NEW YORK STATE SENATE

THE STENOGRAPHIC RECORD

ALBANY, NEW YORK

March 27, 2000

3:27 p.m.

REGULAR SESSION

LT. GOVERNOR MARY O. DONOHUE, President

STEVEN M. BOGGESS, Secretary

P R O C E E D I N G S

THE PRESIDENT: The Senate will come to order.

I ask everyone present to please rise and repeat with me the Pledge of Allegiance.

(Whereupon, the assemblage recited the Pledge of Allegiance to the Flag.)

THE PRESIDENT: With us today to give the invocation is the Reverend Peter G. Young, from Blessed Sacrament Church in Bolton Landing, New York.

REVEREND YOUNG: Let us pray.

Dear God, as today's rainy clouds gather, we know that they will bring the beauty of blooming flowers that will soon enhance the beauty of our state. We see in Your gift the power of nature, and we thank You for Your continued guidance to all of Your creations.

As we assemble in Your name, it's with an attitude of gratitude for Your blessings on all of our Empire State citizens and the richness of our resources.

But most of all, we ask Your

blessing on our Senators, to advocate with wisdom laws that will enhance Your environmental creations and the lives of all of our New York State citizens.

In Your name, now and forever, amen.

THE PRESIDENT: Reading of the Journal.

THE SECRETARY: In Senate, Friday, March 24th, the Senate met pursuant to adjournment. The Journal of Thursday, March 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.

The Secretary will read.

THE SECRETARY: Senator Seward, from the Committee on Insurance, reports:

Senate Print 6545A, by Senator Velella, an act to amend the Insurance Law;

6643A, by Senator Seward, an act to amend the Insurance Law;

6734, by Senator Seward, an act to amend the Insurance Law;

And 7064, by Senator Seward, an act to amend the Insurance Law.

Senator Bonacic, from the Committee on Housing, Construction and Community Development, reports:

Senate Print 1455, by Senator Volker, an act to amend the Private Housing Finance Law;

2069, by Senator Volker, an act to amend the Public Housing Law;

4440, by Senator Leibell, an act to amend the Private Housing Finance Law;

5358, by Senator Saland, an act to amend the Executive Law;

5435, by Senator Farley, an act to amend the Private Housing Finance Law;

And 7106, by Senator Bonacic, an act authorizing certain housing authorities to sell or lease.

All bills ordered direct to third reading.

THE PRESIDENT: Without objection, all bills reported direct to third reading.

Reports of select committees.

Communications and reports from state officers.

Motions and resolutions.

Senator Marcellino.

SENATOR MARCELLINO: Thank you, Madam President.

On behalf of myself, I move the following bills be discharged from their respective committees and be recommitted with instructions to strike the enacting clause: Senate Numbers 829, 839, 3216, 4429, and 4430.

THE PRESIDENT: So ordered, Senator.

SENATOR MARCELLINO: On behalf of Senator Lack, I move that the following bill be discharged from its respective committee and be recommitted with instructions to strike the enacting clause. And that is Senate Print Number 2837.

THE PRESIDENT: So ordered.

SENATOR MARCELLINO: And on

behalf of Senator Wright, I move that the following bills be discharged from their respective committees and be recommitted with instructions to strike the enacting clause. And they are Senate Print Numbers 2591, 4084, and 5575.

THE PRESIDENT: So ordered.

SENATOR MARCELLINO: Thank you, Madam President.

THE PRESIDENT: Senator Farley.

SENATOR FARLEY: Thank you, Madam President.

On behalf of Senator Rath, on page 14 I offer the following amendments to Calendar Number 267, Senate Print 4206A, and I ask that that bill retain its place on the Third Reading Calendar.

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

SENATOR FARLEY: On behalf of Senator DeFrancisco, Madam President, on page 17 I offer the following amendments to Calendar Number 318, Senate Print 6469, and I ask that that bill retain its place.

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

SENATOR FARLEY: On behalf of Senator Rath, Madam President, on page 24 I offer the following amendments to Calendar Number 425, Senate Print 5606, and I ask that that bill retain its place on the Third Reading Calendar.

THE PRESIDENT: The amendment is received, Senator, and the bill will retain its place on the Third Reading Calendar.

Senator Bonacic.

SENATOR BONACIC: Thank you, Madam President.

THE PRESIDENT: You're welcome.

SENATOR BONACIC: I would like to place a sponsor's star on Calendar Number 229, please.

THE PRESIDENT: The bill will be starred, Senator.

SENATOR BONACIC: Thank you.

THE PRESIDENT: You're welcome.

Senator Skelos.

SENATOR SKELOS: Madam President,

at this time may we please have the noncontroversial calendar read.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: Calendar Number 162, by Senator Spano, Senate Print 3315, an act to amend the Workers' Compensation Law, in relation to premium payment plans.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 52.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 265, by Senator Larkin, Senate Print 173, an act to amend the Real Property Tax Law, in relation to school districts.

THE PRESIDENT: Read the last section.

THE SECRETARY: Section 2. This act shall take effect on the first day of

January.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 52.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 276, by Senator Libous, Senate Print 2097, an act to amend the Education Law, in relation to providing for the certification of podiatrists as acupuncturists.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 51. Nays, 1. Senator Paterson recorded in the negative.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 353, by Senator DeFrancisco, Senate Print 4417, an act to amend the Parks, Recreation and Historic Preservation Law, in relation to

the penalty for violations of such law.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 52.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 355, by Senator Maziarz, Senate Print 6318, an act to amend the Social Services Law, in relation to the denial of public assistance.

SENATOR DUANE: Lay it aside, please.

THE PRESIDENT: The bill is laid aside.

THE SECRETARY: Calendar Number 359, by Senator Kuhl, Senate Print 2728, an act to amend the Agriculture and Markets Law and the Vehicle and Traffic Law, in relation to exempting.

THE PRESIDENT: Read the last section.

THE SECRETARY: Section 3 -

SENATOR PATERSON: Lay it aside.

THE PRESIDENT: The bill is laid aside.

THE SECRETARY: Calendar Number 378, by Senator Morahan, Senate Print -

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

SENATOR MORAHAN: Lay it aside for the day.

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

THE SECRETARY: Calendar Number 410, by Senator Johnson, Senate Print 1962B -

SENATOR PATERSON: Lay it aside.

THE PRESIDENT: The bill is laid aside.

THE SECRETARY: Calendar Number 431, by Senator Trunzo, Senate Print 4247, an act to amend the Vehicle and Traffic Law, in relation to authorized emergency vehicles.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 52 - excuse me. Ayes, 51. Nays, 1. Senator Mendez recorded in the negative.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 436, by Senator Skelos, Senate Print 969, an act to amend the Correction Law and the County Law, in relation to maintenance of prisoners.

SENATOR DUANE: Lay the bill aside.

THE PRESIDENT: The bill is laid aside.

THE SECRETARY: Calendar Number 453, by Senator Meier, Senate Print 5852A, an act to amend the Domestic Relations Law, in relation to notification.

THE PRESIDENT: Read the last section.

THE SECRETARY: Section 2. This act shall take effect January 1.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 52.

THE PRESIDENT: The bill is passed.

Senator Mendez, why do you rise?

SENATOR MENDEZ: Yes, Madam President. I didn't have my glasses on, and I voted no on Calendar Number 431. I meant to vote yes on that one, but I meant to vote no on 436.

THE PRESIDENT: 436 has been laid aside, Senator.

SENATOR MENDEZ: Very good.

Change my vote on 431, please. Thank you.

THE PRESIDENT: Without objection, you will be recorded in the affirmative on Calendar Number 431.

SENATOR MENDEZ: Thank you.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: Calendar Number 454, by Senator LaValle, Senate Print 2760 -

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

THE PRESIDENT: The bill is laid

aside for the day.

THE SECRETARY: Calendar Number 458, by Senator Bonacic, Senate Print 5488, an act to enable the County of Ulster to acquire, develop and dispose.

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

Read the last section.

THE SECRETARY: Section 8. This act shall take effect immediately.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 52.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 459, by Senator Morahan, Senate Print -

SENATOR PATERSON: Lay it aside.

THE PRESIDENT: The bill is laid aside.

THE SECRETARY: Calendar Number 467, by Senator Bonacic, Senate Print 4499, an act to amend the General Business Law, in relation to advertising by membership.

THE PRESIDENT: Read the last

section.

THE SECRETARY: Section 2. This act shall take effect in 180 days.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 52.

THE PRESIDENT: The bill is passed.

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

SENATOR SKELOS: Madam President, if we could take up the controversial calendar.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: Calendar Number 355, by Senator Maziarz, Senate Print 6318, an act to amend the Social Services Law, in relation to the denial of public assistance.

SENATOR DUANE: Explanation, please.

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

SENATOR MAZIARZ: Thank you very much, Madam President.

Madam President, Senate Bill 6318 expands upon the existing law to disqualify individuals from receiving public assistance who are fleeing from prosecution, custody, or conviction of a felony or a misdemeanor charge. Currently, persons fleeing from a felony charge, a violation of parole or probation, are disqualified from receiving public assistance.

This bill also expands upon the permitted exception to confidentiality of records related to a person fleeing a crime, to allow the Social Services district to share any information relating to such person that could assist in his or her apprehension.

Thank you.

THE PRESIDENT: Senator Duane.

SENATOR DUANE: Would the sponsor yield to some questions?

THE PRESIDENT: Senator Maziarz, would you yield to a few questions?

SENATOR MAZIARZ: Absolutely, Madam President.

THE PRESIDENT: Go ahead, Senator Duane.

SENATOR DUANE: Thank you very much.

SENATOR MAZIARZ: You're welcome, Senator.

SENATOR DUANE: I'm wondering if there's a definition in the legislation or if you could tell me what the definition would be or where I would find it on "any information necessary."

SENATOR MAZIARZ: The definition of "any information necessary"? The definition of "any information necessary" would be any information that the Department of Social Services has on the applicant.

SENATOR DUANE: Through you, Madam President.

THE PRESIDENT: Senator Duane, do you have an additional question?

SENATOR DUANE: Any information at all?

SENATOR MAZIARZ: That the Department of Social Services may have on the particular applicant or recipient of social services, that would assist the law enforcement agency in the apprehension.

SENATOR DUANE: Thank you.

Madam President, if the sponsor would continue to yield.

THE PRESIDENT: Senator Maziarz, do you -

SENATOR MAZIARZ: Yes. Yes, Madam President.

THE PRESIDENT: Go ahead, Senator Duane.

SENATOR DUANE: Why is this legislation only focused on people who receive public assistance? Why not other members of the public?

SENATOR MAZIARZ: I think what I'm attempting to do, Senator Duane, is to interface law enforcement with the Department of Social Services, where individuals may come to -- I would certainly be willing to expand it, but I thought this might be a good place to start.

Some agencies of government -- most agencies of government I think already interface their information with law enforcement agencies. Social Services, because of some certain prohibitions in state

law, cannot do that. And that's what I'm attempting to do, Senator.

SENATOR DUANE: Through you, Madam President, if the sponsor would continue to yield.

THE PRESIDENT: Senator Maziarz, will you continue to yield?

SENATOR MAZIARZ: Absolutely, Madam President.

THE PRESIDENT: Go ahead, Senator Duane.

SENATOR DUANE: So the sponsor is saying that if a person is receiving workers' compensation, he would shut that off if a person misses a court date?

SENATOR MAZIARZ: Absolutely not. I don't know where you would get that question from.

SENATOR DUANE: Well, through you, Madam President, the sponsor said he was most willing to shut off -

THE PRESIDENT: Senator Duane, do you have an additional question?

SENATOR DUANE: Yes, Madam President.

THE PRESIDENT: Senator Maziarz, do you continue to yield?

SENATOR MAZIARZ: Yes, I do, Madam President.

THE PRESIDENT: Go ahead, Senator Duane, if you have a question.

SENATOR DUANE: I believe the sponsor indicated that he would be willing to make this that people that get public benefits in general, that those agencies that provide those benefits could start interfacing with the criminal justice system.

So, for instance, people who receive workers' comp, why are they not then -- could we not consider them to be fair game the same way that we are using people that get food stamps or Medicaid?

SENATOR MAZIARZ: I'm not aware of any prohibition on law enforcement going to the workers' comp system and getting that information now. I'm not aware of it, Senator. There may be.

I am aware of this prohibition right now with the departments of Social Services.

SENATOR DUANE: Through you, Madam President.

THE PRESIDENT: Senator Maziarz, will you continue to yield?

SENATOR MAZIARZ: Yes, Madam President.

SENATOR DUANE: So as I understand it, the sponsor is saying that there's just this one little opening in the law that has let people receiving public assistance get out of the grasp of people in law enforcement.

As opposed to all the people law enforcement have been able to go after who are receiving workers' comp or Social Security or unemployment or lottery winners, they're all people that law enforcement can go and cut off their benefits?

SENATOR MAZIARZ: I don't know whether the lottery or whether workers' comp can do that.

I am aware that the Department of Social Services cannot cooperate with law enforcement in giving them certain information.

SENATOR DUANE: Through you, Madam President, if the sponsor will continue to yield.

SENATOR MAZIARZ: But it sounds like pretty good legislation, Senator Duane.

THE PRESIDENT: Go ahead, Senator Duane.

SENATOR MAZIARZ: Yes, I will yield. I was finishing my last answer, and you started to ask the next question.

THE PRESIDENT: And you have the floor, Senator Maziarz, to finish your statement.

SENATOR MAZIARZ: I am finished, Madam President, thank you.

THE PRESIDENT: And you do continue to yield?

SENATOR MAZIARZ: Yes, I do, Madam President. Thank you.

THE PRESIDENT: Senator Duane, do you have an additional question? You may proceed.

SENATOR DUANE: Well, it sounded to me as if the sponsor -- and maybe I'm mistaken about this. But it sounded as if he

had discovered something in our state's laws that was preventing, in this one instance, people who receive public assistance from interfacing with the criminal justice system.

And just as an aside, I'm opposed to this anyway. But I am not aware that any other agency does it. It sounds to me that, quite contrary to what was being indicated, this isn't just a glitch of some sort in the policy of public assistance. But in fact, most citizens are protected from having this kind of intrusive thing happen in their lives.

So that's what I'm trying to clarify. And maybe the sponsor would sort of clarify that once and for all before I continue with some other difficulties I have with this legislation in my questioning.

THE PRESIDENT: Senator Duane, was there a question there?

SENATOR DUANE: Well, was it the sponsor's intent just to point up the shortfall of people receiving public assistance not having enough interfacing with the criminal justice system? Or is the sponsor not really aware what other agencies

like workers' comp, unemployment, veterans, Social Security, lottery winnings are having with the criminal justice system? Or is this just singling out people who receive public assistance?

SENATOR MAZIARZ: What the sponsor is attempting to do, Senator, is to allow the local departments of Social Services to share information -- that they are currently prohibited from doing -- with law enforcement individuals, to apprehend people who have committed crimes.

SENATOR DUANE: Okay. Through you, Madam President.

Is the sponsor aware whether or not the workers' comp board is able to get this information?

THE PRESIDENT: Senator Maziarz, do you yield for an additional question?

SENATOR MAZIARZ: Yes, I do.

THE PRESIDENT: Go ahead, Senator Duane, with a question.

SENATOR DUANE: Is the sponsor aware about whether or not the workers' comp board, or I'll give you the -- unemployment,

Social Security, lottery winners, or veterans -

SENATOR MAZIARZ: No, I am not aware of what -- if there are any prohibitions or what their particular policies are, Senator.

SENATOR DUANE: Okay, thank you. Madam -

SENATOR MAZIARZ: Or any of the agencies that you read, other than the Department of Social Services.

SENATOR DUANE: Thank you.

Madam President, if the sponsor would continue to yield.

SENATOR MAZIARZ: Yes, Madam President.

THE PRESIDENT: Go ahead, Senator Duane.

SENATOR DUANE: I'm wondering what in the legislation would protect the confidentiality of information such as a person's HIV status or their psychiatric diagnosis or what their disability is.

SENATOR MAZIARZ: I think any - through you, Madam President -- any

information that would be helpful to law enforcement agencies would be able to be released.

Now, I don't know if it would be, quite frankly, assisting law enforcement to know a person's HIV status or -- I didn't catch -- what was the other thing you mentioned, Senator?

SENATOR DUANE: Psychiatric diagnosis, disability.

SENATOR MAZIARZ: That may be helpful to law enforcement personnel to know that.

SENATOR DUANE: Through you, Madam President, if the sponsor would continue to yield.

SENATOR MAZIARZ: Yes, Madam President.

THE PRESIDENT: Go ahead, Senator Duane.

SENATOR DUANE: Even if releasing that information breaks other state laws, you would think it's okay?

SENATOR MAZIARZ: You mean -- I'm sorry, you're going to have to clarify that,

Senator.

SENATOR DUANE: Well, releasing someone's HIV status or their -

SENATOR MAZIARZ: Then I would say that it could not be, no.

SENATOR DUANE: So then they - then -- through you, Madam President. Then this information -- if the sponsor will continue to yield.

SENATOR MAZIARZ: Yes, Madam President.

SENATOR DUANE: I don't want to, you know, do anything wrong.

Then that is information which the sponsor says cannot be released. And I'm wondering where it is in the legislation where it says that they can't release that information.

SENATOR MAZIARZ: It doesn't say that, Senator.

SENATOR DUANE: Through you, Madam President.

THE PRESIDENT: Senator Maziarz, do you continue to yield?

SENATOR MAZIARZ: Yes, I do.

THE PRESIDENT: Go ahead, Senator Duane, with a question.

SENATOR DUANE: Actually, I think I'll end there and just speak on the bill, Madam President, if I may.

THE PRESIDENT: On the bill, Senator Duane.

SENATOR DUANE: Thank you.

I mean, I think I understand what the point of this legislation is, which is to be more punitive towards people who receive public assistance than other people in the general population. And I just completely and totally do not approve of that.

Though it would start with people on public assistance, I think that begins a slippery slope, and soon we would be using the public records of people on worker's comp - or I should say the private records of people on workers' comp or who are receiving Social Security or older people who are receiving Social Security, people who are on unemployment benefits, or veterans.

I think that this is a terrible, terrible slippery slope, that we're just

beginning by being particularly punitive towards people who are on public assistance.

I also want to make the point that this legislation is just incredibly flawed in that it disregards other laws which protect confidentiality of information about citizens. I think those of us in public life should be particularly sensitive to how it is that things are known about our personal lives and what happens in terms of our physical and mental health. And to allow that to be opened up because someone may miss a court appointment because they have a doctor's appointment or a child is sick or the babysitter calls in is just outrageous.

I think I would be opposed to this legislation no matter what, because it only goes after people on public assistance. But I really think the legislation needs to be recrafted so that a person's privacy is always protected. That's one of the most important things we can do in this Legislature.

Thank you, Madam President.

THE PRESIDENT: Senator Paterson.

SENATOR PATERSON: Madam

President, if Senator Maziarz would yield for a couple of questions.

THE PRESIDENT: Senator, would you yield for a few questions?

SENATOR MAZIARZ: Surely, Madam President.

THE PRESIDENT: Go ahead, Senator.

SENATOR PATERSON: Senator, I have a slightly different focus in my questioning than Senator Duane, although I agree with everything that he said.

The distinction in this legislation compared to legislation that we've passed rests in the delineation between the charge of felony and the charge of misdemeanor. Obviously a felony is a very serious charge. It raises the specter of information that we would want to get about a perpetrator. And certainly there's public policy for the immediate apprehension of perpetrators for felonies, because they may be continuing to commit them. They're usually very dangerous crimes.

Misdemeanors are often charges such

as public loitering, Family Court actions, political protests, a fight in a bar, or something like that. And though this is - there is a need for these individuals to face justice, I think that the original drafters of the legislation had a reason for drawing a distinction between a misdemeanor and a felony.

Senator Maziarz -- through you, Madam President -- would you really be interested in taking public assistance away from an individual who may have a misdemeanor outstanding against him or her, with the full understanding that you may be driving someone deeper into poverty and perhaps subjecting their family members to loss of revenues that might be vital to their survival?

SENATOR MAZIARZ: No, Senator.

But I would want to weigh that and I would like to think that law enforcement would weigh the -- let's say, the number of misdemeanor convictions. You know, if it's a person who has several misdemeanors pending against them, that that -- it's important that that person should be apprehended and brought

before the bar of justice and clear up their criminal justice problems.

SENATOR PATERSON: Well, Madam President, if Senator Maziarz would continue to yield.

SENATOR MAZIARZ: Surely, Madam President.

SENATOR PATERSON: You see, this is a problem I have with a lot of pieces of legislation around here. And it's that the sponsor is very focused on what in this case Senator Maziarz is trying to allow.

And I think what Senator Maziarz is saying is quite reasonable, and I think anybody in this room would find it to be reasonable. Which is that he wants to open the door in case you have a situation where you might have perpetual numbers of misdemeanors, an individual who is persistently breaking the law and collecting social services at the same time. And Senator Maziarz would like to provide for greater latitude to investigate the individual.

However, by opening the door, the result is that it then becomes the opportunity

and really within the purview of the law enforcement entity to decide who is going to be perhaps victimized by this particular statute. And those who have not had the experience and are a lot less sensitive than Senator Maziarz might determine at a later date that they just want to harass individuals, going to different places that they might have been known to frequent in order to try to find them. And those places might be confidential.

It might be a person who, as a result of a Family Court misdemeanor action, has been forced to undergo counseling. And now this is exposed by the fact that law enforcement can come and look to see the counselor, to look for the individual.

So this kind of goes back to Senator Duane's question, Senator Maziarz, which is how far do we want to go opening up records that would not normally be opened unless this type of a claim were valid?

SENATOR MAZIARZ: I don't know - were you finished, Senator Paterson?

SENATOR PATERSON: Yes, sir.

SENATOR MAZIARZ: I don't know, Senator Paterson, if I would agree with your term "victimized." I think I would leave it to the professional judgment of law enforcement to go out there and to apprehend perpetrators of crimes.

And I think you have to judge that on an individual basis, Senator.

SENATOR PATERSON: Thank you, Madam President. On the bill.

THE PRESIDENT: Senator Paterson, on the bill. Go ahead.

SENATOR PATERSON: Madam President, I don't think that a person who is wanted for a felony can in any way be considered to be a victim. But a person who has committed a misdemeanor certainly can be, because misdemeanors are those types of acts that quite often may have been unintentional at the time they are committed. Nonetheless, they are against the law, and nonetheless, they have penalties.

But these types of situations, which many people who collect social services are often guilty of -- because they are often

homeless, they are often people who can be caught for public loitering or different types of public indecency, different types of legislation that we've debated even on the floor of this house -- that they would be put further in need or in further difficulty by an investigation into every aspect of their life -- which Senator Duane, I think, certainly portrayed for us rather poignantly -- in my opinion is going beyond what would really be a case-by-case-basis scenario that Senator Maziarz describes.

While I think that that's the intention of the legislation, there's nothing in the legislation that prohibits it from becoming something that I think would inure to the detriment of individuals involved and also their family members, who quite often the social services serve.

So I would urge my colleagues to vote no on this legislation, with the proviso that perhaps Senator Maziarz could tighten this up a little bit and separate the misdemeanors from what may be persistent offenses that we might want to investigate.

THE PRESIDENT: Read the last section.

Senator Montgomery.

SENATOR MONTGOMERY: Yes, Madam President. I would just like to ask one question of Senator Maziarz.

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

SENATOR MAZIARZ: Absolutely, Madam President.

THE PRESIDENT: Go ahead, Senator Montgomery.

SENATOR MONTGOMERY: Yes, Senator Maziarz. I'm looking at the legislation, and I just want to be clear what we're doing here.

This means that if, for instance, a person who was a student and involved in some demonstration or other and in the process was charged with some misdemeanor based on some absolutely nonviolent situation, but just that they were protesting -- and that can, indeed, result in a misdemeanor charge -- and that person after some years finds themselves in a situation where they may -- not that they are already a recipient, but they may be applying

for some assistance -- and I note that you indicate this includes safety-net protection as well.

And so under this law, that person, even if they had children at that point and found themselves in need of some assistance, even if it's temporary, under this bill they would not be able to qualify, based on something that had happened some time ago -

SENATOR MAZIARZ: If the law - I'm sorry, Senator, were you finished?

SENATOR MONTGOMERY: -- if this law passes. Is that what the bill does?

SENATOR MAZIARZ: Okay. I didn't mean to interrupt you. I was going to answer your question.

If the law enforcement agency deems it necessary to go after that individual to make them pay for that misdemeanor that they committed, the answer is yes, I would think that the law enforcement agency may go after a individual who repeatedly has committed small petty thieveries, breaking into cars and things like that, that, you know -- and may have 80 misdemeanors against them. That this

would also provide law enforcement the opportunity to seek information about that individual too.

SENATOR MONTGOMERY: And they could get that information based through the -

SENATOR MAZIARZ: Yes. Yes.

SENATOR MONTGOMERY: -- local Social Services department?

SENATOR MAZIARZ: Yes.

SENATOR MONTGOMERY: Well, does this also include if they go to the hospital for medical care, any kind of assistance that they would receive?

SENATOR MAZIARZ: No, this is strictly for the Department of Social Services.

SENATOR MONTGOMERY: It doesn't include Medicaid if they're asking for assistance -

SENATOR MAZIARZ: No, no -- well, I think if the information is contained within the Department of Social Services, I would say yes. Which I would probably think most or all Medicaid -

SENATOR MONTGOMERY: Medicaid would fall under -

SENATOR MAZIARZ: -- information would be, yes.

SENATOR MONTGOMERY: Thank you, Madam President.

SENATOR MAZIARZ: Thank you.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Those recorded in the negative on Calendar Number 355 are Senators Duane, Mendez, Montgomery, Paterson, Schneiderman, and Stavisky. Ayes, 50. Nays, 6.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 359, by Senator Kuhl, Senate Print 2728, an act to amend the Agriculture and Markets Law and the Vehicle and Traffic Law, in relation to exempting farm vehicles.

SENATOR PATERSON: Explanation.

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

SENATOR KUHL: Madam President, who is it that requested the explanation?

THE PRESIDENT: Senator Paterson, Senator Kuhl.

SENATOR KUHL: Thank you.

THE PRESIDENT: You're welcome.

SENATOR KUHL: Madam President, this is a bill that would remove a very burdensome, onerous provision that was enacted by this Legislature back in 1994 relative to farm vehicles that are registered under what's called a farm-plate registration.

It's a very simple requirement but a very expensive requirement, and one that is actually a duplication of coverage that was already present on these vehicles. So this is a way to eliminate a very expensive burden on farmers in this state.

THE PRESIDENT: Senator Paterson.

SENATOR PATERSON: If Senator Kuhl would yield for a question from an old farmer from Harlem.

THE PRESIDENT: Senator, would you yield to a question?

SENATOR KUHL: Was that Senator Paterson asking me to yield, that farm boy from New York?

THE PRESIDENT: Self-described.

SENATOR KUHL: Certainly I'd yield.

THE PRESIDENT: Go ahead, Senator Paterson.

SENATOR PATERSON: Senator, under the Motor Vehicle and Traffic Law, the farm-plated motor vehicles are considered motor vehicles, they're not considered farm equipment as would be a tractor or self-propelled harvesting equipment. Would you not concede that perhaps that's really where the problem starts?

In other words, once it's considered a motor vehicle, the classification thereafter is the real problem.

If you wanted to change this -- and you've made very clear to me over the past few years what an encumbrance this is for farmers -- do you think that would actually be

the way in the law we could address it? As opposed to just acknowledging that they are motor vehicles and then setting up what is almost a different standard whereby they would not be as liable, should, in the event -- and it's probably an infrequent event -- that there be an accident involving a farm-plated motor vehicle, that the victim would not be covered the same way as it would be in the regular, nonfault insurance claim.

SENATOR KUHL: Senator, my response to your question would be, very simply, in the experience that farms have actually existed from the time of the invention of the motor vehicle up until 1994, there was no requirement for this type of insurance coverage. And at the time that this was actually imposed, there still was no requirement, really, or no incidence of accidents that necessitated this inclusion.

Now, you may remember back -- and I believe that it was 1990 when the federal government enacted a piece of legislation which was meant to crack down on the safety of traffic control, including trucks across this

country, that in fact there were various waivers of types of vehicles. I think one of them were emergency vehicles. The other opportunity was for farm vehicles.

And there were at that time what we call farm-plated vehicles in existence, or that concept was in existence, and farm-plated vehicles might be a hay wagon, for instance. It's only used in certain periods of time. It might be a truck that is only used to gather watermelons in the field and take them back to the farm building, which has to be within a certain distance from the base farm. And they're only used during that very single purpose of time or period of time.

So this provision was added -- and I think really without due consideration, and certainly without need. And what we're finding is that the general liability policies on the farms already cover any kind of coverage, probably to a larger extent than is required under the minimum standards under this particular provision that was included in that chapter. The chapter really dealt with safety provisions. It didn't deal with

insurance coverage. And this was kind of an add-on.

And it was overlooked at the time, and some people who were insisting that it be in there really didn't, I think -- were looking out for the trial lawyers of this state and for additional coverage, and not looking out for the poor farmer, who's having a very difficult time making it in this state.

And so it's my thought and we don't have any experience at this time that it's ever been utilized. And so we have this huge cost that every farmer who now finds this new requirement to do business in this state to license and insure these vehicles when they're only used for minimum periods of time. And it just seems like a needless and really an unuseful and certainly a very onerous cost to our farmers.

THE PRESIDENT: Senator Paterson.

SENATOR PATERSON: Well, thank you, Madam President.

Thanks, Senator Kuhl.

Madam President, on the bill.

THE PRESIDENT: On the bill. Go

ahead, Senator.

SENATOR PATERSON: I don't think that there should be some kind of an accident or a tragedy that would compel this Legislature to take action. Too many times in history after some sort of accident occurs, everybody points the finger, and there's a loophole in the law or a crack that doesn't cover someone, and we come back here and we try to create some legislation post hoc, ergo propter hoc.

The fact is that we don't really need to do that in this particular case, because it would appear that there is not any legislation that really would cover the individual that would be possibly hurt in this type of an accident. Because what we want to do in this law is to really remove this type of motor vehicle from the regular type of encumbrance that would be due upon anyone that owns a motor vehicle.

What I think and suggest to Senator Kuhl is perhaps there's some type of a tax-incremental financing that might help farmers that we as a state would take into

account, that this would be a very rare circumstance where there would be an accident, and hope to defray their costs. But our primary objective here has to be to cover the potential victim.

Now, last year I was persuaded to vote for this legislation because I thought that the farmer's umbrella policy would actually cover these types of losses. However, we have checked with the Family Farm Insurance Company, which is a well-known insurance company in the area and different parts of the Midwest. And they -- their counsel has told us that the type of policy that would cover the farm does not automatically include the type of farm-plated vehicles of which we're talking about. And so the counsel to the Family Farm Insurance Company felt that in these cases there would have to be a separate policy.

So I'm going to vote no again, as I would urge my colleagues -- as I had up until 1999 -- hoping that perhaps there's a different way that we can provide what the farmers really need. What the farmers really

need is not necessarily to be obligated, but what the farmers really need is to be protected from the -- apparently the tremendous financial loss that they would possibly accrue from having to provide for these policies.

So I would encourage a no vote on this bill.

THE PRESIDENT: Senator Johnson.

SENATOR JOHNSON: On the bill, Madam President.

I've had a farm, I've had a farm truck, I've written insurance policies, and I had one of my own. And I can tell you, changing the Motor Vehicle Law was a mistake in 1994. These policies do cover farm trucks.

And if you talk to the Motor Vehicle Bureau, they'll tell you what a farm truck is. A farm truck is one that you use on your property. Maybe you have to use a road to get from one field to another, or you rented a field that's down the road a bit or you have to go to the dumps or pick up something from the farm, drop off a product locally.

And when you apply for the registration on this farm truck, which I think is a dollar, you have to put down the route you're going to follow, and you're covered on those routes. And these farmers know darn well this is not a general purpose vehicle. It's just for that purpose, on the farm property.

So I think the learned counsel doesn't know about policies in New York State. He probably lives too far away, in a different state. Maybe they have different laws there. But in our state, a farm truck is very strictly defined. The coverage is included in the general liability policy.

There was no reason for this law ever to be changed in 1994. It's time for us to correct the error by putting that coverage back as it was previously, putting the requirements back that were there originally.

Thank you.

THE PRESIDENT: Senator Hoffmann.

SENATOR HOFFMANN: I appreciate Senator Johnson's explanation about how farm-plated vehicles operate. And I have a

couple on my farm as well. And I think it's unfortunate that Senator Paterson, after our debate last year, hasn't had the opportunity to see how we utilize farm-plated vehicles.

But it is a requirement at the time of registration for a farm-plated vehicle to have the actual route that that vehicle will be traveling delineated. If it's going to a dump, if it's going to get gasoline, if it's going from field to field, all of that has to be clearly marked out.

So if a vehicle leaves that given route, then the same kind of liability would incur that would incur to anybody else in New York State. This just allows farmers to have one very minor bit of cost savings that they desperately need in this state.

And I'm a little offended that we should be wasting time trying to malign the activities of farmers and their pursuits. They have enough other problems to deal with right now. Around this state right now, farmers are trying to figure out how they are going to pay the exorbitant amount of increased gasoline costs that's going to be

coming onto every farm, how they're going to deal with increased electricity costs.

This is a tough, tough business we're in. And if this state can't give them a little break on their farm-plated vehicles, then we're all doing something wrong for agriculture. It's our number-one industry in New York State.

And I would urge every member of this house to show their support for the hardworking men and women who are farmers and proud to be farmers in this state by supporting this measure today.

THE PRESIDENT: Senator DeFrancisco.

SENATOR DeFRANCISCO: First of all, I'm not quite sure what that last comment was all about. I didn't hear anybody on this floor maligning farmers or trying to hurt farmers or trying to give farmers a hard time by a debate on this bill.

I think there's an issue here that's very clear: Does the existing policy cover people who may be injured or doesn't it. It's a very legitimate issue.

And why the issue of trial lawyers has to be brought up whenever there's a bill that tries to provide some protection for someone who may get hurt -- it may be a farm worker employee who may get hurt, and they have an arm lost in the course of an operation that they may be doing on the farm. I mean, to raise these extraneous issues I think are absolutely ridiculous.

So the real issue is, does the existing policy provide the coverage or doesn't it.

THE PRESIDENT: Senator Kuhl, why do you rise?

SENATOR KUHL: Will Senator DeFrancisco yield to a question?

SENATOR DeFRANCISCO: I most certainly will the minute I finish my comment.

THE PRESIDENT: Go ahead, Senator DeFrancisco.

SENATOR DeFRANCISCO: So the issue is whether or not the existing policies provide the coverage.

And I have to make a decision based on whether they do or whether they don't. I

either have to listen to Senator Paterson, from New York City, or Senator Johnson, who owns a farm and has gone through this actual experience of issuing insurance. So I will assume that Senator Johnson has the superior information on this. I will vote for the bill.

But my point in rising is simply we should just debate the issue, not the extraneous points that have no relevance whatsoever.

THE PRESIDENT: Senator Kuhl.

SENATOR KUHL: Yes. Senator DeFrancisco, have you seen the memo that was filed in opposition to this bill dated March 8, 2000, from the Trial Lawyers Association?

SENATOR DeFRANCISCO: Absolutely.

SENATOR KUHL: And are you aware that they make the statement that this proposal, coming in after the enactment of the '94 legislation which was placed on these vehicles, makes -- and I quote -- a mockery of the legislative process? And now are you here saying today that to raise the issue that the

trial lawyers might have some interest in this legislation is out of place?

I don't -- I'd like to have you explain that statement to me, if you would, sir.

SENATOR DeFRANCISCO: Well, first of all, I don't think that was the comment, that it's not relevant to raise the issue of Trial Lawyers Association.

But the claim that this bill is - should be passed and one of the reasons it should be passed is because the Trial Lawyers Association has some ulterior motive to try to make more fees -- the Trial Lawyers Association have the same right as the farm workers do, as the farm community does, to comment on legislation.

And if you listened to my comment, Senator, I didn't say I was voting against the bill like the trial lawyers had urged. I said I'm going to vote in favor of the bill, based upon the issue. And the issue has nothing to do with what the trial lawyers' belief is or what -- maligning farmers.

SENATOR KUHL: Would Senator

DeFrancisco yield to another question?

SENATOR DeFRANCISCO: Absolutely.

SENATOR KUHL: Senator, then if I'm to understand that you're voting for this, then you disagree with this bill -- then you disagree with the trial lawyers' opposition memo that says that this proposal makes a mockery of the legislation.

SENATOR DeFRANCISCO: I disagree with the memo, yes, I do.

SENATOR KUHL: Okay, thank you.

SENATOR DeFRANCISCO: But that doesn't mean I'm anti-trial lawyer or for trial lawyers. The Trial Lawyers Association is an association that takes positions. They can be right; they can be wrong. The Farm Bureaus Association is an organization that takes positions. They could be right or they could be wrong.

But I outlined what the issue was in this case, and I outlined why I'm voting yes.

THE PRESIDENT: Senator Paterson.

SENATOR PATERSON: Madam President, I never mentioned the trial

lawyers' memorandum in my discussion.

(Laughter.)

SENATOR PATERSON: And what's interesting is that since Senator Kuhl said that he couldn't think of a case where this had arisen yet, then I don't know what the trial lawyers' interest would be, because they haven't -- they weren't losing business as a result of us passing this legislation, because we're still talking about what would be a presumption, which is something that could happen.

That's why I can understand the argument that if -- that the cost to the farmers is one that we might foreseeably overlook, because the cost to the farmer is something that really has not manifested itself. There haven't been a number of cases where this has actually happened.

But I think that when we take an oath as legislators, we are supposed to legislate with the understanding that in spite of whatever interests there are of our own individual districts and our own sometimes parochialism, we have to understand that we

live in a state, a state that involves a lot of people, a state that involves what would be the travel of different vehicles around the state. And we would not want, even if it's something that would be considered to be speculative, the foreseeable possibility that someone could be injured in this particular situation and not covered.

Now, it's debatable up until 1994 whether or not the umbrella insurance policies covered this type of an action. I don't know the answer to that question.

But I know the answer to this. That the umbrella policies, as it stands now, do not necessarily cover these farm-plated vehicles. They would have to have a rider, they would have to have a separate policy. And I think if anyone -

THE PRESIDENT: Senator Kuhl, why do you rise?

SENATOR KUHL: Would Senator Paterson yield to a question?

SENATOR PATERSON: Certainly.

THE PRESIDENT: Go ahead, Senator Kuhl.

SENATOR KUHL: Senator Paterson, I think you heard what I said, that the intent of this proposal is to remove duplicative coverage for the farmer.

Now, you seem to think that, from a source that you've reached out to, that in fact that's -- that the additional policy that we're talking about that's a requirement here isn't necessarily duplicative. Is that correct?

SENATOR PATERSON: That would actually be the problem if the farmers were paying dual coverage for the same thing. I wouldn't want to be responsible for continuing that.

The reason that I propose to vote against this bill -- and, Senator, upon information and belief, I voted for the bill last year. But I am now assured and I'm convinced that there may be some umbrella policies that cover the farmers, but they all don't. And to lead farmers to believe that these policies are covering them is misleading. And it's the farmers I think who would be offended if they found out that they

weren't covered.

SENATOR KUHL: Senator, I appreciate your approach. But I would think I would approach it a different way.

And so my question to you would be, have you gone to a farmer and asked a farmer whether or not they have coverage under a general liability policy that covers their trucks -- and then also now, since 1994, in complying with this law, have a duplicative policy for each truck that they had that's now a farm-plated vehicle? And have you ever asked them whether or not they have expressed some displeasure over having duplicative coverage on vehicles that are costing them sums of money?

Have you inquired of that aspect of the industry, rather than just going to an insurance company and saying, Well, now, does this policy in general that you issue cover it?

SENATOR PATERSON: Senator, I thought I did better than going to the actual farmers. I heard the information from yours truly. In other words, I heard it from you.

In other words, I didn't think I had to go to the farmers themselves when someone who ably represents them as well as you did, you have, gave me that information.

But because we had had the information from one insurance policy last year, we now have the information from a second insurance company this year, I'm persuaded that the issue was not necessarily what the farmers knew or didn't know. That's why we're debating the bill.

What we would really want to know is what was within the ambit of coverage that the insurance companies gave. Because if the insurance companies aren't covering them, the farmers are in a difficult situation should this situation ever arise and would then need some type of coverage. Or the farmers are now in a situation where they're not covered.

So in other words, that's the reason I chose to go to the insurance companies.

You wouldn't want, I would assume, Senator, for any of us that want something to stand up and to presume that our colleagues

would necessarily know our districts and the people in them as well as we do. I concede that.

But what I'm saying to you is this is not necessarily an issue of the actual construction or the day-to-day use of the vehicles. This is an issue of whether or not a potential victim would be covered by the policy.

SENATOR KUHL: Would the Senator yield to another question?

THE PRESIDENT: Senator Paterson, will you yield to Senator Kuhl for a question?

SENATOR PATERSON: Yes, Madam President.

THE PRESIDENT: Go ahead, Senator Kuhl.

SENATOR KUHL: Senator, in the course of your investigation did you ever determine that there was ever an accident in which there was not insurance coverage for anybody who was injured as a result of that and when there was not a policy, either a general liability policy that covered these individuals prior to the 1994 incident? Do

you have that kind of data which would indicate that there was not coverage?

SENATOR PATERSON: Madam President, that's my whole point.

My point is that I don't want there to be an accident where we're all down here being questioned at a future date by reporters, pointing the finger at each other as to who really understood what the law was. When the fact that we're talking about it now, at least what can be said for both of us, even though we now may be on opposite sides of the issue this year, is the fact that this was within the contemplation of the Legislature before a situation such as this, in which we may disagree on what the outcome is -- it's my opinion that although an accident has not occurred as yet, there is no coverage for all farmers should one occur in the future. That's my position.

SENATOR KUHL: Would the Senator yield for one more question.

THE PRESIDENT: Senator Paterson, will you yield to another question?

SENATOR PATERSON: I would

certainly yield to as many questions as my distinguished colleague would want to ask.

THE PRESIDENT: You may proceed, Senator Kuhl.

SENATOR KUHL: Senator Paterson, I'm interested again in the depth of your investigatory process here. And I'm curious as to, in asking questions of this insurance company, how many victims prior to the 1994 law actually did receive coverage from the general liability policies.

SENATOR PATERSON: Mr. President, the information I have is that prior to 1994 it's very possible that the umbrella policies may have covered the farmers. But I do not know substantially whether or not they did.

But what I am assuring everyone here right now is that we don't have to go back to 1994. We're in the year 2000. And those policies, unless I hear any information from someone in this chamber to contradict that, something that is on point, that these policies do not cover the farmers.

SENATOR KUHL: I have no further questions.

THE PRESIDENT: Read the last section.

Senator Paterson.

SENATOR PATERSON: Madam President, hearing no one in this chamber, either directly or indirectly, that can get up and assure us that these policies will protect the farmers, then I would suggest that should an accident occur, that the potential victim of this accident is not covered.

THE PRESIDENT: Senator Duane.

SENATOR DUANE: Thank you, Madam President.

THE PRESIDENT: You're welcome.

SENATOR DUANE: On the bill.

Last year I listened to the debate on this piece of legislation because, you know, I'm always sitting in the chamber because you have to be here to vote no. So I generally listen to all the debates. And I was struck because Senator David Paterson and I have the exact same number of farms in our districts, and yet he was voting yes and I was voting no.

So I did go out and investigate

this issue. Beyond the farms in our districts, I went to other farms around the state of New York. And I asked farmers -- not just the insurance companies, not just those poor trial attorneys that have been so vilified here today, but I asked farmers about this issue. And what I discovered was they're confused. They're pretty confused about this issue.

And so today I'm going to cast my vote yet again, though I hate to disagree with my colleague -- although now we're on the same side, David Paterson -- and my colleagues who represent more rural districts than David and I represent, somewhat more rural districts. And I'm going to be voting no because I think I need to err on the side of caution until this confusion is cleared up.

So I will be voting no, Madam President.

THE PRESIDENT: Read the last section.

THE SECRETARY: Section 3. This act shall take effect on the 60th day.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Those recorded in the negative on Calendar Number 359 are Senators Breslin, Connor, Duane, Kruger, Montgomery, Paterson, Schneiderman, and Stavisky. Ayes, 48. Nays, 8.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 410, by Senator Johnson, Senate Print 1962B, an act to amend the Penal Law, in relation to criminal use of public records.

SENATOR DUANE: Explanation, please.

THE PRESIDENT: Senator Johnson, Senator Duane has requested an explanation.

SENATOR JOHNSON: Yes, Madam President.

Well, this bill is quite straightforward in its presentation. And the intent of this bill is, as you know, under the Freedom of Information Law, the information is readily available. There's a list of reasons why it is not available. But generally it's available unless there's a reason to deny the

information. So convicts and others have been using this Freedom of Information Law to get information which they use in the perpetration of a crime.

So we're saying if you get information that's freely available, fine. But if you use it to commit a crime, you're subject to the penalties in the law, which in this case would be a Class E felony penalty.

THE PRESIDENT: Senator Duane.

SENATOR DUANE: Would the sponsor yield to a few questions?

THE PRESIDENT: Senator Johnson, will you yield for -

SENATOR JOHNSON: No, let's try one.

THE PRESIDENT: He will yield for a question.

Go ahead, Senator Duane.

SENATOR JOHNSON: Maybe another one later.

THE PRESIDENT: Pardon me, Senator -

SENATOR JOHNSON: Come on, go on. Yes, I yield. Go ahead.

THE PRESIDENT: Go ahead. You have two questions, Senator Duane.

SENATOR DUANE: Well -

THE PRESIDENT: He's yielded for two questions. That was your request, wasn't it?

SENATOR DUANE: Through you, Madam President, I didn't hear him say -

THE PRESIDENT: Was your request "two" or "a few"?

SENATOR JOHNSON: I am waiting.

SENATOR DUANE: A few.

THE PRESIDENT: And you yielded, Senator Johnson, to his questions.

Go ahead, Senator Duane.

SENATOR DUANE: Thank you, Madam President -

THE PRESIDENT: You're welcome.

SENATOR DUANE: -- from the bottom of my heart.

I'm wondering what happens now.

SENATOR JOHNSON: What does that mean? Is that your question?

SENATOR DUANE: Is there a crime committed now if someone uses this

information?

SENATOR JOHNSON: Are you asking me if crimes have been committed using this information? The answer is yes.

SENATOR DUANE: No. Madam President, through you, if I may clarify my question.

THE PRESIDENT: Go ahead, Senator.

SENATOR DUANE: I'm wondering if at present, if someone does this, uses the information, is that prosecuted?

SENATOR JOHNSON: There is no specific penalty in the law for using this information. Of course, if they commit a crime, they've committed a crime. But there's no penalty to take the information and use it improperly at this point.

SENATOR DUANE: Through you, Madam President, if I can reclarify my question.

THE PRESIDENT: Do you have a question to ask, Senator, an additional question?

SENATOR DUANE: Madam President,

I'm not asking if there exists such a law. I know there isn't. Otherwise, we wouldn't be debating this law, unless there was some dreadful mistake.

But what I'm asking is, is there - would there -- is there prosecution now, or are thousands of inmates getting off scot-free because no prosecutions are taking place with people using this information? Or maybe not thousands, but some.

I'm not asking if such a law exists. Obviously it doesn't exist, or the bill wouldn't have been introduced unless someone's not doing their job.

I'm asking, in a situation like this, is not the crime already prosecuted?

SENATOR JOHNSON: I'd like to read you something from a newspaper. And we're talking about information being too easily available.

And this article said that in the case of a lady named Maria -- they have to inform you when a request is made, a formal request -- they wrote her a letter saying: "This agency has received a Freedom of

Information request seeking to determine your current address. The request came from" - I'll leave their name out -- "who is currently incarcerated at Woodbourne Correctional Facility. Under the Freedom of Information Act, we have disclosed this information to [the inmate]. If you have any questions, please do not hesitate to call my office."

It turned out that this inmate was a convicted killer who was trying to track down the young woman because she once rejected hid advances. The request came in July, a month before he became eligible for parole.

State corrections officials say this case is far from unique, that inmates have learned to use loopholes in the law to gain information and use it in ways never intended by those who drafted the legislation.

The point is that people are using this information improperly now. And we're saying if you do that, that's going to be a crime, and you're going to be apprehended if you are and pay a penalty.

SENATOR DUANE: Through you, Madam President.

THE PRESIDENT: Senator Duane.

SENATOR DUANE: I'm still wondering, did this inmate then commit a crime with that information?

SENATOR JOHNSON: I thought I was speaking properly, but perhaps you haven't comprehended what I said.

If you think it's all right for these situations to continue, then I guess you should vote against this bill. But if you think this type of action should be circumscribed by law, then you should support this bill.

I don't think anybody should have to put up with that kind of business, using that information improperly. And we're saying if you do it, the penalty is in the law. The crime is being created right now in this law, and there's a penalty in there. We don't want that to continue.

Now, don't ask me if he ever succeeded in apprehending her and raping her. Does that have to happen before you want to prosecute him?

SENATOR DUANE: Through you,

Madam President.

THE PRESIDENT: Go ahead, Senator Duane.

SENATOR DUANE: But does not this law actually only apply when a crime is committed?

THE PRESIDENT: Senator Duane, were you asking the Senator to yield for an additional question?

SENATOR DUANE: Yes, Madam President.

THE PRESIDENT: Senator Johnson, will you yield for an additional question?

SENATOR JOHNSON: That is so, yes.

THE PRESIDENT: Senator Johnson, you are yielding?

SENATOR JOHNSON: But we're trying to avoid the temptation for people to use this information improperly.

Now, the crime could be anywhere from walking behind her on the street to killing her. But the fact is that we're trying to put the message out: Don't try to use this information improperly, because

there's a penalty for that.

SENATOR DUANE: Thank you, Madam President. I think I'll just speak on the bill.

THE PRESIDENT: On the bill, Senator Duane. Go ahead.

SENATOR DUANE: I just think it's interesting that this discussion is taking place in the context of Senator Maziarz putting forward the possibility of starting a slippery slope of getting information from the Department of Social Services, and then on the other hand we're talking about an information-retrieval thing here as well.

I think that we need to kind of look at how it is that we're playing fast and loose with information about citizens' lives and also how that impacts how it is that we go about fighting crime in our state.

The other thing I want to say is - and of course I don't want people murdered. It's absurd to think that that's what I would want to have happen in our state. But how many times have I heard in this body a crime is a crime; you know, a rape is a rape, a

murder is a murder, a theft is a theft, a felony is a felony. And yet, you know, we're already setting up separate categories in many, many ways dealing with intent, of which this is just another one as well.

And I don't think we can have it both ways, that looking at intent in some areas of the law is all right and not looking at intent in other ways is what we're going to be doing.

So I hope that people remember the discussion that we've had here about this bill in terms of intent, as we do when it comes to crimes against police officers or crimes against older New Yorkers, when we discuss the bias bill, which it's my fervent hope we will actually get to debate on the floor of the Senate.

Thank you, Madam President.

THE PRESIDENT: Read the last section.

Senator Montgomery.

SENATOR MONTGOMERY: Yes, Madam President. I just have one question that I would like to ask the sponsor, Senator

Johnson, if he would yield.

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

SENATOR JOHNSON: Yes, Madam President.

THE PRESIDENT: Go ahead, Senator Montgomery.

SENATOR MONTGOMERY: Yes, thank you.

Senator Johnson, with -- we have in the past in -- at least in our house passed legislation that prevents the Division of Corrections from allowing inmates to be involved in areas where there's certain private information on individuals, that it is now -- they are now not supposed to be doing that.

So I'm trying to figure out what is -- why do we now need your legislation when it is assumed that the inmates are not in fact supposed to have access to any of this information, either through the Freedom of Information Act or by virtue of their participating in certain activities, use of the Internet and what have you.

SENATOR JOHNSON: Senator, did you say that inmates are now prevented from getting this information? Is that what you said?

SENATOR MONTGOMERY: Yes.

SENATOR JOHNSON: Well, it isn't true.

SENATOR MONTGOMERY: Based on legislation that we've already passed.

SENATOR JOHNSON: It isn't true, Senator.

That's why the information was released, because there was no grounds upon which to withhold that information, getting someone's address and phone number and things like that. There's no way to deny that information under the present law. That's why we're putting a penalty in there.

And you can understand that if they do need information to defend themselves or help in their trial, they're allowed to get that information. And that's specifically - they're permitted to get that. But there's no prohibition against getting other information as well. Unless they're denied the right,

they can get it. And that's the way the law is right now.

SENATOR MONTGOMERY: All right. Then, Senator, if that is the case, if the issue is access, my question then is who provides the access, and is that person or that entity not the one then that becomes liable for providing the access?

I mean, don't we want to -- don't we want to punish the person or persons or the entity that is responsible for providing the information rather than the criminal for requesting it, the inmate?

SENATOR JOHNSON: Well, you know, Senator -- I'm sorry, we should be addressing each other through the chair, but I'd like to respond to you.

We're only talking about the misuse of information. We're not talking about its accessibility. If they use it to commit a crime or intend to commit a crime, that's the problem, not the fact that they have the information. Which is harmless by itself, of course, you know.

SENATOR MONTGOMERY: So then

based upon your explanation, if it is an inmate that requests information about me and that inmate is serving a life sentence without the possibility of parole, it's very unlikely -- even if that inmate wanted to take some retribution against me, it's unlikely that that particular inmate is going to fall under this particular bill.

SENATOR JOHNSON: Senator -- if I may respond, Madam President -- this has nothing to do with inmates per se.

SENATOR MONTGOMERY: Oh.

SENATOR JOHNSON: These are the cases which have come to people's attention.

But I could get your address and follow you down the street because I want to irritate you. Or anyone else could do it. That's still available. And the people inside have more friends outside that could do the job for them, so I don't think you could feel safe.

In any event, all we're saying is if they use that to commit a crime, then we're going to punish them. But otherwise it's freely available, as it is now for all of us.

SENATOR MONTGOMERY: So this really -

THE PRESIDENT: Senator Montgomery.

SENATOR MONTGOMERY: Through you, Madam President -

THE PRESIDENT: Senator Johnson, will you yield for an additional question?

SENATOR MONTGOMERY: -- just one last question -- one last question.

THE PRESIDENT: Go ahead, Senator.

SENATOR MONTGOMERY: Thank you.

So, Senator Johnson, this really refers to -- even though the example that you used was of an inmate who was a murderer and asked for information, this really refers to anyone. In other words, any of us, all of us fall under your legislation; it's not really targeted only to inmates.

SENATOR JOHNSON: That's correct.

SENATOR MONTGOMERY: Okay. Thank you, Madam President.

THE PRESIDENT: Read the last section.

THE SECRETARY: Section 2. This act shall take effect on the first day of November.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 54. Nays, 2. Senators Duane and Montgomery recorded in the negative.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 436, by Senator Skelos, Senate Print 969, an act to amend the Correction Law and the County Law, in relation to maintenance.

SENATOR PATERSON: Explanation, please.

THE PRESIDENT: Senator Paterson has asked for an explanation.

SENATOR SKELOS: Madam President, Senator Paterson has asked for a speedy explanation, so I'll accommodate him.

This bill amends the Correction Law and the County Law to provide that a prisoner who has been found unindigent may be required to reimburse the county or city jail for

certain expenses incurred during his or her term of imprisonment. The factors to be considered regarding the individual's ability to pay include, but are not limited to, financial resources, health, age, and other relevant factors.

THE PRESIDENT: Senator Paterson.

SENATOR PATERSON: Madam President, just a quick question for Senator Skelos, who -

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

SENATOR PATERSON: -- I know is dying to get a chance to explain this bill further.

THE PRESIDENT: Go ahead, Senator Paterson, with a question.

SENATOR PATERSON: Do you have any research of the inmates who are currently housed in these facilities to give an idea of what the projected savings might be?

SENATOR SKELOS: Well, as you know, Senator Paterson, because we discussed this a number of times -- and I believe it was at the request of Senator Abate -- we made it

optional at the county level so that each county could independently determine whether they would benefit from this or not benefit.

THE PRESIDENT: Senator Duane.

SENATOR DUANE: Thank you, Madam President. I'd like to speak on the bill.

I'm going to vote no on this for a whole host of reasons, but I wanted to raise a couple of additional reasons. One is that I believe strongly that someone who is incarcerated, especially if they're the breadwinner, that their money in many cases, unless they are very wealthy, is needed to support the people who now are not going to have a breadwinner helping to pay the freight at home. And I think that their money is needed to make sure that they don't have to go onto public benefits and can stay independent.

The other issue is that just when I read the justification from the Majority, it said that -- something about what a person in prison had done, while his victim was unable to receive financial compensation for the crime committed against her, further demonstrates the need for this legislation.

Although I don't think that demonstrates the need for this legislation so much as the need to investigate what's happening in the Crime Compensation Board, if this particular crime victim is not being compensated. So I would encourage us to take a look at that and find out why it is that she's not getting the support that she needs from an agency whose mission it is to help people who have been the victims of crime.

THE PRESIDENT: Read the last section.

THE SECRETARY: Section 7. This act shall take effect immediately.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

SENATOR MONTGOMERY: I would like to explain my vote.

THE PRESIDENT: Senator Montgomery, to explain your vote.

SENATOR MONTGOMERY: Yes. Madam President, I just want to explain my vote for -- my no vote by reminding my colleagues that we now have an exhibit downstairs in the connecting concourse where we have all of the

products that are produced in the prisons by inmates. And they are very, very many and far-reaching.

Including -- we have the dogs that are trained to assist blind people, are trained in one of our prisons. We have all of our highway signs, all of our state furniture, a lot of the emergency assistance in different parts of the state when there is a storm or some other tragedy.

These are all done by inmates in our prisons. In addition to the enormous amount of money that is spent just to make telephone calls to loved ones from prison.

So I think that there is a tremendous amount of restitution that we receive. And therefore, I am voting no on this legislation because I think that it is going a bit far to ask people to pay this to the local counties.

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

The Secretary will announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 436 are Senators Connor, Duane, Markowitz, Montgomery, Paterson, Santiago, Schneiderman, Smith, and Stavisky. Ayes, 47. Nays, 9.

THE PRESIDENT: The bill is passed.

SENATOR LACHMAN: Madam Chair.

THE PRESIDENT: Senator Lachman.

SENATOR LACHMAN: Yes. Unfortunately, I was out of the chamber when we voted on 359. I would like to have unanimous consent to be recorded in the negative on that bill.

Thank you.

THE PRESIDENT: Senator Lachman, without objection, you will be recorded as voting in the negative on this bill.

The Secretary will read.

THE SECRETARY: Calendar Number 459, by Senator Morahan, Senate Print 6240, an act to amend Chapter 235 of the Laws of 1865 relating to incorporating.

SENATOR DUANE: Explanation, please.

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

SENATOR MORAHAN: Yes, Madam Chairman. Or Madam President.

THE PRESIDENT: Thank you, Senator.

SENATOR MORAHAN: You're quite welcome.

This is a bill that affects a fire company in Nyack, New York, in Rockland County, which lifts their ability to have assets beyond $5,000. They're requesting that to go up to $1 million.

SENATOR DUANE: Madam President.

THE PRESIDENT: Senator Duane.

SENATOR DUANE: Would the sponsor yield to a few questions?

THE PRESIDENT: Senator Morahan, will you yield for a few questions?

SENATOR MORAHAN: I'd be delighted to yield, Madam President.

THE PRESIDENT: You may proceed with your first question, Senator Duane.

SENATOR DUANE: Thank you, Madam President.

Why is this fire department in need of this increase?

SENATOR MORAHAN: Well, they're in need of this relief, Senator, because this law from 1895 has been a little bit outdated as a practical matter. They have accumulated some assets since that time.

In particular, they are now forming a parade committee to honor their 175th anniversary. They're the oldest fire company in Rockland County. I believe they're amongst the ten oldest in the state. And they're one of the few that are governed by the state or chartered by the state.

They have, for example, $150,000 in their general fund. And I think they're looking for a way to get relief from the 5,000 limitation, number one. And, number two, there are some consolidations and transfers going on within the county where they may even pick up the ownership of the trucks they now rent from the district, which would increase their assets to another $250,000, $300,000.

SENATOR DUANE: Thank you.

Through you, Madam President, would

the sponsor continue to yield?

THE PRESIDENT: Go ahead. You had authorization, Senator.

SENATOR DUANE: Thank you, Madam President.

Assuming that the parade is not going to cost a half a million dollars, I'm wondering how was this figure reached. Why isn't it $500,000, or why is it a million dollars?

SENATOR MORAHAN: Well, because it took 175 years to get to this point. I guess they don't want to come back next year or the year after or come back every ten years. They want to be in conformity with the law. And I believe they feel that this would give them some relief.

Their insurance are all set at a million dollars, and it ties in pretty much with their mode of operation. In addition, if they take over more assets, such as the firehouse itself, I don't believe that they want to have to come back here each time they increase their assets in today's terms, in today's dollars.

SENATOR DUANE: Through you, Madam President, would the sponsor continue to yield?

THE PRESIDENT: Go ahead, Senator Duane. You have authorization for one more question.

SENATOR DUANE: I'm still not sure where the $1 million fee has come from. Was there actually -- is there a -- did they supply a list of the reasons for that? Is this a -

SENATOR MORAHAN: Yes, they did.

SENATOR DUANE: They did.

SENATOR MORAHAN: But it doesn't go all the way up to a million dollars.

They're not holding a million dollars now, Senator. But they feel they may. And they want to have that elbow room, if you will, because it took 175 years to get this one lifted.

SENATOR DUANE: And also through you, Madam President.

THE PRESIDENT: Senator Morahan, will you yield for an additional question?

SENATOR MORAHAN: I certainly

will. With pleasure.

THE PRESIDENT: Go ahead, Senator Duane.

SENATOR DUANE: I'm wondering if the sponsor knows of other fire districts with a similar problem to this. Or is this the only one in the state, or will we be seeing more of these or -

SENATOR MORAHAN: It's quite possible you will see more. But this is only one of the few that are chartered under the Legislature of the State of New York. Others may be doing this; they don't need our permission. This particular company does because it's chartered in 1895, under the state law. So it has to come to the Legislature. It's one of the very few in the state of New York, Senator.

SENATOR DUANE: Thank you, Madam President.

THE PRESIDENT: Read the last section.

Senator Marchi.

SENATOR MARCHI: Just a postscript to what the Senator has -- the

point that he's made. At the time it was $5,000, do you realize in constant dollars that we're in the year 2000? Manhattan was bought for $22. It's probably -- if you said $2 million, you were probably being conservative.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 56.

THE PRESIDENT: Senator Duane.

SENATOR DUANE: Just to explain my vote.

But just so there's no -- just to break the suspense, I'm going to vote yes on it. But -

THE PRESIDENT: Just a minute, Senator Duane.

The roll call is withdrawn.

Senator Duane, you have the floor to explain your vote.

SENATOR DUANE: Thank you, Madam

President.

I'm just concerned that we've gone from $5,000 to a million dollars and that -- I mean, I don't want to cast aspersions. No one loves Nyack more than I do. I do, I love Nyack. And I've spent time in Nyack. Not just last year, but other times in my life.

But I just think it's of concern that their assets could potentially go from $5,000 -- you know, that they didn't do anything about the collection of assets until this point.

And maybe that should be -- we should forewarn the others that are chartered by the State of New York that they should take a look at the bottom line and maybe look at all of this as a package for other fire districts that are in the same position.

But I'm going to vote yes on this one, Madam President.

THE PRESIDENT: Without objection, Senator Duane, you will be recorded as voting in the affirmative on this bill.

The Secretary will announce the results.

THE SECRETARY: Ayes, 56.

THE PRESIDENT: The bill is passed.

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

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

THE PRESIDENT: No, there is not, Senator.

SENATOR SKELOS: I'd just like to inform the members of the Majority, before we go on to motions to discharge, that there will be a conference of the Majority following session.

THE PRESIDENT: There will be a conference of the Majority following the Senate session.

Senator Paterson.

SENATOR PATERSON: Madam President, would the distinguished Deputy Majority Leader let me know what room that conference is going to be in, please?

SENATOR SKELOS: The Majority Conference Room.

THE PRESIDENT: Thank you,

Senators. In the Majority Conference Room.

SENATOR VOLKER: Madam President.

THE PRESIDENT: Senator Volker.

SENATOR VOLKER: Madam President, I don't have a motion to discharge, but I would like to star a bill, if I could.

On page 12, Calendar Number 218, Senate Print 1992B. That's Calendar Number 218, my bill, 1992B. I'd like to star that bill, please.

THE PRESIDENT: The bill is starred, Senator Volker.

SENATOR VOLKER: Thank you.

THE PRESIDENT: Motions to discharge.

Senator Stachowski.

SENATOR STACHOWSKI: Madam President, I believe there's a motion at the desk. I'd like to ask to waive the reading and speak on the motion.

THE PRESIDENT: Yes, there is, Senator.

The Secretary will read.

THE SECRETARY: Senate Bill Number 1988, by Senator Stachowski, an act to

amend the Economic Development Law, in relation to enacting the "Corporate and Financial Accountability Act."

SENATOR STACHOWSKI: Thank you, Madam President.

This bill would set up clear requirements for companies applying for publicly funded assistance with the state. Although some agencies have a policy of what -- how they govern these, it's not universal throughout the state. And there are some areas where companies are still taking money with the promise to either create or retain jobs, and those promises, for one reason or another, often are not fulfilled.

And since we're limited on the number of dollars we have in the state, it seems to me that this bill is a good bill. We had the foresight to do it once, and then Governor Cuomo vetoed it.

And assuming that Governor Pataki, in his vision for economic development in the state and his realization that there are only so many state dollars available, that we should try to make sure that they go to the

best possible places, would see that a bill like this, once it's passed, is a good tool for the state, and he would sign it -- as opposed to Governor Cuomo, who didn't see that vision.

The fact is that states around us use this. Ohio uses this, and it doesn't hurt their applications. So that argument about the fact that it would hurt companies from applying for state assistance I don't think holds any water.

The truth is, in the bill there are safeguards for if there was an economic downturn in a particular industry or some economic problem that wasn't foreseen and that's the reason they didn't meet their requirements, that would be covered. And the reality is that oftentimes companies say they're going to create jobs, and either they don't or they leave with the state dollars or the state equipment that they purchased with it.

So with all of those things in mind, it's clearly the time to do this bill. This bill was a good idea when it was first

drafted. It's just as good, if not a better idea now. And I would urge all my colleagues to support this motion.

THE PRESIDENT: All in favor of accepting the motion to discharge signify by saying aye.

SENATOR PATERSON: Party vote in the affirmative.

Yes, keep going, Madam President.

SENATOR SKELOS: Party vote in the negative.

THE PRESIDENT: The Secretary will call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 20. Nays, 36. Party vote.

THE PRESIDENT: The motion is defeated.

Senator Mendez.

SENATOR MENDEZ: Thank you, Madam President. I wish to be recorded in the negative on Calendar Number 436. I was out of the chamber. Thank you.

THE PRESIDENT: Without objection, Senator Mendez, you will be

recorded as voting in the negative on 436.

Senator Duane.

SENATOR DUANE: Thank you, Madam President. I think there's a motion at the desk.

THE PRESIDENT: Yes, Senator, there is.

The Secretary will read.

SENATOR DUANE: I ask that reading be waived.

THE PRESIDENT: He will read the title before the house, Senator.

Go ahead.

THE SECRETARY: Senate Bill Number 3955B, by Senator Duane, an act to amend the Workers' Compensation Law, in relation to enacting the "Protection in the Workplace Act."

THE PRESIDENT: Senator Duane.

SENATOR DUANE: Now I move to waive the reading; right?

THE PRESIDENT: You may.

SENATOR DUANE: Thank you, Madam President.

THE PRESIDENT: And it is.

SENATOR DUANE: Thank you.

I'd like to speak on the "Protection in the Workplace Act." As many of us know, violence in the workplace is becoming a growing cause for concern around our state and around the nation.

If we all look back at what the intent of the workers' compensation system was, it was to provide monetary assistance to injured workers or their survivors. However, in getting that aid, the injured party or their family gives up all rights to petition the courts for further legal redress.

Now, this works well in terms of saving the taxpayers money and the courts the time and money and expense of lengthy litigation. And it also provides an injured worker a guarantee of compensation for their injuries.

However -- and I think this is because the people who drew up the workers' comp laws were probably of the male persuasion -- it was never envisioned that rape and sexual assault or other sexual injuries would be considered to be part of a

day's work, and therefore that they could only go through the Workers' Compensation Board and that the victim of a sexual assault or a rape would not be allowed to get their day in court, particularly when the employer had been negligent in providing safety for that worker.

For instance, recently in New York City a woman was viciously assaulted and raped at her place of work. Even though the employees of the company had repeatedly complained that there was a lack of security, the employer did nothing to remedy that situation. Even the city itself had found safety violations and building violations regarding safety at the site. And still nothing was done, and a woman was viciously assaulted and raped by someone who broke into the building while she was working there.

That this victim would have to go to the workers' comp board only to get redress for her pain and suffering is an absolute outrage. The drafters of workers' comp could never envision that to have happened. We must make it possible for this woman to get her day in court. And that's exactly what this

legislation would do.

Now, remember, while my amendment would remedy this terrible injustice and allow the victim to seek remedies in court, there are protections in the bill. For instance, any insurance carrier providing workers' compensation benefits would be entitled to a lien on any damages awarded by the successful court action. So there are also protections built into the legislation.

I just also want to add that the legislation has broad-based support throughout the state. And in particular, it's also supported by the National Organization for Women, the New York City Alliance Against Sexual Assault, and the New York State Coalition Against Sexual Assault.

This is the right thing to do. If it were men who were being raped in the workplace, we would not even be having this discussion. But let's do the right thing and let's make it possible for women who have been assaulted and raped due to negligence by their employer to get their day in court.

Thank you.

THE PRESIDENT: On the motion. All those in favor of accepting the motion to discharge signify by saying aye.

SENATOR PATERSON: Party vote in the affirmative.

SENATOR SKELOS: Party vote in the negative.

THE PRESIDENT: Thank you, Senator Skelos.

The Secretary will call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 20. Nays, 36. Party vote.

THE PRESIDENT: The motion is defeated.

Senator Paterson.

SENATOR PATERSON: Madam President, I have a motion to discharge legislation I'd like to have called up.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: Senate Bill Number 6012, by Senator Paterson, an act to amend the Election Law, the Tax Law, and the Lobbying Act, in relation to providing for a

program for a "Clean Election Campaign Financing."

THE PRESIDENT: Senator Paterson.

SENATOR PATERSON: Madam President, this piece of legislation would establish a system under which candidates for governor, for comptroller, for attorney general, for the state Senate, state Assembly, and district attorney would enter into a program by which a certain number of contributions of a small denomination -- we suggest $5 -- would be accrued, guaranteeing these candidates to have public financing for these particular campaigns.

It would require that a certain number of registered voters who contribute into the system in each of our districts and in the majority of Congressional districts for statewide offices participate, and this would make individuals eligible for public financing of elections.

The possibility always exists that some would not want to enter into this system. And if that would be the case, then candidates who would actually be in the system would

receive larger amounts of money to offset the contributions made to those candidates who did not want to function within the system.

Obviously, we would want to limit campaign contributions, and we'd limit them to $1,000 per candidate and $1,000 per party, which would eliminate what we call the soft money, and would have an aggregate contribution limit for all campaigns of $25,000 per individual.

We would want these campaign contributions to come from registered voters, because we would want them to be perceivably from people who are in the process. We would not think that someone who would not want to vote would necessarily want to participate in the funding of candidates if they didn't have an interest in the actual political process itself.

That, I think, sets forth what the legislation does. I would just want to add that there's a national campaign designed to have clean money establish clean elections. We would not want there to be the negative perception that the dollar is worth more than

the vote. Certainly we live in a society right now, one of cynicism, in which elected officials are thought to be easily swayed by campaign contributions. And certainly the huge number of campaign contributions that exist and the tremendous chokehold often that lobbyists and lobbying firms have over government certainly leads to that perception.

There was a legislator from Ohio, the late Representative C.J. Parker, who once said that "You have to eat their food, drink their wine, and then vote against their bills." But that is not really the perception that the public has of us.

If we allow this amount of resources to influence the political process, then what we're saying to the voters is that they are disenfranchised and that their votes are not really equal to the value of the donations made by other individuals who might have an agenda rather than a belief.

Finally, what I think that this legislation would really bring us is a new playing field by which candidates could be heard and could be able to give their honest

and their sincere candidacy to their fellow constituents without fear that the merit or the qualifications that they bring or the ideas that they present would be lost under the avalanche of campaign contributions.

And so we think that this would make the process fair. We think that there is no issue that could be more collative in this discussion of issues here in the Senate chamber than the issue of clean money, clean elections. And so I offer this motion to discharge this legislation, to bring it onto the floor so that we can find out how my colleagues feel one way or the other, Madam President.

THE PRESIDENT: All in favor of accepting the motion to discharge signify by saying aye.

SENATOR PATERSON: Party vote in the affirmative.

SENATOR SKELOS: Party vote in the negative.

THE PRESIDENT: The Secretary will call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 20. Nays, 36. Party vote.

THE PRESIDENT: The motion is defeated.

Senator Schneiderman.

SENATOR SCHNEIDERMAN: Thank you, Madam President. I have a motion at the desk. I request that it be called up and that I be heard on the motion.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: Senate Bill Number 6965, by Senator Schneiderman, an act to amend the Workers' Compensation Law, in relation to increasing the maximum weekly benefit payable to a disabled employee.

SENATOR SCHNEIDERMAN: Thank you, Madam President -

THE PRESIDENT: Senator Schneiderman.

SENATOR SCHNEIDERMAN: -- on the motion.

This is the fourth of the bills we're seeking to discharge today. I think it is a tremendously important bill to address a

serious problem in New York State.

But before I start on the specifics of the legislation, I just want to say that all four of these bills come from the legislative agenda of the Working Families Party. This is the first year the party has submitted a legislative agenda. It's a party that only got statewide ballot status in 1998.

But I urge all of my colleagues that they will be hearing a lot more from the Working Families Party. I attended their convention yesterday, and the message they have is very powerful.

And it's a message for both the Democrats and Republicans, that we are really not addressing the needs and interests of working people in this state adequately, and that in an era when our national wealth has tripled over the last decade, yet 75 percent of the people in this country are no better off or worse off than they were, something is wrong with the system.

One of the most concrete ways in which we can get some of this new national wealth into the hands of the workers who

create the wealth is to amend the Workers' Compensation Law, and that's what this bill, this motion, would bring forward today.

New York is behind virtually every state in the country in terms of the maximum weekly benefits under workers' compensation. If a New Yorker is injured on the job so badly that he or she can't work, the most you can get is $400 per week. This is below all neighboring states, all of the rest of the industrial states. Maximum weekly benefits are $840 in New Hampshire, $764 in Connecticut, $700 in Massachusetts, $539 in New Jersey, and the list goes on and on. We're down at the very bottom of the pile.

The workers who have created all of the great wealth that is moving the stock market ever higher are just not benefitting from the boom. And for our disabled workers, whose disability benefits and workers' compensation benefits are so low, to send them a message that in this era of prosperity, when we have a great budget surplus, we can't do anything for them, is the wrong message to send.

I urge everyone to vote for this motion to discharge and to support amending the Workers' Compensation Law. It has not been dealt with for over ten years, and it's something that we really need to address this legislative session. And I urge all my colleagues to vote yes on the motion.

THE PRESIDENT: All in favor of accepting the motion to discharge signify by saying aye.

SENATOR PATERSON: Party vote in the affirmative.

SENATOR SKELOS: Party vote in the negative.

THE PRESIDENT: The Secretary will call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 20. Nays, 36. Party vote.

THE PRESIDENT: The motion is defeated.

Senator Skelos.

SENATOR SKELOS: Madam President, no further housekeeping at the desk. So there being no further business to come before the

Senate, I move we adjourn until Tuesday, March 28th, at 3:00 p.m.

And a reminder that there will be an immediate conference of the Majority.

THE PRESIDENT: There will be an immediate meeting of the Majority Conference.

On motion, the Senate stands adjourned until Tuesday, March 28th, 3:00 p.m.

(Whereupon, at 5:11 p.m., the Senate adjourned.)