ALBANY, NEW YORK

April 26, 1993

2:57 p.m.

REGULAR SESSION

SENATOR JOHN R. KUHL, JR., Acting President

STEPHEN F. SLOAN, Secretary

P R O C E E D I N G S

ACTING PRESIDENT KUHL: Senate will come to order. Senators please take their seats.

If you will all rise for the Pledge of Allegiance.

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

In that there is no visiting rector today, we will take a moment of silence.

(Whereupon, there was a moment of silence. )

Reading of the Journal.

THE SECRETARY: In Senate, Sunday, April 25. The Senate met pursuant to adjournment. Senator Bruno in the chair upon designation of the Temporary President. The Journal of Saturday, April 24, was read and approved. On motion, Senate adjourned.

ACTING PRESIDENT KUHL: Hearing no objection, the Journal stands approved as read.

The order of business:

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.

Clerk will read substitutions.

THE SECRETARY: On page 10 of today's calendar, Senator Seward moves to discharge the Committee on Energy from Assembly Bill Number 562 and substitute it for the identical Calendar Number 446.

ACTING PRESIDENT KUHL: Without objection, substitutions are ordered.

Senator Present.

SENATOR PRESENT: Will you recognize Senator Larkin, please.

ACTING PRESIDENT KUHL: Senator Larkin.

SENATOR LARKIN: Mr. President. There will be an immediate meeting of Local

Government Committee in Majority Leader's Conference Room 332.

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

SENATOR PRESENT: Mr. President.

ACTING PRESIDENT KUHL: Senator Present.

SENATOR PRESENT: Take up the non-controversial calendar.

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

THE SECRETARY: On page 14, Calendar Number 106, by Senator Padavan, Senate Bill Number 1208A, an act to amend the State Finance Law and the General Municipal Law, in relation to the authority of the state agencies.

ACTING PRESIDENT KUHL: 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 vote.

THE SECRETARY: Ayes 32.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 128, by member of the Assembly Friedman, Assembly Bill Number 2127.

SENATOR PRESENT: Lay it aside.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar Number 132, by Senator Mega, Senate Bill Number 1938, an act to amend the Judiciary Law, the Not-For-Profit Corporation Law and the Public Officers Law.

ACTING PRESIDENT KUHL: 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 34.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 178, by Senator Sears, Senate Bill Number 1129.

SENATOR GOLD: Can we have one day on this.

SENATOR PRESENT: Lay it aside.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar Number 291, by Senator Padavan, Senate Bill Number 25 -

SENATOR GOLD: Lay it aside.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar number 324, by Senator Holland.

SENATOR PRESENT: Lay it aside, please.

ACTING PRESIDENT KUHL: Lay that

bill aside.

THE SECRETARY: Calendar Number 339, by Senator Sears, Senate Bill Number 3452A, an act to amend the Agriculture and Markets Law, in relation to manufacturer's information.

ACTING PRESIDENT KUHL: 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 35, nays 1. Senator Kuhl recorded in the negative.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 341, by Senator Lack, Senate Bill Number 3389, an act to amend the Workers' Compensation Law, in relation to teaching activities of referees.

ACTING PRESIDENT KUHL: 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 36.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 369, by Senator Farley, Senate Bill Number 2424, an act to amend the Banking Law, Estate, Powers and Trusts Law.

ACTING PRESIDENT KUHL: 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 36.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 373, by Senator Velella, Senate Bill Number

1579, an act to amend the Vehicle and Traffic Law and the Criminal Procedure Law.

SENATOR GOLD: Lay it aside.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar Number 417, by Senator Cook, Senate Bill Number 2274, an act to grant permanent competitive Civil Service status.

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

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 36. Excuse me. Ayes 35, nays 1. Senator Gold recorded in the negative.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number

418, by Senator Trunzo, Senate Bill Number 3518, an act to amend the Education Law, in relation to World War II military service credit.

ACTING PRESIDENT KUHL: 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 38.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 419, by Senator Trunzo, Senate Bill Number 3523, an act to amend the Education Law, in relation to disability retirements.

ACTING PRESIDENT KUHL: 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 38.

ACTING PRESIDENT KUHL: The bill is passed.

SENATOR DALY: Mr. President.

ACTING PRESIDENT KUHL: Senator Daly.

SENATOR DALY: Could I be registered voting in the negative on Senate Bill 3452, Calendar 339?

ACTING PRESIDENT KUHL: Without objection.

SENATOR VOLKER: Mr. President.

ACTING PRESIDENT KUHL: Senator Volker.

SENATOR VOLKER: Mr. President. Can I go to motions and resolutions, please?

On behalf of Senator Sears, on page 16, Calendar Number 178, Senate Print 1129, would you please star that bill, please.

ACTING PRESIDENT KUHL: The bill is starred.

THE SECRETARY: Calendar Number

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SENATOR SALAND: Mr. President.

ACTING PRESIDENT KUHL: Senator Saland.

SENATOR SALAND: Under housekeeping, if I may?

ACTING PRESIDENT KUHL: Senator Saland, we've got one more bill on the non-controversial calendar. Can we do that first -

SENATOR SALAND: Sure.

ACTING PRESIDENT KUHL: -- and then we'll go back to motions and resolutions. Thank you.

THE SECRETARY: Calendar Number 464, by Senator Nozzolio.

SENATOR GOLD: Lay it aside.

ACTING PRESIDENT KUHL: The bill is laid aside.

Senator Saland, motions and resolutions?

SENATOR SALAND: Mr. President. On behalf of Senator Holland, on page 19,

Calendar 324, would you please place a sponsor star on that.

ACTING PRESIDENT KUHL: Calendar Number 324, a sponsor's star.

Senator Present. That completes the non-controversial calendar, sir. What is your pleasure?

SENATOR PRESENT: Mr. President. Let's take up the controversial calendar, please.

ACTING PRESIDENT KUHL: Controversial calendar. Clerk will read.

THE SECRETARY: On page 14, Calendar Number -

SENATOR PRESENT: Lay it aside.

ACTING PRESIDENT KUHL: Calendar Number 128 is laid aside.

THE SECRETARY: On page 17, Calendar Number 291, by Senator Padavan, Senate Bill Number 2516A, New York City charter.

SENATOR GOLD: Hold on one second.

ACTING PRESIDENT KUHL: Home rule

message is at the desk.

SENATOR GOLD: Last section.

ACTING PRESIDENT KUHL: 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 38.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 373, by Senator Velella, Senate Bill Number 1579, an act to amend the Vehicle and Traffic Law and the Criminal Procedure Law.

ACTING PRESIDENT KUHL: 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 38.

ACTING PRESIDENT KUHL: The bill is passed.

SENATOR PRESENT: Mr. President.

ACTING PRESIDENT KUHL: Senator Present.

SENATOR PRESENT: Would you recognize Senator Johnson, please.

ACTING PRESIDENT KUHL: Senator Johnson.

SENATOR JOHNSON: Mr. President. I have a privileged resolution honoring Dorothy Pezzoli. I would like to have it called up and acted upon at this time.

ACTING PRESIDENT KUHL: Ask the clerk to read the title.

THE SECRETARY: Legislative Resolution by Senator Johnson, honoring Dorothy A. Pezzoli, Clinical Nurse Specialist at the Newport V.A. Medical Center, upon the occasion of her designation as recipient of the 1993 New York State Legislature's Nurse of Distinction Award.

SENATOR JOHNSON: I would like to have it acted upon at this time, Mr. President.

ACTING PRESIDENT KUHL: Senator Johnson.

SENATOR JOHNSON: I ask that it be acted upon at this time.

ACTING PRESIDENT KUHL: The question is on the resolution. All those in favor, signify by saying aye.

(Response of "Aye.")

Opposed, nay.

(There was no response. )

The ayes have it. The resolution is adopted.

Clerk will continue to read the controversial calendar.

THE SECRETARY: Calendar Number 464, by Senator Nozzolio, Senate Bill Number 4195A, an act to amend the Election Law, in relation to requiring the disclosure of receipts and expenditures of persons seeking appointment to a vacancy.

ACTING PRESIDENT KUHL: Senator

Gold.

SENATOR GOLD: Yes. Will Senator yield to a question?

ACTING PRESIDENT KUHL: Yes. Senator Nozzolio, do you yield?

SENATOR NOZZOLIO: Yes, Mr. President.

ACTING PRESIDENT KUHL: He does.

SENATOR GOLD: Senator, it's my understanding that a similar bill, similar in that it deals with the same subject matter and some of the terms are similar, has already passed the Assembly. Am I correct, sir?

SENATOR NOZZOLIO: No, you're incorrect, Mr. Gold.

SENATOR GOLD: All right. Are you aware of any bills dealing with this sub - I withdraw it.

Mr. President.

ACTING PRESIDENT KUHL: Senator Gold.

SENATOR GOLD: I would like to enlighten Senator Nozzolio. Because it's my

understanding that there is one that has passed. We are also having an amendment prepared at the present time, and Bill Drafting has not turned it out yet.

I don't know what procedures you want to use. I don't want to stand and talk for five or ten minutes. We can either wait for it, or put this over until tomorrow, whatever the pleasure is of the Majority.

SENATOR NOZZOLIO: Mr. Gold. Mr. President.

SENATOR GOLD: Excuse me, sir?

SENATOR NOZZOLIO: Mr. President.

ACTING PRESIDENT KUHL: Senator Gold. Senator Nozzolio.

SENATOR NOZZOLIO: Will Mr. Gold yield?

SENATOR GOLD: Pardon me?

SENATOR NOZZOLIO: Will you yield?

SENATOR GOLD: Be my pleasure, sir.

SENATOR NOZZOLIO: Senator, my comment to your question was whether or not - if I can recount your question, whether or not a bill had passed in similar fashion or similar form to this one in the Assembly. A bill did pass the Assembly, but it is not similar in the sense that there are no contribution limits established in the Assembly bill as there are in the one before us today.

SENATOR GOLD: All right. Well, Mr. President. I'm glad Senator Nozzolio was gracious enough to make that clarification. I don't play games. I didn't say exact bill. I said similar in that it deals with the subject matter.

The point is, Senator, that we've asked Bill Drafting to basically take the Assembly bill. I would like to offer that as a substitution. Then we could actually wind up with a law, and I'm told that it is not yet concluded from Bill Drafting.

SENATOR NOZZOLIO: Senator Gold.

ACTING PRESIDENT KUHL: Senator

Nozzolio.

SENATOR NOZZOLIO: Mr. President. I have no objections to Senator Gold's request of laying aside the bill temporarily but would like to have it concluded today.

SENATOR GOLD: Senator, I really don't have a problem, either. I'm told that it will be out of Bill Drafting in 9 minutes and 38-1/2 seconds, so whatever.

Is that the last order of business we have?

So I understand there is a committee report. I don't anticipate a long debate after that. I don't anticipate slow roll calls because I assume that if the house goes along with my amendment we will have to lay it aside for reprinting anyway. So if you want to stand at ease or whatever you want to do.

SENATOR PRESENT: At ease.

SENATOR NOZZOLIO: Thank you, Mr. Gold -- Senator.

Mr. President. Lay aside this

bill temporarily, please.

SENATOR HOLLAND: Mr. President.

ACTING PRESIDENT KUHL: Senator Holland, why do you rise?

SENATOR HOLLAND: With unanimous consent, I would like to be recorded in the negative on Calendar 132, please.

ACTING PRESIDENT KUHL: If there are no objections, Senator Holland will be recorded in the negative on Calendar Number 132.

Senator Spano.

SENATOR SPANO: Mr. President. I'd also like to be recorded in the negative on Calendar 132.

ACTING PRESIDENT KUHL: Senator Spano, without objection, recorded in the negative on Calendar Number 132.

SENATOR SOLOMON: Mr. President.

ACTING PRESIDENT KUHL: Senator Solomon, why do you rise?

SENATOR SOLOMON: I'd like to be recorded in the negative on Calendar 132.

ACTING PRESIDENT KUHL: Without

objection, Senator Solomon will be recorded in the negative on Calendar Number 132.

Senator Present, how do you wish to proceed?

SENATOR PRESENT: Mr. President. Let us stand at ease and await the report of the Local Governments Committee.

ACTING PRESIDENT KUHL: The Senate will stand at ease and await the report of the Local Governments Committee.

(Whereupon, at 3:14 p.m., the Senate was at ease. )

(Whereupon, at 3:30 p.m., the Senate reconvened. )

ACTING PRESIDENT KUHL: Senate will come to order. Senators and staff please take your seats.

I would like to return to reports of standing committees, report of Local Governments Committee.

Clerk will read.

THE SECRETARY: Senator Larkin, from the Committee on Local Government, reports

the following bill directly for third reading:

Senate Bill Number 4597, by Senators Larkin and Levy, an act to amend the Real Property Tax Law and the Transportation Law, in relation to railroad real property.

Reported directly for third reading.

ACTING PRESIDENT KUHL: Without objection, the bills are reported third reading, tomorrow's calendar.

Senator Present.

SENATOR PRESENT: Mr. President. Will you take up Calendar 464, and would you recognize Senator Nozzolio, please.

ACTING PRESIDENT KUHL: Clerk will read Calendar 464.

THE SECRETARY: Calendar Number 464, by Senator Nozzolio, Senate Bill Number 4195A, an act to amend the Election Law, in relation to requiring disclosure of receipts and expenditures of persons seeking appointment to a vacancy in any elected public office.

ACTING PRESIDENT KUHL: Senator

Nozzolio.

SENATOR NOZZOLIO: Yes, Mr. President. I ask permission to explain the bill.

ACTING PRESIDENT KUHL: Please proceed.

SENATOR NOZZOLIO: Thank you. Mr. President and my colleagues. With the resignation of Comptroller Regan, we are faced with the prospect because of our state Constitution with an election of a Comptroller, an election to be held by an electorate not of those citizens in this state in the direct election in the ballot box but by a different process, that of the Legislature deciding who the next Comptroller will be.

Our bill requires that special candidates in this special circumstance conform to the contribution and disclosure requirements as other candidates who have to go through that same elective process must do, also.

Currently, because of a loophole in the law, candidates for the office of

Comptroller can secretly raise enormous sums of money and can use it any way they choose without any requirement that they be compelled to disclose where they obtained that money or what they are spending that money on.

Candidates are raising huge sums of money, using it for a variety of reasons as reported in the New York Times today. Some are even contributing to the election campaigns of candidates, of legislators, who are designed to actually choose and vote on the Comptroller next week; that our bill is designed to close this loophole, to put to rest and to allow the public to have full access as to what monies are being raised, how much is being raised, and what that money is being spent on.

Without these limits, without the bill that is before us today, Comptroller candidates will be allowed through the loophole that exists in the law to stockpile their war chests for the 1994 general election, giving them an unfair advantage. For example, some candidates have raised high into the six

figures. Those limits that exist in law for those candidates declaring their candidacy after the selection takes place, in effect, will be significantly hampered. Thus we're asking for disclosure. We're asking for meaningful contribution limits, and that's what this bill is designed to do.

SENATOR GOLD: Mr. President.

ACTING PRESIDENT KUHL: Senator Gold, why do you rise?

SENATOR GOLD: It seemed like a good idea. Is the gentleman concluded? Have you concluded your remarks?

SENATOR NOZZOLIO: Yes.

SENATOR GOLD: Mr. President.

ACTING PRESIDENT KUHL: Senator Gold on the bill.

SENATOR GOLD: Yes. I want to offer the following amendment which has been served, ask for the opportunity to briefly explain it, waive its reading and go from there.

ACTING PRESIDENT KUHL: Proceed.

SENATOR GOLD: Mr. President. This can be really very brief. There is no argument between the Democratic Party and the Republican Party as to whether or not there should be disclosure by the candidates. That's really not a problem.

And as far as the issue of there being a different kind of process, I would just remind Senator Nozzolio and everyone else this is a constitutional process, so it's not like we got caught in some kind of a bind. Our forefathers created a Constitution, and this is the process.

The only difference really, I think, between the two bills is that there is an attempt in this bill, the one before us now, to somehow inhibit the election process which will take place -- what is it, next year? -- when the next election comes up for Comptroller by putting some kind of a formula in place which would account for monies being spent in this particular type of an election this year.

Whereas, the bill I'm offering

has already passed the Assembly, by the way, and could be the law instantaneously, does not do that, and that's what it is about.

There is right now competition for the Comptroller's seat. There should be, and that is an election, and at some future point in time, whoever is elected may or may not run for reelection. There will be other candidates who may or may not run for reelection. And to start channeling money from one to another -- or, excuse me, not channeling but counting money spent on one election against another is something we don't do to ourselves.

There are people in this house who run for office and run for reelection, and there is no bill that I've seen that says, well, if you spent so much money this year, two years from now we're going to cancel it off. I mean one election is one election, and the next election is the next election.

That's all my bill does. Otherwise, the disclosure portions are identical, and there is no argument between

Senator Nozzolio and I and the Speaker of the Assembly as to whether or not there should be disclosure. Everybody is in agreement on that issue.

So I would offer this amendment and hope that it passes and we can have one law.

SENATOR NOZZOLIO: Mr. President.

ACTING PRESIDENT KUHL: Senator Nozzolio.

SENATOR NOZZOLIO: Mr. President, on the amendment.

ACTING PRESIDENT KUHL: On the amendment.

SENATOR NOZZOLIO: Mr. President and my colleagues. The amendment has what I view as a fatal flaw. It takes a step backwards in terms of the expenditure limitations. That, in effect, this bill will allow those candidates seeking the office of Comptroller now to double the amount of contribution limit that they can receive. That is not Election Law reform. Election Law reform is not to allow candidates seeking office today to spend twice as much than

they would be allowed to do during an election cycle. That I believe the Minority's amendment steps backwards in terms of seeking Election Law reform and expenditure contribution limits, and that's why I oppose the amendment.

SENATOR GOLD: Party vote.

ACTING PRESIDENT KUHL: On the question of the amendment. All those in favor, signify by saying aye.

SENATOR PRESENT: Party vote in the negative.

ACTING PRESIDENT KUHL: Party vote in the affirmative; party vote in the negative.

The nays have it. The amendment is defeated.

We will have to back step. Call the roll, first.

(The Secretary called the roll. )

THE SECRETARY: Ayes 19, nays 33. Party vote.

ACTING PRESIDENT KUHL: The amendment is defeated. On the bill.

SENATOR GOLD: Last section.

ACTING PRESIDENT KUHL: Read the last section.

THE SECRETARY: Section 8. This act shall take effect immediately and shall apply to contributions made on or after February 18, 1993.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll. )

THE SECRETARY: Ayes 50, nays 2. Senators Gold and Waldon recorded in the negative.

ACTING PRESIDENT KUHL: The bill is passed.

Senator Present.

SENATOR PRESENT: Mr. President. There being no further business, I move we adjourn until tomorrow at 3:00 p.m.

ACTING PRESIDENT KUHL: Senate stands adjourned until tomorrow at 3:00 p.m.

(Whereupon, at 3:40 p.m., the Senate adjourned. )