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ALBANY, NEW YORK

January 18, 1995

3:00 p.m.

REGULAR SESSION

SENATOR JOHN R. KUHL, JR., Acting President

STEPHEN F. SLOAN, Secretary

1 P R O C E E D I N G S

2 ACTING PRESIDENT KUHL: Senate
3 will come to order. Ask the members to take
4 their places.

5 Ask the members to rise and join
6 with me as well as the members in our gallery in
7 saying the Pledge of Allegiance.

8 (The Pledge of Allegiance to the
9 Flag was given.)

10 In the absence of clergy, I would
11 ask the members to bow their heads in a moment
12 of silence.

13 (Whereupon, there was a moment of
14 silence.)

15 Reading of the Journal.

16 THE SECRETARY: In Senate,
17 Tuesday, January 17. The Senate met pursuant to
18 adjournment. The Journal of Saturday, January
19 14, was read and approved. On motion, Senate
20 adjourned.

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

1 Presentation of petitions.
2 Messages from the Assembly.
3 Messages from the Governor.
4 Reports of standing committees.
5 Reports of select committees.
6 Communications and reports from
7 Senate officers.
8 Motions and resolutions.
9 Senator Bruno.
10 SENATOR BRUNO: Yes, Mr.
11 President. I would like to adopt the resolution
12 calendar with the exception of Resolution Number
13 79.
14 ACTING PRESIDENT KUHL: The
15 motion is to approve the resolution calendar
16 with the exception of Resolution Number 79.
17 All those in favor, signify by
18 saying aye.
19 (Response of "Aye.")
20 Opposed, nay.
21 (There was no response.)
22 The resolution calendar is
23 adopted.

1 Senator Bruno.

2 SENATOR BRUNO: Mr. President. I
3 would like to call up Resolution Number 79 and
4 ask that it be read in its entirety.

5 ACTING PRESIDENT KUHL: Secretary
6 will read.

7 THE SECRETARY: Legislative
8 Resolution Number 79, by Senators Bruno, Lack,
9 and others. Legislative Resolution calling for
10 a Conference of the States to be promoted and
11 convened by the Council of State Governments for
12 the purpose of restoring balance in the federal
13 system.

14 Whereas, the United States
15 Constitution established a federalized system of
16 governance which through the Tenth Amendment
17 reserved all non-delegated and non-prohibitive
18 powers to the states or to the people.

19 Over many years, the federal
20 government has dramatically expanded the scope
21 of its power and preempted state government
22 authority.

23 The federal government has

1 generated massive deficits and continues to
2 require state and local governments to maintain
3 programs at substantial cost.

4 The states must, therefore, find
5 a means to consolidate their power through a
6 rallying event that forges consensus and brings
7 states together to bring formal action.

8 The number of federal, unfunded
9 mandates has grown dramatically during the last
10 30 years, profoundly distorting state budgets
11 and drastically impairing the ability of state
12 leaders to provide appropriate and needed
13 services to their constituencies.

14 Persistent, state-led endeavors
15 have consistently failed to generate any
16 substantial reaction or remedy from the federal
17 government.

18 The United States Supreme Court
19 has repeatedly determined that the states must
20 look to the Congress and related political
21 remedies, for protection against federal
22 encroachments on the reserved powers of the
23 states.

1 In recent years, states have been
2 the principal agents of government reform
3 including updating their constitutions,
4 modernizing and structuring governmental
5 institutions, and, along with local governments,
6 have been the pioneers of government innovation,
7 thus, responding to the needs of their
8 citizens.

9 The Conference of the States will
10 communicate broad bipartisan public concern on
11 the extent to which the American political
12 system has been distorted and provide a formal
13 forum for state governments to collectively
14 propose constructive remedies for a more
15 balanced state-federal governance partnership
16 for the 21st century.

17 Now, therefore, be it resolved,
18 that this legislative body pause in its
19 deliberations to call for a Conference of the
20 States to be promoted and convened by the
21 Council of State Governments for the purpose of
22 restoring balance in the federal system and to
23 adopt the following:

1 (1) A delegation, not to exceed
2 seven voting persons from the State of New York,
3 shall be appointed to represent the State of New
4 York at a Conference of the States for the
5 purpose described in Section (2) to be convened
6 as provided in Section (3). The delegation
7 shall not exceed seven voting persons as
8 follows: (a) the Governor or, if the Governor
9 does not wish to be a member of the delegation,
10 then a constitutional officer selected by the
11 Governor; and (b) a number of legislators not to
12 exceed six, three from each house, of which at
13 least one shall be from each major political
14 party selected by the presiding officer of that
15 house. Each presiding officer may designate two
16 alternate legislator delegates, one from each
17 party, who have voting privileges in the absence
18 of the primary delegates.

19 (2) The delegates of the
20 Conference of the States will propose, debate
21 and vote on elements of an action plan to
22 restore checks and balances between states and
23 the national government. Measures agreed upon

1 will be formalized in an instrument called a
2 States' Petition and returned to the
3 delegation's state for consideration by the
4 entire legislature.

5 (3) The Conference of the States
6 shall be convened under the Section 501(c)3
7 auspices of the Council of State Governments in
8 cooperation with the National Governors'
9 Association and the National Conference of State
10 Legislators no later than 270 days after at
11 least 26 legislatures adopt a "Resolution of
12 Participation."

13 (4) Prior to the official
14 convening of the Conference of the States, the
15 Steering Committee will draft: (a) the
16 governance structure and procedural rules for
17 the conference; (b) the process for receiving
18 rebalancing proposals; and (c) the financial and
19 administrative functions of the conference,
20 including the Council of State Governments as
21 fiscal agent.

22 (5) The bylaws shall: (a)
23 conform to the provisions of this resolution;

1 (b) specify that each state delegation shall
2 have one vote at the conference; and (c) specify
3 that the conference agenda be limited to
4 fundamental, structural, long-term reforms.

5 (6) Upon the official convening
6 of the Conference of the States, the state
7 delegations will vote upon and approve the
8 conference governing structure, operating rules,
9 and bylaws; and

10 Be it further, Resolved, that a
11 copy of this resolution, suitably engrossed, be
12 transmitted to the Council of State Governments.

13 ACTING PRESIDENT KUHL: Chair
14 recognizes Senator Lack on the resolution.

15 SENATOR LACK: Thank you, Mr.
16 President.

17 To the members, my apologies that
18 this appears a little bit cut-and-paste. There
19 was a conference called that ended at 10 minutes
20 of 3:00 o'clock in which some changes were made
21 to this that would principally change the
22 delegation from two from each house to three
23 from each house and require that there be at

1 least one from each political party, which is a
2 request that many of us in the legislative side
3 of the Steering Committee to establish this
4 wanted.

5 Basically, what this is is a
6 resolution that is now circulating in 19 state
7 legislatures as of this afternoon and,
8 hopefully, as more start to convene their yearly
9 session, it will be in all 50 state
10 legislatures, recognizing what has happened to
11 the encrustment of the Tenth Amendment which
12 reserves all powers to the states not
13 specifically given to the federal government.

14 Three organizations, the Council
15 of State Governments which is not a lobbying
16 organization and the two lobbying organizations,
17 the National Conference of State Legislators and
18 the National Governors' Association, all on a
19 bipartisan basis, have formulated the Conference
20 of States which, hopefully, will take place in
21 Philadelphia some time towards the end of this
22 year assuming that 26 legislative bodies and 26
23 states have enacted this resolution and 270 days

1 have thereafter passed.

2 The resolution in this house is
3 currently sponsored by every member of the
4 Majority, and, Senator Paterson, I would like to
5 open it to every member of the Minority if you
6 so choose to join with me.

7 Assemblyman Wertz, Bob Wertz, who
8 is the National Chair of the Council of State
9 Governments, has been in touch with Speaker
10 Silver and, hopefully, either by the end of
11 today or tomorrow, the same resolution will be
12 introduced in the Assembly; and, again, it is
13 the same resolution that's now being introduced
14 in state after state.

15 The first state to pass this was,
16 on Monday, the state of Utah which passed the
17 original version and will reconvene to pass the
18 new version.

19 Again, Senator Paterson, I would
20 like to open this to every member of the
21 Minority, if you would like.

22 ACTING PRESIDENT KUHL: Senator
23 Paterson, the desk would like to know if you're

1 willing at this point or want to commit any
2 members. If they would like to be identified to
3 the Secretary, we're willing to do that at this
4 time.

5 SENATOR PATERSON: Thank you, Mr.
6 President. We took two hours settling a
7 resolution yesterday, so I hope you'll indulge
8 me if we take -- in fact, what I need is a
9 five-minute recess. That's what I would like to
10 have right now. But -

11 ACTING PRESIDENT KUHL: Senator
12 Paterson, you still have the floor.

13 SENATOR PATERSON: Also my time
14 isn't up.

15 I would like to advise the
16 members of the Minority that I would like to be
17 on the resolution, as well; and we open it up to
18 all members.

19 ACTING PRESIDENT KUHL: If the
20 members of the Minority will raise their hands,
21 keep them up so that the Secretary can see your
22 hands, we will place you on the resolution.

23 SENATOR DOLLINGER: May I ask a

1 question before I do?

2 ACTING PRESIDENT KUHL: Chair
3 recognizes Senator Dollinger.

4 SENATOR DOLLINGER: Will Senator
5 Lack yield to a question?

6 ACTING PRESIDENT KUHL: Senator
7 Lack, do you yield to a question from Senator
8 Dollinger?

9 SENATOR LACK: Yes.

10 ACTING PRESIDENT KUHL: The
11 Senator yields.

12 SENATOR DOLLINGER: I apologize,
13 Senator. I like the notion of this. Is it fair
14 to describe this as, in essence, sort of a small
15 constitutional convention to look at the
16 relationship between the federal government and
17 the states with respect to reimbursements and
18 formulas and funding? Is that generally what I
19 hear in this?

20 And I apologize for not having
21 known about this before.

22 SENATOR LACK: No, Senator, it is
23 not a constitutional convention. But it

1 certainly is just what it says it is -- a
2 conference of states called on very narrow
3 lines. The only subject to be considered is
4 that of federalism, the relationship of state
5 governments to the federal government and no
6 other subject.

7 SENATOR DOLLINGER: Okay. Mr.
8 President. I appreciate the invitation. I will
9 go on this. Seems to me that this is a good
10 topic for discussion among the states to look at
11 the relationship with the federal government.

12 I would suggest that it might be
13 extremely appropriate to do that here in New
14 York State, as well, is to look at the
15 relationship between this state and its
16 municipalities. We may do that. It would be
17 interesting to do that as a prelude to the 1997
18 constitutional vote that will be put before the
19 voters of this state, when we can get a chance
20 to redesign the Constitution of this state and
21 the relationship between the central government
22 of this state here in Albany and all of our
23 towns and communities, as well.

1 ACTING PRESIDENT KUHL: Senator
2 Dollinger, you will be placed as a sponsor on
3 the resolution. Secretary will record that.

4 Is there any other Senator
5 wishing to speak on this resolution?

6 (There was no response.)

7 Hearing none, the question is on
8 Resolution 79. All those in favor, signify by
9 saying aye.

10 (Response of "Aye.")

11 Opposed, nay.

12 (Response of "Nay.")

13 Senator Montgomery, do you wish
14 to explain your vote?

15 SENATOR MONTGOMERY: No, Senator
16 -- Mr. President. I would just like to be on
17 the resolution.

18 ACTING PRESIDENT KUHL: Fine.

19 SENATOR MONTGOMERY: Thank you.

20 ACTING PRESIDENT KUHL: Senator
21 Montgomery will be listed as a sponsor of the
22 resolution.

23 The ayes have it. The resolution

1 is adopted.

2 Senator Bruno.

3 SENATOR BRUNO: Mr. President.

4 May we return to reports of standing committees.

5 ACTING PRESIDENT KUHL: Secretary
6 will read the reports of standing committees.

7 THE SECRETARY: Senator Kuhl from
8 the Committee on Agriculture reports the
9 following bills directly for third reading:

10 Senate Bill Number 289, by
11 Senator Cook, an act to amend the Agriculture
12 and Markets Law, in relation to agricultural
13 practices.

14 514, by Senators Kuhl and Wright,
15 Agriculture and Markets Law, in relation to
16 duties of the Commissioner of Agriculture and
17 Markets.

18 515, by Senator Kuhl, an act to
19 amend the Agriculture and Markets Law and the
20 Economic Development Law.

21 516, by Senators Kuhl, Larkin,
22 and others, an act to amend the Agriculture and
23 Markets Law, in relation to providing a real

1 property tax abatement.

2 Senator Lack from the Committee
3 on Judiciary reports the following bill directly
4 for third reading:

5 Senate Bill Number 496, by
6 Senator Lack and others, an act to amend the
7 Judiciary Law, in relation to audio-visual
8 coverage of judicial proceedings.

9 Senator Levy from the Committee
10 on Transportation reports the following bills
11 directly for third reading:

12 Senate Bill Number 34, by Senator
13 Holland, to relocate the Spring Valley Toll
14 Plaza of the New York State Thruway.

15 Senate Bill Number 331, by
16 Senator Levy, Vehicle and Traffic Law, in
17 relation to distinctive plates for police
18 officers.

19 369, by Senator Levy, an act to
20 amend the Vehicle and Traffic Law, in relation
21 to authorizing the proration of registration
22 fees.

23 Senator Volker from the Committee

1 on Codes reports the following bills directly
2 for third reading:

3 Senate Bill Number 143, by
4 Senator Holland and others, an act to amend the
5 Penal Law, in relation to the criminal
6 possession of public assistance identification
7 cards.

8 185, by Senator Tully and others,
9 Civil Practice Law and Rules, in relation to
10 forfeiture of property in certain instances.

11 188, by Senator Tully and others,
12 an act to amend the Penal Law, in relation to
13 sexual performance by a child.

14 197, by Senator Volker and
15 others, an act to amend the Penal Law, in
16 relation to resisting arrest.

17 205, by Senator Holland and
18 others, Criminal Procedure Law, in relation to
19 expenses for extradition.

20 213, by Senator Holland, an act
21 to amend the Penal Law, validity of a license to
22 carry or possess a pistol.

23 302, by Senator Kruger and

1 others, an act to amend the Penal Law, in
2 relation to increasing the penalties for
3 loitering.

4 388, by Senator Levy, an act to
5 amend the Criminal Procedure Law, in relation to
6 providing the commission of a traffic
7 infraction, driving while ability impaired.

8 Senator Holland from the
9 Committee on Social Services reports the
10 following bills directly for third reading:

11 Senate Bill Number 136, by
12 Senator Holland and others, an act to amend the
13 Social Services Law, in relation to establishing
14 home relief transition.

15 313, by Senator Holland, an act
16 to amend the Social Services Law, in relation to
17 the notice of conciliation and mediation of
18 disputes.

19 And, 491, by Senator Maltese and
20 others, an act to amend the Social Services Law,
21 in relation to access to criminal history
22 records.

23 All bills reported directly for

1 third reading.

2 ACTING PRESIDENT KUHL: All bills
3 are reported directly to third reading for
4 Monday, January 23.

5 Chair recognizes Senator Bruno.

6 SENATOR BRUNO: Mr. President.
7 There being no further business to come before
8 the Senate, I move we stand adjourned until
9 Monday at 3:00 p.m., intervening days to be
10 legislative days.

11 Thank you.

12 ACTING PRESIDENT KUHL: Without
13 objection, the Senate stands adjourned until
14 Monday, January 23, at 3:00 p.m.

15 (Whereupon, at 3:18 p.m., Senate
16 adjourned.)

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