NEW YORK STATE SENATE

THE STENOGRAPHIC RECORD

ALBANY, NEW YORK

March 14, 2000

3:05 p.m.

REGULAR SESSION

SENATOR RAYMOND A. MEIER, Acting President

STEVEN M. BOGGESS, Secretary

P R O C E E D I N G S

ACTING PRESIDENT MEIER: The Senate will come to order.

Will everyone present please rise and repeat with me the Pledge of Allegiance to the Flag.

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

ACTING PRESIDENT MEIER: In the absence of clergy, may we now bow our heads in a moment of silence.

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

ACTING PRESIDENT MEIER: Reading of the Journal.

THE SECRETARY: In Senate, Monday, March 13th, the Senate met pursuant to adjournment. The Journal of Friday, March 10th, was read and approved. On motion, Senate adjourned.

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

Presentation of petitions.

Messages from the Assembly.

Messages from the Governor.

Reports of standing committees.

The Secretary will read.

THE SECRETARY: Senator Larkin, from the Committee on Racing, Gaming and Wagering, reports:

Senate Print 3035A, by Senator Larkin, an act to amend the General Municipal Law;

4489, by Senator Larkin, an act to amend the Racing, Pari-Mutuel Wagering and Breeding Law;

5705A, by Senator Larkin, an act to amend the General Municipal Law;

And 5709, by Senator Larkin, an act to amend the Racing, Pari-Mutuel Wagering and Breeding Law.

ACTING PRESIDENT MEIER: Senator Skelos.

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

ACTING PRESIDENT MEIER: There will be an immediate meeting of the Aging

Committee in the Majority Conference Room.

The Secretary will continue to read.

THE SECRETARY: Senator Padavan, from the Committee on Cities, reports:

Senate Print 3117A, by Senator Spano, an act to amend the Administrative Code of the City of New York;

6464, by Senator McGee, an act to amend the General City Law and the Village Law;

And 6590, by Senator Volker, an act in relation to the construction of new educational facilities in the City of Buffalo.

Senator Volker, from the Committee on Codes, reports:

Senate Print 100, by Senator Volker, an act to amend the Penal Law;

181, by Senator Alesi, an act to amend the Penal Law;

636A, by Senator Nozzolio, an act to amend the Penal Law;

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

824, by Senator Marcellino, an act

to amend the Penal Law;

922, by Senator Meier, an act to amend the Penal Law;

1022, by Senator Skelos, an act to amend the Civil Practice Law and Rules;

1047, by Senator Padavan, an act to amend the Penal Law;

1223, by Senator Wright, an act to amend the Penal Law;

1259, by Senator Spano, an act to amend the Penal Law;

1518, by Senator Velella, an act to amend the Penal Law;

1564, by Senator Padavan, an act to amend the Penal Law;

1778, by Senator Trunzo, an act to amend the Penal Law;

1962A, by Senator Johnson, an act to amend the Penal Law;

2096, by Senator Libous, an act to amend the Penal Law;

2247, by Senator Lack, an act to amend the Penal Law;

2267, by Senator Balboni, an act to amend the Penal Law;

2401, by Senator Johnson, an act to amend the Penal Law;

2413, by Senator Velella, an act to amend the Penal Law;

2936, by Senator Volker, an act to amend the Civil Practice Law and Rules;

3106A, by Senator Volker, an act to amend the Penal Law;

3230, by Senator DeFrancisco, an act to amend the Civil Practice Law and Rules;

3508, by Senator Volker, an act to amend the Civil Practice Law and Rules;

4210, by Senator Fuschillo, an act to amend the Penal Law;

4355B, by Senator Wright, an act to amend the Penal Law;

4529, by Senator Leibell, an act to amend the Penal Law;

5074A, by Senator Skelos, an act to amend the Civil Rights Law;

5605, by Senator Balboni, an act to amend the Penal Law;

5606, by Senator Rath, an act to amend the Penal Law;

And 6267, by Senator Meier, an act

to amend the Criminal Procedure Law.

Senator Trunzo, from the Committee on Transportation, reports:

Senate Print 84A, by Senator Alesi, an act to amend the Vehicle and Traffic Law and the Insurance Law;

1103, by Senator Goodman, an act to amend the Transportation Law;

1180, by Senator Marchi, an act to amend the Public Authorities Law;

3245, by Senator Kuhl, an act to amend the Vehicle and Traffic Law;

And 4247, by Senator Trunzo, an act to amend the Vehicle and Traffic Law.

All bills ordered direct to third reading.

ACTING PRESIDENT MEIER: Without objection, all bills directly to third reading.

Reports of select committees.

Communications and reports from state officers.

Motions and resolutions.

Senator Rath.

SENATOR RATH: Mr. President, on

page 24 I offer the following amendments to Calendar 357, Senate Print 1824, and ask that said bill retain its place on Third Reading Calendar, on behalf of Senator Kuhl.

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

Senator Skelos, we have two substitutions. Should we read those now?

SENATOR SKELOS: Please make the substitutions.

ACTING PRESIDENT MEIER: The Secretary will read the substitutions.

THE SECRETARY: On page 23, Senator Marchi moves to discharge, from the Committee on Education, Assembly Bill Number 2845C and substitute it for the identical Senate Bill Number 1639C, Third Reading Calendar 345.

ACTING PRESIDENT MEIER: Substitution ordered.

THE SECRETARY: On page 27, Senator Wright moves to discharge, from the Committee on Energy and Telecommunications,

Assembly Bill Number 9408 and substitute it for the identical Senate Bill Number 6481, Third Reading Calendar 393.

ACTING PRESIDENT MEIER: Substitution ordered.

Senator Skelos.

SENATOR SKELOS: Mr. President, may we please adopt the Resolution Calendar.

ACTING PRESIDENT MEIER: All those in favor of adopting the Resolution Calendar signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT MEIER: Opposed, nay.

(No response.)

ACTING PRESIDENT MEIER: The Resolution Calendar is adopted.

Senator Skelos.

SENATOR SKELOS: Mr. President, there's a privileged resolution, 3352, at the desk, by Senator Morahan. May we please have it read in its entirety and move for its immediate adoption.

ACTING PRESIDENT MEIER: The Secretary will read.

THE SECRETARY: By Senator Morahan, Legislative Resolution recognizing the 50th anniversary of the Korean War, and paying tribute to the valiant service displayed by the members of the United States Armed Forces.

"WHEREAS, Thousands of military personnel from the great State of New York have served their country faithfully and courageously, with dedication and sacrifice, and are due the praise and just recognition of this Legislative Body for their role in defense of our nation's liberty and freedom; and

"WHEREAS, It is the intent of this Legislative Body to recognize the 50th anniversary of the Korean War, and to pay tribute to the valiant service displayed by the members of the United States Armed Forces; and

"WHEREAS, On June 25, 1950, Communist North Korea invaded South Korea with approximately 135,000 troops, thereby initiating the Korean War; and

"WHEREAS, In response to a June 27,

1950, United Nations resolution calling for assistance for the Republic of Korea, President Harry S. Truman ordered American air and naval forces activated and, on June 30, 1950, committed United States ground forces to the Korean battle zone; and

"WHEREAS, Approximately 5,720,000 members of the Armed Forces served during the Korean War, of which 482,000 were from New York State, to defeat the spread of Communism in Korea and throughout the world; and

"WHEREAS, At the conclusion of the Korean War on July 27, 1953, casualties of the United States included 54,260 dead, 92,134 wounded, and 8,176 listed as missing in action or prisoners of war; and

"WHEREAS, It is the sense and presence of this Legislative Body, acting on behalf of the citizens of this Empire State, to act now, with great respect and reverent esteem, in honoring the members of the United States Armed Services who have served their state and nation so valiantly and honorably in the defense of freedom and democracy during the Korean conflict; now, therefore, be it

"RESOLVED, That this Legislative Body pause in its deliberations to recognize the 50th anniversary of the Korean War, and to pay tribute to the valiant service displayed by the members of the United States Armed Forces; renewing its tribute to the men and women of New York State who served so faithfully and courageously on behalf of their state and nation; and be it further

"RESOLVED, That copies of this resolution, suitably engrossed, be transmitted to the veterans service organizations of New York State."

ACTING PRESIDENT MEIER: The question is on the resolution. All those in favor signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT MEIER: Opposed, nay.

(No response.)

ACTING PRESIDENT MEIER: The resolution is adopted.

Senator Skelos.

SENATOR SKELOS: Mr. President, on the last resolution, Senator Morahan has

consented to put all members on the resolution. If anybody wishes not to sponsor the resolution, they should notify the desk.

ACTING PRESIDENT MEIER: Everyone will be added to the resolution, then, unless they notify the desk to the contrary.

Senator Skelos.

SENATOR SKELOS: Mr. President, there's a privileged resolution at the desk, 3351, by Senator Rath. May we please have the title read and move for its immediate adoption.

ACTING PRESIDENT MEIER: The Secretary will read the title.

THE SECRETARY: By Senator Rath, Legislative Resolution 3351, memorializing the Honorable Governor George E. Pataki to designate March 2000 as "Women's History Month" in the State of New York.

ACTING PRESIDENT MEIER: The question is on the resolution. All those in favor signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT MEIER: Opposed, nay.

(No response.)

ACTING PRESIDENT MEIER: The resolution is adopted.

Senator Skelos.

SENATOR SKELOS: I believe Senator Rath has consented to the resolution being sponsored by all the members. If anybody wishes not to sponsor it, they should notify the desk.

ACTING PRESIDENT MEIER: All right. Everyone's name will be added to the resolution unless they notify the desk to the contrary.

SENATOR SKELOS: Mr. President, if we could take up the noncontroversial calendar.

ACTING PRESIDENT MEIER: The Secretary will read the noncontroversial calendar.

THE SECRETARY: Calendar Number 5, by Senator Fuschillo, Senate Print 4433, an act to amend the State Finance Law and the General Municipal Law, in relation to permitting certain charitable and not-for-profit agencies.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 49.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 105, by Senator Wright, Senate Print 1479B, an act to amend the Real Property Tax Law, in relation to the real property tax exemption for veterans.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 3. This act shall take effect on the 30th day.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 49.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 163, by Senator Spano, Senate Print 4359, an act to amend the Workers' Compensation Law, in relation to providing for administrative resolution procedure.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 5. This act shall take effect in 120 days.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 49.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 168, by Senator Alesi, Senate Print 743A, an act to amend the Penal Law, in relation to endangering the welfare of a child.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the

roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 49.

ACTING PRESIDENT MEIER: Senator Skelos.

SENATOR SKELOS: Mr. President, there will be an immediate meeting of the Children and Families Committee in the Majority Conference Room.

ACTING PRESIDENT MEIER: Immediate meeting of the Children and Families Committee in the Majority Conference Room.

The Secretary will continue to read.

THE SECRETARY: Calendar Number 217, by Senator Larkin, Senate Print 6281, an act to amend the Public Authorities Law, in relation to and for the purpose of enabling the Dormitory Authority to construct and finance dormitories.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the

roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 49.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 341, by Senator Marcellino, Senate Print 1326C, an act to amend the General Business Law and the Public Health Law, in relation to body piercing and tattooing.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 49.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 364, by Senator Marcellino, Senate Print 6729, an act to amend the Public Health Law, in -

SENATOR DUANE: Explanation,

please.

THE SECRETARY: -- relation to prohibiting the sale -

SENATOR DUANE: Lay it aside.

ACTING PRESIDENT MEIER: Lay the bill aside.

THE SECRETARY: Calendar Number 381, by Senator McGee, Senate Print 6310, an act to amend the Highway Law, in relation to designating a portion of the state highway system.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 49.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 382, by Senator Morahan -

SENATOR PATERSON: Lay it aside.

ACTING PRESIDENT MEIER: Lay the

bill aside.

Senator Skelos, that completes the noncontroversial calendar.

SENATOR SKELOS: Mr. President, when the Children and Families Committee meeting is concluded, we'll be calling a meeting of the Local Governments Committee.

And if we could now go to the controversial calendar.

ACTING PRESIDENT MEIER: All right. Local Governments Committee meeting at the conclusion of Children and Families.

The Secretary will read the controversial calendar.

THE SECRETARY: Calendar Number 364, by Senator Marcellino, Senate Print 6729, an act to amend the Public Health Law, in relation to prohibiting the sale or distribution of herbal cigarettes to minors.

SENATOR DUANE: Explanation, please.

ACTING PRESIDENT MEIER: Senator Marcellino, an explanation has been requested of Calendar 364 by Senator Duane.

SENATOR MARCELLINO: Thank you,

Mr. President.

Mr. President, this state and this nation has just gone through a period of time where we've made a great expenditure on trying to convince adults and young people alike that smoking is bad for you, it's dangerous to you, it kills.

The health records, the evidence is overwhelming that smoking does in fact cause all kinds of diseases, at great expense - emphysema, asthma, and a whole host of -- not to mention lung cancer and a whole host of other diseases that are related to it.

The cost is staggering: in the billions and billions of dollars annually to pay for medical care, to find a cure and help take care of people who have come under the influence.

Recently we've banned the ads using the cartoon character Joe Camel because that was probably the single most effective advertising ploy that the cigarette companies had in attracting teenage smokers. Teenage smokers are the one category where smoking is somewhat on the rise at this point in time.

Recently one of my interns brought to my attention the subject of herbal cigarettes; quite frankly, something that I was not familiar with at all until she brought it to my attention. These are cigarettes - and I've got an example in my hand, a pack known as Ecstasy. This is fashioned after the designer drug. It has a pretty picture on the face of it of a butterfly. It's made to look like cute stuff.

There are other brands out there. They're made to look cute, they're made to look like they've got cartoon characters on it -- Smurfs, you name it. They're there. They're designed, clearly, to attract minors, to make them look cool.

What are they doing? These are tobaccoless cigarettes. They do not contain nicotine. So therefore, they can be sold much cheaper, without the taxing of the cigarettes, without the ban on the sale of cigarettes. They are available to minors now.

Minors -- after spending all this time convincing these people, these young people that this is not the thing to do, that

we should not be smoking, up comes this stuff which allegedly is harmless, quote, unquote. However, if you read the pack, it says on the side "Smoking Kills. Surgeon General's Warning: Cigarette smoke contains carbon monoxide, a known carcinogen." Inhaling this stuff is dangerous.

By attracting young people to this product, while not nicotine-addictive, habit-forming, it makes it look cool, makes it look like it's okay to smoke. Because, after all, this doesn't contain that substance which everybody's worried about; I'm not going to get hooked on this stuff.

We feel that this is just as dangerous. We feel young people seeing this, having the mental attitude that this is okay, the next step is going back to regular cigarettes and getting hooked on that problem.

We are happy with the approach of banning cigarettes, not allowing that habit to become common, not allowing that habit to be cool. I remember when I was a child watching television, watching the old movies. Everybody smoked, every one of the stars -

John Wayne, Rita Hayworth, everybody. Bogart, Cagney. All of them cool, smoking.

They're all dead. Many of them died from cigarette smoke and from lung cancer. John Wayne did. As he was dying, he admitted frankly that all those years of smoking were the prime cause of his problem. Not a cool way to go.

This stuff is an insidious attack on our young people's health and safety. This stuff is dangerous. We should treat them just as we do cigarettes and ban them for sale to minors and not permit this nasty habit from getting back into our younger generation and not allow these things to become as commonplace as cigarettes once were.

ACTING PRESIDENT MEIER: Senator Duane.

SENATOR DUANE: Would the sponsor yield to a couple of questions?

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

SENATOR MARCELLINO: Sure.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR DUANE: Thank you very much.

I have to first preface my question by noting that I haven't smoked in 16 years. So it's been 16 years since I was a thin and happy person. But that said, I know I'm better off having had -

SENATOR MARCELLINO: Senator, I've never smoked, and we have the same lateral challenge, shall we say.

(Laughter.)

SENATOR DUANE: Is there any provision in the bill for punishment for the sale or possession of herbal cigarettes?

SENATOR MARCELLINO: The possession, I don't believe so.

The sale is a fine, under the Public Health Law, of a minimum of $100 to but not exceeding $300 for the sale.

SENATOR DUANE: And does it - through you, Mr. President, does it increase as per the number of times of -

SENATOR MARCELLINO: No, there's nothing in here that I'm aware of that does that.

SENATOR DUANE: Is there a - through you, Mr. President.

ACTING PRESIDENT MEIER: Senator Marcellino, do you continue to yield?

SENATOR MARCELLINO: My pleasure.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR DUANE: Is there an educational component about the health risks of herbal cigarettes as part of the legislation?

SENATOR MARCELLINO: Not as part of the legislation, Senator. But the American Cancer Society is working with us on a program and are very glad and supportive of our program to ban -- our policy to ban these.

I've been in communication with the PTAs and their national organizations. They are supportive of this. They are including it as part of their program to educate our students and bring it into schools that banning herbal cigarettes and to educate parents and young people alike that these things are dangerous.

SENATOR DUANE: Thank you.

SENATOR MARCELLINO: And just as an aside, if I might -- I meant to do this before, but to just go through some of the ingredients of this particular group, this particular brand.

This stuff has a substance called damiana in it. Damiana, I am told -- I have no personal knowledge of this, but I am told is an aphrodisiac. Why you need that in herbal cigarettes aimed at minors, I have no idea. Perhaps someone could tell us.

Wild lettuce. This one is good: catnip. You light up and smoke catnip. I think that's something we really want our children to do. Mint. And two other substances called "love" and "light," of which I have absolutely no knowledge and I don't think anybody else does either here.

This is specious, at best, as to the ingredients. One has no idea what the dosages are and how much of each ingredient, because it's not spelled out. And I doubt if the manufacturer has any quality control as to what's in it and how much of any particular substance at any given time. But as you can

see, it's certainly nothing that one would look upon as nutritious or something that should come into the body.

SENATOR DUANE: Thank you. And I have just a final question.

ACTING PRESIDENT MEIER: Senator Marcellino, do you continue to yield?

SENATOR MARCELLINO: Sure.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR DUANE: If the sponsor would also be kind enough to share some of that information, I'd be very happy to see some of the information you just spoke about.

SENATOR MARCELLINO: We will be willing to share it with you and any other Senator that would appreciate it. If you'd like a copy of it, my staff will be at your disposal.

SENATOR DUANE: Thank you.

Thank you, Mr. President.

ACTING PRESIDENT MEIER: Senator Gentile.

SENATOR GENTILE: Yes, Mr. President, if the sponsor would just yield for

a moment or two.

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

SENATOR MARCELLINO: Absolutely.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR GENTILE: Senator, you and I have spoken about this earlier today, and I too have done some investigation on herbal cigarettes and am concerned, as you are, about this issue. Indeed, I have similar legislation pending in this house on herbal cigarettes.

As we spoke earlier, some of the definitions that I have in the bill that I have presented include hemp cigarettes, bidis, and clove cigarettes, which are also grouped under or may not be grouped along with herbal cigarettes.

Given that, and also the fact that we have a problem of these cigarettes being sold to minors over the Internet, which your bill at this point doesn't address, I'm wondering if in fact at some point we might be able to reexamine your bill and look at the

issues that I have come up with and my staff has researched also concerning Internet sales and the broader definition of herbal cigarettes.

SENATOR MARCELLINO: Senator, I don't mind relooking at it after the fact. But the -- some of the things we've been checking have had some -- where the staff go through some of the issues that we were talking about earlier.

Bidis cigarettes apparently do contain some tobacco, which would then classify them under the current law, and they would be banned currently from sale. Cloves and hemp come under the category of herbs and can be classified as herbs and would be banned by this project. As a matter of fact, hemp, if you get enough of it, could be classified, as I'm sure you're aware, as a narcotic. So that would come under a different law which we already have.

With respect to the Internet, I share your concerns with that. And our colleague, Senator Fuschillo, has an Internet bill, which we are going to offer him an

amendment to that bill which would include - hopefully he'll accept it. I see the shocked and chagrined look on his face, but I know that will change to positive as we both work him ov -- work on him to agree with us.

But I think we can include that ban as part of his Internet bill. I think that would be a positive way to go rather than rewriting the entire law.

So this bill would serve the purpose, Senator, to get these -- the only way I can phrase it is this garbage off the shelves and get it away from our kids and get it out of the hands of our kids, and then we can address the other issue of the Internet through, I think, Senator Fuschillo's coming bill.

SENATOR GENTILE: Well, given that, it's certainly a worthy cause. And I support this bill and look forward to working with you and Senator Fuschillo on the Internet aspect of it.

SENATOR MARCELLINO: Great minds, Senator.

ACTING PRESIDENT MEIER: Senator

Onorato.

SENATOR ONORATO: Will the Senator yield?

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

SENATOR MARCELLINO: Anytime, to the Senator.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR ONORATO: Do you have any additional packs of those cigarettes available? I'd like to make them available for people who are visiting my office so they can get firsthand information on them. I've never seen them before, and I'm very interested.

SENATOR MARCELLINO: This was purchased by my staff locally at a local tobacco shop just up the street from the Capitol. So one can find these pretty much anyplace.

They range in price from $2 to $4 a pack, so there's -

SENATOR ONORATO: Do they work?

(Laughter.)

SENATOR MARCELLINO: Do they work? In what way?

SENATOR ONORATO: You gave a description earlier of them, what it's supposed to do.

SENATOR MARCELLINO: Senator, I've never smoked a day in my life, so I have no knowledge of a personal nature.

SENATOR ONORATO: Thank you, Senator.

SENATOR MARCELLINO: You're welcome.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 5. This act shall take effect on the first day of February.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 55.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 382, by Senator Morahan, Senate Print 6437, an

act to amend the Military Law, in relation to extending certain benefits.

SENATOR PATERSON: Explanation.

ACTING PRESIDENT MEIER: Senator Morahan, an explanation has been requested of Calendar Number 382 by Senator Paterson.

SENATOR MORAHAN: Thank you, Mr. President.

This bill extends -- in essence, extends to minors those protections offered now to those who serve in our military. It extends the protections to the minor children of those people. In the event a minor child wants to initiate a claim or respond to a claim, he would have the same protections as his father or mother who may be in the service of the United States military.

ACTING PRESIDENT MEIER: Senator Paterson.

SENATOR PATERSON: Mr. President, if Senator Morahan would yield for a question.

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

SENATOR MORAHAN: Yes, I do.

ACTING PRESIDENT MEIER: The

sponsor yields.

SENATOR PATERSON: Now, Senator, I understand that there was a case in which a child was injured in a housing development and wanted to bring an action, his family wanted to bring an action. His parents were overseas in the military, and the action was stayed until the parents got back. And that was apparently a decision made by a federal court.

And what this legislation would do is just to provide the accompanying state statute to make that possible. And I certainly agree with that.

But my question is, what if the child were a defendant? Would the military service in a sense be a bar to the claim on behalf of the plaintiff and therefore the military service -- even if it were true - would be actually utilized to stop another citizen from bringing a civil action?

SENATOR SKELOS: Mr. President, while Senator Morahan is contemplating his answer, there will be an immediate meeting of the Local Governments Committee in the Majority Conference Room.

ACTING PRESIDENT MEIER:

Immediate meeting of the Local Government Committee in the Majority Conference Room.

Senator Morahan.

SENATOR MORAHAN: Yes, Senator Paterson, if there is any indication that someone is trying to evade defending themselves against another lawsuit and it looks like it's being used as a shield, then I think that the court, the way the bill is written, would have the same ability as it would with the parents to take whatever action the court would think appropriate.

ACTING PRESIDENT MEIER: Senator Paterson.

SENATOR PATERSON: Mr. President, if Senator Morahan would yield for a question.

ACTING PRESIDENT MEIER: Senator Morahan, do you continue to yield?

SENATOR MORAHAN: Yes, I do.

ACTING PRESIDENT MEIER: The Senator yields.

SENATOR PATERSON: I do see in the legislation where it says that the action shall stayed if in the opinion of the court -

that's the relevant language -- that this is necessary.

So you can assure us that there would be the discretion on the part of the court to determine whether or not the defendants in this particular case are evading the civil action or whether there's a legitimate reason why someone can't be on hand to defend themselves or their child?

SENATOR MORAHAN: Yes.

SENATOR PATERSON: Thank you, Senator.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 56.

ACTING PRESIDENT MEIER: The bill is passed.

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

SENATOR SKELOS: Thank you, Mr.

President. If we could return to reports of standing committees, I believe there are at least two reports at this time to be read.

ACTING PRESIDENT MEIER: Reports of standing committees.

The Secretary will read.

THE SECRETARY: Senator Maziarz, from the Committee on Aging, reports:

Senate Print 2380, by Senator Alesi, an act to amend the Real Property Tax Law;

2869, by Senator Trunzo, an act to amend the Vehicle and Traffic Law;

And 5463, by Senator Maziarz, an act to amend the Real Property Tax Law.

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

Senate Print 1013A, by Senator Saland, an act to amend the Family Court Act;

1018, by Senator Skelos, an act to amend the Family Court Act and the Criminal Procedure Law;

1621, by Senator LaValle, an act to amend the Domestic Relations Law and the Family Court Act;

2977, by Senator Saland, an act to amend the Social Services Law;

And 5852A, by Senator Meier, an act to amend the Domestic Relations Law.

Senator Marcellino, from the Committee on Environmental Conservation, reports:

Senate Print 4102, by Senator Kuhl, an act to amend the Environmental Conservation Law;

4623, by Senator Marcellino, an act to amend Chapter 535 of the Laws of 1945;

5188, by Senator McGee, an act to amend the Environmental Conservation Law;

6075, by Senator Marcellino, an act to amend the Environmental Conservation Law;

And 6387, by Senator Marcellino, an act to amend the Environmental Conservation Law.

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

Senate Print 2760, by Senator LaValle, an act to amend Chapter 246 of the Laws of 1916;

2854A, by Senator LaValle, an act

to establish the Eastport Volunteer Exempt Firefighters Benevolent Association;

2855A, by Senator LaValle, an act to establish the Island Volunteer Exempt Firefighters Benevolent Association;

4205, by Senator Rath, an act to amend the General Municipal Law;

5488, by Senator Bonacic, an act to enable the County of Ulster to acquire;

And 6240, by Senator Morahan, an act to amend Chapter 235 of the Laws of 1865.

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

Senate Print 969, by Senator Skelos, an act to amend the Correction Law and the County Law;

972, by Senator Skelos, an act to amend the Correction Law and the Executive Law;

1563, by Senator Nozzolio, an act to amend the Correction Law;

1609, by Senator Skelos, an act to amend the Correction Law;

And 3781, by Senator Nozzolio, an

act to amend the Correction Law.

All bills ordered direct to third reading.

ACTING PRESIDENT MEIER: Without objection, all bills directly to third reading.

Senator Skelos.

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

ACTING PRESIDENT MEIER: Yes.

Senator Fuschillo.

SENATOR FUSCHILLO: Thank you, Mr. President.

On behalf of Senator Goodman, I move that the following bill be discharged from its respective committee and be recommitted with instructions to strike the enacting clause: Senate Print Number 6211.

ACTING PRESIDENT MEIER: So ordered.

SENATOR SKELOS: Please recognize Senator Paterson.

ACTING PRESIDENT MEIER: Senator Paterson.

SENATOR PATERSON: Mr. President,

there is a continuing process of confirming Regents in a joint session in the Assembly parlor.

I would just like to remind the Senators that that process is going to continue right at the end of this session and invite anyone that's had trouble finding their way over there today that I will personally escort them there if they so choose.

SENATOR SKELOS: Mr. President, I hope Senator Paterson enjoys himself.

Would you please recognize Senator Marchi at this time.

ACTING PRESIDENT MEIER: Senator Marchi.

SENATOR MARCHI: Yes, Mr. President.

We were saddened by the news that we had lost a great -- undoubtedly, in my mind, in my experience, the greatest presiding officer we ever had, with the passing of Governor Malcolm Wilson.

We are going to be designating, at an appropriate time, an opportunity for members to make comments. And I'm sure that

there are many here, on both sides of the aisle, who had access to him and would like to certainly have their sentiments recorded.

So bearing that in mind, I will request that when we adjourn, we adjourn out of respect and the honor in which we held this great governor and this great presiding officer, and that we do this in his memory.

ACTING PRESIDENT MEIER: Senator Skelos.

SENATOR SKELOS: Thank you very much, Senator Marchi. And Governor Wilson was a very special person.

And there being no further business to come before the Senate, I move we adjourn, in his memory, until Wednesday, March 15th, at 11:00 a.m.

If we could all rise and observe a moment of silence.

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

ACTING PRESIDENT MEIER: On motion, the Senate stands adjourned, in memory of Governor Malcolm Wilson, until Wednesday, March 15th, at 11:00 a.m.

(Whereupon, at 3:41 p.m., the Senate adjourned.)