NEW YORK STATE SENATE

THE STENOGRAPHIC RECORD

ALBANY, NEW YORK

April 14, 2004

3:14 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: In the absence of clergy, may we bow our heads in a moment of silence, please.

(Whereupon, the assemblage respected a moment of silence.)

THE PRESIDENT: Reading of the Journal.

THE SECRETARY: In Senate, Tuesday, April 13, the Senate met pursuant to adjournment. The Journal of Monday, April 12, 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 Fuschillo.

SENATOR FUSCHILLO: Thank you, Madam President.

On behalf of Senator Hoffmann, I move to amend Senate Bill Number 3270A by striking out the amendments made on January 21, 2004, and restoring it to its previous print number, 3270 --

THE PRESIDENT: So ordered.

Senator Fuschillo.

SENATOR FUSCHILLO: -- on Corporations, Authorities and Commissions, Assembly Print Number 675A, and substitute it for the identical bill.

THE PRESIDENT: Substitution ordered.

SENATOR FUSCHILLO: Madam President, amendments are offered to the following Third Reading Calendar bills:

On behalf of Senator Velella, page number 10, Calendar Number 157, Senate Print Number 5973A;

On behalf of Senator Larkin, page number 15, Calendar Number 288, Senate Print Number 1966;

On behalf of Senator Wright, page number 20, Calendar Number 387, Senate Print Number 4890B;

On behalf of Senator Meier, page number 30, Calendar Number 527, Senate Print Number 5736A;

On behalf of Senator Meier, page number 30, Calendar Number 529, Senate Print Number 5738A;

On behalf of Senator Flanagan, page number 33, Calendar Number 581, Senate Print Number 6158;

On behalf of Senator Morahan, page number 36, Calendar Number 622, Senate Print Number 1034;

On behalf of Senator McGee, page number 37, Calendar Number 627, Senate Print Number 3315;

On behalf of Senator Skelos, page

number 39, Calendar Number 653, Senate Print Number 6384;

On behalf of Senator LaValle, page number 32, Calendar Number 570, Senate Print Number 825.

I now move that these bills retain their place on the order of Third Reading Calendar.

THE PRESIDENT: The amendments are received, and the bills will retain their place on the Third Reading Calendar.

Senator Skelos.

SENATOR SKELOS: Madam President, there's a privileged resolution, 4369, by Senator Marcellino. Can we have it read in its entirety and move for its immediate adoption.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: By Senator Marcellino, Legislative Resolution Number 4369, commemorating the 34th anniversary of Earth Day on April 22, 2004.

"WHEREAS, It is the sense of this Legislative Body to recognize and pay tribute

to those organizations dedicating their purposeful work to increasing public awareness of, and appreciation for, the natural resources of New York, recognizing the role all citizens have in protecting the environment and the quality of life in this Empire State; and

"WHEREAS, On April 22, 1970, approximately 25 million Americans participated in the first Earth Day demonstration to express their concerns over the environment and the fate of the planet; and

"WHEREAS, In the 34 years that have passed since the original Earth Day, the planet has been subjected to the continuing burdens of world population growth, increasing commercial and residential development, ocean pollution, increasing stores of toxic and nuclear waste, and other similar assaults which have exacerbated the growing dangers of global climate change, ozone depletion, toxic poisoning, deforestation, and mass species extinctions; and

"WHEREAS, Following the first Earth

Day and the demonstrations of concern of over 20 million Americans, a collective national action has resulted in the passage of sweeping new laws to protect the invaluable resources of air, land, and water; and

"WHEREAS, April 22, 2004, marks the 34th anniversary of Earth Day, a day set aside to celebrate the beauty and bounty of our environment and to revitalize the efforts required to protect and maintain respect for the environment and its resources; and

"WHEREAS, Earth Day 2004 activities and events will educate all citizens on the importance of acting in an environmentally sensitive fashion by recycling, conserving energy and water, using efficient transportation, and adopting more ecologically sound lifestyles; and

"WHEREAS, Earth Day 2004 activities and events will educate all citizens on the importance of supporting the passage of legislation that will help protect the environment and will highlight the importance of a heightened awareness of environmental concerns amongst our state's leaders; and

"WHEREAS, The goal of Earth Day 2004 is not to plan only one day of events and activities but to continue worldwide efforts to protect all aspects of the environment; now, therefore, be it

"RESOLVED, That this Legislative Body pause in its deliberations to commemorate the 34th anniversary of Earth Day on April 22, 2004, and it be further

"RESOLVED, That this Legislative Body congratulate all the concerned citizens of New York State who have embraced the responsible work of protecting and preserving the environment for future generations."

THE PRESIDENT: Senator Marcellino.

SENATOR MARCELLINO: Thank you, Madam President. It is a pleasure to rise and speak on behalf of this resolution.

This is one of the most important things we do here. As a body, we represent the people of this great state, and this great state has a beautiful environment. And we are living on one planet, and they're not making any more, to my knowledge. And we have an

obligation to preserve and protect this planet and its environment so that future generations will have the highest quality of life possible for them.

What we do now and what we do today will not only affect us immediately but will affect many, many generations down the line. And it is our obligation and our duty, as I said, to preserve and protect our environment and our planet.

To that end, education, education is the key. We must reach out to the younger generations to bring them on board to protect the environment, which is what this resolution talks about. Reaching out to our youth, to our schools, to bring them in, to preserve habitats, to protect species, to protect the air and water quality that we have here.

It is of paramount importance that we don't let this thing end with one day, because it is not just one day that is Earth Day. Every day of the year should be Earth Day, in everybody's mind and in every community.

So I urge a one hundred percent

vote for this. I know we're going to get it. And I urge that we go forth as emissaries for this environment and that we preach the gospel of the environment to our children and to everyone we can, to make sure that they do everything they can in their communities to preserve and protect our quality of life here in New York State and in this great country and on this great planet.

Madam President, I'd like to open up this resolution to all members. Anyone not wishing to be on board, let them notify the chair.

THE PRESIDENT: Any member who does not wish to be a sponsor of this resolution please notify the desk.

All in favor of the resolution please signify by saying aye.

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: The resolution is adopted.

Senator Skelos.

SENATOR SKELOS: Madam President,

there's a privileged resolution, 4378, at the desk by Senator Duane. Could we have the title read and move for its immediate adoption.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: By Senator Duane, Legislative Resolution Number 4378, honoring Las Madres de Plaza de Mayo of Argentina upon the occasion of their historic visit to New York.

THE PRESIDENT: Senator Duane.

SENATOR DUANE: Thank you, Madam President. It's an honor to be a part of this historic day. And I welcome Argentina's Mothers and Grandmothers of the Disappeared here to the state capital today.

I don't think that we can hear often enough or that they could ever get tired of hearing that we are so sorry for what happened to their families -- the daughters, the sons, the relatives who were taken away from their families. None of them deserve to have to go through that terrible pain.

I think that we have to take this

kind of tragedy as an example so that we can stop repeating this kind of tragedy anywhere in the world. And the work that they did, putting their lives on the line by confronting the military and other authorities in Argentina, I think gives many of us courage to move forward when other families are in danger of being destroyed. Certainly the mothers and grandmothers are shining lights and examples of how important it is important it is to fight for human rights and civil rights.

And I have to say that because of their visit here to the Capitol today, I'm reminded that we need to take courage from them for work that needs to be done here in New York State, because here also in New York State we have a large group of women who are also mothers of the disappeared. And the mothers of the disappeared have sons and daughters who are serving lengthy and unfair mandatory prison sentences for low-level drug offenses. And that's because of the so-called Rockefeller Drug Laws.

And I feel that as a representative of the people here in the Senate that I owe an

apology to New York State's mothers of the disappeared, because they are part of families that are suffering terribly because of a misguided drug policy that we have here in New York.

And New York's laws are terribly out of whack with every other state in the nation. And our mandatory laws are much harsher than the laws that DAs in other parts country feel that they need. And there is no evidence that these drug laws in any way are helpful towards stopping the scourge of drug addiction in our state.

And unfortunately, these mothers have lost members of their families because we only look at drug addiction in our state as a criminal justice issue and not as a health issue as well. And until and unless we change that, we are going to continue to have mothers whose children have disappeared into our state prison system.

And I say that our laws are way out of whack, and that can be proven because our conference did a survey of drug laws across the nation. And indeed, our laws are much

harsher than any other laws in the nation. And there is no reason why we need such harsh laws. No other DAs across the nation require that.

You know, it's a shame that the vast majority -- 80 percent -- of those incarcerated for these drug offenses are people of color. There is something terribly wrong with that. I urge my colleagues to look at our conference's proposal for reforming the laws and bringing us into the same realm of law enforcement and drug policy that other states in the nation have adopted.

And not only do we need to look at what the prison sentences are now, but we also need to look at what happens when those who are incarcerated because of drug offenses reenter their neighborhoods and their cities.

And I urge all of my colleagues on both sides of the aisle to come to the forums that we'll be holding on our proposal. And in fact the first one will be next Wednesday, April 21st, here in Albany.

Only by reforming our laws here in New York State will we be able to really

address and once and for all make it so that we don't have to have mothers of the disappeared here in our state.

And so again, thank you to those brave mothers and grandmothers from Argentina who came to the Capitol today. And I hope that your visit will help to give each and every one of us the courage to stop what is happening in our state and will help to make families be more quickly reunited in our state.

Thank you, Madam President.

THE PRESIDENT: All in favor of the resolution please signify by saying aye.

Senator Montgomery.

SENATOR MONTGOMERY: Yes, thank you, Madam President. Just on the resolution.

THE PRESIDENT: On the resolution. You may proceed.

SENATOR MONTGOMERY: I would just like to thank my colleague for introducing this resolution. And certainly it's very important that we begin to change the dialogue and the environment for young people.

So many women, mothers in my

district have lost their children for many different reasons. And in a very real sense, those young people have disappeared. And in addition to the ones who have been killed or have disappeared because of their problems with drugs and they are incarcerated in prison across the state, we now have this huge problem where young people are dropping out of school very strangely. They're disappearing out of school, off the rolls of their schools in middle school and high school -- 8th graders, 9th graders, 10th graders. So we have this major problem where our young people are essentially disappearing.

And I think of those women who waged that battle to force the government to listen to them and to give them information. I look at them as a model. And I'm hopeful that the women in New York State, especially women in my district and across the city of New York, will begin to organize in the same way that those women did so that we can recover our own children.

So I thank you very much. Thank you, Senator Duane, for this resolution, and I

am happy to support it.

THE PRESIDENT: Senator Volker.

SENATOR VOLKER: Madam President, I regret getting up on this issue. And I -- there is no -- I realize that this is an attempt to get some publicity on the issue of drug laws.

There's about 300 or 400 people in jail under Rockefeller Drug Laws. I mean, we just let out about a hundred and -- we've been checking them out. None of the people that are involved here to my knowledge have anything to do with the Rockefeller Drug Laws. They're talking about a sad situation in another country, and they're right. They are heroes.

But I think we have to stop and look at this state. California has 175,000 people in prison. We have less than 65,000 now. The numbers of people who are in now for drugs, strictly drugs, is probably a few thousand. Maybe about 8,000 or 9,000. Virtually all of them are sellers, very few purchasers. We have been sending them out so fast through shock incarceration.

The national group that is involved in this -- and I have been fed up with listening to this stuff -- is trying to drive nationwide -- and your study, I don't know exactly what you're talking about about the tough laws we have. Look at California. Check it with California. They're putting in hundreds of thousands of people into jail. There is no proof to what you're saying, I want to tell you right now.

And I've stood and listened to this nonsense for several years, and I'm a little tired of it. Sure we have tough laws. That's why our crime rate is down dramatically, and that's why the number of drug sales is down, and that's why we've made huge progress.

What's left of the Rockefeller drug Laws is a piece of A-I and a piece of A -- the B felonies are not Rockefeller Drug Laws. What the Assembly would like us to do, fine, is a jailbreak. Let everybody out who does a B felony, sales or purchases. Maybe you can agree with that. And, you know, that's fine.

We have offered all sorts of programs. While we've been debating here,

thousands of people are going out under shock incarceration, are being treated. The people who are arguing against mandatory drug laws are not arguing in this state. They're arguing about other states. And they're trying to use us as an example. That bothers me, because we've done better than any state in the union at dealing with this issue.

The facts are there. The crime rate is down, the prison population is down, drug rates are down. It's all down. What can I say? I mean, I feel sorry for these poor people. If they have missing children, that's sad. A handful of them -- there were two or three here that are in under what they think are the Rockefeller Drug Laws. It's just drug laws. Maybe they deserve to be there, I don't know. But we're checking them all out since last year, by the way. We've gone through 300 or 400, they've gone through in the system, and let a hundred and some out because they were ability to be out.

And let me just finish one thing and then I'll be quiet. One of the women said she'd like to know about kingpins in jail.

They're in there. I can assure you, there are some big people who are in jail. And they're first-time offenders. One guy was found with 24 pounds of cocaine. He claimed it was put on him, it was -- the police set him up for it. He was one of the biggest dealers to the Syracuse area; in fact, the top distributor in the Syracuse area. There are some of the top dealers from New York City that are in prison. By the way, some of the mules that got into trouble got into trouble because they were dealing directly with these people.

So I only can tell you -- you can have hearings. And I realize this is good political stuff, because most people don't understand all these laws. But to say that Rockefeller Drug Laws need to be reformed is nonsense. We've already done it. You can talk about drug laws, but not Rockefeller Drug Laws. They've long since virtually disappeared.

THE PRESIDENT: Senator Schneiderman.

SENATOR SCHNEIDERMAN: Thank you, Madam President.

I truly appreciate Senator Volker's sincerity on this issue, and his frustration, but I think what we're dealing with here is a definitional problem that's preventing us from confronting the actual issue.

Yes, it may be the case that what people refer to as the Rockefeller Drug Laws are not in fact the Rockefeller Drug Laws. But according to numbers that were obtained from DCJS and DOCS by the Correctional Association, there are over 17,000 drug offenders -- nonviolent drug offenders whose only crime was drug possession -- in our prisons.

We're incarcerating at an estimated annual cost of $544 million, $544 million per year to keep nonviolent drug offenders. Right, those are not there under the Rockefeller Drug Laws. We use the term "Rockefeller Drug Laws" generally. But the fact of the matter is there are many nonviolent drug offenders who could be in treatment who are in prison in the state of New York.

And look, I have -- you know, I

don't think anyone here is talking about a jailbreak. I actually went through a jailbreak. My car was stolen by people in a jailbreak and destroyed. So, you know, I don't like jailbreaks any more than anyone else around here. We're not talking about a jailbreak. We're not talking about letting kingpins out. We're not talking about letting out people who deal drugs to kids or use kids in drug deals.

What we're talking about really primarily are not even the A-Is. We're talking about the lesser offenders. If you look at Senator Paterson's proposal, it's a proposal to reform the sentencing laws for all nonviolent offenders.

Let's have the hearings. Let's have an open mind. Let's not get caught up in the semantics of what a Rockefeller Drug Law and what is not a Rockefeller Drug Law. If there are people who are nonviolent offenders who are not a danger to anyone who are in prison who could be in treatment, let's deal with the issue.

And I respectfully suggest that the

crime rate drop here because of the Rockefeller Drug Laws, the assertion that that's what's taken place is -- doesn't make much sense, since the crime rate has also dropped in states all around the country during the same period. And as shown by the survey which we did, the fact is that most of those states don't have drug laws that are as severe as our drug laws, whether Rockefeller or otherwise.

But I think the most important point that we're trying to make today is that the Mothers of the Disappeared from Argentina, Las Madres de la Plaza de Mayo, are really something that are a symbol of something that goes beyond the specific issue, and that should inspire us on the issue of reform of drug laws or reform of any laws that are unjust that are still on the books. Which is our obligation, I believe, as public servants.

These women, their children disappeared. They're called the Mothers of the Disappeared because the junta in Argentina would fly people out over the ocean and throw them out of airplanes. And no one knew what

happened to them. And instead of retreating into grief, these women organized. And when you see them, they have the buttons with the pictures of their children on them. They met every Thursday in the Plaza de Mayo and demonstrated and marched. And more people joined them and more people joined them, and eventually the junta was brought down.

And they still are fighting for justice. They're still fighting to identify what happened to some of their lost relatives. And they're still fighting to see that there is punishment for those who inflicted this unspeakable torture and really destroyed not just thousands of lives but tens of thousands of families in Argentina during this horrible period.

They're here to speak out for justice. And yesterday I had the honor of being present at a meeting that they had with the dean of our delegation of district attorneys, Robert Morgenthau. And I do think Mr. Morgenthau understands the drug laws. And after the meeting with the mothers, which was an extraordinarily moving meeting, District

Attorney Morgenthau said, "It's time for us district attorneys to take a look at the laws again. It is time to review them. There are people in prison who don't need to be in prison." And if the senior district attorney of the state believes that's true, I think it's fair to say that we have a reason to hold public hearings.

And the hearings that Senator Duane and Senator Montgomery spoke of and that they're chairing, starting next week, are intended to honestly get the facts out. And maybe we can clear up some of this confusion.

But whether they are Rockefeller Drug Laws or not Rockefeller Drug Laws, if we can improve our sentencing laws to do more justice, to have people who need treatment get treatment, to keep the people who need to be in prison in prison and to get everyone else out, let's do it.

And the Mothers of the Disappeared are simply here to remind us that we have an obligation to do justice and we should not, in the New York State Senate, have to be embarrassed into doing justice, as the

government of Argentina was, by a group of women who are there standing outside the doors because they can't get in to force action when the leaders and the powers that be refused to take it.

So I'm honored to be here supporting Senator Duane's resolution. These are true heroes in the fight for social justice. And I think it's appropriate that we pause today to honor them. And next week let's get to the hearing and renew our discussion, argument, debate over what to do about the sentencing laws in this state.

Thank you, Madam President.

THE PRESIDENT: Senator Meier.

SENATOR MEIER: Thank you, Madam President.

I'm also going to be honored to vote for Senator Duane's resolution, but I think we're engaging in a bit of a stretch here to compare Argentina under the junta of General Pinochet to -- or not General Pinochet, that was Chile -- but under the Argentinian junta to present-day New York.

The mothers of the missing in

Argentina would have been quite glad, I think, to have lived in a society where you can only be arrested for a law that is on the books and that is publicly known, where you can only have a criminal proceeding brought against you upon an accusatory instrument or an indictment filed in a court of law, where you have the right to confront your accuser, where you have the right to counsel, where you have the right to be presumed innocent until proven guilty, where you have protection against ex post facto laws, where you have a public trial, where you have the right to petition your democratically elected government without fear of going arrested.

I think that's what the Mothers of the Missing would have preferred. And their children wouldn't have been missing in a society like the State of New York that had those protections present.

I'm going to vote for this resolution. But you dishonor the memory of people who have sacrificed when you pull this kind of a stretch.

THE PRESIDENT: Senator Duane.

SENATOR DUANE: Thank you, Madam President.

And I believe that my colleagues on the other side of the aisle know the esteem that I hold them in. However, they're wrong.

And New York State has harsher sentencing guidelines than anyplace else in the nation. Our crime rates are not in any way lower than other jurisdictions across the nation that don't have the draconian laws that we have in New York State.

And we will have, I hope, more time to debate this issue in this house. But our proposal is, I think, an excellent combination of Republican and Democratic ideas. It's determinate sentencing combined with greater opportunities for probation, but real probation.

So please come and listen to what DAs and others from across the nation have to say about their laws. Please look at our survey. And I think that you will see that our argument is very compelling that the time is here for New York State to get into the mainstream of criminal justice as it applies

to nonviolent offenders.

Thank you, Madam President.

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

All those in favor of the resolution please signify by saying aye.

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: The resolution is adopted.

Senator Morahan.

SENATOR MORAHAN: Yes, Madam President. Are there any substitutions at the desk?

THE PRESIDENT: Yes, there are, Senator.

The Secretary will read.

THE SECRETARY: On page 17, Senator Spano moves to discharge, from the Committee on Investigations and Government Operations, Assembly Bill Number 8752A and substitute it for the identical Senate Bill Number 5136A, Third Reading Calendar 317.

On page 33, Senator Skelos moves to

discharge, from the Committee on Local Government, Assembly Bill Number 9801A and substitute it for the identical Senate Bill Number 6179A, Third Reading Calendar 582.

And on page 33, Senator Morahan moves to discharge, from the Committee on Elections, Assembly Bill Number 9925 and substitute it for the identical Senate Bill Number 6492, Third Reading Calendar 588.

THE PRESIDENT: Substitutions ordered.

Senator Morahan.

SENATOR MORAHAN: May we please have the noncontroversial reading of the calendar.

THE PRESIDENT: The Secretary will read the noncontroversial calendar.

THE SECRETARY: Calendar Number 218, by Senator Volker, Senate Print 608B, an act to amend the Penal Law, in relation to the issuance of junior licenses.

SENATOR SCHNEIDERMAN: Lay it aside.

THE PRESIDENT: The bill is laid aside.

THE SECRETARY: Calendar Number 289, by Senator Volker, Senate Print 2326B, an act to amend the Environmental Conservation Law, in relation to allowing.

SENATOR SCHNEIDERMAN: Lay it aside.

THE PRESIDENT: The bill is laid aside.

THE SECRETARY: Calendar Number 515, by Senator Marchi, Senate Print 6160A, an act to amend Chapter 84 of the Laws of 2003 relating to directing the Commissioner of the Department of Environmental Conservation.

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, 59.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 516, by Senator Little, Senate Print 6124, an act to amend the Social Services Law, in

relation to tribal authority.

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, 59.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 535, by Senator Larkin, Senate Print 1222B, an act to amend the Education Law, in relation to requiring institutions of higher education.

SENATOR SCHNEIDERMAN: Lay it aside.

THE PRESIDENT: The bill is laid aside.

THE SECRETARY: Calendar Number 552, by Senator Padavan, Senate Print 5117A, an act to amend the Vehicle and Traffic Law, in relation to suspension for failure.

THE PRESIDENT: Read the last section.

THE SECRETARY: Section 2. This

act shall take effect immediately.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58. Nays, 1. Senator Duane recorded in the negative.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 582, substituted earlier today by Member of the Assembly DiNapoli, Assembly Print Number 9801A, an act to amend the Real Property Tax Law, in relation to allowing.

SENATOR SCHNEIDERMAN: Lay it aside.

THE PRESIDENT: The bill is laid aside.

THE SECRETARY: Calendar Number 585, by Senator Wright, Senate Print 6386B, an act in relation to creating.

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, 59.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 589, by Senator Saland, Senate Print 1916A, an act to amend the Domestic Relations Law and the Family Court Act --

SENATOR SCHNEIDERMAN: Lay it aside.

THE PRESIDENT: The bill is laid aside.

THE SECRETARY: Calendar Number 598, by Senator Velella, Senate Print 6477, an act to amend the Administrative Code of the City of New York, in relation to adjusting the statutory periods.

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, 59.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 599, by Senator Velella, Senate Print 6535, an act to amend the Retirement and Social Security Law, in relation to adjusting the statutory periods.

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, 59.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 626, by Senator Kuhl, Senate Print 1468, an act to amend the Penal Law, in relation to the imposition of driver's license suspensions.

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

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 636, by Senator Golden, Senate Print 6559, an act to amend the Penal Law, in relation to concurrent and consecutive terms of imprisonment.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58. Nays, 1. Senator Connor recorded in the negative.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 637, by Senator McGee, Senate Print 6560, an act to amend the Penal Law, in relation to vehicular assault and vehicular manslaughter.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 638, by Senator Robach, Senate Print 6561, an act to amend the Criminal Procedure Law and the Vehicle and Traffic Law, in relation to aggravated unlicensed operation.

THE PRESIDENT: Read the last section.

THE SECRETARY: Section 5. This act shall take effect immediately.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 639, by Senator Nozzolio, Senate Print 6644, an act to amend the Penal Law, the Vehicle and Traffic Law, and the Insurance Law, in

relation to criminally aggressive driving.

THE PRESIDENT: Read the last section.

THE SECRETARY: Section 8. This act shall take effect on the first of November.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 654, by Senator Libous, Senate Print 6528 --

SENATOR SCHNEIDERMAN: Lay it aside.

THE PRESIDENT: The bill is laid aside.

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

SENATOR SKELOS: Thank you, Madam President. If we could go to the controversial reading of the calendar.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: Calendar Number

218, by Senator Volker, Senate Print 608B, an act to amend the Penal Law --

SENATOR LIZ KRUEGER: Explanation, please.

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

SENATOR VOLKER: Madam President, this is a bill which really resulted from the bill that was passed in this house a number of years ago concerning gun control.

By the way, with all the fears of the -- and I realize I'm probably arguing against the people that I support, but with all the talk about gun control, there have been almost no arrests under the gun control statute we passed unless there was a federal arrest coupled with it.

In other words, the bill that we passed totally mirrored the federal law, the so-called Brady Law, and it's very hard to find any arrests solely under the state law that weren't linked to federal laws. Which was a great fear of the sportsmen, and it does not appear that anything of that kind happened. And the theory that it was going to

spread to many other areas has never happened, and I think that should be said.

One of the problems that happened when we did the law, however -- because previous to that statute, there was actually no bottom rung for a person to purchase a license. And therefore, licenses could be given to very young people, in effect for purposes of training. But once we made the statute 21, that you couldn't have a gun license until you're 21, that cut off any possibility of training or skill competition and so forth for younger people, which denies New Yorkers the opportunity to be part of Olympic teams and various hunting sports throughout the country.

What this bill does, it sets up the junior licensing proposal that has been advocated, by the way, by not just gun advocates but youth advocates across the state. And it says that between the ages of 14 to 20, you can obtain a junior license but you have to pass the regular requirements -- by the way, this does not allow you to have a pistol. I think there's some

misunderstanding. You can't -- with a junior license, you can't actually own a gun.

What it says, however, is that you have the ability, along with a parent and with the permission of a parent, to engage in safety training, target practice, shooting competition, or lawful hunting. And, you know, you can -- in other words, just as it was years before when that used to happen, you can now do it, but it's specifically under a junior license.

When this bill passed last year, Senator Paterson and I had a colloquy about this, and he mentioned the city of New York. And I said to him, "All right, Senator Paterson, in keeping with what you have suggested to me, do you think we'd have a better chance of passing this in the Assembly if we eliminated the city of New York?" And he said he thought so.

So this year, as you'll notice, there's a section on page 3, line 47, that says: "A junior license issued pursuant to this section shall not be valid within the City of New York."

So that is basically the bill.

THE PRESIDENT: Read the last section.

Oh, Senator Krueger. Excuse me.

SENATOR LIZ KRUEGER: Thank you, Madam President. If the sponsor would yield, please.

SENATOR VOLKER: Sure.

THE PRESIDENT: Senator Volker does yield. You may proceed, Senator Krueger.

SENATOR LIZ KRUEGER: Thank you. Through you, Madam President.

Senator Volker, you mentioned it's not that they can own pistols or other kinds of guns. Are you saying that if you have a junior license, you don't have a gun in your possession, as a 14-to-20-year-old --

SENATOR VOLKER: That's right.

SENATOR LIZ KRUEGER: -- to take to and from your gun competitions, your trainings, your hunting?

Can you explain what that means when you say you have a license but you don't have a gun?

SENATOR VOLKER: Well, I'm

talking about pistols. Because with rifles and shotguns, you have the right to -- you can handle a rifle or a shotgun whether you're licensed or not. You can't go into the field with it, because that's illegal, but you can carry a rifle or a shotgun, for instance, to a competition even without a junior license. It's pistols that are the key.

SENATOR LIZ KRUEGER: Fine. Say with pistols and revolvers, mm-hmm.

SENATOR VOLKER: But you can't carry a pistol. Someone else has to carry that pistol to wherever you're going, because you don't have the right to possess a pistol. You can only possess it on the range or wherever it is or with the person who is showing you how to use it.

Now, 90 percent of this, by the way, will not necessarily be -- it will be rifle competition. But there is some special pistol competition, especially Olympic competition, that can really utilize these junior licenses.

THE PRESIDENT: Senator Krueger.

SENATOR LIZ KRUEGER: Madam

President, through you, if the sponsor will continue to yield.

SENATOR VOLKER: Sure. Sure.

THE PRESIDENT: Senator Volker does yield. You may proceed, Senator.

SENATOR LIZ KRUEGER: Thank you.

Senator Volker, I am confused. Can you show me where in the bill it says if you have a junior license you can't have possession of the gun or be taking it to or from your training or your competition?

Because I see a section on having the notarized signature of a parent in order to go and get permission to have the license, but I don't see anything here that would then --

SENATOR VOLKER: Right. It's not in there. Because the law says right now that no one without a regular license, that no one that doesn't possess a license and has that pistol on his license or her license can possess a pistol.

So it's illegal right now. What this bill does is say it's only legal under certain circumstances. And there's nothing

that says that you can carry a pistol to and from competition or anything else. Therefore, it's illegal, because it's illegal under the present law. We haven't changed that.

SENATOR LIZ KRUEGER: Thank you, Madam President. On the bill.

THE PRESIDENT: You may proceed on the bill.

SENATOR LIZ KRUEGER: Thank you.

I appreciate Senator Volker's explanation and clarification of the bill. I'm not a hundred percent sure that I agree that having a license that says you can use it at Point A but you can't bring it from Point B to Point A would in a practical sense actually apply, if you think of common sense of 14-, 15-, 16-, 17-, 18-, 19-, 20-year-olds going off and participating in gun sports, so to speak.

But I will state and I continue to state, despite my disagreement with many of my colleagues on both sides of the aisle, that we live in a society that not only is dangerous and unfortunately has too many violent incidents, but the statistics make it very

clear that children having access to guns increases the chances that they will do harm to others, that they will do harm to themselves, both intentional and unintentional.

And I think there's a very good reason that the State of New York passed a law to say that people below the age of 21 shouldn't have access to pistols and revolvers and that the data nationally and in this state since should be reaffirming to us why we should not change this law, we should frankly not make it easier for young people to get access to guns.

And if in fact a price to be paid is less access of young people to be able to compete in pistol-and-revolver-related sports, I have to say that for society's sake and for younger people's sake, I think that is a cost worthy of being paid on behalf of our society.

Just to provide some statistics to argue my point, every eight hours a child or a teenager was killed in a firearm-related accident or suicide in the year 2001. On average, during each of the last ten years

nearly 1300 children committed suicide with a firearm each year. More than 145 each year were children under the age of 15 who committed suicide with guns. The overall firearm-related death rate among United States children aged less than 15 years old is nearly twelve times higher than among children in 25 other industrialized countries.

Unfortunately, in our homes throughout the country, even in states that don't allow children to have pistol and revolver licenses, because of the failure to appropriately lock up and store guns and ammunition, the rate of harm done in the home is staggering. Of gun-owning households with children, only 25 percent lock and store their bullets in a separate place from their guns. Among homes with children and firearms, 40 percent have at least one unlocked firearm at any given time in their home. Only 39 percent of homes with children and firearms are keeping their firearms locked, unloaded, and separate from their ammunition.

Two-thirds of the 41 students involved in the 37 school-related shootings

that took place in this country from 1974 to the year 2000 got their guns that they brought to school from their home or from a relative.

The statistics are staggering. During the 1992 to 2001 school years, shootings were the lead cause of violent deaths in our schools, responsible for 77 percent of all in-school violent deaths.

And the facts are not just national or statistics for over a 10-year period. I did a look at newspaper story about gun violence and children in New York State just over the last six months:

March 29, 2004, Bronx, New York, 11-year-old-boy accidentally shot by 19-year-old brother.

March 26, Spring Valley, New York, boy, 16, shot with a BB gun on a school bus.

March 23rd, Buffalo, 11-year-old girl accidentally shot by a child neighbor.

March 11th, Niagara, New York, boy, 17, shoots self showing off gun outside school.

March 10th, in Ossian, New York, 14-year-old boy accidentally killed when

shooting with friends.

March 14th, 17-year-old in the Bronx accidentally shot in head and killed by other teenager.

We know about the East Greenbush incident from February 10th; we discussed it here on the floor.

February 3rd, Cornwall, New York, girl, 13, brings loaded BB gun to school.

January 23rd, in Machias, New York, 17-year-old girl accidentally shot by her teenage boyfriend.

I could read on for pages just the stories in New York of children being shot or killed or shooting others with guns in our state. Queens, 5-year-old accidentally killed himself with a gun.

We should not be making it easier for children to have access to pistols and revolvers in the State of New York. We should be making it harder for them to have access to guns. It is in their best interests and it is in our best interests.

I will vote against this bill, Senator Volker. I don't think it's adequate

just to protect the children of New York City because they are exempt from this law. And I hope my other colleagues will share in my view that our assignment as legislators is to keep our children safe from gun violence, including by their own hand.

Thank you, Madam President.

THE PRESIDENT: Senator Volker.

SENATOR VOLKER: Madam President, I want to thank the Senator for helping to pass my bill.

I agree with you one hundred percent. By the way, those numbers are national numbers. You gave me some incidents involving in schools. And one of the reasons that violent crime rates for guns is the highest is there's very little violent crime, comparatively, in schools, and a lot of it is with guns. And one of the ways we hope to avoid that is with some training for young people.

By the way, if you'll read on the second page -- and I won't go into it. It's persons between the ages of 14, while undergoing firearm training -- it specifically

says they cannot possess a weapon without someone right there with them. In other words, the firearms training or whatever. And because they can't list a gun on their license, because junior licenses don't allow the listing of a weapon, therefore they cannot possess except when they're being trained or whatever.

The second thing is, though, the argument that somehow this is going to create more problems, I think the truth is it will help the situation. Although most of these deaths that you're talking about are with illegal firearms. They're involving people that have drugs and criminal activity and so forth. Some, regrettably, are police officers who sometimes forget to lock their guns away. And that's true. Nothing we can do, by the way. We can pass all the laws we want and it's going to be difficult to deal with that.

The problem is that we are talking about crime, and I am talking about sportsmen. There's nothing that we are doing here that has anything to do, except on the positive side, with the handling of weapons. What

we're trying to do is make sure that young people respect those weapons, know how to use them.

We certainly realize that there aren't a ton of hunters in New York City. But upstate in particular, this makes immense sense. And it just seems to me that we shouldn't allow criminals and people who make mistakes to keep us from doing those things that are important to our society.

And I think this is one of those things that's important to our society, particularly people in upstate New York and on Long Island, to a certain extent. Because the people who have been deprived mostly are on Long Island, because of the pistol clubs that they have developed there which used young people to do national competition and so forth.

THE PRESIDENT: Senator Hoffmann.

SENATOR HOFFMANN: Thank you, Madam President.

I appreciate Senator Volker's thoughtful explanation of this bill and indicating what it does and what it doesn't

do.

And while it's very easy to use national statistics and to espouse a philosophy that is based upon a desire to outlaw all guns, let's be realistic about what we're trying to do here in this state. First of all, we have guns quite legally in this state for many purposes. And guns are readily available to most law-abiding citizens who want them.

This is about training young people in the proper use of firearms. And as Senator Volker pointed out, firearms are used in an Olympic activity. They are sanctioned nationally and internationally for competition. This is another form of wholesome activity for young people in many parts of the state and the country.

Despite all of the efforts from people in other parts of the state with a different agenda, in the upstate region that I proudly represent, people respect firearms and they want their children to learn how to use them and respect them at a reasonable age. Fourteen is a very appropriate age.

I'm happy to tell you that I went through the firearms safety course with my own son when he was that age. I thought it was great that he was interested in getting a junior hunting license. And I was very proud to go along with him, and since I was driving him, I stayed and took the course myself. Learned a lot of things that perhaps I might not have remembered as readily from the time when I took it as a teenager myself. It was one of those rare bonding activities that parents remember and children remember all of their lives.

And there are many, many families with daughters and sons at the age of 14 who are looking at various recreational opportunities, and the shooting sports are on that list. And we should not discourage them from entering those activities. We should be encouraging them to utilize firearms for recreation as well as for safety, quite obviously, and to utilize them fairly, responsibly, and with a maximum amount of education and under supervision.

This is a very well thought out

piece of legislation. I'm delighted that we have it in front of us today. And I hope that everybody can be practical about the interesting split that we have philosophically. This isn't about having guns or not having guns. This is about guns being treated with safety.

Thank you, Madam President.

THE PRESIDENT: Senator Krueger.

SENATOR LIZ KRUEGER: Thank you, Madam President. On the bill, and just to clarify some statements.

Senator Volker, none of the statistics I gave were about criminal activity. They were all gun violence, either suicides or accidents with guns, not about criminals having guns.

You're right, those are not legal guns, because by definition, 14-year-olds, 15-year-olds shouldn't be having guns under New York State law. So clearly we are right that we have laws that say children shouldn't have access to guns, and yet they do get access to guns.

The point with this bill and where

I disagree with my colleague Senator Hoffmann so strongly is this is not about the ethic of hunting or guns in general. This is a bill that lets 14-year-olds have handguns. New York State should not be supporting, endorsing, or encouraging teenagers to have handguns. They are a danger to our society, they are a danger to young people that far outweigh the value of training in a sport involving a revolver or another type of handgun.

And that is the argument that I am making here today. This is not the criminals versus the noncriminals. This is about children with guns. We should be discouraging and doing everything we can to make sure that children don't get access to guns, don't find themselves in situations where they get harmed or do harm to others or that they have the ability to commit suicide with such items.

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 4. This act shall take effect immediately.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58. Nays, 1. Senator L. Krueger recorded in the negative.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 289, by Senator Volker, Senate Print 2326B, an act to amend the Environmental Conservation Law, in relation to allowing.

SENATOR SCHNEIDERMAN: Explanation.

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

SENATOR VOLKER: I understand there's going to be an amendment, so I'll just very quickly explain what this bill is.

The bill doesn't change the hunting season. The times and dates for hunting deer and bear remain the same, except that in the counties of Allegany, Cattaraugus, Chautauqua, Chenango, Herkimer, Montgomery, Oneida,

Oswego, Otsego, Schoharie, and Tioga, as well as certain towns in Broome County -- except for the towns of Vestal, Binghamton, Union, Kirkwood, and Conklin -- in those counties, you will be able to hunt bear and deer with rifles.

It has nothing to do with any of the major urban areas. These are all rural areas. This bill essentially came from the New York State Conservation Council. The law already allows rifle hunting in certain counties in the Catskills and in the North County, the Adirondacks. It has absolutely nothing to do with New York City or, in fact, Long Island, because Long Island is not included anyplace here where you can have rifles.

And basically that's the bill, sponsored by Assemblywoman Francine DelMonte in the Assembly.

THE PRESIDENT: Senator Krueger.

SENATOR LIZ KRUEGER: Madam President, I believe I have an amendment at the desk. I'd like to waive reading.

THE PRESIDENT: The reading is

waived.

SENATOR LIZ KRUEGER: Thank you. On my amendment, Madam President.

I think the theme was clear from the earlier debate. I am of the position that guns should be kept away from children and that in fact there are other, far safer and more rewarding sports for young children than playing with guns, whether it be for competitions, as was the debate in the previous bill, or for hunting, as is the issue in the current bill.

My amendment to Senator Volker's bill would raise the age for junior hunting licenses from currently 12 to 14 to 14 to 16 to be permitted to hunt in New York if accompanied by a parent, guardian, or relative. And I would have that parent, guardian, or relative be over the age of 23 instead of the current age of 21.

It would raise the junior archery license for hunting from current 14 to 16 to 16 to 18 years of age, and require that archers under 20 who are hunting be accompanied by a parent, guardian, or

relative.

It would raise from 16 to 18 the minimum age to receive a wildlife hunting license and require all wildlife hunters under the age of 20 be accompanied by a parent, guardian, or relative while hunting.

Again, I think my message is consistent. Children and guns do not add up to a safe environment. It increases the risk of doing harm to themselves and to others, whether it is on a firing range, which was the issue in the previous bill, or in the woods hunting.

We should be concerned about children's welfare in the context of their having access to guns and other dangerous items. And I think, rather than lowering the age limit for these activities for children, we should actually be increasing the age limit, which is what I do in this amendment.

Thank you, Madam President.

THE PRESIDENT: Those Senators in agreement with the amendment please signify by raising your hands.

THE SECRETARY: Those Senators

recorded in agreement are Senators Duane, L. Krueger, Parker, Paterson, Schneiderman, and Stavisky.

THE PRESIDENT: The amendment is lost.

Senator Volker.

SENATOR VOLKER: Read the last section, please. I think I already explained the bill.

THE PRESIDENT: Read the last section.

Senator Connor.

SENATOR CONNOR: Yes, will the sponsor yield for a question?

SENATOR VOLKER: Certainly.

SENATOR CONNOR: Senator Volker, my concern is germane to your counties.

It's always been my understanding, since I first took up hunting at the age of 13 or 14 in the state of New Jersey -- and the first question I asked is, In the state of New Jersey, why can't we use rifles, how come we only use shotguns? And the answer was it's not mountainous enough.

SENATOR VOLKER: It's not what?

SENATOR CONNOR: Since then -- mountainous.

I've certainly learned recently, going through my sons going through hunter safety and their getting their licenses, we learned things like a rifle -- I have a .22. And when you read this stuff, maximum carry, a mile -- that's only a .22. You can't hunt with a .22. Not large game, you have to use something larger-bore than that.

So my concern about those counties simply is, why were they excluded in the past? And am I wrong, I've visited those counties -- I can't say I know them from one end to the other, but I've actually, in most of them, countered ballots in places like the county seat in Tioga County and the county seat in Chenango. That's Norwich. The other one is -- begins with an O. I'll think of it in a minute.

And my sense of those places were that they're -- in the Southern Tier, they're relatively flat lands with some rolling hills. And my concern is really about the carry. And is the reason in the past that we've allowed

rifles in Catskills and Adirondacks that, you know, the miss. If you miss in a mountainous area, that bullet is going to impact in the earth or whatever, a hillside, and not carry.

And I'm concerned about allowing high-powered rifles to be used to hunt deer or bear in open farmland, rolling fields where a miss could carry for well -- if a .22 can carry for a mile, probably a miss could carry for a mile and a half with something stronger. I've fired at targets a mile and a half away and hit them with a sniper rifle.

And so I just have -- and as you know, Senator, I am not one of those New York City people, even though I represent part of Manhattan, who's against all guns, hunting, et cetera, et cetera. But I do have a safety concern that I think is relevant to your bill.

SENATOR VOLKER: I appreciate that.

It was never excluded. The real story is -- in fact, for years New York really never had restrictions on hunting for a long time, until probably 40 years ago or whatever.

By the way, these listings here

don't say that a city, for instance, could stop hunting. Obviously, they could post their own local hunting requirements, as we do, for instance, in Erie County. Where I live, we have like posted places. And actually, I think my town doesn't allow hunting except in the very rural part of the town. So the local people can restrict it.

I would say to you that there are a lot of rolling hills and it's not really all flat. There's some decidedly mountainous or hilly places. But I think the thing you should realize is .22s actually -- which are legal, and which you can use for squirrels and things like that, you can hunt anyplace except of course where hunting is restricted.

The so-called high-velocity rifle is actually, I think -- I would be more concerned, my own personal feeling, for .22s, because generally these high-velocity bullets, you'll hit something. I mean, you graze a tree and they're down. Most people that get hurt are hurt with shotguns, by the way, the vast majority of people that are hurt during hunting season.

But I think the feeling is, of sportsmen and of the people of these areas, is that there really isn't the kind of danger that there would seem to be. And that's why certain counties where there was concern were excluded.

Frankly, at one point this bill had more counties than is here now. And there's a couple of places where people objected, and we took them out because of special problems. Broome County, for instance, had some special problems. And a certain person here discussed this with us, and we took them out.

But I think the thing is the feeling here is that the danger -- and remember, this is only -- we're not changing the seasons. They're hunting seasons. Could something happen? Oh, that's for sure. Does it normally happen? No. And the safety record for rifles is actually a lot better than it is for shotguns.

Could there be a carry? Could be. But that's why people -- that's why everybody has to go to hunter training. That's why everybody has to have -- I've had hunter

training. Anybody who's got -- you know, I've had it three times, I think, in my younger years.

So the assumption is that people will act reasonably. Will everybody act reasonably? Probably not. But I think the feeling of people who are involved in this is that they will do the best they can to make it safe. But the other side of the coin is that you will try your best to give people the maximum ability to deal with issues.

And one of the issues is deer, that -- I don't think people realize deer are creating havoc in upstate New York. They're killing people. And we have one road that is right near me, we call it Deer Alley, where in the fall it's not unusual to have two dozen deer get killed in about two months. If they're not hunted, they're going to wreak havoc. They're coming through windows.

I mean, the problem with the PITA people is they are inadvertently creating horrors for these deer. And what we're trying to do is to a certain extent deal with that. Also keeping them out from destroying property

and all the rest of the things.

So that's another reason that this is being done, is to try to cut down the enormous numbers of deer that are spreading throughout all of upstate New York.

SENATOR CONNOR: On the bill, Madam President.

THE PRESIDENT: Senator Connor, you may proceed on the bill.

SENATOR CONNOR: Thank you, Madam President.

Yes, I think Senator Volker has addressed my concerns. I don't know if he's totally satisfied them, but the fact that his bill is somewhat limited now makes me feel safe in voting in favor of it.

I do want to note it doesn't change seasons. And I know, Madam President, Senator Volker is aware of this, that in May we have spring turkey. And I noticed in my district in Lower Manhattan in the paper the other day, there's a bearded turkey running around Battery Park. And my boys saw that story too, and said: Dad, you know, spring turkey is coming. I said, I don't think folks would

appreciate it if we nailed that turkey in Battery Park. So we'll keep our turkey hunting much farther north than that.

Thank you, Madam President.

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

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 535, by Senator Larkin, Senate Print 1222B, an act to amend the Education Law, in relation to requiring institutions.

SENATOR SCHNEIDERMAN: Explanation.

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

SENATOR LARKIN: May I ask by whom, Madam President?

THE PRESIDENT: By Senator

Schneiderman, Senator.

SENATOR LARKIN: First of all, this bill was passed last year 56 to 4. And it now has a B print.

This bill is a basic, simple bill. Under current laws, colleges and universities are not obligated to release education grades to parents of dependent children. Under this bill, colleges would be obligated to release college grades if such reports were requested by the parent of a dependent college student.

Under the federal law, parents are entitled to receive copies of their dependent children's school grades as long as they can prove such student is a dependent child. This can be designated by releasing tax information that demonstrates that the child was listed as a dependent.

And a question that was asked last year, Madam President and Senator, was does this violate any federal laws. And according to the federal Educational Rights and Privacy Act, they have informed us in Washington that our bill as it's now written does not violate anything as long as the individual parents

request it in writing and provide the documentation that the student is their legal dependent.

THE PRESIDENT: Read the last section.

Senator Krueger.

SENATOR LIZ KRUEGER: Thank you. Thank you, Madam President. On the bill.

THE PRESIDENT: You may proceed on the bill.

SENATOR LIZ KRUEGER: Thank you.

I appreciate Senator Larkin's clarification, and the fact that it's not against federal law and that it requires the individual signature of the parents who are requesting the information.

And last year I was opposed to the bill on several grounds, as he pointed out one of them. And the other one was my concern that financial -- declaring someone as a dependent on your tax forms may not be the same as actually providing financial assistance to them.

And also my concern that legislating parental-child relationships above

the age of 18 is perhaps not a territory we ought to be going into in New York.

And so while I appreciate the work he did on the bill and in learning the information he did from the federal government, I will continue to vote no on this bill because I still have the concern that at a certain point one has to trust in adult/young adult relationships when it comes to a college situation.

And that I fear not so much this bill as a precedent where we would be legislating step-by-step additional parental roles, so to speak, through schools, asking schools to report to parents this activity, that activity, this activity, that activity for college-age students. And I don't think that's a road we want to go down in New York State.

So I will vote no for this bill, but I appreciate the Senator's comments.

Thank you, Madam President.

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 PRESIDENT: The Secretary will announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 535 are Senators Breslin, Duane, Parker and A. Smith. Also Senator L. Krueger. Ayes, 56. Nays, 5.

THE PRESIDENT: The bill is passed.

Senator Montgomery.

SENATOR MONTGOMERY: Yes, Madam President. I would like unanimous consent to be recorded in the negative on Calendars 552 and 626. Thank you.

THE PRESIDENT: Hearing no objection, you will be so recorded as voting in the negative on both of those bills.

The Secretary will continue to read.

THE SECRETARY: Calendar Number 582, substituted earlier today by Member of the Assembly DiNapoli, Assembly Print Number 9801A, an act to amend the Real Property Tax

Law.

SENATOR LIZ KRUEGER: Explanation.

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

SENATOR SKELOS: Thank you very much, Madam President.

This bill allows Nassau County to adjust and limit the maximum class growth in the 2004 assessment roll to 2 percent of the prior year's adjusted base proportion. Current law allows up to 5 percent.

This bill is similar to last year's bill, Chapter 43, that applied to Nassau County and to numerous other chapters of laws that have passed applying to New York City. We've passed this legislation for New York City residents, and now we are repassing it once again for Nassau County residents.

THE PRESIDENT: Senator Krueger.

SENATOR LIZ KRUEGER: Thank you, Madam President. If the sponsor would yield.

THE PRESIDENT: Senator Skelos, do you yield?

You may proceed.

SENATOR LIZ KRUEGER: Thank you. Is this at the request of the county, Senator? Has Nassau County formally requested that we do this?

SENATOR SKELOS: This is for school districts.

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

THE PRESIDENT: Senator, do you continue to yield?

SENATOR SKELOS: And there's no -- we've received no letters of opposition, phone calls of opposition, whispers of opposition. And obviously our county executive has a loud voice and loves to be heard. So we have not heard from him.

SENATOR LIZ KRUEGER: Thank you, Madam President. I accept the sponsor's answers. Thank you.

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

Then the debate is closed.

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 589, by Senator Saland, Senate Print 1916A --

SENATOR HASSELL-THOMPSON: Explanation.

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

SENATOR SALAND: Thank you, Madam President.

Madam President, this is a bill which we've seen in this house on prior occasions. The bill is a bill which in a number of different sections of our law changes reference to the term "visitation" to the term "parenting time."

And the idea behind it is pretty basic. What it says is that a parent is a parent and when he or she spends time with his or her child, that should constitute parenting time and not have the connotation that might

be applied by way of the term "visitation." That term would perhaps be more appropriately used when someone is incarcerated or someone is in an institution.

There is nothing in this bill that changes the substantive law of the State of New York with regard to any existing case law or statutory law vis-a-vis support. There is one amendment that would distinguish it from last year's. This year's version merely changes, in one section of the bill or in appropriate sections of the bill, reference to what had previously been "hearing examiner" to "support magistrate," which was necessitated by a recent change in the law.

Thank you.

THE PRESIDENT: Senator Hassell-Thompson.

SENATOR HASSELL-THOMPSON: Yes, thank you, Madam President. Just on the bill.

THE PRESIDENT: You may proceed.

SENATOR HASSELL-THOMPSON: Senator Saland, you and I have had a discussion on this bill in the past. And I had hoped that you and I would be able to talk

some and massage the language of this bill, and we haven't seemed to have been able to do that.

So again, I will stand to say that I feel I understand the intent, but I don't feel that this bill does that. And therefore I again will be voting no.

THE PRESIDENT: Read the last section.

THE SECRETARY: Section 29. This act shall take effect immediately.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Those recorded in the negative on Calendar Number 589 are Senators Balboni, Dilán, Duane, Hassell-Thompson, Montgomery, and Parker. Ayes, 55. Nays, 6.

THE PRESIDENT: The bill is passed.

The Secretary will continue to read.

THE SECRETARY: Calendar Number 654, by Senator Libous, Senate Print 6528, an act to authorize the Village of Endicott in

the County of Broome.

SENATOR LIZ KRUEGER: Explanation.

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

SENATOR LIBOUS: Thank you, Madam President.

This bill allows the Village of Endicott to bond for $2 million, and over a 10-year period, with various reports that would have to be given to the Comptroller. And they would hopefully be able to get out of their financial situation.

THE PRESIDENT: Senator Krueger.

SENATOR LIZ KRUEGER: Thank you, Madam President. If the sponsor would please yield.

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

SENATOR LIBOUS: Madam President, I'd be happy to yield to Senator Krueger.

THE PRESIDENT: You may proceed, Senator.

SENATOR LIZ KRUEGER: Thank you. Through you, Madam President.

Is the state guaranteeing these bonds? Is that why there would have to be various reports submitted to the Comptroller on a regular basis?

SENATOR LIBOUS: Actually, it is -- the state is not.

And we've required those reports. I thought it made sense. The village is willing to pay those bonds back themselves, through their own tax base, so that they're not affecting all of the taxpayers of New York. Which I think is an honorable thing to do, because it's a situation they got themselves into.

But no, these reports are required based on requirements that we've put upon them.

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

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

SENATOR LIBOUS: Absolutely.

THE PRESIDENT: You may proceed, Senator.

SENATOR LIZ KRUEGER: Since in general we -- although we do it ourselves here in Albany -- we financially frown on the idea of bonding out operating expenses rather than -- and having long-term debt with sometimes high interest rates associated with paying off some kind of annualized cost, do you know why they found themselves in a $2 million deficit where they can't simply address it through adjustments in their budget or their revenue?

SENATOR LIBOUS: Yeah, Madam President, that's a good question.

There's a number of reasons. And you can certainly -- we can point the fingers at the former Republican administration. And now there's a Democratic administration in, the new mayor and the town board. But I don't think it's that.

I think the big issue is that, Madam President, at one time IBM Corporation employed 18,000 people in Endicott, New York, and encompassed a square footage area of over 1.5 million square feet. And unfortunately, now they employ 1800 people and no longer own

anything. And the tax value has continued to disintegrate and disintegrate. And that's really the bottom line.

SENATOR LIZ KRUEGER: Thank you, Madam President. Thank you, sponsor.

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

Then the debate is closed.

There is a home-rule message at the desk.

Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

THE PRESIDENT: The bill is passed.

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

SENATOR SKELOS: Thank you, Madam President. Is there any housekeeping at the desk?

THE PRESIDENT: Yes, there is, Senator.

The Secretary will read.

THE SECRETARY: On page 15, Senator Saland moves to discharge, from the Committee on Environmental Conservation, Assembly Bill Number 8315 and substitute it for the identical Senate Bill Number 3430, Third Reading Calendar 291.

THE PRESIDENT: Substitution ordered.

Senator Skelos.

SENATOR SKELOS: Madam President, there being no further business to come before the Senate, I move we adjourn until Thursday, April 15th, at 11:00 a.m.

THE PRESIDENT: On motion, the Senate stands adjourned until Thursday, April 15th, at 11:00 a.m.

(Whereupon, at 4:38 p.m., the Senate adjourned.)