ALBANY, NEW YORK

May 13, 1996

3:00 p.m.

REGULAR SESSION

LT. GOVERNOR BETSY McCAUGHEY ROSS, President

STEPHEN F. SLOAN, Secretary

P R O C E E D I N G S

THE PRESIDENT: The Senate will come to order.

Would everyone please rise and join me in the Pledge of Allegiance.

(Whereupon, the Senate and those present 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, Sunday, May 12. The Senate met pursuant to adjournment, Senator Hoblock in the Chair upon designation of the Temporary President. The Journal of Saturday, May 11, was read and approved. On motion, Senate adjourned.

THE PRESIDENT: 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 Skelos.

Oop, sorry. Senator Cook.

SENATOR COOK: Madam President. Please place a sponsor's star on Calendar 133.

THE PRESIDENT: The bill is starred.

SENATOR COOK: And also, on behalf of Senator DeFrancisco, I would like to amend 3 bills:

On page 73, offer the following amendments to Calendar 857, Senate Print 6436.

On page 70, offer the following amendments to Calendar 835, Senate Print 6788.

On page 59, offer the following amendments to Calendar 730, Senate Print 6772.

Ask that all three bills retain

their place on the Third Reading Calendar.

THE PRESIDENT: Amendments received.

ACTING PRESIDENT KUHL: Senator Spano.

SENATOR SPANO: Mr. President. On behalf of Senator Libous, place a sponsor's star on Calendar 714.

ACTING PRESIDENT KUHL: At the request of the sponsor, Calendar Number 714 is starred.

Senator Spano.

SENATOR SPANO: Mr. President. On page 84, I offer the following amendments to Calendar 943, Senate Print 7366, ask that the bill retain its place on Third Reading Calendar. That's on behalf of Senator Rath.

ACTING PRESIDENT KUHL: Amendments to Calendar Number 943 are received and adopted. The bill will retain its place on the Third Reading Calendar.

We have some substitutions at the desk, Senator Skelos. Ask the substitutions be

read.

THE SECRETARY: On page 45, Senator Seward moves to discharge from the Committee on Finance Assembly Bill Number 1865C and substitute it for the identical Third Reading Calendar 425.

On page 4, Senator Spano moves to discharge from the Committee on Corporations Assembly Bill Number 9098 and substitute it for the identical First Report Calendar 1182.

On page 8, Senator Maltese moves to discharge from the Committee on Elections Assembly Bill Number 4695 and substitute it for the identical First Report Calendar 1204.

And, on page 8, Senator Maltese moves to discharge from the Committee on Elections Assembly Bill Number 4499A and substitute it for the identical First Report Calendar 1207.

ACTING PRESIDENT KUHL: Substitutions are ordered.

Senator Marchi.

SENATOR MARCHI: Mr. President.

There will be an immediate meeting of the Senate Committee on Finance in Room 332.

ACTING PRESIDENT KUHL: There will be an immediate meeting of the Senate Finance Committee in the Majority Conference Room, 332. Immediate meeting of the Senate Finance Committee in Room 332, the Majority Conference Room.

Senator Skelos.

SENATOR SKELOS: Mr. President. At this time, if we could take up the noncontroversial calendar.

ACTING PRESIDENT KUHL: Secretary will read the noncontroversial calendar.

THE SECRETARY: On page 39, Calendar Number 245, by Senator Saland, Senate Print 4031, an act to amend the Executive Law, in relation to youth who are absent without leave.

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

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 48.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 246, by Senator Rath, Senate Print 4886, an act to amend the Family Court Act, in relation to the age of runaway children.

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

THE SECRETARY: Section 4. This act shall take effect on the first day of November.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 48.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 344, by Senator Velella, Senate Print 6125A, an

act to amend the Insurance Law, in relation to continuing authorization for certain prepaid legal services plans.

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 48.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 531, by Senator Leibell, Senate Print 6124A, an act to amend the General Municipal Law, in relation to powers of municipalities.

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 49.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 544, by Senator Cook, Senate Print 6268A, an act to amend the General City Law, Town Law, Village Law and the General Municipal Law, in relation to the apportionment of alternative members.

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

THE SECRETARY: Section 8. This act shall take effect immediately.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 50.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 561, by Senator Goodman, Senate Print 1609, an act to amend the Vehicle and Traffic Law, in relation to requiring motor vehicle repair

shops.

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

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 50.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 594, by Senator Sears, Senate Print 5973B, an act to amend the Environmental Conservation Law, in relation to the recycling of used oil filters.

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

THE SECRETARY: Section 2. This act shall take effect on the 60th day.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 51.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 597, by Senator Sears, Senate Print 5917B, an act to amend the Public Authorities Law and the Executive Law, in relation to the creation of the Upper Mohawk Valley Memorial Auditorium Authority.

ACTING PRESIDENT KUHL: There is a home rule message at the desk.

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 51.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number

651, by Senator Holland, Senate Print 5789A, an act to amend the -

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar Number 686, by Senator Maziarz, Senate Print 6893, an act to amend the Highway Law, in relation to designating a portion of the state -

SENATOR SKELOS: Lay it aside.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar number 698, by Senator Volker, Senate Print 6521, an act to amend the Criminal Procedure Law, in relation to defective verdicts.

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 51.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 723, by Senator Trunzo, Senate Print 3208A, an act to amend the Retirement and Social Security Law, in relation to including certain employees of the county of Suffolk.

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

THE SECRETARY: Section 7. This act shall take effect on the first day of September.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 51.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 738, by Senator Cook, Senate Print 6270, an act to amend the General City Law, the Town Law, and the Village Law, in relation to the use of mediation.

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

THE SECRETARY: Section 10. This act shall take effect on the 180th day.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 51.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 749, by Senator DiCarlo, Senate Print 6107, an act to amend the Executive Law, in relation to display of the flag on National POW/MIA Recognition Day.

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 51.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 759, by Senator Volker, Senate Print 1677B, an act to amend the General Business Law, in relation to providing priority access to cellular telephone service.

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

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 51.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 774, by Senator Holland, Senate Print 281A, an act to amend the Tax Law, in relation to providing for business tax credits.

ACTING PRESIDENT KUHL: The

Secretary will read the last section.

THE SECRETARY: Section 7. This act shall take effect immediately.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 52.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 778, by Senator Spano, Senate Print 6062, an act to amend the Alcoholic Beverage Control Law, in relation to renewal notices.

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

THE SECRETARY: Section 2. This act shall take effect in 60 days.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 52.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 932, by Senator Bruno, Senate Print 6751, an act to amend Chapter 460 of the Laws of 1986, relating to the creation of the Saratoga Lake Protection and Improvement District.

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

THE SECRETARY: Section 4. This act shall take effect immediately.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 52.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 941, by Senator Maziarz, Senate Print 7329, an act to incorporate the Rapids Volunteer Fire fighter's Benevolent Association.

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

THE SECRETARY: Section 8. This act shall take effect immediately.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 52.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 944, by Senator Rath, Senate Print 7367, an act to amend Chapter 118 of the Laws of 1893, relating to the incorporation of the Firemen's Benevolent Association of Tonawanda.

SENATOR RATH: Place a star on that bill, please.

ACTING PRESIDENT KUHL: Calendar Number 944 will be starred at the request of the sponsor.

THE SECRETARY: Calendar Number 970, by Senator Larkin, Senate Print 6167, an act to reopen the special retirement plan available to police officers.

ACTING PRESIDENT KUHL: There is a home rule message at the desk.

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 52.

ACTING PRESIDENT KUHL: The bill is passed.

Senator Skelos.

SENATOR SKELOS: Return to motions and resolutions.

ACTING PRESIDENT KUHL: Return to motions and resolutions.

Senator Saland.

SENATOR SALAND: Mr. President, I would like to star Calendar 1173, Senate 4060, and remove the star from Calendar 380, Senate 2784A.

ACTING PRESIDENT KUHL: Calendar Number 1173 will be starred at the request of the sponsor, and the star is removed from Calendar Number 380.

SENATOR SALAND: Thank you.

ACTING PRESIDENT KUHL: Senator Skelos.

SENATOR SKELOS: Could we take up the controversial calendar at this time.

ACTING PRESIDENT KUHL: Secretary will read the controversial calendar.

THE SECRETARY: On page 54, Calendar Number 651, by Senator Holland, Senate Print 5789A, an act to amend the General Municipal Law, in relation to indexing the interest rate on judgments.

SENATOR PATERSON: Explanation.

SENATOR SKELOS: Could we stand at ease temporarily, Mr. President.

ACTING PRESIDENT KUHL: The Senate will stand at ease temporarily.

Senator Skelos, we do have the report of the Finance Committee at the desk if you are ready to receive that -- or, Senator Bruno.

Senator Bruno.

SENATOR BRUNO: Can we return to

reports of standing committees. I believe there is a report of the Finance Committee at the desk.

ACTING PRESIDENT KUHL: Calendar Number 651 will be laid aside temporarily.

We will return to reports of standing committees. I'll ask the Secretary to read.

THE SECRETARY: Senator Stafford, from the Committee on Finance, reports the following bills:

Senate Print 7501, by the Senate Committee on Rules, an act to amend Chapter 729 of the Laws of 1994, relating to affecting the health insurance benefits and contributions of retired employees.

Senate Print 7533, by the Senate Committee on Rules, an act making appropriations for the support of government.

Senate Print 7534, by the Senate Committee on Rules, an act making appropriations for the support of government and to amend Chapter 63 of the Laws of 1996.

All bills ordered directly for third reading.

ACTING PRESIDENT KUHL: Without objection, all bills are ordered directly to third reading.

Senator Bruno.

SENATOR BRUNO: Mr. President, can we at this time take up Calendar Number 1215.

ACTING PRESIDENT KUHL: Secretary will read the title to Calendar Number 1215.

THE SECRETARY: Calendar Number 1215, by the Senate Committee on Rules, Senate Print 7533, an act making appropriations for the support of government.

SENATOR BRUNO: Is there a message at the desk?

ACTING PRESIDENT KUHL: There is a message of appropriation at the desk.

The motion is to accept the message of appropriation.

All those in favor, signify by saying aye.

(Response of "Aye.")

Opposed, nay.

(There was no response.)

The message is accepted.

Secretary will read the last section.

THE SECRETARY: Section 6. This act shall take effect April 1.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

Announce the results when tabulated.

THE SECRETARY: Those recorded in the negative on Calendar Number 1215 are Senators DiCarlo, Dollinger, Libous, Nanula, Nozzolio and Wright. Ayes 47, nays 6.

ACTING PRESIDENT KUHL: The bill is passed.

Senator Bruno.

SENATOR BRUNO: Mr. President, can we at this time take up Calendar Number 1216.

ACTING PRESIDENT KUHL: Secretary will read the title to Calendar Number 1216.

THE SECRETARY: Calendar Number 1216, by the Senate Committee on Rules, Senate Print 7534, an act making appropriations for the support of government.

ACTING PRESIDENT KUHL: Senator Bruno.

SENATOR BRUNO: Is there a message of appropriation at the desk?

ACTING PRESIDENT KUHL: There is. The motion is to accept the message of appropriation on Calendar Number 1216.

All those in favor, signify by saying aye.

(Response of "Aye.")

Opposed, nay.

(There was no response.)

The message is accepted.

Secretary will read the last section.

THE SECRETARY: Section 12. This act shall take effect April 1.

(The Secretary called the roll.)

THE SECRETARY: Ayes 53.

ACTING PRESIDENT KUHL: The bill is passed.

Senator Bruno.

Before that, Senator Oppenheimer why do you read -- or rise? To read; right?

Why do you rise, Senator Oppenheimer?

SENATOR OPPENHEIMER: I rose to request unanimous consent to be recorded in the negative on Calendar 1215, please.

ACTING PRESIDENT KUHL: Without objection, and hearing no objection, Senator Oppenheimer will be recorded in the negative on Calendar Number 1215.

ACTING PRESIDENT KUHL: Senator Alesi.

SENATOR ALESI: Thank you, Mr. President. I rise to request unanimous consent to vote in the negative on Calendar 1215.

ACTING PRESIDENT KUHL: Without objection, and hearing no objection, Senator

Alesi will be recorded in the negative on Calendar Number 1215.

Senator Bruno.

SENATOR BRUNO: At this time take up Calendar Number 1217.

ACTING PRESIDENT KUHL: Ask the Secretary to read the title to Calendar Number 1217.

THE SECRETARY: Senator Bruno moves to discharge from the Committee on Rules Assembly Bill Number 10553 and substitute it for the identical Third Reading Calendar 1217.

Calendar Number 1217, by the Assembly Committee on Rules, Assembly Print 10553, an act to amend Chapter 729 of the Laws of 1994.

ACTING PRESIDENT KUHL: Secretary will read the last section.

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

(The Secretary called the roll.)

THE SECRETARY: Ayes 54.

ACTING PRESIDENT KUHL: The bill

is passed.

Senator Padavan, why do you rise?

SENATOR PADAVAN: Mr. President, I would like to have unanimous consent to be recorded in the negative on Calendar Number 778.

ACTING PRESIDENT KUHL: Without objection, and hearing no objection, Senator Padavan will be recorded in the negative on Calendar Number 778.

SENATOR SEWARD: Mr. President.

ACTING PRESIDENT KUHL: Senator Seward.

SENATOR SEWARD: Mr. President, I was out of the chamber at the time when Calendar Number 597 passed. I would like to be recorded in the negative.

ACTING PRESIDENT KUHL: Without objection, hearing no objection, Senator Seward will be recorded in the negative on Calendar Number 597.

Senator Bruno.

SENATOR BRUNO: Mr. President,

is there anything else at the desk that has to be done? We were waiting to see whether Senator Maziarz was going to get to the chamber.

ACTING PRESIDENT KUHL: We do have some housekeeping. We have a couple of substitutions we can read first, and then I think we have a motion.

Secretary will read the substitutions.

THE SECRETARY: On page 65, Senator Tully moves to discharge from the Committee on Rules Assembly Bill Number 8244A and substitute it for the identical Third Reading Calendar 792.

On page 82, Senator Larkin moves to discharge from the Committee on Rules Assembly Bill Number 7846A and substitute it for the identical Third Reading Calendar 925.

ACTING PRESIDENT KUHL: Substitutions are ordered.

We will return to motions and resolutions.

Senator Velella, why do you

rise?

SENATOR VELELLA: Mr. President, Calendar 778, Senate Bill 6062, I was out of the room when that bill was called. I would like the record to reflect that had I been here I would vote in the negative on it, please.

ACTING PRESIDENT KUHL: Without objection, hearing no objection, Senator Velella will be recorded in the negative on Calendar Number 778.

SENATOR VELELLA: Thank you.

ACTING PRESIDENT KUHL: Return to motions and resolutions.

Chair recognizes Senator Libous.

SENATOR LIBOUS: Thank you, Mr. President. I wish to call up Senator Leibell's bill, Senate Print Number 6124A, which is now at the desk.

ACTING PRESIDENT KUHL: Secretary will read.

THE SECRETARY: Calendar Number 531, by Senator Leibell, Senate Print 6124A, an act to amend the General Municipal Law.

ACTING PRESIDENT KUHL: Senator Libous.

SENATOR LIBOUS: Mr. President, I now move to reconsider the vote by which this bill was passed and ask that the bill be restored to the order of third reading.

ACTING PRESIDENT KUHL: The Secretary will call the roll on reconsideration.

(The Secretary called the roll on reconsideration.)

THE SECRETARY: Ayes 54.

ACTING PRESIDENT KUHL: The bill is recalled, restored to the calendar.

Senator Libous.

SENATOR LIBOUS: Mr. President, I now move to discharge from the Committee on Rules Assembly Print Number 9013 and substitute it for the identical bill.

ACTING PRESIDENT KUHL: Substitution is ordered.

Senator Libous.

SENATOR LIBOUS: I now move the substituted Assembly bill have its third reading

at this time.

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 54.

ACTING PRESIDENT KUHL: The bill is passed.

Senator Bruno.

SENATOR BRUNO: Mr. President, there being no further business presently to come before the Senate, I would move that we stand adjourned until tomorrow at 3:00 p.m.

ACTING PRESIDENT KUHL: Without objection, the Senate stands adjourned until tomorrow, May 14, at 3:00 p.m. sharp.

(Whereupon, at 3:25 p.m., the Senate adjourned.)