ALBANY, NEW YORK

April 10, 1995

3:00 p.m.

REGULAR SESSION

LT. GOVERNOR BETSY McCAUGHEY, President

STEPHEN F. SLOAN, Secretary

P R O C E E D I N G S

THE PRESIDENT: The Senate will come to order. Would you please rise and repeat with me the Pledge of Allegiance.

(Whereupon, the Senate and those present joined in the Pledge of Allegiance to the Flag.)

May we bow our heads in a moment of silence.

(Whereupon, there was a moment of silence.)

The reading of the Journal, please.

THE SECRETARY: In Senate, Sunday, April 9. The Senate met pursuant to adjournment. Senator Farley in the chair upon the designation of the Temporary President. The Journal of Saturday, April 8, was read and approved. On motion, Senate adjourned.

THE PRESIDENT: Without objection, the Journal stands approved as read.

Presentation of petitions.

Messages from the Assembly.

Messages from the Governor.

Reports of standing committees.

Reports of select committees.

Communications and reports from state officers.

Motions and resolutions.

SENATOR RATH: Madam President. On page 14, I offer the following amendments to Calendar Number 222, Senate Print Number 2764, and ask that said bill retain its place on Third Reading Calendar.

THE PRESIDENT: Amendments received.

SENATOR RATH: Madam President.

THE PRESIDENT: Senator.

SENATOR RATH: On page 25, I offer the following amendments to Calendar Number 337, Senate Print Number 539, and ask that said bill retain its place on Third Reading Calendar.

THE PRESIDENT: Amendments received.

Senator Wright.

SENATOR WRIGHT: Madam President. On behalf of Senator Farley, on page number 25, I offer the following amendments to Calendar Number 338, Senate Print Number 1275, and ask that said bill retain its place on Third Calendar Reading.

On behalf of Senator Leibell, on page number 18, I offer the following amendments to Calendar Number 275, Senate Print Number 3479, and ask that said bill retain its place on Third Calendar Reading.

On behalf of Senator Goodman, please place a sponsor star on Calendar Number 379.

Thank you, Madam President.

THE PRESIDENT: Amendments received. The bill is starred.

Senator Bruno.

SENATOR BRUNO: Madam President, can we ask for an immediate meeting of the Finance Committee in Room 332 and that followed immediately by a meeting of the Rules Committee in the same place, Room 332.

THE PRESIDENT: Yes. There is an immediate meeting of the Finance Committee in Room 332 to be followed by a meeting of the Rules Committee in the same room.

Senator Bruno, are you ready for the calendar?

SENATOR BRUNO: Yes, Madam President. Can we now at this time take up the noncontroversial calendar?

THE PRESIDENT: Senator Bruno, we have a couple of substitutions first. Sorry.

THE SECRETARY: Senator Saland moves to discharge the Committee on Children and Families from Assembly Bill Number 3749 and move to substitute for the identical Senate Bill Number, Calendar 203.

On page 21, Senator Spano moves to discharge, from the Committee on Investigations, Taxation and Government Operations, Assembly Bill Number 4105, and move to substitute for the identical Senate Bill, Calendar Number 310.

THE PRESIDENT: Substitutions

ordered.

The Secretary will now read the noncontroversial calendar.

THE SECRETARY: On page 8, Calendar 51, by Senator Nozzolio, Senate Print 16A, an act to amend the Penal Law and the Correction Law, in relation to establishing the crime of aggravated harassment of an employee.

SENATOR PATERSON: Lay it aside.

THE PRESIDENT: Lay it aside, please.

THE SECRETARY: Calendar Number 121, by Senator Levy, Senate Print 372, an act to amend the Vehicle and Traffic Law, in relation to increasing the penalties for aggravated unlicensed operation of a motor vehicle.

THE PRESIDENT: Read the last section, please.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 47.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 126, by Senator Levy, Senate Print 2270, an act to amend the Vehicle and Traffic Law, in relation to the proof required for eligibility for distinctive plates for volunteer fire fighters.

THE PRESIDENT: Read the last section, please.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 48.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 214, by Senator LaValle, Senate Print 1368, an act to amend the Town Law, in relation to expending from fire district revenues amounts

appropriated for equipment.

SENATOR DOLLINGER: Lay it aside.

THE PRESIDENT: Lay it aside, please.

THE SECRETARY: Calendar Number 238, by Senator DeFrancisco, Senate Print 1966A, an act to amend the Criminal Procedure Law, in relation to applications for recognizance or bail.

THE PRESIDENT: Read the last section, please.

THE SECRETARY: Section 3. This act shall take effect on the 30th day.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 48.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 259, by Senator Nozzolio, Senate Print 2244, an act to amend the Correction Law, in relation to limiting time allowances for good behavior for sexual offender.

SENATOR PATERSON: Lay it aside.

THE PRESIDENT: Lay it aside, please.

THE SECRETARY: Calendar Number 287, by Senator Cook, Senate Print 3441, an act to allow police officers in the Town of Saugerties to be covered under the provisions of Section 384D of the Retirement and Social Security Law.

SENATOR DOLLINGER: Lay it aside.

THE PRESIDENT: There is a home rule message at the desk.

Lay it aside, please.

That completes the noncontroversial calendar.

SENATOR BRUNO: Madam President, can we now take up the controversial calendar.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: Calendar Number 51, Senate Bill 16A, by Senator Nozzolio, an act to amend the Penal Law and the Correction Law, in relation to establishing the crime of

aggravated harassment.

THE PRESIDENT: Read the last section.

SENATOR PATERSON: Explanation.

THE PRESIDENT: Oh, an explanation. Senator Nozzolio.

SENATOR NOZZOLIO: Questions, Madam President.

THE PRESIDENT: Yes. An explanation is requested.

SENATOR NOZZOLIO: Yes, I will be glad to give Senator Paterson an explanation of the bill.

Madam President, my colleagues. The measure before us amends the Penal Law to establish the crime of aggravated assault when a prisoner with intent to harass, annoy, threaten, harm or alarm a person commits one of what I believe are the most heinous indignities that we are seeing today in our correctional system. The men and women who work in our state's prisons do so under the most stressful conditions. They do that as a condition of

their employment. They understand, by and large, exactly that is the nature of their job and that they must do their job in those types of very hazardous work environments.

But what we see today in our prisons is an assault weapon being used, and that assault weapon is the inmate's bodily fluids. Particularly those who know that they may be infected with the HIV virus would assault a nurse, a correctional employee, a correction officer, with their bodily fluids not just to create an indignity but to create a very significant danger.

Put yourself in the situation of being doused with another individual's bodily fluids and ask the question, how would you feel? What indignity would you feel; and with the threat of HIV, how safe would you feel?

THE PRESIDENT: Senator Nozzolio. Senator Paterson, why do you rise?

SENATOR PATERSON: Thank you, Madam President. Would Senator Nozzolio yield for a couple of questions?

SENATOR NOZZOLIO: I will be glad to yield.

THE PRESIDENT: Would you like to continue, first?

SENATOR NOZZOLIO: I will be glad to yield.

SENATOR PATERSON: Thank you, Senator Nozzolio. It was a well-explained bill and I think a very well-intentioned bill, and probably a very necessary bill. A question that I have is, according to the National Center for Disease Control, which of these transferences of bodily fluids are such that it would qualify for a proper transmission of the HIV virus?

THE PRESIDENT: Senator Nozzolio.

SENATOR NOZZOLIO: Madam President, I am not a doctor, but it seems with this type of situation today's dogma is tomorrow's heresy; that we today are seeing the medical community make certain estimates that things are not being done or are being done relative to HIV; and the issue really is what

are we doing to protect our correctional personnel?

I have certainly no scientific evidence before me relative to the HIV virus, but I believe we must do all we can to protect those state employees who work behind the walls.

THE PRESIDENT: Senator Paterson.

SENATOR PATERSON: Thank you very much, Senator Nozzolio.

And, Madam President, if Senator Nozzolio would continue to yield.

Senator Nozzolio, when -- do you see this bill as a possible administrative nightmare for the people who run the facilities? In other words, what we're talking about is perhaps a fight, and a correctional guard breaks up the fight and now the prisoner is subject to an E felony and can spend additional time in prison, basically because they had a fight. In other words, what I'm saying is, have we clearly defined in this bill what qualifies someone to be penalized under it?

SENATOR NOZZOLIO: Senator, I believe that there are clear definitions, and whatever administrative efforts must be taken to comply with this statute pale in comparison to the actual nightmare that the correctional employees who are the recipients of this type of heinous behavior have to face; that it is certainly a life or death situation for our correctional employees.

I don't believe certain administrative effort on behalf of the Corrections Department is too much to ask when you are taking into account someone's very significant jeopardy of safety in the circumstances we're talking about. What we are saying is that when there is a person who knows or reasonably should know to be an employee - an individual is an employee of a correctional facility and that they are engaged in the performance of their official duties while an employee of the correctional facility, that that inmate causes or attempts to cause such employee to be coming into contact with blood, seminal

fluid, saliva, urine, feces, by throwing, tossing, or expelling such fluid or material. I think it's extremely specific. It's almost too specific for discussion for this chamber, but it's such an uncomfortable and distasteful subject, Senator, that I believe the bill is absolutely necessary.

THE PRESIDENT: Senator Paterson.

SENATOR PATERSON: Thank you, Madam President, and thank you, Senator Nozzolio.

On the bill, Madam President. I am going to support the bill, and I thank Senator Nozzolio for his explanation, and I understand it was difficult to discuss a subject like this without nauseating the entire chamber, which Senator Nozzolio was able to do.

My reservation, while voting for the bill, is simply that we are actually going to cause people to take tests for the HIV virus when, in fact, some of the transmissions listed in this bill don't qualify under the National Center for Disease Control's threshold test of

what is the transmission of the virus, and we've had a lot of extensive study on what causes the virus to be transmitted.

So, for instance, if a prisoner bit a guard, I think you would have them tested immediately. If some of the other acts that Senator Nozzolio was describing occurred, I don't know that that would be necessary, as revolting an act as that might be, and perhaps that act is punishable. But the additional mandated HIV tests and the felony involved, I think, is a little bit excessive; but because of the fact that this has been a problem in the facilities, I can support the bill.

I would like to point out, however, that the Department of Corrections has not issued a memorandum one way or the other, and it just leads me to believe -- and I have no evidence, but it is just kind of a feeling - that there is a lot of administrative grief that is going to come over this particular bill. Senator Abate, who is out of the chamber right now on another matter, has indicated, as a

person who has worked in supervision in that particular area, that it would cause a great deal of problem; but, otherwise, we support the bill.

THE PRESIDENT: Read the last section, please.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 49.

THE PRESIDENT: The bill is passed.

THE SECRETARY: On Calendar Number 51, Senator Markowitz in the negative. Ayes 48. Nays 1.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar 214, by Senator LaValle, Senate Print 1368, an act to amend the Town Law, in relation to expending from fire district revenues.

SENATOR DOLLINGER: Explanation.

ACTING PRESIDENT KUHL: Senator LaValle, an explanation has been asked for by Senator Dollinger.

SENATOR LAVALLE: This is really a very simple bill in what it attempts to do, Senator Dollinger. Fire districts, as you probably know, have a spending limitation. At the same time, there have been over the last - since 1980, on almost an annual basis, additional OSHA requirements our local fire departments have had to meet. It goes from basic equipment of helmets and coats, various other protective gear that they have to wear, the kinds of equipment that they use. These pressures have placed a lot of pressure on the fire district budget not allowing them to do other things that they would normally do if it was not for these additional mandates on them, and so this bill allows them to exceed the spending cap for those OSHA mandates, and it's consistent with other exemptions that we have allowed to our local fire districts to exceed

this spending cap, particularly when it's come to things like indebtedness and other kinds of things. It's very consistent with bills that we have passed on the floor of this house.

ACTING PRESIDENT KUHL: Senator Dollinger.

SENATOR DOLLINGER: Will Senator LaValle just yield to a question?

ACTING PRESIDENT KUHL: Senator LaValle, do you yield to a question?

SENATOR LAVALLE: Yes.

ACTING PRESIDENT KUHL: Senator yields, Senator Dollinger.

SENATOR DOLLINGER: Senator, just so I understand, are these federal OSHA requirements that are imposed?

SENATOR LAVALLE: Yes. Yes, they are.

ACTING PRESIDENT KUHL: Then just on the bill briefly, Mr. President.

ACTING PRESIDENT KUHL: Senator Dollinger on the bill.

SENATOR DOLLINGER: I'm going to

support this bill. I think Senator LaValle's bill just highlights another point that I just wanted to mention. A lot of our local communities, particularly fire departments, have these OSHA regulations imposed on them by the federal government, and it might be an issue that in the new environment we would look to Washington to say, "Maybe it's time to change some of these very onerous regulations." I know they've been very expensive in my town and have been a source of great concern.

I think they try to achieve the right goal, perhaps a goal that we should all share, but the question is whether the federal government should mandate them and local fire communities to pay for them. So I think Senator LaValle is right on the nose with respect to allowing them an exemption from the cap in order to be able to do this, but it's the kind of thing that we ought look to the federal government and ask for some relief.

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

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 50.

ACTING PRESIDENT KUHL: The bill is passed.

Secretary will continue to call the controversial calendar.

THE SECRETARY: Calendar Number 259, by Senator Nozzolio, Senate Print 2244, an act to amend the Correction Law, in relation to limiting time allowances for good behavior.

SENATOR PATERSON: Explanation.

ACTING PRESIDENT KUHL: Senator Nozzolio, an explanation has been asked for by Senator Paterson.

SENATOR NOZZOLIO: Thank you, Mr. President. I would be glad to give the Acting Minority Leader an explanation of this measure.

Certainly, we need to do all we can to keep criminals who are extremely

dangerous behind bars, and that sex offenders in this state have the highest incidence of recidivism of any type of criminal.

That, we are asking by establishing this legislation that individuals convicted of sex offenses should also not receive time off for good behavior. Sex offenders that commit grievous crimes, historically, have a high recidivism rate. It doesn't make sense to free sex offenders early, particularly when there is such a high propensity of them tending to commit a similar crime.

What we are suggesting by this statute change is that Section 803 of the Correction Law which provides time off for good behavior for all criminals that -- we are stating that that should be changed and that any person serving a maximum term of life imprisonment -- pardon me. That Sections 803 and 804 of the Correction Law excepts sex offenders from being eligible for time allowances for good behavior.

ACTING PRESIDENT KUHL: Senator Paterson.

SENATOR PATERSON: Thank you, Mr. President. Senator Nozzolio, we appreciate that you are addressing this particular issue. Would you yield for a question?

ACTING PRESIDENT KUHL: Senator Nozzolio, do you yield?

SENATOR NOZZOLIO: Certainly, Mr. President.

ACTING PRESIDENT KUHL: Senator yields.

SENATOR PATERSON: Senator Nozzolio, on this particular bill, the Governor has certainly some ideas about reforming this area that relates to sexual offenders, and he is thinking of rolling back the good behavior time from one-third to one-seventh. This would still qualify us under the federal regulations to receive funding from the government; and, of course, we wouldn't worry as much about the funding if we were feeling we were keeping hardened criminals off the streets, but what I

think would be consistent is the fact that, under your bill, what you are suggesting, we will have criminals going back out on the streets (A) with no supervision and (B) without any kind of transition from the end of their terms to the time that they are now out on the streets.

Don't you think it would be better, should we continue this sort of transition and just roll it back as the Governor is suggesting, as opposed to just creating a long-term sentence and then allowing the individual who has served that time to go right back out on the streets?

SENATOR NOZZOLIO: Mr. President. I would wish to respond to Senator Paterson's question in this way. Senator, I understand the tenor of your question, and I think that your point does not seem unreasonable to me but for the fact that the type of criminality that we're trying to deal with here is so vicious, so vile in its nature that we can not, I believe, allow the tide to continue to

flow.

I hold in my hand a February 8 clipping from the New York Times; headline, "Man on Parole is Charged in Sex Attacks in the Bronx." Underheadline said he had been released for good behavior. "A string of sexual attacks in the Bronx was carried out by a man who was paroled from prison a year ago after serving 13 years for rape," police said. Under the law, he was held as long as he could be under the current law, and that prisoners in New York State earn a day of good behavior time for every two days spent in prison if they generally stay out of trouble. That's a very euphemistic way of saying not causing a riot or not attacking correction officers; but, otherwise, they are generally given this as an entitlement in law today. The accumulated time, then, is deducted from the prisoner's maximum sentence.

What we have is prisoners who are being released who have committed sex crimes in the past who are going out and perpetrating additional crimes upon society and, in many

cases, with the same modus operandi that put them in prison in the first place.

What we're saying in this statute is, let's forget this time off for good behavior. It doesn't make sense. We have the highest recidivism rate of any crime becoming in the sex offender, and that releasing sex offenders based on good behavior in prison is wrong. What we should not do is put them in prison if they exhibit good behavior in the first place. What we're saying is, just because you exhibit good behavior after you are in prison doesn't do anything for the victim who is carrying a scar in general in her and, in cases of sex abuse of children, in his character for the rest of his life.

Taking that into account, Senator, I just have to reject your suggestion. Even though it is not unreasonable, I think it is certainly not warranted at this time because of the very serious aspects of this crime.

ACTING PRESIDENT KUHL: Senator Paterson.

SENATOR PATERSON: Mr. President. Even though Senator Nozzolio rejects my suggestion, I'm pleased to see what I consider to be a metamorphosis of opinion that has evolved throughout the last couple of decades. The focus that this bill and others like it are placing on the issue of sexual offenses, the high rate of recidivism, the unnecessary difficulty that the victims have had trying to get these cases prosecuted, the fact that often the victim felt like it was the victim who was on trial. This going on for the period of time that it has, I think we in this chamber welcome this piece of legislation.

What I would add to it, on the bill, Mr. President, if we are going to be locking people up and not giving them some kind of treatment, then we really are inviting this problem to visit us again.

There are facilities that have demonstrated, such as the one in New Jersey at Avedale, that there has been a rate of success when counseling and treating sexual crime

predators. There is, I think, a sense right now that there cannot be any treatment, and I don't think the statistics actually sustain that. I think the statistics belie that, and so I think that this legislation goes a long way to focus our efforts on not necessarily drawing a conclusion between the ease of managing prisoners which is a correctional duty and the likelihood of an individual getting out quicker and creating the same crime again, which I think is a very good point that Senator Nozzolio is making.

However, what we are saying is that with the treatment, if it begins at the time of incarceration so that you can have real rehabilitation, that there should be some transitional period in which the individual moves back into society, and we are suggesting -- although this bill certainly is with great merit, we are suggesting that that time period be equal to that that the Governor of the State of New York has suggested, one-seventh the time of the term.

ACTING PRESIDENT KUHL: Chair recognizes Senator Jones.

SENATOR JONES: Yes, will the Senator yield to a question?

ACTING PRESIDENT KUHL: Senator Nozzolio, do you yield to a question from Senator Jones?

SENATOR NOZZOLIO: Yes, Mr. President.

ACTING PRESIDENT KUHL: Senator yields, Senator Jones.

SENATOR JONES: Yes. I just need a clarification. In the Crime Committee, Senator Abate kind of raised my level of concern. First let me say, if they all served the rest of their life would be just fine with me, but she brought up the issue if you eliminate the good time, as you are suggesting in this bill, what happens then when they are released? Can the Parole still determine where they live, notify the right people and keep track of them, or are they out of the system and running loose, basically?

SENATOR NOZZOLIO: Mr. President. This bill does certainly no change to those who have been paroled, to those who have been part of the criminal justice system. There still needs to be follow-up. Taken in conjunction, though, with Senator DiCarlo's Sex Offender Reform Act -- the Senator is the lead sponsor. Many of us in this chamber have endorsed and sponsored this bill, and it has passed this chamber. The Sex Offender Reform Act mandates that there be a continued course of treatment for those sex offenders who have entered in and served their time and exited from the criminal justice system.

We believe -- and, Senator, you may be a supporter of that bill. I am not sure. But, certainly, it has not passed the Assembly, and we not only lose federal dollars as the result of that measure not passing the Assembly, your very concern, which I believe is extremely well-taken, that your concern as you raise it here, would four square be taken care of by Senator DiCarlo's Sex Offender Reform Act,

and we need to do all we can in this house to get it passed. The Assembly, as you well know, has been reluctant to pass that needed legislation. I think the two of these measures should be taken together in conjunction and I believe it would resolve the concern completely that you have.

ACTING PRESIDENT KUHL: Senator Jones.

SENATOR JONES: Thank you. Maybe the Senator would yield for one more question.

ACTING PRESIDENT KUHL: Will you yield, Senator Nozzolio, for one more question?

SENATOR JONES: Just so I can clarify. Senator, this bill taken alone, then, we would not have the hook on them when they're released if they served the whole time; however, if we combine it with something Senator DiCarlo has, then we would be able to handle them forever, which is what I think is necessary. Is that basically what you are saying?

SENATOR NOZZOLIO: Senator, I don't want to leave you with the impression that

this measure detracts from or destroys any parole requirements that an inmate may have once they are paroled after committing this crime. The only thing this measure does is take away the sweetener that they now have of being good boys in prison and then being let out early as a quid pro quo for that good prison behavior.

We are saying that is a slap in the face to those crime victims who have been the recipient of a heinous sexual offense.

SENATOR JONES: Thank you.

ACTING PRESIDENT KUHL: Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 50.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: On Calendar

Number 259, Senator Galiber recorded in the negative. Ayes 49. Nays 1.

ACTING PRESIDENT KUHL: The bill is passed.

The Secretary will continue to call the calendar.

THE SECRETARY: Calendar Number 287, by Senator Cook, Senate Print 3441, an act to allow police officers of the Town of Saugerties to be covered under the provisions of Section 384D.

ACTING PRESIDENT KUHL: There is a home rule message at the desk.

Senator Dollinger.

SENATOR DOLLINGER: Explanation.

ACTING PRESIDENT KUHL: Senator Cook, an explanation of the bill has been asked for by Senator Dollinger.

SENATOR COOK: Mr. President. Members of the Saugerties police force completed the application to be covered under this section of law. For some reason, those applications were never forwarded by the town. Interestingly

enough, I think there were seven people that filled out applications. One of them was - didn't have time to fill it out at work and said, "Well, I'll mail it in when I get home." Then he went home and filled it out and mailed it in, and he is the only person covered. Somebody else basically put the applications in the bottom drawer, and they never got submitted to the state. The town has recognized the error now. They have agreed to pay the necessary cost to have these people covered, so there won't be any cost to the state.

SENATOR DOLLINGER: Through you, Mr. President, just one question for Senator Cook.

ACTING PRESIDENT KUHL: Senator Cook, do you yield to Senator Dollinger?

SENATOR DOLLINGER: Is that the respect in which this bill differs from last year?

SENATOR COOK: Yes.

SENATOR DOLLINGER: Last year, we were going to pick up -

SENATOR COOK: That's right.

SENATOR DOLLINGER: -- and now the town is going to do it.

Thank you, Mr. President. My opposition from last year will be withdrawn. I'll be voting in the affirmative on this.

ACTING PRESIDENT KUHL: Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 50.

ACTING PRESIDENT KUHL: The bill is passed.

Senator Skelos, that completes the controversial calendar.

SENATOR SKELOS: Mr. President. May we return to reports of standing committees, and I believe there is a report of the Rules Committee.

ACTING PRESIDENT KUHL: There is

a report of the Rules Committee at the desk.

We will return to reports of standing committees. I will ask the Secretary to read.

THE SECRETARY: Senator Bruno, from the Committee on Rules, hands up the following bills directly for third reading:

Senate Print 4079, Budget Bill, an act making appropriation for the support of government.

Senate Print 4080, Budget Bill, an act to provide for payments and providers of medical services.

4081, Budget Bill, an act making an appropriation for the support of government.

All bills directly for third reading.

ACTING PRESIDENT KUHL: Senator Skelos.

SENATOR BRUNO: I move we accept the rules report.

ACTING PRESIDENT KUHL: The motion is to accept the rules report. All those

in favor, signify by saying aye.

(Response of "Aye.")

Opposed, nay.

(There was no response.)

The report is accepted.

Senator Skelos.

SENATOR SKELOS: Mr. President. At this time, may we please take up Calendar 390, Senate 4079.

ACTING PRESIDENT KUHL: Secretary will read Calendar Number 390.

THE SECRETARY: Calendar Number 390, Budget Bill, Senate Print 4079, an act making an appropriation for the support of government.

ACTING PRESIDENT KUHL: Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 51.

ACTING PRESIDENT KUHL: The bill is passed.

Secretary will continue to call.

Senator Skelos.

SENATOR BRUNO: Mr. President. At this time, could we take up Calendar Number 391, S.4080.

ACTING PRESIDENT KUHL: Secretary will read Calendar Number 391.

THE SECRETARY: Calendar Number 391, Senate Print 4080, Budget Bill, an act to provide for payments to municipalities and to providers of medical services under the Medical Assistance Program.

ACTING PRESIDENT KUHL: Chair recognizes Senator Galiber.

SENATOR GALIBER: Would Senator Stafford yield to a question as opposed to asking for an explanation of the entire bill?

ACTING PRESIDENT KUHL: Senator Stafford, do you yield to a question from Senator Galiber?

The Senator yields.

SENATOR GALIBER: Senator, I asked the question in our committee, and those who are not privileged enough or honored enough to serve on your committee might be interested in the response that you give. I noted that the notion of income maintenance was left out of the bill and there was a question whether it was by design. I know last year we didn't pay the income maintenance, back in May of some occasion.

SENATOR STAFFORD: Right, that was -

SENATOR GALIBER: So perhaps you can give us that explanation without going into the entire bill.

SENATOR STAFFORD: Exactly. That was an excellent question, as all of yours are, Senator Galiber, but it shows you have read the bill.

SENATOR GALIBER: (Indicating.)

SENATOR STAFFORD: Your staff; right?

SENATOR GALIBER: Right.

SENATOR STAFFORD: There is an existing appropriation for that function.

SENATOR GALIBER: As I ask the question, though, perhaps for those who are privileged to live Upstate under certain circumstances, does it apply in Upstate also?

SENATOR STAFFORD: Yes, it does.

SENATOR GALIBER: They have an escrow account; is that correct?

SENATOR STAFFORD: Exactly.

SENATOR GALIBER: Or something similar to that.

SENATOR STAFFORD: Exactly.

SENATOR GALIBER: Thank you, Mr. President.

ACTING PRESIDENT KUHL: Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 51.

ACTING PRESIDENT KUHL: The bill is passed.

ACTING PRESIDENT KUHL: Senator Skelos.

SENATOR SKELOS: Yes, at this time, may we please take up Calendar Number 392, Senate 4081.

ACTING PRESIDENT KUHL: Secretary will read Calendar Number 392.

THE SECRETARY: Calendar Number 392, Budget Bill, Senate 4081, an act making an appropriation for the support of government.

ACTING PRESIDENT KUHL: Read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 51.

ACTING PRESIDENT KUHL: The bill is passed.

Senator Galiber.

SENATOR GALIBER: Thank you for the recognition, Mr. President. I would like to have unanimous consent to be recorded in the negative on Calendar Number 238.

ACTING PRESIDENT KUHL: Without objection, Senator Galiber will be recorded in the negative on Calendar Number 238.

Senator Skelos.

SENATOR SKELOS: Mr. President. I believe at this time the Minority has some motions to discharge.

SENATOR OPPENHEIMER: Yes, Mr. President.

ACTING PRESIDENT KUHL: Senator Paterson, is that correct, you have several motions to discharge at the desk?

SENATOR PATERSON: Yes, Mr. President. In fact, we have one million motions for discharge, but we have cut them down to really just reflect the most important bills, so we know there should be no problem bringing those bills to the floor, and we would like at this time if you would recognize Senator

Oppenheimer.

ACTING PRESIDENT KUHL: Senator Oppenheimer to present a motion to discharge.

SENATOR OPPENHEIMER: I have filed this motion to discharge at the desk. I would like the opportunity to explain it.

ACTING PRESIDENT KUHL: Senator Oppenheimer. The desk informs me that you have two at the desk. Can you tell me which one you would like to take up first? It's 705 or 759?

SENATOR OPPENHEIMER: 705.

ACTING PRESIDENT KUHL: 705.

SENATOR OPPENHEIMER: I didn't know I had two. I think this is the one we're talking about. This would limit the lawful possession of semi assault weapons to persons who have acquired a license to possess and use them for either organized marksmanship competition and target firing; or if they are federally licensed collectors, they can obtain a license to possess these weapons, and any other possession of this weapon would be a crime.

So this is a ban on the

possession and sale of semi assault weapons without a license, and the bill names a large number of weapons, some of which you are very familiar with the names. Many of these weapons are modified versions of military ordinance, originally, and specifically designed to kill human beings in battlefields, not intended for civilian use. Many of them are equipped with or designed to accept magazines having an unreasonably large ammunition capacity, and, obviously, such capacity is not necessary for hunting purposes or recreational purposes. Indeed, they are specifically banned for hunting. Their purpose truly is only to kill the maximum number of people in the minimum amount of time.

Law enforcement officers and innocent bystanders are increasingly in peril. There is a great deal of cross fire that goes on and innocent people -- a lot of the youngsters are caught in this cross fire, and, indeed, our police are asking for us to do something because they are out-gunned at the present time. The

criminals have much better firepower than our police have.

These are just weapons of terrible destructive power, and I don't think our society should permit them to continue to proliferate, and this legislation would go just about as far as the state can go in controlling them. I see that they serve absolutely no valid purpose; and, indeed, when our governor was on the campaign trail, he also said that he thought it was time for a ban or considerable restraints on semi assault weapons, and I hope he believes that now and will act upon it in the near future.

In the meantime, I would like to have this motion to discharge from committee come to the floor, and I would move that.

ACTING PRESIDENT KUHL: The motion is to discharge Senate Bill Number 705 from committee. A vote in the affirmative will discharge that bill. A vote in the negative will vote to keep it in committee.

All those in favor of the motion,

signify by saying aye.

(Response of "Aye.")

Those opposed, nay.

(Response of "Nay.")

The motion fails.

Senator Oppenheimer, would you now like to take up the second -- no.

Senator Paterson.

SENATOR PATERSON: Mr. President. Now, if you would recognize Senator Jones.

ACTING PRESIDENT KUHL: The chair recognizes Senator Jones for a motion.

Senator Jones.

SENATOR JONES: Yes, I filed - there's two motions to discharge from committee, Senate 37 and Senate 39, and I would like to call them up and ask if I can discuss them together. 37 and 39.

SENATOR MARCHI: Point of order, Mr. President.

ACTING PRESIDENT KUHL: Senator Marchi.

SENATOR MARCHI: I received a memorandum from Senator Goodman, who underwent a medical procedure, giving me the Senate bills that were going to be moved on this agenda; and you say 739?

SENATOR JONES: 37 and 39.

ACTING PRESIDENT KUHL: Senate 39.

SENATOR MARCHI: It's not on this list, not that it's immoral or fattening or illegal. The same goes for Senator Oppenheimer's -- are we working from different lists?

ACTING PRESIDENT KUHL: Senator Marchi, if you will bear with us.

Senator Marchi, if you will bear with us just for a moment, I'm attempting to be able to resolve your question here at the desk.

Senator Marchi.

SENATOR MARCHI: Mr. President I understand that there were amplified lists and they didn't happen to be on this one, but I - quite all right.

ACTING PRESIDENT KUHL: Senator Jones, on both motions to discharge.

SENATOR JONES: These two bills are bills that I filed last year, and I know Senator Maltese was interested in taking them up last year, but nothing has happened to them this year.

So I would really like to call your attention -- they are both dealing with crime victims issues and both from situations that have happened in Monroe County. The first one deals with the ability of someone to speak at sentencing, and while we have lots of things in statute -- we just did one recently - dealing with who can speak for a victim of a crime, in Monroe County we had a rather unusual situation where a judge held to the letter of the law. The problem was the person was not charged with a homicide. It was a hit-and-run driver. Although the person was killed, the defendant did not show up until the following day; and, therefore, it was not a homicide.

When it came time for sentencing,

the judge held to the letter of the law and indicated that this did not fit any of our present criteria, which is, "A victim is a child unwilling or unable to speak or if the victim is mentally or physically disabled or, of course, in the case of a homicide."

So this person basically fell through the cracks, and the judge held to the letter of the law and would not allow them to speak. I have been told that there are other situations where judges are more lenient and would have allowed this to happen; however, in Monroe County, they did not.

I know we all feel very strongly, particularly when there has been -- a death occurred, that someone should always be there to speak for the victim. So this bill was actually introduced to try and correct this situation that did occur in Monroe County and to prevent it from happening in any other place throughout the state.

The second bill, Senate 37, also dealt with the crime victim issue, and anybody

who's been in the Monroe County area -- again, let me say Senator Maltese picked this up after I filed it last year, but no one has done so this year. So, you know, I would recommend that someone do that because it is certainly something that bears looking at.

Again, it's a case in Monroe County where a woman was a victim of serious domestic violence; in fact, was stabbed 11 times to the point where the woman has lost her ability to speak. The man is now serving 25 years in prison. Unfortunately, from prison, he has continued to harass her, filing various lawsuits including the validity of their divorce, custody issues, visitation issues, whether or not the children could write to him. All of these, the judges have been forced to hear in court in Monroe County.

I have spoken many times to the judges about this. They are looking for something in law to help them and they can immediately discount these as being frivolous. This woman who not only suffered such a serious

physical injury at the hands of this person is now forced to pay to defend herself in court; and, of course, we all know who is paying for his court filings in the court cases that he is bringing against her.

So, again, this is another thing that I believe could help victims; and, certainly, any of you who knew this woman and what she's been through certainly would be interested in helping in any way possible to prevent her from further victimization at the hands of her ex-husband.

So I would move that both of these be discharged from committee and be brought to the floor.

ACTING PRESIDENT KUHL: The question is on the motion to discharge Senate Bill Number 39 dealing with victims. All those in favor of the motion to discharge, signify by saying aye.

(Response of "Aye.")

Opposed, nay.

(Response of "Nay.")

The motion is lost.

The second motion before the house is the motion to discharge Senate Bill Number 37, dealing with frivolous lawsuits. All those in favor of the motion, signify by saying aye.

(Response of "Aye.")

Opposed, nay.

(Response of "Nay.")

The motion is lost.

Senator Paterson.

SENATOR PATERSON: Mr. President. I thought we won that last one.

If you would recognize Senator Jones, Mr. President, we have one further motion.

ACTING PRESIDENT KUHL: Senator Jones.

SENATOR JONES: There is one more bill that I would like to call up, please, Senate 1025.

ACTING PRESIDENT KUHL: Senator Jones, hang on just a minute while we find it.

Senator Jones, we have it now. Senator Jones on the motion to discharge.

SENATOR JONES: Yes. This bill deals with reverse sale of a controlled substance. Again, it's a bill that I had in last year, but it's become a very important issue this year in Monroe County; and so, since it's on the Health Committee currently, I would like to turn the floor over to our ranking member on the Health Committee, which is Senator Dollinger, to speak on this bill.

ACTING PRESIDENT KUHL: Chair recognizes Senator Dollinger on the motion.

SENATOR DOLLINGER: Mr. President. This concept of a reverse drug sale is not a new concept before this house. I point out that Senator Wright, and I believe 13 other members of the Republican Majority in this house have recognized the problem and introduced a very similar bill. The reason why we want to move to discharge this bill is because the issue of reverse sales have become even more pertinent in our hometown community in Monroe County.

There, a City Court judge threw out 123 accusatory instruments filed against people who had come into the city of Rochester or had been in the city and attempted to buy drugs. They were all done on the reverse sale model; and because of the lack of any statutory function to support an accusation under a reverse sale, all 123 of those cases were dismissed.

It seems to me that this bill's time has come and that this would give the communities, places like the city of Rochester, an additional weapon in their arsenal to try to curb the problem of neighborhood drug buys. They start out of in small amounts. They start off in marijuana. They build up to bigger things. If we're going to put a stop to it, I think we have to give the police not only in Monroe County and in the city of Rochester this tool, but we should give it across the board.

I would strongly recommend that this be brought out of committee and be put before the Senate so that we can have a full debate on the issue, and we can give the people

of this state the opportunity to begin to reduce the drug traffic which infests our neighborhoods, our urban areas and, I should add, also our rural areas. Many of the people who are, often times, arrested -- in fact, who were arrested in the city of Rochester were from rural areas. Drug use, as we all know, is as prevalent in the suburbs as it is in the city, and anyone who thinks that this is just an urban problem is kidding themselves. This bill will give us a tool we can use throughout New York State.

I urge that this motion be adopted and that we bring this measure, this very important measure, sponsored by Senator Jones, to the floor for debate.

ACTING PRESIDENT KUHL: The motion is to discharge Senate Bill 1025. All those in favor of discharging the bill from committee, signify by saying aye.

(Response of "Aye.")

Opposed, nay.

(Response of "Nay.")

The motion is defeated.

Senator Skelos.

SENATOR DOLLINGER: Mr. President.

ACTING PRESIDENT KUHL: Senator Dollinger.

SENATOR DOLLINGER: Mr. President. I believe there is another motion filed with respect to Senate 2974.

ACTING PRESIDENT KUHL: Senate 2974? Let me check, Senator Dollinger, to see that it's here.

Senator Dollinger, it is at the desk.

SENATOR DOLLINGER: Mr. President.

ACTING PRESIDENT KUHL: Senator Dollinger on the motion.

SENATOR DOLLINGER: This is a motion to discharge Senate Bill 2974, of which I am the sponsor. Senator Babbush, Senator Jones, Senator Markowitz and Senator Paterson are the co-sponsors.

This bill would expand the forfeiture power of the police in enforcing the forfeiture laws against those who buy misdemeanor amounts of illegal substances. As I mentioned a moment ago with respect to Senator Jones's bill, in which we talked about the concept of reverse buys, expanding the scope of the forfeiture laws would give the police an additional option in trying to deter drug sales wherever they occur in this state.

Current law provides it has to be a felony in order for you to begin the forfeiture process. This bill, if it were considered by this body, would give us an opportunity to debate the issue of whether that forfeiture power should be extended down to misdemeanors. In many cases, people are buying drugs only in misdemeanor quantities or they're buying marijuana in misdemeanor quantities. There is no forfeiture law that applies to them because we haven't extended it that far.

I point out that our information from the Monroe County drug enforcement

officials, both the police in the city of Rochester, the Monroe County Sheriff's Department and local police departments, indicates that people who are buying drugs are buying them in small amounts and, in many cases, we are unable to apply the forfeiture law to them.

The other advantage of the forfeiture law is that it might open the eyes of the entire community about the prevalence of drug use because it would be one thing to simply be arrested for a misdemeanor possession of drugs, it would be another thing to have to go back to explain to your wife or your boyfriend or your family why your car has been seized as a consequence of buying those drugs.

The Rochester Police Department and the Rochester City neighborhood leaders estimate that one-half of the drug sales in the city of Rochester involve suburban drivers. This would be a good deterrent to them if we extended the forfeiture law to include misdemeanor amounts of illegal substances.

I think this is another important tool to put in the hands of our police officers. I would strongly recommend that we support this motion so that we can bring this issue to the table today.

ACTING PRESIDENT KUHL: The motion is to discharge Senate Bill Number 2974 from committee. All those in favor of discharging the bill from committee, signify by saying aye.

(Response of "Aye.")

Opposed, nay.

(Response of "Nay.")

The motion is lost.

SENATOR DOLLINGER: Mr. President.

ACTING PRESIDENT KUHL: Senator Dollinger.

SENATOR DOLLINGER: I believe there are four other motions that I would like to consider as a package, and these are motions with respect to Senate 3096, 3098, 3099 and 3101, Mr. President.

ACTING PRESIDENT KUHL: Do you wish to discuss those all at one time, Senator Dollinger?

SENATOR DOLLINGER: Yes, if I could, Mr. President. These are known as the bawdy house bills, and I would like to see if I can bring them before the floor.

ACTING PRESIDENT KUHL: Okay. I -- the chair will recognize Senator Dollinger for the purpose of explaining four discharge motions, and then we will take up each motion separately.

SENATOR DOLLINGER: Thank you, Mr. President.

ACTING PRESIDENT KUHL: Senator Dollinger.

SENATOR DOLLINGER: Thank you for the courtesy of allowing me to consolidate them, as well.

Mr. President. What this package of bills does is it takes a century old concept in the State of New York and applies it to a new and threatening problem. In the early part of

this century, Mr. President, this Legislature recognized that community groups, civic groups, police and landlords, should have the power to enforce the laws of eviction and the laws of criminal nuisance to prevent use of real property for illicit purposes.

The illicit purpose in the beginning of this century were as houses of ill-repute. These were the brothels and other similar places in which this Legislature decided that we would do a number of things. One is, if illegal activity was going on in the house, we would allow the landlord to evict them on that basis. We would extend the standing so that if a community group or the attorney general -- if the person lived within 200 feet of a bawdy house, they could bring an action to evict the illegal or illicit operation. In addition, it would make -- we made criminal nuisance a felony and allowed neighborhood groups to go in and describe this criminal nuisance, which was a form of ill-repute, and they would have the standing under the law to bring an action for

eviction.

What this package of bills does is it takes the concept of a bawdy house and applies it to what is a common problem in the city of Rochester and in many other parts of the state, the "crack" house, the drug house. It gives people that live in the vicinity of those drug houses civil remedies and the police civil remedies and the Attorney General of this state civil remedies so that they can evict the tenants, so that they can toss people out of these "crack" houses and drug houses inside the city of Rochester.

They expand the scope of standing. They allow community groups to have standing to bring these actions. They expand the geographic reach. Now it is 200 feet. If these bills became law, it would be 1,000 feet. Anyone living within 1,000 feet of a drug house could bring an action to evict the tenant, and it would also give the landlord express power to remove a tenant when they are involved in illegal drug operations, and it would expand the

definition of criminal nuisance to make it a felony, to put real teeth in these laws.

Mr. President. In the city of Rochester, most of which I represent and Senator Jones represents the other part, there is a crying demand for those types of powers so that the neighbor groups which are trying to save parts of the city of Rochester have the opportunity to use their power, the collective power of the people, to evict people who are engaged in drug activities. Everyone in this chamber knows how deleterious the impact of a drug house is, what it does to decay, what it does to driving people out of the neighborhood, how it disrupts families and how it disrupts the functioning of a neighborhood.

Let's give the people of this state the tools so that they can come forward just as a century ago we allowed them to throw out houses of ill-repute. Let's give them the same power now and let's expand the powers to throw out these terrible drug traps which catch our children and the rest of our citizens.

Mr. President. I would strongly request that my colleagues support discharging this package of bills so that we can take bawdy houses and as we did away with them a century ago, some day maybe drug houses will sound just as archaic as bawdy houses do if we pass this legislation.

I'd urge its support.

ACTING PRESIDENT KUHL: The first motion is to discharge Senate Bill 3096 from committee.

All those in favor of discharging the bill from committee, signify by saying aye.

(Response of "Aye.")

Opposed, nay.

(Response of "Nay.")

The motion, close vote, is lost.

The second motion is to discharge Senate Bill 3098 from committee. All those in favor of discharging the bill from committee, signify by saying aye.

(Response of "Aye.")

All those opposed, nay.

(Response of "Nay.")

In a not-so-close-vote, the motion is lost.

The next motion is to discharge Senate Bill 3099 from committee. All those in favor of discharging the bill from committee, signify by saying aye.

(Response of "Aye.")

Those opposed, nay.

(Response of "Nay.")

The motion is lost.

Next motion is to discharge Senate Print 3101 from committee. All those in favor of discharging the bill from committee, signify by saying aye.

(Response of "Aye.")

Opposed, nay.

(Response of "Nay.")

The motion is lost.

Senator Paterson.

SENATOR DOLLINGER: Mr. President. I have two other motions, Mr. President, and then I will sit down.

I believe there is a motion at the desk for 3102.

ACTING PRESIDENT KUHL: Senator Dollinger. 3102?

SENATOR DOLLINGER: Yes, Mr. President, the child stalking bill.

ACTING PRESIDENT KUHL: Yes, there is. The chair recognizes Senator Dollinger to present a motion to discharge.

SENATOR DOLLINGER: Mr. President. Again, I ask just for a brief moment to explain this bill. It's relatively simple. This bill would attack what is becoming a more common problem in this state, which is the stalking of children, and this bill makes conduct which currently constitutes harassment in the second degree into aggravated harassment in the second degree when that conduct is committed against a child or is committed on school grounds.

We had an incident in the Monroe County area about a year ago in which a child was followed by someone in a white car. They

were importuned to come to the car. There were things said to the child that would constitute harassment; and after consultation with the district attorney and representatives of law enforcement in Monroe County, we determined that the only thing to do was to increase the penalties for aggravated harassment of a child inside a school zone. That's what this bill seeks to do.

We have talked a lot in this chamber about the dangers of luring children into cars. We have tools, some tools, at our disposal. By enacting this, we would substantially increase the penalty, and we would make it very specific that the harassment of a child inside a school zone constitutes a felony, and we would send a clear message to anyone whether it be a "childnapper", a child molester or just one of those high school kids. He decides he's going to have a little fun by scaring the daylights out of a little girl on her way home from school. The message would be plain and simple, "We do not tolerate it and we

are going do punish it as a crime."

I would, again, urge that this bill be considered by this house. I believe it will extend further protections to our children and send a clear message to those who would harass them for any reason, that they can not do it.

Mr. President. I make the motion.

ACTING PRESIDENT KUHL: The motion is to discharge Senate Bill 3102 from committee. All those favor of discharging the bill from committee, signify by saying aye.

(Response of "Aye.")

Opposed, nay.

(Response of "Nay.")

The motion is lost.

SENATOR DOLLINGER: Mr. President. I have one more that I would just call before the house.

ACTING PRESIDENT KUHL: What is the number, Senator Dollinger?

SENATOR DOLLINGER: Let me find

it here, Mr. President. This would be Senate Bill 3056, Mr. President. It deals with the application of the Freedom of Information Law to the Legislature.

ACTING PRESIDENT KUHL: Yes, Senator Dollinger, the motion to discharge is at the desk. Senator dis -- Senator Dollinger to explain his motion to discharge.

SENATOR DOLLINGER: "Senator Discharge" is that what I'm to be called, Senator?

Mr. President. I thank you again. This is a bill which would apply the substance of the Freedom of Information Law to the New York State Legislature.

As you all know, our Court of Appeals recently held in the Weston against Sloan case that certain documents held in the possession of this Legislature would be accessible to the public. Those documents included documents that were specifically related to the spending of taxpayer money.

However -- however, the Court

held that items such as newsletters and information on mass -- targeted mass mailings, for example, are not subject to mandatory disclosure. In my view in a tortuous route through the intricacies of a statutory interpretation of Public Officers Law, the Court did hold that certain information was available but that other types of information were not. It seems to me that the concept that somehow we can spends a portion of the taxpayers' money without telling them what we're spending it on and that there are other portions that we have to disclose is a legal fiction that deserves no credence in this house.

And, therefore, I would propose that we debate this bill and apply all the terms and conditions of the Freedom of Information Law to ourselves. I would just point out that anyone in this chamber, either under the prior administration or under this administration could go downstairs to the second floor and demand to see the newsletters and the mailing lists of any newsletter sent out by any agency

in this state because it's the taxpayers' money. We're spending their money, and under those circumstances, the taxpayers should know what we're doing. Instead -- instead, in this chamber, if you were asked for your mass mailings, a copy of your mass mailings or the targeted list, for some reason at least under what the Court of Appeals has had to say in dicta in its earlier opinion, you might not have the obligation to disclose that.

Why don't we just say enough is enough. We are spending the taxpayers' money. Let's tell them what we're spending. Let's not keep any secrets from the public about how we spend their money. Let's just put it right on top of the table. Let's empty our pockets, show them where the money goes and make the Freedom of Information Law apply to the New York State Legislature.

That's what this legislation does. I know that Senator Bruno -- I suspect that he would support this kind of move, because he's opened up this house. He's begun the

process of opening up this house. My hope is that everyone on both sides of the aisle can join in opening the rest of the books, not just this chamber, perhaps, but the books, as well, so that the people will know where and how we are spending their money.

Mr. President. I make the motion to discharge.

ACTING PRESIDENT KUHL: The motion is to discharge Senate Bill Number 3057. All those in favor of discharging 3056 from committee, signify by saying aye.

(Response of "Aye.")

Opposed, nay.

(Response of "Nay.")

The motion is lost.

Chair would recognize Senator Montgomery for purposes of a motion to discharge.

SENATOR MONTGOMERY: Thank you, Mr. President. I have a bill at the desk.

ACTING PRESIDENT KUHL: What is the Senate bill number, Senator Montgomery?

SENATOR MONTGOMERY: It's bill number 1928 -- number 1998. I'm sorry.

ACTING PRESIDENT KUHL: 1998.

Senator Montgomery, the motion to discharge is at the desk. Senator Montgomery to explain the motion to discharge.

SENATOR MONTGOMERY: Thank you, Mr. President.

This motion regards a bill that is extremely important to residents in the State of New York, and it is to let out of committee my bill which would make it possible, at least more possible to increase the number of needle exchange programs in our state.

The purpose of this bill is to - an attempt to reduce the spread of AIDS virus by virtue of those persons who are intravenous drug users sharing needles and, thereby, spreading the disease of AIDS.

I want to point out, Mr. President, that this legislation does a number of things in addition to making nonprescription needles legal, the possession of nonprescription

needles legal in the State of New York. It also, in fact, promotes safe needle disposal, because in the needle exchange programs, in order for a person participating in such a program to receive a clean needle, they are required to bring in a dirty needle; so that they are not only to encouraged to bring in their own needles, but, in many instances, they would be encouraged to pick up dirty needles that they may find and bring them in, in order to receive clean needles.

Now, one of the results of various programs up to date under the auspices of the Department of Health and the New York City Department of Health have proven that people who are involved in intravenous drug use are concerned about the fact that they can contract AIDS and, thereby, do participate in the program.

Now, it has been alleged that if we have a needle exchange program or if we legalize needles in the State of New York, we're going to encourage drug use. Well, that has

been proven not to be true. In fact, what happens with needle exchange programs is because these programs really target a very particular population and they are conducted with that population in mind, meaning that they are more than likely to be conducted at the site where the drug users are likely to have more access to the program, they become a bridge or a connection between the drug using people and the drug treatment programs, and so they have acted as a source of referral and as a connection between getting treatment and getting off of drugs, so that is one positive outcome that has been the case in every single needle exchange program to date.

In addition, my legislation requires that each needle contain information in terms of safe disposal of the equipment so that people who are able to even purchase a clean needle over the counter without a prescription will still have the information that is required in terms of safe disposal of the equipment.

My legislation stipulates that

there will be no -- in cases where an insurance company currently covers free needles for any person so insured for whom a prescription needle is required, such as a person with diabetes and so forth, that insurance must continue to cover the purchase of needles in those cases.

So, Mr. President, this really is a measure that would save hundreds of thousands of lives. It is estimated that of some over 200,000 people in the City of New York alone who are currently IV drug users, some -- some - over 50 percent of them are active HIV cases.

Now, in my district in Brooklyn, I have the highest number of active HIV cases in the whole borough of Brooklyn; and so as you can see, Mr. President, this bill is extremely important to constituents in my own district, but I can tell you in no uncertain terms that it is important to people throughout the state; and if passed -- if passed, we in the state would see an increase in the number of programs targeting intravenous drug users as a group to try and reduce the spread of this horrible

disease.

So I ask, Mr. President, that this body vote to allow this legislation to be passed, vote yes on this motion, because we're not voting on -- we're not voting on increasing money in the budget. We're not changing significantly our state laws. We are simply removing an arcane and outdated provision which says that if you possess a hypodermic syringe and needle without a prescription, you are likely to be arrested, and the purpose of that law was to try and reduce drug use in the State of New York. It has not been the case, and we now are faced with the problem of having this disease being spread to a very large degree by people who either use drugs or their partners, contracting the disease from them, passing it on to their partners.

So, Mr. President, I ask for a yes vote on this motion to discharge.

ACTING PRESIDENT KUHL: The motion is to discharge Senate Bill 1998 from committee. All those in favor of discharging

the bill from committee, signify by saying aye.

(Response of "Aye.")

Opposed, nay.

(Response of "Nay.")

The motion is lost.

Senator Paterson, that completes your list of motions to discharge, I believe, does it not?

SENATOR PATERSON: Yes, Mr. President. You know, I attended Columbia University whose football team lost 40 straight NCAA games, so this doesn't hurt me. I'm not hurt at all.

Thank you, Mr. President.

ACTING PRESIDENT KUHL: You still have about 28 motions to go.

(Laughter.)

Senator Larkin, we have a little housekeeping. May we return to motions and resolutions?

SENATOR LARKIN: Return to motions.

ACTING PRESIDENT KUHL: We will

return to motions.

The chair recognizes Senator DiCarlo.

SENATOR DiCARLO: Mr. President. On behalf of Senator Hannon, please place a sponsor star on Calendar Numbers 316 and 378.

ACTING PRESIDENT KUHL: Sponsor star will be placed on Calendars Number 316 and 378.

For the benefit of the members, the chair would announce to the membership that we have had a cross on three of the appropriation bills, Calendar Numbers 390, 391 and 392.

The Senate has requested to recall those bills which is currently in process. We will bring them back and substitute them for the Assembly bills which had been passed for the Senate bills, and then we will take them up. However, they are not at the desk at this time, so we'll have to -- unless the acting Majority Leader has some other business, we would have to stand at ease.

Senator Larkin.

SENATOR LARKIN: Mr. President. Let's stand at ease until we get them back here.

ACTING PRESIDENT KUHL: Senate will stand at ease for a few moments.

(Whereupon, the Senate was at ease.)

ACTING PRESIDENT KUHL: Senate will come to order. Chair recognizes Senator Larkin.

SENATOR LARKIN: Mr. President. I'd like to have you call up Senate Print Number 4079, which was recalled from the Assembly and is now at the desk.

ACTING PRESIDENT KUHL: Secretary will call the roll on reconsideration.

THE SECRETARY: Senate Bill Number 4079, Budget Bill, an act making appropriation for the support of government.

SENATOR LARKIN: Mr. President. I now move to reconsider the vote by which this bill was passed and ask that the bill be restored to the order of third reading.

ACTING PRESIDENT KUHL: The secretary will call the roll on reconsideration.

(The Secretary called the roll on reconsideration.)

THE SECRETARY: Ayes 51.

ACTING PRESIDENT KUHL: The bill is before the house and restored to third reading.

Senator Larkin.

SENATOR LARKIN: Mr. President. I now move to discharge, from the Committee on Rules, Assembly Print 7353, and substitute it for the identical bill before.

ACTING PRESIDENT KUHL: Secretary will read the substitution.

THE SECRETARY: Senate Budget Bill, making appropriation for the support of government, Assembly Bill 7353, and sub' it for identical bill Calendar Number 390.

ACTING PRESIDENT KUHL: Substitution is ordered.

Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 52.

ACTING PRESIDENT KUHL: The bill is passed.

Senator Larkin.

SENATOR LARKIN: Mr. President. I now wish to call Senate Print Number 4080 recalled from the Assembly, which is now at the desk.

ACTING PRESIDENT KUHL: Secretary will read.

THE SECRETARY: Senate Bill 4080, an act to provide for payments to municipalities and providers of medical services.

ACTING PRESIDENT KUHL: Senator Larkin.

SENATOR LARKIN: I now move to reconsider the vote by which this bill was passed and ask the bill be restored to the order

of third reading.

ACTING PRESIDENT KUHL: The secretary will call the roll on reconsideration.

(The Secretary called the roll on reconsideration.)

THE SECRETARY: Ayes 52.

ACTING PRESIDENT KUHL: The bill is before the house.

Senator Larkin.

SENATOR LARKIN: I now move to discharge, from the Committee on Rules, Assembly Print 7354 and substitute it for our original bill 4080.

ACTING PRESIDENT KUHL: Substitution is ordered.

Secretary will read.

THE SECRETARY: Calendar Number 391, Budget Bill, Assembly Bill 7354, an act to provide for payments to municipalities and to providers of medical services.

ACTING PRESIDENT KUHL: Read the last section.

THE SECRETARY: Section 2. This

act shall take effect immediately.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 52.

ACTING PRESIDENT KUHL: The bill is passed.

Senator Larkin.

SENATOR LARKIN: Mr. President. I wish to call up Senate Bill 4081, recalled from the Assembly, which is now at the desk.

ACTING PRESIDENT KUHL: Secretary will read.

THE SECRETARY: Senate Bill 4081, Budget Bill, an act making appropriation for the support of government.

SENATOR LARKIN: I now move to reconsider the vote by which this bill was passed and ask that the bill be restored to the order of third reading.

ACTING PRESIDENT KUHL: The secretary will call the roll on reconsideration.

(The Secretary called the roll on

reconsideration.)

THE SECRETARY: Ayes 52.

ACTING PRESIDENT KUHL: The bill is restored to third reading.

SENATOR LARKIN: Mr. President. I now move to discharge, from the Committee on Rules, Assembly Bill Print Number 7353 and substitute it for 4081, Senate Bill.

ACTING PRESIDENT KUHL: Substitution is ordered.

Secretary will read.

THE SECRETARY: Calendar Number 352, Budget Bill, Assembly 7355, an act making appropriation for the support of government.

ACTING PRESIDENT KUHL: Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 52.

ACTING PRESIDENT KUHL: The bill

is passed.

Senator Larkin.

SENATOR LARKIN: Is there any other housekeeping to be done?

ACTING PRESIDENT KUHL: Nothing at the desk, Senator Larkin.

SENATOR LARKIN: Mr. President. There being no further business, I move we adjourn until Tuesday, April 11, at 3:00 p.m. sharp.

ACTING PRESIDENT KUHL: Without objection, the Senate will stand adjourned until tomorrow, Tuesday, April 11, at 3:00 p.m.

(Whereupon, at 4:29 p.m., Senate adjourned.)