ALBANY, NEW YORK

February 6, 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. Members please find their seats.

Ask everybody in the chamber to rise and say the Pledge of Allegiance with me.

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

In the absence of clergy, may we all bow our heads in a moment of silence.

(Whereupon, there was a moment of silence.)

Reading of the Journal.

THE SECRETARY: In Senate, Friday, February 3. The Senate met pursuant to adjournment. Senator Hoblock in the chair upon designation of the Temporary President. The Journal of Thursday, February 2, 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 state officers.

Motions and resolutions.

Senator Bruno, we have a report of a standing committee at the desk. Would you like to return to reports of standing committees and receive that at this time?

SENATOR BRUNO: All right, Mr. President. Let's return.

ACTING PRESIDENT KUHL: Secretary will read.

THE SECRETARY: Senator Marchi from the Committee on Corporations, Authorities, and Commissions, reports the following bill directly for third reading:

Senate Bill Number 580, by Senator Nozzolio, an act to amend the Public Authorities Law, in relation to creating the Cayuga County Water and Sewer Authority.

ACTING PRESIDENT KUHL: That bill is reported directly to third reading.

Senator Bruno, that brings us to the calendar, sir. What's you're pleasure?

SENATOR BRUNO: Mr. President. Can we now take up the noncontroversial calendar.

ACTING PRESIDENT KUHL: Secretary will read the noncontroversial calendar.

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

SENATOR PATERSON: Lay it aside.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar Number 30, by Senator Velella, Senate Bill Number 18, an act to amend the Insurance Law, in relation to allowing insurers to make available multi tier program for private passenger motor vehicle insurance.

ACTING PRESIDENT KUHL: Secretary will read the last section.

THE SECRETARY: Section 2. This act shall take effect on the 90th day.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 47.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 33, by Senator Levy, Senate Bill Number 356, an act to amend the Vehicle and Traffic Law.

SENATOR PATERSON: Lay it aside.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar Number 34, by Senator Levy, Senate Bill Number 357, an act to amend the Vehicle and Traffic Law, in relation to limiting options for plea bargaining for repeated DWI offenders.

ACTING PRESIDENT KUHL: Lay the bill aside.

Senator Bruno, that completes the noncontroversial calendar.

SENATOR BRUNO: Mr. President. Can we now take up the controversial calendar.

ACTING PRESIDENT KUHL: Secretary will read the controversial calendar.

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

ACTING PRESIDENT KUHL: Secretary will read the last section.

SENATOR PATERSON: Explanation, Mr. President.

ACTING PRESIDENT KUHL: Senator Holland, an explanation has been asked for by Senator Paterson.

SENATOR HOLLAND: Mr. President. All this bill does is say that if a prisoner must be extradited and he has the money to pay that cost, then the prisoner should pay that cost instead of the taxpayers.

ACTING PRESIDENT KUHL: Chair recognizes Senator Abate.

SENATOR ABATE: On the bill. Senator Holland, I agree with you that, when

possible, inmates should defray the expense of extradition. My problem with the bill is the vagueness. As an ex-Commissioner of Correction if this bill were passed and it were handed to me, there would be not enough guidelines and procedures to implement the bill.

And where I see it's vague -- and I would hope that it would be sent back to committee to fill in these gaps -- it talks about expenses, but it does not detail whether you are talking about housing, per diem expenses or transportation expenses.

There are two ways a correction department can incur the expenses:

One, they have to go to another state and pick someone up and pay for the transportation costs.

In another example, a state may be wanting to extradite someone from New York State. The inmate fights that extradition, might languish in the correction department several months, and the Department of Correction or the local jail would have to pay the cost,

those housing costs, for those additional months.

Also, the bill is silent in terms of what monies are collectible. Is it commissary accounts? Is it current assets? Is it future earnings?

And, also, there is no provision for the finding of indigency. What happens when an inmate can not afford to pay these expenses? There is very little money in the commissary account. To what extent can the correction department try to seize those monies?

So while I understand the concept and fully am supportive, I would like to see some of this corrected to provide for some guidelines and procedures for correction departments throughout the state.

ACTING PRESIDENT KUHL: Senator Holland on the bill.

SENATOR HOLLAND: Senator, if you have some specific requests, I would be glad to look at them if you forward them to the office.

What this bill is intended to do

is just continue the programs, the procedures that are going on now and collect only the monies that can be collected.

It does not say in the bill itself, in the wording of the bill, that the money has to come from an individual if the individual does not have the money. It would be a judgment call.

But if you have some specifics, I'll be glad to look at those.

SENATOR ABATE: Right now, the bill would not give any kind of guidance and particularly in terms of whether that would cover per diem housing costs or only transportation expenses, and it seems to me that should be detailed in the statute.

SENATOR HOLLAND: I understand, but the intention of the bill as it's written now is to continue with the procedures that we followed -- you followed on extradition.

I'm not going to take the bill off the floor, if I'm giving you the wrong impression, but I will look at it and make some

changes if you can recommend some.

SENATOR ABATE: Thank you.

ACTING PRESIDENT KUHL: Secretary will read the last section.

SENATOR GOLD: Mr. President.

ACTING PRESIDENT KUHL: Senator Gold, on the bill.

SENATOR GOLD: Yes, will Senator Holland yield to a question?

ACTING PRESIDENT KUHL: Senator Holland, do you yield to Senator Gold?

SENATOR HOLLAND: Sure.

ACTING PRESIDENT KUHL: Senator Holland yields.

SENATOR GOLD: Just so I understand, I just want to get the procedures down. Senator Abate's concerns are very good, legitimate, but we're going to pass it today, and then you will think about it and bring it back, if necessary. Is that it?

SENATOR HOLLAND: Yes.

SENATOR GOLD: Is there anybody waiting breathlessly to sign this or pass it

that it can't wait a day or two while you look at it?

SENATOR HOLLAND: I don't know, Senator.

ACTING PRESIDENT KUHL: Secretary will read the last section.

THE SECRETARY: Section 2. This act shall take effect on the first day of November next succeeding the date on which it shall have become a law.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT KUHL: Announce the results when tabulated.

THE SECRETARY: Ayes 48. Nays 2. Senators Abate and Paterson recorded in the negative.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 33, by Senator Levy, Senate Bill Number 356, an act to amend the Vehicle and Traffic Law.

SENATOR BRUNO: Read the last section.

SENATOR DOLLINGER: Will that be laid aside?

SENATOR BRUNO: (Indicating negative.)

SENATOR DOLLINGER: Can I have an explanation, then?

SENATOR BRUNO: Explanation requested, Mr. President.

ACTING PRESIDENT KUHL: Is Senator Levy in the chamber?

Senator Dollinger, if you'll hold for just a moment, we're attempting to reach Senator Levy.

SENATOR DOLLINGER: Mr. President. If you want to go out of order and take the next bill that would be fine, as well.

ACTING PRESIDENT KUHL: That's Senator Levy's also.

Senator Bruno.

SENATOR BRUNO: Mr. President. The sponsor is in a meeting in another part of

the building. I would suggest that we lay this bill aside at the request of the sponsor.

ACTING PRESIDENT KUHL: Calendar Number 33 is laid aside at the request of the sponsor.

Secretary will continue to read the controversial calendar.

THE SECRETARY: Calendar Number 34, by Senator Levy, Senate Bill Number 357, an act to amend the Vehicle and Traffic Law.

SENATOR BRUNO: Lay it aside at the request of the sponsor.

ACTING PRESIDENT KUHL: The bill is laid aside.

Senator Bruno, that completes the controversial calendar.

SENATOR BRUNO: Mr. President. There being no further business to come before the Senate, I move we adjourn until tomorrow at 3:00 p.m., and as we adjourn, I would ask the members that they do it in respect for Senator Leichter's family, and that we all remember him and his family in our prayers in whatever ways

that we pray.

Thank you, Mr. President.

ACTING PRESIDENT KUHL: Without objection, the Senate stands adjourned until tomorrow at the regular time, 3:00 p.m.

(Whereupon, at 3:12 p.m., Senate adjourned.)