NEW YORK STATE SENATE

THE STENOGRAPHIC RECORD

ALBANY, NEW YORK

April 1, 2004

11:10 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.

May I ask everyone present to please rise and join me in 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 please bow our heads in a moment of silent prayer.

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

ACTING PRESIDENT MEIER: Reading of the Journal.

THE SECRETARY: In Senate, Wednesday, March 31, the Senate met pursuant to adjournment. The Journal of Tuesday, March 30, 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 Wright.

SENATOR WRIGHT: Thank you, Mr. President.

On behalf of Senator Moyni -- Morahan, I move that -- it's contagious -- I move the following bills be discharged from their respective committees and be recommitted with instructions to strike the enacting clause: Senate Bill Numbers 4401, 4402, 4403, 4640, 4893, 5293, 5540, 5686, 5687.

ACTING PRESIDENT MEIER: So ordered.

SENATOR WRIGHT: On behalf of Senator Morahan, thank you.

ACTING PRESIDENT MEIER: Senator Skelos.

SENATOR SKELOS: Mr. President, I believe there's a substitution at the desk. If we could make it at this time.

ACTING PRESIDENT MEIER: The Secretary will read the substitution.

THE SECRETARY: Senator DeFrancisco moves to discharge, from the Committee on Judiciary, Assembly Bill Number 6639 and substitute it for the identical Senate Bill Number 2294, First Report Calendar 657.

ACTING PRESIDENT MEIER: Substitution ordered.

Senator Skelos.

SENATOR SKELOS: If we could adopt the Resolution Calendar, with the exception of Resolution 4203.

ACTING PRESIDENT MEIER: All those in favor of adopting the Resolution Calendar, with the exception of Resolution 4203, signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT MEIER: Those opposed, nay.

(No response.)

ACTING PRESIDENT MEIER: The Resolution Calendar, with exception, is adopted.

Senator Skelos.

SENATOR SKELOS: Mr. President, if you could take up Resolution Number 4203, by Senator Johnson, have the title read, move for its immediate adoption, and also open the resolution for sponsorship.

ACTING PRESIDENT MEIER: The Secretary will read Resolution 4203.

THE SECRETARY: By Senator Johnson, Legislative Resolution Number 4203, memorializing Governor George E. Pataki to proclaim May 22, 2004, as Maritime Day 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: Those opposed, nay.

(No response.)

ACTING PRESIDENT MEIER: The resolution is adopted.

Senator Skelos.

SENATOR SKELOS: Mr. President, I believe Senator Johnson wants to open the

resolution for sponsorship. If you wish not to sponsor the resolution, please notify the desk.

ACTING PRESIDENT MEIER: The resolution has been opened to the members for sponsorship. Those wishing not to be on the resolution, please notify the desk.

Senator Skelos.

SENATOR SKELOS: Mr. President, Resolution Number 4096, by Senators Rath and Spano, was previously adopted. If we could have the title read at this time and then open it up for cosponsorship.

ACTING PRESIDENT MEIER: The Secretary will read the title of Resolution 4096.

THE SECRETARY: By Senators Rath and Spano, Legislative Resolution Number 4096, memorializing Governor George E. Pataki to proclaim April 16, 2004, as "Sex Crimes Against Children and Women Prevention Day" in the State of New York.

ACTING PRESIDENT MEIER: The resolution is open for cosponsorship. Members who do not wish to be a cosponsor, please

notify the desk.

Senator Skelos.

SENATOR SKELOS: If we could go to the noncontroversial reading of the calendar.

ACTING PRESIDENT MEIER: The Secretary will conduct the noncontroversial reading of the calendar.

THE SECRETARY: Calendar Number 116, by Senator McGee, Senate Print 2754A, an act to amend the Highway Law, in relation to the designation and maintenance of seldom-used highways.

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, 44.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 209, by Senator Golden, Senate Print 6007B, an

act to amend the Executive Law, in relation to directing the Office of the Aging.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

Hold the roll call.

Senator Golden.

SENATOR GOLDEN: On the bill.

ACTING PRESIDENT MEIER: Senator Golden, on the bill.

SENATOR GOLDEN: The words I have adopted to describe our philosophy and the goals of the State Committee on Aging are independence, dignity, and choice. And this Bill of Rights does that. These words will guide us as we develop proposals to help seniors in this legislative session.

My philosophy is that state programs should enhance independence, dignity, and choice, rather than compromise them. Yet too often governmental programs seem designed by bureaucrats for bureaucrats, not for

beneficiaries. They limit choice, they restrict key decisions to program controllers. In so doing, they may gain greater control and predictability, but they compromise the dignity of their beneficiaries and create dependencies.

The good that the programs were intended to do is negated when managers treat their charges as spreadsheets and forget that the great purpose of a helping program is to help people solve their problems, not the other way around.

This bill establishes principal state policies concerning the care and quality of life of seniors in New York and states that caring services and programs for seniors should be shaped by the principles of strengthening independence, affirming dignity, and maximizing choice, and should recognize that seniors and their families and intimates provide a vast potential source of social, cultural, historic and spiritual enrichment and leadership.

It requires that SOFA enunciate these principles in the form of a Bill of

Rights for seniors and provide ongoing reports on the progress of the programs in meeting these principles.

These are principles that should inform programs for seniors in areas such as long-term care; support for informal caregivers, such as family, friends and neighbors who provide 80 percent of the personal care and assistance to seniors; aging in place; prescription drug costs; expanding choice and promoting ease of access; age discrimination; personal security; personal responsibility of families and intimates; and public investment in healthcare and other social health programs.

And I thank the Senate for bringing that to the floor and voting in a positive direction today.

Thank you.

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, 46.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 312, by Senator Spano, Senate Print 4227, an act to amend the Alcoholic Beverage Control Law --

SENATOR SABINI: Lay it aside.

ACTING PRESIDENT MEIER: Lay the bill aside.

THE SECRETARY: Calendar Number 343, by the Assembly Committee on Rules, Assembly Print Number 8018, an act to amend the Labor Law, in relation to enacting the "Apparel Workers' Protection Act."

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, 46.

ACTING PRESIDENT MEIER: The bill

is passed.

THE SECRETARY: Calendar Number 347, by Senator Velella, Senate Print 4828, an act to amend the Labor Law, in relation to the duty of an employer.

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: Ayes, 46.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 403, by Senator Libous, Senate Print 2579, an act to amend the Mental Hygiene Law and the Correction Law, in relation to the reimbursement of costs.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the

roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 46.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 410, by Senator Maziarz, Senate Print 1513, an act to amend the Education Law, in relation to Regents awards.

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, 46.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 567, by Senator Little, Senate Print 5154, an act to amend the General Business Law, in relation to cyber-piracy protections.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 46.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 577, by Senator LaValle, Senate Print 5981A, an act designating state-owned lands located in Barcelona Neck, Sag Harbor, County of Suffolk.

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, 46.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 601, by Senator Marcellino, Senate Print 6541,

an act to amend the Vehicle and Traffic Law, in relation to suspended licenses.

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.)

THE SECRETARY: Ayes, 46.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 602, by Senator Spano, Senate Print 6558, an act to amend the Vehicle and Traffic Law, in relation to mandatory revocation.

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, 46.

ACTING PRESIDENT MEIER: The bill

is passed.

Senator Lachman.

SENATOR LACHMAN: Yes, with your permission, Mr. Chairman, I'd like to be recorded no on Calendar Number 116, Bill Number S2754A.

ACTING PRESIDENT MEIER: Without objection, Senator Lachman will be recorded in the negative on Calendar Number 116.

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

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

ACTING PRESIDENT MEIER: The Secretary will conduct the controversial reading of the calendar.

THE SECRETARY: Calendar Number 312, by Senator Spano, Senate Print 4227, an act to amend the Alcoholic Beverage Control Law, in relation to imposition of civil penalties.

SENATOR SABINI: Explanation.

ACTING PRESIDENT MEIER: Senator Spano, Senator Sabini has requested an

explanation of Calendar 312.

SENATOR SPANO: Mr. President, right now, under the law, the State Liquor Authority has the right to impose a civil penalty of up to $10,000 against the holder of a license -- a restaurant liquor license, tavern liquor license, or a bottle club liquor license. What this bill would do is extend that same provision to cabaret licenses.

ACTING PRESIDENT MEIER: Any other Senator wish to be heard on the bill?

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, 48.

ACTING PRESIDENT MEIER: The bill is passed.

Senator Hassell-Thompson.

SENATOR HASSELL-THOMPSON: Thank you. Mr. President, I rise to request unanimous consent to be recorded in the negative on Calendar Number 116.

ACTING PRESIDENT MEIER: Without objection, Senator Hassell-Thompson will be recorded in the negative on Calendar Number 116.

Senator Skelos.

SENATOR SKELOS: Would you please call up Calendar Number 655.

ACTING PRESIDENT MEIER: The Secretary will read.

THE SECRETARY: In relation to Calendar Number 655, Senator Skelos moves to discharge, from the Committee on Local Government, Assembly Bill Number 10158A and substitute it for the identical Senate Bill Number 6614, Third Reading Calendar 655.

ACTING PRESIDENT MEIER: Substitution ordered.

THE SECRETARY: Calendar Number 655, by Member of the Assembly Weisenberg, Assembly Print Number 10158A, an act to direct the governing body of a special assessing unit.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 3. This

act shall take effect July 1, 2004.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 53.

ACTING PRESIDENT MEIER: The bill is passed.

Senator Skelos.

SENATOR SKELOS: Is there any housekeeping at the desk?

ACTING PRESIDENT MEIER: No, there is not.

SENATOR SKELOS: Would you please recognize Senator Schneiderman.

ACTING PRESIDENT MEIER: Senator Schneiderman.

SENATOR SCHNEIDERMAN: Thank you, Mr. President. I believe I have a motion at the desk. I request to be heard on it.

ACTING PRESIDENT MEIER: The Secretary will read.

THE SECRETARY: Senate Print 5986, by Senator Schneiderman, an act to amend the Labor Law.

ACTING PRESIDENT MEIER: Senator

Schneiderman.

SENATOR SCHNEIDERMAN: Thank you. This is a motion to bring to the floor a bill to raise the minimum wage in the State of New York.

The current minimum wage of $5.15 per hour -- which means that if you're a full-time worker, you may be trying to live and support your family on $206 a week -- is an embarrassment. This is an issue of fundamental social justice and an issue of basic human rights.

And I think that it is a great shame that 12 states have raised the minimum wage above the federal level, and the great State of New York refuses to do so, the State of New York that in an earlier era led the country in passing laws to make ordinary working men and women's lives better: child labor laws, workers' safety laws, laws regulating hours worked and wages.

And now we're sitting, with the greatest gap between rich and poor in the country, doing nothing to help the 750,000 New Yorkers who work at the minimum wage,

millions of people and their families and others who would benefit if the minimum wage was increased who work at a slightly higher wage.

We're sitting here in this house as the Assembly passes a bill to raise the minimum wage so that people don't have to live on $206 per week -- and in this house, we refuse to bring the bill to the floor. This has become the house where laws to help ordinary men and women come to die.

And if there's ever a clearer issue of social justice, a clearer issue that could immediately benefit the millions of New Yorkers who we purport to represent, it's the issue of raising the minimum wage.

There has been no adverse consequence to the economy of the 12 states that have raised the minimum wage. Studies by the Economic Policy Institute have demonstrated conclusively there are no adverse economic consequences when the federal government raises the minimum wage. All you do put money in the pockets of working people so they're not as dependent on the state, so

that they can pay for more healthcare, they can pay for better food and clothing, they can pay for more shelter. And when you put money in the pockets of working people, they spend it in the state. So it's a good thing for the economy.

And I would respectfully submit that if we allow this year to go by with this house once again playing the role of a graveyard for bills to help working men and women, then we should go home hanging our heads in shame. This is something we can do, we should do immediately. It would immediately benefit millions of people.

The good that we can do by passing this bill that has already passed the Assembly is extraordinary. Our reluctance to do so is incomprehensible. It is a break with the tradition of this great state. And, frankly, it is a breach of an essential American covenant: people who work full time and play by the rules should not be in poverty.

Everyone talks about responsibility. A lot of my colleagues on the other side of the aisle talk about

responsibility and the need to reward work. But we're not rewarding work in this state, and we need to start doing it.

I hope that we'll bring this bill to the floor. I hope we will pass it. I urge everyone to vote yes on this petition. Let's get something done that helps our constituents this year. Let's stop doing deals for big companies and for our friends who have influence and seek to gain influence in the political process. Let's do something for the people we're supposed to be here to represent.

I urge everyone to vote yes on this petition, Mr. President.

ACTING PRESIDENT MEIER: All those Senators in favor of the petition out of committee please signify by raising your hand.

THE SECRETARY: Those recorded in agreement are Senators Andrews, Breslin, Connor, Diaz, Dilán, Hassell-Thompson, L. Krueger, Lachman, Montgomery, Onorato, Paterson, Sabini, Sampson, Schneiderman, A. Smith, M. Smith, and Stachowski.

ACTING PRESIDENT MEIER: The petition is lost.

Senator Skelos.

SENATOR SKELOS: Mr. President, there being no further business to come before the Senate at this time, I move we stand adjourned until Wednesday, April 14th, at 3:00 p.m., intervening days being legislative days.

ACTING PRESIDENT MEIER: On motion, the Senate stands adjourned until Wednesday, April 14, at 3:00 p.m., intervening days being legislative days.

(Whereupon, at 11:35 a.m., the Senate adjourned.)