NEW YORK STATE SENATE

THE STENOGRAPHIC RECORD

ALBANY, NEW YORK

September 17, 2001

10:20 a.m.

SECOND EXTRAORDINARY 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 take their places, staff to take their places.

And if everyone will please rise and repeat with me the Pledge of Allegiance.

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

ACTING PRESIDENT KUHL: In the absence of clergy, may we bow our heads in a moment of silence.

(Whereupon, the assemblage respected a moment of silence.)

ACTING PRESIDENT KUHL: Senator Bruno, I have at the desk here a proclamation which I'm handing down to the Secretary at this time.

SENATOR BRUNO: Thank you, Mr. President.

ACTING PRESIDENT KUHL: I ask the Secretary to read it in its entirety.

THE SECRETARY: "Proclamation:

"Pursuant to the power vested in me by Article 4, Section 3 of the Constitution, I

hereby convene the Legislature in Extraordinary Session at the Capitol, in the City of Albany, on the 17th day of September, 2001, at 10:00 o'clock in the morning, for the purpose of considering legislation I will submit with respect to creating criminal offenses for persons who commit or support terrorist acts or harbor or otherwise assist persons who commit terrorist acts, enhancing criminal penalties for those who threaten to place a bomb in any public or private place, and creating an emergency management assistance compact, and for the consideration of legislation with respect to such other subjects as I may recommend.

"Given under my hand and the privy seal of the State, in the City of New York this 16th day of September in the year 2001, George E. Pataki, Governor."

ACTING PRESIDENT KUHL: The proclamation having been read, the session is in extraordinary session.

There will be a quorum call. I ask the Secretary to read.

THE SECRETARY: Senator Alesi.

SENATOR ALESI: Yes.

THE SECRETARY: Senator Balboni.

SENATOR BALBONI: Here.

THE SECRETARY: Senator Bonacic.

SENATOR BONACIC: Here.

THE SECRETARY: Senator Breslin.

SENATOR BRESLIN: Here.

THE SECRETARY: Senator Brown.

SENATOR BROWN: Here.

THE SECRETARY: Senator Bruno.

SENATOR BRUNO: Here.

THE SECRETARY: Senator Connor.

(No response.)

THE SECRETARY: Senator DeFrancisco.

(No response.)

THE SECRETARY: Senator Dollinger.

SENATOR DOLLINGER: Here.

THE SECRETARY: Senator Duane.

(No response.)

THE SECRETARY: Senator Espada.

(No response.)

THE SECRETARY: Senator Farley.

SENATOR FARLEY: Here.

THE SECRETARY: Senator Fuschillo.

(No response.)

THE SECRETARY: Senator Gentile.

(No response.)

THE SECRETARY: Senator Gonzalez.

SENATOR GONZALEZ: Here.

THE SECRETARY: Senator Goodman.

(No response.)

THE SECRETARY: Senator Hannon.

SENATOR HANNON: Here.

THE SECRETARY: Senator Hassell-Thompson.

SENATOR HASSELL-THOMPSON: Here.

THE SECRETARY: Senator Hevesi.

SENATOR HEVESI: Here.

THE SECRETARY: Senator Hoffmann.

SENATOR HOFFMANN: Present.

THE SECRETARY: Senator Johnson.

SENATOR JOHNSON: Here.

THE SECRETARY: Senator Kruger.

SENATOR KRUGER: Here.

THE SECRETARY: Senator Kuhl.

SENATOR KUHL: Present.

THE SECRETARY: Senator Lachman.

SENATOR LACHMAN: Present.

THE SECRETARY: Senator Lack.

SENATOR LACK: Aye.

THE SECRETARY: Senator Larkin.

SENATOR LARKIN: Here.

THE SECRETARY: Senator LaValle.

SENATOR LAVALLE: Here.

THE SECRETARY: Senator Leibell.

SENATOR LEIBELL: Here.

THE SECRETARY: Senator Libous.

SENATOR LIBOUS: Here.

THE SECRETARY: Senator Maltese.

SENATOR MALTESE: Present.

THE SECRETARY: Senator Marcellino.

SENATOR MARCELLINO: Here.

THE SECRETARY: Senator Marchi.

(No response.)

THE SECRETARY: Senator Markowitz.

(No response.)

THE SECRETARY: Senator Maziarz.

SENATOR MAZIARZ: Here.

THE SECRETARY: Senator McGee.

SENATOR McGEE: Here.

THE SECRETARY: Senator Meier.

SENATOR MEIER: Here.

THE SECRETARY: Senator Mendez.

(No response.)

THE SECRETARY: Senator Montgomery.

(No response.)

THE SECRETARY: Senator Morahan.

SENATOR MORAHAN: Here.

THE SECRETARY: Senator Nozzolio.

SENATOR NOZZOLIO: Present.

THE SECRETARY: Senator Onorato.

SENATOR ONORATO: Here.

THE SECRETARY: Senator Oppenheimer.

(No response.)

THE SECRETARY: Senator Padavan.

(No response.)

THE SECRETARY: Senator Paterson.

SENATOR PATERSON: Here.

ACTING PRESIDENT KUHL: A quorum is present.

Senator Bruno.

SENATOR BRUNO: Mr. President, I believe there are four resolutions at the

desk. I would ask that the titles be read and move for their immediate adoption.

ACTING PRESIDENT KUHL: The Secretary will read.

THE SECRETARY: By Senator Bruno, Senate Resolution Number 1, appointing a committee to inform the Governor that the Senate is convened in extraordinary session.

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

(Response of "Aye.")

ACTING PRESIDENT KUHL: Opposed, nay.

(No response.)

ACTING PRESIDENT KUHL: The resolution is adopted.

Senator Bruno.

SENATOR BRUNO: Mr. President, I would ask Senators Meier and Brown to inform the Governor that we have convened this extraordinary session of the Legislature.

ACTING PRESIDENT KUHL: The Secretary will continue to read.

THE SECRETARY: By Senator Bruno,

Senate Resolution Number 2, appointing a committee to inform the Assembly that the Senate is convened in extraordinary session.

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

(Response of "Aye.")

ACTING PRESIDENT KUHL: Opposed, nay.

(No response.)

ACTING PRESIDENT KUHL: The resolution is adopted.

Senator Bruno.

SENATOR BRUNO: Mr. President, I would now ask Senators Leibell and Stavisky to inform the Assembly that the Senate is convened.

ACTING PRESIDENT KUHL: The Secretary will continue to read.

THE SECRETARY: By Senator Bruno, Senate Resolution Number 3, empowering the Temporary President to appoint officers and employees necessary for the extraordinary session.

ACTING PRESIDENT KUHL: The

question is on the resolution. All those in favor signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT KUHL: Opposed, nay.

(No response.)

ACTING PRESIDENT KUHL: The resolution is adopted.

The Secretary will continue to read.

THE SECRETARY: By Senator Bruno, Senate Resolution Number 4, providing for the introduction of bills in the Senate during extraordinary session.

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

(Response of "Aye.")

ACTING PRESIDENT KUHL: Opposed, nay.

(No response.)

ACTING PRESIDENT KUHL: The resolution is adopted.

Senator Bruno.

SENATOR BRUNO: Mr. President,

can we ask for an immediate meeting of the Rules Committee in Room 332.

ACTING PRESIDENT KUHL: There will be an immediate meeting of the Rules Committee -

SENATOR BRUNO: And the Senate will stand at ease pending the return of the Rules Committee.

ACTING PRESIDENT KUHL: Immediate meeting of the Rules Committee in the Majority Conference Room, Room 332, and the Senate will stand at ease awaiting the return of the report of the Rules Committee.

(Whereupon, the Senate stood at ease at 10:25 a.m.)

(Whereupon, the Senate reconvened at 10:33 a.m.)

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

Senator Bruno.

SENATOR BRUNO: Mr. President, can we at this time return to reports of standing committees. I believe there's a report of the Rules Committee at the desk. I

ask that it be entered and read at this time.

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

There is a report of the Rules Committee at the desk. I ask the Secretary to read.

THE SECRETARY: Senator Bruno, from the Committee on Rules, reports:

Senate Print Number 1, in Extraordinary Session 2, by Senator Stafford, an act to amend the Executive Law.

Senate Print Number 2, in Extraordinary Session Number 2, by Senator Balboni, an act to amend the Penal Law and the Criminal Procedure Law.

And Senate Print Number 3, in Extraordinary Session Number 2, by Senator Morahan, an act to amend the Penal Law and the Criminal Procedure Law.

All bills ordered direct to third reading.

ACTING PRESIDENT KUHL: Senator Bruno.

SENATOR BRUNO: Mr. President, I would move to accept the report of the Rules

Committee.

ACTING PRESIDENT KUHL: The motion is to accept the report of the Rules Committee. All those in favor signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT KUHL: Opposed, nay.

(No response.)

ACTING PRESIDENT KUHL: The Rules report is accepted.

The bills are ordered directly to third reading.

Senator Bruno.

SENATOR BRUNO: Mr. President, can we ask for an immediate conference of the Majority in Room 332. Our expectation would be to reconvene in the Senate at five after 11:00 this morning.

And I would ask that you recognize Senator Paterson.

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

Senator Paterson.

SENATOR PATERSON: Mr. President, as well may we ask that there be an immediate meeting of the Minority in the Minority Conference Room, Room 314, immediately, to end at five minutes past 11:00.

ACTING PRESIDENT KUHL: There will also be an immediate meeting of the Senate Minority in the Minority Conference Room, Room 314.

And the Senate will stand at ease until 11:05.

(Whereupon, the Senate stood at ease at 10:36 a.m.)

(Whereupon, the Senate reconvened at 11:28 a.m.)

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

Senator Bruno.

SENATOR BRUNO: Mr. President, can we at this time take up Calendar Number 1, from the Rules report.

ACTING PRESIDENT KUHL: The

Secretary will read.

THE SECRETARY: Calendar Number 1, by Senator Stafford, Extraordinary Session Number 2, Senate Print Number 1, an act to amend the Executive Law, in relation to the emergency management assistance compact.

ACTING PRESIDENT KUHL: Senator Bruno.

SENATOR BRUNO: Is there a message of necessity at the desk?

ACTING PRESIDENT KUHL: There is.

SENATOR BRUNO: I would move we accept the message.

ACTING PRESIDENT KUHL: The motion is to accept the message of necessity on Calendar Number 1. All those in favor signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT KUHL: Opposed, nay.

(No response.)

ACTING PRESIDENT KUHL: The message is accepted. The bill is before the house.

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, 52.

ACTING PRESIDENT KUHL: The bill is passed.

Senator Bruno.

SENATOR BRUNO: Mr. President, can we at this time take up Calendar Number 2 of the Rules report.

ACTING PRESIDENT KUHL: The Secretary will read.

THE SECRETARY: Calendar Number 2, by Senator Balboni, Extraordinary Session Number 2, Senate Print Number 2, an act to amend the Penal Law and the Criminal Procedure Law, in relation to criminal penalties.

ACTING PRESIDENT KUHL: Senator Bruno.

SENATOR BRUNO: Is there a message at the desk?

ACTING PRESIDENT KUHL: There is.

SENATOR BRUNO: Move to accept the message from the Governor.

ACTING PRESIDENT KUHL: The motion is to accept the message of necessity on Calendar Number 2. All those in favor signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT KUHL: Opposed, nay.

(No response.)

ACTING PRESIDENT KUHL: The message is accepted. The bill is before the house.

The Secretary will read the last section.

THE SECRETARY: Section 10. This act shall take effect immediately.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 52.

ACTING PRESIDENT KUHL: The bill is passed.

Senator Bruno.

SENATOR BRUNO: Mr. President,

can we take up Calendar Number 3 of the Rules Committee report.

Mr. President, please recognize Senator Duane, who is on his feet.

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

SENATOR DUANE: Thank you, Mr. President. I just -- was that the message of necessity for the bill, or was that the actual bill?

ACTING PRESIDENT KUHL: We passed two bills, Senator Duane.

SENATOR DUANE: If I may speak on the second bill, Mr. President, I want to explain my vote.

ACTING PRESIDENT KUHL: Senator Duane, to explain his vote on Calendar Number 2.

SENATOR DUANE: Thank you very much, Mr. President.

I first want to put my vote into context here. And I want to praise as highly and greatly as I possibly can the wonderful efforts of the Mayor of the City of New York, Mayor Giuliani, and our Governor, and the

quick and decisive action they've taken to help our city and our constituents.

The events of the past week have been one of the most tragic chapters in this state's history. I'm angered and I'm also saddened, as an American and as a New Yorker, and as a State Senator from the 27th District, the district of TriBeCa, Battery Park City, the Trade Center, the downtown Manhattan area that I share with Senator Connor and Speaker Silver and my colleague Assembly Member Glick.

The loss and destruction caused by last Tuesday's attacks has really crippled my district. I've spent the last week talking to those on the front lines, in fire stations, EMS, police precincts, all of whom have been devastated by the tremendous loss of life. They were on the front lines and the first to go to the Trade Center.

Large numbers of my constituents are missing loved ones. Residents have been forced out of their homes. Businesses have shut down. The air near the attack is filled with who knows what horrible contaminants, maybe even asbestos, other harmful air which

children were forced to breathe. I breathed in that air myself.

I mean, the loss and destruction to my district is staggering. I've seen what weapons of mass destruction can do, what it did to the World Trade Center, Battery Park City, TriBeCa. Father Mychal Judge was a good friend of mine, and I loved him very much. And his death is a great loss to all of us. Our public schools are destroyed.

And I believe that these evil acts should be severely punished. However, after much thought and deliberation, I feel compelled to vote against this measure today. As many of you know, I am against the death penalty, and this bill contains a new category for capital punishment.

I also believe that the responsibility of punishing those who would dare use a weapon of mass destruction lies with the federal government. And in fact, the federal government already has laws in place which would bring the death penalty to those who utilize weapons of mass destruction.

These are the reasons that I've

voted against this -- against similar bills in the past and why I'm voting against it today as well.

I will fight, though, to ensure that we do all we can to ease the suffering of New Yorkers. And in the weeks ahead I urge that we continue to come here to pass measures which achieve this goal.

And again, I want to commend the governor and the mayor, police, fire, EMS, all the volunteers, the construction workers, for their tireless efforts in this time of crisis, and to all of the people of New York State for coming together to help us.

Thank you, Mr. President.

ACTING PRESIDENT KUHL: Senator Duane will be recorded in the negative.

The Secretary will announce the results of Calendar Number 2.

THE SECRETARY: Ayes, 52. Nays, 1. Senator Duane recorded in the negative.

ACTING PRESIDENT KUHL: The bill is passed.

Senator Bruno.

SENATOR BRUNO: Mr. President,

can we at this time take up Calendar Number 3 of the Rules Committee report.

ACTING PRESIDENT KUHL: The Secretary will read.

THE SECRETARY: Calendar Number 3, by Senator Morahan, Extraordinary Session Number 2, Senate Print Number 3, an act to amend the Penal Law and the Criminal Procedure Law, in relation to falsely reporting.

ACTING PRESIDENT KUHL: Senator Bruno.

SENATOR BRUNO: Is there a message of necessity at the desk?

ACTING PRESIDENT KUHL: There is.

SENATOR BRUNO: Move to accept the message.

ACTING PRESIDENT KUHL: The motion is to accept the message of necessity on Calendar Number 3. All those in favor signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT KUHL: Opposed, nay.

(No response.)

ACTING PRESIDENT KUHL: The

message is accepted. The bill is before the house.

The Secretary will read the last section.

THE SECRETARY: Section 10. This act shall take effect immediately.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

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

THE SECRETARY: Ayes, 52. Nays, 1. Senator Duane recorded in the negative.

ACTING PRESIDENT KUHL: The bill is passed.

Senator Bruno.

SENATOR BRUNO: Mr. President, it seems, to utilize the members' time most efficiently, that we would be well advised to stand in recess, and that we call a Rules Committee meeting to deal with issues that we have to take up before we leave that aren't totally prepared.

But they will be by 12:45, so we will ask for a Rules Committee meeting at

12:45 in the Majority Conference Room, session to follow immediately the report of the Rules Committee. And our expectation is, barring any unforeseen circumstances, that we will break session shortly after that.

So in the interim, it would appear prudent for us to recess until those that are on Rules meet at 12:45, and we'll be back in session towards 1:00 o'clock.

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

SENATOR CONNOR: Then, Mr. President, I would like my colleagues who aren't on Rules to conference at 12:45. I don't think we need much of a conference to go over these bills.

ACTING PRESIDENT KUHL: There will be a Minority conference in the Minority Conference Room at 12:45.

There will be a Rules Committee meeting at 12:45.

The Senate will stand in recess until shortly after 12:45.

(Whereupon, the Senate recessed at 11:43 a.m.)

(Whereupon, the Senate reconvened at 1:20 p.m.)

ACTING PRESIDENT KUHL: The Senate will come to order. I ask the members to find their chairs, all of the staff to find their places.

Senator Bruno.

SENATOR BRUNO: Mr. President, can we return to reports of standing committees. I believe there's a report of the Rules Committee on the extraordinary session.

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

There is a report from the Rules Committee at the desk. I ask the Secretary to read.

THE SECRETARY: Senator Bruno, from the Committee on Rules, reports the following bill direct to third reading:

Extraordinary Session Number 2, Senate Print Number 4, by Senator Morahan, an act to amend the Penal Law.

ACTING PRESIDENT KUHL: Senator Bruno.

SENATOR BRUNO: Move to accept

the report of the Rules Committee.

ACTING PRESIDENT KUHL: The motion is to accept the report of the Rules Committee. All those in favor signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT KUHL: Opposed, nay.

(No response.)

ACTING PRESIDENT KUHL: The Rules report is accepted.

The bill is ordered directly to third reading.

Senator Bruno.

SENATOR BRUNO: Mr. President, can we at this time take up Calendar Number 4.

ACTING PRESIDENT KUHL: The Secretary will read.

THE SECRETARY: Calendar Number 4, by Senator Morahan, Senate Print Number 4, an act to amend the Penal Law, in relation to falsely reporting an incident.

ACTING PRESIDENT KUHL: Senator Bruno.

SENATOR BRUNO: Is there a

message of necessity from the Governor at the desk?

ACTING PRESIDENT KUHL: There is.

SENATOR BRUNO: Move to accept the message.

ACTING PRESIDENT KUHL: The motion is to accept the message of necessity on Calendar Number 4 of the extraordinary session. All those in favor signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT KUHL: Opposed, nay.

(No response.)

ACTING PRESIDENT KUHL: The message is accepted. The bill is before the house.

The Secretary will read the last section.

THE SECRETARY: Section 5. This act shall take effect on the same date as a chapter of the Laws of 2001.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

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

THE SECRETARY: Ayes, 53. Nays, 1. Senator Duane recorded in the negative.

ACTING PRESIDENT KUHL: The bill is passed.

Senator Bruno.

SENATOR BRUNO: Mr. President, I believe there are three resolutions at the desk. I would ask that their titles be read and move for their immediate adoption.

ACTING PRESIDENT KUHL: The Secretary will read.

THE SECRETARY: By Senator Bruno, Extraordinary Session 2, Senate Resolution Number 5, appointing a committee to inform the Governor that the Senate has completed its business and is ready to adjourn.

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

(Response of "Aye.")

ACTING PRESIDENT KUHL: Opposed, nay.

(No response.)

ACTING PRESIDENT KUHL: The resolution is adopted.

Senator Bruno.

SENATOR BRUNO: May we ask Senator Maziarz and Senator Malcolm Smith to perform that duty on behalf of the Senate.

ACTING PRESIDENT KUHL: The Secretary will continue to read.

THE SECRETARY: By Senator Bruno, Extraordinary Session Number 2, Senate Resolution Number 6, appointing a committee to inform the Assembly that the Senate has completed its business and is ready to adjourn.

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

(Response of "Aye.")

ACTING PRESIDENT KUHL: Opposed, nay.

(No response.)

ACTING PRESIDENT KUHL: The resolution is adopted.

Senator Bruno.

SENATOR BRUNO: We ask Senator

Seward and Senator Hassell-Thompson to fulfill that responsibility for the Senate.

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

SENATOR SCHNEIDERMAN: Mr. President, I request unanimous consent to be recorded in the negative on Senate Bill 3 of the extraordinary session.

ACTING PRESIDENT KUHL: Without objection, Senator Schneiderman will be recorded in the negative on Calendar Number 3 of the extraordinary session.

The Secretary will continue to read.

THE SECRETARY: By Senator Bruno, Concurrent Resolution Number 7 of Extraordinary Session Number 2, relative to the adjournment of the extraordinary session of the Legislature, sine die.

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

(Response of "Aye.")

ACTING PRESIDENT KUHL: Opposed, nay.

(No response.)

ACTING PRESIDENT KUHL: The resolution is adopted, and the extraordinary session is adjourned.

(Whereupon, at 1:24 p.m., the Senate adjourned.)