

**SATURDAY, APRIL 8, 2017**

**9:28 A.M.**

ACTING SPEAKER AUBRY: The House will come to order.

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

(Whereupon, a moment of silence was observed.)

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

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

A quorum being present, the Clerk will read the Journal of Friday, April 7th.

Mr. Morelle.

MR. MORELLE: Mr. Speaker, I move to dispense with the further reading of the Journal of Friday, April 7th and ask that the same stand approved.

ACTING SPEAKER AUBRY: Without objection, so ordered.

MR. MORELLE: Good morning, ladies and gentlemen. It's great to be here. In just a second, I'll give our schedule for the day, but I do want to note, since this will be the last time we do this hopefully for a couple of weeks, that on this day in 1935, the Works Progress Administration, also known as the WPA, was approved by Congress to help alleviate joblessness during the Great Depression.

And also on this day in 1974, "Hammerin'" Hank Aaron of the Atlanta Braves hit his 715th career home run, breaking Babe Ruth's legendary record of 714 home runs. A crowd of 53,775 people, the largest in the history of Atlanta's Fulton County Stadium, were with Aaron that night to cheer when he hit a 4th inning pitch off the Los Angeles Dodgers' Al Downing. I was sitting with my dad and brothers and remember like it was yesterday, Mr. Speaker.

With that, let me just say a couple words. First, Confucius once said, "It does not matter how slowly you go, so long as you do not stop." And I want to thank the members of this institution. While others may have left, the members of this House on both sides of the aisle have been incredibly diligent, have stayed and

minded their duty and done their duty and I'm not sure we would be here today had the members of this institution not stayed and done their job and continued to move forward. So I want to, again, thank all the members for their dedication, their patience. I have had very few complaints over the last few days which is astonishing in and of itself, but with that, let me describe our schedule for the day and you have my -- my gratitude.

We have completed our work with Ways and Means and Rules that has produced an A-Calendar which we'll work from today; in fact, Mr. Speaker, I now move to advance the A-Calendar.

ACTING SPEAKER AUBRY: On Mr. Morelle's motion, the A-Calendar is advanced.

MR. MORELLE: Mr. Speaker, we'll just -- in just a few seconds take up the A-Calendar. I do want to note that there will be another round of Committee meetings, both Ways and Means and Rules which will produce another Calendar, a B-Calendar, which we'll take up today. That will conclude our work on the 2017-2018 Budget. So I would ask members of those two Committees, in particular, to be mindful that there will be a call for additional round of Committees. I would ask them to stay attuned to those announcements from the desk. With that, I don't believe there are any introductions.

Oh, I'm sorry. Mr. Gottfried wishes to make an introduction.

ACTING SPEAKER AUBRY: Mr. Gottfried for --

MR. GOTTFRIED: Yes. Mr. Speaker, in keeping

with tradition, Ms. McGillicuddy's fourth grade class from P.S. 11 has been waiting patiently for hours in the Gallery above you. I would appreciate it if you would give them your usual welcome.

ACTING SPEAKER AUBRY: Ms. McGillicuddy's class, we welcome you here to the New York State Assembly and extend to you the privileges of the floor. This has been and will continue to be the People's House and, Ms. McGillicuddy, you are always welcome here.

(Applause)

MR. MORELLE: Mr. Speaker, having advanced the Calendar, let's move to Rules Report No. 44-A, a budget bill.

ACTING SPEAKER AUBRY: The Clerk will read.

THE CLERK: Assembly No. 3009-C, Rules Report No. 44, Budget Bill.

ACTING SPEAKER AUBRY: Governor's Message is at the desk. The Clerk will read.

THE CLERK: I hereby certify to an immediate vote, Andrew M. Cuomo, Governor.

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

MR. FARRELL: Thank you, Mr. Speaker. This bill would enact several acts of law changes related to the personal income tax, STAR, tax credits, tax loopholes and authorizes ride sharing outside the City of New York. This bill would also, at a minimum, include language for the free tuition program for students attending

SUNY and CUNY, a scholarship program for students attending independent colleges, workers' compensation reform and other actions to support the State Fiscal Plan and educate -- education-relating programs with the State Budget.

ACTING SPEAKER AUBRY: Mr. Oaks.

MR. OAKS: Thank you, Mr. Speaker. Would Mr. Farrell yield, please?

ACTING SPEAKER AUBRY: Will you yield, sir?

MR. FARRELL: Yes, I will.

ACTING SPEAKER AUBRY: Mr. Farrell yields.

MR. OAKS: Is it good morning, right, Denny?

(Laughter)

MR. FARRELL: Yeah.

MR. OAKS: Thank you.

MR. FARRELL: Depending what day we're in.

MR. OAKS: So a few questions for you. You mentioned taxes; are there -- what -- what tax provisions for increasing taxes or tax cuts do we see within this bill that we have before us?

MR. FARRELL: I'm pulling out my papers, I apologize. Ask that question again, I'm sorry.

MR. OAKS: So -- so within this, you mentioned in your opening remarks that there are some tax provisions within this, I -- I'm just looking to see. What are we doing with increasing taxes or cutting taxes within -- with this bill?

MR. FARRELL: Well, what we -- what we have done is extend the taxes and it increases the revenue by \$735 million in 2017-'18 and \$3.190 billion for 2018-'19; \$3.461 billion for Fiscal Year - excuse me - 2019-2020, and \$553 million in 2020 and 2021.

MR. OAKS: So that's extending the high-earner tax, or so-called "millionaire's tax," have provided you with those. Are there any other actions for taxing that you would -- have done in this budget tax increases?

MR. FARRELL: Yes, we've expanded employee incentive credit programs to make it easier for companies to include workers training as part of the expansion projects.

(Phone ringing)

I think my daughter is calling me. Yeah, it is my daughter; she wants to know if I'm alive.

(Laughter)

I can't talk now, sweetheart, everybody's laughing; goodbye.

(Laughter)

MR. OAKS: They're all looking for us, Denny.

(Laughter)

MR. FARRELL: Let's see. What other taxes -- we've done loopholes, we've closed loopholes.

MR. OAKS: Do you have -- do you have the amount on the loopholes, how much that closes?

MR. FARRELL: About \$56 million.

MR. OAKS: And, you know, I asked about taxes overall. Are there any business tax cuts that we see within -- within this bill, small businesses? I -- I know in -- in the original provision from both Houses and, actually, the Governor, there were some small business tax cuts from each entity, none of them matched, but did any of them prevail so that we could tell our small businesses they can anticipate some savings?

MR. FARRELL: For business tax action, we expanded the employees training incentive credit program to make it easier for companies to include worker training as part of the expansion projects; extend the alternative fuels and electric vehicle charging station tax credits for an additional five years; clarified that the investment tax credit cannot be claimed for distribution of utility services. And we've also extended youth work jobs programs for five years from its overall allocation of \$50 million, dedicating \$10 million for apprenticeship program; create new research and development tax credits for small life science companies and expand the Excelsior Jobs Program eligibility for life science companies, and on and on and on.

MR. OAKS: Thank you. Going back to the high earners tax or the millionaire's tax, do we have a determination -- I know the Governor had originally proposed that it be for three years, the Assembly originally had proposed that it be for a significantly higher amount. From the numbers you gave, that did not prevail, that proposal, and the length ends up being how long for the -- the tax being extended?

MR. FARRELL: Two years, but because of the way that we pay it, we start next year, though it will be in this cycle, we will start with an extender to begin it next January to -- to March and then we will go through two years and then we will end with that tail leftover in 2021. So, it -- but when you finish, it's a two-year extender, done in three years.

MR. OAKS: Thank you. One of the things that I see in here is and one of the things that the Governor talked about several times when he first proposed this budget, he put some strong language in about giving the Executive power to, if should the Federal government do some cuts, make some adjustments and it affects our fiscal year to give the power to the Executive to be able to make adjustments and cuts within the State budget, but as I see within this plan, we have now given the option of creating a concurrent resolution of the Legislature that would, if given to the Governor within I believe 90 days or whatever from notice of those cuts, that that -- if that is not done, then the Director of the Division of the Budget would have power to make those adjustments on his own. I guess I have question of you concerning the process with that. I was just trying to think through, what if both Houses of the Legislature pass the concurrent resolution.

MR. FARRELL: Yeah, extension.

MR. OAKS: Does the Governor then have to accept that or with a concurrent resolution does the Governor have a veto power at that point?



MR. FARRELL: Yeah. They say here the Governor cannot veto a concurrent resolution.

MR. OAKS: So if -- and, by the way, I would say kudos from my perspective and I'm sure many on my side of the aisle appreciate the efforts to give the Legislature role instead of giving the Executive total control on this, but what you're saying from this is if the Legislature can agree and act within that time frame, then, in essence, the Governor does not have a role in that process. He -- he does not have to accept or reject that resolution, it's just the resolution would carry the day and make the determinations on the various cuts that may or may not have to be made.

MR. FARRELL: Yes.

MR. OAKS: Okay. Thank you.

A couple of comments or -- and questions related to the provision of Raise the Age. I know that's been discussed a great deal. Many of the people who've expressed concerns about this obviously it's related to policy and whatever, but also the possibility of that being a significant unfunded mandate on the counties. But within this bill, we find that the State for tax cap compliant counties would be able to be reimbursed by the State for all their expenses related to enacting Raise the Age. My question would be with that, then, how does the county account for that? Does the county during the year -- I know this isn't going to go into effect until I believe October of -- of next year, but does the county simply write up a bill to the State and say here are all the costs that we have related to this. Our probation

department, our support staff who've had to fill out reports, whatever it might be, add all those up, submit to the State and the State pays the bill and then we're all good and it's not an unfunded mandate; do we have some kind process related to that?

MR. FARRELL: They will pay for their new -- if they expend what they expend, they can get back, but the new, whatever they do going forward.

MR. OAKS: What -- what would be additional costs to the -- but --

MR. FARRELL: Yes.

MR. OAKS: And so they're eligible, but I'm just trying to figure out so how do I prove to New York State, again, is there going to be a process developed that, you know, we can assure our local counties when we go back that Raise the Age, if enacted, will not cost county property taxpayers additional dollars?

MR. FARRELL: Right; yes.

MR. OAKS: All right. In the issue of the workers' comp changes.

MR. FARRELL: Yes.

MR. OAKS: Some significant changes enacted, things proposed within this just a few comments -- or questions surrounding that. Do you believe, now having put this together and those who have done this, is this going to be something that I know there's been input from employees, employers, I believe the comp carriers, as well. Are we confident that this is going to be a positive

for both the employers and the employees with these changes that we're making?

MR. FARRELL: Yes.

MR. OAKS: And are we, in saying that to the employers, then, are we going to anticipate reduction in costs once these are fully enacted?

MR. FARRELL: Yes.

MR. OAKS: Do we have any sense, percent-type things, have they done estimations of that type of thing, or not?

MR. FARRELL: The Board has not yet estimated savings to the employers.

MR. OAKS: I -- I know there's going to be a fairly large panel -- well, I'm not sure how large it's going to be -- but a panel put together with interest from different groups to establish guidelines. And that's supposed to be done by, I believe, January of '18. If not there's -- it gives the, I believe the Commissioner authority to develop emergency guidelines or at least enforce us. Do we know who would write those or what types of those guidelines can we anticipate or not?

MR. FARRELL: The Board will write the lines.

MR. OAKS: The Board will --

MR. FARRELL: Will write them.

MR. OAKS: The board will write them. And the STAR personal income tax credit system. Both of us -- when I say "both of us," both Houses of the Legislature put in proposals to change

that procedure. But within this budget, I see that they -- the two Houses of the Legislature did not prevail, we're going to continue on with the process as it's been going and I know in my district office and some people on the street, I got an awful lot of people coming to me with their specific complaints and actually whole communities got impacted. I had one who went through a dissolution of the village and so their checks were delayed significantly. Have there have been some actions taken now within the budget that would convince me and those who might be listening to us at this point, either legislators or others, can we -- are there some things that we now can be assured of and assure them that the Department is going to be able to do -- if we're going to keep doing it this way, we're going to be able to do it in a timely, effective way and people will be able to receive their checks in a responsible and reasonable manner.

MR. FARRELL: Yes, they are working to make sure they can do it. They'll be working together and they -- we think it will be better than it has been.

MR. OAKS: I hope so. And I think a lot of those who were impacted by it, the taxpayers, will feel the same.

Thank you, Mr. Farrell, for your answers.

Mr. Speaker, on the bill.

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

MR. OAKS: I know there are a number of my other colleagues who want to ask some more specific questions about some

of the areas that I may have touched on today. This bill encompasses so many areas, so many different issues; many of them, super important to the citizens of New York. But instead of us dealing with some of these in a policy way outside the budget process, we've combined these and rather than dealing with them in kind of a holistic way within the budget process, we see this lumped together, all these issues in this one bill.

And so today, as I sit here and -- and look at this and, you know, my concerns continue to be we did not do the increase in the millionaire's tax which I was pleased that that didn't happen, but we still continue to depend to a high -- a very high extent on the highest of earners in New York State and I've made those comments before. My concern is that just should we have a downturn in the economy, those individuals are most likely to be impacted to a greater percentage and we may end up seeing significant losses in revenue. And so, it's a cautionary message to I think all of us to say it may make today's budget easier to meet the dollars, and I know as the Chairman has given me numbers in looking forward, we're looking at having some actual excess dollars in some of the outyears over the next couple years, just that as the Governor has told us to be cautionary in dollars this year, I would just say that continues to be an issue.

There's the issue of shared services and how that's all going to be implemented, I think concerns continue surrounding that. Certainly, Raise the Age and the cost that they may bring to our

county governments, hopefully the provision that we put in the budget stands, but when we look at the overall budget process, the weariness that all of us share, I think there's relief in that we're coming to a close, but also obviously a concern for the process and a concern that policy to the extent that we have done it resides within this budget and specifically within this bill. But I look forward to the continuing discussion and information as we try to glean all the policy that is in this bill, but ultimately move forward to a final budget. Thank you, Mr. Speaker.

ACTING SPEAKER AUBRY: Thank you, sir.

Mr. McKeVitt.

MR. MCKEVITT: Yes, will Mr. Lentol yield to a number of questions, please?

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

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

ACTING SPEAKER AUBRY: Mr. Lentol yields.

MR. MCKEVITT: Good day, Joe. That will cover morning, afternoon, night; wherever we may be at this point, so...

MR. LENTOL: We just want to get out of this place.

MR. MCKEVITT: I'm with ya. I'll try to make this as -- as -- as simple as possible. Obviously an issue which has been a big part of this budget process has been Raise the Age and there is a significant component of this budget which deals with the Raise the Age issue and what I really want you to do is help outline to me

exactly how this changes current law and what the procedures will be.

And let me just start off with --

MR. LENTOL: Sure.

MR. MCKEVITT: -- for many years, we've had the category of a juvenile delinquent which starts at the age of seven in the State of New York, and I believe under the new law it will continue to be the age of seven; is that correct?

MR. LENTOL: Yes.

MR. MCKEVITT: Okay. Now, traditionally juvenile delinquent was the ages of seven to 15. Does this bill actually increase that from seven to 17 for violations and other types of offenses such as that?

MR. LENTOL: For misdemeanors and felonies that are removed to family court it does, yes.

MR. MCKEVITT: And what about violations, how are violations now going to be handled for a --

MR. LENTOL: Violations begin --

MR. MCKEVITT: For a 16-year-old and 17-year-old, how are violations going to be handled once this law goes into effect?

MR. LENTOL: Local criminal court.

MR. MCKEVITT: It will continue to be local criminal court for violations, okay. Then going on to the category of juvenile offender, something we've had for many years which are essentially those who are 13, 14, 15 years of age. Again, it's my

understanding that this bill is keeping the requirements and definitions of juvenile offender very much the way it's been for many decades; would that also be the case?

MR. LENTOL: That's correct.

MR. MCKEVITT: Okay. So now for many times and during a previous debate, you and I discussed the youthful offender and the options you have with that. My understanding is that this portion of the budget is going eliminate the youthful offender and create a new category of adolescent offender; would that be correct?

MR. LENTOL: No, it does not limit youthful offender.

MR. MCKEVITT: It does not, okay. So, can you please describe to me, then, what an adolescent offender is as defined under this bill as part of the budget.

MR. LENTOL: Well, adolescent offender means a person charged with a felony --

MR. MCKEVITT: Right.

MR. LENTOL: -- committed on or after October 1, 2018, when he or she was 16 years of age, or on or after October 1, 2019 when he or she was 17 years of age.

MR. MCKEVITT: And up until this time, 16-, 17-year-olds would go to either the county court or a Supreme Court, which would be very similar to an adult. So, my understanding is that in this bill we are still going to have cases in the Supreme Court or county court, but we are creating a new youth part of the superior



court; is that what this bill does?

MR. LENTOL: Correct.

MR. MCKEVITT: Okay.

MR. LENTOL: That's correct. All felony charges will have to start in the criminal or the superior court, either the county court or the Supreme Court.

MR. MCKEVITT: And that's what I wanted to get at.

MR. LENTOL: It's the youth part of those courts.

MR. MCKEVITT: Right, so what I'm going to get at is that they are not automatically going to family court, they're automatically going to be arraigned and commenced in the youth part of superior court.

MR. LENTOL: That's correct, the felony cases.

MR. MCKEVITT: The felony cases, right. Well, let me back up. What is going to happen with misdemeanor cases?

MR. LENTOL: Misdemeanor cases are going to start in the family court.

MR. MCKEVITT: They're going to start in the family court. Once they're in the family court, is there any mechanism for them to be removed to the Supreme or the county court?

MR. LENTOL: No, there is not.

MR. MCKEVITT: Okay, so they're going to continue to remain in the family court, there's no other option.

MR. LENTOL: That's right.

MR. MCKEVITT: So going back to the youth part of the superior court, it's my understanding that the one presiding over this part is going to be a family court judge, not a county court or a Supreme Court judge.

MR. LENTOL: That's correct, and the family court judge in the -- in the youth part will be required to -- to use family court principles in handling the case.

MR. MCKEVITT: And can you describe when you say "family court principles," can you describe more fully what you mean by that?

MR. LENTOL: It means that all of the services that might be available to the family court and not to the adult court, be it the county or the Supreme Court, would be available to the family court judge in the youth part to use those services for the appropriate cases as opposed to not using services that would be available in the family court.

MR. MCKEVITT: Soon I'm going to be getting to questions on how cases can move from the Supreme or county court to the family court, but before then I just want to jump ahead for simplicity purposes. Let's say it's eventually determined, let's say it's a Murder 2 case and this case is then going to stay in the youth part of county or Supreme Court. Does the right of a jury trial still exist for that type of offense?

MR. LENTOL: Yes.

MR. MCKEVITT: Okay. And the case is going to

be presided over by a family court judge; would that be correct?

MR. LENTOL: That's correct.

MR. MCKEVITT: Okay. And just the issue I have with this is that family court judges are not those who are ordinarily dealing with murder case along the lines, so we're now going to be having family court judges dealing with jury trials for Murder 2.

MR. LENTOL: It's about time they learned.

MR. MCKEVITT: Okay.

MR. LENTOL: They'll be trained in the process. Upstate, many judges do both, as you know.

MR. MCKEVITT: When -- I then want to get into the procedure of if you have -- let's talk about not -- my understanding there's approximately four offenses which I think essentially are going to stay -- well, let me actually ask this question: Let's say you have a case of Murder 2. Is there a way that could be transferred down to the family court?

MR. LENTOL: Only with the agreement of all parties.

MR. MCKEVITT: Okay. So it can be transferred from Supreme or county to family, but the District Attorney must consent for that to occur.

MR. LENTOL: Correct; in most cases.

MR. MCKEVITT: Okay. For other types of offenses that are currently in Supreme or county court, what is the procedure which will move them down to family court and, again, my

understanding is there may be different procedures, whether they're violent or non-violent, if you can just describe when the case automatically in, you know, Supreme or county, how do they get down to family?

MR. LENTOL: Okay, so let's start with the non-violent felony cases. Those cases, as you've suggested, will begin in the youth part of the superior court and that case will automatically go to the family court within 30 days unless the District Attorney decides to make a motion and show extraordinary circumstances to the judge and then to keep the case in the youth part of the criminal court. For what we characterized as non-violent violent felony offenses, those cases that are labeled violent by the Penal Law of our State, but in actuality when you look at those particular statutes, you will find that there are many, many crimes that are non-violent even though they're labeled as "violent" by the Penal Law. So, in those case they're going -- going to be treated a little bit differently and be required to submit by the judge who is looking at the case and looking at the instrument in front of him to decide whether or not it passes three tests. One of those tests would be whether or not a weapon was involved and in furtherance of the crime. The other one would be whether there was significant physical injury involved in the case, and the last test would be whether there were any sex crimes employed during the course of the commission of the crime. And if the judge found in those cases that none of those factors were present, then the case could be transferred to the family court. And also remember, that

then -- there would then be an additional crack at it if the -- if the District Attorney wanted to keep that case in a criminal part to show the judge that there were extraordinary circumstances to keep it in the criminal part.

MR. MCKEVITT: But if I'm correct, it doesn't require District Attorney consent, it just requires the District Attorney to be heard before the judge --

MR. LENTOL: That's right.

MR. MCKEVITT: -- the judge having the ultimate discretion.

MR. LENTOL: That's right and, by the way, I'm glad you asked that question because this was actually a compromise that was made at the table with the Governor and Republican Senators in order to make an accommodation to both sides, and the Governor was very helpful in presiding over this so that we would have a situation where only those cases where the truly violent felons would stay in the criminal part, and those kids who were not violent would be able to find their way to the family court where they not only could get superior services, but would be able to get better outcomes for their lives not only with the services that were employed, but by not receiving a criminal record at the end of all this so that they could change their life around.

MR. MCKEVITT: And when you say what you consider to be "non-violent violent offenses," because the Penal Law technically characterizes them as violent --

MR. LENTOL: Right.

MR. MCKEVITT: -- but you say are non-violent, can you give me examples --

MR. LENTOL: Sure.

MR. MCKEVITT: -- of what some those crimes would be?

MR. LENTOL: Well, the classic example that I like to use is Burglary in the 2nd degree which is a violent felony under our Penal Law, and burglary in most instances ought to be a violent felony, not in most, but in most of the cases I guess you could say that; however, just take, for example, a bunch of young kids who happened on a porch in Long Island in Nassau County and they see that there's nobody in the house and they decide to have a party inside. And they go in the house and, you know, eat the food, throw junk all over the place. Now, under the law, that's a violent felony. A lot of people don't know that, but that's a violent felony because they entered these premises unlawfully and committed a crime. And so, in that instance if nobody had a gun or a knife or a weapon or used it and nobody had a sex -- committed a sex crime while they were there and nobody committed an assault that caused significant physical injury, that case could go to the family court.

MR. MCKEVITT: Let's say we do have a case, though, of an assault with a physical -- serious physical injury, one that, for example, causes a broken bone which is usually a category of serious physical injury. How does that case get from the superior

court to the family court?

MR. LENTOL: Well, technically it wouldn't because if it's serious physical injury, then it's out. It doesn't pass the three-part test.

MR. MCKEVITT: Okay. But is there any mechanism -- because, for example, we talked about earlier that Murder 2 can go from youth part to family court with consent of the DA. What happens to that --

MR. LENTOL: Any time -- and you have to remember, the overriding principle here is any time that all parties agree - the judge, the District Attorney and the defense attorney - they can go to the family court.

MR. MCKEVITT: Right, and what I'm just trying to distinguish is between those cases where the District Attorney has consent or if you want to use a better lack of term of veto power over being transferred from superior to family, I'm just trying to get in those instances whereby a case, for example, of serious physical injury may start in superior court. The DA may object, but the judge in the judge's discretion may say this could still be moved over to family court; could that still exist? So, if you have an assault with a serious physical injury with a -- a breaking of a bone --

MR. LENTOL: Let me say it again --

MR. MCKEVITT: -- can they make a motion to move it from superior to family?

MR. LENTOL: I gotcha. I gotcha. Maybe I didn't

make myself clear. If it doesn't pass the test -- the test is conducted by the judge whose examining the complaint before him and if he determines that there's serious physical injury, it doesn't go to the family court, period, unless all parties agree.

MR. MCKEVITT: I just wanted to clarify that. So, just to get to one other part of the bill just quickly dealing with video interrogations of suspects. This is something we have talked about --

MR. LENTOL: Yes.

MR. MCKEVITT: -- in the past. My understanding is, is that this bill, what's included here is very similar to what you and I have discussed in the past that if it's a custodial interrogation, the police are required to videotape it. If it is not videotaped, then the court has to go and make its own determination as to whether there are a number of factors whether there's a good excuse why that interrogation was not videotaped; would that be a -- a fair representation of what this bill does?

MR. LENTOL: This bill has broader exceptions than the one that we debated earlier. This is a -- an easier bill for the District Attorneys to get around or the police to get around the requirement of conducting videotaping of -- of custodial interrogations; as a matter of fact, it doesn't really require a videotaping of the entire interrogation, just when custody -- where custody is defined in those cases.

MR. MCKEVITT: And is there any funding --

MR. LENTOL: And it should be -- it should be



really started at the time that the interrogation begins.

MR. MCKEVITT: Is there any funding in this budget bill to provide for local police departments to purchase such equipment necessary to comply with this part of the bill?

MR. LENTOL: Yeah, there isn't, but there's a very number of limited crimes that it applies to, unlike the bill that was more broad, the one that I introduced and was passed here earlier.

MR. MCKEVITT: Okay, thank you.

MR. LENTOL: You're welcome.

ACTING SPEAKER BRINDISI: Mr. Graf.

MR. GRAF: German/Irish. Okay, Joe, few questions.

MR. LENTOL: Is that a question, I didn't hear it if it was.

MR. GRAF: Few questions. Now, with the cases for the misdemeanors, okay, the -- it goes to criminal court first and then it gets transferred from criminal court to family court?

MR. LENTOL: No.

MR. GRAF: It goes directly to family court?

MR. LENTOL: It starts in the family court, misdemeanors.

MR. GRAF: Okay. Now, the DA has to put in a motion within 30 days --

MR. LENTOL: Yeah, they stay in family court if they start in the --

MR. GRAF: Is that from time of arrest or is that from time of arraignment?

MR. LENTOL: Arraignment.

MR. GRAF: Okay. And with the felonies, the evaluation we have significant injury, right? Can you define what a significant injury is, please?

MR. LENTOL: Sure. Physical injury -- I'm sorry. Serious -- by the way, physical injury and serious physical injury are the only physical injury that are defined in the Penal Law and the reason that we use the term "significant physical injury" is because at the table when this bill was being negotiated with the Governor, the Senate and the Assembly failed to agree on whether the test should be serious physical injury or physical injury so we decided to compromise. As often we do, at least in this House and maybe not in Congress and in other places, we decided that in order to get a bill done, we would use the terminology "significant physical injury," which is not defined in the Penal Law, but would include major aggravating factors, at least it's expected to be aggravating factors because it is defined in other statutes as bone fractures, injuries requiring surgery and injury requiring disfigurement -- injuries that result in disfigurement.

MR. GRAF: So long and protracted injuries?

MR. LENTOL: No, that's serious physical injuries. We wanted to stay away from those definitions and create a hybrid, which I guess will be defined by courts, but we expect that it will be

somewhere in between the requirement of physical injury and serious physical injury.

MR. GRAF: So, would it include like a bruise --

MR. LENTOL: No, it would not.

MR. GRAF: -- or say if a person gets knocked out?

MR. LENTOL: It'd have to be something more serious than a bruise, but less serious than a disfigurement.

MR. GRAF: All right, so if I knock somebody out, right, and they get a bruise, that wouldn't be an injury, right, serious injury?

MR. LENTOL: Well, I don't think we should speculate because it is going to be defined, but we know that -- that judges have decided cases in the Workers' Compensation Law with regard to significant physical injury and what it requires, so we're going to let the courts decide what we mean. We just ran into the problem of not getting a bill done if we used either of those terms, so we decided to use a different term.

MR. GRAF: I mean, was it last year --

MR. LENTOL: It's in a No-Fault context, as well, I don't know if you practice any civil law, but if you look at the No-Fault cases, you will see "significant physical injury" used often.

MR. GRAF: Last year or the year before, Joe, we had incidences where teenagers were playing the knockout game, you know about the knockout game?

MR. LENTOL: Not really.

MR. GRAF: What the knockout game was, you'd have an 80-year-old woman or an 80-year-old man walking down the street and for fun, the teenagers would come up and punch this person and try to knock them out, or they had one with women they were doing that, too, it doesn't actually have to be -- it was all over the news. It doesn't even have to be a senior citizen, you know, I think one was a pregnant woman that got punched and everything else. That type of case there, right, would that go straight to family court?

MR. LENTOL: That case would probably never get to the family court because, first of all, it most likely would not pass the test of significant physical injury if it's a young person committing the crime against an older person and, in addition to that, it would have to pass the extraordinary circumstance test.

MR. GRAF: So, what you're saying is --

MR. LENTOL: It wouldn't pass that test --

MR. GRAF: So, what court would that go to?

MR. LENTOL: It would pass that test for the District Attorney.

MR. GRAF: What court would that go to?

MR. LENTOL: It would go to the criminal court.

MR. GRAF: And, but that -- if it's not a serious physical injury, right, it would go -- wouldn't it go to family court first because, you know, you could say that's harassment, right, because it's not a serious physical injury. So, if that's not a violent felony --

MR. LENTOL: Again, let me just explain what

happens, okay, so that you understand it. If the case doesn't, according to the instrument before the judge, cause significant physical injury, then the District Attorney can always make a motion to show extraordinary circumstances to keep the case in the criminal court and it won't go to the family court.

MR. GRAF: Yeah, but that case there, Joe, as you're well aware, is an Assault 3, okay, or harassment. So, it's either a misdemeanor or a violation, okay. So in that case it would go straight to family -- family court, unless the DA put a motion in within --

MR. LENTOL: So look, we have no -- we have no determination. We can't determine what the charges are going to be. Only the District Attorney can change as he or she sees fit. So, if the District Attorney decides to charge the person with a misdemeanor than it's going to the family court.

MR. GRAF: So in that case there, that's a classic Third Degree Assault, that'll go straight to family court.

MR. LENTOL: Right.

MR. GRAF: Let me ask you something else. You talked about Burglary 2. Okay, so the person burglar -- you know, the 17-year-old burglarizes a house, all right. Say he burglarizes four houses, all right. That's a non-violent felony so that one there can go to family court, also.

MR. LENTOL: Nope, because, again, the test -- it could go to family court, but if the District Attorney doesn't think it ought to go family court, those are definitely extraordinary

circumstances that we're talking about whereby the DA would make a motion to the judge to keep the case in the criminal court.

MR. GRAF: Okay. Now we have these new housing facilities that we're doing and they're like home-like facilities that we have to put -- is that for a person that's convicted? So, any new facility developed in the department in consultation with the Office of Children and Family Services to serve youth committed as adolescent offenders as a result of Raising the Age jurisdiction and it says, *Located near the youth's home and their families that provide gender-responsive programs, services and treatment in a small, closely-supervised groups that offer extensive and on-going home-like facility.* Who are going to be placed in these facilities?

MR. LENTOL: Young people, 16-, 17-year-olds.

MR. GRAF: Doing what?

MR. LENTOL: I'm sorry?

MR. GRAF: For what crimes?

MR. LENTOL: All crimes.

MR. GRAF: So, even violent felonies?

MR. LENTOL: This is going to be run by the Department of Correction, but managed by the Office of Children and Family Services.

MR. GRAF: Right, so they have to be by their house

--

MR. LENTOL: Managed by the Department of Corrections, excuse me.

MR. GRAF: So, they have to be by their homes, right, they have to put them -- so, these are even people that are convicted of -- 16- and 17-year-olds that are convicted of a crime, a violent crime will go --

MR. LENTOL: No.

MR. GRAF: -- in these new facilities?

MR. LENTOL: We're not talking about any violent crimes here. We're talking about people who are convicted of non-violent crimes who haven't made it to the family court.

MR. GRAF: Okay. So burglary or maybe misdemeanor assault cases --

MR. LENTOL: Yeah.

MR. GRAF: -- you know, maybe... you might be looking at criminal mischief cases where they -- they smashed every window in the car, smashed every window in the house, all of that type of stuff. Maybe gang assault. Does gang assault fit -- fit into the family court, too?

MR. LENTOL: Yeah.

MR. GRAF: That does, too, gang assault? And so they will be -- if they're adjudicated and they found that they did, in fact, commit that crime, okay, and -- in their neighborhood, and they're breaking store windows, or they're breaking car windows, or they're breaking apartment windows, or they're beating kids up, right, or they're tampering with witnesses.

MR. LENTOL: Right.

MR. GRAF: Right? Or they're turning around and they're playing the knockout game and they knock out the 80-year-old walking down the street, right, they will be placed in a house-like setting, okay, non-secure.

MR. LENTOL: It's a prison --

MR. GRAF: Well --

MR. LENTOL: First of all -- okay. Back up a little minute, Al. Al, let me just back up a minute. The situation right now is -- will be practically the same as it is after the passage of this bill, where our objective is to separate young people, whether they're 15, 14, 13 or 16 and 17 from adult prisoners because we don't want to do that, do we? Unless you do.

MR. GRAF: Yeah, but we're also going to have -- you can get sentenced to jail if it's a really bad crime --

MR. LENTOL: This is jail.

MR. GRAF: No, no. At seven. And what we're doing is, we can have seven --

MR. LENTOL: I don't understand your question.

MR. GRAF: Well, we can --

MR. LENTOL: These are 16- and 17-year-olds --

MR. GRAF: We can have seven-, eight- and nine-year-olds with 14-year-olds.

MR. LENTOL: -- who are going into a hybrid -- a hybrid situation of a prison where it's managed by the Department of Corrections and where you have the Office of Children and Family



Services providing services to kids who need them.

MR. GRAF: But according to your bill, Joe, what we have here, and they describe the new -- they describe the new facilities, right, any new facility developed by the Department, you know, Children Services resulting in Raise the Age to the extent possible, right, located near the -- the youth's home and families to provide gender -- and it's supposed to be a home-like setting, okay. And they actually took out the words, "secure facility," right, and they just put "facility" --

MR. LENTOL: Right.

MR. GRAF: -- so who are the ones --

MR. LENTOL: That's not true.

MR. GRAF: -- that are going to get sent --

MR. LENTOL: It's not true. These are locked dorm type facilities. If you go to Section 77 on page 243 of the bill at the bottom, you'll see exactly what we're talking about. "Enhanced security features and specially trained staff to serve the adolescent offenders sentenced to a determinate or indeterminate sentence." And the... committing offenses -- well, that's irrelevant, but --

MR. GRAF: Well, if they're not sentenced --

MR. LENTOL: -- "the Commissioner in the Office of Children and Family Services, and the State Commission of Correction, and the Commissioner of the -- Criminal Justice Services, shall establish the requirements for this offender."

MR. GRAF: Where do they go if they're not

sentenced and we're not returning them home? If they're not sentenced yet, they're not -- they haven't had a trial, but they've been arrested for -- for a crime, where do they go?

MR. LENTOL: If they -- if they're sentenced to State prison time, they're going to Hudson Correctional Facility.

MR. GRAF: No, no, no. They're not sentenced, Joe, they're going to court, okay, they haven't been sentenced yet, they're negotiating, okay --

MR. LENTOL: They're going to be in these detention -- these secure detention facilities for young people.

MR. GRAF: Okay. And -- and that's these new home-like places --

MR. LENTOL: No.

MR. GRAF: -- that's in the bill? Okay. And let me ask you a couple of other questions. All right, these new facilities, how many do we have? Or how many are we projecting to have?

MR. LENTOL: Which ones, the State or the local ones?

MR. GRAF: The State ones.

MR. LENTOL: There's probably just going to be one. I mean, there's money already in the budget for a... a maximum secured-type --

MR. GRAF: And how does that fit with close to home?

MR. LENTOL: -- facility that we're going to --

MR. GRAF: And how does that comply with your close to home where we closed these up already?

MR. LENTOL: Okay. Well, close to home is to the extent practicable.

MR. GRAF: Okay. And how about the county ones? I mean, are we going to have one in every county, the other ones?

MR. LENTOL: No.

MR. GRAF: All right. How -- how many will we have?

MR. LENTOL: It can have regional facilities within the county or within counties that are nearby.

MR. GRAF: Okay. So --

MR. LENTOL: We were going to try to adhere to the close-to-home provisions of the law as best we can and we expect that once this bill is in full effect that we'll be able to provide even more youth facilities in places where they're needed.

MR. GRAF: I think somewhere in your bill these -- these facilities will be run by the County Sheriff, right?

MR. LENTOL: The County Sheriff with the local Social Services district will run the facility.

MR. GRAF: All right. So, each county will have one?

MR. LENTOL: No, they don't need to do that.

MR. GRAF: Okay. And we have already established that you're not going to get any -- the judges will be family court

judges, sitting in criminal court, right?

MR. LENTOL: Yes.

MR. GRAF: And we've -- we've already established that we're not creating any new judgeships for family court.

MR. LENTOL: Not at this time.

MR. GRAF: And we're down 7,000 support staff in the court system, that would -- we heard that in the hearing.

MR. LENTOL: Yeah.

MR. GRAF: Okay, and we can't even get some of the stuff done in court now. I mean, in Nassau and Suffolk, they have a whole room full of cases that are just awaiting summary judgment, and they don't have the staff to process that. So, where are we getting all these staff?

MR. LENTOL: Well, look, this is going to have to be a resource shift and we're going to have to find the resources to do it. And as somebody once told me, where there's a will, there's a way. And that's exactly what we're going to -- that -- that's the principle we're going to abide by.

MR. GRAF: Okay. And now we have here, JO commits Second Degree Murder, which is -- could be murder of a police officer, right? First Degree Rape, which could be a child under 10.

MR. LENTOL: Not removable.

MR. GRAF: Right?

MR. LENTOL: It's not removable. It stays in the

criminal court.

MR. GRAF: I'll have to come back, Joe. Thanks.

MR. LENTOL: Sure.

ACTING SPEAKER AUBRY: Thank you, sir.

Ms. Weinstein.

MS. WEINSTEIN: Thank you, Mr. Speaker, would Mr. Lentol yield for a few questions?

ACTING SPEAKER AUBRY: Mr. Lentol yields.

MR. LENTOL: Yes.

MS. WEINSTEIN: So, I'd -- I'd like to ask you some questions regarding extraordinary circumstances. I understand that under this bill there is an extraordinary circumstances test applied early in the case. Could you tell us about this extraordinary circumstances test, please.

MR. LENTOL: Sure. Well, as you know, I started out, and I still believe, that all 16- and 17-year-olds should -- cases should be filed and heard in the family court. That's to begin with. And -- but in order to reach agreement on this legislation, we have all agreed that felony cases would, instead, start in the adult criminal court, as Mr. Graf and I talked about, and under the language of this bill, we definitely intend that in the overwhelming bulk of the cases that the matter will be promptly transferred from the adult court to the family court. And, as a matter of fact, the standard was actually suggested by Senator Lanza when we met in the Governor's office, the Chair of the Senate Codes Committee, to create this type of

presumption where only one out of 1,000 cases, he said, for example, those extremely rare and exceptional cases, would remain in the youth part. And there may be a small number of cases, however, where the prosecutor objects to the transfer to the family court and in those instances, the prosecutor, as I've said before, must file a motion to challenging the transfer and the transfer to that family court must occur, unless the prosecutor proves extraordinary circumstances that should prevent the transfer.

MS. WEINSTEIN: Well, as -- as you describe it, "extraordinary circumstances" sounds to me like a -- a high standard. And as Chair of the Assembly's Judiciary Committee, I'm familiar with the standard and note that extraordinary circumstances appears as a test or a standard in several other areas of New York law.

MR. LENTOL: Yes.

MS. WEINSTEIN: And a few examples, removing a child from his or her parent gener -- generally requires a showing of extraordinary circumstances under the Family Court Act or under the Domestic Relations Law. Also under Domestic Relations Law, a hearing on a warrant to take custody of a child under the Uniform Child Custody Jurisdiction and Enforcement Act must be held within one day, absent extraordinary circumstances. And then in the criminal area, appeals for a modification of sentence are often denied with the court's noting an absence of extraordinary circumstances under CPLR 450.30 and that -- that was in the case of *People v. Jesmer*. I was wondering if you could comment on what I -- those instances I just

relayed.

MR. LENTOL: Yes; you are correct, Helene. For most serious cases, such as Murder and Assault in the First Degree, no transfer is permitted. And for other felony cases, it is intended that the exceptional circumstances requirement will be a high standard for the DA to meet. And under the bill, denials of transfer to the family court should be extremely rare. Family court has strong sanctions and tough punishments, I must remind all of my colleagues, who think this is a walk in the park. Transfer to the family court should be denied only when highly unusual and heinous facts are proven and there is a strong proof that the young person is not amenable or would not benefit in any way from the heightened services in the family court.

MS. WEINSTEIN: And as you mentioned, obviously, it's a court that's going to be making -- a judge making this determination, but could you share with us some examples of extraordinary circumstances that might lead to a denial of transfer to family court?

MR. LENTOL: Yeah. I think it's difficult to give firm examples. Since this is a new concept, though, we want to have a -- at least a little bit of an understanding of what might be involved here. Outside of the list involving the most serious felony conduct, all cases will be presumptively transferred. The judge must look at all the circumstances of the case, as well as the circumstances -- all of the circumstances of the young person. And aggravating factors may be proven, but the courts must -- court must also consider individual

mitigating circumstances, as well.

Aggravating factors that may involve extraordinary circumstances might include proof of a series of serious crimes committed by the defendant over the course of many days. Did the defendant act in an especially cruel and heinous manner? Was the defendant a ringleader who threatened and coerced reluctant youths to participate in the crimes? Those are all things that have to be considered in determining whether aggravating factors exist. But even if these aggravating factors are proven, mitigating circumstances could result in denial of an extraordinary circumstances finding and, therefore, denial of the motion to stop the transfer to the family court.

Mitigating circumstances, now, that would consider a finding of extraordinary circumstances would include a wide range of individual factors, such as economic difficulties, substandard housing, poverty, learning difficulties, of course, and educational challenges, lack of insight and susceptibility to peer pressure due to immaturity, absence of positive role models, behavioral role models, abuse of alcohol or controlled substances by the defendant, by family or by peers. And -- and those are -- those are the things that exceptional circumstances will be required by the court to determine in all of these cases as they go through the system.

MS. WEINSTEIN: Thank you, Mr. Lentol, for helping to explain some of the -- what was intended as we came to the conclusion of the use of the word "extraordinary circumstances" and the -- the types of circumstances that would -- those unusual



circumstances that would warrant keeping the -- the case in the youth part. Thank you.

MR. LENTOL: Thank you.

ACTING SPEAKER AUBRY: Thank you, Ms. Weinstein.

Mr. Ramos.

MR. RAMOS: Will Mr. Lentol yield for -- for a few questions?

MR. LENTOL: Yes, I will; thank you, Mr. Ramos.

ACTING SPEAKER AUBRY: Mr. Lentol yields.

MR. RAMOS: Mr. Lentol, first I'd like to thank you for all the hard work you put into this, as well as the Speaker and everybody else who -- who worked on this historic legislation that's going to impact so many lives.

Mr. Lentol, with the retroactivity, the fact that we can go back 10 years now, somebody who was a young person who committed a crime 10 years ago can -- can now immediately apply, if they changed their life, they can immediately apply now to wipe their slate clean on this record, right; is that correct?

MR. LENTOL: Absolutely, that is correct. So, it does go forward and it does go backward. I mean, I thought that the standard, or the waiting period was a lot long -- was long, but in the respect that we have -- we have a look-back of 10 years, I'm very grateful for that because a lot of young people are now, who have committed a crime and have not done any wrong in 10 years deserve

to be given a second chance.

MR. RAMOS: So, in addition to the thousands of lives that will now be affected in -- in a more reasonable way, thousands -- or the average is about, from what I understand, is about 1,000 per year when we talk about that retroactivity. So we're talking more or less 10,000 people can now move on with their life without having a chain and a ball on their leg holding them back --

MR. LENTOL: Right.

MR. RAMOS: -- from a more productive life.

MR. LENTOL: Exactly. And, you know, just to editorialize, I think the sealing in this bill is probably the most significant provision that we have. Because we don't have this in any aspect of the law for other than, you know, a dismissal of a case, or a violation that's committed where any -- any reasonable sealing of records is allowed. And this is such a tremendous move forward that will save thousands and thousands of lives as you suggested, Mr. Ramos.

MR. RAMOS: Mr. Lentol, I've -- I've seen a lot of misinformation put out in regard to this bill; in fact, I've seen elected officials putting out there that the Assembly is trying to coddle criminals, we're trying to treat rapists and murderers and people who assault other people, and robbers, people who injure seriously other people, that we're trying to treat them as children. That's what's been put out to the public, but that's factually incorrect.

MR. LENTOL: It's not only factually incorrect, but

it's disingenuous, because that has been taken out of the bill, it wasn't even being considered at the table as you know, Mr. Ramos, for consideration. We were only talking about non-violent felonies and those violent felonies that are really non-violent, in actuality.

MR. RAMOS: In the scenario that was given, for instance, a young person playing the knockout game and he knocks out an elderly person.

MR. LENTOL: Yes.

MR. RAMOS: The mere depravity of that particular crime would be enough for a DA to say there are extraordinary circumstances here; is that correct?

MR. LENTOL: Absolutely. Absolutely. I mean, I wouldn't say that it's absolute in every particular case, but I would think that because of the nature of the crime that the DA would have a legitimate ground for --

ACTING SPEAKER AUBRY: Mr. Graf, why do you rise?

MR. GRAF: Would Mr. Ramos yield?

MR. RAMOS: Yes.

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

MR. RAMOS: Yes.

MR. GRAF: Thanks, Phil.

ACTING SPEAKER AUBRY: Mr Ramos yields.

MR. GRAF: Now, Phil, you're -- you're a retired

police officer, also.

MR. RAMOS: Um-hum.

MR. GRAF: And you know that an assault, if I punch you, okay, and I give you a bruise or something like that, right, or some type of small injury, not a long and protracted injury, that would be a misdemeanor, correct?

MR. RAMOS: Yes.

MR. GRAF: And under this here, misdemeanors go straight to family court, correct?

MR. RAMOS: Yes.

MR. GRAF: Okay. So in that case here, you know, if that person is getting adjudicated as a youth, correct?

MR. RAMOS: Yes.

MR. GRAF: Okay, even though he's one day shy of his 18th birthday, we're going to treat him as if he's a child and not responsible for walking up and knocking out grandma walking down the street; would you agree with that?

MR. RAMOS: No, I wouldn't. Because the -- the disinformation that I referred to, exact -- exactly what you just said, that the child -- that he would be treated as a child not responsible for what he did. Family court can remand young people to jail --

MR. GRAF: But we're not --

MR. RAMOS: Is that -- isn't that right?

MR. GRAF: But in that case -- well, if you look at this bill, what we actually have is they're going to a youth facility.

And one of the youth facilities, if I -- if I may, right, is what they say is smaller, home-like facilities located near the youth's home. Okay? And that's in... let me see what section we're on... I'm on page 144, I believe it is, of the bill. It's Section 77, line 30. Seventy-seven, I think it's B, line 30, okay, Section 4. So, we're not sticking them in like Rikers.

MR. RAMOS: Mr. Lentol just described that this would be a prison --

MR. GRAF: Right.

MR. RAMOS: -- run by DOCS, not a home.

MR. GRAF: Right. And if we're -- we're putting him in a family court, we're not convicting him of a crime, right? We're adjudicating him. So, he doesn't have a conviction on his record, he has an adjudication. He doesn't have a criminal record.

MR. RAMOS: If you're putting him in family court, when you're dealing with a young person, it's a more corrective court as opposed to a punishing court, which serves society better.

MR. GRAF: Right -- well, not necessarily, Phil, because -- are you aware that the New York State Select Committee on Crime did a whole report on this, and this was back in the '70's, and they took testimony, and what was happening is they had -- they actually lowered the age of a person that could be convicted of a crime and sent to jail, because at the time what was happening is teenagers were following senior citizens home, you know -- and I know right here it wouldn't be under this one, they were pushing them in and

doing burglaries. And they were beating up the senior citizens. So they were upset about that. And they couldn't charge these kids for that. But one of the things that the kids talked about --

MR. RAMOS: They couldn't charge those kids?

MR. GRAF: They couldn't -- they couldn't turn around and charge them in regular criminal court back then. This was like 1978, they -- they reduced the age that they could charge a person in criminal court.

MR. RAMOS: Before we did the JO law.

MR. GRAF: Right. So now what happened with this is when they took the testimony -- and I'd be happy to share this with you --

MR. RAMOS: Um-hum.

MR. GRAF: -- when they took the testimony of these -- of these so-called "children" that were 15-years-old, what -- the statements that they made, *Well, look, we knew that we're under 16 so it didn't count, so we could have -- we wouldn't get a criminal record, right, and that's why we did this.*

And then the other problem came about where they didn't have detention facilities, they didn't have facilities to put them because they didn't have the money for it, so when they robbed grandma, right, they went, and say they adjudicated them as they were guilty in an adjudication, they had no place to put them so they sent them home. So now, grandma went and testified at the family court, she's all beat up --

MR. RAMOS: We have secure facilities pre-conviction and post-adjudication.

MR. GRAF: Well not -- we don't have these set up yet. And these -- these --

MR. RAMOS: We do -- we do have them set up.

MR. GRAF: Well, you have the one county, the county that's going to be run by the county, okay, and that's for people who are waiting trial. And the other one you have is for -- for people that were convicted, all right, and there's a time span there, how much their conviction was, and then what we're going to do is set up what amounts to halfway houses.

MR. RAMOS: We actually have it for family court and for -- for criminal court it is being set up.

MR. GRAF: Yeah, well, right now a 16-year-old will go to jail. And until 2018, they'll go to jail if they're convicted of this because it goes in the criminal court. But what I'm saying is, you know, history has a tendency of repeating itself, okay, and that's my problem with this, is I think that we're repeating history here. And that's why I refer to this as gang --

MR. RAMOS: The history -- as -- as you said before, we were both police officers. I was a police officer for 20 years, 10 years working undercover, a detective for -- for 15 years, handling many of these burglaries, handling juveniles, and the history that I'm concerned about being repeated is the disparate application of the law that I have seen throughout my career. And in sentencing and in all

aspects, when it comes to young people of color, particularly. And that is what this particular bill addresses in raising the age.

Mr. Speaker, I would like to continue my line of questioning with Mr. Lentol.

MR. GRAF: Thank you, Phil.

MR. RAMOS: Thank you.

Mr. Lentol, in -- in my experience as a police officer, I don't remember coming across this -- this standard of serious -- of significant physical injury. This is -- and this is a new standard, correct?

MR. LENTOL: Yes.

MR. RAMOS: Can you explain a little bit about what that standard is and what our intention is in -- in this law.

MR. LENTOL: Sure. Well, first of all, physical injury and serious physical injury, as I've said earlier, are phrases already defined in the Penal Law. "Significant physical injury" is a new phrase that would fall somewhere in between. And "physical injury" is defined in the Penal Law as "impairment of physical condition or substantial pain." That's the Penal Law, Section 10, Subsection 9. This could include a kick, a slap or a punch. "Serious physical injury" is defined in the Penal Law as "physical injury which creates a substantial risk of death or which causes death or serious physical injury and protracted -- I'm sorry, "serious and protracted disfigurement, protracted impairment of health or protracted loss or impairment of the function of any bodily organ. This could include



stabbing wounds near vital bodily organs and repeated blows leading to unconsciousness, thus, it is expected that significant physical injury would include major aggravating factors, such as bone fractures, injuries requiring surgery and some permanent disfigurement." As the word connotes, to be disqualified from possible early removal to the family court, the physical injury caused by the youth must be significant. This means it must have features that -- and results that goes significantly beyond those of physical injury.

MR. RAMOS: Mr. Lentol, I would submit that probably almost everybody in this room when they were young has done stupid things, including myself. And I -- I believe that this new standard has to do with not ruining the future of a -- of a child, marginalizing his life because he got into a -- a scuffle with a friend and left a bruise, or minor injury, right? That's why we want some standard that -- much more than just a bruise or significant pain, which is defined as -- as physical injury at -- at this time.

MR. LENTOL: That's exactly right. And -- and that's really what this whole bill is all about. We're not looking to -- we're looking to save a young person who causes what may be significant injury from ruining the rest of his life and being able to pick up his life and go forward in the future.

MR. RAMOS: All right. Mr. Lentol, it -- I -- I believe that for those who really don't care and want to see these people -- these young people put in jail, what about society? Do we serve society by taking some -- a young person who did something

stupid, who committed a -- a crime where there wasn't serious physical injury, not part of a gang, not part of a criminal enterprise, but simply did something stupid. Do we serve society by marginalizing him with a criminal record that prevents that child from changing his life, from getting a better job? We all know that there are many reasons for high crime rates, but the one common denominator is a poverty-stricken area seem to have more crime. So, do we serve society by marginalizing somebody's economic progress and life and their professional development by -- by branding them with a criminal record on something minor?

MR. LENTOL: No, I -- I think that you're absolutely right, Mr. Ramos. I don't think that any kids' lives are for us to throw away, especially those who have -- have done things like you said you have. I know that I have, and I grew up at a time when there weren't cameras all around where people could see what I -- what I was doing, and there aren't social -- there wasn't social media, where things could happen on social media where you could get yourself in trouble, and nobody had a cell phone that they could record your behavior that could get you in trouble. So, kids these days are going to have the opportunity to get into all kinds of trouble and if we don't fix this now, we're going to have a lot of throw-away kids, and I know you and I don't want to do that.

MR. RAMOS: Thank you, Mr. -- Mr. Lentol.

ACTING SPEAKER AUBRY: Mr. Quart.

MR. QUART: Would Mr. Lentol yield for a

question?

ACTING SPEAKER AUBRY: Will you yield, Mr. Lentol?

MR. LENTOL: Yes, of course.

ACTING SPEAKER AUBRY: Mr. Lentol yields.

MR. LENTOL: Yes, Mr. Quart.

MR. QUART: Mr. Lentol, I wanted to ask you a question about accomplice liability under the statute. And the test which you've -- the statute described and you've discussed --

MR. LENTOL: Yes.

MR. QUART: -- the test on whether an individual under the age of 18 is removed or is adjudicated in family court, it would disqualify a defendant who causes significant physical injury who displays a weapon or firearm or who engages in unlawful sexual conduct; however, my question is, would this test also disqualify those who are just present or nearby during the alleged offense or occurrence?

MR. LENTOL: No. This test requires that the defendant be the sole actor, be the sole actor who causes the conduct outlined in this test. Again, in talking to Mr. Ramos, you can understand why we want to do that, because kids happen to get in trouble together all the time and may -- it may be just the one guy that really is the bad one -- bad apple in the group, and we don't want to punish all of them. It would also disqualify the defendant who directly caused the injury, who displayed the weapon in his or own

hand, and who personally engaged in the unlawful sexual conduct.

MR. QUART: Thank you, Mr. Lentol.

ACTING SPEAKER AUBRY: Mr. Palumbo.

MR. PALUMBO: Thank you, Mr. Speaker. Would Mr. Lentol yield for a few questions, please?

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

ACTING SPEAKER AUBRY: Mr. Lentol yields.

MR. PALUMBO: Thank you, Joe. And I'm going to -- I'll be as brief I can. I just had a -- just a couple of quick follow-up questions. Regarding jury trial, you indicated that "one is available". And I know it says that the Family Court Act would apply, but for the adolescent offenders that are not removed, so I'm talking about in the youth court. I'm assuming since a jury trial is allowed that it would be a public proceeding, unlike in a family court proceeding; is that accurate?

MR. LENTOL: So don't be fooled like some other people have been fooled by what we're creating here --

MR. PALUMBO: Sure.

MR. LENTOL: -- and that the youth part is just as good as the family court, because this is a criminal court. And in -- in criminal court you have jury trials, you know that, Mr. Palumbo, and a jury trial would be available in a criminal court, just as adult sentences would be available to young people in the criminal court.

MR. PALUMBO: Okay, understood. And that was going to be my follow-up. I just wanted to make sure, because in --

on page 230, subsection 60.10(a) for the authorized disposition for an adolescent offender, we do have that if they're convicted of an offense, "the court shall sentence the defendant to any sentence authorized to be imposed on a person who committed such offense at age 18 or older."

MR. LENTOL: Correct.

MR. PALUMBO: And I think that clearly describes the fact. And I just wanted to, for clarification purposes, my colleagues to understand that I believe -- I believe that if a 17- or 18-year-old is now in that youth part and convicted of a violent felony, or otherwise --

MR. LENTOL: Not 18. 16 and 17.

MR. PALUMBO: Sixteen, 17, rather; 16,17, then they would ultimately --

MR. LENTOL: Yes.

MR. PALUMBO: -- be treated as adults when it came to sentencing, although they must --

MR. LENTOL: That's right.

MR. PALUMBO: -- also consider their age when determining sentencing.

MR. LENTOL: You could actually look at it as though it were an extension of the age. But actually, it's with only -- with exceptions that we've talked about here today, because there are many people who don't want to just extend or raise the age, because Raise the Age would mean that we were actually treating 16- and

17-year-olds like we treat 15-year-olds. And this doesn't do that, but it comes close.

MR. PALUMBO: And that was a concern of mine. You know, my history, being a former prosecutor, that if you're convicted of those crimes as a 15-year-old as a JO, your maximum sentence would be, for example, on a Murder 2, nine-to-life. Where in this circumstance in the youth court, you can certainly sentence someone for Murder 2 to 25-to-life, right?

MR. LENTOL: That's right.

MR. PALUMBO: Good.

MR. LENTOL: That's correct.

MR. PALUMBO: Okay. Understood. Now, just a few more comments on that -- that significant physical injury. Do we have a definition forthcoming? I don't see one in this bill.

MR. LENTOL: No, we -- we also would like -- there are -- there are in the Workers' Compensation Law, I believe --

MR. PALUMBO: Sure.

MR. LENTOL: -- definitions.

MR. PALUMBO: In 5102, I litigated --

MR. LENTOL: We don't have anything in the -- in the criminal law.

MR. PALUMBO: I'm sorry to cut you off, Joe, but there is --

MR. LENTOL: I'm sorry, No-fault -- in the No-Fault Law.

MR. PALUMBO: Right. Since I've been in private practice --

MR. LENTOL: Excuse me.

MR. PALUMBO: -- doing a lot of personal injury and so forth, in 5102 is "serious physical injury" defined by way of the No-fault Law, and you're exactly right, where it's permanent loss of use of an organ or bodily function. And it's a little different, but that, again, is characterized as "serious physical injury." So, if I may -- and if I may just suggest that without a definition of that, having been, as I said, a prosecutor for many years, charging thousands of cases in the grand jury or otherwise, seeing all kinds of informations and indictments, since there is no current law in the Penal Law that says "significant physical injury," the only option a judge is going to have is to either review "physical injury" or "serious physical injury," you gave a part of the definition before. So, there is no such thing as "significant physical injury" --

MR. LENTOL: Right.

MR. PALUMBO: -- so now -- it was kind of a good way, I think in the negotiations it may have been -- it may have gotten past a few people that the only consideration is, actually, this should just read "serious physical injury" at this point until we have a definition. Because the regular physical injury, as described by some of my colleagues, which would be a bruise or something other than a fracture or permanent loss of use, substantial risk of death type of injury, you're stuck with physical injury. So there will be no physical

injury charged crimes that can be considered for the purposes of maintaining them in the youth part. So maybe we can take a quick adjournment and have party conferences and see if we can iron out that wrinkle?

MR. LENTOL: I think -- I think that's a --

MR. PALUMBO: No? Okay, we won't. I just thought I'd made a suggestion.

(Laughter)

But I appreciate your time, Joe, thank you very much.

Thank you, Mr. Speaker.

ACTING SPEAKER AUBRY: Mr. Morinello.

MR. MORINELLO: Thank you. Joe -- would the sponsor yield for a couple of questions?

ACTING SPEAKER AUBRY: Mic.

MR. MORINELLO: Thank you, sir. Would the sponsor yield for a couple of questions, please?

Joe, I want to tell you that I recognize and accept the need to address adolescents who are not children and not adults, and that, what I understand that the intent of this particular bill is. But I do have a couple of questions on implementation. Number one, prosecution in the family court, will that be by the District Attorney or the county attorney?

MR. LENTOL: In the -- in the youth court -- in the youth court, it will be by the District Attorney.

MR. MORINELLO: Thank you.



MR. LENTOL: So, in the family court, it will be by the county attorney and in New York City, it will be by the Corporation Counsel.

MR. MORINELLO: Now, we recognize that procedures in the New York City area --

MR. LENTOL: And by the way --

MR. MORINELLO: Yes, sir.

MR. LENTOL: The DAs -- the DAs can go into family court, they have jurisdiction to go in there.

MR. MORINELLO: Yes. I didn't know if there was an intent within the bill.

Also, I recognize that New York City not only has a separate City Court Act than the rest of the State, they also have procedures based upon their needs different. In the majority of the State, when they go to family court, approximately, at least in my area, 85 percent of the cases are adjudicated by the Probation Department and they never see a judge. Is the intent of this bill to have the judge at least oversee all the cases, or will -- is the intent to continue the procedure of having probation adjust the cases?

MR. LENTOL: So just like the cases in family court now, all -- all of these cases will be eligible for adjustment. But remember, the judge has the option of asking for a petition to be filed --

MR. MORINELLO: That is correct.

MR. LENTOL: -- after the Department of Probation

gives it -- the Court its report.

MR. MORINELLO: I have a question --

MR. LENTOL: The bad kids that are going to come before them and aren't responsive, there -- there probably won't be an adjustment. Just like now in -- for the children's cases that are under the age of 16.

MR. MORINELLO: In those adjustments and probations with programs, is there any concept, or has it been discussed, that -- rehabilitation rather than punishment we know is the goal, but such 16- and 17-year-old is a little more developed than a 12-, 13-, 14- or 15-year-old. Is there recognition that the programs may need to be adjusted for these adolescents at risk, as opposed to a youth 15 and under?

MR. LENTOL: I think that you're right and we do have to tailor these programs to 16- and 17-year-olds.

MR. MORINELLO: Okay.

MR. LENTOL: But remember, you know, sometimes there isn't much difference -- difference in a kid who's 15 years and 11 months than a 16-year-old.

MR. MORINELLO: Well, I -- I agree. Sometimes there is, sometimes there isn't, Joe. When we're talking --

MR. LENTOL: Probation already deals with PINS cases, so they know exactly what's going on with the 16-, 17- and 18-year-olds.

MR. MORINELLO: That is -- that is correct. I just,

because there's so many changes, I'm just trying to get a feel for the implementation and whether we need to revisit some of it, but I will get to that in a moment, sir.

On an arrest on a weekend, in a rural area, which many of the counties have Justices of the Peace, they will lose jurisdiction, am I correct, in placing a bail or placement?

MR. LENTOL: So I'm told that the Appellate Division will be appointing Magistrates to sit at local courts in youth court -- when youth court is unavailable.

MR. MORINELLO: Okay. So we're talking about a -- a justice magistrate --

MR. LENTOL: Yes.

MR. MORINELLO: -- not -- not a -- a -- a larger court judge --

MR. LENTOL: Right.

MR. MORINELLO: -- that will be assigned to that.

MR. LENTOL: That's right.

MR. MORINELLO: Very good. Thank you.

Currently, first misdemeanor in regular criminal court is a mandatory YO, which reduces sentencing and seals the record. In my reading, there has to be an application by the youth. Is this part changed, or is that first going to be an automatic sealing of the record?

MR. LENTOL: No, it doesn't change that at all.

MR. MORINELLO: Okay. So that first part stays there, that protection --

MR. LENTOL: Yeah.

MR. MORINELLO: -- that's already in the law remains; is that correct?

MR. LENTOL: That's right.

MR. MORINELLO: Okay. During commitment, what was stated is they can be committed up to 23-years-old. After they reach 18, will they be still housed with those under 18, or would they be moved to an adult facility? Because the object of this was to keep the adults away from the children and incarceration.

MR. LENTOL: So I'm informed, again, that present JOs who are incarcerated or committed up till age 21. So, they're already doing that.

MR. MORINELLO: All right. But what I'm saying is, they will still be with what the -- we call the "adolescents" or the "youths" now.

MR. LENTOL: So, the JOs can be transferred to an OCF -- OCFS facility being -- or DOCS after they reach the age of 21.

MR. MORINELLO: Has there been --

MR. LENTOL: Or 18, is it? 18, I'm sorry.

MR. MORINELLO: Has there been any consideration for sentencing adjustments for those who are youths, rather than the adult-type sentencing? And on the non-serious felonies, at this point, youthful offenders have less sentencing possibilities than adults do. Will that be maintained in the legislation, or do we need to revisit that?

MR. LENTOL: Well, I think we'll probably have to revisit a lot of this. That's why one of the provisions of this law will be a task force to look at the law as we go along, to see what changes are necessary down the road and how improvements can be made. Because, you know, we can't -- we've sat -- we sat down for almost a-week-and-a-half in discussing this and trying to get a compromise. And it's not going to be a perfect bill, because it is a compromise and we want a task force that may be smarter than we are, to look at the law and make adjustments in the future. Just like we did when we passed the Rockefeller Drug Law Reform bill.

MR. MORINELLO: Which was needed, and I commend you on that.

MR. LENTOL: But there are -- there was a task force attached to that law as well, to study the law and many more improvements have been made over the years.

MR. MORINELLO: Now, there's a provision that serious vehicle and traffic stay in the criminal -- the youth court. What about simple speeding, red lights, all your minor traffic violations? Will they remain --

MR. LENTOL: They stay in the local court.

MR. MORINELLO: They will stay.

On the bill, please.

ACTING SPEAKER AUBRY: On the bill, sir.

MR. MORINELLO: I fully support the concept and the need to adjust adolescents at risk, and the bill does go to that

degree. However, as a retired criminal court judge for 14 years, I find the compromise is extremely convoluted. I've been -- I was kindly provided a copy of the flow chart, which is somewhat difficult to follow. I just firmly believe that there could have been a -- to accomplish everything that needed to be done, there are provisions in place, there are programs in place already that we may have been able to look at. And what I'd ask this humble Body to do is to keep an open mind during the implementation, and maybe between now and the actual implementation, that the task force be put in place and we adjust the implementation of it to fit the outlying goals and needs.

Thank you very much. Joe, thank you.

ACTING SPEAKER AUBRY: Thank you, sir.

Mr. Daniel Stec.

MR. STEC: Thank you, Mr. Speaker. Would Mr. Lentol please remain --

ACTING SPEAKER AUBRY: Will you yield, Mr. Lentol?

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

ACTING SPEAKER AUBRY: Mr. Lentol yields.

MR. STEC: All right. Thank you, Joe. It's a pleasure to see you here this morning. I know everyone would like to be done and go home, but this is an important topic. I appreciate your efforts on this, and I appreciate your efforts this morning on debate. I'm out of my depth. I'm not a criminal attorney. I'm not an attorney at all, as a matter of fact. But I was proud to tell you. But let me ask

you just a few questions here. Are all sex crimes deemed violent felonies?

MR. LENTOL: No.

MR. STEC: No. So -- so that means that a lot of -- a lot of sex crimes would go straight to family court?

MR. LENTOL: The misdemeanors. Just the misdemeanors.

MR. STEC: Sex abuse.

MR. LENTOL: Not the felonies.

MR. STEC: So, Rape in the Third Degree, forceable touching, they would go to --

MR. LENTOL: Criminal court.

MR. STEC: They would -- they would start in criminal court?

MR. LENTOL: Yes.

MR. STEC: All right. So, all -- but do all sex offenses go to criminal court, then? Is that what we're saying?

MR. LENTOL: Misdemeanors would go to the family court.

MR. STEC: Misdemeanors.

MR. LENTOL: But the felonies would go to the criminal court.

MR. STEC: Misdemeanors would go to family court. So then now if they go through family court, does that mean that there will be a -- they'll find themselves at the end of that on the sex

offender registry?

MR. LENTOL: No.

MR. STEC: So, they could be guilty of a sex crime and not make their way on to the sex offender registry?

MR. LENTOL: Yes.

MR. STEC: That's true. Okay.

MR. LENTOL: That is true.

MR. STEC: Okay. Now what about reckless driving, V&T misdemeanors? That also is criminal?

MR. LENTOL: They stay in the criminal court.

MR. STEC: They stay in the criminal court.

MR. LENTOL: Local criminal court.

MR. STEC: Local criminal court. Okay. Which is oftentimes a one-and-done experience for a -- for a lot of these cases.

MR. LENTOL: Well, it's -- I guess you could say that some people might want to have them in the family court because they're still kids that we're talking about that get involved in Vehicle and Traffic Law violations, but that's not the agreement that we have.

MR. STEC: All right. So, I'm just trying to make sure I keep my notes straight here. So, reckless driving, V&T misdemeanors, that's criminal, criminal court.

MR. LENTOL: Yes.

MR. STEC: Okay. What about a 17-year-old that's coming up from New York City in his car, he's driving up to Warren County or Washington County - as it happens a lot, my DAs and law



enforcement will tell you - with 400 bags of Fentanyl, 400 bags of heroin, gets pulled over. Is that a criminal offense?

MR. LENTOL: Criminal court.

MR. STEC: That's criminal?

MR. LENTOL: Yes. It all starts in criminal court.

Remember, all felonies start in the criminal court no matter what.

MR. STEC: Could the driver of that vehicle end up in family court, with heroin -- with transporting heroin? That's non-violent.

MR. LENTOL: Yes. There's always a presumption, remember, to go to the family court. But remember the test. The district attorney can make a motion to show extraordinary circumstances --

MR. STEC: The district attorney can make a motion. There's no guarantee that the judge would grant the motion, right?

MR. LENTOL: No guarantees at all.

MR. STEC: Okay. All right.

Now, let's talk a little bit about victims' rights.

Because, you know, it seems that we're very preoccupied by making sure that we're giving everyone the second chance, third chance, fourth chance. I personally prefer to make sure I'm thinking about the people that don't need the second chance, or are the victims of the person that needs the second chance. Victims. Do they get to address the court in these proceedings in family court?

MR. LENTOL: Yes, they do.

MR. STEC: All right. But now in criminal court, a victim would know -- obviously, it would be public record, where the victim would know what the final disposition of the case was. So, a victim of one of these crimes that ultimately finds its way into family court, would that victim know the outcome of that person's case?

MR. LENTOL: No. That's current law now, though. That's -- we haven't changed that in this act.

MR. STEC: Well, it's current law now that if you're in family court, your disposition is private.

MR. LENTOL: Correct. And that wouldn't change.

MR. STEC: Well, but how you get to family court is about to change, right? That's what we're doing here.

MR. LENTOL: Well, not really, because you have more serious felonies that go to the family court as long as you're 15 and not 16.

MR. STEC: All right. Now, pretrial -- pretrial restraint or whatever. What is it, 16- or 17-year-olds --

MR. LENTOL: Remember, again, Mr. Stec, that we're talking about non-violent felonies. And if we're talking about violent felonies, they're the non-violent type of felonies that will find their way into the family court.

MR. STEC: But -- but some -- some sex crimes are -- fall under the non-violent category. Is that correct?

MR. LENTOL: But they don't go. The sex crimes won't go unless they're misdemeanors, and then they're going to be

automatically starting in the -- in the family court.

MR. STEC: Okay. Now, let's talk a little bit about -- all right, so if police apprehend a 16- or 17-year-old offender, can they start interrogating that 16- or 17-year-old? Can they question them? Can they question them about what happened with their buddy, you know, that's also in custody now, or is there a requirement that they seek the parents?

MR. LENTOL: Of course there's a requirement.

MR. STEC: Is there a requirement today for a 16- or 17-year-old that gets arrested?

MR. LENTOL: No, there isn't, because he's an adult by the law. So we're going -- remember, the object of the law is to treat 16- and 17-year-olds not as adults, but as children.

MR. STEC: Right. Okay.

MR. LENTOL: And the parental notification provision. So, the law now is for youths age 15 and under, the police are required to notice -- to notify a parent or guardian once they have taken the youth into custody. This bill extends that notification requirement to youths 16 and 17, and the police must make every reasonable effort to notify a parent. As under the current law, there can be no police interrogation without Miranda Warnings. And, you know, I think that's fair.

MR. STEC: All right. As we're heading towards their day in court, what will happen to 16- and 17-year-olds? Where will they be held if they need to be held somewhere?

MR. LENTOL: If they have to be detained, they'll be in a youth detention facility. That's what the discussion with Mr. Graf was.

MR. STEC: How many --

MR. LENTOL: We're going to have to create new detention facilities, I suppose, but we're going to have -- in the meantime, we're going to house or place kids in places where they're separated from adults. That's the object of any law that we pass.

MR. STEC: Well, but they're separated by adults now, Joe. I mean, you know, we were talking before about a lot of people's misinformation or misunderstandings.

MR. LENTOL: Yes.

MR. STEC: But are there 16-year-olds walking around in -- in Comstock or Dannemora right now? I mean, do we lock up 16-year-olds with adults? Lock them up and --

MR. LENTOL: No, we haven't because --

MR. STEC: A lot of people think we do. A lot of people we're doing this because we are doing that.

MR. LENTOL: Well, no, because Judge Lippman, when he was Chief Judge of the State of New York, since he couldn't pass this bill, went to work and got the -- not only OCA, but the State of New York, under Governor Cuomo, to separate kids and adults from being co-mingled. And that's what we're doing now. But there's -- it has no force of law. It's just the policy that the State of New York, at long last, under Judge Lippman's tenure, adopted.

MR. STEC: So, if a county jail in Upstate New York currently has the ability to segregate population based on whatever the current population demographics are - male, female, young, weekend warriors, they're in there serving time for a DWI - apart from the folks that are in there for up to a year for a misdemeanor, you know, if they got the flexibility because the jail's designed that way now --

MR. LENTOL: Yes.

MR. STEC: -- and they're -- and including 16- and 17-year-olds now, is that going to be good enough? Or are we going to be asking every county in New York State to now go out there and acquire a new facility?

MR. LENTOL: Yes.

MR. STEC: Or are we going to be having these kids go five -- five -- you know, five hours away to another facility because their county doesn't have one?

MR. LENTOL: Well, we're going to have to do something, because very often it's very inefficient if we have one or two cells for the young people and the rest of them are for the old folks. So, we're going to have to try and work that out.

MR. STEC: All right.

MR. LENTOL: That's all going to -- that's all going to come about as we go forward, because I have to tell my colleagues that this is going to be a transformative change in New York State for the best.

MR. STEC: This is going to be an expensive change,

a very expensive --

MR. LENTOL: It will be, but a necessary change because it will save a lot of lives.

MR. STEC: It may -- I think that -- that discussion may vary greatly, county to county. Now, the recoupment. This is supposed to be not another unfunded mandate on our counties?

MR. LENTOL: No.

MR. STEC: All right. How are we going to -- how are the counties going to recoup that? Because I'm hearing from the probation directors, I'm hearing from the sheriffs, you know, that transport. You know, a lot of these cases that are in and out of one local criminal court now, boom, one-and-done. That's it. The kid goes into family court now. Now it's three or four visits, it's everyone's got an attorney. It's transportation from wherever we're going to be storing them to wherever their hearings are. I mean, what was a fairly quick, agile and inexpensive system is becoming very expensive. Are all of these costs going to be recoupable by the counties? You know, they've got to have two sheriffs go with him to lug them around in the county's -- in the sheriff's vehicle.

MR. LENTOL: Well, I'm really glad you asked that question, because you're absolutely right. This is going to be more time-consuming. It's going to be more resources that are going to be needed, because we want to get the kids help. And it's not one-and-done, because we don't want to send them out on the street without getting the counseling and the treatment that they might need in order

to transform their lives. So, it is going to be more expensive; I agree to that. But the Governor, in his wisdom, has said that he's going to reimburse the counties completely, 100 percent, for whatever expenses it takes to make sure this law goes into effect.

MR. STEC: All right. I know I read on Twitter and I read in the papers that this particular issue has been the hot button issue in the negotiations that the majorities participated with the Executive in, leading up to this morning. Fourteen hours ago, the Minority party got the chance to look at the actual bill language. So, this actual bill language that we're considering right now, where do the New York State District Attorneys Association stand on -- on this bill? Have they had a chance to read it?

MR. LENTOL: We haven't heard -- we haven't heard from them.

MR. STEC: Okay. What about the Sheriff's Association? Has the Sheriff's Association offered an opinion?

MR. LENTOL: I might tell you that Mr. Montesano, he's not here today, but he -- and I don't -- I shouldn't use his name, but he --

MR. STEC: That's all right.

MR. LENTOL: -- visits me quite often, to talk to me about this bill and he's been consulted about it. I just want you to know that.

MR. STEC: Well, I -- you know -- and we appreciate that. But, I'm going to -- I'm going to venture a guess that if the DA's

Association hasn't offered an opinion on it, the Sheriff's Association hasn't either?

MR. LENTOL: No.

MR. STEC: The probation directors?

MR. LENTOL: We've met with the DAs, and I don't know if we've met with the Sheriff's Association. Staff has met with the Sheriff's Association as well.

MR. STEC: Do they endorse this bill? Yes or no?

MR. LENTOL: We haven't heard from them again.

MR. STEC: What about the New York State Association of Counties? You know, the ones that are complaining about all the unfunded mandates. Ninety percent of -- on average, 90 percent of the property taxes that the Governor likes to talk about a lot, 90 percent of the taxpayers are unfunded mandates from the State and their county taxes.

MR. LENTOL: Well, I think --

MR. STEC: What does NYSAC say?

MR. LENTOL: I think the counties are very happy, because along with this monumental change in the law, we're also going to change legal defense and reimburse the counties for all of the additional expenses that they have that will come later in the day, in a bill introduced by Ms. Fahy that will enable the counties to not have an unfunded mandate when it comes to legal defense.

MR. STEC: You've been a gentleman, Joe --

MR. LENTOL: \$450 million to the counties.



MR. STEC: -- but the point I'm trying to rationally make for everybody here is -- everyone's tired because we've been up all night. But I've got -- I rep -- my district encompasses all or parts of four counties, and I've talked to law enforcement people, district attorneys, probation officers, in all four of those counties. I don't think that they all perceive that this is the issue that some in this room think it is. Certainly in these counties. I do know that they're all very concerned about the cost. And if they're doing -- I don't want to speak for them, but the sense that I get from what these people that are experts in this area in my part of the State that this is -- the cost benefit, you know, versus cost and reward, I'm not sure that they all feel it's there. And --

MR. LENTOL: Well, all I can tell you, Phil (sic) is -- is that the Governor has been taking a very high profile in endorsing this bill, along with the Speaker of the Assembly, who is to be commended tremendously for the perseverance of having this go through the process of the budget with -- none of us -- and I've introduced this bill for 12 years and it never saw the light of day until Speaker Heastie prevailed upon the Governor to put it in the budget and we have it now and we have it under discussion because of that. And I don't think the Governor is going to let us down with the resources that are necessary to fund this bill so that it can go forward effectively.

MR. STEC: Well, Joe, I certainly hope that you're right on that account, and I recognize the Speaker's energy and passion

on this issue. And, again, I'm all for second chances, but I'm always also considerate of, you know, what is the cost, what are the -- what about the folks that don't need a second chance. You know, what's the incentive for the guy to avoid needing that second chance if you're handing out second chances like they're nothing?

MR. LENTOL: No, I'm not. I think that kids' lives are worth saving. And I think even though there's an added cost to saving the life of a kid, we ought to take the chance in doing it.

MR. STEC: Well, we're certainly about to find out, and I hope you're right. But I certainly have my reservations, and I know that I'm not alone.

Mr. Speaker, I thank you for your time.

ACTING SPEAKER BLAKE: Mr. Lopez.

MR. LOPEZ: Thank you, Mr. Speaker. And Mr. Lentol, if you would continue to yield?

MR. LENTOL: Sure. I will, Mr. Speaker.

MR. LOPEZ: Thank you for your patience. Joe, I'm a neophyte in this arena, so my questions are more technical and just more for learning as I go along. So, just --

MR. LENTOL: My answers may not be so technical.

MR. LOPEZ: Yes. So, thank you. In regard to -- to the individuals in the system, do we -- do we have a number of how many individuals are in the system and how many would be affected?

MR. LENTOL: We'll get you the answer. I don't have that on the --

MR. LOPEZ: That's okay. And while they're looking, Joe, the other question I have, which I --

MR. LENTOL: So, the total number of arrests of 16- and 17-year-olds for misdemeanors and felonies -- this is for one year, last year, 24,625.

MR. LOPEZ: Okay. So --

MR. LENTOL: Misdemeanors, 17,250; non-violent felonies, 3,900, give or take; and felonies defined as violent, 3,445.

MR. LOPEZ: Okay. Thank you, Joe. That's -- that's helpful. That's a big number.

In terms of going through the system, how many young people are incarcerated at this time? Do we know that number as well?

MR. LENTOL: Between 60 and 70 youths in adult prison --

MR. LOPEZ: Okay.

MR. LENTOL: State prison.

MR. LOPEZ: So --

MR. LENTOL: And about 500 in local jails and county jails.

MR. LOPEZ: Got it. Okay. So, the number is far reduced in terms of the incarceration process.

MR. LENTOL: Yes.

MR. LOPEZ: In terms of that, for those 60 or 70, based on the process that you outlined -- and I have a copy of that

flow chart, which was helpful as well, just to envision the process -- do those young people who are already institutionalized, do they go back through the screening process? How does that work for them?

MR. LENTOL: No. I'm not changing anything with that.

MR. LOPEZ: Okay. So they stay where they are.

MR. LENTOL: Yes.

MR. LOPEZ: Okay. So, just to move -- move on, if I may. So, in terms of the operating requirements, so it's a relatively small population. So we're working out of existing agency allocations, is that correct? Or do we have additional moneys set aside outside of the capital construction?

MR. LENTOL: Yes. Well, DOCS already has Hudson. It's already a youth facility. So --

MR. LOPEZ: Do we --

MR. LENTOL: -- we have that as a fall-back position, but we're not going to be satisfied with that.

MR. LOPEZ: But -- so in terms of that, though, money's been set aside for capital construction. What about operation -- operating aid? Has that changed? Is there much of a change to the agency as a result, or do they use it with an existing --

MR. LENTOL: Right. In the phase-in of the law, that's what we're going to have to be dealing with.

MR. LOPEZ: Okay. All right. I do have a -- I'm scratching my head a little bit. Help me understand where the county

facilities come in. So, we would have some - I think you touched on it briefly - we might have some individuals temporarily housed, or would they have a sentence and remain in the county facility? How does that work?

MR. LENTOL: Both.

MR. LOPEZ: Both.

MR. LENTOL: I mean, it may be pretrial, or they may be detention facilities where we don't have anything close to home.

MR. LOPEZ: Okay. All right, Joe. And thank you. I -- that was my -- end of my questions on your issue. I do -- Mr. Speaker, I do have questions on other portions of the bill, if I may.

ACTING SPEAKER BLAKE: On the bill.

MR. LOPEZ: Other -- I have questions on other sections of the bill, so I'm not sure who to direct it to.

ACTING SPEAKER BLAKE: Please proceed.

MR. LOPEZ: So, the next question would be in terms of Workers' Comp reserves. So does that go to Mr. Farrell, or -- oh, Ms. Titus? So, this would be for Workers' Comp -- the Workers' Comp reserves.

ACTING SPEAKER BLAKE: Ms. Titus, do you yield?

MS. TITUS: Yes.

ACTING SPEAKER BLAKE: She yields.

MR. LOPEZ: Thank you, Ms. Titus. So I -- so,

again, I'm looking at the creation of the stabilization fund, and I understand the significance. That's a very important undertaking, and I -- I do compliment the sponsor for including that. I'm curious, though, years ago we had reference to reserve -- Workers' Comp reserve funds. Those are separate constructs?

MS. TITUS: Yes.

MR. LOPEZ: So, what -- what's the difference between the stabilization fund and the Workers' Comp reserve funds?

(Pause)

MS. TITUS: Okay. The stabilization fund will have excess -- will have excess assessments that will be able to smooth out the rates over the next couple years.

MR. LOPEZ: Thank you. So, that's the purpose of the reserve fund. I get that. And -- excuse me, the stabilization fund.

MS. TITUS: Correct.

MR. LOPEZ: So the reserve funds are what? What are reserve funds, then? Are they unallocated monies that are just in excess -- from excess collection of premiums? What are reserve funds, then?

MS. TITUS: They were excess assessments that they had to turn over to the Board, the carriers had to turn over to the Board.

MR. LOPEZ: Okay. So, thank you. And -- and I'm not trying to grill you, I'm just trying to get a sense of the distinction. And I am suggesting that we might have one other -- not today, but for

the future -- one other safeguard put in the reform of the Workers' Comp system. I don't know if you recall, about two or three years ago, we had a sweep of funds from the Workers' Comp reserves. I think it was somewhere in the tune of \$2- to \$3 billion. And my own observation - and I'm not sure if this is the case - my sense that those dollars were collected from premiums raised from employers. Is that accurate?

MS. TITUS: No. It was collected from assessments.

MR. LOPEZ: Okay. I'm a little confused. So, assessments from employers who pay --

MS. TITUS: On employers.

MR. LOPEZ: Right. So, my frustration is -- just to get back to my point, and maybe you could help us with this as we move forward. So, as we swept \$2- or \$3 billion, in my mind, the money shouldn't go to the General Fund. If we have excess -- if there's an excess, they should perhaps be returned in some sort of redemption or a payback to those that they were levied from originally, the employers. I just wanted to throw that out for you to consider; again, not today. But I'm guessing that there's no safeguard against sweeps in this portion of the bill.

MS. TITUS: No, there are. This is a specific type of fund that cannot be swept.

MR. LOPEZ: So the stabilization fund cannot be swept?

MS. TITUS: Yes.

MR. LOPEZ: That's good.

MS. TITUS: Correct.

MR. LOPEZ: But the reserved funds can, right?

MS. TITUS: Correct.

MR. LOPEZ: Okay. So, I -- just as a point moving forward - and thank you again for your attention - perhaps we can put some thought together in preventing the reserved funds, which are collected from employers of all types, from being swept in the future.

Mr. Speaker, I do need to shift to another section.

Thank you, Ms. Titus.

ACTING SPEAKER BLAKE: Please proceed.

MR. LOPEZ: So, the -- in this case, I just have a question on the -- the Child Welfare Worker Incentive Scholarship and loan forgiveness.

ACTING SPEAKER BLAKE: Mr. Farrell?

MR. FARRELL: I'm sorry. Yes.

MR. LOPEZ: Yes. Thank you, Mr. Farrell. So, I -- I certainly am a fan of targeting certain categories of employment for incentives or for loan forgiveness. I think that makes sense. As we look at the tuition assistance piece, which is wide open, I know that there's a piece that allows individuals to stay in the State. And that's a separate discussion, but back to this program. I guess my question is, is there a targeted need? Is there a shortage that we're addressing here? How did we arrive at this particular area to concentrate on?

MR. FARRELL: They're relatively low-paid, so we



thought we could add something to help it so that they would come and do the work.

MR. LOPEZ: Oh, I understand. So, this is an incentive to have them seek that form of --

MR. FARRELL: Yes. And those that have already done it, because they can also get money from this. They -- or they're doing this to make sure they stay there.

MR. LOPEZ: Sure. So -- so, in essence, to work at the job. Pay is one aspect, but also, if you can reduce their debt, they're more likely to stay in the job.

MR. FARRELL: Yes.

MR. LOPEZ: I understand. Now, is there cap on dollars being spent? Is there any tie to market demand? Do we have any mechanism --

MR. FARRELL: \$50,000 for each program.

MR. LOPEZ: I'll try to rephrase my thought here. So, in terms of aggregate forces, so in the market, there will be X number of jobs of this type. So my question is, as we offer this incentive, do we have a cap on how many -- on how many individuals we will fund to the point where the market's saturated and we just can't -- we shouldn't continue to provide this incentive if the market demand is being met. I guess that's my -- do we have any mechanism in control to link training with market demand?

MR. FARRELL: No. No, we don't.

MR. LOPEZ: Okay. Just -- just a thought, again, just

in terms -- because my premise is, I prefer these types of funds. We do these things for physician recruitment and retention. I feel we could use something for nurses. We've talked about a teacher shortage. So, on the observation, rather than just let this run without some sort of trigger to scale it back, we might want to give some thought to having a mechanism that ties it so we're not training people beyond what the market can bear.

So thank you, Mr. Farrell.

MR. FARRELL: You're welcome.

ACTING SPEAKER AUBRY: Mr. Perry.

MR. PERRY: Thank you, Mr. Speaker. *Success has 1,000 fathers*, some people say. And we know that there are many around here who will claim credit for passage of this bill today. Those of us who have worked hard and been in the loop know exactly where the credit goes. And certainly, I want to, on behalf of all of the members of the Black, Puerto Rican, Hispanic, Asian Legislative Caucus, extend our thanks to the Speaker and the team of ambassadors that he put together to bring about what can be claimed as success in our efforts to Raise the Age in New York.

Mr. Lentol, if you don't mind, would you give me the courtesy of yielding?

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

MR. PERRY: You were asked a question earlier by Mr. Graf about a circumstance of a robbery.

MR. LENTOL: Yes.

MR. PERRY: For robberies committed by a child.

MR. LENTOL: Yes.

MR. PERRY: And he attempted to make that -- or present that as a reasonable standard for what we have been discussing, extraordinary circumstances. Your response to him seemed to indicate that you may have agreed with him, but I don't -- having discussed this legislation with you, I --

MR. LENTOL: That was a long --

MR. PERRY: -- don't think that --

MR. LENTOL: That was a long time ago, but I never agree with Mr. Graf. Only kidding, Al.

(Laughter)

MR. PERRY: And, really, our legislative belief and its intent with this bill is that extraordinary circumstances is a very high bar, and certainly could be -- is to be determined and shaped by a judge's ruling after the enactment and effectiveness of this law, and that it is a standard that should take into consideration all the circumstances, including the mental capacity of the offending child.

MR. LENTOL: Thank you -- thank you, Mr. Perry, for re-asking that question. If I gave that answer, I must apologize to my colleagues because I certainly -- if I -- if I heard it correctly, I wouldn't have given that answer, only to the extent that every case is going to be different. And every case is going to be looked at by the judge individually, to determine what kind of factors - both aggravating and mitigating - there are in the case, to determine

whether or not this is the exceptional circumstance, it passes the exceptional circumstances test. And, basically, in many of these cases where you have - like I said when I spoke to Ms. Weinstein - where you have a series, during one day, of robberies, that clearly, or at least in my mind, could be -- could be exceptional circumstances. So, therefore, there's no question about it if that four robberies in one day, that the judge would take very seriously to decide in favor of keeping that case in the criminal court.

MR. PERRY: And there's absolutely no intent on your part to establish any number of crimes or anything relating to a sort of standard that we are setting here?

MR. LENTOL: Yes. We're not -- we're not judges, we're legislators. And the question is really to try and get those cases that deserve to go to family court to go there, in order to help individual children who may have committed misbehavior that elevated itself into a crime, from a life of doom because they've been convicted of a crime. That's the purpose of this bill. It's not to coddle criminals. It's not to make sure that violent crimes are -- go to the family court. That's not what this bill is. This bill is solely for the purpose of helping children that don't deserve to lose their lives over one or two mistakes.

MR. PERRY: So, for the record, four robberies or any number of any specific crime is no measure of any standard that we have in mind?

MR. LENTOL: I don't want to take the position that

is going to give a judge to believe that we're establishing a standard here. We have exceptional circumstances as a standard in the bill, and every case must be judged on its own merits. And -- but there are guideposts for a judge to look at in determining, like I said to Ms. Weinstein, cruel and heinous manner where the crime was committed, where the defendant was a ring leader. Those are all circumstances that ought to be considered - perhaps in most cases or perhaps in some cases - as extraordinary behavior -- circumstances, rather, that would lead -- conclude -- have the judge conclude that this case belongs in the criminal court and not in the family court. But the cases are rare that -- where this should happen. That's the object of this law.

MR. PERRY: And we also expect --

MR. LENTOL: *Look at the individual* is the purpose of the law.

MR. PERRY: And we also expect, Mr. Lentol, that the judge also will use the approach of a high bar, rather than a low standard, as he could --

MR. LENTOL: Well, that's the standard that Mr. Lanza talked about when we spoke about the meaning of extraordinary circumstances. He used the phrase "one in a thousand" of these cases would be held in the criminal court, and the rest would go to the family court.

MR. PERRY: Thank you, Mr. Lentol.

On the bill, Mr. Speaker.

ACTING SPEAKER AUBRY: On the bill, Mr.

Perry.

MR. PERRY: Today, New York will finally make the very prudent decision to no longer prosecute 16- and 17-year-olds as adults. Finally, we, as full adults in this Chamber, are raising the age. It is shameful, though, that New York is the 49th state in the Union to do the right thing. Alabama, Mississippi, West Virginia and 45 other states got it right way before we had. Thankfully, today we are unequivocally stating that children should not be treated like adults - especially in our prison system - because they are children and they are immature. We know that they will make mistakes. As children, they should always have an opportunity to get back on the right track. Many of us, without a second chance, probably wouldn't be here. We cannot continue to treat children like adults in the criminal justice system. It is short-sided, and a proven ineffective approach. And does not keep our communities safer.

While some of my colleagues will still vote no on this bill mainly because of the Raise the Age provision in this budget bill, I would remind them that the facts do not lie. Independent studies show that young people passing through the adult system are 34 percent more likely to be rearrested for violent and other crimes than youth retained in the youth system. These same studies show that children housed in adult prisons are twice as likely to be beaten by staff, and 50 percent more likely to be attacked with a weapon than children housed in youth facilities. Furthermore, children are 36 times more likely to commit suicide in an adult facility than a juvenile facility. Empirical

research has confirmed today's scientific knowledge that youthful offenders may still, in very substantial ways, lack full understanding of their rights, or even the consequences of their actions. An even more alarming statistic -- statistics to myself, as Chair of the Caucus, over 70 percent of 16- and 17-year-olds arrested are Black or Latino. And of those sentenced to incarceration, 80 percent are Black and Latino. Yes, the term "vicious cycle" is often overused, but there's no other term -- no other better term that can describe the foolish practice which we indulge in today, prosecuting children as adults.

While many believe we abolished the death penalty in our State, for many of our youth, it continues. Placing a 16-year-old in an adult jail is as much a death sentence to that child as any electric chair could have been. A vote today, which has been far too long in the making, and the State's delay in Raising the Age has caused undue suffering and pain for far too many children and their families. I hope today that our votes will show that we have learned our lesson. That we have come to the realization that an effective criminal justice system is not one which locks up the most for the longest period of time, but one with a smarter, much more compassionate approach to juvenile justice. One which focuses on education, job training and rehabilitation. Giving a second chance to children. The "throw-away- the-key" mentality needs to come to an end, especially for children. And hopefully, today, Mr. Speaker, it will.

Thank you, Mr. Speaker.

ACTING SPEAKER AUBRY: Thank you, sir.

Ms. Bichotte.

MS. BICHOTTE: Thank you, Mr. Speaker. On the bill.

ACTING SPEAKER AUBRY: On the bill.

MS. BICHOTTE: Today is somewhat a historic day for the State of New York. I knew that we would not be able to get all the things in this bill, and some concessions were made, and it was very tough. Very tough, very emotional; heartbreaking in some cases when it came to discussing our children in the Raise the Age bill. A bill that would raise the age of criminal responsibility from 16- and 17-year-olds to 18 was perhaps the most emotional-charged and laborious process that this Assembly had undertaken. So controversial to the point where those who opposed to this bill were saying that our children were rapists and murderers, and those who supported and fought for this bill felt that we need to do more, it's not enough, our kids are being incarcerated.

Now, the reason why it's emotional and controversial is because currently right now in the State of New York, over 24- to 28,000 children, 16- and 17-year-olds, are being incarcerated on a yearly basis -- are being prosecuted on a yearly basis, of which 50- to 60,000 are currently in the adult prison, as Assemblymember Joe Lentol mentioned earlier. Of that, the majority, the vast majority, are Black and Latinos and the vast majority of the offenses are non-violent offenses.



Now, we ask why is it taking -- or why has it taken New York State to be one of the only two states to actually pursue in passing this bill and raising the age; why should this State continue to punish and have such harsh Penal Laws against children, especially on non-violent crimes. Very similar to the Rockefeller Drug Law that was enacted in 1973, which was noted as the harshest Penal Law in the United States ever. It was supposedly a law that was targeting drug lords, major to drug dealers. But, however, most of the people who were incarcerated under this law were, again, Black and Latino men, disproportionately convicted of low level, non-violent offenses, and many of which had no criminal record.

While Black and Latino people make up only 33 percent of New York State's population, they comprise nearly 90 percent of those incarcerated of drug felonies. This is one of the highest levels of racial disparity anywhere in the nation. I know because in the height of the '80's, my late brother, who served this country in the Army, became a substance abuse victim. And he, too, was incarcerated. No rehabilitation was offered to him. No mental health aid for this veteran who served in the Army. It was actually a habit that was picked up while he was serving the Army. My brother was left to die in prison. So, in this case, we have been applying these same harshes -- harsh Penal Law laws to our children who are vulnerable and non-violent felonies.

It says that in the Supreme Court case *Graham v. Florida* in 2010 it was decided that juvenile offenders cannot be

sentenced to life imprisonment without parole for non-homicide offenses. The Court also previously had decided in the case of *Roper v. Simmons*, which had abolished the death penalty for juvenile offenders as unconstitutional should apply also to sentences to life without the possibility of parole. And then in June 2012, in a related matter, *Miller v. Alabama*, the court ruled that mandatory sentences for life without parole for juvenile offenders, even in the cases of murder, was cruel and unusual punishment, in violation of the 8th Amendment to the United States Constitution.

Now why, why -- why was it deemed cruel? Well, the argument in those cases presented evidence that showed research and development psychology and neuroscience documents that juveniles are less mature, more vulnerable and more changeable than adults. Juveniles had lesser capacity for mature judgment. Juveniles are more vulnerable to negative external influences. Juveniles' uniform identity makes it less likely that their offenses, events of fixed, bad character and more likely that they will reform. Juvenile psychosocial immaturity is consistent with emerging research regarding brain development, sentencing the juvenile offenders in these cases to die in prison, like my brother, with no opportunity to demonstrate reform, is a disproportionate punishment.

Raise the Age NY on their website also noted statistics, shows that children, when they are incarcerated, they're easily victims of sexual assault, victims of solitary confinement and victims of recidivism. Youth are 36 times to commit suicide, like our

very own Kalief Browder, who was sentenced at the age of 17 at Rikers Island. And for a very long time, 16- and 17 year-olds who were not substance abusers, who were drug carriers, were sentenced to prison to die, with no rehabilitation and no help.

So, the whole point of raising the age is not to treat these children as adults in the criminal system. We, in the Assembly, when we started this whole bill, our whole goal was to start the offenses in the family court. And I want to thank all those who participated. I want to thank Speaker Carl Heastie for making this a priority and bringing this to the floor. I want to thank Assemblymember Joe Lentol, who has carried this bill for 12 years, 12 years and as he mentioned, finally saw the light of the day. I want to thank all the ambassadors who were involved in this -- this process, Jeff Aubry, who has been a voice for this for a very long time; Phil Ramos, who served as a law enforcement officer; Helene Weinstein, who has brought her judiciary expertise, who were at the table fighting, negotiating. And I also want to thank my colleague, Latrice Walker, who I learned so much. She actually represents 16- and 17-year-olds who are going through this. And Diana Richardson, who actually have worked with rehabilitating juveniles who have gone through this process. And all of you who are here, so many voices who made this happen today, I want to thank you.

But, unfortunately, we weren't able to get the bill where we really wanted to, where to start at the family court. Why? Because our government is compromise. Our government is broken.

We have a Governor who unfortunately empowers the other party on the other side, who empowers a broken party that he should be part of. And, instead, he's giving thanks to a party that was created that had nothing to do with the negotiations. Nothing. Everything started here. We are the people of the House. It was Carl Heastie, the Speaker, who led this bill to become a historic bill. And so, I'm really disappointed in this whole political play. Credit should be due -- credit should be given where it's due. And it should be given to here, the people of the House.

Meanwhile, all these other states, the vast majority of the states that have Raise the Age, start with the family court. Why can't we start at the family court? But we ended up with only misdemeanors and violations in the family court at the beginning, and non-violent felonies will start in the criminal youth part, where a District Attorney would have a discretion whether to roll over this particular case, these cases, under extraordinary circumstances -- unless extraordinary circumstances were found. And for what deemed to be violent felonies in many cases that are not really violent, like robbery and burglary, has to pass a three-part test. That includes significant physical injury which, again, will have to be in the discretion of the judge and the DA. And unless there was extraordinary circumstances found, these kids would remain in criminal court.

Now, what does it mean, "extraordinary circumstances"? When most of these kids shared a life of

extraordinary circumstances in itself, being socially and economically deprived, having drug lords coming into the community, poisoning our community, influencing little kids to sell drugs, raping our communities from economic equity, equality in our school systems, bringing chaos and deprivation. Isn't that extraordinary circumstances for a child's life already? But what it really means is, we don't want it in the family court because we want to make sure that we employ these people in the criminal court. It's all about jobs. It's all about funding these facilities. And when we think about the 30 days that a child has to wait, again, what is -- what will -- where will they be? Where are they going to be housed? They will be housed in a facility that's used to harassing kids, or should they be in a facility that has services provided for them while they wait for those 30 days? And after they serve their time, they have to wait 10 years, 10 years to get their records sealed. So that means at the age of 17, that child is going to have to wait till the age of 27 to even see the light of pursuing an education or getting a job. Again, the Assembly fought for a better compromise. Joe and the team fought for a lesser number of years of sealing. We started at three, then we went to five, but the Governor insisted on 10-year sealing.

Let's talk about a young man that all of you are very familiar with, Jim St. Germain, he was here, he lives in Assemblymember Diana Richardson's district in Crown Heights; he was raised in my district in Flatbush. He rallied with us in the press conference on Raise the Age. This young man was arrested at

15-years-old, shy, four months shy of being 16. He was sent to family court where he received all the services that he needed. He actually opt to stay a long year longer in the juvenile facility because he was crying for help, he wanted to be reformed, he made a mistake. He was selling drugs, he made a mistake at 15-years-old. He didn't know any better.

ACTING SPEAKER AUBRY: Ms. Bichotte, you'll have to come back for a second 15, if you like. We have a line.

MS. BICHOTTE: All right. Thank you. I'll come back to finish this.

ACTING SPEAKER AUBRY: Ms. Walker.

MS. WALKER: Will Mr. Lentol grant me the courtesy of yielding for a couple of questions, please?

MR. LENTOL: Of course I will.

ACTING SPEAKER AUBRY: Mr. Lentol yields.

MS. WALKER: While everyone here applauds all of the efforts that you, sir, have made to make this day a reality, there are also still a few questions that I have as it relates to the underlying tenets of this bill. One of them, of course, is as it relates to notice. A part of the bill says that, "Services shall be provided to a juvenile as long as notification of these services are timely." Can you give me an example of timeliness in this circumstance?

MR. LENTOL: Could you point to something in the bill? I really don't understand what you're referring to in the bill. Are you referring to notifications of parents?

MS. WALKER: I'm referring to the notification of services that will be provided to young people who stand in jurisdiction, who are 16- and 17-year-olds, 16- and 17-years-old, as it relates to the services they should be...

MR. LENTOL: Okay. I know you talk -- well, a general answer to your question is I don't know that this bill provides for notification of anybody about the services in the family court yet, because if we're talking about notifying anybody of the services that we're -- are going to be provided about 16 -- to 16- and 17-year-olds, we're going to have to make that kind of an effort in order to reach out to them to know that kids will -- that services will be available in the family court to help youths who get in trouble.

MS. WALKER: So is there any --

MR. LENTOL: And in the youth court, as well.

MS. WALKER: Is there any requirement that a juvenile defendant receives any notice of the availability of services that can be provided to them, or that they can make themselves --

MR. LENTOL: No.

MS. WALKER: -- available of?

MR. LENTOL: There is, actually. So, in the bill, it says that, "All juvenile offenders and adolescent offenders shall be notified of the availability of services through the local probation department. Such services shall include the ability of the probation department to conduct a risk and needs assessment, utilizing a validated risk assessment tool in order to help determine suitable and

individualized programming and referrals. Participation in such risk and needs assessment shall be" voluntarily -- "voluntary," rather, "and the adolescent offender or juvenile offender may be accompanied by counsel during any such assessment." That's what you're referring to?

MS. WALKER: That's what I'm referring to, sir. But one of the things that I also understand is that this service plan includes alcohol and substance abuse, as well as mental health training and treatment.

MR. LENTOL: Yes.

MS. WALKER: So what I'm concerned about is the fact that this risk assessment that may be made may not happen at a time that's timely. So, I would like to sort of, perhaps, get a sense of, in your drafting of this bill, what do you or would you determine as timely notification to a youth and/or his attorney as it relates to the availability of these services?

MR. LENTOL: Well, at the latest, at the arraignment, of course because, otherwise, there would be probably no way of the youth to know -- to be aware of any of these services, or his attorney, because the bill is going to be new when it rolls out.

MS. WALKER: Okay. I have another question as it relates to possible admissions that may take place during this treatment plan.

MR. LENTOL: Mm-hmm.

MS. WALKER: We would like for young people to be forthcoming of all of the conditions that may be ailing them at that



moment in time, but we also would like for them to be able to speak truthfully and to speak freely to this treatment officer, and to also make sure that the admissions that are made as a result of treatment do not become admissible in the underlying case. Does this piece of legislation speak to that issue?

MR. LENTOL: Yes, it does, in Section 5 of 722 of the bill, and it says: "No statement made to the probation service may be admitted into evidence at a fact-finding hearing or at any time prior to conviction." So we agree with you, and that was something that we fought for in the bill because there was a concern that mandatory assessment would be utilized by the prosecutor to show extraordinary circumstances when that's not really the intent of extraordinary circumstances.

MS. WALKER: Thank you, Mr. Lentol. Back to the providing of services. So, the District Attorney has at least 30 days by which to bring a motion to keep a case in criminal court; is that correct?

MR. LENTOL: That's correct.

MS. WALKER: And then the judge has about five days by which to make a finding of fact and conclusion of law; is that correct?

MR. LENTOL: Yes.

MS. WALKER: So, then, that would allow at least for a 35-day time period before a young person is able to avail themselves of any services. Does this legislation speak to that 35 sort

of waiting day period where that child may be in limbo?

MR. LENTOL: Yeah, I think -- I think the services begin at that time and then continue and may -- to be made available during the 35-day period, as you said, 30- to 35-day period and after.

MS. WALKER: Thank you. I have another quick question that it relates to a possible waiver of rights. There are many defenders or criminal defenders who may feel that a young person may be able to avail themselves to their betterment in youth court as -- as opposed to taking their case down to family court.

MR. LENTOL: Yeah, we have -- we have a provision against that in the bill, too. A defendant may waive review of the accusatory instrument by the court and the opportunity for removal, I'm sorry, in accordance with this Section. This was something we didn't win on.

MS. WALKER: Okay. That's unfortunate. We'll have to come back -- come back and actually get --

MR. LENTOL: Okay.

MS. WALKER: -- get a victory on that one.

MR. LENTOL: That's good. Okay.

MS. WALKER: But in the event a young person decides, perhaps in the youth part to take a plea, as we know there are many circumstances where the District Attorney will present possibilities to a defendant, that defendant may say, *You know, instead of me going through this whole 35-day process, instead of me doing this and doing that and taking myself out of school, or whatever the*

circumstances are, *I will just plea perhaps to a lesser charge*. Is there anywhere in this legislation that would allow for the judge to provide in a plea allocution a statement by that juvenile that they are aware of the rights that they have to take a case down to family court, be provided with services to both the child and also their family members, is there -- is there some element that would allow for that, perhaps just like they do in criminal court for immigration purposes, a defendant has to make a statement that they fully are aware of the rights that they are giving up? It's my question today, is there a provision that requires something very similar to that so that we can be certain that child is aware of the -- of the rights that they are waiving?

MR. LENTOL: Yes. In -- in Section 4 of the bill, the defendant -- "That such waiver made by the defendant knowingly, voluntarily and in open court in the presence of and with the approval of his or her counsel and the court, an earlier waiver shall not constitute a waiver of review and the opportunity for removal under this section." But -- but you're absolutely right, it should be part of that decision. And the court should make each -- each person who is in the family court, because remember, this is a family court judge that's supposed to be in the criminal part. So we're not only putting the section in, but relying on their expertise to make sure that each youth before him or her will understand their rights under the section.

MS. WALKER: Well, I would -- I would hope, or guess it would be my plea that the judicial institute, in their education

of judges, do take this under consideration as it relates to something that can be the norm in that court system while they stand in jurisdiction of these young people.

Another question --

MR. LENTOL: Yeah.

MS. WALKER: There is a prohibition on the custody of youth in Rikers Island facilities according to this law.

MR. LENTOL: Yes.

MS. WALKER: And it places children in OCFS, Office of Children and Family Services institution, correct?

MR. LENTOL: Yes.

MS. WALKER: I have, or happen to have one of those institutions in my district.

MR. LENTOL: Mm-hmm.

MS. WALKER: One of the concerns is that that facility is very under-represented, underutilized. That facility is located across the street from the 73rd Precinct. The 73rd Precinct is a precinct that houses a lot of the potential young people for Raise the Age. And I remember going to court, and folk from the 73rd Precinct were coming in running and they were all excited, and the whole court system, the court personnel was extremely excited about the potential economic advantages around Christmastime that would be provided to them because of the influx of young people that were about to be ushered through the criminal justice system. So it's a concern of ours that this bill does not be utilized or taken advantage of as it relates to

the population that people are looking to have exist within those facilities.

In addition to that, there is the possibility of providing or building a youth court across the street from the 73rd Precinct. So within a three block radius, there would be a juvenile detention center, a precinct and also a youth court. That youth court is supposed to cost \$23 million, where the City Council right now is holding \$23 million in abeyance to build this youth court. But one of the things I also know is that my district is owed \$22 million in the Campaign for Fiscal Equity educational funds. So, it would be my thought that those resources could be better utilized on the front end by providing a proper education for those young people, as opposed to on the back end and locking them up. Would you --

MR. LENTOL: I couldn't agree with you more.

MS. WALKER: I appreciate that. So back to extraordinary circumstances. We know that that is a terminology that has not been well-defined in this legislation.

MR. LENTOL: Mm-hmm.

MS. WALKER: But I wanted to bring your attention to a case, *Scott v. Harris*, which dealt with a case where the underlying facts of a case had not been taken a look at, it was sort of a summary judgment motion case in criminal court, and the court, Justice Scalia, at that -- who wrote the opinion, concluded that courts are required to view the facts and draw reasonable inferences in the light that's most favorable to the non-moving party. In this case, in my

opinion, that would be the juvenile defendant; would you agree?

MR. LENTOL: That's correct.

MS. WALKER: So, it would be my hope, as we're providing commentary on this bill, that when a judge is making their determinations on whether or not extraordinary circumstances exist, that they look at this case and draw their references in light that's most favorable to the juvenile who they stand in jurisdiction of.

MR. LENTOL: That would be -- that would be in line with what Mr. Lanza and all of us concluded, was the purpose of this, so that one in 1,000 cases would be kept by the criminal case and the others would fall down to the family court.

MS. WALKER: And my last question to you, and I thank you for indulging me, it also goes to --

MR. LENTOL: Thank you for the record that we're establishing. I think it's important.

MS. WALKER: Thank you. It also goes to this idea of record sealing. I do commend you, in your initial introduction of the bill that would allow for a short time period that a young person will be able to apply for their records to be sealed. And it's unfortunate that a 16-year-old will be 26, at least, before they become eligible to have their record sealed. Now, one of the questions or concerns that have come up is, will a criminal -- has --

I'd like to come back.

ACTING SPEAKER AUBRY: Thank you.

MS. WALKER: Thank you.

ACTING SPEAKER AUBRY: Mr. Blake.

MR. BLAKE: On the bill.

ACTING SPEAKER AUBRY: On the bill, sir.

MR. BLAKE: Speaker Heastie, Speaker Pro Tem Aubry, Majority Leader Morelle and fellow members of our Assembly, good Saturday morning to you. Let the record first state my gratitude for the staff that have spent so much time to stand with us and put in the work that's necessary on today. Let the record also state, specifically, Mr. Speaker, to Kathleen O'Keefe, to Marty Rosenbaum and the incomparable Dan Salvin, who I remember vividly in 2016 came to caucus weekend with his young child as we spoke of the need to raise the age. Let us forever know that we say thank you for all that you do every single day. To Assemblymember Lentol, to Speaker Pro Tem Aubry, the State Senator Velmanette Montgomery, to the Senate Dems that stood with us and all those that are aligned, we say thank you for not only mentoring us younger members on today, but for educating us on the moral urgency to raise the age and why we have to continue to carry the torch on your behalf. To the Raise the Age Coalition, to the Justice League of Tamika Mallory and Carmen Perez, Linda Sarsour, Jewels and countless others, to Angelo Pinto, to John Wright, Artie Malcolm, Jennifer Jones Austin, to Van Jones and the entire #cut50 team of Dream Corps, and specifically also to Jim St. Germain, who was mentioned, and D'Shaun Green, Shaun King, and to the entire Browder family who stood steadfast as we press forward, including his brother, Akeem,

who called me on today out of pride that we were finally taking on this legislation, may history forever know our appreciation for their efforts.

But lastly, Mr. Speaker, my gratitude to Speaker Carl Heastie, who every time we walk up this hill to this remarkable and audacious Capitol, my heart is full of pride for it is a Black man, the only Black Speaker we have in the country right now, who put his legacy on the line for us to get Raise the Age accomplished. You made it very clear that Black History extends beyond just February. From the day and the way you embraced Constance Malcolm, the mother of Ramarley Graham and her pain to the way you embrace your remarkable daughter, Taylor, and speak of the necessity of justice, we stand in accord for what you are doing, Mr. Speaker, and we say thank you. This effort only has a chance of going up this hill because the Speaker, who, ironically, lives on Hill Avenue, where my father used to live, chose to take us up this hill of justice and put his legacy on the line to stand up for generations unborn while others were fine with perpetual injustice to continue to rain down like concentrations of hail. Rarely in this exploration called life can we do something, Mr. Speaker, that actually is historic. It changed the trajectory for generations forever. We did not have the honor to be present in the hallow halls of the Declaration while it was drafted, or the New Deal while it was discussed. And, certainly, not fortunate enough to be in the company of the hours for the Civil Rights Movement, or the Suffrage Movement as well, but today is a day that



is historic, everyone. Moments that no doubt brought painful conversations and divisions among many of us, but let us understand that sometimes you have to challenge the fabric of friendships when you're trying to create history. The decisions that were made are not about one individual and how they felt, but it's about people and their needs coming together ahead of their party. Equally, deliberations many of us chose make you uncomfortable from time to time, but I would rather choose that discomfort than continue the chaos that exist in so many lives of so many people.

Colleagues, as a person of faith, it is not lost upon me that time brings us to today, where more than 2000 years ago, also on a Saturday, there was a seismic shift that was happening before Glorious Sunday. We arise early this Saturday morning with the honor to make legislative and social justice history by starting the process of us marching up the hill to Raise the Age. Speaker Heastie has clearly conveyed to us whether someone is wealthy and has resources or someone is struggling to make ends meet between groceries and rent and prescription drugs, our budget not only shows their values, but the process shows the content of the character. "Raise the Age" has too often become a catch phrase. We're talking about someone's child. This is why we have to raise the age. It's a young person that needs to be treated with love and -- and opportunity. It's -- it would be hypocritical, quite frankly, for any of us to talk about this and say, well, don't cast them in a broad brush when we didn't want to be cast in a broad brush when people would

talk about how we were in this culture of corruption. Give them a chance the way -- the same way we ask for a chance.

Mr. Speaker, twice I had the chance to go to the Lorraine Motel, the space where more than 49 years ago, Dr. King lost his life, the space where he was in Memphis to fight for economic justice for sanitation workers, where he said something that still rings true today: *Something is happening in our world. The masses of people are rising up, and whenever they are assembled today, whether they are in Johannesburg, South Africa; Nairobi, Kenya; Accra, Ghana; New York City; Atlanta, Georgia; Jackson, Mississippi or Memphis, Tennessee, the cry is always the same, We want to be free.* The efforts today are not just giving young people a chance to be free from incarceration. No, it is not just simply that. It's giving them the chance to be free of emotional bondage and spiritual bondage that has encompassed them in an unfair criminal justice system.

Concurrently, Mr. Speaker, just as you have internal battles that exist, and we can recognize that you have to acknowledge progress, you also have to acknowledge when oppressive behaviors still exist. It's my moral obligation to be clear of who is being impacted and has truly led this effort to be here. Because as King said, "In the end, we will not remember the words of our enemies, but the silence of our friends." The law and language before us is very clear, colleagues, youth with violations and misdemeanors and non-violent crimes, they would more than likely end up in family court. No, these young people given this opportunity, they're not

rapists and murderers and gang bangers. And, yes, this law will benefit young people who are not just Black and Brown, whether they live in Binghamton or the Bronx or Brooklyn or Syracuse or the Southern Tier of Staten Island or Rochester or Rensselaer, young people across this State have a chance because of what we're doing today. So I thank you, Speaker Heastie. I refuse to allow Governor Cuomo's examples of these young people of youth with knives will slash people, or drunk kids, or the Independent Democratic Conference, who wouldn't push back against some of the Draconian proposals that were put before us to take credit. It's not just about putting out a press release when a prison industrial complex continues and the school-to-prison pipeline continues. It's about standing up in times when you have to stand up.

The day after King was assassinated, President Lyndon Johnson assembled his Cabinet and other leaders after the assassination and after when the riots had emerged and said, *What did you expect to happen when you've kept your foot on the neck for people for more than 300 years?* Sometimes we are reluctant to speak the truth of our own party and acknowledge the progress that has happened on all sides. We acknowledge the progress of Member McLaughlin when he talks about Hoosick Falls. We acknowledge the progress of Member Palmesano of organ donation. We acknowledge the progress that happens all across the board. But let us acknowledge that we are here to help the children. The signs that were present in Memphis of "I Am a Man" can still be revised in 2017 rhetoric. And

to my continual life sign, "I am a young Black man." And those six words are not synonymous with me being a thug or a criminal or a deserved recipient of injustice. I wish things were different, but we recognize where we're at on today. Maybe we can use this moment to unite us as a people and not try to be divided because of race and gender and faith and sexual orientation and disability and zip code. Maybe we'll use this moment to understand the responsibility that we have. We can use this moment like Fredeick Douglass did when he spoke before the New York State Assembly in the mid 1800's and said, *I am here to ask you to make the American citizenship so respected that even a colored man clothed in it shall be safe from violence in every section of this great country.* Each of us know a 16- and 17-year-old who needs a chance. They might have made a mistake, they could be your child, they could be a mentee, they could be a niece or a nephew, they could have just been in the wrong place at the wrong time, but they deserve a second chance. And if you want to have mercy on them, if they were your loved one, then why would you not have mercy on your stranger's child, or the neighbor's child? All of us have done something that deserve a second chance. We value the livelihood of a victim who has had harm brought their way, but even the stranger deserves that second chance. Or for any of us who are of the Christian faith, you recognize that we said when we serve the Savior, we understand that you did something when you fed that person when they were hungry, you did something for that person when they were naked without clothes.

So I stand here recognizing that even my attire didn't save me. Colleagues, many of you may not realize that on July 30th of last year, despite me having on a White House polo and slacks and shoes at Amor Houses Family Day (phonetic) in my own district, I was tossed against a gate by an officer because I was seen as a threat. And if wasn't for someone else recognizing that I was an elected official, things could have gone out of control. All I'm saying is, I was given a second chance. But the reality is, my title nor my name should be a reason why I get that second chance.

So for those of us that are here as legislators, we have a moral responsibility to stand up for those who can't be here, to stand up for those who we can't have a voice, to stand up for those who need us to stand up for them. That's why we fight to Raise the Age. The same way I was given a second chance in 2001 when I fell asleep at the wheel, and the only two reasons I didn't go over the cliff in the hills of Pennsylvania were the amount of luggage in the car and the Hands of God that protected me. But we wrote out something that said, Dear God, may today be my greatest day, greater than the great day I had a day before, but my goal has not been met unless tomorrow is the greatest of them all.

The second chance, Mr. Speaker, is for Kalief Browder, who was my constituent, his mother, who was my constituent, the young men and young women who need us to Raise the Age today. The ones who understand what's happening. If we need any more clarity of the importance of the moment, he was in jail

for allegedly stealing a bookbag. Because he couldn't afford \$3,000 bail for allegedly stealing a bookbag. He refused to admit guilt, he was tortured, he was beaten. He was inexplicably put in solidarity confinement, and eventually took his life because of a bookbag. Maybe if we focus on making sure that the kids have the tools they need on the front end, than focus on what they could have in their bookbag, we wouldn't have to try to fix the problem on the back end.

The class of justice is in session, colleagues, and this is our second chance to make things right. Yes, this is a victory that 16- and 17-year-olds will have a chance on today. Yes, it is a victory against presumption against detention. Yes, it's a victory that has occurred. But Governor and IDC, we could have done more if our parties would have united at this time. It's unfair for some of these proposals to still exist. It's unfair that a young child will have to wait 10 years for their records to potentially be sealed. It's unfair and unjust that there's some obsession with some District Attorneys to make it harder for someone to get out of criminal court. It's unfair and it's wrong that some of these young people will still have an adult sentence. It's unfair and wrong whenever the words of the Senate Republicans sometimes to convey they're rapists and murderers. They're not that, they're someone's child. It's impossible for me to ignore that reality because before I was a Democrat, before I'm an Assemblymember, I'm a saved Christian Black man. I can't forget who I am and where I came from. I can't forget the responsibility that we're here to serve the least of these, to fight for the people no matter

where they come from.

So, colleagues, let's stand up and do something for these children, to fight for them and give them a chance. We're not trying to give them a life sentence, it's giving them a chance. If my words upset you, then at least we still have words on today, because Kalief Browder is not here to say any other words. So I stand here to ask that we fight and give another chance. It may not be perfect, we recognize that, but this is the beginning of that chance. So we are in this Assembly to stand up to make sure we're not for a school-to-prison pipeline. We're standing up to make sure we have more foundation aid. We're standing up to make sure we give these children a chance. But we are the Assembly that's fighting for public housing and protection for our seniors. To say in the words that the great songwriter uttered, *Your thought -- You thought I was worth saving, so I came to change my life. You thought I was worth healing, so you cleaned me up inside.* Well, Speaker Heastie, it is clear that Raise the Age is showing these young people they are worth saving.

So while I seek more, I will proudly vote for this bill, I will proudly stand up for this bill, because I understand that it's not just about Raising the Age, it's raising a new generation of decedents of justice. It raising for people to fight for us for a second chance. It's raising up in the historic hymn, *We are marching upward to Zion, beautiful, beautiful Zion. We are marching upward to Zion, that beautiful city of God.* I proudly vote yes because today is the day we Raise the Age. I proudly vote yes because today is the day we Raise

the Age. I proudly vote yes because today is the day we Raise the Age.

(Applause)

ACTING SPEAKER AUBRY: Mr. Lentol.

(Pause - laughter)

MR. LENTOL: I better sing a song after that.

(Laughter)

Thank you, Mr. Blake, for being around, just being around and raising our consciousness. I think that everybody understands what you said now. And it's time for me to close on this bill, I -- I don't know that there are any more speakers.

Is that correct, Mr. ...

ACTING SPEAKER AUBRY: We still have a second time for --

MR. LENTOL: All right.

ACTING SPEAKER AUBRY: -- both Mr. Graf and --

MR. LENTOL: Well, let me just -- let me just -- I don't have to close, let me just make my statement on the bill, even though that's the hardest act to follow I ever had.

First of all, I'd like to say, Mr. Speaker, that I just did not take a phone call on my cell phone from Judge Michael Corriero, who brought this bill to me 12 years ago or more to introduce. And I remember at the time he told me this is something whose time has come. And now, for those of you who don't know who Judge Michael



Corriero is, he spent his life as a judge in the youth part of the court in New York City, and did nothing else but deal with youth crime and punishment and a devotion to the concept that the age of criminal responsibility needed to be raised. And he came to me in earnest and said that this is a slam dunk, this is exactly, *We're going to present this bill, and you're going to be a hero, Joe Lentol, because you're going to be able to get it passed right away in the New York State Assembly.* Mostly every state at that time had passed it, and New York State we know at the time was a progressive state, like it is now, but so far we haven't been able to accomplish that.

So, our Majority here in the Assembly has worked over a decade to right fundamental wrongs that -- that exist in the criminal justice system and ignores the vulnerability of our young people. And as someone so ably pointed out, they are high school kids, sophomores and juniors in high school that we're talking about, okay? Any of you have high school kids? I think you do. And this is -- it's really unconscionable to maintain a system, in my opinion, that focuses on punishing the act instead of concentrating on the capacity of the offender to reclaim their own good. Today there are more laws, more police, more cameras, more ways through social media to catch errors that kids make. We must accept the science that acknowledge that every kid that commits a crime is not a criminal.

This long-awaited reform, even though not perfect, will move these cases to the family court where they belong and allow young people to receive their age-appropriate treatment that they

deserve. The sealing of records, which Phil Ramos brought up, provided for in this measure is the single greatest chance that we can give young offenders to recover from their mistakes and move on with their lives as independent, law-abiding citizens.

I want to thank my colleagues, both -- on both sides of the aisle for their guidance and support through the process of achieving Raise the Age in New York. Your counsel has been invaluable. I think that Governor -- I thank Governor Cuomo for his leadership. I was in the room, you weren't. He did take a leadership role in making sure that these negotiations did not crash and burn, and kept us there.

Finally, our leader, Speaker Heastie, I can't tell you how moved I am. Twelve years it's been in trying to get this bill to the floor of the Assembly, and I failed. And I got to tell you something that -- that I've told other people now, but I might as well say it in public: This is the best year of my life of almost a lifetime of tenure in the New York State Assembly, because as I walk the halls of the Legislative Office Building and talk to mothers and sisters and brothers, who come over to me and grab me by the arm and say, *Thank you, Mr. Lentol, thank you for saving my kid. Thank you for helping us to change the law.* And I almost have a tear in my eye because I know that this is good law. But I didn't realize how many human beings there are whose lives are affected by the monumental change that we're making here today. It's -- it's just -- and I've got to tell you that every time I get approached by somebody and they hug

me, I go to tears, I can't help it, because this is big, and it's needed and we're doing it. And Speaker Heastie is the one that we most have to thank for it because without putting it in the bill, the Governor and the Senate would never even consider this bill. You made this --

(Applause)

ACTING SPEAKER AUBRY: Now you're all out of order.

(Laughter)

MR. LENTOL: Now, I -- I have to say that he never backed down from the challenge, he put it in the bill. It -- it was the wrong thing to do to put the bill in the -- to put this bill in the budget, because he played his hand, but it was the "right" thing to do. And that's what this Speaker has done since he's come here. If anything -- if nothing else, he knows what the right thing is and in this case, he's really done it.

Carl, I commend you wholeheartedly. I hope you feel very proud, like I do, to have you as the Leader of this Assembly in this State, and move New York forward to care for teenagers when they err, especially in our communities of color. Carl, I've got to tell you, you know, people tell me this all the time, it's always the quiet ones that can really get things done. And this is a big one, and a job well-done.

But there are more people that I have to thank. And I know that Michael Blake did this already. I want to thank our Codes staff, the absolute best in the entire country, Dan Salvin, Maura

McNamara, Marty Rosenbaum, Rebecca Mudie - where are you, Becky, probably not here - who worked on this bill tirelessly for the last 10 years until they moved her someplace else. But we brought her back anyway.

(Laughter)

And the Speaker's staff, like Kathleen O'Keefe, who I know is sitting here watching and hearing every word. They're right here by my side, they know better -- they know the law better than I do, of course, than anyone around, and their commitment to the well-being of our kids of the highest degree-- is of the highest degree.

And last, but certainly not least, I want to thank Speaker Aubry, Temporary Speaker Aubry, who was at my side, and I can't tell you how much you've meant to me, Jeff, over the years. You were right there with me at Rockefeller Drug Law Reform, and you were there every day. And you're a --

(Applause)

ACTING SPEAKER AUBRY: You're still out of order.

(Laughter)

MR. LENTOL: And almost my seat mate, Phil Ramos, the former police officer and detective in Suffolk County. You could imagine having these two great ones at the table and staring down the Senators -- the Republican Senators of the State of New York at the time. And staring down the Governor, I might say, to get a better deal in the process.

MR. RAMOS: Thank you.

MR. LENTOL: Thank you. Phil Ramos.

(Applause)

And last but not least, I don't think I'm such a good lawyer, but I knew that there was a good one here in the Assembly, and she is none other than the Chairman of the Judiciary Committee, and we needed -- even though the Speaker didn't make her an ambassador, I took it upon myself to bring her as an ambassador, and she's done an excellent job. Mr. Speaker, you should be proud of your Judiciary Chair.

(Applause)

So ladies and gentlemen, let me close by saying that I -- I can't -- I can't express, if this bill passes, and I hope that some of my Republican colleagues who have problems with it understand, and I know that you understand because many of you have raised kids and you understand that some of them are going to get in trouble. And how many times did your mother tell you, *Don't hang out with the wrong kids, they're going to get you in trouble*. And, basically, this bill provides a mechanism to save your kids.

I present the bill to my colleagues for its consideration and I hope you vote favorably on it. Thank you.

(Applause)

ACTING SPEAKER AUBRY: Ms. Paulin.

MS. PAULIN: Yes, thank you. I wonder if my colleague, Kevin Cahill, Chair of the Insurance Committee, would

yield to a question? No mic. Can you hear me? I'll repeat it.

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

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

MS. PAULIN: Thank you. I just have a quick question on the ride sharing component of the bill. If a county or city opts out of 44-B, which is the Statewide framework governing TNCs -- which is, of course, transportation network companies -- can they still regulate TNCs under the existing county TLC -- Taxi and Limo Commission -- regulatory framework as for-hire vehicles?

MR. CAHILL: Thank you. Mr. Speaker, Ms. Paulin, the section of the bill that we're -- that we have in front of us merely prohibits local governments from regulating transportation network companies. It does not prohibit localities from exercising their existing jurisdiction to regulate taxis, limousines, livery services and so forth. So, the short answer to your question is, yes, a county or a city that opts out would seem to have the authority to go ahead and regulate those entities as a taxi, limousine or livery service if the company so consented.

MS. PAULIN: Thank you so much.

ACTING SPEAKER DE LA ROSA: Mr. Ra.

MR. RA: Thank you, Madam Speaker. Would Mr. Cahill yield?

MR. CAHILL: Yes, I will.

MR. RA: I just also had a couple of questions about

the ride sharing. So -- and part of it is -- is about that local side of it. And, you know, I also represent part of a county who -- who has had some concerns with this. But I wanted to ask, specifically, about the fees. There's -- my understanding is there's a 4 percent State fee, but there's -- there would be no allowance for any local fee, local sales tax anywhere in here?

MR. CAHILL: That is correct. It's a 4 percent State fee that the proceeds, which are anticipated to be about \$24 million, annualized, would go to the General Fund.

MR. RA: Okay. And the locality would be prohibited from imposing any type of surcharge or fee?

MR. CAHILL: They are specifically prohibited from imposing any fees.

MR. RA: Okay. Now, in the scenario that Ms. Paulin brought up, would any of this language prevent -- under -- under those circumstances when they're -- where they're regulating them as they would any -- any taxi or limousine, would any of this language prevent them from collecting some fee that they already do collect?

MR. CAHILL: Mr. Ra, let me clarify the last answer because there is one exception to where the proposed language would allow a fee, and that is if an airport charges a fee to enter their premises, the airport would be allowed to do so. In terms of would a locality be allowed to levy a fee against a transportation network company operating as a transportation network company, the answer

is clearly no. It's specifically excluded. If that entity submitted to the jurisdiction of the locality that opted out and operated as a taxi, limousine or livery service, then whatever fees that the locality is authorized to levy in that instance could be levied against that entity because they would not be a transportation network company in that circumstance.

MR. RA: Sure. Okay. And then the other question I had was about the -- the background checks.

MR. CAHILL: Yes.

MR. RA: So, could you just go a little bit into how that's going to work under this language?

MR. CAHILL: The transportation network company would receive a license from the Department of Motor Vehicles, and that's the only license that's involved here. The transportation network company would be required to -- to submit their drivers to a background check consistent with those background checks that are provided for in law already, and they would have to certify to the Department of Motor Vehicles that that background check had taken place for each and every driver.

MR. RA: Okay. Just, I guess, one other question with regard to that. I don't know if you happened to see - obviously it's been a long couple of weeks here - but there were some stories in the news this week about the State of Massachusetts, who put forth, I guess, a new background check. And it turned out many of the drivers, you know, had violent offenses on their records, sex offenses



on their record. Do the -- are those types of crimes covered here to prevent those drivers -- those people with those types of offenses from being allowed to drive for these companies?

MR. CAHILL: Yes. In fact, it is lined out in our legislation that the National Sex Offender Registry, the State Sex Offender Registry have to be scoured to find out any information about these drivers. Any of a particular set of vehicular violations or crimes have to be examined. And, by the way, there's also a zero tolerance policy under law that the companies must impose when it comes to the use of drug and -- drugs and alcohol.

MR. RA: And then one last question. Are there any type of requirements -- you know, sometimes localities may have a requirement that there be a certain number of cabs on the road that are handicapped-accessible. Are there any type of requirements required of these transportation network companies?

MR. CAHILL: There are three provisions of this legislation that refer to people with disabilities and meeting their transportation needs. First, they are included in the nondiscrimination portion of the law, that is that the transportation network companies are prohibited from discriminating against people with disabilities, along with a variety of other classes of people. Second, they are prohibited from charging an extra fee, a different rate for people with disabilities. And, third, a task force is being formed that will examine a number of different circumstances, including how the needs of people with disabilities are being met. If I can just take the liberty of

just mentioning that over the course of the over two years of investigation that my colleague, Mr. Gantt, and I undertook on this subject, the issue of access for people with disabilities was by far the most complex and daunting. And even those entities that have been seriously regulating not just transportation network companies as livery services like New York City, but virtually every jurisdiction across the country has not arrived at a satisfactory solution yet. So, in fact, the task force approach may be the one that will yield the -- the magic formula necessary to make sure that people with disabilities have equal and fair access to this -- this service.

MR. RA: Okay. Great. Thank you very much, Mr. Cahill.

MR. CAHILL: Thank you.

ACTING SPEAKER DE LA ROSA: Mr. Murray.

MR. MURRAY: Thank you, Madam Speaker. Mr. Cahill, would you do me the honors? I have a quick question.

MR. CAHILL: Yes, Madam Speaker; yes, Mr. Murray.

MR. MURRAY: Thank you. Just following up on the previous question regarding the sex offender and the -- and the checks on that for the driver. I do see that it is lined out in there that they do the background check, but I got a -- a message from Laura Ahearn. She's the head of Parents for Megan's Law and the Crime Victims Center. And she said, you know, *Just a heads up. I received a few calls yesterday that the budget bill had a provision allowing*

*convicted sex offenders to transport passengers after seven years.*

Was there anything in there or was that taken out or...

MR. CAHILL: I'm not aware of any provision that affirmatively -- affirmatively allows someone who is listed on the Sex Offender Registry or who is a sex offender to -- to pass the background check portion of the law. I'm not aware of any section that would specifically allow that.

MR. MURRAY: Okay, very good. I just wanted to double-check on that. Thank you.

Madam Speaker, on the bill.

ACTING SPEAKER DE LA ROSA: On the bill.

MR. MURRAY: Thank you. I -- I -- again, I brought that up because it -- it was a concern there regarding that, but I want to -- I want to bring this around, and just bear with me for a second. We just had a debate that lasted probably three, three-and-a-half hours on Raise the Age. And maybe this is what happens when we start putting so many issues into one bill, that maybe we do some bills that might contradict themselves. Because right now, what we have is we have a provision in the -- in this -- this portion of the bill where we do the background checks for sex offenders, but during the last debate, Mr. Lentol was asked, *Are there some cases where sex offenses will be handled in family court?* And the answer was yes. So, if a 17-year-old convicted -- or committed a sexual offense or a sexual assault and it was put into family court and it was adjudicated there, there is no record. And, by the way, they won't have to be on the Sex

Offender Registry. So, that 17-year-old, because the qualifications to drive under -- for Uber or Lyft, you must be 19 years old. So, literally, two years after committing a sexual offense, that 17-year-old could be behind the wheel and driving with Uber or Lyft under this legislation.

I also want to bring this up: Again, three-and-a-half or so hours of debate, and we had some very, very passionate, very eloquent speeches given regarding Raise the Age. And sometimes I think when we get into issues like this, it gets very -- there's a lot of rhetoric, maybe, a lot of emotions. I met with a group of students in my office the other day from Niagara University, and we talked about this issue. And I had some issues with Raise the Age. And we had a talk, and explained, back and forth, a nice discussion, a give and take. And by doing so, we were able to understand that we weren't the enemy because we might disagree on some things. We just disagreed on some things. I said to them, *I wouldn't want to see a 15-year-old girl who maybe shoplifts a 15 -- or -- or rather, a 16-year-old-girl who shoplifts a \$15 pair of earrings have a record that could, you know, cause problems for her down the road.* That's ridiculous. I wouldn't want to see that, either. But then I also wouldn't want to see someone committing a violent crime, or a situation that I just described, happen. And it can. Now, when I started I said I got a message from Laura Ahearn, Parents for Megan's Law. She also handles the Victim Center. You know, three-and-a-half hours of debate, we heard a lot of talk about these kids and how we can help them. You know what we never heard? Not once, not once did I hear

anything about the victims of the crimes. Eighty-some pages in this bill about Raise the Age, this much about the victims (indicating). Including this line, by the way: "The victim shall not be made aware of the final disposition of the case." This is how we treat the victims? Like I said, granted, some of these kids could be victims, too, considering their circumstances. But the victims of the crimes did nothing wrong. Where's their help? I'd like you to just consider that when you vote on this.

Thank you.

ACTING SPEAKER DE LA ROSA: Mrs. Peoples-Stokes.

MRS. PEOPLES-STOKES: Thank you, Madam Speaker. I have to agree with many of my colleagues that today is a very historic day. So, I have two topics right quick that I want to bring to the attention of my colleagues. I listened earnestly to the debate on Raise the Age and, quite honestly, I think, you know, that we probably are going to end up agreeing to disagree. But that is one of the privileges we have as Americans. We can agree to disagree. But on some things, I think we have to find a common ground. And I think one of those things is implementing laws that have more than a one-time opportunity to be beneficial. Kind of like curb cuts. Years ago, when the disabled community realized that they couldn't get over sidewalks with their wheelchairs, they really lobbied the Federal government. At first they started with a municipal government, actually, in California. And they got curb cuts put in all over. So,

wherever you go in American cities now, you see curb cuts. And they benefit everybody, because even some of us who don't want to step over a curb sometimes will use a curb cut to get down the street. Mothers use them for strollers. People use them with canes. They're actually benefiting society in a lot of ways, but they were really designed to benefit the disabled community. And so, I raise that issue because I think when we raise the age of young people who will not have a life that keeps them from being successful, then we actually are raising the lives for a lot of people. Not just them, but their families, their communities, their school systems. The businesses in their communities, because now they're going to be able to maybe go to college and build on the workforce of the community that they live in. Now they're going to be able to -- because they're not going to be stigmatized with a record that keeps them from going to college, keeps them from getting a job, they're going to be able to become taxpayers. So they're benefitting the society as opposed to being a detractor on it. So I think Raise the Age, at the end of the day, will be a benefit to us all. And even those of us who disagree will become agreeable when we realize that our economies will grow when we allow more people to participate in it. And if we want to stigmatize young people at an age where there even isn't -- there isn't even a victim involved, it's just the crime that they did, something silly -- if we keep them from being involved in our economy, then it just ends up costing us more. And so I think at the end of the day on this one, the history of what we're doing here today will show that this is a curb-cut effect. And it is

going to have a very positive effect on many lives across the entire State of New York. So, I'm excited about the opportunity to vote on it.

With that, Madam Speaker, I would ask if Mr. Cahill could just allow me to ask him a couple more questions. Many of the issues as it relates to transportation networks have already been brought up by my colleagues, and I appreciated hearing them. But I wonder, Mr. Cahill, if you can walk me to the steps of after 90 days this will be implemented. Is that right?

MR. CAHILL: That's correct.

MRS. PEOPLES-STOKES: So --

MR. CAHILL: Yes. By the way, Madam Speaker, I yield.

ACTING SPEAKER DE LA ROSA: Mr. Cahill yields.

MRS. PEOPLES-STOKES: Will the gentleman yield?

(Laughter)

Thank you, Mr. Cahill. So, after 90 days, what exactly will be the process for, say, a senior citizen who is retired now and they want to become a driver? What process will they go through?

MR. CAHILL: Well, Madam Speaker -- Mrs. Peoples-Stokes, there's no reason for that person to wait 90 days. They can start to affiliate with the company right now. The 90 days is

intended, I believe, to allow the Department of Motor Vehicles to set up the regulatory schema that will make this work and to make sure that the companies can actually get the insurance that was authorized under this -- that will be authorized under this law. I just want to bring you back for a moment to how this all began. It began when the Attorney General stepped in and prevented Lyft from operating in your hometown --

MRS. PEOPLES-STOKES: That's right.

MR. CAHILL: -- because they did not have an authorized insurance product in New York State. That was the beginning and the end of it. There was never a prohibition against these companies operating here. There was a prohibition of them operating without an authorized insurance product. So, if they were to have obtained the same insurance as everybody else, there would be no State bar to them operating. Once they obtain that insurance, there's a 90-day wait in our bill. There was also a period of time that they agreed to under the consent decree that they entered into with the Attorney General that from the time they obtained that insurance, there would be a 90-day window before they would operate. So, the process in the example that you gave is that driver can be in touch with the transportation network company right now, and start to qualify themselves as a driver so that if and when -- or let's just say if the transportation network company decides to operate in that community -- and by the way, this is not a mandate that they operate, it's just permission -- that then they could possibly be considered as a



driver.

MRS. PEOPLES-STOKES: Well, I'm glad you brought up that point, because actually when that company - which was Lyft, by the way - operated in Buffalo, they didn't really do ride sharing as much as they did car sharing. They literally shared the car, which was, as you said, a problem with not having insurance on it. So, a person goes online, finds a company that they want to connect to, they fill out some paperwork on line, I'm sure. What -- what are the next steps that they go through?

MR. CAHILL: Well, after that it's up to the company. The transportation network company which with they seek to affiliate would submit them to a background check, and then they would have a procedure. Of course, they can't go there yet because the regs have not been written by the Department of Motor Vehicles to allow that. So there might be a bit of a period of time. The bottom line is that in 90 days, if these companies wish to operate -- and yesterday, in response to a press inquiry, one of the companies said, *We are looking forward to opening up for business in Buffalo, Rochester, Syracuse and Albany.* They left out the rest of us, but that's okay. That's their choice. So -- so their plan, I believe, at least so far as their statements in the press are concerned, is to roll out in those communities as quickly as possible.

MRS. PEOPLES-STOKES: So for clarity on the opt-in part of the legislation, so if a municipality like a county or city or town or village can say, *We're opting out* or, *We want to opt in?*

MR. CAHILL: The opt-out provisions are that any county in New York State - any county, no matter what size it is - may decide, through their legislative Body by passing a local law, resolution, whatever it's called, to not allow transportation network companies to operate in their communities. If they choose that, then those transportation network companies simply cannot pick up and discharge -- or cannot -- cannot pick up passengers in that community. They might be able to discharge. If a city of over 100,000 exists in that county, and the county opts out, the city does not necessarily opt out unless they affirmatively do so.

MRS. PEOPLES-STOKES: Okay.

MR. CAHILL: So the right to opt out or the authority to opt out is independent both for the cities and the counties.

MRS. PEOPLES-STOKES: Okay. And so, the 4 percent fee that's going to be added to the charge that drivers are supposed to be giving to the riders, that all goes into the General Fund of the State? None of that gets shared locally? Not even with transit authorities?

MR. CAHILL: No. Our legislation that we were going to consider in this House before we entered into negotiations in the budget would have included a 7 percent -- or -- or a State and local sales tax. So, whatever is your local sales tax would have gone to the localities. Another proposal, originally by the Senate, would have created the Local Government Transportation Lockbox. We -- we both had to succumb to the negotiation that allowed a General

Fund 4 percent fee to the State alone.

MRS. PEOPLES-STOKES: Okay. Well -- well, I think that there's -- there's going to be some issues with that because, you know, transit authorities provide a huge service to most low-income people, particularly working poor. And, you know, I think once we have ride sharing in place it could be possible that it costs you \$3 to take the transit or a bus, but it maybe cost you \$5 to use a transportation network system and you stop using transit as much. That's -- that's not a good look. So --

MR. CAHILL: Madam Speaker, Mrs. Peoples-Stokes --

MRS. PEOPLES-STOKES: -- I would be hopeful --

MR. CAHILL: -- if I could address that, because there's another part of this legislation that could conceivably apply to the circumstance that you're talking about. And that is that a task force is being set up with an obligation to report back about what the impact of transportation network company services in a community is. What that impact is on the delivery of services to people with disabilities, what it is on the taxi industry, what it is on the public transit. All these subjects could be considered by this task force, which will then have to issue findings in January of 2019. And when they issue those findings, quite honestly, I think this may be the first step toward authorizing these companies to operate using their business model, but I don't believe it's the last step. I believe, like many jurisdictions, we will have to revisit this subject maybe once,

twice or several times.

MRS. PEOPLES-STOKES: Well, thank you, Mr. Cahill. I would truly hope that sometime before 2019 we will have a better idea of how we can certainly serve the disabled community as it relates to ride sharing. But I think about the hearing that was held in the City of Buffalo on this topic, probably the largest contingent of folks to come out was the disabled, because they don't see how they fit into this model. And so, I think waiting until 2019 is a little bit too far out. I think there are opportunities right now for the disabled to have an opportunity to afford themselves of riding with ride sharing organizations, and I think it's all just a matter of contacting the transportation authority that exists, that already has paratransit vehicles that could be used for ride sharing. And so, I hope that those kind of conversations take place --

MR. CAHILL: I would urge --

MRS. PEOPLES-STOKES: -- at least in my community.

MR. CAHILL: I would urge you to consider such legislation. As you might recall from last year, we had a number of provisions in our proposal last year that we also had members offer independently. Our colleague, Mr. McDonald, offered a bill that would authorize the Capital District Transportation Authority to regulate this entire area, and that bill passed and was signed into law by the Governor. Our good friend, Assemblyman Magnarelli, had a separate piece of legislation that would have authorized local control.

That was also passed by both Houses. It was sent to the Governor, who vetoed it with the commitment to consider it in view of the entire package. It was considered because it was part of our proposal and rejected. So, there is an opportunity here, as you can see. So far, the odds are 50/50 that you're going to get your bill made into law if you offer it up independently.

MRS. PEOPLES-STOKES: That's a good call. I will look into that. But let me just ask this one last question. You said that in 2015 (sic) we would know what the results are from the task force. When are they going to be set up, and who will be members on the task force?

MR. CAHILL: It's 2019, and the task

MRS. PEOPLES-STOKES: 2019.

MR. CAHILL: -- force consists of appointments by the Governor, with recommendations from the leader of the Senate and the leader of our House.

MRS. PEOPLES-STOKES: And, certainly, there will be some folks from the disabled community?

MR. CAHILL: I am certain that our good leader, Mr. Heastie, would make sure that we have adequate representation of that important group of stakeholders.

MRS. PEOPLES-STOKES: Thank you, Mr. Cahill. I am representing a community that really strongly feels like they need to have access to Uber and Lyft, etc. And I don't -- I don't disagree with them, but I just think that it requires more of a look, that we have

hearings. Some really kind of not-too-good things going on around the country about these companies. And I really think that, first and foremost, as we -- we can't be taken advantage of using the effects of curb cuts as a society because they were created for disabled, and then we want to set up a transportation system that doesn't even include them. So, I really think that we should move a little quicker with this one, and 2019 is way too late to find out how we can engage all of our community in ride sharing.

Thank you, Madam Speaker.

ACTING SPEAKER DE LA ROSA: Mr. Hawley.

MR. HAWLEY: Yes, Madam Speaker. Would Mr. Cahill yield for a couple of quick questions?

MR. CAHILL: Yes, Madam Speaker; yes, Mr. -- Mr. Hawley.

ACTING SPEAKER DE LA ROSA: Mr. Cahill yields.

MR. HAWLEY: Mr. Cahill, the Lyft legislation within this bill is interesting. I'm just wondering whether you or anyone else, in researching this final decision, has talked to any of the insurance companies who provide insurance for personal automobiles in the State of New York?

MR. CAHILL: Thank you, Madam Speaker. Mr. Hawley, we certainly have. We held roundtables, several roundtables and internal discussions. We had stakeholders coming into not just my office, but talking to our central staff and talking to others, and

they expressed concerns over the limits. I was pretty upfront with them that if we're creating the authorization for a 21st Century product, we are not going to impose and require just 20th Century levels of insurance. The insurance levels that are required under this are much closer to what we, in this House, proposed in our legislation than what was initially proposed by the Governor and the Senate. And, quite frankly, I think they're much more appropriate. For period one, \$75,000 per person and \$150,000 per incident for bodily injury, \$25,000 for personal property. Significantly higher than that which is required by personal automobile insurance, recognizing the high risk of distracted driving possibilities during period one. Periods two and three, when there's actual commerce taking place, the levels are \$1.25 million, and something that I think you and I have talked about in the past, a requirement that supplemental uninsured and under-insured motorist coverage be obtained at the same level. So many people, all of many people in this room, no doubt, are insuring everybody else on the road more than they are insuring themselves, and this is a great step. When I spoke to the insurance companies, they were concerned, quite honestly, that this was the camel's nose in the tent on raising limits in New York State. And it was a good concern to have, because I think it's about time we take a look at the limits and start to consider raising them. And if this is considered a first step, then so be it.

MR. HAWLEY: Well, some of the concerns that I've heard reflect on the actual usage of the vehicle as a livery vehicle, if you will. And if you are rated on your own personal auto insurance,

whether it's driving to and from work a certain distance or pleasure use, obviously, the rate is much lower than it is if you're using a vehicle, a personal auto, for hire. The exposure is much greater in that case. And, therefore, I've heard from a number of insurance companies in the State that are seriously considering, and several that have said they will not write personal auto insurance if someone is using it for hire.

MR. CAHILL: Well, let me, if I may --

MR. HAWLEY: So, I do have concern with that.

MR. CAHILL: Let me -- let me address that with two points, if I can remember them both. It's been a while since I've slept, and I don't have the same stamina that Mr. Farrell and Mr. Lentol have, although they are approximately the same age as me.

(Laughter)

The -- the -- on the question of -- of the price of insurance, the cost of insurance. That is a question I specifically put to the insurance industry and the transportation network company industry from the very first day we started to consider this legislation. Repeatedly, I said, *Please tell me, what is the number? How much is this going to cost?* We never got an answer on that question. Over and over again we asked, and silence was the answer we got in return. I did my own internal investigation. I called an insurance agent, and I said, *I want to use my car for personal, commercial transportation. How much will it cost if I want \$1.5 million worth of insurance coverage?* The response I got from the agent was he was amazed that



in some instances the premium actually went down, but in all instances it only went up a little. So that was our experience there, that the cost of the insurance, from the evidence that we could gather on our own, having been disadvantaged because the insurance companies and the transportation network companies did not want to share that information with us, was that, in fact, it was going to have a minimal impact, if at all.

MR. HAWLEY: Well, I hope you're right. Of course, one of the impacts could be that the insurance company cancels the individual who becomes an Uber driver and, therefore, the consumer is not protected. And so, we hope that this is the case and we'll move forward with it.

MR. CAHILL: Two -- two things about that: First of all, the -- we have a specific prohibition in the language here against your personal insurance company canceling you simply because you became a driver for one of these companies; and, secondly, we have a provision that if you cannot obtain insurance in New York State - and this is a pretty common provision, as you well know - that after due diligence, if you can't obtain the insurance in New York State, you are able to use an out-of-State product. There's also a third provision that matters to this -- in this realm, and that is that the insurance can either be obtained by the driver or the company or a combination.

MR. HAWLEY: Thank you, Mr. Cahill.

MR. CAHILL: Thank you.

ACTING SPEAKER DE LA ROSA: Mr. Skoufis.

MR. SKOUFIS: Thank you, Madam Speaker. If I may speak on the bill.

ACTING SPEAKER DE LA ROSA: On the bill.

MR. SKOUFIS: Thank you. With any large budget bill there is, of course, much to like in this legislation and much to dislike. You know, I strongly support and welcome efforts, for example, to bring ride sharing to the rest of the State. My constituents have looked the short distance to New York City these past couple of years and said, *Hey, what about us?* That will be a very welcomed service in 90 days, once the enacted legislation takes effect. Likewise, we defeated a number of fees and taxes that would have been crippling to my constituents and middle-class families, whether it be the online retailer sales tax collection, which was rightly and soundly defeated, a number of DMV fees were defeated. Those were all good items in this bill. Conversely, you know, there are some items that we continue to work on. The Governor's STAR gimmick remains. I hope that we revisit that post-budget. We've passed legislation here in this House to undo that gimmick. We hope that the Senate will follow. Likewise, there are unconscionable cuts to dozens of healthcare programs here in this budget bill, whether it be to the American Cancer Society that provides screenings, whether it be to the American Lung Association and many, many others. For some reason, those were advanced by this Governor.

One item I spoke about yesterday that I will speak about when I explain my vote, North Rockland is also included in this

bill, and I want to again thank the Speaker for his tireless efforts on that piece.

The item I want to spend some time talking about, however, is the so-called "college affordability plan" in this piece of legislation. In my opinion, as someone who has worked on making our public colleges more affordable for a number of years, as someone who is not far removed from college here in this Chamber, this is more like a "college unaffordability plan" that the Governor has advanced here today. April 6, 1852, 155 years almost to this day, this Legislature passed special legislation authorizing and establishing free schools, free public schools, in the City of Newburgh's public school system. Newburgh Free Academy got its name from the action that was taken by this House. Along with my colleague, Assemblyman Skartados, I represent some of that district that's now called the Newburgh Enlarged School District today. We've had this debate before, in this State and in this country, about whether to make education universally affordable and accessible. We did it about 100 years ago. Newburgh was one of the first here in New York State. But we've had this debate, and the same arguments on the opposite side of the debate when we were talking about making high school publicly available and accessible, *We can't afford it. My kids didn't get it for free. They, quote, unquote, "earned it." Why should I pay for others?* We're hearing those same talking points today. The reason why we expanded high school some 100 years ago, and 155 years ago in Newburgh, is because at that time, society, or most of

society was recognizing our workforce, our society, needed more education. Today, we should have that same recognition where the vast, vast majority of jobs that are hiring today require some college education, yet, nonetheless, we hear those same talking points in opposition.

January 3rd of this year, people like myself got quite excited. You know, I've had legislation that some 70 of us in this Chamber have supported for the past three-plus years to make SUNY and CUNY tuition-free. On January 3rd, this Governor had a press conference at LaGuardia Community College with Senator Bernie Sanders, standing in front of the banner, "Tuition-Free College for the Middle Class." Senator Sanders described the program - I suspect he didn't know the details - as "revolutionary." Governor Cuomo called it a model for the rest of the country. People like myself, who have been pushing this idea, were very excited. Then we saw the press release come out. Then we saw details start to trickle out on this program. In fact, I think the press release was corrected not once, but twice, because I don't even know if the Governor's office knew exactly how this program worked. But as we got more and more details, the excitement and the optimism turned into disappointment. We first found out that the price tag was \$163 million. As someone who has worked on this concept for a number of years, that just didn't add up. To make SUNY and CUNY tuition-free, as many stakeholders have stated over these past number of months, costs a lot more money than that. In fact, the cost should have a "B" at the end of it, not an "M."

So that was the first red flag, *What exactly is going on here?* Then as we got our budget books here in the Assembly, we actually got a number of projected students that were set to benefit from this Excelsior Scholarship; 32,000 students were anticipated to benefit from this Excelsior Scholarship. This revolutionary tuition-free concept. Let me put that in perspective: 32,000 beneficiaries of this program. These are from SUNY and CUNY's websites. SUNY undergraduate population, 402,700 students; CUNY undergraduate population, 245,000 students. You also have about 161,000 online students through SUNY's online program. That's over 800,000 undergraduate students. Excelsior helps 32,000. Less than 4 percent of students are going to benefit from this "revolutionary" idea that has been put forward by the Governor. Unfortunately, Madam Speaker -- or rather, Mr. Speaker. I see you changed seats up at the dais, I apologize. Unfortunately, Mr. Speaker, this proposal is a lot more sizzle than substance. This proposal is more interested in headlines than actually making college more affordable in our State school system. What's even more concerning, however, is that as the Governor and others talk out of one side of their mouth about making SUNY and CUNY tuition-free for a tiny fraction of students, in the other side of the mouth we're talking about raising tuition at SUNY and CUNY for far, far, far more students than are going to benefit from this Excelsior Scholarship. This is the height of hypocrisy, Mr. Speaker.

Let's go through the Excelsior Program. First of all,

standing in front of that banner, "Tuition-Free College for the Middle Class," the Governor caps the benefit, the household income cap in year one, at \$100,000. My district, many middle-class families, even when that cap is fully phased-in after three years, are going to be left out in the cold, looking in on this program and paying those higher tuition rates instead. The average teacher's salary here in New York State's about \$77,000. The average nurse's salary, depending on what estimates you use, here in New York State is either \$63- or somewhere in between \$72,000. If you have a household with a teacher and a nurse or a teacher and a trade laborer or some other middle-class occupation, occupations that by any standard are middle-class professions, you are going to make too much money to get any benefit. You'll be on the outside, looking in. Our Assembly proposal raised that income cap, as we should have. Look, I don't support the concept of an income cap to get free tuition at college, to get access to affordable higher education, but I know we have to start somewhere. So we've raised that cap and improved it. We should not be means- testing education here in this State. Make no mistake, that should be our longer-term goal. Can you imagine if we means-tested K through 12? You've got to pay tuition at public high school if you make more than \$125,000? That would be outrageous. Our Assembly proposal also exempted one-third of a student's Pell award from having to be used on tuition. You see, this Governor's proposal requires all of TAP, all of Pell, all of other financial aid to be applied first on the tuition bill, before the Excelsior Scholarship kicks in to fill

the rest. And even then, it doesn't fill in the rest. The initial proposal that the Executive put forward would have filled in that gap. This proposal, for some crazy reason, maxes out at \$5,500. It doesn't even cover the full cost of tuition at SUNY and CUNY. It requires the campus to fill in the rest, the \$1,000 or so. Unfortunately, that Assembly improvement, like the income cap, did not survive into this final budget. So, if you are a lower-income family that relies on Pell to help pay for textbooks and room and board and other expenses, you, too, are left out in the cold on this proposal.

Very little to help part-time students, the hundreds of thousands of part-time students in this Excelsior Scholarship. There's a very tiny pot of money separate from it to assist part-time students. In fact, the punitive measures that remain where you have to be fully part-time, 15 credit hours per semester, 30 over the course of a year, remain in this proposal. We tried to improve that in our Assembly proposal. That's despite the fact that the Federal definition when you apply for Pell and other assistance, the Federal definition of full-time is 12 credit hours. We throw that out the window. This proposal is, unfortunately, more smoke and mirrors than anything else, Mr. Speaker. More interested in headlines than actually making college more affordable. But I think it's important to note and important to highlight, also, the hyperbole that has injected itself into this debate the last two months, despite the tiny impact this proposal is going to have.

The private colleges, CICU and others were up here

in force, and many of us have private colleges in our districts that we proudly represent. They play an important role in higher education in New York State that I think we all value. But the hyperbole that came about from this lobbying storm, the sky was going to fall if we enacted the Governor's miniscule tuition-free program. *We're going to close our doors if we enact the Excelsior Scholarship*, despite the fact it benefits less than 4 percent of public college undergrads, was unbelievably ridiculous, to put it bluntly, Mr. Speaker. If any private colleges are going to close their doors because of a program that benefits less than 4 percent of SUNY and CUNY colleges, I humbly suggest that those colleges have much bigger problems to worry about. Furthermore, we have the second-largest higher education voucher system in the United States, after Texas. Some people may not want to hear about this, but TAP provides hundreds of millions of dollars to private colleges. In other states, it doesn't exist. So, to come up here crying poverty and the sky is falling, we're not starving private colleges here in New York State. We go above and beyond 48 other states in providing assistance to our private colleges here in New York. And with this proposal, this so-called "college affordability plan," we provide even more to private colleges that we could be using to make SUNY and CUNY more accessible.

So, Mr. Speaker, this was a missed opportunity, sadly, by this Governor. I hope we revisit this proposal and don't sit on our laurels now that the Governor has his headline. SUNY and CUNY is not becoming tuition-free for the vast majority of students



who will not benefit from Excelsior, and will see a tuition hike instead. So, I will be voting for this bill because there are a number of other items that benefit my constituents and that are important, but I hope this Chamber brings up legislation that this House has championed in making SUNY and CUNY actually tuition-free.

Thank you, Mr. Speaker.

ACTING SPEAKER AUBRY: Thank you, sir.

Mr. McLaughlin.

MR. MCLAUGHLIN: Thank you, Mr. Speaker. I just want to commend my colleague, because he pretty much said everything I would say. So, great job on that. Would -- yes, right? Would the Chairman yield for a couple of questions?

MR. FARRELL: Yes, I will.

ACTING SPEAKER AUBRY: Mr. Farrell yields.

MR. MCLAUGHLIN: Denny, I want to hit -- change topics just a little bit and hit on countywide shared services, that part of the bill, if you can dig that up.

MR. FARRELL: Yes, I've got it here. Part BBB, the three Bs.

MR. MCLAUGHLIN: They must have told you I was coming, Denny. Page 125, part triple B, countywide. This is a -- countywide shared services. So, the chief executive -- the chief executive, the county executive of each county has to come up with a plan to share services, as I understand it, right?

MR. FARRELL: Yes.

MR. MCLAUGHLIN: And that's not optional, as I understand it. This says they shall, so there's --

MR. FARRELL: Yes. They shall.

MR. MCLAUGHLIN: Okay. So we are mandating that a county executive come up with a plan. I'm not even sure we have the authority to do that, quite frankly. But we're telling a county executive, *You will come up with a plan to share services, whether you want to or not, right?*

MR. FARRELL: Yes. You -- no, you must put together a performance and go for it. You may not come up with anything, but you have to go and try it.

MR. MCLAUGHLIN: You have to go and maybe spin your wheels, but you have to do something. And you have to get this done by -- what's the date it's due by? November 1? Is that the right date or...

MR. FARRELL: No. It's August, I think.

MR. MCLAUGHLIN: August. Okay. So, I counted that out from today --

MR. FARRELL: August 1st, yes.

MR. MCLAUGHLIN: Not including weekends, they have, like, 80 days to put together a shared services plan, not including anybody taking vacations or anything like that. So, they've got about 80 days to come with a plan, three public hearings, and they must come forward with it. Have we appropriated a dime's worth of money for this?

MR. FARRELL: No.

MR. MCLAUGHLIN: Okay. So, what about the case where -- and -- and by the way, the county executive has got to -- has got to consult, basically, everybody. All the stakeholders, including the collective bargaining units in each municipality, right?

MR. FARRELL: Yes.

MR. MCLAUGHLIN: So they could put the -- they could put the brakes on any of this, as I read it and understand it, that anybody that is on this board -- there has to be a member on the panel from each one of the municipalities in that county, right?

MR. FARRELL: Right. If the county -- if the county is over a million.

MR. MCLAUGHLIN: I don't -- I don't think so.

MR. FARRELL: No, it says that in that, also, if you read it.

MR. MCLAUGHLIN: Well, can we go through that? Because I think it's for outside of a million. I don't think it's -- I don't -- it's not --

MR. FARRELL: Say that again, I'm sorry.

MR. MCLAUGHLIN: So, most of our counties are not going to be a million. I don't think Rensselaer County is, for example, yet they're going to have to do this, right? Washington County is certainly not a million, and they're going to have to do this, right?

MR. FARRELL: Yes, they do.

MR. MCLAUGHLIN: So they have to go to every stakeholder in the mix and hold these hearings pretty quickly and come up with a plan. There is no appropriation of money for this, and what we're saying, I guess, to them is that -- give me one second, Denny. So what we're saying is that there's a shared services panel. What do we do in a case where -- which I know to be the case, after talking to my county executives, and I'm sure we've all heard this. They've been sharing services for decades, as much as they possibly can. So, what's to stop them now from saying, *Hey, you know what? Let's stop sharing. Let's just undo all those shared services agreements right now, because I need to constitute a shared service panel because I can't get anything for what I'm already doing.* Right? There's no money to be had for what they're already sharing. Like I have two towns that are sharing garbage disposal pickup. They're not going -- they're not going to net a penny, because they've already done it. You can't get more blood out of that stone. So, what's to stop the crafty county executive, which is -- probably most of them are pretty darn smart - from undoing all the shared services agreements right now, reconstituting a shared services plan and using it as a money grab really - which, hint, hint to the county executives out there listening, that's what I would do - undo them all, redo them and then say, *Here's my shared services, Mr. Governor, Mr. Secretary of State. Show me the money.*

MR. FARRELL: I would like to think better of those people. I --

MR. MCLAUGHLIN: Well, they're broke.

MR. FARRELL: -- know -- I know the people in New York City, and they're good people. So I would assume the people you're talking about also are good people. They're not going to want to play games.

MR. MCLAUGHLIN: They are great people, Denny. And they are --

MR. FARRELL: Yes, great people.

MR. MCLAUGHLIN: They are -- they're good people, they're smart people. They're broke from the mandates that this building puts on them. They are facing crushing burdens. They have a 2 percent tax cap that they're trying to maneuver under, so they've got to get creative. So, what they're going to say is, *Wait a minute, Steve. I've been sharing all these services forever. I don't have much left. And by the way, what I'm going to do is put together this dog and pony show and run around the county and get everybody together. And then anybody in the mix can say that doesn't work for me.* And by the way, this thing also says -- and if you haven't read this, folks, if you haven't read, take the time because God knows we have time. Pick out page 124 to about 128 and read this. This is among the dumbest who's-on-first legislation you're ever going to see. I don't know who put this together. It had to be the second floor, because it couldn't have been this House. This thing makes absolutely no sense. You talk about a dog and pony show for headlines, talking about shared services, Denny. Anybody in the mix can say, *That*

*doesn't work for me*, and put the brakes on what the shared services are going to be. So I guess what I'm asking you is where is the money going to come from? It looks to me, and -- I guess yes or no. The money's going to come after they present what their shared services are, right?

MR. FARRELL: Yeah. That's right.

MR. MCLAUGHLIN: That's right. And the Secretary of State, after they've gone through everything, is then going to put forth what the requirements are, which they may or may not meet, after the fact. Talk about a bait and switch, by the way. After they've done all the work, the Secretary of State could say, *No, that doesn't count. You don't get any money*. So there's no rules out there for what's going to happen. We're throwing something out there for a headline - much like free college - for a little sound bite for this Governor to run around and say, *Look what I did. I forced them to share services*, which they're already doing, but that there's no money behind this. There's no guarantee of any forthcoming money to any county for doing all this work.

MR. FARRELL: If they -- they will, by the way, get money next year, probably. But let me talk -- let me talk here for a minute --

MR. MCLAUGHLIN: (Laughter) Next year, probably. So -- okay, Denny. So it's a bit of the Popeye and Wimpy form of -- of incentive, *I'll gladly pay you Tuesday for a hamburger today*. You do all the work now and I'm going to maybe, maybe, we'll

appropriate money for you next year. Can you imagine how that's going over with our county legislatures and county executives --

MR. FARRELL: That -- well, you know, this is nice, but I would say this: One of the things we are concerned about, and everybody on both sides of the aisle are consistently talking about, is how can we save money, how can we lower taxes. And this is -- this is a performance that's being brought to say let's try and do this and see what we can do. So I don't think they're going to take the direction you're going, which is humor, I think they are going to say maybe we can do something with this. And maybe they will be able to give us -- I don't think people are going to say, *Well, I'm going to close this off and come back again*, because though he's no longer doing the business he does from the Federal courts, you might have him visit you again, so...

MR. MCLAUGHLIN: But there's -- there's nothing technically wrong with stopping an agreement. Let me just give you a quick example. First of all, the schools can opt in, can opt out, they can do whatever they want to do, that's fine, so the schools can choose to do that. But let's just say you have two towns in my district, Brunswick and Lansingburgh --

MR. FARRELL: Yeah.

MR. MCLAUGHLIN: And they're sharing trash pickup as a shared service, they're sharing plowing --

MR. FARRELL: Yes.

MR. MCLAUGHLIN: And there's all kinds of --

they've saved as much as they can, and believe me, they'll tell you that. They buy salt together, they buy paper together, do everything they can do. But what's to stop them from saying, *Hey, you know what? Forget that. Forget Brunswick and Lansingburgh, let's do Brunswick and Pittstown, we'll undo the plowing contract here, we'll undo the shared services. We'll do Lansingburgh and Schaghticoke, that's brand new. Hey, money!* That's what's going to happen and it's not --

MR. FARRELL: Why would they --

MR. MCLAUGHLIN: -- it's not because they're dishonest, it's because they're broke.

MR. FARRELL: But they would do that, but wouldn't -- wouldn't someone who's above them say, *Hey, you can't do that.* We know that this has happened and this is a setup, so you've done it good, but you're not getting anything.

MR. MCLAUGHLIN: But I don't know because --

MR. FARRELL: Because after it's been -- you've turned in the programs, someone has to tell you is it accepted.

MR. MCLAUGHLIN: But, wait a minute, we just had a Governor say that everybody's getting free tuition, but they're really not. So it's up to us to say, *Well, that's not really what's going on.* So, Denny, there's no rules in place. This is a -- I got to tell you, you've got to read through this, folks --

MR. FARRELL: Yeah, I've read -- you know --

MR. MCLAUGHLIN: It's like an Abbott and



Costello routine reading through this chunk of legislation. It's pathetically written. It makes no sense at all, and it's after the fact we're going to somehow figure out what we're going to do. That doesn't make any sense, Denny, and it's a waste, an epic waste of the time of these county executives and the county legislators, and the collective bargaining agreements -- who, by the way, I won't even blame them if they do this, the union guys are going to say, *There's no way we're sharing that service because that might cost us a job or two*. I can't blame them for doing that, nobody could.

So, this is just -- this is the biggest piece of garbage sound bite stuff that I've seen. And believe me, that's saying something. This makes zero sense, what we're doing here. So, poorly, poorly thought out. Not your fault, of course, Denny, not this House's fault. Whoever wrote this thing, this is a joke. There's no way this is going to fly. And the timeframes don't make sense. And then when you look at it -- Denny, I don't want to -- I don't want to -- I feel like I'm lecturing you, I don't really have a question. I may have one more, but I'll go on the bill now. Thank you.

MR. FARRELL: All right.

MR. MCLAUGHLIN: Thank you, Denny.

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

MR. MCLAUGHLIN: So this, folks, is what the Governor said is political accountability on steroids. It isn't even political accountability on a Flintstones Vitamin. And not even like

Fred and Barney. Like... like Bam Bam. I mean this is nothing. This the same guy, by the way, that said START-UP NY is going to be transformational. Free education, it's going to be revolutionary. Trust me, the bigger the adjective, the worse the program is. Pay attention to what's going on here, I guarantee you're going to hear from every one of your county executives about what a farce this thing is. There's no money to be saved here because they're already squeezing blood out of that stone as much as they can. What we need to do is what this Governor refuses to do, which is address the crushing mandates -- and that's what this one is, by the way, this another mandate, unfunded, telling the counties what to do with no money behind it.

So, that's what this House should be focused on. Not a dog and pony show, not pretending that we're going to share services and all this make believe money's going to happen. Unfunded mandates is where the problem is, every single county executive, I'm sure, has told you, and will continue to do so. So I want to thank you, Denny, for your work on this. And thank you, Mr. Speaker. Thank you.

ACTING SPEAKER AUBRY: Thank you, Mr. McLaughlin.

Mr. Ryan.

MR. RYAN: Thank you, Mr. Speaker. Would Chairman Farrell yield for a question?

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

ACTING SPEAKER AUBRY: The Chairman yields.

MR. RYAN: Chairman Farrell, I had a -- just a clarification, I wonder if you could help me out with the millionaire's tax; did we include that in this year's budget?

MR. FARRELL: Yes, we did.

MR. RYAN: And my recollection is that brings in about \$3.7 billion into our General Fund.

MR. FARRELL: Oh, actually, in this -- in this year, we're -- '17-'18, we only bring in \$7- and \$35 million. That will come in when we extend it which will come in next January, though it's in this program.

MR. RYAN: Great, great; thank you. And I -- I recall reading about other proposals add two more steps into the higher income tax bracket. Step one would have been above -- between \$5- and \$10 million, it was a proposal to add a half percent surcharge on top of that, and then step two would have been above \$10 million, which was a percentage. Did any of those make it into the budget, Mr. Farrell?

MR. FARRELL: No, they did not.

MR. RYAN: My -- my math on those show that those two steps to the top wage earners would bring in about \$7 billion over a four-year period. It would only affect about 66,000...

(Pause)

MR. FARRELL: Yes?

ACTING SPEAKER AUBRY: Mr. Morelle.

MR. MORELLE: I apologize for the interruption,

Mr. Speaker, colleagues, we'll pick this up, but I need to ask the House to stand at ease for an immediate members-only Democratic Conference in the Speaker's Conference Room. And I'd like to call on Mr. Crouch, as well.

ACTING SPEAKER AUBRY: Mr. Crouch.

MR CROUCH: Yes, there will be an immediate Republican members-only Conference in the Parlor.

ACTING SPEAKER AUBRY: Immediate Republican Conference in the Parlor. Immediate Democratic Conference in the Speaker's Conference Room.

The House will stand at recess.

MR. MORELLE: Ease. Thank you.

(Whereupon, the House stood at ease.)

ACTING SPEAKER AUBRY: The House will come to order.

Mr. Morelle.

MR. MORELLE: Yes, sir. Thank you. Pardon the interruption, everyone, but we can go back on debate. I understand Mr. Ryan, I believe, had the floor.

ACTING SPEAKER AUBRY: Mr. Ryan, you're back on top.

MR. RYAN: Thank you, Mr. Speaker. I just started to get my cadence going. Let us me see if I can get it going again.

So, Mr. Farrell, just to refresh your very good recollection. We talked about the millionaires' tax that's in the budget.

We also spoke about, there was proposals to put two more steps in the millionaires' tax. That did not make it into the budget, correct?

MR. FARRELL: That is right.

MR. RYAN: Now, there's also, this really other good revenue-producing proposal from a really smart Assemblyman from Queens, New York, and it's about the carried interest loophole, Mr. Aubry's piece of legislation, and that would allow New York State to enter into a multi-state compact to carry -- to actually tax at a normal tax rate income that comes out of hedge funds, not just at the capital gains rate. That didn't make it into the budget either this year?

MR. FARRELL: No, it did not.

MR. RYAN: All right. So -- so we know, Mr. Farrell, that potential harm is coming to New York State from Washington, and it could result in less revenue coming into the State. And I know we have the triple X portion of -- of the budget that helps the -- gives to the Governor power to make some cuts. But I would just ask you and others to remind -- to remember before we start making cuts that you know will always affect the disadvantaged, the disabled, the elderly in our community, not just to think about cuts, but think of other ways that we can bring revenues into the State. And, certainly, some of those proposals I think of are -- are sound fiscal policy and maybe we'll have to bring those -- those -- those up again as we move throughout this fiscal year. So, thank -- thank you on that.

I also had a question about education, Mr. Farrell,

and --

MR. FARRELL: Well -- try me.

(Laughter)

Yes.

MR. RYAN: Okay. So, for education, I had a question about, first of all, foundation aid. I know there was a proposal to push back foundation aid, and I know that Chairwoman Nolan fought back against that, so the foundation aid formula has remained unchanged in this year's budget?

MR. FARRELL: Yes.

MR. RYAN: That -- that's good to hear. I also had questions about the charter school funding and how we're -- we're working that out in the off years. So, my math tells me that in '16 and '17 the Buffalo School District paid the basic charter reimbursement plus \$500, which was about \$4 million. But, it's interesting that the \$4 million is -- is sort of a loan that Buffalo and others school districts float to the State. So, it was intended to the State to be used during that fiscal year, but the money went to the charter reimbursement, but then didn't make it back to the district's coffers 'til the following year. And I know that's -- that's how we -- we do the charter schools. And then this year, we have the -- the basic plus \$1,000 supplemental to the charter schools. And just for the City of Buffalo, that equals \$8 million. And that's \$8 million that can't be spent for services, it can't be spent in the district for programs, and that money won't be reimbursed back into the district until 2018 -- in 2019. And this is

how it plays out in the big picture. This is just for one school district, that Buffalo received a \$17 million boost in foundation aid this year, which we're really pleased about, but now we're figuring out that \$8 million of that comes off the top to be sent to the charter schools, and then ultimately to New York State. But none of that 8 million can be spent during this fiscal year. So, we're floating a loan to New York, which only leaves us with \$9 million to be used for this intended school year.

So, if our district was -- was budgeting on getting this increase, you -- almost a half of it is just off the table. And the -- the question is, are we taking any efforts to try to close, you know, these sort of -- this procedure we have set up for charter schools where you have districts floating money, this money that's supposed to be spent in one year can't even be used that year. Are we make making efforts in this budget to try to close those things?

MR. FARRELL: Yes, but Cathy Nolan can answer the question as well as I can, if not better.

MR. RYAN: You did a very good job pitching in in the interim.

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

MS. NOLAN: Certainly, Mr. Speaker.

ACTING SPEAKER AUBRY: Ms. Nolan yields, Mr. Ryan.

MS. NOLAN: I -- I think, certainly with Mr. Farrell's

leadership and Mr. Ryan's involvement with our Committee, most members, including them, are aware that the Assembly's one-House proposal included a number of efforts to close these type of things and to address issues of stability for our school districts so that they can plan and they can move forward, and that's what foundation aid does. So even though it's an imperfect process and a number of things, unfortunately, did not make it into the main three-way agreement, we'll continue to move these in the one-House issues, we'll continue to push for them at the table, and the -- the substantial foundation aid package includes a -- a -- the formula continuing forward which, as you know, is at risk in this initial Executive's submission. And so, the fact that we were able to move it forward shows that we have been successful in trying to close those type of loopholes.

MR. RYAN: And, hopefully, we'll keep working together on those issues. But, you know, the Buffalo example of, here is \$17 million of financial aid -- or foundation aid increase, of which almost 50 percent is not useable for this school year. It just creates a --a budgeting mess. You know, look -- looked at a larger perspective, Albany is paying more than 14 percent of their total school budget is -- is going out the door to charter schools. Buffalo's at almost 13 percent. The small City of Lackawanna is at 18 percent. Rochester and Hempstead are -- are at 10 and 11 percent. And these numbers, they change every year. It's as if the school districts don't really have control over their -- their own finances. You know, I think with pity on their CFOs, who every year have to try to -- try to figure



this out.

And we know, when we think of education, we think of a system where all taxpayers pitch in to fund school districts. But with charter schools, we have a parallel system, where all taxpayers don't pitch in, just the districts who host those schools are the ones pitching in, and they're the ones having to, you know, really cobble together a real strange financing system. So, I would like to continue working to try to get rid of this two-tiered system. And I don't know what the answer is, Chairwoman Nolan, I don't know if the answer is a separate funding line for charter schools, let them be in the budget independent. I don't know if the answer is when we increase aid for charter schools, we actually do it like a declining fund balance, where districts send aid -- districts put into the pot would be decreased by that same amount. I don't have the answer, but I can clearly tell you it's a real headache. And it doesn't matter if you're anti-charter school, if you're pro-charter school, I think everyone should acknowledge that the financial problems that are caused to these districts are really insurmountable, and it's something that we should work together to fix, regardless of ideology and regardless of relief.

But I thank you, Chairwoman, for all the great work you've done this year. The things that we're able to push back I think are going to make our public schools stronger. And I look forward to working with you in the out years to try to fix some of these unintended anomalies. Thank you. Thank you, Mr. Speaker.

ACTING SPEAKER AUBRY: Thank you, sir.

Mr. Gottfried.

MR. GOTTFRIED: Thank you, Mr. Speaker. You know, it's well-known that getting medical care under the Workers' Comp system is -- has never been a particularly good deal. There's a piece of this bill that is going to make part of that deal worse. It sets up a system under Workers' Comp for a prescription drug formulary. Now, prescription drug formularies are something we all know about in -- in almost every insurance plan, in Medicaid, et cetera. This one will be set up with really no process for how it is set up, other than the Chair of the Workers' Comp Board will create it. There is little guidance in the statute as to what the criteria will be for drugs being on the formulary or not.

There will be three categories of drugs under this formulary. One is so-called "preferred drugs" that Workers' Comp will be required to pay for. Second category is drugs that are listed as being non-preferred, where you will need prior approval, but there is an unstated third category of drugs that will not be preferred or non-preferred, which means even with prior approval, Workers' Comp would not pay for them. There is no process provided in the bill as to how one gets prior approval for a non-preferred drug, or from whom one gets that prior approval. No criteria for whoever it is that's giving out prior approval, as to when to grant it or when not. There is reference to something called a "Drug Utilization Review Program," no description of what that is, or what the impact of that will be on patients.

This legislation sprang forth to public view a few hours ago. It was not in the original bill as submitted by the Governor. It has never seen the light of the day until literally, after dawn this morning, so the general public never had any opportunity to even know that this concept was on the table. If -- if we subjected State employee health benefits to the language that is in this bill, there would be hell to pay from State employees, including those of us in this room. If somebody suggested that we subject the Medicaid program to this language, there would be hell to pay, and I know that because in 2003, Governor Pataki tried to do this and both Houses instantly said, *We're not letting that happen*, and we stopped it. If insurance companies -- if we tried to let insurance companies do this, there would be hell to pay. And, by the way, insurance companies in New York do not have the kind of free rein that we would be giving to the Workers' Comp system here.

This language is just wrong. It is not the way we should be treating workers who are injured or -- or diseased from their employment. I intend to do whatever I can over the next few weeks to try to get legislation written and passed to change this so it is a more civilized piece of legislation in line with the way we treat public employees and Medicaid recipients and consumers in -- with ordinary insurance, and I hope we can accomplish that. For now, this is not the kind of provision that ought to be sprung upon New Yorkers at all, and certainly not with no prior notice.

ACTING SPEAKER AUBRY: Ms. Fahy.

MS. FAHY: Thank you, Mr. Speaker. I rise with a -- a few questions, if Mr. Lentol will yield for a few questions on the Indigent Legal Services bill?

ACTING SPEAKER AUBRY: Mr. Lentol yields, Ms. Fahy.

MS. FAHY: Thank you. Mr. Lentol, let me start with a -- a huge *Thank You* to you and the Speaker for all your work over the last couple -- well, for you, I think three decades of work on indigent legal services; for me, a couple of years' worth of work on this bill. And what I'd like to do is just walk through with a couple of questions on that bill to make sure we have in the record some of the differences.

As you know, with the support of so many of our colleagues, we had solid bipartisan support here two years ago, and then again last year we had unanimous support in this Body and in -- in the Senate with Senator DeFrancisco's bill, unanimous support for indigent legal services reform, and that is the caseload standards quality and the counsel at arraignment. I'm very pleased and so appreciate your hard work with getting major sections of that bill into this budget -- into the -- into the budget today. But I -- I've received a lot of questions. We didn't get the entire package, and if you would help me with walking through a couple of those pieces. And can we start with maybe the -- the changes on the DOB language, the Division of Budget, as well the mandate relief piece?

MR. LENTOL: Yes, so the fiscal language in the bill

is to limit the attention to this by the Department of -- Division of the Budget to the fiscal issues and not to the substantive issues involving the assignment of lawyers by the Indigent Legal Services group. And -- and that's really the most important part of this so that the Division of the Budget, we reached a compromise, again, because the Division of the Budget, as you know, wanted to control the dissemination of funds. And that's okay, as long as they just involve themselves in the fiscal aspects of this bill and not the substantive legal aspects of the bill, which we accomplished through this particular item in the budget.

MS. FAHY: Thank you. I under -- I -- I agree, I think we've reached a very good compromise with the oversight that is necessary, and the planning that will remain with the Indigent Legal Services Office. With regard to mandate relief, I have received questions from the counties. The original bill, again, had talked about mandate relief of existing services, which is roughly what the counties are now spending as \$390 million. And we anticipate with this increase in services, with the caseload standards, with the quality, we expect that there'll be a couple of hundred million more over the next five years. But there will be no mandate relief at this point --

MR. LENTOL: That's right.

MS. FAHY: -- for existing services.

MR. LENTOL: That's right.

MS. FAHY: That's correct, okay.

MR. LENTOL: Yes, it is correct.

MS. FAHY: And this year there is -- for this year in this budget, there is no additional monies included because this is on a reimbursement basis. But after five years, am I correct, that there'll be roughly two-and-a-half -- sorry, \$250 million spent -- or -- or reimbursed to the counties to expand the...

MR. LENTOL: That's right. Going forward. But there are -- there is planning money for that purpose in this year's budget, \$1.25 million.

MS. FAHY: I'm sorry, what was that?

MR. LENTOL: \$1.25 million. One-and-a-quarter million dollars.

MS. FAHY: For planning, okay. What started -- and again, this is part of the Hurrell-Harring settlement that started with five counties, now all counties will benefit from these expanded services --

MR. LENTOL: That's right.

MS. FAHY: -- and the caseload standards.

MR. LENTOL: And, again, as we -- as you so ably pointed out last year when we passed this bill on the floor, this is another piece, back-to-back in this bill, of monumental legislation that we are passing today. First we passed Raise the Age, and this will provide not only necessary relief to the counties, but provide adequate legal services all over the State, which have been lacking for a number of years because of the lack of funding for those services. And we know about caseload management that now exists in New York City

because of the adequate funding there, and now the rest of the State will enjoy the same right that was put forth by the Supreme Court in *Gideon v. Wainwright* to protect people from -- who are indigent, to have a -- legal defense services available to them.

MS. FAHY: Thank you. On -- on the bill, Mr. Speaker.

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

MS. FAHY: Thank you, Mr. Lentol, that's -- your words are -- I just want to echo them, this is monumental reform. In addition to the extraordinary work that you have done on Raise the Age, along with the Speaker and -- and a host of folks, including our Speaker Pro Tem here, this is truly extraordinary work. I want to thank all my colleagues for their support over the last couple of years, including the unanimous support for this -- for these provisions. Last year, we didn't get everything we wanted, particularly all the mandate relief that I know the counties were looking for, but there will be that -- more relief as we go forward as these services expand and as we bring down the caseload standards. I couldn't be more proud. Again, I want to thank the -- the Speaker, as well. I want to thank Helene Weinstein as the Chair of the Judiciary. She also has spent many decades on this. And the countless, countless advocates, and -- including the NYCLU, the Defense Association, and -- and countless people among there, as well as the counties for helping to promote this, particularly right here in Albany County, our County Exec, Dan

McCoy, who brought this to me now two-and-a-half years ago.

The glass is very much half-full. While we didn't get everything, that's what budgets are about, very much a compromise. And while -- while I'm speaking, I also want to mention how pleased I am on a whole host of matters, not just with criminal justice, but with transportation, transit roads and ride sharing, as well as all of the education, Higher Ed and K-12, and housing, water and a whole host of things. I -- I have as just long -- just as long a list of things that we didn't achieve in this budget, but, again, it is a compromise, a very worthwhile one, and I couldn't be more pleased with the -- with the achievements of this Body. And, again, thank the Speaker for his extraordinary leadership. Thank you, Mr. Speaker.

ACTING SPEAKER AUBRY: Mr. Butler.

MR. BUTLER: Well, thank you very much, Mr. Speaker. And I've listened to the words of my colleagues very carefully here today, and it seems to be an appeal for us to think in broader terms, to see the big picture, to not be so insulated in our own little world, and I certainly agree with that. But as I listen to details of this budget, not only Raise the Age, but other issues, my mind went back to a column that was in the *Times Union* last week, and it really kind of crystalized some of the thoughts that I've had, and I just want to read a couple of excerpts. This was a column by a gentleman named Chris Churchill, and he's talking about Upstate versus Downstate. And "versus" is maybe not the word I want to use, but Upstate and Downstate. But, he's talking about the population



decline. And we talked about population decline in -- in New York State as it relates to the budget the other day. And actually last year, we had a net loss in New York State for the first time, based on what's happening in Upstate New York.

So, I think we need to give a little more attention to Upstate New York, and I think, sadly, I think this budget simply perpetuates what we've done historically and traditionally, more spending, more taxing, more regulation, more mandates on the counties. And I think Upstate is at a point where it's reached a breaking point.

And I just want to read a couple of quotes. "Other states would declare such an outflow of population a crisis, with screamed demands to reverse the trend. In New York, a Legislature dominated by the Downstate politicians just yawns."

"I'd love to find a reason for optimism, but I don't see one, partly because of the demise of Upstate is not a worry for the big-city Democrats who control the Assembly. Fixing Upstate's economy isn't on the radar, because they simply Do. Not. Care."

This is an objective observer. And I'm calling on my colleagues here today to -- to understand what's going on in Upstate. I will use school aid as an example. Many of our smaller rural school districts, the way the -- the way the foundation aid -- the way the aid is distributed, does not work for poor, rural Upstate communities. Every year, even when we put additional money in, they fall farther and farther behind. Now, the Majority gets bullet aid and discretionary

money, they can help out to some of their school districts. We, in the Minority, don't have that opportunity, so our school districts take it twice. That's just an example of what's going on.

This budget perpetuates all of the bad things that have been happening in New York State, and they're all being played out in Upstate. And I'm appealing to this Legislature, to this House, to begin looking more carefully at what's happening Upstate. And I think just throwing money at economic development is not the sole answer to this. I think we need to look at these problems more closely.

So with that, Mr. Speaker, I would encourage an elbow bend on this section of the budget. Thank you.

ACTING SPEAKER AUBRY: Thank you, Mr. Butler.

Mr. Goodell.

MR. GOODELL: Thank -- thank you, Mr. Speaker. I -- I want to thank my colleagues, we've had some great debate, and I -- I have to say that my views on some of these subjects have -- have been evolving throughout the day and, actually, throughout the last few weeks. And when I was looking at Raise the Age, I saw the description of the youth facilities that are called for, and they're described as *consisting of smaller, more home-like facilities located near the youth's home, with supportive peer relationships*. And I was thinking to myself, Oh my God, I wish I were there. And I think that most of us are looking forward to going home to more home-like

facilities located near our youth with supportive peer relations. It's something we can all aspire to.

I hate to change the subject, but I did have some financial questions relating to this budget and if -- if Mr. Farrell would yield, I would appreciate it.

ACTING SPEAKER AUBRY: Mr. Farrell, will you yield for Mr. Goodell?

MR. FARRELL: Yes, I will.

ACTING SPEAKER AUBRY: Okay.

MR. GOODELL: Thank you, Mr. Farrell. One of the sections we haven't talked a lot about, or maybe at all, is that this bill gives the Governor or his staff discretionary authority to cut funding in the event there's Federal funding cuts. And it's broken into the two components. He can cut Medicaid funding and, presumably, Medicaid programming. And if it's a -- a non-Medicaid cut from the Federal government, he can cut other programming. And I saw there's a safety valve, and the safety valve is that the Legislature could come back, presumably in special Session, and override what the Governor is trying to do.

So my first question is, am I correct that there's only two mechanisms for calling a special Session, one is the Governor himself - and I would think it'd be unlikely the Governor is going to call us into special Session to override his plan - and the other is a petition signed by two-thirds of the members. So while we have this safety valve, is there any other way?

MR. FARRELL: We never close.

MR. GOODELL: Oh, we're like the British Empire.

MR. FARRELL: Yes. So, the Speaker --

MR. GOODELL: The sun never sets.

MR. FARRELL: -- the Speaker -- the Speaker -- the Speaker can call us back whenever he wants to.

MR. GOODELL: And so we'll just stay kind of in Session forever.

MR. FARRELL: We -- we have been since 1975 when I first came here.

MR. GOODELL: Well, the last two weeks have seemed interminable, as well, I might add.

MR. FARRELL: Yeah, yes. But not with my request.

MR. GOODELL: Then if we don't -- if we don't come back in special Session, my question is how can the Governor -- how can we even grant the Governor the power to cut funding on programs that we established by law, both in terms of Medicaid coverage, for example, a -- a subject that our colleague, Mr. Gottfried, feels strongly about, but also the rates. Because the State Constitution says it's the responsibility of the Governor, maybe he's listening, to "take care that the laws are faithfully executed." Now, I assume he doesn't mean by a firing squad. So, assuming that "faithfully executed" means he's going to enforce them, how can the Governor Constitutionally refuse to comply with our duly adopted budget, or

refuse to provide Medicaid coverage in accordance with the standards we set by law?

MR. FARRELL: We've had this discussion before. There are things that the Governor can do, and some of it, we're authorizing him, and if we authorize him, that gives him, through the vote, as you point out, if we do that, that's acceptable. And there are things for emergencies he can also do.

MR. GOODELL: So, our position under this legislation is that we have the authority by statute?

MR. FARRELL: Yes, he has the --

MR. GOODELL: To give the Governor the authority to ignore the Constitution?

MR. FARRELL: No, we're not exhorting -- no, we're not. But, again, as I said, we'd have to go into court to find out if you're right.

MR. GOODELL: Some day that might happen.

MR. FARRELL: (Laughter) I know.

MR. GOODELL: As part of the extender, as you know, we authorized \$8.9 billion in new debt.

MR. FARRELL: Yes.

MR. GOODELL: And as part of the debt service bill, we authorized \$9.6 billion in debt payments for previous debts.

MR. FARRELL: Yes.

MR. GOODELL: Which occurred to me that if previous legislators hadn't been so free in borrowing money without

voter approval, we could have funded all of the programs in the extension with cash.

MR. FARRELL: Mm-hmm.

MR. GOODELL: Without incurring any debt.

MR. FARRELL: Yeah, but you wouldn't have gotten back as fast as you did, because there wouldn't be 88, and there'd be a lot of other things that wouldn't be --

MR. GOODELL: Now, you're referring to the route number, not my speed, Correct?

MR. FARRELL: Yes, right.

(Laughter)

So, I -- as someone said yesterday about the fact that we move forward, what we just did -- what we do now and what the Governor does now is for the future, and they will do their share and push forward. And if they didn't do that, we would still be running out of the trees.

MR. GOODELL: I'm -- I'm not sure I necessarily agree with that, but I - I appreciate the comment.

Now, this bill that we're talking about today takes the debt that we had authorized under the temporary extender and raises that even further up to, if I'm correct, \$10.46 billion?

MR. FARRELL: What number is that?

MR. GOODELL: I had about \$10.46 billion; is that

--

MR. FARRELL: For? In what?

MR. GOODELL: For total increase in debt under this bill.

MR. FARRELL: Oh. Authorization. But we have a -- we have a situation, though you have may have it there, we're not probably going to do all of it. It gives an authority.

MR. GOODELL: And I'm correct, of the \$10.46 billion, none of that's voter approved?

MR. FARRELL: No.

MR. GOODELL: No. That's time consuming and cumbersome. Now, several of the largest additional debts say that the money shall be raised by the debt, they'll be paid to the State for various projects.

MR. FARRELL: Yes.

MR. GOODELL: So, clearly, there's no question that they're raising money for the State. For those -- for those projects, which total several billion, is there any mechanism for repaying the debt? Other than an appropriation by -- by us --

MR. FARRELL: Yes.

MR. GOODELL: -- using taxpayer funds?

MR. FARRELL: Say -- ask the question again, I'm --

MR. GOODELL: Sure. Sometimes we authorize debt for like the Thruway Authority --

MR. FARRELL: Yeah.

MR. GOODELL: -- and that's -- that's paid back by the Thruway Authority itself using tolls.

MR. FARRELL: Yes.

MR. GOODELL: But several billion of the debt that's in this bill is -- the money is actually coming to the State itself.

MR. FARRELL: Yes.

MR. GOODELL: So I didn't see any repayment mechanism at all, except for the State to use general revenues raised by the taxpayers; is that correct?

MR. FARRELL: Right now, our sales tax and our -- let's see -- and our -- or the personal income tax is used as a backup. And we say that and then that's why when we do our -- when we do the -- showing how we're spending money, you'll always see that the number dropped. And then the number drops because the -- the taxes are used to pay, and then after it's been paid we bring -- we put down the things that are left, the money that's left over. So that's our way. We are saying, *See that pile over there? That's the pile we're going to pay you with.*

MR. GOODELL: Okay. And so to put that in perspective, our total projected income taxes, personal income taxes for next year is \$35.6 billion, and we're authorizing \$10.46 billion in new debt. So, roughly -- our debt is roughly equal to a little bit less than one-third of our total income tax revenue?

(Pause)

MR. FARRELL: Well, it's 25 percent of the PIT is used for the -- for the backing up of the paying for the -- paying for the things that we -- we buy.



MR. GOODELL: Okay. And then what percent of the sales tax? Do you know offhand?

MR. FARRELL: It's 25 percent, also.

MR. GOODELL: So here we are without voter approval, increasing our debt by almost \$10.5 billion, and we have already committed for future legislators that about one-quarter of all their revenue from sales tax and income tax has already been spent.

MR. FARRELL: Dedicated, not spent.

MR. GOODELL: Well, I mean, we're committing that it will be spent for debt services.

MR. FARRELL: Yes.

MR. GOODELL: And I'm not going to repeat the section of the Constitution that claims that we're supposed to get voter approval. We've -- we've done that --

MR. FARRELL: Right.

MR. GOODELL: -- song and dance for a few years. You're getting very good at responding in a way that I don't like, but that's okay.

(Laughter)

MR. FARRELL: It's simpler.

MR. GOODELL: You do it with a smile, and I appreciate that. My colleagues have talked about some of these other programs. I'll just walk through real quickly. The countywide shared services program where the county executives have to put this program together. Any funding in this budget for that?

MR. FARRELL: You can -- you can apply -- they can apply -- after they get the money, they can apply for it next year, what's left over.

MR. GOODELL: But any funds in this budget, any appropriation in this budget?

MR. FARRELL: Yes, \$39 million.

MR. GOODELL: Okay. And on Raise the Age, of course you've heard concerns from many people about the cost of county governments' increased costs on probation, county attorney staff to bring these to prosecution, perhaps more family court staff, the restructuring and the training that goes with that. How much funding have we put in to offset the costs anticipated with county governments in implementing the Raise the Age legislation?

MR. FARRELL: There's no physical impact related to Raise the Age in 17-18 because the bill does not effect until October 1st, 2018. Next year's budget will include a plan for funding the State and local cost of Raise the Age, and the Executive Budget projected the full State and local costs associated with Raise the Age at \$155 million in '18-'19, and approximately \$375 million thereafter.

MR. GOODELL: We've heard a lot of impassioned discussions both in favor of the Raise the Age and expressing concerns on both sides of that argument. But my -- my concern is, and maybe you can address it. Article VII, Section 6 of the State Constitution says, and I quote, "No provision shall be embraced in any appropriation bill submitted by the Governor or in any supplemental

appropriation bill unless it relates specifically to some particular appropriation in the bill."

MR. FARRELL: Mm hmm.

MR. GOODELL: "And any such provision shall be limited in its operation to such appropriation." So my concern is, for those who are great advocates of Raise the Age, doesn't the Constitution suggest that this legislation is only applicable to the extent there's an appropriation, and if there's no appropriation, is it effective in a budget bill?

MR. FARRELL: There's \$110 million in the budget for capital costs of a State facility related to Raise the Age.

MR. GOODELL: And so then the Raise the Age legislation is only effective as it relates to that capital project component?

MR. FARRELL: Yes.

MR. GOODELL: Okay. That'll be a relief to those who oppose Raise the Age who might have thought it applied much broader. I'm just suggesting that for those who support Raise the Age, they're on stronger constitutional grounds if they do it in a separate bill. That's all I'm going to suggest.

We see a number of Worker Compensation changes. Any appropriation related to those changes?

MR. FARRELL: No.

MR. GOODELL: Mr. Farrell, once again, thank you very much.

MR. FARRELL: Thank you. It's a pleasure.

MR. GOODELL: Thank you very much, Mr.

Speaker.

ACTING SPEAKER AUBRY: Mr. Sepulveda.

Mr. Graf for a second time.

MR. GRAF: Mr. Lentol, will you yield?

ACTING SPEAKER AUBRY: Mr. Lentol?

Mr. Lentol yields.

MR. LENTOL: Yes, I do, Mr. Speaker.

MR. GRAF: All right, Joe. If the DA consents, right, and a judge finds one or more enumerated factors such as mitigating circumstances or the person is not the sole participant, you know, but participated, or possible deficiencies in the proof that's presented, a lot of times that's usually left for the trier of fact. Then in those cases -- because we made a statement before -- in those cases --

MR. LENTOL: What section are you referring to, Mr. Graf? I'm not sure I know exactly where you're at.

MR. GRAF: Well, on mine it's page 211. I'm in Section 722, I think it is 10, subparagraph 4. On mine it's on the page -- the bottom page of 211.

MR. LENTOL: Okay.

MR. GRAF: You got it?

MR. LENTOL: Yes.

MR. GRAF: It starts off, "... notwithstanding the provisions of subdivisions 2 and 3 of this section."

MR. LENTOL: Yes. That -- that section is the existing law for juvenile offenders.

MR. GRAF: Okay. And it goes on, right?

MR. LENTOL: We're just moving it to a different place, so it's not -- it's not a new law.

MR. GRAF: Well, this would affect -- if you go on here, "... however, the felony complaint charges the juvenile offender with Murder in the Second Degree as defined in CPLR, Rape in the First Degree as defined in section..." -- and you have 135, the Penal Law -- "... Criminal Sexual Act in the First Degree of the Penal Law, Armed Robbery" and it goes on and on and on. And according to this legislation, as long as the DA agrees and as long as the judge agrees and finds one of these -- these enumerated factors, those cases can go to family court, correct?

MR. LENTOL: No. Yes. I'm sorry. It's current law.

MR. GRAF: Okay.

MR. LENTOL: It's not -- we're not changing that.

That's --

MR. GRAF: Yes, but what we're changing is the --

MR. LENTOL: -- the Juvenile Offender Law.

MR. GRAF: What we're changing is the age. So now a 16- or --

MR. LENTOL: Not in that section.

MR. GRAF: -- 16- and 17-year-old that's accused of these crimes --

MR. LENTOL: That section doesn't apply to the 16- and 17-year-olds, sir.

MR. GRAF: All right. I think you should double-check. I'll double-check, too, Joe, but I think you should double-check that.

MR. LENTOL: That's juvenile offenders that is existing law, which is the section that you're referring to that already exists in the Family Court Act.

MR. GRAF: Is there any way a person charged with First Degree Rape, Second Degree Murder or a Criminal Sexual Act can go to family court? Is there any vehicle whatsoever?

MR. LENTOL: Only with DA consent. That's what that law provides.

MR. GRAF: Okay. So with the DA's consent, those crimes -- there is still a vehicle for those to go to family court.

MR. LENTOL: Yes, and that's the current law.

MR. GRAF: Okay.

MR. LENTOL: We're not changing that.

MR. GRAF: The other thing, Joe. If I turn around and -- say there's a case and it's put into family court and they consent to that. And now, all of a sudden, new evidence comes to light, right? It's already been assigned to family court. Is there a mechanism where I could supercede that now, right, and bring it into -- back into criminal court, like under an indictment? Can I still indict after that 30 days?

MR. LENTOL: No, you can't. Not if it's the same offense.

MR. GRAF: So if it's an assault job, an assault, and the person winds up dying, and within 30 days it gets moved into family court, I can't bring it back to criminal court or I can't supercede --

MR. LENTOL: No, but it --

MR. GRAF: -- those charges?

MR. LENTOL: No. It would be a new offense.

MR. GRAF: Okay. And usually with the grand jury you have six months to gather evidence or, you know, in a -- in a specific case. Now under this, right, I have to do it within 30 days, right? Gather up the evidence in order to present to a judge whether it's going to go to family court or not, correct?

MR. LENTOL: If you're opposing a transfer for non-violent felonies. But the first part of what you read is still existing law.

MR. GRAF: Okay. And just to be clear, you talked about sex crimes before that are registerable that go directly to family court. Any ones that are misdemeanors, right?

MR. LENTOL: Yes. Misdemeanors only go to family court.

MR. GRAF: So that would include Sexual Misconduct, Forcible Touching, Sexual Abuse in the Second and Third Degree. And Sexual -- so, Sexual Abuse in the Second Degree

is sexual contact with a person under the age of 14, correct?

MR. LENTOL: I don't know. I'd have to look at the section. But I'm assuming you're right if you have the section in front of you.

MR. GRAF: 130.60.

MR. LENTOL: Yeah. Just like Sexual Misconduct in the Penal Law, 16-year-olds would have a defense, and 14-year-olds.

MR. GRAF: Well, it's under 14. They could be a five-year-old.

MR. LENTOL: They're both underage.

MR. GRAF: Yeah. It could be a -- it could be a -- an 18-year -- or one day short of his 18th birthday.

MR. LENTOL: Not 18.

MR. GRAF: One day short of his 18th birthday, right?

MR. LENTOL: It's not 18, it's 17.

MR. GRAF: Yes.

MR. LENTOL: And then you come into Sexual Misconduct.

MR. GRAF: If you're one day short of your 18th birthday, Joe, you're still 17.

MR. LENTOL: True.

MR. GRAF: Okay?

MR. LENTOL: I agree.



MR. GRAF: So, if he's one day short of his 18th birthday -- and when you're saying under 14, I could be talking about a three-year-old. I could be talking about a four-year-old, correct?

MR. LENTOL: No.

MR. GRAF: Well, that's what the --

MR. LENTOL: Under 11, it's still rape. It's First Degree Rape under --

MR. GRAF: No, we're talking sexual --

MR. LENTOL: -- under 11.

MR. GRAF: -- sexual abuse, Joe. That's sexual contact with a person, but under 14 years old. That's what the statute says, under 14.

MR. LENTOL: Under 11 is First Degree Rape.

MR. GRAF: Okay.

MR. LENTOL: In the examples you gave.

MR. GRAF: Right. So, I'll give you a 13-year old, a 12-year old, an 11-year old.

MR. LENTOL: Yeah.

MR. GRAF: Okay. So --

MR. LENTOL: But they're not in this, because that -- they're not in the -- in the family court, they're in the criminal court if they're 16.

MR. GRAF: Well, this one here, if it's 11 -- if they're 17 and 364 days and the victim is -- is under -- is over ten, right, they go right to family court. So, I have a 17-year-old having sex with an

11-year-old --

MR. LENTOL: Yeah.

MR. GRAF: He'd go right to family court.

MR. LENTOL: If it's a forcible act, it's rape.

MR. GRAF: Well, I'm not saying -- this more of a --

MR. LENTOL: If it's a consensual act --

MR. GRAF: -- statutory, right?

MR. LENTOL: It's a -- it's a forcible -- if it's by forcible compulsion, it's rape. If it's not, then it could go to the family court.

MR. GRAF: Yeah. And it is 17-and-a-half and an 11-year-old, correct?

MR. LENTOL: No. If it's an 11-year-old, it's rape.

MR. GRAF: Well, ten -- ten and under is rape, is First Degree Rape.

MR. LENTOL: Eleven and under, it's rape.

MR. GRAF: Okay.

MR. LENTOL: And it's a felony.

MR. GRAF: It's usually ten. So, it's tender years.

MR. LENTOL: Tender years, yes.

MR. GRAF: Tender years means ten and under, so that would --

MR. LENTOL: A felony.

MR. GRAF: Eleven.

MR. LENTOL: It's a felony.

MR. GRAF: Okay.

MR. LENTOL: It's not going to the family court under this bill.

MR. GRAF: All right. Thanks, Joe.

On the bill.

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

MR. GRAF: You know, we've heard today, we're sitting there talking about the misguided youth who just happens to commit all these crimes in his neighborhood, and we should give him a second chance, maybe a third chance, maybe a fourth chance. And we've heard about how it's not his fault, maybe he ate too many Twinkies when he was a kid, too much sugar, you know, or any number of reasons. But today what we're trying to do -- and when you look at this entire section of the bill, which is right here, there's the bill (indicating), out of this whole bill, one paragraph, one paragraph, talks about the victim. It talks about the victim gets to put an impact statement in there. It doesn't say if the court has to really use it in sentencing. It's -- we're going to make them feel good. They get to write an impact statement. Then, they're not going to find out what their perpetrators were sentenced to for committing a crime against them. So today, we've heard all the stories about kids make mistakes and kids commit crimes, but what we're arguing about today is we're here trying to protect the victim. We're trying to protect the future victims. We're trying to protect neighborhoods to make sure that they'll be safe. So this legislation, which I've referred to as the "Gang

Recruitment Act" because there's all kinds of crimes in here where now they get the 16- or the 17-year-old, we've bumped it up two years to commit certain crimes. When you looked at a study that the Senate did many years ago, the testimony that was in here was about two individuals, who they didn't identify, that testified in front of the Senate. And what they told ya was, *Yeah we committed these crimes against seniors. We committed these crimes against -- against other people. And the reason that we did it is because we were under 16. And we knew that if we were under 16, nothing was going to happen to us. We wouldn't get a criminal record. It wouldn't stay on our record. So, therefore, as long as we were under 16, we were okay.* Well, now it's going to be as long as you're under 18, okay, you get a dispensation here. You can commit a crime up to your 18th birthday, and you're not going to have a record on it. I just think this is very dangerous legislation. I think what's happening is, we've just extended youth that can commit crimes without having to really see a penalty besides a slap on the hand. I think this is going to make a lot of our neighborhoods very dangerous. And not only that, I don't think you've put the mechanisms in place to actually take these individuals, if they commit crimes, off the street.

One of the things they talked about in the transcripts for what I was telling you, that the Senate talked about with the crimes, was you'd have a senior citizen who was the victim of a crime. They go and testify in court, there would be an adjudication and in their mind, the person that made them a victim was found guilty. And

what happened was they went home, went to the local grocery store, and there's their perpetrator, already out doing the same thing again, all right, because they had no place to put them. So I think that sometimes history repeats itself, and we're allowing history to repeat itself once again.

I think this is a major mistake for the State of New York. I think it's a dangerous mistake for the State of New York, and I think there are going to be consequences in the future where you're going to have to sit back and look at yourself in the mirror and say, *Thank you, I did that*. Well, for me, I'm not going to be part of it. I'm going to vote no. I would encourage everyone else to vote no. I would encourage the Senate to rethink this before they vote on it. Very, very dangerous. But, you know, I think there's others that feel the same way I do, and it doesn't make us people that aren't concerned about children. But what we are concerned about is the safety of the people that we represent, and we're also worried about the safety of the children that we represent. So, I would encourage a no vote. Once again, I think this is very dangerous legislation. You know, the sound bites sound great, but I think the result is going to be very bad.

Thank you.

ACTING SPEAKER AUBRY: Mr. Quart.

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

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

MR. QUART: The Article VII Inspector General

legislation is the unfortunate but inevitable result of a flawed constitutional framework in this State. Everyone in this House is all too familiar with the *Pataki v. Silver* case law, the unequal leverage that it places with the Chief Executive and how that situation is only exacerbated when the calendar turns to April 1st. The inevitable result of this flawed constitutional framework is the Article VII language you see in front of you about an Inspector General of New York for Transportation. And let me just be direct. The Article VII language concerning the Inspector General is flawed for three very specific reasons: One, it has no rationale, no public policy rationale. Secondly, it violates Federal law, if not the State Constitution. And third, and most significantly, I think, it's antithetical to the age-old concept, the age-old foundations of separation of powers of our governmental system. To understand the powers that are given, it's first important to understand the scope, and to look at Section 2 of the Article VII language. It defines transportation entities, managerial responsibilities and that the Chief Executive is able to appoint an inspector general, essentially a prosecutor, in anything that touches a transportation entity. The initial iteration of the Chief Executive's language included the two words "Port Authority." This draft before you does not. But let that not delude any of my colleagues. This language encompasses the Port Authority; the PATH train from New York to New Jersey, the Holland Tunnel from Lower Manhattan to New Jersey, the Outerbridge Crossing from Staten Island to New Jersey. If those are not transportation entities, then those two words

don't mean anything. So, the broad scope of this Section 7 language clearly includes New York State DOT facilities; MTA facilities from the new train station on 96th Street and 2nd Avenue - which I live four blocks away from - to the tunnel, bridge crossings that connect Manhattan to New Jersey. All this means this is a broad piece of legislation, and that the Inspector General would have broad responsibilities and a broad scope. To give you an idea of how broad this scope, think about the number of prosecutors, U.S. attorneys and States Attorney Generals within the five boroughs of New York City, and imagine if there is a Federal nexus, add in the Southern District and Eastern District of New York, and even the district of Northern New Jersey. Probably in the aggregate 3,000 prosecutors, 500 to 1,000 NYPD officers, hundreds, if not thousands of inspectors. The Chief Executive has never set forth - and I'm not aware of any rationale in this legislation suggesting that the aggregate of all that law enforcement is not sufficient to address malfeasance - malfeasance in this -- malfeasance either at bridge crossings or any of the authorities that encompass in New York City. Secondly, read the Port Authority's letter of March 2, 2017 addressing the Governor's initial iteration, where he mentioned the words "Port Authority." Six Port Authority commissioners set forth. They use some heightened language; I'll ignore that. But I think it's important if you turn to page 3 of that -- of that letter, it sets forth since 1992, 1,700 investigations have been done by the Port Authority. Most recently, to everyone's attention, the Bridgegate matter. And if you go to the comments by the U.S.

Attorney in the Northern District in New Jersey, he specifically thanked the Port Authority for its own internal investigation that led to evidence that led to two convictions on that matter. Seventeen hundred investigations, convictions by the Port Authority itself. Clearly, the Port Authority is not in need of an outside prosecutor to address malfeasance. It has been taking care of its own business. I see no public policy rationale through this Article VII language why this power must be imputed to the Chief Executive.

Lastly, I just want to -- as to the factual basis, go to Section 3 of this bill about immunity. This is a normal power for any prosecutor, the ability to grant immunity. It's how prosecutors secure testimony to secure convictions, get indictments, convictions. But allow this hypothesis or hypothetical for a second: The Chief Executive picks an attorney to be the Inspector General, presumably a prosecutor. He or she tasks that Inspector General with the subject matter upon which they're to investigate. That Inspector General then performs the investigation, serves subpoena and then grants immunity. You could allow, under this law, for the incredible hypothetical that that same Inspector General could grant immunity to the Chief Executive him or herself, or the subordinates that work for that Chief Executive. It is an absurd possibility, but a reality under the language of this Article VII legislation.

Lastly, if that is not a conflict in spirit or in fact, it is certainly a conflict in spirit of Public Officers Law 73 and 74. Secondly, as to the law. As I said earlier, Section 2, as it defines the



transportation entity. This goes back to 1921, the bistate compact that created the Port Authority and the specific laws and rules under that bistate compact. I'm not going to bore this House with the case law, but suffice it to say New Jersey would have a very good case to seek to invalidate this as an undue exercise upon their authority. I assure you, if New Jersey has attempted the same type of activity with respect to New York, the State's Attorney General would be in court seeking to invalidate that statute. That's why I believe this Section 7 language violates the 1921 bistate compact that created the Port Authority.

Second, under the case law you look at Section 3 of this language, severability. We always know from a drafting perspective, when someone's expects to be challenged in court is their severability package. But severability cannot save a fundamentally-flawed statute from itself. Section 2, the transportation entity, the essence of this statute, has six or seven sentences. You cannot save line 6 from line 2. In essence, the severability - speaking to a future court adjudicating in this matter - should not, cannot be read to save this flawed piece of legislation.

Last, clearly, parts of this legislation was drafted in response to recent court opinions. March -- March of 2007, Judge Breslin in Albany Supreme Court, citing specifically to the case of *People v. Davidson*. And that was looking at a similar matter, a special prosecutor that this Legislature granted under the Empire Center. But the concept is the same, a Chief Executive granted with

the ability to appoint a special prosecutor. The court ultimately didn't get to the constitutionality of that scheme, but I think it's important to read at least two sentences of the dissent of that matter from what Justice Rivera said. "While I, therefore, agree with the majority's conclusion that a special prosecutor may appear and pursue criminal matters in town court, this does not end our inquiry. The defendant's arguments about the role of special prosecutors under the act necessitates this court determine the scope of their power." Clearly, Judge Rivera, in her dissent on a separate matter, was concerned about the constitutionality of a Chief Executive having law enforcement power. This same matter, it is my expectation, will come before that same chief justice at some point in the next several years.

But lastly, and most concerning, it is the separation of powers. It has been stated in our Federal government and in our State government in many ways over many years. It goes back to our fourth Chief Justice, John Marshall, where his rulings essentially set forth that the courts have the authority to determine what is and what is non-constitutional, and the Legislature gets to pass what it believes to be in the best interest. And those two will certainly intersect, but one should not have power over the other while the courts have the final say on constitutionality and legality. The by-product of that is we are a government of institutions. Institutions that runs checks and balances on one another. But that only works when the person who sits up -- when the person, he or she, sits atop those institutions does not seek to conflate law enforcement power with the powers of a chief

executive. That is the fundamental flaws I see in this legislation.

Some day in the future, our Chief Executive will name an independent -- will name an investigator under the powers of this legislation that we are granting. That person, he or she, will serve a subpoena on somebody. If that person has capable defense, that person may move to quash or narrow that subpoena. My expectation is that attorney will also bring an Article 78 proceeding, challenging the constitutionality of the four pages of this Article VII language. That will cause a judicial review, much needed, of both the Justice Center special prosecutor and the powers we grant today in our yes votes on the House. The seven people sitting on the Court of Appeals, all appointed by this particular Governor over the last 10 or 20 years, has shown an adherence to precedent that laws of the Legislature, in and of themselves, should be given great deference. I agree with the principal of deference. But sometimes deference goes too far. And deference to what this House does, what this Body does, with the Senate, signed by the Governor, should never be subordinate to rigorous judicial review and constitutional review of the legal validity of what is signed today.

I don't stand here and judge the Chief Executive's motives for setting forth this legislation. We are the fourth-largest State in this country, 19 million people with multiple agencies; New York State DOT, Port Authority, six officers appointed by this Governor. The Chief Executive has every right, if not the obligation, to inspect -- to root out malfeasance, to set forth reports. What I

object to is the conflating of law enforcement authority in the same Body that sets laws for that law, that Body. The problem is when you conflate these two things, you violate the separation of powers. You run afoul of those very delicate balance of powers that go to the fundamental nature of the separation powers that our country was built upon.

My -- my sincere hope is simply that when the court takes a look at this statute, it looks at the legislative history, it looks at the comments that I, and maybe, hopefully, others make about this legislation. But it also understands that if there are more green lights than red lights at the end of this debate, they should not take that fact as an imprimatur that this House believes that this statutory language is functional, that it serves a functional purpose or that is, in fact, valid under our State Constitution. My sincere hope is that the court, in making this evaluation, comes to that legal conclusion. The same legal conclusion I set before -- before you, my colleagues. But also the same factual conclusion that I have made the first time I read this legislation, and that is simply this: That this Article VII language, if you call it a cure, is much, much worse than the disease.

(Applause)

ACTING SPEAKER AUBRY: Ms. Bichotte.

MS. BICHOTTE: Thank you, Mr. Speaker, for letting me finish my statement on the bill. As I was saying, I just wanted to, just in closing, to talk about a young man by the name of James -- Jim St. Germain, who lives in Assemblymember Diana

Richardson's district in Crown Heights, who was raised in my district in Flatbush, who also happens to be a Haitian-American immigrant who rallied with us in our press conference around Raise the Age. This young man was arrested at the age of 15, and he was just shy of four months of being 16. Made a big, big difference. And, you know, I've heard my colleagues on the other side that said, *Well, there's a difference between 16 and 17 and 14 and 15.* Four months. As a result of him being 15, he -- he went to family court and he stayed in judicial detention, a juvenile detention center. And with that, he had an opportunity to afford the services of giving him a second chance in life. He actually decided to extend his stay in the juvenile detention center because he was crying for help. He wanted reform. So Jim St. Germain, after leaving the judicial -- ju-- ju -- sorry, the juvenile detention, he got his degree in Criminal Justice at John Jay, a bachelor's degree, and now he's working on his master's, and he will soon plan to go to law school. And I guess the whole point is, this is why we've been fighting to get a right Raise the Age. We feel that the youth offenders should really start at the family court. It makes all the difference. That's what the Assembly has been fighting for, that's what all the advocates have been fighting for. And, you know, to say that we're not thinking about the victims, this is not what Raise the Age is about. Of course we're going to have legislations and laws and all the protections to serve all the victims. They come first. But we are talking about a disparity with the many of the 16- and 17-year-olds who goes to jail for non-violent felonies. That's what we're talking

about. We're not talking about the sexual assault cases. We're not talking about physical -- serious physical injury cases. We're not talking about display of arm -- of guns and things of that nature. We're not talking about that. We are talking about the vast majority of 16- and 17-year-olds who are sentenced to prison in the adult criminal system for non-violent felonies. And we can make the comparison, because we had a young white boy at Stanford University who actually caused -- committed a very violent felony. He raped a young student, and he got six months, six months sentencing and three year probation. Meanwhile, you know, the five -- the Central Five. The five young guys who got accused -- the Central Park Five who got accused of raping someone, a felony that never even happened. And I remember, because I went to school with one of those guys. When I was attending LaGuardia School of Performing Arts, I was in the classroom with Yusef. And at the age of 16 and 17, I didn't know what was going on. And imagine a 16- and 17-year-old is being approached by a district attorney, being forced to take a plea and admit to a crime they never committed. This is what we're dealing with. We're dealing with young people who are not mature to even make decisions for themselves, and so they need a break. They need services that's going to reform.

So, I just want to say that although the Raise the Age bill doesn't have all the things that we would like, I am grateful that at least the youth part of the criminal justice system will be presided before a family court judge. And I -- and I'm also happy that there

will be a commission that's put in place so that we can continue looking at Raise the Age and tweak it.

Today is definitely a historic day, and again, I just want to commend the Speaker, Carl Heastie, Assemblymember Joe Lentol and everyone else for pushing this bill and making it priority. And I just want to reiterate what Assemblymember Joe Lentol said. He said that our children -- our children's lives are worth saving. And it was certainly worth saving this young man's life, Jim St. Germain, who is now working on behalf of a lot of young 16- and 17-year-olds who are incarcerated. And if my son was still living, I would have hoped he would have the chance and be worth -- his life would be worth saving.

So, Mr. Speaker, it is a great day. I support this bill. I support Raise the Age, and I will vote in the affirmative. Thank you.

**ACTING SPEAKER HARRIS:** Ms. Walker.

**MS. WALKER:** Thank you, Madam Speaker, for allowing me to come back again for a second round. I think it's important for us to establish legislative intent where there are legal terms that will be left to judicial discretion that has not been laid out in statute. So I appreciate the opportunity to lend my voice to providing some semblance of legislative intent on certain items that may not be as clear. But I've heard a lot today about second chances, and I don't think that this is the "Second Chance Act." What I think is, this is just allowing us an opportunity to look at criminal justice in a different way. If it's in family court, family court looks at cases on the

best interests of the child. And one of the things that I am constantly reminded of is a visit that we did to Rikers Island. On this visit, there was a 16-year-old child who had a cast on his arm. And he was trying to let me know what the circumstances were regarding how he got that. And he mentioned to me that it was a guard who broke his arm. He was 16. I don't know what he did. I wasn't there. But all I could see was this orange cast on this young child's arm that I represent in Van Dyke Houses. Then I said to the group of them, *If you could have anything that you want today, what would it be?* One child said he wanted to stay up after 9:00. Another one said he wanted to have dinner after 8:00. All they wanted were snacks and more TV. And it sounded a lot like the requests of my five-year-old. Now, granted, we're not talking about five-year-olds. And we're not talking about people necessarily who have not committed any crimes. Except in the case of the violations. But what we are saying is that with the right size investment into these young people, that we can snatch them up out of the grips of the criminal justice system that will put them on a path to destruction.

I have a friend. His name is Anthony Green. The first time that he was arrested, he was a teenager. Ultimately, Anthony Green led a lifestyle that led him to a 27-year sentence in the New York State criminal justice system. What would have happened if Anthony Green could have been a beneficiary of right-sized Raise the Age legislation? It makes me think of another young student who sat in a class that I went and had an opportunity to do a career day



with. And this young man said to me that he had a case that he needed some help and representation on. And he took on the persona of the criminal mind, and he was in the seventh grade. So that says to me, when we put our children in these types of circumstances, that we are doing more harm and more destruction to them mentally, had we just made a little bit more of an investment in them early on.

So, while I sit here with my colleagues today to say is this a perfect bill? No. I don't think so. I think there are many more opportunities for us to be able to iron out a lot of the kinks, a lot of the issues. But do I think that we are in a better position today than the kids were in yesterday? Absolutely. Absolutely. And I look forward to working with my colleagues over the course of the next couple of years, to come back and say, *You know what? Maybe we could have done this a different way*, just like all of you have done in the past under the Rockefeller Drug Laws.

I also want to commend my colleagues in the New York State Black and Puerto Rican and Asian Legislative Caucus, as well as the Hispanic Task Force, because we recognize that we came together in understanding that these are our children that we're talking about. Where 70 percent of the children who fall underneath this bill are Black and Latino children. And once we came together and we recognized who we're talking about here, it made our argument. It made our case all the more real. But there's something that I think is very important for us not to forget here. People have spoken a lot about unfunded mandates. There was a lot of conversation as to

whether or not New York City will receive the type of reimbursement that it will need to get this right. We know that most of the children who will fall under this jurisdiction reside within the confines of New York City. So we will need to do everything in our power in order to work together to make sure that New York City has the resources that it needs in order for full, positive and effective implementation of this law.

So, I'm just -- I'm excited today, and I encourage each and every one of my colleagues to take a look at themselves and understand that we could be talking about a lot of different issues, but in my opinion, we're talking about three: Fairness, justice and equality. And while many people may have recognized that civil rights may seem like a snapshot in history when we look at it in our history books, it may seem like an episode on -- on Channel 7 TV. It may even seem like a figment of our imagination if you were there under a civil rights movement. But I beg to differ. Civil rights. It's something that will take an eternity for us to protect. It is a lifestyle that we have to assume. And I am just grateful, I am honored, I am privileged to be able to assume this lifestyle with the likes of you.

I will be voting in the affirmative on this very piece of important, historic, ground-breaking, earth-shattering legislation, and I encourage my colleagues to do the same. Thank you.

ACTING SPEAKER HARRIS: Mr. O'Donnell.

MR. O'DONNELL: Thank you very much.

On the bill.

ACTING SPEAKER HARRIS: On the bill.

MR. O'DONNELL: In my time here, I have voted on a great many great "Big Uglies." No one has been bigger and uglier than this. Let me be clear: I will not be voting for this legislation, but let me just comment on some of the things that I've heard. One, I agree 1,000 percent with Dan Quart, whose intelligence leapt out of this Chamber in explaining what's wrong with that proposal. It is difficult for me to vote against \$700 million of additional funding to my public schools, but I'm going to have to do that. It is also more difficult for me to vote against criminal justice reform. I have spent my entire legal and political life fighting for criminal justice reform, and the idea that we still are equal to North Carolina should be the great state's embarrassment. This is not Raise the Age, it's not that. It doesn't do that. But it does provide some necessary reforms and some necessary reliefs. It's distressing, however, to me, to hear some of the comments being made on this floor about what that is and what that isn't. The idea that anyone on this side of the aisle was suggesting that a child who quote, "ate too many Twinkies", quote, should be free from criminal responsibility is particularly appalling to me. Because the Twinkie defense was created for the man who assassinated Harvey Milk. Harvey Milk was the first openly gay or lesbian elected official, and because he dared to be truthful about who he was, he lost his life when a bigot shot him. And when the bigot got to court, what did the court -- did he say in the court? *I couldn't help myself. I had too many Twinkies.* So, for the person who said that in this room, shame

on you. No one on this side of the aisle is talking about that. No one is saying that children should be free from responsibility. And let me be clear: Family court is not a get out of jail free pass. And I would vote for that bill if it was on its own. But it's not on its own. It's included in this ugly 421-a package. What is that? A tax giveaway to real estate developers. Do I like the tax giveaway to real estate developers? No. Do my voters like it? Certainly not. But why am I voting against it? Why am I allowing that one thing to hold up this whole thing? Because somebody decided the way to do this is to draw a line across my district. That's correct. Think about where you represent, and if someone drew a line across it that said, *These are the rules for those people, and these are the rules for the other people.* It is particularly galling in this fact pattern, because the line is the race line. North of 96th Street is the color line in Manhattan, and has been for at least 100 years. People of color were not allowed to live south of 96th Street. They were required to live north of 96th Street. Red lining occurred on 96th Street. The schools were better south of 96th Street. The subway were -- stations were repaired south of 96th Street. There are landmarks south of 96th Street. There are historic districts that protect tenants south of 96th Street, and they were ignored north of 96th Street. So you want a real fact? Here's the fact: Frederick Olmsted designed Central Riverside, all these fabulous parks, world-renowned as the finest park designer in American, or possibly world, history. And when I was elected in 2002, where was the one park that Frederick Olmsted designed that wasn't a landmark?

North of 96th Street, in my district. So I cannot sit here and abide by drawing a line down my district and saying, *Those people get treated better than these people*. And I certainly can't accept that that line is the line where racism met New York City. Can't have it. And as a person who has lived north of 96th Street for the last 30 years, my voters are fed up with being treated like this. Because when this goes through, it's going to mean to build a building on 97th and Broadway costs half as much money as to build it on 94th and Broadway. And so you know what that's going to mean to the people who live right north of 96th Street? I know what that's going to mean. Once again, we're going to be treated like second-class citizens by our City and State government, and I simply can't do it.

I will be voting no.

ACTING SPEAKER HARRIS: Read the last section.

THE CLERK: This act shall take effect immediately.

ACTING SPEAKER HARRIS: The Clerk will record the vote.

(The Clerk recorded the vote.)

ACTING SPEAKER AUBRY: Mrs. Arroyo to explain her vote.

MRS. ARROYO: Thank you, Mr. Speaker. Today we are making history. As a Puerto Rican woman that -- that represent the largest Puerto Rican community in the City of New York, I want to thank Mr. Lentol for his work, the Leaders of the Senate, the Governor of the State, but more, our Leader, Carl Heastie,

for -- for his courage and his dedication to the Raise the Age proposal. Today is a great day for me and for the people that I represent in the South Bronx. I want to thank all our Leaders and the people that worked so hard to make this possible. In the name, thanks to each one of you, God bless you, God please your leadership. New York have to be better and could be better if we understand each other. Thank you very much.

ACTING SPEAKER AUBRY: Mrs. Arroyo in the affirmative.

Ms. Walsh.

Mr. Morelle.

MR. MORELLE: Sorry. I apologize for the interruption. I just want to remind members that this is our first vote of this day.

(Laughter)

I hope it's the last vote of first vote of the day for awhile, God willing, and folks in the Chamber should cast their votes. I notice a number of people have not yet, but hopefully, they will explain their vote, those that need to, and cast their votes; anyone who is outside the Chamber, should please make their way in to cast their first vote of the day.

ACTING SPEAKER AUBRY: First vote of the day.

Ms. Walsh.

MR. WALSH: Thank you, Mr. Speaker. I would like to quickly explain my vote, and I will do it quickly. This being

my first budget vote, and -- and this -- this bill in particular, there is something really in this bill for all of us to love, and some things for all of us to hate. I'd like to just talk briefly about what -- what I like about the bill.

I like the re-privatization of NYRA, I don't think anybody's really talked about that. I like the Child Welfare Worker Incentive Scholarship and Loan Forgiveness Program. Having worked in the County Attorney's Office with CPS for a number of years, I think it's wonderful to try to encourage people to pursue that line of work. Workers' Compensation reform, I know we talked about that a little bit, I think that's a positive step. Ride sharing, horray, finally, after three years, I'm very happy to see that. And Child and Dependent Care Tax Credit, I'm very happy about that.

I am -- I'm going to vote in the affirmative, but it's not because of Raise the Age. I -- I very -- I remain concerned about Raise the Age, but as I learned in law school, reasonable minds may differ, and I appreciate everything that I've heard today. And -- but I -- I am concerned. I hope that it -- I hope that next year as we address the money issues that we can make sure that the counties really are relieved from what I believe will be heavy burdens in implementation of this program.

And the last thing I will say is that I think that the countywide Shared Services Tax Savings Program is probably one of the most ill-advised pieces - I almost said another word - ill-advised pieces of legislation that I've seen in awhile. I think the counties that I

represent have been working on sharing services, cooperating and cutting costs to the residents for -- and taxpayers for many, many years. They do not need this mandate placed on them. I think that the time to -- to implement it is inadequate. And I am voting yes, but I don't like that one bit.

ACTING SPEAKER AUBRY: Ms. Walsh in the affirmative.

Ms. Glick.

MS. GLICK: Thank you, Mr. Speaker, for the opportunity to explain my vote. My voters do not like 421-a, it does not provide sufficient affordability and gives away money to developers who would making -- would be building those buildings, in any event.

But today I believe that the opportunity to finally Raise the Age of criminal responsibility is a long overdue incredibly important social justice matter, and I believe that my voters also want to see that come to pass. And so I am actually -- well, we're always torn when we have one of these bills, they are always linked together with things that are frequently repugnant. It is with great joy and enthusiasm that I vote for this bill to Raise the Age to save 16- and 17-year-olds from a -- an adult penal system, an adult penal system. I can't get over that reality. I remember kind of being 16 or 17, it's a long time ago, much longer after these two weeks. And I know that I did stupid things. But I grew up in a kind of, you know, middle class, lower-middle class neighborhood, basically a white neighborhood,



and those things that maybe I got away with, somebody in another neighborhood might not have. Certain kinds of things that could just trip you up because you did something stupid without thinking, and somebody decided that well, they needed to make X number of arrests that week, and you were low-hanging fruit and you got swept up. So, I am grateful to have this opportunity.

I withdraw my request and I vote in the affirmative happily.

ACTING SPEAKER AUBRY: Thank you. Ms. Glick in the affirmative.

Mr. Sepulveda.

MR. SEPULVEDA: Thank you, Mr. Speaker, for allowing me to explain my vote. Clearly, there are a couple of things in this bill that I don't like, but there are many that I do like. And as an attorney practitioner, as a father of a 25-year-old, I could never vote against a bill -- this bill, because of Raise the Age. And because we have to give credit where credit is due, Speaker Heastie was the first Speaker in the history of this State to show the resolve and courage to make sure that this became a part of the law. Now, over the last couple of weeks, we've heard racist, ignorant rhetoric coming from the Senate about this is about protecting rapists, criminals and so forth. And even in this Body, we hear ignorant comments about relying on cases -- two cases that happened 40 years ago, and calling the bill the "Gang Recruitment Act." That is a shame because that is not what this is about. This is about giving an opportunity to young

men and women, very young men and women who have made mistakes in their lives and can -- perhaps we can change them. And I think for history to come, generations of 16- and 17-year-olds will thank all of you for coming together and voting in the affirmative and changing the history and the trajectory of these kids for ages to come.

There's one particular issue that I think has been wholly inadequately -- inadequately funded and addressed, and that's the issue of Latina suicide in the State of New York. I have tried time and again with my colleagues -- and, by the way, for Raise the Age, I forgot, we should also thank the Black Puerto Rican Hispanic Caucus and the Task Force, because we worked together in unity with the Speaker to make sure that that became the law of the land.

But referring back to the issue of suicide amongst young Latina women between the ages of 17 -- of 11- and 17-years-old, 25 percent of these children, the biggest cause of death is suicide. Now, I ask all of you to look at the general population of 11- to 17-year-old children, young women, and if 25 percent of them were killing themselves, what kind of steps we would take. So I urge that we do something in the future, in the immediate future to address this, because we are dealing with an epidemic that is impacting our communities, and we shall not stand idly while these young children are taking their lives. I will vote in the affirmative.

ACTING SPEAKER AUBRY: Mr. Sepulveda in the affirmative.

Ms. Jean-Pierre.

MS. JEAN-PIERRE: Thank you, Mr. Speaker, for allowing me to explain my vote. Today's budget this Saturday afternoon is not only historical within the inclusion -- within the inclusion of Raise the Age, but is an illustration that this Body of legislators are committed to addressing the needs of all New Yorkers by ensuring that 16- and 17-year-olds of all communities and all races are all allowed a second chance at life, where they are not pre-descended to fail based upon a criminal record that was acquired due to a non-violent offense from their youth. It's a huge step in the right direction. We must give our people -- our young people guidance and rehabilitation for their small, non-violent indiscretion. I am hopeful that the passage of the Raise the Age will allow the -- will lower the re -- will lower the re -- recidivism rates in our communities and allow our children a second chance at contributing positively to our society.

Secondly, we fought hard to protect our public education system. No parent should be left with the fear that his or her child will not receive a quality education based on their zip code. Imagine that, a world where one child gets great education, new textbooks and elective classes, and in one hamlet over, in another zip code, walking distance away, a child receives mediocre education, outdated or missing textbooks and zero electives to broaden their educational horizons. This world I describe is real. I see it every day in my district. We are not there yet, but I'm confident that this Body will continue to fight the fight so all children will get their fair shot at

a quality education. Thank you, Mr. Speaker, and I vote in the affirmative.

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

Mr. Pichardo.

MR. PICHARDO: Thank you, Mr. Speaker, for allowing me to explain my vote. First of all, I want to thank the leadership of our House, Speaker Heastie, Leader Morelle, Members Lentol, Aubry, Weinstein, Ramos and all the staff who've been able to put this together. And I also want to thank my colleagues who spoke for and against this legislation for a very robust and important debate.

Let me be clear: There are things that I do not like in this budget, from the issues of 421-a to the expansion of TNCs and very little protections for livery owners across the State, but this budget will save lives. We are giving mostly young men, young men who look like me, young men 10 years ago could have been me, a chance and an opportunity to thrive and succeed in this society. It is not lost on me that if we were to pass this legislation a few years ago, that a young man from the Bronx could still be here and his life would have been spared. A family would have made -- would have stayed whole and countless and hundreds and thousands of other young men and women across the State would have had a much different outcome than what they're experiencing now. And also, we could have spared and given a second chance to potentially a child who was at the wrong place at the wrong time and got swept up and now is paying and

having a lifetime of pain and regret for one stupid decision that they made as a teen.

Let me be clear, that in this time, this Body has made a huge and monumental step forward in creating a much more perfect union, particularly in these trying times for our nation. I know this budget isn't perfect, but I proudly stand in history and cast my vote in the affirmative. Thank you, Mr. Speaker.

ACTING SPEAKER AUBRY: Mr. Pichardo in the affirmative.

Ms. Simon.

MS. SIMON: Thank you, Mr. Speaker, to explain my vote.

ACTING SPEAKER AUBRY: Your mic, Ms. Simon.

MS. SIMON: Yes, I might do that --

ACTING SPEAKER AUBRY: It would be a good idea --

MS. SIMON: -- that would be a good idea, wouldn't it? Thank you --

ACTING SPEAKER AUBRY: Thank you.

MS. SIMON: It's been long day. And it will be longer.

(Laughter)

I want to explain my -- my vote. I will be voting for this bill today, in part because of Raise the Age. It's a great day for

New York, and today New York finally joins 48 other states in treating adolescents as adolescents and not engaging in the fantasy that teenagers are adults. Our Raise the Age bill isn't everything, but it's both -- both responsible and humane. I want to thank Assemblymember Joe Lentol, who sponsored this legislation for the last 12 years, and my Senator, Velmanette Montgomery, who has been leading on this issue for just as long. I also want to thank my all my Assembly colleagues who helped secure its passage. What we do here today is historic. No longer will children be sacrificed to the evils of a soul-crushing Byzantine system dooming them to a life scarred by criminal conviction for what are all too often stupid teenage mistakes.

I support our historic increase in the education budget, although I would have liked, of course, to be able to meet the Campaign for Fiscal Equity mandate. While I am pleased that we're providing \$2.5 billion for affordable housing, I am not happy with 421-a, which will not and cannot provide the benefits that are envisioned. It will not provide more affordable housing, but will cost the taxpayers a bigger bundle than ever before. Similarly, I'm concerned about the ride sharing program because of the lack of disability-related access, which we must work on achieving much sooner than is anticipated in this legislation.

And, finally, I wish that we were able to get Design Build for the Brooklyn-Queens Expressway triple cantilever, which is a critical link in the interstate highway system that is perilously close to falling off a cliff. I hope we will be able to do this in the post

budget. Thank you, and I'll be voting in the affirmative.

ACTING SPEAKER AUBRY: Ms. Simon in the affirmative.

Mr. Mosley.

MR. MOSLEY: Mr. Speaker, thank you for allowing me to explain my vote. There are a multitude of things in this budget that I don't agree with, one being 421-a and the lack of affordability that we all know is pervasive throughout our City. I do agree with the fact that we do need a study to validate what we already know, that is not keeping up with the level of affordability while so many families, children and elderly become homeless on a daily basis.

Obviously, I would have loved to have seen the expansion of the millionaires' tax, in lieu of the fact that we will probably be seeing severe cuts in our Federal funding, it would have been appropriate that we had expanded that provision in an effort to add to our revenue coffers. And last, but certainly not least, Campaign for Fiscal Equity, like so many of my colleagues have so noted, it would be nice to be able to govern from the head as opposed to the tail when it comes to providing the necessary resources and programming and services for our young people, regardless of where they go to school.

But obviously, the big thing, and I think the big beautiful thing about the "Big Ugly," is the passage of this 420 -- of this Raise the Age provision. You know, I know that Kalief Browder and Venida Browder are possibly resting a little bit better today. I

know the Browder family is thinking of them on this day. And, likewise, I know that there are so many Kalief Browders in our City -- in our City and our State, and so many Browder families who have gone through what they've gone through, but are probably having a little bit of a smile on their face, understanding that maybe their story will probably be one of the last stories to ever to be told going forward.

But I want to commend the Speaker, I want to commend our delegation, Assemblymember Aubry, Assemblymember Weinstein, Assemblymember Ramos, Senator Velmanette Montgomery, my dear friend, Assemblymember Lentol, for championing this cause, for I know that ultimately that justice will prevail, and that if we continue to do what we're doing, at the People's House, we'll do more than just be about the People's House, we'll be defending the people we serve. Thank you.

ACTING SPEAKER AUBRY: How do you vote, sir?

MR. MOSLEY: I vote in the affirmative, Mr. Speaker.

ACTING SPEAKER AUBRY: Mr. Mosley in the affirmative.

Mr. Vanel.

MR. VANEL: Thank you, Mr. Speaker, for allowing me to explain my vote. I'm proud to vote and work and fight for this budget that recognizes and stands up for New Yorkers and residents of



the 33rd Assembly District. In this budget, we put families first and communities first. Today is a new day in New York. No longer will children be tried as adults for -- for adult criminal responsibility. Also, it's a new day for sealing of records for people and -- with a look-back of 10 years.

We also are committed to secure -- to securely and adequately funding our public schools throughout the State and throughout the 33rd Assembly District. This budget provides for funding for affordable housing and it goes -- and we put a lot of money and our resources towards supporting housing to address the homelessness problem in New York.

In this budget, we also realize and recognize that New York is place and a State that welcomes and attracts the tech industry. In this budget, we protect and New -- we protected New Yorkers online, also. We avoided the harmful Internet sales tax. In this budget we also made improvements for Workman's Compensation and for small business owners while we protected New York State workers. Finally, in this budget, we support commercial and general aviation. We funded vital -- vital, vital infrastructure improvements for many of our small and larger airports.

I would like to thank the leadership of our Speaker and many of you in this House to pass this budget and recognizing this is a good budget for the people of New York. Thank you, Speaker.

ACTING SPEAKER AUBRY: Mr. Vanel in the affirmative.

Ms. Hyndman.

MS. HYNDMAN: Thank you for allowing me to explain my vote. Some of us have not been home in about two weeks, and haven't seen our families, but our sacrifice pales in comparison to the lives of the young teens, boys and girls, sac -- who have sacrificed, that we weren't able to save. This House, the People's House, under the leadership of our Speaker, who staked his reputation on Raise the Age, and with the able assists from Ambassadors Lentol, Ramos and Weinstein, we have been able to drive the State into the 49th place to no longer prosecute 16- and 17-year-olds as adults. Because as we know, their brains are still forming and at that age, they're not always responsible for the actions they take. I'm sure a lot of us can remember things that we did at that age, and by the grace of God, we're Assemblymembers in the greatest state in the country.

I would also to acknowledge the advocacy of pushing hard for foundation aid. It wasn't all we asked for, it could have been zeroed out by the other side, but this will go a long way in assisting our school districts around the State.

There are other items in this budget that need more work, such as 421-a. I am grateful for ride sharing, especially being in Albany.

And with that, I withdraw my request and vote in the affirmative. Thank you.

ACTING SPEAKER AUBRY: Ms. Hyndman in the affirmative.

Mr. Lavine.

MR. LAVINE: Thank you, Mr. Speaker. As a young public defender, already many years ago, I was assigned to what was then a pioneering unit in the -- with the Legal Aid Society of the City of New York dealing with youngsters from 16 to 18. We received at that time specialized training in how to handle the emotions and the mindset of these youngsters. And I learned very early on that these kids, in and out of the system, are resistant, they're defiant, they're oppositional. And I also learned that they're very, very impressionable. And it never failed to amaze me in the adult criminal courts where these kids were processed, how the more oppositional these kids were, the more they looked up to the toughest adults walking the halls of those courtrooms. That was not a good example to set.

Now, this -- some have offered a false dichotomy here, some have said what we're trying to do here by taking these youngsters out of the -- the adult criminal court system is something that's it's a -- the "Gang Recruitment Act," as someone has referred to it. It's not. It's just the opposite. Anything we could do to take the kids who deserve to be taken out of the adult system, and it is an adult system, and treat them and help, is going to reduce crime. It will do just the opposite of gang recruitment. That's very, very important. I'm very pleased that we are doing this today. It will deter crime.

Finally, there was a comment made and one of my colleagues has spoken briefly on it, and it had to do with the so-called

"Twinkie defense." I think it bears mentioning that the national political figure, a national political hero, Harvey Milk, was a New Yorker. He was from Woodmere, Long Island, he went to Bayshore High School, he went to the University of Albany -- at Albany. He was also a naval officer during the Korean War. And it -- I think it's only fitting that we do reflect on the fact that he was a New Yorker. We are all New Yorkers. What we do today is good for everybody in the State of New York. I'll be casting my vote in the affirmative. Thank you.

ACTING SPEAKER AUBRY: Mr. Lavine in affirmative.

Mr. Thiele.

MR. THIELE: Thank you, Mr. Speaker, to explain my vote. And of the many years I've been here and all the "Big Uglies" I've seen, this is perhaps the biggest and the ugliest of them all. That being said, I am going to vote for this bill. I think it might be somewhat disingenuous for me to vote for all the appropriations bills and send out those press releases about all the great projects that are happening in my district, and then vote against the revenue bill. But there are things that are in this legislation that I do not like, and I just want to be able to, for the record and for my constituents, say that if they had been separate pieces of legislation I would have voted against the ride sharing bill. And it's not because I don't support the concept of ride sharing - I think it's a valuable service - I just don't like the way that this is regulated here. First of all, one size does not fit all.

I don't think that we should have been taking away and preempting local government from having some say, number one. Number two, I don't think we should be treating the taxi and limousine business differently than we should be treating the transportation network business.

And, finally, where I am on the East End of Long Island, I don't think I can justify, or could have justified voting to take away Home Rule on the East End, where in New York City, local regulation or local control is permitted, particularly since so many of the riders -- or I can say, the drivers for Uber on a July and August weekend happen to come from the City of New York and come out for the business on the East End of Long Island. So I would have voted against that. Secondly, I would have also voted, if I had the opportunity, as a separate bill, I would have voted against the -- the shared services proposal that was to be put in the counties, it just makes no sense at all. It is going to be, I think, another unfunded mandates for town -- for counties. I don't think it's going to yield a lot, and I would have voted no on those proposals.

But as a whole, I support the budget and will be voting in the affirmative.

ACTING SPEAKER AUBRY: Mr. Thiele in the affirmative.

Mr. Crespo.

MR. CRESPO: Thank you, Mr. Speaker. It's been an interesting debate all day and listening to some of the commentary,

particularly as it relates to Raise the Age, I can't help but think about the time that I worked as a staffer in the Senate and we were debating the Rockefeller Drug Law reforms, and I remember the discussion then and the cries for justice for so many people who had been victimized by a system that treated them differently, that set them up for failure; that victimized them, as well, criminalized them for life. And -- and it's interesting that only a -- a short few years later, we've been here talking about a different drug epidemic, one that affected a different community, a different demographic. And we no longer talked about it in criminal terms, but, instead, we talked about it as a health care crisis. And I encourage those who may misrepresent what we're trying to do with Raise the Age, to understand that we need to change the way we treat young people; that we need to look at their mistakes as what they are and give them an opportunity at success before we criminalize them for life.

Rikers Island is in my district. You can't get there through the Bronx, but at some point, for the same prejudices that sometimes prevents some -- some of us from understanding one another, somebody felt that, well, let's just put those crime stats in the Bronx somewhere, and that's how Rikers ended up in my district. So be it. And I hope and pray that we get to the day where we close that facility or change it dramatically. But the truth is, that what we -- somebody asked a question earlier, *Are you -- are you worried about the victims?* And -- and we are. And this change in Raise the Age is so that we no longer victimize 16- and 17-year-olds and treat them in

a way they shouldn't be treated and imprison them where they shouldn't be in. Give them an opportunity at success before we say that they are not welcome in society. That's what this is about. To pretend or to present it as something else is simply wrong.

For Kalief Browder, for all those that were victimized, for all those that will be treated fairly, I vote in the affirmative.

ACTING SPEAKER AUBRY: Mr. Crespo in the affirmative.

Mr. Kearns.

MR. KEARNS: Thank you, Mr. Speaker. The other day, I -- I believe it was very profound when Rabbi Butman stated, *There is good in bad, and there in -- and there's bad and good.* And this is what we have with this budget. I am very excited that the drive for Uber, at least in Upstate New York, is over. I do agree with my colleague from Western New York when she says that this program is not finished for our disability community. We're going to have to work on that. That is to me a Civil Rights issue. No longer will we have Buffalo Bills games, Sabres games, the NHL draft, any type of major event -- or convention and they'll say, *Do you have Uber?* We now can say, *Yes, we do have Uber.* I opened up my Uber application while I was sitting here. The bad, of course, is we still do not have a resolve with the Childrens Psychiatric Center, and we will continue to work on that.

And as I was sitting here thinking about all the debate

today, it reminded me of my favorite book, *To Kill a Mockingbird*, when our protagonist, Atticus Finch, says to his daughter, Scott -- Scout, *You never know a man until you stand in his shoes and you walk in them.*

With that, I vote in the affirmative.

ACTING SPEAKER AUBRY: Mr. Kearns in the affirmative.

Mr. Benedetto.

MR. BENEDETTO: Thank you, Mr. Speaker, for allowing me to stand and explain my vote. You know, I often look at the world and I look at -- I classify people sometimes in just two ways, people who look is the glass half-empty, or is the glass half-full. This budget, we can look on and, certainly, we can criticize this as a budget that is half-empty, even though we've got a 421 program that has some merits, it's -- maybe could be improved. And even though we've gotten more money for education, we, quite possibly, can say that we can use more money for education, both K-12 and Higher Ed. And even though we got Raise the Age, many of us think it's not the full package. And I, myself, look upon it in a little disappointment that the City of New York did not get Design-Build, which would have saved the taxpayers of the great City of New York millions of dollars in the building of various projects, in -- in particular the BQE.

But on the whole, we've got a -- a budget here that is basically positive, that's basically good for the people of the State of New York. I'm looking at it as half-full and I will withdraw my



request and proudly vote in the affirmative. Thank you.

ACTING SPEAKER AUBRY: Mr. Benedetto in the affirmative.

Ms. Rosenthal.

MS. ROSENTHAL: Thank you, Mr. Speaker, for allowing me to explain my vote. As many of my colleagues have said already, there's plenty good in this bill and there's plenty bad; however, on the whole we make significant gains in a number of areas, so I'd just like to comment about a couple of them. I know everybody is happy that ride sharing is coming to various localities outside New York City. I must emphasize, though, that Uber, Lyft, every other ride sharing entity that flourishes in New York State must also commit to a zero tolerance policy for sexual harassment. It must achieve gender and racial balance, and it must treat seriously the complaints that mostly women have made in the tech industry, or particularly in these ride sharing companies that their complaints are ignored, their sexual harassment tales are -- are wiped away. So, we must make sure these companies create an atmosphere of tolerance inside their companies.

Secondly, Raise the Age is historic. I am so proud to be part of this Assembly that is voting for it and is making it happen. I'd love to thank Assemblymembers Aubry, Lentol, Ramos, Weinstein and, of course, our Speaker, Carl Heastie, for ensuring that this was in the final bill and demanding that it be paid attention to and that it end up in our New York State Law.

Thirdly, 421-a, a giant giveaway. Developers are salivating as we vote; however, in 2019 which is a short two years from now, we are going to be back with a fierce determination to succeed on behalf of the more than one million rent-stabilized, rent-controlled tenants. There's vacancy decontrol preferential rent MCI, landlord harassment; there is a host of things that we will fight and enshrine into law if -- if we can, if we try hard to overcome the influence of campaign contributions and greed to protect tenants in 2019.

ACTING SPEAKER AUBRY: Ms. Rosenthal, how do you vote?

MS. ROSENTHAL: I vote in the affirmative.

ACTING SPEAKER AUBRY: Ms. Rosenthal in the affirmative.

Ms. Davila.

MS. DAVILA: Thank you, Mr. Speaker, for allowing me to explain my vote. First, I would like to thank Speaker Carl Heastie. I think he's a great champion. We got through 21 days of a lot of work. But I just want to reiterate what everyone else has been saying. There's a lot of good in -- in the "Big Ugly" as we're voting today, in particular 421-a, as Assemblywoman Rosenthal was saying. But, I just want to say thank you to all my colleagues because you're giving my grandchildren and my great-grandchildren after that the opportunity to get a second chance. And, to me, that's more important than a lot of things. We're going to see a lot of successful

young people because we made a decision, and that decision was the right one to make. So, for that I want to thank all my colleagues and for that, I am in the affirmative.

ACTING SPEAKER AUBRY: Ms. Davila in the affirmative.

Ms. Dickens.

MS. DICKENS: Thank you, Mr. Speaker, for allowing me the opportunity to explain my vote. As a freshman, this is my first New York State Budget. Big ugly, small ugly, ugly, ugly, this has been an experience. I say thank you to Speaker Carl Heastie, to this leadership, to my colleagues and, most important, to this entire staff for the work that you have done throughout this entire process. And although this is not a perfect budget, it does provide direct care workers will receive fair and competitive wages. There's also a six-year plan to increase investment in public defense. There's \$1 billion for new supportive housing and \$200 million for NYCHA repairs, as well as \$75 million for the perseverance of Mitchell-Lama housing. And, of course, I cannot reiterate more than any of my colleagues the importance of Raise the Age. I say thank you to all of you and I vote in the affirmative. Thank you.

ACTING SPEAKER AUBRY: Ms. Dickens in the affirmative.

Ms. Bichotte to close.

Are there any other votes? Announce the results.

(The Clerk announced the results.)

The bill is passed.

(Applause)

Mr. Morelle.

MR. MORELLE: Yes, Mr. Speaker, thank you.

Colleagues, we have one more bill to do. We are waiting for its introduction and -- excuse me, once its introduction has been confirmed, we will be calling Ways and Means and Rules. We will produce a B-Calendar which we will take up directly. So, I just ask that the House stand at -- at ease until the introduction of that bill and the calling of the Committees.

ACTING SPEAKER AUBRY: The House will stand at ease.

(Whereupon, the House stood at ease.)

The House will come to order.

Mr. Morelle.

MR. MORELLE: Yes, Mr. Speaker, I misspoke just a few minutes ago. We actually -- members have on their desks an A-Calendar. I now move to advance the A-Calendar.

ACTING SPEAKER AUBRY: On Mr. Morelle's motion, the A-Calendar is advanced.

Mr. Morelle.

MR. MORELLE: Yes, I'd like to go immediately to Rules Report No. 45 on the A-Calendar, a budget bill.

ACTING SPEAKER AUBRY: The Clerk will read.

THE CLERK: Assembly No. 3000-D, Rules Report

No. 5, Budget Bill. An act to make appropriations for the support of government (State Operations Budget).

ACTING SPEAKER AUBRY: Governor's Message is at the desk. The Clerk will read.

THE CLERK: I hereby certify to an immediate vote, Andrew M. Cuomo, Governor.

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

MR. FARRELL: Thank you, Mr. Speaker. This bill will enact the State Operation bill for State Fiscal Year 2017-2018 and includes an All Funds appropriation of \$41 billion. This bill will also enact the Aid to Localities Budget for education and includes an All Funds appropriation of \$61 billion. This bill contains payments of salaries and compensation for State employees operational costs such as miscellaneous contractual obligations, supplies and materials, travel, rentals and repairs, utilities, postage and shipping, printing and telephone, CUNY, senior -- senior colleges, SUNY operations cost mandated by statute, collective bargaining agreements or court order and other obligated State expenses. The bill also obtains -- contains payments to school districts of a new \$995 million investment in education which provides \$700 million in foundation aid, \$150 million in support of community schools and sets forth a plan to consolidate all pre-kindergarten programs. Thank you, Mr. Speaker.

ACTING SPEAKER AUBRY: Mr. Oaks.

MR. OAKS: Thank you, Mr. Speaker, if Chairman

Farrell would yield?

MR. FARRELL: Yes, I will.

ACTING SPEAKER AUBRY: Mr. Farrell will yield.

MR. OAKS: Mr. Farrell, thank you for the information on how much this bill appropriates both for State operations and the education funding. Now that we have this, the last in the different bills for this budget if you might provide us with some of the overall information of where we stand as we prepare to complete the budget. How much are we spending in All funds, as well as the State Operating Funds, State funds?

MR. FARRELL: All right. In All Funds, we're doing \$163 billion, that's the All Funds; the All Funds adjusted is \$153 billion.

MR. OAKS: And if you compare that \$153.2- to last year, do we have a final number of how much we're spending above last year?

MR. FARRELL: Yes, we -- All Funds adjusted was \$152- and now it's \$153.329- which the --

MR. OAKS: That's compared to the Governor's?

MR. FARRELL: No that's; yes, you're right. It's \$147-.

MR. OAKS: \$147-.

MR. FARRELL: \$153- to \$147-, Executive's estimate for 2016-2017.

MR. OAKS: You didn't give me the number on the

State Operating Funds; do we have that number?

MR. FARRELL: Yes. That is \$100-and -- State Operating Funds, \$98 billion and the estimated for 2016-'17 is \$96.200-, which is exactly growth of 2 percent.

MR. OAKS: So it stays within the Governor's --

MR. FARRELL: That is correct.

MR. OAKS: -- target area percent?

MR. FARRELL: That's correct.

MR. OAKS: And if I might just go to debt, how much debt outstanding do we have with the -- the passage of this complete budget?

MR. FARRELL: \$53.5 billion.

MR. OAKS: And are we under the debt cap and by how much, and do you have some of those numbers for the out years?

MR. FARRELL: The remaining capacity for 2018 is \$3.961 billion, for 2019 is \$2.067 billion, and for 2020, \$694 million and for 2021, \$320 million and then in 2022 it starts back up to \$893 million.

MR. OAKS: This maybe putting pressure as we go forward as we get closer to those bond caps. For the -- the total receipts, do you have what the State can anticipate in All Funds and General Funds?

MR. FARRELL: Ask me the question again.

MR. OAKS: The receipts.

MR. FARRELL: The receipts. \$71.281 billion for

General Funds and \$97.671 billion for State Operating Funds, \$106.206 billion for State Funds and All Funds, \$160.608 billion.

MR. OAKS: Any change to the Reserve Funds from what numbers you'd given me earlier?

MR. FARRELL: No, it hasn't.

MR. OAKS: Or anything in change of capital spending, we stay within the numbers you previously provided?

MR. FARRELL: Yeah, we're right -- we're there, same place.

MR. OAKS: Thank you very much, Mr. Farrell and in the interest of time, I'm going to leave it at that and thank you very much.

MR. FARRELL: Thank you very much, Bob.

ACTING SPEAKER AUBRY: Mr. DiPietro.

MR. DIPIETRO: Would the Chairman yield -- would the speaker yield for a second?

MR. FARRELL: Yes, I will.

ACTING SPEAKER AUBRY: Mr. Farrell yields.

MR. DIPIETRO: Thanks, Denny. This -- is this the budget that has \$3.2 million for the SAFE Act in it?

MR. FARRELL: Say that again.

MR. DIPIETRO: Does this have the \$3.2 million for the SAFE Act funding --

MR. FARRELL: You reminded me, I didn't turn on my hearing aids.



MR. DIPIETRO: -- this bill. It's been an extremely long 34 hours straight for --

(Laughter)

MR. FARRELL: Yes.

MR. DIPIETRO: Okay. Sorry, 34 hours straight gets a little fuzzy. A couple years ago, I'd asked you a question about the \$3.2- and at the time, there were approximately, I'm going to say 12 if my memory serves me, 12 new positions under DCS -- or DCJS or DJS, whatever it is, for the State Police and that you mentioned that they -- they answered to the Governor and I then I'd asked you if you know what their positions were or what they did, and at the time you didn't, then I asked last year and I still haven't heard. Do you know if that funding is still in there for those positions?

MR. FARRELL: Yes.

MR. DIPIETRO: Do you know what those officers or what those people do that are directly answering to the Governor on enforcement of the SAFE Act?

MR. FARRELL: Let's see, yes, I think I can. Let's see -- it contains \$3.2 million for the implementation of the SAFE Act and \$1.8 million in Division of State Police for 27 FTEs; \$324,000 in the Division of Criminal Justice Services, 12 FTEs; and \$1.1 million in the Office of Information Technology Services of one-six, or 16, FTEs. And we don't know their actual positions other than that.

MR. DIPIETRO: So after four years we still don't know what these 12 or 16 people do that answer only to the Governor,

right, is -- is that true? We don't know what they do after four years, we still don't know what their job description is, what they're doing, but they only answer to the Governor. They're a special police force agency only answering to the Governor for enforcement of the SAFE Act and four years later, we still don't know what they do.

MR. FARRELL: That's true.

MR. DIPIETRO: Do you find a little disturbing?

MR. FARRELL: No.

MR. DIPIETRO: You don't?

MR. FARRELL: There are some things I don't want to know.

(Laughter)

MR. DIPIETRO: Well, I guess I'm a little different, Denny. Thank you.

MR. FARRELL: You're welcome.

MR. DIPIETRO: On the bill, Mr. Speaker.

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

MR. DIPIETRO: I find this extremely agitating that after four years we still don't know what these officers are doing that only answer to the Governor. This goes back to 1944, 1942 and 1941 in Nazi Germany where certain officers and people had different ideas about what they did. I would like to know and I have asked for four years now, four years, what these people do that only answer to the Governor. And I still can't get an answer. I find that very disturbing

in this day and age in New York State that we can't know what these people do that we have the funding for that are in the budget, but we cannot ask the Governor what they specifically do and why they only answer to him. Extremely, extremely -- that -- for everyone in here not just for me, it's not a gun issue. This is very disturbing. There are -- there are special people that only answer to the Governor that he has control of and that we don't know what they do. To me that's very, very, very disturbing. Thank you.

ACTING SPEAKER AUBRY: Thank you, sir.

Mr. Ra.

MR. RA: Will the Chairman -- thank you, Mr.

Speaker, will the Chairman yield for one quick question?

MR. FARRELL: Yes, I will.

ACTING SPEAKER AUBRY: Mr. Farrell yields.

MR. RA: In the area that looks like it's for bullet aid and it looks like it's directed for -- for the Senate, there's a \$40 million appropriation; do we know what's that going to be used for?

MR. FARRELL: No, it was a re -- request of the Senate.

MR. RA: Okay. I've heard some suggestions, it may be additional charter school funding; we don't know for sure?

MR. FARRELL: No.

MR. RA: Okay. Thank you, Denny.

On the bill.

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

MR. RA: Just quickly on the education side of this. You know, there's been some talk about doing some additional aid for charter schools and having them get the same percentage increases and I would have been remiss if I let this budget process go by without talking about something that's very important to me and I know several of my colleagues, and that's getting to the place that we give those percentage increases to some of the schools that address and help our special needs population, our 853 schools, 4410 pre-school programs and our 4201 schools. So, some of those get decided outside the budget process, but I just wanted to state my support that hopefully working together, we can get to that point to make sure those students experience those same increases we give to our public school system. Thank you, Mr. Speaker.

ACTING SPEAKER AUBRY: Thank you, sir.

Read the last section.

(Applause)

THE CLERK: This act shall take effect immediately.

ACTING SPEAKER AUBRY: The Clerk will record the vote.

(The Clerk recorded the vote.)

Mr. Skoufis to explain his vote.

MR. SKOUFIS: Thank you, Mr. Speaker. You know, I just want to say we can all have our policy differences here and that's to be expected, but what's disturbing to me is that there be any comparison of this State or its employees to Nazi Germany. I vote

yes. Thank you.

ACTING SPEAKER AUBRY: Mr. Skoufis in the affirmative.

Are there any other votes? Announce the results.

(The Clerk announced the results.)

The bill is passed.

(Applause)

Mr. Morelle.

MR. MORELLE: Yes, Mr. Speaker. The Speaker and Mr. Kolb have decided we'll put off our traditional goodbyes until -- and thank you's until June, but I do want to just quickly thank Denny, thank the Republican leadership, thank our amazing staff and especially thank the Speaker of the New York State Assembly.

(Applause)

ACTING SPEAKER AUBRY: Here, here.

(Applause)

MR. MORELLE: And with that, Mr. Speaker, I now move that the Assembly stand adjourned until April 10th, Monday being a legislative day, and that we reconvene April 24th at 2:00 p.m., that Monday is a Session day. Happy Passover, Happy Easter.

ACTING SPEAKER AUBRY: The Assembly stands adjourned.

(Whereupon, at 5:13 p.m., the Assembly stood adjourned until Monday, April 10th, Monday being a legislative day, and to reconvene on Monday, April 24th at 2:00 p.m., Monday being a

Session day.)

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