NEW YORK STATE SENATE

THE STENOGRAPHIC RECORD

ALBANY, NEW YORK

May 28, 2003

3:12 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 please 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 this afternoon to give the invocation is the Reverend Joseph Mattera. He is pastor of Resurrection Church in Brooklyn, New York.

REVEREND MATTERA: Let us pray.

Heavenly Father, we thank You so much for this great state. We thank You for those civil servants that are here today that want to work for the good of all the people in our beloved state.

We pray, God, for Your wisdom, for Your understanding to enter into them with these most challenging issues that they have to deal with. We pray that everything that You want dealt with today and the issues that will be brought up will be resolved with the least amount of effort.

We pray that You would have Your way in all the financial crises that we're going through at this time. And we thank You for the work that is yet to come and the unity that You are going to bring.

We give You the praise and the honor, and we thank You for everything that is going to work out. And we ask this in the name of the Father and of the Son and of the Holy Spirit. In Jesus' name, amen.

THE PRESIDENT: Reading of the Journal.

THE SECRETARY: In Senate, Tuesday, May 27, the Senate met pursuant to adjournment. The Journal of Sunday, May 25, was read and approved. On motion, Senate adjourned.

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

Presentation of petitions.

Messages from the Assembly.

Messages from the Governor.

Reports of standing committees.

Reports of select committees.

Communications and reports from state officers.

Motions and resolutions.

Senator Farley.

SENATOR FARLEY: Thank you, Madam President.

On behalf of Senator Balboni, Madam President, on page 56 I offer the following amendments to Calendar 987, Senate Print 3788A, and I ask that that bill retain its place on the Third Reading Calendar.

THE PRESIDENT: The amendments are received and adopted, and the bill will retain its place on the Third Reading Calendar.

SENATOR FARLEY: Thank you, Madam President.

On behalf of Senator Saland, on page 54 I offer the following amendments to Calendar 961, Senate Print 4112, and I ask that that bill retain its place on the Third Reading Calendar.

THE PRESIDENT: The amendments are received and adopted, Senator, and the bill will retain its place on the Third

Reading Calendar.

SENATOR FARLEY: Madam President, on behalf of Senator Velella, on page 53 I offer the following amendments to Calendar 949, Senate Print 4970, and I ask that that bill retain its place on the Third Reading Calendar.

THE PRESIDENT: The amendments are received and adopted, and the bill will retain its place on the Third Reading Calendar.

SENATOR FARLEY: Madam President, on behalf of Senator LaValle, on page 14 I offer the following amendments to Calendar Number 335, Senate Print Number 211, and I ask that that bill retain its place on the Third Reading Calendar.

THE PRESIDENT: The amendments also are received and adopted, and the bill will retain its place on the Third Reading Calendar.

SENATOR FARLEY: Madam President, on behalf of the Majority Leader, Senator Bruno, I move that the following bill be discharged from its respective committee and

be recommitted with instructions to strike the enacting clause: Senate Print 5287.

THE PRESIDENT: So ordered.

Senator Fuschillo.

SENATOR FUSCHILLO: Thank you, Madam President.

I wish to call up my bill, Senate Print Number 3296, which is now at the desk.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: Calendar Number 885, by Senator Fuschillo, Senate Print 3296, an act to amend Chapter 578 of the Laws of 2002.

THE PRESIDENT: Senator Fuschillo.

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

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

(The Secretary called the roll.)

THE SECRETARY: Ayes, 45.

THE PRESIDENT: Senator Fuschillo.

SENATOR FUSCHILLO: Madam President, I now move to discharge, from the Committee on Rules, Assembly Print Number 7013 and substitute it for my identical bill.

THE PRESIDENT: So ordered.

SENATOR FUSCHILLO: I now move that the substituted Assembly bill have its third reading at this time.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: Calendar Number 885, by Member of the Assembly Sweeney, Assembly Print 7013, an act to amend Chapter 578 of the Laws of 2002.

THE PRESIDENT: Senator Fuschillo.

SENATOR FUSCHILLO: Madam President, the bill passed yesterday with two negative votes. With unanimous consent, I ask for the same vote.

THE PRESIDENT: Without objection.

The Secretary will 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, 45. Nays, 2.

THE PRESIDENT: The bill is passed.

Senator Bruno.

SENATOR BRUNO: Madam President, are there substitutions at the desk?

THE PRESIDENT: Yes, there are, Senator.

SENATOR BRUNO: If we could make them at this time.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: On page 10, Senator Robach moves to discharge, from the Committee on Rules, Assembly Bill Number 6562A and substitute it for the identical Senate Bill Number 2373, Third Reading Calendar 209.

On page 23, Senator Rath moves to discharge, from the Committee on Rules,

Assembly Bill Number 5320 and substitute it for the identical Senate Bill Number 3843, Third Reading Calendar 535.

On page 33, Senator Robach moves to discharge, from the Committee on Rules, Assembly Bill Number 5187 and substitute it for the identical Senate Bill Number 4090, Third Reading Calendar 706.

On page 34, Senator Maziarz moves to discharge, from the Committee on Rules, Assembly Bill Number 7151 and substitute it for the identical Senate Bill Number 4196, Third Reading Calendar 713.

On page 45, Senator Spano moves to discharge, from the Committee on Rules, Assembly Bill Number 6833 and substitute it for the identical Senate Bill Number 2656, Third Reading Calendar 854.

On page 46, Senator Spano moves to discharge, from the Committee on Rules, Assembly Bill Number 3881 and substitute it for the identical Senate Bill Number 4395, Third Reading Calendar 865.

And on page 53, Senator Robach moves to discharge, from the Committee on

Rules, Assembly Bill Number 4356 and substitute it for the identical Senate Bill Number 3886, Third Reading Calendar 945.

THE PRESIDENT: Substitutions ordered.

Senator Bruno.

SENATOR BRUNO: Madam President, I believe there is a privileged resolution at the desk by Senator Volker.

THE PRESIDENT: Yes, there is.

SENATOR BRUNO: 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 Senators Volker, Bruno, and all members of the Senate, Legislative Resolution Number 1888, mourning the death of the Honorable Edward A. Rath, Jr., retired New York State Supreme Court Justice.

"WHEREAS, This Legislative Body has learned with sadness of the death of Edward A. Rath, Jr., retired State Supreme Court Justice and husband of colleague Senator Mary Lou

Rath, on May 1, 2003, at the age of 72; and

"WHEREAS, It is with deepest regret and condolences to his family that this Legislative Body records the passing of this distinguished jurist, dedicated public servant, and esteemed community leader, who served the people of Western New York with honor and distinction for many years; and

"WHEREAS, A State Supreme Court Justice since 1985, Judge Rath retired from the bench on November 12, 2002, after an exemplary 45-year career, but continued to serve as a faculty member for state judicial seminars; and

"WHEREAS, Born in Buffalo, Judge Rath completed his undergraduate education at Canisius College and Syracuse University. He earned his law degree from the University of Buffalo Law School in 1954 and did additional graduate study in law at the University of Wisconsin Law School in Madison; and

"WHEREAS, From 1955 through 1957, Judge Rath served with the United States Army military police in West Germany and, from 1957 to 1960, was attached to the 402nd Civil

Affairs and Military Government Unit of the Army Reserve in Buffalo; and

"WHEREAS, Judge Rath was a confidential law clerk for State Supreme Court Justice Norman A. Stiller, and, as an assistant state attorney, he headed the office's Buffalo-Rochester Claims and Litigation Bureaus from 1959 through 1967; and

"WHEREAS, Judge Rath was a Williamsville Village Justice from 1978 through 1984, and also maintained a private law practice until 1985, when he began his first term as a New York State Supreme Court Justice; and

"WHEREAS, Throughout his judicial career, Judge Rath handled numerous criminal and civil cases in Erie, Niagara, Orleans, Wyoming, and Genesee Counties, and played a major role in settling a long contract dispute between the Buffalo Teachers Federation and the Buffalo Board of Education in 1999, upholding the teacher union's interpretation of a disputed contract covering the years 1990 to 1994; and

"WHEREAS, Judge Rath also served

the State of New York as a member of the Allegany State Park Commission from 1971 to 1988, and as a counsel to the State Senate Majority Leader; and

"WHEREAS, Active in his profession, Judge Rath was a member of the Erie County, New York State, and American Bar Associations, and the New York State and Erie County Trial Lawyers Associations, Buffalo's Marshall Club, and the New York State Association of Magistrates; and

"WHEREAS, Judge Rath was also a past president of both the Association of Justices of the Supreme Court of New York State and the Supreme Court Justices Association of the state's Buffalo-based 8th Judicial District; and

"WHEREAS, An involved and valued member of his Williamsville, Erie County, and Western New York community throughout his life, Judge Rath was active in numerous civic, fraternal, political, and athletic organizations, including the Salvation Army, Boy Scouts of America, the Amherst Chamber of Commerce, and the Rotary Club of

Williamsville, which he served as president, and Rotary International; and

"WHEREAS, Judge Rath was, in addition, a former official of the Masonic and Shrine organizations, a past potentate of the Ismailla Temple and a past officer of the Royal Order of the Jesters, and was active in Calvary Episcopal Church in Williamsville as a lay reader and former head of its ushers and men's clubs; and

"WHEREAS, Judge Rath was also a former coach, manager, and treasurer for the Williamsville-Sweet Home Junior Football League and the Joe McCarthy Little League, a supervisory official at the 1980 Winter Olympics in Lake Placid, a former member of the board of Daemen College Associates of Amherst, and he always enjoyed golf, tennis, skiing, fishing, and gardening; and

"WHEREAS, Judge Rath is survived by his wife of 34 years, Senator Mary Lou Rath, and their children, Allison Garvey, Melinda Sanderson, and Edward A. Rath, III, and their six grandchildren, all of whom are proud to have been a part of his life and rejoiced in

his many accomplishments; and

"WHEREAS, It is with great respect and admiration that this Legislative Body records the passing of Edward A. Rath, Jr., who, throughout his life, distinguished himself in service to his profession, his community, and the people of the State of New York; now, therefore, be it

"RESOLVED, That this Legislative Body pause in its deliberations to celebrate the life of retired State Supreme Court Justice Edward A. Rath, Jr., to honor his accomplishments, and to pay tribute to his memory; and be it further

"RESOLVED, That copies of this resolution, suitably engrossed, be transmitted to the Honorable Mary Lou Rath, New York State Senator, and to her family, with the deepest condolences of this Legislative Body."

THE PRESIDENT: Senator Bruno.

SENATOR BRUNO: Madam President and colleagues, it's with sadness that I rise and recognize the passing of Judge Rath.

I never got to know him really well, but I met him on a number of

occasions -- usually ceremonial, sometimes social. And you always came away with just a great feeling about a perfect gentleman and just a nice, congenial, personable, caring individual. Always, whenever you came away, you had that good feeling.

And as you listen to the resolution describing his activities and his life, you can't help but just kind of marvel at an individual that would lead such a full life and just be so successful in everything he did and in every way, in raising three children and enjoying six grandchildren, and all along the way participating in community activities.

Not just the legal part of his life, where he reached a peak as a judge and distinguished himself in that career, but everywhere. In the community, when you mention Boy Scouts and youngsters and the physical environment and physical fitness and just good health, and doing things that were healthy and good for young people, he was a leader in that respect. Serving in the military, and then following through with that.

But I think one of the things that was so meaningful to me, as I learned as much as I did about Judge Rath, was his support of his wife of 34 years, Senator Rath. He never saw anything competitive in that. She became a leader in the county, elected official there, became the leader there. And, you know, a husband sometimes might think in terms of handling themselves differently.

Always there, always by her side, many times in the forefront with her. And as she came to the Senate, where she was leaving home to come and be representative of that constituency, I know that her husband encouraged her and supported her in every way. And that tells you something about a real man, who was there for his wife, for his children, for his grandchildren.

But one of the things that tells it all about Judge Rath is that when he had cancer -- and he knew he had cancer, and he knew that his days were limited -- he always had a smile, he always had a word of cheer and was always making somebody else feel better for having been with him or talked with him.

In the last week of his life, I know that his wife, Mary Lou, was going to stay there with him in the hospice environment, and he said, "Go to Albany, you belong there. There's nothing that you're going to be doing here," making her feel good about going.

And that just tells you something about an individual who really led his life comfortably, securely, and felt fulfilled. Mary Lou didn't leave that week, because he took a turn for the worse and passed away.

But when we pass a resolution like this, many times it's a very casual thing. But as you follow his life that was just reviewed in just a short period of time, you have to marvel at the man and just feel good that he was here, and that we have Mary Lou here as a Senator where we can share and participate in her life as a memory to him.

THE PRESIDENT: Senator Volker.

SENATOR VOLKER: Madam President, colleagues, it's always difficult in these kind of situations when we're dealing with, obviously, the husband of a colleague.

But in my case, I actually knew Ed Rath before Mary Lou did, because Ed's father and my father were very close friends. Ed Rath's father was the first county executive of Erie County. And his father was a character. You could say that Ed was a little bit of a character too.

I've known him since I was younger and he was younger. I always considered him one of the most brilliant men that I ever knew. In fact, if you look at his accomplishments, they are so broad and so diversified and in so many areas.

Late years, the thing that I remember most about Ed Rath was that he was one of the officials at hockey games and football games, even though he wasn't. He had this bellowing voice, and he'd get so upset at some of the officials.

In fact, he -- every time that the Bills, Buffalo Bills would go into a prevent defense and they'd score a touchdown, he'd yell out, "There goes your prevent defense." I can still remember it.

The lawyers, by the way, considered

him and his courtroom -- and at his funeral, several of the most prominent lawyers in Buffalo said that his courtroom was considered to be one of the class courtrooms, in that he was all business and yet he was kind to the witnesses and tried to make sure that everyone understood that in his courtroom, justice was going to be met out.

In fact, the teachers decision that was talked about, which was a historic decision on a contract -- frankly, a botched contract by the school board in Buffalo -- and Ed, who had very opinions, was very reluctant to rule in favor of the teachers because it was clearly a botched contract.

But he told me and called me and talked about it, and I know he talked at great length with Mary Lou. "What was I going to do?" he said. "It was the right thing to do." And botched or not, the law and justice said that it had to be upheld. And he did.

That was the kind of man he was. He was very, I know, very kind to Mary Lou. He had very strong opinions, however. And there were times when Mary Lou would say to me

"He didn't like my vote, he didn't like my vote." I said, "Well, Mary Lou," I said, "that's the way it is." And he always expressed himself.

But his kids were very devoted to him. In fact, my wife, at the funeral, Mary Lou, remarked at how one of your daughters looked so much like Ed and the other daughter looked so much like you.

He was a warm father, a fine gentleman, a great lawyer, and one of the best judges I think that we ever had in Buffalo. And I can assure you that he will be very missed, Mary Lou, as I know obviously you will miss him to a great extent.

But I also want to pay a little tribute to you, very quickly. Because I think my colleagues here don't realize how long the process was. And she knew for a long, long time that Ed -- how bad Ed was.

And I tip my hat to you, Mary Lou, because you juggled the pain, your children, Ed, and this house here in a way that I don't think I could ever have done. And my tribute to you also, as well as to Ed.

THE PRESIDENT: Senator Maziarz.

SENATOR MAZIARZ: Thank you very much, Madam President. I too want to rise and add my condolences.

Judge Rath was a great man. I knew him for a long time. Not certainly, clearly, as long as Senator Volker. But I remember when I was very young, first getting started in politics and very active in Erie County campaigns, Judge Rath seemed to be at every campaign meeting -- this, of course, was before he was elected to the judiciary -- and was extremely active.

And as Senator Volker pointed out, I don't attend many professional sporting events, but I don't think there was a hockey game or a Buffalo Bills game that I was ever at that I did not see Judge Rath.

And Senator Volker is absolutely right, he was always complaining about some official's call, and you could always bet that that call went against the Sabres or the Bills, because Judge Rath knew that they could make no mistakes, those two teams.

The teachers contract which was

mentioned in the resolution was not a very popular decision in the city of Buffalo. I think Judge Rath probably got more than his share of criticism on the talk radio shows during that particular time. But as Senator Volker clearly pointed out, in the long run it was clearly the right thing to do. And Judge Rath, with no concern for what public opinion was or would be, knew that he had to do the right thing.

I have some very close and personal friends who work in the judiciary in Western New York. And when Judge Rath was sick, one of them said to me: There was an individual who, every time he walked in that courtroom, he always had a smile on his face, would always stop and talk to all the members of the staff and would share, usually cookies or cake or candy with them, always had a joke to tell.

One of them who was extremely close to me, Mary Lou, said to me: "Judge Rath was a person who never, ever had a bad day."

Thank you, Madam President.

THE PRESIDENT: Senator DeFrancisco.

SENATOR DeFRANCISCO: Just about everything has been said. But I really want to rise.

Unfortunately, I was never -- never had the occasion to appear before Judge Rath, even though I practiced in various areas throughout the state. But what I loved about him was my relationship with him when he would come to Albany for various occasions.

And I could say one thing. He always told you what he stood for, he never minced words, and what you saw is what you got.

And I guess the best compliment I could give to anyone is to be true to yourself, and he was. He made decisions the way he saw them. And he was genuinely a good man. And we're all going to miss him.

THE PRESIDENT: Senator Stachowski.

SENATOR STACHOWSKI: I too would briefly like to add my comments on this resolution.

I'll stay away from the professional area, not being a lawyer. But I

know about Judge Rath's professionalism and the good judge that he was, having met with him a few times with the Supreme Court justices, as we do.

But I had the opportunity to share a lot of those sporting events with him. And I'm a season ticketholder at the Sabres, as he was, and I'm a season ticketholder at the Bills, as he was.

But there's an organization that he and I belonged to that most of these other folks didn't have an opportunity to, or didn't care to. In Buffalo they have one of the longest-standing Quarterback Clubs, which is a group of businessmen and, actually, now there's a lot of just people that are interested in the Bills that come to these luncheons every Monday. And people from the Bills are always there.

And besides letting the officials know what he thought of various calls that they made, the judge was also a frequent person to rise and let the general manager know if he had dropped the wrong player or picked up the right guy or made the wrong call

to send a message back to the coach.

And it was always enjoyable. And no matter if the Bills won or lost, he was always there, at not only the game but at the Quarterback Club. And whether they broke his heart or they made him happy, he was always one of their number-one fans.

And I think, as I said to Mary Lou about a week ago, that -- you know, Mary Lou said to me he got his Syracuse team in, and they'd won. And I said, "Well, now he's in a better position than ever to help the Bills win the Superbowl and the Sabres win the Stanley Cup than he ever was in before."

And hopefully this will be our year.

(Laughter.)

THE PRESIDENT: Senator Nozzolio.

SENATOR NOZZOLIO: Thank you, Madam President.

I rise to offer my condolences to Mary Lou and to add to the sentiments expressed this afternoon.

During the 16 years I was first here in Albany, I had roommates from Buffalo,

first Bill Paxon and then Tom Reynolds and, as such, got to know Eddie during the course of those years.

But what I'd like to just briefly describe today is an observation made that I think says a lot about the relationship that Ed and Mary Lou had.

Mary Lou and I served as delegates to the national convention, the Republican National Convention in 1996 in San Diego. We both served from our area. And coming back one evening from dinner, a lengthy car ride, my wife, Rosemary, and I in the front seat, and Mary Lou and Eddy in the back seat -- and it was a ride that lasted over an hour. I think the driver got lost a couple of times.

But during that ride my wife, Rosemary, turned to the back seat and said to Mary Lou and Ed: "You guys are just like a couple of teenagers," in a most affectionate way. Because they were laughing and joking and just fooling around like a lovely couple does.

And I think that comment said a lot about the wonderful relationship Ed and Mary

Lou had. That obviously, it was obvious to us, it was obvious to everyone, that Ed loved Mary Lou very, very much. And I think that certainly is as much that can be said about such a fine man.

Thank you.

THE PRESIDENT: The question is on the resolution. All in favor please signify by saying aye.

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: The resolution is adopted.

Senator Rath.

SENATOR RATH: Madam President and my colleagues, friends all, on behalf of the Rath family, thank you for your kind words.

Senator Volker, other colleagues from Western New York and all over the state who have come to know Eddie and my family in one way or another, your kindness and notes and mementoes and various kinds of activities in the last several months have been

wonderfully helpful and supportive. The prayers have strengthened all of us.

And Eddie loved the law and loved government, and he served for a short time here, with Walter Mahoney. He was one of the young legal aides right out of school, served for six months or a year or so here. Loved the Senate and loved everything to do with the government of the State of New York. Argued about what went on, what he didn't like and what he did like and what he thought we were doing wrong and how we could do it better.

And anyone who said that the Legislature and the judiciary don't talk, I would say to them, "No, Eddie and I haven't spoken for 16 or 17 years. Certainly never at home would we ever talk about any of these items." And anyone who believed that would probably have bought a bridge from me that was probably in need of repair.

But again, thank you all for all you've said.

And to those of you who commented about Eddie's loud and vociferous comments at the football games and at the hockey games, I

would only tell you when the officials were wrong, it made him angry because he wanted it to be a fair playing field for everyone out there, whether it was the hockey arena or the football field or the baseball field. He didn't want the officials to give anyone an advantage. He wanted the athletes to be able to perform and win on their own, just like he wanted to see happen in his courtroom.

It was a wonderful 44 years. Not 34 years, 44 years. I told one of my staff, "No, don't make the correction." It just, you know, it helps me a lot if people think -- but, you know, after a while people kind of figured out that it was incorrect.

But again, thank you for all of your kindness. And I would say to Eddie, wherever you are: This would have been your chance to shine down. So maybe he'll send us some sunny weather and we can know that Judge Rath has had the final word.

Thank you all.

(Standing ovation.)

THE PRESIDENT: The resolution is adopted.

And I would be remiss, Mary Lou, if I didn't add that having known your husband as a colleague of his on the State Supreme Court bench, he was truly a man of warmth, wit, and wisdom. But what always struck all of us about him was the balance of his gifts. And the greatest gift to him, I know, was always you. Our deep condolences.

Senator Bruno.

SENATOR BRUNO: Madam President, I'd ask for an immediate meeting of the EnCon Committee in the Majority Conference Room.

THE PRESIDENT: There will be an immediate meeting of the EnCon Committee in the Majority Conference Room.

Senator Bruno.

SENATOR BRUNO: Madam President, can we at this time adopt the Resolution Calendar, with the exception of 1854.

THE PRESIDENT: All those in favor of adopting the Resolution Calendar, with the exception of 1854, 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 Number 1854, by Senator DeFrancisco, have the title read, and move for its immediate adoption.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: By Senator DeFrancisco, Legislative Resolution Number 1854, honoring the seventh- and eighth-grade students of the Soule Road Middle School in Liverpool, New York, for their participation in the 50th Senate District "Good News! Good Kids!" Youth Responsibility Program.

THE PRESIDENT: Senator DeFrancisco.

SENATOR DeFRANCISCO: Thank you very much.

I rise to commend the seventh- and eighth-grade classes of Soule Road Middle School, who are in the gallery, as part of the "Good News! Good Kids!" program, the last of

our groups to come here this session.

And as we say each time, that there are good kids and it's good news that there are. Unfortunately, we don't hear too much about the good news, only the bad things.

These young people basically have reached out to the community and taken on a responsibility for Onondaga Lake Park, which was a park that got devastated in some storms and also maybe wasn't kept up as much as it could be. This group took it upon themselves to be responsible for that and volunteered on many, many occasions, on a regular basis, to clean the park so it would be much more beautiful and usable by the people in our community.

So there are good kids, there is good news, and we thank the children from Soule Road Middle School. And someday they may be one of the judges that we've been talking about, or a senator, or something better with their lives.

And this is the start, being responsible for yourself and others. And we commend you for your civic responsibility.

THE PRESIDENT: All in favor of Resolution 1854 please signify by saying aye.

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: The resolution is adopted.

Senator Bruno.

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

THE PRESIDENT: The Secretary will read.

THE SECRETARY: Calendar Number 219, by Senator Hoffmann, Senate Print 2836, an act to amend the Agriculture and Markets Law, in relation to inclusion.

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, 60.

THE PRESIDENT: The bill is

passed.

THE SECRETARY: Calendar Number 277, by Senator Skelos, Senate Print 2407, an act to amend the Civil Practice Law and Rules, in relation to the time to take an appeal.

SENATOR SCHNEIDERMAN: Lay it aside.

THE PRESIDENT: The bill is laid aside.

THE SECRETARY: Calendar Number 457, by Senator DeFrancisco, Senate Print 3428, an act to amend the Criminal Procedure Law, in relation to peace officers employed by Syracuse University.

SENATOR LIZ KRUEGER: Lay it aside.

THE PRESIDENT: The bill is laid aside.

THE SECRETARY: Calendar Number 486, by Senator Larkin, Senate Print 2596, an act to authorize the Monroe-Woodbury Central School District to finance a deficit.

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, 60.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 558, by Senator Johnson, Senate Print 3996, an act to amend the Parks, Recreation and Historic Preservation Law, in relation to the regulation of vessels and water sports adjacent to parks.

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, 60.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 560, by Senator Maziarz, Senate Print 4795, an act to amend the Navigation Law, in relation to vessel speed.

THE PRESIDENT: Read the last section.

THE SECRETARY: Section 4. This act shall take effect on the first of January.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59. Nays, 1. Senator Farley recorded in the negative.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 567, by Senator Maziarz, Senate Print 930A, an act --

SENATOR LIZ KRUEGER: Lay it aside.

SENATOR SCHNEIDERMAN: Lay it aside.

THE PRESIDENT: The bill is laid aside.

THE SECRETARY: Calendar Number 569, by Senator Volker, Senate Print 2326, an act to amend the Environmental Conservation Law, in relation to hunting deer and bear in the Southern Tier.

SENATOR VOLKER: Madam President,

would you lay that bill aside for the day, please.

THE PRESIDENT: The bill is laid aside for the day at the request of the sponsor.

THE SECRETARY: Calendar Number 573, by Senator Marcellino, Senate Print 4131, an act to amend Chapter 122 of the Laws of 2000, amending the Environmental Conservation Law.

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, 60.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 581, by Member of the Assembly O'Connell, Assembly Print Number 7127, an act to amend Chapter 457 of the Laws of 2001 relating to authorizing the town board of the Town of North Hempstead.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 635, by Senator McGee, Senate Print 3464, an act to amend the Highway Law, in relation to designating a certain rest area along the state highway system.

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, 60.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 648, by Senator Golden, Senate Print 3962, an

act --

SENATOR SCHNEIDERMAN: Lay it aside.

THE PRESIDENT: The bill is laid aside.

THE SECRETARY: Calendar Number 676, by Senator Flanagan, Senate Print 4005, an act to amend Chapter 69 of the Laws of 1992, amending the Education Law and the Transportation 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, 60.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 692, by Senator Robach, Senate Print 4126, an act to amend the Civil Service Law, in relation to resolution of disputes.

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, 60.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 736, by Senator Bonacic, Senate Print 986, an act to amend the Education Law, in relation to allowing for prorated refunds.

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 PRESIDENT: Senator Duane.

SENATOR DUANE: Thank you, Madam President.

THE PRESIDENT: To explain your vote?

SENATOR DUANE: Yes.

I took a careful look at this bill, and I just -- I can't help but to be struck

that if I passed away, that my spouse would not be entitled to get the refund. So I would like to be recorded in the negative.

Thank you, Madam President.

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

The Secretary will announce the results.

Senator Farley, to explain your vote?

SENATOR FARLEY: No, on the other vote. I want to change my vote.

THE PRESIDENT: We have to announce the results first.

The Secretary will announce the results of the bill that was just voted on.

THE SECRETARY: Ayes, 59. Nays, 1. Senator Duane recorded in the negative.

THE PRESIDENT: The bill is passed.

Senator Farley.

SENATOR FARLEY: Thank you, Madam President.

THE PRESIDENT: You're welcome.

SENATOR FARLEY: My next-door neighbor gave me the wrong scoop on this bill.

(Laughter.)

SENATOR FARLEY: I now want to vote up on the bill, on 560.

Senator DeFrancisco gave me good advice on the bill.

THE PRESIDENT: Without objection -- is there any objection? -- Senator Farley, you will be so recorded as voting in the affirmative on said bill, Calendar 560.

SENATOR FARLEY: Thank you, Madam President.

THE PRESIDENT: The Secretary will continue to read.

THE SECRETARY: Calendar Number 737, by Senator LaValle, Senate Print 1560A, an act to amend the Education Law, in relation to requirement for a license.

THE PRESIDENT: Read the last section.

THE SECRETARY: Section 4. This act shall take effect on the 180th day.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 778, by Senator Saland, Senate Print 1279, an act to amend the Insurance Law and the General Obligations Law, in relation to the use of lands for recreational activities.

SENATOR SCHNEIDERMAN: Lay it aside.

THE PRESIDENT: The bill is laid aside.

THE SECRETARY: Calendar Number 784, by Senator Seward, Senate Print 4454A, an act to amend the Insurance Law, in relation to requirements for incorporation of stock or mutual insurance companies.

SENATOR SCHNEIDERMAN: Lay it aside.

THE PRESIDENT: The bill is laid aside.

THE SECRETARY: Calendar Number 789, by Senator McGee, Senate Print 2861, an act to amend the Vehicle and Traffic Law, in

relation to requiring suspension and revocation.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59. Nays, 2. Senators Duane and Montgomery recorded in the negative.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 792, by Senator McGee, Senate Print 4869, an act to amend the Vehicle and Traffic Law, in relation to driving while intoxicated.

SENATOR SCHNEIDERMAN: Lay it aside.

THE PRESIDENT: The bill is laid aside.

THE SECRETARY: Calendar Number 801, by Member of the Assembly DelMonte, Assembly Print Number 6217, an act to amend

the General Municipal Law, in relation to establishing.

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, 60. Nays, 1. Senator Duane recorded in the negative.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 803, by Senator Bonacic, Senate Print 4443, an act to amend the --

SENATOR SCHNEIDERMAN: Lay it aside.

THE PRESIDENT: The bill is laid aside.

THE SECRETARY: Calendar Number 804, by Senator Marchi, Senate Print 4478, an act to amend Chapter 171 of the Laws of 2002 relating to authorizing.

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, 60. Nays, 1. Senator Duane recorded in the negative.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 848, by Senator Seward, Senate Print 1444, an act to amend the State Finance Law, in relation to matching funds.

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, 61.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 864, by Senator Fuschillo, Senate Print 4000, an act to amend the Education Law, in relation to university-related economic development

facilities.

SENATOR MONTGOMERY: Lay it aside.

THE PRESIDENT: The bill is laid aside.

THE SECRETARY: Calendar Number 887, by Senator Hoffmann, Senate Print 3596, an --

SENATOR SCHNEIDERMAN: Lay it aside.

THE PRESIDENT: The bill is laid aside.

THE SECRETARY: Calendar Number 891, by Senator DeFrancisco, Senate Print 4405, an act to amend the Vehicle and Traffic Law and the State Finance Law, in relation to creating.

THE PRESIDENT: Read the last section.

THE SECRETARY: Section 3. This act shall take effect on the 180th day.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

THE PRESIDENT: The bill is

passed.

THE SECRETARY: Calendar Number 898, by Senator Marcellino, Senate Print 805, an act to amend the Penal Law, in relation to criminally negligent homicide.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 968, by Senator LaValle, Senate Print 1664B, an act to amend the Town Law, in relation to authorizing.

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

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

THE SECRETARY: Calendar Number 970, by Senator Nozzolio, Senate Print 1934, an act to amend the Real Property Tax Law, in

relation to exempting certain real property.

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, 61.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 973, by Senator Breslin, Senate Print 2593, an act to amend the Local Finance Law, in relation to providing for a period of probable usefulness.

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

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, 61.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 993, by Senator Balboni, Senate Print 4160, an act to amend Chapter 269 of the Laws of 1866 relating to the incorporation of Rescue Hook and Ladder Company Number One of Roslyn.

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, 61.

THE PRESIDENT: The bill is passed.

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

SENATOR MORAHAN: Madam President, could we now have the controversial reading of the calendar.

THE PRESIDENT: The Secretary will read.

SENATOR MORAHAN: And could we start with Calendar 778.

THE PRESIDENT: The Secretary will read Calendar 778.

SENATOR MORAHAN: Madam President, why don't we start with the regular order, and then I'll break for 778 when Senator Saland returns.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: Calendar Number 277, by Senator Skelos, Senate Print 2407, an act to amend the Civil Practice Law and Rules, in relation to the time to take an appeal.

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, 60. Nays, 1. Senator Duane recorded in the negative.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 457, by Senator DeFrancisco, Senate Print 3428, an act to amend the Criminal Procedure Law, in relation to peace officers --

SENATOR LIZ KRUEGER:

Explanation.

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

SENATOR MORAHAN: Lay it aside temporarily.

THE PRESIDENT: The bill is laid aside temporarily.

THE SECRETARY: Calendar Number 567, by Senator Maziarz, Senate Print 930A, an act to amend the Environmental Conservation Law, in relation to reducing.

SENATOR LIZ KRUEGER: Explanation.

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

SENATOR MORAHAN: Lay it aside temporarily.

THE PRESIDENT: The bill is laid aside temporarily.

THE SECRETARY: Calendar Number 648, by Senator Golden, Senate Print 3962, an act to amend the Penal Law, in relation to criminal use of public records.

SENATOR SCHNEIDERMAN:

Explanation.

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

SENATOR GOLDEN: Thank you, Madam President.

This bill would make using public records for the purpose of committing a crime a Class E felony.

The Freedom of Information Law is just one example of the strength of our government. And people -- people may gain access to government records so that they may participate in a dialogue of a representative government.

When the law is abused by individuals who use information gained by FOILing it to commit crimes, it places our system of government in jeopardy.

THE PRESIDENT: Senator Schneiderman.

SENATOR SCHNEIDERMAN: Thank you. Through you, Madam President, if the sponsor would yield for a question.

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

SENATOR GOLDEN: Yes, I do.

THE PRESIDENT: You may proceed, Senator.

SENATOR SCHNEIDERMAN: There was a fairly lengthy debate on this bill last year. And I was just wondering, has this bill been modified in any respect in view of the issues raised last session?

SENATOR GOLDEN: I don't believe so. I believe the -- some of the debate was over trying to identify a situation where this identity theft would be used, and I think the debate went back and forth as to a scenario that wasn't a real scenario.

SENATOR SCHNEIDERMAN: Thank you. Through you, Madam President, on the bill.

THE PRESIDENT: You may proceed, Senator.

SENATOR SCHNEIDERMAN: I think that the concern that was expressed by many of us last year is still a valid concern. And that is, this legislation in fact is much broader than what it purports to be.

It states that a person is guilty of criminal use of public records when he or

she uses any record or information derived from any record in the course of or in furtherance of the commission of a crime.

Any misdemeanor, any minor infraction that uses a public record. And the scenario that was discussed was if a minor uses a driver's license, which is a public record, to get in to drink unlawfully, that becomes a Class E felony.

And it seems to me that this statute could easily be modified, as we pointed out last year, to deal with this problem and to ensure that its purpose, which is to penalize the wrongful use of public records for criminal activity in an appropriate manner, is not used as an excuse by some overly aggressive prosecutor to extend penalties where they really don't belong.

That was the concern last year. I don't understand why it has not been remedied this year. I would suggest that if we want to move this bill forward and pass it in both houses that that would be a prudent course to follow.

Until that issue is addressed, I

think it's overly broad and criminalizes and makes felonies out of a lot of things that shouldn't be felonies.

I'm going to continue to vote no. I do hope that before we see it again the modifications called for last year will be made.

Thank you, Madam President.

THE PRESIDENT: Does any other member wish to be heard on this bill?

Then the debate is closed.

Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Those recorded in the negative on Calendar Number 648 are Senators Andrews, Brown, Connor, Diaz, Dilán, Duane, L. Krueger, Lachman, Montgomery, Onorato, Parker, Paterson, Schneiderman, A. Smith, and Stavisky. Ayes, 47. Nays, 15.

THE PRESIDENT: The bill is passed.

Senator Morahan.

SENATOR MORAHAN: Yes, Madam President. Could we take up now Calendar 778, by Senator Saland.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: Calendar Number 778, by Senator Saland, Senate Print 1279, an act to amend the Insurance Law and the General Obligations Law, in relation to the use of lands for recreational activities.

SENATOR SCHNEIDERMAN: Explanation.

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

SENATOR SALAND: Thank you, Madam President.

Madam President, this is a bill that we have seen on at least two or perhaps three prior occasions in this chamber. It has basically two components.

The first portion of the bill would require the Superintendent of Insurance to perform a review and report back to the Legislature really on the balance of the bill.

And the balance of the bill attempts to limit liability of landowners by way of the existing sections of 9103 of the General Obligations Law by expanding those particularly enumerated, I believe some 18 or 19 enumerated recreational activities for which the use of those properties currently, where permission is provided, a landowner will be free of liability, barring either some willful or malicious act or some charge for services or the use of the property.

What this does is to say that instead of being exclusively limited to those 19 or 18 specific items -- and I'm looking at the bill now on page 2, and just things such as canoeing, boating, trapping, hiking. It goes on. It says "any recreational use, including but not limited to," so as to encourage greater recreational use of properties.

And what this is all about is to encourage people who own land privately to permit others to make use of those lands.

It's certainly consistent with the ideas of the Hudson Valley Greenway, and it's

certainly consistent with the desire to give greater access for purposes of recreation to properties throughout all regions of this state, and to encourage that by way of assuring people that should they be so inclined -- as long as, again, they're not malicious or willful in failing to advise people of conditions on their property or, secondly, if they're not charging -- that they should rest comfortably, knowing that they will not be held liable.

THE PRESIDENT: Senator Schneiderman.

SENATOR SCHNEIDERMAN: Thank you, Madam President. If the sponsor would yield for a question.

THE PRESIDENT: Senator Saland, do you yield?

SENATOR SALAND: Yes, Madam President.

THE PRESIDENT: You may proceed, Senator.

SENATOR SCHNEIDERMAN: I just want to make sure that I understand correctly.

My reading of this bill is that

someone who opens their property to the public would bear no responsibility if their negligent behavior caused injury, but someone who posts a sign saying "No Trespassing, Keep Out" would not receive such immunity?

SENATOR SALAND: No. If you read the language on line 6 of page 2, it says "whether or not posted."

So there are circumstances under which a person who posted would have the ability, apparently, to claim freedom from that liability.

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

THE PRESIDENT: Senator?

SENATOR SALAND: Yes, Madam President.

THE PRESIDENT: You may proceed, Senator Schneiderman.

SENATOR SCHNEIDERMAN: The language that raises this concern is actually further down the page, where it states in Section B, I guess it starts at line 18, that an owner who gives permission to another to

pursue any such activities does not thereby enter into these obligations.

And I would take it that someone who posts "No Trespassing, Keep Out" does not give permission and therefore would not get the benefits of this section of the statute.

SENATOR SALAND: Absent that owner agreeing to relinquish the benefit of his posting, the property could still be posted if the owner or principal were willing to relinquish it. It's the only way I can make consistent the provisions of A and B.

Otherwise, posting certainly prevails. It would require an affirmative act of the owner.

SENATOR SCHNEIDERMAN: Through you again, Madam President, so if -- I think I understand. But if there was a "No Trespassing" sign posted, the owner would have to have some other statement that overcame that in order to take advantage of this immunity.

SENATOR SALAND: Correct. Correct.

SENATOR SCHNEIDERMAN: Thank you.

Through you, Madam President, I -- Madam President, on the bill, actually. I'll try and speed things up.

THE PRESIDENT: You may proceed on the bill.

SENATOR SCHNEIDERMAN: Well, thank you.

THE PRESIDENT: You're welcome.

SENATOR SCHNEIDERMAN: I think that there are two problems I have with this bill.

The one is that it relieves liability for negligence under circumstances that I think there's no justification for relieving.

This is a situation in which, if someone had property that they open up to the public that had an old bridge made of rope and wood that got worn out over the years and was visibly rotting, and yet that person took no steps to correct the damage, they would be immune from liability.

The second -- and I think this is really more of a drafting problem -- is what I've just pointed out to the sponsor, that

this bill has the perverse effect of penalizing someone who knows there's a danger on their property and puts up a sign saying "No Trespassing. Keep Out. Dangerous." That person is not -- and in the language of the bill, again -- giving permission to another to pursue such activities upon such premises.

And by that action, by the responsible landowner trying to keep people away from something dangerous, they don't get the benefits of immunity.

The irresponsible landowner who doesn't post a sign or says, you know, open to public for all activities, gets the immunity. I don't understand how that can possibly be deemed just.

So I don't think this bill is going to become law this year. And I, again, would hope that we can work on the drafting of it before we revisit it in another session.

Thank you, Madam President.

THE PRESIDENT: Does any other member wish to be heard?

Then the debate is closed.

Read the last section.

THE SECRETARY: Section 3. This act shall take effect on the 180th day.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Those recorded in the negative on Calendar Number 778 are Senators Andrews, Breslin, Brown, Connor, DeFrancisco, Dilán, Duane, L. Krueger, Lachman, Montgomery, Morahan, Onorato, Parker, Paterson, Sabini, Sampson, Schneiderman, A. Smith, M. Smith, and Stavisky. Ayes, 42. Nays, 20.

THE PRESIDENT: Senator Sabini, to explain your vote?

SENATOR SABINI: Madam President, actually, I'd like unanimous consent to have my vote recorded --

THE PRESIDENT: We'll finish the vote first.

The bill is passed.

Senator Sabini.

SENATOR SABINI: I'd like to ask unanimous consent to be recorded in the negative on Calendar 648, S3962. I was in Environmental Conservation.

THE PRESIDENT: You will be so recorded, hearing no objection, as voting in the negative.

SENATOR SABINI: Thank you.

THE PRESIDENT: Senator DeFrancisco.

SENATOR DeFRANCISCO: Request unanimous consent to vote in the negative on Calendar 277, Senate 2407.

THE PRESIDENT: You will so recorded, hearing no objection, as voting in the negative.

Senator Duane.

SENATOR DUANE: Thank you, Madam President. If I may have unanimous consent to be recorded in the negative on Calendar Number 573.

And I would like to change my vote to the affirmative on Calendar Number 804. Senator Maziarz gave me some bad advice.

Thank you, Madam President.

(Laughter.)

THE PRESIDENT: Hearing no objection, you will be so recorded as voting in the negative on the former bill and in the

affirmative on Bill 804.

Senator Malcolm Smith.

SENATOR MALCOLM SMITH: Thank you, Madam President. I request unanimous consent to be recorded in the negative on Calendar Number 648.

THE PRESIDENT: Without objection, you will be so recorded as voting in the negative.

Senator Parker, I believe, was first.

SENATOR PARKER: Yes, Madam President. I'm rising to request unanimous consent to be recorded in the negative on Calendar Numbers 277 and 648.

THE PRESIDENT: You will be so recorded, hearing no objection, as voting in the negative on both of said bills.

Senator Hassell-Thompson.

SENATOR HASSELL-THOMPSON: Thank you, Madam President. I too would like to be recorded in the negative on Calendar Number 648 and on Calendar Number 778.

THE PRESIDENT: Since we hear no objection, you will be so recorded as voting

in the negative on both of those bills.

SENATOR HASSELL-THOMPSON: Thank you, Madam President.

THE PRESIDENT: Senator Breslin.

SENATOR BRESLIN: Thank you, Madam President. I request unanimous consent to be recorded in the negative on Calendar Number 648, Senate 3962.

THE PRESIDENT: Hearing no objection, you will be so recorded as voting in the negative.

SENATOR BRESLIN: Thank you.

THE PRESIDENT: Senator Diaz.

SENATOR DIAZ: Thank you, Madam President. I also will request unanimous consent to change my vote. I'm joining my colleague in saying that I was ill-advised. I want to change my vote on 648 to yes.

THE PRESIDENT: Hearing no objection, you will be so recorded as voting in the affirmative.

Senator Morahan.

SENATOR MORAHAN: Can we return to the calendar, 567.

THE PRESIDENT: The Secretary

will read.

SENATOR DUANE: Madam President.

THE PRESIDENT: Senator Duane.

SENATOR DUANE: Thank you, Madam President. If I could also have unanimous consent to change my vote on Calendar Number 789 from no to yes.

THE PRESIDENT: Hearing no objection, you will be so recorded as voting in the affirmative on said bill.

Senator Brown.

SENATOR BROWN: Thank you, Madam President. I request unanimous consent to be recorded in the negative on Calendar 277.

THE PRESIDENT: Without objection, you will be so recorded as voting in the negative.

The Secretary will read.

THE SECRETARY: Calendar Number 567, by Senator Maziarz, Senate Print 930A, an act to amend the Environmental Conservation Law, in relation to reducing.

SENATOR LIZ KRUEGER: Explanation.

SENATOR SCHNEIDERMAN:

Explanation.

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

SENATOR MAZIARZ: Thank you, Madam President.

Madam President, this legislation lowers the age from 14 to 12 for the requirement to obtain a junior archery license.

By lowering the age to 12, we are keeping the minimum age consistent with obtaining a junior small game license. A junior archery license allows the holder to hunt with a longbow during both archery and regular hunting seasons.

An individual who has a junior archery license must be accompanied by a parent or legal guardian or by a person over the age of 18 years of age who has had at least one year's experience in hunting by longbow, and such person also must be required to hold a license to hunt big game.

Thank you, Madam President.

THE PRESIDENT: Senator Krueger.

SENATOR LIZ KRUEGER: Madam

President, if the sponsor would yield.

THE PRESIDENT: Senator, will you yield?

SENATOR MAZIARZ: Yes, Madam President.

THE PRESIDENT: You may proceed.

SENATOR LIZ KRUEGER: Senator Maziarz, you know 12-to-14-year-olds and the maturity level of that age group.

SENATOR MAZIARZ: Yes, I do. Yes, I do.

SENATOR LIZ KRUEGER: Madam President, if, through you, the sponsor would continue to yield.

THE PRESIDENT: Senator, do you yield?

SENATOR MAZIARZ: Yes, Madam President.

THE PRESIDENT: You may proceed with a question.

SENATOR LIZ KRUEGER: Senator, I know 12-to-14-year-olds. I think all of us in this room know 12-to-14-year-olds. It is not a very mature group. It is a group of young people, children, who have no sense of their

own mortality, have no sense of danger, and, in fact, one would argue, if you've ever talked to a junior high school teacher, are to some degree the least responsible age group. Not as a criticism of them, simply the reality of being 12, 13 years old.

Why would we want to put 12- and 13-year-olds into situations that can be dangerous for themselves and dangerous for others around them with weapons?

SENATOR MAZIARZ: Madam President, to answer that question, I know many 12-, 13-, or 14-year-olds that are very mature and are very responsible. They're good people.

Most of the states around us, Pennsylvania, allow junior archery licenses, hunting licenses at the age of 12. I think it's part of the maturing process. I think it's part of growing up, particularly in some of the upstate and rural communities in New York State, Senator.

SENATOR LIZ KRUEGER: Thank you.

Madam President, on the bill.

THE PRESIDENT: You may proceed.

SENATOR LIZ KRUEGER: Thank you.

I have to disagree strongly with my colleague Senator Maziarz. Twelve-, 13-, and 14-year-olds may be terrific people and will grow up to be fine adults, we hope, if they have the chance to grow up to be adults. Putting them into the woods in dangerous situations with a bow and arrow in areas where other people have guns, with animals that can be dangerous -- bears, for example -- is not going to encourage their ability to grow and develop into the adults we want them all to be.

I was so disturbed about your bill that I did some homework on the data around hunting by young people. From 1989 to 1998, the highest percentage age group for two-party casualties from hunting in this country, 21 percent of all casualties came from people hunting between the ages of 10 and 19. The federal government doesn't break it down to 12 to 14.

But 21 percent of the what they call two-party casualties -- meaning one hunter is hurt by another hunter or someone in

the woods is hurt by someone else with a weapon -- was by young people.

More disturbing, self-inflicted casualties among hunters between the ages of 10 and 19 were 31 percent of all casualties, even though the percentage of hunters who are 10 to 19 is extraordinarily small. And yet they represent, for self-inflicted casualties, 31 percent of injuries; for casualties to others -- we're not talking about animals -- to people, 21 percent.

The highest reason for an injury in hunting is that the victim is out of sight, the accidental hitting of someone else with your bow and arrow or your gun is the victim is out of sight.

Well, with all due respect, 12- and 14-year-olds, 12- and 13-year-olds are short, so they have a smaller range of vision than others, increasing the likelihood that they will do harm to others or have harm done to them, because they are small animals in the woods themselves in the context of taller adult hunters shooting at animals.

Again, the behavior of 12-year-olds

is not the behavior of an adult. Or a 13-year-old. They don't have a sense of mortality, they don't have a sense of danger, they don't have the true sense of responsibility that would be needed to handle what can be dangerous weapons.

And while at first I thought, well, bears, deer -- deer don't tend to attack people, bears do -- the fact is if you're out in the woods hunting, you might be hunting deer but be approached by or attacked by bear.

And in fact, there was a recent story of exactly that situation. It was not in New York, but it was the end of year 2000 where a man and his son were hunting deer with bow and arrow, the son was separated from the father, the bears showed up -- they weren't the planned hunting animal, but they showed up anyway in the same woods -- and they batted the bow and arrow out of the son's hands and then mauled the young man.

When you're small, when you're 12 and 13 years old, you are at much greater risk of being harmed even by animals that you're in a hunting situation with.

You had another bill today that talked about allowing 16-year-olds to participate at bingo parlors, I believe. 16-year-olds should stay in bingo parlors; 12-to-14-year-olds should not be in the woods hunting with bows and arrows or with guns. They put themselves at risk, they put others at risk.

Past 14 is old enough to start learning about hunting, if that is what you and your family desire. I really urge this Legislature not to change this law and give the rights to 12-and-13-year-olds to handle dangerous weapons in a hunting situation. They are not old enough to take on this responsibility or this danger for themselves.

Thank you very much.

THE PRESIDENT: Senator Marcellino.

SENATOR MARCELLINO: Madam President, on the bill.

THE PRESIDENT: You may proceed.

SENATOR MARCELLINO: Following the logic of my colleague on the other side, we should ban short people from hunting. For

any age.

(Laughter.)

SENATOR LIZ KRUEGER: I could support that bill.

(Laughter.)

SENATOR MARCELLINO: I mean, it's patently silly.

The bill requires an education program. The bill requires the young people to go out, never alone, only with an adult. The bill does not allow for them to be put in dangerous situations.

Your culture in Manhattan, Senator, is not the same as what goes on in the upstate counties of this state. Imposing your own personal prejudices -- and I mean that in respect to the hunting and fishing and the way of life of people in other parts of this state -- is just not right.

In certain upstate counties, the opening day of hunting season, they close the schools, because everybody's out there hunting. They're hunting with their fathers and their mothers and their sisters and their aunts and their uncles. That is the way it

is.

Downstate it's a little different. But so be it. I don't know which is better and which is not better. I'm not a hunter myself, but I do like to go out and fish. But I do respect other people's abilities and the way they raise their family and the way they raise their children. And when people want to go out and hunt, that's the way it is.

Taking a bow and arrow and teaching a youngster the proper use of this instrument, there is nothing wrong with that. It teaches them discipline, it teaches them self-awareness, it teaches them certain abilities in the natural environment and respect for wildlife. Because, frankly, most hunters are the best conservationists you'll find, you'll ever find.

Teddy Roosevelt, who lived in my hometown, was a well-known hunter. No one ever debated his conservationist attitudes. One of the strongest people for conservation and the protection of wildlife and the protection of the wilderness and open space that we've ever have in the presidency of this

country.

To say that youngsters are just too immature is a broad-based comment. I taught school for twenty years. I met some very immature teachers who I wouldn't put a rifle or anything in their hands. And I met some very mature youngsters who I would have gladly had on my side in the most severe of circumstances.

It just is not fair to say what you say with the broad-brush, sweeping declaration. If you are antihunting, that's one thing. I respect that and I understand it. I don't agree with it, but I can understand it.

But then to try to impose your will because you think children at the age of 14 or 12 are just too young to do that -- frankly, under control and under the proper standards and with proper education and with the proper support of their adult parents, I think they can do this without any danger, without any threat to themselves.

Anybody can be confronted in the wilderness with a wild animal, camping or

otherwise. It doesn't matter. You don't have to be hunting to do that. So you can't avoid that.

But this situation does not expose these young people to any threat or any danger on their own. They're with their parents.

THE PRESIDENT: Senator Onorato.

SENATOR ONORATO: Madam President, on the bill.

I commend Senator Maziarz for the intent of the bill, but I think we've lost track of the fact that a young person of 12 years old, to go out hunting with a bow and arrow requires a much greater strength than an individual shooting an animal with a rifle.

And I think that it would probably cause a great deal of damage on behalf of the animals that the youngster may be trying to shoot, with not the proper strength to be able to down it, maybe just simply wound it and have it running through the woods. That's my greatest concern.

I'd rather see your bill lowering it so they can go out and do some target practice until they become strong enough to be

able to wield such a -- because it requires a good deal of strength, because I've tried it myself. And many times I've had a good deal of problem exerting enough pressure to get that arrow to travel a good distance.

So that's the part that I'm concerned with, that they will not have enough strength to actually bring the animal down that they're shooting at.

THE PRESIDENT: Senator Stavisky.

SENATOR STAVISKY: Madam President, if Senator Maziarz will yield for just a couple of questions.

SENATOR MAZIARZ: Yes, Madam President.

SENATOR STAVISKY: Through you, Madam President, the legislation talks about a junior archery license. How does one obtain a junior archery license?

SENATOR MAZIARZ: Well, there's a -- you have to go into either a DEC office or a licensed agent and actually take a hunting safety course before you can purchase any type of hunting license. And you also have to have a parent or guardian with you

when you make the purchase.

SENATOR STAVISKY: When you make the purchase, but not when you use the equipment?

SENATOR MAZIARZ: Yes, yes, when you use the equipment also.

SENATOR STAVISKY: Madam President, if the Senator would continue to yield.

SENATOR MAZIARZ: Yes.

SENATOR STAVISKY: In other words, you can only hunt with a parent or a guardian?

SENATOR MAZIARZ: Parent, legal guardian, or by a person over the age of 18 who has had at least one year of experience in hunting -- by longbow, in this instance -- and such person holds a license to hunt big game.

Which means, Senator, that they have met certain criteria; you know, obtained their hunting license.

SENATOR STAVISKY: And there is a test to ascertain the proficiency?

SENATOR MAZIARZ: Yes. Yes, there is a safety course which includes a

test.

SENATOR STAVISKY: It includes a test.

SENATOR MAZIARZ: Yes.

SENATOR STAVISKY: Madam President, on the bill very briefly.

THE PRESIDENT: You may proceed.

SENATOR STAVISKY: My concern is the fact that a 14-year-old and an 18-year-old can go out and start shooting, start with the bow and arrow -- 12-year-olds, I'm sorry, bringing down animals.

I taught also, both in the high schools and in the junior high schools. And I think in many cases to lower the age to 12 is to invite disaster.

I will vote no.

THE PRESIDENT: Senator Hoffmann.

SENATOR HOFFMANN: Thank you, Madam President.

I hasn't originally planned to speak on this bill this year, but the debate is just so spirited that I just can't avoid making a couple of comments.

I am both a parent and a hunter. I

also have children who have taken the hunter safety course. I live on a farm, I live in the country, I represent people who hunt often and hunt with their children.

As to the issue of age, the constituents that I represent have children who are capable, when they live in the country, of doing many things that are very difficult to comprehend for city dwellers.

For instance, one day when I got a tractor stuck in a mud bog, I asked the neighbors if they would pull me out. They sent the 12-year-old down to pull me out. He was the best tractor driver in the family, and he was also the one who was willing to get most muddy.

It would be difficult for somebody else to imagine a young person, a child, doing something that involves heavy mechanical equipment. But in places where children are trained from a very early age to respect the dangers, to understand the difference between handling machinery or handling what is referred to as a weapon, but we think of it as a firearm, it is very, very different than a

television image of life in the country.

I can pretty well guarantee that if this measure passes, there will be no young people hunting in either Senator Krueger or Senator Stavisky's districts.

The issue before us deals with archery, not with guns, and yet I listened to statistics that seem to have no correlation to archery at all.

As to how one uses a bow and how one studies in the training courses, the hunter safety courses, the use of a bow, there is a very important element that you must understand. There is a direct correlation on the draw between physical strength and the way the bow is designed. In other words, you do not give a 60-pound test bow to a 12-year-old. You would give a much smaller size bow to a young person.

So this is all very scientifically analyzed, it's carefully reviewed during the hunter safety course. Which, by the way, is many hours long and includes a comprehensive test. I'll bring the book in someday for people to see, because I think it is a

fascinating exercise in conservation practices and in safety and, most important of all, in responsibility.

The final point that I would make to all of my colleagues on this, those of you who are parents know very well that there is a fleeting moment at which we know we are still in charge and are regarded as thoughtful, intelligent beings by our children. That moment passes as they enter their teen years.

When you have a 10-, 11-, 12-year-old child, you are still capable of guiding that young person. When they're 15 or 16 or 18, Lord knows they think we no longer have any common sense at all and they know it all.

So this is the age, this is precisely the right age to teach good, safe hunting habits and personal responsibility.

THE PRESIDENT: Senator Bonacic.

SENATOR BONACIC: Thank you, Madam President.

I also was not going to speak on this bill, but I was enjoying the debate and I thought I would throw my two cents in.

First of all, I'd like to congratulate Senator Marcellino for being a Nassau guy and enunciating very well the mindset of families that live in the upstate region which I represent.

What I have learned -- and I'm a city slicker, born and raised in Manhattan. Was most of my life an Orange County legislator, which was pretty metropolitan, and became an upstate Senator for five years. And I got to talk to the sportsmen and the families that live upstate.

Number one, they hunt to feed their families. So it's a budgetary thing.

Two, it's bonding of a father and a son, which is extremely important to find things to do together.

And also, this process has some built-in protections.

But you know what struck me as you were speaking, Senator Krueger? We now have women that are committing prostitution at age 12. The weapons of choice are box cutters in the schools of children starting at age 12. So the mindset of a 12-year-old at some times

is very mature and is aware.

So I would say, in conclusion, that I trust the parents of these children to give them self-esteem, responsibility, bonding, the sense of taking care of family. It really works. And for these 12-year-olds, it's the right thing to do.

I support the legislation.

THE PRESIDENT: Senator Krueger.

SENATOR LIZ KRUEGER: Thank you.

Well, I don't know which Senator to ask to yield to a question -- Senator Marcellino, Senator Hoffmann, Senator Bonacic. So I will go back to the lead sponsor, Senator Maziarz, if he would yield.

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

SENATOR MAZIARZ: Certainly, Madam President.

THE PRESIDENT: You may proceed with a question.

SENATOR LIZ KRUEGER: Thank you.

So I am being told that 12-year-olds and 13-year-olds in upstate New York are different than 12- and

13-year-olds in New York City. I must disagree. I don't think that's true. I think they have the same physical stature, the same physical strength, the same maturity or lack thereof of 12- and 13-year-olds anywhere.

I don't support, and I don't think anyone here does, prostitution by 12-year-olds, although I don't think it's an equivalent sport in my district, or box cutter use by 12-year-olds or 13-year-olds.

But, Senator Maziarz, based on the I guess comments of your colleagues in support of your bill -- under their analysis, 12- and 13-year-olds can be different, parents know best, life is different upstate -- should we change the laws that children under 17 should be allowed to drive if the parents think that's the case and people under 21 can be allowed to drink if their parents think it's okay?

Is this all a question of if the parent thinks that they're the right age to handle a dangerous situation, then we should allow that no matter how young we go with the age?

SENATOR MAZIARZ: Well, I don't know if that was a rhetorical question or not, Senator.

But one of the examples that you used was should we allow individuals under the age of 17 to drive. Senator, individuals under the age of 17 are allowed to drive in New York.

SENATOR LIZ KRUEGER: Sixteen, excuse me.

SENATOR MAZIARZ: Oh, okay.

SENATOR LIZ KRUEGER: Excuse me.

SENATOR MAZIARZ: You know, I think that the point is that there are differing interests of 12-year-olds across the State of New York. And it's a very diverse state, and we have very diverse interests. And I think my colleagues very correctly and, I think, honestly talked about the differences between varying areas of this state.

SENATOR LIZ KRUEGER: Thank you.

SENATOR MAZIARZ: Thank you.

THE PRESIDENT: Does any other member wish to be heard?

Senator Connor.

SENATOR CONNOR: Thank you, Madam President.

I represent Manhattan. And, Senator Marcellino, it's not just a Manhattan viewpoint -- or that's not the only Manhattan viewpoint you heard.

I started hunting when I was 13. My grandfather and my uncles -- my father didn't much go in for hunting. My grandfather and uncles were great hunters. My grandfather hunted into his nineties, lived to 104. My uncle, my surviving uncle and all my cousins -- something you may not know about a city kid like me, they all drive trucks and they all hunt and fish. I think I'm the only one among all my first cousins that has a car instead of a truck.

My oldest son, when he was 12, I think he had to be -- let's see, he's -- no, he's 15. He had to be 13 at Scout camp to take rifle. He took rifle, got his merit badge, got a medal from that organization that I usually don't agree with politically. He was very proud of it. It hangs on his wall, big NRA medal and certificate. He also worked

in Senator Liz Krueger's campaign that same summer, or the next summer. Last summer he got his archery merit badge and his shotgun.

My youngest boy, at 13, took archery as well as rifle. They're kids that people say do they fight. Yeah, they fight. They start at about 6:00 in the morning and they fight till they go to sleep. They're two years apart. They can be just as 13ish and 14ish and whatever as any other kid.

But they've been trained on how to respect firearms. They know all the rules. This past weekend we were in the Adirondacks. We didn't really have a chance to shoot rifles; it was too wet. But there was a brief dry hour or two when they shot pellet guns and whatever.

I've trained them that they must respect them the way they respect firearms and anything else, that all the same rules apply. And they are amazingly mature. They understand the dangers.

Some of the things I've heard are these national statistics. I believe there were, in New York State last year, 67 hunter

accidents, two fatalities. And my recollection -- I read these statistics -- is only about four of those accidents, all the nonfatal ones, involved archery, bow hunting.

The fact is, it is a different world outside of the city. And kids are capable of handling this. They're capable of handling a bow. Not every kid. You know, somebody who doesn't have the strength isn't going to qualify for a junior archery license and they aren't going to find it very much fun trying. But someone who can, will.

So I think we've gotten -- I think the important thing here -- and, you know, Senator Krueger just said, Oh, are we going to let kids under 17 drive upstate? I think we did that. Didn't we do that? Isn't that the law? To or from school or work, when you're 16 upstate, you can drive.

There are different circumstances. The fact is, I think it's a good thing to encourage kids who are going to hunt to start out with junior licenses where they're under adult supervision, they're properly trained, they're properly supervised, they spend time

with their parents -- or in my case, it was my uncles, my grandfather.

And I don't think we ought to -- we city representatives ought to get so excited about all this. The dangers of bears, I mean, we started certainly hiking and camping with our kids. I don't know, we were -- I guess I'd have a backpack, my wife would have a backpack with a kid in it, that's how young they were, and we'd go on overnight camping trips.

So were there bear there? Yeah, I mean -- thankfully, none ever bothered us. But you can certainly, on a camping trip, people are assaulted by bears. Particularly if they don't know the rules and they leave food lying around and they don't put a bear bag up in a tree at night or whatever, they can be attacked by a bear.

That's a danger of the woods. It's a danger of the wilderness. But the fact of the matter is it doesn't have anything to do with hunting. Believe me, during hunting season I think the bears tend to run the other way. They like campers. Campers have a lot

of food and don't shoot at them.

So I'm going to vote yes, Madam President.

THE PRESIDENT: Senator Oppenheimer.

SENATOR OPPENHEIMER: I'm voting yes because the junior license entails a parent being with the child. And I think it's a good opportunity for not only instruction in safe usage of the bow and arrow, but also a time when a father and son or a father and daughter or a mother and daughter can actually spend time creating a relationship, bonding together.

I would like as many as possible to come to Westchester, where the only way we can kill deer is by bow and arrow. So if we can get a lot of these youngsters to come to Westchester, that would be very beneficial to me, because we have a surplus of deer.

And the other point I'd like to make is that when I was 11, 12, and 13 and went to summer camp, I was the champion archer in the camp. So I think even small people can be good archers.

THE PRESIDENT: Senator Schneiderman.

SENATOR SCHNEIDERMAN: Thank you, Madam President. Briefly on the bill.

Listen, I think we've heard a good debate here today. I think that the only part of it that concerns me is any sort of imputation to people from the city that there's any level of disrespect. And some of the remarks I think have been somewhat patronizing towards urban dwellers.

There's a legitimate disagreement, I think, here. The law now says you have to be 14. You're trying to change the law to let 12-year-olds run around in the woods with bows and arrows during deer season and bear season, hunting, potential for injury, potential to injure an animal instead of killing it. Legitimate grounds for debate.

The law uses age all the time to do rough justice, whether it's drinking, driving, voting, registering for the draft. It's not perfect. There are some kids who are more mature at some ages than others. But it's something we do all the time.

And I think that it is eminently reasonable for some people, no matter where in the state they happen to live, to disagree with the contention that it's a good idea to reduce the age from 14 to 12.

I happen to think it's a bad idea to reduce the age limit. I'm going to vote no. And I hope that none of my colleagues think there is any lack of understanding or prejudice on behalf of the people in the city towards the wonderful children of other parts of our state.

You know, many of us have not been isolated on the island of Manhattan for our entire lives. And I had one of those badges from the National Rifle Association when I was a kid. And I used to shoot at targets, I didn't used to shoot at animals. And when I was a deputy sheriff, I used to get to shoot at the FBI targets of the people. Fortunately, I never had to shoot at a person.

I personally am willing to give up those rights in order that other people may live more safely. But this is legitimate grounds for debate, and I hope that everyone

will recognize the legitimacy of the objections of those who simply think reducing the age to 12 is an error.

I'm going to vote no, Madam President. Thank you.

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 PRESIDENT: Senator Maziarz, to explain your vote.

SENATOR MAZIARZ: Thank you, Madam President, to explain my vote on this bill.

First, I want to just point out a couple of things. I wanted to do this when we were voting. Some of the statistics that were pointed out by my colleague Senator Krueger were really national statistics and really not relative to New York State. I think a better comparison would have been statistics in states that allow 12-year-olds to hunt archery, compared with New York.

And also some of those statistics that were quoted were for the use of firearms. And, Senator Krueger, there is clearly a difference between firearms and archery equipment.

And my good friend Senator George Onorato pointed out that sometimes it may be difficult for a 12-year-old to pull a bow back. The hunter/conservationist extraordinaire on this side of the aisle, Senator Owen Johnson, pointed out, George, that with compound bows it makes it extremely easy for a smaller, frail individual, or perhaps an elderly person, to use archery equipment.

With that, Madam President, please record me in the affirmative.

THE PRESIDENT: You will be so recorded, Senator.

Senator Krueger, to explain your vote.

SENATOR LIZ KRUEGER: Thank you. Just briefly to explain my vote.

I didn't make the argument that no one should hunt, although Senator Marcellino

thought that was the argument I was getting at.

In fact, Senator Maziarz is correct, the data I stated was all hunting, guns and bows and arrows. However, when you're in the woods hunting there are guns around that also get shot, so it doesn't seem to me to matter.

I will leave this body again with the final argument, there are certain things that you need maturity to handle. Twelve- and 13-year-olds don't have the maturity to be out in the woods hunting bear or deer with guns or bows and arrows. It is different to stroll through the woods or go camping and to go and elect to hunt animals. They respond in a certain way, and you have your weapons.

This is the wrong thing to do. I hope that parents out there realize that they shouldn't let 12- and 13-year-olds hunt even if it becomes the law of New York State.

Thank you.

THE PRESIDENT: You will be so recorded as voting in the negative.

Senator Sabini.

SENATOR SABINI: Thank you, Madam President.

I supported this bill in committee and am supporting it today because, while I choose as a personal decision not to hunt animals, I thought the bill does bring young people under a training program and a licensing program and demonstrates to them the importance of responsibility.

And, you know, it occurs to me and was said earlier that anything that gets parents to spend a little more time with their children these days, or children some time away from their video games, is maybe something that benefits society as a whole.

So I happily support the bill. Thank you.

THE PRESIDENT: You will be so recorded as voting in the affirmative.

The Secretary will announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 567 are Senators L. Krueger, Marchi, Padavan, Parker, Schneiderman, and Stavisky. Ayes, 56.

Nays, 6.

THE PRESIDENT: The bill is passed.

SENATOR MORAHAN: Madam President, can we take up Calendar 887, please.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: Calendar Number 887, by Senator Hoffmann, Senate Print 3596, an act to amend the Vehicle and Traffic Law, in relation to authorizing.

SENATOR SCHNEIDERMAN: Explanation.

SENATOR HOFFMANN: This measure would amend an existing chapter that regulates the use of farm-plated vehicles.

Presently, farm-plated vehicles are for on-farm use only, with certain exceptions. Those exceptions are traveling on public roads to go from one section of a farm to another, to go to a licensed repair shop for major repairs, and to go to a sanitary landfill for the purpose of disposing of trash.

This amendment would allow this

same farm-plated vehicle to be driven from the point of purchase to the farm, which presently is a minor exclusion, probably an oversight in the original law. But it would simply close that loophole so that nobody would ever be in a position of violating the law, having purchased a vehicle, obtained the plates for it, and then wanted to drive it from the point of purchase home to the farm.

The existing law and the amendment both still prohibit driving of the farm-plated vehicle on the highway one hour before sunrise and one hour after sunset.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 62.

ACTING PRESIDENT MEIER: The bill is passed.

Senator Morahan.

SENATOR MORAHAN: Yes, Mr.

President, could we return to the regular reading of the calendar. We'll start at 457, by Senator DeFrancisco.

ACTING PRESIDENT MEIER: The Secretary will read Calendar 457.

THE SECRETARY: Calendar Number 457, by Senator DeFrancisco, Senate Print 3428, an act to amend the Criminal Procedure Law, in relation to peace officers employed by Syracuse University.

SENATOR SCHNEIDERMAN: Explanation.

ACTING PRESIDENT MEIER: Senator DeFrancisco, Senator Schneiderman has requested an explanation of Calendar 457.

SENATOR DeFRANCISCO: Syracuse University has requested a bill, this bill, to grant peace officer status to members of the Syracuse University security force.

Similar authorization has been given to Canisius College, Ithaca College, the State University campuses, including the College of Environmental Sciences and Forestry, which is literally within yards of the Syracuse University campus.

And the people that supported this are not only the district attorney's office, the Syracuse police chief, and the Syracuse University Student Association, et cetera, and there's a -- and I don't know of any opposition.

The Assembly Bill is being carried by Bill Magnarelli.

ACTING PRESIDENT MEIER: Senator Krueger.

SENATOR LIZ KRUEGER: Thank you.

Mr. President, if the sponsor would yield to a question.

ACTING PRESIDENT MEIER: Senator DeFrancisco, do you yield for a question?

SENATOR DeFRANCISCO: Yes.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR LIZ KRUEGER: Thank you.

Senator, we do so many bills here lately expanding the status of peace officers and their role. We did one on nuclear power plants last week.

What I had to question for your bill was, we're giving peace officers at a

university the authority to do searches and arrests. Are we giving them the authority to go and get warrants from a court? In what situation would they be playing the role of the police by going and meeting a search, and under what rules and regulations?

SENATOR DeFRANCISCO: The powers include the authority to arrest, conduct searches and confiscate illegal weapons. And that's the theory behind it.

As far as obtaining a search warrant, you know, I think they could -- I'm pretty sure that they could work -- yeah, they would work in conjunction with the Syracuse Police Department to obtain a search warrant.

But I don't believe under this bill that this allows them to obtain a search warrant on their own.

SENATOR LIZ KRUEGER: So again, Mr. President, through you, if the sponsor would continue to yield.

ACTING PRESIDENT MEIER: Senator DeFrancisco, do you continue to yield.

SENATOR DeFRANCISCO: Yes.

ACTING PRESIDENT MEIER: The

sponsor yields.

SENATOR LIZ KRUEGER: Thank you for your explanation.

So just again to clarify for me, I can, I think, understand a situation where they would need to make an arrest in a situation that broke out on campus where there wasn't the time or place to call the police or to confiscate illegal weapons that were found on people who they were arresting.

But again, under what scenario could we imagine that they would need to conduct a search? If they knew there was something to be searched, why wouldn't they just call the police, have the police get a warrant and the police follow through? Why do we want to give them that authority?

SENATOR DeFRANCISCO: I'm not so sure I -- as far as the search itself, you asked whether or not -- oh, conducting a search.

Well, I imagine if you're in hot pursuit of someone who just committed a rape and you follow the individual in hot pursuit, you don't need a search warrant. There's

exigent circumstances which would require you to go forward to see if there's any evidence, including a gun or a weapon of some type, as you're chasing -- as you've chased and found the individual who the police believe or have probable cause to believe just committed a rape or an assault, along those lines.

To say that you could arrest somebody and not thereafter, after you've chased that individual, conduct a search to find evidence of the crime I think would not be a logical way to do things.

However, if there's time within which to get a search warrant, I don't believe we have to give them that authority. The normal police forces would be able to intervene, upon the request by the Syracuse University police officers. Or peace officers.

SENATOR LIZ KRUEGER: Thank you.

Mr. President, briefly on the bill.

ACTING PRESIDENT MEIER: Senator Krueger, on the bill.

SENATOR LIZ KRUEGER: Thank you.

I will vote for the bill, in the

belief that there's good cause for universities to need to pump up their own security and be able to respond to the needs of students, particularly when you talked about a rape. And rape on campuses is a very large problem.

Although there is something about this bill and this discussion that continues, for me, the debate we had on Senator Volker's bill yesterday in this chamber about under what rules are we all operating, whether it's the police department or, in this case now, peace officers on campuses, to establish that they have the right to do a search or an investigation.

When these types of arrests come to court, how can the courts handle the fundamental constitutional protections that everyone should have, when in fact it's not a trained police officer but in this case a campus police person, peace officer; in several weeks ago bill, a person authorized to be a police officer at a nuclear power plant who might be an engineer in their real life.

And I worry that we are going down

a road where we have so broadly given police powers to so many people without training or backup that we will find ourselves in a situation where the courts in fact don't know how to deal with constitutional rights and protections, because too many people from too many different walks of life suddenly have the authority to pursue people, arrest them, search them, seize items, and then end up in the court system.

So while I will vote yes, I worry very much that we're really not looking at this from a big-picture perspective for ourselves.

Thank you, Mr. President.

ACTING PRESIDENT MEIER: Senator DeFrancisco.

SENATOR DeFRANCISCO: Just to reply briefly, the constitutional protections remain the same. And if these individuals are not trained and the bill calls for the university to have proper training, then arrests that are being made are not going to end up in convictions.

So I think the risk is not on the

part of the alleged perpetrator, because the constitutional rights are the same, the risk is on getting a conviction if these people are not properly trained.

ACTING PRESIDENT MEIER: Does any other Senator wish to comment on the bill?

Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 62.

ACTING PRESIDENT MEIER: The bill is passed.

Senator Morahan.

SENATOR MORAHAN: Mr. President, without objection, I'd like to be recorded in the negative on Calendar 567.

ACTING PRESIDENT MEIER: Without objection, Senator Morahan will be recorded in the negative on Calendar 567.

Senator Morahan.

SENATOR MORAHAN: Continue with the reading of the calendar, please.

ACTING PRESIDENT MEIER: The Secretary will continue to read in regular order.

THE SECRETARY: Calendar Number 784, by Senator Seward, Senate Print 4454A, an act to amend the Insurance Law, in relation to requirements.

SENATOR SCHNEIDERMAN: Explanation.

ACTING PRESIDENT MEIER: Senator Seward, an explanation has been requested.

SENATOR SEWARD: Certainly, Mr. President.

This bill would reduce the minimum number of directors of domestic -- these are New York-based -- insurance companies who must be New York State residents, from the current three down to one.

Now, the provisions relating to residency requirements for boards of directors for our New York insurance companies originally date back to 1849, when I guess the Erie Canal was the best mode of transportation across the state of New York and traveling in certainly from outside of New York was very,

very difficult.

But obviously those types of transportation concerns no longer exist. And the current residency requirements, I think, are outdated and unnecessary. We do not have similar residency requirements for other corporations who are based here in the State of New York.

And I would point out one other reason for this legislation, and that is with the federal legislation that was passed last year, the Sarbanes-Oxley, which deals with corporate governance.

Now, and I think appropriately so, the expertise level of corporate boards, I think more is being asked of board members, particularly in the auditing area. And this legislation would in fact increase the pool of people who would be available for our domestic insurance companies to call upon to be on their boards that could bring some of the expertise that is now needed because of Sarbanes-Oxley.

ACTING PRESIDENT MEIER: Any other Senator wishing to speak on the bill?

Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 62.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 792, by Senator McGee, Senate Print 4869, an act to amend the Vehicle and Traffic Law, in relation to driving while intoxicated.

SENATOR SCHNEIDERMAN: Explanation.

ACTING PRESIDENT MEIER: Senator McGee, Senator Schneiderman has requested an explanation of Calendar 792.

SENATOR McGEE: Thank you, Mr. President.

This is a Governor's program bill. The bill would enact the Pena-Herrera DWI Omnibus Act of 2003. The bill is named for four victims that were killed in Brooklyn by an off-duty New York City police officer who

was driving while intoxicated.

The victims were all from the same family, including a 4-year-old boy, his 16-year-old aunt, his pregnant mother and her baby, who was delivered by cesarean section following her death.

This bill would impose a number of DWI penalties, including the creation of new crimes for repeat offenders and drunk drivers who seriously injure or kill other people.

ACTING PRESIDENT MEIER: Any other Senator wish to be heard?

Read the last section.

THE SECRETARY: Section 45. This act shall take effect on the same date and in the same manner as Chapter 3 of the Laws of 2002.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 62.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 803, by Senator Bonacic, Senate Print 4443, an

act to amend the Tax Law, in relation to issuance of lottery sales agent licenses.

SENATOR SCHNEIDERMAN: Explanation.

ACTING PRESIDENT MEIER: Senator Bonacic, Senator Schneiderman has requested an explanation of Calendar 803.

SENATOR BONACIC: Thank you, Mr. President.

This is an act to amend the Tax Law in relation to issuance of lottery sales agent licenses by the Division of the Lottery to benevolent orders. Right now, they're not considered a place of accessibility to the public. And this would add a new section to the Tax Law that requires the Division of Lottery to consider accessibility to the public.

And it will allow places like the Elks, the Knights of Columbus, to have Quick Draw and lottery tickets to be sold there.

That's the purpose of the bill.

ACTING PRESIDENT MEIER: Any other Senator wish to be heard?

Read the last section.

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

ACTING PRESIDENT MEIER: Oh, I'm sorry. Senator Padavan.

SENATOR PADAVAN: I just want to explain my vote, Mr. President.

ACTING PRESIDENT MEIER: Okay, we'll start the roll call and then I'll recognize you, Senator.

Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MEIER: Senator Padavan, to explain his vote.

SENATOR PADAVAN: I guess we should not be surprised about the many different venues that gambling activity in this state seeks to enter into.

But this bill, as the sponsor properly explained, will allow organizations such as the Elks, the Masons, Knights of Columbus, veterans organizations that are

established under benevolent orders to operate the full gamut of lottery games, scratch-offs, and Quick Draw.

While these games are available to the general public, as we all know, under certain restrictions, such as Quick Draw, which must be in certain limited number of premises in the state in terms of the numbers, when we get to benevolent organizations we don't know what the number is. I don't know. But there are obviously thousands of them, when you add them all together, in terms of the potential.

So that expands the Quick Draw law that we adopted which had a limitation in terms of the number of outlets.

Secondly, we in this state many years ago opened up the Pandora's box of allowing Las Vegas-type gambling activity by religious and charitable organizations on a very limited basis, occasional opportunities during the course of the year, but with a number of restrictions as to the amount of prizes, the magnitude of prizes, the types of games. We prohibited certain activities such

as poker, slot machines, obviously, and things of that sort.

But now what we're doing is going in a completely different direction. We're saying to those same types of organizations, you can have all the lottery games, the Quick Draw, which is every five minutes, and we totally open that up.

I mean, you could argue it both ways and say this is a way for these charitable organizations to raise money and the state to expand its venue in terms of taking in more revenues.

But I look at it from the other side of the coin. It's just another way of enticing more people to gamble when they shouldn't, in more places than they normally would be able to, under conditions that are less restrictive and games that are perhaps inappropriate for the places they're in.

So for that reason, Mr. President, I vote no.

ACTING PRESIDENT MEIER: Senator Padavan will be recorded in the negative.

Senator Schneiderman, to explain

his vote.

SENATOR SCHNEIDERMAN: We're here at the end of the day, and sometimes we wonder if it's worth it to stay so long. For me it was worth it today because I think Senator Padavan is right.

And I hadn't really thought of the bill in that light. I do generally have a problem with any sort of legislation that doesn't -- that creates exemptions from access for the disabled. My thinking really was that this had a beneficial charitable purpose and it would free some of these organizations from undue burdens.

But I think the point is really -- and, frankly, I wish the good Senator had spoken before everyone else voted, because I think there may be some other people who might have changed their votes as well.

This is an extraordinary broadening of the provisions for legalized gambling in our state, and it really goes far beyond anything.

And those of us who think that gambling is a bad way to raise public funds,

that it is regressive and that it is really overused now and to be even more abused and overused in the future if we continue to follow the path of fiscal policy we're on, I think this bill does, while well intentioned, create a bigger problem than it solves, and I am also going to be voting no.

Thank you.

ACTING PRESIDENT MEIER: Senator Schneiderman will be recorded in the negative.

Announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 803 are Senators L. Krueger, Padavan, and Schneiderman. Ayes, 59. Nays, 3.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 864, by Senator Fuschillo, Senate Print 4000, an act to amend the Education Law, in relation to university-related economic development facilities.

SENATOR MONTGOMERY: Explanation.

ACTING PRESIDENT MEIER: Senator Fuschillo, an explanation has been requested

of Calendar 864.

SENATOR FUSCHILLO: Thank you, Mr. President.

This bill amends the Education Law which allows SUNY, the State University of New York, to establish account to receive lease payments from pharmaceutical, technology, or manufacturing buildings located at SUNY Farmingdale.

It's to further the economic-development initiatives of the school and the Bioscience Park.

ACTING PRESIDENT MEIER: Senator Montgomery.

SENATOR MONTGOMERY: Yes, Mr. President, I want to commend the sponsor, Senator Fuschillo, on this legislation. I certainly intend to support it and vote yes.

I just wanted to make sure that I'm on record saying that, Senator Fuschillo, we have several Colleges of Technology, one of them is in Brooklyn, and they all are extremely important as potential economic development institutions that should be linked much more closely to our overall state's

mission.

And any of the state agencies and funding that relates to economic development should include these Colleges of Technology.

I know that we are in the process, or at least the college in Brooklyn is in the process of expanding. But the one issue that they constantly talk about is the need to upgrade their capacity in the area of technology.

And to date, we do not have a fund that is dedicated to assist those higher education institutions that are so strategically placed in terms of economic development issues in our state.

So I hope that you will consider, along with our colleagues, doing much more to address specifically the needs of those institutions to upgrade and to be able to even more become an integral part of the whole economic development and advancement in our state.

So I'm voting absolutely yes on this legislation, Mr. President.

ACTING PRESIDENT MEIER: Any

other Senator wish to be heard?

Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 62.

ACTING PRESIDENT MEIER: The bill is passed.

Senator Morahan, that completes the calendar.

SENATOR MORAHAN: Thank you, Mr. President. Is there any housekeeping at the desk?

ACTING PRESIDENT MEIER: No, there is not.

SENATOR MORAHAN: There being no further business, Mr. President, to come before the Senate, I move that we stand adjourned until Thursday, May 29th, at 11:00 a.m.

ACTING PRESIDENT MEIER: On motion, the Senate stands adjourned until Thursday, May 29th, at 11:00 a.m.

(Whereupon, at 5:15 p.m., the Senate adjourned.)