NEW YORK STATE SENATE

THE STENOGRAPHIC RECORD

ALBANY, NEW YORK

March 12, 2003

11:05 a.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 please come to order.

Will everyone present please rise and join me in repeating the Pledge of Allegiance.

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

ACTING PRESIDENT MEIER: The invocation today will be given by Father Peter G. Young, from Blessed Sacrament Church in Bolton Landing.

REVEREND YOUNG: Thank you, Senator.

Dear God, as we heard a famous Irish tenor on Monday to open the session, we all listened. But when we meet in session, sometimes we stop listening and use our communication skills to advocate only our own constituents' agenda.

God, You want us to communicate with respect and care to each other, to each Senator in this chamber, so we might show our New York State citizens and constituents our example of togetherness for the common good of

New York State.

Help us to have an open ear and hospitable mind as we listen, share, and build community, instead of disunity, for New York State citizens.

Amen.

ACTING PRESIDENT MEIER: Reading of the Journal.

THE SECRETARY: In Senate, Tuesday, March 11, the Senate met pursuant to adjournment. The Journal of Monday, March 10, 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.

Reports of select committees.

Communications and reports from state officers.

Motions and resolutions.

Senator Alesi.

SENATOR ALESI: Thank you, Mr. President.

I move to commit Senate Print Number 2372, Calendar Number 200, on the order of first report, to the Committee on Finance, for Senator Flanagan.

ACTING PRESIDENT MEIER: So ordered.

Senator Skelos.

SENATOR SKELOS: Mr. President, there's a privileged resolution, 721, by Senator Saland. May we have the title read and move for its immediate adoption.

ACTING PRESIDENT MEIER: The Secretary will read the title.

THE SECRETARY: By Senator Saland, Legislative Resolution Number 721, honoring J. Winthrop Aldrich for his ceaseless, dedicated service, by the Hudson River Heritage, on Saturday, March 15, 2003.

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

(Response of "Aye.")

ACTING PRESIDENT MEIER: Those

opposed, nay.

(No response.)

ACTING PRESIDENT MEIER: The resolution is adopted.

Senator Schneiderman.

SENATOR SCHNEIDERMAN: Thank you, Mr. President.

I would move that Senate Bill 2678 be discharged from committee and be recommitted with instructions to strike the enacting clause, on behalf of Senator Stavisky.

ACTING PRESIDENT MEIER: So ordered.

Senator Skelos.

SENATOR SKELOS: Mr. President, there's a privileged resolution, Number 720, by Senator Breslin. I ask that the title be read and move for its immediate adoption.

ACTING PRESIDENT MEIER: The Secretary will read the title.

THE SECRETARY: By Senator Breslin, Legislative Resolution Number 720, honoring Uluss "Gus" Thompson for his distinguished career in public service, upon

the occasion of his retirement as Commissioner, Albany Department for Children, Youth, and Families.

ACTING PRESIDENT MEIER: All those in favor of the resolution say aye.

(Response of "Aye.")

ACTING PRESIDENT MEIER: Those opposed, nay.

(No response.)

ACTING PRESIDENT MEIER: The resolution is adopted.

Senator Skelos.

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

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

THE SECRETARY: Calendar Number 50, by Senator Little, Senate Print 741A, an act making certain findings and determinations with respect to a bond anticipation note.

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

Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 37.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 83, by Senator Alesi, Senate Print 950, 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, 37.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 105, by Senator DeFrancisco, Senate Print

1143, an act to amend the Penal Law, in relation to the payment of reparation or restitution.

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, 38.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 115, by Senator Volker, Senate Print 1437, an act to amend the Penal Law, in relation to criminal mischief in the third degree.

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, 40.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 138, by Senator Velella, Senate Print 98, an act to amend the General Business Law, in relation to trash dumpsters.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 2. This act shall take effect on the 60th day.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 40.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 148, by Senator Padavan, Senate Print 531, an act to amend the Vehicle and Traffic Law, in relation to prohibiting holders of learner's permits.

SENATOR SCHNEIDERMAN: Lay it aside.

ACTING PRESIDENT MEIER: Lay the

bill aside.

THE SECRETARY: Calendar Number 149, by Senator Marcellino, Senate Print 764, an act to amend the Vehicle and Traffic Law, in relation to the number of prior suspensions.

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, 40.

ACTING PRESIDENT MEIER: The bill is passed.

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

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

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

THE SECRETARY: Calendar Number 148, by Senator Padavan, Senate Print 531, an act to amend the Vehicle and Traffic Law, in relation to prohibiting holders of learner's permits.

SENATOR SCHNEIDERMAN: Explanation.

ACTING PRESIDENT MEIER: Senator Padavan, an explanation has been requested by Senator Schneiderman.

SENATOR PADAVAN: Thank you, Mr. President.

Currently the Commissioner of Motor Vehicles enforces regulations that prohibits giving driving instruction in those specific areas where the driving test will be given.

The reasons for that are twofold. Number one, it certainly precludes the validity, to some degree, of a test being appropriate for that person when they're taking it. And, secondly, it has impact on the surrounding community, which is constantly being subjected to people preparing for these tests by driving around their community, and many of them are in residential areas.

Now, even though this regulation prohibits this, the local police department is reluctant to become involved because it is not part of the Vehicle and Traffic Law. And so this bill would accomplish that end.

ACTING PRESIDENT MEIER: Senator Schneiderman.

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

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

SENATOR PADAVAN: Yeah.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR SCHNEIDERMAN: The explanation certainly makes complete sense. I wonder if there is any way in this legislation, though, to accommodate someone who has a learner's permit who actually lives in the designated road-test area. Has that ever been taken into account?

SENATOR PADAVAN: If someone lives specifically in the road-test area and is being -- is driving, consistent with the

restrictions of a permit, from Point A to Point P and goes through that area, obviously that doesn't apply here. And I don't see that it would be a problem.

It's certainly never been a problem in terms of the state regulations.

ACTING PRESIDENT MEIER: Senator Skelos.

SENATOR SKELOS: Mr. President, if I could interrupt, there will be an immediate meeting of the Environmental Conservation Committee in the Majority Conference Room.

ACTING PRESIDENT MEIER: Immediate meeting of the Environmental Conservation Committee in the Senate Majority Conference Room.

SENATOR SCHNEIDERMAN: Through you, Mr. President, if the sponsor will yield for one final clarification.

ACTING PRESIDENT MEIER: Senator Padavan, do you yield?

SENATOR PADAVAN: Yes.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR SCHNEIDERMAN: So then my understanding is correct that this would not prohibit someone who has a learner's permit who lives in a designated road-test area from getting in their car and driving through the road-test area to some other location to practice; is that correct?

SENATOR PADAVAN: It does not.

And that has not been a problem, I repeat, with the current regulations that are enforced today by the Department of Motor Vehicles.

SENATOR SCHNEIDERMAN: Thank you, Mr. President. Thank the sponsor for his answers. On the bill very briefly.

This makes complete sense. I hope that if there is a problem that arises with regard to anyone who lives in a road-test area, that we will be attentive to it and deal with it through regulation or otherwise.

Otherwise, the bill certainly sounds sensible, and I will vote in favor of it.

ACTING PRESIDENT MEIER: Senator Diaz.

SENATOR DIAZ: Would the sponsor -- through you, Mr. President, would the sponsor yield for a question?

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

SENATOR PADAVAN: Yes. Yes, I do.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR DIAZ: If this bill passes, would it be every day or only the day the streets are used for the road test? That would include Saturdays and Sundays too?

SENATOR PADAVAN: Currently the state regulations issued by the Commissioner of Motor Vehicles preclude that test area -- let's say it's four square blocks, in your district or anyone else's -- from being used by an individual or a driving school as a prelude to the actual taking of the test in that specific area. So it would be applicable at any time.

SENATOR DIAZ: Thank you, Mr. President.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 3. This act shall take effect on the 90th day.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Those recorded in the negative on Calendar Number 148 are Senators Diaz, Duane, and Parker. Ayes, 52. Nays, 3.

ACTING PRESIDENT MEIER: The bill is passed.

Senator Duane, why do you rise?

SENATOR DUANE: I was hoping I could have unanimous consent to be recorded in the negative on Calendar Number 115.

ACTING PRESIDENT MEIER: Without objection, Senator Duane will be recorded in the negative on Calendar 115.

Senator Parker, why do you rise?

SENATOR PARKER: Mr. President, I'm also rising to ask for unanimous consent to be recorded in the negative on Calendar Number 115.

ACTING PRESIDENT MEIER: Without objection, Senator Parker will be recorded in the negative on Calendar 115.

Senator Skelos.

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

ACTING PRESIDENT MEIER: No, there is not.

SENATOR SKELOS: There being no further business, I move that the Senate stands adjourned until Monday, March 17th, at 3:00 p.m., intervening days being legislative days.

ACTING PRESIDENT MEIER: On motion, the Senate stands adjourned until Monday, March 17th, at 3:00 p.m. Intervening days will be legislative days.

(Whereupon, at 11:17 a.m., the Senate adjourned.)