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PUBLIC HEARING

before

ASSEMBLY LAW, PUBLIC SAFETY, DEFENSE AND CORRECTIONS COMMITTEE

"Prison Overcrowding: Crisis and Response"

April 23, 1987
Room 403
State House Annex
Trenton, New Jersey

MEMBERS OF COMMITTEE PRESENT:

Assemblyman Thomas J. Shusted, Chairman
Assemblyman Walter J. Kavanaugh
Assemblyman Joseph L. Bocchini, Jr.
Assemblyman Frank M. Pelly

ALSO PRESENT:

David L. Sallach
Office of Legislative Services
Aide, Assembly Law, Public Safety, Defense
and Corrections Committee

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Hearing Recorded and Transcribed by
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Vice-Chairman
WALTER J. KAVANAUGH
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New Jersey State Legislature
ASSEMBLY LAW, PUBLIC SAFETY, DEFENSE
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PUBLIC HEARING NOTICE

The Assembly Law, Public Safety, Defense and Corrections Committee will hold a public hearing on Thursday, April 23, 1987 at 10:30 a.m. in Room 403 of the State House Annex in Trenton.

The subject of the hearing is "Prison Overcrowding: Crisis and Response." The committee will give specific attention to Assembly Bill 3209 Aca which proposes a \$150,000,000.00 bond issue for the construction, improvement and rehabilitation of State correctional facilities.

Anyone wishing to testify should contact David L. Sallach, Committee Aide, at (609) 984-0231.

U.S. Department of Justice
National Institute of Justice

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ASSEMBLYMAN THOMAS J. SHUSTED (Chairman): Ladies and gentlemen, we will convene now. The bill we are about to consider is Assembly Bill 3209, which is sponsored by the Assembly Speaker, Chuck Hardwick. I would just like to make a preliminary comment before I ask Speaker Hardwick to tell us about his legislation and the need for it.

All of us know that State prisons and county jails are severely overcrowded, and that the situation worsens by the day. It has been projected by the Comprehensive Drug Reform Act of 1986 alone, that this will result in the addition of between 700 and 1000 prisoners to the State prison system over the next five years.

In addition to this existing overcrowding, projections indicate that the State's prison population will continue to grow at the rate of 90 to 130 prisoners per month through 1990. In light of this problem, the Governor established a Task Force on Prison Overcrowding. The Legislature has also recognized the serious nature of the prison overcrowding problem, and legislation has been introduced in both the General Assembly and in the Senate.

I am pleased this morning to have with us the Speaker of the General Assembly, who is the prime sponsor of Assembly Bill 3209. At this time, I would like to ask Speaker Hardwick to make his comments concerning the bill. Speaker Hardwick?

A S S E M B L Y S P E A K E R C H U C K H A R D W I C K:
Good morning. Thank you. Mr. Chairman, members of the Committee, ladies and gentlemen: I appreciate this opportunity to talk to you about the need for Assembly Bill 3209, which is truly addressing the need for additional prison space in New Jersey, to protect the people of our State.

As you know, we in the Legislature have a strong record of cracking down on crime and passing the necessary laws to do that. Later today, for example, Governor Kean will sign the bill sponsored by Assemblyman Kern that imposes strict new

penalties on drug dealers and manufacturers. That bill, certainly in part, will answer the public's call for measures to deal with the drug problem in our society. But, the results of that bill, and others that we have passed, is that more people who belong behind bars, will be behind bars. In fact, the Kern bill, which passed through the Assembly, will remain inoperative until we approve the bond issue before us today. We simply cannot pass bills to get tough with criminals without providing the corresponding prison space. To do so would be to make a mockery out of our legal system.

We support a State policy in the Legislature that believes that there should be a cell for every violent criminal. This bond issue is consistent with that policy. Today, our prisons are -- as you pointed out, Mr. Chairman -- overcrowded at 110% capacity. Some of the overflow is being absorbed by county jails which, unfortunately, are too often ill-equipped to handle the task. In some cases, areas previously reserved for recreation, for worship, for rehabilitation services, even laundries and kitchens, are being used as places to sleep. Court orders have limited certain counties from accepting prisoners who, by law, should be retained.

Prison admissions are exceeding paroles by 130 every month, and even the new Northern State Prison in Newark will not be able to handle the overload. When it is filled, we will still have nearly 1000 inmates who belong in State prisons.

So, that brings us to the bond issue before this Committee. A commitment for more prison space sends a strong signal to would-be criminals that we are serious about our law enforcement efforts, and to law-abiding citizens that we think violent people should be locked up. It is a costly step, but a necessary one.

An editorial in one of New Jersey's daily newspapers this week was entitled, "Build We Must." It says that as long

as the Legislature approves tougher mandatory sentencing, and so long as people break the law, our prison-building days are not over. Unfortunately, I certainly agree with that.

I support amendments that I know this Committee will be making to this bill to increase the amount of the bond issue to reflect the Administration's new estimates and, most importantly, to earmark a portion of the funds for county prisons and jails. At the same time, I urge this Committee, and others in the Legislature, to study alternatives to incarceration for nonviolent criminals. Even with a new infusion of funds and prison space, there will still be a need for prison alternatives to ease the pressure of our overburdened system. New methods of alternative sentencing, as well as existing ones, should be studied with an eye toward effectiveness. A subcommittee to the Governor's Task Force on Prison Overcrowding has provided the Legislature with a head start in that effort.

Various counties, including my own of Union, are preparing tests on new concepts, such as the wristlets, other electronic monitoring, and the concept of privatization. I urge this Committee to encourage such experimentation.

Again, I thank you for the opportunity of being here, and for your considering the legislation this morning. If you have any questions I can answer, I would be pleased to do so.

ASSEMBLYMAN SHUSTED: Thank you very much, Mr. Speaker. Does any member of the Committee have any questions of the sponsor?

ASSEMBLYMAN PELLY: I have.

ASSEMBLYMAN SHUSTED: Yes, Mr. Pelly.

ASSEMBLYMAN PELLY: I have a number of questions. I don't know if it would be appropriate to ask them of you, Mr. Speaker, or the Department of Corrections. My questions deal with the more specific issues of how ultimately the \$198 million will be used and appropriated. I want you and the

others to know at the onset that I am one of the persons who has been responsible for some of this prison overcrowding, by virtue of the fact that I am one of many legislators who have supported all of these initiatives to provide stiffer sentencing for prisoners who have committed these acts. I am fully prepared to support this bond issue. My questions will deal with the specifics of this anticipated bond issue. If you consider it appropriate that I ask them when the Department of Corrections comes before us, I would certainly do that -- whatever you consider appropriate.

ASSEMBLYMAN HARDWICK: Mr. Chairman, through you, I think that is a very good question. I have seen the preliminary recommendations of the Department of Corrections and the Governor's office. I do think the Department of Corrections is better prepared than I am to answer that, except to say that of the \$198 million, \$47 million will be earmarked for counties, which leaves approximately \$145 or so million for jail space. They are looking for various alternatives, as you know -- the concept of possibly using a ship, to be converted to a prison, and the mix of maximum versus medium security. To what extent there would be new construction versus expansion, they have a plan that is in the process of being developed. It looks pretty good, but I think they would be better equipped to give you those projections, Mr. Pelly.

ASSEMBLYMAN PELLY: Thank you. I would be happy to ask my questions at that time.

ASSEMBLYMAN SHUSTED: Mr. Speaker, it is critical, however, that we have this bill released, in order that it might get moving. Is that not true?

ASSEMBLYMAN HARDWICK: Oh, I think so, because it has to go on the ballot; the public has to approve it. While men and women of good will can disagree about whether there should be more maximum, more medium, or where they should be, there is a recognition by everyone that we simply must have more jail

space -- more prison space. This bond issue is moving in the direction to do that, while the Department of Corrections is completing their master plan.

ASSEMBLYMAN SHUSTED: Thank you very much. Anyone else? Mr. Kavanaugh?

ASSEMBLYMAN KAVANAUGH: Mr. Chairman, Mr. Speaker, during our appropriations process and, as you know, one of the initiatives of the Governor is privatization-- I have been quite concerned about it, and this type of legislation we have now-- In addition, we have the \$159 million public construction bond issue and the \$67 million, and now the \$198 million. I think that because of the inaction on the part of previous legislators -- or Legislatures -- involving themselves-- I commend you at this time for taking the action. But, I would hope that we could be in the forefront of developing new models of correction practices and could seek alternatives to the traditional ways of housing prisoners.

We see the overcrowding and the escalating costs, and these are the reasons why we should examine some options. In discussions during the appropriations process with Commissioner Fauver, we saw that our youthful offenders-- I expressed a concern that if they could receive education -- prevention training -- it could probably drastically reduce the criminal justice system in the future, because those who finally get into maximum security, at one time were youthful offenders. We see that some 40% of our prison population are functional illiterates. If we could spend some dollars in that area, it could lead to a more productive and safer society.

One of the other things that was mentioned when we talked on privatization was that we could free up State funds, and the private sector could then be involved in construction, maintenance, and the running of these minimum facilities. We saw, I think, a \$60 million increase in the current budget for Corrections this year, with estimates of some 6800 new beds over three years.

There really is no single answer to this problem, but I think we should start -- with your initiatives now, as the Speaker of our house -- to work towards some way to allow the Corrections Department to go out into the profit area. Now they cannot contract with profit-making organizations. Some states have already now involved themselves -- Texas, for example, 10 units of 500 beds in the profit area. So, I hope we can see that.

The problems you elaborated on here this morning-- We do have to take this action because we are becoming overwhelmed. Prior to your being here, we talked about reducing from 15 days to 10 days when transferring the responsibilities from the counties -- let the State pick up that cost. In Assemblyman Pelly's bill, I think it is \$1.6 million we are talking about.

I think the initiative you put forth here today with this authorization of \$198 million to finance additional correction facilities is something that has to be done at this time, but I would hope that we could also look at privatization for correction facilities.

ASSEMBLYMAN HARDWICK: If I may, Mr. Chairman-- Mr. Kavanaugh, I think you have touched on some very important points. We must, at the State level, continue to experiment and find even better ways of running State government. Alternatives to incarceration and concepts of privatization-- Those merit consideration, and they merit examination by the Legislature, just as we recently enacted major changes in our parole laws, to try to constantly sort out who belongs in jail and who does not.

As we keep refining our laws, we keep trying to make them better and better, and innovative ideas to prevent incarceration in the first place are something that the Legislature should absolutely continue to examine. You're right, but in the meantime, we know we have people who, simply

to protect society, must be behind bars, and we have to provide those cell spaces for them to be there. That is the purpose of this bond issue.

I would just encourage this Committee, and others, to explore alternatives, to explore new concepts, because we at the State level are really the laboratories for experimentation in our democratic process in the 50 states, and we have a responsibility to keep looking for better ways to do things, and not take the old ways of the past as being necessarily the only way. So, I think you are absolutely right.

Mr. Chairman, thank you.

ASSEMBLYMAN PELLY: I just need to remind my colleague, Mr. Kavanaugh -- and certainly I agree with all that you said, with the exception of the issue of inaction of previous Legislatures-- As you were saying that, I was kind of thinking off the top of my head of what we didn't do under previous Legislatures. I am jotting down the prison at Newark, which was under previous Legislatures, which will ultimately hold 1000; the Camden prison, which will hold 500--

ASSEMBLYMAN KAVANAUGH: Just one thing, Frank--

ASSEMBLYMAN PELLY: --and Fort Dix, which was acquired, which will hold 500. So, we are talking 2000 people.

ASSEMBLYMAN KAVANAUGH: I'm sorry, maybe I didn't say it correctly. I am not faulting anyone, because we have built beds, but I don't think we should be proud, as legislators, to go away from the State House after serving our terms, and say that we were the legislators -- or the Legislatures -- that produced the most prison beds in the past years. I think with the changes today, we can better spend dollars on prevention and education for our youth. Today, the cost of housing a prisoner is higher than what it costs to go to Harvard for a year. You could go to Harvard cheaper than you can go to prison for a year. If we continue in that direction without redirecting our thoughts and ideas-- Models change, and unless

we are aware of those changes and are willing to look at those changes, look at the options, see whether other entities can do a better job than what we have been doing-- Certainly, when we have seen a 100% increase in the prison population, and we haven't gotten to the youth, who will become seniors, and what have you, through the prison system, we are not doing the correct thing.

I just think it is incumbent upon us, as legislators-- Forget the political parties, because that was not the point. Maybe you think I was trying to take a shot at-- I have been here for 12 years, so I am a part of this thing. I know what you have been doing and developing, with regard to making bed space available, and what the Speaker is doing. The need is there, but I think we have to examine other ways, so that we can reduce our criminal justice system, rather than just going along, as we have more people entering into the criminal justice system, and housing them in cells. I just think there has to be a better answer.

ASSEMBLYMAN SHUSTED: Okay. Thank you, gentlemen. Thank you very much, Mr. Speaker. We appreciate it.

ASSEMBLYMAN HARDWICK: Thank you.

ASSEMBLYMAN SHUSTED: There are some amendments to this bill, which the Speaker has already alluded to. They have been circulated. I would like Mr. Sallach to read the amendments, please.

MR. SALLACH (Committee Aide): Okay. There are three basic amendments to be made to the bill. The first two are technical. The first amendment is to change the references to the 1986 calendar year to the 1987 calendar year. The second technical amendment refers to the inclusion of refunding language, and the third, or the substantive amendments, to increase the bond issue to \$198 million, and include a proviso specifying that at least \$45 million of that bond money be set aside for counties.

ASSEMBLYMAN SHUSTED: All right, before we vote on the amendments--

ASSEMBLYMAN KAVANAUGH: Is there a list on that \$45 million, or is that just carte blanche? Faith, right? On faith.

ASSEMBLYMAN SHUSTED: Before we vote on the amendments, I know there are some other people here to wish to testify on the bill. At this time, I see Commissioner Fauver, who just walked in. Commissioner, if you would like to come forward and testify, we would be happy to hear you

Commissioner, sit down for a minute. First, we will move the amendments, and then we will open it up.

ASSEMBLYMAN KAVANAUGH: So, move the bill as amended.

ASSEMBLYMAN SHUSTED: Seconded.

ASSEMBLYMAN PELLY: I have a question on the amendment, if I may. The amendment dealing specifically with the amount appropriated to counties -- that is, the \$45 million-- I do appreciate the presence of this amendment, because without this amendment I would not have supported the bond issue. I firmly believe there is absolute need for additional moneys for the counties.

My question deals with how this money is going to be given -- or administered to the counties. I don't know who the appropriate person would be to--

ASSEMBLYMAN SHUSTED: Are you talking about a breakdown of the--

ASSEMBLYMAN PELLY: Yeah, how the \$45 million is going to be given to the counties.

ASSEMBLYMAN SHUSTED: Well, I think that question, perhaps, could be adequately answered through the Department of Corrections. So, since we have Mr. Fauver here, maybe-- Before you give your testimony, Commissioner, will you please respond to that?

COMMISSIONER WILLIAM H. FAUVER: I would be glad to, Mr. Chairman.

The money that is in there, Assemblyman Pelly -- on your question -- would be distributed under the same formula as we used when we distributed money that was under previous bond issues for county construction. The counties would apply; there would be a review. Such things as the speed with which they could complete-- Those kinds of things would be taken into consideration. There is a formula which has been worked out, where out of the funding, any bed space that would be housing State inmates would be paid for fully. That cost is covered fully, and the rest is on a percentage basis. In a shared facility, such a percentage-- If a new kitchen was being built, the fact that State inmates would take up "X" number of those slots-- It would be on a percentage basis.

But, the counties have expressed interest. The one firm one that we have in, in writing, right now is Middlesex County, which has a proposal before the Department, pending any legislation that is to be passed. We have had interest from the other counties. So, there is a formula which has been set up, with the percentage, the payback to the State, and so forth, but they would have to apply. We just notify them of the availability of the funds.

It is the same formula that was used with the 14 counties that were previously involved in county jail construction out of the State bond issue.

ASSEMBLYMAN PELLY: Well, through you, Mr. Chairman, Speaker Hardwick spoke about alternatives to incarceration. Will any of these dollars in the amended portions, which are to be given to county facilities, be used for any alternatives to incarceration, or is it merely for construction?

COMMISSIONER FAUVER: No, it is merely for construction in the counties.

ASSEMBLYMAN PELLY: No alternatives?

COMMISSIONER FAUVER: No alternatives are included in this \$45 million, no.

ASSEMBLYMAN PELLY: Okay. I was planning to ask that same question with respect to the initial bond issue -- the meat of the bond issue -- but I will hold off on that aspect of it.

Why is it in the amendment, "Shall be appropriated to the several counties of this State," for the cost of the construction, rather than just the counties of this State?

ASSEMBLYMAN KAVANAUGH: It is just worded technically, that's all.

ASSEMBLYMAN PELLY: Is that just a technical--

ASSEMBLYMAN SHUSTED: I think that is fairly commonly used.

ASSEMBLYMAN PELLY: Would that preclude any county from being able to be a participant in the application process--

ASSEMBLYMAN SHUSTED: No.

ASSEMBLYMAN PELLY: --or in the appropriation process?

ASSEMBLYMAN SHUSTED: No, no, it would not.

ASSEMBLYMAN PELLY: Okay. Thank you, Commissioner, and Mr. Chairman.

ASSEMBLYMAN KAVANAUGH: It has been moved and seconded.

ASSEMBLYMAN SHUSTED: It has been moved and seconded that Assembly Bill 3209, as amended, be adopted.

MR. SALLACH: On the bill as amended?

ASSEMBLYMAN SHUSTED: Yes.

MR. SALLACH: Assemblyman Pelly?

ASSEMBLYMAN PELLY: Yes.

MR. SALLACH: Assemblyman Kavanaugh?

ASSEMBLYMAN KAVANAUGH: Yes.

MR. SALLACH: Chairman Shusted?

ASSEMBLYMAN SHUSTED: Yes.

At this time, I think it is appropriate that we open this meeting for a public hearing on Assembly Bill 3209, as

amended. As I previously announced, Commissioner Fauver is with us. At this time, Commissioner, I would like you to give your testimony, if you would.

COMMISSIONER FAUVER: Thank you, Mr. Chairman. First of all, I would like to thank the Committee for endorsing and supporting the bond issue -- the amendments, rather -- as presented by Speaker Hardwick. They are definitely supported by the Department.

I really don't have a statement, as such. Why I wanted to appear was to express support for the Speaker, and to try to answer any detailed questions -- or more detailed questions -- that may have been in the general presentation. Rather than reiterate-- I was not present to hear everything he said, but I am aware of what was to be presented. The dollar issue -- the money for the counties -- I think-- I heard Assemblyman Pelly say that that was the one thing that he would support -- that he may not have supported it if that was not in. I think it is essential, because the problem is not just crowding in the State institutions. It is the counties, which then backs up in the municipalities. It is not just a statewide county problem, it is a national problem. This, we believe, will-- The bond issue will give us better than 3000 beds out of this, which is not all cells, or dormitories and cells; there are combinations thereof.

The beds, we think, need to get in before 1990 to be able to keep the State out of a Federal court order and to be able to meet the mandates given to the Department. This is especially true with the recent legislation, which, again, fits more mandatory sentences in. But, I don't want to go into all of the background of why. I want to be able to try to respond to the Committee -- to any questions you may have.

ASSEMBLYMAN SHUSTED: Does any member of the Committee have any question of Commissioner Fauver? Mr. Pelly?

ASSEMBLYMAN PELLY: Thank you again, Mr. Chairman. Commissioner Fauver, as you would anticipate, my first question is, what do you plan to do with the money, specifically?

COMMISSIONER FAUVER: Well, specifically, what we have done is try to match a number of beds as something that we could get for this money, to try to maximize the numbers we can use. So, the construction itself would be a combination of dormitory space and cell space. We have not ruled out anything on this. We have, through Treasury, a contract out now for a group that is advising us -- as a feasibility study -- on the use of a ship -- a surplus Navy ship -- to house inmates. This is being done right as we sit here. There is, I think, a 90-day return on that report.

We are looking at State institutions to expand within our own system. We are looking at all State facilities, and we are also looking at the private area to try to get whatever is the best deal we can get. Speed is essential. That is one of the reasons we have done this in the past to do modular units, as we have done at Southern State, so that we can get them up.

Southern State, I would like to remind the Committee, was a facility that went from just being a corn field to a prison with 1000 inmates in it within a year -- in one calendar year -- which is one of the fastest things I have ever seen constructed. So, we are looking at our own property; we are looking at other State property; we are looking at private property. The ship is another issue. We are also looking -- which is not part of the bond issue -- to possibly contracting out for some nonprofit drug and alcohol treatment programs that we could get people into -- people who are currently in the system.

So, I can't give you specifics on the sites, other than to say that those are the kinds of things we are looking at. The answer on the ship we should know within the next several months. The problem does not appear to be acquiring a

ship, or even the refurbishing or making it secure, but the environmental issue of placement would have to be addressed. It is a combination of everything from close custody security beds to dormitories. As I said, we are aiming for-- The total is a little over 3000 beds out of this bond issue.

In line with that, if I may before your question, Mrs. O'Sullivan points out to me, as usual, something that I forgot; that is, when I spoke about the different types of beds, in the bill itself, on page 2, line 14, it has "medium security" listed, and, really, the other language in the bill is to make this more encompassing, so that the discretion of what kinds of beds would be left up to whatever could be worked out. So, if I could ask that that be considered, that the word be stricken, so that it is just beds within the system, and the county systems.

The counties also may decide they don't want to build medium; they want to just put a dormitory on, which would be minimum. So, this would be beneficial to both.

ASSEMBLYMAN PELLY: The in excess of 3000 additional beds will also include county facilities, will it not?

COMMISSIONER FAUVER: Yes, yes.

ASSEMBLYMAN PELLY: How much of the 3000 plus will be State facilities?

COMMISSIONER FAUVER: Well, to answer it the other way, county would be approximately 500, so the total, Assemblyman, if it would be exact -- and I am not sure it would be an exact figure -- would be 3295 beds that we anticipate.

ASSEMBLYMAN PELLY: Are any of these dollars anticipated to be used for any efforts to go into the private sector for incarceration?

COMMISSIONER FAUVER: No, they are not. When we appeared before the Assembly Committee last week on appropriations, Assemblyman Kavanaugh raised the issue on that. I believe he was going to introduce legislation. Right

now, we have an Attorney General's ruling that we cannot contract with a private, for-profit agency, but I have spoken to Mr. Kavanaugh about that. I don't want to speak for him, but I think he was inclined to have that changed through legislation, so that we could contract, if necessary.

But, none of this is anticipated for that, no.

ASSEMBLYMAN PELLY: Is any anticipated for-- Are any of these dollars anticipated for any mechanisms to provide alternatives to incarceration?

COMMISSIONER FAUVER: No, these are strictly construction dollars.

ASSEMBLYMAN PELLY: Just cells, just--

COMMISSIONER FAUVER: Beds.

ASSEMBLYMAN PELLY: --bed space. Will any of these dollars-- Are any of these dollars expected to be used at the prison in Newark, now under construction?

COMMISSIONER FAUVER: Well, it is a possibility. As I said, we are looking at anyplace that we have acreage on our own land, and at other State property, whether it be land or surplus buildings. We have not ruled anything out on that.

ASSEMBLYMAN PELLY: As pertains to the prison at Newark, if additional dollars are used for that site, they would be used to provide additional bed space only at that site, not for any previous fiscal commitments that have been required?

COMMISSIONER FAUVER: No, they would be for additional bed space, but the additional bed space might also mean ancillary kinds of services, you know, an expanded mess hall, or things like that. But, no, they would not be to-- It would be new beds with new dollars, not a back payment for anything.

ASSEMBLYMAN PELLY: Are any of these dollars anticipated for the expansion of any facilities at the Rahway Prison site, including the Rahway Prison?

COMMISSIONER FAUVER: Well, yes. We are looking at an additional close custody unit at Rahway. That is one of the possibilities.

ASSEMBLYMAN PELLY: What is a close custody unit?

COMMISSIONER FAUVER: That would be a medium to maximum kind of security building, meaning cells, as opposed to dormitories.

ASSEMBLYMAN PELLY: Commissioner, this Committee visited -- not too long ago -- the Sex Offenders' Unit at Avenel. Is there anticipated to be any dollars under this bond act expended for that unit?

COMMISSIONER FAUVER: We have money in now where we are doing expansion at Avenel. As you are aware from visiting there, probably percentage-wise, that is the most overcrowded of the institutions. The biggest influx and increase has been in sex offenders, not in raw numbers, but in percentage numbers. Yes, that is already being taken care of. That would not be included in this bond issue.

ASSEMBLYMAN PELLY: Are there any moneys anticipated for this, for another unit perhaps, under this bond issue?

COMMISSIONER FAUVER: No, not as of now. Our projections on that are that the construction which we are doing at Avenel will be enough to accommodate the number of sex offenders who have been backed up; several hundred more beds are being added at Avenel. That is currently being done, not out of this bond issue.

ASSEMBLYMAN PELLY: How many more beds?

COMMISSIONER FAUVER: I am not sure of the exact number, but I think there is one 40-bed unit, and another unit, which is several hundred beds.

ASSEMBLYMAN PELLY: At the same site?

COMMISSIONER FAUVER: At the same site, yes.

ASSEMBLYMAN SHUSTED: Are these presently at Avenel, or are these additional beds you are talking about?

COMMISSIONER FAUVER: These are additional, Mr. Chairman. The backup of sex offenders into the counties is approximately 100, and this will enable us to take them in, plus some leeway for additional population.

ASSEMBLYMAN PELLY: Commissioner, I respectfully-- Of course, I am not an expert on prisons, or sex offenders' units, but predicated upon our visit there at Avenel, and your anticipation of adding more units to that present facility, I respectfully suggest that-- I question the effectiveness of building sex offenders' units to that number of 500, 600, 700, almost 1000 -- ultimately almost 1000 beds? I suggest, respectfully, that we are merely warehousing sex offenders, who, of all the types of offenders, probably need to be dealt with on a very individual basis, if our expectations are anything other than coming back into the system.

It would seem to me that the more appropriate way to go -- and, of course, I have to tell you for the third time, and you certainly know this, I am not an expert on prisons-- It seems to me that the Department of Corrections ought to be thinking in terms of looking at another site, where another unit with all of the ancillary staff would be in place, rather than a huge warehouse of people roaming around, and not being dealt with on a basis that they ought to be dealt with, and merely coming back into the system. That is effectively what I saw there.

COMMISSIONER FAUVER: Well, I don't disagree with you at all on the issue of the more individualized treatment. You see, the tie-in with the additional bed space is also a concurrent request for staff -- for treatment staff -- to be added, as well as custody staff, to be able to deal with that. I think it is a matter of how you do it, whether you try to replicate that someplace else or build on. There is an existing staff, many of whom have been there almost since the inception of the program, particularly the Director of

Professional Services, who has a national reputation in the field. I think he, as well as others there-- We can more readily piggyback on their abilities and skills if everything is there.

Plus, it also-- Frankly, it saves us the administrative costs of running a separate institution with a separate top administrative staff. I don't think the treatment program would suffer, assuming that the positions for treatment staff which are requested are forthcoming.

ASSEMBLYMAN PELLY: We disagree.

COMMISSIONER FAUVER: Okay.

ASSEMBLYMAN PELLY: In any event, I wanted to ask if any of these dollars were going to be used for anything at Fort Dix, the Federal prison we are now leasing?

COMMISSIONER FAUVER: No, they are not -- they will not be.

ASSEMBLYMAN PELLY: What is your anticipation there? How much longer would you anticipate we will be able to use Fort Dix, and are you looking toward longer term situations at that, I believe, 500- or 600-bed facility?

COMMISSIONER FAUVER: It is a 500-bed facility. We have a contract which expires the end of May of this year. We have been assured, by the Army, a two-year extension on that contract, which would take us to May, 1989. Currently, negotiations are to try to get another six months added on to that. But, whether that happens, or doesn't happen, we do have the commitment for the two years. None of this money is anticipated going there.

ASSEMBLYMAN PELLY: What would take place after that? What would you expect -- to continue to renew the contract on a two-year basis?

COMMISSIONER FAUVER: No, I don't think so. I think this is going to be the last extension of the contract, because the Army has definite plans for the use of that building. I

think we would anticipate that whatever comes out -- the two years, or the two and a half years -- that that will be it. We do have a plan for phasing out, which we had to draw up when we thought we were getting out this year. It would be mostly through an attrition process, whereby we would stop assigning people to the Mid-State facility "X" number of months prior to its closing, so that when it did close, we would be down to the smallest number possible.

But, our projections on population include the anticipated loss of that facility -- on our needs, we have built that in.

ASSEMBLYMAN PELLY: But not on this sheet?

COMMISSIONER FAUVER: No, no.

ASSEMBLYMAN PELLY: Okay. Does the bond issue anticipate another new prison being built in the State of New Jersey -- this bond issue?

COMMISSIONER FAUVER: Yeah, it does, but I hedge on that a little because it depends on several factors. For example, if we get the ship, we are looking at, probably, 800 to 900 beds we could use. That I won't know until I get the reports back, but that is the round figure we have been given. If we don't get it, yeah, we would then have to build, again depending on speed, cost, all those things. I would anticipate, though, that we are talking another prototype of something like what was done at Southern State, rather than a Camden or Newark type facility.

ASSEMBLYMAN PELLY: So, if you get the ship, you don't anticipate another State prison at a new location in the State. However, if you do not get the naval vessel, that will occur. Is that--

COMMISSIONER FAUVER: That is partially correct. I don't know on the others. I don't know-- If we can add enough beds at our own sites by expansion to make up this number that way, or through acquisition of other buildings, or something,

then we would not have to. But, I would not rule that out. I don't want to mislead you. For example, we may have to expand at Newark with more -- as I said -- bed space.

What I am saying is, I think that with the acquisition of the ship, we would stay away, probably, from the kinds of construction you see with the prison at Camden or Newark. It would be more a modular kind of facility we would have to put up. Again, we are looking for speed on these beds also.

ASSEMBLYMAN PELLY: From what I can calculate here, it seems as though the conversion of a naval vessel is substantially less than the conventional types of construction of new prison space.

COMMISSIONER FAUVER: That is correct.

ASSEMBLYMAN PELLY: Substantially less. Would there not be any anticipation of perhaps two naval vessels. Is that a possibility?

COMMISSIONER FAUVER: Yeah, I would say that is a possibility, depending, you know, on what the reports are on the first. But, one of the reasons for the cost, obviously, is that on the ships a lot of the things exist that you would normally have to build in, besides the bed space. The vessel has mess halls, infirmaries, and things like that. So, based on what the report says when it comes back, on time, cost, environmental issues, all those things-- Again, that is something else I wouldn't rule out. There may be more than one ship. That is a possibility.

ASSEMBLYMAN SHUSTED: These figures are just projections. Is that right, Commissioner?

COMMISSIONER FAUVER: These are projections based on what we see as the number of beds we can get for the dollars, and how we would try to do it.

ASSEMBLYMAN PELLY: The other issue deals with the steel, prefab medium security prison to house 750. Is that in addition to an existing facility, or is that a new facility at

a same location as an already in-place State prison? What is that?

COMMISSIONER FAUVER: Well, it could be the number of beds that we anticipate would be needed in a more secure facility like that. I am not sure. It could be in one of a couple ways. It could be a separate facility built on property we have, or it could be add-ons, you know, 200 beds at one place, 300 at another, in that kind of construction.

Again, speed -- how quickly it can be done -- and the costs for which it could be done-- If it turned out that to add 200 beds to three places could be done faster than adding 600 or 700 beds in one spot, that is probably what we would opt for.

ASSEMBLYMAN PELLY: I appreciate your remarks, Commissioner. The Speaker, earlier, spoke -- and I say it once again -- on what I consider to be two issues that need to be explored, and need to be dealt with. They are alternatives to incarceration and privatization. Assemblyman Kavanaugh is dealing with that issue. Once again, you don't see the need for any money for either of these to be put into this, in any way, shape, or form?

COMMISSIONER FAUVER: Well, I see this as just the capital issue for construction and, no, I don't see it in this, which doesn't mean, you know, that we are not looking at alternatives. I would caution you-- The privatization issue aside, I think the number of people for alternative programs is going to be reduced by the more people who are in mandatory sentences. I mean, we are not going to be able to work out alternatives, because you would not, in good conscience, put people in the community who have longer sentences. I am not suggesting that people get shorter sentences; I am just saying that there is a pool there that exists, and it is diminished by the people who you feel comfortable with putting in the alternative programs.

Don't forget -- which has nothing to do with the State doing it, but with the counties -- there are over 50,000 people on probation. There are another 15,000 on parole. So, you know, there are alternatives in New Jersey, probation being the greatest, to keep people out. That means that those coming in-- It is very rare for a first offender, unless it is a capital crime, or some very serious crime, to come to jail. Most are given a chance and are put on probation. Keeping that in mind, the numbers who are in who can go to alternative programs will not, in my opinion, reach the volume that would be generally thought, because they don't come in in the first place. They are out.

But, I think the treatment programs make sense. Drug treatment and alcohol treatment make sense, because you would consolidate all that in one place, instead of trying to provide drug and alcohol programs in 15 different prisons. That type of thing I have supported, and would continue to support. I just don't think the big numbers are there that are sometimes anticipated.

ASSEMBLYMAN PELLY: In the State system--

COMMISSIONER FAUVER: In the State system, correct.

ASSEMBLYMAN PELLY: In the State system for alternatives. If you were to guess, and have an alternative to incarceration program in place, how many would you expect you would be able to divert to an alternative program in the State system, or is that a--

COMMISSIONER FAUVER: That is not a tough question. I think in the drug and alcohol program, there is no question-- I am sure, as a conservative estimate, that 75% to 80% of the inmates have at least used drugs at one time, perhaps not have a problem with drugs. Alcohol is also a problem. So, there is a fairly large pool there, but a lot of these would be in medium and maximum, and wouldn't fit into community programs.

I think in community programs, such as intensive supervision on parole, where people come in and do some time, and then a panel of judges decides that they can go back out under intensive supervision based on their record, and how well they have done in the few months in jail-- I think that can be expanded. We have probably 300 to 400 in that kind of a program now. That probably could double, but I don't see it going much higher than that.

The great unknown on this, Assemblyman, is really the drug and alcohol programs, because they do not exist to any degree in numbers for the community in general, let alone for people coming out of jail. That is not a knock at a lot of the public groups who try to get involved. There are the Volunteers of America, the New Jersey Association of Corrections, among others. It is a "Catch-22" for them. They really need a contract up front to be able to fund. On the other hand, we say, "Well, where are the beds? We need to see something before we can do it" -- not just with us, but with other agencies, too.

I think that is the one area where maybe we could get some relief. I think it ties in to parole, though. I think the Parole Board has to be willing to really contract with an inmate, and say, "Okay, you came to jail. If you go through this program for the next 12 months, or 18 months" -- or whatever it is -- "and successfully complete it, you will be paroled." Period -- not anything else. That is something that would have to be the incentive for a person to be there.

ASSEMBLYMAN PELLY: And, assuming this bond act to be passed, and ultimately enacted, what do you anticipate would be the timetable for those 3295 beds to come on line?

COMMISSIONER FAUVER: Well, the earliest we see would be 12 months. I would see anywhere from 12 to 36 months, depending on the type of construction. The ship estimates are really just guesstimates at this point, because it has never

been done. But, as I indicated, a prefab, modular dormitory, similar to what was done at Southern State-- That took one year in actual construction, so we are probably looking at something like 18 months -- considering bidding, design, and so forth -- as the best.

ASSEMBLYMAN PELLY: So, looking at the long side, in 36 months you will have about 3000 or so additional beds. What, if any, will our shortfall be at that point in time?

COMMISSIONER FAUVER: Well, the shortfall would be-- If you look back to the recent Task Force that the Governor appointed, in their report there were about 6000 plus beds in there. But, a number of those beds are replacement beds at Trenton and Rahway. This is not addressed in the bond issue, because I think the thrust has to be -- with the dollars available -- for additional beds, not replacement beds. So, those figures did not reflect that we anticipate that much of an increase into the system over those years, but we will be losing space. We will be losing space as buildings deteriorate, and we will have to get capital money to do some repairs.

I think this plan was the overall plan from any of the plans -- going back to the Byrne Administration -- that have been to allow for us not over-building, so that there would be at any time, basically, a backup of maybe 500 people in the counties waiting to come in, when all this is completed. So, that is the kind of leeway we have built in, roughly 500 to 600 beds. The counties, right now, have 1900, so if we get to the day when there are 500 there, they will certainly be manageable.

ASSEMBLYMAN PELLY: I agree. And, you anticipate that this will provide that opportunity?

COMMISSIONER FAUVER: I anticipate that it will, yes; again, not knowing what new legislation will come, but based on what we have now.

ASSEMBLYMAN PELLY: Commissioner, I truly appreciate your responses to our questioning. Thank you.

ASSEMBLYMAN SHUSTED: Mr. Kavanaugh?

ASSEMBLYMAN KAVANAUGH: Mr. Chairman, I just want to be clear that what we are doing here is just making available by this bond issue, \$198 million. We are not-- You know, it's preliminary paper we are discussing. It is just kind of sheets that were put together, as far as preliminary expenses. But, each expenditure that will be made within the \$198 million would have to come before the Legislature for full review, so we would still have the oversight as far as the Legislature is concerned. It is not just that we are giving you \$198 million and you are going to go out and spend it. Each expenditure must have legislative action, so the--

COMMISSIONER FAUVER: Correct.

ASSEMBLYMAN KAVANAUGH: --controls will still have total review by the Legislature before the money will be spent.

These are estimates only, but as you mentioned, it is probably in the \$198 million area you are going to need. There would still be a shortfall at the end of that time. Also, it is incumbent upon the Legislature, that if we continue to pass legislation where we are mandating people into long-term sentences, and things, it is going to change the projections, because we can't look into the future and see that future legislators -- or Legislatures -- or our own people will be doing. That is something that we have to look at very carefully every time we mandate long-term sentencing -- potential prisoners.

ASSEMBLYMAN SHUSTED: Does any other Assemblyman have any questions for the Commissioner? (no response) Thank you very much, Commissioner. We appreciate your giving us your time.

COMMISSIONER FAUVER: Thank you.

ASSEMBLYMAN SHUSTED: The next person on the list who wishes to testify is Harold Meltz.

H A R O L D M E L T Z: Thank you, Mr. Chairman. I am Harold Meltz, representing two organizations. One is the DWI Task Force of Sussex County, and the other is Mothers Against Drunk Driving, statewide.

I am sorry I received this short version of what you have in mind recently. I didn't have enough time to do much studying of it, or research. But, at this time, I have to commend the Legislature for what it has been doing for the last few years, as far as legislation, and so on. With the DWI Task Force, of course-- It is enforcement of this legislation. The third part, with all activity in DWI and MADD-- The final part is rehabilitation of offenders.

Now, this was brought up just now by the young man who was here. The whole thing is, again, with this bond issue, he estimated the possible use of the funds, anywhere from one to two to three years. Now, during that time, there are going to be a lot of offenses, a lot of people remanded to prison sentences, and not being able to get there. The horrible problem we have had with paroles, with the number of people getting out on the streets again, committing additional offenses--

After I hear about this, I had a chance-- We had some of the Assemblymen and some of the Senators to our DWI Conference held recently -- March 31, in fact. I met Senator Graves at the time, when he brought up the idea of going for this bond issue, and so on. Well, personally we are in favor of it. We think it is a good issue. If we need the facilities, let's do it. Let's go for it.

The other part, again, we should get it as soon as possible. I mean, I am talking about the buildings and the additional facilities for the prisoners.

After thinking about it -- in fact, while they were discussing it -- I asked Senator Graves, "How about the use of government property that we know is available?" It is vacant,

a good portion of it. I don't know how vacant. As I said, I didn't have much time to go into it.

I do know that during the war, prisoners of war were sent to this country. We had some located -- all of them in New Jersey that I know of-- We're talking about Fort Dix, Fort Hancock, Lakehurst, Fort Kilmer, and so on. Now, we know they were there. It was just a matter of barracks -- wooden barracks -- and enclosures, normally fencing of some kind, and controlling the prisoners in a way. We had very few problems.

Again, the whole idea is, let's get something done as quickly as possible. What they were talking about -- about the modular homes -- sounds reasonable. They could be put up. It would be a matter of classifying the prisoners properly -- who goes to that type of a facility; who stays in the hard cells -- in the jail cells. Parts of that can be done very nicely by the people in the institutions.

The whole thing is, sure, put them in jail for an offense, by all means. It is the best thing that can be done. It gives them time to think it over. But, the whole thing is again, let's not stop at that. This was brought out, too, by the way. I didn't even know about it until I heard what was going on here.

Even the prisoners of war, and even as regulars in the Army, we did everything ourselves. We had kitchen facilities -- if you remember, KP. We had to clean our barracks; we had to clean ourselves; we had to do other chores around the post. No one was brought in and subcontracted to take care of the place. So, again, it is a money saver.

The final thing, as I said, which did come up was the additional, what we call rehabilitative programs, taking care of their particular problems, whether they be medical or psychological; education, possibly teaching certain trade skills, so when they get out they won't fall right back to where they were before, selling pot, and everything else, to

make a buck. If prisoners become trade oriented -- learning how to do electrical work, plumbing, carpentry, anything you want -- fine. You have the facilities. Work an educational program into them for rehabilitation.

That is my view. Possibly I am looking a little too far, a little too expensively, I don't know. But, I feel, personally, and everyone I have spoken to in these organizations feels, "Let's go all the way," so we just don't keep this mounting figure for how many people are going into our penal facilities, and we haven't enough. We have to go further. We have to build more. Let's see what we can do, again, as far as cutting that down a little.

ASSEMBLYMAN SHUSTED: Thank you very much, Mr. Meltz. Does any member of the Committee have any questions?

ASSEMBLYMAN KAVANAUGH: Just one comment, so that we understand. This is kind of a different type of population we are looking at than the prisoners of war. The prisoners of war were, in most cases, law-abiding citizens in their own country, who were captured and brought here. So, they were not the type that we are going to go out--

MR. MELTZ: Oh, far from it. The whole thing is, again, I agree with you. They were brought here; they felt safe here. They weren't in any way penalized, as such. They still had most of their activity, and everything else that went with it. The same thing could go for these others. I understand that. I am talking about the facilities. We had none. When we went into that war -- I was in the regular Army -- we didn't even have enough rifles to go around. We had nothing, but it didn't take us long until we did have them, and had the facilities.

So, when we put up these places for the prisoners of war, it didn't take long. We were there. As I say, the government does have facilities around -- properties -- which are out of the urban areas, that I am positive-- You are

speaking about one now, Fort Dix. They have part of it under some sort of an agreement. I can't see why the State can't ask the government to give them additional properties in those areas, and then build on them.

ASSEMBLYMAN KAVANAUGH: Well, the bond issue itself-- Part of the wording in the bond issue legislation that Speaker Hardwick has-- They ask that primary concern would be that government facilities -- as far as government land -- would be used to build the facilities on. But, as the Commissioner mentioned this morning, the Mid-State facility we now have at Dix, the government has said they have other uses for it. We would love to continue to use it to house prisoners, but the Federal government wants that property back.

In the 40 years since World War II, there have been many changes. I have constituents, and I am sure every legislator has constituents, who get disturbed over the type of facilities the prisoners have. The government and the law and the courts and people have stated that you have to have certain standards established. If you try to change them, you will have every attorney involved in the thing coming after you. It is a very difficult thing today for Corrections, for what they are doing and the type of work that has to be done within the prison system, the way it is built.

I have heard people say, "Take the Pinelands -- 10 square miles -- with double fencing, and with dogs, and let them live and work off the land." The courts will not allow that to happen. So, we are now in an area that we, as the Legislature, has mandated-- For example, the Graves Act -- three years minimum sentence that they are going to go there. The judge has no-- We had an example where a young gentleman had been harassed by an individual. He went out and fired one shot in the air -- a law-abiding citizen. He just went out there. He was so frustrated, he had no intention-- They charged him, and now he is going to go to prison for three

years. He has to go because the Legislature said, "You have to go if you use a weapon."

These are the types of things. Since we have asked to have that type, and the public wants to have protection, we have now put ourselves in a situation where we have to house these people, and we have to house them according to the standards which the courts have stated. It is expensive, \$80,000 to \$100,000 for each jail cell. Plus, as I mentioned, the cost of some \$20,000 a year to house them.

MR. MELTZ: Well, that is the high security. I don't think it is--

ASSEMBLYMAN KAVANAUGH: But, your average as far as costs. You have certain things that have to be there. So, I think it is a step that has to be done because of prison overcrowding, but we do have the escalating costs. I don't know whether you were here earlier when I talked about I think that is why I think we have to explore privatization. We have to look into that area, and also into prevention for the youth, who are going to become the criminals of tomorrow. If we can stop that, through training and education, that will reduce our criminal justice system. But, we are in a quandary right now where we have been told, and the projections state, that there will be a need for some 6000 beds in the next three years. It is our responsibility as elected officials to have that money available, and it has to be raised. The way we propose to raise it is by an additional bond issue. But, each thing within that \$198 million will be fully and totally reviewed by the Legislature before-- They just can't go out and write a check to do something without a full review.

MR. MELTZ: Thank God. I've heard that before, and I thought it was really good. I don't have to tell you what can happen to the millions of dollars very quickly, unless it is, you know, watched.

But, the other thing is, again, I appreciate what you are saying, but I want to see something like this move now. I am not talking about waiting a year, two years. You know how much has happened now. We haven't the places. I have gone to court sessions, and I have heard the judge. You know, he has to read from his notes and, of course, it will say, "Guilty, but this is what you have. You will be put on parole for a specified amount of time until we have the facilities so you can go." I mean, it is ridiculous. I mean, what happens? You put them out on the street? Forget it. I don't want it. I would rather pay the extra bucks.

ASSEMBLYMAN KAVANAUGH: You can assist us by being an advocate. It will be put on the ballot, and the people of New Jersey are going to have to vote it up or down. We would appreciate your support to have this bond issue passed in November.

MR. MELTZ: On something like this, you bet you'll have my support.

ASSEMBLYMAN SHUSTED: Thank you very much, Mr. Meltz. The next witness will be James Hemm.

R I K I J A C O B S: I am substituting for Mr. Hemm.

ASSEMBLYMAN SHUSTED: Oh, you had me confused there for a minute. What is your name?

MS. JACOBS: My name is Riki Jacobs. I represent the New Jersey Association on Correction. We are a private, nonprofit citizens' organization in the criminal justice area, and we have been providing education advocacy and direct services throughout the State for the past 25 years.

Let me begin by saying that we absolutely oppose this legislation. New construction is not the answer to our overcrowding problem. New Jersey has relied on construction to solve its overcrowding problem, to its detriment. It allows us to ignore our failure to use the alternatives.

Our prison and jail population has already more than doubled in the last four years. We have not utilized the alternatives that were originally incorporated in the Governor's Plan of 1982. New construction will only worsen the situation. We need to redirect our energies into developing a comprehensive approach. Community, State agency, and educational representatives statewide must reevaluate a theoretical and practical approach to corrections.

It is discouraging to hear recommendations to study alternatives. We have studied the alternatives. Must we start from the beginning because we failed to use them? Not enough money has been appropriated. I disagree that there is a recognition by everyone that there is a need for new jail space. In one breath, we speak of alternatives, and in the next we appropriate but a fraction of the total to community supervision. The innovative ideas we discuss are commonplace elsewhere.

Commissioner Fauver just spoke of consolidating treatment. The latest facts I have read say that about 90% of offenders who are substance abusers. You can't consolidate that many people into one program. There is a lot of education and a lot of money that needs to be put into this, if we are going to do anything.

I am a consultant for the National Institute of Corrections for community-based programs. I have had occasion to meet with representatives from across the country. They are successfully using the alternatives that we have been discussing since 1982. Some states have almost 10% of their populations in community-based programs. Out of more than the 15,000 we have incarcerated, there are less than 200 in our halfway house system.

I would like to end by reading you a quote from a letter that I received yesterday, from an inmate at Rahway. It is one of those letters that sort of jogs you out of your

complacency. Even though I am very much for alternatives and I am an advocate, I have become almost desensitized from working in the field. The letter is very literate, and made me again think about the purpose I have in working for the Association.

He states: "You walk into a building that is dilapidated. The conditions almost totally overwhelm you. Your sense of humanity is assaulted by the conditions and the plight of those incarcerated behind the walls. No one, but no one, should be made to live this way. Total nothingness. It is like there is a sign posted, 'All hope abandoned, ye who enter here.' If I had the power to place you in this environment, you would either end it all or become the most vocal and violent of radicals."

I ask you to please consider somehow making it mandatory for us to start using those alternatives. We really need to make use of community-based programing. We need to put much more money into probation and parole. It is impossible for people to manage case loads, when they number over a hundred for one individual. That is why the public feels they are not safe with the people under community supervision. It is too difficult.

Thank you.

ASSEMBLYMAN SHUSTED: Does any member of the Committee have any questions of this witness? (no response) Thank you very much, Ms. Jacobs.

MS. JACOBS: I have some written testimony.

ASSEMBLYMAN SHUSTED: Thank you. The next witness will be John T. Mavros. Is Mr. Mavros here? (no response) Is there any other member of the public who wishes to testify for or against this proposed legislation? (no response)

Hearing none, I will entertain a motion to close the public hearing.

ASSEMBLYMAN PELLY: I second the motion.

ASSEMBLYMAN SHUSTED: It has been moved and seconded that the public section of the consideration of Assembly Bill 3209 be closed.

(HEARING CONCLUDED)

APPENDIX

ASSEMBLY, No. 3209

STATE OF NEW JERSEY

INTRODUCED SEPTEMBER 18, 1986

By Assemblymen HARDWICK, KERN, Shusted, Villane,
Haytaian and Rocco

AN ACT authorizing the creation of a debt of the State of New Jersey by issuance of bonds of the State in the sums of \$50,000,000.00 for State correctional facilities, their planning, erection, acquisition, improvement, construction, reconstruction, development, extension, rehabilitation, demolition and equipment; providing the ways and means to pay the interest of said debt and also to pay and discharge the principal thereof; providing for the submission of this act to the people at a general election; and providing an appropriation therefor.

1 BE IT ENACTED *by the Senate and General Assembly of the State*
2 *of New Jersey:*

1 1. This act shall be known and may be cited as the "Correctional
2 Facilities Construction Bond Act of 1986."

1 2. The Legislature finds that:

2 a. A rapidly expanding inmate population in the correctional
3 facilities of this State is causing serious problems of overcrowding
4 in State correctional facilities:

5 b. Projections indicate an increase in that population of over
6 100% in this decade.

7 c. The increasing enactment of legislation containing mandatory
8 sentencing requirements could well exacerbate the prison over-
9 crowding problem;

10 d. The State of New Jersey has an urgent need to construct
11 additional facilities for the incarcerated;

12 e. The plan of action to address the problem of prison over-
13 crowding will require a bond issue of \$50,000,000.00 to finance the

14 construction of new medium security prisons and modifications
15 required to convert existing State facilities to meet the forecasted
16 need.

1 3. As used in this act:

2 a. "Commission" means the New Jersey Commission on Capital
3 Budgeting and Planning:

4 b. "Commissioner" means the Commissioner of the Department
5 of Corrections;

6 c. "Construction" means the planning, erection, acquisition,
7 improvement, construction, reconstruction, development, exten-
8 sion, rehabilitation, demolition and equipment of correctional
9 facilities, including all equipment and facilities necessary to the
10 operation thereof, and includes the acquisition of land necessary
11 for said purposes:

12 d. "Correctional facilities" means buildings, structures and
13 facilities under the supervision and control of the Department of
14 Corrections.

15 e. "Cost" means the cost of acquisition or construction of all
16 or any part of a project and of all or any real or personal property,
17 agreements and franchises deemed by the department to be neces-
18 sary or useful and convenient therefor or in connection therewith,
19 including interest or discount of bonds, costs of issuance of bonds,
20 administrative costs, geological and hydrological services, engi-
21 neering and inspection costs and legal expenses, costs of financial,
22 professional and other estimates and advice, organization, operat-
23 ing and other expenses prior to and during such acquisition or
24 construction, and all such other expenses as may be necessary or
25 incident to the financing, acquisition, construction and completion
26 of such project or part thereof and the placing of the same in
27 operation, and also such provisions for a reserve fund, or reserves
28 for working capital, operating, maintenance or replacement ex-
29 penses and for payment or security of principal of or interest on
30 bonds during or after such acquisition or construction as the
31 Comptroller of the Treasury may determine:

32 f. "Department" means the Department of Corrections;

33 g. "Project" means any work relating to correctional facilities.

1 4. The commissioner shall issue and promulgate rules and regu-
2 lations necessary and appropriate to carry out the provisions of
3 this act. The commissioner shall review and consider the findings
4 and recommendations of the commission in the administration of
5 the provisions of this act.

1 5. Bonds of the State of New Jersey in the sum of \$50,000,000.00
2 are authorized for the purpose of capital expenditure for the cost

3 construction of correctional facilities as defined herein. To the
4 maximum extent feasible and possible, public lands should be
5 given preferential status for utilization for the construction of
6 any correctional facility.

1 6. The bonds shall be serial bonds or term bonds or a combina-
2 tion thereof and known as "Correctional Facilities Construction
3 Bonds." They shall be subject to redemption prior to maturity
4 and shall mature and be paid not later than 35 years from the
5 date of its issuance but may be issued in whole or in part for a
6 shorter term. Said bonds shall be issued from time to time as the
7 issuing officials herein named shall determine.

1 7. The Governor, State Treasurer and Comptroller of the Trea-
2 sury or any two of such officials (hereinafter referred to as "the
3 issuing officials") are hereby authorized to carry out the provisions
4 of this act relating to the issuance of said bonds, and shall determine
5 all matters in connection therewith subject to provisions hereof.
6 In case any of said officials shall be absent from the State or in-
7 capable of acting for any reason, his powers and duties shall be
8 exercised and performed by such person as shall be authorized by
9 law to act in his place as a State official.

1 8. Bonds issued in accordance with the provisions of this act shall
2 be a direct obligation of the State of New Jersey and the faith and
3 credit of the State are pledged for the payment of the interest
4 thereon as same shall become due and the payment of the principal
5 at maturity. The principal and interest on such bonds shall be
6 exempt from taxation by the State or by any county, municipality
7 or other taxing district of the State.

1 9. The bonds shall be signed in the name of the State by the
2 Governor or by his facsimile signature, under the Great Seal of the
3 State, and attested by the Secretary of State, or an Assistant
4 Secretary of State, and shall be countersigned by the facsimile
5 signature of the Comptroller of the Treasury. Interest coupons
6 attached to said bonds shall be signed by the facsimile signature
7 of the Comptroller of the Treasury. Such bonds may be issued
8 notwithstanding that any of the officials signing them or whose
9 facsimile signatures appear on the bonds or coupons shall cease to
10 hold office at the time of such issue or at the time of the delivery
11 of such bonds to the purchaser.

1 10. a. The bonds shall recite that they are issued for the purposes
2 set forth in section 5 of this act and that they are issued in pur-
3 suance of this act and that this act was submitted to the people
4 of the State at the general election held in the month of November.

5 1986 and that it received the approval of the majority of votes cast
6 for and against it at such election. Such recital in said bonds
7 shall be conclusive evidence of the authority of the State to issue
8 said bonds and of their validity. Any bonds containing such
9 recital shall in any suit, action or proceeding involving their
10 validity be conclusively deemed to be fully authorized by this act
11 and to have been issued, sold, executed and delivered in conformity
12 therewith and with all other provisions of statutes applicable
13 thereto, and shall be incontestable for any cause.

14 b. Such bonds shall be issued in such denominations and in such
15 form or forms, whether coupon or registered as to both principal
16 and interest, and with or without such provisions for interchange-
17 ability thereof, as may be determined by the issuing officials.

1 11. When the bonds are issued from time to time the bonds of
2 each issue shall constitute a separate series to be designated by
3 the issuing officials. Each series of bonds shall bear such rate or
4 rates of interest as may be determined by the issuing officials,
5 which interest shall be payable semiannually; provided that the
6 first and last periods may be longer or shorter, in order that
7 intervening semiannual payments may be at convenient dates.

1 12. The bonds shall be issued and sold at such price or prices
2 and under such terms, conditions and regulations as the issuing
3 officials may prescribe, after notice of said sale, published at least
4 once in at least three newspapers published in the State of New
5 Jersey, and at least once in a publication carrying municipal bond
6 notices and devoted primarily to financial news, published in New
7 Jersey or the city of New York, the first notice to be at least five
8 days prior to the day of bidding. The said notice of sale may con-
9 tain a provision to the effect that any or all bids in pursuance
10 thereof may be rejected. In the event of such rejection or of failure
11 to receive any acceptable bid, the issuing officials, at any time within
12 60 days from the date of such advertised sale, may sell such bonds
13 at private sale at such price or prices and under such terms
14 and conditions as the issuing officials may prescribe. The issuing
15 officials may sell all or part of the bonds of any series as issued to
16 any State fund or to the Federal Government or any agency thereof,
17 at private sale, without advertisement.

1 13. Until permanent bonds can be prepared, the issuing officials
2 may, in their discretion, issue in lieu of the permanent bonds
3 temporary bonds in such form and with such privileges as to regis-
4 tration and exchange for permanent bonds as may be determined by
5 the issuing officials.

1 14. The proceeds from the sale of the bonds shall be paid to the
2 State Treasurer and be held by him in a separate fund, and be

3 deposited in such depositories as may be selected by him to the
4 credit of the fund, which fund shall be known as the "Correctional
5 Facilities Construction Fund."

1 15. a. The moneys in said "Correctional Facilities Construction
2 Fund" are hereby specifically dedicated and shall be applied to the
3 cost of the purposes set forth in section 5 of this act, and all such
4 moneys are hereby appropriated for such purposes, and no such
5 moneys shall be expended for such purposes (except as otherwise
6 hereinbelow authorized) without the specific appropriation thereof
7 by the Legislature, but bonds may be issued as herein provided
8 notwithstanding the Legislature shall not have then adopted an
9 act making specific appropriation of any said moneys. Any act
10 appropriating moneys from the "Correctional Facilities Construc-
11 tion Fund" shall identify the particular project or projects to be
12 funded by such moneys.

13 b. At any time prior to the issuance and sale of bonds under
14 this act, the State Treasurer is hereby authorized to transfer from
15 any available money in the treasury of the State to the credit of
16 the "Correctional Facilities Construction Fund" such sum as he
17 may deem necessary. Said sum so transferred shall be returned
18 to the treasury of this State by the treasurer thereof from the
19 proceeds of the sale of the first issue of bonds.

20 c. Pending their application to the purpose provided in this act,
21 moneys in the "Correctional Facilities Construction Fund" may be
22 invested and reinvested as other trust funds in the custody of the
23 State Treasurer in the manner provided by law. Net earnings re-
24 ceived from the investment or deposit of such funds shall be paid
25 into the General State Fund.

1 16. In case any coupon bonds or coupons thereunto appertaining
2 or any registered bonds shall become lost, mutilated or destroyed,
3 a new bond shall be executed and delivered of like tenor, in sub-
4 stitution for the lost, mutilated or destroyed bonds or coupons,
5 upon the owner furnishing to the issuing officials evidence satis-
6 factory to them of such loss, mutilation or destruction, proof of
7 ownership and such security and indemnity and reimbursement for
8 expenses as the issuing officials may require.

1 17. Accrued interest received upon the sale of said bonds shall
2 be applied to the discharge of a like amount of interest upon said
3 bonds when due. Any expense incurred by the issuing officials for
4 advertising, engraving, printing, clerical, legal or other services
5 necessary to carry out the duties imposed upon them by the pro-
6 visions of this act shall be paid from the proceeds of the sale of

7 said bonds, by the State Treasurer upon warrant of the Comptroller
8 of the Treasury, in the same manner as other obligations of the
9 State are paid.

1 18. The bonds shall mature, including any sinking fund redemp-
2 tions, at such times, not more than 35 years following the date of
3 issuance thereof, and in such amounts as the issuing officials shall
4 determine. The issuing official may reserve to the State by appro-
5 priate provision in the bonds of any series the power to redeem
6 all or any such bonds prior to maturity at such price or prices and
7 upon such terms and conditions as may be provided in such bonds.

1 19. The issuing officials may at any time and from time to time
2 issue refunding bonds for the purposes of refunding in whole or in
3 part an equal principal amount of the bonds of any series issued
4 and outstanding hereunder, which by their terms are subject to
5 redemption prior to maturity, provided such refunding bonds shall
6 mature at any time or times not later than the latest maturity date
7 of such series, and the aggregate amount of interest to be paid
8 on the refunding bonds, plus the premium, if any, to be paid on the
9 bonds refunded, shall not exceed the aggregate amount of interest
10 which would be paid on the bonds refunded if such bonds were not
11 so refunded. Refunding bonds shall constitute direct obligations of
12 the State of New Jersey, and the faith and credit of the State are
13 pledged for the payment of the principal thereof and the interest
14 thereon. The proceeds received from the sale of refunding bonds
15 shall be held in trust and applied to the payment of the bonds
16 refunded thereby. Refunding bonds shall be entitled to all the bene-
17 fits of this act and subject to all its limitations except as to the
18 maturities thereof and to the extent herein otherwise expressly
19 provided.

1 20. To provide funds to meet the interest and principal payment
2 requirements for the bonds issued under this act and outstanding,
3 there is hereby appropriated in the order following:

4 a. Revenue derived from the collection of taxes as provided by
5 the "Sales and Use Tax Act," P. L. 1966, c. 30 (C. 54:32B-1 et seq.)
6 as amended and supplemented, or so much thereof as may be re-
7 quired; and

8 b. If in any year or at any time funds, as hereinabove appro-
9 priated, necessary to meet interest and principal payments upon
10 outstanding bonds issued under this act, be insufficient or not avail-
11 able then and in that case there shall be assessed, levied and
12 collected annually in each of the municipalities of the counties of
13 this State a tax on real and personal property upon which munici-
14 pal taxes are or shall be assessed, levied and collected, sufficient to

15 meet the interest on all outstanding bonds issued hereunder and on
16 such bonds as it is proposed to issue under this act in the calendar
17 year in which such tax is to be raised and for the payment of bonds
18 falling due in the year following the year for which the tax is levied.
19 The tax thus imposed shall be assessed, levied and collected in the
20 same manner and at the same time as other taxes upon real and
21 personal property are assessed, levied and collected. The governing
22 body of each municipality shall cause to be paid to the county
23 treasurer of the county in which such municipality is located, on or
24 before December 15 in each year, the amount of tax herein directed
25 to be assessed and levied, and the county treasurer shall pay the
26 amount of said tax to the State Treasurer on or before December
27 20 in each year.

28 If on or before December 31 in any year the issuing officials shall
29 determine that there are moneys in the General State Fund beyond
30 the needs of the State, sufficient to meet the principal of bonds
31 falling due and all interest payable in the ensuing calendar year,
32 then and in the event such issuing officials shall by resolution so
33 find and shall file the same in the office of the State Treasurer,
34 whereupon the State Treasurer shall transfer such moneys to a
35 separate fund to be designated by him, and shall pay the principal
36 and interest out of said fund as the same shall become due and pay-
37 able, and the other sources of payment of said principal and
38 interest provided for in this section shall not then be available, and
39 the receipts for said year from the tax specified in subsection a. of
40 this section shall thereon be considered and treated as part of the
41 General State Fund, available for general purposes.

1 21. Should the State Treasurer, by December 31 of any year,
2 deem it necessary, because of insufficiency of funds to be collected
3 from the sources of revenue as hereinabove provided, to meet the
4 interest and principal payments for the year after the ensuing year,
5 then the treasurer shall certify to the Comptroller of the Treasury
6 the amount necessary to be raised by taxation for such purposes,
7 the same to be assessed, levied and collected for and in the ensuing
8 calendar year. In such case the Comptroller of the Treasury shall,
9 on or before March 1 following, calculate the amount in dollars to
10 be assessed, levied and collected as herein set forth in each county.
11 Such calculation shall be based upon the corrected assessed valua-
12 tion of such county for the year preceding the year in which such
13 tax is to be assessed, but such tax shall be assessed, levied and
14 collected upon the assessed valuation of the year in which the tax is
15 assessed and levied. The Comptroller of the Treasury shall certify
16 said amount to the county board of taxation and the county

17 treasurer of each county. The said county board of taxation shall
 18 include the proper amount in the current tax levy of the several
 19 taxing districts of the county in proportion of the ratables as
 20 ascertained for the current year.

1 22. For the purpose of complying with the provisions of the State
 2 Constitution this act shall, at the general election to be held in the
 3 month of November, 1986, be submitted to the people. In order to
 4 inform the people of the contents of this act, it shall be the duty of
 5 the Secretary of State, after this section shall take effect, and at
 6 least 15 days prior to the said election, to cause this act to be
 7 published in at least 10 newspapers published in the State and to
 8 notify the clerk of each county of this State of the passage of this
 9 act, and the said clerks respectively, in accordance with the instruc-
 10 tions of the Secretary of State, shall cause to be printed on each
 11 of the said ballots, the following:

12 If you approve the act entitled below, make a cross (X), plus
 13 (+), or check (✓) mark in the square opposite the word "Yes."
 14 If you disapprove the act entitled below, make a cross (X), plus
 15 (+), or check (✓) mark in the square opposite the word "No."

16 If voting machines are used, a vote of "Yes" or "No" shall be
 17 equivalent to such markings respectively.

	Yes.	<p style="text-align: center;">CORRECTIONAL FACILITIES CONSTRUCTION BOND ISSUE</p> <p>Should the "Correctional Facilities Constitution Bond Act of 1986, which authorizes the State to issue bonds in the amount of \$50,000,000.00 for the planning, erection, acquisition, improvement, construction, reconstruction, development, extension, rehabilitation, demolition and equipping of correctional facilities: and to provide the means to pay the principal and interest on these bonds, be approved?</p>
	No.	<p style="text-align: center;">INTERPRETIVE STATEMENT</p> <p>Approval of this act will authorize the sale of \$50,000,000.00 in bonds to be used for construction and improvement of correctional facilities to alleviate present and anticipated serious problems of overcrowding in State prisons.</p>

18 The fact and date of the approval or passage of this act, as the
 19 case may be, may be inserted in the appropriate place after the
 20 title in said ballot. No other requirements of law of any kind or
 21 character as to notice or procedure except as herein provided need
 22 be adhered to.

23 The said votes so cast for and against the approval of this act, by
 24 ballot or voting machine, shall be counted and the result thereof
 25 returned by the election officer, and a canvass of such election had

8X

26 in the same manner as is provided for by law in the case of the
 27 election of a Governor, and the approval or disapproval of this act
 28 so determined shall be declared in the same manner as the result
 29 of an election for a Governor, and if there shall be a majority of all
 30 the votes cast for and against it at such election in favor of the
 31 approval of this act, then all the provisions of this act not made
 32 effective theretofore shall take effect forthwith.

1 23. There is appropriated the sum of \$5,000.00 to the Department
 2 of State for expenses in connection with the publication of notice
 3 pursuant to section 22.

1 24. The commissioner shall submit to the State Treasurer and
 2 the commission with the department's annual budget request a plan
 3 for the expenditure of funds from the "Correctional Facilities
 4 Construction Fund" for the upcoming fiscal year. This plan shall
 5 include the following information: a performance evaluation of the
 6 expenditures made from the fund to date; a description of pro-
 7 grams planned during the upcoming fiscal year; a copy of the
 8 regulations in force governing the operation of programs that are
 9 financed, in part or whole, by funds from the "Correctional Facil-
 10 ities Construction Fund": and an estimate of expenditures for the
 11 upcoming fiscal year.

1 25. Immediately following the submission of the Legislature of
 2 the Governor's Annual Budget Message the commissioner shall
 3 submit to the relevant standing committees of the Legislature, as
 4 designated by the President of the Senate and the Speaker of the
 5 General Assembly, and to the special joint legislative committee
 6 created pursuant to Assembly Concurrent Resolution No. 66 of the
 7 1968 Legislature, as reconstituted and continued by the Legislature
 8 from time to time, or to the successor of that committee, a copy
 9 of the plan called for under section 24 of this act, together with
 10 such changes therein as may have been required by the Governor's
 11 budget message.

1 26. Not less than 30 days prior to the commissioner entering into
 2 any contract, lease, obligation, or agreement to effectuate the
 3 purposes of this act, the commissioner shall report to and consult
 4 with the special joint legislative committee created pursuant to
 5 Assembly Concurrent Resolution No. 66 of the 1968 Legislature as
 6 reconstituted and continued from time to time by the Legislature,
 7 or the successor of that committee.

1 27. All appropriations from the bond fund shall be by specific
 2 allocation for each major project, and any transfer of any funds so
 3 appropriated shall require the approval of the Joint Appropria-
 4 tions Committee's Subcommittee on Transfers or its successor.

1 28. This section and sections 22 and 23 shall take effect im-
 2 mediately and the remainder of the act shall take effect as and
 3 when provided in section 22.

STATEMENT

This bill addresses the urgent problem of prison overcrowding in New Jersey by authorizing the issuance of \$50,000,000.00 in State bonds for the construction, improvement and rehabilitation of State correctional facilities. As stated in the bill's findings section, the State's incarcerated population is projected to rise in the next decade to a level which will substantially exceed the available prison capacity. Moreover, the increasing enactment of mandatory sentencing laws promises to further exacerbate the overcrowding of existing correctional facilities. The planning and construction of additional prison capacity must be started immediately. This bill provides the resources to let this work begin.

CORRECTIONS AND PRISONS

Authorizes \$50 million bond issue for correctional facilities and appropriates \$5,000.00.

NEW JERSEY ASSOCIATION ON CORRECTION

Citizens Working Together for an Effective Criminal Justice System ~~=====~~ Founded in 1961 as The Morrow Association

21 NORTH CLINTON AVENUE, TRENTON, NEW JERSEY 08609
(609) 396-8900

TESTIMONY BEFORE THE ASSEMBLY LAW, PUBLIC SAFETY DEFENSE AND CORRECTIONS COMMITTEE

April 23, 1987

Good Morning. My name is Riki Jacobs and I represent the New Jersey Association on Correction. NJAC is a private non-profit citizens organization in the criminal justice area providing education, advocacy and direct services throughout the state. The Association appreciates the opportunity to appear before this Committee to comment on what we believe is one of the most salient issues in our corrections system.

Less than three years ago we appeared before the Subcommittee on Overcrowding questioning the need for 1800 new beds over the aquisition of the 5300 new cell spaces from the Governor's plan of 1982. I ask you today how soon we will call on the people of New Jersey for yet another Construction Bond when the one proposed in the current legislation fails to address our overcrowding problem. It seems that the original plan to incorporate state and county parole, Intensive Supervision, increases in maximum probation sentences and community-based programming has not been utilized to its fullest extent. New Jersey continues to ignore the pervasive problems in our Corrections and Criminal Justice systems. The lack of coordination of institutional corrections and community supervision results in a failure to address the effects of our sentencing patterns, incarceration and reintegration problems.

The Legislature finds that the projected increases in the correctional population will be over 100% in this decade. It also finds that the increase in mandatory sentencing legislation will more likely than not further aggravate the existing situation. It's response is to categorize the overcrowding problem as an urgent need for new construction. If the situation requires this sense of urgency, will the construction of 1500 new beds have the impact necessary to

forestall future problems? The Legislature needs to develop a plan which addresses the root of the problem, to decrease the flow of convicted persons through the correctional system. It needs to develop alternative sentencing models, not only to provide punishment but to assist the reintegration process and keep individuals who are inappropriate for incarceration out of the institutions.

The same problems which were pointed out in 1982 and 1985 still exist today. Intensive Supervision and ISSP is still underutilized. The county jails are struggling with their overcrowding conditions due to the high state inmate population. Parole release is problematic if not impossible as fewer programs in institutions remain as a result of our need for bed space. This detracts from the inmates chance to prove him/herself worthy of release. Finally, the use of community-based programming effects but a fraction of the total population of individuals incarcerated. Just last week we lodged protest against the Corrections appropriations which sorely neglect the area of community supervision and custody.

Additional construction is certainly not the answer to our increasing prison population. We continue to make the same mistakes in our correctional practices. Without the use of alternatives methods of punishment we will fail to address the array of problems that have been exacerbated by our increased prison and jail populations. Our pervasive drug problem, sentencing patterns, AIDS medical and educational needs, and the ongoing race, class and sex bias of our criminal justice system all serve to debilitate our efforts at punishment and reintegration. Is the unwillingness on the part of our legislature and state agencies to utilize alternatives a result of their unwillingness to face our state's problems head on? We believe they go hand in hand.

Advocating new construction as a response to our crisis is a sham. We have much work to do. The time is ripe for a reevaluation of our theoretical and practical approach to criminal justice. New Jersey has the benefit of many concerned and educated individuals in the field. It is time we joined forces to develop a more effective system. As legislators you have the tools necessary to begin the process. If we are to successfully intervene in this crisis, we must act now. Thank you.