

TUESDAY, MAY 18, 2022

10:59 A.M.

ACTING SPEAKER AUBRY: The House will come to order.

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

(Whereupon, a moment of silence was observed.)

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

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

A quorum being present, the Clerk will read the Journal of Tuesday, May 17th.

Ms. Solages.

MS. SOLAGES: Mr. Speaker, I move to dispense

with the further reading of the Journal of Tuesday, May 17th and ask that the same stand approved.

ACTING SPEAKER AUBRY: Without objection, so ordered.

Ms. Solages.

MS. SOLAGES: Well, good morning, colleagues.

We have a very exciting day today, a lot of great work. But before we begin, we're going to continue with the tradition of our Majority Leader by reading a quote. This quote is from Jesse Jackson, and he's a Civil Rights activist and leader, a Baptist minister and a politician. And his quote is, *At the end of the day, we must go forward with hope and not backwards by fear and division.* What great words to end our wonderful week here in Albany.

So Mr. Speaker, may I have the members' attention so that we can announce the schedule for the day. Members have on their desk a main Calendar, we also have a debate list. We will begin our work today by taking up resolutions beginning on page 3, and we will then begin the day by taking up Rules Report No. 271 by Ms. Lupardo on consent. We will also work off the debate list beginning with the following bills: Rules Report No. 170 by Mr. Braunstein; Rules Report No. 178 by Mr. Dinowitz; Rules Report No. 179 by Mr. Gottfried; Rules Report No. 181 by Ms. Rosenthal; Rules Report No. 183 by Mr. Abinanti; Rules Report No. 187 by Mr. Epstein; and Rules Report No. 189 by Mr. Thiele. I will announce any further action on the floor as we proceed.

With that as a general outline, if there is any housekeeping or introductions, now would be the appropriate time.

ACTING SPEAKER AUBRY: We have neither introductions at the moment -- or maybe we do.

Ms. Solages for the purpose of an introduction.

MS. SOLAGES: Yeah, I have an introduction.

ACTING SPEAKER AUBRY: We knew you were going to give us something.

MS. SOLAGES: Yes. So we can't go on the day without an introduction, and so I'm actually joined by some great individuals who are currently lobbying for some bills I actually sponsor, athletic trainers (inaudible) like this. But we have actually the President of the NFL Alumni Association of Downstate New York. He is from Brooklyn, represented by Latrice Walker, Jude Waddy is here, and he actually has an exciting little trinket with him, I'm going to call it a trinket, right? He has the Vince Lombardi Superbowl Trophy from the year 2008, the Patriots versus Giants game. I hear that that's the time the Giants defeated the Patriots, he's just really excited because that's our trophy, right, I don't much about football, but I hear it's exciting. We're also here with Aimee Brunelle, who is Co-Chair of the New York State Athletic Trainers Association, and she is from Schenectady.

So Mr. Speaker, can you extend the cordialities of the House to not only the amazing trophy that we have, but the two fine individuals here.

ACTING SPEAKER AUBRY: Certainly. On behalf of Ms. Solages, the Speaker and all the members, we welcome you both here to the New York State Assembly, extend to you the privileges of the floor. Our delight that you bring us the championship trophy, something -- you know, you could leave it here with us, it's all right, we'll take care of it. But it's just so good to see you both, hope that you enjoy your trip to Albany, know that you are always welcome here. And we're anticipating that a team up north is going to bring another one of those back to us. Thank you so very much.

(Applause)

Mr. Stern for the purposes of an introduction.

MR. STERN: Yes, thank you, Mr. Speaker. On a day where it is our pleasure to welcome the Lombardi Trophy that recognizes champions, it is really my personal pleasure to recognize a few champions from my hometown that are visiting us up in Albany today. Mr. Speaker, we welcome representatives from the India Association of Long Island. Prafulba Vaghela is Founder and Director of the Young Adults for Community Service. She is a member of the Town of Huntington Youth Bureau Board, Legislative Chair of the India Association of Long Island, and serves as a member of the Suffolk County Womens Advisory Board. We're also joined today by Ms. Rashni Cook (phonetic) and Mr. Raul Remetra (phonetic), and his son Tanae (phonetic), who is an outstanding young man providing community service, serving as a mentor for other younger students while he has also just finished a term as a successful student at

University of Pennsylvania and brings great pride to our entire community.

Mr. Speaker, would you please extend the cordialities of the House and the privileges of the floor to our friends from Long Island representing the India Association. Thank you.

ACTING SPEAKER AUBRY: Certainly. On behalf of Mr. Stern, the Speaker and all the members, we welcome you here to the New York State Assembly. We extend to you the privileges of the floor, our congratulations on all that all of you do. Continue that great network you're doing, young man, University of Pennsylvania is no small accomplishment. Please know that your good wishes and our wishes will go with you through your life. Please continue the great work in the community that you're doing, ma'am, and know that you are both, and all of you, welcome here any time you can get to Albany. Thank you so very much.

(Applause)

Resolutions, page 3, the Clerk will read.

THE CLERK: Assembly Resolution No. 926, Rules at the request of Ms. Joyner.

Legislative Resolution memorializing Governor Kathy Hochul to proclaim May 2022 as Preeclampsia Awareness Month in the State of New York.

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

THE CLERK: Assembly Resolution No. 927, Rules at the request of Ms. Solages.

Legislative Resolution memorializing Governor Kathy Hochul to proclaim July 2022 as Fibroid Awareness Month in the State of New York.

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

THE CLERK: Assembly Resolution No. 928, Rules at the request of Mr. DeStefano.

Legislative Resolution memorializing Governor Kathy Hochul to proclaim August 2022 as Children's Eye Health and Safety Awareness Month in the State of New York.

ACTING SPEAKER AUBRY: Mr. DeStefano on the resolution.

MR. DESTEFANO: Thank you, Mr. Speaker. As we consider a resolution to proclaim August as Children's Eye Health and Safety Awareness Month in the State of New York, I ask that our thoughts turn to Caitlyn Michaels and her struggle with bilateral uveitis. Uveitis is a form of eye inflammation. It affects the middle layer of tissue in the eye wall. Uveitis warning signs often come on suddenly and get worse quickly. They include eye redness, pain and blurred vision. It is the third leading cause of blindness in children.

Through Caitlyn's tireless efforts, Children's Eye Health and Safety Awareness Month, now known as Caitlyn's Law,

was approved by the Suffolk County Legislature in April of 2019.

This law directs the County Health Department to implement updated information about eye health and urges families through various programs to get regular checkups. Awareness of bilateral uveitis and other many other afflictions that affect the eyes of children must be a priority Statewide. Doctors and health care providers must be cognizant of the need to carefully monitor the eye health of children, and parents must be aware as well. Proclaiming August as Child -- Children's Eye Health and Safety Awareness Month in the Empire State will go a long way towards identifying, treating, protecting the precious vision of our children.

Caitlyn Michaels lives in Mastic, Long Island in the 3rd Assembly District. As the representative of this district, I'm inspired to keep Caitlyn's vision and dream alive and make sure that children maintain the blessing of vision. Thank you, Mr. Speaker.

ACTING SPEAKER AUBRY: Thank you, sir.

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

THE CLERK: Assembly Resolution No. 929, Rules at the request of Mrs. Griffin.

Legislative Resolution memorializing Governor Kathy Hochul to proclaim September 4-10, 2022 as Suicide Prevention Week in the State of New York.

ACTING SPEAKER AUBRY: Mrs. Griffin on the resolution.

MRS. GRIFFIN: Okay. Thank you, Mr. Speaker, for allowing me to speak on this resolution. Sadly, too many young people are dying of suicide really every day and all through New York State, all through our country. Sadly in my hometown of Rockville Center, there have been so many young lives lost to suicide. So many of my kids' friends have -- have lost, that we've lost. Recently, we even lost a father of one -- one of my son's friends. And one of -- a couple of years ago one of my son's friends committed suicide and his -- they came up here and I -- I introduced them on the floor. But this family started the Ryan Patrick O'Shea Foundation and the hope within that foundation is to bring awareness to suicide, awareness to mental health, have people be open with their struggles so they can be helped. And they have really done a lot in our community, brought yoga into our -- many of the high schools in AD21, and have really made a difference, and a walk, and have really gotten kids to talk about suicide and have gotten the Long Island Railroad to post banners and they've really made a lot of strides.

And so I just wanted to recognize them and all the families, including my cousin's family who also committed suicide and, you know, all of the people in general. It's so important. We need to recognize that suicide is a problem every day, but this resolution is to proclaim it for the week of September 4th through September 10th. Thank you for allowing me to speak on the bill -- on the resolution.

ACTING SPEAKER AUBRY: Thank you.

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

THE CLERK: Assembly Resolution No. 930, Rules at the request of Mr. Byrne.

Legislative Resolution memorializing Governor Kathy Hochul to proclaim October 6-12, 2022 as Physician Assistant Week in the State of New York.

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

THE CLERK: Assembly Resolution No. 931, Rules at the request of Mr. Zebrowski.

Legislative Resolution memorializing Governor Kathy Hochul to proclaim October 9-15, 2022 as Fire Prevention Week in the State of New York.

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

THE CLERK: Assembly Resolution No. 932, Rules at the request of Mr. Brabenec.

Legislative Resolution memorializing Governor Kathy Hochul to proclaim October 2022 as Czech-American Heritage Month in the State of New York.

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

adopted.

THE CLERK: Assembly Resolution No. 933, Rules at the request of Ms. Buttenschon.

Legislative Resolution memorializing Governor Kathy Hochul to proclaim October 28th, 2022 as First Responders Day in the State of New York.

ACTING SPEAKER AUBRY: Ms. Buttenschon on the resolution.

MS. BUTTENSCHON: Thank you, Mr. Speaker. On behalf of the Assembly as well as so many others, our first responders are the individuals that come to us in time of need. And I know the week is in October, but I would just like to remind everyone that every day we face challenges, and those challenges have the follow-up of our first responders coming to ensure the health and safety of those individuals. So I would ask that all would respectfully support me in this resolution. Thank you.

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

THE CLERK: Assembly Resolution No. 934, Rules at the request of Mr. McDonald.

Legislative Resolution memorializing Governor Kathy Hochul to proclaim October 2022 as Pharmacists Month in the State of New York, in conjunction with the observance of National Pharmacists Month.

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

THE CLERK: Assembly Resolution No. 935, Rules at the request of Mr. DeStefano.

Legislative Resolution memorializing Governor Kathy Hochul to proclaim November 12-20, 2022 as Hunger and Homelessness Awareness Week in the State of New York.

ACTING SPEAKER AUBRY: Mr. DeStefano on the resolution.

MR. DESTEFANO: Thank you, Mr. Speaker, for the opportunity to speak on this very important resolution. The problem of hunger and homelessness is a great concern to all New Yorkers. More than 2.6 citizens, or one in every eight people, are considered food insecure, and an estimated 91,000 have nowhere to sleep at night. For the youngest in our State, food insecurity is ever prevalent and affects one-in-five children. As inflation rears its ugly head and the budgets of families come under even more strain, we can expect the problem to exacerbate.

While New York is committed to working with food pantries, shelters and other service organizations, it is imperative that a greater awareness of this issue and more must be done to increase activity in the local, State and national levels. In 1975, Villanova University hosted the first National Hunger and Homelessness Week and since that, universities, colleges, high schools, organizations and

other governments -- other governmental agencies across the United States have hosted events to increase awareness about the daily effects of those that are affected. These vital initiative focuses are giving and carrying the week before Thanksgiving, and the observance serves as a reminder that hunger and homelessness do not stop around the holidays and continue all year long.

To keep this critical issue in the forefront, I ask that my colleagues and Governor Hochul join me in proclaiming November 15th [sic]-21st as Hunger and Homelessness Awareness Month [sic] in the State of New York, with the observance of National Awareness Week. I urge all New Yorkers to get behind this effort and reach out and give a helping hand to as many fellow citizens and organizations that they can. Thank you, Mr. Speaker.

ACTING SPEAKER AUBRY: Thank you, sir.

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

Page 11, Rules Report No. 271, the Clerk will read.

THE CLERK: Assembly No. A10195, Rules Report No. 271, Committee on Rules (Lupardo). An act to amend the Agriculture and Markets Law, in relation to the beginning farmer advisory board on agriculture.

ACTING SPEAKER AUBRY: Read the last section.

THE CLERK: This act shall take effect immediately.

ACTING SPEAKER AUBRY: The Clerk will record the vote on Assembly print 10195. This is a fast roll call. Any

member who wishes to be recorded in the negative is reminded to contact the Majority or Minority Leader at the numbers previously provided.

(The Clerk recorded the vote.)

Are there any other votes? Announce the results.

(The Clerk announced the results.)

The bill is passed.

Ms. Solages.

MS. SOLAGES: On behalf of Assemblywoman Judy Griffin, I'd like to introduce two fine individuals who have come here in support of libraries, because we know libraries are essential. So we have Jan Heinlein, who's the Business Manager of Nassau Library System. I'd like to wish her a happy retirement, she's retiring in seven days, so we appreciate all the work she does. And also Nicole Scherer, who's the Assistant Director of the Nassau Library System. We thank them for their dedication, their effort and, you know, on behalf of Nassau County, we -- we're excited to have them in the Chamber. Please extend the cordialities of the House.

ACTING SPEAKER AUBRY: Certainly. On behalf of Mrs. Griffin, the entire Nassau delegation, the Speaker and all the members - and myself, I'm a latchkey kid, so that's where I spent my afternoons after school in the library - thank you so very much for the work you do. We extend to you the privileges of the floor, hope that you will have enjoyed your trip to Albany and that will have been beneficial to libraries all over the State. Thank you so very much.

(Applause)

Page 7, Rules Report No. 179, the Clerk will read.

THE CLERK: Assembly No. A03470-C, Rules Report No. 179, Gottfried, Epstein, Jacobson, Thiele, Simon, Seawright, Dinowitz, Benedetto, Sayegh, Reyes, Glick, Abinanti, Cruz, Paulin, Solages, L. Rosenthal, Gunther, Aubry, Galef, Steck, Niou, Weprin, Taylor, Jean-Pierre, Forrest, Mitaynes, Hevesi, Lunsford, Braunstein, Mamdani, Zinerman, Kelles, McDonald, Cahill, González-Rojas, Bronson, Anderson, Griffin, Burdick, Durso, Clark, Vanel, Englebright, Otis, Bichotte Hermelyn, Burgos, J. Rivera, Gibbs, Kim, Fahy, Fernandez, Ramos, Carroll, Davila, Jackson. An act to amend the Public Health Law, in relation to regulation of the billing of facility fees.

ACTING SPEAKER AUBRY: On a motion by Mr. Gottfried, the Senate bill is before the House. The Senate bill is advanced.

An explanation is requested, Mr. Gottfried.

MR. GOTTFRIED: Thank you, Mr. Speaker. This bill deals with what are called facility fees, which I think a lot of us are nowadays familiar with. It applies to facility fees for any health care services there are provided in a hospital-based facility and -- for which the fee is not covered by the patient's health insurance. And it requires that in order to charge that fee, the patient must be notified of the fee and the amount, et cetera, at least seven days before the patient visit, with the exception that if the visit was scheduled less than seven

days before the visit, the notice would be provided at the time of the visit. And it also provides that no facility fee shall be charged for any preventive services as defined by the United States Preventive Services Task Force.

MR. BYRNE: Thank you, Mr. Speaker, and thank you to the sponsor. Will the sponsor yield for some questions?

MR. GOTTFRIED: Yes.

ACTING SPEAKER AUBRY: Mr. Gottfried yields.

MR. BYRNE: Thank you, Mr. Gottfried. Now, if it -- if that notice requirement in the statute is not met, am I accurate in saying that this would then prohibit physician groups from separately billing a patient for services provided at the hospital?

MR. GOTTFRIED: I'm sorry, I -- I -- I couldn't hear that.

MR. BYRNE: This -- this would affect or prohibit private physician groups from separately billing a patient for services provided at a hospital if it doesn't comply with that notice requirement, that transparency requirement you mentioned in the bill?

MR. GOTTFRIED: Right. It --

ACTING SPEAKER AUBRY: We are on debate and so socialization is taken outside.

MR. GOTTFRIED: Right. Other than for the exceptions that are spelled out in the bill, in order to charge the facility fee for a hospital-based service there would have to be prior notice seven days before the visit, yes.

MR. BYRNE: Yes. So that no hospital, it's right in the bill, line 10, no hospital or health system or health care provider -- I just wanted to make sure I had that -- I understood the -- the definitions that --

MR. GOTTFRIED: Right.

MR. BYRNE: -- were included in that. Now, is there any exception for emergency services or emergency operations?

MR. GOTTFRIED: Well, an emergency service would, by definition, come under the exception where the visit was not scheduled seven days or more before the visit. So it would come under that exception and a facility fee could be charged.

MR. BYRNE: Okay. Now, there's been some concerns raised by various groups in the medical community, I know you're familiar with many of these different organizations including the Medical Society of the State of New York, a lot of different providers in the State, and I know you're very passionate about things like physician burnout and trying to reduce new burdens on physicians, but just, the concerns that have been raised this would require a physician on behalf of an affiliated hospital or health system to disclose that the affiliated entity will charge the facility fee and that this will create a significant new administrative burden on physicians. How would you respond to some of those concerns?

MR. GOTTFRIED: Yeah, it's a -- it's a good question and the answer is -- is a lot different today than it might have been if we were discussing this bill a decade or so ago. Services that

are provided in a hospital-based facility are -- are very different from the service provided by a general practitioner -- by a -- by a practitioner in a -- in a private office. Nowadays, if you're going for a service provided in a hospital-based facility, you are almost guaranteed to be getting electronic notification well before the event. You get electronic notification wanting to know if you've traveled outside the country in the last ten days, wanting to know, you know, do we have your phone number right, wanting to know do we have your insurance information right, confirming the appointment, et cetera. All of that is done automatically by a computer nowadays. All the hospital-based facility would do is add one more item to that collection of computer notifications, including the information about the facility fee. So as I say, maybe years ago you could have argued that this would be a burden on -- on providers. Nowadays, once people in the -- in the IT department at the hospital put this into their system, it will not be a burden on anyone.

MR. BYRNE: Well, I -- I think some of the providers would respectfully disagree, but I -- I do appreciate your response to it. And understanding that things have changed over the last decade, surely, and I -- and I think the State has certainly stepped up and embraced new technologies, like telehealth, over the years. And that's because of those technological -- those -- those advances in technology.

Now, some other questions that I had. You -- you mentioned, you know, electronic notifications and notice, and this --

this legislation that seeks to be more transparent and advanced notice in the billing of a facility fee, does it outline how that notice must be given? Must -- does it -- must it be mailed? Can it be sent electronically? Just to confirm, I think you said it could?

MR. GOTTFRIED: Yes, it certainly can be done electronically. The bill says nothing that would interfere with providing that notice electronically.

MR. BYRNE: Now, on -- I believe it's line 27 of Section 2830, it talks about the style and font size and language that must be -- this must be translated, and it says "top six languages." Now, for some of our colleagues that represent more rural communities in Upstate, they may have only two major languages compared to, you know, six languages. Is there a concern that that creates -- that's an unnecessary addition for some of our more rural communities in -- in New York?

MR. GOTTFRIED: Well, I don't think it's -- it's a burden. Again, it is something that would be done essentially once by the hospital-based facility. Once they set up that notice, they wouldn't, you know, it would -- it would function automatically. And it may -- it's -- to me, it's hard to imagine in the State of New York that there is a hospital that has a service area in which there aren't at least six languages spoken. They may not be spoken by a large chunk of the -- of the population, but it's hard to imagine a hospital whose service area does not have at least some number of people who speak as many as six different languages.

MR. BYRNE: Thank you to the sponsor.

Mr. Speaker, on the bill.

ACTING SPEAKER AUBRY: On the bill, sir.

MR. BYRNE: I want to thank the sponsor for taking time to answer the questions and, certainly, I think most of us like the idea of increasing transparency in billing so people don't get surprise bills. But there's a number of concerns that I expressed. Certainly physician burnout is something we -- we talk about even -- not just physicians, but in -- in the health care sector and generally speaking, you know, going through this pandemic for the last several years, many of our frontline health care workers have had a tremendous amount of strain on their position and it's impacted their lives in a way that most of us cannot even imagine. But adding to the administrative burdens while I'm sure, well-intentioned, it adds to that strain.

And I was reading -- I look up this -- the article, these ratings every year in March earlier this year, March 2022, WalletHub comes out with the best and worst states to be a doctor. And wouldn't you know, they actually count 51, there's not 51 states, but they include Washington, D.C. Out of 51, we're 50th, 50th, as a -- as a place to practice as a physician. And I don't want to be doing anything that makes it more costly for people to practice, that makes it more difficult for people to practice. Again, I -- I appreciate the intentions behind the legislation. Some of the organizations that have raised concerns, American College of Obstetricians and Gynecologists, the Medical Society of the State of New York, New

York State Academy of Family Physicians, New York American College of Emergency Physicians, New York State Ophthalmology Society, New York State Osteopathic Medical Society, New York State Radiological Society, New York State Society of Anesthesiologists, and the list goes on.

Again, I just wanted to make sure that those points were made on record, and I do appreciate the sponsor for taking the time to answer my questions. Thank you, Mr. Speaker.

ACTING SPEAKER AUBRY: Thank you, sir.

Mr. Ra.

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

ACTING SPEAKER AUBRY: Mr. Gottfried --

MR. GOTTFRIED: Yes.

ACTING SPEAKER AUBRY: Mr. Gottfried yields.

MR. RA: Thank you, Mr. Gottfried. So just a -- a couple of questions. First, with the really the last couple of lines of this regarding preventative care, and one of the issues that was raised is that perhaps an individual comes in for preventative care, but also there was some non-preventative aspects to that visit with their provider and whether the provider would then be out of compliance with this because they will not have noticed the individual.

MR. GOTTFRIED: Well, actually, it would not be out of compliance because I think it would be appropriate to regard the non-preventative part of that visit as having been secured less than

seven days before. Namely, it would have been secured, you know, in the middle of the appointment. So I -- I think in the circumstance that you're describing which I'm -- I'm familiar with the argument because if you -- it's from a HANYS memo that came in a day or two ago. In that circumstance, the non-preventive service would be treated as if it had not been scheduled more than seven days before. So there's really no problem.

MR. RA: Okay. Thank you for that. And then the other thing as you just mentioned, because it's exactly the memo I'm looking at right now, they did talk about just kind of, you know, perhaps looking at this from the standpoint of, you know, when somebody is going to be -- a recurring series of visits that -- that may be noticing them periodically as opposed to each individual time might be more -- more appropriate and less burdensome on -- on the provider. So you know, if somebody is going to be coming in on a regular basis for some, you know, chronic or recurring situation, whether this is going to require that each and every one of those visits that's -- that's scheduled, because oftentimes these are scheduled, you know, on a periodic basis, maybe you're coming in every two weeks or you're coming in every month, whatever it is, how -- how that works with regard to this.

MR. GOTTFRIED: Yeah. Well, again, if we were doing this a few years ago there might be an argument that providing a notice for every appointment would be an administrative burden; nowadays, it's no burden at all because it's all done by computer. If

you've been -- if you received a health care service at a hospital-based facility anytime in the last couple of years, I'm sure you've had the experience that I have where you get emails confirming the visit, asking if you've been out of the country, asking if -- if you've been vaccinated, asking is this still your insurance plan. And so this would simply be plugged into those automatic notices and actually, it would probably be easier for a hospital to send out the notice with every visit rather than trying to keep track of -- of whether it's been more than a year since they sent out the notice.

MR. RA: All right. Thank you. And -- and then just, you know, you mentioned the HANYS memo, but there was also a letter that came in from a number of medical professionals in terms of a concern that they had with this. So would this apply to employed physicians as -- in addition to affiliated physicians?

MR. GOTTFRIED: Yes, it would as long as the service is provided in a hospital-based facility. So for example if, you know, if your doctor is -- is employed by a hospital or is affiliated with a hospital, but you're getting the service in the physician's private office not in a hospital-based facility, this bill would not come into play. Also, under those circumstances there would probably not be a facility fee because facility fees are -- are almost entirely a phenomenon of hospital-based care.

MR. RA: Right. Thank you very much, Mr. Gottfried.

Mr. Speaker, on the bill.

ACTING SPEAKER AUBRY: On the bill, sir.

MR. RA: You know, just quickly on that last point, you know, one -- one of the concerns that -- that was raised in this memo is that many of these physicians actually left private practice to minimize these types of administrative requirements so they can focus, you know, more on health care delivery. And these are fees that are not really for the benefit of -- of that physician, they're for the benefit of the health system or -- or the hospital. But really, the burden then is going to fall on them for -- for the disclosure.

So you know, I know over the years we've done a lot and, you know, through the leadership of -- of the sponsor to curtail, you know, these unexpected costs that -- that can fall on people and make sure there's transparency, make sure we protect people for -- from those costs where we can, as well, and -- and that's a positive thing, but -- but I wonder if this type of requirement couldn't be done in a manner that will accomplish that goal without being such a -- a recurring regular requirement on -- on the provider that -- that may prove to be burdensome on them. Thank you, Mr. Speaker.

ACTING SPEAKER AUBRY: Thank you, Mr. Ra.

Read the last section.

THE CLERK: This act shall take effect on the 180th day.

ACTING SPEAKER AUBRY: The Clerk will record the vote on Senate print 2521-C. This is a Party vote. Any member who wishes to be recorded as an exception to the Conference position

is reminded to contact the Majority or Minority Leader at the numbers previously provided.

Mr. Ra.

MR. RA: Thank you, Mr. Speaker. This is a Party vote. The Republican Conference will be generally in the negative on this piece of legislation. Those wishing to vote in the affirmative can contact the Minority Leader's Office at the number previously provided. Thank you.

ACTING SPEAKER AUBRY: Ms. Solages.

MS. SOLAGES: I'd like to remind my colleagues that this is a Party vote and that the Majority members will be voting in the affirmative. If there's any exceptions, I encourage them to call the Majority Leader's Office and we will announce their name accordingly.

ACTING SPEAKER AUBRY: So noted, thank you.

(The Clerk recorded the vote.)

Mr. Gottfried to explain his vote.

MR. GOTTFRIED: Thank you, Mr. Speaker, to explain my vote. Just a couple of points. One is that a question was raised about the requirement that the notice be in the top six languages in the hospital's service area. That is actually already, and has been for over, well over a decade, a requirement for hospitals to provide their forms and information to be available in -- in that many languages already. So that's really nothing new. And as for burden, you know, there are 20 million New Yorkers who from time to time

are patients. And if -- if you get a bill, I've never seen a bill that plainly labels something as a facility fee so it's hard to figure out. If you then discover that oh, my goodness, my insurance isn't covering it, it's not particularly clear right at the outset why your insurance is not covering it. If your family is like my family, you often spend a lot more time trying to sort out the bill and dealing with the insurance company and dealing with the hospital and their billing department than the actual visit took in the first place.

So for 20 million New Yorkers, I think a bill like this has a lot to do with easing both financial burden and -- and the time it takes to deal with the billing that we get these days, and I am proud to vote in the affirmative.

ACTING SPEAKER AUBRY: Mr. Gottfried in the affirmative.

Are there any other votes? Announce the results.

(The Clerk announced the results.)

The bill is passed.

Page 6, Rules Report No. 170, the Clerk will read.

THE CLERK: Senate No. S02976-A, Rules Report No. 170, Senator Harckham (Braunstein, Fernandez, Gottfried, Cymbrowitz, Jacobson, Griffin, Reilly, J. M. Giglio, Tague, Ra, Seawright, Hevesi--A00348-A). An act to amend the Mental Hygiene Law, in relation to providing discharged patients with certain educational materials regarding substance use disorders and two doses of an opioid antagonist in a form approved for take home use; to

amend the Correction Law, in relation to providing previously incarcerated individuals with certain educational materials regarding substance use disorders and two doses of an opioid antagonist in a form approved for take home use upon discharge from incarceration; and to amend the Public Health Law, in relation to the provision of opioid antagonists for take home use upon discharge from the hospital.

MS. WALSH: Explanation, please.

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

We'll be quieting down again, please. Debate is on. Members, have your seats.

MR. BRAUNSTEIN: Thank you, Mr. Speaker. This bill would require individuals being released from an OASAS facility, a correctional facility, or a hospital in certain situations to be provided with educational materials regarding overdoses, as well as two doses of naloxone to bring home upon discharge.

ACTING SPEAKER AUBRY: Ms. Walsh.

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

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

MR. BRAUNSTEIN: Yes.

ACTING SPEAKER AUBRY: The sponsor yields.

MS. WALSH: Thank you so much. So just a couple

of questions about kind of how this bill works. This bill, from what I can see starting at around page 1, line 8 states that the individual discharged shall be provided with educational materials and shall be provided with the two doses of the opioid antagonist. So this is not a -- a may, this is -- or upon request, this is going to -- this must be provided to the individuals that are specified in the bill; is that correct?

MR. BRAUNSTEIN: Yes. So studies have shown that individuals who have a substance abuse disorder after a period of abstinences -- abstinence, are significantly more likely to experience an overdose. So when someone's leaving treatment, someone's leaving an emergency room, or someone's leaving prison and they have a history of substance abuse disorder, we want to give them an opioid antagonist to take home.

MS. WALSH: That's really -- if that was the -- and I'm thinking about, yeah, that -- that I've read cases about that, too, where -- so even if you've been say in prison or jail for a period of time and you've been able to come off the substance that you were previously abusing and you -- and you've received drug treatment while you've been incarcerated or jail, what you're saying is that upon leaving, your chances of overdosing are heightened because, even though you have successfully undergone treatment or have come off of the substance while you've been in jail or in prison; is that right?

MR. BRAUNSTEIN: Yeah. I mean, I think I have the statistics in the bill memo, and I'll just look it up right now. Just

give me a second.

MS. WALSH: Sure.

MR. BRAUNSTEIN: A recent study in North Carolina found that in the first two weeks after being released from prison, former inmates were 40 times more likely to die of an opioid overdose than someone in the general population.

MS. WALSH: Did you say 40?

MR. BRAUNSTEIN: Yes.

MS. WALSH: Not four, wow. Okay. That's so interesting. Now -- that -- because that was really definitely one of my questions as far as if you had, you know, an inmate that somebody had been in or clean for, you know, years, we know that there's a lot of contraband in prison, too, but I mean, with the idea that when they're coming out I was wondering whether it would -- made more sense to have the person request the opioid antagonist upon leaving rather than just saying -- mandating that two doses must be given to everybody. So what -- what do you think about that as a must versus a --

MR. BRAUNSTEIN: I think someone in that situation might be optimistic and hopeful, and they might at that time say, *No, no, no, I've got it together and this isn't going to happen*, but there's always the chance once they get out and it's accessible and they're around, you know, influences that they may revert back. And considering the fact that they're so much more likely to experience an overdose, we just want to make sure that we have naloxone available to them in those situation -- circumstances.

MS. WALSH: Thank you. What -- what is the estimated cost or financial impact once this legislation is passed?

MR. BRAUNSTEIN: We, you know, the -- the memo says to be determined, but we -- we do know that the State, through the Department of Health and OASAS has funds available should hospitals or local correctional facilities request funding for this program.

MS. WALSH: Under our current law right now, are these opioid antagonists provided optionally and this would just make it a mandatory thing, or do you know what the current state of regulation is as far as when an individual is leaving?

(Pause)

MR. BRAUNSTEIN: So throughout the State, there's opioid prevention programs where people could go and get training and get naloxone. We don't have specifics on whether or not there -- in these circumstances upon discharge from these facilities whether or not someone is offered. We imagine, in certain circumstances, they are, and that people could also go to a pharmacy. I believe there's nonpatient specific prescriptions available where they can pick it up upon request.

MS. WALSH: Very good. And then I just wanted to ask you following up on the study that you talked about with the -- that the individuals were 40 times more likely to overdose than the general public, but then the question came to mind of what percentage of released inmates do overdose upon release; do you happen to know

that?

MR. BRAUNSTEIN: No. I mean, I don't -- I don't have that information before me and, you know, I'm -- I'm speaking anecdotally here about what I hear, but I think what happens is people, they've spent significant time without opioids and upon discharge, they go back to their old habit and sometimes they haven't developed a tolerance for -- for that and they go back to their old dose or old amount --

MS. WALSH: Yeah.

MR. BRAUNSTEIN: -- and that's why they're more likely to experience an overdose. I mean, like I say, I don't know if that's medically factual, that's just what I hear anecdotally. So that's why in these circumstances it's -- it's critical to make sure that these individuals have access to naloxone in the event that they do go back to their old having a dose.

MS. WALSH: Thank you very much.

Mr. Speaker, on the bill.

ACTING SPEAKER AUBRY: On the bill, ma'am.

MS. WALSH: I found that really interesting. I -- I wasn't aware that study or that statistic, I mean, I think that I don't at all question the value of providing opioid antagonists to individuals who need them. I recently went through a Narcan refresher course within my community just to be sure that I -- I knew how to administer it if -- if need be. And I think that there is -- there's a lot of truth to that, that if we -- if we can make sure that individuals have

very ready access to opioid antagonists, there's no question that it will save lives.

Based on the responses given by the sponsor, I -- I will plan on supporting this legislation, and we did have some no votes in Committee, which I would want our members to be aware of, but I will be supporting it. Thank you, Mr. Speaker.

ACTING SPEAKER AUBRY: Thank you very much, Ms. Walsh.

Read the last section.

THE CLERK: This act shall take effect on the 180th day.

ACTING SPEAKER AUBRY: The Clerk will record the vote on Senate print 2976-A. This is a fast roll call. Any member who wishes to be recorded in the negative is reminded to contact the Majority or Minority Leader at the numbers previously provided.

(The Clerk recorded the vote.)

Are there any other votes? Announce the results.

(The Clerk announced the results.)

The bill is passed.

Page 7, Rules Report No. 178, the Clerk will read.

THE CLERK: Assembly No. A01880-A, Rules Report No. 178, Dinowitz, Otis, Epstein, Burdick, Glick. An act relating to requiring home health aides and nurse's aides to receive training in working with patients of diverse sexual orientations and gender identities or expressions.

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

MR. DINOWITZ: This bill would require the Department of Health and the State Education Department to develop a training program for home health aides, nurse's aides, personal care aides and personal care staff when working with patients of diverse sexual orientations and gender identities as part of the education and training for certification of these aides.

ACTING SPEAKER AUBRY: Ms. Walsh.

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

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

MR. DINOWITZ: Yes.

ACTING SPEAKER AUBRY: The sponsor yields.

MS. WALSH: Thank you very much. So just very briefly, is there -- is there a sense of how long of a -- of a unit that -- that this would be involved as part of the training for these individuals?

MR. DINOWITZ: It -- it would be part of the -- of the larger training. I don't know that it's a specific number of hours, but I think the overall training for them is I think 75 hours, if I'm not mistaken. And I'm usually not. Yes, so it's part of the 75-hour training.

MS. WALSH: Okay. And so I know that, you know,

as attorneys we do continuing legal education and I would imagine that there is some -- is there any kind of like a -- a continuing education requirement for these -- for these medical professionals?

MR. DINOWITZ: Let me check. They need -- yeah. Like us, like us attorneys, they need to have 12 hours of training each year.

MS. WALSH: Okay. So with this particular unit on diversity training, would that be part of a recertification process or a continuing education process, in addition to being part of the initial certification requirement?

MR. DINOWITZ: Not necessarily --

MS. WALSH: Okay.

MR. DINOWITZ: -- but it could be. Like when we do our continuing legal education, there is -- there are various topics, but we don't get trained in every topic every year.

MS. WALSH: Right. Right. Okay. All right. So it -- do you happen to know if this particular kind of diversity training topic is part of -- is it required for any other medical professionals?

MR. DINOWITZ: I -- I think there are other training for medical professionals in this area, but nothing specifically for people who work, you know, at somebody's home. So for example, and I'll give you some examples --

MS. WALSH: Okay.

MR. DINOWITZ: The National LGBTQ Health Education Center has established a wide range of educational

programs with the goal of optimizing quality, cost-effective health care for LGBT individuals. There's also the Nurse's Health Education about LGBT elders curriculum, and those are just two examples. But they don't cover the people that would be covered in this bill.

MS. WALSH: I see. Okay. Now, is -- so as far as the -- the reason for the -- the training, is there a sense that individuals who are LGBTQ+ have different medical needs, or is it more of a -- a -- I don't want to say a sensitivity training, but is it more of an idea that we want individuals working at home with patients to have a -- a better way of responding to these types of issues with -- with patients? I mean, could you just talk a little bit about the justification for it.

MR. DINOWITZ: I -- I think from both the -- the health aide person and the person who is receiving the services, there are reasons to do this. You know, different people have different needs. It's -- it's not only medical needs, it may be, you know, like psychological needs or -- or just to be dealt with in an appropriate way. I mean, there are people occasionally who may do things inappropriately, but I think more likely what we may experience are some people who just don't do anything out of malice, but just don't handle things the way they probably need to do and so this will hopefully help alleviate situations like that.

MS. WALSH: Very good. Thank you so much, Mr. Dinowitz.

MR. DINOWITZ: Okay.

MS. WALSH: Madam Speaker, on the bill.

ACTING SPEAKER ROZIC: On the bill.

MS. WALSH: So I -- you know, I think that we're seeing in many different industries whether it's real estate, other -- other medical professionals, attorneys, we're all being asked to receive training on this particular topic so that we can become better informed so that our interactions with our patients, our clients are respectful and -- and, you know, treat the individuals that we're dealing with with the courtesy and dignity that everyone is entitled to.

So I -- I have no objection with the idea that we would add a training unit on this topic for these medical professionals. I guess the only thing that kind of came to mind a little bit as I was taking a look at the bill was really the -- the idea that we already are facing an incredible shortage of these particular direct care workers. They're already and -- and to an extent kind of a beleaguered group and I just think that we as legislators need to be sensitive to the idea that we -- we are facing such a shortage, I just wouldn't want an increasing burden to -- to reduce the number of individuals that might want to do this kind of work.

But I do think we understand that this training program will -- is still to be developed, but I'm assuming that within the scope of 75 hours of training process this is not going to represent a -- a huge time demand or a huge additional burden, and I do think it is an important topic. So I will be supporting this bill. I would encourage my colleagues to do the same. Thank you very much.

ACTING SPEAKER ROZIC: Mr. Goodell.

MR. GOODELL: Thank you. Would the -- would the sponsor yield?

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

MR. DINOWITZ: Yes, I will.

ACTING SPEAKER ROZIC: The sponsor yields.

MR. GOODELL: Thank you. What is the remedy if a health care worker, a nurse or something doesn't go through this training? Are they going to be banned from working?

MR. DINOWITZ: I don't -- I don't see that. If they -- I mean, they need the training to be certified just like -- like you do for -- as an attorney.

MR. GOODELL: So if they don't complete this training their -- their certification would be -- their certification would not be renewed and they wouldn't be able to work?

MR. DINOWITZ: Well, keep in mind they already have to have training. They already have the 75 hours. This would be a component, a module of those 75 hours. It's not like we're adding any burden to them, it's not like we're adding any hours. They are already required to be trained and certified just -- just like you and I.

MR. GOODELL: Okay. So this obligation then is really directed not at the health care workers in terms of developing the program or attending, it's part of their certification process; that's your intent.

MR. DINOWITZ: Yeah.

MR. GOODELL: Okay. One other issue, are we just leaving it up to the Department of Education to figure out what should be in this program?

MR. DINOWITZ: I believe the Department of Health is -- it's the Department of Health in consultation with the -- actually it's the Commissioner of Health in consultation with the Commissioner of Education.

MR. GOODELL: Okay. Is there a reason why we don't involve the Human Rights Commission?

MR. DINOWITZ: We are involving the Health Commissioner -- the Health Commissioner.

MR. GOODELL: Okay.

MR. DINOWITZ: We don't want to over -- have many commissioners that kind of --

MR. GOODELL: Okay.

MR. DINOWITZ: -- spoil the broth.

MR. GOODELL: Thanks. Thank you, Mr. Dinowitz.

On the bill, sir.

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

MR. GOODELL: To be honest with you, I really don't know why a person's sexual orientation or gender identity is related to the quality of their health care. I mean, I would expect everyone who is seeking health care be treated as a -- with respect and

dignity that every single person should -- should obtain. And it shouldn't make any difference what your sexual orientation is or what your gender identity is. And -- and this training starts from apparently the presumption that health care staff in some way make a difference in how they treat you based on what your private, confidential sexual orientation might be, and I think that premise is just wrong. I don't think nurses or health care facilities or doctors or anyone say, *Hey, we're going to treat this person one way or the other many based on whether or not they're transsexual, asexual, intersexual, questioning, queer* or anything else. Or whether their license says they're F, M, or X. I don't even think that should enter the discussion, to be honest with you.

And so I don't understand this fascination about teaching everybody that there are now ten or 11 different classifications on sexual orientation. I don't understand that fascination. I think we should focus on everyone providing high quality care regardless and not even ask people, *Look, are you attracted to men, women, both, neither? Sometimes? You don't know?* It doesn't -- it's not relevant. It's just not relevant. And so now we're spending resources, and I appreciate the sponsor's comment that this is part of the training program. So now we're taking time away from the training program that focuses on health care and using a portion of that time to talk about sexual orientation. The focus should be on health care, not on sexual orientation.

So I -- I'm just not -- I'm just not there. I think the

focus on all of our training should be how do we provide the highest quality of care for our patients and not include training on what our patients' sexual orientation or gender identity might be. Thank you, sir.

ACTING SPEAKER AUBRY: Mr. Dinowitz.

MR. DINOWITZ: Currently, currently there is a dedicated unit on the diversity of residents and how diversity impacts both care and quality of life. And central to this unit is developing an awareness of and respect for diversity of race, religion, national origin and sexual orientation, as well as how families differ in age, customs, finance and sexual differences. It's -- it's not like this is being added in a vacuum. There are other groups of people that are -- are part of this and it's just an effort to make sure that people get the best possible care. So I would -- I wouldn't worry about it, Mr. Goodell. Thank you.

ACTING SPEAKER AUBRY: Read the last section.

THE CLERK: This act shall take effect immediately.

ACTING SPEAKER AUBRY: The Clerk will record the vote on Assembly print 1880-A. This is a fast roll call. Any member who wishes to be recorded in the negative is reminded to contact the Majority or Minority Leader at the numbers previously provided.

(The Clerk recorded the vote.)

Mr. Goodell.

MR. GOODELL: Thank you, sir. This is a fast roll

call both because I suspect the majority of my members will be supportive of the bill. I would point out that we had substantial negative votes in all the Committees that reviewed it. Five out of seven, for example, and about five out of seven in Ways and Means and unanimous opposition in Rules. And I think that opposition is focused on the fact that we think - those of us who oppose this - that the primary focus of training for our health care workers should be on providing high quality health care and not whether a person is an LGBTQQIPAS or any other sexual orientation, or whether they're a male, female, or binary or nonbinary. It's hard for me to keep up.

So for those who oppose it, we all support the idea of being sensitive, but we think our first priority on all training ought to be on the patient care. And those who support it do so because they want to make sure everyone is sensitive to the different types of people that they may be dealing with. Thank you, sir. I'll be voting no.

ACTING SPEAKER AUBRY: Thank you for explaining your vote, Mr. Goodell.

Mr. Goodell.

MR. GOODELL: Thank you, sir. Please record the following colleagues -- please record the following colleagues in the negative: Mr. Brabenec, Mr. Keith Brown, Mr. Friend, Mr. Gallahan. Thank you, sir.

ACTING SPEAKER AUBRY: So noted.

Are there any other votes? Announce the results.

(The Clerk announced the results.)

The bill is passed.

Page 7, Rules Report No. 181, the Clerk will read.

THE CLERK: Assembly No. A03714, Rules Report No. 181, L. Rosenthal. An act to amend the Real Property Law, in relation to requiring the disclosure of indoor mold history upon the sale of certain real property.

ACTING SPEAKER AUBRY: An explanation is requested, Ms. Rosenthal.

MS. ROSENTHAL: This bill adds a question on if the property for sale has been tested for indoor mold. It adds it to the property condition disclosure statement required as part of the sale of residential property.

ACTING SPEAKER AUBRY: Mr. Goodell.

MR. GOODELL: Thank you. To be honest, I have no -- sorry. Would the sponsor yield?

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

And I cannot hear. You folks under the eave, you're not -- it doesn't have a soundproof center so you can either take it outside the Chamber, there's halls out there, but you're going to have to keep quiet. We can't hear the debaters.

MS. ROSENTHAL: Thank you. I will yield.

MR. GOODELL: Thank you, Ms. Rosenthal.

ACTING SPEAKER AUBRY: Ms. Rosenthal yields.

Let's get back to the business.

MR. GOODELL: I was starting to say nice things about your bill when I forgot I wasn't following the proper protocol.

MS. ROSENTHAL: Yes. Can you --

MR. GOODELL: I actually don't have a problem --

MS. ROSENTHAL: Can you also just speak up a little, it's very echoey today for some reason.

MR. GOODELL: You just want me to say it twice that I didn't have -- was saying nice things about your bill.

MS. ROSENTHAL: Oh no. No, no.

MR. GOODELL: I don't have any problem with requiring a statement asking whether the property that's being sold has been tested for indoor mold, but this then goes on to impose an affirmative requirement in addition to that disclosure that the seller actually provide a copy of the report.

MS. ROSENTHAL: Yes.

MR. GOODELL: What happens if the seller doesn't have that report?

MS. ROSENTHAL: I guess the attorneys would -- would discuss having -- figure that out.

MR. GOODELL: Now, what's the remedy if a seller just simply skips that question?

MS. ROSENTHAL: I would suppose that the lawyer for each -- for the buyer and seller would -- would figure it out. I don't -- I don't believe that there is any -- any -- any penalty in the law

regarding skipping a question.

MR. GOODELL: Okay. So this wouldn't trigger the \$500 civil penalty that applies if you don't fill out the report at all?

MS. ROSENTHAL: I mean, I know that sometimes happens as the payment of \$500 and then be done with it. So I suppose that that could happen here, but it -- it doesn't provide guidance to that effect. It's the same as, you know, if you don't answer any of the other questions. As -- and there are other questions about testing, et cetera. So it would be the same situation.

MR. GOODELL: Thank you, Ms. Rosenthal.

MS. ROSENTHAL: You're welcome.

MR. GOODELL: On the bill, sir.

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

MR. GOODELL: For those who don't practice real estate, just a little background. There's a property condition disclosure statement that most sellers fill out. It's quite detailed, it runs typically four or five pages long with a whole series of questions that say yes, no, unknown. And it asks everything. I mean, condition of the roof, windows, siding, I mean you name it, it's there on that form. Now, any seller can -- has the absolute right not to fill it out at all, and if you do, there's a \$500 credit that's given to the buyer at the time of closing if there's no property condition disclosure report. Most lawyers never read it because it's part of a massive closing package and we leave it up to the real estate agent and the buyer to make sure they've read it.

This bill adds a question 19-A, out of a form that contains it looks like 48 questions, so we now add one more, ask them if there's been a -- if the property's been tested for mold. And I think that's a relevant question. The problem is this goes on to say that if so, attach a copy of the report. And here's the problem with it. The property may have been tested for mold, there may have been mold available or that shows up on it, and it may have been remediated, and it may have occurred years ago. I mean, it could have been five years, ten years ago. And so just asking whether or not it's been tested and provide a copy of the test report itself could be extraordinarily misleading if the test is old or if the property has been properly remediated.

And so I would -- I would actually vote in favor of this bill but for the requirement that you have to provide a report that may have been done years ago and that nobody has anymore because the property has all been remediated. And so I -- I hope that this bill comes back at some point in the future without that requirement and then in that case, I would certainly support it, but with that requirement in, it's really a trap and it's misleading and it's incomplete. And so for that reason, I wouldn't support the current language. Thank you, sir. And again, thank you to Ms. Rosenthal for answering those questions.

ACTING SPEAKER AUBRY: Read the last section.

THE CLERK: This act shall take effect on the 180th day.

ACTING SPEAKER AUBRY: The Clerk will record the vote on Assembly print 3714. This is a Party vote. Any member who wishes to be recorded as an exception to the Conference position is reminded to contact the Majority or Minority Leader at the numbers previously provided.

Mr. Goodell.

MR. GOODELL: Thank you, sir. The Republican Conference is generally in the negative. I note our Housing Committee was unanimously opposed, but those who support it are certainly encouraged to vote yes on the floor or by contacting the Minority Leader's Office. Thank you, sir.

ACTING SPEAKER AUBRY: Thank you.

Ms. Solages.

MS. SOLAGES: The Majority members will be voting in the affirmative. If you wish to be an exception, I encourage you to call the Majority Leader's Office at the number previously provided and we will announce your name accordingly.

ACTING SPEAKER AUBRY: Thank you.

(The Clerk recorded the vote.)

Ms. Rosenthal to explain her vote.

MS. ROSENTHAL: To explain my vote. This bill is proposed for transparency reasons would -- would require that before a sale, the seller answer questions on the property condition disclosure statement, and they would have to answer, in addition to many other questions, whether the property has been tested for mold. The reason

this is important is that mold can affect everyone's immune system. For some people it can cause asthma, allergic reactions, difficulty breathing, and for others there can be even more dire consequences. So in the interests of full disclosure and to guide a buyer on the property information, this adds that requirement and I vote in the affirmative. Thank you.

ACTING SPEAKER AUBRY: Ms. Rosenthal in the affirmative. Thank you.

Are there any other votes? Announce the results.

(The Clerk announced the results.)

The bill is passed.

Page 7, Rules Report No. 183, the Clerk will read.

THE CLERK: Assembly No. A04333, Rules Report No. 183, Abinanti. An act to amend the Election Law, in relation to additional days of voting as a result of emergencies.

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

MR. ABINANTI: Thank you, Mr. Speaker. This -- this bill would amend the Election Law to add a -- the state of emergency as an additional factor for the delay of an election, and would eliminate the current provisions which allow for a cancellation of elections if a minimum number of people do not vote in the election because of statutory listed conditions. It also adds a provision that makes this statute as it presently exists and as amended to apply to party caucuses.

ACTING SPEAKER AUBRY: Mr. Norris.

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

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

MR. ABINANTI: Yes, Mr. Speaker.

ACTING SPEAKER AUBRY: The sponsor yields, sir.

MR. NORRIS: Mr. Abinanti, my first question is what is the purpose for the change in this proposed legislation?

MR. ABINANTI: The purpose is to set forth in the statute a clear scheme in case of a declaration of a state of emergency. As we saw a couple of years ago, the control of the election went from the statute to the Governor and there were no standards, and the Governor set new dates when the Legislature had nothing to do with it. This is an attempt to set up an organized plan so everybody can -- can plan in advance what's going to happen when there's a state of emergency declared.

MR. NORRIS: Mr. Abinanti, in that case I recall -- didn't this Body provide the Governor with the authority to supersede any statute during that period of time?

MR. ABINANTI: I'm going to leave that interpretation to -- to the lawyers at the time that it happens.

MR. NORRIS: But didn't -- didn't last time the Governor's powers allowed him to suspend any law during the period

of emergency?

MR. ABINANTI: The Governor acted as he saw fit. He didn't ask me for an opinion as to what he could do and couldn't do. And history is history, we're now trying to go forward.

MR. NORRIS: Okay. But, Mr. Abinanti, let's assume that this becomes law, the Governor signs the bill and another situation develops where we have to grant emergency powers in that event. Could they suspend the new law under that? That's what happened last time.

MR. ABINANTI: I'm not going to venture an opinion on that. This legislation purely sets forth a -- a scheme that should be followed if there is a state of emergency declared.

MR. NORRIS: I got to tell you, I was not going to ask those questions before until you brought it up, but are we -- are we still in a state of emergency right now for COVID?

MR. ABINANTI: I would have to rely on interpretation by the Attorney General and -- and counsel for that. I can't give you --

MR. NORRIS: Okay. All right. So I do -- I do think that the Governor has extended something -- some declaration I saw for a period of time. Would -- would this new law apply under a COVID situation or for a virus situation or similar -- similar situation with a communicable disease out there?

MR. ABINANTI: This -- this new law applies where the ability of the voters to vote has become or will imminently become

impossible. And we're trying here to set forth a -- some statutory scheme to use the present statute that says elections can be delayed for 20 days. But there is -- that's in the statute. So I'm hopeful that people would follow that. Also, we had a circumstance in my town of Greenburgh where because of a very serious storm, one of the caucuses could not be conducted and we needed to get permission to move the caucus one day. And there was serious question as to how that would happen, if there was statutory authority to do that. This -- this law makes it very clear that this -- this statute applies to the caucus situation.

MR. NORRIS: All right. So is that the reason why you brought this bill forward, that particular instance?

MR. ABINANTI: That is -- that is one of the motivating factors, and then when we looked at the statute we saw that there are other things that had to be cleared up. I mean, the present statute, for example, allows for the cancellation of election -- of an election when less than 25 percent of the registered voters showed up at a time when there -- there was a power failure, tornado, or some other -- some other type of -- of major event that was in -- it was making it difficult for people to vote. My personal view, and I think what we're trying to express here, is we should not act retroactively. We should not be cancelling elections that -- that took place when 24 percent of the people showed up to vote. We're trying to make it totally perspective so everybody understands what they're going into and not allow some public official or some -- somebody at the Board

of Elections to say, *Well, too few people showed up, it must have been because of the tornado or because of the earthquake and, therefore, we're going to cancel that election and have another one.* So we've eliminated that provision.

MR. NORRIS: All right. So you -- under your proposal, you've got the Board of Elections to make a determination, right? Could they -- would that require now a Republican and Democrat to agree?

MR. ABINANTI: Well, that's the -- this is the present statute. We haven't changed that.

MR. NORRIS: Okay, so...

MR. ABINANTI: In fact, we've added the State Board of Elections as a party to this so that they are involved and it's not just County Boards of Elections that are involved.

MR. NORRIS: I see. And under the current statute if there was a flood -- I'm sorry, fire, earthquake, tornado, explosion, power failure, act of sabotage, enemy attack or other disaster with the 25 percent then, they're already in power to do; is that correct?

MR. ABINANTI: Yes. Under the present statute, yes. The -- one of the Boards of Elections could say that some -- and for some reason that -- that impacted the turnout and only 24 percent, or less than 25 percent showed up and, therefore, they're going to cancel and have another one.

MR. NORRIS: So what if five people can't show up?

MR. ABINANTI: I'm sorry, say that again.

MR. NORRIS: What if five people can't show up now?

MR. ABINANTI: Well, no, this is a determination that will be made in advance so everybody knows, and that there will be -- this statute would require public notice of the new date of the election. That would require, as you pointed out, both the Democrat and the Republican to affirmatively act to move the election date.

MR. NORRIS: When would that occur? When is the last time that the Commissioners can agree to allow for an extra day of voting?

MR. ABINANTI: I'm not familiar with the history of that, but I do know in the past we've had circumstances where elections have been moved.

MR. NORRIS: Could it be at 8:00 o'clock on Election Day?

MR. ABINANTI: It could be at any time if -- depending when the -- when it -- when it occurs. I mean if you recall, on 9/11 that was right around Election Day, it might have been the day before --

MR. NORRIS: I remember that.

MR. ABINANTI: -- the day before the primary, if I'm not mistaken.

MR. NORRIS: I was a Commissioner that day when that happened.

MR. ABINANTI: Right.

MR. NORRIS: And the -- and the Governor acted swiftly to postpone it and the Body came back and set a new date on that terrible day.

Let me -- let me just go back. So now we're going to amend the statute to -- or state of emergency, the ability of voters to vote has become or will imminently become impossible and such an impossibility cannot be mitigated during the scheduled course of voting. That's what I'm trying to figure out, like where is the end line on this? Could it be, you know, a snowstorm? Could it be the coronavirus? Could it be some other event? Like, we're really modifying this broad language to include any state of emergency which could include a local declaration maybe from a county executive or local board. I'm finding it to be quite broad and that's what I'm trying to zero in on here for legislative history.

MR. ABINANTI: I -- I think what we're trying to do here is -- is put in some kind of a standard so that the Boards of Elections have a standard to work from rather than just a general declaration that these circumstances would -- I mean, if you look at the present statute it's -- it's already very broad. But as you pointed out, you need the concurrence of both the Democrat and the Republican at the Board of Elections to do this, which is not always a -- a -- they're not known for agreeing on a lot of things. So if -- it looks to me like this is a pretty high standard that both parties have to agree to this. And we're trying to put something in the statute so that people know in advance when the election is going to be.

MR. NORRIS: Okay. And let's say Election Day, how long from Election Day could this additional voting occur?

MR. ABINANTI: Well, this indicates that the longest time period could be 20 days, so we know that there will be a new election within 20 days. I would assume that the -- the Commissioners could agree to delay it one or two days, or they could allow the election to begin on the day that it's scheduled for and given an additional day so that others could vote because they were prevented from voting as a result of the state of emergency or one of those other factors already in the statute.

MR. NORRIS: I -- I see. But it could be up to 20 days.

MR. ABINANTI: It could be up to, but present statute indicates that -- yes, it indicates that it could be up to 20 days. And with respect to a caucus, it can be no longer than one week from the originally scheduled party caucuses.

MR. NORRIS: I see. And then can you just explain to me what kind of notice will be provided to the voters?

MR. ABINANTI: Well, again, this -- this indicates that it has to be public notice to all media outlets and to the county, town, city, and village clerks, and the municipal attorneys not less than with one week preceding the date of -- of the additional day of voting and shall be posted on the boards -- Board of Elections website as soon as possible.

MR. NORRIS: What will happen to the votes that

have already been cast, if any?

MR. ABINANTI: They would be counted. There's nothing in here that says that those votes would not be counted.

MR. NORRIS: Would their votes be sealed and the machines be sealed?

MR. ABINANTI: Well, the present law deals with that, we haven't changed that. There is some language in here that indicates that in certain circumstances if one -- if there are two counties involved, let's say one county was able to vote and the other county was not, that the -- the votes from the first county would be counted. We're not dealing with that issue. That might be something we'd want to have a conversation about in the future, but this doesn't change that.

MR. NORRIS: Does this apply to primary and special elections, or just general elections?

MR. ABINANTI: We've -- we've eliminated the -- the parts of this statute that make it apply only to general elections and we've broadened it to apply to all elections, including special and the primary elections.

MR. NORRIS: Would it affect any absentee ballot timelines?

MR. ABINANTI: It does not affect the -- the absentee ballot timelines.

MR. NORRIS: Okay. So let's just go back one more time. We're removing the less than 20 percent out, correct?

MR. ABINANTI: We're eliminating the retroactive part of the statute which would cancel votes that had been cast.

MR. NORRIS: I see. So I -- I want to just be clear. So let's say a certain neighborhood, for example, maybe there was a fire or something and those -- that block couldn't vote. Where -- where does it stop? Like, what -- I mean, is it one person, is it 100 people, is it 1,000 people?

MR. ABINANTI: Well, I don't think we're getting into that. The present statute talks about 25 percent of the registered voters. I mean, that could be a normal primary or a normal general election. So the present statute is troublesome. We know today that getting a 25 percent turnout is not unusual. So the --

MR. NORRIS: In the general?

MR. ABINANTI: -- present statute. Right. But the present statute might allow for someone to -- to say, *Well, there was an earthquake or a fire nearby and, therefore, we should cancel the election because not enough people showed up.* So I believe that's un-Democratic so that's why we're eliminating that provision. As far as the rest of the standards, it's the same as they are today other than adding the state of emergency which is just a -- a logical thing to do because that gives you a -- a fixed point. Any one of these others that are presently in there are -- are really a matter of opinion, you know, like the consequence of a fire, earthquake, tornado. I would hope that what would happen in the future is when you have one of those other circumstances, someone would turn to the county executive, the

mayor, or the Governor and say make it clear to everyone, declare a state of emergency for this purpose so that you're triggering the statutory scheme and we're not going to be left to the whims of the Board of Elections.

MR. NORRIS: So a -- a county executive could declare a national disaster, right, a disaster --

MR. ABINANTI: Right.

MR. NORRIS: -- and then the Board of Elections could act after that?

MR. ABINANTI: Yes, that -- that's correct.

MR. NORRIS: All right. Very good.

Mr. Speaker on the bill, please.

ACTING SPEAKER AUBRY: On the bill, sir.

MR. NORRIS: Mr. Abinanti, thank you very much for answering my questions.

When you look at this bill, I do have concerns about removing the actual set statutory percentage in there, because we don't know exactly would it be affecting how many percentage, how many people, and this Legislature many moons ago made a determination, and I know sometimes we change the statute, but as we saw during COVID and it's still ongoing, this will give very broad powers to State and local leaders to make these determinations, and they could be far too broad, as we saw during COVID-19 at times with the Executive authority that was overreached. I was not going to bring that particular point up until Mr. Abinanti did, but I do have concerns

because during that period of time, the Governor would override a statute and do what he wanted to do anyways during that period of time by his Executive Order. And so I do have concerns by putting that power, which would be in this new language from a state of emergency from a local and governmental official, codified right in the statute that they could do it at any time absent the Legislature doing any types of activity to the contrary.

So I have concerns about that. I believe this is way too broad. We already have a statutory framework in place that a bipartisan Board of Elections could delay an election if needed based upon circumstances in their jurisdiction or not. And so for those reasons, Mr. Speaker, I will be voting in the negative and I encourage my colleagues to do the same. Again, I want to thank you for the opportunity to be heard, and thank you to Mr. Abinanti for answering my questions.

ACTING SPEAKER AUBRY: Thank you, sir.

Mr. Goodell.

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

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

MR. ABINANTI: Yes, Mr. Speaker.

ACTING SPEAKER AUBRY: The sponsor yields.

MR. GOODELL: Thank you, Mr. Abinanti. I think I have a couple of questions that were missed by my colleague,

although it's hard to tell because he's so thorough. But I'm correct, right, that this could be triggered by a local declaration of a state of emergency? For example, a flood, for example, or a tornado or -- or a superstorm or something like that, correct?

MR. ABINANTI: It could be triggered by a local state of emergency, but the present statute gave the Board of Elections the power to do this anyway. So what we're doing is involving an elected official who can also trigger the County Board of Elections. But this doesn't override the County Board of Elections' determination, it just gives them an additional basis on which to make their determination.

MR. GOODELL: And as I think you mentioned, the election would then be rescheduled up to 20 days later with a few exceptions, correct?

MR. ABINANTI: The Board of Elections under the present law has the power to extend the date of the election, either continue it or move it no more than 20 days. We don't change that section of the law.

MR. GOODELL: And I'm correct, right, that it would only affect the election in the area that -- where the state of emergency was declared, right?

MR. ABINANTI: It depends on which Board of Elections acts. So if it's the County Board of Elections, they would determine, just like the present statute provides, how far that determination goes, how far they're -- they have to declare -- I -- I

suppose that a Board of Elections, a County Board of Elections could determine that because of a specific problem in a particular area, they're going to give that area additional days to vote while the rest of the county was not affected and, therefore, would vote on Election Day or they could just do the whole county. We leave that to the Board of Elections. That's the power they have today, and that's the power we -- we don't touch that.

MR. GOODELL: So a just couple of scenarios, just to make sure we're all clear. So if, for example, we have a Statewide election for a Governor, or a primary, let's say we have a primary for Governor, and we have a change in the candidates say at the last minute in late May due to unforeseen circumstances. And on the primary day there is a tornado in a small city Upstate. Am I correct that under this bill the Board of Elections in that county could declare an emergency, set a new primary date 20 days later, and we would hold the entire Democrat or Republican primary results open for another 20 days?

MR. ABINANTI: You're highlighting a -- a very important issue, but that's the present law. We're not changing that at all. It's something we probably should have --

MR. GOODELL: But the present law is based on less than 25 percent in the Statewide election, right?

MR. ABINANTI: No. The present law says less than 25 percent of the registered voters of any city, town or village, or the City of New York or any county therein. So it doesn't say -- it

doesn't tie the city to the scope of the election. And that is a defect in the present law and you're correct to point that out. It does not say that the city where there was a -- let's say a city or a town or a village is the -- is the only place where there's the election.

MR. GOODELL: So the --

MR. ABINANTI: So what the circumstance --

MR. GOODELL: -- a part of the question just in historic perspective, has a Statewide election or a State Senate election or a State Assembly election ever been delayed under the current law to your knowledge?

MR. ABINANTI: Well, I believe the New York City primary, and it may have been the Statewide primary in 9/11. I don't recall --

MR. GOODELL: But that was by Executive action, right?

MR. ABINANTI: That was done by Executive action, yeah.

MR. GOODELL: But I mean, under the current law that's the 25 percent threshold provision.

MR. ABINANTI: I -- I know of no circumstance where that was used.

MR. GOODELL: Okay. Okay. Now, as you know, we pass legislation requiring absentee ballots to be counted sooner, you know, so that the results are available on a -- the normal election day, correct?

MR. ABINANTI: They would be available according to the statutory scheme on what day they would be opened and counted, et cetera, but --

MR. GOODELL: This would not --

MR. ABINANTI: -- in general, the answer to your question is yes.

MR. GOODELL: This would not affect that, right?

MR. ABINANTI: This would not affect that.

MR. GOODELL: And so you're telling me that we would know the results of all the absentee ballots before the election is completed because the election has been extended 20 days because there is a flood, for example, in one of the cities?

MR. ABINANTI: I believe the date of opening of the absentee ballots is tied to the date of the election. If there is a need to change that, we will go back and look at that, but I believe that the -- the absentee ballots are not given a specific date, they're tied to a -- a certain number of days before and after the election. And since you're moving the election date according to any one of these provisions, the absentee ballots would be treated with respect to the new date, not with respect to the old date.

MR. GOODELL: I see. Thank you.

On the bill, sir.

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

MR. GOODELL: I -- I appreciate my colleague's

desire to ensure everyone votes. And that's one reason why we have now expanded absentee balloting and we've certainly expanded early voting. You can vote at any time for two weeks. I'm really concerned that we open the door on the setting that says if any part of the State has a local emergency, we might delay a Statewide result. I mean, so we declare a snow emergency in a small city in Upstate with lake effect snow while we hold the -- we hold the Governor's race open for -- for 20 days? I mean, we really can't go that way. And in my county, we have lake effect snow and so it's not unusual at all for the northern part of my county to be absolutely hammered with lake effect snow and the roads be bare in the south part of the county. And we know that. We live there. We grew up there. We -- we deal with it. But what this says is in that situation, a municipality, a small municipality in the north end of the county could delay election results for 20 days.

The current law provides two safeguards. The two safeguards are, number one, the Governor has Executive authority in the event of an emergency and, as we've seen, he freely exercises it whether it's 9/11 or COVID-19 or whatever. So that's one safety valve. And the second one is built in the current statute and says, look, if less than 25 percent of the people can arrive, we get an extension. The current safeguards are adequate. This proposal opens the door for a local emergency to disrupt Statewide Congressional, Senate and every other race for up to 20 days. And the problem with that is when your absentee ballots are being counted, all of a sudden

you may find that a local election will decide the Senate race or an Assembly race or a county executive race, and it just opens the door for real problems. And for that reason, I will join my colleagues in opposing this. Thank you.

ACTING SPEAKER AUBRY: Thank you.

Mr. Lawler.

MR. LAWLER: Thank you. Will the sponsor yield?

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

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

ACTING SPEAKER AUBRY: The sponsor yields.

MR. LAWLER: Thank you. So I'm not clear, what -- what problem are we in search of a solution for?

MR. ABINANTI: All right. First of all, what we're trying to do is allow for a change of caucus date if there is an emergency in a -- in a particular location, whether it's a snowstorm or whatever. The present statute sets forth a series of triggers to allow the Board of Elections to delay or extend a regular general election. It does not deal with a caucus circumstance. And as we know throughout the State, instead of primaries, many parties use a caucus. We just recently in the Village of Hastings nominated candidates, 460 people voted for one candidate and 120 voted for another candidate, so that's 580 people showed up and stood in line outside of a community center wearing masks during the COVID time. And went in a few at a time. If there had been a snowstorm or some other

problem that's already enumerated in the statute, that -- those people wouldn't -- would not have been able to vote and there would have been no caucus and there would have been no candidates.

MR. LAWLER: Haven't we allowed during COVID political parties to engage in telemeetings to conduct their business?

MR. ABINANTI: On certain circumstances we did, but this year the tele process did not apply to caucuses. And as I said, actually the village caucus in -- in question here was in two parts. The first part was when the candidates were nominated and presented to the public, that was done on Zoom, but the vote was done in person because the present statute does not allow for people to vote on Zoom to select a candidate.

MR. LAWLER: But people were allowed to have conventions at which time to nominate candidates via Zoom, were they not?

MR. ABINANTI: The conventions that were conducted recently were to indicate the party choice, not to nominate.

MR. LAWLER: So why -- why don't we --

MR. ABINANTI: The state can --

MR. LAWLER: So why wouldn't we just put a bill forward, since the problem you seem to be identifying is very specific to caucuses, why wouldn't we just put a bill forward that says in a state of emergency, political caucuses can be conducted via a telemeeting in addition to an in person if somebody wants to go in person and vote.

MR. ABINANTI: That's a very interesting proposal, but that's not the proposal before us. I believe that people should be able to vote in person, and we presently have in the statute a very simple scheme saying that the Board of Elections can delay for up to 20 days a general election under these circumstances. All this bill is doing is adding an additional circumstance, which is state of emergency, and it's applying the bill to -- and it's applying the bill to -- to caucuses as well. And it's certainly doing away with what I believe to be a very un-Democratic process of allowing someone to cancel an election because not enough people showed up.

MR. LAWLER: So in terms of the example that you highlighted in the Village of Hastings, correct?

MR. ABINANTI: Yes.

MR. LAWLER: What was the percentage of people who showed up in that -- for that caucus?

MR. ABINANTI: Oh, it's a minimal number. In -- in local, village -- and like I said, this last time around there were 580 people that showed up.

MR. LAWLER: Right. How many people are registered in the village?

MR. ABINANTI: Oh, probably somewhere in the neighborhood of 3- or 4,000. So village caucuses usually don't attract a lot of people.

MR. LAWLER: Right.

MR. ABINANTI: So we would not want this caucus

to be cancelled because more than 25 percent did not show up.

MR. LAWLER: Do you have any example of an election that was cancelled because less than 25 percent of people showed up?

MR. ABINANTI: I do not, but fortunately nobody has used this provision that I know of, there may be some out there.

MR. LAWLER: Do you expect anybody to use this provision?

MR. ABINANTI: I would hope not, but I want to make sure that they can't.

MR. LAWLER: In -- in New York City in 2021 in the Mayoral election, do you what the voter turnout was?

MR. ABINANTI: I do not know.

MR. LAWLER: It was 23 percent. Obviously the New York City Mayor's race was not cancelled, although I'm sure some folks in this Chamber probably wish it was given the outcome, but...

MR. ABINANTI: The Board of Elections did not in that circumstance find that there was one of these natural disasters which caused that lower turnout.

MR. LAWLER: Correct, it's voter apathy. Voters in New York City just didn't like their candidates, I guess, I don't know.

MR. ABINANTI: It sounds like --

MR. LAWLER: If they chose not to -- not to vote.

MR. ABINANTI: -- we agree. It sounds like we

agree that this provision should not be in the statute.

MR. LAWLER: Well, I -- I don't know -- you can't cite a single example of why -- of it ever being utilized, and I guess as my colleagues have pointed out, part of the reason to leave it there is to kind of address the concern that you're raising, that if there is such an incident that -- that may have caused a reason for people not to show up, then the Board does have some discretion to ensure that there is a new election. I was a little confused by --

MR. ABINANTI: May I respond to that for a second?

MR. LAWLER: Sure.

MR. ABINANTI: May I suggest to you --

MR. LAWLER: Sure.

MR. ABINANTI: -- we should not give people the opportunity to cancel the voters who have already have voted. This is after the election, and there's nothing in the present statute that says the Board of Elections has to make the determination that there was a natural disaster before the election. So it could make a determination that there was an earthquake and that there was less than 25 percent voting, and they don't happen to like the outcome. It could be both the Republican and the Democrat don't like the outcome of that election and this gives them the right to cancel that. That's un-Democratic and that should not be --

MR. LAWLER: Have you -- have you ever --

MR. ABINANTI: -- in New York statute.

MR. LAWLER: So you think both the Republican and the Democrat would be unhappy by a Republican or a Democrat winning?

MR. ABINANTI: It could be an Independent that won. Or it could be a maverick Democrat or a maverick Republican that won.

MR. LAWLER: And you -- and -- and you think they will use that statute to subvert democracy?

MR. ABINANTI: I'm suggesting that we want to preserve the rights of voters and preserve the votes that are cast, and we don't want to give anyone the chance to cancel an election on -- on the excuse that there was an earthquake or a tornado or an explosion and it doesn't even say that one was tied to the other. And it doesn't say that the disaster has to be within the jurisdiction of the election, it just says that there has to be one.

MR. LAWLER: Here's a question for you. If the election -- if an extra day of voting is -- is granted, right, under -- under your bill, will the ballots be counted and released to the public before that extra day of voting?

MR. ABINANTI: I think the present statute deals with that and I -- I'm not going to suggest that I can interpret that. I would leave that to --

MR. LAWLER: Well --

MR. ABINANTI: -- the local attorney who would make that determination.

MR. LAWLER: We -- we just -- we just passed legislation this year that would require Boards of Elections to count absentee ballots on the -- on Election Day. So is there anything in this bill that would delay such a count and release of those numbers until the final additional day of voting is done, or will those numbers be released before that additional day of voting?

MR. ABINANTI: I would suggest to you that the definition of Election Day is dependent on when the polls close. And if the polls don't close until two days later, then Election Day hasn't been completed and the absentee ballots don't have to be started to be counted until the polls close.

MR. LAWLER: So just to be clear, your -- your intent in this bill would be any additional day of voting would be the actual Election Day, not the one as --

MR. ABINANTI: That would be my intent --

MR. LAWLER: -- defined in the statute?

MR. ABINANTI: -- but there is also some language in here in the present statute that qualifies what I just said. So I -- we're not changing that section, although we might want to take another look at it after this goes into effect because we didn't change the entire Election Law, we only changed the portion dealing with the issue we're trying to deal with. It does say in here that some -- in certain circumstances where complete jurisdictions like a county have voted, that you can count those votes first.

MR. LAWLER: I would just note sometimes it might

be better to address these things before we pass legislation as opposed to after the fact, but --

MR. ABINANTI: But you're -- you're --

MR. LAWLER: -- I digress.

MR. ABINANTI: No, but you're highlighting an issue with the present statute that we did not touch. And -- and I think that's something that we can look at and perhaps together we can draft a piece of legislation next year to deal with that issue.

MR. LAWLER: So I'm a little confused from your response to my colleague when he was asking about the Executive and using a state of emergency. I'm not sure why you weren't fully answering the question. Did the Governor in 2020 use his Executive authority to move the April 2020 Presidential primary or not?

MR. ABINANTI: That is a question of history. I'm not going to interpret what the Governor's powers were --

MR. LAWLER: No, I didn't -- I didn't -- I didn't ask what his powers were, I asked did he do it.

MR. ABINANTI: The -- the election days were moved.

MR. LAWLER: By who?

MR. ABINANTI: There was a proclamation by a Governor.

MR. LAWLER: Okay. So it was signed by the Governor. Did the Legislature act?

MR. ABINANTI: The Legislature did not act, but

this does not -- this does not give the local executive the power to move the elections. It gives them the power to trigger a move by the Boards of Elections. This is -- this is reinforcing the present statute that says the Board of Elections have the power to make the determination whether to move the Election Day. It does not give any Executive the power to do that. It just gives the Executive the power to set up that trigger and say, *I'm declaring an emergency, Board of Elections, what do you say?*

MR. LAWLER: But the Governor already has the authority, right, we -- this Body did not act to reject the Governor's --

MR. ABINANTI: I'm not going to comment on what the Governor's authority is and whether the Governor properly or not properly exercised that power in the past.

MR. LAWLER: Maybe -- maybe pause and listen to the question I'm asking.

MR. ABINANTI: Sure.

MR. LAWLER: Okay? The Governor issued a proclamation moving the Presidential primary in April of 2020. This Body did not do anything to counter that, correct?

MR. ABINANTI: I believe I would agree with your facts.

MR. LAWLER: Okay. So the point I would make is this Body did not dispute the seeming authority that the Governor had to suspend an election and move it based on a state of emergency. There is -- there is no dispute of that that I can see.

MR. ABINANTI: This bill is enhancing the power of the Boards of Elections in this State.

MR. LAWLER: For the purpose of caucuses or for the purposes of every election?

MR. ABINANTI: For every election. It is eliminating the restriction of this power to general elections. It could be argued that the only remedy at the time would have been with respect to a general election and, therefore, the Governor at the time addressed the issues of primaries because there was no statutory remedy. This is presenting a statutory remedy for all elections. The present law says that the Boards of Elections have the power to make these determinations in the case of general elections.

MR. LAWLER: When -- when --

MR. ABINANTI: This bill is saying all elections. Special elections, primary elections, caucuses --

MR. LAWLER: When Superstorm Sandy happened, did the Board of Elections exercise its authority to delay the election?

MR. ABINANTI: I don't recall that particular circumstance, I'm sorry.

MR. LAWLER: The answer is no. In terms of --

MR. ABINANTI: That doesn't mean they didn't have the power to do so --

MR. LAWLER: No, under this statute -- under this they had the authority, they didn't --

MR. ABINANTI: Correct.

MR. LAWLER: They chose not to. In terms of that time frame and also in 2001 during September 11th when the primary day was moved because of 9/11, the -- there was only one day to vote, correct?

MR. ABINANTI: I don't remember the specific circumstances of that, but I'll take your -- your representation that there was only one day. But my point to you here is --

MR. LAWLER: But --

MR. ABINANTI: -- that this is enhancing the power of Board of Elections and allowing them to have power --

MR. LAWLER: I understand.

MR. ABINANTI: -- in all elections --

MR. LAWLER: I understand.

MR. ABINANTI: Whereas before they were restricted to only general elections.

MR. LAWLER: I understand. The point I'm making is in previous instances where this was utilized or could have been utilized or was utilized by a Governor, we had one day of voting. We now have nine days of early voting for both primary and general election, we have the primary and general election day, and we also have the provisions of absentee balloting where individuals can be afraid of contracting COVID or any disease, or could be afraid of their own shadow and get an absentee ballot now. So what exactly is the necessity of adding an extra day of voting when we now have ten days of voting plus easy access to an absentee ballot?

MR. ABINANTI: Circumstances occur, sometimes immediately before the final date of voting, and many people have not yet voted and also, none of those apply to a caucus.

MR. LAWLER: Okie dokie.

ACTING SPEAKER AUBRY: Mr. Ra.

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

ACTING SPEAKER AUBRY: Mr. Abinanti --

MR. ABINANTI: Yes. Yes, Mr. Speaker.

ACTING SPEAKER AUBRY: Mr. Abinanti yields.

MR. RA: I have a quick question because the language does seem vague here. It does just say "states of emergency." So what about something like the declared state of emergency related to gun violence? Would something like that qualify?

MR. ABINANTI: That would up -- be up to the Board of Elections. If you had a circumstance where the local executive decided that they needed to lock down a city and there was a city primary the next day, the Board of Elections then covering that city could use this new statute to delay the -- the election until things in the -- in the city calm down. So I think that's a -- that's a perfect example of the -- of the good part of this statute. Presently, the Board of Elections could not do that because a lockdown as a result of an attack on the -- on the city is not one of the things listed in here. It does say enemy attack, but the Board of Elections would then have to

determine that enemy includes the words, you know, a domestic terrorist. But this would then give the mayor of that community the option of declaring a state of emergency which would then allow the Board of Elections, the bipartisan Board of Elections, the opportunity to -- to move the election to a safer date.

MR. RA: Thank you, Mr. Abinanti.

Mr. Speaker, on the bill.

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

MR. RA: So I mean, my -- my concern is that this -- this just seems very broad, and I certainly can see situations under which it could be, you know, frankly, you know, abused to suit some type of political purpose of moving an election. So while I generally think trying to empower, you know, our local folks to make decisions in general is a good thing when we're talking about the date of elections and everything that goes with that, potentially adding voting days, I think -- I think that's a concern. And I -- I think that in these extreme circumstances, and we've seen them all through the years, I mean, obviously the most famous one was, you know, that 9/11 was on the day of -- of a primary, in particular, the Mayor's primary in New York City that year. But we've seen circumstances like Superstorm Sandy when, you know, we did the best we could. We had -- I know I had many of my constituents didn't have power while that Election Day was going on and, you know, provisions were made to kind of open up so people could go to different polling places if they had to and make sure they were able to vote.

But, you know, this whole situation has gotten more and more complex over the last few years. You know, we have all these early voting days. We have -- we have so many opportunities for people to cast their ballots. So I think this is, in a lot of ways, a solution in search of a problem and one that could be open to be used inappropriately. So I'm going to cast my vote in the negative. Thank you.

ACTING SPEAKER AUBRY: Thank you.

Read the last section.

THE CLERK: This act shall take effect immediately.

ACTING SPEAKER AUBRY: The Clerk will record the vote on Assembly print 4333. This is a Party vote. Any member who wishes to be recorded as an exception to the Conference position is reminded to contact the Majority or Minority Leader at the numbers previously provided.

Mr. Goodell.

MR. GOODELL: Thank you, sir. The Republican Conference is generally opposed to this legislation. Those who support it can certainly vote in favor on the floor or by contacting the Minority Leader's Office. Thank you, sir.

ACTING SPEAKER AUBRY: Thank you.

Ms. Solages.

MS. SOLAGES: I'd like to remind my colleagues that this is a Party vote in the affirmative. If there are any exceptions, I ask the Majority members to contact the Majority Leader's Office

and we will announce their name accordingly.

ACTING SPEAKER AUBRY: Thank you.

(The Clerk recorded the vote.)

Mr. Abinanti.

MR. ABINANTI: Thank you, Mr. Speaker. First, I'd like to thank the Assembly Majority staff for their assistance in drafting this bill and in doing the research necessary to -- to draft what I suggest is a very good election integrity bill. There are 45 states that have statutes that deal with Election Day emergencies in some way or another. This is improving a statute that we had on the books for a long, long time and needed to be modernized.

What the bill does first of all is it removes some anti-Democratic provisions of our present Election Law which would allow a Board of Elections retroactively to cancel an election if they see some kind of a natural disaster and decide that enough people haven't voted, 25 percent or less. That's an anti-Democratic provision and it could be used in circumstances where the traditional parties are dissatisfied with the election of perhaps a maverick or an Independent or somebody who is challenging the parties. That is anti-Democratic, that should not remain in New York State statute.

It also adds another trigger for the Board of Elections to be able to add additional days of voting. What is wrong with additional days of voting if there's some impediment to people getting to a polling place? This says that if there is a state of emergency declared then the Board of Elections could exercise their discretion if

they want to, they're not required to, could exercise their discretion to add additional days of voting or to move Election Day to a later date, and the present statute says that has to be within 20 days.

So all we're doing is giving the Boards of Elections an additional trigger on the basis of which to use their present discretionary powers. We've added the words "state of emergency," and in a way that adds a protection because the Boards of Elections will probably be looking to the Executive to say, *Should we exercise our powers, declare a state of emergency, let us know that this is a good idea in these circumstances.*

Lastly, it expands the statute from just general elections to include primary elections, special elections, and village caucuses, which is an important change in the law. As we saw during the pandemic that we had, the Governor exercised powers. There was no statutory authority for the Boards of Elections to act. We are now giving the Boards of Elections the power rather than having to rely on some elected official who may for whatever reason decide to change -- change dates. So therefore, I urge my colleagues to -- to vote. This is an election integrity bill and I -- I ask that all of my colleagues support it. Thank you, Mr. Speaker.

ACTING SPEAKER AUBRY: Mr. Abinanti in the affirmative.

Are there any other votes? Announce the results.

(The Clerk announced the results.)

The bill is passed.

Page 8, Rules Report No. 187, the Clerk will read.

THE CLERK: Assembly No. A06165-A, Rules Report No. 187, Epstein, Gallagher, Steck, Jackson, Galef. An act to amend the Real Property Law, in relation to enacting the Electric Vehicle Rights Act.

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

MR. EPSTEIN: Yes. This bill would prohibit condo associations from adopting or enforcing rules or regulations to prevent the installation of electric charging stations for homeowners.

ACTING SPEAKER AUBRY: Mr. Fitzpatrick.

MR. FITZPATRICK: Thank you, Mr. Speaker.
Good afternoon, Harvey. Just a -- a series of questions.

ACTING SPEAKER AUBRY: Mr. Epstein, do you yield? Mr. Fitzpatrick decided to just go by all that. No problem.

MR. FITZPATRICK: (Inaudible)

MR. EPSTEIN: Even though he went rogue I will -- I'll be happy to yield.

ACTING SPEAKER AUBRY: And certainly, Mr. Epstein does yield to you, Mr. Fitzpatrick.

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

ACTING SPEAKER AUBRY: Thank you.

MR. FITZPATRICK: Just a series of questions. It -- it's an interesting bill because people who choose to live in a

homeowners association choose to live under a form of governance that they willingly sign on the dotted line when they purchased the condo or -- or home or whatever in the HOA. So, your bill, to be clear, does not mandate the installation of electric charging stations, but as we both know I think in 2035 any new car sold or leased in New York State has to be zero emission. So because of that, homeowners associations, who are actually a collection of individuals, people who own the home that live there and, therefore, are consumers, will understand that change is coming. It's already underway. So how -- how do you expect to handle by -- by saying, *No, you cannot prevent the installation of this?* There are a number of issues, say, for example, you know, where will those parking spaces be located? Are we talking individual homes? Like, there are homeowners associations where they're not typical condos or apartment-type buildings, they are actual individual homes that are very tightly-knit together. Are you talking about an individual homeowner or a condo association that may have no place to put them in an individual location, therefore you have to set aside a location somewhere in the parking area to provide this? There's -- there's no real explanation here.

MR. EPSTEIN: So, this is really deferring to the homeowner associations in a lot of ways. Every homeowner association is different. Some people will have a designated spot where they park all the time. Some people will have a shared parking area. Some people will have where parking areas connected to their

condo or a home. And so all this is saying is that the homeowners association can't put barriers in front of the individual homeowner who want to ensure that there is a charging infrastructure available to them. They can't put overly cumbersome regulations, and they can't just go ahead and prohibit it. So, every association is going to look at this differently and say, *Okay, for us we may do what you suggested but we have a row, we're going to put five in and we're going to charge the homeowner.* Another homeowner association might say, *Well, you have a private spot. If you want to put it in there, you pay for the -- the charger and then that's on you.* So I think we're not telling homeowner associations what to do. We're just saying they can't create rules and restrictions to prevent people who are moving into electric vehicles to be able to put the charging infrastructure in that place that they need.

MR. FITZPATRICK: True. But as you said, there are different types of homeowners associations that are a different geographic, you know, limitations and different, you know, designs and layouts of -- of condominium projects, homeowner projects. So, would it not be best to let the homeowners association, a self-governing Body, work that out themselves? Because as we both know, by 2035 anybody who leases or purchases a vehicle -- they're already purchasing and leasing those vehicles right now, so these homeowner associations already know that they have to deal with this. But the problem as I see with this bill -- and, look, I'm all for electric vehicles or, you know, zero-emission vehicles. That's not the issue

here. But some of these issues could potentially get a little complicated and sticky because what about curb cuts to lay the wire? You know, what about, you know, pavement cuts, curb cuts. You know, easements? You know, violating a right-of-way. You know, are these going to be for free, and if they are, who's going to pick up the cost of this? You can say it could be spread across the homeowners association. But, you know, what if you have a relative or friend visiting that said, *Hey, you know, while I'm here let me -- let me charge my car on your dime rather than pay for it?* Will these be similar to what we have in a garage where you have to plug in and pay in order to charge? These are all issues that the homeowners association will have to hash out, and they have about 12 or 13 years now to deal with that. So I really see this as a solution in search of a problem. This isn't something that HOAs are already aware of because their -- their participants or their homeowners are already purchasing and leasing these vehicles.

MR. EPSTEIN: So, I wouldn't see that -- I wouldn't view it that way. I view this as creating a right for people who live in these condo associations to be able to say to their homeowners association, *Hey, I'm buying an electric vehicle. We need to figure this issue out,* and that the homeowners association can't come back and say no. The homeowners association is going to have to do exactly what you said. They're going -- they're going to have to go through a process and say, *Okay, for our development we're going to put them all in Section A and then there's going to be a fee that you're*

going to have to pay. Or, No, in our development you're going to have to install it yourself and you can put it here but then you're going to have to pay for it yourself. And so it allows the flexibility of homeowners associations to work individually in their development, but it prohibits them from just saying no. They can't create overly cumbersome regulations and they just can't say no. So it does exactly what you said, is we all recognize this has to happen. Homeowners associations need to get in the mode of -- by figuring this out. This is just an encouragement of the statutory requirement to help them figure out when homeowners need to get this resolved. Because we know this is coming, and it may -- for a homeowner it may take a year to -- to build a trench to put the charger in or it may take a couple of years to do the bidding for an association or do the planning. We want to give them the time that they need, but we are -- we don't have unlimited time, as we all know, so this is really to create the statutory structure that allows people to move this forward.

MR. FITZPATRICK: But we trust -- we trust the people. These are homeowners, these are people who, you know, willingly sign on the dotted line to live in an environment governed by a homeowners association. They -- they know what they're doing. Are -- are you familiar with any cases where homeowners associations have said, *No, we're not going to allow electric charging stations?*

MR. EPSTEIN: Not only am I not familiar --

MR. FITZPATRICK: I'm not aware of any.

MR. EPSTEIN: Yeah, I've heard from homeowners

who've said this -- this problem -- who specifically articulated this problem, who said the homeowners association said no. And so they needed a solution, so this was a solution that could move forward to help the individual homeowners to have a plan.

MR. FITZPATRICK: And -- and if they said no -- if you don't mind me asking, they said no why? Because they just don't want to do it?

MR. EPSTEIN: Well, the homeowner didn't get the "why", they just got a no.

MR. FITZPATRICK: Right. Okay.

MR. EPSTEIN: So the homeowners in this situation where they are living someplace -- you could be living someplace for 30 years and not understand that, you know, a homeowners association has to move with the times, you know? You know, 50 years ago lots of homes and home associations had racial covenants in them, and we then said -- we passed laws to say you can't prohibit people based on their -- their race or ethnicity or religion from moving into an association. We had to do that statutorily. We're just saying here, *Hey, we're moving into a new environment*. While we trust homeowners associations, we have to ensure that there's enough system and structure in place that they can allow their homeowners to move forward. This is a really simple thing that our homeowners association is likely to do. But for the ones that don't want to do it, this is to allow to give power to that homeowner to say, *Hey, I need this to happen and you need to help me make this happen*.

MR. FITZPATRICK: Very good. Very good.

Harvey, thank you very much.

Mr. Speaker, on the bill.

ACTING SPEAKER ANDERSON: On the bill.

MR. FITZPATRICK: There's no real large gap of disagreement here with the sponsor. I -- I -- look, the future is coming whether we like it or not. Electric vehicles, zero-emission vehicles are a fact of life and they are becoming more popular, and as they become less expensive more of them will be sold. By 2035 in New York State any new vehicle leased or sold will have to be a zero-emission vehicle. That means homeowners associations and other entities are going to have to prepare. Some are already doing that. We had -- I drive up Route 17 and stop at the Roscoe Diner, Tesla has charging stations there at the diner. What a great idea. You go to the Crossgates Mall or Colonie Center and they have charging stations. We're seeing it happen right here in our own garage, here in the State Office Building, here in the Legislature. Homeowners associations can make these decisions on their own, and they self-govern because they choose to live in that environment. Now, we don't know if there is an extenuating circumstance in the example that Mr. Epstein is giving. But there can be and there probably will be many complications in trying to install some of these. You know, whether it's an easement problem or pavement cuts, curb cuts, location of these things. You know, upgrading the power. If it's a unique situation where it's an individual home, that will be less of a problem but you're

going to have issues with some of these others. They will have to deal with that, and they're able to deal with that on their own, by themselves. They don't need interference from government saying, you know, *You have to do this*. And that's basically what we're trying to accomplish here is force people to do something that they can do on their own and that they're smart enough to know they have to do this on their own. And there's a timetable, 2035. All new vehicles have to be zero emission. So it's just -- this is an example, in my view, of just government overreach. Certainly, government can, you know, encourage, advertise, promote and -- and ask people to do this sooner rather than later, but to interfere with the governance of a homeowners association is a step too far.

And for that reason I would encourage people to consider voting no on this legislation. Thank you, Mr. Speaker.

ACTING SPEAKER ANDERSON: Thank you, Mr. Fitzpatrick.

Mr. Palmesano.

MR. PALMESANO: Yes, Mr. Speaker.

On the bill.

ACTING SPEAKER ANDERSON: On the bill, Mr. Palmesano.

MR. PALMESANO: Yes. I don't want to ask any questions on this necessarily because I think I know the answer to the question, but I want to bring up an issue. We've talked about electric vehicles. I know this bill, this is obviously titled the Electric Vehicles

Rights Act. I hope when we talk about electric vehicles in the future we can talk about child labor violations, how about our children -- looking out for the safety of our children, especially in the Democratic Republic of Congo, because for these electric vehicles that are being made, that are being produced, we know that cobalt is a major element that is used to produce the batteries that are used to make electric vehicles. All moved to get to zero emission by 2035, so all new vehicles are going to have to be electric. Seventy percent of the cobalt is extracted in the Democratic Republic of Congo. I know you guys are getting tired about me talking about this. I apologize, but I'm going to keep talking about it until this Body and others in this Administration start addressing it. Because for far too often, whenever I bring up the issue of the CLCPA - this is all intertwined with the CLCPA - I always say my problems -- I have several issues. Obviously, affordability and cost and reliability because the CLCPA does not address that issue, period. The Climate Action Council does not address that issue, period. All they -- people talk about -- this Administration, our friends on the other side of the aisle, the Climate Action Council is all "green and clean." That's it. So, when I ask this issue of what are we going to do when New York only contributes .4 percent of the total carbon emissions globally, .4 percent, while China contributes 29 percent, what impact are we really going to make? And when I bring that issue up -- because China seems to (inaudible) -- whenever I bring that issue up, what I hear over and over again from the other side of the aisle and others, *New York's going to lead. We're*

going to lead. But yet when I bring up this issue of the child labor violations that are going on in the Democratic Republic of Congo, well-documented -- we had representatives here yesterday and talked about it to advocate for it -- we know that children are dying, they're being maimed and being seriously injured in these mining collapses. It's well-documented. When I bring that up -- I brought it up to the Commissioner of DEC at hearings. I think about that all the time, but that's up to the Federal government. I bring it up on the floor. Everyone always says it's up to the Federal government to act. I'm sorry, that's unacceptable and that's a hypocritical answer. If you say you're going to lead on the CLCPA on that front you can't ignore and pass the buck to the Federal government on the other front. There are things we can do to send a very clear message on electric vehicles. The Comptroller's Office uses the investment all the time because they did it on fossil fuels, he's done it for other issues. Why not on the issue of electric vehicles? If these companies can't show and document and prove that their material that's being produced to make their electric vehicles is not being produced with child labor, they can't validate that, then there should be divestment from those sources to send a very clear message that New York State, the so-called Empire State, is not going to accept vehicles that are being made with child labor. There are blood on the children, they are dying, they're being maimed and it's happening. So there are things in our arsenal that we can do to send a very clear message to the companies who are investing. New York State should say, *We're not going to invest,*

we're going to divest if there can't be actual documentation that this -- the cobalt, the lithium and everything is not being produced and being used by child labor if it's not certified. If we're going to just ignore that and say the end -- it's almost like the end justifies the means, and that's just unacceptable from my perspective. If New York says we're -- if we're going to continue to say we're going to lead on the CLCPA while we continue to go down that road that's going to be an affordability issue, a reliability issue in 2030, you know, we talked about that. No more natural gas for existing buildings. I mean, this is a concern to me. I know I get frustrated when we talk about this issue, but this is really real. And there are seriously not just the affordability and reliability issues, but there are also serious human rights and environmental issues with electric vehicles. If we're going to lead, then let's lead on the whole thing. Don't say we're just going to lead on one end when we put all these mandates and these costs and issues on to the public, but then on this issue where there are well-documented child labor violations where children are being killed, they're being maimed, being injured in the Democratic Republic of Congo, you can't ignore that side of it and say we're going to lead. Because I think if you do, it's hypocritical and not right. And there are things we can do we should be looking at as a Body as we move forward to say we're not going to accept and move forward with this and we can look at divestment from companies that can't document that child labor is not being used like the Democratic Republic of Congo or other areas where slave labor that's being used

maybe in China or somewhere. Because we know those child -- human rights violations -- I saw that the Governor signed on to a letter that said excess -- accelerate the solar tariff issue when we know there's issues going on there. So I think this all plays on the same thing. If we're going to lead, let's look at the human rights and what's going on in the Democratic Republic of Congo. Because if that was happening here in New York State or in the -- the U.S., if we knew kids were dying and being maimed, no one would accept that. But because it's across the world in the Congo, people don't care or they don't want to talk about it. They want to put their head down in the sand and say it's up to the Federal government. If we're New York State and we're going to lead, we're -- we're the Empire State, we have to lead on this, too. It's not enough just to say we're going lead with these clean energy bills. And remember, this is not -- green is not so green when we're talking about this. There's a lot more we could do on this issue. There's a lot more we should be doing on the issue, there are actions we can take. We can lead. And I urge my colleagues in this Body not to keep praising electric vehicles without talking about the dark side of it that's happening with this. It's a reality and we can't ignore it. I certainly am not going to start ignoring it. A number of my colleagues are not going to stop ignoring it because it's the right thing to do. Someone needs can't speak out for individuals who can't speak out for themselves. This Body has always talked about that. This is an issue. The end does not justify the means moving forward with more electric vehicles. I know this has nothing

to do with this bill, but I'm using my time to say if we're going to move forward with this, a bill that's called the Electric Vehicles Rights Act, what about human rights? What about the rights of these children who are dying and being maimed, all to make maybe a buck or so a day because they can't go to school because the government charges them in the Congo \$6 a month. So they get these work gangs that pick up these kids and they go and they go into these wells, these mines, where they know it's not -- they hand mine it, they're artisanal mines. And they may make a buck or two a day if they're lucky, and they're risking their lives, they're risking serious injury.

My colleagues, we can do more on this. We can lead more on this. There's too much at stake. It's not enough to say this is okay because we've got to get to our clean energy goals. We can't put -- put aside human rights and even environmental concerns with this mining for cobalt and lithium and other materials that are used to produce these batteries. Let's do it the right way. Because if this was happening in the U.S. this would not be acceptable, and there's more we can do. Let's send a message to these organizations, these companies, that if you're going to do it, then you have to demonstrate that it's not being used or produced with child labor. So there's much more we can do.

So I see we're enacting an Electric Vehicles Rights Act. Let's not forget about the children who are making these -- the products that go into those batteries to make these electric vehicles. I, for one, am not going to forget that, and for those reasons alone and

other reasons, I'm going to be voting no on this bill and I would urge some of my colleagues to join me. Thank you.

ACTING SPEAKER ANDERSON: Thank you, Mr. Palmesano.

Read the last section.

THE CLERK: This act shall take effect on the 60th day.

ACTING SPEAKER ANDERSON: The Clerk will record the vote on Assembly print 6165-A. This is a Party vote. Any member who wishes to be recorded as an exception to the Conference position is reminded to contact the Majority or Minority Leader at the numbers previously provided.

Ms. Walsh.

MS. WALSH: Thank you, Mr. Speaker. This is a Party vote in the negative by the members of our Conference. However, if there are members who wish to be recorded differently, they should contact the Minority Leader's Office or vote accordingly in the Chamber.

Thank you so much.

ACTING SPEAKER ANDERSON: Thank you, Ms. Walsh.

Ms. Solages.

MS. SOLAGES: Thank you, Mr. Speaker. This is a Party vote in the affirmative. Any member that wishes to vote in the negative, we ask them to call the Majority Leader's Office and we will

announce their name accordingly.

ACTING SPEAKER ANDERSON: So noted.

(The Clerk recorded the vote.)

Mr. Epstein to explain his vote.

MR. EPSTEIN: Thank you, Mr. Speaker. I rise to explain my vote. First of all, it's good seeing you up there. This bill is a really a simple bill that helps homeowners and homeowners associations that exercise a right that they should be having. If you believe that you want to get an electric vehicle because that's what you want, and maybe you want to do it because of cost, maybe you want to do it for the environment, but you need the structure in place. All this says is a homeowners association can't put unreasonable barriers in front of you to prevent that from happening. We believe in rights of homeowners, and this just says that the association needs to work with their homeowners to ensure that this happens. It's a simple, straightforward bill, a pro-environment bill. It's a pro-homeowner bill and I encourage all my colleagues to vote in favor of this bill and thank you, Mr. Speaker.

ACTING SPEAKER ANDERSON: Mr. Epstein in the affirmative.

Ms. Walsh.

MS. WALSH: Thank you, Mr. Speaker. Would you please record Assemblymember Keith Brown in the affirmative on this piece of legislation?

Thank you.

ACTING SPEAKER ANDERSON: So noted.

Thank you.

Are there any other votes? Announce the results.

(The Clerk announced the results.)

The bill is passed.

Ms. Walsh for the purposes of an introduction.

MS. WALSH: Thank you so much, Mr. Speaker, for allowing me to interrupt our proceedings briefly for an introduction on behalf of Assemblymember Jody Giglio. We'd like to introduce Riverhead Town Supervisor Yvette Aguiar -- I hope I'm saying that correctly -- who is the first Latina supervisor since Riverhead was established in 1792. She is here with her husband Paul Karr. And the Supervisor is also the -- on the NYPD Anti-Terrorism Team. So we welcome her to the New York State Assembly and, Mr. Speaker, would you please afford to her and her husband Paul Karr the cordialities of the House.

ACTING SPEAKER ANDERSON: Thank you, Ms. Walsh. And on behalf of Ms. Walsh, the Speaker and all the members, we welcome our distinguished guests to the Chamber this afternoon. Please, we will extend the privileges of the floor and hope you enjoy the proceedings. Thank you so much for your service, and continue to do great work in your neighborhood and in our communities across the State. Thank you so much. Thank you so much.

(Applause)

Page 8, Rules Report No. 189, the Clerk will read.

THE CLERK: Assembly No. A06231, Rules Report No. 189, Thiele, Norris, Barrett, Woerner, J.A. Giglio, J.D. Rivera, Kelles, Wallace, Smith, Gandolfo, Brabenec, Hunter, Steck. An act to amend the Real Property Law, in relation to manufactured home parks.

ACTING SPEAKER ANDERSON: An explanation is requested, Mr. Thiele.

MR. THIELE: Thank you, Mr. Speaker. This bill would amend Section 233(a) of the Real Property Law. That section deals with the sale of manufactured home or mobile home parks in the State of New York, and specifically this section of law provides for a right of first refusal when a park is up for sale and there's a bona fide offer. A right of first refusal for the homeowners in that park for their association as a right of first refusal and there's a whole procedure about how they could exercise that right of first refusal. Under the current law, that right of first refusal only exists in a situation where the -- the new purchaser certifies that they're going to change the use of the park. That's the only time where there's a right of first refusal. This bill would change that by -- by creating that right of first refusal any time that the park is up for sale.

ACTING SPEAKER ANDERSON: Thank you, Mr. Thiele.

Ms. Walsh.

MS. WALSH: Thank you, Mr. Speaker. Will the

sponsor yield?

MR. THIELE: Yes.

ACTING SPEAKER ANDERSON: Will you yield?

The sponsor will yield.

MS. WALSH: Thank you. So, how long -- if you know, how long has the current law been in place allowing this right of first refusal when there's going to be a change in use upon the sale of the -- of the manufactured community?

MR. THIELE: Since 2008.

MS. WALSH: 2008. And do you happen to know how many times this has actually -- it actually happened that a homeowners association comes in and -- and purchases or makes an offer to purchase the property on that basis?

MR. THIELE: I don't have numbers. I -- I know that it does happen and I know it has happened in my district. The Parkview Mobile Home Park in the Flanders portion of my district and the -- the -- that was the situation where the park was up for sale and they were able to match the offer and -- and acquire the park. I know that the HCR does have a program to help with this situation as far as financing and technical assistance. I -- I don't have a number, though, as to how many times.

MS. WALSH: Okay. So when you've got a manufactured housing park like this, is there always a homeowners association or a tenants association that's there?

MR. THIELE: Not always.

MS. WALSH: It's not required by the law?

MR. THIELE: Not required by the law. The way this law would work is that if there was an offer to purchase and there is a homeowners association, it's the homeowners association that gets notified. If there is no homeowners association, all of the -- all of the park owner -- all of the homeowners in the park would have to be notified. They would have the opportunity to form an association to exercise this right. But the -- the time period is the same whether there's an association or not. They would have to match the offer or exercise their right of first refusal within 140 days.

MS. WALSH: Okay. That was my next question was, that 140-day period is under our existing law, too.

MR. THIELE: That's correct. We didn't change anything with regard to the procedure, only the circumstances when the right of first refusal actually occurs.

MS. WALSH: And could you just explain what the rationale is for expanding the right of first refusal to be in all circumstances, not just when the use of the property is going to be changed?

MR. THIELE: Certainly. Well, I -- first of all, I -- I happen to have been here in 2008 when this bill passed, and the bill that we started with looked a lot like the bill that's on the floor today. But it was a matter of at that time what -- what could be passed, and so it was limited to just when there was going to be a change of use. So what we have before us today was always the original intent, was

to have this right of first refusal. And I think the reason to do it this way is -- is that the fact that manufactured home parks, mobile home parks, provide one of, at least in my area and Assembly -- Assemblymember Giglio's area, provides one of the few opportunities for affordable housing for seniors, for young families, et cetera, and these parks are being converted to other uses. And they're also exchange -- you know, exchanging ownership.

When I -- when I first got involved with this legislation, a lot of the mobile home parks in my district and Member Giglio's district, they were owned by local families. MacLeod's Mobile Home Park in Riverhead, it was the Stark family that owned a lot and still does own a lot of mobile home parks. And -- and they have been sold in recent years to out-of-State large real estate interests. The quality -- the capital investment, the quality of services hasn't quite been the same. The other thing I -- I would say with regard to the original law the way it is written now is that it only delays that conversion because when a new owner comes in they only agree that they won't convert the park to another use for up to five years, but ultimately they can. So this bill, you know, would stop -- it would provide at least a tool to try to arrest that kind of conversion. It also gives more autonomy to the homeowners that live in these parks. As I said, many seniors, people on fixed income, people that are trying to just have their -- their first home. And, you know, the -- the mobile home park, manufactured home parks, they're neither fish nor fowl. They -- they have elements of homeownership, they have elements of

landlord-tenant, and it really creates a special situation where they don't really have total control over their housing situation. So when a park does come up for sale this would at least give them the opportunity to be able to do that, which the current law doesn't provide long-term security and stability in that regard.

MS. WALSH: Thank you for that. So, in this situation is there a risk -- what if you have, for example, another developer that is interested in potentially purchasing this property? Could they kind of behind the scenes work through the tenants association or the homeowners association to try to block the sale to the -- to the other potential purchaser?

MR. THIELE: Well, the way the law is currently written it is -- the title to the park would go to the -- to the homeowners association. And so it -- that would be a fairly convoluted way to do that. And I don't think -- I don't think you'd have a willing conspirator with a homeowners association who would want to work with another developer. I think that, you know, they're -- they're looking for -- you know, protecting their own rights and own security.

MS. WALSH: Very good. Thank you very much for answering my questions.

MR. THIELE: Thank you.

MS. WALSH: Mr. Speaker, on the bill.

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

MS. WALSH: So I, too, in my district happen to have a number -- I -- I -- I did not realize until I came to this work in the Assembly just how many manufactured homes I had in my district. And I have received complaints from some owners of manufactured homes that once there's a transfer to a new owner, they're getting -- they're getting kicked out, they're getting -- they're -- they're being -- they're being basically forced out. And that's even when there isn't going to be a change in use. So I do think that -- I respect what the sponsor said that this type of situation is kind of neither fish nor fowl. I think that that's really true. There is -- it -- it is sort of like a gray area that I think that when individuals are -- are in this type of community they -- they don't have all of the same property rights that owners of single-family dwellings do, things like that, and that's known when they go in. But I do understand, I think, the rationale for the expansion in the law. I do appreciate that.

We do have some opposition to this legislation that I wanted to make my colleagues aware of. The New York Housing Association, they oppose this legislation because they say it will discourage investment in manufactured home communities, particularly in older communities that need capital investment to make improvements. They say that the 140-day process that's offered up to allow a homeowners association to come up and match the offer and to exercise their right of first refusal is a long period of time, and it -- it keeps the proposed purchaser on the hook for nearly five months while the homeowners association, if one even exists, figures out if

they want or are able to purchase the community and that that's going to have an impact because it's going to create a situation where high-quality community owners seeking to expand their portfolios are going to simply look to other locations that don't have a right of first refusal law. And quoting from their memorandum in opposition they say, *It should be noted that a right of first refusal is not a panacea. It is not easy to transition from being a resident to learning what it means to run a community or to raise the money necessary to purchase one. They'd have to -- they would have to figure out how to create these up -- upgrades, how to have sufficient resources to complete needed infrastructure work within the permitted framework of rent. And overall, that it will discourage investment in these types of communities.* So we did have some members who were in opposition at the committee level, and I would expect that there will be members who will be opposing it as well on the vote this afternoon. But I think that speaking for myself and for my own district, I don't know how often this would be exercised but I think this -- this is a piece of legislation I personally will be supporting, but I think that there will be certainly members who will be in disagreement with me and that's what makes this such a -- a wonderful system that we have here on the floor.

But thank you very much, Mr. Speaker. Thank you to the sponsor for answering my questions.

ACTING SPEAKER ANDERSON: Thank you, Ms. Walsh.

Ms. Giglio.

MS. GIGLIO: Thank you, Mr. Speaker. I would like to thank the sponsor for putting this legislation forward. I have been working very closely with the manufactured home parks within my community and my district for many, many years, more than ten years. And they are great people but they are living in fear. They are living in fear because the parks are being sold to capitalists in Utah or anywhere else throughout the country. They are not fulfilling their obligations unless the towns, the local municipalities of that zoning, requiring them to do so, such as drainage, such as lighting, such as, you know, clubhouses that they have on the properties. So there are more than 2,500 manufactured homes in my district, and as I said, I've worked very closely with these people. The manufactured homes provide affordable housing. It also provides family housing for those that may not be able to buy a home. So they live on these properties and they attend the schools and we try to create playgrounds for them in their vicinities and they -- they live a good life. A lot of our veterans also live in these manufactured home parks. So the fear of the park being sold and all of these people, 2,500-plus families, could be homeless in a matter of a day. So that fear exists. As far as capital investments, as I said, local zoning -- I, myself, as a local legislator, would require the park owner to go in and make improvements if it was regarding public health, safety and welfare. And as far as the homeowners running the manufactured home park, I would presume that they would hire a management company to do so and to help

organize the funds in order to acquire the park.

So again, I want to thank the sponsor for the bill.

This is something that I know he's been working on for quite some time. And I know that my residents in my district are going to be very happy and take comfort in this bill. And it -- it's a small step for the people that live within these parks, but it's a big step in that they have a right of first refusal.

Thank you, Mr. Speaker.

ACTING SPEAKER ANDERSON: Thank you, Ms. Giglio.

Read the last section.

THE CLERK: This act shall take effect immediately.

ACTING SPEAKER ANDERSON: The Clerk will record the vote on Assembly print 6231. This is a Party vote. Any member who wishes to be recorded as an exception to the Conference position is reminded to contact the Majority or Minority Leader at the numbers previously provided.

Ms. Walsh.

MS. WALSH: Thank you, Mr. Speaker. The Republican Conference will generally be anticipated to be in the negative on this bill. But if members wish to cast their vote in the affirmative they should do so on the floor or by calling the Minority Leader's Office.

Thank you.

ACTING SPEAKER ANDERSON: Thank you, Ms.

Walsh.

Ms. Solages.

MS. SOLAGES: The Majority members will be voting in the affirmative. Anyone wishing to vote against this measure should call the Majority Leader's Office and we will announce your name accordingly.

ACTING SPEAKER ANDERSON: Thank you, Ms. Solages.

(The Clerk recorded the vote.)

Ms. Walsh.

MS. WALSH: Thank you very much, Mr. Speaker. Would you please record the following members in the affirmative on this legislation: Mr. Keith Brown, Assemblymember Joe DeStefano, Gandolfo and Doug Smith.

Thank you.

ACTING SPEAKER ANDERSON: Thank you, Ms. Walsh. So noted.

Are there any other votes? Announce the results.

(The Clerk announced the results.)

The bill is passed.

Ms. Solages.

MS. SOLAGES: Thank you, Mr. Speaker. We are going to continue our work for today with several bills in which I'm going to announce right now. Rules Report No. 193, Mr. Hevesi; Rules Report No. 199, Mr. Thiele; Rules Report No. 202, Ms.

González-Rojas; and Rules Report No. 2 -- 227, Mr. Gottfried.

ACTING SPEAKER ANDERSON: Thank you.

Page 8, Rules Report No. 195 [sic], the Clerk will read.

THE CLERK: Senate No. S06389, Rules Report No. 193, Senator Brisport (A07347, Hevesi). An act to amend the Domestic Relations Law and the Social Services Law, in relation to the rights of non-marital parents in adoption, surrender and termination of parental rights proceedings in family court and surrogate's court; and to repeal subdivision 12 of Section 384-b of the Social Services Law relating thereto.

ACTING SPEAKER ANDERSON: An explanation has been requested, Mr. Hevesi.

MR. HEVESI: Mr. Speaker, good to see you, all my colleagues. This bill cures a problem in the existing law of an unmarried but legally adjudicated father of a child having his parental rights terminated without a proper hearing, which is a violation of his constitutional rights.

ACTING SPEAKER ANDERSON: Ms. Walsh.

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

ACTING SPEAKER ANDERSON: Mr. Hevesi, will you yield?

MR. HEVESI: Yes, sir. Thank you.

ACTING SPEAKER ANDERSON: The sponsor will

yield.

MS. WALSH: Thank you very much. So, as you explained, could you just talk a little bit about under current law what this bill is attempting to cure and fix?

MR. HEVESI: Yeah, so it's a great question, it's a little complicated. So currently, unmarried fathers in a specific circumstance, if their child is in foster care and the child comes up for a public adoption, the unmarried father gets notice that that's about to happen and can come and try to contest that adoption if he wishes, like married mothers and fathers. The problem is there's an extra burden written into a 1970's law only for unmarried fathers that they are responsible for paying a reimbursement to the foster care agency that frequently they haven't even been notified that that was their obligation. So they're the only set of parents -- the unmarried father is the only set of parents that have that obligation, therefore, it's unequal and unfair for them and unconstitutional.

MS. WALSH: So, it was interesting when I first took a look at this bill I reached out to -- to my Department of Social Services that I do a lot of work with, that I used to work for, and kind of asked them about this section of the law and what their regular practice is. And I see -- but I do also look at the bill text and I think that there is possibly a discrepancy between what the law says and what practice is being followed by at least my social service agency. What -- what they've told me is that when they have a child that is in foster care, that's in stranger foster care, they make diligent efforts to

try to locate -- and the parties are not -- and the parents are not married, they make a diligent effort to try to locate the father. And sometimes, you know, the mother doesn't cooperate, doesn't want to give up the name. Sometimes he's just not in the picture. But they -- they not -- they really do look and they -- they sometimes will take ads out, they check the Putative Father Registry. They -- they -- they ask other individuals who may know. And they have to -- every six months that the child is in foster care they have to do what's -- a permanency report where they in part have to identify all of the diligent efforts that they made to not only locate this father, but to -- but if found to also try to facilitate contact between the father and the child. So I -- I want to direct and let's just talk a little bit about -- it does get -- like you said, it is kind of complicated. But in the law it talks about -- let me get it in front of me -- the different things that this unmarried father would need to show --

MR. HEVESI: Right.

MS. WALSH: -- in order to kind of have standing to -- to get the due process. And one is that he's had contact. It says -- okay, so page -- I think I'm on page 3, starting around line 41. It talks about that the father is going to have to maintain substantial and continuous or repeated contact with the child as manifested by, A, the payment by the father towards the support of the child of a fair and reasonable sum according to the father's means, and either, B, the father visiting the child at least monthly, et cetera, et cetera, or, C, the father's regular communication with the child.

MR. HEVESI: Mm-hmm.

MS. WALSH: So what I was told by my -- by my DSS is that they don't really -- that the -- the payment of the money is not determinative to them at all. What they're looking for is contact, that they could facilitate meaningful contact with the child. It could be something like if the -- if the father is out of town they could do Zoom calls, they could try to arrange for a visit. They'll even provide help with transportation to facilitate visits. You know, all -- all in the child's best interest assuming that the father has not, you know, got some big problem where we wouldn't want there to be that kind of contact with the child. But -- but what I guess -- but what I wanted to know was why didn't you just change the law so that instead of saying payment of money and one of these other things, just make any one of them factors to be considered by the Department in -- in -- you know, so make a -- take a -- take an "and" and just make it an "or." A or B or C would all be considered. Wouldn't that have been a way to handle that as well?

MR. HEVESI: That's an interesting idea. I'm not sure it gets to the same goal. So -- so a couple of things. So, first, I'm really glad that your local social service district is doing it right. That's great. But so here's the circumstance that we're specifically trying to get at. So right now under current law, a father who has regular -- so everybody understands, you have a father with a kid in foster care, okay? The father is separate, unmarried father. So that father who regularly visited or even lived with his child prior to the

removal, who visited the kid while the kid was in foster care and engaged in services recommend by the foster care agency in an effort to reunite them with the family, that's the rules for all parents. For unmarried fathers, they add the requirement that -- that the father has to make a payment into -- into the foster care agency which is unfair that you're not putting that same burden on the others. So -- so for us, we thought to create the level playing field, you're just going to take that piece out because we know that there are some social services districts that do do it right, but there others that don't. And we want to make sure that, you know, these married fathers -- the worst case is you have a father who is doing everything he can to come back and reunite with his family, which is what we look to support in New York. And that father's done everything right, but because he didn't pay into the foster care system, many times he wasn't even told he had an obligation to pay or told a mechanism how to pay it and that father is now being denied the right to say, *No, don't adopt away my child, I'd like to be in the parents' rights*. That's what we're trying to get at. So I understand your suggestion, I'm not just it gets us to where we want to go.

MS. WALSH: Yeah, and I -- I appreciate that the money itself should not be determinative -- the determining factor. What do you do, though, about -- so, in order to adopt -- have the child adopted, which, you know -- and again -- and we've talked about this before on other bills -- you know, our goal for the child is always best interest, but it is also permanency.

MR. HEVESI: Right.

MS. WALSH: So when the child is maybe first placed in foster care, we have a foster care goal. And that goal generally speaking, to start out with, is reunification with parents.

MR. HEVESI: Yes.

MS. WALSH: And over time if that doesn't provide -- if that doesn't seem like it's going to be feasible, then you might change it to something like free for -- free the child for adoption. So, you know, to start out with, though, we're trying to at Department of Social Services cast that wide net to try to find both parents, but over time it may be the goal might change to be free for adoption. You may have foster parents who want to adopt or you may have prospective adoptive parents who really want to bring this child into a home to really give them that sense of permanency that the child deserves.

MR. HEVESI: Right.

MS. WALSH: So what do you do in this case where you have a father that just maybe when the child was born he filled out a form saying -- listing himself as the father because at the hospital they can do that, but then just never have any contact with the child? Couldn't you run into a problem here where if the father can't be found now that you're going to have a situation where the child is only going to be half-freed by the mother and you're not going to be able to adopt this child out even though the dad is nowhere around?

MR. HEVESI: I appreciate that. So -- so I think

what we're referring to is something called a "consent father." That's -- that's, you know, really a term of art.

MS. WALSH: Yes.

MR. HEVESI: But for -- for a consent father is -- has the ability to waive his rights to, his parental rights and say, *Yes, the child can be adopted*. The problem is there are -- there are in this circumstance some parents or fathers who have done the due diligence, they've been with the kid, they've done everything they -- everything right, but then they go in to say, Wait, wait, wait. I've done everything right. Please don't let my child be adopted away from me. I would like to be a part of that child's life. And in addition I would also argue that not just permanency is the goal, but permanency with their original family if possible.

MS. WALSH: Yes.

MR. HEVESI: But now we have a father who's done everything properly except for didn't make a payment that they weren't told they had to make that was going to be used against them later. That's what we're trying to correct. But you're right, this is a difficult, you know, situational problem and everything is case-by-case.

MS. WALSH: Yeah. So just getting back to your earlier comment, though -- and not that I think I'm such a great drafter of bills but, I mean, what -- what is the matter with that suggestion to just change -- change those two -- those three sections that I read into just or this or that or that. Why doesn't that solve the problem? To take the money as the -- as a deter -- as a sole requirement that must

be met and just make it as one factor to be considered by -- by the Department?

MR. HEVESI: Okay. I -- I would argue that we don't want the money to be a factor at all, and I'll tell you why. That money doesn't go to the kid. That's important to know. That money goes to the agency. So it's requiring a father to pay for something that doesn't help his own child. And then also, it's an un -- unequal playing field. So if you want the money to be part of it unless -- unless you're suggesting that we, in addition to unmarried fathers have that burden, how about married mothers and fathers have the same burden of paying into the system, which I don't think we want. So I thought this was the better way to level the playing field.

MS. WALSH: Okay. Yeah, fair enough. Thank you very much, Mr. Hevesi.

And, Mr. Speaker, on the bill.

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

MS. WALSH: So I really do appreciate this. I think -- I think all of us can probably agree that usually we prefer to have parents raising their children, whether they're married or not married, as long as it's in the best interest of the child and there's no persisting abuse or neglect or other issues or other barriers to those parents being good parents. And I think in our -- in today's society there are many, many, many children that are born out of wedlock, and I would not want to deny a father who is unmarried the opportunity to have a life

or relationship with his child. I also think, though, that in reality there are some parents who are not involved parents. Should they -- should they be found by the Department of Social Services and identified and brought into the fold, absolutely. And efforts are made by departments and they have -- have to diligently search for and document those efforts to locate the father. Where I have -- where I have concerns with this bill is the fact that I think it's going to end up really hampering adoptions that should take place because in order to adopt a child publicly, you need to terminate parental rights or have voluntarily termination of parental rights for both parents. And if you have the mother and the mother says, *Yes, I agree to have my parental rights terminated. I wish this child to be adopted to others*, then -- but you can't find the father or the father is not in the picture, that child is considered half-free and that's going to prevent that child from being able to achieve the kind of permanency that I think that that child deserves in that instance. I do think, though, as I mentioned to -- to the sponsor, and I -- I do appreciate his -- his comments, but I really do believe that if we took the -- the money piece out as a requirement for the non- -- or the unmarried father to be given due process and notice and an opportunity to be heard prior to an adoption taking place that that would solve the problem identified by the sponsor of this bill. I really think that if you look at page 3 starting at around line 41 of the bill and if you changed it from an "and" to an "or" and considered three different factors to be considered in order to -- I think it would resolve the issue that we've got. As it's currently drafted, I do think

that although I -- I do think that involved parents are important and are best, generally speaking, for a child, I do think that because I think that this is going to hurt the possibility of children achieving permanency through adoption that I can't support the bill as it's currently drafted and I will be in the negative on this bill and I would also encourage my colleagues to vote in the negative as well.

Thank you, Mr. Speaker.

ACTING SPEAKER AUBRY: Thank you, Ms.

Walsh.

Read the last section.

THE CLERK: This act shall take effect immediately.

ACTING SPEAKER AUBRY: The Clerk will record the vote on Senate print 6389. This is a Party vote. Any member who wishes to be recorded as an exception to the Conference position is reminded to contact the Majority or Minority Leader at the numbers previously provided.

Ms. Walsh.

MS. WALSH: Thank you, Mr. Speaker. Generally speaking, the Republican Conference will be in the negative on this particular piece of legislation for the reasons I previously articulated. However, if there are members who wish to be in the affirmative they should contact the Minority Leader's Office or cast their vote in the affirmative on the floor.

Thank you.

ACTING SPEAKER AUBRY: Thank you.

Ms. Solages.

MS. SOLAGES: Thank you, Mr. Speaker. Majority members will be voting in the affirmative. If there are any exceptions I ask that you call the Majority Leader's Office and we will announce your name accordingly.

ACTING SPEAKER AUBRY: Thank you.

(The Clerk recorded the vote.)

Ms. Walsh.

MS. WALSH: Thank you, Mr. Speaker. Would you please record Mr. Brabenec in the affirmative on this bill?

ACTING SPEAKER AUBRY: So noted.

MS. WALSH: Thank you.

ACTING SPEAKER AUBRY: Ms. Solages.

MS. SOLAGES: Could you please record Ms. Woerner in the negative?

ACTING SPEAKER AUBRY: So noted.

Are there any other votes? Announce the results.

(The Clerk announced the results.)

The bill is passed.

Page 8, Rules Report No. 199, the Clerk will read.

THE CLERK: Assembly No. A07748-A, Rules Report No. 199, Thiele, Cahill, Galef, Gottfried, Magnarelli, McDonough, Otis, Steck, Zebrowski, Paulin, Griffin. An act to amend the Election Law, in relation to authorizing registration records of victims of sexual violence to be kept confidential in certain cases.

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

MR. THIELE: Thank you, Mr. Speaker. This legislation amends the Election Law. Under -- under the current law, victims of domestic violence are allowed to keep their voting records confidential. What this bill would do would be to add victims of sexual offenses under Article 130 of the Penal Law to those that can keep their records confidential.

ACTING SPEAKER AUBRY: Mr. Ra.

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

MR. THIELE: Yes.

ACTING SPEAKER AUBRY: Mr. Thiele yields.

MR. RA: Thank you. So, as -- as you said, this is adding -- we're going to do this for --

MR. THIELE: Domestic violence.

MR. RA: -- violence victims. This is adding victims of sex offenses. So, can you just elaborate, though, for people who aren't familiar, how this works, how somebody would get on to this list so that their information was kept confidential?

MR. THIELE: Well, the process would be that the victim in this case would -- would have to file a sworn statement with -- with the Board of Elections, with the local Board of Elections. Basically in that statement would affirm that they were the victim of one of these sex crimes and that they were under a threat of -- let me

use the right terms here -- a threat of physical or emotional harm to themselves or to their family or household members. So they would have to file a sworn statement to that effect with the Board of Elections.

MR. RA: Okay. And, I mean, is it -- is it a form or would they just make, you know, that representation? Do you know?

MR. THIELE: I -- yeah, I -- I'm not sure if there's a -- it's just -- there is a form. There's a sign -- a form that they can sign that Board of Elections has.

MR. RA: Okay. Thank you. And -- and then once they do that, is it for any duration or are they just --

MR. THIELE: Four years.

MR. RA: Four?

MR. THIELE: Four.

MR. RA: Okay.

MR. THIELE: That's the existing law.

MR. RA: And this doesn't change that length, it just adds the other --

MR. THIELE: That's correct. It doesn't change anything with domestic violence, it just adds sexual offenses under -- under 130 of the Penal Law.

MR. RA: Okay. So then presumably after that four years, obviously, you know, the person having been a victim, they may have been a victim of, you know, especially in these circumstances we're adding sexual offenses, they may have been a

victim as a child or something like that. So they would just after four years have to, you know, fill that out again and say, *Hey, I'm still concerned with keeping my information confidential?*

MR. THIELE: It would be the individual's choice, but they could -- the could after the four years re-file.

MR. RA: Okay, great. And then lastly, so the person then, you know, wouldn't show up on any type of list whether it's for, you know, a list that when we go out petitioning or for, you know, mail or anything, their -- their record would only be able to be used internally through the Board of Elections.

MR. THIELE: That's correct.

MR. RA: Okay. Thank you very much.

MR. THIELE: Thank you.

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

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

MR. RA: Thank you to Mr. Thiele for answering those questions. As -- as he did say, you know, this is something we have currently for victims of domestic violence. I -- I certainly could see circumstances under which somebody would want to be able to keep their information private so that -- I mean, I think the idea of -- of this in that context is certainly so that somebody who may have victimized them doesn't utilize this as a way to find out where they -- where they are. They may have moved somewhere and they're trying to obviously stay away from an individual who may have victimized them. And -- and I can certainly see where the same might hold true

under circumstances where they had been a victim of a sex offense. I -- I know some have raised a concern just in terms of the -- the broadness of -- of this category, but I -- I think at the end of the day, you know, we -- we are requiring somebody to make a sworn statement that they -- that they're concerned that with having their record out there, so -- so I would hope that that will kind of take care any such concern.

So I -- I thank the sponsor again and I'll be voting in the affirmative. Thank you.

ACTING SPEAKER AUBRY: Read the last section.

THE CLERK: This act shall take effect immediately.

ACTING SPEAKER AUBRY: The Clerk will record the vote on Assembly print 7748-A. This is a fast roll call. Any member who wants to be recorded in the negative is reminded to contact the Majority or Minority Leader at the numbers previously provided.

(The Clerk recorded the vote.)

Are there any other votes? Announce the results.

(The Clerk announced the results.)

The bill is passed.

Page 8, Rules Report No. 202, the Clerk will read.

THE CLERK: Assembly No. A07933-C, Rules Report No. 202, González-Rojas, Epstein, Hevesi, Bichotte Hermelyn, Simon, O'Donnell, Burdick, Paulin, Glick, Seawright, Dickens, Sillitti, Gottfried, Gallagher, Zinerman, Taylor, Burgos, J.D. Rivera,

Mamdani, Forrest, Galef, Carroll, Davila, Cruz, Niou, Bronson, Clark, Kelles, Kim. An act to amend the Election Law, in relating to including individuals who do not identify exclusively as a binary gender in eligibility for party positions.

ACTING SPEAKER AUBRY: Mr. Ra.

MR. RA: An explanation, please?

ACTING SPEAKER AUBRY: An explanation is requested, Ms. González-Rojas.

MS. GONZÁLEZ-ROJAS: Thank you, Mr. Speaker. So this bill would require that -- that party organizations' positions are inclusive of individuals who do not identify exclusively as a binary gender, allowing for increased representation in party office for people who identify as nonbinary.

ACTING SPEAKER AUBRY: Mr. Ra.

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

ACTING SPEAKER AUBRY: Will you yield, ma'am?

MS. GONZÁLEZ-ROJAS: Yes, Mr. Speaker.

ACTING SPEAKER AUBRY: The sponsor yields.

MR. RA: Thank you. So just quickly, a couple of questions on this. I know that, you know, obviously parties at the, you know, at the committee level, you know, can decide how to go about this. I believe the Democratic Party has done so internally. But just in terms of how this would work, so, would we just be eliminating any

type of reference to gender in -- in choosing these individuals or is it just -- or would they I guess specifically account for allowing somebody that doesn't identify as a gender?

MS. GONZÁLEZ-ROJAS: It adds a third gender of X category for people who don't identify as male or female. So anyone within the spectrum of transgender and nonbinary or gender-nonconforming.

MR. RA: Okay. And then so could -- would they be able to, say, have, you know, male committee person, female committee person and then non-gender-conforming committee person as well?

MS. GONZÁLEZ-ROJAS: Yes. So it would allow for an additional gender identity. It matches with the Gender Recognition Act that we passed last year which gives an X category, and it really just expands the ability for someone who doesn't identify as a male or a female to run for a party position. So it really just increases diversity and inclusion for those who have been excluded from party positions because of their gender identity.

MR. RA: Okay. And then just the -- the language here uses the term "gender marker." Is that defined within this or in another section of law?

MS. GONZÁLEZ-ROJAS: It's defined under the Gender Recognition Act.

MR. RA: Thank you.

MS. GONZÁLEZ-ROJAS: So it's M, F or X.

MR. RA: Okay. Thank you.

MS. GONZÁLEZ-ROJAS: Thank you.

MR. RA: I appreciate it. Thank you, Mr. Speaker.

ACTING SPEAKER AUBRY: Mr. Lawler.

MR. LAWLER: Will the sponsor yield?

ACTING SPEAKER AUBRY: Will the sponsor yield?

MS. GONZÁLEZ-ROJAS: Yes, sir.

MR. LAWLER: Thank you. I apologize, I was out. Can you just explain what the intent of this bill is?

MS. GONZÁLEZ-ROJAS: Yes. So the intent -- the intent is to include people who have been excluded for running for party positions. So it would amend the Election Law in relation to including individuals who do not identify -- identify exclusively -- exclusively in their binary gender for party positions. And these positions include State committee, district leader, county committee, and it adds the gender marker X as an option.

MR. LAWLER: And that -- so let's look at State committee members within party positions. Generally speaking, I believe for both the Republican and the Democratic Committees, their State committee members are elected by Assembly District.

MS. GONZÁLEZ-ROJAS: Yes.

MR. LAWLER: And generally speaking, I believe it is under the current law one male and one female per Assembly District; is that correct?

MS. GONZÁLEZ-ROJAS: Yeah, at least for the Democratic Party. I'm not sure about the Republican.

MR. LAWLER: The Republican is the same. So, the individual could theoretically run for one or the other position?

MS. GONZÁLEZ-ROJAS: No, they -- they -- so it would allow for a third option. So you run for the position, not for the gender. So you would allow -- you would -- your gender would be defined, but there would still be two positions. The party would be required to create rules, but there's a model that we can base it off of, which is with the presidential delegates. We -- people choose -- list their gender and then the top two vote-getters of different genders are the ones who get the positions so it still maintains gender diversity.

MR. LAWLER: Okay. So it would not -- it would not eliminate the two positions. It -- it would not add --

MS. GONZÁLEZ-ROJAS: No.

MR. LAWLER: -- an additional position?

MS. GONZÁLEZ-ROJAS: No.

MR. LAWLER: It would still have two members per.

MS. GONZÁLEZ-ROJAS: Yes, and it would require that those two members be of different genders.

MR. LAWLER: It will still require -- okay, so let's say three people are running.

MS. GONZÁLEZ-ROJAS: Mm-hmm.

MR. LAWLER: A male, a female and a nonbinary individual are running, correct? And let's say the male wins and the

individual who identifies as nonbinary wins.

MS. GONZÁLEZ-ROJAS: Yes.

MR. LAWLER: If the individual who identifies as nonbinary is genetically male, what -- what are we doing with respect to not having a female representative?

MS. González-Rojas: This is not about genetics, it's about gender identity. So it is where they align their gender identity and it must be of two different genders. So X will be a separate gender identity as we codified under the Gender Recognition Act last year.

MR. LAWLER: When the original law was put in place with respect to party positions, do you have an opinion as to why it was required that it be one male and one female as opposed to two males or as opposed to no gender at all?

MS. GONZÁLEZ-ROJAS: Yeah, I think it's -- I think it's important, right? We want gender diversity, we want more women to run for office. Predominantly, positions have been very male-centered and dominated. But our idea isn't the science around how gender has evolved over the past decades, and this affirms what we've already, again, codified into law that people can identify as an X gender which is within the spectrum of nonbinary or transgender or gender-non-conforming, and it just really gives them an opportunity to be able to run for State party positions. But -- but it's important to me, as someone who has committed their life to gender justice that this bill include a requirement to maintain gender diversity.

MR. LAWLER: Okay. The -- I -- I would note and you did, you know, accurately point out that we have passed legislation that would allow somebody to use an X mark to identify their gender. We've also passed legislation that would require State boards and commissions to ensure that more women have preference with respect to appointments. So there seems to be somewhat of a -- of a contradictory message there insofar as potentially here -- while I agree with you with respect to gender, you know, you do still have the potential where someone who is genetically born male may be filling a position that previously would have went to a woman. So I would just -- my only concern is -- is not that we would be more inclusive, I think that -- and -- and more respectful of individuals who identify as nonbinary, but my concern being the potential based on the way this is structured and that we're still keeping it as two seats, you know, potentially we could have a situation where there is less representation among females in some of these political committees. So I -- I just think that this something to point out. That is a potential outcome here.

MS. GONZÁLEZ-ROJAS: Well, and it's also a potential outcome that we have less people who may identify as male. So we could have --

MR. LAWLER: Absolutely.

MS. GONZÁLEZ-ROJAS: -- and we could have female win these State committee positions which is an option as well.

MR. LAWLER: But -- but as we often hear in this

Chamber, you know, the -- there is a lot of movement towards ensuring equality, towards ensuring that women are more represented in terms of elected positions, in terms of appointed positions. And so I'd just point out that there is potential based on this by not requiring one male and one female that you may end up in a situation where less women are part of a political party operation. By no means I'm implying that's that going to happen all over the place; it's not. But there is that potential based on -- on this law as it's written.

MS. GONZÁLEZ-ROJAS: And there's many other potentials under those circumstances. But what I'm fighting for is gender inclusion. That's why it's called the Gender-Inclusive Ballot Act, and again, we really want to expand our understanding of gender and create opportunities to ensure that every single person can be able to represent their communities and these party positions, and this just gives them an avenue to do so.

MR. LAWLER: Okay. Thank you very much.

MS. GONZÁLEZ-ROJAS: Thank you.

ACTING SPEAKER AUBRY: Ms. González-Rojas on the bill.

MS. GONZÁLEZ-ROJAS: On the bill, Mr. Speaker. Thank you so much. So I'm really grateful today that we're advancing legislation that would allow nonbinary New Yorkers to run for party positions. And as I mentioned earlier, these would include positions like State committee and district leader and county committee. These are like the positions most close to the community. As someone who

has served as a State committee person, I know these party positions are an important entryway into public service, and they represent communities that are often left with no voice and no vote in our current political structure. Practically, this bill would allow candidates to run with their gender markers and ask for X, with the top two vote-getters of different gender identities winning the election. It's important to note that this is not new. The Democratic State Committee adopted this rule in 2020. It was supposed to go into effect this year; however, the current leadership of the Democratic State Committee has decided to ignore its own role and exclude -- continue to exclude nonbinary New Yorkers. But what's important that this will actually codify that change.

To connect this legislation to a real story and to real people, I want to talk about Brooklyn District Leader Jesse Pierce. Jesse Pierce was a first-time candidate in 2020 for Democratic State Committee. They ran for office because they believe in the power of local political organizing. And because of New York law and because they were assigned female at birth, they ran for the position of female committee member. They didn't run to office to be a female, they ran to organize and represent Democrats in their district. During their campaign they realized female did not match their understanding of their own identity. Their gender identity was nonbinary -- or is nonbinary. Another examples of this is from one activist who has helped us advance this legislation that I want to bring into this space. Their name is David Sitgert (phonetic). They are a brilliant election

lawyer who wanted to run multiples times for district leader but has opted not to do so because they do not want to, and rightfully so, choose a gender identity that doesn't align with who they are. Public service is not easy, as we all know here. It is hard and sometimes thankless, and yet many of us step up because we are tired of our communities being ignored or forgotten. People who are nonbinary deserve the right to run for whatever office they want to run for, and as a State we should not gatekeep who can become civically engaged. The only way that communities can ultimately gain and keep their rights is by building political power that will help them do just that.

So I want to thank Jesse, David, Amelia and so many who have helped to advance this legislation today -- legislation today and who want true equity in our electoral system and politics. And thank you to our Speaker and to the staff who have supported this effort in -- in the face of attacks on our human rights. We are helping to further, to protect and advance the civil rights of our nonbinary New Yorkers across our State.

We have made history and herstory many times in this Chamber. Today we have given voice to their stories. I am proud to carry this bill and I proudly vote in the affirmative. Thank you so much.

ACTING SPEAKER AUBRY: Thank you.

Read the last section.

THE CLERK: This act shall take effect immediately.

ACTING SPEAKER AUBRY: The Clerk will record

the vote on Assembly print 7933-C. This is a Party vote. Any member who wishes to be recorded as an exception to the Conference position is reminded to contact the Majority or Minority Leader at the numbers previously provided.

Ms. Walsh.

MS. WALSH: Thank you, Mr. Speaker. The Republican Conference will generally speaking be in the negative on this piece of legislation. However, if there are members who wish to vote in the affirmative they can do so in the Chamber or by calling the Minority Leader's Office.

Thank you.

ACTING SPEAKER AUBRY: Thank you.

Ms. Solages.

MS. SOLAGES: This is a Party vote in the affirmative. Majority members that wish to be an exception can call the Majority Leader's Office and we will announce their name accordingly.

ACTING SPEAKER AUBRY: Thank you.

(The Clerk recorded the vote.)

Are there any other votes? Announce the results.

(The Clerk announced the results.)

The bill is passed.

Ms. Solages.

MS. SOLAGES: We appreciate the continued patience of our colleagues, and so I'm going to read additional bills

that we're going to take up with Calendar No. 83 by Mr. Gottfried and Calendar No. 248 by Ms. Rajkumar.

ACTING SPEAKER AUBRY: Thank you.

Page 17, Calendar No. 83, the Clerk will read.

THE CLERK: Assembly No. A01741-A, Calendar No. 83, Gottfried, Englebright, Colton, Fahy, Simon, Thiele, Dinowitz, McMahon, Otis, Seawright, Weprin, Dickens, Stern, Griffin, Galef, Abinanti, Magnarelli, Darling, Anderson, Woerner, J.D. Rivera, Jacobson, L. Rosenthal, McDonald, Solages, Paulin, Sayegh, Steck, Burdick, Gunther, Meeks, Gibbs, Williams, Jean-Pierre, Sillitti, Fernandez, Burgos, Zinerman, Forrest, Zebrowski, Pretlow, Schmitt, Norris, Cymbrowitz, Ramos, Burke, Joyner, Epstein, Hevesi, Lavine, Stirpe, Lunsford. An act to amend the Insurance Law, in relation to calculating an insured individual's overall contribution to any out-of-pocket maximum or any cost-sharing requirement.

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

MR. GOTTFRIED: Yes. Thank you. This bill provides that -- well, it deals with circumstances where a patient is required by their insurance company to make a co-pay for a drug prescription, and this says that the insurance company cannot -- well, it says that you count towards paying your deductible if the way you pay that deductible or co-pay is with assistance like a -- a coupon or discount from a third-party. Realistically, you know, in almost all

cases, as we've all seen in TV commercials, it would be a drug company. The bill has -- and of course the purpose of the bill is to enable patients to afford their -- their medications. The bill has one exception. It's a reference to Federal legislation dealing with health security accounts, HSAs, and there are limitations in that law relating to how you pay your co-pay, and the bill says if applying this legislation would jeopardize coverage by your has, then this bill would not operate in that case.

I -- I might note that the bill is supported by the Medical Society, by the Pharmacist's Society, by the NAACP, by the New York State Association for Rural Health and by just about every patient disease group you've ever heard of.

ACTING SPEAKER AUBRY: Mr. Ra.

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

MR. GOTTFRIED: Yes.

ACTING SPEAKER AUBRY: Mr. Gottfried yields.

MR. RA: Thank you, Mr. Gottfried. So, just a few questions. And you -- and you gave a good description of this, but just for our colleagues so we know exactly what we're talking about, you mentioned the TV commercials. So we're talking about, you know, those types of cards and coupons and things that they say, *Hey, get one of these and it'll save you when you go into your pharmacy to -- to get drugs*. I know some of them, there's like GoodRx, they're -- some -- some of these types of entities. Is that what we're talking about

here?

MR. GOTTFRIED: Yes.

MR. RA: And so under current law, absent this statute, when somebody utilizes that, their savings isn't counted by -- by the plan towards their deductible, correct?

MR. GOTTFRIED: Correct. Or at least in -- in -- for many insurance carriers. That's the practice the bill is aimed at, yes.

MR. RA: So then under this bill it would be counted. So if you have a, you know, certain number that you have to get at as a -- as a deductible, that coupon would count towards or that discount would count towards that number rather than it only counting when the consumer is paying out-of-pocket for a co-pay?

MR. GOTTFRIED: Yes.

MR. RA: Okay. So, you know, I would note with regard to this, obviously, right, there's a broad conversation that we have now, we've been having for years, they've been having at the Federal level regarding affordability of medications. And, you know, for my colleagues who may have seen memos about this bill, there's a broad range of support from many types of groups, patients and I think in particular with people that have, you know, rare disorders that -- that rely on expensive medications. But there's also been concerns from the health plan side, and -- and one of their -- I -- I would say their general concern is that these types of coupon programs to some level might mask the true cost of -- of a drug, and that that enables, you know, the patient to get a very expensive drug where there might

be a cheaper generic available because they're not actually paying the full cost of it. So I don't know if you can comment on that concern that has been raised that essentially because, you know, the coupon's being counted and it's not coming out of the patient's pocket, it doesn't I guess incentivize the drug manufacturer to make the drug cheaper.

MR. GOTTFRIED: Yeah, in the vast majority of cases where these coupons are used, there is no generic available and a precious few alternatives of any kind that are as effective. And so it -- you know, sometimes we have to make choices as to which side we're on. Whether on the side of -- of our constituents who struggle even with -- even those who have insurance, and of course this bill only applies to those who have insurance, but who, you know, this being America, the insurance that we all have, including you and me, is pretty crummy when it comes to how much cost is imposed on patients. This is an effort to try to alleviate that burden. And as I say, yeah, you have to -- sometimes we have to pick which side we're on, the insurance companies or our constituents who are struggling to pay for the modern medications that their doctors have prescribed for them.

MR. RA: So, you know, you mentioned that in most circumstances or many circumstances this may be a situation where there are no generics available. So why not have language in this bill to specifically get at that situation, but perhaps allow this practice when there is a generic available?

MR. GOTTFRIED: Well, we already have a law that

says that if there is a generic available, the pharmacy must fill the prescription with the generic unless the prescriber - in most cases your physician - has explicitly checked off the box that says "dispense as written." So we already have strong legislation, or have had for decades, that steers patient appropriately towards generics. But if your physician has looked at the situation and in your physician's professional judgment believes that the brand drug is -- is right for you, not the generic, and has gone so far as to say so on the prescription form, we ought to respect that. So, yeah, I'm -- I'm a big believer in promoting use of generics. The law is on -- is on that side. This bill if it becomes law would only kick in where your physician or other prescriber has gone out of his or her way to prescribe the non-generic or the brand name drug. And it seems to me that that ought to be between you and your prescriber and -- and maybe the FDA, and that, again, if we have to decide whose interest to promote, yours or the insurance company, I think we should be on -- on the side of helping people afford the drugs that their physician has gone out of his or her way to prescribe.

MR. RA: Thank you. So, to -- to that point and I think that's what we all would like to get at is that, you know, that that cost of prescription drugs that and the ability to make sure people can afford them, especially individuals that, you know, rely on expensive medications that may have -- whatever it is. Whether it's MS, cancer, you know, those types of disorders that are -- require a lot of drugs. So, you mentioned earlier, though, right, those commercials. And

we've -- and I'm sure we've all seen them when, you know, somebody walks up to the counter and -- and they say, *This is what you owe*, and they say, *Oh, geez, I can't afford that*, and somebody says, *Hey, you should try this coupon or this card* and say, *Oh, you only owe \$5* and, you know, and it seems like a great thing. But it does create kind of a strange system because if that -- you know, in that world that is created in the commercial if nobody was there to say, *Hey, you should have this discount card*, that person's walking away without having been able to afford the medication. So I guess the question is, is this really get at the core issue which is the overall cost of that drug?

MR. GOTTFRIED: Well, this is getting at the issue of enabling people to -- to afford those drugs. This is not the -- this is not the answer to the high cost of prescription drugs. I do have a bill, the New York Health Act, which if -- if and when we -- we enact it, legislation like this and a lot of other bills of mine and others would not be necessary. And the New York Health Act would help us to quite dramatically bring down the cost of prescription drugs without -- not only without interfering with the ability of people to get their -- the drugs they are -- they need, but of course providing great assistance for them to do that. So this bill, like a lot of others, is an imperfect step towards a -- a fairer and more just world. There are bigger steps that we could take, although I have a feeling that the members on your side would probably be pretty adamantly opposed to them.

MR. RA: Yes, I think you're right about that. And I

-- I won't say I look forward to having that discussion with you because I hope to not see that bill on the floor. But if it's here, if it does come out to the floor, I -- I'm sure we'll have discussion on it like we have in the past.

So, one other thing that I wanted to raise. Now, Federal programs have some restrictions with regard to these types of coupons; is that correct?

MR. GOTTFRIED: Yes. And -- and I mentioned that in my -- in my explaining of the bill. There are provisions in the Federal law that authorizes Federally-approved HSAs, Health Spending Accounts, that would not provide eligibility -- coverage for the particular drug in many circumstances. If this legislation were to operate in those cases and, therefore, the bill says that in those cases this bill would not apply.

MR. RA: Now, but also my understanding is Medicare or Medicaid enrollees are not permitted to use these or -- or the Federal government does not approve of the use of coupons?

MR. GOTTFRIED: I can't answer with respect to Medicare. With respect to Medicaid, you would -- this legislation would really be irrelevant because under Medicaid any co-pay is limited to a nominal amount, number one, and number two, if the patient goes into the pharmacy and says, *I don't want to pay the co-pay*, under New York Medicaid law the pharmacy fills the prescription anyway. So this whole issue does not come up in the Medicaid context. If -- I'm -- I'm not as well-versed in the rules for

Medicare.

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

Mr. Speaker, on the bill.

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

MR. RA: Thank you to my colleague. You know, hopefully it's not our -- our last discussion on health issues, but always enjoy working with -- with the Chair, especially during my years on the Health Committee. And like I said, hopefully -- well, we'll discuss some other bill by the end of Session but hopefully it's not the one Chairman Gottfried referenced.

So as I said earlier, you know, yeah, it's easy to look at this as being are you on the side of the insurance companies or the patients. But it's not really quite that simple here because I guess kind of a Goliath-type interest with regard to this bill is really pharmaceutical companies and -- and insurance companies. And I -- I think on balance, doing things to try to increase people's affordability is important. Like I said, I would rather get at that core issue of the overall expense of the drugs, but I do also see, you know, situations where people in particular that rely on a lot of medications that have those types of disease -- diseases, chronic conditions, things of that nature, certainly would benefit from -- from this because instead of having to pay all the out-of-pocket, the coupon would now apply. But -- but I do think that when I mentioned I think at the outset, the idea of perhaps language in a bill like this that specifically addresses the situation where there is not a generic available versus when there is,

even if we're saying that the vast majority of the time that's what we're talking about here that still leaves open some -- some, you know, situations where we're not talking about that situation. And, you know, when the coupons run out and all of that type of stuff and the person still needs that medication, they may be paying more for that brand drug instead of the generic that may have been available.

So I would suggest that perhaps depending on where this goes, some type of amendment might be effective in addressing that specific situation so that overall we can ensure that we're striking the right balance to make sure that we're getting at the core issue, which is affordability of prescription drugs for all of our constituents that we represent.

Thank you, Mr. Speaker.

ACTING SPEAKER AUBRY: Thank you, sir.

Read the last section.

THE CLERK: This act shall take effect January 1st.

ACTING SPEAKER AUBRY: The Clerk will record the vote on Assembly print 1741-A. This is a fast roll call. Any member who wishes to be recorded in the negative is reminded to contact the Majority or Minority Leader at the numbers previously provided.

(The Clerk recorded the vote.)

Are there any other votes? Announce the results.

(The Clerk announced the results.)

The bill is passed.

Page 28, Calendar No. 248, the Clerk will read.

THE CLERK: Assembly No. A07502, Rules --
Calendar No. 248, Rajkumar, Zebrowski, Griffin, Brabenec, Sayegh.
An act to amend the Executive Law, in relation to awards to victims
of certain crimes.

ACTING SPEAKER AUBRY: On a motion by Ms.
Rajkumar, the Senate bill is before the House. The Senate bill is
advanced.

Ms. Walsh.

MS. WALSH: Could we have an explanation,
please?

ACTING SPEAKER AUBRY: An explanation is
requested, Ms. Rajkumar.

MS. RAJKUMAR: Of course. Thank you, Mr.
Speaker. This bill expands the eligibility for reimbursement for
victims of the crimes of reckless endangerment in second and first
degree, despite the fact that these are non-physical crimes. Currently,
to receive reimbursement for certain crime-related expenses, a victim
must generally be physically injured unless the non-physical crime is
mentioned by statute. This bill would expand the list of non-injured
victims to include victims of the crime of reckless endangerment in
the second and first degree in addition to other non-physical crimes
already codified by the statute. And finally, the bill also expands the
reimbursable expenses to include crime scene cleanup and securing
the crime scene.

ACTING SPEAKER AUBRY: Ms. Walsh.

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

ACTING SPEAKER AUBRY: Will you yield, Ms. Rajkumar?

MS. RAJKUMAR: Yes.

ACTING SPEAKER AUBRY: Ms. Rajkumar yields.

MS. WALSH: Thank you. Thank you, Ms. Rajkumar. So, you mentioned in your explanation of the bill that there are other types of crime that -- that do not involve personal injury or physical injury that are already in the statute. Could you talk about that a little bit, what examples of what those are?

MS. RAJKUMAR: Yes. Executive Law 631 in its subdivisions 11 and 12 enumerates certain non-physical crimes and that are also included, and those include menacing, unlawful surveillance and robbery, among others.

MS. WALSH: So what this bill does, then, is it further expands the list of non-physical injury-related crimes that could receive compensation through the victims -- Office of Victim Services; is that correct?

MS. RAJKUMAR: Correct.

MS. WALSH: Okay. And why add reckless endangerment first and second into this bill? What's the reason for that? Why is that needed?

MS. RAJKUMAR: Well, this includes -- reckless

endangerment in the first and second degree are worthy to add to this list of non-physical crimes for the following reasons: It includes really grave offenses like, for example, if you shoot a gun at a crowd that includes children. Even if no one is actually injured, this is obviously very traumatic. And so the -- the people in that crowd are victims that we deserve -- that we believe deserve to be eligible for compensation.

MS. WALSH: So let's take that as an example. Let's say you've got 3- or 400 people in Times Square and somebody -- somebody shoots -- shoots a gun into the crowd. Does that mean that all of those individuals who are in that crowd would be eligible to receive compensation through the Office of Victim Services?

MS. RAJKUMAR: Well, that is a determination, a very fact-based inquiry that would have to be made by a judge. And they'll have to look carefully. I mean, that scenario I think it would depend on certain -- very fact-specific inquiries such as who was close to the bullets. I mean, if you were all the way in the back of the crowd you may not be as eligible as if you were in the front. So a judge would have to look at all the facts and make that determination.

MS. WALSH: So, but in proximity to the actual danger in the path of the -- of the bullet would be a factor that you -- that you believe would be something that the -- the judge looking at this would be evaluating?

MS. RAJKUMAR: That would be up to the judge, but I think perhaps that would be reasonable.

MS. WALSH: I remember going way back a million years ago when I was in law school we talked about the zone of danger as -- in this Palsgraf decision. I can't even believe I can remember this, this is how long ago it was. But that was -- one of things that you had to look at was whether the individual was within the -- the zone of -- of actual danger and not -- not a mere bystander. And that that was a distinction that made a difference as to whether somebody could recover pecuniary damages for non-physical injury like mental distress and things like that. That -- that actually leads me to the next question, which is what types of damages would be recoverable by the victim of reckless endangerment first or second under this legislation if it was determined that they were within, say, a zone of danger by a judge? What could they recover?

MS. RAJKUMAR: The statute enumerates a specific category of recoverable expenses, and those -- and those include -- they include crime scene cleanup. Also, the cost of mental health services that you might need after a traumatic experience, and also recovering your lost earnings.

MS. WALSH: Okay, so lost earnings. Could you -- could you receive damages for just pain and suffering or mental anguish?

MS. RAJKUMAR: No. What's included in this statute is mental health counseling.

MS. WALSH: So a medical bill that you would get from, say, seeing a counselor or seeing a psychologist or psychiatrist.

Those types of things, along with lost earnings and any cleanup costs associated with it as well? That's the -- the things that you could receive compensation for?

MS. RAJKUMAR: Yes, that's the list. No more, no less.

MS. WALSH: Okay. Very good. Very good. I think those were all the questions that I had.

Mr. Speaker, on the bill.

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

MS. WALSH: So, I appreciate the -- the sponsor's answers to the questions that I raised. I think that those who are concerned about this expansion recognize that although the statute currently does allow for recovery in instances where there is no physical injury, that has been -- pretty much it's been limited to this point to, as the sponsor correctly noted, unlawful surveillance and -- and there was one other thing, too, unlawful surveillance. Oh, robbery and I think there was a third one and I apologize, I can't think of it right now. But to further expand it to something like reckless endangerment first or second is -- could really greatly expand the -- the numbers of individuals who could recover. If you think about the example that we discussed, something like firing into a crowd, do we want the Office of Victim Services to be able to consider perhaps hundreds of people per incident who could be eligible for some type of recovery in terms of money that they could receive? Now, this is

an Office of Victim Services Program Bill, so they are -- they are specifically asking for the ability to make these types of awards. And we don't have any specific letters or memos of opposition to the legislation. And actually, as the matter was coming through Committee we did have a few no votes but not a lot of opposition to the bill. So I assume that there will be members who will vote yes and no. But the concern I think is that it can be interpreted as being rather vague in terms of how you can evaluate an individual's anguish. And although we are looking at something more hard like a medical bill or for mental health counseling or lost wages, do we want to expand that so greatly into the situations that we've discussed where you are -- you are a bystander and have not yourself suffered any physical harm? Do we want to continue to expand the statute to include so many more individuals?

So for those reasons I would expect that we will have some members, as I said, in support of this legislation and others not. But I do thank the sponsor and I appreciate her answers to my questions. Thank you, Mr. Speaker.

ACTING SPEAKER AUBRY: Thank you.

Read the last section.

THE CLERK: This act shall take effect on the 180th day.

ACTING SPEAKER AUBRY: The Clerk will record the vote on Senate print 8976. This is a Party vote. Any member who wishes to be recorded as an exception to the Conference position is

reminded to contact the Majority or Minority Leader at the numbers previously provided.

Ms. Walsh.

MS. WALSH: Thank you, Mr. Speaker. The Republican Conference will generally speaking be in the negative on this particular piece of legislation for the reasons that I have stated. But there will be members who will wish to vote in the affirmative and they should do so in the Chamber or by calling the Minority Leader's Office.

Thank you.

ACTING SPEAKER AUBRY: Thank you.

Ms. Solages.

MS. SOLAGES: Majority members will be voting in the affirmative. Any members that wish to vote against this measure are encouraged to call the Majority Leader's Office and we will announce their name accordingly.

ACTING SPEAKER AUBRY: So noted. Thank you.

(The Clerk recorded the vote.)

Ms. Rajkumar to explain her vote.

MS. RAJKUMAR: Thank you, Mr. Speaker. I am proud to sponsor this bill expanding the list of non-physical crimes that are eligible for certain crime-related expenses. And the reason is that non-physical injuries are just as real, and even more real and debilitating sometimes than physical ones. This bill recognizes that

fact.

I urge my colleagues to vote in the affirmative and support this bill. Thank you.

ACTING SPEAKER AUBRY: Ms. Rajkumar in the affirmative.

Are there any other votes? Announce the results.

(The Clerk announced the results.)

The bill is passed.

Ms. Solages.

MS. SOLAGES: Mr. Speaker, do you have any further housekeeping or resolutions?

ACTING SPEAKER AUBRY: We do have housekeeping and resolutions, but we'll start with this.

On a motion by Mr. Gottfried, page 12, Calendar No. 8, Bill No. 196-B, the amendments are received and adopted.

On behalf of Mr. Cahill, Bill No. A.1393-A, Assembly bill recalled from the Senate. The Clerk will read the title of the bill.

THE CLERK: An act to amend the Highway Law.

ACTING SPEAKER AUBRY: Motion to reconsider the vote by which the bill passed the House. The Clerk will record the vote.

(The Clerk recorded the vote.)

The Clerk will announce the results.

(The Clerk announced the results.)

The bill is before the House and the amendments are received and adopted.

On behalf of Mr. Cymbrowitz, Bill A.2519, Assembly bill recalled from the Senate. The Clerk will read the title of the bill.

THE CLERK: An act to amend the Insurance Law.

ACTING SPEAKER AUBRY: Motion to reconsider the vote by which the bill passed the House. The Clerk will record the vote.

(The Clerk recorded the vote.)

The Clerk will announce the results.

(The Clerk announced the results.)

The bill is before is House, the amendments are received and adopted.

On behalf of Mr. Epstein, Bill No. A.3298, Assembly bill recalled from the Senate. The Clerk will read the title of the bill.

THE CLERK: An act to amend the Public Health Law.

ACTING SPEAKER AUBRY: Motion to reconsider the vote by which the bill passed the House. The Clerk will record the vote.

(The Clerk recorded the vote.)

The Clerk will announce the results.

(The Clerk announced the results.)

The bill is before the House and the amendments are

received and adopted.

And finally, we have numerous fine resolutions which we will take up with one strong voice.

All those in favor signify by saying aye; opposed, no. The resolutions are adopted.

(Whereupon, Assembly Resolution Nos. 936-942 were unanimously adopted.)

Ms. Solages to send us home.

MS. SOLAGES: Mr. Speaker, it's been a pleasure.

I now move that the Assembly stand adjourned until Thursday, May 19th, tomorrow being a legislative day and that we reconvene at 12:30 p.m. on May 23rd, Monday being a Session day.

ACTING SPEAKER AUBRY: The Assembly stands adjourned.

(Whereupon, at 3:33 p.m., the House stood adjourned until Thursday, May 19th, that being a legislative day, and to reconvene on Monday, May 23rd at 12:30 p.m., that being a Session day.)