

PUBLIC HEARING
before
ASSEMBLY INSTITUTIONS, HEALTH AND WELFARE COMMITTEE
on
Assembly Bill #1823
(Institutional Bond Issue)

Held:
June 23, 1980
Room 90
State House
Trenton, New Jersey

MEMBERS OF COMMITTEE PRESENT:

Assemblyman George J. Otlowski, Chairman
Assemblyman Raymond Lesniak
Assemblyman Richard F. Visotcky
Assemblyman C. Louis Bassano
Assemblyman Clifford W. Snedeker

ALSO:

John D. Kohler, Research Associate
Office of Legislative Services
Aide, Assembly Institutions, Health and Welfare Committee

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Senator William J. Hamilton, Jr. District #17	5
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ASSEMBLY, No. 1823

STATE OF NEW JERSEY

INTRODUCED JUNE 12, 1980

By Assemblymen OTLOWSKI, KARCHER, PATERO, PATERNITI,
ADUBATO, SCHWARTZ, BURSTEIN, FLYNN, BORN-
HEIMER, SNEDEKER, SAXTON, LITTELL, HURLEY and
D. GALLO

Referred to Committee on Institutions, Health and Welfare

AN ACT authorizing the creation of a debt of the State of New Jersey by issuance of bonds of the State in the sum of \$125,000,000.00 for buildings for public purposes, their planning, construction, reconstruction, development, erection, acquisition, extension, improvement, 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; and 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 "New Jersey
2 Public Purpose Buildings Construction Bond Act of 1980."

1 2. The Legislature hereby finds that:

2 a. The State of New Jersey requires an immediate program to
3 provide safe and humane facilities for persons who require insti-
4 tutionalization or extended care.

5 b. The State of New Jersey requires an immediate and integrated
6 program for the improvement, rehabilitation, and construction of
7 institutions for the aged, aged veterans, the mentally ill, the men-
8 tally retarded, children in need of supervision and the incarcerated.

9 c. The State of New Jersey requires an immediate program to
10 facilitate the construction of long-term care facilities in order to
11 increase the number of beds available to aged Medicaid eligible
12 persons in need of such facilities.

13 d. The State of New Jersey requires an immediate program for
14 the construction of institutions for the mentally retarded in con-
15 junction with the Federal program for Intermediate Care Facil-
16 ities/Mentally Retarded.

17 e. The State of New Jersey requires an immediate program for
18 the construction of additional long-term care facilities for veterans
19 in conjunction with the Federal State Home Construction Program.

20 f. The State of New Jersey requires an immediate program for
21 the construction of additional facilities for the incarcerated.

22 g. Implementation of such programs will be a substantial step
23 toward meeting the immediate and critical needs of the people of
24 the State, will substantially further the public interest, and can be
25 most economically financed through a bond issue.

1 3. Except as the context may otherwise require:

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

4 b. "Construction" means the planning, erection, acquisition,
5 improvement, rehabilitation, construction, reconstruction, develop-
6 ment, extension, demolition, and equipment of public buildings or
7 institutions including all equipment and facilities necessary to the
8 operation thereof and includes the acquisition of land necessary for
9 said purposes, and the guarantee of loans made by public authori-
10 ties, herein defined, for the development of long-term care facilities.

11 c. "Public purpose buildings" means (1) structures, institutions
12 or facilities under the supervision or control of the Department of
13 Corrections or the Department of Human Services; (2) structures,
14 institutions or facilities necessary for the operation of State,
15 county, municipal or private programs for the mentally retarded,
16 the mentally ill, the developmentally disabled, or the aged; and
17 (3) long-term care facilities licensed by the Department of Health
18 which are in conformance with rules and regulations promulgated
19 by the Department of Human Services.

20 d. "Public authorities" means the Health Care Facilities Financ-
21 ing Authority or the Economic Development Authority.

1 4. The chief executive officer of any department designated pur-
2 suant to section 5 of this act to implement a portion of the con-
3 struction provided for in this act shall issue and promulgate,
4 pursuant to law, such rules and regulations as are necessary and
5 appropriate to carry out the provisions of this act. Such chief
6 executive officer shall review and consider the findings and recom-
7 mendations of the commission in the administration of the provi-
8 sions of this act.

1 5. Bonds of the State of New Jersey in the sum of \$125,000,000.00
2 are hereby authorized for the construction of public purpose build-
3 ings as defined herein. Of such total, the proceeds from the sale of
4 bonds shall be allocated, to the maximum extent practicable and
5 feasible, according to the following estimates of costs:

6 a. For construction and improvement of public buildings for the
7 mentally retarded in conjunction with the Federal Program for
8 Intermediate Care Facilities/Mentally Retarded, to be implemented
9 by the Department of Human Services—\$50 million.

10 b. For improvements and additions to facilities for the mentally
11 ill, to be implemented by the Department of Human Services—
12 \$21.5 million.

13 c. For improvements and additions to facilities for children in
14 need of supervision, to be implemented by the Department of
15 Human Services—\$3.5 million.

16 d. For construction of additional long-term care facilities for
17 veterans in conjunction with the Federal State Home Construction
18 program, to be implemented by the Department of Human Services
19 upon receipt of Federal matching funds—\$7 million.

20 e. For the establishment of a loan guarantee fund to encourage
21 the construction of long-term care facilities which will provide
22 additional Medicaid beds, to be implemented by the Department of
23 Human Services pursuant to agreements with public authorities,
24 which agreements provide for the guarantee of obligations issued
25 by such public authorities to finance the construction of such long-
26 term care facilities—\$10 million.

27 f. For repairs and renovations of facilities for the incarcerated,
28 to be implemented by the Department of Corrections—\$7 million.

29 g. For the construction of additional facilities for the incar-
30 cerated, to be implemented by the Department of Corrections—
31 \$26 million.

1 6. The bonds shall be serial bonds and shall be known as "Public
2 Purpose Buildings Construction Bonds" and, as to each series, the
3 last annual installment thereof (subject to redemption prior to
4 maturity) 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.

7 The bonds shall be issued from time to time as the issuing officials
8 herein named shall determine.

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

1 8. Bonds issued in accordance with the provisions of this act
2 shall be a direct obligation of the State of New Jersey and the faith
3 and 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 of 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 Secre-
4 tray of State, and shall be countersigned by the facsimile signature
5 of the Comptroller of the Treasury. Interest coupons attached to
6 said bonds shall be signed by the facsimile signature of the Comp-
7 troller of the Treasury. The bonds may be issued notwithstanding
8 that any of the officials signing them or whose facsimile signatures
9 appear on the bonds or coupons shall cease to hold office at the time
10 of issue or at the time of the delivery of the bonds to the purchaser.

1 10. a. The bonds shall recite that they are issued for the pur-
2 poses set forth in section 5 of this act and that they are issued
3 in pursuance of this act and that this act was submitted to the
4 people of the State at the general election held in the month of
5 November, 1980 and that it received the approval of the majority
6 of votes cast for and against it at such election. The recital in
7 the bonds shall be conclusive evidence of the authority of the
8 State to issue the bonds and of their validity. Any bonds contain-
9 ing such recital shall in any suit, action or proceeding involving
10 their validity be conclusively deemed to be fully authorized by
11 this act and to have been issued, sold, executed and delivered in
12 conformity herewith and with all other provisions of statutes
13 applicable thereto, and shall be incontestable for any cause.

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

1 11. When the bonds are issued from time to time the bonds of each
2 issue shall constitute a separate series to be designated by the
3 issuing officials. Each series of bonds shall bear such rate or rates
4 of interest as may be determined by the issuing officials, which
5 interest shall be payable semiannually; provided, that the first
6 and last interest 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 a price not less than
2 the par value thereof and accrued interest thereon, and under

3 terms, conditions and regulations, as the issuing officials may pre-
4 scribe, after notice of sale, published at least once in at least
5 three newspapers published in the State of New Jersey, and at
6 least once in a publication carrying municipal bond notices and
7 devoted primarily to financial news, published in the city of New
8 York or in New Jersey, the first notice to be at least 5 days prior
9 to the day of bidding. The notice of sale may contain a pro-
10 vision to the effect that any or all bids in pursuance thereof may
11 be rejected. In the event of rejection or of failure to receive any
12 acceptable bid, the issuing officials, at any time within 60 days
13 from the date of the advertised sale, may sell the bonds at pri-
14 vate sale at a price not less than the par value thereof and
15 accrued interest thereon and under terms and conditions as the
16 issuing officials may prescribe. The issuing officials may sell all
17 or part of the bonds of any series as issued to any State fund
18 or to the Federal Government or any agency thereof, at private
19 sale, without advertisement.

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

1 14. The proceeds from the sale of the bonds shall be paid to
2 the State Treasurer and be held by him in a separate fund and
3 be deposited with such depositories as may be selected by him
4 to the credit of the fund, which fund shall be known as the
5 "Public Purpose Buildings Construction Fund;" provided, how-
6 ever, that from the proceeds of the sale of bonds there shall be
7 segregated the sum of \$10,000,000.00 to be held in a separate
8 fund and to be deposited with such depositories as may be selected
9 by him to the credit of the separate fund to be known as the
10 "Long-Term Care Facilities Loan Guarantee Fund."

1 15. a. The moneys in the "Public Purpose Buildings Construction
2 Fund" are specifically dedicated and shall be applied to the cost
3 of the purposes set forth in section 5 of this act, provided that the
4 moneys segregated in the "Long-Term Care Facilities Loan
5 Guarantee Fund" shall be pledged as security for obligations issued
6 by public authorities as herein defined pursuant to agreements
7 between the Commissioner of Human Services and the public
8 authorities, and all such moneys are hereby appropriated for
9 such purposes, and no such moneys shall be expended for such
10 purpose (except as otherwise hereinbelow authorized) without the

11 specific appropriation thereof by the Legislature, but bonds may
12 be issued as herein provided notwithstanding that the Legislature
13 shall not have then adopted an act making specific appropriation
14 of any of the moneys.

15 b. At any time prior to the issuance and sale of bonds under this
16 act, the State Treasurer is authorized to transfer from any avail-
17 able money in the treasury of the State to the credit of the
18 "Public Purpose Buildings Construction Fund" such sum as he
19 may deem necessary. The sum transferred shall be returned to the
20 treasury of this State by the Treasurer thereof from the proceeds
21 of the sale of the first issue of bonds.

22 c. Pending their application to the purpose provided in this
23 act, moneys in the "Public Purpose Buildings Construction Fund"
24 may be invested and reinvested as other trust funds in the custody
25 of the State Treasurer in the manner provided by law. Net earnings
26 received from the investment or deposit of such fund shall be paid
27 into the General State Fund.

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

1 17. Accrued interest received upon the sale of bonds shall be
2 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 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. Bonds of each series issued hereunder shall mature in annual
2 installments commencing not later than the tenth year and ending
3 not later than the thirty-fifth year from the date of issue of such
4 series, and in amounts as shall be determined by the issuing officials,
5 and the issuing officials may reserve to the State by appropri-
6 ate provision in the bonds of any series the power to redeem all
7 or any of such bonds prior to maturity at such price or prices and
8 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 purpose 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 on
8 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 re-
16 funded 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), or so much thereof
6 as may be required; and

7 b. If in any year or at any time funds, as hereinabove appro-
8 priated, necessary to meet interest and principal payments upon
9 outstanding bonds issued under this act, be insufficient or not
10 available then and in that case there shall be assessed, levied and
11 collected annually in each of the municipalities of the counties of
12 this State a tax on real and personal property upon which munici-
13 pal taxes are or shall be assessed, levied and collected, sufficient to
14 meet the interest on all outstanding bonds issued hereunder and
15 on such bonds as it is proposed to issue under this act in the
16 calendar year in which such tax is to be raised and for the payment
17 of bonds falling due in the year following the year for which the
18 tax is levied. The tax thus imposed shall be assessed, levied and
19 collected in the same manner and at the same time as other taxes
20 upon real and personal property are assessed, levied and collected.
21 The governing body of each municipality shall cause to be paid to
22 the county treasurer of the county in which such municipality is
23 located, on or before December 15 in each year, the amount of tax
24 herein directed to be assessed and levied, and the county treasurer

25 shall pay the amount of said tax to the State Treasurer on or
26 before December 20 in each year.

27 If on or before December 31 in any year the issuing officials shall
28 determine that there are moneys in the General State Fund beyond
29 the needs of the State, sufficient to meet the principal of bonds
30 falling due and all interest payable in the ensuing calendar year.
31 then and in the event such issuing officials shall by resolution so
32 find and shall file the same in the office of the State Treasurer,
33 whereupon the State Treasurer shall transfer such moneys to a
34 separate fund to be designated by him, and shall pay the principal
35 and interest out of said fund as the same shall become due and
36 payable, and the other sources of payment of said principal and
37 interest provided for in this section shall not then be available, and
38 the receipts for said year from the tax specified in subsection a.
39 of this section shall thereon be considered and treated as part of
40 the 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 revenues as hereinabove provided, to meet the
4 interest and principal payments for the year after the ensuing
5 year, then the treasurer shall certify to the Comptroller of the
6 Treasury the amount necessary to be raised by taxation for such
7 purposes, the same to be assessed, levied and collected for and in
8 the ensuing calendar year. In such case the Comptroller of the
9 Treasury shall, on or before March 1 following, calculate the
10 amount in dollars to be assessed, levied and collected as herein
11 set forth in each county. Such calculation shall be based upon the
12 corrected assessed valuation of such county for the year preceding
13 the year in which such tax is to be assessed, but such tax shall be
14 assessed, levied and collected upon the assessed valuation of the
15 year in which the tax is assessed and levied. The Comptroller of
16 the Treasury shall certify said amount to the county board of taxa-
17 tion and the county treasurer of each county. The said county
18 board of taxation shall include the proper amount in the current
19 tax levy of the several taxing districts of the county in proportion
20 to the ratables as ascertained for the current year.

1 22. For the purpose of complying with the provisions of the
2 State Constitution this act shall, at the general election to be held
3 in the month of November, 1980 be submitted to the people. In
4 order to inform the people of the contents of this act it shall be
5 the duty of the Secretary of State, after this section shall take
6 effect, and at least 15 days prior to the said election, to cause this
7 act to be published in at least 10 newspapers published in the State

8 and to notify the clerk of each county of this State of the passage
 9 of this act, and the said clerks respectively, in accordance with the
 10 instructions of the Secretary of State, shall cause to be printed
 11 on each 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;">PUBLIC PURPOSE BUILDINGS CONSTRUCTION BOND ISSUE</p> <p>Should the "Public Purpose Buildings Construction Bond Act of 1980" which authorizes the State to issue bonds in the amount of \$125,000,000.00 for construction and improvement of facilities serving the mentally retarded, mentally ill and children in need of supervision; for construction and improvement of correctional institutions; for construction of long-term care facilities for disabled veterans; and for the creation of a fund to encourage the construction of long-term care facilities for the aged; and to provide 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 sale of \$125,000,000.00 in bonds to be used (1) to provide facilities for the mentally retarded and mentally ill which will improve the quality of care and allow the State to receive partial Federal reimbursement for such services; (2) for construction and improvement of correctional facilities to provide safe and humane conditions; (3) for improvements and additions to facilities for children in need of supervision; (4) for construction of additional nursing homes for disabled veterans; and (5) for the establishment of a loan guarantee fund to encourage the construction of nursing homes for the aged, including additional Medicaid beds.</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,
24 by ballot or voting machine, shall be counted and the result thereof
25 returned by the election officer, and a canvass of such election had
26 in the same manner as is provided for by law in the case of this
27 election of a Governor, and the approval or disapproval of this
28 act so determined shall be declared in the same manner as the re-
29 sult of an election for a Governor, and if there shall be a majority
30 of all the votes cast for and against it at such election in favor
31 of the approval of this act, then all the provisions of this act not
32 made effective theretofore shall take effect forthwith.

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

1 24. The chief executive officers of departments designated pur-
2 suant to section 5 of this act to implement construction provided
3 for in this act shall submit to the State Treasurer and the com-
4 mission with the department's annual budget request a plan for
5 the expenditure of funds from the "Public Purpose Buildings Con-
6 struction Fund" for the upcoming fiscal year. This plan shall
7 include the following information: a performance evaluation of the
8 expenditures made from the fund to date; a description of programs
9 planned during the upcoming fiscal year; a copy of the regulations
10 in force governing the operation of programs that are financed, in
11 part or in whole, by funds from the "Public Purpose Buildings Con-
12 struction Fund"; and an estimate of expenditures for the upcoming
13 fiscal year.

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

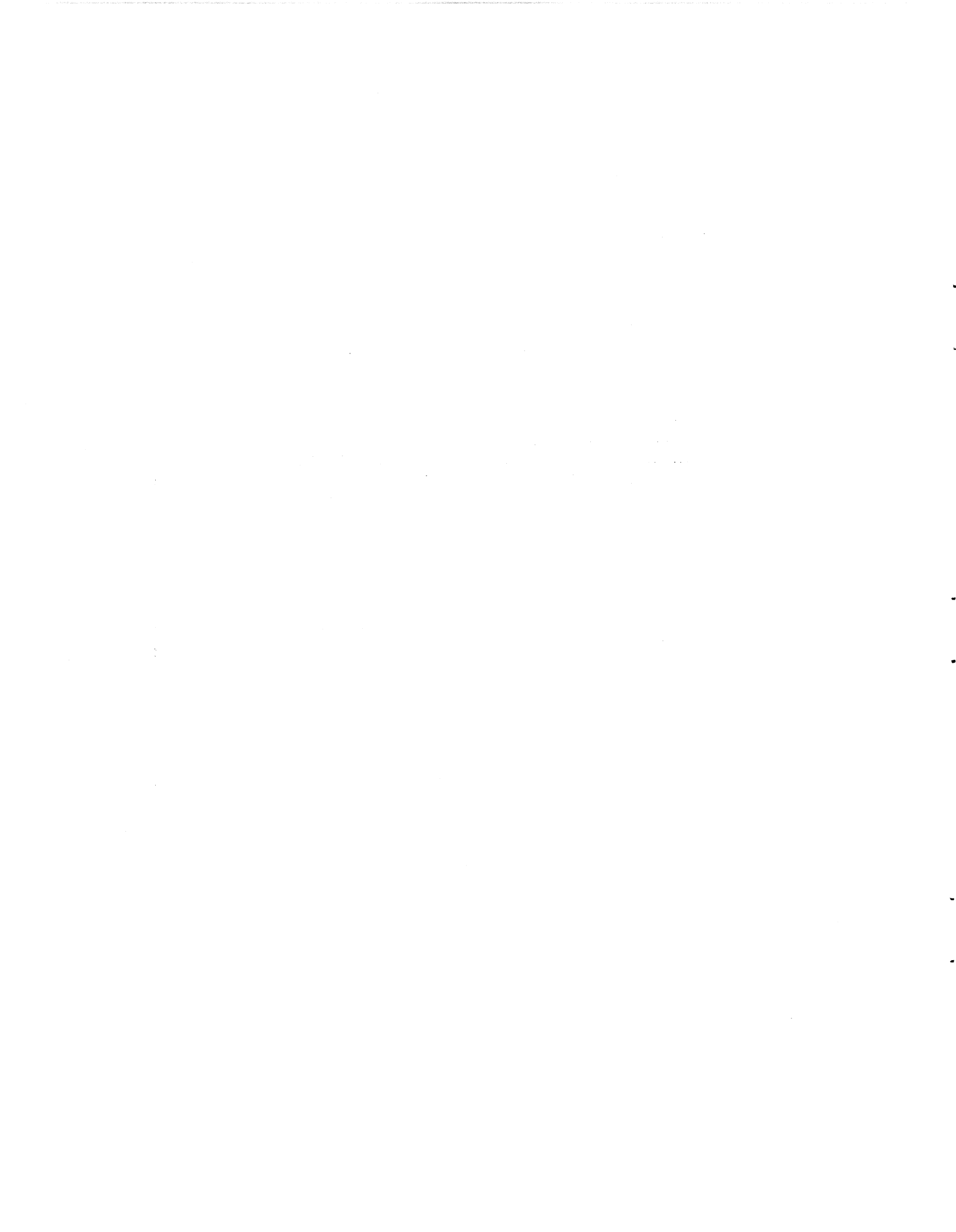
1 26. Not less than 30 days prior to entering into any contract,
2 lease, obligation, or agreement to effectuate the purposes of this
3 act, the chief executive officer of any department designated pur-
4 suant to section 5 of this act shall report to and consult with the
5 special joint legislative committee created pursuant to Assembly

6 Concurrent Resolution No. 66 of the 1968 Legislature as recon-
7 stituted and continued from time to time by the Legislature.
1 27. This section and sections 22 and 23 of this act shall take effect
2 immediately and the remainder of the act shall take effect as and
3 when provided in section 22.

STATEMENT

This bill would authorize the creation of a debt of the State of New Jersey by issuance of bonds of the State in the sum of \$125,000,000.00 for buildings for public purposes, their construction, reconstruction, development, extension, improvement, 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; and providing for the submission of this act to the people at a general election; and providing an appropriation therefor.

The proceeds of the sale of bonds would be used (1) to provide facilities for the mentally retarded and mentally ill which will improve the quality of care and allow the State to receive partial Federal reimbursement for such services; (2) for construction and improvement of correctional facilities to provide safe and humane conditions; (3) for improvements and additions to facilities for children in need of supervision; (4) for construction of additional nursing homes for disabled veterans; and (5) for the establishment of a loan guarantee fund to encourage the construction of nursing homes for the aged, including additional Medicaid beds.



ASSEMBLYMAN GEORGE OTLOWSKI (CHAIRMAN): I will call the meeting to order. This hearing is a continuation of the hearing that was held on the public purpose building construction bond referendum and it was held last Thursday, June 19. It was recessed until this morning and the testimony will continue. Those wishing to speak will indicate that to Mr. Kohler here. In the meantime, we are going to call on the Commissioner of Corrections and then on Senator Hamilton and then those others wishing to speak will testify after that. So, Commissioner, you're on.

COMMISSIONER WILLIAM H. FAUVER: Thank you, Mr. Chairman. I would like to comment on my not being at the last meeting. That was primarily because the only thing that had been recommended out of the capital planning, at that point, was \$7 million, which I felt the Capital Planning staff could explain. That was for repairs and construction, replacement costs at the various institutions. I could give you the Committee a breakdown on that, if you so desire.

I have, basically, the same material that I presented at the Capital Planning--

ASSEMBLYMAN OTLOWSKI: Commissioner, let me just say this. I think the consensus here is the fact that there is no argument about the need. Where there is a difference is on the point of the location. Primarily, there is opposition especially from the Middlesex area because of the fact that it is indicative, the way we're going now, that there is a desire to locate this facility in Jamesburg. Now, if you would testify to that point, I think it will be helpful to the Committee here and we could short-circuit your testimony somewhat.

COMMISSIONER FAUVER: I'll be glad to. I think my response to the Commission with the Jamesburg site was from the previous month. I had indicated at that time that the only possibilities that I saw for sites was on our own land, Department of Corrections property, and that the possible sites were at Annendale, because of acreage, and Jamesburg. After consideration of this, and we had considered Jamesburg more than a year ago as a possible site, we settled on Jamesburg as the primary of those two sites. It does not meet a lot of the needs that have been recommended in the past about placement more towards the urban areas, but of the sites that we had and the property that we had, we felt that it was the best possible alternative. There was discussion at the Commission, and I don't know if it was discussed with you last week or not, to consider the bond issue for the dollars and to come back with a site at a later time. That was offered as a compromise there and I thought it was one that certainly the Department could live with because we are concerned in the delay in getting to the ballot, which would be at least a year, and the figures that we have, we think, indicate a need and we didn't want to have that kind of a delay.

ASSEMBLYMAN OTLOWSKI: The inmates at Annendale, presently, are older than the inmates at Jamesburg, isn't that so?

COMMISSIONER FAUVER: Yes, it is.

ASSEMBLYMAN OTLOWSKI: What kind of chance do you think there is of getting it at Annendale without the same kind of opposition that you are getting at Middlesex?

COMMISSIONER FAUVER: Well, I don't know if the intensity of the opposition would be the same, but I think any site we pick, there is going to be opposition, no matter what county, no matter whether or not it is State property. I would point out something that I want you to understand. At the Jamesburg site, the inmates would not have been mixed. This is separate acreage and separate building. The same thing would have been true at Annendale.

ASSEMBLYMAN OTLOWSKI: The argument is advanced that if it were at Jamesburg, if this new prison facility were set at Jamesburg, it would immediately give an aura to the younger people that are there and to everything associated with it. This may even fall upon the inmates in the other institutions and that is something, of course, that would be a horror if that happened to the young people, if they got out of Jamesburg, out of their present institution and they carried the stigma that they got out of a prison in Jamesburg, even though they were in the youth facility in Jamesburg. The association is still there and there is a great fear that rests on that basis alone. That's why I asked you the question about the difference in age of the people in Annendale and the people in Jamesburg.

COMMISSIONER FAUVER: Well, that is a concern that could be a real one, yes. There could be a misunderstanding. There is no doubt that we would go with the same name. As I said, we went back with what we thought was the best possible site and I'm concerned with that with the Capital Planning Commission because, in the past, there have been two bond issues on prison construction and other public buildings, which the Commission approved and which both won when they were on the ballot the last time. I'm concerned that without their support it may not be successful.

ASSEMBLYMAN OTLOWSKI: This may be an unfair question, but it's a realistic question. Most of the inmates that would be settled in this institution would be coming out of what area of the State?

COMMISSIONER FAUVER: Well, the largest sending area is roughly around Essex County; around 25% of all the inmates come from that area.

ASSEMBLYMAN OTLOWSKI: Has real thought been given to locating a facility in Essex County, particularly in the Newark area?

COMMISSIONER FAUVER: Yes. We had two sites that we looked at in Newark and this has been dragging for a number of years. One met opposition. It was State property and it met opposition in the council and did not get approved by the City. The other was the site of the existing Newark Street Jail, which as of a while back, the City was willing to sell. The site was too small for what we wanted. It was a little less than eight acres and we needed probably about 13 or 14, as a minimum.

ASSEMBLYMAN OTLOWSKI: Wouldn't you be better off if you built two smaller institutions? Wouldn't the pressure and the whole business lessen if there were two smaller institutions, say, in Newark and some other place, two smaller institutions?

COMMISSIONER FAUVER: Well, there's no question that it would be more manageable and be easier to administer. I think the biggest factor there would be cost. That's why the big institutions were built in the first place and now we're down to trying to limit it to four or five hundred.

ASSEMBLYMAN OTLOWSKI: But, the big institutions have also proved to be a real problem.

COMMISSIONER FAUVER: Definately. I couldn't sit here and say that it wouldn't be better to have the two smaller ones. It would. But, I think, costwise, it would certainly escalate from the projection that we have now.

ASSEMBLYMAN LESNIAK: First of all, Commissioner, I haven't seen the testimony concerning the need for the new prison. So, I would like to have a copy of that, if I could. I made the statement that I believe that there is a need for the new prison, but I would like to have the facts that you have. Just to reiterate my position, we really can't keep dodging the issue. If there is a need for a prison, we have to do something about it, especially when we want to take stronger positions

in terms of sentencing for violent criminals and crimes committed with deadly weapons. Can't we work out something along the line of what the Commissioner said, regarding approval by the Capital Planning Commission concerning the site, or by the Legislature?

ASSEMBLYMAN OTLOWSKI: We have some language here that we are thinking about putting into the bill. When Senator Hamilton testifies later, we're just going to try the language on him for size.

ASSEMBLYMAN LESNIAK: Well, then, I have no further questions.

ASSEMBLYMAN OTLOWSKI: Assemblyman Snedeker?

ASSEMBLYMAN SNEDEKER: Commissioner, when you sat with the Commission, was it turned down because you didn't need it or because of site location?

COMMISSIONER FAUVER: Well, I wouldn't want to speak for the Commission, but my feeling was that there was a general agreement that there was a need and there certainly was vehement opposition to the site, but I would rather they speak for themselves on that.

ASSEMBLYMAN SNEDEKER: What is the situation concerning the new criminal code and the sentences and so on? What is going to happen to your prisons now, if you don't get this prison?

COMMISSIONER FAUVER: Well, what's going to happen, obviously, we think the count is going to go up in the prisons based primarily on the new criminal code. I'm concerned with what will happen to us. We can't, to a point, refuse to take people and eventually, we will be under some kind of court order which a large number of states are right now to reduce populations and when that happens, the reduction is not usually based on any sound reason for reduction. It is just an order to reduce by so many by a certain date. I would be afraid that that is what would be in the future.

ASSEMBLYMAN SNEDEKER: What is your bed space now in the institutions? What is the bed space you have? Are they overcrowded or do you have space or what?

COMMISSIONER FAUVER: Well, they are overcrowded in the medium/maximum areas. As an example, the replacement for Trenton Prison, when it is completed will house about 800 people. There are about 930 in there today. So, we knew we had to get rid of about 100 into less secure facilities. The places where we have bed space, it is kind of a dilemma because the bed space is in the wrong spots. We have minimum security beds at a place like Jones Farm, for example, that could hold up to 140, approximately, that have about 100. The reason that we have bed space at those places, and it would be true at Marlboro and some of the camps, is because in some instances there is an agreement with the community not to put certain types of offenders there and in other instances, we do not feel comfortable in putting people out. We have, out of the adult population in this State, about 1000 people out of about 3500 in minimum security settings and we just don't feel comfortable in putting larger numbers than that out. That is the largest of any of the urban states. The southern rural states have more people in minimum, but not in any urban areas. I think the theory that gets put forth sometimes is to move those to community spaces and then to move people out. It is not that simplistic. If it were, we could do that. But, it has not proven to be much easier to sell a community halfway house than it is a prison in an area, plus I don't think there are the people inside. We could all look at classification material and psychological reports and make the determination that this person doesn't need to be inside, but when it comes down to it, there is only one person in the Department who is responsible for having made that judgement and we just don't feel comfortable.

I think the numbers out now are where it should be and it should not not exceed the minimum.

ASSEMBLYMAN SNEDEKER: I know we had a problem at Clinton when the feds closed the facility for women. What is the attitude now with the federal government and what are the other states doing with correctional facilities?

COMMISSIONER FAUVER: Well, there is construction going on. I think, in most cases, it is two-fold. It is secure construction and also an attempt to get more community programs. I think it is both ways. But, as I indicated before, I think there are 19 states right now that are under court orders to reduce populations and they are doing this in a number of ways, either by construction, but since that takes a while, the initial thing is just to release. In Delaware, for example, the courts have set a limit that can be taken into the prison and then it is up to the commissioner and the warden to keep it at that limit by either putting people out or not taking people in. There is a lot of construction going on. The case you referred to was the closing of the federal women's facility in Alderson, West Virginia which resulted in the return of Joanne Chesimard to this State. When you try to make do, which was the case there, you get burned and that one is very obvious that we did and now we're spending money, after the fact, to make that more secure. But, there is construction going on in neighboring states. New York has built Mid-State Correction Center. I think states with similar populations to ours, and Maryland would be an example of size, are constructing.

ASSEMBLYMAN SNEDEKER: I have one more question. You weren't here at the beginning of the hearing. The Varoom Building, I understand, will be turned over to you now. Do you have funds in this \$7 million to do what is necessary to turn that facility over to you?

COMMISSIONER FAUVER: Well, I wasn't aware of that. I never look a gift-horse in the mouth, but the Varoom Building--there was a committee to come up with usage and, of course, that is contingent upon them getting funds to build a facility to replace the psychiatric part. There are parts of the Varoom Building that the Department could use, yes. We do not have any funds in that \$7 million to do that. That is not included in there because it was not that firm.

ASSEMBLYMAN SNEDEKER: That's all I have.

ASSEMBLYMAN OTLOWSKI: Thank you very much, Commissioner. May we now have Senator Hamilton?

SENATOR WILLIAM J. HAMILTON, JR.: Mr. Chairman and members of the Committee, thank you very much. At the expense of maybe being a little longer than I would like to be, I would like to drop back a little bit and try to give you as much perspective as I can.

I would like to go back at least as far as 1976 when there was an -- I think it was called an Institutions Bond Issue that year, for twelve to twelve and one-half million dollars for a medium security prison. The hope, expectation, and plan at that time - perhaps it was not widely voiced, but, I think, within the Department - was the acquisition of the Mercer Workhouse. At least at that point in time, the Mercer County Freeholders were prepared to transfer to the State. Community opposition developed and that money could not be spent in that way. That site could not be acquired, and that twelve or twelve and one-half million dollars was diverted, in accordance with law -- that is, the Capital Planning Commission, the Watchdog Committee, and the standing reference committees -- for cost over-runs at Trenton State Prison and for other correctional facilities. I bring that up because I think it is an important consideration as to whether or not this proposal is well planned. Because if it is not well planned, it will end up, in all probability, by being siphoned off for other projects that are deserving and needy, but not for what is expected at the time the people vote for this particular bond issue.

I would like to jump from 1976 to May of this year, and say to you that since the Capital Planning Commission was created -- I believe it was in 1975 -- I am a "plank holder". Commissioner Ray Male, the Acting Chairman, Gene Jacobson, and myself, are the only "plank holders"; we are the only original members that are on there. So, I have been on there since the Commission started. That is a legislatively-created commission; it isn't one that came, full blown, out of the arms of the administration. It is legislatively created, and it is public, and it is bi-partisan. That Commission, in its charter from the Legislature, looks at at least three criteria: First of all, is there a need; second, is it well planned and "doable" in a short range, and, third, what is the impact on operating funds, long term. There is also a question of whether you are maximizing federal funds. I think you can forget the last one, for the moment at least.

The Commissioner came before us in May and he said that as a part of the Public Buildings Bond Issue this year he would like to have \$26 million. Note for a moment, \$26 million versus \$12 million, so there is a real problem in terms of cost escalation if you don't have a soundly-conceived proposal. That is a doubling in four years -- a little more than a doubling. It may be also because you were buying something that was in place and you were going to have to modify; you weren't going to have to construct from ground zero. Be that as it may, he said there was a need. It wasn't seriously questioned. And, he said, "I agree with the members of the Commission that I have to come back to you with a site before I have any chance of being able to sell this on a bond issue. That was in May -- early May, the first or second Friday in May.

The Commissioner went out and he came back to us the first or second Friday in June. About a week or ten days before that, I was aware, because of phone calls that he had made to me, that he had settled upon the Jamesburg site. I think you have to take a look at what was apparently done. First of all, Jamesburg is state-owned land. Secondly, he sent somebody out to the

site, and I don't have the drawings, but they came back with five circles on the state-owned land, showing where they could put a facility. Third, they reached up on the shelf and took the plans from Leesburg, which is the same sized facility, and they said, "that is what we are going to use." Now, I don't say that is all the planning they did, but that is what was apparent when they came back.

I am not going to question the need. I have a visceral feeling there is a need. The members of the Commission have a visceral feeling there is a need. The one thing that I am aware of, and I think many of the members of the Commission are aware of this, is that nobody has yet factored in the impact of the Parole Bill. We do know what is happening with respect to the Penal Code. We do know that more people are going to State Prison, and they are going for longer sentences. We have not yet gotten any experience. That is the first 500 cases under the new Code. We don't yet have any experience with how the Parole Bill is going to impact on that.

I am not going to sit here and say there is no need; but I can't raise my hand and say there is a need. I have a visceral feeling there is a need, and everybody on the Commission has a visceral feeling that there is a need. That criteria was met when the Commissioner came back before us.

Okay. You know where I come from in terms of the geography of it. As far as I am concerned, Middlesex County is where Rahway State is located, in Woodbridge Township. We have the State Home for Boys and Girls now at Jamesburg. We have the sex offenders unit up in Avenel. So, we are really doing our share. I am not going to address that parochial interest, although I would be a fool or a knave to say I don't have a parochial interest with respect to this location. I hope I am neither, but I lay that on the table. You judge that for what it is worth.

But, from a programmatic point of view and from a planning point of view, this thing flunks. The Chairman has already articulated one of the things that is most fundamentally wrong with it. You are not going to mix juvenile offenders, but you are going to have them on the same site. It is going to be called Jamesburg Prison, and you are going to send a young offender back home, presumably after having been through the correctional system, and somebody is going to say, "Where have you been"? He has been to Jamesburg. He is going to be stigmatized. He may even have to act up to somebody who came out of "Big Jamesburg" instead of "Little Jamesburg." I don't think it makes any sense. I don't think - although I am not certain - they can point to another correctional site in the State where they have both young offenders and adult offenders. I think that makes no sense.

Number two, it has already been said that twenty-five percent of the prisoners in this State come out of Essex County. Yes, you have the New Jersey Turnpike that can bring you from Essex and bring you down into south central Middlesex County. But, you haven't got anything once you get off the Turnpike. There aren't any roads to bring family in there. There aren't any roads to bring employees in there. That is a semi-rural to beginning-to-be suburban area. It is potentially one of the largest growth areas in the State because it is in southern Middlesex County and it is starting to grow. There are already complaints there, incidentally, that homes that are there are not saleable because of the impact of the present state home, which has a few

run-away boys, as compared to a medium security prison.

Now, there is no proximity to jobs for anybody that they might put out on work release. There is not really any proximity to much of a work force. For families -- and each one of you, particularly those of you who have served on this Committee for some time, know that this Committee and the Appropriations Committee have traditionally supported the joint connection as an effort to keep families together, when there is an incarcerated, adult member of the family in prison--

ASSEMBLYMAN BASSANO: I am just wondering if we should be getting into siting in this particular area.

SENATOR HAMILTON: I get into siting only because I think it affects planning, and if it isn't well planned, then you have what you had in '76; you are going to go along with money that isn't going to be able to be spent and you are just not going to get what you expect you are buying when you go with the bond issue.

ASSEMBLYMAN BASSANO: I think the siting ought to be left to the Legislature, as to--

SENATOR HAMILTON: That is why I am addressing it to you.

ASSEMBLYMAN BASSANO: I think maybe you are putting the cart before the horse though.

SENATOR HAMILTON: Why?

ASSEMBLYMAN BASSANO: Because I think that, first of all, we ought to recognize the fact that there is a need, and then go ahead and put the proposal on the ballot. Then if it is approved by the voters, we should then decide where we are going to put the facility.

SENATOR HAMILTON: But, in this case--

ASSEMBLYMAN BASSANO: I agree with a lot of what you are saying.

SENATOR HAMILTON: You are locking in this site for all practical purposes. A twenty six million dollar appropriation may build you a prison on state-owned land. It will only build you a prison on state-owned land if, in fact, you do that. If you need land acquisition, twenty six million dollars isn't going to do it, at least for a 396 bed facility. That means -- he is an honest man (indicating Commissioner Fauver), it means Jamesburg and that is all it means. And, if that is not sound, and if you run the risk of shooting down the entire bond issue-- And, Middlesex County, over the last three years, on selected bond issues, has given between seven and one-half and nine percent, a little over nine percent of the total vote. Out of 21 counties, that is a significant vote.

One thing that hasn't been talked about but which I think is important when you go for alternatives, or at least when you weigh this, is that today, Leesburg - which is their model, their off-the-shelf model - is a nine million dollar item in the budget. If you approve this this year and they go ahead with Jamesburg - if the voters approve it in November - they are talking about an opening in 1985. That gives you a five-year lag time. I say it is not out of sight to say that a nine million dollar ticket today is a fifteen million dollar ticket in five years. That is what you are looking at in terms of the long range operating cost. You haven't yet heard that from the Department, but I think you have to hear it because that goes to "what are the cost implications of where you are going"?

Lou, I just don't think this is soundly planned. From a programmatic point of view, the infrastructure is not there, the roads are not there, the rest of it isn't there. There is no proximity to jobs. There is no proximity to work.

ASSEMBLYMAN BASSANO: I agree with that.

SENATOR HAMILTON: Why isn't that a consideration as to whether or not they are going to be able to give you-- You want to buy a prison today, a medium security prison. I assume that is what every one of you would like to be able to do. If the only proposal they have in mind is one that is not well conceived and well planned, then you haven't any realistic expectation that that is what you are going to get with that money. That is what I am suggesting to you is the problem with this particular site, that there has been no effort made to reach the community. It is inappropriate, in terms of its location with the juvenile facility. It is inappropriate because of its semi-rural site. It is not near where prisoners come from. As I was saying when you raised your first question, each year this Legislature appropriates money for the Joint Connection. If this site were located somewhat nearer to jobs and to families, it would make a whole lot more sense.

ASSEMBLYMAN BASSANO: In 1976, as you recall, we talked about Essex. We talked about the area near the airport.

SENATOR HAMILTON: The Commissioner said - and I certainly would not contradict him - that the area near the airport generated a lot of community opposition. He said that the Newark -- I don't know whether it is the Newark Street Jail, or the Newark City Jail, did not have that community opposition. I would say to you that if there isn't the opposition, that if it costs you another fifty percent, if it costs you another forty million dollars to get five more acres and build it there, go build it there.

ASSEMBLYMAN BASSANO: I tend to agree with you. That is where the problem is and that is where the prison should be, rather than putting it someplace where it is hard for people to commute.

SENATOR HAMILTON: I don't want to give cancer to anybody. I don't want it. Middlesex County doesn't want it. We are going to have to, in my judgment, build a prison, but I don't think it is too much to say to the Department, when you come before us asking for those kinds of funds, have it well planned; have it "doable", which is the in word. Let me say this: If it is out, as I believe it should be, because there has never yet been a question, since the completion of the Commission, that has gone to the public that did not have Commission approval-- If between now and the time the Governor signs the bill - presumably in August or September - they can come in with a site that makes sense, I don't think there are very many people in this Legislature that would not be prepared to amend the bill and put the twenty six million dollars back in. But, to do it on a wing and a prayer -- and that is what you are doing; you are saying, we are going to give you twenty-six million dollars because there is a need; we think there is a need; we hope you can do it--

ASSEMBLYMAN BASSANO: Are you suggesting that we just hold off until possibly August?

SENATOR HAMILTON: No, I am suggesting that you move the rest of the issue, without the twenty-six million dollars, with the full understanding --

and I am saying this in front of God and everybody -- that if they come in with something that makes sense, that is well planned, that looks like it is doable, then you amend it and put the twenty-six million dollars in.

ASSEMBLYMAN BASSANO: Because a bond issue just for the prisons, I think it is obvious--

SENATOR HAMILTON: I think it is better packaged.

ASSEMBLYMAN BASSANO: (continuing) --it would go down with thunder. It has to be incorporated.

SENATOR HAMILTON: I think it should be. But, I also think if it is going to be, it should be well planned, and it shouldn't be a wing and a prayer. It shouldn't be a fly by the seat of your pants thing. Honestly, with all due respect -- and I have the greatest respect for the Commissioner -- I think that is what this is. And, I think he runs a tremendous risk and puts a millstone around the neck of the entire bond issue, because Middlesex County is-- I know you don't want to hear that, but I say it as a realistic thing in terms of what you want with the rest of the bond issue.

ASSEMBLYMAN OTLOWSKI: Senator, excuse me, just one thing on this point -- in talking about the kind of time that should go into planning. The Commissioner, in response to a question that I asked him-- About sizes of penal institutions and the fact that they are creating tremendous problems to the whole system, and, as a matter of fact, jeopardizing any kind of approach to prison reform, what about the possibility of a study being done on smaller institutions, a smaller institution in Newark, another smaller institution in another area where the people are coming from, etc.?

SENATOR HAMILTON: Mr. Chairman, I wouldn't substitute my very limited knowledge of this area for the Commissioner's expertise in this area. I think he is being responsible when he says that cost considerations are very important to him. He says that is important to him because he can't get as much money as he would like. He also says that a small institution, in many ways, would be better. One of the sites that he could consider is on other existing facilities, building on to Yardville; the building on to the one other facility you talked about. If you talked about doing that on a half scale, I don't know how much opposition you would generate there. Certainly, if you talk about 200 bed prisons, you would probably get twice as much opposition as you do for one 400 bed prison, because you are affecting twice as many people. I don't think it has that much to do with the size of the facility. If you do it where you already have a facility of that kind, you may tend to minimize that. It is like a jet port. Everybody wants to fly an airplane, but no one wants to have a jet port near them. Everybody wants to put people who have seriously violated the law in jail, but nobody wants to have a prison near them. I think that is true, but I think that is really a question properly addressed to the Commissioner. I think he answers it by saying, if you are willing to let me spend more money, I will try to do it with two smaller institutions. And, from his past testimony before the Commission, I think one of those would probably be an expansion at the Yardville site. I assume there is enough property there to do that. I have forgotten where this other build-on option would be.

ASSEMBLYMAN SNEDEKER: Thank you for taking it out of your district, Senator, and putting it in mine.

SENATOR HAMILTON: I don't want to wish that on anybody. I was asked

a direct question. Let me say a place, and Assemblyman Visotcky may not like this -- in the industrial area of the Meadowlands may make some sense. I don't know. I don't know what the feeling would be there.

ASSEMBLYMAN VISOTCKY: It would probably sink.

ASSEMBLYMAN SNEDEKER: I have a question, through you, Mr. Chairman. Senator, you were on the Commission, and there are things in there now that we really don't have any idea where they are going to go. I don't think people are going to want them in their yard either, even though they are good programs. We have two million five for community programs that you are not going to want on a certain block in your neighborhood, or in an area of my neighborhood, I am sure. We have community program, Youth and Family Services, matching grants, \$2 million and we don't know where any of these are going to go, but there is a need for these programs.

SENATOR HAMILTON: There is also a great difference between \$2 million for community programs that may buy you eight or twelve different sites, and \$26 million that you know is going in one location.

ASSEMBLYMAN SNEDEKER: We don't know the location.

SENATOR HAMILTON: We do know the location.

ASSEMBLYMAN SNEDEKER: I disagree with you, we don't know the location for this prison yet, and I wouldn't say it would be Jamesburg. I think that is something that ought to get back to the Legislature. I think that all we should determine is whether or not there is a need for these items and this bond issue. If there is a need, and it is shown that there is a need, we ought to support it. If there isn't a need--

ASSEMBLYMAN BASSANO: Yes, but the point he is making is that with \$26 million there is only one place you can put it, and that is in Jamesburg.

ASSEMBLYMAN SNEDEKER: I don't believe that.

ASSEMBLYMAN BASSANO: Because for any other facility you are talking \$40 million.

ASSEMBLYMAN SNEDEKER: Hey, if you are going to have to buy additional land, you are going to have to come up with a bond issue later on, but you are not going to float a bond issue for a prison all by itself.

ASSEMBLYMAN BASSANO: What will happen, inevitably, is that if this bond issue goes through and there is \$26 million appropriated for prisons, the money would not, more than likely, go into a prison, but it will go into existing facilities.

ASSEMBLYMAN SNEDEKER: Maybe we can expand, as you say. Maybe we can expand existing facilities.

SENATOR HAMILTON: Well then, you ought to tell us that. We shouldn't assume that because we are not going to manage that. He is the manager. I have to say this to you, Clif, that point was raised by former Senator Jones on the Commission. He said, "Well now, it doesn't have to be Jamesburg. It could be someplace else." I then asked the Commissioner when I went down there, if he was still considering the Camden City site. He said, "No." I asked, "Are you still considering the Mercer Work House?" He said, "No." I asked, "Are you still considering the Newark Airport site?" He said, "No." I asked, "Are you still considering the Newark Jail?" He said, "No." What are you buying? You are buying Jamesburg and you ought to understand that you are buying Jamesburg,

unless you get a public statement from this Commissioner and this Administration that it will not be Jamesburg. Because that is what you are buying. It is state owned land. It is big enough to support it.

ASSEMBLYMAN OTLOWSKI: And, if you buy that, Senator Hamilton is saying the bond issue is going to go down.

SENATOR HAMILTON: Well, I am going to work against it.

ASSEMBLYMAN OTLOWSKI: Because you won't get the support of a large voting segment in this state.

ASSEMBLYMAN LESNIAK: I think more importantly is whether the proposal itself is sound, and what the Senator is telling us is that the proposal isn't sound in terms of that site.

SENATOR HAMILTON: It isn't sound in terms of planning.

ASSEMBLYMAN VISOTCKY: Commissioner, what do you think as far as the planning of the site, and so forth and so on is concerned?

COMMISSIONER FAUVER: Well, I would disagree with him, I think obviously, on the planning issue. I think the fact that the Senator named the number of the sites that we had considered and we had tried to get into, showed that there was an attempt and that there was planning in trying to get sites for a number of years. The Jamesburg site, given what we have, we felt was the best. You know, what we showed him was a mock-up of the Leesburg Prison, because we think that is somewhat of a prototype of the type of prisons that are being built.

ASSEMBLYMAN VISOTCKY: You are telling us now that you are locked into Jamesburg?

COMMISSIONER FAUVER: No, I am not locked into Jamesburg.

ASSEMBLYMAN VISOTCKY: You were just saying that it was the best.

COMMISSIONER FAUVER: Well, I said for the-- The issue at one point was to come back in a month with a site, and I said the only thing I could come up with would be our own property, and the only two places that I felt had acreage were Jamesburg and Annandale, to have the kind of separation that we need. As the Senator said, it is true that at the Commission meeting the subject came up about expansion of facilities. I said that the only two facilities that I felt were new enough to expand would be Leesburg or Yardville. The buildings themselves were new enough, but we still would have problems with support service and things like that. But, for bed space, they were possibilities.

The vote - correct me if I am wrong, Senator, but I thought the vote at the meeting was to delete the site and just have the need issue -- the vote that did lose.

ASSEMBLYMAN OTLOWSKI: Excuse me, but you know what we are saying here is - and it is becoming clearer and clearer - you are saying \$26 million - this is the message that I get - restricts you to Jamesburg and to Annandale. That is what you are saying. As a matter of fact, you are also saying - I am getting this message - that there is a preference for Jamesburg. Now, if you do that, you are jeopardizing the whole bond issue, I am telling you that, from a practical, political point of view.

ASSEMBLYMAN BASSANO: I can't get into that area with you, George. I think the question here is, first of all, that there is a need. But, the most important question is where it should go, and it should go where it will do the most good. It is certainly not going to do the most good if it is in

Jamesburg. I think it should go where the population is and where the problem is.

ASSEMBLYMAN OTLOWSKI: I have no argument with that. First of all, I think you were one of the fellows who said this, and so did Ray, you said that it is a political decision, and it should be made by a political body, namely the Legislature. And, I agree with that, but if you are making a political decision, the first question you have to ask yourself is, is it going to fly? And, my answer to that is, this thing is not going to fly the way it is packaged.

ASSEMBLYMAN BASSANO: No matter where you decide to place this prison, there is going to be opposition; that is fairly obvious. I think, though, that we ought to get back to the Essex County site. That is my personal thinking on the matter.

ASSEMBLYMAN SNEDEKER: Mr. Chairman, what is so wrong about putting the money in with the idea of looking at a smaller location, and zero down to where the population comes from?

SENATOR HAMILTON: I tried a motion before the Commission. I was not happy making a motion because it was not a totally responsible motion. But, I made a motion that we would approve the \$26 million, provided it did not go to Jamesburg, for all the reasons I talked about, both parochial and programmatic. Okay? Everybody in the administration and many of the public members said, "Oh, you can't do that." So, the bottom line is, unless you take it out either that way, or you get a public statement from this Commissioner and this Administration, if you give them the money, they are going ahead with Jamesburg. That is the only way it washes, because it is less painful. It is less painful than going by condemnation and acquiring the Mercer Workhouse. It is less painful than going and fighting with Camden. It is less painful than going and fighting for some place else. Unless you can get him to take a different direction, if you give him the money, he is going to build it at Jamesburg. And, Assemblyman Bassano is right, it isn't near population.

ASSEMBLYMAN SNEDEKER: I agree with Bassano, but I think you have to get the money in there at one time or another. You have to get the money and you are not going to get it with the excuse that it is going to cost more money next year.

ASSEMBLYMAN BASSANO: But, \$26 million locks you into one site.

ASSEMBLYMAN SNEDEKER: No it doesn't, not if you scale this down, or if you don't use the Leesburg design -- if you use another design.

SENATOR HAMILTON: But, you have to have the man who is going to make those decisions be willing to do that. It is going to take him and his boss, the Governor, and at this point they are not willing to back away from that.

ASSEMBLYMAN SNEDEKER: Why can't our Legislature put in the wording that we are talking about in here?

SENATOR HAMILTON: You can put in there that it can't be at Jamesburg. I don't know what is going to happen if you do that. I can tell you that that motion failed on the Commission. Dean Gallo was with me on the ultimate vote against the bond issue as it is written, but he wouldn't take Jamesburg out. He was concerned - as I think he should have been - with the absence of sound planning that indicated both from a political point of view, from the economic point of view, and from the programmatic point of view, that it was doomed.

It is interesting. You talk about it being a political decision. The votes that defeated the proposition in the Commission were the legislative votes.

ASSEMBLYMAN SNEDEKER: Nobody wants it in their area.

SENATOR HAMILTON: But, it wasn't in their area. It was not even in my area. It was Dumont, and it was Gallo, and it was Hamilton, presumably the more practical politicians in the group and not quite the esoteric planners -- and I don't say that to put anybody down. I think we recognized, having provided the money one time and having it not be able to be spent that way, that when they came back with a proposal the next time, it had better be sound; it had better be locked in; it had better have more than a month's look-see. That seems to be what it has had this time.

ASSEMBLYMAN BASSANO: Mr. Chairman?

ASSEMBLYMAN OTLOWSKI: Yes, Mr. Bassano.

ASSEMBLYMAN BASSANO: Is it possible to take Senator Hamilton's suggestion and to release the bond issue the way it is now, with some type of commitment, possibly from the Speaker, that we can come back during the summer to amend it, in order to give the Department the chance to come up with what we want -- whether it be Essex County, or whether it be somewhere else?

ASSEMBLYMAN OTLOWSKI: So, what do you say? Just let the bond issue ride without the prison?

ASSEMBLYMAN BASSANO: Yes, without the prison, but with the understanding and with the agreement that we will come back over the summer to amend it.

SENATOR HAMILTON: There is no time limit on this. If the process of promoting the bond issue is already underway there is no constitutional or statutory deadline, and all you have is the printing problem of what the ballot is going to say. So that even a vote in mid-September - while nobody would recommend it because that is an awful late start - if the rest of it is moving along and you know there is going to be a bond issue, it is not undoable in that context. Of course, there is always the possibility of coming back for another emergency during the summer anyway, although I don't think anybody wants to.

ASSEMBLYMAN SNEDEKER: Either you need it or you don't need it, and it is my opinion, as a member of this Committee, that the location is just something that is going to be very tough to swallow. I still say if you put it in there, you can then scale it down if you have to, if that is all you have to work with. We can put a close rein on it through the Watchdog Committee and we can put a resolution in here, attached on to that bond issue.

ASSEMBLYMAN VISOTCKY: Mr. Chairman, these things always turn me off. You know, we do this every year. This Assembly is the scapegoat on this all the time. They throw it at us and say, "Here, get it out in two weeks, three weeks." We don't have enough time to read it. We should take months, and then we can have some of these questions answered for us. But, again, haste. It will go in the Senate and it will sit there for a while, and nothing is going to happen -- no big deal. But, we always have to push things through, and I think there are some good questions that should be answered.

ASSEMBLYMAN LESNIAK: Mr. Chairman, I would like to ask Commissioner Fauver how much money he would estimate would be needed if he had to get into site acquisition. I know that is an open-ended question, but--

COMMISSIONER FAUVER: Well, for an 800 bed prison at Trenton, the

estimated savings by building on our land and using some of the facilities was \$6 million. How much of that would be taken down into site, I am not sure -- whether it would be half or something close to that.

ASSEMBLYMAN SNEDEKER: What is the objection to doing that?

SENATOR HAMILTON: There is no objection to giving him the money, but you have to have a plan.

ASSEMBLYMAN SNEDEKER: Well, hold it up until we can word this thing. We will hold it up until we do have a plan, but put the money in there now and get on that bond issue.

SENATOR HAMILTON: I don't have any objection to it being on the bond issue, if it is planned.

Perhaps the Commissioner can answer this -- and again, I don't want to wish this on anybody. But, if, in fact, Newark wanted to get rid of its jail, I would assume that would mean that there are some people in Newark who would support the idea of having an urban prison because there were prisoners coming from Essex County. Say that is an eight acre site, it would take another five acres to do it. I can't believe that the adjoining properties are worth a million dollars an acre. I don't know that there is community opposition. I would suspect that there is some community opposition. I think the best you can ever hope for is some community support and some community opposition. I think if you had something, you are in pretty good shape.

Again, I am not wishing this on anyone, but from a programmatic point of view, if your prisoners are coming from there, if you want to talk work release, if you want to talk family stability, and transportation--

ASSEMBLYMAN OTLOWSKI: Visitation -- the whole business.

ASSEMBLYMAN SNEDEKER: Oh, there is no question.

ASSEMBLYMAN OTLOWSKI: One of the big things in prisons today is visitation. That is one of the big things. And, to get to Jamesburg, you have to have somebody ride point, and you have to have the right horses, and not only that, it is a village that is primarily occupied by oxen. (laughter) How are you going to have this visitation?

SENATOR HAMILTON: You could say that the Democrats are in control.

ASSEMBLYMAN OTLOWSKI: That's what is wonderful about it. That's what is wonderful about Jamesburg, the fact that it is so bucolic. But, in any event, that is one of the real things.

As a matter of fact, Assemblyman Visotcky expresses anger about the fact that these things are thrown at you and you have to make quick decisions; there is a lot to that. As a matter of fact, a Committee like this should have a whole lot of time in discussing this, because I would like to get into the business of smaller prisons, better visitation, better location for job release. I would like to get into that whole business. And, the thing that frightens me today - and it is not only about prisons, but it is about big institutions generally - is that these institutions are being run worse and worse, creating more and more problems. I would like to get into that. But, here we are, we are told this is a last minute thing and that we have to act quickly if we are going to get this on the ballot. And, not only were we told that, but we were told don't play with this because we might jeopardize the whole bond issue and then we would wind up with a guilt complex from the whole business. Yet, I agree that it is a political decision and you have to face up to it and make a political decision. I agree with that. But, to

make a political decision too, you have to have a little time to make the right kind of a political decision. That is what we are talking about here.

I think too that the Committee would be willing to put more money in it if it were a question of a better site, a more suitable site, or a more agreeable site. I think the Committee would be willing to put more money into it.

ASSEMBLYMAN LESNIAK: Absolutely, Mr. Chairman. I think maybe we should do exactly that and throw the ball back to the Capital Planning Commission to come up with a plan.

SENATOR HAMILTON: We only review, Ray. We only review what the Department comes in with. We don't go out and find a site.

ASSEMBLYMAN LESNIAK: We should throw the ball back to the Department. But, I am concerned with the protection that would be necessary, to insure that it is done, because I think the feeling on the Committee is that we want to address the need.

ASSEMBLYMAN OTLOWSKI: Yes. Let me ask Ray Lesniak this question. I don't know the practicality of this. Maybe between you and the Senator, we may get the answer.

ASSEMBLYMAN LESNIAK: He won his election; I lost mine.

ASSEMBLYMAN OTLOWSKI: You may be lucky, and I say that from experience. But, in any event, what about the-- Is it practical for this Committee, or maybe even for a joint committee - to make it more expeditious - to get some staff help to come up with some of the things that we are talking about, to explore some of the things that we are talking about? Is that practical from your point of view?

ASSEMBLYMAN LESNIAK: I think it ought to be incumbent upon the Department and the Capital Planning Commission. We can't get involved.

ASSEMBLYMAN OTLOWSKI: Well, Senator Hamilton said that that is impractical; you can't go that way.

SENATOR HAMILTON: I didn't say that. Nobody should substitute their judgment totally for this Department, but if you agree with me, as I sense you do, that this has not been planned and it is not sound from a programmatic point of view, it is appropriate for the Legislature to say, "Come back to us with another site that makes more sense, from a programmatic point of view, before we are going to approve it." Unless you say that, this Administration will just try and do an end run around you. You have to say something to them that says no.

ASSEMBLYMAN OTLOWSKI: Let me ask you this question: In your opinion - and I am going to ask the Commissioner this - do you think that the Commissioner has the time to come up with the kind of plans and propositions that we are talking about here as alternates? Do you think he has the time?

SENATOR HAMILTON: I would say this: He is not going to go back over the ground that he has already furrowed -- that is Camden and Mercer and the rest of it. But, he never said that there was community opposition in Newark. I think--

ASSEMBLYMAN OTLOWSKI: But, I am even talking about more money. I am even talking about more money.

SENATOR HAMILTON: I understand that. I am saying that in three weeks I think he can come back and tell you whether Newark is doable -- maybe sooner. I think in three weeks he can come back and tell you whether the Meadowlands are doable -- as being near jobs and near transportation, and not being in

a residential area. I don't know what else he can come back and tell you. But, I think he can come back and tell you that. He may say they are not, but I think he can come back and tell you that. And, I think what you are saying to him when you ask him to do that, is that you will give him more money if he has to acquire the site, as long as he tells us that within the five years, or whatever time frame it is, he is going to have it and he is not going to have the opposition, and he is going to have something that is programmatically sound.

ASSEMBLYMAN SNEDEKER: I don't think you could ever commit yourself to the fact that you are not going to have opposition.

SENATOR HAMILTON: When I say opposition, I mean some yes and some no. That is what I mean. Prison ships -- Alan Karcher says we are going to build a prison ship instead of a prison, and you will have people who will fight that.

ASSEMBLYMAN OTLOWSKI: Yes, but you will have to find the right ocean. Let me ask the Commissioner the same question that I just asked the Senator. Could you come up, within the time frame to meet the constitutional requirements, with some of the plans that we talked about -- some of the possibilities: smaller places, the Newark site, more money for site acquisition? Could you come up with that?

COMMISSIONER FAUVER: Well, we could, I think, come up with-- We could certainly go back to the Newark Street Jail site. I don't think the-- Let me point out something. There are two sites in Newark. The first site is by the airport and the Turnpike. There is nothing there. It was really an area that should not have generated the opposition that it did. Why it did, I don't know, but it did.

The Newark Street Jail site -- I can certainly find out if it is still available. It is not used. It would require land acquisition plus demolition costs. To be a 300 or a 400 bed size, we would have to acquire adjacent land, and we could certainly look into that. I think the 200 bed type thing -- I am not sure. Some places where it has actually been voted out, such as Mercer County, I wouldn't go back to because it would be--

ASSEMBLYMAN OTLOWSKI: It would be a waste of time to do that.

COMMISSIONER FAUVER: It would be a waste of time to do that.

ASSEMBLYMAN LESNIAK: Mr. Chairman, I am not going to vote to release this bill today. We need more time to--

ASSEMBLYMAN OTLOWSKI: Well, as a matter of fact, I was just going to ask the Commissioner, if it were agreeable to the Committee, to come back with the kind of data that we were talking about -- with the kind of data for alternate sites -- and, as a matter of fact, with alternate approaches. We are talking about even smaller things, and even more money, if necessary. If he comes up with that, I think he might get some quick action from the Committee. As a matter of fact, if that is agreeable to the Committee, that is the way I am going to leave this. All right? Commissioner?

COMMISSIONER FAUVER: Yes, sir. I would like to say one thing, Mr. Chairman, and that is, throughout this comes up the theme of lack of planning. I don't think that is true. I know that we spent a lot of time on this. This was not a site that we just came up with in a month. It was a site that, from the dates on this, had been looked at for well over a year as a possible alternative.

It was not, in our judgement, the best. We went for the one almost in priority, but we got to the point where the need was there and we had to come up with what we had. So, I don't think the argument that the Senator uses is a valid one.

ASSEMBLYMAN OTLOWSKI: Well, I am not going to argue about that, but it is obvious from what the Committee people are saying here that they want the plans broadened. That is what they are saying. They want a better, harder look, and a broader look. That is what they are saying. Okay? That is the way we are going to leave it.

SENATOR HAMILTON: Mr. Chairman and members of the Committee, thank you very much for listening to me. I appreciate it.

ASSEMBLYMAN OTLOWSKI: Okay. Mr. Mintz wants to be heard. Mr. Mintz, will you identify yourself for the record and for the Committee?

(The following testimony was read by Mr. Mintz)

TESTIMONY OF DAVID A. MINTZ BEFORE THE ASSEMBLY INSTITUTIONS,
HEALTH AND WELFARE COMMITTEE ON MONDAY, JUNE 23, 1980

My name is David Mintz, and I am a director of the New Jersey Association on Correction. My testimony today represents the position of the NJAC, the National Council on Crime and Delinquency, and the NJ Executives Committee which appeared before the Capital Budgeting and Planning Commission. That committee, chaired by John Farrell, VP of Beneficial Management Corporation, consists of representatives from Public Service Electric and Gas, NJ Bell, Union Camp, Mutual Benefit Life, Nabisco, Atlantic Electric, Hoffmann LaRoche, and Shering Plough. All three organizations submitted testimony opposing the inclusion of \$26 million for a new 400 bed facility in the 1980 Bond Issue, and I am here today because I understand that this committee is considering the inclusion of that project in an omnibus \$125 million bond package over the objections of the Capital Budgeting and Planning Commission. To do this, in my opinion, would be a tragic mistake on 3 separate grounds: in terms of planning, need and cost; in terms of the credibility of the Capital Budgeting and Planning Commission in the eyes of the public; and in terms of jeopardizing the other worthwhile projects to be on the ballot in November.

The new 400 cell prison in question will cost New Jersey citizens over \$120 million in building and operating costs over the next decade, not including debt service. Expenditures of these magnitudes should not be undertaken unless NJ citizens, who would be asked to vote on the issue in the Fall, can be confident that the requisite planning and needs assessment were undertaken.

2.

Last week, on June 13, following months of study and testimony by the Department of Corrections and the public, the Capital Budgeting and Planning Commission recommended that this prison project not be placed before the voters in the Fall. The job of that Commission is to make sure that before projects go before the voters "that the needs must be critical and well-defined, and that careful planning must precede each capital project." Mr. Chairman, both you and I were at that meeting in Fort Lee when one Senate Commissioner called the prison project "an Executive Branch end run which lacked adequate planning -- that he did not want to be a party to it -- and even if it wasn't at Jamesburg, it's an end run." The Assembly commissioner, a member of the other party, also said that he could not support the project, because "he has not seen a well thought out plan." I request, gentlemen, that before

this committee ignore these statements and the recommendation of the Capital Planning Commission, that they take a look at the whole picture and the ramifications of placing the prison back into the package at this time.

PLANNING

3.

CHAPTER 30: 1B-2 ESTABLISHED NEW JERSEY'S DEPARTMENT OF CORRECTIONS IN 1976. THIS NEW DEPARTMENT WAS THE OFFSPRING OF YEARS OF CONCERNED ADVOCACY AND TESTIMONY OF THOSE INVOLVED IN CRIMINAL JUSTICE WHO, THROUGH EXPERIENCE, CAME TO UNDERSTAND THAT A CORRECTIONAL SYSTEM CANNOT BE A STEP CHILD OF A LARGER DEPARTMENT, CANNOT BE EFFICIENT AND PRODUCTIVE WITHOUT THOROUGH PLANNING, AND CANNOT MEET THE NEEDS OF THE COMING DECADE WITHOUT THE ABILITY TO INTEGRATE THE WISDOM AND EXPERIENCE OF PROFESSIONALS IN THE FIELD. WE BELIEVED THAT A CABINET LEVEL DEPARTMENT WOULD GIVE THE PROPER IMPORTANCE TO CORRECTIONS AND THE MANDATE FOR THE DEPARTMENT TO MAKE A SIGNIFICANT CONTRIBUTION TO NEW JERSEY'S CRIMINAL JUSTICE SYSTEM.

THE NEW LAW, WHICH CREATED THE DEPARTMENT, REPRESENTED A VITAL TWO-PRONG APPROACH TO CORRECTIONS AND THE LEGISLATURE DECLARED TWO IMPORTANT NEEDS FOR ADULT CORRECTIONS. (1) TO PROVIDE MAXIMUM-SECURITY CONFINEMENT OF THOSE OFFENDERS WHOSE DEMONSTRATED PROPENSITY TO ACTS OF VIOLENCE REQUIRES THEIR SEPARATION FROM THE COMMUNITY; AND (2) TO DEVELOP ALTERNATIVES TO CONVENTIONAL INCARCERATION FOR THOSE OFFENDERS WHO CAN BE DEALT WITH MORE EFFECTIVELY IN LESS RESTRICTIVE, COMMUNITY-BASED FACILITIES AND PROGRAMS.

THE SECOND PRIORITY, WHICH IS BOTH HUMANE, PRODUCTIVE AND COST-EFFECTIVE, WAS VIGOROUSLY BROUGHT TO THE PUBLIC'S ATTENTION BY THE DEPARTMENT'S FIRST COMMISSIONER, ROBERT MULCAHY III, AND GAVE MANY OF US THE CONFIDENCE THAT VALUABLE TAX DOLLARS WOULD NO LONGER BE SQUANDERED ON THE WAREHOUSING OF NON-DANGEROUS OFFENDERS WHO COULD BE BETTER SERVED IN THE COMMUNITY.

ONLY THREE YEARS AGO, MR. MULCAHY TOLD US THAT (AND I WOULD LIKE TO QUOTE TO THE COMMISSION)

"(THE DEPARTMENT OF CORRECTIONS), ON A YEARLY AVERAGE, ADMITS OVER 1800 PERSONS TO OUR STATE INSTITUTIONS FOR PROPERTY OFFENSES SUCH AS EMBEZZLEMENT, FORGERY, RECEIVING STOLEN PROPERTY, AUTO THEFT, OR BREAKING AND ENTERING. ALMOST 600 WERE ADMITTED ANNUALLY DURING 1974 AND 1975 FOR POSSESSION OF NARCOTICS. SIXTY PERCENT OF ALL ADMISSIONS ARE UNDER AGE 25.

OUR SYSTEM TRADITIONALLY INCARCERATES AT GREAT EXPENSE AND WITH ADMITTEDLY AMBIGUOUS PURPOSES A LARGE NUMBER OF YOUNG PROPERTY OFFENDERS. WE'VE NEVER QUESTIONED IT - IT'S A TRADITION THAT WE ACCEPT AND ACCOMODATE.

THIS TRADITION ALLOWS AND PERHAPS EVEN FORCES US TO OVERLOOK THE DEVELOPMENT OF ALTERNATIVES FOR NON-DANGEROUS OFFENDERS WHO MIGHT BE HANDLED MORE EFFECTIVELY AND LESS EXPENSIVELY IN OTHER KINDS OF PROGRAMS OR SETTINGS, FREEING THE INSTITUTIONAL SPACE FOR DANGEROUS OFFENDERS.

THE REAL BIND THAT THIS TRADITIONAL RELIANCE ON INCARCERATION IMPOSES ON US IS THAT IT FORCES US TO CONTINUE SPENDING THE BULK OF OUR RESOURCES IN THE MOST EXPENSIVE WAY."

COMMISSIONER MULCAHY CONCLUDED BY TELLING US THAT "WE MUST CRITICALLY EXAMINE WHY WE PUT NON-DANGEROUS PROPERTY OFFENDERS IN STATE INSTITUTIONS, FAR FROM THEIR HOMES FOR 10 MONTHS AND ONE YEAR WHEN THE COUNTIES MIGHT DEVELOP BETTER PROGRAMS WITH STATE ASSISTANCE AND FUNDING."

WELL, THE SERIOUS 64,000 QUESTION (AND THAT'S WHAT EACH NEW CELL WILL COST N.J. TAXPAYERS), RAISED BY COMMISSIONER MULCAHY WAS ADDRESSED DIRECTLY BY THE NEW JERSEY CORRECTIONAL MASTER PLAN WHICH, FOR THE FIRST TIME IN THIS STATE, PROJECTED A GENERAL PLAN FOR THE DISPOSITION OF BOTH DANGEROUS AND NON-DANGEROUS OFFENDERS. THIS PLAN OFFERED FOR THE FIRST TIME A SENSE OF DIRECTION TO THE NEW JERSEY CORRECTIONAL SCENE WHICH IT DESCRIBED AS PREVIOUSLY "REFLECTING A LEGACY OF UNCOORDINATED REACTION TO SUCCESSIVE CRISES RATHER THAN A THOUGHTFUL CONSIDERATION BY NEW JERSEY CITIZENS AND OFFICIALS OF WHAT THEY WANT THEIR CORRECTIONAL SYSTEM TO ACCOMPLISH." THE PLAN ALSO GAVE US THE MANDATE TO CREATE A LOCALLY ORIENTED CORRECTIONS SYSTEM.

THE MASTER PLAN MADE IT ABSOLUTELY CLEAR THAT "ONLY SERIOUS OFFENDERS SHOULD BE ASSIGNED TO STATE CORRECTIONAL INSTITUTIONS AND RESPONSIBILITY FOR LESS SERIOUS OFFENDERS SHOULD BE TRANSFERRED TO LOCALLY BASED FACILITIES AND PROGRAMS. THE STATE SHOULD PROVIDE FUNDING FOR FACILITIES AND SERVICES TO LOCAL UNITS SERVING OFFENDERS WHO UNDER PRESENT PRACTICES WOULD BE INCARCERATED IN STATE FACILITIES." THE PLAN THUS CONCLUDED THAT IT IS MORE EFFECTIVE AND LESS EXPENSIVE TO TREAT NON-DANGEROUS AND SHORT-TERM OFFENDERS WITHIN THEIR COMMUNITIES, RATHER THAN WAREHOUSING THEM IN STATE INSTITUTIONS, PAYING OVER 20,000 DOLLARS A YEAR TO MAINTAIN THEM, AND FINALLY

6.

BEING FORCED TO BUILD EXPENSIVE NEW INSTITUTIONS FOR DANGEROUS OFFENDERS BECAUSE STATE PRISON CELLS ARE BEING UNNECESSARILY FILLED BY PEOPLE WHO SHOULD BE KEPT IN THE COUNTIES. IT WAS A WISE RECOMMENDATION; IT WAS ONE THAT CAME OUT OF YEARS OF DEDICATED RESEARCH AND EXPERIENCE; AND IT IS A PROGRAM NOW BEING IMPLEMENTED IN MINNESOTA, OREGON, KANSAS AND OHIO. BUT IT IS ONE THAT WE IN NEW JERSEY ARE CHOOSING TO IGNORE, WHICH LEADS US BACK TO THE TRADITIONAL CRISIS-ORIENTED APPROACH.

THE NEW JERSEY ASSOCIATION ON COR. IS NOT ALONE IN RECOGNIZING THIS SERIOUS PLANNING FAILURE IN CORRECTIONS. ONLY 7 MONTHS AGO, THE STAFF OF THIS VERY COMMISSION, IN REVIEWING THE VERY SAME REQUEST FOR A NEW 400 CELL PRISON, STATED THAT "CONTRARY TO THE RECOMMENDATIONS OF THE CORRECTIONAL MASTER PLAN COMMISSION THE DEPARTMENT HAS NOT FULLY ASSESSED POLICIES AND PROGRAMS TO MAXIMIZE UTILIZATION OF STATE FACILITIES FOR SERIOUS OFFENDERS WHILE REMOVING LESS SERIOUS OFFENDERS FROM THE STATE SYSTEM....AND (SINCE THE MASTER PLAN) HAS NEVER BEEN FULLY ASSESSED OR ADOPTED, IT IS NECESSARY AND APPROPRIATE AT THIS TIME TO EXAMINE THESE ISSUES IN A COMPREHENSIVE FASHION. IT IS NECESSARY TO REVIEW CORRECTIONS FACILITIES PROGRAMS IN USE IN OTHER STATES, TO REFINE AND REASSESS THE DATA DEVELOPED BY THE CORRECTIONS MASTER PLAN POLICY COUNCIL, TO EXPLORE THE FULL RANGE OF OPTIONS IN ORDER TO INSURE THAT ANY FURTHER MAJOR INVESTMENT IN FACILITIES IS NECESSARY AND IS DIRECTED TOWARDS ACHIEVING A JUST AND EFFECTIVE CORRECTIONAL SYSTEM."

Mr. Chairman, the Department's new proposal, which has not passed Capital Planning Commission muster twice in a row, was not accompanied by any definitive new data, did not re-examine the Master Plan in a comprehensive manner, and did not review programs in other states. Gentlemen, ad hoc proposals should not be presented to the voters.

7.

NEED

Mr. Chairman, with an unfortunate willingness to scrap the Correctional Master Plan and previously publicized long-range plans, the Department of Corrections wants this new prison because of concern for possible future overcrowding. According to Mr. Fauver's testimony before the Capital Commission, this need is not immediate, but may occur 18 months from now. It is however, too early to predict accurately what will be needed and, even assuming an increase in incarceration rates for more serious offenders, there are other remedies which will not cost NJ Citizens \$120 million dollars in 10 years.

Most people involved with corrections are extremely aware of the many unknown variables which exist at this time and make any prison population projections highly speculative. The new presumptive parole act is just going into effect and could impact on prison population. The courts have yet to decide on Maguire v. State of NJ which could lead to appellate review of the sentences of hundreds of lifers now in prison. Even the criminal disposition commission which was created by the new penal code is only now beginning to exchange information and gel as a unit, and already there is discussion of the review of the mandatory minimum terms, the setting up of standards and guidelines, and other modifications which could mitigate problems of overcrowding.

The Department has been concerned about statistics prepared by the AOC which shows an increase in rates of incarceration. First of all, we're looking at only about 200 state prison sentences, which is too small a sample to draw significant conclusions. This is especially true when the Judges are still unfamiliar with the code, and other states experiences reveal that harsh early sentences tend to level out. Even Jack McCarthy, who put together the statistics for the AOC, "urged caution in using this data until a more substantial experience is examined." An \$120 million commitment at this time is not using caution in my opinion.

8.

This is also not the first time the Department tried to predict prison population. In 1976, the Department asked and received \$41.5 million because it desperately needed a new prison. Well, those funds as well as the 1978 bond issue were transferred to the Trenton State Prison renovation project and no prison was ever built, or mind you, was needed. The state saved itself close to \$100 million and according to Mr. Fauver, a new prison is still not needed for another 18 months.

Also, with far more data available and with the extensive experience of sentencing under the old 2A, the Corrections planning staff produced sophisticated population projections for the Correctional Master Plan. The Department had a correctional resident population of about 7000 in 1976. It predicted that its population would increase, depending on different sentencing schemes, either by 2%, 3%, or 4% each year until 1986. In fact, the prisoner population has dropped since 1976, and today is not even at the original 7000 figure.

Gentlemen, Commissioner Fauver has told us that it will take 5 years to complete a new prison. At over \$60,000 a cell it seems prudent to wait for the new code and the implementation of the parole act to provide more than speculative and preliminary data, and second, to make sure that major capital projects comport with a comprehensive and acceptable plan.

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VOTER TRUST, CREDIBILITY OF THE CAPITAL COMMISSION, AND
JEOPARDIZING OTHER WORTHWHILE PROJECTS

Mr. Chairman, it's not just millions of dollars and a questionable prison which is at stake here, but voter trust, credibility of the Capital Budgeting and Planning Commission, and the future of owrthwhile projects on the ballot in November.

9.

First, the history of prison bonds has created severe credibility questions in the eyes of the public. In 1976, NJ citizens approved a \$41.5 million bond issue for a prison that was supposedly needed, but of course, was never built (and, in fact, obviously not needed). In August 1977 we were told that with the same \$41.5 million, NJ could build the 400 bed prison and also renovate Trenton State Prison. In 1978, voters were told to complete both these projects, another \$23 million was necessary. In 1979 we found out that even with the additional \$23 million, there was only enough money for the Trenton renovation project. Now we're told that another \$26 million is needed again for that 1976 prison, but not for 18 months. Gentlemen, we cannot continue to proceed in this manner.

Secondly, in 1978, the prison project was combined with four other questionably related projects which prevented NJ citizens from voting for or against the prison on its own merits. The Appellate Court ruled the packaging unconstitutional and the Supreme Court then reversed that decision. Now, not only are we once again packaging a series of questionably related objects, we're once again including a prison, but this time a prison project which has not received the approval of the Capital Commission and has been called "a poorly planned end run." The courts may conclude that this new bond is also constitutional, but gentlemen, it strikes me as poor judgment, and a decision which will not only seriously undermine the Capital Commission, but will seriously jeopardize the passage of the other worthwhile projects.

If we add to this Mr. Chairman, the fact that the Department of Corrections has either no site for the prison or a site in Middlesex County which we know will meet tenacious opposition, only further argues for postponement for at least another year. Not a single one of the dozens of private organizations which have been involved with the Correctional Master Plan or with criminal justice has been consulted or even informed of a site for this new facility, an issue which has created great controversy in the past. This is hardly a way to move forward

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in the field of corrections where community trust is of the utmost importance.

In conclusion, Mr. Chairman, I am requesting that any new prison project be postponed for at least another year pending more conclusive data, more comprehensive planning, an investigation of alternatives, and, if the need for a prison is determined, reasonable public acceptance of a site. Already, four state-wide organizations have gone on record opposing this new prison project, and have committed their resources to campaigning against it should it appear on the ballot in the Fall. To give the Department of Corrections a blank check, and that's all it would be, at this time would not only affront the sensibilities of NJ citizens, but would jeopardize worthy projects for the people of this state.

ASSEMBLYMAN OTLOWSKI: Excuse me. I'm going to have to cut you off here. May I have that testimony for the record? I suggest now that in the next two minutes-- let me have the testimony so that we can give it to the reporter and to Mr. Kohler. Now, I just want you to summarize in a minute or a minute and a half, if two minutes is too long.

MR. MINTZ: What I am saying is that in 1976, voters approved \$41.5 million. In '77, we were told that with that \$41.5 million, we could build two prisons instead one. We could renovate Trenton and build a 400 bed prison. In '78, we had another \$23 million which was used for Trenton and we still couldn't build the other 400 bed prison. Now, they're coming back and asking for another \$26 million on very short plans. It doesn't hurt one year, when we can do the same thing next year when we know--

ASSEMBLYMAN OTLOWSKI: In summary, you are saying what?

MR. MINTZ: I'm saying you should postpone any new prison for another year. Wait until the Parole Act is implemented. See if the new plan comports with the Correctional Master Plan. For example, there are now three counties in this state that have workhouses, that keep people for 18 months or less, Essex, Mercer, and Middlesex. The other 18 counties send all their short-term, less serious prisoners to state prisons. If, for example, the other counties kept those less serious prisoners on the county level, you would have more state cells available. There are lots of other alternatives available other than building this new prison. What I am suggesting is that the alternatives that they presented to the Capital Budget Planning Commission has nothing to do--

ASSEMBLYMAN OTLOWSKI: In essence, you saying to wait another year to get a better handle on it?

MR. MINTZ: Right.

ASSEMBLYMAN SNEDEKER: You know, you read off a very impressive list of people who are opposed to this. Are any of them willing to hire any of these people who are now in prison and give them a job and get them out of there and lighten our load?

MR. MINTZ: I think that some of the people that I named work for the various organizations and work with some of the organizations that try to get jobs for ex-offenders.

ASSEMBLYMAN SNEDEKER: You read off organizations, businesses, very, very impressive businesses to me. Do they have any prisoners or ex-prisoners working for them?

MR. MINTZ: I couldn't speak to that.

ASSEMBLYMAN SNEDEKER: Could you get me that information?

MR. MINTZ: Sure.

ASSEMBLYMAN SNEDEKER: Will you just get me how many prisoners they have-- just numbers, not names--working for them?

MR. MINTZ: They are sitting on the New Jersey Executives Committee, which took a position on this issue.

ASSEMBLYMAN SNEDEKER: Well, you know, you can take a position, but you have to put your money where your mouth is.

MR. MINTZ: You see what their concern is, is tax dollars and a planning complaint.

ASSEMBLYMAN SNEDEKER: That's a better way of doing it, taking these prisoners who should go back into the community and putting them to work in some of these

industries you talked about. You mentioned another thing, workhouses. Does your organization support building more workhouses throughout New Jersey.

MR. MINTZ: I think what our organization would support are some of the things that are going on in Kansas and some of the other states around the nation, which is, basically, having the state come up with a full plan, for example, where each county would discuss how they would deal with less serious offenders in their county. Some of them would be kept in the workhouse situation. Some of them like serious alcoholics, drug people--

ASSEMBLYMAN SNEDEKER: We don't keep keep alcoholics in jail.

MR. MINTZ: There are many people kept in county jails who are there, primarily, because they are alcoholics, but are there for other reasons and you ask any county sheriff that and they will tell that it is true. It is the same thing with people on drugs.

ASSEMBLYMAN VISOTCKY: He's not doing his job then because they're not supposed to be there.

MR. MINTZ: Well, it happens to be true in this state. The point is that you can take the least serious, put them in the community programs--

ASSEMBLYMAN SNEDEKER: Where? Where are you going to put them?

MR. MINTZ: They don't have to be halfway houses. The A.O.C., for example, is developing a program for restitution of community service for offenders. That is, instead of sending them on a short-term sentence somewhere, where they get out in nine months, they are in with people who are more dangerous than they are, you get them in a program where you have a user bank of community jobs where they have to report either to the probation officer or somewhere else.

ASSEMBLYMAN SNEDEKER: That's where I think this very impressive group ought to be 100% right there and give them jobs.

MR. MINTZ: The point is that this is not a new idea. This is the plan of the Master Plan in the State. This is what was advocated for years. We spent a lot of money and a lot of time on that and now we're just scrapping it.

ASSEMBLYMAN SNEDEKER: I think your group would oppose a prison anywhere we put it and I don't think you gave any support to workhouses before in the past when I was in the county system. Your group even opposed building a new prison in Mercer County here when the old one was sort of condemned by the State of New Jersey. So, you change your mind and you flit all over the place.

ASSEMBLYMAN OTLOWSKI: Excuse me. I think that you have developed your thesis and as a matter of fact, there was some merit to it. I think that we have gone far enough with this. I just want to express my thanks and I want to ask if there is anyone else that wants to testify. Yes, Ma'am?

M A D E L Y N R U M O W I C Z: Thank you, Mr. Chairman. My name is Madelyn Rumowicz and I am the Executive Director of the New Jersey Commission on Capital Budgeting and Planning. I just wanted to make a few comments about the institutional bond act, particularly, the corrections, the \$26 million for a medium security correctional facility.

Several of your members expressed concern about the Commission's role in site selection. I just wanted to mention to the Committee that the reason for the establishment of the Commission was the fact that bond issues were losing at the polls and it was the wish of the governor and the legislature, at that time, to come up with a better mechanism for effecting capital needs that would have

some credibility with the voters and the reason that the Commission was concerned about site selection on the prison is because this is the second time around for medium security prisons and the Commission is concerned that if the site is not a proper site, that the same thing may happen that happened with the previous amount of money that the voters had approved. There is a concern here that the voters may question the Commission and its worth and whether or not the money that they vote on is used for what it was intended to be used for, and if it should happen a second time, future bond issues may be in jeopardy.

ASSEMBLYMAN OTLOWSKI: Thank you very much.

MS. RUMOWITZ: Thank you, Mr. Chairman.

ASSEMBLYMAN OTLOWSKI: Mr. Snedeker?

ASSEMBLYMAN SNEDEKER: Mr. Chairman, if we're going to postpone this, I have a question back on the--

ASSEMBLYMAN OTLOWSKI: Well, I don't know if we're going to postpone it.

ASSEMBLYMAN SNEDEKER: We're going to postpone the vote.

ASSEMBLYMAN OTLOWSKI: The vote, but not the hearing. I think we're going to conclude the hearing. I don't think there is any point to prolonging the hearing. We'll just postpone the vote.

ASSEMBLYMAN SNEDEKER: My concern was that I don't think we have enough time to really go into it.

ASSEMBLYMAN OTLOWSKI: Do you want to recess the hearing for another date?

MR. MINTZ: If there is going to be a new proposal, is it going to be publicized and discussed? Is there going to be a whole new hearing?

MR. KOHLER: Technically, I don't think we have to have a new hearing.

ASSEMBLYMAN OTLOWSKI: Well, I don't want to get into an area that is the prerogative of the Committee.

ASSEMBLYMAN SNEDEKER: I only have some questions on that one proposal of Human Services, the \$10 million nursing home proposal. I would like to have some questions on that. I got some information between our last session, when we were given this bond issue, and now. I don't think we have enough time to go over it now, Mr. Chairman. I really don't.

ASSEMBLYMAN OTLOWSKI: Well, I'm going to recess the Committee and the hearing and the Chair will announce the date after we get a fix on this.

(Hearing Recessed)

