ALBANY, NEW YORK

January 18, 1995

3:00 p.m.

REGULAR SESSION

SENATOR JOHN R. KUHL, JR., Acting President

STEPHEN F. SLOAN, Secretary

P R O C E E D I N G S

ACTING PRESIDENT KUHL: Senate will come to order. Ask the members to take their places.

Ask the members to rise and join with me as well as the members in our gallery in saying the Pledge of Allegiance.

(The Pledge of Allegiance to the Flag was given.)

In the absence of clergy, I would ask the members to bow their heads in a moment of silence.

(Whereupon, there was a moment of silence.)

Reading of the Journal.

THE SECRETARY: In Senate, Tuesday, January 17. The Senate met pursuant to adjournment. The Journal of Saturday, January 14, was read and approved. On motion, Senate adjourned.

ACTING PRESIDENT KUHL: Hearing no 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 Senate officers.

Motions and resolutions.

Senator Bruno.

SENATOR BRUNO: Yes, Mr. President. I would like to adopt the resolution calendar with the exception of Resolution Number 79.

ACTING PRESIDENT KUHL: The motion is to approve the resolution calendar with the exception of Resolution Number 79.

All those in favor, signify by saying aye.

(Response of "Aye.")

Opposed, nay.

(There was no response.)

The resolution calendar is adopted.

Senator Bruno.

SENATOR BRUNO: Mr. President. I would like to call up Resolution Number 79 and ask that it be read in its entirety.

ACTING PRESIDENT KUHL: Secretary will read.

THE SECRETARY: Legislative Resolution Number 79, by Senators Bruno, Lack, and others. Legislative Resolution calling for a Conference of the States to be promoted and convened by the Council of State Governments for the purpose of restoring balance in the federal system.

Whereas, the United States Constitution established a federalized system of governance which through the Tenth Amendment reserved all non-delegated and non-prohibitive powers to the states or to the people.

Over many years, the federal government has dramatically expanded the scope of its power and preempted state government authority.

The federal government has

generated massive deficits and continues to require state and local governments to maintain programs at substantial cost.

The states must, therefore, find a means to consolidate their power through a rallying event that forges consensus and brings states together to bring formal action.

The number of federal, unfunded mandates has grown dramatically during the last 30 years, profoundly distorting state budgets and drastically impairing the ability of state leaders to provide appropriate and needed services to their constituencies.

Persistent, state-led endeavors have consistently failed to generate any substantial reaction or remedy from the federal government.

The United States Supreme Court has repeatedly determined that the states must look to the Congress and related political remedies, for protection against federal encroachments on the reserved powers of the states.

In recent years, states have been the principal agents of government reform including updating their constitutions, modernizing and structuring governmental institutions, and, along with local governments, have been the pioneers of government innovation, thus, responding to the needs of their citizens.

The Conference of the States will communicate broad bipartisan public concern on the extent to which the American political system has been distorted and provide a formal forum for state governments to collectively propose constructive remedies for a more balanced state-federal governance partnership for the 21st century.

Now, therefore, be it resolved, that this legislative body pause in its deliberations to call for a Conference of the States to be promoted and convened by the Council of State Governments for the purpose of restoring balance in the federal system and to adopt the following:

(1) A delegation, not to exceed seven voting persons from the State of New York, shall be appointed to represent the State of New York at a Conference of the States for the purpose described in Section (2) to be convened as provided in Section (3). The delegation shall not exceed seven voting persons as follows: (a) the Governor or, if the Governor does not wish to be a member of the delegation, then a constitutional officer selected by the Governor; and (b) a number of legislators not to exceed six, three from each house, of which at least one shall be from each major political party selected by the presiding officer of that house. Each presiding officer may designate two alternate legislator delegates, one from each party, who have voting privileges in the absence of the primary delegates.

(2) The delegates of the Conference of the States will propose, debate and vote on elements of an action plan to restore checks and balances between states and the national government. Measures agreed upon

will be formalized in an instrument called a States' Petition and returned to the delegation's state for consideration by the entire legislature.

(3) The Conference of the States shall be convened under the Section 501(c)3 auspices of the Council of State Governments in cooperation with the National Governors' Association and the National Conference of State Legislators no later than 270 days after at least 26 legislatures adopt a "Resolution of Participation."

(4) Prior to the official convening of the Conference of the States, the Steering Committee will draft: (a) the governance structure and procedural rules for the conference; (b) the process for receiving rebalancing proposals; and (c) the financial and administrative functions of the conference, including the Council of State Governments as fiscal agent.

(5) The bylaws shall: (a) conform to the provisions of this resolution;

(b) specify that each state delegation shall have one vote at the conference; and (c) specify that the conference agenda be limited to fundamental, structural, long-term reforms.

(6) Upon the official convening of the Conference of the States, the state delegations will vote upon and approve the conference governing structure, operating rules, and bylaws; and

Be it further, Resolved, that a copy of this resolution, suitably engrossed, be transmitted to the Council of State Governments.

ACTING PRESIDENT KUHL: Chair recognizes Senator Lack on the resolution.

SENATOR LACK: Thank you, Mr. President.

To the members, my apologies that this appears a little bit cut-and-paste. There was a conference called that ended at 10 minutes of 3:00 o'clock in which some changes were made to this that would principally change the delegation from two from each house to three from each house and require that there be at

least one from each political party, which is a request that many of us in the legislative side of the Steering Committee to establish this wanted.

Basically, what this is is a resolution that is now circulating in 19 state legislatures as of this afternoon and, hopefully, as more start to convene their yearly session, it will be in all 50 state legislatures, recognizing what has happened to the encrustment of the Tenth Amendment which reserves all powers to the states not specifically given to the federal government.

Three organizations, the Council of State Governments which is not a lobbying organization and the two lobbying organizations, the National Conference of State Legislators and the National Governors' Association, all on a bipartisan basis, have formulated the Conference of States which, hopefully, will take place in Philadelphia some time towards the end of this year assuming that 26 legislative bodies and 26 states have enacted this resolution and 270 days

have thereafter passed.

The resolution in this house is currently sponsored by every member of the Majority, and, Senator Paterson, I would like to open it to every member of the Minority if you so choose to join with me.

Assemblyman Wertz, Bob Wertz, who is the National Chair of the Council of State Governments, has been in touch with Speaker Silver and, hopefully, either by the end of today or tomorrow, the same resolution will be introduced in the Assembly; and, again, it is the same resolution that's now being introduced in state after state.

The first state to pass this was, on Monday, the state of Utah which passed the original version and will reconvene to pass the new version.

Again, Senator Paterson, I would like to open this to every member of the Minority, if you would like.

ACTING PRESIDENT KUHL: Senator Paterson, the desk would like to know if you're

willing at this point or want to commit any members. If they would like to be identified to the Secretary, we're willing to do that at this time.

SENATOR PATERSON: Thank you, Mr. President. We took two hours settling a resolution yesterday, so I hope you'll indulge me if we take -- in fact, what I need is a five-minute recess. That's what I would like to have right now. But -

ACTING PRESIDENT KUHL: Senator Paterson, you still have the floor.

SENATOR PATERSON: Also my time isn't up.

I would like to advise the members of the Minority that I would like to be on the resolution, as well; and we open it up to all members.

ACTING PRESIDENT KUHL: If the members of the Minority will raise their hands, keep them up so that the Secretary can see your hands, we will place you on the resolution.

SENATOR DOLLINGER: May I ask a

question before I do?

ACTING PRESIDENT KUHL: Chair recognizes Senator Dollinger.

SENATOR DOLLINGER: Will Senator Lack yield to a question?

ACTING PRESIDENT KUHL: Senator Lack, do you yield to a question from Senator Dollinger?

SENATOR LACK: Yes.

ACTING PRESIDENT KUHL: The Senator yields.

SENATOR DOLLINGER: I apologize, Senator. I like the notion of this. Is it fair to describe this as, in essence, sort of a small constitutional convention to look at the relationship between the federal government and the states with respect to reimbursements and formulas and funding? Is that generally what I hear in this?

And I apologize for not having known about this before.

SENATOR LACK: No, Senator, it is not a constitutional convention. But it

certainly is just what it says it is -- a conference of states called on very narrow lines. The only subject to be considered is that of federalism, the relationship of state governments to the federal government and no other subject.

SENATOR DOLLINGER: Okay. Mr. President. I appreciate the invitation. I will go on this. Seems to me that this is a good topic for discussion among the states to look at the relationship with the federal government.

I would suggest that it might be extremely appropriate to do that here in New York State, as well, is to look at the relationship between this state and its municipalities. We may do that. It would be interesting to do that as a prelude to the 1997 constitutional vote that will be put before the voters of this state, when we can get a chance to redesign the Constitution of this state and the relationship between the central government of this state here in Albany and all of our towns and communities, as well.

ACTING PRESIDENT KUHL: Senator Dollinger, you will be placed as a sponsor on the resolution. Secretary will record that.

Is there any other Senator wishing to speak on this resolution?

(There was no response.)

Hearing none, the question is on Resolution 79. All those in favor, signify by saying aye.

(Response of "Aye.")

Opposed, nay.

(Response of "Nay.")

Senator Montgomery, do you wish to explain your vote?

SENATOR MONTGOMERY: No, Senator -- Mr. President. I would just like to be on the resolution.

ACTING PRESIDENT KUHL: Fine.

SENATOR MONTGOMERY: Thank you.

ACTING PRESIDENT KUHL: Senator Montgomery will be listed as a sponsor of the resolution.

The ayes have it. The resolution

is adopted.

Senator Bruno.

SENATOR BRUNO: Mr. President. May we return to reports of standing committees.

ACTING PRESIDENT KUHL: Secretary will read the reports of standing committees.

THE SECRETARY: Senator Kuhl from the Committee on Agriculture reports the following bills directly for third reading:

Senate Bill Number 289, by Senator Cook, an act to amend the Agriculture and Markets Law, in relation to agricultural practices.

514, by Senators Kuhl and Wright, Agriculture and Markets Law, in relation to duties of the Commissioner of Agriculture and Markets.

515, by Senator Kuhl, an act to amend the Agriculture and Markets Law and the Economic Development Law.

516, by Senators Kuhl, Larkin, and others, an act to amend the Agriculture and Markets Law, in relation to providing a real

property tax abatement.

Senator Lack from the Committee on Judiciary reports the following bill directly for third reading:

Senate Bill Number 496, by Senator Lack and others, an act to amend the Judiciary Law, in relation to audio-visual coverage of judicial proceedings.

Senator Levy from the Committee on Transportation reports the following bills directly for third reading:

Senate Bill Number 34, by Senator Holland, to relocate the Spring Valley Toll Plaza of the New York State Thruway.

Senate Bill Number 331, by Senator Levy, Vehicle and Traffic Law, in relation to distinctive plates for police officers.

369, by Senator Levy, an act to amend the Vehicle and Traffic Law, in relation to authorizing the proration of registration fees.

Senator Volker from the Committee

on Codes reports the following bills directly for third reading:

Senate Bill Number 143, by Senator Holland and others, an act to amend the Penal Law, in relation to the criminal possession of public assistance identification cards.

185, by Senator Tully and others, Civil Practice Law and Rules, in relation to forfeiture of property in certain instances.

188, by Senator Tully and others, an act to amend the Penal Law, in relation to sexual performance by a child.

197, by Senator Volker and others, an act to amend the Penal Law, in relation to resisting arrest.

205, by Senator Holland and others, Criminal Procedure Law, in relation to expenses for extradition.

213, by Senator Holland, an act to amend the Penal Law, validity of a license to carry or possess a pistol.

302, by Senator Kruger and

others, an act to amend the Penal Law, in relation to increasing the penalties for loitering.

388, by Senator Levy, an act to amend the Criminal Procedure Law, in relation to providing the commission of a traffic infraction, driving while ability impaired.

Senator Holland from the Committee on Social Services reports the following bills directly for third reading:

Senate Bill Number 136, by Senator Holland and others, an act to amend the Social Services Law, in relation to establishing home relief transition.

313, by Senator Holland, an act to amend the Social Services Law, in relation to the notice of conciliation and mediation of disputes.

And, 491, by Senator Maltese and others, an act to amend the Social Services Law, in relation to access to criminal history records.

All bills reported directly for

third reading.

ACTING PRESIDENT KUHL: All bills are reported directly to third reading for Monday, January 23.

Chair recognizes Senator Bruno.

SENATOR BRUNO: Mr. President. There being no further business to come before the Senate, I move we stand adjourned until Monday at 3:00 p.m., intervening days to be legislative days.

Thank you.

ACTING PRESIDENT KUHL: Without objection, the Senate stands adjourned until Monday, January 23, at 3:00 p.m.

(Whereupon, at 3:18 p.m., Senate adjourned.)