NEW YORK STATE SENATE

THE STENOGRAPHIC RECORD

ALBANY, NEW YORK

April 29, 2003

3:45 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. I ask the members to find their chairs, staff to find their places.

And I ask everybody in the chamber to rise and join with me in the Pledge of Allegiance to the Flag.

(Whereupon, the assemblage recited the Pledge of Allegiance to the Flag.)

ACTING PRESIDENT KUHL: We're very, very pleased to have the Reverend Winston Platt, from the First Baptist Church of Warsaw, New York, to deliver the invocation.

Reverend Platt.

REVEREND PLATT: Let us pray.

Great God of heaven, creator and sustainer of Your universe, we count it a privilege to come into Your presence this afternoon. Thank You for Your graciousness to us. We acknowledge You as the sovereign God of Your universe.

And, Father, this afternoon we praise You for the measure of health and

safety that You have given to each one of us, especially in difficult times. This afternoon, O God, we praise You for the success and safety that You have been giving to our troops overseas. We honor You as a God of safety.

Father, this afternoon, though we know we are unworthy, we thank You for Your blessing on us, on this state, and on this nation.

As we bow in Your presence today, we humbly ask for Your best in each of our lives, in our relationship with You, in the relationships that each of us have with spouses, with children, in our responsibilities.

And, Father, with Solomon of old, we acknowledge that especially in Your presence we are but children; we need Your wisdom. And so, with him, we ask for an understanding, a hearing heart, that we may discern between good and evil.

Father, we ask this in accordance with Your promise that if any man lacks wisdom he may ask of You, You who give to all men

liberally, generously, and without reproach.

Father, we do ask for Your continued blessing on us as a state, on us as a nation, as well as on us individually.

And now, Father, to You who are able to keep us from stumbling, to You who are able to make us stand in the presence of Your glory, blameless with great joy, to You, the only God our savior, through Jesus Christ our Lord, be glory, majesty, dominion and authority, before all time and now and forever.

Amen.

ACTING PRESIDENT KUHL: Reading of the Journal.

THE SECRETARY: In Senate, Monday, April 28, the Senate met pursuant to adjournment. The Journal of Sunday, April 27, 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.

Senator Bruno.

SENATOR BRUNO: Mr. President, is there a message regarding Assembly 8023 previously passed by both houses and overridden by the Assembly?

ACTING PRESIDENT KUHL: Yes, there is.

The Secretary will read.

THE SECRETARY: Assembly Print Number 8023, by the Assembly Committee on Rules, an act to amend the Education Law.

ACTING PRESIDENT KUHL: Senator Bruno.

SENATOR BRUNO: Mr. President, I move to override the Governor's veto of Assembly 8023.

ACTING PRESIDENT KUHL: The Secretary will read the title of the bill.

THE SECRETARY: Calendar Number 468, by the Assembly Committee on Rules, Assembly Print Number 8023, an act to amend the Education Law, in relation to adjournment of school district elections and budget votes in certain school districts.

ACTING PRESIDENT KUHL: The bill

is before the house.

I'll put the motion of Senator Bruno to override the veto before all of you: Senators, ought the same become law notwithstanding the veto of the Governor?

The Secretary will call the roll.

THE SECRETARY: Section 2. This act shall take effect immediately.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

SENATOR PATERSON: Party vote in the affirmative.

SENATOR BRUNO: Party vote in the affirmative.

ACTING PRESIDENT KUHL: Announce the results.

THE SECRETARY: Ayes, 37. Nays, 24. Party vote.

(Laughter.)

ACTING PRESIDENT KUHL: The Secretary will announce the results again.

Senator Paterson, you did have a request to have the party --

SENATOR PATERSON: He seemed to

misunderstand the collegiality and the collectiveness of this body.

(Laughter.)

SENATOR PATERSON: We voted in the affirmative, Mr. President.

ACTING PRESIDENT KUHL: The Secretary will announce the results.

THE SECRETARY: Ayes, 58.

ACTING PRESIDENT KUHL: The motion to override the Governor's veto is carried.

(Applause.)

ACTING PRESIDENT KUHL: Messages from the Governor.

Reports of standing committees.

Reports of select committees.

Communications and reports from state officers.

Motions and resolutions.

SENATOR BRUNO: Mr. President, are there any substitutions at the desk?

ACTING PRESIDENT KUHL: There are, Senator.

SENATOR BRUNO: Can we take up them up at this time.

ACTING PRESIDENT KUHL: The Secretary will read the substitutions.

THE SECRETARY: On page 11, Senator Marcellino moves to discharge, from the Committee on Environmental Conservation, Assembly Bill Number 4081 and substitute it for the identical Senate Bill Number 893, Third Reading Calendar 125.

On page 18, Senator Volker moves to discharge, from the Committee on Codes, Assembly Bill Number 5422A and substitute it for the identical Senate Bill Number 2482A, Third Reading Calendar 278.

On page 21, Senator Hoffmann moves to discharge, from the Committee on Agriculture, Assembly Bill Number 380 and substitute it for the identical Senate Bill Number 177, Third Reading Calendar 349.

And on page 28, Senator Skelos moves to discharge, from the Committee on Codes, Assembly Bill Number 6893A and substitute it for the identical Senate Bill Number 2956A, Third Reading Calendar 452.

ACTING PRESIDENT KUHL: The substitutions are ordered.

We'll return to reports of standing committees.

The Secretary will read.

THE SECRETARY: Senator Velella, from the Committee on Labor, reports the following bills:

Senate Print 2638A, by Senator Mendez, an act to amend the Workers' Compensation Law;

And Senate Print 2683A, by Senator Mendez, an act to amend the Workers' Compensation Law.

Both bills ordered direct to third reading.

ACTING PRESIDENT KUHL: Without objection, all bills reported directly to third reading.

Senator Skelos.

SENATOR SKELOS: Mr. President, if we could adopt the Resolution Calendar in its entirety.

ACTING PRESIDENT KUHL: The motion is to adopt the Resolution Calendar. All those in favor signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT KUHL: Opposed, nay.

(No response.)

ACTING PRESIDENT KUHL: The Resolution Calendar is adopted.

Senator Skelos.

SENATOR SKELOS: If we could go to the noncontroversial reading of the calendar.

ACTING PRESIDENT KUHL: The Secretary will read the noncontroversial reading of the calendar.

THE SECRETARY: Calendar Number 234, by Senator Volker, Senate Print 2662, an act to amend Chapter 198 of the Laws of 1978.

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, 58.

ACTING PRESIDENT KUHL: The bill is passed.

The Secretary will continue to read.

THE SECRETARY: Calendar Number 235, by Senator Morahan, Senate Print 2825, an act authorizing the Greenwood Lake Union Free School District.

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, 58.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 269, by Senator Rath, Senate Print 1678, an act to amend the Penal Law, in relation to assaults committed in the presence of certain children.

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

THE SECRETARY: Section 2. This act shall take effect on the first of

November.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT KUHL: Record the negatives and announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 269 are Senators Andrews, Hassell-Thompson, and Montgomery. Ayes, 56. Nays, 3.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 356, by Senator Skelos, Senate Print 2298, an act to amend the Agriculture and Markets Law, in relation to detection dogs.

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, 59.

ACTING PRESIDENT KUHL: The bill

is passed.

THE SECRETARY: Calendar Number 368, by Senator Saland, Senate Print 1923A, an act to amend the Penal Law, in relation to establishing.

SENATOR SCHNEIDERMAN: Lay it aside.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar Number 369, by Senator Saland, Senate Print 1924A, an act to amend the Penal Law, in relation to custodial interference.

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

THE SECRETARY: Section 4. This act shall take effect on the first of November.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number

407, by Senator Hoffmann, Senate Print 3597, an act to amend the Agriculture and Markets Law, in relation to wind activities in agricultural districts.

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, 59.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 417, by Senator Kuhl, Senate Print 3199, an act to amend the Vehicle and Traffic Law, in relation to the length of house coaches.

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, 59.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 422, by Senator LaValle, Senate Print 3041, an act to amend the Social Services Law, in relation to the return of a child.

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

THE SECRETARY: Section 3. This act shall take effect on the 30th day.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 442, by Senator Morahan, Senate Print 3036, an act to amend the Real Property Tax Law, in relation to providing a tax exemption.

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

SENATOR MORAHAN: Mr. President, I'd like that bill starred.

ACTING PRESIDENT KUHL: The bill will be starred at the request of the sponsor.

THE SECRETARY: Calendar Number 446, by Senator Little, Senate Print 2133A, an act to amend Chapter 80 of the Laws of 2000 amending the Education 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, 59. Nays, 1. Senator Maltese recorded in the negative.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 469, by Senator DeFrancisco, Senate Print 329A, an act to authorize --

SENATOR LIZ KRUEGER: Lay it aside.

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

The bill will be laid aside.

THE SECRETARY: Calendar Number 507, by Senator Velella, Senate Print 2844, an act to amend Chapter 465 of the Laws of 1994.

SENATOR SABINI: Lay it aside.

ACTING PRESIDENT KUHL: Lay the bill aside.

Senator Skelos, that completes the noncontroversial reading of the calendar.

SENATOR SKELOS: Mr. President, if we could go to the controversial reading of the calendar.

ACTING PRESIDENT KUHL: The Secretary will read the controversial reading of the calendar.

THE SECRETARY: Calendar Number 368, by Senator Saland, Senate Print 1923A, an act to amend the Penal Law, in relation to establishing.

SENATOR SCHNEIDERMAN: Explanation.

ACTING PRESIDENT KUHL: Senator Saland, an explanation of Calendar Number 368 has been requested by the Acting Minority Leader, Senator Schneiderman.

SENATOR SALAND: Thank you, Mr.

President.

Mr. President, this is a bill which is in effect a companion bill with the bill immediately beneath it, Calendar Number 369. And what it's intended to do is to make it easier to deal with the issue of parents who abduct children by providing that -- a rebuttable presumption that substituted service under CPLR 308 will provide knowledge to a parent who has taken a child.

The reason we resort to substituted service is because under the existing law, a parent must in effect have actual notice that they're taking the child and that it's wrong for them to do so. By making themselves unavailable, we never reach that threshold of whether they really knew what they were doing when they attempted to remove the child or attempted to flee the jurisdiction.

This is important because, in order to be able to avail ourselves of the resources of the FBI and the missing and abducted or exploited child organization, we have to effectively have the ability to issue a felony warrant.

Well, in the absence of this service provision, you effectively are required to give personal service and establish that somebody actually knows. And certainly it's a little hard to believe that somebody who has picked up their child and run doesn't know, but their own act of running makes it impossible for you to get the jurisdiction to enable you to bring in the FBI resources as would flow from a felony warrant.

ACTING PRESIDENT KUHL: Senator Schneiderman.

SENATOR SCHNEIDERMAN: Mr. President, if the sponsor would yield for a question.

ACTING PRESIDENT KUHL: Senator Saland, do you yield to a question from Senator Schneiderman?

SENATOR SALAND: Yes, Mr. President.

ACTING PRESIDENT KUHL: The Senator yields.

SENATOR SCHNEIDERMAN: There may not really be any difference, but I'm trying to determine what the difference is between

this A print and the bill that we previously voted on, if the sponsor could help me figure out the difference.

SENATOR SALAND: Senator Schneiderman, I don't know if there's any -- there certainly is no substantive difference. And I'm trying to figure out why there is an A print. And what I'm doing is I'm taking a look as we speak at -- or reaching for last year's version of this bill, which I now have in front of me.

Not being a speed reader, I don't think there's any difference. I don't know why there's an A print, unless we changed the effective date. And no, we did not do that either.

SENATOR SCHNEIDERMAN: Mr. President, through you, thank the sponsor. I'm unable to tell the difference either.

Thank you.

ACTING PRESIDENT KUHL: Any other Senator wishing to speak on the bill?

The Secretary will read the last section.

THE SECRETARY: Section 2. This

act shall take effect on the first of November.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT KUHL: Record the negative and announce the results.

THE SECRETARY: Ayes, 59. Nays, 1. Senator Montgomery recorded in the negative.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 469, by Senator DeFrancisco, Senate Print 329A, an act to authorize the Village of Solvay.

SENATOR LIZ KRUEGER: Explanation.

ACTING PRESIDENT KUHL: Senator DeFrancisco, an explanation of Calendar Number 469 has been requested by Senator Krueger.

SENATOR DeFRANCISCO: I'm sorry, Senator --

ACTING PRESIDENT KUHL: Krueger.

SENATOR DeFRANCISCO: Solvay

School District is in my district. And they're expanding a school in that district, the high school.

In order to do it, they have to expand in one direction or another. The most feasible way in order to provide a buffer for the school and the park is to alienate .69 acres of land that was parkland and, in exchange, get 2.8 acres that was owned previously by the school district.

So as a practical matter, it's a swap of land. And if there's a value difference, then the school district will pay the difference in value.

The alienated property that was part of the park is open, mowed area. It wasn't anything that had playground equipment or recreational area. And what the park is getting in return is wooded area, which also will provide a buffer for houses in the area.

So basically it's a swap that the district and the Village of Solvay want to do. They've given a home-rule message. And that's why the bill is here before you today.

ACTING PRESIDENT KUHL: Senator

Krueger, why do you rise?

SENATOR LIZ KRUEGER: Thank you. I rise to speak on the bill.

ACTING PRESIDENT KUHL: Senator Krueger, on the bill.

SENATOR LIZ KRUEGER: I thank you, Senator DeFrancisco, for the explanation.

The reason I asked is because I thought that in fact the bill highlighted so well exactly how we should handle alienation of parkland. This was a situation in your own district where a school needed to expand, and it went through the process in its town to determine that they would do an exchange or they would guarantee the market value of the land.

And I just wanted to go on record as saying that I have concerns, at least for my city, that we may be starting to violate those precedents of how important it is to assure that if you alienate parkland, you do it through a full public process and you assure that you're replacing that land or the market value therein for the community.

So I will be voting for the bill.

And I appreciate the explanation because I think that Senator DeFrancisco's bill shows how you handle it correctly to go through the process of coordinating with the community and recognizing the critical importance of not losing any open space in our communities.

Thank you, Mr. President.

ACTING PRESIDENT KUHL: Any other Senator wishing to speak on the bill?

Hearing none, the debate is closed.

The Secretary will read the last section.

THE SECRETARY: Section 6. This act shall take effect immediately.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 507, by Senator Velella, Senate Print 2844, an act to amend Chapter 465 of the Laws of 1994.

SENATOR SABINI: Explanation.

SENATOR HASSELL-THOMPSON:

Explanation, please.

ACTING PRESIDENT KUHL: Senator Marcellino.

SENATOR MARCELLINO: Mr. President, we're trying to find Senator Velella right now. He's on Senate business, and we're trying to bring him in for whatever questions that may be out there.

Mr. President.

ACTING PRESIDENT KUHL: Senator Marcellino.

SENATOR MARCELLINO: The Senate will stand at ease till 5:30.

ACTING PRESIDENT KUHL: The Senate will stand at ease until 5:30.

(Whereupon, the Senate stood at ease at 4:10 p.m.)

(Whereupon, the Senate reconvened at 5:30 p.m.)

ACTING PRESIDENT KUHL: The Senate will please come to order.

Senator Skelos.

SENATOR SKELOS: Thank you, Mr. President.

There will be a meeting of the

Finance Committee at 5:30 p.m., which is approximately one minute from now, in the Majority Conference Room.

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

SENATOR SKELOS: And for the purposes of planning, we will also at some point have an Environmental Conservation Committee meeting and a Local Governments Committee meeting.

ACTING PRESIDENT KUHL: Members, be aware that there will be two additional committee meetings called off the floor shortly.

SENATOR SKELOS: And, Mr. President, if we could stand at ease.

ACTING PRESIDENT KUHL: The Senate will continue to stand at ease.

SENATOR SKELOS: Mr. President.

ACTING PRESIDENT KUHL: Senator Skelos.

SENATOR SKELOS: If you could

call up Calendar Number 507, by Senator Velella.

ACTING PRESIDENT KUHL: The Secretary will read Calendar Number 507 on the controversial reading of the calendar.

THE SECRETARY: Calendar Number 507, by Senator Velella, Senate Print 2844, an act to amend Chapter 465 of the Laws of 1994 amending Chapter 285 of the Laws of 1891.

SENATOR SCHNEIDERMAN: Explanation.

ACTING PRESIDENT KUHL: Senator Velella, an explanation has been requested by the Acting Minority Leader, Senator Schneiderman.

SENATOR VELELLA: Mr. President, this bill would allow the continuation of the admission policies which Botanical Gardens in the Bronx has followed for many years. We renew this bill every three years. And this is just a continuation and an annual -- or every-three-year renewal. Triennial would be the proper word?

Mr. President, while I'm up, I'd like to report that part of my microphone here

was stolen. Can we have someone repair my microphone? Part of it was stolen. Would you make a note of that?

ACTING PRESIDENT KUHL: So noted, Senator.

SENATOR VELELLA: Thank you.

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

SENATOR SABINI: Mr. President, through you, might I ask the sponsor a question?

ACTING PRESIDENT KUHL: Senator Velella, do you yield to a question?

SENATOR VELELLA: Yes.

ACTING PRESIDENT KUHL: The Senator yields.

SENATOR SABINI: I'm just wondering, in the recent reports in the papers about the neighbors to the -- the adjacent neighbors to the Botanical Garden, the Wildlife Conservation Society having some budget problems that they claim they're having and yet they have a large endowment and a large number of people on their payroll making lots and lots of money, I was just wondering

if you're aware if there's a similar situation in the Botanical Gardens and could they do without charging the public a fee for this use?

SENATOR VELELLA: I can tell you that over the years, each time that this is renewed -- and I've been here for going on to almost 30 years now, between my service in the Assembly and the Senate -- that those members of the Bronx delegation and specifically those who have the zoo and the gardens in their districts have always reviewed that policy.

And there are free days for the community to come in. They come in all day on Wednesday, and Saturdays in the morning there is no admission charge.

If we did not charge admission on the balance of the times, they would be seeking substantial assistance, more than they now get from the Legislature, and it would probably delay our budget by several weeks.

ACTING PRESIDENT KUHL: Senator Sabini.

SENATOR SABINI: Thank you. On the bill, Mr. President.

ACTING PRESIDENT KUHL: Senator Sabini, on the bill.

SENATOR SABINI: I only wanted to ask the question because of recent news reports, and I'm delighted to hear that there are free days that will compensate so the public can see the flowers bloom without any fee or charge.

And I intend to support the bill. Thank you.

SENATOR VELELLA: Senator, you're a new Senator in the chamber, and I welcome you, and I say don't believe everything you read in the news.

(Laughter.)

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

Senator Hassell-Thompson, why do you rise?

SENATOR HASSELL-THOMPSON: To speak on the bill, Mr. President.

ACTING PRESIDENT KUHL: Senator Hassell-Thompson, on the bill.

SENATOR HASSELL-THOMPSON: Thank

you.

This bill was a little bit delayed in coming before us, but I'm glad to see that Senator Velella has put it on the agenda for this year.

As someone who shares the boundaries of the Botanical Gardens with Senator Velella, it is true, Senator Sabini, that we are fortunate to have some of the endowments. But I think that what's important to understand about endowments is that endowments, like many things, are allocated specifically for certain types of activities. And one of those is to keep up the extraordinary Botanical Gardens, which is one of the most beautiful in the world that we have in the Bronx. It is one of our treasures.

And also, we have just built a world-class laboratory, which is now a teaching facility and continues to attract students from our local schools as a part of those participations.

So that this fee, while it is always difficult for us to talk about charging

the public fees for these treasures, these treasures are costly. And so that I think that we have done very well not to have asked for an increase in the fees for both the Botanical Gardens and the Bronx Zoo for a very long time.

And as one who spends a tremendous amount of time and encourages people to visit those world treasures, which we believe them to be, I am very grateful that there is the concern and consideration by our Senator to ensure that the kinds of things that we have established there in the Botanicals will continue to happen.

Thank you, Mr. President.

ACTING PRESIDENT KUHL: Any other Senator wishing to speak on the bill?

Hearing none, debate is closed.

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, 60.

ACTING PRESIDENT KUHL: The bill is passed.

Senator Skelos.

SENATOR SKELOS: Mr. President, I believe Senator McGee has a motion to make.

Thank you, Senator McGee.

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

The chair recognizes Senator McGee.

SENATOR McGEE: Mr. President, on page number 24 I offer the following amendments to Calendar Number 406, Senate Print Number 2777, and ask that said bill retain its place on Third Reading Calendar.

ACTING PRESIDENT KUHL: The amendments to Calendar Number 406 are received and adopted. The bill will retain its place on the Third Reading Calendar.

Senator Skelos.

SENATOR SKELOS: Mr. President, I think we'll stand at ease pending the completion of the Finance Committee meeting.

And following that, there will be a

meeting of the Environmental Conservation Committee.

ACTING PRESIDENT KUHL: The Senate will stand at ease.

(Whereupon, the Senate stood at ease at 5:36 p.m.)

(Whereupon, the Senate reconvened at 5:43 p.m.)

ACTING PRESIDENT KUHL: The Senate will please come to order.

Senator Skelos.

SENATOR SKELOS: Thank you, Mr. President.

There will be an immediate meeting of the Environmental Conservation Committee in the Majority Conference Room.

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

SENATOR SKELOS: Thank you, Mr. President.

ACTING PRESIDENT KUHL: Senator

Skelos.

SENATOR SKELOS: If we can return to reports of standing committees, I believe there's a report of the Finance Committee at the desk. If we could have it read at this time.

ACTING PRESIDENT KUHL: We will return to the order of reports of standing committees.

There is a report of the Finance Committee at the desk.

The Secretary will read.

THE SECRETARY: Senator Johnson, from the Committee on Finance, reports the following bills:

Senate Print 1400B, Senate Budget Bill, an act making appropriations for the support of government, public protection, and general government budget;

And Senate Print 1405B, Senate Budget Bill, an act making appropriations for the support of government, transportation, economic development, and environmental conservation budget.

Both bills ordered direct to third

reading.

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

Senator Skelos.

SENATOR SKELOS: Mr. President, if you could call up Calendar Number 537.

ACTING PRESIDENT KUHL: The Secretary will read Calendar Number 537.

THE SECRETARY: In relation to Calendar Number 537, Senator Johnson moves to discharge, from the Committee on Finance, Assembly Bill Number 2100B and substitute it for the identical Senate Bill Number 1400B, Third Reading Calendar 537.

ACTING PRESIDENT KUHL: The substitution is ordered.

The Secretary will read the title.

THE SECRETARY: Calendar Number 537, Assembly Budget Bill, Assembly Print Number 2100B, an act making appropriations for the support of government, public protection, and general government budget.

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

SENATOR SCHNEIDERMAN:

Explanation.

ACTING PRESIDENT KUHL: Senator Johnson, an explanation of Calendar Number 537 has been requested by the Acting Minority Leader, Senator Schneiderman.

SENATOR JOHNSON: Mr. President, this bill provides $4.6 billion in all funds spending, a decrease of $26 million or 1 percent from the previous year. It includes $43.5 million in additions to the Executive submission, offset by $7.3 million in reductions.

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

SENATOR SCHNEIDERMAN: Thank you, Mr. President. On the bill.

ACTING PRESIDENT KUHL: Senator Schneiderman, on the bill.

SENATOR SCHNEIDERMAN: I appreciate the fact that this bill represents significant restorations to the budget, the Executive Budget proposed by the Governor. I plan to vote against it, however, because there are still some serious failings, in my view.

One of the critical problems in the State of New York is the lack of funding for legal assistance for the indigent. This is a critical, critical problem. It is a crisis. And this legislation would actually reduce funding by 15 percent for local legal assistance programs.

This would have a tremendously serious effect on the New York City Legal Aid Society and on other organizations around the state that provide these services. They have been held back in funding for many years, and frankly we are entering a period of time in our state where we have two-tier system of justice, one system for those who can afford private attorneys and a far different system for the indigent.

The bill before us also fails to fully restore the Executive's elimination of local government aid to counties which would provide for financing of HCRA and other healthcare programs. The alternatives to incarceration, which are a critical need around the state, are grossly underfunded by this bill.

And finally, something that is close to my heart, since I worked as a deputy sheriff, this cuts funding for aid to counties and the City of New York for probation departments. Our probation officers are already so overextended that they're in many cases unable to effectively carry out their legal mandates. And this would provide for a further cut.

So I think we are moving in the right direction. I don't think this bill redresses all of the problems that we're facing here. And I would like to see some further restorations in at least these critical areas.

There is also the question that has been raised that we don't yet know where the revenue is coming from to pay for these restorations, and that's an issue that is of concern to some of my colleagues as well.

So I appreciate the sentiments behind the effort to partially restore the funds eliminated by the Executive, but this really doesn't go far enough for my purposes in these critical areas, and I will be voting

no.

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

SENATOR LIZ KRUEGER: I rise to speak on the bill.

ACTING PRESIDENT KUHL: Senator Krueger, on the bill.

SENATOR LIZ KRUEGER: Thank you, Mr. President.

I too will be voting no on this bill, and I will start off where Senator Schneiderman ended. I do not understand how this house can vote for expenditure budget bills without having any information about what the revenue will be for the State of New York.

We know what a budget is. It is money in one hand to be spent in another hand. I am extraordinarily uncomfortable to be asked to vote on how we spend money outside of the context of what money we have to spend.

I'm also extraordinarily uncomfortable with the idea that this house is being asked to vote for the pluses or minuses of this bill over what the Governor offered us

outside the context of the entire package of budget bills.

We all have priorities, even in tough fiscal years, for how we think state money should be spent. So I would urge my colleagues to think carefully about making the decision to vote for budget expenditure bills without having the revenue information available to us. Because surely budgeting in a vacuum is not the way the State of New York ought to be operating. So I'll be voting no and urging others to vote no also.

Thank you, Mr. President.

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

SENATOR BROWN: To speak on the bill, Mr. President.

ACTING PRESIDENT KUHL: Senator Brown, on the bill.

SENATOR BROWN: Earlier this week we passed additional extender bills. And the question was raised, where is the money for public education? Why isn't there an extender that funds public education? And we were told at that time that there wasn't the money to

fund public education, that the money was not available.

Like my two colleagues that spoke before me, I will be voting against this bill because one of the critical areas to me that I think we need to be providing for in this state is the education of our young people.

Now, as you know, we are deferring $1.6 billion in school aid that was due May 1st. And the school district, one of the school districts that I represent, the school district in Buffalo, will be severely impacted by this decision. That will mean that $30.6 million that should be going to the Buffalo public schools will not arrive.

The position that that will put Buffalo in is not being able to make payroll to pay teachers, to pay other city workers, we are told, on March 6th. I think that is devastating. By delaying aid to education, we are almost putting the city of Buffalo out of business.

I appeal to all of you to consider what we're doing by delaying the school aid. The City of Buffalo and other school districts

desperately need that aid. And that is one of the reasons that I am voting no for this bill today.

Thank you.

ACTING PRESIDENT KUHL: Senator Johnson.

SENATOR JOHNSON: I'd like to be recognized to clear up a couple of questions that seem to have arisen on this bill.

First of all, the legal aid money, $3 million, was not included in this bill but will be in an amendment to a bill we're passing tomorrow.

As far as education, we're going to pass the education bill tomorrow and we're going to pass a bill to make the money available. So I wouldn't be concerned about that.

This is just the first bill that we're looking at, public protection. We're going to do transportation as well, and we're going to do a health bill and we're going to do an education bill. So you'll see these bills come along.

So I wouldn't read anything into

this bill that doesn't have everything you'd like to have in all the bills. Know what I mean?

Thank you.

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

SENATOR BROWN: Through you, Mr. President, would Senator Johnson yield for a question?

ACTING PRESIDENT KUHL: Senator Johnson, do you yield to a question from Senator Brown?

SENATOR JOHNSON: Yes, Mr. President.

ACTING PRESIDENT KUHL: The Senator yields.

SENATOR BROWN: Senator Johnson, thank you for clarifying my concern and indicating that we will be doing an extender bill for public education.

Will that be the full $1.6 billion that the school districts are anticipating for May 1st?

SENATOR JOHNSON: Well, I'd really prefer to answer that tomorrow. But it

will be $1.1 billion in school aid restorations. And that will be enough, I think, to carry them through this year. They're going to have most of the money they expected.

SENATOR BROWN: Thank you.

ACTING PRESIDENT KUHL: Any other Senator wishing to speak on the bill?

Hearing none, the debate is closed.

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: Record the negatives and announce the results.

For the members who are voting in opposition to the bill, please vote from your seats so that the Secretary can recognize where you are and record your vote accordingly.

THE SECRETARY: Those recorded in the negative on Calendar Number 537 are

Senators Andrews, Brown, Hassell-Thompson, L. Krueger, Meier, Montgomery, Onorato, Parker, Sabini, Schneiderman, A. Smith, and Stavisky. Ayes, 48. Nays, 12.

ACTING PRESIDENT KUHL: The bill is passed.

Senator Skelos.

SENATOR SKELOS: Mr. President, there will be an immediate meeting of the Local Governments Committee in the Majority Conference Room.

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

Senator Skelos.

SENATOR SKELOS: Mr. President, if you could call up Calendar Number 538.

ACTING PRESIDENT KUHL: The Secretary will read Calendar Number 538.

THE SECRETARY: In relation to Calendar Number 538, Senator Johnson moves to discharge, from the Committee on Finance, Assembly Bill Number 2105B and substitute it

for the identical Senate Bill Number 1405B, Third Reading Calendar 538.

ACTING PRESIDENT KUHL: The substitution is ordered.

The Secretary will read the title.

THE SECRETARY: Calendar Number 538, Assembly Budget Bill, Assembly Print Number 2105B, an act making appropriations for the support of government, transportation, economic development, and environmental conservation budget.

SENATOR SCHNEIDERMAN: Explanation.

ACTING PRESIDENT KUHL: Senator Johnson, an explanation of Calendar Number 538 has been requested by the Acting Minority Leader, Senator Schneiderman.

SENATOR JOHNSON: This bill covers transportation, economic development, and environmental conservation. It includes $6.9 billion in all funds spending, a decrease of $35 million or 4 percent from the previous year.

It includes $9.7 million in additions to the Executive Budget, offset by

$75.5 million in reductions. That $75.5 million is economic development bills that will be handled in another piece of legislation.

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

SENATOR SCHNEIDERMAN: Mr. President, on the bill.

ACTING PRESIDENT KUHL: Senator Schneiderman, on the bill.

SENATOR SCHNEIDERMAN: I will be voting against this bill for similar reasons to the last piece of legislation.

Again, this does restore some badly needed funds, but it falls short of what the people of this state really need, particularly in the area of economic development and environmental protection.

The capital appropriation that we have made in previous years for the investigation and remediation of pollution on state-owned lands has been completely eliminated by the Executive, and we're not restoring it. The tourism marketing program and local tourism promotion programs are

insufficiently funded. Local assistance for the administration of the state's Empire Zones program is insufficiently funded. The Neighborhood Preservation Program and Rural Preservation Program are severely cut.

And most egregiously, from my point of view, there is $105 million appropriated for Superfund, but there's no cash behind it. It's a dry appropriation.

We are dealing now with an absolute crisis in the area of brownfields and Superfund. We still have not been able to resolve this critical issue. We need money in the budget to deal with it. The program has expired. It is a disgrace that New York State is not proceeding forward.

And if you want to talk about long-term economic consequences to the state, our inability to reorganize and fund the Superfund program is a long-term economic liability.

For those reasons and the others mentioned before, I will be voting no on this piece of legislation.

ACTING PRESIDENT KUHL: Any other

Senator wishing to speak on the bill?

Senator Krueger, why do you rise?

SENATOR LIZ KRUEGER: Thank you, Mr. President. To speak on the bill.

ACTING PRESIDENT KUHL: Senator Krueger, on the bill.

SENATOR LIZ KRUEGER: Again -- thank you -- just perhaps an ibid on my comments on the previous bill: We don't know revenue, we shouldn't be spending money.

Thank you.

ACTING PRESIDENT KUHL: Any other Senator wishing to speak on the bill?

Hearing none, debate is closed.

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: Record the negatives and announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 538 are

Senators Andrews, Brown, L. Krueger, Meier, Montgomery, Onorato, Parker, Sabini, Schneiderman, A. Smith, and Stavisky. Ayes, 50. Nays, 11.

ACTING PRESIDENT KUHL: The bill is passed.

Senator Skelos.

SENATOR SKELOS: Mr. President, if we could just stand at ease. We're going to wait for certain members on the Local Governments Committee who wish to vote. And then I believe we'll be adjourning; we're not sure until what time.

(Whereupon, the Senate stood at ease at 6:00 p.m.)

(Whereupon, the Senate reconvened at 6:29 p.m.)

SENATOR SKELOS: Mr. President.

ACTING PRESIDENT KUHL: The Senate will come to order. I ask the members to take their places.

Senator Skelos.

SENATOR SKELOS: Would you please recognize Senator Hassell-Thompson.

ACTING PRESIDENT KUHL: Senator

Hassell-Thompson, why do you rise?

SENATOR HASSELL-THOMPSON: Thank you. Mr. President, I wish to request unanimous consent to be recorded in the negative on Calendar 538.

ACTING PRESIDENT KUHL: Without objection, hearing no objection, Senator Hassell-Thompson will be recorded in the negative on Calendar Number 538.

SENATOR HASSELL-THOMPSON: Thank you.

ACTING PRESIDENT KUHL: Senator Skelos.

SENATOR SKELOS: Is there any housekeeping at the desk?

ACTING PRESIDENT KUHL: There is none.

SENATOR SKELOS: Please recognize Senator Smith.

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

SENATOR ADA SMITH: Thank you, Mr. President.

There will be an 11:45 a.m. conference of the Minority in the Minority

Conference Room tomorrow morning.

ACTING PRESIDENT KUHL: Thank you.

Senator Skelos.

SENATOR SKELOS: Mr. President, Senator Bruno has asked me to inform the members of the Majority that there will be a conference at 11:00 a.m. tomorrow.

And we are going to adjourn until noon tomorrow, subject to change. So I would suggest that all members stay in touch with their respective leaders in the event the time is changed.

So there being no further business to come before the Senate, I move we stand adjourned until Wednesday, April 30th, at 12:00 noon.

ACTING PRESIDENT KUHL: The Senate stands adjourned until tomorrow, Wednesday, April 30th, at noon.

(Whereupon, at 6:32 p.m., the Senate adjourned.)