ALBANY, NEW YORK

January 25, 1995

11:03 a.m.

REGULAR SESSION

LT. GOVERNOR BETSY McCAUGHEY, President

STEPHEN F. SLOAN, Secretary

P R O C E E D I N G S

THE PRESIDENT: The Senate will come to order. I ask everyone present to please rise and repeat with me the Pledge of Allegiance.

(Whereupon, the Senate joined in the Pledge of Allegiance to the Flag.)

May we bow our heads in a moment of silence.

(Whereupon, there was a moment of silence.)

The reading of the Journal, please.

THE SECRETARY: In Senate, Tuesday, January 24. The Senate met pursuant to adjournment. The Journal of Monday, January 23, was read and approved. On motion, Senate adjourned.

THE PRESIDENT: 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 Bruno, are you ready for the calendar?

SENATOR BRUNO: Yes, Madam President. I would like to now take up the noncontroversial calendar.

THE PRESIDENT: The Secretary will read, please.

THE SECRETARY: Calendar Number 2, by Senator Kuhl, Senate Bill Number 514, an act to amend the Agriculture and Markets Law.

THE PRESIDENT: Lay it aside.

THE SECRETARY: Calendar Number 13, by Senator Holland, Senate Bill Number 205, an act to amend the Criminal Procedure Law.

SENATOR PATERSON: Lay it aside.

THE PRESIDENT: Lay it aside, please.

SENATOR HOLLAND: Lay it aside

for the day.

THE PRESIDENT: Lay it aside for the day, please.

THE SECRETARY: Calendar Number 16, by Senator Levy, Senate Bill Number 388, an act to amend the Criminal Procedure Law, providing that commission of a traffic infraction, driving while ability impaired.

THE PRESIDENT: Read the last section, please.

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

THE PRESIDENT: Call the roll, please.

(The Secretary called the roll.)

THE SECRETARY: Ayes 34.

THE PRESIDENT: This bill has passed.

THE SECRETARY: Calendar Number 22, by Senator Trunzo, Senate Bill Number 604, an act to amend the Retirement and Social Security Law and the Education Law.

THE PRESIDENT: Lay it aside, please.

THE SECRETARY: Calendar Number 28, by Senator Volker, Senate Bill Number 198, an act to amend the Tax Law, in relation to the imposition of sales and use taxes by the county of Erie.

THE PRESIDENT: Read the last section, please.

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

THE PRESIDENT: Call the roll, please.

(The Secretary called the roll.)

THE PRESIDENT: Results.

THE SECRETARY: Ayes 33. Nays 2. Senator Dollinger and Jones recorded in the negative.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 29, by Senator Saland, Senate Bill Number 253, an act to amend the Tax Law, in relation to

authorizing the county of Columbia to impose an additional one percent sales and compensating use taxes.

SENATOR PATERSON: Lay it aside.

THE PRESIDENT: Lay it aside, please.

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

SENATOR BRUNO: Thank you, Madam President. Now we can go to the controversial calendar and take up Calendar Number 29, Senate 253.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: Calendar Number 29, by Senator Saland, Senate Bill Number 253, an act to amend the Tax Law, in relation to authorizing the county of Columbia to impose an additional one percent of sales and compensating use taxes.

THE PRESIDENT: Senator Leibell.

SENATOR LEIBELL: Madam President. This is an act to amend the Tax Law,

authorizing the county of Columbia to raise an additional one percent of sales and use taxes.

THE PRESIDENT: Senator Jones.

SENATOR JONES: I wonder if it's possible to yield to a couple questions, please?

THE PRESIDENT: Yes. Senator Leibell, will you yield?

SENATOR LEIBELL: Yes, I will.

SENATOR JONES: I was new here last year, and perhaps I don't understand the issue of sales tax, so I want to ask a couple questions so I can clarify it this year so I won't be confused again.

Could you tell me, did the Senator himself have any part in setting the amount of the sales tax? Did he meet with his county and have a role in setting how much the sales tax would be?

SENATOR LEIBELL: No.

SENATOR JONES: Would the sponsor yield to another question?

THE PRESIDENT: Yes.

SENATOR JONES: Does the Senator or any other Senator feel by voting for a home rule message for a sales tax, you are actually yourself imposing that tax?

THE PRESIDENT: Senator Leibell.

SENATOR LEIBELL: I think it's pretty clear what happens when we pass bills such as this. There has been a request by the local community, similar to what happens throughout the state of New York in all of our communities, where they have requested this legislation. It's something that's essential for their community, and we bring it up and we sponsor it, and that's the extent of the endorsement.

THE PRESIDENT: Senator Jones.

SENATOR JONES: Would the Senator yield to another question?

SENATOR LEIBELL: Yes.

SENATOR JONES: Okay.

THE PRESIDENT: Senator Leibell.

SENATOR JONES: I believe that clarifies it for me, so let me just go over it

again. You're saying that our role here in the Senate is just to accept the home rule message and -- and all -- the imposition of the tax, the decision on how much the tax, that all belongs to the local government, and our only role is to accept the home rule message.

SENATOR LEIBELL: I'm not going to say that. I don't know what your -- on any -- on any individual bill that may come up. In the case here of Senator Saland, he received a request from the local community. It was felt that this was necessary for their community, and he has brought it before this body for their consideration, and he has -- he has said that he is sponsoring the legislation.

SENATOR JONES: I -- maybe I -

THE PRESIDENT: Senator Jones.

SENATOR JONES: Yes, I just wanted to clarify my question. I was not talking about all home rule. You -- you heard me correctly. I'm only talking about this one sales tax in particular that comes by way of a home rule message. Is that true of a tax like

this that comes by way of a home rule message?

SENATOR LEIBELL: Well, I certainly would not -- obviously, Senator Saland is not here today. He's ill, and I would not attempt to represent what his position is on every bill that comes before us. I can only tell you what the background is on this bill. It has been brought before this house pursuant to constitutional requirements and the requirements of this body, and it's here for your consideration.

SENATOR JONES: Thank you. Okay.

THE PRESIDENT: Senator Jones.

SENATOR JONES: On the bill. You did answer me, and I understand it perfectly which was the way I thought I understood it last year. But, apparently, that isn't the case, and most of you sitting here know why I am asking these questions, so I -- because of the misunderstanding, apparently, at the local level, I will have to vote no on all of these this year.

THE PRESIDENT: Read the last

section, please.

THE SECRETARY: Section 6. This act shall take effect immediately.

THE PRESIDENT: Call the roll, please.

(The Secretary called the roll.)

THE SECRETARY: Ayes 41. Nays 2. Senators Dollinger and Jones recorded in the negative.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 2 by -

THE PRESIDENT: Regular order, please.

THE SECRETARY: Calendar Number 2, by Senator Kuhl, Senate Bill Number 514, an act to amend the Agriculture and Markets Law.

SENATOR PATERSON: Explanation.

THE PRESIDENT: Explanation.

Senator Kuhl.

SENATOR KUHL: Madam President. This bill is a bill that was before this house

last year, and there was very limited debate. There were several negatives from the other side of the aisle, and I'll just repeat what I said in explanation to the request last year, and that was:

This bill is a bill that mandates -- and I underscore the line mandates -- a comprehensive review of the regulations and rules as they might relate to the agricultural industry and the harmful effect that they might have on that industry, and it also provides a detailed procedure by which those bills or regulations would be reviewed and dealt with.

THE PRESIDENT: Senator Paterson.

SENATOR PATERSON: I think that -- I don't want to ask Senator Kuhl to repeat himself, and I would just say on the bill that being we have the Administrative Regulations Review Commission, we also have the Department of Environmental Conservation, I just thought that in terms of our new objective of streamlining government, of not replicating work, of shortening the amount of staff that

might be used, I just thought that a great deal of this work is already done.

And I don't know if Senator Kuhl wants to comment on that, but that's -- I just want to explain that that's why I would choose not to vote for the bill. I don't understand why this can't be accomplished in the department -- in -- why it doesn't exist already, and that's just what I wanted to say about the bill.

THE PRESIDENT: Read the last section, please.

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

THE PRESIDENT: Senator Hoffmann.

Call the roll, please.

(The Secretary called the roll.)

THE PRESIDENT: Senator Hoffmann.

SENATOR HOFFMANN: Thank you, Madam President.

I'm familiar with a few situations, as are some other members of this house, in which various state agencies,

particularly Environmental Conservation, have shown a rather callous disregard for the agricultural activities in our number 1 industry in New York State, and I underscore number 1 industry because, all too often, in this chamber and in the other chamber that is overlooked.

Unfortunately, there is a need to call direct attention to the responsibilities to be fair to agriculture, to not burden people engaged in agriculture with unnecessary requirements and unreasonable restrictions on what are called conventional agricultural practices.

So I believe that this is a very necessary measure at this time. Perhaps, as Senator Paterson said, with the new regime and the new streamlining of regulations and bureaucracy, it might not be necessary in the future; but even as a modest consciousness raising exercise for various state agencies, it is necessary today.

So I'm very happy to support Senator Kuhl's measure in this instance, and I

would urge those members on this side of the aisle who had not previously given that type of consideration to it to join me in supporting it, as well.

Thank you, Madam President.

THE PRESIDENT: Senator Hoffmann will be recorded in the affirmative.

The results, please.

THE SECRETARY: Ayes 44. Nays 3. Senators Connor, Markowitz and Paterson recorded in the negative.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 22, by Senator Trunzo, Senate Bill Number 604, an act to amend the Retirement and Social Security Law and the Education Law.

THE PRESIDENT: Senator Bruno.

SENATOR BRUNO: Will you lay it aside, temporarily.

THE PRESIDENT: Lay this bill aside temporarily.

SENATOR BRUNO: Madam President.

I would like to ask that we recess for a short period of time and ask the Republican Conference to join me in our Conference Room immediately, and I would estimate that we would be about 20 minutes to a half hour, and thank you for your indulgence.

THE PRESIDENT: The Senate will be in recess for half an hour.

SENATOR BRUNO: Stand at ease.

THE PRESIDENT: Or stand at ease.

(Whereupon, at 11:20 a.m., the gavel was sounded and the Senate was at ease.)

(Whereupon, at 12:52 p.m., Senate reconvened.)

ACTING PRESIDENT KUHL: Senate will come to order. Members will please take their seats.

Chair recognizes Senator Bruno.

SENATOR BRUNO: Mr. President. Can we at this time take up a bill, Calendar Number 22.

ACTING PRESIDENT KUHL: Secretary will read Calendar Number 22.

THE SECRETARY: Calendar Number 22, by Senator Trunzo, Senate Bill Number 604, an act to amend the Retirement and Social Security Law and the Education Law.

ACTING PRESIDENT KUHL: Senator Bruno, I'm informed by the Secretary that there is an Assembly substitute, if you would like to do that at this time before we read the last section.

SENATOR BRUNO: Please proceed, Mr. President.

ACTING PRESIDENT KUHL: Secretary will read the substitution.

THE SECRETARY: Senator Trunzo moves to discharge the Committee on Civil Service and Pensions from Calendar Number 22, Senate Bill Number 604, and substitute the identical Assembly Bill, Assembly Bill Number 929.

ACTING PRESIDENT KUHL: Without objection, substitution is ordered.

Secretary will read the last section.

THE SECRETARY: Section 16. This act shall take effect immediately.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT KUHL: Announce the results when tabulated.

THE SECRETARY: Ayes 52. Nays 1. Senator Goodman recorded in the negative.

ACTING PRESIDENT KUHL: The bill is passed.

Senator Bruno.

SENATOR BRUNO: Mr. President. Can we now return to motions and resolutions?

ACTING PRESIDENT KUHL: We will return to motions and resolutions.

Senator DiCarlo.

SENATOR DiCARLO: Mr. President. On page 4, I offer the following amendments to Calendar Number 5, Print 496, and ask that said bill retain its place on Third Reading Calendar, for Senator Lack.

ACTING PRESIDENT KUHL: The

amendments are received and adopted. The bill will retain its place on the Third Reading Calendar.

Senator Kruger.

SENATOR KRUGER: Mr. President. On page 4, I offer the following amendments to Calendar Number 15, Senate Print Number 302. I ask that the bill retain its place on the Third Reading Calendar.

ACTING PRESIDENT KUHL: Amendments are received and adopted. The bill will retain its place on the Third Reading Calendar.

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. sharp, intervening days to be legislative days.

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

(Whereupon, at 12:56 p.m., Senate

adjourned.)