NEW YORK STATE SENATE

THE STENOGRAPHIC RECORD

ALBANY, NEW YORK

April 27, 2004

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 please 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: With us this afternoon to give the invocation is the Reverend Kevin Backus, from Bible Presbyterian Church in Grand Island, New York.

PASTOR BACKUS: Please join me in prayer.

Father, we thank You that You give us the privilege of coming before You, not dressed in our own righteousness but in the righteousness of Jesus Christ alone.

And today, Father, as we come into Your presence, we thank You for Your blessings that You have poured out upon us in abundance as a people. One of those, the government of our land, we thank You for as well.

And today, in particular, we pray for the deliberations of this body, that

everything that is undertaken might be done with one eye to what would please You and another to what would be for the good, the benefit, the welfare, the peace, the prosperity of the people of our state.

And we thank You for the wisdom, the direction, and the strength that You do give, for it's in Christ's name we ask it.

Amen.

THE PRESIDENT: Reading of the Journal.

THE SECRETARY: In Senate, Monday, April 26, the Senate met pursuant to adjournment. The Journal of Saturday, April 24, 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.

Reports of select committees.

Communications and reports from

state officers.

Motions and resolutions.

Senator Maziarz.

SENATOR MAZIARZ: Thank you, Madam President. On page 22, I offer the following amendments to Calendar Number 418, Senate Print Number 5865, and ask that said bill retain its place on Third Reading Calendar.

THE PRESIDENT: The amendments are received, and the bill will retain its place on the Third Reading Calendar.

Senator Maziarz.

SENATOR MAZIARZ: Thank you, Madam President.

On page number 30, I offer the following amendments to Calendar Number 581, Senate Print Number 6158A, and ask that said bill retain its place on Third Reading Calendar.

THE PRESIDENT: Those amendments are received, and the bill will retain its place on the Third Reading Calendar.

Senator Skelos.

SENATOR SKELOS: Madam President,

are there any substitutions at the desk?

THE PRESIDENT: Yes, there are, Senator.

SENATOR SKELOS: I ask if we'd make them at this time.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: On page 4, Senator Seward moves to discharge, from the Committee on Insurance, Assembly Bill Number 10286 and substitute it for the identical Senate Bill Number 5987A, First Report Calendar 810.

On page 6, Senator LaValle moves to discharge, from the Committee on Higher Education, Assembly Bill Number 6065B and substitute it for the identical Senate Bill Number 5386A, Second Report Calendar 807.

On page 21, Senator Seward moves to discharge, from the Committee on Insurance, Assembly Bill Number 9699 and substitute it for the identical Senate Bill Number 5918A, Third Reading Calendar 414.

And on page 29, Senator Trunzo moves to discharge, from the Committee on

Transportation, Assembly Bill Number 8934A and substitute it for the identical Senate Bill Number 5502A, Third Reading Calendar 554.

THE PRESIDENT: Substitutions ordered.

Senator Skelos.

SENATOR SKELOS: Madam President, at this time if we could adopt the Resolution Calendar, with the exception of Resolution 4704.

THE PRESIDENT: All in favor of adopting the Resolution Calendar, with the exception of Resolution 4704, please signify by saying aye.

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: The Resolution Calendar is adopted.

Senator Skelos.

SENATOR SKELOS: Madam President, at this time if you would have the title read on Resolution 4704, by Senator Little, and move for its immediate adoption.

THE PRESIDENT: The Secretary

will read.

THE SECRETARY: By Senator Little, Legislative Resolution Number 4704, mourning the death of Arthur D. Devlin, distinguished citizen and devoted member of his community.

THE PRESIDENT: Senator Little.

SENATOR LITTLE: Thank you, Madam President. I appreciate having the opportunity to speak for a moment about the passing of Arthur Devlin.

Mr. Devlin was a true New Yorker, one who it is very fitting that his life be recognized by the New York State Senate. Born in Lake Placid and graduating from Lake Placid High School and Syracuse University, Mr. Devlin accomplished many, many things in his life.

He was a World War II veteran, enlisting in 1943 in the U.S. Army Air Force, cadet, serving as a bombardier, serving 15 missions in the European theater. As a captain, Mr. Devlin received three Distinguished Cross medals, five Air Medals, three Purple Hearts, and two presidential unit

citations.

Mr. Devlin was also an athlete, beginning ski jumping and skiing, as most people in Lake Placid do tend to do, in high school and then in college. But Mr. Devlin had the opportunity to earn berths in five different Olympic Games as a ski jumper, competing all over the world.

He won the United States Ski Jumping Championship, he won the North American Ski Jumping Championship. He also set a record in Steamboat Springs, Colorado, with a jump of 307 feet.

He was truly an extraordinary athlete. He was inducted into the Ski Jumping Hall of Fame, the Lake Placid Winter Sports Museum Hall of Fame, and the Ski Hall of Fame.

Following his skiing career, Mr. Devlin became a television commentator and broadcast every World Ski Jumping Championship and Winter Olympic Games since 1960. So all of us who watched these Olympic athletics on television have heard Art Devlin's voice.

In 1962, he began working for the ABC-TV "Wide World of Sports," where he

continued to be a broadcaster for 21 years.

Another one of his accomplishments was to begin a business in Lake Placid. He was the owner of the Arthur D. Devlin's Olympic Motor Inn, which many of you have seen as you pass into Lake Placid. It was one of the two original motels in Lake Placid.

Mr. Devlin was instrumental in bringing the World Olympics back to Lake Placid in 1980, serving in many, many capacities and traveling the world convincing people that we should have an Olympics back in Lake Placid.

He was also a very active citizen, active in the community that he loved with every bone in his body, and a community that truly loved him. He is survived by his wife and three children and a granddaughter.

And today we mourn the passing of Arthur D. Devlin, but we also celebrate his life and give thanks for his many contributions and the fact that we had his presence in New York State.

Thank you.

THE PRESIDENT: All those in

favor of the resolution please signify by saying aye.

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: The resolution is adopted.

Senator Skelos.

SENATOR SKELOS: Madam President, if we could go to the noncontroversial reading of the calendar.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: Calendar Number 97, by Senator LaValle, Senate Print 2611, an act to authorize payment to the Riverhead Central School District.

THE PRESIDENT: There is a local fiscal impact note at the desk.

Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 50.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 496, by Senator Larkin, Senate Print 1967, an act to amend the Vehicle and Traffic Law, in relation to exempting former prisoners of war.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 50.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 569, by Senator Fuschillo, Senate Print 6409, an act to amend the General Business Law, in relation to fingerprinting.

THE PRESIDENT: Read the last section.

THE SECRETARY: Section 4. This act shall take effect 180 days.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 53.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 600, by Senator Golden, Senate Print 6579, an act to amend the General Municipal Law and the Retirement and Social Security Law, in relation to increasing certain special accidental death benefits.

THE PRESIDENT: Read the last section.

THE SECRETARY: Section 3. This act shall take effect July 1.

THE PRESIDENT: Senator Golden, to explain your vote.

SENATOR GOLDEN: Thank you, Madam President.

I rise to explain my vote on this bill to increase certain special accidental death benefits for surviving spouses and children of certain police officers and fire officials.

Today I'm blessed to have a school here, the Resurrection, from Gerritsen Beach in Marine Park, sitting up in the audience.

And they're here, and families of police officers and firemen that were injured and wounded in the line of duty, and are looking to see how we pass these bills -- and specifically this bill, because it pertained close to home on a police officer that lived in the community.

So I'm happy that this bill has been brought to the floor and that it has an opportunity to be passed so that the spouses and the widows have an opportunity to increase their income, and that the kids from my community also get an opportunity to see how we do help kids in our schools and how we help the people that live in our communities, those police officers and firemen.

And we also have the retired school supervisors and administrators, the RSSA, also here in the audience, recognizing that this bill is an important bill for the City of New York and for the firemen and police officers. And they too are indebted to us that we get this bill passed.

Thank you.

THE PRESIDENT: The Secretary

will call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 55.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 695, by Senator Kuhl, Senate Print 1467, an act to amend the Alcoholic Beverage Control Law and the Vehicle and Traffic Law, in relation to the imposition of a driver's license suspension.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 54. Nays, 1. Senator Duane recorded in the negative.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 700, by Senator McGee, Senate Print 4869A, an act to amend the Vehicle and Traffic Law, in

relation to driving while intoxicated.

THE PRESIDENT: Read the last section.

THE SECRETARY: Section 45. This act shall take effect immediately.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 54. Nays, 1. Senator Duane recorded in the negative.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 707, by Senator Maziarz, Senate Print 5836A, an act to amend the Labor Law, in relation to the training of persons for the repair of slot machines.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 54. Nays, 1. Senator Padavan recorded in the negative.

THE PRESIDENT: The bill is

passed.

THE SECRETARY: Calendar Number 711, by Senator Velella, Senate Print 6813, an act to amend the Workers' Compensation Law, in relation to disqualifying certain surviving parents.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 55.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 719, by Senator Mendez, Senate Print --

SENATOR SCHNEIDERMAN: Lay it aside.

THE PRESIDENT: The bill is laid aside.

SENATOR SKELOS: Lay it aside for the day.

THE PRESIDENT: The bill is laid aside for the day.

THE SECRETARY: Calendar Number 723, by Senator Alesi, Senate Print 950, an act to amend the Penal Law, in relation to endangering the welfare of a child.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 55.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 725, by Senator Rath, Senate Print 1678, an act to amend the Penal Law, in relation to assaults committed in the presence of certain children.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 53. Nays, 2. Senators Hassell-Thompson and Montgomery recorded in the negative.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 727, by Senator Saland, Senate Print 1923A, an act to amend the Penal Law, in relation to establishing a presumption relating.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 54. Nays, 1. Senator Montgomery recorded in the negative.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 732, by Senator Trunzo, Senate Print 3705A, an act to amend the Penal Law, in relation to

prohibiting stalking.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 55.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 737, by Senator Balboni, Senate Print 5707A, an act to amend the Penal Law, in relation to disseminating indecent material.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 55.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 740, by Senator DeFrancisco, Senate Print 6651, an act to amend the Civil Practice Law and Rules, in relation to not allowing reference.

THE PRESIDENT: Senator DeFrancisco.

SENATOR DeFRANCISCO: I'd like to explain my vote.

THE PRESIDENT: You may proceed to explain your vote, Senator.

SENATOR DeFRANCISCO: This is simply a chapter amendment to a bill that was signed by the Governor on the condition that this would be corrected this year. And it's a good thing to do this.

It's also a good thing to recognize a young man by the name of Joshua Treadway, who is up in the gallery with the Wetzel Road Elementary School. He was selected number one, he was selected as the individual out of 1600 applicants with a poster representing Arbor Day.

And he's standing up over there, and I just want to recognize him because good

things do happen, and we've got good people in my district, and many of them are up there today. So thank you.

(Applause.)

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 56.

THE PRESIDENT: The bill is passed. And Senator DeFrancisco will be recorded as voting in the affirmative.

THE SECRETARY: Calendar Number 756, by Senator Nozzolio, Senate Print 5926, an act to amend the Highway Law, in relation to designating a portion of the state highway system.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 56.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 757, by Senator Libous, Senate Print 6187, an act to amend the Highway Law, in relation to designating a portion of the state highway system.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Senator Libous, to explain his vote.

SENATOR LIBOUS: Thank you, Madam President.

This legislation honors former Assemblyman Richard Miller, who passed away in December. And many of you knew the Assemblyman, many of you served with him in the Assembly.

And this would prove to be a memorial for him by designating a part of Route 201 in Johnson City, which he would be able to see -- his family could see from their

home, which would go to Vestal and would carry through Johnson City and Vestal, the district that he served in the Assembly for a number of years.

And Dick was truly a remarkable individual who always had a smile on his face, extremely patriotic member of the Assembly, and cared very much about his constituents. And I think this would be a fitting memorial in his honor.

THE PRESIDENT: Senator Libous, you will be so recorded as voting in the affirmative.

The Secretary will call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 56.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 781, by Senator Nozzolio, Senate Print --

SENATOR SCHNEIDERMAN: Lay it aside.

THE PRESIDENT: The bill is laid aside.

THE SECRETARY: Calendar Number

787, by Senator Flanagan, Senate Print 3584A, an act to amend the Correction Law, in relation to making the subdirectory of sexually violent predators free of charge.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 55. Nays, 1. Senator Duane recorded in the negative.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 812, by Senator Seward, Senate Print 7181, an act to amend the Insurance Law, in relation to homeowners insurance.

SENATOR SCHNEIDERMAN: Lay it aside.

THE PRESIDENT: The bill is laid aside.

Senator Skelos, that completes the noncontroversial reading of the calendar.

Senator Saland.

SENATOR SALAND: Thank you, Madam President.

Madam President, I would like to star Calendar 291, my bill, Senate 3430.

THE PRESIDENT: So ordered, Senator.

SENATOR SALAND: Thank you, Madam President.

THE PRESIDENT: Senator Skelos.

SENATOR SKELOS: Could we please go to the controversial reading of the calendar.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: Calendar Number 781, by Senator Nozzolio, Senate Print 439, an act to amend the Correction Law, in relation to requiring.

SENATOR SCHNEIDERMAN: Explanation.

SENATOR MONTGOMERY: Explanation.

THE PRESIDENT: Senator Nozzolio, an explanation has been requested.

SENATOR NOZZOLIO: Madam President, could you please tell me who asked

for the explanation.

THE PRESIDENT: There were a couple of voices. Senator Schneiderman, I believe, was one; Senator Montgomery the other.

SENATOR NOZZOLIO: Thank you, Madam President.

Madam President and my colleagues, this measure amends the Correction Law relative to making inmates -- requiring inmates to make medical copayments. That anyone who travels through the halls of the Legislative Office Building can hear people discuss how those taxpaying citizens who are receiving insurance, those who are on Medicaid -- the copayment is an issue that is with us each and every day.

The purpose of this measure is to require inmates in our state correctional facilities to make a $7 copayment for medical treatment. This copay is far less than the copayment that others would have to make if they were not in prison yet still insured.

Emergency care would not be denied under this legislation. And this makes

inmates partially responsible for their health care expenses. Even though it does that, it does not deny inmates medical treatment for lack of ability to pay.

This requirement is currently used by the Federal Bureau of Prisons and other states, such as California, Connecticut, Ohio, Pennsylvania, and New Jersey, where there is no discernible difference between the health care in those states for prison inmates and the health care in our state.

THE PRESIDENT: Senator Schneiderman.

SENATOR SCHNEIDERMAN: Thank you. If the sponsor would yield for a few questions.

THE PRESIDENT: Senator Nozzolio, will you yield for a question?

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

THE PRESIDENT: You may proceed, Senator Schneiderman.

SENATOR SCHNEIDERMAN: Thank you.

Through you, Madam President, I wonder if the sponsor is familiar with the

fact that a substantial portion of the increases in health care spending in New York State's prisons are actually coming from the Family Benefit Fund.

SENATOR NOZZOLIO: Madam President, I am not familiar with that.

SENATOR SCHNEIDERMAN: Through you, Madam President, the Family Benefit Fund was created to help the families of inmates maintain ties with loved ones behind bars. In fact, according to the state-issued magazine DOCS Today, October 1998 issue, about 25 percent of the increases in health care costs that are going forward on an annual basis, being added on an annual basis to provide health care for prisoners in New York State, is coming from this fund that is supposed to provide inmates and their families with the ability to maintain contact, with a view ultimately to reentry into the community.

So my question for the sponsor is while we're looking at this question of health care costs, is it a proper use of a fund that is explicitly designed to help families of inmates maintain ties, to use that to pay for

inmate health care?

SENATOR NOZZOLIO: Madam President, I would ask Senator Schneiderman if he believes that the variety of medical services provided our prison inmates in the state correctional facilities are appropriate costs.

Some of my working poor in my district, many of my working poor that I represent do not have anywhere near the same type of health care coverage that is provided by our prison inmates, not to mention some of the more questionable health care costs.

My constituents ask me time and time again why are hormone replacement therapies allowed in prison, why are sex change operations paid for by the taxpayers in prison. Many health, quote, unquote, related costs that the taxpayers must fund because of one court decision or another, because of one administrative decision or another, my citizens ask me is that an appropriate cost of medical services that the taxpayers are bearing. Most of them, if not all of them, say no, it is not an appropriate use.

Senator Schneiderman asked me, Madam President, if I believe the prison fund, the family fund is an appropriate source of revenue for the health-care-related costs of inmates. I can only answer Senator Schneiderman's question by saying I'm not sure what services are provided, I'm not sure to what extent those services are provided by this fund.

I can only say that we have the most extensive health care in our prisons today of any state in the union and that if the state of California, New Jersey, four or five others that I had previously mentioned -- Connecticut, Ohio, Pennsylvania -- if all of those states can require copayments, not to mention the federal prison system, why should New York not be in that category.

ACTING PRESIDENT McGEE: Senator Schneiderman.

SENATOR SCHNEIDERMAN: Thank you, new Madam President. Through you, if the sponsor would continue to yield.

ACTING PRESIDENT McGEE: Senator Nozzolio?

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

ACTING PRESIDENT McGEE: He continues to yield. Thank you.

SENATOR SCHNEIDERMAN: Who is it that determines what medical procedures are available to inmates in the New York State prison system?

SENATOR NOZZOLIO: Madam President, I don't know who determines specifically. I know that each facility, though, does have a doctor present, and I would assume that the doctor determines what type of medical procedures are necessary.

In terms of programs, in terms of equipment, in terms of availability, I do not know who makes those decisions.

SENATOR SCHNEIDERMAN: Thank you, Madam President. I'd like to thank the sponsor for his answers.

On the bill.

ACTING PRESIDENT McGEE: Senator Schneiderman, on the bill.

SENATOR SCHNEIDERMAN: There is not a system in effect today, as people might

gather from the discussion we just had, whereby there is a group of doctors running amuck providing inappropriate medical services. New York State has regulations designating what medical procedures are available, providing guidelines.

And the point of health care in a prison facility is that while we are punishing people, we put an end to torture some decades ago in the United States and most other countries. And it is pretty well accepted, I think, everywhere in the industrial world that if you don't provide health care to people while you're imprisoning them, you're essentially reinstituting the practice of torture.

The fact of the matter is the current proposal is punitive in a way that I believe -- and I hope, you know, someday even to convince the sponsor of this -- is really punitive in a way that is counterproductive.

If you're working in a prison system, if you're working in a correctional system, there are two things you want to accomplish. One is you want to punish people.

The other is you have to recognize the fact that these people are all coming back into our communities at some point.

There are very few people who are never coming back. Some people pass away in prison; some people have extremely long sentences. But virtually everyone in the New York State prison system is going to be faced with reentry at some point down the road.

And the point of the Family Benefit Fund and the point of providing some minimum health services is that these people should not be cut off from society. These people should not be put into a situation where they have to choose between calling their loved ones and going to see a doctor.

The medical copays are not the only expenses of inmates. They have to pay for other necessities for prison life. They don't have any choice of who their health care provider is. If an inmate, under this proposal, needs to have a disk removed from their back, they would pay the $7 copay. If the inmate needs to get an aspirin under this proposal, the inmate would pay a $7 copay.

So I think that what we're talking about here is something that really is not rationally related to the provision of medical services and the payment for the provision of medical services. It is simply a punitive measure to put inmates in a very, very difficult position.

Unfortunately, I think most people would choose health care and they may choose not to maintain contact with people in the community. They may choose not to spend money on necessities for educational programs, which inmates are required to do in many programs in New York State's prisons.

So I would urge the sponsor that while I think pretty much everyone here agrees that there is -- you know, that punishment is one of the purposes of incarceration, that we can never lose sight of the fact that these people are coming back into our communities.

There are proposals for reentry programs that we should be looking at. I know Senator Montgomery has spoken often about this. And as a part of the proposal for reforming our nonviolent felony laws, Senator

Paterson included a strong reentry component.

But it undercuts all our efforts to deal with reentry issues if we're going to discourage people from getting needed medical care while they're in prison. The point of this is to keep people as healthy as we can, to give them as much of a chance as we can so that they can reenter their communities successfully, so they break out of the cycle of recidivism.

And based on my own personal experience, my own personal observation, at any given point in time there is a substantial portion of the population in any prison that is ready to make a break out of the cycle. And if we do not provide them with the means to make that break, we're costing ourselves more money, we're costing society more in the way of pain because they're going to just get dropped right back into that cycle of recidivism, commit more crimes.

Let's be reasonable and rational about this. Punishment, yes. Not torture, not incapacitation, not something that discourages people from maintaining contacts

in the community.

I'm going to vote no and I urge everyone to vote no.

ACTING PRESIDENT McGEE: Senator Stavisky.

SENATOR STAVISKY: On the bill, Madam President.

My objection is not with the concept but with the bill itself. Health care in our prisons is a very expensive item. And I frankly don't think there are very many sex-change operations going on in the prison system.

However, having said that, I remember the debate two years ago where I asked Senator Nozzolio about the copayments. Because if somebody had a headache and wanted an aspirin, it would cost them $7, and I thought that was a little unfair.

The money that's raised from the copayments does not go to benefit the prison system or the individual prison itself. It doesn't go into a fund set aside in that particular facility to help promote good health among the inmates. Instead, I

understand that it goes -- I'm sorry, it goes into the general fund of the prison, not to that prison itself to pay for that inmate's medical care.

It seems to me that there are many inmates with a multitude of problems, whether it be AIDS or drug problems or whatever. And to have a $7 copayment each time they visit is, I think, a burden upon the inmate. And the inmate as a result will be less likely to seek the health care that's available in the prison system.

And lastly, when that prisoner is released, it seems to me that we want them released in good health so that they don't infect the general population when they're out.

So I suggest that while Senator Nozzolio's objectives I understand, and I don't disagree, I disagree with this particular bill because I just don't think it resolves the issue of promoting better health among the prison population.

And for that reason, Madam President, I will vote no.

ACTING PRESIDENT McGEE: Senator Onorato.

SENATOR ONORATO: Just quickly on the bill, Madam President. We've had this bill before us for many, many years.

And as everybody in this chamber knows, I'm as strict a law and order man as anybody in this chamber, and I'll match records with them.

But this bill is very, very harmful to the individual. When you tell me that a prisoner making probably a dollar a day, or $2 -- if he's making that much -- is going to have to go down to the infirmary and make a $7 copay, it's just not fair at all.

Now, if you want to punish the goldbrickers that you have in prisons, we had the same situation when I was in the Army. I was in the Medical Corps in the Army, in the 118th Medical Battalion. And we had people reporting on sick call. Those that reported too often and were not sick were given the just medication that they needed -- mostly KP or guard duty.

So perhaps we could apply the same

rationale to the prison system. If you're trying to weed out the people who are coming in, drying up the system, you can weed them out based upon the true facts of what they're coming in for. Are they coming in to simply avoid duty of some sort? You punish them. But don't tell me you want to charge an individual who's coming in for a headache or a sprained arm that may require three or four visits and you're going to have the rest of his month or two months' allotment frozen so that he can't buy soap, he can't buy candy or anything else that he would like to use.

The intent is there, but this is not the way to do it. Senator, amend your bill to address the true problem with the goldbrickers.

I'm going to vote no.

ACTING PRESIDENT McGEE: Senator Liz Krueger.

SENATOR LIZ KRUEGER: Thank you, Madam President. On the bill.

ACTING PRESIDENT McGEE: Senator Krueger, on the bill.

SENATOR LIZ KRUEGER: I have

debated Senator Nozzolio on this bill in the past, and my colleagues have raised many of the issues that I share in my objections to the bill.

But I want to go back to a comment that was made in the argument for the bill, that it's very expensive, that we're spending $2,000 per year per inmate. And in fact, that Senator Nozzolio has constituents who can't afford health insurance, as we all have constituents in the state of New York who can't afford health insurance.

And I would argue that we should actually evaluate the New York State prison spending on health insurance as perhaps one of the most cost-effective programs we may be running in New York State. And if we could figure out how to cover health insurance for every New Yorker for just $2,000 a year, we could guarantee, through a universal single-payer system, the kinds of health insurance we need in the state for every New Yorker.

And in fact, the fact that there's only $2,000 spent per year -- which is

dramatically less than the average for health insurance in any other program for any other population in the state of New York, given the fact that we know that the population in our prisons is technically sicker than the general population out in the public -- higher rates of HIV infection, of hepatitis C, of tuberculosis, of mental illness, of aging after having histories of drug use in their lives -- the fact that we are spending only about $160 a month per inmate in health care leads me to believe that rather than the problem you've described of abuse, of seeking medical treatment when none is needed, that probably what we would find -- and I believe there are reports that show it -- is that we have underutilization of the kinds of health care services most preeminently needed in our prisons.

I understand that less than 10 percent of the people in our prisons who are diagnosed with HIV or hepatitis C are actually getting treatment for those illnesses. And to reflect back on something one of my colleagues said, these are people

coming back into our communities with infectious diseases.

We should be evaluating in the State of New York what kind of health care we are providing the prisoners of our state. It is not an exorbitant cost in relationship to the cost of incarceration. It is not an exorbitant cost in relationship to the overall average cost for health benefits to each individual New Yorker. It is in the best interests of the State of New York and in the public's health to make sure that people in our prison population get access to adequate health care.

And certainly if one is going to make the argument for a copayment, as you have, one should ask the cost of that copayment in relationship to the wages earned. If they're making 50 cents an hour in prison as opposed to $15 an hour in outside labor, one should ask the question whether that copayment might not be prorated down to 7 cents rather than $7 for comparative purposes.

But again, in agreement with my

colleagues, I don't think this bill serves the public interest and in fact highlights the dangers we would face if we decreased even further the health care that we're providing to prisoners and the risks to our broader communities and the people who are working in our prisons if we were to pass legislation that would increase the rate of infectious and contagious diseases in our prison population.

I'll be voting no. Thank you, Madam President.

ACTING PRESIDENT McGEE: Senator Montgomery.

SENATOR MONTGOMERY: Yes, Madam President. In addition to the issues raised by my colleagues, which I agree with, I just wanted to respond to a sentence or part of a sentence in Senator Nozzolio's memo.

And it says that "The public responds favorably toward changes when criminals are responsible for part of their cost of incarceration."

And I would just like to, for the record, point out to Senator Nozzolio and the public that the people who are incarcerated in

our state make a tremendous contribution to communities throughout the state. And I just wanted to point out a few of them.

One, I know that they help to maintain the highways, the Thruway system. I see them when I drive upstate, above Albany. And I'm aware that they also manufacture all of the highway signs, the street signs. All of the signage in our state is produced in the prison system.

I see them when I go to the functions in the evening, I see that they maintain the floors in this Capitol. I see that they maintain the vehicles of the correctional system.

I know that they help upstate communities in natural disasters. In forest fires, when there are ice storms, they go out as crews to help clear the area and to help communities recover from those disasters.

I know that they help communities upstate repair the furniture and maintain some of the buildings, the local buildings, the libraries and other community facilities.

I know that all of the furniture in

our state, every agency, every office in this building, all of the desks, all of the cabinets, everything that we use is made in the prisons.

I know that the training for guide dogs are done by inmates in facilities. I know that eyeglasses are made for Medicaid patients in the facilities. I know that the food that is prepared for the inmates in the system throughout the system is prepared by themselves.

And on and on and on. That's a very short list.

So for Senator Nozzolio to imply that they don't pay I think is a little disingenuous, especially -- and I think it's very important that we tell the public the truth. And the truth is that corrections is in fact usurping a large percent of the manufacturing industry in our state. And we should be talking about that.

So, Senator Nozzolio, not only do I think it's certainly wrong to charge inmates $7, a $7 copay, I think we should be talking about what are we going to do about the fact

that inmates who work in prison, once they serve their time and come back to their communities, not only don't we want them to come back to spread disease throughout the communities, but we also would like for them to be able to come back to jobs for which they are prepared to do while they are incarcerated, so that they can become productive citizens once again.

So, Madam President, I'll be voting no.

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

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: Senator Bonacic, to explain his vote.

SENATOR BONACIC: To explain my vote.

I have eight correctional facilities in my Senate district, state, plus

one federal. And when I did the analysis of what it costs the taxpayer, it costs about $100,000, one-shot expense for a cell. And for the maintenance of a prisoner, for all his maintenance, it runs about $25,000 a year. That's what the taxpayer pays to incarcerate someone who has committed a crime against society.

Now, the people in jail are there for a reason. They did some bad things. And whether it's by a plea or by a verdict of a judge or a jury, they were found to commit a crime against society and they're paying it by being incarcerated.

But when you -- when you -- when I listen to the arguments over there that paying $7, which is about half of what the private citizen pays, is a continuation of a form of torture, a form of cruel and unusual punishment, I think we're exaggerating and we're losing our focus and we have misplaced values.

We are saying that it's reasonable and modest to make a contribution to your copay. The people that work in prisons do so

because they get extra money and they don't have to do the normal routine. They like work detail. That's a benefit to them, believe it or not, in the jails.

So I, for one, will be voting in the affirmative. And if we had this copay, maybe we could give more money for TAP, maybe we could give more money to affordable health care to the people, the private citizens who did not commit crime against the society.

Thank you, Madam President.

ACTING PRESIDENT McGEE: Senator Nozzolio, to explain his vote.

SENATOR NOZZOLIO: Thank you, Madam President. I rise to explain my vote. And I wish to thank Senator Bonacic and all those on both sides of the aisle who participate in this debate.

I wish to address just two issues. The first, I believe, was the question Senator Stavisky raised about monies collected under this provision. I point out to page 2, lines 9 and 10 of the legislation, which indicate that all monies collected pursuant to this law will be made available for the operation of

the particular correctional facility.

And as Senator Bonacic so well indicated, that does relieve the cost of running our prisons and in effect frees up funds for extremely important other issues and needs of the state.

The second issue was a continued theme raised by my friends on the other side of the aisle, which talked about inmate health. I agree that we have serious health care issues within our prisons. I also question, though, how anyone could not support mandatory testing of HIV, because right now we do not have a testing process for HIV within our prison system.

I very much would like to see additional health care issues addressed, particularly for inmates who are going to be out into the general population. And yet we've seen a consistent refusal to explore additional health care needs by those who wish to not adequately test those inmates behind bars.

Madam President, thank you very much for the opportunity to explain my vote.

I am supporting this measure, and I urge my colleagues to do likewise.

ACTING PRESIDENT McGEE: Senator Schneiderman, to explain his vote.

SENATOR SCHNEIDERMAN: Thank you, Madam President.

Clearly there are serious problems in our correctional system. I really just want to urge that in light of particularly Senator Bonacic's comments, we focus, if we're concerned about money and prisons and waste of money that we could better use elsewhere, on the fact that the New York State Senate is the obstacle right now to reforming the sentencing laws which are keeping thousands of first-time nonviolent offenders in prison for extended periods of time.

And I know how expensive it is. You know, the old expression is it's much cheaper to send prisoners to Ivy League colleges than it is to keep them incarcerated.

Let's think about a little community investment. Let's think about a little investment at the front end of the system to prevent us from having to spend the

money on cells down the road.

But at the very least, this session before we adjourn, let's try and deal with the fact that this house stands in the way of getting thousands of people who do not need to be occupying those expensive cells in prison. Let's reform our sentencing laws before we adjourn this year.

Thank you, Madam President. I vote no.

ACTING PRESIDENT McGEE: Announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 781 are Senators Andrews, Breslin, Brown, Dilán, Duane, Hassell-Thompson, L. Krueger, Lachman, Marchi, Montgomery, Onorato, Oppenheimer, Parker, Paterson, Sabini, Schneiderman, A. Smith, M. Smith, and Stavisky. Ayes, 41. Nays, 19.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 812, by Senator Seward, Senate Print 7181, an act to amend the Insurance Law, in relation to

homeowners insurance.

SENATOR SCHNEIDERMAN: Explanation.

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

SENATOR SEWARD: Certainly, Madam President.

This bill deals with NYPIUA, which is the New York Property Insurance Underwriting Association. NYPIUA is the insurer of last resort for property insurance. It affords coverage to commercial and residential policyholders who are unable to obtain their insurance in the voluntary market.

NYPIUA is due to expire on April 30th. This legislation would extend NYPIUA until June 30th of this year. It's a two-month extension. And this short-term extender will give us a better opportunity to further evaluate the proper term for the next extension of NYPIUA.

ACTING PRESIDENT McGEE: Senator Breslin.

SENATOR BRESLIN: On the bill,

Madam President.

ACTING PRESIDENT McGEE: Senator Breslin, on the bill.

SENATOR BRESLIN: I agree with the assessment of my colleague, Senator Seward, that NYPIUA is the insurance of last resort. And it's important it not be taken lightly.

It was initiated in 1968, when there were riots going on in this state and across this country, and the federal government said if the states passed a law, they would provide some reinsurance for riots, for rioting.

And people took advantage of that because they couldn't get insurance in the voluntary market. And that's grown over the years. It's grown to now where over 50,000 residences are covered by NYPIUA, over 7,000 businesses are covered.

But we play games with it in this Legislature. It's been in existence since 1968. The Assembly has passed a permanent NYPIUA law six times. The Governor, in 1998, gave to this Legislature a bill that would

make it permanent. The Insurance Department would like this bill to be permanent. Yet as recently as last April, we attempted to tie this with another piece of legislation, flex rating, playing games with those 50,000 people who insure, those 7,000 businesses. And we are again doing the same thing.

I will vote for this bill, because it does in fact extend NYPIUA. But NYPIUA, even during last year, before it passed, there was a gap when people weren't covered. So every day about 250 people who take advantage of NYPIUA, if there's that gap, their policies will lapse. They'll lapse because the New York State Legislature has seen fit to play games with NYPIUA.

The importance, as I said at the beginning, cannot be understated. We must recognize that this is a critically important piece of insurance legislation affecting the lives, disproportionately, of poor people. There's over 30,000 in New York City alone who take advantage of this insurance. There's over 14,000 in Long Island who take advantage of this insurance. This law should be

permanent.

Thank you, Madam President.

ACTING PRESIDENT McGEE: Senator Krueger.

SENATOR LIZ KRUEGER: Thank you, Madam President. On the bill.

ACTING PRESIDENT McGEE: Senator Krueger, on the bill.

SENATOR LIZ KRUEGER: I share Senator Breslin's analysis of the situation, and his frustration. We passed this bill last year on June 19th, the last day of session, in an eleventh-hour move, not unlike putting off rent regulation decisions until the last minute, a switch on lobbying reform until the last minute.

This was offered last year as a take-it-or-leave-it deal as the Senate left, forcing the Assembly to act on additions to the bill that did not have to do with the NYPIUA policies.

I believe that it is the worst model of government in those situations, and this where we know, we all agree this is an important program, we know we are putting

individuals and businesses at risk of losing their insurance coverage, we know that we're potentially forcing a lapse of coverage involving thousands of cancellation notices and the inability to start up new policies, and we know that we want this law to continue and it should be made permanent. Other than Alabama and New York, we are the only states that haven't made this law permanent.

And so my frustration is the same as Senator Breslin's, but I thought it was important to stand up and say this is not how we ought to be operating in both houses of the Legislature. The Senate should pass a permanent bill and at minimum a multiple-year bill at this late in the session, rather than doing exactly -- and I have to assume, Senator Seward -- it's exactly what we did last year, putting this off with a two-month extender, so that at the last moments of the last day of session there will be some deal offered unrelated to this important insurance coverage continuing, where it's a take-it-or-leave-it trade-off deal with the other house.

It is not in the best interests of

the people of New York State. The Governor has called for this bill, the insurance industry has called for this bill, tens of thousands of people are dependent on this insurance. And we should know better and act better than what we're doing today.

Having said that, I feel I cannot not vote for this bill, because we have to make sure that it doesn't go -- doesn't sunset on April 30th. But I suppose shame on us will be my closing.

Thank you, Madam President.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT McGEE: The bill is passed.

Senator Connor.

SENATOR CONNOR: Thank you, Madam President. Madam President, may I have

unanimous consent to be recorded in the negative on Calendar Number 781.

ACTING PRESIDENT McGEE: Without objection.

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

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

ACTING PRESIDENT McGEE: There is no housekeeping at the desk.

SENATOR ANDREWS: Madam President.

ACTING PRESIDENT McGEE: Senator Andrews.

SENATOR ANDREWS: Madam President, I'd like to have unanimous consent to be recorded in the negative on Calendar 725.

ACTING PRESIDENT McGEE: Without objection.

Senator Kuhl.

SENATOR KUHL: Yes, Madam President. I'd like unanimous consent to make a statement.

I would just like to remind the

members that they have been invited by myself and Assemblyman Magee to indulge in the representative products coming from the New York wine industry and also the food industry. There's an event being held in Room 711A at 5:15; it goes through 7:30.

And I'd just kind of like to remind the members that along with the delicious wines that are manufactured from all parts of the state, there will be a menu. And just to read some of those items that are on the menu, it's smoked salmon and smoked trout from the Catskills, St. Lawrence River caviar, deep-fried monkfish with black hazelnuts, buffalo hunter-style, chicken cacciatore, natural New York Angus beef, herb-encrusted lamb, penne rigata, Sorrento ricotta cheesecake, apple tarts and pumpkin tartlets, just to mention a few of the delicacies which are meant to showcase New York products.

You and all your staffs are invited. We welcome you.

(Applause.)

ACTING PRESIDENT McGEE: Thank you, Senator Kuhl. I suspect we're all very

hungry.

Senator Diaz.

SENATOR DIAZ: Thank you, Madam President. I would like to ask unanimous consent to vote in the negative on Calendar Number 781.

ACTING PRESIDENT McGEE: Without objection.

SENATOR DIAZ: Thank you.

ACTING PRESIDENT McGEE: Senator Skelos.

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

ACTING PRESIDENT McGEE: There is no housekeeping at the desk.

SENATOR SKELOS: There being no further business to come before the Senate, I move we stand adjourned until Wednesday, April 28th, at 11 a.m.

ACTING PRESIDENT McGEE: On motion, the Senate stands adjourned until Wednesday, April 28th, at 11:00 a.m.

(Whereupon, at 4:06 p.m., the Senate adjourned.)