NEW YORK STATE SENATE

THE STENOGRAPHIC RECORD

ALBANY, NEW YORK

February 14, 2000

3:04 p.m.

REGULAR SESSION

SENATOR RAYMOND A. MEIER, Acting President

STEVEN M. BOGGESS, Secretary

P R O C E E D I N G

ACTING PRESIDENT MEIER: The Senate will come to order.

Everyone pleasant -- present. Yes, it would be nice if everyone would be pleasant. And everyone present, too, 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: The invocation will be given by Rabbi Debora Gordon, from Congregation Berith Sholom in Troy.

(The rabbi sang in Hebrew.)

RABBI GORDON: May the One who blessed those who came before us, our family and community ancestors, those whose leadership roles have created stability and order and those whose leadership has inspired positive change, may this same One also bless this august body as it comes today to do the work of governance.

Bless its soul, its spirit, your breath, which gives voice to truth through the

interchange of your many opinions and points of view. Bless its heart -- in Hebrew, its leb, seat of both intellect and emotion. May your hearts be full of passion and of reason, banishing fear and ignorance.

On this Valentine's Day, a holiday derived not from my own tradition but embraced as part of the American culture in which I live, on this day may the love that we each share with our own families be enlarged and shaped into building blocks of love and respect for all our families, for families of choice as well as families of origin. For in each family, each member is created [in Hebrew] in God's image, as full and loving human beings.

May this certainty guide your discussions. May the love that this Valentine's Day celebrates ultimately draw all families under the sheltering protection of the law, so that crimes of ignorance and of hate may not mar the bonds of friendship and fellowship that connect us all.

[In Hebrew.] Out of my love for my brothers and my sisters, for the sake of every

human being who's the delight of someone's heart and the apple of someone's eye, I say may there be peace and wholeness in your midst. And let us say amen.

ACTING PRESIDENT MEIER: Reading of the Journal.

THE SECRETARY: In Senate, Friday, February 11, the Senate met pursuant to adjournment. The Journal of Thursday, February 10, was read and approved. On motion, Senate adjourned.

SENATOR SKELOS: Mr. President.

ACTING PRESIDENT MEIER: Senator Skelos.

SENATOR SKELOS: If I could just interrupt, there will be an immediate meeting of the Rules Committee in the Majority Conference Room.

ACTING PRESIDENT MEIER: Immediate meeting of the Rules Committee in the Majority Conference Room.

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

Senate Print 635, by Senator Nozzolio, an act to amend the Executive Law;

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

1512, by Senator Alesi, an act to amend the Correction Law;

3775, by Senator Nozzolio, an act to amend the Executive Law;

4027, by Senator Maltese, an act to amend the Executive Law;

And 6282A, by Senator Nozzolio, an act to amend the Correction Law and the Social Services Law.

Senator Volker, from the Committee on Codes, reports:

Senate Print 12A, by Senator Skelos, an act to amend the Penal Law;

120, by Senator Rath, an act to amend the Criminal Procedure Law;

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

652, by Senator Maziarz, an act to amend the Criminal Procedure Law;

813, by Senator Hannon, an act to amend the Criminal Procedure Law;

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

973, by Senator Skelos, an act to amend the Penal Law;

974, by Senator Skelos, an act to amend the Criminal Procedure Law;

1017, by Senator Skelos, an act to amend the Criminal Procedure Law;

1122, by Senator Goodman, an act to amend the Penal Law;

1592A, by Senator Volker, an act to amend the Penal Law and others;

3790, by Senator Volker, an act to amend the Criminal Procedure Law;

5633, by Senator Libous, an act to amend the Penal Law;

5898, by Senator Bruno, an act to amend the Penal Law and the Highway Law;

And 6225, by Senator Volker, an act

to amend the Criminal Procedure Law.

All bills ordered direct to third reading.

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

Reports of select committees.

Communications and reports from state officers.

Motions and resolutions.

Senator Farley.

SENATOR FARLEY: Thank you, Mr. President.

On behalf of Senator Rath, I wish to call up her bill 2948, which was recalled from the Assembly, which is now at the desk.

ACTING PRESIDENT MEIER: The Secretary will read.

THE SECRETARY: Calendar Number 18, by Senator Rath, Senate Print 2948, an act to amend the Vehicle and Traffic Law.

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

ACTING PRESIDENT MEIER: Call the

vote on reconsideration.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 45.

SENATOR FARLEY: I now offer the following amendments.

ACTING PRESIDENT MEIER: The amendments are received.

SENATOR FARLEY: Mr. President, on behalf of Senator Alesi, I move that the following bill be discharged from its respective committee and be recommitted with instructions to strike the enacting clause.

ACTING PRESIDENT MEIER: So ordered.

SENATOR FARLEY: Senate 6454.

ACTING PRESIDENT MEIER: So ordered.

SENATOR FARLEY: Mr. President, on behalf of Senator Bonacic, on page 13 I offer the following amendments to Calendar Number 157, Senate Print 4579. And I ask that that bill also be starred.

ACTING PRESIDENT MEIER: The amendments are received, and the bill will be starred.

SENATOR FARLEY: Mr. President, on behalf of Senator Bonacic, on page 13, Calendar Number 156, I offer the following amendments to Senate Print 4578, and I ask that that bill be starred.

ACTING PRESIDENT MEIER: The amendments are received, and the bill will be starred.

SENATOR FARLEY: Mr. President, on behalf of Senator Morahan, on page 15 I offer the following amendments to Calendar 184, Senate Print 5725, and I ask that that bill retain its place on the Third Reading Calendar.

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

Senator Seward.

SENATOR SEWARD: Yes, Mr. President. On page 4, on behalf of Senator McGee, I offer the following amendments to Calendar Number 9, Senate Print Number 4113A, and ask that the said bill retain its place on the Third Reading Calendar.

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

SENATOR SEWARD: Mr. President, on behalf of Senator Rath, on page 5 I offer the following amendments to Calendar Number 37, Senate Print Number 5787, and I ask that that bill retain its place on the Third Reading Calendar.

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

SENATOR SEWARD: On behalf of Senator Libous, on page 17 I offer the following amendments to Calendar Number 204, Senate Print Number 2114, and ask that that bill retain its place on the Third Reading Calendar.

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

Senator Hoffmann.

SENATOR HOFFMANN: Mr. President, may we please return to reports of standing committees. I believe there is a report of the Rules Committee at the desk.

ACTING PRESIDENT MEIER: Return to reports of standing committees.

The Secretary will read.

THE SECRETARY: Senator Bruno, from the Committee on Rules, reports the following bill direct to third reading:

Senate Print 6539, by Senator Spano, an act to amend the Labor Law.

SENATOR HOFFMANN: I move to accept the report of the Rules Committee.

ACTING PRESIDENT MEIER: The motion is to accept the report of the Rules Committee. All those in favor signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT MEIER: Opposed, nay.

(No response.)

ACTING PRESIDENT MEIER: The report of the Rules Committee is accepted.

Senator Hoffmann.

SENATOR HOFFMANN: May we please take up Calendar 249.

ACTING PRESIDENT MEIER: The Secretary will read Calendar 249.

THE SECRETARY: Calendar Number 249, by Senator Spano, Senate Print 6539, an act to amend the Labor Law, in relation to defining "week of employment."

SENATOR PATERSON: Explanation, please.

SENATOR HOFFMANN: Is there a message of necessity at the desk?

ACTING PRESIDENT MEIER: There is.

SENATOR HOFFMANN: I move to accept the message of necessity.

ACTING PRESIDENT MEIER: All those in favor of accepting the message of necessity signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT MEIER: Opposed, nay.

(No response.)

ACTING PRESIDENT MEIER: The message is accepted. The bill is before the

house.

SENATOR DOLLINGER: Explanation, please.

ACTING PRESIDENT MEIER: Senator Spano, an explanation has been requested by Senator Dollinger.

SENATOR SPANO: Mr. President, this bill is the -- makes technical amendments to the Labor Law to ensure that workers with significant employment in only one quarter, particularly the construction industry, and low-wage seasonal workers would be able to be eligible -- continue to be eligible for unemployment insurance benefits under the current wage reporting system.

It's a bill that we had -- we passed, I think it was unanimously, last year. The Governor vetoed this bill. And it's a bill that has been negotiated between the Governor and the two houses.

ACTING PRESIDENT MEIER: Senator Dollinger.

SENATOR DOLLINGER: Mr. President, through you, if Senator Spano will yield just to one question.

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

SENATOR SPANO: Yes.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR DOLLINGER: Through you, Mr. President. It's my understanding that the veto from the Governor was motivated in part by -- to add some penalty provisions for misreporting, misrepresentations in the reporting process.

Could you just show me where in the bill that language is located? This is -- I assume this is the new language added since we did this same concept in December; is that correct?

SENATOR SPANO: On page 3 of the bill, Section 4 relates to the Unemployment Insurance Control Fund, Senator Dollinger. And that's the language that you're referring to.

As well as Section 4 and Section 5 of the bill. And it continues on, related to penalties, in Section 7 as well.

SENATOR DOLLINGER: That language

was -- again, through you, Mr. President, if Senator Spano -

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

SENATOR SPANO: Yes.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR DOLLINGER: That's the language that was added in response to the Governor's veto of the bill? Those sections, 4, 5, and 7?

SENATOR SPANO: It wouldn't be fair to say that was language that was put in specifically because of the Governor's objection. This has basically been a new bill that's been written, starting with the bill that we already passed, with some additions. But it was negotiated between both houses.

So it was the -- not only the Governor but also the Assembly as well that had their input into the process.

SENATOR DOLLINGER: Okay. But again, through you, Mr. President, just so I make sure I understand.

ACTING PRESIDENT MEIER: Senator

Spano, do you continue to yield?

SENATOR SPANO: Yes.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR DOLLINGER: That's the new language from the version we passed back in December, I think unanimously in this house, is that correct, those three sections?

SENATOR SPANO: That language, amongst some other changes in the bill, minor changes. But yes, that's correct.

SENATOR DOLLINGER: Okay. Thank you, Mr. President.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 17. This act shall take effect immediately.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 50.

ACTING PRESIDENT MEIER: The bill is passed.

Senator Hoffmann.

SENATOR HOFFMANN: At this time

may we have the reading of the noncontroversial calendar.

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

THE SECRETARY: Calendar Number 104, by Senator Larkin, Senate Print 681A, an act to amend the Real Property Tax Law, in relation to refiling.

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, 50.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 109, by Senator Farley, Senate Print 4704, an act to amend the Banking Law, in relation to conforming the personal loan limitations.

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, 50.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 118, by Senator Wright, Senate Print 2423, an act to amend the Public Service Law, in regulation to unauthorized changes.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 2. This act shall take effect in 120 days.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 50.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 127, by Senator Skelos, Senate Print 11C, an act to amend the General Business Law, in

relation to the sale of laser pointing devices.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 50.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 133, by Senator Kuhl, Senate Print 2558, an act to amend the Vehicle and Traffic Law, in relation to appropriate reduced speeds.

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, 50.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 167, by Senator Volker, Senate Print 728, an act to amend the Criminal Procedure Law, in relation to fingerprinting persons.

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, 50.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 170, by Senator Marcellino, Senate Print 822, an act to amend the Criminal Procedure Law, in relation to anonymous juries.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 4. This

act shall take effect on the 30th day.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 50.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 173, by Senator Goodman, Senate Print 1109, an act to amend the Penal Law, in relation to computer networks.

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, 53.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 179, by Senator Rath, Senate Print 6173A, an act to amend the Criminal Procedure Law, the

Executive Law, the Family Court Act, and the Penal Law.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 7. This act shall take effect January 1.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Those recorded in the negative on Calendar Number 179 are Senators Breslin, Dollinger, Duane, Hevesi, Markowitz, Oppenheimer, Paterson, Santiago, Schneiderman, Smith, and Stavisky. Ayes, 42. Nays, 11.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 202, by Senator Libous, Senate Print 2091, an act to amend the Mental Hygiene Law, in relation to disqualification.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 4. This act shall take effect immediately.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

SENATOR DOLLINGER: Lay it aside, please.

ACTING PRESIDENT MEIER: Lay the bill aside.

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

SENATOR HOFFMANN: Thank you, Mr. President. Now may we have the reading of the controversial calendar, please.

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

THE SECRETARY: Calendar Number 202, by Senator Libous, Senate Print 2091, an act to amend the Mental Hygiene Law, in relation to disqualification.

SENATOR PATERSON: Explanation, please.

ACTING PRESIDENT MEIER: Senator Libous, an explanation has been requested of Calendar 202 by Senator Paterson.

SENATOR LIBOUS: Thank you, Mr.

President.

I look forward to this moment every year when Senator Paterson asks for an explanation of this particular piece of legislation. And each year I convince myself that I would convince Senator Paterson of supporting this, but I have failed. Let me try it again this year.

Senator, as you know, this legislation is fairly simple. And basically it allows a physician on the staff of a private hospital to admit a person who is mentally ill to that hospital.

One of the changes we have made over the years is to put a three-year sunset on the legislation. We have a number of agencies who have reported it. And in light of Kendra's Law and some of the circumstances that have taken place over the years, it is much more difficult for these institutions to have two physicians making sign-off and referral.

And I think in light of what this body passed last year, Mr. President, I would hope that Senator Paterson and any of his

colleagues who have had questions in the past would be supportive.

ACTING PRESIDENT MEIER: Senator Paterson.

SENATOR PATERSON: Mr. President, I want to put to rest the rumor that I just get up and debate against this bill every year because I just would like to get together with Senator Libous but he keeps declining my invitation so I have to talk to him here.

If the Senator would yield for a question.

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

SENATOR LIBOUS: Yes, Mr. President.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR PATERSON: Senator, do we have any information detailing the number of individuals who have been denied the care that they should have received from an affiliated hospital because of the fact that they had to wait a period of time to have this certificate signed by two physicians?

SENATOR LIBOUS: You know, Mr. President, I would believe that, you know, the information is available. I don't seem to have it right here.

But it's probably very similar to the information -- you know, when Kendra's Law was being drafted, there was a lot of discussion of how many individuals are we talking about -- numbers of 3,000, 4,000, 5,000 individuals who would be involved in court-ordered appointments. And yet we heard the Commissioner say the other day 20 individuals have been involved so far.

So, Mr. President, while I don't have a specific number, I do know that in the case of providing adequate care on an involuntary system, that we believe that for these particular facilities it would make sense, again, to have just one attending physician be able to make that diagnosis.

ACTING PRESIDENT MAZIARZ: Senator Paterson.

SENATOR PATERSON: Mr. President, if the Senator would yield, I actually have a question I don't believe I've ever asked

before.

ACTING PRESIDENT MAZIARZ: Senator Libous, do you continue to yield?

SENATOR LIBOUS: I'm quite anxious, Mr. President, to hear this.

ACTING PRESIDENT MAZIARZ: Senator Paterson.

SENATOR PATERSON: In my research this year, Mr. President, I found that there are 23 state psychiatric hospitals that actually use this procedure right now. I didn't know that before.

If the Senator would explain for us why we had a different procedure for the for-profit hospitals than we did for the state psychiatric hospitals, that would be very helpful.

SENATOR LIBOUS: The procedure is different, and that's what we're trying to change right here in the law, Senator. There actually is a different procedure. It isn't statute. And we're trying to address that issue right now.

The private psychiatric hospitals have a different situation than the state-run

hospitals. And that's actually something that was recommended by the Commission on Quality Care, that this legislation make that adjustment.

ACTING PRESIDENT MAZIARZ: Senator Paterson.

SENATOR PATERSON: Thank you, Mr. President. If the Senator would yield for one last question.

ACTING PRESIDENT MAZIARZ: Senator Libous?

SENATOR LIBOUS: Sure.

SENATOR PATERSON: And this is a pivotal question.

ACTING PRESIDENT MAZIARZ: Senator Paterson.

SENATOR PATERSON: Senator, is there any provision in this bill for disclosure to the patient that one of the two physicians that signed what they call the 2PC certificate, the two-physician certificate, is actually affiliated personally with the hospital?

SENATOR LIBOUS: No, sir, there is not.

SENATOR PATERSON: Thank you, Senator.

ACTING PRESIDENT MAZIARZ: Read the last section.

THE SECRETARY: Section 4. This act shall take effect immediately.

ACTING PRESIDENT MAZIARZ: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MAZIARZ: Senator Paterson.

SENATOR PATERSON: Mr. President, please note, for the record, I vote aye.

(Laughter.)

ACTING PRESIDENT MAZIARZ: Senator Paterson will be recorded in the affirmative.

THE SECRETARY: Those recorded in the negative on Calendar Number 202 are Senators Duane, Hevesi, Schneiderman, and Stavisky. Ayes, 53. Nays, 4.

ACTING PRESIDENT MAZIARZ: The bill is passed.

Senator Hoffmann.

SENATOR HOFFMANN: Is there any

housekeeping at the desk?

ACTING PRESIDENT MAZIARZ: There is no housekeeping at the desk.

SENATOR HOFFMANN: There being no further business to come before the Senate, I move we adjourn until Tuesday, February 15th, at 11:00 a.m.

ACTING PRESIDENT MAZIARZ: On motion, the Senate stands adjourned until Tuesday, February 15th, at 11:00 a.m.

(Whereupon, at 3:30 p.m., the Senate adjourned.)