ALBANY, NEW YORK

April 26, 1995

10:01 a.m.

REGULAR SESSION

SENATOR JOHN R. KUHL, JR., Acting President

STEPHEN F. SLOAN, Secretary An a Senator

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. Ask everybody in the chamber to rise and join with me in saying the Pledge of Allegiance.

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

ACTING PRESIDENT KUHL: Senator Bruno.

SENATOR BRUNO: Mr. President, it's 10:02 by our clock. It's 9:02 Oklahoma time, and I would like to ask, Mr. President, you and those in this chamber in deference to what happened exactly one week ago today in Oklahoma that we join in the call of Governor Keating of Oklahoma that we observe a moment of silence and prayer and in tribute to the victims and the families of the Oklahoma tragedy.

(A moment of silence was observed. )

ACTING PRESIDENT KUHL: Reading of the Journal.

THE SECRETARY: In Senate, Tuesday, April 25th. The Senate met pursuant to adjournment, prayer by the Reverend Peter G. Young. The Journal of Monday, April 24th, was read and approved. On motion, 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 Present.

SENATOR PRESENT: Mr. President, on behalf of Senator Levy, on page 24, I offer the following amendments to Calendar 225, Senate Print 975, and ask that it retain its place on the Third Reading Calendar.

ACTING PRESIDENT KUHL:

Amendments are received and adopted. The bill will retain its place on the Third Reading Calendar.

Senator Present.

SENATOR PRESENT: Mr. President, on behalf of Senator DiCarlo, please place a sponsor's star on Calendar Number 195, 447 and 449.

ACTING PRESIDENT KUHL: Calendar 195, Calendar 447 and what was it?

SENATOR PRESENT: 449.

ACTING PRESIDENT KUHL: 449 are starred at the request of the sponsor.

SENATOR PRESENT: Mr. President, on behalf of Senator Libous, please remove the sponsor's star on 417.

ACTING PRESIDENT KUHL: Sponsor's star is removed on Calendar Number 417.

Senator Saland.

SENATOR SALAND: Mr. President, I'd like to place a sponsor's star on Calendar Number 441, Senate Bill Number 3623, on page 36.

ACTING PRESIDENT KUHL: Calendar Number 441 starred at the request of the sponsor.

Senator Bruno, we have a couple of substitutions at the desk. We'd like to take care of those at this time.

SENATOR BRUNO: Yes, can we do those now, Mr. President.

ACTING PRESIDENT KUHL: Secretary will read.

THE SECRETARY: Senator Seward moves to discharge from the Committee on Consumer Protection Senate Bill 1540 and substitute it for the identical Calendar 498.

Senator Sears moves to discharge from the Committee on Consumer Protection Assembly Bill Number 27 -- 2471-A and substitute it for the identical Calendar Number 499.

Senator Cook moves to discharge from the Committee on Education Assembly Bill Number 6355 and substitute it for the identical Calendar Number 514.

Senator Skelos moves to discharge

from the Committee on Transportation Assembly Bill Number 1823 and substitute it for the identical Calendar Number 576.

Senator Maltese moves to discharge from the Committee on Transportation Assembly Bill Number 290 and substitute it for the identical Calendar Number 580.

ACTING PRESIDENT KUHL: Substitutions are ordered.

Senator Bruno, that brings us to the calendar.

SENATOR BRUNO: Mr. President, I believe there are two resolutions at the desk by Senator Marcellino and Senator Hoblock. I would ask that we have the titles read and that we move for their adoption.

ACTING PRESIDENT KUHL: Secretary will read the titles of two privileged resolutions.

THE SECRETARY: Legislative Resolution, by Senator Hoblock, legislative resolution honoring Paul G. Costin, upon the occasion of his retirement after 22 years of

dedicated service to the New York State Senate Office of Communications.

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

(Response of "Aye.")

Opposed nay.

(There was no response. )

The resolution is adopted. Secretary will continue to call or read the resolution.

THE SECRETARY: Legislative Resolution, by Senator Marcellino, legislative resolution honoring the Long Island Area Chapter of Murdered Children, Incorporated, in recognition of New York State Crime Victims Rights Week April 23rd to 29th, 1995.

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

(Response of "Aye.")

Opposed nay.

(There was no response. )

The resolution is adopted.

Senator Bruno.

SENATOR BRUNO: Mr. President, I believe there is a resolution at the desk sponsored by Senator Hoffmann. I would appreciate also having the title read at this time and moving its immediate adoption.

ACTING PRESIDENT KUHL: Secretary will read the title of the privileged resolution.

THE SECRETARY: Legislative Resolution, by Senator Hoffmann, commending Barbara Aronson upon the occasion of her designation for special honor at the Reserve Officers Association of the United States Awards Dinner in Manlius, New York, April 29, 1995.

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

(Response of "Aye.")

Opposed nay.

(There was no response. )

The resolution is adopted.

Senator Bruno, that brings us to the calendar.

SENATOR BRUNO: Mr. President, can we now take up the non-controversial calendar.

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

THE SECRETARY: Calendar Number 318, by Senator Saland, Senate Print 2104, an act to amend the Family Court Act, in relation to evidence of child neglect.

ACTING PRESIDENT KUHL: Secretary will read the last section.

THE SECRETARY: Section 4. This act shall take effect 120 days.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll. )

THE SECRETARY: Ayes 35.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 322, by Senator Goodman, Senate Print 2263, an

act to amend the Social Services Law, in relation to making certain records available to the state Comptroller.

ACTING PRESIDENT KUHL: Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll. )

THE SECRETARY: Ayes 35.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 329, by Senator Seward, Senate Print 3422, an act to amend the Public Service Law, in relation to extending the period of time for Public Service Commission to take final action on a petition to order the purchase of national gas.

ACTING PRESIDENT KUHL: 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 336, by Senator Kuhl, Senate Print 3668, an act to amend the Agriculture and Markets Law, in relation to improving the agricultural districts program.

SENATOR PATERSON: Lay aside.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar Number 355, by Senator Trunzo, Senate Print 3606, an act to amend the Civil Service Law, in relation to the state Civil Service Commission.

ACTING PRESIDENT KUHL: Secretary will read the last section.

THE SECRETARY: Section 2. This act shall take effect on the 1st day of September.

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 365, by Senator Leibell, Senate Print 2560, an act to amend the Public Authorities Law, in relation to authorizing and requiring the Metropolitan Transportation Authority.

ACTING PRESIDENT KUHL: 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 41.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 371, by Senator Padavan, Senate Print 2529, an

act to amend the Education Law, in relation to empowering community boards of community school districts.

SENATOR PATERSON: Lay aside.

ACTING PRESIDENT KUHL: Secretary will read the last section.

SENATOR PATERSON: Lay aside.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar Number 373, by Senator Cook, Senate Print 2902, an act to amend the Education Law, in relation to authorizing wire transfer of state aid payments to school districts.

ACTING PRESIDENT KUHL: Secretary will read the last section.

THE SECRETARY: Section 3. This act shall take effect on the 1st day of July.

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 387, by Senator Lack, Senate Print 2833, an act to amend Chapter 689 of the Laws of 1993, amending the Criminal Procedure Law.

ACTING PRESIDENT KUHL: 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 399, by Senator Velella, Senate Print 295, an act to amend the Surrogate's Court Procedure Act, in relation to requiring that information in the statewide register of child abuse and maltreatment.

ACTING PRESIDENT KUHL: 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 409, by Senator Levy, Senate Bill Number -

SENATOR BRUNO: Lay the bill aside.

ACTING PRESIDENT KUHL: Lay aside for the day.

THE SECRETARY: Calendar Number 488, Committee on Rules, Senate Print 4323, an act to amend the Racing, Pari-mutuel Wagering and Breeding Law and Chapter 281 of the Laws of 1994.

ACTING PRESIDENT KUHL: 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 44.

ACTING PRESIDENT KUHL: The bill is passed.

Senator Bruno, that completes the non-controversial calendar.

SENATOR BRUNO: Mr. President, can we now take up the controversial calendar.

ACTING PRESIDENT KUHL: Secretary will read the controversial calendar.

THE SECRETARY: Calendar Number 336, by Senator Kuhl, Senate Print 3668, an act to amend the Agriculture and Markets Law, in relation to improving the agricultural districts program.

SENATOR PATERSON: Explanation.

ACTING PRESIDENT KUHL: Lay the bill aside for the day.

SENATOR STAFFORD: Mr. President, this is just a -

ACTING PRESIDENT KUHL: May we

have a little order in the house. Getting pretty noisy.

SENATOR BRUNO: Mr. President, if Senator Stafford will forgive the interruption, I'd like to ask for an immediate meeting of the Housing Committee in Room 332.

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

The Chair recognizes Senator Stafford.

SENATOR STAFFORD: Mr. President, I'm -

ACTING PRESIDENT KUHL: Senator Stafford.

SENATOR STAFFORD: Mr. President, I'm sure that you could do a much better job with this bill, but it's such a good bill, I think that it should pass today providing that your -- that is your wishes.

It's the Agriculture and Markets Law, in relation to improvements of agricultural

districts.

ACTING PRESIDENT KUHL: Thank you for your courtesy, Senator Stafford. I think Monday would be fine, of next week, for the bill.

SENATOR STAFFORD: All right.

ACTING PRESIDENT KUHL: Thank you.

Secretary will continue to call the controversial calendar.

THE SECRETARY: Calendar Number 371, by Senator Padavan, Senate Print 2529, an act to amend the Education Law, in relation to empowering community boards of community school districts.

SENATOR PATERSON: Explanation.

ACTING PRESIDENT KUHL: Senator Padavan, an explanation has been asked for on Calendar Number 371 by Senator Paterson.

SENATOR PADAVAN: Decentralization provides for the governance of schools within the city of New York by 32 school districts, superintendents and local school

boards. This bill would extend their authority in matters of safety, particularly as it relates to the children getting to school in that they would make a determination as to whether or not a school or the district in its entirety should be closed for a given day as a result of a snowstorm or similar circumstance.

Currently, that decision must be made by the chancellor, who obviously can be far removed from many parts of the city of New York particularly when we talk about outlying areas such as Staten Island and eastern Queens and northern Bronx.

ACTING PRESIDENT KUHL: Chair recognizes Senator Paterson.

SENATOR PATERSON: Mr. President, would Senator Padavan yield for a quick question?

ACTING PRESIDENT KUHL: Senator Padavan, do you yield to Senator Paterson for a question, sir? Senator yields.

SENATOR PATERSON: Mr. President, Senator Padavan, I'll share with you the concern

that I wanted to raise, the fact that it is very confusing, particularly in New York City, that the school boards are based pretty much in the same area, and it's hard to basically get the news out as to whether those area schools are open or closed.

At the same time, I understand your concern because there have been some problems at times with the size of New York City where you might have a situation where the central board, which is in -- which is in Brooklyn, would think that the schools should be open, but there are parts of Queens where the snow may have reached an accumulation that it would be better that the school be closed.

So that rather than have it on a school -- on a district basis, would you consider possibly doing it somehow on a borough basis and not -- this is not an endorsement of borough boards, but do you see the problem that I'm trying to raise with the school boards being so close together that it's difficult for the parents to find out whether or not the school is

going to be open?

SENATOR PADAVAN: Senator Paterson, I have no problem with that except that when we deal with governance and a decision has to be made, we do have a decentralization system since the mid-'60s that establishes a superintendent in a school district.

Now, what you're suggesting is that the superintendents of a number of school districts would have to somehow caucus on a given day and make a determination on a boroughwide basis. I think, practically speaking, that might be very difficult to accomplish.

An individual superintendent, let's say hypothetically -- and it is not hypothetical, because it did happen, we have a terrible storm on a Sunday which makes driving very, very hazardous in parts of Staten Island and presents no real problem for Manhattan. The superintendent of that school district in Staten Island, I think, reasonably should be allowed to make a judgment that says hazard is substantial,

and so I am directing that the schools not be open on Monday.

That, then, can be easily communicated by those schools, and what generally happens, parents call in, in many instances, and they'll find out that way, but certainly, if you turn on the radios in the city of New York, you know that on storm -- on occasions of storms, they will articulate schools that are open and schools that are closed, both public and private. You've heard that, I'm sure, all the time.

So there should really be no problem for a given school district to communicate to the parents in that district that that district will not be open on a given day.

ACTING PRESIDENT KUHL: Senator Paterson.

SENATOR PATERSON: Thank you, Mr. President.

Last year, Senators Espada, Galiber, Gold, Leichter, Montgomery, Mendez, Smith and a Senator named Paterson voted against

this bill. However, this year, because of the persuasive nature of Senator Padavan's presentation and also because he's sitting directly behind me, I think I'm going to vote for this bill, and Senator Smith is as well because he's sitting behind her too right now.

Thank you, Mr. President.

ACTING PRESIDENT KUHL: Secretary will read the last -- Senator Marchi, did you wish to speak on the bill?

SENATOR MARCHI: Yes.

ACTING PRESIDENT KUHL: Senator Marchi.

SENATOR MARCHI: Mr. President, this is -- this is an excellent bill. When we consider that each of the community districts in the city of New York, in terms of the number of pupils that are affected in the city of New York, of course is over 300 square miles, separated by waterways and everything else, you don't have an even pattern of weather prevailing in each and every nook and cranny of the city, and certainly my -- my own county is a -

District 31 is a classic example of tremendous differences.

But it also applies to other districts, so Senator Padavan, I think, is eminently correct in asking that a community district in New York City, in terms of pupil attendance, is larger than most of the school districts throughout the state of New York, and the ability to respond to the uneven impact of harsh weather circumstances, I think, is an enlightened step, and I would hope there may be other ways of handling it, but I think this is the best way to pinpoint the problems and enable a district to react to circumstances rather than wait on some unknowing voice and observer to make that decision.

I think that this is eminently desirable. As I say again, it's larger than almost any district in the state of New York, any community district in the city of New York, and it should have that capability.

ACTING PRESIDENT KUHL: 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 44.

ACTING PRESIDENT KUHL: The bill is passed.

Senator Bruno, that completes the calendar. We have just a little housekeeping here, if we could take that.

SENATOR BRUNO: Mr. President, is there any housekeeping items at the desk that we should take up at this particular time?

ACTING PRESIDENT KUHL: Senator Wright.

SENATOR WRIGHT: Mr. President, on behalf of Senator Levy, I request that the sponsor's star be removed from Calendar Number 79, Senate Bill Number 384-C.

ACTING PRESIDENT KUHL: The star will be removed on Calendar Number 79 at the request of the sponsor.

Senator Bruno, that completes the housekeeping that we have here, sir.

SENATOR BRUNO: Housekeeping at the desk is completed, Mr. President?

ACTING PRESIDENT KUHL: It is.

SENATOR BRUNO: Is that what we are led to understand?

ACTING PRESIDENT KUHL: That's what we are led to believe.

SENATOR BRUNO: Thank you, Mr. President. And as I understand it, they are still deliberating at the Housing Committee in Room 332. Senator Paterson, they're still deliberating, and there is some activity here in the chamber that we would like to keep the calendar open for, the roll call, is that correct?

SENATOR PATERSON: Yes.

SENATOR BRUNO: But given that circumstance, any of the members that are diligently pursuing the interests of the state that aren't in the chamber will come in and vote because we will keep the roll call open on this

particular bill that's before the house. And, Mr. President, there being no further business to come before the Senate at this time, I move that we adjourn until Monday at 3:00 p.m., intervening days to be legislative days.

ACTING PRESIDENT KUHL: Without objection, the Senate stands adjourned until Monday, May 1st, at 3:00 p.m., intervening days to be legislative days.

(Whereupon at 10:24 a.m., the Senate adjourned. )