NEW YORK STATE SENATE

THE STENOGRAPHIC RECORD

ALBANY, NEW YORK

February 29, 2000

3:16 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 all bow our heads in a moment of silence, please.

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

THE PRESIDENT: Reading of the Journal.

THE SECRETARY: In Senate, Monday, February 28th, the Senate met pursuant to adjournment. The Journal of Friday, February 25th, 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 Stafford, from the Committee on Finance, reports the following nominations:

As a member of the Workers' Compensation Board, Scott Craig Firestone, Esquire, of Northport.

SENATOR STAFFORD: Madam President.

THE PRESIDENT: Senator Stafford.

SENATOR STAFFORD: It's a pleasure to yield to Senator Lack.

THE PRESIDENT: Senator Lack.

SENATOR LACK: Thank you, Madam President.

I rise to second the nomination of Scott Firestone as a member of the Workers' Compensation Board. Scott is an attorney who lives in my district. He's been a partner with his father in Firestone & Firestone for ten years, until approximately two years ago, when he became deputy supervisor of the Town of Huntington, in which he has been very

instrumental in the day-to-day operations of a town with a $150 million budget and a town whose credit rating has dramatically improved over the last couple of years.

And I'd like to congratulate the Governor on a very good appointment to a board that needs very good appointments. And Scott, as an attorney, in terms of his management ability, becoming a member of the Workers' Compensation Board will certainly be a plus for that organization.

And although we're sorry to lose him as deputy supervisor of the Town of Huntington, we certainly encourage his ability to move up and become a member of a statewide board, particularly the Workers' Compensation Board, and his ability to help people in that endeavor.

So, Scott, congratulations to you. And we certainly wish you a very good tenure as a member of the board.

THE PRESIDENT: The question is on the confirmation of Scott Firestone as a member of the Workers' Compensation Board. All in favor signify by saying aye.

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: The nominee is hereby confirmed.

And I'd like to acknowledge the presence of Scott Firestone, with his father, in the gallery, and congratulate you and wish you well in your new position.

(Applause.)

THE PRESIDENT: Senator Skelos.

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

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

The Secretary will read.

THE SECRETARY: As a member of the Empire State Plaza Art Commission, Judith A. Barnes, Ph.D., of Troy.

THE PRESIDENT: Senator Stafford.

SENATOR STAFFORD: Move confirmation, please.

THE PRESIDENT: The question is on the confirmation of Judith A. Barnes, Ph.D., as a member of the Empire State Plaza Art Commission. All in favor signify by saying aye.

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: The nominee is hereby confirmed.

The Secretary will read.

THE SECRETARY: As a member of the Board of Directors of the Great Lakes Protection Fund, Gerald F. Mikol, of Orchard Park.

THE PRESIDENT: Senator Stafford.

SENATOR STAFFORD: Move confirmation.

THE PRESIDENT: The question is on the confirmation of Gerald F. Mikol as a member of the Board of Directors of the Great Lakes Protection Fund. All in favor signify by saying aye.

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: The nominee is hereby confirmed.

The Secretary will read.

THE SECRETARY: As members of the Board of Visitors of the Elmira Psychiatric Center, Floyd R. Haff, of Cohocton; Patricia Lucas, of Elmira; and Judith H. Phillips, of Watkins Glen.

THE PRESIDENT: Senator Stafford.

SENATOR STAFFORD: Move confirmation, please.

THE PRESIDENT: The question is on the confirmation of Floyd R. Haff, Patricia Lucas, and Judith H. Phillips as members of the Board of Visitors of the Elmira Psychiatric Center. All in favor signify by saying aye.

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: The nominees are hereby confirmed.

The Secretary will read.

THE SECRETARY: As members of the

Board of Visitors of the Agricultural and Industrial School at Industry, Robert J. Burns, of Rochester; Joseph C. Pilato, of Penfield; and John R. Rosati, of Rochester.

THE PRESIDENT: Senator Stafford.

SENATOR STAFFORD: Move confirmation.

THE PRESIDENT: The question is on the confirmation of Robert J. Burns, Joseph C. Pilato, and John R. Rosati as members of the Board of Visitors of the Agricultural and Industrial School at Industry. All in favor signify by saying aye.

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: The nominees are hereby confirmed.

The Secretary will read.

THE SECRETARY: As members of the Board of Visitors of the Rochester Psychiatric Center, Hilda E. Escher, of Rochester, and George Follett, of Albion.

THE PRESIDENT: Senator Stafford.

SENATOR STAFFORD: Move

confirmation.

THE PRESIDENT: The question is on the confirmation of Hilda E. Escher and George Follett as members of the Board of Visitors of the Rochester Psychiatric Center. All in favor signify by saying aye.

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: The nominees are hereby confirmed.

The Secretary will read.

THE SECRETARY: Senator McGee, from the Committee on Alcoholism and Drug Abuse, reports:

Senate Print 183, by Senator Alesi, an act to amend the Vehicle and Traffic Law;

1214, by Senator Velella, an act to amend the Vehicle and Traffic Law;

1432, by Senator Johnson, an act to amend the Vehicle and Traffic Law;

2451, by Senator McGee, an act to amend the Vehicle and Traffic Law;

3243, by Senator Kuhl, an act to amend the Alcoholic Beverage Control Law;

3404, by Senator Wright, an act to amend the Vehicle and Traffic Law;

3874A, by Senator McGee, an act to amend the Alcoholic Beverage Control Law;

4620A, by Senator McGee, an act to amend the Alcoholic Beverage Control Law;

And 6517, by Senator Fuschillo, an act to amend the Alcoholic Beverage Control Law.

Senator Fuschillo, from the Committee on Consumer Protection, reports:

96B, by Senator Alesi, an act to amend the General Business Law;

896A, by Senator Marcellino, an act to amend the General Business Law;

1326C, by Senator Marcellino, an act to amend the General Business Law and the Public Health Law;

1893, by Senator Padavan, an act to amend the General Business Law;

5284, by Senator Fuschillo, an act to amend the General Business Law.

Senator Lack, from the Committee on Judiciary, reports:

Senate Print 709, by Senator

DeFrancisco, an act to amend the Surrogates Court Procedure Act;

907, by Senator Skelos, an act to amend the General Obligations Law;

4686, by Senator Lack, an act to amend the Family Court Act;

6502, by Senator Lack, an act to amend the Real Property Law;

And 6555, by Senator Lack, an act to amend the New York City Civil Court Act.

Senator Padavan, from the Committee on Cities, reports:

Senate Print 6479, by Senator Padavan, an act to amend Chapter 890 of the Laws of 1982;

And 6508, by Senator Padavan, an act to amend the General Municipal Law.

Senator Rath, from the Committee on Local Government, reports:

Senate Print 924B, by Senator Meier, an act to amend the Real Property Tax Law;

1590A, by Senator Johnson, an act to amend the Real Property Tax Law;

2013, by Senator Spano, an act to

amend the Real Property Tax Law;

6133A, by Senator Seward, an act to amend the General Municipal Law;

6469, by Senator DeFrancisco, an act to amend the County Law;

And 6589, by Senator McGee, an act to amend Chapter 540 of the Laws of 1992.

Senator Trunzo, from the Committee on Transportation, reports:

Senate Print 561, by Senator Fuschillo, an act to amend the Vehicle and Traffic Law;

562A, with amendments, by Senator Fuschillo, an act to amend the Vehicle and Traffic Law;

790, by Senator Goodman, an act to amend the Vehicle and Traffic Law;

908, by Senator Bruno, an act to amend the Vehicle and Traffic Law;

977A, by Senator Johnson, an act to amend the Vehicle and Traffic Law;

1020, by Senator Skelos, an act to amend the Vehicle and Traffic Law;

1076A, by Senator Trunzo, an act to amend the Vehicle and Traffic Law;

3278, by Senator Trunzo, an act in relation to requiring the Commissioner of Motor Vehicles;

5561, by Senator Trunzo, an act in relation to requiring the Governor's Traffic Safety Committee;

909, by Senator Bruno, an act to amend the Vehicle and Traffic Law;

And 4753, with amendments, by Senator Trunzo, an act to amend the Vehicle and Traffic Law.

Senator Marchi, from the Committee on Corporations, Authorities and Commissions, reports:

Senate Print 1273, by Senator Kuhl, an act to amend the New York State Urban Development Corporation Act;

3906, by Senator Bonacic, an act to amend the Public Authorities Law;

3907B, by Senator Bonacic, an act to amend the Public Authorities Law;

4622, by Senator Marchi, an act to amend the Public Authorities Law and the Environmental Conservation Law;

4624, by Senator Marchi, an act to

amend the Public Authorities Law;

6270, by Senator LaValle, an act to amend the Public Authorities Law;

6288, by Senator Libous, an act to amend the Public Authorities Law;

And 6427, by Senator Padavan, an act to amend the Public Authorities Law.

Senator Kuhl, from the Committee on Education, reports:

Senate Print 1553A, by Senator Kuhl, an act to amend the Education Law;

1639A, with amendments, by Senator Marchi, an act to amend the Education Law and the Vehicle and Traffic Law;

2618, by Senator Marchi, an act to amend the Education Law;

2752, by Senator Saland, an act to authorize the City School District of the City of Poughkeepsie;

3268, by Senator Saland, an act to authorize the apportionment of state building aid;

6315, by Senator Leibell, an act to legalize, ratify, and confirm;

And 6681, by Senator Kuhl, an act

to amend the Education Law and the Penal Law.

Senator DeFrancisco, from the Committee on Tourism, Recreation and Sports Development, reports:

Senate Print 4385, by Senator DeFrancisco, an act to amend Chapter 912 of the Laws of 1920;

4416A, by Senator DeFrancisco, an act to amend the Parks, Recreation and Historic Preservation Law;

And 4417, by Senator DeFrancisco, an act to amend the Parks, Recreation and Historic Preservation Law.

All bills ordered direct to third reading.

ACTING PRESIDENT MORAHAN: Without objection, all bills reported direct to third reading.

Reports of select committees.

Communications and reports from state officers.

Motions and resolutions.

Senator Hevesi.

SENATOR HEVESI: Thank you, Mr. President. I move that the following bills be

discharged from their respective committees and be recommitted with instructions to strike the enacting clause: Senate Print 6597.

ACTING PRESIDENT MORAHAN: So ordered.

SENATOR HEVESI: Thank you.

ACTING PRESIDENT MORAHAN: Senator Skelos.

SENATOR SKELOS: Mr. President, if we could adopt the Resolution Calendar at this time.

ACTING PRESIDENT MORAHAN: All in favor of adopting the Resolution Calendar will signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT MORAHAN: Opposed, say nay.

(No response.)

ACTING PRESIDENT MORAHAN: The Resolution Calendar is adopted.

Senator Skelos.

SENATOR SKELOS: Mr. President, I believe there's a privilege resolution at the desk by -

ACTING PRESIDENT MORAHAN: By

Senator Hannon?

Senator Stachowski.

SENATOR STACHOWSKI: Mr. President, I know that we don't do this, but if we could, I would say that I'd like to welcome some female athletes from the University of Buffalo that are joining us that have never been here before.

But I know since we don't do that, I won't. But I'd like to offer to welcome them to the floor anyway.

ACTING PRESIDENT MORAHAN: Well, I'm just glad you didn't.

(Laughter.)

SENATOR SKELOS: Mr. President, there's a privilege resolution at the desk by Senator Hannon. I ask that it be read in its entirety and move for its immediate adoption.

ACTING PRESIDENT MORAHAN: The Secretary will read.

THE SECRETARY: Legislative resolution by Senator Hannon honoring the recipients of the New York State "Innovations in Breast Cancer Research and Education" Awards for their dedication and contributions

to breast cancer research and awareness.

"WHEREAS, Breast cancer is a substantial public health problem in the United States and, as many recent studies point out, in New York State particularly; and

"WHEREAS, Approximately 175,000 Americans are diagnosed with breast cancer each year, early detection offers the best chance for overcoming the disease and provides more options for treatment; and

"WHEREAS, New York State is a leader in providing research and education on breast cancer as well as care of women with breast cancer. Among its many initiatives is the Innovation in Breast Cancer Early Detection and Research Awards Program which recognizes, rewards, and promotes innovation in breast cancer prevention, early detection, and research by dedicated health professionals, consumers, nonprofit organizations, and other candidates.

"This Legislative Body is proud to commend Karen Christensen, of Utica, New York, recipient of the 'Breast Cancer Survivor' Award.

"The recipient of the 'Health Professional' Award, Paul C. Stomper, M.D., serves as Director of the Mammography Center at Roswell Park Cancer Institute in Buffalo, New York. And

"WHEREAS, The 'Nonprofit Organization' Award was bestowed upon the Western Regional Office of the American Cancer Society in Amherst, New York.

"In addition to these awards, the New York State Health Department has opened the Gallery of Courage, an exhibit that recognizes one courageous breast cancer survivor from each county across the state of New York. These brave women are living testimony that women can beat breast cancer and live a productive life when the disease is detected and treated early. And

"WHEREAS, The Gallery of Courage can help alleviate the fears that some women have, while motivating others to cope with their diagnosis and seek appropriate health care to fight the disease.

"New York State has also shown its commitment through the Health Department's

Healthy Women Partnership Program. 53 HWPs provide breast and cervical cancer screening services to low-income or uninsured women in every county in New York State. And

"WHEREAS, Furthermore, while all these initiatives foster research and proper care, they also celebrate life and highlight the need to educate both the public and health care providers about the importance of early breast cancer detection. Now, therefore, be it

"RESOLVED, That this Legislative Body pause in its deliberations to honor the recipients of the New York State 'Innovations in Breast Cancer Research and Education' Awards for their dedication and contributions to breast cancer research and awareness; and be it further

"RESOLVED, That copies of this resolution, suitably engrossed, be transmitted to Karen Christensen, Dr. Paul C. Stomper, and the Western Regional Office of the American Cancer Society."

ACTING PRESIDENT MORAHAN: Senator Hannon. Do you wish to be recognized,

Senator?

SENATOR HANNON: Please move the resolution.

ACTING PRESIDENT MORAHAN: The question is on the resolution. All those in favor say aye.

(Response of "Aye.")

ACTING PRESIDENT MORAHAN: Opposed, say nay.

(No response.)

ACTING PRESIDENT MORAHAN: The resolution passes.

Senator Skelos.

SENATOR SKELOS: Mr. President, if we could have the noncontroversial reading of the calendar, please.

ACTING PRESIDENT MORAHAN: The Secretary will read.

THE SECRETARY: Calendar Number 74, by Senator Skelos, Senate Print 968, an act to amend the Insurance Law, in relation to policy coverage.

ACTING PRESIDENT MORAHAN: Read the last section.

THE SECRETARY: Section 3. This

act shall take effect on the 180th day.

ACTING PRESIDENT MORAHAN: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 54.

ACTING PRESIDENT MORAHAN: The bill is passed.

THE SECRETARY: Calendar Number 86, by Senator Skelos, Senate Print 1132A, an act to amend the Education Law, in relation to drug testing of certain pupils.

ACTING PRESIDENT MORAHAN: Read the last section.

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

ACTING PRESIDENT MORAHAN: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 54.

ACTING PRESIDENT MORAHAN: The bill is passed.

THE SECRETARY: Calendar Number 171, by Senator Saland, Senate Print 1012, an act to amend the Criminal Procedure Law and the Executive Law, in relation to authorizing

a court to file.

ACTING PRESIDENT MORAHAN: Read the last section.

THE SECRETARY: Section 3. This act shall take effect on the first day of October.

ACTING PRESIDENT MORAHAN: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 54.

ACTING PRESIDENT MORAHAN: The bill is passed.

I'm sorry, Senator Duane.

SENATOR DUANE: To explain my vote.

ACTING PRESIDENT MORAHAN: Explain your vote, sir.

SENATOR DUANE: Thank you very much.

I very much agree with this legislation and that we would keep a computerized registry both of related and nonrelated individuals who have been involved in domestic violence. But I don't understand why it is that we can support setting up and

expanding this registry and yet there's such a great resistance to setting up a way to report and document bias-related crimes.

If we can set up this registry, I fail to see why it is that we can't direct the State Police and other law enforcement agencies across the state to have hate crimes reported to them and to have those hate crimes documented so that we can work to make hate crimes disappear from our state.

So while I applaud this legislation, I think it only shows the enormous lack of response that we have in this body to setting up a reporting system which could lead to the end of hate crimes in our state.

I vote yes.

ACTING PRESIDENT MORAHAN: Senator, you will be recorded in the affirmative.

Calendar 141 is passed -- 171, I'm sorry. 171.

THE SECRETARY: Calendar Number 174, by Senator Johnson, Senate Print 1589, an act to amend the Penal Law, in relation to

criminal contempt.

ACTING PRESIDENT MORAHAN: Read the last section.

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

ACTING PRESIDENT MORAHAN: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 54.

ACTING PRESIDENT MORAHAN: The bill is passed.

THE SECRETARY: Calendar Number 178, by Senator Saland, Senate Print 4332, an act to amend the Penal Law, in relation to custodial interference.

ACTING PRESIDENT MORAHAN: Read the last section.

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

ACTING PRESIDENT MORAHAN: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 54.

ACTING PRESIDENT MORAHAN: The bill is passed.

THE SECRETARY: Calendar Number 180, by Senator Skelos, Senate Print 2622, an act to amend the Education Law, in relation to notification to parents.

ACTING PRESIDENT MORAHAN: Read the last section.

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

SENATOR PATERSON: Lay it aside.

ACTING PRESIDENT MORAHAN: Lay it aside.

THE SECRETARY: Calendar Number 193, by Senator Trunzo, Senate Print 4251, an act to amend the Vehicle and Traffic Law, in relation to special hauling permits.

ACTING PRESIDENT MORAHAN: Read the last section.

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

ACTING PRESIDENT MORAHAN: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 54.

ACTING PRESIDENT MORAHAN: The bill is passed.

THE SECRETARY: Calendar Number 194, by Senator Trunzo, Senate Print 4409, an act to amend the Vehicle and Traffic Law, in relation to dimensions and weights of vehicles.

ACTING PRESIDENT MORAHAN: Read the last section.

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

ACTING PRESIDENT MORAHAN: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 54.

ACTING PRESIDENT MORAHAN: The bill is passed.

THE SECRETARY: Calendar Number 206, by Senator Skelos, Senate Print 1075, an act to amend the Social Services Law and the Family Court Act, in relation to proof of a neglected or abused child.

SENATOR SKELOS: Lay it aside for the day.

ACTING PRESIDENT MORAHAN: The

bill is laid aside for the day.

THE SECRETARY: Calendar Number 244, by Senator Nozzolio, Senate Print 642, an act to amend the Correction Law in relation to requiring inmates.

SENATOR PATERSON: Lay it aside.

ACTING PRESIDENT MORAHAN: The bill is laid aside.

THE SECRETARY: Calendar Number 254, by Senator Hannon, Senate Print 813 -

SENATOR HANNON: Lay it aside.

ACTING PRESIDENT MORAHAN: Lay it aside.

THE SECRETARY: Calendar Number 271, by Senator Goodman, Senate Print 1101, an act to amend the Transportation Law, in relation to increasing penalties.

ACTING PRESIDENT MORAHAN: Read the last section.

SENATOR DUANE: Lay it aside.

ACTING PRESIDENT MORAHAN: Lay it aside.

That completes the reading of the noncontroversial calendar.

Senator Skelos.

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

ACTING PRESIDENT MORAHAN: The Secretary will read.

THE SECRETARY: Calendar Number 180, by Senator Skelos, Senate Print 2622, an act to amend the Education Law, in relation to notification to parents.

ACTING PRESIDENT MORAHAN: Read the last section.

THE SECRETARY: Section 3. This act shall take effect on the first day of September.

ACTING PRESIDENT MORAHAN: Call the roll.

THE SECRETARY: Ayes, 54.

ACTING PRESIDENT MORAHAN: The bill is passed.

THE SECRETARY: Calendar Number 244, by Senator Nozzolio, Senate Print 642, an act to amend the Correction Law, in relation to requiring.

SENATOR DUANE: Explanation.

ACTING PRESIDENT MORAHAN: Please

wait for the Senator to enter the chamber.

Senator Nozzolio, an explanation has been requested for your bill, Calendar 244.

SENATOR NOZZOLIO: Thank you, Mr. President. Who requested the explanation?

ACTING PRESIDENT MORAHAN: Senator Duane.

SENATOR NOZZOLIO: Is Senator Duane in the chamber? I don't see him in his seat.

ACTING PRESIDENT MORAHAN: Yes.

Senator Duane, you want to ask for an explanation?

SENATOR NOZZOLIO: I'd be happy to explain the measure.

Senate Bill 642 amends the Correction Law, requiring the inmates in state correctional facilities to make copayments for medical services that they receive. Those copayments are required of every single employee in the state correctional system as well as every single employee in the state system.

We're saying, very simply, that

there should not be a double standard, one for those who are working for a living and another for those who are incarcerated in state correctional facilities.

For chronic conditions, for chronic care, if it's necessary, this copayment would not apply. Emergency care would not be denied under this legislation. What we're simply saying is that those inmates who are using sick call as a hobby, to avoid work, to avoid other things, need to be given a strong message that the state taxpayers will not continually fund this type of recreational activity that is engaged in to avoid other responsibilities in prison.

Thank you, Mr. President.

ACTING PRESIDENT MORAHAN: Thank you, Senator.

Senator Paterson.

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

ACTING PRESIDENT MORAHAN: Senator Nozzolio, do you yield?

SENATOR NOZZOLIO: Yes, Mr.

President, I'd be happy to yield to Senator Paterson.

ACTING PRESIDENT MORAHAN: The Senator yields.

SENATOR PATERSON: Thank you, Senator.

What studies or information that you have would demonstrate how the money that taxpayers pay is in a sense being used on what would be frivolous claims of illness? And additionally, where would you see the money spent? On what program, let's say, if we can cut this expenditure down?

SENATOR NOZZOLIO: Mr. President, there certainly is adequate evidence to say that inmates in our prison system are -- some inmates -- not all inmates, but some inmates in our prison system are utilizing the sick call as a way to avoid other responsibilities.

The requirement that we're putting forth, to answer directly Senator Paterson's question, is a requirement that's not unique in our nation. Currently it is employed in other states such as California, Connecticut, Ohio, Pennsylvania, and New Jersey. And in

those states, there is no discernible difference between the health care of their prisoners versus the health care of ours.

That requirement in our state is simply a requirement, we believe, to put us in parity with large states that have taken these steps. That the -- I think the evidence needs to be incumbent on those who oppose this measure to show me why, in the states I mentioned -- California, Connecticut, Ohio, Pennsylvania, New Jersey -- why those inmates receive any discernible difference in their health care versus inmates in our state.

The last part of Senator Paterson's question I think is an extremely important one. Where would revenue go that was saved? I think Senator Paterson and others who support programs in our correctional facilities know that those programs are too few and too far between, that certainly resources employed by the Correctional Department for frivolous health care claims are diverted from meaningful programs, meaningful programs for the rehabilitation of those who are incarcerated.

That's why this measure makes all the dollars and sense in the world, and that's why I move its adoption.

ACTING PRESIDENT MORAHAN: Senator Paterson.

SENATOR PATERSON: First of all, Mr. President, I'd like to thank Senator Nozzolio for a pretty supplementary answer to my question. And he made some good points.

But I think that if we were going to cut costs, you know, excessive telephone bills from inmates or real frivolous types of endeavors I think might be a good way to start.

But I am just very apprehensive with questioning what would be the health care -- in other words, I think if an inmate made three claims based on some illness and the medical personnel found that they really weren't ill, I think that might be something to take up in a disciplinary sense.

I'm just, at this time, a little too apprehensive about someone claiming to be ill and perhaps holding back -- you know, one of the problems we have with the uninsured

right now is because of the payment. They don't show up to the hospital until the illness is quite serious. I wouldn't want to see that happen anywhere, even to people who have violated the law and are being incarcerated in one of our state institutions. So I would encourage my colleagues not to vote for this.

However, the measure of cutting costs is always one that we should take a look at, and I'd suggest there are probably some other areas where we could accomplish this.

ACTING PRESIDENT MORAHAN: Thank you, Senator.

Senator Duane.

SENATOR DUANE: Thank you, Mr. President. On the bill.

ACTING PRESIDENT MORAHAN: Senator Duane, on the bill.

SENATOR DUANE: I have spoken out repeatedly on this whole trend towards forcing incarcerated people to pay copayments. First of all, while it is true that many New Yorkers pay copayments, including those who work in the criminal justice system and in our

correctional institutions, they actually have a choice of who their health care providers would be.

Incarcerated people have no choice. They can only see the medical personnel in the institution or are totally dependent on their referrals to contracted institutions and hospitals, et cetera.

I know from my own experience of looking into health care that much of the health care in our correctional facilities is frankly abysmal, ranging from misdiagnoses to the one recent case of a woman who needed to have a biopsy of her breast and had the wrong breast biopsied, and yet the correctional medical personnel continued to insist that they biopsied the correct breast and yet now they are going to -- or they're trying to biopsy the other breast, but the incarcerated woman appropriately doesn't want to have to go to the same doctor who made the original decision.

So if there is no choice in medical care provider, then there should be no mandatory payment if you have no choice.

I also believe that this raises enormous problems having to do with the funds that inmates have in their accounts, how this money is taken from their accounts, what happens to them while the money in their accounts is frozen while the copayment is being worked out.

We don't know whether or not - while this may cause a reduction in what I think is probably a very small percentage of unnecessary health care visits to medical facilities, how many inmates may now not get the care that they need because of this?

I also know of many inmates, and I know some of my colleagues have also spoken to inmates, not all of whom could possibly be lying about this situation, where they are often left in their cells in great pain, unable to see a health care provider. This goes on every day in our correctional facilities.

I think that if we focused on improving health care in our facilities and less on trying to eke small amounts of dollars from people who are already incarcerated, we

would do a lot more good for people who are incarcerated in the state of New York.

I urge my colleagues to vote no.

ACTING PRESIDENT MORAHAN: Senator Marcellino.

SENATOR MARCELLINO: Mr. President, can we read the last section on this bill for the purposes of allowing Senator Mendez to cast her vote.

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

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

ACTING PRESIDENT MORAHAN: Call the roll.

(The Secretary called the roll.)

SENATOR MENDEZ: No.

SENATOR MARCELLINO: Withdraw the roll call, please.

ACTING PRESIDENT MORAHAN: The roll call is withdrawn.

Senator Montgomery.

SENATOR MONTGOMERY: Yes, Mr. President. I would like to ask the sponsor if he would yield for a couple of questions I

have.

ACTING PRESIDENT MORAHAN: Senator Nozzolio, do you yield?

SENATOR NOZZOLIO: Yes, Mr. President.

SENATOR MONTGOMERY: Thank you, Senator Nozzolio.

Senator, I wanted to ask you, first of all, there's a -- last year, I believe, Corrections reported that they received about $25 million in some sort of an arrangement that they have to receive part of the cost of telephone calls that families -- or that inmates are required to pay, via their families, for telephone calls. And that this funding is supposed to be for -- to be used by Corrections for health services.

Are you familiar with that and what happens, actually, to that money?

SENATOR NOZZOLIO: Yes, Mr. President. In response to Senator Mendez's question -- the Senator's question, that much of the funding, Senator, comes from those telephone calls made and rebates back from the phone companies that provide those services.

A large chunk of those funds, if not virtually all of those funds, are earmarked for inmate programs, including things that are not so palatable to my constituents, like cable television for inmates.

Some of those funds go to other programs that are extremely worthwhile, to rehabilitate inmates, to work on those particular substance-abuse problems that inmates have come across. So there's a portion of those monies that are going to a very good purpose.

That in terms of inmate health, though, we have a broader responsibility to provide any inmate that is sick with health care. And whether or not that is part of this program monies that you referred to, Senator, I don't believe it is.

That, Senator Montgomery, the measures are funded by the general fund in the Corrections Department budget -- the doctors, the nursing care, the other medical procedures and prescription drugs, medicines that may be required, are all part of the corrections budget and go out of the general fund revenues

that our taxpayers pay.

And part of this copayment, I want to make it very clear that the purpose of this copayment -- if you go into any of our medical facilities in prison, chances are you'll see a long line, you'll see many inmates who need health care, and you'll see a portion who don't. And what we're trying to do is mitigate those who don't, because they're diverting resources from those inmates that do need health care in prison.

SENATOR MONTGOMERY: Mr. President.

ACTING PRESIDENT MORAHAN: Senator Montgomery.

SENATOR MONTGOMERY: If Senator Nozzolio would continue to yield.

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

SENATOR NOZZOLIO: Yes, Mr. President.

ACTING PRESIDENT MORAHAN: The Senator continues to yield.

SENATOR MONTGOMERY: Senator, I'm just looking at this legislation. And what

provision is there for waiving the copayment for someone who actually does not -- is not able to pay it?

SENATOR NOZZOLIO: It -- the payment itself is assessed, Senator Montgomery, after the visit takes place. So that it is clear, first of all, to the medical personnel and the staff that this payment is -- comes into place after the treatment is given. It's assessed to the inmate account.

Now, each inmate of the 28,000 or so -- excuse me, of the 70,000 or so inmates in our state correctional facilities across New York, each has a separate inmate account. If they work, their monies go into it. If they have personal funds on their own, that those go into it. But each of those accounts is under the stewardship and fiduciary responsibility of the State of New York.

That an inmate would not be refused treatment if they didn't make the copay. In fact, the copay would not be assessed until after the visit took place.

If there is -- if there are not sufficient funds, lines 15 of the measure come

into place, on page 1: Should an inmate not have sufficient funds in his account to cover the charges, then his account shall be frozen pending receipt of such funds sufficient to pay their obligation.

We're not talking about $7,000 or even $700 or even $70, we're talking about $7 per visit. It's a copayment. It's not -- yet the savings to the taxpayers because of this copayment would be significant across the state.

So there is a provision -- to answer your question, there is a provision that says that the inmate does not pay until, in fact, he has the funds or she has the funds in their account.

SENATOR MONTGOMERY: Senator Nozzolio, if you will -

ACTING PRESIDENT MORAHAN: Does the Senator continue to yield?

SENATOR NOZZOLIO: Yes, Mr. President, I'd be glad to yield.

ACTING PRESIDENT MORAHAN: The Senator continues to yield.

SENATOR MONTGOMERY: Thank you.

The inmates primarily, assuming that they are using their account where their earnings are deposited, whatever the earnings might be, what are those earnings, Senator Nozzolio? What's the average earning of an inmate for a day's work in the prison?

SENATOR NOZZOLIO: I don't have the answer to Senator Montgomery's question, Mr. President.

ACTING PRESIDENT MORAHAN: Thank you, Senator.

Senator Montgomery.

SENATOR MONTGOMERY: All right. Senator Nozzolio, then let me ask -

ACTING PRESIDENT MORAHAN: Excuse me, Senator. Do you wish the Senator to yield?

SENATOR MONTGOMERY: Yes, I wish to continue, if he could continue to yield.

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

SENATOR NOZZOLIO: Yes, Mr. President.

SENATOR MONTGOMERY: All right, thank you.

ACTING PRESIDENT MORAHAN: The Senator yields.

SENATOR MONTGOMERY: Senator, how does the copayment of $7 for an inmate compare to a copayment of a Medicaid recipient on the outside? Is that the same, $7?

SENATOR NOZZOLIO: Mr. President, let me answer Senator Montgomery's question in this fashion: That I am not sure what if any copayments there are for all Medicaid patients in all types of services and provisions. I know we are requiring some and increasingly asking for many more copayments for Medicaid recipients.

The number that we chose, the $7 fee, was related because that's the same amount, Senator Montgomery, that other state employees who work in the very facilities that are being in question here, correctional employees, under their state insurance plan, would have to pay a $7 copayment.

So most of the insurance companies are providing even -- the for-profit and not-for-profit are both requiring copayments. And we took this as the state insurance -

state employee health insurance model for the same type of amount of copayment.

SENATOR MONTGOMERY: Okay. My last question, Mr. President -

ACTING PRESIDENT MORAHAN: Senator Montgomery.

SENATOR MONTGOMERY: -- to Senator Nozzolio, did you -

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

SENATOR NOZZOLIO: Yes, Mr. President.

ACTING PRESIDENT MORAHAN: The Senator continues to yield.

SENATOR MONTGOMERY: Thank you for your patience, Senator.

Just lastly, do we have some idea of -- you say that you're saving taxpayers money. Do you have some idea of what you anticipate that we might be looking to save with your bill?

SENATOR NOZZOLIO: Senator Montgomery, New York spends approximately $121 million a year on prison health services. That's $2,000 per inmate. Those states that I

mentioned -- California, New Jersey, Connecticut, Ohio, Pennsylvania, Nevada - their success rate has said, by establishing a copayment, that they have reduced inmate responses to sick call by upwards of 76 percent.

If we extrapolate 76 percent with 120 million, I think you could do the math very quickly. That I'd say the savings here would be in the tens of millions of dollars very easily. On a conservative basis, I'd say $50 million savings would not be anywhere out of the ordinary in projecting that this measure would save.

SENATOR MONTGOMERY: Thank you, Senator Nozzolio.

Mr. President, on the bill.

ACTING PRESIDENT MORAHAN: Senator Montgomery, on the bill.

SENATOR MONTGOMERY: Yes. This is, I think, another one of those legislative proposals that I think is more, in a way of speaking, another way of punishing people that we're already punishing.

And let me just say that it's my

understanding that the average income for an inmate for a day's work, the highest amount that they make is around $1.50 a day. And so we're not talking about employees who are earning an income as we are talking about state employees on the outside.

And so since every single inmate, no matter how serious or how often they are required to seek health service, they're going to be charged this copayment. So it's very likely that a number of people are obviously not going to seek medical care even though they may need it.

And we know that there's a very high percentage of inmates who come into Corrections who are already HIV-positive. Some of them already have AIDS. We know that there are a number of people who have chronic diseases, a number of people who have various different kinds of injuries and health problems.

So we're trying to save money, but we're also putting people's lives in jeopardy. And so I think that this is a bill that hopefully my colleagues will not support,

because it really goes against what we want to see in our correctional facilities, and that is if there is an inmate or if there are inmates who need health care, we put the money there, we establish this -- that Corrections has this program that they have said to us that they use specifically to pay for health services. And we find that in fact they're not doing that.

And that money, the $25 million that the Corrections receives from the telephone calls, comes from the families of those inmates. So what we're doing is we're taxing the families several times, and now we're also taxing the inmate for the same service, and we find that they're not receiving that service.

So I'm going to vote no on this bill, and I urge my colleagues to vote no also.

ACTING PRESIDENT MORAHAN: Read the last section.

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

ACTING PRESIDENT MORAHAN: Call

the roll.

(The Secretary called the roll.)

THE SECRETARY: Those recorded in the negative on Calendar Number 244 are Senators Duane, Marchi, Markowitz, Mendez, Montgomery, Onorato, Oppenheimer, Paterson, Sampson, Santiago, Schneiderman, Seabrook, Smith, and Stavisky. Ayes, 45. Nays, 14.

ACTING PRESIDENT MORAHAN: The bill is passed.

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

SENATOR MARCELLINO: Before we complete the calendar, we should officially lay the bills, the last two bills that were laid aside, aside for the day -- those being Senate 813 and Senate 1101, should be laid aside for the day at the request of the sponsors.

ACTING PRESIDENT MORAHAN: The bills are laid aside for the day, Senator.

SENATOR MARCELLINO: Mr. President, may we return to reports of standing committees. I believe you have a report of the Social Services Committee at the

desk.

ACTING PRESIDENT MORAHAN: Reports of standing committees.

The Secretary will read.

THE SECRETARY: Senator Meier, from the Committee on Social Services, reports:

Senate Bill 5851A, by Senator Meier, an act to amend the Social Services Law;

And 6318, by Senator Maziarz, an act to amend the Social Services Law.

All bills ordered direct to third reading.

ACTING PRESIDENT MORAHAN: Without objection, all bills reported directly to third reading.

Senator Marcellino.

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

SENATOR MONTGOMERY: Yes, Mr. President.

ACTING PRESIDENT MORAHAN: Senator Montgomery.

SENATOR MONTGOMERY: Yes. Mr. President, I would like unanimous consent to be recorded in the negative on Calendar 180.

ACTING PRESIDENT MORAHAN: Without objection, so ordered.

SENATOR MONTGOMERY: Thank you.

ACTING PRESIDENT MORAHAN: Senator Marcellino.

SENATOR MARCELLINO: Yes, Mr. President. There being no further business to come before the Senate, I move we adjourn until Wednesday, March 1st, at 11:00 a.m. sharp.

ACTING PRESIDENT MORAHAN: On motion, the Senate stands adjourned until Wednesday, March 1st, at 11:00 a.m.

(Whereupon, at 4:07 p.m., the Senate adjourned.)