NEW YORK STATE SENATE

THE STENOGRAPHIC RECORD

ALBANY, NEW YORK

March 28, 2000

3:09 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: We are honored to have with us this afternoon to give the invocation the Most Reverend Howard J. Hubbard, Bishop of the Roman Catholic Diocese of Albany.

Bishop Hubbard.

BISHOP HUBBARD: Let us pray.

O, gracious God, bless the members of the New York State Senate, who convene today with a common mission; namely, that of serving the human dignity, needs, and aspirations of all the people of our Empire State.

Enable our Senators, O God, to carry out that mission resolutely in their dialogue as they advance the common good and do so in the face of the perennial concerns

and the emerging critical issues of our troubled times.

Give them the wisdom needed to find solutions to complex issues, the integrity and courage required to do the right thing even when not politically expedient, the patience and perseverance to listen sensitively to each other and to work out compromises, the vision to grasp and comprehend the long-term effects of their deliberations and decisions, the sense of humor that will enable them to laugh with others but never at others, the humility to know their own personal limitations as well as that of government, and the trust in Your providence, O God, that will empower them to cope with the slings and arrows of the public debate.

In a special way, assist them to keep their focus on those most in need -- the poor, the powerless, the voiceless, the neglected and the forgotten -- for the measure of our society's greatness is its care for the most vulnerable of its members.

For this, we confidently pray, O faithful God, in Your name, and in praise of

Your mighty providence for Your people, You who live and reign both now and forever and ever. Amen.

THE PRESIDENT: Thank you, Your Excellency, for that very inspirational invocation.

Reading of the Journal.

THE SECRETARY: In Senate, Monday, March 27th, the Senate met pursuant to adjournment. The Journal of Friday, March 24th, 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 Lack, from the Committee on Judiciary, reports:

Senate Print 114, by Senator Skelos, an act to amend the Domestic Relations Law;

1905, by Senator Padavan, an act to amend the Real Property Law;

1910A, by Senator Meier, an act to amend the General Construction Law;

3685B, by Senator Meier, an act to amend the Domestic Relations Law;

6518, by Senator Fuschillo, an act to amend the Personal Property Law;

6885, by Senator Lack, an act to amend the Surrogate's Court Procedure Act;

And 6918, by Senator Lack, an act to amend the Estates, Powers and Trusts Law.

Senator Padavan, from the Committee on Cities, reports:

Senate Print 6789, by Senator Velella, an act to amend the Administrative Code of the City of New York;

And 6964, by Senator Padavan, an act to authorize the Dormitory Authority or the Commissioner of General Services to sell or lease.

Senator Hannon, from the Committee on Health, reports:

Senate Print 3724B, by Senator Hannon, an act to amend the Election Law;

6406, by Senator Johnson, an act to amend Chapter 572 of the Laws of 1994;

And 7042, by Senator Wright, an act to amend Chapter 640 of the Laws of 1990.

Senator Rath, from the Committee on Local Government, reports:

Senate Print 1626, by Senator LaValle, an act to amend the General Municipal Law;

1968, by Senator LaValle, an act to amend the Town Law;

2125A, by Senator Nozzolio, an act to amend the County Law;

2369, by Senator Farley, an act to amend the Real Property Tax Law;

2459, by Senator LaValle, an act to amend the General Municipal Law;

3947, by Senator McGee, an act to amend the Real Property Tax Law;

4025A, by Senator Meier, an act to amend the General Municipal Law;

4393, by Senator Stafford, an act to amend the General Municipal Law;

4647, by Senator Seward, an act to amend the Town Law;

4668, by Senator Rath, an act to amend the County Law;

4959, by Senator Maziarz, an act to amend the Town Law;

5618A, by Senator Seward, an act to legalize, validate, ratify and confirm;

5644A, by Senator DeFrancisco, an act to amend the County Law;

6314, by Senator Bonacic, an act in relation to creating the Stone Ridge Library District;

6407, by Senator LaValle, an act to amend Chapter 767 of the Laws of 1987;

6506A, by Senator Larkin, an act to amend the General Municipal Law;

And 6593, by Senator Bonacic, an act to amend Chapter 723 of the Laws of 1992.

Senator Volker, from the Committee on Codes, reports:

Senate Print 810, by Senator Maziarz, an act to amend the Penal Law;

1071, by Senator Rath, an act to amend the Penal Law;

1094, by Senator Nozzolio, an act to amend the Penal Law;

1325, by Senator Marcellino, an act to amend the Penal Law;

1397, by Senator Padavan, an act to amend the Penal Law;

1398, by Senator Padavan, an act to amend the Penal Law;

1400, by Senator Padavan, an act to amend the Penal Law;

1993, by Senator Padavan, an act to amend the Penal Law;

2531, by Senator Velella, an act to amend the Penal Law;

2678, by Senator Velella, an act to amend the Penal Law;

2790E, by Senator Marcellino, an act to amend the Penal Law;

3181, by Senator Volker, an act to amend the Penal Law;

3993, by Senator Volker, an act to amend the Penal Law;

4375A, by Senator Volker, an act to amend the Penal Law;

6758, by Senator Saland, an act to amend the Criminal Procedure Law;

And 7027, by Senator Volker, an act

to amend the Criminal Procedure Law.

Senator Trunzo, from the Committee on Transportation, reports:

Senate Print 4200, by Senator Trunzo, an act to amend the Vehicle and Traffic Law;

5988, by Senator Johnson, an act to amend the Vehicle and Traffic Law;

And 7051, by Senator Spano, an act to amend the Highway Law.

Senator Morahan, from the Committee on Veterans and Military Affairs, reports:

1710A, by Senator Farley, an act to amend the Military Law;

5929, by Senator Morahan, an act to amend the Real Property Tax Law;

6582, by Senator Stafford, an act to amend Chapter 266 of the Laws of 1981;

6938, by Senator Morahan, an act to amend the Real Property Tax Law;

And 6940, by Senator Morahan, an act to amend the Education Law.

Senator Saland, from the Committee on Children and Families, reports:

Senate Print 3812, by Senator

Saland, an act to amend the Domestic Relations Law;

6505, by Senator Saland, an act to amend the Social Services Law;

6706, by Senator Marcellino, an act to amend the Social Services Law;

6760, by Senator Saland, an act to amend Chapter 606 of the Laws of 1999;

6761, by Senator Saland, an act to amend the Family Court Act;

And 6933, by Senator Saland, an act to amend the Social Services Law.

Senator Goodman, from the Committee on Investigations, Taxation and Government Operations, reports:

Senate Print 1015, by Senator Skelos, an act to amend the Executive Law;

4659A, by Senator Volker, an act to authorize the Office of General Services;

5676A, by Senator Larkin, an act to authorize the Commissioner of the Department of Transportation;

6092, by Senator Velella, an act to amend the Tax Law;

6460, by Senator Marcellino, an act

to amend the Tax Law;

And 6975, by Senator Lack, an act to amend the Arts and Cultural Affairs Law.

Senator Nozzolio, from the Committee on Crime Victims, Crime and Correction, reports:

Senate Print 7031, by Senator Nozzolio, an act to amend Chapter 55 of the Laws of 1992;

And 7032, by Senator Nozzolio, an act to amend Chapter 887 of the Laws of 1983.

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 Bruno, we have two substitutions.

SENATOR BRUNO: Please take the substitutions up at this time, Madam President.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: On page 9, Senator Nozzolio moves to discharge, from the Committee on Commerce, Economic Development and Small Business, Assembly Bill Number 1237A and substitute it for the identical Senate Bill Number 5108A, Third Reading Calendar 158.

And on page 28, Senator McGee moves to discharge, from the Committee on Education, Assembly Bill Number 1073 and substitute it for the identical Senate Bill 7020, Third Reading Calendar 482.

THE PRESIDENT: The substitutions are ordered.

Senator Bruno.

SENATOR BRUNO: Madam President, can we at this time adopt the Resolution Calendar, with the exception of Resolution 3510.

THE PRESIDENT: All in favor of adopting the Resolution Calendar, with the exception of Resolution 3510, please signify by saying aye.

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: The Resolution Calendar is adopted.

Senator Bruno.

SENATOR BRUNO: Madam President, can we at this time take up Resolution 3510, have it read in its entirety, and move for its immediate adoption. That resolution is by Senator Farley.

THE PRESIDENT: Thank you, Senator Bruno.

The Secretary will read.

THE SECRETARY: By Senator Farley, Legislative Resolution 3510, commemorating the Bicentennial of Catholic Schools in New York State.

"WHEREAS, The State of New York takes great pride in acknowledging significant milestones in the history of its esteemed institutions; and

"WHEREAS, The New York State Catholic Conference is planning a variety of events in the year 2000 to celebrate the Bicentennial of Catholic Schools in America;

and

"WHEREAS, In 1800, members of St. Peter's Parish in New York City opened a school to meet the academic and spiritual needs of children. St. Peter's School became the forerunner of the Catholic school system, which at one time included more than 1,300 schools across the state; and

"WHEREAS, The mission of these schools is to provide strong academic programs which integrate the moral, spiritual, intellectual, social, emotional and physical development in children. These distinguished Catholic schools have also played an important role in the University of the State of New York. Catholic schools have provided a wonderful education to many New Yorkers, and have produced great leaders, responsible citizens and good neighbors; and

"WHEREAS, There are currently 857 Catholic schools serving 277,392 students in New York State, the extraordinary success of the Catholic school system is due to the incredible hard work and dedication of each school's students, staff, faculty and

administration; and

"WHEREAS, Their outstanding achievements are a considerable source of pride for the entire state; now, therefore, be it

"RESOLVED, That this Legislative Body pause in its deliberations to commemorate the Bicentennial of Catholic Schools in New York State, and to recognize their valuable contributions to this state; and it be further

"RESOLVED, That copies of this Resolution, suitably engrossed, be transmitted to the New York State Catholic Conference, the Archdiocese of New York, the Diocese of Albany, the Diocese of Brooklyn, the Diocese of Buffalo, the Diocese of Ogdensburg, the Diocese of Rochester, the Diocese of Rockville Centre, and the Diocese of Syracuse."

THE PRESIDENT: Senator Farley.

SENATOR FARLEY: Thank you, Madam President.

This is a very significant day in Albany. Today the Catholic Conference is holding its public policy forum. It's the 14th annual event of the New York State

Catholic Conference, bringing nearly 1,000 Catholics from around the state to Albany.

Catholic schools have a long history of providing educational excellence in New York State and the nation. I am a product of a Catholic school, as is our Majority Leader and many members of this chamber. They are cost-effective. They provide sound education, integrated with moral and spiritual values, to prepare our children to become competitive, responsible, and loving adults.

Students at Catholic schools represent nearly 10 percent, or nearly 300,000 of the entire student population in New York State. Minorities make up 36 percent of the Catholic school population statewide and 57 percent of the New York City Catholic schools.

If we would, Madam President, I'd like to introduce some distinguished guests that we have here on the floor, starting with my own bishop, the Bishop of Albany, Bishop Howard Hubbard, who at one time was the youngest bishop in the United States of America. Bishop Hubbard.

(Applause.)

SENATOR FARLEY: And on his right is Bishop James Moynihan from the Diocese of Syracuse. Bishop Moynihan.

(Applause.)

SENATOR FARLEY: Another fine Irishman, from the Diocese of Brooklyn, Bishop Thomas Daily.

(Applause.)

SENATOR FARLEY: Which I believe is one of the largest diocese in the See. And also the Bishop of the Diocese of Buffalo, a guy that's got a very bright future, in my judgment, Bishop Henry Mansell. Bishop Mansell.

(Applause.)

SENATOR FARLEY: We also have other distinguished leaders here with us today. On the floor with us is the Superintendent of Schools from Albany, Sister Jane Herb. Sister Jane.

(Applause.)

SENATOR FARLEY: And we also have on the floor with us Monsignor Maresca. Here he is right here, Monsignor Maresca.

(Applause.)

SENATOR FARLEY: And Father Joe Zareski. Father Joe.

(Applause.)

SENATOR FARLEY: In the gallery, in the gallery we have Sister Kathleen Murphy.

(Applause.)

SENATOR FARLEY: Superintendent of schools, Kathleen is.

And Mr. Tim Dwyer, Superintendent of Schools for the Diocese of Rochester.

(Applause.)

SENATOR FARLEY: I must add that Sister Kathleen Murphy is the Superintendent of Schools for the Diocese of Ogdensburg, where I went to school.

They won't hold that against us, Sister.

And also Sister Joanne Callahan, Superintendent of Schools for the Diocese of Rockville Centre.

(Applause.)

SENATOR FARLEY: And also, from the Diocese of Syracuse, the Superintendent of Schools, Sister Mary Anne Heenan.

(Applause.)

SENATOR FARLEY: With that, Madam President, I would ask that you extend the courtesies of the Senate.

And we're so honored and pleased to have these distinguished Catholic leaders with us here today. Thank you.

THE PRESIDENT: Thank you, Senator Farley.

As President of the Senate, on behalf of the Senate, I welcome all of our distinguished visitors this afternoon. I had the privilege and honor of speaking at your luncheon this afternoon, so I will not extol any more of the virtues of your group, as I did at noontime, but will proceed with our business.

But we are truly honored to have you with us this afternoon. We extend to you all of the courtesies of the Senate.

(Applause.)

SENATOR FARLEY: Madam President.

THE PRESIDENT: Senator Farley.

SENATOR FARLEY: The resolution is open to anyone who wants to sponsor it,

Mr. Majority Leader. Unless somebody objects, they'll all be on it, the entire Senate.

THE PRESIDENT: Anyone who does not wish to be a part of this resolution should notify the desk.

Senator Bruno.

SENATOR BRUNO: Madam President, I believe there is a privileged resolution at the desk, by Senator Oppenheimer. I would ask that it be read in its entirety and move for its immediate adoption.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: By Senator Oppenheimer, Legislative Resolution Number 3533, honoring the First, Second and Third Place Winners of New York State's U.S. Savings Bonds 2000 National Student Poster Contest.

"WHEREAS, The Department of the Treasury, United States Savings Bonds Division, annually conducts a National Student Poster Contest to show how savings bonds can help goals and dreams come true; and

"WHEREAS, The United States Savings Bonds Student Poster Contest has been designed

for our nation's schoolchildren in grades four, five, and six as a creative learning activity and has been endorsed by the nation's leading educational organizations; and

"WHEREAS, The theme for the United States Savings Bonds 2000 National Student Poster Contest, "Making Dreams a Reality," is artistically expressed in the winning poster, which will be displayed in an exhibit in Washington, D.C.

"First Place Winner, 10-year-old Benjamin Morejon, of New Rochelle, New York, is a fifth-grade student at Daniel Webster Magnet School. Second Place Winner, 11-year-old Elizabeth Chin Lew, of Brooklyn, New York, is a sixth-grade student at I.S. 239 Mark Twain. Third Place Winner, 11-year-old Lioudmila Matveeva, of Brooklyn, New York, is a sixth-grade student at I.S. 239 Mark Twain; and

"WHEREAS, Benjamin Morejon, Elizabeth Chin Lew, and Lioudmila Matveeva have brought enduring honor to their schools, their families, and their communities; awards will be given to each student in the form of

U.S. Savings Bonds for $1,000, $500, and $200 respectively.

"Contest awards have been provided by State Sponsors, Mr. Thomas Y. Hobart, Jr., President, New York State United Teachers, and Mr. Alan B. Lubin, Executive Vice President, New York State United Teachers.

"Benjamin Morejon's poster will represent New York State in the national competition, where first, second and third place national winners will receive, respectively, a $5,000, $2,000, and $1,000 U.S. Savings Bond at the National Awards Ceremony in Washington, D.C.

"Accommodations and transportation to and from Washington, D.C., will be provided for the three national winners and a parent or guardian. While in Washington, winners and a parent/guardian will be invited to tour the historic Treasury Building, the Bureau of Engraving and Printing, and the U.S. Capitol; and

"WHEREAS, It is the sense of this Legislative Body to extend its highest commendation to Benjamin Morejon, Elizabeth

Chin Lew, and Lioudmila Matveeva, who have through their efforts brought enduring honor to this great Empire State. They clearly personify that spirit of excellence which distinguishes the student body of the State of New York; now, therefore, be it

"RESOLVED, That this Legislative Body pause in its deliberations to honor the First, Second and Third Place Winners of New York State's U.S. Savings Bonds 2000 National Student Poster Contest."

THE PRESIDENT: The question is on the resolution.

SENATOR OPPENHEIMER: Madam President.

THE PRESIDENT: Senator Oppenheimer.

SENATOR OPPENHEIMER: I'd like to just say a word on the resolution.

I have had the great pleasure of meeting the family of Benjamin Morejon and meeting Benjamin. This is a wonderful family. They have five children. All five are artistically gifted. And Benjamin has just won first place in this contest, which is of

no small importance both artistically and monetarily, because his first prize win is a thousand dollars.

And if he continues, he will be going on to meet the first place winner from the other 49 states. And if he wins there, of course it will bring great, great honor to New York State and, as well, a very nice monetary as well as artistic recognition of Benjamin.

But this has just been a wonderful experience for me. And Benjamin, who is so wonderfully gifted, I know has a brilliant future. And if he helps us sell more U.S. Savings Bonds, that will be a blessing for all of us.

Congratulations to Benjamin, and we'll recognize you in a moment.

THE PRESIDENT: Senator Lachman.

SENATOR LACHMAN: Yes, I would like to echo Senator Oppenheimer's statement and bring to the attention of the chamber that not only are these youngsters outstanding artists and outstanding students, the second and third winners come from one particular school. And that's Mark Twain Junior High

School in Coney Island.

And all three have something else in common. The second and third winners are children who emigrated a few years ago, one from Hong Kong and the other one from the former Soviet Union. And the premier, number-one winner is a child of immigrants whose parents came from Korea and Cuba.

This is the greatness of America, the children of immigrants and immigrants blending into the society and becoming leaders of today and tomorrow.

We congratulate you all from the bottom of our hearts. Thank you kindly.

(Applause.)

THE PRESIDENT: Senator Oppenheimer.

SENATOR OPPENHEIMER: Thank you, Madam President.

I omitted one thing which was very important also, which is that this also is the son of immigrant parents. The father comes from Cuba -- Cuba -- and the mother comes from Korea. And it's a wonderful amalgam, which is really what our country is all about.

THE PRESIDENT: The question is on Resolutions 3510 and 3533. All in favor signify by saying aye.

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: The resolutions are both adopted.

Senator Bruno.

SENATOR BRUNO: Madam President, can we at this time take up the noncontroversial calendar.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: Calendar Number 41, by Senator Alesi, Senate Print 3483A, an act to amend the Economic Development Law and others, in relation to program reporting and evaluation requirements.

THE PRESIDENT: Read the last section.

THE SECRETARY: Section 24. This act shall take effect immediately.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 159, by Senator Maziarz, Senate Print 5180A, an act to amend the State Administrative Procedure Act, in relation to establishing small business compliance guides.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 264, by Senator Volker, Senate Print 6225, an act to amend the Criminal Procedure Law, in relation to written instructions to grand jurors.

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, 57.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 320, by Senator Kuhl, Senate Print 1273, an act to amend the New York State Urban Development Corporation Act and others, in relation to food processor economic development assistance.

THE PRESIDENT: Read the last section.

THE SECRETARY: Section 6. This act shall take effect immediately.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 406, by Senator Spano, Senate Print 1259, an act to amend the Penal Law, in relation to the

crime of criminal employment.

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, 57.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 414, by Senator Johnson, Senate Print 2401 -

SENATOR DOLLINGER: Lay it aside.

THE PRESIDENT: The bill is laid aside.

THE SECRETARY: Calendar Number 415, by Senator Velella, Senate Print 2413, an act to amend the Penal Law, in relation to loitering in the first degree.

THE PRESIDENT: Read the last section.

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

SENATOR MONTGOMERY: Lay it

aside.

THE PRESIDENT: The bill is laid aside.

THE SECRETARY: Calendar Number 417, by Senator Volker, Senate Print -

SENATOR CONNOR: Lay it aside.

THE PRESIDENT: The bill is laid aside.

THE SECRETARY: Calendar Number 440, by Senator Nozzolio, Senate Print 3781, an act to amend the Correction Law, in relation to inmate use of controlled substances and marijuana.

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, 55. Nays, 3. Senators Duane, Montgomery, and Sampson recorded in the negative.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number

449, by Senator Saland, Senate Print 1013A, an act to amend the Family Court Act, in relation to extensions of child placement.

THE PRESIDENT: Read the last section.

THE SECRETARY: Section 2. This act shall take effect on the 90th day.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 455, by Senator LaValle, Senate Print 2854A, an act to establish the Eastport Volunteer Exempt Firefighters Benevolent Association.

THE PRESIDENT: 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, 58.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 456, by Senator LaValle, Senate Print 2855A, an act to establish the Island Volunteer Exempt Firefighters Benevolent Association.

THE PRESIDENT: 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, 58.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 457, by Senator Rath, Senate Print 4205, an act to amend the General Municipal Law, in relation to compensation.

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, 58.

THE PRESIDENT: The bill is

passed.

THE SECRETARY: Calendar Number 480, by Senator Bonacic, Senate Print 6711, an act in relation to legalizing, validating, ratifying and confirming actions.

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: Ayes, 58.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 482, substituted earlier today by Member of the Assembly Parment, Assembly Print Number 1073, an act to amend a chapter of the laws of 2000.

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, 58.

THE PRESIDENT: The bill is passed.

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

SENATOR VELELLA: Can we take up the controversial calendar at this time.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: Calendar Number 414, by Senator Johnson, Senate Print 2401, an act to amend the Penal Law, in relation to including sales of controlled substances.

SENATOR PATERSON: Explanation, please.

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

SENATOR JOHNSON: Madam President, this amends the felony murder statute to provide, as it is for already robbery, aggravated sexual abuse, rape, and all the other -- burglary, kidnapping. If those things happen now and a death results, the person involved in this act can be charged with the death.

We're including in here criminal sale of a controlled substance in the fifth degree, fourth degree, third, second, and first degree, or school -- or sale of drugs on the school grounds.

And we do this for -- one reason is that one-quarter of the gun deaths in New York City alone are committed -- are caused during the commission of a drug-dealing episode. So in order to avoid that, we're going to let drug dealers know that they might be charged with a death if a death results during a shootout or some other crime committed at the time they're doing that drug deal.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Those recorded in the negative on Calendar Number 414 are Senators Duane, Montgomery, Sampson, Schneiderman, and Smith. Ayes, 53. Nays, 5.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 415, by Senator Velella, Senate Print 2413, an act to amend the Penal Law, in relation to loitering in the first degree.

SENATOR MONTGOMERY: Explanation.

THE PRESIDENT: Senator Velella, Senator Montgomery has asked for an explanation.

SENATOR VELELLA: Yes, Madam President.

This bill was introduced at the request of the Bronx district attorney. It has passed this house, I believe, once or twice before. Unfortunately, it hasn't been passed by the Assembly.

But District Attorney Johnson feels it's important for him to have in his fight against crime in the Bronx and it's important for other DAs across the state to have in their fight against crime.

Under the current law, at times the prosecution of antidrug loitering laws can be very difficult for a prosecutor. This bill

would allow the application of a wider range of illegal activities. It expands the definition of loitering in the first degree and defines loitering in the first degree to include repeatedly stopping or attempting to stop, interfering with the free passage of any other person, repeated attempts to engage other persons in conversation, or repeatedly stopping a motor vehicle for the purpose of selling or using controlled substances.

Additionally, this bill would include marijuana as a controlled substance for this purpose.

And this is written by a very capable staff, one of our colleagues in government, Bob Johnson, who prosecutes crime and is a fearless crime fighter. And I'm sure it will get the support of the entire Minority.

THE PRESIDENT: Senator Montgomery.

SENATOR MONTGOMERY: Yes, Madam President. Would the sponsor of the bill, Senator Velella, yield to a question from me?

SENATOR VELELLA: Certainly,

Senator.

THE PRESIDENT: Senator Velella yields to a question. Go ahead, Senator Montgomery.

SENATOR MONTGOMERY: Okay, thank you.

Now, Senator Velella, you know that one of the issues that we have, particularly as it relates to the corrections, overcrowding in corrections, is that a large number of the inmates in there are in fact mentally ill.

SENATOR VELELLA: A lot of the inmates are what?

SENATOR MONTGOMERY: Mentally ill. In addition -

SENATOR VELELLA: If you say so, Senator.

SENATOR MONTGOMERY: Yes, I say so.

Now, the bill, as I'm looking at it, talks about an individual, so that an individual acting all alone who is considered loitering and participating in this activity, he is possessing marijuana. And I'm assuming that he is trying to get you to smoke a

marijuana with him? I'm not absolutely clear based on the language in your bill.

But let's just assume that you want to now arrest someone. And they are acting all alone, they're considered now loitering, they are -- they have some marijuana that I'm assuming is not enough to qualify them for a felony arrest.

So now, even if that person is mentally ill, which is very often the case, apparently, with these situations, that we can now arrest him under your legislation. Is that where we're going? In other words, this is a minor activity.

SENATOR VELELLA: Senator, your supposition is so phrased with "I assume" and "maybe" and "possibly," I have to answer in one word. No.

But if you would ask me some specific questions, I'll give you specific answers. The intent here is to punish the person who interferes with a law-abiding citizen, is out there annoying a law-abiding citizen for the purpose of using or possessing marijuana or any other controlled substance.

This is a quality-of-life issue that affects the people in the city of New York and in the state, but more dominantly in the city of New York, where people are constantly harassing the public, whether it be for the purpose of smoking with them, as you say, as a possibility, or for the purpose of soliciting whether or not they would be interested in buying or selling, whatever the case may be.

The district attorney of Bronx County feels this is a tool that's necessary for him to fight crime effectively. And I support his attempt to address the laws that we have written in a vague way and tighten them up so that people who do these things and offend honest, everyday citizens can be punished.

We are not putting them in jail as a felony on this. It's a B misdemeanor, the lowest that we can do. But, you know, repeated offenses will elevate it.

But people have to get a message that not only do they have a right to be on the streets and do as they please, but there

is a right of the general public not to be annoyed by these people, not to be annoyed by these people who want to use drugs, marijuana, other controlled substances. People who are there with their children, with their dates, with their family, they ought not to be harassed by these people. And police officers need the tools to stop them. This is the way to do it.

SENATOR MONTGOMERY: All right. Thank you.

Madam President, briefly on the bill.

THE PRESIDENT: Senator Montgomery -

SENATOR MONTGOMERY: I -

THE PRESIDENT: -- on the bill.

Senator, if you would wait until I finish my sentences, please. Go ahead, Senator, on the bill.

SENATOR MONTGOMERY: Okay. Madam President, on the bill.

I will be voting against this. I think that, one, this does not exempt a person who is mentally ill from being, in fact,

stopped and arrested under this legislation. And it does not offer an alternative treatment for a person who is found to be mentally ill rather than having criminal intent.

The other issue is I think that this reinforces the problem that we have with police stopping people based on a stereotyped idea of what their activities appear to be.

So we certainly do not want to in any way -- I don't think any of us wants to -

THE PRESIDENT: Senator Velella, why do you rise?

SENATOR VELELLA: Would Senator Montgomery yield to a question?

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

SENATOR MONTGOMERY: Yes, Madam President. Let me just finish my statement.

We do not want to play into -

THE PRESIDENT: Then you do not yield at this time, Senator Montgomery?

SENATOR MONTGOMERY: I will yield -

THE PRESIDENT: You may proceed, Senator. If I may finish my sentences,

please.

You may proceed. Go ahead.

SENATOR MONTGOMERY: I will gladly yield, but I just wanted to complete my -

THE PRESIDENT: Then you do not yield at this time. You may proceed, Senator Montgomery.

SENATOR MONTGOMERY: I think that we certainly do not want to play into the problem that we now have in the city of New York where the police and the community have this extreme divide around the issue of profiling of certain people -- profiling of young people, profiling of young African-American males, profiling of people who are mentally ill.

We don't want to play into that problem. So that is, I think, a valid reason for voting against this legislation, Madam President.

I certainly am happy to yield for Senator Velella's question.

THE PRESIDENT: Senator Velella.

SENATOR VELELLA: Senator, you

are aware of the fact that Robert Johnson is an African-American male? And you feel he wrote this bill and asked me to sponsor it to persecute young Afro-American males?

SENATOR MONTGOMERY: Madam President, in answer to that, I certainly do understand that the -- the -- Mr. Johnson, despite the fact that he is African-American himself, I don't believe that his intent would be to reinforce racial stereotyping and profiling.

But I believe, and I certainly disagree with this legislation that -- because I believe that it certainly does do exactly that. So whether or not DA Johnson understands it, I understand it to be a problem. Because ultimately, in the end, it's going to work against his interests and mine, and certainly, I think, all of us in the city who have this as a big issue and problem as it relates to policing in the city of New York.

So yes, I do disagree with DA Johnson, and I will be voting against this legislation.

THE PRESIDENT: Read the last

section.

Senator Paterson.

SENATOR PATERSON: Madam President, I just want to thank Senator Montgomery for that, I thought, very thought-out statement that needs no further amplification, but probably needs to be stated and stated over and over again until it's completely understood.

There have been many times as an African-American myself who worked in law enforcement, I would have to say that over the years I've learned a lot about what I may have believed at the time that I was a prosecutor, some 15 years ago -- that quite often it does not relate to the color of the individuals who are putting forth the law if the individuals do not understand the deleterious effect that it has on great numbers of people from different communities and different neighborhoods.

And the fact that sometimes those people resemble the same individuals who the legislation will negatively affect is not something new, it's something that happens all

the time and is something that is not related to color as much as it's to a lack of understanding.

And so I think Senator Montgomery pointed that out very clearly, and I thank her for raising it at this time.

THE PRESIDENT: Senator Duane.

SENATOR DUANE: Thank you, Madam President, if I may speak on the bill.

I just want to note for the record that there are many bills written by Caucasians which I don't agree with, and there are many bills written by Caucasians that I do agree with. I also want to echo in the strongest possible terms the comments of my colleague Senator Montgomery on this issue.

And I also want to raise an issue that cuts very close to my heart, and to put it in a historical perspective. In addition to how loitering is used against various groups based on race and ethnicity in general -- and historically, loitering laws were used against virtually every ethnic group that came to the state of New York - loitering is also a charge which is very, very

often used against members of the gay community.

Loitering is a red flag to the gay community because whether it's an African-American gay man or a Caucasian gay man, oftentimes law enforcement and DAs would use loitering laws to prosecute and discriminate against gay people.

So I would encourage my colleagues to take a close look at how it is that loitering is used. Of course, I don't mean to imply malice towards all members of law enforcement or DAs in terms of how they use loitering laws. But I think we also have to be very sensitive to how loitering laws can be misused by people who are not as scrupulous as, for instance, DA Johnson is.

Thank you, Madam President.

THE PRESIDENT: Read the last section.

Senator Velella.

SENATOR VELELLA: In closing on the bill, I would point out to my colleagues that the law is already there to fight loitering. This bill merely changes it from

having to have the necessity of two or more people and says that one person can be loitering, and when they do it for these purposes, makes it a B misdemeanor.

There is nothing in this bill that would change any other body of law, as Senator Montgomery was concerned about, whether or not a person has a mental defect. If they committed any other crime, they would be put into a system -- the same as with this bill if they violated it -- that would deal with their mental illness. So that anybody who commits this crime, if they have a mental defect or have a mental problem, they would be treated as if they committed any other crime.

I think we have to make the statement that honest, law-abiding citizens need to be protected against people who loiter for purposes of using, selling and -- and using drugs. And distributing drugs.

This bill goes a long way to doing it, and I think the district attorneys of the State of New York are very supportive of it, and I think it deserves the vote of everybody in the chamber.

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: Those recorded in the negative on Calendar Number 415 are Senators Duane, Montgomery, Paterson, Sampson, and Smith.

Ayes, 53. Nays, 5.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 417, by Senator Volker, Senate Print 3106A, an act to amend the Penal Law.

SENATOR VOLKER: Lay the bill aside.

THE PRESIDENT: The bill is laid aside.

Senator Velella, that completes -

SENATOR VELELLA: That bill will be laid aside for the day?

THE PRESIDENT: Senator, could

I -- pardon me?

SENATOR VELELLA: That bill will be laid aside for the day at the request of the sponsor. We'll take it up tomorrow.

THE PRESIDENT: Yes. That bill is laid aside just for the day, Senator Velella.

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

SENATOR VELELLA: Is there any housekeeping at the desk?

THE PRESIDENT: No, Senator.

SENATOR VELELLA: The Senate will stand at ease for a moment.

THE PRESIDENT: The Senate stands at ease.

(Whereupon, the Senate stood at ease at 3:56 p.m.)

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

ACTING PRESIDENT MARCELLINO: Senator Velella.

SENATOR VELELLA: Mr. President, there will be an immediate meeting of the Majority in the Majority Conference Room.

The Senate will stand at ease.

ACTING PRESIDENT MARCELLINO: There will be an immediate meeting of the Majority in the Majority Conference Room, Room 332.

The Senate will stand at ease.

Senator Paterson.

SENATOR PATERSON: Mr. President, do we have any idea how long this conference is going to be? Because, you know, we have a session out here. We're trying to have an on-time budget. And I don't see any reason for any delay.

ACTING PRESIDENT MARCELLINO: Senator Paterson, the session of the conference will take as long as it has to. We have not been informed of a time frame.

And I would suggest, if you want an on-time budget, you talk to Sheldon Silver.

Senate will be in recess.

SENATOR DOLLINGER: Mr. President -- Mr. President, I don't know why we're interrupting the normal session of the session for the conference. There are motions to discharge. Usually, in the customary

practice of this body, the -

SENATOR VELELLA: Mr. President, I believe you adjourned the session. I believe you adjourned the session.

There will be an immediate conference of the Majority in the Majority Conference Room.

ACTING PRESIDENT MARCELLINO: The session has not been adjourned. The session has been called to at ease.

We've been asked to go for a Majority conference. We will do that. We will reconvene after the conference, and we'll proceed with whatever is left, whatever the order of business is that is left.

Session is at ease. You're simply delaying the length.

SENATOR PATERSON: Mr. President, may I call an immediate conference -- may I call an immediate conference of the Minority in the Minority Conference Room.

ACTING PRESIDENT MARCELLINO: Yes, you may, sir.

There will be an immediate conference of the Minority in the Minority

Conference Room. That is Number 314, I believe.

SENATOR PATERSON: That is Number 314.

ACTING PRESIDENT MARCELLINO: Thank you. Room 314, Minority conference.

SENATOR PATERSON: A room of democracy, Mr. President.

ACTING PRESIDENT MARCELLINO: The Senate stands at ease.

(Whereupon, the Senate stood at ease at 4:05 p.m.)

(Whereupon, the Senate reconvened at 5:00 p.m.)

THE PRESIDENT: The Senate will come to order.

Senator Stafford.

SENATOR STAFFORD: Thank you, Madam President.

Would you please recognize Senator Schneiderman for a motion to discharge, please.

THE PRESIDENT: Senator Schneiderman.

SENATOR SCHNEIDERMAN: Thank you,

Madam President. I believe that there is a motion at the desk. I'd like to ask that it be called up at this time.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: By Senator Schneiderman, Senate Print 6912, an act to amend the Penal Law, the General Business Law, and the Education Law, in relation to criminally negligent storage.

SENATOR SCHNEIDERMAN: Thank you, Madam President. If I may proceed on the motion.

This is a motion, the first of a series of ten motions to bring to the floor our package of gun safety legislation. I'm sorry that we were delayed here, but gun safety legislation has been delayed in New York State for years and years, so a delay of another hour really is not a problem for those of us on this side of the aisle who are seeking to address this situation.

It is time for us to do something about the problem of guns in this state. There are laws we know are effective. Every

one of the bills we are about to make a motion to discharge on has passed the New York State Assembly. The Assembly has been there for years.

And the first bill that I'm moving to discharge today has passed the Assembly for seven years. It is a child access prevention law that will save the lives of children in New York State. This law goes beyond what the Governor recently proposed by way of trigger locks to impose criminal liability on grown-ups who don't safely store guns that then get into the hands of children.

Seventeen states have child access prevention laws. And in those 17 states, deaths caused by handguns to children have fallen since those laws have been in effect. We know they work.

Between 1989 and 1994, homicide deaths of young people declined, but homicide deaths from firearms increased 222 percent. We know guns are killing our children. It's projected that the leading cause of death of young people in this country in a few years is going to be gun injuries, not cars. This is a

disgrace. It is a national disgrace. But it's something we can do something about. We have to join the 17 states that have addressed this issue.

The bill is a very straightforward bill. It's something that is tested, it's something that has been through all the scrutiny you can get in every one of the states that's passed it. It's time to move on this and all the bills we will bring to the floor today.

We can't delay, we can't hide, we can't avoid the issue. We have to do something about guns this year. The Governor has opened the door, but we have to go through that door in the Senate. And it's time for this house to step up and do something about guns.

I move that the bill be discharged, and I urge everyone to vote for this motion to bring a child access prevention law to the floor and pass it today.

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

SENATOR PATERSON: Party vote in the affirmative.

SENATOR STAFFORD: Party vote in the negative.

THE PRESIDENT: Thank you, Senator.

The Secretary will call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 22. Nays, 36. Party vote.

THE PRESIDENT: Senator Dollinger.

SENATOR DOLLINGER: Thank you, Madam President. I believe there's a motion at the desk. I ask that it be considered by the house.

THE PRESIDENT: The motion is defeated.

Senator Dollinger.

SENATOR DOLLINGER: Was that is mine or Senator Schneiderman's?

(Laughter.)

THE PRESIDENT: No comment.

SENATOR DOLLINGER: Madam President, is the motion before the house?

THE PRESIDENT: The Secretary will read.

THE SECRETARY: By Senator Dollinger, Senate Bill Number 6903, an act enacting the "Assault Weapon Prohibition and Licensing Act of 2000."

THE PRESIDENT: Senator Dollinger.

SENATOR DOLLINGER: Madam President, may I be heard on the motion?

THE PRESIDENT: You may proceed.

SENATOR DOLLINGER: Thank you.

Senator Schneiderman made reference to waiting. And I came to this house in 1993. And on January 17th, 1994, the Governor of the State of New York called us into special session to do one thing, one thing and one thing alone: to pass a ban on assault weapons. To take a certain type of weapon that has no place in our society and in our neighborhoods, in our community, and send a clear message that those weapons would be outlawed in this state or, if they were used for target purposes, that they would then be licensed by the State of New York.

That was 2,264 days ago. Senator Stafford may recall, I'm the guy who came into the chamber and put the "Day 1" placard on my desk and refused to remove it. It was eventually removed by the Sergeant-at-Arms because that notice violated the rules of the Senate.

Well, in my heart that number is now 2,264. We've waited that long already. I daresay that more than a million New Yorkers have been born since the time we had a chance to put assault weapon legislation on the books. 2,264 days ago. Let's put this to an end. Let's stop this love affair with weapons that have no place in our neighborhoods, no place anywheres near our schools, no place anywheres near our homes.

Let's put an end to it now. This bill will ban assault weapons. This bill will send a message to the kids in our schools that the word "Glock" and the word "Beretta" have no place in their vocabulary, much less in the lunch bag of their fellow students.

It's that simple. If you want to do something about guns, let's start here.

The Assembly has passed this message before, this bill before. If you think there's a flaw in this bill, let's put it out to a joint conference committee. Let's join hands with the Governor, join hands with the Assembly.

And if this bill isn't the right solution, we can come up with one that's close to it. But one that sends a clear message to children, that sends a clear message to adults that these types of weapons have no place at all in our society.

Not one other person in this country should die at the hands of an assault weapon. And we can send that message today that it will never happen again. Let's start now -- not, as we should have started, 2,264 days ago, when we should have done this for the first time.

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

SENATOR PATERSON: Party vote in the affirmative.

SENATOR STAFFORD: Party vote in the negative.

THE PRESIDENT: The Secretary will call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 21. Nays, 37. Party vote with exceptions.

THE PRESIDENT: The motion is defeated.

Senator Dollinger.

SENATOR DOLLINGER: Madam President, I believe there's also another motion filed on my behalf at the desk. I'd ask that I be heard on the motion.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: By Senator Dollinger, Senate Bill Number 6904, an act to amend the Penal Law, the Family Court Act, and the Criminal Procedure Law, in relation to banning the sale.

THE PRESIDENT: Senator Dollinger.

SENATOR DOLLINGER: Thank you, Madam President.

This is much simpler than the bill that just was unacceptable to the house. This

is very, very simple. This says that there are certain types of weapons called .50-caliber weapons, .50 caliber. These are the kinds of weapons that were on PT boats in the Second World War. These are the kinds of weapons that are exclusively used by the military.

In a discouraging fact, 2800 of these weapons were manufactured in the United States and sold domestically. There are probably only a couple of hundred in New York. But why anybody needs a .50-caliber weapon in this state is absolutely beyond me.

This is an easy line to draw. This is a simple, simple, straight line to draw. Let's ban .50-caliber weapons. Let's tell people that you can't have them in your homes, you can't have them in your neighborhoods, you can't have them near our schools. They're too dangerous for anyone to have.

This bill is very simple. I urge that the house bring this bill forward, that we have a debate on the merits by granting this motion to discharge.

THE PRESIDENT: All in favor of

accepting the motion to discharge signify by saying aye.

SENATOR PATERSON: Party vote in the affirmative.

SENATOR STAFFORD: Party vote in the negative.

THE PRESIDENT: The Secretary will call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 22. Nays, 36. Party vote.

THE PRESIDENT: The motion is defeated.

Senator Dollinger.

SENATOR DOLLINGER: Madam President, there's an additional motion filed at the desk. I'd ask that I be heard on it.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: By Senator Dollinger, Senate Print Number 6905, an act in relation to dangerous firearms.

SENATOR DOLLINGER: May I be heard on it, Madam President?

THE PRESIDENT: Senator

Dollinger, you may proceed.

SENATOR DOLLINGER: Thank you, Madam President.

Assault weapons, I guess they're okay. .50-caliber weapons, I guess they're okay too. Now the question is, what about Saturday night specials? What about those junk guns that people produce, modify on their own, that they assemble from kits, they can buy over the Internet or they can buy through warehouses using 800 numbers?

What about junk guns? These are guns that aren't even manufactured by reputable manufacturers. They're assembled by kits in people's homes. They're modified by people in their homes.

All this bill asks is that this state conduct a study of junk guns and that we commit ourselves to eliminating junk guns from the marketplace. And that we give the power to the State Police to conduct a task force to study junk guns, figure out what guns fall in that category, and that we ban them completely.

Let's send a message to kids that

they ought to be doing their homework on the Internet, they ought to be doing their term papers on the Internet, and not figuring out a way that they can assemble their home-made Saturday night special.

That's not what we want to be teaching our children. We shouldn't be allowing our adults to do it either. Let's send a clear message that we're voting against junk guns by bringing this motion to the floor.

Thank you, Madam President.

THE PRESIDENT: All in favor of accepting the motion -- Senator Markowitz, I believe you wish to be heard. Go ahead.

SENATOR MARKOWITZ: Thank you very, very much.

Senator Dollinger, I want to commend you on all of this, but certainly this one especially.

And I want to urge, I -- I'm noticing silence. It's unbelievable. This is so important, it's so important, especially in urban areas of New York -- and, regrettably, increasingly, in the suburban areas of New

York as well. Quiet, just silence. I can hear it a pin drop here. And I don't understand what the strategy is tonight. I don't understand.

But one thing I do know. Reasonable people have to look at this motion. This particular motion, our young people can readily purchase one of these Saturday night specials easier than you can go to a convenience store after 10 o'clock at night in some areas to pick up a quart of milk.

This is no joke. This is for real. These guns are getting into the hands of immature young people -- it's in their hands already -- who have not been taught to resolve conflicts by mediation and talking it through, but, because they emulate what they see - unfortunately, in our neighborhoods too often, or on TV or in the movies -- feel the way to resolve a conflict over a girlfriend or over a side of the street with drugs is to go out and purchase, for 40 or 50 bucks, one of these guns and then shoot away.

And I can assure you that neighborhood to neighborhood, even with our

crime rates down, this is still a burning issue going to the future of the children in our society. We shouldn't have to have a motion to discharge.

My colleagues, those of you who don't represent inner-city communities, judging from the statistics I see, the impact of these types of guns in your area are there, and increasingly so.

This is the time. Years ago was the time. There's still time to pass this type of legislation and make it as impossible as possible for our young people to get these guns and to cause havoc and death upon each other.

Senator Dollinger, thank you for doing this tonight.

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

SENATOR PATERSON: Party vote in the affirmative.

SENATOR STAFFORD: Party vote in the negative.

THE PRESIDENT: The Secretary

will call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 22. Nays, 36. Party vote.

THE PRESIDENT: The motion is defeated.

Senator Gentile.

SENATOR GENTILE: Madam President, I have a motion at the desk. I'd ask that reading be waived and you allow me to explain.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: By Senator Gentile, Senate Print Number 6906, an act to amend the Executive Law and the State Finance Law, in relation to establishing.

THE PRESIDENT: Senator Gentile.

SENATOR GENTILE: Thank you, Madam President.

I bring to the floor tonight a law enforcement bill, a bill that would create a gun tracing and interdiction program for illegal weapons here in the State of New York.

Such a program, such a program that

existed in Colorado allowed the federal authorities to identify the source of the semiautomatic weapons used by the Columbine gunmen. That was the same, a similar program to the bill which I bring to the Senate's attention this evening.

You know, the gun trade follows a pattern. Gun manufacturers sell legal weapons to gun dealers. Gun dealers in turn sell to purchasers -- and some purchasers who intend, in turn, to sell the guns illegally. The choke point, the choke point for the illegal weapons trade is that point where the gun is sold from a legal purchaser to an illegal one. And that's where we have to focus our law enforcement attention.

And indeed, indeed, getting to that choke point is what will help us take the illegal guns off the street and to prosecute those who engage in the illegal trafficking of guns in this state.

This bill would establish a permanent and funded gun-trafficking interdiction program for prosecutors across the state. It's designed to interdict illegal

guns from entering communities within the state and would establish a gun tracing program along with the Bureau of Alcohol, Tobacco and Firearms.

And as I've said, most illegal guns in New York have been originally purchased elsewhere, not within the state of New York. According to a 1996 figure from the Bureau of Alcohol, Tobacco and Firearms, five states continually head the list of states which send the most guns used in crimes in the state of New York. Those states include Virginia, Florida, South Carolina, North Carolina, and Georgia.

Those statistics demonstrate the need that we have as a state to provide funding to district attorneys' offices all throughout our state to improve their gun interdiction programs, their confiscation and their prosecution efforts, through a gun-trafficking interdiction program that we establish on the state level.

As part of this program, the Bureau of Alcohol, Tobacco and Firearms will trace the source of illegal weapons used in crimes.

And the State Police would be required, under this bill, to establish and create a central clearinghouse of information to identify gun-crime trends and to assist district attorneys in this state and the police in this state in successfully prosecuting the illegal gun traffickers.

As I said, the good news is that we can trace and we can interdict illegal guns. It has been shown to happen in Columbine and in the Midwest. This bill creates an investigative tool for police. This bill is a prosecution bill. This bill is a tool that will help law enforcement and is a bill that does not affect legal gun owners in any way, shape or form. Legal gun owners are not affected in any way by this bill.

So the time is now. The time is now for New York State to have a gun trafficking and an interdiction program. The eyes and the hopes of the people of the state of New York are on this chamber. The eyes of parents who had their sons and daughters killed. Some of them that I spoke to this morning are in this chamber watching every

single one of us and what we do with this bill today.

And it's incomprehensible that I see what I see with my eyes is almost an empty chamber on the other side. It's almost incomprehensible that there will be a party vote in the negative in this regard. And I said almost. I see you, Senator Kuhl.

Certainly, certainly it's incomprehensible that anything other than a vote in the affirmative on this bill would be in order. Madam President, this is a commonsense law enforcement bill. I urge a vote in the affirmative for the gun tracing and interdiction program.

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

SENATOR PATERSON: Party vote in the affirmative.

SENATOR STAFFORD: Party vote in the negative.

THE PRESIDENT: The Secretary will call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 22. Nays, 36. Party vote.

THE PRESIDENT: The motion is defeated.

Senator Hevesi.

SENATOR HEVESI: Thank you, Madam President. I believe there's a motion at the desk. I'd like to call it up.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: By Senator Hevesi, Senate Print Number 6907, an act to amend the Penal Law, the Education Law, and the State Finance Law, in relation to firearm licenses.

THE PRESIDENT: Senator Hevesi.

SENATOR HEVESI: Thank you, Madam President.

Let me begin by commending Senator Schneiderman for his leadership on this issue, his protracted leadership on this issue, because he has been advocating for the commonsense legislation that is before us today for quite some time.

And I suspect, because of the

party-line votes in the negative, we are going to be back in this position, and we will be able to look to Senator Schneiderman for his continued leadership on this issue.

We just heard from Senator Gentile talking about gun tracing and interdiction. And as I'm listening to him, I'm thinking to myself, he has highlighted for us the reason why we're here today, or the failures of a system that mandate that we be here today. All this is not necessary. It's not necessary. It shouldn't be necessary. Because the federal government should have long ago taken this issue out of the hands of individual states to be as lax as they want in enforcing gun control legislations.

And I don't know where every member of this house comes down on issues of federalism. But if you at all believe that one state has the right to have tough gun-control legislation to protect its citizenry, then you must recognize the inherent logic that if you preclude other states from enacting it as a consequence of their own electoral or political inabilities,

then you have taken each individual state and said, You can't do effective gun-control legislation, because we're not going to do it for North Carolina, we're not going to do it for Alabama, so you can go ahead in New York and do whatever you want.

And we have in New York City the toughest gun-control laws, probably anywhere, and we have one of the biggest problems with guns. You can't just do it for New York State and not do it for other states. It doesn't make sense. It's ludicrous.

But at the same time, we would be abdicating our responsibility if we didn't do everything we can in the state of New York to ensure that our children and our citizens are protected. So in that vein, we've got ten commonsense pieces of legislation here today, one of which I am sponsoring and I think will go a long way to protecting the citizens of our state, even though this could be done at a much more prudent level by the federal government.

So I am the sponsor of Senate 6907, which has two main components. The first

would require that gun licenses be renewable every five years. They are not currently renewable at all except in the City of New York and in Nassau and Suffolk and Westchester counties.

This legislation would mandate that gun licenses be renewable, but only for pistols, only for short guns.

There's another failure in trying to address this problem that we haven't even spoken of, which is the fact that I as a citizen of Queens County can get in my car and drive 20 minutes to Nassau County and buy a rifle or a shotgun with no background check. I could be a criminal; nobody checks it out. I could be a fugitive from justice. I could be mentally incompetent. There's no check, there's no licensing, there's no gun tracing, there's no fingerprinting, there's no nothing. There's no waiting period, there's no cooling-off period. And I can drive back to Queens and commit a crime with it.

The only thing I have to do is fill out an ATF form where I certify that I am not a criminal, I am not a fugitive, what have

you.

This is our tough gun control in New York State. So at the very least, if you're going to have a pistol, it should be renewable every five years. And that's what this legislation does, except we don't now require, under this bill, that the City of New York would have to lower its standard of three years. That would remain.

And the second main provision of this bill that we're moving on a motion to discharge is extraordinarily commonsensical. It says that if you're going to have a firearm license, you have to have a safety course. You have to take a safety course as a prerequisite. That's all. Eight-to-12-hour course, and DCJS comes up with the course in conjunction with the State Police.

And then, if we had that, you would have an analogous situation with a driver's license. Right now in the state of New York, you want to drive an automobile, you have to take a written test and then you have to take a test on the road, an actual test. But you can go out and you can buy a rifle or a

shotgun with no test at all, or you can get a permit for a pistol with no firearm training whatsoever. It just doesn't make sense.

Not a panacea, not going to solve our problems, this bill -- all of the bills collectively in front of us. Not going to, you know, take care of this problem in its entirety. It will go some way in doing it. We need comprehensive federal legislation. But that doesn't mean you don't go ahead and do these commonsense bills here today. You don't do it -- we're failing that we don't do this. I don't know why we don't do it.

And it's so frustrating when you hear the National Rifle Association take their extremist position that they're against everything. Everything. There's nothing that they aren't against. And when you do that, you lose all credibility with this ridiculous notion that if one piece of gun legislation passes, no matter how innocuous it is, that there's going to be a domino effect that cripples the right of individuals who are residents of the United States to bear arms.

I don't know about all of my

colleagues on this side of the aisle, but I don't want to do that. I believe that gun ownership is something that can happen. You can facilitate it, but you have to do it in a responsible way. You've got to be a certain age. You shouldn't be a criminal. There should be a safety course. You should be licensed. To the extent that you could trace weapons, there should be registration. And you've got to do all these things.

And then you have the NRA step in and say that we're against everything, we'll do nothing, and hold hostage the entire country. We're hostage here in New York, because the federal government doesn't pass legislation to protect us from the failures of other states that will make guns come into this state and hurt our citizens.

And we fail too, because those states can make the same charges about us: We're failing. Today we're going to vote no, the Majority will vote no on every motion to discharge and fail even further. So we continue to be an embarrassment here.

And I don't know how many more kids

have to be killed before finally we do something on this.

And we are not, we are not susceptible, Democrats, to charges that we are being political, that we are taking advantage of a tragedy. Because we've been talking about these issues for years. So I don't want to hear from anybody, You're taking advantage of some gun death, when the little child was killed in Detroit or anywhere else. Nonsense. We've been talking about this forever.

And therefore, we have the right to say, how many more kids have to be killed before we do something? On the federal level or the state level. It shouldn't be any more.

We can take a step in that direction today. I urge all my colleagues to vote yes on this motion to discharge.

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

SENATOR PATERSON: Party vote, with exception, in the affirmative.

SENATOR STAFFORD: Party vote in the negative.

THE PRESIDENT: The Secretary will call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 21. Nays, 37. Party vote with exceptions.

THE PRESIDENT: The motion is defeated.

Senator Montgomery.

SENATOR MONTGOMERY: Yes, Madam President. I have a motion at the desk. I would like to have it called up at this time.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: By Senator Montgomery, Senate Print Number 6908, an act to amend the Penal Law, in relation to age eligibility.

SENATOR MONTGOMERY: Yes, I would like to explain my motion, Madam President.

THE PRESIDENT: Go ahead, Senator Montgomery.

SENATOR MONTGOMERY: Yes, thank you.

Madam President, I carry in my wallet with my credit cards -- I won't name

them, because I think we're not allowed to - but all of my club member cards and my bank cards and whatever else. I carry this little notice around with me, just to remind me of what we're confronted with in America. And it says "In one year, firearms killed zero children in Japan, 19 children in Great Britain, 57 children in Germany, 109 in France, 153 in Canada and 5,285 in the United States. God bless America."

I carry that with me because I never want to forget what this debate is all about. It's trying as best we can to protect American citizens, especially our children.

So my motion is to have this legislative body discharge and vote on a bill which would limit the license of firearms, the ability to be licensed, a licensed firearm owner, to children less than 21 years of age.

During the period of 1994 to 1996 in New York State, 22 children under the age of 18 were killed by guns. Another 318 were hospitalized as a result of gun accidents. 76 children committed suicide in New York State using a gun. And 31 children injured

themselves with firearms. And according to the Federal Firearms Agency, their tracing data show that more crime guns are traced to 18- and 19-year-old children than any other age group in our country.

So we clearly, in the State of New York, need to set an example and correct the situation that we now have where people under the age of 21 can so easily acquire licenses -- and in some areas of our state, as young as 16 years old. We need a uniform law. And we need, I believe, to make sure that no person under the age of 21 is able to get a license for a gun.

Madam President, I hope that my colleagues will vote for this sensible legislation today, this motion today.

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

SENATOR PATERSON: Party vote in the affirmative.

SENATOR STAFFORD: Party vote in the negative.

THE PRESIDENT: Thank you,

Senator.

The Secretary will call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 22. Nays, 36. Party vote.

THE PRESIDENT: The motion is defeated.

Senator Oppenheimer.

SENATOR OPPENHEIMER: I think I have a motion at the desk. I'd like to call it up, waive its reading.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: By Senator Oppenheimer, Senate Print Number 6909, an act to amend the Penal Law, in relation to the illegal sale.

THE PRESIDENT: Senator Oppenheimer.

SENATOR OPPENHEIMER: Thanks.

When Senator Hevesi said we're not Johnny-come-latelies, I was thinking of maybe 15 years ago when we had put in the assault weapons bill. And at that time we were saying, you know, what is this gun doing

amongst civilized society when it was developed only for battlefields in wars. And you can't go after a deer with an assault weapon.

So yes, we have been at this a very long time. And there have been so many tragic stories that have been in the press subsequently.

But let me talk about this motion that I have. It concerns only people who are holding valid firearm dealer licenses to be permitted to sell guns at a gun show or a flea market or wherever more than 20 guns are up for sale. The Governor's bill says that a gun show is defined as one that has 50 guns or more for sale. This is a little tighter; it says 20 guns or more for sale.

There's an estimated between a quarter and a half of all guns that are sold at gun shows that are unlicensed, and the purchasers of the -- and the dealers that are selling are unlicensed. And the purchasers, therefore, are not required to have background checks. It's only if you hold a licensed gun dealer license, a firearms dealer license,

that you have to require of anybody buying a gun that they have the background check.

By requiring only the licensed dealers to sell the guns at gun shows, this bill is going to ensure that everybody who buys one has had a background check. Which I think makes enormous good sense. We know that almost 50 percent of those that are involved in purchasing or selling of firearms at gun shows, that most of these sales are going to felons, or at least between 40 and 50 percent of the sales are -- the purchasers are felons.

So -- this was a study that was done by the Bureau of Alcohol, Tobacco and Firearms, and they did a study of over 300 gun shows. So this is not my data, it is federal data.

I would like to say that in my county we have moved, just in the last couple of years, to a five-year renewable gun license. And because we could not be assured of the control that this kind of bill would provide, our county executive actually went back on a proposed gun show at our -- at one of our county buildings, our county center.

I think this is essential if we are going to have gun shows. And many of us do believe that there's a place for guns in our society -- for hunting animals during hunt season and for collecting guns and for marksmanship. There is a place for guns. But guns have too often fallen into the hands of felons. We have to stop this. And this is one way, just one way, to stop it.

I move its adoption.

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

SENATOR PATERSON: Party vote in the affirmative.

SENATOR STAFFORD: Party vote in the negative.

THE PRESIDENT: The Secretary will call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 22. Nays, 36. Party vote.

THE PRESIDENT: The motion is defeated.

Senator Sampson.

SENATOR SAMPSON: Madam

President, I have a motion at the desk. I'd like to waive the reading.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: By Senator Sampson, Senate Print Number 6911, an act to amend the Penal Law and the Executive Law, in relation to the possession.

SENATOR SAMPSON: Thank you.

THE PRESIDENT: Senator Sampson.

SENATOR SAMPSON: As to the motion, my colleagues, are we going to do the right thing, or is it going to be politics as usual? Basically, guns, drugs, alcohol equate disaster -- in some instances, death.

My motion deals with the suspension, the revocation of a firearms license while under the influence of alcohol or drugs, which calls for a one-year suspension. In New York City alone, anyone who is caught in a vehicle who drives under the influence, their vehicle is taken away from them. Here we're calling for a one-year suspension.

It's a privilege for us to drive

our cars. It's a privilege for us to have firearms. Are we always going to let partisan politics play -- have an issue or even play where we need to do the right thing? And this is about doing the right thing.

You know, a person who abuses their driving privileges, their license gets revoked or suspended. So it should be the same for the person who is entrusted with a licensed firearm and decides to get intoxicated or uses some sort of illegal drugs. What are we going to do, are we going to allow them to keep that license or are we going to suspend it? So it's really simple.

You know, I'm not here to make a long speech. It's all about doing the right thing. The Governor talked about it in his gun package, about doing the right thing. It's about time for us to do the right thing.

The next time someone gets killed and all of us are going to say, Oh, what a tragedy, we should do something about it. You know, we're always waiting for the end result when we can put preventive measures into effect. Why wait for a disaster when we

basically can avoid the whole situation?

But once again, we know what's going to happen. We're going to party vote in the affirmative, party vote in the negative. But the next time, as Senator Hevesi said, somebody gets killed and it's in one of our districts, they're going to look at us and say, What happened, when you had an opportunity to pass legislation to possibly correct a wrong?

Are we going to sit back and let this happen again? My colleagues, the voters are getting real tired of us. You know, they look at us, they say, These elected officials, they can't do nothing for our community.

Right now in New York City alone, we're going through a very serious problem with police and the community. And if we don't do something about it, even enacting gun legislation or even getting involved, it's going to be a volatile situation in New York City alone. And we all are going to have to pay for it. It's either going to be in September or it's going to be in November.

But judgment day is coming. And

I'm telling you, the same thing the tobacco industry thought about it. Judgment day came. Judgment day is going to come with this gun violence. And we're either going to be on the right side or we're going to be on the wrong side. And some of us are going to lose our seats because we're going to be on the wrong side.

Thank you very much, 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 STAFFORD: Party vote in the negative.

THE PRESIDENT: The Secretary will call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 22. Nays, 36. Party vote.

THE PRESIDENT: The motion is defeated.

Senator Stavisky.

SENATOR STAVISKY: Madam President, I have a motion at the desk and I would like to have it called up at this time.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: By Senator Stavisky, Senate Print Number 6913, an act to amend the Penal Law and the Correction Law, in relation to eliminating the relief granted.

THE PRESIDENT: Senator Stavisky.

SENATOR STAVISKY: Yes. This motion, this bill prevents felons who are issued certificates of good conduct from lawfully possessing a rifle or a shotgun, despite the fact that they are issued certificates of relief from disabilities or certificates of good conduct which they use in order to obtain firearms.

It would not discourage anyone who has -- does not have a criminal record of being a violent felony offender. Instead, it closes a loophole which exists today which permits violent felons to own -- to legally own a rifle or a shotgun.

Now, this is a simple bill. And

I'm surprised, quite frankly, that my friends on the other sides of the aisle haven't taken it -- I was going to use the word "stolen," but haven't borrowed it. It should have been enacted into law a long time ago. It's a very simple bill. It keeps guns out of the hands of violent criminal offenders. Very simple. Very, very simple.

I hear all the time that you want to keep guns from the hands of violent offenders. Here's the opportunity to do so. Here's the opportunity. I suspect that I will not prevail. But on the other hand, I think we have to give you the opportunity to vote on it.

Violent felons should not have the right to own a gun. And if you agree with me, if you believe that we should be tough on criminals -- and I hear this all the time, we're tough on criminals -- here's the opportunity to be tough on criminals and to support this measure.

Thank you.

THE PRESIDENT: All in favor of accepting -

Senator Schneiderman, excuse me.

SENATOR SCHNEIDERMAN: Thank you, Madam President.

This is the last of our motions. It is incredible that we have to bring a motion to discharge on a bill to keep guns out of the hands of violent felony offenders.

And I would urge those of you who listen to the National Rifle Association on these issues to take a look at recent reports from the Violence Policy Center and the Center to Prevent Handgun Violence documenting the NRA's efforts to help violent felony offenders obtain certificates of relief and disabilities. They have been behind the renewed licensing of thousands of violent felony offenders. Tough on crime? I don't think so.

Well, this is our last motion. This is our package. You haven't outwaited the people. The New Yorkers Against Gun Violence advocates are here. You can wait till after press deadlines, but you're not going to outwait the people this year. And we have people here who have been here all day

and have waited, and we're going to wait more if we have to. We're going to get gun safety legislation this year.

And I thank all of my colleagues, and I thank all of the advocates who have joined us today to try and do something about this crisis. This is not the last we're going to hear on this this session.

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

Senator Paterson.

SENATOR PATERSON: Party vote in the affirmative.

SENATOR STAFFORD: Party vote in the negative.

THE PRESIDENT: The Secretary will call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 22. Nays, 36. Party vote.

THE PRESIDENT: The motion is defeated.

Senator Stafford.

SENATOR STAFFORD: Madam

President, is there any housekeeping?

THE PRESIDENT: Yes, there is, Senator Stafford.

During reports of standing committees, Senate Print Number 6092, from the Committee on Investigations, was inadvertently reported to third reading. The bill should have been and is hereby referred to Finance.

Senator Stafford.

SENATOR STAFFORD: Madam President, there being no further business to come before the Senate, I move we adjourn until Wednesday, March 29, at 11:00 a.m.

THE PRESIDENT: On motion, the Senate stands adjourned until Wednesday, March 29th, 11:00 a.m.

(Whereupon, at 5:44 p.m., the Senate adjourned.)