ALBANY, NEW YORK

April 19, 1993

3:17 p.m.

REGULAR SESSION

SENATOR HUGH T. FARLEY, Acting President

STEPHEN F. SLOAN, Secretary

P R O C E E D I N G S

ACTING PRESIDENT FARLEY: Senate will come to order. Senators will please find their seats.

If you will please rise with me for the Pledge of Allegiance.

(Whereupon, the Senate joined in the Pledge of Allegiance to the flag.)

Today, in the absence of clergy, we will bow our heads for a moment of silent prayer.

(Whereupon, there was a moment of silence.)

Secretary will begin by reading the Journal.

THE SECRETARY: In Senate, Friday, April 16. The Senate met pursuant to adjournment. Senator Bruno in the chair upon designation of the Temporary President. The Journal of Wednesday, April 14, was read and approved. On motion, Senate adjourned.

ACTING PRESIDENT FARLEY: Hearing no objection, the Journal will stand approved as

read.

The order of business.

Presentation of petitions.

Messages from the Assembly.

Messages from the Governor.

We have a message from the Governor. The Secretary will read this message to Senator Volker and others.

THE SECRETARY: The Governor returned without executive approval Senate Bill Number 200, Veto Number 1, an act to amend the Penal Law, the Criminal Procedure Law, Judiciary Law and the County Law, in relation to the imposition of the death penalty in certain additional instances and establishing a procedure therefor.

ACTING PRESIDENT FARLEY: Lay the bill on the table, the veto. Lay the vetoed bill on the table.

Reports of standing committees.

Reports of select committees.

Communications and reports from state officers.

Motions and resolutions.

Senator Johnson, first, I guess.

SENATOR JOHNSON: On behalf of Senator Cook, I move to commit Senate Print Number 2834, Calendar Number 352, to third reading -- I guess now in third reading to the Committee on Finance.

ACTING PRESIDENT FARLEY: The bill is recommitted to Finance.

Senator Nozzolio.

SENATOR NOZZOLIO: Yes. Mr. President. I move that the following bills be discharged from their respective committees and be recommended with instructions to strike the enacting clause: Senate Print Number 3992.

ACTING PRESIDENT FARLEY: Without objection.

Senator Wright.

SENATOR WRIGHT: Mr. President. On behalf of Senator Mega, on page number 5, I offer the following amendments to Calendar Number 133, Senate Print Number 1939, and ask that the bill retain its place on the Third

Reading Calendar.

ACTING PRESIDENT FARLEY: The bill will retain its place on the Third Reading Calendar. Amendments are received.

SENATOR WRIGHT: Mr. President. On behalf of Senator Farley, on page number 15, I offer the following amendments to Calendar Number 370, Senate Print Number 2726, and ask that said bill retain its place on the Third Reading Calendar.

ACTING PRESIDENT FARLEY: Amendments received. The bill will retain its place.

SENATOR WRIGHT: Mr. President. On behalf of Senator Sears, on page number 12, I offer the following amendments to Calendar Number 339, Senate Print Number 3452, and ask that the bill retain its place on the Third Reading Calendar.

ACTING PRESIDENT FARLEY: Without objection, the bill will retain its place.

Senator Stachowski.

SENATOR STACHOWSKI: Mr.

President. I move that the following bill be discharged from its committee and be recommitted with instructions to strike the enacting clause: Senate Print 754.

ACTING PRESIDENT FARLEY: Bill is recommitted and enacting clause will be struck.

Are there any other motions on the floor?

Senator Present.

SENATOR PRESENT: Mr. President. Let's take up the non-controversial calendar, please.

ACTING PRESIDENT FARLEY: Non-controversial. The Secretary will read.

THE SECRETARY: On page 5, Calendar Number 90, by Senator DeFrancisco, Senate Bill Number 1921A, an act to amend the Highway Law, in relation to designating a portion of the state highway system as the Veterans of Foreign Wars Memorial Highway.

ACTING PRESIDENT FARLEY: Read the last section.

THE SECRETARY: Section 2. This

act shall take effect immediately.

ACTING PRESIDENT FARLEY: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 44.

ACTING PRESIDENT FARLEY: The bill is passed.

THE SECRETARY: On page 11, Calendar Number 334, by Senator Saland.

SENATOR STACHOWSKI: Lay it aside.

ACTING PRESIDENT FARLEY: Lay that bill aside.

THE SECRETARY: Calendar Number 343, by Senator Johnson, Senate Bill Number 1357, an act to amend the Real Property Tax Law.

ACTING PRESIDENT FARLEY Read the last section.

THE SECRETARY: Section 2. This act shall take effect immediately.

ACTING PRESIDENT FARLEY: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 45.

ACTING PRESIDENT FARLEY: The bill is passed.

THE SECRETARY: Calendar Number 344, by Senator Johnson, Senate Bill Number 1703, an act to amend the Real Property Tax Law, in relation to providing an exemption for capital construction costs.

ACTING PRESIDENT FARLEY: Read the last section.

THE SECRETARY: Section 2. This act shall take effect immediately.

ACTING PRESIDENT FARLEY: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 45.

ACTING PRESIDENT FARLEY: The bill is passed.

THE SECRETARY: Calendar Number 345, by Senator Skelos, Senate Bill Number 1985, an act to amend the Executive Law, in relation to authorizing the state office for the aging to establish a social model.

ACTING PRESIDENT FARLEY: Read the last section.

THE SECRETARY: Section 2. This act shall take effect immediately.

ACTING PRESIDENT FARLEY: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 45.

ACTING PRESIDENT FARLEY: The bill is passed.

THE SECRETARY: Calendar Number 347, by Senator -

SENATOR STACHOWSKI: Lay it aside.

ACTING PRESIDENT FARLEY: Lay that bill aside.

THE SECRETARY: Calendar Number 349, by Senator Larkin, Senate Bill Number 1964, authorize the payment of transportation aid to Newburgh Enlarged City School District.

ACTING PRESIDENT FARLEY: There is a local fiscal impact note here at the desk.

Read the last section.

THE SECRETARY: Section 2. This act shall take effect immediately.

ACTING PRESIDENT FARLEY: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 45.

ACTING PRESIDENT FARLEY: The bill is passed.

THE SECRETARY: Calendar Number 350, by Senator LaValle.

SENATOR STACHOWSKI: Lay it aside.

ACTING PRESIDENT FARLEY: Lay that bill aside.

THE SECRETARY: Calendar Number 351, by Senator Johnson, Senate Bill Number 2802, an act to amend the Education Law, in relation to fish study grants.

SENATOR STACHOWSKI: Can we get one day on this one?

ACTING PRESIDENT FARLEY: Senator Johnson?

SENATOR JOHNSON: Yes.

ACTING PRESIDENT FARLEY: Lay the bill aside for the day.

THE SECRETARY: Calendar Number 353, by Senator Cook, Senate Bill Number 3864, an act to amend the -

SENATOR MARCHI: Lay it aside.

ACTING PRESIDENT FARLEY: Lay it aside.

SENATOR MARCHI: Last section.

ACTING PRESIDENT FARLEY: Read the last section of that bill, Senator Cook's bill, 353.

THE SECRETARY: Section 2. This act shall take effect immediately.

ACTING PRESIDENT FARLEY: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 46.

ACTING PRESIDENT FARLEY: The bill is passed.

THE SECRETARY: Calendar Number 354, by member of the Assembly Bragman, Assembly Bill Number 1959, an act to amend Chapter 53 of

the Laws of 1804.

ACTING PRESIDENT FARLEY: Read the last section.

THE SECRETARY: Section 2. This act shall take effect immediately.

ACTING PRESIDENT FARLEY: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 46.

ACTING PRESIDENT FARLEY: The bill is passed.

THE SECRETARY: Calendar Number 357, by Senator Stafford, Senate Bill Number 3287, legalize, validate, ratify and confirm the acts of the town board.

ACTING PRESIDENT FARLEY: Read the last section.

THE SECRETARY: Section 2. This act shall take effect immediately.

ACTING PRESIDENT FARLEY: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 46.

ACTING PRESIDENT FARLEY: The bill is passed.

THE SECRETARY: Calendar Number 361, by Senator Levy, Senate Bill Number 194, an act to amend the Vehicle and Traffic Law.

ACTING PRESIDENT FARLEY: Read the last section.

THE SECRETARY: Section 2. This act shall take effect immediately.

ACTING PRESIDENT FARLEY: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 48, excuse me. Ayes 47, nays 1. Senator DeFrancisco recorded in the negative.

ACTING PRESIDENT FARLEY: The bill is passed.

THE SECRETARY: Calendar Number 362, by Senator Tully, Senate Bill Number 2539A, an act to amend the Vehicle and Traffic Law.

ACTING PRESIDENT FARLEY: Read the last section.

THE SECRETARY: Section 2. This

act shall take effect immediately.

ACTING PRESIDENT FARLEY: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 48. Nays 1. Senator DeFrancisco recorded in the negative.

ACTING PRESIDENT FARLEY: The bill is passed.

THE SECRETARY: Calendar Number 363, by Senator Sheffer, Senate Bill Number 2855, an act to amend the Vehicle and Traffic Law.

ACTING PRESIDENT FARLEY: Read the last section.

THE SECRETARY: Section 2. This act shall take effect immediately.

ACTING PRESIDENT FARLEY: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 49.

ACTING PRESIDENT FARLEY: The bill is passed.

THE SECRETARY: Calendar Number 364, by Senator Cook, Senate Bill Number 3026, an act to amend the Vehicle and Traffic Law.

ACTING PRESIDENT FARLEY: Read the last section.

THE SECRETARY: Section 2. This act shall take effect immediately.

ACTING PRESIDENT FARLEY: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 48. Nays 1. Senator Pataki recorded in the negative.

ACTING PRESIDENT FARLEY: That bill is passed.

THE SECRETARY: Calendar Number 365, by Senator Stafford.

SENATOR PRESENT: Lay it aside.

ACTING PRESIDENT FARLEY: Lay it aside.

THE SECRETARY: Calendar Number 367, by Senator Cook.

SENATOR STACHOWSKI: Lay it aside.

ACTING PRESIDENT FARLEY: Lay it aside.

THE SECRETARY: Calendar Number 368, by Senator Farley, Senate Bill Number 1595, an act to amend the Banking Law and the Criminal Procedure Law.

ACTING PRESIDENT FARLEY: Read the last section.

THE SECRETARY: Section 2. This act shall take effect immediately.

ACTING PRESIDENT FARLEY: Call the roll.

(The Secretary called the roll.)

SENATOR LEICHTER: Mr. President. May I please be excused from voting on this bill.

ACTING PRESIDENT FARLEY: Without objection, Senator Leichter abstains.

Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 48.

ACTING PRESIDENT FARLEY: The bill is passed.

THE SECRETARY: Calendar Number 371, by Senator Levy, Senate Bill Number 471, an act to amend the Railroad Law and the Public Authorities Law.

ACTING PRESIDENT FARLEY: Read the last section.

THE SECRETARY: Section 2. This act shall take effect immediately.

ACTING PRESIDENT FARLEY: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 49.

ACTING PRESIDENT FARLEY: The bill is passed.

THE SECRETARY: Calendar Number 372, by Senator Levy, Senate Bill Number 1002, Vehicle and Traffic Law, prohibiting disposition of DWI offenses.

ACTING PRESIDENT FARLEY: Read the last section.

THE SECRETARY: Section 2. This act shall take effect immediately.

ACTING PRESIDENT FARLEY: Call

the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 49.

ACTING PRESIDENT FARLEY: The bill is passed.

No, there's some negatives here.

THE SECRETARY: Excuse me. Calendar 372: Ayes 49. Nays 1. Senator DeFrancisco recorded in the negative.

ACTING PRESIDENT FARLEY: The bill is passed.

THE SECRETARY: Calendar Number 375, by Senator Levy, Senate Bill Number 2076, an act to amend the Vehicle and Traffic Law.

ACTING PRESIDENT FARLEY: Read the last section.

THE SECRETARY: Section 2. This act shall take effect immediately.

ACTING PRESIDENT FARLEY: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 50.

ACTING PRESIDENT FARLEY: The

bill is passed.

THE SECRETARY: Calendar Number 376, by Senator Skelos, Senate Bill Number 2715, an act to amend the Vehicle and Traffic Law.

ACTING PRESIDENT FARLEY: Read the last section.

THE SECRETARY: Section 2. This act shall take effect immediately.

ACTING PRESIDENT FARLEY: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 51.

ACTING PRESIDENT FARLEY: The bill is passed.

THE SECRETARY: Calendar Number 378, by Senator Daly.

SENATOR STACHOWSKI: Lay it aside.

ACTING PRESIDENT FARLEY: Lay that bill aside.

THE SECRETARY: Calendar Number 379, by Senator LaValle, Senate Bill Number 3691, Social Services Law.

SENATOR STACHOWSKI: Lay it aside.

ACTING PRESIDENT FARLEY: Lay it aside.

THE SECRETARY: Calendar Number 382, by Senator Holland.

SENATOR HOLLAND: Star the bill.

ACTING PRESIDENT FARLEY: Star the bill at the request of the sponsor.

THE SECRETARY: Calendar Number 384, by Senator Saland, Senate Bill Number 3583, an act to amend the Education Law, in relation to making certain -

SENATOR STACHOWSKI: Lay it aside.

ACTING PRESIDENT FARLEY: Lay it aside.

THE SECRETARY: Calendar Number 385, by Senator Daly, Senate Bill Number -

SENATOR STACHOWSKI: Lay it aside.

ACTING PRESIDENT FARLEY: Lay it aside.

THE SECRETARY: Calendar Number 386, by Senator Seward, Senate Bill Number 3109, an act to amend the Education Law, in relation to increasing penalties for violations.

SENATOR LEICHTER: Lay it aside.

ACTING PRESIDENT FARLEY: Lay it aside.

THE SECRETARY: Calendar Number 388, by Senator Levy, Senate Bill Number 3515A.

SENATOR SMITH: Lay it aside.

ACTING PRESIDENT FARLEY: Lay it aside.

THE SECRETARY: Calendar Number 389, by Senator LaValle, Senate Bill Number 3721, Education Law, in relation to enacting the Higher Education Community Service Act.

ACTING PRESIDENT FARLEY: Read the last section.

THE SECRETARY: Section 2. This act shall take effect immediately.

ACTING PRESIDENT FARLEY: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 51.

ACTING PRESIDENT FARLEY: The bill is passed.

THE SECRETARY: Calendar Number 390, by Senator LaValle, Senate Bill Number 1051, Agriculture and Markets Law, in relation to the sale and licensure of farm products.

ACTING PRESIDENT FARLEY: Read the last section.

THE SECRETARY: Section 2. This act shall take effect immediately.

ACTING PRESIDENT FARLEY: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 51.

ACTING PRESIDENT FARLEY: The bill is passed.

THE SECRETARY: Calendar Number 391, by Senator Present.

SENATOR PRESENT: Lay it aside for the day.

ACTING PRESIDENT FARLEY: Lay it aside for the day.

THE SECRETARY: Calendar Number 392, by Senator Holland, Senate Bill Number 2610, Agriculture and Markets Law.

ACTING PRESIDENT FARLEY: Read the last section.

THE SECRETARY: Section 2. This act shall take effect immediately.

ACTING PRESIDENT FARLEY: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 51.

ACTING PRESIDENT FARLEY: That bill is passed.

THE SECRETARY: Calendar Number 393, by Senator Kuhl, Senate Bill Number 3182, Agriculture and Markets Law.

ACTING PRESIDENT FARLEY: Read the last section.

THE SECRETARY: Section 2. This act shall take effect immediately.

ACTING PRESIDENT FARLEY: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT FARLEY: Lay it aside. Withdraw the roll call.

THE SECRETARY: Calendar Number 394, by Senator Kuhl, Senate Bill Number 3336, Agriculture and Markets Law.

ACTING PRESIDENT FARLEY: Read the last section.

THE SECRETARY: Section 2. This act shall take effect immediately.

ACTING PRESIDENT FARLEY: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 51.

ACTING PRESIDENT FARLEY: The bill is passed.

THE SECRETARY: Calendar Number 395, by Senator Kuhl, Senate Bill Number 3414, Agriculture and Markets Law.

SENATOR KUHL: Lay it aside for the day, please.

ACTING PRESIDENT FARLEY: Lay it aside for today.

THE SECRETARY: Calendar Number

413, by the Committee on Rules, Senate Bill Number 4363, an act to amend the Public Health Law.

SENATOR LEICHTER: Lay it aside.

SENATOR STACHOWSKI: Lay it aside.

ACTING PRESIDENT FARLEY: Lay it aside.

Senator Present, that's the first time -

Senator Daly, why do you rise?

SENATOR DALY: On page 19, Calendar Number 91 -- I'm sorry, Calendar Number 93, Senate Bill Number 1106A, would you remove the star from that bill, please.

ACTING PRESIDENT FARLEY: Star is removed at the request of the sponsor.

Senator Present.

SENATOR PRESENT: Mr. President, would you recognize Senator Skelos, please.

ACTING PRESIDENT FARLEY: We can do that.

Senator Skelos.

SENATOR SKELOS: Mr. President, is there a privileged resolution at the desk?

ACTING PRESIDENT FARLEY: There is one.

SENATOR SKELOS: I would like to have it read in its entirety.

ACTING PRESIDENT FARLEY: The Secretary will read Senator Skelos' resolution in its entirety.

THE SECRETARY: Legislative Resolution, commemorating the 50th Anniversary of the Warsaw Ghetto Uprising upon the occasion of the observance of Yom-Hashoah-the Day of Remembrance.

Whereas, it is the sense of this Legislative Body to commemorate the 50th Anniversary of the Warsaw Ghetto Uprising.

On April 19, 1943, on the eve of Passover, a band of 700 fighters, some as young as teenagers, took on the Third Reich.

For 27 days, this cadre of resistance fighters fought the German Army with pistols and homemade bombs.

The genesis of the resistance had been fueled by the German occupation of Warsaw in 1940; they walled off a mile and a half of the city in which nearly a half million Jews from Warsaw and Central Poland were forced to live.

Impossible living standards brought about disease; starvation was a daily reality that caused thousands of deaths.

During the next three years, resettlement had sent 350,000 Jews to a human extermination camp in Treblinka.

Despite the odds against them, the resistance fighters vowed to not die on their knees; they refused to succumb to Nazi tyrrany marking the first instance of an uprising by an urban population in German occupied Europe.

The only means by which the Germans could stop the uprising was to burn the ghetto to the ground, building by building.

In the hearts and minds of the survivors, the Warsaw Ghetto lives.

Upon the occasion of the 50th Anniversary of the Warsaw Ghetto Uprising, it is the sense of this Legislative Body to recognize the courage and bravery of those who struggled for freedom in the Warsaw Ghetto.

For those who will not learn from the lessons of history, there is no hope; their end is most assuredly assigned; the world which they seek to undo is irrevocably anchored in the heroism of the Jewish people; this is the source of Jewish resistance to the reactionary area forces of oppression, the unquenchable yearning to be free, a determination so indigenous to those traditions of religious and cultural identification which define the Jewish heritage.

The desire for freedom, for self-determination, upon the part of the Jewish people, touches the hearts of all; it transcends the advocates of mindless retrenchment; it frays and shreds the mantle of pure blind indifference which so cruelly seeks to rewrite the tragic history of Jewish suffering; arching across the

great Atlantic, it strikes a resonant chord upon the American bell of freedom.

It is the voice which this Legislative Body hears, the voice of those who suffered and died in the Warsaw Ghetto, whose sons and daughters have so manifestly contributed to the cause of America's freedom, whose commitment to human dignity is so visibly mirrored in the spiritual dimensions of the Zionist movement.

Now, therefore, be it resolved, that this Legislative Body pause in its deliberations to commemorate the 50th Anniversary of the Warsaw Ghetto Uprising; and be it further

Resolved, that a copy of this resolution, suitably engrossed, be transmitted to the Jewish Community Relations Council.

ACTING PRESIDENT FARLEY: Senator Skelos.

SENATOR SKELOS: Mr. President. At times, it's human nature to try to blot out from our memory those occurrences which are very

negative and very horrible.

The purpose of this resolution is not only to commemorate the 50th Anniversary of the uprising in Warsaw but also to remind us as legislators, to remind us as parents, to remind us as human beings, that the horrible events of the Holocaust did occur despite the fact that there are many revisionists of history who would try to say that it did not.

It is incumbent upon all of us to remind our children, to remind our grand children of the horrors of the Holocaust so that it may never occur again.

And I would be honored if any member would like to co-sponsor this resolution to so indicate to the desk, and I move the adoption of the resolution.

SENATOR GOLD: Mr. President.

ACTING PRESIDENT FARLEY: Before Senator Gold speaks, could I have the names of anybody or the desk have the names of people who would like to co-sponsor this resolution.

Senator Gold? You seem to be

standing.

SENATOR GOLD: Yes. Thank you, Mr. President.

Mr. President. Too often we see situations where we use words, and the words have a familiar ring and they sound right, but we really don't get into the words more than that. I found out, for example, in hearings I held on gun legislation that people nod their heads in agreement, but they don't really understand it. But if you show them guns and talk about it, they understand it.

This resolution has on the bottom of page 2 -- and I think Senator Skelos already referred to it, but it says, "Those who will not learn the lessons of history..." and then it goes on.

We are aware that there are people who are dedicated to the proposition that as each year goes by they will convince more and more people that the Holocaust never occurred and that the atrocities of the Nazi regime never occurred. They do it in very, very subtle

ways. They will, for example, encourage seminars to discuss the Holocaust. And one of the questions involved in the seminar they want to be, quotes, "whether it ever happened?"

In the back of their mind is that 50 years from now or 100 years from now someone will see that brochure and say, "You see, way back in the 1990s, they were even questioning whether it even occurred."

I read the paper today, and there was an article about what is happening in another part of the world today and how tyrrany in that part of the world is already mirroring what happened in the Holocaust. It spoke of rape alleys where Moslem young women are taken by the invaders and brutalized six, seven times a night. And as I read those stories, while it was not Jewish women involved, Moslem women, unfortunately, the mirroring of the situations was all too evident.

It is very uncomfortable for me, and I'm sure for many people in this chamber and certainly for millions of people in the world,

to view some of the programs that are repeated so often on television which show the World War II closing years and the aftermath when they discovered -- not only discovered, but they were actually there with the photographic evidence and cameras of what happened in the Holocaust.

And I want to congratulate Senator Skelos and everyone who is involved with this resolution because you've got to keep telling it and you've got to repeat it and, just as all of us who have our own various religious beliefs know, that much of religion is the repetition of history and the study of history. So, for example, on the Passover night, the service, the Passover Seder, we review the history; and during the most religious days in the Jewish calendar, we read of the history of tortures to people; and those same types of tortures have been showered upon, not by choice, Christians, Moslems, people of all faiths and all walks of life.

And as uncomfortable as it is, there is no excuse to ever stop repeating the

tales and telling the stories, lest we by neglect give in to those in our society who are waiting for the day when they can increase credibility to the spurious and disgusting argument that these horrible events never took place. The memorials, the services, the parades, the events of the last few days and of this week which, once again, highlight these atrocities are very important.

And I'm delighted that this house is joining with people throughout the world to stand up against this type of inhumane treatment of human beings. I'm delighted to be a co-sponsor. And as one of my colleagues, years ago -- may he rest in piece -- in the Assembly said, I not only, Senator Skelos, accept your words, I accept your English. It is a well written resolution, and I'm proud that we are passing it today.

ACTING PRESIDENT FARLEY: On the resolution. All those in favor, aye.

(Response of "Aye.")

Those opposed, nay.

(There was no response.)

The resolution is unanimously adopted.

Senator Present.

SENATOR PRESENT: Mr. President. Would you recognize Senator Tully, please.

ACTING PRESIDENT FARLEY: Yes, I will.

Senator Tully.

SENATOR TULLY: Thank you, Mr. President. You have a resolution before you dealing with a Mr. Alfredo Kraus?

ACTING PRESIDENT FARLEY: Yes, we do.

SENATOR TULLY: May I ask it be read, please.

ACTING PRESIDENT FARLEY: The Secretary will read the resolution. In its entirety, Senator Tully, or the title?

SENATOR TULLY: The title, please.

THE SECRETARY: Legislative Resolution, by Senators Tully, Goodman, and

others, commending opera tenor Alfredo Kraus upon the occasion of his 27th season at the Metropolitan Opera in New York City, to be commemorated at a reception on April 19, 1993.

ACTING PRESIDENT FARLEY: Senator Tully.

SENATOR TULLY: Yes, Mr. President. Throughout the month of April, the distinguished opera tenor Alfredo Kraus will be performing at the Metropolitan Opera in New York City. Mr. Kraus, a gifted lyrical tenor, has been endowed with a rich and intense, warm voice which has established him as a monument in the opera world for nearly 36 years.

However, we honor Mr. Kraus for more than simply his unparalleled singing ability. We honor him for his long and sustained commitment to inspiring appreciation for opera as an art in the general public. More importantly, however, we honor him for his work with aspiring young performers whom Mr. Kraus teaches and advises.

This evening Alfredo Kraus will

be celebrated at a reception in his honor in New York City, and I hope that all of my colleagues will join with me and Senator Goodman in welcoming him to New York for his 27th season at the Metropolitan Opera.

Thank you, Mr. President.

ACTING PRESIDENT FARLEY: On the resolution. All those in favor, say aye.

(Response of "Aye.")

Those opposed, nay.

(There was no response.)

The resolution is adopted.

Senator Present.

SENATOR PRESENT: Mr. President. Can we take up the controversial calendar, please.

ACTING PRESIDENT FARLEY: Secretary will read the controversial calendar.

THE SECRETARY: On page 11, Calendar Number 334, by Senator Saland, Senate Bill Number 796, an act to amend the General Business Law.

SENATOR STACHOWSKI: Explanation.

ACTING PRESIDENT FARLEY: Lay it aside.

THE SECRETARY: Calendar Number 347, by Senator Holland, Senate Bill Number 47, an act to authorize the Salvation Army Eastern Territory School for Officers Training to change its name to the Salvation Army Training College.

ACTING PRESIDENT FARLEY: Explanation has been asked for. Lay it aside.

Hold it up just a minute.

Senator Present.

SENATOR PRESENT: Lay that bill aside, temporarily.

ACTING PRESIDENT FARLEY: Lay it aside temporarily.

THE SECRETARY: Calendar Number 350, by Senator LaValle, Senate Bill Number 2672, an act to amend the Education Law, in relation to the apportionment of aid to certain reorganized school districts.

ACTING PRESIDENT FARLEY: Explanation. Senator LaValle.

SENATOR LAVALLE: Mr. President.

This legislation would add to the law dealing with school district reorganization, a school district that reorganizes -- a union free school district that reorganizes with a nonoperating school district. Most specifically, this legislation deals with the situation in which the South Manor School District, which is a union free school district, reorganized with the West Manor School District that sent about 50 students, after a vote by both the South Manor School District and the West Manor School District, understanding -- people having an understanding that there would be incentive aid, reorganization incentive aid, once such reorganization took place.

Unfortunately, they found out that the law did not specifically provide for a non-operating school district; and, thereby, the South Manor School District, the newly reorganized district, is denied reorganization aid.

SENATOR LEICHTER: Mr. President.

ACTING PRESIDENT FARLEY: Senator

Leichter.

SENATOR LEICHTER: Briefly on the bill. We debated this last year. But I'm troubled with the idea where people proceed under a totally false assumption, which Senator LaValle concedes was the case here, and we should thereupon change the law because they received wrong advice; they didn't understand what was happening. I mean this is different than where you have a single individual who may not have been told what his or her rights were under a pension system, and I think we have all had a little problem with that.

But here, as I understand it, and correct me, Senator LaValle, if I'm wrong, people voted to consolidate not being aware of the fact that they were not entitled to the consolidation aid for the law just didn't provide for it.

There must have been hundreds of people. There must have been counsels. There must have been other people who were advising them, and the information may have been wrong.

You say it was wrong. But are we as a Legislature, are we as a state when somebody gets up and makes a totally false statement and says, "If you do this, you are going to get state aid," and it's wrong, then people may listen to that individual, they may do this act, they find out they are not entitled to state aid, we have to change the law? I'm troubled by that, Senator.

ACTING PRESIDENT FARLEY: Senator LaValle.

SENATOR LAVALLE: Mr. President. On the bill. This legislation was filed because individuals voted in good faith in what they believed was a situation that a newly reorganized district accepting 50 students from the West Manor School District would yield reorganization incentive aid. As a matter of fact, and I think members here are well aware that, today, there have been studies and calls for reorganization of school districts throughout this state. And in Suffolk County, people use as almost a battle cry, "Remember the

Alamo," "Remember the Maine," "Remember what happened in South Manor," where two school districts and the people in good faith voted to reorganize and they got stiffed because someone in reading the law said, Well, it could go either way and if we only put in a provision to clearly define that a nonoperating district reorganizing with a union free school district would receive incentive aid, then we can allow this to happen. That was an interpretation by the Department.

So I think it is very, very unfair at a time when we're trying to get school districts to reorganize, when we are trying to get people to go the extra mile and bring school districts together -- and let me tell you, Senator Leichter, while today or at the time the vote was taken we were talking about 50 students, this area -- had we not had the reorganization to take place, this area is wide open for development and that school district would have gone from being a nonoperating school district with 50 students to a school district

with hundreds of students, and they would have been forced into a situation to build buildings, hire teachers, and we would have been moving in just the direction we do not want to go.

So I think that this legislation -- we passed it last year. This year, Assemblyman DiNapoli and Assemblyman Sawicki in the other house have sponsored this, and I'm hopeful that we can pass this and get the Governor to sign it not only because it will provide the incentive aid that people thought would be coming to the newly reorganized district but because it sends the right signal that the state will meet its commitments to the people when they hold a vote to take a particular action.

SENATOR LEICHTER: Mr. President.

ACTING PRESIDENT FARLEY: Senator Leichter.

SENATOR LEICHTER: Will Senator LaValle yield?

SENATOR LAVALLE: Yes.

ACTING PRESIDENT FARLEY: Yes, he

will.

SENATOR LEICHTER: Senator, I just want to clarify something. I said I will accept your statement that people misunderstood what the law was. Did anybody contact the Department of Education and say, "If we do this, will we be entitled to this consolidation aid?" Did they get wrong information from the Department of Education? If they did, I would change my view, but did anybody ask the Department?

SENATOR LAVALLE: Senator, as I recall, this was not done -- this vote -- on a whim and fancy of two districts, and we have had discussions with the Department. I believe that the Department probably is taking no position, but I do not believe they are opposed to this legislation.

SENATOR LEICHTER: But, Senator, my question is that when you come before us and say, "Listen, hundreds of people made a mistake; they didn't understand what the law was," what did they do to try to understand the law? Who

told them that you are going to get this aid? If it was a government official, then, Senator, maybe we're obligated. But if some guy gets up on a stump and makes a perfectly ridiculous statement, and we then have to change the law, I don't see that.

SENATOR LAVALLE: Senator, without first-hand knowledge, it is very difficult to say who said what. But let me say -- and just this very day, I had a meeting, my office, school district, and people from the Department. And the reason we had that meeting today -- it's a separate matter -- is because someone in the Department had said something and the school district believed that it had the authority to move ahead. The South Manor/West Manor situation meets that test, and I told my school districts unless you get it in writing from the Department, unless you get it in writing, it is just someone giving you their view. And they may say, Well, I think it's all right. I think it's aidable. But when we move ahead, the counsel's office may have a different

view. And I can tell you, and people who have dealt with the Department will know, that an assistant commissioner or a bureau chief will give an approval where someone higher up or in the counsel's office will say, "I'm sorry, you gave the school district the wrong point of view."

And that's really what I am saying. I am saying that they understood the Department to say that they were going to receive incentive aid.

SENATOR LEICHTER: Well, Senator, as I understand what you just said before is you have no proof, no knowledge, that anybody of the Department ever said to them, You are going to receive this aid. Furthermore, I agree with the advice that you gave your constituents in a totally separate situation, which is, get it in writing.

But let me ask you something. If we vote this bill, and it is passed by the Assembly and it is signed into law, what is going to be the cost of the consolidation aid

that is going to have to be paid out of the treasury of the state.

SENATOR LAVALLE: Senator, as you know, incentive aid is paid both on operating aid and also for any -- any building aid that might come due. And for the '93-94 school year, the operating aid that would be generated would be 612,000, and the building aid would be 16,000, and then this would increase to about a million dollars in operating aid thereafter and about $27,000 in building aid thereafter for - for a period of five years, a period of five years.

SENATOR LEICHTER: So we're talking roughly -

ACTING PRESIDENT FARLEY: Senator Leichter.

SENATOR LEICHTER: Yes.

ACTING PRESIDENT FARLEY: You two are having a very nice conversation, and we appreciated that. But if you could, direct your questions through the chair.

SENATOR LEICHTER: I think your

point is well taken, Mr. President. I'm sorry. I wonder if Senator LaValle will yield to another question.

SENATOR LAVALLE: Yes, I will.

SENATOR LEICHTER: So we're talking somewhere, as I get it, of about 6 million to $7 million, a total of both operating and capital construction aid. Senator, if that money is paid to this school district, will that not take money from other school districts under the formula?

SENATOR LAVALLE: No, Senator. Because one of the things that we do annually with the state aid formula is that there are provisions, as you see from this bill, that deal with reorganization aid. We set aside within the formula amounts of money in what we estimate will be from possible reorganizations that will take place across the state. So we don't put zero in the account. We have to allocate some monies for reorganization incentive aid.

ACTING PRESIDENT FARLEY: Senator Leichter.

SENATOR LEICHTER: Yes, Mr. President. Let me just point in reference to the last question I asked Senator LaValle and his answer that this is retroactive. It's sort of like an ex post facto law, if you will, and we certainly haven't put anything in contemplation of a district that already consolidated under the old law where they weren't entitled to any money. So I think it may very well impact on your individual school districts.

But I revert again to the question I raised which really troubles me and leads me to vote against this bill, where there is no credible proof whatsoever that any state official misled these school districts, where there is no proof that they made prudent inquiries as to whether they were going to be entitled to the consolidation aid. And while Senator LaValle -- and I'm sure that he states accurately his knowledge that people voted on the mistake of law, do we now have to change the law and saddle the state with a burden of $7

million?

Now, maybe the law should have been changed before. Maybe this school district and other school districts should have been entitled to avail themselves of consolidation incentive. But that was not the law. I mean I think there's a basic principal involved here that goes beyond the school district wanting to do a nice favor for Senator LaValle's constituents. He would look good. I'm sure he looks good there already because he is an excellent legislator, but I think you have a real problem if you proceed on this basis and change the law retroactively.

ACTING PRESIDENT FARLEY: Read the last section.

THE SECRETARY: Section 2. This act shall take effect immediately.

ACTING PRESIDENT FARLEY: Call the roll. Oh, before you call the roll, there is a local fiscal impact note here at the desk. You can call the roll. Go ahead.

(The Secretary called the roll.)

THE SECRETARY: Ayes 52. Nays 3. Senators Leichter, Onorato and Solomon recorded in the negative.

ACTING PRESIDENT FARLEY: The bill is passed.

Senator Present.

SENATOR PRESENT: Mr. President. Can we return to Calendar 347, Senator Holland's bill that was temporarily laid aside, earlier.

ACTING PRESIDENT FARLEY: Sure. Senator Holland -- we'll call up 347, Mr. Secretary.

THE SECRETARY: Calendar Number 347, by Senator Holland, Senate Bill Number 47, authorize the Salvation Army Eastern Territory School for Officers Training to change its name.

SENATOR GOLD: Mr. President.

ACTING PRESIDENT FARLEY: Senator Gold.

SENATOR GOLD: Will the Senator yield to one question?

SENATOR HOLLAND: Yes, sir.

SENATOR GOLD: Senator, there is

a memo, as you know, from the state Education Department, and they claim that their concern is the word "college"; that they wouldn't object to "institute" or some other type of word being used, and I just would like your comments on their memo.

SENATOR HOLLAND: There are two business schools that are called colleges, Senator. They are the Jamestown Business College and the Albany Business College. There are 22 Salvation Army schools throughout the world, and just the four in the United States are not called colleges. The four Salvation schools are in Georgia, California, Illinois and Suffern, New York, in my district.

They were called colleges until 1956 when the state requested that they not be called colleges any more. I would just ask that this bill be passed.

SENATOR GOLD: Thank you.

ACTING PRESIDENT FARLEY: Read the last section.

SENATOR STAVISKY: Mr. President.

ACTING PRESIDENT FARLEY: Oh, does somebody want to speak on this?

Senator Stavisky.

SENATOR STAVISKY: Will the Senator please yield for a question?

SENATOR HOLLAND: Sure.

SENATOR STAVISKY: Senator, what are the standards and requirements that an institution of higher learning needs in order to be incorporated as a college that this institution fails to meet? Simple question.

SENATOR HOLLAND: Senator, I don't know. This school does not meet it, you are absolutely correct. But this is just a conformity situation. As I said, there are 22 throughout the world. We would just like to make this be done also. We're not asking for anything. They're not asking for anything from the state or the federal government.

SENATOR STAVISKY: I have no objection providing that there is not a misleading of the public, the consumers, the students who go to an institution known as a

college, and are given at least a reasonable assurance by the standards imposed by the state Education Department that it meets the requirements for being called a college; otherwise, we can pick out many wonderful places in the state of New York. Poof! You're a college. And I don't think we should have poof you're-a-college legislation if they fail to meet requirements. What about faculty standards? What about library standards? What about the resources that are needed?

SENATOR HOLLAND: Senator, this is a training school to train officers of the Salvation Army. It's basically a religious institution training school. It's not a regular college, not intended to be, does not pretend to be, and will accept no students other than the ones that are provided for the Salvation Army.

ACTING PRESIDENT FARLEY: Read the last section.

THE SECRETARY: Section 2. This act shall take effect immediately.

ACTING PRESIDENT FARLEY: Call

the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 55, nays 1. Senator Jones recorded in the negative.

ACTING PRESIDENT FARLEY: The bill is passed.

THE SECRETARY: Calendar Number 365, by Senator Stafford, Senate Bill Number 1536, an act to amend the Correction Law.

SENATOR GOLD: Explanation.

SENATOR PRESENT: Lay it aside temporarily.

ACTING PRESIDENT FARLEY: Lay it aside temporarily.

THE SECRETARY: Calendar Number 367, by Senator Cook, Senate Bill Number 2754, an act to amend the Correction Law and the Civil Practice Law and Rules.

SENATOR STACHOWSKI: Explanation.

ACTING PRESIDENT FARLEY: Explanation. Senator Cook.

SENATOR COOK: Mr. President. The bottom line on this bill is that it

basically treats the college education provided to inmates in correctional facilities as a college loan and requires that those persons who have benefited from that service that's provided while they're in prison, once they are released, should repay that loan not unlike every other student in the state who requires a loan for attending college and who has to pay for it once they're graduated. The bill provides a 10-year repayment period, which I think is in line with most other kinds of college loans, and I think it's only a reasonable thing to do.

ACTING PRESIDENT FARLEY: Senator Stavisky.

SENATOR STAVISKY: Mr. President. I want to commend Senator Cook, because this legislation at least recognizes the opportunity for someone who is incarcerated to receive some instruction and, therefore, hopefully to begin the process of rehabilitation after release from the correctional facility, and I think it's a much better bill than the legislation which would simply deny to anyone in

the correctional facility the opportunity for retraining. So I want to commend the sponsor on this forward looking step.

There is only a problem with regard to the reality of the repayment schedule. I am not certain that I could guarantee or anyone in this room could guarantee that an individual recently discharged from a correctional institution would be given a salary sufficient to guarantee the repayment within six months after release from a correctional facility, presumably for the commission of a felony.

I wish that society were as enlightened as the Senator assumes with the sponsorship of this piece of legislation, but I don't think a lot of people will be rushing up to an ex-inmate and say, "Look, take this high salaried job; we want to hire you immediately after your release."

The chances are, Senator, that notwithstanding your desire to see them begin repaying the cost, there will not be that

opportunity, and then they will be in default for failing to repay the tuition or to start repaying the tuition within six months.

On the one hand, your legislation wants to offer them hope that they can be prepared for a better way of life; and that part of the legislation, that assumption in the legislation is excellent. But what you give with one hand, you take back prematurely with the other by stating that within six months there must be a repayment of this legislation. And that part of it, I think, for a sponsor who is a realist, who is a practical legislator, and who knows with regard to your constituents how they struggle to prepare a budget. And sometimes in rural areas, they may be cash poor. They may not have the money. A farmer may not have the money to begin repayment of a loan. And, surely, the same standard applies to someone who was recently discharged from a correctional facility.

I think, Senator, your timetable is wrong. I think your decent impulse should be

commended. But in its present form, this legislation should not be supported.

ACTING PRESIDENT FARLEY: Senator Dollinger.

SENATOR DOLLINGER: Mr. President. Will the sponsor yield to a couple questions?

SENATOR COOK: Sure.

ACTING PRESIDENT FARLEY: Senator Cook.

SENATOR DOLLINGER: Through you, Mr. President. Senator Cook, do you know what the total amount of funds that are expended under this provision of the Correction and Civil Service -- I assume it's the Correction Law. Do you know how much is expended in tuition payments to colleges for the education of inmates?

SENATOR COOK: Well, one of the interesting things, Senator, at this point is that that seems to be a very fuzzy issue because the Corrections Department doesn't seem to have real good numbers on it. Some of the money

comes through the university system. Apparently, most of it through Higher Education Corporation. I -- well, I will leave it at that.

SENATOR DOLLINGER: As a follow-up. Again, Mr. President, if the sponsor will yield to another question.

ACTING PRESIDENT FARLEY: Senator Cook, would you yield again?

SENATOR COOK: Yes.

SENATOR DOLLINGER: What I'm really trying to figure out, Senator Cook, is what is the average expenditure on behalf of an inmate so I would get some sense of what kind of liability an inmate would face after the payment period begins. Do you know?

SENATOR COOK: Well, Senator, considering that the tuition at a state universities about -- what? It's $2,000 a year now. 2500, is it, Senator LaValle, per year? You are talking about a four-year degree. You are talking about $10,000. Recognizing the inmate is already getting free room and board

because they are in a state institution that what we're really talking about there is a reimbursement for the education costs.

SENATOR DOLLINGER: Just again, one question, Mr. President, through you for the sponsor.

ACTING PRESIDENT FARLEY: Senator Cook.

SENATOR DOLLINGER: So I understand this, Senator Cook, what is the consequence of defaulting on that loan?

SENATOR COOK: Well, the same consequence as there is for any other student, Senator. They would be subject to civil follow up, lawsuit presumably, to recover the money the same as somebody who made a college loan through a bank or anybody else and defaulted on the repayment. Then whoever the money is owed to goes after them and tries to recover it civilly. That's the means through which it's done.

SENATOR DOLLINGER: Mr. President, on the bill.

ACTING PRESIDENT FARLEY: On the

bill, Senator Dollinger.

SENATOR DOLLINGER: I, I guess, join Senator Stavisky. I think this is an interesting idea and certainly one I understand the purpose of which. I think it's a laudable one. I'm not quite so sure how it's going to work in practice.

I think that facing an inmate with a $10,000 bill because of their college education that they have taken advantage of during their period of their incarceration puts a significant disincentive for them to go to college, to take advantage of those courses, if we're simply going to charge it back.

There are enough problems, it seems to me, with those who are attempting to get back into the flow of society after release from incarceration; and to put a $10,000 assessment against them or loan against them to require that they repay it, otherwise they are going to be subject to a judgment -- they are probably not going to have a lot of assets -- it seems to me the practicality of this, to agree

with Senator Stavisky, is that you end up saddling someone with a substantial loan and then not having the assets to levy against or to move against in the event there is a default. I think that that may create a significant disincentive to inmates attempting to get an education during the period of their incarceration.

When you combine that with, as the sponsor has said, a fuzzy understanding of the cost, I'm not so sure we can put that fuzzy number into a loan and I'm not so sure we can quantify exactly what the cost is here.

So I think it's a good idea. I think it perhaps needs some further refinement. I'm going to vote against it at this state. But I'm willing to look, if this doesn't pass, at other innovations along this line that would require maybe some flat fee to be charged against the inmate, maybe using some other form of income that they generate during the period of incarceration as a way to begin to paying it off.

I think it's a good idea. It moves in the right direction. I just see too many practical problems, Mr. President, at this time.

Thank you.

ACTING PRESIDENT FARLEY: Senator Stachowski.

SENATOR STACHOWSKI: Mr. President. I would just like to comment on the bill that last year an identical bill passed 45-14, and Senator Connor, Galiber, Gold, Halperin, Korman, Leichter, Mendez, Montgomery, Ohrenstein, Paterson, Smith, Stavisky, Waldon, and Weinstein voted in the negative.

ACTING PRESIDENT FARLEY: You can read the last section.

Oh, Senator Cook, before we go -

I'm sorry. Senator Nozzolio is next.

SENATOR NOZZOLIO: Thank you, Mr. President.

Mr. Cook, I rise to support your bill that I ask this body not to only recognize

the wisdom of its sponsor but to pass it by acclamation; that just turn around and speak to one of those college students who may be watching the proceedings today. And during their tenure in college, particularly upper classmen who have seen in this four- or five-year period the Regents Scholarship eliminated, TAP tuition assistance significantly reduced, and at the same time SUNY tuition rising rapidly, not to mention what has happened at our private schools; that those law-abiding scholastically excellent citizens of our state have found it more and more difficult and have found college education a goal that becomes harder and harder to realize.

At the same token, we have prison inmates in this state who are getting two and three not undergraduate degree but graduate degrees at taxpayers' expense.

Ladies and gentlemen, my colleagues, Mr. President. There is a measure whose time has long since come. There are those of us who may favor even the elimination of

these programs until such time as our students at SUNY can continue to have laboratory equipment financed by the state, that tuition increases wouldn't continue to escalate, that Regents Scholarships would be reinstated. Then after those objectives are achieved, we can talk about free college education to prison inmates.

Unfortunately, Mr. President, we don't have that luxury; nonetheless, Senator Cook has taken a giant step in the right direction, and I applaud him for this measure.

ACTING PRESIDENT FARLEY: Senator Cook, and then Senator Paterson.

SENATOR COOK: Mr. President. I would just like to indicate that there really isn't any great mystery about how to compute the cost because every college has a schedule of credit hour charges, and part-time students are charged on that basis, so it's not at all difficult to compute that on an individual basis, although coming up with that kind of global number, since it doesn't exist, is more difficult.

To state the obvious perhaps, however -- and I think Senator Nozzolio already has stated that. I think that there are very few college students in this state who given the opportunity to obtain a college loan for the value of whatever the tuition would be so long as they were given free room and board, as are the people who are residing in the prisons, there are few people who wouldn't leap at that opportunity. And I just think that to continue to provide this free education to inmates within the prison system and to require the rest of the population to go through all of the struggle that they go through and that their families go through right now to pay for those educations, I think that that defies logic.

And this bill simply tries to put everybody on somewhat of a level playing field.

ACTING PRESIDENT FARLEY: Senator Paterson.

SENATOR PATERSON: Mr. President. When we are living in a state that as of a study in 1987 demonstrates that the

eight least-funded school districts produced the eight school districts that had the highest dropout rate and also the poorest attendance rate, I think that we can establish that there is a definite correlation between education in this state and the likelihood of those to drop out of the school system, not to drop out to get jobs or to drop out to other endeavors but to drop out to the streets and wind up being incarcerated in our institutions.

I would like the record to reflect that in the '70s there was a celebrated case, the State versus Cero, and the objective and the dicta in the decision in that case ruled that our institutions, our correctional institutions in this state were not rehabilitating; they were only incarcerating.

And so I would suggest that the education that we provide in prisons is something that is one that is aimed in the direction of ameliorating the problems that those who have had the misfortune of being incarcerated have, which is generally that they

are undereducated and that they have sought crime as a solution to problems where there were definitely other solutions.

So while I don't think that we are apt to forgive those who have committed crimes against society, at that point that they are being incarcerated I don't understand why we would not want to encourage them to create an opportunity for themselves when they leave, so we don't have to spend hundreds of millions of dollars right now incarcerating 60,000 people in this state.

In 1970, there were 12,385 who were in the New York State prison system. That figure has quintupled in 23 years. So it would seem to me that we would be finding some alternatives to simple incarceration; and perhaps as we extend sentences, which most of our laws tend to do now, we are only taking people away from their communities for longer periods of time, away from their family roots, away from the minimum training and skills necessary for a person to operate in society.

So I would suggest that instilling a burden of giving someone the bill for their education makes the same sense as giving them a bill for their room and board and asking them to pay that back when they leave our prison system. So I urge all my colleagues to vote against this legislation. I don't think it would do any good if it was passed. It would only add to the encumbrances of those who have already paid their debt to society; and if we are going to waive an additional debt that they while in incarceration did seek an education to try to give themselves a chance in society when they got out, I for one would be willing to forgive that debt lest we be paying for their incarceration again when they commit further crimes against our society.

For those college students who have the difficulties of meeting tuition, of not being able to afford college even with TAP, that is a separate situation. And I think we should all be fighting, if necessary, to create the minimum standards that would be required for

people to pay for their college education. But for those who are in prison, I think we should actually encourage them to do something so that when they get out of prison we don't have to see them back in those confines again.

ACTING PRESIDENT FARLEY: Senator Lack.

SENATOR LACK: Thank you, Mr. President. I just wanted to make sure that I was hearing from my colleagues on the other side of the aisle what I thought I was hearing, and I think Senator Paterson and Senator Dollinger indeed set that forward; that if you pay taxes in the state and you send your children to college and you take loans out and you don't pay that you can be forced into bankruptcy, and that's okay. But if you are incarcerated and you're in prison and you don't get a free education, that's okay. But if you're incarcerated and you're in prison and you are asked to pay for your education the same way that any of us in this chamber have to pay for the education of our children, that's not okay

to ask somebody to pay that cost back.

Mr. President. If that's what the colleagues on the other side of the aisle believe, I hope each and every one of them vote against this bill.

Thank you.

SENATOR LEICHTER: Mr. President.

ACTING PRESIDENT FARLEY: Senator Leichter.

SENATOR LEICHTER: Will Senator Lack yield, please?

ACTING PRESIDENT FARLEY: Senator Lack, will you yield?

SENATOR LACK: Yes.

SENATOR LEICHTER: Senator, do you believe that the inmate should pay for educational courses that they receive or training courses they receive or vocational courses they receive other than college education?

SENATOR LACK: No, Senator, I don't. I think there's a logical cut-off point, and I would think higher education would

certainly be that. I have no problem whatsoever with vocational programs or training programs or to learn a skill or a trade once you are no longer incarcerated. But, Senator, I have a very large problem with someone receiving a free higher education courtesy of the state of New York for someone who has broken society's rules and has gotten incarcerated to begin with.

SENATOR LEICHTER: If the Senator would yield?

ACTING PRESIDENT FARLEY: Senator Lack, would you yield again to another question?

SENATOR LACK: Yes.

SENATOR LEICHTER: Are you saying supplying costs for vocational training even though it would be a cost that ordinarily we would have to pay for for our children, let's say a secretarial course or a computer course or something of that sort, that you wouldn't make them pay; but you feel that once -- once it becomes past high school, once it doesn't involve a vocational course, then it becomes to

you this matter of great and clear principle?

SENATOR LACK: For the very simple reason, Senator, if you'd read Senator Cook's bill you'd know why. Senator Cook's bill talks about the payment of tuition for college courses, which I assume and that's what I think Senator Cook meant, which are offered, and again I will assume, by some system connected to the State University of New York or Empire State College for which there is an identifiable cost that would exist within the correction system, and a cost allocation has to be paid by the Corrections Department probably to some agency of government or, indeed, to some private school apparatus, as well.

The vocational education programs that you are talking about which already exist within the correctional system are part of the correctional system and part of society's charge to try to rehabilitate someone who is an inmate in our correctional system, and for that I have no problem for it.

I do have a problem when you want

to extend it, and I assume your colleagues on your side of the aisle want to extend that, to a free public higher education while you are incarcerated as an inmate in one of our state penitentiaries. I think that's wrong. We don't happen to have a university system -- somebody correct me if I'm wrong. We don't happen to have a state correctional university system that is part of our prison system. If you want to sponsor a bill to establish one, by all means. Please put it in, and let's see what happens to it.

Senator Cook is referring to costs, charges, money, that has to be paid by the state Corrections Department, I would assume raised by taxes upon all the citizens of this state that go out of the corrections system to some public or I guess even possible private university for which tuition has been paid on behalf of an inmate. That is a lot different than inhouse vocational and education programs that are part of the correctional system.

ACTING PRESIDENT FARLEY: Senator

Stavisky.

SENATOR STAVISKY: There is one provision of this bill that almost defies explanation, and that is the provision that the repayment shall begin with one of two possibilities, either after discharge from the correctional facility, six months, or six months after the completion of the educational program. Where will that prisoner still in prison get the money? I know "whichever is later." I understand that. But there is that little klinker of language that you begin the repayment as one option six months after the completion of the educational program even if you are still in prison.

What are we starting, a new system of debtors prison? We're going to have a separate compartment of the correctional facility for debtors prison by those prisoners who are not only there for the purpose of being in prison for the crimes for which they were committed but now, perhaps, for failure while they are still in jail to repay.

I think the philosophy is flawed, and I do not see any volunteers. I want someone to sign a sheet saying we will hire ex-inmates within six months after their discharge. We will have the clerk prepare a list of those who from the entire Capital District, not just the Legislature, are volunteering to perform this act of mercy. Do I hear volunteers? I have not heard anyone rushing forward to make that offer.

The alternative, by putting pressure, maybe that while the education has been provided to try to change the ex-convict's way of life, the only place they may be able to get the money to repay the tuition is by going back to a life of crime, and that surely defeats the whole purpose of a well-intended legislation. I keep complimenting the sponsor for recognizing that education may help someone begin a new life.

But in order to meet the requirements of this legislation and to start repaying six months after you are out of prison

even if you don't have a job, you go back to reaching for the gun, you go back to a life of crime. Do you look for your ex-felon friends and ask them to start up a new gang?

I don't think that that is in the best interests of a law-abiding society. Because there are no options. You are either hired to do a job, a legal job, or you are affluent which means you stashed away money that was not returned, and I assume the authorities are pretty good at finding money that's been stashed away; or if you haven't stashed away any money, you start going back to a life of crime to meet this lawful obligation that is proposed in this legislation.

It is fatally flawed. And, really, you can accomplish the same result by recognizing reality which this bill does not.

ACTING PRESIDENT FARLEY: Senator Waldon.

SENATOR WALDON: Thank you very much, Mr. President. On the bill.

Sometimes our shortsightedness in

this chamber boggles my imagination. Those of you who have gone into the prisons understand that it is a place where there must be cooperation between the prisoners, the guards and the administration. And if you don't have it, you create danger for the administration, for the guards, and for the prisoners.

One of the things that the superintendent of a prison will do, if at all possible, is to create activities to keep the prisoners busy. Because idle hands are the devil's playground. Someone goes through the vocational phase of training and he now aspires to do something else to fill the 15 or 20 years he has left on his sentence with meaningful activity. And then we, as a legislative body, are so myopic and so tunnel-visioned that we are going to charge him, the person who is capable of going into an educational situation and bettering his mind for that improvement.

What you are going to do is cause that prisoner to really be mean-spirited and cause him to go against the system, and you're

going to create another thorn in the side of the administration and the guards who must have a compatible relationship with the prisoners in order for the system to proceed.

So from a very practical point of view, I would encourage us to defeat this. Because I'm sure someone like Tom Coughlin and those who administer DOCS for our state don't want problems which we create.

ACTING PRESIDENT FARLEY: Senator Mega.

SENATOR MEGA: Mr. President. I have listened to the debate as all of us that are seated here, and I guess what's discouraging about a debate on a bill such as this nature is that we all want the same thing. It's how we go about trying to get these things done, particularly as far as our prisons are concerned, as far as our young people are concerned, the education and so on.

For whatever it is worth, we know that this is a one-house bill. It will never see the light of day in the other house, and

maybe there should be some discussion on whether or not we could do something like this. Because I heard Senator Stavisky say a couple of times that it is laudable that Senator Cook was trying to do something on this issue.

The sad part about it is, you know, by the time 85 to 90 percent of these young men and women get into our prison system, it is too late to do anything for them. The problem has started at the very beginning, where the foundation is supposed to have been laid, where they are supposed to have gotten a proper elementary school education and the sense of values that we all talk about. That's where it's all done at the very beginning.

And I have the opportunity now, like some of you, to speak not only as a legislator and as father but as a grandfather, where you are given a second chance to look at youngsters when they are developing.

You know, when youngsters are developing when we're parents, we miss a lot because we're so busy trying to make a living or

doing the kinds of things that we do as young parents. But now as a grandparent you zero in and you say, "My! At the age of 2, at the age of 3, at the age of 4, at the age of 5, how smart this youngster is, how much this youngster has absorbed." And that's where we are in trouble.

Many of our young people are destroyed before they ever get into the educational system, before they ever get that foundation that we are supposed to give them, and now they go on to whatever life they go onto, and they wind up in the prison system, and now we are talking about higher education.

And we give everybody secondary education. They're entitled to it, primary and secondary. And now we're giving prisoners higher education. Fine. There's nothing wrong with that. We want to do that. We want to try and make them productive. We want them to go back into society so that they don't continue on the ways of crime, and we're trying to instill some values.

So what is so terrible if we say to the prisoner, "Hey, we have given you an education; now, hopefully you'll get back...." And, Senator Stavisky, I wish we could do what you indicated, but in the real world we know that doesn't happen. And if we can give them that sense of value and say: Now you are going out. Hopefully, you are going to make it, and maybe you can pay back for what we have given to you.

I don't see anything wrong with trying to do that, and maybe we could do it better, but I don't see anything wrong with the process. Let me refer to page 2, line 50. It says, "If any borrower dies or becomes permanently and totally disabled, to the extent that the borrower receives Social Security disability benefits under the federal Social Security Act prior to the repayment of the loan in full, any unpaid principal balance of the loan shall be discharged." I don't know if any other loan would indicate that this be so. It's possible that all loans that are made may have

something like that in there. But we were trying to make this something that makes sense.

And then I'll refer to page 3, "The Department shall adopt rules and regulations consistent with law to effectuate the provisions of this section." I would hope that they would adopt rules and regulations that would make some sense so that this process is not counterproductive.

And sometimes I think when we talk about prisoners' rights and trying to help prisoners, it sort of becomes a political issue. It shouldn't be a political issue. Because I know, as I started saying, that we want the same thing on both sides of the aisle. We want the system to work. We want to try to make it better. But let's try to work together to do that, and I think that's where things go amiss in this process.

Again, I don't see anything wrong with the bill. Could we make some adjustments? Yes, we could. If the Assembly was serious about doing something, they could negotiate it

and try to make the kind of adjustments that could make everybody vote for this bill.

But based on what we have now, I don't see anything so terribly wrong in voting and supporting this bill.

Thank you, Mr. President.

ACTING PRESIDENT FARLEY: Senator Espada.

SENATOR ESPADA: Thank you, Mr. President.

Senator Mega is a practical and reasonable legislator. And haven't quite reached the point where I can enjoy his other status of being a good grandfather, but I can tell you that I share the empathy. I share that sense of pay-back to society for what society has given to you. Whether you are in an inner city neighborhood or whether you are in prison serving your time, you need to pay back.

But you broadened this argument -- I think appropriately so -- to other areas, and I differ with you on that we want the same thing. You know, we study what people say, we

study legislation, we study its aims, we seek to see what its repercussions will be. None of us can really guarantee results, but we try to look into that crystal ball and see what -- you know, what our actions will cause out there.

And I can tell you that what actions we have taken here in these chambers year in and year out; where this year, in 1993, we have recognized a poverty index in school aid distribution. And I ask what about those primary grades, those secondary grades where our children that Mr. Paterson -- Senator Paterson refers to, eight or nine school districts that make up the population of these prisons, should they seek a rebate? Should they seek redress for being in a classroom with 40 other children or being in an annex where they don't even have public toilets?

I think that when we weigh this whole issue of investment and outcome and when we look at what these same kids who are then adults who live in prisons with no toilets in a 10 by 10 with somebody else, again still over

crowded, and somehow, incredibly, they find the internal fortitude, the desire, the ambition, to gain a college education and we take all of that effort, we take all of this balancing of equities, and we come out with, "You owe us $10,000; you better pay back in six months," or else what? Or else you give them more prison time?

I mean what is the outcome that we seek. And that's where I tend to disagree that we want the same things. Because on this side of the aisle, we want a solution to the problem. This legislation and the comments in support of it don't seem to seek that kind of solution out. I wish it would. Because then I think it wouldn't be a one-house bill, and I'm sure that many of us on this side would lead a march to the other house demanding a real solution to this problem. It just isn't found in this legislation.

ACTING PRESIDENT FARLEY: Senator Paterson.

SENATOR PATERSON: Well, Mr.

President, I was making some notes before when Senator Lack and Senator Mega were speaking and I did have some comments, but I see that Senator Espada has come up here and taken those notes from my desk, and it leaves me with very little else to add.

But what I would like to say is that for those individuals who are the parents of children who have gone through the public school systems or private systems and have expended a great deal of resources, who spent a lot of money in tuition and have suffered for that fact, I think that is something that we have to address. It is something that we are certainly trying to address on both sides of the aisle.

But we are talking about people who are serving a sentence in our state prisons for a crime that they have committed against society. In addition to the fact that we are looking to deter them from committing these crimes again and we are also seeking retribution for the value of the crime that they committed,

we are hoping to rehabilitate them so that we don't have to have as a society their problem again. And I don't see how this problem is being solved at any point by giving them a bill for whatever education they receive while they are in the prison system.

From 1977 to 1983, there were 165,000 jobs created in New York City. Only 40,000 of those jobs went to New York City residents. Between 1985 and 1990, the number of jobs held by New York State residents rose by 5.3 percent but -- the number of jobs created in the state rose, but the number of jobs held by state residents decreased by the same fashion. The reason is because it doesn't take a high school education to conduct most business in the state any more. It takes a college education.

The United States Army estimates that you have to be in the mid-year of your 12th year, in other words, your senior high school year, in order to discharge all the functions necessary as a member of the United States Army or the Navy or the Air Force or the machines.

So the point is that perhaps there is not a necessity to let individuals receive what would be an advantage while they are in our penal system, but at the same time the minimum training and skills required to do a job are going to need in the 1990s a college education.

But somehow, we are going to not allow that to happen unless the individual agrees to pay this debt back starting from six months after they are discharged from a penitentiary. And somehow, they are supposed to get a job with a criminal record on their resume and pay back the money that they accrued receiving the education. I don't think that is workable. I don't think it is sensible, and I don't think it is achievable.

And the fact is that if people could receive a college education and start employment in our society, I am willing to overlook the expense that the state created to try to give them that education. To speak otherwise, to speak in such a scrupulous, abject concentration on fairness makes me wonder why

every school pupil in this state doesn't receive the equal amount of money for educational purposes. It should not be our interest or our aim to fund school districts this dis proportionately and then be this dissatisfied when we see the results.

ACTING PRESIDENT FARLEY: Senator Dollinger.

SENATOR DOLLINGER: Mr. President, I'll be brief. I was heard on the bill earlier.

I just want to dovetail with the comment that my colleague, Senator Paterson, mentioned.

We've heard talk about comparisons between people that pay college tuitions in this state and the financing that we currently have for those who are inmates who seek college education.

Mr. President. I have worked with inmates in the state prison system. I have represented them in civil rights actions. I've represented them in the context of disputes

involving their correctional activities. I, frankly, met a number of inmates who acquired education during their period that they were incarcerated.

My experience is two-fold, Mr. President. One, the education that they get puts them in a position where they can come out the door of a prison and begin the slow process of trying to make something with their lives. My experience is that a year or two years after leaving the doors of our prison system, they are not in a position to pay back a $10,000 loan. They don't have an asset. They don't have the income stream. They are trying to use their income stream to pay for housing, to pay for shelter, to pay for food, so that they've got a way to make ends meet. The last thing they want to do is have to pay $10,000 back to the state of New York.

I also suggest, Mr. President, that as a practical matter, the workability of this is that no inmate is going to sit down and say, "Okay, I'll go to college and I'll sign a

loan agreement to pay it back." It's just not going to happen. If you told them, "Sign this document; we will give you a college education, it's going to cost $10,000," my experience suggests that their reaction will be, "I'm not going to do that. I don't want to incur that liability. When I get out of prison, I got to pay back $10,000."

Who is going to counsel them on signing these promissory notes payable to the state of New York? My opinion based on my experience in the prison system of this state and its inmates is, if you put this restriction into effect, you might as well scrap the college education program. Because I just don't see that inmates in this situation are going to put their name on the dotted line to pay back money that they don't have then, that they are not going to get until some significant period of time after they get out of incarceration.

I think this all ties back, Mr. President, with the concept of the workability of this bill. I see the purpose. I see the

intent. I think it's laudable. I join Senator Stavisky. I understand what Senator Cook is trying to do. But in this particular instance this physical bill is not going to work, and we've got to find something better that will work. That's the objective criteria that we ought to use in trying to achieve a laudable balancing of the interests of the state in being repaid this money and interest of the inmate in having a chance at re-establishing his life after incarceration.

ACTING PRESIDENT FARLEY: Senator Montgomery.

SENATOR MONTGOMERY: Mr. President, would Senator Cook yield for a question?

ACTING PRESIDENT FARLEY: Senator Cook, would you yield to Senator Montgomery?

SENATOR COOK: Yes.

SENATOR MONTGOMERY: Thank you. Senator Cook, you indicate in your memo of support that there would be no fiscal implications or "significant savings to the

state, no fiscal implications to the localities." But at this point in time, you are unable to say, to have any further estimate of the savings than that? You say significant.

SENATOR COOK: The Corrections Department doesn't seem to have precise numbers as to how many people are involved and how many hours they are taking in a given time. So I really can't give you a specific amount money.

And I really -- to -- if I see may -

SENATOR MONTGOMERY: Sure.

SENATOR COOK: You know, the point of this bill is not -- nobody is contending we are going to save the state a ton of money. What we are trying to simply say is -- you are trying to teach people to be responsible citizens, then let them be responsible. If they want a college education, they do what everybody else does. They take out a loan and they pay it back.

SENATOR MONTGOMERY: All right. I just wanted to clarify that this is basically

a philosophical statement with regard to your wish for prisoners to be responsible citizens.

Now, I notice in the legislation, Senator Cook, if you would yield for one further clarification for me.

ACTING PRESIDENT FARLEY: Senator Cook.

SENATOR MONTGOMERY: On page 3, Section 2 D, under "repayment," am I looking at the correct version of the bill? It says that repayment of a loan -- could you explain to me what happens? How that works? What happens if one does not pay back the loan?

SENATOR COOK: Mr. President. The same thing happens if my son defaults on his college loan.

SENATOR MONTGOMERY: So they get a bad credit rating.

SENATOR COOK: Exactly.

SENATOR MONTGOMERY: And they can't borrow any further?

SENATOR COOK: Exactly.

SENATOR MONTGOMERY: All right.

Mr. President, briefly on the legislation.

I think that certainly it's admirable that Senator Cook feels very strongly and continues to bring this legislation back year after year. We note that it has died every year since, well, '91, '92, '89, '88. So there is consistency. Senator Cook continues to bring it forth. But for all of the reasons that many of our colleagues have indicated, it's certainly not legislation that I'm not sure even Senator Cook believes will work. Certainly, we don't believe -- a number of us don't believe that it will work.

And I personally think that it is not a message that is going to incur any significant advantage for us as far as the constituency is concerned. We now have 60,000 people incarcerated in the state of New York. I don't know how many of those people are in there for ten years or more, but it is my understanding that the majority of them will be coming back into the communities anyway within two to five years. So those are the ones that

certainly I am very interested in because they come back into my district and the districts of many of us in this room, and I would like to know what we can do for those.

I am certainly not opposed to educating people in prison so that when they do come back, whenever, three years, two years, five years or ten, that they bring something with them from a system where many of them have spent the most vital years of their lives.

So, Senator Cook, I admire your tenacity and your consistency, but I certainly hope that again this legislation is defeated.

Thank you, Mr. President.

ACTING PRESIDENT FARLEY: Read the last section.

THE SECRETARY: Section 3. This act shall take effect on the first day of January next succeeding the date on which it shall have become a law.

ACTING PRESIDENT FARLEY: Senator Daly to explain his vote.

SENATOR DALY: Mr. President. I

find it difficult to accept the premise that those who are receiving a college education while incarcerated for a crime are worthy of better treatment by the state and from the state than those good citizens who have not been a burden to society.

I vote yes.

ACTING PRESIDENT FARLEY: Senator DeFrancisco.

SENATOR DeFRANCISCO: I would like to explain my vote.

ACTING PRESIDENT FARLEY: Senator DeFrancisco to explain his vote.

SENATOR DeFRANCISCO: I don't think anybody in this room would want to deprive anyone from a college education whether they are in prison or not. And unbelievably, although it may be unbelievable to some people in this room, whether you are in prison going to college or whether you are out of prison going to college, there is no guarantee when you get done with college that you are going to get a job, and that's true whether you are incarcerated or

you're not.

There's many people who don't want to face an $8,000 to $10,000 bill each year to go to college, and they make a decision not to do that, and that decision can be made not to do it, but to incur that kind of bill, whether you are in prison or whether you are not. And there are many out of prison that make that choice.

In addition, many people who go on and take college loans out don't get the opportunity to pay them back because they can't get a job, and they are sued, and that is true whether you are in prison or you're not if this bill is passed. And if you don't pay the bill and you are sued, you have a bad credit rating. That's whether you're in prison if this bill passes, or not.

So I think, basically, all this bill does, despite all the rhetoric is it basically says we're going to treat everybody the same way. You'll have the same decision about a college education and the same

responsibilities whether you are in prison or not.

And I vote yes.

SENATOR CONNOR: Mr. President.

ACTING PRESIDENT FARLEY: Senator Connor to explain his vote.

SENATOR CONNOR: Yes, to explain my vote. Mr. President, I'm voting no. But something Senator DeFrancisco said just clicked when he got up and said I don't think there is anyone in this room that would deny anyone a college education whether they are incarcerated or not. Senator, you're new. Just wait. There is a bill we see every year from one of your colleagues over there that would forbid any prisoner incarcerated in a state prison from taking any college credit courses. So you are wrong, but you'll see.

ACTING PRESIDENT FARLEY: Results.

THE SECRETARY: Those recorded in the negative on Calendar Number 367 are Senators Connor, Dollinger, Espada, Gold, Halperin,

Leichter, Markowitz, Montgomery, Ohrenstein, Paterson, Smith, Stavisky and Waldon. Ayes 44, nays 13.

(Whereupon, Senator Daly was in the chair.)

ACTING PRESIDENT DALY: The bill is passed.

THE SECRETARY: Calendar Number 378, by Senator Daly, Senate Bill Number 3204.

ACTING PRESIDENT DALY: Lay it aside.

THE SECRETARY: Calendar Number 379, by Senator LaValle, Senate Bill Number 3691, an act to amend the Social Services Law.

ACTING PRESIDENT DALY: Read the last section.

THE SECRETARY: Section 2. This act shall take effect immediately.

ACTING PRESIDENT DALY: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 57.

ACTING PRESIDENT DALY: The bill

is passed.

THE SECRETARY: Calendar Number 384, by Senator Saland, Senate Bill Number 2583, an act to amend the Education Law.

SENATOR STACHOWSKI: Explanation.

ACTING PRESIDENT DALY: Explanation.

SENATOR SALAND: Mr. President. This bill is a bill which would prohibit the expenditure of TAP monies on behalf of somebody who is incarcerated on an indeterminate sentence in our correction system.

The intention of the bill, basically, is to make those monies available to other students, other people who are not behind the walls, people who are on the other side of the walls who are struggling and unable to obtain a college education at this time.

Mr. President. I'll respond to any questions anybody may have.

ACTING PRESIDENT DALY: Senator Stachowski.

SENATOR STACHOWSKI: Mr.

President. I'd just like to point out that a similar bill passed last year, 44 to 11, and Senators Connor, Galiber, Gold, Halperin, Korman, Leichter, Markowitz, Montgomery, Ohrenstein, Paterson, and Smith voted in the negative.

ACTING PRESIDENT DALY: Read the last section.

THE SECRETARY: Section 2. This act shall take effect immediately.

ACTING PRESIDENT DALY: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Those recorded in the negative on Calendar Number 384 are Senators Connor, Espada, Gold, Halperin, Leichter, Markowitz, Montgomery, Ohrenstein, Paterson, Smith, Stavisky and Waldon. Ayes 45, nays 12.

ACTING PRESIDENT DALY: The bill is passed.

THE SECRETARY: Calendar Number 385, by Senator Daly.

ACTING PRESIDENT DALY: Lay it

aside.

THE SECRETARY: Calendar Number 386, by Senator Seward, Senate Bill Number 3109.

SENATOR KUHL: Lay it aside.

ACTING PRESIDENT DALY: Lay it aside.

THE SECRETARY: Calendar Number 388, by Senator Levy, Senate Bill Number 3515-A, an act to amend the Education Law.

SENATOR SMITH: Explanation.

SENATOR KUHL: Lay it aside.

ACTING PRESIDENT DALY: Lay the bill aside.

THE SECRETARY: Calendar Number 393, by Senator Kuhl, Senate Bill Number 3182, Agriculture and Markets Law.

ACTING PRESIDENT DALY: Read the last section.

THE SECRETARY: Section 2. This act shall take effect immediately.

ACTING PRESIDENT DALY: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 56, nays 1. Senator Leichter recorded in the negative.

ACTING PRESIDENT DALY: The bill is passed.

THE SECRETARY: Calendar Number 413, by the Senate Committee on Rules, Senate Bill Number 4363, an act to amend the Public Health Law.

SENATOR STACHOWSKI: Explanation.

ACTING PRESIDENT DALY: Explanation.

SENATOR TULLY: Yes, Mr. President. This bill relates to health reform and hospitals serving low income and Medicaid patients. It extends to December 31, 1993, the current Supplementary Low Income Patient Adjustment, also known as SLIPA, retroactive to April 1 of '93, and also provides for a transfer of $18 million in unallocated reserve balances from the bad debt and charity care regional and statewide pools to be allocated $8 million for the SLIPA payment and $10 million for additional hospital payments and health reforms pursuant to

NYPHRM V.

SENATOR LEICHTER: Mr. President.

ACTING PRESIDENT DALY: Senator Leichter.

SENATOR LEICHTER: Mr. President, would Senator Tully yield?

ACTING PRESIDENT DALY: Senator Tully.

SENATOR TULLY: Yes, Mr. President.

SENATOR LEICHTER: Senator, we instituted in this Legislature, and you were very helpful in that effort, a program called SLIPA -- I can't tell you what the exact name is.

SENATOR GOLD: Supplementary Low Income Patient Adjustment.

SENATOR LEICHTER: Right. And this was to take care of hospitals that had a very high proportion of Medicaid patients and I guess also persons who are unable to pay their medical bills, but I guess it was really based on Medicaid, and I know I have two such

hospitals in my district, Presbyterian and Roosevelt St. Luke's. Great hospitals and provide wonderful service to the whole state, but who have in their immediate community many people in need of medical care and unable to pay for it and, therefore, eligible for Medicaid which had been a terrific burden for the hospital.

Now, Senator, you have come up with this bill which adds, in addition to SLIPA, a large sum of money for additional assistance to hospitals, and this has created a problem with the Assembly. The Assembly hasn't gone along. The money isn't in the budget for it.

How are we going to resolve this? Because, Senator, aren't we hurting those very same hospitals? I mentioned two of them. There are other great hospitals that are being seriously damaged by our inability to reach a consensus on continuing the SLIPA program.

SENATOR TULLY: Yes, Mr. President. Senator Leichter, you raise a very, very significant question. In the budget

negotiations that were just concluded, as you know, the Senate put this bill forward which had absolutely no effect on the budget but would have resolved the problems that you have discussed as well as provided the needed money for the hospitals for the development of NYPHRM V legislation.

There is no question that the hospitals in our state, besides the SLIPA hospitals -- and as you know, you alluded earlier, there are some 33 hospitals, 16 voluntary and 17 public, which get SLIPA funding. This does not refer to the public hospitals only to the voluntary hospitals. Because the public hospitals are otherwise covered separate and apart from this legislation.

When this matter was placed on the table, the Assembly took it off the table. And in its place, they put in a bill providing for SLIPA. But, along the lines of what the Governor has done thus far in respect to health reform, it sounded very good, but it had no

provision for money. The only money that was allocated for any of the institutions that you have referred to, and some of them are wonderful institutions like Columbia Presbyterian, was the money that was contained in this proposal, in this bill, and the proposal we advanced in the negotiation, in the budget negotiation, and the Assembly took it off the table.

ACTING PRESIDENT DALY: Senator Leichter.

SENATOR LEICHTER: Would Senator Tully yield for another question?

ACTING PRESIDENT DALY: Will you yield, Senator?

SENATOR TULLY: Yes, I will.

SENATOR LEICHTER: Well, Senator, I think it is a fact that if we continued SLIPA that the money is available because it gets paid out of the bad debt and charity pool, does it not?

SENATOR TULLY: The Assembly bill, Senator Leichter, made no provision for taking it from the bad debt and charity care

pool. The Assembly proposal was merely a provision for SLIPA but with no money, no funding. It was, to me, a gesture, a symbolic gesture, if you will, of saying to the hospitals, We understand your problem but we're not putting any money in.

Candidly, my understanding is that's coming from the second floor and not from the Assembly.

SENATOR LEICHTER: Senator, I - if you will yield again, Senator Tully. And I must tell you I have not seen the Assembly bill. I talked to some of the people in the Assembly. I talked to some of the representatives of the hospitals. I don't think that those people would do a symbolic act. Certainly, the lobbyists are very clear that they need money for these institutions.

I mean if the sole problem is, Senator, that you think by their merely continuing the SLIPA program without identifying that the program will continue to be paid as it has been up to now out of bad debt and charity,

I assume that change can readily be made. But I think it's fair, is it not, that the reason that the Assembly did not go along with your bill is because you have now added a large sum of money for the NYPHRM reimbursement.

Maybe we ought to do that. It may not be a bad idea. But until that issue gets worked out, I think it's unfortunate to tie it to the SLIPA program because the result is that we have a stalemate. We have a deadlock on this issue, gridlock, if you will. And, meantime, these hospitals, good hospitals whose need you recognize, are not receiving monies that they desperately need.

SENATOR TULLY: Yes, Mr. President.

ACTING PRESIDENT DALY: Senator Tully.

SENATOR TULLY: Senator Leichter, the money for SLIPA, up until this proposal, never came out of the bad debt and charity care pool. It always came out of the general fund out of the budget. And our Governor in his

infinite wisdom in describing his budget did not make any allocation for SLIPA hospitals.

We are only talking about the period from April until December 31st. It was only a requirement of a little less than $8 million. $8 million is the figure we have in the budget. It was seven-point-some-odd million dollars. That would have been an easy thing for the Governor to have included in his budget if he so chose. He did not so choose and led us to believe that he was going to have a health reform message at a later date providing for this type situation. And when we got the health reform message, it had a lot of wonderful comments and statements in it and promises of reform, but it provided nothing in the funding area.

It's because of that that we had to make the recommendation to take it from the bad debt and charity care pool help the hospitals. Because in the interim, so you should understand, the hospitals have a gun appointed at their head by the federal

government. It's an enormous gun.

Because in the deficit proposals, in the major presidential proposals of our President Clinton, our New York hospitals for the period from 1994 until 1998, he is describing additional cuts from 5.1 billion to 5.7 billion for the hospitals in New York State. This is the sword of Damocles hanging over their head.

Now, this is something that has to be rectified and rectified immediately. The impasse, the blockage, if you will, came from the other side, from the Assembly, which always put that money in the budget. But this year I have a feeling they were directed: We're not going to get it in as an "add" on your part because the second floor doesn't want it.

We now have a bill that puts it in, puts the money in, puts the funding source for it, and also provides for what the President has done and the gun he has pointed at our hospitals in this state.

I might say parenthetically that

when you ask what the hospitals think about, I just quote a portion of a letter received from the Presbyterian Hospital, the one you referred to, dated April 8, 1993. And they say specifically in this letter, "Now we have to deal with the painful consequences of the Assembly's failure to negotiate a solution." And that's right in their letter, and they know it and I know it, and I'm telling you so you'll know it.

Really, it's a shame that the Assembly chose not to put money in the budget for this particular situation. We think the only way to do it is through this particular bill.

SENATOR LEICHTER: Mr. President.

ACTING PRESIDENT DALY: Senator Leichter.

SENATOR LEICHTER: Yes. Just briefly on the bill.

Senator Tully, I don't know, you know, with this finger pointing going back and forth who is right and who is wrong. All I know

is that as far as the public is concerned, as far as the consumers of health care are concerned, as far as the providers of health care are concerned, they are looking to this Legislature, they are looking to this government to come up with a solution.

And the sort of battles that go on here, often turf battles -- and I don't mean to imply in any sense that you are not dedicated to trying to do what needs to be done to help our hospitals. But the fact is that this is an internal battle which is causing grievous harm.

We have these hospitals. I mentioned two of them, great teaching hospitals. There are -- I think you mentioned 30 or something like that, all of them trying to provide service to people who need medical care and who can not pay for it or receiving Medicaid and, therefore, the institutions are not fully compensated.

We have seen these hospitals go into a virtual state of insolvency. We had a situation where some of these hospitals were

unable to buy medical supplies because the vendors wouldn't provide them with credit any longer.

We have an obligation to resolve this issue. It's a terribly important program. I'm going to support the bill because I would love to see more money in there for all hospitals. But, Senator, I think that there is an obligation on the part of all of us, and certainly our colleagues in the Assembly too, and the second floor, to resolve this issue and to resolve it quickly.

ACTING PRESIDENT DALY: Senator Mega.

SENATOR MEGA: Will Senator Tully yield?

ACTING PRESIDENT DALY: Senator Tully, will you yield?

SENATOR TULLY: I will, Mr. President.

SENATOR MEGA: Senator Tully, will this bill help the hospitals that need SLIPA funding such as Luther Medical Center in

my district and the hospitals that were mentioned by Senator Leichter?

SENATOR TULLY: It will, Mr. President, including Brooklyn Hospital, as well.

SENATOR MEGA: Thank you.

ACTING PRESIDENT DALY: Read the last section.

SENATOR OPPENHEIMER: Will Senator Tully yield for a question?

ACTING PRESIDENT DALY: Senator Tully, will you yield to a question?

SENATOR TULLY: Yes, Mr. President.

SENATOR OPPENHEIMER: I'm confus ed about something and maybe you can help me out.

SENATOR TULLY: Senator, I have difficulty hearing you.

SENATOR OPPENHEIMER: I'll talk up. Is the problem that the monies going into bad debt and charity pool that is spread much more broadly is objected to by the assembly and, therefore, the monies for SLIPA, which are

separate from bad debt and charity, are being held up because the bad debt and charity pool shouldn't be so broad in their opinion?

SENATOR TULLY: Mr. President.

ACTING PRESIDENT DALY: Senator Tully.

SENATOR TULLY: To answer the question, it's as simple as this, Senator Oppenheimer. Traditionally, SLIPA funding has been provided for in the budget. And in the negotiations with our house and the Senate, we have agreed with the SLIPA funding and the hospitals have been funded.

This year, no money was provided in the budget by the Governor for SLIPA funding even though the bulk of it relates to hospitals which deal with low income and Medicaid patients primarily through the city and areas that normally you would expect the Governor to support.

No money was placed in there. Therefore, the Senate looked into this, our negotiators. We ascertained there was a way to

provide the funding without affecting the budget, and that was through the bad debt and charity care pool based on dollars that went back to 1983, dollars that already had been set aside and were not attacked by the very purpose for which the pool was set up. So they were available.

What more potent use could you find for those dollars than the ones that are the subject of this bill. This was advanced in negotiation. Advanced in negotiation with the Assembly, and they took it off the table completely.

Now, I agree completely with Senator Leichter in the causes that he has advanced and in all the issues that he's advanced, in that, this is something that should and must be done. And we have provided a method to do it that doesn't affect the budget, doesn't affect the taxpayers and solves the problem.

And I really fail to understand how it wasn't resolved initially at budget negotiations and why these hospitals and

institutions have to wait and have to be on a 25-day lag as a result of administrative delay waiting for these dollars. It shouldn't happen.

This bill solves the problem, and I urge all of my colleagues to pass it.

ACTING PRESIDENT DALY: Senator Halperin.

SENATOR HALPERIN: Senator Tully, would you please yield to a question?

SENATOR TULLY: Yes, Mr. President, I will.

SENATOR HALPERIN: Thank you, Senator. The way you described this bill, you are talking about it as the SLIPA bill. But that is a total of $18 million appropriated out of the general fund in this bill. Are you saying that all of that money goes to SLIPA?

SENATOR TULLY: Mr. President.

ACTING PRESIDENT DALY: Senator Tully.

SENATOR TULLY: When I described this bill at the outset, I said this bill

related to health reform, hospitals, and serving those hospitals which serve low income and Medicaid patients. The health reform portion of it deals with hospitals in totality in this state as well as SLIPA hospitals again.

So SLIPA gets a double hit. It gets the first hit of the $8 million, and it gets part of the $10 million that's associated with the NYPHRM reform.

SENATOR HALPERIN: So what is really happening here is that the SLIPA issue has been combined with another issue, and that issue provides additional funding not only to what we might refer to as the SLIPA hospitals, but also to other hospitals. Is that correct?

SENATOR TULLY: That's correct, Mr. President.

SENATOR HALPERIN: Can you tell us how much of the $18 million would go to the SLIPA program?

SENATOR TULLY: $8 million is directly allocated to the SLIPA program, and 10 million for additional hospital payments and

health reform, part of which goes to SLIPA hospitals, as well.

SENATOR HALPERIN: Of the $10 million can you tell us how much of that goes to the SLIPA hospitals?

SENATOR TULLY: That, Mr. President, will be part of NYPHRM and will be the subject of bipartisan negotiation.

SENATOR HALPERIN: So, then, at this point in time, we don't really know the answer to that question, is that correct?

SENATOR TULLY: Only as a total amount but not as to which amount does go to each hospital.

SENATOR HALPERIN: Also, Senator Tully, if you will be so kind as to respond to another question.

As I heard you describe the history of the budget negotiations, it was something to the effect of that the Assembly didn't want to go along with putting the SLIPA money into the budget and that there was some kind of pressure coming from the Governor not to

do that?

SENATOR TULLY: That's my understanding, Senator Halperin.

SENATOR HALPERIN: Would you say that it was ever the position of the Senate Republicans to put SLIPA money into the budget without linking it to the additional $10 million that we see it linked to in this bill?

SENATOR TULLY: The answer to that question is no, it was not ever the Senate position to do it separately. We advanced both because they were both needed. Because in the intervening time during which the negotiations took place, the information came to the Senate as to the President's proposal and the impact it was going to be to the hospitals. And I might tell you that the proposal we've advanced today is supported by the Hospital Association of New York State.

SENATOR HALPERIN: Thank you very much, Senator.

ACTING PRESIDENT DALY: Senator Halperin on the bill.

SENATOR HALPERIN: On the bill. Setting aside the issue of the need of the hospitals of this state for additional monies because, clearly, it is difficult for the hospitals of this state to continue to function under existing circumstances and they could use more monies -- I dare say we could say the schools could use more money. We could say that any number of other worthy causes in this state could use more money.

But the truth of the matter is that the SLIPA issue, as I understand it, was attempted to be addressed by the Assembly in the budget as a separate issue. And to try to somehow say that the Assembly backed off funding SLIPA through the general fund is perhaps revisionist history which is not something we should be dealing with on the same day as we passed a resolution commemorating the Holocaust, because we are constantly fighting the revision of history. And yes, here we see what I started to hear but I'm glad we cleared it up, some revisionist history. Because it was always, as

I understand it, the position of the Assembly and the desire of the Assembly to include the $8 million.

As a matter of fact, I think, according to some of the proponents of the SLIPA program, that $7 million would probably do the trick, and yet it was always the position of the Senate Majority, as I understand it, to link the two as you seem to be demonstrating in this bill.

The problem is not that we would not want to give more money to hospitals but that we obviously have a lack of money in the budget, that this money is not provided for in the fiscal plan, and that what we really should be doing is looking for a source of funding which, as you indicated, has been proposed to be the bad debt and charity pool, and then we will know that we have a source of money to pay for SLIPA.

Whether or not we should be trying to provide additional monies through NYPHRM when you can't even tell us how that

money will be distributed to hospitals, I think is a separate issue. Maybe there are those of us who would be convinced that if we did have additional monies we could provide it to the hospitals through the NYPHRM formula.

But I just want to make it clear that we are doing more in this -- even though you did allude to it in your opening statement -- that we're doing more in this bill than simply providing money to the SLIPA program.

Nevertheless, in an effort to try to keep this process moving, if the passage of this what I dare say will be a one-house bill will help to focus on the issue, then understanding what we're doing, and not thinking it's only for SLIPA, not thinking that the Assembly wouldn't go along with perhaps $7 million for SLIPA, then I will vote for this legislation as well. But I think that we really should be joining together, both houses with the Governor, in coming up with something we can all live with and that will be funded.

ACTING PRESIDENT DALY: Senator Solomon.

SENATOR SOLOMON: Mr. President. Will Senator Tully yield please.

ACTING PRESIDENT DALY: Senator Tully, would you yield?

SENATOR TULLY: Yes, Mr. President.

SENATOR SOLOMON: Senator, Senator Halperin in his question just asked you about the percentage that would go to SLIPA hospitals from the $10 million additional, in addition to the addition to the eight, and you said that would be determined by the NYPHRM negotiations. But I would like to know, in terms of this bill, on page 1, line 8, it says through December 31, 1993. Is not that the same date that NYPHRM expires?

SENATOR TULLY: That's correct.

SENATOR SOLOMON: So can't we determine what percentage of money that $10 million would be able to go to SLIPA based upon the current formula of NYPHRM?

SENATOR TULLY: That part is no difficulty, Mr. President, because that part refers to existing SLIPA allocation which is done by formula in the Public Health Law which is the existing NYPHRM IV statute.

SENATOR SOLOMON: Correct. So of that ten million, roughly, what additional sum to the best of your knowledge, would go towards SLIPA hospitals?

SENATOR TULLY: There are three separate portions to this particular bill, Senator, and let me break them down for you.

Section 1 extends SLIPA from March 31 to December 31.

Section 2 provides for the transfer to Medicaid, if you will, the medical assistance program, general fund, of $18 million from the undistributed balance of the bad debt and charity care pools.

Now section 3 appropriates the $18 million dollars to the Department of Social Services Medicaid program to provide $8 million in additional SLIPA payments and $10 million for

additional reimbursement to the hospitals and health-related services pursuant to a chapter of the laws of 1993 affecting general hospital reimbursement. That chapter will be NYPHRM V. So it does not relate to the existing one.

SENATOR SOLOMON: Okay. We have to pass NYPHRM V.

Thank you, Mr. President.

ACTING PRESIDENT DALY: Senator Espada.

SENATOR ESPADA: Will Senator Tully yield to a question, please?

ACTING PRESIDENT DALY: Senator, will you yield to a question?

SENATOR TULLY: Yes, Mr. President.

ACTING PRESIDENT DALY: Senator Tully yields.

SENATOR ESPADA: The discussion I think has been fruitful in that now I understand this breakout of the eight and ten. Because certainly with respect to SLIPA and the $8 million, I would certainly support that. I

don't think that any abrupt change in reimbursement mechanisms is fair to anyone.

However, there are those of us that look to NYPHRM V as perhaps affording us some real opportunity to change the course of health care at least as it relates to deficit financing and the provision of quality primary care at the local neighborhood level.

I ask you by separating out this $10 million and calling it health care reform, have we not limited ourselves in our ability to think through how best to deliver primary care, neighborhood-based care which is now, when it's provided at the hospital emergency room and out-patient clinics, a much more costly venture than we would all want. Perhaps you can address yourself to that point, please.

SENATOR TULLY: Yes, Mr. President.

ACTING PRESIDENT DALY: Senator Tully.

SENATOR TULLY: Senator Espada, you raise a very, very good point.

The fact of the matter is that the $10 million, in addition, that's generated for NYPHRM is directed directly in that area to prevention to primary care. As you know, there will be a proposal coming from the executive I expect within the next week or two dealing with NYPHRM. Within that same framework of time or somewhere nearby, he will have the proposal of the Council on Health Care Financing which will deal with NYPHRM, as well.

Both of those will not be too disparate in the sense that they will be dealing with health care reform as you've suggested, pointing the gun at primary care and pointing the gun at prevention. Because that's the goal we have to attack, together with quality of care and affordability.

All of that will be encompassed within NYPHRM dealing with health care reform which it never really did before because NYPHRM was dealing strictly with hospital financing and hospital funding. And this time, it's going to be a little different.

SENATOR ESPADA: If I may, Mr. President.

ACTING PRESIDENT DALY: Senator Espada on the bill.

SENATOR ESPADA: No, a follow-up question.

ACTING PRESIDENT DALY: Will you yield again?

SENATOR TULLY: Yes, I will, Mr. President.

ACTING PRESIDENT DALY: Senator will yield.

SENATOR ESPADA: Just so I can be totally comfortable with this. Can I take that to mean that in your platform, in your health care reform proposals, that you will see an opportunity for diagnostic and treatment centers, other non-traditional non-hospital providers, to share in what is now bad debt and charity pool deficit financing? Can I take that?

SENATOR TULLY: The answer to that question is yes, Mr. President.

SENATOR ESPADA: Thank you very much.

SENATOR TULLY: You're welcome, Senator Espada.

ACTING PRESIDENT DALY: Read the last section.

THE SECRETARY: Section 4. This act shall take effect immediately.

ACTING PRESIDENT DALY: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 57.

ACTING PRESIDENT DALY: The bill is passed.

Senator Stafford.

SENATOR STAFFORD: Mr. President. I wish to call up my bill, Print Number 3287.

ACTING PRESIDENT DALY: Secretary will read.

THE SECRETARY: By Senator Stafford, Senate Bill Number 3287, legalize, validate, ratify and confirm the acts of the

town board, county of Clinton.

SENATOR STAFFORD: Mr. President. I now move to reconsider the vote by which this bill was passed.

ACTING PRESIDENT DALY: Call the roll.

(The Secretary called the roll on reconsideration.)

THE SECRETARY: Ayes 57.

ACTING PRESIDENT DALY: It is restored to third reading.

SENATOR STAFFORD: Thank you, Mr. President.

ACTING PRESIDENT DALY: Senator Present.

SENATOR PRESENT: Mr. President. There being no further business, I move that we adjourn until tomorrow at 3:00 p.m.

ACTING PRESIDENT DALY: Senate stands adjourned until tomorrow at 3:00 p.m.

(Whereupon, at 5:33 p.m., the Senate adjourned.)