

**WEDNESDAY, FEBRUARY 26, 2020**

**1:31 P.M.**

ACTING SPEAKER AUBRY: The House will come to order.

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

(Whereupon, a moment of silence was observed.)

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

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

A quorum being present, the Clerk will read the Journal of Tuesday, February 25th.

Mrs. Peoples-Stokes.

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

dispense with the further reading of the Journal of Tuesday, February the 25th and ask that the same stand approved.

ACTING SPEAKER AUBRY: Without objection, so ordered.

Mrs. Peoples-Stokes.

MRS. PEOPLES-STOKES: Thank you, Mr. Speaker. If I can have members', friends' and guests' attention in the Chambers just for a quick moment. I do want to share a quote as we move towards the end of what some call Black History Month. I'd like to bring a quote today from the late, great Thurgood Marshall. Many of you all know that he served as a Supreme Court Justice from -- for several years from '67 until '91, and he lived a great life. But these are his words, Mr. Speaker: *None of us got where we are solely by pulling ourselves up by our bootstraps. We got there because somebody helped us -- a parent, a teacher, an Ivy league crony or a few nuns bent down and helped us pick up our boots and our lives* [sic]. Again, Mr. Speaker, those words are from the Honorable Thurgood Marshall.

Members should also be aware that you have on your desk a main Calendar and a debate list. The debate list is growing, as you can see, and after many introductions - there are several - and housekeeping, we will continue our work consenting our main Calendar where we left off on yesterday, beginning with Calendar No. 411 which is on page 55. Then we will continue our consent on the same main Calendar on Calendar No. 317, which is on page 49, and

then, of course, we will also work off our debate list. Children and Families has already been called and there will be a need for a Majority Conference at the conclusion of our work today on the floor and, as always, Mr. Speaker, we will consult with our colleagues on the other side of the aisle to see what their needs are.

That's a general outline. If there are any introductions and/or housekeeping, now would be a great time.

ACTING SPEAKER AUBRY: Certainly. Thank you, Mrs. Peoples-Stokes. We do have housekeeping.

On a motion by Member Assembly Salka, page 35, Calendar No. 206, Bill No. A05419, amendments are received and adopted.

We have a [sic] introduction by Mr. Schmitt.

MR. SCHMITT: Thank you, Mr. Speaker. I rise today to introduce representatives from Jesse Lewis Choose Love Movement. We have Scarlett Lewis who is the founder and mother of Jesse Lewis; Maureen Lewis, who is Scarlett's mom, and we have two of my constituents, Star Walters and Lori Biagini, who are Choose Love advocates and educators from the 99th Assembly District.

The Jesse Lewis Choose Love Movement is a non-profit organization whose mission is to create safer schools through a no-cost life span social and emotional learning platform that not only teaches students life skills that are essential to happiness and success, but also fosters a school culture that reduces violence from the inside out. Scarlett, who is with us today, founded the Jesse Lewis

Choose Love Movement shortly after her six-year-old son, Jesse Lewis, was murdered at Sandy Hook Elementary School in Newtown, Connecticut in December of 2012, alongside 19 of his first grade classmates and six educators in one of the worst mass shootings in U.S. history. Shortly after the tragedy, Scarlett discovered that Jesse used his final moments to historically and heroically save nine of his friends. Jesse's actions have inspired this social and emotional program which is now in Washingtonville and Monroe Schools in my district, and we're in the works in trying to get it into every school district within the 99th District. I ask that you please welcome these fine representatives from such a worthy movement and encourage their continued success on behalf of the entire community.

ACTING SPEAKER AUBRY: Certainly. On behalf of Mr. Schmitt, the Speaker and all the members, we welcome you here to the New York State Assembly. We extend to you the privileges of the floor. We commend you on the work that you're doing on turning tragedy into something positive, and I think for most of us and, certainly, for me, my heart still hurts with the memory of that day. So, you're welcome here. Please know that you'll always be welcome here. Thank you so very much.

(Applause)

Mrs. Peoples-Stokes for the purpose of a [sic] introduction.

MRS. PEOPLES-STOKES: Thank you, Mr. Speaker. Would appreciate it if you would offer the cordialities of our

House to Mr. Zebrowski's family. He has with him his lovely wife, Clare, his beautiful daughter, Reagan, and I think Kenneth is actually awake, Mr. Speaker --

(Laughter)

-- would you welcome the Zebrowski family to our Chambers.

ACTING SPEAKER AUBRY: Certainly. On behalf of Mrs. Peoples-Stokes, the Speaker and all the members, we welcome this tremendous family here to the New York State Assembly. Thank you for joining us. You, as family, always have privileges of the floor and, of course, you make -- what a perfect picture that you make as family and beautiful children. Thank you so much, and we're so proud that you're here with us today. Thank you.

(Applause)

For the purposes of a [sic] introduction, Ms. Rozic.

MS. ROZIC: Thank you, Mr. Speaker. I have the pleasure today of introducing Women 2 Women [sic]. Women 2 Women [sic] was launched in the fall of 2013 by the Bedford Presbyterian Church. As a prison ministry program, Women 2 Women [sic] connects women in the congregation and community with women incarcerated at Bedford Hills Correctional Facility in Assemblymember Buchwald's district. The visiting program is designed to provide the incarcerated women with much needed emotional support, encouragement, fellowship and friendship. They currently have around 50 visitors going into Bedford on a monthly

basis and today we're joined by Carol, Ava, Nancy and Dorothy. So, it's my great honor and privilege today to ask if you can extend the cordialities of the floor, welcome Women 2 Women [sic] to the People's House. Thank you.

ACTING SPEAKER AUBRY: Certainly. On behalf of Ms. Rozic, the Speaker and all the members, we welcome you here to the New York State Assembly, extend to you the privileges of the floor. Thank you for the work that you do both in your community and in Bedford Hills, and hope that you will continue that work. We know how important it is and how difficult it is for individuals who have been incarcerated to transition back into society; the work that you do helps that. Thank you so very much. Continue doing God's work. Thank you.

(Applause)

Ms. Woerner.

MS. WOERNER: Thank you, Mr. Speaker, for allowing me to interrupt for the privilege of an introduction. We are joined in the Chamber today by some members of the Saratoga County Chamber of Commerce: President Todd Shimkus, Board Members Paul Loomis and Kim Ireland are here because we will shortly be taking up a resolution related to Leap of Kindness Day, which I will tell you more about shortly. But, Mr. Speaker, if you will, in the interim, welcome them and offer them the cordialities of the floor, I would be much grateful for that.

ACTING SPEAKER AUBRY: Certainly. On behalf

of Ms. Woerner, the Speaker and all the members, we welcome you here to the New York State Assembly, extend to you the privileges of the floor. Thank you for sharing with us, and we look forward to the resolution that you are here to be part of. Thank you so very much. You are always welcome.

(Applause)

Mrs. Peoples-Stokes.

MRS. PEOPLES-STOKES: Mr. Speaker, if we can now go to resolutions on page 3, which several of our members would like to speak to, and following that we'll go right to page 55, Calendar No. 411.

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

The Clerk will read.

THE CLERK: Assembly Resolution No. 791, Ms. Woerner. Legislative Resolution memorializing Governor Andrew M. Cuomo to proclaim February 29, 2020, as Leap of Kindness Day in the State of New York.

ACTING SPEAKER AUBRY: As advertised, Ms. Woerner on the resolution.

MS. WOERNER: Thank you, Mr. Speaker. So, my friends and colleagues, what will you do with an extra day this year? In 2016, the Saratoga Chamber of Commerce started Leap of Kindness Day to encourage communities to use that extra day we all get in the Leap Year, February 29th, which this year is on a Saturday,

to do something kind for others. In 2016, there were 50 Chambers in 30 states who joined the Leap of Kindness celebration, connecting leaders and citizens in their communities with local non-profits and volunteer organizations to do something constructive for others. It has spread like wildfire. It's gone viral like a hashtag and this year, there are over 100 Chambers of Commerce across the nation, around the globe who have agreed to participate in Leap of Kindness Day, including 14 right here in New York State.

So, I ask you -- I challenge you to join me in using Leap Year this day in your community to do something kind for someone else, and I ask you to tag on your social media page, #LeapofKindnessDay so that we can keep track of all the great things that everybody in this room will do with their extra day this year.

So, thank you all so much for joining me in memorializing Leap of Kindness Day this February 29th, 2020, and I hope that everybody in your community is better off for the work that you do in it.

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

THE CLERK: Assembly Resolution No. 792, Mr. Tague. Legislative Resolution memorializing Governor Andrew M. Cuomo to proclaim February 2020, as Career and Technical Education Month in the State of New York.

ACTING SPEAKER AUBRY: Mr. Tague on the



resolution, sir.

MR. TAGUE: Thank you, Mr. Speaker. New York State's commitment to education is unparalleled. This resolution is important to recognize the impact that career and technical education has on our students and the future of New York State and our country. In 1948, the New York State legislator -- Legislature created the Board of Cooperative Educational Services, also known as BOCES. It was put in place to provide shared educational programs and services for school districts. BOCES Career and Technical Education, well known as CTE, offers students hundreds of programs and services designed to support the entire educational process.

There is no better way to learn than hands-on learning. Career and technical education allows students to excel in a large array of interests from culinary arts, criminal justice to Ag mechanics, and those are just a few. This resolution is important to me as I am actually a graduate of BOCES and I would ask any of my colleagues that are CTE or BOCES graduates to stand with me right now. I probably wouldn't be standing here today if it were not for BOCES education.

The importance of this resolution is exemplified by having students from the Capital Region and BOCES Questar here with us today. We also have two great educators and administrators, Dr. Cruz and Dr. Taibi that have joined us today, as well. Their success will ensure our State and country's workforce remains the best in the world; they are our future. And at this time, I hope you will

proudly join me to memorialize Governor Andrew M. Cuomo to proclaim February 2020 as Career and Technical Education Month in the great State of New York.

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

(Applause)

THE CLERK: Assembly Resolution No. 793, Ms. Joyner. Legislative Resolution memorializing Governor Andrew M. Cuomo to proclaim March 2020, as Kidney Disease Awareness Month in the State of New York.

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

The Clerk will read.

Oh, excuse me one minute.

Mr. Braunstein for the purposes of a [sic] introduction. Excuse me.

MR. BRAUNSTEIN: Thank you, Mr. Speaker, for the opportunity to rise for an introduction.

ACTING SPEAKER AUBRY: One minute. Start again so we can hear you.

MR. BRAUNSTEIN: Thank you for the opportunity to rise for an introduction. I would like you to welcome QSAC, Quality Services for the Autism Community, a New York City and

Long Island-based non-profit that supports children and adults with Autism, together with their families, in achieving greater independence, realizing their future potential and contributing to their communities in a meaningful way by offering person-centered services.

QSAC has been serving the Autism community since 1978 and runs a preschool and early childhood center in Douglaston, and a day school in Whitestone, both of those in my Assembly District. QSAC is here in Albany in conjunction with the advocacy efforts of the Interagency Council on New York Disabilities Advocates Coalition. They are here today advocating not just for the families they serve, but for the thousands of families across the State with a loved one with an intellectual and/or developmental disability.

Here on behalf of QSAC are the CEO, Lisa Veglia, and also the External Affairs Coordinator, Pat Barrientos. If -- Mr. Speaker, if you would welcome them to the Assembly today.

ACTING SPEAKER AUBRY: Certainly. On behalf of Mr. Braunstein, the Speaker and all the members, we welcome you here to the New York State Assembly. We extend to you the privileges of the floor, certainly our congratulation and thanks for the work that you do to assist individuals with disabilities. Please continue that great work and know that you are always welcome here. Thank you so very much.

(Applause)

Mr. --

(Pause)

Mr. Barclay for the purposes of a [sic] introduction.

MR. BARCLAY: Thank you. Thank you, Mr.

Speaker, and thank you for allowing me to interrupt the -- the proceedings. It's my honor to welcome to Albany and introduce the Senior Commander of Fort Drum and the 10th Mountain Division, Major General Brian Mennes.

General Mennes is a Buffalo native and graduated from West Point in 1988. His distinguished service has taken him around the world in defense of our great nation. He served in Panama, the Sinai -- the Sinai Peninsula, Korea, Iraq and Afghanistan. In a career spanning more than three decades, General Mennes has served as Operation Planner with the Joint Special Operations Command in Afghanistan and Iraq; Brigade Executive Officer for the 325th Airborne Infantry Regiment, 82nd Airborne Division in Iraq; Director of the Simon Center for the Professional Military Ethics at West Point, and Director of Force Management in the Office of Deputy Chief of Staff for Operations, Plans and Training at the Pentagon. Among his numerous honors and decorations, General Mennes has been awarded the Legion of Merit and the Bronze Star Medal.

So, on behalf of the Assembly Republican Conference and my colleagues, Ken Blankenbush and -- and others, I want to express our sincere gratitude for the unique character, commitment and leadership you provide for Fort Drum and our nation every day. We're honored to have you here and to be joined by the

brave soldiers of the Mighty 10th Mountain Division. So, please, Mr. Speaker, if you would join me in welcoming Major General Brian Mennes.

ACTING SPEAKER AUBRY: Certainly. On behalf of Mr. Barclay, Mr. Blankenbush, the entire delegation, the Speaker and the entire Conference, Major General, we welcome you here to the New York State Assembly. We extend to you the privileges of the floor. And to you, our gratitude for what appears to be a lifetime of service. We hope you will continue that. And also to the fine soldiers and family that you have brought with us, they, too, extended the privileges of the floor. Keep up that good work. And all of us walking through the halls going through back to the Conference know and see the fine work that your soldiers do as you come every year to celebrate this day. So, happy Fort Drum Day. Thank you so very much.

(Applause)

Mrs. Peoples-Stokes.

MRS. PEOPLES-STOKES: Mr. Speaker, if we can now continue our floor work on page 55 with Calendar No. 411.

ACTING SPEAKER AUBRY: The Clerk will read.

THE CLERK: Assembly No. A09530, Calendar No. 411, Gottfried. An act to amend the Public Health Law, in relation to membership on the Public Health and Health Planning Council.

ACTING SPEAKER AUBRY: Read the last section.

THE CLERK: This act shall take effect immediately.

ACTING SPEAKER AUBRY: The Clerk will record the vote.

(The Clerk recorded the vote.)

Mrs. Peoples-Stokes.

MRS. PEOPLES-STOKES: Thank you, Mr.

Speaker. Just to remind colleagues that this is our first vote of the day. It's the third week -- no, no. It's the first vote -- it's the third day, of which there's one more this week, it's the seventh week of the 243rd legislative Session. Encouraging colleagues to vote immediately. First vote of today.

ACTING SPEAKER AUBRY: Certainly. First vote of the day, please. If you're in your seats, please cast your vote now. If you are in the bar of the Assembly, please come in and cast your vote. Thank you.

Are there any other votes? Announce the results.

(The Clerk announced the results.)

The bill is passed.

Mr. Goodell for the purpose of a [sic] introduction.

MR. GOODELL: Thank you very much, Mr.

Speaker, for allowing me to interrupt our proceedings. It's my pleasure to introduce -- I think it's my pleasure to introduce a great student from Hoosick Falls, Madeline Walker. Maddie, as she's known, is interested in political science and has applied to a number of colleges, including here in Albany. And what a better place to learn about the reality of political science and what happens than here

on the floor of the Assembly. So, if you would extend our greetings and privileges of the floor to Maddie Walker on behalf of Assemblyman Jake Ashby, I would certainly appreciate it.

ACTING SPEAKER AUBRY: Certainly. On behalf of Assemblymember Ashby, the Speaker and all the members, Maddie, we welcome you here to the New York State Assembly. We extend to you the privileges of the floor and notwithstanding the young child's acceptance of Mr. Goodell as your introducer, we welcome you here. Thank you so very much.

(Applause)

The Clerk will read.

THE CLERK: Assembly No. A09538, Calendar No. 412, Gottfried. An act to amend the Social Services Law and the Public Health Law, in relation to adverse determination notices to Medicaid recipients.

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.)

Are there any other votes? Announce the results.

(The Clerk announced the results.)

The bill is passed.

THE CLERK: Assembly No. A09648, Calendar No.

413, Solages. An act to amend the Social Services Law, in relation to lactation counseling services.

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

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

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.

Mrs. Peoples-Stokes.

MRS. PEOPLES-STOKES: Thank you, Mr. Speaker, for the opportunity to interrupt our proceedings for an introduction. Member Eichenstein has guests in the Chambers. We are joined today by students from the IVDU Upper School for Boys. At IVDU, these young students strive to achieve the greatest degree of independence, inclusion and the possibilities for their lives. IVDU offers pre-vocational training programs for young adults as alternative needs designed to transition them into adult life by maximizing their strengths and preparing them for their professional careers. IVDU strives to enhance the life skills and opportunities of these students, and to ensure their participation in the full spectrum of communal life. Mr. Speaker, if you could please welcome these young students to our



Chambers and give them the hospitalities and the cordialities of our floor, we would greatly appreciate it.

ACTING SPEAKER AUBRY: Certainly. On behalf of Mr. Eichenstein, the Speaker and all the members, we welcome you here to the New York State Assembly, extend to you the privileges of the floor. Thank you for taking this trip. Thank you for also coming and sharing your experiences with us so that we may better understand how to help young people here today in this society. Know that you are always welcome. This is the People's House. Thank you so very much.

(Applause)

Mrs. Peoples-Stokes.

MRS. PEOPLES-STOKES: Mr. Speaker, if we can continue our work, we're going to go to our debate Calendar, debate schedule rather. We're going to Calendar No. 308 by Ms. Woerner, followed by Calendar No. 205 by Mr. Thiele, and, lastly, Calendar No. 375 by Ms. Jaffee. In that order, Mr. Speaker.

ACTING SPEAKER AUBRY: The Clerk will read.

THE CLERK: Assembly No. A08078-C, Calendar No. 308, Woerner, Jones, Santabarbara, Hawley, B. Miller, Manktelow, Crouch, Blankenbush. An act to amend the Penal Law, in relation to permitting the 4-H certified shooting sports instructors to supervise and instruct persons under 16 years of age at shooting ranges.

ACTING SPEAKER AUBRY: Read the last section.

THE CLERK: This act shall take effect immediately.

ACTING SPEAKER AUBRY: The Clerk will record the vote.

(The Clerk recorded the vote.)

Are there any other votes? Announce the results.

(The Clerk announced the results.)

The bill is passed.

THE CLERK: Assembly No. A05415, Calendar No. 205, Thiele, Jean-Pierre, Galef, Griffin. An act to amend the Navigation Law and the Insurance Law, in relation to insurance rate reductions upon completion of a boating safety course or an advanced boating safety course.

MR. GOODELL: Explanation, please.

ACTING SPEAKER AUBRY: An explanation is requested, Mr. Thiele. Members, we are on debate. Staff, we are on debate. Please clear the aisles. Tune down the conversations.

Mr. Thiele, you may proceed.

MR. THIELE: Thank you, Mr. Speaker. This legislation amends current law under the Navigation Law under Section 78A. Insurance carriers are authorized to provide a reduction in premiums for boating liability insurance in the case of those that have completed an approved boating safety course. This legislation would add to that by also providing a reduction in insurance premiums in the case of an advanced boating safety course. So, it adds an advanced boating safety course to the current law which only relates

to a boating savings course -- safety course. And the bill does provide for definitions of a "boating safety course" and an "advanced boating safety course."

ACTING SPEAKER AUBRY: Mr. Goodell.

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

MR. THIELE: Yes.

ACTING SPEAKER AUBRY: Mr. Thiele will yield.

MR. THIELE: It's good to see you again today, Mr. Goodell.

MR. GOODELL: Likewise, Mr. Thiele. I note that Section 78A of the Navigation Law states that an insurance carrier is authorized to grant a rate reduction --

MR. THIELE: Right.

MR. GOODELL: -- but is not required to, right? It says "is authorized."

MR. THIELE: It says -- in Section 78A it says "authorized."

MR. GOODELL: And so this amendment would be to Section 2336-B of the Insurance Law and rather than say "is authorized" to provide a rate reduction as provided in the Navigation Law, it says "shall provide."

MR. THIELE: Correct.

MR. GOODELL: So, it's "shall provide" in accordance with Section 78, which is not mandatory.

MR. THIELE: Well, they're authorizing it in 78 and then the -- 2336 of the Insurance Law would -- provides the mechanism by which it would be authorized it. And you're right, it does require -- it does say "shall." When they're providing a -- a rate - let's see the word I'm looking for - a rate plan for boating liability, they are required to submit that. It would have to be approved by the Superintendent of Insurance, and then if it is approved by the -- I'm sorry, the Superintendent of Financial Services, to use the correct term, it's Division of Financial Services now, and then if it is -- if it is approved by the Division, then the insurer may, upon the submission of a completion certificate, may provide the rate reduction.

MR. GOODELL: Okay. So the question then, and it was interesting, the response we got from the insurance industry is they weren't sure whether this -- this bill would require them to authorize the rate reduction, or it would require them -- or would just merely authorize them to authorize rate reduction. And, not surprisingly, if it's merely an authorization, they don't have serious objections for the bill because they'll use their competitive analysis and all their underwriting experience to determine whether it's worth authorizing such a reduction.

On the other hand, if it's mandatory, the insurance industry is saying we don't have that kind of data to even evaluate whether and to what extent a rate reduction would be appropriate. So, are you saying it's mandatory they ask for permission?

MR. THIELE: I think the Navigation Law authorizes

it and then the Insurance Law would require them to submit this as part of any rate plan. And if it's approved by the -- by the Division of Financial Services, then they could authorize the rate. I would point you to, on page 2, line 17, it says, "An insurer, upon the approval of the Superintendent, may, upon submission of a completed certificate, provide the reduction." So, they're required to submit it as part of the plan. If the plan is approved by the Superintendent -- by Division of Financial Services, then they may authorize it, they may provide it.

MR. GOODELL: So there's nothing then in this bill that would require an insurance company to actually authorize -- actually --

MR. THIELE: I think they're required to submit it to DFS and if it's approved, then they -- the word is "may." It says, "may."

MR. GOODELL: So at the end of the day, it's entirely up to the insurance company whether they offer a rate reduction to the consumer.

MR. THIELE: I think "may" means "may" and that's what's in the -- in the last provision of the law.

MR. GOODELL: Great. Thank you very much. I appreciate the clarification.

MR. THIELE: Thank you.

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

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

MR. GOODELL: Again, I appreciate the comments of Mr. Thiele clarifying this. It's a little bit interesting that we require an insurance company to submit a rate proposal to the Department of Insurance for a rate that they don't have to then offer to the consumer. But at the end of the day, as Mr. Thiele noted quite clearly, at the end of the day it's up to the insurance company whether or not to actually authorize, offer and submit to the consumer such a rate reduction. And, certainly, conceptually you would think that the liability of a boater who has gone through an advanced safety course would be lower, but since I'm not an underwriter and we haven't done any of that analysis and the insurance company hasn't had any opportunity to do that analysis, I think the jury is still out whether or not it makes any difference. And a lot of that analysis is going to depend on whether or not their insurance claims are --

ACTING SPEAKER AUBRY: One minute, Mr. Goodell. Ladies and gentlemen in the corner over there, there's an awful lot of noise for no particular reason that I can see.

I'm sorry, sir. Go right on.

MR. GOODELL: So, an insurance company has to evaluate where their claims are coming from, whether they're liability-based or property-based, in other words a boat that sinks as a result of a storm is going to incur the same amount of damage whether or not the operator who is not on the boat has an advanced safety course or not. So -- but based on the comments of my colleague that this, at the end of the day, is entirely optional on the part of the

insurance company whether they offer anything to consumers, and that would be based on their underwriting analysis, I would support the bill and recommend the same to my colleagues. Thank you, sir.

ACTING SPEAKER AUBRY: Thank you.

Read the last section.

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

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.

Mrs. Peoples-Stokes.

MRS. PEOPLES-STOKES: Thank you, Mr.

Speaker, for the opportunity to interrupt our proceedings briefly to introduce a guest of our colleague, Didi Barrett. The gentleman's name is Kamal Johnson. He is the Mayor of the City of Hudson, New York. He's the youngest and the first African-American Mayor of Hudson. He's joined by his colleagues from the Greater Hudson Promise Neighborhood and, again, he's joining Member Barron [sic] and would you please offer him the cordialities of our House and welcome him here.

ACTING SPEAKER AUBRY: Certainly. On behalf of Mrs. Barrett, the Speaker and all the members, Mr. Mayor, we welcome you here to the New York State Assembly, extend to you the

privileges of the floor. Our congratulations on your ascendency to Mayor, new I hope, and congratulations and good luck. We know you will have a sterling career in the future. Keep it up, a lot of years. Thank you very much.

(Applause)

The Clerk will read.

THE CLERK: Senate No. S07197, Calendar No. 375, Senator Metzger (Jaffee--A08981). An act to amend the Labor Law, in relation to the severability of certain provisions.

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

MS. JAFFEE: Thank you, Mr. Speaker. Last year the historic Boss Bill was enacted here to -- to prohibit employers from discriminating or retaliating against employees based on their personal and private reproductive health decisions. Such legislation also prohibited an employer from accessing an employee's personal information regarding their reproductive health decisions without their consent. It empowered employees to bring a civil action against any employer alleged to have violated these rights, and required employers to include notice of such rights and remedies -- and remedies in employee handbooks.

This bill will provide a severability clause in the event that -- that there will be certain provisions or -- that are invalidated by a court. And we're doing that in order to preserve the remaining important essential requirements of this law.



Thank you, Mr. Speaker.

ACTING SPEAKER AUBRY: Mr. Goodell.

Shh, shh, shh.

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

ACTING SPEAKER AUBRY: Ms. Jaffee will yield.

MR. GOODELL: Thank you, Ms. Jaffee. As you may recall, last year we had extensive debate on this bill because this bill prohibited religious organizations, churches, religiously-based private not-for-profits from requiring their employees to recognize the basic religious tenets that some of those organizations had regarding reproductive health decisions, including abortion and things of that nature. This -- the original bill did not provide any exceptions for those religious organizations or businesses, correct?

MS. JAFFEE: Well, we -- we did not exempt anyone from the original bill, but a court obviously, if that occurs, could make the decision that an employee falls within that ministerial exception.

MR. GOODELL: So there is no exception in the original bill. Was there any exception in any enabling regulations you referenced, an administrative exception?

MS. JAFFEE: As -- as I've noted, that would be the courts to decide.

MR. GOODELL: Of course as we know, the Affordable Care Act, when that was enacted, had substantial language providing religious protections to churches and religious organizations

for the provisions of the Affordable Care Act that related to reproductive health decisions. Those provisions that were enacted at the request of President Obama as part of the Affordable Care Act, were any of those provisions included in the original legislation?

MS. JAFFEE: That -- that is not germane to this bill, but the courts can always, as I noted, make a determination as to the law's application.

MR. GOODELL: So in addition to the exceptions that were recognized by the Federal government on a bipartisan basis on the Affordable Care Act, Congress has also enacted what's called the Religious Freedom Restoration Act. Was the legislation that was enacted last year consistent with the Religious Freedom Restoration Act as it applied to religious organizations or not-for-profits that have genuine, good faith religious beliefs?

MS. JAFFEE: As I've noted before, we did not exempt anyone from the original bill, but obviously the court could make a decision that the employee falls within that ministerial exception.

MR. GOODELL: So it's safe to say, if I understand you correctly, that the reason you're pushing for a severability clause is for the very reason that this original legislation did not include any of the exceptions recognized by the Affordable Care Act or by the Federal Religious Freedom Restoration Act, or even by the U.S. Supreme Court decisions that applied those; is that correct?

MS. JAFFEE: I think it would -- this is a situation

that would be made on a case-to-case basis and so, if there are certain actions, that at least the legislation can be maintained.

MR. GOODELL: Now the bill before us is -- purports to extend the severability concept to the original legislation, meaning that if any part of the original legislation were deemed invalid either on its face or as applied, the remaining provisions would apply?

MS. JAFFEE: That's correct.

MR. GOODELL: What's unusual about this severability clause is it doesn't relate just to the language, but also to its application. Do you have any other examples of where a severability clause applied to its application?

MS. JAFFEE: Well, yes. The provision actually appears in several sections of the Labor Law, including one under the Unemployment Insurance Law and the State -- also the State Employment Relations Act, so there is that. That is included in those position -- those Acts.

MR. GOODELL: Would you happen to have the Section reference to the Labor Law severability provisions?

MS. JAFFEE: Not at the moment.

MR. GOODELL: We looked them up earlier, but we didn't see that, but that may just be because we missed it.

MS. JAFFEE: Well, as -- as -- as of noted, it obviously -- it would be difficult to get it now, but we can provide that information afterwards.

MR. GOODELL: That would be great, thank you.

MS. JAFFEE: I can share that information.

MR. GOODELL: Now, of course, as you know, fundamental to our system of government are the three separate and distinct branches of government, right? We have the Legislature, us, we have the Executive, appropriately lower than us on the Second Floor, we're on the third floor - sorry, that's just a bad joke.

(Laughter)

And we have the -- and we also have, of course, the Judiciary. And fundamental to our system of government is the concept of Separation of Powers, right? So, it's inappropriate, and the courts have always ruled it's inappropriate for the Legislature to interfere with judicial decisions and likewise, they've recognized that. What's unique about the language that's in front of us today is that it appears to violate the Separations of Power Doctrine because it states that any court decision shall be limited to the people or the circumstances involved in the particular court ruling, and that's not the way the court system works. We have a concept called stare decisis which says that if a court makes a ruling in a particular case, that ruling applies as a matter of precedences to all, all similar persons or circumstances. This language attempts to say that a court ruling that applies to a particular person or circumstances would not apply to others who are exactly the same situation. How -- where's our -- how can we exercise that kind of power over the courts?

MS. JAFFEE: The provision -- you know, this

provision, as I noted, appears in several sections of the Labor Law, including, as I -- as I mentioned earlier, the Unemployment Insurance Law and the State Employment Relations Act. And as -- you know, what's so important, the severability clause is -- is necessary, as I'm going to indicate how important it is, to preserve the remaining effects of the law in the event that certain provisions are struck down by the courts. It still provides the opportunities for so many to be able to respond to their personal life decisions.

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

On the bill, sir.

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

MR. GOODELL: Last year when the original legislation was debated, we pointed out that the original legislation did not include any exceptions that were reflected in the Affordable Care Act - which was, to the credit of my Democratic colleagues, a major initiative of theirs - nor did it reflect any of the restrictions that are contained in the Federal Religious Freedom Restoration Act. And we also pointed out that because the original legislation did not recognize the legitimate good faith religious beliefs of churches, hospitals that are run by churches, or even not-profit or for-profit corporations that have a fundamental religious position on reproductive decisions such as abortion or birth control, that it would violate several existing U.S. Supreme Court decisions.

The appropriate response to that concern, in my opinion, is to amend the law to include the exceptions so that we know that the law, as applied, would be upheld as constitutional. But that's not the approach that we have in front of us today. Instead, what we have is a proposed amendment that says that if someone sues and wins, and a court rules that this original law was unconstitutional, this legislation in front of us purports to take away all the court's historical responsibility on stare decisis and precedence and interferes with the way the courts have always considered prior court decisions to apply to everyone who is similarly situated.

So, we don't solve the original problem that was identified last year in a straightforward manner. We don't recognize the legitimate concerns of religious organizations and others that have deeply-held legitimate good faith opinions on abortion or birth control or other issues, and instead we violate the Separation of Powers Doctrine as it relates to our judicial system and purport to limit the impact of judicial decisions. The original language was flawed. The fact that we have a severability clause in front of us today is a reflection of the fact that everyone recognizes there was problems with the original language or we wouldn't be talking about this bill. But rather than solve it, we attempt to take away the court's authority. That is simply inappropriate.

My recommendation is that we not pass this and that we instead solve the original problems by putting in language that tracks the Affordable Care Act, which was adopted by Democrats, to

their credit in terms of that language, that we ensure that it meets the Federal standards and we allow the courts to do their job unfettered by an inappropriate attempt to control them by the Legislature. For those reasons, I would recommend we vote against this and later in the Session, correct the original legislation in an appropriate manner.

Thank you, sir and, again, thank you to my colleague.

ACTING SPEAKER AUBRY: Read the last section.

THE CLERK: This act shall take effect immediately.

ACTING SPEAKER AUBRY: The Clerk will record the vote.

(The Clerk recorded the vote.)

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 could ask our colleagues to turn their attention now to Calendar No. 406 by Ms. Rosenthal. We will be on debate.

ACTING SPEAKER AUBRY: The Clerk will read.

THE CLERK: Senate No. S07169, Calendar No. 406, Senator Benjamin (L. Rosenthal--A08975). An act to amend the General Business Law, in relation to requiring domestic violence and sexual assault awareness education for persons engaged in the practice of nail specialty, waxing, natural hair styling, esthetics and cosmetology.

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

MS. ROSENTHAL: Hi. This is a Chapter Amendment. This is a Chapter Amendment to a bill signed into law. The Chapter Amendment simply adds sexual assault groups to those groups that are to be consulted when preparing materials on domestic violence, sexual assault for awareness education courses.

ACTING SPEAKER AUBRY: Mr. Goodell.

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

MS. ROSENTHAL: Yes, yes.

ACTING SPEAKER AUBRY: Ms. Rosenthal will yield.

MR. GOODELL: Thank you, Ms. Rosenthal. Of course, I think everyone here believes that domestic violence and sexual assault are serious issues, and there are a lot of State agencies, of course, that are focused on trying to address that, both on the law enforcement side, but also we have very active domestic violence, sexual assault programs within State government. We fund a lot of sexual assault, domestic violence programs and we've made a concerted effort with this Legislature and prior Legislatures to address those issues. With that long record of trying to address sexual assault and domestic violence, doesn't the State already have extensive educational material relating to sexual assault and domestic violence?

MS. ROSENTHAL: The question is doesn't the State



have enough?

MR. GOODELL: I'm sorry, I couldn't hear you.

MS. ROSENTHAL: Repeat the question.

MR. GOODELL: Now with that long and extensive effort --

MS. ROSENTHAL: Right, right.

MR. GOODELL: -- going back years --

MS. ROSENTHAL: Yes.

MR. GOODELL: -- involving investment of millions of dollars, doesn't the State of New York already have domestic violence and sexual assault awareness educational materials available?

MS. ROSENTHAL: Well, this law is -- is specifically directed at personal care professionals, people who work in salons, hairdressers, nail salons and other services where they are in close contact with women for the most part who tend to develop at times close relationships with that professional. So, for example, a lot of people confide in their -- in their hairdresser, and this legislation is aimed at providing that professional with the tools to properly respond when the client confides in them about certain sexual assault or domestic violence situations that they're experiencing.

MR. GOODELL: And I appreciate the intent of this bill to make sure that the information is readily available, but the bill language itself talks about creating educational courses and other information. My question is, don't those educational courses and that

information already exist? In fact, hasn't it been around for years and years?

MS. ROSENTHAL: Well, it may, it may not. This is just a way to provide up-to-the-minute guidance on how to prepare those materials. It just broadens the scope of the groups that can provide that input. So, we listed specifically for domestic violence, and this expands it to include sexual assault.

MR. GOODELL: Well, the original bill included domestic violence and sexual assault, right?

MS. ROSENTHAL: Yes.

MR. GOODELL: And the original bill called on the Secretary of State to develop these materials. Hopefully they're not starting from scratch. Hopefully they're pulling together information that already exists, right?

MS. ROSENTHAL: Yes. This is just an addition of another advisory group that can provide guidance.

MR. GOODELL: And, of course, there's nothing in any prior law or statute or regulation that would, in any way, impede the Secretary of State from doing that analysis, correct?

MS. ROSENTHAL: It's not really an analysis. This is --

MR. GOODELL: Or developing those materials?

MS. ROSENTHAL: I mean, it's always good to have access to the latest information, and this Chapter Amendment simply broadens the kind of groups that can provide input for this particular

law that is aimed at personal care professionals.

MR. GOODELL: These personal care professionals, I think they're like beauty salons --

MS. ROSENTHAL: Yes.

MR. GOODELL: -- people that do pedicures and manicures --

MS. ROSENTHAL: Yes.

MR. GOODELL: -- and hairdressers, things of that nature?

MS. ROSENTHAL: Yes.

MR. GOODELL: Are any of them mandatory reporters?

MS. ROSENTHAL: No, they are not.

MR. GOODELL: And do you envision that the follow-up legislation will make them mandatory reporters?

MS. ROSENTHAL: I mean, who knows what happens in the future, but right now this is a voluntary participation in a -- in a -- in a web-based information system.

MR. GOODELL: There's been some concern that if we mandate that everyone who is seeking a cosmetology license or other permit participate in something like this that may create a liability on their part if they subsequently fail to identify a victim of sexual abuse or domestic violence. Is there any safe harbor language or limitation on liability for all these workers?

MS. ROSENTHAL: This is just an

information-providing law and they are not mandated reporters. So, it's -- it's just to help them when people do confide in them know what the right answer is, which is, *Here's a resource that you can access, here's a phone number you can call, here's a pamphlet you can look at.* But there's no mandated reporting and so there is no liability here.

MR. GOODELL: Well, I appreciate that the purpose is to help them give the right answer. Of course, these are professionals that are very knowledgeable and skilled at things that I am not, like pedicures and manicures and cutting hair and whatnot. They are not licensed counselors or professionals in other areas like giving the right answer, perhaps, for domestic or sexual abuse. So my question is, if these professionals who don't have any training in counseling or law or anything else give the wrong answer, does this legislation provide them with any liability protection if the answer was in good faith, even if it's wrong?

MS. ROSENTHAL: Well, right now people can give, quote, "the wrong answer" because they don't have training. This provides a training which will help people refer their clients to resources.

MR. GOODELL: I apologize, I --

MS. ROSENTHAL: This is not a -- wait, let me finish. Please let me finish. There's no counseling involved. This is purely informational guidance.

MR. GOODELL: Right. So if you voluntarily give advice, as we all do --

MS. ROSENTHAL: Yes.

MR. GOODELL: -- there's no liability. There's no liability unless there's a duty. That duty can be created by statute. It can be created by what we do here. So, my question, just so I'm clear. And I think it's a yes or no question. Is there any language in this bill or the original bill that protect individuals from possible civil liability if they give the wrong answer?

MS. ROSENTHAL: There is no -- there is no duty here, so there is no need for that.

MR. GOODELL: So no duty, no need and I'm correct there's no statutory protection either?

MS. ROSENTHAL: There is no need for it within the context of this law.

MR. GOODELL: Gotcha. Thank you very much.

MS. ROSENTHAL: Thank you.

MR. GOODELL: I appreciate your responses. Thank you, Mr. Speaker. And, again, thank you to my colleague.

There's some concerns expressed about the original legislation and this amendment, both in terms of whether it's needed in view of the fact that we've been developing these types of educational materials now for many, many years. There's a concern about the additional cost. There's a lot of concern about the additional liability when we ask people whose job it is to provide a high-quality service to customers, they're licensed, they go through an exam and they're focused on providing the best quality of service in terms of cutting our

hair or giving us a manicure or a pedicure or otherwise enhancing our appearance, we ask those professionals to then take a training course on something that's completely unrelated to their profession. They're not counselors. It's not -- they're not mandated reporters and we're now burdening them with this additional responsibility. And, unfortunately, sometimes the unanticipated side effect, even of a good idea, is that we then create liability if they don't read the materials or they don't understand the materials or they don't respond appropriately and someone is subsequently hurt.

So, the best response I think is asking our professionals to refer someone to a real professional. So, if you're an expert at cosmetology, and God bless you I'm not, but if you are and you suspect domestic violence or sexual abuse, rather than give advice, you should refer them to a professional who has got a PhD in counseling or a Master's or who is a law enforcement official, or who is one of many, many really high-quality groups that we fund who specialize in the right response and how to approach it. We should not expect the person who is doing our nails or our toenails or our hair to give us thoughtful, comprehensive answers on a complex, difficult and extraordinarily dangerous situation. And for those reasons, I have real concerns about this bill.

Again, thank you, Mr. Speaker and, again, thank you to my colleague.

ACTING SPEAKER PICHARDO: Thank you.

Read the last section.

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

ACTING SPEAKER PICHARDO: 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. -- Mrs. Peoples-Stokes.

MRS. PEOPLES-STOKES: Thank you, Mr.

Speaker, for the opportunity to interrupt our proceedings to introduce a guest in the Chambers. This gentleman is a guest of our colleagues, Member Niou and Member Weprin. He is the first Indian-American elected in the State of New Jersey in their General Assembly, and it's Assemblymember Raj Mukherji. Would you please welcome him to our Chambers and offer him the cordialities of the House.

ACTING SPEAKER PICHARDO: Certainly. On behalf of Assemblymembers Niou and Weprin, Assemblymember, we welcome you here to the other side of the Hudson. We extend to you the privileges and the cordialities of the House. We welcome you and we hope that you enjoyed the proceedings and how we do things here in the Empire State. Thank you so much for joining us today, sir.

(Applause)

Mrs. Peoples-Stokes.

(Pause)

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

ACTING SPEAKER PICHARDO: There is no housekeeping at this time, but we have a privileged -- we have a privileged resolution by Mr. Aubry, and I believe that Mr. Aubry wants to be heard on this resolution, as well.

The Clerk will read.

THE CLERK: Assembly Resolution No. 795, Mr. Aubry. Legislative Resolution celebrating the life and accomplishments of James E. Heath, gifted musician, prolific composer and arranger, and influential educator.

ACTING SPEAKER PICHARDO: Mr. Aubry.

But before you begin, sir, please, can we have quiet in the Chamber?

MR. AUBRY: Thank you, Mr. Speaker --

ACTING SPEAKER PICHARDO: Proceed, sir.

MR. AUBRY: -- members for allowing me this opportunity to share with you some words about a gentleman diminutive in size, but huge in impact in the world of jazz. Jazz, as many of you know, is the original American gift to the world as far as music is concerned, created out of a mixture of things that came out of the Black experience coming from slavery through to today. It's celebrated the world around as a unique music that has charmed so many audiences around the world and here in the United States.

The gentleman who I honor today, his name is James



Edward Heath, we called him Jimmy Heath. Jimmy lived in the community I come from, Corona, New York. He was a member of that community for a very long time and lived in the Dorie Miller Complex, kind of an interesting -- this is at the end of African History Month. Dorie Miller was a famous World War II cook who during the attack on Pearl Harbor came up out of the cook's galley and helped defend the ship against the intrusion of the enemy. But Jimmy lived there. He was a master musician. He provided the world with the opportunity to listen to, and uniquely him, big band. He and his brothers, he had two other brothers who were well-known musicians themselves, offered the world the opportunity to listen and enjoy the syncopated cast of jazz.

Jimmy was honored in many, many ways and if you read the resolution, you'll see some, but most importantly, let's kind of spend some time. He was a teacher at Queens College. He launched a jazz study program there in 1986. He remained in that position until 19 -- 1998. He has the reputation of a program that was worldwide and really attributed to Jimmy's work. He served on the Board of Queens College and administered the Louis Armstrong House Museum. Louis lived three or four blocks away from Jimmy. Corona became a place where jazz artists came because it was a place of home for them, and they enjoyed being close to each other.

He had mentorship with numerous people on his alto saxophone and was a featured faculty member of Antonio Hart and set an example for others striving to rekindle the spark of jazz

apprenticeship. He received a lifetime achievement award from the Jazz Foundation of America. In 2003, the Jazz -- American Jazz Master Award from the National Endowment of the Arts. He featured oftentimes the local facility, the Flushing Town Hall, which was quite close to the Remonstrance, where religious freedom was started in America, in Queens, and he was known for giving concerts there. He was nominated for three Grammy awards and received three Honorary Doctorate Degrees. He was the first jazz musician to receive an Honorary Doctorate in Music from the Juilliard School. He wrote his memoirs, a book I recommend, *I Walked With Giants*.

But what also was interesting about Jimmy and sometimes well-known, sometimes not, Jimmy had an addiction problem early in his life and went to prison. And he credits that opportunity to start his life over again with his creativity and beginning to turn his life around. Many of the jazz musicians in those days suffered from that. It was a part of the nightlife that jazz was. So, Jimmy was not only just a musician, he was an incredible role model to people around the world and to the community that he lived in.

And so, I wanted to stop and take this opportunity to share that with all of you and share the work of Jimmy with the State of New York. Thank you so very much. I appreciate it.

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

(Applause)

Mrs. Peoples-Stokes.

MRS. PEOPLES-STOKES: Mr. Speaker, I understand you have additional resolutions to take up.

ACTING SPEAKER PICHARDO: Absolutely. We have numerous fine resolutions here at the desk, and we will take them all up in one vote. All those in favor of the resolutions signify by saying aye; opposed, no. The resolutions are adopted.

(Whereupon, Assembly Resolution Nos. 794, 796-797 were unanimously approved.)

Mrs. Peoples-Stokes.

MRS. PEOPLES-STOKES: Mr. Speaker, could you call on Mr. Dilan for an announcement.

ACTING SPEAKER PICHARDO: Mr. Dilan for an announcement.

MR. DILAN: There will be an immediate Democratic Conference following the close of Session today.

ACTING SPEAKER PICHARDO: An immediate Democratic Conference in the Speaker's Conference Room at the conclusion of today's Session.

Mrs. Peoples-Stokes.

MRS. PEOPLES-STOKES: I now move that the Assembly stand adjourned until 10:30 a.m., Thursday, February the 27th, tomorrow being a Session day.

ACTING SPEAKER PICHARDO: The Assembly

stands adjourned.

(Whereupon, at 3:38 p.m., the Assembly stood adjourned until Thursday, February 27th at 10:30 a.m., Thursday being a Session day.)