ALBANY, NEW YORK

February 7, 1994

3:33 p.m.

REGULAR SESSION

SENATOR NICHOLAS A. SPANO, Acting President

STEPHEN F. SLOAN, Secretary

P R O C E E D I N G S

ACTING PRESIDENT SPANO: The Senate will come to order. All please rise for the Pledge of Allegiance to the Flag.

(The assemblage repeated the Pledge of Allegiance to the Flag.)

ACTING PRESIDENT SPANO: Prayer today, we will hear from the Reverend Peter Young, Blessed Sacrament Church, Bolton Landing.

FATHER YOUNG: Let us pray.

Almighty and eternal God, may Your grace enkindle in all of us a love for the many unfortunate people whom poverty and misery reduce to a condition of life unworthy of a human being.

Arouse in the hearts of all of those who call You Father, a hunger and a thurst for social justice and for eternal charity in deeds and in truth. Grant, O Lord, our senators the opportunity to be leaders for the peace and the peace of our country and for the peace of all of those that live in this great state of New York. Amen.

ACTING PRESIDENT SPANO: Thank you.

Reading of the Journal.

THE SECRETARY: In Senate, Friday, February 4th, the Senate met pursuant to adjournment, Senator Farley in the chair upon designation of the Temporary President. The Journal of Thursday, February 3rd, was read and approved. On motion, Senate adjourned.

ACTING PRESIDENT SPANO: Hearing no objection, the Journal stands approved as read.

Messages from the Assembly.

Messages from the Governor.

Reports of standing committees.

Communications.

Motions and resolutions.

Senator Farley.

SENATOR FARLEY: Thank you, Mr. President. I would like to commit my bill, S-6525, Calendar Number 101, to the Senate Banks Committee.

THE SECRETARY: Without

objection.

SENATOR FARLEY: Also, on behalf of Senator Maltese, Mr. President, I would like to amend on page 8, Calendar Number 122, Senate Print 1936, and I would ask that bill retain its place on the Third Reading Calendar.

Also, on behalf of Senator Hannon, on page 8, I offer the follow amendments to Calendar Number 126, Senate Print 281, and I ask that that bill retain its place.

On behalf of Senator Libous, I move that the following bill be discharged from its respective committee and be recommitted with instructions to strike the enacting clause: Senate Print 5812.

On behalf of Senator Kuhl, I move that the following bills be discharged from their respective committees and be recommitted with instructions to strike the enacting clause: Senate Print 536, Senate Print 3282-B and Senate Print 5425.

THE SECRETARY: Without objection.

Senator Cook.

SENATOR COOK: Mr. President, I would like to retain my dominance in the starred calendar by adding 114 to it, please.

ACTING PRESIDENT SPANO: Calendar Number 114, starred at the request of the sponsor. Any other motions or resolutions?

Senator Holland.

SENATOR HOLLAND: Yes, Mr. President. Can you star Calendar 116, Senate Bill 6523, please?

THE SECRETARY: On 116, star at the request of the sponsor.

Any other -- any other housekeeping, motions, resolutions?

Senator Present.

SENATOR PRESENT: Mr. President, can we take up the non-controversial calendar, please?

ACTING PRESIDENT SPANO: Secretary will read the non-controversial calendar.

THE SECRETARY: On page 4,

Calendar Number 13, by Senator Levy -

SENATOR GOLD: Lay it aside.

ACTING PRESIDENT SPANO: Lay it aside.

THE SECRETARY: Calendar Number 37, by Senator Cook, Senate Bill Number 2640-A, an act to amend the Transportation Law.

ACTING PRESIDENT SPANO: Read the last section.

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

ACTING PRESIDENT SPANO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 35.

ACTING PRESIDENT SPANO: The bill is passed.

THE SECRETARY: Calendar Number 41, by Senator Tully, Senate Bill Number 233, an act to amend the Criminal Procedure Law.

ACTING PRESIDENT SPANO: Read the last section.

THE SECRETARY: Section 2. This

act shall take effect immediately.

ACTING PRESIDENT SPANO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 33.

ACTING PRESIDENT SPANO: The bill is passed.

THE SECRETARY: Calendar Number 59, by member of the Assemblyman Grannis, Assembly Bill Number 6289-B, an act to amend the the Insurance Law.

ACTING PRESIDENT SPANO: Read the last section.

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

ACTING PRESIDENT SPANO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 35.

ACTING PRESIDENT SPANO: The bill is passed.

THE SECRETARY: Calendar Number 73, by Senator Levy, Senate Bill Number 324-A,

an act in relation to authorizing the Department of Transportation to survey areas of the state.

ACTING PRESIDENT SPANO: Read the last section.

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

ACTING PRESIDENT SPANO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 35.

ACTING PRESIDENT SPANO: The bill is passed.

THE SECRETARY: Calendar Number 76, by Senator Skelos, Senate Bill Number 1605-A, an act to amend the Public Health Law and the Correction Law.

ACTING PRESIDENT SPANO: Read the last section.

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

ACTING PRESIDENT SPANO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 35.

ACTING PRESIDENT SPANO: The bill is passed.

THE SECRETARY: Calendar Number 80, by Senator Johnson, Senate Bill Number 2802-A, an act to amend the Education Law, in relation to efficiency study grants.

ACTING PRESIDENT SPANO: Read the last section.

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

ACTING PRESIDENT SPANO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 35.

ACTING PRESIDENT SPANO: The bill is passed.

THE SECRETARY: Calendar Number 85, by Senator Farley, Senate Bill Number 6183-A, an act to amend the Real Property Tax Law.

ACTING PRESIDENT SPANO: Read the last section.

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

ACTING PRESIDENT SPANO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 36.

ACTING PRESIDENT SPANO: The bill is passed.

THE SECRETARY: Calendar Number 88, by Senator Levy, Senate Bill Number 191, an act to amend the Vehicle and Traffic Law.

ACTING PRESIDENT SPANO: Read the last section.

SENATOR GOLD: Lay it aside.

ACTING PRESIDENT SPANO: Lay it aside.

THE SECRETARY: Calendar Number 91, by Senator Johnson, Senate Bill Number 2999-A, an act to amend the Vehicle and Traffic Law, in relation to vehicle inspections.

ACTING PRESIDENT SPANO: Read the last section.

THE SECRETARY: Section 2. This

act shall take effect immediately.

ACTING PRESIDENT SPANO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 36.

ACTING PRESIDENT SPANO: The bill is passed.

THE SECRETARY: Calendar Number 92, by Senator Cook, Senate Bill Number 3026-A, an act to amend the Vehicle and Traffic Law.

ACTING PRESIDENT SPANO: Read the last section.

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

ACTING PRESIDENT SPANO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 37.

ACTING PRESIDENT SPANO: The bill is passed.

THE SECRETARY: Calendar Number 103, by Senator Stafford.

ACTING PRESIDENT SPANO: Lay it

aside.

THE SECRETARY: Calendar Number 113, by Senator Stafford, Senate Bill Number 4237-A, state aid to the North Warren Central School District.

ACTING PRESIDENT SPANO: Local fiscal impact note at the desk. Lay it aside.

SENATOR GOLD: Who laid it aside?

(There was no response.)

THE SECRETARY: Calendar Number 115, by Senator Larkin, Senate Bill Number 6042, Education Law, in relation to calculation of approved operating expense.

ACTING PRESIDENT SPANO: Local fiscal impact note's at the desk. Read the last section.

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

ACTING PRESIDENT SPANO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 38.

ACTING PRESIDENT SPANO: The bill is passed.

THE SECRETARY: Calendar Number 117, by Senator Tully, Senate Bill Number 6551, to amend Chapter 735 of the Laws of 1992, amending the Public Health Law.

ACTING PRESIDENT SPANO: Read the last section.

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

ACTING PRESIDENT SPANO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 39.

ACTING PRESIDENT SPANO: The bill is passed.

THE SECRETARY: Calendar Number 118, by Senator Padavan, Senate Bill Number 245-A, an act to amend the Executive Law.

ACTING PRESIDENT SPANO: Read the last section. Read the last section.

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

ACTING PRESIDENT SPANO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 39.

ACTING PRESIDENT SPANO: The bill is passed.

THE SECRETARY: Calendar Number 119, by Senator Cook, Senate Bill Number 2754, an act to amend the Correction Law and the Civil -

SENATOR GOLD: Lay it aside.

ACTING PRESIDENT SPANO: Lay it aside.

THE SECRETARY: Calendar Number 120, by Senator Maltese, Senate Bill Number 379...

SENATOR GOLD: Lay it aside.

ACTING PRESIDENT SPANO: Lay it aside.

THE SECRETARY: Calendar Number 121, by Senator Stafford, Senate Bill Number 442, Real Property Law.

ACTING PRESIDENT SPANO: Read the

last section.

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

ACTING PRESIDENT SPANO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 42.

ACTING PRESIDENT SPANO: The bill is passed.

THE SECRETARY: Calendar Number 123, by Senator Lack, Senate Bill Number 2670, Real Property Law, in relation to the recording of maps.

ACTING PRESIDENT SPANO: Read the last section.

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

ACTING PRESIDENT SPANO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 42.

ACTING PRESIDENT SPANO: The bill is passed.

THE SECRETARY: Calendar Number 124 -

SENATOR GOLD: Lay it aside.

ACTING PRESIDENT SPANO: Lay it aside.

THE SECRETARY: Calendar Number 125, by Senator Farley, Senate Bill Number 219, an act to amend the County Law, in relation to county office hours of work.

ACTING PRESIDENT SPANO: Read the last section.

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

ACTING PRESIDENT SPANO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes -- ayes 44, nays 1, Senator Stachowski recorded in the negative.

ACTING PRESIDENT SPANO: The bill is passed.

THE SECRETARY: Calendar Number 128, by Senator Bruno, Senate Bill Number 371,

an act to amend the Real Property Tax Law.

ACTING PRESIDENT SPANO: Read the last section.

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

ACTING PRESIDENT SPANO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 45.

ACTING PRESIDENT SPANO: The bill is passed.

Senator Velella.

SENATOR VELELLA: I would like to offer today on the Calendar Number 59 that just passed the house, I'd ask that -- I make a motion that the vote on that bill be reconsidered.

ACTING PRESIDENT SPANO: Secretary will call the roll on Calendar 59.

(The Secretary called the roll on reconsideration.)

THE SECRETARY: Ayes 45.

ACTING PRESIDENT SPANO: The bill

is before the house.

SENATOR VELELLA: Lay it aside, please.

ACTING PRESIDENT SPANO: Lay it aside.

THE SECRETARY: Calendar Number 129, by Senator Volker, Senate Bill Number 379, an act to amend the General Municipal Law and the State Finance Law.

ACTING PRESIDENT SPANO: Read the last section.

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

ACTING PRESIDENT SPANO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 45.

ACTING PRESIDENT SPANO: The bill is passed.

THE SECRETARY: Calendar Number 130, by Senator Stafford -

SENATOR GOLD: Lay it aside.

ACTING PRESIDENT SPANO: Lay it

aside.

THE SECRETARY: Calendar Number 131, by Senator Larkin, Senate Bill Number 1153, Real Property Tax Law, in relation to certain state lands in Orange County.

ACTING PRESIDENT SPANO: Read the last section.

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

ACTING PRESIDENT SPANO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 45.

ACTING PRESIDENT SPANO: The bill is passed.

THE SECRETARY: Calendar Number 132, by Senator LaValle, Senate Bill Number 1428, an act to amend the General Municipal Law.

ACTING PRESIDENT SPANO: Read the last section.

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

ACTING PRESIDENT SPANO: Call the

roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 45.

ACTING PRESIDENT SPANO: The bill is passed.

THE SECRETARY: Calendar Number 133, by Senator Kuhl, Senate Bill Number 2449, an act to amend the County Law, in relation to investigation of death by coroners in certain counties.

ACTING PRESIDENT SPANO: Read the last section.

THE SECRETARY: Section 3. This act shall take effect immediately.

ACTING PRESIDENT SPANO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 45.

ACTING PRESIDENT SPANO: The bill is passed.

THE SECRETARY: Calendar Number 135, by Senator Present, Senate Bill Number 2537, an act to amend the Real Property Tax Law.

ACTING PRESIDENT SPANO: Read the last section.

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

ACTING PRESIDENT SPANO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 45.

ACTING PRESIDENT SPANO: The bill is passed.

THE SECRETARY: Calendar Number 136, by Senator Cook, Senate Bill Number 2702, an act to amend the Real Property Tax Law.

ACTING PRESIDENT SPANO: Read the last section.

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

ACTING PRESIDENT SPANO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 45.

ACTING PRESIDENT SPANO: The bill is passed.

THE SECRETARY: Calendar Number 137, by Senator Cook, Senate Bill Number 3180, an act to amend the Real Property Tax Law.

ACTING PRESIDENT SPANO: Read the last section.

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

ACTING PRESIDENT SPANO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 47.

ACTING PRESIDENT SPANO: The bill is passed.

THE SECRETARY: Calendar Number 138, by Senator Kuhl, Senate Bill Number 3412, an act to amend the Real Property Tax Law.

ACTING PRESIDENT SPANO: Read the last section.

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

ACTING PRESIDENT SPANO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 48.

ACTING PRESIDENT SPANO: The bill is passed.

THE SECRETARY: Calendar Number 139, by Senator Cook, Senate Bill Number 3867-A, an act to amend the County Law, in relation to appointment of deputies.

ACTING PRESIDENT SPANO: Read the last section.

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

ACTING PRESIDENT SPANO: Call the roll.

(The Secretary called the roll.)

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

ACTING PRESIDENT SPANO: The bill is passed.

THE SECRETARY: Calendar Number 140, by Senator Larkin, Senate Bill Number 4066, an act to amend the Real Property Tax Law.

ACTING PRESIDENT SPANO: Read the last section.

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

ACTING PRESIDENT SPANO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 47.

ACTING PRESIDENT SPANO: The bill is passed.

THE SECRETARY: Calendar Number 142, by Senator Tully, Senate Bill Number 6327, General Municipal Law, in relation to Life Care communities.

SENATOR GOLD: Lay it aside.

ACTING PRESIDENT SPANO: Lay it aside.

Senator Present, that completes the non-controversial calendar.

SENATOR PRESENT: Mr. President, can we take up the controversial calendar?

ACTING PRESIDENT SPANO: Secretary will read the controversial calendar.

THE SECRETARY: On page 4, Calendar Number 13, by Senator Levy, Senate Bill

Number 1313, an act to amend the Penal Law.

SENATOR GOLD: Lay it aside.

SENATOR PRESENT: Lay it aside.

ACTING PRESIDENT SPANO: Lay it aside.

THE SECRETARY: On page 4, Calendar Number 59, by member of the Assembly Grannis, Assembly Bill 6289-B.

SENATOR PRESENT: Lay it aside, please.

ACTING PRESIDENT SPANO: Lay it aside.

THE SECRETARY: Calendar Number 88, by Senator Levy, Senate Bill Number 191, an act to amend the Vehicle and Traffic Law.

SENATOR PRESENT: Lay it aside, please.

ACTING PRESIDENT SPANO: Lay it aside.

THE SECRETARY: Calendar Number 103, by Senator Stafford, Senate Bill Number 6384, an act to amend the Tax Law.

SENATOR PRESENT: Lay it aside

temporarily.

ACTING PRESIDENT SPANO: Lay it aside temporarily.

THE SECRETARY: Calendar Number 113, by Senator Stafford, Senate Bill Number 4237-A, relating to state aid to the North Warren Central School District.

ACTING PRESIDENT SPANO: Explanation. Are you going -- for this bill, Senator Farley?

Senator Present, 113, we'll lay it aside temporarily.

Senator Farley.

SENATOR FARLEY: Could I be recorded in the negative on 139? No, wait a minute -- is that the right number? Yeah, 139.

ACTING PRESIDENT SPANO: Without objection.

Senator Holland.

SENATOR HOLLAND: Can I have unanimous consent? I would also like to be recorded in the negative on 139, please.

ACTING PRESIDENT SPANO: Without

objection.

THE SECRETARY: Calendar Number 119, by Senator Cook, Senate Bill Number 2754, an act to amend the Correction Law and the Civil Practice Law and Rules.

ACTING PRESIDENT SPANO: Read the last section.

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

SENATOR GOLD: Explanation.

ACTING PRESIDENT SPANO: Explanation has been asked for on Calendar 119.

SENATOR PRESENT: Lay it aside temporarily.

ACTING PRESIDENT SPANO: Lay it aside temporarily.

THE SECRETARY: Calendar Number 120, by Senator Maltese, Senate Bill Number 3797, Executive Law.

ACTING PRESIDENT SPANO: Read the last section.

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

ACTING PRESIDENT SPANO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 47.

ACTING PRESIDENT SPANO: The bill is passed.

ACTING PRESIDENT SPANO: Senator Present.

SENATOR PRESENT: Mr. President, can we return to Calendar 119, please?

ACTING PRESIDENT SPANO: Calendar 119. Secretary will read.

THE SECRETARY: Calendar Number 119, by Senator Cook, Senate Bill Number 2754, an act to amend the Correction Law and the Civil Practice Law and Rules.

SENATOR GOLD: Explanation.

ACTING PRESIDENT SPANO: Explanation has been asked for.

Senator Cook.

SENATOR COOK: Mr. President, this bill basically creates a situation wherein a prison inmate who receives a college education

while incarcerated in a state facility, that the -- this would constitute a college loan. In effect, that upon release from the prison, there will be an obligation to repay the cost of that. This is an effort to equate that -- that educational assistance which the prisoner receives with the kind of financial aid which most students receive who have not been incarcerated, who, in fact -- who, in fact, are obligated, in most cases, to repay the portion of a college education that they've received assistance from -- from the public, and I think it's only reasonable to establish this kind of equity and, therefore, I urge the bill be passed.

ACTING PRESIDENT SPANO: Read - Senator Dollinger.

SENATOR DOLLINGER: Would the sponsor yield to a question?

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

SENATOR COOK: Yes.

SENATOR DOLLINGER: Mr.

President, Senator Cook, how is this bill going to work? I know I asked this question, I believe, last year and I can't quite remember the answer. How is the bill going to work? Will there be a promissory note signed at the time the person enrolls? How are they going to pay for this?

SENATOR COOK: Mr. President, I think Senator Dollinger has been very perceptive. That's precisely what would happen. In exchange for the benefit which they would be receiving, the prisoner would be obligated to take on a contractual obligation to repay the state of New York for the cost of the education.

SENATOR DOLLINGER: Again, Mr. President, if Senator Cook would yield to one other question.

SENATOR COOK: Sure.

SENATOR DOLLINGER: Will there be any security furnished by this inmate for the repayment of this debt?

SENATOR COOK: Mr. President,

obviously there's no more security than there is for any other student. It is a student loan. It's an obligation upon the -- whatever assets the individual would -- would possess, and it would have the same collection procedures as with any other college loan.

SENATOR DOLLINGER: Mr. President, just one other question. Senator Cook, do you know how many people would be affected by this amendment, how many inmates we will now have as debtors to the state of New York, make the inmates into debtors if they want to get an education? Do we know how many it will affect?

SENATOR COOK: Mr. President, at one time I thought I had this in my notes, but I don't have the precise number. Let me indicate -- and it's not a large number of people relative to the prison population. We're not talking here about a great hit upon the state treasury in terms of dollars and cents. We are concerned with the principle, and that is a principle that there's a lot of perception on

the part of a lot of college students and their parents in this state who are struggling with the cost of a college education, who are going through a great effort and sacrifice to make sure that their students receive that kind of an education, and to then find that the state of New York provides this education absolutely free and with no obligation whatsoever of any participation or repayment on the part of a prison inmate, is something that infuriates the people of this state. It is something that is, in my mind, highly inappropriate, and I think that the time has come for us to at least go to this token.

And remember that these are people who are already receiving free room and board, so they're not having to pay that part of the education. All they're paying back is the tuition portion of it, which is not even a major part of the cost of college attendance.

SENATOR DOLLINGER: Mr. President, on the bill.

ACTING PRESIDENT SPANO: Senator

Dollinger, on the bill.

SENATOR DOLLINGER: Mr. President, I voted against this measure last year. I'm going to vote again -- against it again this year. I understand Senator Cook's perspective and I understand the disparity, perhaps, between parents who are out paying for college educations, as I hope I will be in the next couple of years when my son hits college, but it seems to me that to suggest that they're getting free room and board while they're in the state penal institutions and correctional institutions is a little bit of a stretch.

And while I agree with the concept that maybe there ought to be some form of payment, it seems to me we're taking people who are going to get out of jail, they're not going to have any assets, they're not going to have the ability to pay back, they're not going to settle in to $25,000-a-year jobs from which they'll have money available to pay us back. What we're going to really turn New York State into is a huge collection agency as we will

follow these people around in the parole system demanding that they pay up whatever the sum is for their college education.

I submit, Mr. President, that it's a better approach to try to give them as much education as possible so, when they get out of prison, they actually have the ability to start a new life and they're not saddled with significant debts which accrued during that period which they got free room and board from the state of New York but, of course, couldn't decide that they would leave the four walls in which they were incarcerated.

So I appreciate the sponsor's initiative in raising this issue, but it seems to me this has a quagmire of problems that would be created. We will turn our inmates into debtors to the state of New York and the process of doing it is complicated, and, frankly, I think it starts from the wrong premise, that suggesting that this is something that we're giving away for free and the only benefit in the process is to the inmate. I think there's a

benefit for society as well, by putting these individuals in a position where they're better educated so when they get out they can start a new life and hopefully, a constructive and productive one in this society.

I'll vote no, Mr. President.

ACTING PRESIDENT SPANO: Senator Nozzolio.

SENATOR NOZZOLIO: Mr. President, on the bill. Mr. President, my colleagues, if there is one expenditure that I had to pick out of all those paid for by the taxpayers of this state that shows how New York is on the wrong track and in the wrong direction, it's the expenditure of paying for free college education for prison inmates.

My colleague points out that prison should be a time when there is instruction and rehabilitation and as part of rehab', education takes place. I don't necessarily argue with that, but what I do argue with is the fact that there are lifers in this state getting two and three Master's degrees at

taxpayers' expense, that there are prison inmates who are taught how to be philosophy majors. They're not taught how to have a skill and get a job once out of prison. If a Regents scholarship-qualified student in this state who plays by the rules, who studies hard, who works hard, who achieves academic excellence, is not afforded financial assistance, yet we have that same student could go down to any main street and throw a brick through a window and harm someone and maybe rob someone and be sent to state prison and receive assistance for their higher education. That incongruity rankles me.

I don't believe this bill goes far enough, frankly. I would like to see not just the college course paid for over time, I would like to see until the day -- I would like to see the course eliminated until the day that every college student in this state receives sufficient tuition assistance, receives Regents scholarships once again and is secure in the fact of knowing that if they qualify for college, that this state will help them out in

being an educated student in New York.

I would like to see this bill passed, though, because I believe it is a small step in the right direction, a direction that should lead to productivity, and that should not send a signal to our citizens that we care more about educating those who broke the law than educating those who are working hard to be productive citizens.

Thank you, Mr. President.

ACTING PRESIDENT SPANO: Senator Waldon.

SENATOR WALDON: Thank you, Mr. President. Would the sponsor of the bill yield to a question or two, please?

SENATOR COOK: Yes, Mr. President.

ACTING PRESIDENT SPANO: Sponsor will yield.

SENATOR WALDON: Senator Cook, how many people are in prison in this state at this moment?

SENATOR COOK: I'm told about

65,000.

SENATOR WALDON: And how many of those are, in fact, attending colleges throughout the penal system?

SENATOR COOK: Senator, as I - Mr. President, as I indicated, I don't have those precise numbers here and I apologize for that. It would be a matter of -- I believe, of a few hundred. I don't believe it's a major proportion of the prison population.

SENATOR WALDON: Do you have any data which speaks to those who actually attend college and complete, how many of those persons do not return to prison upon their departure from prison?

SENATOR COOK: Mr. President -

ACTING PRESIDENT SPANO: Senator Cook.

SENATOR COOK: Mr. President, it's very interesting to make those correlations, because I'm not so sure that you can -- you can equate one -- one thing to the other. It may be that the individual who comes

out of prison with a -- with a college degree is the individual who is less apt to return to prison but, at the same time, I think you have to admit that that is a value for that person, and the part of the rehabilitation process ought to be for that individual to accept the responsibilities of citizenship and to pay back to society the value that they have received.

So, I assume that you are making and perhaps you have in hand, some statistics to indicate -- and I guess I would indicate that probably, on the surface, these people would be less apt to go back to prison than other persons who are less educated, and there may be a lot of reasons for that as well, but I don't think -- I think that doesn't remove the core concept here, which is that there is a value received in this -- in this college -- a degree value, if the person were not a prison inmate, that would have to be repaid -- and we're simply indicating here that they ought to be on an equal footing.

SENATOR WALDON: May I ask another question or two, Mr. President?

Senator Cook, do you have any information as to the number of people of those incarcerated who are, in fact, illiterate or only marginally literate?

SENATOR COOK: Mr. President - Mr. President -

ACTING PRESIDENT SPANO: Senator Cook.

SENATOR COOK: That number is substantial, and please note that this bill does not apply to that group. This does not apply to primary, secondary education, remedial education, literacy education. It does not apply to those things that under our Constitution every citizen is entitled to, which is a free public education from kindergarten through grade 12. It does not apply to that. It does not apply to those people whom you've mentioned.

SENATOR WALDON: Thank you very much, Senator. I understood that.

Mr. President, if I may continue on the bill.

ACTING PRESIDENT SPANO: Senator Waldon, on the bill.

SENATOR WALDON: I understood that, Senator Cook, and I asked the question for a purpose. I believe there is a benefit to society in allowing these people to complete their education, their higher education. It is my belief, and I'm sure that once you find the data it would correlate with the fact that those who complete college and return to society have a greater chance of never returning to prison than those who are not given that opportunity.

When you've been inside the prisons, as I'm sure you have, you can see the devastation in the face of those -- and faces of those who are incarcerated, and sometimes it is better for us as a society outside of the prisons to hold some hope out for those who are in, and I'm not getting into the bottom line of why they got there, be it drugs or violent crime or whatever. What I'm really concerned about is giving someone who may have made a mistake in life an opportunity to educate him or herself,

to, in fact, become potentially a good citizen upon leaving the prison system and become a productive citizen.

The bill doesn't address -- as I recall it, and correct me if it does -- when they will begin their payments. Do they begin their payments while they're being transitioned back to society, six months or -- many of them in that period of time will still be in one of the transitioning places, trying to get a job or get back into society. Their families may not be available to them, so six months can be a tremendous encumbrance. I think it is being, in my opinion, pound -- penny wise and pound foolish.

For the few dollars that it would cost to educate these people compared to what it costs to build a prison cell, what it costs to maintain them with correction officers, it is a drop in the bucket in terms of the financial side, but it is a tremendous sum in terms of the benefit side and, again, I must vote in the negative on this bill because I don't think it

is in our best interests as a society to take away hope of those who may at this time need hope to become more productive citizens.

Thank you, Mr. President.

ACTING PRESIDENT SPANO: Senator DeFrancisco.

SENATOR DE FRANCISCO: I don't understand all of this. It is just the most amazing debate I have heard since I have been in the Senate.

You have a situation where all that's being asked for by this bill is that those who obtain a college education in prison get it under the same rules as those who are out of prison. There isn't one Senator on this side of the aisle who said anything about depriving an inmate of the opportunity to better him or herself, of depriving an inmate of the opportunity to obtain an education. All that's being said is that, if you choose to avail yourself of that opportunity, you do like everybody else does that's on the outside; you sign a piece of paper saying that you'll pay it

back. Now, how that is so abhorrent to the principles of this body is just amazing to me.

The fact of the matter is, if this individual, Senator Dollinger, cannot pay, there is no such thing as a debtor's prison in this country, and they don't pay. There may be a judgment in the -- in favor of the state of New York against a former inmate for so many dollars. If they don't have the money, they don't pay. It's just like if you were a college student who is on the outside who couldn't get a job after getting your education and couldn't pay your student loans; if there's no money there, you don't pay. There's a judgment that's non-collectable.

So the point of the matter is, all this is doing is by putting those who get an education in the prisons on the same footing of those who get an education outside the prisons, and I can't imagine that any prisoner who wants to get a college education will be deterred from doing that because someone hands a debt -- a note to them saying that you're going to have to

sign this to pay back your obligation, and I would love to see the statistics if this bill is passed as to how many people choose not to take an education in prison because they have to sign a note. I got a feeling there won't be any.

So the bill makes common sense. It doesn't deprive anybody of anything. It puts everybody on an equal footing, and I'll vote in favor of the bill.

ACTING PRESIDENT SPANO: Senator Montgomery.

SENATOR MONTGOMERY: Thank you, Mr. President.

I'm going to vote against the bill as I have in the past, and I just want to remind my colleagues that yes, we have 69 - it's my understanding that we have 69 prison - state prison facilities and about 65,000 prisoners, as has been confirmed by Senator Cook, and I estimate that we are spending about $9 million a day on our prison system, and so I can very well understand Senator Cook's intention in attempting to recoup some of the

funding that we -- we have to do for those people who are in college -- who are in prison.

However, I would just like to remind Senator Cook, Mr. President, that it is my understanding that the average prisoner - the reading level of the average prisoner is about the third grade, perhaps the fifth, on the high end.

And we have 65,000 people. That's the size of -- that's much larger than the size of most school districts in our state, and I believe it was last week at the Corrections -- the budget hearing on the Department of Corrections where Commissioner Coughlin himself has stated that we need a marshall plan to deal with crime and to try and address, according to him, young people before they enter the prisons, so we need to talk about education and improving our systems and housing and services to young people, youth programs, and what have you. That is according to our own Corrections Commissioner. It is his statement to us that we can no longer afford a costly

prison system that we keep escalating, while at the same time we keep seeing an increase in crime. Citizens of New York State are not any safer.

Now, Senator Cook wants to recoup money from these students -- these inmates who are students. The fact of the matter is, we're doing ourselves a big favor because if we're able to take what I understand to be a lifer or long termer -- and I get mail from people who say they're long termers. I suppose those are the ones who are primarily in these college courses, and they tell me how they've been - they've taken classes. They've gotten their GED and they've gotten their certificate in this and that. They've been to literacy classes. They join organizations within the prisons. They take classes wherever they are, in community colleges, some of them in four-year colleges. They get degrees, and they're now hopefully going to come back to society as a whole person not as the same person that they -- that they were when they went in, and it is my hope -

I have a prison release program in my district which I'm proud to say is very successful. Those people are being integrated back into society. I'm happy that they are not the same people that they were when they went in, and that program is there because we want to change the lives of people, and it is my assumption that when New York State decided that it would entertain providing higher education for inmates, that we, at that point in time, decided that we wanted to rehabilitate people and we wanted to change them and we wanted to, hopefully, be sure that they were different when they came out than when they went in.

So what is this business about collecting money when they come out in six months? And do you want to know what happens, Senator, to students who have loans and they can't pay them? Their credit is ruined forever, and it's not the students primarily who attend four-year schools. It's students who come out, they're poor to begin with, they go to a bad school, they don't get a certificate, they don't

complete their work, they can't complete their work, when they come out, they can't get a job and their credit is ruined forever, so they're forever -- they will forever be in poverty.

So, I would just like to ask and urge, Senator Cook, to think it through. What is the purpose to begin with of us having students -- having inmates go to college? And what does it benefit us? Is this -- you say in your -- in your memo that it would be a significant savings, but you've never been able to say exactly what that savings is, and I don't know what you're even talking about when you say tuition, because no student pays the entire cost of tuition in the state of New York. So what will we be charging inmates? What will that amount to, and how in the world will they be able to begin paying it back in six months if they're not -- if they're not yet settled, working and productive citizens?

So, Senator Cook, I understand the intent, what -- you know, your anxiety about spending this money, but I have another kind of

anxiety, and that is, until we are willing to put the money up front, on the front end, which we are not, we're very happy to spend $9 million a day on a prison system, but we will not spend any money on youth programs and, until we're ready to do that, I don't want to penalize prisoners; I want to educate them. I want them to be different when they come out of prison than when they go in, and I want them to be hopefully better citizens, and I want them hopefully not to go back in and I would like to reduce the prison population, and I believe this is one of the ways of reducing that population and reducing it in a way that makes our communities and neighborhoods safer and while, at the same time, giving those -- those prisoners an opportunity to improve themselves.

So, I'm going to vote no against this bill because I think that it goes in the wrong direction and if -- if Senator Cook were -- Mr. President, if Senator Cook were looking to reduce our Corrections and prison costs in the state, I think that he would be looking at

other ways of doing that, more genuine ways in terms of reducing cost and not hurting us, such as alternative sentencing and that sort of thing, but not to take away this program which is so vital to inmates.

I vote no. We're not voting yet, are we? I'm going to vote no. Thank you.

ACTING PRESIDENT SPANO: Senator Gold.

SENATOR GOLD: Mr. President, I think there's a reason why Senator Cook has not bothered to get the numbers as to what it's actually going to save, and I don't say that in any nasty way, Senator Cook. I think the significance of your bill, as many people see it, is not the cost at all, but it's a social statement. I've heard a couple of people say that people go to school, they're not in jail and have to repay loans, and they're good guys we forget about. We don't take care of them and why should a guy have to throw a brick through a window to get a college education, and that's what this bill is about. It's making a social

statement. I think it's a terrible social statement. I think it's the wrong social statement, but that's what it is.

I'm not going to go spend hours on history, but there's not one person in this room that hasn't seen some of the old movies, "The Count of Monte Cristo", and you want to go back. You put somebody in there. You throw some food in a few times day. You don't care what happens. They shave, they smell, they die.

Well, we've made social decisions that come past that. We've made social decisions that say that it's better for society if we have a school system and educate our system. It's better for society if we have senior centers. It's good for society if we spend money to make sure that Lake Cayuga is operating right and that the parks are good, and we also made social statements that say that if we rehabilitate people who are in jail, at least those who are rehabilitatable, that we're doing something significant for society.

Now, nobody that I know of has come to this floor and preached that everybody who commits a crime can be rehabilitated, and that, if we only had the perfect rehabilitation system, that we would have people come out of our jails ready to be altar boys. I mean, now, please. But if you want to talk about rehabilitation, at least talk about rehabilitating people who are those that are rehabilitatable because there is a socially significant result if we do that and, therefore, this bill is not only going in the wrong direction but a lot of the arguments I hear are just unrealistic. They're just unrealistic arguments. Somebody does something wrong? Fine, we have punishments set out for that and, then, many people feel that ought to kind of be the end of it.

On the other side of the coin, you get a year in jail if you have a gun illegally, unless you're a rock star at the airport. Then you don't go to jail. Or if you happen to be a vigilante on the street and the

two guys you killed you say tried to hold you up, then we don't put you in jail. Well, maybe everybody ought to be a vigilante.

People who are in jail are there for a good reason. They got sentenced, and that's fine. But now you take the next step. We've had programs in the jail where we've wasted Republican taxpayer money, Democratic taxpayer money, all of our taxpayers' money, teaching people how to do work on cars and be auto mechanics. Unfortunately, they learn how to fix cars that are 30 years old and then they come out of jail and they're unemployable. Well, I hope we passed that scandal about ten years ago.

We've had a couple programs. We taught people some kind of work where they could do -- fix sewing machines. Well, at one point they were fixing sewing machines that nobody used anymore.. I think we figured that one out and maybe come a little ways there. But if somebody who, I grant you, has violated the law, has the intellectual capacity to do some college

work, come out and, then, in fact, become a taxpaying member of society with a decent job, why is that not paying back the state rather than being caught up in the -- in the welfare mess and the criminal mess, et cetera, et cetera.

Now, how do you answer that farm boy or that very decent young man or woman in upstate New York or even in the City who never violated the law and who finds it difficult? Not easily, because what we're talking about here is trying to put together a body of law that sets forth a social scheme that is in the best interests of society, and every time we do something it doesn't mean that it's going to be easy to explain it to this one or that one or the other one. We just have to know that what we're trying to do is right and in the best interests of everybody.

When we started charging tuition at City University in New York, I know I was very upset and I know many people on the other side of the aisle were very upset. It had been

a free university system. It was one of the most significant things that we were able to do for our young people, is not only bring them to a really fine elementary and high school system of free public education in New York City, but also bring them on -- those who are more talented into City University, and the time came where we had to charge for that and I understand that.

But what you're talking about here is such a minute amount of money in the scheme of things that the only reason the bill is before us and the only significance of the bill is not financial; it is social and that's why I got to vote against the bill. That is the reason for it, because while Senator Cook is not a mean-spirited person, and I'll take off my jacket to fight to defend you on that one, Senator Cook, the bill is mean spirited because what the bill is saying is that it's taking a portion of our young people and setting them off against others and the ones that they're being set off against are easy targets because they're

in jail. They're easy targets.

But I'll tell you, Senator Cook, for what it costs us for one of these young people in jail to get that education, if they don't commit other crimes, if they do become taxpaying members to society, we've gotten our bang for the buck. There's no doubt about it. We've gotten what we paid for and we ought to be thrilled about it.

And if the only thing we can say negative about that program is that there's a farm boy or girl or whatever who can't get the education without repaying a loan, I can't answer that. That's -- maybe we just have to take care of them too and maybe take some park money -- but I guess the park money is good too. Maybe we're not dealing with our budgets properly, but I don't think the answer is setting off one against the other, and I think the social policy that the bill talks about is not good social policy.

ACTING PRESIDENT SPANO: Senator Dollinger.

SENATOR DOLLINGER: Thank you, Mr. President. In the wake of some of the comments here, I felt compelled to just address one issue. I guess, Mr. Chairman, I agree with my colleagues, Senator Gold and Senator Montgomery. This bill really depends on your perspective. I guess from the other side of the aisle, what I hear you saying is that prison is this wonderful place to go, free food, free exercise, free education. We'll even give you a free friend, somebody who follows you around all the time with a big set of keys on their belt and probably with a club in their hand or a weapon in their hand and they'll follow you wherever you go. That's a wonderful thing to do. It's all free, entirely free, except, of course, there's one other thing. You can't leave. You got to get up when you're told. You got to leave your room when you're told. The doors clang shut.

I submit, my colleagues, what we're doing is, this is a system in which we punish people by taking away their liberty. We

don't let them go freely out in society. That's the way we punish them, but once we do that we have another approach, which is to rehabilitate that person, because the purpose of the Penal Law passed by this body, if you look at it carefully in Section 1 of the New York State Penal Law, is not only to punish those who commit crimes but to rehabilitate them as well.

So what do we do to rehabilitate them? We provide them, I guess, with all those services that the other side of the aisle sees as free services, by providing them counseling, by providing them drug treatment, by providing them with education. All those services that they get for free simply because they're in the prison system.

I submit, Mr. President, that what we ought to do is recognize that by taking away their liberty, their ability to come and go as they please, we're punishing them enough, and what we ought to do, as Senator Gold said and Senator Montgomery said, is to keep the spirit of rehabilitation alive, to try to give them as

much as we can so that they become productive citizens. They can become future taxpayers. They can get out and avoid recidivism and become full members of our society.

I submit and I concur with Senator Gold, it's not only mean spirited, but it comes from the wrong perspective of what prison is. It's not a free place to go for a vacation. It's a place in which we incarcerate people who are dangerous and we hope, with the assistance of taxpayer money for what's needed, education, drug treatment, counseling, we will get them into a position where they will be able to be free and productive members of our society.

I will again vote -- as I said earlier, Mr. President, I will vote no. We're just dealing with the wrong perceptions.

ACTING PRESIDENT SPANO: Senator Espada.

SENATOR ESPADA: Thank you, Mr. President.

I think the order of things, I

think would have me agree with Senator DeFrancisco, that, in fact, this is a rather perplexing kind of dialogue we're having but not surprising because it does, Senator Dollinger, have to do with perspective, but it more has to do with a routine that we've gotten into that has more to do with philosophical doctrines than an individual perspective because it isn't about mean-spirited individuals.

I -- I am here for the second session and I haven't met too many mean-spirited individuals in either house. The fact of the matter is that we have the big divide here.

Every time we look at poor people on welfare, we choose to look at fingerprinting machines, how to take their picture so they won't defraud the franchise, maybe, that they fought so hard to get, that maybe once upon a time were barred -- constitutionally barred from voting.

When we look at prisons, we don't necessarily look at the origins of those prisoners. Unfortunately, we know that they

come from six or seven Assembly districts, mostly in New York City.

So, I am not surprised but I am disappointed that you are adept at this kind of dialogue because it is wholly unproductive. We've seen that time and time again. We have a fixation on superficiality of the issue and not the real guts of the matter.

I don't think that there would be any prisoners that would mind paying multiple tuition and being with their children and wives, building communities. It is ironic that we say that the only social benefit of this legislation is that it would create an even playing field. For whom and for what? Who has senators here to create even playing fields? Is it for the students -- the middle income students, the working parents that have to pay tuition?

Senator Dollinger, I'm already paying tuition for a 20-year-old. I would like an even playing field but this doesn't provide it because, if it did, this would be some savings that will accrue to people like me and

you in our communities. Give me some dollars, we will save $20 million. Then perhaps you will get some attention from hard working, middle income people that want an even playing field.

But the fact of the matter is that there are no significant savings and that, in fact, who are fixated by punishing people who are already getting punished by law, doing their time. It is unfortunate that you get a Mike Tyson going to jail, functionally illiterate and learning how to read in jail, he can probably pay you back in some fashion, but what about all those other people that we've sent to jail, totally illiterate, that pick up the Koran or pick up the Bible for the first time and start to read -- and start to read about their culture? Do you really think they come back to their communities after being in those hellholes, in the dark, reading, to come back to the community and rip you off?

So, Senator, the message that we would send here today if this would pass is that, yes, that we didn't recognize their work

while in jail, and, in fact, maybe we did, because there's cynical minds out there that said maybe we did. Maybe we don't want them to do so well and maybe we really want them to come back so they can go back in.

The recidivism rates being what they are, we have as an unintentioned, perhaps, result of this legislation, paved the way for people that do achieve something in jail to come back out only to get back in because we've provided them with no hope and no support system on the outside except more debt.

I vote no and encourage all people really concerned with dealing with the causal issues of why people end up in jail in the first place to vote no.

ACTING PRESIDENT SPANO: Senator stiff stiff stiff stiff, I ask those of you who are inclined to vote for this piece of legislation, do not feel sorry for the incarcerated; feel concerned about the rest of society, the people who will be victimized by those who have been sent to jail and who will

learn what, how to snatch a pocketbook, how to steal your car, how to rob a bank, how to merchandise drugs? What skills will they pick up in prison? There isn't a big employment opportunity for making license plates in the civilian market. If everybody who's in jail could be guaranteed a job making license plates when they're released from prison, then they will have learned something. But what are the skills they're going to pick up in jail? What will they have when they are released from prison, except more of the same. They can make a lot of money stealing cars. 168,000 of your constituents' -- and sometimes members of the Legislature are included -- have had their cars stolen a year ago. 168,000.

I'll tell you the cost. Two-thirds of a billion dollars that the constituents of yours and the insurance companies had to shell out because there are people whose skills do not go beyond stealing cars. It's a low risk, high profit field, where you get a $10,000 car and there aren't too many

cars that are available for $10,000 -- will bring $38,000 on the illegal market.

They'll get a wonderful, wonderful opportunity to hone their skills in car theft or in burglary or in knocking down an elderly person and stealing a wallet or a purse, but what are the skills they're going to pick up? Think about what you are preparing these inmates for in life after prison, and ask yourself if there is the slightest possibility that we can teach them something more productive and lawful for our benefit, for the benefit of your constituents, not necessarily for your benefit. View the opportunity for an education to be some protection for your community and not a protection or a benefit for the inmate. Of course, the inmate will learn something, maybe. I hope they learn more than those people who sit through classes in school and simply want that diploma or that degree at the end but are not bent upon learning anything.

The inmates are not going to have any distraction. They will have unlimited time

to study. They're not going to go out on a wild drinking party or a drug party unless it's being circulated within the facility, so they will have unlimited time to learn, to study, to pick up some positive skills, and I want you to be as mean spirited as you are or want to be with regard to punishing the wrongdoer. You will be punishing the wrongdoer by making that individual, perhaps a rightdoer, by picking up some skills.

We're playing with ideology here. We're playing with news releases. We're playing with mailings to constituents who want us to sock it to the criminal. Sock it to the criminal. Send them to jail for every year and every month to which they should be sent to jail, but when they're there, give them something that will enable them to get out of the cycle of recidivism, because they're going to be back. They'll be back the moment they get out of jail.

Let me ask you. Where are you going to get the money to pay off the cost of

the education? They're not being hired by prestigious law firms or accounting firms or financial institutions. There are no jobs waiting for them. Where will they get the loan to pay off the tuition? Do they have to steal again? Do they have to rob and rape your constituents in order to pay off the cost of the tuition? Where do they get the money? There aren't jobs for people who have never gone to prison. Where would these former inmates find jobs waiting for them that will give them enough money to go straight and to pay off educational loans?

We have in this country default -- default by people who have taken student loans and have not had criminal records and have become doctors and other professionals, and they have not paid off their student loans. Why don't we go after some of these people who are earning sufficient money to repay the cost of their education, but these people in many cases will remain the dregs of the underclass because there won't be jobs waiting for them unless we

make it possible for them to inquire acquire a skill that will permit them to go to work and receive a paycheck.

Be as conservative as you can. Be reactionary, if you wish, but voting against this bill will be in keeping with the most conservative members of this legislature ideology, because you don't want to cause - cause them to go into a new life of crime when they have completed their old life of crime in order to repay what we're asking them to do here. If they are working, it's one thing. Don't hold your breath waiting for an inmate, for all of the inmates receive an education to get well-paying jobs.

I hope you will reconsider and, for a change, give this bill a no vote rather than yes vote.

ACTING PRESIDENT SPANO: 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.

SENATOR GOLD: Slow roll call.

ACTING PRESIDENT SPANO: Slow roll call has been asked for.

Sergeant-at-Arms, please get the members into the chamber.

Secretary will call the slow roll call.

THE SECRETARY: Senator Babbush, excused.

Senator Bruno.

SENATOR BRUNO: Yes.

THE SECRETARY: Senator Connor.

(There was no response.)

Senator Cook.

SENATOR COOK: Yes.

THE SECRETARY: Senator Daly.

SENATOR DALY: Yes.

THE SECRETARY: Senator DeFrancisco.

SENATOR DE FRANCISCO: Yes.

THE SECRETARY: Senator DiCarlo.

SENATOR DiCARLO: Yes.

THE SECRETARY: Senator Dollinger.

SENATOR DOLLINGER: No.

THE SECRETARY: Senator Espada.

SENATOR ESPADA: No.

THE SECRETARY: Senator Farley.

SENATOR FARLEY: Aye.

THE SECRETARY: Senator Galiber.

(There was no response.)

Senator Gold.

(There was no response.)

Senator Gonzalez.

(There was no response.)

Senator Goodman.

(There was no response.)

Senator Hannon.

(There was no response.)

Senator Hoffmann.

(There was no response.)

Senator Holland.

SENATOR HOLLAND: Yes.

THE SECRETARY: Senator Johnson.

(There was no response.)

Senator Jones.
(There was no response.)
Senator Kuhl.
(There was no response.)
Senator Lack.
SENATOR LACK: Aye.
THE SECRETARY: Senator Larkin.
SENATOR LARKIN: Aye.
THE SECRETARY: Senator LaValle.
SENATOR LAVALLE: Aye.
THE SECRETARY: Senator Leichter, excused.
THE SECRETARY: Senator Levy.
(There was no response.)
Senator Libous.
SENATOR LIBOUS: Aye.
THE SECRETARY: Senator Maltese.
(There was no response.)
Senator Marchi.
SENATOR MARCHI: Aye.
THE SECRETARY: Senator Marino, aye.
Senator Markowitz.

SENATOR MARKOWITZ: No.

Senator Mendez, excused.

THE SECRETARY: Senator Montgomery.

SENATOR MONTGOMERY: No.

THE SECRETARY: Senator Nolan.

SENATOR NOLAN: No.

THE SECRETARY: Senator Nozzolio.

SENATOR NOZZOLIO: Aye.

THE SECRETARY: Senator Ohrenstein, no.

Senator Onorato.

SENATOR ONORATO: May I have my name called, Mr. President, to explain my vote?

ACTING PRESIDENT SPANO: Senator Onorato to explain his vote.

SENATOR ONORATO: Mr. President, I discussed this bill in committee, and I agree with the -- with the concept of it, but I ask the sponsor of the bill to lay it aside for an amendment, and the amendment would have been a very, very simple factor. All it would have required was that the exact concept be addressed

provided, of course, the prisoner, when he comes out with his college education is gainfully employed and is capable of making the payment, because as we all know, the job market is not all that great, especially for a prisoner and a six-month period of time to repay that loan is real -- unrealistic but, again, I continue to urge the sponsor to lay this bill aside and put that proviso in that they be gainfully employed and I'm sure you're going to get a lot more support on this side of the aisle.

Under these circumstances, I will -- under the current bill, I vote no.

ACTING PRESIDENT SPANO: Senator Onorato in the negative.

Continue the roll.

THE SECRETARY: Senator Oppenheimer.

SENATOR OPPENHEIMER: Yes.

THE SECRETARY: Senator Padavan.

SENATOR PADAVAN: Yes.

THE SECRETARY: Senator Pataki.

(There was no response.)

Senator Paterson, excused.

Senator Present.

SENATOR PRESENT: Yes.

THE SECRETARY: Senator Rath.

(There was no response.)

Senator Saland.

ACTING PRESIDENT SPANO: Senator Saland, to explain his vote.

SENATOR SALAND: Mr. President, during the course of this debate, I have been in and out of the chamber attending to several matters, and I have had the opportunity, however, to hear a significant portion of the debate, and I have -- I'm somewhat perplexed by the tenor of the comments I've heard.

I think Senator Cook has crafted, very carefully crafted a bill that basically attempts to provide equity, a bill that attempts to, on the one hand, not deny the opportunity for someone to receive a college education. He's merely addressing the issue of the cost of that college education, and what he's, in effect, saying people who receive a college

education while they're serving time in our prisons should not be treated any differently than anybody else who, in effect, is being subsidized by way of a loan program, and I find that to be certainly, from his perspective very, very equitable. In fact, I've proposed, by way of legislation, to perhaps be even less equitable than that.

I commend him for attempting to address a problem that probably means somewhere in the area of about $5 million a year in expenses to the people of the state of New York. You're probably talking several thousand inmates, as many as 5,000, who avail themselves during the course of a year to this type of a program. I'm at a loss to comprehend why someone would not want to require that in some reasonable fashion, those monies not be repaid to the people of the state of New York.

I would think on the one hand, those who are serving time and who have received the benefit of an education should certainly greatly appreciate that they've had that

opportunity, should certainly greatly appreciate the fact that they've received a subsidized education at the expense of the taxpayers and certainly having found their lot improved, which I think would be safe to conclude, should not begrudge those very same taxpayers the opportunity to be reimbursed for their hard earned dollars.

Mr. Speaker, I thank Senator Cook -- Mr. President, I thank Senator Cook for bringing this bill out to the floor. I betrayed my roots again -- and commend him for doing so and certainly support this measure. I vote aye, Mr. President.

ACTING PRESIDENT SPANO: Senator Saland in the affirmative.

THE SECRETARY: Senator Santiago.

(There was no response.)

Senator Sears.

(There was no response.)

Senator Seward.

SENATOR SEWARD: Yes.

THE SECRETARY: Senator Skelos.

SENATOR SKELOS: Yes.
THE SECRETARY: Senator Smith.
SENATOR SMITH: No.
THE SECRETARY: Senator Solomon.
(There was no response.)
Senator Spano.
(There was no response.)
Senator Stachowski.
(There was no response.)
Senator Stafford.
(There was no response.)
Senator Stavisky.
(There was no response.)
THE SECRETARY: Senator Trunzo.
SENATOR TRUNZO: Yes.
THE SECRETARY: Senator Tully.
SENATOR TULLY: Aye.
THE SECRETARY: Senator Velella.
SENATOR VELELLA: Yes.
THE SECRETARY: Senator Volker.
SENATOR VOLKER: Yes.
THE SECRETARY: Senator Waldon.
(There was no response.)

Senator Wright.

(There was no response.)

ACTING PRESIDENT SPANO:

Secretary will call the absentees.

THE SECRETARY: Senator Galiber.

(There was no response.)

Senator Gold.

(There was no response.)

Senator Gonzalez.

(There was no response.)

Senator Hannon.

SENATOR HANNON: Yes.

THE SECRETARY: Senator Hoffmann.

SENATOR HOFFMANN: Yes.

THE SECRETARY: Senator Johnson.

SENATOR JOHNSON: Aye.

THE SECRETARY: Senator Kuhl.

(There was no response.)

Senator Levy.

SENATOR LEVY: Aye.

THE SECRETARY: Senator Maltese.

(There was no response.)

Senator Pataki.

SENATOR PATAKI: Yes.

THE SECRETARY: Senator Rath.

(There was no response.)

Senator Santiago.

(There was no response.)

Senator Sears.

(There was no response.)

Senator Solomon.

(There was no response.)

Senator Stafford.

(There was no response.)

Senator Wright.

(There was no response.)

ACTING PRESIDENT SPANO: Results.

THE SECRETARY: Ayes 33, nays 11.

ACTING PRESIDENT SPANO: The bill is passed.

THE SECRETARY: On page 88, Calendar Number 124, by Senator Marino, Senate Bill Number 6397, proposing amendment to the Constitution, in relation to filling a vacancy in the office of Comptroller and Attorney General.

SENATOR CONNOR: Explanation.

ACTING PRESIDENT SPANO: Explanation has been asked for, Senator Skelos.

SENATOR SKELOS: Senator Connor, this legislation which has been proposed by Senator Marino and sponsored by 35 senators, would provide a mechanism by which a special election could be held for the election of Comptroller or Attorney General, should a vacancy occur prior to April 1st of the fourth year of their term.

ACTING PRESIDENT SPANO: Senator Connor.

SENATOR CONNOR: Yes, Mr. President. I have hostile amendment that I would like to call up now. I'll waive its reading and explain it.

ACTING PRESIDENT SPANO: Senator Connor, on the amendment.

SENATOR CONNOR: This addresses what I think is just -- it must be an oversight on Senator Marino's resolution. Let me say, I support the concept and I think most of us here

do, of letting the people elect the important statewide officers, and I know the genesis for this proposal was last year when first the Comptroller's Office became vacant and, you know, while there were editorials and people who said, "Gee whiz, look at these offices becoming vacant; why not have an election." Obviously we had to follow the only Constitution we have and that's the one that's in effect now, and that's what we did, but in principle, I really do support this resolution, but Senator Marino forgot one other statewide office.

I think we should include in here vacancies in the office of Lieutenant Governor, and I think when that office becomes vacant as we saw not so many years ago, the Lieutenant Governorship was vacant for nearly three years, and the burden of acting as Lieutenant Governor and standing a heartbeat away from the Governorship fell then to our Majority Leader, Senator Anderson, and I really think, and my amendment would add to this resolution, and I think we can all support it, the office of

Lieutenant Governor, so that if there should be a vacancy in that office, either because there's a vacancy due to the resignation, death or removal of a Lieutenant Governor or similarly a resignation, death or removal from the state of a Governor whereby the Lieutenant Governor would succeed to the Governorship, in either of those events, the net result would be a vacancy in the office of Lieutenant Governor, and without including in this Constitutional Amendment, that office of the Lieutenant Governor, the Majority Leader, the Temporary President of the Senate would not become Lieutenant Governor, but would rather be, in effect, acting or next in line to the Governorship. Again, someone not elected by all of the people of the state would be in line for succeeding to the highest office in the state.

So I think the very principle that motivates Senator Marino to put forward this idea that we shouldn't have an Attorney General or we shouldn't have a Comptroller, if at all possible, and I accept, you know, the

limitations in here, within 60 days of a general election. Obviously it's not practical to have a special election, but in the first three years of a term it is, and that very principle that motivates Senator Marino to put forth this enlightened amendment to our constitution also applies to the office of Lieutenant Governor.

We ought not have someone in line to succeed to the Governorship of the state who is not elected by the people of the state. If we can at all prevent that, and my amendment would prevent that, and I know there will be those who will say, "Oh, but the Majority leader of the Senate is elected by a majority of the peoples' representatives in this house" but, of course, the same thing can apply to the present system on Attorney General or Comptroller or under the present Constitution, a majority of the peoples' representatives in the Legislature.

ACTING PRESIDENT SPANO: Senator Skelos.

SENATOR SKELOS: Just maybe my

vision is not doing me well as I approach my 46th birthday. Could you tell me where your amendment discuss the office of -

SENATOR CONNOR: Which amendment did you put in?

SENATOR SKELOS: Lieutenant Governor?

SENATOR CONNOR: The one from last year. The other thing I would do is, of course -- I had two amendments last year. I said put in last year's amendments. The other thing, of course, pointing out that oversight about Lieutenant Governor under -- under the resolution as proposed, because our special elections scheme requires the Governor to call a special election on 30 to 45 days notice. We don't have primaries; therefore, this resolution would empower the party leaders, the leaders of the five parties to select the candidates in this statewide special election. It would put perhaps a major party at the mercy of a minor party, and a minor party's leader.

Now, I don't think under those

circumstances, for example, the Republican party ought to have to be beholden to the chair for -- Grady of the Conservative Party who can stand back and say, "You take my candidate or I'm going to run my own candidate and sink your party." That's what could happen under this resolution, nor should the other major party be hostage to one of the smaller parties.

The solution in my amendment is to allow sufficient time during the special election process that there could be an open statewide primary election followed by a statewide special election, and this would remedy that -- you understand under our election law, the party bosses, the party leaders would simply pick these candidates, so now what we do is instead of having the Attorney General and the Comptroller selected by the peoples' representatives in the Legislature, they would, in effect, be selected, certainly the four or five people who could get the play, would be selected by party leaders.

A very, very bad system, and one

that, while theoretically independents could run, they would have 12 days to gather 10,000 signatures, 15,000 signatures, statewide, to get on the ballot as an independent. I don't think we ought to cut off independents and I certainly don't think we ought to cut off the major parties from having primaries and I don't think we ought to leave the major parties hostage to smaller parties. That's just not a good system and it's doomed to failure, Mr. President, doomed to failure in the modern political process, so I would urge my amendment.

ACTING PRESIDENT SPANO: Questions on the amendment.

Senator Dollinger.

SENATOR DOLLINGER: Could the sponsor yhield to one question, Mr. President?

ACTING PRESIDENT SPANO: Senator Connor, would you yield to a question?

SENATOR CONNOR: Certainly.

SENATOR DOLLINGER: Does your amendment provide for a join ballot or a concurrent resolution for the election of these

-- of that position and these positions?

SENATOR CONNOR: No, no no, no. My amendment -- Senator Marino's proposal is to have a statewide special election. My amendment would provide for a statewide primary for each political party as well as a subsequent special election.

SENATOR DOLLINGER: Okay. So the amendment does not address the issue of either joint ballot or concurrent resolution.

SENATOR CONNOR: No, the whole - under either proposal, we would take it away from the Legislature.

SENATOR SKELOS: I don't want to really explain your amendment, but under the amendment, there would be a joint ballot for the selection of a temporary Comptroller or Attorney General by the Legislature rather than a concurrent resolution.

SENATOR CONNOR: Correct. In only those limited cases where the time -- time lapses between the vacancy and the next election allowed not for the election of the office but a

temporary one until the next election under those limited circumstances.

ACTING PRESIDENT SPANO: Questions on the amendment. All those in favor signify by saying aye.

(Response of "Aye.")

Opposed, nay.

(Response of "Nay.")

In the opinion of the Chair, the nays have it. The amendment is defeated. Read the last section.

Senator Dollinger.

SENATOR DOLLINGER: Mr. President, could I ask the sponsor, Senator one question on the -

ACTING PRESIDENT SPANO: Senator, would you yield to a question.

SENATOR DOLLINGER: Just so I make sure I understand this. The proposal before the house is to provide by concurrent resolution, approved by a majority of each house, is that correct?

SENATOR SKELOS: Under the

legislation that we have, there would be a special election called within not less than 30 days, no more than 40 days, from the date the Governor proclaims that there should be a special election, so there is -- if the vacancy occurs after April 1st of the fourth year, then there would be a concurrent resolution to select the Comptroller until the next -- well, until January 1st of the following year, I believe it is.

SENATOR DOLLINGER: Just so I understand it again, Mr. President, since I'm somewhat of a newcomer, that would a deviation from the current practice which would require joint ballot to fill that -- in that April 1st to the end of the term time frame. Okay.

ACTING PRESIDENT SPANO: On the resolution, the Secretary will call the roll.

(The Secretary called the roll.)

THE SECRETARY: Those recorded in the negative on Calendar Number 124 are Senators Connor, Dollinger, Espada, Gold, Markowitz, Montgomery, Ohrenstein, Onorato, Smith, Stavisky

and Waldon. Ayes 43, nays 11.

ACTING PRESIDENT SPANO: The resolution is adopted.

Senator Maltese.

SENATOR MALTESE: Mr. President, I was away on Senate business when the vote on Calendar Number 119, Senate Print 2754, was taken. I would like the record to reflect that had I been present in the chamber, I would have voted in the affirmative.

ACTING PRESIDENT SPANO: The record will so indicate.

SENATOR MALTESE: Thank you.

ACTING PRESIDENT SPANO: Senator Connor.

SENATOR CONNOR: Mr. President, on behalf of Senator Nolan, I move that the following bills be discharged from their respective committees and be recommitted with instructions to strike of the enacting clause, Senate Print number 2949-A.

ACTING PRESIDENT SPANO: Without objection.

Secretary will read Calendar Number 130.

THE SECRETARY: Calendar Number 130, by Senator Stafford, Senate Bill 438, an act to amend the Real Property Tax Law.

SENATOR PRESENT: Lay it aside.

ACTING PRESIDENT SPANO: Lay it aside.

THE SECRETARY: Calendar Number 142, by Senator Tully, Senate Bill Number 6327, an act to amend the General Municipal Law, in relation to Life Care communities.

ACTING PRESIDENT SPANO: Read the last section.

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

ACTING SENATOR SPANO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 54.

ACTING PRESIDENT SPANO: The bill is passed.

That completes the controversial

calendar.

Senator Present.

SENATOR PRESENT: Hold it a minute.

ACTING PRESIDENT SPANO: Senator Rath.

SENATOR RATH: Yes, Mr. President. I was away on Senate business when the vote was taken -- on Calendar Number 119, Senate Print 2754 was taken. I would like to be recorded -- have the record to reflect that, had I been here, I would have voted in the affirmative on Calendar Number 119. Thank you.

ACTING PRESIDENT SPANO: The record will so indicate.

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 SPANO: The Senate will stand adjourned until tomorrow at 3:00 p.m.

(Whereupon, at 5:05 p.m., the

Senate adjourned.)