ALBANY, NEW YORK

April 25, 1995

3:03 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 everyone 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.)

The invocation today will be given by the Reverend Peter G. Young of the Blessed Sacrament Church in Bolton Landing.

Reverend Young.

REVEREND FATHER PETER G. YOUNG: Let us pray.

May all of the Senators in this house pray for the hungry, the homeless, those that are denied dignity, and those that have no hope, that this legislative body will improve their condition and that our compassionate efforts will remove the causes of their suffering.

We pray this in Your name, now and forevermore. Amen.

THE PRESIDENT: Amen.

The reading of the Journal, please.

THE SECRETARY: In Senate, Monday, April 24th. The Senate met pursuant to adjournment, Senator Kuhl in the chair upon designation of the Temporary President. The Journal of Sunday, April 23rd, 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 from officers.

Motions and resolutions.

Senator Bruno, are you ready for the resolution calendar?

SENATOR BRUNO: Yes, Madam President. At this time, I would like to adopt the Resolution Calendar.

THE PRESIDENT: All in favor of adopting the Resolution Calendar signify by saying aye.

(Response of "Aye.")

Opposed, nay.

(There was no response.)

The Resolution Calendar is adopted.

Senator Bruno.

SENATOR BRUNO: Madam President. I believe there is a resolution at the desk. We'd appreciate having it read in its entirety and move for its immediate adoption.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: By Senator Tully, Legislative Resolution, commending the 1995 senior class of Henry Viscardi School, Albertson, New York, upon the occasion of their visit to the New York Legislature on Tuesday, April 25, 1995.

Whereas, it is the sense of this legislative body that the character and quality

of life in this great Empire State is abundantly enriched by organizations which selflessly serve to promote the health and welfare of the citizenry; and

Whereas, this Legislative Body is justly proud to commend the 1995 senior class of Henry Viscardi School, Albertson, New York, upon the occasion of their visit to the New York State Legislature on Tuesday, April 25, 1995; and

Whereas, Henry Viscardi School, previously known as Human Resources School, has been providing a high quality education for children with orthopedic, health, and multiple disabilities for over 25 years; and

Whereas, the school is a division of the National Center of Disability Services, Henry Viscardi School is located on a 15-acre campus in Nassau County; and

Whereas, Henry Viscardi School offers an outstanding educational, social, and therapeutic experience for children ages 3 through 21; its high academic standards have

resulted in a 70 percent college entrance rate, thus exceeding the national average for all students graduating high school in the United States; this high standard is achieved with a highly-trained staff working in small classes, in a modern facility with access to a wide range of modern technology equipment; and

Whereas, the faculty of Henry Viscardi School along with Dr. Andrew Rothstein, Superintendent of Schools, are committed to actively promoting and nurturing a full and comprehensive program for all students; and

Whereas, the 1995 senior class includes Peter Almodovar, Bethany Chandler, Anabela Contente, Kenneth DiLauro, Melissa Male, Dean Mariano, Jennifer McNair, Michael Ruzalski, Bhavika Shah, Donald Sorokin, Christopher Tartaro, John Cervello, Georgette Sullivan, Luigi Dellapina, Ngozi Graham, Dina Ragavania, Karen Bond, Sabrina Caple, Tawn Farrell, Amy Wong, Michael Muller and Steven Anderson; now, therefore, be it

Resolved, that this Legislative

Body pause in its deliberations to express its appreciation to Henry Viscardi School for meeting the special needs of hundreds of children in New York State and to extend a warm welcome to the faculty and students on their visit to Albany; and be it further

Resolved, that copies of this resolution, suitably engrossed, be transmitted to the students and faculty of Henry Viscardi School.

THE PRESIDENT: Senator Tully.

SENATOR TULLY: Thank you, Madam President. Today, we have the high honor of hosting the senior class of the Henry Viscardi School and their Superintendent, Dr. Andrew Rothstein, as guests in our chamber. The Henry Viscardi School, based in Albertson, New York, specializes in educating students with severe physical disabilities from throughout the New York metropolitan area.

This year, the senior class decided to come to Albany to witness New York State government in action. These students,

whose special brand of strength and determina tion has enabled them to overcome their dis abilities and instead focus on their abilities and talents, are among the most gifted students that I ever met.

This year's class has 23 graduating seniors, all of whom have made post-graduation plans. Some have made plans to go on to college, and some have made plans for transition into vocational training programs. Whatever their intention, knowing these young adults and the school from which they come, each will be an important and productive member of society.

Madam President, I hope you and all of my colleagues will join me in welcoming the senior class of the Henry Viscardi School to Albany.

THE PRESIDENT: Thank you.

The question is on the resolution. All in favor, signify by saying aye.

(Response of "Aye.")

Opposed, nay.

(There was no response.)

The Resolution is adopted.

How about some applause.

(Applause.)

Senator Farley.

SENATOR FARLEY: Thank you, Madam President. On behalf of Senator Skelos, I move to amend his bill, Senate Print 397A, by striking out the amendments made on March 31st and restoring it to its original print number, 397.

THE PRESIDENT: Amendments received.

SENATOR FARLEY: On behalf of Senator Hannon, Madam President, please remove the sponsor's star from Calendar 378.

THE PRESIDENT: The star is removed.

SENATOR FARLEY: Also, please commit Calendar Number 410 to the Committee on Finance.

THE PRESIDENT: Committed.

Senator DiCarlo.

SENATOR DiCARLO: Madam President, I wish to call up Calendar 213, Assembly Print 1983A.

THE PRESIDENT: Secretary will read.

THE SECRETARY: Calendar 213, by Senator DeFrancisco, Senate Print 1287A, an act to amend the General Municipal Law, in relation to the sale of raffle tickets.

SENATOR DiCARLO: I now move to reconsider the vote by which this Assembly bill was substituted for Senator DeFrancisco's bill, Senate Print 1287A, on March 15.

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

(The Secretary called the roll on reconsideration.)

THE SECRETARY: Ayes 48.

THE PRESIDENT: The bill is before the house.

Senator DiCarlo.

SENATOR DiCARLO: I now move that

Assembly Bill Number 1983A be recommitted to the Committee on Local Government and that Senate bill be restored to the order of Third Reading Calendar.

THE PRESIDENT: Without objection.

We have two substitutions.

The Secretary will read.

THE SECRETARY: On page 4, Senator Trunzo moves to discharge from the Committee on Civil Service and Pensions Assembly Print Number 6228 and substitute it for the identical Senate Bill, Calendar 487.

On page 4, Senator Hoblock moves to discharge from the Committee on Corporations, Authorities and Commissions, Assembly Bill Number 5034, and substitute it for the identical Senate bill number, Calendar 489.

THE PRESIDENT: Substitutions ordered.

Senator Volker, are you ready for the noncontroversial Calendar?

SENATOR VOLKER: Yes, Madam

President. At this time, I would like to take up the noncontroversial calendar, please.

THE PRESIDENT: Secretary will read.

THE SECRETARY: On page 11, Calendar Number 35, by Senator Levy, Senate Print 379, an act to amend the Vehicle and Traffic Law, in relation to the suspension and restoration of a driver's license following a second or subsequent DWI conviction.

THE PRESIDENT: Read the last section.

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 48.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 65, by Senator Kuhl, Senate Print 1475, an act to amend the Agriculture and Markets Law.

THE PRESIDENT: Lay it aside, please.

THE SECRETARY: Calendar Number 77, by Senator Levy, Senate Print 328A, an act to amend the Public Authorities Law and the Railroad Law, in relation to operating a self-propelled rail passenger car.

SENATOR PATERSON: Lay it aside.

THE PRESIDENT: Lay it aside, please.

THE SECRETARY: Calendar Number 201, by Senator Saland, Senate Print 2111, an act to amend the Executive Law and the Family Court Act, in relation to support of children in the Division for Youth.

THE PRESIDENT: Read the last section, please.

THE SECRETARY: Section 4. This act shall take effect on the 100th day.

THE PRESIDENT: Call the roll, please.

(The Secretary called the roll.)

THE SECRETARY: Ayes 49.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 209, by Senator Johnson, Senate Print 2724A, an act to amend the Environmental Conservation Law in relation to limiting access to commercial fisheries in marine waters.

THE PRESIDENT: Read the last section, please.

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

THE PRESIDENT: Call the roll, please.

(The Secretary called the roll.)

THE SECRETARY: Ayes 49.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 250, by Senator Holland, Senate Print 463, an act to amend the Social Services Law.

SENATOR PATERSON: Lay it aside.

THE PRESIDENT: Lay it aside, please.

THE SECRETARY: Calendar Number 252, by Senator Holland, Senate Print 2469, an act to amend the Social Services Law, in relation to the conduct of hearings to terminate, suspend, or diminish home relief benefits.

THE PRESIDENT: Read the last section, please.

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

THE PRESIDENT: Call the roll, please.

(The Secretary called the roll.)

THE PRESIDENT: The results.

THE SECRETARY: Those recorded in the negative on Calendar Number 252 are Senators Espada and Mendez. Ayes 47. Nays 2.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 281, by Senator Maltese, Senate Print 3085, an act to repeal Subdivision 9 of Section 14-114 of the Election Law, relating to contribution

limits.

THE PRESIDENT: Read the last section, please.

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

THE PRESIDENT: Call the roll, please.

(The Secretary called the roll.)

THE SECRETARY: Ayes 50.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 323, by Senator Johnson, Senate Print 2484, an act to amend the Environmental Conservation Law, in relation to restrictions on the use and type of fish pots or traps.

THE PRESIDENT: Read the last section, please.

THE SECRETARY: Section 2. This act shall take effect on the 30th day.

THE PRESIDENT: Call the roll, please.

(The Secretary called the roll.)

THE SECRETARY: Ayes 50.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 326, by Senator Tully, Senate Print 3644, an act to amend the Public Authorities Law, in relation to the use of video conferencing equipment.

THE PRESIDENT: Read the last section, please.

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

THE PRESIDENT: Call the roll, please.

(The Secretary called the roll.)

THE SECRETARY: Ayes 50.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 333, by Senator Kuhl, Senate Print 3665, an act to amend the Agriculture and Markets Law, in relation to controlling plant and tree diseases.

THE PRESIDENT: Read the last

section, please.

THE SECRETARY: Section 5. This act shall take effect September 1.

THE PRESIDENT: Call the roll, please.

(The Secretary called the roll.)

THE SECRETARY: Ayes 51.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 335, by Senator Kuhl, Senate Print 3667, an act to amend the Agriculture and Markets Law, in relation to agricultural commodities eligible for marketing agreements and orders.

THE PRESIDENT: Read the last section, please.

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

THE PRESIDENT: Call the roll, please.

(The Secretary called the roll.)

THE SECRETARY: Ayes 51.

THE PRESIDENT: The bill is

passed.

THE SECRETARY: Calendar Number 394, by Senator Tully, Senate Print 3285, an act to permit the reopening of the optional 20-year retirement plan to certain police officers in Sands Point, Nassau County.

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

THE PRESIDENT: Read the last section, please.

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

THE PRESIDENT: Call the roll, please.

(The Secretary called the roll.)

THE SECRETARY: Ayes 52.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 398, by Senator Present, Senate Print 3531, an act to redistribute 1995 bond volume allocations made pursuant to Section 146 of the Federal Tax Reform Act of 1986.

THE PRESIDENT: Read the last section, please.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 54.

THE PRESIDENT: The bill is passed.

ACTING PRESIDENT KUHL: Senator Volker, that completes the noncontroversial calendar.

SENATOR VOLKER: We would like to have the controversial calendar now.

ACTING PRESIDENT KUHL: Secretary will read the controversial calendar.

THE SECRETARY: Calendar Number 65, by Senator Kuhl, Senate Print 1475, an act to amend the Agriculture and Markets Law and the Vehicle and Traffic Law, in relation to exempting farm vehicles from Motor Vehicle financial security.

ACTING PRESIDENT KUHL: Lay the

bill aside for the day.

THE SECRETARY: Calendar Number 77, by Senator Levy, Senate Print 328A, an act to amend the Public Authorities Law and the Railroad Law.

SENATOR PATERSON: Explanation.

SENATOR LEVY: Star it for amendment.

ACTING PRESIDENT KUHL: Star the bill at the request of the sponsor.

THE SECRETARY: Calendar Number 250, by Senator Holland, Senate Print 463, an act to amend the Social Services Law, in relation to the disclosure of -- the disclosure of data obtained through the use of automated two-digit finger-imaging matching system.

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

SENATOR HOLLAND: Yes, Mr. President. This bill allows for the disclosure of information obtained from the finger-imaging program to be used in criminal investigations or

prosecutions resulting from multiple enrollment in home relief.

ACTING PRESIDENT KUHL: Chair recognizes Senator Paterson.

SENATOR PATERSON: Mr. President. Would Senator Holland yield for a question?

ACTING PRESIDENT KUHL: Senator Holland, do you yield for a question from Senator Paterson?

SENATOR HOLLAND: Yes.

ACTING PRESIDENT KUHL: Senator yields, Senator Paterson.

SENATOR PATERSON: Thank you very much, Senator Holland. There doesn't appear to be any evidence that fraud has been discovered through the finger-imaging system as it is right now, and so my question is, what is the purpose of this legislation, being that we haven't discovered any fraud through finger imaging?

SENATOR HOLLAND: Senator, I don't know how you can say that. The report from the Department of Social Services said we

saved all kinds of money and everybody is in favor of it, including your former Governor Cuomo, your former Commissioner of Social Services. Thirty-eight counties are now involved in it, and the only counties that are not -- that do not want to be involved in it come the 1st of June, are some lower population counties. Everybody believes, and rightly so, that this will save a lot of money.

ACTING PRESIDENT KUHL: Senator Paterson.

SENATOR PATERSON: Mr. President. I'm not denying that we've saved a lot of money. What I'm saying is that there hasn't been any fraud that's been discovered through the finger-imaging system. We may have saved money because individuals who may have committed fraud did not register. Now, this bill doesn't relate to the finger-imaging issue itself. It relates, actually, to the use of it in criminal investigations and in criminal cases.

So I would ask you, Senator

Holland, if you would like to address that part of the question that I'm asking?

SENATOR HOLLAND: Well, originally in finger-imaging, Senator, you know there were only two counties involved. They were Rockland and Onondaga County. The State Department of Social Services found that there were people eliminated from the program because of finger-imaging.

Now, as you say, this is a new thing. We haven't prosecuted anybody. Maybe we won't have to, Senator. Maybe you're right. I hope you're right. I think you're wrong. But if there are people who are stealing from the welfare and Medicaid system, they should be prosecuted. That's all this bill says, if we catch people who are multiple dippers, that we can prosecute them; and if nobody's been found before, that's great. If nobody's found in the future, that's even better, but I don't believe that's true.

SENATOR PATERSON: Thank you very much, Senator Holland.

Mr. President, if Senator Holland would continue to yield.

ACTING PRESIDENT KUHL: Senator Holland, do you continue to yield?

Senator continues to yield.

SENATOR PATERSON: Senator Holland, it was my understanding when we acted on the finger-imaging bill last year that we weren't going to use this information for anything other than having it in the welfare system itself. Now we've taken it outside the system and we're allowing it to be used in criminal investigations and also in prosecutions. Why the change?

SENATOR HOLLAND: You are correct, Senator. Actually, in the budgets in '92 and '94, the budget said people would not be prosecuted. I guess people have come to the realization that if people are stealing from you, they really should be prosecuted, and that was originated by a number of people, including the mayor of the city of New York; and all we're saying is, that if somebody is stealing from the

Medicaid and welfare system and we catch them because of finger-imaging, then we can share that information with the district attorney and prosecute them if necessary.

SENATOR PATERSON: Mr. President, if Senator Holland will continue to yield.

ACTING PRESIDENT KUHL: Senator Holland, do you continue to yield?

Senator continues to yield.

SENATOR PATERSON: Senator Holland, let's leave prosecution out of it, because at the point that we're prosecuting individuals, they have already been presumably indicted. There has already been an arrest. There has been an arraignment. But much of the funding that prosecutors' offices use are actually for investigation.

And what we are doing through this bill -- and it was in the discussion of the finger-imaging bill in 1994 between yourself and Senator Waldon, where Senator Waldon warned everybody in this chamber that this would be a natural result of passing the finger-imaging

bill in 1994, would be the use of this data for investigation purposes. Now, when we are investigating an individual, we have a suspicion but we don't have proof and we haven't even made a charge. Why would we be using the results of finger-imaging which was not obtained through any criminal source or any particular position that the person was seeking that caused them to be finger imaged but just the fact that they were a person in need and a person who unfortunately became a client of our social service system? Why would we use that information to conduct an investigation where quite possibly the fact that we have the finger image is a presumption that could often become a catalyst for the investigation?

SENATOR HOLLAND: Senator, I just don't understand that kind of logic. We're not doing any investigations. People come in to Department of Social Services in one or more locations with one or more identification and they say they are one or more different people. We're not going out and investigating them.

They're coming in. They are not people who are in need; or if they are in need, maybe they should collect once instead of two or three times.

All we're saying is, people who are ripping off the system by saying they are you and then they are me or other people -- and there are many cases of this -- should be - that information should be available to the district attorney. I can't understand why you would not think that that doesn't make logical sense.

ACTING PRESIDENT KUHL: Senator Paterson.

SENATOR PATERSON: Mr. President. I wonder why we don't finger image everybody, because we have a number of criminal investigations that we conduct of any citizen; and it would actually, I would concede, be more effective if we fingerprinted everybody in the whole country. That way we would have a record that we could measure any finger images that we take against any citizen; and provided that

we're able to match them up, that would really create a great opportunity for investigation in our criminal justice system, and I don't say that semantically or cynically. I'm saying that that's actually true.

But we happen to be living in America. Maybe, if we were living in Bosnia, this might be a good idea, but we're living in America; and, right now, we have a presumption of innocence that presides over our criminal justice system, and all these individuals have done is seek social services because, unfortunately, we have more people without food, without family, without homes, than at any time in this state since the Great Depression. The fact that that exists does not, in my opinion, grant us the same right to fingerprint an individual as there would be in a case where they have a prior record where we keep their mug shots and their fingerprints forever, because the person put themself in that position; and in cases where people seek high government jobs or jobs that are a risk to security, they have

undertaken going into an area where we need to know that information. But these are basically citizens who have become clients of our social service system, as I said before.

And so what I'm saying is, if we now are going to prosecute, which means that we have evidence that there has been some fraud, then I guess reluctantly -- but I agree with Senator Holland, and I think that the aim of this bill is very meritorious.

But what I'm saying, Senator Holland, is I believe the bill has gone too far. When you start giving out this kind of information that can perpetuate investigation, I really think you are in many ways impinging upon the concept of justice and the freedoms guaranteed to us in our Constitution.

I don't think this is what those people who framed that document were thinking about when they wrote it; and so what I'm saying is, the fact that we have information, information with our great technology today is something that we can achieve all the time, but

I think that this is the kind of thing that is synonymous with "1984". Maybe it was just eleven years delayed.

ACTING PRESIDENT KUHL: Senator DeFrancisco.

SENATOR HOLLAND: Question, Mr. President.

ACTING PRESIDENT KUHL: Excuse me, Senator Holland.

Senator DeFrancisco, why do you rise?

SENATOR DeFRANCISCO: I would ask Senator Paterson to yield to a question.

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

SENATOR PATERSON: Yes, Mr. President.

ACTING PRESIDENT KUHL: Senator yields.

SENATOR DeFRANCISCO: Senator Paterson, if an individual case worker gets a tip from a family member that someone is applying in several different locations for

welfare assistance, should the prosecutor be able to use that tip and the testimony from the individual source in a criminal prosecution?

SENATOR PATERSON: Yes, I think that that should be permissible. I would never suppress that evidence; and as a matter of fact, I wouldn't suppress the fingerprints, Senator DeFrancisco.

ACTING PRESIDENT KUHL: Senator DeFrancisco, are you asking Senator Paterson to yield?

SENATOR DeFRANCISCO: So the question, then, Senator -- yes, I do.

ACTING PRESIDENT KUHL: Senator Paterson, do you yield to another question from Senator DeFrancisco?

SENATOR PATERSON: Yes, I do. I'm sorry, Mr. President.

ACTING PRESIDENT KUHL: Senator yields.

SENATOR DeFRANCISCO: Senator Paterson, then, can you tell me if that same case worker has a machine that shows that this

person has applied in a couple of different locations, what is the difference between that evidence and the evidence from the primary source?

SENATOR PATERSON: The answer to that question, Senator DeFrancisco, is this. In the former case, you have described conduct because the defendant, the person who we are now prosecuting, evidenced some conduct that was reported to our criminal justice system by a case worker. In the latter case, you describe a situation certain, a fingerprint, something like an eyeball, something like a hand, a fingerprint, something that is an identification about the particular individual which does not change. It's the same finger image that this person will have their whole life. It's one you have and I have one. They are all individual. Because it is a circumstance that is certain, these are the types of things that we don't like to impinge upon just for the sake of investigation.

ACTING PRESIDENT KUHL: Senator

DeFrancisco.

SENATOR DeFRANCISCO: Would you yield for one last question?

SENATOR PATERSON: Certainly, Mr. President.

ACTING PRESIDENT KUHL: Senator yields.

SENATOR DeFRANCISCO: Senator, isn't the conduct that is prosecuted the multiple applications for welfare, and the finger image or the tip from the firsthand source the evidence to prove that conduct?

SENATOR PATERSON: Absolutely, Mr. President. But what we're talking about here is the nature of information that we are now going to seek. In other words, if we went to the victim's house and found all of the applications and photocopied them and kept them in a vault, that would also be the evidence but that's not the conduct, and what we like to prosecute in this country is conduct, not suspicion. So, in other words, there are a number of technical ways that we can receive

information, but it's when a person actually manifests an action in an unpardonable offense that we then would want to prosecute them. The fact that we can gather information on people would probably make us all liable for something at some point.

If we filmed every street in our city and our state, we would probably find a number of people who were jaywalking and we could hold that evidence and then at some point investigate them. I'm not trying to be too remote from the issue, because it is an important and a serious issue that you are describing, Senator DeFrancisco, but what I'm saying to you is that it is actually the conduct that causes a person to be fingerprinted in the first place, the conduct either being a brush with the criminal justice system or that the person is taking himself into a high security position and, as a society, we need to know that information.

In this case, the person is seeking social services, the person is seeking

welfare, and we have a number of people who by their unfortunate circumstances are eligible for that and we as a society have granted that. Now, if you want to finger image to keep track of who is in and who is out, all right, that's fine. If you want to then use that evidence in a criminal prosecution, I don't know if I'm totally in favor of that but I can understand it. What I don't understand is using the information as part of the investigation because the investigation should be conducted through, as I said before, some conduct that the individual is engaging in.

ACTING PRESIDENT KUHL: Senator Holland.

SENATOR HOLLAND: I just wonder if the Senator will yield to a question?

SENATOR PATERSON: Certainly, Mr. President.

SENATOR HOLLAND: Senator, you understand -- I don't understand exactly what you mean when you talk about investigation. This information will not be shared for any

other police investigations, no rapes, no auto thefts, no anything like that, bounced checks, et cetera. This will only be if an individual comes in -- and you've said this yourself. If they need assistance, we want to give them assistance; but if they need assistance under three different names, then we don't want to give them assistance, and we want to charge them. You understand that it won't be shared with police facilities?

SENATOR PATERSON: Mr. President, through you to Senator Holland. There are already systems in place that assist us in the investigation of fraud, and these systems are such that we can use right now. Now, I do understand what you are saying, that we're not going to use this evidence for any other investigation, but I would like to ask you a hypothetical question.

Suppose next year we put a bill out here and say we will? Suppose we say next year we are going to have a piece of legislation where the finger image that we received from an

individual at a point where they seek social services can be used in any criminal investi gation? Wouldn't Senator DeFrancisco be able to get up next year and ask me the same question that he just asked me, which is, what's wrong with the prosecutor using that as part of the evidence as much as using the information heard by a social worker? Isn't that possible?

SENATOR HOLLAND: Yes.

SENATOR PATERSON: So -- thank you. If the Senator will yield?

ACTING PRESIDENT KUHL: Senator Paterson, the floor is still yours.

SENATOR PATERSON: Thank you, Mr. President. So what I'm saying, Senator Holland, is, where are we drawing the line? That's what I'm just trying to figure out, where are we drawing the line? I don't understand why it is necessary when we have systems in place to investigate fraud where the finger-imaging has to come in, because the finger-imaging itself can not ignite the investigation because everybody who is going for welfare is going to

be finger imaged. But what becomes a call at issue is, how do we establish some kind of guidelines in the administration of our social services system?

And I feel, on the bill, Mr. President, that this is just going too far. I understand what the intent is. We understand, as Senator Holland reported to us, that it has saved us money because fewer people are registering. Maybe that in itself is weeding out a lot of the problem, but the greater problem, I think, is to another system that we have. It's just our system of justice in this country. We don't do that as a general rule in the United States of America, and I don't think we should start by making this information available because, in my opinion, there is such a presumption about finger-imaging that exists, anyway, that just its mere existence can ignite investigations, and that's why I would not recommend the passage of this bill.

Thank you, Mr. President.

ACTING PRESIDENT KUHL: Chair

recognizes Senator Stavisky.

SENATOR STAVISKY: No.

ACTING PRESIDENT KUHL: Senator Stavisky waives.

Chair recognizes Senator Espada. Senator Espada is out of the chamber.

Senator Marchi.

SENATOR MARCHI: Mr. President, I just -- perhaps it's not directly on point, but I have introduced and you were a co-sponsor, incidentally, of a bill requiring finger-imaging for everyone in the State of New York. I don't see it amenable to have -

SENATOR VOLKER: Mr. President.

ACTING PRESIDENT KUHL: Senator Marchi, excuse me for the interruption. Let me recognize Senator Volker.

Senator Volker.

SENATOR VOLKER: Senator, just one second. Senator Espada would like to vote. Could we read the last section for just a second because he has to leave.

ACTING PRESIDENT KUHL: 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.)

ACTING PRESIDENT KUHL: Senator Espada, how do you vote?

SENATOR ESPADA: No.

ACTING PRESIDENT KUHL: Senator Espada will be recorded in the negative. The roll call is withdrawn. We're back on debate.

Thank you, Senator Marchi, for the interruption.

Chair recognizes Senator Marchi.

SENATOR MARCHI: Thank you, Mr. President. No, I have introduced legislation that would provide for finger-imaging for everyone in the State of New York and, hopefully, that this process might take place across the nation. It's an additional protection which each citizen would enjoy. People may be found bereft of documents and in

great danger or perhaps the victims of foul play, yet we would be able to readily identify an individual in any and all circumstances where identity is a critical and important factor.

I am troubled a little bit, I have to say -- I have to confess -- that fraud in fields such as welfare, you are really faced with hard choices, and I believe the sponsor is correct in putting it where he is putting it, but we also have the factor that people living on the margins sometimes are driven to desperate solutions to their problems.

I remember campaigning once - this is many years ago -- for mayor, and going into an area where I found that orthopedic specialists were prescribing special shoes for children on welfare because they simply didn't have enough money to put shoes on the feet of their children. These are pitiful situations, and we have to temper our ardor for stamping it out with an understanding of the desperation to actions which are not normally oppressive to the average citizen.

But we are facing a problem now of restricting largesse simply because of the abuses that have existed in the past; and if by gentle indirection -- and I don't think this violates that sanction -- we can do this, then it should be supported.

ACTING PRESIDENT KUHL: Chair recognizes Senator Dollinger.

SENATOR DOLLINGER: Mr. President. Will Senator Holland yield to just one question?

ACTING PRESIDENT KUHL: Senator Holland, do you yield to one question from Senator Dollinger?

SENATOR HOLLAND: Yes, Mr. President.

ACTING PRESIDENT KUHL: Senator yields.

SENATOR DOLLINGER: I will be brief, Senator. The report that we saw from the division of social services -- the Social Services Department that talked about this savings, do you know whether there has been any

update of that done or any further analysis of the savings?

SENATOR HOLLAND: Not to my knowledge, no, sir.

SENATOR DOLLINGER: Again, through you, Mr. President. Do you know what the cost of the implementation of the program has been to date?

SENATOR HOLLAND: The cost of the implementation?

SENATOR DOLLINGER: And who's paid the cost?

SENATOR HOLLAND: I really don't have a good figure for you. No, but the system is designed and the study that Social Services did said that whatever the cost was we would recover that in the first year, so we more than recover the expenses in the first year.

SENATOR DOLLINGER: That is what I'm trying to pinpoint, Mr. President.

On the bill. I support the bill. I will vote in favor of it. My understanding is that the disclosure of these

fingerprints are going to be solely for prosecutions related to the fraud, the underlying fraud itself.

ACTING PRESIDENT KUHL: 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.)

ACTING PRESIDENT KUHL: Announce the results when tabulated.

Chair recognizes Senator Jones to explain her vote.

SENATOR JONES: I just want to thank Senator Holland for bringing this bill to the floor. A district attorney in my own county was one of the people strongly in support of this. I'm not a lawyer, so I don't pretend to know the ins and outs of law, but to me it makes perfectly good sense. If a person applies five times for welfare and knows they are defrauding the system, it seems pretty silly that we can't

do something about it.

I want to thank you, Senator Holland. I certainly support the bill.

ACTING PRESIDENT KUHL: Senator Jones in the affirmative. Announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 250 are Senators Espada, Galiber, Paterson, Smith. Ayes 52. Nays 4.

ACTING PRESIDENT KUHL: The bill is passed.

Senator Volker, that completes the controversial calendar.

SENATOR VOLKER: Mr. President. May we return to reports of standing committees? I believe there is a Finance Committee report at the desk.

ACTING PRESIDENT KUHL: Senator Galiber, why do you rise?

SENATOR GALIBER: Mr. President. I would like unanimous consent to be recorded in the negative on Calendar 252, Senate Bill 2469.

ACTING PRESIDENT KUHL: Without

objection, Senator Galiber will be recorded in the negative on Calendar Number 252.

Senator Volker, there is a report of the Finance Committee here at the desk. I will ask the Secretary to read.

THE SECRETARY: Senator Stafford, from the Committee on Finance, offers up the following nominations: Member of the Workers' Compensation Board, Robert R. Snashall of Cazenovia, New York.

ACTING PRESIDENT KUHL: Chair recognizes Senator Stafford on the nomination.

SENATOR STAFFORD: Thank you, Mr. President.

Mr. President, it seems as I get up here once a week and tell you that we had the two best nominees before us today that I have ever seen in the Senate in 30 years -- and I'm going to say it again, because today we have two fine nominees.

The first nominee we're considering is Mr. Snashall for the Workmen's Compensation Board. He's had experience in the

field. He's represented defendants; he's represented plaintiffs and he understands.

And I might add that at the meeting today, the Finance meeting, as usual, as it should be, the members were not at all bashful in explaining to him that they understood and understand that he's taking over a very, very difficult position.

But we voted unanimously in Mr. Snashall's favor and we think he will do an excellent job as a member of the Workmen's Compensation Board and, I understand, chairman.

ACTING PRESIDENT KUHL: Chair recognizes Senator DeFrancisco on the nomination.

SENATOR DeFRANCISCO: I rise to second the nomination of Robert Snashall of the Central New York area, and I do it with great pleasure. Mr. Snashall comes from one of the finest law firms in the Syracuse area, and some say the finest that we have in Syracuse.

The Workers' Compensation Board is a position -- a member of that board is a

position that's so important in this state at this time in our history, and it's essential that we nominate people to that board, and especially the chairmanship of that board to someone who has some special expertise so that the reform that is sorely needed in this state is going to truthfully happen and that the reform is going to be meaningful because of firsthand knowledge and expertise in this area that Mr. Snashall has.

He's been practicing in Workers' Compensation court since 1979 with a law firm in Albany, and then with the Bond, Schoeneck and King office in Syracuse. He's not only represented companies in their matters before the Workers' Compensation Board, but he's represented employees; and as we all know from our experience at our district offices that both employees and companies and businesses are calling us to complain about the way the system currently operates.

He's got the expertise, and he's from the right area of the state, and I'm very

pleased to second his nomination for this very, very important position.

ACTING PRESIDENT KUHL: Chair recognizes Senator Hoffmann on the nomination.

SENATOR HOFFMANN: Thank you, Mr. President.

I, too, am delighted to rise in support of this very excellent nominee who hails from the 48th Senate District, and I think, more importantly, he represents a dramatic departure from many of the confirmations that we've had in that not only does he live in upstate New York he also lives in the heart of a rural county, and he understands very well the problems, the particular hardships on people engaged in agriculture caused by lengthy delays in Workers' Compensation hearings which often go without resolution the first, the second, the third go-around and often require arduous and time-demanding trips from a distant part of the state into a more central location.

For instance, my constituents who live in places like Brookfield or Whitelaw must

travel a good hour or hour and a half to a hearing scheduled in Syracuse at which they are all too often told the hearing officer is either not present, not prepared, someone else has not arrived who should be there. So it's more than an inconvenience for people in upstate and rural areas when there are delays in Workers' Compensation hearings. It is a drain in their own income, and it affects, ultimately, the entire state's economy when this system does not run well.

Mr. Snashall made it very clear today in the Finance Committee under rigorous questioning by those members present that he recognizes it does not run well. He recognizes that it must be changed in order to meet the needs of this state. His is going to be a very, very burdensome task.

I wish him well following his anticipated confirmation today and pledge my support and that of the people of my district to do whatever is possible to help make this a meaningful transition as we go from an archaic,

obsolete, unresponsive Workers' Compensation system into the development of one that does, in fact, meet the needs of the working people of this state.

ACTING PRESIDENT KUHL: The question is on the nomination of Robert R. Snashall of Cazenovia to become a member of the Workmen's Compensation Board.

All those in favor, signify by saying aye.

(Response of "Aye.")

Opposed, nay.

(There was no response.)

The nominee is confirmed.

We're happy to be joined by Mr. Snashall, who is in the gallery here.

Congratulations, Mr. Snashall.

(Applause.)

Secretary will continue to read.

THE SECRETARY: Commissioner of Criminal Justice Services, Paul Lewis Shechtman of New York City.

ACTING PRESIDENT KUHL: Chair

recognizes Senator Stafford.

SENATOR STAFFORD: Thank you, Mr. President. I do not hesitate, and I say it again, we have two of the finest nominees today that will ever be here. Now, Mr. Shechtman, I just have to share with you that when you look at his biography, as was pointed out in the Finance Committee, you see what a fine individual he is and how he has excelled from being a Rhodes scholar, graduating from Swarthmore and then Harvard Law School, master's degree from Oxford University, and it goes on and on and on.

He was a clerk to Judge Warren E. Burger, Chief Justice of the United States Supreme Court, and clerk to other justices; has been the chief, Criminal Division, for the United States Attorney's Office in the Southern District of New York, and he's been counsel to the District Attorney's Office for New York County, all prestigious appointments, and he's done so well. He also is a professor of law at Columbia University School of Law. Some of us

consider that a good law school. I assure you it is. He also has been a professor of law at the University of Pennsylvania.

This position of Commissioner of Criminal Justice Services is the type of position, I feel, where we need someone of Paul Shechtman's ability, and he has proven -- he has proven his ability.

This appointment and the appointments today are indeed a credit to Governor Pataki and all of his people. I would suggest that we could have no finer nominee before us to confirm than Paul Lewis Shechtman, and his biography and his record of accomplishment prove that.

ACTING PRESIDENT KUHL: Chair recognizes Senator Nozzolio.

SENATOR NOZZOLIO: Thank you, Mr. President.

Mr. President, my colleagues: As usual, Senator Stafford has well cornered the market on this issue, but this is more than an issue. This is a confirmation of a gentleman

who will have tremendous responsibilities in managing criminal justice services and trying to apportion an agenda, move an agenda that we believe extremely important.

Mr. Chairman, at the Crime and Corrections Committee, I had the privilege of meeting Mr. Shechtman and discussing with him his philosophy, his background, his experience. As Senator Stafford indicated, we have not seen and I doubt we will ever see a resume as detailed, as experienced in accomplishment, so varied and so great, as the resume we have before us of Mr. Shechtman.

But there is a point that's not on his resume that I think certainly tells me a lot about the individual and a lot about his experience level, interest level in criminal justice, in that he began his professional career, although sandwiched in between great educational accomplishment and great experience on the United States Supreme Court as a clerk, at appellate courts, at some of the finest schools in the country if not the world, he took

much of his talent and put it into teaching in a correctional facility. I think that says a great deal about the person. It says a great deal about his background, as accomplished as it is. He also has his feet on the ground in terms of individual work experience in the very heart of the system that he will now have the responsibility of managing.

I also would like to say something not on his resume but on something that speaks a great deal for his interest in this position and his interest in the work that lies ahead. He has been working already, although not confirmed certainly on the job, in touring correctional facilities last week. It is my understanding that he was with Commissioner Coombe at Attica, learning firsthand some of the nuances of our correctional system, and he is to be congratulated for taking that interest and such a dynamic approach, hands-on approach very early on in his new work.

It is my belief, Mr. President,

that we have a tremendous candidate in Mr. Shechtman for confirmation and one that I have a great deal of confidence in will do a great job, approaching his job not only with great intelligence and great experience but with great sincerity and great interest.

Mr. President, I move the confirmation.

ACTING PRESIDENT KUHL: Chair recognizes Senator Abate on the confirmation.

SENATOR ABATE: Yes. I enthusiastically rise to support Paul Shechtman. I have had the honor and privilege of working with Paul for a number of years, and he enjoys an outstanding reputation not just in New York City among law enforcement but also among probation departments as well as correction departments, Liberals and Conservatives, mainstream individuals, in the criminal justice system; and he's earned that respect because he's not someone that just resorts to rhetoric around public safety. He's extremely thoughtful.

He's a man of extremely high intellect, enormous knowledge of the criminal justice system, enormous knowledge of the law, a man of high integrity; and I found in my work with him that he is accessible. If you call him, he returns your calls. He researches issues. Even though on first blush he may not agree with the position or he may not think it advisable, he really looks at both sides of the issue and always, I believe, reaches a rational and reasoned conclusion.

He's a great lawyer, a great administrator. I think he will be an asset to New York State, and I look very much forward to working with him.

ACTING PRESIDENT KUHL: The question is on the nomination of Paul Lewis -

Excuse me. Senator Volker.

SENATOR VOLKER: Let me just say that I, too, want to second the nomination of Paul, who, although I met him some years ago, I really -- I was not really acquainted with him until recently, and he will become one of a long

line, I think, of excellent people who have been head of DCJS -- Richard Girgenti, and before him Jack Poklemba and Larry Kurlander.

He brings a kind of unique view, in that, in addition to the normal criminal justice background, he has an economics background, and I said to him when we first met that it seems to me that in this day and age maybe an economics background, in addition to criminal justice, is not a bad thing to have. But he has an excellent understanding, I think, of all the areas involved in criminal justice.

These are not going to be easy times to be head of the Division of Criminal Justice Services; and I think, as everybody knows, the Governor took great pains to make a determination on who would run this agency which is, I believe, certainly one of the most important in government today, and there are a lot of dedicated people who are part of DCJS that he will be -- he will be overseeing.

As chairman of the Codes Committee, myself, and my staff and all the

members of the committee have always worked closely with the Department of Criminal Justice Services, and I have no doubt that we will continue to work as close if not closer with Paul. I wish him the very best of luck. It is a great nomination.

Good luck to you for the future and Godspeed.

ACTING PRESIDENT KUHL: The question is on the nomination of Paul Lewis Shechtman of New York City to become Commissioner of Criminal Justice Services.

All those in favor, signify by saying aye.

(Response of "Aye.")

Opposed, nay.

(There was no response.)

The nominee is confirmed.

We are very pleased to be joined by Mr. Shechtman and his wife, Bonnie, who are seated in the gallery.

Commissioner, congratulations. Good luck.

(Applause.)

Senator Volker.

SENATOR VOLKER: Any housekeeping before we adjourn?

ACTING PRESIDENT KUHL: Senator, there is nothing at the desk.

Excuse me. Senator Paterson, why do you rise?

SENATOR PATERSON: Mr. President, with unanimous consent, I would like to be recorded in the negative on Calendar Number 252.

ACTING PRESIDENT KUHL: Without objection, Senator Paterson will be recorded in the negative on Calendar Number 252.

Senator Smith.

SENATOR SMITH: Mr. President, I request unanimous consent to be recorded in the negative on Calendar Number 252.

ACTING PRESIDENT KUHL: Without objection, Senator Smith will be recorded in the negative on Calendar Number 252.

Senator Volker.

SENATOR VOLKER: Mr. President,

there being no further business, I move that we adjourn until Wednesday, April 26th, 1995, at 10:00 a.m. That's 10:00 a.m.

ACTING PRESIDENT KUHL: Without objection, the Senate stands adjourned until tomorrow, April 26th, at 10:00. 10:00 a.m.

(Whereupon, at 4:00 p.m., the Senate adjourned.)