

WEDNESDAY, MARCH 9, 2022

12:36 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, March 8th.

Mrs. Peoples-Stokes.

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

dispense with the further reading of the Journal of Tuesday, March the 8th and ask that the same stand approved.

ACTING SPEAKER AUBRY: Without objection, so ordered.

Mrs. Peoples-Stokes.

MRS. PEOPLES-STOKES: Thank you, sir. It's a great day today. It's good to be on this side. I would like to share a quote this afternoon, this one is from Helen Keller. She was an American author, a disability rights advocate, a political activist, and a lecturer. Her words for us today, *The best and most beautiful things in the world cannot be seen or even touched, they must be felt with the heart*. I want to thank Ms. Keller for her words today because they are truly fitting.

Mr. Speaker, colleagues, members have on their desk an A-Calendar. We also have a debate list. And after any housekeeping, we're going to take up resolutions that are on page 3. Not sure if we have any colleagues that would like to speak on any of those resolutions, Mr. Speaker, but we do have a number of debates today. We're going to begin with Calendar No. 52, that one's is by Ms. Jean-Pierre; and then Calendar No. 56 by Ms. Jean-Pierre; Calendar No. 57 by Mr. Gottfried; Calendar No. 86 by Mr. Dinowitz; Calendar No. 92 by Mr. Dinowitz; Calendar No. 135 by Mr. Abinanti; and Calendar No. 254 by Mr. Otis. There is a likelihood that there may be additional need for floor activity, Mr. Speaker, so it will be my honor to let you know. In the meantime, it will be for sure that there

will be a need for a Majority conference at the close of Session and, as always, we will consult with our colleagues on the other side of the aisle to determine what their needs may be. That's the general outline, Mr. Speaker. If there's any housekeeping, now would be an appropriate time.

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

We do have a piece of housekeeping.

On a motion by Ms. Paulin, page 9, Calendar No. 42, Bill No. 665, amendments are received and adopted.

We're going to page 3, Assembly No. 632, the Clerk will read.

THE CLERK: Assembly Resolution No. 632, Ms. Walker.

Legislative Resolution memorializing Governor Kathy Hochul to proclaim March 12th, 2022 as Women of Color in Tech Day in the State of New York.

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

THE CLERK: Assembly Resolution No. 633, Ms. Jackson.

Legislative Resolution memorializing Governor Kathy Hochul to proclaim March 2022 as Social Work 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.

Mr. Epstein for the purposes of an introduction, sir.

MR. EPSTEIN: Thank you, Mr. Speaker. I rise to introduce a constituent from my community who has been a leader for decades in our neighborhood. She was born and raised in the Lower East Side, Aura Olavarria. She has been involved in our community on numerous levels. She's been involved in community land trust, affordable housing. Issue after issue after issue, Aura Olavarria has been a leader. We're lucky to have her in the Chamber today. I hope you offer the cordialities of the House and welcome her to the Chambers.

ACTING SPEAKER AUBRY: Certainly. On behalf of Mr. Epstein, 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 in the Lower East Side. Continue that great work and know that you are always welcome here. Thank you for joining us.

(Applause)

Page 11, Calendar No. 52, the Clerk will read.

THE CLERK: Assembly No. A00815-A, Calendar No. 52, Jean-Pierre, Steck, Gottfried, Thiele, Seawright, Montesano, Walker, Vanel, Ra, Otis, Epstein, Reyes, Colton, Sayegh, Griffin, Rajkumar, Anderson, Zinerman, DeStefano, Simon, Sillitti. An act to

amend the Public Service Law, in relation to requiring utility companies to include a notice of public hearings concerning rate increases.

ACTING SPEAKER AUBRY: An explanation is requested, Ms. Jean-Pierre.

MS. JEAN-PIERRE: This bill amends the Public Service Law to require utility companies to include on their utility bill notice of any and all upcoming public hearings concerning proposed rate increases.

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

MS. JEAN-PIERRE: Of course.

ACTING SPEAKER AUBRY: The sponsor yields.

MR. PALMESANO: Thank you, Ms. Jean-Pierre. I know yesterday I think we were scheduled to do this debate, but I'm quite certain after the debate with our colleague and friend of listening to 15 minutes of my debate, I'm pretty sure your side of the aisle said they can only take 15 minutes of Palmesano talking on bills in one day, so -- so here we are today. So the good news is I don't think this is going to take 15 minutes, so -- and I know we've been debating and discussing this bill for several years and I understand the intent behind the legislation, what you're trying to do, it's an admirable attempt, you want to have transparency to the customers and ratepayers by requiring utility corporations to put a notice in writing on their actual utility bills of rate hearings coming up; is that fair?

MS. JEAN-PIERRE: I'm sorry, could you repeat the question?

MR. PALMESANO: Sure.

MS. JEAN-PIERRE: I heard everything else you said.

MR. PALMESANO: So the purpose of this bill is to obviously to have transparency for the ratepayer is what you're trying to do, so by doing that you want to have a requirement for utility corporations to put a notice of rate hearings on the actual utility bill that goes to the customer. That's the intent behind it -- that's the purpose in what this legislation does; is that correct?

MS. JEAN-PIERRE: Correct.

MR. PALMESANO: Okay, great. So I understand that. I do have some questions I just kind of want to -- so the fact that I understand it really well and why you're behind it, but I do have some questions about the current process and what is required and what is being done if we can talk about that a little bit if that's okay.

MS. JEAN-PIERRE: Absolutely.

MR. PALMESANO: I know on the legislation it says included right on their bills, so this notice of the rate hearing would go actually in writing on the actual customer bills, correct?

MS. JEAN-PIERRE: Correct, it would be on that bill.

MR. PALMESANO: So I know like when I get my utility bill, it's like two or three pages, I mean it's small print. Is there

any specific guidelines on the size of the print or where that's going to be and how that would work out?

MS. JEAN-PIERRE: No. It could be anywhere on the bill.

MR. PALMESANO: Because, you know, being tied up on a whole bill and a lot of people look at their bill and they look at the final price, what -- you know, you would almost think wouldn't it be better to have this, if that's the goal, of trying to get the notice out, almost like an insert into the -- the bill that they can look at and say, *Hey, there's a rate hearing coming up*, rather than having it at the end of the bill. Would that be a better approach if, you know, if that's the intent behind the legislation?

MS. JEAN-PIERRE: I think that's an option up to the utility company. It's just as long as they put that in the bill and they make it transparent where the consumer can see that there's going to be a hearing for a rate increase.

MR. PALMESANO: Okay, again, because the reason I asked the question is because it says it's included on their bill, not in their bill, so I think there's some language questions, that's why I just wanted to point that out as a clarification because I know we've been doing this for a few years, maybe that's something to look at down the road.

MS. JEAN-PIERRE: It's up to the utility company as long as it's included with the bill, on the bill.

MR. PALMESANO: Okay. Now, the other -- in the

language of the bill it says that this will -- they'll be notified of any and all public hearings, but not limited to the hearing before the Commission. I think there's some questions and the concern is vagueness and I know the intent of the bill is only regarding rate increases, but with the bill language saying any and all hearings, is there anything with regard to that that would -- that has to be -- because I know there's other hearings that on -- pre-hearings and other types of hearings that don't have anything to do with the bill. Is this only specifically for rates, because I was just wondering about that language, as well.

MS. JEAN-PIERRE: So if you continue reading, it also -- the topic has to be rate -- rate increase.

MR. PALMESANO: Okay, fair enough. I just wanted to just clarify that, thank you for that. So right now, are investor-owned utilities currently obligated to inform the customers of major rate change proceedings right now under the law, they have to notify them of that?

MS. JEAN-PIERRE: Sorry, there's a little chatter behind me.

MR. PALMESANO: I'm sorry.

MS. JEAN-PIERRE: Yes, can you repeat that?

MR. PALMESANO: Yes. Aren't right now investor-owned utilities required and obligated to inform the customer about major rate change proceedings under the current law, yes?

MS. JEAN-PIERRE: What this legislation does is

make it easier for consumers, especially our senior population, and they're often blindsided by rate increases, so this is just an avenue for transparency and allows our most vulnerable population, our senior population, to make sure that they're aware of the rate increase.

MR. PALMESANO: Sure, and I -- and I totally understand that, the intention behind it, we talked about that. I just wanted to ask -- ask the question, right now the investor-owned utilities are required and obligated to inform customers about major rate change proceedings now, yes?

MS. JEAN-PIERRE: So that's just part of the proceeding. If there's a rate -- if there's a rate increase, it just -- we just have -- that's just part -- that's just part of the law now. So they have to have a public hearing.

MR. PALMESANO: Okay. And then aren't all public statement hearings already published in newspapers and on the PSC website, so they have to -- they have to make those notifications in the newspaper and on the PSC website, that's a requirement as of right now, correct?

MS. JEAN-PIERRE: Correct, but this is just a level of extra transparency, and I ask you, how many times do you pick up a print of newspaper every day? I'm sure you just read it on your app on your phone, so this just allows that level of transparency where it can be directly right on the bill.

MR. PALMESANO: Right, and I totally understand that. So I just want to kind of just talk about some of those things that

they're required to do right now and to pay for and to utilize. Right now it's my understanding all utility customers receive a bill insert that advises them of a filing of a rate case immediately after its onset; that's in the bill with an insert right now that utilities are doing, correct?

MS. JEAN-PIERRE: Are you asking if it's a requirement right now? Can you repeat the question?

MR. PALMESANO: That's what they do, they put that insert in their -- in their billings now with the -- about that rate increase.

MS. JEAN-PIERRE: They might do it, but this is just a requirement. It may be -- some of the companies may be doing it now, but this bill just says that it's a requirement that all utility companies will have to put that in the bill, whether it's an insert, on the bill, however they choose and please.

MR. PALMESANO: Okay. And after that follow-up that we talked about with the newspaper notifications, the insert that's in the bill, it's followed up by four consecutive weeks of newspaper publications as required under the law, correct?

MS. JEAN-PIERRE: Yes.

MR. PALMESANO: Okay. And with regard to the hearings, the utilities don't set those hearings, correct? That's set by an administrative law judge who makes a determination on when the hearing is going to come in place, correct?

MS. JEAN-PIERRE: Correct.

MR. PALMESANO: And isn't it certainly feasible and doesn't it happen that the utility doesn't know when that's going to be set, and when they make that determination that hearing is within 30 days and it might not coincide with their bill going out and printing of their bill and having to adjust that. That's going to be problematic as far as some customers getting the bill. How would that work?

MS. JEAN-PIERRE: So there's a cost. If the utility company knows at the time of the public hearing when they're sending out the bill, that's when they are required to put that notice in the bill, on the bill, with the bill.

MR. PALMESANO: So in some cases there would be some situations where some wouldn't get, even with this, some wouldn't get the notification and some would. So if it's after that period of time, they wouldn't have to put it on their bill so some utilities will do it, some won't?

MS. JEAN-PIERRE: It all depends on the utility company if they know at the time if they know of the public hearing when they send out the bills.

MR. PALMESANO: All right. And my last question, isn't they're going to be an additional cost to this? I mean, because if you're talking about adding to the bill, if it's a two-page bill it might go to a three-page bill depending on the size. Isn't that going to add, you know, cost if there's additional paper, additional printing? Everything adds up, and especially if you're mailing it to all your customers, I mean, there's an additional cost to this, as well. I --

again, I understand the transparency aspect that you're trying to get to by putting it on the bill, but isn't there a cost when we put more requirement on a utility to put additional things in the bill? Isn't that potentially a cost -- a potential cost increase for the --

MS. JEAN-PIERRE: So I haven't heard any complaints from any utility companies in the four years that we've been debating this bill, and this can be on the bill currently on one of the pages that they already are submitting to their consumer. It can be an insert. The utility company has an option on how they send the public hearing to their customer.

MR. PALMESANO: All right. Ms. Jean-Pierre, thank you so much for your time and discussion, as always. I appreciate your intentions.

Mr. Speaker, on the bill.

MS. JEAN-PIERRE: Likewise.

ACTING SPEAKER AUBRY: On the bill, sir.

MR. PALMESANO: As I said, Mr. Speaker and my colleagues, I understand the goal and intent behind this legislation, I think it's laudable. We should be doing everything we can to make our -- our customers, our citizens aware of rate increases and the impact it is. I think with this issue, my question and concern is that of the duplicity and things that are already being done by the utilities to make that awareness. They have to -- they already are putting the notification out there with bill inserts, they have to do publications, they have to work with four consecutive weeks of notification and,

obviously, when there are rate increases being proposed, it's out there in the public, it's in the media over and over again so the public is aware of it for sure. And there are advocacy groups that debate and go into these public hearings and talk about these utility cost increases. And I think, too, when you talk about putting it on a bill, you know, my utility bill is probably -- your biggest utility bill is probably two or three pages. What size print is going to be on it? How are they going to look through that bill and find that specific issue. I know the sponsor says, well, as long as there's an insert in the bill that might cover it, and that would be a better approach in my opinion. If we're going to move forward with this, have something separate it in and of itself in bigger print than rather than putting it on the bill. The problem is with the language of this bill. It says it has to be included on their bills, not in their bills, it has to be on their bills. And I think there is also questions, obviously, regarding the number of hearings as far as the language, there's some concerns about the vagueness of the language when they said "any and all hearings." We talked about that a little bit.

So I think there are things that are already being done and the duplicity of some of these things, and the fact of the matter is there are costs that are involved. Some may say these are miniscule costs and worth it to get the notification out, but every cost that we put on a utility is an added cost and when there's a cost increase to the utility, there's a cost increase to the ratepayer. So we want to keep that in mind. And from my perspective, what they're doing right now

with the notifications they're putting out there and the public awareness that's being made out in our rate increases and the steps they have to follow that we already outlined that they're required to do under the law, why be duplicative and increase costs?

I will say that certainly, and I agree with the sponsor wholeheartedly that transparency is important and critical. This is something our side of the aisle has been calling for for years, and specifically in the past two years relative to the CLCPA, which we talked about a little bit about yesterday, the Green New Deal for New York. We've been calling for a full, thorough cost-benefit analysis of the CLCPA, the impact it's going to have on our ratepayers and our customers. I believe, we believe that we owe them that transparency and honesty. If we're going to talk about transparency and honesty to the ratepayer, let's talk about being transparent and honest with them about the ramific -- the full ramifications of the CLCPA, the Green New Deal for New York and how much that's going to increase their utility bills because they're going to have to be putting inserts in their bills and if this becomes law, talking about bill increases and, really, it's all going to be pinpointed to these green energy programs that we're talking about.

So we need to be transparency [sic] about how the rate increases are going to be impacted. We should be transparent with the taxpayers and ratepayers of the State about how much it's going to cost them to convert their home over to full electrification by 2030 when their gas boiler or gas -- natural gas stove or furnace goes

out. They're not going to be able to replace that natural gas boiler or stove with natural gas, they're going to have to fully electrify their homes. Some estimates says \$35,000-plus for a family. In Western New York and our colder areas, some estimates of the older heating stock say \$40- to \$50,000. Even the CDC Climate Action Council said \$20- to \$50,000. These are exorbitant costs that are going to have to be borne by my constituents, your constituents and people you represent. Are you going out there and telling them about how they're going to have to convert their home over and pay \$35,000 or pay \$30,000 for a geothermal heat pump to replace a perfectly good natural gas operating system?

We also have legislation in that would -- the Ratepayers Disclosure and Transparency Act to be honest with the public about what they're paying on their bills with increased taxes and fees for these green energy programs, let them know how much they're paying on their bill. There are some estimates, 25 to 30 percent of your current utility bills is for taxes, fees, and assessments that go for green energy programs. We collect over a \$1.5 billion a year for all these taxes, fees, and assessments for these programs. Why not be -- why not be transparent, honest and disclose that information to the ratepayer, as well? It seems like from my friends on the other side of the aisle, they want to talk about transparency but when it comes to talk about transparency with regarding programs you're advocating for, like the CLCPA, the Green New Deal for New York and how exorbitant that's going to hit every person in the State

of New York, every customer, every senior citizen, every farmer, every small business, every manufacturer, every family is going to be hit over the head.

And the fact of the matter is, ladies and gentlemen and my colleagues, the public has no idea what is coming full steam ahead of them that's going to smack them right in the head for additional costs over and over again. Increased utility cost, increased electricity bills with the increased demand and the electrification of our system. Electric bills are going to skyrocket. You think our -- the calls we're getting from our constituents about utility bills now, the spike we're seeing is bad, wait until they get the full implications of the CLCPA and the increased costs for the utility bills and the electrification conversion costs of \$35,000-plus a year.

And again, remember, with the CLCPA, we're doing this and New York contributes 0.5 percent of the total carbon emissions in the world -- .5 percent while China's at 29 percent and building coal plants hand over fist and increasing carbon emissions. Everything we do with the CLCPA, everyone says it's going to help, the benefits outweigh the cost, it's nonsense. We're only contributing .5 percent, we're not going to make one iota of difference when China is continuing to build coal plants, emitting at 29 percent, India at 7 percent, Russia at 4 percent. Y'all say that oh, we're going to lead on the CLCPA, people are going to follow us. We're not going to lead anything. The only thing we're going to lead is an exodus of businesses and manufacturers, farmers and families, and people

leaving our State like we continually see over and over again with this policy.

On that, Mr. Speaker, I vote no.

ACTING SPEAKER AUBRY: Read the last section.

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

ACTING SPEAKER AUBRY: The Clerk will record the vote Assembly print A815-A. This is a Party vote. Any member who wishes to be recorded as an exception to the Conference position is reminded to contact the Majority or Minority Leader at the numbers previously provided.

Mr. Goodell.

MR. GOODELL: Thank you, sir. The Republican Conference is generally opposed to this legislation, but those who support it can certainly vote in favor on the floor or by calling the Minority Leader's Office and advising us, and we will make sure your vote is properly recorded. Thank you, sir.

ACTING SPEAKER AUBRY: Thank you.

Mrs. Peoples-Stokes.

MRS. PEOPLES-STOKES: Thank you, Mr. Speaker. Majority members will generally be in favor of this piece of legislation; however, there may be a few that choose not to. Please feel free to contact the Majority Leader's Office and your vote will be properly recorded. Thank you.

ACTING SPEAKER AUBRY: Thank you.

(The Clerk recorded the vote.)

Mr. Goodell to explain his vote.

MR. GOODELL: Thank you, sir. I'm generally voting -- I'm voting against this, not generally, I'm definitely voting against this. The current process requires utility companies to notify consumers when they are seeking a rate increase. And any consumer who wants to reply is certainly on notice from the utility company. This bill takes it one step further and requires a utility company to give a notice for every single hearing that relates to the rate increase. And the problem is, as recognized by the Energy Coalition of New York, that utility companies do not know when the hearings are going to be scheduled because they're not the ones that schedule it.

And so we already have a process in place. There's adequate notice already and we're now being asked to pass legislation that is difficult, expensive and, in some cases, impossible to comply with and for that reason, I'll oppose it. I will share that I have never received a phone call from any business in the State of New York, especially our utility companies, that say they're under regulated. And once again, we're adding more regulations which, ultimately, increase the cost of doing business which means that, ultimately, our residents face higher utility bills.

For that and other reasons, I'm opposing it and recommend the same to my colleagues. Thank you, sir.

ACTING SPEAKER AUBRY: Mr. Goodell in the negative.

Ms. Jean-Pierre.

MS. JEAN-PIERRE: I want to thank my colleague on the other aisle, it's been four years, never believe him when he says he's not going to take up the whole 15 minutes --

(Laughter)

-- but thank you, Mr. Speaker, for allowing me to explain my vote. This bill is just simply about transparency. Utility companies, they have an obligation to make sure that they're transparent with their consumers. In the world where it's digital now, everyone looks at the app first thing in the morning and that's how they read their news. So we want to make sure that our most vulnerable population, our seniors have access to public hearings for rate increases, and it's just a simple, transparent bill and it's not going to put the burden on the utility company when it comes to cost. Many people currently are opting out on paper statements and they're getting their bills digitally as well, so that is a cost saving for the utility companies. So I'll be voting in the affirmative and I hope my colleagues will follow me, too. Thank you.

ACTING SPEAKER AUBRY: Ms. Jean-Pierre in the affirmative.

Mr. Goodell.

MR. GOODELL: Thank you, sir. Please record the following colleagues in the affirmative: Mr. Brabenec, Mr. Byrne, Mr. Mikulin, Mr. Smith, and Mr. Tannousis. Thank you, sir.

ACTING SPEAKER AUBRY: So noted, thank you.

Are there any other votes? Announce the results.

(The Clerk announced the results.)

The bill is passed.

Page 12, Calendar No. 56, the Clerk will read.

THE CLERK: Assembly No. A00848, Calendar No. 56, Jean-Pierre, Hunter, Hyndman, Lavine, Dickens, Niou, Simon, Englebright, Smith, Mikulin, Williams, Taylor, Fernandez, Ramos, Cook, Peoples-Stokes, Dilan, Sayegh. An act to amend the Tax Law, in relation to exempting certain distributions from eligible retirement plans for income tax purposes.

ACTING SPEAKER AUBRY: Mr. Goodell.

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

ACTING SPEAKER AUBRY: Ms. Jean-Pierre, will you yield?

MS. JEAN-PIERRE: Yes.

ACTING SPEAKER AUBRY: The sponsor yields, sir.

MR. GOODELL: Thank you, Ms. Jean-Pierre. It looks like it's your day today.

MS. JEAN-PIERRE: I guess so.

MR. GOODELL: Thank you for yielding. This bill would allow an individual to take money out of their retirement account without State tax consequences if -- if the money was taken out because the taxpayer's primary residence was severely damaged

due to Superstorm Sandy, correct?

MS. JEAN-PIERRE: Correct.

MR. GOODELL: And Superstorm Sandy occurred a decade ago.

MS. JEAN-PIERRE: Correct.

MR. GOODELL: Can you tell us how many people are still taking out their retirement funds to address quote, "Severe damage to their primary residence?"

MS. JEAN-PIERRE: We don't have that information right now.

MR. GOODELL: Does that also mean you don't know how many people claimed this exemption last year?

MS. JEAN-PIERRE: We'll get back to you with those numbers.

MR. GOODELL: I see. It's been a decade now since Superstorm Sandy. Most of us would have expected that severe damage to a primary residence would have been repaired many, many years ago. How many years do you think we should allow this exemption to continue?

MS. JEAN-PIERRE: I can't give you a number, but what I will say that I represent an area that was severely hit and throughout the State we have many homeowners who have taken out their last savings to support their primary residence and are still finding damages from Superstorm Sandy.

MR. GOODELL: In your community, and I -- my

sympathies to your community, of course. Are there -- has your community rebuilt since Superstorm Sandy?

MS. JEAN-PIERRE: Not quite, not complete. And my community is not unique.

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

MS. JEAN-PIERRE: Thank you.

MR. GOODELL: On the bill, sir.

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

MR. GOODELL: This legislation has passed for the last decade with virtually unanimous support because we recognize that when Superstorm Sandy went through a decade ago, there were many people that had to draw on their retirement savings in order to make repairs to their primary residence, particularly primary residence that incurred severe damage. The problem is that as years go on, and it's now been over ten years, in order to qualify for this exemption presumably the homeowner has to identify that their current withdraw from the retirement account for repairs to the residence in some way relates directly to Superstorm Sandy. And the longer this type of exemption continues, the more likely it will be abused by people who claim this exemption that everybody else in the State of New York has to pay taxes on, and they'll claim an exemption because after ten years they need to do routine maintenance.

So you know I, for the last ten years, have been

voting in favor of this bill because we all wanted to provide support, but at some point in time we have to say after a decade if you're taking money out of your retirement account to make repairs to your primary home, it's not likely because of a storm that occurred ten years ago. So I think this -- this great program has come to an end and I think we should end this exemption and recognize that it's time to move on and treat everybody the same across the State. Thank you, sir.

ACTING SPEAKER AUBRY: Read the last section.

THE CLERK: This act shall take effect immediately.

ACTING SPEAKER AUBRY: The Clerk will record the vote on Assembly print 848. This is a fast roll call. Any member who wishes to be recorded in the negative is reminded to contact the Majority or Minority Leader at the numbers previously provided.

(The Clerk recorded the vote.)

Ms. Jean-Pierre to explain her vote.

MS. JEAN-PIERRE: Unfortunately, a lot of New Yorkers who were hit by Superstorm Sandy, which was one of the most devastating storms in our history, are not able to move on currently because there are still -- some people are still displaced and have taken all of their savings to rebuild their primary residence. And I think this is important that we continue to read the context of the bill. It says for those who have incurred severe damage due to Superstorm Sandy, and not just regular maintenance. So I urge my colleagues to vote along with me in the affirmative as we help those who were hit heavily rebuild their lives. Thank you.

ACTING SPEAKER AUBRY: Ms. Jean-Pierre in the affirmative.

Mrs. Peoples-Stokes to explain her vote.

MRS. PEOPLES-STOKES: Thank you, Mr. Speaker, for the opportunity to explain my vote. I note that we have voted on this piece of legislation several times and, however, have not of yet made it to the finish line which in some ways I do believe is unfortunate as we experience more and more of the impacts of global warming and we know that the insurance industries, not just in the State of New York but across the country, doesn't always cover everything. Sometimes people are in a need to make repairs to places where they have to live that are still intact. And so I want to commend the sponsor on this legislation and hope that there's some strategies that will go forward to not only move this towards this being successful in our House, but in the other House as well, and towards signature, because we are still in the era where we can experience some weather issues that impact our homes negatively. So thank you, Mr. Speaker, for the opportunity to explain my vote.

ACTING SPEAKER AUBRY: Mrs. Peoples-Stokes in the affirmative.

Mr. Goodell.

MR. GOODELL: Thank you, sir. Please record my colleague, Mr. DiPietro, in the negative on this legislation.

ACTING SPEAKER AUBRY: So noted.

Are there any other votes? Announce the results.

(The Clerk announced the results.)

The bill is passed.

Page 12, Calendar No. 57, the Clerk will read.

THE CLERK: Assembly No. A00879, Calendar No. 57, Gottfried, Dinowitz, Galef, Paulin, L. Rosenthal, Colton, Abinanti, Rajkumar. An act to amend the Public Health Law and the Insurance Law, in relation to the definition of clinical peer reviewer.

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

MR. GOTTFRIED: Yes, Mr. Speaker. In the health insurance world, there are people known as clinical peer reviewers who work for the insurance company and advise it on whether to approve or not approve a particular treatment when it's in -- and there are different criteria for clinical peer reviewers, if they're working on internal review of a procedure or if they are involved in external appeal, which is the next stage in review. Basically in external appeal, the clinical peer reviewer has to be, roughly speaking, a physician who specializes and has experience in the kind of treatment under review. That does not apply to a clinical peer reviewer in internal review.

This bill would apply the external appeal criteria to clinical peer reviewers who are doing internal review, as well, so that when your doctor is having his or her treatment recommendation second-guessed, it will be getting second-guessed by a physician who actually has some real knowledge in the area.

ACTING SPEAKER AUBRY: Mr. Goodell.

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

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

MR. GOTTFRIED: Yes.

ACTING SPEAKER AUBRY: The sponsor yields.

MR. GOODELL: Thank you, Mr. Gottfried. We debated this bill last year, as well, and as a courtesy to my colleagues I just wanted to verify a couple of responses, make sure we're on the same page based on what we discussed in the past. As I understand it, under this bill, if initial decision was made by a physician that's being reviewed by the insurance company, if the original decision was made by a physician that is not board-certified even with this bill, the initial review could be made by an insurance company using somebody who is not board-certified, correct?

MR. GOTTFRIED: That is my understanding, correct.

MR. GOODELL: And then, likewise, if the person who is making the initial decision was board-certified but the decision was outside of their board certification; in other words, they were exercising their general knowledge, for example. That also would not trigger board certification review initially under this bill; is that correct?

MR. GOTTFRIED: That is my understanding.

MR. GOODELL: So under the current process when someone, an insured asks for approval by their insurance company for a medical treatment that's recommended by their primary care physician, the insurance company makes the initial review as you noted in your statement about the bill. If the insured disagrees, the insured can appeal it and since 1998, New York has provided for an external, independent review process that involves board-certified physicians just as this bill would provide for, correct?

MR. GOTTFRIED: External appeal, yes.

MR. GOODELL: Yes. Do you know, do you have any data on how many initial decisions made by the insurance company are appealed to the external appeal review process?

MR. GOTTFRIED: I do not have that data.

MR. GOODELL: Now, it's my understanding from the insurance industry that of those appeals that are made to the external review process, on the average about 60 percent the insurance company -- the agreement is with the insurance company about 40 percent of the external reviews that are appealed are in favor of the insured; is that consistent with your understanding, as well?

MR. GOTTFRIED: Roughly speaking, yes.

MR. GOODELL: Okay. The insurance companies have expressed a concern that if you applied the same standards on the initial review as you do on the external appeal, it would result in a substantial increase in expenses. Do you have an estimate of how much that process would likely cost the insurance company?

MR. GOTTFRIED: I don't, but I think what is important is that people get the medical care that is appropriate for them and that if an insurance company, which has a strong financial interest in just saying no, that there be at least somebody in the internal workings of the insurance company who knows what they're doing.

MR. GOODELL: Certainly, we always hope everybody knows what they're doing; of course, it's an objective for all of us. Now, I've seen some data and I -- and I confess, I'm not on top of data as much as you are, but it's my understanding that the cost elasticity of insurance is actually very high so that a 1 percent increase in insurance premiums correlates to roughly 30- to 35,000 people dropping coverage; is that consistent with your understanding, as well?

MR. GOTTFRIED: I don't think so. The insurance premiums have been skyrocketing for years and, yet, the number of people with insurance coverage remains pretty stable.

MR. GOODELL: Although that stability in the insurance market also reflects the fact that an ever-increasing number of insurance policies are subsidized by the State of New York through the health plan, correct, the Health Exchange?

MR. GOTTFRIED: That's a fairly -- that's a very small percentage of the insurance -- of the insurance market. It's a -- it's a percentage of the individual market. The vast majority of insurance coverage is not in the individual market.

MR. GOODELL: Now, of course as you know, New York has a multi-faceted insurance program. We have, of course, Medicaid, Medicare. We have employer self-insurance plans, we have commercial service. This bill would not apply to Medicaid or Medicare, correct?

MR. GOTTFRIED: It -- it would not apply, as far as I know, I don't think this, the current law applies to Medicare, but my understanding is that if you are covered by Medicaid managed care, that's an insurance plan and it is governed by Article 49 of the Public Health Law which is what we're amending here.

MR. GOODELL: And private, employer-funded plans, outside the scope of this?

MR. GOTTFRIED: If they are self-insured plans they are not subject to New York law. If they are employer-sponsored insured plans, then the insurance company is subject to this law.

MR. GOODELL: Thank you very much, Mr. Gottfried. As always, I appreciate your knowledge and expertise.

On the bill, sir.

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

MR. GOODELL: Thank you, Mr. Speaker. In 1998, New York enacted landmark legislation. We led the nation in creating an external appeal process. So if an insurance company denies a claim or denies coverage, under New York's law that's been in place since 1998, the insurance company or the insured has an absolute right

to have that decision reviewed by an independent external review process, and the external review process requires that the individuals that are involved be board-certified. And that's been in play since 1998. And about 60 percent of the time that external review process affirms the decision of the insurance company initially, and about 40 percent of the time it affirms the position of the insured.

What this bill does is takes the external review process, which necessarily has a higher level of expertise and a higher level of review, and imposes that on the initial review. And if we do that by law, two things happen: The cost of the initial review will go up because the insurance company will be forced to hire board-certified physicians for the initial review. The second thing that will happen, as you would expect, is that the percentage of successful cases on external review for the insured will go down. And we all know that every time we impose more costs on an insurance company, it results in an increase in our premiums.

Now, I have to share with you that health insurance costs are a very, very substantial issue for all of my constituents and my guess, it's a substantial issue for all of your constituents, and it is especially burdensome for the working poor. And so we face a dual responsibility. We want to make sure that the system is fair and appropriate; at the same time, we most assuredly want to minimize the premium. The current process strikes the right balance by keeping our insurance premiums as low as possible while guaranteeing that insureds have an external, independent review process if they

disagreed. And because this process will increase the cost of insurance for everybody without a significant benefit to the insureds, I will recommend against it and recommend to my colleagues that they vote against it as well. Thank you, sir and, again, thank you to my colleague, Mr. Gottfried.

(Pause)

ACTING SPEAKER AUBRY: Read the last section.

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

ACTING SPEAKER AUBRY: The Clerk will record the vote on Assembly print 879. This is a Party vote. Any member who wishes to be recorded as an exception to the Conference position is reminded to contact the Majority or Minority Leader at the numbers previously provided.

Mr. Goodell.

MR. GOODELL: Thank you, sir. The Republican Conference is generally opposed to this, but those who support it can certainly vote in favor for it here on the floor or by calling the Minority Leader's Office and letting us know, and we'll ensure that your vote is properly recorded. Thank you, sir.

ACTING SPEAKER AUBRY: Thank you.

Mrs. Peoples-Stokes.

MRS. PEOPLES-STOKES: Thank you, sir. The Majority Conference will generally be in favor of this piece of legislation; however, there may be those that desire to vote in

opposition. You should feel free to contact the Majority Leader's Office, we will be happy to properly record your vote. Thank you, sir.

ACTING SPEAKER AUBRY: Thank you, ma'am.

(The Clerk recorded the vote.)

Mr. Goodell to explain his vote.

MR. GOODELL: Thank you, sir. This is an interesting bill because it balances two conflicting objectives. On one hand, some of my colleagues will appreciate the higher level of initial review and on the other hand, some of my colleagues think that the additional cost to the initial review isn't worth the additional cost and the impact on premiums. So I recognize and appreciate both views. In my opinion, the additional cost of requiring the higher level of initial review is not justified because of the external review process which is readily available to anyone, but I recognize and appreciate that others might prefer to pay a higher premium so they have a higher level of initial review. Thank you, sir.

ACTING SPEAKER AUBRY: Mr. Goodell in the negative.

Mr. Goodell.

MR. GOODELL: Thank you, Mr. Speaker. Please record the following colleagues in the affirmative: Mr. Ashby, Mr. Mikulin and Mr. Smith. Thank you, sir.

ACTING SPEAKER AUBRY: So noted.

Mrs. Peoples-Stokes.

MRS. PEOPLES-STOKES: If you could please

record our colleague, Mr. Cahill, in the negative on this one. Thank you.

ACTING SPEAKER AUBRY: So noted.

Are there any other votes? Announce the results.

(The Clerk announced the results.)

The bill is passed.

Page 15, Calendar No. 86, the Clerk will read.

THE CLERK: Assembly No. A01877, Calendar No. 86, Dinowitz, Carroll. An act to amend the General Obligations Law, in relation to pre-payment penalties for mortgages secured by real property owned in a cooperative form of ownership.

ACTING SPEAKER AUBRY: Mr. Dinowitz, an explanation is requested, sir.

MR. DINOWITZ: This bill will forbid pre-payment penalties and fees from being charged or collected on a loan or forbearance secured by a real property owned in cooperative form ownership where over 50 percent of the units are shareholder occupied, and it will also make such pre-payment penalties unenforceable.

ACTING SPEAKER AUBRY: Mr. Goodell.

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

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

MR. DINOWITZ: Yes.

ACTING SPEAKER AUBRY: Mr. Dinowitz yields, sir.

MR. GOODELL: Thank you, Mr. Dinowitz. So as I understand what this bill would say is that if a condo is owned by at least 50 percent of -- by the shareholders, then there could not be any mortgages that have a pre-payment penalty clause, correct?

MR. DINOWITZ: Co-ops, yes.

MR. GOODELL: Yes, co-op, thank you. Would this bill render those pre-payment penalties unenforceable for mortgages that currently exist, or would it only apply to new ones?

MR. DINOWITZ: It would both.

MR. GOODELL: Retroactively. As you know, the U.S. Constitution states that state legislatures cannot pass legislation that impairs the validity of an existing contract. How do we get around what appears to be an impairment of an existing contract if by legislation we eliminate these pre-payment penalty clauses?

MR. DINOWITZ: I don't think we have to get around it, I think that we can do this and it will be Constitutionally valid.

MR. GOODELL: Does it not, though, impair the terms and conditions of those existing mortgages that have a pre-payment penalty?

MR. DINOWITZ: I wouldn't interpret it that way. Of course, neither of us are judges so we're not in a position to know how a court would rule, but I would say that the answer is we could do

this.

MR. GOODELL: So even though we bar the enforcement of parts of an existing contract, you don't think the rendering of certain provisions unenforceable doesn't impair the contract?

MR. DINOWITZ: No.

MR. GOODELL: Okay. Why -- why is it we don't want to allow these types of mortgages?

MR. DINOWITZ: Very often, especially in recent years when interest rates have gone down, co-ops would have the ability to refinance at a lower rate and I don't believe that they should be penalized for doing that. I mean, this would be in the interest of the residents who live in the co-ops. And I'm not sure if you have any co-ops in your district, but in my district we have many, many co-ops and that's true in lots of districts. So it's really a very -- I look at this as a pro-consumer piece of legislation that would be very beneficial to many thousands of New Yorkers, because if the co-op has to pay a pre-payment penalty simply for refinancing, then that impacts every shareholder in the co-op and I don't think that's in the public interest at all.

MR. GOODELL: Okay. Now, the National Cooperative Bank has advised us that prohibiting pre-payment penalty -- penalties would prohibit co-ops from access to Fannie Mae, Freddie Mac and FHA mortgages which all require pre-payment penalties; would you agree with their analysis?

MR. DINOWITZ: Not necessarily in all accounts there, but most co-ops do not receive their mortgages through those means anyway. Most co-ops, you know, go to a bank, a regular bank. And I can tell you that the -- as far as I know, the co-op organization within the City or in the State, the New York Council on Co-ops, they are certainly not opposed to it and I believe support this legislation.

MR. GOODELL: Now, the Council of New York Cooperatives and Condominiums also expressed concern because they said this bill would make it more difficult for co-ops to attain mortgages, and what they went on to say is the end result would be to limit the availability of co-op loans, drive up borrowing costs and deprive co-ops of the certainty of their borrowing cost. What is your response to the Council on -- of New York Cooperative and Condominiums?

MR. DINOWITZ: I don't believe that that's their position at all. Perhaps that was an individual's position, but it is my understanding that that's definitely not their position.

MR. GOODELL: Okay. Thank you, again. I always appreciate your comments. Thank you, Mr. Dinowitz.

MR. DINOWITZ: You're welcome.

MR. GOODELL: On the bill.

ACTING SPEAKER LUNSFORD: On the bill.

MR. GOODELL: Thank you, Madam Speaker. I have spent a substantial portion of my professional career working in representing both borrowers and lenders, including a local community

bank. And a lot of people don't understand sometimes that a borrower, particularly a commercial borrower, has a choice when they're negotiating for a mortgage. And one approach is to pay the bank's transaction costs up front. So you pay for the appraisal, you pay for the underwriting, you pay for the bank's legal counsel, and you pay it all up front. And that upfront cost can be very substantial. And that's one option. And I just did a residential closing the other day, I think my client borrowed, I don't know, \$120,000 and he had like \$8,000 in upfront expenses that the bank incurred and the bank charged.

But there's another approach that is sometimes used by commercial borrowers, and that is they say to the bank, *I don't want to pay thousands and thousands of dollars up front, can we take that cost, those transaction costs, and can we include it basically in the mortgage?* And banks will say, *Sure, of course we can do that.* In other words, the bank is actually financing the bank's own closing expenses. And they do that by adding a small, fractional interest to the loan. And so the bank might add, you know, ten or 15 basis points, a very small interest increase, but they know they can only recoup their costs if that loan stays outstanding for some time period, that's how they recoup it.

So what this bill says is no longer would this group of consumers have the right, they wouldn't even have the right to negotiate what kind of mortgage they want. They would no longer have the right to negotiate a mortgage with lower upfront costs and a

slight increase in the interest rate with a prepayment penalty, they would go on and get that right. This bill goes on to say that consumers would no longer have the right to go through Freddie Mac or Fannie Mae or FHA to get a mortgage, and those Federal agencies are all tied into the secondary market and they all result in lower interest rate. And the professionals who are in this field, the National Cooperative Bank or the Council on New York Cooperatives and Condominiums, all point out exactly the same thing. This bill limits the rights of consumers to negotiate the type of mortgage that fits their financial needs. It completely eliminates their right to even seek to have a bank finance those costs up front with a higher interest rate and a pre-payment penalty clause, they go together. And it would eliminate a whole category of mortgages that would otherwise be available. And as a result, the end result as noted by the Council of New York Cooperatives and Condominiums, they have said the end result will be to eliminate -- to limit the availability of co-op loans, drive up borrowing costs, and deprive co-ops of the certainty of being -- having a negotiable access to the finance markets, all of which is anti-consumer.

And I can't but mention that a bill like this that applies retroactively is both fundamentally unfair and unconstitutional. It's fundamentally unfair because it says to every lender who made a loan with a lower upfront cost and a pre-payment penalty clause, it says to all those retroactively, *We don't care what you negotiated; we, the Legislature, are rewriting your contract.* And

that approach is also unconstitutional because the Federal Constitution is very clear that this Legislature does not have legislative power to impair the existence of an existing contract, to impair the terms and conditions.

So because this legislation is fundamentally unfair to consumers and unfair to banks both, and eliminates consumer choice and consumer opportunities, I will be recommending against it. And I note that last year there were, in fact, 45 no votes, including bipartisan opposition, to eliminating consumer choice, eliminating access to Freddie Mac, Fannie Mae and FHA loans, and likely driving up the cost, upfront cost of these types of loans to the detriment of consumers who don't want to come up with thousands of dollars of closing expenses up front.

Thank you very much, Madam Speaker.

ACTING SPEAKER LUNSFORD: Read the last section.

THE CLERK: This act shall take effect immediately.

ACTING SPEAKER LUNSFORD: The Clerk will record the vote on Assembly Bill 1877. This is a Party vote. Any member who wishes to be recorded as an exception to the Conference position is reminded to contact the Majority or Minority Leader at the numbers previously provided.

Mr. Goodell.

MR. GOODELL: Thank you, Madam Speaker. The Republican Conference is generally opposed to this legislation, but

those who support it can certainly vote in favor of it on the floor or contact the Minority Leader's Office and we will record their vote accordingly. Thank you, Madam Speaker.

ACTING SPEAKER LUNSFORD: Thank you.

Mrs. Peoples-Stokes.

MRS. PEOPLES-STOKES: Thank you, Madam Speaker. Our Majority colleagues will generally be in favor of this piece of legislation; however, should there be those that desire to vote negative, they should feel free to contact the Majority Leader's Office and their vote will properly be recorded. Thank you.

ACTING SPEAKER LUNSFORD: Thank you.

(The Clerk recorded the vote.)

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

(The Clerk announced the results.)

The bill is passed.

Page 16, Calendar No. 92, the Clerk will read.

THE CLERK: Assembly No. A02085-A, Calendar No. 92, Dinowitz, Galef, Cusick, Cymbrowitz, Zebrowski, Englebright, Rozic, McDonald, Fahy, Griffin, Simon, Sayegh, J. Rivera, Hevesi, Abinanti, Ramos. An act to amend the Insurance Law, in relation to providing insurance coverage for colorectal cancer early detection.

ACTING SPEAKER AUBRY: Read the last section.

THE CLERK: This act shall take effect immediately.

ACTING SPEAKER AUBRY: The Clerk will record the vote on Assembly print 2085-A. This is a fast roll call. Any member who wishes to be recorded in the negative is reminded to contact the Majority or Minority Leader at the numbers previously provided.

(The Clerk recorded the vote.)

Mr. Goodell to explain his vote.

MR. GOODELL: Thank you, sir. We all know that colorectal cancer screening is a great preventive measure, and I encourage everyone to consider that procedure. The prep is sometimes unpleasant, but the results of not detecting cancer early is much, much worse. And so I fully support the intent of encouraging more cancer screening.

My concern with this bill is that it states that an individual shall not be subject to a deductible, coinsurance or any other cost sharing for services consistent with this process. And as with the last bill that we had a few minutes ago, we keep getting a series of bills and each one says, *This service shall be without charge or an additional scope of coverage*, and every time we do that we increase the cost to everyone else. And so I think we should be very hesitant by law to eliminate the ability of any insurance company to charge any co-pays or deductibles or any other charge on any particular procedure.

Now, every time we do it by statute we eliminate consumer choice. No longer in New York State can you buy a basic

policy. You can't go to an insurance company and say, *Look, I just want major medical*, which is one reason why insurance rates in the State of New York are amongst the highest in the nation. And if you think about it, in almost any other consumer transaction you can buy the level of coverage you want except here. And for that reason, I vote for consumers to allow them to continue to have a choice about what kind of plan they want and what the premiums should be and so I will be opposing this particular bill. Thank you, sir.

ACTING SPEAKER AUBRY: Mr. Goodell.

MR. GOODELL: Thank you, sir. Joining this obvious trend against this bill is Mr. Montesano who joins me in opposing this bill. Thank you, sir.

ACTING SPEAKER AUBRY: So noted.

Mr. Goodell.

MR. GOODELL: Thank you, Mr. Speaker. Even as we are speaking, the number of no votes has now tripled. Please add Mr. DiPietro to that list.

ACTING SPEAKER AUBRY: So noted, sir.

Are there any other votes? Announce the results.

(The Clerk announced the results.)

The bill is passed.

Page 21, Calendar No. 135, the Clerk will read.

THE CLERK: Assembly No. A03970, Calendar No. 135, Abinanti, Zinerman, Sayegh. An act to amend the Public Health Law, in relation to notifying local officials of the occurrence of certain

emergency situations.

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

MR. ABINANTI: Thank you, Mr. Speaker. This bill would require the County Health Commissioners in the State to notify appropriate local officials and other County Health Commissioners in the event of a health emergency.

ACTING SPEAKER AUBRY: Mr. Goodell.

MR. GOODELL: Thank you, sir. Would Mr. Abinanti yield for a question?

ACTING SPEAKER AUBRY: Sir, will you yield?

MR. ABINANTI: Yes, Mr. Speaker.

ACTING SPEAKER AUBRY: The sponsor yields.

MR. GOODELL: Thank you, Mr. Abinanti. I note that this law would require the Health Commissioner to, quote, "Immediately notify the Chief Executive Officer of each municipality that might be affected and each member of the legislative Body," and perhaps a neighboring county. By the word *immediately*, do you mean like within minutes?

MR. ABINANTI: I think that's a technical term that we'll leave to the interpretation of the local Health Commissioner. We did not put a specific amount of time in because the circumstances will vary from time to time and we want to leave discretion with the local Health Commissioners. We're basically just saying get the word out to all of the local officials so they can be of assistance in

remedying any circumstance that constitutes an emergency situation.

MR. GOODELL: Now almost all of the Upstate counties have an Office of Emergency Management Services headed up, typically, by, you know, highly qualified emergency responders. This would supercede whatever procedures they have, or would be in addition to, correct?

MR. ABINANTI: The way I would read this legislation is that the County Health Commissioner has to give notice, but there's nothing preventing the County Health Commissioner from using the systems that are now in place, including the emergency system.

MR. GOODELL: Now, you would recognize, I'm sure, that sometimes an imminent imperilment to the public health might have nothing to do with the Health Department, it might be an ice storm, snowstorm, wind, flood. How is it -- is there any statutory requirement that the Commissioner of Health actually be notified in such a situation?

MR. ABINANTI: Well, this is under the Public Health Law so we're talking only about imminent imperilment to the public health and safety. That's a determination made by the County Health Commissioner. If the County Health Commissioner, in my judgment, saw any circumstance which is not within his or her jurisdiction but wanted to give notice, then the Health Commissioner could do that; otherwise, the Health Commissioner would not be required to give notice under this statute. You're positing another

circumstance that maybe we want to look at in a different piece of legislation.

MR. GOODELL: Under the Public Health Law, the penalty for violating the Public Health Law, as I recall, is \$2,000 per incident. So are you suggesting under this -- well, not suggesting but if this were passed and went into law, would that be \$2,000 penalty to the Health Commissioner for every individual they fail to immediately notify?

MR. ABINANTI: I think the standards under the Public Health Law as they exist today would govern, but I know of circumstances where, in my own county where this is the law, the Public Health Commissioner failed to give the notice within a reasonable time and was never penalized for it but did get public scorn for failing to follow the law.

MR. GOODELL: You mentioned similar legislation is in play in your county. Am I correct that any county that desires this process is free to enact a local law to implement it?

MR. ABINANTI: Yes, that's true, we did pass it in Westchester County, it was a piece of legislation that I carried. But what was different on this is this is a Statewide law. It's a good idea, it's a good practice, it should be Statewide law, and, it also has something we didn't have in the Westchester law which is the Goodell amendment. Several years ago you suggested that we should not only notify the local people, but the neighboring Health Commissioner and that was an excellent suggestion and so I added that to the legislation,

and so I'm hopeful that we will pass it again today. We passed it three times in the past. But it should be Statewide and it sets a model for those counties that would like to pass it locally in addition to the State law.

MR. GOODELL: So under current law, as you noted, the county has the option by local law to do this. If this were to pass and become law, would a county have an option to opt-out by local law?

MR. ABINANTI: I would think not.

MR. GOODELL: I see. And I appreciate the shout-out, although I would be much more inclined to support this if the only ones that had to be notified were the neighboring counties. Thank you, Mr. Abinanti, for your comments.

Sir, on the bill.

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

MR. GOODELL: In the event of a health emergency, most of us I think believe that our Commissioner of Health should be focusing first and foremost on addressing the imminent health emergency and not be forced by law to immediately notify all the politicians whose jurisdictions might be affected. I should say all the chief elected politicians, all the legislative politicians, or other politicians, because it's not a political issue, it's a health emergency. And I would point out that every county has already in place emergency response plans headed up by a Commissioner or Director

of Emergency Services, and those emergency service plans include not just health emergencies, but anything. Could be flooding, severe storm, ice, loss of power, whatever.

So as my colleague noted, any county in the State of New York who wants to have their Health Commissioner focused on notifying politicians immediately rather than focusing immediately on the health crisis is certainly free to pass such a local law, but I don't think it's appropriate for us in the State Legislature to mandate to every single county how their Health Commissioner should be forced to notify politicians or face a potential fine of \$2,000 for each politician they missed. Let's respect our local governments and allow them to decide, as they have in the past, the most efficient, effective, cost-effective, and safest way to respond to an emergency and not impose our will over and above their will and not give them any options and require their Health Commissioner, under penalty -- under the (inaudible) substantial penalties to be forced to immediately notify politicians rather than focus on the health emergency that is facing his or her county.

Thank you, sir.

ACTING SPEAKER AUBRY: Read the last section.

THE CLERK: This act shall take effect immediately.

ACTING SPEAKER AUBRY: The Clerk will record the vote on Assembly print 3970. This is a Party vote. Any member who wishes to be recorded as an exception to the Conference position is reminded to contact the Majority or Minority Leader at the numbers

previously provided.

Mr. Goodell.

MR. GOODELL: Thank you, sir. The Republican Conference is generally opposed. The members on the floor can certainly vote affirmatively from their desks. Those who are participating remotely, if they desire to support this bill, should call the Minority Leader's Office and we will ensure their vote is properly recorded. Thank you, sir.

ACTING SPEAKER AUBRY: Thank you.

Mrs. Peoples-Stokes.

MRS. PEOPLES-STOKES: Thank you, Mr. Speaker. Majority colleagues will generally be in favor of this piece of legislation; however, as has happened in the past, there may be a few who would choose to vote negatively. Please contact the Majority Leader's Office so that we might properly record your vote.

ACTING SPEAKER AUBRY: Thank you.

Mr. Abinanti to explain his vote.

MR. ABINANTI: Thank you, Mr. Speaker. Thank you, Mr. Speaker. This bill would require that if there is an emergency that imperils public health or safety the local Health Commissioner shall notify a series of officials: One, the Chief Executive Officer of every municipality affected, the member of the legislative Body that represents the area, and the County Health Commissioner of the neighboring county if the emergency would affect the neighboring county. This bill is designed to foster better

communication with our local governments. It's also designed to bring out supplemental health response manpower.

It came about because of a situation in Westchester County where the Health Commissioner failed to notify the Mayor of the local village who learned that there was sewage running down her street. The Health Commissioner contacted the necessary parties in Westchester County to stop the sewage flow, but never bothered to tell the Mayor that she needed her police department out there, she needed her public works people out there, and she needed to tell the community that they should stay indoors until the problem was solved.

This is a -- we passed the bill in Westchester County, it has been working pretty effectively, and we believe that this would be a good Statewide law to protect local governments and local officials where the county government was not cognizant of the need to do this. We don't want to wait for another incident in a county somewhere else and then perhaps for people to be injured before that county wakes up and says, *Hey, we should do this*.

So this legislation will not burden the County Health Commissioners. There are modern means of communications where the County Health Commissioner, in advance, can set up the systems necessary either by e-mail, by telephone, or by fax or by Tweet or by text; all different ways to notify local officials that they should respond. Therefore, Mr. Speaker, in the -- in the interest of fostering public health, in the interest of fostering better communication between our local governments and our county governments, I urge

everyone to vote in the affirmative on this legislation.

ACTING SPEAKER AUBRY: Mrs. Peoples-Stokes.

MRS. PEOPLES-STOKES: Mr. Speaker, if you would please record our colleagues Mr. McDonald, Mr. Magnarelli, Ms. Lupardo, and Ms. Buttenschon in the negative on this piece of legislation.

ACTING SPEAKER AUBRY: So noted --

MRS. PEOPLES-STOKES: Thank you, sir.

ACTING SPEAKER AUBRY: -- thank you.

Are there any other votes? Announce the results.

(The Clerk announced the results.)

The bill is passed.

Page 35, Calendar No. 254, the Clerk will read.

THE CLERK: Assembly No. A07595, Calendar No. 254, Otis, Jacobson. An act to amend the Labor Law, in relation to requiring copies of certain documents physically posted in a workplace to be made available to employees electronically.

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

(Pause)

An explanation has been requested, Mr. Otis.

MR. OTIS: Yes, there was a little delay in unmuting me, but I am here. This legislation amends Section 201 of the Labor Law. This is the section that requires employers to post conspicuously at workplaces the rules provided by the Department of Labor that are

to apprise employees of their rights under the Labor Law and other laws. The legislation before us today would add a requirement that those employers make those same documents available in an electronic form, either through e-mail, if they have a website they can use a website.

The purpose of this really is based upon something that is commonsense. These rights that workers depend upon when there's a situation that the law may affect them that they could be protected, they're posted on indoor locations at workplaces. They're posted at outdoor locations at construction sites. In either case, they're not that well accessible for someone that really wants to look and to see how their rights can be protected, especially in the outdoor locations, it is typical that these kinds of forms are -- disintegrate because of weather, they are not really maintained. They're not really accessible for someone to read carefully.

The simple change in the law would be to make these available electronically, and then someone who has an issue is able to view it at home, blow it up, read the fine print and see whether their rights can be protected under the Labor Law or other health and safety laws.

One of the issues that was raised last year about the bill was a good question, why not just have everyone go get these documents from the Department of Labor website? If you look at the Department of Labor website, you will see that they have many forms, not all of which are required to be posted, so it would be confusing for

some people to go and find the forms that are related to them. Secondly, not all forms apply to every workplace location. Some workplaces require some forms and other workplace locations, they're different forms that apply.

So this is a good -- a good measure, a simple measure, a commonsense measure to make sure that workers have access to the rights that we have provided them in the law.

ACTING SPEAKER AUBRY: Thank you.

Mr. Ra.

MR. RA: Thank you, Mr. Speaker. Will Mr. Otis yield for some questions?

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

MR. OTIS: Of course.

ACTING SPEAKER AUBRY: Mr. Otis yields.

MR. RA: Thank you, Mr. Otis. So I do have a few questions. As you said, I think the bill is somewhat straightforward in terms of -- and simple in terms of its requirements and, obviously, we have been through a time where there's been an increase in remote work and some of that I think we now are coming to understand is probably going to be permanent at some level. So I think it makes sense you take a look at this issue from that perspective and think about maybe rethinking how we do these things.

But I do have some concerns, so let me start with this. This electronic format, whether it's on a website or e-mail to

employees, will not replace the physical posting requirements, correct, it will be in addition to.

MR. OTIS: Correct, and I think that's the right call.

MR. RA: Okay. And I'm not aware of this, but perhaps you are, I know that the Federal government I think late in 2020 put forth some -- some guidance as to under what circumstances -- and, again, this applies to Federal requirements, not our State requirements, but under what circumstances an electronic notice of some of these types of, you know, business posting requirements could be, you know, complied with by -- by electronic means. Do you know if the State has provided any such guidance to the businesses?

MR. OTIS: I'm not aware of that, but I would say that it's an important step that we can take as a State to make sure that workers have this kind of more 21st Century access to this information through the passage of this bill. So regardless of what the Feds may do or not do or undo at some future date, I think this makes sense. I'd also say that had we not had COVID, this bill still makes a lot of sense. And so while COVID added -- and remote work added an additional reason to do this bill, it certainly is not the primary reason to protect workers in this way.

MR. RA: Okay. So what the bill requires is that, you know, these things that are required to be physically posted also be made electronically available. So I think maybe that's more straightforward in an instance where, you know, where you used to write in our offices, we go on and there's kind of an internal page on

the Intranet. So if a business had something like that, could they comply with this by just posting each of these notices on that type of internal web page?

MR. OTIS: Yes.

MR. RA: And then otherwise if they didn't, it would be disseminated by e-mail?

MR. OTIS: That would be the alternative, and we drafted the bill to provide as much flexibility for compliance as possible since not every business is equally equipped to do these different kinds of things. That's how we came upon the language.

MR. RA: Okay. And I know that there may be some requirements that are things that, you know, have to be always posted in a workplace, and other things that, you know, perhaps we require that they just be given out once or maybe periodically to the workforce. So in terms of the situation where they're being e-mailed, is there a particular, you know, time frame we envision that -- would it be upon a new employee coming into, you know, into the employ of a business that they would be provided these? Would we expect that they be provided on, you know, a regular basis be sent out once a year? Any point of clarification there?

MR. OTIS: Well, certainly the initial requirement here is the kinds of notices that are currently required by the Department of Labor, and we also have in there State and Federal, thinking of like OSHA is typically the other kinds of things that get posted. But the -- for non -- this statute relates to notices that are

required under current law to be posted. So if there are other things that people may distribute that are not required notices, they're not covered by this statute.

MR. RA: Thank you very much, Mr. Otis.

Mr. Speaker, on the bill.

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

MR. RA: Just quickly, and I think we're all familiar with this in workplaces and some of these, you know, different types of posters. Some of them are about, you know, job safety and health, you know, unemployment insurance. But I think over the years we have expanded the number of these to a point that the physical posting really becomes a little bit of, you know, maybe an overwhelming thing to look at and to look for information that might be relevant to a particular employee when they have an issue. Our Department of Labor currently requires employers to hang over 20 posters regarding employee rights and employer obligations. That doesn't include other State agencies or signage required by OSHA.

So there are a lot of these things and I think that rethinking how we do this does make sense, but I think perhaps we might want to think about providing a level of flexibility where there are instances where maybe they don't need to hang all these things and maybe use an electronic means as a replacement from hanging. There may be some that we think are appropriate that need to be hung, as well, on the wall where people can see them on a regular basis, but it is these types of little things that become, you know, mandates on our

small businesses and potential for, you know, a, in particular, a very small business to completely inadvertently make a mistake and not provide something that we're legally asking them to provide.

So I think if we're going to do something like this, you know, we have to make sure that the resources, you know, and the Department of Labor whether it's on their website or wherever are kind of clear and kind of given our businesses kind of a turnkey system where everything that they would need to provide is right in one place so that they can direct their employees there or, you know, just download the packet of materials and disseminate it to their employees, because it does -- it does get to a point that, you know, a very small employer, say you have one or two employees and say you're a type of business that everybody pretty much has been working remotely and may continue to in the future, it just doesn't make sense to -- to duplicate those things when they can just be disseminated in one form or the other.

So with that said, I certainly understand what we're trying to accomplish here, but I do think that many may have opposition and vote in the negative on this particular piece of legislation because it does just put another mandate on our -- on our businesses. Thank you, Mr. Speaker.

ACTING SPEAKER AUBRY: Read the last section.

THE CLERK: This act shall take effect immediately.

ACTING SPEAKER AUBRY: The Clerk will record the vote on Assembly print 7595. This is a Party vote. Any member

who wishes to be recorded as an exception to the Conference position is reminded to contact the Majority or Minority Leader at the numbers previously provided.

Mr. Goodell.

MR. GOODELL: Thank you, Mr. Speaker. The Republican Conference is generally opposed to this legislation. Those who wish to vote for it can do so here on the floor or by contacting the Minority Leader's Office and we will record your vote accordingly. Thank you, sir.

ACTING SPEAKER AUBRY: Thank you.

Mrs. Peoples-Stokes.

MRS. PEOPLES-STOKES: Thank you, Mr. Speaker. Majority colleagues will generally be in favor of this piece of legislation; however, there may be a few who desire not to. If so, please contact the Majority Leader's Office and we will properly record your vote.

ACTING SPEAKER AUBRY: Thank you ma'am.

MRS. PEOPLES-STOKES: Thank you, sir.

(The Clerk recorded the vote.)

MRS. PEOPLES-STOKES: Mr. Speaker, if you could record our colleagues Ms. Buttenschon and Mrs. Gunther in the negative on this piece of legislation.

ACTING SPEAKER AUBRY: So noted, thank you.

Are there any other votes? Announce the results.

(The Clerk announced the results.)

The bill is passed.

Mrs. Peoples-Stokes.

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

ACTING SPEAKER AUBRY: No housekeeping, but we do have resolutions, one we will offer, Resolution No. 634, the Clerk will read.

THE CLERK: Assembly Resolution No. 634, Mr. Stern.

Legislative Resolution celebrating the life and legacy of Clark Gillies, New York Islanders legend and Hockey Hall of Famer.

ACTING SPEAKER AUBRY: Mr. Stern on the resolution.

If you can turn up your mic, I can hear you.

Mr. Brown on the resolution.

MR. BROWN: Thank you, Mr. Speaker.

ACTING SPEAKER AUBRY: We switched up, thank you.

MR. BROWN: I rise today and I appreciate my colleague from Huntington, Mr. Stern, yielding the time and for the opportunity to speak, it's a -- on this privileged resolution. It's an honor and a privilege to rise today to celebrate the life of my friend and former Islander great Clark Gillies. Clark was not only a Hall of Fame hockey player and a key member of the New York Islander

Stanley Cup dynasty years from 1979 to 1984 which brought four Stanley Cup Championships to Long Island, but as good an athlete and a hockey player he was, Clark Gillies was an even better human being.

Before the first puck dropped at the Islanders game against the Toronto Maple Leafs at UBS Arena on Saturday, January 22nd of this year, a moment of silence was held to pay tribute to No. 9. A native of Moose Jaw, Saskatchewan, Canada, Clark Gillies played three years of Minor League Baseball in the Astros system prior to being selected by the New York Islanders in the first round, fourth overall, of the 1974 NHL Entry Draft. And throughout his incredible career with the New York Islanders from 1974 to 1986, Clark played in 872 games, fifth all-time in franchise history; scoring 304 goals, fourth all-time in franchise history; and 359 assists, fifth all-time in franchise history, for 663 points; fourth overall in franchise history. He defined the position of power forward.

Clark Gillies also played 159 playoff games for the Islanders, scoring 47 goals and 46 assists for 93 points. He was one of 17 Islander players that won four Stanley Cup Championships, and was a member of the group which set the NHL record for 19 straight playoffs series wins. In 1978, Clark Gillies represented the Islanders at the 1978 NHL All-Star Game, and was named to the NHL first All-Star Team in both 1978 and 1979. From 1986 to 1988, Clark Gillies also played for the Buffalo Sabres before retiring after a superlative career spanning some 14 years.

In honor of his many accomplishments and contributions to the sport of hockey and his beloved Islanders, Clark Gillies was inducted into the NHL Hall of Fame. His number, 9, was retired on December 7th of 1996, and his banner now hangs proudly in UBS Arena in Belmont, New York. A gentle giant on the ice, Clark Gillies was a tremendous presence who protected his teammates. Clark Gillies will be missed -- missed, excuse me, by people all across Islanders Nation, and the State of New York for not only his athletic prowess and dedication to his community, but also for his passion and his zeal for life. His kind heart, his engaging humor, his warm smile and his uncanny ability to regale his audiences with his captivating storytelling.

Clark Gillies was ever present at Islander big games and was a mentor to many young players. A gifted athlete, Clark Gillies was a renowned role model in the sport of professional hockey. His character and achievements stand as a sterling example and inspiration to all who aspire to success. Clark is survived by his beloved wife, Pam, who is also a native of Moose Jaw, Saskatchewan, and his three daughters.

As a young man, my family shared season tickets to the Islanders during those Stanley Cup years, and I was fortunate to get to know Clark personally. I was recently with him back in November. We were at a charity fundraiser and we talked about the upcoming Olympics. I, along with many people in the Huntington area, wept when we learned of his passing in January because of the

hole left in our hearts by this great man. I quote, "If the measure of a man is in the lives he touched, then Clark Gillies certainly left this Earth a much better place." Thank you so much, Mr. Speaker. I yield back to Mr. Stern.

ACTING SPEAKER AUBRY: (Inaudible/mic not on)

MR. RA: Thank you, Mr. Speaker, on the resolution quickly, and I thank my colleagues for the opportunity to just share a few words. I'm privileged to represent the district where the Nassau Veterans Memorial Coliseum still sits, even though it's no longer the Islanders' home, but it's the building where Clark Gillies and his teammates won four Stanley Cups in the early 1980s. And having had the, you know, privilege of growing up an Islander fan during some lean years that followed those Stanley Cups, it was ever present what that team did and what people like Clark Gillies did during that run. And it's really unprecedented and it hasn't been matched since. They not only won four straight Stanley Cups, but they got to the Finals the fifth year. And Clark Gillies was a huge part of that. And hockey was a little different back then in terms of it's always been a tough sport, but back then, boy, was it a tough sport. You -- you needed guys on your team that both had the skill but the toughness, and Clark Gillies was one of those guys that didn't hesitate, as my colleague said, to stick up for his teammates. He kind of cemented that reputation during that first Stanley Cup run, famously fighting Terry O'Reilly multiple times, of the Boston Bruins.

And I did have the opportunity to be there years ago in the Coliseum the night his number was retired and I had the opportunity to meet him on a couple of occasions, because he was always around the Islanders, and I remember talking with him a little bit on the day that the Islanders had their first game back at the renovated Nassau Coliseum a few years ago. But like -- like my colleague, Mr. Brown, said, not only was he a great Hall of Fame hockey player, but in his post-career he really was dedicated to his community, raising money, trying to help children and trying to help the local hospitals and I know had a direct impact on my colleagues, you know, in the Huntington area because of all the work he did there.

And I was actually at the Islander game the night he passed and, you know, people were walking out and words started to spread about what happened and it really, I mean, it was like all of a sudden, you know, normally you're walking out of a sporting event, there's a lot of chatter and noise, all of a sudden you could hear a pin drop because many people had lost a hero that night. But our community on Long Island lost more than a hockey player, they lost a friend and somebody who was dedicated to making his adopted home a better place.

So I'm glad we're here honoring his life and legacy. I send my condolences to his family and I hope that all of the lives that he touched will continue his legacy. Thank you, Mr. Speaker.

ACTING SPEAKER AUBRY: Thank you, sir.

And now Mr. Stern.

MR. STERN: Thank you. Thank you, Mr. Speaker, and thank you to my colleagues for their moving words. You know, if you were around our age growing up at that time, you knew what Clark Gillies and the New York Islanders meant to -- meant to our entire community. Clark Gillies was tremendous, a giant on the ice, but he was a star in our Long Island community long after he had hung up his skates. He established the Clark Gillies Foundation to support children who were physically, developmentally, financially challenged. And he was always working hard to improve quality of life for so many of the most vulnerable in our entire community, with 100 percent of the proceeds that were raised over many, many years going towards those efforts. The Huntington Hospital Pediatric Unit was named after Clark Gillies and his Foundation, which raised over \$1 million to help fund the construction of the unit. And the Clark Gillies Foundation also created Brianna's Cub Room within the Clark Gillies Pediatric Unit, and the Clark Gillies Pediatric Emergency Room, which is staffed and equipped specifically for children in need.

Clark Gillies was also a long-time board member and honoree of the town-wide fund of our hometown of Huntington and raised so much funds and awareness and outreach efforts for countless charities all across Long Island. Mr. Speaker, not just for his accomplishments on the ice, but I'm sure we all agree much more importantly as an example to us all what can be accomplished in later life and continue to make such an impact in our home communities. Clark Gillies leaves behind a tremendous legacy which will long

endure. Thank you.

ACTING SPEAKER AUBRY: Thank you.

On the resolution, all those in favor -- oh, I'm sorry.

Mr. Fitzpatrick.

MR. FITZPATRICK: Thank you, Mr. Speaker. I also would just like to lend my voice in support of this resolution. While I did not know Clark Gillies personally, I was in his company many, many times at fundraisers and events, most recently at the ribbon cutting for the new UBS Arena and where I sat right behind him and spoke of the memories of what they called the barn, the old barn, which was the Nassau Coliseum. He was a gentleman. He was an amazing hockey player, an amazing human being as my colleagues have just mentioned.

But you know, he -- watching him over those four great years, the Dynasty years of the Islanders, and I had great seats back then right up along the boards, and nobody hit his opponent to the boards harder than Clark Gillies. But you know, as he got toward the end of his time with the Islanders, you know, you know, shoulder aches from all the checking, you know, the knees hurt from all the skating, the slap shot, you know, has a little bit of its edge with time has gone, so he ended up -- at least he stayed in New York State and he finished his career in that hockey desert known as Buffalo, New York.

(Laughter)

But we're very proud that he did spend his entire

career in New York State, but he was an amazing player, amazing human being and he will be missed. Thank you very much, Mr. Speaker.

ACTING SPEAKER AUBRY: Thank you.

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

We have numerous other fine resolutions, we will take them up with one vote. On the resolutions, all those in favor signify by saying aye; opposed, no. The resolutions are adopted.

(Whereupon, Assembly Resolution Nos. 635-639 were unanimously approved.)

Mrs. Peoples-Stokes.

MRS. PEOPLES-STOKES: Mr. Speaker, if you would please call on Ms. Hunter for the purposes of an announcement.

ACTING SPEAKER AUBRY: Ms. Hunter for the purpose of an announcement.

MS. HUNTER: Yes, Mr. Speaker. There will be a need for an immediate Majority Conference at the adjournment of our Session.

ACTING SPEAKER AUBRY: Immediate Majority Conference at the end of Session.

Mrs. Peoples-Stokes.

MRS. PEOPLES-STOKES: Mr. Speaker, I now move that the Assembly stand adjourned and that we reconvene at 9:30 a.m., Thursday morning, March the 10th, tomorrow being a

Session day.

ACTING SPEAKER AUBRY: The Assembly stands adjourned.

(Whereupon, at 2:53 p.m., the Assembly stood adjourned until Thursday, March 10th at 9:30 a.m., Thursday being a Session day.)