

MONDAY, APRIL 11, 2011

3:52 P.M.

ACTING SPEAKER P. RIVERA: 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 members in the Pledge of Allegiance.

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

A quorum being present, the Clerk will read the Journal of Friday, April 8th.

Mr. Canestrari.

MR. CANESTRARI: Yes, sir, I move to dispense with

the further reading of the Journal of Friday, April 8th, and ask that the same stand approved.

ACTING SPEAKER P. RIVERA: Without objection, so ordered.

Mr. Canestrari.

MR. CANESTRARI: In terms of the schedule for today, my colleagues and guests, the members have on their desks the main Calendar and the A-Calendar. I move at this time to advance the A-Calendar.

ACTING SPEAKER P. RIVERA: Without objection, the A-Calendar is advanced.

MR. CANESTRARI: We will do some introductions and any housekeeping that you may have at the desk, but the main work of the day will be to take up the Pay Equity Package, the bills dealing with that subject led by our colleague, Ellen Jaffee. We will begin with the resolution on this matter on page 3 of the main Calendar and then we will go to Rules Report No. 25 on the A-Calendar, again, by Ms. Jaffee and take up, at that point in time, Rules Report Nos. 21 and 24 and Calendar No. 165 on the main Calendar. We will then take up Rules Report No. 2 on the main Calendar which is the Omnibus Rent Stabilization bill by our colleague, Vito Lopez.

So beginning with the Pay Equity Package of bills, Ms. Jaffee and then the Rent Stabilization bill by Mr. Lopez. Majority members should note there will be a Majority Conference once the activity has been concluded. So with that, if there are introductions and

housekeeping, we will begin with those.

ACTING SPEAKER P. RIVERA: Mr. Canestrari.

MR. CANESTRARI: Mr. Speaker, as most of the colleagues know, we have 35 guests who are here in the Chamber who are shadowing different members of the Assembly sponsored by an organization known to all of us. Before I introduce those individuals, I'd like you to just mention to Amy Paulin -- to defer to Amy Paulin, and she is going to frame the issue on behalf of the organization sponsoring this activity today. Thank you.

ACTING SPEAKER P. RIVERA: Ms. Paulin.

MS. PAULIN: Thank you very much, Mr. Speaker. It is my pleasure to acknowledge the presence of the League of Women Voters of New York State in the Chamber today. As a nonpartisan activist organization, the League advocates for more efficient, fair and transparent government, but the most important function of the League is to encourage well-informed citizen participation and policy.

This week the League has brought together high school students from across the State to participate in a program called Students Inside Albany. At this conference young people are taught about the legislative process, political activism and the functions of government. It's a unique opportunity to get young people interested in political involvement and in public service as a career path and I can tell you that as a former Vice President of the New York State League, President of the Westchester County League and President of my local league, that it's the exact reason and career path that took me here to this Chamber today.

So, with that, I'm going to turn it back over to our very capable and able Majority Leader who is going to introduce our individual students.

ACTING SPEAKER P. RIVERA: Mr. Canestrari.

MR. CANESTRARI: Yes, Mr. Speaker; thank you, Amy. In no particular order, we start with Dana Mancini assigned to our colleague George Amedore; Amanda Drake assigned to Marc Butler; Jessie Pauli assigned to our colleague Kevin Cahill; Peter Scelfo assigned to Jim Conte. Also, Schuyler Berland, also, assigned to Jim Conte; Kevin Dugan assigned to Tom Curran; Abby LaDue assigned to Janet Duprey; Thomas Colenn-Peer assigned to Christopher Friend; Kabree Saunders-Bethea assigned to our colleague Earlene Hooper; Tanasia Davis also assigned to Earlene Hooper; Erika Panzarino assigned to Stephen Katz; Shyasha Spencer assigned to the Minority Leader Brian Kolb; Ana Villasenor assigned to our colleague George Latimer; Patrick LaBuff to Barbara Lifton; Brooke Littlefield to our colleague Peter Lopez; two individuals assigned to Bill Magee, Caroline Marshall, Molly Pearlman, three, actually, and Spencer Sherry with Bill Magee; Alyssa Micheli assigned to Tom McKevitt; Jamie Rosen assigned to Steven McLaughlin; Tenacious Jackson assigned to our colleague Joe Morelle; Jacob Plyter to Bob Oaks; Amy Paulin has two individuals, Claudia Benitez and Leah Goldman; and Kiera Grant assigned to our colleague Crystal Peoples-Stokes; Yvonne Morel assigned to Audrey Pheffer; Lin Yuan to our colleague Bob Reilly; Teresa Sayward has two individuals, Emily Michienz and Ryan Montgomery; and Michelle Schimel has three, as well, Andrew Gelfand, Emily Rosenthal, Michael Schweitzer; and the

Speaker has himself been assigned Katie Murphy; Jim Tedisco was assigned Joshua Goldstein and Alexa Salazar assigned to our colleague Harvey Weisenberg. As I said, 35 young people shadowing our members in the Chamber today and I understand they're going to the Senate tomorrow. A word of welcome on behalf of all of our colleagues, those that participated in the program, a thank you to the League and a welcome to these 35 young individuals. Thank you.

(Applause)

ACTING SPEAKER P. RIVERA: Congratulations to each and every one of you. Again, congratulations to each and every one of you. You have a tremendous head start and that head start is working here, working in government, finding out how government works, how it operates, meeting your local legislators, your State legislators and trying to fathom what your next step is. So on behalf of Ms. Paulin, Mr. Canestrari, the Speaker and all my colleagues, we salute each and every one of you and welcome you to the floor and extend the privileges of the floor to you. Thank you for being with us here today.

(Applause)

Mr. Raia.

MR. RAIA: Thank you, Mr. Speaker, for allowing me to interrupt the proceedings of the House. I rise for the purpose of an introduction. I would like to introduce Christin Griskie from Centerport. And there's a lot of not-for-profits helping our troops overseas, supplying much-needed goods to go over, toiletries, things that they're lacking, but Christin runs a not-for-profit called the Golden Soldier Project and

essentially what she supplies are hugs on paper for our troops. Christin works with 1,600 students on Long Island and she's worked with students in Michigan and Ohio in having them do drawings, paintings, various things that then get bound into books and the books get delivered overseas to our brave men and women sacrificing their lives, so they know that our children, our students are aware of the sacrifices that they are making and she has countless supporters, she has countless thank you letters and she is truly one of the hardest working people I know who works on behalf of lifting the spirits of our brave men and women overseas.

Mr. Speaker, I would really appreciate it if you would offer her all the courtesies of the House. She's really doing some great work enlightening kids, letting them know what's going on overseas, what our troops are faced with and she really is a terrific person. Thank you.

ACTING SPEAKER P. RIVERA: Thank you for being with us here today and for bringing sunshine both in the school system and overseas. I think it's such important work to have that kind of linkage. So on behalf of Mr. Raia, the Speaker and all my colleagues, we salute the work that you do and we are grateful as the country is grateful for the work that you do. Of course, we extend the privileges of the floor to you. Thank you for being with us here today.

(Applause)

Mr. Lopez for an introduction.

MR. V. LOPEZ: I would like to ask for a warm greeting

to a young student who is also a pre-law major. He's here from the Dominican Republic. He's spent the last five or six summers in New York City and in Brooklyn getting involved in community activities and local politics. His father sent him here. He wants him to learn how we do things so well and then he's going to go back to the Dominican Republic and in a number of years is supposed to be the president and the head of the Dominican Republic. Could you give Miguel Suarez who is with his adopted godfather, Senator Martin Dilan, the warm greetings of the House, Miguel Suarez.

ACTING SPEAKER P. RIVERA: Gladly, Mr. Lopez. It's nice to see president material, so Mr. Suarez, thank you for being with us here today. I salute Assemblymember Lopez for bringing you here and, of course, my colleague, Senator Dilan. On behalf of the Speaker and all my colleagues, welcome to the floor, please enjoy the privileges of the floor while you're here. Thank you for being with us here today.

(Applause)

We will proceed to the resolutions on page 3, privileged resolution by Mr. Hoyt, the Clerk will read.

THE CLERK: Resolution No. 364.

Legislative resolution, memorializing Governor Andrew M. Cuomo to proclaim April 17-23, 2011, as Shaken Baby Syndrome Awareness Week in the State of New York.

WHEREAS, Statistics compiled by the federal government show that 702,000 children were victims of abuse and neglect in the United States in 2009, including 77,620 children in New

York State; and

WHEREAS, Acts of abuse and neglect by those entrusted with the care of children cause unspeakable pain and suffering to our most vulnerable citizens; and

WHEREAS, On an average day in the United States, four children who are victims of abuse and neglect die; and

WHEREAS, Children younger than one year of age accounted for 46 percent of all child abuse and neglect fatalities in 2009, and children younger than four years-old accounted for approximately 80 percent of such fatalities in 2009; and

WHEREAS, The most recent statistics available from the New York State Department of Health also demonstrate that homicide was a leading cause of death due to injury for children under the age of one; and

WHEREAS, The leading cause of death of abused children is abusive head trauma, including the trauma known as Shaken Baby Syndrome; and

WHEREAS, On average 1,200 to 1,400 children in the United States are diagnosed every year with Abusive Head Trauma, including Shaken Baby Syndrome, and medical experts believe thousands more cases are likely misdiagnosed or undetected; and

WHEREAS, Shaken Baby Syndrome and other inflicted head trauma occurs when a caregiver loses control and shakes a baby or young child, most frequently less than one year of age but in some cases as old as five years of age, resulting in loss of vision, brain damage,

paralysis, seizures, or death; and

WHEREAS, Shaken Baby Syndrome often causes permanent, irreparable brain damage or death to an infant, and may result in more than a million dollars in medical and rehabilitation costs for the care of a single disabled child during the first few years of life; and

WHEREAS, It is estimated the taxpayers of the State of New York may, through the State Medicaid program, pay as much as 41% of the medical and rehabilitation costs that result from shaking injuries; and

WHEREAS, The national cost of child abuse is estimated by Prevention Child Abuse America as more than \$92 billion a year, and the cost of child abuse in New York State is estimated to exceed \$3 billion a year; and

WHEREAS, It appears that substantial medical evidence indicates even mild trauma to the brain caused by Shaken Baby Syndrome is likely to cause learning disabilities in children and substantially increase the risk of substance abuse; and

WHEREAS, The most effective way to end Shaken Baby Syndrome is by educating parents and caregivers about the danger of shaking children and providing the skills needed to cope with frustration and anger, and it is clear the minimal costs of educational and preventive programs may avert enormous medical and disability costs and untold grief for many families; and

WHEREAS, Awareness and prevention programs, such as the nationally recognized Upstate New York Shaken Baby Syndrome

Prevention Project developed by Dr. Mark Dias with the support of the New York State Children and Families Trust Fund, have been shown to raise awareness and provide critically important information about Shaken Baby Syndrome to parents, caregivers, daycare workers, child protection employees, law enforcement personnel, health care professionals, and legal representatives; and

WHEREAS, These prevention efforts are supported by national groups such as the Shaken Baby Coalition and the National Center for Shaken Baby Syndrome, and New York State groups such as the Hudson Valley SBS Prevention Initiative, the Upstate New York SBS Prevention Project, The SKIPPER Initiative, and the Cynthia Gibbs Foundation, whose mission is to educate new parents and caregivers, increase awareness among the general public and professionals, and encourage increased support for victims and their families in the health care and criminal justice systems; and

WHEREAS, The New York State Legislature enacted legislation in 2001 requiring hospitals to include information about Shaken Baby Syndrome in the maternity information pamphlet provided to all persons registering for maternity services; and

WHEREAS, The New York State Legislature enacted legislation in 2003 requiring all new child care providers to receive education about the causes, consequences and prevention of Shaken Baby Syndrome before they are licensed to care for children; and

WHEREAS, The New York State Legislature enacted legislation in 2004 requiring all hospitals and birthing centers offer new

parents the opportunity to watch a video about the causes and consequences of Shaken Baby Syndrome and ways it can be prevented so they can help protect their child from shaking injuries; and

WHEREAS, The New York State Legislature enacted legislation in 2006 requiring the Health Department coordinate a statewide prevention campaign that educates the public about the causes and consequences of Shaken Baby Syndrome and how it can be prevented, and that the Education Department provide a curriculum on Shaken Baby Syndrome to schools so students, who not only may be parents some day, but who may now be baby- sitting for young children, are educated about the danger of shaking children; and

WHEREAS, The State of New York Legislature wishes to commend those advocates, organizations and agencies of State, county and local governments which work tirelessly throughout the year to educate parents and caregivers about the causes, consequences and prevention of Shaken Baby Syndrome and other inflicted injuries; now, therefore, be it

RESOLVED, That this legislative Body pause in its deliberations to memorialize Governor Andrew M. Cuomo to proclaim April 17-23, 2011, as Shaken Baby Syndrome Awareness Week in the State of New York; and be it further

RESOLVED, That a copy of this Resolution, suitably engrossed, be transmitted to The Honorable Andrew M. Cuomo, Governor of the State of New York.

ACTING SPEAKER P. RIVERA On the resolution, all

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

Privileged resolution by Ms. Jaffee and Mr. Silver, the Clerk will read.

THE CLERK: Resolution No. 365.

Legislative resolution memorializing Governor Andrew M. Cuomo to proclaim April 12, 2011, as Equal Pay Day in the State of New York.

WHEREAS, Almost 50 years after the passage of the Equal Pay Act and Title VII of the Civil Rights Act, women, especially minority women, continue to suffer the consequences of unequal pay; and

WHEREAS, According to the U.S. Census Bureau, year-round, full-time working women in 2009 earned only 77% of the earnings of year-round, full-time working men, indicating little change or progress in pay equity; and

WHEREAS, The Lilly Ledbetter Fair Pay Act was signed into law, amending Title VII of the Civil Rights Act and now we must pass The Paycheck Fairness Act, which amends the Equal Pay Act by closing loopholes and improving the laws' effectiveness; and

WHEREAS, Wage disparity persists across all educational levels and in all states, as women with a college degree or higher lose \$713,000 over a 40-year period versus a \$270,000 loss for women who did not finish high school; and

WHEREAS, Over a working lifetime, this wage disparity costs the average American woman and her family an estimated

\$700,000 to \$2 million in lost wages, impacting Social Security benefits and pensions; and

WHEREAS, Fair pay equity policies can be implemented simply and without undue costs or hardship in both the public and private sectors; and

WHEREAS, Fair pay strengthens the security of families today and eases future retirement costs, while enhancing the American economy; and

WHEREAS, In female-dominated fields, wages have traditionally been depressed and continue to reflect the artificially suppressed pay scales that were historically applied to so-called "women's work"; and

WHEREAS, Tuesday, April 12, 2011, symbolizes the time in the new year in which the wages paid to American women catch up to the wages paid to men from the previous year; now, therefore, be it

RESOLVED, That this legislative Body pause in its deliberations to memorialize Governor Andrew M. Cuomo to proclaim April 12, 2011, as Equal Pay Day in the State of New York, recognizing the full value of women's skills and significant contributions to the labor force, and to further encourage businesses to conduct an internal pay evaluation to ensure women are being paid fairly; and be it further

RESOLVED, That a copy of this Resolution, suitably engrossed, be transmitted to The Honorable Andrew M. Cuomo, Governor of the State of New York.

ACTING SPEAKER P. RIVERA: On the resolution,

Ms. Jaffee.

MS. JAFFEE: Thank you, Mr. Speaker. As Chair of the Assembly's Task Force on Women's Issues, I have the honor of introducing this resolution which memorializes Governor Andrew Cuomo to proclaim April 12, 2011 as Equal Pay Day in the State of New York recognizing the full value of women's skills and significant contributions to the labor force and to encourage businesses to conduct an internal pay evaluation to ensure women are paid fairly.

Now, the date April 12th has significance. In April, generally, it symbolizes the time in the new year in which the wages paid to American women catch up to the wages paid to men from the previous year. We also will be discussing and be introducing a legislative package which aims to end gender-based pay discrimination in the workplace; in other words, eliminating job title pay inequities. It has been nearly five decades since President Kennedy signed the Equal Pay Act into law making it illegal for employers to pay unequal wages to men and women who hold the same job and perform the same work. Yet, unequal pay still exists because job titles held predominantly by women and people of color have been underpaid due to historic discrimination.

As we commemorate National Pay Equity Day, it is critical that we continue to work on correcting the injustices associated with pay inequity and put an end to unfair and discriminatory wage practices now. I look forward to an interesting conversation and discussion on these very important pieces of legislation. Thank you, Mr. Speaker.

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

We will proceed to the A-Calendar on page 3, Rules Report No. No. 25, the Clerk will read.

THE CLERK: Bill No. 6448, Rules Report No. 25, Jaffee, Lifton, Millman, Galef, Colton, Clark, Rosenthal, Weprin, Stevenson, P. Rivera, Destito, Farrell. An act to amend the Civil Service Law, in relation to making it a discriminatory practice for public employers to compensate employees of different sexes differently for work that is of comparable worth.

ACTING SPEAKER P. RIVERA: An explanation has been requested, Ms. Jaffee.

MS. JAFFEE: Thank you, Mr. Speaker. This bill would make it a discriminatory practice for public employers to compensate employees of different sexes differently for work that is of comparable worth.

ACTING SPEAKER P. RIVERA: Mr. Conte.

MR. CONTE: Thank you, Mr. Speaker. Would Ms. Jaffee yield for a couple of questions, please?

ACTING SPEAKER P. RIVERA: Ms. Jaffee.

MS. JAFFEE: Certainly, Mr. Speaker.

MR. CONTE: Thank you. Does this legislation define comparable worth?

MS. JAFFEE: The bill would require public employers

to compare jobs or job titles that predominantly employ one gender to job titles that predominantly employ the opposite gender to see if the pay rate is comparable. This bill would require such employers to compare job titles or classes of jobs based on the skills, education, difficulty, responsibilities and other factors required for the different jobs to see if any difference in compensation is based on gender.

MR. CONTE: Okay. But in this piece of legislation that we have in front of us, comparable worth is not defined as you just said that.

MS. JAFFEE: Well, it's in Section 1.

MR. CONTE: I see Section 1, and I don't see anywhere where there is a description of comparable worth and if it's not in this bill, is the definition of comparable worth set out in statute in other portions of the law in New York State?

MS. JAFFEE: Well, in Section 1 it does say, "...comparable worth is measured by the skill, effort and responsibility normally required in the performance of work and the conditions under which the work is normally performed."

MR. CONTE: Okay. And what does that mean?

MS. JAFFEE: Well, what it means is that the job -- the comparable worth looks at the value of women's jobs compared to those of men who perform work that is dissimilar, but of equivalent or comparable worth to the employer. Jobs that are different but require similar skills, amount of effort, working conditions and level of responsibility are considered comparable. The comparisons are made on

employer evaluations of what is required to qualify for and perform the jobs. Jobs that are the same and have the same title, require the same skills, effort and level of responsibility are considered equal.

MR. CONTE: Right. And I would agree with that, that there should be equal pay for equal work and that is already the law of this nation and the law of this State, and I'm looking at the definition of comparable worth, and I don't see a true definition that would tell employers which you're asking now -- if I may just ask a question, you're asking now that this particular comparable worth definition be applied in every single public, municipal jurisdiction and throughout New York State?

MS. JAFFEE: Well, first of all, just in the first part of your question, the Equal Pay Law of 1963 and subsequent laws, legal findings in legislation do not account for comparable worth. Jobs that are traditionally done by women and people of color have been systematically undervalued in the marketplace and the net result is that these jobs are paid less than comparable jobs with the same level of skills and responsibilities, but commonly held by white men. For example, the food servers, nurse, maintenance, dispatchers, supply clerk, a variety of different jobs can clearly be seen as being different and actually, all public employers have jobs where the experience, education and skill requirements have been set by Civil Service and all the employers know what their compensation is for different job titles, so these are resources and information for public employers to use to be able to compare jobs and qualifications for these jobs and whether discrimination is occurring.

The State of Minnesota and the Provincial Governments in Canada actually are doing it. Human resources professionals have developed tools to do this analysis. This is not a new concept. As a matter of fact, in New York about 20 years ago, New York State undertook such a study of its workforce and discrimination was found and the Executive made adjustments to the salaries to correct the discrimination. So, this is not something that is impossible to do, but something that has already been done before in terms of pay equity, so now it's really quite easy to move forward with this kind of issue.

MR. CONTE: And I understand, but what you're talking about is, in reality, a theory, but when the Civil Service Departments throughout our counties, when our Human Relations departments and our towns and villages are going to have to go back there, there is absolutely nothing, I believe, in this particular statute that can give them any definition of what comparable worth is. And my question, for that reason, is because if they don't have any guidance from this Legislature, you're just stating -- there's a perception out there what comparable worth should be or cannot be or is it not equal pay, but what is equal pay and my problem that we're going to have with this is that the H.R. people aren't going to decide this, you know, Civil Service is not going to decide this, but it's going to be litigated and the lawyers and the courts are going to begin to decide this. So, I'm wondering why you have not given a true -- what this Legislature feels is a definition of comparable worth.

MS. JAFFEE: Well, this will differ from job to job and the comparable worth is going to be measured through issues such as

skill, effort, responsibility and conditions under which the work is normally performed, and it's going to be determined and, you know, we're going to give it the opportunities for the local municipalities and State Civil Service Commissions, city and county municipalities, they're going to be able to review all these issues and make determinations for each of the job conditions.

MR. CONTE: But isn't it true, if you will continue to yield, isn't it true that is the job of the Civil Service departments now is to go back and look at the skill sets that are involved, the responsibilities that are normally required in the performance of the work, conditions of the workers normally performed and then create a category of positions that are available out there whether it's landscaper 1, landscaper 2 or supervisor? Those are already set in law as we have them right now and I feel what is going to open up is just your definition of comparable worth is going to be different from the Town of Huntington's definition of comparable worth to the County of Nassau's definition of comparable worth and I think we're going to have a hodgepodge and I think we're opening up to a litigation in this State that is going to be unprecedented.

MS. JAFFEE: Well, each of these geographic areas will be able to review their very own community, their staff and be able to consider the comparable jobs and each area, you know, can be very, very different. Discrimination must occur within the employ of a public employer. Workers in different jurisdictions, for example, such as two towns or two cities or counties under different public employers do not work for the same employer so these pay differences would not be

addressed in the bill. So different municipalities would address it differently. State employees often receive pay differences from working in different geographic locations. If State workers are working in the same job in different locations and receiving different pay, that is an equal pay for equal work issue and would be covered by Federal law, but Section 1 of this bill addresses geographic disparities with the phrase, "Conditions under which the work is normally performed." So a job in Watertown, for example, may be similar to a job in New York City, except some of the work conditions may be different. As long as the level of pay between -- level of pay for any purpose such location is not -- sorry. As long as the level of pay between the different personnel in such location is not related to gender, that difference -- the differences are acceptable under the bill. So different locations can determine different pay scales based on the Civil Service department, the Human Resources department that do make that decision.

MR. CONTE: Thank you, Ms. Jaffee.

On the bill, Mr. Speaker.

ACTING SPEAKER P. RIVERA: On the bill.

MR. CONTE: The Federal Pay Act of 1963 requires employees of both sexes to receive equal pay for equal work. The Federal Civil Rights Act of 1964 prohibits discrimination on the basis of sex, race, national origin in all times of employment. We have Civil Service laws in this State that are vigorously upheld here not only by our unions, by management and, if so, by the courts.

I want to read the definition that the sponsor gives us of

comparable worth and it's not really a definition because it's almost like in a run-on sentence. "It shall be unlawful discriminating practice for any public employer in this State to discriminate between employees and its employee on the basis of sex." I agree. "By compensating any employee in any occupation at a salary or rate less than the salary or rate which another employee of the opposite sex are compensated for positions or titles." And it goes on. "...which have comparable worth as measured by skill, effort and responsibility normally required in the performance of work and the conditions under which the work is normally performed."

I basically feel that that definition is woefully inadequate if we are going to be able to compare and what we want to compare is apples and apples and not apples and oranges out there in the workforce. The Civil Service department are labor unions in terms of advancing employees' rights throughout the State continually make sure that if a person is doing the work of a social worker 2 and they're getting paid as a social worker 1, they have an appeals process and if they are actually doing that work, they are not only invited -- not only being able to have their pay increased, but they can also get back pay for the time that they were doing that work, so I believe there is ample opportunity out there.

What we are doing when we open it up to comparable worth and not defining it adequately, I believe that one employer in this State and it's all our municipalities, it's all our tax and jurisdictions, are going to say one thing and it's going to open up litigation that is going to in all and all hurt the taxpayers, but more importantly you're going to have one jurisdiction saying this is a job that is of comparable worth and

then another jurisdiction having to litigate that system out to make sure that that person has comparable worth. So I don't see how this can work. I think it's going to be a nightmare for Civil Service and our H.R. people throughout this State because, because the definition of comparable worth in this bill, I believe, does not give them enough direction on where this Legislature would like them to go, leaves it open for interpretation and when that occurs, litigators and the courts get involved and it's just going to cost everybody a lot more taxes. Thank you, Mr. Speaker.

ACTING SPEAKER P. RIVERA: Mr. Joel Miller.

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

ACTING SPEAKER P. RIVERA: Ms. Jaffee.

MS. JAFFEE: Yes, Mr. Speaker.

MR. J. MILLER: Could you give us a real case scenario that fits your bill where there is comparable work but two different titles and one is a male dominated, the other is a female dominated so that equal education, equal responsibility, equal everything but one group is paid more than another?

MS. JAFFEE: Well, I can give you some examples. We have nurse practitioners and physician assistants, for example, police dispatchers, 911 dispatchers.

MR. J. MILLER: Can we take one at a time, so that you give me a suggestion and I can ask a question about why you think they're compatible?

MS. JAFFEE: Let me just go back to respond to the question about apples and oranges and how you can compare apples and oranges.

MR. J. MILLER: I didn't ask you about apples and oranges.

MS. JAFFEE: Okay. But you were asking about that and you can compare jobs.

MR. J. MILLER: No. I asked you to give us an example.

MS. JAFFEE: I'm giving you. I said nurse practitioners, physician assistants.

ACTING SPEAKER P. RIVERA: Mr. Miller, she's trying to answer the question.

Continue, Ms. Jaffee.

MS. JAFFEE: Police dispatchers, 911 dispatchers, hotel housekeeping, valets, just some examples.

MR. J. MILLER: Well, frankly, I think this really leads to support some of the things that Jim Conte said. I would argue that in no cases are their work really comparable or their responsibilities exactly the same even in the case of a nurse practitioner and a physician's assistant. Those differences are really based on available personnel, who is willing to take the job, but their actual responsibilities are somewhat different.

In a hotel, a valet does a service that's completely different than a housekeeper, but let me ask you: What happens in the

case where there are two jobs that we all agree are comparable? I doubt that could happen very much but let's say it does. And you need 10 people in one job and 20 people in the other and for the job that you need 10 people, 3 show up, for the job that you need 20 people, 100 people show up and you find year after year it pretty much works that way, but whatever there is the unique characteristic of one job compared to the other, even though the educational requirements are the same and all of the stuff is the same, you can't quite get as many people as you want for one job and, in fact, we have followed your dictate and the salary is exactly the same. How would you then handle a situation where, for whatever reason, people don't like one particular job as much as the other?

MS. JAFFEE: I'm having a little problem understanding what the question is exactly. Could you just be very specific?

MR. J. MILLER: Okay. There are two jobs that all of the geniuses in bureaucracy, because we know our bureaucracy is filled with the most objective, honest, sincere people with no agenda and they make every decision absolutely correctly, they've decided that there are two jobs that are comparable, based on not the job, but the fact that education requirement, the environment in which they work, a whole lot of things are comparable, but each time you advertise the two jobs because you have significant openings in both, you need 10 people for job A and 20 people for job B, and every time you do this only 3 people apply for job A and 100 people apply for job B. How do you handle that so that you can fill both job categories since we have already determined

the pay has to be the same?

MS. JAFFEE: I think the answer to that will be determined by Human Resources department, by Civil Service department, they will determine that those who are qualified for these jobs based on the skills, education, difficulty, responsibility --

MR. J. MILLER: We already agreed they're comparable. Yes, but we already agreed. We're saying you're absolutely right, that all of these people are qualified, but only two want to do job A and 100 want to do job B, what do you do? They're clearly not the same job because then they would be identical.

MS. JAFFEE: Well, I think like in any other situation, you know, in public employment, first of all, you have your Human Resources department that determine the jobs and those who are qualified for the jobs. And also, in addition, the marketplace helps determine what jobs can be filled and when they can be filled, but I will give you an example.

For instance, school nurses in West Islip school districts, one started at \$27,000 while the groundskeeper started at \$29,000. Those are the kinds of thing we need to consider and those are the things the Human Resources department will need to consider to establish and eliminate the job salary inequities so that there is comparable value for these dissimilar job titles.

The situation you are raising is unlikely and is not the basic issue that we are discussing here today. We are discussing equality of pay and comparable worth.

MR. J. MILLER: Right. So, obviously you have no answer whatever, you're really reaching for straws and what you've done is you've said a nurse is the same as a groundskeeper and I can see that there's certainly comparable education, there's comparable environment, the clothing requirement itself are absolutely amazingly similar and I mean, I'm sure that the nurse wears leather gloves while she's digging a hole in some patient, but let me ask you another question.

MS. JAFFEE: Wait a minute, excuse me, Mr. Speaker. I need to respond to that. I did not say that they are the same. What I am suggesting --

MR. J. MILLER: You said they're comparable in education.

MS. JAFFEE: No. I did not say that they're comparable. I'm saying that the groundskeeper earned --

MR. J. MILLER: So this has nothing to do with the --

ACTING SPEAKER P. RIVERA: Mr. Miller. Mr. Miller, please let her answer the question.

MS. JAFFEE: The groundskeeper is starting with a salary that is significantly higher than the nurse and yet the nurse, the nurse has a requirement of education and qualifications and job qualifications and responsibilities that are significantly different and, therefore, what we need to look at in terms of comparable worth, as I indicated before, we need to look at the responsibilities, the requirements, the job skills, the education, all those factors that we look at the different jobs, so that the Human Resources department will then determine what

is the adequate compensation.

MR. J. MILLER: Clearly, in this particular deranged comparison, the nurse who is fully qualified to be a groundskeeper based on education and everything else, elects not to for the same reasons I was describing before, but you have no answer to that, so let me give you a simpler question.

MS. JAFFEE: Mr. Miller, the reality is that all these jobs that you're referring to and the problem, the basic problem that we have here, is the jobs for women are --

MR. J. MILLER: I haven't asked a question.

MS. JAFFEE: -- compensated far lower --

MR. J. MILLER: Mr. Speaker, I haven't asked a question. I don't know where there's an answer coming from if I haven't asked a question.

ACTING SPEAKER P. RIVERA: Mr. Miller, it is your time and she's trying to answer a question that was posed.

MR. J. MILLER: And she stopped answering that question, so I was asking another one.

MS. JAFFEE: Go right ahead, Mr. Miller.

MR. J. MILLER: Okay. This is the next simple question. Would you consider comparable pay for equal work? Comparable pay meaning if everyone knows the price of an apple and the price of a chicken and the price of an egg, one person would get paid in dollars and the other would get paid in eggs, apples and chickens because they're totally comparable in value.

MS. JAFFEE: Historically, Mr. Miller, we now have five decades since the Equal Pay Act was put into place and into law, yet unequal pay continues and still exists because job titles done predominantly by women and people of color, and we are talking now, are underpaid and this is historic discrimination. When salaries are determined for job titles, in our society we continue to give women much less of a salary than men in jobs that are not quite as equal and this is a continuing issue that we need to respond to.

MR. J. MILLER: On the bill.

ACTING SPEAKER P. RIVERA: On the bill.

MR. J. MILLER: Clearly, when I asked for an example of 2 comparable jobs and two people are applying for one, each short of the quota and 100 are applying for the other, there is no answer on what you do in those circumstances so you simply function with 8 people missing. And the example of the groundskeeper and the nurse, obviously that goes back to what I was saying before in that there are choices. Some people want to do some things, some people want to do others and frankly in the case of the nurse and the groundskeeper, it seems to me that there's a very good chance that the groundskeeper would be a minority and the nurse might not be, so you can't tell in that case which one is going to get paid more than the other. And in a case of comparable pay I asked that as a philosophical question because here we're talking about comparable work which is a philosophical question and clearly if an egg is worth so much and an apple is worth so much and a chicken is worth so much, I can't imagine a single person saying it makes sense to

have comparable pay for equal work. You get equal pay for equal work and the rest is a theory that, was pointed out, will simply end up in court.

We have a concept of justice and justice would mean if you commit the same crime or a comparable crime and it's as vicious and as nasty as another crime, that the person should hopefully get exactly the same sentence, but we know that's not true because there's a human element here and one judge is a little different than another judge and one judge may be having a bad day, one judge may have actually been here and listened to this bunch of hooey and gone out and said there's no way I'm going to sentence everyone the same or I'm going to sentence everyone the same no matter what crime they committed. There is a human element and as long as there's a human element, there are too many other factors that go into determine this.

I absolutely believe in equal pay for equal work. I believe there should be no discrimination based on race, on gender, on anything else, but when you throw in this concept of comparable work, only Karl Marx and his friend could do a better job explaining that bill than was done right here so I thank you.

ACTING SPEAKER P. RIVERA: Mr. Jordan.

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

ACTING SPEAKER P. RIVERA: Ms. Jaffee.

MS. JAFFEE: Yes.

MR. JORDAN: On line 10 if you could explain to me what this means to you when they say, "...they'll take into account the

conditions under which the work is normally performed."

MS. JAFFEE: Well, when you're looking at 910 we're looking at "...also consider the condition," is also the geographic location I think is also being referred there. State workers are working comparable jobs in different locations, all the factors are part of the compensation package for each job title will be looked at to determine if discrimination by gender is occurring. The geographic location might be one of the factors that are used to determine the worth of a job, but it can't be used as an excuse for gender discrimination.

MR. JORDAN: Could you show me where in this bill it allows them to consider geographical location because I don't see the use of that language in here?

MS. JAFFEE: You know, some of these things are open to, you know, those determinations by the Human Resources department and by Civil Services. Discrimination must occur within the employ of a public employer. Workers in different jurisdictions such as two towns, as I noted before, or they don't work for the same employer, those pay differences would not be addressed by the bill if that's something that you're asking. State employees often receive pay differences for working in different geographic locations. If State workers are working the same job in different locations and receiving different pay, that is an equal pay for work issue and would be covered by Federal law, but it's not, you know, a matter of comparable worth.

MR. JORDAN: But if I am a court clerk in Kings County and I am a Court Clerk in Hamilton County, I suspect I would

have a pretty good argument that I'm working under the same conditions under which that work is normally performed, is that correct?

MS. JAFFEE: That's equal pay. We're discussing comparable work.

MR. JORDAN: Oh, no. I'm reading your bill that says that a court clerk in Kings County will now get paid or perhaps -- well, I should say it differently. The court clerk in Hamilton County or a court officer in Hamilton County shall now be paid the same as a court clerk in Manhattan County or Kings County.

MS. JAFFEE: I don't know where in the bill you're seeing that and so I'm not sure --

MR. JORDAN: Well, because I would submit to you that if I am a court clerk, I work in an office with a computer, with judges, with attorneys, with court files, with a court schedule that I have to manage. It doesn't matter where I am, so long as those are the conditions under which I normally work. Is that a fair summary?

MS. JAFFEE: No. As long as the level of pay between the -- you're misunderstanding what this is suggesting. The conditions under which the work is normally performed. A job in one site, in let's say Long Island, may be similar to a job in New York City except some of the work conditions may be different. That doesn't necessarily mean that -- you're talking about pay equity. That's not comparable worth in terms of a job --

MR. JORDAN: No. I'm talking about the simple fact that if I'm a court clerk, I have a very specific job description. If I'm a

town clerk, I have a very specific job description, but in the State sense of the court clerk, those are the conditions under which that job would normally be performed.

MS. JAFFEE: As long as the level of pay for any purpose such as in the location is not related to gender, then the differences are acceptable.

MR. JORDAN: Okay. And so if the bill -- no, I don't think so, because I think as to the State, you're saying a State employee who is doing comparable work has to get paid the same, is that correct?

MS. JAFFEE: Say that again.

MR. JORDAN: If I am a State employee and I am doing comparable work to this other person, I have to get paid the same as they are, is that correct?

MS. JAFFEE: It will be determined by the Human Resources department by -- an evaluation will determine what jobs would require comparable worth.

MR. JORDAN: Right. And I would think a court clerk is going to be deemed comparable work to another court clerk. Is that a fair --

MS. JAFFEE: That's pay equity, yes.

MR. JORDAN: Well, but even under this bill.

MS. JAFFEE: It's equal pay for equal work.

MR. JORDAN: No, but under this bill, is that going to be the same?

MS. JAFFEE: We are discussing comparable worth.

MR. JORDAN: That is correct. And I guess what I'm saying, the court clerk in Hamilton County gets paid, I will submit to you, significantly less than the court clerk in Kings County does.

MS. JAFFEE: But that's true, but that is not comparable worth. Those are different geographic areas and different geographic areas --

MR. JORDAN: But they're doing the same job, they just happen to live in different places. That's not comparable work. That's a geographical pay adjustment.

MS. JAFFEE: As I had indicated before, we are not comparing jobs in two different counties. We are talking about comparable jobs in a particular municipality or at the State level, but we were not comparing different counties in terms of determining job salary.

MR. JORDAN: No. This is a State court job. I guess here's the concern and then I will close. What we're saying is you're going to say across the State, because you do not include those words, if you simply had added this year language that said, and I would encourage you to consider this, language that said we will factor in geographical differences, cost of living, those things, those are real differences that would account for differences in pay, but when you say work conditions, those look solely at the conditions of where you work, not where you live, so it would be my position that we're going to have a situation where there's a lot of people doing comparable work across this State and you're going to suddenly say someone that lives in a county that is much more rural with a significant lower cost of living, is going -- because on the

second page of your bill, you say we can't lower the pay of the Kings County people, we have to raise the pay of the folks in Franklin County, Hamilton County, Washington County and the list goes on. I think that would be important.

MS. JAFFEE: Mr. Jordan, let me clarify something for you in terms of what you're suggesting. We are talking about the same employer. Now, you were discussing a State employee --

MR. JORDAN: That is exactly what I'm referring to because we have a lot of State employees who are court clerks.

MS. JAFFEE: Okay. So you're discussing a State employee working in different counties and that would be indicated where the salary with the same job title would be the same, but when you have different employees of different municipalities in different areas of the State, then the job titles don't necessarily, don't necessarily have to have exactly the same pay scale.

MR. JORDAN: I don't disagree with you, but what I'm saying is the person who is writing the check to these employees is the State of New York and there are different pays for different employees of the State of New York throughout the State, but in any event, I appreciate your indulgence. Thank you.

ACTING SPEAKER P. RIVERA: Mr. Donald Miller.

MR. D. MILLER: Thank you, Mr. Speaker. Would the sponsor yield for just a couple questions?

ACTING SPEAKER P. RIVERA: Ms. Jaffee.

MS. JAFFEE: Of course.

MR. D. MILLER: I'm familiar with the Federal and State statutes on equal pay, so I'm just trying to work out a couple of things in my own head here. There was an indication earlier that, of course, this is based on -- it's actually a skewed market where, you know, things have just -- where men, particularly white men, have been paid more than non-white men, essentially, for comparable work. I'm wondering if what this bill does is -- will this require a study on discrimination be completed in a municipality before engaging in a comparable worth, comparable pay scenario?

MS. JAFFEE: Well, there certainly would be required -- there would be a review and an evaluation of the jobs within a municipality to be able to consider whether or not there are pay disparities in jobs that would be considered comparable.

MR. D. MILLER: So the need for that study, how would that be determined? How would one of those studies be triggered to determine levels of discrimination? I mean would every municipality across the State --

MS. JAFFEE: Well, by passing this important piece of legislation so we can move forward with having comparable worth in our job community. There are Human Resource departments, as well as Civil Service commissions, the State and local levels that would have the opportunity to review the job titles, review comparable worth and make determinations regarding that.

MR. D. MILLER: Okay. So in my district I've got five towns with their own governments. I have got four villages. Would this

legislation require each of those levels of government to engage in a study? Is that what this would do?

MS. JAFFEE: It is an evaluation, not a study. I wanted to clarify that and I think that would be determined by the communities. I mean, under each different employer, there would be the need to have an evaluation of the jobs within that employee.

MR. D. MILLER: And does this bill provide for funding for those studies?

MS. JAFFEE: I'm sorry. Would you repeat that?

MR. D. MILLER: Does this bill provide for funding for those studies?

MS. JAFFEE: Well, you already have in place a Human Resources department or Civil Service department. The determinations are already made within your communities, within your municipalities, it could be a county that helps determine that. So this doesn't require a new agency or a new commission. You already have in place new municipalities, those who are responsible for job evaluation and salary determination, so this would just be a matter of having an evaluation to look at comparable worth.

MR. D. MILLER: Sure. On a slightly different topic. If this discrimination has shown up as a result of marketplace inequities, how then would we determine what the proper wage rate is? If we go through the study and we determine that there has been discrimination and the provisions of this law need to come into force, how do we determine what the correct wage would be? If we're not using a market

mechanism, although I'm kind of fuzzy on the whole geography thing because it sounds like a market mechanism to me, but I'm wondering how we determine what the correct wages would be.

MS. JAFFEE: Well, first of all, you know, you have job evaluation up now and wage setting processes in place now, so that's exactly what would happen as we would move forward. It's already in place, job evaluation and wage setting processes and that already at this particular time put in place relating to skills and responsibility of job titles and their salaries, so this is already a process that is in place.

MR. D. MILLER: So that would be a result of the municipality?

MS. JAFFEE: Right.

MR. D. MILLER: Staff in that municipality setting those rules.

MS. JAFFEE: The staff is already in place. It already makes these determinations and already has evaluations to determine --

MR. D. MILLER: So that would not be a market mechanism?

MS. JAFFEE: Whatever their determinations are that are already in place. The Human Resources department or whatever the municipality has already a structure in place, they would then move forward with the job evaluations to consider comparable worth.

MR. D. MILLER: You have been very helpful. Thank you.

ACTING SPEAKER P. RIVERA: Mr. Molinaro.

MR. MOLINARO: Thank you, Mr. Speaker. Would the sponsor just yield for a question?

ACTING SPEAKER P. RIVERA: Ms. Jaffee.

MS. JAFFEE: Certainly, Mr. Molinaro.

MR. MOLINARO: Ms. Jaffee, I'm a little bit confused, but that's the state of consistency for me. You reference that there's already Human Resources departments and a salary judgment, in essence, a process or methodology in the case of municipalities. Are you suggesting that that's the case in all municipalities?

MS. JAFFEE: Well, I would think that all municipalities have personnel departments where job evaluations and salaries are determined.

MR. MOLINARO: You and I represent similar parts of the State of New York. You must represent a few villages that probably have a few thousand people in them. They each have departments of Human Resources where they conduct employee evaluations?

MS. JAFFEE: They have in place personnel departments. They already make determinations on salary and they do evaluations, so I would believe that they could then move forward to take a look at a new approach to evaluation in terms of comparable worth.

MR. MOLINARO: Do you suggest every municipality in the State of New York has such a division of Human Resources to make these kinds of evaluations? Would you suggest that most municipalities have such an entity because having served 13 years in local government, being a member of the New York State Conference of

Mayors, I suggest to you that overwhelmingly municipalities don't have such departments.

MS. JAFFEE: Then I would ask you, Mr. Molinaro, then how do they determine salary and job evaluations in determining those particular sites?

MR. MOLINARO: They do it perhaps Mayor to employees, town board to employees.

MS. JAFFEE: Then the mayor and the employees -- the mayor and those who determine that now would continue to determine job titles and look at comparable worth.

MR. MOLINARO: And in the case where municipal employees are not classified by job title, this still affects them as well, no? I mean we're talking about both Civil Service classification and non-classified Civil Service positions, aren't we?

MS. JAFFEE: Yes, we are.

MR. MOLINARO: Okay. So in the case of non-classified Civil --

MS. JAFFEE: Could you explain "non-classified"?

MR. MOLINARO: Yes. You have appointed positions, you have general classifications like laborer -- I'm more than happy to ask the question.

MS. JAFFEE: This actually amends the Civil Service Law.

MR. MOLINARO: Requiring classification in all cases?

MS. JAFFEE: So it would be Civil Service.

MR. MOLINARO: These are Civil Service positions that are broadly defined under classifications. Laborer is a classification under Civil Service Law which provides a very broad definition of what a public employee would do. What your bill requires is a more specific review than that which is already a classification. You suggested that municipalities all have Human Resources departments, that they have an evaluation process and they won't have to engage in anything that's going to cost them more when conducting these evaluations and I have heard nothing in the last half-hour of debate that would suggest that that's accurate and our concern, Ms. Jaffee, is very, very simple. You have a huge number of public employers all across the State of New York that don't have the mechanism in place to do what you're suggesting.

MS. JAFFEE: The personnel department, those who determine the salaries and the job titles and the responsibilities at this time could very easily look at the skills and responsibilities, consider job knowledge, education, accountability, human relationship skills, management of supervision, working conditions.

MR. MOLINARO: Thank you. I get it.

MS. JAFFEE: The issues that they already look at when they determine job evaluations and then compare job titles and then gender and race of working with them and pay them accordingly. I don't believe in a small municipality this would take any kind of significant funding. I think it's just a process that is already in place and they just now have to consider one other item.

MR. MOLINARO: Thank you, Ms. Jaffee.

Mr. Speaker, with all due respect to my colleague, the sponsor doesn't know the answer to that question because overwhelmingly municipalities across this State of moderate to small size don't have the mechanism in place, in fact, are not required currently by State law to have the mechanism in place. This is on them a significant unfunded mandate. And with all due respect, the State of New York and its municipalities are just littered with legislation with good intention that clearly drives up cost for municipalities, and as much as I understand the passion with which she reads us the answer, the question still is how would a municipality deal with this and I think the answer is with great difficulty and great expense. Thank you, Mr. Speaker.

ACTING SPEAKER P. RIVERA: Mrs. Rabbit.

MRS. RABBITT: Thank you, Mr. Speaker. On the bill.

ACTING SPEAKER P. RIVERA: On the bill.

MRS. RABBITT: I rise because in my seven years that I have been the Assemblywoman and we speak about equal pay, we don't really ever talk about the Minority and the staff that we have, the salaries that they have. I'd be in favor of such a bill if we amended such legislation to say equal pay for employees. Thank you.

ACTING SPEAKER P. RIVERA: Read the last section.

THE CLERK: This act shall take effect on the 90th day, next succeeding the date on which it shall have become a law.

ACTING SPEAKER P. RIVERA: The Clerk will record the vote.

(The Clerk recorded the vote.)

MR. CANESTRARI: Colleagues, this is our first vote of the evening, so let's move this along. First vote, Rules Report No. 25, Ms. Jaffee. Thank you.

ACTING SPEAKER P. RIVERA: Ms. Schimel to explain her vote.

MS. SCHIMEL: Yes, Mr. Speaker. I want to commend the sponsor for this legislation. My predecessor, I guess, twice removed, Assemblywoman May Newburger, sought to do similar legislation and unfortunately was not able to do it as an Assemblymember, but as Town Supervisor of the Town of North Hempstead, immediately put this into act. It has been so for well over 20 years and has been quite successful in the town and hopefully it will extend to the State and with that I vote aye.

ACTING SPEAKER P. RIVERA: Ms. Schimel in the affirmative.

Ms. Jaffee to explain her vote.

MS. JAFFEE: Thank you, Mr. Speaker. I rise to explain my vote. Wage disparity should never be an issue of worth. A woman is of no greater worth than a man or a man of no greater worth than a woman. Wage disparity is an issue of human rights. It is an understanding that as a human being, I have the right to be paid the same amount for the same work as the person standing next to me, whether that person be a man or a woman. And ultimately wage discrimination is dangerous. The difficulties that arise from wage discrimination go beyond severe financial burdens. There's also the grief a person endures due to the lacking of independence, security, equality and opportunities.

This wage gap impacts Social Security benefits and pensions forcing women to shoulder the burden of wage discrimination long after they have stopped working.

The passage of job title Fair Pay Legislation is particularly important given the economic downturn. Research studies have shown that making pay equity adjustments can dramatically decrease, decrease the incidence of poverty. It has the potential to lift many workers out of poverty. With increasing numbers of single mothers in two-income households, the wage gap endangers our children and families. It affects our sons as much as it affects our daughters, our grandsons as much as are granddaughters and this, above all, is why we must continue to struggle to end it and why we must continue to stand up and say no, that this is unfair and, like all inequalities, we must fight against it and pass this and the entire package of legislation today. Let us join Minnesota where there are laws requiring this type of pay equity for all public sector job titles and where the wage gap between men and women employed in the public sector has been virtually eliminated. Mr. Speaker, I will be voting in the affirmative.

ACTING SPEAKER P. RIVERA: Ms. Jaffee in the affirmative.

Ms. Gibson to explain her vote.

MS. GIBSON: Thank you, Mr. Speaker. I'd like to just rise and explain my vote and just first express my support for this bill and thank the sponsor for dealing with a very difficult issue, very necessary and very important. Although we have the Ledbetter Fair Pay Act that

was passed by President Obama in 2009, although we have the Equal Pay Act and although we have the Title 7 of the Civil Rights Act, we know that there's a great wage disparity that continues to exist when you talk about men and women in this State. We've heard the statistics before that 51 percent of the population in this State is women, but yet we are still not equal when you talk about comparable work in recognizing and acknowledging the value of the labor and efforts put forth by our women. So I want to thank my colleague for this very important issue and hope that we will continue to have this very important dialogue and one day we will have a State that recognizes that women and men are equal in all of the professions that we have in this great State. So with that, Mr. Speaker, I withdraw my request and cast my vote in the affirmative. Thank you.

ACTING SPEAKER P. RIVERA: Ms. Gibson in the affirmative.

Mr. Saladino to explain his vote.

MR. SALADINO: Thank you, Mr. Speaker. I rise in support of women, in support of minorities and in support of people across this State who need a job. And as I listen to this debate, it occurred to me that the unintended consequences of such a bill are to reduce the number of jobs by putting another undue stress on employers across this State. I think we definitely need to continue to work to bring fairness in the workplace on pay for women, people of minorities, of all minorities, but for everyone equally, no question about it. But the unintended consequences of such a bill in these economic times are very

difficult and very clear and I hope that one day we will be voting on a two-house bill that does this in a fair way. For instance, perhaps just for one year we can start off with making this an imposition only on the State of New York to see how that works and then take it on step-by-step, stage-by-stage. Because it's just a one-house bill I realize it's the right thing to do to vote yes, to send the right message to people of color, to people of minorities, to women across our State, but this is very dangerous to be doing legislation in this haphazard manner that does not address those consequences that could come. I'm voting in the affirmative, but I do hope that we will think long and hard about providing businesses with the moneys and resources that they need to regulate the requirements of such a bill and I think we should keep that in mind as we go forward this year in such deep, devastating economic troubles across this State to really give more respect to business owners and to businesses because, we all agree, job creation must be one of our highest priorities. I vote in the affirmative.

ACTING SPEAKER P. RIVERA: Mr. Saladino in the affirmative.

Are there any other votes? The Clerk will announce the results.

(The Clerk announced the results.)

The bill is passed.

Mr. Canestrari.

MR. CANESTRARI: Yes, Mr. Speaker, my colleagues. We will now go to the main Calendar, page 20, Calendar No. 165, Ms.

Lifton, followed by Rules Report No. 21 on the A-Calendar and then Rules Report No. 24 on the A-Calendar as well, and that will conclude the Pay Equity Package and then we will continue to do other work.

Thank you.

ACTING SPEAKER P. RIVERA: Page 20, Calendar No. 165, the Clerk will read.

THE CLERK: Bill No. 3690, Calendar No. 165, Lifton, Destito, Aubry, Benedetto, Bing, Colton, Gottfried, Jaffee, Jeffries, Schroeder, Wright, Galef, Schimel, Lupardo, Lancman, M. Miller, Rodriguez, P. Rivera. An act to amend the Executive Law, in relation to making it a discriminatory practice to compensate employees of different sexes differently for work that is of comparable worth.

ACTING SPEAKER P. RIVERA: An explanation is requested.

MS. LIFTON: Certainly. This bill amends the Executive Law, specifically the Human Rights Law, to make it an unlawful practice to discriminate between employees in the same workplace by compensating any employee less on the basis of sex when jobs are comparable.

ACTING SPEAKER P. RIVERA: Mr. Conte.

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

ACTING SPEAKER P. RIVERA: Ms. Lifton.

MS. LIFTON: I'd be happy to, Mr. Speaker.

MR. CONTE: Thank you, Ms. Lifton. Again, as we had

in the last bill, can you define "comparable"?

MS. LIFTON: Comparable worth is measured by issues of skill, knowledge, educational requirements, stress level, responsibility, working conditions, these are the issues that employers look at to determine comparable worth.

MR. CONTE: Excuse me. Can you tell me where in your legislation that it says that, because I don't read any of education, I don't read stress levels at all. On line 7, it starts at the very end, "...comparable worth is measured by the skill, effort and responsibility normally required in the performance of work and the conditions under which the work is normally performed." So where did education, stress level, where did that all come from?

MS. LIFTON: It's in Section 1, Mr. Conte, lines 7 to 10.

MR. CONTE: No. I just read that.

MS. LIFTON: Skill, effort.

MR. CONTE: Right. But you, in your definition, you added education, stress level.

MS. LIFTON: Right. Well, employers -- I mean people have different systems. It's not like God has not handed down on tablets a system of comparable worth. Different companies and different public employers have already devised systems of comparable worth and certainly one of the measures that is sometimes used is a level of education. That is often seen in tandem with someone's skill.

MR. CONTE: Okay. And is your bill just for public employees or for every single employer in New York State?

MS. LIFTON: It's for both public and private.

MR. CONTE: And a private employer, I believe, under the Human Rights Law, has to have four or more employees, is that correct?

MS. LIFTON: It's three or more, Mr. Conte.

MR. CONTE: It's three or more. Okay, thank you. So any business in New York State that employs three or more people that aren't related to you, this bill would affect.

MS. LIFTON: Well, it could theoretically affect them if an employee brings a complaint, files a suit.

MR. CONTE: Right. Now, here's the question I have. Now, the person who feels that they are discriminated against based on the criteria that is put forth in this bill which is, I believe, a non-definition, but first would be able to go to the Division of Human Rights and have to file a complaint.

MS. LIFTON: That's one of their options, to file a complaint with the New York State Division of Human Rights. They could also file a suit in court.

MR. CONTE: Okay. So there's nothing in your legislation that would say to them that they would have to first file a complaint with the Division of Human Rights before they seek any judgment from --

MS. LIFTON: No. They have either option.

MR. CONTE: Okay. So, at the moment we're not even asking the Division of Human Rights to basically look to see if that

particular discriminatory practice of what that person feels is their rights, they can actually go through a court right away?

MS. LIFTON: I'm not understanding your question, Mr. Conte. Would you rephrase the question to me?

MR. CONTE: Well, there's not a mechanism right now where if you feel you're discriminated against --

MS. LIFTON: No. This law, should it be enacted, there's a three-year phase-in, Mr. Conte, so that an employer would have three years to look at their workplace, look at issues of comparable worth and make corrections so that now I don't think -- you know, there's certainly a delay in here in terms of the Division of Human Rights having to deal with this.

MR. CONTE: I'm trying to read exactly where the three-year -- where you give the employer three years.

MS. LIFTON: It's Section F, Mr. Conte.

MR. CONTE: Okay. At the very end. Okay. Very good. Thank you. On the bill.

ACTING SPEAKER P. RIVERA: On the bill.

MR. CONTE: The problem that we're having here today is that the definition that the Majority is putting forth or the sponsor of the bills are putting forth tend to be totally different depending upon which sponsor we're talking about. We're going to be going on to one other bill in a couple of minutes that deals with comparable value, not even comparable worth and I don't know the difference, but we'll get to that, but right now we have two different sponsors giving us two different

reasons or two different definitions of what comparable worth is. They basically say we'll know it when we see it, but more importantly they may know it, but employees -- excuse me, employers may not know it.

Employees may see it totally differently than what the employer does and there you have a conflict that is going to occur. And we're not even asking the employee who feels that they have been deprived salaries to say to them, first go to the Division of Human Rights. Let's have a State agency take a look at your case and see if you are eligible to receive your benefits whether in negotiations with the employer or, if need be, we will take it to court. Now we skip that portion and basically tell an employee who feels that they have been discriminated against on a definition that even the two sponsors of these two particular bills have defined as a little bit different; one deals with education, one deals with stress, one deals with, you know, different areas of where you live. And basically what I'm saying is, again, we're leaving it up to the courts to decide, but more importantly, this being placed upon businesses in this State that are trying -- I mean they're holding on by their fingernails to stay in this State, to pay their employees a fair wage, to give them health insurance, to make sure that their Workers' Compensation bills are paid for, at this time, I mean, to give them one more reason to leave this State I think is unconscionable and for that reason I'm going to be voting against it.

ACTING SPEAKER P. RIVERA: Mr. Donald Miller.

MR. D. MILLER: Thank you, Mr. Speaker. Will the sponsor yield for a quick question?

ACTING SPEAKER P. RIVERA: Ms. Lifton.

MS. LIFTON: Yes.

MR. MILLER: It says, "...the bill makes special exceptions to allow employers to discriminate based on a number of things." One of those is quality of production. I was just kind of wondering if you could inform my thinking of what quality of production actually is?

MS. LIFTON: Well, you know, you have got people producing a product and someone is clearly producing a much greater product, then that would be a basis for making an exception in a given time period or whatever.

MR. D. MILLER: So quality would be immeasurable, is that true?

MS. LIFTON: It would be measurable.

MR. D. MILLER: What about a person's ability to field phone calls effectively, for example, a secretary?

MS. LIFTON: That's under skills. One of the measures of comparable worth is skill and being able to answer phones and talk to members of the public or clients or customers is a skill that employers recognize.

MR. D. MILLER: So we would figure out some sort of a quality system for that?

MS. LIFTON: I think H.R. departments do that now all the time.

MR. D. MILLER: Fair enough. Now, I understand that if a discrepancy -- if discrimination is discovered, an employer is not

permitted to reduce the salary of a higher paid employee.

MS. LIFTON: That's correct. The idea is not to take the salaries of men and take them off the male's, you know, paycheck and put it onto the lower paid female employees, but to bring the female employees up to an appropriate wage.

MR. D. MILLER: Right. And you said there's a three-year period for employers to sort of examine and --

MS. LIFTON: Giving people time to --

MR. D. MILLER: Make corrections I think was the --

MS. LIFTON: Well, they may find they have been doing this work. There are many good and responsible employers in New York State that have been doing this work, that have been looking at their workforce and aware of issues of historical gender discrimination in our State and in our country and have been working to do the right thing here to make sure that even though women may concentrate in some areas of work, they still have very high value to the employer and to look at that. So many have been doing that and this just says in the few instances perhaps where it is not happening -- after all, four or five other states have already done this and we're not hearing about rafts of lawsuits, we're not hearing about what a disaster it is in Hawaii or what a disaster this is in Minnesota.

MR. D. MILLER: Right. I'm actually not worried about lawsuits. I'm more worried about employment numbers. New York is an at-will State and I'm wondering what would prevent an employer, a private sector employer from making corrections by simply firing the

higher paid employee?

MS. LIFTON: Well, I assume employers make rational decisions about firing and hiring people, that if they have got a good employee that's higher paid, that they're not going to -- you know, you're talking about firing the man to pay the woman, is that what you're suggesting?

MR. D. MILLER: No, no. What I'm suggesting is if some sort of discrepancy is discovered, some sort of discrimination is discovered and that employer is told you've got to raise this person's salary up to this other person's salary, in an at-will State couldn't an employer simply fire the higher paid employee? Are we killing off jobs?

MS. LIFTON: I don't see this as an issue of, you know, hurting jobs. I don't think we're talking about such huge amounts of money, that it's going to break an employer to go from say, you know, paying someone \$25,000 to \$30,000 which is what we're talking about in many of these cases and I don't think if they find that higher paid employee to be someone who is producing for their workplace, that they're going to decide to fire them over what it is probably marginal differences here.

MR. D. MILLER: So, I want to be clear.

MS. LIFTON: Mr. Speaker, I'm having a very hard time hearing my colleague.

ACTING SPEAKER P. RIVERA: Can we have some order here, please?

MR. D. MILLER: I just want to make sure I understood

that correctly. Are you saying from \$25,000 to \$30,000, that pay increase, you don't consider a 20 percent pay increase to be a disincentive to an employer?

MS. LIFTON: Well, you know, obviously -- I mean if an employer is so on the brink that that is going to put them over the brink, they're probably already there.

MR. D. MILLER: Thank you very much. Nothing further, Mr. Speaker.

ACTING SPEAKER P. RIVERA: Mr. Joel Miller.

MR. J. MILLER: In spite of the cries of oh, no, thank you, Mr. Speaker. Will the sponsor yield?

ACTING SPEAKER P. RIVERA: Ms. Lifton, will you yield to Mr. Miller?

MS. LIFTON: I will be happy to yield.

MR. J. MILLER: Again, I don't have the answer and I'm just asking as an informational question. Have you ever worked in the private sector in a position where you were responsible for hiring?

ACTING SPEAKER P. RIVERA: Mr. Miller, that's not relevant to a question on the bill.

MR. J. MILLER: Well, it is because I'm asking her if she has had the experience of hiring people.

ACTING SPEAKER P. RIVERA: It doesn't go to the merits, Mr. Miller.

MR. J. MILLER: Excuse me?

ACTING SPEAKER P. RIVERA: It doesn't go to the

merits. You mean every member should be working in an area that we submit bills in?

MR. J. MILLER: What I'm suggesting is that if you have no knowledge whatever when you're submitting a bill, we should at least know about it.

ACTING SPEAKER P. RIVERA: That's not germane to the debate, Mr. Miller.

MR. J. MILLER: All right. That's fine. It reminds of Rodney Dangerfield in that movie when the economics professor was explaining the cost of starting a business and Dangerfield explained what happens in the real world and we know there's always a difference.

Does your bill provide exception and, again, it may very well be, for agreements that already exist as a example and is it a problem -- if a situation exists where you already have a one particular agenda occupying many spaces getting a higher salary and now you hire someone else coming in after this is already the situation and they're being paid less, would that fall under your category? You have 20 people already employed and let's say of those 20, 18 are women and now you hire a man to do a job which is described here as of comparable worth. Would that new male coming in have to be paid a salary equal to the average of these other people or would they have to prove that, you know, there's seniority, there's experience?

MS. LIFTON: If you have a seniority system in place, that overrides this legislation.

MR. J. MILLER: And seniority in place, would that

allow businesses to sort of find a loophole in this and when this bill -- if it became law to establish a seniority system so that the system they already have in place could stay there and they could bring people in at a lower salary? What is it when you say you have a seniority system in place? I know as an example, in our school systems, they clearly have a seniority system. In many businesses that have, you know, long-term employees, there is some seniority system, but for a business that has maybe 10 people that have been hired over the years, could they suddenly establish a seniority system?

MS. LIFTON: I can't say for sure, Mr. Miller, but I assume that at any point an employer can decide to set up certain rules and a seniority system. I don't think there's anything against the law in doing that, but if someone thought there was something untoward about it they could certainly consult an attorney on whether the employer had engaged in some sort of unfair practice there.

MR. J. MILLER: Okay. And now let me ask you this. If you have two different jobs of comparable worth --

Ms. LIFTON: Of comparable worth?

MR. J. MILLER: -- comparable worth, okay, and two different jobs and you need 10 people for each job, all right, and you have two women apply for one job and 20 men apply for the other job --

MS. LIFTON: The men applying for the job that mostly the men were doing.

MR. J. MILLER: Yes, but they're paid exactly the same because under your bill they have to be paid exactly the same so you

have, you know, 20 men willing to work for "X" number of dollars, but there's only ten jobs and they don't want the other job and --

MS. LIFTON: They don't want the other job? I'm sorry. I'm having a very hard time hearing you.

MR. J. MILLER: No. It's sort of like the nurse and the groundskeeper. You know, they may be of comparable value, but, hey, one doesn't really want the other and their specific training wouldn't allow them to do it, but they're comparable.

Now, you only have two women applying for the job and you have 20 men on the other side and the salaries have to be the same because we already determined it's comparable work. What do you think you could do to encourage other people to take that other job, the one that only two people want and you now have eight openings that you must fill in order to get everything done?

MS. LIFTON: Well, my guess, Mr. Miller, is that, you know, you may be looking at an issue that ought to get looked at in terms of the wage scale and comparable worth. It may well be that the job that only a couple of people applied for may need adjustments, that may be a case.

MR. J. MILLER: Would one adjustment be an increase in pay?

MS. LIFTON: It might possibly be an increase in pay.

MR. J. MILLER: And so it's very possible throughout the workforce.

MS. LIFTON: You might see flaws in the existing

setup.

MR. J. MILLER: We've already accepted the fact that people who are going to ask to make these evaluations are incredibly brilliant and objective and now they've been checked because they've already gone to court and it was proven that these jobs were of comparable worth, but you only have two people, you need eight more. I mean is it possible that you may want to increase the pay to get more people to apply for the other job?

MS. LIFTON: I'm sorry, Mr. Miller. Would you just briefly summarize your question for me?

MR. J. MILLER: Yes. The question is, as briefly as I can summarize, which is what I did when I first stated it, you have two jobs that everyone agrees is comparable. They're different, but they're comparable because they have comparable worth and you have ten openings in each job category. Twenty guys apply for one job, two women apply for the other. You have an overage on one side and now you desperately need more people here, but no one wants to apply, they don't like that job, they just don't like doing whatever that is. How could you encourage people because you need eight more people? I'm talking about the real workplace. I'm talking about real capitalism. The way things really work. Couldn't you offer more money?

MS. LIFTON: Well, you might do that. It's not that there's some, you know, totally rigid system in place, Mr. Miller. It's not as if someone's going to be hovering over your workplace saying you must keep these two jobs comparable forever.

MR. J. MILLER: No. The jobs are comparable just by the nature of the jobs, they're comparable. You talk about comparable worth. They're established, they have comparable worth. That can't ever change because then it would make -- the definition of comparable worth would be wrong, but both of these have comparable work, but for whatever reason you can't get eight more employees here and the question is could you raise the salary?

MS. LIFTON: You know, you can't make a judgment. Obviously, these are the kinds of things that are open for discussion and might be open for complaint or litigation. You know, we understand that we have a pretty unusual job market at this point, many people looking for work and we might have other instances where employers, as we hear from employers, that they can't find people with adequate education and training so they may not be able to get people into certain jobs and certainly if that happens over time, the employer -- and they decided to raise the salary to attract more talent, maybe someone moving into the State, for instance, and they feel a need to raise a salary, you know, the problem only comes in if someone files a complaint or someone goes to court and no one is going to come down and, you know, find that employer when there's been no complaint, no suit and those things get discussed.

MR. J. MILLER: Mr. Speaker, on the bill.

ACTING SPEAKER P. RIVERA: On the bill, Mr. Miller.

MR. J. MILLER: So we have just heard that one of the

problems with this bill is that there's a really good chance it won't work and that if it doesn't work, well, we open up the old capitalist playbook and it goes well, pay more money. Pay more money? How could you pay more money? The law says they're comparable, comparable worth. You can't pay any money, you're out of business because in New York State you can't pay more money and no one wants that job. Maybe we should just eliminate that job, but I need that job to do the work. Well, go somewhere else. That's the problem with these bills and that's why I asked if you were Rodney Dangerfield or the professor. Sometimes you have to be there.

George McGovern, who was somewhat liberal, after he retired from the Senate opened a conference center in Connecticut, went broke in a year. George McGovern wrote a letter to the *Wall Street Journal* and in the letter he said clearly, you know, my political philosophy and everything else. He said I opened this conference center, went broke. People said well, you were undercapitalized. He said no, we really weren't, we had plenty of money. Well, you didn't have the skill set. He said no, that's not true. My partners knew how to do this and had been successful. He said all of those regulations, all of those rules, all of those laws I fought to put in place put me out of business. He said no one should go into government until they have been in the private sector first. Otherwise, it's just a theory and oh, Rodney will win every time. Thank you, Mr. Speaker.

ACTING SPEAKER P. RIVERA: Mr. Goodell.

MR. GOODELL: Will the sponsor yield for a few

questions?

ACTING SPEAKER P. RIVERA: Ms. Lifton.

MS. LIFTON: Yes, Mr. Speaker.

MR. GOODELL: I had a couple of questions about what this bill meant and I was hoping you could clarify it for me. It refers to an exception for equal pay for comparable positions if there's a bona fide seniority system.

MS. LIFTON: That would override a system of comparable worth.

MR. GOODELL: Right. In the Civil Service area that's often quite easy because you have steps and different levels which can result, for example, in one teacher earning more than another based on their seniority, but in a small business it's usually much less formal. Can you give me an idea what you would consider to be a bona fide seniority system and what you would consider not to be a bona fide seniority system in the context of a private small business owner?

MS. LIFTON: No. I'm not prepared to give you details on what is or isn't a bona fide seniority system. I agree with you, it's often an informal thing. It's not that someone is going to come in and say hand me your seniority system. Someone might be at that workplace and say I have been here for ten years as a secretary. There's a new man that's come on or I'm an executive assistant, maybe I'm a paralegal and a new man has come on that's has been here a shorter time as a clerk typist, receptionist and, you know, he is making more than I am. Obviously, those aren't comparable worth exactly, but, you know, someone would be

able to bring a complaint when they see an issue of comparable worth, someone in the same workplace who has very similar responsibilities, working conditions and say that this system is discriminatory for women.

MR. GOODELL: I understand the basic concept of the bill, but you don't have any guidance on what's meant by a bona fide merit system?

MS. LIFTON: I think if this went to the Division of Human Rights they would say, you know, we'd like to see your rationale, we'd like to see whatever it is you have, whatever system you have been using, whether it's a seniority system or whatever you want to call it, on paper or your history of paying your employees and whether they're men and whether they're women.

MR. GOODELL: I understand. I just want to look at the seniority question, if I may. Would this require an employer to have a written seniority system?

MS. LIFTON: I can't speak to that. No, it would not.

MR. GOODELL: I note that you also allow us an exception, a system that measures earnings by quantity or quality of production. Obviously, many of our employers don't produce anything, particularly service industries and it's not uncommon for a company to pay a premium, for example, to what we might call a rainmaker, someone that brings in business.

Is that a problem if you pay more for a rainmaker who doesn't actually produce a larger quantity of anything other than clients or customers?

MS. LIFTON: If there's a complaint and there's a comparable position then, yes, there could be a problem there.

MR. GOODELL: So, in other words, if you have a law firm and you have six members in the law firm, that would put you over the threshold and one of them brings in a lot of clients, but doesn't do a lot of work, it would be a violation of this law to pay them extra money?

MS. LIFTON: We're not telling businesses -- we're not saying this is exactly what your wage scales need to be, here's the job, here's the salary, we're not doing that. We're saying that if a complaint comes in, that there is a comparable job and a woman is being paid less than a man, a different job of comparable skill, knowledge and work --

MR. GOODELL: Well, let's use my example. Let's assume there's a woman in the law firm who is being paid less.

MS. LIFTON: -- and similar working conditions, then they are open to a complaint or a suit here.

MR. GOODELL: Let me ask another question, if I may. If you have a key employee who receives an offer from your competitor, am I correct that this bill would make it illegal to raise their salary to match that offer unless you also raise every other employee that was doing a comparable job?

MS. LIFTON: No. This bill wouldn't say that just because you've determined there's comparable worth this year with certain jobs within your firm, that you couldn't -- that that has to stay like that forever, that there are circumstances that could allow that to change.

MR. GOODELL: And that would, likewise, apply to

marketing, for example, if you had a key position that was vacant?

MS. LIFTON: And you do have the ability to make decisions based on merit.

MR. GOODELL: Would you explain how this bill would apply to a small business owner, in particular, a small business owner that is engaged in the work itself? Many of our small business owners, for example, might run a mom and pop shop, might work the cash register, might put up food and produce on a shelf. Are they allowed to make more than their employees?

MS. LIFTON: The owner?

MR. GOODELL: Yes.

MS. LIFTON: Certainly. This doesn't apply to the employer. It's about employees.

MR. GOODELL: Is there anything in this bill that excludes an owner from being paid more for comparable work?

MS. LIFTON: No. It's irrelevant. They are not an employee.

MR. GOODELL: It might be relevant to the owner, by the way.

MS. LIFTON: The owner is the owner. Obviously, you know, we could argue that, but obviously they have great responsibility as the owner. They are the ones ultimately responsible so, you know, you could certainly argue on the issue of how much responsibility and stress the owner had as opposed to employees, so it's not even assumed in the law.

MR. GOODELL: I note that this bill makes it illegal for an employer, in order to comply with the subdivision, to reduce the compensation of any employee or to reduce the rate of compensation for any position.

MS. LIFTON: Right.

MR. GOODELL: Can you explain how that would work if the employer is in a situation where they need to reduce a lot of salaries in order to stay in business? For example, they're going into a recession. Does this prevent them from reducing the compensation for any employee or any position?

MS. LIFTON: Well, as long as that's done in a fair and across-the-board way that does not disrupt issues of comparable wage that are in place. If you just lower the women's wages that have comparable worth positions, then it would be a problem.

MR. GOODELL: Is there anything in this bill that allows an employer to reduce the compensation for any position or any employee in the event that there's a recession or that the employer is cutting back?

MS. LIFTON: Sure. It does not impede an employer's ability to do that.

MR. GOODELL: No. I guess my question is where is that written?

MS. LIFTON: Section C, lines 1, 2, 3.

MR. GOODELL: Right. There's nothing in that language that allows an employer to reduce any compensation anyway.

MS. LIFTON: Hold on a minute, please, Mr. Goodell.

MR. GOODELL: Okay. Thank you.

MS. LIFTON: Mr. Goodell, you know, if you're going to lower an employee's salary, most employers, I don't think, would go in and say I'm going to take these three employees out of ten and reduce there salaries and leave everyone else alone. I don't think that's a standard reaction. Generally speaking, an employer, if they're going to reduce salaries, would do across-the-board cuts. If you're going to do it with -- if you're doing it because there's a recession, you have to reduce everyone's salary, that's a legitimate thing to do.

MR. GOODELL: I absolutely agree with you.

MS. LIFTON: If you're reducing a women's salary where there's an issue of comparable wage in the firm, then you have a problem.

MR. GOODELL: I absolutely agree with you that sometimes you have to make those painful decisions and reduce salary. My concern is this bill makes it illegal to reduce compensation for any employee or any position in the event the employer is out of compliance and it seems to me that maybe we might consider the overall objective of trying to ensure comparable worth without forcing employers out of business of raising their costs.

On the bill, Mr. Speaker.

ACTING SPEAKER P. RIVERA: On the bill.

MR. GOODELL: In my district, and I suspect it's true in many of the other districts across our State, job growth is absolutely the

number one concern of my residents and my residents over and over say to me: What can you do to make New York State more business-friendly; what can you do to bring more jobs to New York State; what can you do to help make New York State grow and prosper in the private sector? And a bill that makes it illegal for an employer to offer a bonus to recruit somebody for a key position or makes it illegal to offer a bonus to keep a key employee unless they offer the same amount of compensation to everyone else in a comparable position, does not help New York State become more business competitive.

I note that the Business Council, the National Federation of Independent Businesses, NYCOM, CUNY and others are opposed to this bill and it's not because they discriminate or support discrimination, it's because they are concerned about the financial future of our great State and our great State will only grow and prosper when we focus on how to make this State more business competitive. Thank you.

ACTING SPEAKER P. RIVERA: Read the last section.

THE CLERK: This act shall take effect on the 90th day, next succeeding the date on which it shall have become a law.

ACTING SPEAKER P. RIVERA: The Clerk will record the vote.

(The Clerk recorded the vote.)

Mr. Bronson to explain his vote.

MR. BRONSON: Yes, Mr. Speaker. I rise in support of this piece of legislation. This is very important legislation for us to pass today. This is legislation that will correct the wrong that has been

happening throughout our State where women are being paid less than men. The evidence is indisputable. Women earn less than men throughout our State notwithstanding, notwithstanding the Federal laws that are currently in existence and notwithstanding some discrimination, anti-discrimination laws that exist here in New York State.

I have been listening to this debate and it has focused far too much on comparable worth. Folks are forgetting that the Human Rights Law in New York State, in order to show a prima facie case, any plaintiff claiming a violation of the Human Rights Law must first show, must first show that there's been discrimination on the basis of a protected class. A person's gender is a protected class in this State and they would have to show that any action taken by the employer is an intent, has the intent to discriminate because of that person's gender. That is the very first thing that has to be shown. That is the safety net that exists in all of these bills that we're talking about today. So you have to show discrimination on the basis of sex.

In addition, there has been discussion on whether or not someone could lower their workforce's payroll across the board or whether or not someone could get paid a bonus. Those exemptions exist in this bill. If you look at lines 16 and 17, "...it would not be a violation if an employer were to choose to pay a different wage on the basis of quantity and quality of work." Therefore, I'm going to be supporting this bill. It will actually help people in our economic development because it will keep women here employed and paid a fair wage. I vote in the affirmative.

ACTING SPEAKER P. RIVERA: Mr. Bronson in the affirmative.

Ms. Lifton to explain her vote.

MS. LIFTON: Yes, Mr. Speaker. A lot of issues have been raised, obviously, but just to summarize. This bill is intended to protect both men and women. This is a gender-neutral bill in the workforce, although, of course, it's usually been applied -- this issue usually comes up in terms of discrimination against women in the workplace. There is nothing in this bill -- if I can just speak to one of the key issues here. There's nothing in this bill to prohibit employers from making necessary adjustments to deal -- salary adjustments to deal with the pressures of the economy. And it only becomes a problem for an employer if they do selective reduction of salaries based on sex, based on gender. The issue came up about letting a man go, if a man were fired because you had to -- or a woman were fired, but it's usually the man, if the higher paid man were fired because you had to raise a salary of the woman, that man would have a suit. You're not allowed to discriminate against the man in that instance. It is not a bill that says bring the women up while you turn the men out or take down their salaries. That man would have an actionable -- an action available to him in court if he were fired in order to pay a woman a fair wage.

Four other states have already done comparable wage; Minnesota, Illinois, Hawaii and Wisconsin. We've heard nothing on the floor of any great raft of evidence saying that these comparable worth bills have created undue burdens on business. This is a bill that corrects

discrimination in the workplace from I think the issue that many, many people recognize and understand of comparable worth, very often women being paid less for jobs of comparable worth. Thank you. I vote in the affirmative, Mr. Speaker.

ACTING SPEAKER P. RIVERA: Ms. Lifton in the affirmative.

Mr. Joel Miller to explain his vote.

ACTING SPEAKER P. RIVERA: Mr. Joel Miller to explain his vote.

MR J. MILLER: Thank you, Mr. Speaker. As a dentist, we study the concept of risk management. You don't do those things that could potentially bring a lawsuit. Businesses would do exactly the same thing. It's the threat of the lawsuit, whether you're going to win or lose because whether you win or lose there's a cost. So, when you get into an area where people are likely to sue or encouraged to sue or you create laws that encourage them to sue, you will get sued and you will lose money, so you give up the ghost to do what's easiest, as many of our colleagues do sometimes in voting. The idea that you can raise the salary based on, as we were just told, productivity has nothing to do with the concept of having to raise the salary to get people to take the job in the first place. Two different concepts, not the same. This bill is unworkable and regardless of what other state, New York, as the most heavily-taxed State in the union, this State, with all of the problems with its economy, this State in which it is more difficult for a company to compete against companies in other states, this is the worst State to be and so, adding one

more nail to the coffin is not something we should be doing while we're trying to grow our economy. I will be -- I already have voted in the negative. Thank you.

ACTING SPEAKER P. RIVERA: Mr. J. Miller in the negative.

Are there any other votes? The Clerk will announce the results.

(The Clerk announced the results.)

The bill is passed.

We will proceed to Rules Report No. 21, the Clerk will read.

THE CLERK: Bill No. 1780, Rules Report No. 21, Rosenthal , Jaffee, Robinson, Paulin, Schimel, Wright, Gottfried, Gabryszak, Galef, Weprin. An act to amend the Civil Service Law, in relation to implementing a State policy of setting salaries on the basis of comparability of value of the work.

ACTING SPEAKER P. RIVERA: An explanation has been requested, Ms. Rosenthal.

MS. ROSENTHAL: This bill would amend Civil Service Law to implement a State policy for setting salaries on the basis of comparability of value of the work. It would also eliminate wage and equity and job titles which have been segregated by sex, race, or national origin.

ACTING SPEAKER P. RIVERA: Mr. Conte.

MR. CONTE: Thank you, Mr. Speaker. Will the

sponsor yield for a couple of questions?

ACTING SPEAKER P. RIVERA: Ms. Rosenthal.

MS. ROSENTHAL: Yes.

MR. CONTE: Thank you, Linda. This is different from the other bills that we had put forth in the past two bills because you add something a little bit different in terms of comparable value instead of comparable worth. Can you tell me what the difference between comparable value and comparable worth is?

MS. ROSENTHAL: It's the same basic principles. This bill includes a mechanism for determining which titles are to be considered segregated titles. It provides more of a mechanism.

MR. CONTE: Okay. So -- but again, so we have in the past two bills that you want -- that the Majority wants to pass comparable worth legislation, we have one definition and here we're talking about comparable value and I'll read from the bill, "...shall be determined by comparing job titles on the basis of standards which include the composite of such basic elements of a job as the knowledge, skills, accountability, mental or physical stress and effort, extraordinary dangers and responsibilities normally required to satisfactorily perform the job."

MS. ROSENTHAL: Yes.

MR. CONTE: Okay. So, it's different from comparable work, is that correct?

MS. ROSENTHAL: It's more explicit, I guess.

MR. CONTE: Okay. So, then can you explain to me why we have two different definitions and what type of situation that you

envision, and I believe this is just for State employees, if I'm correct, what --

MS. ROSENTHAL: That's right.

MR. CONTE: -- the type of positions or job titles that you see are going to be affected by this bill and not affected by the two previous bills by Ms. Jaffee and Ms. Lifton.

MS. ROSENTHAL: Okay. This bill also talks about race or national origin and talks about segregated titles. So, you look at titles which more often employ one sex or the other.

MR. CONTE: Excuse me? Employ one sex or the other?

MS. ROSENTHAL: Yeah.

MR. CONTE: But wasn't that the definition of --

MS. ROSENTHAL: It's segregated by sex, race or national origin.

MR. CONTE: So, it's not pay?

MS. ROSENTHAL: Well, the pay should be comparable, but it's looking at it from a different point of view.

MR. CONTE: Okay. Can you explain to me how you're looking at it in a different way and can you give me a specific example of the titles that you're looking at to try to make it so you can have something that is comparable value instead of comparable worth?

MS. ROSENTHAL: Okay. Well, for example, and it used to be that nurses were predominantly women. So, let's say the overall State workforce is 50 percent male and the percent of nurses

employed in the State service that are male is more than 60 percent, then the title of nurse would be considered a segregated title. So, if a large majority of the people employed as nurses are one sex or the other, then that would be a segregated title.

MR. CONTE: Okay. And I guess nurse would be one, but I guess if -- you know, I guess a diesel truck mechanic, you know, is going to be dominated by males in the State, probably to the tune of 98 percent, are you, at that point, then, having to go in and make a determination?

MS. ROSENTHAL: Well --

MR. CONTE: I'm confused about what was the trigger mechanism; but two, I still can't see the difference between comparable value and comparable worth.

MS. ROSENTHAL: If a particular job is performed, let's say, mostly by women and you take into account the knowledge, skills, accountability, mental, physical, stress and effort, extraordinary dangers, et cetera, to another job that uses those same values but mostly employs men --

MR. CONTE: Such as?

MS. ROSENTHAL: Well, such as what you just said.

MR. CONTE: A diesel mechanic?

MS. ROSENTHAL: Yeah.

MR. CONTE: Okay. I cannot --

MS. ROSENTHAL: The jobs -- the jobs -- for example, there are some jobs that have traditionally been given to women for

numerous reasons and those jobs usually pay less. You know, domestic worker, things like that, that require the same amount of knowledge and skill and accountability as a comparable-valued job that mostly employs men, but what we found is that men, when using those same metrics, would be paid more.

MR. CONTE: Okay. Again, I'm going to ask again: Can you give me a specific State employee title, job title, where a comparable value of work would be looked at in the purposes of this legislation?

MS. ROSENTHAL: You know, I don't have a particular job title to give you; however --

MR. CONTE: Do you have an example?

MS. ROSENTHAL: -- they do exist.

MR. CONTE: Do you have one example to give us where this is a real problem in the real world?

MS. ROSENTHAL: As I said earlier, there's domestic workers, there's secretaries, groundkeeper, let's say.

MR. CONTE: First of all, we're talking about State employees.

MS. ROSENTHAL: Yeah.

MR. CONTE: I don't know if we have any domestic workers who are State employees. Is that a title?

MS. ROSENTHAL: Well, I think we might, actually.

MR. CONTE: We might?

MS. ROSENTHAL: Yeah, child care.

MR. CONTE: Okay. Let's go child care.

MS. ROSENTHAL: Domestic worker includes a person who takes care of kids, too.

MR. CONTE: Okay. In terms of Civil Service titles here in New York State. There's hardly of job in the Civil Service Law in this State that does not have a title and a skill set and a defined work/job-related activity that they are supposed to do on a daily basis. Can you give me one, one State title where this bill would come into effect?

MS. ROSENTHAL: You know, there's a formula and from that formula you may deduce the job title.

MR. CONTE: I'm going to get to the formula.

MS. ROSENTHAL: I can give you a woman's job title, a child care worker, secretary and for men's jobs, there are plenty that I cannot bring to mind right now, but that fit in that formula.

MR. CONTE: Okay. Let's go to the formula, if we will. I want you to explain to the Body how the formula works. I'm going to read it. I'm going to read it for the Body, if you don't have the bill here. For the purposes of this section, which deals with comparable value of work, "For the purpose of this section segregated titles, (X) means titles or any class of titles in which the number of incumbents of a sex, race or national origin is greater than the sum of the percentage of that sex, race or national origin in the State service (P) plus 20 percent of that percentage (.2(P)). This is represented by the formula $(X = P + .2 (P))$." I would like you to explain to us -- I understand we're -- you know, we

don't have a "D" after our name, but explain to us what that means in real terms in this State.

MS. ROSENTHAL: Okay. The reason there's a formula is the formula provides a mechanism for determining exactly which titles are considered segregated titles, which is the question you're asking.

MR. CONTE: But what does the --

MS. ROSENTHAL: If a title is determined to be segregated, then Civil Service would investigate to ensure that the wages paid in that title are equal to those being paid to other titles performing similar work of comparable value, which was discussed earlier in the debate over the other two bills. The formula says that a title is segregated -- and this goes to your question -- If the number of a certain group of people categorized by race, sex or national origin working in that particular title is greater than the percentage of that same group of people working in State service overall, plus that same percentage multiplied by 20 percent. So, if you would like to apply this formula to a certain job title, you will come out with the job titles that are segregated.

MR. CONTE: Okay.

MS. ROSENTHAL: And they defy categorization at times, so you may find that a job that, you know, anyone could work at only men are working in. Okay. That would be a segregated job title.

MR. CONTE: Okay.

MS. ROSENTHAL: You know, for example, a fire department in different states is predominantly men. That's a whole issue about women being accepted as firefighters, but that would be a

segregated job title.

MR. CONTE: Okay. Currently, does the Department of Civil Service keep track of the State employees' race, gender or national origin?

MS. ROSENTHAL: Well, when you apply for a job, that's one of the boxes that you can check when you apply for a job, your sex, your race.

MR. CONTE: But is it mandatory?

MS. ROSENTHAL: It's not mandatory, but they do have a report and they do factor that in when -- you know, making a report on the number of males, females, national origin. They produce reports that give us those kinds of numbers.

MR. CONTE: Thank you. On the bill, Mr. Speaker.

ACTING SPEAKER P. RIVERA: On the bill.

MR. CONTE: We just had two bills dealing with comparable worth. Now we're adding for State service not only comparable worth, but we're adding comparable value. And we come up with this particular formula that is outlined in the legislation to ascertain what comparable value is supposed to be and, I guess, again, if the Civil Service department can determine what a person's race, gender, national origin, which they don't really track on a regular basis, they're going to have to go in and begin to investigate that particular information. But I think all in all, I asked the simple question, Mr. Speaker, of the sponsor of this bill. Name one area in this State, job titles in this State that would be affected by this particular piece of legislation and she could not name

one that was able to say to us this is the injustice that's going on and this is the justice that we feel is the reason why it is the best way to remedy that injustice. I did not ask the question on how much this is going to cost the State Civil Service Department because, you know, they're going to have to add on a number of people just to talk about whether it's comparable worth or whether we're going to talk about now comparable value, and I still don't know the difference between the two.

But, for that reason, Mr. Speaker, I'm going to be voting no on this because I believe that the Civil Service Laws that we have in this State, the collective bargaining agreements that our unions have fought for over the years have taken into account different titles, different genders. They understand that people should be paid equal work for equal pay. They understand that we should be paying people for what they are worth here in this State, and this is the unions I'm talking about, because they fight for everyone, not just for the males and not just for the females but the Civil Service Laws in this State, the Human Rights Laws in this State are adequate. We don't have to add this other layer where the definitions that the sponsor can't even give me a true definition, they're going to allow the courts to decide. It's going to, again, cost taxpayers a ton of money at a time when there just isn't any. Thank you, Mr. Speaker

ACTING SPEAKER P. RIVERA: Mr. Joel Miller.

MR. J. MILLER: Thank you, Mr. Speaker. On the bill.

ACTING SPEAKER P. RIVERA: On the bill.

MR. J. MILLER: There is a software program that

dentists could buy that track all kinds of things, how many crowns you did, how many root canals you did, how many fillings, how many cleanings and I always asked, why? What do you have to know that for if you look and you say statistically, I should be doing 20 percent crowns but only 15 percent of my workload is crowns, what do you do, start doing crowns on people that don't need them? I mean, some of the things just happen to be. Now, we haven't heard any discussion of people who work in one job category who are fully qualified based on their education, this, that and the next thing, who have applied for the other job that pays more and have been denied that job. And so, you know, you look at all of these bills -- and, again, this one was the worst because even the sponsor can't come up with an explanation for what it does -- you have to wonder why did we bring these bills up?

Governor Cuomo said in a press conference that we had together in my district that he found partisanship to be unbelievable. He said if you take 100 Democrats and 50 Republicans and you ask 100 Democrats what is their favorite color, he said the fact that they all say yellow is absolutely amazing and the fact that every Republican will say orange is absolutely amazing. There's no one person in the party that thinks there's a different color that is their favorite color. But we just saw this. We're voting along party lines on bills that make no sense at all, but we're trying to say something. And what is it that we're saying? We're the party that protects -- gee, if I could just think of who it is I'm really protecting, but we're doing it. We're protecting you even if the bills don't make any sense. There can't be every Democrat who honestly believes

these bills make sense.

I just think that, you know, considering that everyone is having a tough time to spend an entire day discussing things not of comparable value, not of comparable worth, not of equal value or of equal worth, but we discuss something that has no value at all to anyone anywhere unless you want to destroy the economy of this State. I think we can do better. Thank you.

ACTING SPEAKER P. RIVERA: Mr. Peter Lopez.

MR. P. LOPEZ: Thank you, Mr. Speaker. Would the sponsor yield for a brief question?

ACTING SPEAKER P. RIVERA: Ms. Rosenthal?

MS. ROSENTHAL: Yes.

MR. P. LOPEZ: Thank you. Just in reviewing the language in the statute and some background information, I see at the -- just before the enacting clause there's a provision added that -- Subdivision 5, Section 119, "No salary shall be reduced to achieve comparable compensation under the provisions of this section." And I guess my question for you is -- my sense is the intent of this legislation is equity, fairness, protecting all interests, including the interests of taxpayers. Do we have any provision -- can you explain to me why, if after review, why this only selects or opts for increasing a salary and not for adjusting salaries to --

MS. ROSENTHAL: Well, it doesn't say to increase, it just says not to reduce.

MR. P. LOPEZ: If I'm reading the language in the

statute, it says, "No salary shall be reduced to achieve comparable compensation."

MS. ROSENTHAL: Right. But it doesn't say the salary shall be increased to achieve compensation.

MR. P. LOPEZ: So, if we're stating the null hypothesis, I guess we could speak in many different languages and verbiage, I guess my question is, if thou cannot reduce, what does that mean? So, you can't reduce.

MS. ROSENTHAL: Right.

MR. P. LOPEZ: So, you're allowing one option, basically my point, you're allowing one option to occur after an objective analysis, but you're protecting against the other.

MS. ROSENTHAL: The thing is don't bring things down to the lowest common denominator. If one group is being sorely underpaid, don't even it out by sorely underpaying another group.

MR. P. LOPEZ: Understood, but reverse that. So, what if one group is being overpaid in terms of appropriate standards and objective analysis --

MS. ROSENTHAL: It's not they're being overpaid. We don't know if they're being overpaid. They're perhaps getting the appropriate rate.

MR. P. LOPEZ: So, with that said, this legislation does not seem to allow for that assessment to even be made and unless I'm misunderstanding, you have a presumption in the legislation that whoever's being paid at the higher salary should remain at that salary,

regardless of whether there's an objective analysis.

MS. ROSENTHAL: It's actually vague on that point. It's just being specific on the point that you cannot bring everything, both jobs, to the lowest common denominator. So, if you're grossly underpaying a job title that's segregated, that doesn't mean that once you discover that then you are going to lower the wages of those who have not been discriminated based on segregation of work.

MR. V. LOPEZ: So, in this discussion, and just so I'm clear -- and I'm just actually going to read you a little bit from existing statute and this is in your bill and this is existing statute policy of the State and a portion of it says, "In order to attract unusual merit and ability to the service of the State, to stimulate higher efficiency, to provide skilled leadership, to reward merit and to ensure the people and the taxpayers of the State of New York the highest return in services for the necessary costs of government." So, existing statute, existing policy stated intent of the legislation that we're amending but, yet, somehow your amendments seem to be counter to what is already the law in New York State and the express policy -- I should say the express policy. Could you help me understand that, please?

MS. ROSENTHAL: That's probably the whole point of today that inequity continues to exist which is why we want to pass these bills that would overturn that which is why we have formulas like this, the one in this bill, that would reveal which are the segregated titles, where women or men are being discriminated based on sex, mostly; race, often; national origin, often, as well, but today, pay equity day is about

equalizing the two.

MR. P. LOPEZ: So in our formula $X = P = .2 (P)$, do we have a "Q", or some other letter, to highlight the relative appropriateness of the higher salary? So, do you have a modifier in your formula, again, going back to the stated intent of this --

MS. ROSENTHAL: I'm not going to get into discussion of integers and real numbers and whole numbers, prime numbers. That's not my speciality.

MR. P. LOPEZ: No, I'm just asking you a question. You can tell me the answer --

MS. ROSENTHAL: However, there is a wage gap because many women are still segregated into a few low-paying occupations.

ACTING SPEAKER P. RIVERA: Mr. P. Lopez.

MR. P. LOPEZ: Thank you, Mr. Speaker. My question, and let me rephrase to the sponsor, if I may, as concisely as I can, the stated policy in existing statute is to ensure the people and taxpayers of the State of New York, the highest return in services for the necessary cost of government, which does have a bearing on the nature of pay and the appropriateness of pay. I am asking the sponsor if she would be willing, in her legislation, to include the possibility that the higher pay may not be the appropriate level, that's my simple question and that's a yes or no answer.

ACTING SPEAKER P. RIVERA: Do you wish to answer, Ms. Rosenthal?

MS. ROSENTHAL: Is that a question or a statement?

MR. P. LOPEZ: My question is, would you allow and, again, I'll keep it as concise as I can, would you allow in your legislation for the higher salary to be possibly deemed to be the inappropriate salary and to be adjusted downward or to allow the two salaries to meet somewhere in the middle to reflect a true value and best return to the taxpayer?

MS. ROSENTHAL: I know you've read the bill, so you can deduce from that that the point of it is not to determine which is the higher, which is the lower, which is the better, which is the right salary. It's to make sure that jobs in segregated titles are paid properly and comparably, not whether one is higher, one is lower.

MR. P. LOPEZ: Mr. Speaker, on the bill, if I may.

MS. ROSENTHAL: Can I finish or you don't want the answer?

MR. P. LOPEZ: Go ahead, please. I do.

MS. ROSENTHAL: So, what I was saying is that the point of this bill is not to determine which is the correct pay. So I would say your question, if you want to read the bill again, you can answer the question. The only provision regarding pay that is specifically outlined is that you may not reduce the pay and maybe one day you will be in that circumstance and say, "Boy, I'm glad they're not reducing my pay."

MR. P. LOPEZ: Mr. Speaker, on the bill.

ACTING SPEAKER P. RIVERA: On the bill.

MR. P. LOPEZ: Again, I've made clear to this Body

what existing policy of the State of New York is, including providing the people and the taxpayers the highest return in services and what we've clearly heard from -- well, not so clearly, no offense, but what we've heard from our sponsor is that that doesn't matter in regard it to this legislation. This legislation just wants to make pay the same regardless of whether it meets the acid test of being an appropriate salary and the best return to the taxpayer of the State of New York. In my opinion, that runs counter to what we should be here for. If we're looking for fairness, fairness should be across all permutations, fairness to the individual, fairness to the taxpayer, fairness to other coworkers. This bill is inherently unfair because it's bias from its start and it is bias against the taxpayers of the State because it presumes that a higher salary is the only answer and with that, Mr. Speaker, I will be voting in the negative. I do encourage the sponsor of the bill to possibly reconsider her position and thank you. I'll be voting in the negative.

ACTING SPEAKER P. RIVERA: Mr. Goodell.

MR. GOODELL: Would the sponsor yield for a few questions?

ACTING SPEAKER P. RIVERA: Ms. Rosenthal, will you yield?

MS. ROSENTHAL: Yes.

MR. GOODELL: First, Ms. Rosenthal, I want to commend you for addressing this issue. I think it's the right thing to do and I especially appreciate the fact that your bill deals with the State workforce because I think it's extremely important that we, as Legislators,

we, as a government, lead by example and so, I appreciate that effort.

MS. ROSENTHAL: Thank you.

MR. GOODELL: My first question is, do we have any studies of our workforce that demonstrate problems in this area? Are there any existing studies out there?

MS. ROSENTHAL: Yeah. There was a general accounting office study in October 2003. It was called Women's Earnings, and it examined 18 years of data, found a 20 percent earnings gap between women and men that could not be explained, even when accounting for a demographic and work-related factors such as occupation, industry, marital status and jobs.

MR. GOODELL: I apologize. My question wasn't clear enough. Are there any studies of the New York State Compensation Program and our own job titles?

MS. ROSENTHAL: Well, this bill would actually provide that because if we do an investigation and use the formula we've talked about, we will actually expose where the unfairness exists; however, in New York State, in every other state, in the country in general, women are paid on the average much less than men for comparable worth.

MR. GOODELL: Am I correct that there's no current study then of our own salaries and our own job titles in the New York State System?

MR. ROSENTHAL: I'm sorry. Can you repeat that?

MR. GOODELL: Am I correct then that there is no

current study of our New York State job titles and job system? This would create an analysis, but am I correct there's no current study?

MS. ROSENTHAL: Well, in 1985 there was an Executive Order to do a study, but it's not in law, but there was a study done in 1985.

MR. GOODELL: I think Assemblywoman Jaffee noted that the Executive ruling back in 1985. Is there anything that would prevent Governor Cuomo from doing the study on his own?

MS. ROSENTHAL: I don't believe so, except for the economic conditions would probably prohibit an exhaustive study, the kind that we would like to see.

MR. GOODELL: Isn't it the responsibility of the New York State Civil Service Commission to make sure that the wages are appropriate for each job classification?

MS. ROSENTHAL: That is what is contained in this bill.

MR. GOODELL: Is it your position that the New York State Department of Civil Service is discriminating in the wage base for positions in the State government that are predominantly one sex or the other?

MS. ROSENTHAL: I'm saying let's find out for sure because it is the policy of the State to deal fairly with people of either sex, whatever race, whatever national origin, but we suspect that that is not always the case. That's why we want to pass this bill and get the answers.

MR. GOODELL: Thank you, Assemblywoman.

MS. ROSENTHAL: You're welcome.

MR. GOODELL: On the bill.

ACTING SPEAKER P. RIVERA: On the bill.

MR. GOODELL: As I mentioned earlier, I appreciate the efforts by Assemblywoman Rosenthal to move this issue forward. I think it's the right issue and I think we're the right ones to lead by example. My concern is that I think we may have the cart a little bit before the horse. It might make more sense for us to study the issue before we adopt legislation than to adopt legislation first. I'm a little bit concerned that we have a legislative finding, quote, "That job titles which are segregated by sex, race or national origin have been undervalued and assigned wages which do not reflect the relationship work of the job." I'm hesitant to make that legislative finding when we don't have any current study and the last study was done in 1985. I also actually have a fair degree of confidence in Governor Cuomo and the administration to address this. I note that this bill has been adopted by the Legislature now 15 years in a row. I would certainly hope after 15 years that the administration is getting the message and assuming that they are paying attention to us, with which we all hope, of course, the problem may already be well underway in being addressed. So, I think the idea is great and I applaud the sponsor, but I'm not sure how serious this issue is after 15 years and the earlier study. Thank you, Mr. Speaker.

ACTING SPEAKER P. RIVERA: Mr. Graf.

MR. GRAF: Would you yield for a question, please?

ACTING SPEAKER P. RIVERA: Ms. Rosenthal, will you yield?

MS. ROSENTHAL: Yes.

MR. GRAF: Under this legislation, in our own House, would that mean that we would have to find out who the highest-paid legislative aide was and bring all other legislative aides up to that salary?

MS. ROSENTHAL: Well, we're talking about Civil Service here and those positions are not Civil Service.

MR. GRAF: Why aren't they included?

MS. ROSENTHAL: Well, this bill has a discrete purpose. If you would like to propose such a bill, I'd be a sponsor.

MR. GRAF: I'm sure our legislative aides would love us for that. Thank you.

ACTING SPEAKER P. RIVERA: Mr. Conte.

MR. CONTE: Thank you, Mr. Speaker. Would the sponsor just yield for just a couple questions?

ACTING SPEAKER P. RIVERA: Ms. Rosenthal, will you yield?

MS. ROSENTHAL: Yes.

MR. CONTE: Thank you, Ms. Rosenthal. It seems that we're changing the policy of New York State here and I go onto Section 115. I'm going to go to page 2. Basically where before it was the policy of New York State, it is declared to be the policy of the State to provide equal pay for equal work, okay. Now we are changing it to say it is the policy of the State to provide equal pay for similar work and I'm

wondering if you can give me a definition of "similar"?

MS. ROSENTHAL: The principle of fair and equal pay for similar work, and this is in the law right now, shall be followed in the classification and reclassification and allocation and reallocation of positions pursuant to this article and all positions having the same title shall be allocated to the same salary grade.

So, this is Civil Service Law fair and equal pay for similar work. So, that's already codified.

MR. CONTE: And that is already the State law?

MS. ROSENTHAL: Yes.

MR. CONTE: And did it --

MS. ROSENTHAL: It's not in the section that you're reading from.

MR. CONTE: No, I understand that.

MS. ROSENTHAL: But it is in the Civil Service Law.

MR. CONTE: I was just wondering for clarification, what the definition of "similar" is? And you're saying that the definition of similar is outlined in another section of law that is not contained in your legislative bill?

MS. ROSENTHAL: Okay. Well, you know, the Classification and Compensation Division exists and the head of that division will determine similar work.

MR. CONTE: But there is no definition. Again, we will have someone whose job it is to look at it, not on a set law that we have asked them to look at, but basically be very subjective in their particular

views? Because everyone understands -- I mean, equal pay for equal work we understand. I'm just trying to figure out what equal pay for similar work is.

MS. ROSENTHAL: It's been a long-established principle and the head of the Classification Comprehension Division has a lot of guidance as to determining the similar work.

MR. CONTE: Thank you, Ms. Rosenthal. Thank you, Mr. Speaker.

ACTING SPEAKER P. RIVERA: Read the last section.

THE CLERK: This act shall take effect immediately.

ACTING SPEAKER P. RIVERA: The Clerk will record the vote.

(The Clerk recorded the vote.)

Are there any other votes? The Clerk will announce the results.

(The Clerk announced the results.)

The bill is passed.

We'll proceed to Rules Report No. 24, the Clerk will read.

THE CLERK: Bill No. 6130, Rules Report No. 24, Wright, Colton, Cahill, Lancman, N. Rivera, Rosenthal, Lupardo, Jaffee, Bronson. An act to amend the Labor Law, in relation to enacting the "New York State Fair Pay Act."

ACTING SPEAKER P. RIVERA: An explanation is requested.

MR. WRIGHT: Certainly, Mr. Speaker. This bill would establish the New York State Fair Pay Act. The purpose of the New York State Fair Pay Act is to guarantee that individuals who have long been discriminated against in the wages for which they are paid will receive compensation and fair treatment under the law. Unequal pay still exists today because jobs done predominantly by women and people of color have been underpaid for centuries of historic discrimination. Jobs traditionally done by women and people of color have been systematically undervalued in the marketplace. The net result is that these jobs are paid less than comparable jobs with the same level of skills and responsibilities, but commonly held by white males. While we have some laws on the books that try to prevent this kind of discrimination in wages, the fact is that women and minorities still earn less, less, than men for jobs that require the same skills, responsibilities and working conditions. And I see you getting up and getting ready. I'm not finished yet, all right? Speak of the the Census statistics released in September of 2010 show that women still earn 77 percent of what men earn. This kind of discrimination results in a significant wage gap in earnings over the career of an individual. In fact, the disparity can be between \$700,000 and \$2 million over the course of a lifetime. It means that there is less economic wherewithal available to our families; it means that in New York State more women end up living in nursing homes and relying on our Medicaid system to pay for their expenses in their latter years of their lives because they have not been compensated during their working life.

This legislation would establish when a person, whether

male, female, African-American, Hispanic, Asian-American, American Indian, whatever, gets paid for doing work with the same requirements, the same education, the same responsibilities, that their pay should also be the same. It is a principle that has been adopted in states and municipalities elsewhere in these United States for many of the same reasons outlined here. The fact that this shameful, shameful disparity is still in existence today has depressed wages and living standards in our State that has reduced family incomes, contributes to the high child poverty rate and that we face in our State that has produced unfairness, that is preventing New York State and the United States from becoming a place where everyone is truly created equal. If this bill is signed into law, when first conceptualized or the Federal bill implemented as intended, even the employers of Walmart would be breathing a sigh of relief instead of dispatching an army of lawyers to fight potential \$1 billion wage inequity class action lawsuits because they unfairly paid women less than men .

So, we must remember -- almost finished but listen well, listen well, we must remember that as the Reverend Dr. Martin Luther King once with said, "Injustice anywhere is a threat to justice everywhere." This bill removes injustice from our workplace and creates a new standard where everything doesn't have to be too pale and too male.

ACTING SPEAKER P. RIVERA: Mr. Molinaro.

MR. MOLINARO: Admittedly, when someone of Mr. Wright's stature quotes Dr. King, I really would prefer not to debate, but I

just wanted to ask a few questions, if the sponsor might yield just for a couple very quiet, calm questions.

MR. WRIGHT: All right. I'm with you.

MR. MOLINARO: Mr. Wright, you referenced in a very thorough explanation, and I appreciate that, that this bill would attempt to treat individuals working in -- you used the words similar situations. The bill, though, speaks to dissimilar situations, that this is equal pay for equivalent jobs and the definition identified are those jobs or occupations that are dissimilar but whose requirements are equivalent. Could you help us understand, perhaps, two jobs that might be dissimilar but equivalent that would be governed by this legislation?

MR. WRIGHT: Well, I'm not going to get into what -- comparing jobs and such, what jobs would be. Under this bill the Department of Labor will be issuing a classification and examples and such of rules to promulgate and they will issue the standard under this bill.

MR. MOLINARO: Well, but you just gave a very eloquent explanation wherein, I would admit, I would suggest you made some very strong points as it relates to those who might be treated poorly in the workplace and because this legislation, in your opinion, is meant to address that, I am interested in knowing who are and what are the specific classifications of occupations that are dissimilar but equivalent that this legislation is meant to address?

MR. WRIGHT: Well, it's well settled that women are continued to be paid less everywhere in the State of New York. But let

me just say, I want to go back to your other question. I guess you're asking the question what does equivalent mean?

MR. MOLINARO: Yes, yes.

MR. WRIGHT: All right. I'll tell this, under this bill the term equivalent means, equivalent jobs means jobs or occupations that are equal within the meaning of the Equal Pay Act of 1963 or jobs that are dissimilar but whose requirements are equivalent.

MR. MOLINARO: Right. That's my question.

MR. WRIGHT: The bill provides that equivalent requirements shall be viewed as a composite of skills, effort, responsibility and working conditions.

MR. MOLINARO: I read the definition, Mr. Wright, I'm just interested in knowing who we're talking about.

MR. WRIGHT: Say it it again?

MR. MOLINARO: I read the definition. I'm just interested in knowing what classifications of jobs do you believe are dissimilar but equivalent? Who is going to --

MR. WRIGHT: The Department of Labor will come up with that within this bill, for this bill. The Department of Labor will come up with that classification.

MR. MOLINARO: The bill goes on on page 3, line 50 to suggest that the regulation shall not include a list of jobs. So, the department is not being directed to create a list of jobs.

MR. WRIGHT: The Department of Labor is not coming up with a list of jobs. No, they're not.

MR. MOLINARO: And neither are you.

MR. WRIGHT: They're not.

MR. MOLINARO: But neither are you. So what is the direction we're to give the Department of Labor and/or the individuals governed by this legislation? What exactly are we trying to protect against specifically, moderately specifically?

MR. WRIGHT: The Department of Labor says it can come up with a classification that does not systematically undervalue, undervalue, but it will not come up with a list of jobs. It will not. I don't know how many different ways I can say it. It will not. It absolutely will not.

MR. MOLINARO: Well, I wasn't asking you that question. I was asking you if you were giving us a list.

MR. WRIGHT: No, I'm not going to give you the list, if the Department of Labor can't give it to you. They're suppose to give it to you. I'm not going to preempt them.

MR. MOLINARO: They're not supposed to give it to us, Mr. Wright. Page 3 says they're not giving us a list.

MR. WRIGHT: They're going to come up with the system.

MR. MOLINARO: That does or does not include jobs.

MR. WRIGHT: It will not include a list of jobs.

MR. MOLINARO: Okay. So no one will know until the Department of Labor is done not completing a list. I'm sorry. I've debated bill with previous sponsors and, believe me, your explanation

was most thorough, but previous sponsors have attempted to identify and I congratulate you for not trying to identify because as of yet, I've never heard what a comparable job is, dissimilar job, with equivalent responsibilities. So, since you won't answer it and the Department of Labor is not being directed to tell us, we'll never know.

MR. WRIGHT: The Department of Labor hasn't been established yet, right? Once this gets passed, we will have an answer.

MR. MOLINARO: No, Mr. Wright, we won't have an answer. The bill says there will be no list.

MR. WRIGHT: The Department of Labor will do what they do.

MR. MOLINARO: I know. That scares the heck out of us. This bill will govern employers of how many employees or greater?

MR. WRIGHT: Three or more.

MR. MOLINARO: Three or more. So, was there a reason for picking three or more? I mean, it seems like a fairly significant regulation on a small employee base, no?

MR. WRIGHT: It's based on the Human Rights Law.

MR. MOLINARO: Human Rights Law is three or more?

MR. WRIGHT: That's right.

MR. MOLINARO: But this extends beyond what the Human Rights Law can do in the area of penalties, no?

MR. WRIGHT: No.

MR. MOLINARO: Well, then we wouldn't need the bill.

Okay. In the legislation, the bill suggests that employers can have exemptions from this bill under certain circumstances. I was hoping you could explain to me, one section of the bill it speaks about market rates, which shall mean the rates that employers within a prescribed geographic area actually pay. When I asked the sponsor last year, two years ago, about this bill, she noted that the Department of Labor would apply, in essence, salaries based on the market rates within geographic areas. Is that still the case? Will employers be held to geographic market rate salaries or not?

MR. WRIGHT: Geographic location might, might be one of the factors that are used to determine the worth of the job, but it cannot, cannot be used as an excuse for gender discrimination.

MR. MOLINARO: And who decides the geography or the geographic areas? Is that also the Department of Labor?

MR. WRIGHT: It would be the Department of Labor.

MR. MOLINARO: Okay. That --

MR. WRIGHT: I think that's mainly a form of common sense, too. Where are you from?

MR. MOLINARO: That --

MR. WRIGHT: Where are you from?

MR. MOLINARO: I'm from the Mid-Hudson Valley, sir.

MR. WRIGHT: And I'm not.

MR. MOLINARO: I know.

MR. WRIGHT: Okay. Right. I'm from the City of New

York, so --

MR. MOLINARO: Fair enough. Right; however, the Mid-Hudson Valley is classified in the Metropolitan statistic area which is, of course, New York City, so am I to understand that the Mid-Hudson Valley would be governed by a geographic area established primarily in New York City or not?

MR. WRIGHT: Not necessarily.

MR. MOLINARO: Okay. Well, where does it say that?

MR. WRIGHT: What did you say?

MR. MOLINARO: Where does it say that --

MR. WRIGHT: I just gave you a geographic location which might be one of the factors, might be. Might be one of the factors.

MR. MOLINARO: Okay. I understand. So our argument is that there's another area where the Department of Labor is given no direction and, therefore, we're going to wait for them. We're going to get a list from them, we're going to get geographic areas from them, we're going to get salary schedules from them.

MR. WRIGHT: From what I'm told, geographic locations are already established under the Prevailing Wage Law.

MR. MOLINARO: Right, in which case the Mid-Hudson Valley is included in New York City.

MR. WRIGHT: Okay. Good.

MR. MOLINARO: Right. So the Town of Copake with 1,300 residents are forced into a statistical area established in New York City. That makes sense. Well, you said common sense. I was just trying

to apply it. Can market factors be considered in establishing those rates? So, if an employer is to establish a rate for comparable work, comparable pay -- or comparable work, equivalent pay or equivalent work, comparable pay, can they consider market standards?

MR. WRIGHT: Any bona fide factor can be considered, but you cannot use it as a cover for discrimination.

MR. MOLINARO: I'm asking if market factors can be included in the consideration of those rates?

MR. WRIGHT: The answer is yes, just as long as it's not a cover for discrimination. It can be.

MR. MOLINARO: Except that on -- I'm confused then on page 3, line 28, it speaks to the factors that are -- the exemptions: "(1) a bona fide seniority, merit system; (2) a system that measures earnings by quantity or quality of production or (3) any bona fide factor other than sex, race, or national origin provided, however, that wage differentials based on varying market rates for equivalent jobs or the differing economic benefits to the employer of equivalent jobs shall not be considered differentials based on bona fide factors other than sex, race..." So I'm now, again, confused. This bill seems to suggest on one hand, as you've suggested, that market rates can be considered; yet, in the language it carves out this very clear exemption that market rates cannot be considered.

MR. WRIGHT: It says there's no flat exemption for market rates but it can be used, but just not as a cover for discrimination.

MR. MOLINARO: And I won't put words in your

mouth but the sponsor two years ago suggested, in fact, that that's not the case but this bill hasn't changed since then?

MR. WRIGHT: Please don't put words in the sponsor two years ago?

MR. MOLINARO: But this bill is the same as it was presented to us a year ago.

MR. WRIGHT: Yes.

MR. MOLINARO: Okay. So we still, obviously, I have that concern. Let me just ask, in the case of remedy, so a situation occurs comparable work or equivalent work, comparable pay, the Department of Labor deems or tries to negotiate a settlement. The only settlement that can be reached is -- excuse me, in order to settle the discrepancy, a higher-paid class of employees cannot have their salaries reduced in order to meet, perhaps, what would be suggested as the underpaid class of employees, is that correct?

MR. WRIGHT: Let me just say this: You cannot lower wages for an employee under this act.

MR. MOLINARO: Okay. So what is the remedy if you cannot lower?

MR. WRIGHT: That would be up to the court.

MR. MOLINARO: No, actually, it says a settlement can be reached by the Department of Labor, but if the settlement cannot include the lowering of a salary class, what exactly is the settlement other than to raise the salary of a particular class?

MR. WRIGHT: You can raise the salaries of the class.

MR. MOLINARO: Thank you, Mr. Wright. I appreciate that. So the remedy is to raise the salary regardless. So even if there was a negotiation with the Department of Labor the employer's still forced -- the only remedy that that settlement can include is an increase in salary or the elimination of the job entirely.

MR. WRIGHT: Yeah, yeah, fine with me.

MR. MOLINARO: Yes. I'm fine. I'm fine.

MR. WRIGHT: You're fine with that?

MR. MOLINARO: Well, no, but I appreciate the honest answer. It was very clear. And this legislation would affect public and private sector employees, no?

MR. WRIGHT: That is correct.

MR. MOLINARO: So, if I have a situation where public employees negotiate a contract and that contract includes certain classifications, are those classifications' pay based on a negotiated collective bargaining agreement? If one class of employees decides that their union didn't do such a hot job and wanted to go to the Department of Labor, isn't it conceivable that that class of employee could seek a remedy that is outside the scope of the collective bargaining agreement?

MR. WRIGHT: I guess it could be conceivable.

MR. MOLINARO: So it is conceivable and the remedy in that case is really just to pay the underpaid class higher or not pay someone lower.

MR. WRIGHT: I would say that it would be an individual action though.

MR. MOLINARO: Excuse me.

MR. WRIGHT: I would say it would be an individual action not to necessarily pay the class.

MR. MOLINARO: Well, if a class of workers goes to the Department of Labor and claims their agreement doesn't meet the test of this legislation, they would seek a remedy, no?

MR. WRIGHT: A class could but an individual could also.

MR. MOLINARO: I agree with you.

MR. WRIGHT: Okay. Good.

MR. MOLINARO: So they both could and the remedy is to raise their salary?

MR. WRIGHT: I would think. That would be one remedy.

MR. MOLINARO: What is the other remedy? I keep hearing other remedies.

MR. WRIGHT: Well, you know, equitable remedies, certainly when you have an underpaid class --

MR. MOLINARO: Is to pay them more.

MR. WRIGHT: Yeah, or back wages, back wages and the court has very, very broad discretion.

MR. MOLINARO: I understand. So the only -- you're kind of saying we're only talking about raising -- the only remedy is to pay more and to pay back wages?

MR. WRIGHT: Well, wages that are justly due.

MR. MOLINARO: Mr. Wright, if a class of individuals or a single individual seeks a remedy, that remedy, based on this legislation, would include back pay.

MR. WRIGHT: Well, it would include back pay, yes.

MR. MOLINARO: And, obviously, a court and/or the Department of Labor is not going to continue to allow this discrepancy to occur so they're going to get paid more.

MR. WRIGHT: I would hope so.

MR. MOLINARO: Right. Thank you, Mr. Wright. I appreciate it.

Mr. Speaker, on the bill.

ACTING SPEAKER P. RIVERA: On the bill.

MR. MOLINARO: Mr. Speaker, you know, I know there's been a great deal of debate on this entire package and we recognize both the sincerity with which our colleagues bring forward these bills. This, however, is sort of the mother of all unfunded mandates, broadly defined legislation and I compliment the sponsor for at least acknowledging, in fact, what are the broad applications of this legislation. There is no remedy in the State of New York if this bill were to become law other than for employers to pay people more money and it allows, without any specificity, the Department of Labor to determine what exactly the methodology shall be and what the classification shall be as far as making those final determinations. This is a, respectfully, a broadly-written piece of legislation that ultimately will have profound impact on municipal, public, private employers including, including

overriding collective bargaining agreements if the Department of Labor chooses to do so. And there is no other remedy than to pay more or, perhaps, private sector employers will simply lay off their employees. This is an extremely burdensome requirement in an already overly regulated, overly burdensome, overly difficult economic condition without any consideration for market factors or any real consideration with common sense of geographic areas and the salaries that get paid within them. I would certainly urge my colleagues to read the legislation and join us in opposition. Thank you. I know, Mr. Speaker, I wouldn't dare to exceed my time. Thank you, Mr. Speaker

ACTING SPEAKER P. RIVERA: Mr. Hanna.

MR. HANNA: Thank you, Mr. Speaker, on the bill

ACTING SPEAKER P. RIVERA: On the bill.

MR. HANNA: Thank you. I have been sitting here for several hours trying to understand, frankly, why so many members of the Assembly think this package of legislation is a good idea. And it really didn't become clear to me until the debate over the last piece of legislation when the esteemed Ms. Rosenthal said that, and I quote, "Jobs given to women pay less money than jobs given to men." And I think therein lies the problem. Jobs are not given to women. Jobs are not given to men. Men and women alike pursue jobs. Men and women alike accept jobs and if you want a job that pays more, you go into a profession that pays more. Capitalism provides for mobility among the various professions and if a person is denied access to a higher-paying profession by reason of his or her gender, then that person has remedies under

existing State and Federal law. Those remedies, actually, work very, very well. I'm an attorney by trade, a profession that was once reserved exclusively to males. For several years now law schools have had a majority of students that are female and that's been true of doctors, it's been true of businessmen. The system works very, very well. The market sets the rate among the different professions and what this package of legislation has done or is trying to do is to take the collective wisdom of the free market and to place it on the desk of a nameless bureaucrat or an H.R. director in a given company. That is incomprehensible to me.

For the last couple of years we've had a discussion in this nation as to whether this nation and this State are moving closer to socialism and further away from the capitalism that has made us what we are. This package of legislation goes an awfully long way toward answering that question and for that reason I'll be voting no. Thank you, Mr. Speaker.

ACTING SPEAKER P. RIVERA: Mr. Murray.

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

ACTING SPEAKER P. RIVERA: Mr. Wright.

MR. WRIGHT: Yes.

MR. MURRAY: Thank you, Mr. Wright. A couple of things just for clarification purposes. I know you had stated that this covers any business or employer with three employees or more, that's public, private, that means any business in the State of New York?

MR. WRIGHT: Yes, sir.

MR. MURRAY: Is that correct?

MR. WRIGHT: Yes.

MR. MURRAY: Okay. Thank you. Now, going off to the -- again, I just need clarification. When we were talking about the varying market rates, now you had said that they can be factored in, but it clearly states on page 3 starting with line 28, it clearly states that that cannot be a factor. Now, can I get clarification on that?

MR. WRIGHT: Well, I think what you're referring to is that the bill provides that an employer cannot, cannot hide behind geographic factors in an attempt to escape wage discrimination. The way to look at these exceptions are as defenses the employer can provide for paying men and women differently for equivalent work. The bill does nothing, nothing to prohibit paying people differently in different geographical regions, different geographical regions; it only says that an employer can't simply point to geographic factors to justify discrimination.

MR. MURRAY: Well, let's stay with the geographic aspect there. So, I'm going to give you an example and maybe you can help me out. So I'm an employer and I have an office in Manhattan, I have another branch office in, say, Buffalo, and another one in Riverhead on Long Island. Now, I have three employees, each are managers in each of the locations; doesn't matter what sex, what race, they're three with equivalent positions or titles. Am I going to have to pay each one Manhattan rates?

MR. WRIGHT: I mean, if you're talking about all people doing the same job, which is what I presume you're talking about --

MR. MURRAY: Well, equivalent.

MR. WRIGHT: Yes, the same job -- they fall under the Equal Pay Act of 1963.

MR. MURRAY: So, under this bill, though, equivalent job, so maybe not the exact same but, as this bill describes, an equivalent job. Am I going to have to pay the worker in Riverhead a Manhattan wage?

MR. WRIGHT: Well, we talked about the geographic exception before that. We talked about that.

MR. MURRAY: So the answer is no.

MR. WRIGHT: We talked about that. But you can use as an exception but you cannot hide behind it in terms of discrimination.

MR. MURRAY: Okay. My colleague was asking for a specific example a little earlier. I'm going to share a specific example with you and I would like your opinion based on the language in this bill how we would handle this situation. We have an employer, Madison Square Garden. MSG owns both the New York Knicks and the New York Liberty. Now, we have a guard on New York Liberty by the name of Cappie Pondexter who's considered to be, actually, quite the all star in the WNBA.

MR. WRIGHT: Are you trying to become her agent?

MR. MURRAY: What's that?

MR. WRIGHT: Are you trying to become her agent?

MR. MURRAY: Exactly, yes. Hopefully, let's see how this works out under this bill. She's averaging about 21 points a game, really good -- great player. Probably the best player on the team. Meanwhile, we have a guard on the New York Knicks by the name of Chauncey Billups. Now, Chauncey Billups in 2011 is slated to earn \$14.2 million. The entire team of the New York Liberty, the salary cap of the New York Liberty next year is \$852,000. How do we handle that situation? They both play in the same venue, owned by the same company, play the same game with the same ball putting it in the same basket. How do we handle that?

MR. WRIGHT: How would you handle it?

MR. MURRAY: Well, I wouldn't pass the bill.

MR. WRIGHT: I'm just curious, how would you handle it?

MR. MURRAY: I would --

MR. WRIGHT: How would you handle it?

MR. MURRAY: I would base it on market value but, I'm asking you how this bill would handle it, because it says you can't base it on market value. It clearly states it. So, how do we handle that without putting the New York Liberty out of business?

MR. WRIGHT: Well, from what I understand, it doesn't sound like you have the same employer and there is an exception for productivity and for skill.

MR. MURRAY: They're the exact same employer.

They are both owned by MSG. They play in the exact same arena, play the same game using the same ball.

MR. WRIGHT: You might be able to talk about the quality of work exception, which is in the bill.

MR. MURRAY: I would say it would be market value because the New York Knicks are worth last value was \$655 million as a team, the Liberty doesn't come close to that. So there's where market value would come into play but under this provision --

MR. WRIGHT: Then that's your opinion.

MR. MURRAY: Well, under this law we're talking about market value. You pass this law, we're essentially putting the New York Liberty out of business.

MR. WRIGHT: Oh, I don't think so.

MR. MURRAY: You think they can afford to pay Chauncey Billups rates?

MR. WRIGHT: I'd go watch him.

MR. MURRAY: Then you're going to pay a hefty price for a ticket, I can promise you that.

MR. WRIGHT: Already do. Have you been to Madison Square Garden lately?

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

ACTING SPEAKER P. RIVERA: On the bill.

MR. MURRAY: I think we've demonstrated one of the problems of this is it is so vague. As one of my colleagues has stated, you know, we're determining, we're allowing the Department of Labor to

determine what jobs, what salaries, what rates. There's also a provision in here that states that employers must annually provide written notification to each employee of his or her job title, wage, rate and how the wage is calculated. They must then turn those over to the Department of Labor. We're basically saying the Department of Labor will run business in the State of New York, determine wages and how people are paid. I think I've used the example here and I think I've given the example, obviously, that was a broad example or a major example, but it is an example of how the unintended consequences could actually result in companies going out of business or having to leave the State altogether. I think we have to carefully consider the wording of this bill and what we are doing when we pass this bill here before voting on it. So, I urge my colleagues to please consider that and vote against this bill

ACTING SPEAKER P. RIVERA: Mr. Jordan.

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

ACTING SPEAKER P. RIVERA: Mr. Wright?

MR. WRIGHT: Yes, Tony.

MR. JORDAN: Thank you. Could you detail some of the reports that if this proposed legislation were to become law that employers will now have to produce, generate and file?

MR. WRIGHT: Some of the reports?

MR. JORDAN: Yes.

MR. WRIGHT: That businesses would have to produce?

MR. JORDAN: Correct.

MR. WRIGHT: None that I know of at the moment.

MR. JORDAN: What are the reporting requirements then under this bill?

MR. WRIGHT: Only thing, I guess, I can think about is that the title of the -- employee's title, job title, would have to be in Department of Labor records.

MR. JORDAN: They'll have to create a job title, a wage rate, how the wage is calculated, their methodology for establishing --

MR. WRIGHT: All that and what you just said, all of that, that's part of current law as it is already.

MR. JORDAN: But these are reports that they're going to have to generate and produce within the context of this bill as well; is that correct?

MR. WRIGHT: It's already in law and I don't think they would have to generate anything new.

MR. JORDAN: But this is requiring a new report.

MR. WRIGHT: It's already law that they do these things.

MR. JORDAN: Well, I'll disagree with part of that, but moving on, what happens to this report that they already have to produce? What do they have to do with this report?

MR. WRIGHT: Just keep it on file with the employer.

MR. JORDAN: There's no requirement that they send this report to the Department of Labor ?

MR. WRIGHT: All I can think of, only if the Department of Labor requests it.

MR. JORDAN: This bill actually, I believe, requires that they submit the report to the Department of Labor.

MR. WRIGHT: Say it again?

MR. JORDAN: This bill, I believe, requires that that report be submitted to the Department of Labor. Roughly how many employers in New York State will be subject to this bill, do you know?

MR. WRIGHT: No, I don't know.

MR. JORDAN: There's, I think, let's say, 680,000 employers in New York.

MR. WRIGHT: You would know better than I.

MR. JORDAN: Roughly 450,000 are going to be subject to this and since the bill requires that this report be sent to the Department of Labor, what is the Department of Labor going to do with these reports once they receive them?

MR. WRIGHT: The Department -- it's up to the Department.

MR. JORDAN: What does the bill provide if an employer fails to submit this report to the Department of Labor?

MR. WRIGHT: You're asking about a penalty if they fail to submit?

MR. JORDAN: Yes.

MR. WRIGHT: No penalties under this bill, but the Department of Labor, I'm sure, will promulgate some sort of regulation as

part of it.

MR. JORDAN: Does this provide the employee with a cause of action against an employer for failure to comply with this legislation?

MR. WRIGHT: I would say only if they're paid less in terms being found guilty of discrimination.

MR. JORDAN: Except I don't think that's what this says. I think this legislation says that the employee has a private cause of action against any employer for failure to comply with any provisions of this act, in sum or substance.

MR. WRIGHT: Okay. That's your reading of it.

MR. JORDAN: And how will our -- and I forget, I missed the answer. How many employees do I have to have before I am subject to the reporting requirements of this bill?

MR. WRIGHT: I think we said three or more.

MR. JORDAN: Three or more? So, if I've just started a new pizza business with three deliverers, I'm burdened by this new bill; is that correct?

MR. WRIGHT: I wouldn't call it burdened, I would just say --

MR. JORDAN: Subject to.

MR. WRIGHT: -- not being part and parcel to discrimination.

MR. JORDAN: No, but subject to the report --

MR. WRIGHT: I would not call it being burdened.

MR. JORDAN: I would say but subject to the reporting requirements of this bill.

MR. WRIGHT: You would be subject to the bill, yeah, but I wouldn't call it being burdened.

MR. JORDAN: How will I know, as that new business, of these reporting requirements?

MR. WRIGHT: How would you know?

MR. JORDAN: Yes.

MR. WRIGHT: Well, I'm sure, you know, you would know in terms of being in business all of the things that you have to do. You would just know. How do you know that you have to file, "X", "Y" and "Z"? You just know that that's a part of doing business.

MR. JORDAN: Well, very often you find out when it's too late when the Department of Labor comes in and levies a large fine upon you and effectively puts you out of business so you can no longer employ those three people who were previously unemployed and you were paying them all the same wage. Are you familiar with some of the groups who have come out in opposition to this or it would be easier for you if I were to share with you that list?

MR. WRIGHT: Oh, share it with me, please

MR. JORDAN: Mr. Speaker, on the bill, please.

ACTING SPEAKER P. RIVERA: On the bill.

MR. JORDAN: This legislation, in an effort to accomplish some goals, has the complete opposite effect of taking a burden of added reporting requirements, added development of coming

up with job creations, job descriptions, methodologies of pay for employers with as few employees as three who normally have them come into work and tell them this is what you will be doing, this is what you will be paid and here is how I'm going to pay you and, generally, feels that the weekly paycheck or biweekly or monthly paycheck that they give them is adequate information as to what they're making for the work they're performing. And I think given that, the groups that have come out in strong opposition to this bill include the Business Council, NFIB, Northeastern Retail Lumber Association, New York State Conference of Mayors, New York City Office of the Mayor, the Associated Builders and Contractors and, lastly and, perhaps, as importantly, CUNY. They all recognize the burden this will place on an already-overburdened system and establishment. The opposition ranges from private industry to public industry. Seldom do we see that sort of unified opposition to something which tells me there are serious flaws in this other well-intended legislation and for that, I would encourage my colleagues to vote against it. Thank you, Mr. Speaker and thank you to the sponsor.

ACTING SPEAKER P. RIVERA: Mr. Donald Miller.

MR. D. MILLER: Thank you, Mr. Speaker, on the bill, please.

ACTING SPEAKER P. RIVERA: On the bill.

MR. D. MILLER: I want to pull this out of the realm of the hypothetical and theoretical and inject a little reality here. This bill is vague in a lot of places and is unacceptable to me for many reasons, because of the vagueness. One area where it's very specific is where it

removes a market mechanism for wage setting. Market mechanism is pulled out and the Department of Labor, I'm not sure who there or which group of people there, but essentially a bureaucracy is set in place of the market for setting wages. Now, reality. No one here -- I'm certainly not -- it's not my desire to discriminate and I trust, I'd simply believe that that's also true of everyone else in this Chamber that discrimination is not, you know, our goal in life. My wife comes from a place -- my wife, by the way, who is neither male nor pale, she's not Caucasian, my wife deals with this on a regular basis, a daily basis. She's not originally from the states. She's a naturalized citizen and she's had a lot of questions as she's been out in the job market looking for work and we've struggled with some of these very same issues. But she comes from a place where, as the Chairman so rightly pointed out, there is no justice anywhere. Injustice pervades everywhere. She enjoys the fact that she can behave in a free market here and seek the wages that she wants, any time she wants, anywhere she wants, any way she wants. And I don't want to deny that to her or any other person of any gender or color in this country. That's not who we are. We provide for freedom here and the market mechanism for setting wages provides with us that freedom, provides it for my wife and provides it for all of us.

I stood here in this Chamber two or three weeks ago and I told the story about a woman who owns a business in my district who came to me and asked if I could help her to move that business to China because China has, from her perspective, a more friendly business environment than New York State does. I just want to point out to the

members of the Chamber that this type of bureaucratic wage setting is exactly what China did, not does, did. This very system of a bureaucratic structure for setting wages for occupations is exactly what China used to do up until about six years ago when they moved to a market mechanism for setting wages. Mr. Speaker, I am going to be voting against this bill for those very reasons. I appreciate the time. Thank you.

ACTING SPEAKER P. RIVERA: Mr. Joel Miller.

MR. J. MILLER: Thank you, Mr. Speaker. First, let me compliment my brother, Don, for the comments he made. I wouldn't want anyone to think that the objections we raise to these bills in any way reflects any type of discriminatory feelings or that we would in any way accept discrimination of any kind. That is not what these discussions are about. The discussions are about bills that are either too vague, too broad, too confusing and not workable and we had a perfect example. Our colleague, Keith Wright, is an incredibly bright guy. The previous sponsor of this bill, another bright individual. They are sponsoring this bill. No one should know the bill more than the sponsor; yet, when you ask questions, and I'm not talking about specific facts, when you ask how the bill will deal with a problem, two different sponsors, same bill, two different answers. So, you throw it to the courts. But what are the judges going to do? There will be no justice or equality in those courts. If the sponsors reading the exact same words can't agree on what the bill is supposed to do and what the bill does, how is a judge going to be able to figure it out? These bills have not been thought out to the point where we

know what the unintended consequences are going to be. That was clear when we talked about the two basketball teams and that's something that you have to know. It's not enough to be trying to correct one problem. It's you have to make sure that you're not creating another problem which could be even more severe. These bills will create problems that are worse than the current problem that we have. Clearly, we should be working together on a bill that prevents discrimination and allows people in the workplace to get the income and pay that they deserved based on the work that they do. My concern is that these bills do not do that and we should not be supporting this tact in an effort to try and improve a situation that must be corrected. Thank you.

ACTING SPEAKER P. RIVERA: Read the last section.

THE CLERK: This act shall take effect on the 90th day next succeeding the date on which it shall have become a law.

ACTING SPEAKER P. RIVERA: The Clerk will record the vote.

(The Clerk recorded the vote.)

Ms. Naomi Rivera to explain her vote.

MS. N. RIVERA: Thank you, Mr. Speaker. The question was asked of the sponsors to give concrete examples of industries where women make less than their male counterparts for comparable jobs and the New York Times released a very enlightening chart that was provided by the Bureau of Labor Statistics that demonstrates that virtually in every industry women make less than their

male counterparts in comparable jobs. They come close in the area of construction where they make 90 percent of what their counterparts make, but in mining and oil gas extraction, women make a little less than 85 percent of what their male counterparts make. Public administration, professional and business services, they make 80 percent of what their male counterparts make. Information services, manufacturing, they make 75 percent of what their male counterparts are making. You know, it's easy to say when we're looking for equality and trying to create some justice that we need more time. It's too broad. It's too confusing. Well, I want to commend the sponsors. The time is now, particularly for women who are doing everything in every part of this nation. We have been given the right to vote 91 years ago. We make up more than 51 percent of the population and we ought to be compensated equally for comparable jobs. Thank you, Mr. Speaker.

ACTING SPEAKER P. RIVERA: Ms. Rivera in the affirmative.

MS. N. RIVERA: I vote in the affirmative and encourage my colleagues to do the same. Thank you.

ACTING SPEAKER P. RIVERA: Ms. Calhoun to explain her vote.

MS. CALHOUN: Thank you, Mr. Speaker, my colleagues. I've sat quietly this afternoon but I have listened intently. When I went to school many years ago our teachers were making \$3- and \$4,000 and virtually every one of them was a woman. My father was a registered nurse. He made very little money. He was a State employee.

And in that particular case it was the men who, when they entered those professions, that brought up the salaries to the point where now a teacher, male or female, will make the same amount of money with the same education, et cetera. In the nursing profession you go into a hospital and you're going to be a registered nurse, you'll make the same amount of money. In here, every woman or man makes the same amount of base salary. There are discrepancies based on other things. I really think it's impossible to judge comparable value, comparable worth and similar jobs. If you're in the construction industry you're paid a prevailing wage. You're paid an ongoing wage. It is wrong to try to say that a construction worker and a public administrator or a typist should be paid the same amount. I have to vote in the negative because while the intent of this legislation is certainly to give equality to all men and women, we do not live in a fair State. In fact, in our Constitution, the only time fair is mentioned is in fair market value or the New York State Fair. And so, I will be voting in the negative and I appreciate the intent, but it just is not something that should be done and it is impossible to truly give fair pay to everyone and to try to say that it is a gender situation. Thank you very much, Mr. Speaker and my colleagues.

ACTING SPEAKER P. RIVERA: Ms. Calhoun in the negative.

Are there any other votes? The Clerk will announce the results.

(The Clerk announced the results.)

The bill is passed.

We will proceed to Rules Report No. 21, the Clerk will read.

THE CLERK: Bill No. 1780, Rules Report No. 21, Rosenthal , Jaffee, Robinson, Paulin, Schimel, Wright, Gottfried, Gabryszak, Galef, Weprin. An act to amend the Civil Service Law, in relation to implementing a State policy of setting salaries on the basis of comparability of value of the work.

ACTING SPEAKER P. RIVERA: An explanation has been requested, Ms. Rosenthal.

MS. ROSENTHAL: This bill would amend Civil Service Law to implement a State policy for setting salaries on the basis of comparability of value of the work. It would also eliminate wage and equity and job titles which have been segregated by sex, race, or national origin.

ACTING SPEAKER P. RIVERA: Mr. Conte.

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

ACTING SPEAKER P. RIVERA: Ms. Rosenthal.

MS. ROSENTHAL: Yes.

MR. CONTE: Thank you, Linda. This is different from the other bills that we had put forth in the past two bills because you add something a little bit different in terms of comparable value instead of

comparable worth. Can you tell me what the difference between comparable value and comparable worth is?

MS. ROSENTHAL: It's the same basic principles. This bill includes a mechanism for determining which titles are to be considered segregated titles. It provides more of a mechanism.

MR. CONTE: Okay. So -- but again, so we have in the past two bills that you want -- that the Majority wants to pass comparable worth legislation, we have one definition and here we're talking about comparable value and I'll read from the bill, "...shall be determined by comparing job titles on the basis of standards which include the composite of such basic elements of a job as the knowledge, skills, accountability, mental or physical stress and effort, extraordinary dangers and responsibilities normally required to satisfactorily perform the job."

MS. ROSENTHAL: Yes.

MR. CONTE: Okay. So, it's different from comparable work, is that correct?

MS. ROSENTHAL: It's more explicit, I guess.

MR. CONTE: Okay. So, then can you explain to me why we have two different definitions and what type of situation that you envision, and I believe this is just for State employees, if I'm correct, what --

MS. ROSENTHAL: That's right.

MR. CONTE: -- the type of positions or job titles that you see are going to be affected by this bill and not affected by the two previous bills by Ms. Jaffee and Ms. Lifton.

MS. ROSENTHAL: Okay. This bill also talks about race or national origin and talks about segregated titles. So, you look at titles which more often employ one sex or the other.

MR. CONTE: Excuse me? Employ one sex or the other?

MS. ROSENTHAL: Yeah.

MR. CONTE: But wasn't that the definition of --

MS. ROSENTHAL: It's segregated by sex, race or national origin.

MR. CONTE: So, it's not pay?

MS. ROSENTHAL: Well, the pay should be comparable, but it's looking at it from a different point of view.

MR. CONTE: Okay. Can you explain to me how you're looking at it in a different way and can you give me a specific example of the titles that you're looking at to try to make it so you can have something that is comparable value instead of comparable worth?

MS. ROSENTHAL: Okay. Well, for example, and it used to be that nurses were predominantly women. So, let's say the overall State workforce is 50 percent male and the percent of nurses employed in the State service that are male is more than 60 percent, then the title of nurse would be considered a segregated title. So, if a large majority of the people employed as nurses are one sex or the other, then that would be a segregated title.

MR. CONTE: Okay. And I guess nurse would be one, but I guess if -- you know, I guess a diesel truck mechanic, you know, is

going to be dominated by males in the State, probably to the tune of 98 percent, are you, at that point, then, having to go in and make a determination?

MS. ROSENTHAL: Well --

MR. CONTE: I'm confused about what was the trigger mechanism; but two, I still can't see the difference between comparable value and comparable worth.

MS. ROSENTHAL: If a particular job is performed, let's say, mostly by women and you take into account the knowledge, skills, accountability, mental, physical, stress and effort, extraordinary dangers, et cetera, to another job that uses those same values but mostly employs men --

MR. CONTE: Such as?

MS. ROSENTHAL: Well, such as what you just said.

MR. CONTE: A diesel mechanic?

MS. ROSENTHAL: Yeah.

MR. CONTE: Okay. I cannot --

MS. ROSENTHAL: The jobs -- the jobs -- for example, there are some jobs that have traditionally been given to women for numerous reasons and those jobs usually pay less. You know, domestic worker, things like that, that require the same amount of knowledge and skill and accountability as a comparable-valued job that mostly employs men, but what we found is that men, when using those same metrics, would be paid more.

MR. CONTE: Okay. Again, I'm going to ask again:

Can you give me a specific State employee title, job title, where a comparable value of work would be looked at in the purposes of this legislation?

MS. ROSENTHAL: You know, I don't have a particular job title to give you; however --

MR. CONTE: Do you have an example?

MS. ROSENTHAL: -- they do exist.

MR. CONTE: Do you have one example to give us where this is a real problem in the real world?

MS. ROSENTHAL: As I said earlier, there's domestic workers, there's secretaries, groundkeeper, let's say.

MR. CONTE: First of all, we're talking about State employees.

MS. ROSENTHAL: Yeah.

MR. CONTE: I don't know if we have any domestic workers who are State employees. Is that a title?

MS. ROSENTHAL: Well, I think we might, actually.

MR. CONTE: We might?

MS. ROSENTHAL: Yeah, child care.

MR. CONTE: Okay. Let's go child care.

MS. ROSENTHAL: Domestic worker includes a person who takes care of kids, too.

MR. CONTE: Okay. In terms of Civil Service titles here in New York State. There's hardly of job in the Civil Service Law in this State that does not have a title and a skill set and a defined

work/job-related activity that they are supposed to do on a daily basis. Can you give me one, one State title where this bill would come into effect?

MS. ROSENTHAL: You know, there's a formula and from that formula you may deduce the job title.

MR. CONTE: I'm going to get to the formula.

MS. ROSENTHAL: I can give you a woman's job title, a child care worker, secretary and for men's jobs, there are plenty that I cannot bring to mind right now, but that fit in that formula.

MR. CONTE: Okay. Let's go to the formula, if we will. I want you to explain to the Body how the formula works. I'm going to read it. I'm going to read it for the Body, if you don't have the bill here. For the purposes of this section, which deals with comparable value of work, "For the purpose of this section segregated titles, (X) means titles or any class of titles in which the number of incumbents of a sex, race or national origin is greater than the sum of the percentage of that sex, race or national origin in the State service (P) plus 20 percent of that percentage (.2(P)). This is represented by the formula $(X = P + .2 (P))$." I would like you to explain to us -- I understand we're -- you know, we don't have a "D" after our name, but explain to us what that means in real terms in this State.

MS. ROSENTHAL: Okay. The reason there's a formula is the formula provides a mechanism for determining exactly which titles are considered segregated titles, which is the question you're asking.

MR. CONTE: But what does the --

MS. ROSENTHAL: If a title is determined to be segregated, then Civil Service would investigate to ensure that the wages paid in that title are equal to those being paid to other titles performing similar work of comparable value, which was discussed earlier in the debate over the other two bills. The formula says that a title is segregated -- and this goes to your question -- If the number of a certain group of people categorized by race, sex or national origin working in that particular title is greater than the percentage of that same group of people working in State service overall, plus that same percentage multiplied by 20 percent. So, if you would like to apply this formula to a certain job title, you will come out with the job titles that are segregated.

MR. CONTE: Okay.

MS. ROSENTHAL: And they defy categorization at times, so you may find that a job that, you know, anyone could work at only men are working in. Okay. That would be a segregated job title.

MR. CONTE: Okay.

MS. ROSENTHAL: You know, for example, a fire department in different states is predominantly men. That's a whole issue about women being accepted as firefighters, but that would be a segregated job title.

MR. CONTE: Okay. Currently, does the Department of Civil Service keep track of the State employees' race, gender or national origin?

MS. ROSENTHAL: Well, when you apply for a job, that's one of the boxes that you can check when you apply for a job, your

sex, your race.

MR. CONTE: But is it mandatory?

MS. ROSENTHAL: It's not mandatory, but they do have a report and they do factor that in when -- you know, making a report on the number of males, females, national origin. They produce reports that give us those kinds of numbers.

MR. CONTE: Thank you. On the bill, Mr. Speaker.

ACTING SPEAKER P. RIVERA: On the bill.

MR. CONTE: We just had two bills dealing with comparable worth. Now we're adding for State service not only comparable worth, but we're adding comparable value. And we come up with this particular formula that is outlined in the legislation to ascertain what comparable value is supposed to be and, I guess, again, if the Civil Service department can determine what a person's race, gender, national origin, which they don't really track on a regular basis, they're going to have to go in and begin to investigate that particular information. But I think all in all, I asked the simple question, Mr. Speaker, of the sponsor of this bill. Name one area in this State, job titles in this State that would be affected by this particular piece of legislation and she could not name one that was able to say to us this is the injustice that's going on and this is the justice that we feel is the reason why it is the best way to remedy that injustice. I did not ask the question on how much this is going to cost the State Civil Service Department because, you know, they're going to have to add on a number of people just to talk about whether it's comparable worth or whether we're going to talk about now comparable

value, and I still don't know the difference between the two.

But, for that reason, Mr. Speaker, I'm going to be voting no on this because I believe that the Civil Service Laws that we have in this State, the collective bargaining agreements that our unions have fought for over the years have taken into account different titles, different genders. They understand that people should be paid equal work for equal pay. They understand that we should be paying people for what they are worth here in this State, and this is the unions I'm talking about, because they fight for everyone, not just for the males and not just for the females but the Civil Service Laws in this State, the Human Rights Laws in this State are adequate. We don't have to add this other layer where the definitions that the sponsor can't even give me a true definition, they're going to allow the courts to decide. It's going to, again, cost taxpayers a ton of money at a time when there just isn't any. Thank you, Mr. Speaker

ACTING SPEAKER P. RIVERA: Mr. Joel Miller.

MR. J. MILLER: Thank you, Mr. Speaker. On the bill.

ACTING SPEAKER P. RIVERA: On the bill.

MR. J. MILLER: There is a software program that dentists could buy that track all kinds of things, how many crowns you did, how many root canals you did, how many fillings, how many cleanings and I always asked, why? What do you have to know that for if you look and you say statistically, I should be doing 20 percent crowns but only 15 percent of my workload is crowns, what do you do, start doing crowns on people that don't need them? I mean, some of the things

just happen to be. Now, we haven't heard any discussion of people who work in one job category who are fully qualified based on their education, this, that and the next thing, who have applied for the other job that pays more and have been denied that job. And so, you know, you look at all of these bills -- and, again, this one was the worst because even the sponsor can't come up with an explanation for what it does -- you have to wonder why did we bring these bills up?

Governor Cuomo said in a press conference that we had together in my district that he found partisanship to be unbelievable. He said if you take 100 Democrats and 50 Republicans and you ask 100 Democrats what is their favorite color, he said the fact that they all say yellow is absolutely amazing and the fact that every Republican will say orange is absolutely amazing. There's no one person in the party that thinks there's a different color that is their favorite color. But we just saw this. We're voting along party lines on bills that make no sense at all, but we're trying to say something. And what is it that we're saying? We're the party that protects -- gee, if I could just think of who it is I'm really protecting, but we're doing it. We're protecting you even if the bills don't make any sense. There can't be every Democrat who honestly believes these bills make sense.

I just think that, you know, considering that everyone is having a tough time to spend an entire day discussing things not of comparable value, not of comparable worth, not of equal value or of equal worth, but we discuss something that has no value at all to anyone anywhere unless you want to destroy the economy of this State. I think

we can do better. Thank you.

ACTING SPEAKER P. RIVERA: Mr. Peter Lopez.

MR. P. LOPEZ: Thank you, Mr. Speaker. Would the sponsor yield for a brief question?

ACTING SPEAKER P. RIVERA: Ms. Rosenthal?

MS. ROSENTHAL: Yes.

MR. P. LOPEZ: Thank you. Just in reviewing the language in the statute and some background information, I see at the -- just before the enacting clause there's a provision added that -- Subdivision 5, Section 119, "No salary shall be reduced to achieve comparable compensation under the provisions of this section." And I guess my question for you is -- my sense is the intent of this legislation is equity, fairness, protecting all interests, including the interests of taxpayers. Do we have any provision -- can you explain to me why, if after review, why this only selects or opts for increasing a salary and not for adjusting salaries to --

MS. ROSENTHAL: Well, it doesn't say to increase, it just says not to reduce.

MR. P. LOPEZ: If I'm reading the language in the statute, it says, "No salary shall be reduced to achieve comparable compensation."

MS. ROSENTHAL: Right. But it doesn't say the salary shall be increased to achieve compensation.

MR. P. LOPEZ: So, if we're stating the null hypothesis, I guess we could speak in many different languages and verbiage, I guess

my question is, if thou cannot reduce, what does that mean? So, you can't reduce.

MS. ROSENTHAL: Right.

MR. P. LOPEZ: So, you're allowing one option, basically my point, you're allowing one option to occur after an objective analysis, but you're protecting against the other.

MS. ROSENTHAL: The thing is don't bring things down to the lowest common denominator. If one group is being sorely underpaid, don't even it out by sorely underpaying another group.

MR. P. LOPEZ: Understood, but reverse that. So, what if one group is being overpaid in terms of appropriate standards and objective analysis --

MS. ROSENTHAL: It's not they're being overpaid. We don't know if they're being overpaid. They're perhaps getting the appropriate rate.

MR. P. LOPEZ: So, with that said, this legislation does not seem to allow for that assessment to even be made and unless I'm misunderstanding, you have a presumption in the legislation that whoever's being paid at the higher salary should remain at that salary, regardless of whether there's an objective analysis.

MS. ROSENTHAL: It's actually vague on that point. It's just being specific on the point that you cannot bring everything, both jobs, to the lowest common denominator. So, if you're grossly underpaying a job title that's segregated, that doesn't mean that once you discover that then you are going to lower the wages of those who have

not been discriminated based on segregation of work.

MR. V. LOPEZ: So, in this discussion, and just so I'm clear -- and I'm just actually going to read you a little bit from existing statute and this is in your bill and this is existing statute policy of the State and a portion of it says, "In order to attract unusual merit and ability to the service of the State, to stimulate higher efficiency, to provided skilled leadership, to reward merit and to ensure the people and the taxpayers of the State of New York the highest return in services for the necessary costs of government." So, existing statute, existing policy stated intent of the legislation that we're amending but, yet, somehow your amendments seem to be counter to what is already the law in New York State and the express policy -- I should say the express policy. Could you help me understand that, please?

MS. ROSENTHAL: That's probably the whole point of today that inequity continues to exist which is why we want to pass these bills that would overturn that which is why we have formulas like this, the one in this bill, that would reveal which are the segregated titles, where women or men are being discriminated based on sex, mostly; race, often; national origin, often, as well, but today, pay equity day is about equalizing the two.

MR. P. LOPEZ: So in our formula $X = P = .2 (P)$, do we have a "Q", or some other letter, to highlight the relative appropriateness of the higher salary? So, do you have a modifier in your formula, again, going back to the stated intent of this --

MS. ROSENTHAL: I'm not going to get into discussion

of integers and real numbers and whole numbers, prime numbers. That's not my speciality.

MR. P. LOPEZ: No, I'm just asking you a question.
You can tell me the answer --

MS. ROSENTHAL: However, there is a wage gap because many women are still segregated into a few low-paying occupations.

ACTING SPEAKER P. RIVERA: Mr. P. Lopez.

MR. P. LOPEZ: Thank you, Mr. Speaker. My question, and let me rephrase to the sponsor, if I may, as concisely as I can, the stated policy in existing statute is to ensure the people and taxpayers of the State of New York, the highest return in services for the necessary cost of government, which does have a bearing on the nature of pay and the appropriateness of pay. I am asking the sponsor if she would be willing, in her legislation, to include the possibility that the higher pay may not be the appropriate level, that's my simple question and that's a yes or no answer.

ACTING SPEAKER P. RIVERA: Do you wish to answer, Ms. Rosenthal?

MS. ROSENTHAL: Is that a question or a statement?

MR. P. LOPEZ: My question is, would you allow and, again, I'll keep it as concise as I can, would you allow in your legislation for the higher salary to be possibly deemed to be the inappropriate salary and to be adjusted downward or to allow the two salaries to meet somewhere in the middle to reflect a true value and best return to the

taxpayer?

MS. ROSENTHAL: I know you've read the bill, so you can deduce from that that the point of it is not to determine which is the higher, which is the lower, which is the better, which is the right salary. It's to make sure that jobs in segregated titles are paid properly and comparably, not whether one is higher, one is lower.

MR. P. LOPEZ: Mr. Speaker, on the bill, if I may.

MS. ROSENTHAL: Can I finish or you don't want the answer?

MR. P. LOPEZ: Go ahead, please. I do.

MS. ROSENTHAL: So, what I was saying is that the point of this bill is not to determine which is the correct pay. So I would say your question, if you want to read the bill again, you can answer the question. The only provision regarding pay that is specifically outlined is that you may not reduce the pay and maybe one day you will be in that circumstance and say, "Boy, I'm glad they're not reducing my pay."

MR. P. LOPEZ: Mr. Speaker, on the bill.

ACTING SPEAKER P. RIVERA: On the bill.

MR. P. LOPEZ: Again, I've made clear to this Body what existing policy of the State of New York is, including providing the people and the taxpayers the highest return in services and what we've clearly heard from -- well, not so clearly, no offense, but what we've heard from our sponsor is that that doesn't matter in regard it to this legislation. This legislation just wants to make pay the same regardless of whether it meets the acid test of being an appropriate salary and the

best return to the taxpayer of the State of New York. In my opinion, that runs counter to what we should be here for. If we're looking for fairness, fairness should be across all permutations, fairness to the individual, fairness to the taxpayer, fairness to other coworkers. This bill is inherently unfair because it's bias from its start and it is bias against the taxpayers of the State because it presumes that a higher salary is the only answer and with that, Mr. Speaker, I will be voting in the negative. I do encourage the sponsor of the bill to possibly reconsider her position and thank you. I'll be voting in the negative.

ACTING SPEAKER P. RIVERA: Mr. Goodell.

MR. GOODELL: Would the sponsor yield for a few questions?

ACTING SPEAKER P. RIVERA: Ms. Rosenthal, will you yield?

MS. ROSENTHAL: Yes.

MR. GOODELL: First, Ms. Rosenthal, I want to commend you for addressing this issue. I think it's the right thing to do and I especially appreciate the fact that your bill deals with the State workforce because I think it's extremely important that we, as Legislators, we, as a government, lead by example and so, I appreciate that effort.

MS. ROSENTHAL: Thank you.

MR. GOODELL: My first question is, do we have any studies of our workforce that demonstrate problems in this area? Are there any existing studies out there?

MS. ROSENTHAL: Yeah. There was a general

accounting office study in October 2003. It was called Women's Earnings, and it examined 18 years of data, found a 20 percent earnings gap between women and men that could not be explained, even when accounting for a demographic and work-related factors such as occupation, industry, marital status and jobs.

MR. GOODELL: I apologize. My question wasn't clear enough. Are there any studies of the New York State Compensation Program and our own job titles?

MS. ROSENTHAL: Well, this bill would actually provide that because if we do an investigation and use the formula we've talked about, we will actually expose where the unfairness exists; however, in New York State, in every other state, in the country in general, women are paid on the average much less than men for comparable worth.

MR. GOODELL: Am I correct that there's no current study then of our own salaries and our own job titles in the New York State System?

MR. ROSENTHAL: I'm sorry. Can you repeat that?

MR. GOODELL: Am I correct then that there is no current study of our New York State job titles and job system? This would create an analysis, but am I correct there's no current study?

MS. ROSENTHAL: Well, in 1985 there was an Executive Order to do a study, but it's not in law, but there was a study done in 1985.

MR. GOODELL: I think Assemblywoman Jaffee noted

that the Executive ruling back in 1985. Is there anything that would prevent Governor Cuomo from doing the study on his own?

MS. ROSENTHAL: I don't believe so, except for the economic conditions would probably prohibit an exhaustive study, the kind that we would like to see.

MR. GOODELL: Isn't it the responsibility of the New York State Civil Service Commission to make sure that the wages are appropriate for each job classification?

MS. ROSENTHAL: That is what is contained in this bill.

MR. GOODELL: Is it your position that the New York State Department of Civil Service is discriminating in the wage base for positions in the State government that are predominantly one sex or the other?

MS. ROSENTHAL: I'm saying let's find out for sure because it is the policy of the State to deal fairly with people of either sex, whatever race, whatever national origin, but we suspect that that is not always the case. That's why we want to pass this bill and get the answers.

MR. GOODELL: Thank you, Assemblywoman.

MS. ROSENTHAL: You're welcome.

MR. GOODELL: On the bill.

ACTING SPEAKER P. RIVERA: On the bill.

MR. GOODELL: As I mentioned earlier, I appreciate the efforts by Assemblywoman Rosenthal to move this issue forward. I

think it's the right issue and I think we're the right ones to lead by example. My concern is that I think we may have the cart a little bit before the horse. It might make more sense for us to study the issue before we adopt legislation than to adopt legislation first. I'm a little bit concerned that we have a legislative finding, quote, "That job titles which are segregated by sex, race or national origin have been undervalued and assigned wages which do not reflect the relationship work of the job." I'm hesitant to make that legislative finding when we don't have any current study and the last study was done in 1985. I also actually have a fair degree of confidence in Governor Cuomo and the administration to address this. I note that this bill has been adopted by the Legislature now 15 years in a row. I would certainly hope after 15 years that the administration is getting the message and assuming that they are paying attention to us, with which we all hope, of course, the problem may already be well underway in being addressed. So, I think the idea is great and I applaud the sponsor, but I'm not sure how serious this issue is after 15 years and the earlier study. Thank you, Mr. Speaker.

ACTING SPEAKER P. RIVERA: Mr. Graf.

MR. GRAF: Would you yield for a question, please?

ACTING SPEAKER P. RIVERA: Ms. Rosenthal, will you yield?

MS. ROSENTHAL: Yes.

MR. GRAF: Under this legislation, in our own House, would that mean that we would have to find out who the highest-paid legislative aide was and bring all other legislative aides up to that salary?

MS. ROSENTHAL: Well, we're talking about Civil Service here and those positions are not Civil Service.

MR. GRAF: Why aren't they included?

MS. ROSENTHAL: Well, this bill has a discrete purpose. If you would like to propose such a bill, I'd be a sponsor.

MR. GRAF: I'm sure our legislative aides would love us for that. Thank you.

ACTING SPEAKER P. RIVERA: Mr. Conte.

MR. CONTE: Thank you, Mr. Speaker. Would the sponsor just yield for just a couple questions?

ACTING SPEAKER P. RIVERA: Ms. Rosenthal, will you yield?

MS. ROSENTHAL: Yes.

MR. CONTE: Thank you, Ms. Rosenthal. It seems that we're changing the policy of New York State here and I go onto Section 115. I'm going to go to page 2. Basically where before it was the policy of New York State, it is declared to be the policy of the State to provide equal pay for equal work, okay. Now we are changing it to say it is the policy of the State to provide equal pay for similar work and I'm wondering if you can give me a definition of "similar"?

MS. ROSENTHAL: The principle of fair and equal pay for similar work, and this is in the law right now, shall be followed in the classification and reclassification and allocation and reallocation of positions pursuant to this article and all positions having the same title shall be allocated to the same salary grade.

So, this is Civil Service Law fair and equal pay for similar work. So, that's already codified.

MR. CONTE: And that is already the State law?

MS. ROSENTHAL: Yes.

MR. CONTE: And did it --

MS. ROSENTHAL: It's not in the section that you're reading from.

MR. CONTE: No, I understand that.

MS. ROSENTHAL: But it is in the Civil Service Law.

MR. CONTE: I was just wondering for clarification, what the definition of "similar" is? And you're saying that the definition of similar is outlined in another section of law that is not contained in your legislative bill?

MS. ROSENTHAL: Okay. Well, you know, the Classification and Compensation Division exists and the head of that division will determine similar work.

MR. CONTE: But there is no definition. Again, we will have someone whose job it is to look at it, not on a set law that we have asked them to look at, but basically be very subjective in their particular views? Because everyone understands -- I mean, equal pay for equal work we understand. I'm just trying to figure out what equal pay for similar work is.

MS. ROSENTHAL: It's been a long-established principle and the head of the Classification Comprehension Division has a lot of guidance as to determining the similar work.

MR. CONTE: Thank you, Ms. Rosenthal. Thank you, Mr. Speaker.

ACTING SPEAKER P. RIVERA: Read the last section.

THE CLERK: This act shall take effect immediately.

ACTING SPEAKER P. RIVERA: The Clerk will record the vote.

(The Clerk recorded the vote.)

Are there any other votes? The Clerk will announce the results.

(The Clerk announced the results.)

The bill is passed.

We'll proceed to Rules Report No. 24, the Clerk will read.

THE CLERK: Bill No. 6130, Rules Report No. 24, Wright, Colton, Cahill, Lancman, N. Rivera, Rosenthal, Lupardo, Jaffee, Bronson. An act to amend the Labor Law, in relation to enacting the "New York State Fair Pay Act."

ACTING SPEAKER P. RIVERA: An explanation is requested.

MR. WRIGHT: Certainly, Mr. Speaker. This bill would establish the New York State Fair Pay Act. The purpose of the New York State Fair Pay Act is to guarantee that individuals who have long been discriminated against in the wages for which they are paid will receive compensation and fair treatment under the law. Unequal pay still exists today because jobs done predominantly by women and people of

color have been underpaid for centuries of historic discrimination. Jobs traditionally done by women and people of color have been systematically undervalued in the marketplace. The net result is that these jobs are paid less than comparable jobs with the same level of skills and responsibilities, but commonly held by white males. While we have some laws on the books that try to prevent this kind of discrimination in wages, the fact is that women and minorities still earn less, less, than men for jobs that require the same skills, responsibilities and working conditions. And I see you getting up and getting ready. I'm not finished yet, all right? Speak of the the Census statistics released in September of 2010 show that women still earn 77 percent of what men earn. This kind of discrimination results in a significant wage gap in earnings over the career of an individual. In fact, the disparity can be between \$700,000 and \$2 million over the course of a lifetime. It means that there is less economic wherewithal available to our families; it means that in New York State more women end up living in nursing homes and relying on our Medicaid system to pay for their expenses in their latter years of their lives because they have not been compensated during their working life.

This legislation would establish when a person, whether male, female, African-American, Hispanic, Asian-American, American Indian, whatever, gets paid for doing work with the same requirements, the same education, the same responsibilities, that their pay should also be the same. It is a principle that has been adopted in states and municipalities elsewhere in these United States for many of the same reasons outlined here. The fact that this shameful, shameful disparity is

still in existence today has depressed wages and living standards in our State that has reduced family incomes, contributes to the high child poverty rate and that we face in our State that has produced unfairness, that is preventing New York State and the United States from becoming a place where everyone is truly created equal. If this bill is signed into law, when first conceptualized or the Federal bill implemented as intended, even the employers of Walmart would be breathing a sigh of relief instead of dispatching an army of lawyers to fight potential \$1 billion wage inequity class action lawsuits because they unfairly paid women less than men.

So, we must remember -- almost finished but listen well, listen well, we must remember that as the Reverend Dr. Martin Luther King once with said, "Injustice anywhere is a threat to justice everywhere." This bill removes injustice from our workplace and creates a new standard where everything doesn't have to be too pale and too male.

ACTING SPEAKER P. RIVERA: Mr. Molinaro.

MR. MOLINARO: Admittedly, when someone of Mr. Wright's stature quotes Dr. King, I really would prefer not to debate, but I just wanted to ask a few questions, if the sponsor might yield just for a couple very quiet, calm questions.

MR. WRIGHT: All right. I'm with you.

MR. MOLINARO: Mr. Wright, you referenced in a very thorough explanation, and I appreciate that, that this bill would attempt to treat individuals working in -- you used the words similar situations. The

bill, though, speaks to dissimilar situations, that this is equal pay for equivalent jobs and the definition identified are those jobs or occupations that are dissimilar but whose requirements are equivalent. Could you help us understand, perhaps, two jobs that might be dissimilar but equivalent that would be governed by this legislation?

MR. WRIGHT: Well, I'm not going to get into what -- comparing jobs and such, what jobs would be. Under this bill the Department of Labor will be issuing a classification and examples and such of rules to promulgate and they will issue the standard under this bill.

MR. MOLINARO: Well, but you just gave a very eloquent explanation wherein, I would admit, I would suggest you made some very strong points as it relates to those who might be treated poorly in the workplace and because this legislation, in your opinion, is meant to address that, I am interested in knowing who are and what are the specific classifications of occupations that are dissimilar but equivalent that this legislation is meant to address?

MR. WRIGHT: Well, it's well settled that women are continued to be paid less everywhere in the State of New York. But let me just say, I want to go back to your other question. I guess you're asking the question what does equivalent mean?

MR. MOLINARO: Yes, yes.

MR. WRIGHT: All right. I'll tell this, under this bill the term equivalent means, equivalent jobs means jobs or occupations that are equal within the meaning of the Equal Pay Act of 1963 or jobs

that are dissimilar but whose requirements are equivalent.

MR. MOLINARO: Right. That's my question.

MR. WRIGHT: The bill provides that equivalent requirements shall be viewed as a composite of skills, effort, responsibility and working conditions.

MR. MOLINARO: I read the definition, Mr. Wright, I'm just interested in knowing who we're talking about.

MR. WRIGHT: Say it it again?

MR. MOLINARO: I read the definition. I'm just interested in knowing what classifications of jobs do you believe are dissimilar but equivalent? Who is going to --

MR. WRIGHT: The Department of Labor will come up with that within this bill, for this bill. The Department of Labor will come up with that classification.

MR. MOLINARO: The bill goes on on page 3, line 50 to suggest that the regulation shall not include a list of jobs. So, the department is not being directed to create a list of jobs.

MR. WRIGHT: The Department of Labor is not coming up with a list of jobs. No, they're not.

MR. MOLINARO: And neither are you.

MR. WRIGHT: They're not.

MR. MOLINARO: But neither are you. So what is the direction we're to give the Department of Labor and/or the individuals governed by this legislation? What exactly are we trying to protect against specifically, moderately specifically?

MR. WRIGHT: The Department of Labor says it can come up with a classification that does not systematically undervalue, undervalue, but it will not come up with a list of jobs. It will not. I don't know how many different ways I can say it. It will not. It absolutely will not.

MR. MOLINARO: Well, I wasn't asking you that question. I was asking you if you were giving us a list.

MR. WRIGHT: No, I'm not going to give you the list, if the Department of Labor can't give it to you. They're suppose to give it to you. I'm not going to preempt them.

MR. MOLINARO: They're not supposed to give it to us, Mr. Wright. Page 3 says they're not giving us a list.

MR. WRIGHT: They're going to come up with the system.

MR. MOLINARO: That does or does not include jobs.

MR. WRIGHT: It will not include a list of jobs.

MR. MOLINARO: Okay. So no one will know until the Department of Labor is done not completing a list. I'm sorry. I've debated bill with previous sponsors and, believe me, your explanation was most thorough, but previous sponsors have attempted to identify and I congratulate you for not trying to identify because as of yet, I've never heard what a comparable job is, dissimilar job, with equivalent responsibilities. So, since you won't answer it and the Department of Labor is not being directed to tell us, we'll never know.

MR. WRIGHT: The Department of Labor hasn't been

established yet, right? Once this gets passed, we will have an answer.

MR. MOLINARO: No, Mr. Wright, we won't have an answer. The bill says there will be no list.

MR. WRIGHT: The Department of Labor will do what they do.

MR. MOLINARO: I know. That scares the heck out of us. This bill will govern employers of how many employees or greater?

MR. WRIGHT: Three or more.

MR. MOLINARO: Three or more. So, was there a reason for picking three or more? I mean, it seems like a fairly significant regulation on a small employee base, no?

MR. WRIGHT: It's based on the Human Rights Law.

MR. MOLINARO: Human Rights Law is three or more?

MR. WRIGHT: That's right.

MR. MOLINARO: But this extends beyond what the Human Rights Law can do in the area of penalties, no?

MR. WRIGHT: No.

MR. MOLINARO: Well, then we wouldn't need the bill. Okay. In the legislation, the bill suggests that employers can have exemptions from this bill under certain circumstances. I was hoping you could explain to me, one section of the bill it speaks about market rates, which shall mean the rates that employers within a prescribed geographic area actually pay. When I asked the sponsor last year, two years ago, about this bill, she noted that the Department of Labor would apply, in

essence, salaries based on the market rates within geographic areas. Is that still the case? Will employers be held to geographic market rate salaries or not?

MR. WRIGHT: Geographic location might, might be one of the factors that are used to determine the worth of the job, but it cannot, cannot be used as an excuse for gender discrimination.

MR. MOLINARO: And who decides the geography or the geographic areas? Is that also the Department of Labor?

MR. WRIGHT: It would be the Department of Labor.

MR. MOLINARO: Okay. That --

MR. WRIGHT: I think that's mainly a form of common sense, too. Where are you from?

MR. MOLINARO: That --

MR. WRIGHT: Where are you from?

MR. MOLINARO: I'm from the Mid-Hudson Valley, sir.

MR. WRIGHT: And I'm not.

MR. MOLINARO: I know.

MR. WRIGHT: Okay. Right. I'm from the City of New York, so --

MR. MOLINARO: Fair enough. Right; however, the Mid-Hudson Valley is classified in the Metropolitan statistic area which is, of course, New York City, so am I to understand that the Mid-Hudson Valley would be governed by a geographic area established primarily in New York City or not?

MR. WRIGHT: Not necessarily.

MR. MOLINARO: Okay. Well, where does it say that?

MR. WRIGHT: What did you say?

MR. MOLINARO: Where does it say that --

MR. WRIGHT: I just gave you a geographic location which might be one of the factors, might be. Might be one of the factors.

MR. MOLINARO: Okay. I understand. So our argument is that there's another area where the Department of Labor is given no direction and, therefore, we're going to wait for them. We're going to get a list from them, we're going to get geographic areas from them, we're going to get salary schedules from them.

MR. WRIGHT: From what I'm told, geographic locations are already established under the Prevailing Wage Law.

MR. MOLINARO: Right, in which case the Mid-Hudson Valley is included in New York City.

MR. WRIGHT: Okay. Good.

MR. MOLINARO: Right. So the Town of Copake with 1,300 residents are forced into a statistical area established in New York City. That makes sense. Well, you said common sense. I was just trying to apply it. Can market factors be considered in establishing those rates? So, if an employer is to establish a rate for comparable work, comparable pay -- or comparable work, equivalent pay or equivalent work, comparable pay, can they consider market standards?

MR. WRIGHT: Any bona fide factor can be considered, but you cannot use it as a cover for discrimination.

MR. MOLINARO: I'm asking if market factors can be included in the consideration of those rates?

MR. WRIGHT: The answer is yes, just as long as it's not a cover for discrimination. It can be.

MR. MOLINARO: Except that on -- I'm confused then on page 3, line 28, it speaks to the factors that are -- the exemptions: "(1) a bona fide seniority, merit system; (2) a system that measures earnings by quantity or quality of production or (3) any bona fide factor other than sex, race, or national origin provided, however, that wage differentials based on varying market rates for equivalent jobs or the differing economic benefits to the employer of equivalent jobs shall not be considered differentials based on bona fide factors other than sex, race..." So I'm now, again, confused. This bill seems to suggest on one hand, as you've suggested, that market rates can be considered; yet, in the language it carves out this very clear exemption that market rates cannot be considered.

MR. WRIGHT: It says there's no flat exemption for market rates but it can be used, but just not as a cover for discrimination.

MR. MOLINARO: And I won't put words in your mouth but the sponsor two years ago suggested, in fact, that that's not the case but this bill hasn't changed since then?

MR. WRIGHT: Please don't put words in the sponsor two years ago?

MR. MOLINARO: But this bill is the same as it was presented to us a year ago.

MR. WRIGHT: Yes.

MR. MOLINARO: Okay. So we still, obviously, I have that concern. Let me just ask, in the case of remedy, so a situation occurs comparable work or equivalent work, comparable pay, the Department of Labor deems or tries to negotiate a settlement. The only settlement that can be reached is -- excuse me, in order to settle the discrepancy, a higher-paid class of employees cannot have their salaries reduced in order to meet, perhaps, what would be suggested as the underpaid class of employees, is that correct?

MR. WRIGHT: Let me just say this: You cannot lower wages for an employee under this act.

MR. MOLINARO: Okay. So what is the remedy if you cannot lower?

MR. WRIGHT: That would be up to the court.

MR. MOLINARO: No, actually, it says a settlement can be reached by the Department of Labor, but if the settlement cannot include the lowering of a salary class, what exactly is the settlement other than to raise the salary of a particular class?

MR. WRIGHT: You can raise the salaries of the class.

MR. MOLINARO: Thank you, Mr. Wright. I appreciate that. So the remedy is to raise the salary regardless. So even if there was a negotiation with the Department of Labor the employer's still forced -- the only remedy that that settlement can include is an increase in salary or the elimination of the job entirely.

MR. WRIGHT: Yeah, yeah, fine with me.

MR. MOLINARO: Yes. I'm fine. I'm fine.

MR. WRIGHT: You're fine with that?

MR. MOLINARO: Well, no, but I appreciate the honest answer. It was very clear. And this legislation would affect public and private sector employees, no?

MR. WRIGHT: That is correct.

MR. MOLINARO: So, if I have a situation where public employees negotiate a contract and that contract includes certain classifications, are those classifications' pay based on a negotiated collective bargaining agreement? If one class of employees decides that their union didn't do such a hot job and wanted to go to the Department of Labor, isn't it conceivable that that class of employee could seek a remedy that is outside the scope of the collective bargaining agreement?

MR. WRIGHT: I guess it could be conceivable.

MR. MOLINARO: So it is conceivable and the remedy in that case is really just to pay the underpaid class higher or not pay someone lower.

MR. WRIGHT: I would say that it would be an individual action though.

MR. MOLINARO: Excuse me.

MR. WRIGHT: I would say it would be an individual action not to necessarily pay the class.

MR. MOLINARO: Well, if a class of workers goes to the Department of Labor and claims their agreement doesn't meet the test of this legislation, they would seek a remedy, no?

MR. WRIGHT: A class could but an individual could also.

MR. MOLINARO: I agree with you.

MR. WRIGHT: Okay. Good.

MR. MOLINARO: So they both could and the remedy is to raise their salary?

MR. WRIGHT: I would think. That would be one remedy.

MR. MOLINARO: What is the other remedy? I keep hearing other remedies.

MR. WRIGHT: Well, you know, equitable remedies, certainly when you have an underpaid class --

MR. MOLINARO: Is to pay them more.

MR. WRIGHT: Yeah, or back wages, back wages and the court has very, very broad discretion.

MR. MOLINARO: I understand. So the only -- you're kind of saying we're only talking about raising -- the only remedy is to pay more and to pay back wages?

MR. WRIGHT: Well, wages that are justly due.

MR. MOLINARO: Mr. Wright, if a class of individuals or a single individual seeks a remedy, that remedy, based on this legislation, would include back pay.

MR. WRIGHT: Well, it would include back pay, yes.

MR. MOLINARO: And, obviously, a court and/or the Department of Labor is not going to continue to allow this discrepancy to

occur so they're going to get paid more.

MR. WRIGHT: I would hope so.

MR. MOLINARO: Right. Thank you, Mr. Wright. I appreciate it.

Mr. Speaker, on the bill.

ACTING SPEAKER P. RIVERA: On the bill.

MR. MOLINARO: Mr. Speaker, you know, I know there's been a great deal of debate on this entire package and we recognize both the sincerity with which our colleagues bring forward these bills. This, however, is sort of the mother of all unfunded mandates, broadly defined legislation and I compliment the sponsor for at least acknowledging, in fact, what are the broad applications of this legislation. There is no remedy in the State of New York if this bill were to become law other than for employers to pay people more money and it allows, without any specificity, the Department of Labor to determine what exactly the methodology shall be and what the classification shall be as far as making those final determinations. This is a, respectfully, a broadly-written piece of legislation that ultimately will have profound impact on municipal, public, private employers including, including overriding collective bargaining agreements if the Department of Labor chooses to do so. And there is no other remedy than to pay more or, perhaps, private sector employers will simply lay off their employees. This is an extremely burdensome requirement in an already overly regulated, overly burdensome, overly difficult economic condition without any consideration for market factors or any real consideration

with common sense of geographic areas and the salaries that get paid within them. I would certainly urge my colleagues to read the legislation and join us in opposition. Thank you. I know, Mr. Speaker, I wouldn't dare to exceed my time. Thank you, Mr. Speaker

ACTING SPEAKER P. RIVERA: Mr. Hanna.

MR. HANNA: Thank you, Mr. Speaker, on the bill

ACTING SPEAKER P. RIVERA: On the bill.

MR. HANNA: Thank you. I have been sitting here for several hours trying to understand, frankly, why so many members of the Assembly think this package of legislation is a good idea. And it really didn't become clear to me until the debate over the last piece of legislation when the esteemed Ms. Rosenthal said that, and I quote, "Jobs given to women pay less money than jobs given to men." And I think therein lies the problem. Jobs are not given to women. Jobs are not given to men. Men and women alike pursue jobs. Men and women alike accept jobs and if you want a job that pays more, you go into a profession that pays more. Capitalism provides for mobility among the various professions and if a person is denied access to a higher-paying profession by reason of his or her gender, then that person has remedies under existing State and Federal law. Those remedies, actually, work very, very well. I'm an attorney by trade, a profession that was once reserved exclusively to males. For several years now law schools have had a majority of students that are female and that's been true of doctors, it's been true of businessmen. The system works very, very well. The market sets the rate among the different professions and what this

package of legislation has done or is trying to do is to take the collective wisdom of the free market and to place it on the desk of a nameless bureaucrat or an H.R. director in a given company. That is incomprehensible to me.

For the last couple of years we've had a discussion in this nation as to whether this nation and this State are moving closer to socialism and further away from the capitalism that has made us what we are. This package of legislation goes an awfully long way toward answering that question and for that reason I'll be voting no. Thank you, Mr. Speaker.

ACTING SPEAKER P. RIVERA: Mr. Murray.

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

ACTING SPEAKER P. RIVERA: Mr. Wright.

MR. WRIGHT: Yes.

MR. MURRAY: Thank you, Mr. Wright. A couple of things just for clarification purposes. I know you had stated that this covers any business or employer with three employees or more, that's public, private, that means any business in the State of New York?

MR. WRIGHT: Yes, sir.

MR. MURRAY: Is that correct?

MR. WRIGHT: Yes.

MR. MURRAY: Okay. Thank you. Now, going off to the -- again, I just need clarification. When we were talking about the varying market rates, now you had said that they can be factored in, but

it clearly states on page 3 starting with line 28, it clearly states that that cannot be a factor. Now, can I get clarification on that?

MR. WRIGHT: Well, I think what you're referring to is that the bill provides that an employer cannot, cannot hide behind geographic factors in an attempt to escape wage discrimination. The way to look at these exceptions are as defenses the employer can provide for paying men and women differently for equivalent work. The bill does nothing, nothing to prohibit paying people differently in different geographical regions, different geographical regions; it only says that an employer can't simply point to geographic factors to justify discrimination.

MR. MURRAY: Well, let's stay with the geographic aspect there. So, I'm going to give you an example and maybe you can help me out. So I'm an employer and I have an office in Manhattan, I have another branch office in, say, Buffalo, and another one in Riverhead on Long Island. Now, I have three employees, each are managers in each of the locations; doesn't matter what sex, what race, they're three with equivalent positions or titles. Am I going to have to pay each one Manhattan rates?

MR. WRIGHT: I mean, if you're talking about all people doing the same job, which is what I presume you're talking about --

MR. MURRAY: Well, equivalent.

MR. WRIGHT: Yes, the same job -- they fall under the Equal Pay Act of 1963.

MR. MURRAY: So, under this bill, though, equivalent job, so maybe not the exact same but, as this bill describes, an equivalent job. Am I going to have to pay the worker in Riverhead a Manhattan wage?

MR. WRIGHT: Well, we talked about the geographic exception before that. We talked about that.

MR. MURRAY: So the answer is no.

MR. WRIGHT: We talked about that. But you can use as an exception but you cannot hide behind it in terms of discrimination.

MR. MURRAY: Okay. My colleague was asking for a specific example a little earlier. I'm going to share a specific example with you and I would like your opinion based on the language in this bill how we would handle this situation. We have an employer, Madison Square Garden. MSG owns both the New York Knicks and the New York Liberty. Now, we have a guard on New York Liberty by the name of Cappie Pondexter who's considered to be, actually, quite the all star in the WNBA.

MR. WRIGHT: Are you trying to become her agent?

MR. MURRAY: What's that?

MR. WRIGHT: Are you trying to become her agent?

MR. MURRAY: Exactly, yes. Hopefully, let's see how this works out under this bill. She's averaging about 21 points a game, really good -- great player. Probably the best player on the team. Meanwhile, we have a guard on the New York Knicks by the name of Chauncey Billups. Now, Chauncey Billups in 2011 is slated to earn

\$14.2 million. The entire team of the New York Liberty, the salary cap of the New York Liberty next year is \$852,000. How do we handle that situation? They both play in the same venue, owned by the same company, play the same game with the same ball putting it in the same basket. How do we handle that?

MR. WRIGHT: How would you handle it?

MR. MURRAY: Well, I wouldn't pass the bill.

MR. WRIGHT: I'm just curious, how would you handle it?

MR. MURRAY: I would --

MR. WRIGHT: How would you handle it?

MR. MURRAY: I would base it on market value but, I'm asking you how this bill would handle it, because it says you can't base it on market value. It clearly states it. So, how do we handle that without putting the New York Liberty out of business?

MR. WRIGHT: Well, from what I understand, it doesn't sound like you have the same employer and there is an exception for productivity and for skill.

MR. MURRAY: They're the exact same employer. They are both owned by MSG. They play in the exact same arena, play the same game using the same ball.

MR. WRIGHT: You might be able to talk about the quality of work exception, which is in the bill.

MR. MURRAY: I would say it would be market value because the New York Knicks are worth last value was \$655 million as a

team, the Liberty doesn't come close to that. So there's where market value would come into play but under this provision --

MR. WRIGHT: Then that's your opinion.

MR. MURRAY: Well, under this law we're talking about market value. You pass this law, we're essentially putting the New York Liberty out of business.

MR. WRIGHT: Oh, I don't think so.

MR. MURRAY: You think they can afford to pay Chauncey Billups rates?

MR. WRIGHT: I'd go watch him.

MR. MURRAY: Then you're going to pay a hefty price for a ticket, I can promise you that.

MR. WRIGHT: Already do. Have you been to Madison Square Garden lately?

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

ACTING SPEAKER P. RIVERA: On the bill.

MR. MURRAY: I think we've demonstrated one of the problems of this is it is so vague. As one of my colleagues has stated, you know, we're determining, we're allowing the Department of Labor to determine what jobs, what salaries, what rates. There's also a provision in here that states that employers must annually provide written notification to each employee of his or her job title, wage, rate and how the wage is calculated. They must then turn those over to the Department of Labor. We're basically saying the Department of Labor will run business in the State of New York, determine wages and how people are

paid. I think I've used the example here and I think I've given the example, obviously, that was a broad example or a major example, but it is an example of how the unintended consequences could actually result in companies going out of business or having to leave the State altogether. I think we have to carefully consider the wording of this bill and what we are doing when we pass this bill here before voting on it. So, I urge my colleagues to please consider that and vote against this bill

ACTING SPEAKER P. RIVERA: Mr. Jordan.

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

ACTING SPEAKER P. RIVERA: Mr. Wright?

MR. WRIGHT: Yes, Tony.

MR. JORDAN: Thank you. Could you detail some of the reports that if this proposed legislation were to become law that employers will now have to produce, generate and file?

MR. WRIGHT: Some of the reports?

MR. JORDAN: Yes.

MR. WRIGHT: That businesses would have to produce?

MR. JORDAN: Correct.

MR. WRIGHT: None that I know of at the moment.

MR. JORDAN: What are the reporting requirements then under this bill?

MR. WRIGHT: Only thing, I guess, I can think about is that the title of the -- employee's title, job title, would have to be in

Department of Labor records.

MR. JORDAN: They'll have to create a job title, a wage rate, how the wage is calculated, their methodology for establishing --

MR. WRIGHT: All that and what you just said, all of that, that's part of current law as it is already.

MR. JORDAN: But these are reports that they're going to have to generate and produce within the context of this bill as well; is that correct?

MR. WRIGHT: It's already in law and I don't think they would have to generate anything new.

MR. JORDAN: But this is requiring a new report.

MR. WRIGHT: It's already law that they do these things.

MR. JORDAN: Well, I'll disagree with part of that, but moving on, what happens to this report that they already have to produce? What do they have to do with this report?

MR. WRIGHT: Just keep it on file with the employer.

MR. JORDAN: There's no requirement that they send this report to the Department of Labor?

MR. WRIGHT: All I can think of, only if the Department of Labor requests it.

MR. JORDAN: This bill actually, I believe, requires that they submit the report to the Department of Labor.

MR. WRIGHT: Say it again?

MR. JORDAN: This bill, I believe, requires that that

report be submitted to the Department of Labor. Roughly how many employers in New York State will be subject to this bill, do you know?

MR. WRIGHT: No, I don't know.

MR. JORDAN: There's, I think, let's say, 680,000 employers in New York.

MR. WRIGHT: You would know better than I.

MR. JORDAN: Roughly 450,000 are going to be subject to this and since the bill requires that this report be sent to the Department of Labor, what is the Department of Labor going to do with these reports once they receive them?

MR. WRIGHT: The Department -- it's up to the Department.

MR. JORDAN: What does the bill provide if an employer fails to submit this report to the Department of Labor?

MR. WRIGHT: You're asking about a penalty if they fail to submit?

MR. JORDAN: Yes.

MR. WRIGHT: No penalties under this bill, but the Department of Labor, I'm sure, will promulgate some sort of regulation as part of it.

MR. JORDAN: Does this provide the employee with a cause of action against an employer for failure to comply with this legislation?

MR. WRIGHT: I would say only if they're paid less in terms being found guilty of discrimination.

MR. JORDAN: Except I don't think that's what this says. I think this legislation says that the employee has a private cause of action against any employer for failure to comply with any provisions of this act, in sum or substance.

MR. WRIGHT: Okay. That's your reading of it.

MR. JORDAN: And how will our -- and I forget, I missed the answer. How many employees do I have to have before I am subject to the reporting requirements of this bill?

MR. WRIGHT: I think we said three or more.

MR. JORDAN: Three or more? So, if I've just started a new pizza business with three deliverers, I'm burdened by this new bill; is that correct?

MR. WRIGHT: I wouldn't call it burdened, I would just say --

MR. JORDAN: Subject to.

MR. WRIGHT: -- not being part and parcel to discrimination.

MR. JORDAN: No, but subject to the report --

MR. WRIGHT: I would not call it being burdened.

MR. JORDAN: I would say but subject to the reporting requirements of this bill.

MR. WRIGHT: You would be subject to the bill, yeah, but I wouldn't call it being burdened.

MR. JORDAN: How will I know, as that new business, of these reporting requirements?

MR. WRIGHT: How would you know?

MR. JORDAN: Yes.

MR. WRIGHT: Well, I'm sure, you know, you would know in terms of being in business all of the things that you have to do. You would just know. How do you know that you have to file, "X", "Y" and "Z"? You just know that that's a part of doing business.

MR. JORDAN: Well, very often you find out when it's too late when the Department of Labor comes in and levies a large fine upon you and effectively puts you out of business so you can no longer employ those three people who were previously unemployed and you were paying them all the same wage. Are you familiar with some of the groups who have come out in opposition to this or it would be easier for you if I were to share with you that list?

MR. WRIGHT: Oh, share it with me, please

MR. JORDAN: Mr. Speaker, on the bill, please.

ACTING SPEAKER P. RIVERA: On the bill.

MR. JORDAN: This legislation, in an effort to accomplish some goals, has the complete opposite effect of taking a burden of added reporting requirements, added development of coming up with job creations, job descriptions, methodologies of pay for employers with as few employees as three who normally have them come into work and tell them this is what you will be doing, this is what you will be paid and here is how I'm going to pay you and, generally, feels that the weekly paycheck or biweekly or monthly paycheck that they give them is adequate information as to what they're making for the work

they're performing. And I think given that, the groups that have come out in strong opposition to this bill include the Business Council, NFIB, Northeastern Retail Lumber Association, New York State Conference of Mayors, New York City Office of the Mayor, the Associated Builders and Contractors and, lastly and, perhaps, as importantly, CUNY. They all recognize the burden this will place on an already-overburdened system and establishment. The opposition ranges from private industry to public industry. Seldom do we see that sort of unified opposition to something which tells me there are serious flaws in this other well-intended legislation and for that, I would encourage my colleagues to vote against it. Thank you, Mr. Speaker and thank you to the sponsor.

ACTING SPEAKER P. RIVERA: Mr. Donald Miller.

MR. D. MILLMAN: Thank you, Mr. Speaker, on the bill, please.

ACTING SPEAKER P. RIVERA: On the bill.

MR. D. MILLER: I want to pull this out of the realm of the hypothetical and theoretical and inject a little reality here. This bill is vague in a lot of places and is unacceptable to me for many reasons, because of the vagueness. One area where it's very specific is where it removes a market mechanism for wage setting. Market mechanism is pulled out and the Department of Labor, I'm not sure who there or which group of people there, but essentially a bureaucracy is set in place of the market for setting wages. Now, reality. No one here -- I'm certainly not -- it's not my desire to discriminate and I trust, I'd simply believe that that's also true of everyone else in this Chamber that discrimination is

not, you know, our goal in life. My wife comes from a place -- my wife, by the way, who is neither male nor pale, she's not Caucasian, my wife deals with this on a regular basis, a daily basis. She's not originally from the states. She's a naturalized citizen and she's had a lot of questions as she's been out in the job market looking for work and we've struggled with some of these very same issues. But she comes from a place where, as the Chairman so rightly pointed out, there is no justice anywhere.

Injustice pervades everywhere. She enjoys the fact that she can behave in a free market here and seek the wages that she wants, any time she wants, anywhere she wants, any way she wants. And I don't want to deny that to her or any other person of any gender or color in this country. That's not who we are. We provide for freedom here and the market mechanism for setting wages provides with us that freedom, provides it for my wife and provides it for all of us.

I stood here in this Chamber two or three weeks ago and I told the story about a woman who owns a business in my district who came to me and asked if I could help her to move that business to China because China has, from her perspective, a more friendly business environment than New York State does. I just want to point out to the members of the Chamber that this type of bureaucratic wage setting is exactly what China did, not does, did. This very system of a bureaucratic structure for setting wages for occupations is exactly what China used to do up until about six years ago when they moved to a market mechanism for setting wages. Mr. Speaker, I am going to be voting against this bill for those very reasons. I appreciate the time.

Thank you.

ACTING SPEAKER P. RIVERA: Mr. Joel Miller.

MR. J. MILLER: Thank you, Mr. Speaker. First, let me compliment my brother, Don, for the comments he made. I wouldn't want anyone to think that the objections we raise to these bills in any way reflects any type of discriminatory feelings or that we would in any way accept discrimination of any kind. That is not what these discussions are about. The discussions are about bills that are either too vague, too broad, too confusing and not workable and we had a perfect example. Our colleague, Keith Wright, is an incredibly bright guy. The previous sponsor of this bill, another bright individual. They are sponsoring this bill. No one should know the bill more than the sponsor; yet, when you ask questions, and I'm not talking about specific facts, when you ask how the bill will deal with a problem, two different sponsors, same bill, two different answers. So, you throw it to the courts. But what are the judges going to do? There will be no justice or equality in those courts. If the sponsors reading the exact same words can't agree on what the bill is supposed to do and what the bill does, how is a judge going to be able to figure it out? These bills have not been thought out to the point where we know what the unintended consequences are going to be. That was clear when we talked about the two basketball teams and that's something that you have to know. It's not enough to be trying to correct one problem. It's you have to make sure that you're not creating another problem which could be even more severe. These bills will create problems that are worse than the current problem that we have. Clearly, we should be

working together on a bill that prevents discrimination and allows people in the workplace to get the income and pay that they deserved based on the work that they do. My concern is that these bills do not do that and we should not be supporting this tact in an effort to try and improve a situation that must be corrected. Thank you.

ACTING SPEAKER P. RIVERA: Read the last section.

THE CLERK: This act shall take effect on the 90th day next succeeding the date on which it shall have become a law.

ACTING SPEAKER P. RIVERA: The Clerk will record the vote.

(The Clerk recorded the vote.)

Ms. Naomi Rivera to explain her vote.

MS. N. RIVERA: Thank you, Mr. Speaker. The question was asked of the sponsors to give concrete examples of industries where women make less than their male counterparts for comparable jobs and the New York Times released a very enlightening chart that was provided by the Bureau of Labor Statistics that demonstrates that virtually in every industry women make less than their male counterparts in comparable jobs. They come close in the area of construction where they make 90 percent of what their counterparts make, but in mining and oil gas extraction, women make a little less than 85 percent of what their male counterparts make. Public administration, professional and business services, they make 80 percent of what their male counterparts make. Information services, manufacturing, they make

75 percent of what their male counterparts are making. You know, it's easy to say when we're looking for equality and trying to create some justice that we need more time. It's too broad. It's too confusing. Well, I want to commend the sponsors. The time is now, particularly for women who are doing everything in every part of this nation. We have been given the right to vote 91 years ago. We make up more than 51 percent of the population and we ought to be compensated equally for comparable jobs. Thank you, Mr. Speaker.

ACTING SPEAKER P. RIVERA: Ms. Rivera in the affirmative.

MS. N. RIVERA: I vote in the affirmative and encourage my colleagues to do the same. Thank you.

ACTING SPEAKER P. RIVERA: Ms. Calhoun to explain her vote.

MS. CALHOUN: Thank you, Mr. Speaker, my colleagues. I've sat quietly this afternoon but I have listened intently. When I went to school many years ago our teachers were making \$3- and \$4,000 and virtually every one of them was a woman. My father was a registered nurse. He made very little money. He was a State employee. And in that particular case it was the men who, when they entered those professions, that brought up the salaries to the point where now a teacher, male or female, will make the same amount of money with the same education, et cetera. In the nursing profession you go into a hospital and you're going to be a registered nurse, you'll make the same amount of money. In here, every woman or man makes the same amount of base

salary. There are discrepancies based on other things. I really think it's impossible to judge comparable value, comparable worth and similar jobs. If you're in the construction industry you're paid a prevailing wage. You're paid an ongoing wage. It is wrong to try to say that a construction worker and a public administrator or a typist should be paid the same amount. I have to vote in the negative because while the intent of this legislation is certainly to give equality to all men and women, we do not live in a fair State. In fact, in our Constitution, the only time fair is mentioned is in fair market value or the New York State Fair. And so, I will be voting in the negative and I appreciate the intent, but it just is not something that should be done and it is impossible to truly give fair pay to everyone and to try to say that it is a gender situation. Thank you very much, Mr. Speaker and my colleagues.

ACTING SPEAKER P. RIVERA: Ms. Calhoun in the negative.

Are there any other votes? The Clerk will announce the results.

(The Clerk announced the results.)

The bill is passed.

Mr. Canestrari.

MR. CANESTRARI: Mr. Speaker, my colleagues, we will now go to the main Calendar, page 4, Rules Report No. 2, a bill by Mr. Lopez. Thank you.

ACTING SPEAKER P. RIVERA: Page 4, Rules Report No. 2, the Clerk will read.

THE CLERK: Bill No. 2674-A, Rules Report No. 2, V. Lopez, Silver, Farrell, Glick, Pretlow, Wright, Bing, O'Donnell, Rosenthal, Jeffries, Spano, Latimer, Aubry, P. Rivera, Moya, Rodriguez, N. Rivera, Gibson, Castro, Jacobs, Camara, Scrborough. An act to amend the Administrative Code of the City of New York, the Emergency Tenant Protection Act of nineteen seventy-four and the Emergency Housing Rent Control Law, in relation to recovery of certain housing accommodations by a landlord (Part A); to amend the Administrative Code of the City of New York and the Emergency Tenant Protection Act of nineteen seventy-four, in relation to limiting rent increase after vacancy of a housing accommodation (Part B); to amend the Administrative Code of the City of New York and the Emergency Tenant Protection Act of nineteen seventy-four, in relation to the declaration of emergencies for certain rental housing accommodations (Part C); to amend the Local Emergency Housing Rent Control Act, in relation to rent regulation laws (Part D); to amend Chapter 576 of the Laws of 1974 amending the Emergency Housing Rent Control Law relating to the control of and stabilization of rent in certain cases, the Emergency Housing Rent Control Law, Chapter 329 of the Laws of 1963 amending the Emergency Housing Rent Control Law relating to recontrol of rents in Albany, Chapter 555 of the Laws of 1982 amending the General Business Law and the Administrative Code of the City of New York relating to conversion of residential property to cooperative or condominium ownership in the City of New York, Chapter 402 of the Laws of 1983 amending the General Business Law relating to conversion of rental

residential property to cooperative or condominium ownership in certain municipalities in the Counties of Nassau, Westchester and Rockland and the Rent Regulation Reform Act of 1997, in relation to extending the effectiveness thereof (Part E); to amend the Administrative Code of the City of New York, the Emergency Tenant Protection Act of nineteen seventy-four, and the Emergency Housing Rent Control Law, in relation to adjustment of maximum allowable rent (Part F); to repeal Paragraph 13 of Subdivision a of Section 5 of Section 4 of Chapter 576 of the Laws of 1974 constituting the Emergency Tenant Protection Act of nineteen seventy-four, Paragraph (N) of Subdivision 2 of Section 2 of Chapter 274 of the Laws of 1946, constituting the Emergency Housing Rent Control Law, and Section 26-504.2 and Subparagraph (K) of Paragraph 2 of subdivision E of Section 26-403 of the Administrative Code of the City of New York, relating to vacancy decontrol (Part G); to amend the Emergency Tenant Protection Act of nineteen seventy-four and the Administrative Code of the City of New York, in relation to the regulation of rents (Part H); to amend the Administrative Code of the City of New York and the Emergency Tenant Protection Act of nineteen seventy-four, in relation to hardship applications (Part I); to amend the Administrative Code of the City of New York, the Emergency Tenant Protection Act of nineteen seventy-four and the Emergency Housing Rent Control Law, in relation to extending the length of time over which major capital improvement expenses may be recovered (Part J); to amend the Emergency Tenant Protection Act of nineteen seventy-four, in relation to the declaration of housing emergencies for rental housing

accommodations located in buildings owned by certain limited-profit housing companies (Part K); and to amend the Emergency Tenant Protection Act of nineteen seventy-four, the Emergency Housing Rent Control Law, the Administrative Code of the City of New York and the Tax Law, in relation to deregulation thresholds (Part L).

ACTING SPEAKER P. RIVERA: There is an amendment at the desk. Mr. Conte to briefly explain the amendment while the Chair examines it.

Mr. Conte.

MR. CONTE: Thank you, Mr. Speaker. I offer the following amendment, waive its reading, move its immediate adoption and request the opportunity to explain it.

ACTING SPEAKER P. RIVERA: Continue.

MR. CONTE: Thank you, Mr. Speaker. This amendment adds a new Section 3(C) of the General Municipal Law to establish a local government property tax cap. With the exception of New York City, no local government may increase the property tax levy by more than 2 percent or the rate of inflation, whatever is less. A local government may exceed the tax cap only if the governing body enacts by a two-thirds majority vote a local law overriding the cap. In addition, it establishes a school district property tax cap. With the exception of the Big Five school districts, New York, Buffalo, Syracuse, Rochester and Yonkers, no school districts may increase the property tax levy by more than 2 percent or the rate of inflation, whichever is less.

We have - certain capital expenditures shall be exempt

from this cap, and the reason why we're putting this amendment forward today, Mr. Speaker, is that, first of all, no one in this House and no one in this State -- or everyone in this House and everyone in this State understands that New York State ranks highest in property taxes and statistics show that New York's median property tax bill is 96 percent higher than the rest of the nation.

Furthermore, the local real property tax levy as a percentage of personal of income is 79 percent higher than the national median. Residents can simply not afford to continue to pay real property taxes in this State. Property taxes have been successful in other states such as Massachusetts, Illinois, California, Michigan and New Jersey.

But, more importantly, Mr. Speaker, today we're sending a message to the residents and the taxpayers of this State that the priorities of this Conference is to establish a real property tax cap of 2 percent in this State where the priorities of the other side of the aisle is to have rent control and bring rent control up for a vote here today. We feel both of these issues should be put forth, but we have not seen a real property tax cap bill put forth in this House in a number of years but, more specifically, in the last couple of years. So, we are putting up this amendment basically to say our priorities are for a real property tax cap and I move the amendment.

ACTING SPEAKER P. RIVERA: Mr. Conte, the Chair has examined your amendment and has found it not germane to the bill before the House. Do you wish to appeal the decision of the Chair?

MR. CONTE: I would like to appeal the ruling of the

Chair, Mr. Speaker.

ACTING SPEAKER P. RIVERA: The Chair recognizes you, Mr. Conte, on the appeal.

MR. CONTE: Thank you. No one can dispute that the two issues of rent control and how much renters are paying in their rent and how much it can go up on a year-to-year basis is to keep people in their homes. We are trying to do the same thing for the real property taxpayers of this State. We're trying to keep them in their homes. The Speaker, himself, Speaker Silver, has said publicly that he believes that these two issues should be interlinked where we should have rent control and we should have real property tax relief here in this State. Our Conference is basically saying, let's do a real property tax cap, let's do it now. The Senate has already passed it. Let's bring it to the Governor, let's have that signed into law and then, Mr. Speaker, we can work on rent control

ACTING SPEAKER P. RIVERA: Mr. Canestrari, on the decision of the Chair.

MR. CANESTRARI: Yes, Mr. Speaker, my colleagues, I rise in support of the ruling of the Chair and urge my colleagues to vote yes to support the ruling of the Chair. You have correctly ruled that this is not germane to the bill-in-chief, a bill which strengthens and extends rent protections for millions of tenants. As we have discussed numerous times in the past on germaneness, amendments are not germane when they introduce independent questions. This is a well-established standard that is consistent with legislative Bodies across this country. The

bill-in-chief does not deal with homeownership. It does not deal with the payment of real property taxes.

This amendment is not germane and, in fact, goes so far as to completely strike out the bill-in-chief completely. The only thing it really amends is the number on the bill. To make a political statement, to completely strike out and take away the rights that tenants have and the protection that tenants have and say it is germane is to stretch completely the idea of germaneness and the question of an independent question that is being raised. The amendment has nothing whatsoever to do with tenants and tenants' rights. It does, as I said, it completely guts the entire provision of the bill-in-chief and amends only the number of the bill itself.

And members should also note that the Majority in this House, the Majority side of this House supports, for the most part, a real property tax cap. In fact, the Speaker of the Assembly has advanced a bill on that exact subject and discussions with the Governor are under way and, in fact, the bill the Speaker has advanced on the real property tax cap is currently being considered by the relevant committee in this House. That is a separate and distinct issue that should be discussed and debated in the light of day on its own. But to gut a tenants' provision bill, which this is, sponsored by our colleague, Mr. Lopez, strikes at the heart of the matter. It is not germane. It is not related. It is a totally independent question not dealing with the merits of the real property tax cap, dealing with the relatedness and the question of independent nature of the amendment and, as a result, the ruling of the Chair should be

upheld. Thank you.

ACTING SPEAKER P. RIVERA: Ms. Calhoun on the decision of the Chair.

MS. CALHOUN: Thank you, Mr. Speaker. On the decision of the Chair, while you could say there's no germaneness between the two, each of the two topics relate to housing; in one case to people who are housed in rental units, in another case to people who own homes and are struggling with the same questions. We have seen, not this this bill, but we have seen the tying together of other issues. But what I want to say here today, this action and the germaneness of this bill is what would allow there to be two bills identical in nature which could then be presented to the Governor of this State and, as my colleague, I can't mention his name in conversations here, but my colleague who just stated that many, many members do support the 2 percent cap bill. This gives them that opportunity to show and put their concerns on the record because with the votes of one Conference and with the votes of others who are facing the very same issue, we can actually create the bill which could then be sent to the Governor of our State and it could be enacted into law and, if the rent regulation is to be discussed, it could be discussed on another day by being put forward again.

So, I urge everyone to look at this and to overrule the decision of the Chair so that we will be able to have a good discussion on the bill when the bill is replacing it and giving us what the people of this State want, which is a tax cap on their school and, in many cases, their town and county taxes. Thank you very much. I urge a vote to overturn

the decision of the Chair. Thank you.

ACTING SPEAKER P. RIVERA: The question before the House is shall the decision of the Chair stand as the judgment of the House. Those voting yes vote to sustain the ruling of the Chair; those voting no vote to override the decision of the Chair. The Clerk will record the vote.

(The Clerk recorded the vote.)

The Clerk will announce the results.

(The Clerk announced the results.)

The ruling of the Chair is sustained.

On the bill.

An explanation is requested, Mr. Vito Lopez.

MR. V. LOPEZ: I think for most people here, it's been a long day. Most people are aware of the affordable housing crisis that we have and the criticism of doing this bill in the years that I've been here and have sponsored similar bills is that it was late at night on the last day or on an extended time. We're debating it. It's still light out. It's two months or two and a half months before the bill expires. So, we really have made a modification of action and the fact that if we merge the two bills together, what I thought I heard was that with the amendment in rent regulations, everyone would have supported that bill. So, I'm going to wait and watch the vote because I assume there's some good parts of this bill that people were going to vote on.

This bill will expand rent regulations. It would be a five-year extender to June 2016. This bill not only renews the legislation,

but provides some expansion of it. I'll give you some examples, I'll give you one or two. One of them is, we passed -- which was a change -- a number of years ago for vacancy rates of 20 percent and you have to understand there's a \$2,000 threshold that people would go out of rent regulations. So, if your rent was \$1,500 a month, we passed that it would be 20 percent when the person left. So, that would mean 20 percent of 15 would be \$1,800 and then the person leaves a month later and that 20 percent would be increased and the rent would go to \$2,100 and that vacant apartment would be deregulated.

Also, the MCI increase. If you take out a loan and people here talked about homeowners and we all need to help and assist our homeowners, but if you took a mortgage, I believe the mortgage, if you took it for \$30,000 and you had -- or maybe 30, \$100,000, you pay back the mortgage over a certain period of time plus interest. The MCI increase you pay it back, the improvement, with interest but permanently, permanently. So, you pay it back 50, 60, 70 years after the fact and that MCI actually improves the building and the landlord benefits, but it's a life-long increase with interest. So, these are the types of things that need to be addressed as well as when we did this bill we had a \$2,000 threshold. We had an income, I think, of \$175,000. Everyone agrees that they were frozen in time. There was no cost of living increases. So, it was impossible for us to address and deal with. This bill reforms that. It does away with vacancy decontrol and on the people who are high income, because I know there's a sensitivity, it raises, I think, the rent to \$3,000 and the income to \$300,000 and that's what it would be if you cost

of living it out in the last seven or eight years.

So, those are some of the issues that we have and we believe these reforms -- what we did do was not burden you with 8 or 9 bills, we put the bills all together and we have a comprehensive bill that deals with rent regulations.

Now, one point that everyone here talks about and they talk about the economy. They mentioned it before. All the critics of the bill justifiably say we have an economic crisis. Well, we do have a crisis in New York City and some of the suburban areas and it is the economy and it is jobs. The working class and the poor and the lower-end middle-income individuals, many of them are not working and many of them are working for less money. If we do not resolve this issue, we will have people who will not be able to pay their rent.

When you look at gentrification, so in my district, you know, and Joe's district -- I know I'm not supposed to mention his name, but in my district the rents now are going for \$3- and \$4,000 a month. The average income of people in my district is \$32-, \$33,000. There's a gentrification and mass displacement. People will say so what? People would relocate and move. We have in Bushwick the highest rate of homelessness then any part of the City, but it's only narrowly higher then Bedford-Stuyvesant and the South Bronx and the others. Why? Because people can't afford the increase in rents. So, these are the dynamics and settings. So what we are doing is coming up with a comprehensive reform bill that we think everyone is going to embrace.

ACTING SPEAKER P. RIVERA: Mr. Fitzpatrick.

MR. FITZPATRICK: Thank you, Mr. Speaker. Would the sponsor yield for some questions?

ACTING SPEAKER P, RIVERA: Mr. V. Lopez.

MR. FITZPATRICK: Vito, thank you very much. It's been an absolute pleasure to debate this bill each and every year or these eight or nine bills every year. And for as long as I have been here we've had this crisis. One of the problems that we have here is that, you know, rent control, it may be good politics, but it's lousy economics and when politics interferes with economics, we have extreme distortions in the housing system. And you bring up a point with vacancy decontrol, which is probably one of the most interesting components of this bill, and that we are going to lift the rent to \$3,000 a month, we are going to lift the income level to \$300,000. This bill would basically benefit Manhattan at the expense of others.

But what we have here with rent control and rent stabilization here is we have a segmented housing market. We have people who are protected by rent control and a lot of those people are making a significant amount of money, the rich, as people on your side of the aisle like to describe them, who are not in need of protection and one of the those distortions is that we have people living in rent-controlled, rent-stabilized apartments for very long periods of time because there's no incentive for them to move to either larger space or downsize to smaller space when they don't need as much space and what happens? Then you have the other segment of society, the people who are relegated to look for housing in the unregulated marketplace and that is a very bad

distortion. That's why we have that homelessness that you speak of because they have to compete for that housing that's left. There's no incentive in the marketplace to build more housing unless there's a government subsidy or assistance of some sort to encourage that. How do you justify, if I may ask, protecting a class of people that don't deserve it and don't need it and can well afford -- if we use the Section 8 program, a 30 percent for a rent-income ratio, these people -- it's far less than 30 percent. Why are we protecting this class of people at the expense of people who really need affordable housing?

MR. V. LOPEZ: One, if you're asking me if my priority as an advocate for affordable housing, are people who are making \$2-, \$300,000 a year, you know, my priority is for the lower end. But the real question is how do you stimulate a housing market? And it's so easy for us to not have rent regulations. All we need to do is get to a five percent vacancy rate. Builders, as in the Roberts Decision, another bill that will be coming up, actually only build principally with subsidies and once they build with subsidies then they're subject to rent regulations. I have a lot of respect for you.

MR. FITZPATRICK: And I for you.

MR. V. LOPEZ: And I know that, but there's a contradiction when I go back home to the people I represent and even we talk about it here. You know, this year we could have saved about \$1 billion and next year \$2.8 billion. Forget about the people making \$300,000, all we have to do is not raise taxes but keep the surcharge on millionaires and that was rebuffed by a lot of people, including people in

the Minority here.

So, when we're sensitive or concerned about the people that are making \$280,000, I would like to broadly look at that because there has to be some consistency. So, one, to stimulate the market, you know, and open up the vacancy rate, it's in the hands of the real estate industry. Right now, the 421-A bill that we're talking about is slowly moving because of the tax benefit that the real estate industry wants. They want to not keep the current one, they want to increase that, all right? So, in reality once they ask for that, then there are certain conditions. Rent regulations now, as people's incomes -- when we talk about raising this to \$300,000, if you inflation that out from 2000 -- seven years ago, you would almost come up that particular figure.

But we're talking about, to be honest with you, what is just, all right? You know, and how do we deal with this? How do we deal with a system, you know, that there are really people who are abusing it, really abusing it. You're concerned about the renters that are abusing it? There are a lot of landlords that are abusing it and how do we rectify that? We had an earlier meeting today. People said let's do away with the individual apartment increases. Let's do away with, you know, this -- you know, there's one landlord in Manhattan needs the 19 units, the building he bought, he wants the whole 19 units for himself, his whole family use, and that's not what he really wants. He wants to vacate the people. And so we're modifying that and saying you're only allowed one apartment if you buy the building and seniors are exempt. That's a good modification, in my mind.

So, you make a couple good points. I'm not interested in protecting the high end, but I'm very interested in protecting the stock of rent regulation and rent stabilizing. We've lost over 80,000 such units and people have no place else to go and the fact that people cannot afford rent, you might say, Vito, prove it, we've almost doubled our population of homelessness and the biggest increase -- and people talk about give me studies about jobs and who wants this. The biggest increase in homelessness are single women who are elderly that are now being referred to the shelter because they cannot pay \$2,000 or \$3,000 a month in rent. And I believe it's our moral responsibility to stand up and protect those people, especially from people that landlords that knew once they got into the system there was rent regulations.

MR. FITZPATRICK: Well, it's those market distortions that I mentioned before that this system promulgates and encourages that leads to that egregious example that you just mentioned. And I won't argue with you that there are probably -- there are some examples of behavior on the part of landlords, just as there is bad behavior on the part of tenants, all right? And that's what the system encourages. So, let's take out those extremes. Why there is rising homelessness is because we need to increase the supply of affordable housing. As long as government is involved in limiting what a person can make, what a person can charge, a landlord is not interested in overcharging for rent. They want to -- it's supply and demand. They're not interested in forcing people out. They want -- they're business people. They're property owners. They're providing a service, shelter for people at a reasonable

price. And when we talk about limiting rent increases, we have housing stock that is very, very old in the City of New York, all right? We are the only City, the only major City in the country that still uses rent control and it was designed as a temporary measure after World War II. It was supposed to fade away and it never has.

MR. V. LOPEZ: But tenants in rent control apartments are down to about 30,000 or 40,000. It's rent stabilization that replaced it.

MR. FITZPATRICK: Rent stabilization, right.

MR. V. LOPEZ: But let me raise this to you and we raise it all the time. I cannot argue against what you're saying. In the Roberts Decision and why those landlords, big landlords, lost their shirt and there's a question of what do you do with that, is that they went in with J51 benefits and they wanted to evict, allow people to leave and vacate the buildings and everyone thought they could. But as long as they had, the courts decided, a benefit, rent regulations will end. If you and I went and we built a building in Williamsburg, a 20-unit building and we built it and we got some conventional loans and we built it, there would be no rent regulations at all. Once you go in and you ask for government assistance, you then, when you get that, accept rent regulations. Well, the people -- what the real estate industry wants is to say give us that benefit and then let the program end. This year -- let me raise this to you. At least the people that I talk to in the industry are not asking to do away with rent regulations. They're concerned about the enhancements.

MR. FITZPATRICK: Correct.

MR. V. LOPEZ: So the argument that some people may raise about like do we have rent stabilization or not, that seems like it's not the argument. The argument is on these key parts that we're adding to the bill that is now what we're negotiating and debating.

MR. FITZPATRICK: Landlords do not have a problem living within the rules as established. The problem that we have with this legislation is that we are changing -- we're moving the goalposts, all right? Landlords have no -- property owners have no problem -- as you said, you accept or you participate in a government program, you accept the rules and you will abide by them and under those rules are if the rent goes over \$2,000 and the income level goes over \$175,000 upon vacancy, you have a decontrolled unit. It goes to the market, all right? Why are we moving the goalpost because the crisis that you're talking about is government-imposed.

MR. V. LOPEZ: Let me raise it. The provisions that we're talking about that we're changing we're changing back. So, there was no, you know, income threshold. The vacancy rate was not 20 percent unlimited. And so, the things that we're talking about now are what was added by the, you know, previous Senate in our negotiations. So, the enhancements were enhancements on the part of the real estate and landlords. If we could go back -- and people met this morning. If we could go back 15 years and have the rent regulation bill the way it was 15 years ago, everyone would be happy. We would do away with six or seven things. The question was in those negotiations erosion of the

protections of some of the things we're trying to enhance were added.

So, I understand what you're saying, but we changed it at the detriment of the tenant advocates and the affordable housing advocates in the past. Now we're trying to eliminate that.

MR. FITZPATRICK: You know, other major cities around the country, Vito, experienced a building boon in rental and affordable housing because there was no -- or they allowed rent control and they allowed rent control to expire, those cities that used it, but never went into rent stabilization. The City of New York has missed that and because of that our housing stock has aged and the other provisions of this bill that will put further limitations on a property owner's ability to recover those costs, whether it's through the MCI provision or -- I'm sorry, reducing that statutory increase to 10 percent from 20, you know, the Rent Guidelines Board, which is a body of political appointees that understands the climate that we live in, is not fair to those property owners. So, that 20 percent vacancy increase is the only way that property owners can recover or, at least, keep pace with their rising costs. Not only do you have aging buildings, you have rising sewer, electric and oil costs. These all have to be covered, Vito. And if they're not, then maintenance is deferred and buildings decline, which bring further problems for the tenants.

MR. V. LOPEZ: If you were in New York City and you heard the response when people go - the tenant advocates go to the Rent Guidelines Board, when the landlords argue for increases and those have been substantive increases when the economy was flat, they took into

consideration those issues that you talked about. But you also, and I'm not -- I don't really begrudge anyone. The landlords that you're talking about, and I've been trying to get you to come into my district and hang out with me, the buildings right across the street from my district office, when I went there 16 years ago you could have bought the building for \$60,000, a six-family house. Now they're \$1 million, \$1.2 million. I mean, should a person have a reasonable amount of profit? God bless them. But now they're \$1.2 million and now when you get the elderly people and the priests calling you up and saying, gee, Mrs. -- and these are -- these are people that lived there forever, they say look, she only has \$1,800 a month in social security and a small pension. She's better than most. They want \$2,000 in rent because the market rate will drive that. The people from Manhattan will be coming in. So, the landlords, if we listen to the argument, and I know if you were there you would be sensitive, their buildings have gone from \$100,000 to \$1.2 million, not a bad deal, all right?

Two, they also want to capitalize on the market and eliminate the rent protection. You know, we could only do that if we protect those particular people because there's one old lady that lives in a building owned by a person and she sweeps the sidewalk all the time and I go over and I say, why do you sweep the sidewalk, and she goes, oh, when I came from Lithuania I always was taught to clean up and wash. And I said well, you don't own the building. She goes no, but this is my way of doing good. That same person has come in a couple times when they try to double her rent. There's no compassion. And you could even

say look, Vito, people have to make a profit. This is not a profit. They've quadrupled or gone beyond that.

So, government has to step in. The way we have Section 8, the way we have subsidies for our landlords, the way we have tax credits, all those things help development. We also have to protect tenants. When we talk about building our way out of it, this year's budget, capital budget, there was no increase. You know, I'm willing to increase that.

ACTING SPEAKER P. RIVERA: Mr. Fitzpatrick, your time is up.

MR. V. LOPEZ: I filibustered on him.

MR. FITZPATRICK: If there are others --

ACTING SPEAKER P. RIVERA: There are others.

MR. FITZPATRICK: Okay. I will come back. Thank you, Vito.

MR. V. LOPEZ: Sorry.

ACTING SPEAKER P. RIVERA: Ms. Malliotakis.

MS. MALLIOTAKIS: Thank you Mr. Speaker. While I believe New York City needs some sort of rent stabilization, I believe that this bill is a Manhattan-oriented bill that primarily benefits the high-income tenants and it does little to provide affordable housing in the outer boroughs. This bill neither protects the interests of the majority of my constituents in Brooklyn and Staten Island nor does it address a property tax cap for single or two-family homeowners in New York City and what I find most disturbing about this bill is, I believe, it's an

infringement upon the owner's property rights because you're limiting -- you're saying that the property owner, the landlord, can only occupy one unit in his or her own building. And to me, I think that's unacceptable. For those reasons, I will be voting no for this bill and I urge my colleagues to do the same. Thank you

ACTING SPEAKER P. RIVERA: Mr. Dinowitz.

MR. DINOWITZ: I just wanted to address a few of the points that have been brought up. I don't like Manhattan-oriented bills, but this is not a Manhattan-oriented bill. The rates, the top rates, the luxury rates, when they were first put into law back in '97 may have, may have affected mostly Manhattan, but that certainly has not been true for a long time. Throughout the Bronx, many apartments have been destabilized. Many people have gone out of rent stabilization because the limits, and I don't think there should be any limits, but those limits affect people in all five boroughs.

You know, when you talk about moving the goalpost, I think Vito had said it, the goalposts were moved very far in the wrong direction a number of times since the '90s and this does not even move them back to where they should be. The fact is the laws right now are stacked in favor of landlords and against tenants. Now, we talk about free market. Well, if you want free market, then don't ask for subsidies and tax breaks for developers. Don't ask for tax benefits for business and all the other things that you always talk about, and you do talk about that. Now, maybe those things are good or may be they're not good, but if you want free market, then you want free market all the time, not just when it

it comes to this one instance and that's essentially what you're asking for here. Right now, if we do nothing, the law is so far stacked in one direction because of all the things that have been mentioned. A 20 percent vacancy increase, which can happen more than one time a year, the 1/40th increases for repairs which may or may not be necessary in an apartment with bills that may or may not be legitimate that are not even verified by the State Housing Agency, the MCI increases, if you add all those things together you can easily double somebody's rent just like that. You could easily pass \$2,000 just like that. And the math is pretty simple. If somebody has a \$1,200 rent and they vacate the apartment, that's 20 percent right there. That adds to the rent and then if you add the normal lease increase, you can increase the rent by, say, 25 percent just by the apartment being vacated. That brings it up to \$1,500. All a landlord has to do at that point is tear out bathrooms and kitchens which may not even be in bad shape, spend a few thousand dollars, submit a \$20,000 bill and up goes the rent another \$500 and it comes out of rent stabilization at the end of the lease.

So, right now, in many instances, there really isn't rent stabilization because given all of the watering down provisions that have been enacted since '97 or even '93, I guess, all of those things together have taken hundreds of thousands of apartments out of rent stabilization and have made it so that eventually every apartment will be out of rent stabilization.

The Rent Guidelines Board, I don't know where you've been, but from where I'm sitting or standing, it's also stacked in favor of

the landlords. They have never failed to give the landlords an increase and when the landlords bellyache every year that they're expenses have gone up and they're only getting, you know, a five percent increase, that's not what they're getting. They're getting a five percent lease renewal increase, or whatever the increase is that year, but they're getting all these other increases. So the amounts that they have gotten more than previous years are probably 25 percent in a given year because of the vacancy increases, because of the MCI increases, because of the 1/40th increases, let alone the apartments that come out of stabilization and it has contributed to the homeless problem in New York City and it has contributed to deterioration of housing in the sense that I can tell you lots of people in the Bronx are doubling up because they cannot afford to live in rent-stabilized housing as it is now.

Right across the street from my office is a five-story walkup building where rents for one-bedroom apartments now are about \$1,400 a month and you can imagine what the rents for three bedrooms are. These are not fancy apartments in Manhattan. Three-bedroom apartments anywhere in the Bronx now are already approaching \$2,000 and in lots of my district -- lots of neighborhoods in my district they're above \$2,000. So, if we want to keep housing stock good, if we want to keep people from being homeless, I mean, this bill, and I thank Vito and I thank the Speaker, I mean, I would go a lot further if it were up to me, but it's really not up to me. But this bill does a good job at least in addressing some of those inequalities.

So the vacancy rate goes from 20 percent to 10 percent,

landlords will still have an incentive. They want to get people out. They do have an incentive to get people out because the more times the apartment turns over they get another increase. This bill addresses that at least. Every time an apartment becomes vacant, the landlord makes more money. So, you think that landlords want to keep the same tenants? No. They want turnover and they can only do the 1/40th increases when the apartment becomes vacant.

So, for a whole host of reasons right now the law is stacked against the tenants. Now, I know in some districts, not to be insulting, but a four-story building might be like a skyscraper, but for those of us who have lots of rent-stabilized apartments in our districts, and that's probably true of most districts in the City, if we want to prevent homelessness and if we want to prevent apartments from deteriorating, we have to pass this bill and hopefully the Senate and the Governor will support it as well.

ACTING SPEAKER P. RIVERA: Mr. Jeffries.

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

ACTING SPEAKER P. RIVERA: On the bill.

MR. JEFFRIES: I just rise, one, to express my support to the Chairperson for moving this piece of legislation forward, for his advocacy on this issue for a tremendously long period of time, as well as to the Speaker for consistently moving this House forward as it relates to not just expanding rent regulation but strengthening rent regulation. I just wanted today speak to one to two issues and the assertions that have been made by some of the opponents of this bill because it seems to me that

while members of the Legislature are entitled to their own opinions, certainly, members of the Legislature are not entitled to their own facts and there are several factual misstatements that have been made about this legislation that I think should be cleared up.

First, in terms of whether rent regulation alters the marketplace, the entire purpose of rent regulation is because we have a distorted housing marketplace in New York City and in some of the surrounding suburbs. Rent regulation, as has been pointed out, is, in effect, because the vacancy rate in the City of New York is less than five percent and the likelihood that that vacancy rate is going to change, at least for the foreseeable future, is doubtful. Why? Because we have 8 million people in the City of New York and counting. We're actually projected over the next ten or so-odd years to gain possibly an additional million or so. Land in New York City, unlike in other cities in this country, some of which may have walked away from rent regulation or don't have rent regulation, land in New York City is at a premium. It's limited. The space where individuals can build is limited. And so, you have the demand both because of the limitations on land as well as the population growth, you have the demand for rental units in New York City that greatly exceeds the supply. And so, the question is, if you have a market that's out of balance, are we, as a Legislature, willing to say working families, middle-class folks, senior citizens, the poor and the infirmed, fend for yourself. Fend for yourself. We have no interest in trying to maintain any type of reasonable balance in the City of New York, because if we unleash the market that's out of whack for the

reasons that I articulated, then New York City may become a place simply for the wealthy and for the well-off. And, certainly, the sponsor, the Speaker, many of us in the Legislature don't think that's the way to maintain a first-class City in New York.

Now, some of my good friends on the other side of the aisle have said, well, this is just about Manhattan. This is just about the wealthy. Where are your facts to justify that statement? Where are the facts? It's interesting hyperbole, but the facts that I have, the facts that have not been disputed by anyone, the facts that REBNY or even RSA don't dispute say when it comes to the average median income for a rent-stabilized apartment, over 1 million in New York, 2.5 million individuals, the average median income is \$38,000. Is that wealthy? Is that well-off? Is that the rich and the famous? \$38,000 doesn't sound that way to me.

The other assertion that seems to be made is, well, this just benefits Manhattanites. The implication is, of course, this just benefits white, wealthy Manhattanites, as if all of us from the outer boroughs are pushing forward with supporting legislation because we're just concerned about a small segment of the population, not the individuals that we represent. Again, what do the facts say? The facts that no one, not even the real estate industry, can dispute. Well, the facts say 31 percent of rent-stabilized tenants are Latino; 22 percent of rent-stabilized tenants are African-American or Caribbean-American; 9 percent of rent-stabilized tenants are Asian, which means over 60 percent of the people in rent-stabilized units in the City of New York are people

of color who live in every single borough, not wealthy, white Manhattanites.

What's the last argument that folks on the other side like to make? Well, this is just benefitting well-established individuals, people who just hoard housing and they dry up the marketplace. Well, what do the facts suggest? Again, the facts say that 51 percent of rent-stabilized households are actually led by immigrants or people of Puerto Rican descent. Again, is this legislation designed to benefit a class of folks who are just wealthy, white Manhattanites? Or is it a legitimate attempt given a market that is out of whack to maintain some racial, socioeconomic, reasonable diversity in the great City of New York and the downstate suburbs? I think it's the latter, and for that reason, I'll be voting in the affirmative. I commend the sponsor for putting this legislation forward and I urge all of my colleagues to do the same.

ACTING SPEAKER P. RIVERA: Mr. Fitzpatrick for your second 15 minutes.

MR. FITZPATRICK: Sure. On the bill, Mr. Speaker.

ACTING SPEAKER P. RIVERA: On the bill.

MR. FITZPATRICK: My esteemed colleague from the Bronx is very critical of the regulations which he feels benefit, unfairly, the landlords. But the rules that were changed in previous years were done by agreement between Senate/Assembly, Republicans and Democrats and those rules are being followed. The goal of rent control or rent stabilization ultimately is to get off of rent stabilization and go to a free market. My esteemed colleague from Brooklyn talks about facts.

Well, there are some significant facts. The Citizens Budget Commission produced a very comprehensive document chock full of facts. I don't dispute the numbers that he gives me. But the fact of the matter is, more of the people that he believes rent regulations would help we could help more of them if the world didn't favor wealthy Manhattanites or wealthy Brooklynites or people from the Bronx who are staying in rent-stabilized units much longer than they need to because the distortions in the marketplace that rent regulation promulgates leads to these inefficiencies. We need more housing. There is more room in the City of New York. We could change zoning regulations. We could modify environmental regulations. Landlords would love to see rent control and these tax breaks disappear tomorrow and go to a straight market. They would vote for that tomorrow. I would vote for that today, tomorrow. But because the system is already distorted, the only way you encourage developers to put aside 10, 20 or more percent of housing units for affordability is to give them the tax breaks because the economics just don't work due to the limitations the current rent regulations impose on development. Those are the facts.

I urge a no vote on this bill. Rent regulation, as originally intended, should expire eventually. An expansion of these rules by increasing these rental and income amounts and the other provisions of this bill continue to move the goalposts. A free market is the best way to provide housing affordability for all income groups. There will be no shortage of people who want to come in and develop properties to provide affordable, quality rental space at any price point if

you take a way or unleash or unlock the shackles that limit their ability to do so today.

The City government, the landlord community, in cooperation with tenant groups, can work together to build affordable housing all over this City. I believe there is still plenty of room to build housing at every price point. We seem to have no shortage of space to build market-rate housing. Why can't we build affordable housing? Let's get rid of rent regulation. Don't expand the provisions of this bill. Stop coddling people who can afford to pay market rents because it is those people, whether they're in Manhattan or Brooklyn or the Bronx, who are literally hogging affordable housing for themselves and forcing or creating the homelessness that we want to fight. This bill needs to die. Expansion of rent regulation, re-regulating units that have been deregulated is wrong housing policy. It's terrible economic policy. It will do nothing to expand affordable housing for anyone in the City of New York and the other areas that are served by the current rules. Thank you, Mr. Speaker.

ACTING SPEAKER P. RIVERA: Mr. Vito Lopez.

MR. V. LOPEZ: The gentleman, the Minority member of the Housing Committee, is somebody, you know, on the other side of the aisle that I probably have the greatest respect for. His style, his personality and his intellect are something that I talk about even in Brooklyn and I even, when I hear about him going for higher office, even as a party leader, I've shown a lot of respect for him. On a number of these issues, I believe he's incorrect, but he has a right to his opinion.

This is not a Manhattan centric. I think the Assemblymen from the Bronx and from Brooklyn really handled that very, very well.

If we went to a market system, there would be a crisis-and-a-half and I know that. Maybe not in Manhattan, but I know that it would be a crisis in the outer boroughs. And so -- and that crisis is already occurring. What I find very difficult, what I find very difficult, and this is not a challenge to him, but to the members here, what I find very, very difficult is when we do the 421-A bill, the argument is let's forego everything. Let's just go to a market-rate system. But what was going to happen this Session is that we're going to do a 421-A bill and the question is, how much of a tax break will these developers get? Will they get one that, you know, goes 30 years, 40 years? Will it extend itself it to -- from 20 percent property tax to it 8 percent? This is being negotiated and, once they do that, they will concede 20 percent affordability. So, we're not, as I think my colleague from the Bronx made reference to, you know, there's an inherent contradiction.

This economy that we're facing and the people facing it, they need government assistance and support and the only way we can do that is by passing a comprehensive piece of legislation. Those elderly people and people on fixed incomes can't deal with the philosophy of market, you know, policy and philosophies. They deal with hard-core facts. Not only once, but several times seniors have come to me and they stated when it comes to their housing needs that the only problem that they've had is that they live too long because their \$800 a month in Social Security and their \$600 a month from their husband's pension, that

\$1,400 no longer has any value. And something for all of us to think about. It's very soon almost an impossibility for people -- many Legislators, if you want to talk about where you can live, many Legislators cannot really live in their district in New York City. They can't. If the rent is \$3- and \$4,000 a month, that's \$50,000. Now, what we could recommend is then move. Some people say, so, you move someplace else. So, we'll all move to one district and that would be interesting and we could then have a real free for all and run. And we do pretty well, right? We make \$79,000 and that's a great salary and some people even recommended cutting that salary, but we we're really doing well. You could not live -- I couldn't live or you couldn't live in these districts. So, government assistance and government intervention. We talked about tax credits for businesses. You know, I don't understand. If people advocate for tax credits, I support that. We have to stimulate the economy. We have to stimulate jobs. Government involvement is not a bad thing and in a market that is really controlled and there isn't real land available, there are about 10,000 acres in New York City of Brownfield sites, and I talked to the Governor earlier today, we have to have a comprehensive program to rehabilitate that acreage and then we could build affordable housing. We're running out of land and City land. We have a huge crisis.

I want to end by saying the Speaker of the Assembly, as Hakeem made reference to, has really stepped up to the plate on this issue. And people badger him and beat him up, just like they beat us up. He's really stepped up and I really respect him for his commitment on this

issue. I would like to note Judy DeMarco and Jonathan Harkavy and Debbie Feinberg who have been sitting here listening to us. They've been at all the meetings and all the hearings. We know that this is not the end. It's the beginning. I know that some people think we have to go further, but this is the beginning of the dialogue and I hope at the end of the day that we resolve it. And I believe in tying things together. I truly believe in tying things together. How can we help landlords get tax benefits in order for them to maximize their profit, at the same time, not help tenants out? So there's an inherent contradiction. We have to step up to the plate. We have to not only do rent regulations, but we have to fight for our constituents. They need affordable housing and we have to expand the benefits and I look forward to working with all of the colleagues, both Democrats and Republicans, to win the day for another five years and then, hopefully, we'll do what Mr. Fitzpatrick said, we'll stimulate the housing market and maybe we'll get the vacancy rate up to five percent and then what we can do is win the day and do away with the bill. Thank you.

ACTING SPEAKER P. RIVERA: Ms. Gibson.

MS. GIBSON: Thank you, Mr. Speaker. On the bill

ACTING SPEAKER P. RIVERA: On the bill.

MS. GIBSON: This is a very, very important bill before us today. I certainly rise to echo the sentiments of my other colleagues that have spoken in favor in supporting this bill. I certainly want to thank the sponsor and the Speaker. This bill before us is a culmination of a lot of effort by many housing advocates throughout our State, many tenants

who have come to Albany each week lobbying and advocating for rent regulation. The reason, as many of you know, why this is so important is because this is about an investment of the affordable housing stock in the City of New York and the outer suburban counties. This is about reaffirming our commitment to providing the long-term stability that so many families in the City of New York are in need of; 2.5 million New Yorkers would be jeopardized if we did not act on this legislation. So, I'm certainly adding my voice to others in expressing my support and understanding that this is a long time coming.

I know firsthand how important New York's rent laws are. For most of my life I've lived in an apartment that fell under rent regulation laws. Rent regulation is the largest source of affordable housing for so many low-income and middle-income New Yorkers that live in this State. A recent report by the Community Service Society of New York indicated that every year we lose 10,000 units of affordable housing because of existing loopholes in our rent laws. This bill will serve to address many of those loopholes. For the first time in a long time, this bill will make it clear that landlords will no longer be able to profit at the expense of tenants by charging more than it actually costs to make improvements to their buildings. Along with closing this loophole, this legislation will also stabilize the housing market in the City of New York and surrounding counties by reducing the outrageous vacancy bonus that allows landlords to raise rents by 20 percent after tenants leave their homes and, most importantly, this legislation will extend rent regulation for another five years so tenants are able to be protected from

the worst actions of unscrupulous landlords who have proven, for far too long, that they are more interested in the health of their own bottom line than the health and the growth of our communities in the City of New York. Also, we are repealing vacancy decontrol, which is also an important part of this bill.

So, my colleagues, let me be one of the first to say that there is, without a doubt, nothing more important in this Body that we do during this session as pass rent regulation laws. We must stand up for those low-income and middle-income families who feel they have no voice. They are looking to all of us for leadership to make sure that we understand, we support them in knowing that while we have a national recession and while many of our families are struggling, we will not allow them to be kicked out of their homes and thrown into the streets. They are of no good to us there. We need them in their homes. We need them to be provided with long-term sustainability and long-term housing. We do not want to see a City of New York that is just for the wealthy because we recognize and we know that our immigrant families, our low-income and our middle-income families have built our State and they have built our City. We cannot fail them now. We cannot leave them behind. We must pass rent regulation and, as I have heard from the other side and many others, we must continue to have this conversation. This is not a dead issue. This is not an end issue, but for right now, we must pass rent regulation and let the 2.5 million New Yorkers know that their State Legislators are standing up and speaking out on their behalf. So, I certainly want to thank the Speaker and the Chairman of our Housing

Committee, Vito Lopez, for always making this a top priority in this House and making sure that we are serving in the best interests of all of our constituents in this State.

So, I will certainly be supporting this legislation and urge my colleagues to do the same. Thank you.

ACTING SPEAKER P. RIVERA: Read the last section.

THE CLERK: This act shall take effect immediately

ACTING SPEAKER P. RIVERA: The Clerk will record the vote.

(The Clerk recorded the vote.)

Mr. Dinowitz to explain his vote.

Colleagues, if we can extend some courtesy to Mr. Dinowitz. We haven't finished yet. Colleagues.

MR. DINOWITZ: I will try to briefly explain my vote. I just wanted to really mention a couple of points that had been mentioned here, respond to them. Right now, the rent laws do not prevent landlords from building apartments. We've had so many apartments built in my district in the past several years. If a person wants to build an apartment, not take any subsidies, that person can build the apartment. There's no rent regulation on it. They can charge whatever they can get away with. In fact, lots of that has happened in my district. The apartments are still empty because the free market is working. They can't rent the apartments or sell the apartments, as the case may be, so a lot of those people who built apartments recently have now gone with

their hands out asking the City to find ways to subsidize them. But, you know, we find ways to subsidize a lot of people who have -- in their residence. I happen to own a co-op and I get a tax benefit because I own a co-op. People who own private homes get tax benefits simply because they own a private home. I'm not saying take that away from them, but why is it that some classes of people get benefits from the rest of the taxpayers for living where they live and then others we're saying, you know, throw them to the wolves? We really have to treat everybody the same. We've made it a policy to try to keep people in their homes and keep it affordable. That's why we have this SCRIE program, the rent freeze program for seniors in some of the municipalities around the State, including in New York City. If we want to keep people in their homes, keep homes affordable, this is one way to do it and I am very pleased that we're passing this bill today and I hope that by the end of the Session we will see fit to not only renew , but strengthen the rent laws and I'm sure all my colleagues will agree with that come June 15th or before and I vote yes.

ACTING SPEAKER P. RIVERA: Mr. Dinowitz in the affirmative.

Ms. Rosenthal to explain her vote.

MS. ROSENTHAL: To explain my vote. The other day an elderly couple, a man and a woman in their 80s, came to my district office. They were very distraught. The man had recently had to go to the hospital by ambulance and the whole building was talking about how he was sick. Well, wouldn't you know that when they sent their rent check

in that month under the woman's signature, they were partners but they weren't married, the landlord returned it and said you're not a legal resident of this apartment.

Vacancy decontrol is an incentive to landlords to harass tenants like the ones I just described. Vacancy decontrol provides incentives for landlords to get rid of long-time tenants who aren't paying -- who are paying under \$2,000, it provides incentives to keep the apartments turning over so they can get a 20 percent vacancy bonus every time a new tenant comes in, provides incentives to have MCI's that are, perhaps, not necessary and to make individual apartment improvements that are not proven. Nobody checks that they actually -- can you ask for some quiet, please.

ACTING SPEAKER P. RIVERA: Could we have some silence for our colleague, please?

MS. ROSENTHAL: Thank you. Gives them incentives to make individual apartment improvements or claim they do because there's no system of checks and balances to ensure that they actually made the improvements that would entitle them to raise the rent above \$2,000. So, for all those reasons and the other reasons mentioned by my colleagues, passage of this package of rent bills in one bill is essential to maintaining the character of our five boroughs and three suburban counties that are under the rent stabilization system. We need to have a fair system. The lack of rent regulation would encourage and indeed --

ACTING SPEAKER P. RIVERA: Ms. Rosenthal, how do you vote?

MS. ROSENTHAL: Yes, I will, one second -- produce more homelessness and this is very important for us to vote for and I vote in the affirmative.

ACTING SPEAKER P. RIVERA: Ms. Rosenthal in the affirmative.

Mr. Abinanti to explain his vote.

MR. ABINANTI: Thank you, Mr. Speaker. I rise to explain why I'm voting yes on this legislation. We've heard a lot of discussion about the need for this legislation in New York City. Scarce, affordable housing is a regional problem, not just a New York City problem. In Westchester County, we have thousands and thousands of seniors, young families, people who work for government, people who are service workers and provide the day-to-day services that our communities need living in affordable housing which is rent stabilized in Westchester County.

Mr. Speaker, there is a balance between the needs of the landlords and the needs of the tenants and that rests with the Rent Guidelines Board. In Westchester County, the Rent Guidelines Board, year after year, has studiously observed what the landlords need and given the landlords the rent increases that they need. At this point, we note that the housing that is stabilized is now paying sufficient rents for the landlords. Our Rent Guidelines Board gave a zero increase last year, which says that our landlords are not hurting. There is a need to continue the rent-stabilized apartments in Westchester County. This is the affordable housing for our community and, therefore, I vote yes.

ACTING SPEAKER P. RIVERA: Mr. Abinanti in the affirmative.

Mr. Bing to explain his vote.

MR. BING: Thank you, Mr. Speaker. First, as one of the 12 representatives of this House from the island of Manhattan, I would like it to point out, as some people seem to be very afraid of giving any benefit to the island of Manhattan, that we are the island of 8 percent of the State's residents, 28 percent of the State's jobs and 45 percent of the State's income. So, certainly, we are not entitled to any more respect than any other part of the State but, certainly, we are not entitled to any less respect.

The Center For An Urban Future recently determined that in order to live on the island of Manhattan and be considered middle class, one has to make \$125,000. The law currently that we are trying to change by this legislation today says that a household of \$175,000, not one person, but an entire household of \$175,000, is considered high income. That doesn't make any sense for one person to live on the island of Manhattan to be middle class, one has it to make \$125,000. And if these allegedly high-income people leave the rent-regulated housing, they are going to be flooding the market, moving everyone else down the line and making homelessness and the ability to find affordable housing even more of a crisis in the City of New York and across the State of New York.

Finally, on the issue of whether this is a Manhattan issue or not, the percentage of high income folks that have been required to

leave apartments due to the high-income decontrol has decreased on the island of Manhattan 25 percent over the past 10 years. So, Manhattan takes 25 percent less now than it did 10 years ago in terms of what's considered high income decontrol. It's an issue for the Bronx, it's an issue for Brooklyn, it's an issue for the State of New York. So, I would like to thank the sponsor of this legislation, Mr. Lopez, thank the Speaker for their advocacy on this issue and cast my vote in the affirmative.

ACTING SPEAKER P. RIVERA: Mr. Bing in the affirmative.

Mr. Kavanagh to explain his vote.

MR. KAVANAGH: Thank you, Mr. Speaker. Many of my colleagues have already spoken very eloquently about the many benefits of this bill. I just want to make one particular point about one aspect of the bill. I represent Stuyvesant Town and Peter Cooper Village which has about 25,000 residents and a few years ago that complex was the subject of the largest residential real estate transaction in the history of the world. When people came in and bought that complex, investors from around the world were assembled to buy that complex for \$5.5 billion. I'm not going to go into the details of that, of what happened afterwards but, essentially, those investors lost their investment and the complex now is estimated to be worth, perhaps, \$2 billion.

But what I want to emphasize is that those investors came in with a very specific purpose and that purpose was to speculate on their ability to remove every last current resident of that complex and put different residents in who would allow them to increase their profits

dramatically. They put a business plan out there that specified that their intention was to deregulate 20 percent of the apartments the first year and 10 percent each subsequent year until all families, all of those middle-class families who built that community had been removed. And if that was just an anomaly, if that was just one complex where that happened, perhaps that would be a tragedy and perhaps the people who did that would have already seen their just results by having had to declare bankruptcy. The problem with that is the current law encourages investors and developers to speculate in the same manner all over the City. They know that if they buy a building, particularly in a low-income community where people may not have the resources to defend themselves, and send frivolous eviction notices to those tenants, a substantial fraction of them will leave that complex, is worth more vacant than it is occupied and another community is destroyed and another speculator makes an unreasonable, unjustified profit. For all those reasons, I am very proud to vote in the affirmative on this bill. Thank you.

ACTING SPEAKER P. RIVERA: Mr. Kavanagh in the affirmative.

Are there any other votes? The Clerk will announce the results.

(The Clerk announced the results.)

The bill is passed.

Mr. Canestrari.

MR. CANESTRARI: Mr. Speaker I understand you

have some resolutions for us to consider.

ACTING SPEAKER P. RIVERA: We have numerous resolutions.

Privileged resolution by Mr. Magee, the Clerk will read.

THE CLERK: Resolution No. 366.

Legislative resolution congratulating Jim and Ruth Marshall upon the occasion of their 50th Wedding Anniversary.

WHEREAS, Jim and Ruth Marshall will joyously celebrate their Golden Wedding Anniversary at a gathering on Saturday, May 14, 2011; and

WHEREAS, Jim Marshall is the founder of the Jim Marshall Farms Foundation, Inc., an organization which exists to assist persons of all ages, especially our youth, managing mental illness, physical or developmental disability, or any other problem causing despair, and including persons close to those who are so involved to live fuller happier lives; and

WHEREAS, The motto of Jim Marshall Farms, Inc. Is "When you help someone you help yourself!"; and

WHEREAS, Jim and Ruth Marshall are and always have been a tower of strength, support, understanding and limitless love for their family; and

WHEREAS, Their love, devotion, caring, sensitivity and responsiveness to their family, friends and all who know them are their hallmark and tradition; and

WHEREAS, Jim and Ruth Marshall have lived and

continue to live their lives with great dignity and genuine grace, always demonstrating a deep and continuing concern for human values and ideals, and in so doing, they have inspired others to do the same; and

WHEREAS, This meaningful occasion is the result of the love, hard work and spirit that this couple has invested in their marriage; and

WHEREAS, These same values they have passed to their loved ones, producing a family that is close-knit and supportive of its individual members, public-minded in its relations to the community and committed to the ideals of citizenship upon which this Nation was founded; and

WHEREAS, Jim and Ruth Marshall have touched the lives of their family, many friends and those served by the Jim Marshall Farms Foundation through the shining example of their marriage, which is a testament to the devotion and admiration which they possess for one another; and

WHEREAS, The longevity of this enduring marriage truly marks a milestone in life's journey, an event of personal triumph and joy; and

WHEREAS, It is the sense of this legislative Body that when an occasion of such importance is brought to our attention, the same should be memorialized by us for the edification and emulation of others; now, therefore, be it

RESOLVED, That this legislative Body pause in its deliberations to congratulate Jim and Ruth Marshall upon the occasion of

their 50th Wedding Anniversary; and be it further

RESOLVED, That a copy of this Resolution, suitably engrossed, be transmitted to Jim and Ruth Marshall.

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

Privileged resolution by Mr. Magee, the Clerk will read.

THE CLERK: Resolution No. 367.

Legislative resolution congratulating the Cazenovia High School Boys' Hockey Team and Coach Jon Davignon upon the occasion of capturing the NYSPHSAA Division II Championship.

WHEREAS, Excellence and success in competitive sports can be achieved only through strenuous practice, team play and team spirit, nurtured by dedicated coaching and strategic planning; and

WHEREAS, Athletic competition enhances the moral and physical development of the young people of this State, preparing them for the future by instilling in them the value of teamwork, encouraging a standard of healthy living, imparting a desire for success and developing a sense of fair play and competition; and

WHEREAS, This legislative Body is justly proud to congratulate the Cazenovia High School Boys' Hockey Team and Coach Jon Davignon upon the occasion of capturing the NYSPHSAA Division II Championship; and

WHEREAS, The Cazenovia Lakers Boys' Hockey Team defeated Williamsville East which was the first state title in hockey for

the Lakers, who finished the season 25-0, and the third straight Division II title for Section III; and

WHEREAS, The athletic talent displayed by this team is due in great part to the efforts of Coach Jon Davignon and his team of outstanding assistant coaches, skilled and inspirational tutors, respected for their ability to develop potential into excellence; and

WHEREAS, The team's overall record is outstanding, and the team members were loyally and enthusiastically supported by family, fans, friends and the community at large; and

WHEREAS, The hallmarks of the Cazenovia Boys' Hockey Team, from the opening game of the season to participation in the Championship, were a brotherhood of athletic ability, of good sportsmanship, of honor and of scholarship, demonstrating that these team players are second to none; and

WHEREAS, Athletically and academically, the team members of the Cazenovia Boys' Hockey Team have proven themselves to be an unbeatable combination of talents, reflecting favorably on their schools; and

WHEREAS, Coach Jon Davignon and his dedicated staff have done a superb job in guiding, molding and inspiring the members of the Cazenovia Boys' Hockey Team toward their goals; and

WHEREAS, Sports competition instills the values of teamwork, pride and accomplishment, and Coach Jon Davignon and the outstanding athletes on the Cazenovia Boys' Hockey Team have clearly made a contribution to the spirit of excellence which is a tradition of their

schools; now, therefore, be it

RESOLVED, That this legislative Body pause in its deliberations to congratulate the Cazenovia High School Boys' Hockey Team, and Coach Jon Davignon on their outstanding season and overall team record; and be it further

RESOLVED, That copies of this Resolution, suitably engrossed, be transmitted to the Cazenovia High School Boys' Hockey Team and to Coach Jon Davignon.

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

Privileged resolution by Mrs. Destito, the Clerk will read.

THE CLERK: Resolution No. 368.

Legislative resolution congratulating the Rome Grizzlies 14-and-Under Girls Hockey Team and Coach Mark Gualtieri upon the occasion of capturing the 2011 USA Tier II National Championship.

WHEREAS, Excellence and success in competitive sports can be achieved only through strenuous practice, team play and team spirit, nurtured by dedicated coaching and strategic planning; and

WHEREAS, Athletic competition enhances the moral and physical development of the young people of this State, preparing them for the future by instilling in them the value of teamwork, encouraging a standard of healthy living, imparting a desire for success and developing a sense of fair play and competition; and

WHEREAS, The Rome Grizzlies 14-and-Under Girls Hockey Team are the 2011 USA Tier II National Champions; on Sunday, April 3, 2011, the Grizzlies acquired a 4-1 victory over the Wisconsin Ice Spirit in the national championship game in Anaheim, California; and

WHEREAS, In order to advance to the national championship, the Rome Grizzlies 14-and-Under Girls Hockey Team won the New York State Amateur Hockey Association Championship; and

WHEREAS, The team's overall record is outstanding, and the team members were loyally and enthusiastically supported by family, fans, friends and the community at large; and

WHEREAS, The hallmarks of the Rome Grizzlies 14-and-Under Girls Hockey Team, from the opening game of the season to participation in the championship, were a sisterhood of athletic ability, of good sportsmanship, of honor and of scholarship, demonstrating that these team players are second to none; and

WHEREAS, Athletically the team members have proven themselves to be an unbeatable combination of talents, reflecting favorably on their community; and

WHEREAS, Coach Mark Gualtieri and his dedicated staff have done a superb job in guiding, molding and inspiring the team members toward their goals; and

WHEREAS, Sports competition instills the values of teamwork, pride and accomplishment, and Coach Mark Gualtieri and these outstanding athletes have clearly made a contribution to the spirit of

excellence which is a tradition of their school; now, therefore, be it

RESOLVED, That this legislative Body pause in its deliberations to congratulate the Rome Grizzlies 14-and-Under Girls Hockey Team; its members: Lyndsey Frenyea, Catherine Rood, Paige Postalwait, Breanna Babiarz, Samantha Downs, Rainy Johannessen, Kaitlyn Cannata, Elena Gualtieri, Kristin Knaul, Meghan Pohorenec, Brianna Giannini, Megan Pritchard, Jacqueline White, Mariesa Cozza, and Jessica Lathrop; and Coach Mark Gualtieri on their outstanding season and overall team record; and be it further

RESOLVED, That copies of this Resolution, suitably engrossed, be transmitted to the Rome Grizzlies 14-and-Under Girls Hockey Team and to Coach Mark Gualtieri.

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

Privileged resolution by Mr. Hawley, the Clerk will read.

THE CLERK: Resolution No. 369.

Legislative resolution honoring Maryanne Arena upon the occasion of her designation as recipient of the Constance E. Miller Award of Excellence by the Mental Health Association of Genesee County.

WHEREAS, Individuals who give of their time and energies and serve the best interests of their communities are an asset beyond remuneration and cannot be sufficiently extolled; and

WHEREAS, Maryanne Arena has given not only of her

time and energies but also of her competence, intelligence and leadership and consequently has been designated for special recognition; and

WHEREAS, This legislative Body is justly proud to honor Maryanne Arena upon the occasion of her designation as recipient of the Constance E. Miller Award of Excellence by the Mental Health Association of Genesee County, to be celebrated at Terry Hills in Batavia, New York, on Tuesday, May 10, 2011; and

WHEREAS, The Constance E. Miller Award of Excellence is given annually to an individual or an organization that demonstrates a commitment to excellence pertinent to the delivery and/or advocacy of quality community-based mental health services within Genesee County; and

WHEREAS, Maryanne Arena was chosen for this auspicious award due to her significant willingness to partner with the Mental Health Association in order to raise her students' awareness of mental health concerns as well as her diligent efforts to use the theatre as a tool to bring mental health issues to the forefront; and

WHEREAS, A Director of Fine and Performing Arts at Genesee Community College, Maryanne Arena directed several productions that deal with mental health matters as their central theme; and

WHEREAS, Productions delivered by Maryanne Arena in an effort to challenge the audiences' preconceptions include "Cavelife", "One Flew Over the Cuckoo's Nest", Dale Wasserman's adaptation of Ken Kesey's novel, and "In the Blood"; and

WHEREAS, While preparing her students for an upcoming role, Maryanne Arena requires they conduct research on the daily issues and challenges faced by their characters; she also encourages them to understand their characters' unique view of the world, thereby utilizing this opportunity as a teaching tool to increase her students' understanding of mental health concerns; and

WHEREAS, Maryanne Arena has been called upon to contribute her time and talents to countless civic and charitable endeavors and has always given of herself unstintingly; and

WHEREAS, Throughout the entire period of her community service, a period of constructive involvement, Maryanne Arena has stood constant in dignity, good grace and humor; and

WHEREAS, Rare indeed is the impressive dedication shown by an individual for the benefit of others which Maryanne Arena has displayed throughout her life; and

WHEREAS, It is the sense of this legislative Body that those who enhance the quality of life in their community and have shown a long and sustained commitment to the maintenance of high standards in their profession, certainly have earned the recognition and applause of all the citizens of this great Empire State; now, therefore, be it

RESOLVED, That this legislative Body pause in its deliberations to honor Maryanne Arena upon the occasion of her designation as recipient of the Constance E. Miller Award of Excellence by the Mental Health Association of Genesee County; and be it further

RESOLVED, That a copy of this Resolution, suitably

engrossed, be transmitted to Maryanne Arena.

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

Privileged resolution by Ms. Rosenthal, the Clerk will read.

THE CLERK: Resolution No. 370.

Legislative resolution commending the New York Landmarks Conservancy upon the occasion of celebrating the 25th Anniversary of its Sacred Sites program on January 26, 2011.

WHEREAS, It is the sense of this legislative Body to recognize and pay tribute to those organizations which contribute to the improvement and enhancement of the quality of life in the communities they represent; and

WHEREAS, This legislative Body is justly proud to commend the New York Landmarks Conservancy upon the occasion of celebrating the 25th Anniversary of its Sacred Sites program, held on Wednesday, January 26, 2011, at Central Synagogue, New York, New York; and

WHEREAS, This year's special guests included Landmarks Preservation Chair, Robert B. Tierney; Philanthropist, Joan Davidson; former Head of the J.M. Kaplan Fund, The Reverend Dr. Thomas F. Pike; and Architectural Historian Andrew Dolkart; and

WHEREAS, The New York Landmarks Conservancy is one of the oldest and largest preservation organizations in the country; it

offers financial and technical help to a variety of historic buildings; and

WHEREAS, The Sacred Sites program has helped approximately 200 congregations in New York City, and more than 660 religious institutions of all denominations across New York State; and

WHEREAS, In addition to providing grants, the Landmarks Conservancy publishes **Common Bond**, a free magazine devoted to the care of religious properties which goes to 6,000 congregations across America; and

WHEREAS, The Sacred Sites program has also held 20 workshops throughout New York State on topics ranging from fundraising, to energy conservation, to building inspection and maintenance; and

WHEREAS, Religious buildings are some of the most beautiful in New York State; they anchor communities, hold history, tell of immigration patterns, and often provide invaluable social service programs that reach far beyond their congregations; and

WHEREAS, It is with great pleasure that this legislative Body recognizes the many contributions of the New York Landmarks Conservancy Sacred Sites program, and wishes this worthy organization continued success in its proactive mission to benefit the communities throughout this great Empire State; now, therefore, be it

RESOLVED, That this legislative Body pause in its deliberations to commend the New York Landmarks Conservancy upon the occasion of celebrating the 25th Anniversary of its Sacred Sites program; and be it further

RESOLVED, That a copy of this Resolution, suitably engrossed, be transmitted to the New York Landmarks Conservancy.

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

Privileged resolution by Mr. Silver, the Clerk will read.

THE CLERK: Resolution No. 371.

Legislative resolution congratulating Joe and Rachelle Friedman upon the occasion of the 40th Anniversary of J&R Music & Computer World.

WHEREAS, It is the sense of this legislative Body to recognize and commend the achievements of individuals and businesses which contribute substantially to the economic health and vitality of the communities of the City and State of New York, and to their quality of life; and

WHEREAS, Attendant to such concern and in full accord with its longstanding traditions, this legislative Body is justly proud to congratulate Joe and Rachelle Friedman upon the occasion of the 40th Anniversary of J&R Music & Computer World; and

WHEREAS, Joe and Rachelle Friedman were newlyweds and recent college graduates in 1971 when they opened their first music store on Park Row in downtown Manhattan, J&R Music World, a 500-square foot space where they sold vinyl LPs; and

WHEREAS, The business expanded steadily and is known today as J&R Music & Computer World, selling a huge selection

of CDs as well as computer goods, digital cameras, cell phones, TVs, stereos, MP3 players, DVDs, kitchen appliances and much more; and

WHEREAS, In addition to the thousands of customers who visit J&R's 300,000 square foot block-long establishment opposite City Hall Park, many thousands more shop through the J&R catalogue and online at JR.com; and

WHEREAS, J&R also has a store in midtown Manhattan, J&R Express, a landmark-within-a-landmark located in Macy's Herald Square; and

WHEREAS, In a city where shopping is a fine art and retail establishments range from the toniest department stores and boutiques to little-known bargain spots, J&R has set the standard for quality and value and has become a must-shop destination for New Yorkers as well as tourists from across the country and around the world; and

WHEREAS, Following the tragic events of September 11, 2001 and the devastating effect of those events on all of lower Manhattan, J&R reopened as soon as possible and thereby helped spur the revitalization of the entire area; and

WHEREAS, J&R's prominence in the community is illustrated by the many civic and business organizations which have invited the company's owners to sit on their boards, including the Better Business Bureau of Greater New York, NYC&Co (the official New York City tourism bureau), the Downtown Alliance of New York and the Regional Advisory Board of JPMorgan Chase; and

WHEREAS, Rachelle and Joe Friedman have been inducted into the Consumer Electronics Association (CEA) Hall of Fame; Rachelle was named to the Women in Consumer Electronics Hall of Fame and she has twice served on the Host Committee of the Grammy Awards and has been re-appointed to the National Recording Preservation Board of the Library of Congress; and

WHEREAS, Joe and Rachelle have said they learned how to sell and what to sell from their customers, based on personal relationships with those who visited the store, and built a staff of dedicated employees through loyalty and a family-like atmosphere; and

WHEREAS, "Be good to customers, treat them right and they'll support you" is what Rachelle and Joe believe has been the key to their success; and

WHEREAS, Businesses, such as J&R, and its owners and employees, exert a strong, positive influence on the communities they serve and are an essential component of the economies of the City and State of New York, and of their quality of life; and

WHEREAS, It is with great pleasure that this legislative Body acknowledges this exceptional business and its contributions, and those of Joe and Rachelle Friedman, fully confident they will continue to enjoy the success they have worked so hard to achieve; now, therefore, be it

RESOLVED, That this legislative Body pause in its deliberations to congratulate Joe and Rachelle Friedman upon the occasion of the 40th Anniversary of J&R Music & Computer World, to

applaud them for their successful and dynamic leadership, and to recognize and celebrate J&R as one of New York City's great retail establishments; and be it further

RESOLVED, That a copy of this Resolution, suitably engrossed, be transmitted to Joe and Rachelle Friedman.

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

Privileged resolution by Mr. Hoyt, the Clerk will read.

THE CLERK: Resolution No. 372.

Legislative resolution honoring Rachel Shelton upon the occasion of her designation as recipient of the 2011 AICUO Award for Excellence in the Visual Arts.

WHEREAS, The arts, in whatever form depicted, are central to human expression; they are truly a universal language and their contribution to the development of friendship and understanding among all peoples cannot be underestimated; and

WHEREAS, It is the intent of this legislative Body to recognize and pay tribute to those talented young people who have inspired and brought pride to our majestic Empire State by achieving outstanding success in artistic competition; and

WHEREAS, Attendant to such concern, and in full accord with its longstanding traditions, this legislative Body is justly proud to honor Rachel Shelton upon the occasion of her designation as recipient of the 2011 AICUO Award for Excellence in the Visual Arts;

and

WHEREAS, The Association of Independent Colleges and Universities of Ohio (AICUO) Award for Excellence in the Visual Arts is a college-level competition that allows senior students from independent colleges and universities across Ohio to compete for a statewide title; and

WHEREAS, Every member institution with an art program chooses top artists from their schools; from these nominations, a panel of judges votes for the top six students to be named as AICUO Award winners; a second round of judging from Ohio's art leaders decides the Grand Award winner; and

WHEREAS, Rachel Shelton was chosen by the Cleveland Institute of Art as one of its top artists from the 2011 graduating class; her exceptional talent and extraordinary vision captured the attention of the panel judges, and thus, she was chosen as an AICUO Award winner; and

WHEREAS, As winner of this most auspicious award, Rachel Shelton's work will be displayed at the AICUO Award reception; furthermore, she will participate in a special gallery exhibition in the art district of Columbus, Ohio, and will be in the running for the Grand Award Prize; and

WHEREAS, Poised eagerly with enthusiasm and determined purpose, Rachel Shelton now stands honorably, with just pride in her accomplishments and in eager anticipation of future challenges, understanding and appreciating the caring counsel and

support provided by her teachers and mentors; and

WHEREAS, It is the sense of this legislative Body that when young people of such noble aims and accomplishments are brought to our attention, they should be celebrated and recognized by all the citizens of the great State of New York; now, therefore, be it

RESOLVED, That this legislative Body pause in its deliberations to honor Rachel Shelton upon the occasion of her designation as recipient of the 2011 AICUO Award for Excellence in the Visual Arts; and be it further

RESOLVED, That a copy of this Resolution, suitably engrossed, be transmitted to Rachel Shelton, 761 West Ferry Street, Buffalo, New York 14222.

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

Mr. Canestrari.

MR. CANESTRARI: I now move the Assembly stand adjourned until tomorrow, Tuesday, April 12th at 3:30 p.m. tomorrow, the 12th, being a Session day.

ACTING SPEAKER P. RIVERA: The House stands adjourned.

(Whereupon, at 8:17 p.m., the House stood adjourned until Tuesday, April 12th at 3:30 p.m., Tuesday being a Session day.)