ALBANY, NEW YORK

March 24, 1998

3:05 p.m.

REGULAR SESSION

SENATOR JOHN R. KUHL, JR., Acting President

STEVEN M. BOGGESS, 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 and join me in saying the Pledge of Allegiance to the Flag.

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

We'll delay the saying of the prayer as we're waiting currently for the arrival of the clergy.

So we'll move on to the reading of the Journal.

THE SECRETARY: In Senate, Monday, March 23rd. The Senate met pursuant to adjournment. The Journal of Sunday, March 22nd, was read and approved. Upon 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.

The Secretary will read.

THE SECRETARY: Senator Wright, from the Committee on Alcoholism and Drug Abuse, reports:

Senate Print 4224-A, by Senator Wright, an act to amend the Vehicle and Traffic Law;

6422, by Senator Wright, an act to amend the Mental Hygiene Law;

6460, by Senator Wright, an act to amend the Mental Hygiene Law;

6477, by Senator Wright, an act to amend the Vehicle and Traffic Law.

Senator Padavan, from the Committee on Cities, reports:

Senate Print 899-A, by Senator Cook, an act to amend the General City Law, the Town Law and the Village Law;

6389, by Senator Padavan, an act to amend Chapter 890 of the Laws of 1982.

Senator Spano, from the Committee on Labor, reports:

Senate Print 6261, by Senator Spano, an act to amend the Labor Law;

6400, by Senator Spano, an act to amend the Labor Law.

Senator Volker, from the Committee on Codes, reports:

Senate Print 92-A, by Senator Velella, an act to amend the Penal Law;

341, by Senator Skelos, an act to amend the Penal Law;

414, by Senator Goodman, an act to amend the Penal Law;

1187, by Senator Velella, an act to amend the Penal Law;

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

1556, by Senator Leibell, an act to amend the Penal Law;

1592, by Senator Holland, an act to amend the Public Health Law;

2011, by Senator Padavan, an act to amend Penal Law;

2074, by Senator Rath, an act to amend the Penal Law;

2223, by Senator Padavan, an act to amend the Penal Law;

2334-A, Senator Velella, an act to amend the Penal Law;

2600, by Senator Velella, an act to amend the Penal Law;

3564-A, by Senator Maltese, an act to amend the Penal Law;

4917, by Senator Nozzolio, an act to amend the Civil Practice Law and Rules;

5180, by Senator Volker, an act to amend the Penal Law;

5294, by Senator Nozzolio, an act to amend the Penal Law;

5353, by Senator Volker, an act to amend the Criminal Procedure Law;

4595-A, by Senator Saland, an act to amend the Criminal Procedure Law;

6604, by Senator Volker, an act to amend the Penal Law.

Senator Rath, from the Committee on Local Government, reports:

Senate Print 1494-A, by Senator Hannon, an act authorizing the county of Nassau;

1951-A, by Senator Libous, an act to amend the County Law;

2548, by Senator Holland, an act

to authorize and direct the town of Ramapo;

2795, by Senator Nozzolio, an act to amend the Real Property Tax Law;

3998, by Senator Present, an act to amend the Real Property Tax Law;

6146, by Senator Libous, an act to amend the County Law;

6222, by Senator Volker, an act to amend the Local Finance Law;

6227, by Senator Hannon, an act in relation to permitting;

6263, by Senator Hannon, an act in relation to authorizing;

6281, by Senator Leibell, an act to amend the Real Property Tax Law;

6304, by Senator Johnson, an act to authorize the Freedom Chapel Assembly of God;

6336, by Senator Leibell, an act to amend Chapter 680 of the Laws of 1996.

Senator Present, from the Committee on Commerce, Economic Development and Small Business, reports:

Senate Print 764, by Senator Present, an act to amend the State Administrative Procedure Act;

3685, by Senator LaValle, an act to amend the Public Authorities Law;

6467, by Senator Saland, an act to amend Chapter 705 of the Laws of 1993.

All bills directly for third reading.

ACTING PRESIDENT KUHL: All bills ordered directly to third reading.

Reports of select committees.

Communications and reports from state officers.

Motions and resolutions.

Senator Skelos.

SENATOR SKELOS: Mr. President, at this time may we please adopt the Resolution Calendar with the exception of Resolution 2924.

ACTING PRESIDENT KUHL: The motion is to accept the Resolution Calendar on the desks of the members with the exception of Resolution Number 2924. All those in favor signify by saying aye.

(Response of "Aye".)

Opposed, nay.

(There was no response.)

The Resolution Calendar is

adopted.

Senator Skelos.

SENATOR SKELOS: On behalf of Senator Bruno, may we please have the title read on Resolution 2924 and move for its immediate adoption.

ACTING PRESIDENT KUHL: The Secretary will read the title to Resolution Number 2924.

THE SECRETARY: By Senator Bruno, Legislative Resolution commending the Arthritis Foundation upon the occasion of its 50th anniversary.

ACTING PRESIDENT KUHL: Is there any Senator wishing to speak on the resolution?

(There was no response.)

Hearing none, the 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 SKELOS: Mr. President.

ACTING PRESIDENT KUHL: Senator

Skelos.

SENATOR SKELOS: On Senator Bruno's resolution, if anybody would like to sponsor it, they should notify the desk.

ACTING PRESIDENT KUHL: Resolution Number 2924 is open for the sponsor ship by members. I see many members raising their hands, Senator Skelos. Would you like to put all the members on rather than those who don't wish? Shall we put all the members on, Senator Skelos?

SENATOR SKELOS: If anybody would not like to be on the resolution, please notify the desk.

ACTING PRESIDENT KUHL: All the members will be included as co-sponsors on Resolution Number 2924, excepting those members who specifically designate to the desk that they don't wish to be sponsors.

Senator Skelos.

SENATOR SKELOS: Mr. President, are there any substitutions to the made?

ACTING PRESIDENT KUHL: There are not. That brings us to the calendar, Senator.

SENATOR SKELOS: Okay. We'll

start the non-controversial calendar.

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

THE SECRETARY: Calendar Number 323, by the Assembly Committee on Rules, Assembly Print 8094-A, an act to amend the Executive Law, in relation to establishing Children's Day as a day of commemoration.

SENATOR DeFRANCISCO: Lay the bill aside, please.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar Number 347, by Senator Alesi, Senate Print 5122-C, an act to amend the General Business Law and the Executive Law.

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

THE SECRETARY: Section 6. 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 49.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 358, by Senator Volker, Senate Print 6110, an act to amend the Local Finance Law, in relation to the sale of bonds.

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 49.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 367, by Senator Rath, Senate Print 4412-A, an act to amend the Civil Practice Law and Rules and the Executive Law.

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

THE SECRETARY: Section 3. 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 50.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 379, by Senator LaValle, Senate Print 3134, an act to amend the General Municipal Law.

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 50.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 388, by Senator Johnson, Senate Print 2884-A, an act to amend the Education Law, in relation to authorizing.

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.)

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

THE SECRETARY: Ayes 52, nays 1, Senator Leichter recorded in the negative.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 403, by Senator Lack, Senate Print 5162-A, an act to amend -

SENATOR SKELOS: Lay it aside for the day.

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

THE SECRETARY: Calendar Number 408, by Senator Johnson, Senate Print 6252, an act to amend Chapter 572 of the Laws of 1994.

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 53.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 409, by Senator Holland, Senate Print 6326, an act to amend Chapter 433 of the Laws of 1997.

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 53.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 413, by Senator Saland, Senate Print 4519-A, an act to amend the Domestic Relations Law.

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

THE SECRETARY: Section 47. This act shall take effect immediately.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 53.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 414 -

ACTING PRESIDENT KUHL: Senator Meier, did you wish to be recorded in the negative on Calendar Number 413?

SENATOR MEIER: That's correct.

ACTING PRESIDENT KUHL: Without objection, hearing no objection, Senator Wright will be recorded in the negative on Calendar Number 413.

THE SECRETARY: Those recorded in the negative on Calendar Number 413 are Senators DeFrancisco, Meier and Wright. Also, Senator Farley. Ayes 49, nays 4.

ACTING PRESIDENT KUHL: The bill

is passed.

THE SECRETARY: Calendar Number 414, by Senator Saland, Senate Print 5175, an act to amend the Domestic Relations Law.

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

THE SECRETARY: Section 3. This act shall take effect in 90 days.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 53.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 415, by Senator Kuhl, Senate Print 901, an act to amend the Vehicle and Traffic Law, in relation to authorizing the operation of farm motor vehicles.

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 54.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 417, by Senator Rath, Senate Print 3671, an act to amend the Vehicle and Traffic Law, in relation to mandatory suspension.

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 54.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 421, by Senator Farley, Senate Print 1825, an act to amend the Public Officers Law, in relation to power of the state legislators.

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 53, nays 1, Senator Cook recorded in the negative.

ACTING PRESIDENT KUHL: The bill is passed.

SENATOR SKELOS: Mr. President, I believe Calendar Number 323 was inadvertently laid aside. Could we bring that up at this time.

ACTING PRESIDENT KUHL: We'll return to Calendar Number 323. The Secretary will read the title.

THE SECRETARY: Calendar Number 323, by the Assembly Committee on Rules, Assembly Print 8094-A, an act to amend the Executive Law, in relation to establishing Children's Day as a day of commemoration.

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.)

ACTING PRESIDENT KUHL: Senator DeFrancisco to explain his vote.

SENATOR DeFRANCISCO: Yes. I'm going to vote in the affirmative, but I just wanted to give a little history about this bill because it's sort of interesting. It may be interesting to the students who are here with us.

Back 11 years ago, a fourth grade class in Syracuse, New York, as a school project proposed a bill that -- this bill actually to my predecessor saying that a day should be set aside as an observance for Children's Day. That bill was -- never passed both houses, I should say.

ACTING PRESIDENT KUHL: Senator DeFrancisco, can we have a little order in the chamber, please? Will the members please take their seats. If they need to have a conversation, would you take the conversation out of the chamber. Show a little respect to the Senator who has the floor for the purposes

of explaining his vote.

Thank you, Senator DeFrancisco.

SENATOR DeFRANCISCO: So it didn't pass during my predecessor's term in office, and I picked it up six years ago and we've been consistently passing this bill in the New York State Senate.

This year the Assembly passed the bill as well, designating the first Sunday in June as Children's Day. The students whose project this bill arose under were, I believe eight years old at the time. They're now 19 and finally Sylvia -- excuse me -- Tina Norton's fourth grade class has a bill that they proposed that will become law of the state of New York and wherever they are, I commend them for their courage. I was just concerned that maybe they would be here in the Senate or the Assembly passing their own bill if we didn't work on it any quicker.

So the bill is passed. I'm very pleased to say that this was citizen input, young people's input that made it happen.

ACTING PRESIDENT KUHL: Senator DeFrancisco will be recorded in the

affirmative. Announce the results.

THE SECRETARY: Ayes 54.

ACTING PRESIDENT KUHL: The bill is passed.

SENATOR GOODMAN: Mr. President.

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

SENATOR GOODMAN: I would like to make an announcement. There will be an immediate meeting of the Committee on Investigations, Taxation and Government Operations in Room 332, the Majority Conference Room.

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

Senator Volker.

SENATOR VOLKER: Mr. President, immediately after the meeting that Senator Goodman just announced, there will be another committee meeting in the same place, in 332, the Social Services Committee, Social Services Committee by Senator Holland.

ACTING PRESIDENT KUHL: Social

Services Committee will meet immediately following the Committee on Taxation in Room 332, the Majority Conference Room.

SENATOR VOLKER: Yes, after this meeting that's going on right now.

ACTING PRESIDENT KUHL: It's getting confusing, Senator Volker.

SENATOR VOLKER: Would you like to recognize the clergy now for the -

ACTING PRESIDENT KUHL: We would. If all the members would please stand. We're very, very pleased and honored to have the Reverend Kirkpatrick G. Cohall, Pastor of the Lenox Road Baptist Church from Brooklyn, New York, to deliver the prayer today.

REVEREND KIRKPATRICK G. COHALL: Let us pray. O God, creator of the heavens and the earth and all therein, we Your servants give You thanks for all Your goodness and Your love and kindness to us and to all whom You have made.

We bless You for our creation, our preservation and the blessing of this life and we pray, O God, give us such an awareness of Your mercies, that with truly thankful hearts,

we may show forth Your praise by giving up ourselves to Your service and by walking before You in truth, justice and righteousness.

We ask this day that You will grant wisdom to all of those who deliberate the state of affairs of this great state. We ask Your blessing on all our elected officials chosen by the people and by You to lead and serve this state and this country.

May we be reminded of the great words from the Psalms that except God builds a house, the laborers labor in vain.

Therefore, O God, grant us all a discerning heart that we may truly be instruments of Your peace and Your grace this day and for the rest of our lives. Amen.

SENATOR VOLKER: Mr. President.

ACTING PRESIDENT KUHL: Senator Volker.

SENATOR VOLKER: Is there any housekeeping?

ACTING PRESIDENT KUHL: Senator Volker.

SENATOR VOLKER: Mr. President, I think we should stand at ease pending the

reports of the two committees that just went out, Investigations, Taxation and Government Operations and Social Services and when we come back, if there's nothing else, we will adjourn until tomorrow at 11:00 a.m.

ACTING PRESIDENT KUHL: The Senate will stand at ease awaiting the two committee reports.

SENATOR VOLKER: Recognize Senator Paterson, please, for an announcement.

ACTING PRESIDENT KUHL: Before we stand at ease, Senator Paterson.

SENATOR PATERSON: Mr. President, there will be a conference of the Minority in the Minority Conference Room at the close of session. So for those who are going to committee meetings or leaving the area at this time, immediately at the close of session, there will be a Minority Conference meeting in Room 314, the Minority Conference Room.

ACTING PRESIDENT KUHL: At the close of session, there will be a meeting of the Minority Conference in the Minority Conference Room, Room 314. The Senate will stand at ease.

(Whereupon, the Senate stood at

ease from 3:24 p.m. to 3:36 p.m. )

ACTING PRESIDENT KUHL: Senate will come to order.

Senator Larkin.

SENATOR LARKIN: Mr. President, may we now return to reports of standing committees.

ACTING PRESIDENT KUHL: We'll return to the reports of standing committees. I'll ask the Secretary to read the reports of the two committees that are at the desk.

THE SECRETARY: Senator Goodman, from the Committee on Investigations, Taxation and Government Operations, reports:

Senate Print 5809-B, by Senator Rath, an act to amend the Tax Law;

6478, by Senator Wright, an act to amend the Tax Law;

6479, by Senator Wright, an act to amend the Tax Law;

6481, by Senator Wright, an act to amend the Tax Law;

6504, by Senator Nozzolio, an act to amend Chapter 55 of the Laws of 1992;

3680, by Senator Goodman, an act

to amend the Alcoholic Beverage Control Law.

Senator Holland, from the Committee on Social Services, reports.

Senate Print 6584-A, by Senator Maziarz, an act to amend the Social Services Law.

All bills directly for third reading.

ACTING PRESIDENT KUHL: All bills are ordered directly to third reading.

Senator Larkin.

SENATOR LARKIN: Mr. President, is there any housekeeping?

ACTING PRESIDENT KUHL: The desk is clean, Senator Larkin.

SENATOR LARKIN: Can we return to motions and resolutions and recognize Senator Goodman, please.

SENATOR GOODMAN: Mr. President, briefly I would like to just say a quick word about two resolutions which passed earlier today.

The first of these relates to a lady whose name is Jeannette D. Kahlenberg who served for 11 years as the executive director of

the Citizens Union of New York. Jeannette Kahlenberg who was executive director served with great distinction.

ACTING PRESIDENT KUHL: Senator Goodman, it's very, very difficult to hear you. If we could have it a little quiet in the chamber. If there are needs for conversations, please take them out of the chamber.

Senator Goodman, I would just remind you that this is a new sound system, so you really need to speak very up a little bit.

The Chair recognizes Senator Goodman.

SENATOR GOODMAN: Thank you, Mr. President.

I'm pleased to say a word on behalf of a resolution honoring the retirement of Jeannette Kahlenberg as the executive director of the Citizens Union of New York.

Miss Kahlenberg has had a distinguished career. She was a graduate of Wellesley College, got her Master's degree from Columbia and as the executive director of Citizens Union presided with great distinction over the affairs of this extremely important

civic organization.

Her retirement calls to mind her many years of dedicated services, and I wish to simply underline for the body the remarkable work that she has done and have us long remember and honor her for that.

Secondly, I would like to speak to the resolution honoring Jane Alexander who is recently retired as the chairman of the National Endowment for the Arts. She has been in the Endowment fighting for artistic freedom and has been the leading spokesperson for the advancement of arts and culture in the United States.

Under her leadership, the Arts Endowment began a partnership with the Department of Justice and Education which has served at-risk youth through the arts and greatly improved art education, research and development.

She has successfully reorganized the Arts Endowment to emphasize partnerships and cross-disciplinary initiatives, including many exceptionally note worthy efforts to upgrade arts in the United States.

In every way she's been a dedicated public servant. Many of you will remember her for her staring role in "The Sisters Rosensweig", a Broadway hit play which won many Tony Awards and in general it's a source of great pleasure and a matter of substantial honor to be paid her since she is both a gifted actress and an individual who devoted five years of her life to the advancement of the arts in the United States of America.

Thank you, Mr. President.

SENATOR LARKIN: There being no further business, the Senate will adjourn until Wednesday, March the 25th, at 11:00 a.m.

ACTING PRESIDENT KUHL: Senator Paterson.

SENATOR PATERSON: I just wanted -- my counsel, Senator Marchi, reminded me that the Minority is having a conference right after session.

ACTING PRESIDENT KUHL: Once again, there will be a Minority Conference in the Minority Conference Room, Room 314, immediately upon adjournment and without

objection, the Senate stands adjourned until tomorrow, Wednesday, 11:00 a.m., reminding members of the Majority that there is a planned conference of the Majority at 10:00 a.m. prior to session. The Senate stands adjourned.

(Whereupon, at 3:41 p.m., the Senate adjourned.)