NEW YORK STATE SENATE

THE STENOGRAPHIC RECORD

ALBANY, NEW YORK

May 3, 2006

11:07 a.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, May 2, the Senate met pursuant to adjournment. The Journal of Monday, May 1, was 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. You project very well up there.

On behalf of Senator Golden, Madam President, on page 33 I offer the following amendments to Calendar Number 524, Senate Print 4458C, and I ask that that bill retain its place on the Third Reading Calendar.

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

SENATOR FARLEY: Madam President, on behalf of Senator Maziarz, I wish to call up his bill, 5849A, which was recalled from the Assembly, and it's now at the desk.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: Calendar Number 432, by Senator Maziarz, Senate Print 5849A, an act to amend the Parks, Recreation and

Historic Preservation Law.

SENATOR FARLEY: Madam President, I now move to reconsider the vote by which this bill passed.

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

(The Secretary called the roll.)

THE SECRETARY: Ayes, 36.

SENATOR FARLEY: Madam President, I now offer the following amendments.

THE PRESIDENT: The amendments are received.

Senator Skelos.

SENATOR SKELOS: Madam President, if we could go to the noncontroversial reading of the calendar.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: Calendar Number 317, by Senator Winner, Senate Print 1425, an act to amend the Penal Law.

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, 42.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 648, by Senator Winner, Senate Print 6923, an act to amend the Penal Law.

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 PRESIDENT: Senator Duane.

SENATOR DUANE: Thank you, Madam President.

This bill and the previous bill are both very good bills and take a couple of steps towards providing for better gun safety in our state. We still have a lot more work to do.

Of course we all know what the

negative consequences were of an accident earlier this year that was quite high-profile in the news. And perhaps, in a way, the vice president did those of us who support responsible gun control a big favor, because it raised the issue even more sharply in the public's eye of the need for pushing forward on other items essential to ensuring gun safety and gun control legislation which actually will be helping people in our state and in our nation.

So I'm going to be voting yes on this piece of legislation, as I did on the last piece of legislation, with the hope that these two bills are just two more steps forward in our efforts to have more responsible gun ownership and gun safety and gun control which does take firearms out of the hands of those who would use them in a danger to society.

Thank you, Madam President.

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

The Secretary will announce the

results.

THE SECRETARY: Ayes, 42.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 677, by Senator Balboni, Senate Print 6782, an act authorizing the assessor of the County of Nassau.

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, 41. Nays, 1. Senator Bonacic recorded in the negative.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 686, by Senator Morahan, Senate Print 7169A, an act to amend the Mental Hygiene Law and the Education Law.

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 PRESIDENT: Senator Duane, to explain your vote.

SENATOR DUANE: Thank you, Madam President.

I am going to vote for this bill, which deals with the reporting of abuse and mistreatment of mentally retarded and developmentally disabled adults. And obviously the abuse of the mentally retarded is a terrible, terrible thing, and it's very sad that it would even happen.

However, I also think it's important for us to look at the root causes of such abuse. I mean, having a mentally retarded or developmentally disabled person in the home can certainly create incredible stress on a family, and those stresses can manifest themselves in many different ways, whether it's substance abuse or some other kind of acting out.

Now, if more families have access to affordable counseling and mental health

treatment, maybe there would be healthier ways for people to deal with stress in our state. However, New York State doesn't have a Timothy's Law. And as a result, scores of New York's families don't have access to affordable mental health care.

You know, we can probably stem some of the tide of abuse of people, whether they're mentally retarded or not, if we actually paid for counseling for families to actually cut off or to stem bad behaviors through counseling before they began.

You know, yesterday I spoke with a group of families who are dealing with loved ones who are severely mentally disabled, and it was heartbreaking to listen to their stories. And I couldn't help but think how mental health care would be helpful to their situation.

So that's why we need to pass a Timothy's Law this session, Madam President. I'm voting yes on this, and I'm hoping that soon we'll have a Timothy's Law to vote on in this house.

THE PRESIDENT: You will be

recorded as voting in the affirmative, Senator.

The Secretary will announce the results.

THE SECRETARY: Ayes, 50.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 699, by Senator Farley, Senate Print 4386, an act to amend the Banking 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, 50.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 718, by Senator Little, Senate Print 5980, an act to amend the Executive Law.

SENATOR DUANE: Lay it aside, please.

THE PRESIDENT: The bill is laid

aside.

THE SECRETARY: Calendar Number 723, by Senator Johnson, Senate Print 6443, an act to authorize the Church of God of Brentwood.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

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

THE PRESIDENT: The bill is passed.

THE SECRETARY: Excuse me. Ayes, 50. Nays, 2. Senators Bonacic and Larkin recorded in the negative.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 762, by Senator Alesi, Senate Print 967, an act to amend the Correction 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: Those recorded in the negative on Calendar Number 762 are Senators Duane, L. Krueger, and Montgomery. Ayes, 51. Nays, 3.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 782, by Senator Little, Senate Print 4911A, an act to amend the Town Law and the Village 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, 54.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 793, by Senator Larkin, Senate Print 443, an act to amend the Environmental Conservation

Law.

THE PRESIDENT: Read the last section.

THE SECRETARY: Section 2. This act shall take effect on the 180th day.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE PRESIDENT: Senator Serrano, to explain your vote.

SENATOR SERRANO: Thank you, Madam President.

Last year I opposed this bill. I believe that in light of what we saw recently, with the vice president shooting that poor man in the face, and many of the other mishaps that happen with hunting, that it is clear to people across this state that the so-called sport of hunting is very unsafe and should be regulated more closely.

I believe that creating an additional open season to this unsafe practice is both wrong and inhumane, and this year I will be opposing this bill once again.

Thank you, Madam President.

THE PRESIDENT: You will be so

recorded as voting in the negative, Senator.

The Secretary will announce the results.

THE SECRETARY: Ayes, 54. Nays, 1. Senator Serrano recorded in the negative.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 798, by Senator Bonacic, Senate Print 268A, an act to amend the Vehicle and Traffic Law.

THE PRESIDENT: Read the last section.

THE SECRETARY: Section 2. This act shall take effect on the 120th day.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 55.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 799, by Senator Trunzo, Senate Print 852A, an act to amend the Vehicle and Traffic Law.

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, 55.

THE PRESIDENT: The bill is passed.

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

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

THE PRESIDENT: The Secretary will ring the bell, and the members should return to their seats so we can commence the controversial calendar.

The Secretary will read.

THE SECRETARY: Calendar Number 718, by Senator Little, Senate Print 5980, an act to amend the Executive Law.

SENATOR LIZ KRUEGER: Explanation.

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

SENATOR LITTLE: Thank you, Madam President.

This is a bill that would change the law in relation to the regulation of campgrounds by the Adirondack Park Agency. The Adirondack Park Agency is an agency that regulates land use within the Adirondack Park.

I also would like to just give you a definition of what campground we're talking about, the type of campground. "Campground," according to the Adirondack Park Agency, means any area designated for transient occupancy by camping in tents, camp trailers, travel trailers, motor homes or similar facility designed for temporary shelter.

The Adirondack Park Agency would be the agency involved with the land use and the siting of a campground within the Adirondack Park. So they have the authority to decide where a campground can be located, space, number of camp sites and all of that.

What this bill says is that once you have a campground within the Adirondack Park, once one has been sited, then the Department of Health takes over and regulates that campground the same as it regulates every other campground within the State of New York.

The reason for this bill is that the Adirondack Park Agency submitted a group of -- a number of regulations --

THE PRESIDENT: Can we please have order.

Senator Little.

SENATOR LITTLE: Thank you.

They submitted a number of regulations, one of which said that an RV located -- or a tent, but mostly RVs -- located at a campground within the Adirondack Park could only be occupied for 90 days, and after -- if it was in one location for 120 days, it would have to be moved to another location. Within the park, but musical chairs. Move the -- the thing.

When you talk to them about how do you regulate how many days this RV is occupied, they have no way of regulating it, of enforcing it, or of knowing. So many of their regulations are really unenforceable.

But what they would do is if you were an RV traveler and you wanted to put a camper in a location and leave it there -- they're called seasonals. They rent it for

the season, they leave it there for the entire year, even though the campgrounds in the Adirondacks are open, for the most part, from Memorial Day until Columbus Day. But they don't take their camper home with them. They leave it there, as they do throughout the state -- that you would not be able to do that within the Adirondack Park without only occupying it for 90 days. Because someone at the agency decided that a season is 90 days, since there are four seasons in the year and 12 months makes three months 90 days.

So these people, instead of going to the Adirondack Park, would go elsewhere in the state. They would go to the perimeter areas, they would go to the Finger Lakes, they would go to Long Island, they would go to the Catskills. And as much as you might want all these people, we need them in the Adirondacks.

These are people who come, who spend the summer, maybe weekends, come and go. Some of them might spend the whole summer there. They shop in the grocery stores, they buy gasoline, they attended churches, they go to restaurants for dinner, they volunteer in

organizations. They are an important part of the economy of the Adirondack Park.

We do have a similar bill carried by Assemblyman Aubertine in the Assembly. I have numerous legislative resolutions of support. Senator Duane will be happy to know that I have a resolution of support from the Town of Duane, which has one of these campgrounds in it and would be severely impacted by these strict regulations.

Contrary to the memo from the Adirondack Council, we're not stripping them of their power. We are saying the Adirondack Park Agency has all the power in the world to locate campgrounds within the parks. We're not changing any of that. But what we're saying is that when it comes to campsite space requirements, fire safety, building maintenance, food service, swimming pools, water supply, sewage treatment, toilets, lavatories, utility sinks, showers, electrical, weed control, insect/rodent control, refuse storage, the Department of Health would regulate that the same as they do at campgrounds throughout the state.

THE PRESIDENT: Senator Duane.

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

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

SENATOR LITTLE: Yes, I will.

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

SENATOR DUANE: I'm wondering if voting for this litigation would be helpful towards preserving the lodge in Duane.

SENATOR LITTLE: Oh, the Debar Lodge. Well, that's something that we have -- DEC, for those of you who are not familiar with it -- and that gets me into another bill, but DEC regulates property that gets taken into the Forest Preserve and into the park, the 3 million acres that the state owns. And in the Forest Preserve, you are not supposed to have any buildings, any improvements, any structures.

The Debar Lodge is a very historic lodge that was sold to the state and the life term of the family was allowed to stay in this really lovely lodge on a beautiful lake. Very

remote, very -- very Adirondacky. And now that the trust is over, the family is gone, we have DEC people occupying the lodge. We are holding, keeping the lodge. We are looking for historic designation of this.

What happens is the unit management plans are being built around a state land master plan within the Adirondack Park that is supposed to be updated every five years, and has not been updated since 1987, to accommodate more for the historic nature and the cultural nature of the Adirondack Park. Working on that as well.

SENATOR DUANE: Thank you.

Thank you, Madam President.

THE PRESIDENT: Senator Krueger.

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

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

SENATOR LITTLE: Yes, I'd be glad to.

THE PRESIDENT: You may proceed with a question, Senator.

SENATOR LIZ KRUEGER: Thank you

very much.

I don't know whether there's a town of Krueger in Adirondack Park anywhere, but I don't think --

SENATOR LITTLE: Haven't found one yet.

SENATOR LIZ KRUEGER: But wouldn't affect my concerns about this legislation.

You mentioned the Adirondack Council already, Senator Little. And in materials that they sent to me, they sent photos of RVs that appear to have become sort of permanent residences. They have decks, they have skirts, they have hookups to utilities. They've cut down trees to make room for their hookups to utilities. They seem to be setting up sort of permanent structures.

My understanding is they're not of the intention of the Adirondack Park to be sort of developed as permanent residences for people, even though the original base for the home may have been driven in under some kind of RV standard. And I'm concerned, based on

the materials they've submitted and also Environmental Advocates have submitted, that your bill would actually prevent the park from saying at any point in time, you know: No, you can't set up permanent trailer-park homes here in the park, that violates the environmental protections and the goals of keeping the Adirondack Park free of this kind of residence.

And I'm wondering have you seen these materials and what your response is about their concerns.

SENATOR LITTLE: I have not seen the Environmental Advocates material, but I have the Adirondack Council. And, you know, I do work with them all the time, despite the fact that I don't always agree with them.

However, the point they're trying to make is that these campgrounds are mobile home parks. That is not true. They are not. There are hookups for water, for septic, and for electric -- well, the electric could be done year-round. The water pipes, for the most part, are not insulated. The water is turned off in October. They are not open the

entire year.

The camper is left there, and it is up to -- and there are abuses, as there are throughout the state, where someone attaches things to their camper that are not easily removed.

The rule is in a campground -- and this is the campground law -- is that all of those campers are to be in a mobile status. Now, that rule needs to be enforced more, and there are abuses to it. But there is no reason for the Adirondack Council to make that distinguish -- distinguishing character between those campgrounds within the Adirondack Park and outside the Adirondack Park.

The environment of the state of New York is the same whether you're in the park or out of the park. This would drive people, summer residents, out of the park. And it would really have a negative effect on the economy of the park.

We've just recently had grocery stores in all these small towns, this Tops grocery store chain, closed because they can't

make a go of it. We have declining enrollment. We have a problem getting volunteer firemen. We have a stagnant population. We have some serious issues within the Adirondack Park for the sustainability of the economy in the park.

SENATOR LIZ KRUEGER: Madam President, if the sponsor would yield for an additional question.

THE PRESIDENT: Senator Little, will you yield for another question?

SENATOR LITTLE: Yes.

SENATOR LIZ KRUEGER: Thank you.

THE PRESIDENT: Senator Krueger.

SENATOR LIZ KRUEGER: Thank you so much.

Am I correct in understanding that your bill, if it became law, would then prevent the Adirondack Park Agency from establishing additional rules and regulations over things in the park, as they have for 30 years?

So that if I understood you before, if the State Department of Health regulations said A-B-C, that the Adirondack Park Agency

could not say: But in this park, and we are the park agency, we add, to those State Department of Health rules, Regulations D, E and F.

SENATOR LITTLE: In regard to campgrounds, that's absolutely true. They should not be able to go beyond campground regulations for the entire state.

But they still have entire authority over the land use and the siting of campgrounds. And, you know, whether they're near water or not, where their septic system is and all of that, that's all part of their siting and their land use. And this doesn't affect that at all.

SENATOR LIZ KRUEGER: Thank you, Madam President.

On the bill.

THE PRESIDENT: You may proceed on the bill, Senator.

SENATOR LIZ KRUEGER: Thank you.

I appreciate the sponsor's answers to my questions and her explanation of concerns that I'm sure are real for her district, and the conflicts between wanting to

ensure that you've got economic activity on park grounds but also the need to ensure the environmental protections of the future of the Adirondack Park for generations to come.

I find myself feeling I have to vote against this bill because, as the sponsor just explained in her second answer, this would take away from the Adirondack Park Agency the ability to pass their own regulations on campgrounds that might need to go above and beyond what the Department of Health's regulations are.

It is a unique park. It is a park that is critical to the future of the State of New York and our environment. And so I am very concerned that we in the Legislature would pass a law that would take away from the agency responsible for the park, the Adirondack Park Agency's ability to set their own rule for their campgrounds.

And so I will be voting against the bill, though I appreciate the sponsor's real concern for these communities. And I hope that perhaps she can simply work with the Adirondack Park Agency and the organizations,

who I know she share their views that we want to protect the park into the future -- that they can work together to address the problems.

And as she pointed out herself, apparently there is an enforcement problem already, which of course is a complicated issue beyond whether you pass legislation that says one thing or another. So I hope that they will work with the sponsor to improve enforcement of the existing rules. But I don't think that we should be passing laws that would override the Adirondack Park Agency's ability --

THE PRESIDENT: Senator Little.

SENATOR LITTLE: If I may, I'd like to ask Senator Krueger a question.

THE PRESIDENT: Senator Krueger, will you yield to Senator Little?

SENATOR LIZ KRUEGER: I certainly will. Thank you, Madam President.

THE PRESIDENT: You may proceed with a question, Senator Little.

SENATOR LITTLE: Just as a point, I don't know if you've ever been to the

Adirondack Park --

SENATOR LIZ KRUEGER: Yes, I have.

SENATOR LITTLE: -- or visited areas, some of the remote areas within the park. It is not a Central Park. It is an area where 130,000 people live and try to make a living.

We now have more second homes in Hamilton County, 4,000-some second homes to 1,800 year-round residents. In Essex County, we're at 14,000 year-round to 10,000-some second homes. We are losing ground.

Campgrounds have an economic benefit to the Adirondacks. We want people to come to them, to stay there. We don't want them to choose to go outside the park. And these regulations will keep people from coming to the Adirondack Park for the season.

SENATOR LIZ KRUEGER: Thank you.

Madam President, if I may continue.

THE PRESIDENT: Senator Krueger.

SENATOR LIZ KRUEGER: I appreciate -- I have been to the Adirondack Park. I certainly would not claim any

expertise in the park, as you certainly justifiably have. I certainly agree it is not Central Park.

But again, I think your point, and it is well-taken, about people live there, there is economic activity in the park -- you are concerned about the relationship of population growth or shrinkage, tourism, economic development opportunities -- are a reason why I think it's important to make sure that the agency responsible for the park, the Adirondack Park Agency, has the ability to adjust its regulations as it rules over time in order to address the changing demands on the park, the changing uses of the park, the changing patterns of tourism.

So I think that you and I share equal concerns. And my disagreement with you on this bill is that I think that the agency -- that the agency mandated to have long-term responsibility for the park needs to have the flexibility to adjust over time what it thinks the right regulations are.

So I think that I do understand your point and that I do recognize that the

Adirondacks is, in its own right, a very unique park, particularly because of its size and the fact that there are towns and communities and even sections of whole counties that in fact are within the definition of the park.

And I do believe that in working with the APA you might find that you can get these adjustments that meet everybody's needs -- you don't agree with me, I can tell. But I dutifully respect your concerns for your district.

But I don't think we should take this authority away from the Adirondack Park Agency to make decisions that they believe ared in the best interests of the whole park and its future.

Thank you very much, Madam President. I'll be voting no.

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

Then the debate is closed.

The Secretary will ring the bell.

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: The Secretary will announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 718 are Senators Andrews, Connor, Coppola, Dilan, Klein, L. Krueger, C. Kruger, LaValle, Montgomery, Onorato, Oppenheimer, Parker, Paterson, Sabini, Savino, Serrano, A. Smith, Spano, Stachowski, Stavisky, Valesky. Also Senator Leibell.

Those Senators absent from voting: Senator Fuschillo.

Ayes, 34. Nays, 22.

THE PRESIDENT: The bill is passed.

Senator Skelos.

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

THE PRESIDENT: No, there is not, Senator.

SENATOR SKELOS: There being none, I move we stand adjourned until Monday,

May 8th, at 3:00 p.m., intervening days being legislative days.

THE PRESIDENT: On motion, the Senate stands adjourned until Monday, May 8, at 3:00 p.m., intervening days being legislative days.

(Whereupon, at 11:49 a.m., the Senate adjourned.)