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ALBANY, NEW YORK

March 17, 1998

3:04 p.m.

REGULAR SESSION

SENATOR JOHN R. KUHL, JR., Acting President

STEVEN M. BOGGESS, Secretary

1 P R O C E E D I N G S

2 ACTING PRESIDENT KUHL: Senate
3 will come to order. Ask the members to find
4 their chairs, staff to find their places. Ask
5 everybody in the chamber to rise and join with
6 me in saying the Pledge of Allegiance to the
7 Flag.

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

10 In the absence of clergy, may
11 we bow our heads in a moment of silence.

12 (A moment of silence was
13 observed.)

14 Reading of the Journal.

15 THE SECRETARY: In Senate,
16 Monday, March 16th. The Senate met pursuant
17 to adjournment. The Journal of Sunday, March
18 15th, was read and approved. On motion,
19 Senate adjourned.

20 ACTING PRESIDENT KUHL: Hearing
21 no objection, the Journal stands approved as
22 read.

23 Presentation of petitions.

24 Messages from the Assembly.

25 Messages from the Governor.

1 Reports of standing

2 committees.

3 The Secretary will read.

4 THE SECRETARY: Senator Lack,
5 from the Committee on Judiciary, reports the
6 following nomination:

7 As a Justice of the Supreme
8 Court for the Third Judicial District, Bernard
9 J. Malone, Jr., of Glenmont.

10 ACTING PRESIDENT KUHL: Chair
11 recognizes Senator Lack.

12 SENATOR LACK: Mr. President, I
13 rise to move the confirmation of Bernard J.
14 "Bud" Malone of Glenmont, as a Justice of the
15 Supreme Court of the Third Judicial District
16 comprising the seven counties surrounding the
17 Capital District. Mr. Malone appeared before
18 the committee this morning. His credentials
19 were examined by the staff and his nomination
20 moved to the Senate, and it's my pleasure to
21 move the nomination.

22 ACTING PRESIDENT KUHL: Chair
23 recognizes Senator Bruno, on the nomination.

24 SENATOR BRUNO: Thank you, Mr.
25 President.

1 I guess it's fitting today that
2 we be confirming as one of the first judges in
3 the chamber an Irishman, "Bud" Malone, and I
4 want to commend Governor Pataki for his wisdom
5 and his good judgment in having forwarded the
6 name of "Bud" Malone to be a Supreme Court
7 Justice.

8 There isn't anyone that is more
9 qualified to sit on the bench than "Bud"
10 Malone. He's an outstanding lawyer but, more
11 important, he is an outstanding person. He
12 has spent more time in public service for -
13 in his young life and has accomplished so much
14 through so many of the organizations that have
15 seen fit to recognize him, and I'll read a
16 few: The International Narcotics Enforcement
17 Officers Association Award; the Postal
18 Inspectors Commendation for successful
19 prosecution of child pornography; and a
20 Distinguished Service Award from Albany Law
21 School.

22 He also served in Vietnam from
23 '65 to '69, in the U. S. Army and received a
24 Bronze Star. He is a partner in the law firm
25 of Hinman, Straub, and he is a founding member

1 of the Youth Courts in Colonie and Bethlehem,
2 volunteering his time, his understanding of
3 the justice system to help young people stay
4 out of trouble.

5 He is truly, Mr. President, a
6 dedicated public servant whose intelligence,
7 humor and years of experience have served him
8 well.

9 It will serve him well on the
10 bench. It has served him well in front of the
11 bench. I am proud to rise and endorse "Bud"
12 Malone for the courts and move for its
13 adoption.

14 ACTING PRESIDENT KUHL: The
15 Chair recognizes Senator Farley, on the
16 nomination.

17 SENATOR FARLEY: Yes, Mr.
18 President.

19 I also rise to second the
20 nomination of "Bud" Malone who comes from a
21 distinguished law firm where my daughter was
22 also associated, Hinman, Straub, Pigors &
23 Manning, but he has been an outstanding lawyer
24 in this community and also a United States
25 district attorney and has really served his

1 community well and, you know, as we're going
2 to be confirming another Irishman, it's nice
3 to see an Irishman make good. Good luck to
4 you, Bud.

5 ACTING PRESIDENT KUHL: Senator
6 Breslin, on the nomination.

7 SENATOR BRESLIN: I rise to
8 second the nomination of "Bud" Malone who's
9 been a friend of mine for over 25 years and a
10 fellow practitioner. Bud is great evidence of
11 a good choice by the Governor and has the
12 skills necessary to be an extremely competent
13 Supreme Court judge, and I look forward to
14 many, many more years with this friend.

15 ACTING PRESIDENT KUHL: Any
16 other Senator wishing to speak on the
17 nomination? Senator Stafford, on the
18 nomination.

19 SENATOR STAFFORD: I think
20 anyone would want to, if they had known "Bud"
21 Malone personally or worked with him
22 professionally and, as the leader said, and
23 everyone has said, the Governor has made a
24 tremendous, tremendous appointment and we know
25 he will do a tremendous job on the bench.

1 ACTING PRESIDENT KUHL: Any
2 other Senator wishing to speak on the
3 nomination? Hearing none, the question is on
4 the nomination of Bernard, commonly known as
5 "Bud" J. Malone, Jr., of Glenmont, to the
6 Supreme Court of the Third Judicial District.
7 All those in favor signify by saying aye.

8 (Response of "Aye.").

9 Opposed nay.

10 (There was no response.)

11 The nominee is confirmed.

12 Judge Malone, we're very pleased to have you
13 with us.

14 (Applause)

15 ACTING PRESIDENT KUHL: I'm
16 sure the judge would like to have his family
17 recognized. His wife Paula is in the chamber
18 with him, his children Ryan and Jeffrey and
19 Jacqueline.

20 (Applause)

21 His father, Bernard Malone and
22 family and friends. Welcome to the chamber.
23 This is a marvelous day and, Judge, we know
24 you're going to do great things by the people
25 of the state of New York and the people that

1 you'll serve. Thank you for being with us.

2 (Applause)

3 The Secretary will continue to
4 read.

5 THE SECRETARY: Senator Lack,
6 from the Committee on Judiciary, reports the
7 following nomination:

8 As a judge of the Saratoga
9 County Family Court, Courtenay W. Hall, of
10 Stillwater.

11 ACTING PRESIDENT KUHL: The
12 Chair recognizes Senator Lack, on the
13 nomination.

14 SENATOR LACK: Mr. President, I
15 rise again to move the nomination of Courtenay
16 W. Hall of Stillwater as a judge of the
17 Saratoga County Family Court. Mr. Hall
18 appeared before the Judiciary Committee this
19 morning. His credentials were examined by the
20 staff of the committee and found to be in
21 order and, Mr. President, I would very
22 respectfully once again yield to the Majority
23 Leader, Senator Bruno, for purposes of a
24 second.

25 ACTING PRESIDENT KUHL: Chair

1 recognizes Senator Bruno, on the nomination.

2 SENATOR BRUNO: Thank you,
3 Senator Lack. Thank you, Mr. President.

4 Again I am very, very pleased
5 to be able to stand and speak on behalf of an
6 extremely qualified individual from Still
7 water, the Saratoga County attorney, a
8 constituent. He has served with great
9 distinction the people of Saratoga County. In
10 his position he has prosecuted some 5,000
11 cases on behalf of the people of the county.

12 He is a former president and
13 chairperson of the Board of Directors of the
14 New York State Association of County
15 Attorneys. He has been very involved in the
16 community, especially on behalf of young
17 people, and has been an example of the right
18 things to do in the community.

19 His leadership as a Family
20 Court judge will be one that will set him up
21 as a role model for many of the people in the
22 county.

23 So again, Mr. President, I
24 commend the Governor in his selection and I
25 welcome this opportunity to speak on behalf of

1 such an outstanding and qualified person as
2 Courtenay Hall.

3 ACTING PRESIDENT KUHL: Senator
4 Gold, on the nomination.

5 SENATOR GOLD: Thank you, Mr.
6 President.

7 Mr. President, I didn't have
8 the pleasure of knowing the nominee before the
9 meeting today, but I think everybody at the
10 committee meeting was very much taken with the
11 gentleman's desire to do the job and, while
12 many of the people I know at the bar would
13 love to be lawyers, as you get to the Family
14 Court the list dwindles a little bit and, as I
15 said, a little bit tongue in cheek at the
16 meeting, if this man wants the job so bad, let
17 him have it. Who wants it?

18 But this is one of the toughest
19 jobs we have in this state. The problems of
20 the Family Court, family abuse, child abuse,
21 juvenile crime, the kinds of things that come
22 before these judges are the kind of problems
23 where, at the end of the day, it's amazing
24 that -- that any of them are not alcoholics,
25 God forbid, and I want to wish the judge a

1 really successful tenure. I hope that
2 wonderful enthusiasm stays with you. You are
3 the kind of person from what I can see that we
4 really need on the Family Court, and I wish
5 you Godspeed in this job.

6 ACTING PRESIDENT KUHL: Senator
7 Farley, on the nomination.

8 SENATOR FARLEY: Yes. Thank
9 you, Mr. President.

10 I rise to second the nomination
11 of Courtenay Hall. I have the good fortune of
12 sharing Saratoga County with Senator Bruno,
13 and as a matter of fact where he practiced out
14 of, and so forth, is in my district, but let
15 me just say that he is undertaking one of the
16 more difficult jobs on the bench in Family
17 Court, but he's eminently qualified having
18 been a law guardian for nine years and having
19 worked in this area, and we certainly need
20 good justices in the Family Court, and I know
21 that Courtenay Hall will be an outstanding
22 Family Court judge, and we wish you well.

23 ACTING PRESIDENT KUHL: Is
24 there any other Senator wishing to speak on
25 the nomination?

1 Hearing none, the question is
2 on the nomination of Courtenay W. Hall of
3 Stillwater, New York as a judge of the
4 Saratoga County Family Court. All those in
5 favor of the nomination signify by saying
6 aye.

7 (Response of "Aye.")

8 Opposed nay.

9 (There was no response.)

10 The nominee is confirmed.

11 We're very, very pleased to
12 have Judge Hall with us in the chamber
13 together with his wife Carolyn, and his mother
14 Doris Hall.

15 Judge, congratulations. Good
16 luck.

17 (Applause)

18 Secretary will continue to
19 read.

20 THE SECRETARY: Senator Lack,
21 from the Committee on Judiciary, reports the
22 following nomination:

23 As Justice of the Supreme Court
24 for the Seventh Judicial District, Thomas
25 Vanstrydonck, of Rochester.

1 ACTING PRESIDENT KUHL: Chair
2 recognizes Senator Lack, on the nomination.

3 SENATOR LACK: Thank you, Mr.
4 President.

5 My privilege to rise to move
6 the nomination of Thomas M. Vanstrydonck, of
7 Rochester, as a Justice of the Supreme Court
8 for the Seventh Judicial District. He
9 appeared before the committee this morning and
10 notwithstanding the ringing endorsement of
11 Senator Dollinger or some of his childhood
12 relationships, nonetheless the committee
13 unanimously has moved him through the -- to
14 the floor. His credentials were examined by
15 the staff of the committee and found to be
16 highly in order, and it's with great pleasure
17 that I yield to the good Senator from
18 Rochester, the Honorable James Alesi, for
19 purposes of a second.

20 ACTING PRESIDENT KUHL: Chair
21 recognizes Senator Alesi.

22 SENATOR ALESI: Thank you, Mr.
23 President.

24 I'm indeed honored to support
25 the nomination of Governor Pataki for Tom

1 Vanstrydonck for this Supreme Court position.
2 Tom is a well respected attorney in the Monroe
3 County area. He's deeply committed to his
4 community, as a husband, a father and a
5 veteran and as our friend, Dave Dudley,
6 mentioned earlier in the committee meeting, he
7 has not only the intelligence but the
8 temperament for this position as well.

9 I'm very confident that Tom
10 Vanstrydonck will interpret the law with
11 wisdom and apply it with fairness and at all
12 times remember his responsibility to serve the
13 people of this state as Supreme Court
14 Justice.

15 Again, I'm honored to join the
16 Governor in this nomination and pleased to
17 welcome Tom here to Albany today.

18 ACTING PRESIDENT KUHL: Chair
19 recognizes Senator Nozzolio, on the
20 nomination.

21 SENATOR NOZZOLIO: Thank you,
22 Mr. President.

23 My colleagues, the nomination
24 of Tom Vanstrydonck is indeed a nomination
25 that deserves a great deal of praise.

1 Governor Pataki has truly found an individual
2 uniquely qualified to serve, one who brings
3 with him to the bench a variety of experience
4 that will certainly enure to the benefit of
5 the citizens of this state.

6 Tom Vanstrydonck is a Navy
7 veteran, served in the Navy during the Vietnam
8 conflict and rose to the rank of Commander;
9 that he distinguished himself in law school,
10 in a number of endeavors and returned to his
11 home in Monroe County to serve with great
12 honor and distinction as an assistant district
13 attorney. During that tenure, he certainly
14 learned a great deal of the ins and outs of
15 courtroom procedure, as well as learned a
16 great deal of sensitivity to those crime
17 victims which will serve him well as he takes
18 on these new responsibilities.

19 Tom Vanstrydonck has, as
20 Senator Alesi said, a variety of those in the
21 Rochester-Monroe County legal community in his
22 corner, those among the bar who work with Tom
23 day in and day out as he now handles complex
24 litigation as a partner in a major law firm in
25 Rochester, that he has the respect of all

1 those members of the bar and his abilities
2 have been praised across the board.

3 I'd also like to mention one
4 item of responsibility that Tom Vanstrydonck
5 undertook and that is the cause of those
6 missing and exploited children, serving as a
7 board member and eventually as president of
8 the Adam Walsh Child Resource Center in
9 Rochester.

10 Tom Vanstrydonck distinguished
11 himself showing his sensitivity for this very
12 important issue and rose to the ranks of
13 leadership in making of this child resource
14 center a center that has done great work in
15 the Monroe County community.

16 Tom Vanstrydonck's appointment
17 serves as an indication of Governor Pataki's
18 commitment to take the highest quality
19 individuals and make them members of New
20 York's judiciary. It's with that, Mr.
21 President, that I second the nomination of Tom
22 Vanstrydonck, and I know he will do an
23 excellent job serving as a justice of the New
24 York State Supreme Court.

25 ACTING PRESIDENT KUHL: Senator

1 Maziarz, on the nomination.

2 SENATOR MAZIARZ: Thank you
3 very much, Mr. President.

4 Although I'm not personally
5 acquainted with Tom Vanstryconck, when I heard
6 that he was going to be up here today for his
7 confirmation, that Governor Pataki had
8 nominated him, I did contact a very good
9 friend of mine in the law enforcement
10 community in Monroe County, Tom Roche, the
11 Chief of Police of the town of Gates that I,
12 in fact, represent here in the state Senate
13 and I have to tell you, Tom, that Chief Roche
14 had nothing but the most positive things to
15 say about you.

16 He talked about the good work
17 that you did for crime victims during your
18 tenure as an assistant district attorney and
19 all of the help that you gave to the state's
20 police departments. So I want to join my
21 colleagues, Senator Nozzolio and Alesi, and
22 thank Governor Pataki for what I know will be
23 an excellent choice on the judiciary.

24 Thank you, Mr. President.

25 ACTING PRESIDENT KUHL: Senator

1 Dollinger, on the nomination.

2 SENATOR DOLLINGER: Thank you,
3 Mr. President.

4 Senator Lack properly pointed
5 out, I guess, the longer I talk the more
6 Republican votes may be at stake, Tom, so I'll
7 be brief.

8 Governor Pataki's nomination of
9 Tom Vanstrydonck to the Supreme Court is a
10 tremendous appointment to the Monroe County
11 community. This is a man with a tremendous
12 sensitivity born of 25 years of experience as
13 a lawyer, for the balance that's needed in our
14 civil justice system, a recognition of the
15 travails of lawyers who come into courts
16 representing clients, of the economics of the
17 law practice, of an understanding of what it
18 means to be an advocate for a criminal
19 defendant, of what it means to be an advocate
20 for the people as a prosecutor. This man is
21 the entire package of a quality Supreme Court
22 judge.

23 I've known him for a long time
24 since I came back to the community in 1980.
25 Our families have had some contact together

1 because our children hang together, as they
2 would put it, but he really is a marvelous man
3 and I feel enormously secure that in the hands
4 of Tom Vanstrydonck, justice in Monroe County
5 will be assured.

6 Congratulations, Tom. You'll
7 be a marvelous addition to the bench.

8 ACTING PRESIDENT KUHL: Any
9 other Senator wishing to speak on the
10 nomination?

11 Hearing none, the question is
12 on the nomination of Thomas M. Vanstrydonck,
13 of Rochester, as a Justice of the Supreme
14 Court for the Seventh Judicial District. All
15 those in favor of the nomination, signify by
16 saying aye.

17 (Response of "Aye.")

18 Opposed nay.

19 (There was no response.)

20 The nominee is confirmed.

21 Very, very pleased to have Judge Vanstrydonck
22 with us. Judge, congratulations and good
23 luck.

24 (Applause)

25 Secretary will continue to read

1 the report of the Finance Committee.

2 THE SECRETARY: Senator
3 Stafford, from the Committee on Finance,
4 reports the following nomination:

5 Member of the State Commission
6 on Quality of Care for the Mentally Disabled,
7 Gary O'Brien, of Watervliet.

8 SENATOR STAFFORD: Mr.
9 President.

10 ACTING PRESIDENT KUHL: Senator
11 Stafford, on the nomination.

12 SENATOR STAFFORD: I've
13 mentioned this before, but I say it again
14 without any reservation or mental hesitation
15 whatsoever.

16 The Governor today sent us a
17 fine group of nominees, and the first nominee
18 was Gary O'Brien, who appeared before the
19 Committee, did an excellent job there, as I
20 know he has done and will do with the
21 Commission, and I yield to the Senator from
22 Broome.

23 ACTING PRESIDENT KUHL: Chair
24 recognizes Senator Libous, on the nomination.

25 SENATOR LIBOUS: Thank you, Mr.

1 President, and it is indeed an honor and
2 pleasure for me to stand up and move the
3 nomination of Gary O'Brien. The Governor once
4 again has sent us an outstanding candidate.

5 Let me first say that the
6 Commission on Quality Care is one of those
7 commissions that sometimes gets overlooked
8 because it is an oversight agency and it has
9 tremendous importance because, as you look at
10 the three agencies it has oversight on, deal
11 with people with mental and physical
12 disabilities and whenever there is an
13 inappropriate action or problem at one of our
14 facilities or at a provider's facility, one
15 who needs action will call the Commission.

16 Gary fits the qualifications to
17 head the Commission because of his outstanding
18 background. Since 1995, he has worked at the
19 Commission in the area of policy analysis and
20 he's also conducted a number of investigations
21 of service providers in response to the
22 complaints that I had earlier mentioned.
23 Again, when these complaints come in, they
24 come in from parents who are concerned because
25 of the care that their sons and daughters are

1 receiving.

2 Before Gary's work with the
3 Commission on Quality Care, he earned four
4 advanced degrees including a Ph.D. from
5 Catholic University, for which he wrote his
6 doctoral thesis in Leadership Style, and Gary
7 didn't just write about leadership, Mr.
8 President. He administered his accomplishments
9 by doing a number of important things, whether
10 it be recruitment training and supervising
11 personnel, managing local facilities,
12 directing the formation of a seminary and
13 serving as president of a seminary corporation
14 with final responsibilities for budgeting, for
15 fund-raising, goal setting and program
16 implementation.

17 He has served on a number of
18 organizations, whether this be organizing
19 programs for youth, conducting parenting
20 classes for teens, running alcohol and drug
21 awareness programs, working on high school and
22 college students as a teacher and a counselor,
23 and working and serving as a priest for six
24 years in the Mid-Hudson Psychiatric Center.

25 Mr. President, it is indeed an

1 honor for me to move the nomination of Gary
2 O'Brien, who I believe will make an excellent
3 candidate for this position.

4 ACTING PRESIDENT KUHL: Senator
5 Farley, on the nomination.

6 SENATOR FARLEY: Thank you, Mr.
7 President.

8 I also rise to second the
9 nomination of Gary O'Brien. As we did with
10 "Bud" Malone, an Irishman, I think it's
11 appropriate on St. Patrick's Day that Gary
12 O'Brien be confirmed.

13 Let me just say that he is
14 eminently qualified, with a remarkable
15 educational background, an administrative
16 background, and also the fact that the
17 Commission is located in Schenectady. We
18 welcome him, and I look forward to being
19 associated with him, and of being of
20 assistance.

21 We're delighted to have you.
22 The Governor has chosen somebody who has been
23 trained in the field, has come up through the
24 ranks, and so forth, and we're delighted to
25 see you take over this very, very important

1 commission, and best wishes to you, Gary.

2 ACTING PRESIDENT KUHL: Is
3 there any other member wishing to speak on the
4 nomination?

5 Hearing none, the question is
6 on the nomination of Gary O'Brien, of
7 Watervliet, to become a member of the State
8 Commission on Quality Care for the Mentally
9 Disabled. All those in favor of the
10 nomination signify by saying aye.

11 (Response of "Aye.")

12 Opposed nay.

13 (There was no response.)

14 The nominee is confirmed.

15 Very, very pleased to have Mr.
16 O'Brien here in the chambers with us today
17 together with his brother Robert and his
18 cousin, Dr. Charles Murphy. Congratulations
19 and good luck.

20 (Applause)

21 The Secretary will continue to
22 read.

23 THE SECRETARY: Senator
24 Stafford, from the Committee on Finance,
25 reports the following nomination:

1 Member of the New York State
2 Olympic Regional Development Authority,
3 Clifford R. Donaldson, of Saranac.

4 ACTING PRESIDENT KUHL: Senator
5 Stafford, on the nomination.

6 SENATOR STAFFORD: Mr.
7 President, we are very, very fortunate to have
8 Cliff Donaldson here and to have him be
9 nominated to be a member of the Olympic
10 Regional Development Authority.

11 The Authority represents more
12 than just the regional area. It really
13 represents the Olympic movement, what the
14 Olympics are all about. People here in Albany
15 and Washington, the entire country, saw the
16 1980 Olympics. They supported it.

17 Cliff will do a tremendous
18 job. He's a son of the North Country. His
19 home in Lake Clear, which is a suburb of
20 Saranac Lake, for those of you who don't know
21 where Lake Clear is. He also was educated in
22 Arkansas, where he met his delightful wife
23 Joan. He has been a leader in the North
24 Country. He serves as a trustee of the
25 Saranac Lake Village Board. He's deputy

1 mayor. He's had experience in government,
2 served with the Facilities Development
3 Corporation, served with the Department of
4 Correction, presently is an administrator of
5 the very fine county of Essex.

6 He's a gentleman who has been
7 involved, is interested. He really does a
8 tremendous job in our upstate area, and once
9 again we could have no finer person serving as
10 a member of the board than Cliff Donaldson.

11 He's here with his wife Joan
12 and his son Aaron. I'd ask you to welcome
13 them, together with our new nominee who will
14 be a member of the Olympic Regional
15 Development Board.

16 Thank you.

17 ACTING PRESIDENT KUHL: Is
18 there any other Senator wishing to speak on
19 the nomination?

20 Hearing none, the question is
21 on the nomination of Clifford R. Donaldson, of
22 Saranac, to become a member of the Olympic
23 Regional Development Authority. All those in
24 favor of the nomination signify by saying
25 aye.

1 (Response of "Aye.")

2 Opposed nay.

3 (There was no response.)

4 The nominee is confirmed.

5 We are very, very pleased to
6 have Mr. Donaldson in the chamber with us,
7 together with his wife Joan and son Aaron. If
8 they'd stand? Congratulations and good luck.

9 (Applause)

10 Secretary will continue to
11 read.

12 THE SECRETARY: Senator
13 Stafford, from the Committee on Finance,
14 reports the following nominations:

15 Members of the State Board for
16 Historic Preservation: Joseph J. Ryan, of
17 Buchanan, Frank E. Sanchis, III, of Peekskill,
18 and Arete Swartz Warren, of New York City.

19 SENATOR STAFFORD: Move
20 confirmation, please.

21 ACTING PRESIDENT KUHL: The
22 question is on the nomination of several
23 people to become members of the State Board
24 for Historic Preservation. All those in favor
25 of the nominations signify by saying aye.

1 (Response of "Aye.")
2 Opposed nay.
3 (There was no response.)
4 The nominee is confirmed.
5 Secretary will continue to read.
6 THE SECRETARY: Senator
7 Stafford, from the Committee on Finance,
8 reports the following nomination:
9 Member of the State Athletic
10 Commission: Melville Southard, Esq., of
11 Manhasset.
12 SENATOR STAFFORD: Move
13 confirmation.
14 ACTING PRESIDENT KUHL: The
15 question is on the nomination of Melville
16 Southard to become a member of the State
17 Athletic Commission. All those in favor
18 signify by saying aye.
19 (Response of "Aye.")
20 Opposed nay.
21 (There was no response.)
22 The nominee is confirmed.
23 Secretary will continue to read.
24 THE SECRETARY: Senator
25 Stafford, from the Committee on Finance,

1 reports the following nomination:

2 Member of the Allegany State
3 Park, Recreation and Historic Preservation
4 Commission: Thomas Brady, of Great Valley.

5 ACTING PRESIDENT KUHL:

6 Question is on the nomination. All those in
7 favor signify by saying aye.

8 (Response of "Aye.")

9 Opposed nay.

10 (There was no response.)

11 The nominee is confirmed.

12 Secretary will continue to read.

13 THE SECRETARY: Senator
14 Stafford, from the Committee on Finance,
15 reports the following nomination:

16 Member of the Central New York
17 State Park, Recreation and Historic
18 Preservation Commission: Mark G. Roberts, of
19 Sidney.

20 ACTING PRESIDENT KUHL:

21 Question is on the nomination. All those in
22 favor signify by saying aye.

23 (Response of "Aye.")

24 Opposed nay.

25 (There was no response.)

1 The nominee is confirmed.

2 Secretary will continue to read.

3 THE SECRETARY: Senator
4 Stafford, from the Committee on Finance,
5 reports the following nominations:

6 Members of the State Park,
7 Recreation and Historic Preservation
8 Commission for the city of New York: Edward
9 F. Cox, of New York City; Jeffrey E.
10 Livingston, of New York City; Myra E. Mahan,
11 of New York City and Cynthia C. Wainwright, of
12 New York City.

13 ACTING PRESIDENT KUHL:
14 Question is on the nominations. All those in
15 favor signify by saying aye.

16 (Response of "Aye.")

17 Opposed nay.

18 (There was no response.)

19 The nominees are confirmed.

20 Secretary will continue to read.

21 THE SECRETARY: Senator
22 Stafford, from the Committee on Finance,
23 reports the following nominations:

24 Members of the Palisades
25 Interstate Park Commission, Barnabus McHenry,

1 of New York City and Samuel F. Pryor, III, of
2 Bedford Hills.

3 ACTING PRESIDENT KUHL:
4 Question is on the nominations. All those in
5 favor signify by saying aye.

6 (Response of "Aye.")

7 Opposed nay.

8 (There was no response.)

9 The nominees are confirmed.

10 Secretary will continue to read.

11 THE SECRETARY: Senator
12 Stafford, from the Committee on Finance,
13 reports the following nominations:

14 Members of the Saratoga-Capital
15 District State Park, Recreation and Historic
16 Preservation Commission, Paulette
17 Zalduondo-Henriques, of Mamaroneck, and Thomas
18 P. Morahan, of New City.

19 ACTING PRESIDENT KUHL: Senator
20 Holland, on the nominations.

21 SENATOR HOLLAND: Yes, Mr.
22 President.

23 I know Tom is not here today,
24 but he is a good friend and he is a former
25 Assemblyman, so I would like to say some nice

1 words about him.

2 He comes from that famous
3 Assembly seat that was Tom Morahan-Bob
4 Connor-Joe Holland. He is retired from the
5 Telephone Company after 44 years. He has
6 seven daughters and 15 grandchildren. He is
7 an excellent man.

8 In 1997, he was elected by the
9 voters of Clarkstown to the Rockland County
10 Legislature. He was Minority Leader for many
11 years, and did an excellent job, and when the
12 Republicans took over, for only two years he
13 was the chairman of the county legislature and
14 our local newspaper, the Rockland Journal News
15 called him the most effective leader of the
16 Rockland County Legislature in its nearly 30
17 year history and it's really my pleasure to
18 second the nomination of Tom Morahan.

19 ACTING PRESIDENT KUHL: Any
20 other Senators wishing to speak on the
21 nomination?

22 Question is on the nomination.
23 All those in favor signify by saying aye.

24 (Response of "Aye.")

25 Opposed nay.

1 (There was no response.)

2 The nominees are confirmed.

3 Secretary will continue to read.

4 THE SECRETARY: Senator
5 Stafford, from the Committee on Finance,
6 reports the following nomination:

7 Member of the Fire Fighting and
8 Code Enforcement Personnel Standards and
9 Education Commission: Gerald W. Lynch, of New
10 York City.

11 ACTING PRESIDENT KUHL:
12 Question is on the nomination. All those in
13 favor signify by saying aye.

14 (Response of "Aye.")

15 Opposed nay.

16 (There was no response.)

17 The nominee is confirmed.

18 Secretary will continue to read.

19 THE SECRETARY: Senator
20 Stafford, from the Committee on Finance,
21 reports the following nomination:

22 Member of the Medical Advisory
23 Committee: Stoner E. Horey, M.C., of
24 Hornell.

25 ACTING PRESIDENT KUHL:

1 Question is on the nomination. All those in
2 favor signify by saying aye.

3 (Response of "Aye.")

4 Opposed nay.

5 (There was no response.)

6 The nominee is confirmed.

7 Secretary will continue to read.

8 THE SECRETARY: Senator
9 Stafford, from the Committee on Finance,
10 reports the following nomination:

11 Member of the Advisory Council
12 to the Commission on the Quality of Care for
13 the Mentally Disabled: Elizabeth Wickerham,
14 of Saratoga Springs.

15 ACTING PRESIDENT KUHL:

16 Question is on the nomination. All those in
17 favor signify by saying aye.

18 (Response of "Aye.")

19 Opposed nay.

20 (There was no response.)

21 The nominee is confirmed.

22 Secretary will continue to read.

23 THE SECRETARY: Senator
24 Stafford, from the Committee on Finance,
25 reports the following nomination: Members of

1 the Minority Health Council, Lillian Yu-Feng
2 Hsu, M.D., of New Rochelle, and Enid B. McCoy,
3 of East Elmhurst.

4 ACTING PRESIDENT KUHL:

5 Question is on the nominations. All those in
6 favor signify by saying aye.

7 (Response of "Aye.")

8 Opposed nay.

9 (There was no response.)

10 The nominees are confirmed.

11 Secretary will continue to read.

12 THE SECRETARY: Senator

13 Stafford, from the Committee on Finance,
14 reports the following nomination:

15 Member of the Public Health
16 Council: Edward A. Stolzenberg, of Briarcliff
17 Manor.

18 SENATOR SPANO: Mr. President.

19 ACTING PRESIDENT KUHL: Senator
20 Spano, on the nomination.

21 SENATOR SPANO: It's my
22 pleasure to stand and move the nomination of
23 Edward Stolzenberg as a member of the Public
24 Health Council.

25 Ed Stolzenberg was appointed a

1 number of years ago to head the Westchester
2 Medical Center which -- which turned last year
3 after an act of this Legislature into a public
4 benefit corporation in Westchester where he
5 still heads that public benefit corporation as
6 its president.

7 He has had a distinguished
8 career serving decades in the -- in this
9 profession, and will do us well and do the
10 Governor -- make the Governor proud as a
11 member of this Public Health Council.

12 Mr. Stolzenberg is here today
13 and I want to just say that we appreciate all
14 that he has done in Westchester County to
15 improve the quality of health care, the
16 delivery of health care for the people of
17 Westchester County, and I'm sure that he will
18 put all that good work and experience to work
19 for all the people across the state.

20 ACTING PRESIDENT KUHL: The
21 question is on the nomination of Edward A.
22 Stolzenberg, of Briarcliff Manor to become a
23 member of the Public House Council -- excuse
24 me, Public Health Council. All those in favor
25 signify by saying aye.

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(Response of "Aye.")

Opposed nay.

(There was no response.)

The nominee is confirmed.

Mr. Stolzenberg is with us here today, I believe. We appreciate your attendance. Congratulations and good luck.

Secretary will continue to 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: Vincent Bove, of Belle Terre; Lin H. Mo, of Bronxville; Edward G. Murphy, M.D., of Menands and Henry M. Sloma, of Lewiston.

ACTING PRESIDENT KUHL:

Question is on the nominations. All those in favor signify by saying aye.

(Response of "Aye.")

Opposed nay.

(There was no response.)

The nominees are confirmed.

Secretary will continue to read.

1 THE SECRETARY: Senator
2 Stafford, from the Committee on Finance,
3 reports the following nomination:

4 Member of the Board of Visitors
5 of the Bronx Psychiatric Center, Nellie
6 Neazer, of the Bronx.

7 ACTING PRESIDENT KUHL:
8 Question is on the nomination. All those in
9 favor signify by saying aye.

10 (Response of "Aye.")

11 Opposed nay.

12 (There was no response.)

13 The nominee is confirmed.

14 Secretary will continue to read.

15 THE SECRETARY: Senator
16 Stafford, from the Committee on Finance,
17 reports the following nomination:

18 Member of the Board of Visitors
19 of the Capital District Psychiatric Center, E.
20 Bernice Danks, of Averill Park.

21 ACTING PRESIDENT KUHL:
22 Question is on the nomination. All those in
23 favor signify by saying aye.

24 (Response of "Aye.")

25 Opposed nay.

1 (There was no response.)

2 The nominee is confirmed.

3 Secretary will continue to read.

4 THE SECRETARY: Senator
5 Stafford, from the Committee on Finance,
6 reports the following nomination:

7 Member of the Board of Visitors
8 of the Creedmoor Psychiatric Center, Christine
9 Spigner, of Jamaica.

10 ACTING PRESIDENT KUHL:
11 Question is on the nomination. All those in
12 favor signify by saying aye.

13 (Response of "Aye.")

14 Opposed nay.

15 (There was no response.)

16 The nominee is confirmed.

17 Secretary will continue to read.

18 THE SECRETARY: Senator
19 Stafford, from the Committee on Finance,
20 reports the following nomination:

21 Member of the Board of Visitors
22 of the Metro New York Developmental
23 Disabilities Services Office: Mildred Holley
24 Davis, of the Bronx.

25 ACTING PRESIDENT KUHL:

1 Question is on the nomination. All those in
2 favor signify by saying aye.

3 (Response of "Aye.")

4 Opposed nay.

5 (There was no response.)

6 The nominee is confirmed.

7 Secretary will continue to read.

8 THE SECRETARY: Senator
9 Stafford, from the Committee on Finance,
10 reports the following nomination: Member of
11 the Board of Visitors of the Middletown
12 Psychiatric Center, Jane A. Strout, of
13 Middletown.

14 ACTING PRESIDENT KUHL:

15 Question is on the nomination. All those in
16 favor signify by saying aye.

17 (Response of "Aye.")

18 Opposed nay.

19 (There was no response.)

20 The nominee is confirmed.

21 Secretary will continue to read.

22 THE SECRETARY: Senator
23 Stafford, from the Committee on Finance,
24 reports the following nomination:

25 Member of the Board of Visitors

1 of the Sagamore Children's Psychiatric Center,
2 Elsie Owens, of Coram.

3 ACTING PRESIDENT KUHL:

4 Question is on the nomination. All those in
5 favor signify by saying aye.

6 (Response of "Aye.")

7 Opposed nay.

8 (There was no response.)

9 The nominee is confirmed.

10 Secretary will continue to read
11 the reports of standing committees.

12 THE SECRETARY: Senator Lack,
13 from the Committee on Judiciary, reports the
14 following bills:

15 Senate 1231-A, by Senator
16 Libous, an act to amend the Uniform City Court
17 Act and the Judiciary Law;

18 1828-A, with amendments, by
19 Senator Kuhl, an act to amend the Judiciary
20 Law;

21 3414-A, by Senator Saland, an
22 act to amend the Judiciary Law and the Uniform
23 City Court Act;

24 3870, by Senator Goodman, an
25 act to amend the Domestic Relations Law;

1 5162-A, by Senator Lack, an act
2 to amend the Estates, Powers and Trusts Law;
3 and

4 6010, by Senator Stafford, an
5 act to amend the Judiciary Law.

6 Senator Hannon, from the
7 Committee on Health, reports:

8 Senate Print 6013, by Senator
9 Rath, an act to amend the Public Health Law;

10 6150, by Senator Hannon, an act
11 to amend the New York Health Care Reform Act
12 of 1996;

13 6233, by Senator Hannon, an act
14 to amend Chapter 426 of the Laws of 1983;

15 6252, by Senator Johnson, an
16 act to amend Chapter 572 of the Laws of 1994;
17 and

18 6326, by Senator Holland, an
19 act to amend Chapter 433 of the Laws of 1977.

20 Senator Johnson, from the
21 Committee on Transportation, reports:

22 Senate Print 901, by Senator
23 Kuhl, an act to amend the Vehicle and Traffic
24 Law;

25 2874-A, by Senator Johnson, an

1 act to amend the Vehicle and Traffic Law;
2 3671, by Senator Rath, an act
3 to amend the Vehicle and Traffic Law;
4 5231, by Senator Maziarz, an
5 act to amend the Highway Law and the
6 Environmental Conservation Law; and
7 6069, by Senator Holland, an
8 act to amend the Vehicle and Traffic Law.
9 Senator Cook, from the
10 Committee on Education, reports:
11 Senate Print 6347, by Senator
12 Rath, an act to amend the Education Law.
13 Senator Saland, from the
14 Committee on Children and Families, reports:
15 Senate Print 332, by Senator
16 Skelos, an act to amend the Social Services
17 Law;
18 2584-A, by Senator Johnson, an
19 act to amend the Family Court Act and the
20 Vehicle and Traffic Law;
21 4519-A, by Senator Saland, an
22 act to amend the Domestic Relations Law and
23 others; and
24 5175, by Senator Saland, an act
25 to amend the Domestic Relations Law and the

1 Family Court Act.

2 Senator Goodman, from the
3 Committee on Investigations, Taxation and
4 Government Operations, reports:

5 Senate Print 342, by Senator
6 Nozzolio, an act to amend the Alcoholic
7 Beverage Control Law;

8 1825, by Senator Farley, an act
9 to amend the Public Officers Law;

10 4351-A, with amendments, by
11 Senator Maltese, an act to amend the Alcoholic
12 Beverage Control Law;

13 5563, by Senator Saland, an act
14 to authorize the Commissioner of General
15 Services; and

16 6119, by Senator Leibell, an
17 act to amend the Public Officers Law.

18 All bills ordered direct for
19 third reading.

20 ACTING PRESIDENT KUHL: Without
21 objection, all bills ordered directly to third
22 reading.

23 Senator Cook, why do you rise?

24 SENATOR COOK: On the report of
25 the Education Committee, were there two bills

1 by Senator Rath reported or only one? Did they
2 read them both?

3 ACTING PRESIDENT KUHL: I'm
4 informed by the Secretary, Senator Cook, that
5 only one bill was actually reported from the
6 committee, that was Senate Bill 6347, by
7 Senator Rath.

8 SENATOR COOK: Well, that's
9 incorrect, so we need to verify the -

10 SENATOR SKELOS: Mr. President,
11 we can always return to reports of standing
12 committees. Why don't we check that out.

13 ACTING PRESIDENT KUHL: The
14 second bill, Senator Cook, is not on file yet
15 at the desk. That's why it wasn't reported.

16 SENATOR COOK: Oh, that was
17 reported by the Committee.

18 ACTING PRESIDENT KUHL: But it
19 has not arrived at the desk so it hasn't been
20 reported.

21 SENATOR COOK: Those are bills
22 to get acted on, so I'll make sure we can get
23 the action.

24 ACTING PRESIDENT KUHL: Thank
25 you for your attention to that matter.

1 Reports of select committees.
2 Communications and reports from
3 state officers.

4 Motions and resolutions.
5 Senator Skelos.

6 SENATOR SKELOS: Mr. President,
7 I believe there's a privileged resolution at
8 the desk sponsored by Senator Paterson. May
9 we have the title read and I move for its
10 immediate adoption.

11 ACTING PRESIDENT KUHL: There
12 is. Secretary will read the title of the
13 privileged resolution by Senator Paterson,
14 which is at the desk.

15 THE SECRETARY: By Senator
16 Paterson, Legislative Resolution 2915,
17 declaring March 18, 1998 as Gideon Day in the
18 state of New York.

19 ACTING PRESIDENT KUHL:
20 Question is on the resolution. All those -
21 Senator Paterson, on the resolution.

22 SENATOR PATERSON: Thank you,
23 Mr. President.

24 I'd like to thank all of our
25 colleagues in the chamber for recognizing this

1 piece of legislation and would like to
2 recognize Senator Skelos for his help.

3 This is the 35th anniversary of
4 the landmark Supreme Court case of Gideon vs.
5 Wainwright which established the right to
6 counsel to any individual in this country who
7 needs one. This will certainly help Senator
8 Gold in his endeavors after this year, and it
9 is probably the most important of rights that
10 we have in this country, in a democracy, the
11 right to trial, the right to defend one's
12 self, the right to defend one's name. It is
13 something that is not as easily accomplished
14 as possible in this country and wasn't
15 recognized until the last few years that
16 without the assistance of proper counsel and
17 the ability to understand the charges against
18 one and to assist in one's own defense, it is
19 necessary to have a lawyer of understanding
20 who can interact on behalf of the -- those who
21 are aggrieved in this country, that there is
22 an equal right that we all have but we often
23 don't have equal resources to demonstrate it
24 and this case established what is now an
25 ordinary process but one that bears a memory

1 on a day such as today, the 35th anniversary
2 of the Supreme Court case, Gideon vs.
3 Wainwright.

4 ACTING PRESIDENT KUHL:
5 Question is on the resolution. All those in
6 favor signify by saying aye.

7 (Response of "Aye.")

8 Opposed nay.

9 (There was no response.)

10 The resolution is adopted.

11 Senator Skelos.

12 SENATOR SKELOS: Mr. President,
13 at this time may we please adopt the
14 Resolution Calendar in its entirety.

15 ACTING PRESIDENT KUHL: The
16 question is on the Resolution Calendar which
17 is on the members' desks.

18 SENATOR GOLD: Mr. President.

19 ACTING PRESIDENT KUHL: Senator
20 Gold.

21 SENATOR GOLD: Yeah, Mr.
22 President.

23 I'd just like to point out
24 Resolution Number 2905 which I'm sponsoring,
25 dealing with the death of Lloyd Bridges who,

1 as everyone knows, was a very renowned actor
2 and that's not really the reason for the
3 resolution.

4 The reason for the resolution
5 is that Lloyd Bridges and Mrs. Bridges
6 suffered the death of a child through Sudden
7 Infant Death Syndrome and were very, very
8 active in their life nationally in that
9 movement and were very, very supportive of all
10 the groups in that area and I just wanted to
11 point that out. If anybody would like to
12 co-sponsor that resolution, I would want to
13 open it up.

14 SENATOR SKELOS: Mr.
15 President.

16 ACTING PRESIDENT KUHL: Senator
17 Skelos.

18 SENATOR SKELOS: I believe
19 Senator Meier wishes to do the same with
20 Resolution JL 2879 which would commend the New
21 York State military forces for their
22 assistance during Operation Ice, January
23 1998.

24 SENATOR MEIER: Correct.

25 SENATOR SKELOS: So if any

1 member does not wish to sponsor either that
2 resolution or Senator Gold's resolution
3 commemorating the life of Lloyd Bridges, they
4 should notify the desk. O.K.?

5 ACTING PRESIDENT KUHL: I'll
6 direct the Secretary to make all members as
7 co-sponsors of both of those resolutions
8 unless they indicate to the Secretary that
9 they do not wish to be on those resolutions.

10 The question is on the
11 Resolution Calendar. All those in favor
12 significant by saying aye.

13 (Response of "Aye.")

14 Opposed nay.

15 (There was no response.)

16 The Resolution Calendar is
17 adopted.

18 Senator Skelos, we have one
19 substitution.

20 SENATOR SKELOS: Please make
21 the substitution.

22 ACTING PRESIDENT KUHL:
23 Secretary will read.

24 THE SECRETARY: On page 19,
25 Senator Spano moves to discharge from the

1 Committee on Judiciary, Assembly Number 2122
2 A and substitute it for the identical Third
3 Reading Calendar 371.

4 ACTING PRESIDENT KUHL:
5 Substitution is ordered.

6 Senator Skelos, that brings us
7 to the non-controversial calendar.

8 SENATOR SKELOS: Please take up
9 the non-controversial calendar.

10 ACTING PRESIDENT KUHL:
11 Secretary will read the non-controversial
12 calendar.

13 THE SECRETARY: Calendar Number
14 135, by Senator Rath, Senate Print 251, an act
15 to repeal paragraph (f) of subdivision 1 of
16 Section 70.30 of the Penal Law.

17 SENATOR PATERSON: Lay it
18 aside.

19 ACTING PRESIDENT KUHL: Lay the
20 bill aside.

21 THE SECRETARY: Calendar Number
22 138, by Senator Present, Senate Print 539, an
23 act to amend the Criminal Procedure Law, in
24 relation to eligibility for youthful offender
25 status.

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ACTING PRESIDENT KUHL:

Secretary will read the last section.

THE SECRETARY: Section 2.

This act shall take effect on the first day of
November.

ACTING PRESIDENT KUHL: Call

the roll.

(The Secretary called the

roll.)

THE SECRETARY: Ayes 56.

ACTING PRESIDENT KUHL: The

bill is passed.

THE SECRETARY: Calendar Number

192, by Senator Rath, Senate Print 255, an act
to amend the Family Court Act, in relation to
the age of runaway children and persons in
need of supervision.

ACTING PRESIDENT KUHL:

Secretary will read the last -- Secretary will
read the last section.

SENATOR LEICHTER: Lay it

aside.

ACTING PRESIDENT KUHL: Lay the

bill aside.

THE SECRETARY: Calendar Number

1 249, by Senator Saland, Senate Print 5136, an
2 act to amend the Executive Law, in relation to
3 services to runaway and homeless youth.

4 ACTING PRESIDENT KUHL:
5 Secretary will read the last section.

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

8 ACTING PRESIDENT KUHL: Call
9 the roll.

10 (The Secretary called the
11 roll.)

12 THE SECRETARY: Ayes 57.

13 ACTING PRESIDENT KUHL: The
14 bill is passed.

15 THE SECRETARY: Calendar Number
16 299, by Senator LaValle, Senate Print 4335, an
17 act to amend the Education Law, in relation to
18 indemnification of City University community
19 college employees.

20 ACTING PRESIDENT KUHL:
21 Secretary will read the last section.

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

24 ACTING PRESIDENT KUHL: Call
25 the roll.

1 (The Secretary called the
2 roll.)

3 THE SECRETARY: Ayes 57.

4 ACTING PRESIDENT KUHL: The
5 bill is passed.

6 THE SECRETARY: Calendar Number
7 304, by Senator Nozzolio, Senate Print 2779,
8 an act to amend the Correction Law, in
9 relation to charging taxes.

10 ACTING PRESIDENT KUHL: Lay the
11 bill aside.

12 THE SECRETARY: Calendar Number
13 306, by Senator Nozzolio, Senate Print 3429,
14 an act to amend the Correction Law, in
15 relation to requiring inmates to make medical
16 co-payments.

17 SENATOR PATERSON: Lay aside.

18 ACTING PRESIDENT KUHL: Lay the
19 bill aside.

20 THE SECRETARY: Calendar Number
21 316, by Senator Johnson, Senate Print 242, an
22 act to amend the State Finance Law, in
23 relation to allocations from the State Police
24 motor vehicle enforcement account.

25 ACTING PRESIDENT KUHL:

1 Secretary will read the last section.

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

4 ACTING PRESIDENT KUHL: Call
5 the roll.

6 (The Secretary called the
7 roll.)

8 THE SECRETARY: Ayes 57.

9 ACTING PRESIDENT KUHL: The
10 bill is passed.

11 THE SECRETARY: Calendar number
12 352, by Senator Skelos, Senate Print Number
13 338, an act to amend the Vehicle and Traffic
14 Law, in relation to increasing the period of
15 time during which a driver's license is
16 suspended.

17 ACTING PRESIDENT KUHL:
18 Secretary will read the last section.

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

22 ACTING PRESIDENT KUHL: Call
23 the roll.

24 (The Secretary called the
25 roll.)

1 THE SECRETARY: Ayes 52.

2 ACTING PRESIDENT KUHL: The
3 bill is passed.

4 THE SECRETARY: Calendar Number
5 355, by Senator Padavan, Senate Print 3088, an
6 act to amend the General Business Law, in
7 relation to the possession and sale of
8 drug-related paraphernalia.

9 SENATOR GOLD: Lay aside.

10 ACTING PRESIDENT KUHL: Lay the
11 bill aside.

12 THE SECRETARY: Calendar Number
13 357, by Senator Maltese, an act to amend the
14 Real Property Tax Law, in relation to tax
15 credit for security improvements.

16 SENATOR GOLD: Lay it aside,
17 please.

18 ACTING PRESIDENT KUHL: Lay the
19 bill aside.

20 THE SECRETARY: Calendar Number
21 359, by Senator Volker, Senate Print 87-A, an
22 act to amend the Penal Law, in relation to
23 criminal possession of marijuana in the third
24 degree.

25 ACTING PRESIDENT KUHL:

1 Secretary will read the last section.

2 THE SECRETARY: Section 2.

3 This act shall take effect on the first day of
4 November.

5 ACTING PRESIDENT KUHL: Lay the
6 bill aside.

7 THE SECRETARY: Calendar Number
8 368, by Senator Meier, Senate Print 4583-A, an
9 act to amend the Penal Law, in relation to
10 permitting a court to impose a sentence of a
11 fine.

12 ACTING PRESIDENT KUHL:
13 Secretary will read the last section.

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

17 ACTING PRESIDENT KUHL: Call
18 the roll.

19 THE SECRETARY: Ayes 58.

20 ACTING PRESIDENT KUHL: The
21 bill is passed.

22 THE SECRETARY: Calendar Number
23 370, by Senator Velella, Senate Print 5710-A,
24 an act to amend the Penal Law, in relation to
25 multiple convictions for criminal sale of

1 marijuana.

2 ACTING PRESIDENT KUHL:

3 Secretary will read the last section.

4 THE SECRETARY: Section 6. This
5 act shall take effect on the first day of
6 November.

7 ACTING PRESIDENT KUHL: Call
8 the roll.

9 (The Secretary called the
10 roll.)

11 THE SECRETARY: Ayes 57, nays
12 one, Senator Leichter recorded in the
13 negative.

14 ACTING PRESIDENT KUHL: The
15 bill is passed.

16 THE SECRETARY: Calendar Number
17 391, by Senator Saland, Senate Print 2379-A,
18 an act to amend the Criminal Procedure Law and
19 others.

20 ACTING PRESIDENT KUHL: Senator
21 Skelos.

22 SENATOR SKELOS: Mr. President,
23 on Calendar Number 391, is there a message of
24 necessity at the desk?

25 ACTING PRESIDENT KUHL: There

1 is.

2 SENATOR SKELOS: Move to
3 accept.

4 ACTING PRESIDENT KUHL: Motion
5 is to accept the message of necessity on
6 Calendar Number 391. All in favor signify by
7 saying aye.

8 SENATOR LEICHTER: On the
9 message of necessity, Mr. President, I believe
10 that's a debatable motion. Yeah, yeah.

11 Would you yield? Would the
12 acting Majority Leader yield -

13 SENATOR SKELOS: Lay the bill
14 aside temporarily.

15 ACTING PRESIDENT KUHL: Lay the
16 bill aside.

17 THE SECRETARY: Calendar Number
18 394, by Senator Spano, Senate Print 6394, an
19 act to amend the Election Law, in relation to
20 certain village elections.

21 ACTING PRESIDENT KUHL:
22 Secretary will read the last section.

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

25 ACTING PRESIDENT KUHL: Call

1 the roll.

2 (The Secretary called the
3 roll.)

4 THE SECRETARY: Ayes 58.

5 ACTING PRESIDENT KUHL: The
6 bill is passed.

7 Senator Skelos, that completes
8 the reading of the non-controversial
9 calendar.

10 SENATOR STAVISKY: Mr.
11 President.

12 ACTING PRESIDENT KUHL: Senator
13 Stavisky, why do you rise?

14 SENATOR STAVISKY: I rise for
15 the purpose of recording some negative votes.

16 ACTING PRESIDENT KUHL: Which
17 bills would you like to be recorded in the
18 negative on?

19 SENATOR STAVISKY: On Wednesday,
20 March 11th, Senate Calendar 298, Bill 243, I
21 should like to be recorded in the negative,
22 without objection.

23 ACTING PRESIDENT KUHL: Senator
24 Skelos, the record.... Excuse me -- Senator
25 Stavisky, excuse me. The record will reflect

1 that had you been here that day, that you
2 would have voted in the negative on Calendar
3 Number 298.

4 SENATOR STAVISKY: And again,
5 Mr. President, Calendar Number 240, Senate
6 Print 4174, I would like to be recorded in the
7 negative on that one.

8 ACTING PRESIDENT KUHL: The
9 record will reflect that, when that bill was
10 passed, Senator Stavisky, had you been in the
11 chamber you would have voted in the negative
12 on that bill.

13 SENATOR STAVISKY: On Monday,
14 March 16th, Calendar Number 240, Senate 231, I
15 wish to be recorded in the negative, without
16 objection.

17 ACTING PRESIDENT KUHL: Senator
18 Stavisky, the record will reflect that had you
19 been here on Monday, the 16th, that you would
20 have been voting in the negative on Calendar
21 Number 240.

22 Secretary will read the -
23 Senator Montgomery, why do you rise?

24 SENATOR MONTGOMERY: Yes, Mr.
25 President. I would like to be recorded in the

1 negative on Calendar Number 370.

2 ACTING PRESIDENT KUHL: Without
3 objection.

4 SENATOR MONTGOMERY: Thank
5 you.

6 ACTING PRESIDENT KUHL: Hearing
7 no objection, Senator Montgomery will be
8 recorded in the negative on Calendar Number
9 370.

10 Secretary will read the
11 controversial calendar.

12 THE SECRETARY: Calendar Number
13 135, by Senator Rath, Senate Print 251, an act
14 to repeal paragraph (f) of subdivision 1 of
15 Section 70.30 of the Penal Law.

16 ACTING PRESIDENT KUHL: Senator
17 Rath, an explanation of Calendar 135 has been
18 requested by Senator Montgomery.

19 SENATOR RATH: Thank you, Mr.
20 Chairman.

21 This bill repeals a section of
22 the Penal Law which limits the aggregate
23 maximum term of consecutive sentences imposed
24 on a juvenile offender for two or more
25 felonies.

1 ACTING PRESIDENT KUHL: Senator
2 Montgomery.

3 SENATOR MONTGOMERY: Yes, Mr.
4 President. If the sponsor would yield. I
5 just have a question of clarification.

6 ACTING PRESIDENT KUHL: Senator
7 Rath, do you yield to a question?

8 SENATOR RATH: Yes.

9 ACTING PRESIDENT KUHL: Senator
10 yields.

11 SENATOR MONTGOMERY: Senator
12 Rath, what -- if your bill becomes law, what
13 then are we looking at as the average sentence
14 for a juvenile offender under this statute?

15 SENATOR RATH: Well, once this
16 section is repealed, Senator Montgomery, the
17 juvenile offender's sentence for kidnapping,
18 arson and non-Class A felonies will have the
19 same maximum as others. For example, 50 years
20 for three violent felony offenses, 40 for two,
21 30 for a Class B and another felony, and 20
22 years for any two or more felonies.

23 SENATOR MONTGOMERY: All
24 right. Thank you.

25 ACTING PRESIDENT KUHL: Senator

1 Montgomery?

2 SENATOR MONTGOMERY: Mr.

3 President, I'm going to oppose this
4 legislation. I think that since it is
5 specifically directed to juvenile offenders
6 and we -- obviously we want the punishment to
7 fit the crime, but I'm not sure that we want
8 to automatically give those extended prison
9 terms to juveniles, some of them as young as
10 perhaps 16, 17 or 18 years old, and who,
11 although may be exhibiting extreme behavior
12 and not at the point where they're not
13 salvageable, but if we just are going to put
14 them in the very long-term prison sentences,
15 and possibly with a very extended time without
16 even consideration of parole, it -- really it
17 doesn't leave much room for us to do much
18 remediation.

19 So, Senator Rath, I'm going to
20 oppose this legislation, Mr. President,
21 because I just think it's quite severe since
22 it is specifically directed at juveniles.

23 ACTING PRESIDENT KUHL: Any
24 other Senator wishing to speak on the bill?

25 Secretary will read the last

1 section.

2 THE SECRETARY: Section 2.

3 This act shall take effect on the first day of
4 November.

5 ACTING PRESIDENT KUHL: Call
6 the roll.

7 (The Secretary called the
8 roll.)

9 ACTING PRESIDENT KUHL: Record
10 the negatives.

11 THE SECRETARY: Those recorded
12 in the negative on Calendar Number 135 are
13 Senators Mendez, Montgomery, Sampson, Seabrook
14 and Waldon. Ayes 53, nays 5.

15 ACTING PRESIDENT KUHL: The
16 bill is passed.

17 THE SECRETARY: Calendar Number
18 192, by Senator Rath, Senate Print 255, an act
19 to amend the Family Court Act, in relation to
20 the age of runaway children and persons in
21 need of supervision.

22 ACTING PRESIDENT KUHL:
23 Secretary will read the last section.

24 THE SECRETARY: Section 4.
25 This act shall take effect on the first day of

1 November.

2 ACTING PRESIDENT KUHL: Call
3 the roll.

4 (The Secretary called the
5 roll.)

6 THE SECRETARY: Ayes 58.

7 ACTING PRESIDENT KUHL: The
8 bill is passed.

9 THE SECRETARY: Calendar Number
10 304, by Senator Nozzolio, Senate Print 2779,
11 an act to amend the Correction Law, in
12 relation to charging taxes on sales of
13 commissaries and canteens.

14 SENATOR PATERSON:
15 Explanation.

16 ACTING PRESIDENT KUHL: Senator
17 Nozzolio, an explanation of Calendar Number
18 304 has been requested by Senator Paterson.

19 SENATOR NOZZOLIO: Thank you,
20 Mr. President.

21 The bill before us authorizes
22 the head of any correctional institution to
23 charge taxes on sales of commissaries and can
24 teens. As you know, my colleagues, there are
25 prison commissaries and prison stores, if you

1 will, where a variety of goods can be
2 purchased by inmates. Unfortunately for the
3 taxpayers of this state, inmates not only get
4 a reduced charge on those goods but they also
5 pay no sales tax. The correction officers and
6 other correctional personnel who are entrusted
7 with guarding the inmates who are purchasing
8 -- making these purchases in effect have to
9 go and pay sales tax while their inmates
10 they're guarding do not.

11 We believe that this measure
12 would yield almost \$700,000 for the state as
13 well as approximately \$1.4 million for local
14 governments, and we believe it's something
15 that should occur.

16 ACTING PRESIDENT KUHL: Senator
17 Montgomery? Senator Paterson. Senator
18 Montgomery.

19 SENATOR MONTGOMERY: Yes, Mr.
20 President, I would like to just ask the
21 sponsor a question.

22 ACTING PRESIDENT KUHL: Senator
23 Nozzolio, do you yield to a question from
24 Senator Montgomery?

25 SENATOR NOZZOLIO: I'd be glad

1 to yield to Senator Montgomery.

2 SENATOR MONTGOMERY: Yes,
3 Senator Nozzolio. Do you know last week that
4 we had a very lovely exhibition of products
5 that are made in the prisons? What do we pay
6 the prisoners to -- when they participate in
7 those manufacturing and other product
8 production in prisons? What is their daily
9 salary?

10 SENATOR NOZZOLIO: I think, Mr.
11 President, for work that inmates do, the
12 license plates, Corcraft furniture, garbage
13 pails, street signs which I think is
14 terrific.

15 SENATOR MONTGOMERY: Yes.

16 SENATOR NOZZOLIO: We've seen
17 an expansion of prison industry under Governor
18 Pataki, and I'd like to see that further
19 expanded. Inmates make a few cents an hour.
20 Frankly, I don't believe inmates should be
21 paid at all, but they do receive money for
22 their labors.

23 SENATOR MONTGOMERY: It's about
24 \$1.50 a day, is that it, do you know? It's my
25 understanding that they earn about \$1.50 a

1 day.

2 SENATOR NOZZOLIO: I don't know
3 what it is.

4 ACTING PRESIDENT KUHL: Senator
5 Montgomery, do you still have another
6 question?

7 SENATOR MONTGOMERY: Mr.
8 President, I still have another question.

9 ACTING PRESIDENT KUHL: Senator
10 Nozzolio, do you continue to yield?

11 SENATOR NOZZOLIO: Yes, Mr.
12 President.

13 ACTING PRESIDENT KUHL: Senator
14 Nozzolio continues to yield.

15 SENATOR MONTGOMERY: All right,
16 thank you, Senator Nozzolio. It is my
17 understanding that the products in the prisons
18 that are made by the inmates are only
19 available to be purchased by various
20 municipalities for their use -- street signs,
21 the litter baskets, the furniture, is that -
22 is that correct or -

23 SENATOR NOZZOLIO: Mr. Presi
24 dent, with things like street signs, I think
25 the market is pretty limited for street signs.

1 I don't think people beyond municipalities
2 would be buying street signs. License plates
3 though, Senator, Mr. President, in response to
4 Senator Montgomery's question, are readily
5 available to the public to purchase. I think
6 that's probably the commodity that is
7 purchased the most.

8 Corcraft furniture, Mr.
9 President, is not sold to the general public.
10 It is used primarily for state and office
11 settings. So Senator, yes, Senator's question
12 is that the goods sold are primarily not
13 available to others. The answer is yes,
14 they're primarily not with the exception of
15 license plates.

16 SENATOR MONTGOMERY: All
17 right. Thank you, Senator Nozzolio.

18 Just briefly on the bill, Mr.
19 President. As Senator Nozzolio has indicated,
20 the products that are produced by the inmates
21 where we pay them about \$1.50 a day, those
22 products generate, I believe, according to
23 Corrections, about a billion dollars a year at
24 least, in revenue, and they are available at
25 what I assume to be a savings to

1 municipalities because they're not supposed to
2 be sold on the free market so, therefore, they
3 enure solely to the benefit of the localities
4 that Senator Nozzolio is now attempting to
5 collect a little it more taxes out of the
6 \$1.50 a day that the -- that the inmates earn,
7 to help the localities that are already being
8 helped based on the fact that the inmates
9 produce these magnificent products, a wide
10 range of them, that are available to the
11 municipalities at what I assume to be a
12 tremendous savings.

13 So I think that this really is
14 just simply an act of real meanness as it
15 relates to one more small-minded kind of
16 punishment for people who, in fact, are
17 participating in -- in slave labor to produce
18 a major piece of the economy in this state.

19 So this is really -- this I
20 think, goes far beyond just the philosophy
21 that we want to make the prisoners pay and we
22 want to help the localities. They're already
23 being helped. They're being helped by the
24 fact the prison is there providing jobs for
25 their localities, for the people that live

1 there. It -- they -- the prisoners themselves
2 are generating income for the locality, income
3 for Corrections.

4 So, Senator Nozzolio, I -- I
5 understand that we want to make people pay for
6 their crimes, but this really is almost just
7 uncivilized because we are now charging the
8 slaves for their -- for their labor, so -
9 more. We're charging, taking more money out
10 of the small amount of money that is paid to
11 them, and they're essentially providing slave
12 labor, so I really think that we should not
13 even be considering this legislation.

14 I certainly hope that my
15 colleagues will vote against it.

16 ACTING PRESIDENT KUHL: Any
17 other Senator wishing to speak on the bill?
18 Senator Waldon, on the bill?

19 SENATOR WALDON: Thank you very
20 much, Mr. President.

21 Would the gentleman yield to a
22 question or two?

23 ACTING PRESIDENT KUHL: Senator
24 Nozzolio, would you yield?

25 SENATOR NOZZOLIO: Yes.

1 Senator yields.

2 SENATOR WALDON: First,
3 Senator, let me thank you for yielding and,
4 two, let me first apologize for not having
5 reviewed your bill in total before standing
6 up, so I'll respectfully ask that you kind of
7 help me through some thorny issues.

8 In regard to the tax, is any of
9 that money used for education of those who are
10 incarcerated?

11 SENATOR NOZZOLIO: Mr.
12 President, through the chair, yes, Senator's
13 question is that the cost of incarceration for
14 an inmate, certainly part of that cost gets to
15 the education, vocational, other training that
16 inmates undergo, and what we're trying to do,
17 Senator, is not, as Senator Montgomery
18 describes, as being -- as being harsh. Rather
19 we're trying to ensure that the taxpayers are
20 seeing inmates pay for the cost of their
21 incarceration, and that sales tax is a very
22 modest way that the inmates -- no one is
23 forcing them to buy these products. They are
24 products that are not -- they are given -
25 inmates are given three meals a day that

1 they're not -- they're not charged a penny for
2 that. They're given -- they're paying their
3 debt to society.

4 What I'd like to see happen,
5 Senator, is the more we can get inmates -- on
6 your question -- the more we can get inmates
7 to pay for the cost of their incarceration in
8 a fair way, the more we will be able to get
9 good vocational oriented programs and pay for
10 those programs in prisons. So I see this as a
11 very positive step. This is -- we can go to
12 the taxpayers and say the inmates are paying
13 for their cost of incarceration and,
14 therefore, we can do better things in trying
15 to rehabilitate our inmates now in our
16 facilities.

17 SENATOR WALDON: If the
18 gentleman will continue to yield, Mr.
19 President.

20 ACTING PRESIDENT KUHL: Senator
21 Nozzolio, do you continue to yield?

22 SENATOR NOZZOLIIO: Yes.

23 ACTING PRESIDENT KUHL: Senator
24 continues to yield.

25 SENATOR WALDON: Senator

1 Nozzolio, can you give us some ball park
2 figure as to how much money you anticipate
3 will be raised from these taxes at the
4 commissary?

5 SENATOR NOZZOLIO: Mr.
6 President, it's estimated that this bill
7 represents a potential savings of \$5.1 million
8 to taxpayers across the state.

9 SENATOR WALDON: Will the
10 gentleman continue to yield?

11 ACTING PRESIDENT KUHL: Senator
12 Nozzolio, do you continue to yield?

13 SENATOR NOZZOLIO: Yes, I will.

14 ACTING PRESIDENT KUHL: Senator
15 continues to yield.

16 SENATOR WALDON: From what you
17 responded to my prior question and your
18 response to this question Senator, then am I
19 improper in assuming that \$1.5 million will
20 now be allocated for the education of those
21 who are in prison? Will that money be
22 designated for the education of the people who
23 are actually paying the taxes? Is that the
24 quid pro quo?

25 SENATOR NOZZOLIO: Senator,

1 through the chair, my intent is not to
2 specifically earmark. My intent is to create
3 an environment with this bill and the next
4 bill that we are going to be debating to have
5 inmates by paying for their cost of
6 incarceration are going to make it more easily
7 available for those who, like yourself, would
8 advocate additional prison support. I add
9 myself to that because, if we can ensure first
10 that the taxpayers are going to be met with
11 having inmates assume more and more of the
12 costs of their incarceration, I will join you
13 in advocating aggressively for those
14 additional programs and educational tools.

15 SENATOR WALDON: If the
16 gentleman would yield again, Mr. President?

17 ACTING PRESIDENT KUHL: Senator
18 Nozzolio, you continue to yield?

19 SENATOR NOZZOLIIO: Yes, Mr.
20 President.

21 ACTING PRESIDENT KUHL: Senator
22 continues to yield.

23 SENATOR WALDON: Senator
24 Nozzolio, I defer to you as our in resident
25 expert in regard to the correctional system in

1 our state, so please correct me if what I'm
2 about to say is wrong and edify not only
3 myself but our colleagues.

4 It is my understanding that
5 approximately \$30,000 per year is needed for
6 the maintenance of those who are incarcerated
7 when it's not a juvenile facility, an
8 adolescent facility, and when it's not a
9 certain specialized situation, i.e., someone
10 who is quite ill, AIDS or otherwise, and that
11 for the construction of each prison cell that
12 the state builds that it's about \$150,000 to
13 build it on the front end, and by the time the
14 mortgage debt, meaning the debt service, is
15 paid on each individual cell, it comes to
16 about 450,000. So if someone is in jail -- in
17 prison I should say; I apologize -- for 20
18 years, it would be 20 times 30,000 without any
19 cost of living adjustment, and to build a cell
20 that that person would remain in would be
21 about 450,000.

22 Is that fairly accurate, from
23 your expertise?

24 SENATOR NOZZOLIO: It's a
25 little high, Senator, but it's in the ball

1 park.

2 SENATOR WALDON: Thank you. If
3 I may just ask another question.

4 ACTING PRESIDENT KUHL: Senator
5 Nozzolio, you continue to yield?

6 SENATOR NOZZOLIO: Yes, I do.

7 ACTING PRESIDENT KUHL: Senator
8 continues to yield.

9 SENATOR WALDON: Senator, when
10 we think of the cost attached to incarceration
11 of each person, ball park figure, let's say
12 400,000 to construct a cell, 20 times 30 or an
13 additional whatever kind of thousand, whatever
14 the figures, we're talking a million dollars
15 or thereabouts and if I'm not correct in my
16 math, please accept my apologies, and what
17 you're saying is that this program for a year,
18 for all of the prisons across the state, all
19 of the people that are in prison, male and
20 female, young and old, will generate just \$1.5
21 million for education, if you and I become
22 advocates for that purpose, which hasn't
23 occurred, meaning we had no consultation that
24 this is what we're going to do, although you
25 may have had the genesis of that idea in your

1 head, I certainly had it in my head, but we
2 haven't agreed to agree to do that.

3 Isn't that a little -- isn't
4 that a stretch as to what benefit this tax
5 will make on or render on behalf of those who
6 are in prison? Couldn't we do something more
7 creative out of that million dollars for just
8 the one prison and somebody in jail for 20
9 years? Couldn't we find more than \$1.5
10 million by reducing the cost of the
11 construction or doing something with
12 alternatives to incarceration or doing
13 something in regard to prevention so that the
14 person never would get into the prison so that
15 the state would have more money? Are we
16 careening towards what California and Texas
17 have done, literally bankrupting their
18 governments with construction of prison cells
19 and that's my last question, and I thank you
20 for your indulgence and for your kind
21 response.

22 SENATOR NOZZOLIO: Mr.
23 President, if I may, Senator is correct, we
24 certainly could do more. This is one step,
25 though, in an effort that I would welcome

1 additional suggestions where we could hone
2 down the costs and move the correctional
3 system to an era of total rehabilitation in a
4 very progressive way, but I think we're going
5 to be hamstrung until we understand that we
6 need to have inmates continue to support more
7 of the costs of incarceration.

8 Maybe if would instill in some
9 inmates or some of those who want to be
10 inmates or who are trying, are living a career
11 of crime, that this prison isn't a place to
12 be, that with more and more costs of
13 incarceration borne by prison inmates, I
14 believe we are doing our taxpayers a great
15 service and that in the long run, we will be
16 doing our inmates a good service in focusing
17 more on positive ways to rehabilitate.

18 Thank you, Mr. President.

19 SENATOR WALDON: Mr. President,
20 on the bill.

21 ACTING PRESIDENT KUHL: Senator
22 Waldon, on the bill.

23 SENATOR WALDON: Thank you very
24 much, Mr. President.

25 First of all, let me say that I

1 truly believe that Senator Nozzolio believes
2 the position that he takes and that those
3 positions are correct. I have learned over
4 the years that he and I served in the Assembly
5 together and here in the Senate, that he's a
6 person who is not doing this just because it
7 may be politics for the moment, that he truly
8 believes the positions he takes.

9 But I respectfully disagree
10 with the positions that he takes and for us as
11 a state, to get involved with picayune penny
12 ante taxation of those who are, in effect, as
13 characterized so beautifully by Senator
14 Montgomery, a slave labor component of this
15 government, I think is somewhat obscene.

16 I think, when people are in
17 carcerated and making almost no money, to tax
18 the little bit of money that they have, while
19 you're taking away the educational opportun
20 ity, while you're restricting conjugal visits,
21 while you're doing a whole host of
22 counterproductive administrative procedures,
23 in my opinion, you're just asking for
24 trouble.

25 A guy makes \$1.50 a day. He

1 goes to buy a tube of toothpaste and you say 8
2 percent -- 8 percent. You're sending a message
3 that says, Not only are you stuck here, you
4 don't even rate as a human being. This little
5 bit of money that you have, we're going to
6 take it away, and we're going to further grind
7 you down into your state of nothingness. For
8 the little bit of money that's generated, it
9 doesn't make sense. It doesn't make sense. I
10 am not saying we should have happy campers in
11 prison, but we should certainly not make their
12 situation so impossible that they want to re
13 act and over-react against each other and
14 against the people who are working in the
15 prisons.

16 We have to be cognizant that we
17 want to promote safety for our good correction
18 officers in the prisons, but with some of
19 these really tough guys who are in prison, if
20 you take away that last modicum of sanity,
21 taxing them when they go to buy a toothpaste
22 or potato chip or whatever their need is in
23 prison, I think what you're saying is Hey,
24 take your best shot, do whatever you have to
25 do to survive, and then you create a problem

1 for the entire prison system.

2 I would hope, in our wisdom, we
3 would recognize that there are other vehicles
4 to generate money. We have a \$76 billion
5 budget facing us. This little \$5.1 million is
6 nothing in the scale of the magnitude of that
7 budget. I suggest that we do the smart thing
8 today and vote against this particular
9 proposal.

10 Thank you, Mr. President.

11 ACTING PRESIDENT KUHL: Senator
12 Paterson.

13 SENATOR PATERSON: Thank you,
14 Mr. President. If Senator Nozzolio would
15 yield for a question.

16 ACTING PRESIDENT KUHL: Senator
17 Nozzolio? Senator Nozzolio yields.

18 SENATOR PATERSON: Senator,
19 just technically, is it just your attempt to
20 exempt inmates from paying the local taxes
21 because it appears that they would be paying
22 state taxes under this bill but I don't see
23 any way that they would be paying local taxes
24 to local governments in those areas.

25 SENATOR NOZZOLIO: Senator, Mr.

1 President, through you, I'm sorry, Senator, I
2 had a little trouble hearing your question,
3 sir. Would you suffer an interruption by
4 repeating it?

5 SENATOR PATERSON: Certainly,
6 Senator. I'm sorry. I was asking if it was
7 your intention to exempt the inmates from
8 paying local taxes because, although I see in
9 this legislation how they would be paying
10 state taxes, it would seem that they would
11 only be paying four cents because I don't see
12 the mechanism in the legislation that would
13 allow for them to pay local taxes and local
14 governments where the detention facilities are
15 located.

16 SENATOR NOZZOLIO: It is our
17 opinion, Senator, that this measure would
18 empower the Commissioner to establish those
19 appropriate rules and regulations whereby
20 sales tax which, as you know, Senator, is not
21 just a creature of state government but also
22 one of local government, that local
23 governments would, in fact, because they share
24 in sales tax would be able to receive those
25 monies.

1 ACTING PRESIDENT KUHL: Senator
2 Paterson.

3 SENATOR PATERSON: If the
4 Senator would continue to yield.

5 SENATOR NOZZOLIO: Be happy to,
6 Mr. President.

7 ACTING PRESIDENT KUHL: Senator
8 continues to yields.

9 SENATOR PATERSON: Senator, the
10 reason I pointed it out, if you had not put
11 anything in the bill, then that's what I would
12 assume, but you put in the bill appropriate
13 state sales tax. You don't refer to any other
14 tax, so that's why I was asking the question
15 because I would have thought if you wanted
16 both the state and the local tax to be paid
17 you would have written them both in the same
18 sentence.

19 SENATOR NOZZOLIO: Senator, I
20 stand by that previous answer.

21 Thank you, Mr. President.

22 ACTING PRESIDENT KUHL: Senator
23 Paterson.

24 SENATOR PATERSON: Mr.
25 President, on the bill.

1 ACTING PRESIDENT KUHL: Senator
2 Paterson, on the bill.

3 SENATOR PATERSON: I concur
4 with Senator Montgomery and Senator Waldon. In
5 a detention facility, the basic idea is that
6 we are removing the individual from society
7 because of crimes committed against the
8 society and our public policy.

9 I noticed earlier that Senator
10 Nozzolio said that for the work that the
11 inmates are engaged in, he didn't want to pay
12 them at all, and that might actually be the
13 appropriate reaction, that we wouldn't pay the
14 inmates for any work. We wouldn't charge them
15 for any of the food that they use in the
16 commissary, but in the Supreme Court case of
17 the early '70s, the State versus Ciro where
18 the discussion was really more about how
19 inmate facilities do not rehabilitate but only
20 incarcerate, I would think that the reason
21 that we do reward inmates for some of the jobs
22 that they -- the jobs that they are able to
23 acquire while in the facility, is to try to
24 bring them back into society, and so the
25 amount of money that they make in these jobs

1 is not nearly what they would make outside the
2 facility, but the whole purpose is not to pay
3 the minimum wage. It's to get them to
4 understand that they work, they then take
5 money that they earned, not that they stole
6 and use that money to purchase certain items
7 in the facility.

8 So what we're doing is we're
9 creating a closed society. Often in other
10 governments they actually send people to
11 closed cities at times when they were guilty
12 of some crime. I think that Gorki was the
13 city that the protagonist in "Crime and
14 Punishment" was sent to; and so what we're
15 really trying to establish is a situation
16 where we're not only punishing and
17 incarcerating, but we're also trying to create
18 some of maybe the most fundamental ethical
19 situations so that inmates can understand
20 what's expected of them when they come into
21 the outside world, so you can say that "I pay
22 taxes. I pay sales taxes at my store when I
23 go to buy products," and these inmates aren't
24 paying taxes; but it is the same kind of logic
25 as counting your fingers back from ten and

1 getting to six and then adding five and say
2 that you have eleven fingers. They're really
3 on two different scales, and I think that the
4 most apt way to look at the situation is to
5 recognize that our prisons are a completely
6 different society. There is no democracy in a
7 prison. There is certainly no opportunity for
8 redress in prisons. We really don't have any
9 real revenue infrastructure in a prison, so to
10 compare it to what's going on outside the
11 prison theoretically, one of the reasons that
12 the food costs less in an inmate commissary is
13 because we are purchasing it exactly for the
14 commissary of a prison, not in a regular
15 environment, and so it's not even an idea
16 logical disagreement that I have with Senator
17 Nozzolio, it's just a fact of circumstance
18 that a prison is a completely different
19 facility where we have different types of
20 rules, and that even the -- the work-related
21 tasks that are in prisons are designed to
22 accomplish a different kind of end than they
23 are in society, and I agree with Senator
24 Montgomery that there isn't much of a basis
25 when viewed through that prison, to support

1 this bill.

2 SENATOR LEICHTER: Mr.

3 President.

4 ACTING PRESIDENT KUHL: Senator

5 Leichter.

6 SENATOR LEICHTER: Yes, Mr.

7 President.

8 Frankly I'm somewhat bothered
9 by the -- by the debate and I'm bothered by
10 Senator Nozzolio trying to read his bill in a
11 way that completely flies in the face of the
12 language.

13 Now, when you're in the
14 majority, Senator Nozzolio, you have a lot of
15 privileges, a lot of power, a lot of things
16 you can do, but you can't tell us black is
17 white. You can't tell us blue is red and,
18 when your bill says, as this bill does, that
19 it applies to state and sales and use taxes
20 and says, well, that clearly includes local
21 taxes, I mean I think we've got to rely on the
22 clear and plain language, and I had this
23 problem with you last week, Senator Nozzolio,
24 when you got up and you told us you had this
25 bill to take care of dangerous felons and they

1 were going to be subject to lifetime
2 supervision under parole, and I pointed out
3 that one of the provisions you put in there
4 was a misdemeanor, relatively minor mis
5 demeanor. I mean I think we're bound by a
6 certain degree of, shall I say honesty in
7 looking at our bills and saying what they
8 are.

9 Now, you can pass it. You'll
10 pass it today; doesn't matter how foolish the
11 bill is, you'll pass it and it really raises a
12 question which Senator Gold last time, are we
13 here for a public relation endeavor or is this
14 a serious effort to pass legislation? And I
15 would just say, Senator Nozzolio, that if we
16 want to save, and you always talk about trying
17 to save the taxpayers -- let me make a
18 suggestion to you if you want to save the
19 taxpayers. Get rid of that camera. That
20 camera, which is there at state expense which
21 seems to be there whenever one of your bills
22 is up, which isn't available to most members,
23 which isn't available to the public, you want
24 to save money, then don't have the taxpayers
25 pay for these public relations bits and,

1 frankly -- and I've made this point and I've
2 asked the Senate Secretary and I will again,
3 why these cameras are here when certain
4 members of the Majority ask to have them there
5 so that they can record their brilliant
6 debates and put it on their local television.
7 I don't think the taxpayers should pay for
8 that. I think what we should pay for is what
9 Congress has, which Massachusetts has, which
10 is we ought it televise our debates and that's
11 how we should spend money.

12 So if you want to save money,
13 let's get rid of the cameras every time,
14 Senator, that you have one of your bills or
15 let the cameras record that Senator Nozzolio
16 is telling the people of the state of New York
17 that black is white. And how can he do that?
18 Well, he's in the majority. He can pass
19 anything, but, Senator, if your intent is to
20 tax localities, this bill doesn't -- or not
21 tax localities but to give localities the
22 benefit of sales taxes to be paid by inmates,
23 this bill doesn't do it.

24 Let me just say, I certainly
25 agree with the arguments my colleagues have

1 made. I want to -- I do want to thank Senator
2 Montgomery for raising the issue. Otherwise
3 this bill would have probably just sailed
4 through, although I must disassociate myself
5 from her comment that this is slave labor. I
6 think the circumstances are somewhat
7 otherwise, but I think the argument that she
8 and Senator Paterson, Senator Waldon made,
9 certainly make good sense and, as I said, I
10 think there's a certain fairness, there's a
11 certain legislative process that we ought to
12 be following here in these bills, and I'm
13 afraid, Senator, that your bill doesn't meet
14 that standard.

15 ACTING PRESIDENT KUHL: Is
16 there other Senator wishing to speak on the
17 bill?

18 Hearing none, the Secretary
19 will read the last section.

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

22 ACTING PRESIDENT KUHL: Call
23 the roll.

24 (The Secretary called the
25 roll.)

1 ACTING PRESIDENT KUHL: Record
2 the negatives and announce the results.

3 THE SECRETARY: Those recorded
4 in the negative on Calendar Number 304 are
5 Senators Leichter, Marchi, Mendez, Montgomery,
6 Paterson, Sampson, Seabrook, Smith, Stavisky
7 and Waldon. Ayes 49, nays 10.

8 ACTING PRESIDENT KUHL: The
9 bill is passed.

10 Secretary will continue to read
11 the controversial calendar.

12 THE SECRETARY: Calendar Number
13 306, by Senator Nozzolio, Senate Print 3429,
14 an act to amend the Correction Law, in
15 relation to requiring inmates to make medical
16 co-payments.

17 SENATOR WALDON: Explanation.

18 ACTING PRESIDENT KUHL: Senator
19 Nozzolio, a multitude of members would like
20 the bill explained.

21 SENATOR NOZZOLIO: Thank you,
22 Mr. President. Mr. President. My colleagues,
23 Senate Bill 3429 requires inmates in New
24 York's correctional facilities to make a \$7
25 co-payment for medical treatment, building

1 upon the last measure before this house
2 that we are pursuing every avenue to ensure
3 that inmates pay for the cost of their
4 incarceration. The proposed co-payment of \$7
5 was chosen because that's the same amount that
6 New York's public employees pay and that we're
7 making inmates partial, in a very small way,
8 partially responsible for their health care
9 expenses, that clearly no inmate is going to
10 be denied needed medical care based on their
11 abilities to pay.

12 Their accounts and each inmate
13 in our correctional facilities have an
14 account. The account will be debited and may
15 be collected over a span of time as this
16 legislation permits.

17 New York currently spends over
18 \$150 million a year on prison health
19 facilities and almost \$2,000 of cost per
20 inmate. This co-payment will serve to reduce
21 the amount of excessive and non-emergency
22 medical visits that are paid.

23 Last year, there were a total
24 of one million sick calls in New York State's
25 prisons, and this legislation would result in

1 at least a \$7 million savings to our
2 taxpayers.

3 I should add parenthetically,
4 this idea is not an original one. It is
5 accepted by 31 other states, including our
6 neighbors of New Jersey and Pennsylvania.

7 Thank you, Mr. President.

8 ACTING PRESIDENT KUHL: Senator
9 Waldon.

10 SENATOR WALDON: I'll defer to
11 Senator Paterson, if he wishes to start.

12 ACTING PRESIDENT KUHL: Senator
13 Paterson, do you wish the floor?

14 SENATOR PATERSON: Thank you,
15 Mr. President, especially if Senator Waldon
16 wishes me to have the floor.

17 ACTING PRESIDENT KUHL: The
18 Chair recognizes Senator Paterson.

19 SENATOR PATERSON: Mr.
20 President, if Senator Nozzolio would yield for
21 a question.

22 ACTING PRESIDENT KUHL: Senator
23 Nozzolio, do you yield to a question from
24 Senator Paterson?

25 SENATOR NOZZOLIO: Yes, Mr.

1 President. I would be happy to yield to
2 Senator Paterson.

3 SENATOR PATERSON: Senator,
4 there have been a number of pieces of
5 legislation in this chamber that we've voted
6 on in the past four or five years now and
7 members who have brought these pieces of
8 legislation who believe in them and they talk
9 about mandatory testing with all diseases,
10 particularly the HIV virus which can be the
11 catalytic element to the AIDS disease, calling
12 for this mandatory testing because of the
13 health risk of having individuals have some
14 sort of contact with others, the risk that it
15 might accrue to that individual and here we
16 have a situation where we are mandating
17 co-payments for medical services for inmates,
18 and my question to you is, anything that would
19 diminish the interest that an inmate would
20 have in receiving medical attention, in my
21 opinion, would be counterproductive not only
22 to the general health care in the institution
23 but even to the health of the corrections
24 officers who are often coming in contact with
25 the inmates.

1 So my question is, isn't it
2 very possible that by passing this legislation
3 and making a law mandating the medical
4 co-payments, that we might actually be
5 encouraging those not to seek medical
6 attention because they don't want to pay the
7 money for the limited resources they have and
8 in a sense making the institution far less
9 healthy than it was and jeopardizing the lives
10 of corrections officers who work in these
11 institutions?

12 SENATOR NOZZOLIO: Mr.
13 President, in response to Senator Paterson's
14 question, Senator Paterson, I have the
15 greatest respect for you, but I believe your
16 analysis is strange logic that the mandatory
17 testing of AIDS inmates has nothing to do with
18 this measure. If you were to put on this
19 floor a bill that would require the mandatory
20 testing of inmates for AIDS, I would support
21 it wholeheartedly.

22 As a matter of fact, I fought
23 for years in the state Assembly -- Senator
24 Waldon may recall -- to great peril with the
25 Senate -- excuse me -- with the Assembly

1 Democrats, the Assembly Majority forwarded
2 mandatory AIDS testing of inmates at every
3 effort. I have advocated and been a leading
4 advocate for mandatory AIDS testing of inmates
5 beginning in 1985, almost 13 years ago,
6 thwarted every effort in the state Assembly.
7 Now, Senator, for you to raise this issue
8 which has little nexus, if any, with the
9 measure before us, I shrug my shoulders in
10 frustration.

11 No, Senator. This has no -- to
12 answer your question, this has no connection
13 with mandatory AIDS testing and that I would
14 be glad to put in any mandatory AIDS testing
15 bill an exemption for co-pay.

16 So, Senator, don't try to
17 diffuse this issue by confusing the two issues
18 and with all due respect, I certainly don't
19 believe that there is a connection.

20 ACTING PRESIDENT KUHL: Senator
21 Paterson.

22 SENATOR PATERSON: Let me try
23 to answer the question a different way. What
24 I'm trying to point out is that it was the
25 logic of those who opposed that legislation

1 that they wanted to limit the possibility of
2 spreading different diseases.

3 Now, one of the diseases that
4 they've listed in this legislation would be a
5 number of diseases -- that would be a number
6 of diseases that are actually airborne like
7 tuberculosis. So, in other words, what I was
8 saying is if a person didn't seek medical
9 attention and they clearly were exhibiting
10 some kind of a problem, didn't seek it because
11 they didn't think they could afford it or they
12 just didn't feel like making the co-pay. This
13 is a little different than a person that does
14 this who just lives in a house somewhere, an
15 apartment building somewhere. This is someone
16 who's in a facility with other inmates and
17 also individuals who are often paid by the
18 state to make sure that society is protected
19 from these inmates and I'm saying, isn't it
20 possible that we're jeopardizing their health
21 and jeopardizing health care in the entire
22 facility by creating a co-payment that the
23 inmates may ignore because here the issue
24 isn't picking up the \$7 every time somebody
25 goes to the infirmary. The issue may be

1 protecting against the huge sums of money we
2 may spend either treating those who contract
3 tuberculosis or any other kind of disease or
4 perhaps paying off the lawsuits when somebody
5 finally sues and says that they were in a
6 facility in which there wasn't proper care,
7 which I think would be valid if some state
8 employee, particularly an officer from the
9 Corrections Department, made that allegation.

10 So what I'm saying to you is it
11 wasn't an attempt to twist the argument by
12 talking about that from the perspective of
13 health care policy, and my question is simply
14 do you think that it would possibly increase
15 the risk in a facility of the spreading of
16 diseases by passing this bill?

17 SENATOR NOZZOLIO: Mr.
18 President, in response to Senator Paterson's
19 question, I don't believe that New York
20 prisons are that much healthier than the
21 prisons in California, in Connecticut, Ohio,
22 Pennsylvania, New Jersey, the states
23 surrounding -- New Hampshire, the states
24 surrounding us have these medical co-payment
25 requirements, that their prisons are not less

1 healthy than New York, that they have large
2 state problems as New York has, Senator, and
3 that concern certainly I don't believe would
4 occur. This does not deny anybody health
5 care. It simply says that those who are sick
6 and need medical services after have to, like
7 every other citizen, pay a simple co-payment.

8 As a matter of fact, not like
9 every other citizen, Senator, but like every
10 other state employee that has a very good
11 medical benefit plan again still is required
12 to pay a \$7 co-pay. Senator, there are many,
13 many citizens in your district, in my
14 district, that do not have any health
15 insurance and must pay the entire cost of a
16 doctor's visit.

17 What we're saying is that those
18 inmates in our state facility, those
19 facilities, those convicted felons should have
20 to at least pay for a portion, a very small
21 portion of the cost of their medical care.

22 SENATOR PATERSON: Thank you,
23 Mr. President.

24 Will Senator Nozzolio yield for
25 another question?

1 ACTING PRESIDENT KUHL: Senator
2 Nozzolio, do you continue to yield?

3 SENATOR NOZZOLIO: Yes, Mr.
4 President.

5 ACTING PRESIDENT KUHL: He
6 continues to yield.

7 SENATOR PATERSON: Senator, I
8 think we're making some progress here because
9 now I have a basis for understanding your
10 legislation because your answer was the way I
11 interpreted it, in other states that have
12 adopted this procedure of having the inmates
13 make a medical co-payment, you don't see any
14 significant change in the health care rate or
15 the disease rate in those facilities.

16 My response to that is to ask
17 you this question. Do you know of another
18 state where the co-payment -- because in those
19 states that you cite, they don't have
20 co-payments the same amount that there is in
21 New York, and do you know of another state
22 where the co-payment would be actually upwards
23 of half of the amount of money that the inmate
24 could receive that week for any kind of work
25 that they did, assuming that they're working?

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SENATOR NOZZOLIO: Mr.

President, in response to Senator Paterson's question, California has a co-payment in the amount of \$5. Pennsylvania has a co-payment amount of \$4, that Ohio has a co-payment amount of \$5.

Senator, in the region, our costs would be -- the proposal here would be \$7 as opposed to our neighbors of \$5 and in a larger state like California, \$5. So our co-payment for this proposal is higher but what we're saying is it shouldn't be lower than the cost of co-payments that every state employee must pay.

Senator, why -- let me answer your question with a question. Why should your employees -- why should the employees of this state have to pay a co-payment that would be higher than an inmate's co-payment? We're suggesting they be just the same amount of \$7, but I would think that's out of line with California's \$5.

SENATOR PATERSON: Senator, I asked you a question with the same answer I answered in the last bill relating to the

1 commissary. My basic problem with both of the
2 bills is that you're asking questions about
3 life outside the facility, assuming it's the
4 same as life inside the facility, and I
5 thought the reason we were creating prisons in
6 the first place is to create a life experience
7 for those who are incarcerated that's
8 different. So, in other words, if we were
9 going to say that the inmate pays the same
10 amount of a co-payment that the working person
11 does, then you would be right. We just forgot
12 that the working person has a minimum wage and
13 we don't have a minimum wage in a facility and
14 we shouldn't have a minimum wage and you
15 suggested yourself earlier that you didn't
16 think we should pay the inmates at all which
17 begs the question, where will they get this
18 money from, but the -- but let's say that if I
19 agree with you, then we would just simply not
20 have any money traveling around in the
21 facility. We would just simply incarcerate
22 people as they have done it in a number of
23 places and when it's time to be fed, they're
24 fed. If they have to be treated for a medical
25 condition, they're treated and they're sent

1 back to their cells.

2 The reason that we started
3 bringing revenues into the correctional
4 facilities in the first place was in an
5 emblematic way to try to create an environment
6 that would be remedial and bring the inmate
7 back to the society. What's now happening is
8 that when -- once any resources or revenues
9 come into the prison facility, we have these
10 pieces of legislation that are attaching what
11 will be real world conditions into a closed
12 world, and so my answer would simply be that I
13 wouldn't compare the co-payment of a person
14 working outside the facility with one in it.
15 Quite frankly, I don't think -- I think once
16 you start making those types of comparisons,
17 that once you start saying that inmates are
18 taxpayers, you're going to have a lot of
19 advocacy groups that are going to try to apply
20 some of the rights of taxpayers to prisoners.
21 I would like to try to stay away from that
22 entire argument.

23 Understand they're prisoners.
24 Understand their rights are usurped because
25 they committed crimes against society and we

1 shouldn't allow for any of this kind of thing
2 to go on other than in these kind of
3 situations where for purposes of trying to
4 establish some kind of order and establish
5 some kind of -- some kind of process to bring
6 people back into society that we would set it
7 up.

8 SENATOR NOZZOLIO: Senator, in
9 response to your question, that's exactly what
10 the citizens of the state are complaining
11 about, inmates in our state facilities are
12 treated much differently, given many benefits
13 than the average tax worker, given access to
14 things that the average taxpayer has no access
15 to, yet the taxpayer is paying for.

16 That's the whole point,
17 Senator. That's the whole point of this bill
18 and the bill before it. I'm very glad you see
19 it, but I must respectfully say that we don't
20 want to have a system where inmates are given
21 so many more benefits that are paid for by
22 taxpayers who do not share and receive like
23 benefits that inmates receive.

24 Thank you, Mr. President.

25 ACTING PRESIDENT KUHL: Senator

1 Paterson.

2 SENATOR PATERSON: Thank you,
3 Mr. President.

4 On the bill. If Senator
5 Nozzolio establishes situations where inmates
6 -- and we've seen the egregious instances
7 where inmates have run up phone bills that the
8 average citizens probably couldn't or inmates
9 are watching cable television and the average
10 citizen might not be able to afford the cable
11 television time that the inmate has, where
12 Senator Nozzolio points out those situations
13 and wants to curb them, feeling that the
14 individual is there as a punishment and also
15 as a deterrent, I can certainly understand it,
16 but what we're now doing is turning the
17 facility into a revenue-generating body to the
18 extent that I don't think I understand. The
19 next thing we'll be doing is charging rent for
20 the cells, and I'm just saying that -

21 SENATOR GOLD: You gave him a
22 new bill.

23 SENATOR PATERSON: And I'm just
24 saying that these are not designed to be
25 natural situations where we'll be paying sales

1 tax for items where we would be -- where we
2 would be asking the prisoners to make medical
3 co-payments, where we would be charging them
4 for books they read or anything such as that.

5 I thought the object of
6 incarcerating a person was to separate them
7 from society, not to turn the facilities into
8 converted hotels, and I think that this piece
9 of legislation which would probably take up to
10 half of the money that the prisoners actually
11 do own, just to go and see a doctor, I would
12 like to actually see a study of what has
13 happened when people who were very sick
14 eschewed the opportunity to make the
15 co-payment and go in and visit the infirmary
16 and what damage that may have caused, and I
17 don't know if you can put a price on that.

18 I don't recommend we pass the
19 bill. I understand the intent of it, but I
20 really don't see the value in it.

21 ACTING PRESIDENT KUHL: The
22 Chair recognizes Senator Abate.

23 SENATOR WALDON: I think, Mr.
24 President, that I had asked before and I
25 deferred to Senator Paterson. Do you recall

1 the sequence?

2 ACTING PRESIDENT KUHL: Senator
3 Waldon, we don't have a process whereby
4 members are allowed to yield the floor to
5 somebody else. You either have the floor or
6 you don't.

7 SENATOR WALDON: I apologize.

8 ACTING PRESIDENT KUHL: It's my
9 mistake for not putting you -- in making that
10 clear and putting you on the list, but I will
11 put you on the list. You will be next in
12 line.

13 SENATOR WALDON: Thank you.

14 ACTING PRESIDENT KUHL: Okay?
15 Senator Abate.

16 SENATOR ABATE: Yes, Mr.
17 President. Would Senator Nozzolio yield to a
18 couple of questions?

19 ACTING PRESIDENT KUHL: Senator
20 Nozzolio, do you yield to Senator Abate?

21 SENATOR NOZZOLIO: I would be
22 happy to yield to Senator Abate.

23 ACTING PRESIDENT KUHL: The
24 Senator yields.

25 SENATOR ABATE: Yes. I'm

1 looking at the language of a bill. How do you
2 define "ability to pay"? It seems to me -
3 correct me if I'm wrong -- that ability to pay
4 is determined by how much money is in a
5 commissary account. Am I correct?

6 SENATOR NOZZOLIO: That's
7 correct, Mr. President.

8 SENATOR ABATE: So that if an
9 individual understands that the check -- most
10 of the money in commissary accounts, it's not
11 there because of wages earned. It's there
12 because of family members and other
13 individuals sending checks in that are
14 deposited in the commissary account. So an
15 individual can arrange their visits so that
16 their visits to the clinic occur before the
17 money is deposited into the commissary
18 account.

19 SENATOR NOZZOLIO: Mr.
20 President, in response to Senator Abate's
21 question, Senator, we're looking at this issue
22 in total, that to take a snapshot for an
23 individual inmate, that may occur from time to
24 time, but I believe in total we're looking at
25 a million visits a year, the 70,000 inmates in

1 our system, that we're looking to set a system
2 -- set up a process that is fair, that can
3 determine amounts of money in a reasonable
4 period of time in reviewing it in total.

5 I should just also add that
6 we're not suggesting at all that if an
7 inmate's account does not show sufficient
8 funds to satisfactory his obligation, then the
9 account will be frozen pending further receipt
10 of account monies. So it's not a static
11 situation. It's not something that just
12 happens one moment and then forgotten. It's
13 kept through the process.

14 SENATOR ABATE: Okay. May I
15 continue, Mr. President?

16 ACTING PRESIDENT KUHL: Senator
17 Nozzolio, would you continue to yield?

18 SENATOR NOZZOLIO: Yes, Mr.
19 President.

20 ACTING PRESIDENT KUHL: The
21 Senator continues to yield.

22 SENATOR ABATE: Yes. I am not
23 philosophically against co-payments. My
24 concern is when co-payments interfere with the
25 delivery of absolutely essential health

1 services, then we need to be concerned.

2 Am I correct, this is a
3 one-house bill? This has passed a number of
4 years.

5 SENATOR GOLD: 15 of the 16
6 one-house bills.

7 SENATOR NOZZOLIO: Senator,
8 there are a number of Assembly members who
9 have volunteered to carry this bill, but we
10 wanted to see if it could pass the Senate
11 first.

12 SENATOR ABATE: But as of the
13 moment, looking at past history, this bill has
14 only passed the Senate. It has not passed the
15 Assembly.

16 SENATOR NOZZOLIO: Yes, Senator
17 Abate, that's correct. It has not passed the
18 Assembly.

19 SENATOR ABATE: My question is,
20 I hope you will take under advisement -- if
21 that is the case again this year and it only
22 passes the Senate, I believe, and would you
23 consider altering the bill to include language
24 that exempts emergency care? There are
25 individuals -- there are women who are

1 pregnant, all of a sudden something happens
2 with their pregnancy, they are rushed to the
3 clinic or there may be someone suffering from
4 an extraordinarily high fever and is incurring
5 vomiting, certainly conditions not within the
6 control of the inmate. There can be an
7 assessment made by the clinic and we know
8 those aren't the situations that we're trying
9 to make money off of. It's a deterrent to
10 make sure that the frivolous visits are
11 reduced. Would you consider including an
12 exemption for emergency visits?

13 SENATOR NOZZOLIO: Mr.

14 President, in response to Senator Abate's
15 question, that should there not be sufficient
16 funds to cover -- in the account to cover the
17 co-pay, that would not allow the prohibition
18 of medical services, that inmates will not be
19 assessed co-pay for things like psychiatric
20 visits and lastly, the commissioner of the
21 Department of Corrections is given the mandate
22 with this legislation to promulgate rules and
23 regulations necessary for its implementation.

24 So, Senator, yes, certainly
25 emergency care which would subject the

1 Department to questions of liability would not
2 be denied from this bill, would not be denied,
3 I would expect, from whatever responsible
4 regulations were promulgated by the
5 commissioner and certainly it's not the
6 intention for legislative history to ever deny
7 an emergency treatment as a result of the
8 inability to make a co-pay.

9 SENATOR ABATE: Senator
10 Nozzolio, would you consider to make that
11 intent explicit in this bill instead of just
12 leaving that to the discretion of the
13 Commissioner of Correction or any future
14 Commissioner of Correction?

15 SENATOR NOZZOLIO: Senator, I
16 believe that this is already implied in the
17 bill on line 5, page 1, under Section 6075,
18 line 15, and subsequent lines which say
19 clearly that an inmate's account, if he does
20 not have the money in that account, is not
21 going to be denied co-payment -- or excuse me
22 -- the treatment is not going to be denied
23 because he does not have sufficient funds for
24 co-payment. We're simply saying the treatment
25 can be given and the co-payment will be made

1 when there are sufficient funds there.

2 So, Senator, I'm not going to
3 rule on anything. If it was -- if your line,
4 which I think it's kind of like chicken soup,
5 it's not going to hurt, certainly the tenets
6 of this bill, I certainly would support
7 anything that could get it through the
8 Assembly, and if your suggestion gets it
9 through the Assembly, then I certainly would
10 entertain it aggressively.

11 SENATOR ABATE: Mr. President.

12 ACTING PRESIDENT KUHL: Senator
13 Abate.

14 SENATOR ABATE: Would Senator
15 Nozzolio continue to yield for the last
16 question?

17 ACTING PRESIDENT KUHL: Senator
18 Nozzolio, do you continue to yield?

19 SENATOR NOZZOLIO: Yes, Mr.
20 President.

21 ACTING PRESIDENT KUHL: The
22 Senator continues to yield.

23 SENATOR ABATE: Senator, would
24 you also consider another amendment. One of
25 the concerns is again, as you addressed people

1 when they get bored -- and there are
2 individuals, I've seen it -- where people
3 abuse access to clinics and are in and out,
4 sometimes not for legitimate issues and we
5 need to curb that expense, but how about the
6 case where the doctors have diagnosed someone
7 with a chronic disease; they have cancer; they
8 have AIDS; they have tuberculosis and as a
9 result of that chronic and debilitating
10 disease -

11 ACTING PRESIDENT KUHL: Senator
12 Abate, excuse me just a minute. I don't know
13 whether you're having a hard time making sure
14 that Senator Nozzolio is hearing you or not,
15 but it is getting rather noisy in here. If
16 the members could take their conversations out
17 of the chamber, we certainly would be able to
18 advance the debate. We have still four bills
19 to deal with, so -- thank you very much.

20 SENATOR ABATE: Let me just try
21 to repeat that. Would you take under
22 advisement amending this to include another
23 exemption, that when a clinician, the medical
24 staff diagnoses an individual with a chronic
25 or debilitating disease such as AIDS,

1 tuberculosis, cancer, and that disease
2 requires ongoing visits, absolutely necessary
3 visits, I equate those visits to similar
4 emergency situations, that the co-payment be
5 waived in those situations?

6 SENATOR NOZZOLIO: Mr.
7 President, I certainly would welcome any
8 suggestion for legislative review by Senator
9 Abate, that I don't have any immediate
10 disagreement with that suggestion and would
11 welcome your presentation of language for us
12 to review.

13 SENATOR ABATE: All right.
14 Thank you.

15 ACTING PRESIDENT KUHL: Senator
16 Waldon.

17 SENATOR WALDON: Mr. President,
18 would the gentleman yield to a question or
19 two?

20 ACTING PRESIDENT KUHL: Senator
21 Nozzolio?

22 SENATOR NOZZOLIO: Yes, Mr.
23 President.

24 ACTING PRESIDENT KUHL: The
25 Senator yields.

1 SENATOR WALDON: Thank you, Mr.
2 President.

3 Senator Nozzolio, do you pay a
4 co-payment when you visit your doctor?

5 SENATOR NOZZOLIO: Mr.
6 President, in response to Mr. Waldon's very
7 personal question -- and I consider health
8 care a personal question -- I will relinquish
9 my rights of privacy and suggest to Senator
10 Waldon, the answer to his question is yes, I
11 make a co-payment and further, that
12 co-payment, as Senator Marcellino and Senator
13 Meier reminded me, is more than the co-payment
14 that is required by this legislation.

15 SENATOR WALDON: Thank you for
16 that information, Senator.

17 Mr. President, I would like to
18 continue again with a question, but let me
19 preface it this with statement. I pay \$8
20 co-payment. I don't know if that's what you
21 pay. I don't know if you're in the Empire
22 Plan as I do, but I pay \$8, which is a
23 percentage of my overall salary here in the
24 Legislature.

25 My question, if I may continue,

1 Mr. President, if the gentleman continues to
2 yield.

3 ACTING PRESIDENT KUHL: Senator
4 Nozzolio, do you continue to yield?

5 SENATOR NOZZOLIO: Yes, Mr.
6 President.

7 ACTING PRESIDENT KUHL: The
8 Senator continues to yield.

9 SENATOR WALDON: Senator
10 Nozzolio, do you have any idea what your
11 co-payment is as a percentage of your overall
12 salary one shot if you only go once a year or
13 if on occasion you have been more than once a
14 year to see the doctor in recent years?

15 SENATOR NOZZOLIO: Mr.
16 President, no, Senator, I don't, and frankly
17 I'm not going to stand here -- I don't have a
18 calculator. I'm not going to do the math. I
19 think you can answer your own question.

20 SENATOR WALDON: Well, Senator,
21 if I may continue, Mr. President.

22 ACTING PRESIDENT KUHL: Senator
23 Waldon, you're asking the Senator to continue
24 to yield?

25 SENATOR WALDON: Yes, sir, I

1 am.

2 ACTING PRESIDENT KUHL: Senator
3 Nozzolio, do you continue to yield?

4 SENATOR NOZZOLIO: Yes, Mr.
5 President.

6 ACTING PRESIDENT KUHL: The
7 Senator continues to yield.

8 SENATOR WALDON: Senator
9 Nozzolio, it is not my purpose to be
10 contentious and I'm not looking to create any
11 ire between you and myself. Believe it or
12 not, I have a plan in terms of my questioning
13 and in terms of the route I'm taking with the
14 questions. It is not meant to be overbearing
15 or burdensome to you. It is hopefully to
16 elicit some responses which might cause us to
17 think a little differently about your
18 proposal.

19 Permit me to cut to the chase.
20 Do you have any idea in regard to the AIDS
21 virus and to full-blown AIDS, what percentage
22 of the people in our prisons, the 70,000, have
23 contracted this disease?

24 SENATOR NOZZOLIO: Mr.
25 President, I don't have the facts to

1 sufficiently respond to Senator Waldon's
2 inquiry before me. I have only heard innuendo
3 that as many as 80 percent of prison inmates
4 could have been -- could have not full-blown
5 AIDS but could, in fact, be carriers of HIV,
6 but I do not have the numbers, Senator, to
7 respond sufficiently to your question.

8 ACTING PRESIDENT KUHL: Senator
9 Waldon.

10 SENATOR WALDON: If the
11 gentleman would continue to yield, Mr.
12 President.

13 ACTING PRESIDENT KUHL: Senator
14 Nozzolio, do you continue to yield?

15 SENATOR NOZZOLIO: Yes, Mr.
16 President.

17 ACTING PRESIDENT KUHL: The
18 Senator continues to yield.

19 SENATOR WALDON: Senator, not
20 related to our prisons, but related to HMOs,
21 when HMOs refuse to treat people because of
22 the bottom line, the dollar, are you aware
23 that they are not subject to suit, to being
24 sued for failure to treat people who come to
25 them who are ill?

1 SENATOR NOZZOLIO: Yes, Mr.
2 President.

3 SENATOR WALDON: If the
4 gentleman would continue to yield, Mr.
5 President.

6 ACTING PRESIDENT KUHL: Senator
7 Nozzolio, do you continue to yield?

8 SENATOR NOZZOLIO: Yes, Mr.
9 President.

10 ACTING PRESIDENT KUHL: The
11 Senator continues to yield.

12 SENATOR WALDON: In your frame
13 of reference considering the scenario
14 regarding HMOs, Senator, can you view the
15 possibility that New York State's Department
16 of Correctional Services may be setting itself
17 up for a huge suit possibility from those who
18 have contracted not only AIDS but who may have
19 other virulent diseases and who are not going
20 to go to see the doctor because of the
21 potential disparate impact of whatever few
22 resources they have regarding this
23 co-payment? Could that in your realm or your
24 frame of reference be a possibility?

25 SENATOR NOZZOLIO: Senator, in

1 response to your question through the Chair,
2 that we are not denying medical treatment to
3 any individual as a result of this measure.
4 We're simply saying that as long as somebody
5 has the ability to pay, that as long as they
6 have an inmate account that has any money in
7 that account, they will be subjected to paying
8 or at least reimbursing a small part of the
9 cost of their health care to the state
10 taxpayers. We're not saying in this measure
11 in any stretch of the imagination that this
12 prohibits or retards or restricts health care
13 access to prison inmates.

14 So, sir, I understand your
15 question, but I believe your concern is
16 misplaced. This is not an effort to refuse
17 medical treatment to anybody. This is only
18 saying that after you get that medical
19 treatment, expect your account to be debited a
20 \$7 co-pay.

21 Now, if you go to 3,000
22 treatments and you are debited \$21,000 and
23 your account has \$21 in it, obviously you're
24 not going to get the total reimbursement, but
25 at the least there will be a reimbursement

1 process established here not to restrict
2 health care but to ensure that inmates share
3 in its deliver -- its cost to deliver.

4 SENATOR WALDON: Would the
5 gentleman be kind enough to yield to another
6 question, Mr. President?

7 ACTING PRESIDENT KUHL: Senator
8 Nozzolio?

9 SENATOR NOZZOLIO: Yes, I would
10 be glad to yield.

11 ACTING PRESIDENT KUHL: The
12 Senator continues to yield.

13 SENATOR WALDON: Thank you, Mr.
14 President. Thank you, Senator, for being
15 responsive.

16 Do you see or can you see that
17 there would be some resistance, some
18 reluctance, some desire by those who are our
19 inmates not to seek out medical attention
20 where needed simply because they did not wish
21 to pay the co-payment?

22 SENATOR NOZZOLIO: Senator
23 Waldon, I don't believe that those who really
24 need medical care are not -- in prison today
25 are going to stop going to a doctor because

1 they know their account is going to be debited
2 \$7.

3 What I do believe is that those
4 inmates -- and there are literally thousands
5 of them each year -- who use sick call to
6 avoid working in prison, to avoid their
7 responsibilities in prison, to do it as a
8 matter of sport, to avoid their
9 responsibilities, and in effect, costs the
10 taxpayers millions of dollars, that this will
11 be a measure which will retard that type of
12 behavior.

13 That's the intention of the
14 bill. That's the essence of what we're trying
15 to get at, not the sick but the -- in effect,
16 the ne'er-do-well who wishes to use the system
17 to avoid its own responsibility.

18 SENATOR WALDON: If I may, Mr.
19 President, last question.

20 ACTING PRESIDENT KUHL: Senator
21 Nozzolio, do you continue to yield?

22 SENATOR NOZZOLIO: Yes, Mr.
23 President.

24 ACTING PRESIDENT KUHL: The
25 Senator continues to yield.

1 SENATOR WALDON: Permit me to
2 preface the question with some remarks,
3 Senator. One, we've elicited from your
4 response that AIDS is a problem within our
5 prisons. We've elicited that those who are
6 sick, if your proposal becomes law, would have
7 to co-pay. We've elicited that perhaps
8 psychologically some prisoners would not want
9 to make a co-payment simply because it might
10 disparately impact their commissary account.
11 Can you envision where someone who has AIDS,
12 has been diagnosed as AIDS but would still
13 want to engage -- and those of us who are
14 realists understand that sexual activity is
15 everywhere in the prison system, both male and
16 female prison systems -- is it possible for
17 someone who has AIDS or the HIV virus at this
18 moment in our prisons to have the ability to
19 purchase condoms so they could practice safe
20 sex and if it is not the case, would you
21 support having that made available to them
22 because, one, it would preclude -- not
23 preclude -- it might interfere with the
24 spreading of the AIDS virus and certainly
25 would reduce those -- perhaps reduce those who

1 will have AIDS in the future when they are
2 permitted to practice safe sex in our prison
3 system?

4 SENATOR NOZZOLIO: Mr.
5 President, in my opinion, the way to stop the
6 spread of AIDS in prison at the threshold
7 should be to establish a mandatory testing
8 policy, where the results of those tests are,
9 in effect, disclosed to prison personnel.

10 Right now we have an anemic
11 policy that, in effect, does nothing to stem
12 the spread of AIDS, HIV in prison. I called
13 for this not last week, not last year but in
14 1984 and '85 when Senator Waldon and I served
15 in the Assembly together. Senator, you put a
16 bill in and with good faith push your
17 suggestion, certainly I think that there will
18 be those who find it meritorious and who
19 knows, it could even be accepted, but I'm not
20 buying into it.

21 I'm saying if we are really
22 serious, let's look at the mandatory testing
23 question first. Neither of those questions,
24 Senator, are before us in this measure on
25 co-payment of health care.

1 So I must defer to what's
2 before us and say if you would like to talk
3 about other issues, let's save that for
4 another day and another measure.

5 Thank you, Mr. President.

6 ACTING PRESIDENT KUHL: Senator
7 Waldon, on the bill.

8 SENATOR WALDON: Mr. President,
9 if I may, on the bill. I thank Senator
10 Nozzolio for his indulgence.

11 One, I must oppose this.
12 Co-payment, no choice of doctor. When you go
13 to the doctor, I go to the doctor, we co-pay,
14 I at least have a choice, not that one should
15 have a choice in prison, but I think if we're
16 going to be fair -- and you spoke to fairness
17 -- that should be a possibility.

18 Two, I believe if we are going
19 to be wise as those who have oversight over
20 our prison system, we must immediately permit
21 the distribution and/or purchase, from
22 commissary or otherwise, of condoms for those
23 who are in prison. If not, the entire prison
24 population has the potential to become
25 infected and when they come back into society,

1 it's a threat to all of us. So I think it's
2 being foolish not to consider that, but the
3 main reason I oppose this, is I see it as
4 another oppressive measure, an overburdensome
5 measure against those who are in prison and
6 who have very few resources, if any, at all.

7 So for all of those reasons, I
8 must oppose it. I hope that somehow some
9 light has been shed on something this
10 afternoon with this debate that might cause
11 some of us to think a little differently
12 tomorrow than we did today as a result of
13 discussions held here.

14 Thank you very much, Mr.
15 President.

16 ACTING PRESIDENT KUHL: Senator
17 Marchi, did you wish to be recognized?

18 SENATOR MARCHI: Yes, Mr.
19 President. I have the deepest respect for
20 Senator Nozzolio's steady adherence and
21 sincere support for a health delivery system
22 that provides needed attention, but I would
23 like to submit that this is not a problem that
24 we resolve only by a CPA or statistical
25 figures.

1 I believe there is a moral
2 compulsion that we all have where there are
3 adverse medical circumstances that must be
4 held high and visible, and I'm afraid this
5 legislation doesn't answer that purpose. The
6 Senator is certainly on the right track, I
7 think, because his life and his dedication to
8 public service has characterized that
9 awareness and that sensitivity.

10 I am surprised that some of our
11 surrounding states have done this, and I don't
12 care what the percentages are in terms of its
13 effect, but what about us? I mean, we have a
14 responsibility here, and I believe we cannot
15 support this legislation.

16 ACTING PRESIDENT KUHL: Any
17 other Senator wishing to speak on the bill?

18 (There was no response.)

19 Hearing none, the Secretary
20 will read the last section.

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

23 ACTING PRESIDENT KUHL: Call
24 the roll.

25 (The Secretary called the

1 roll.)

2 ACTING PRESIDENT KUHL: Record
3 the negatives. Announce the results.

4 THE SECRETARY: Those recorded
5 in the negative on Calendar Number 306 are
6 Senators Gold, Leichter, Marchi, Markowitz,
7 Mendez, Montgomery, Onorato, Paterson,
8 Sampson, Santiago, Smith, Stavisky and
9 Waldon. Ayes 46, nays 13.

10 ACTING PRESIDENT KUHL: The
11 bill is passed.

12 SENATOR LEICHTER: Mr.
13 President.

14 ACTING PRESIDENT KUHL: Senator
15 Leichter, why do you rise?

16 SENATOR LEICHTER: May I have
17 unanimous consent to be recorded in the
18 negative on Calendar Numbers 135 and 192 which
19 passed earlier today.

20 ACTING PRESIDENT KUHL: Without
21 objection.

22 SENATOR LEICHTER: Thank you.

23 ACTING PRESIDENT KUHL: Hearing
24 no objection, Senator Leichter will be
25 recorded in the negative on Calendars Number

1 135 and 192.

2 The Secretary will continue to
3 read the controversial calendar.

4 THE SECRETARY: Calendar Number
5 355, by Senator Padavan, Senate Print 3088, an
6 act to amend the General Business Law, in
7 relation to possession and sale of
8 drug-related paraphernalia.

9 ACTING PRESIDENT KUHL: The
10 Secretary will read the last section.

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

13 ACTING PRESIDENT KUHL: Call
14 the roll.

15 SENATOR GOLD: Mr. President.

16 ACTING PRESIDENT KUHL: Call
17 the roll.

18 (The Secretary called the
19 roll.)

20 ACTING PRESIDENT KUHL: Senator
21 Gold, to explain his vote.

22 SENATOR GOLD: Yes. Thank
23 you.

24 Mr. President, I'm going to
25 vote in the negative for just a very simple

1 reason. I know Senator Padavan has done a lot
2 of work in this field and as a result of his
3 work we have a statewide bill.

4 I think it makes no sense now
5 to start opening up to municipalities to elect
6 separate local laws dealing with criminal
7 penalties. I think if we are going to do
8 that, let's do that as a legislative body.
9 I'm not saying I would be opposed to it, but I
10 think the concept that as you go around the
11 state, you're going to have different laws,
12 particularly criminal laws applying to this
13 area just doesn't make any sense.

14 I vote in the negative.

15 ACTING PRESIDENT KUHL:

16 Announce the results.

17 THE SECRETARY: Those recorded
18 in the negative on Calendar Number 355 are
19 Senators Gold, Leichter, Mendez and Sampson.
20 Ayes 56, nays 4.

21 ACTING PRESIDENT KUHL: The
22 bill is passed.

23 The Secretary will continue to
24 read the controversial calendar.

25 THE SECRETARY: Calendar Number

1 357, by Senator Maltese, Senate Print 4880, an
2 act to amend the Real Property Tax Law, in
3 relation to tax credit for security
4 improvements.

5 SENATOR GOLD: Mr. President.

6 ACTING PRESIDENT KUHL: Senator
7 Gold.

8 SENATOR GOLD: Will my
9 distinguished colleague from Queens yield to a
10 question?

11 SENATOR MALTESE: Yes.

12 ACTING PRESIDENT KUHL: Senator
13 Maltese yields.

14 SENATOR GOLD: Senator, there's
15 a memorandum in opposition from the City on
16 your bill, and I don't understand their
17 opposition.

18 My understanding of your bill
19 is that this creates a local option and
20 according to the City's own memo, the City
21 Council could then, if it wanted, pass a local
22 law.

23 It then goes on to say that if
24 the City Council were to determine they wanted
25 to do this, there could be adverse

1 implications to the fiscal health of the City
2 but, Senator, as I understand this, first of
3 all, it's a statewide bill. This would give
4 every locality an opportunity to opt in or out
5 and isn't it a fact that if the city of New
6 York did opt in, it could only be by local law
7 to which the City and the mayor and all would
8 agree after analyzing the fiscal implications
9 to the City at that time?

10 SENATOR MALTESE: Mr.

11 President, through you. That is correct
12 except for one thing. It would apply only in
13 cities of one million or more.

14 SENATOR GOLD: All right.

15 Well, that will help too but, Senator, it
16 doesn't change the basic argument -

17 SENATOR MALTESE: No.

18 SENATOR GOLD: -- that this
19 cannot be a law in the city of New York unless
20 the city government in the city of New York
21 determines that within the City's budget and
22 within the -- with an analysis of the housing
23 that's involved in the city of New York -- or
24 the realty in the city of New York, that it
25 would apply and be all right.

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SENATOR MALTESE: Mr.

President, that's correct.

SENATOR GOLD: Thank you.

ACTING PRESIDENT KUHL: The Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT KUHL: Record the negative. Announce the results.

THE SECRETARY: Ayes 59, nays 1, Senator Leichter recorded in the negative.

ACTING PRESIDENT KUHL: The bill is passed.

The Secretary will continue to read.

THE SECRETARY: Calendar Number 359, by Senator Volker, Senate Print 87-A, an act to amend the Penal Law, in relation to criminal possession of marijuana in the third degree.

ACTING PRESIDENT KUHL: The

1 Secretary will read the last section.

2 THE SECRETARY: Section 2.

3 This act shall take effect on the first day of
4 November.

5 ACTING PRESIDENT KUHL: Call
6 the roll.

7 (The Secretary called the
8 roll.)

9 ACTING PRESIDENT KUHL:
10 Announce the results.

11 THE SECRETARY: Ayes 58, nays
12 2, Senators Leichter and Mendez recorded in
13 the negative.

14 ACTING PRESIDENT KUHL: The
15 bill is passed.

16 THE SECRETARY: Calendar Number
17 391, by Senator Saland, Senate Print 2379-A,
18 an act to amend the Criminal Procedure Law and
19 others, in relation to enacting the Juvenile
20 Justice Accountability and Procedural Reform
21 Act of 1998.

22 ACTING PRESIDENT KUHL: Senator
23 Alesi.

24 SENATOR ALESI: Lay the bill
25 aside for the day, please.

1 ACTING PRESIDENT KUHL: Lay the
2 bill aside for the day.

3 Senator Alesi, that completes
4 the reading of the controversial calendar.

5 SENATOR ALESI: Is there any
6 housekeeping at the desk?

7 ACTING PRESIDENT KUHL: If we
8 might return to motions and resolutions,
9 Senator, which we will do, the Chair will
10 recognize Senator Marcellino for a motion.

11 SENATOR MARCELLINO: Thank you,
12 Mr. President.

13 On behalf of Senator Johnson,
14 on page number 11, I offer the following
15 amendments to Calendar Number 256, Senate
16 Print Number 2550-B, and ask that said bill
17 retain its place on the Third Reading
18 Calendar.

19 ACTING PRESIDENT KUHL: The
20 amendments are received and adopted.

21 SENATOR MARCELLINO: Thank you.

22 ACTING PRESIDENT KUHL: The
23 bill will retain its place on the Third
24 Reading Calendar.

25 Senator Montgomery, why do you

1 rise?

2 SENATOR MONTGOMERY: Mr.
3 President, I would like unanimous consent to
4 be in the negative on Calendars 355 and 359.

5 ACTING PRESIDENT KUHL: Senator
6 Montgomery, what number bills were those?

7 SENATOR MONTGOMERY: 355.

8 ACTING PRESIDENT KUHL: 355.

9 SENATOR MONTGOMERY: And 359.

10 ACTING PRESIDENT KUHL: 359.

11 Without objection.

12 SENATOR MONTGOMERY: Thank you.

13 ACTING PRESIDENT KUHL: Hearing
14 no objection, Senator Montgomery will be
15 recorded in the negative on Calendars Number
16 355 and 359.

17 Senator Alesi.

18 SENATOR ALESI: Being no
19 further business, Mr. President, I move we
20 adjourn until Wednesday, March 18th, at 11:00
21 a.m.

22 ACTING PRESIDENT KUHL: Without
23 objection, the Senate stands adjourned until
24 tomorrow, Wednesday, at 11:00 a.m., March
25 18th.

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(Whereupon, at 5:21 p.m., the
Senate adjourned.)