ALBANY, NEW YORK

March 17, 1998

3:04 p.m.

REGULAR SESSION

SENATOR JOHN R. KUHL, JR., Acting President

STEVEN M. BOGGESS, Secretary

P R O C E E D I N G S

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

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

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

(A moment of silence was observed.)

Reading of the Journal.

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

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

Presentation of petitions.

Messages from the Assembly.

Messages from the Governor.

Reports of standing committees.

The Secretary will read.

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

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

ACTING PRESIDENT KUHL: Chair recognizes Senator Lack.

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

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

SENATOR BRUNO: Thank you, Mr. President.

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

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

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

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

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

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

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

SENATOR FARLEY: Yes, Mr. President.

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

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

ACTING PRESIDENT KUHL: Senator Breslin, on the nomination.

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

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

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

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

(Response of "Aye.").

Opposed nay.

(There was no response.)

The nominee is confirmed. Judge Malone, we're very pleased to have you with us.

(Applause)

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

(Applause)

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

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

(Applause)

The Secretary will continue to read.

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

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

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

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

ACTING PRESIDENT KUHL: Chair

recognizes Senator Bruno, on the nomination.

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

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

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

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

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

such an outstanding and qualified person as Courtenay Hall.

ACTING PRESIDENT KUHL: Senator Gold, on the nomination.

SENATOR GOLD: Thank you, Mr. President.

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

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

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

ACTING PRESIDENT KUHL: Senator Farley, on the nomination.

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

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

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

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

(Response of "Aye.")

Opposed nay.

(There was no response.)

The nominee is confirmed.

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

Judge, congratulations. Good luck.

(Applause)

Secretary will continue to read.

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

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

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

SENATOR LACK: Thank you, Mr. President.

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

ACTING PRESIDENT KUHL: Chair recognizes Senator Alesi.

SENATOR ALESI: Thank you, Mr. President.

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

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

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

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

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

SENATOR NOZZOLIO: Thank you, Mr. President.

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

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

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

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

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

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

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

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

ACTING PRESIDENT KUHL: Senator

Maziarz, on the nomination.

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

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

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

Thank you, Mr. President.

ACTING PRESIDENT KUHL: Senator

Dollinger, on the nomination.

SENATOR DOLLINGER: Thank you, Mr. President.

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

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

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

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

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

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

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

(Response of "Aye.")

Opposed nay.

(There was no response.)

The nominee is confirmed. Very, very pleased to have Judge Vanstrydonck with us. Judge, congratulations and good luck.

(Applause)

Secretary will continue to read

the report of the Finance Committee.

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

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

SENATOR STAFFORD: Mr. President.

ACTING PRESIDENT KUHL: Senator Stafford, on the nomination.

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

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

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

SENATOR LIBOUS: Thank you, Mr.

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

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

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

receiving.

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

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

Mr. President, it is indeed an

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

ACTING PRESIDENT KUHL: Senator Farley, on the nomination.

SENATOR FARLEY: Thank you, Mr. President.

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

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

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

commission, and best wishes to you, Gary.

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

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

(Response of "Aye.")

Opposed nay.

(There was no response.)

The nominee is confirmed.

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

(Applause)

The Secretary will continue to read.

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

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

ACTING PRESIDENT KUHL: Senator Stafford, on the nomination.

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

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

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

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

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

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

Thank you.

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

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

(Response of "Aye.")

Opposed nay.

(There was no response.)

The nominee is confirmed.

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

(Applause)

Secretary will continue to read.

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

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

SENATOR STAFFORD: Move confirmation, please.

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

(Response of "Aye.")
Opposed nay.
(There was no response.)
The nominee is confirmed.
Secretary will continue to read.
THE SECRETARY: Senator Stafford, from the Committee on Finance, reports the following nomination:
Member of the State Athletic Commission: Melville Southard, Esq., of Manhasset.
SENATOR STAFFORD: Move confirmation.
ACTING PRESIDENT KUHL: The question is on the nomination of Melville Southard to become a member of the State Athletic Commission. All those in favor signify by saying aye.
(Response of "Aye.")
Opposed nay.
(There was no response.)
The nominee is confirmed.
Secretary will continue to read.
THE SECRETARY: Senator Stafford, from the Committee on Finance,

reports the following nomination:

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

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

(Response of "Aye.")

Opposed nay.

(There was no response.)

The nominee is confirmed. Secretary will continue to read.

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

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

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

(Response of "Aye.")

Opposed nay.

(There was no response.)

The nominee is confirmed.

Secretary will continue to read.

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

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

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.

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

Members of the Palisades Interstate Park Commission, Barnabus McHenry,

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

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.

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

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

ACTING PRESIDENT KUHL: Senator Holland, on the nominations.

SENATOR HOLLAND: Yes, Mr. President.

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

words about him.

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

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

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

Question is on the nomination. 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.

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

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

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

(Response of "Aye.")

Opposed nay.

(There was no response.)

The nominee is confirmed.

Secretary will continue to read.

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

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

ACTING PRESIDENT KUHL:

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

(Response of "Aye.")

Opposed nay.

(There was no response.)

The nominee is confirmed.

Secretary will continue to read.

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

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

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

(Response of "Aye.")

Opposed nay.

(There was no response.)

The nominee is confirmed.

Secretary will continue to read.

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

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

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.

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

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

SENATOR SPANO: Mr. President.

ACTING PRESIDENT KUHL: Senator Spano, on the nomination.

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

Ed Stolzenberg was appointed a

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

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

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

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

(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.

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

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

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

(Response of "Aye.")

Opposed nay.

(There was no response.)

The nominee is confirmed. Secretary will continue to read.

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

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

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

(Response of "Aye.")

Opposed nay.

(There was no response.)

The nominee is confirmed.

Secretary will continue to read.

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

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

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

(Response of "Aye.")

Opposed nay.

(There was no response.)

The nominee is confirmed.

Secretary will continue to read.

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

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

ACTING PRESIDENT KUHL:

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

(Response of "Aye.")

Opposed nay.

(There was no response.)

The nominee is confirmed.

Secretary will continue to read.

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

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

(Response of "Aye.")

Opposed nay.

(There was no response.)

The nominee is confirmed.

Secretary will continue to read.

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

Member of the Board of Visitors

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

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

(Response of "Aye.")

Opposed nay.

(There was no response.)

The nominee is confirmed.

Secretary will continue to read the reports of standing committees.

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

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

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

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

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

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

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

Senator Hannon, from the Committee on Health, reports:

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

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

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

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

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

Senator Johnson, from the Committee on Transportation, reports:

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

2874-A, by Senator Johnson, an

act to amend the Vehicle and Traffic Law;

3671, by Senator Rath, an act to amend the Vehicle and Traffic Law;

5231, by Senator Maziarz, an act to amend the Highway Law and the Environmental Conservation Law; and

6069, by Senator Holland, an act to amend the Vehicle and Traffic Law.

Senator Cook, from the Committee on Education, reports:

Senate Print 6347, by Senator Rath, an act to amend the Education Law.

Senator Saland, from the Committee on Children and Families, reports:

Senate Print 332, by Senator Skelos, an act to amend the Social Services Law;

2584-A, by Senator Johnson, an act to amend the Family Court Act and the Vehicle and Traffic Law;

4519-A, by Senator Saland, an act to amend the Domestic Relations Law and others; and

5175, by Senator Saland, an act to amend the Domestic Relations Law and the

Family Court Act.

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

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

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

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

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

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

All bills ordered direct for third reading.

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

Senator Cook, why do you rise?

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

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

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

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

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

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

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

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

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

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

Reports of select committees.

Communications and reports from state officers.

Motions and resolutions.

Senator Skelos.

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

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

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

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

SENATOR PATERSON: Thank you, Mr. President.

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

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

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

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

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

(Response of "Aye.")

Opposed nay.

(There was no response.)

The resolution is adopted.

Senator Skelos.

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

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

SENATOR GOLD: Mr. President.

ACTING PRESIDENT KUHL: Senator Gold.

SENATOR GOLD: Yeah, Mr. President.

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

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

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

SENATOR SKELOS: Mr. President.

ACTING PRESIDENT KUHL: Senator Skelos.

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

SENATOR MEIER: Correct.

SENATOR SKELOS: So if any

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

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

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

(Response of "Aye.")

Opposed nay.

(There was no response.)

The Resolution Calendar is adopted.

Senator Skelos, we have one substitution.

SENATOR SKELOS: Please make the substitution.

ACTING PRESIDENT KUHL: Secretary will read.

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

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

ACTING PRESIDENT KUHL: Substitution is ordered.

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

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

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

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

SENATOR PATERSON: Lay it aside.

ACTING PRESIDENT KUHL: Lay the bill aside.

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

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

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

ACTING PRESIDENT KUHL: Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 57.

ACTING PRESIDENT KUHL: The bill is passed.

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

ACTING PRESIDENT KUHL: 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.)

THE SECRETARY: Ayes 57.

ACTING PRESIDENT KUHL: The bill is passed.

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

ACTING PRESIDENT KUHL: Lay the bill aside.

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

SENATOR PATERSON: Lay aside.

ACTING PRESIDENT KUHL: Lay the bill aside.

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

ACTING PRESIDENT KUHL:

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.)

THE SECRETARY: Ayes 57.

ACTING PRESIDENT KUHL: The bill is passed.

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

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 52.

ACTING PRESIDENT KUHL: The bill is passed.

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

SENATOR GOLD: Lay aside.

ACTING PRESIDENT KUHL: Lay the bill aside.

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

SENATOR GOLD: Lay it aside, please.

ACTING PRESIDENT KUHL: Lay the bill aside.

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:

Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Lay the bill aside.

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

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: Ayes 58.

ACTING PRESIDENT KUHL: The bill is passed.

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

marijuana.

ACTING PRESIDENT KUHL: Secretary will read the last section.

THE SECRETARY: Section 6. 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 57, nays one, Senator Leichter recorded in the negative.

ACTING PRESIDENT KUHL: The bill is passed.

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

ACTING PRESIDENT KUHL: Senator Skelos.

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

ACTING PRESIDENT KUHL: There

is.

SENATOR SKELOS: Move to accept.

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

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

Would you yield? Would the acting Majority Leader yield -

SENATOR SKELOS: Lay the bill aside temporarily.

ACTING PRESIDENT KUHL: Lay the bill aside.

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

ACTING PRESIDENT KUHL: 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.)

THE SECRETARY: Ayes 58.

ACTING PRESIDENT KUHL: The bill is passed.

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

SENATOR STAVISKY: Mr. President.

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

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

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

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

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

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

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

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

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

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

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

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

negative on Calendar Number 370.

ACTING PRESIDENT KUHL: Without objection.

SENATOR MONTGOMERY: Thank you.

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

Secretary will read the controversial calendar.

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

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

SENATOR RATH: Thank you, Mr. Chairman.

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

ACTING PRESIDENT KUHL: Senator Montgomery.

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

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

SENATOR RATH: Yes.

ACTING PRESIDENT KUHL: Senator yields.

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

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

SENATOR MONTGOMERY: All right. Thank you.

ACTING PRESIDENT KUHL: Senator

Montgomery?

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

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

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

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.)

ACTING PRESIDENT KUHL: Record the negatives.

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

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 section.

THE SECRETARY: Section 4. 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 58.

ACTING PRESIDENT KUHL: The bill is passed.

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

SENATOR PATERSON: Explanation.

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

SENATOR NOZZOLIO: Thank you, Mr. President.

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

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

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

ACTING PRESIDENT KUHL: Senator Montgomery? Senator Paterson. Senator Montgomery.

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

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

SENATOR NOZZOLIO: I'd be glad

to yield to Senator Montgomery.

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

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

SENATOR MONTGOMERY: Yes.

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

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

day.

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

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

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

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

SENATOR NOZZOLIIO: Yes, Mr. President.

ACTING PRESIDENT KUHL: Senator Nozzolio continues to yield.

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

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

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

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

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

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

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

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

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

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

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

I certainly hope that my colleagues will vote against it.

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

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

Would the gentleman yield to a question or two?

ACTING PRESIDENT KUHL: Senator Nozzolio, would you yield?

SENATOR NOZZOLIIO: Yes.

Senator yields.

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

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

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

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

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

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

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

SENATOR NOZZOLIIO: Yes.

ACTING PRESIDENT KUHL: Senator continues to yield.

SENATOR WALDON: Senator

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

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

SENATOR WALDON: Will the gentleman continue to yield?

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

SENATOR NOZZOLIO: Yes, I will.

ACTING PRESIDENT KUHL: Senator continues to yield.

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

SENATOR NOZZOLIO: Senator,

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

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

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

SENATOR NOZZOLIIO: Yes, Mr. President.

ACTING PRESIDENT KUHL: Senator continues to yield.

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

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

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

Is that fairly accurate, from your expertise?

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

park.

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

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

SENATOR NOZZOLIO: Yes, I do.

ACTING PRESIDENT KUHL: Senator continues to yield.

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

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

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

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

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

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

Thank you, Mr. President.

SENATOR WALDON: Mr. President, on the bill.

ACTING PRESIDENT KUHL: Senator Waldon, on the bill.

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

First of all, let me say that I

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

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

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

A guy makes $1.50 a day. He

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

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

for the entire prison system.

I would hope, in our wisdom, we would recognize that there are other vehicles to generate money. We have a $76 bi;llion budget facing us. This little $5.1 million is nothing in the scale of the magnitude of that budget. I suggest that we do the smart thing today and vote against this particular proposal.

Thank you, Mr. President.

ACTING PRESIDENT KUHL: Senator Paterson.

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

ACTING PRESIDENT KUHL: Senator Nozzolio? Senator Nozzolio yields.

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

SENATOR NOZZOLIO: Senator, Mr.

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

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

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

ACTING PRESIDENT KUHL: Senator Paterson.

SENATOR PATERSON: If the Senator would continue to yield.

SENATOR NOZZOLIO: Be happy to, Mr. President.

ACTING PRESIDENT KUHL: Senator continues to yields.

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

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

Thank you, Mr. President.

ACTING PRESIDENT KUHL: Senator Paterson.

SENATOR PATERSON: Mr. President, on the bill.

ACTING PRESIDENT KUHL: Senator Paterson, on the bill.

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

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

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

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

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

this bill.

SENATOR LEICHTER: Mr. President.

ACTING PRESIDENT KUHL: Senator Leichter.

SENATOR LEICHTER: Yes, Mr. President.

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

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

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

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

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

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

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

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

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

Hearing none, 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 negatives and announce the results.

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

ACTING PRESIDENT KUHL: The bill is passed.

Secretary will continue to read the controversial calendar.

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

SENATOR WALDON: Explanation.

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

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

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

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

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

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

at least a $7 million savings to our taxpayers.

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

Thank you, Mr. President.

ACTING PRESIDENT KUHL: Senator Waldon.

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

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

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

ACTING PRESIDENT KUHL: The Chair recognizes Senator Paterson.

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

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

SENATOR NOZZOLIO: Yes, Mr.

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

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

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

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

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

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

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

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

ACTING PRESIDENT KUHL: Senator Paterson.

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

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

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

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

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

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

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

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

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

SENATOR PATERSON: Thank you, Mr. President.

Will Senator Nozzolio yield for another question?

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

SENATOR NOZZOLIO: Yes, Mr. President.

ACTING PRESIDENT KUHL: He continues to yield.

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

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

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

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

back to their cells.

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

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

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

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

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

Thank you, Mr. President.

ACTING PRESIDENT KUHL: Senator

Paterson.

SENATOR PATERSON: Thank you, Mr. President.

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

SENATOR GOLD: You gave him a new bill.

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

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

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

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

ACTING PRESIDENT KUHL: The Chair recognizes Senator Abate.

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

the sequence?

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

SENATOR WALDON: I apologize.

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

SENATOR WALDON: Thank you.

ACTING PRESIDENT KUHL: Okay? Senator Abate.

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

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

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

ACTING PRESIDENT KUHL: The Senator yields.

SENATOR ABATE: Yes. I'm

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

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

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

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

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

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

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

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

SENATOR NOZZOLIO: Yes, Mr. President.

ACTING PRESIDENT KUHL: The Senator continues to yield.

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

services, then we need to be concerned.

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

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

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

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

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

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

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

SENATOR NOZZOLIO: Mr. President, in response to Senator Abate's question, that should there not be sufficient funds to cover -- in the account to cover the co-pay, that would not allow the prohibition of medical services, that inmates will not be assessed co-pay for things like psychiatric visits and lastly, the commissioner of the Department of Corrections is given the mandate with this legislation to promulgate rules and regulations necessary for its implementation.

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

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

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

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

when there are sufficient funds there.

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

SENATOR ABATE: Mr. President.

ACTING PRESIDENT KUHL: Senator Abate.

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

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

SENATOR NOZZOLIO: Yes, Mr. President.

ACTING PRESIDENT KUHL: The Senator continues to yield.

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

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

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

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

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

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

SENATOR ABATE: All right. Thank you.

ACTING PRESIDENT KUHL: Senator Waldon.

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

ACTING PRESIDENT KUHL: Senator Nozzolio?

SENATOR NOZZOLIO: Yes, Mr. President.

ACTING PRESIDENT KUHL: The Senator yields.

SENATOR WALDON: Thank you, Mr. President.

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

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

SENATOR WALDON: Thank you for that information, Senator.

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

My question, if I may continue,

Mr. President, if the gentleman continues to yield.

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

SENATOR NOZZOLIO: Yes, Mr. President.

ACTING PRESIDENT KUHL: The Senator continues to yield.

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

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

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

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

SENATOR WALDON: Yes, sir, I

am.

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

SENATOR NOZZOLIO: Yes, Mr. President.

ACTING PRESIDENT KUHL: The Senator continues to yield.

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

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

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

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

ACTING PRESIDENT KUHL: Senator Waldon.

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

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

SENATOR NOZZOLIO: Yes, Mr. President.

ACTING PRESIDENT KUHL: The Senator continues to yield.

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

SENATOR NOZZOLIO: Yes, Mr. President.

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

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

SENATOR NOZZOLIO: Yes, Mr. President.

ACTING PRESIDENT KUHL: The Senator continues to yield.

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

SENATOR NOZZOLIO: Senator, in

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

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

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

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

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

ACTING PRESIDENT KUHL: Senator Nozzolio?

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

ACTING PRESIDENT KUHL: The Senator continues to yield.

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

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

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

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

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

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

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

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

SENATOR NOZZOLIO: Yes, Mr. President.

ACTING PRESIDENT KUHL: The Senator continues to yield.

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

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

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

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

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

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

Thank you, Mr. President.

ACTING PRESIDENT KUHL: Senator Waldon, on the bill.

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

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

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

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

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

Thank you very much, Mr. President.

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

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

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

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

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

(There was no response.)

Hearing none, the Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the

roll.)

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

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

ACTING PRESIDENT KUHL: The bill is passed.

SENATOR LEICHTER: Mr. President.

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

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

ACTING PRESIDENT KUHL: Without objection.

SENATOR LEICHTER: Thank you.

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

135 and 192.

The Secretary will continue to read the controversial calendar.

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

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.

SENATOR GOLD: Mr. President.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

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

SENATOR GOLD: Yes. Thank you.

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

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

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

I vote in the negative.

ACTING PRESIDENT KUHL: Announce the results.

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

ACTING PRESIDENT KUHL: The bill is passed.

The Secretary will continue to read the controversial calendar.

THE SECRETARY: Calendar Number

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

SENATOR GOLD: Mr. President.

ACTING PRESIDENT KUHL: Senator Gold.

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

SENATOR MALTESE: Yes.

ACTING PRESIDENT KUHL: Senator Maltese yields.

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

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

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

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

SENATOR MALTESE: Mr. President, through you. That is correct except for one thing. It would apply only in cities of one million or more.

SENATOR GOLD: All right. Well, that will help too but, Senator, it doesn't change the basic argument -

SENATOR MALTESE: No.

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

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

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.)

ACTING PRESIDENT KUHL: Announce the results.

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

ACTING PRESIDENT KUHL: The bill is passed.

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

ACTING PRESIDENT KUHL: Senator Alesi.

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

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

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

SENATOR ALESI: Is there any housekeeping at the desk?

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

SENATOR MARCELLINO: Thank you, Mr. President.

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

ACTING PRESIDENT KUHL: The amendments are received and adopted.

SENATOR MARCELLINO: Thank you.

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

Senator Montgomery, why do you

rise?

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

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

SENATOR MONTGOMERY: 355.

ACTING PRESIDENT KUHL: 355.

SENATOR MONTGOMERY: And 359.

ACTING PRESIDENT KUHL: 359. Without objection.

SENATOR MONTGOMERY: Thank you.

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

Senator Alesi.

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

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

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