ALBANY, NEW YORK

January 24, 1996

11:00 a.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: The Senate will come to order. Ask the members to find their places, the staff to find their places. Ask all of you to rise and join me in saying the Pledge of Allegiance to the Flag.

(The assemblage repeated the Pledge of Allegiance to the Flag.)

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

(A moment of silence was observed.)

Reading of the Journal.

THE SECRETARY: In Senate, Tuesday, January 23rd. The Senate met pursuant to adjournment. The Journal of Monday, January 22nd, was read and approved. On motion, the 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.

Motions and resolutions.

SENATOR LIBOUS: Mr. President.

ACTING PRESIDENT KUHL: The Chair recognizes Senator Libous.

SENATOR LIBOUS: Thank you, Mr. President.

On behalf of Senator Stafford, would we please place a star -- a sponsor's star on Calendar Number 71.

ACTING PRESIDENT KUHL: A sponsor's star is placed on Calendar Number 71.

SENATOR LIBOUS: Mr. President, on behalf of Senator Cook, could we also place a sponsor's star on Calendar Number 73.

ACTING PRESIDENT KUHL: A star is placed on Calendar Number 73 at the request of the sponsor.

SENATOR LIBOUS: Mr. President, on page number 14, I offer the following amendments to Calendar Number 127, Assembly

Print 5499, and ask that said bill retain its place on the Third Reading Calendar.

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

Senator Libous.

SENATOR LIBOUS: Mr. President, on behalf of Senator Kuhl, I move that the following bills be discharged from their respective committees and be recommitted with instructions to strike the enacting clause, and I would be happy to read those numbers for you.

ACTING PRESIDENT KUHL: If you would, please.

SENATOR LIBOUS: Senate Numbers 660, 1992, 3117, 3118, 3823.

ACTING PRESIDENT KUHL: The enacting clauses to those bills are stricken and the bills are recommitted.

SENATOR LIBOUS: Thank you, Mr. President.

I have one more.

ACTING PRESIDENT KUHL: Senator Libous.

SENATOR LIBOUS: On behalf of Senator Cook, Mr. President, on page 11, I offer the following amendments to Calendar Number 103, Assembly Print 4864-A, and ask that said bill retain its place on the Third Reading Calendar.

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

Senator Bruno, that brings us to the calendar. Are you ready for the calendar, sir?

SENATOR BRUNO: Yes. Mr. President, can you at this time recognize Senator LaValle for the purposes of making an announcement?

ACTING PRESIDENT KUHL: The Chair recognizes Senator LaValle.

SENATOR LAVALLE: Mr. President, there will be an immediate meeting of the Higher Education Committee in the Senate Majority

Conference Room.

ACTING PRESIDENT KUHL: Immediate meeting of the Senate Committee on Higher Education in the Majority Conference Room, Room 332. Immediate meeting of the Higher Education Committee.

Senator Bruno.

SENATOR BRUNO: Mr. President, can we at this time take up the non controversial calendar.

ACTING PRESIDENT KUHL: The Secretary will read the non-controversial calendar.

THE SECRETARY: Calendar Number 15, by Senator Kuhl, Senate Print 1475-A, an act to amend the Agriculture and Markets Law and the Vehicle and Traffic Law, in relation to exempting farm vehicles from the Motor Vehicle Financial Security Act.

SENATOR PATERSON: Lay it aside, please.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar Number 17, by Senator Kuhl, Senate Print 3917-A, an act to amend the Agriculture and Markets Law, in relation to the disposition of pro rata shares paid into the milk producers security fund.

ACTING PRESIDENT KUHL: The Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 31.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 21, by Senator LaValle, Senate Print 3291, an act to amend the Education Law, in relation to filing of notice of athletic scholarships.

ACTING PRESIDENT KUHL: The 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 31, nays 1, Senator Wright recorded in the negative.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 74, by Senator Volker, Senate Print 1474, an act to amend the Vehicle and Traffic Law, in relation to suspensions for failure to answer.

ACTING PRESIDENT KUHL: The Secretary will read the last section.

THE SECRETARY: Section 3. This act shall take effect on the 30th day.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 32.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 75, by Senator Goodman, Senate Print 2429, an

act to amend the Vehicle and Traffic Law, in relation to regulation of delivery bicycles.

ACTING PRESIDENT KUHL: The Secretary will read the last section.

THE SECRETARY: Section 5. This act shall take effect on the 90th day.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 32.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 76, by Senator LaValle, Senate Print 4482, an act authorizing the village of Port Jefferson and the town of Riverhead in the county of Suffolk to maintain traffic control devices.

SENATOR PATERSON: Lay it aside.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar Number 86, by Senator LaValle, Senate Print 1720, an act to amend the Public Authorities Law, in

relation to the financing and construction of certain facilities for Little Flower Children's Services of New York.

ACTING PRESIDENT KUHL: The Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 35.

ACTING PRESIDENT KUHL: The bill is passed.

Senator Bruno, that completes the non-controversial calendar, sir.

SENATOR BRUNO: Thank you, Mr. President.

Can we at this time take up the controversial calendar.

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

THE SECRETARY: Calendar Number 15, by Senator Kuhl, Senate Print 1475-A, an act

to amend the Agriculture and Markets Law and the Vehicle and Traffic Law, in relation to exempting farm vehicles from the Motor Vehicle Financial Security Act.

SENATOR PATERSON: Explanation, please.

ACTING PRESIDENT DiCARLO: Senator Kuhl, an explanation has been asked for by Senator Paterson.

SENATOR KUHL: Yes, Mr. President. This bill is really quite simple. A couple years ago, we passed a bill that placed a requirement on farmers to provide individual insurance policies for farm-plated vehicles, farm-plated vehicles being the limited use vehicles that are only used on a simple occasion, for instance, like bringing cabbages out of the field or maybe making an application of fertilizer on a field in the spring. That particular new requirement that we placed on them has caused some farmers quite an expense, and what this bill simply does is to remove a requirement that we placed on them a short time

ago.

ACTING PRESIDENT DiCARLO: Senator Paterson.

SENATOR PATERSON: Thank you very much, Mr. President.

I'm a little concerned about those rare instances where there may be an accident involving one of those vehicles, and I was wondering if Senator Kuhl would yield for a question and inform the members in the chamber, and those listening in, as to whether or not there are any records of what the accident rate is for these farm vehicles.

ACTING PRESIDENT DiCARLO: Senator Kuhl, will you yield?

SENATOR KUHL: I'd be happy to yield to that question.

ACTING PRESIDENT DiCARLO: Senator Kuhl.

SENATOR KUHL: Mr. President, I don't have with me the exact figures relative to accidents, but I can tell you that one of the reasons that we allow for limited use vehicles

to have different kinds of safety requirements than the normal usage of -- of vehicles that we have, whether they're 18-wheelers carrying large quantities of produce or whether they just happen to be normal cars, is that there is an extremely low accident rate.

There are different criteria that are required. For instance, in some cases you don't have to have working lights on some of these vehicles because they're only used during the daytime and there's no requirement for that. In some cases you don't have to have the five-mile-an-hour bumper because they're just not able to be kept in place, or working brake lights, some of those kinds of things. There's a specifically different standard for safety on these vehicles because they're extremely limited use and they're only going from -- in most cases, from the field back to the farm which might be just across the road, and what we did is we placed the requirement that each one of these vehicles have a separate individual insurance policy on those vehicles. Most of the

farmers have a general liability policy that would cover for any insurance purposes for accidents that would occur. So this was one of those unnecessary things that we didn't think was going to be a major problem, but it has arisen and it is.

ACTING PRESIDENT DiCARLO: Senator Paterson.

SENATOR PATERSON: Thank you.

ACTING PRESIDENT DiCARLO: Read the last section.

SENATOR DOLLINGER: Mr. President.

ACTING PRESIDENT DiCARLO: Senator Dollinger.

SENATOR DOLLINGER: Just one question for Senator Kuhl, if he'll yield.

ACTING PRESIDENT DiCARLO: Senator Kuhl, will you yield?

SENATOR DOLLINGER: Just -- and I apologize for -

SENATOR KUHL: I would be happy to.

ACTING PRESIDENT DiCARLO: Senator Dollinger.

SENATOR DOLLINGER: Perhaps not paying as close attention to Senator Paterson's question and your answer to him, but this would apply to licensed vehicles that are actually licensed by the Department of Transportation? Is there any -

SENATOR KUHL: Department of Motor Vehicles, Senator.

SENATOR DOLLINGER: Excuse me, the Department of Motor Vehicles.

SENATOR KUHL: Yes.

SENATOR DOLLINGER: Are there any other vehicles that are licensed by the Department of Motor Vehicles that do not have liability insurance attached to them?

SENATOR KUHL: I don't know the answer to that question, Senator.

SENATOR DOLLINGER: Okay.

SENATOR KUHL: My expertise is not with motor vehicles across the broad spectrum. I deal solely with the agricultural

issues.

SENATOR DOLLINGER: I understand.

On the bill, Mr. President. I voted against this bill last year. I'm going to vote against it again. I think that exempting any category of vehicles that are licensed - that actually get a license plate, that are actually vehicles that are going to be using the public highways, to exempt them from the minimum liability insurance requirements creates a danger, not only to the motorists or people who may be involved in accidents -- they could be pedestrians near the road; they could be other motorists -- I think it creates an even greater risk, unfortunately, to the farmer and that risk is that they would be uninsured when their motor vehicle is in an accident and, therefore, they could be sued. All of their life's assets could be tied up if the vehicle that they're driving is involved in an accident, causes an accident and the farmer may be at risk.

Although it's an added cost of doing business, the whole purpose of insuring

these vehicles is to cut down on the bigger liability risk of being uninsured. So I'm not so sure that I agree with the sponsor that this is necessarily good for farmers in the long run. It may reduce their costs in the short run, but in the long run it has a societal consequence that I don't think is in the best interests of the people of this state.

I will be voting no, Mr. President.

ACTING PRESIDENT DiCARLO: Senator Johnson, why do you rise?

SENATOR JOHNSON: Mr. President, I have some familiarity with this issue and I feel I should speak on it to perhaps reassure Senator Dollinger and others.

It's been stated by Senator Kuhl that the farmer's general liability covers vehicles of limited use, such as farm vehicles. This is not a normal license that you would get. It's a farm vehicle license. When you apply for this license plate, you have to fill out a form stating where you're going to go with

this truck, and really you're only allowed to go essentially from one field to another, or a rented field down the road or possibly to the dump and drop something off. This is not a vehicle to be used in the manner of any normally licensed vehicle. It's a very restricted use. As I said, you have to file that when you apply for it.

Farmers have been operating with this type of a registration and with their general liability coverage for more decades than perhaps anyone here has resided in this state. So I don't think, Senator, that there is a problem that we need this coverage or this change in licensing for the trucks. There's no reason to do it. To go back to the old system is perfectly adequate. There's been no epidemic of unlicensed vehicles having accidents or farmers going broke because their truck wasn't insured. So I don't think there's a problem. I think there was a big error made when this bill was passed two years ago and it should be rectified, and this bill will do it.

Thank you.

ACTING PRESIDENT DiCARLO: Read the last section.

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

ACTING PRESIDENT DiCARLO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Those recorded in the negative on Calendar Number 15 are Senators Abate, Dollinger, Kruger. Ayes 38, nays 3.

ACTING PRESIDENT DiCARLO: The bill is passed.

The Secretary will read.

THE SECRETARY: Calendar Number 76, by Senator LaValle, Senate Print 4482, an act authorizing the village of Port Jefferson and the town of Riverhead in the county of Suffolk to maintain traffic control devices.

SENATOR PATERSON: Explanation.

ACTING PRESIDENT DiCARLO: Senator LaValle, an explanation has been asked for.

SENATOR LAVALLE: Mr. President, this bill is really very straightforward. It would allow the village of Port Jefferson and the town of Riverhead on state highways to use various devices to allow the safe passage of pedestrians across state highways.

Right now in Suffolk County, villages that have county roads are using various traffic control devices, such as cones with little signs on the top saying, "Stop for pedestrians" or the traditional signs that roll out onto the highway that we all are aware of as young people when we crossed at a school crossing. This would allow the village of Port Jefferson and the town of Riverhead to use similar devices so that pedestrians can cross safely at very difficult intersections and give them the same right that villages and other towns have on county or town roads.

ACTING PRESIDENT DiCARLO: Senator Paterson.

SENATOR PATERSON: Thank you very much, Mr. President, and I thank Senator LaValle

for the explanation.

If Senator LaValle would yield for a question.

SENATOR LAVALLE: Yes, sir.

SENATOR PATERSON: We were in contact with the Department of Transportation about just a minor problem we have with the legislation. We understand the concern and the pedestrian safety and perhaps why the village of Port Jefferson and -- I'm sorry -- and the town of Riverhead would want to regulate the movement of traffic to accommodate pedestrians, perhaps by putting cones in the street and that kind of thing, but the language of the legislation seems to be very broad because what the language in the legislation actually refers to is the control of the movement of traffic, and this alarms me to a certain degree that we are allowing this village and this township, in a sense, some controls that we may not be granting around the state.

So, for instance, what are those instrumentalities that would limit traffic?

Would they be stop lights? Would they be stop signs? Would they be the use of radar; in other words, where the village and the town would, in a sense, supersede what every other municipality in the county is adhering to?

So I just wanted to ask if the language is, in your opinion, Senator, specific enough to accommodate the need that the bill is addressing very well, but at the same time creating equity in the other counties and the other townships and the other villages?

SENATOR LAVALLE: Of course, this bill applies, Senator, as we've discussed, to Port Jefferson and Riverhead who, on their own have been, for some time, putting cones to allow pedestrians to cross safely.

The Department of Transportation has indicated to both municipalities that they did not have the authority to do this, that they, the state, wanted to, in essence, do their own thing to safely control pedestrian traffic.

I live in the village of Port Jefferson. It's a village of 7,000 people. We

have designated the village as a maritime community and for those who have been or seen pictures of Port Jefferson, it is a village that could fit very nicely on a postcard and have it labeled a New England village.

The DOT came in and said they wanted to put pedestrian control devices, huge poles with an arm across the main street of Port Jefferson, that is a maritime community, a huge sign that does not fit into the ambiance of the community, and they wanted to do the same thing in downtown Riverhead. Other communities, such as Tupper Lake, I am told -- and we know as I've indicated, Senator, that villages having county roads use the same innocuous devices, cones, the same cones that we use expletives to -- that direct us on major highways in traffic onto the shoulders of a highway. These innocent cones, however, with a little sign saying to vehicles "Stop" when pedestrians are crossing, work and protect lives, and that's all we're talking about in both the village of Port Jefferson and Riverhead. We do not believe that it includes

anything else of radar traps, or so forth, Senator.

ACTING PRESIDENT DiCARLO: Senator Paterson.

SENATOR PATERSON: Thank you, Mr. President.

Actually, Senator LaValle, I agree with this legislation. Having not spent the time in Port Jefferson, I have visited it and it is a beautiful town -- also Coram very close to there, but the point that I'm making is that actually, I think the legislation is good and I think what you're trying to accomplish is fine and when you have these townships and you have a municipality where a department -- a state department comes in and tries to put those types of signs in, it really ruins the kind of artistic and historical and cultural value to have these kind of traffic controls that are out of sync' with what the ambiance of the township would be in Port Jefferson and -- but what we're saying is the way it's written in the language, it just says "control devices", and so at some

point in the future, should the village of Port Jefferson or the town of Riverhead want to go beyond that, for some reason, which is a reason that neither you nor I might agree with, they would be able to do that under this legislation, and we thought that perhaps the specific types of traffic controls might have been indicated in the legislation. Had it been that way, we just think it would have been more specific and more clear. Otherwise, the intent of the legislation is quite good and the need to avoid the uses of the types of traffic controls that the Department of Transportation would have wanted to is certainly understandable.

ACTING PRESIDENT DiCARLO: Read the last section.

THE SECRETARY: Section 22. This act shall take effect immediately.

ACTING PRESIDENT DiCARLO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 44.

ACTING PRESIDENT DiCARLO: The

bill is passed.

SENATOR LEICHTER: Mr. President.

ACTING PRESIDENT DiCARLO: Senator Leichter, why do you rise?

SENATOR LEICHTER: Mr. President, may I have unanimous consent to be recorded in the negative on Calendar Number 15?

ACTING PRESIDENT DiCARLO: Without objection, so ordered.

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

SENATOR SKELOS: Mr. President, if we could return to reports of standing committees, I believe there is a report from the Higher Education Committee at the desk.

ACTING PRESIDENT DiCARLO: Reports of standing committees. The Secretary will read.

THE SECRETARY: Senator LaValle, from the Higher Education Committee, offers up the following bill directly for third reading:

Senate Print 5029-A, by Senator LaValle, an act to amend the Education Law and

the New York State Medical Care Facilities Finance Agency Act, in relation to the administration, management and operation of hospitals.

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

Senator Skelos.

SENATOR SKELOS: Mr. President, I offer up the following committee changes on behalf of Senator Bruno and ask that they be read and filed in the Journal.

ACTING PRESIDENT DiCARLO: The Secretary will read.

THE SECRETARY: Senator Bruno hands up the following committee changes:

Racing, Gaming and Wagering: Senator Larkin, Chair, Stafford, DeFrancisco, Farley, Hoblock, Nozzolio, Rath, Sears and Spano.

Local Governments: Larkin off.

Ethics: Marcellino off.

Water Resources: Tully, Chair,

Trunzo, Lack, Goodman, Marcellino and Maziarz.

ACTING PRESIDENT DiCARLO: Filed in the Journal.

Senator Skelos.

SENATOR SKELOS: Mr. President, is there any housekeeping at the desk?

ACTING PRESIDENT DiCARLO: Yes, Senator, there is.

SENATOR RATH: Mr. President.

ACTING PRESIDENT DiCARLO: Senator Rath, why do you rise?

SENATOR RATH: Mr. President - Mr. President, I move to recommit Senate Print Number 3788, Calendar Number 3, on the order of third reading to the Committee on Banks.

ACTING PRESIDENT DiCARLO: So ordered.

Senator Skelos.

SENATOR SKELOS: Is there any other housekeeping?

ACTING PRESIDENT DiCARLO: One second, Senator.

Senator Skelos.

SENATOR SKELOS: Mr. President, if we could return to motions and resolutions, I believe there's a resolution by Senator Hoblock. If we could have the title read and the resolution adopted.

ACTING PRESIDENT DiCARLO: So ordered.

The Secretary will read.

THE SECRETARY: By Senator Hoblock, Senate Legislative Resolution. Legislative Resolution commending the National Association for the Advancement of Colored People, Albany Branch, upon the occasion of its 61st Annual Freedom Fund Dinner to be held Friday, January 26th, 1996.

ACTING PRESIDENT DiCARLO: All those in favor signify by saying aye.

(Response of "Aye".)

Opposed?

(There was no response.)

The resolution is adopted.

Senator Skelos.

SENATOR SKELOS: Mr. President,

there being no further business, I move we adjourn until Monday, January 29th, 1996 at 3:00 p.m. sharp, intervening days to be legislative days.

ACTING PRESIDENT DiCARLO: Without objection, the Senate stands adjourned until Monday, January 29th, at 3:00 p.m., intervening days to be legislative days.

(Whereupon, at 11:27 a.m., the Senate adjourned.)