ALBANY, NEW YORK

May 14, 1997

10:06 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. I'd ask everybody in the chamber to rise with me 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 bow our heads in a moment of silence.

(A moment of silence was observed.)

The reading of the Journal.

THE SECRETARY: In Senate, Tuesday, May 13th. The Senate met pursuant to adjournment. The Journal of Monday, May 12th, 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.

Communications and reports from state officers.

Motions and resolutions.

Senator Skelos.

SENATOR SKELOS: Mr. President, yesterday we passed Resolution 1298. On behalf of Senator Marcellino, I would like to open it up to the entire body for co-sponsorship. If members wish to co-sponsor the resolution, they should notify the desk.

ACTING PRESIDENT KUHL: Senator Maziarz, that brings us to the calendar.

SENATOR MAZIARZ: Mr. President, could we please read the non-controversial calendar.

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

THE SECRETARY: Calendar Number 218, by Senator Volker, Senate Print 1466-A, an act to amend the Civil Rights Law, in relation to providing for limited immunity.

ACTING PRESIDENT KUHL: The

Secretary will read the last section.

THE SECRETARY: Section 2. 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 33.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 442, by Senator Leibell, Senate Print 1556, an act to amend the Penal Law, the County Law and the Executive Law, in relation to enacting the Court Integrity Protection Act of 1997.

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

THE SECRETARY: Section 6. 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 33.

ACTING PRESIDENT KUHL: The bill

is passed.

THE SECRETARY: Calendar Number 497, by Senator Gold, Senate Print 1579-B, an act to amend the Executive Law, in relation to the definition of profits from the crime.

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

THE SECRETARY: Section 2. 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 36.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 516, by Senator Lack, Senate Print 3527-A, an act to amend the Surrogate's Court Procedure Act, in relation to providing a notice.

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

THE SECRETARY: Section 2. This act shall take effect in 90 days.

ACTING PRESIDENT KUHL: Call the

roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 36.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 536, by Senator Wright, Senate Print 3812, an act to amend the Alcoholic Beverage Control Law and the Mental Hygiene Law, in relation to mandatory license revocation.

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

THE SECRETARY: Section 8. 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 37.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 548, by Senator Lack, Senate Print 2373, an act to amend the Public Authorities Law, in relation to authorizing and requiring the Metropolitan

Transportation Authority.

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 37.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 581, by Senator Trunzo, Senate Print 3232, an act to amend the Retirement and Social Security Law, in relation to optional retirement.

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 37.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 648, by Senator Seward, Senate Print 4282, an act to amend the Public Service Law, in relation to annual reports.

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 38.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 653, by Senator Skelos, Senate Print 3503, an act to amend the Criminal Procedure Law, in relation to evidence of identification.

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

THE SECRETARY: Section 5. 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 38.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 667, by Senator Levy, Senate Print 921, an act to amend the Vehicle and Traffic Law, in relation to aggravated unlicensed operation.

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

THE SECRETARY: Section 2. 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 38.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 669, by Senator Kuhl, Senate Print 2090, an act to amend the Vehicle and Traffic Law, in relation to appropriate reduced speeds.

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

THE SECRETARY: Section 2. 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 38.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 682, by member of the Assembly Englebright, Assembly Print 2582-A, an act to amend the Agriculture and Markets Law, in relation to persons claiming an interest.

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 39.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number

711, by Senator Maltese, Senate Print 1604, an act authorizing the city of New York to reconvey its interest in certain real property required by in rem tax foreclosure.

ACTING PRESIDENT KUHL: There is a home rule message at the desk. The Secretary will read the last section.

THE SECRETARY: Section 5. This act shall take effect immediately.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 39.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 714, by Senator Velella, Senate Print 4446, an act authorizing the assessor of the city of New Rochelle to accept an application.

SENATOR MAZIARZ: Mr. President, lay the bill aside for the day at the request of the sponsor.

ACTING PRESIDENT KUHL: Lay the bill aside for the day at the request of the sponsor.

THE SECRETARY: Calendar Number 716, by Senator Cook, Senate Print 4572, an act to amend the General Municipal Law, in relation to establishing uniform procedures.

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 39.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 743, by Senator Holland, Senate Print 1588, an act to amend the General Obligations Law, in relation to liability of persons involved in equine activities.

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

THE SECRETARY: Section 3. This act shall take effect on the 90th day.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT KUHL: Record the negatives. Announce the results.

THE SECRETARY: Ayes 37, nays 2, Senators Connor and Paterson recorded in the negative.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 750, by Senator Stafford, Senate Print 3728, an act to amend the Real Property Law, in relation to permissible size.

ACTING PRESIDENT KUHL: There is a home rule message at the desk. 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 40.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 794, by Senator DeFrancisco, Senate Print

3627-A, an act to legalize, validate, ratify and confirm certain actions and proceedings.

ACTING PRESIDENT KUHL: There is a local fiscal impact note 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 40.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 807, by Senator Alesi, Senate Print 4266, an act to amend the General Business Law, in relation to false price comparisons.

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

THE SECRETARY: Section 4. This act shall take effect on the 30th day.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 42.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 814, by Senator Volker, Senate Print 1532, an act to amend the Town Law and the General Municipal Law, in relation to the deadline.

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 42.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 818, by Senator Stafford, Senate Print 3317, an act to authorize J.A. Barkley Hose Company No. 1 Incorporated to construct and operate.

ACTING PRESIDENT KUHL: There is a home rule message at the desk. 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 42.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 861, by Senator Rath, Senate Print 4412, an act to amend the Civil Practice Law and Rules and the Executive Law, in relation to extending the statute of limitations.

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

THE SECRETARY: Section 3. This act shall take effect January 1.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 43.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 878, by Senator Maziarz, Senate Print 2806, an act to amend the Tax Law, in relation to extending the expiration of the authorization to

the county of Orleans.

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 43.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 902, by Senator Meier, Senate Print 4584, an act to amend the Tax Law, in relation to extending the effectiveness of provisions.

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 43.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 925, by Senator Johnson, Senate Print 3647-A, an act to amend the Environmental Conservation Law, in relation to prohibiting.

ACTING PRESIDENT KUHL: The bill is high. There is no message at the desk. So the Secretary will lay the bill aside.

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

SENATOR MAZIARZ: Thank you, Mr. President.

Mr. President, there is an immediate meeting of the Higher Education Committee in Room 332.

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

SENATOR MAZIARZ: Mr. President.

ACTING PRESIDENT KUHL: Senator Maziarz.

SENATOR MAZIARZ: Mr. President, at this time would you recognize Senator Spano for the purpose of a resolution.

ACTING PRESIDENT KUHL: We'll return to the order of motions and resolutions.

The Chair recognizes Senator Spano but before we do that, we ought to have the Secretary read the title to the resolution.

The Secretary will read.

THE SECRETARY: By Senator Trunzo, Legislative Resolution 1129, honoring New York State Professional Firefighters upon the occasion of Professional Firefighters Week, May 12 through 16, 1997.

ACTING PRESIDENT KUHL: The Chair recognizes Senator Spano.

SENATOR SPANO: Thank you very much, Mr. President, my colleagues.

On behalf of Senator Trunzo, we have the resolution that is before us dedicating the outstanding work of the Professional Firefighters of New York State, and I wanted to just take a couple of minutes to recognize those firefighters and the job and the role that they play in our community and the role that they've played over the last 128 years, where we have seen 454 firefighters over those 128 years, who have made the supreme sacrifice, have lost their

lives in the line of duty, while protecting the lives and the property of the people of our great state.

The New York State Professional Firefighters have an outstanding person who is at the helm, Jim McGowan, who has continued to represent the -- outstanding advocate on their behalf in the halls of this Capitol. The New York State Professional Firefighters have 25,000 members. They have been in Albany this week and this resolution that we have before us today dedicates and memorializes the Governor to call on between May 12th and May 16th to make this Professional Firefighters Week.

We're joined by a number of the representatives of the firefighters in the gallery, and I know that President McGowan is on his way down here, I guess, but I know that I see a number of firefighters up there that I have had an opportunity to work with and certainly some members from the Fifth District, a little closer to home in Westchester County, and I, Mr. President, ask that we do unanimously adopt this resolution which has the sponsorship of all of the members of this house already and

please recognize those firefighters who are joined with us in the gallery today.

Thank you.

ACTING PRESIDENT KUHL: Thank you, Senator Spano.

Is there any other Senator wishing to speak on the resolution? The resolution -- I'm sorry. I apologize, Senator Spano. I misled you. The resolution was adopted yesterday so we're just speaking on it today.

Hearing none, on behalf of Senator Bruno and all the members of the chamber, I would like to welcome these professional firefighters to the chamber. We appreciate your coming and spending a couple moments of your lives which you are very dedicated certainly and provide a wonderful service, a very vital service to all the residents of the state of New York and we appreciate your sharing just a little piece of that time of your existence on this earth with us and welcome to the chamber. If there's anything any member of this chamber can do for you, we certainly are here to do that.

So if you would all rise, we would like to recognize you for providing the wonderful service you do. (Applause)

Senator Maziarz.

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

ACTING PRESIDENT KUHL: It's all taken care of, Senator Maziarz.

SENATOR MAZIARZ: Could you recognize Senator Gentile, please.

ACTING PRESIDENT KUHL: The Chair recognizes Senator Gentile.

SENATOR GENTILE: Thank you, Mr. President.

I would just like unanimous consent to be recorded in the negative on bill numbers -- Calendar Numbers 878 and 902.

ACTING PRESIDENT KUHL: Without objection, hearing no objection, Senator Gentile will be recorded in the negative on Calendar Number 878 and Calendar Number 902.

SENATOR GENTILE: Thank you, Mr. President.

ACTING PRESIDENT KUHL: Senator Dollinger.

SENATOR DOLLINGER: May I also have unanimous consent to be recorded in the negative on 902 and 878.

ACTING PRESIDENT KUHL: Without objection, hearing no objection, Senator Dollinger will be recorded in the negative on Calendar Number 878 and Calendar Number 902.

Senator Maziarz.

SENATOR MAZIARZ: Mr. President, could we stand at ease awaiting a message on Calendar Number 925, please.

ACTING PRESIDENT KUHL: The Senate will stand at ease.

(Whereupon, the Senate stood at ease from 10:24 a.m. until 10:34 a.m.)

ACTING PRESIDENT KUHL: The Senate will come to order. Ask the members to find their places.

The Chair recognizes Senator Dollinger.

SENATOR DOLLINGER: Mr. President, I ask unanimous consent to be recorded in the negative on Calendar Number 743.

ACTING PRESIDENT KUHL: Without objection.

SENATOR DOLLINGER: Thank you.

ACTING PRESIDENT KUHL: Hearing no objection, Senator Dollinger will be recorded in the negative on Calendar Number 743.

Senator Sampson.

SENATOR SAMPSON: Mr. President, I would like unanimous consent to be recorded in the negative on Calendar Number 218.

ACTING PRESIDENT KUHL: Without objection, hearing no objection, Senator Sampson will be recorded in the negative on 218.

SENATOR SAMPSON: Also I would like unanimous consent, Mr. President, to be recorded in the negative on Calendar Number 497.

ACTING PRESIDENT KUHL: Without objection, hearing no objection, Senator Sampson will be recorded in the negative on Calendar Number 497.

SENATOR SAMPSON: And also -

ACTING PRESIDENT KUHL: Senator Sampson.

SENATOR SAMPSON: Also I would like to, Mr. President, be recorded in the negative on Calendar Number 743.

ACTING PRESIDENT KUHL: Without

objection, hearing no objection, Senator Sampson will be recorded in the negative on Calendar Number 743.

Senator Wright.

SENATOR WRIGHT: Can we return to the controversial calendar, please, and take up Calendar Number 925.

ACTING PRESIDENT KUHL: The Secretary will read the title to Calendar Number 925 by Senator Johnson.

THE SECRETARY: Calendar Number 925, by Senator Johnson, Senate Print 3647-A, an act to amend the Environmental Conservation Law, in relation to prohibiting the taking of menhaden.

ACTING PRESIDENT KUHL: Senator Wright.

SENATOR WRIGHT: Is there a message of necessity at the desk?

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

SENATOR WRIGHT: I move the message.

ACTING PRESIDENT KUHL: The motion is to accept the message of necessity at

the desk on Calendar Number 925. All those in favor signify by saying aye.

(Response of "Aye".)

Opposed, nay.

(There was no response.)

The message is accepted.

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 48.

ACTING PRESIDENT KUHL: Senator Oppenheimer to explain her vote.

SENATOR OPPENHEIMER: Yes. Thank you, Mr. President.

This is a very important bill for my district, in that we live along the Long Island Sound and on the Sound these very large trawlers -- they're bunker boats -- come in and scoop up all the menhaden, all the small, what are called mossbunkers or bunker fish and, therefore, the sport fish, the bluefish and the

stripers have nothing to feed on. These bunker boats come with purse seine nets that scoop up every single small bunker fish. The companies bring in airplanes. They spot where the schools of fish are. They then spread out this net, which is huge, like 1500 feet and then they pull a string on the top and then all of these fish, all the entire school is caught in this net and as a result, we have a lot of sport fishermen and we have a lot of industry around sport fishing.

What this bill would do is it would exclude these enormous bunker boats from coming into the entire shoreline of Westchester County and also a good portion of Long Island's shoreline. It would move the dates that these boats can come in from the third Monday in June to just after July 4th, the Monday after July 4th.

This is an important bill for the industry. There are other provisions I won't mention but it is really a significant bill, and we wanted to get it done before the 19th of this month because that's when these bunker boats from the southern states come in basically from

Virginia. So we're very pleased it will be moving today.

Thank you.

ACTING PRESIDENT KUHL: Senator Oppenheimer will be recorded in the affirmative. Announce the results.

Senator Johnson to explain his vote.

SENATOR JOHNSON: Yes, Mr. President. I think I must commend my colleague, Senator Oppenheimer, for the wonderful explanation. I was out of the room when this bill first came up but she has been a stalwart in the New York-Connecticut Bi-state Committee for Long Island Sound, worked together with us in drafting this bill, and I would like to commend her for the help she's given us and this is a very important bill. I appreciate the Governor sending the message and it is coming up today.

Yes, it's true. If we don't pass this today, next Monday the bunker boats will be on Long Island Sound creating a lot of problems for a lot of people which really aren't necessary.

So I would like to thank you all for your vote in favor of this bill.

ACTING PRESIDENT KUHL: The bill is passed.

Senator Tully.

SENATOR TULLY: Thank you, Mr. President.

I was out of the room at the time Calendar Number 648 was called. I was attending a meeting and had I been in the room at that time, I would have voted in the negative on Calendar Number 648.

ACTING PRESIDENT KUHL: Without objection and hearing no objection, Senator Tully will be recorded in the negative on Calendar Number 648.

Senator Johnson.

SENATOR JOHNSON: Yes, Mr. President. I wasn't actually involved in the discussions when Calendar Number 442 came up, but I would like it to be indicated that I would have voted no if I were here.

Thank you.

ACTING PRESIDENT KUHL: Without objection.

SENATOR JOHNSON: If I might add -

ACTING PRESIDENT KUHL: Senator Johnson, we'll record you in the negative, if there's no objection. Without objection and hearing no objection, Senator Johnson will be recorded in the negative on Calendar Number 448.

SENATOR JOHNSON: I would like to say one other thing, Mr. President. I neglected to mention Senator Tully, who is also an active member of the Bi-state Committee, was helpful in drafting this bill.

Thank you.

ACTING PRESIDENT KUHL: That was Calendar Number 442, Senator Johnson?

SENATOR JOHNSON: Correct.

ACTING PRESIDENT KUHL: Okay. Senator Johnson will be recorded in the negative on Calendar Number 442.

Any other Senator wishing to cast a vote at this time?

SENATOR MAZIARZ: Mr. President.

ACTING PRESIDENT KUHL: Senator Maziarz.

SENATOR MAZIARZ: Yes, Mr.

President. I would like to ask unanimous consent to be recorded in the negative on Calendar Number 442.

ACTING PRESIDENT KUHL: Without objection, hearing no objection, Senator Maziarz will be recorded in the negative on Calendar Number 442.

Senator Wright.

SENATOR WRIGHT: Is there any housekeeping?

ACTING PRESIDENT KUHL: There is none.

SENATOR WRIGHT: There being no further business, I move we adjourn until Monday, May 19th, at 3:00 p.m., intervening days being legislative days.

ACTING PRESIDENT KUHL: Without objection, the Senate stands adjourned until Monday, May 19th, usual time, 3:00 p.m., the intervening days to be legislative days.

(Whereupon, at 10:41 a.m., the Senate adjourned.)