NEW YORK STATE SENATE

THE

STENOGRAPHIC RECORD

ALBANY, NEW YORK

March 22, 1999

3:06 p.m.

REGULAR SESSION

LT. GOVERNOR MARY O. DONOHUE, President

STEVEN M. BOGGESS, Secretary

P R O C E E D I N G S

THE PRESIDENT: The Senate will come to order. I ask everyone present to please rise and repeat with me the Pledge of Allegiance.

(Whereupon, the assemblage recited the Pledge of Allegiance to the Flag.)

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

(Whereupon, the assemblage respected a moment of silence.)

THE PRESIDENT: Reading of the Journal.

THE SECRETARY: In Senate, Friday March 19th, the Senate met pursuant to adjournment. The Journal of Thursday, March 18th, was read and approved. On motion, Senate adjourned.

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

Presentation of petitions.

Messages from the Assembly.

Messages from the Governor.

Reports of standing committees.

The Secretary will read.

THE SECRETARY: Senator Leibell, from the Committee on Civil Service and Pensions, reports:

Senate Prints 2292, by Senator Leibell, an act to amend Chapter 695 of the Laws of 1994;

3877, by Senator Leibell, an act to amend the Retirement and Social Security Law.

Senator Seward, from the Committee on Insurance, reports:

Senate Prints Number 36, by Senator Velella, an act to amend the Insurance Law;

2542, by Senator Lack, an act to amend the Insurance Law;

2879, by Senator Velella, an act to amend the Insurance Law;

3516, by Senator Seward, an act to amend the Insurance Law.

Senator Bonacic, from the Committee on Housing, Construction and Community Development, reports:

Senate Prints 3660, by Senator Bonacic, an act to amend the Private Housing

Finance Law;

3661, by Senator Bonacic, an act to amend the Private Housing Finance Law;

3662, by Senator Bonacic, an act to amend the Private Housing Finance Law;

3664, by Senator Bonacic, an act to amend the Private Housing Finance Law;

3792, by Senator Bonacic, an act to amend Chapter 514 of the laws of 1983;

3890, by Senator Bonacic, an act to amend the Private Housing Finance Law;

3891, by Senator Bonacic, an act to amend the Private Housing Finance Law;

3892, by Senator Bonacic, an act to amend the Private Housing Finance Law.

Senator Hoffmann, from the Committee on Agriculture, reports:

Senate Prints 1723, by Senator Kuhl, an act to amend the Agricultural and Markets Law;

3087, by Senator Kuhl, an act to amend the Agricultural and Markets Law;

3187, by Senator Kuhl, an act to amend the Agricultural and Markets Law;

And 3541, by Senator Hoffmann, an

act to amend the Agricultural and Markets Law.

All bill directly for third reading.

ACTING PRESIDENT McGEE: Without objections, all bills reported direct to third reading.

Reports of select committees.

Communications and reports from state officers.

Motions and resolutions.

Senator Meier.

SENATOR MEIER: Thank you, Madam President.

Madam President, I wish to call up Senator Wright's bill, Print Number 1232, recalled from the Assembly, which is now at the desk.

ACTING PRESIDENT McGEE: The Secretary will read.

THE SECRETARY: By Senator Wright, Senate Print 1232, an act to amend the Penal Law.

SENATOR MEIER: Madam President, I now move to reconsider the vote by which this bill was passed.

ACTING PRESIDENT McGEE: The Secretary will call the roll on reconsideration.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 44.

SENATOR MEIER: I now offer the following amendments.

ACTING PRESIDENT McGEE: Senator, amendments are re -

SENATOR MEIER: Madam President, on page 6 I offer the following amendments to Senator Holland's bill, Calendar Number 93, Print Number 1083, and ask that said bill retain its place on the Third Reading Calendar.

ACTING PRESIDENT McGEE: The amendments are received and the bill will retain its place on the third reading.

SENATOR MEIER: Madam President, on page number 17 I offer the following amendments to Senator Skelos's bill, Calendar Number 286, Senate Print Number 2271, and ask that said bill retain its place on the Third Reading Calendar.

ACTING PRESIDENT McGEE: The

amendment is received and the bill will retain its place on the third calendar.

SENATOR MEIER: Madam President, on page number 18 I offer the following amendments to Senator Kuhl's bill, Calendar Number 299, Print Number 1724, and ask that said bill retain its place on the Third Reading Calendar.

ACTING PRESIDENT McGEE: The amendment has been received and the bill will retain its place on the third calendar, third reading.

SENATOR MEIER: Madam President, on page number 20 I offer the following amendments to Calendar Number 318, Senator Trunzo's bill, Print Number 2994, and ask that said bill retain its place on the Third Reading Calendar.

ACTING PRESIDENT McGEE: The amendment has been received and the bill will retain its place on the third reading.

SENATOR MEIER: Thank you, Madam President.

ACTING PRESIDENT McGEE: Thank you, Senator Meier.

Senator Skelos.

SENATOR SKELOS: Madam President, I believe there's a privilege resolution at the desk by Senator DeFrancisco. May we please have it read in its entirety and move for its immediate adoption. And I believe Senator DeFrancisco then wishes to be recognized.

ACTING PRESIDENT McGEE: The Secretary will read.

THE SECRETARY: By Senator DeFrancisco, Legislative Resolution Number 737, memorializing Governor George E. Pataki to proclaim March 24th, 1999, as Breast Cancer Income Tax Check-Off Day.

WHEREAS, New York State has and will continue to be committed to win the battle against breast cancer, this goal can only be championed with widespread public support for innovative scientific research and education;

The Breast Cancer Research and Education Fund was created in 1996. Since 1996, more than 144,000 New Yorkers have contributed to the Breast Cancer Research and

Education Fund on their New York State income tax return form. For calendar years 1996 and 1997, New Yorkers contributed more than $1.2 million to the Breast Cancer Research and Education Fund on their New York State income tax return form;

These funds are supporting 28 groundbreaking research projects into the cause, treatment, prevention, and cure of breast cancer. The research is being conducted at academic medical institutions and by public, private and state organizations throughout New York State, with projects ranging from improved early detection techniques to furthering the understanding of how the immune system interacts with breast tumor cells. This research is an example of how New Yorkers are working together to put an end to this dreaded disease. Now, therefore, it be

RESOLVED, That this Legislative Body pause in its deliberations to memorialize Governor George E. Pataki to proclaim March 24, 1999, as Breast Cancer Income Tax Check-Off Day; and be it further

RESOLVED, That a copy of this Resolution, suitably engrossed, be transmitted to Governor George E. Pataki.

ACTING PRESIDENT McGEE: The Chair recognizes Senator DeFrancisco.

SENATOR DeFRANCISCO: Thank you.

I don't think anyone had any conception of how much money could be raised by this check-off when the bill went into effect in 1996 authorizing people to check off, voluntarily, contributions to go to this breast cancer research fund.

In the last couple of years, it's been $1.2 million, and nobody knows about it, or very few people realize it out in the State of New York.

The purpose of the resolution, therefore, is to ask Governor Pataki to make March 24, 1999, Breast Cancer Income Tax Check-Off Day, in hopes that more people will learn of this check-off and that fund will grow for research in this dreaded disease.

And I open this resolution to all members. And with the permission of the Chair, we would -- I would request that all

members become sponsors unless they indicate otherwise.

ACTING PRESIDENT McGEE: The question is on the resolution.

All in favor signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT McGEE: Opposed, nay.

(No response.)

ACTING PRESIDENT McGEE: The resolution is adopted.

Senator Velella.

SENATOR VELELLA: Non controversial reading of the calendar, Madam President.

ACTING PRESIDENT McGEE: The Secretary will read.

THE SECRETARY: Calendar Number 107, by Senator Nozzolio, Senate Print 637, an act to amend the Corrections Law and the Public Health Law, in relation to testing inmates.

ACTING PRESIDENT McGEE: Read the last section.

SENATOR PATERSON: Madam Chair -

ACTING PRESIDENT McGEE: Senator Paterson.

SENATOR PATERSON: Madam President, would we lay that aside at the request of Senator Duane, please?

ACTING PRESIDENT McGEE: The bill will be laid aside.

THE SECRETARY: Calendar Number 108, by Senator Nozzolio, Senate Print 642, an act to amend the Correction Law, in relation to requiring inmates to make medical copayments.

SENATOR PATERSON: Lay it aside.

ACTING PRESIDENT McGEE: The bill is laid aside.

THE SECRETARY: Calendar Number 206, by Senator Hannon, Senate Print 2937, an act to amend the Public Health Law, in relation to requiring health maintenance organizations.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the

roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 52.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 250, by Senator Meier, Senate Print 1027, an act in relation to the creation of fire protection district number 3 in the town of Ohio.

ACTING PRESIDENT McGEE: Read the last section.

The home rule message is at the desk.

Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 52.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 252, by Senator LaValle, Senate Print 1856, an

act to amend the Town Law, in relation to exemptions.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 52.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 253, by Senator LaValle, Senate Print 1965, an act to amend the General Municipal Law, in relation to point systems.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT McGEE: The bill

is passed -

THE SECRETARY: Ayes, 52.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 254, by Senator LaValle, Senate Print 1966, an act to amend the General Municipal Law, in relation to point systems.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 52.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 255, by Senator LaValle, Senate Print 1968, an act to amend the Town Law, in relation to expending from fire district revenues.

ACTING PRESIDENT McGEE: Read the last section.

THE SECRETARY: Section 2. This

act shall take effect immediately.

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 52.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 256, by Senator LaValle, Senate Print 2459, an act to amend the General Municipal Law, in relation to granting.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 52.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 258, by Senator LaValle, Senate Print 2680, an act to amend the General Municipal Law, in relation to training of volunteer

firefighters.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 53.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 313, by Member of the Assembly DeStito, Assembly Print 3052, an act to amend the Education Law, in relation to absentee ballots.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 53.

ACTING PRESIDENT McGEE: The bill

is passed.

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

SENATOR SKELOS: Madam President, if we could take up the controversial calendar.

ACTING PRESIDENT McGEE: The Secretary will read.

THE SECRETARY: Calendar Number 107, by Senator Nozzolio, Senate Print 637, an act to amend the Correction Law and the Public Health Law, in relation to testing inmates for transmissible diseases.

ACTING PRESIDENT McGEE: Senator Duane.

SENATOR DUANE: Madam President, on the bill, please.

ACTING PRESIDENT McGEE: On the bill.

SENATOR DUANE: Thank you.

I believe very strongly that this bill -- and I'm backed up by people who have worked in the field of HIV and AIDS and in the field of public health for a very long time -

that this bill is completely and totally and utterly unnecessary.

I think that before we go down the slippery slope of testing other professions, we should look very sharply at what it is exactly that we are doing here.

Let me first describe, under the Public Health Law, what it is that constitutes significant risk for correctional officers. And I'll read right from the Public Health Statutes on this. "Circumstances which constitute significant risk of transmitting or contracting HIV infection are: Sexual intercourse, vaginal or oral; sharing of needles and other paraphernalia; gestation, birthing or breast-feeding; transfusion or transplantation of blood."

Now, none of these things are things that a correctional officer should be doing. And if they are doing any of these things, then they should be fired.

Let me tell you what significant risk does not include. Exposure to urine, feces, sputum, nasal secretions, saliva, sweat, tears, vomit, human bites where there's

no direct blood or blood-mucus membrane contact, exposure of intact skin to skin, blood, et cetera. These things are not -- are not -- significant risk.

That we are breaking with New York regulations and public health knowledge about how it is that HIV may be transmitted or where there is significant risk, I think is wrong. I think it's wrong for a legislative body to be legislating on public health in this manner.

Public health should be left to people who are involved in public health. Doctors, nurses, public health professionals are people who need to make these kinds of determinations. For us to insert ourselves is bad public health, and it is just plain wrong.

Also, public health already allows for those incredibly infrequent times when testing would be called for. It can already be done. Incidentally -- and I defy anyone in the body to tell me anything different than this, because it doesn't exist -- there has never been a case of transmission from a correctional officer to an incarcerated person

or from a prisoner to a correctional officer.

So that we are doing this legislation is not only bad public law, it's absurd. I urge other colleagues to vote against this mean-spirited and totally unnecessary and bad public health bill.

Thank you.

ACTING PRESIDENT McGEE: Senator Nozzolio.

SENATOR NOZZOLIO: Thank you, Madam President.

Madam President, as the sponsor of this legislation, I wish to explain it and speak on the measure.

The purpose of the bill before this house is to ensure that those who are working in our state correctional facilities have access to the state-of-the-art health facilities available to them once they have some knowledge that they may have been in contact with an individual in the facility who has the HIV virus.

This bill conforms with legitimate Health Advisory Council dictates regarding HIV testing and notice of that testing.

Senator Duane's vitriolic attempt to characterize his opposition to this bill is naive. It's naive to what goes on in those correctional facilities across our state today. That we have in New York, under the best of circumstances, a very intense, a very difficult time for our correction officers and other correctional personnel.

Senator Duane mentions that there are certain ways that one can contract HIV, and I have no -- no quarrel with his characterizations. What I do have a quarrel with, though, is his attempt to characterize what happens behind the walls in our correctional facilities, which are extremely intense situations.

There's no casual contact in our correctional facilities. When an inmate, one who is probably convicted of an extremely violent crime, decides to become violent in prison, it takes individuals to restrain that violence, to channel it, and to protect.

Those correction officers called upon at the first line of defense aren't engaging in casual contact with HIV carriers,

they're engaging in intense physical contact with HIV carriers. They're not dancing, they're trying to restrain.

Oftentimes in those activities you're seeing blood, you're seeing violence which begets blood. And all too often, even though this house and the Governor have supported and enacted legislation to prevent inmates from using their bodily fluids as weapons, all too often our correctional personnel are faced with hand-to-hand, blood-to-blood contact with inmates.

What this bill does is try to alleviate the concerns of those who have engaged in this type of -- of responsibility on behalf of the taxpayers, and simply tells those individuals that "We respect what you are doing for us as taxpayers, we respect and honor your efforts on our behalf at the front line of the critical justice system in restraining potentially, and often, very violent inmates." We're saying to them, "We respect you, and that as such, we will let you know -- you have the right to know if the individual you have restrained and come into

contact with in an aggressive way is carrying the HIV virus."

Let's take this out of the politic and put it into the medical society frame of reference. I quote from the American Medical Association: "When a health care provider is at risk for HIV infection because of the occurrence of puncture injury or other contact with potentially infected bodily fluids, it is acceptable to test the patient for HIV infection even if the patient refuses consent."

That's from the American Medical Association opinions on HIV. This same standard provided to the health-care providers should also be provided to our correctional employees.

"Exceptions to confidentiality are appropriate when necessary to protect the public health or when necessary to protect individuals who are endangered by persons infected by HIV." That's from the -- also from the American Medical Society -- American Medical Association opinion on HIV virus.

And I think most importantly, to

Senator Duane and to others, there -- medical technology, medical advances are evolving each day. And that when we're talking about this type of occupational exposure, every medical entity, from the AMA to the Center for Disease Control, emphasize the importance of determining the specific risk factors associated with that occupational exposure, and, most importantly, allowing that individual who is exposed to be able to receive immediate treatment for that exposure.

Occupational exposures should be considered as urgent medical concerns. That's from the Center for Disease Control. That's not from -- from Senator Nozzolio or the Senate Majority. It's from the Center for Disease Control, who are saying that we need to err on the side of safety, provide that amount of -- of medical attention to those who have been potentially exposed, and do it as soon as possible so that that exposure can be dealt with in a medical way.

Madam President, we owe the 28,000 men and women who work in our correctional facilities across New York nothing less than

this measure. We owe them the consideration. When they are working for us, when they are working for the citizens of the state and face intense exposure from those who are carrying the HIV virus, they need to know it, they need to be treated for it. And this legislation is designed to achieve that objective.

I urge its passage.

ACTING PRESIDENT McGEE: Senator Smith.

SENATOR SMITH: Thank you, Madam President.

Would the sponsor yield for a question?

ACTING PRESIDENT McGEE: Senator Nozzolio, do you yield?

SENATOR NOZZOLIO: I'd be happy to yield to Senator Smith.

ACTING PRESIDENT McGEE: The Senator will yield.

SENATOR SMITH: Senator, is it not true that the portion of the document that you recited from the Center for Disease Control is actually in reference to medical personnel such as nurses and doctors who may

be administering a needle which would cause a puncture, rather than the casual contact that you recited it in reference to?

SENATOR NOZZOLIO: Madam President, puncture wounds are certainly of concern to those correctional officers who face shivs, knives, metal, plexiglass, puncture wounds each and every day in our correctional facilities.

I think, Senator Smith, yes, the Center for Disease Control was focusing on those -- to answer your question directly - those who are exposed medical individuals. But puncture wounds are a way of life in our correctional facilities today.

SENATOR SMITH: Would the sponsor yield for one more question?

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

SENATOR NOZZOLIO: I'd be happy to yield to Senator Smith, Madam President.

SENATOR SMITH: Thank you, Senator Nozzolio.

Then don't you think that it's inaccurate to quote something totally out of

context?

SENATOR NOZZOLIO: Madam - Madam -

ACTING PRESIDENT McGEE: Senator Nozzolio.

SENATOR NOZZOLIO: -- President, I think it's -

SENATOR SMITH: And I'm not being vitriolic.

SENATOR NOZZOLIO: I think it's extremely appropriate to quote things that are on point relative to this argument.

And that I would only hope that Senator Smith and others would look at this issue not from a naive perspective of looking at it from outside the correctional facility. But to tell me that the occupational exposure of a correction officer is not as intense, I say begs certainly a lack of knowledge of what happens in our prisons today.

SENATOR SMITH: Madam President -

ACTING PRESIDENT McGEE: Senator Smith -

SENATOR SMITH: -- on the bill.

ACTING PRESIDENT McGEE: -- on the bill? On the bill.

SENATOR SMITH: As one who has in the past supported this legislation, I will today vote in opposition. Because I resent misrepresentations. And I have been one who has always supported Council 82 and have been honored by them for doing so. And I believe that our corrections officers do a fine job.

But I do believe that this is going a little outside of what is necessary. There are public health rules and laws in place that will protect them in case of -- something should happen. And I think that we need to stop and stop being so mean-spirited and vote on the side of the people that do count.

ACTING PRESIDENT McGEE: Read the last section.

THE SECRETARY: Section 3. This act shall take effect on the 30th day.

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT McGEE: Senator Duane. To explain your vote?

SENATOR DUANE: Yes, Madam President.

I -- I share Senator's Smith's view. I think it's an absolute outrage that you distorted -- that the -- that the - excuse me, that a distortion has been made of what the American Medical Association's position is.

Unless correctional officers are going around puncturing incarcerated people, which I don't think they're doing, then this is a medically unnecessary piece of legislation. And the American Medical Association and the CDC never intended their guidelines to be used in this way.

This is an outrageous piece of legislation whose intent has been totally distorted, and I vote no.

ACTING PRESIDENT McGEE: Thank you.

Senator Nozzolio, to explain his vote.

SENATOR NOZZOLIO: Madam President, thank you.

I rise to explain my vote, to thank

those correctional officials who have made this issue the number one priority of Council 82 this year. That they understand very clearly -- and I would hope that this body would understand -- that they are, day in and day out, faced with the most significant and stressful circumstances.

That I'm very glad Senator Smith and Senator Duane mention the issue of puncture wounds. I cannot begin to tell you how often those members of Council 82, those correction officers in our facilities are faced with knives. From all areas of -- of the correctional system, inmates are totally using creativity beyond belief to build a -- a protection system of knives where puncture wounds are becoming a way of life in our facilities.

That this measure goes a small step to protect those men and women who may be exposed to the HIV virus and provide them with immediate medical knowledge so that they can begin treatment.

It's a measure that I'm proud to support. Distortions are only a distortion of

the realities presented today, are distortions of the realities that exist in our prisons today. It's up to us to eliminate those distortions.

And I thank my colleagues for supporting this measure.

ACTING PRESIDENT McGEE: Senator Nozzolio will be recorded in the affirmative.

Announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 107 are Senators Duane, Montgomery, and Smith.

Ayes, 52. Nays, 3.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 108, by Senator Nozzolio, Senate Print 642, an act to amend the Correction Law in relation to requiring inmates to make medical copayments.

SENATOR WALDON: Explanation.

ACTING PRESIDENT McGEE: Senator Nozzolio, an explanation has been requested.

SENATOR NOZZOLIO: By which Senator, Madam President?

ACTING PRESIDENT McGEE: Senator

Waldon has asked for the explanation.

SENATOR WALDON: By his friend from the southeast.

SENATOR NOZZOLIO: Thank you, Madam President. I'd be pleased to explain this measure.

That this measure amends the Correction Law and requires inmates who are using medical facilities in this state to make a copayment in the amount of $7 upon the receipt of such medical treatment. That there is a provision in this measure where, should an inmate not have sufficient funds in their prison accounts -- and each inmate in the state does have a prison account -- that if money is not in that account to cover the charges, then his account shall be frozen pending the receipt of such funds. In effect, the state taxpayers will have a garnishment.

That an inmate, I clearly add, shall not be refused treatment because of his lack of ability to pay. That we want to ensure that any inmate, particularly those that need the treatment, receive that treatment.

But what we're saying is that an inmate should not be using sick call, should not be using the medical services of the state, funded by the taxpayers of the state, as a way to avoid other work responsibilities.

And that just as every citizen of this state who is lucky to have health insurance will have to provide a copayment, we're saying that the inmates of the prison system today should also be required to make a copayment.

ACTING PRESIDENT McGEE: Senator Waldon, why do you rise?

SENATOR WALDON: Madam President, on the bill.

ACTING PRESIDENT McGEE: On the bill.

SENATOR WALDON: Thank you very much, Madam President, my colleagues.

Senator Nozzolio and I have debated this bill ad nauseam in the past, and so I won't do that today. But I would just like to make a couple of comments.

One, those who are imprisoned as a rule do not possess the wherewithal to really

defray medical expenses.

But more importantly than the fact that they cannot pay from the little bit of money that they have without damaging themselves financially -- and one might argue, well, if they weren't in prison they wouldn't be in that predicament. But they are, and the state has a responsibility to incarcerate them. But what I believe happens is people become ill and then they will refuse to go to medical treatment or look for medical treatment because they have so little in terms of being able to take care of their medical expenses.

And when you are in a closed environment, as a prison is, if someone truly becomes ill with something which is transmissible to others -- and I'm talking flu and other kinds of illnesses -- it spreads rapidly. And you can have an entire prison under siege from a medical problem because of this oppressive, repressive policy of requiring that people pay this $7.

One of you here, my colleagues, may say, well, Waldon, you know, $7 is so little,

so slight an amount of money. But when you're paid at the rate that prisoners who work are paid, it is not such a slight amount of money.

And I think we're being penny-wise and pound-foolish. Why should we risk an entire prison, including the correction officers, shutting down because of our penurious approach to medical care?

If we're going to imprison them to protect society, then we should protect the society within the prison by making sure that everyone has access to medical care, make sure it is adequate medical care, and make sure that those who are not affected and infected initially do not become so because they could not afford, meaning the prisoner could not afford, adequate medical treatment.

I would encourage all of my colleagues to vote no on this. It's not going to go anywhere, it's not going to do anything. But from a moral perspective, we should this time stand up on the side of those who are in prison.

Madam President, I thank you very much for your indulgence, and my colleagues as

well. I vote, on this issue, no.

ACTING PRESIDENT McGEE: Thank you, Senator Waldon.

Read the last section.

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

ACTING PRESIDENT McGEE: Senator Dollinger, why do you rise?

SENATOR DOLLINGER: I believe Senator Montgomery rose to be heard.

ACTING PRESIDENT McGEE: I'm sincerely sorry.

SENATOR MONTGOMERY: Yes -

ACTING PRESIDENT McGEE: Senator Montgomery.

SENATOR MONTGOMERY: Madam President, I just had one question for the sponsor, if he would yield.

ACTING PRESIDENT McGEE: Will the sponsor yield?

SENATOR NOZZOLIO: Yes, Madam President.

ACTING PRESIDENT McGEE: Thank you, Senator Nozzolio.

SENATOR MONTGOMERY: Thank you.

ACTING PRESIDENT McGEE: Senator Montgomery.

SENATOR MONTGOMERY: Thank you.

Senator Nozzolio, I was just trying to figure out what percent of the cost of care does the $7 cover. Do we have any estimate on whether or not this is really, in fact, helping to cover the cost, defray the cost?

SENATOR NOZZOLIO: Madam President, in response to Senator Montgomery's question, currently New York spends $121 million a year on prison health services, which amounts to about $2,000 a year per inmate. That the costs of providing medical care obviously are far beyond the $7 copayment.

But we believe, that like states next door to us -- Pennsylvania most notably, which established this, there have been reductions in the use of the medical services, the sick call, by upwards of three-quarters, which is 75 percent.

So certainly it's difficult to say what a $7 -- depends on what the malady is - what a $7 payment would -- would expect.

But we're also saying that whatever monies are saved with the copayment, that that money be kept at the individual prison facility and be used for other inmate programs.

SENATOR MONTGOMERY: Okay. Thank you, Madam President. I just wanted to clarify that this -- the $7 is not really to defray the cost of the care, but rather as a deterrent to inmates accessing health services.

So that was what I wanted to find out. Thank you very much.

ACTING PRESIDENT McGEE: Thank you, Senator Montgomery.

Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT McGEE: Results, please.

THE SECRETARY: Those recorded in the negative on Calendar Number 108 are

Senators Duane, Marchi, Markowitz, Mendez, Montgomery, Onorato, Sampson, Smith, and Waldon. Ayes -- also, Senator Rosado.

Ayes, 45. Nays, 10.

ACTING PRESIDENT McGEE: The bill is passed.

Senator Skelos, that completes -

SENATOR SKELOS: Madam President, is there any housekeeping at the desk?

ACTING PRESIDENT McGEE: No, there is none.

SENATOR SKELOS: Would you please recognize Senator Mendez?

ACTING PRESIDENT McGEE: The Chair recognizes Senator Mendez.

SENATOR MENDEZ: Madam President, there will be a Democratic conference, a Minority conference, at Room 314.

ACTING PRESIDENT McGEE: There will be a Minority conference -

SENATOR MENDEZ: Right after session.

ACTING PRESIDENT McGEE: - immediately following session.

SENATOR SKELOS: Madam President,

I believe we -- we have a couple of members that still would like to be recognized to cast their vote.

Senator Montgomery.

ACTING PRESIDENT McGEE: Senator Montgomery? Senator Schneiderman?

SENATOR SKELOS: Does any other member wish to be recognized to cast a vote?

Senator Schneiderman, do you -

SENATOR SCHNEIDERMAN: Yes, I think I've been recognized.

ACTING PRESIDENT McGEE: Senator Schneiderman, on which bill do you wish to be recognized?

SENATOR SCHNEIDERMAN: Number 108. Recorded in the negative. No, I just wish to be recorded in the negative.

ACTING PRESIDENT McGEE: Recorded in the negative, Senator Schneiderman. Without objection.

Senator Paterson, Senator Schneiderman -

SENATOR PATERSON: Madam President, with unanimous consent I'd like to be recorded in the negative on Calendar Number

108.

And there being no further -- no, forget it. Let him do it.

(Laughter.)

ACTING PRESIDENT McGEE: Without objection, Senator Paterson is recorded in the negative.

Senator Skelos.

SENATOR SKELOS: There being no further business, I move we adjourn until Tuesday, March 23rd, at 3:00 p.m.

Thank you.

ACTING PRESIDENT McGEE: On motion, the Senate stands adjourned until Tuesday, March 23rd, at 3:00 p.m.

(Whereupon, at 3:46 p.m., the Senate adjourned.)