

WEDNESDAY, JUNE 13, 2012

11:24 A.M.

ACTING SPEAKER P. RIVERA: The House will come to order.

Reverend Jaime will offer a prayer.

REVEREND DAREN JAIME: Let us pray.

Gracious God, we thank You for this day. We thank You, oh, God, for the opportunity to serve. We pray, oh, Lord, that You will bless our daily work and our endeavors here today; that all that we say and do will be to the glory of Your name. This we pray and say amen.

ACTING SPEAKER P. RIVERA: Visitors are invited to join the 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 Tuesday, June 12th.

Mr. Canestrari.

MR. CANESTRARI: Mr. Speaker, I move to dispense with the further reading of the Journal of Tuesday, June 12th and ask that the same stand approved.

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

MR. CANESTRARI: In terms of the schedule for today, colleagues and guests, the members have on their desks the main Calendar as well as the debate list. We will take up introductions - I know there are some introductions - and any housekeeping that you may have. We will work off the debate list. We will also continue to consent the new bills on the main Calendar, beginning on page 9 of the main Calendar with Calendar No. 115. We will also be calling the following Committees off the floor: Environmental Conservation, Higher Education, Labor, Real Property Taxation, Ways and Means and Rules. These will produce an A-Calendar, which we also expect to take up later this afternoon.

So, we will now take up the introductions and any housekeeping that you may have. Thank you.

ACTING SPEAKER P. RIVERA: We do have introductions.

Mr. Roberts for an introduction.

MR. ROBERTS: Yes, Mr. Speaker. Pardon me for interrupting the proceedings of the House, but it's truly a pleasure and a privilege for me to rise today to introduce our invocationist, Pastor Jaime, Daren Jaime, from People's AME Zion Church in Syracuse, which is the oldest African-American congregation in Central New York. Since he's come to Syracuse several years ago, he's embarked on a lot of community projects from the personal side, as well as from a pastoral side. And we're working right now together trying to preserve and restore the oldest church building in Syracuse of African-American history and that's a 7-11 project that we call it, we call our committee.

But, again, I would just like to welcome him to the Chamber. Thank you for driving from Syracuse, New York this morning along with his son, Christopher, to open up for us. Thank you, sir, and extend the privileges and cordialities of the House.

ACTING SPEAKER P. RIVERA: Ms. Gibson on a similar introduction.

MS. GIBSON: Thank you, Mr. Speaker, for allowing me to interrupt the proceedings. I also want to echo the sentiments of our colleague, Mr. Roberts, in welcoming Pastor Daren Jaime to our Chamber today and also talk about one of his other roles. In addition to serving the spiritual needs of many of our residents, he's also the proud host of the Perspective Show, which is on Bronx Net, which is the only public access channel in Bronx County. In his role as the host and the executive producer of Perspectives, we offer

opportunities to share contemporary issues and speak to the public in Bronx County, many families and children, on issues of common concern serving to educate, enlighten and empower many residents with appropriate programs and resources that are available for many of our residents in Bronx County.

I am delighted that each and every time I call upon Pastor Jaime, he's always welcomed me to the Perspective Show and allowed me to speak about current issues and legislative items that I am working on as a legislator here. So, I want to extend and welcome you and thank you for being here and ask you, Mr. Speaker, to extend the cordialities and privileges of our floor to my good friend, Pastor Daren Jaime. Thank you.

ACTING SPEAKER P. RIVERA: Mrs. Peoples-Stokes on a similar introduction.

MRS. PEOPLES-STOKES: Thank you very much, Mr. Speaker. I am pleased to be able to join my colleagues and rise in asking you to provide the cordialities of our House to Pastor Jaime. I don't have a long history with him, but I do have a long history with the AME Zion Church. And as a person who was born and raised in that church and traveled all throughout the northeast in its conference, I've had the occasion to be at the People's Community Church both as a teenager and as a youngster. So, it is my pleasure to have an opportunity to see this young man here. I'm glad that he joined us this morning and offered us his words of invocation and I ask that you would, along with my colleagues, provide for him the cordialities of

our house. Thank you, Mr. Speaker.

ACTING SPEAKER P. RIVERA: Mr. Magnarelli on a similar introduction.

MR. MAGNARELLI: Yes, Mr. Speaker. I just wanted to join my colleagues in welcoming the Reverend here today and just to say that please offer him all of the cordialities of the House. I'm very happy to see you here today, Reverend.

ACTING SPEAKER P. RIVERA: Mr. Heastie on a similar introduction.

MR. HEASTIE: Thank you, Mr. Speaker. I would like to take this opportunity to welcome my good friend, Reverend Jaime. And, Sam, with all due respect, I know he's from Syracuse, but we believe that his heart is with the Bronx. I've been someone who has been on his show and Reverend, Daren, I would just like to thank you for always trying to be mindful in helping the people of the Bronx and keeping an idea of what's going on.

So, I would like to take this opportunity to welcome you to Albany and also have the Speaker give you the cordialities and invite you to come back many, many times. You are a wonderful man, a wonderful human being, and I'm just very happy to see you here in Albany.

ACTING SPEAKER P. RIVERA: Mr. Crespo on a similar introduction.

MR. CRESPO: Thank you, Mr. Speaker. I also want to join my colleagues in welcoming Reverend Jaime. I'm actually

very impressed. I consider you one of the best Bronxites we had with all the work that you do in the Bronx in helping our community stay informed and stay active and involved in community issues, but to hear that you're a minister, as well, and so many of our colleagues from different parts of the State feel the same way about you that we've always felt in the Bronx, it's a testament to your character. And we're very pleased to have you and look forward to seeing you in the district in the Bronx and, at some point, maybe even visit your church out in Syracuse. God bless and thank you for being here with us.

ACTING SPEAKER P. RIVERA: Reverend, as you can see, you have support all over the State. People who not only like you, but respect you, understand your ministry and many, many of our colleagues wish to be part of that ministry, also.

So, on behalf of Mr. Roberts, Ms. Gibson, Mrs. Peoples-Stokes, Mr. Magnarelli, Mr. Heastie and Mr. Crespo, the Speaker and all my colleagues, we congratulate you. We want to thank you for those beautiful words that you spoke here a little while ago. Of course, we do have a request that you come back real soon. Thank you for being with us here today.

(Applause)

Mr. Roberts.

MR. ROBERTS: Thank you. Mr. Speaker, I rise again -- and, again, members, my colleagues, I apologize for interrupting the proceedings, but I want to read this short bio so I don't leave anything out, and it's the short version, and it's introducing one

of our next guests, but before I do that, let me introduce the true head of their household and this is Ms. DeBorah Little. DeBorah Little and I served together. She was a former City Councilor and I'm a former County Legislator in the City of Syracuse where she grew up, both of us born and raised so we go back a few years. DeBorah is in the back of the House. I just wanted to, again, extend and open the cordialities of the House to her, as well.

Accompanying her is Floyd Little. Floyd Little attended Syracuse University in 1963 to 1967. Floyd was a three-time All-American in football, 1966 ECAC Player of the Year, holds the Syracuse University career record for touchdowns, 46, and punt returns for touchdowns, 6. Floyd finished fifth in the Heisman Trophy voting as a junior and senior. His legendary number 44 was also retired at Syracuse University in 1983. Floyd was elected into the College Football Hall of Fame.

In 1967, Floyd was the sixth selection in the first AFL-NFL draft. He was the first-ever first-round pick to sign with the American Football League's Denver Broncos. Floyd led the American Football League in rushing for six-year periods in 1968 to 1973. He was a five-time Pro Bowl selection and twice named All-AFL-NFL. Floyd was the first Denver Bronco to leave his jersey, number 44, retired. In 2010, Floyd was finally honored by being inducted in to the Football Hall of Fame, which I was honored to be a guest of his at that enshrinement.

I've known Mr. Little since I was nine years old,

known of him. He didn't know me, but I was one of the kids that used to go and watch him play at the stadium in Syracuse and it was always an honor and a privilege. And as I became a young adult, our paths started crossing and we've been friends ever since. He left Syracuse and the reason why we're recognizing him here is he left Syracuse, went to Denver, had an extraordinary, exemplary career as a football player, then he retired, moved to the west coast, opened up Ford dealerships in Seattle, Washington, as well as in the Los Angeles area. Now he's back home in Syracuse. Even though he's from Connecticut, we're claiming him. He's in Syracuse, he's the Assistant Advisor to the Athletic Director at Syracuse University and is doing a fine job. Actually, my goal is to get him to suit back up with Syracuse University and help them out sometime.

Mr. Speaker, if you would please extend the cordialities and privileges of the House to my dear friends, I would appreciate it. Thank you.

ACTING SPEAKER P. RIVERA: Mr. Canestrari.

MR. CANESTRARI: I believe the system is somewhat operative and somewhat not. We may have to take a break to correct the system, but right now there's a Rules Committee meeting. Sorry for the interruption, colleagues. The Speaker has called a Rules Committee meeting, Speaker's Conference Room. Thank you.

ACTING SPEAKER P. RIVERA: Mr. Magnarelli.

MR. MAGNARELLI: Yes, Mr. Speaker. I, too,

would like to stand and welcome Mr. Little and Mrs. Little here to the Chamber today. As you know, I don't get up and speak very long, very often, I'm not going to speak too long right now, but when I was seven years old back in 1956, a little before Mr. Little's time, not much, I went to my first Syracuse University game and I saw Jim Brown play. And for the next ten years, between my ages of 7 and 17, I saw the greatest running backs in football history play at Syracuse University. Jim Brown, the late Ernie Davis and then Floyd Little.

Mr. Little happened to be a senior -- I'm dating us a little bit -- when I was a freshman at Syracuse University. I remember trying to get into the first varsity game he played while I was in high school, played at our school, I think it was Kansas. There was a fellow named Gale Sayers who was on the Kansas team, but this gentleman outshone him that day, it was four or five touchdowns, and he became -- how many? Five. Five touchdowns - he doesn't forget - and he went on to be a three-time All-American at Syracuse University.

I'm a little bit giddy just to be up here being able to introduce one of my football heroes to the rest of my colleagues here today. He is now back in Syracuse and, as a matter of fact, he and his wife are going to be living in my district, which makes me very proud. And I also would like to say that I served with Mrs. Little on the Syracuse City Common Council.

So, Mr. Speaker, please offer these two individuals all of the cordialities and privileges of the House because I believe

that they have really earned this and have been an inspiration to me, as far as Syracuse University is concerned, and what he is now doing for the University in this day. So, thank you very much for being here.

ACTING SPEAKER P. RIVERA: Gladly, Mr. Magnarelli. We want to thank both of you for being here and for each and every one of you excelling in your respective areas. You heard my colleagues, you heard what they think of you and of your achievements and of your relationship to the State of New York. We know you left New York for a while, but it's so nice that you did come back to New York and that you are an integral part of the State of New York but, also, you're an example to young people all throughout the State as to what hard work, what excellence means, what achievement means and how to get there. So, I know that Mr. Roberts and Mr. Magnarelli are good fans of yours, but that's not where it ends. I think, based on what we know of you and what we heard of you, you just developed a whole new cadre of fans.

On behalf of Mr. Roberts, Mr. Magnarelli, the Speaker and all my colleagues, we want to thank you for being here for us to really welcome you the way we should. We extend the privileges of the floor and ask that you come back real soon. Thank you for being with us here today.

(Applause)

Mr. Canestrari.

MR. CANESTRARI: Mr. Speaker, my colleagues, we need a couple of minutes to work out the system because we

cannot acknowledge if people want to speak. The lights aren't working properly. So, let's give a couple of minutes to see if we can get the system back in line, let me know and we'll go from there.

ACTING SPEAKER P. RIVERA: Mr. Canestrari, we're back on.

MR. CANESTRARI: We're back on. Any other introductions?

ACTING SPEAKER P. RIVERA: Yes, we do. Mr. McLaughlin for an introduction.

MR. MCLAUGHLIN: Thank you, Mr. Speaker, for allowing me interrupt the proceedings. I just want to take a minute. I have a couple of introductions today, but the first one is for the fourth graders who are joining us from the Chatham Elementary School. They came up today and joined me in my office for a few minutes where we answered some very well-prepared questions that they had. They certainly know their stuff. They wanted to know if they were going to see the Governor. I think they're more impressed by the Governor than us, but I said, *I don't know*. Maybe if they wandered down to the Second Floor they may see the Governor today.

But they had some great questions for me. They knew how a bill became law, they know what happens when the Governor vetoes the bill. It's a great school district. I was down there last night celebrating a State championship for the girls' varsity softball team. A terrific school that I'm happy to represent and I would just ask you to welcome them to the Chamber today and extend

the cordialities of the House.

ACTING SPEAKER P. RIVERA: Gladly, Mr. McLaughlin. We want to thank you all for being here today. We know that this is an important trip for you to see how government works, to read about it and there's a big, big difference between what you read and what you see and what you know. So, this is a great way of not only reading something, but seeing it as it's happening.

On behalf of Mr. McLaughlin, the Speaker and all my colleagues, we want to congratulate you. We want to thank you for being here while we have this great, great class from Mr. McLaughlin's school. Please enjoy the privileges of the floor and come back real soon. Thank you for being with us here today.

(Applause)

Mr. McLaughlin for a second introduction.

MR. MCLAUGHLIN: Thank you, Mr. Speaker, again, for letting me interrupt the proceedings. This time it is for the great Lansingburgh Elementary School, where my wife teaches kindergarten, and they join us today up from Lansingburgh, which is just on the edge of Mr. Canestrari's district, as well. We kind of share the Lansingburgh area. It's always interesting when we're out there going door to door; half the time I'm in Ron's district and we don't even know it because we overlap so tightly.

Both Ron and I are very proud to represent the Lansingburgh area, a terrific school district, and please welcome them to the House.

ACTING SPEAKER P. RIVERA: Gladly, Mr. McLaughlin. I'm sure that Mr. Canestrari joins you in congratulating this great group of youngsters that are here that are also watching how government works and I'm sure that there are at least two, maybe four future-elected officials in that group. So, congratulations for being here and finding out how government ticks, what makes government tick. We want to extend the privileges of the floor to you and please come back soon. Thank you for being with us here today.

(Applause)

Mr. Canestrari.

MR. CANESTRARI: Mr. Speaker, we have a couple of young people seated next to our colleague, Felix Ortiz; they are friends of his. On behalf of, again, Steve McLaughlin, because I believe they're his constituents, as well, but Mr. Ortiz's interests go across the State, as you know, Mr. Speaker, and these two individuals are here, Cathleen Alarcon, who will be a senior at Ichabod Crane High School next year, and she's joined by Miss Leslie Shaffer, who is a sophomore at Hamilton College. And these two young people are interested in the political process and the proceedings here in the Assembly.

As I said, on behalf of Steve McLaughlin and myself and Felix, a word of welcome to these two beautiful young ladies.

ACTING SPEAKER P. RIVERA: Gladly. I know that I saw Mr. Ortiz sitting with them for a while and trying to explain how government works and the details of this beautiful building and

our colleagues and how they got here and I'm sure that you'll be taking back home a wealth of information as to what really happens in the State Legislature.

So, on behalf of Mr. McLaughlin, Mr. Ortiz, the Speaker and all my colleagues, congratulations for being here. Please enjoy the privileges of the floor. Come back soon. Thank you for being here today.

(Applause)

Ms. Barrett for an introduction.

MS. BARRETT: Thank you, Mr. Speaker. On the Calendar today I've introduced a resolution proclaiming June 2012 as Farmers' Market Appreciation Month. And I think all of us Upstate, Downstate, urban, rural, have really benefitted by the increase in farmers' markets in our region. It's given us an opportunity to get to know farmers, those who don't necessarily have the pleasure of living near farms, also to have the great produce that our local farms -- foods that our local farms are producing right there in our communities and I'm really honored today to introduce one of my constituents, Louise Rose, who is in the back and standing, who has been instrumental for over 18 years in setting up farmers' markets throughout the State. Some of my colleagues in Westchester may know her from having set up Scarsdale and Westchester farmers' market and, most recently, she's established a farmers' market as of last weekend in the Town of Red Hook, New York, which is in my district.

So, I want to thank and welcome Louise and I want to

really let us all stop and think about how important these farmers' markets are to all of our communities and to our local farms and our local economies and ask the Speaker to extend the privileges of the floor to our guest. Thank you.

ACTING SPEAKER P. RIVERA: Gladly, Ms. Barrett. We want to thank you for doing such important work. We know what farmers' markets are. I have several of them in my district and we know that it's a relatively new invention; however, it's a very successful way of dealing with New York produces and the distribution of those produce.

So, on behalf of Ms. Barrett, the Speaker and all my colleagues, we want to thank you and we do extend the privileges of the floor to you. Thank you for being with us here today.

(Applause)

Mr. Canestrari.

MR. CANESTRARI: Mr. Speaker, I'm dragging this out a minute, but I will announce, again, the Rules Committee, we need members of the Rules Committee to proceed to the Conference Room. We will then do the resolutions on page 3 and then we will come back to you with further information on the first bill.

So, Rules Committee immediately and the resolutions on page 3, please.

ACTING SPEAKER P. RIVERA: We will proceed with the resolutions on page 3.

Privileged resolution by Ms. Barrett, the Clerk will

read.

THE CLERK: Resolution No. 1525. Rules at the request of Ms. Barrett.

Legislative Resolution memorializing Governor Andrew M. Cuomo to proclaim June 2012 as Farmers Market Appreciation Month in the State of New York.

WHEREAS, It is the sense of this legislative Body to memorialize Governor Andrew M. Cuomo to proclaim June 2012 as Farmers Market Appreciation Month in the State of New York; and

WHEREAS, Farmers' markets provide consumers with access to a wide range of high quality, nutritious, farm fresh and processed New York state agricultural and food products; and

WHEREAS, Local produce contains more nutrients than produce shipped over long distances; and

WHEREAS, Farmers' markets promote food safety by humanizing the connections between growers and consumers and promoting local, sustainable farming; and

WHEREAS, Farmers' markets bring healthy eating to neighborhoods that lack fresh foods, and to many individuals who might not otherwise be able to afford quality produce; and

WHEREAS, Farmers' markets provide affordable, convenient, healthy food, as well as increased access to fresh fruits and vegetables, thereby promoting child health and possibly fighting childhood obesity; and

WHEREAS, Local food supports local families and

helps keep local family farms in business; and

WHEREAS, Local farmers who sell directly to consumers cut out the middleman and get full retail price for their food, which helps farm families stay on the land; and

WHEREAS, Moreover, farmers' markets provide a way for small farmers to stay in business, despite the pressures of competing with much larger growers; and

WHEREAS, Farmers' markets also contribute to the economic revitalization of the areas in which the markets are located; and

WHEREAS, Local food builds community; when an individual buys direct from a farmer, they are engaging in a time-honored connection between eater and grower; and

WHEREAS, Knowing the farmer gives one insight into the seasons, the land, and their food; it gives access to a place where children and grandchildren can go to learn about nature and agriculture; and

WHEREAS, Farmers' markets also provide tremendous benefit to our environment; and

WHEREAS, Local food preserves genetic diversity; in the modern agricultural system, plant varieties are chosen for their ability to ripen uniformly, withstand harvesting, survive packing and last on the shelf, so there is limited genetic diversity in large-scale production; and

WHEREAS, Smaller local farms, in contrast, often

grow many different varieties to provide a long harvest season, in an array of colors and flavors; and

WHEREAS, Local food also preserves open space; when farmers get paid more for their products by marketing locally, they are less likely to sell their farmland for development; and

WHEREAS, Well-managed farms conserve fertile soil and clean water in our communities; the farm environment is a patchwork of fields, meadows, woods, ponds, and buildings that provide habitat for wildlife; and

WHEREAS, Transporting food long distances uses tremendous energy; it takes 435 fossil-fuel calories to fly a five-calorie strawberry from California to New York; fossil fuels contribute to global warming, acid rain and smog; local foods travel short distances and use dramatically less energy; and

WHEREAS, Farmers' markets provide a way for children to learn about the food they eat, the places it comes from, and the people who grow it; and

WHEREAS, Local food is an investment in the future; supporting local farmers ensures that there will be farms in your community tomorrow; and

WHEREAS, Farmers' markets help to develop local and regional food systems that support family farms, revitalize communities, provide opportunities for farmers and consumers to interact, and promote environmental sustainability, which is crucial in preserving the earth for future generations; now, therefore, be it

RESOLVED, That this legislative Body pause in its deliberations to memorialize Governor Andrew M. Cuomo to proclaim June 2012 as Farmers Market Appreciation Month 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 Mrs. Gunther, the Clerk will read.

THE CLERK: Resolution No. 1526. Rules at the request of Mrs. Gunther.

Legislative Resolution memorializing Governor Andrew M. Cuomo to proclaim September 29, 2012 as Family Health & Fitness Day in the State of New York.

WHEREAS, Saturday, September 29, 2012 has been declared National Family Health & Fitness Day; and

WHEREAS, Family Health and Fitness Day USA is a nationwide health and fitness event for families with the purpose of increasing good health awareness and promoting family involvement in physical activity; family related health and fitness events will be held at local organizations such as health clubs, schools, houses of worship, park districts, hospitals, YMCAs/YWCAs, malls and other

community locations; and

WHEREAS, The United States Surgeon General has determined that regular physical activity results in significant health benefits and improved quality of life; and

WHEREAS, Thirty-seven percent of adults report they are not physically active; only three in 10 adults get the recommended amount of physical activity and only one in 10 women get the recommended amount of physical activity prescribed by the Surgeon General; and

WHEREAS, Moderate daily physical activity can substantially reduce the risk of developing or dying from cardiovascular disease, type 2 diabetes, and certain cancers, such as colon cancer; daily physical activity helps to lower blood pressure and cholesterol, helps prevent or retard osteoporosis, and helps reduce obesity, symptoms of anxiety and depression, and symptoms of arthritis; and

WHEREAS, Physical activity among children and adolescents is vitally important because of the related health benefits, including cardio respiratory function, blood pressure control, weight management and cognitive and emotional benefits; and

WHEREAS, The New York State Legislature affirms its commitment to take a leadership role in urging all its citizens to support the efforts of local organizations that encourage families to enhance their lives through physical activity; and

WHEREAS, It is most appropriate that this great

Empire State recognize Family Health & Fitness Day in the State of New York; now, therefore, be it

RESOLVED, That this legislative Body pause in its deliberations to memorialize Governor Andrew M. Cuomo to proclaim September 29, 2012 as Family Health & Fitness Day 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 Mr. Crespo, the Clerk will read.

THE CLERK: Resolution No. 1527. Rules at the request of Mr. Crespo.

Legislative Resolution memorializing Governor Andrew M. Cuomo to proclaim November 2012 as Chronic Obstructive Pulmonary Disease Awareness Month in the State of New York.

WHEREAS, It is the custom of this legislative Body to recognize official months that are set aside to increase awareness of serious issues that affect the lives of citizens of New York State; and

WHEREAS, Attendant to such concern, and in full accord with its long-standing traditions, it is the sense of this

legislative Body to memorialize Governor Andrew M. Cuomo to proclaim November 2012 as Chronic Obstructive Pulmonary Disease Awareness Month in the State of New York; and

WHEREAS, Chronic Obstructive Pulmonary Disease (COPD) is a term used to describe airflow obstruction that is associated mainly with emphysema and chronic bronchitis; and

WHEREAS, There is indication of COPD being underdiagnosed as an estimated 24 million people have evidence of impaired lung function, and COPD kills more than 120,000 Americans every year; on average, one person dies from COPD every four minutes; and

WHEREAS, In 2010, the National Center for Health Statistics released a report stating in 2008, COPD became the third leading cause of death in the United States; and

WHEREAS, Pulmonary experts predict that, by the year 2020, COPD will become the third leading cause of death worldwide; and

WHEREAS, COPD currently accounts for 1.5 million emergency room visits, 715,000 hospitalizations, and eight million physician office and hospital outpatient visits, all of which are a detriment to the United States economy; COPD costs the nation an estimated \$49.9 billion in direct and indirect medical costs annually; and

WHEREAS, Smoking is the primary risk factor for COPD; approximately 85 to 90 percent of COPD deaths are caused by

smoking; and

WHEREAS, COPD affects almost 650,000 citizens of the State of New York; and

WHEREAS, Coordinated community efforts, such as the New York COPD Coalition, a public-private partnership of individuals and organizations which created the New York COPD Action Plan, can result in dramatic improvements to public health and reduced healthcare costs; and

WHEREAS, New York COPD Coalition Members represent the following organizations: 1199 SEIU Alpha-1 Foundation, American Lung Association in New York, Burke Rehabilitation Hospital, COPD Foundation, Crouse and Community General Hospital, Emblem Health, Mount Sinai Medical Center, MVP Health Care, New York Business Group on Health, New York State Department of Health, New York State Society of Respiratory Care, New York Medical College, New York Presbyterian Healthcare System, New York City Transit Authority, New York Health Plan Association, North Shore/LIJ Center for Tobacco Control, NYU Medical Center, Rochester General Hospital, SUNY at Stony Brook, St. Peters Hospital, St. Charles Hospital, University of Rochester Medical Center, and Visiting Nurse Service of New York; and

WHEREAS, Research has identified a hereditary protein deficiency called Alpha-1 Antitrypsin; people with this deficiency tend to develop COPD, even without exposure to smoking or environmental triggers; and

WHEREAS, There is currently no cure for COPD; spirometry testing and medical treatments exist to address symptom relief and possibly slow the progression of the disease; and

WHEREAS, Until there is a cure, the best approaches to preventing COPD and its considerable health, societal, and morality impacts lie with education, awareness, and expanded delivery of detection and management protocols; now, therefore, be it

RESOLVED, That this legislative Body pause in its deliberations to memorialize Governor Andrew M. Cuomo to proclaim November 2012 as Chronic Obstructive Pulmonary Disease Awareness Month 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.

Mr. Canestrari.

MR. CANESTRARI: Yes, Mr. Speaker, my colleagues, we will now work off the debate list, beginning with Rules Report No. 112 on page 9 of the main Calendar, Kevin Cahill sponsorship. Rules Report No. 112. Thank you.

ACTING SPEAKER P. RIVERA: Rules Report No. 112 on page 9, the Clerk will read.

THE CLERK: Bill No. 9303-A, Rules Report No.

112, Cahill. An act to amend the Public Health Law, in relation to surgical technology and surgical technologists.

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. CANESTRARI: Colleagues, first vote of the day. Please join us in the Chamber. Rules Report No. 112. Thank you.

ACTING SPEAKER HEASTIE: Mr. Cahill to explain his vote.

MR. CAHILL: Thank you, Mr. Speaker. I just wanted to point out -- first of all, I want to thank my colleagues for supporting this legislation, as you did last year. Some minor changes were made to accommodate some concerns that the Governor's office raised --

ACTING SPEAKER HEASTIE: Excuse me, Mr. Cahill. Can we have a little quiet here? One of our colleagues is trying to explain his vote on his piece of legislation. Thank you.

MR. CAHILL: Some changes were made to accommodate concerns raised by the Governor's office when this bill was put before him in the past. This legislation is an important safety measure. It will now make uniform and measurable the profession of

surgical technician. I want to make sure that it's clear, Mr. Speaker, that this legislation in no way alters any professional scope of practice, nor does it create a new licensed profession. This bill does not impact current supervisory requirements established in statute or in regulation.

What it will do, however, is to make sure that if a hospital or a surgical center hires someone that calls themselves a surgical technician, that person has a standard of training that has been approved, not only by J-COPE, but also by the Hospital Association, but also by the Department of Health, and I thank you for this opportunity. I withdraw my request and I vote in the affirmative.

ACTING SPEAKER HEASTIE: Mr. Cahill 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, there will now be a meeting of the Environmental Conservation Committee. Chairman Bob Sweeney is in the Conference Room. Environmental Conservation members proceed to the Conference Room. Thank you.

ACTING SPEAKER HEASTIE: Environmental Conservation Committee meeting in the Speaker's Conference Room.

Mr. Canestrari.

MR. CANESTRARI: Mr. Speaker, we will now go to Rules Report No. 80 on page 7 of the main Calendar, Ken Zebrowski, again, off the debate list, Rules Report No. 80. Thank you.

ACTING SPEAKER HEASTIE: Rules Report No. 80, the Clerk will read.

THE CLERK: Bill No. 3431-D, Rules Report No. 80, Zebrowski, Millman, M. Miller, Arroyo, Sweeney, Dinowitz, Titone, Paulin, Colton, N. Rivera, P. Rivera, Scarborough, Englebright, Calhoun, Maisel, Gunther, Simotas, Lavine, Galef, Boyland, Cusick, Bronson, Moya, Weisenberg, Rosenthal, Glick, Kellner, Camara, Cahill, Benedetto, Roberts, Hooper, DenDekker, Weprin, Kavanagh, Brindisi. An act to amend the Agriculture and Markets Law, in relation to restricting the performance of surgical devocalization procedures on dogs and cats.

ACTING SPEAKER HEASTIE: An explanation is requested.

MR. ZEBROWSKI: Sure. Thank you, Mr. Speaker. This bill would prevent what is known as the devocalization of dogs or cats unless it's medically necessary.

ACTING SPEAKER HEASTIE: Mr. Jordan.

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

ACTING SPEAKER HEASTIE: Mr. Zebrowski, do you yield?

MR. ZEBROWSKI: Sure, I'll yield.

MR. JORDAN: In your explanation you say "unless it's medically necessary." Are there limitations on what are considered medical necessities?

MR. ZEBROWSKI: Sure. The bill, in Section 2, Subsection (b), the bill specifically says that surgical devocalization can be performed "...only when the procedure is medically necessary to treat or alleviate a physical illness, disease or injury or correct a congenital abnormality suffered by the animal which physical illness, disease, injury or congenital abnormality is causing or may reasonably cause the animal physical pain or harm."

MR. JORDAN: Is there another -- I mean, rather than ask the question that way, I guess, other than for an illness or medical necessity that's contained in here, is this procedure also performed at times when there are behavioral issues with the animal that cannot be corrected through other means?

MR. ZEBROWSKI: We can only guess at why people would have this, what I would call, an inhumane procedure performed; however, this bill would not allow devocalization for behavioral modification.

MR. JORDAN: So, if a dog is barking incessantly and the person has exhausted all efforts, they've gone to dog behaviorists, they've gone to whomever they may go to to try to correct the behavior and the person now has a choice, they either get rid of the dog or lose their apartment, does this bill allow them to then

have this medical procedure performed?

MR. ZEBROWSKI: No, it would not, but I would object to, I guess, the example you give. You know, dogs bark, cats make noise and to say that, you know, a dog's barking incessantly just for no reason, I think, is a myth. Usually there is a reason. It's a symbol of some other type of problem, whether it's communication with its owner or whether it's because of some other problem that's currently going on with the dog or cat. So, I would disagree with the premise that there's just going to be a dog sitting there just barking 24 hours a day without other types of reasons.

MR. JORDAN: Well, the New York State Veterinary Medical Society would disagree with you, but I appreciate the answers.

Mr. Speaker, on the bill.

ACTING SPEAKER HEASTIE: Mr. Jordan on the bill.

MR. JORDAN: Thank you, Mr. Speaker. I think that the original explanation of the bill probably would leave the bill with no opposition from the New York State Veterinary Society. Their concern is that the bill limits it to solely addressing illness and I think if we left it to the discretion of the veterinarians, trained physicians who are under the strict oversight of the State Ed Department, then they could make those decisions, but instead what we do is -- there are instances where animals' behavior will have developed from whatever reason, but their behavior will be only

addressable through one of two means, and there are people who have had to make that choice, either they perform a modification, devocalization, or a softening, or they have to get rid of the dog. The dog goes to the pound, the pound can't get rid of the dog to another adoptive family and they're left to choose to destroy the dog. You know, I think we have a group today advocating just against that very consequence or outcome in many other instances.

So, although this bill is well-intend and serves many great purposes, I think we would do well to listen to what the medical society says, and that is that the procedure would only be appropriate if the veterinarian, the doctor, finds that other means of alleviating the behavior have failed and determines, in their professional judgment, which puts their license on the line, that non-surgical alternatives aren't possible and this is the only means of accomplishing it.

So, I think, Mr. Speaker, that this bill does serve many great purposes, but I think it could be improved; with an ever-so-slight change, it would remove that objection and I think would sail through unanimously in both Houses. Thank you, Mr. Speaker.

ACTING SPEAKER HEASTIE: Mr. Katz.

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

ACTING SPEAKER HEASTIE: On the bill.

MR. KATZ: As a veterinarian, I can say that in 25 years of doing this, I have had not one case, and I'm in the Bronx, of a dog that is barking so incessantly that there is a problem; however, the

few that I have had where there was a dog that was barking, as was stated before, there was a reason and there are enough mechanisms for behavioral modification, there are enough of those electronic devices to stop the devocalization, to stop their barking, and, quite frankly, all you have to do is listen to a few episodes of *The Dog Whisperer* and you'll get a pretty good idea of how to stop something like this.

Devocalization is barbaric and, quite frankly, I don't know of any veterinarian who involves himself in this practice without having the client do any of the other forms of modification. So, on that level, I feel that this bill is warranted. I would like to get rid of all devocalization; that is my position on this. It is an unnecessary, barbaric surgery. The last time I heard about this being used in any form on any level was back in World War I, when they would devocalize the mules to be able to get through enemy lines, but to do this in the 21st Century to dogs is unnecessary. An owner who has a dog that barks incessantly needs some behavior modification training or to go to any of the classes that are inexpensive right now, very inexpensive, and learn how to take care of their dog without doing a procedure like this. Thank you.

ACTING SPEAKER HEASTIE: Mr. Lentol.

MR. LENTOL: Thank you, Mr. Speaker. I want to echo the sentiments by the eminent veterinarian among us who, presumably, this bill would hurt the most, and just tell you that I believe that the procedure of surgical devocalization is legalized cruelty to animals and it's something that we ought to stop and we

ought to stop it now.

And to say that we can't have behavior modification in dogs is the same as saying that we can't have no-kill shelters. And I believe that we can do both: We can prevent cruelty to animals in the form that the law presently allows by continuing the legalization of devocalizing animals, or we can stop it now and begin the process of being sane and treating our animals the way a society ought to treat them. Thank you very much.

ACTING SPEAKER P. RIVERA: Mr. Canestrari.

MR. CANESTRARI: Sorry for the interruption, colleagues, but there will be a meeting of the Environmental Conservation Committee. Bob Sweeney is in the Conference Room. Environmental Conservation now. Thank you.

ACTING SPEAKER P. RIVERA: Ms. Rosenthal.

MS. ROSENTHAL: Hi. I rise to speak in favor of this wonderful bill and to compliment its sponsor. This cruel and unusual surgical technique does not belong in the 20th, 21st or any Century, and it's about time we put an end to it and I will be voting in favor and I compliment the sponsor for his dedication to passing this piece of legislation . Thank you.

ACTING SPEAKER P. RIVERA: Mr. McDonough.

MR. MCDONOUGH: Thank you, Mr. Speaker. I just want to weigh in on the previous comments of two of my colleagues regarding, I think this is a very cruel measure, absolutely cruel, and here we are attacking, as we all know, man's best friend, so

to speak, and someone who, excuse the pun, has no voice in the matter at all, and that's sad. I don't think this is necessary. I think it would be done strictly for the convenience of an owner, and it is inhumane, it's cruel and I will be definitely voting against this measure. Thank you.

ACTING SPEAKER P. RIVERA: Mr. Raia.

MR. RAIA: Thank you, Mr. Speaker. I, too, rise to support this legislation and I have a little story. A few years ago I purchased a house that has an upstairs accessory apartment. When I bought the house, there was already a wonderful -- yes, a legal accessory apartment, I've been reminded to say, and when I purchased the house it came with the tenant already and a wonderful tenant, pays her rent every month on time, and she has a little dog. The little dog's name is Molly. Molly is a Dachshund, and for those of you who might know Dachshunds, they're very, very protective of their owners. They also have really short feet so when they bark their mouth is literally on the floor right above my head. It, quite honestly, drove me nuts for about a year.

And the owner of Molly tried a little of this, a little of that but, you know, really, obviously, didn't watch *The Dog Whisperer*. So, I was actually able to go to my local pet store, purchase one of those electronic dog barkers and every time Molly barked, I held the thing up to the ceiling, Molly would freak out for a minute and then stop barking. Well, lo and behold, two years later we have a very lovely relationship and Molly knows not to bark when I'm home, so it can be done. Not only can it be done by the owners, but if

you're a next-door neighbor, they now make bark silencers that are specifically for outdoor use and they are effective. They do take some time, because the dog has to get used to that annoyance when they bark and realize there's a cause-and-effect relationship.

But to do this to dogs, there are plenty of last resorts for animals that over-bark, and if that means giving them to a no-kill shelter or something like that in order to be able to stay in your place of residency, then we need to do that. But this is just an inhumane way to satisfy a pet owner's curiosity. 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.)

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 and guests, we will now take up off the debate list, as well, Rules Report No. 44, Mr. Vito Lopez. This is one in a series of ten bills related to rent regulation and I appreciate your consideration as we

begin the discussion on these ten bills, beginning with Rules Report No. 44, as I said, and it's on page 5 of the main Calendar.

ACTING SPEAKER P. RIVERA: Proceeding to page 5, Rules Report No. 44, the Clerk will read.

THE CLERK: Bill No. 3033, Rules Report No. 44, V. Lopez, Glick, Silver, Rosenthal, Gottfried, Kavanagh, O'Donnell, Farrell, Ortiz, Wright, Colton, Spano, Brook-Krasny, Castro, Dinowitz, Jacobs, Jeffries, Millman, Perry. An act to amend the Administrative Code of the City of New York, the Emergency Tenant Protection Act of 1974 and the Emergency Housing Rent Control Law, in relation to recovery of certain housing accommodations by a landlord.

ACTING SPEAKER P. RIVERA: Mr. Lopez, an explanation is requested.

MR. V. LOPEZ: This bill would limit a landlord's ability to take possession of units for their own primary residence to cases of immediate and compelling necessity and permits the recovery of only one unit. In some cases, what's happened is in court, and there are many pending court cases, that if you buy an eight-family brownstone in Manhattan, you want all of the eight units and you say they're for your own use and then you summarily evict everyone, you go to market rate, take those particular people out of affordable housing units and cause a serious problem. So, we're saying that the landlord, you buy the building, you have a right to one unit because that's what you should be eligible for. Most of us have one unit to live

in.

ACTING SPEAKER P. RIVERA: Mr. Fitzpatrick.

MR. FITZPATRICK: Thank you, Mr. Speaker.

Would the sponsor yield for some questions?

ACTING SPEAKER P. RIVERA: Mr. Lopez?

MR. V. LOPEZ: Yes.

MR. FITZPATRICK: Thank you, Vito. Looking forward to the next ten bills. This is a great exchange we always have each year about property rights and the fundamentals of capitalism and people's ability to use their own property. And this is a great bill to start with. Can you tell me how many cases there are in housing court involving this specific issue?

MR. V. LOPEZ: In the last, maybe, year, I know of seven or eight cases, but it's not how many cases, because it's the severity and the consequences of such action. And if you allow that to occur, there will be a lot more cases. So, the question here is what do you do with these small multiple dwellings and some of these brownstones? Some people want to do illegal hotels. Others would like to remove the current people. They're under rent protections right now. You remove them because you say, *I need the apartment*, and then you go to market rate rents. So, it's an enormous profit benefit to the landlord and displaces dozens of people from each respective building.

MR. FITZPATRICK: But we still have the owner of the building, the person who purchases the building, may have a large

family, would like to provide housing for their immediate family members, and we still respect, or I believe we still respect, property rights here in the U.S., and I expect in New York City; why would we infringe on that right? How do you justify that?

MR. V. LOPEZ: The question is, we're limiting it to one unit for the owner of the building. You're saying he might have an extended family.

MR. FITZPATRICK: Or a large family. He may have three or four kids.

MR. V. LOPEZ: Then based on that logic, and there's nothing wrong with that logic, depending on what perspective you come from, he can then summarily -- and people have used that argument -- get displaced and remove everyone in the unit. So if you own a seven-unit building you buy, you get your cousins, nieces and nephews, they all need an apartment, everyone is vacated, they've moved on, and then the seven units, you know, are available and go to market rate. And some people in those units have lived there for 20 , 30, 40 years and they've been very much part of the community and there aren't comparable units that they can go to.

So, that's where we, at times, differ. Most of the time we really don't have that much difference, but the question is are we, as a government entity, obligated to protect the rights of working-class people or senior citizens and maybe sometimes at the expense of people who want to make lots of money? I'm in the position of trying to protect those individuals.

MR. FITZPATRICK: You know, and I do as well, and that's why we continue to invest in some of these programs, whether it be J-51, 421-A, to provide incentives to increase the housing stock for people, but are you not, by virtue of pursuing this legislation, creating an incentive for those people who own smaller buildings to keep units off the market, which thereby reduces the availability of the housing stock as well?

MR. V. LOPEZ: If I buy a seven-unit building, the interesting thing is I get one apartment and instead of getting the whole -- I would like to get the whole seven from a financial point of view. And we do agree, and to some critics that are here, I do agree with the benefit of J-51, but J-51, 98 percent of the benefit goes to the landlord who gets a tax writeoff for the rehabilitation of that building. The tenant indirectly has a better place to live, but the principal benefit is to the landlords, and they're the ones advancing and lobbying me to do a bill.

So, this protects people. You have to -- you know, Mike, there are people who live in these neighborhoods. So, if you're in Manhattan or you're in Williamsburg, you've lived there all your life. Someone comes and buys your building and comes up with the example that you say, *I have 32 cousins, they all want a unit*. And where do you stop that? And then you displace all of the 32 families for your relatives, the building goes to market rate and it's an enormous financial benefit and displaces 30 people in the community. That's the part that someday on the side we have to understand. These

are people that go to local churches, they go to the school, they live there, retired firemen, teachers and they have a right to stay in the community. Summarily, for profit motivation, to displace them, to me, bothers me a lot.

MR. FITZPATRICK: Thank you, Vito. Mr. Speaker, on the bill.

ACTING SPEAKER P. RIVERA: On the bill.

MR. FITZPATRICK: The Chairman brings up some very salient and interesting points, points, quite frankly, that I agree with. I think there is an alternative method to provide opportunities for people to stay in the neighborhoods they'd like to stay in, but we do respect property rights in this country. And people who buy a piece of real estate and have a large family should be entitled to maintain those units for the use of their family members. As the Chairman mentioned, it's a small number of cases that are involved right now when you think of the large volume of housing stock. So, I think in fairness, I would advocate a no vote on this legislation. Quite simply respect for property rights, we should not allow oppressive acts by government to take away people's ability to use their property as they see fit. Thank you very much.

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. Gottfried to explain his vote.

MR. GOTTFRIED: Thank you, Mr. Speaker. Yes, we need to respect people's property rights, but this bill is about the circumstances in which the interests of somebody who has the wealth and the options that come with wealth to purchase an apartment building and who, experience teaches us, is often using the section this bill would amend dishonestly, it's a question of whether the law should be on the side of that person or whether the law should be on the side of protecting the family that have lived in that unit as their home, usually for many, many years. And to me, if we have a choice between protecting the rights of a family to stay in their home in a neighborhood that they have helped to build versus the rights of someone with the wealth and the options that come with wealth to buy an apartment building, we ought to be siding with protecting the family's right to stay in their home and so I vote in the affirmative.

ACTING SPEAKER P. RIVERA: 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, members of the public who are here, the next three bills we'll take up off the debate list, as I say, No. 446, again, Mr. Lopez; No. 449, also Vito, followed by No. 444, Linda Rosenthal. Again, Calendar No.

446 on page 32, Calendar No. 449 on page 32 and then No. 444 on page 31, all related to the same subject. Thank you.

ACTING SPEAKER P. RIVERA: Proceeding to page 32, Calendar No. 446, the Clerk will read.

THE CLERK: Bill No. 2593-A, Calendar No. 446, V. Lopez, Gottfried, Rosenthal, Kavanagh, Wright, O'Donnell, Ortiz, Castro, Lentol. An act to amend the Administrative Code of the City of New York and the Emergency Tenant Protection Act of 1974, in relation to limiting rent increase after vacancy of a housing accommodation.

ACTING SPEAKER P. RIVERA: Mr. Lopez, an explanation is requested.

MR. V. LOPEZ: Everyone should vote for this bill. It's a good government bill, and I know everybody wants good government. The problem is if there's a vacancy, what has happened, and you're paying \$1,500 a month rent, right now the law says you can charge 20 percent, so you go to \$1,800 a month, a \$300 increase for that apartment. And also, if you wanted to take an apartment at \$1,200, you could have one vacancy and then three months later another vacancy, and that apartment goes from \$1,200 out of the system. And this bill would limit a vacancy increase to 10 percent and also limit it to one increase.

Just think of it. 20 percent, 10 percent, and look at our salary structure. Wouldn't we be happy to get a 10 percent raise or wouldn't we be happy to get a 1 percent raise? But now we're talking

about reducing it from 20 to 10 and making it reasonable and manageable. So, if you're a senior citizen or you're a cop or a teacher paying \$1,500 a month, that apartment goes to -- 10 percent would be a \$150 increase. So, it's a market economy and I think to keep these apartments affordable, this bill was drafted, there are strong advocates for it; in fact, the biggest battle I had was limiting it to 10 percent. People wanted it to go down to 2 or 3 percent.

ACTING SPEAKER P. RIVERA: Mr. Fitzpatrick.

MR. FITZPATRICK: Thank you, Mr. Speaker.

Would the Chairman be willing to answer a couple questions?

ACTING SPEAKER P. RIVERA: Mr. Lopez.

MR. V. LOPEZ: Yes.

MR. FITZPATRICK: Vito, just a quick question before we start out. Which city in the United States has the oldest housing stock?

MR. V. LOPEZ: I'll go through it. You know, it may be -- let me -- what did you say? Whose help? I guess New York City.

MR. FITZPATRICK: New York City, yes.

MR. V. LOPEZ: Is that a trick question?

MR. FITZPATRICK: No, it's not a trick question.

MR. V. LOPEZ: Hold it. If you can ask a series of questions and if I do get them right, do I get a bonus?

MR. FITZPATRICK: Correct. New York City has the oldest housing stock. So, when a vacancy occurs, the landlord is

entitled to a 20 percent vacancy rent increase. Now, we have property taxes, we have water rates, we have electric rates, we have maintenance, and since the housing stock is so old in New York City, the maintenance costs are higher than they would be with a new building.

So, in an effort to improve maintenance of these buildings, that 20 percent is necessary. Going to a much lower rate -- I understand the motivation here because anything that government can do to prevent that \$2,500 threshold from being reached or slowing that down is the motivation here, and I understand that. But, the adverse effect, the adverse effect would be to create a disincentive to maintain these buildings. You're making it more difficult to keep this housing stock in good, working order. It's a vacancy, so you're not harming the tenant; the tenant has left. A new tenant comes in, fully understanding that there's a 20 percent rent increase for that building.

MR. V. LOPEZ: But you sort of drive a community. I represent Williamsburg and Greenpoint and the rent structure does not hurt potential new people, but changes who comes in the neighborhood. So, if we take a \$2,000 unit, the landlord would like to get it over \$2,500; I understand that, if we could admit that. The current law says they will get a \$400 increase, even for -- potentially, it's a huge increase, \$400 a month. Rent Guidelines Board, they're fighting over 2 percent now. But we're talking about going up from \$2,000 to \$2,400 and then out of the system. You're right. You made the earlier point. And then once you go out -- it's all market driven;

you know that. And the market then starts to change and in my office every day there are seven or eight seniors and people who are older that can't live in Williamsburg or Greenpoint because they can't pay \$2,000 a month. Their social security is \$1,500 and some of them say, and one particular lady says, *My problem is I lived too long, I've outlived my two children*, she was 85-years-old, because she can't pay \$2,000 a month. What do we do for a person like that?

MR. FITZPATRICK: That senior citizen is already in her apartment. She's not vacating that unit. The problem is -- the whole problem with this rent stabilization system is that there are people occupying units at depressed rents who can easily afford higher rents and should be paying higher rents but won't, which clogs the system, creates a bottleneck, and those senior citizens that you and I or those young people, those teachers, firemen, whomever, who want to live in these units can't move in because of this bottleneck created by government intervention in the housing market.

MR. V. LOPEZ: I have nothing but respect and admiration for you.

MR. FITZPATRICK: Likewise.

MR. V. LOPEZ: And regularly you use that example of these people ripping off the system. I have never once on the floor, let me say this, talked about some of the most degenerative landlords who turn off heat, who cement bathrooms, who deny people basic services in the wintertime and there's not one of them, there's thousands of them in court, but I don't talk about that. I talk about

what is reasonable and fair. And in my district or communities that are in transition, working-class districts, 20 percent -- and landlords, what you do here, the law is the law. January I'm paying \$1,800. These buildings, they vacate them, \$1,800 each, six of them. They get \$360 increase, then they get another 20 percent because the person leaves. They just churn apartments, churn it for two months and now they're right out of the system. You might say, *Gee, that's great. That's the law.* And then they go to market rate. Does that have a bearing on the community? Yes, it does, because it's the type of person that lives in Greenpoint and Williamsburg.

I'll show you an example. Any time you want to take a ride with me, we go into Greenpoint, and that's Joe Lentol's district, it had the largest, largest Polish community in the country. Now the Polish-Slavic Center, the biggest credit union, half of it is in Glendale and Ridgewood, Queens. Why? Because they can't afford -- they are leaving Greenpoint where they've been for 40 years and they're scurrying around and it's all driven by what you're supporting, unlimited control of the market by, really, very heavy and, I think, really unfair increases in the rent structure and housing costs.

MR. FITZPATRICK: Well, not at all. I think neighborhoods, whether they're in Brooklyn or on Long Island, a neighborhood is a living, breathing thing; it is constantly changing. People move in, they move out for various reasons. And having government-imposed restrictions on how much -- you know, we keep changing the rules of the game; that's the problem. We keep moving

the goal post here. All sides, years ago, agreed that ultimately we should do away with rent stabilization, rent control, government intervention in the housing market, that it would benefit everyone. In fact, New York City is the only city in the entire country that still uses this system.

MR. V. LOPEZ: And we could do that.

MR. FITZPATRICK: And we should do that.

MR. V. LOPEZ: We could do that.

MR. FITZPATRICK: Why are we standing in the way --

MR. V. LOPEZ: Mike, you know this. Any landlord tomorrow who builds in New York City, any builder, any landlord who builds in New York City does not have to have rent stabilization or rent control. You know, they don't take any government subsidy.

MR. FITZPATRICK: Sure.

MR. V. LOPEZ: But what the builder wants, and there's some of them I know, but what they want are big subsidies and then at the end they're looking to get out of the rent protection program. To me, that's -- you talk about changing the rules. You build new in New York City, you do not have to have any kind of rent restrictions. Secondly, it's market driven from the beginning; 5 percent threshold, we're at 4. If we could build another, let's say, 60,000 units, everybody goes out of the system, but it's based on something that came out of World War II, you're right, when there was a scarcity of units and it was protecting gouging of rents. That's the

logic of it.

MR. FITZPATRICK: It's flawed logic because, quite frankly, it may have worked -- it was a temporary solution and we're still using this temporary solution.

MR. V. LOPEZ: Let's build our way out of it then.

MR. FITZPATRICK: Every year you claim there's a housing crisis.

MR. V. LOPEZ: Then why don't we build our way out of it?

MR. FITZPATRICK: And we should. We have J-51, we have 421-A --

MR. V. LOPEZ: No, no. That's not new construction.

MR. FITZPATRICK: If we lived by the rules that we imposed years ago instead of keep trying to change them, doing this, Vito, you're disincentivizing the construction of new units. People want affordable housing. There are builders out there who would love to build affordable housing. But we keep changing the rules, we want to go back and re-regulate housing when it gets out of the system. Where's the incentive to come into a neighborhood, build affordable housing when the government keeps changing the rules?

MR. V. LOPEZ: If you have sleeping disorders like me and you get up early in the morning and you watch Good Morning Joe, and I'm not too sure where their logic is on their argument, but in the last three years, people's income has gone, I think, generally

speaking, median income \$132,000 in America to \$72-. People's income is going down. New York City, you say that's where it is, the number of people in poverty went from 17 percent to 22 percent. We're talking about the people that have it, and everyone talks about that, and it's the whole issue of tax structure and fairness, we won't get into that. But seniors are poorer and poorer, the working class is poorer and poorer. Now, the question here fundamentally is who cares about those people and is it government's role? I believe it is. And I might be wrong, but I believe it's government's role.

Let me say this, though, and I don't want to take too much time. I don't like when members dominate their response. My grandmother did something that I thought -- it was embarrassing. My grandmother moved regularly and often didn't pay her rent, all right? You know why? Because when she was doing this, she would get two month's rent for free, so the market was very different. And I said to my father, *That was pretty disgraceful, weren't you embarrassed?* He goes, *Yes, but we were poor and so we had to accept it.* So, there are certain realities of life. There are some people benefitting or not, but we're talking about reason. \$2,000 rent should be a \$200 increase, Mike.

MR. FITZPATRICK: People figure out --

MR. V. LOPEZ: If you own that building, and I know you're reasonable, wouldn't you just take \$200 a month on that apartment?

MR. FITZPATRICK: Does the statute guarantee a

\$200 increase or a 20 percent? No, that's the ceiling. They don't have to raise the rent by that amount if they don't want to.

MR. V. LOPEZ: That's the other bill, preferential rent, and we'll get back to that bill.

MR. FITZPATRICK: If the market is tight, the rent will go up 20 percent possibly, but the landlord does not have to impose that higher rent increase if the market doesn't demand it.

MR. V. LOPEZ: But they do.

MR. FITZPATRICK: Well, maybe right now they do.

MR. V. LOPEZ: The reason they do is if I'm the landlord, money is my motivation, I would want every unit to get out of rent stabilization and the philosophy here also is let's do away with it. And once you get that, you could go to any rent possible. And to me, I have a problem. And you're right that maybe people don't deserve to live where they live. But my grandmother lived in the same neighborhood for, like, 70 years. To me, there's something great about people living in those neighborhoods. It would be very hard politically for me to go home and say, *You know, we shouldn't protect people who live here for a long time. People should move around,* and then we'll have two types of New York City. We'll have the very poor, ghettos, in each borough and the wealthy. I would never want that. It's great now. That's why the Mitchell-Lama program, great program. Working-class people live in very nice neighborhoods.

MR. FITZPATRICK: Vito, I would make the

argument that we're moving toward that type of New York City right now precisely because of rent stabilization, rent control, government intervention in the housing market because there are too many units that are occupied by people who can afford more who won't, and that is shutting off housing market opportunities to lower-class people, people who are lower on the income scale who can't get in because of this system, this corrupt system, in my view, this tyrannical system imposed by government keeping rents artificially low, owners have no incentive to maintain their buildings. You ask people the complaints they have about their buildings. Yes, you point out a couple of -- you make a couple of examples of egregious -- egregious examples of bad owners, yes.

MR. V. LOPEZ: I only used that one time and I used it to counter the argument that you made. There are hundreds, if not thousands, of them. Poor people don't live in a great deal of luxury. We do need more affordable housing. I've dedicated my life to do that. I would love a system without controls and regulations. I would like everyone to own their own house and their apartment and I'd like to work to that benefit. The question, though, turns out to be, you know, when we start looking at justice, because you're broadening it a little bit, there are companies that -- a friend of mine went to, I forget what island, and there's one building with 82 companies in it and a security guard and they're all from, like, New York and Florida. They're there because they don't pay taxes. What an injustice, all right? And imagine if they did? Then we could build more housing

and more programs.

So, there's something screwed up and it's not that senior citizen that has to go to \$2,000 a month rent that's the cause of it. You know, so I think we have to protect her and not worry about the landlord making lots of money so that his margin sort of is jeopardized a little bit. And that's my philosophy.

MR. FITZPATRICK: All right.

MR. V. LOPEZ: I would rather take from the person who is it, and has a lot, and spread it out to people that are struggling. Now, maybe that's, you know -- every Thanksgiving we feed 3,000 people and we get wealthy people to donate and we feed them. You might say well, that's a different voluntary form of -- but that's, to me, a good thing and I enjoy it.

MR. FITZPATRICK: That's a great thing. Thank you, Vito. Mr. Speaker, on the bill.

ACTING SPEAKER P. RIVERA: On the bill.

MR. FITZPATRICK: As we can see, we have a fundamental and a very wide difference of opinion here. The effort is to slow down the increase of rent to the threshold of \$2,500 for things where when a vacancy occurs, it goes to market rate.

Again, government intervention in the housing market has created the difficulties that the Chairman has worked so hard to remediate. We all want to see affordable housing. We will not get affordable housing so long as government continues to interfere in the housing market depressing rents, creating, in a city

with the oldest housing stock, a strong disincentive to maintain these buildings. You simply can't afford to maintain these buildings adequately with water rates, electric rates, property taxes continuing to increase. You can't get the necessary rent increases to maintain these buildings. You want to keep rents affordable? Let's change the rules and regulations of the city zoning code and building code to create those opportunities. My time is up. 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. Vito Lopez to explain his vote.

MR. V. LOPEZ: In Bushwick, the community that I represent, and in Bed-Stuy, we have a number of one-family and two-family homes, most of them -- and the people that live in my district are multiple dwelling. Those -- it's true. Those units, those buildings are being abandoned, vacated by banking speculation and the mortgage foreclosure impact. So, when we talk about leaving things to the system and justice, there are tens of thousands of people, and Long Island is one of the biggest problematical communities. So, if we want to go allow the banks to speculate, the Wall Street companies, some of these people got their mortgage at the local bank, they went to another bank and they found out their interest is in

Arizona. We are talking about putting our trust in a system that is somewhat monitored and regulated. I think government has a role to help working-class people out, and this is a good bill. I ask everyone to vote yes. Thank you.

ACTING SPEAKER P. RIVERA: Mr. Crespo to explain his vote.

MR. CRESPO: Thank you, Mr. Speaker, I just, very briefly, want to thank the sponsor of this bill. Certainly, the communities that I represent in the Bronx are greatly affected by rent increases that some of these landlords go after. They play all these games, move people out of their homes. I'm dealing with a development in my district, a building, where the owner basically coerced many of the tenants to vacate this particular building, put them into substandard conditions at another building they own across the street, all in an effort to then get some subsidies to fix up that building and then go to market. And the tenants were not informed as to what their options were, were not informed of the efforts that were underway by the landlord and all in an effort then to create new housing that will not be affordable to those in the communities leading to displacement and so many other issues. There's no question that we need these regulations in order to keep rents affordable for the communities we represent and, therefore, I strongly support this bill and thank the sponsor for the effort.

ACTING SPEAKER P. RIVERA: Are there any other votes? The Clerk will announce the results.

(The Clerk announced the results.)

The bill is passed.

We will go to page 32, Calendar No. 449, the Clerk will read.

THE CLERK: Bill No. 2994, Calendar No. 449, V. Lopez, Silver, O'Donnell, Perry, Ortiz, Wright, Kavanagh, Castro, Lentol. An act to amend the Administrative Code of the City of New York and the Emergency Tenant Protection Act of 1974, in relation to the declaration of emergencies for certain rental housing accommodations.

ACTING SPEAKER P. RIVERA: Mr. Lopez, an explanation is requested.

MR. V. LOPEZ: This bill would extend rent protections to tenants living in former Section 8 buildings. Instead of forcing them to go to market rate, this would put them into the rent stabilization program and then there would be consistency with the rent structure that they were paying; otherwise, they would go to market rate and that would mean, in some cases, doubling their rents.

ACTING SPEAKER P. RIVERA: Mr. Fitzpatrick.

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

ACTING SPEAKER P. RIVERA: On the bill.

MR. FITZPATRICK: This, quite simply, is -- philosophically we're very much opposed to any expansion of rent stabilization. Again, it's an infringement on property rights and in the strongest possible terms, I urge a no vote on this bill.

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 will proceed to page 31, Calendar No. 444, the Clerk will read.

THE CLERK: Bill No. 1892-B, Calendar No. 444, Rosenthal, Glick, Millman, Colton, Cymbrowitz, Gottfried, Boyland, Kavanagh, Castro, Kellner. An act to amend the Administrative Code of the City of New York and the Emergency Housing Rent Control Law, in relation to the establishment of rent adjustments.

ACTING SPEAKER P. RIVERA: Ms. Rosenthal, an explanation is requested.

MS. ROSENTHAL: This bill would change the formula used for calculating rents for rent-controlled apartments to match the formula used to calculate rents for rent-stabilized apartments.

ACTING SPEAKER P. RIVERA: Mr. Fitzpatrick.

MR. FITZPATRICK: Thank you, Mr. Speaker. Will

the sponsor yield?

ACTING SPEAKER P. RIVERA: Ms. Rosenthal.

MS. ROSENTHAL: Yes, I will.

MR. FITZPATRICK: Linda, I understand the motivation to do this, but the rent control units tend to be the older housing stock, the older units. This current system, allowing the yearly rents to hopefully reach the maximum base rent, is necessary so that these owners can maintain their buildings and we know that the housing stock in the City is the oldest anywhere in the country. If things aren't broken then why attempt to fix it, because the system seems to work very well?

MS. ROSENTHAL: Well, actually, the system does not work very well for the people who live in rent-controlled apartments. They are basically seniors and older seniors and they get, without fail, every year a 7.5 percent increase to their rent, in addition to having to pay fuel pass-alongs, MCIs and individual apartment improvements if the landlord does those last two. So they are getting exorbitant increases while people who live in rent-stabilized apartments rarely get increases as high as 7.5 percent in any year.

MR. FITZPATRICK: Are there any examples where they don't go 7.5 percent, maybe it's a lower rent increase?

MS. ROSENTHAL: I don't think there's been a lower one in years.

MR. FITZPATRICK: Very good. Thank you, Linda.

MS. ROSENTHAL: You're welcome.

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

ACTING SPEAKER P. RIVERA: On the bill.

MR. FITZPATRICK: The City has, over the years through its various programs, tried to increase the supply of affordable housing. On one hand the sponsor is trying to protect seniors, and we all want to do that. The other problem is these unfortunate seniors are living in substandard housing. These buildings are not maintained to proper standards or to the standards these seniors and anyone who lives in them would like to see, quite frankly, because the rents in rent controlled units are so low. So perhaps we can find some happy medium, but by imposing this restriction on rent-controlled units, you are just further deteriorating the housing stock of New York City. That's not beneficial to anyone and I would strongly urge a no vote. Thank you.

ACTING SPEAKER P. RIVERA: Ms. Rosenthal.

MS. ROSENTHAL: My district includes the Upper West Side and parts of Clinton and many of my constituents are seniors. A lot of them come to my office and tell me tales of woe: Seniors whose rent is \$2,600; seniors whose rents are \$2,000. These are retirees who live on fixed incomes and are despairing because they have no way to pay these yearly 7.5 percent increases and the fuel pass-alongs that they pay every single year, which are high even when winters are mild.

The maximum base rent, upon which the maximum collectable rent is based, is an arcane formula that people in the

Department of Housing and Community Renewal cannot even explain. It is that convoluted and that outdated. It is time for us to level the playing field for the seniors who live in rent-controlled apartments and let them get the same rent increases as rent-stabilized tenants do. Now, rent-stabilized tenants' increases are not always the best increases, but they are always, with one or two exceptions, lower than 7.5 percent per year and it is just a shame to see these seniors at the end of their lives wondering how they are going to pay their rent and manage to keep living in the neighborhoods that they helped create and that they now wish to end their life living in peace and not worrying about how to pay the rent because the rents are too high.

So this bill to help rent-controlled tenants is crucial for the 38,000 or so units that are left in rent-controlled systems. These units will gradually dissipate as the tenants die, but while they're still alive let's do something to ease their worries and help them stay in their apartments by passing this bill to reform the way rent-controlled rents are increased. Thank you.

Mr. Canestrari.

MR. CANESTRARI: Mr. Speaker, my colleagues, there will be a meeting of the Labor Committee right now. Chairman Wright is on his way. Labor Committee, Speaker's Conference Room. 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. Joel Miller to explain his vote.

MR. J. MILLER: Thank you. I just want to make mention of the fact that I don't think anyone on this side of the aisle, anyone voting no, wants to throw seniors out of their homes or to throw other people out of their homes that they have lived in for a long time. It just seems to me that if this is a valid, worthwhile program, instead of singling out the owners of the building to be the providers of a social service program, if it's that significant and that valid the State should be paying the difference between the rent that is available to be gotten and the rent that the tenant would be paying. Instead we, without any real concern, simply ask the owner to lose the money and he or she is supposed to be the good samaritan. It doesn't seem right to be able to impose on private citizens and private businesses the obligation to be the philanthropic entity in the community. If it's a worthwhile government program, the government should pay for it. Thank you. I will be voting in the negative.

ACTING SPEAKER P. RIVERA: Are there any other votes? The Clerk will announce the results.

(The Clerk announced the results.)

The bill is passed.

Continuing on page 31, Calendar No. 445, the Clerk will read.

THE CLERK: Bill No. 2459-A, Calendar No. 445, O'Donnell, V. Lopez, Silver, Glick, Ortiz, Gottfried, Kavanagh, Rosenthal, Farrell, Perry, Titus, Castro, Mayer. An act to amend the Administrative Code of the City of New York, the Emergency Tenant Protection Act of 1974 and the Emergency Housing Rent Control Law, in relation to extending the length of time over which major capital improvement expenses may be recovered.

ACTING SPEAKER P. RIVERA: Mr. O'Donnell, an explanation is requested.

MR. O'DONNELL: Certainly. This bill - which has passed this Chamber, I don't know, seven or eight times - would change the way major capital improvements are done as it relates to rent. Currently, under the current administrative rules, major capital improvements are spread out among all the tenants in the building and they become increases to their rent which lasts forever. What this bill would do would allow the landlord to fully recoup the cost of the MCI but amortize it over seven years as an addition to the rent and not actually stay with the rent and so landlords would continue to be able to make MCIs. They would continue to recoup their investments from MCIs, but it would not result in a permanent increase of the rent charges to the tenants living therein.

ACTING SPEAKER P. RIVERA: Mr. Fitzpatrick.

MR. FITZPATRICK: Thank you, Mr. Speaker.

Would the sponsor yield?

ACTING SPEAKER P. RIVERA: Mr. O'Donnell.

MR. O'DONNELL: With pleasure.

MR. FITZPATRICK: Dan, like you said, we have been back and forth on this for a number of years. You install a capital improvement, but you want to stop using it as surcharge, I guess, but when that is over you still have maintenance. You know, these systems, these basic systems in these buildings, have to be maintained over time which is the reason why it goes into the rent. Why should that be changed? How do you cover the maintenance costs?

MR. O'DONNELL: Well, there are no ongoing maintenance costs for windows. There are no ongoing maintenance costs for roofs and there certainly are no ongoing maintenance costs for new refrigerators so all of those things currently qualify under the MCI. And so what happens is the reason I would take this approach is that it doesn't become a permanent rent increase. It becomes an adjustment to the rent that allows the landlord to recoup 100 percent of the costs without putting a permanent increase into the renter's budget.

MR. FITZPATRICK: Well, I would beg to differ. There may not be major maintenance costs but, still, there are maintenance costs involved with any major capital improvement, but by changing this mechanism, I mean even the -- what is it, the Community Preservation Corporation has advocated not to touch this mechanism because it's going to provide, again, a disincentive to do these capital improvements if you can't recoup that cost, you know,

over the long term. And especially today where there's incentives everywhere to become more green, if you will, what happens, how do you incentivize people to install the green improvements that we're all so much in favor of?

MR. O'DONNELL: You incentivize them by telling them 100 percent of the costs will be reimbursed to them through the system that I have created and they also will get an increase in the value of the apartment building. I represent the Upper West Side of Manhattan. I have many, many, many buildings that are rental buildings and, unlike where you live, Mr. Fitzpatrick, which I'm very familiar with having grown up there, and the truth is that, to my knowledge, there is not one single apartment building in my neighborhood that is for sale and the reason that is is because it's so incredibly profitable to be a landlord in the City of New York. Now, some of my constituents would really want me to eliminate the ability to recoup the investment for MCIs. I have some of those people. That's not what this does. This says to a landlord if you want to go green, if you want to put an MCI, every dollar you spend will get reimbursed but it won't remain as a permanent increase on someone's rent.

MR. FITZPATRICK: But when you have such a large percentage of housing stock that was constructed probably before 1930, I think the numbers are about 60 percent, that is some very, very old housing stock. This is -- the MCI mechanism when you have a group like the Community Preservation Corporation

advocating not to touch this so as to, you know, maintain the incentive for people or owners to upgrade and improve their buildings, again the system -- what evidence can you show that the system is broken that requires the measure you're advocating?

MR. O'DONNELL: Because we, before I got here, created a system where landlords had the ability to take someone out of rental protection. And so what ends up happening is you create an incentive to either not be truthful or honest in the MCIs, which I have had in my district or an incentive to try to get peoples' rent above a certain threshold in order to evict them. So I don't know the entity that you're referencing. I'm not fully familiar with it. What I can say is there are a lot of names for a lot of things that don't really reflect the truth of what they are, like Citizens United, which was neither about citizens nor about the United States but that's what they're called. So in the end what someone chooses to call them self doesn't really matter to me.

What I know from my own experience in my district is that the system has created an incentive for less-than-honest behavior. Now, do I think all landlords are less than honest? Certainly not, but this would continue to allow landlords to make the MCIs that are needed to increase the equity in the buildings that they own and get fully reimbursed. So, I don't see where the risk to get people to not do those things and although many of those housing stock, in fact, the building I live in was built in 1911. It's a co-op now and there are still tenants in it. Many of those buildings in my

neighborhood have seen those improvements and they make those improvements not just because that they get the MCI reimbursement, but because by making those improvements they do a wonderful job of making their building more valuable so that some day they're going to sell it to another landlord or some day they or someone else may convert it into co-op or condos, which has happened all over my neighborhood. But in the end, the landlord wins because the landlord gets back all the money and increases the equity in their own property.

MR. FITZPATRICK: Thank you, Dan.

Mr. Speaker, on the bill.

ACTING SPEAKER P. RIVERA: On the bill.

MR. FITZPATRICK: Again, with a number of the bills that we have discussed this morning and this afternoon, you know, there's that \$2,500 threshold that the other side is trying desperately to prevent from happening. The MCI system has worked very well over the years. There's nothing wrong with improving your building with increasing the value of that building, whether for resale or just to have a good quality building for your customers, your renters to enjoy. If it ain't broke, don't fix it. This bill clearly is not necessary, even though it's been passed many times before. But, again, it's an infringement on property rights. It's changing the rules of the game, moving the goal post, if you will. It needs to stop. It's another effort by government to impose its will on a market that if it worked more freely and openly, would provide better housing alternatives for all the residents of the City of New York. I urge a no

vote. Thank you.

ACTING SPEAKER P. RIVERA: Mr. Maisel.

MR. MAISEL: Thank you, Mr. Speaker. I just wanted to mention that my mother moved into a six-story elevator building about 25 years ago and she got a new refrigerator. The MCI at the time was about five bucks, maybe \$6 a month. Well, she's been paying for that refrigerator for the last 25 years. I assume that the landlord has recouped his investment. There have been no maintenance charges and when she gets a new refrigerator, she will still be paying for the old refrigerator so the system is broken, not completely but the system is broken and it needs to be modified. Thank you.

ACTING SPEAKER P. RIVERA: Ms. Rosenthal.

MS. ROSENTHAL: It's rare to find a windfall such as the MCI system. You buy something, you recoup the entire cost and then you keep recouping it. I mean, it's outlandish. If someone were to propose this kind of system today they would say, *That really makes no sense*. However, to landlords it makes perfect sense. I have heard some of them saying, *Well, we need this extra cash*. You know, when you make an improvement to your building - it does add to the value of your building - the entire cost is borne by the tenants and it should stop when the improvement is paid for. It's total common sense that once it's paid for, the cost of paying for it goes away. In this MCI system tenants keep paying over and over and over again. It's in their base rent so you get rent increases based on this MCI that you

have already paid for. It makes no sense and I urge a yes vote on this.
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.)

Ms. Hooper for an announcement.

MS. HOOPER: May I have your attention, please?
There is an immediate meeting of the Higher Education Committee.
Assemblywoman Glick is waiting for you now in the Speaker's
Conference Room. Higher Education.

ACTING SPEAKER P. RIVERA: Mr. Vito Lopez to
explain his vote.

MR. V. LOPEZ: I'm voting yes. What always
fascinates me is the logic that people have and how the logic changes
depending on the bill. This is a good business bill because if I had to
pay for a repair and I had to pay for it and the repair was \$10,000 and
I would then pay it over time, I would pay, say, \$1,000 a year and then
included with interest I may pay it 11 years and pay \$11,000 or \$12-.
That's a sound business and most people here, not most, everyone
would do the same thing, not more. What is currently done -- and
some people say why change things, but we often find things that are
really bad or not right. Imagine making an investment of \$10,000 and

you continually get for 50 years the increase on your \$10,000 investment. It is outrageous, outrageous. Voting not to support this to me is -- I'm very surprised because what you're doing is saying that a person could get for 40, 50, 60, 70 years the return on their investment 10 times more or 10 -- 100 times more than the initial outlay. So there's some little bit of hypocrisy here that I don't understand and maybe some day I will, I'm not here long enough. So thank you. I vote yes.

MR. CANESTRARI: Colleagues, Higher Education has been called. Deborah Glick needs you in the Conference Room. Vote first, but Higher Education Committee, a quorum is needed. Votes are needed. Let's move this along. It's Wednesday. Thank you.

ACTING SPEAKER P. RIVERA: 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, for the next few bills we will go to Calendar No. 448, page 32 of the main Calendar, Mr. Pretlow, followed by Mr. Kavanagh's Bill No. 78 on page 7 of the Calendar, followed by Calendar No. 93 on page 8 of the Calendar, Linda Rosenthal. So, once again, Calendar Nos. 448, Mr. Pretlow, No. 78, Mr. Kavanagh and No. 93, Ms. Rosenthal again. Those are the next three in the package.

ACTING SPEAKER P. RIVERA: Proceeding to

page 32, Calendar No. 448, the Clerk will read.

THE CLERK: Bill No. 2750-A, Calendar No. 448, Pretlow, Castro. An act to amend the Emergency Tenant Protection Act of 1974, in relation to the declaration of housing emergencies for rental housing accommodations located in buildings owned by certain limited-profit housing companies.

ACTING SPEAKER P. RIVERA: Mr. Pretlow, an explanation is requested.

MR. PRETLOW: Certainly, Mr. Speaker. This bill would include buildings that were owned by a company established under Article 2 of the Private Housing Finance Law and are no longer owned by such company by reason of voluntary dissolution pursuant to Section 35 of the Private Housing Finance Law.

Under the protection of the Rent Stabilization Law, regardless of the date of initial occupancy, it would also prohibit the owners of such buildings for applying to Division of Housing and Community Renewal for rent adjustment based on the presence of a unique or peculiar circumstance.

ACTING SPEAKER P. RIVERA: Mr. Fitzpatrick.

MR. FITZPATRICK: Would the sponsor yield?

ACTING SPEAKER P. RIVERA: Mr. Pretlow.

MR. PRETLOW: Absolutely.

MR. FITZPATRICK: Gary, you know, years ago when the owners of these properties entered in the Mitchell-Lama program, they did so with an understanding that at a certain period of

time going forward 20 years they would have the option to opt out of this system. Does this not create a problem in terms of -- you know, there are two concerns here: One, a violation of the contract clause here. If this were to be tested in court, there's a potential constitutional issue. Why are we doing this?

MR. PRETLOW: Well, in an effort to maintain affordable housing in the State of New York, the City of New York especially but in the State of New York, we feel that this is a necessary thing to do to avoid landlords from inordinately increasing rents to unaffordable rates for those that have been living there for the past 20, 25, 30 years.

MR. FITZPATRICK: But there are specific rules here that these owners entered into understanding that after 20 years they will have or may have an opportunity. We are literally moving the goal post on these people. The occupants of these buildings know what type of building they live in so they understand what the rules are. Why is government now trying to change those rules?

MR. PRETLOW: Well, in the interest of maintaining affordable housing, which has gone really out of control throughout the State, that we're doing this. People that have lived in Mitchell-Lama housing for all of these years are used to rents based on their income, used to affordable rents and for them just to -- by virtue of the landlord paying off their mortgage and increasing their rents instantly would not be fair to them. If there was a time involved in when these conversions took place, that is one thing, but a tenant

has no knowledge of when a landlord may pay off their entire mortgage and then come out of the Mitchell-Lama program and then the next day raise the rents. That is what we're trying to prevent.

MR. FITZPATRICK: But the Mitchell-Lama program was instituted to create an incentive for people to build affordable housing. If we change the rules now, is that not going to ruin the incentive or create a disincentive for builders in the future to get into this program if they know down the road government is going to change the rules on them?

MR. PRETLOW: Well, there's not a lot of affordable housing being built now and that's unfortunate, but what this is trying to do is maintain what affordable housing we do have.

MR. FITZPATRICK: Okay. You know, the other issue here is that if by virtue of changing these rules, enforcing rent stabilization on this building or these buildings and forcing the building owner to accept a role that the broader society should undertake to help support these people, is this not a taking of private property? I would argue it is and how does that incentivize people to want to participate in this program in the future?

MR. PRETLOW: Well, I'm not sure if much Mitchell-Lama is being built now. I don't think there is but, like I said earlier, we're trying to maintain what affordable housing we do have. With the advent of vacancy decontrol several years ago, affordable housing has been deteriorating, not the buildings themselves, but the amount of affordable units has been going down steadily. This is an

attempt to maintain some amount of affordable housing in the State.

MR. FITZPATRICK: Okay. Thank you, Gary.

Mr. Speaker, on the bill.

ACTING SPEAKER P. RIVERA: On the bill.

MR. FITZPATRICK: Again, with each of these bills the fundamental argument boils down to government imposing its will in a market that if it were left alone, would do a better job of providing increased affordable housing opportunities for people. The bigger culprit here, in my opinion, is government but, also, not just what we're trying to do here in the Legislature, but also the zoning regulations, the environmental regulations and the red tape that constricts the market's ability to provide these housing opportunities.

So again, there are two constitutional questions that are raised here, the takings clause, the taking of private property by forcing these people who own these buildings to accept or to continue or have rent stabilization imposed upon them but, also, you know, quite frankly, the contract clause. You entered into a contract. You entered this program knowing that in 20 years if you pay off that mortgage you have an opportunity to get out of this program and, again, government is moving the goal posts. There is no incentive here. You're killing the incentive to create affordable housing and it's only going to make a bad problem much, much worse. I urge a no vote. 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.)

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

(The Clerk announced the results.)

The bill is passed.

We will proceed to page 7, Rules Report No. 78, the Clerk will read.

THE CLERK: Bill No. 2881, Rules Report No. 78, Kavanagh, Dinowitz, Rosenthal. An act to amend the Administrative Code of the City of New York and the Emergency Tenant Protection Act of 1974, in relation to hardship applications.

ACTING SPEAKER P. RIVERA: An explanation is requested. Mr. Kavanagh.

MR. KAVANAGH: Thank you, Mr. Speaker. This bill would conform two distinct provisions in our Housing Law to each other making them such that in both cases an owner will have to own a building effectively for six years before they can claim a hardship allowing them to get out of their obligations under the law.

ACTING SPEAKER P. RIVERA: Mr. Fitzpatrick.

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

ACTING SPEAKER P. RIVERA: Mr. Kavanagh.

MR. KAVANAGH: Absolutely, Mr. Speaker.

MR. FITZPATRICK: Brian, what is the reason to pursue this? If I have a hardship after four years, I need one in four years, if it ain't broke why fix it? Why is it broken?

MR. KAVANAGH: Like many bills today where it may not be broke but it needs a little work. Currently, if you buy a building and the expenses of the building are such that the rent roll will not cover them, you can apply for a hardship exception and you can do that after six years, that's current law. There is a different hardship exception called the Alternate Hardship Exception which you can apply for after three years that includes regular operating expenses plus the cost of debt service. And what that does is it creates an incentive for landlords to purchase buildings, finance them in a way that is not sustainable from the rent rolls and then claim that because they have got excessive financing they need a hardship exception.

ACTING SPEAKER P. RIVERA: Can we have some silence in the Chamber, please, colleagues. We have a debate going on and there's activity right behind Mr. Kavanagh. I'm sorry, Mr. Kavanagh.

MR. KAVANAGH: Thank you, Mr. Speaker. So this bill would just put the speculative purchaser of the building in the same position as other landlords who have held them and are just trying to make ends meet.

MR. FITZPATRICK: Granted, I think that's fair, but

the DHCR will see through that if they see a landlord attempting to put one by them, as you just mentioned. DHCR, I think they have the capacity and the ability to see through something like that so, therefore, why change it?

MR. KAVANAGH: I'm not suggesting --

MR. FITZPATRICK: They will make the ultimate ruling here, will they not?

MR. KAVANAGH: This bill is not intended to deal with landlords who are cheating or fraudulently claiming the exception. It's to make it clear that the law is not intended to give people an exception if only 36 months after getting a mortgage on the building, they can't cover the cost. We want to discourage -- we have seen across the country instances where people have purchased real estate and borrowed money to purchase it for more than it's worth based on its carrying cost and then claim they're unable to cover the cost of the mortgage that they chose to take out. We think that is an instance where somebody should not get a hardship exception as opposed to somebody who has been holding a building and trying to make the expenses line up with the revenue.

MR. FITZPATRICK: But if, indeed, there is a case, as you just mentioned, the DHCR has the ability to deny that request, does it not?

MR. KAVANAGH: The DHCR has the ability to determine whether there is a valid mortgage. They have the ability to determine whether the landlord in question has a minimum of 5

percent equity in the building and if those conditions are not met they can deny it. They do not have the discretion to say, *We don't think it's good public policy to give people a hardship exception in the 37th month.* That kind of public policy is set by the Legislature. I think you and I disagree about what the appropriate public policy is, but this is not a question of taking discretion away from DHCR. They have no discretion if a landlord submits a valid application currently to deny it.

MR. FITZPATRICK: So there can be occasions where there is a necessity for a hardship increase, that is currently allowed, not in a lot of cases but there still may be cases, and now you're taking away the ability of that owner to recoup that cost if -- not every one of these cases, I'm sure, is illegitimate, but those that are legitimate and since we do have very old housing stock, you know, these buildings are in great need of repair and upkeep, et cetera and occasionally there will be a necessity to seek that hardship increase and we're now taking that away. Is that not detrimental to the maintenance of good housing stock and, therefore, detrimental to the renters, the occupants?

MR. KAVANAGH: Mr. Fitzpatrick, we just disagree on the premise here. A building that was purchased 36 months ago by a landlord who can't cover the cost of repairs, the cost of staff, the cost of heating, the cost of all of those things can apply for a hardship exception when the current period expires, which is six years. We have a better provision for people who have borrowed money 36 months ago and there is not a necessity, in my view, for a hardship

exception, which basically puts the cost of the landlord's decision to borrow excessively on the tenants. There are a lot of options you have. If you choose to purchase a building and you finance it excessively, you have a lot of options. You can renegotiate with the bank. You can do all kinds of things. You can try sell it to somebody else. What you can't do, if this law were passed, is pass the cost of your excessive borrowing on to the tenants in the form of excessive rent increases.

MR. FITZPATRICK: How often, Brian, do you see cases of excessive borrowing? I mean, banks generally are not in the business of allowing people to borrow beyond their means or beyond what the building is worth or beyond what the building can carry in terms of a loan. How often does that happen?

MR. KAVANAGH: I call it excessive borrowing because you would only be applying for a hardship exception if the total cost of operating the building, including the debt service, exceed the revenue from the building and you can't cover those costs to make a profit. I'm defining that as excessive because you shouldn't have borrowed so much money that you can't pay the mortgage 36 months later. What we're saying, again, is the provision that applies to a landlord who has held the building for a long time and finds themselves in the case where they can't cover the operating expenses is the same one that should apply when they're claiming the hardship based on their borrowing. I'd say it's excessive by definition if they can no longer cover the cost of the mortgage based on the rent roll.

MR. FITZPATRICK: Very good. Thank you, Brian.

Mr. Speaker, on the bill.

ACTING SPEAKER P. RIVERA: On the bill.

Before you start, Mr. Fitzpatrick, colleagues, if we can have some silence right behind Mr. Fitzpatrick. He's about to sum up on the bill, please. Thank you. I'm sorry, Mr. Fitzpatrick.

MR. FITZPATRICK: Thank you, Mr. Speaker. Just very quickly. You know, the speaker and I, we disagree, as he said, on the premise of the bill, but this will be a huge disincentive for those people who may wish to purchase these marginal buildings. As we have discussed in the past, there is a lot of very old housing stock in the City of New York. This will be a huge disincentive to people who would like to purchase a marginal building, invest in a building that others may choose not to invest in because of its age, but without this provision where an emergency like this crops up, to extend that provision for three more years, I think, is detrimental to the further maintenance of this very old housing stock and will act, again, as a strong disincentive to anyone to purchase that housing stock. So I would urge a no vote on this bill. Thank you.

ACTING SPEAKER P. RIVERA: Mr. McLaughlin.

MR. MCLAUGHLIN: Thank you, Mr. Speaker.

ACTING SPEAKER P. RIVERA: If you'll allow me, Mr. McLaughlin. There is still too much noise behind Mr. McLaughlin. Colleagues, please.

MR. MCLAUGHLIN: Thank you, Mr. Speaker.

Would the sponsor yield for a question?

ACTING SPEAKER P. RIVERA: Mr. Kavanagh.

MR. KAVANAGH: Yes, Mr. Speaker.

MR. MCCLAUGHLIN: Thank you, Brian. I just want to flesh this out a little bit because you caught my attention. You were talking about excessive borrowing and your version or your interpretation of what excessive borrowing is. How are they going to borrow excessively? Because I can tell you, as somebody that has spent a lot of years in the mortgage industry, this seems to be, as I listen to this, an argument from years past. There's no more no-money-down mortgages. There's no more stated income mortgages. The products don't exist. They're gone. They have been gone since about 2007, so I think this may have been an argument that was valid five or six years ago, but I'm wondering how you think anybody can borrow excessively in today's mortgage market because I can tell you, I don't see how they can. So could you flesh it out a little bit for me because I'm trying to figure that one out.

MR. KAVANAGH: Yes. First of all, I would just observe that if there is no excessive borrowing then nobody is going to get a hardship exception at all, okay. So if you are not currently holding debt that you cannot pay with the rent roll then you don't have a hardship exception at all. This is for cases where a landlord has borrowed money against a building and the combined cost of the debt service and the operating cost of the building is not covered by the rent roll in a way that they can make the numbers work.

Now, if that is no longer occurring in this market, and you may be correct, maybe this is a moment in the market where credit has become so tight that people have not been able to get those loans in the last three years. A couple of years ago this may have been more relevant for that moment but, of course, we know laws change and housing markets come back and so we think there should be a six-year lookback rather than a three-year lookback. And again, if nobody is getting excessive loans then nobody is affected in any way by this bill.

MR. MCLAUGHLIN: They really have just disappeared. There used to be that stuff. You used to be able to borrow 100 percent of the equity. You used to be able to take out excessive amounts. I can see your point there. But I guess my question would be if the landlord is truly in a hardship, what is your alternative, to crush them? I mean, to not give them the hardship; to have them walk away from the building; to have them file bankruptcy; to abandon the building? I'm not sure where you would go from here if you don't grant what is truly a hardship.

MR. KAVANAGH: I mentioned a few of the options that the landlord would have in that case. First of all there, obviously, is an opportunity to renegotiate the mortgage. If, in fact, the cash flow from the building is not able to cover the debt service, there is no bank who actually wants to take that building off their hands anyway, so that's one option. The second is the rent regulation system has numerous methods to allow landlords to cover certain kinds of

expenses through major capital improvements, through individual apartment improvements and through other mechanisms. Finally, there are mechanisms that have been in place for a long time, particularly in New York City but in other places, as well, that ensure that when landlords walk away from buildings they don't fall into the old trap of abandonment that we had. There are opportunities to appoint receivers, to make sure the buildings can be managed.

The critical thing here is we are trying to make sure the law in New York City and other places where rent regulation applies does not encourage people now or in the future to purchase buildings where they are not looking at the rent roll for a reasonable window and three years for most people, as you probably know, to purchase a building and say, *Well, I know I'm going to be able to cover the cost for three years, I'm not sure about year four*, that's probably not a smart, rational, reasonable investment decision and it is probably something we should not encourage.

I would like to just point out that hardship is also defined as not being able to make a 5 percent profit. So this is not -- somebody could legitimately -- somebody could submit a valid hardship application where they are only making a four-and-a-half percent profit. They're not necessarily going to walk away from that building if they don't get the hardship.

MR. MCLAUGHLIN: Thank you, Mr. Kavanagh. I appreciate you explaining that for me. Thank you very much.

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.

Mr. Canestrari.

MR. CANESTRARI: Yes, colleagues, your attention, please. It is taking us longer to get the votes than it is the debate. At the rate we're going, we are never going to finish this up. We have got to be cooperative. There are no Committee meetings going on now. We have got to get these votes done in a more timely manner. We're never going to make this or get your bills done. I mean, mine will get done because of the position I'm in, but your bills will not get done if we don't sit in the seat and vote for them, so please cooperate. We're never going to get this done.

Also, to the rear of the Chamber, Keith Wright has some guests that I'd like to introduce. Actually, they're visiting us from Akron, Ohio, a group of Perkin Middle School, 15 students with teachers and chaperones Yolanda Bradford, Deana Edwards, Jackie Clayton, Officer Fred Johnson, joined by 14 students from the Hartford Middle School in Canton, Ohio, Marissa Holman, Vince

Watts and Syreeta Watkins. Again, visitors from Ohio here in the Empire State, friends of Keith Wright. We know he has national ambitions so they are his friends, students, guests, teachers and chaperones. A word of welcome on behalf of Keith, please.

ACTING SPEAKER P. RIVERA: Gladly, Mr. Canestrari. We see these great students that are coming here from such a great distance. We do hope that they appreciate the workings of the House and have an opportunity to see our colleagues as they go through one bill after another after another. We know that Mr. Wright is very glad that you're here.

So on behalf of Mr. Wright, the Speaker and all my colleagues, we congratulate you for being here. We salute you. We ask you to come back real soon. Thank you for being with us here today.

(Applause)

Mr. Canestrari.

MR. CANESTRARI: Again, the next four bills, I think we already announced Rules Report No. 93 on page 8 of the main Calendar, Linda Rosenthal, and Calendar Nos. 138 and 139 on page 14 of the main Calendar, also Linda Rosenthal, and concluding this package of bills with Calendar No. 456, page 33 and that is Mr. Kavanagh to close. Let's move the votes along, please. The debates are going quite well. The other part of the problem is a real one. Thank you.

ACTING SPEAKER P. RIVERA: Rules Report No.

93 on page 8, the Clerk will read.

THE CLERK: Bill No. 7234-A, Rules Report No. 93, Rosenthal, Dinowitz, Glick, Jeffries, Jacobs, Gottfried, Abinanti, Stevenson, Robinson, Maisel, Barron, Colton, Castro, Gibson, Cook, Wright, Hooper. An act to amend the Emergency Tenant Protection Act of 1974 and the Administrative Code of the City of New York, in relation to prohibiting a county rent guidelines board from establishing rent adjustments for Class A dwelling units based on certain considerations.

ACTING SPEAKER P. RIVERA: Ms. Rosenthal, an explanation is requested.

MS. ROSENTHAL: This bill would prohibit the Rent Guidelines Board from determining rent increases based on the amount of rent a tenant is paying or the amount of time that the tenant has been living in an apartment.

ACTING SPEAKER P. RIVERA: Mr. Fitzpatrick.

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

ACTING SPEAKER P. RIVERA: Ms. Rosenthal.

MS. ROSENTHAL: Yes.

MR. FITZPATRICK: Linda, can you explain, you know, this has been an established system, it has worked, I believe, well. What is the purpose of changing this? What's wrong?

MS. ROSENTHAL: Well, this is actually a recent development. In 2008, the Rent Guidelines Board decided that it had

the authority to change the regulations on apartments where the tenant had lived in the apartment for six years or more and was paying \$1,000 or less per month.

MR. FITZPATRICK: Right, right.

MS. ROSENTHAL: So they decided that this wasn't fair, that they paid too little rent, so they needed to get the regular increase plus a poor tax which would be a certain percentage of the rent, in addition to their regular increase.

MR. FITZPATRICK: And again, since you have housing stock that is very old, these people, these are a slow turnover, very low-rent buildings, cost of maintenance, taxes, water, et cetera, et cetera, the Court of Appeals overturned the lower court's decision that the Rent Guidelines Board could distinguish between different classes. By doing this you're going to create, again, another disincentive for people to invest in buildings like this, deferring maintenance and, really, further deterioration of the housing stock. How is that good for the people you're trying to help here?

MS. ROSENTHAL: Well, I disagree that that's what the cause is. However, the Court of Appeals granted too much authority to the Rent Guidelines Board and, instead, robbed the Legislature of its proper place in deciding how rent regulations worked. And so, every court up to the Court of Appeals agreed with us and with the people who presented this case saying that it's not the purview of the Rent Guidelines Board to decide things like this. So I and many of my colleagues are in agreement with this and we want to

restore it to we decide how these rents are regulated, not the Rent Guidelines Board.

MR. FITZPATRICK: Very good. Well, thank you, Linda.

Mr. Speaker, on the bill.

We will have to disagree. Again, this is another example. The highest court in the State of New York overturned the lower court's decision. The Rent Guidelines Board does have the authority under the statute to distinguish between different classes of buildings. You have in very select and a small number of cases where you have these very low rent, very slow turnover buildings. The landlord needs some benefit to make some kind of a profit here because the cost of maintenance on these very old buildings is so high, the cost of running these buildings continue to go up; yet, they're unable to recover enough money to make these buildings not just profitable but habitable. I would strongly urge a no vote on this bill. Again, this is another example of government really imposing an unnecessary obstruction on the further, I think, enhancement development of affordable housing in the City of New York. 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.)

Ms. Rosenthal to explain her vote.

MS. ROSENTHAL: This case, which in shorthand has been called Casado, really amounts to a poor tax on people who have lived in their apartments for six years or longer and pay less than \$1,000 in rent. We want people to stay in their apartments for a long time because it provides stable communities. We don't want people moving in and out all the time because then the community is really a commuting one and one that doesn't stay long.

I would like to read from the dissent from Justice Carmen Ciparick. "It is a fundamental principle of administrative law that an agency cannot promulgate rules or regulations that contravene the will of the Legislature or our art of harmony with an applicable statute; yet, the Rent Guidelines Board did exactly that." Landlords reap humongous benefits, with the exception of a few smaller ones, and there's no reason for them to profit off people who can least afford to pay this increase. So, therefore, I feel it's right for the Legislature to take back its power to eliminate the poor tax on people who simply cannot afford rent increases, nor should they be levied by the Rent Guidelines Board and I vote in the affirmative.

ACTING SPEAKER P. RIVERA: Mr. Jordan.

MR. JORDAN: Thank you, Mr. Speaker, for allowing me to explain my vote. I would encourage a no vote on this for one reason and one reason only, because I think that what was just said is exactly what this State does to those people who own their own

homes. With ever-increasing taxes and the burdens we place on them, we should do the same thing for homeowners and pass mandate relief and provide the taxpayers with the relief that they need so that they, too, can enjoy the benefit that we have spent the last two hours extending to tenants in New York City but haven't extended to the taxpayers of the rest of the State. So for that reason, for equitable concerns, I would request a no vote. Thank you, Mr. Speaker.

ACTING SPEAKER P. RIVERA: Are there any other votes? The Clerk will announce the results.

(The Clerk announced the results.)

The bill is passed.

We'll go to Rules Report No. 138 on page 14, the Clerk will read.

THE CLERK: Bill No. 2430-A, Rules Report No. 138, Rosenthal, Silver, Brennan, V. Lopez, Lentol, Wright, Jeffries, Latimer, Camara, Brook-Krasny, Boyland, Kellner, Lancman, Schimel, Maisel, Kavanagh, Gottfried, Dinowitz, Millman, Lavine, Colton, Nolan, O'Donnell, Titus, Farrell, Ortiz, Benedetto, Hooper, Jacobs, Robinson, N. Rivera, Zebrowski, Glick, Castro, Gibson, Stevenson. An act to amend the Administrative Code of the City of New York and the Emergency Tenant Protection Act of 1974, in relation to making conforming technical changes; and 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 1974, 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.

ACTING SPEAKER P. RIVERA: Ms. Rosenthal, an explanation is requested.

MS. ROSENTHAL: This bill would repeal the vacancy decontrol laws which provide for units of housing to become deregulated or out of the rent regulation system once the rent hits \$2,500 per month.

ACTING SPEAKER P. RIVERA: Mr. Fitzpatrick.

MR. FITZPATRICK: Thank you, Mr. Speaker.

Would the sponsor yield?

ACTING SPEAKER P. RIVERA: Ms. Rosenthal.

MS. ROSENTHAL: Yes.

MR. FITZPATRICK: Linda, again, the overall goal of this entire system is to eventually transition to a free market in housing. The vacancy decontrol system was modified not long ago with the thresholds raised. What's wrong?

MS. ROSENTHAL: Can you repeat that?

MR. FITZPATRICK: What is the genesis of this? What's wrong with the system as currently constituted? Why are we changing the rules again?

MS. ROSENTHAL: Well, first of all, we're attempting to change the rules that were put in to the detriment of

many, many tenants. The system of vacancy decontrol provides incentives for landlords to harass tenants, to get them out of their apartments so that they can raise their rents to market rate, which most middle- and low-income New Yorkers could not afford. It does result in the loss of many, many units of affordable housing, perhaps 200- to 300,000 units in the past 15 years.

MR. FITZPATRICK: But the City has also created a number of new affordable units around the City.

MS. ROSENTHAL: That has nothing to do with the loss of the hundreds of thousands of affordable units. In addition, we have a housing emergency which is when there are vacant apartments -- less than five percent of apartments out there are vacant, it's considered a housing emergency and that is no time to let vacancy decontrol continue.

MR. FITZPATRICK: Do you feel in any way that government's role in interference, government's interference in the rental housing market here has created this emergency? Do you feel government has any responsibility whatsoever here?

MS. ROSENTHAL: No. I think government's responsibility, as evidenced by the Emergency Tenant Protection Act and other laws that are in place, are to provide affordable housing for people of New York.

MR. FITZPATRICK: Can you tell me which borough of the five in New York City is affected most by this?

MS. ROSENTHAL: You know, maybe you have not

been to the City lately, but all boroughs are affected. Manhattan, of course, is the desired borough and that has many, many apartments that have been forced out of rent regulation. However, if you go into Brooklyn and you go into Queens and you go into the Bronx and parts of Staten Island the rents are too high and vacancy decontrol is causing them to become unaffordable to the average New Yorker.

MR. FITZPATRICK: Well, we know Manhattan is the greatest beneficiary here.

MS. ROSENTHAL: Manhattan is a beneficiary; however, the other boroughs are as well.

MR. FITZPATRICK: But we're talking about \$2,500 in rent, \$200,000 of income. You know, these are people who really don't need protection from government. Are these not the "1 percenters" that really can do very well on their own and if apartments meet these thresholds and become vacated, they're not forced out but when a vacancy occurs it goes to market rate.

MS. ROSENTHAL: Well, it only goes to market rate in many instances when the landlord falsely claims to have done major repairs and major upgrades to the apartments. In fact, the Department of Housing and Community Renewal rarely checks if the stated upgrades were, in fact, done. The landlord, most of the time, submits bills, says, *Oh, yeah. I have made so many improvements and made this place such a luxury apartment that its rent is now above \$2,500.* That takes it out of the rent regulation system.

MR. FITZPATRICK: I mean, you're accusing the

landlords of basically lying about improving their properties. I mean, what evidence do you have to prove that?

MS. ROSENTHAL: I can take you on a tour of apartments that allegedly have been upgraded and when, in fact, they're not.

MR. FITZPATRICK: That's a pretty strong accusation you're making, Linda.

MS. ROSENTHAL: Well, it's not only my accusation. It's, in fact, the truth.

MR. FITZPATRICK: Very well, very well. Well, thank you, Linda.

Mr. Speaker, on the bill.

ACTING SPEAKER P. RIVERA: On the bill.

MR. FITZPATRICK: There's a recurring theme here in a lot of these bills that we have discussed this morning. You know, there's a villain and the big villain is the landlord. The landlord is always the villain here. Again, the fundamental problem here is government interference. We always change the rules. We move the goal posts. The goal here is to transition into an open and free market in housing; yet, regulations by the City, whether they be zoning, environmental, et cetera, provide enough of a disincentive, but now we have government through this manufactured housing crisis that has been here since the end of World War II, every other city in the United States of America has solved their housing crisis. They don't need rent stabilization or rent control, but the City of New York seems to

have maintained this crisis.

I think it's manufactured. The politics is obvious. Yes, it's great when government can come in, make the landlord the villain, create disincentives or provide disincentives to improve, expand, develop affordable housing for people. I think there's a very appropriate word here, especially on this bill, and that is, quite frankly, tyranny. This is a tyrannical response by government to impose, impose a solution that will only make things worse, much worse.

I advocate a no vote on this bill. There is no incentive for people to really improve their housing stock, develop more affordable housing if they know down the road the State government, the City government is going to come in here, change the rules, move the goal posts and it's a very sad situation here. I advocate a no vote. Please let's not continue this mistake. Please vote no. 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.

MR. DINOWITZ: Thank you. I just wanted to say that this bill is a superb bill. I 100 percent agree with it, but I did have

to correct the sponsor on one minor thing she mentioned when she said Manhattan was the desired borough. In fact, as well all know, the Bronx is, indeed, the desired borough and I vote yes. Thank you.

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

MS. ROSENTHAL: As a Manhattan representative, I do have to say that Manhattan is the desired borough, but each person can state their own preference.

I just wanted to alert the other side that the rent regulation system remains in place as long as there is a declared housing emergency which is when vacant units are available at less than 5 percent. What we have now is 3.1 percent vacancy of apartments and for years and years we have been hovering below 5 percent of apartments are vacant and available so until that changes, we are in a housing emergency and rent regulations will continue to be the law of the State.

We need to remove the incentive for landlords to try to evict people so they can get vacant units. When they get vacant units they make individual apartment improvements for which there is no check on whether they have actually done those improvements. There is no oversight. There's no one who says you did it or you didn't do it so they get away with, oftentimes, claiming that they have done major improvements when, in fact, they haven't. It's very important to keep our City one of mixed incomes and if we repeal vacancy decontrol we will continue to have a very interesting, diverse

City. With vacancy control we are losing part of the essence of this City, so I urge a yes vote.

ACTING SPEAKER P. RIVERA: Are there any other votes? The Clerk will announce the results.

(The Clerk announced the results.)

The bill is passed.

We will proceed to page 14, Rules Report No. 139, the Clerk will read.

THE CLERK: Bill No. 4900, Rules Report No. 139, Rosenthal, Gottfried. An act to amend the Administrative Code of the City of New York, in relation to the filing of an overcharge complaint.

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

MS. ROSENTHAL: This bill would require orders issued outside of a four-year period to be complied with and included in rental history and also require that any rent overcharge complaint based on fraud shall be reviewed by the Division of Housing and Community Renewal irrespective of whether such fraud occurred outside of a four-year preceding the filing of such complaint.

ACTING SPEAKER P. RIVERA: Mr. Fitzpatrick.

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

ACTING SPEAKER P. RIVERA: Ms. Rosenthal.

MS. ROSENTHAL: Yes.

MR. FITZPATRICK: Thank you, Linda. It appears

to me that the purpose of this legislation, again, is to slow down that process of rents approaching that \$2,500 threshold. By putting this added burden on the system here, again, moving the goal posts, changing the rules, you're now going beyond this four-year statute of limitations. You're just making the system more cumbersome, more burdensome, more expensive all with the desired goal to keep that vacancy decontrol from ever happening. Am I accurate here?

MS. ROSENTHAL: No. Actually, you're inaccurate.

MR. FITZPATRICK: I think I am.

MS. ROSENTHAL: This bill would codify decisions that have been handed by the New York Court of Appeals and, actually, they only pertain in instances where landlords committed fraud or did not comply with orders.

MR. FITZPATRICK: Are you not going to open up these landlords to just constant complaints of overcharges and fraudulent charges, et cetera? I mean, we're really creating a mess here, in my opinion, all with the desired result of slowing down that process of rents moving toward the limits for decontrol.

MS. ROSENTHAL: Well, actually, let me explain a little bit about the two cases that led to this bill. One is called *Cintron v. Calogero* and DHCR awarded rent reduction orders; yet, the landlord did not comply with the order. So when the tenant filed a complaint, the court decided that DHCR had to look past the statutory four-year period to determine the accurate amount that the tenant should pay and this resulted from the landlord disobeying the order.

So, the four-year was not sufficient because it was prior to the four years that the landlord did not comply with the orders.

MR. FITZPATRICK: Right.

MS. ROSENTHAL: In the second case, which is *Grimm v. The State of New York Division of Housing and Community Renewal*, the four-year statutory period was dealt with because the landlord concealed when renting to a tenant that the apartment was rent stabilized, charged many times more than the legal rent and then tried to get the tenant to perform repairs in the apartment in exchange for that he could stay in that apartment. These were instances of fraud, frauding the system and not complying with orders. This bill codifies what the court ruled and does not extend beyond landlords who behave badly.

MR. FITZPATRICK: So, basically, then the four-year Statute of Limitations, we're saying it just doesn't exist anymore.

MS. ROSENTHAL: Well, that's how I would like to look at it.

MR. FITZPATRICK: Very well, then. Thank you, Linda.

Since the sponsor referred to the court case I would like to read the dissenting opinion from Judge Robert Smith from the Court of Appeals and very succinctly, it says, "The majority opinion can be read to mean either that the four-year limitation has largely ceased to exist or that any case to which the limit applies on its face

must lead to a mini litigation in which DHCR tries to figure out whether the overcharge was fraudulent enough to escape the time limit. If the former, the majority has simply tossed aside the Legislature's command. If the latter, I do not envy DHCR, its task."

This is going to just gum up the system. This is designed to prevent rents from rising to meet that \$2,500 threshold. Again, this is, in a word, just tyranny, more government tyranny in the housing market. It needs to stop. I hope these bills remain one-House bills, they should. I would urge a no vote. 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.)

Ms. Glick to explain her vote.

MS. GLICK: Thank you, Mr. Speaker. I just rise in support of the measure. I think it's quite clear that this codification of the Court of Appeals' decision really is narrowly focused on instances where fraud has been committed and I am actually quite surprised and shocked that anybody might be opposed to ensuring that fraudulent activity be uncovered and dealt with appropriately. I will be voting in the affirmative.

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

MS. ROSENTHAL: The Court of Appeals basically said if you try to game the system and defraud a tenant and not comply with orders of the court, you will be found out even if it's outside the four-year lookback period. This is for fraud. This is for landlords who do not comply with orders and it was basically telling DHCR you must look back longer than four years when you suspect that perhaps something is not right. We are codifying what the Court of Appeals ruled. I think it's imminently fair because landlords sometimes do not comply with orders that they have comply with and certainly do try to defraud the system at times. We should not be condoning this. Voting for this bill means you are fighting; you are fighting fraud, you're fighting disobeying orders and I would think that is a bill everyone could get behind so please vote yes. Thank you.

ACTING SPEAKER P. RIVERA: Are there any other votes? The Clerk will announce the results.

(The Clerk announced the results.)

The bill is passed.

We'll proceed to page 33, Calendar No. 456, the Clerk will read.

THE CLERK: Bill No. 6394-B, Calendar No. 456, Kavanagh, Rosenthal, Castro. An act to amend the Administrative Code of the City of New York and the Emergency Tenant Protection Act of 1974, in relation to the establishment of rent boards.

ACTING SPEAKER P. RIVERA: An explanation is requested. Mr. Kavanagh.

MR. KAVANAGH: Thank you, Mr. Speaker. And, with the indulgence of the Speaker, I would first just like to thank you for finding the time to do this bill even though I'm not the Majority leader.

This bill would -- as we can all agree, I think, here based on this debate, the rent stabilization system in New York and some surrounding counties has a major impact on the life of the City and on literally millions of people; yet, the Board that administers it locally, the Rent Guidelines Board in New York City and rent boards in suburban counties, are currently too narrowly constructed and in New York City they are appointed by the sole authority of the Mayor of the City of New York.

This is a bill that would expand the qualifications for potential members of that board and in New York City it would add advice and consent of the City Council as a requirement for appointees that we believe that that would allow the appropriate level of discussion just like the discussion we've had today about what the purpose of this is and what the pros and cons are of this system and, indeed, what decisions they ought to make every year about the appropriate level of rent. This is a bill that is supported formally by the Speaker of the City Council and members in a formal resolution and I'll also note that the Mayor of the City of New York, in spite of substantial press coverage of this, including some coverage in the New York City papers, has not taken a position against this bill as of today.

ACTING SPEAKER P. RIVERA: Mr. Fitzpatrick.

MR. FITZPATRICK: Thank you, Mr. Speaker.

Would the sponsor yield?

ACTING SPEAKER P. RIVERA: Mr. Kavanagh.

MR. KAVANAGH: Yes, Mr. Speaker.

MR. FITZPATRICK: Brian, is the intent of this bill to keep rent increases to zero?

MR. KAVANAGH: No. The intent of this bill is to apply the same appropriate level of Democratic process to the Rent Guidelines Board that we apply to numerous other executive appointees; Commissioners of agencies, Commissioners of boards both at the City and State level are routinely subject to advice and consent of the legislative Body. The boards of the suburban counties are currently appointed at the recommendation of the local county legislatures and we believe that's the appropriate mechanism for appointing people who make unilateral decisions that affect millions of people.

MR. FITZPATRICK: Understood. Would this not politicize or further politicize a process the Mayor currently has brought authority to pick the best people as he sees fit to serve in this capacity? They are empowered to look at very important statistics about the cost of operating buildings, taxes, utilities, et cetera, et cetera. How, in your view, would this process be improved by what I think would be further politicization of the process? The members of the City Council, no one wants a rent increase, so who are they going to advise and consent to be appointed to this board? Are they going to

appoint people who will vow to ignore these statistics? I mean, how is this going to improve the process? I don't see it.

MR. KAVANAGH: First of all, I would just observe that the same kind of argument could be made for virtually any appointee that's currently subject to advice and consent. The President of the United States is not allowed to pick an Attorney General or his Cabinet without the advice and consent of the Congress. Secondly, I would observe that it is simply not possible to have more politicization than we have at the RGB in New York City. If you've ever been to an RGB board meeting, it is quite political; let's leave it at that.

Again, the question here is not what the appropriate determination of the RGB is, the question is not whether we should have zero rent increases or we should roll back rents, the question is whether we should have, when this Body gives an executive the power to appoint members of a board, whether there is an appropriate role for legislatures in reviewing the qualifications of that board. It happens that we have -- we, at this moment, have a mayoral administration that generally views boards as bodies that are supposed to just do whatever the Mayor would do if he happened to be sitting in those seats, but other mayors may take a different view.

But the simple fact is, there are members of the City Council that have a view that would be shared by people on the other side of the aisle with respect to rent regulations. There are diverse views in the City Council. There are even a few people on each aisle

of the aisle in the New York City Council and I believe that we would have a lively debate. Again, the question is what is the appropriate role of local legislatures in making these appointments? With something that literally affects millions of people, as we've discussed at great length today, we think that it's important to have an open Democratic process.

MR. FITZPATRICK: Point well taken. I think the Mayor represents all 8-plus million people of the City of New York. He represents every tenant. He is solely responsible for the actions of that board. It is his responsibility to pick the best and brightest people. You know, you can argue that it's a political process; I don't see how it would become less political by allowing advice and consent of a City Council, you know, 50-some-odd districts. You know, what concerns me is that if I'm a district from anywhere in the City, my responsibility is only to those constituents in that district. I really don't have responsibility across the entire City. The Mayor is the only elected official who does, not the City Council. The Mayor is free right now. He'll pick up the phone any time, I'm sure, from a member of the City Council to have a discussion with any City Council member about anyone who is proposed for service on that board.

So, I don't see the need to change that system. Yes, it may make the City Council feel good, but it really opens the door to further and more dangerous politicization of a process that, as you argue, is politicized enough.

MR. KAVANAGH: A few observations. First of all,

I am not suggesting this would be less political. I think in this context, political is a perfectly fine thing. Democracy is a political process. Each City Council represents only 1/51st of the City but, collectively, the City Council represents the entire City. And I guess since I've yielded my time to the questioner, the esteemed questioner of whom I have great respect, I guess this is just a rhetorical question. But I would ask if advice and consent is not appropriate in this case for the reasons that have been articulated by the gentleman from the other side of the aisle, in what circumstance is advice and consent appropriate? Executive authorities always have, presumably, the best interests, as they see them, in mind, the people of their City and, yet, we routinely subject -- in New York City and in New York State and at the national level, we routinely subject the appointees of the Executive Branch to advice and consent and I don't think that our opinions about the particular substance of this law should affect whether we think advice and consent is appropriate in this case.

MR. FITZPATRICK: Very good. Thank you.

Thank you, Brian. Mr. Speaker, on the bill.

ACTING SPEAKER P. RIVERA: On the bill.

MR. FITZPATRICK: I also have the utmost respect and admiration for my dear colleague. We're good friends. I'm not saying his point of view is wrong. My argument would be that the powers vested right now in the Mayor to pick the members of the Rent Guidelines Board do not need to be changed. The Mayor is responsible to every citizen in the City of New York. I think this is an

unnecessary infringement on the powers of the Mayor. The Mayor, any mayor -- you know, I think we have a City Council Speaker who says he supports this. I wonder if that point of view might change if that person someday occupies that seat, might want to hold on to that power for the office of the Mayor.

There's no need to change this. If this Body decides to vote in favor of the sponsor's legislation, so be it. I respect that decision. But there is no need to change the powers of the Mayoralty right now with regard to his or her choice for the members of the Rent Guidelines Board. He is the official, the only elected official in the City of New York, who is responsible to every single resident, every single tenant in the City of New York. If we change that, we change what is already established, and there is no need to do that. I urge a no vote. 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.)

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, the A-Calendar was previously distributed to the members' desks. 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 go to page 4 of the A-Calendar and take up Rules Report No. 153 directly, please, Mr. Gottfried.

ACTING SPEAKER P. RIVERA: Turning to page 4 of the A-Calendar, Rules Report No. 153, the Clerk will read.

THE CLERK: Bill No. 7347-B, Rules Report No. 153, Gottfried, Arroyo, Cahill, Calhoun, Clark, Cook, Cymbrowitz, DenDekker, Dinowitz, Jaffee, Kavanagh, Lavine, Lifton, O'Donnell, Paulin, Peoples-Stokes, Rosenthal, Boyland, Weprin, Bronson, Crespo, Lupardo, Titone, Skartados, Castro, Linares, Hevesi. An act to amend the Public Health Law and the General Business Law, in relation to medical use of marijuana.

ACTING SPEAKER P. RIVERA: Before we start the debate, Mr. Canestrari.

MR. CANESTRARI: Yes, thank you, Mr. Speaker. There will be an immediate meeting of the Ways and Means Committee, Speaker's Conference Room. Ways and Means. Chairman Farrell is on his way. Thank you. Sorry for the interruption.

ACTING SPEAKER P. RIVERA: Sorry, Mr.

Gottfried. An explanation is requested.

MR. GOTTFRIED: Thank you, Mr. Speaker. There are thousands of New Yorkers with serious debilitating and life-threatening conditions whose suffering could be relieved and whose lives could be lengthened if New York allowed the medical use of marijuana. The fact that what is, by now, a fairly well-established medical proposition is not the law in New York, is just an example of political correctness run amuck. Eighteen states, counting the District of Columbia, have now enacted medical marijuana legislation. The bill we are considering this afternoon would enact what would be about the most restrictive medical marijuana laws in the country, a statute that is modeled on the law that now regulates the medical use of morphine and oxycodone and a long list of extremely dangerous and addictive drugs that the law has long recognized as having appropriate medical uses, but this legislation, while it is largely modeled on that legislation is, in many respects, more restrictive.

What the bill says, essentially, is that if a healthcare practitioner who is currently licensed to prescribe controlled substances who is treating a patient for a serious debilitating or life-threatening condition concludes that that condition may be effectively treated by the medical use of marijuana, the physician or other practitioner may certify that in writing. The patient then files that certification with the State Health Department, receives back from the Health Department a registration ID card and would then be allowed to go to a State-regulated and licensed hospital or pharmacy

to obtain a limited quantity of marijuana for medical use.

Now, many questions are asked about whether this legislation might somehow become a ruse for someone to obtain or use marijuana for recreational purposes. Lots of people ask that question. It's understandable. But, when you consider that under New York law today, somebody who is willing to break the law and, of course, to use medical marijuana for recreational purposes you would be, by definition, someone willing to break the law, someone who is willing to break the law to get marijuana for recreational use really has no difficulty doing that in this State today. And if you go out and buy about 7/8ths or less of an ounce of marijuana, you are guilty only of a violation, an offense comparable to getting a ticket for littering, but if you were to try to make use of this legislation for recreational use, you would first have to find a physician or other healthcare provider who is willing to jeopardize his or her medical license, his or her DEA number and his or her liberty on your behalf. You would then have to send your name and address and details to the Health Department saying, *Hello. Here I am.* And you would then, once you go outside -- once you violate the medical marijuana law, you are not only committing the violation that you would be committing for possessing a small amount of marijuana, you would now be committing a misdemeanor for violating the Public Health Law and, because you would no longer be under the medical marijuana law, you would be subject to any penalties that are now in the Penal Law.

And so, anyone who would use this legislation for

recreational purposes or for purposes contrary to the medical marijuana law would be in serious legal trouble and would have to be really stupid.

ACTING SPEAKER SWEENEY: Thank you, Mr. Gottfried.

Mr. Tobacco.

MR. TOBACCO: Would the sponsor yield?

MR. GOTTFRIED: Yes.

ACTING SPEAKER SWEENEY: The sponsor yields.

MR. TOBACCO: Dick, if this becomes law, will a physician be able to write on his or her pad a prescription for marijuana for their patient?

MR. GOTTFRIED: Technically, no. It would not be called a prescription because under Federal law, you can't use the word "prescription" in connection with marijuana. Instead, the physician, using a form specified by the Health Department, would be doing a written certification.

MR. TOBACCO: Why under Federal law can we not use a prescription?

MR. GOTTFRIED: Because marijuana is a Schedule I substance and any healthcare practitioner who has a DEA license to prescribe controlled substances is prohibited by Federal law from prescribing - that very special word - from "prescribing" a Schedule I substance. That is why 18 other jurisdictions have created a piece of

paper with a different name.

MR. TOBACCO: Okay. In the State of New York currently right now, for legal drugs and medicines that we have that either the State supplies to its most neediest, or for our insurance companies, we ask our patients on many occasions to go through a step therapy approach, a failed-first approach. There are other products out there that can relieve the signs and symptoms of what patients, or some patients, are asking for for this. Is there any type of regimen? That does this legislation set up for these patients any documentation and structure of maybe failing a Marinol first or other products before given such certificate from their healthcare provider?

MR. GOTTFRIED: Well, I'm not aware of any law in New York that tells a prescriber that you must try some other drug before you try some other drug. There are laws that, for example, in the Medicaid program, say that under some circumstances, if you want Medicaid to pay for drug "X", you must first try drug "Y", and there are insurance companies that have similar restrictions, but that all goes to the question of payment, not to whether a physician or other prescriber may prescribe those drugs. I mean, under New York law, if you go to the doctor and say, *I have a hangnail, I think I need morphine*, the law does not say the doctor may not prescribe morphine for your hangnail. Now, your health plan may not want to pay for it, but you could read the law backwards and forwards and not find any prohibition on prescribing morphine for a hangnail. By the way, this bill would prohibit that, as for marijuana.

So, on that score, this legislation is not any more permissive or different from the law relating to any other drug and the bill has a very specific provision in it that says that no insurance carrier is either required to cover medical marijuana or prohibit it, and that nothing in this bill shall be construed as implying that the Medicaid program would pay for medical marijuana.

MR. TOBACCO: Thank you, Dick. Thank you. On the bill.

ACTING SPEAKER SWEENEY: On the bill.

MR. TOBACCO: As I start my comments here, I want to say very publicly that I am proud to say that I am a cancer survivor myself. I'm cancer free for about 17 months. Cancer is a big part of my life right now. And I'm around patients that aren't as fortunate as, knock wood, as I am right now standing before everyone. So, I want everyone to know, as I gave my comments, I give my comments with compassion because it is a major part of my life. And I do not question any member in this room's intention, whether you're voting for or against this; I'm not questioning anybody's motive and I'm not questioning anyone's compassion.

But what I do want to say is we really need to have a healthy conversation in this Chamber right now about some facts and some statistics and, basically, some process. In this Chamber, we have an obligation to the health and safety and welfare of all of our citizens, all of our citizens. So, there are going to be many, many unintended consequences if we should go forward with such

legislation. What is indisputable is that marijuana is a gateway drug; that is indisputable. And the most comprehensive national assessment ever undertaken at the Center on Addiction and Substance Abuse at Columbia, the study shows that children 12 to 17 who use gateway drugs such as marijuana are up to 266 times and adults are up to 323 times more likely to use cocaine and drugs like cocaine. Now, we were all proud of ourselves the other day in coming out with legislation I-STOP for people that have an addiction to legal prescription drugs, legal prescription drugs, that we're having a hard time monitoring and seeing where they're coming from and how they're being regulated.

I've had a firsthand discussion with a chief of medicine. Now, I don't know if you know what the definition of a chief of medicine is, but that is a physician who decides what therapy and treatment and drugs go on in a major institution, of a worldwide acclaimed cancer center. The chief of medicine, and I'm not going to say the names, of a worldwide acclaimed cancer center said that this is nonsense and that medical marijuana is unnecessary for the treatment of his cancer patients and, actually, there are more consequences that would be negative for his patients than the positive. Cancer and AIDS patients have weakened immune systems. Marijuana damages cells in the bronchial passages, decreases ability of immune cells in the lungs to fight off bacteria and tumor cells, a weakening in the body's to produce t-cells and the increase in pulmonary infections and respiratory cancer and the impairment of perception, judgment and

memory learning. We could go on. We have bills in this House about texting and driving. Think about that, about texting and driving and being impaired when we're behind the wheel.

We are usurping the FDA process in this House. We know better than the Food and Drug Administration that has a team of physicians, statisticians, chemists, pharmacologists and other scientists that review extensive clinical trials before any drug is released to the public, and there is a reason for that. It ensures quality, safety and effectiveness of drugs, chemicals, chemical compounds, mind-altering chemical compounds that change our behavior. So, while this may change our behavior to maybe make us eat a little bit more, or may change our behavior to give us a little less pain, it also changes our behavior when we are dealing and interacting with machinery, with cars, with our children and with other people.

Let's not fool ourselves. Let's not fool ourselves on the door that we are opening. I get the compassion. I get the idea that maybe we can help some, but we need to step back on this issue. And I know it's an emotional one. And, again, I'm a cancer patient myself. We need to step back from this and say to ourselves, *Is the little good we are doing going to be opening a door that we're going to find ourselves in this House in years to come in dealing with increasing drug addiction in this State?*

Going back to the FDA, drugs have directions, dosages, precautions, warnings, contraindications, drug-to-drug interactions, adverse reporting with post-marketing, effects on age

groups, the young, the old, the pregnant. Race and sex. Different drugs react to different sexes. Some African-Americans can't tolerate some drugs that some white people can. Did you know that? And then we also have to deal with patients that have renal and hepatic failure. This is serious business, my friends. This is business for scientists, chemists and doctors, not for politicians. There's a reason why we have the FDA in this country.

While I respect everyone in this room, you're all intelligent and you didn't get here by accident, but let's not kid ourselves. And it is the wise man or woman that knows what they don't know. We are walking into uncharted ground with this under the guise of compassion. We need to step back and look at the scientific and socioeconomical impact that this is going to have.

So, I caution every member in this House, please, respectfully, to think twice before we open the door and create a quasi-legal, illegal underground that, no doubt, will happen. There are so many ambiguities in this legislation. And, again, again, again, I know that there will be anecdotal stories of how it helped their aunt or how it helped a loved one. Yes, I get that. But guess what? There are many drugs that have been denied by the Food and Drug Administration that have helped mothers, aunts and uncles during clinical trials, but it was science that showed that those benefits were not strong enough in the whole scheme of society.

So, yes, we're going to hear anecdotal stories today of how someone died in someone's arms and the only relief that they got

was through this marijuana. I get that. I get that. And those stories are going to be beautiful, but we need to think of the statistics and the population as a whole. And again, the FDA on a daily basis denies corporations, the pharmaceutical industry, every day good drugs that may help some people but have a negative impact on the overall society.

So, with that, I truly ask the members of this House to step back and truly think from a clinical and scientific standpoint, do we really know better? Do we really know better than the FDA in this House to allow this to happen? Thank you.

(Applause)

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. Gottfried.

MR. GOTTFRIED: Certainly.

MR. MURRAY: First, let me say, in that very well-thought-out and delivered statement, my colleague did bring up some very good points, one of those being that it was just a few days ago that we passed the I-STOP legislation and one of the main goals of that legislation was to cut down on the pill mills, the doctor shopping, the out-of-control prescriptions that are being handed out.

So, my question is, in this legislation, is there anything to control these doctors or folks that are going to be handing out this -- I don't want to say prescriptions, but delivering this to the

patients? Is there anything to keep this under control so they're not giving it out to anyone?

MR. GOTTFRIED: Several things. The Penal Law, the Public Health Law, provisions of the Education Law under which they can lose their license, the fact that unlike every other drug, there will now be a specific description of the kind of condition for which marijuana can be certified, unlike opium and morphine, which can be prescribed for whatever the doctor chooses. Also, let's remember that unlike.

OxyContin and other drugs that were the subject of the I-STOP bill, people who want to get marijuana for recreational use don't have to hold up a drugstore, don't have to spend the kind of money that a bottle of OxyContin might cost. Somebody who wants illegal marijuana doesn't have to go find a doctor willing to jeopardize his or her liberty, they have to go to the street corner and risk the criminal penalties of a littering fine.

MR. MURRAY: Well, I mean, couldn't we say that about the OxyContin or the other prescription drugs because they can get it on the street?

MR. GOTTFRIED: No, we can't. We could never say any of that about OxyContin. OxyContin is not available on every street corner. The illegal possession of a bottle of OxyContin pills is significantly more illegal than a littering ticket. None of the things that you would say about OxyContin is at all relevant to this legislation.

MR. MURRAY: I'll disagree with you there and I will say that I think it's a little more available than you're making it out to be, but with that said, it seemed to me that the description of the practitioners of how they're describing it, you said there were strict guidelines, but it seems like they can just say, *I think this will be good for you*. I mean, that's not the case?

MR. GOTTFRIED: No, actually, I'm sorry, but the bill says the opposite.

MR. MURRAY: If you could point it out, if you could point out the part that specifically describes the conditions in which they can --

MR. GOTTFRIED: The definition of a serious condition.

MR. MURRAY: As determined by?

MR. GOTTFRIED: I'm sure you've read the bill, so I know you know where that provision is.

MR. MURRAY: A certified serious condition?

MR. GOTTFRIED: Tell me how the language in the bill could come close to ever being described as, *You can have it for whatever you want*, or whatever your words were.

MR. MURRAY: The problem that we are having --

MR. GOTTFRIED: English means -- I mean, words have meaning.

MR. MURRAY: Sure.

MR. GOTTFRIED: The bill does not begin with a

sentence that says the following words have no meaning, right?

MR. MURRAY: And I didn't say it did.

MR. GOTTFRIED: Right.

MR. MURRAY: The problem that we're facing with the prescription drugs --

MR. GOTTFRIED: So, let me put the question back to you. Show me the words in the bill that you think mean --

MR. JORDAN: Mr. Speaker --

MR. GOTTFRIED: -- that you can get medical marijuana for whatever you want and I'll try to explain to you why this is so.

MR. MURRAY: Are you going to let me answer and maybe I'll get to that. How's that?

ACTING SPEAKER P. RIVERA: Mr. Jordan, why do you rise?

MR. JORDAN: Mr. Speaker, in an effort to proceed through this orderly I would ask, although Mr. Gottfried certainly has the opportunity to answer questions as long as he chooses, I would request that he give the speaker, the questioner the same courtesy and allow him to finish his questions. Thank you, Mr. Speaker.

ACTING SPEAKER P. RIVERA: But I think they were cooperating with each other.

MR. MURRAY: We're getting there. We're getting there. Mr. Gottfried, the point I was going to make was the fact that one of the main reasons we passed the I-STOP legislation is that

doctors were not following the rules and there were doctors out there that were handing it out, at will, prescriptions that they should not have been doing. And my question here is what are the guidelines, what are the safeguards against that happening with the practitioners here saying, *I'm now certifying that I think you need it because it's serious?* Isn't that the same thing as them being able to, at will, decide that someone can have marijuana?

MR. GOTTFRIED: No.

MR. MURRAY: Okay.

MR. GOTTFRIED: Because if a doctor writes a certification on the assertion that he is treating a patient for a serious condition, as defined in the bill, and that the marijuana is necessary or is an appropriate treatment for that serious condition and that's not true, then that doctor is committing a crime under this bill and under existing Penal Law. And nowhere in the I-STOP bill, nowhere in the I-STOP bill does it say that opium can only be prescribed for a serious condition. Nowhere in the I-STOP bill does it say that any of the drugs that you've mentioned are not going to be legally available for a patient who is suffering or even for a patient who is not suffering.

MR. MURRAY: Correct.

MR. GOTTFRIED: Nowhere in the I-STOP bill is there any restriction on what patient may get use of a controlled substance or any limitation of the quantity.

MR. MURRAY: You're right, because that wasn't the goal of the I-STOP bill.

MR. GOTTFRIED: This bill, however --

ACTING SPEAKER P. RIVERA: Colleagues. Mr. DenDekker, why do you rise?

MR. DENDEKKER: Will Mr. Murray yield for a moment?

MR. MURRAY: Yes.

MR. DENDEKKER: Mr. Murray, you mentioned that the I-STOP bill, that doctors were prescribing these prescriptions and that was the reason why we did it.

MR. MURRAY: One of the reasons.

MR. DENDEKKER: The reason why we did it is so that one doctor would know that another doctor had prescribed that.

MR. MURRAY: Correct.

MR. DENDEKKER: It wasn't that we had doctors that were just blatantly disobeying the laws of prescription, it was that we were trying to make sure that other doctors that had no knowledge that that patient had went to another doctor and already got a prescription would then have the knowledge to know that that patient was abusing the system and going to various doctors. That was the purpose of it.

MR. MURRAY: That was one of the reasons.

MR. DENDEKKER: I just wanted to make the point to correct it, because you just made it seem like that that's why this would be a different issue.

MR. MURRAY: That's one of the reasons, but I'll

tell you right now, on Long Island there has been arrest after arrest and in Queens and in the Bronx, several arrests over and over again recently of doctors doing the perp walk because they've been caught writing bad prescriptions and doling out these opioids where they shouldn't have.

MR. GOTTFRIED: Mr. Murray, nowhere is anyone suggesting, that I've heard of, that any of those substances be moved by the State of New York into Schedule I.

MR. MURRAY: Well, see, I'm coming to that and that's what I'm going to ask you regarding the I-STOP --

MR. GOTTFRIED: You're going to suggest that morphine be a Schedule I drug?

MR. MURRAY: No.

MR. GOTTFRIED: I didn't think so.

MR. MURRAY: No, what I'm going to ask is this: The point of the I-STOP was to bring this under control and to track the prescriptions, just as Mr. DenDekker had said --

MR. GOTTFRIED: Yes.

MR. MURRAY: -- to track the prescriptions and to get a handle on it because it's gotten out of control.

MR. GOTTFRIED: Yes.

MR. MURRAY: My point is we took that step to bring it under control. This piece of legislation, I don't believe, keeps the marijuana under control. I believe this will open up the doors, my colleague had said earlier, to possible problems where there will be

practitioners saying, *Sure, go ahead and have some*, without any checks and balances.

Now, you had just said, you had just described to me how bad the penalties were for a doctor giving out phony prescriptions or things of that nature, that they were very, very serious; in fact, you had mentioned that marijuana would be more like a parking ticket, where as the --

MR. GOTTFRIED: Not would be, is.

MR. MURRAY: Okay. Is.

MR. GOTTFRIED: And has been 35 years.

MR. MURRAY: That's right, where the prescriptions would be worse. And yet, with those penalties in place, we still had the problem of the doctors prescribing. So, what's to say it's not going to be even worse when the penalty is even less, when we don't have specific guidelines in here to keep those practitioners from handing it out to whoever they want?

MR. GOTTFRIED: Part of what is to prevent that from happening is that there would be -- in order to find a recreational user who wants to get their marijuana for recreational use through this legislation, you would have to have a recreational user who was going out of his or her way to call the attention of the State to his or her name and address and to make themselves liable, not for a littering ticket, but to a misdemeanor or a felony.

The point here is that in order to abuse this law, you have to make yourself in jeopardy for serious legal consequences that

you do not today have to expose yourself to in order to obtain marijuana illegally for recreational use. Why would anyone go out of their way to call attention to themselves, to the State of New York so as to make themselves subject to misdemeanor and felony penalties when, instead, they could be guilty only of a littering ticket?

MR. MURRAY: Because, sir, the only way that they would be subject to that --

MR. GOTTFRIED: Why would anyone do that?

MR. MURRAY: -- is if it could be proven that they were at fault.

MR. GOTTFRIED: Why would anyone do that?
And the answer is no one would do that.

MR. MURRAY: No, that's not the answer. How about if you let me answer if you ask the question.

MR. GOTTFRIED: Okay.

MR. MURRAY: Here's the answer. How about a person who has been arrested for drugs in the past, who was buying it on the street corner illegally but has a doctor friend and the person wants to get it legally so they'll go to their doctor friend and say, *I have got real problems here, help me out.* The doctor friend says, *Sure, I believe that's a serious problem. Here, now you're legal.* And who is going to prove that he's not? Who is going to prove it?

MR. GOTTFRIED: But it isn't legal, it's still a crime.

MR. MURRAY: How would you enforce it?

MR. GOTTFRIED: The fact that you walk into a

bank and say, *It's my money, give it to me*, doesn't make taking the money legal.

MR. MURRAY: If it's your money, it's legal.

MR. GOTTFRIED: No, I'm saying it isn't your money. The fact that your friend, the bank teller, you come in and your friend the bank teller says, *Here, have \$1,000 from the bank. It's a gift from me*. That doesn't make it legal.

MR. MURRAY: And it's not the same situation; that's apples and oranges. I'm saying if the doctor --

MR. GOTTFRIED: Well, of course it is. You're saying somebody who could today, for the price of being willing to commit a violation and, by the way, the fact that you have previous drug offenses doesn't mean it's more than a violation, you're saying this person is now going to ensnare themselves in this whole legal system and is going to find a doctor willing to make himself or herself subject to going to jail and losing their livelihood and losing their license?

MR. MURRAY: They're not ensnaring themselves in anything --

MR. GOTTFRIED: Well, of course they are.

MR. MURRAY: -- because you have to prove that it's fraud. Under the guidelines under this legislation, it is so broad, the doctor can simply say, *In my opinion, I think this will help this person*.

MR. GOTTFRIED: It's a whole lot narrower than the

laws that neither you nor anyone else in this Chamber in history has tried to narrow. Nobody in this Chamber has tried to say that you can't prescribe morphine except for certain conditions. There's no bill like that. I don't think there ever has been.

MR. MURRAY: We're not talking with morphine, we're talking about legalizing something the FDA and the Federal government says is illegal.

MR. JORDAN: Mr. Speaker, point of order.

ACTING SPEAKER P. RIVERA: Mr. Jordan, why do you rise?

MR. JORDAN: Mr. Speaker, you know, the sponsor of this legislation has interrupted Mr. Murray on seven occasions in the last three and a half minutes and this is going to take all night if it continues and I would ask that you please admonish him to please respect the questioner.

ACTING SPEAKER P. RIVERA: Your point is well taken, Mr. Jordan.

MR. JORDAN: Thank you, Mr. Speaker.

ACTING SPEAKER P. RIVERA: If we could just tone down the conversation, colleagues, a little bit. We know it's a heated topic. We know that there's a lot of emotion in this area, but I would just ask to tone down the conversation and allow each other, allow each other to finish the conversation.

MR. MURRAY: We certainly do want to keep it respectful. I think we're just disagreeing, but I think we can keep that

respectful.

What I'm saying here is that what we're trying to do with this piece of legislation is make something legal. Morphine is legal right now if prescribed properly, as is oxycodone, as is Valium. Marijuana is not legal, it is illegal. The Federal government says it is illegal. The FDA says it shouldn't be legal. It is illegal right now in the State of New York. So, this legislation isn't dealing with morphine or anything else, it is dealing with trying to legalize something that is illegal and, in my opinion, the way this is written, it is so vague that we are opening up the floodgates now and that was my point. There is nothing in place in this legislation to keep a practitioner from doling it out as they want to; is that correct?

MR. GOTTFRIED: And what I've been trying to say is that is the opposite, the opposite of correct. To say that about this bill is utterly and entirely incorrect. There is no way that an English speaker reading this bill could validly come to that conclusion.

MR. MURRAY: Well, I am an English-speaking person, I did read it and I've come to that conclusion. So, congratulations. I must be the miracle. Perhaps you can point out in the legislation exactly where I am wrong. It is your legislation, you wrote it. Please find the part that I'm wrong.

MR. GOTTFRIED: Starting with the definition of "serious condition."

MR. MURRAY: I'm sorry?

MR. GOTTFRIED: Starting with the definition of

"serious condition."

MR. MURRAY: According to who?

MR. GOTTFRIED: Going on to the provisions in the bill that say that if the marijuana is not used in accordance with this title, then you get no legal protection from this title at all, which brings you back under the Penal Law, as well as putting yourself in jeopardy of losing your medical license and your liberty.

MR. MURRAY: First, if we could ask, Mr.

Speaker --

MR. GOTTFRIED: Practically every other line of the bill has references --

ACTING SPEAKER P. RIVERA: Colleagues, could we have some silence in the Chamber, please? Not from the debaters, though.

MR. GOTTFRIED: -- has references that everything has to be for medical use as defined in the bill and in accordance with this title and if you depart from that, the bill gives you no protection and you are back under the jurisdiction of the Penal Law, plus you have sent your name and address to the State of New York.

ACTING SPEAKER P. RIVERA: We do have a whole long list.

MR. MURRAY: Can I speak on the bill? No. Okay.

ACTING SPEAKER P. RIVERA: You can either explain your vote or not right now.

MR. MURRAY: Okay.

ACTING SPEAKER P. RIVERA: Mr. Graf.

MR. GRAF: Will the sponsor yield for a couple questions?

MR. GOTTFRIED: Yes.

MR. GRAF: And I apologize about my voice. Who is going to dispense the marijuana, can you answer that?

MR. GOTTFRIED: Yes. An entity licensed by the Health Department which, in almost every case, would be a hospital or a pharmacy meeting specific regulatory requirements that are modeled on the requirements for dispensing other controlled substances.

MR. GRAF: Okay. So a pharmacy, is that what you're trying to say?

MR. GOTTFRIED: A pharmacy or a hospital that is specially licensed for this purpose, yes.

MR. GRAF: Okay. Now, we don't manufacture that in New York. Where are they going to get it?

MR. GOTTFRIED: A registered organization such as a specially-licensed hospital or pharmacy could produce and there is also provision in the bill to become a registered organization solely to produce. And, again, you would be subject to a regulatory scheme that is largely copied from the law governing who can be licensed to manufacture other controlled substances.

MR. GRAF: Okay. Are they purchasing this through the mail? Can they purchase it through the mail?

MR. GOTTFRIED: The bill doesn't speak to how it might be delivered, just like the law does not restrict the delivery of morphine through the mail, that I know of, or at least State law does not.

MR. GRAF: Okay. And now, we're going to regulate, say, farmers to be able to grow marijuana in the field?

MR. GOTTFRIED: Well, a registered producer would have to demonstrate that it has the agricultural experience and skill if they're going to be producing it necessary for that production. That doesn't necessarily mean you have to be a farmer. Marijuana, I understand, is commonly produced hydroponically or in small containers indoors. I don't know whether you would call that farming.

MR. GRAF: Right. Who is going to determine who is allowed to grow it in the State of New York?

MR. GOTTFRIED: In order to become a registered organization, including a registered producer, you would have to get a license from the Health Department.

MR. GRAF: Okay. Now, if we do that and -- is there any prohibition of that organization selling it outside the State? Do we limit that?

MR. GOTTFRIED: Yes. If they are producing it or selling it or disposing of it any way other than for the specific uses of this title, they are no longer acting under this title and they would be treated like anybody else illegally producing and selling marijuana.

MR. GRAF: Okay. Is there a limit to how much

marijuana a patient who qualified for this could stockpile?

MR. GOTTFRIED: Unlike opium, for which there is no limit on how much you can keep at home, the bill says you would be limited to possess at any one time no more than 2.5 ounces.

MR. GRAF: That's on the street, correct?

MR. GOTTFRIED: No, that's wherever you are.

MR. GRAF: All right.

MR. GOTTFRIED: That's all you can possess in your home, anywhere else.

MR. GRAF: Okay. Now, going to your bill, Mr. Murray's question, page 2 --

MR. GOTTFRIED: Yes.

MR. GRAF: -- line 52, "...serious condition means a severe, debilitating or life-threatening condition or a condition associated with a complication of such a condition or its treatment including, but not limited to, inability it tolerate food, nausea, vomiting, dysphoria or pain."

MR. GOTTFRIED: Correct.

MR. GRAF: Any pain?

MR. GOTTFRIED: No. That is if you have those circumstances as a result of your serious debilitating condition. So, if you wake up one morning and say, *I'm nauseated, I think I need medical marijuana*, no, you're wrong.

MR. GRAF: No. Wait a minute.

MR. GOTTFRIED: But if you are a cancer patient

who can't tolerate food and who is constantly nauseated because of your chemotherapy, yes, medical marijuana has been and should be widely used for that kind of purpose.

MR. GRAF: Well, this doesn't say cancer patients only.

MR. GOTTFRIED: The words all link back to serious, debilitating and life-threatening condition.

MR. GRAF: But as you just said, words have meaning.

MR. GOTTFRIED: Yes.

MR. GRAF: That's not the context of how you wrote this bill. And according to this bill, if I walk up to a doctor and I stub my toe and I say I have severe pain, he can prescribe this to me.

MR. GOTTFRIED: No.

MR. GRAF: The way -- where does it say he can't prescribe that in your bill?

MR. GOTTFRIED: Your stubbed toe is not associated with or a complication of a serious, debilitating condition. This sentence was actually very carefully picked over and written in very close consultation with the Medical Society of the State of New York and Dr. Richard Daines when he was the Health Commissioner of the State of New York. This is not my imagination of how to write this sentence. Every word in this sentence, as I say, was picked over and carefully chosen in consultation with the Medical Society and the Health Commissioner.

MR. GRAF: Okay. Well, maybe you should go pick it over again because what this says is "pain" and the way it's written, this does not say that you're only getting medical marijuana for cancer. All it says is for a serious condition and under this, what you say here, "...or pain." So, it's up to the doctor what serious pain is.

MR. GOTTFRIED: Well, actually, if you read the whole sentence --

MR. GRAF: I just did.

MR. GOTTFRIED: -- before you get to the parenthesis listing inability to tolerate food, et cetera, including pain, that is introduced by the fact that these conditions must be associated with or a complication of that serious, debilitating or life-threatening disease. So, inability to tolerate food or pain that is not associated with or a complication of that life-threatening disease doesn't count. You have to read all the words together.

MR. GRAF: Okay. It says, "Severe, debilitating or life-threatening."

MR. GOTTFRIED: That is right.

MR. GRAF: Okay. And if I have a --

MR. GOTTFRIED: And a stubbed toe is not a severe, debilitating or life-threatening condition, not in English.

MR. GRAF: All right.

MR. GOTTFRIED: There may be some language in which it is, but under well-established rules of court interpretation of statutes, we use English in our statutes.

ACTING SPEAKER P. RIVERA: Mr. Canestrari.

MR. CANESTRARI: Sorry, colleagues, for the interruption, but there will be an immediate meeting of the Real Property Taxation Committee. Sandy Galef, the Chair, is on her way to the Speaker's Conference Room. Real Property Taxation now. Thank you.

MR. GRAF: On the bill, please.

ACTING SPEAKER P. RIVERA: On the bill.

MR. GRAF: Mr. Speaker, I've looked at this legislation, my colleagues have looked at this legislation, and I understand there are a lot of people out there that feel, with cancer and chemo, that marijuana can help them with their appetite, it can help them to possibly gain weight, right, when they need it, and it may be a comfort to some people. My problem is that we're opening doors here and we have a lot of words and it's kind of like arguing in a courtroom where you tell a judge that the definition of a word is one thing but then arguing the next day that that word means something else and that's what we have in this bill. No matter what my colleague says, it's written here as "pain."

The other thing that I'm afraid of is what this is can become a license for drug dealers. If a drug dealer gets a physician to certify him, he can walk around and, according to this bill here, he can have marijuana in his vehicle, in his airplane and a host of other places and a police officer will not be able to arrest him for that violation. So, it's a license to be a drug dealer.

I have a lot of reservations with this bill. Number one, we're going to be violating Federal laws. And if you allow this to be transported through the mail, which I believe it's going to happen under this bill, basically we're acting in concert and I think that the State will have criminal liabilities for moving forward with this type of legislation.

There are a lot of holes in this legislation. I think it needs to go back to the drawing board and I believe you're going to have a lot of questions here today and instead of just ramming this bill down our throats, like often happens in this Chamber, I think that this bill should be reconsidered. Thank you.

ACTING SPEAKER P. RIVERA: Mr. Montesano.

MR. MONTESANO: Thank you, Mr. Speaker. Will the sponsor yield for one or two questions?

ACTING SPEAKER P. RIVERA: Mr. Gottfried.

MR. GOTTFRIED: Yes.

MR. MONTESANO: Thank you. Mr. Gottfried, I just wanted to cover two quick areas. In the portion of the bill that deals with the protections for the medical use of marijuana, there's some indication that employers cannot discriminate against someone who has been prescribed or uses medical marijuana. What I'm curious of is what position does this put an employer in, if I may use, for example, UPS, Fed Ex that I know have very stringent rules about their drivers, you know, they take urine tests on a regular basis, and because they're Federally-regulated because they're inter-state carriers,

as well as school bus drivers, common carriers and airline pilots, should they have a prescription to use medical marijuana and they use it, where does this fall into their use during their work time?

MR. GOTTFRIED: Well, the bill says that an employer should not discriminate against someone solely for the fact that -- and an important word there is "solely" -- for the fact that they are a certified patient. If they find that that person, whether it's because they are using marijuana medically or codeine or Valium or any number of other substances, is incapable of doing their work in some way, they can certainly restrict that person's work or even exclude them from work, but not solely for the mere fact that they are a certified patient. They would have to be discriminating against that person because they were using the medical marijuana, or any other legal drug, in a way that undermines their performance.

MR. MONTESANO: Okay. Thank you.

And the second question I have is, from my reading different articles in connection -- when looking at researching this bill because, apparently, there's many different types and grades of marijuana that are available, who will choose or decide, would it be the doctor prescribing or the dispensary as to what type of marijuana applies or is good for a particular patient or ailment?

MR. GOTTFRIED: I think the only differences that I've heard about between different grades or varieties may have to do with their -- I don't know if cosmetic is the right word but, you know, a different flavor or feel in the mouth, what have you, which would

not be a matter of any clinical significance. Marijuana comes in different strengths. One of the advantages of the natural form of marijuana, which is what this bill is focused on, as opposed to the synthetic THC, which the Drug Enforcement Agency legalized for medical use in 1986, the difference is that the patient can control the amount of dosage by themselves, whereas when one of the main objections to the Marinol pill that someone mentioned, the synthetic THC, is that most patients find that it delivers dramatically more THC than they want or can tolerate. And so, the patient would very quickly, you know, with a couple of puffs, understand what amount of that particular batch of marijuana delivers what level of relief from nausea or pain, what have you.

MR. MONTESANO: All right. Thank you. Thank you, Mr. Speaker.

MR. GOTTFRIED: You're welcome.

ACTING SPEAKER P. RIVERA: Mr. Ra.

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

ACTING SPEAKER P. RIVERA: Mr. Gottfried.

MR. GOTTFRIED: Yes.

MR. RA: Mr. Gottfried, on the last page of the bill it talks about giving certification, registry identification cards from other states, other jurisdictions, the same effect as they would in that jurisdiction in New York so long as the visiting patient's serious condition would qualify under this statute. Can you explain to me

how that would work? Who would make that determination that it qualifies here in New York?

MR. GOTTFRIED: Well, if a policeman finds you with your medical marijuana from another state, that policeman, as law enforcement people do every day, would make a judgment as to whether a crime was being committed. If that officer made a judgment that a crime was being committed, your ability to -- it would then be up to you, as the arrested patient, to demonstrate the circumstances. It would also, of course, be a burden on the prosecution to prove beyond a reasonable doubt that you were committing a crime. So, it would be a combination of an allegation and the defendant raising a defense.

MR. RA: I'm not really talking about you having marijuana from another state, I'm talking about you have a card from another state.

MR. GOTTFRIED: Yes.

MR. RA: So it seems to me, and correct me if I'm wrong, but the process here -- you go through a process and at some point -- you're getting a card in New York State, at some point it's been certified that you have a qualifying illness, whatever, under this statute, but if we're giving the same effect to another state's card, you're kind of already passed that part of the process. So what I'm asking is who would determine whether or not that holder of a valid card from another state qualifies here in New York?

MR. GOTTFRIED: Okay. Well, a dispenser would

probably be the first person who might be responding to you. You would walk into a pharmacy and show them your card and if it were a card from, say, California, where the law is exceedingly loose, the pharmacy might well quiz you about exactly what the condition is and might want some indication from you as to what your condition is. If your card were from, let's say, New Jersey, the pharmacist may say, you know, *I've heard about New Jersey's law. If you're okay with New Jersey, you're okay here.*

So, in the limited number of cases where that might be happening, the patient would, essentially, be having to document their circumstances to the New York pharmacy. To simplify their life, the patient might be well advised if they were going to be here long enough where they were going to be wanting to purchase from a pharmacy, they might be well advised to see a New York doctor while they're here.

MR. RA: Okay. But do the provisions of this act make any specific requirements of that out-of-state person as to how they would certify they have a qualifying medical reason in New York?

MR. GOTTFRIED: No, it does not. That would -- at least initially, in the life of this bill, if it becomes a law, that would be left to the professional responsibility of the hospital or pharmacy and their concern for protecting their own license and liberty. My guess is that they would be more often erring on the side of sending the person away.

MR. RA: Would anything in this act allow the Department of Health to enact any type of regulatory structure to address this?

MR. GOTTFRIED: Well, the Health Department would have general regulation-making authority under this bill. If they chose to, they could -- I think you make a very good point. They could certainly enact regulations clarifying some of those things, as in when they found that necessary.

MR. RA: Thank you. On the bill.

ACTING SPEAKER P. RIVERA: On the bill.

MR. RA: My main concern with this provision in this law and, you know, I know that Mr. Gottfried has worked hard on this bill and they've worked on a lot of things to make this more strict than a lot of the others states have in this and make it better regulated, but my concern is if we're opening the door that some of these states, like California, who have a much more lenient procedure, have no real overall regulatory structure where it's left to individual counties, that we might be allowing people to get cards in other states and come in here and really frustrate the purpose of making this a more tight structure than we have in other states.

So I think perhaps one idea that I would have to maybe improve this bill in that regard is that we either have some specific requirements as to what's going to need to be provided for an out-of-state individual to be able to use their card in New York or perhaps they can go through some type of streamlined process where

they can certify that they have the card from another state and provide whatever additional documentation is necessary so they can be certified by the Department of Health in the same manner as somebody who is starting the process from, you know, from the start here in New York. Just kind of a suggestion I would have with regard to that because, again, it concerns me that we might frustrate the purpose of having a more regulated statute here in New York than some of the other states do. Thank you.

ACTING SPEAKER P. RIVERA: Mr. Goodell.

MR. GOODELL: Would the sponsor yield?

ACTING SPEAKER P. RIVERA: Mr. Gottfried?

MR. GOTTFRIED: Certainly.

MR. GOODELL: As I understand this program, once a patient is certified, their certification is valid for a year?

MR. GOTTFRIED: Or less if their healthcare practitioner thinks less than a year is advisable.

MR. GOODELL: I note that under Section 3362 you provide that the amount of marijuana that can be possessed by a certified patient cannot exceed 2.5 ounces.

MR. GOTTFRIED: Yes.

MR. GOODELL: Is there anything in this bill that governs how often the patient can acquire the 2.5 ounces? In other words, if I use up the 2.5 ounces in ten days, presumably I could replenish the supply?

MR. GOTTFRIED: Yes.

MR. GOODELL: And if I used it up in one day, I could replenish it?

MR. GOTTFRIED: Well, in practical terms, probably not because you'd be asleep, and probably for quite some time.

MR. GOODELL: But under the law there's no restriction, is there, on how often?

MR. GOTTFRIED: Just as if your doctor prescribed you morphine or OxyContin today, there is no limit on how frequently you can take it or how much morphine or opium or codeine you can possess at any one time.

MR. GOODELL: Although most prescriptions --

MR. GOTTFRIED: And, by the way, those are drugs that people die from. Zero people have ever died from an overdose of marijuana.

MR. GOODELL: Unless they're driving or operating heavy equipment or engaged in dangerous activities, in which case it can certainly be a contributing factor.

MR. GOTTFRIED: Right, like --

MR. GOODELL: Do we actually have any statistics on how many people have been killed doing those dangerous activities while under the influence?

MR. GOTTFRIED: I couldn't hear what you were saying because I was trying to respond to your last comment.

MR. GOODELL: I was just trying to help you focus

your last answer.

MR. GOTTFRIED: Like lots of cough medicine and lots of other things, yes, marijuana can impair your ability to operate heavy machinery.

MR. GOODELL: As you know, most prescriptions, or, certainly, a lot of prescriptions, have dosage recommendations, you know, once every two hours or four hours or with meals or not with meals, with snacks. Is there anything in this bill that deals with any obligation on the part of the physician to deal with any dosage recommendations or provisions?

MR. GOTTFRIED: Well, the key word in your question was "recommendations." There is no law that tells a physician how often to allow a patient to take morphine. If your physician chooses to, your physician can tell you how many pills a day the physician thinks you ought to take, but if you take them twice as often, your health plan might not want to pay for a renewal of the prescription, but you're not breaking any law.

MR. GOODELL: Thank you. I appreciate that. A couple days ago we enacted, as you know, the I-STOP program --

MR. GOTTFRIED: Yes.

MR. GOODELL: -- to try to address prescription drug abuse. And part of the provisions to the I-STOP program is realtime reporting by pharmacies of prescriptions that they have filled. Is there any obligation under this legislation for a supplier of marijuana to report to any centralized database how often they have

sold the marijuana to a certified patient?

MR. GOTTFRIED: There are requirements in the bill for the dispensers to report transactions to the State because, as of the moment, the I-STOP program does not yet exist, the bill doesn't plug into that. If and when this bill becomes law and if and when the I-STOP bill becomes law, it would make sense to plug this legislation into that once it is law. Unlike the drugs that are covered by I-STOP, though, this bill does limit the amount that a patient can possess at any one time and unlike, for example, morphine, where you can possess as much as you at any one time. Also, if you are using the medical marijuana law for the kind of illegal purposes that the I-STOP program is aimed at, you no longer have any protection whatsoever from the medical marijuana law. You are back to being subject to the Penal Law as it exists today.

MR. GOODELL: Thank you. I note that your bill specifically says that nothing in the title shall require or prohibit an insurer or healthcare plan to cover medical marijuana.

MR. GOTTFRIED: Yes.

MR. GOODELL: And I think that's a good provision. Do you envision that medical marijuana would be covered under New York State's Medicaid plan as currently written?

MR. GOTTFRIED: No, because the next clause says that it shall also not be construed as meaning that it shall be covered by Child Health Plus or Medicaid or Family Health Plus and the Medicaid law itself and Child Health Plus and Family Health Plus also

significantly limit what drugs they will cover and a non-prescription drug only gets covered under Medicaid, for example, if the Medicaid program designates it as being covered because it is a cheaper alternative to a prescription drug, I don't think there would be any authority under the Medicaid law to cover medical marijuana if this bill, as written, becomes law.

MR. GOODELL: I see. So, in other words, if someone has no income, they're on welfare, for example, or, more accurately, TANF or Safety Net and they wanted to use this medical marijuana, they would have to use their cash assistance grant in order to buy it?

MR. GOTTFRIED: If someone is poor and their medical coverage comes from Medicaid?

MR. GOODELL: For all those people in New York State that have no income and they're on TANF, you know, Temporary Assistance for Needy Families, or they're on the Safety Net program, since this would not be covered under Medicaid, then, if they want it, they would have to use their cash assistance in order to buy the marijuana?

MR. GOTTFRIED: Well, I guess you're about to, perhaps, express alarm that this bill would have people using their --

MR. GOODELL: I'm just trying to get clarification of this bill.

MR. GOTTFRIED: The answer is, like anything else they would buy, they would either have to find a hospital that was

willing to provide it to them at little or no cost or, perhaps, a local religious organization or other charitable entity or they would find cash in their pocket as they would find cash in their pocket to buy any number of other things, some of which are good for them and some of which would be very bad for them.

MR. GOODELL: Thank you for that clarification. I note that your law says that a person or entity shall not be subject to criminal or civil liability for professional discipline and for acting pursuant to this. Earlier, you had mentioned that under Federal law a doctor cannot write a prescription without jeopardizing his DEA certification.

MR. GOTTFRIED: Correct.

MR. GOODELL: As we all know, marijuana is illegal under Federal law, as well. Are you comfortable that a doctor who doesn't write a prescription but certifies patients for violating Federal law, isn't that doctor also at risk for losing his DEA certification or are you comfortable that a doctor can authorize his patients to violate Federal drug enforcement laws without jeopardizing his DEA certification?

MR. GOTTFRIED: That question has actually been squarely and directly addressed by the United States Supreme Court and, fortunately, the U.S. Supreme Court has explicitly said that a physician who writes, whether you call it a certification or a recommendation or what have you, under a State law for the medical use of marijuana is not violating Federal law. And so, that act by a

prescriber is, if legal under the State law, is also legal under Federal law, might be legal under Federal law even without a State law but, certainly, if this bill becomes law, a doctor who writes a proper certification under this bill, and I stress the word "proper," would not be in legal jeopardy under either State or Federal law.

MR. GOODELL: There's another section I would like to just ask how this applies. I see you have a section that says, "State or local law enforcement agencies shall not cooperate with or provide assistance to the government of the United States or any agency thereof in enforcing the Controlled Substance Act, a Federal statute, solely for actions or conduct that are consistent with this article." Are you aware of any other --

MR. GOTTFRIED: Unless pursuant to a valid court order.

MR. GOODELL: Correct, unless ordered by a court.

MR. GOTTFRIED: Right.

MR. GOODELL: Are you aware of any other language in any other State law that expressly prohibits New York State law enforcement agents and officers from cooperating with Federal law enforcement agents?

MR. GOTTFRIED: I am not familiar enough with all of the details of other State laws to answer that question about other State laws. The purpose of that clause here is to make sure that a cancer patient or a multiple sclerosis patient who is entitled by State law to the medical use of marijuana, if this bill becomes law, would

not have their right to treatment violated because in the town they live in a local police officer decides to get them in trouble with the Feds. I think that's the --

MR. GOODELL: Along those lines, if I can, is there any penalty if a local law enforcement officer wants to cooperate with the Federal Drug Enforcement Agency or maybe the FBI or some other Federal agency that's enforcing Federal law, is there any consequence? Are they going to be subject to any discipline or anything else?

MR. GOTTFRIED: There are a variety of legal avenues under existing law to deal with illegal police conduct. Those would apply here. On the other hand, I think in virtually every case, I would be confident that our law enforcement officers would obey State law. That's their job. That's what they're sworn to do.

MR. GOODELL: So, you envision that a police officer in the State of New York who cooperates with the Federal Drug Enforcement Agency officer or the FBI or some other Federal law enforcement officer in enforcing Federal law could be subject to discipline or could face some other sanction as a law enforcement officer for cooperating with the Federal government, enforcing Federal law?

MR. GOTTFRIED: For assisting the Federal government in enforcing Federal law to punish someone for actions that are consistent with State law, that's the one narrow thing that the bill talks about. The bill talks about New York law enforcement in

this area should be enforcing New York law.

MR. GOODELL: Now, I will confess that while I've been practicing law for over 30 years, I have never, ever come across a clause, ever, in any of the reading I've ever done, and admittedly I haven't read all the laws, but I've read a lot of them over three decades, I've never come across a provision that actually makes it illegal for New York State law enforcement officers to cooperate with Federal law enforcement officers. Are you aware of anything that I've missed?

MR. GOTTFRIED: Off the top of my head, no, and I would say the reason is that this is an area in the law where, so far, 18 jurisdictions in this country in which a pretty large majority of Americans live, 18 states plus the District of Columbia have concluded that the Federal government, back in 1986, when the DEA overruled their hearing examiner who recommended that marijuana be moved to Schedule II, when DEA, for political reasons, overruled that hearing examiner, 18 states have concluded that that is a terrible wrong and does real damage to suffering residents of their states and are pursuing this kind of avenue.

And interestingly, the Federal government -- well, the Supreme Court, in important instances, has said that it will support those states and the Executive branch of the Federal government has said that it, too, will support states in implementing tightly-written state medical marijuana laws.

ACTING SPEAKER P. RIVERA: Mr. Goodell, your

time is up.

MR. GOODELL: Thank you, Mr. Gottfried, and you're saved by the bell from any further questions from me.

ACTING SPEAKER P. RIVERA: Mr. Joel Miller.

MR. J. MILLER: Thank you, Mr. Speaker.

Agendas; it's amazing how everyone has an agenda, how different sides of this room have an agenda. We've just heard about two hours of belittling this bill, hoping that we'll accomplish something. And, oddly enough, many of the people who belittled this bill are the same people who said, *What do you mean you can't smoke in a car with a child? Of course it's your right to smoke in a car with a child. I know smoke kills. It will kill you, it will kill the child, but that's your right as an American.*

We have an interesting thing. The head of the conservative party, the conservative party opposes this bill. Mike Long opposes this bill. Mike Long made his legal living by selling alcohol. I guess when you're selling the drug of the establishment you can be very much against any other drug that may reduce some of your business. But it does seem a little hypocritical and you wonder what his agenda is. We always talk about big government versus small government. Yeah, the people who want big government so big government can help people, that's terrible. What we really want is small government to tell you exactly how to live day to day, get intrusive into your life and your body. It's really terrific; that's why kings were so popular.

This is an interesting bill. We're talking about marijuana as a drug. And I mentioned many times on Long Island they had a group called Parents Against Drug Abuse and they would advertise on the radio when they were going to have their meeting. Thursday night meeting, Parents Against Drug Abuse, cocktails at 6:00, dinner at 7:00. Go, yes, there's alcohol. They wouldn't say marijuana so we're used to using alcohol. Alcohol is wonderful. Cigarettes. It's not just that tobacco will kill you and tars will kill you and nicotine will make you addictive, but the stuff in the paper is equally as bad, it's carcinogenic, blah, blah, blah, but, gee, government makes more money selling cigarettes than the cigarette company. How can we possibly ban cigarettes? How can we possibly ban alcohol? We tried that one time, it really didn't work.

So, alcohol is still really a good drug, tobacco that kills, the State still goes along with it. But marijuana, marijuana, what a terrible thing marijuana is. It's a gateway drug. How do we know? We asked heroin addicts, *Did you ever use marijuana?* You bet. Do we ask all the people who just use marijuana and nothing else if it was a gateway drug? No, because we don't know who they are. So, here's a fact that we swear by, we don't know if it's true.

Now, we had a discussion about the FDA. The FDA is a wonderful organization. Would never have a political agenda, never have a political agenda, except when it comes to birth control or to anything that is involved with reproductive health because that's a religious issue and the religious issue gets into politics. And so, the

FDA said what do you mean an after-the-event contraceptive? What do you mean an emergency contraceptive? We know it's perfectly safe. We know it can't hurt you, but we'll be damned if we let people go into a pharmacy and get it without a specific prescription from their doctor. Why? Well, we have to take into account that our President is a nut case, religious right-wing guy and he doesn't want you to have that. So, even when the head of the FDA resigned because the FDA wouldn't change its mind, it had nothing to do with science, it was purely politics and that's what we have today.

We have many people in the community, especially in the Republican part of the community, especially in the right-wing part of the community, that are too busy being drunk and having sex to figure out about marijuana and I know that because I watch it on television. They all come home. First thing they do is walk over to the decanter with alcohol in it. They pour the alcohol, so, what, they can say hello to their wife. They can't meet their wife until they have their drink first. God forbid they should walk in smoking a cigarette, they may get the carpets dirty.

But, yes, marijuana is terrible. You hear all these terrible things about marijuana. But why is it any worse than alcohol? It doesn't kill people - cigarettes kill people but it's worse than cigarettes. How did it get that way? Well, that's our recent agenda. When I first became a dentist for three bucks I bought a Federal narcotics stamp. Beautiful piece of paper. It had a picture of a cannabis leaf on it. It said I could prescribe cocaine and marijuana,

didn't say how much, how often, to whom, it just said I could. Then they took away all that fun because that cost three bucks and they substituted a DEA number which costs me \$210 every two years and suddenly it was gone.

But, you know, it's like where did we go wrong? The '60s, other than the fact that we were killing people in Asia, was really a fun time in the world and a lot of people used marijuana and they sort of had a good time but, no, that's not good. Only alcohol because, you know, Capone and all those people made a really good living. We're hypocrites but we're caught in this agenda thing. We have to appeal to people who we have to convince to vote for us and why would they vote for us if we actually told them the truth, that what's the big deal?

After all, people are suffering. People are suffering. They have intractable pain. And what might help them? Marijuana. Yeah, but you got to remember, marijuana, we haven't been using that for years, we certainly can't start now because we don't want to think. I mean, people told us what to think. They told us what's good, what's bad, what we can use, what we can't use and we believe that stuff. Why? We're the law. We make the law. We should decide, not someone who is a total hypocrite sitting at home drunk, pretending they're watching television when they're half asleep. No. We should make -- these are patients, these are people and the truth is -- and everything that's been said here, something is very clear. I used to write scripts for morphine. Not that I hurt my patients more than

anyone else, but I wanted them to be happier than anyone else and they were embarrassed to go into a pharmacy and buy morphine. Morphine is dirt cheap. It's not much more expensive than Tylenol. In fact, in those days it may have been just as cheap but people didn't really use it. And I would tell them how much I wanted them to use and, true, they could use it all up in one day and kill themselves, but I wasn't going to renew the prescription, especially if they were dead, there was no real reason to do that.

But these are physicians. They're making a decision on the health of a patient and what we're saying is, *Yes, you got a really bad problem. You're going to die and we want your last days on this planet to be the worst, the most horrible days of your life so you will remember all of us.* And why did we do that? Because only those people who have friends on the street who are willing to buy drugs from their friendly street vendor should have the benefit of being able to be free of pain. You, on the other hand, you're a law-abiding citizen. Basically, you're screwed. We're not going to help you at all. And we don't care. I mean, you can go down -- why don't you buy it where everyone else buys it, from the guy with the cart selling flowers on Broadway and 168th Street? You know, everyone knew what he was doing, but that's what you have to -- I mean, are we kidding ourselves? It's like every time I call an embassy and I say, *I want you to allow so and so from the Ukraine to come to America for a wedding* and they go, *Well, we have no real reason to expect they're going home so we're not going to allow them to come.* I

say, *What if I suggest they fly to Mexico and walk across the border, does that help you out? Oh, we really wish you wouldn't do that.* So, even when it comes to immigration, only those people who walk across the border get in. Other people wait five years because they're dumb enough to play the system we set up for them.

I mean, think about this. You can come up with every reason why someone is going to violate the law. You know why docs aren't going to the violate the law? Because of the OPMC. Someone reports them, they'll lose their license. So now the question is, *Yes, my friend Howard uses drugs. I was a nice guy, I gave him one of those certificates and now I'm out of practice. I don't have any business, I don't have any income, I don't have anything. Yes, it was really worth it.* That's why they're not going to do it. They're not going to do it. I mean, why is the level of medicine sometimes at a certain level? Because the patient's attorney determined that to be the level. Come on. People aren't just going to break the law willy-nilly because everyone wants marijuana. It's cheaper if they just buy it on the street. This allows a patient, this allows someone who needs it not to become a criminal by buying it on the street. It allows them to get it through a legal means, that's all this does. I mean, marijuana comes into this country by the railroad car. If we didn't spend the money on the war on drugs and gave that money to New York State, we'd have a surplus. What are we getting for all of that stuff? Marijuana. Why are we spending all of this money fighting marijuana and pretending it's the end of the world if we allow patients who are suffering to have

marijuana. What if it doesn't work? Well, okay, sometimes medicine works, sometimes medicine doesn't. Remember, we're treating this as medicine, not as a trip to the carnival.

It just seems to me -- and I'm sorry I raised my voice and I'm sorry that I yelled and I have never tried marijuana so I didn't have to worry about inhaling, but if I had a friend who could benefit from the use of marijuana to make their end days a little more pleasant and the family around them to be able to not suffer every day along with this individual, I would do it. I would do it. And that's what we're being asked to do, not something crazy, not something ridiculous, but something that sort of fits in with what we should be doing, advancing the life quality of a person who is suffering. And if we treat it, the right to have marijuana, the way we treat this totally ridiculous right to smoke and kill yourself and kill other people along with yourself, this wouldn't even be a debate, but because we all have different agendas, this will be debated. I certainly hope at the end of the day that we could look our constituents in the eye and say, *Don't argue with me while you're drunk; yes, I voted for the marijuana bill.* Thank you.

(Applause)

ACTING SPEAKER P. RIVERA: Mr. Losquadro.

MR. LOSQUADRO: Thank you. We can all have a little bit of fun with this, but the fact of the matter is -- on the bill, I'm sorry.

ACTING SPEAKER P. RIVERA: On the bill.

MR. LOSQUADRO: Doctors already risk their licenses every day. I worked insurance fraud for ten years. We have medical mills docking the boxes. There's always going to be unscrupulous people, people who get themselves into financial trouble, people who have arrangements with others who they're beholden to. Those situations exist every day, we know that. We shouldn't expect this to be any different.

We talked about alcohol and tobacco. The costs associated with using those substances outweigh the enforcement and the revenue costs combined by more than ten times. There are up to 70 percent more carcinogens in marijuana smoke than there are in tobacco smoke so why we would expect that there is going to be any difference with this, that the costs associated long term with this for the treatment of chronic pain or something else would be any different? No. There are going to be long-term costs associated with this and they're going to outweigh the benefit especially because we know there are drugs that are approved, as we have heard earlier, we don't want to belabor these points, but have the exact same effect that can be used in place of this.

I feel, many others feel this is going to make this much more accessible to minors. It is a first step towards legalization, bringing this more into the mainstream. This is completely out of control in other places where it has been tried. I wouldn't expect that it would be any different here. There are many individuals who are reluctant to get involved with the criminal element, to be exposed to

those people, being robbed. Perhaps they just want a more pure product than they think someone might switch with them on the street.

You know, we can look back with nostalgia and say, *Oh, at a time where maybe this was prevalent, people had a good time.* Well, you know what? In the past 40 years cancer rates have skyrocketed, so maybe it wasn't such a good idea that it was used so mainstream and maybe it's not such a good idea that we're looking to bring it into the mainstream today. I'm opposing this - and I'm not opposing it because I want to deny someone who needs relief; I'm opposing this because I think it's bad for society and I urge all of you to do the same.

ACTING SPEAKER P. RIVERA: Mr. Donald Miller.

MR. D. MILLER: Thank you, Mr. Speaker. I understand the emotion behind this. My uncle just died two weeks ago from stomach cancer and, you know, it's horrifying, it's ugly, you know, pain that you can't describe, not only for him but for the family and so, you know, there's a lot of emotion behind this and there should be because this is important. Just one quick note. My wife did go through the five-year immigration process and she wasn't stupid for having done it. She was abiding the law, just wanted to kind of throw that out there.

I'm wondering if Mr. Gottfried might yield for a couple of questions.

ACTING SPEAKER P. RIVERA: Mr. Gottfried.

MR. GOTTFRIED: Yes.

MR. D. MILLER: Thank you, Mr. Gottfried. This is a long debate and I think these are some pretty simple questions. Since we don't have traditional prescription control on medical marijuana under this bill, I understand we use a card system and I'm wondering if there is -- you know, how often a card can be renewed under this bill?

MR. GOTTFRIED: Well, first of all, for really dangerous controlled substances we don't have a card system. We have really no regulation whatsoever of what it can be used for or in what quantity. The bill very clearly says the registration can last for a year or less if that's what your certification specifies and it is subject to renewal if your certification is renewed.

MR. D. MILLER: Is there a limit or a control on the number of times that a card can be renewed?

MR. GOTTFRIED: Just like there is no restriction on the number of times a prescription for morphine can be renewed, as long as your serious condition persists and as long as your physician keeps renewing his or her written judgment that medical marijuana is appropriate for treating that condition it can be renewed, yes.

MR. D. MILLER: And does the bill contemplate in any way tracking cards; in other words, controlling the cards themselves?

MR. GOTTFRIED: I'm not quite sure what you

mean. The card would be issued by the State, registered by the State. Every time you make a purchase, information about that purchase would go to the State.

MR. D. MILLER: Right. What I'm getting at is sort of a -- I'm a little worried about fraud where these cards are concerned. I'm kind of wondering what form they take and are they like a driver's license which is very, very difficult to create a copy of or to create a counterfeit of. I guess, what kind of a card are we talking about here?

MR. GOTTFRIED: It would be up to the Health Department to determine the exact form of the card.

MR. D. MILLER: Okay. Now, I know that in the bill there's a limit of 2.5 ounces for -- a patient can only possess 2.5 ounces of medical marijuana. I'm wondering if there's anything in the bill that speaks to tracking or controlling or information exchanged between distributors or producers to know how many stops a patient might make to get their 2.5 ounces.

MR. GOTTFRIED: Well, every transaction would be recorded and filed with the State and, unlike other controlled substances where there is no quantity limit, where however many purchases make up the 2.5 ounces they get accumulated when they end up in your possession. So if you go to ten places and get a quarter-of-an-ounce in each, that doesn't make any difference. It's still the total that matters and, again, the Health Department would be receiving information on each and every transaction that you make

and exactly how much is dispensed in each transaction.

MR. D. MILLER: And you're saying that there's a database where that information is maintained?

MR. GOTTFRIED: Yes. In the Health Department.

MR. D. MILLER: Okay. And I guess I don't know the mechanism that's used there. Is that like an electronic mechanism reporting from a distributor or supplier? When someone goes in and gets their allotment, is that sent electronically to the Department of Health or -- I'm wondering about someone who gets a card and they have got a 2.5 ounce limit and on that day that they get their card if they go to three different places in rapid succession, is that information being sent sort of rapidly or is that kind of a paper snail trail sort of thing?

MR. GOTTFRIED: The bill doesn't specify the method of delivery, whether electronic or paper. At the time the bill was written, and still I guess as of this minute, the I-STOP system does not -- is not law yet. If this bill becomes law or you would certainly, I think, want to subsequently hook this system up with the I-STOP system. If this bill does not become law this year, which I think is the reasonably likely outcome, then when we are looking at this bill again next Session it would certainly make sense, I think, to try to hook the system up with I-STOP, but again, unlike with really dangerous controlled substances with those substances there is no limit on how much the patient may possess or how many doctors the patient may go to to get prescriptions and even the I-STOP law doesn't

limit that.

Under this bill whether you go to one dispensary or several, the 2.5 ounce limit still applies and if you go outside the law, if you are buying the marijuana using your registration card for purposes of recreational use or becoming, as someone said, a drug dealer, then this bill will give you zero protection. It will, in fact, give you an additional count in your indictment and you will be subject to prosecution under the Penal Law the same as you are today.

MR. D. MILLER: Okay. So let's say the information transfer is pretty quick. I have got a card. I go and get my 2.5 ounces at one dispenser. I go down the street to another dispenser and I attempt to get more. The staff at that dispensary checks with the Department of Health database and they find out that I have already gotten my allotment. At that point, do they have any responsibility to do anything at all with me as someone who apparently is attempting to exceed my limit?

MR. GOTTFRIED: Well, let's remember that even when the I-STOP bill becomes law, if a pharmacy looks into the system and says, *Bob, you have a prescription for morphine. It says here that in the last week you have filled a dozen prescriptions for morphine*, under the I-STOP law if your prescriber or your pharmacy discovers that you have a dozen prescriptions for morphine that have been filled in the last week, nothing in the I-STOP law says they may not issue you your 13th or 14th prescription.

MR. D. MILLER: Understood. But this is actually

outside of I-STOP, though, because like you said --

MR. GOTTFRIED: That is correct.

MR. D. MILLER -- you would want to connect these up perhaps.

MR. GOTTFRIED: That is correct.

MR. D. MILLER: But this is outside of I-STOP.

MR. GOTTFRIED: And, again, somebody who wants marijuana for nonmedical purposes would be an idiot to try to use this law for that purpose because they would be making their life much more difficult, much more likely to go to jail and go to jail for longer than if they just went down to wherever they go locally to buy their marijuana.

MR. D. MILLER: Okay. So let's leave that for a moment. I do want to move to something that you alluded to, possession, in terms of getting in trouble for exceeding the provisions of this bill.

Under this bill what actually constitutes possession? Is it I have got medical marijuana here at my home in New York State, perhaps I have got an apartment in Buffalo and one in Syracuse and one in Albany. Is it possession on my person? Is it possession in my place of residence? Is it possession in the State? Could I perhaps if I've got a home here and a home in California would my California allotment count against my New York allotment? I'm trying to figure out, sort of, what the parameters are for possession in quantities.

MR. GOTTFRIED: Okay. That might be more a

question for Chairman Lentol, but I believe that if the police break into your home and find a stash of cocaine and at the time you are in Afghanistan or Timbuktu, as far as I know I think you are still guilty of possession because it's your home. You might be able to raise a defense that you didn't know it was there and somebody, your house guest brought it in, et cetera, but garden variety of case it doesn't have to be on your person, as far as I know, for you to be guilty of possession. Now if it's in your home in Montana I think there's a serious question as to whether that would count for a New York violation.

MR. D. MILLER: Thank you.

I want to shift gears just a little bit. Thinking about producers and distributors and dispensaries. Does the bill contemplate any sort of inventory control for producers or dispensaries?

MR. GOTTFRIED: The bill requires a dispenser or a producer to have adequate protections against diversion of a product and keeping track of inventory would certainly be a key element of that. The language in the bill on that subject is pretty much a photocopy of the language governing people who are licensed to dispense or manufacture other controlled substances and then under that language, the Health Department then makes specific regulations. So, yes, there would be a very detailed regulation of inventory and security controls and all of that.

MR. D. MILLER: This is an interesting sort of commodity, right, because producers in this case are actually growing

the product as opposed to a pharmaceutical company manufacturing. So this introduces something that we're not really accustomed to in medicine and that would be crop yields and I'm wondering if --

MR. GOTTFRIED: Well, there are pharmaceuticals that begin as growing plants.

MR. D. MILLER: Sure.

MR. GOTTFRIED: There are pharmaceuticals that come out of animals, but yes, this is different from most products.

MR. D. MILLER: Right. So I'm wondering if in the context of supply control, inventory control, I'm wondering if there's any reporting requirement by producers on crop yields, on production in this bill?

MR. GOTTFRIED: That would be spelled out in departmental regulations because, again, to go back to other products, a machine, a laboratory and a machine that can take raw goods in at one end and come out with OxyContin pills at the other end, that machinery could run more hours of the day or faster and produce more just like I assume there are ways to make a marijuana plant grow more quickly, but that would all be spelled out in department regulations, that would presumably focus on the harvested output, but might also focus on the amount of equipment, number of plants, et cetera. That would be up to department regulations.

MR. D. MILLER: Very good. Another area, I think just a quick question here. I understand that in the bill there's no requirement for insurance companies to offer coverage for this type of

therapy.

MR. GOTTFRIED: Correct.

MR. D. MILLER: Was there any discussion, any thought put into the idea that this type of therapy might be covered through a potential, a future --

ACTING SPEAKER P. RIVERA: Mr. Miller, your time is up.

MR. GOTTFRIED: Can I answer his question?

ACTING SPEAKER P. RIVERA: In 30 seconds or less.

MR. GOTTFRIED: Through some future State health plan, no.

MR. D. MILLER: Okay. Thank you.

ACTING SPEAKER P. RIVERA: Mr. Katz.

MR. KATZ: Thank you, Mr. Speaker.

On the bill.

ACTING SPEAKER P. RIVERA: On the bill.

MR. KATZ: I find that this bill, it's sort of an in-between bill and I'll explain that in one second. I will be brief.

First of all, I know that if you have intractable pain right now, if you have pancreatic cancer or what have you, and you go to Sloan Kettering, you're going to get Marinol. It's FDA approved and you're going to get Marinol. So as far as the medical marijuana element of this for intractable pain or what have you, you have an answer for that already and truly you can get it if you truly need it.

The other side of the coin is we're going to, at some point, be discussing a bill that Governor Cuomo wants to have enacted and that is to actually legalize marijuana for 25 grams or less so the reality is - and I'm not a proponent of any of this, but the reality is if you have intractable pain right now you can go -- and you're under a doctor's care and you really have a valid reason for getting it, you will get synthetic marijuana right now. By the same token, if you are in intractable pain and the Governor's bill becomes legal, then you can just go out and buy the marijuana, less than 25 grams, and not have to worry about this. This is sort of another layer of either bureaucracy or what have you that is not necessary that is going to end up being irrelevant if you end up going with Governor Cuomo's bill.

So I find this to be -- right now, we are arguing about something that may end up becoming obsolete within the next very, very short amount of time so I will be voting against this bill. Thank you very much.

ACTING SPEAKER P. RIVERA: Mr. Castelli.

MR. CASTELLI: Thank you, Mr. Speaker.

On the bill.

ACTING SPEAKER P. RIVERA: On the bill.

MR. CASTELLI: I'll give my friend Mr. Gottfried a breather there. You know, for many years I have been a proponent for the use of medical marijuana for the terminally or critically ill and I mean terminally or critically ill. The problem I have with this particular bill is a problem that I've had in the past and I think my

previous statement is rather ironic given the fact that I was once a narcotics investigator with the New York State Police, but I think the terminally and critically ill deserve the pain relief that they can get.

However, this particular bill is overly broad. The definitions presented in this bill such as a "serious, debilitating condition" can be a number of different things. They can be a psychological disorder. They could, indeed, be a broken leg or a broken arm, none of which would require that. As our former colleague just mentioned, the fact that Marinol, the synthesized form of Tetrahydrocannabinol, you know, the synthetic form of THC of marijuana is available, also provides that.

Additionally, we are looking at a situation where there's a potential for abuse here. The checks and balances are not there. I have spoken to a number of people, including members of the New York Medical Society, within the last half hour and their position was this particular bill does not meet with their parameters. And the reason it does not is because the definitions are too broad and it is too vague.

While I certainly applaud my colleague for putting the bill forth and I think that it's something that we can look forward to, we can work on tightening up, I think that the nature of this bill is so overly broad without the necessary checks and balances, without the appropriate clinical studies that we have available to us that most of the people in the medical profession, while they conceptually will agree with this, are in disagreement with this particular bill. So for

that reason and a multiplicity of others, while I applaud my colleague for putting it forth and I would offer to him my help in working on a bill that we can all agree with, for that reason I am going to have to regrettably vote against this bill. Thank you, Mr. Speaker.

ACTING SPEAKER P. RIVERA: Mr. Finch.

MR. FINCH: Mr. Speaker, would the sponsor yield for a couple of questions?

ACTING SPEAKER P. RIVERA: Mr. Gottfried.

MR. GOTTFRIED: Yes.

MR. FINCH: Mr. Gottfried, could you explain to me or give me the definition of a designated caregiver and the role of that individual?

MR. GOTTFRIED: Yes. A designated caregiver is in the bill in part because many of the people most in need of use of medical marijuana may well be homebound, seriously disabled, unable to get out and go to the drugstore. Now under current law if you have a prescription for morphine, you can send anybody to the drugstore to pick up the prescription for you and bring it home, anyone. Under the bill we're much more restrictive than that. If you want someone to either be able to pick up the medical marijuana for you from a dispensary or -- well, that would be the role of the caregiver. If you want someone to be able to do that, you have to designate that person in your application for registry. That person then has to get his or her own registration card, is limited as to how many patients he or she can be the designated caregiver for.

So, again, unlike morphine or OxyContin where you can send anybody down to the corner drugstore with your prescription to get it filled and bring it back, under this bill if you want someone to do that they have to be registered with the State as a designated caregiver.

MR. FINCH: Could that designated caregiver be the immediate next of kin?

MR. GOTTFRIED: Could it be a member of your family?

MR. FINCH: Or the family?

MR. GOTTFRIED: Sure. It could be any adult New Yorker.

MR. FINCH: Any adult New Yorker could?

MR. GOTTFRIED: Although, there are limits on things like not having a drug crime record, et cetera. Again, unlike someone going to the drugstore to pick up your morphine, there are restrictions on who could be your designated caregiver.

MR. FINCH: Is there any training involved in someone becoming recognized as a certified or registered or designated caregiver?

MR. GOTTFRIED: Well, again, comparable to someone going down to the drugstore to pick up your OxyContin, there is no training necessary to be able to go to the drugstore and pick up someone's prescription, no.

MR. FINCH: So that designated caregiver does not

necessarily have to have training or have a medical background or be a registered nurse or practical nurse, that is not a requirement?

MR. GOTTFRIED: Correct. And that person would not be performing any kind of treatment-related act other than, essentially, picking up your medicine from the drugstore for you which, under New York law, any of us can do that --

MR. FINCH: Right.

MR. GOTTFRIED: -- without any training. So, your designated caregiver, if the word "caregiver" is giving you the thought that that person is going to be making some sort of clinical judgment, no. The bill does not authorize the designated caregiver to do anything that a layperson could not already do.

MR. FINCH: It would pick up the marijuana from the dispensing organization?

MR. GOTTFRIED: Yes. Essentially they would be running an errand for you going down to the drugstore and bringing it back to you.

MR. FINCH: Why couldn't I have my wife or my immediate next of kin do it for me? You mentioned a few moments ago that we're not talking about a morphine or OxyContin or a steroid, we're not even talking about any other drug that New York State regulates that has to be written as a script. Why couldn't I just have my son or a member of the family do this?

MR. GOTTFRIED: Very simply. Because under the Penal Law possessing marijuana is illegal and giving marijuana from

one person to another, even without money changing hands, is a criminal act. Technically, it's selling marijuana. So if your wife goes to the drugstore to pick up your certified patient supply of medical marijuana and brings it home, if your wife is stopped on the street, your wife could be arrested for criminal possession of marijuana and if when she comes home she hands it to you, she is now guilty of criminal sale of marijuana unless, under this bill, she has a registration card from the State as your designated caregiver. So that's the only purpose of the designated caregiver card, it's to protect your wife from being prosecuted for doing what she could legally do today if she were filling your prescription for OxyContin or morphine.

MR. FINCH: That seems awfully cumbersome to me to be able to -- we're entering a third party into the process here and calling that third party a designated caregiver when we could have a member of our own family go to the drugstore or wherever the dispensing organization is. Why could that not have been addressed in the process?

MR. GOTTFRIED: Well, in 1986 the DEA held an administrative proceeding on whether to move marijuana from Schedule I, for which there is no legal medical use, to Schedule II, where it could be legally prescribed. The DEA chose to only move the drug company-manufactured product, namely, as Dr. Katz mentioned, synthetic THC, they chose to move that in pill form to Schedule II, but even though the hearing examiner, the DEA's own hearing examiner recommended that marijuana, per se, be moved to

Schedule II, under the administration at the time, the DEA was ordered not to do that. And that's why I say our current system, which you rightly point out, is really kind of cumbersome, is political correctness run amuck.

MR. FINCH: I see.

MR. GOTTFRIED: If the DEA had followed the science in 1986, as their hearing examiner recommended, we would not be having this discussion this afternoon.

MR. FINCH: I looked through the bill, Mr. Gottfried, and I was looking for Article 28 and I was wondering if you could tell me where that is?

MR. GOTTFRIED: Yes.

MR. FINCH: And I also would like to know under Article 28, that regulates the dispensing organizations that can give out this marijuana, would that be correct?

MR. GOTTFRIED: Not quite. Article 28 is the article of the Public Health Law under which hospitals, clinics, nursing homes are licensed, so essentially when you refer to a hospital licensed under Article 28, that's the legal way of saying a hospital in New York.

MR. FINCH: A hospital pharmacy, we're talking about a pharmacy located in a hospital or a nursing home or a health clinic, these are pharmacies?

MR. GOTTFRIED: Well, the hospital itself could get a license as a dispenser just as a hospital today, even without having a

pharmacy on the premises, a hospital today can dispense drugs to you and so we --

MR. FINCH: Are you going to have a doctor write a prescription for a drug in a hospital that you wouldn't go there and pick it up and purchase it unless it's a registered pharmacy, would you?

MR. GOTTFRIED: Well, under the bill a hospital, even though it was not a conventional pharmacy, in its role as a hospital it could dispense marijuana to someone who walks in with a certification.

MR. FINCH: If they get it on the premises?

MR. GOTTFRIED: Well, they would be at the hospital's premises. The hospital would presumably have a room set aside for that purpose, but they would not have to have a pharmacy, per se, on the premises.

MR. FINCH: So my question may be more specific than that. You can have a hospital or an organization established to dispense solely marijuana and not the array of drugs that ordinarily one would find in a registered pharmacy in the State of New York; is that correct?

MR. GOTTFRIED: That is correct. A hospital would not ordinarily be filling prescriptions for people who walk in off the street. We put hospitals in here because of the very restricted circumstances that the Federal government has put us in here.

MR. FINCH: Okay. Now, the manufacturer,

supplier of the marijuana, can the designated caregiver go directly to that source and pick up the marijuana itself, too?

MR. GOTTFRIED: No. A registered producer under the bill would, essentially, be a wholesaler. A registered producer could only provide the medical marijuana to a dispensing organization. So in order to fill your certification, you would have to go to a hospital or pharmacy that was a registered organization. If you go to a registered producer, they would have to turn you away.

MR. FINCH: I see. Thank you, Mr. Gottfried.

MR. GOTTFRIED: You're welcome.

MR. FINCH: On the bill.

ACTING SPEAKER P. RIVERA: On the bill.

MR. FINCH: This piece of legislation that we're debating here this afternoon, it would seem to me it's very awkward, very cumbersome. It seems to actually be creating an industry in and of itself. We have dispensing organizations now that are not involved with dispensing regular drugs or controlled substances, but we now are creating an entity out there that will simply dispense marijuana.

It's kind of interesting. We have third parties involved who are unrelated to the registered patient that actually can work for five registered patients on their own. It seems cumbersome. It seems awkward. It seems like it's becoming something much bigger by design, as a matter of fact, than one would imagine. Why not take the marijuana, send it to the drugstores in New York State - we certainly have plenty of them, there's one on every corner in the City

of Albany - and let the doctors or the nurse practitioners, whoever writes the prescription, and have the patient or a member of his family proceed just like it is, change the law a little bit to make it a little less awkward rather than create a whole new industry in New York State surrounded with this particular product.

I certainly think there's a need to provide something like this for those who are uncomfortable, that are suffering from cancer, but to create an industry, I don't think it's the appropriate thing to do and I would urge a no vote.

ACTING SPEAKER P. RIVERA: Mr. McLaughlin.

MR. MCLAUGHLIN: Thank you, Mr. Speaker.

Would the sponsor yield?

ACTING SPEAKER P. RIVERA: Mr. Gottfried.

MR. GOTTFRIED: Yes. And by the way, I will plead guilty to Mr. Finch's statement that the bill is a lot more restrictive than it should be and if Mr. Finch wants to put in a less restrictive medical marijuana bill, I might be willing to cosponsor it with him.

MR. MCLAUGHLIN: My time. Thank you.

MR. GOTTFRIED: Sorry.

MR. MCLAUGHLIN: Can we start the 15 minutes now? Great.

Mr. Gottfried, I want to revisit on -- actually, I want to visit "serious condition" for a moment. I heard you explain that. I heard you say words that have meaning, which is great to hear

because we debated a couple of words a couple of weeks ago which were difficult to explain so let's talk about serious condition. Would you define back pain as a serious condition?

MR. GOTTFRIED: It is conceivable that a given individual's back pain could be so severe that a physician in reasonable, professional judgment could say that that patient's back pain was a serious, debilitating condition --

MR. MCLAUGHLIN: So that's a yes.

MR. GOTTFRIED: -- but ordinarily I would think not.

MR. MCLAUGHLIN: Okay. Migraines, same thing?

MR. GOTTFRIED: Again, it is conceivable that that could be correct.

MR. MCLAUGHLIN: And another yes. Yes or no is good, that's fine. I know it's all conceivable.

MR. GOTTFRIED: Excuse me. I'll answer your questions --

ACTING SPEAKER P. RIVERA: Mr. McLaughlin, Mr. Gottfried can answer the question how he chooses to answer the question.

MR. MCLAUGHLIN: Yes, he can but he cannot --

ACTING SPEAKER P. RIVERA: He's trying to answer your question. Please allow him the time to answer your question.

MR. MCLAUGHLIN: But it's a nice tactic that he's goes on a filibuster every time a question is asked.

ACTING SPEAKER P. RIVERA: Then don't ask him those questions.

MR. MCLAUGHLIN: Okay. Let's move on then. So, in a yes or no answer can you define that? Can you define that? Would you say that, I don't know, foot pain could be a serious condition? Yes or no?

MR. GOTTFRIED: Same answer.

MR. MCLAUGHLIN: Same answer, great. So therefore, it really goes beyond what many people have talked about with palliative pain and care and everything else.

Public place, I want to talk about that for a second. Public place is defined as a motor vehicle and then an aircraft, which is interesting, as defined in Section 240 of the General Business Law and I guess you could get into a problem there because airplanes usually travel across State lines, not always, sometimes they go Albany to Buffalo, but very often they go out of State lines. So wouldn't the person obviously be in violation of Federal law at that point if they're on an aircraft with marijuana medically prescribed or not which violates Federal law?

MR. GOTTFRIED: As I understand in the bill the use of the term "public place" is in the context of prohibiting the consumption or display in public places. So the fact that airplanes fly, that doesn't loosen the bill. If anything that, perhaps, makes the bill

more restrictive. But, yes, if you're carrying marijuana in interstate commerce or not, you're violating Federal law.

MR. MCLAUGHLIN: Right. So they wouldn't be violating this law but they would be violating Federal law by -- probably they wouldn't get it through security anyway if the TSA is doing their job and generally they do pretty well at grabbing this stuff so the person would therefore be placed under arrest for trying to transport marijuana onto an airplane to begin with, which I find kind of an interesting little twist in this. I mean they would. They would try to get through security with marijuana, whether it's medically prescribed or not, they're going to jail.

MR. GOTTFRIED: I would imagine that if TSA agents discovered some quantity of marijuana on your person you'd be in big trouble with Federal law, that's correct. This bill doesn't change that. I wish we could.

MR. MCLAUGHLIN: Okay. The other thing that struck me was the - just give me one second here - the registered organizations. I agree with my colleague that talked about maybe getting this directly to the pharmacies and I know it does address that which is good, but it also talks about a facility license under Article 28 of this Chapter and I know you discussed a little bit about that and then a not-for-profit corporation organized for the purposes of acquiring, possessing, manufacturing, selling, delivering, transporting or distributing marijuana for certified medical use. Given the history of some of our not-for-profits in the State I can see some problems

arising there.

MR. GOTTFRIED: If that is a question I'll answer it, if not --

MR. MCLAUGHLIN: Yes. I just want to flesh that out a little bit. How do you foresee this --

MR. GOTTFRIED: The bill -- first of all, those entities would be under the same regulations that a pharmacy or a hospital would be under, number one; and number two, the Health Department would only be authorized to register that kind of organization if they make a finding that there are no registered organizations that are hospitals or pharmacies serving that area. I would be surprised if any such organizations are ever registered under this law, but that was put in just as a backstop because there might be a part of the State where no hospital or pharmacy would choose to be a registered organization.

MR. MCLAUGHLIN: Okay. That makes sense but, I mean, in California in Colorado where they seem to have had some big problems, maybe they're approaching it in a different way because they seem to have a lot more dispensaries that are not pharmacies.

MR. GOTTFRIED: Right. But California law bears virtually no resemblance to this bill and for very good reason. Any problem that may or may not exist in California, I don't think there is any basis for thinking that that problem would exist under this law. They bear no resemblance to one another.

MR. MCLAUGHLIN: Okay. On page 11 of the bill,

line 37, it begins to talk about "... a school, employer or landlord may not discriminate and they may not refuse to enroll or employ or lease to or otherwise penalize a person solely for that person's status as a certified patient or designated caregiver unless failing to do so would put the school, employer, landlord in violation of Federal law or cause it to lose a Federal contractor funding."

So are we saying then that you could have a teacher, let's say, that has been prescribed marijuana for migraines, back pain, whatever it was, and is there an affirmative defense for that person if they're using marijuana as they try to get through the day because they're a registered user? Is there an affirmative defense for them?

MR. GOTTFRIED: If what they are being fired for is being stoned on the job or for making non-medical use of marijuana or what they're being fired for is because of a finding that their use of this drug like any other drug was impairing their performance, then this bill would not protect them.

MR. MCLAUGHLIN: The bill would not protect them?

MR. GOTTFRIED: Correct. The only thing the bill protects them from is being fired solely for their status as being a certified patient, again, unless Federal law would require them to be fired.

MR. MCLAUGHLIN: But what if they needed that marijuana? And, you know what? Sadly -- I don't know that the person is using marijuana but there's a school principal within my

district that has very serious cancer and she's working and working through the day. And God bless her, she's doing her best and, you know, would she be allowed under this legislation if it relieved her pain and her nausea, because this is a person that this would be a good use of this bill, would she be allowed to use that during the school day in order to get through it because she may have to miss it if she wasn't?

MR. GOTTFRIED: I hate to disappoint you, but I don't think there's a yes or no answer to that question. Let's hypothesize that instead of marijuana we're talking about this person making occasional use of OxyContin to get through the day. It is easy to imagine a person whose OxyContin use would not in any way impair their ability to work. It might, in fact, make it possible for them to work. I would hope their school district would not fire them just because they're using OxyContin in a way that doesn't impair their work. I would say the same principle would apply to medical marijuana use, but if their OxyContin use may impair their work, then they might well be either demoted, limited or fired. The same principle would apply to medical marijuana.

MR. MCLAUGHLIN: Well, I guess I would disagree with you that the use of any of those substances would not necessarily impair them. I think it obviously would impair them. It may allow them to get through the day, but it's definitely impairing.

MR. GOTTFRIED: Well, I would say there are people for whom pain medication that might make you or I unable to

do a good job, but for someone with severe pain might bring their pain under control but not make them essentially intoxicated.

MR. MCLAUGHLIN: Yes. I know what you're saying. It alleviates the pain, but I don't think they are any more capable than you and I would be to operate heavy equipment or a car or machinery or anything else, so I think in that regard it's certainly going to impair them. It may alleviate their pain.

MR. GOTTFRIED: What I'm saying is, and I assume you have spent as little time in medical school as I have, but what I'm saying is that I believe there are patients for whom pain medication enables them to work but does not impair their ability to work. That's a narrow clinical class. I guess it is possible that that class, in fact, is empty. I don't believe so, but, again, if a person's use of antihistamines makes them unable to do their job, then an employer has a right to take some kind of action.

MR. MCLAUGHLIN: So theoretically, we could potentially have teachers, doctors, maybe airline pilots that are using this substance, are using marijuana on the job. Is that --

MR. GOTTFRIED: Well, it sounds like you're interested in being able to go home and say, *Dick Gottfried said airline pilots could be stoned.*

MR. MCLAUGHLIN: No. I'm not saying that.

MR. GOTTFRIED: No; okay, good. Neither am I.

MR. MCLAUGHLIN: I'm just asking is it possible that under this legislation we're kind of allowing that because the

reason I say that --

MR. GOTTFRIED: No, no.

MR. MCLAUGHLIN: -- is that on page 11, line 28 it talks about affirmative defense, even when you don't have a registration card.

MR. GOTTFRIED: Now you're changing the topic.

MR. MCLAUGHLIN: I am changing the subject a little bit, but I'm talking about affirmative defense for a person that might be using and saying, *Well, listen, I need this to get through the day.*

MR. GOTTFRIED: Well, first of all, that's not what that subdivision says. What that subdivision says is that if you have all the requirements of the medical marijuana law except a registration card and you are prosecuted criminally, you can raise the defense that you are, in fact, a patient who has been certified by your doctor, et cetera, et cetera, a really cumbersome proposition.

MR. MCLAUGHLIN: It doesn't say that.

MR. GOTTFRIED: All it is aimed at is a person who meets all the tests of the law except having a registration card.

MR. MCLAUGHLIN: Only it doesn't say that.

MR. GOTTFRIED: Well, actually it does.

MR. MCLAUGHLIN: It says, "...affirmative defense. A patient and a patient's caregiver who have failed to obtain," not doesn't have, that talks about maybe it's not in your possession, this says, "failed to obtain a registry identification card

may assert an affirmative defense to any prosecution under State law for actions and conduct that is otherwise consistent with the certified medical use of marijuana." It does not talk about not having it. It says not obtaining it. It means you never got it, right?

MR. GOTTFRIED: I will plead guilty to being -- perhaps for responding casually rather than in the literal words of the bill. If you want me to limit my answer to quoting words of the statute, yes, that is what the bill says. If you have failed to obtain a registry card but you do everything else in accordance with the statute, then you would be able to assert that as a defense in a criminal prosecution. And I think that's pretty much what I just said, although perhaps in more words. And I apologize if my effort to use fewer words threw you off.

MR. MCLAUGHLIN: It doesn't even say that. It says that you have got an affirmative defense to any prosecution under State law for actions and conduct that is otherwise consistent. So it doesn't talk about you have met all the other requirements.

MR. GOTTFRIED: Well, that's what "otherwise consistent" means because if you're possessing marijuana without having the condition, without having a doctor who is treating you, without having that doctor having written a certification, then your possession is not consistent with this Article and if you possess 2.6 ounces, then your possession is not consistent with this Article. If you are not a designated caregiver and you are possessing, then it is not consistent with this Article. What element of this Article do you think

those words leave out?

MR. MCLAUGHLIN: How did they come to possess the marijuana?

MR. GOTTFRIED: They would have to --

MR. MCLAUGHLIN: Have broken the law.

MR. GOTTFRIED: They would probably have to possessed it not consistent with this Article because a dispensary couldn't dispense it to them without the card. So, it may well be that the subdivision you're concerned about when you get finished applying it leads nowhere and I guess I'd have to -- maybe that's true, that subdivision doesn't do anything.

ACTING SPEAKER P. RIVERA: Mr. McLaughlin, your time is up.

MR. MCLAUGHLIN: Thank you. It does assert an affirmative defense.

MR. GOTTFRIED: It's certainly not a reason for someone with your views to vote against the bill.

MR. MCLAUGHLIN: It is an affirmative defense.

ACTING SPEAKER P. RIVERA: We have to shut the system down temporarily for a couple of seconds before we continue with the debate.

Mr. Walter.

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

ACTING SPEAKER P. RIVERA: Mr. Gottfried.

MR. GOTTFRIED: Certainly.

MR. WALTER: Thank you. First, it's been an excellent discussion. I appreciate the answers to all of your questions so far.

MR. GOTTFRIED: Thank you.

MR. WALTER: Has the FDA ever approved the use of marijuana for the purposes described in this bill?

MR. GOTTFRIED: Well, that would primarily be the DEA, natural marijuana. The DEA has not, although their hearing examiner did and the synthetic THC they have approved not only for the purposes in this bill, but for stubbed toes as well.

MR. WALTER: It is my understanding that in order for a drug to satisfy the requirements to be used and prescribed by doctors it has to go through clinical trials and be determined not only effective, but safe to use. Have there been any clinical trials for marijuana that have not only shown its effectiveness in this situation but its safety?

MR. GOTTFRIED: Have there been clinical trials that meet FDA standards? I don't think so because it's a natural product that nobody can patent and make zillions of dollars off, nobody has stepped forward to finance that kind of clinical trial.

MR. WALTER: I'm not a doctor, but it is my understanding that doctors have strict educational requirements that they have to go through in pharmacological coursework, as well as continuing education requirements to understand the effects, the

effectiveness and the interactions that drugs have with other drugs. Is or will marijuana be part of these educational requirements for doctors to go through to understand the effects and the interactions with other drugs?

MR. GOTTFRIED: Well, there is no legal requirement for continuing ed for doctors in this State and State law does not spell out their curriculum. Doctors are constantly learning things that were not taught to them in medical school and there is a very extensive body of literature, including reports by the Institute of Medicine, that are widely available and widely read by doctors relating to marijuana. I could read you a fairly long list of physician organizations that support legalizing medical use of marijuana. If I were to read to you the list of physician organizations opposing medical use of marijuana, I don't think there would be any organizations on that list; maybe you know of one.

MR. WALTER: No. I don't have an agenda as opposed to -- but --

MR. GOTTFRIED: Because the Medical Society of the State of New York recommends legalizing medical use of marijuana, the AMA, the Institute of Medicine, the New York State Nurses Association, a long list of organizations of people in white coats recommend ending our legal prohibition on medical use of marijuana, including State legislation to do so.

MR. WALTER: You just mentioned the Medical Society. I do have a letter here, it's to you from the Medical Society

dated May 14th. It does say that the definition in the bill should be, "Patients who have been diagnosed as chronically ill with life-threatening diseases when all other treatments have failed." That's not the definition you use in the bill, though. Is there a reason why you decided to discard the recommendation from the Medical Society?

MR. GOTTFRIED: Well, first of all, from year to year the Medical Society changes what they think the definition ought to be. The definition in the bill was one that the Medical Society helped us write and they stood by for many years. On the question of whether it should be limited to someone whose illness is chronic, I wouldn't think so and I think if anybody introduced a bill to limit -- to apply criteria like that to any drug, I think the Medical Society would be deeply angry that we were intruding on medical judgment.

But the language that is in the bill now was written, as I said earlier, word by word, comma by comma in close consultation and ultimately with the support of the Medical Society and the Health Commission.

MR. WALTER: Sure, but our understanding of drugs and their interaction with the human body and physiological changes that occur evolves. It's not stagnant, it continues to evolve.

MR. GOTTFRIED: That is right.

MR. WALTER: So if they had a determination in the past and they have changed their determination, shouldn't we certainly go along with that new determination?

MR. GOTTFRIED: I don't think they have cited any clinical basis for proposing a more restricted recommendation. I don't know any other organization that would apply restrictions like that and so, no, I would not recommend tightening the language in the bill in that way. Again, the health care professional endorsement of legalizing medical use of marijuana without being tied to that kind of restrictiveness is a very long list and, again, I am not aware of any medical speciality organization or State society that opposes State legislation to legalize medical use of marijuana. The Institute of Medicine --

MR. WALTER: I think you covered it.

MR. GOTTFRIED: -- does not recommend that kind of restriction.

MR. WALTER: Right, okay. They also said that there should be a mechanism for ongoing monitoring and care of the patient by the physician including a strong recommendation of legislation of a five-year sunset to ensure review of the implementation of the law, to measure its success and to ensure patients have, in fact, benefitted from the access to this treatment have, in fact, benefitted from the access to the treatment.

MR. GOTTFRIED: Well, you know, we don't do that with any other physician recommendation.

MR. WALTER: This is different, though. Don't you agree, though, and I know you have compared it repeatedly to other drugs like oxycodone and morphine, but this is something that is

completely different than those drugs, isn't it?

MR. GOTTFRIED: Well, every molecule is completely different from every other molecule. I have a letter from the Dean of the NYU Medical School --

MR. WALTER: I think you know what I mean.

MR. GOTTFRIED: -- saying that marijuana is one of the most benign clinically-active substances known to humanity. And so, no, I don't agree. And while Valium is different from OxyContin and opium and morphine are different from codeine which, in turn, are different from steroids, none of those drugs has limitations in the law as to --

MR. WALTER: I understand that.

MR. GOTTFRIED: -- as to what conditions --

MR. WALTER: Let me point out a difference then this way. Prescription drugs like morphine and oxycodone have exact dosages.

MR. GOTTFRIED: No, they don't. No, they don't.

MR. WALTER: What I mean --

MR. GOTTFRIED: No, they don't.

MR. WALTER: What I mean by that is you know exactly how much active ingredient is in each pill that you take, okay? The difference is, my understanding - a friend told me - that some marijuana is more powerful than other marijuana. How can we address that difference by a doctor who is monitoring a patient when they don't know exactly what kind of dosage they're getting from this

batch of marijuana that they got as compared to the batch they got the following week?

MR. GOTTFRIED: Well, first of all, it is utterly common for doctors to write prescriptions and orders that refer to painkillers and other medications to be taken as needed and nobody monitors what the patient decides they need or how often they take it, that's number one. Number two, the patient is actually in the best circumstance to know whether the medical marijuana has adequately relieved their nausea or their pain and number three, unlike many medications which if you take too many of them they can ruin your liver or kill you, no one has ever died of an overdose of marijuana, no one. There are virtually no clinical consequences other than essentially getting sleepy and essentially intoxicated from using one quantity of marijuana or another.

So that's a very important way in which marijuana is different from the cholesterol medication that I take every day. It would not get anyone stoned, but if I take too much of it it could ruin my liver. That's not true of medical marijuana, for example, which is why the Dean of NYU Medical School wrote to me saying it is one of the most benign clinically-active substances known to humanity.

MR. WALTER: Other than the carcinogens that are contained within marijuana.

MR. GOTTFRIED: Well, you know, there are a bunch of carcinogens in almost everything we eat and we're talking here about it being used by people who are suffering serious,

debilitating and life-threatening conditions and almost every drug that we take, including aspirin, can kill you. No one has ever died of an overdose of marijuana, ever.

MR. WALTER: On the bill.

ACTING SPEAKER P. RIVERA: On the bill.

MR. WALTER: Thank you. You know, I appreciate the answers to the questions. There is a difference between going to your doctor and getting a prescription for morphine or oxycodone when you have chronic back pain versus getting an ID card for marijuana. There is no controls over how much active ingredient in marijuana that you're taking in. There's been no studies by the FDA through its efficacy or to its dangers that might be posed from smoking marijuana or from secondhand smoke from marijuana from other people within your household.

Yes, we have to keep in mind the compassionate arguments to relieve the pain for those suffering from debilitating, chronic disease and pain such as cancer and it's a very difficult bill because of that, because there is a human element to this from the compassionate side of the argument. But there are just too many ways around it and there are too many other concerns and there are too many questions that are left based on the active ingredients in marijuana, the effectiveness, the other dangers and the societal problems that may come with creating more legal access.

So, I don't know how I'm going to vote on this yet. I'm interested to see more debate but, there are way too many

questions on this at this time. Thank you.

ACTING SPEAKER P. RIVERA: Mr. Murray.

MR. MURRAY: Thank you, Mr. Speaker. Yes, I am back like a bad penny. Would the sponsor yield for a question?

ACTING SPEAKER P. RIVERA: Mr. Gottfried.

MR. GOTTFRIED: Sure.

MR. MURRAY: Mr. Gottfried, I had gone back and checked all my English-reading words in the bill.

MR. GOTTFRIED: Good.

MR. MURRAY: And what I didn't find was a specific list of when we we're talking about severe, debilitating or life-threatening conditions. Now I looked and I checked at some of the other states you had mentioned, Colorado, Oregon, they have lists that would qualify as debilitating. Does this bill have a list of qualifying conditions?

MR. GOTTFRIED: Some states have lists, some states don't. I personally think a list would be a mistake because I don't think the Legislature really ought to be in that business. There was a point where some people advocated that we authorize the Health Commissioner to either make a list of what you could use it for or even make a list of things that you could not use it for and both Dr. Daines, when he was Health Commissioner --

MR. MURRAY: Mr. Gottfried, if I can interrupt for a second. All I needed was does this bill have the list?

MR. GOTTFRIED: -- and Commissioner Shah both

were very emphatic --

MR. MURRAY: Let me try that one more time.

Does bill have the list?

MR. GOTTFRIED: If you stop interrupting me --

ACTING SPEAKER P. RIVERA: Mr. Murray, he's entitled to answer. You asked a question.

MR. GOTTFRIED: -- it will go a lot more quickly. I guarantee you.

MR. MURRAY: Okay. Go for it.

MR. GOTTFRIED: Both of those Commissioners said very emphatically that they never wanted to be put in a position of making that kind of judgment, that they felt that that was not their job or the Legislatures' job, that was a doctor's job. So no, the bill does not have a list for good reason.

MR. MURRAY: Hey, we got there. Terrific.

On the bill, Mr. Speaker.

ACTING SPEAKER P. RIVERA: On the bill.

MR. MURRAY: So no, we do not have a list and the reason I'm bringing this up and we have talked and the sponsor had said how important words are and he is right. I mean, he's absolutely right. This is an extremely important issue. The reason I brought up I-STOP before was because this is a problem going out of control with prescription drug abuse. We took an amazing step earlier this week in passing I-STOP which will hopefully bring that problem under control to be able to track the prescriptions, to stop the pill mills and the

doctor shopping and things of this nature.

What we're doing with this bill is the exact opposite. We're going just the other way and the reason I say that is not because I say the sponsor's intent is wrong. I believe his intent is the right place.

ACTING SPEAKER P. RIVERA: Mr. Gottfried, why do you rise?

MR. GOTTFRIED: Would Mr. Murray yield to a question?

ACTING SPEAKER P. RIVERA: Mr. Murray.

MR. MURRAY: No. I have listened to your answers. I'm going to use my time to get my point across.

So here's the point. The point being I don't question his intent. His intent might be there but the verbiage in the bill and, see, that is what we are about to make or possibly make law. That's what the law will be and it's the verbiage here. When he says he picks it out and we have to read it carefully, I did read it carefully in English words and it said, "Serious condition means a severe, debilitating or," that's the key word "or," not "and," "or," "life-threatening condition."

Now I took the time to look up debilitating. "Make someone weak and infirm, hinder, delay or weaken, causing a loss of strength or energy, weakening or reducing the strength of," that's debilitating. So I took it further and one of the medical dictionaries gave an example and it says, "The siege of pneumonia debilitated her completely." So we're getting to the point where debilitate. Who

decides what is debilitating or serious? It will be the practitioner writing this out and certifying them. So when you say that someone that was buying their marijuana on a street corner, that they'd be crazy to now do this, on the contrary. They'd be able to get it legally now and who is going to prove that the practitioner did not think they had a debilitating condition?

And see, I'm looking up Oregon now. Now Oregon has a list and they're petitioning to get more things included on their list and it's things like schizophrenia, schizo effective disorder, bipolar disorder, anxiety with depression, post-traumatic stress disorder, insomnia with anxiety, agitation associated with Alzheimer's and Attention Deficit Disorder. We have opened up a seriously broad spectrum of cases and situations where a practitioner can say, *Sure, I think you need some pot, that's going to help you out*, and that's the door we're opening up here because, as I said, I'm not questioning the intent of the sponsor. I think his intentions are pure in wanting to help people that were in pain, but that's not what this is doing.

What this is doing is opening up the door to serious abuse. And as we have heard before, this is a gateway drug that will lead to more serious abuse. So I'm urging my colleagues today to please consider this. I mean, this is serious law here. I mean, the words do matter, as he said, and these words make this a very bad bill so I urge a no vote on this bill. 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. Cahill to explain why he's voting for this.

MR. CAHILL: Thank you, Mr. Speaker. I have spoken at length on this bill in the past and I have invoked memories of my dad's illness when my dad was very sick in the late 1970's and, in fact, was an illegal marijuana user in the hospital visited by police officers knowing exactly what he was doing and finding that little bit of relief during the last 18 months of his life that ended in his 50th year. It provided that little bit of relief, it helped. I talked to cancer patients and cancer victims and cancer survivors, people who have had other debilitating illnesses who have either used marijuana for therapeutic purposes or wished they could or wished they could but did not do so because of the illegality of it because to get marijuana in society today would require someone to consort with criminals. That's not what is necessary if we pass this law, as so many other forward-thinking states have done.

Just to remind my friends and colleagues in this room, not to violate the rule of invoking a colleague's name, but there is no one in this room who was more conservative than our friend and late colleague, Tom Kirwan. There is no person in this room who was more supportive of law and order than our late colleague, Tom Kirwan, was and Tom Kirwan was a co-sponsor of this bill in his

lifetime. I withdraw my request and proudly vote in the memory of my dad and in the memory of Tom Kirwan in favor of this legislation.

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

MS. CALHOUN: Thank you, Mr. Speaker. I was also and have been a co-prime sponsor of this legislation and I remember when a certain person who just spoke mentioned how he actually had a doctor say to him, *Do you know any way to get your dad some marijuana*, and there was another person in this room who also spoke.

I think what we have to do is take one step back. I consider myself to be very conservative as well, but I think what we have to look at, the person who wants to go out and indiscriminately smoke marijuana is going to today or tomorrow find a way to do so. The person who wants to avoid breaking the law needs the benefits that this law will provide which is to give you a legal way for a reputable doctor through a legal pharmacy or other source to be able to provide you with what you need if this is your end-of-life struggle and you are in severe pain.

That is the key here. We all supposedly know of places where kids go out and get illegal marijuana. We want to open it up to those. Every one of you think of someone you love and if that person was in agony from pain and there was something that could relieve that pain, we do know less than give them the opportunity through this legislation. If there are things that have to be changed,

we can come back and we can change it. You, without me, but you can do so and, therefore, I am very proud to be voting in favor of this legislation which will mean a tremendous amount to people who are suffering and to their families who also suffer with them. I will be voting in the affirmative.

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

MS. MALLIOTAKIS: Thank you, Mr. Speaker. First and foremost I want to congratulate and commend my colleague, Assemblyman Lou Tobacco, the Ranker on the Health Committee for his compelling arguments during this debate today. This may very well be Lou's final debate as a member of the New York State Assembly, so I want to thank him for spearheading today's debate.

I have concerns about this legislation. First of all, I feel that the definition of what would be a certified patient is very broad and vague. As my colleagues before me have mentioned, it doesn't really say what types of diseases would qualify someone to be able to receive this medical marijuana treatment. I think it needs to be more specific and list those specific terminal illnesses, whether it be MS, whether it be cancer and make it more specific.

Secondly, this legislation also not only allows a physician to issue the medical marijuana, it allows a physician's assistant, it allows a nurse practitioner and I think that that's something that is mind boggling to me that when we just voted on I-STOP legislation to create a database to make sure people aren't

doctor shopping, to make sure that people are not using various pharmacies, that we are going to vote to legalize something that will allow someone to go to not only a doctor, but can go to numerous nurse practitioners or physician's assistants without the reporting requirement that we just passed earlier this week.

So without the proper safeguards, the controls and the oversight, I think that this legislation still needs work. I commend the sponsors, Assemblyman Gottfried and Senator Diane Savino in the Senate, for putting a lot of work into this legislation and I do support the idea, but unfortunately in this House we don't vote on ideas, we vote on legislation and I cannot support this at this time to become law; however, I do hope that we will make the necessary changes and at some further point I will hopefully be more inclined to support it. For that reason, I will be voting in the negative.

ACTING SPEAKER P. RIVERA: Mr. Boyle to explain his vote.

MR. BOYLE: Mr. Speaker, to briefly explain my vote. I'd just like to associate myself with Ms. Malliotakis' remarks and also commend Lou Tobacco.

This bill is getting warm, but it's not there yet. I certainly support the concept of medical marijuana, but I see what happens in other states, California and Colorado, it's a joke. New Jersey's concept is much better, in my opinion, where the legislation actually lists the diseases. Glaucoma, certain cancers we can all agree on should be covered for medical marijuana purposes. This bill is still

too broad. I will not support it until it does delineate the specific diseases and for that reason today I cannot support it and I vote in the negative.

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

MR. J. MILLER: Thank you. Of course, you know last time I spoke I was stoned. This is an important bill and there are different things that we do in different places. We do not allow people on the street to take out a sharp instrument and cut people open even if they're willing to sew them back together, but we do in a hospital surgical suite. Medicine. We use certain techniques in medicine that we don't do on our neighbors. This is a medical treatment. This is not a dangerous medical treatment. This is a helpful medical treatment.

And it just seems -- I mean, if you look at the board it would seem as if overwhelmingly Republicans are against the use of drugs and medicine and Democrats are overwhelmingly in favor of it. That's not true. That's just a reflection of party policy which sometimes doesn't belong in the real world. That's why I could say without any hesitation I dislike both parties.

This is a bill that's time has come. And we can wait and we can wait and be the last ones to get on when we feel safe enough or we can do what is right and provide for those sad people in our community who desperately need some relief during the worst times of their life, the relief that they should have in the competent hands of the medical professions who, I could assure you, are not

going to abuse this because of the penalties they will face if they do. I proudly vote in the affirmative. Thank you.

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

MS. GLICK: Thank you, Mr. Speaker. Twelve years ago right this week I was here and I was ten days away from my sister's passing from lung cancer. She was a lifelong New Yorker who had moved out to California and within six months had been diagnosed with stage 4 cancer and my nephew was out there and he was very opposed to any drugs, but she asked him if he could go out and find some marijuana for her because she couldn't take the nausea and the pain. And he did it, obviously risking at that time, you know, a legal complication, a legal problem for himself but he did it for his mother.

And I think that this is, to me, just an unbelievable discussion today of people who are just not facing the reality that there are, today, tens of thousands, probably, of New Yorkers with various degrees of terminal illness who could be assisted and have their discomfort, the side effects of chemo ameliorated and we are still, in some unbelievably backward way, afraid -- I think many people know that this is okay, they're just afraid of how it will play in an election year and I just, on behalf of my sister and others who are in her situation, I proudly cast my vote in favor of common sense and reasonable medical palliative treatment.

ACTING SPEAKER P. RIVERA: Mr. Walter to

explain his vote.

MR. WALTER: Thank you. After a very thoughtful and considerate debate I have been moved by the fact that there are just way too many questions left on the table. There's too many loopholes, it's not tight enough. The restrictions are not tight enough. We don't want to end up in a situation like California or Colorado or other states where this issue has just exploded and been out of control. I don't want to see that in New York and for that reason I'm voting in the negative. Thank you.

ACTING SPEAKER P. RIVERA: Mr. Jose Rivera to explain his vote.

MR. J. RIVERA: Thank you, Mr. Speaker. About five years ago a young lady was struck with a terminal illness called ALS, that is Lou Gehrig's Disease, and even though it carries the name of Lou Gehrig, a very popular baseball player, not too many people still pay attention to what Lou Gehrig's Disease, ALS, is. It is terminal. No one pays attention. The pharmaceuticals, government, no one is invested, you know why? It only affects a small group of people, maybe less than 25,000 a year. Even my Yankees from the Bronx don't even pay attention. They were kind enough, maybe because of the economy, they only contributed \$25,000 five years ago for research.

You know, the people affected with ALS are people whose bodies are under stress, stress, stress, stress. It affects mostly soldiers in battles coming back home and it affects people who are

athletes. Well, one of those people happens to be my first-born, Diane Riportella, a young lady who moved to New Jersey and on her own independent, became successful, so successful that she contributed her time to raise funds for leukemia and cancer research and she raised once \$200,000 and she was declared New Jersey's Woman of the Year twice in a row. There are billboards all over the highways in honor of this young lady.

That young lady called upon me and said, *Pop, I know you're a very conservative-minded person, you and the family don't tolerate smoking in the house, but Pop, the only thing that gives me some kind of relief is if I am allowed to smoke marijuana, medicinal marijuana.*

ACTING SPEAKER P. RIVERA: Mr. Rivera, your time is up.

MR. J. RIVERA: I'm concluding.

So three years ago I went and I spoke before the Legislature in Jersey and I thanked them because they were providing leadership. It has taken us three years. Two years ago -- let me read to everyone and I'll be the first one to rise my hand to say that Governor Chris Christie of New Jersey is a good governor.

ACTING SPEAKER P. RIVERA: Mr. Rivera, your time is up.

MR. J. RIVERA: You know what he said - in conclusion - "Working together we have come to an agreement that will prevent further delay to patients who need relief --"

ACTING SPEAKER P. RIVERA: Mr. Rivera.

Ms. Naomi Rivera.

MS. N. RIVERA: I wish I could read that for him, I can't.

ACTING SPEAKER P. RIVERA: Ms. Rivera.

MS. N. RIVERA: I wasn't going to get up to speak but because my father got up to speak I feel compelled and, yes, I just want to encourage everyone to vote in the affirmative. My sister was diagnosed with ALS and a good day is a day when she can be off an oxygen tank for more than five minutes. Her lung capacity is at the level that -- I mean, she's five years and the lifespan is anywhere between two to five years. She's in Hospice at home and the only relief she gets she will say, *I get a junkie's dream at my door*, morphine, antidepressants, you know, just a host of medications, but the one thing that alleviates her is marijuana. And I can't imagine anybody that can't breathe wanting to inhale smoke, but because of her, I believe that it is the only thing that we can do to help people that are terminally ill and that is to give them whatever relief that they can get and if marijuana is it, then let the doctors have the ability to prescribe it. Thank you.

ACTING SPEAKER P. RIVERA: Mr. Goodell to explain his vote.

MR. GOODELL: I agree with the comments of my colleagues, Assemblywomen Rivera and Glick and others, that we should allow the licensed physicians in our State to use whatever

means are available and appropriate to treat patients. I also agree with the comments of Assemblywoman Malliotakis and Assemblyman Boyle that we need to be sensitive to the fact that this particular drug has, for a long time, had substantial abuse in our State and in our nation.

The challenge for us, as legislators, is to vote on a bill that balances those two issues. And in my opinion, this bill does not balance those two issues appropriately. It allows a patient who has been certified and once they have been certified to buy basically an unlimited amount. They can buy 2.5 ounces every day if they wanted. Under this bill, they can buy it more often than once a day. That opens the door for abuse.

Two days ago we recognized the problem with prescription drug abuse. I don't think there's anyone in this room who is suggesting we should eliminate prescriptions, but we most definitely came together unanimously on a bill to address prescription drug abuse. If we want to move forward with medical marijuana and provide this option to our physicians, which I think we should do, we should also be careful that the bill language that we approve doesn't create a different problem and a more serious problem and a problem that we are sensitive to as we're sitting here today because we know the problems with marijuana abuse. For those reasons I'm reluctantly voting against this bill and hope that the drafting issues that have been identified throughout the debate can be addressed in the future. Thank you, Mr. Speaker.

ACTING SPEAKER P. RIVERA: Mr. Gottfried to explain his vote.

MR. GOTTFRIED: Thank you. Many of you, particularly from Long Island, know the name of Geri Barish as an advocate on breast cancer issues. Many of you may not know that her son died of cancer and used marijuana for medical purposes in his last days. Geri Barish said, and I'm going to quote her, that, "To watch someone you love fight to live through the agony of pain without any relief is too hard to bear. Medical marijuana can help ease this suffering. Knowing that a doctor could provide safe and legal access to medical marijuana in a controlled environment will give patients with severe illness in New York State hope."

It is for that kind of reason, my colleagues, that organizations endorsing State legislation to allow medical use of marijuana in New York include the Medical Society of the State of New York, the New York State Nurses Association, the Hospice and Palliative Care Association of New York, the Pharmacist Society of New York, Gay Men's Health Crisis, the New York State AIDS Institute Advisory Council. Nationally, organizations such as the American Public Health Association, the Lymphoma Foundation of America, the American Medical Association, the Institute of Medicine of the National Academy of Sciences have all endorsed legislation to legalize medical use of marijuana. If there's anyone in this Chamber who knows an organization of health care professionals that opposes allowing medical use of marijuana, I haven't heard that organization's

name yet in this debate or at any other time.

This bill would be one of the toughest medical marijuana laws in the country, tougher in a long list of key respects than the law that governs much more dangerous substances in New York. Out of compassion for all of those who we have heard about today and in solidarity with a long list of organizations of health care professionals, organizations that we all respect, I urge a vote in favor of this bill.

ACTING SPEAKER P. RIVERA: Are there any other votes? The Clerk will announce the results.

(The Clerk announced the results.)

The bill is passed.

Mr. Canestrari.

MR. CANESTRARI: I understand we have resolutions and housekeeping for us to consider.

ACTING SPEAKER P. RIVERA: We do have some housekeeping to start off with on.

On behalf of Mr. Abbate on Bill No. 7761, the Assembly bill is recalled from the Senate. The Clerk will read the title of the bill.

THE CLERK: Bill No. 7761, Calendar No. 639, Abbate, Castelli. An act to amend the Town Law, in relation to the employer's ability to suspend a police officer without pay pending disciplinary charges.

ACTING SPEAKER P. RIVERA: There is a motion

to reconsider the vote by which the bill passed the House. The Clerk will record the vote.

(The Clerk recorded the vote.)

The Clerk will announce the results.

(The Clerk announced the results.)

The bill is before the House and the amendments are received and adopted.

We have numerous resolutions.

Privileged resolution by Mrs. Rabbitt, the Clerk will read.

THE CLERK: Resolution No. 1528.

Legislative Resolution congratulating the Port Jervis Youth Football League upon its designation as a Model Sport Community for 2011 by the SUNY Youth Sports Institute.

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, Attendant to such concern, and in full accord with its long- standing traditions, this legislative Body is justly

proud to congratulate the Port Jervis Youth Football League upon its designation as a Model Sport Community for 2011 by the SUNY Youth Sports Institute; and

WHEREAS, The Port Jervis Youth Football League has garnered State-wide recognition by being selected by the SUNY Youth Sports Institute as a Model Sport Community for 2011; and

WHEREAS, There are approximately 6,000 youth sports programs in New York State, and the Port Jervis Youth Football League was one of six selected for the prestigious designation as a Model Sport Community for 2011 by the SUNY Youth Sports Institute; and

WHEREAS, The success of the Port Jervis Youth Football League is attributable to a commitment to developing a relationship between its programs at the youth level and at the high school level; and

WHEREAS, The dedication of the volunteers of the Port Jervis Youth Football League is among the reasons the SUNY Youth Sports Institute honored the Port Jervis Youth Football League with its award of the designation as a Model Sport Community for 2011; and

WHEREAS, Sports competition instills the values of teamwork, pride and accomplishment; the Port Jervis Youth Football League's outstanding athletes have clearly made a contribution to the spirit of excellence which is their tradition and which reflects favorably on their community; now, therefore, be it

RESOLVED, That this legislative Body pause in its deliberations to congratulate the Port Jervis Youth Football League upon its designation as a Model Sport Community for 2011 by the SUNY Youth Sports Institute; and be it further

RESOLVED, That a copy of this Resolution, suitably engrossed, be transmitted to the Port Jervis Youth Football League.

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. Butler, the Clerk will read.

THE CLERK: Resolution No. 1529.

Legislative Resolution commemorating the 100th anniversary of the Newport Volunteer Fire Company No. 4 to be celebrated July 27-29, 2012.

WHEREAS, This legislative Body is proud to commemorate the 100th anniversary of the Newport Volunteer Fire Company No. 4 and to honor its past and present firefighting members for 100 years of fire protection to the citizens of Newport, New York, and its surrounding communities; and

WHEREAS, This most auspicious occasion will be observed at the Newport Volunteer Fire Company's 39th Annual Firemen's Field Days, which will be held Friday, July 27, 2012 through Sunday, July 29, 2012; the weekend will consist of a softball tournament, the 3rd Annual Antique Tractor Pull and Show, live

entertainment, a Chinese auction and great food; the traditional Interstate Firemen's Parade will be held on Saturday, July 28, 2012; and

WHEREAS, Although the history of firefighting in Newport dates back to the mid 1800's, Newport Fire Co. No. 4 was incorporated on March 25, 1912; and

WHEREAS, The Newport Volunteer Fire Company is proud to serve the village of Newport as well as the towns of Newport and Norway; and

WHEREAS, The members of the Newport Volunteer Fire Company No. 4 are deeply rooted in the community with several generations of families volunteering their services; and

WHEREAS, Currently, the Newport Volunteer Fire Company No. 4 is under the luminous leadership of Chief John Butler and President Mark Farrell; and

WHEREAS, Fire departments are an integral part of community protection services in every locality of our State; during the past 100 years, the courageous and devoted firefighters of the Newport Volunteer Fire Company No. 4 have valiantly responded to all types of fire emergencies and have won the praise and respect of the community which they serve; and

WHEREAS, With a membership of dedicated firefighters, the record of the Newport Volunteer Fire Company No. 4 in public service and fire protection is one to be envied; for 24 hours a day, for 365 days a year, for 100 years, whenever the alarm sounded,

these noble volunteers left their homes and went to the aid of their neighbors; and

WHEREAS, The brave firefighters of the Newport Volunteer Fire Company No. 4 are prepared to risk their lives every day to help save the lives of others and to protect homes and property from the destruction caused by fire; and

WHEREAS, In addition to the skill and devoted service demonstrated by individual firefighters, the Newport Volunteer Fire Company No. 4 reflects the history and development of firefighting over the past 100 years; and

WHEREAS, This legislative Body cannot express sufficient gratitude to those devoted individuals who recognize that the preservation of life and property is a sacred responsibility and who make that responsibility their own by serving as firefighters; and

WHEREAS, It is the sense of this legislative Body that we should give special recognition to those who work so assiduously for the betterment of their communities, and acknowledge publicly the heroic good works performed by the volunteer fire departments of this great Empire State, their officers and auxiliaries; now, therefore, be it

RESOLVED, That this legislative Body pause in its deliberations to proudly commemorate the 100th anniversary of the Newport Volunteer Fire Company No. 4 to be celebrated July 27-29, 2012; and be it further

RESOLVED, That a copy of this Resolution, suitably

engrossed, be transmitted to the Newport Volunteer Fire Company No. 4.

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. P. Lopez, the Clerk will read.

THE CLERK: Resolution No. 1530.

Legislative Resolution commemorating the 300th anniversary of the Town of Middleburgh, New York, to be celebrated August 3-5, 2012.

WHEREAS, It is the intent of this legislative Body to honor and commemorate the distinguished histories of the communities which comprise the noble body of this great Empire State; and

WHEREAS, Attendant to such concern, and in full accord with its long-standing traditions, this legislative Body is justly proud to commemorate the 300th anniversary of the Town of Middleburgh in Schoharie County, New York; and

WHEREAS, Numerous events are planned to celebrate this most auspicious occasion including fireworks, a parade, Old Thyme Baseball, musical entertainment from Victorian times to today, a community picnic, tours of the Dr. Christopher S. Best Home and Medical Exhibit, an ice cream social, band concerts, art/antique/quilt show, architectural tour of River Street, along with

many other events; and

WHEREAS, In 1712, a group of German Palatines led by Johan Conrad Weiser cut a road through the forests from Albany into the Schoharie Valley; and

WHEREAS, When they reached the present Village of Middleburgh, 40 log and earth huts were constructed; and

WHEREAS, Weisersdorf, as the settlement became known, was the first permanent European presence in the Valley; and

WHEREAS, In 1713, more families followed including Adam Vroman and his sons of Dutch descent who settled on "Vromansland" across the Schoharie Creek at the base of Onistigrawa; and

WHEREAS, Wheat was grown in the surrounding valley around Middleburgh and subsequently, the area would be known as the "Breadbasket of the Revolution"; and

WHEREAS, The Middle Fort was constructed just north of the present Village of Middleburgh along with the upper and lower forts to shield the valley; and

WHEREAS, On October 17, 1780 the fort protected the people while their lands were burned by British, Tory, and Indian forces led by Sir John Johnson and Joseph Brant; Timothy Murphy drove Johnson's white flag back three times and he, along with other local militia, would not allow the fort to surrender; and

WHEREAS, A new settlement was built nearer to the Middle Fort to replace Weyserstown which was burnt by Johnson and

Brant in 1780; this was Middletown, later Middleburgh when the town was formed in 1797; and

WHEREAS, During the Civil War, the Town of Middleburgh furnished the second highest ratio of soldiers to population of any township in New York State; and

WHEREAS, After the Civil War until prohibition, Middleburgh was a major producer of hops on the flats along the Schoharie Creek; and

WHEREAS, Middleburgh was the home of several notable individuals including former Speaker of the Assembly, Daniel D. Frisbie, the frontiersman, Timothy Murphy, and Governor William C. Bouck; and

WHEREAS, Remaining fruitful over the ebb and flow of decades of growth and change, the Town of Middleburgh continues its commitment to enhancing the quality of life of its citizens, ensuring a positive business, institutional and educational climate, and providing all essential services; now, therefore, be it

RESOLVED, That this legislative Body pause in its deliberations to commemorate the 300th anniversary of the Town of Middleburgh, New York, to be celebrated August 3-5, 2012 recognizing the significance of the role it continues to play in the life of the community of the State of New York; and be it further

RESOLVED, That a copy of this Resolution, suitably engrossed, be transmitted to the Middleburgh 300th anniversary Committee.

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. Magnarelli, the Clerk will read.

THE CLERK: Resolution No. 1531.

Legislative Resolution commending Literacy Volunteers of America upon the occasion of its 50th anniversary.

WHEREAS, It is the sense of this legislative Body that organizations whose focus and intent have made a substantial impact on the quality of life of citizens and communities throughout New York State merit the highest commendation; and

WHEREAS, Attendant to such concern and fully in accord with its long-standing traditions, this legislative Body is justly proud to honor Literacy Volunteers of America (LVGS) upon the occasion of its 50th anniversary, to be celebrated on June 20, 2012; and

WHEREAS, In 1962, Onondaga County resident Ruth J. Colvin read an article in the **Post Standard** which indicated there were 11,050 functionally illiterate adults in the County; wondering to herself, "If I don't do something, who will?," she developed her own tutoring method and began helping adults learn to read, write and speak English in her home; and

WHEREAS, Soon friends and fellow churchwomen began to follow her lead; Literacy Volunteers, as it was then known,

became Literacy Volunteers of Greater Syracuse in 1967, when Literacy Volunteers of America, Inc. (now ProLiteracy) was also founded; and

WHEREAS, Literacy Volunteers of America teaches people how to read, write, and speak English; and

WHEREAS, It does so by training lay people to tutor using one-on-one or small group instruction; having a collaborative tutoring model which is student-centered; providing literacy services in the workplace; and serving primarily adults aged sixteen and older functioning at or below the 6th grade level; and

WHEREAS, Since its establishment, Literacy Volunteers of America has helped thousands of adults improve their lives, and the life of the community, through literacy; and

WHEREAS, Literacy Volunteers of America envisions, and works toward achieving, communities where every adult who wants to learn to read, write, and speak English has access to a fully integrated education system; and

WHEREAS, Through partnership and collaboration with other organizations, Literacy Volunteers of America offers a broad range of instructional and volunteer opportunities which advance the basic literacy skills of adults in Central New York; and

WHEREAS, Literacy Volunteers of America serves adults who read at or below a 6th grade reading level, targeting adults who read at the lowest literacy levels, known as National Reporting System Levels 1 and 2; and

WHEREAS, Literacy Volunteers of America manages a certified tutor training program for volunteers interested in becoming tutors; workshops prepare tutors in adult basic education and English language instruction after which it matches adult learners with professionally trained, volunteer tutors who assist them to become literate and obtain the knowledge and skills necessary for employment and self-sufficiency; and

WHEREAS, Tutors and students meet, in mutually convenient public places such as libraries and coffee shops, for a minimum of two instructional hours per week; together they determine what goals to work on, always keeping in mind that the intent of Literacy Volunteers of America is to provide instruction which is learner-centered; and

WHEREAS, Through grant funding, Literacy Volunteers of America also offers small group instruction in various locations in the communities it serves; these small group classes are led by certified instructors and are supplemented by volunteer tutors in either a "push-in" or "pull out" model, depending on the needs of the individuals in the classes; and

WHEREAS, From its modest beginning in Syracuse, New York, Literacy Volunteers of America has evolved into a national, nonprofit, community-based volunteer organization dedicated to identifying, assessing, and meeting the literacy needs of adults through affiliates across the country and is to be commended for its efforts; now, therefore, be it

RESOLVED, That this legislative Body pause in its deliberations to honor and commend Literacy Volunteers of America upon the occasion of the celebration of its 50th anniversary, to be celebrated on June 20, 2012; and be it further

RESOLVED, That a copy of this Resolution, suitably engrossed, be transmitted to Literacy Volunteers of America.

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. Calhoun, the Clerk will read.

THE CLERK: Resolution No. 1532.

Legislative Resolution congratulating Ralph Goldsmith upon the occasion of celebrating his 100th birthday.

WHEREAS, Senior citizens bring a wealth of experience and knowledge to the increasingly active roles they play in today's society; their past contributions and future participation are a vital part of, and valuable asset to, the fabric of community life and activity; and

WHEREAS, This legislative Body is justly proud to congratulate Ralph Goldsmith upon the occasion of celebrating his 100th birthday; this most auspicious occasion was observed at a ceremony at Stony Point Town Hall during the ceremony for the Annual Memorial Day Parade; and

WHEREAS, Ralph Goldsmith was born on July 25,

1912 in Stony Point, New York; and

WHEREAS, A graduate of Stony Point High School, Ralph Goldsmith took business courses after high school and eventually began working in New York City as a messenger for International Telephone and Telegraph where he was employed for 21 years; and

WHEREAS, When the West Shore railroad ended commuter services, Ralph Goldsmith took a job with Provan Transportation working in their comptrollers offices and traveling many states; and

WHEREAS, Ralph Goldsmith retired from Provan Transportation in 1978; upon retirement, he and his late wife, Rebecca, enjoyed traveling together for many years, visiting the capitals of 12 countries; and

WHEREAS, A World War II veteran, Ralph Goldsmith honorably served his country as a member of the United States Navy, serving on cargo vessels and traveling thousands of miles in the Pacific during the war; and

WHEREAS, This exceptional centenarian, with his zest for life, has inspired and enhanced the lives of his family and friends; and

WHEREAS, This distinguished man has experienced the incredible joys and sorrows characteristic of and reserved for those with the stamina and courage to savor a full life; and

WHEREAS, This beloved man has enriched the lives

of those around him through his joyous and sincere love for others and through the quiescent charm and wisdom which comes only from a fullness of years; and

WHEREAS, It is the intent of this legislative Body to publicly recognize those who have reached such a remarkable age and who have witnessed and celebrated the innovations, cultural developments and awesome achievements of this country during the last century, while themselves contributing to the growth and excellence of this great Empire State; now, therefore, be it

RESOLVED, That this legislative Body pause in its deliberations to congratulate Ralph Goldsmith upon the occasion of his 100th birthday; and be it further

RESOLVED, That a copy of this Resolution, suitably engrossed, be transmitted to Ralph Goldsmith.

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. J. Miller, the Clerk will read.

THE CLERK: Resolution No. 1533.

Legislative Resolution commemorating the 85th anniversary of Temple Beth-El of Poughkeepsie, New York, to be celebrated on June 10, 2012.

WHEREAS, Religious institutions, and the many spiritual, social and educational benefits they confer, play a vital role

in the development of the moral fabric of a responsible citizenry; and

WHEREAS, It is the tradition of this State and this Nation to pay tribute to those institutions and individuals who have contributed to the ethical and spiritual values of their communities; and

WHEREAS, This legislative Body takes pleasure in commemorating the 85th anniversary of Temple Beth-El of Poughkeepsie, New York, to be celebrated at a Gala on Sunday, June 10, 2012 at Locust Grove in Poughkeepsie; and

WHEREAS, Temple Beth-El began with a band of 13 families from Poughkeepsie who were seeking a Conservative Jewish house of worship; these pioneering individuals included H. Albert, B.T. Braw, I. Fleishman, H. Goldstein, Dr. M. Katz, D.C. Klein, J. Lass, J. Perlmutter, H. J. Rosen, Major R. Rosen, I. H. Spitz, and I. Tofel; and

WHEREAS, In 1925 and 1926, this group held Conservative-style services on the High Holy Days in a meeting hall offered by Mr. I. H. Spitz on the second floor of the Fallkill Building at the corner of Main and Washington Streets; and

WHEREAS, During the months that followed, this small group became increasingly attached to the idea of founding a new synagogue grounded in the values of the Conservative Movement; and

WHEREAS, In October 1927, the opportunity arose to purchase a building located at 110-112 Montgomery Street which

had previously housed another religious group called The Society of Friends; and

WHEREAS, At a meeting held on October 9, 1927 with the 13 founders present, it was unanimously resolved to incorporate Temple Beth-El of Poughkeepsie, New York; these same parties signed the Certificate of Incorporation on October 31, 1927; and

WHEREAS, Major R. Rosen became the first elected President of the newly formed synagogue, and approximately a year later, the new building was officially opened on Montgomery Street; and

WHEREAS, In 1935 Rabbi Abraham Haselkorn became religious leader of Temple Beth-El; he remained the synagogue's Rabbi until 1942; from 1942-1946, Rabbi Holtzer served as the synagogue's spiritual leader; and

WHEREAS, Rabbi Erwin Zimet became the congregation's Rabbi in 1946, his notable tenure lasting for 40 years; Rabbi Zimet and his wife Lilli were contributors to Temple Beth-El's greatly expanded program of offerings, which included organization of both a High Holiday and a junior choir; and

WHEREAS, Lilli Zimet took on the responsibilities as principal of the synagogue's Religious School, overseeing a broad range of programs for pre-school children through high school seniors; and

WHEREAS, The congregation grew to 350 families

by the mid-1950's while worshiping on Montgomery Street, and the synagogue's leaders recognized the need for a larger building; and

WHEREAS, In 1957, construction was completed and the congregation moved to Temple Beth-El's present home at 118 South Grand Avenue; and

WHEREAS, The congregation continued to grow, exceeding 800 families by the mid-1980's; during this growth phase (in 1967), the congregation hired Cantor Joseph Wieselmann; and

WHEREAS, Twenty-three years later, in 1990, Cantor Wieselmann was succeeded at Temple Beth-El by Cantor Rena E. Shapiro, the synagogue's first and only female clergy member to date; and

WHEREAS, Since August 2006, Rabbi Neal Joseph Loevinger has served as Temple Beth-El's spiritual leader; and

WHEREAS, In 2002, Temple Beth-El was awarded a multi-year STAR Synaplex grant, one of just eleven synagogues in North America to be so recognized at the time; and

WHEREAS, The congregation began a three-year journey in which innovative and creative programming was developed to augment traditional Sabbath offerings and engage a broader share of the area's unaffiliated Jewish community; and

WHEREAS, Today, Temple Beth-El remains the region's largest Jewish institution; the vital congregation and its leaders continue to adapt to the changing needs and demographics of the community while maintaining the standards of Conservative

Judaism that have clearly defined and distinguished it since its founding 85 years ago; and

WHEREAS, Temple Beth-El of Poughkeepsie stands on the threshold of tomorrow, prepared to meet the challenges of the coming decades while retaining that spiritual resolve which characterizes its past; and

WHEREAS, It is the custom of this legislative Body to take note of enduring religious institutions and to bring such institutions to the attention of the people of this Empire State; now, therefore, be it

RESOLVED, That this legislative Body pause in its deliberations to commemorate the 85th anniversary of Temple Beth-El of Poughkeepsie, New York, to be celebrated on June 10, 2012 fully confident that this commemoration reflects the belief in those values which enhance the dignity and purpose of life; and be it further

RESOLVED, That a copy of this Resolution, suitably engrossed, be transmitted to Temple Beth-El of Poughkeepsie, 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. Mayer, the Clerk will read.

THE CLERK: Resolution No. 1534.

Legislative Resolution commending the Hudson River Museum upon the occasion of hosting its exhibit, Westchester Women and War: Portraits.

WHEREAS, It is the intent of this legislative Body to commemorate those events which pay tribute to those members of the Armed Services from the State of New York, who have served so valiantly and honorably in wars in which this country's freedom was at stake, as well as in the preservation of peace in peacetime; and

WHEREAS, Attendant to such concern, and in full accord with its long-standing traditions, this legislative Body is justly proud to commend the Hudson River Museum upon the occasion of hosting its exhibit, Westchester Women and War: Portraits, to be held from May 26, 2012 through September 9, 2012; and

WHEREAS, The Exhibition will showcase portraits of Westchester women soldiers who serve their country today and those who served in the past, and will be celebrated at an opening event at the Hudson River Museum in Yonkers, New York, on Wednesday, June 13, 2012; and

WHEREAS, This exhibit will display the portraits of the following military women: Sergeant Kristen Walker, New York Army National Guard, 101st Expeditionary Signal Battalion, Yonkers, 104th Military Police Battalion, Operation Iraqi Freedom, 2007; Specialist Rapcelies Almonte, New York Army National Guard, 101st Expeditionary Signal Battalion, Yonkers, Operation Iraqi Freedom, 2008; Major Tanya Pennella, New York Army National Guard, Camp

Smith, Peekskill, NY, 53rd Army Liaison Team, Operation Iraqi Freedom, 2009; Technical Sergeant Crystal Radcliff, New York Air National Guard, 105th Airlift Wing, Stewart Air National Guard Base, Operation Iraqi Freedom, 2008, U.S. Navy veteran, Operation Desert Shield-Operation Desert Storm, 1993, 1994; Colonel Theresa Mercado-Sconzo, U.S. Army Reserve, Nursing Corps, Operation Iraqi Freedom, 2005-06, 2008-09; Major Heather X. Cereste, M.D., Air Force Combat Veteran, 332nd Medical Operations Squadron, Operation Iraqi Freedom, 2007; Colonel Mary Westmoreland, U.S. Army, retired, Legion of Merit Operation Desert Shield-Operation Desert Storm, 1990-1991, Global War on Terrorism, Pentagon, 2001-2008; Colonel E. Barbara Wiggins, U.S. Army, retired, Legion of Merit Adjutant at Fort Mead, Maryland, Vietnam War; Corporal Margaret Lamar, U.S. Army veteran, Korean War, Medical Technician, Army hospital, Germany; Private Gloria Sosin, Women's Army Corps, World War II, Public Relations, Mason General Hospital, Long Island; Seaman Olivia Hooker, Coast Guard SPAR, World War II, Clerical, First Naval District, Boston; and

WHEREAS, As World War II raged, many Yonkers women took a first-time opportunity to become soldiers for their country, enlisting in the Women's Army Corps, also known as the WAC; and

WHEREAS, Sixty-four years ago, on June 12, 1948 President Harry S. Truman signed into law the Women's Armed Services Act of 1948 (P.L. 625-80th Congress); this law insured that

women would have a permanent place in the Army, Navy, Air Force and Marines; and

WHEREAS, Since this time, women veterans have always answered the call to duty, serving with integrity and respect; and

WHEREAS, Since 2001, more than 200,000 women have served in the United States military in Iraq and Afghanistan; women currently make up more than 15% of the Army; and

WHEREAS, Women from New York who have served in the Armed Forces of the United States have made countless contributions and tremendous sacrifices during times of war; and

WHEREAS, It is important to recognize the contributions of New York women veterans and educate the people of New York concerning the role of women during wartime since this nation was founded; and

WHEREAS, Women have served this country in uniform - whether veterans of World War II, Korea, Vietnam, the Gulf War, the current Global War on Terrorism and peacetime service, and have earned our respect and thanks; and

WHEREAS, Having exhibited their patriotism both at home and abroad, these women have demonstrated their love for their country and merit forevermore, the highest respect of their State and Nation; now, therefore, be it

RESOLVED, That this legislative Body pause in its deliberations to commend the Hudson River Museum upon the

occasion of hosting its exhibit, Westchester Women and War:

Portraits; and be it further

RESOLVED, That copies of this Resolution, suitably engrossed, be transmitted to Hudson River Museum and the aforementioned military personnel.

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, Thursday, June 14th at 10:00 a.m., tomorrow being a Session day and remind my colleagues it's a busy day tomorrow. We'll kick off the day with the Rules Committee meetings at 10:00. Thank you.

ACTING SPEAKER P. RIVERA: The House stands adjourned.

(Whereupon, at 6:38 p.m., the House stood adjourned until Thursday, June 14th at 10:00 a.m., Thursday being a Session day.)