I want to thank the bill sponsor for her work on this bill and I proudly vote in the affirmative. Thank you, Mr. Speaker.

ACTING SPEAKER AUBRY: Mr. Zaccaro in the affirmative.

Are there any other votes? Announce the results.

(The Clerk announced the results.)

The bill is passed.

Page 16, Rules Report No. 268, the Clerk will read.

THE CLERK: Assembly No. S08136-A, Rules Report No. 268, Senator Sanders (Vanel, Burdick, Sayegh--A09507). An act in relation to establishing the New York State cryptocurrency and blockchain study task force; and providing for the repeal of such provisions upon expiration thereof.

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

MR. VANEL: Thank you, Mr. Speaker. New York

is arguably the financial capital of the world. And most of -- most -- and most of us must ensure that we are helping to foster the creation of an environment that allows and continues us to lead in the financial sector. New York -- the New York Stock Exchange and NASDAQ are two of the worlds most valuable stock exchanges that are located right in New York. However, it's not guaranteed that we remain the same and that we remain the financial leader. In reality, in the current economic environment, we are competing with likes of London, Toyko, Shanghai and Hong Kong for financial investments and our position as a financial leader. In the current digital and technological world, New York is vying for a future of financial transactions and activity with almost every global market and state. Cryptocurrencies have been making in roads in New York for over a decade. A rising number of businesses around the State are accepting cryptocurrency payments, and throughout the State there are a number of cryptocurrency-related investments, investment companies and businesses. Blockchain technology is a technology that undergirds the industry. Its benefits are decentralization, immutable security, transparency amongst other things. The Bit license was a license for virtual currency activities in New York State that was promulgated by the Department of Financial Services in 2015. We must thoroughly comprehend the implications of blockchain technology, its impact on innovation, its potential for jobs and economic growth, energy consumption, environmental issues and competition known to supplement the Bit license with its curve for the correct legislative

framework. New York must be a state where we -- one, where consumers and investors are safeguarded, where money laundering is prevented, where New Yorkers are protected from unscrupulous users and actors, where employment and economic growth is promoted and where the technology uses are -- are considered. The bill establishes a cryptocurrency and blockchain study task force, and its goal is to provide the Governor and the Legislature with information on the effects of the widespread use of cryptocurrencies and ancillary systems including blockchain technology.

ACTING SPEAKER AUBRY: Mr. Goodell.

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

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

MR. VANEL: Yes, I will.

ACTING SPEAKER AUBRY: Mr. Vanel yields, sir.

MR. GOODELL: Thank you. As you noted, a number of years ago we authorized the issuance of cryptocurrency, I guess it's called Bit licenses. Am I correct, though, that even though it's now been several years later, New Yorkers are still not allowed to utilize some of the largest Bitcoin companies or -- or exchanges?

MR. VANEL: So in 2015 New York -- New York promulgated under DFS the Bit license. And since then the Bit license that is used to protect New Yorkers from -- to make sure that we protect New Yorkers from unscrupulous actors, and in fact we

have done so. Since having the Bit license we have protected New Yorkers from a lot of the worst situations that have been happening in -- in the industry.

MR. GOODELL: But am I correct that we currently don't allow New Yorkers to participate in prominent exchanges such as Binance or USC Toro or even Voyager, yes, or even crypto.com, right?

MR. VANEL: Yes, so, yes. So New Yorkers are not allowed to participate in many other -- in a number of exchanges that have not worked to go through DFS. The Department of Financial Services is one of the premiere, if not the premiere agencies around the world when it comes to cryptocurrency protection and -- and -- and -- and regulations. And as a matter of fact we worked with the New York State -- DFS has worked with the Federal Government and many other governments to figure out how to make sure that we properly protect investors.

MR. GOODELL: In fact, I think New York is the only State in the nation that doesn't allow participation in crypto.com even though they have ten million customers.

MR. VANEL: Nonetheless, yes. And New York is -- New York is one of the first -- one of the only states that protected -- and I don't want to name other kinds of platforms that protected -- that protected folks from a lot of the platforms that have been unscrupulous, so that is -- yes, that is the case.

MR. GOODELL: Now this bill was vetoed last year

along with I think 32 others on the grounds there wasn't any funding provided for this task force. Has that issue been addressed?

MR. VANEL: Again, so the -- -- the -- there were task force that were approved last -- last year, and also this -- this bill was passed in 2019 and we actually worked at that time. The only reason why it didn't -- didn't go through was because of the -- the unfortunate events in 2020.

MR. GOODELL: But as far as addressing the Governor's veto, the funding has been included in the budget for this task force?

MR. VANEL: No.

MR. GOODELL: I see. One last question, I see that there are four members appointed by the temporary Senate -- temporary president of the Senate and four members appointed by the Speaker of the Assembly but no members appointed by the Minority either in the Senate or the Assembly. Why is that?

MR. VANEL: In this bill it doesn't specify any Majority or Minority, so it doesn't specify any political parties. And in -- in fact, when we -- when the bill was passed in 2019 we actually worked with the Minority in order to help fill the -- fill the positions.

MR. GOODELL: But my question is, how come there are no members appointed by the Minority leader in the Assembly or the Minority leader in the Senate, that all the members are only appointed by the Speaker or the temporary president?

MR. VANEL: So it -- it just talked about the position

of the leaders of the House, but in practice when we worked on this we worked with the Minority.

MR. GOODELL: Thank you for answering those questions. Thank you, Mr. Speaker.

ACTING SPEAKER AUBRY: Thank you.

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.

Page 17, Rules Report No. 299, the Clerk will read.

THE CLERK: Assembly No. S01267-A, Rules Report No. 299, Senator Breslin (McDonald, Steck, Stirpe, Santabarbara, Thiele, Hevesi, Burdick, Beephan, Norris, K. Brown, Colton, Bendett, Gunther, Paulin, Seawright, Levenberg, Lavine, Lunsford, Ardila, Cook, Reyes, Meeks, Sayegh, Jacobson, Simpson, Davila, Lupardo, Simon, Gallahan, Raga, Weprin--A00901A). An act to amend the Insurance Law and the Public Health Law, in relation to requiring a utilization review agent to follow certain rules when establishing a step therapy protocol.

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

MR. MCDONALD: Thank you, Mr. Speaker. This legislation works to streamline the step therapy process. Many people are familiar with step therapy. It's a very effective tool when it comes to prescription therapy, but there are also a lot of concerns that have been raised over the years. As a practicing pharmacist, I have seen the values, I have also seen the challenges. So there's multiple items that I would just try to tip them off briefly that it tries to address. It prohibits the use of off-label medication to be used as part of step therapy, defines how many drugs per therapeutic category per step therapy before going back to the original prescribed drug by the practitioner, aligns step therapy with evidence-based guidelines, defines the step therapy duration. It reduces the administrative burden for providers. We've heard from a lot of physicians, nurse practitioners and PAs about some of the challenges that impacts their office and also impacts their patients' care. It still strives to address the cost effectiveness of step therapy. It approves patient medication acceptance because sometimes patients get discourage when they hear

--

ACTING SPEAKER AUBRY: One minute, Mr. McDonald. Members, we're on debate.

Sir.

MR. MCDONALD: Thank you, Mr. Speaker. So it improves both medication acceptance because many times patients go to the pharmacy, they hear there's step therapy and they walk away and never start the medication. It actually improves adherence as

well. And most importantly for those patients who have gone through a step therapy regimen before and their plan changes, they change their plan, why did they change their plan, excuse me. If the step therapy regimen is similar with the prior plan, we establish a process for it to be authorized without them going through step therapy again.

ACTING SPEAKER AUBRY: Mr. Blumencranz.

MR. BLUMENCRANZ: Thank you, Mr. Speaker.

Will the sponsor yield?

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

MR. MCDONALD: Yes.

ACTING SPEAKER AUBRY: The sponsor yields.

MR. MCDONALD: Yes, Mr. Speaker.

MR. BLUMENCRANZ: So with regards to the process of step therapy, how will it -- can you just give some of your reasoning behind removing the ability to use off-labeled drugs?

MR. MCDONALD: It's hard to believe this, I know you're right there, but I couldn't hear what you said. You said something about off-label drugs.

MR. BLUMENCRANZ: What was your reasoning behind the removal of off-label drugs?

MR. MCDONALD: So, you know, the interesting part of off-label drugs is very interesting. I can tell you that, you know, and this is the time to explain the difference between prior authorization and step therapy. Many times I had patients complain

because a prescriber will write a prescription for something that's off label and it's rejected on our prior approval, but then rarely does this happen, it's included in a step therapy regimen. The bottom line is off-label means that it's not approved by the FDA. It does mean that there's information out there that indicates it might be effective, but in the patient's best interest, and actually I think the plan's best interest in most circumstances, it's best to have a very clear delineated process with medications that have been approved by the Food and Drug Administration.

MR. BLUMENCRANZ: Now I'll have to push back on that a little bit. I've seen instances myself for health care plans for large and small corporations and companies where the successes -- the success of a step protocol on a rare disease or a cancer patient significantly reduced the price so much so that the price for all participants was lower. Would -- under this piece of legislation, would that not be the case anymore if that portion of the step therapy was not -- was an off-label drug?

MR. MCDONALD: So let me go back to my original conversation about prior approval and step therapy. You know, plans really have to be consistent and I found out in this conversation with many different stakeholders, with many different plans, everybody likes to do it a little bit differently. And then the question is, why do we do it a little bit differently? Is it because of the clinical or therapeutic reason, or is it because a -- a monetary reason? And the monetary reason is is that for the benefit of the patient or

could it be for the benefit of a rebate going back to the PBM or the plan? So, I can't answer your question a hundred percent confidently because the truth of the matter is most step therapy plans are designed that the patient has the least expensive option first, which usually is the least expensive option for the patient.

MR. BLUMENCRANZ: I'm going to just --

MR. MCDONALD: But if -- if -- just let me just finish my question, but if Plan A is saying hey, you guys (inaudible) prior authorization. No, we can't use off-label (inaudible) but on the other hand step therapy we're going to use it, I think that calls into question, it adds a couple of questions to the process.

MR. BLUMENCRANZ: Well, I think respectfully in certain cases it may be not necessarily a prior authorization but health care plans have a main objective of -- of making sure you get better to begin with, but at the same time it is cost-effectiveness and they do work on driving the cost of prices down both for the plan and the participants as well as for the company itself. But with regards to the duration. Now in consideration of some of these durations, 30 days, I know when we talk about step therapy, it's not usually for mental health treatment, but in the cases of certain mental health drugs as well as other drugs, sometimes 30 days is not enough to see whether or not a drug worked or didn't work. How will your bill affect this process?

MR. MCDONALD: That's a very good question and I should take the opportunity to mention to, you, you know, this has

been a two year process on this bill. Yes, there are advocacy groups promoting this bill, but at the same token the health plans have -- have requested a lot of important considerations of which I have considered the majority of them, and this is a classic example. The bill originally drafted spoke primarily to only a 30-day duration of prescription medication, in other words a 30-day trial, and I pushed back in the advocacy group saying to be clear, an antidepressant is a great example of which you alluded to, it sometimes take six, eight, 12 weeks for a medication to be effective, and that's why we included language in here under Section 15, subsection 3, require the use of step therapy required for longer than 30 days or a duration of treatments supported by current evidence-based treatment guidelines appropriate to the specific disease state being treated.

MR. BLUMENCRANZ: Okay. With regards to the -- sorry, one second.

MR. MCDONALD: Take your time.

(Pause)

MR. BLUMENCRANZ: All right. I think that's -- that's about it for my questions for now. Thank you very much.

MR. MCDONALD: Thank you.

ACTING SPEAKER AUBRY: Read the last section.

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

ACTING SPEAKER AUBRY: The Clerk will record

the vote.

(The Clerk recorded the vote.)

Mr. Blumencranz to explain his vote.

MR. BLUMENCRANZ: Thank you, Mr. Speaker.

With regards to the bill, I believe that there is some trouble with the way that step therapy is performed currently. I think all of us have seen the frustrations, especially when someone goes from one healthcare plan to another and they're led in a loop where they have to then go through another step therapy where they can even be taking the same drugs. After some conversations with the sponsor and a little bit of back and forth and the language of the bill, I -- I feel like this bill does sufficiently tackle some of the issues that many people face in our healthcare system today. So I'm happy to support this piece of legislation. Thank you.

ACTING SPEAKER AUBRY: Thank you.

Mr. McDonald to explain his vote.

MR. MCDONALD: Thank you, Mr. Speaker, and I appreciate the comments of my colleague but also all those who are supporting this legislation. I want to thank all the stakeholders involved. You know, we mentioned the health plans a lot. They have been very helpful. Although, I think there are still some areas of concern. In regards to really getting us to a spot that really I think is a good first effort at coming to a solid compromise, I firmly believe the patients have been through the battery of step therapy before and they switch plans. A simple note from the doctor, which is what this

legislation clarifies makes perfect sense. I think the fact that we've actually looked at evidence-based guidelines as being the determination of the duration of step therapy makes perfect sense.

So, once again, I appreciate the support of my colleagues. Mr. Speaker, I appreciate the hard work of our staff who helped us work through this process as well and I am voting in the affirmative.

ACTING SPEAKER AUBRY: Mr. McDonald in the affirmative.

Are there any other votes? Announce the results.

(The Clerk announced the results.)

The bill is passed.

Page 18, Rules Report No. 324, the Clerk will read.

THE CLERK: Assembly No. S02124, Rules Report No. 324, Senator Rivera (Paulin, Sayegh --A07725). An act to amend the Social Services Law, in relation to allowing physician assistants to serve as primary care practitioners for purposes of Medicaid-managed care plans.

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

MS. PAULIN: Thank you, Mr. Speaker. The bill would allow physician assistants to serve as primary care practitioners for the purposes of Medicaid-managed care plans.

ACTING SPEAKER AUBRY: Ms. Walsh.

MS. WALSH: Thank you, Mr. Speaker. Will the

sponsor yield for just a few questions?

MS. PAULIN: Absolutely.

ACTING SPEAKER AUBRY: Ms. Paulin yields.

MS. WALSH: Thank you very much. So under our current law physician assistants have to work under the supervision of an MD, correct?

MS. PAULIN: Yes.

MS. WALSH: And do you happen to know if that supervision is -- has to be on site or continuous or do you know what the nature of that supervision, what it looks like?

MS. PAULIN: Yes. It's -- the ratio is 6:1 in a hospital and there's usually some white coat around, but that doesn't have to be over on top of them or in the same room. Same is true when it's in a private practice.

MS. WALSH: Okay. So does this -- so now this bill only applies to the Medicaid program, correct?

MS. PAULIN: Yes.

MS. WALSH: All right. So if -- if a physician's assistant wish to after this bill, could they kind of hang out their shingle and have their own family practice and then just have that relationship with maybe an off-site doc that's going to review their files periodically and provide advice or whatever?

MS. PAULIN: All this bill really does is it -- it requires or it will force Medicaid-managed care in their brochures to allow Medicaid patients to choose, you know, a physician assistant as

opposed to a -- to a primary care doctor. Partly they can do that now, but it's just not in the brochure so that patients are unaware and often have very long wait times for the doctors that they might choose. So this way it just gives more options for Medicaid clients. It doesn't change any of the relationships that currently exist.

MS. WALSH: Okay. And as I believe you said before but just to reiterate, does this bill also then prevent a physician's assistant to bill Medicaid directly for the services that they provide to a patient?

MS. PAULIN: The billing arrangement doesn't change.

MS. WALSH: Okay. Well, that -- so that's my -- I guess really my last area of questioning is that there was an identical bill carried by a former Assemblymember Gottfried that was vetoed in 2022 by the Governor, who claimed that the bill would result in a complicated and costly billing change for Medicaid claim submission. I mean, that doesn't sound like what you were just saying. You're saying it wouldn't change at all.

MS. PAULIN: Right. We don't believe it will, and in fact in that same veto message the --- the Executive did commit to working with the physician assistants to allow what we're hoping this bill will allow, and then there was just no cooperation and -- and there was nothing happened after that veto message. So we feel the need to put it out again because we still have a backlog of wait times for Medicaid clients in terms of identifying and choosing and seeing a

primary care physician or physician assistant.

MS. WALSH: Very good. Thank you very much.

Mr. Speaker, on the bill.

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

MS. WALSH: So very briefly, I appreciate the -- the short debate that we had. I -- I think it's very important when we have such a shortage of medical professionals to assist particularly people who are utilizing the Medicaid program. I think it's important that we do what we can to increase the number of choices that these individuals have in seeking timely care. I mean I've been hearing, I'm sure you have, too, about significant wait times that patients are experiencing, trying to even get in to see anybody. So I know that there have been some concerns raised by the medical community. The reason why I really wanted to ask about whether this bill changed the -- the way that things are set up now with an overseeing doc and I'm reassured by the fact that for right now anyway, that that is still the -- the current situation, because there are differences in the amount of training that each medical professional has received from physician, to nurse practitioner, to physician's assistant and we want to assure that in addition to providing excess -- access to care, we also want to maintain a high-quality of care and I think that this bill strikes that appropriate balance and I'm very pleased to support it. Thank you very much, Mr. Speaker.

ACTING SPEAKER AUBRY: Thank you.

Read the last section.

THE CLERK: This act shall take effect immediately.

ACTING SPEAKER AUBRY: The Clerk will record the vote.

(The Clerk recorded the vote.)

Mr. McDonald to explain his vote.

MR. MCDONALD: Thank you, Mr. Speaker. I want to thank the sponsor for this legislation. You know, it's interesting. I still practice pharmacy so I see a lot of patients, and I can tell you that if I asked the majority of them who's your primary care provider many of them don't. They just don't have them, believe it or not. This is a very simple piece of legislation. I commend my colleagues for clarifying some of the concerns, but it also speaks to one of the larger issues. We do have a very good job of building a lot of silence in this State when it comes to health care and that's understandable, everyone has worked hard to earned a degree for whatever it may be whether it's physician, nurse practitioner, psychiatrist, whatever it may be. But at the end of the day I just invite you to come over some night, like many of my colleagues have done, to go visit the Albany Med ER or St. Peters ER. The two longest wait times in the State if you go there. Now there are people there that are there for an emergent situation. There are a lot of people that are there because they just don't feel well and they need to see somebody. Having a primary care provider will not solve all those problems, but it's another valuable tool to this solution and I think we need to keep that in mind as we go forward as we work with our colleagues and we work with the education

department because I know it's very difficult dealing with all the turf issues that come about, but at the end of the day our main priority is protecting and caring for the public. Therefore, I support this legislation. Thank you.

ACTING SPEAKER AUBRY: Mr. McDonald in the affirmative.

Are there any other votes? Announce the results.

(The Clerk announced the results.)

The bill is passed.

Page 18, Rules Report No. 326, the Clerk will read.

THE CLERK: Assembly No. A08333-A, Rules Report No. 326, Bores, Glick, Epstein, Shimsky, Levenberg, Paulin, Simon, González-Rojas, Meeks. An act to amend the Executive Law, in relation to defining personalized handguns and requiring the Division of Criminal Justice services to certify the technological viability of personalized handguns and to establish requirements related to the sale of personalized handguns.

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

MR. BORES: Certainly. Mr. Speaker, this bill directs the Division of Criminal Justice Services to do two things. First, it must within 180 days of its effective date investigate the viability of personalized handguns and second, if it finds that they are viable, it must establish criteria for testing the guns and then maintain a list of such guns.

ACTING SPEAKER AUBRY: Mr. Morinello.

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

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

MR. BORES: It would be my honor.

ACTING SPEAKER AUBRY: Mr. Bores yields, sir.

MR. MORINELLO: Are there currently any handgun manufacturers in New York State?

MR. BORES: Are you asking about personalized handguns or handguns in general?

MR. MORINELLO: Handguns in general.

MR. BORES: Yes, there are.

MR. MORINELLO: All right, and which one is it, please?

MR. BORES: Three that come to mind, Dan Wesson which is based in Norwich, New York made about 7,000 1911 style pistols in 2022, the most recent year I have data. Oriskany Arms based in Oriskany, made 441, Allen Arms Tactical in Newark Valley, they made 39 pistols.

MR. MORINELLO: Thank you. Have any of these companies been contacted as to whether or not the technology necessary for the personalized handguns has been perfected?

MR. BORES: I have not spoken to those three companies. I have spoken to manufacturers of personalized handguns,

they're just in other states.

MR. MORINELLO: And what has the results of those conversations been?

MR. BORES: So one of them is selling direct to consumers in all 50 states including New York and has purchases thereof. Another one has been selling to law enforcement organizations specifically and has had I believe six law enforcement organizations test out these weapons based in Kansas, Texas and a few other states.

MR. MORINELLO: And what has been the experience? Let me rephrase that. Have they experienced any difficulties with the utilization of that particular personalized handgun?

MR. BORES: I'm not aware of any difficulties that have arisen. Though I'm sure like any technology, that's why it's important to test.

MR. MORINELLO: Thank you. How does the bill envision the Division of Criminal Services accomplish this task?

MR. BORES: Largely that's up to the division, they are the experts in gathering these statistics and in doing these tests and so we leave them a large amount of discretion in coming up with those criteria.

MR. MORINELLO: Does the bill have any financial considerations necessary for the Division of Criminal Justice to carry out the task?

MR. BORES: No. We think they'll be minimal if any cost in doing this. They already have the employees and staff to carry it out.

MR. MORINELLO: Okay. That's it. Thank you.

On the bill.

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

MR. MORINELLO: I just did a quick search while I was waiting to debate this bill regarding the reliability of personalized handguns and what I found was that at this point the -- they have not been perfected to the point where they can become reliable. I believe that we are premature on this and I believe that we would be wasting valuable resources with the Bureau of Division of Criminal Justice with all the additional duties they have at this particular point, to put this upon them to add this to their list. Thank you very much. Thank you, Mr. Bores.

ACTING SPEAKER AUBRY: Mr. DiPietro.

MR. DIPIETRO: On the bill, sir. I just wanted to reiterate what my colleague said that in talking with people in this industry that the technology is so far not advance -- advanced, so to speak, that it's just coming out that to put any kind of requirements as of today, within three months or one year they could all be changed. So we're a little premature on this and we need to see where this technology goes. So I just wanted to just make my thoughts and let you know that there are people who are watching this very closely.

So thank you, sir.

MS. BYRNES: Knock, knock.

ACTING SPEAKER AUBRY: Ms. Byrnes.

MS. BYRNES: Thank you. I was worried you didn't see me.

ACTING SPEAKER AUBRY: Just trying to catch up with myself, Ms. Byrnes. Go ahead.

MS. BYRNES: One hundred percent agree. Just on the bill. The only thing I want to say is while I will be voting no, and I vehemently oppose it, that when it comes to doing any type of researching and the technology, or how even potentially this could be done in the future, I think something that if -- if you're gonna do this, and apparently you're going to, something that you have to, and the State Police or DCJS, whoever is doing the investigation, would have to be cognizant of is that many handguns are co-owned. There is more than one owner. Like, in many occasions, spouses own the same gun and have the legal right to possess the same gun. And if smart technology eventually gets to a point where it can handle a fingerprint for one person, is it good enough that it would be able to handle it for more -- two or more people that may all be lawful owners of that same handgun? So that's what I want to make sure is on the record so that if it is done, it's done properly.

Thank you.

ACTING SPEAKER AUBRY: Thank you, Ms. Byrnes.

Read the last section.

THE CLERK: This -- this act shall take effect immediately.

ACTING SPEAKER AUBRY: A party vote has been requested.

Mr. Goodell.

MR. GOODELL: Thank you, sir. The Republican Conference is generally opposed. Those who support it can vote yes 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. Those who wish to vote against the measure can do so now at their desk.

ACTING SPEAKER AUBRY: Thank you.

The Clerk will record the vote.

(The Clerk recorded the vote.)

Mr. Bores to explain his vote.

MR. BORES: Thank you, Mr. Speaker. This is the rare gun bill that I think everyone can support; in fact, the NRA and the NSSF had said that they do not oppose bills that have the government researching this technology as long as there are no mandates, and there are no mandates in this bill. Personalized handguns have the ability to make us safer in at least three ways: First of all, they cut down on gun trafficking because a stolen gun that is a

smart gun cannot be used in any additional crimes. There were over 10,000 guns stolen just in New York State from 2012 to 2017.

Second, it cuts down on accidents in the home. We were tragically reminded of the importance of this on Sunday when a 14-year-old and a 12-year-old were playing with a gun in Brooklyn and the 14-year-old shot and killed his 12-year-old cousin. If these guns were smart guns, that child would still be alive. And third, they benefit anyone in a close quarter encounter where the largest risk will be taking their gun off of them, such as court bailiffs or prisoner transport. My grandfather was an NYPD officer, my uncle is a retired State Trooper, admittedly from Jersey, and my cousin's a Paramus PD officer and they always talk about the fear of their sidearm being used against them. The most recent data from 2013 showed that ten percent of police officers that were shot and killed on the job were shot with their own handgun, and that includes the first female NYPD officer that was shot -- that was killed on the job.

So this bill just lays the groundwork for the State -- or for law enforcement organizations to purchase these guns, the same way at least six enforcement agencies have across Kansas and Texas. And while I've heard that perhaps it's ahead of the curve, and that was true for 25 years, we're now behind it. These guns are on sale in the U.S. as of 2023, which wasn't true in previous debates but is true now, and is why we desperately need this bill. And to my good colleague's question about making sure they can work for multiple users, that technology actually already exists and you can look at a demo of

many of these technologies that allow you to record multiple people's fingerprints.

I proudly vote in the affirmative.

ACTING SPEAKER ZACCARO: Mr. Bores in the affirmative.

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, and we appreciate our colleagues' patience as we continue our work. We have a list of bills that we're gonna go through, starting with Rules Report No. 171 by Ms. Solages; then Rules Report 213 by Mr. Kim; then Rules Report 275 by Mr. Simone; then Rules Report 308 by Ms. Fahy; then Rules Report 312 by Ms. González-Rojas; then we're gonna move on to Rules Report 333 by Mr. Hevesi; then Rules Report 344 by Mr. Burdick; then we move on to Rule -- to Calendar No. 47 by Ms. Simone and -- I'm sorry, Ms. Simon; and then Calendar No. 98 by Ms. -- Ms. Pheffer Amato.

ACTING SPEAKER ZACCARO: Page 10, Rules Report No. 171. On a motion by Ms. -- the Clerk will read

THE CLERK: Assembly No. A07636-C, Rules Report No. 171, Solages, Shrestha, Dinowitz, Simon, Blankenbush, Reyes, L. Rosenthal, Taylor, Simone. An act to amend the Real Property Law, in relation to establishing the Homeowner Protection

Program.

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

An explanation has been requested, Ms. Solages.

MS. SOLAGES: Thank you. This bill would establish and codify the Homeowner's Protection Program, HOPP, to provide free housing counsel and legal services to homeowners related to homeownership retention, such as preventing foreclosure and deed theft.

ACTING SPEAKER ZACCARO: Mr. Goodell.

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

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

MS. SOLAGES: Yes.

ACTING SPEAKER ZACCARO: The sponsor yields.

MR. GOODELL: Thank you, Ms. Solages. I see throughout this bill it references the provision of free services, free legal services, free housing counseling and various other free services. How much does this program cost?

MS. SOLAGES: So, you know, HOPP for -- for years has been providing free legal services to homeowners related to, you know, foreclosure and other issues, and the years vary depending

on the need. And so, for example, this budget cycle we allocated \$40 million for HOPP. And so, you know, next year it might be different depending on the need.

MR. GOODELL: Okay, thank you.

On the bill, sir.

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

MR. GOODELL: This -- this bill is aimed at continuing the Homeownership -- Homeowner Protection Program, and as the sponsor mentioned, it provides free legal services and counseling to help people that are at risk of losing their home. And that would include helping homeowners respond to mortgage foreclosures when they haven't been paying their mortgage; mandatory settlement conferences when they haven't been paying their mortgage on time; free estate planning to presumably protect their home; legal service to prevent avoidable foreclosures and displacement; assistance with resolving property tax, utility and building code violations, debts and liens.

So it's -- I just find it just a little bit ironic, perhaps, that these free services costs us 40 million. So we're using 40 million in tax dollars so that we can provide free legal representation to individuals who have been cited by their local municipality for building code violations. And think about that. We're using 40 million to defend people who are violating the building code and been cited. We use 40 million to defend them on utility debts and liens that

are picked up by our utility companies and passed on to the ratepayers. We use 40 million to defend people who aren't paying their mortgages, which makes it harder for a bank to foreclose and the bank passes on those additional costs to us in higher interest rates. And so we're using 40 million to help people who aren't maintaining their property, that are a nuisance to their neighbors, who aren't paying their utilities and aren't paying their mortgages. That's an interesting use of money.

I think everybody deserves legal representation, but I would also point out, by the way, one of the sad things about this bill, and it's not a direct complaint about the bill, but it's a reflection of where we are in New York State. Prior to 2008, if you did a mortgage foreclosure it took typically six to nine months for a mortgage foreclosure. And I was in private practice and someone would come to me and say, you know, *I'm the defendant in a mortgage foreclosure, what should I do?* So I'd ask a few simple questions - the first question, *Can you pay the mortgage? Can you catch it up, can you keep it current?* If the answer was no, and sometimes it's not -- not being judgmental, I mean, they may have lost a job or whatever-- if the answer is no then my next would be, *How long have you been paying on the mortgage?* If they've been paying for several years on the mortgage, my next suggestion to them would be, *Sell your house right away. Because if you sell your house right away, you will make the net profit over and above paying the mortgage off. You will walk away from this mortgage foreclosure with money in your pocket.*

Well, that was before we started using 40 million to defend people in mortgage foreclosures. Now here's what happens. They come in, *Can you pay the mortgage? No. Can you catch it up? No. Well, how much -- how much do you have in equity*, they'd tell me and I'd say, *Well, here's the good news. Under current New York law, you can stop paying your mortgage, you can stop paying your utilities, you can stop maintaining your house. You can stop paying for your homeowners insurance. The bank is required to maintain your property until the foreclosure is completed, so whenever you need anything fixed, just call the bank. The bank will pay your taxes, because they don't want it to go into foreclosure. The bank will pay your insurance. And you will take at least three years before you actually have to leave.* And I'd say, *Take all the savings for three years that you would otherwise pay on your mortgage, property taxes, homeowners insurance, maintenance and repair, and compare that with your home equity.* And because of the way we structure our laws, most of these people walk away three years later with nothing at all, as opposed to walking away with cash in their pocket, and they got a free ride at the expense of the bank and everybody else for three years. That's how screwed up our system is. And we help -- help out with that screwed-up system by paying 40 million to provide them with lawyers for free to tell them how to take advantage of the system and live for free for three years as they destroy their equity and their credit.

So I will be supporting the program because

everybody needs free lawyers, especially all my legal colleagues who appreciate the fact that they're not working for free, but are more than happy to give legal advice to others. Thank you, sir.

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.

Page 11, Calendar [sic] No. 213, the Clerk will read.

THE CLERK: Assembly No. A10142, Cal -- Rules Report No. 213, Committee on Rules (Kim, Dickens, Taylor, Reyes, Hevesi, Ardila, DeStefano, Raga, Burgos). An act to amend the Elder Law, in relation to social model adult day services programs.

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

MR. KIM: Thank you, Mr. Speaker. This bill would require the State Office for Aging, SOFA, to inspect new social adult day care programs prior to operation. It would require existing programs to be inspected by December 31st, 2029, and require each social adult day care program to conduct an annual self-certification program beginning January 1st, 2030. It would require all programs

to be inspected no less than once every five years, and prohibits a person or entity from identifying or marketing themselves as providing a social adult day care program unless they meet the requirements of this bill.

ACTING SPEAKER ZACCARO: Mr. Goodell.

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

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

MR. KIM: Yes.

ACTING SPEAKER ZACCARO: The sponsor yields.

MR. GOODELL: Thank you, Mr. Kim. What is a social adult day care program?

MR. KIM: Social adult day care programs are programs that's administered through the State Office for Aging that provides social services, including nutrition, breakfast, lunch, and social programs throughout the day. So they -- they focus on socialization and personal care and nutrition.

MR. GOODELL: I see. They don't provide medical care, do they?

MR. KIM: There is a separate category of medical-based social day care programs, but these are social adult day care programs which is different than the medical ones.

MR. GOODELL: So these are programs generally

operated by the Office for the Aging to help senior citizens get together, have a good time, and have breakfast, lunch and --

MR. KIM: So the Office for Aging do not directly administer the programs, these are contracted out entities; for-profits, non-profits, counties that are directly serving older adults who are mostly Medicaid qualified.

MR. GOODELL: Does Medicaid pay for these services?

MR. KIM: Correct. So you have to be, first, qualified for home care Medicaid, and then as an -- as an addition, you could also get social adult day care programs in these facilities.

MR. GOODELL: So if you qual -- I understand. So if you qualify for Medicaid for home care, instead of getting Medicaid services like a personal care aide at home, you could get it in one of these adult social day care programs.

MR. KIM: Not all, but yes, you can apply and you can be approved to attend a social adult day care program.

MR. GOODELL: Are there social day care programs that are run entirely with private funds? No Medicaid, no State funding, just simply private pay.

MR. KIM: They're certainly entitled to try to run a business paid on private pay, but I personally, as the Chair of the Aging Committee, have not run into one and I'm not aware of one that is --

MR. GOODELL: You're too young.

MR. KIM: -- 100 percent private pay that's a social adult day care.

MR. GOODELL: You're -- you're too young to run into one.

(Laughter)

MR. KIM: I mean, in my role as the Chair of the Committee doing hearings and such throughout the State, we haven't -- we haven't seen one.

MR. GOODELL: So then my question is, in the event there are some, even though you haven't run into any, would this apply to an entirely private-funded social adult day care program?

MR. KIM: If you are 100 percent privately funded and market yourself as a social adult day care, yes. But you don't have to market yourself as a social adult day care and you could be a for-profit senior center or any other type of facility that provides services and take private payments, and those facilities would not be impacted by this bill.

MR. GOODELL: Thank you for that clarification.

Sir, on the bill.

ACTING SPEAKER ZACCARO: On the bill.

MR. GOODELL: It's just a little interesting that if you want to run a private pay operation, you just have to be careful with what you call it. But with that clarification, I'm comfortable supporting this bill because in my county I believe I have some programs that are entirely private pay, and they would not welcome

the opportunity to be inspected by the State and be subjected to their regulations. The ones that I'm aware of that are entirely private pay, they obtain their clientele by providing exemplary service, and those are the clientele that demand and expect exemplary service. And, as a result, they really don't need to be inspected by the State, they're inspected by their clientele and their clientele's parents or siblings or kids.

So with that clarification, I will be supporting this. Thank you, sir.

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. Kim to explain his vote.

MR. KIM: Thank you, Mr. Speaker, for allowing me to explain my vote on this bill. This is legislation that my staff and Program and Counsel and the Aging Committee have worked on for almost a year-and-a-half. After a series of town halls and oversight hearing, industry leaders and countless good operators of social adult day care centers came in and testified that this market is failing them because of so many -- so much fraud and bad operators that are literally using these facilities as Medicaid exchange programs and competing in a race to the bottom where they're liquidating Medicaid

dollars to -- to constituents and seniors and trying to bribe them into the facilities, committing fraud at the worst level. This is a solution where we're allowing the Commissioner, the State Office for Aging Director to come in, inspect and certify and root out the bad operators so we can save this market that does wonderful things for a population that's growing in age and in a crisis moment where they deserve the nutrition, social hours, and -- and just the connectivity with the community.

So with that, I want to thank everyone for supporting this bill and I vote in the affirmative. Thank you.

ACTING SPEAKER ZACCARO: Mr. Kim in the affirmative.

Are there any other votes? Announce the results.

(The Clerk announced the results.)

The bill is passed.

Page 16, Rules Report No. 275, the Clerk will read.

THE CLERK: Senate No. S00791-A, Rules Report No. 275, Senator Comrie (Simone, Simon, Glick, Lee--A09885). An act to amend the New York State Urban Development Corporation Act, in relation to extending the amount of time between notice of a project and a public hearing.

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

MR. SIMONE: Yes, Mr. Speaker, to explain my vote [sic]. This bill increases the public hearing notice requirements for all

capital projects for the Urban Development Corp, UDC, from 10 to 30 days, and increases hearing notice requirements for a project from 10 to 20 days. The increased public hearing notice from 10 to 30 days for the sale or lease of land use improvement in industrial projects. It also requires that the sale or lease to UDC by a municipality have a public hearing notice published at least 14 days before the hearing, and requires that UDC provide any community board where the project is located -- when a project is located in New York City, file their notice for a public hearing at least 14 days before publication.

Why we need this bill? As we've continued to increase funding for UDC projects across the State, which I support, the need for more transparency and notification to communities of a project being considered in the area is very important. Increased notice of public hearings will allow for affected parties to actually learn about the hearing and project to enable meaningful participation. Often, we hear complaints from community boards and local folks that they get the notice too late, that no one -- we go to these hearings and no one's in attendance and big projects are approved or done in secret by the City. We want to make sure as we approve future projects on affordable housing, State projects in my district, which I welcome, we want to make sure that the public, who has the best opinion on what belongs in the neighborhood have a say before a project is approved. This simply gives them a straightforward (inaudible) more time to weigh in and know all the details of a project plan.

ACTING SPEAKER AUBRY: Mr. Ra.

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

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

MR. SIMONE: Yes, I will yield for Ed.

ACTING SPEAKER AUBRY: The sponsor yields.

MR. RA: Thank you, Mr. Simone. So just a few questions. As you're aware, there have been some prior passages of similar legislation in the House, and prior vetoes of that legislation. So I'm wondering if you can maybe elaborate on the reasons why perhaps those objections, and -- and they were from the former Governor, but why those objections may be either addressed in this legislation or may no longer be relevant as we seek to adopt this now.

MR. SIMONE: We do -- we do address the concerns from the prior veto; number one, it was the former Governor, we know how much he liked community input.

(Laughter)

And now we have a new Governor --

MR. RA: He was a huge fan of local governments, I can tell you.

MR. SIMONE: Yeah, a huge fan of local input.

MR. RA: Huge fan.

MR. SIMONE: I was often the target of that in my previous roles. But number two, we compromised on the day notice

and reduced it from I believe 30 to 20, and also to 14 which is literally four more days than the 10-day notice, to give folks a little more time to prepare for a hearing so that they know the details and they're prepared for input on a project that could affect a local neighborhood or a homeowner, which I know both parties support, that we want to support homeowners' say when a project will change a neighborhood.

MR. RA: Okay. Now, so you mentioned that the 10 to 14, but am I correct -- so the -- the window in terms of from the notice to the hearing date would be currently 10 and goes to 30?

MR. SIMONE: Correct, 20 more days. And, look, if 20 more days is that controversial, maybe the project doesn't belong or shouldn't go forward in general.

MR. RA: Okay. And that is -- so I assume, right, in -- in introducing this that you believe 10 days does not give an adequate opportunity for the community to understand what's -- what's going on.

MR. SIMONE: Correct.

MR. RA: And then have, I guess, an opportunity to attend the public hearing that's going to held.

MR. SIMONE: Yeah --

MR. RA: Correct?

MR. SIMONE: Yes.

MR. RA: Okay. And then the other piece of it is the actual notice of the sale, lease, grant or conveyance of land by a municipality to the corporation and the public hearing from 10 to 14

business days.

MR. SIMONE: Correct.

MR. RA: So that's just four additional business days, the other one is actual -- the notice between -- the note -- notice of the project and the hearing is calendar days. Okay. Thank you. So I -- I guess really the -- the crux of the question is, you know, the prior objection by, again, the prior Governor, but I think the concern that continues to be raised is does this extension of the period unnecessarily delay something from moving forward.

MR. SIMONE: I -- I believe it does not. And clearly, if that added four days or added 20 days is such a huge issue for the community not to give them input, then clearly maybe the project doesn't belong there.

MR. RA: Okay, thank you. So in particular, one of the issues I have before me that has been raised is that by extending this period, this, you know, economic development assistance which -- which is coming through this process would be unnecessarily delayed, especially for economically-distressed communities in the State that might be impacted by this. Can you address that concern?

MR. SIMONE: I actually think the difference in time would not do that. We disagree with the previous veto message from the prior Governor because we just think the community should have more time to give input to any large project that will change the character of a neighborhood.

MR. RA: Thank you, Mr. Simone.

Mr. Speaker, on the bill.

ACTING SPEAKER AUBRY: On the bill, sir.

MR. RA: So just quickly, I -- we haven't voted on this, or similar legislation, in a number of years. You know, the -- the original purpose of the UDC Act was providing this type of assistance. There are some extensions of -- of the notice requirements and the amount of time that takes place in between. You know, the prior veto, despite being from a -- from a prior administration, I think some of the issues do hold true in terms of if we were to provide longer notice there has to be more time before a hearing could be held. Certainly there are gonna be projects that are more controversial and there's gonna be projects that are less controversial, and those -- some of those projects might be delayed by the longer period of time. That is the reason that there have been concerns, and -- and I would say a substantial number of no votes in the past when we last voted on this bill back in 2018.

Thank you, Mr. Speaker.

ACTING SPEAKER AUBRY: Mr. Goodell.

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

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

MR. SIMONE: Yes, I yield.

ACTING SPEAKER AUBRY: The sponsor yields.

MR. GOODELL: Thank you. These notice

provisions, do they -- obviously they apply in the City of New York, but they also apply outside the City of New York, don't they?

MR. SIMONE: They do.

MR. GOODELL: And it applies to both development and redevelopment projects?

MR. SIMONE: Yes. They apply to land use -- sale of land use, improvement and industrial projects, and also to projects located in New York City to file notice.

MR. GOODELL: Now, you talked about the need for a community to have input on a huge project, but not all these projects are huge, right? I mean, sometimes they're much smaller.

MR. SIMONE: Correct. And I still think we should give ample time for the public to weigh in. And as we know from this Governor, she changes her mind, so sometimes maybe the public will advocate and have her change her mind.

MR. GOODELL: Now, these projects are often done in conjunction with other entities, aren't they? For example, you might have the Urban Development Corporation grant coupled with, in my area, a Western Regional Development grant, or maybe STEDO grant, an IDA grant. They're all put together, correct?

MR. SIMONE: Correct.

MR. GOODELL: So when we add the time on one, and if that's a critical component then it slows the entire project down for all of them, assuming they're all interactive -- inter -- intertwined -- I knew there was a word out there somewhere -- intertwined, correct?

MR. SIMONE: Yes, but we feel the changes and the compromise is not so much more time that it would cause a significant delay.

MR. GOODELL: Those other programs are typically cobbled together, if you will, to pull an economic development project off, whether it's IDAs or, you know, sometimes there's housing trust fund, depending on the nature of the project, STEDO, which is a mainly Southern Tier Economic Development Organization. Do those other organizations have mandatory notice provisions and, if so, how do those provisions dovetail with these?

MR. SIMONE: That's not actually germane to this bill.

MR. GOODELL: Well, if -- if their notices are longer, this bill doesn't make any difference because it's not gonna slow down their project. If their notices are shorter, this bill will slow down all their projects as well, right?

MR. SIMONE: Well, this is specific to just UDC projects.

MR. GOODELL: No, I understand, but UDC as we've talked about, is often involved with other entities. Do you have any idea of how these notice provisions apply, if at all, in comparison to the other entities?

(Pause)

MR. SIMONE: They would actually still have to follow UDC requirements, but not part of this bill.

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

MR. SIMONE: Thank you.

MR. GOODELL: Thank you, sir.

On the bill.

ACTING SPEAKER AUBRY: On the bill, sir.

MR. GOODELL: It's sometimes a very complicated process of pulling together all the different diverse funding streams in order to make an economic development project move forward. And I think, and I hope, that all of us recognize that the future strength of our great State depends on successful economic development projects that give real opportunities for people to make a family-sustaining wage and cover their mortgage and build the community. And so we need to be very sensitive about slowing down projects, especially when there are multiple players involved and we're struggling to get these projects off the ground, built, hiring people and building wealth in the community.

And while I certainly appreciate the concerns of my colleague about large projects that may impact the community, typically -- typically, not always but typically those large projects get a fair amount of press while they're being developed. And it's pretty hard to hide a large project from most of our communities because you have developers acquiring options on land, meeting with IDAs, which are public meetings, meeting with other entities. There are also public meetings. And so we just need to be careful about extending

the time frame because it slows down one of the most important long-term aspects of our future, which is providing new job opportunities for our friends, neighbors, children and others.

Thank you, sir.

ACTING SPEAKER AUBRY: Thank you.

Read the last section.

THE CLERK: This act shall take effect immediately.

ACTING SPEAKER AUBRY: A party vote has been requested.

Mr. Goodell.

MR. GOODELL: Thank you, sir. It's shocking to believe that I support what our Governor in the past has done when he vetoed this for creating unnecessary delays, but I do. So for those reasons, the Republican Conference is generally opposed, but those who support the additional notice should certainly vote yes on the floor. Thank you, sir.

ACTING SPEAKER AUBRY: Ms. Solages.

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

ACTING SPEAKER AUBRY: Thank you, both.

The Clerk will record the vote.

(The Clerk recorded the vote.)

Mr. Simone.

MR. SIMONE: Thank you, Mr. Speaker, to explain

my vote. Large-scale redevelopment projects administered by the State change the face of our State and, most significantly, our local communities. Under current law, a public hearing must be held within 10 days of publication of notice of a redevelopment project. The short window allows for a hearing to occur without communities being able to hear about it, much less prepare meaningful public participation through comments, testimony and alternative proposals.

I support new development in our State. From Moynahan Station in my district to Upstate revitalization, EDC projects have the potential to boost the livability of our communities and the health of our local economies. The projects are often improved by local input. Local voices know their communities best, and taking advantage of their knowledge and expertise means better results in the long-term. That's happening now with the redevelopment of Penn Station. Expanding the window from notice to a public hearing from 10 days to 30 days will help ensure our communities are heard, and major projects move more smoothly toward success. And I vote in the affirmative.

ACTING SPEAKER AUBRY: Mr. Simone in the affirmative.

Mr. Brown to explain his vote.

MR. A. BROWN: Thank you, Mr. Speaker. I'm just kind of struggling with this particular bill, I think the intent is very good. The problem is it actually does the reverse. I'm involved with zoning, I actually teach classes to law firms on zoning particularly.

The reason why these notices are in a very tight window is specifically because people will otherwise forget that the event is going to occur, whether it's a zoning, a subdivision, a planning board case. You can't do it too early, you have to do it in a certain window of time of this particular case.

The other problem with this particular bill is it would -- it would be appropriate if there were additional means of notification; in other words, whether it's a planning board case or a zoning board case, notice is given within a certain parameter, perimeter of the property, whether it's 200 feet, 500 feet, depends on what it is. Return receipt requested, they're notified and they're aware. It has to be published in a newspaper notifying people of the particular event, certain times it's posted on the property what exactly is happening. But this particular bill doesn't expand those parameters any further. All it does is allow people to actually forget and not show up to a meeting, which is contrary to the whole reason why there is this very tight and close time frame for all public notice of this particular kind.

So while I think the intention was good, it actually will have the totally reverse effect, and that's why I obviously voted in the negative. Thank you, Mr. Speaker.

ACTING SPEAKER AUBRY: Mr. Brown in the negative.

Are there any other votes? Announce the results.

(The Clerk announced the results.)

The bill is passed.

Page 17, Rules Report No. 308, the Clerk will read.

THE CLERK: Senate No. S01736-E, Rules Report No. 308, Senator Krueger (Fahy, Jackson, Dickens, Thiele, Seawright, Burdick, Simon, Steck, Woerner, K. Brown, Clark, L. Rosenthal, Otis, Epstein, Dinowitz, McDonald, Simone, Raga, Paulin -- A03780-E).

An act to amend the Executive Law, in relation to requiring new construction that includes dedicated off-street parking to provide electric vehicle charging stations and electric vehicle-ready parking spaces.

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

MS. FAHY: Certainly. Thank you, Mr. Speaker. This bill sets standards regarding EV, or electric vehicle charging for new construction of -- which includes those construction that has dedicated off-street parking or a garage or a driveway or parking lot. They vary -- the requirements vary based on the different classes of buildings for family homes versus multi-unit versus commercial properties.

ACTING SPEAKER AUBRY: Mr. Durso.

MR. DURSO: Thank you, Mr. Speaker. Would the sponsor yield for some questions?

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

MS. FAHY: Certainly.

ACTING SPEAKER AUBRY: Ms. Fahy yields, sir.

MR. DURSO: Thank you, Ms. Fahy. So if this bill was to pass, when would this law go into effect?

MS. FAHY: Just about a year from now, in -- I think right now it says April 2025.

MR. DURSO: Okay. And when you say -- well, my first question, actually, with that is, is this for -- only for new commercial buildings or is it residential, also?

MS. FAHY: It is new -- only for new, but it is new for residential and construct -- and commercial.

MR. DURSO: So for residential and commercial.

MS. FAHY: Yes.

MR. DURSO: Okay. And what, if anything, if there is any language in the bill constitutes "new"? So in other words, if I redo my home and I leave one wall up, in my village where I live it is not considered a new build.

MS. FAHY: Correct, it is --

MR. DURSO: Would that -- would that still apply?

MS. FAHY: That would not apply, you are correct. An addition is not considered new construction, or any type of capital improvement on a current home or commercial property, that does not apply. It is only, again, what would be considered new -- a new structure.

MR. DURSO: Okay. So even if the zoning changes, so if I change my home into a two-family home, it will not apply?

MS. FAHY: If you change your home, what?

MR. DURSO: If I was to change my residential home, a one-family home, into a two-family home or a multi-family dwelling, would that then apply?

MS. FAHY: I think that's considered a new addition; that would not apply.

MR. DURSO: Okay. So it's, again, only on brand-new construction, essentially.

MS. FAHY: New construction.

MR. DURSO: Okay. And can you tell me what the ratios are?

MS. FAHY: Sure. On a one- to three-family home where there is a garage, driveway or parking lot, in other words, if that family home does not include off-street types of parking, that would have to be one EV panel per -- per parking or per dwelling. In other words, it doesn't require the charger, it only requires that it be EV-ready. Are we clear on that?

MR. DURSO: So not -- it doesn't require a charger, it has to be EV-ready. So you're saying --

MS. FAHY: Just having --

MR. DURSO: -- have the wiring.

MS. FAHY: Right. So for instance, if you are building a new home or a -- a three-unit home and you do not have an EV car, you just need to make sure it is EV-ready such -- the panel is there in the pavement or -- or in the garage for one to three units. If it

is a multi-unit residential or above three, then 100 percent have to be EV-ready with 20 percent of those actually having the charging equipment.

MR. DURSO: So when you say 20 percent of those, it's actual spaces.

MS. FAHY: The actual -- yes, the actual charger.

MR. DURSO: So if there's 100 spaces in a parking garage, there has to be 20 that are EV-ready.

MS. FAHY: No.

MR. DURSO: Actually have to have the charging?

MS. FAHY: If -- if there are 20 spaces, let's say you're building a 20-unit building for -- with 20 spaces, garage or off-street parking, all have to be EV-ready. The panel has to be there to add a charger, but 20 percent of those, so in this case four of them, would actually have to have the charging unit equipment.

MR. DURSO: Okay.

MS. FAHY: So four -- four of the 20, essentially.

MR. DURSO: So it's going by -- it's going by the number of spaces or number of units? Because again, you could have a new construction commercial building, right, that's -- that has, let's say 50 units in it, but they could have 100 spots.

MS. FAHY: If there's a parking spot that's designated for a specific unit, it would have to be metered to that unit, the panel would have to be. So where -- where a spot is designated for a unit, it would have to have that EV-ready capability.

MR. DURSO: So if there's two spots per unit, then both spots?

MS. FAHY: Have to be EV-ready, but again, 20 percent on a multi-unit have to actually have a charger, the charging equipment.

MR. DURSO: Okay. So -- and I don't want to get too nuanced in it, but again, if you're saying 20 percent of them have to, so if there's 100 spots total, 50 units, everybody gets two spots, they just have to pick 20 -- the -- the person that's building the building has to pick 20 spots that are going to have EV charging stations at them. It doesn't -- they don't have to be all together, it just could be spread out.

MS. FAHY: Yeah, it has to be spread out. Right, 20 -- 20 percent, again, with the charging. The rest have to have the panels --

MR. DURSO: Right.

MS. FAHY: -- so it can be easily added which saves thousands upon thousands of dollars. We have terrific support from the automotive dealers who've said they need all the incentives they can get for EVs because of -- once -- once a building is already constructed, it is very difficult to add in these panels to make it EV-ready. It's only a few hundred dollars to add in the panel itself.

MR. DURSO: Okay.

MS. FAHY: While -- while under construction. More expensive afterwards if have to go tearing up a driveway or

going into a garage, et cetera, to -- to add it at -- subsequent to new construction.

MR. DURSO: Okay. Do we have any feedback or anything from the power companies in the areas that -- are they saying that they're going to be able to handle this, the grid is going to be handle it, that they're prepared for any type of new builds, where -- wherever it is?

MS. FAHY: Again, the strongest support we've had is from the automotive dealers who know that this is holding back the industry. The utilities, as best we know, have been silent on this because there is a waiver mechanism where there is insufficient power or any type of hardship on a local utility provider. So if there's some serious limitation, although not -- none is expected because this is the equivalent of powering, you know, a home or less, depending on the type of vehicle, so it -- it exempts any type of problem. Again, there is a hardship waiver.

MR. DURSO: And -- and what is required to receive that hardship waiver, again?

MS. FAHY: You need to seek the waiver. The building owner would just have to go to the local Department of Buildings, show the undue hardship due to a local utility provider or a geographic area that has significant compliance problems.

MR. DURSO: So it -- it could be a geographic area if they have that issue? And who's making that decision, is it the local municipality or the State?

MS. FAHY: I -- I think it's the local muni -- yeah, it's -- it's an -- an agreement with the local, State, or Federal government entity for purposes of -- of providing that waiver, yeah.

MR. DURSO: Okay.

MS. FAHY: It is a local -- it's a local department.

MR. DURSO: Okay.

MS. FAHY: I -- I -- my guess is the Buildings Department, whoever you're getting your building codes from or building permits from.

MR. DURSO: Got it. So it's really up to the local municipality and the local power authority to understand if -- if there's a problem to be able to get the power there, and if the municipality believes you and takes your hardship letter --

MS. FAHY: Yes.

MR. DURSO: -- they could say you don't need it.

MS. FAHY: Yes. And we have the same type of exemption with affordable housing where -- where it's not practical, again, similar agreement.

MR. DURSO: Well, that was going to be my next question. So if, once again, because we had this debate during budget time and now we're seeing it come to fruition, some of the affordable housing that's going on State land that, you know, DOT-owned land, State land. I actually have some near my district that is now putting up affordable housing. Will they be required to have EV stations on their property?

MS. FAHY: No. We're --

MR. DURSO: Why's that?

MS. FAHY: The affordable housing is exempt from all requirements. I mean, we're seeing it more, but they -- they are exempt.

MR. DURSO: Is there a reason why those units are exempt? Because they're not all obviously affordable housing, there's a percentage of them that are. But there could be, you know, someone building property with 20,000 units in it, let's say -- let's be more realistic, 1,000 units, and a certain number of them have to be low-cost. But you're saying the entire property does not have to have EV charging stations in it? So we're giving them tax breaks and we're letting them do without this extra cost? Why is that?

MS. FAHY: I think it's most likely because of the debate we just have gone through in the five years we've spent trying to expand affordable housing, and we have quite a housing crisis and this is a -- a waiver at this time. But truthfully, we assume most will go ahead and put in at least the panels --

MR. DURSO: But --

MS. FAHY: -- but we didn't -- but this was an exemption just to make sure that the -- given the severe shortage where, you know, even adding those couple of hundred dollars can make or break --

MR. DURSO: I understand that --

MS. FAHY: -- a proposal.

MR. DURSO: So -- so we're saying -- we're giving them a waiver even though the entire 1,000-unit building is not just affordable, it's only a percentage, correct?

MS. FAHY: We're not giving -- we're not giving them a waiver, they would have to apply for that waiver.

MR. DURSO: No -- but no, no, they're not required to put in EV stations, correct?

MS. FAHY: They're not required.

MR. DURSO: But -- but if I was to go build a new home, if I bought property, right, because we need more housing, if I was to go do that, I'm required to put in an EV charging station, but a company that's getting million-dollar contracts is not?

MS. FAHY: The average new home is in the multi-hundreds upon hundreds of thousands of dollars. Again, this is a few hundred. I know here in Albany when we do affordable housing proposals, it is sometimes at the margin even though we are seeing them add in these panels.

MR. DURSO: But what about for someone who is --

MS. FAHY: We just had a public housing -- we just had a public housing building re-launch and completely renovated, which is fully electric here. So we assume they will do it, we -- this is just per -- per some of the efforts, this was an exemption granted.

MR. DURSO: But we -- we can assume they're gonna do it but they're not required to, everybody else is. And that seems to be another problem with this bill. So again, we need more

housing, we've been saying that in this Chamber all year. If I was to go buy property in Albany, Watertown or Long Island and build a house on it, I'm required to do it, but someone that's getting State money and tax relief to build million-dollar, basically homes and units, with only a certain portion of them being for affordable housing, are not required to do it. So they get to keep more money in their pocket, but if I want to go build a house for myself I can't; is that what we're saying with this?

MS. FAHY: Each -- well, each of those affordable housing units are not worth millions of dollars, it's --

MR. DURSO: No, no, no. It's a million dollar -- it's millions of dollars in the project was what I'm saying. If there's 1,000 units that are being built along 110 on Long Island, or we're saying right -- right off the highway here in Albany, it costs millions of dollars. They're not required to put in EV charging stations, but if I want to go build a house and rent it, because we need more housing, I'm required to do it.

MS. FAHY: Yes. Those projects are done at the margins and we --

MR. DURSO: So -- so we're giving the contractors more money.

MS. FAHY: Again, we just had a major public housing unit renovated here, it's going to be all electric. So we are seeing it, but often that takes a lot of tax breaks. And keep in mind, even for new construction and even for private owners, there are all

sorts of incentives out there, NYSERDA has a laundry list. So right now a Level 2 charger may cost you \$800 to get the actual charger, but even that has lots of incentives. So you are subsidized even on those private ones.

MR. DURSO: What -- what about the cost for the electrician to actually run the wires? The actual -- as you had said, you're not always required to put in the station, correct, not in all, throughout this bill, not in every situation, but you are required to have the wiring there, right?

MS. FAHY: I would hope -- I would hope if you're building a new home, you'd have an electrician on site, and I'm pretty sure most towns would require that you have an electrician doing the electric work on your home.

MR. DURSO: Of course.

MS. FAHY: So having --

MR. DURSO: But they have to be paid.

MS. FAHY: -- having an electrician add in those few extra minutes to make sure a panel is connected --

MR. DURSO: A few extra minutes? Have you ever done electrical work? Have you ever ran wires for someone --

MS. FAHY: I'm not a -- I'm not --

MR. DURSO: It's definitely not a few extra minutes, and it's going to cost homeowners thousands of dollars to run these wires. It's not that simple. So -- so my question is, are we giving homeowners and the residents of New York State the same tax breaks

that we're going to give contractors that the State is giving tax breaks to to build houses? That's all I'm asking.

MS. FAHY: On new construction it is not going to be thousands of dollars. The panels themselves can be laid. Most new construction has an electrician there, so it's not an additional thousands. When you have to go back in on old construction, yes, that runs into the thousands of dollars. But if those panels are put in at the front end, it is -- it's part of the construction. So it's a little hard to say that that would be thousands of extra dollars, you have the electrician there on site for new construction.

MR. DURSO: Okay. So again, like we said, this is for residential and commercial.

MS. FAHY: Yes.

MR. DURSO: New builds only, right? We said we

--

MS. FAHY: Yes.

MR. DURSO: -- we spoke about the utility companies, they may require to be, you know, install larger transformers, but there is a form that you can fill out for a hardship if you cannot get the -- possibly get the power source that you need at that spot. I know you had talked about this, there's a memo of support I know from the -- from who was it, the Automobiles Association [sic]. I mean, I have numerous memos of opposition, I don't -- I don't want to bring them up, but, I mean, there's more than one. And once again, we're hurting residential homeowners because we're not giving

them the same tax breaks.

MS. FAHY: We have -- we have numerous support memos as well. And again, we know we are behind on meeting some of our goals, we know we're behind. There's a tremendous interest in electric vehicles, and one of the single biggest issues holding up the -- the sale is the lack of infrastructure. So getting that infrastructure in, especially during new construction, will actually boost the sales, which is why we have such strong support there. We know that this is the time to begin to make these changes as opposed to post-construction. And we've already seen data from Maryland and California that is showing where the infrastructure is already in place, it actually is retaining -- or resulting in a 3.3 percent increase in the overall value of the home or the sale of the -- the home where it's turned over. So it's -- we are seeing, actually, a good return on the investment for having this infrastructure.

MR. DURSO: Okay. Thank you, Ms. Fahy.

MS. FAHY: Thank you.

MR. DURSO: I appreciate you answering my questions.

On the bill, sir.

ACTING SPEAKER AUBRY: On the bill, sir.

MR. DURSO: So I -- I understand, and I -- and I appreciate the sponsor taking my questions -- we'll get back to it later. Thank you, sir.

ACTING SPEAKER AUBRY: Mr. Palmesano.

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

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

MS. FAHY: Certainly happy to.

MR. PALMESANO: Thank you, Ms. Fahy. I heard the conversation between my colleague, he certainly touched on a lot of good points. I just kind of -- I might repeat on some points but I have some others as well. First thing, you did say that this does not apply to affordable housing, correct?

MS. FAHY: Correct.

MR. PALMESANO: Why not?

MS. FAHY: The flexibility, just as there's flexibility, we put flexibility into the bill. There's flexibility where you don't have off-street parking so, you know, we -- we can't expect if -- again, I mentioned a public housing unit that was just built here. There's very few parking spaces there. Often with affordable housing, especially in our urban areas, there is no off-street parking. There is -- there's certainly rarely garage parking, so it was a flexibility just as it is for any private homeowner. If you are building new construction and not including off-street parking there's no requirement.

MR. PALMESANO: Isn't part of it kind of an acknowledgement if it's not part of affordable housing, it's not affordable because these mandates are going to be required -- are going to increase the cost for development, that's going to be a cost

increase.

MS. FAHY: We just finished a, you know, multi-year package to increase and encourage affordable housing. I think it was to give the package that we just adopted in the budget a chance, but certainly it is not an acknowledgement. This is when it's at the affordable end. Plus keep in mind, any private sector individuals who are going to be putting in these chargers, there are all sorts of incentive packages out there just as we have a number of incentive packages at the Federal and State level of tax credits to buy electric vehicles. Again, I happen to own one. There's -- it's expensive at the front end to put in some of this, incredibly affordable at the back end because of -- because you're driving -- because it's so inexpensive to drive and operate these vehicles. It's just the upfront costs that are often -- that often hit a -- a consumer at the front end or in this case somebody building new construction.

MR. PALMESANO: Okay. And just -- I probably should've started with this question. This is all part of the -- to address the mandates and the goals of the CLCPA, correct?

MS. FAHY: It's not just to address the goals which I think are critically important. It's also to address our environment. Remember, we have asthma rates that are off the charts in many areas, particularly in our most congested areas. So electric vehicles not only do they run quietly, they run cleanly, so it's also a health-related issue.

MR. PALMESANO: We can certainly have a debate about electric vehicles and how safe they are --

MS. FAHY: Oh, I guess I won't get you started on that bill.

MR. PALMESANO: We'll get there soon enough, don't worry.

MS. FAHY: Yep.

MR. PALMESANO: My colleague was talking about how you have private residences and you have commercial. You said with commercial (inaudible) be the mandate there in place, that they would have to have actual charging in place there for the commercial development, correct?

MS. FAHY: Yes.

MR. PALMESANO: So with that being the case, isn't that mandate a costly mandate to the -- now that a business wants to come -- might want to come -- let's say they wanted to come to New York, now they're mandated to meet these mandates, so isn't that a disincentive for them to invest after a mandate with a higher cost of the construction cost?

MS. FAHY: Actually, I think it's a good business practice. In fact, it's a tremendously good business practice, it's part of marketing. I heard from one of my rural school districts earlier this year, one of the best things they did is put in some EV chargers. It really helped with staff who were able to charge their car during the day and drive them with almost no cost. So it's actually -- for me it's a -- it's a -- or to me it's a better business practice and keep in mind for the commercial building, again, only new construction.

MR. PALMESANO: I understand.

MS. FAHY: It just means if there's one to ten parking spaces, one has to be EV-ready. So in that case it's not a hundred percent EV-ready, it's one out of ten. If it's more than 11 parking spaces as a part of that commercial building, it's 20 percent. That's a -- many businesses, existing businesses are doing that now, we're just saying make it EV-ready with new construction as well. Truthfully, we have not had pushback on that one because so many are doing it with even existing commercial buildings.

MR. PALMESANO: And so when you talk about EV-ready you're talking about the wires, the plugs, the --

MS. FAHY: Yes, it's the panel --

MR. PALMESANO: -- the electric --

MS. FAHY: Right. It's the panel that goes in underground to -- to allow that charger to then be added where appropriate or where needed down the road. So if you're building a new home, you don't have an EV car right now, get the panel in. It will help you to resell if you ever decide to, or make it easier. So it's anywhere from 1,000 -- well, some rates are as low as \$150 to \$1,000 to get that panel in, but it's certainly much cheaper than having to do it after construction -- after new construction where then the cost can be as -- as high as \$10,000 depending on where you are.

MR. PALMESANO: I want to talk about the feasibility of this because you said you talked to the automobile dealers but you didn't talk to any of the utilities or the NYSEG. Much

of the energy policy in the State has been done without really consulting with those that provide the power. Wouldn't it be wise before we mandate this to happen? Shouldn't there be a feasibility study to see if it can work, if the grid can handle it? Just like we ignore -- we didn't do it with our school bus, make it a school bus mandate, too.

MS. FAHY: Definitely not, because first of all I talked to utility companies at least once a week, I carry the HEAT bill so I'm in regular touch with those utility companies. We have a waiver mechanism here so we've had no pushback, I've had them in just a couple of weeks ago and no pushback whatsoever because there is a hardship waiver from local utility providers where there are a burden or a compliance issue, and keep in mind these are for vehicles. You know, it's a -- there's -- we have not heard of any place that wouldn't have this type of power available now especially for new construction.

MR. PALMESANO: Let me ask you another question. So you got a new -- you got a new resident (inaudible) construction. They're going to have to put in the infrastructure to put a charging in the garage, correct, if they don't have off-street parking?

MS. FAHY: Sure.

MR. PALMESANO: So now GM has told people, other electric vehicle companies, other companies have told people to charge 50 feet away from your structure. Now how is that wise to say you got to install a charging infrastructure in your garage when it's

been recommended from a safety perspective to charge within 50 feet away from the structure? How is that not a safety concern that's not being addressed by this bill?

MS. FAHY: Sorry. I have not heard anything about 50 feet away. I think the Speaker has one in his garage so...

MR. PALMESANO: Well, I'm not saying they don't but the recommendation is out there not to be -- to be further away. Not -- in some instances be outside of the property structure so, and GM has said 50 feet away. So that being said --

MS. FAHY: But my understanding is that would be up to the property owner. I -- I have a garage, I charge my car outside --

MR. PALMESANO: Well, you just said --

MS. FAHY: -- because I -- I mean so that's up to the -- that's up to the individual on where they want the charger. If there's some GM recommendation, I've not heard it. But either way, if you have a driveway -- if you have a garage, presumably you also have somewhat of a driveway.

MR. PALMESANO: Right, but where -- where does that infrastructure go if it's not in the garage? Where does it go if it's --

MS. FAHY: Mine plugs in right in my driveway.

MR. PALMESANO: So there's an electric -- electric plug right in the driveway outside 50 feet away from the structure?

MS. FAHY: I just plug in to my -- to my existing --

MR. PALMESANO: What about -- what about we've seen the fires with EVs, we've obviously seen them with the scooters and electric bikes down in the City. We know this can happen, we know they can catch on fire. What about -- is there anything in this that would require fire suppression and fire hazards to deal with this issue, too, because we know it happens, we know it will continue to happen.

MS. FAHY: Yeah, not -- not -- not with the EV charger infrastructure. We are not seeing it. I think there's been some issues in China, different infrastructures best I know. We -- we are definitely not seeing them. Again, I don't think we'd have such strong support if -- if we did. It's a completely different than what were with scooters or e -- e-bikes.

MR. PALMESANO: So when you say it's different but you don't think EVs catch on fire, you don't think electric school buses can catch on fire? I mean I've seen videos --

MS. FAHY: They are not --

MR. PALMESANO: -- when they catch on fire they burn hot and they burn long. So certainly if we're going to mandate this in this construction, shouldn't we make mandate to (inaudible) suppression in place to deal with it as well? Same thing with our school buses which this Body completely ignored, too.

MS. FAHY: I don't think we've completely ignored that. We know school buses, even traditional school buses, can start on fire, but the point is we do not have evidence of the charger going

on fire. Yes, there's been an issue with e-bikes and certainly we've addressed that in this Body and I've supported a number of bills on that, but it is not on -- not on the chargers themselves --

MR. PALMESANO: But the chargers --

MS. FAHY: -- and again, certainly most people have I think as part of any type of codes anyway, we have extinguishers that are required. Again, that is given the rarity of that, I mean, you know, that is -- that is not a reason not to promote and support the growth of EV cars. Overall, I mean there's a risk the minute you pull out the driveway of being hit as well. That doesn't mean you don't drive. It means you just minimize your risk. We are minimizing that risk everyday with better infrastructure.

MR. PALMESANO: Well, I can think of a number of reasons why not to promote EVs but that's a whole nother discussion, too. You did mention when there's so many incentives out there and NYSERDA, there's you said like a whole laundry list of them, where does that money come from? It comes from the ratepayers, correct, through surcharges and fees on their -- on utility bills, right?

MS. FAHY: Which a lot of those have been Federal grants in recent years as well as some state grants. So it's not the ratepayers. A lot of that came through the Inflation Reduction Act and a whole host of -- I mean there's a lots of grants out there to --

MR. PALMESANO: But you said -- but you said NYSERDA, NYSERDA's money comes from the ratepayer.

MS. FAHY: NYSERDA money comes from a whole host of sources --

MR. PALMESANO: Including the ratepayer --

MS. FAHY: Primarily it's coming --

MR. PALMESANO: -- the ratepayer.

MS. FAHY: No, it's coming from --

MR. PALMESANO: Yes, it is.

MS. FAHY: -- the Feds as well.

MR. PALMESANO: No, it's not.

MS. FAHY: The incentive programs have mostly been the Federal -- the Inflation Reduction and others -- but yes. Does NYSERDA get money from ratepayers, sure, but again --

MR. PALMESANO: One quick question off topic. You just said it's come from the Inflation Reduction Act, it's coming from --

MS. FAHY: But that was one example of the Federal grant -- you're interrupting me.

MR. PALMESANO: One example, I mean everyone talks about the electric school bus -- I know I'm going off (inaudible) but we're talking about electric vehicles. You said that everyone promotes the 500 million in the Bond Act for electric vehicle purchases, and then the Inflation Reduction Act. Doreen Harris at the budget hearing stated to the public that if we -- with all the Federal and State money that's in place, how many electric school buses could that purchase. She stated 3,000, but yet we have a fleet of nearly

47,000 school buses so that's going to be borne by the property taxpayer, that's going to be borne by the ratepayer so NYSERDA's money comes through the ratepayer and it's not going to be enough --

MS. FAHY: We're not here to talk about EV buses right now but I'd be happy to talk to you about those and my guess is she was talking about the 3,000 currently, as you know that's a multi, multi-year effort so maybe it's 3,000 right now, it's expected to be much more but again, right now we're just talking about EV cars and how we get ready to assist those cars.

MR. PALMESANO: I understand.

MS. FAHY: We know this is already underway with most new construction let alone existing construction. We are just making sure that it is there and incentivizing it and requiring it even more. And again, we go back to the auto dealers who recognize and want to sell these vehicles as they have said, they need all the incentives they can get.

MR. PALMESANO: All right. Ms. Fahy, thank you

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MS. FAHY: Thank you.

MR. PALMESANO: -- for your time.

Mr. Speaker, on the bill.

ACTING SPEAKER AUBRY: On the bill, sir.

MR. PALMESANO: As the sponsor mentioned, this is part of the CLCPA which we passed in 2019 which has a number of mandates. In my opinion, my colleagues' opinion, this is going to

increase housing construction costs, housing costs for individuals. I mean I understand what you're saying about trying to make things EV-ready but those chargers cost more money, cost is going to increase cost for the construction side, for the ratepayer, for the businesses. When we continue to say that there's this litany of programs out there for NYSERDA that comes from the ratepayer, why affordable housing is restricted from this, I think it's probably recognized because this plan is not affordable. We'd be better off to let the market dictate this instead of letting the government mandate it. It's just going to continue to increase costs. I think there's other problems with this and I think when we look at the CLCPA, which this is a part of, has to deal with, the fact of the matter is this is all part of a plan that will work to dismantle our existing infrastructure, affordable and reliable, to a march to full electrification, a march to full electrification for EVs, march to full electrification for homes. It's basically designed to take away consumer choice on how you heat your home, cook your food, power your vehicles and power your buildings and the vehicles you drive. It will jeopardize the reliability of the grid and lead to blackouts. Nothing in this bill talks about consulting with the utilities and NYISO to make sure the grid can handle it. This whole energy plan of full electrification is moving forward without taking a feasibility study and seeing whether the grid can handle it. I understand, if you ask people hey, you want to be a part of -- support green energy, they're going to say yes, but then you ask will you spend \$10, 20, 50 or more a month on utility bill, they're

going to say no. When you talk to your businesses, when they talk about energy supply, they're going to ask about two things, affordability and reliability.

ACTING SPEAKER AUBRY: And your time is up.

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

MRS. PEOPLES-STOKES: Thank you, Mr. Speaker. Would you please call the Codes Committee to the Parlor for --

ACTING SPEAKER AUBRY: Codes Committee in the Parlor. Let me say it again, in the Parlor immediately, please.

(Pause)

Second 15.

Mr. Palmesano on the bill that's on the board, please.

MR. PALMESANO: Yes, and this all -- everything I'm talking about has to do with this bill as this bill talks about the CLCPA, this bill talks about electrification, that's what we're talking about when I'm talking here on my time tonight. As we mentioned, affordability and reliability continue to be a concern. We talked about the affordability here. We've talked about reliability of electric vehicles, range issues, we didn't get into that in this discussion. We've -- just for the record, no one on this side of the aisle has ever said we shouldn't invest in renewable technology, renewable resources. We should and we are. And in fact, in New York State we've reduced emissions significantly over the past couple decades. We've reduced

carbon dioxide emissions significantly, (inaudible) emissions and we continue to do so. But what we've been arguing for here is a balance, feasibility, commonsense in our energy policy. I mean just like your 401k you don't put it all in stocks, cash and bonds. We should balance our energy portfolio to do the same thing. It should be for, you know -- so yes. When you look at electrification, but natural gas should be a part of that portfolio, nuclear should be a part of that portfolio, wind, solar and hydro should be a part of that portfolio. Upstate New York, 90 percent of our energy is clean energy. We have hydro, we have nuclear, we have wind and solar. Unfortunately Downstate is 90 percent fossil fuel. When I look at the energy policy of this State which this is a part of, the CLCPA mandated that we passed in 2019, that's going under the train tracks at our residents, at our businesses that no one wants to talk about. We have systematically taken away local control, local authority on implementing, on siting of wind and solar, then in this budget we did the same thing with transmission and battery storage that's (inaudible), that's concerning. Also the same time we took away the assessment evaluation, authority of our assessors because, you know, they won't allow them to deal with the assessments because we want to make sure they get more of this sited to bring the power Downstate that's being subsidized by power people Upstate through higher rates.

The fact of the matter, too, is 60 percent of the people in New York State heat their homes with natural gas, 40 percent of our generation comes from natural gas. And we say well, you know,

we're saving the environment, we're saving our climate. Are we really, though, when New York only contributes 0.4 percent of total global emissions, but then there's China across the world with 30 percent of global emissions, they have 1,000 coal plants and building more every week. We have no coal plants in New York State. And if you want to talk about India and Russia, that's 40 percent of global emissions and we're .4. And what are we doing? We're moving full speed ahead without something that's proven, without a feasibility study. We never did a true cost-benefit analysis and the estimates of this thing are significant, over 300+ billion dollars just to implement it. But the others say the benefits outrate the returns and it's just not the case. I talked about it time and time again. I know you don't like to hear it but it's a fact, it's what we're doing, it's what this Body, what the Governor is doing to our ratepayers. What the Governor, what this Body is doing to our small businesses, our manufacturers, and our farmers. Let alone if we do not change the methodology, prices at the pump are going to increase 63 cents a gallon and home heating costs and natural gas are going to increase by 79 percent. The PSC last year to approve for funding dollars that are going to go to pay for green programs like this, \$43 billion in future ratepayer increases they said to pay for these clean, so-called clean green energy mandates. Three studies that were done by the Climate Action Council Plan, which came from the CLCPA which this bill is a part of, said just to fully electrify your home to meet the electrification mandate, the goal, it's going to cost residents \$20- to \$50,000 to convert their home from

natural gas to fully electric. On top of that the Consumer Energy Alliance did another study which said 35+ thousand dollars. Another organization said 40- to \$50,000 for older housing stock. Then we have the mother of all unfunded mandates the school bus -- the EV school bus mandate that's coming down the pipeline beginning in 2027.

ACTING SPEAKER AUBRY: Mr. Palmesano, please try and stay with the bill on the board. I understand the purposes of your discussion, but it is the last couple of days. Could you stay on the bill that's on the board, please?

MR. PALMESANO: Sure. I'll do my best, Mr. Speaker. So I can go on and on and on. I understand it's a late hour. I should but I'll try to cut it back. We just need to be a little bit more accountable and transparent to the public on what we're doing, we're not. I see it. I see it with Cap and Invest. They're going to come up with recommendations that's not going to come back to this House for a vote. This isn't something we're voting on. We should be voting on all these things that are going to be going down the pipeline on our ratepayers, on our businesses. So whether it's cost affordability or reliability, property taxes, land use. I mean land use for solar and wind. I mean tremendous amount of land acres just being talked for one -- one megawatt of solar requires eight acres of land. The Climate Action Council Plan calls for 60 gigawatts of solar, that's 480,000 acres of land use. And then talking about the property taxes being taken from our generators, \$1.7 billion and our utilities get paid

property taxes based when the gas goes through the pipes. If the gas isn't allowed to go through the pipes, they're going to decommission those, that cost is going to shift, it may depreciate that asset. Our energy security, 80 percent of the solar is controlled by China, 80 percent of the rare-earth materials is controlled by China through the processing and how do they process? They use coal energy. I talked time and time again about the human rights, environmental and fire safety standards. I could keep going on and on, but out of respect to the comment of the Speaker I'll stop from there. But I see very big problems with this energy plan, this energy agenda that no one ever wants to talk about, no one wants to be accountable for. They say how great it is, but they don't want to look at the problematic side of this issue. So I will continue to talk about it, maybe not tonight, maybe tomorrow. I don't know. But thank you, Mr. Speaker. I vote no.

ACTING SPEAKER AUBRY: Well, it's not time to vote yet.

Mr. Brown.

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

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

MS. FAHY: Yes, Mr. Speaker.

MR. A. BROWN: Thank you, Madam Sponsor. Would you agree that this bill mostly has to do with the construction

industry because we're talking about building new projects?

MS. FAHY: Yes.

MR. A. BROWN: Thank you, and I agree as well.

My question will have a little preface so that you can understand where I'm going with this. It just so happens as we speak, I'm actually building or renovating a family compound for one of the world's largest owners of charging stations so I'm very (inaudible) aware of how this works and part of the project is a massive garage with electric cars. And I thoroughly understand the cost of these things and how this goes. So my first question is since this has greatly to do with the building industry, what are the Office of OFPC say or (inaudible) say when we proposed this legislation, because that would be certainly the first stop for anything to do with this project. What was their opinion?

MS. FAHY: We -- we didn't hear from them. This has nothing to do with siting. This is not siting. This is --

MR. A. BROWN: No, I apologize.

MS. FAHY: About siting --

MR. A. BROWN: I apologize. The Office of Fire Prevention and Control, that's the first stop for this bill. You wouldn't have done anything else before you went to them because I'll explain to you why, if I may.

MS. FAHY: But just to be -- sorry, just to be clear. There's been almost no incidences, in fact we were even checking about this 50 foot -- the comment that was made earlier about 50 feet

away from a structure. We can't find anything to substantiate that. So fire prevention is actually so negligible, I was just visiting an EV manufacturer here locally to produce these charging structures. Nothing. It's a -- it's a manufacturer connected that a plant in Rotterdam connected -- in a whole industrial park connected to a whole host of buildings, nothing about a fire came up. So certainly I think we would have heard from the fire control office had there been a problem but this is just -- yes, I know there's been the issue with EV bikes. That generally are batteries that are made in China, and it is a certain level of battery. We've addressed that with other legislation.

MR. A. BROWN: I appreciate your response.

MS. FAHY: Sure.

MR. A. BROWN: Maybe I didn't state my question properly.

MS. FAHY: Okay.

MR. A. BROWN: Totally different subject than what you're referring to so let me explain again. When a building is -- is constructed, or the proposition of a building to be constructed, a plan is drawn and there are a number of submittals. You have the initial plan, whether it's going to go for zoning, subdivisions, whatever it is but eventually you have to achieve a permit. Part of that permit is the MEPs are drawn; the mechanical, electric, plumbing, HVAC, all has to be proposed. In this case, let's say it's a building of 20 units, part of the plan is they're going to have a drawing of these electrical components for the charging stations that have to go in. The

compound I'm doing now, I had to submit through the equivalent of the OFPC for approval. Why? Because when you exceed a certain amperage in a certain location, certain fire prevention measures as far as building codes are required, even if there was never a single fire. So that's your first stop for this bill no matter what. No one's going anywhere on a multi-story building or a five-unit building without them giving their approval because State code now has to be changed. So how do you guys deal with State code as far as revamping the entire State code to meet this requirement? What happened with the building industry or who did you consult with as far as changing State code, building code?

MS. FAHY: I've had this bill for multiple years. We're on an E-print which is rather unusual as you know and have met with all sorts of folks in terms of -- we work regularly with the Governor's Office, we have not heard anything. We did do appointments a few years ago to the Building Codes Council. In fact to -- on other electric and renewable energy issues so not sure -- not sure what you're looking for here, but just to go back to your example of 20 units. Keep in mind of the 20 units, it's only if they come with off-street parking or have -- have some type of off-street parking. So in other words if you're building a 20-unit condo with no parking, it's -- it's not relevant here. And these are also -- the units are outside, not inside, the 20 units unless there's a garage. So I guess I'm not sure -- not sure where the concern -- where you're going.

MR. A. BROWN: A typical project where there's

indoor parking, there's 20 units, they're going to require a 2.5 calculation. There'll be 50 car spaces. We understand that every single one will have to be powered since it's indoor. You have to go to the fire marshal for approval, what size sprinkler heads at what capacity, but now OFPC is going to have to increase the size of the fire sprinkler system because -- let me just back up to explain it in a much simpler way. Your typical house. How much amperage is there in a new home construction? This one 101 of this bill. What's the amperage of your typical new house construction?

MS. FAHY: I have a very old house so mine is -- I forget what mine is. You know, why don't you tell me because if it's a trick question. I have an old house, it's got low amperage. I have 110 so I plug in and it takes a while for my car to charge. Is it 240? If it's a trick question you can just help me answer it then.

MR. A. BROWN: Madam Sponsor, I appreciate that. So the typical new house construction is 200 amps.

MS. FAHY: Okay. I was close, 240.

MR. A. BROWN: That's fine. The panels are a 200 amp panel but that's okay. The typical charging station power pack, how many amps are required for that?

MS. FAHY: The -- the -- the Level 2 is 240. Again the --

MR. A. BROWN: How many amps?

MS. FAHY: Oh, 20 to 40 for the actual amps but again, only a small percent are required to be at the Level 2 charging.

MR. A. BROWN: So again, let me just explain. No matter where the building code is in New York State they're going to require a 200 amp service. They're not going to allow on a new panel 110 feed on a permanent panel. So let's just -- we know it's between 32 and 40 amps, that's just State code. Very simple. So if I have an air condition -- if I have an air conditioning system in my house, let's say it's just two zones that have a full drawn startup of 50 amps, there's 100 -- there's 100 amps and then now we're not allowed to have a gas stove or potentially a gas stove anymore. I know my oven is another 50 amps, and I know this is 40 amps so my whole house is only going to be able to be powered with the remaining ten amps of power left, which means I'm going to now have to do 250 amp panels. I just increased my cost for a single home of 5- to \$7,500 just to increase the load, just to import this particular bill. It gets a lot worse than that, because what if it's a -- what if the panel -- the electric -- you said we just have to install for a couple hundred dollars this panel. But as Mr. Durso said -- Assemblyman Durso said, there has to be a feed from somewhere, that comes from the panel. Well, the garage is sometimes on the opposite end of where the panel is. What size wire do these panels require?

MS. FAHY: It's -- it's the traditional wiring.

MR. A. BROWN: Well, it's actually not.

MS. FAHY: I mean it's the same as -- as far as we know, it's an additional plug. I mean it's a very -- we wouldn't be seeing this in so much existing construction if it were as complicated

-- if it were this complicated. Again, we're seeing this without the, you know, without the requirement. We're just trying to make sure others are doing it. So I'm not -- I'm not sure where you're going with this.

MR. A. BROWN: No, I appreciate everything you're saying. So what I'm stating is just fact of today's building code. It's not a matter of discussion. I'm just trying to inform you to ask the question so how we can get through it. So the wire that's required is a number 6 wire. The wire to travel 200 feet, which isn't a big distance, is over \$2,200 just for the wire to feed from the panel to your device in the garage. Now it could be that the panels and the electric panels in the garage and you're feeding it. But nevertheless, at the very least, because I know I'm doing 13 of them in this particular home as we speak at this moment, each feed -- now mind you, if you have multiple feeds in an apartment building that may have ten units, 15 units, 20 units, each one is required to have what's called a home run. You have to go from your device, your place you're plugging in back to your panel. Each one at an average, at the very least will cost you \$5,000. So could you imagine, you know, if hundreds of thousands of dollars or maybe \$50,000, or maybe \$20,000, in a particular building but a homeowner to have to spend, to be required to put at the very, very least 7,500 to \$20,000 depending on the circumstance seems a bit unreasonable. It's a big percentage to spend on a -- on a -- on a device that as we know the industry, no one's buying these electric cars.

MS. FAHY: Mr. Brown, if you are building a single

family home --

MR. A. BROWN: Which I do everyday of the week.

MS. FAHY: If you need to run a wire 200 feet for a single family home, I would think maybe those few thousand dollars extra is probably somewhat inconsequential and most are adding in the increased ampage [sic] because of a lot of other related upgrades that are in new construction. So this is -- I think this is all negligible when we're talking about new construction. You're talking about a renovation that you just did --

MR. A. BROWN: Not at all, Madam Sponsor.

MS. FAHY: This is a new construction --

MR. A. BROWN: I'm building a 13 car garage, it's a totally new structure.

MS. FAHY: I see.

MR. A. BROWN: Now as far as new construction just to reiterate, again, if a typical home has 200 amps and 32 to 40 is just the single device, and if we were going to do away with gas, which means my boiler is going to pull 20 and my air conditioning is going to pull 100 and my oven is going to control 150, I have nothing left to power the home means, I have to add another full electric service from the pole to feed this because of this one device which is drawing the 30 or 40 amps that I would use for all of my lights and my outlets typically. So we're talking about a big number and, you know, it could be 10,000, could be 15,000 per home. It's not a few hundred dollars. And again, this isn't a debatable issue. That's a fact in the

industry, but it's a bigger issue that I'm more concerned with, because if you didn't go to the Office of OFPC, it's a total nonstarter because what's going to happen is when there's a submittal for a plan in the State, even if you didn't go to them, there's going to be a fire marshal review and it's going to trigger all of this and we're just going to be back here next year kind of redoing this whole bill. So let's work together to see how we can figure out to actually make it feasible and work, because it's a total nonstarter.

MS. FAHY: Governor's Office -- just to be clear, Governor's Office has had this bill for multiple years, I forget how long I've had it, variations of it. We consult with them everyday on a whole host of issues. So it is the first time hearing that somehow this legislation would be tripped up based on -- based on one office. And I also -- you know, we are seeing homeowners do this with existing construction. So, you know, I appreciate that you've run into some problems on a -- on a new garage, but again, part of -- that is part of why we have so many incentives to do that, that's why it's cheaper to do it at the beginning and we are seeing -- we're not seeing quite that kind of backlash otherwise we --

MR. A. BROWN: Thank you, Madam Speaker.

Mr. Speaker, on the bill please.

MS. FAHY: Thank you.

ACTING SPEAKER MAGNARELLI: On the bill.

MR. A. BROWN: While I appreciate the -- the sponsor's comments, I kind of think of Mr. Zebrowski's discussion on

why lawyers should be judges. You know, I've been swinging a hammer for five decades. I have a little bit of an understanding of this industry. This particular issue I have a very big understanding. The problem with this is it's irrefutable. Per home you're going to spend a minimum of 7,500, 10,000, 15,000, depending on what the circumstance is. Maybe not so bad on a new construction if you're spending a half-a-million dollars, \$1 million or \$200,000. But when you have a multi-family building unit, this escalates into fire code issues that are going to make this totally prohibitable even if it's allowed by insurance companies today, which are finding difficulty to give -- to give policies to because of the extreme issues of overload on electrical panels and potential combustibility issues as Assemblyman Palmesano had mentioned. I think this needs a lot more study. We shouldn't rely on, you know, someone who went to school for an extra three years in law school to understand the construction industry. So for that reason I'll be voting in the negative. Thank you, Mr. Speaker.

ACTING SPEAKER MAGNARELLI: Mr. Brown in the negative.

Ms. Giglio.

MS. GIGLIO: Thank you, Mr. Speaker. Will the sponsor yield?

ACTING SPEAKER MAGNARELLI: Will you yield, Ms. Fahy?

MS. FAHY: Certainly.

MS. GIGLIO: Thank you. So can you please go

through the exemptions again? Like, so all affordable housing units that will be built in the State of New York will be exempt from having these electric charges. Am I clear in that?

MS. FAHY: Yes. Where they -- where they seek that, yes.

MS. GIGLIO: Okay. And what if there was a mixed-use building where it's 40 percent of the median income, 60 percent of the median income, 80, 100 and 120. If it's mixed, so it has affordable and it has market rate. They will still -- that whole building would be exempt?

MS. FAHY: That has to be tied to an agreement and it -- but it does have to, you know, they have to apply and it has to be tied to an agreement. Again, we just visited one right here in Albany. It's all affordable, it's all public housing and it's all-electric and it's actually going to save the homeowners a substantial amount of money on their heat and air conditioning because of those investments that were made. So it may have been some upfront costs but it's actually going to be a massive savings on the -- on the outside. So we -- we still will be able to still do it, but since we have already addressed so much about affordable housing in our budget we left it out of this.

MS. GIGLIO: So you just stated that because this affordable housing unit, they are going to be saving a lot of money because it does have all of this, the bells and whistles in it that would provide for this electric service and everything to be electric in the building, correct?

MS. FAHY: In the one I mentioned, yes.

MS. GIGLIO: Yes. So why would we want to restrict people that are eligible for an affordable housing unit from having an electric vehicle in the building that they live in? Why would we want to tell the people that are eligible for affordable housing, sorry you can't have an electric vehicle, there's no where for you to plug in.

MS. FAHY: We're -- we're definitely not telling them they can't. We are assuming -- we are assuming we will still see a lot of this, we're not -- we're just not adding it in at this time (inaudible) because we just addressed all of that during the budget, but we're not precluding it. And again, that's only if it's tied to an agreement. So there has to be an agreement at the local, State or county level as these are -- as we are developing new or growing new affordable housing.

MS. GIGLIO: So is it the State's goal that everybody in New York State should drive an electric vehicle?

MS. FAHY: Absolutely not. I would hope most people -- you know, we're trying to -- we spent a lot of money in this budget to encourage more mass transit, pedestrian and bike.

MS. GIGLIO: If you're not on mass transit and you're driving a vehicle, is it the State's goal to get everybody off of, you know, fossil fuel vehicles and move to electric vehicles?

MS. FAHY: I think we had that as one of our goals to -- by 2035 of the new sales of new vehicles. Again, that too is

focused on new vehicles, I think in 2035.

MS. GIGLIO: So we --

MS. FAHY: If that's -- if that's what you're referring to.

MS. GIGLIO: So the Legislature adopted the Green Light Law many years ago in 2019, I wasn't here yet, but because they were saying people that were having a hard time getting to and from work because they didn't have driver's licenses so we gave them driver's licenses but now we're telling those people if they live in a brand new building - and I'm just going to be in the forefront here - there are 2,400 affordable housing units in the town adjoining my town and, you know, that's great. I think everybody needs a place to live, but you're going to tell all those 2,400 people I'm sorry, we don't have an EV connection for you. And if the builders, you're saying it doesn't preclude them from doing it, but why would they? Why would they? Are the taxes break going to go from what is normally a ten-year tax break, to a 20-year tax break, a 30-year tax break, a 40 year tax break? I mean that's -- that's what we heard when we were talking about the affordable units in New York City, and I'm just saying I think that it's -- it's unfathomable to me that we would subsidize affordable housing units in New York State and not let these people have a connection for an electric car, which -- which the car dealers can't get rid of them. Someone in this Chamber told me they bought an electric vehicle for 55,000. Now brand-new it's 35,000. So where EV vehicles are becoming more affordable because the dealers

can't get rid of them and you say it's because there are no EV connections, why wouldn't we require affordable housing to do these EV connections?

MS. FAHY: I appreciate your concern for those who are living in affordable housing, but this is -- again, we are already seeing this on its own and grow on its own and we're seeing these changes and I think the 2,400 people you just referred to already have a place. This is again, new construction --

MS. GIGLIO: This is new construction.

MS. FAHY: -- and we're seeing -- but we are seeing the growth of this. Yes, the infrastructure is holding up the industry, hence the reason we want to start with at least new construction and adding in these requirements. We just spent years, five years, in my calculations since 2019, figuring out a housing package here. That was done for the same reason we're not doing a lot of bills that were already addressed in the budget. Affordable housing was addressed in the budget. We exempted it here. I would hope at some point we're going to go back, but again, remember, this is still tied to an agreement so that doesn't preclude any new construction on affordable housing from still going ahead and doing it, and I anticipate they will just as we did just right down the street with Steamboat Square, which was just newly -- and that was just a renovation, that was not new construction.

MS. GIGLIO: So who is going to be negotiating these agreements for these affordable housing units?

MS. FAHY: This is subject to an -- an agreement with local, State entities. You know, this is -- I assume whoever the local building code -- when you're doing affordable housing there's multiple agencies involved.

MS. GIGLIO: Yeah, but -- but there's also an agreement with the State because the State is funding these projects so

--

MS. FAHY: As are -- as are local governments, as is -- you know, when we're doing affordable housing I understand just the one I saw a few months ago here with Steamboat Square, there were ten different grants involved. So they're working with multiple agencies. And remember, affordable housing is one thing, we also for new construction for just as I -- I got a tax credit when I bought my EV plug-in hybrid. We have tax credits on installation of plugs, and I certainly don't income qualify, but there are insensitives for all of this so it's not as if we're using taxpayer dollars on a lot of these things to incentivize -- to incentivize the growth of EVs. Again, there's a -- there's a much bigger purpose here. They run cleaner, they're healthier and it is better for the environment.

MS. GIGLIO: Okay. I just don't know why we would restrict people that are eligible for an affordable housing unit and telling them I'm sorry, you're going to have to go to the gas station down the road if you own a car, and you're going to have to pay more for gas than you would pay for electric. I just -- I don't understand it. I mean the State subsidizes these affordable housing projects. I don't

understand why you couldn't make it a requirement that in those subsidies they put these EV charging stations. Especially with other bills that we have that require parking garages to be open for anybody to be able to go in and charge their EVs so --

MS. FAHY: I think that might be a good bill idea and I'm sure we'll see that as we continue to grow. We're growing this entire industry just as we've seen lots of efforts on incentivizing EV infrastructure. So I, again, this was a start. It's a start with new construction, it doesn't even include major renovations. The -- the Steamboat Square I just mentioned would not have even been subject to these requirements because it wasn't new construction. It was a gut renovation but it wasn't new construction. So we're trying to start somewhere. You're giving me lots of ideas for future bills. But we -- we've got to start somewhere as we incentivize this industry and I think that's -- we're even without these requirements in place, we are seeing it dramatically just as we've seen it in -- in our buildings here and we're seeing it at grocery stores. We're seeing -- we're seeing EV infrastructure going in in most commercial properties as well.

MS. GIGLIO: Yup. There used to be better incentives for it. But thank you very much for your --

MS. FAHY: There's more coming as we know. Thank you.

MS. GIGLIO: Thank you for your thoughtful answers, thank you.

Mr. Speaker, on the bill.

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

MS. GIGLIO: Where we're a State that is trying to get everybody to, you know, switch, make the alternative to electric. I just don't understand how, you know, the State is investigating so much money in affordable housing units and yet you're telling them they can't drive an electric vehicle, because there's no requirement that electric charging stations be put in these affordable housing units and these buildings, and they are pretty inexpensive now, because like I said the dealers can't get them off the lots. You can lease an electric vehicle for \$100 a month, but yet we're going to tell these people sorry, you have to go to the gas station down the road, and as our laws become more strict on owners of gas stations and on the use of fossil fuels, gas prices are going to keep going up. It happened in California and it's going to happen here, too, and that'll be the force of the government's hand to make everybody switch to an electric vehicle is by making prices so unaffordable that you have no other alternative but to go to what they want you to do. And for those reasons I just can't understand why we would eliminate people that are eligible for an affordable housing unit and not allow them to have an electric car.

Thank you, Mr. Speaker.

ACTING SPEAKER AUBRY: Mr. Eachus.

MR. EACHUS: Thank you, Mr. Speaker.

On the bill.

ACTING SPEAKER AUBRY: On the bill, sir.

MR. EACHUS: Sir, my colleagues just scared the

hell out of me. Two-and-a-half weeks ago I bought a Chevy Bolt. That is a GMC car from a Chevy dealer, and I was never told to put a charging station 50 feet away. As a matter of fact, I contracted with a contractor through the GMC dealer to have a charger put in my garage. Wow, I hope I get my hands on this stuff so I can go back, I guess, and sue this Chevy dealer from the information I was given today.

And I'm listening about the building. I have a 200 amp service to my house, I have whole-house air conditioning. I would love to see what a 100 amp air conditioner does because my whole-house air conditioner is only 40 amps. And I was thinking about, wait a minute, they were talking about 32 to 40 amps for a charger? Oh, that's a Type 2 charger, what is commonly known as a fast charger. You know what a Type 1 charger is? It was mentioned by the sponsor, a 110- to 120-plug at 20 amps. And as far as the whole business with affordable housing, we're certainly not telling anybody in the future you can't put in these outlets if you want.

So I -- I -- I'm just, like I said, I was scared and I just don't understand this information that's being fed out here on the -- on the floor. And, you know, all I can say is I'm having the experience, the true experience, with the new Chevy Bolt and I hope I get additional information from my colleagues across the aisle.

Thank you very much.

ACTING SPEAKER AUBRY: Thank you.

Read the last section.

THE CLERK: This act shall take effect April 1st, 2025.

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. Those who support it can certainly vote yes on the floor. Thank you, sir.

ACTING SPEAKER AUBRY: Mrs. Peoples-Stokes.

MRS. PEOPLES-STOKES: Thank you, Mr. Speaker. The Majority Conference is generally gonna be in favor of this piece of legislation; however, there may be a few that would decide to be an exception. They should feel free to vote at their seats.

ACTING SPEAKER AUBRY: Thank you, both.

The Clerk will record the vote.

(The Clerk recorded the vote.)

Mr. Durso to explain his vote.

MR. DURSO: Thank you, Mr. Speaker, to explain my vote. So again, I want to thank the sponsor for taking the questions. But again, I -- I think I have two real issues with this bill. One is the consistency level. Again, we're asking homeowners and requiring homeowners that build new homes, that they're required to have this wiring done and chargers put in, but we're not requiring companies and builders that are going to be building multi-unit dwellings and multi-unit apartment buildings to do it if they choose

not to. Again, it's a consistency issue, and like anybody else, again, let the market bear it and let people decide for themselves what they want to do. We don't need to mandate that residents and people throughout New York State have to put these in if they don't choose to.

Thank you, Mr. Speaker.

ACTING SPEAKER AUBRY: Mr. Durso in the negative.

Mr. Tague to explain his vote.

MR. TAGUE: Thank you, Mr. Speaker. I just find it unbelievable that half, or even maybe more than half of the people in this House that are supporting this bill don't even own a house, and you're making decisions for people that live in my rural area that have to buy a house, mandating something that's unaffordable. The worst thing with New York State, take politics away, we're the most unaffordable state in the country and now we're mandating more unaffordability onto our residents. This is just ridiculous. If people want to do this, let them do it. Let's not mandate them. People need to make decisions for themselves. Absolutely ridiculous. And then you wonder why people are fed up? Right here's the reason. Don't tell me what I need to do with my new house, I'm footing the bill, not you.

I vote no.

ACTING SPEAKER AUBRY: Mr. Tague in the negative.

Mr. Jacobson.

MR. JACOBSON: To explain my vote, Mr. Speaker. I'm very happy that we have this bill. The reason there aren't more electric vehicles being sold is because there's less charging stations. But I'm really happy that the Republic -- some Republicans say this bill didn't go far enough, we should have this mandate on more types of housing. So maybe next year if -- if the sponsor sponsors a new bill in the Senate, maybe I'll have it in this Assembly and maybe you'll cosponsor it. If it only costs them, what, \$10,000, when you're building it new to get a -- to get a charging station, that'd be great. And not only that, but it will increase the value of the house, which makes a lot of sense. The only way that we're going to get off the fossil fuels is to have more charging stations so people can use it. I hope the Thruway starts putting more of them on in the -- in the rest areas. I hope that we have them throughout.

So I'm very glad to vote for this bill and I commend the sponsor for getting it across the finish line.

ACTING SPEAKER AUBRY: Mr. Jacobson in the affirmative.

Mr. Palmesano.

MR. PALMESANO: Yes, Mr. Speaker, briefly to explain my vote. On the GM webpage, item number three says, *Park your vehicle outside immediately after charging and do not leave your vehicle charging indoors overnight.* In addition, there is -- there is another story, GM tells Bolt owners to park 50 feet away from other cars because they want to risk -- avoid risking a spontaneous fire and

spread.

So I vote no.

ACTING SPEAKER AUBRY: Mr. Palmesano in the negative.

Mr. Novakhov.

MR. NOVAKHOV: Thank you, Mr. Speaker. You know, I'm not anti-EV guy, I do care about kids in -- in Congo, I -- yes. I'm a very commonsense person. The -- the only -- and probably it's a good bill, I don't know. The only reason, Mr. Speaker, I'm not voting yes on this bill is because it should be an initiative. It should be an initiative like a tax break. We -- we should create a more friendly environment for the builders to initiate, you know, not require them doing something.

But, you know, the -- I was listening to -- to this long debate, and I'll try to make it very brief. It's interesting that, you know, the sponsor of the bill and -- and the team consisting of economists, attorneys and researchers, they have no idea how much is it to run an electric wire from the basement of the garage to the, I don't know, 10th floor, 20th floor, 30th floor, et cetera. They mentioned it's a few hundreds dollars; it's obviously not a few hundred dollars, it's thousands, it's tens of thousands of dollars of electrical work to run the wire. So I'm -- I'm surprised that, you know, such a professional team of researchers doesn't know the price, you know, in working on this bill for so many years, doesn't know the consequences, the financial consequences for the builders. I'm -- I'm really surprised they don't

know about it. So, you know, I think we need to -- to do more research before working on such legislation.

And, you know, for these reasons, I'm -- unfortunately, I'm in the negative. I hope this bill will bring a lot of good -- good stuff to our constituents. Thank you so much, Mr. Speaker; thank you.

ACTING SPEAKER AUBRY: Mr. Novakhov in the negative.

Ms. Levenberg.

MS. LEVENBERG: Thank you, Mr. Speaker, I rise to explain my vote. I am amazed at how long it actually takes us to pass any legislation whatsoever that actually will improve our environment. And while we know that there are expenses related to converting our infrastructure off of fossil fuels, we also know there are much, much greater expenses to continuing to go forward with our infrastructure as is. So I'm hopeful that we're going to make much larger changes than these. I think that this is a great bill and I'm very grateful to the sponsor for having put it forth and working so hard to get it passed for so many years. I do have an electric vehicle, I have upgraded the electric on my single-family home, and I do know what the expenses are and I understand what the work involved was, and it would certainly have been a lot less expensive to do that kind of work on new construction than having to convert my 1920 home and -- and outside so that I could -- I could charge my electric vehicle in my garage. And while there possibly could be risks involved, and I'm not

saying there are or there aren't because I haven't had any bad -- anything bad happen yet to me, I do believe that ultimately some of these problems will be addressed by the manufacturers and that we need to be ready to make sure that we can charge our electric vehicles. We hear all the time that we don't have the infrastructure in place to support electric vehicles, yet, here we are hearing from our colleagues across the aisle that we shouldn't actually require the electric infrastructure that we need so that we can have the electric vehicles.

So we need to be ready for this, we're way behind. I am proud to vote in the affirmative. Thank you.

ACTING SPEAKER AUBRY: Ms. Levenberg in the affirmative.

Mr. Friend to explain his vote.

MR. FRIEND: Thank you, Mr. Speaker, for allowing me to explain my vote. The fact that we're throwing around \$3,000, \$10,000 and saying that's meaningless, not in my district, not to me. That's a lot of money. In my district you have families, senior citizens, maybe looking to downsize, move into a new home. That's a lot of money to say, *You have to put this in*, and they might not even own or want to own an electric car. And they have to pay for that? Why? Why would they have to build that into their new home when they don't even want it or own it? It's absolutely ridiculous.

Anybody that wants it, great, go ahead and do it. But don't kid yourself by saying it's clean; it is not clean technology. In New York State, fossil fuel and gas-burning cars are cleaner than

clean technology cars. All the reports show that, because the cars are heavier. When they're clean, electric vehicle cars, they cause the wheels to burn out faster, they cause the brakes to burn out faster, kicking off all that pollutant, dust, and carcinogen into those communities. Yes, they're quiet, and that's actually something they tried to work into the cars so you don't -- you don't have accidents that you're actually gonna -- actually overrun somebody when you're backing up. So conveniences abound in all sorts of areas. This should be a choice when you build a new home.

I find it ironic that this bill goes into effect April 1st, 2025, April Fool's Day. Who is that, the Legislature or the people who are trying to say this is a clean technology? I vote negative.

ACTING SPEAKER AUBRY: Mr. Friend in the negative.

Mr. Steck to explain his vote.

MR. STECK: Thank you, Mr. Speaker. Having gone through the process of making a 1958-constructed home suitable for electric vehicles, it was not very costly to run a 50 amp wire from the service in the basement to the garage and replace the existing outlet there. Nowadays, the -- many of the car dealers are giving away the Level 2 charging station that you can put in your garage and, in fact, it pays for itself quite easily because the cost of fueling and maintaining an electric vehicle is about one-quarter the cost of a comparable gas vehicle. I drive a Volkswagen ID.4. That's not a small car at all, it -- it compares favorably with a lot of the crossover vehicles that people

really love to drive.

This is a lot of nothing, I vote in the affirmative.

ACTING SPEAKER AUBRY: Mr. Steck in the affirmative.

Ms. Simon.

MS. SIMON: Thank you, Mr. Speaker. I think everybody knows that we have to take every opportunity possible to create the electric vehicle infrastructure that we need to move forward into the -- the -- further into the 21st Century, and this is such an opportunity. If you are building a new house, it's not costing that much more to put in an electric vehicle charging. We know that. If you're doing multi-family housing, it's not gonna cost that much more. The time to do it is in the beginning, it's always more expensive to retrofit. Now is the time to do it when you're starting a new home, when you're starting a new building. This is the perfect opportunity.

So I want to commend the sponsor of this legislation and I will be voting in the affirmative. Thank you.

ACTING SPEAKER AUBRY: Ms. Simon in the affirmative.

Mr. DiPietro to explain his vote.

MR. DIPIETRO: To explain my vote, thank you, Mr. Speaker. I appreciate it. This is what you get when you have one-rule government in the State. I find it ironic that our Majority sits there and mocks us out for being opposed to this. I don't take it very lightly. A lot of people don't believe in electric cars, a lot of people don't

believe in this electrification, especially the utility companies who said we can't get to electrification. In 20 to 30 years we can't meet the goal, the standards that they've put. People are not buying electric cars. If you just saw the reports from GM and Ford, they're going down the tubes, no one's buying them. And if they aren't subsidized, they fail, just like wind and solar. If they're not subsidized, they fail.

This is what we get with one-rule government dominated by socialism, and I won't -- I won't be voting for this. But this is exactly why I have a bill to split this State and get rid of New York City and let the rest of the State be on its own and fend for itself because I can tell you from Upstate, we're sick and tired of having these -- these -- these initiatives thrown down our throat. I'll be voting no.

ACTING SPEAKER AUBRY: Mr. DiPietro in the negative.

Are there any other votes? Announce the results.

(The Clerk announced the results.)

The bill is passed.

Page 18, Rules Report No. 312, the Clerk will read.

THE CLERK: Senate No. S06584-C, Rules Report No. 312, Senator Gianaris (González-Rojas, Mamdani, Raga, Gallagher, Glick, Sillitti, Simon, Burdick, Forrest, Seawright, Fall, Shimsky, Levenberg, Sayegh, Bichotte Hermelyn, Clark, Simone, Shrestha, Kelles, Carroll, Lee, L. Rosenthal, Hevesi, Cruz -- A06219-B). An act to amend the Executive Law, in relation to the

collection of certain demographic information by certain State agencies, boards, departments and commissions.

ACTING SPEAKER AUBRY: An explanation is requested, Ms. González-Rojas.

MS. GONZÁLEZ-ROJAS: Thank you, Mr. Speaker. This bill would add a new section to the Executive Law requiring every State agency, board, department or commission that directly collects demographic data regarding the ancestry or ethnic origin of a New York resident disaggregate Middle Eastern and North African from the White demographic, or collect separate data on each major Middle Eastern or North African group.

ACTING SPEAKER AUBRY: Mr. Gandolfo.

MR. GANDOLFO: Thank you, Mr. Speaker. Would the sponsor please yield for a couple of questions?

ACTING SPEAKER AUBRY: Ms. González-Rojas, will you yield?

MS. GONZÁLEZ-ROJAS: Yes, sir.

MR. GANDOLFO: All right, thank you.

ACTING SPEAKER AUBRY: Ms. González-Rojas yields, sir.

MR. GANDOLFO: Thank you, ma'am. So just to start, there are a number of groups listed in this bill from the Middle Eastern and North African region. My question was, how did you arrive at these specified, I guess, nations of origin they would be?

MS. GONZÁLEZ-ROJAS: It aligns with the Federal

Office of Management and Budget, their definition.

MR. GANDOLFO: Okay, because I noticed that their -- the -- the nations contained in here differ from some other definitions; for example, the United Nations Statistics Division and their definition of the MENA region include Turkey, Cyprus, Azerbaijan, and we also include Armenia in this definition. So why -- it's uncommon to see Armenia listed as a Middle Eastern country without Turkey and Azerbaijan. So why -- why are we making -- why are we including them without including the others? Is it --

MS. GONZÁLEZ-ROJAS: Well, the bill says included but not limited to, so these are mostly some of the top countries listed.

MR. GANDOLFO: Okay.

MS. GONZÁLEZ-ROJAS: So it's not limited to only the countries listed in the bill.

MR. GANDOLFO: So when it's not limited to, I guess in connection with the forms that would be filled out, how -- how would those nations expand if it's not limited to those? Who would add on maybe additional nations like Cyprus, some definitions include Malta?

MS. GONZÁLEZ-ROJAS: Again, we're mostly aligning with what the Office of Management and Budget includes.

MR. GANDOLFO: Okay. So this goes into effect -- now, in order for an individual to claim this new demographic category, how much ancestry -- ancestral roots would they have to

have to those nations? Is it something that could show up your AncestryDNA, your 23andMe?

MS. GONZÁLEZ-ROJAS: It's all self-identified --

MR. GANDOLFO: It's self-identified? Okay.

MS. GONZÁLEZ-ROJAS: -- information, yes.

MR. GANDOLFO: Okay. So right now they're being recorded as White for data collection, and I know in the sponsor's memo it's referenced that there's a lot of individuals from this region who have economic troubles, housing insecurity. How are we -- how are analyzing that data if we're not collecting it currently? How do we know relative to other, certain groups that they have these issues that we're trying to solve?

MS. GONZÁLEZ-ROJAS: Well, the data -- the Census Bureau has a question, it's question number nine, and says what is the person's race. Under White -- and it requires you to check your race and list your country of origin. And under White, it says -- print, for example, German, Irish, English, Italian, Lebanese, Egyptian. So that information is -- is recorded, it's just not disaggregated by State agencies, commissions and boards for public consumption.

MR. GANDOLFO: Okay.

MS. GONZÁLEZ-ROJAS: So the information is there. If you love this kind of stuff like I do, you can find it, but it's not readily accessible nor disaggregated by the State.

MR. GANDOLFO: Okay. So now it will be

aggregated. Why is it being disaggregated from White in particular rather than just collecting the data on their nation of origin?

MS. GONZÁLEZ-ROJAS: Ask it -- I'm sorry?

MR. GANDOLFO: Sorry. Why -- so we're collecting the data on their ethnicity, their nation origin, their ancestral roots. Why is that being disaggregated from White? For what purpose is that?

MS. GONZÁLEZ-ROJAS: Because right now the Middle Eastern/North African population are considered White under the U.S. Census, so that's where their identity is captured.

MR. GANDOLFO: Okay. So -- and that's -- why is that an issue, why -- why does that have to change?

MS. GONZÁLEZ-ROJAS: Well, because the Middle Eastern/North African population don't experience some of the same experiences that White communities experience. So, for example, the Federal working group under the White House's Office of Management and Budget have been studying this issue for many, many years, and they released a recommendation recently to include a separate -- I'll say, MENA - Middle Eastern/North African - category, and they quote, "Many MENA community members do not share lived experiences as White people with European ancestry, do not identify as White and are not perceived as White by other individuals." So there's a need to really pull out that data and understand what communities we're representing. I'll give you one perfect example that I've experienced. Prior to redistricting, my

district was 60 percent Latino, 27 percent Asian, there was some miscellaneous populations, but it was 11 percent White. I've now expanded my district to include the neighborhoods of Astoria, which has a huge Middle Eastern/North African population. So I went from 11 percent White to 27 percent White. I know my -- I know Astoria very well, so I know that the population in my community is not actually White, they are Middle Eastern/North African. But I don't have the data or resources to really be able to adequately serve them. I know them, I work with them, I'm in the community, but the numbers don't show that. So I don't know some of the health disparities that they might experience, some of the linguistic needs that they might have, some of the cultural needs. So this is all information that we just want to pull out from the White category to make better informed choices and decisions around our policies.

MR. GANDOLFO: Okay, that's a fair point. I don't think data collection is necessarily a bad thing, depending on how it's used. I know in the sponsor's memo it references that by classifying them as non-White, now they would be eligible for maybe more equity-based aid programs. Can you give an example of some programs that they're currently ineligible for that they would now be eligible for?

MS. GONZÁLEZ-ROJAS: Well, the -- redistricting is a perfect example. Redistricting really looks at keeping communities of interest together and, actually, the Middle Eastern/North African population in Astoria was split between myself and my

other colleague right next to me because they were not incorporated as one community of interest. So that's one example. They're not eligible for MWBE programs. Again, we're not looking at some health disparities that they may experience, environmental inequities that they might experience. All that is very difficult to determine because we don't have the disaggregated data in our State agencies.

MR. GANDOLFO: Okay. Thank you very much for your responses.

Mr. Speaker, on the bill, please.

ACTING SPEAKER AUBRY: On the bill, sir.

MR. GANDOLFO: Mr. Speaker, as I just referenced, data collection's not necessarily a bad thing, but in this case it seems like we're collecting this data for the sole purpose of making additional people eligible who are struggling and probably do need more help to deal with their housing insecurity, their economic troubles. But there -- I think it highlights that there are plenty of people who are struggling who do not qualify for extra assistance just because of an immutable characteristic, they're not classified as non-White. Now, are there more groups that this should be expanded to? Where does this end? How come we are not going to collect data on different European regions such as Northern European, Southern European? Not necessarily classify them as non-White, but just to collect more data so we can look for trends and difficulties that they're having.

So I -- I understand the sponsor's intent here is to

better serve her community and a lot of different ethnic groups that we have in New York, we are a melting pot, but I -- I feel that the reason that this is being done is leaving people out who could use more assistance as well. Thank you, Mr. Speaker.

ACTING SPEAKER AUBRY: Thank you.

Mr. Mamdani.

MR. MAMDANI: Thank you, Mr. Speaker. I rise because I have the privilege of representing Astoria alongside the sponsor of this legislation, and Astoria is also where the former Mayor of New York City, Mike Bloomberg, had an NYPD unit titled "The Demographics Unit" running operations. This is where a unit that was tasked with the illegal surveillance of Muslims purely on the basis of our faith would surveil when Muslims would go to the barbershop, when we would go to the hookah bar, when we would go to Astoria Park, when we would go to -- go about our daily lives. And within that unit they had a list of 28 ancestries of interest, and on that list of ancestries they included Arab ethnicities such as Palestinian, Jordanian, Syrian, to name a few. And so it would be a point of confusion for myself and so many others that when it came to the issue of surveillance, the State saw it fit to engage in data disaggregation. But until this moment when it came to the question of State support or recognition or having any input on State policy, it was not worthy.

And so I would like to thank the sponsor for recognizing the fact that Middle Eastern and North African New

Yorkers do experience life separate from the manner in which they are categorized thus far, and their particular experiences of what it means to be a New Yorker of those backgrounds are ones that are worthy of recognition and are ones that must be upheld and brought into the chambers of power where we decide the laws that will actually govern their lives.

Thank you very much.

ACTING SPEAKER AUBRY: Mr. Blumencranz.

MR. BLUMENCRANZ: Thank you so much, Mr. Speaker. Will the sponsor yield?

ACTING SPEAKER AUBRY: Ms. González-Rojas will yield, sir.

MR. BLUMENCRANZ: Ms. González-Rojas, what is the -- the -- you went over a little bit the -- the legislative intent of the bill. Could you just kind of go over, maybe I'm a little confused, the difference between ethnicity, race, and nationality?

MS. GONZÁLEZ-ROJAS: The -- there's a definition in the Federal Government: The racial categories in the Census generally reflect the social definition of race recognized in this country, and is not an attempt to define race biologically, anthropologically or genetically. In addition, it's recognized that the categories of race item include racial and national origin or sociocultural groups.

MR. BLUMENCRANZ: I'm just a little bit confused because you -- you start the bill off by talking about just that, right,

and then when you go to create the subgroups, you then list political borders as a reference, right? I mean, you -- we're talking about ethnic and genetic origin, and then we reference certain countries here that wouldn't necessarily identify their ethnic makeup such as Iran. Most Iranians identify as Persians, right? I'm just curious when this is implemented, are we going to be providing the ethnicity or are we gonna provide the nationality of those individuals, right?

MS. GONZÁLEZ-ROJAS: It's how they self-identify. This is all about self-identification, and -- and if it includes the realm within the North African or Middle East countries -- and again, I'm looking at the OMB recommendations -- then they are included.

MR. BLUMENCRANZ: So if I'm, say, a Persian individual and you provide Iranian as an option on there, I now then have to -- and I have a political belief that I'm not an Iranian, I don't believe in the Iranian regime currently, but I do identify as Persian, now I have to identify as White because of the guidelines just creates more boxes, but not my box?

MS. GONZÁLEZ-ROJAS: It won't be more boxes, it's disaggregating the Census data that exists already. It just allows us to pull it out and share that as data from the State agencies, boards, commissions and departments.

MR. BLUMENCRANZ: Okay. So I know you --

MS. GONZÁLEZ-ROJAS: So I want to be clear, this is -- this is data that exists already, it's just lumped into the White

category.

MR. BLUMENCRANZ: So we know what ethnicity everybody is, we are just gonna just start collecting it as such, or what

--

MS. GONZÁLEZ-ROJAS: If you filled the Census in 2020 and you included your origin, then that data is there.

MR. BLUMENCRANZ: But you'll also be continuing to collect data from State agencies, as you state in the bill, correct?

MS. GONZÁLEZ-ROJAS: It's not collecting data from State agencies, it's State agencies, boards, commissions that -- that provide data, that -- that issue data.

MR. BLUMENCRANZ: Yeah, they -- they will -- they do issue data and they will be collecting data as well, as stated here, when they do collect data and racial and ethnic data, they will be --

MS. GONZÁLEZ-ROJAS: Yes.

MR. BLUMENCRANZ: -- collecting data including these subcategories.

MS. GONZÁLEZ-ROJAS: Yes.

MR. BLUMENCRANZ: As you mentioned, there's North African. So like, the Maghreb, you also have Levant and -- and the Middle Eastern countries as well as the last one you mention, which is other Middle Eastern and North African groups including, but not limited to, transnational indigenous groups. Now, it is

self-identification --

MS. GONZÁLEZ-ROJAS: Yes.

MR. BLUMENCRANZ: -- but you also talk about the intention of this bill to provide more benefits to minority and marginalized groups.

MS. GONZÁLEZ-ROJAS: That -- that's the hope, it's really to pull out the information that we have the tools to make those decisions. It doesn't mean that they will automatically qualify for many of these programs, but it gives us the data and the tools to make those decisions and see what programs, perhaps, they might be eligible for. Because right now when they are included in White, they're literally deemed invisible and we don't know the needs that they have.

MR. BLUMENCRANZ: So Middle Eastern individuals are currently carved out of MBE [sic] funding, correct?

MS. GONZÁLEZ-ROJAS: Because they're considered White.

MR. BLUMENCRANZ: Because they're considered White. So they'll still be carved out, we'll just know where they are, correct?

MS. GONZÁLEZ-ROJAS: I'm sorry?

MR. BLUMENCRANZ: They will still be considered White for the purposes of receiving benefits, just not for data collection under this bill. But it's your intention to expand that, correct?

MS. GONZÁLEZ-ROJAS: Yes. I mean, again, the data would be available in order to look at the programs that we have and ensure that people are included.

MR. BLUMENCRANZ: So considering the classifications provided here, I recently did a 23andMe. I am 99.9 percent Ashkenazi Jew with an origin in the Levant, which would make me Middle Eastern, technically, under the definitions provided as part of a diaspora. Would I then, under new provisions to the laws including Middle Eastern communities, be eligible for the State benefits for minority businesses such as the bill we passed recently this year in order to receive no-bid contracts as a -- as a minority business?

MS. GONZÁLEZ-ROJAS: If you identify as Middle Eastern or North African, any State agency, board or commission or department that issues that data will include you in that data.

MR. BLUMENCRANZ: And I will be eligible to receive benefits as a minority?

MS. GONZÁLEZ-ROJAS: This bill actually doesn't impact those programs, this just creates the data available for those programs to assess if they can.

MR. BLUMENCRANZ: I'm just trying to flesh out when we start to hyperclassify individuals based on political borders that we've done here, or in maybe a more accurate sense, maybe including their ethnic makeup, again, including maybe Azeris or Turkic people as we discussed earlier, or Persians, rather than the

political borders, will we then have to sit here and discern which minorities, by region, qualify for benefits based on that data? Are we gonna pick and choose who gets what when we start to narrow down the field of who's really White and who's not White?

MS. GONZÁLEZ-ROJAS: That's not the purpose of the bill. The purpose of the bill is to have the State agencies, boards and commissions that issue that data to disaggregate that data.

MR. BLUMENCRANZ: But as you've said before, your -- your hope and intention is to include people from the Middle East. Maybe not White people from the Middle East, even though we include White people as Hispanic under these classifications, but just people who are part of these different countries of origin, correct?

MS. GONZÁLEZ-ROJAS: My hope is, but the purpose of the bill, the very explicit purpose, is to provide the data and require the State agencies, boards and commissions and departments to issue that data and make it available to the public.

MR. BLUMENCRANZ: Will each State agency that's collecting this data have the right to include or not include relative terms, places of origin, political makeups as they so choose? Considering you give examples but not a distinct list.

MS. GONZÁLEZ-ROJAS: I'm not understanding your question.

MR. BLUMENCRANZ: So after the passage of this bill --

MS. GONZÁLEZ-ROJAS: Yes.

MR. BLUMENCRANZ: -- State agencies that collect data and ethno-race-based data will have to include a drop-down menu in the subcategory and would have to include many different relevant groups, correct?

MS. GONZÁLEZ-ROJAS: Yes, yes.

MR. BLUMENCRANZ: You provide one or two or three or four examples in each subcategory.

MS. GONZÁLEZ-ROJAS: Yes.

MR. BLUMENCRANZ: Someone's gonna have to figure out the rest of them, who is it? Who's gonna determine whether or not Israeli's on there, whether or not it's going to be, you know, Ashkenazi Jew, whether or not it's gonna be someone from, you know, a North African subregion or a subgroup? I'm just -- I'm just trying to determine and hone in on what this is going to look like as we start to create individual categories and communities of need.

MS. GONZÁLEZ-ROJAS: The -- the language says that it's including, but not limited to, Egyptian, Moroccan, Algerian, Tunisian, Libyan, and that's some of the North African groups that are included, but not limited to, and then the Middle Eastern groups included, but not limited to, include Yemeni, Iranian, Palestinian, Iraqi, Lebanese, Israeli, Syrian, Armenian and Saudi.

MR. BLUMENCRANZ: So those will be the only countries listed?

MS. GONZÁLEZ-ROJAS: Including, but not limited to.

MR. BLUMENCRANZ: Okay. So they can decide to include all of the caucuses, for instance, many of the -Stan countries, any -- anywhere they'd like, really, or as little as they'd like except for those specific examples.

(Pause)

MS. GONZÁLEZ-ROJAS: Yeah -- it -- it can be arbitrary, it would have to be up to the agencies providing that information and disaggregating that information.

MR. BLUMENCRANZ: That sounds kind of arbitrary.

MS. GONZÁLEZ-ROJAS: They're really -- they're demographers, there's people that understand these classifications. Again, we use a lot of the OMB language because that is the, you know, premiere language under the U.S. Census Bureau. But again, it's -- it's not -- it's not arbitrary; there's -- there's an area and a region that is included under Middle East and North Africa.

MR. BLUMENCRANZ: There is ethnic groups in the Middle East and North Africa, but we are listing countries, right?

MS. GONZÁLEZ-ROJAS: Yeah.

MR. BLUMENCRANZ: And we're talking about genetic makeup which does not go back to a country, but an ethnic group, right? You see the confusion I'm seeing here? I'm -- I'm -- it's not how we classify ethnicity based on -- you know, my ethnic makeup is not American, Israel is a very multi-cultural country with people from all over the world. They are not all Israeli by ethnicity,

correct?

MS. GONZÁLEZ-ROJAS: Well, what could happen is that they could put other Middle Eastern/North African, which is something that we might see.

MR. BLUMENCRANZ: Okay, so then it could just be -- I'm -- for data collection purposes that seems to defeat the purpose of this, which is honing in on groups of need. And if we then start to specifically see certain groups but other groups feel underrepresented, wouldn't that be a lack of data collection and, thus, like in the bill, if they don't feel like it's sufficient they just simply won't report it?

MS. GONZÁLEZ-ROJAS: I'm not understanding your last point here.

MR. BLUMENCRANZ: As you state here, if they feel like there isn't sufficient data for collection then they're just not gonna collect it. I'm just trying to find out how this data collection will be utilized is a mystery and concerning in the first place, but what the data collection will look like if we don't have specific guidelines for what ethnic groups because they won't be ethnic groups. So what countries will be listed so you can name them as your ethnicity (inaudible).

MS. GONZÁLEZ-ROJAS: It'll be up to the agencies, boards, and commissions.

MR. BLUMENCRANZ: So we're all gonna collect different data points on different groups --

MS. GONZÁLEZ-ROJAS: And again, this is self-identified data.

MR. BLUMENCRANZ: Yes. I'm not a scientist, but it doesn't seem like a great way to try and find and hone in on a problem in certain communities if none of your data's the same, correct?

MS. GONZÁLEZ-ROJAS: I'm sorry, I'm having a hard time hearing you.

MR. BLUMENCRANZ: I'm having a hard time understanding how you'll achieve what you're looking to achieve, which is seeing the data on these communities if, A, we're not collecting ethnic data, we're collecting where -- what country of origin you're from in this category and, B, we are not gonna have the same type of data at any State agency because there's no specific requirement for who's included and who's not included. What if an agency doesn't feel compelled to include a certain region or country? Now your data is -- is invalid, essentially. You're not collecting the data you're expecting to collect.

MS. GONZÁLEZ-ROJAS: These -- these are the major populations that we're looking at. This will provide a guideline for collecting the data. Again, the agencies will be responsible for creating a process to do so, you know, and there's experts in the Census Bureau that can assist with this. It's -- it's -- you're -- I think you're overcomplicating this, to be honest.

MR. BLUMENCRANZ: I'm sorry, I don't think I'm

overcomplicating it based on other legislation I've seen here. There is a serious need to understand who these groups are, but seeing the specific collection of specific groups that have been targeted by other legislation is of concern to me as a member of the Jewish community. And I just want to really understand the intentions of a piece of legislation like this, and that is why I'm trying to get to the specifics to make sure that when we see legislation where we want to close down things like places of worship, I want to know if we're collecting data on where these individuals are and what resources they're receiving or what they won't receive while other groups will, even though they're from the same region, correct?

MS. GONZÁLEZ-ROJAS: It's -- it's the same data we -- we collect for anybody. It's the same information, it's just pulling out and understanding how these folks identify. We just passed a bill in 2021 that requires us to disaggregate the Asian data. As we know, an experience by someone who is Filipino may be very different than the experience of someone who is Bangladeshi to have perhaps different language needs, different cultural needs, different religious needs. I represent a district that runs the gamut. I would love to know exactly, you know, where my Egyptian communities are, where my Moroccan communities are, just in the same way I want to know where my Filipino communities are. This tool just gives us that information. This bill gives us that information to have the data and resources. What we do with that is separate and apart from -- from the actual bill. The actual bill's intent and purpose is to provide that

information.

MR. BLUMENCRANZ: I respect the answer, but I am concerned because in those categories we do not include diasporas, and there is a lot of geopolitical complexities when it comes to many of these regions. The Turks -- the -- the Kurds, for instance, are they Middle Eastern if they are in an occupied portion of Turkey, are they not? The classification may muddy the waters for the intended goal of this exercise, and I just want to make sure if we are going to then dictate legislation based on data we're collecting here, are we doing so in a way that is sufficiently representing certain communities.

MS. GONZÁLEZ-ROJAS: Do you have a question?

MR. BLUMENCRANZ: I'm okay. I think -- I think I -- I think I got what I needed out of this --

MS. GONZÁLEZ-ROJAS: It's -- it's -- people self-identify in the U.S. Census data. My hope and goal is to get that information, disaggregate it by White -- disaggregate the White category to pull out this Middle Eastern/North African community. These are the countries listed. This is the standard by which the Office of Management and Budget uses for the U.S. Census, and we can then use that data in ways we see fit as a Legislature.

MR. BLUMENCRANZ: So --

ACTING SPEAKER AUBRY: You have expended your time.

MR. BLUMENCRANZ: Oh, yeah. I'll extend my

time, I just have a few more questions.

So on the Census when you see the ethnicity portion, it'll say Iranian currently?

MS. GONZÁLEZ-ROJAS: I'm sorry?

MR. BLUMENCRANZ: On -- on the Census, you said it's -- it's what the Census is doing right now. The Census offers political borders under ethnicity?

MS. GONZÁLEZ-ROJAS: The Census reads, what is Person 1's race, or Person 2, whatever, how many people you have in your household, mark an X for one or more boxes and print origins. For the White category it says, White, print, for example, German, Irish, English, Italian, Lebanese, et cetera. You self-identify how you -- how you identify in this category.

MR. BLUMENCRANZ: Your nation of origin, not your ethnicity.

MS. GONZÁLEZ-ROJAS: It -- it says your origins, print origins.

MR. BLUMENCRANZ: Origin, just origin.

MS. GONZÁLEZ-ROJAS: That's the language they use.

MR. BLUMENCRANZ: So not ethnic makeup, but we are using the term "ethnicity" and genetic makeup here in your piece of legislation, so if they're not and you are, what happens?

MS. GONZÁLEZ-ROJAS: Well, in fact the Census has issued a directive very recently that makes recommendation for

the future Census, the 2030 Census, to -- to put the race and ethnic category together and include a Middle Eastern/North African check box. Now, that's not yet firm, they haven't yet made that decision, there's a process by which that'll be included, if it is. But that is a recommendation also by the U.S. Census Bureau.

MR. BLUMENCRANZ: So we're gonna better classify individuals by mixing race and ethnicity together?

MS. GONZÁLEZ-ROJAS: That's just a recommendation by years of study with social scientists at the U.S. Census -- at the -- at the White House Office of Management and Budget.

MR. BLUMENCRANZ: I'm just -- out of curiosity, do you have the hypothesis as to why that's a more efficient way of collecting and understanding the data surrounding these individuals?

MS. GONZÁLEZ-ROJAS: I'm not understanding your question.

MR. BLUMENCRANZ: I think anyone who understands that someone's ethnic makeup, for instance the Jewish community, right, they come from a diaspora that's thousands of years long, and I may be ethnic -- ethnically an Ashkenazi Jew based on my genetic makeup, but that's not my race, *per se*. I could potentially identify as part of the Jewish race; that doesn't make a whole lot of sense. So it -- you're -- you're creating an umbrella term and taking two very specific and distinctive things and then eliminating it by making them one. And I'm very concerned as to what that might look

like, especially without real guidance. This is kind of a guideline that we're using that will discount the serious issues and the lasting effects of maps drawn not too long ago to eliminate those ethnic makeups and their identity, and yet we're using them as their only classification tool here.

MS. GONZÁLEZ-ROJAS: The U.S. Census says that the racial categories are a generally [sic] reflection of a social definition of the race recognized in this country, and not an attempt to define race biologically, anthropologically or genetically, and is recognized that the categories of race item include racial, national origin and sociocultural groups. That's the language they have.

MR. BLUMENCRANZ: Okay. So if they decide to change the way they see and define these things, as they have many times before, are we just gonna do what the Federal Government does? I feel like New York always tries to be one step ahead of the curve when it comes to making sure people feel represented, and if they're consolidating these representations, will we do the same thing?

MS. GONZÁLEZ-ROJAS: We're hoping to be ahead of it, that this wouldn't happen. If it's approved, it wouldn't happen until 2030. But again, right now I'm representing a district that is 27 percent White that is not actually not 27 -- 27 percent White, that they have specific needs in terms of their language access, in terms of cultural needs. They're not included under environmental justice community even though I have Asthma Alley in my community. And I'm not just speaking to my community. There are nearly 500,000 --

and that's an estimate, right, because that data's not fully there -- of Middle Eastern and North African people in New York State, and yet we all don't have readily available data to know where they are in our communities. So this -- this is to provide that information. Data is power, data is information. Data is a tool that we can use to make better policy decisions.

MR. BLUMENCRANZ: I -- I just -- I'm not --

MS. GONZÁLEZ-ROJAS: This bill just focuses on disaggregating that data for purposes of distributing that by boards, commissions and departments that provide that information.

MR. BLUMENCRANZ: Good data is powerful, bad data is a weapon and I'm just trying to avoid that.

I think that's all I have for now. Thank you very much.

ACTING SPEAKER AUBRY: Mr. Sayegh.

MR. SAYEGH: Thank you very much. I just wanted first to thank the sponsor. And I think, you know, we're going off course looking at benefits and so forth. I think most of us that know history know the continents and the regions of the world we deal with, and we know that when somebody calls themselves an African American, they refer to mostly sub-Saharan; that's largely Black individuals that are rightfully called African Americans. When somebody calls themselves an European, we know they're from the continent of Europe, and we know the makeup of Europeans. When somebody tells you they're from the Far East or from the Asian

Peninsula, there's a lot of confusion there. Sometimes if you're from the Middle East and your origins are from the Middle East, you're not considered Asian. But I know as a history major, the Middle East is technically part of Asia. So if you're from Lebanon or you're from Jordan or from Israel, you're technically out of Asia, but you're not included there. And people from North Africa and people from the Middle East that generally consist of the Arabian Peninsula, Turkey, Persia, Israel and those borders are people that are really lost in the sauce. And we focus our discussions on benefits when the true purpose of this legislation, whether on the State level or the Federal level, is to give a little credibility and identity of people of North Africa and the Middle East. And when City and State maybe three or four months ago recognized MENA, Middle East and North African, as a category, that really got the ball rolling. And we in New York take pride in leading the nation in recognizing a need to respect everyone.

So when you're from the Middle East, whether you're Arab, whether you're Jew, whether you're Persian, whether you're Turkish, whether you're Kurdish, you're from the Middle East. And you have a right to identify yourself by ethnicity, by race, by your nation of origin or your ancestors. It's up to you. This is not a political matter. It's a matter of recognizing there's an area of the world and there's many people in that region of the world that want a sense of identity, and this is what this is all about.

Thank you very much.

ACTING SPEAKER AUBRY: Mr. Novakhov.

MR. NOVAKHOV: Thank you, Mr. Speaker.

Thankfully, my colleague Mr. Blumencranz asked about 95 percent of my questions, so I have just -- just a few left, so if the sponsor would yield I would appreciate it. Mr. Speaker, will the sponsor yield?

ACTING SPEAKER AUBRY: The sponsor yields.

MS. GONZÁLEZ-ROJAS: Yes.

MR. NOVAKHOV: Thank you; thank you, Madam Sponsor. So how the Middle Eastern person will be determined, by -- by being born somewhere in the Middle East?

MS. GONZÁLEZ-ROJAS: It's self-identification.

MR. NOVAKHOV: Okay. So, I'm a great example because I was -- by the way, is Azerbaijan a part of the Middle East in -- in your legislation?

MS. GONZÁLEZ-ROJAS: It's not listed as one of the countries, but again, it's -- it's not limited to the list of countries here; I had 14 countries here.

MR. NOVAKHOV: So how this list can be extended?

MS. GONZÁLEZ-ROJAS: How -- it would be up to the --

MR. NOVAKHOV: Because Azerbaijan -- Azerbaijan is next to Iran, they're sharing a border and across the Black Sea from Turkey. So Azerbaijan -- and -- and Armenia, they have borders with Armenia. So Azerbaijanis might say, *Why we are --*

are -- we are not considered as part of the Middle Eastern group?

MS. GONZÁLEZ-ROJAS: Well, it's how people identify and self-identification, and then the list of countries is including, but not limited to, and the countries perhaps beyond that will be determined by the agency that's responsible for the disaggregation.

MR. NOVAKHOV: So the countries -- the countries to -- to be determined are -- are not in this legislation, right, not -- not in this bill? You're not determining the countries of the Middle East.

MS. GONZÁLEZ-ROJAS: It's -- it's -- it gives 14 examples, but it says including but not limited to.

MR. NOVAKHOV: Okay. So who will be adding those countries as Middle Eastern countries? Because I'm pretty sure Azerbaijan is a Middle Eastern country.

MS. GONZÁLEZ-ROJAS: It would be up to the agency --

MR. NOVAKHOV: Which one?

MS. GONZÁLEZ-ROJAS: -- that's releasing the --

MR. NOVAKHOV: Which agency?

MS. GONZÁLEZ-ROJAS: The agencies that release demographic data.

MR. NOVAKHOV: Okay. All right. Thank you. Thank you for your answers.

MS. GONZÁLEZ-ROJAS: Thank you.

ACTING SPEAKER AUBRY: Mr. Reilly.

MR. REILLY: Thank you, Mr. Speaker. Will the sponsor yield for a quick question?

ACTING SPEAKER AUBRY: Ms. González-Rojas, will you yield?

MS. GONZÁLEZ-ROJAS: Yes, sir.

ACTING SPEAKER AUBRY: Ms. González-Rojas yields, sir.

MR. REILLY: Thank you, Ms. González-Rojas. So in the bill in Section 4 down by line 29, it says the require -- requirements of this section shall not apply to the Department of Labor, the Division of Criminal Justice Services, the Office of Mental Health or the Office of Temporary and Disability Assistance until two years after this section shall have become law. But all agency -- all other State agencies and boards and task forces would be -- they would have to apply 180 days after it becomes law.

MS. GONZÁLEZ-ROJAS: It's not --

MR. REILLY: I mean, as soon as --

MS. GONZÁLEZ-ROJAS: Yeah, it's not applying, it's -- it's when the data needs to be available. It just gives those -- those agencies more time. And a lot of this is mirrored from the bill that was passed in 2021 that disaggregates data by the AAPI community, the Asian American Pacific Islander community.

MR. REILLY: So why do those agencies need extra time?

MS. GONZÁLEZ-ROJAS: We really mirrored it off

that language, perhaps the data might be more complex or may take more time, so we're giving the agency a little bit more time to do that.

MR. REILLY: But it wouldn't be as complex -- complex for other agencies?

MS. GONZÁLEZ-ROJAS: It's taking a little bit of time for some of those agencies to release the -- the data that is required under the bill, under the AAPI bill that we passed in 2021.

MR. REILLY: Would you be able to provide, like, an example of why that may be a difficult task for them, for those three agencies?

(Pause)

MS. GONZÁLEZ-ROJAS: Yeah, we might have to ask the agency. Again, it's mirrored off the same bill and very much inspired by that bill, and those are the agencies identified to give a little bit extra time.

MR. REILLY: All right. So there -- so there's really no -- no specific reason.

MS. GONZÁLEZ-ROJAS: Not -- not -- not in our bill, no. It just gives them extra time.

MR. REILLY: Did we -- was there any consultation with those agencies to ask why they might need more time, or were they even consulted and given more time without asking them?

MS. GONZÁLEZ-ROJAS: No.

MR. REILLY: There was no --

MS. GONZÁLEZ-ROJAS: We did not, no.

MR. REILLY: -- no consultation? Okay. Thank you.

MS. GONZÁLEZ-ROJAS: Thank you.

ACTING SPEAKER AUBRY: Mr. Lavine.

MR. LAVINE: Ms. González-Rojas, will you yield for a couple of quick questions?

MS. GONZÁLEZ-ROJAS: Yes, sir.

MR. LAVINE: So I am pretty sure I know what this bill is designed to accomplish, and you and I both know that in a lot ways we are both from Glen Cove, but that's not one of the categories. But let me ask you this question: So my brother had his DNA tested. Now, I didn't want to have, for reasons we don't go into, my DNA tested, but I'm assuming it's probably the same as his. So this is what I am: I am part Iberian Peninsula, part Greek, part Italian, part Northern Russian, part Finnish, part Eastern European Jew, and also Yakut, Central Asian Tribe. So I have this question for you: What am I?

(Laughter)

MS. GONZÁLEZ-ROJAS: You're 100 percent American.

(Laughter)

MR. LAVINE: Thank you. No further questions.

ACTING SPEAKER AUBRY: Mr. Brook-Krasny.

MR. BROOK-KRASNY: Already?

ACTING SPEAKER AUBRY: Was it you?

(Laughter)

MR. BROOK-KRASNY: I'm not ready yet.

(Laughter)

I'm kidding, I'm always ready.

Mr. Speaker, talking about being 100 percent of American, as you probably remember, I wasn't born here. I was born in the former Soviet Union. In the former Soviet Union in the passport you had to have a nationality. My nationality was Jewish because I'm 99.5 percent Jewish according to 23andMe. .1 percent Native American, I don't know where that came from, we're still trying to figure it out. But I'm not gonna use it politically in any way.

So Mr. Speaker, when I came here, people started telling me that being Jewish can't be a nationality, it's a religion. Then, going just a few years further, I was able to form an organization called Council of Jewish Immigrant Community Organizations for the Russian-speaking community in New York City, COJECO. The Russian-speaking Jews, all -- all this time, during all this time, they've been fighting with the word "Russian," especially now because now there is a war between Russia and Ukraine. So our identification is just extremely -- extremely complicated, it's just complicated. Now, if we -- we're trying, and I -- and I had an extensive and meaningful conversation with the sponsor of the bill so I think I -- I can understand the purpose of this bill. But what's bothering me when we're talking about being 100 percent American -- where's 100 percent American? He's gone, okay. If we're dividing

ourselves into different categories, I'm worried about one thing only: When I formed with other people, we formed COJECO. The purpose of that organization was integrating Russian-Jewish community into the Jewish community, mainstream Jewish community, and then to mainstream American community. That was the -- the purpose of creating an organization for that community.

So if we're dividing ourselves in different categories, I hope at the end of the process we all will understand that no matter how we're proud of our own heritage, we should be even more be proud of being an American. If that's the way we're going to think, then it's fine to divide ourselves in different categories because we still wouldn't be able to -- some of the people wouldn't be able to identify themselves with any categories. Because now, for example, in Israel you have 22 percent Russian-speaking people, came from Europe. So who are they?

I don't think I have any more time, so all I'm going to say if we're dividing ourselves into different categories, let's just understand that we came here, whether it happened 500 years ago or 30 years ago, with one purpose only: Become a proud American. That's what we're here for. And at the end, I'm going to tell you that I spent 11 months in Italy on the way to America, waiting for the American Consulate decision to let me in. Not everybody got in. So when you having sleepless nights waiting for the American Consulate decision, whether they gonna let you in the country of your dream or not, that's the time when you really started to understand that being an

American is a big privilege, and having an American citizenship is a huge privilege. Let's just be very proud of that. That's all I wanted to say. Thank you very much.

(Applause)

ACTING SPEAKER AUBRY: Read the last section.

THE CLERK: This act shall take effect on the 120th 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 legislation. Those who support it should vote yes on the floor. Thank you, sir.

ACTING SPEAKER AUBRY: Mrs. Peoples-Stokes.

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

ACTING SPEAKER AUBRY: Thank you, ma'am.

The Clerk will record the vote.

(The Clerk recorded the vote.)

Ms. González-Rojas to explain her vote.

MS. GONZÁLEZ-ROJAS: Thank you, Mr. Speaker.

Data is information, but more importantly, data is power. As a

representative of Astoria in Queens, the home of Little Egypt and many other Middle Eastern and North African communities, affectionately known as MENA communities, I am so proud to have brought this bill forward and my Senate colleague, and in partnership with Malikah, their Executive Director Rana Abdelhamid, and all the organizations that make up the Count MENA In Coalition.

According the Federal Working Group at the Office of Management and Budget, a separate MENA category was recommended because they found, quote, "Many in the MENA community do not share lived experiences as White people with European ancestry, do not identify as White, and are not perceived as White by others", end quote. They do not benefit from White privilege, and we do not have to look further than post-9/11 New York during which MENA communities were surveilled, over-policed and discriminated against. The erasure of my neighbors due to this lack of data renders them invisible, and makes it difficult for us to systematically address disparities in education, employment, health care, housing, and political representation. We cannot resolve what we don't fully understand. For example, because we do not have this disaggregated data, we still do not have State level information to tell us the story about the impact of COVID-19 on the MENA community. The lack of data disaggregation also makes MENA New Yorkers ineligible for MWBE opportunities, and they're not considered a community of interest for the purposes of redistricting.

Middle Eastern and North African New Yorkers

deserve to be counted in New York. Today, we are working towards correcting this erasure. My constituents deserve to be seen and accounted for across all of our State systems, and I'm here to make sure that they are. So from Little Yemen in the Bronx to Little Egypt in Queens, it is time to count MENA in, and I proudly vote in the affirmative.

ACTING SPEAKER AUBRY: Ms. González-Rojas in the affirmative.

Are there any other votes? Announce the results.

(The Clerk announced the results.)

The bill is passed.

Mrs. Peoples-Stokes.

MRS. PEOPLES-STOKES: Mr. Speaker, if you will please have our House stand at ease, and I would ask the members of the Majority Conference to immediately meet the Speaker in Hearing Room C.

ACTING SPEAKER AUBRY: The House will stand at ease. Majority conference in Hearing Room C.

(Whereupon, at 9:16 p.m., the House stood at ease.)

ACTING SPEAKER ZEBROWSKI: The House will come to order.

Mrs. Peoples-Stokes.

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

ACTING SPEAKER ZEBROWSKI: On Mrs. Peoples-Stokes' motion the A-Calendar is advanced. On the A-Calendar on consent, page 3, Rules Report No. 429, the Clerk will read.

THE CLERK: Assembly No. A00189-B, Rules Report No. 429 is high.

THE CLERK: Assembly No. A01303-A, Rules Report No. 430, Clark, Simon, Davila, Curran, Lupardo, González-Rojas, Zaccaro, Bichotte Hermelyn, McDonald, Hyndman. An act to amend the Social Services Law, in relation to prohibiting requiring parents or caretakers to earn a minimum wage to be eligible for child care assistance.

ACTING SPEAKER ZEBROWSKI: Read the last section.

THE CLERK: This act shall take effect immediately.

ACTING SPEAKER ZEBROWSKI: The Clerk will record the vote.

(The Clerk recorded the vote.)

Ms. Clark to explain her vote.

MS. CLARK: Hi. Thank you, Mr. Speaker, I rise to just be really grateful for this bill getting through today. The folks -- when the minimum earnings bill was -- a calculation was put into place, people didn't really understand what would happen in the (inaudible) economy and those who make money outside of payroll. So getting this done means those won't be penalized for making

money in different ways, small business owners and others and I would actually really also like to thank the Minority and many of the leaders over there who helped let me explain what this did and what it didn't do so that we could make sure this group of hard-working parents will get the child care assistance they need. So thank you very much and I vote in the affirmative.

ACTING SPEAKER ZEBROWSKI: Ms. Clark in the affirmative.

Are there any other votes? Announce the results.

(The Clerk announced the results.)

The bill is passed.

THE CLERK: Assembly No. A03556-E, Rules Report No. 431, Zebrowski, Levenberg, Reyes, Eachus, Lunsford, Colton, Steck, Shimsky, Simon, Lee, Simone, Gunther, Pretlow, Clark, Seawright, Cunningham, Kelles, O'Donnell, Mamdani, Burdick, Thiele, Lupardo, Dinowitz, Gallagher, McDonald, McMahon, Fahy, Epstein, L. Rosenthal, Shrestha, Bichotte Hermelyn, Davila, Meeks, Lavine, Hevesi, Otis, Jacobson, Sillitti. An act to amend the Environmental Conservation Law, in relation to prohibiting the sale of certain products that contain regulated perfluoroalkyl and polyfluoroalkyl substances.

ACTING SPEAKER ZEBROWSKI: Read the last section.

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

ACTING SPEAKER ZEBROWSKI: The bill is laid

aside.

THE CLERK: Assembly No. A03746, Rules Report No. 432, Eichenstein, Jacobson, Ra. An act to amend the Public Service Law, in relation to false material statements related to a public utility.

ACTING SPEAKER ZEBROWSKI: On a motion by Mr. Eichenstein, 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 ZEBROWSKI: 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. A04051-B, Rules Report No. 433, Gallahan, Byrnes, Manktelow, DeStefano, E. Brown, Bendett, Brabenec, Lemondes, Hawley. An act to amend the Alcoholic Beverage Control Law, in relation to exempting certain parcels of land from licensing restrictions prohibiting manufacturers, wholesalers and retailers of alcoholic beverages from sharing an interest in a licensed premises.

ACTING SPEAKER ZEBROWSKI: On a motion by Mr. Gallahan, 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 ZEBROWSKI: 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. A04613-C, Rules Report No. 434, Jean-Pierre, Pheffer Amato. An act to amend the General Municipal Law, in relation to providing for an annual adjustment for reimbursements for certain veterans funerals.

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

Read the last section.

THE CLERK: This act shall take effect April 1st, 2025.

ACTING SPEAKER ZEBROWSKI: 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. A04917-D, Rules Report No. 435, Anderson, Solages, Zinerman, Gibbs, Cunningham, Jackson, Meeks, De Los Santos, Shimsky, González-Rojas, Simon, Raga, Simone, Ardila, Chandler-Waterman, Zaccaro, Rozic, Hevesi, Epstein, Cook, Davila, Tapia, Jean-Pierre, Taylor, Burdick, Ramos, K. Brown, L. Rosenthal, Glick, Sayegh, Shrestha, Otis, Sillitti. An act to amend the Education Law, in relation to funding for school anti-violence education programs.

ACTING SPEAKER ZEBROWSKI: On a motion by Mr. Anderson, 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 ZEBROWSKI: The Clerk will record the vote.

(The Clerk recorded the vote.)

Mr. Anderson to explain his vote.

MR. ANDERSON: Thank you, Mr. Speaker, to explain my vote. Today we're passing a critical piece of legislation that expands the eligibility for community groups to apply to address the issues of gun violence in our schools. As we're facing this public health crisis it's so critically important that we have the tools at our disposal to support our young people where they are. Every time I go to a shooting response in my community when there's a shooting, I always mention this very important thing, and that is conflict is a

natural part of human existence. And so how we work through that conflict defines us as a people, as a community, as a city, State and nation. And so this bill is critical to ensuring that we can expand the eligibility. I withdraw my request and proudly vote in the affirmative.

ACTING SPEAKER ZEBROWSKI: Mr. Anderson in the affirmative.

Are there any other votes? Announce the results.

(The Clerk announced the results.)

The bill is passed.

THE CLERK: Assembly No. A04924-B, Rules Report No. 436, Angelino. An act to amend the Highway Law, in relation to designating a portion of the state highway system as the "SP4 Herman Emil Anders, Jr. Memorial Bridge"

ACTING SPEAKER ZEBROWSKI: Read the last section.

THE CLERK: This act shall take effect immediately.

ACTING SPEAKER ZEBROWSKI: 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. A05297-A, Rules Report No. 437, Paulin, L. Rosenthal, Raga, González-Rojas, Simone, McMahon, Seawright, Ardila, Lunsford, Lavine, Simon, Shimsky,

Levenberg, Fahy, Burdick, Epstein, Tapia, Kelles, Reyes, Hevesi, Rozic, Thiele, Clark, Sillitti. An act to amend the Public Health Law, in relation to prohibited hospital interference with patient care.

ACTING SPEAKER ZEBROWSKI: The bill is laid aside.

THE CLERK: Assembly No. A05334-A, Rules Report No. 438, Palmesano. An act to amend the Criminal Procedure Law, in relation to granting peace officer status to animal control officers of the County of Schuyler.

ACTING SPEAKER ZEBROWSKI: Read the last section.

THE CLERK: This act shall take effect immediately.

ACTING SPEAKER ZEBROWSKI: The Clerk will record the vote.

(The Clerk recorded the vote.)

Mr. Ari Brown to explain his vote.

MR. A. BROWN: Yeah, thank you, Mr. Speaker. I just want to let all my colleagues who voted no on this, if you don't vote yes Phil is going to talk an extra two hours about the Congo.

(Applause)

ACTING SPEAKER ZEBROWSKI: Mr. Brown in the affirmative.

Are there any other votes? Announce the results.

(The Clerk announced the results.)

The bill is passed.

THE CLERK: Assembly No. A05631-E, Rules Report 439, was previously amended and is high.

THE CLERK: Assembly No. A05918, Rules Report No. 440, Williams, Taylor, Sayegh, Colton, E. Brown, DeStefano, Manktelow, Levenberg, Angelino. An act to amend Chapter 548 of the Laws of 2004 amending the Education Law relating to certain tuition waivers for police officer students of the City University of New York, in relation to the effectiveness thereof.

ACTING SPEAKER ZEBROWSKI: On a motion by Ms. Williams, 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 ZEBROWSKI: 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. A06203-B, Rules Report No. 441, McDonough. An act authorizing the Friendship Engine and Hose Company to file an application for exemption from real property taxes.

ACTING SPEAKER ZEBROWSKI: On a motion by Mr. McDonough, 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 ZEBROWSKI: 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. A06671, Rules Report No. 442, Hawley. An act to amend the Tax Law, in relation to authorizing an occupancy tax in the village of Medina; and providing for the repeal of such provisions upon expiration thereof.

ACTING SPEAKER ZEBROWSKI: On a motion by Mr. Hawley, the Senate bill is before the House. The Senate bill is advanced. Read the last section. Home rule message is also at the desk.

Read the last section.

THE CLERK: This act shall take effect immediately.

ACTING SPEAKER ZEBROWSKI: 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. A07006-B, Rules Report No. 443, Brabenec. An act in relation to authorizing Congregation RSK to receive retroactive real property tax exemption status.

ACTING SPEAKER ZEBROWSKI: On a motion by Mr. Brabenec, 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 ZEBROWSKI: 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. A07058, Rules Report No. 444, Santabarbara. An act to amend Chapter 453 of the Laws of 1977, authorizing the City of Schenectady in the County of Schenectady, to create special assessment districts within such city, in relation to increasing the membership of the special district operations and development committee.

ACTING SPEAKER ZEBROWSKI: On a motion by Mr. Santabarbara, the Senate bill is before the House. The Senate bill is advanced. Home rule message is at the desk.

Read the last section.

THE CLERK: This act shall take effect immediately.

ACTING SPEAKER ZEBROWSKI: 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. A07071-A, Rules Report No. 445, J.M. Giglio. An act to amend the Tax Law, in relation to authorizing the City of Olean to impose a hotel and motel tax; and providing for the repeal of such provisions upon the expiration thereof.

ACTING SPEAKER ZEBROWSKI: Home rule message is at the desk.

Read the last section.

THE CLERK: This act shall take effect immediately.

ACTING SPEAKER ZEBROWSKI: 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. A07196, Rules Report No. 446, Dinowitz, Burdick, Seawright. An act to amend the General Business Law, in relation to prohibiting the inclusion of a confession

of judgment in a contract of agreement for a financial product or service.

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

THE CLERK: Assembly No. A07331-B, Rules Report No. 447, was previously amended and is high.

THE CLERK: Assembly No. A08075-B, Rules Report No. 448, was previously amended and is high.

THE CLERK: Assembly No. A04244-A [sic], Rules Report 449, Tague. An act to amend the Navigation Law, in relation to regulations to restrict docks, boathouses and moorings on Otsego Lake in the Town of Springfield.

ACTING SPEAKER ZEBROWSKI: On a motion by Mr. Tague, the Senate bill is before the House. The Senate bill is advanced and Home Rule message is at the desk.

Read the last section.

THE CLERK: This act shall take effect immediately.

ACTING SPEAKER ZEBROWSKI: 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. A08427-A, Rules

Report No. 450, Epstein, Levenberg, Zinerman, Bores, Burgos. An act to amend the Alcoholic Beverage Control Law, in relation to expanding the availability of temporary retail permits by eliminating the two year restriction on temporary retail permits for applications subject to the 500 foot law.

ACTING SPEAKER ZEBROWSKI: Read the last section.

THE CLERK: This act shall take effect immediately.

ACTING SPEAKER ZEBROWSKI: The Clerk will record the vote.

(The Clerk recorded the vote.)

Ms. Glick to explain her vote.

MS. GLICK: Thank you, Mr. Speaker. Briefly, this changes the lookback for a temporary liquor license from five years to two years as to whether or not there was a previous bar in that location. In my neighborhood and my district it's very difficult for bookstores or many service organizations or services to compete with bars for rental space, and so this will only accelerate and exacerbate what is already the loss of a lot of local retail businesses. And so I withdraw my request and vote in the negative on behalf of my constituents who are very overwhelmed by bars.

ACTING SPEAKER ZEBROWSKI: Ms. Glick in the negative.

Are there any other votes? Announce the results.

(The Clerk announced the results.)

The bill is passed.

THE CLERK: Assembly No. A08612, Rules Report No. 451, Solage, Simon, Wallace, Otis, Ardila, Lupardo. An act to amend the Social Services Law, in relation to establishing an emergency heating energy assistance program benefit.

ACTING SPEAKER ZEBROWSKI: The bill is laid aside.

THE CLERK: Assembly No. A08820, Rules Report No. 452, Fahy, Cunningham, Hevesi, Glick, González-Rojas, O'Donnell, Stirpe, Lucas, Shimsky, Lunsford, Zaccaro, Septimo, Gunther, Cruz, Davila, Woerner, Burgos, Santabarbara. An act to amend the Executive Law, in relation to authorizing the state inspector general to receive and investigate complaints of sexual assault in correctional facilities and other places operated by the Department of Corrections and Community Supervision for the confinement of persons.

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

THE CLERK: Assembly No. A08983, Rules Report No. 453, Paulin, Sayegh. An act to amend the Social Services Law, in relation to including dental implants, replacement dental prosthetic appliances, crowns and root canals as medically necessary dental care and services for coverage under the Medicaid program.

ACTING SPEAKER ZEBROWSKI: The bill is laid

aside.

THE CLERK: Assembly No. A09053, Rules Report No. 454, Brabenec. An act to amend the Tax Law, in relation to the imposition of a hotel and motel tax in the Village of Greenwood Lake; and providing for the repeal of such provisions upon expiration thereof.

ACTING SPEAKER ZEBROWSKI: On a motion by Mr. Brabenec, the Senate bill is before the House. The Senate bill is advanced. Home Rule message is at the desk.

Read the last section.

THE CLERK: This act shall take effect immediately.

ACTING SPEAKER ZEBROWSKI: 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. A09100, Rules Report No. 455, Steck, Woerner. An act to amend the State Finance Law, in relation to requiring a quarterly report on the opioid stewardship fund.

ACTING SPEAKER ZEBROWSKI: Read the last section.

THE CLERK: This act shall take effect immediately.

ACTING SPEAKER ZEBROWSKI: 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. A09265-A, Rules

Report No. 456, Bronson, González-Rojas, Shrestha, Reyes, L. Rosenthal, Lucas, Jacobson, Sayegh, Shimsky, Rozic, Bores, Ra, Gandolfo, Lunsford, Brabenec. An act to amend the Labor Law, in relation to requiring contractors and subcontractors employed by the state to submit their payrolls or transcripts to the fiscal officer.

ACTING SPEAKER ZEBROWSKI: Read the last section.

THE CLERK: This act shall take effect immediately.

ACTING SPEAKER ZEBROWSKI: 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. A09285, Rules Report No. 457, Maher. An act to amend the Tax Law, in relation to the imposition of a hotel and motel tax in the Village of South Blooming Grove; and providing for the repeal of such provisions upon expiration thereof.

ACTING SPEAKER ZEBROWSKI: On a motion by

Mr. Maher, the Senate bill is before the House. The Senate bill is advanced. Home Rule message is at the desk.

Read the last section.

THE CLERK: This act shall take effect immediately.

ACTING SPEAKER ZEBROWSKI: 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. A09321-B, Rules Report No. 458, Hevesi, Clark, Steck, Ardila, Burdick, Reyes, L. Rosenthal, Epstein, Tapia, Seawright, Kelles, Simone, Simon, González-Rojas, O'Donnell, Burgos, Kim, Dickens, De Los Santos, Walker, Paulin, Davila, Dinowitz, Beephan, Stern, Bores, Bronson, Lunsford, Cruz, Shrestha, Levenberg, Taylor, Gibbs, Lavine, McDonald, Raga, Carroll, Gallahan, Bichotte Hermelyn, Gunther, Gallagher, Mamdani, Pretlow, Meeks, Forrest. An act to amend the Family Court Act and Social Services Law, in relation to enacting the "Safe Landing for Youth Leaving Foster Care Act" or "Safe Landings Act"

ACTING SPEAKER ZEBROWSKI: The bill is laid aside.

THE CLERK: Assembly No. A09430-B, Rules Report No. 459, was previously amended and is high.

THE CLERK: Assembly No. A09499, Rules Report 460, Peoples-Stokes. An act to amend the Local Finance Law, in relation to facilitating the marketing of any issue of serial bonds or notes of the City of Buffalo issued on or before a certain date.

ACTING SPEAKER ZEBROWSKI: On a motion by Mrs. Peoples-Stokes, the Senate bill is before the House. The Senate bill is advanced. Home Rule message is at the desk.

Read the last section.

THE CLERK: This act shall take effect immediately.

ACTING SPEAKER ZEBROWSKI: 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. A09707-A, Rules Report No. 461, Magnarelli, Hunter. An act to amend the Tax Law, in relation to authorizing the City of Syracuse to impose a hotel and motel tax; and providing for the repeal of such provisions upon expiration thereof.

ACTING SPEAKER ZEBROWSKI: On a motion by Mr. Magnarelli, the Senate bill is before the House. The Senate bill is advanced. Home Rule message is at the desk.

Read the last section.

THE CLERK: This act shall take effect immediately.

ACTING SPEAKER ZEBROWSKI: 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. A09769-B, Rules Report No. 462, was previously amended and is high.

THE CLERK: Assembly No. A09887-A, Rules Report No. 463, DeStefano. An act in relation to authorizing the Town of Brookhaven to alienate and discontinue the use of certain parklands.

ACTING SPEAKER ZEBROWSKI: On a motion by Mr. DeStefano, the Senate bill is before the House. The Senate bill is advanced. Home Rule message is at the desk.

Read the last section.

THE CLERK: This act shall take effect immediately.

ACTING SPEAKER ZEBROWSKI: 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. A10044, Rules Report No. 464, Barrett. An act to amend the Tax Law, in relation to

authorizing the City of Hudson to increase hotel and motel taxes.

ACTING SPEAKER ZEBROWSKI: On a motion by Ms. Barrett, the Senate bill is before the House. The Senate bill is advanced. Home Rule message is at the desk.

Read the last section.

THE CLERK: This act shall take effect immediately.

ACTING SPEAKER ZEBROWSKI: 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. A10081-A, Rules Report No. 465, Fitzpatrick. An act in relation to authorizing the Saint James Evangelical Lutheran Church of Saint James Long Island NY to receive retroactive real property tax exemption status.

ACTING SPEAKER ZEBROWSKI: On a motion by Mr. Fitzpatrick, 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 ZEBROWSKI: 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. A10097, Rules Report

No. 466, Beephan. An act to amend Chapter 208 of the Laws of 1983 relating to enabling the County of Dutchess to impose and collect taxes on occupancy of hotel, motel, boarding house, conference center or tourist home in Dutchess County, in relation to authorizing an additional one percent tax.

ACTING SPEAKER ZEBROWSKI: On a motion by Mr. Beephan, the Senate bill is before the House. The Senate bill is advanced. Home Rule message is at the desk.

Read the last section.

THE CLERK: This act shall take effect immediately.

ACTING SPEAKER ZEBROWSKI: 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. A10118, Rules Report No. 467, Clark. An act to amend the Town Law, in relation to clarifying procedures for first elections of fire districts to allow for at-large voting.

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

advanced.

Read the last section.

THE CLERK: This act shall take effect immediately.

ACTING SPEAKER ZEBROWSKI: 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. A10238, Rules Report No. 468, Committee on Rules, Lemondes. An act to amend the Public Officers Law, in relation to qualifications for holding the Office of Code Enforcement Officer of the City of Auburn.

ACTING SPEAKER ZEBROWSKI: On a motion by Mr. Lemondes, 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 ZEBROWSKI: 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. A10252-A, Rules

Report No. 469, Committee on Rules, Bores. An act to amend the Alcoholic Beverage Control Law, in relation to licensing restrictions for manufacturers and wholesalers of alcoholic beverages on licensees and sell at retail; and providing for the repeal of certain provisions upon expiration thereof.

ACTING SPEAKER ZEBROWSKI: On a motion by Mr. Bores, 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 ZEBROWSKI: 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. A10284, Rules Report No. 470, Committee on Rules, Glick. An act to amend Chapter 550 of the Laws of 2013 amending the Environmental Conservation Law relating to establishing the Mercury Thermostat Collection Act, in relation to the effectiveness thereof.

ACTING SPEAKER ZEBROWSKI: Read the last section.

THE CLERK: This act shall take effect immediately.

ACTING SPEAKER ZEBROWSKI: 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. A10318, Rules Report No. 471, Committee on Rules, Eachus. An act authorizing the Town of New Windsor to alienate certain parklands for use as a sewer treatment plant and to dedicate other lands as replacement parklands.

ACTING SPEAKER ZEBROWSKI: Home Rule message is at the desk.

Read the last section.

THE CLERK: This act shall take effect immediately.

ACTING SPEAKER ZEBROWSKI: 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. A10411, Rules Report No. 472, Committee on Rules, Bichotte Hermelyn. An act to amend the Real Property Tax Law, in relation to the appropriate tax year for assessing income requirements for certain real property tax exemptions in a city with a population of one million or more.

ACTING SPEAKER ZEBROWSKI: On a motion by

Ms. Bichotte Hermelyn, the Senate bill is before the House. The Senate bill is advanced and the bill is laid aside.

THE CLERK: Assembly No. A10461, Rules Report No. 473, Committees on Rules, Simone. An act to amend the Insurance Law, in relation to co-payments of preexposure or post-exposure prophylaxis.

ACTING SPEAKER ZEBROWSKI: The bill is laid aside.

THE CLERK: Assembly No. A10463, Rules Report No. 474, Committee on Rules, Hevesi. An act to amend Chapter 329 of the Laws of 2020 amending the Social Services Law relating to reporting data on child welfare preventive services, in relation to the effectiveness thereof.

ACTING SPEAKER ZEBROWSKI: On a motion by Mr. Hevesi, 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 ZEBROWSKI: The Clerk will record the vote.

(The Clerk recorded the vote.)

The bill is passed.

Mrs. Peoples-Stokes.

MRS. PEOPLES-STOKES: Mr. Speaker, if we could now go back to our main Calendar to page 3 for our resolutions.

ACTING SPEAKER ZEBROWSKI: Main Calendar, Resolutions, page 3, the Clerk will read.

THE CLERK: Assembly No. 2405, Rules at the request of Mr. Ra.

Legislative Resolution memorializing Governor Kathy Hochul to proclaim June 5, 2024, as Global Running Day in the State of New York.

ACTING SPEAKER ZEBROWSKI: Mr. Ra on the resolution.

MR. RA: Thank you, Mr. Speaker. Just quickly, this is a tradition we've carried on from our former member Mr. Cusick, so thank you to the handful of members that were there at 7:30 this morning to go for a nice run. I'm not running at 7:30 tomorrow morning after this late night in the Chamber, but obviously this is a hobby and a great exercise routine that many New Yorkers take on every year, so thank you to my colleagues for supporting it.

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

THE CLERK: Assembly No. 2406, Rules at the request of Mr. Thiele.

Legislative Resolution memorializing Governor Kathy Hochul to proclaim June 8, 2024 as Dragonfly Day in the State of New York.

ACTING SPEAKER ZEBROWSKI: On the

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

THE CLERK: Assembly No. 2407, Rules at the request of Mr. Durso.

Legislative Resolution memorializing Governor Kathy Hochul to proclaim June 17, 2024, as Sanitation Workers Day in the State -- State of New York.

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

THE CLERK: Assembly No. 2408, Rules at the request of Ms. Woerner.

Legislative Resolution memorializing Governor Kathy Hochul to proclaim June 2024, as Alzheimer's and Brain Awareness Month in the State of New York.

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

THE CLERK: Assembly No. 2409, Rules at the request of Ms. Walsh.

Legislative Resolution memorializing Governor Kathy Hochul to proclaim June 2024, as Reun -- Reunification Month in the State of New York.

ACTING SPEAKER ZEBROWSKI: Ms. Walsh on the resolution.

MS. WALSH: Thank you very much. Thanks to my colleagues, I know it's late or early. Reunification Month is something that has been celebrated in the month of June since 2010, and basically what it is is it's an acknowledgement of the really, really hard work that families do to get reunified with their kids that have been placed in foster care. And, you know, we don't hear about those success stories every day, and we pass a lot of bills here in the Chamber having to do with foster care. I really wanted to carry this resolution to just point out that there are success stories and that they really need to be celebrated. You know, the goal of foster care is reunification and there is a whole community of people that are involved from case workers to counselors to, you know, there's just a whole host of people that work with the parents to really try to meet those really difficult goals and try to overcome whatever challenges that they had that kept them from their children and required the foster care placement to begin with.

So I -- I think it's a -- I'm really proud to be able to carry it and I would appreciate the support of all of you in -- in also thinking about what that means to be separated from your kids and then to do that work and be reunified. So thank you very much for the time, thanks everybody.

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

THE CLERK: Assembly No. 2410, Rules at the

request of Ms. Williams.

Legislative Resolution memorializing Governor Kathy Hochul to declare June 2024, as North American Hurricane Awareness Month in the State of New York, at the start of Atlantic hurricane season.

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

THE CLERK: Assembly No. 2411, Rules at the request of Ms. Reyes.

Legislative Resolution memorializing Governor Kathy Hochul to proclaim June -- July 25, 2024, as Afro-Latina, Afro-Caribbean, and African Diaspora Women's Day in the State of New York.

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

THE CLERK: Assembly No. 2412, Rules at the request of Mr. Alvarez.

Legislative Resolution memorializing Governor Kathy Hochul to proclaim August 16, 2024, as Hispanic Media Day in the State of New York.

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

THE CLERK: Assembly No. 2413, Rules at the request of Ms. Solages.

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

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

THE CLERK: Assembly No. 2414, Rules at the request of Mr. Smith.

Legislative Resolution memorializing Governor Kathy Hochul to proclaim October 21-25, 2024, as Stranger Safety and Education Awareness Week in the State of New York.

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

THE CLERK: Assembly No. 2415, Rules at the request of Mr. DeStefano.

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

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

THE CLERK: Assembly No. 2416, Rules at the

request of Ms. Rosenthal.

Legislative Resolution memorializing Governor Kathy Hochul to proclaim November 9, 2024, as Lung Cancer Screening Awareness Day in the State of New York.

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

THE CLERK: Assembly No. 2417, Rules at the request of Mr. DeStefano.

Legislative Resolution memorializing Governor Kathy Hochul to proclaim November 17-23, 2024, as Hunger and Homelessness Awareness Week in the State of New York.

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

THE CLERK: Assembly No. 2418, Rules at the request of Ms. Wallace.

Legislative Resolution memorializing Governor Kathy Hochul to proclaim November 2024, as Hospice and Palliative Care Awareness Month in the State of New York.

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

Mrs. Peoples-Stokes.

MRS. PEOPLES-STOKES: Mr. Speaker, do you

have any further housekeeping or resolutions?

ACTING SPEAKER ZEBROWSKI: We don't have any housekeeping, but we have a number -- a number of fine resolutions we'll take up with one vote.

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

(Whereupon, Assembly Resolution Nos. 2419-2427 were unanimously approved.)

Mrs. Peoples-Stokes.

MRS. PEOPLES-STOKES: I now move that the Assembly stand adjourned and that we reconvene at 9:30 a.m., Thursday, June the 6th, tomorrow being a Session day.

ACTING SPEAKER ZEBROWSKI: On a motion of Mrs. Peoples-Stokes, the House stands adjourned.

(Whereupon, at 12:55 a.m., the House stood adjourned until Thursday, June 6th at 9:30 a.m., that being a Session day.)