

THURSDAY, DECEMBER 22, 2022

12:55 P.M.

ACTING SPEAKER AUBRY: The House will come to order.

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

(Whereupon, a moment of silence was observed.)

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

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

A quorum being present, the Clerk will read the Journal of Wednesday, December 21st.

Mrs. Peoples-Stokes.

MRS. PEOPLES-STOKES: Mr. Speaker, I move to dispense with the further reading of the Journal of Wednesday, December the 21st and ask that the same stand approved.

ACTING SPEAKER AUBRY: Without objection, so ordered.

Mrs. Peoples-Stokes.

MRS. PEOPLES-STOKES: Thank you, Mr. Speaker. Colleagues that are in the Chambers, it's good to see everybody back. I would again like to start with a quote. This one today, Mr. Speaker, comes from Dave Chappelle. He's an American stand-up comedian and an actor. His words for us today: *The hardest thing to do is to be true to yourself. Especially when everybody's watching.*

Mr. Speaker, colleagues, our schedule for the day is very brief. Members have on their desks a one-bill A-Calendar. Mr. Speaker, I now ask that you would advance that Calendar.

ACTING SPEAKER AUBRY: On Mrs. Peoples-Stokes' motion, the A-Calendar is advanced.

Mrs. Peoples-Stokes.

MRS. PEOPLES-STOKES: Mr. Speaker, our principal today will be from this A-Calendar. Members are reminded, particularly those who were here after COVID that everyone has to be back in the Chambers. If you want to speak you have to be in the Chambers. If you want to explain your vote you have to be in the Chambers. And if you want to vote you have to be in the Chambers,

without exceptions. Additionally, I would ask members to be aware that when a vote is coming up we should really stay in and around the Chambers as opposed to moving back to the LOB for -- for any reason.

Mr. Speaker, that's the general outline of where we're going today. If there are any housekeeping or introductions that you have, now would be an appropriate time. Thank you, sir.

ACTING SPEAKER AUBRY: No housekeeping, no introduction, Mrs. Peoples-Stokes, other than to tell you Happy Birthday.

MRS. PEOPLES-STOKES: Oh, thank you.

(Applause)

Thank you, Mr. Speaker and colleagues. It's the same day every year and I am grateful for the opportunity to still be here in the land of the living.

ACTING SPEAKER AUBRY: On the A-Calendar, page 3, Rules Report No. 774, the Clerk will read.

THE CLERK: Assembly No. A10730, Rules Report No. 774, Committee on Rules, Mr. Heastie. An act to amend the Legislative Law, in relation to compensation of members.

ACTING SPEAKER AUBRY: There is an amendment at the desk.

Mr. Ra to briefly explain the amendment while the Chair examines it.

MR. RA: Thank you, Mr. Speaker. As we know, the

bill-in-chief amends the Legislative Law regarding an increase in the annual salary for each member of the Legislature from \$110,000 to \$142,000, effective January 1st, 2023 and sets a limit on outside income for members of the Legislature effective January 1st, 2025. The limit on outside income provides that a member of the Legislature receiving a salary for legislative work from the State shall be permitted to earn outside income each year for fee-for-service activities and compensated outside activities approved under the permanent Joints Rules of the Senate and Assembly in an amount totaling no greater than the earning limitations for retired persons in positions of public service allowed under Section 212 of the Retirement and Social Security Law. This outside income limit is currently set at \$35,000 for the year 2 -- 2020 and thereafter in compliance with the limit on outside earned income shall be conditioned to receiving a salary for the legislative activities from the State and if voting as a member of the Legislature. This amendment will add to this bill-in-chief by requiring a public referendum in the November immediately following the passage of the bill-in-chief. This would allow the voters of New York State to have a direct say in whether the pay raise and outside income cap including -- included in this bill-in-chief is warranted.

ACTING SPEAKER AUBRY: Mr. Ra, we have examined your amendment and found it not germane to the bill before the House. You may appeal the decision of the House, Mr. Ra.

MR. RA: Yes, I would like to appeal the decision of

the Chair.

ACTING SPEAKER AUBRY: Mr. Ra appeals the decision of the Chair. The question before the House is shall -- you have an opportunity to explain it.

MR. RA: Yes. So, the bill-in-chief, as I said, relates to the compensation and sets a limit on outside earned income of members of the Senate and Assembly. I believe the amendment is germane because it adds to the pay raise the requirement for a majority vote by the electorate of New York State. The very same voters whose taxes fund the salaries of public officials, including those of the New York State Assembly and Senate. And members of this legislative Body, all of us, who are returning in January or seek -- sought to return in January recently participated in a general election whereby the issues important to New Yorkers were on full display. Now the first official act of this Legislature after Election Day is to increase the salary by 29 percent. The Legislature was not called back to address the State gas tax moratorium that ends in less than two weeks, tackle crime and inflation, but rather enact a pay raise. This amendment being offered is merely an attempt to increase transparency and defer to the will of the voters with respect -- with respect to the salaries that the State legislators receive.

Thank you, Mr. Speaker.

ACTING SPEAKER AUBRY: Mr. Ra appeals the decision of the Chair. The question before the House is shall the decision of the Chair stand as the judgment of the House. Those

voting yes vote to sustain the ruling of the Chair. Those voting no vote to override the decision of the Chair.

The Clerk will record the vote.

(The Clerk recorded the vote.)

Mrs. Peoples-Stokes.

MRS. PEOPLES-STOKES: Mr. Speaker, I'd like to take this opportunity to remind our colleagues that the question before the House again is procedural, and I want to urge colleagues to vote yes to sustain your ruling, Mr. Chairman.

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

(The Clerk announced the results.)

The ruling of the Chair is sustained.

On the bill.

An explanation is requested, Ms. Weinstein.

MS. WEINSTEIN: Thank you, Mr. Speaker. Well, to build on Assemblyman Ra's explanation of the bill or just to reiterate, this bill would increase the base salary for elected members of the State Legislature effective January 1, 2023 from the current rate of \$110,000 annually to a new rate of \$142,000 annually. The bill would also for the first time enact a limitation on income earned outside of the scope of legislative duties effective January 1st, 2025. And under this bill, as in current practice, outside income would be vetted by Legislative -- Legislative Ethics Commission and would be reported to the public on an annual basis. The bill would make willful

and intentional violations of outside income limitations subject to civil penalties under the Public Officers Law, and the provisions of this bill would result in a new \$6.8 million in State spending on an annual basis and 1.8 million in the last quarter of the current fiscal year.

ACTING SPEAKER AUBRY: Mr. Ra.

MR. RA: Thank you, Mr. Speaker. Would Chair Weinstein yield?

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

(Inaudible)

MR. RA: Thank you. So, you -- I think you stated my first two questions in terms of the fiscal -- annual fiscal impact of this change as well as the one for the remainder of this fiscal year. But just for my colleagues, again, you know, the current 2022-'23 Legislature and Judiciary budget was -- was \$264.1 million, and out of that 23.4 million was appropriated for the base salaries of the members of the Legislature. If you're trying to do the math that's 213 members between the two Houses times 110,000, so you stated the -- the annual increase needed will be about \$6.8 million and \$1.8 million to get us through the end of this fiscal year. So I'll start there. Does the current 2022-'23 Legislature and Judiciary budget have sufficient appropriation authority to support that additional cost?

MS. WEINSTEIN: Yes, we do.

MR. RA: Okay. So we will have no need for any type of deficiency bill or amendment to that, correct?

MS. WEINSTEIN: Correct.

MR. RA: Okay. Do we have any anticipation as to what the total funding level for the Legislative budget for the next fiscal year would be, or a percentage increase?

MS. WEINSTEIN: At the moment the only anticipated increase is the \$6.8 million that I mentioned previously.

MR. RA: Okay. And assuming this bill becomes law it would represent about a 78.6 increase in salary for members of the Legislature since 2018, which is just four years ago. So, how did we get this number and why the -- why the need for this large an increase?

MS. WEINSTEIN: So as you may recall and I think a lot of the members here recall, there was the Legislative Pay Commission that report was issued in 2018 that established the salary at 110,000. It was in their report, they recommended then that we go to 120,000 in 2020 and in 2022 that we were -- we would be at 130,000. And as you're aware, those -- through court actions those -- there only -- the first increase was allowed of 110,000, so what -- what we have done is we look at what the Commission's recommendation was for 2022 of 130,000 and then adjust that number for 2023 for inflation and come -- come to the conclusion of 142,000 going forward starting in 2023.

MR. RA: Okay. Do we -- do you know of any other industries that have provided nearly 80 percent salary increases to workers over the last four years?

MS. WEINSTEIN: That, I am not aware. I am aware that when the 110,000 was established in 20 -- was recommended and then established starting in 2019 it was the first pay raise in 20 years.

MR. RA: And do you know what the average increase, or percent increase I should say, in recent years is for our State workforce?

MS. WEINSTEIN: I -- I -- I don't have the exact numbers for previous years but, you know, again, I think we have to look at that 110- was the jump for the 20 years of no salary increase in -- in -- for the State legislators.

MR. RA: Okay. Do you know -- since, you know, this does come out of this same budget, you know, the Legislature and Judiciary budget, do you know the average percentage increase of employees that work for the Legislature over the last four years has been?

MS. WEINSTEIN: That -- that I do not know. We can calculate that. As -- as you know, that's not a -- the -- the salary for legislative workers is not set in -- in law. It's discretionary amongst members and the appointing authorities.

MR. RA: Okay. And as you're aware, you know, one of the pieces of this is this outside income cap. You know, we're looking at this number of \$35,000 per year. Do we have any data that would indicate how many employees of this Legislature make under \$35,000 a year?

MS. WEINSTEIN: Employees of the Legislature?

MR. RA: Yes.

MS. WEINSTEIN: No, I don't have those -- those numbers. I'm -- I'm sure we can get that for you at a later date.

MR. RA: Okay. Just for -- for my colleagues, according to the U.S. Bureau of Labor Statistics, from December 2020 to December 2021 wages and salaries rose 4.6 percent in the New York-Newark metropolitan area. That growth in pay for workers actually represents the largest 12-month increase any time in the last five years, and if we were to use that increase as an annual average since 2019, that would equal a total increase in pay of 18.4 percent. The legislation we are looking at today provides for a 29 percent increase over that same time period.

I want to ask about the outside income provisions and in particular the referencing to Section 212 of the Retirement and Social Security Law, which is the number that will be utilized to determine the outside income cap. Is there a specific reason why we are using that provision of the law to -- to set the cap?

MS. WEINSTEIN: That -- that was an option that we had versus the percentage and it seemed to make sense that this -- that is the amount that someone who is a retiree can earn outside of their pension.

MR. RA: Okay. And -- and lastly, as this was being discussed, was there any thought given to providing inflation relief to the residents at-large of New York State? We've had discussions in the past and there's proposals out there for extending the gas tax

exemption that's been in effect since the middle of the year, increasing the State's Earned Income Tax Credit, providing child care tax credits or additional property tax relief and energy cost relief as part of this special Session that we're holding today?

MS. WEINSTEIN: Not as part of today's Session which is this one bill, but I would just recall for members that we have in fact in this year's current budget insti -- adopted many constituent relief that is included; acceleration of the middle-class tax cut, real property tax rebate checks, the gas holiday, as you mentioned, through the end of this year, supplemental Earned Income Tax Credit, child tax credit, additional funding for ERAP and LRAP and new funding for utility arrears. And I would just mention in terms of the gas tax, when we enacted the budget for regular gas it was priced at \$4.16. When we implemented that gas tax relief that was in June, the price of a regular gallon of gas was \$4.86, and today as I noticed coming up and stopping on the Thruway, the regular gas is \$3.44 a gallon. So there has been a dramatic decrease in the -- in the price of gas, but certainly these are issues that in the coming budget we'll have opportunities to discuss further.

MR. RA: And -- and I hope we will. Thank you, Madam Chair.

Mr. Speaker, on the bill.

ACTING SPEAKER AUBRY: On the bill, sir.

MR. RA: So, really I'll be -- I'll be brief with this because I know many other colleagues will be raising a lot of the same

points. You know, I look at this -- I -- I generally, you know, understand people wanting to, you know, be paid more, people wanting to deal with increases in costs. But as I said earlier on the amendment, we just came off of an election. And like many people in this room I was out at street fairs and knocking on doors and seeing constituents at -- at all kinds of events and participating in candidate's forums, and there were a lot of consistent themes. People were very concerned about crime. They were saying, *You guys need to do something about crime*. And many on this side of the aisle said and -- and elected officials, major elected officials on the Democratic side of the aisle -- not in this House, but, you know, representing New York City -- said, *Hey, the Legislature ought to have a special Session and deal with this issue*. Nothing came of that. We had constituents asking us about their costs going up, inflation and the inflation we've been dealing with for the last several years that is causing people to make very difficult decisions. The things even that they're used to buying for everyday essentials that they can't afford anymore at the grocery store. We're in the midst of winter now. People struggling with the massive increase in costs of fuel. These were the things that our constituents were discussing this fall and I heard about them constantly. I never had a single constituent say to me, *If you get reelected, what I really would like you to do is go give yourself a 29 percent pay increase*. Never heard that. So I think that as we consider this today -- and, you know, we did some good things in the budget this year, no question, to help New Yorkers. But New Yorkers

are still struggling. And I think it sends a very bad message about our priorities when we couldn't come together to address crime, and the first time we are reconvening as a Legislature after an election -- and look, I get it. On the other side of the aisle, you know, we still are going to be in a state that is run by a single party. But if you go look at the percentages of vote and you go look at the results of this election you're going -- you're going to see a couple of things: When we gavel in in January there's going to be more people on this side of the aisle than there are right now. If you went and looked percentage vote I believe every single county in this State, the percentage of vote for the Republican side of the aisle went up. There were some really close elections. But people have expressed their concerns with these issues, and today's Session is not addressing those issues. So I hope that as we get into a new Session and, you know, a brand-new term for the Legislature, a brand-new term for our Statewide elected officials, that we keep in mind those issues and we do something to address the crime. We continue to provide relief to New Yorkers who even though inflation has come down a little bit and gas prices have come down, they are still struggling. We are hearing it in our offices each and every day. So let's make sure that we are taking care of the needs of everyday New Yorkers much more so than we are taking care of ourselves.

Mr. Speaker, I'll be casting my vote in the negative and I thank the Chair for her time.

ACTING SPEAKER AUBRY: Mr. Goodell.

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

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

MS. WEINSTEIN: Yes.

ACTING SPEAKER AUBRY: Ms. Weinstein yields, sir.

MR. GOODELL: Thank you, Ms. Weinstein. I -- I thought it would be helpful at the beginning of some of this debate to better understand how this legislation would actually operate in practice as it relates to the limitation of outside income. As currently written, in two years the maximum amount a legislator could earn outside -- in outside income would be limited to what's specified in Section 212 of the Retirement Law which currently is 35,000. That works -- that's easy to understand if you have a government job or you're on a salary. But I hope you can explain how that works for the rest of the world where you're in private-sector business or a private-sector professional. So just as an example: As amazing as it might sound, sometimes when I bill my clients don't always pay right away. Is this \$35,000 cap based on an accrual basis in terms of what I've billed, or on a cash basis based on what I'm actually paid?

MS. WEINSTEIN: So, it is based on when the income is earned, so on the accrual.

MR. GOODELL: So even though I don't actually get any of that money I might break the income threshold and lose my

right to vote?

MS. WEINSTEIN: Yes. If you report that -- if that income is reported on your disclosure form (inaudible).

MR. GOODELL: Well, I don't report income for IRS purposes. I don't report income for IRS purposes on an accrual basis. That is an option, of course, for some businesses. Not the option I use, I report it on a cash basis. So if I report on my income tax return that I earned only 30,000 do I trigger that even though I may have been --

MS. WEINSTEIN: Circumstances would be on the cash basis if that's what you -- how you report it then it would be on the cash basis.

MR. GOODELL: Okay. From time to time I'll have a large case. It might actually exceed 35,000 in terms of let's say a personal injury case where a lawyer typically might get 30 percent -- 25 percent to 33 percent, right, one-third. So you're saying I should turn down all large personal injury cases because if I'm successful for my client I would not be able to vote as a legislator? Is that what this bill says?

MS. WEINSTEIN: Yes. You know, I would just note that the recommendation from the Commission in 2018 would have barred attorneys from being able to practice and still serve as a member of the Legislature. So this is a -- a just -- a more generous provision, understanding that we want to have a diverse group of legislators with diverse backgrounds.

MR. GOODELL: We want diverse backgrounds just as long as they're not very successful; is that correct? We don't want them more than 35,000 in successful business, right?

MS. WEINSTEIN: The -- well, if you're talking about a business, the business can be more successful if the member of the Legislature isn't the -- directly involved in -- in the operations of that business and generating income.

MR. GOODELL: So, as -- as you can appreciate, all of us who are in the private sector, our gross revenue is very different than our net revenue. You may run a business, right, and you may have a million dollars in sales and depending on the cost of your supplies and everything else, you might net 35,000, 34,000 --

MS. WEINSTEIN: Right. It is -- it is --

MR. GOODELL: Is this based on the net, not gross.

MS. WEINSTEIN: Correct. Based on the net income.

MR. GOODELL: Many individuals in private practice and businesses all over have deferred comp, and we take a portion of our income and we defer it. We don't receive it until later in life as part of a retirement plan. Is deferred comp included in calculating this 35,000?

MS. WEINSTEIN: No.

MR. GOODELL: So -- so I -- using my first example, I have a legal fee of 100,000, I'm a sole proprietor, can I just say -- or maybe I'm in an LLC, that would make LLP -- so I can just

say, *Oh, wait, take 65,000 and put it in a deferred comp.* That's okay, then? I can still continue to vote?

MS. WEINSTEIN: If the deferred comp is an IRS-approved program, because deferred comp is excluded but the income -- income from -- from deferred comp is one of the exclusions in terms of even though it's taxable when it's withdrawn it is not taxable -- it doesn't count towards income.

MR. GOODELL: Now, this provision has a remarkable provision because it says that if anyone in this Legislature who has an outside employment, a private business or anything like that, should be too successful -- by that I mean over 35,000 -- we lose the right to vote. We lose that right to vote the instant we make \$35,001. One dollar more and we lose the right to vote.

MS. WEINSTEIN: The -- the -- going over the 35,000 is (inaudible) once it's determined the complaint would go to the -- the new JCOPE organ -- and then if it was found that you did in fact earn over the 35,000 it would come back to the Legislative Ethics Committee. There would be -- could be a penalty assessed, and then yes, there -- you would not be able to -- the penalty is for knowingly and intentionally violating the cap which our -- the current standard for an ethics violation.

MR. GOODELL: And then would we ignore all votes taken from the moment you earned more than 35,000? We just wipe those off the slate or is it a loss of voting privileges prospective after that process has been completed?

MS. WEINSTEIN: It probably would be -- would be prospective as part of the penalty. There would be a set time that that would take effect.

MR. GOODELL: Now, you said the first step in that process would be a referral over to the new JCOPE successor --

MS. WEINSTEIN: The Commission on Ethics and Lobbying in Government.

MR. GOODELL: And that's an organization that now currently has nine Democratic political appointees and only two Republican political appointees; is that correct?

MS. WEINSTEIN: I -- I believe so.

MR. GOODELL: So the Republicans here are going to take great comfort knowing that nine out of 11 members of this Committee are Democrat political appointees reviewing whether or not we were too successful and therefore can't vote on legislation; is that correct?

MS. WEINSTEIN: You know, income is -- the one thing with numbers is if you filed a tax return you have income that's come in. That's something that's not Democrat or Republican.

MR. GOODELL: Now, let's say by mistake I'm too successful in one year and it turns out, you know, I made 36,000. Can I restore my voting privileges by refunding 1,000?

MS. WEINSTEIN: Under -- under the penalty provision, not only is there the civil penalty of the 40,000, then there's also the forfeiture of the amount over. Once that's completed then you

-- once that process is completed then you're a sitting member.

MR. GOODELL: Ah. So if by chance I'm too successful the State will seize all my money, 100 percent tax on excess earnings and then I can vote. And in the meantime no one in my -- my Assembly District has a voice here on the floor of the Assembly; is that right?

MS. WEINSTEIN: You know, this is -- this is not a new concept.

MR. GOODELL: It's an outrageous concept and it's never been done here, right --

MS. WEINSTEIN: It -- it's not a new concept that --

MR. GOODELL: Has this concept ever been applied in the State of New York in any municipality in the State of New York?

MS. WEINSTEIN: Yes. In New York City there is an absolute ban on outside income.

MR. GOODELL: One more reason I'm so delighted I live from the furthest you can be from New York City and still be in the State. One more reason, but thank you.

MS. WEINSTEIN: I'm not aware if there are other municipalities or jurisdictions that have such a policy. And on the national level, as Mr. Lawler I'm sure is now aware, there is a 15 percent cap on outside income.

MR. GOODELL: But certainly for this State Legislature.

MS. WEINSTEIN: For this State Legislature --

MR. GOODELL: It's never been done before.

MS. WEINSTEIN: This is --

MR. GOODELL: Now, am I correct --

MS. WEINSTEIN: It's not been done -- no, this -- as I said earlier -- I'm sorry, Mr. Goodell.

MR. GOODELL: Thank you.

MS. WEINSTEIN: This -- this was the recommendation of the bipartisan commission.

MR. GOODELL: Yes, it was a recommendation that the court threw out as exceeding their authority.

But moving on, if I may. So if we implement this cap or this limitation on being a successful business owner, am I correct, then, what would it effectively do is eliminate the ability of any successful farmer in the State of New York from serving as an Assemblymember unless they sold the farm? They'd have to sell the family farm in order to serve as a member of this Assembly; is that correct?

MS. WEINSTEIN: No.

MR. GOODELL: So, oh, what, they just stop farming it? Because if they make more than 35,000 on their family farm they wouldn't be able to vote. And if they couldn't vote, none of their constituents would have any representation. So you're saying they either sell the family farm or transfer it or put it out of business in order to sit on the floor of this Legislature; is that correct?

MS. WEINSTEIN: Well, I mean, that person can -- first of all, if there are other family members who may really start to have a more active role in the business and that person can withdraw, then that is okay. They can run for a different office. This does -- this provision deliberately does not take place until 2025 so that there is ample time for candidates to assess whether to run or not. And I would say also, we're talking about 35,000 but in -- in reality if you're looking at the members of the Legislature, currently the salary is 110,000. We're having a \$32,000 increase, so it's really \$67,000 more than today that someone would be --

MR. GOODELL: All right, but the bottom line is this: You would be ineligible to serve on the floor of this Assembly. Let's list the reasons. One, you're a felon in prison. Two, you own a family farm that makes more than 35,000 that you're actively involved in. Number three, you successfully own a pharmacy. Number four, you run a successful insurance agency. Number five, you're a successful doctor, lawyer, accountant, pharmacist, someone that takes -- veterinarian. We're saying as a Legislature that none of those people are qualified to serve on the floor of this Legislature unless they're willing to sell the family farm, sell their pharmacy, sell their insurance agency or shut down their successful business or sell it. Am I correct? That's what this says.

MS. WEINSTEIN: The limit on outside income is \$35,000 starting in 2025. So candidates either running for -- members running for reelection or someone considering running for the

Assembly or for the Senate would have to abide by those guidelines.

MR. GOODELL: Now, if -- if you were so unfortunate as to have a successful business and you ran for the floor of the Assembly and you were elected overwhelmingly and unfortunately you made more than 35,000, would your Assembly seat be vacant or would you just not be allowed to vote?

MS. WEINSTEIN: Obviously if you're elected there aren't provisions to remove someone from office. So the penalty -- besides the financial civil penalty for willfully going over the cap would be not allowing that person to vote.

MR. GOODELL: Ah. So if it turns out you're too successful then we'll have a motion here on the floor of the Assembly to expel you from the Assembly.

MS. WEINSTEIN: No.

MR. GOODELL: Well, you wouldn't be able to vote, and so you bring a motion to expel them from the Assembly so we can have a special election and so we can hire someone to give the voters an opportunity to elect someone who is not successful. I mean, that's what this law says, doesn't it?

MS. WEINSTEIN: No, it doesn't.

MR. GOODELL: Well, you just can't serve and you can't vote if you have an outside business and you're successful.

Madam Chair, thank you so much for your clarifications. I appreciate that.

My colleagues, this used to be called the People's

House, wasn't it? And we used to welcome diversity, didn't we?

ACTING SPEAKER AUBRY: Mr. Goodell --

MR. GOODELL: On the bill.

ACTING SPEAKER AUBRY: Thank you, sir.

MR. GOODELL: And this is one bill you shouldn't pay me for because I might not be able to vote anymore if you pay me too much for this little speech. The strength of us as an Assembly is the expertise that the members bring. And that expertise includes successful farmers, successful businessmen and women. It includes professional accountants. These people bring invaluable knowledge and experience and we should not make it illegal for them to serve at the risk of selling their business or losing their vote.

Thank you, Mr. Chairman.

ACTING SPEAKER AUBRY: Thank you, sir.

Mr. Lawler.

MR. LAWLER: Thank you, Mr. Speaker. I don't know who thought it was a good idea to let me back in here before the end of the year, but God bless.

Would the sponsor yield?

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

MS. WEINSTEIN: Yes.

ACTING SPEAKER AUBRY: Ms. Weinstein yields.

MR. LAWLER: Thank you. Why do we have

special Sessions, in your opinion?

MS. WEINSTEIN: This is not a special Session.

MR. LAWLER: Well, what is this? Just -- this is a regular Session?

MS. WEINSTEIN: Correct.

MR. LAWLER: That we got called back for.

MS. WEINSTEIN: The -- the Governor calls special Session. This was a Session at the call of the Speaker.

MR. LAWLER: Okay. And do you recall being called back by the Speaker in previous years at the end of the year?

MS. WEINSTEIN: Yes.

MR. LAWLER: And what are they generally for?

MS. WEINSTEIN: They've been various issues over the years and pay raises has been one of them.

MR. LAWLER: So in your estimation this is normal to come back up the week before Christmas to give ourselves a pay raise?

MS. WEINSTEIN: Yes. As I mentioned, it didn't happen for 20 years from 1998 to -- to 2000 -- to 2018, but prior to that, yes, I had been called back into Session several times. And it's a unique situation because the current legislative raises cannot be adopted while you were serving. So it is by the nature of this law that we need to -- by nature of the Constitution we need to do this prior to the new Session starting in two weeks. We -- obviously there are many issues that we will be discussing as well as the upcoming

budget.

MR. LAWLER: But in your estimation this was important enough to come back the week before Christmas to vote on?

MS. WEINSTEIN: It -- the -- the bill was -- it was just introduced on Monday, and I would note that part of the delay had to do with waiting for the final decision by the Court of Appeals in the *Delgado, et al* trial which was not decided until November 17th.

MR. LAWLER: Do you recall at any time before November 17th there being talk of coming back for a Session to increase pay if the decision in that court case was favorable?

MS. WEINSTEIN: I was not party to such a discussion.

MR. LAWLER: Okay. Do you know by chance how many Assembly Districts have a median income higher than \$142,000?

MS. WEINSTEIN: I -- I couldn't tell you that right now.

MR. LAWLER: Okay. Based on the 2021 estimate there are five districts out of 150 that have a higher median income than the newly-proposed Assembly and Senate salaries. Do you think that that's appropriate to be paying members of the Legislature a higher median income than 145 Assembly Districts?

MS. WEINSTEIN: I -- I don't know. And -- and excuse me, when I said I can't tell you it didn't mean that I was

holding back information that -- that I --

MR. LAWLER: No, no. I have the information, that's why.

MS. WEINSTEIN: I just didn't -- you know, I -- that I don't know and I don't know how many districts, for example, are earning over \$174,000 as their median income.

MR. LAWLER: None are earning over 174,000. But an Assembly District is 140,000 residents, a congressional district is 780,000 residents, so I would think there's a little bit of a difference. Where did we come up with the \$142,000 salary when the Commission proposed 130,000 with the ban on outside income? How did we get to 142-?

MS. WEINSTEIN: That was -- I believe I responded to Mr. Ra who asked a similar question. We used the New York State consumer price index which in 2020 -- in '21, the year that it should have -- it was recommended to go to 130- the inflationary rate was 3.32. Then in 2022, 6.08 going forward projecting we'd get to \$142,480 but we dropped the \$480 to keep it an even 142,000.

MR. LAWLER: If the salary went into effect in 2021 at 130,000 would you have anticipated coming back here this week to raise it to 142-?

MS. WEINSTEIN: If -- if it had been raised in -- to the 130- it's very possible we would be.

MR. LAWLER: Oh, interesting. Okay.

There were news reports that the Governor as part of

this Session had requested changes to cashless bail. Are you aware of those news reports or conversations?

MS. WEINSTEIN: I've -- I've seen news reports but I was not party to any conversation.

MR. LAWLER: Did you feel that the Governor's request should have been considered or do you feel that we should just be dealing with the pay raise?

MS. WEINSTEIN: Ultimately the Governor decided not to call us into special Session so we're moving forward with this proposal in regular Session.

MR. LAWLER: So you're of the opinion that we should only be here to give ourselves a pay raise the week before Christmas but not to deal with any issues. I mean, considering we're in regular Session why can't we bring up other bills that are before the House?

MS. WEINSTEIN: This is the one bill that we are discussing today. Obviously, the issue of public safety is something that's very important to all of the members in this House and in two weeks we will -- a new Session will be starting and I believe the members here and those that will be incoming will have issues of public safety relief for -- for our -- inflation relief and -- and other issues as part of our discussions as we move on towards adopting a new budget.

MR. LAWLER: I know I was only here for two years, but if I recall correctly usually the month of January was wasted

on a bunch of chapter amendments for really poorly-written bills that needed to be fixed. I assume we're going to probably have chapter amendments on this bill based on the discussion and debate because clearly it was put together in a very haphazard way when you actually look at the language that you can all of a sudden restrict members' ability to vote. By the way, ironically, you know -- and you mentioned New York City. New York City tried to allow undocumented immigrants to vote in an election, but a member who is duly-elected could be barred from exercising their right to vote based on a salary. That's very interesting.

Why is the outside income limit tied to the 212 rule as part of the retirement system?

MS. WEINSTEIN: We were looking for a guide. The 30 -- tying into the retirement system, the 35,000 made sense.

MR. LAWLER: Why not just put it at exactly 35,000?

MS. WEINSTEIN: We have changed because it's tied to the amount in the retirement system which has fluctuated. Over the years it's been increased. So that's a way that the number of outside income could conceivably likely increase even if the salary level remains the same.

MR. LAWLER: Oh, okay. So down the road, even maybe this next Session, the outside income level could change. It could go from, say, 35,000 to 50,000 or 60,000 if the 212 rule increases.

MS. WEINSTEIN: During the legislative process that could happen, yes.

MR. LAWLER: Hmm. That's curious. Okay. So members of the Legislature going forward are going to get a \$142,000 salary, a per diem which will likely go up. Health benefits, full-time pension credit. And outside income that you just acknowledged could potentially raise so they're really -- arguably, the cap would be in flux because you don't want to assign an exact number to it.

How come double-dippers are not included in this? Why are people able to receive a pension for previous employment that exceeds the \$35,000 limit and collect a salary?

MS. WEINSTEIN: Well, because they've earned it during their time of working. That's what the pension is, the same way that deferred comp, as we brought up previously, is earned income that's deferred -- is delayed to a later date.

MR. LAWLER: You -- you do realize that people who own businesses tend to rely on that as their retirement, right? So if you own a business, that's a problem. But if you received a pension from -- as a public employee that's okay. Why -- why the discrimination against somebody who owns a business who -- or for instance rental income? Many people own property and they rely on that rental income as retirement. Is that excluded in this if somebody has rental income?

MS. WEINSTEIN: Rental -- rental income is not one of the categories of exclusions, so it would be capped at the amount in

-- in the retirement law, in 212.

MR. LAWLER: So just so I understand this, if I own a building and I make more than \$35,000 owning that building in rental income, I would have to turn over the revenue above -- the earned income above the 35,000 and I would probably have to sell the building before my voting rights would be restored?

MS. WEINSTEIN: Well, first of all, it's -- it's net income, right? So it's the net income. You know, many landlords talk to us constantly about their inability to earn money, and it would have to be in your own name, not a part of a corporation or a family business where you weren't the main force driving that income.

MR. LAWLER: Is there any distinction between earned income or passive income in this bill?

MS. WEINSTEIN: Yes, passive -- this -- this bill relates to active -- earning income in an active role. So passive income is not -- is one of the exclusions. As we mentioned, pension and deferred comp, income from securities that you do not have a direct role in generating those funds are excluded.

MR. LAWLER: But if I own a building and I'm not involved in the day-to-day operations of it, let's say I hire somebody to manage the property, then can I count that rental income as passive income?

MS. WEINSTEIN: Well, that would be something that you would ask the Legislative Ethics Committee for an opinion. As -- as you and others may be aware, any income -- currently any

income over \$5,000 -- any outside income over \$5,000 has to go before the Legislative Ethics Committee for approval. So that would be -- depending on the particulars of the situation you've described, the Legislative Ethics Committee would make a determination.

MR. LAWLER: Was there any consideration during the discussions on this bill of increasing employee salaries in this Body?

MS. WEINSTEIN: Not -- this -- not as part of this bill which amends the Legislative Law.

MR. LAWLER: Do you think that the employees in this Body are underpaid?

MS. WEINSTEIN: I am not aware of all of the salaries of employees here. Certainly I -- I would think that people -- people who work hard deserve to earn appropriate amounts for their work.

MR. LAWLER: Is that how you feel about this pay raise, that everybody in this Body works hard and deserves to be paid appropriately?

MS. WEINSTEIN: Well, I don't know how everybody is -- you know, I -- I would tell you, 20 -- before we did the pay raise to 79,000 I was at an event and a number of women came up to me and started harassing me about how those legislators voted for a pay raise for themselves. And I said, *Well, I voted for it* and their response was, *But Helene, you work hard, you deserve it*. And I think that's how most of our constituents feel about us, that we in fact work

hard. Members work seven days a week often, you know, and not working nine to -- nine to five, maintain district offices, maintain staff here in Albany. They're going to meetings in the evening, going to meetings on weekends. There's -- I think from what I've seen most members work very hard.

MR. LAWLER: And that may be, but in 145 of the Assembly Districts they're going to make less than on us on the median income. And to come back up here the week before Christmas to do this is a slap in the face to those voters.

ACTING SPEAKER AUBRY: Mr. Lawler --
Mr. Brown.

MR. K. BROWN: Thank you, Mr. Speaker. Will the sponsor yield for a question?

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

MS. WEINSTEIN: Yes.

ACTING SPEAKER AUBRY: Ms. Weinstein yields, sir.

MR. K. BROWN: Thank you, Mr. Speaker. I only have one question. One question only, and that is what is the rationale behind the outside income limitation?

MS. WEINSTEIN: This -- it's similar to the U.S. Congress, the New York City Council. The limitation is an ethics consideration.

MR. K. BROWN: Can you expand upon what you

mean by that?

MS. WEINSTEIN: We've recognized that the Legislature has become close to a full-time profession. It's very different from the days when members would come here, the budget would get passed on April 1st or March 31st and they'd go back home to their respective other employment. So we enacted a tremendous number of bills, over 1,000 bills this past year became law and -- or I guess were passed, and that we -- it has been pointed out that many good government groups and others who study the Legislature that -- legislative Bodies that it is good ethical practice to not have outside influences potentially creating conflicts for members.

MR. K. BROWN: I'd just like to drill down a little further. How is that an ethical situation, being that the length of time that we spend up here in Albany?

MS. WEINSTEIN: I was -- I was just pointing out that -- that we -- there's a lot of work to be done as members of the Legislature. I believe members should be compensated for that, but the ethical considerations are the ones that help drive the desire to limit outside income.

MR. K. BROWN: I'm not sure I understand. What does the length of time and whether we're part-time or full-time have anything to do with, quote, "ethical" considerations?

MS. WEINSTEIN: I -- I wasn't conflating the two, I was just pointing out the just -- some of the justification for the increased salary.

MR. K. BROWN: Right. And I'm asking specifically about the outside income limitation. I really would like an explanation of how it relates to ethical considerations.

MS. WEINSTEIN: What it does, it allows for the Legislature to continue to be a Body that has members that have some outside community work experience that they can bring here and it avoids the potential for conflicts of interest amongst the legislators.

MR. K. BROWN: And what does the conflict of interest have to do with the ethical considerations exactly?

MS. WEINSTEIN: That is that avoiding conflict of interest between a legislator is an ethical consideration.

MR. K. BROWN: And then how does it relate, the \$35,000 limit, to the conflict of interest and the ethical considerations? In other words, you could still do the same job but you make 35,000 your cap. No conflict of interest in that situation?

MS. WEINSTEIN: It strikes a balance from an absolute ban like that exists in the City of New York to allowing some outside income because we do want to have some of that experience in the Legislature. But it does create a limit that is more reasonable, and as I said, strikes a balance so that -- to avoid conflicts of interest.

MR. K. BROWN: So, we just had a situation last year where the Lieutenant Governor was brought up on charges of corruption and actually resigned because of ethical considerations; is that correct?

MS. WEINSTEIN: I don't know what it has to do

with this bill, but yes, that was a fact.

MR. K. BROWN: Well, is it true that he had no cap on his outside income?

MS. WEINSTEIN: I -- I don't believe that -- that the -- the reason for the charges, most of which were subsequently dropped, had to do -- related to potential campaign fraud. It had nothing to do with income -- earned income.

MR. K. BROWN: My understanding was it had to do with a not-for-profit that he was a member of. Is there any indication in this bill about banning membership of not-for-profits or applying for grants through that not-for-profit?

MS. WEINSTEIN: It -- in -- in our -- we already have prohibitions on someone serving on a board and not-for-profit from receiving State funds.

MR. K. BROWN: So if we're --

MS. WEINSTEIN: Not the individual, the organization itself, from receiving State funds if there's an active member of the Legislature that participates in that organization.

MR. K. BROWN: But when I read the bill text in preparing for today I didn't see any mention of trying to avoid conflicts of interest. Does anything in this bill specifically address conflicts of interest?

MS. WEINSTEIN: We don't use the word. But the limitation of 35,000 is intended to strike a balance between someone's outside income activities -- income-generated activities and their work

as a legislator.

MR. K. BROWN: So the -- so the \$35,000 limit magically will avoid any future conflicts of interest by members of the Senate or the Assembly; is that correct?

MS. WEINSTEIN: Well, I -- I would just, you know, refer you to Public Officers Law Sections 73 and 74 which deal with conflicts of interest.

MR. K. BROWN: Right, but nothing specific about the outside income limitation and the avoidance of conflicts of interest. Is it -- is it your intention that this outside income limitation is going to erase conflicts of interest?

MS. WEINSTEIN: I think it reduces the likelihood. I -- as I said, it strikes a balance between an absolute ban, an absolute ban on -- on certain professions which has been recommended by other groups and being able to continue to have some outside income.

MR. K. BROWN: Thank you, Mr. Speaker.

On the bill, sir.

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

MR. K. BROWN: Mr. Speaker, I'd like to read a statement on behalf of the proud Long Islanders and the good people from the 12th Assembly District.

Dear New York, we are writing to express our disappointment on how -- on this pay raise bill. Don't get me wrong, we love your beaches, your parks, your mountains in the Adirondacks

and Catskills, we love your rivers and lakes but we are tired of being an ATM machine for the rest of the State. We also love New York City. The atmosphere, the culture, its venues and limitless activities. However, we are tired of making your problems our problems. And we are dead-set against this pay raise increase coupled with a limit on outside income. We don't want a watered-down Legislature. Career politicians who are beholden to special interest groups. We want term limits. We want a Legislature that reflects society. That includes small business owners, professionals like bankers, doctors, lawyers, accountants and farmers. But also insurance people and scientists. People with real world experience and expertise who have earned a paycheck, who know what it's like to worry about whether they have enough money to get through until harvest time or have stayed up late at night worrying if they're going to be able to make payroll this month, like I have as a small business owner. This is what the founders of this great nation envisioned; a citizen legislature who served the people and then at the end of Session went home to their lives, their businesses and their families. But you're asking too much from the people of Long Island. We have our own problems. We don't care if the salaries of the Legislature are on par with City Council. It's irrelevant. And the limit on outside income is nothing but a ruse to distract voters from making your legislators one of the highest in the nation, despite the bloated \$222 billion budget passed last year, and which completely ignores the legislative staff who deserve a pay raise in order to attract and retain quality people. This State is

considering this \$32,000 pay increase at a time when public safety is a major concern. Crime is up. People are hurting. When inflation is roughly 7 percent. When the opioid fentanyl crisis just took the lives of 713 Long Islanders. Where asylum seekers are flooding into New York. The MTA has a \$5 billion budget gap, and LIPA, the power authority that you created, New York, is drowning Long Island with its \$6 billion of debt for a nuclear power plant that we never wanted. It's simple, New York. Long Island wants our communities to be safe. We want good schools for our kids, our drinking water safe, and we want our harbors, our bays and our Sound to be clean. We've been asking for this for years. Moreover, this proposed bill will do nothing to end corruption here in Albany. If you want to root out corruption, then elect people of high moral character who are not susceptible to corruption. People who are doing the job for the right reasons, not to benefit themselves financially. And hold them accountable with disclosure rules that require transparency. Require them to disclose their Federal and State tax returns. Prohibit them from serving on boards of not-for-profits and other organizations that obtain State grants. And for God's sakes, don't give out huge State contracts where there's the appearance of a conflict of interest. In addition, there's a question whether this proposal is even constitutional. You were once the Empire State, New York. It's high time you start living up to that motto again. For all these reasons, we're putting you on notice, New York, that we're investigating statehood for Long Island, the 51st state in the Union, and we will be able to be entertaining

offers to annex to other nearby states such as Connecticut and Rhode Island. Please (inaudible) accordingly.

Mr. Speaker, for this reason and many, many others I will be voting no on this bill and I urge my colleagues to do the same. Thank you, and Happy Holidays.

ACTING SPEAKER AUBRY: Thank you, and Happy Holidays to you, sir.

Mr. Steck.

MR. STECK: Thank you very much, Mr. Speaker. Let me begin by saying I will not be one of those posturing against the legislative pay increase. New York City members particularly deserve this increase. It is unconscionable that State legislators are paid less than City Council members. New York City is expensive. I have a daughter living near her medical school paying \$2,000 a month for a studio apartment, and I'm told that's reasonable. Many Upstate families have to subsidize their children under such circumstances, and I am one. So I understand the New York City perspective.

I will be speaking today against the change in philosophy that we are undergoing. Make no mistake about it; we are heading toward a full-time Legislature of professional politicians. That is not what those who wrote our State Constitution had in mind. They wanted citizen legislators who are enmeshed in lives similar to their constituents. Their daily life experiences are what informs their service in the Assembly. They don't live in the ivory tower.

I am also speaking against the so-called reform

groups who have demanded a restriction on legislative income. No matter that there have been no abuses of outside income since the current full disclosure laws went into effect. In 1927 the so-called "reformers" gave us gubernatorial budgeting. That is just one of many so-called "reforms" like not paying legislators if the budget is late, or gubernatorial appointment of judges that have merely enhanced the power of the Governor and weakened the Legislature with no corresponding benefit to the public. The proposed ban on legislative outside income is of the very same kind. It appears that some have lost touch with the real lives of non-wealthy New Yorkers, are engaging in anti-Democratic mean-spirited policies that simply serve to harm those who have worked hard to serve the public without any offsetting benefit to the public. My outside income, for example, is fully disclosed to my constituents. It has been the subject of extensive reporting by the *Times Union*, was raised repeatedly by my opponent and yet I was reelected with significant majorities every time in a purple suburban district.

Under the proposed rules only the wealthy, those who can afford to live off stock and bonds, those who own substantial rental properties who can live off their rents like medieval lords, physicians, who we all know are special, the young because the salary is a good one for young people. The retired with pensions, or those with wealthy spouses can afford to serve in the State Legislature. Middle-class, middle-aged professionals of various types with children need not apply. Many come to the Legislature with well over

\$100,000 in debt to pay for the college education of their children, and some even now with their own college or professional school debt. That is the real world, not the ideal world imagined by so-called "reformers."

The purpose of this so-call "reform" is ostensibly to avoid corruption. As a result of Sheldon Silver, we now have 100 percent full disclosure of outside income. You can easily obtain a spreadsheet of all my clients and the fees earned from that work to see if there is any conflict with my work as a legislator. There isn't. Lawyers who are not legislators avoid conflicts of interest in their practice every day. Sometimes it requires the lawyer to turn down a client. The United States Supreme Court has repeatedly said that financially penalizing people who run for office is unconstitutional and a violation of the First Amendment, as it deprives voters of the right to hear from candidates and elected officials of all backgrounds. That is why no other state in the nation has the rule being proposed. The United States Supreme Court has repeatedly said that even if preventing corruption is a compelling state interest to engage in legislation of this type, that interest is effectively served by full disclosure such as the regime that New York currently has with respect to outside income. I must point out that Sheldon Silver was convicted because he hid outside income, an event that could occur even if there were a ban on outside income. He used his State position to obtain outside income. He did not work for it. That is why he didn't disclose it. Outside income increases the independence of

legislators, vis-à-vis the Governor, and makes us less vulnerable to gubernatorial retaliation.

I am stunned at the penchant for demeaning the Legislature of being of less value. I understand why Governor Cuomo did it. He did it because it is convenient politically to deflect attention from the failures of that Administration in the areas of both ethics and policy. I do not understand why it's necessary for us to do it to ourselves. Legislatures worldwide are the foundation of democracy. It was the Continental Congress that wrote the Constitution, not the Executive nor even the exalted Judiciary.

To the extent that service in the Legislature is demeaned, this contributes to the rise of demagogues like Donald Trump by enhancing the argument that we need a strongman like Trump or Cuomo to save us. Nonsense. There is no basis for labeling members who have worked incredibly hard to gain public office as inherently corrupt because of the abuse of power of a legislative leader or a Governor. At the same time as we have demeaned the Legislature, we have exalted the courts into a special class of intellectually-superior beings by paying judges a salary of over \$200,000 per year. We seem to forget that the Judiciary is not the basic unit of Democratic government. The more power we give to the Judiciary, the less engaged citizens are in democracy. As the famous judge Learned Hand once said - who I must add was from Albany - *I would not want to be ruled by a bevy of platonic guardians*. Many millionaires understand that principle, and given the rising authority of

the United States Supreme Court has seized control of it and are using it for their political ends all dressed up in legal doctrine. The Cuomo majority Court of Appeals is similar. The Governor has a high salary which in some ways is commensurate with that role. On the other hand, I tell my constituents, *Try getting to see the Governor. See how that works for you.* Legislators are the most accessible of any of our State electeds, and therefore pay a -- play a critical role for their constituents. Unlike judges, the Governor or civil servants, the latter do not need more power.

The effort to demean the fundamental institution of democracy is further evident in this proposal which will pay legislators less in salary than what a large number of State managerial employees are paid. The message here is that we should not have a citizen legislator -- Legislature, but a professional one. But the professional legislators will be paid less than State employees at a comparable level. This will accomplish nothing but to devalue being a legislator and to create a class of professional politicians. The claim to apply the congressional model, I am sorry to say, is false. Congressional outside income is based on a percentage of the salary of high-level government executives such as department heads and in our case, commissioners. That does not demean service in the Legislature.

Finally, I am unaware of any proposed limits on the outside income of the Executive, an office whose abuses and vulnerability to the influence of campaign contributions are so

well-known as to not need further detail. There are often more conflicts of interest in spousal income than in the fully-disclosed earned income of a legislator.

Because I am opposed to creating a class of professional politicians, I will be voting in the negative. Thank you.

ACTING SPEAKER GIBBS: Mr. Walczyk.

MR. WALCZYK: Thank you, Mr. Speaker. I heard the sponsor mention \$6.8 million this will cost us on an annual basis. I'm wondering if she'll yield for some questions.

ACTING SPEAKER GIBBS: Ms. Weinstein, would you yield?

MS. WEINSTEIN: Yes.

MR. WALCZYK: So, we're not called back to this Session -- Session that the Speaker has called for a budget bill, this is a pay raise for the Legislature. Do we have a fiscal plan for the State of New York at this point?

MS. WEINSTEIN: For -- the amount for the current fiscal year is assumed to be covered by the -- the reappropriations in the Legislative and Judiciary budget.

MR. WALCZYK: And through you, Mr. Speaker, as -- as Chair of the Ways and Means Committee, has the Comptroller issued any kind of guidance to us on the fiscal impact of what this legislation will do?

MS. WEINSTEIN: No. But, I mean, there's no need for the Comptroller to do it. The 6.8- is in next year's budget. We'll

be having those discussions starting shortly. I'm sure there'll be lots of other issues that people raise and want to be included in that once we have the presentation by the Governor.

MR. WALCZYK: Okay. Through you, Mr. Speaker, do you know what the average laborer makes in the State of New York?

MS. WEINSTEIN: No.

MR. WALCZYK: It's about \$40,000. Do you know what the average construction worker makes in the State of New York?

MS. WEINSTEIN: No.

MR. WALCZYK: It's about \$47,000. Do you know how much the average nurse makes in the State of New York?

MS. WEINSTEIN: I -- I'll just stipulate that I -- you can go through a whole bunch of professions that I don't have that information at hand.

MR. WALCZYK: The average -- the average nurse makes \$93,000 a year. The average farmer makes \$48,000 a year. The average teacher in the State of New York makes \$67,000 a year. The average truck driver, \$68,000 a year. The average engineer with a degree makes \$97,000 a year. The average legislative staff that works for you or me or many other here makes \$41,000 a year and the average New York household income is \$71,000 a year. Why do you think we should be paid double what the average New York household takes in?

MS. WEINSTEIN: I think as the Governor mentioned earlier and the Speaker has said and from my experience, the members of the Legislature work very hard. Members have given up other careers to run for the Assembly and the State Senate where perhaps they could be earning more money and we want members to be compensated adequately.

MR. WALCZYK: Thank you.

Mr. Speaker, on the bill.

ACTING SPEAKER GIBBS: On the bill.

MR. WALCZYK: As was pointed out earlier, this didn't come up in the gubernatorial debate. We just had a gubernatorial election, I watched the whole debate. This didn't come up, it didn't come up in the primary debate or in the General Election debate because it wasn't an issue in this campaign. I'm sure it didn't come up in any of your debates when you were either rejected from the people of your district or rehired to do this job with a salary that you had already agreed to. And this issue didn't come up so it wasn't on the ballot. They couldn't judge you based on what your vote is going to be today. There's a reason that the Speaker has called this special Session right before a holiday weekend, and there's a reason that it wasn't brought up on your re-election campaigns. There's a reason -- there's a lame duck Legislature in this room right now to vote on this, and the reason is not because the people in this room or in the Chamber across the hallway deserve double what the average household brings in in the State of New York. People in New York

can't afford gas to put in their vehicles, and we're about to let the gas tax expire at the end of the year and this is what we're bringing forward is a promise that we will tax them further to pay for your salaries. People can't afford groceries, and nothing is being done by this legislative Body on any kind of emergency basis to help with the cost of agriculture production or products in the State of New York and what puts those groceries on their shelves. People can't afford energy in their homes and there is nothing being done by this Body today to curb what the CLCPA and the Climate Action Council has coming down the pike for their energy costs and it's not good news. There is absolutely no emergency for poverty for legislators in the State of New York. None of you are going broke, but the people that you represent are. You should be ashamed that you would call a special Session to bring a bill like this to the floor of the State Assembly. You're going to raise the taxes, and the reason that I brought the legislation, the budget and the fiscal plan, you're going to raise the taxes on the middle class. The same professions that I mentioned. Their taxes are going to go up next year to pay for your raises. Obviously, you allowed -- you disallowed the people from knowing how you were going to vote. But I know exactly how the people would have voted if you had said, *I'm going to get to Albany and give myself a pay raise*. They would have voted against you. And if you put this as a referendum on the ballot for New Yorkers, they'd vote no.

So, Mr. Speaker, on behalf of the people of the State

of New York, I will vote no against the pay raises for this Legislature.

ACTING SPEAKER GIBBS: Mr. Schmitt.

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

ACTING SPEAKER GIBBS: Will the sponsor yield?

MS. WEINSTEIN: Yes.

ACTING SPEAKER GIBBS: Why do you rise?

(Inaudible)

Mr. Walczyk, will you yield?

(Inaudible)

MR. GOODELL: Mr. Speaker, point of order. If Mr. Pretlow wants to use his time he can ask somebody else to yield. Certainly, you can certainly call on him after Mr. Schmitt is completed and then he'll have a whole 15 minutes to explain his position or ask others to yield. Thank you, Mr. Speaker.

ACTING SPEAKER GIBBS: Continue Mr. Schmitt.

MR. SCHMITT: Are we yield?

MS. WEINSTEIN: Yes.

MR. SCHMITT: Great. Would you just be able to reiterate what the formula was or the process was to get to the 32,000 increase number. I know you mentioned before, was it a formula you said or...

MS. WEINSTEIN: Yes. We took the -- we started -- the starting point the recommendation from the 2018 commission of

130,000 and then adjusted based on the New York State consumer price index to get to as I mentioned, \$142,480 but obviously settled for the -- did not round it down rather than round it up.

MR. SCHMITT: Now when you say "we," was this a elected official Assemblymember decision, was this a Speaker decision, was there a group of economists or a laborer experts that were consulted?

MS. WEINSTEIN: This is how the bill was drafted.

MR. SCHMITT: I'm sorry. Could you say that again?

MS. WEINSTEIN: The bill was drafted based on this formula.

MR. SCHMITT: And who created that formula?

MS. WEINSTEIN: It's the -- it's the New York State consumer price index based on inflation from '21 and '22 to get to this number.

MR. SCHMITT: So legislative director researched that and did -- did some math on the computer, back of a napkin or is there somebody with a specific expertise and compensation that's on staff or...

MS. WEINSTEIN: Yes. I have a lot of confidence in the staff of the Ways and Means Committee and this is the number based on the New York State consumer price index.

MR. SCHMITT: Okay, but there's no specific position or outside group that was utilized as expertise in

compensation rates and economic standards.

MS. WEINSTEIN: No, we -- we didn't need to. We had the numbers of the consumer price index change.

MR. SCHMITT: Now, you've mentioned something about family business exemption for outside income. Could you just clarify or expand on what that specific definition is?

MS. WEINSTEIN: Well, the -- the -- the family business can -- the income from the family business provided the member services are not a material factor in producing the income.

MR. SCHMITT: So as long as if you have a family business, does it have to be a certain amount of time, could it be a family business that's a day old, does it have to be 50 years old? What constitutes a bona fide --

MS. WEINSTEIN: That would be in the legislative -- as I mentioned earlier in order -- if you're going to be earning more than \$5,000 above your legislative salary you have a request that goes to the Legislative Ethics Committee that looks at the current Public Officers Law and makes its determination whether there's -- not -- make a determination that there's not a conflict and therefore you can pursue that course of income producing and they would make -- the Legislative Ethics Committee would make a similar decision when someone in a family business, whether that would be money that would -- whether they -- the earnings from that family business would be excluded from the individual member's income.

MR. SCHMITT: So there is nothing defined in what

we're voting on here today, any concerns over what may or may not be a legitimate family business will be a later decision on members of the Legislative Ethics Commission.

MS. WEINSTEIN: Based on -- on a case by case basis, based on the information provided to the Legislative Ethics Commission, which I should mention is equally divided.

MR. SCHMITT: Mr. Speaker, I can't hear what she's saying. Could you maybe bring the Chamber to --

SERGEANT-AT-ARMS JACKSON: Quiet please, ladies and gentlemen.

MS. WEINSTEIN: It would be an individual decision for each individual who would make a request of -- for a ruling from the Legislative Ethics Commission, which as they've done in the past with the request to be able to earn -- when you're earning over \$5,000 and I would just point out that the Legislative Ethics Committee is bipartisan.

MR. SCHMITT: Now when it comes to service in any reserved force of the United States; Army, National Guard, Army Reversed, Navy, Coast Guard Reserve, you name it, Medical Reserve Corps, the list goes on and on, what are any of the rules that would be applicable to them?

MS. WEINSTEIN: That is specifically excluded; active duty, military reserves, National Guard, income is -- line down in the bill as excluded from the cap and so therefore that income and allowances from that service is allowed.

MR. SCHMITT: So it could be 36,000, it could be 100,000. There's -- it could be anything. No restriction.

MS. WEINSTEIN: Correct.

MR. SCHMITT: And that's inclusive of any reserve, even say a medical reserve corps which may not be military but could be called upon for civil emergencies.

MS. WEINSTEIN: I believe that -- I believe that is correct.

MR. SCHMITT: And that would also include State militia forces that might not be federally recognized?

MS. WEINSTEIN: If that is active military service, yes.

MR. SCHMITT: Okay. The conversation earlier about any limits on the Governor, does this provide any changes to Executive compensation in the State or any limits on Executive compensation or rules of income.

MS. WEINSTEIN: No. This is -- amends Legislative Law.

MR. SCHMITT: Will legislators have any restrictions on income from books or other related activities.

MS. WEINSTEIN: Copyright royalty fees in their functional equivalence are excluded. For example, residuals from a cameo appearance in film.

MR. SCHMITT: So if a legislator wanted to write a book about what they've done in the last emergency of the State and

how they thought they were the best response to it, would they be allowed to do that with any royalty?

MS. WEINSTEIN: It -- I would say it would be subject to the cap and perhaps honoree limitations.

MR. SCHMITT: So you could write a book but you could not get a royalty or a payment of more than 35,000 for being an author.

MS. WEINSTEIN: Yeah, I think that -- I would think in that situation that the legislator would need -- would obviously be seeking guidance and I think that the Legislative Ethics Committee would likely preclude the sitting legislator from writing about their current experience.

MR. SCHMITT: How come it was decided to proceed -- I view this as a unilateral disarmament with the Executive branch not being held to the same standards as the Legislative branch putting us in a -- a weaker position. Why was there a decision to unilaterally disarm and not include restrictions on the Governor, Lieutenant Governor, Attorney General, Comptroller, in any of these new rules and regulations that we put in?

MS. WEINSTEIN: Well, this relates, as I said, to the Legislative Law relating to -- conversation -- members of the Assembly and the Senate. The Commission -- the 2018 Commission which set salaries for Statewide elected officials, which was set on a four year basis was not challenged in that portion of -- the salary increase was not challenged in court. There's nothing to say that we

can't address the issues that you raise in the upcoming Legislative Session.

MR. SCHMITT: So you plan to bring up legislation starting in the next term that would impact Executive offices in the State and restrict any of their outside income or ability to write books?

MS. WEINSTEIN: I did not say that I would. I said that that is an issue that could be brought up in the next Legislative Session or in a future Legislative Session by any of the members here.

MR. SCHMITT: When it comes to the increases that we're seeing that will obviously take immediate impact with the first paycheck for the new Legislature in January if this is passed and signed into law?

MS. WEINSTEIN: Yes.

MR. SCHMITT: And to a previous colleague's question, this is being done outside the budget cycle, the budget process, so where's the funding coming from to cover that up until April 1st?

MS. WEINSTEIN: As I mentioned, the first cycle of the last quarter of the current fiscal year coming from Legislative reappropriations that are there in -- in the current budget and going forward would be part of our next year's budget the 2023-2024 budget.

MR. SCHMITT: So if for some reason that is not negotiated into the next budget, how is it expected to meet the -- or we don't assume that's going to be a problem.

MS. WEINSTEIN: I -- the legislative salaries are

included in the legislative Judiciary budget and I would anticipate that this money, this \$6.8 million will be appropriated in the budget -- in the '23-'24 budget.

MR. SCHMITT: Getting back to the issue on rental income that you've asked a few questions on, you've been asked a few questions on, just for some clarity, if it's a passive rental income, what determines when it comes to rental income who qualifies as passive, who qualifies as that?

MS. WEINSTEIN: As I mentioned numerous times, the Legislature -- if you're planning on earning -- anticipating earning more than more than \$5,000 you need to go current law Legislative Ethics Committee and this would be -- you would go before the Legislative Ethics Committee and they would make a determination whether or not it was passive -- passive income.

MR. SCHMITT: So the Legislative Ethics Commission will determine if you are a property owner or if you're involved with a family entity that might own properties, if you can count that or not in your income.

MS. WEINSTEIN: Yes, based on if every individual situation is different, that's why we don't have more restrictions here in this legislation but refer back to the Legislative Ethics Committee which has been making these determinations --

MR. SCHMITT: I'm sorry. So there will be no additional guidelines issued to the Legislative Ethics Commission to be able to make this determination even though as of right now the

Legislative Ethics Commission doesn't have any guidelines to this because it's never been a thing before. So they're just gonna create whatever they want?

MS. WEINSTEIN: There is the -- we already have the Public Officers Law, Section 7374 that relate to what the elected officials public officer which includes us can -- what activities they can engage in or not engage in and --

MR. SCHMITT: Sorry. Rental property, from what I'm understanding, is not currently restricted in the way that you're mentioning now, so it's going to be restricted but with no rules on how it's going to be restricted.

MS. WEINSTEIN: It may be that there could be advisory opinions issued by the Legislative Ethics Committee -- general advisory opinions though each individual members' situation would have to be taken -- addressed by an individual request to the Commission -- to the Committee.

MR. SCHMITT: Thank you.

Mr. Speaker, on the bill.

ACTING SPEAKER AUBRY: On the bill, sir.

MR. SCHMITT: Mr. Speaker, not surprisingly my assembly e-mail has filled with folks who are aggressively opposing this pay raise. I haven't gotten any calls or e-mails asking me to support this pay raise. Quite frankly, the successors to the Assembly have not even asked me to support this pay raise. I can't find anybody who supports this pay raise. This is a real slap in the face that

constituents in the Hudson Valley who I've heard from over this past year who are suffering no matter what their profession is with the cost of living increases, which are just a burden. Continue to compound from price of eggs, milk, gas, home heating oil particularly right now and oh, maybe got a little lower, whatever, that -- that's not impacting people on a day-to-day basis. They're suffering, trying to keep themselves warm, trying to drive to work, trying to live on a fixed income and retirement and to hear that their State Legislature is going to get a \$32,000 increase after the ball drops in Times Square in just a few days quite frankly is -- is unacceptable. We have so much work that we could be doing and here this is not technically considered a special Session. So as colleagues have pointed out it would be great to bring up some of the bills that have been proposed by myself and others that deal with battling the current inflation crisis, that deal with the public safety issues that are at hand, that deal with ensuring that those who are retired and might need or want to work an additional job can do that without the restrictions that make it very difficult to provide services such as driving buses and security for schools that many of those public employees -- retired public employees are sought out for. We also have a new restriction that's just being placed on the Legislature, not the Executive. I'll be voting no, Mr. Speaker. Thank you.

ACTING SPEAKER AUBRY: Thank you, sir.

Mr. Fitzpatrick.

MR. FITZPATRICK: Thank you, Mr. Speaker. I'd

like to take a slightly different tack in this conversation. You know elevating our pay to \$142,000 this is a significant increase, we all know that, but it's not just an increase in pay. This is also a very significant pension sweetener, and that aspect has not been covered so far in this conversation. I think if you are going to receive a level of compensation at this level and the Majority sets the rules of the House, they set the level of compensation, but if you are getting compensation to the tune of \$142,000 to serve in this Body, it is time for this Body to pass legislation for a Constitutional Amendment to end the defined benefit platform for elected officials in this State. Not just for the Legislature, but for the Governor, for the Comptroller, for the Attorney General, for County Legislators, County Executives, Town Supervisors, Town Council Members, Village officials, etc. Elected officials should not be in a defined benefit platform. The system is unsustainable. It is putting tremendous pressure on the investment fund. We have contracts with the various labor groups that have continued to put upward pressure on the investment fund. Now that we're in a recession, going into a recession, we have tremendous underperformance in the market, we have an increase in contribution percentages for our local governments. And yet here we are elevating our compensation and raising the cost of our pension as well. So if you are receiving a level well above \$100,000, close to \$150,000, it is imperative, I believe that we do the right thing for the taxpayers and frankly the right thing for ourselves and take the step to end our participation in a defined benefit platform. We can do it. It would

require a Constitutional Amendment, we can pass it. I understand to successive legislatures would take some time but we should no longer be in a defined benefit platform. And I know, Mr. Speaker, I'm supposed to address you when we get up and speak but I'm going to look at the camera because I'm going to address you but I also want to address the editorial boards, the reporters, the various good government groups, people like Mrs. Jones in Buffalo, people like Mrs. Smith in Watertown and even Mr. Shefford from Greenlawn, I believe they would like to see the State of New York enact legislation that caps and closes participation in the defined benefit platform especially at this level of compensation and going forward we pay our own way as elected officials. Because once we confer this benefit, the defined benefit pension, you created the career politician. What do I mean by that? Well, the system rewards what? Longevity. The longer you're in the system, the better off your pension -- the better your pension will be, especially if your income keeps rising. So we're not just getting an increase in pay, we're going to be getting an increase in our pension down the road as well. I don't believe that is fair to the taxpayer. I think the right thing to do is come back next year enact legislation to put a Constitutional Amendment before the people of the State of New York and we eliminate the defined benefit pension for all elected officials in this State. And that puts our interest more in line with those of our constituents, those people who are in 401ks and it's the overwhelming majority of the people of the State of New York and they're hurting right now. Ask any of them how their

401k is doing and they'll tell you what's going on out there, they're hurting. We should be in the same boat as they are with regard to the pension. So if you're going to increase your pay let's do the right thing and get out of the defined benefit platform and get into the 401k style defined contribution platform. Believe it or not some of us in the Senate and the Assembly are already in it because under Tier 6, you have the option if you're non-union making more than \$75,000 a year. We should make that mandatory for all elected officials in the State of New York. We can do it, we should do it, and I think we owe it to the people of the State of New York if you're going to raise your pay then don't raise the pension cost for the taxpayers as well. So let's do it. Thank you, Mr. Speaker.

ACTING SPEAKER AUBRY: Thank you, sir.

Ms. Walsh.

MS. WALSH: Thank you, Mr. Speaker. Will the sponsor yield?

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

MS. WEINSTEIN: Yes.

ACTING SPEAKER AUBRY: Ms. Weinstein yields, ma'am.

MS. WALSH: Ms. Weinstein, I just have one question about -- are you aware of how much money it's costing today to bring the Legislature here in dollars? How much does it cost to bring us in the Senate and the Assembly, do you know?

MS. WEINSTEIN: I -- I don't know because I don't -- I have no idea who travels, who doesn't, and to get here they have other business and I don't know who is -- whether everybody submits -- submits reimbursement for travel or not.

MS. WALSH: Thank you very much.

Mr. Speaker, on the bill.

ACTING SPEAKER AUBRY: On the bill, Ms. Walsh.

MS. WALSH: So it's been my great honor to represent the 112th Assembly District for the last six years. I'm just finishing my sixth year in office, and when I started the salary level for this position was \$79,500 and I ran, I was grateful to have -- to have won and I'm grateful to -- that I'll be returning in January with -- with most of you and to continue to serve. But I have to say that today, coming to Albany and hearing this debate and being here, the word that keeps coming into my mind is just embarrassment. I'm embarrassed that I -- I've been told that it cost around \$35,000 in per diem to bring us all back in here and to take up this one bill agenda, which bumps the pay up 29 percent to -- to legislators. And most of this has been covered by other speakers and I'm not going to go -- go through all of that. We've heard a lot about that issue of -- for me coming in in 2017, January 2017 to now, my pay will have increased about 80 percent which is -- is pretty amazing. Certainly not what I thought when I -- when I started to run and when I first came into office, it's not what I expected coming into January of next year. But,

what I'd like to talk about, I'd like to pick up on some of the comments made by a previous speaker about the outside income piece of this bill because I'm worried about the impact that that part of the bill is going to have on the -- the calibre and quality of the debate and members in our Body going forward. One of the things that I really found really most gratifying about coming to the Assembly and getting to know everybody is the real diversity that is brought in. Not just for me who's always been Upstate, who leans on my R's like an Upstater, you know, I -- I've always been from this area and getting to know people from other parts of the State, the City, to Buffalo. It's been really informative for me but also the -- the different kinds of jobs, the different kinds of backgrounds that everybody had before coming here. I think really enrich the quality of the debate that we have, the kind of legislation that gets brought forward. You all know that my background is as an attorney, I've been an attorney for over 30 years. When -- when I'm -- I'm guided by and I have to follow certain ethical canons and guidance in the way that I practice law. I still maintain a private practice. I will say right up front that the -- the income cap that's -- the outside income cap that's in this bill is not going to adversely effect me because most of the work that I do is as an attorney for children and the pay that I receive for that -- for those services that I provide for the kids in family court is coming through the State. So that's falls, I believe within one of the exceptions to the cap. So I'm not speaking as somebody who is personally outraged, I'm more concerned about just the rest of us, all of us together in this

Chamber going forward. I think that if you are an attorney and you are already covered by all of the ethical rules I know that I can't take on more work that I can competently handle. I can't take on types of work that I can't competently handle, or I might face a malpractice action, or I may be reported to a committee on -- on attorney conduct, an attorney misconduct committee. I also know that every single year and you all know it too, we have to fill out financial disclosure forms that are -- they're painful, they're so detailed. They want to know about me, they want to know about my spouse, they want to know about my kids, they want to know not my files, because they're family court files, but for most attorneys a complete list of who your clients are, what kind of clients there are, and as a previous speaker said I think that with the advent of that really detailed financial disclosure, we can identify potential conflicts, we can really have a good sense. The public can transparently see what I'm reporting and understand the kind of work that I do, what I earn, what everybody in my family earns, ad nauseam. So the idea that this cap has been put into place to prevent conflicts, I don't see what kind of conflicts it -- what kind of conflicts does a -- does a farmer have exactly, a conflict of interest with legislative work. I mean I guess we would find out on the financial disclosure form and on the Legislative Ethics forms that are filled out, but I can't envision that so I -- I -- I feel like the -- the cap that's being put on us is really to say that you're supposed to devote the vast majority of your time to your legislative duties and I embrace that, I agree with that. I think we do. We understand that if we even

hope to be re-elected every two years we need to serve our constituencies. We need to do a good job. Some of that is going to events back in our districts. A lot of that is being here in the seats participating, debating, crafting legislation, and doing a good job as legislators. We know that, we know that. And I really don't think that as we look at the big ethical problems that we have had as a Body and as a government in recent years I don't think that this issue of a -- of a cap in earnings is going to really address those bad actors that we've -- that have had to have been called out and addressed. I don't think it's going to make any difference at all. But I think it could impact the kind of people that are going to choose to serve, that are going to be able to serve. And I think it really might impact who's going to have to make the difficult choice to not run again and to leave and I worry about the -- as I said, what this Body is going to be like when that -- when that happens, when that day comes. You know we're in a very -- as a lawyer I mean I'm already in a very unpopular profession and as legislators, God knows we are in a very unpopular -- we are in a very unpopular profession. So we -- I kind of have that double, right? And some of us do in this -- in this -- in this room. But all I can really say, kind of to close, and I do believe I may be the last speaker, is wait until the public hears about the other great idea that came up from New York City from my friends in the City on public financing of campaigns. Wait until the public really wraps their arms around that idea. Because if you think that we're unpopular now, giving a -- bumping ourselves up right before Christmas during a recession or

near a recession, when people can't decide whether they're going to buy a toy for their kid or they're going to buy a bag of groceries or if they're going to fill up their gas tank. Wait until they find out that out of their tax dollars they're also going to be paying for career politicians, which is what we will be branded now, for sure, what we're going to -- they're going to be paying us so that we can run our campaigns. So anyway, obviously I will be voting in the negative. I'm very disappointed that the Body would not consider germane the -- I think the very reasonable Amendment to put this up to a vote. Let the voters decide what our pay should be, not ourselves. And I would encourage my colleagues to vote in the negative. And a very happy holidays to everyone. Thank you, Mr. Speaker.

ACTING SPEAKER AUBRY: Thank you.

And Mr. Goodell for a second.

MR. GOODELL: Thank you, Mr. Speaker. So today we've been called back into Session not to help our constituents, but to help ourselves. Think about that for a minute. We've come back here today not to help our constituents, but to help ourselves. Each of us in this holiday season may have different Christmas traditions. In my district the predominant Christmas tradition is to get gift for others. We don't have a Christmas tradition that's well-recognized in my district of buying gifts for ourselves. But here we are three days before Christmas asked to vote ourselves a \$32,000 salary increase. Thank you very much. So before you vote on that salary increase and most of you will still be here in what we used to call the People's

House, think about what your new salary compares to the people you claim to represent. Maybe you're from the Bronx in which case you'll be voting yourself a salary that's more than three times higher than the median income in your county. Or maybe you're from Kings, or Queens, or Erie, or Monroe, where your new salary will be only twice as high as the median income in your county. So what have we done to deserve to be paid twice as much or three times as much as the people we claim to represent? Well, New York State is number one. Number one in the nation in the number of people that have left. We're number one in the nation in the amount of income that's left. We are facing a record homelessness problem. We're painfully aware of what's happening in our streets with crime and repeat offenders. So we're here to say that we deserve a 78 percent increase in our salary over four years because we're leading the nation in all the wrong indicators?

Last week I saw two interesting announcements. One was a ribbon cutting on a brand-new corporate headquarters where they're hiring 4 to 5,000 highly-paid workers. That ribbon cutting was with Goldman Sachs in Texas. And it was followed a week later by an announcement from Goldman Sachs that they're laying off 4 to 5,000 highly-paid workers in New York City. You know sadly, we have a reputation in the nation as being anti-business. You don't take my word for it, don't take my word for it, just talk to any business leaders who are relocating to other states. Take a look at the income data that's coming in. And the projected multi-billion dollar shortfall

in New York City because of the loss of billions of dollars of adjusted gross income from New Yorkers who have left New York. So how are we addressing this anti-business attitude? This legislation says if you are a successful businessman you cannot serve on the floor of this Assembly unless you sell your business. You can't serve on the floor of the Assembly if you're a successful farmer unless you sell the family farm. You can't be here if you're a successful manufacturer unless you sell your manufacturing operation. And we're told it's to avoid a conflict of interest. Well, take a minute and think for yourself. What conflict of interest is there if you run a family farm? What's your conflict of interest if you run a dry cleaners? Or a bodega? Or the neighborhood grocery store? Or insurance business? What is the conflict of interest if you serve as a healthcare worker? Yet we make all of those people ineligible to serve here in the Assembly. That's what this bill does. It says if you're successful in business, you cannot serve on the floor of the Assembly. Now what happens if you think you're not that successful and you run and you win? Well, if you turn out to be a little bit more successful than you thought and you made more than 35,000 you can't vote. You may have been elected by your constituents with over 70 percent of the vote. You may have run unopposed. But if you make more than 35,000 in your retail store, or on your farm, or as a contractor, you can't vote on the floor of the Assembly, and we claim that we're not anti-business? My friends, voting ourselves a \$32,000 salary increase, just before Christmas, and making it illegal for anyone who is successful outside this Chamber to

serve on the Chamber and prohibiting them from even voting is an absolute disgrace. And if we claim to represent the people in our districts, if we claim to be representing in the People's House the men and women that work so hard in our districts, if we claim to represent the middle-class, if we claim to represent blue collar workers, we should not be voting ourselves a salary increase that's two to three times higher than they will ever earn. I'm opposed to the salary increase. To me it's shocking. I ran because I have a passion for public service. Hope it's no surprise to anyone I could earn a lot more in the private sector. I ran as I hope you did. Not to make twice as much as anyone in my county does on a median income, but to do what I can to help them. And so I would recommend that we don't make it illegal to be a successful business person, we don't make it illegal for you to be a farmer, or an accountant, or a veterinarian, or a doctor, or a pharmacist and sit on the floor of the Legislature, that we don't limit the membership to this organization to this Assembly to this institution to those who are unsuccessful, who are unemployed, or unemployable. That we instead, we embrace people who are successful and we welcome their public service and that's the mission we should have as an Assembly. This bill does the opposite. Thank you, Mr. Speaker, and thank you to my colleagues.

ACTING SPEAKER AUBRY: Thank you, sir.

On a motion by Ms. Weinstein the Senate bill is before the House. The Senate bill is advanced.

Read the last section.

THE CLERK: This act shall take effect immediately.

ACTING SPEAKER AUBRY: The Clerk will record the vote.

(The Clerk recorded the vote)

Mr. Gottfried to explain his vote. Quiet please.

MR. GOTTFRIED: Thank you, Mr. Speaker. Last week Governor Hochul was asked whether she supported a legislative pay raise. And she said we work hard, "we" referring to us, we work hard, it's a full-time job and she supports it. Now I've served with nine Governors over 52 years. I have never heard a Governor say anything like that. Now I have thanked Governor Hochul privately but I just want to say publicly what an honest, decent and standup thing that was. Mr. Speaker, Governor Hochul is right. And I want to give a special thank you to Speaker Heastie for his skill and dedication to this Body in bringing this about. Presumably this is the last bill I will vote on as a member of the Assembly and I am delighted to be able to vote for this bill. Thank you.

ACTING SPEAKER AUBRY: Thank you, sir.

(Applause)

Mr. Schmitt.

MR. SCHMITT: To explain my vote.

ACTING SPEAKER AUBRY: Proceed.

MR. SCHMITT: Mr. Speaker, I'll be voting no on this piece of legislation. I think that over the last year talking to constituents, hearing really the difficulties they're having financially

with rising costs, their salaries are not increasing at the rate of this proposal. The process which was done in a political manner to raise it is unacceptable to unilaterally disarm and not put restrictions also on the Governor and the Executive Offices here in the State of New York to hold them to the same standard as the Legislature doesn't make any sense to me. And also, I find it to be reckless to put rules in place that would restrict someone's ability to serve in a constitutional office and not specifically outline them. To ask men and women of our State to step up and serve regardless of party, regardless of what region they are in and be told that they might have to sell a family business, they might not be able to work in their profession depending on a ruling of the Legislative Ethics Commission after they get here, just does not make any sense and will truly restrict the amount of people who can serve. So this bill will restrict the amount of people and the quality of people who can serve in this Chamber and will also be an affront to the hardworking men and women no matter what part of the State we come from including in Orange County where our median income is -- is 85,000. Now legislators from Orange County will be making over 140,000. It just does not make any sense. So Mr. Speaker, I appreciate you listening to this matter and will be casting my vote in the negative. Thank you.

ACTING SPEAKER AUBRY: Mr. Schmitt in the negative.

Mr. Lawler to explain his vote.

MR. LAWLER: Thank you, Mr. Speaker. This will

be my last vote and I proudly vote no on giving this legislative Body a pay raise. There's a saying *pigs get fat, hogs get slaughtered*. This Body chose earlier this year to try and gerrymander a map to limit Republican representation. They were roundly thrown out in court deservedly. And by the way thank you because I will now be going to Congress. But the bottom line here is this. This Body has failed to represent the interest of the people of the State of New York. New York leads the nation in outmigration and it has absolutely nothing to do with the weather. And it has everything to do with the fact that New York has become unaffordable that people cannot afford to own and operate a business. And now with this legislation if you do own and operate a business you're not eligible to serve the people of the State of New York in the State Legislature if you make more than \$35,000. We tied this number to the 212 waiver. Why? If the intent was to cap outside income then cap outside income. Put an actual dollar amount on it. I can guarantee we'll be back. All of you will be back to increase that number. We know that will happen. We know they'll be Chapter Amendments to this bill because it was so poorly written to try to ram it through right before Christmas. All you're doing here is giving New Yorkers a lump of coal. And it's a shame. I will be voting no on the potted plant act.

ACTING SPEAKER AUBRY: Ms. Fernandez.

MS. FERNANDEZ: Thank you, Mr. Speaker. You can see my vote on the board but I'm really standing to say thank you to this Body. This is also my last vote, my last day serving in the

beautiful, the amazing, the People's House, the Assembly Chambers. And to all my colleagues, even on the other side of the aisle, thank you. Thank you for your service to your districts, thank you for working with me, thank you for allowing me to learn from you. And thank goodness I won't be too far but know that I'll always have all of you in my memory as I serve my district. And for all of you I look forward to working with you next year. Thank you.

(Applause)

ACTING SPEAKER AUBRY: Mrs. Peoples-Stokes to explain her vote.

MRS. PEOPLES-STOKES: Thank you, Mr. Speaker for the opportunity to explain my vote. I did listen intently to much of the debate that we had here today and honestly I respect all of my colleagues' opinion and their thought process, but I've also heard for at least 20 years that so many people are leaving New York. We're in the worst condition when it comes to taxes, but I drive on the 90 East and 90 West on a regular basis and I cannot tell you how much commerce I see that's growing between here and the City of Buffalo. So somebody stand here and somebody's growing business. So I want to congratulate them as we move into a holiday season for all of those business people who realize the value of staying and supporting the great state of New York. With that Mr. Speaker, I'm pleased to have voted yes for this piece of legislation.

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

Are there any other votes? Announce the results.

(The Clerk announced the results.)

The bill is passed.

Mrs. Peoples-Stokes.

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

ACTING SPEAKER AUBRY: We have neither, Mrs. Peoples-Stokes.

MRS. PEOPLES-STOKES: Thank you, Mr. Speaker. Well, I hope that everyone has a happy holiday and a Happy New Year and I now move that the Assembly stand adjourned until Friday, December the 3rd -- the 23rd, tomorrow being a Legislative day and that we reconvene at the call of the Speaker.

ACTING SPEAKER AUBRY: The House stands adjourned.

(Whereupon, at 3:25 p.m., the House stood adjourned.)