ALBANY, NEW YORK

June 3, 1997

12:05 p.m.

REGULAR SESSION

LT. GOVERNOR BETSY McCAUGHEY ROSS, President

STEPHEN F. SLOAN, Secretary

P R O C E E D I N G S

THE PRESIDENT: The Senate will come to order. Would you please rise and join with me in the Pledge of Allegiance.

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

May we bow our heads in a moment of silence.

(A moment of silence was observed.)

The reading of the Journal, please.

THE SECRETARY: In Senate, Monday, June 2nd. The Senate met pursuant to adjournment. The Journal of Friday, May 30th, was read and approved. On motion, the Senate adjourned.

THE PRESIDENT: Without objection, the Journal stands approved as read.

Presentation of petitions.

Messages from the Assembly.

Messages from the Governor.

Reports of standing committees.

Senator Marcellino.

SENATOR MARCELLINO: On behalf of

Senator Marchi, Madam President, please place a sponsor's star on Calendar Number 1041 and, Madam President, on page number 28, I offer the following amendments to Calendar Number 778, Assembly Print Number 7700, and ask that said bill retain its place on the Third Reading Calendar.

THE PRESIDENT: The bill is starred. The amendments are received.

Thank you.

Senator Skelos.

SENATOR SKELOS: Madam President, there will be an immediate meeting of the Energy Committee in the Majority Conference Room.

THE PRESIDENT: There will be an immediate meeting of the Energy Committee in the Majority Conference Room.

Senator Skelos.

SENATOR SKELOS: If we could take up the non-controversial calendar.

ACTING PRESIDENT MARCELLINO: The Secretary will read.

THE SECRETARY: Calendar Number 377, by Senator Nozzolio, Senate Print 177-C, an act to amend the Executive Law and others, in

relation -

SENATOR PATERSON: Lay it aside.

ACTING PRESIDENT MARCELLINO: Lay the bill aside.

THE SECRETARY: Calendar Number 684, by Senator Padavan, Senate Print 3084, an act to amend the Agriculture and Markets Law, in relation to spectators.

ACTING PRESIDENT MARCELLINO: Read the last section.

THE SECRETARY: Section 2. This act shall take effect on the first day of November.

ACTING PRESIDENT MARCELLINO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 38.

ACTING PRESIDENT MARCELLINO: The bill is passed.

THE SECRETARY: Calendar Number 729, by Senator Skelos, Senate Print 339, an act to amend the Education Law, in relation to drug testing of certain pupils.

ACTING PRESIDENT MARCELLINO: Read the last section.

THE SECRETARY: Section 2. This act shall take effect in 180 days.

ACTING PRESIDENT MARCELLINO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 39.

ACTING PRESIDENT MARCELLINO: The bill is passed.

THE SECRETARY: Calendar Number 766, by Senator Tully, Senate Print 1905, an act to amend the Public Health Law, in relation to eliminating review.

ACTING PRESIDENT MARCELLINO: Read the last section.

THE SECRETARY: Section 7. This act shall take effect immediately.

ACTING PRESIDENT MARCELLINO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 39.

ACTING PRESIDENT MARCELLINO: The bill is passed.

THE SECRETARY: Calendar Number 786, by Senator Kuhl, Senate Print 4013, an act to amend the State Finance Law, in relation to

eligibility of farm credit system institutions.

ACTING PRESIDENT MARCELLINO: Read the last section.

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

ACTING PRESIDENT MARCELLINO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 39.

ACTING PRESIDENT MARCELLINO: The bill is passed.

THE SECRETARY: Calendar Number 798, by Senator LaValle, Senate Print 4105, an act to legalize, certify and confirm the acts of the Eastport Union Free School District.

ACTING PRESIDENT MARCELLINO: Read the last section. There is a local fiscal impact statement on file.

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

ACTING PRESIDENT MARCELLINO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 39.

ACTING PRESIDENT MARCELLINO: The

bill is passed.

THE SECRETARY: Calendar Number 848, by Senator Rath, Senate Print 4852, an act to amend the State Administrative Procedure Act, in relation to public hearings.

ACTING PRESIDENT MARCELLINO: Read the last section.

THE SECRETARY: Section 2. This act shall take effect on the first day of January.

ACTING PRESIDENT MARCELLINO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 39.

ACTING PRESIDENT MARCELLINO: The bill is passed.

THE SECRETARY: Calendar Number 870, by Senator Volker, Senate Print 5180, an act to amend the Penal Law, in relation to establishing the crime of absconding.

ACTING PRESIDENT MARCELLINO: Read the last section.

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

ACTING PRESIDENT MARCELLINO:

Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 39.

ACTING PRESIDENT MARCELLINO: The bill is passed.

THE SECRETARY: Calendar Number 898, by Senator Goodman, Senate Print 4259-A, an act to amend Chapter 674 of the Laws of 1993.

SENATOR PATERSON: Lay it aside, please.

ACTING PRESIDENT MARCELLINO: Lay the bill aside.

THE SECRETARY: Calendar Number 903, by Senator Trunzo, Senate Print 4904-A -

SENATOR SKELOS: Lay it aside for the day at the request of the sponsor.

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

THE SECRETARY: Calendar Number 908, by member of the Assembly Tonko, Assembly Print 6160, an act to amend the Parks, Recreation and Historic Preservation Law.

ACTING PRESIDENT MARCELLINO: Read the last section.

THE SECRETARY: Section 2. This

act shall take effect immediately.

ACTING PRESIDENT MARCELLINO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 40.

ACTING PRESIDENT MARCELLINO: The bill is passed.

THE SECRETARY: Calendar Number 913, by Senator Nozzolio, Senate Print 1965, an act to amend the Executive Law, in relation to appeals to the state Board of Parole.

ACTING PRESIDENT MARCELLINO: Read the last section.

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

ACTING PRESIDENT MARCELLINO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 40.

ACTING PRESIDENT MARCELLINO: The bill is passed.

THE SECRETARY: Calendar Number 915, by Senator Nozzolio, Senate Print 2779, an act to amend the Correction Law, in relation to charging taxes on sales of commissaries and

canteens.

ACTING PRESIDENT MARCELLINO: Call the roll -- I'm sorry. Read the last section.

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

ACTING PRESIDENT MARCELLINO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 41.

ACTING PRESIDENT MARCELLINO: The bill is passed.

THE SECRETARY: Calendar Number 920, by Senator Nozzolio, Senate Print 3429, an act to amend the Correction Law, in relation to requiring inmates to make medical co-payments.

SENATOR PATERSON: Lay it aside, please.

ACTING PRESIDENT MARCELLINO: Lay the bill aside.

THE SECRETARY: Calendar Number 937, by Senator Saland, Senate Print 3423, an act to amend the Family Court Act and the Social Services Law, in relation to notification.

ACTING PRESIDENT MARCELLINO:

Read the last section.

THE SECRETARY: Section 7. This act shall take effect in 90 days.

ACTING PRESIDENT MARCELLINO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 41.

ACTING PRESIDENT MARCELLINO: The bill is passed.

THE SECRETARY: Calendar Number 939, by Senator Saland, Senate Print 3455, an act to amend the Family Court Act, in relation to appointment.

ACTING PRESIDENT MARCELLINO: Read the last section.

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

ACTING PRESIDENT MARCELLINO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 41.

ACTING PRESIDENT MARCELLINO: The bill is passed.

THE SECRETARY: Calendar Number 941, by Senator Saland, Senate Print 4857, an

act to amend the Social Services Law, in relation to authorizing payment.

ACTING PRESIDENT MARCELLINO: Read the last section.

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

ACTING PRESIDENT MARCELLINO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 41.

ACTING PRESIDENT MARCELLINO: The bill is passed.

THE SECRETARY: Calendar Number 944, by Senator Skelos, Senate Print 5149, an act to amend the Domestic Relations Law, in relation to orders.

ACTING PRESIDENT MARCELLINO: Read the last section.

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

ACTING PRESIDENT MARCELLINO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 41.

ACTING PRESIDENT MARCELLINO: The

bill is passed.

THE SECRETARY: Calendar Number 945, by Senator Skelos, Senate Print 5150, an act to amend the Domestic Relations Law, in relation to disinterested persons.

ACTING PRESIDENT MARCELLINO: Read the last section.

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

ACTING PRESIDENT MARCELLINO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 41.

ACTING PRESIDENT MARCELLINO: The bill is passed.

THE SECRETARY: Calendar Number 946, by Senator Saland, Senate Print 5164, an act to amend the Domestic Relations Law, in relation to adoption proceedings.

ACTING PRESIDENT MARCELLINO: Read the last section.

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

ACTING PRESIDENT MARCELLINO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 41.

ACTING PRESIDENT MARCELLINO: The bill is passed.

THE SECRETARY: Calendar Number 956, by Senator Skelos, Senate Print 340, an act to amend the Vehicle and Traffic Law, in relation to the enforcement of handicapped parking regulations.

ACTING PRESIDENT MARCELLINO: Read the last section.

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

ACTING PRESIDENT MARCELLINO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 41.

ACTING PRESIDENT MARCELLINO: The bill is passed.

THE SECRETARY: Calendar Number 971, by member of the Assembly Connelly, Assembly Print 1124, an act in relation to authorizing the Metropolitan Transportation Authority.

ACTING PRESIDENT MARCELLINO:

Read the last section.

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

ACTING PRESIDENT MARCELLINO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 42.

ACTING PRESIDENT MARCELLINO: The bill is passed.

THE SECRETARY: Calendar Number 977, by Senator Kuhl, Senate Print 2089, an act to amend the Vehicle and Traffic Law, in relation to exempting.

SENATOR PATERSON: Lay it aside.

ACTING PRESIDENT MARCELLINO: Lay the bill aside, please.

THE SECRETARY: Calendar Number 981, by Senator Leibell, Senate Print 2694, an act to amend the Vehicle and Traffic Law, in relation to the service charge.

ACTING PRESIDENT MARCELLINO: Read the last -

THE SECRETARY: Section 2. This act shall take effect on the 60th day.

ACTING PRESIDENT MARCELLINO:

Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 42.

ACTING PRESIDENT MARCELLINO: The bill is passed.

Senator Skelos.

SENATOR SKELOS: I believe there are some substitutions at the desk that need to be made, if we could make them at this time.

ACTING PRESIDENT MARCELLINO: The Secretary will read the substitutions.

THE SECRETARY: On page 19, Senator Volker moves to discharge from the Committee on Rules Assembly Bill Number 6780 and substitute it for the identical Third Reading Calendar 567.

And on page 48, Senator LaValle moves to discharge from the Committee on Rules Assembly Bill Number 5357 and substitute it for the identical Third Reading Calendar 1095.

ACTING PRESIDENT MARCELLINO: The substitutions are made.

Continue reading the non controversial calendar.

THE SECRETARY: Calendar Number

994, by Senator Levy, Senate Print 4387, an act to amend the Public Authorities Law, in relation to emergency contracts.

ACTING PRESIDENT MARCELLINO: Read the last section.

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

ACTING PRESIDENT MARCELLINO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 43.

ACTING PRESIDENT MARCELLINO: The bill is passed.

THE SECRETARY: Calendar Number 1030, by member of the Assembly Stringer, Assembly Print 5635, an act to amend the Election Law, in relation to requiring.

ACTING PRESIDENT MARCELLINO: Read the last section.

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

ACTING PRESIDENT MARCELLINO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 44.

ACTING PRESIDENT MARCELLINO: The bill is passed.

THE SECRETARY: Calendar Number 1031, by Senator Present, Senate Print 4511-A, an act -

SENATOR PATERSON: Lay it aside.

ACTING PRESIDENT MARCELLINO: Lay the bill aside, please.

THE SECRETARY: Calendar Number 1043, by Senator Marchi -

SENATOR SKELOS: Star the bill at the request of the sponsor. 1041, are we on?

ACTING PRESIDENT MARCELLINO: 1041 is what we're on, Senator.

SENATOR SKELOS: Star it at the request of the sponsor.

ACTING PRESIDENT MARCELLINO: The bill is starred at the request of the sponsor. I'm sorry.

The Secretary will read 1043. 1041 was previously starred.

THE SECRETARY: Calendar Number -- Calendar Number 1043, by Senator Marchi -

SENATOR PATERSON: Lay it aside.

ACTING PRESIDENT MARCELLINO: Lay

the bill aside.

THE SECRETARY: Calendar Number 1049, by Senator Marchi, Senate Print 4061, an act to amend the Waterfront Commission Act, in relation to empowering.

ACTING PRESIDENT MARCELLINO: Read the last section.

THE SECRETARY: Section 4. This act shall take effect upon enactment into law.

ACTING PRESIDENT MARCELLINO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 44.

ACTING PRESIDENT MARCELLINO: The bill is passed.

THE SECRETARY: Calendar Number 1055, by Senator LaValle, Senate Print 4431, an act to amend the Education Law, in relation to sharing of information.

ACTING PRESIDENT MARCELLINO: Read the last section.

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

ACTING PRESIDENT MARCELLINO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 44.

ACTING PRESIDENT MARCELLINO: The bill is passed.

THE SECRETARY: Calendar Number 1063, by Senator Farley, Senate Print 5124, an act to amend the Banking Law, in relation to prohibited acts by banking institutions.

ACTING PRESIDENT MARCELLINO: Read the last section.

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

ACTING PRESIDENT MARCELLINO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 46.

ACTING PRESIDENT MARCELLINO: The bill is passed.

THE SECRETARY: Calendar Number 1069, by the Assembly Committee on Rules -

SENATOR PATERSON: Lay it aside.

ACTING PRESIDENT MARCELLINO: Lay the bill aside, please.

THE SECRETARY: Calendar Number 1092, by Senator Cook, Senate Print 1158, an act

to amend the General Municipal Law, in relation to establishing the Fallsburg-Liberty-Thompson Industrial Development Agency.

ACTING PRESIDENT MARCELLINO: There is a home rule message at the table.

SENATOR PATERSON: Lay it aside.

ACTING PRESIDENT MARCELLINO: Lay the bill aside, please.

THE SECRETARY: Calendar Number 1093, by Senator Oppenheimer, Senate Print 2871, an act to amend the Vehicle and Traffic Law, in relation to authorizing a residential parking permit system.

ACTING PRESIDENT MARCELLINO: There is a home rule message at the desk. Read the last section.

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

ACTING PRESIDENT MARCELLINO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 46.

ACTING PRESIDENT MARCELLINO: The bill is passed.

THE SECRETARY: Calendar Number

1094, by Senator LaValle, Senate Print 3134, an act to amend the General Municipal Law, in relation to point systems.

ACTING PRESIDENT MARCELLINO: Read the last section.

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

ACTING PRESIDENT MARCELLINO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 46.

ACTING PRESIDENT MARCELLINO: The bill is passed.

THE SECRETARY: Calendar Number 1095, substituted earlier today by member of the Assembly McGee, Assembly Print 5357, an act to amend the Town Law, in relation to the compensation of election inspectors.

ACTING PRESIDENT MARCELLINO: Read the last section.

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

ACTING PRESIDENT MARCELLINO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 46.

ACTING PRESIDENT MARCELLINO: The bill is passed.

THE SECRETARY: Calendar Number 1096, by Senator Wright, Senate Print 3814, an act to amend the Penal Law, in relation to assault with a noxious material against a police officer.

ACTING PRESIDENT MARCELLINO: Read the last section.

THE SECRETARY: Section 2. This act shall take effect on the first day of November.

ACTING PRESIDENT MARCELLINO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 47.

ACTING PRESIDENT MARCELLINO: The bill is passed.

THE SECRETARY: Calendar Number 1097, by Senator Tully, Senate Print 4680, an act authorizing the assessor of the county of Nassau to accept an application.

ACTING PRESIDENT MARCELLINO: Read the last section.

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

ACTING PRESIDENT MARCELLINO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 47.

ACTING PRESIDENT MARCELLINO: The bill is passed.

THE SECRETARY: Calendar Number 1098, by the Senate Committee on Rules -

SENATOR SKELOS: Lay it aside temporarily.

ACTING PRESIDENT MARCELLINO: Lay the bill aside temporarily.

THE SECRETARY: Calendar Number 1099, by Senator Trunzo, Senate Print 4901, an act relating to providing a lump sum payment in lieu of future payments.

ACTING PRESIDENT MARCELLINO: Read the last section.

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

ACTING PRESIDENT MARCELLINO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 48.

ACTING PRESIDENT MARCELLINO: The bill is passed.

THE SECRETARY: Calendar Number 1100, by Senator Tully -

SENATOR SKELOS: Lay the bill aside for the day at the request of the sponsor.

ACTING PRESIDENT MARCELLINO: Lay the bill aside for the day at the request of the sponsor.

THE SECRETARY: Calendar Number 1101, by Senator Lack, Senate Print 5110-A, an act to amend the Executive Law, in relation to permitting the Division of Human Rights.

ACTING PRESIDENT MARCELLINO: Read the last section.

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

ACTING PRESIDENT MARCELLINO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 48.

ACTING PRESIDENT MARCELLINO: The bill is passed.

THE SECRETARY: Calendar Number

1102, by Senator Alesi, Senate Print 5118, an act to amend the Executive Law, in relation to prohibiting state agencies.

ACTING PRESIDENT MARCELLINO: Read the last section.

THE SECRETARY: Section 2. This act shall take effect on the 90th day.

ACTING PRESIDENT MARCELLINO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 48.

ACTING PRESIDENT MARCELLINO: The bill is passed.

THE SECRETARY: Calendar Number 1103, by Senator Saland, Senate Print 5261, an act to amend the Vehicle and Traffic Law, in relation to the maximum speed limit.

ACTING PRESIDENT MARCELLINO: Read the last section.

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

ACTING PRESIDENT MARCELLINO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 48.

ACTING PRESIDENT MARCELLINO: The bill is passed.

THE SECRETARY: Calendar Number 1104, by Senator Seward, Senate Print 5311, an act to amend Chapter 668 of the Laws of 1977, amending the Volunteer Firefighters Benefit Law.

ACTING PRESIDENT MARCELLINO: Read the last section.

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

ACTING PRESIDENT MARCELLINO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 48.

ACTING PRESIDENT MARCELLINO: The bill is passed.

Senator Skelos, that concludes the non-controversial calendar.

What is your pleasure, sir?

Senator Skelos.

SENATOR SKELOS: Mr. President, the session has gone so smoothly, I think we're going to pray twice. We had a moment of silence and now the Reverend is with us and perhaps we could have another prayer.

ACTING PRESIDENT MARCELLINO: If we could give our attention to Pastor Troy Bronner of the Calvary Baptist Church of Buffalo.

Reverend.

PASTOR TROY BRONNER: Greetings. Let us pray together. We are grateful and thankful for this opportunity for the church and state to be together. We're thankful for the men and women who make clear decisions for us, God, and we pray that You will give them a heart for our people, for our state and for the decisions that will affect all of us.

We pray that Your atmosphere will always be in this place and that You will guide them and lead them and protect them. We pray for their families as they are away from them. We pray for their districts. We pray for our governor. We pray for our state. We pray for the changes that are about to come into our community and we pray that Your presence will help us and guide us and direct us.

We thank You for this time. We ask that You will always seal this as an event that You will give glory from and honor from.

It's in the name of our Savior that we pray. All of us are saying Amen.

SENATOR SKELOS: Mr. President.

ACTING PRESIDENT MARCELLINO: Senator Skelos.

SENATOR SKELOS: There will be an immediate meeting of the Aging Committee in the Majority Conference Room.

ACTING PRESIDENT MARCELLINO: There will be an immediate meeting of the Aging Committee in Room 332, the Majority Conference Room. The Aging Committee will meet immediately in Room 332, the Majority Conference Room.

SENATOR SKELOS: For planning purposes, to let the members know, there will be a meeting of the Children and Families Committee, the Transportation Committee and the Rules Committee as we go through the controversial calendar.

Mr. President, if we could start the controversial calendar.

ACTING PRESIDENT MARCELLINO: The Secretary will read.

THE SECRETARY: On page 12, Calendar Number 377, by Senator Nozzolio, Senate

Print 177-C, an act to amend the Executive Law and others, in relation to treatment of sex offenders.

SENATOR PATERSON: Explanation, please.

SENATOR SKELOS: Lay it aside temporarily.

ACTING PRESIDENT MARCELLINO: Lay the bill aside temporarily.

THE SECRETARY: Calendar Number 898, by Senator Goodman, Senate Print 4259-A, an act to amend Chapter 674 of the Laws of 1993.

SENATOR PATERSON: Explanation, please.

ACTING PRESIDENT MARCELLINO: Senator Goodman, an explanation has been asked by Senator Paterson.

SENATOR GOODMAN: Yes, Mr. President. The purpose of this bill is to retain the maximum value limitation of $200,000 for emergency construction contracts authorized to be let by the Commissioner of General Services until June 30th, 1999.

I'm not sure that I have the attention of the questioner but when I do, I

will be glad to -- maybe it's -- Senator, I don't know if this is something you wish to be personally apprised of but, if you are, I would be happy to wait until you conclude your business.

SENATOR PATERSON: I'm sorry, Senator.

SENATOR GOODMAN: Would you like me to proceed with my explanation? I would be happy to do so.

SENATOR PATERSON: Please do.

SENATOR GOODMAN: Thank you.

Sir, as I was saying, this relates to the value of limitations of $200,000 for emergency construction contracts and the existing -- under existing law, Public Buildings Law, Section 9, this authorizes the Commissioner of General Services to let contracts in value not exceeding $200,000 to respond to construction emergencies involving a pressing necessity for immediate repair, reconstruction or maintenance to protect persons or property and to permit safe continuation of the public use or function.

ACTING PRESIDENT MARCELLINO:

Senator Paterson.

SENATOR PATERSON: Senator Dollinger had a pertinent question on this and he may -- he may vote on it when he gets back later as one of the colleagues has just -

SENATOR SKELOS: Last section.

SENATOR PATERSON: Thank you.

ACTING PRESIDENT MARCELLINO: Let the record show if Senator Dollinger was in the room, we would have heard his question.

Read the last section.

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

ACTING PRESIDENT MARCELLINO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 49.

ACTING PRESIDENT MARCELLINO: The bill is passed.

THE SECRETARY: Calendar Number 920, by Senator Nozzolio, Senate Print 3429, an act to amend the Correction Law, in relation to requiring inmates.

SENATOR PATERSON: Explanation.

SENATOR SKELOS: Lay it aside

temporarily.

ACTING PRESIDENT MARCELLINO: Lay it aside temporarily.

THE SECRETARY: Calendar Number 977, by Senator Kuhl, Senate Print 2089, an act to amend the Vehicle and Traffic Law, in relation to exempting any child.

SENATOR PATERSON: Explanation, please.

ACTING PRESIDENT MARCELLINO: Senator Kuhl, an explanation has been asked by Senator Paterson.

SENATOR KUHL: Senator Paterson, this is a bill that we took up last year and we had a -- not a significant but a debate on the issue, actually on two days. It's a very one issue-oriented bill.

Several years ago we passed a bill that became law in this state which would require the riders of bicycles under the age of 14 years to wear safety-approved helmets. That bill which eventually became the law created a problem to some of my constituents who are in two groups.

There's one group called -- the

practice of religion and are called Mennonites and there's another group that we refer to as the Amish. Both of these groups are required - and have done so for at least four centuries, required to wear a covering. The males wear a wide brimmed hat and the females wear bonnets.

By requiring them to wear safety helmets, we are forcing them to abandon what is accepted and required in the practice of their religion and so if they do comply with the law currently, they abandon their religion. If they maintain their religious tenets and wear the hats or the bonnets, then we force them into criminal status.

So this is a proposal which would exempt them from being required to wear helmets.

ACTING PRESIDENT MARCELLINO: Senator Paterson, why do you rise?

SENATOR PATERSON: Thank you, Mr. President.

If Senator Kuhl would yield for a question.

ACTING PRESIDENT MARCELLINO: Senator Kuhl, do you yield to Senator Paterson?

SENATOR KUHL: Yes.

ACTING PRESIDENT MARCELLINO: Senator Kuhl yields, sir.

SENATOR PATERSON: Thank you, Senator.

I remember this bill from last year. I remember considerable discussion between yourself and myself and also Senator Lachman on the issue and there's, I think, a Minnesota Supreme Court case that speaks to this particular issue.

My question is -- the concern that we raised then was just for safety in the areas around the state that are not particular to this specific area where I think the merit of your bill is quite well taken.

Have you made any changes to the legislation since last year?

SENATOR KUHL: None. The bill is exactly as it was presented to you last year.

You may remember, Senator Paterson, that Senator Lachman and I had a discussion about some potential changes. He had some recommendations. I laid the bill aside after we first brought it up. We talked about those and he and I agreed that those -- what he

was proposing for various reasons were not acceptable and so we came back to the original bill, brought it forward and it was supported by 57 members, I believe, of this body. Only two people voted in the negative and Senator Lachman and I have discussed this earlier before it has come to the floor today. He questioned whether the bill was exactly the same. I told him it was and he indicated to me that he was going to be supporting the bill again this year.

SENATOR PATERSON: Thank you very much, Senator, and thank you for allowing us to discuss that bill with you in the interim period, and I know it took a little longer to get through but we're satisfied with your answers.

Thank you.

SENATOR KUHL: Thank you, Senator Paterson.

ACTING PRESIDENT MARCELLINO: Read the last section, please.

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

ACTING PRESIDENT MARCELLINO: Hold on one second.

Senator Lachman, do you wish to be heard on this bill?

Senator Lachman.

SENATOR LACHMAN: Mr. Chairman, I just want to reiterate what I had mentioned last year on this bill. It deals with what I believe is a First Amendment right, religious freedom.

The bill had been a controversial bill because it also deals, quite candidly, with security and safety but in my eyes when there is a conflict between the First Amendment and America's great contribution to the world of separation of church and state and where there is a conflict between that and almost anything else, I will stand with the First Amendment.

This involves, I believe 1,000 members of an old Mennonite denomination. I don't even believe they go to vote. So Senator Kuhl has nothing to gain from this, and I commend him for upholding the First Amendment and, as I said, our great contribution to world religion are separation of church and state, and since I believe that old Mennonites are careful in what they do in all aspects of their life, I don't foresee any safety or security problems,

and I stand with the distinguished Senator from upstate New York.

Thank you.

ACTING PRESIDENT MARCELLINO: Is there any other Senator wishing to be heard?

(There was no response.)

Read the last section.

ACTING PRESIDENT MARCELLINO: Section 2. This act shall take effect immediately.

ACTING PRESIDENT MARCELLINO: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MARCELLINO: Announce the results. There is -

THE SECRETARY: Ayes 53, nays 1, Senator Montgomery recorded in the negative.

ACTING PRESIDENT MARCELLINO: The bill is passed.

Senator Volker.

SENATOR VOLKER: Mr. President, immediate meeting of the Child and Families Committee in Room -- the Majority Conference Room, Room 332, 332, the Child and Families Committee.

ACTING PRESIDENT MARCELLINO: The Children and Families Committee will meet in Room 332 immediately.

The Secretary will read.

THE SECRETARY: Calendar Number 1031, by Senator Present, Senate Print 4511-A, an act to amend the Election Law, in relation to commencement of proceedings.

SENATOR PATERSON: Explanation.

ACTING PRESIDENT MARCELLINO: Senator Present, Senator Paterson has again asked for an explanation.

SENATOR PRESENT: Thank you, Mr. President.

This bill is an attempt to clear up what has become a real problem when there's a challenge to a person's name being on the ballot and it would provide that the court try and have that hearing at least 15 days prior to the election so that the Board of Elections can prepare their ballots for the machines and also get out their absentee ballots.

ACTING PRESIDENT MARCELLINO: Excuse me, Senator Present.

Ladies and gentlemen, it's

getting a bit noisy in here. If we could take our conversations out of the chamber so we can hear the explanation of the bill.

Thank you, Senator Present. I'm sorry for the interruption.

SENATOR PRESENT: I think I've finished.

ACTING PRESIDENT MARCELLINO: Senator Paterson.

SENATOR PATERSON: Mr. President, if Senator Present would yield for just a moment.

SENATOR PRESENT: Yes.

ACTING PRESIDENT MARCELLINO: The Senator yields, Senator.

SENATOR PATERSON: Senator, what is the current process?

SENATOR PRESENT: Pardon?

SENATOR PATERSON: What is the current process with respect to names on the ballot?

SENATOR PRESENT: I think the current process is when such an action is brought in court, the judge doesn't necessarily rush it to get it done and it may -- the

determination may come a day before election or hours even.

SENATOR PATERSON: Thank you, Mr. President.

ACTING PRESIDENT MARCELLINO: Read the last section, please, somebody.

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

ACTING PRESIDENT MARCELLINO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 54.

ACTING PRESIDENT MARCELLINO: The bill is passed.

THE SECRETARY: Calendar Number 1043, by Senator Marchi, Senate Print 3584, an act to amend the Business Corporation Law.

SENATOR GOLD: Explanation.

ACTING PRESIDENT MARCELLINO: Senator Marchi, an explanation has been asked for by Senator Gold.

SENATOR MARCHI: Yes, Mr. President. This would -- well, under existing law, a corporation does not allow an addressee for service of process to resign unilaterally

and this would give that permission provided that they have served notice to the -- the corporation and the failure of the corporation to fill this void or to carry out that function would -- could lead to the suspension of the corporation.

A person may involuntarily, either by design or just caprice, be established as the recipient of process when, in fact, they -- there is an expressed desire on their part not to be a -- not to be -- to cease being an addressee.

So it seems like an equitable arrangement and discipline of the corporation if they don't cooperate in providing a replacement for the addressee.

ACTING PRESIDENT MARCELLINO: Senator Gold.

SENATOR GOLD: Yeah, on the bill.

ACTING PRESIDENT MARCELLINO: Senator Gold, on the bill.

SENATOR GOLD: Senator Marchi, I think it is a very good idea and that's why I thought of it and that's why I introduced the legislation, and I don't know why after it was

introduced by me there was a necessity to have it reprinted but other than to say, Senator Marchi, that you and I know each other for a day or two at least and over the course of the years, as I've always stated, you are an individual whose sense of fairness and equity has never been interfered with by ego. So I can only attribute what has happened with this bill to staff people who confused their ideas of what the legislative process should be.

My bill was reported to the calendar and obviously the politics of this house has your bill being considered, but I do think that it was a waste of money. I think it was unfortunate that someone on your staff -- or somebody's staff decided that the sponsorship of the bill was more important than the issue. So here we are today.

I'm going to support the bill and that's why I introduced it, and I want the record clear, Senator, that in my opinion, you are the ultimate gentleman and whatever happened with this bill certainly was not a Marchi doing, as far as I'm concerned.

SENATOR MARCHI: Mr. President.

ACTING PRESIDENT MARCELLINO: Senator Marchi.

SENATOR MARCHI: This was a Secretary of State bill, that's a program bill. Nevertheless, I have to acknowledge that if you preceded me in time, I publicly apologize to you. It was not by design.

SENATOR GOLD: Well, Senator, I won't accept an apology from you because you did nothing wrong. You don't have the capacity to do something wrong, as far as I'm concerned, but I think that there are circumstances some time which are foolish and time wasting, but I'm glad we're passing the bill. That's the most important thing.

SENATOR MARCHI: But we rejoice in that, and I would like to -- no one on my staff was trying to, you know -

ACTING PRESIDENT MARCELLINO: Senator Paterson, why do you rise?

SENATOR PATERSON: Mr. President, would Senator Gold yield for a question?

ACTING PRESIDENT MARCELLINO: Senator Gold, I believe would probably yield to you, sir.

SENATOR GOLD: If it's easy.

SENATOR PATERSON: Senator, assuming that you support this bill and don't try to take it, I would like to propose a legislative piracy bill that would make it a misdemeanor to in any way copy any legislation or information -- change the name -- kind of a plagiarism.

SENATOR GOLD: I didn't hear a question.

ACTING PRESIDENT MARCELLINO: Can we read the last section on that bill.

THE SECRETARY: Section 4. This act shall take effect in 90 days.

ACTING PRESIDENT MARCELLINO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 55.

ACTING PRESIDENT MARCELLINO: The bill has passed.

THE SECRETARY: Calendar Number 1069, by the Assembly Committee on Rules, Assembly Print 8067, an act to enact the Private Activity Bond Act of 1997.

ACTING PRESIDENT MARCELLINO:

Senator Paterson, why do you rise?

SENATOR PATERSON: Mr. President, this bill was laid aside at the request of Senator Leichter who asked for a day on it. I would be interested in finding out if Senator Present would yield, whether or not Senator Leichter has spoken to him or whether or not he would like to give him a day on this bill.

ACTING PRESIDENT MARCELLINO: Senator Present.

SENATOR PRESENT: I -

ACTING PRESIDENT MARCELLINO: Excuse me, Senator. Before you start, ladies and gentlemen, once again, can we just keep it a little down? Thank you.

Senator Present.

SENATOR PRESENT: I think the question was, have I spoken to Senator Leichter? Yes, and other staff people have. I think that he's satisfied, but one never knows.

ACTING PRESIDENT MARCELLINO: I think the response is, Senator, one never knows.

SENATOR PRESENT: I think Senator Leichter asked the question whether or not the

Public Authorities Law requires that the Public Authorities Control Board still has to approve and look at all of these loans and this bill that's before us makes no changes in that.

Senator Leichter has been so informed.

SENATOR PATERSON: Thank you, Senator Present.

I have just been informed that Senator Leichter is okay with the bill. So let's read the last section and pass it quickly before he changes his mind.

ACTING PRESIDENT MARCELLINO: At the request of Senator Paterson, read the last section.

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

ACTING PRESIDENT MARCELLINO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 55.

ACTING PRESIDENT MARCELLINO: The bill is passed quickly.

THE SECRETARY: Calendar Number 1092, by Senator Cook, Senate Print 1158, an act

to amend the General Municipal Law, in relation to establishing the Fallsburg-Liberty-Thompson Industrial Development Agency.

ACTING PRESIDENT MARCELLINO: Read the last section on that. There is a home rule message on that bill.

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

ACTING PRESIDENT MARCELLINO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 55.

ACTING PRESIDENT MARCELLINO: The bill is passed.

THE SECRETARY: Calendar Number 1098, by the Senate Committee on Rules, Senate Print 4799, an act to amend Chapter 272 of the Laws of 1991.

SENATOR PATERSON: Explanation.

SENATOR SPANO: Mr. President.

ACTING PRESIDENT MARCELLINO: Senator Spano.

SENATOR SPANO: Is there a home rule message at the desk on 1098?

ACTING PRESIDENT MARCELLINO:

There is not, and I'm informed that one is not required under the rules, Senator.

SENATOR SPANO: Can we lay the bill aside.

ACTING PRESIDENT MARCELLINO: Lay the bill aside.

Senator Volker, we've finished those bills that we can. That brings us back to those that were laid aside temporarily.

SENATOR VOLKER: Mr. President, is there any housekeeping at the desk?

ACTING PRESIDENT MARCELLINO: Yes, we do, Senator. We have housekeeping and a couple of amendments.

SENATOR VOLKER: Why don't you do it now.

ACTING PRESIDENT MARCELLINO: We shall do just that.

The Chair recognizes Senator Maziarz.

SENATOR MAZIARZ: Thank you, Mr. President.

Mr. President, on page number 52, I offer the following amendments to Calendar Number 843, Senate Print Number 2760 and ask

that that bill retain its place on the Third Reading Calendar and also to remove the sponsor's star.

ACTING PRESIDENT MARCELLINO: The sponsor's star will be removed and the bill will retain its place on the Third Reading Calendar.

SENATOR MAZIARZ: Mr. President, on behalf of Senator Farley, on page number 47, I offer the following amendments to Calendar Number 1061, Senate Print Number 3755, and ask that said bill retain its place on the Third Reading Calendar.

ACTING PRESIDENT MARCELLINO: The amendments are received and accepted and the bill will retain its place on the Third Reading Calendar.

Senator Maziarz.

SENATOR MAZIARZ: Mr. President, on behalf of Senator Farley, on page number 24, I offer the following amendments to Calendar Number 689, Senate Print Number 3803, and ask that said bill retain its place on the Third Reading Calendar.

THE SECRETARY: The amendments are received and accepted and the bill will

retain its place on the Third Reading Calendar.

Senator Skelos.

SENATOR SKELOS: Mr. President, there will be an immediate meeting of the Rules Committee in the Majority Conference Room and the Senate will stand at ease.

ACTING PRESIDENT MARCELLINO: The Rules Committee will meet immediately in the Senate Majority Conference Room 332. Meeting of the Rules Committee in Room 332 immediately. In the interim, the Senate will stand in recess - or at ease or whatever.

(Whereupon, the Senate stood at ease from 12:46 p.m. until 1:14 p.m.)

SENATOR SKELOS: Mr. President, there will be an immediate meeting of the Transportation Committee in the Majority Conference Room.

ACTING PRESIDENT MARCELLINO: There will be an immediate meeting of the Transportation Committee in the Majority Conference Room. Transportation Committee will meet immediately in the Majority Conference Room, Room 332.

SENATOR SKELOS: Mr. President.

ACTING PRESIDENT MARCELLINO:

Senator Skelos.

SENATOR SKELOS: If we could return to reports of standing committees. If we could have some order first.

ACTING PRESIDENT MARCELLINO: The Senate will come to order. Can we take the conversations out of the room. Staff find your seats. Members find your seats.

Senator Skelos.

SENATOR SKELOS: If we could return to reports of standing committees, I believe there's a report of the Finance Committee at the desk. I ask that it be read.

ACTING PRESIDENT MARCELLINO: The Secretary will read.

THE SECRETARY: Senator Stafford, from the Committee on Finance, reports the following nomination: Member of the Workers' Compensation Board, Frank J. Ryan, Esq., of Mohegan.

ACTING PRESIDENT MARCELLINO:

Senator Skelos.

SENATOR SKELOS: Move the nomination, and if you would please recognize

Senator Spano.

ACTING PRESIDENT MARCELLINO: The Chair recognizes Senator Spano on the nomination.

SENATOR SPANO: Thank you, Mr. President.

It's my pleasure to second the nomination of Frank Ryan as a member of the Workers' Comp' Board.

Frank Ryan has a distinguished career and has served as the town attorney in the town of Cortlandt. He started his career back in 1971 as the assistant legal counsel to the late Senator Bernard Gordon.

He has appeared before the Labor Committee and has demonstrated his desire to be part of a great team under the chairmanship of Bob Snashall in the Workers' Compensation Board.

Frank Ryan has shown that he's got the knowledge as an attorney and the background in business to be a great member of that team and it's my pleasure to move his nomination, the nomination of Frank Ryan as a member of the Workers' Compensation Board today.

ACTING PRESIDENT MARCELLINO: The

question is on the nomination of Frank J. Ryan, Esq., of Mohegan, for a term to expire December 31st, 2003 on the Workmen's Compensation Board. All in favor signify by saying aye.

(Response of "Aye".)

All opposed, nay.

(There was no response.)

Mr. Ryan is unanimously recommended and we congratulate -- Mr. Ryan is in the audience with us and joined with his wife Peg. Congratulations, Mr. Ryan.

(Applause)

If we can go on.

SENATOR SKELOS: The nominee is confirmed.

ACTING PRESIDENT MARCELLINO: The nominee is confirmed. That's the right way to say it.

Senator Libous.

SENATOR LIBOUS: Mr. President, could I have unanimous consideration to be recorded in the negative on Calendar Number 977.

ACTING PRESIDENT MARCELLINO: So ordered.

Can we move the next nomination.

The Secretary will read.

THE SECRETARY: Senator Stafford, from the Committee on Finance, reports the following nomination: Member of the state Board of Parole, Ileana Rodriguez, Ph.D., of Yonkers.

SENATOR SKELOS: Move the nomination. Recognize Senator Spano.

ACTING PRESIDENT MARCELLINO: Senator Spano.

SENATOR SPANO: Thank you, Mr. President.

It is again my pleasure to recognize another outstanding person from Westchester, particularly the city of Yonkers, who the Governor has appointed to the state Board of Parole and to second the nomination of Dr. Ileana Rodriguez.

Dr. Rodriguez has got a record that goes back a long time in several pages in terms of her qualifications to deal with the difficult issues facing the Parole Board.

She's uniquely qualified where she would be able to place her clinical skills as a consulting psychiatrist -- psychologist to work on the major decisions that she will be

making as a part of that Board of Parole.

As a psychologist with the Westchester County Department of Mental Health, she has shown over the years that she's got the type of sensitivity that is really necessary to be a real good solid working member of that Parole Board, and I'm also very proud to support someone who has the -- those type of clinical skills and particularly in the area of mental health, there have been -- there are a number of issues that Dr. Rodriguez has worked on in the area of teen suicide and adolescent suicide that really demonstrates her level of commitment to our community.

So it's my pleasure to second the nomination, to move the nomination of Dr. Ileana Rodriguez as a member of the state Board of Parole.

ACTING PRESIDENT MARCELLINO: The motion is on the nomination of Ileana Rodriguez of Yonkers for a term -

Senator Oppenheimer.

SENATOR OPPENHEIMER: I just want to also second the nomination to the state Board of Parole. We are so thrilled to see a woman

and a member of a minority group rising to this distinction with the kind of qualifications and personality that would make her superb on this board. You will do us very proud.

ACTING PRESIDENT MARCELLINO: The Chair recognizes Senator Nozzolio, on the nomination.

SENATOR NOZZOLIO: Thank you, Mr. President.

Mr. President, as Chairman of the Crime Victims, Crime and Corrections Committee, the Committee met and reviewed the qualifica tions of the nominee, and I am here to report was extremely impressed with those qualifica tions, background, experience and more importantly, energy and enthusiasm that was apparent to each member of the Committee that the nominee will bring to this very important responsibility.

Governor Pataki has put together a terrific team in many areas of the state government, but I'm very pleased to note particularly the efforts of the Commission on Parole, that we have seen the Governor's nomination after nomination, very, very good,

qualified individuals who are doing a tremendous job at the front lines of the criminal justice system.

I wish to congratulate Governor Pataki on this nomination, and that I certainly believe that we have a very qualified and quality person before us for this responsibility.

Thank you, Mr. President.

ACTING PRESIDENT MARCELLINO: Thank you, Senator.

The question is on the confirmation of Ileana Rodriguez as a member of the state Board of Parole. All in favor signify by saying aye.

(Response of "Aye".)

Opposed, nay.

(There was no response.)

Ileana Rodriguez is hereby confirmed as a member of the state Board of Parole.

Congratulations, Ms. Rodriguez, and we note that you are joined with your husband George. Congratulations once again.

(Applause)

The Secretary will read.

THE SECRETARY: Senator Stafford, from the Committee on Finance, reports the following nomination: Banking member of the State Banking Board, Burkhard Frankenberger, of Rye.

SENATOR SKELOS: Move the nomination.

ACTING PRESIDENT MARCELLINO: The question is on the confirmation of Burkhard Frankenberger as a member of the Banking Board of the state of New York. All in favor signify by saying aye.

(Response of "Aye".)

All opposed, nay.

(There was no response.)

Burkhard Frankenberger is hereby confirmed as a member of the board.

The Secretary will read.

THE SECRETARY: Senator Stafford, from the Committee on Finance, reports the following nomination: Member of the Small Business Advisory Board, Margery Keskin, of Jamesville.

SENATOR LARKIN: Move the

nomination.

ACTING PRESIDENT MARCELLINO: The question is on the nomination of Margaret Keskin, of Jamesville, as a member of the Small Business Advisory Council. All in favor signify by saying aye.

(Response of "Aye".)

Opposed, nay.

(There was no response.)

Ms. Frankenberger is hereby -- is confirmed.

The Secretary will read.

THE SECRETARY: Senator Stafford, from the Committee on Finance, reports the following nomination: Director of the state of New York Mortgage Agency, Steven E. Snyder, of Fleetwood.

SENATOR LARKIN: Move the nomination.

ACTING PRESIDENT MARCELLINO: The question is on the nomination of Steven E. Snyder for a term -- of the state of New York Mortgage Agency. All in favor signify by saying aye.

(Response of "Aye".)

Opposed, nay.

(There was no response.)

Mr. Frank... Mr. Snyder is confirmed.

The Secretary will read.

THE SECRETARY: Senator Stafford, from the Committee on Finance, reports the following nomination: Member of the Dormitory Authority, Thomas J. Murphy, of Latham.

SENATOR LARKIN: Move the nomination.

ACTING PRESIDENT MARCELLINO: The motion is on the nomination of Thomas J. Murphy to the Dormitory Authority. All in favor signify by saying aye.

(Response of "Aye".)

Opposed, nay.

(There was no response.)

Mr. Murphy is confirmed.

The Secretary will read.

THE SECRETARY: Senator Stafford, from the Committee on Finance, reports the following nomination: Member of the Genesee State Park, Recreation and Historic Preservation Commission, Carlton W. Seaburg, of LeRoy.

SENATOR LARKIN: Move the nomination.

ACTING PRESIDENT MARCELLINO: The motion is on the nomination of Carlton W. Seaburg as a member of the Genesee State Park, Recreation and Historic Preservation Commission. All in favor signify by saying aye.

(Response of "Aye".)

Opposed, nay.

(There was no response.)

Mr. Seaburg is confirmed.

The Secretary will read.

THE SECRETARY: Senator Stafford, from the Committee on Finance, reports the following nomination: Member of the Taconic State Park, Recreation and Historic Preservation Committee, Jack Gaffney, of Cortlandt Manor.

ACTING PRESIDENT MARCELLINO: The question is on the nomination of Jack Gaffney as a member of the Taconic State Park, Recreation and Historic Preservation Commission.

SENATOR LARKIN: Move the nomination.

ACTING PRESIDENT MARCELLINO: The

nomination is moved. The question on the nomination -- all in favor signify by saying aye.

(Response of "Aye".)

Opposed, nay.

(There was no response.)

Mr. Gaffney is confirmed.

The Secretary will read.

THE SECRETARY: Senator Stafford, from the Committee on Finance, reports the following nominations: Members of the Advisory Council on Alcoholism and Substance Abuse Services, Wayne Creelman, M.D., of Buffalo; Paul Curtin, of Syracuse; T.J. Elliott, of Tarrytown; Arthur M. Johnson, of Saranac Lake; Stephen P. Lyman, of Watertown; Ira J. Marion, of Hartsdale; Jeanne M. Unger, of Oswego and Veronica Uss, of Livingston Manor.

SENATOR LARKIN: Move the nomination.

ACTING PRESIDENT MARCELLINO: The nominations of the aforeread names for members of the Advisory Council on Alcoholism and Substance Abuse Services, all in favor signify by saying aye.

(Response of "Aye".)

Opposed, nay.

(There was no response.)

The members are confirmed.

The Secretary will read.

THE SECRETARY: Senator Stafford, from the Committee on Finance, reports the following nominations: Members of the New York State Hospital Review and Planning Council, Bruce G. Blower, of Huntington Station; Craig A. Duncan, of Averill Park; John C. Federspiel, of Croton-on-Hudson; Joel A. Maten, of Buffalo; Barry Bruce Perlman, M.D., of New York City and Jane Rees, of Rome.

ACTING PRESIDENT MARCELLINO: The motion is on the nomination of the names that were read as members of the New York State Hospital Review and Planning Council.

SENATOR LARKIN: Move the nomination.

ACTING PRESIDENT MARCELLINO: All in favor signify by saying aye.

(Response of "Aye".)

Opposed, nay.

(There was no response.)

The members are confirmed.

The Secretary will read.

THE SECRETARY: Senator Stafford, from the Committee on Finance, reports the following nomination: Member of the State Fire Prevention and Building Code Council, John H. Flanigan, of Slingerlands.

SENATOR LARKIN: Move the nomination.

ACTING PRESIDENT MARCELLINO: The motion is on the nomination of John H. Flanigan as a member of the State Fire Prevention and Building Code Council. All in favor signify by saying aye.

(Response of "Aye".)

Opposed, nay.

(There was no response.)

Mr. Flanigan is confirmed.

Senator Larkin.

SENATOR LARKIN: Mr. President, may we please now adopt the Resolution Calendar.

ACTING PRESIDENT MARCELLINO: The motion is on the adoption of the Resolution Calendar. All in favor signify by saying aye.

(Response of "Aye".)

Opposed, nay.

(There was no response.)

The calendar is adopted.

Senator Breslin.

SENATOR BRESLIN: Thank you, Mr. President.

I stand and request to offer that the resolution celebrating the 200th Anniversary of Albany as the state Capitol, which is JL1596, I invite all the members of the Senate to appear as sponsors on that resolution.

ACTING PRESIDENT MARCELLINO: At the request of the sponsor, all members will be placed unless the Chair is otherwise notified.

Senator Wright.

SENATOR WRIGHT: Thank you, Mr. President.

With regards to resolution J1585, whereby the Senate is recognizing the Small Business Administration award winners, I would ask that that be open to all members of the Senate also.

ACTING PRESIDENT MARCELLINO: As is our tradition, anyone who wishes not to be on the resolution, please notify the desk,

otherwise all members will be placed on Resolution J1585.

SENATOR WRIGHT: Thank you, Mr. President.

ACTING PRESIDENT MARCELLINO: You're welcome, Senator.

Senator Paterson, why do you rise?

SENATOR PATERSON: Mr. President, Resolution Number -- Calendar Number 1607, which is a resolution commemorating the National Puerto Rican Day Parade will be on June 8th and recognizing that June 2nd to June 8th will be Puerto Rican Week was sponsored and passed this house by Senator Connor, the Minority Leader and the Chair of the Conference, Senator Mendez and at this time we would like to open that resolution up so that all members might be sponsors, if they choose.

ACTING PRESIDENT MARCELLINO: The same rules will apply. Anyone wishing not to be on Resolution 1607, please notify the desk, otherwise all names will be placed on the resolution.

SENATOR PATERSON: Senator Smith

asked me to also emphasize especially those who have Puerto Rican heritage and particularly those who would like to.

ACTING PRESIDENT MARCELLINO: Senator Larkin.

SENATOR LARKIN: Can we now return to the controversial calendar and we'll start with Calendar Number 377.

ACTING PRESIDENT MARCELLINO: The Secretary will read Calendar Number 377 previously laid aside.

THE SECRETARY: On page 12, Calendar Number 377, by Senator Nozzolio, Senate Print 177-C, an act to amend the Executive Law and others, in relation to treatment of sex offenders.

SENATOR PATERSON: Explanation, please.

ACTING PRESIDENT MARCELLINO: Senator Nozzolio, an explanation has been requested by Senator Paterson.

SENATOR NOZZOLIO: Mr. President, in the United States, 1.3 women are raped every minute of every day. One out of three American women will be sexually assaulted in her

lifetime. That -- it's been stated that once a sex offender always a sex offender and this measure before us today establishes lifetime parole for sex offenders and requires them to receive treatment after they're released from incarceration. This legislation does eliminate good time behavior for sex offenders.

ACTING PRESIDENT MARCELLINO: Read the last section.

THE SECRETARY: Section 11 -- I'm sorry.

Senator Waldon wanted to speak.

SENATOR WALDON: Thank you, Mr. President.

Would the gentleman yield for a question or two?

ACTING PRESIDENT MARCELLINO: Senator Nozzolio, do you yield?

Senator Waldon, he yields.

SENATOR WALDON: Thank you very much, Mr. President. Thank you, Senator Nozzolio.

Senator, this is for sex offenders, as I understand it, and would that include, for example, someone who is the parent

of the child involved?

SENATOR NOZZOLIO: Anyone convicted of a crime, Senator, would be subject to this act and the enumerated offenses are specified under Section 130 of the Penal Law.

SENATOR WALDON: Would the gentleman continue to yield, Mr. President?

ACTING PRESIDENT MARCELLINO: Senator Nozzolio, do you continue to yield?

SENATOR NOZZOLIO: Yes, Mr. President.

ACTING PRESIDENT MARCELLINO: He yields, Senator.

SENATOR WALDON: Just to help me understand what you're attempting to do, Senator, would this include those acts related to a sex offense; for example, unlawful imprisonment with a subsequent sex offense, kidnapping with a subsequent sex offense? What would happen if the sex offense doesn't stand up but the other crime does stand up?

SENATOR NOZZOLIO: Senator, we're basing this provision in law upon a conviction or a conviction of an attempt to commit any of the enumerated crimes listed in Sections 130.35,

130.50, 130.65, 130.67, 130.70, 130.75 and 130.80 of the New York State Penal Law or the conviction of an offense of the law in any other jurisdiction which includes the essential elements of these felonies provided here. So that we are broadening it to that degree. If someone's committed a similar crime in another jurisdiction, comes to New York and commits the same crime, that would be subjected to those same types of review.

SENATOR WALDON: Mr. President, would the gentleman yield to another question or two?

ACTING PRESIDENT MARCELLINO: Senator, do you yield?

SENATOR NOZZOLIO: Yes, Mr. President.

ACTING PRESIDENT MARCELLINO: He yields.

SENATOR WALDON: I noticed, Senator -- and I thank you for responding so quickly to my questions, but I noticed just now you said felony. This would not include then adultery, which is not a felony under the New York statute, is that correct?

SENATOR NOZZOLIO: Senator, those are the enumerated offenses. I listed the sections of the Penal Code. You're welcome to review the enumerated crimes therein.

SENATOR WALDON: I didn't understand what the gentleman said, Mr. President.

ACTING PRESIDENT MARCELLINO: Would the Senator yield to another question? The Senator would like a clarification of your answer.

SENATOR NOZZOLIO: Senator, we've enumerated the sections of offenses. Under the sections I mentioned, the crime you mentioned and the crime you asked about is not in those sections.

SENATOR WALDON: Thank you, Senator.

May the gentleman -- may I continue, Mr. President, if the gentleman would yield to another question or two.

ACTING PRESIDENT MARCELLINO: Do you yield, Senator?

SENATOR NOZZOLIO: Yes, Mr. President.

ACTING PRESIDENT MARCELLINO: The Senator yields.

SENATOR WALDON: Senator, what proviso is being made in your proposal for the incarceration of these people? Where will that money come from to incarcerate these people who will be imprisoned and subsequently released and where will the money come for their treatment modality?

SENATOR NOZZOLIO: Senator, I'm surprised you're asking such a question. The incarceration of a criminal comes from -- as you well know, Senator, comes from the budget that we appropriate each year for the Corrections Department, the Division of Parole and all other criminal justice services in the state.

SENATOR WALDON: Would the gentleman yield again, Mr. President?

ACTING PRESIDENT MARCELLINO: Does the Senator yield to another question?

SENATOR NOZZOLIO: Yes, Mr. President.

ACTING PRESIDENT MARCELLINO: He yields, Senator.

SENATOR WALDON: Thank you, Mr.

President.

Senator Nozzolio, to be very specific, the type of treatment that those who are sex offenders require -- and I have been down to, for example, Green Haven. I have been to other prisons but that particular prison, if I remember correctly, had a component that dealt primarily with sex offenders. They require not necessarily specialized treatment but perhaps it is because you need psychosocial support systems or at least some intervention by psychosocial workers that other prisoners may not require. Where is that money coming from? Is that also from the budget?

SENATOR NOZZOLIO: Yes, Mr. President, and let me explain just a few tenets that led us to this point, Senator.

We recognize, very clearly, that there are some programs in prison today dealing with sex offenders. Frankly, as I look at those programs myself -- and I visited the same place as you have and maybe one or two more upstate - that, in fact, those programs are anemic at best. They, in effect, brand the prisoners participating in those programs so that clearly

they become -- the participants in the programs, the sex offenders, in fact, as you well know prison life, become targets in prison themselves. Certainly a counterproductive result that was never intended to see through the establishment of the rehabilitative programs in the first place.

To take it another step, once an individual leaves incarceration -- and that's what we're talking about here in the bill before us -- to set up a mechanism that continues the supervision of that individual, that it almost becomes an addiction, in a sense, like drugs or alcohol, this type of criminality that does require and it's proven that the recidivism rate for those convicted of these crimes is far in excess of any other criminality.

So what we're focusing on is the sex offender in saying that we understand that there are many mental aspects to this crime, mental disease aspects to this crime, that we also understand that the recidivism rate is so high, that we're saying that it's worth the money to expend into parole for a lifetime parole supervisor to review the constant -- and

monitor the constant rehabilitation efforts of sex offenders in an effort to stop that recidivism rate or significantly reduce the recidivism rate.

So that's our tenets, Senator, and that's what we're focused on here in this legislation.

SENATOR WALDON: Would the gentleman continue to yield, Mr. President?

ACTING PRESIDENT MARCELLINO: Senator, do you continue to yield?

SENATOR NOZZOLIO: Yes, Mr. President.

ACTING PRESIDENT MARCELLINO: He does.

SENATOR WALDON: Senator, have you done any cost studies as to what it would cost not only per sex offender that we know of now but those who are anticipated to reflect themselves in our system and who will live to be older persons?

I did make a visit to a prison downstate and when they wheeled in in wheelchairs and on beds the seniors who were in their 80s and 90s, I was overwhelmed by how long

some of the people are living in our prisons who are still in prison.

Are we prepared today to hear from you the information as to what the cost factor will be for monitoring these persons for the remainder of their lives while they're outside the prisons? Have we done any studies in that regard?

SENATOR NOZZOLIO: Senator, we do not have the demographics before you to tell you the exact costs. However, just you add up the math. One person in prison costs what, $20,000 a year to keep them in prison? We pay parole officers maybe twice that amount. So if you - per year. So if you could keep-- for every two you keep out of prison each year through this review, you're more than paying for a parole officer to supervise their daily lives.

The cost, I believe will be more than paid for. This will be a revenue neutral, if not a cost saver for the state by having this type of review, the money that we're going to be saving in terms of the cost of incarceration and recidivists. Just think, we're talking a recidivism rate in the 70 range down. Those -

70 percent of those who commit the crime, sent to prison are going to come back and commit the same crime. If we could reduce that recidivism rate, we'll reduce the costs of incarceration, and sure, it's going to cost us a little more for parole, but I think it's going to be a saver in the long run.

SENATOR WALDON: Would the gentleman yield again, Mr. President?

ACTING PRESIDENT MARCELLINO: Does the Senator yield to another question?

SENATOR NOZZOLIO: Yes, Mr. President.

ACTING PRESIDENT MARCELLINO: . He yields, Senator.

SENATOR WALDON: Thank you, Mr. President.

I appreciate your patience, Senator Nozzolio. I really do. I understand from your proposal that if someone at age 90 committed an infraction, which would be a technical violation, that that person would have to summarily be returned to prison despite the age factor. Is that accurate?

SENATOR NOZZOLIO: In response,

Senator, I hope you're not saying rape is a technical violation of the Penal Law.

SENATOR WALDON: No. I didn't say that at all.

SENATOR NOZZOLIO: I hope you're not inferring that at all. We're talking about, Senator Waldon, very serious criminality here, rape, criminality against children, very severe crimes and they're not technical. They're not something you can sweep aside.

SENATOR WALDON: Mr. President, if the gentleman would suffer an interruption.

ACTING PRESIDENT MARCELLINO: Can we let the gentleman finish the answer to the question asked.

SENATOR WALDON: I think he's completed. Would the gentleman yield again?

SENATOR NOZZOLIO: I'm completed, yes.

ACTING PRESIDENT MARCELLINO: He will continue to yield, Senator.

SENATOR WALDON: Thank you, Mr. President.

Senator Nozzolio, with all due respect and with great apology, I never intended

for you to interpret what I said as meaning that the crimes enumerated as sex offense crimes are technical, though they are by letter of the law, but that they are not heinous, that they are not violent, that they are not something that we should as a society wish to suppress.

The scenario I was orchestrating, obviously inappropriately and without proper illustration -- because you did not respond as I thought you would -- was that if someone who has been a sex offender, a violent sex offender and is now on this lifetime parole passage that you're orchestrating for us, happens to commit an offense that would trigger them returning to jail, you're not telling me that the only offense from your proposal would trigger their return to prison would be another sex offense, and I said someone who's 90 years of age commits a misdemeanor, jaywalks, an offense or whatever, would that person -- would that person then return immediately to prison?

SENATOR NOZZOLIO: Mr. President, in response to the Senator's question, Senator, I'm sure you're aware of the parole revocation process. That is a process that requires a

hearing. It requires a determination that I have great faith in the parole system to review those types of jaywalking violations, as you indicate, as not being subjected -- for a 90 year-old person to be subjected back to incarceration. I think we have to have some faith in the system and that they're going to have a hearing. It will be -- if there is a violation of parole, that revocation of parole will -- will be established through the due process hearing requirements, Senator. That does not change with this bill. I know it's a process that you support, and it's one that I think certainly would be able to ferret out the kinds of things that you have as concerns.

SENATOR WALDON: Mr. President, would the gentleman yield to just one more question?

ACTING PRESIDENT MARCELLINO: Does the Senator yield to one more question?

SENATOR NOZZOLIO: Senator, to one more question, yes.

ACTING PRESIDENT MARCELLINO: He yields, Senator.

SENATOR WALDON: I thank you, Mr.

President. I thank you, Senator Nozzolio.

Senator, my concern -- I'll preface my question with this statement. My concern is that people -- using your phrase, "We should have faith in the system", that people sometimes turn themselves around. Especially when I visited the prison downstate, there were those who were predicted from -- the social workers and the psychosocial workers that I had an opportunity to chat with were predicted to have some success once released from prison and would not necessarily return as recidivist sexual offenders.

So it is my belief that, one, some of those people will successfully transition back to society. My second concern is where will we get the money to continue to monitor them 20, 30, 40, some 50 years, because some of these people come out of prison at a very young age and is it in our best interests in society to continue to monitor people for this length of time when we already have in the community to which they return police officers. We may even now have alerted the entire community to what their history was, so everyone

is watching them and, three, there may be some saving grace in all of the support systems and all of the psychosocial support therapies that they receive which would preclude their actually recidivating, their creating for themselves or participating in an act which would send them back to prison. So I think that that is a concern.

So my question again is, what do you offer to us as a way of paying for this, which is an extraordinary expense, at a time of diminished revenue in the state, despite the $2 billion coming to us from Wall Street? As a rule of thumb over the last few years, we have had less and less money to do more and more with. Where are we going to get the money? Show me the money that we will get in order to monitor these people.

SENATOR NOZZOLIO: Senator, I can only respond to your statement this way. Firstly, we have -- any attempt to cut the recidivism rate for those who have committed heinous sex offenses will save the taxpayers money in terms of less people sent back to jail because less people will be committing -- fewer

people will be committing this crime.

Senator, I'm going to conclude in response to your question by saying the victims of sexual assault develop things like post-traumatic stress syndrome, symptoms including fear, helplessness, shock, disbelief, guilt, humiliation, embarrassment, anger, self blame, flashbacks of the rape, avoidance of previously pleasurable activities. They are victims for the rest of their lives, Senator, and for you to put a price tag in a debate like this, I think, Senator, trivializes, in large part, the focus of the victim. I know you don't intend to do that. I know your concerns are certainly honorable but, Senator, I think we have to look at the entire picture.

For every person that we save from incarceration, from committing -- for every person we save from committing this crime again, we not only save money to the state. More importantly, we save further victimization of the citizens of this state, something that you try to put a price tag on, Senator. I think the cost is immeasurable and that, frankly, I don't want to engage in that type of discussion.

I think this bill more than pays for itself but more importantly, any crime that we can stop more than pays the cost of our entire treasury.

SENATOR WALDON: Thank you, Senator Nozzolio.

Mr. President, on the bill.

ACTING PRESIDENT MARCELLINO: Senator Waldon, on the bill.

SENATOR WALDON: Thank you, Mr. President.

It would seem if we're going to have lifetime parole for those who commit serious sex offenses, we should as well have lifetime parole for kidnappers, lifetime parole for robbers, lifetime parole for those who commit serious assaults with acid or knives or guns or baseball bats or tire chains. Certainly we should have lifetime parole for those who are convicted of murder and then where will the resources come from to maintain those people who are on lifetime parole?

I don't understand distinguishing between this one particular kind of act and all of the other heinous crimes which are on the

books of the state of New York. Why are we so selective in this proposal only against those who commit sexual offenses? Where is the phobia originating? If we're going to do this and do it right, let's include everybody who commits a heinous act. Let's commit and include all of those who are murderers, all of those who are rapists, all of those who are sodomizers, all of those who are robbers in the first degree, all of those who kidnap. That would be equity in terms of the application of the criminal justice system, but I think it's unnecessary. I think it is unnecessary.

I don't understand the motivation, and the reason I chose to debate the bill is I was trying to find a reason that this bill is being proposed, a rational reason. I do not find it.

And so I'll ask my colleagues to oppose it and to vote against it, but in any event, it seems to me that with the law enforcement personnel that we have throughout the state, with the parole officers we have in place at this moment, with the very fine probation system that we have in this state at

this moment, with the courts being able to do their job as they're able to do at this moment, with outstanding district attorneys in the state of New York at this moment, that this is superfluous; it is not necessary and we should not pursue this course of action.

I request respectfully that my colleagues join with me in opposing this proposal, and I shall vote no.

Thank you, Mr. President.

ACTING PRESIDENT MARCELLINO: Senator Leichter.

SENATOR LEICHTER: Yeah. Would Senator Nozzolio yield, please?

ACTING PRESIDENT MARCELLINO: Senator, do you yield to Senator Leichter?

SENATOR NOZZOLIO: Yes, Mr. President.

ACTING PRESIDENT MARCELLINO: The Senator yields.

SENATOR LEICHTER: Senator, there's much in your bill that I like, but I want to know whether this is an honest effort on your part to present this and I'm not sure it is.

I listened to the debate between you and Senator Waldon. I think that he asked perfectly proper questions of what is going to be the cost of this. So I want to pursue that with you.

Now, you may be absolutely correct that over 10 years, 20 years, 30 years, 40 years, this will really be a saving for the people of the state of New York, and I accept that but certainly in the first instance, it's going to require an outlay because you provide for residential treatment centers -- I don't know if that's what you call them but I think that's what it is -- for six months. Persons upon being released are required to be in a residential treatment center. Now, that's not -- that's going to require putting money up front and I'll probably support you on that, but I think it's perfectly appropriate for somebody to ask where is the money coming from? You say the budget. That's fine. How much is it going to cost? That's the question. Let's see whether we can -- by pinpointing the residential treatment center, whether we can get an answer out of you.

SENATOR NOZZOLIO: Mr. President, in response to Senator Leichter's question, Senator, first of all, this is an honest attempt. I wish you wouldn't try to put terms of character involved in the efforts that are good faith attempts here to rectify a situation. I'm sure you didn't mean -- I would hope that you didn't mean to impinge upon my integrity by using the word "honest" but, frankly, I think you should be careful about throwing out such types of terms.

I wouldn't label your question a dishonest question. I think that to you to label my answer anything other than honest and filled with integrity is, Senator, something that I see too much of in this chamber and, frankly, I wish that -- in an effort to create a little more civility, I wish you would temper your remarks in a more appropriate fashion leaving out the word -- words that would somehow impinge on an individual's character.

I have been honest in bringing this measure before us and let me, in response to your question, tell you that, Senator, I do not own a crystal ball. I am not a future

teller. I can only say that the true genuine costs of this measure will be based on the amount of sex offenders that we have in the system. It's very difficult now to say but hopefully as a result of this measure, we'll have fewer sex offenders than we will -- would otherwise have. We would have fewer people going into prison, committing these crimes in the first place.

Senator, this only applies to retrospective -- it only applies to prospective crimes and criminality. It doesn't apply to anybody incarcerated today. It's so it's very difficult to predict the exact cost.

Measuring the cost is also determined on not just the number -- the frequency of criminals entering into the system but the true cost is gauged by how many criminals we're also keeping out of the system by their lack of participating in this criminal conduct in the first place. Every person we can keep out of jail from not committing this crime, we not only save the victimization of those individuals who have been attacked by sex predators in the past but we also send less

people -- fewer people to prison.

So in terms of gauging a cost, Senator, it's very difficult for those -- those reasons. However, logic would say that for - that we have the highest amount of recidivism in this crime. More people are committing this crime again and again and again. After they leave prison, you'll see more than half of them come back to prison committing this same crime. The more people we can keep out of this crime, the less people -- fewer people will be sent to prison. I think we'll see savings there.

Senator, I can't predict the costs. I don't pretend to be able to predict the costs but it's for those legitimate reasons that we cannot say precisely what the costs will be.

SENATOR LEICHTER: Mr. President, if Senator Nozzolio would be good enough to yield.

ACTING PRESIDENT MARCELLINO: Senator, do you yield for another question?

SENATOR NOZZOLIO: Yes, Mr. President.

ACTING PRESIDENT MARCELLINO: He

yields.

SENATOR LEICHTER: I certainly wasn't impugning your integrity, but I think that the members here have a right to examine to see whether a bill is being put out for public relations purposes or whether it's a serious effort to try to get a program passed, and we had a bill of yours last week, I think it was, that very easily could have accomplished what you wanted to if you, frankly, wanted to get something passed with the votes of both sides of the aisle, if you wanted it passed by the Assembly. It seemed to me, frankly, that you were more interested in making a statement rather than passing a law.

ACTING PRESIDENT MARCELLINO: Excuse me, gentlemen. Can -- in the interest of time and debate, can we keep our references to the bill in question and let's not debate bills from a week ago. We have a bill before us. I see no reason -- the Chair sees no reason to go back and forth on a personal level. Can we keep it on the bill.

SENATOR LEICHTER: Mr. President, I think what I'm saying is relevant to what

we're trying to accomplish, which is to find out whether there's sufficient backup for this bill to show that, by engaging in this effort to try to pass the bill, we're going to be enacting a program which, by the way, I would support but, Senator Nozzolio, you know, when you were asked about it by Senator Waldon, you took umbrage. You said he's not concerned, as I understood you to say, about victims. How can you put a cost on it?

Well, Senator, we do it all the time. We say the State Police, they save lives. They do a lot of things that prevents harm and yet we have a budget item for the State Police. I don't think it's that hard to come up with a budget item for this and it's probably one that we ought to do that I would support, but I don't know why you find it so difficult to say that this is going to be a program that in the first instance is going to require the expenditure of money. It's going to be expensive but it's money that the state of New York ought to commit.

Let me -- let me try to see whether we can come up with some idea of a

figure. Senator, am I -

SENATOR NOZZOLIO: I'm listening, Senator, to your question.

SENATOR LEICHTER: Senator, am I correct in understanding that this bill, if it became law, would apply to persons who are presently serving sentences for any of the crimes enumerated in your bill?

SENATOR NOZZOLIO: Senator, you're incorrect.

SENATOR LEICHTER: I'm incorrect? Would you show me where in the bill it makes it clear that it does not apply to people who are presently in prison for one of the enumerated crimes.

SENATOR NOZZOLIO: Senator, you're incorrect because we're establishing a new sentence, in effect, under this statute. It's a sentence of lifetime parole which accompanies the crime in chief. That sentence, as you well know, can only be given prospectively under the tenets of the United States and New York Constitution. We're not engaging in any retrospective sentencing through this measure. It's only for those who are

sentenced for crimes committed under the enumerated felonies listed here in the bill prospectively.

I should also add, in my response to Senator Waldon's question -- maybe you weren't in the room when it was raised but the Senator said if there's a technical violation of a measure. Well, frankly, Senator, remember - let's keep our eye on the ball here. Remember what we're dealing with. We're dealing with those who have committed the most heinous crimes you could possibly imagine and that tell the women of this state that are raped, tell them - the young children who are preyed upon by sex predators that, in effect, this is not an appropriate remedy. This is not something that's appropriate.

So, Senator, that's my response to your question.

SENATOR LEICHTER: Senator Nozzolio, if you would continue to yield. I -

ACTING PRESIDENT MARCELLINO: Excuse me. Senator, do you continue to yield?

SENATOR NOZZOLIO: Yes, Mr. President.

SENATOR LEICHTER: I have difficulty understanding your making the statement that this is a serious offense. We understand that it's a very serious offense and nothing that Senator Waldon said or I said, Senator, indicates otherwise. In fact, I support the basic premise of your bill.

So, Senator, I think, you know, these sort of statements are frankly gratuitous and if you want to talk about civility, and so on, implying that in some respect Senator Waldon wasn't concerned about victims or that those of us who are questioning you are not concerned about victims, I would urge you to pay attention, frankly, to what it is we're asking and what I asked you was very simple, which is show me -- is there any language in your bill that says that this bill does not apply solely to people who are convicted after the effective date of the bill?

SENATOR NOZZOLIO: Line 19 and 20 of page 3.

SENATOR LEICHTER: That's line 19, page 3?

SENATOR NOZZOLIO: My copy,

Senator, may not be -- that's Section S.4.

SENATOR LEICHTER: I'm sorry. Section -

ACTING PRESIDENT MARCELLINO: Section S.4, Senator, assuming his copy may be different from yours.

SENATOR LEICHTER: I don't believe there's any S.4, Senator.

SENATOR NOZZOLIO: Section - we're adding -- Senator, let me read them in appropriate -- I'm not sure what -- I have a Bill Drafting copy of the measure. You probably have the print, but "any person convicted of a violation of" -- this is S -- Section S.4 of the Penal Law is amended by adding a new Section 70 -- or 70.09 to read as follows. "70.09. Lifetime Parole" -- under the sub-heading "Lifetime Parole. Any person convicted of a violation of enumerated sections in the Penal Law shall, in addition to the sentence or fine otherwise authorized by law, be sentenced to lifetime parole." So we're talking about those who are committing the crimes prospectively.

Senator, frankly, that's why it becomes more difficult to ascertain a true,

genuine, precise at this moment dollar cost to this measure because we're talking about those who are committing crimes prospectively. We're also talking about hopefully keeping those who are committing crimes out of jail, those who are being sent to jail again and again because of the recidivism rates for these types of offense, Senator, being so high.

So I understand your desire to find out the costs of measures. I think that's certainly a legitimate inquiry, but I'm telling you, Senator, that to determine the true costs of this bill, we have to look at not just those who are convicted and are going to be sentenced to lifetime parole but how many we are preventing from committing this crime in the first place. How many we are preventing from committing recidivism -- recidivating time and time again, going back to jail two and three times because they're continuing to commit this crime. I would say if we spent the costs of lifetime parole now under these offenses, that we will more than make up for the costs of this through the lifetime of the measure.

SENATOR LEICHTER: If Senator

Nozzolio would continue to yield.

ACTING PRESIDENT MARCELLINO: Senator, do you continue to yield?

SENATOR NOZZOLIO: Yes.

ACTING PRESIDENT MARCELLINO: He does, sir.

SENATOR LEICHTER: Senator, I was the one who questioned Megan's Law that Senator Skelos proposed last year or two years ago on the grounds of constitutionality and, as you know, the court has declared its retroactive features unconstituional, but it's clear to me that we can provide for a particular crime that the period of parole will change without, I think, running afoul of the ex post facto law. So I don't see anything in your bill that says that this bill will apply only to persons who are convicted subsequent to the date.

Now, I think there is one feature of your bill that maybe would run afoul of that and that is that you require the residential - the restricted residences. That very well may not be applicable to people if you tack it onto their current sentences, but certainly the - the aspects of your bill that should be done

immediately such as -- and I assume you intend them to be immediately, such as the fact that we ought to have -- such as the fact that we ought to have a program of treatment for sex offenders. I think that's a very beneficial feature of that bill and certainly ought to be instigated immediately.

We certainly ought to -- I think lifetime parole for sex offenders is something that we can do immediately. So I would -- I would think it's unfortunate if you now interpret your own bill as not providing the lifetime parole for persons who are presently in prison for one of these enumerated offenses. I think the only thing that raises a question would be the restricted residences because that clearly, I don't think we can do for persons who are presently in prison for one of these offenses. That, I think we could probably only do prospectively.

SENATOR NOZZOLIO: Senator, if you would suffer an interruption and, Mr. President, if I could speak through you.

Mr. President, in asking you to yield, Senator, we're not talking about any

person who is in jail today receiving a sentence of lifetime parole. This is only for prospective conduct, Senator, and prospective crimes and being sentenced prospectively for lifetime parole. I respect yours and other concerns of establishing laws and changing laws for conduct that took place in the past. We're talking prospectively, Senator, and this bill - I need to clarify it for you. We're talking about prospective sentences and this establishes the ability, the sentence prospectively with a lifetime parole sentence.

SENATOR LEICHTER: Mr. President, on the bill.

ACTING PRESIDENT MARCELLINO: Senator Leichter, on the bill.

SENATOR LEICHTER: I mean, I'm sorry to have Senator Nozzolio, I think limit his bill in a manner that isn't necessary. I think that lifetime parole makes a lot of sense and should not be prospective, and I would ask you to reconsider that aspect of it because I think you could perfectly well do it constitutionally.

So I don't know why you say that

you intend to do that only prospectively because that -- that would mean that hundreds of inmates -- and I don't know how many inmates are in jail for one of these enumerated offenses, maybe you do -- would not be subject to lifetime parole and they should be, but I don't read your bill that way. It isn't clear at all.

I think the only issue is whether you could add onto it -- to the sentence of somebody restricted residence. It seems clear to me that you cannot but there are parts of your bill that talk about if somebody's out on parole, that he may have to serve that remainder of his sentence in a restricted residence, which I assume we can do.

So I'm -- it just seems to me, Senator, that this could be set forth in a more clearer fashion. We could have a fiscal note that will say, Well, this will cost so much in the first instance but it's something that we ought to do because we are saving lives, keeping lives from being ruined. We're hopefully keeping people from becoming victims.

I'm just bothered every time when we see these fiscal notes that everything that

-- not everything, but so often our programs are put forward and people are afraid to say it's going to cost money. Say it, because it happens to be true and it happens to be well spent. By the same token you can say -- you might just as well say for educational programs, for educational aid. Oh, fiscal implication? This will save us money because, I guess if we educate more people, they're going to earn more money and they'll pay more taxes. So in the long run it's a good investment for the state of New York but, Senator, in the short run, it's going to require money and it's, I think, money well spent and I -- when I said, is this an honest effort, I think an honest effort would require saying this will cost a certain amount of money, and I just want to say that I think Senator Waldon asked perfectly appropriate questions, and I don't know whether he should have been met with the attack that he doesn't care about victims. He cares very much about victims, but I think he asked appropriate questions. I think I asked appropriate questions and, frankly, I would think somebody who puts forward a major program of this sort

would be in a position to say I think it's going to cost this amount of money initially but I'll tell you this, that in 10 years, 20 years, 30 years, you're going to save money because you're going to have fewer victims of these horrendous crimes.

ACTING PRESIDENT MARCELLINO: Read the last section.

THE SECRETARY: Section 11. This act shall take effect on the first day of November.

ACTING PRESIDENT MARCELLINO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 57, nays 1, Senator Waldon recorded in the negative.

ACTING PRESIDENT MARCELLINO: The bill is passed.

Senator Larkin.

SENATOR LARKIN: Mr. President, would you now call Calendar Number 920, Senator Nozzolio's.

ACTING PRESIDENT MARCELLINO: The Secretary will read Calendar Number 920.

THE SECRETARY: Calendar Number

920, by Senator Nozzolio, Senate Print 3429, an act to amend the Correction Law, in relation to requiring inmates to make medical co-payments.

ACTING PRESIDENT MARCELLINO: Senator, an explanation has been asked for.

SENATOR NOZZOLIO: Senator, Mr. President, my colleagues, this bill requires inmates in New York State correctional facilities to make co-payments for medical services in the amount of $7 per visit. The measure currently -- New York currently spends over $120 million each year on prison health services, which is just under $2,000 per inmate.

ACTING PRESIDENT MARCELLINO: Read the last section.

THE SECRETARY: Section 2. This act shall take effect on the 100th -

ACTING PRESIDENT MARCELLINO: Excuse me. Senator Montgomery, why do you rise?

SENATOR MONTGOMERY: I would like to ask if the sponsor would answer a couple of inquiries about this legislation.

ACTING PRESIDENT MARCELLINO:

Senator, do you yield to Senator Montgomery?

SENATOR NOZZOLIO: Yes, Mr. President.

ACTING PRESIDENT MARCELLINO: He yields, Senator.

SENATOR MONTGOMERY: Yes. Thank you.

Senator Nozzolio, usually in the instance of a co-payment that is required, someone does have to pay even if the person is indigent and that's been one of the problems for health facilities when we require co-payment in instances of Medicaid payments, that essentially what happens is the health facility has to suffer the loss in the event that the co-payment is not made, and I'm just trying to figure out based on your legislation who will pay for the co-payment that is not paid by the -- in the event it's not paid by the inmate?

SENATOR NOZZOLIO: The mechanics of the bill, Senator, allow that should an inmate not have sufficient funds in his accounts to cover the co-payment charges -- and we're talking $7 of medical co-payment per visit, which is -- we use the amount because I believe

that those who are state employees under the state plan have a $7 co-pay and why should those hard-working people who work in our correctional facilities have to pay a co-payment while those who are incarcerated in our correctional facilities do not have to pay a co-payment? To me, that is such an unfair situation that I believe it cried out for this rectification.

30 states are -- either have enacted or have this proposal -- these proposals pending for enactment. What we did here is establish a co-payment equal to the state charge. Should an inmate not have sufficient funds in his account to cover the charges, then his account -- and this is after the inmate goes to receive the medical treatment. No one will be denied treatment but a -- regardless of whether they have the co-payment or not, but each inmate will be logged and those, in effect, will be billed for their payment.

Each inmate, as you well know, has an inmate account. Some of those accounts get to be pretty large in terms of sufficient cash through time, that we, in effect, will be debiting the accounts of inmate per their

co-payment. An inmate shall not -- as I should emphasize to you and my colleagues, no one will be refused treatment for lack of ability to pay co-payment charges. The charge is assessed after completion of the visit when the log is processed and that -- I believe that -- if your question was whether an inmate, if they cannot pay in terms of their account is vacant, if they have no money in the account, then it's just a negative balance.

SENATOR MONTGOMERY: Senator Nozzolio, I see in your support memo that we currently spend 121 million or 2,000 per inmate on prison health services. Does that mean then that we are going to make an adjustment to that 121 million based on the co-payments, or are we -- will the facility collect the money from the inmates which increases ultimately the 121 million for whatever amount it might be and do you know what that amount might be?

SENATOR NOZZOLIO: Certainly, Senator, that whatever savings are generated will be money coming into the state coffers, are not being expended in the state coffers. It would be up to this Legislature and the Assembly

to hammer out a plan as to where those additional savings will go to, but just in New York State, let me just give you an example of one inmate who went to sick call 52 times in eight months, 17 times for colds, 13 times for dandruff, 4 times for ear wax, 6 times for athletes foot, 7 times for a toothache and 5 times for muscular aches, or another who went 19 times in two months, 7 for colds, 3 for insomnia, 3 for callouses, 3 for a headache and 3 for an old healed finger injury. There's an abuse of the system here that is not just by these two inmates but across the board. It's an enormous medical cost. It's also a cost in terms of lost time, managerial costs.

What we're saying is we're not trying to deny payments or to deny services to those who are truly needy of services. We're not going to deny services to anybody who legitimately is sick and cannot pay, but we are setting up a mechanism so that the taxpayers can be reimbursed for this medical -- at least a small portion of this medical cost. I believe that this will also add as a chilling effect - will have a chilling effect on those who are

continually abusing the system.

Your employees or the employees of any correctional facility could not get this type of medical treatment. Why should the inmates of this state be using sick call as a way to avoid work in the prison, to avoid their responsibilities in a prison, to break up their routine? Those are the inmates we are trying to stop from abusing the system, Senator, and that's why the bill is before us.

SENATOR MONTGOMERY: Senator Nozzolio -- Mr. President, through you, I would like to -

ACTING PRESIDENT MARCELLINO: Senator, do you continue to yield?

SENATOR NOZZOLIO: Yes.

ACTING PRESIDENT MARCELLINO: He yields, Senator.

SENATOR MONTGOMERY: Senator Nozzolio, you say that you are going to reduce -- this is a budget measure, apparently, that you're looking to raise funds in addition to discouraging the use of the medical facilities. How much are you anticipating raising with this measure? Do you have any idea what you might -

what kind of budget implication this measure means for us?

SENATOR NOZZOLIO: Senator, I think we need to look at this in a couple of ways. Those states that have established this co-payment, some states, the sick call visits by inmates were reduced as high as 76 percent. We also -- let's assume that we could do half of that. Let's say we were able to reduce sick call costs by 30 percent. More appropriately, we would be saving money for the taxpayers and also have scarce medical resources available for those inmates who are truly sick.

I have been to many of the prisons, our women's prisons, in particular, which I think you would be very sensitive to. There is a tremendous amount of sickness on behalf of inmates in our women's facilities. I would say more so than our men's, although they're both -- there are many, many sick people in our state prisons today, tuberculosis, HIV. They are very serious, serious matters.

What I'm saying is let's take the inmates out of sick call who are complaining about hangnails or are complaining about things

that are very, very on the margin and let's focus medical attention on those who are very sick. I think that's really another aspect here that should not be missed or glossed over, that this measure allows us to take doctor's time - which is scarce. It's a resource in prison - and focus it on those who are seriously sick as opposed to those who may be using the system to abuse it.

SENATOR MONTGOMERY: Mr. President, if the Senator will -- I'm listening carefully at what -- his answer to that question in terms of what it's going to save us and you indicate that some states have saved up to 76 percent and you also indicate in your answer that the most serious illnesses will not be affected by this particular measure, but I don't see anywhere in the legislation where it indicates that you will not have to make the co-payment if you have, in fact, one of the kinds of illnesses that you describe as being more serious like tuberculosis, and I also would like to ask you, since we understand that there's a large percentage of inmates who are HIV-positive, many of them with active cases of

AIDS, what do you propose we do with those inmates, assuming they're going to have to have more intensive and extensive medical care?

SENATOR NOZZOLIO: Senator, line 18 through 20 on page 1 of the bill talks about those inmates who are -- have no ability to pay their co-payment charges. An inmate is not going to be refused treatment for their inability to pay but there will be a lien on their account so that an inmate account -- as you know, every inmate has an account. Some have pretty big accounts. This allows the Department of Corrections to put a lien on their inmate account so that if at the end of their sentence, they'll make a provision -- they'll have the lien on the account through the time of incarceration and if there is any money in that account, it will be returned to the taxpayers. If not, then there may be some collection processes established but there are none in this bill.

SENATOR MONTGOMERY: And one last question, Senator Nozzolio. How much -- what percent of income are we speaking about here? What exactly is -- what do we pay inmates per

diem for their work?

SENATOR NOZZOLIO: We pay inmates three square meals a day. We pay inmates housing. We pay inmates cable television. We pay for inmates to get their high school equivalency. We're paying and paying and paying. For those inmates who work -- and unfortunately, Senator, work is not a requirement in our correctional facilities. I would like to see the day when this Legislature stands up and supports measures that would require inmates to work. We have no requirement that they work. They make, in some of the prison industries, up to $5 an hour -- a day, rather. I'm sorry -- up to $5 a day.

SENATOR MONTGOMERY: $5 a day.

SENATOR NOZZOLIO: So that a $25 a week account can add up, as you can see, very quickly. An inmate who is working would be an inmate who would certainly be able to have an account in order for them to make purchases. They have these inmate accounts. The inmate account is there and that we're just saying for the costs of medical care, a small charge should be incurred.

Also, the state -- just to save the costs, the state of New Jersey has instituted this program. They cut their costs, I believe the first year by about $10 million. Florida, in the first year, saw an extreme lack of -- an extreme reduction in the amount of sick calls used. Co-payments totaled in the first two years almost $1 million back to the system, but I must add that I'm not naive to think that this is a perfect system. No way is it intended -- or proposed that it's a perfect system.

What we're saying here, though, is in small measure, we're going to have inmates be responsible for some of the costs of their incarceration and some of the costs of their health care, just like every citizen. In effect -- look at it this way. It not only saves money for the taxpayers but it also has - instills a value here upon the inmate, that in order to receive a service, you have to pay for the service. I think it just is a good part of rehabilitation in terms of focusing real world experiences upon our prison inmates.

SENATOR MONTGOMERY: Thank you.

SENATOR NOZZOLIO: Thank you.

SENATOR MONTGOMERY: Senator Nozzolio.

Let me speak just briefly on the legislation.

ACTING PRESIDENT MARCELLINO: Senator Montgomery, on the bill.

SENATOR MONTGOMERY: I understand Senator Nozzolio's anguish with the fact that we provide medical services to inmates while we don't provide free of charge necessarily medical services to the people who work in Corrections or any other group of citizens who can afford to pay or who are insured by the state or some municipality or some private industry, but it really is very unfortunate that the Senator selects this means which essentially punishes people who are already incarcerated and who are already being -- suffering whatever the appropriate punishment that we have established for them in the state. He wants to further punish them by forcing them to pay $7 per visit for medical care and it is -- it is purported that we are going to save money or raise money in the process and the unfortunate thing is that we have a system where we have large numbers of

people who are -- who live very close to each other, in some instances two people in one cell and they are not only -- it's not only a place where it's very easy to have diseases of all sorts be quickly spread among populations of inmates but also to the outside world through the corrections personnel, and it seems to me to be penny-wise and pound-foolish to take that kind of chance just to further punish the inmates and to ostensibly save a little money and, of course, Senator Nozzolio does not indicate what exactly he sees us saving or how much this is going to really ultimately impact on the budget if at all.

So I urge my colleagues to really reject this notion that we should -- we should essentially take medical services away or the availability of medical services away from inmates because having access and -- complete and free access to medical services is much safer for us in terms of the health of the communities to which those inmates will return, the health of the other inmates in the facility and the health of the corrections people. I think it's much more important that we have

those services so that we can protect the health of all of those people, of all of us as opposed to trying to raise a little money this way and ultimately prevent inmates from accessing health care.

So I urge a no vote on this bill.

ACTING PRESIDENT MARCELLINO: Senator Waldon.

SENATOR WALDON: Thank you very much. Would the sponsor yield for a question or two?

ACTING PRESIDENT MARCELLINO: Senator Nozzolio, would you yield to Senator Waldon?

SENATOR NOZZOLIO: Yes.

ACTING PRESIDENT MARCELLINO: He yields, sir.

SENATOR WALDON: Senator, are you aware of restitution as part of their estate where someone is ordered to pay restitution, as part of their penalty?

SENATOR NOZZOLIO: Yes, Senator.

SENATOR WALDON: Would the gentleman continue to yield?

ACTING PRESIDENT MARCELLINO: Continue to yield? He does.

SENATOR WALDON: Senator, have you computed the cost of the wash cloth, the towel, the tooth brush, the tooth paste, the uniform, have you considered that maybe this is part of it?

SENATOR NOZZOLIO: Yes, Senator, I have thought of it, and I certainly would understand your concern with any inmate's cost of their incarceration, but I wanted to start here, Senator, in all seriousness because this is an enormous problem and this is why we started here. It's a problem because, if you go to the prison, you see sick calls being used really not for the intention and really not the purposes that it was intended, and that's why we focused on this issue first.

SENATOR WALDON: Will the gentleman continue to yield, Senator?

SENATOR NOZZOLIO: Yes.

ACTING PRESIDENT MARCELLINO: He yields, Senator.

SENATOR WALDON: Thank you, Mr. President. Thank you, Senator.

Then, Senator, since it is such a problem and it is so rampant, from your characterization, can you tell us how many times sick call was resorted to in 1996 or how many sick calls were made in 1995 or how many sick calls were made in 1994? Can you give us some data on that?

SENATOR NOZZOLIO: Senator, I do not have the number of sick calls. I have the total amount of money we spend on the medical costs up there. It's about 120 million, $121 million on prison health services. I think on all the costs of incarceration, we're spending 121 million on just medical services.

SENATOR WALDON: Would the gentleman continue to yield?

ACTING PRESIDENT MARCELLINO: Do you continue to yield, Senator?

SENATOR NOZZOLIO: Yes.

ACTING PRESIDENT MARCELLINO: He does, Senator.

SENATOR WALDON: Would I be fair, Senator Nozzolio, in eliciting from what you said that that $120 million includes operations ordered by the doctor, those patients who have

HIV/AIDS who are treated by the doctors; it would include dental situations; it would include appendectomies, colostomies, whatever is required by the prison doctors on behalf of the patients, not just sick call visits that were done to beat the system?

SENATOR NOZZOLIO: Yes, I believe that's fair, Senator.

SENATOR WALDON: Senator Nozzolio, would you continue to yield?

SENATOR NOZZOLIO: Yes, Mr. President.

ACTING PRESIDENT MARCELLINO: He yields, Senator.

SENATOR WALDON: Thank you, sir. Senator, you are probably our expert on the prisons in this chamber. You have a greater awareness than the rest of us and we appreciate you for that, so you understand the importance of the money and the cigarettes and that whole underground situation that is the prisons. Those of us who are aware of what prisons are really like know that, if there's not cooperation between the warden and the people who work with the prisons, the guards and the

prisoners, that we have complete chaos and within the prison community they have unwritten rules in terms of their economy and their bartering system, and what you're proposing is taking the 62 cents per hour that some of them make, utilizing it for sick call and taking away what, in effect, might be the recreation money for a number of prisoners.

Have you considered the chaos that that might create when people do not have enough to subsist within the prison system?

SENATOR NOZZOLIO: Senator, certainly there's a -- by establishing the costs, there are inmates, there will have to be inmates who have to make a decision, and what I'm trying to prevent is those who are making the decision not to work, not to participate in programs but to go to sick call. I think it's become a career for some inmates. Those are - are seen, as I've read, I don't know if you heard my comments in response to Senator Montgomery, but I mentioned the inmate who went to sick call 19 times in the last -- within a two- or three-week period. That's what we're trying to prevent by this bill too. It's not

the person with serious illness. It's not the person with an occasional visit to the sick call that will be in any way really affected by this measure to a great degree.

I mean we're talking about inmates who work. We're saying it's maybe a day's wages for those who are working but it - frankly, I don't think it's going to be a big dent in any inmate's pocket and, more importantly, it's a huge cost that we're bearing for those inmates who are abusing the system, so if we can put this in and help stop that abuse, help reduce that abuse, I think we're all going to be further ahead, and I think that chaos you describe, we already have chaos now in the sick call process. It's the amount of management time, guards, correction officers, that accompany people the frequent sick call visits, taking them out of the general population, putting them in the sick call, it's just an enormous managerial problem as well, so I think we have -- it would be -- I think the chaos you described is -- I think, would certainly be mitigated by these other circumstances we're discussing.

SENATOR WALDON: Mr. President, would the gentleman indulge me for just one or two more questions?

SENATOR NOZZOLIO: Of course, Mr. President.

ACTING PRESIDENT MARCELLINO: Senator yields.

SENATOR WALDON: Thank you, sir. Senator, I know that you're aware of our constitutional guarantees in regard to cruel and unusual punishment and you're also aware historically of ex post facto law in this country, and that we're not supposed to, in an unusual and cruel manner, punish people unnecessarily and that, after an act is committed which was O.K. when it was committed, we're not supposed to then find them guilty of something that was not a crime at the moment that it was committed.

Could you characterize the punishment -- in your thought process, can you characterize the punishment of the co-pay for the medical treatment perhaps as coming under the umbrella of cruel and unusual punishment and perhaps as implementing ex post facto laws?

SENATOR NOZZOLIO: Senator, it's, I believe, certainly a relevant and thought-provoking question. The Supreme Court in Revere vs. Massachusetts General Hospital, United States Supreme Court, found in 1983 that as long as the inmate received the necessary attention, state law should determine who paid for that attention, so in effect, as long as this bill would not prevent an inmate from getting the medical services they needed, which it does not, the mechanisms we have in the bill allow, at the threshold, the inmate to get the attention, and then his account will be debited so it doesn't say to pay the money first and then you receive the care. It says you get the care and your account, by the way, is going to be taken out $7 for that visit.

The court said, as long as care is not prohibited, prevented from being received, it is not unconstitutional, so I believe we certainly -- and many states have since that decision, taken this co-payment issue up. New Jersey was first on this for inmate co-pay for inmate medical services so, Senator, certainly your concerns are legitimate in my

view and that I hope that this answers your question.

SENATOR WALDON: I thank you very much, Senator Nozzolio.

Mr. President, on the bill.

ACTING PRESIDENT MARCELLINO: Senator Waldon, on the bill.

SENATOR WALDON: Thank you, Mr. President. Thank you, by the way, Senator Nozzolio.

It is my belief that we are really stretching here. The court heard the case. The jury rendered its decision. Hopefully a jury of one's peers found whomever this person is that is being dealt with by the criminal justice system, a jury of that person's peers found him or her guilty and the person is now serving time, hard time, in the prisons of this state because once you get above a year's penalty, it is definitely hard time. To take a year out of someone's life or more is definitely, in my opinion, hard time, and I think that it's just ludicrous that we should then burden the system with the managerial aspect of checking on the prison, debiting and

crediting accounts in regard to payment, but I think from a moral perspective, from a human equation perspective that to me this petty, this punitive, this myopic, this narrow in terms of our vision, really does not bespeak of the great state that New York is or the great criminal justice system that we have had historically, and I would encourage us to be better than this, to look beyond this, to have greater vision and greater sensitivity to ourselves, not just those who are in prison and to oppose this proposal.

I would encourage all of us on Senate 3429 to vote loudly in the no.

Thank you, Mr. President.

ACTING PRESIDENT MARCELLINO: Senator Leichter.

SENATOR LEICHTER: Yes, if Senator Nozzolio would yield, please.

ACTING PRESIDENT MARCELLINO: Senator, do you yield to Senator Leichter?

SENATOR NOZZOLIO: Yes, Mr. President.

ACTING PRESIDENT MARCELLINO: Senator yields, sir.

SENATOR LEICHTER: Senator, if we

could take a look together at line 5 of your bill which talks about medical treatment, am I correct that the co-payment is due for each medical treatment?

SENATOR NOZZOLIO: Line 5, Senator, of page -

SENATOR LEICHTER: On page 1.

SENATOR NOZZOLIO: And the section 607.5?

SENATOR LEICHTER: Yes, 607.

SENATOR NOZZOLIO: And your question, Senator?

SENATOR LEICHTER: The question is, is the co-payment due for each medical treatment?

SENATOR NOZZOLIO: Each visit, Senator, each medical visit in line with as a co-payment now is through our insurance policies per visit, our plan, our state employee plan is per visit, so if there are a number of procedures incurred during that visit, it would only be per visit, not per procedure.

SENATOR LEICHTER: With all due respect, Senator Nozzolio, if you would be good enough to yield, and you've certainly corrected

what I thought was an unclear provision of the bill, don't you think that the bill ought to be amended to make clear that you're talking about visits, one visit -- you talk about treatment. Taking blood is a treatment, giving a pill is a treatment, taking some blood pressure is another treatment. Shouldn't you, therefore, say per visit?

SENATOR NOZZOLIO: Under 607.2, Senator, that's line 5 of the bill, page one, each inmate shall be required to sign a log documenting the schedule of time of visit. If that visit is the determining factor of the co-payment, that the log is based on a per visit basis, it's not based on a per procedure basis, so that when the log -- the log is the -- will be the determinative or the guidepost, if you will, the billing on account system used by the Corrections Department, so that on each visit the inmate will be assessed, not -- there's no intention of any other -- it says right in the statute, right in the bill here, we're talking about per visit.

SENATOR LEICHTER: Well, Senator, again if you would be -

ACTING PRESIDENT MARCELLINO: Senator Nozzolio, you continue to yield?

SENATOR LEICHTER: Continue to yield.

ACTING PRESIDENT MARCELLINO: He yields.

SENATOR LEICHTER: Section 2 really refers to the process of billing the inmate since -- at each visit, but section 607 says very clearly that the amount of $7 shall be due on the receipt of each medical treatment. I mean it's perfectly clear and plain.

I understand -- I understand what you mean, Senator Nozzolio -- I understand what you mean, but very frankly, the only interpretation of your bill is that an inmate who comes in, like an inmate who's hospitalized, may get 6 or 7 or 8 or 10 different treatments in the course of a day, and under this bill would be charged $7 for each such treatment.

On the other hand, an inmate who comes in, the doctor or the nurse takes a look at him and says, You're fine, get out of here, wouldn't have to pay anything because he never received any medical treatment, so I think

again, Senator Nozzolio, I would -- I would urge you to take a look at the language of your bill and see if it really accomplishes your purpose.

Let me ask you just one other question. Again, language that I just cannot understand. This is line 22 on page 1. I'll read the sentence and ask if you tell us what its meaning is. "Federal inmates will be billed directly through the jurisdiction which was agreed to by the federal agency."

SENATOR NOZZOLIO: Mr. President, Senator, we have no authority to impose this type of co-payment onto federal inmates and there are some -- and there are some federal inmates that are, for facility provided reasons, that this prohibits us from assessing -- in effect, we have no authority to assess onto federal inmates, and so that we're saying that if those -- as you well know, some of our inmates get a federal per diem for being housed at local and state facilities, and it doesn't happen often, but it does happen often enough and it doesn't happen every day but it happens often enough that federal inmates are receiving incarceration, are being incarcerated in state

facilities as convicted of federal crimes or otherwise sentenced by federal courts so that that's why the -- we have to place the federal admonition here as it reads because we just don't have any authority to make that test.

SENATOR LEICHTER: Thank you very much, Senator Nozzolio, and I appreciate your willingness. Always willing to answer questions and I think that certainly speaks well to having a process that enables us to try to understand your bills, and I thank you for that.

Just very briefly, on the bill, Mr. President.

ACTING PRESIDENT MARCELLINO: Senator Leichter, on the bill.

SENATOR LEICHTER: I just focused on some of the specific language difficulties in the bill, and I think anybody who looks at it would have to come to the same conclusion that I did, that while Senator Nozzolio's intent is obviously to deal with ambulatory visits and to charge $7 for each visit, it just doesn't say that. It says very clearly co-payment in the amount of $7 upon receipt of medical treatment. The reference to visits is for the mechanism to

try to collect the money which -- I'm sorry, reminds me.

Senator Nozzolio, I did want to ask you one other question if you would be kind enough to yield for it.

ACTING PRESIDENT MARCELLINO: Senator, do you yield for one more question? He does.

SENATOR LEICHTER: Have you - have you checked with the Department of Correction what their view is of this bill because obviously this requires a large administrative effort by the Department? Are they in support of this bill?

SENATOR NOZZOLIO: Senator, that -- I know the measure is under review by the Department. They've taken no formal position on the measure.

SENATOR LEICHTER: I see. Thank you.

It's clear to me that the bill is not written to accomplish its purpose. Even if it were, I don't want to hide behind some technicality. I don't like the bill for the reasons stated by Senator Montgomery and Senator

Waldon, but I point out in addition that this bill is going to or may very well end up costing money because it imposes administrative burdens on the Department.

I think it's highly unlikely that you're going to be able to collect money from the inmates, yet you have to set up this entire system, and I think that's why we have no views expressed by the Department. Clearly if this is going to bring in a lot of money to the Department, they would be the first ones to urge us to pass this bill. They don't urge us to pass this bill, and for very obvious reasons because I don't think it is going to save money. I think it is going to create problems in the facility. I think we have an obligation to provide medical treatment for people who are incarcerated. I think the way to deal with the malingerers is there is no obligation. If somebody comes and says for the third day in a row, Please take me to the doctor, I have dandruff or whatever claims to be ailing him or her, the guard could say, No, I'm not going to do it, and that happens all the time and that's really how the facility deals with people who

abuse the medical services.

Yes, if you have 60-, 70,000 inmates as we do, you're going to have a medical cost for taking care of them. We have a cost for feeding them, housing them, and so on. It's part of the cost that we have to pay for taking violent people or people who have committed in fraction of the law off the streets, but to say they're going to charge them for their medical services, I think, is ill founded, ill thought out. I don't think it's going to work and, in any respect, this bill doesn't even accomplish what it seeks to do.

ACTING PRESIDENT MARCELLINO: Read the last section.

THE SECRETARY: Section 2. This act shall take effect on the 120th day.

ACTING PRESIDENT MARCELLINO: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MARCELLINO: Get Markowitz.

THE SECRETARY: Those recorded in the negative on -- those recorded in the negative on Calendar Number 920 are Senators

Leichter, Markowitz, Montgomery, Paterson, Sampson, Seabrook, Smith, Stavisky and Waldon. Ayes 49, nays 9.

ACTING PRESIDENT MARCELLINO: The bill is passed.

Senator Present, that concludes the reading of the controversial calendar. We do have a report of the Rules Committee. May we read that?

SENATOR PRESENT: Mr. President, let's return to reports of standing committees. I understand there's a report of the Rules Committee there. May we have that?

ACTING PRESIDENT MARCELLINO: Secretary will read the report of the Rules Committee.

THE SECRETARY: Senator Bruno, from the Committee on Rules, reports the following bills:

Senate Print 304, by Senator Markowitz, an act authorizing the city of New York to reconvey its interest;

342, by Senator Nozzolio, an act to amend the Alcoholic Beverage Control Law;

726, by Senator Saland, an act to

amend the Executive Law;

1273, by Senator Stachowski, an act to amend the General Municipal Law;

2174, by Senator Oppenheimer, an act to authorize the town of Harrison, West chester County;

2844, by Senator Tully, an act authorizing the assessor of the county of Nassau;

3950-A, by Senator Johnson, an act to authorize the Ingracia Pentecostal;

3951-A, by Senator Johnson, an act to authorize the Church of God;

3992, by Senator Libous, an act to amend the General Municipal Law;

4062, by Senator Velella, an act to amend the Insurance Law;

4372, by Senator Libous, an act to amend the Tax Law;

4472, by Senator Libous, an act to amend the Executive Law;

4487, by Senator Velella, an act to amend the Public Authorities Law;

4501, by Senator Tully, an act authorizing the assessor of the county of

Nassau;

4681, by Senator Tully, an act authorizing the assessor of the county of Nassau;

4977-A, by Senator Holland, an act to amend the Real Property Tax Law;

5052, by Senator Libous, an act to amend the Executive Law;

5284, by Senator Libous, an act to amend the Education Law;

5305, by Senator Holland, an act to amend the Social Services Law;

5321, by Senator Tully, an act to amend the Civil Rights Law;

5323, by Senator Nozzolio, an act to amend Chapter 55 of the Laws of 1992;

5324, by Senator Nozzolio, an act to amend the Executive Law;

5325, by Senator Volker, an act to amend the Criminal Procedure Law;

5367, by Senator Goodman, an act to amend the Alcoholic Beverage Control Law;

5396, by Senator Volker, an act to amend the Penal Law; and

5404, by the Senate Committee on

Rules, an act to amend the General Municipal Law.

All bills ordered directly for third reading.

ACTING PRESIDENT MARCELLINO: Senator Present.

SENATOR PRESENT: Mr. President, I move we accept the report of the Rules Committee.

ACTING PRESIDENT MARCELLINO: All in favor of accepting the report of the Rules Committee signify by saying aye.

(Response of "Aye.")

Opposed nay.

(There was no response.)

The report is accepted.

Senator Present.

SENATOR PRESENT: Mr. President, is there any housekeeping at the -

ACTING PRESIDENT MARCELLINO: Senator Rath.

SENATOR RATH: Yes, Mr. President. On page 50, I offer the following amendments to Calendar Number 376, Senate Print Number 3481-B and ask that said bill retain its

place on the Third Reading Calendar.

ACTING PRESIDENT MARCELLINO: So ordered.

SENATOR RATH: Mr. President, I wish to call up my bill, Print Number 1299, recalled from the Assembly which is now at the desk.

ACTING PRESIDENT MARCELLINO: Secretary will read.

THE SECRETARY: Calendar Number 196, by Senator LaValle, Senate Print 1299, an act to amend the Town Law.

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

ACTING PRESIDENT MARCELLINO: Call the roll.

(The Secretary called the roll on reconsideration.)

THE SECRETARY: Ayes 58.

SENATOR RATH: Mr. President, I now offer the following amendments.

ACTING PRESIDENT MARCELLINO: Amendments accepted.

Senator Present.

SENATOR PRESENT: Mr. President, I move we adjourn until Wednesday, June 4th, at 11:00 a.m.

ACTING PRESIDENT MARCELLINO: On the motion, the Senate stands adjourned until Wednesday, June 4, at 11:00 a.m., at 11 a.m., sharp.

(Whereupon at 2:58 p.m., the Senate adjourned.)