ALBANY, NEW YORK

February 25, 1997

3:05 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 repeat with me the Pledge of Allegiance.

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

The invocation today will be given by Reverend Leisa Williams, who is the pastor of the New Love Christian Church of Crown Heights, Brooklyn.

Reverend Williams.

REVEREND LEISA WILLIAMS: Thank you.

Good afternoon, everyone. May we bow our heads in reverence to the name of the Lord. Almighty and everlasting God, we humbly implore Thee graciously to regard all assembled here who have the authority over us, that guided by the Holy Spirit they may be wise in counsel and unwavering in duty and in the administration of their solemn charge, may wholly serve Thy will, uphold the honor of our nation, secure the protection of our people and set forward every worthy cause. The Lord who by Thy providence, did lead our forefathers to this land wherein

they found refuge from oppression and freedom to worship Thee, we beseech Thee ever to guide our nation in the way of Thy truth and peace so that we may never fail in the blessing which God has promised us. Through Christ our Lord we ask that every heart say Amen.

THE PRESIDENT: Amen.

The reading of the Journal, please.

THE SECRETARY: In Senate, Monday, February 24th. The Senate met pursuant to adjournment. The Journal of Friday, February 21st, was read and approved. Upon motion, the 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.

The Secretary will read.

THE SECRETARY: Senator Tully, from the Committee on Water Resources, offers up the following bills:

Senate Print 383, by Senator

Tully, an act to amend the Public Health Law, in relation to public water supplies;

2567-A, by Senator Tully, an act to amend the Environmental Conservation Law, in relation to including publicly owned drinking water.

Senator Alesi, from the Committee on Consumer Protection, offers up the following bills:

Senate Print 2009, by Senator Padavan, an act to amend the General Business Law, in relation to the regulation of immigration consultants;

2060, by Senator Kuhl, an act to amend the General Business Law, in relation to auctioneer automobiles;

2076, by Senator Velella, an act to amend the General Business Law, in relation to establishing additional restrictions on credit card sales.

Senator Spano, from the Committee on Labor, offers up the following bills:

Senate Print 799, by Senator Stafford, an act to amend the Labor Law, in relation to license to possess and use

explosives;

1097, by Senator Lack, an act to amend the Labor Law, in relation to direct sellers;

1793, by Senator Spano, an act to amend the Labor Law, in relation to permitting;

2486, by Senator Spano, an act to amend the Labor Law and the Workers' Compensation Law.

Senator Volker, from the Committee on Codes, offers up the following bills:

Senate Print 72, by Senator Levy, an act to amend the Penal Law, in relation to including the theft of dogs and cats;

501, by Senator Johnson, an act to amend the Criminal Procedure Law, in relation to requiring certain persons;

1134, by Senator Marcellino, an act to amend the Criminal Procedure Law;

1135, by Senator Marcellino, an act to amend the Penal Law, in relation to criminally negligent homicide;

1187, by Senator Velella, an act to amend the Penal Law, in relation to the crime

of unauthorized use;

1189, by Senator Velella, an act to amend the Criminal Procedure Law;

1290, by Senator Saland, an act to amend the Penal Law, in relation to the minimum period of imprisonment;

1292, by Senator Saland, an act to amend the Criminal Procedure Law, in relation to expanding the offenses concerning with a child witness;

1314, by Senator Velella, an act to amend the Penal Law and the Criminal Procedure Law;

1422, by Senator Cook, an act to amend the Criminal Procedure Law, in relation to denial;

1466, by Senator Volker, an act to amend the Civil Rights Law, in relation to providing for a limited community;

1537, by Senator DeFrancisco, an act to amend the Criminal Procedure Law;

1538, by Senator DeFrancisco, an act to amend the Criminal Procedure Law, in relation to compliance with orders affixing bail;

1539, by Senator DeFrancisco, an act to amend the Criminal Procedure Law, in relation to the time limitations for speedy trial;

1582, by Senator Larkin, an act to amend the Criminal Procedure Law, in relation to security services in the courts.

Senator Rath, from the Committee on Local Government, offers up the following bills:

Senate Print 1299, by Senator LaValle, an act to amend the Town Law, in relation to lands within the Hampton Bays;

1419, by Senator Cook, an act to amend the Real Property Tax Law;

1662, by Senator Rath, an act to amend the General Municipal Law, Chapter 708 of the laws of 1992;

1724, by Senator Larkin, an act to amend the County Law, in relation to authorizing county sewer districts;

1767, by Senator Leibell, an act to amend the Real Property Tax Law;

1944, by Senator Seward, an act to amend the Town Law, in relation to filling

vacancies;

1955, by Senator Farley, an act to amend the Real Property Tax Law;

2013, by Senator Rath, an act to amend the County Law and the Town Law;

2015, by Senator Rath, an act to amend the General Municipal Law, in relation to allowing for the use of fire training centers.

Senator Levy, from the Committee on Transportation, offers up the following bills:

Senate Print 605, by Senator Levy, an act to amend the Vehicle and Traffic Law;

732, by Senator Holland, an act to amend the Highway Law, in relation to designating a portion of the state highway system;

929, by Senator Levy, an act to amend the Vehicle and Traffic Law, in relation to leaving the scene of an injury;

1305, by Senator LaValle, an act to amend the Vehicle and Traffic Law, in relation to speed limits;

1312, by Senator Velella, an act

to amend the Transportation Law;

2336, by Senator Volker, an act to amend the Vehicle and Traffic Law, in relation to defining all-terrain-type vehicles;

2440, by Senator Maltese, an act to amend the Vehicle and Traffic Law.

Senator Cook, from the Committee on Education, offers up the following bills:

Senate Print 334, by Senator Skelos, an act to amend the Education Law, in relation to notification of parents;

909-A, by Senator Present, an act authorizing the Belmont Central School District;

1695, by Senator Hoffmann, an act in relation to legalizing and validating.

All bills directly for third reading.

THE PRESIDENT: All bills direct to third reading.

Reports of select committees.

Communications and reports from state officers.

Motions and resolutions.

Senator Farley.

SENATOR FARLEY: Thank you, Madam

President.

On page 4, on behalf of Senator Velella, I offer the following amendments to Calendar Number 36, Senate Print 355, and I ask that that bill retain its place on the Third Reading Calendar.

THE PRESIDENT: The amendments are received.

Senator Skelos.

SENATOR SKELOS: Madam President, at this time may we please adopt the Resolution Calendar with the exception of Resolution 462.

THE PRESIDENT: All those in favor of adopting the Resolution Calendar signify, please, by saying aye.

(Response of "Aye".)

Opposed, nay.

(There was no response.)

The Resolution Calendar is adopted.

Senator Trunzo.

SENATOR TRUNZO: On Calendar Number 451, which is honoring Alan C. Lewis on the occasion of his retirement from the New York State United Teachers, I would like to open that

to all members if they would like to join in that resolution, Resolution 451.

THE PRESIDENT: Thank you, Senator Trunzo.

Senator Skelos.

SENATOR SKELOS: I have no problem with it being opened up. If a member does not wish to go on the resolution, if they would notify the desk before the close of the working day.

Madam President, at this time if we could take up Calendar Number 462 by Senator Breslin. May it be read in its entirety and move for its adoption.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: By Senator Breslin, Legislative Resolution commending Albany Police Officers Kenneth M. Koonz and Matthew J. Montesano and civilian Jose Torres, for their heroic action.

WHEREAS, it is the sense of this legislative body to pay tribute to those who nobly risk their own life in an effort to preserve the life of another.

The quality and sanctity of community life and the safety and welfare of its citizenry are cherished values worthy of safeguarding. This legislative body is thereby moved to honor those who serve to protect them, lauding particularly those individuals who had risked their life and personal safety in providing that protection.

On the evening of January 30th, 1997, in Albany, New York, Police Officers Kenneth M. Koonz and Matthew J. Montesano responded to a fire call in the south end of Albany. Upon arriving, the officers discovered an apartment ablaze and the tenant standing outside screaming that her children were still inside.

Officer Koonz entered the burning apartment going to the second floor in search of the children only to be driven back by the heat and smoke. A second attempt to enter was made with the same result. Officer Koonz was then joined by Officer Montesano and Mr. Jose Torres and a third attempt was made to locate the children.

The rescuers went through the

room where the fire was concentrated to a rear bedroom where two unconscious children, ages six years and ten months, were found huddled beneath a bed. The officers and Mr. Torres worked together to remove the children from the apartment, bringing them to safety.

Kenneth M. Koonz and Matthew J. Montesano, who are so illustrative of the courage and commitment which are the hallmarks of Albany police officers, risked their own lives and performed heroically in an effort to save the lives of two small children.

Mr. Jose Torres, the civilian who so ably and courageously assisted the police officers, richly merits the admiration of this legislative body for his heroic action in an extremely dangerous situation.

WHEREAS, it is the sense of this legislative body to honor Kenneth M. Koonz, Matthew J. Montesano and Jose Torres for their noble action; now, therefore be it

RESOLVED, that this legislative body pause in its deliberations to commend and pay tribute to Police Officer Kenneth M. Koonz, Police Officer Matthew J. Montesano and Mr. Jose

Torres, for their consummate courage and bravery; and be it further

RESOLVED, that copies of this resolution, suitably engrossed, be transmitted to Officer Kenneth M. Koonz, Officer Matthew J. Montesano and Mr. Jose Torres, in grateful tribute for their heroic action.

THE PRESIDENT: The question is on the resolution. All in favor signify by saying aye.

(Response of "Aye".)

Oh, Senator Breslin. I'm so sorry.

SENATOR BRESLIN: Thank you very much, Madam President.

I stand here, and it's a pleasure to do so, to honor Jose Torres, an employee of Price Chopper -- a young employee of Price Chopper who risked his life by forming a human shield with two young Albany Police officers, Matthew Montesano and Officer Kenneth Koonz who's here, along with Chief Tuffey from the Albany Police force.

This is a joint resolution shared by Assemblyman Jack McEneny in the Assembly who

is also here, but these three men formed a chain link fence to drag two young children who were both unconscious out of a very serious fire and those two young children would not be with us here today if it was not for their bravery, and I wish to have not only the citizens of Albany County but all of us representing the state of New York give them a show of thanks.

(Applause)

THE PRESIDENT: The question is on the resolution. All in favor signify by saying aye.

(Response of "Aye".)

Opposed, nay.

(There was no response.)

The resolution is adopted.

Congratulations to Officers Koonz and Montesano and to Mr. Torres.

Senator Skelos.

SENATOR SKELOS: Madam President, I offer up the following resolution and ask the title be read and move for its immediate adoption.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: By Senator Bruno, Concurrent Resolution of the Senate and the Assembly, authorizing the Senate and the Assembly of New York State to purchase copies of the New York Red Book for 1997 and 1998.

THE PRESIDENT: The Secretary will read -- oh, I'm sorry. Call the roll on the resolution.

(The Secretary called the roll on the resolution.)

THE SECRETARY: Ayes 48.

THE PRESIDENT: The resolution is adopted.

Senator Skelos.

SENATOR SKELOS: At this time if we could take up the non-controversial calendar.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: Senator Velella moves to discharge from the Committee on Insurance Assembly Bill Number 356 and substitute it for the identical Senate bill, Calendar Number 17 -- Calendar Number 84.

THE PRESIDENT: The substitution

is ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 122, by Senator Tully, Senate Print 153, an act to amend the Public Authorities Law, in relation to the use of video conferencing equipment.

SENATOR STACHOWSKI: Lay it aside.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar Number 130, by Senator Cook, Senate Print 616, an act to amend the County Law, in relation to review and approval of names for rights of way.

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 48.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 131, by Senator Lack, Senate Print 1099, an act to amend the Real Property Tax Law, in relation to assessments resulting from a small claims proceeding.

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 48.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 133, by Senator Lack, Senate Print 1168, an act in relation to the real property tax assessed by the town of Smithtown.

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 148, by Senator Skelos, Senate Print 307, an act to amend the Family Court Act and the Criminal Procedure Law, in relation to the age of child witnesses.

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

THE SECRETARY: Section 3. 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 153, by Senator Goodman, Senate Print 755, an act to amend the Transportation Law, in relation to disclosure by common carriers.

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 47, nays 1, Senator Kuhl recorded in the negative.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 154, by Senator Goodman, Senate Print 756, an act to amend the Transportation Law, in relation to mandating that the Commissioner of Transportation of the city of New York refer violations.

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 48.

ACTING PRESIDENT KUHL: The bill

is passed.

THE SECRETARY: Calendar Number 155, by Senator Goodman, Senate Print 757, an act to amend the Transportation Law, in relation to increasing penalties for violating a motor carrier certificate.

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

THE SECRETARY: Section 3. 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 156, by Senator Levy, Senate Print 914, an act to amend the Transportation Law, in relation to establishing a task force to develop and implement a statewide system.

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

THE SECRETARY: Section 2. This

act shall take effect on the 30th day.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT KUHL: Announce the results when tabulated.

THE SECRETARY: Ayes 47, nays 1, Senator Cook recorded in the negative.

ACTING PRESIDENT KUHL: The bill is passed.

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

SENATOR SKELOS: Mr. President, if we could take up the controversial calendar.

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

THE SECRETARY: Calendar Number 122, by Senator Tully, Senate Print 153, an act to amend the Public Authorities Law, in relation to the use of video conferencing equipment.

SENATOR STACHOWSKI: Explanation.

ACTING PRESIDENT KUHL: Senator Tully, an explanation of Calendar Number 122 has been requested by Senator Stachowski.

SENATOR TULLY: Thank you, Mr.

President.

I'll be belief. This legislation would allow the Environmental Facilities Corporation to use video conferencing equipment for attendance by board members.

ACTING PRESIDENT KUHL: Senator Stachowski.

SENATOR STACHOWSKI: Mr. President, if Senator Tully would yield for a couple of questions.

ACTING PRESIDENT KUHL: Senator Tully, do you yield to a question from Senator Stachowski?

SENATOR TULLY: Yes, Mr. President.

ACTING PRESIDENT KUHL: The Senator yields.

SENATOR STACHOWSKI: Senator, can you tell us what the necessity is of having this because, if I'm not mistaken, these people understand that there is to be meetings when they accept their appointment to these positions and yet now they want to have teleconferencing because they don't want to come to the meetings. So could you explain what the

advantage is and why it's necessary to do this?

SENATOR TULLY: Yes, Mr. President. This legislation is presented at the request of the Environmental Facilities Corporation. The corporation is made up of seven directors, of which three are ex officio and four are regular members. The ex officio members include the Secretary of State, the Commissioner of Health and the Commissioner of Environmental Protection.

The members who are other than ex officio are professionals who are spread throughout the state from New York City to Syracuse, one of whom is an ambassador who was selected at the Governor's request because of his expertise in this area and he has on several occasions cancelled some European trips to attend the meetings.

It was felt that it would be beneficial because this -- EFC is unlike most authorities. They do meet 12 times a year, once a month at least. They have calendar meetings which last three to four hours. They have policy committee meetings prior to the board and it entails a great deal of time, and it's with

that in mind that they felt in this modern day and age that they could provide on suitable occasions for attendance through this type of communication.

SENATOR STACHOWSKI: Thank you.

The only -- Mr. President, on the bill. The only problem I have -

ACTING PRESIDENT KUHL: Senator Stachowski, on the bill.

SENATOR STACHOWSKI: -- is like I said -- and I understand that these are busy people and they have a great deal of expertise, and it would be nice if the teleconferencing makes it a lot easier for them, but there's other groups that meet regularly like UDC boards and they have to go and they come from all parts of the state, and I think if we started doing this in this instance, the next thing we know, we would be doing -- almost all of our boards that are made up of statewide people would all be meeting by teleconferencing, and I'm not so sure that's a great idea.

I still like the idea that when they accept this responsibility, they also know that they accept the responsibility of attending

these meetings and although sometimes it becomes a bit of a hardship, I still think it's understood when they accept the appointment to the board and for that reason, I'm still going to oppose the bill.

ACTING PRESIDENT KUHL: Is there any other Senator wishing to speak on Calendar Number 122?

(There was no response.)

Hearing none, 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.)

ACTING PRESIDENT KUHL: Announce the results when tabulated.

THE SECRETARY: Those recorded in the negative on Calendar Number 122, Senators Connor, Paterson and Stachowski. Ayes 48, nays 3.

ACTING PRESIDENT KUHL: The bill is passed.

Senator Skelos, that completes

the reading of the controversial calendar.

SENATOR SKELOS: Mr. President.

ACTING PRESIDENT KUHL: Senator Skelos.

SENATOR SKELOS: Is there any housekeeping at the desk?

ACTING PRESIDENT KUHL: There is none at the desk, Senator Skelos.

SENATOR SKELOS: There will be an immediate conference of the Majority in the Majority Conference Room and there being no further business, I move we adjourn until Wednesday, February 26th, at 11:00 a.m.

ACTING PRESIDENT KUHL: Senator Skelos, before that motion, Senator Nanula, why do you rise?

SENATOR NANULA: Thank you, Mr. President.

I would like to request unanimous consent to be recorded in the negative on Calendar 150... I'm sorry, 122.

ACTING PRESIDENT KUHL: Without objection, hearing no objection, Senator Nanula will be recorded in the negative on Calendar Number 122.

Senator Gold, why do you rise?

SENATOR GOLD: With my respects to Senator Tully's handicap, would you put me in the negative on that.

ACTING PRESIDENT KUHL: Without objection, hearing no objection, Senator Gold will be recorded in the negative on Calendar Number 122.

Senator Santiago, why do you rise?

SENATOR ONORATO: I would like unanimous consent -

SENATOR SANTIAGO: Thank you.

I would like to be recorded in the negative on Calendar Number 122, please.

ACTING PRESIDENT KUHL: Without objection, hearing no objection, Senator Santiago will be recorded in the negative on Calendar Number 122.

Senator Onorato, why do you rise?

SENATOR ONORATO: I also would like to be recorded in the negative on Calendar Number 122.

ACTING PRESIDENT KUHL: Without

objection, hearing no objection, Senator Onorato will be recorded in the negative on Calendar Number 122.

Senator Stavisky, why do you rise?

SENATOR STAVISKY: I would like to be recorded in the negative on Calendar Number 122.

ACTING PRESIDENT KUHL: Without objection, hearing no objection, Senator Stavisky will be recorded in the negative on Calendar Number 122.

Senator Smith, why do you rise?

SENATOR SMITH: Mr. President, I would request unanimous consent to be recorded in the negative on Calendar Number 122.

ACTING PRESIDENT KUHL: Without objection, hearing no objection, Senator Smith will be recorded in the negative on Calendar Number 122.

Senator Paterson, were you just rising for some exercise or -

SENATOR PATERSON: No. I was on my way out, Mr. President.

SENATOR SKELOS: Mr. President,

does anybody else wish to be recorded?

ACTING PRESIDENT KUHL: Senator Seabrook in the negative on Calendar Number 122.

Anybody else?

SENATOR SKELOS: Mr. President, there is no teleconferencing with the Senate. So I would urge the members, if they could, be in to vote rather than when we're about to adjourn. So there being no further business, I move we adjourn until Wednesday, February 26th, at 11:00 a.m. sharp.

ACTING PRESIDENT KUHL: Immediate meeting of the Majority Conference in the Majority Conference Room, Room 332. Immediate meeting of the Majority Conference in the Majority Conference Room, Room 332.

Without objection, the Senate stands adjourned until tomorrow, February 22nd* (should read 26th), Wednesday, at 11:00 a.m.

(Whereupon, at 3:28 p.m., the Senate adjourned.)