NEW YORK STATE SENATE

THE STENOGRAPHIC RECORD

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3:07 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: In the absence of clergy, may we 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, Sunday, April 10, the Senate met pursuant to adjournment. The Journal of Saturday, April 9, 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 Farley.

SENATOR FARLEY: Thank you, Madam President.

On behalf of Senator Rath, Madam President, I wish to call up her bill, Senate Print 2637, recalled from the Assembly, which is now at the desk.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: Calendar Number 227, by Senator Rath, Senate Print 2637, an act to adjust.

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

THE PRESIDENT: The Secretary will call the roll on reconsideration.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 40.

SENATOR FARLEY: Madam President, I now offer the following amendments.

THE PRESIDENT: The amendments are received.

SENATOR FARLEY: On behalf of Senator Seward, Madam President, on page 29 I offer the following amendments to Calendar 369, Senate Print 81A, and I ask that the bill retain its place on the Third Reading Calendar.

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

SENATOR FARLEY: Madam President, on behalf of Senator Maltese, I move that the following bill be discharged from its respective committee and be recommitted with instructions to strike the enacting clause. That's Senate Print 2310.

THE PRESIDENT: So ordered.

SENATOR FARLEY: Madam President, on behalf of Senator Robach, I wish to call up his bill, Senate Print 2165, recalled from the Assembly, which is now at the desk.

THE PRESIDENT: The Secretary

will read.

THE SECRETARY: Calendar Number 123, by Senator Robach, Senate Print 2165, an act to amend the Retirement and Social Security Law.

SENATOR FARLEY: I now move to reconsider the vote by which this bill was passed.

THE PRESIDENT: The Secretary will call the roll upon reconsideration.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 40.

SENATOR FARLEY: Madam President, I now offer the following amendments.

THE PRESIDENT: The amendments are received.

SENATOR FARLEY: On behalf of Senator Fuschillo, Madam President, on page 30 I offer the following amendments to Calendar 377, Senate Print 1430, and I ask that that bill retain its place on the Third Reading Calendar.

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

SENATOR FARLEY: Thank you.

THE PRESIDENT: Senator Skelos.

SENATOR SKELOS: Madam President, there's a Resolution 1359 at the desk by Senator DeFrancisco. Could we have it read in its entirety and move for its immediate adoption.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: By Senator DeFrancisco, Legislative Resolution Number 1359, recognizing the White Ribbon Campaign sponsored by Vera House of Syracuse, New York, to take place the week of April 8-17, 2005.

"WHEREAS, Vera House was founded in Syracuse in 1977 by a group of concerned individuals led by Sister Mary Vera, CSJ, who recognized the need for emergency sheltering service for women in crisis; and

"WHEREAS, Since 1977, the mission of Vera House has evolved to include outreach and advocacy services, domestic violence education programming, children's counseling services, the Syracuse Area Domestic Violence Coalition, and a domestic violence education

program for male perpetrators of violence; and

"WHEREAS, On January 1, 2005, Vera House merged with the Rape Crisis Center. In so doing, two staffs became one, with the hope that what had been two agencies with similar missions could more than double the positive work each has done for the Central New York community; and

"WHEREAS, While its mission continues to change as it continues its 30-year tradition of providing quality service, the White Ribbon Campaign continues in 2005 for the 11th straight year; and

"WHEREAS, The White Ribbon Campaign was born in Canada, where on December 6, 1989, an enraged gunman roamed the corridors of Montreal's Ecole Polytechnique for 45 minutes and killed 14 women. Almost immediately thereafter, what became known as the Montreal Massacre became a galvanizing moment in which mourning turned into outrage about all violence against women; and

"WHEREAS, The shootings led many men to reflect on the fact that while women's organizations had been working for years to

end violence against women, many men regarded it as a 'woman's issue,' even though the vast majority of violent acts against women are, in fact, committed by men; and

"WHEREAS, The White Ribbon Campaign began in Canada on December 6, 1990, the first anniversary of the Montreal Massacre; and

"WHEREAS, The goals of the campaign are to get men involved in working to end men's violence against women, to raise awareness of this problem in the community, and to support organizations that deal with the consequences of men's violence against women; and

"WHEREAS, Vera House brought the White Ribbon Campaign to Syracuse from Canada and conducted its first campaign in 1995; and

"WHEREAS, It is the goal of this year's White Ribbon Campaign to distribute 40,000 white ribbons to individuals, businesses, educational institutions, community organizations, and places of worship, and to members of the New York State Senate. Last year's campaign raised over $51,000; and

"WHEREAS, By wearing a white ribbon during the campaign, men acknowledge the important role men themselves need to play in the efforts to end violence against women; and

"WHEREAS, Crime statistics indicate that 95 percent of the victims of domestic violence are women. However, it is important to recognize that individuals in same-sex relationships are also abused. Further, 87 percent of battered women report that their children have witnessed their abuse; and

"WHEREAS, Vera House's 2005 White Ribbon Campaign features a series of events that are designed to further public recognition of the need to 'End the Silence and Stop the Violence'; and

"WHEREAS, Among the events referenced above are an April 8th march from Clinton Square to Armory Square in Syracuse, where white ribbons will be tied to trees and lampposts to mark the start of this year's campaign; a friendly competition among high schools in Syracuse and the Syracuse suburbs to see which school's students will win a prize for selling the greatest number of

ribbons; a 'Changing Attitudes' basketball tournament at the Boys and Girls Club of Syracuse; and ribbon distributions at performances of both Syracuse Stage and the Syracuse Symphony Orchestra; and

"WHEREAS, Proceeds from the 2005 White Ribbon Campaign will be used to help fund the Alternatives Program. This program is a domestic violence education class for men who have been violent and/or abusive to their partners and accepts both court-mandated and nonmandated participants; and

"WHEREAS, During the week of April 8-17, 2005, as many as 40,000 individuals in the Syracuse community are expected to be hard at work raising both funds and awareness to support the Alternatives Program; now, therefore, be it

"RESOLVED, That this Legislative Body pause in its deliberations to recognize the White Ribbon Campaign sponsored by Vera House of Syracuse, New York, to take place the week of April 8-17, 2005, and be it further

"RESOLVED, That a copy of this resolution, suitably engrossed, be transmitted

to Randi Bregman, executive director of Vera House."

THE PRESIDENT: Senator DeFrancisco.

SENATOR DeFRANCISCO: Madam President, I rise in support, as I do every year, of this White Ribbon Campaign. I think we've been doing this in the Senate at least six years now.

I can see Senator Stachowski is wearing the white ribbon. And we've presented them to each of the Senators to wear today in commemoration of this campaign.

You know, it's --

THE PRESIDENT: Please take the conversations out of the chamber.

Excuse me. Senator DeFrancisco, I think you can be heard better now. Go ahead.

SENATOR DeFRANCISCO: Yes. And for those of you who didn't hear all of the resolution, I think it's important to indicate that what we're doing by wearing white ribbons is men are acknowledging their role to play in ending domestic violence -- or any violence against women, for that matter.

And I'm proud to support this every year and bring this statewide so that the efforts of our great Vera House and Rape Crisis Center in Syracuse, the word is spread throughout the state.

Joining us today are Dottie Hetnar, Laurie Murray, and Jerome Hall in the gallery.

And I would urge all of you to join me in sponsoring this resolution. Or, put it a different way, if you don't want to sponsor it, please notify the chair.

Thank you very much.

THE PRESIDENT: Senator Hassell-Thompson.

SENATOR HASSELL-THOMPSON: Thank you, Madam President.

Today is the beginning of Crime Victims Week. And to you, Senator DeFrancisco, I commend you on this legislation and your support of it and let you know that I too am very supportive.

This morning on the steps of Borough Hall in the Bronx, the Bronx DA and the Bronx borough president, together with Assemblywoman Naomi Rivera and myself,

declared our commitment to this effort. At the borough president's address several weeks ago, he appointed Assemblywoman Rivera and myself to chair the task force on domestic violence for the borough of the Bronx.

And the stories and just the incidences that have come to our attention just in these last few weeks -- the young woman who was just recently buried in the Bronx because her boyfriend, who professed to love her so, killed her.

Many of these acts of violence against women -- and acts against men. Domestic violence is not only an act against women; it is not gender-specific. The greatest preponderance of incidences happen to be among women. One in every four women is a victim of domestic violence. The worst, one in every five teenage women today are victims of domestic violence.

So it is our intent to raise the awareness of all citizens of the state of New York that we have a zero tolerance for this kind of behavior. And for this, I congratulate you and thank you, Senator

DeFrancisco, for the lead that you have taken on this issue.

THE PRESIDENT: The question is on the resolution. All in favor please signify by saying aye.

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: The resolution is adopted.

Senator Skelos, do you wish to open up the resolution?

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

THE PRESIDENT: First of all, pursuant to Senator DeFrancisco's suggestion, do you wish to open up the resolution to all the members' sponsorship?

SENATOR SKELOS: Yes.

THE PRESIDENT: Any member who does not wish to cosponsor the last resolution, please notify the desk.

The Secretary will read the noncontroversial calendar.

THE SECRETARY: Calendar Number 67, by Senator Saland, Senate Print 471, an act to amend the Social Services Law, in relation to abandoned infants.

THE PRESIDENT: Read the last section.

THE SECRETARY: Section 12. This act shall take effect on the 60th day.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 51.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 68, by Senator Skelos, Senate Print 488, an act to amend the Family Court Act and the Domestic Relations Law, in relation to abandoned infants.

THE PRESIDENT: Read the last section.

THE SECRETARY: Section 10. This act shall take effect on the 60th day.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 51.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 69, by Senator Skelos, Senate Print 497, an act to amend the Domestic Relations Law, in relation to parents and other persons.

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, 51.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 239, by Senator Farley, Senate Print 947, an act to amend the Tax Law, in relation to the mortgage recording tax.

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, 51. Nays, 1. Senator Valesky recorded in the negative.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 245, by Senator Rath, Senate Print 1776, an act to amend Chapter 579 of the Laws of 2004, amending the Tax Law.

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, 53.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 292, by Senator Balboni, Senate Print 178A, an act relating to the procurement process of homeland security.

THE PRESIDENT: Read the last section.

THE SECRETARY: Section --

SENATOR SCHNEIDERMAN: Lay it aside.

THE PRESIDENT: The bill is laid aside.

THE SECRETARY: Calendar Number 359, by Senator Trunzo, Senate Print 424, an act to amend the Vehicle and Traffic Law, in relation to form of number plates.

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.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 402, by Senator Maziarz, Senate Print 3251A, an act to amend the Labor Law, in relation to contracts for public work.

THE PRESIDENT: Read the last section.

THE SECRETARY: Section 6. This

act shall take effect immediately.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 55.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 415, by Senator Nozzolio, Senate Print 1324, an act to amend the Correction Law, in relation to requiring inmates.

THE PRESIDENT: Read the last section.

SENATOR SCHNEIDERMAN: Lay it aside.

THE PRESIDENT: The bill is laid aside.

THE SECRETARY: Calendar Number 422, by Senator Morahan, Senate Print 1503 --

SENATOR SKELOS: Lay it aside for the day, please.

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

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

SENATOR SKELOS: Thank you, Madam

President. If you'd ring the bells to indicate to the members that we're about to have the reading of the controversial calendar.

THE PRESIDENT: The Secretary will ring the bell.

And the members should take their seats to begin the controversial calendar.

The Secretary will read.

THE SECRETARY: Calendar Number 292, by Senator Balboni, Senate Print 178A, an act relating to the procurement process.

SENATOR SCHNEIDERMAN: Brief explanation, please.

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

SENATOR BALBONI: Thank you, Madam President.

The bill before us, this is a result of several studies that were done at the federal government level, particularly beginning with the 2004 Conference of Mayors report that found that 90 percent of the homeland security dollars that were issued by -- well, actually through the

Washington-based Homeland Security Department were not reaching local first-responders.

In reaction to that, then-Secretary of Homeland Security Tom Ridge put together a task force on funding to see where the monies, the dollars were not getting down to the local municipalities. That's this report -- I was privileged to serve on it -- representing the 50 states.

And one of the key recommendations of the report was that many of the safeguards that we put in place at the state level have in fact resulted in a delay in the processes of getting the material and resources down to the localities.

This bill here represents taking that recommendation and putting it into action and essentially says that the pre-audit authority of the Comptroller will be tailored so that it does not apply only to federally approved resources off of a federally approved list for federal dollars only.

And this -- lest you think that I am saying something that the Comptroller's office is not interested in, today they

announced at a press conference their own steps to try and streamline the process. Specifically, the Comptroller announced today that he is going to change -- he wants to change the competitive requirement bid for all items between 15,000 raised to 50,000.

And the point of that is that 23 percent of all the contracts that the Comptroller approves are essentially before this -- below the $50,000 threshold. And he believes that's a huge amount of time and resources that shouldn't be spent. So he's trying to streamline it.

That's what this bill does. We can get more money into the hands of our first-responders by adopting this.

And to note that the initial recommendation was for Congress to exempt these types of funds from the Cash Management Act for Localities. They have acted on that too. So we would be the second state to work on this in the nation.

Thank you, Madam President. I hope that was quick enough.

SENATOR SCHNEIDERMAN:

Explanation satisfactory.

THE PRESIDENT: Senator Malcolm Smith.

SENATOR MALCOLM SMITH: Yes, Madam President, would the sponsor yield for a question.

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

SENATOR BALBONI: Yes, I will, Madam President.

THE PRESIDENT: You may proceed, Senator Smith.

SENATOR MALCOLM SMITH: Senator Balboni, could you give me a brief explanation of what this particular piece, what impact it will have on minority and small businesses?

SENATOR BALBONI: Sure.

Senator Smith, as you know, it is the Executive Law that specifically authorizes the bidding requirement that minority-owned businesses participate -- I'm sorry, yeah, 15A of the Executive Law.

This does not affect that law. What it affects is the pre-audit authority, which would not affect competitive bidding at

all. As a matter of fact, we believe that this could remove some of the red tape so that minority-owned businesses could participate in a fuller manner.

SENATOR MALCOLM SMITH: Explanation satisfactory.

THE PRESIDENT: Does any other member wish to be heard?

Senator Hassell-Thompson.

SENATOR HASSELL-THOMPSON: On the bill, Madam President.

THE PRESIDENT: You may proceed.

SENATOR HASSELL-THOMPSON: When this bill first came to committee, I gave Senator Balboni a thorough going-over. And I do have to say that it's probably one of the first times that I've really -- I've felt respected as a member of the Minority conference in a legislative action.

He pulled this bill back twice in order to ensure that the concerns that we raised were addressed. And for that, I wanted to publicly thank him and tell him that I appreciate that and hope that that will become the norm, as opposed to the exception, here in

these chambers.

THE PRESIDENT: The debate is then closed.

The Secretary will ring the bell.

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 PRESIDENT: The Secretary will announce the results.

THE SECRETARY: Ayes, 57.

Those Senators absent from voting: Senator Parker.

THE PRESIDENT: The bill is passed.

The Secretary will continue to read.

THE SECRETARY: Calendar Number 415, by Senator Nozzolio, Senate Print 1324, an act to amend the Correction Law, in relation to requiring.

SENATOR LIZ KRUEGER: Explanation.

THE PRESIDENT: Senator Nozzolio,

an explanation has been requested.

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

THE PRESIDENT: Senator Krueger.

SENATOR NOZZOLIO: Thank you, Madam President. Could I have some order, please.

THE PRESIDENT: Yes.

SENATOR NOZZOLIO: Thank you, Madam President.

This bill was passed by the Senate each year since 1997. The purpose of the measure is to require inmates in state correctional facilities to make a modest $7 copayment for medical treatment.

While this legislation makes inmates partially responsible for their medical treatment, no inmate would be denied medical treatment for the lack of ability to pay. Emergency care would not be denied under this legislation. Medical care for chronic conditions would not be denied under this legislation.

This requirement of medical

copayment is currently employed in the Federal Bureau of Prisons and other states, such as California, Connecticut, Ohio, Pennsylvania, New Jersey, where there is no discernible difference between the health care of inmates in those states and New York.

This measure is carried in the Assembly by Member of the Assembly Gunther, Assemblywoman Gunther.

THE PRESIDENT: Senator Krueger.

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

THE PRESIDENT: You may proceed.

SENATOR LIZ KRUEGER: Thank you.

We debated this bill last year and perhaps the year before, Senator Nozzolio, so I think I will just, rather than ask questions again, highlight some of the arguments I had against the bill last year and some new additional data that's been brought to my attention since we last discussed this bill on the floor.

You made the argument in your presentation and your explanation that a $7 copay is not unreasonable and is perhaps

parallel to copays that others not in the prison system pay.

Again, just to highlight for my colleagues, if you are in the prison system, where wages may be nonexistent or incredibly low -- 50 cents per hour as opposed to $6 per hour minimum wage outside of prison -- a $7 copay in order to visit a doctor to get a Tylenol could be 14 hours' worth of labor. And therefore, I would argue that a $7 copay for someone in the New York State prison system is an enormous amount of money.

I would also make the argument against this bill that in fact health care for prisoners is really an issue of public health. And in fact, since the assumption is that prisoners come back into our communities after leaving jail, that it is a high priority for protection not only of the prison population's health, but for the overall population of New Yorkers, that we don't create public health crises in our prisons.

And in fact, as I will go over in a moment, some of the data shows that we already have public health crises in our prisons.

There is an argument that prisoners don't have to make the payment because it can be deducted from their account at a later date. But in fact, research shows that prisoners are already routinely being denied access to health care in our New York State prison system.

And so I would make the argument that in fact requiring an additional point of entry or access to health care will only increase an already severe problem with lack of access to health care in the New York State prison system.

There was a recent report, it was a three-part series in the New York Times in late February, early March, and it talked about the problems of the health care system in the New York State prison system. And it highlighted people who had died from relatively minor illnesses because they couldn't get access to health care.

And there was a year-long examination by the New York Times leading to this three-part series, and it was an indictment, in my opinion, of the failure of

the New York State Corrections Department to ensure adequate access to 21st-century health care for members of our citizenry who, granted are guilty of crimes; that is why they are in prison. But there are also standards for humane treatment that we are obligated to for people in the prison system.

And in fact I would argue that, based on the year-long study by the New York Times and other investigators, particularly of a company called Prison Health Systems -- whom we contract out health care services to in many jails in the State of New York, both local and state -- that we have serious questions we ought to be investigating to address the quality of health care in our prisons.

And I hope that Senator Nozzolio will support investigating those problems in our prisons. But I would argue that that data even further argues against implementing a copayment at this time.

I would also argue that we have to recognize some of the severe concerns for health care and illness in our prisons. We

have already documented, by any number of people who have investigated and testified about prison health care in the state of New York, the fact that we've got incredible understaffing in health care in the prison system; that we have long waits to see physicians; that in several of the prisons it is documented that it is a two-to-four-week wait to see a physician; that we have over 6,000 HIV-infected inmates in the New York State prison system, people who, by definition, if they don't get health care are at a greater rate of risking infection to others, not to mention the ongoing illness expansion to themselves if they don't get health care.

We have an estimated hepatitis C crisis in our prison system, with the Division of Corrections' own analysis showing that about 14 percent of incoming male inmates and nearly 25 percent of incoming female inmates are infected with hepatitis C; again, an epidemic type of rate of illness. And in fact, it is estimated that over the long-term this crisis will cost us more than AIDS has in

the health care system in this state.

We also have a rapidly aging population in our state prison system, a sick and aging population, which also raises the question about how will they get access to health care if they are required to pay a copayment when they are least likely to be in the working population in our prison system.

And in fact, data shows that over the last ten years the percentage of our inmates who are over age 60 has nearly doubled. And in fact, there are all kinds of added costs for chronic illness, long-term-care issues and other terminal illness problems for older prisoners in our system.

But I think Senator Nozzolio in good faith believes that this is a mechanism to bring revenue into the prison system not at expense to the taxpayer. So perhaps the one document I would like to most focus on and refer him to is a document, an audit by the State of California.

And he was right, California has a copayment system in place in their prison

system. And the state office of the auditor in California did a study -- excuse me, the California State Auditor's Office, and found that it cost the State of California $3.2 million to collect $654,000 in copayments.

So if the final and ultimate argument for copayments is that we can save money in the State of New York by requiring copayments to get access to health care in the New York State jail system, we'd better figure out what California did wrong before we go forward. Because I know that Senator Nozzolio does not wish us to implement a system that will actually cost us more to collect money than we would receive through copayments.

So on a whole series of grounds and arguments, I would hope that my colleagues will consider voting against this bill this year.

Thank you, Madam President.

THE PRESIDENT: Senator Montgomery I believe was first.

SENATOR MONTGOMERY: Thank you, Madam President.

I know that we have debated this bill before, and I've made similar statements to what I'm going to make now. But I just want to make sure that each time this bill comes before us, hopefully it won't pass. But certainly I think it is incumbent upon us to acknowledge the implications of this legislation.

I certainly agree with my colleague that we have a number of areas of health crisis in the prison system, mainly -- certainly, namely, one is HIV infection. There's a huge problem with that. And all of those returning from prison with HIV infection or AIDS have the potential of bringing that disease to a community and spreading this problem.

Hepatitis C, similarly. We have a huge number of our inmates, a large percent -- somewhere over a third, I believe -- it's reported have serious mental health issues. There is a great need for substance abuse treatment activities. And so on and so forth.

So to the extent that these issues are not addressed, and certainly because,

according to this legislation, you either have a copayment required when you go in or you have a $7 tax onto the -- onto your record, so that even when you leave, if you have not satisfied the copayment requirements, you will owe it after you leave prison.

I also want to just remind my colleagues here that we have this huge prison industry for which prisoners are paid, I believe my colleague indicated 50 cents an hour. Some people earn up to 60 cents an hour.

And when you sit at your desk, when you get back to your office and you sit at your desk, on your furniture, please understand that it was made by inmates in prison, in our state prison.

And the next time you have a -- or we have a reception down there either, in the Albany Room or the convention center, or wherever we walk to, and you see those young men with green uniforms taking care of our floors, waxing the floors, please understand those are inmates.

And when we pass through our

buildings and we see the beautiful plants that we enjoy so much, that give us pleasure, bring spring into our buildings, please understand that those are done by inmates, particularly in Green Haven, which is not too far from us here.

And understand that the glasses that are used for people who are on Medicaid are made by inmates, and guide dogs are trained by inmates.

Understand that the street signs -- I just received a beautiful street sign in the name of Harriet Tubman, because we renamed or we co-named one of the streets in my district in honor of Harriet Tubman. And I recognize that that wonderful sign came from one of the prisons, because the inmates make our street signs and our highway signage and so forth and so on.

Huge prison industry for which the prisoners are paid 50 cents an hour. And when they're there for long enough, and in certain categories, they earn 60 cents an hour.

So I think that it is just an act of total disregard and inhumanity,

essentially, to have these people now have to pay $7 every time they go to visit the doctor.

Not to mention that for people in my district who have someone in prison, trying to keep in touch with them by telephone, they spend on the average of $3,000 a year just to talk to someone in prison. That is a tax on poor families. Because prisoners don't generally come from wealthy families. The walley people don't go to prison.

Although -- although -- although some elected officials do. But the people from my district are not in that category.

So they pay, and it is ostensibly to cover health care costs in prison. So as a consequence of this tax on poor people keeping in touch with their people in prison, the prison industry or the New York State Department of Corrections is able to reap a 20-or-more-million-dollar benefit from those telephone calls.

So it seems to me that we should draw the line someplace. We should at least say that the funds should be used for health services, that we will make sure that we have

adequate health care treatments for people in prison, because we understand that they will at some point be going back to those communities from which they come.

They are not counted, I will remind you, in the census. They are not counted as part of my district, but they are coming back to my district. And they are coming back to other districts around the state for which they have not been counted or accounted for. So the least that we can do is provide health care for them.

So, Madam President, I'm adamantly opposed to this concept. I think this is -- not only is it a bad bill, it's a mean bill. And we should not be looking to do this kind of thing to people who are in prison but, rather, to hopefully be part of the reform of those people so that they will, one, use health care appropriately and adequately and also, when they come back to their communities, that they will be healthy people.

Thank you, Madam President.

THE PRESIDENT: Senator Stavisky.

SENATOR STAVISKY: I wonder if I

could ask just a couple of questions, if the sponsor would yield.

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

SENATOR NOZZOLIO: Yes, Madam President.

THE PRESIDENT: You may proceed, Senator Stavisky.

SENATOR STAVISKY: Is there any difference between this bill and the one last year?

SENATOR NOZZOLIO: Madam President, there were no changes in the measure.

SENATOR STAVISKY: Thank you, Madam President.

Thank you, Senator.

THE PRESIDENT: Does any other member wish to be heard?

Senator Onorato.

SENATOR ONORATO: On the bill.

THE PRESIDENT: You may proceed.

SENATOR ONORATO: You know, we've discussed this here for the past five years. And I've asked Senator Nozzolio if he would at

least have a consideration of amending his bill to reflect the wages that are earned in the prison system, to make the payment comparable to what they pay on the outside.

And this certainly in no way reflects that amount that the prisoners would have to pay for a visit to the infirmary. And part of the reasoning that you said, that you were trying to cut down on goldbricking, prisoners taking advantage of the system. And I explained to you there's a much better way of curing goldbricking.

Because when I was in the Army, I was in the medical battalion. And we had the goldbrickers coming in. And our prescription for them was to get them some extra guard duty or kitchen KP. That cured those goldbrickers from constantly coming into the infirmary.

So if you were to amend your bill to more reflect the realities of what prison life is like and what they earn, make that copayment comparable, I would be happy to support your bill. But in the current form, I will be voting no.

THE PRESIDENT: Senator Diaz.

SENATOR DIAZ: On the bill.

THE PRESIDENT: You may proceed.

SENATOR DIAZ: This is my third year in this chamber. And I think that I have -- we have dealt with that bill every year. But I would have asked some questions to the sponsor, but I'm speaking on the bill, so I could not ask questions to the sponsor.

If I were to ask questions to the sponsor, I would say how much money do an inmate make who are incarcerated. But I would answer my same question. It's 50 cents an hour.

If I could ask a question to the sponsor, I would ask the sponsor: How much do you make? But I am talking on the bill, so I cannot ask questions to the sponsor. So I could answer the question myself. I make $79,000 a year. And they give me $9,000 of something called "lulu." So I make close to $80,000 a year.

SENATOR LIZ KRUEGER: Eighty-eight.

SENATOR DIAZ: Eighty-eight. Look at that, she knows.

If I were to ask a question to the sponsor, I would ask the sponsor: When a person gets convicted and sentenced to be incarcerated, doesn't he or she become property of the state? But because I am talking on the bill, I cannot ask the question to the sponsor.

But I will answer my own question. Yes, when you get convicted and you are sentenced, you become the property of the state.

If I could ask questions to the sponsor, I would ask the sponsor: Doesn't the state have sole responsibility to care and protect its property? But because I cannot ask questions, because I'm talking on the bill, so I would answer my own question.

I'm talking Columbo here.

(Laughter.)

SENATOR DIAZ: Yes. Yes, the state has sole responsibility to protect and to care for its property.

I make -- how much do I make? $88,000 a year. And when I go to the doctor, so when I have to go to the doctor, I pay a

$15 copay. And I always get angry because it's too much. Too much. Every time when I go to the doctor, $15, too much. And I make how much? $88,000 a year.

And now the sponsor of this bill, the honorable Senator Nozzolio, sponsor of the bill, Senate Bill 1324, he wants to charge an inmate $7 per visit. If I get angry paying $15 making $88,000 a year, could you imagine an inmate paying $7 per visit?

I don't know, Senator Nozzolio and ladies and gentlemen, who drafted this bill, who drafted the bill. But whoever did it and whoever thought about it doesn't have a heart. I mean, people in state penitentiaries having to pay $7 per visit to go to see a doctor? I'm pretty sure that the sponsor of this bill will not pay that much money. I think he pays less than I do for copayment.

But this is something that I think is above what we should call being human and being responsible and being considerate to people that cannot afford something like this.

I think that that bill, even though we have talked about it every year since I

came here, it's about time that we pulled this bill over and get it out of our sight and start sending a message that the Republican Party cares about people.

Because that's what my community always says: The Republican Party? They don't care about us. The Republican Party, they are the enemy, the Republican Party. Of course our people have to think about the Republican Party this way. Showing no respect, showing no consideration, showing no love to us blacks and Hispanics. Show us some love, the same way we show you love.

Thank you. I'm voting no on this bill.

THE PRESIDENT: Senator Nozzolio, to close.

SENATOR NOZZOLIO: Thank you, Madam President.

I find it extremely disturbing, if not shocking, that the other side of the aisle has stood to defend so quickly those who have raped, those who have murdered, those who have broken the laws of this state in such a serious fashion that they are now serving

state prison time.

Your defense of them is unconscionable when at the same token each and every one of you supports copayments for state employees, supports copayments for teachers and, yes, requires copayments for the senior citizens of this state who receive EPIC. It's okay for a senior citizen to make a copayment, to be required to make a copayment in a state program, but it's not okay for a rapist, for a murderer, for a robber. We want to protect them.

The last I looked, those same individuals are given meals, are given a free room, are given no electric bills to pay. With all seriousness, the housing and feeding and health care of prison inmates in this state literally costs billions of dollars.

What this measure is doing is saying not to the prisoners but saying to the senior citizens: We're requiring prisoners to make copayments too. You have to pay your own heat bill, your own light bill, you have to pay for your groceries. We understand that. But here we're also trying to ensure that the

prison system is run in an orderly fashion and that the same copayments that teachers, that state employees and that senior citizens are making are also made by prison inmates.

Thank you, Madam President.

THE PRESIDENT: Read the last section.

Senator Schneiderman.

SENATOR SCHNEIDERMAN: Thank you, Madam President. Very briefly --

THE PRESIDENT: Senator Schneiderman, the debate is closed. I did ask if any other member wished to be heard.

SENATOR SCHNEIDERMAN: And then I stood up.

THE PRESIDENT: No, before that.

The debate is closed.

The Secretary will ring the bell.

Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE PRESIDENT: Senator Schneiderman, to explain your vote.

SENATOR SCHNEIDERMAN: Thank you, Madam President.

What I was going to say before, and I had hoped we would have the opportunity to persuade other members before the vote, is that I think that the sponsor may be misreading some of the comments from this side.

I don't think anyone is objecting to the notion that perhaps some appropriate level of copayment might be a good idea. I do think that there is a general recognition -- and I think Senator Diaz's colloquy with himself brought this out -- that $7 for a visit for health care for someone who's making 25 to 50 cents an hour is absolutely absurd.

And that if we want to move this beyond the level of debate and posturing and attempting to show how tough we are on criminals, which would include people who are in for white-collar crimes -- which would include, in the last year, a former colleague of ours -- who do state time, that perhaps if you lowered the level of copayment to something that is more in line with what

prisoners make, this bill could make pass this house and could pass the other house.

Let's not posture on a number that really -- that is not realistic. Administratively, this will cost a tremendous amount to collect. And the first time there is some sort of health problem in the prison because of an epidemic, prisoners catching a disease from someone who didn't seek help because they couldn't afford it, you'll wipe out all of the savings.

So let's not get carried away with the rhetoric. This is an impractical proposal. This is a punitive proposal. And I think that's really what the people on this side of the aisle were talking about. I don't think there's necessarily an objection to some appropriate level of copay. But the bill as proposed does not meet any of the standards for reasonableness or for humaneness that we're seeking to discuss.

Thank you, Madam President. I'm voting no.

THE PRESIDENT: You will be recorded as voting in the negative, Senator

Schneiderman.

Senator Stavisky.

SENATOR STAVISKY: Madam President, to explain my vote.

THE PRESIDENT: You may proceed.

SENATOR STAVISKY: I read this bill rather carefully, and the first couple of lines calls for a $7 copayment. And if a prisoner wants an aspirin, that's going to cost $7. To me, it makes no sense.

Secondly, it says on line -- point 6, line 18, an inmate shall not be refused treatment for lack of ability to pay copayment charges. But that's all it says on that issue.

On the second page, it says federal inmates will be billed directly to the jurisdiction, and so on.

I think the concept is not a bad one. Nobody is coddling criminals. But we're trying to help our criminal justice system with a realistic, enforceable copayment system. And for that reason -- I don't think this bill meet those qualifications.

And for that reason, Madam

President -- nobody here is supporting criminals. We condemn their actions as strongly as my colleague did -- but I shall vote no.

THE PRESIDENT: You will be so recorded as voting in the negative, Senator Stavisky.

Senator Diaz, would you like to explain your vote?

SENATOR DIAZ: Yes, Madam President, thank you, to explain my vote.

THE PRESIDENT: You may proceed.

SENATOR DIAZ: Thank you.

I think that I have shown here time after time that I am second to no one in this chamber when it comes to sending criminals to jail and when it comes to being tough on crime. I'm telling you, I'm second to no one in this chamber on that. And I have proven it, that I'm tough on crime.

But being tough on crime and being inhumane are two different things. Tough on crime is get the criminals and get them out of the street, send them to jail. But once they are there, we have a moral commitment to care

for them. Because they are not animals. So that's why I'm voting no on this bill.

Thank you.

THE PRESIDENT: You will be so recorded as voting in the negative.

Senator Brown.

SENATOR BROWN: Thank you, Madam President. To explain my vote.

THE PRESIDENT: You may proceed.

SENATOR BROWN: You know, generally speaking, I too feel like I am tough on criminals and don't believe that criminals should get any kind of special treatment.

But I do want to say that we -- in last year's debate I think it came out pretty clearly that oftentimes there was an expectation that we might not even be able to collect on this copay, so we were simply imposing something that in many instances might never be collected.

I also am concerned that anything that we imposed that might impede an inmate's ability to get necessary medical treatment -- particularly inmates that might return to communities and bring illnesses and diseases

back into the community -- I think is a public safety and public health risk that we should be all very concerned about in this chamber.

I also want to set the record straight and make it clear that the Legislature does not approve copays for public employees. They are collectively bargained. So that was a piece of misinformation that we need to be very clear about.

So for the reasons that I've mentioned, even though I would be in favor of some reasonable, responsible copay for inmates, with respect to this legislation I also vote no.

THE PRESIDENT: You will be so recorded as voting in the negative, Senator.

The Secretary will announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 415 are Senators Andrews, Breslin, Brown, Diaz, Dilan, Gonzalez, Hassell-Thompson, L. Krueger, Marchi, Montgomery, Onorato, Paterson, Sabini, Sampson, Savino, Schneiderman, Serrano, A. Smith, M. Smith and Stavisky.

Ayes, 37. Nays, 20.

Those Senators absent from voting on Calendar Number 415: Senator Parker.

THE PRESIDENT: The bill is passed.

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

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

THE PRESIDENT: No, there isn't, Senator.

SENATOR SKELOS: Would you please recognize Senator Paterson.

THE PRESIDENT: Senator Paterson.

SENATOR PATERSON: Madam President, I have a motion at the desk. And I'd like to speak on the motion at this time.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: Senate Print 956, by Senator Paterson, an act to amend the Real Property Tax Law.

THE PRESIDENT: Senator Paterson.

SENATOR PATERSON: Madam President, this motion would bring to the

floor legislation that would increase the maximum allowable income for senior citizens to be eligible for the senior citizens' rent increase exemption from $24,000 to the regional Consumer Price Index.

The number of senior citizens who make $24,000 or less and pay one-third of their income for rent has made them eligible for this program in the past. This is simply a cost-of-living increase for them as prices and obviously the cost of living goes up.

What we are really trying to combat is the displacement of seniors, Madam President. Right now the cost of implementing the program for seniors is $1,300 per person, but the cost of putting them in shelters if they are displaced from their homes because they're unable to keep up with their rent is $2,300 a person. So this is -- $23,000 a person.

I actually knew that. I wanted to see if he was paying attention.

The reality is that this is a huge problem, particularly in New York City where the units of housing are scarce and where we

try not to have people, senior citizens who have provided the broad revenue base for our city and our state, at a point later in their lives to lose their homes, lose their apartments due to the inability to pay it.

This is a program in which the landlord gets a tax abatement for the exact cost that the landlord is losing by allowing the lesser rent.

So it's a very good program. We certainly hope everyone will support it. And I stand on my motion now, Madam President.

THE PRESIDENT: All those Senators in favor of the petition out of committee please signify by raising your hands.

THE SECRETARY: Those recorded in agreement are Senators Breslin, Brown, Diaz, Dilan, Hassell-Thompson, Klein, L. Krueger, C. Kruger, Montgomery, Onorato, Gonzalez, Paterson, Sabini, Sampson, Savino, Schneiderman, Serrano, A. Smith, M. Smith, Stachowski, Stavisky and Valesky.

THE PRESIDENT: The petition is not agreed to.

Senator Skelos.

SENATOR SKELOS: Madam President, there being no further business to come before the Senate, I move we stand adjourned until Tuesday, April 12th, at 3:00 p.m.

THE PRESIDENT: Hearing no objection, on motion, the Senate stands adjourned until Tuesday, April 12th, 3:00 p.m.

(Whereupon, at 4:09 p.m., the Senate adjourned.)