NEW YORK STATE SENATE

THE STENOGRAPHIC RECORD

ALBANY, NEW YORK

October 24, 2001

4:16 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 take their places, staff to take their places, and everybody to rise and join me in saying the Pledge of Allegiance to the Flag.

(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: Reading of the Journal.

THE SECRETARY: In Senate, Tuesday, October 23, the Senate met pursuant to adjournment. The Journal of Monday, October 22, 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 Bruno.

SENATOR BRUNO: Mr. President, at this time can we adopt the Resolution Calendar.

ACTING PRESIDENT KUHL: The question is on the adoption of 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 unanimously.

Senator Bruno.

SENATOR BRUNO: Mr. President, can we call an immediate meeting of the Rules Committee in the Majority Conference Room.

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

SENATOR BRUNO: And the Senate will stand at ease for just a few minutes.

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

And the Senate will stand at ease for a brief period of time.

The Senate stands at ease.

(Whereupon, the Senate stood at ease at 4:19 p.m.)

(Whereupon, the Senate reconvened at 4:30 p.m.)

ACTING PRESIDENT KUHL: The Senate will come to order.

Senator Bruno.

SENATOR BRUNO: Mr. President, can we at this time return to reports of standing committees. I believe there is a report of the Rules Committee at the desk. I ask that that be read at this time.

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

committees.

There is a report of the Rules Committee at the desk. The Secretary will read.

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

Senate Print 5821, by Senator Maltese, an act to amend the Public Authorities Law.

5822, by Senator Maltese, an act to amend the Election Law.

And 5823, by Senator Balboni, an act to amend the Criminal Procedure Law, the Penal Law, and the Executive 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 unanimously.

The bills are ordered directly to third reading.

The Senate will come to order.

Senator Bruno.

SENATOR BRUNO: Can we at this time call up Calendar Number 1492.

ACTING PRESIDENT KUHL: The Secretary will read.

THE SECRETARY: Calendar Number 1492, by Senator Maltese, Senate Print 5821, an act to amend the Public Authorities Law, in relation to the time limit.

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 that

we accept the message.

ACTING PRESIDENT KUHL: The motion is to accept the message of necessity on Calendar Number 1492. 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.

SENATOR DOLLINGER: Explanation, please.

ACTING PRESIDENT KUHL: Senator Maltese, to explain Calendar Number 1492.

SENATOR MALTESE: Yes, Mr. President.

This bill we have seen many times before, and it was previously vetoed by the Governor in 1999. This is, in effect, a compromise bill.

The time for complaints to the New York City Water Board is presently fixed by executive decision at two years. When this

was changed, it was done without legislative action.

The feeling on the part of the Legislature and the proponents of the bill is that the normal contractual time of six years should prevail in the case of complaints by consumers. This change has been endorsed by practically every community board in the City of New York, it has been endorsed by our Public Advocate, Mark Green, it's been endorsed by many good government groups.

Previously there was a determination on the part of the Mayor's office that the change would, in effect, adversely affect the bondholders. There was a legal opinion sought, which is a part of this file, that it does not so adversely affect bondholders. And when this was studied by counsel for the Governor, there was a compromise made that lowered the time that consumers could make complaints for overcharges to four years.

The four-year period would seem to be a very fair period, since the utilities governed by the Public Services Commission -

and that's telephone, electric, and gas - allow a customer six years to contest the bill, based on the six-year statute of limitations.

Also in the City of New York there's been a wholesale change to meters that in some cases are electronic and in other cases are more up-to-date. And as a result, many consumers have felt that their bills were in effect overcharging them. When they make a study of such bills, and there are businesses that do that, they have a high percentage of complaints and overcharges. And as a result, they call upon their legislators and their City Council legislators to appeal to the Water Board.

This would in effect relieve the Water Board, relieve city authorities, relieve legislators of the onus of having to constantly represent consumers in order to go back and make those changes.

The six-year change was withdrawn to four years. This now gives the consumer four years to make a complaint.

One of the telling points was that

the Water Board, in order to reclaim charges that it feels weren't made by a consumer, does go back in effect six years. So this kind of equalizes and is an equitable bill.

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

SENATOR DOLLINGER: Mr. President, will the sponsor yield to a question?

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

SENATOR MALTESE: Sure.

ACTING PRESIDENT KUHL: The Senator yields.

SENATOR DOLLINGER: When was Chapter 375 of the Laws of 2001 signed by Governor Pataki? This bill is a chapter amendment of that bill that became law. When was that bill passed by this house, and when was it signed by the Governor?

SENATOR MALTESE: Well, I don't remember when the bill was passed, but my understanding was that it was signed by the Governor last night.

SENATOR DOLLINGER: Excuse me?

Could you just repeat that, Senator Maltese?

If he would yield, Mr. President, I missed it.

SENATOR MALTESE: Yes. The bill, I don't remember when the bill itself was passed. But my understanding was the bill was signed last night.

SENATOR DOLLINGER: The bill creating the six-year period of time was signed last night?

SENATOR MALTESE: That was my understanding.

SENATOR DOLLINGER: Okay. Through you, Mr. President, if Senator Maltese will yield to another question.

ACTING PRESIDENT KUHL: Senator, do you continue to yield?

SENATOR MALTESE: Sure.

ACTING PRESIDENT KUHL: The Senator continues to yield.

SENATOR DOLLINGER: Who are we compromising with? In August and July we said six years was the right number. I assume that bill, like so many bills, passed unanimously through this house. It probably passed with a

huge majority in the Assembly. So who are we compromising with?

We have the power to set it at six years. We had set it at six years. Why not just keep it at six years? Who are we compromising with? You said this is a compromise bill. Between who and who? We've got the power to change it. We're not negotiating with ourselves. Why don't we just keep it at six years, so that the period of time in which the water authority can go back and relevy and the period of time in which you can contest is identical.

SENATOR MALTESE: Mr. President, I think many of the statutes passed by this house and the other house are the result of compromise with the executive branch and compromises at other levels of government.

My learned colleague is correct when he says it was passed almost unanimously. I believe, out of 211 legislators, it was voted on favorably by 210.

When the bill was signed, there was a negotiation between representatives of not only the Assembly and the Senate but a

representative of the executive branch and the City of New York, which is affected by this bill, and the Mayor of the City of New York.

And there was a representation made by the legislative branch that this chapter amendment would in effect be passed. Because of the circumstances here where we're all trying to cope with the dire consequences of a terrible catastrophe, it was felt that this could be done as, in effect, a shortcut so that this bill, which had received such overwhelming support, could be passed this evening.

SENATOR DOLLINGER: Through you, Mr. President, if Senator Maltese will continue to yield.

ACTING PRESIDENT KUHL: Senator, do you continue to yield?

SENATOR MALTESE: Sure.

ACTING PRESIDENT KUHL: The Senator continues to yield.

SENATOR DOLLINGER: The government groups, the public advocate, all the groups that supported the six years, have they issued a memo or indicated their support

for four years?

SENATOR MALTESE: Mr. President, because of the brief passage of time there was no opportunity to seek their input.

At the same time, I have been in touch with a great many of these advocates over the years, as has my counterpart in the Assembly, Assemblyman Peter Abbate. He agreed to this change. I agreed to the change. The Governor's office agreed to the change. And the Mayor's office agreed to the change. We're hoping that Senator Dollinger agrees to the change.

SENATOR DOLLINGER: Through you, Mr. President, a final question if I will.

ACTING PRESIDENT KUHL: Senator Maltese, do you continue to yield?

SENATOR MALTESE: Yes.

ACTING PRESIDENT KUHL: The Senator yields.

SENATOR DOLLINGER: Do I understand correctly, Senator Maltese, that under New York City's code that the water authority can go back and relevy your water charges over a six-year period but this bill

will allow a consumer to contest only over a four-year period?

Is that correct? I think you said that. I just want to make sure.

SENATOR MALTESE: My understanding is that that is correct, under normal procedure and contractual law.

One of the arguments that we made was that if this law was enacted, we would urge the Water Board to go back no further than four years, but it is not yet in legislation.

SENATOR DOLLINGER: Mr. President, just briefly on the bill.

ACTING PRESIDENT KUHL: Senator Dollinger, on the bill.

SENATOR DOLLINGER: Senator Maltese, you couldn't have picked a better bill to start this session in October with which is a more dramatic representation of what's wrong with this Legislature.

You do all this work, you get everybody to agree that -- the good government groups, the public advocate, they all agree that six years is the right year, that two

years are the wrong year. You do all the work with Assemblyman Abbate, you pass a bill for six years, and all of a sudden the City of New York says, We don't like that bill, and comes back and says, We want four years.

Why couldn't that have -- well, why wasn't it done before the bill was passed in the first instance?

And, number two, this looks like we can't make up our minds, Senator Maltese. Two years, four years, six years. It's like we're flipping a coin, taking a chance on which year is the right year.

Senator, I'm going to vote against it because I think if the water authority in New York has the ability to go back and relevy my water bill, okay, over a six-year period of time, I think it's only fair that I have six years to go back and contest the water bill.

I would suggest, Senator Maltese, that those good government groups and the public advocate who so fondly supported the six-year bill will frown on the notion of dropping it to four years. And maybe next year we'll come back and have a new compromise

and we'll bump it back to six.

All of which couldn't be a more graphic demonstration of how we do business here, which is not to consult, not to have hearings, not do it right.

I'm going to vote no, Mr. President. This isn't a good bill for consumers.

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 negative and announce the results.

THE SECRETARY: Ayes, 58. Nays, 1. Senator Dollinger recorded in the negative.

ACTING PRESIDENT KUHL: The bill is passed.

Senator Bruno.

SENATOR BRUNO: Mr. President, can we at this time call up Calendar Number 1493.

ACTING PRESIDENT KUHL: The Secretary will read.

THE SECRETARY: Calendar Number 1493, by Senator Maltese, Senate Print 5822, an act to amend the Election Law, in relation to authorizing.

ACTING PRESIDENT KUHL: Senator Bruno.

SENATOR BRUNO: Mr. President, is there a message of necessity at the desk?

ACTING PRESIDENT KUHL: There is.

SENATOR BRUNO: I would move that we accept the message.

ACTING PRESIDENT KUHL: The motion is to accept the message of necessity on Calendar Number 1493. 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 immediately.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT KUHL: The bill is passed.

Senator Bruno.

SENATOR BRUNO: Mr. President, can we at this time call up Calendar Number 1494.

ACTING PRESIDENT KUHL: The Secretary will read.

THE SECRETARY: Calendar Number 1494, by Senator Balboni, Senate Print 5823, an act to amend the Criminal Procedure Law, the Penal Law, and the Executive Law, in relation to creating.

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 that we accept the message.

ACTING PRESIDENT KUHL: The motion is to accept the message of necessity on Calendar Number 1494. 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.

SENATOR CONNOR: Explanation.

ACTING PRESIDENT KUHL: Senator Balboni, an explanation of Calendar Number 1494 has been requested by the Minority Leader.

SENATOR BALBONI: Thank you, Mr. President.

The bill that is before us in many

respects mirrors Title 18 of the federal law in respect to the possession and use of a chemical or biological weapon.

As this house will recall, we have passed a bill for the last two years that would essentially criminalize the use or possession of a weapon of mass destruction, as we called it, but is now, after the feds have acted, referred to as a chemical or biological weapon.

Essentially what the bill does, it establishes definitions of what is a chemical or biological weapon. It then discusses the creation of a weapon as a result of a combination of delivery system, and then sets up three penalties, three crimes, as it were: The possession, which is a Class B violent felony, of an agent that is known to cause death.

And then it sets up an A-1 felony, which is punishable by life without parole, for the use with the intent to coerce a civilian population, and the other factors that were inherent in the Chapter 300 that we passed earlier, last month, as they relate to

terrorism.

And then the last section, which talked about the application of life without parole or the death penalty if in fact a murder results from the use of a chemical or biological weapon.

ACTING PRESIDENT KUHL: Senator Dollinger.

SENATOR DOLLINGER: Mr. President, will the sponsor yield to just a question?

ACTING PRESIDENT KUHL: Senator Balboni, do you yield to a question from Senator Dollinger?

SENATOR BALBONI: I yield.

ACTING PRESIDENT KUHL: The Senator yields.

SENATOR DOLLINGER: Senator, could you explain to me why the State of New York would need to undertake this action if, according to the federal chemical weapons legislation recently enacted by the United States Congress and signed by the president, why we need to do this here?

SENATOR BALBONI: This has come

about through negotiations with the governor, the attorney general, the various -- there have been district attorneys involved in this process, all believing that we need to enact a statute that would allow the New York State criminal authorities to prosecute and perhaps assist in the detection and deterrence of the utilization of any of these weapons.

SENATOR DOLLINGER: Through you, Mr. President, if the sponsor will yield to a question.

ACTING PRESIDENT KUHL: Senator Balboni, do you continue to yield?

SENATOR BALBONI: I yield, Mr. President.

ACTING PRESIDENT KUHL: The Senator yields.

SENATOR DOLLINGER: You mentioned that this would assist in the detection or deterrence of these crimes. What in this bill allows for deterrence or detection of these crimes? This is purely a penal statute. There's no money for detection or prevention of these crimes; is that correct?

SENATOR BALBONI: There is no

money in this for the detection and deterrence. And this would be in the same statutory scheme as we do for murder, where we set up a -- all the -- the ability of the criminal justice system to go out and try to detect these crimes and try to set up systems whereby we can prevent them.

And obviously the imposition of these harsh penalties hopefully will deter some individuals.

SENATOR DOLLINGER: Through you, Mr. President, if the sponsor will yield to another question.

ACTING PRESIDENT KUHL: Senator Balboni, do you continue to yield?

SENATOR BALBONI: I continue to yield, Mr. President.

ACTING PRESIDENT KUHL: The Senator continues to yield.

SENATOR DOLLINGER: Just pick any one of the crimes that are described here, the various levels. The intimidating or coercing of a civilian population, influence policy, affect the conduct of kidnapping, or cause serious physical injury, those are all

currently crimes under New York law, are they not?

SENATOR BALBONI: Under Chapter 300 of the Laws of 2001, they are in fact - constitute the crime of terrorism.

SENATOR DOLLINGER: But aren't those currently -- in other words, are we making a -

ACTING PRESIDENT KUHL: Senator Dollinger, are you asking Senator Balboni to continue to yield?

SENATOR DOLLINGER: I am, Mr. President. I'm rusty in October, Mr. President, so -

ACTING PRESIDENT KUHL: I'll try to straighten you around.

SENATOR DOLLINGER: Thank you, sir.

ACTING PRESIDENT KUHL: Senator Balboni, do you yield to another question from Senator Dollinger?

SENATOR BALBONI: I do, Mr. President.

ACTING PRESIDENT KUHL: The Senator yields.

SENATOR DOLLINGER: Each one of those crimes, then, are currently -

SENATOR BALBONI: Excuse me. Mr. President, if I can just correct. They're not the crimes, they're the elements of the crime.

SENATOR DOLLINGER: But each one of those events are currently covered by the statute that we passed earlier, isn't that correct?

SENATOR BALBONI: That is correct. Except they do not specifically mention the utilization of a chemical or biological weapon.

SENATOR DOLLINGER: But through you, Mr. President, if Senator Balboni will continue to yield.

ACTING PRESIDENT KUHL: Senator Balboni, do you yield to another question?

SENATOR BALBONI: I continue to yield.

ACTING PRESIDENT KUHL: The Senator yields.

SENATOR DOLLINGER: The use of a chemical agent or a biological weapon would still constitute terrorism, would it not?

Which would include -- it means that that action would be covered by the statutes we've already passed.

SENATOR BALBONI: Yes. But, Mr. President, through you, the penalties associated in this bill with the utilization of those agents is higher than -- and is signalled to be the most severe actions that can be taken in this society.

And so what we have done is we have worked off the terrorism bill and we have now singled out the chemical and the biological weapons, the utilization of those weapons, as being the most severe crimes that can be committed in this state.

SENATOR DOLLINGER: Through you, Mr. President, just one final question.

ACTING PRESIDENT KUHL: Senator Balboni, do you yield to another question from Senator Dollinger?

SENATOR BALBONI: Mr. President, I yield.

ACTING PRESIDENT KUHL: The Senator yields.

SENATOR DOLLINGER: Senator, in

paragraph 14 of the statute you talk about the chemical weapons convention and you make reference to biological agents that are classified under that convention. Was that convention treaty ratified by the United States of America?

SENATOR BALBONI: I do not know the answer to that question. I only know that under Title 18 of the federal law that is the same exact reference, and therefore we adopted the same reference.

SENATOR DOLLINGER: Through you, Mr. President, just on the bill briefly.

ACTING PRESIDENT KUHL: Senator Dollinger, on the bill.

SENATOR DOLLINGER: I'm going to vote in favor of this bill.

I'm not so sure that it isn't already covered under current statute. I know and I've talked to Senator Balboni a number of times about the correlation between federal and state law. I'm not so sure that this bill is in and of itself completely duplicative of the federal statute, but my guess is it's darned close to it.

And I would just suggest, Senator Balboni, that the United States, frankly, and the State of New York would have a much better argument for its concern about biological terrorism if it had ratified the convention which is mentioned in this law, which to the best of my knowledge and understanding we have never decided to ratify.

And, frankly, that may be why the rest of the world has looked at this issue of biological terrorism from a slightly different point of view than the United States, because in 1993 there was an opportunity to send an absolutely crystal-clear message that the most powerful nation in the world was dead set against it, and to my knowledge we've never sent that message.

Now, I'm going to vote in favor of it. I still think this bill may have some procedural defects. But those could be taken care of later, just like the water authority we can take care of later, and I'm willing to vote in favor of it as a concept.

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

SENATOR VOLKER: I just have a question, Mr. President. I want to ask a question of Senator Balboni.

ACTING PRESIDENT KUHL: Senator Balboni, do you yield to a question from Senator Volker?

SENATOR BALBONI: Yes, I yield.

ACTING PRESIDENT KUHL: The Senator yields.

SENATOR VOLKER: And by way of explanation, if I might just ask this question -- and one of the keys to this bill is something which was not covered, if I'm not mistaken, and that is the issue of someone who sends not a material that appears to be dangerous and deliberately sends, for instance, talcum powder or whatever it is, alleging it to be anthrax, through the mail and -- or uses any kind of material.

This bill as opposed to, if I'm not mistaken, the previous bill, this bill would make that a very -- obviously, a serious felony, and would cause that person -- and the reason I'm mentioning this is quite clearly this is what's been happening in many cases.

And this bill would clearly and unequivocally cover that, isn't that correct?

SENATOR BALBONI: That is correct.

Mr. President, through you, Section 240.61, which is contained on page 7 of this bill, handles that issue and makes it an A-1 felony -- I'm sorry, makes it a felony to try to -- previously it would be placing a false bomb, but now we say "false bomb or hazardous substance." And hopefully that would solve the hoaxes issue.

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

Hearing none, the Secretary will read the last section.

THE SECRETARY: Section 13. 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 1494 are

Senators Duane, Montgomery, and Schneiderman. Ayes, 56. Nays, 3.

ACTING PRESIDENT KUHL: The bill is passed.

Senator Bruno.

SENATOR BRUNO: Mr. President, by way of explanation, we have been waiting for a couple of the major bills that we're going to take up here tonight to get completed and to get through with the bill drafting and to get printed.

And I am told for the third time that the bills are now being processed to get printed. And it is going to take us probably an hour and a half or so, possibly up to two hours, to get them done.

So rather than just recess and sit here entertaining each other, we might be more productive and constructive to break and come back at 7:30, with a Rules Committee meeting to be called in the Majority Conference Room at 7:15.

And we should have our work before us. We can deliberate, hopefully get it done. And if we get it done in any reasonable hour,

we will then adjourn. If we don't get done in any reasonable hour, we'll just adjourn and come in tomorrow. And if we have to, we'll just keep working until we have what we have to do done.

So that is by way of explanation on where we are. So I would move that we stand in recess until 7:30, and with a Rules Committee meeting at 7:15.

Thank you, Mr. President.

ACTING PRESIDENT KUHL: There will be a Rules Committee meeting in the Majority Conference Room, Room 332, at 7:15, Rules Committee meeting at 7:15 in the Majority Conference Room.

And the Senate stands in recess until 7:30 p.m.

(Whereupon, the Senate stood in recess at 5:13 p.m.)

(Whereupon, the Senate reconvened at 7:35 p.m.)

ACTING PRESIDENT WRIGHT: Senator Skelos.

SENATOR SKELOS: Mr. President, as we begin the evening session, I want to

call an immediate meeting of the Finance Committee in the Majority Conference Room.

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

SENATOR SKELOS: And if members could work their way back to the chamber, we will be starting shortly. The Rules Committee has already met.

ACTING PRESIDENT WRIGHT: We anticipate that we'll be starting shortly, and request members to return to chambers.

ACTING PRESIDENT MAZIARZ: Senator Bruno.

SENATOR BRUNO: Mr. President, can we at this time return to reports of standing committees. I believe there's a report from the Rules Committee, and I would ask that it be read at this time.

ACTING PRESIDENT MAZIARZ: Reports of standing committees.

The Secretary will read.

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

following bill direct to third reading:

Senate Print 5828, by the Senate Committee on Rules, an act directing the New York Power Authority.

ACTING PRESIDENT MAZIARZ: Senator Bruno.

SENATOR BRUNO: I move to accept the report of the Rules Committee.

ACTING PRESIDENT MAZIARZ: All in favor of accepting the report of the Rules Committee signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT MAZIARZ: Opposed, nay.

(Response of "Nay.")

ACTING PRESIDENT MAZIARZ: The Rules report is accepted.

Senator Bruno.

SENATOR BRUNO: Mr. President, can we at this time take up Calendar Number 1498.

ACTING PRESIDENT MAZIARZ: The Secretary will read.

THE SECRETARY: Calendar Number 1498, by the Senate Committee on Rules, Senate

Print 5828, an act directing the New York Power Authority.

SENATOR DOLLINGER: Explanation, Mr. President.

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

ACTING PRESIDENT MAZIARZ: There is a message at the desk.

SENATOR BRUNO: I would move that we accept the message.

ACTING PRESIDENT MAZIARZ: All in favor of accepting the message of necessity signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT MAZIARZ: Opposed, nay.

(Response of "Nay.")

ACTING PRESIDENT MAZIARZ: The message is accepted.

Senator Bruno.

SENATOR BRUNO: Mr. President, the bill that we have before us is the language bill that pertains to authorizing the initiation of the negotiations that would take place that would result in six casinos being

operative, if successful, here in the state, three in western New York and three in the Catskills.

It also authorizes the initiation of Powerball, as it's referred to. We will join, I believe, 26 other states that already have that. And many New Yorkers participate by buying tickets in other states.

It also authorizes VLTs, video lottery terminals, being placed in various racing tracks, the harness tracks as well as flat tracks, here in the state. The bill talks about Aqueduct, Yonkers, Monticello, Vernon Downs, and the Finger Lakes as being mentioned specifically as part of the legislation. And then, by local option, with the county governing body voting to approve, Batavia, Buffalo, and Saratoga harness tracks could also participate.

This bill also has extenders for med-mal to March 31st, lofts extension to March 31st, it has Quick Draw to March 31st. So it's a rather comprehensive package.

The gaming side, the estimates are that it will produce upwards of a billion

dollars in revenue as a result of people participating. And we all know that people now participate in some of the largest casinos that surround, almost, New York State. And New York State is, I believe, the largest or second-largest exporter of people who visit casinos in the United States.

So it would just seem at this time, since we desperately need revenue -- with the shortfall that will result from the terrorist attack of September 11th, we know that our revenues are going to drop this year and next anywhere from three to nine billion dollars. Those are the estimates. So we're looking for revenue sources, since these are sources that are in existence throughout the United States in various places.

We hope that the VLTs will enhance racing here in New York State, because many of the quality horses race elsewhere because the purses are larger. Agriculture is the largest industry still, or second largest, in New York State, and horse racing helps keep us in the forefront.

While many of us may have

differences of opinion over whether or not we feel that it's appropriate for the state to be legalizing additional gambling, I don't believe that we necessarily have a choice as relates to the citizens, because the citizens of this state are participating in various places as they see fit.

So all that's happening here is that we are creating an authorization that will allow the dollars that are used in gaming to flow to education, primarily, and to economic development and job creation. That's the bottom line.

People who have, you know, varied opinions also do recognize that these dollars now are going into Canada, supporting education, for the casinos they have, into Connecticut, into New Jersey -- not in New York. This changes all of that.

Thank you, Mr. President.

ACTING PRESIDENT MAZIARZ: Senator Padavan.

SENATOR PADAVAN: Thank you, Mr. President.

With all due respect to the very

fine explanation given by the Majority Leader, I regrettably will have to take issue with some of his conclusions and some of his observations, and hopefully in a fashion that makes sense.

One of the aspects of this particular omnibus bill -- and, by the way, let me say that I'm addressing that portion, those portions of this bill which deal with various gambling venues which in my view can be categorized best by one word, obscene, in terms of their negative impact on the people of this state.

Let's talk about Quick Draw. Again, we're extending to I believe March 31st of 2002, as we've been doing repetitively. When we first put it into place, we mandated that there be a study by the Office of Mental Health to determine how it worked. And that study was done, and we have copies of it. It was published in March of 2000, commissioned by the New York State Office of Mental Health: "Quick Draw Players in New York State." It compared the results of the activities of Quick Draw between 1996 and 1999.

Without boring you with all the statistics, it points out that between 49 and 39 percent of the people participating in Quick Draw fall in either the category of compulsive gambler, pathological gambler, or problem gambler. And that it is a big mistake, something that we should have not done in the first instance, but certainly, by virtue of its performance and demonstrated results, something we should stop immediately. It was not labeled video crack by accident, because that's exactly what it is. Fast-moving numbers, in bars and taverns. Very, very addictive.

Where are these 3400 outlets of Quick Draw? They're largely to be found in low-to-low-middle-income communities. In my city you will not find Quick Draw on Fifth Avenue or Park Avenue. It attracts people who least can afford it and those people who are most susceptible to the inherent dangers of fast-moving, addictive types of gambling.

So that's one area that we should have forgotten about and certainly should not

extend any longer.

In a similar vein, this bill authorizes so-called VLTs. Which, let's be plain -- and this word "gaming" offends me - it's gambling. And VLTs are not some strange item; it's an electronic slot machine. You don't pull a lever, you push a button. And it's all the time.

One of the places in this bill that such devices will be located is at Aqueduct. Those of you from the city, and particularly from Queens, I'm sure are familiar with it, but most of you are not. Aqueduct is in South Ozone Park, in a community that's largely minority. Hard-working people, but of very modest means. On Saturday and Sunday of every week, generally, there's a large flea market that takes place in the parking lot adjacent to the racetrack.

Now, with this, the potential exists, if enacted, seven days a week, 12 hours a day, those very same people will go in there and play the electronic slot machine, along with alcohol, if they wish, losing money that they can ill afford and money that they

could better have spent in the flea market.

In the memo it says "much needed source revenue while promoting local economic development." And I fail to understand where at Aqueduct, in that community of South Ozone Park in the county of Queens, these electronic slot machines are going to produce economic development.

Like Quick Draw, and perhaps even worse -- because Quick Draw is every five minutes, this is all the time, instantaneously -- we will have more people become part of that 1.2 million people in this state who are either pathological, compulsive, or problem gamblers. And that number keeps going up every time we do something new, every time we add to gambling opportunities.

Another part of this bill deals with Powerball. And it's true, people do go to Connecticut to play Powerball. I would take issue with the numbers of them, depending upon how big that prize gets, with those astronomical odds of 80 million to one, whatever it happens to be.

But the fact remains, the lottery,

the lottery, with all of its permutations - Pick 10, Pick 6, daily numbers, those scratch-off lottery tickets that hang in your convenience store like confetti, the vending machines -- all of that has contributed to a significant degree to the social and economic problems engendered in this gambling phenomenon that is sweeping our state and the nation in many, many different areas.

What Powerball will do is add another dimension to it. We're told that somewhere down the line all of these gambling opportunities will produce a billion dollars in revenue. That's the figure I heard mentioned. But no one talks about what that billion dollars will cost. And I suggest to you that when you add up all the social problems, all of the endemic ills associated with these different kinds of gambling opportunities, that the costs will exceed a billion dollars.

Because every economist who has written on this issue tells us that when the gambler is in your state, a resident of your state and not from some far distant place,

you're simply moving money around. With no value added, no goods or services provided. Whether it's Keynesian or Economics 101, it's a zero-sum game at best.

And in between, you have all the pain and suffering inflicted upon individuals, their families, in a whole variety of ways - in the workplace, in the criminal justice system, marital problems, social problems, economic costs across the board. All of which must be absorbed by the state or local governments.

So Powerball is best not done. And we talk about other states. Well, Pennsylvania hasn't jumped into the Powerball. Neither has Vermont. And they're our neighbors. They haven't bitten into any of this. Maybe they're smarter than we are.

And now we come to casinos. There's no doubt that people get on buses in New York City and go over to Atlantic City to gamble. Or they drive there. Or people in Niagara Falls go over the bridge into Canada and gamble. There's no doubt about it. It's a given. But get back again to what the

economists are telling us. And these are national in scope. Whether it's Goodman in UMass or Grinols of the University of Illinois or Professor Rose from the University of Nevada, they all tell us that with casinos, that if you don't attract great numbers of people, the majority of the bettors from outside your state, you're simply pouring money into a black hole. And that's a direct quote.

The notion that people in Niagara Falls and other places in New York who are going over to Canada are now going to come back to Niagara Falls to gamble is somewhat shaky. And the reason I say that is because people were going over to Canada in greater numbers than they were staying in Niagara Falls long before there were casinos there. The amenities, tourist attractions, aesthetic reasons were such that they were enticed to go there.

For the very same reason that many people go to the Berkshires rather than the Catskills, although geographically and in every other physical way they are identical.

So Niagara Falls failed to provide the reasons for people to stay there or to come there and not go to Canada. I heard one story, one joke, said that Niagara Falls as it was configured is the second worst disappointment a young bride has. But whether that's relevant or not I leave up to you.

(Laughter.)

ACTING PRESIDENT MAZIARZ: That remark was out of order, Senator Padavan.

SENATOR PADAVAN: And the notion that people are going to come to downtown Buffalo to gamble from other states and other regions is mind-boggling. I'll tell you who will gamble in those places: the people who live there or within a reasonable distance in New York.

And so we'll take money out of the economy and we'll put it into the pockets of the operators of the casinos: the Indians, those they contract with to be the operators of the casinos.

We have a perfect case study, and it's Atlantic City. For twenty years, that has continued. What happened over that period

of time? Within a relatively short period of time they went from fiftieth to first in terms of their crime rate. They're right up near the top. The highest unemployment rate in the state of New Jersey. Four of the last seven mayors went to jail. Major demands upon the state of New Jersey for infrastructure costs.

And in Atlantic City, every small business went out of business. They couldn't compete with the casinos. Whether it was a restaurant or a bowling alley or a movie house, gone. The only economic development that's occurred in Atlantic City are pawnshops, about fifty of them.

For someone to tell us what happened there is not going to happen in New York, whether it's Niagara Falls, Buffalo, or the Catskills, is somewhat difficult to accept.

Now let's go to New York. Let's go to Oneida. The mayor of Oneida came to the Capitol earlier in the session, and he met with many of us. And he said: "That casino up there is killing me. Businesses are going out of business in my town, social costs are

going up, criminal justice costs are going up, and I'm losing my shirt. You've got to do something about it. Amend that compact so at least I get something out of it." Well, obviously we've done nothing. And that's in Oneida, in New York State.

So there are two examples, two realities. Not a question of fiction or supposition, a matter of reality.

The fact remains, aside from all the economic analyses we can make and all the reports that have been done -- I mentioned one of them. There are many others. There's a report here commissioned by our New York State Council on Problem Gambling dealing with adolescent, adolescent gambling, kids under 18 who, while they represent 7 percent of the population, are 11 percent of that over 1 million people who are in trouble in New York State, and fast increasing. In a lot of different places, somehow they're buying lottery tickets. Somehow they're playing Quick Draw.

And we're doing it. We're creating at a very young age youngsters who will grow

into adults with a gambling problem. And I think that's unconscionable. We shouldn't be doing that. I don't think any of us was sent here to hurt people. And all of this gambling is just going to do that.

I read an AP story today in which I imagine a reporter asked the speaker of the Assembly why he did not support the mayor's request, Mayor Giuliani, to have casino gambling in New York City. And his response was that to have casinos in a compact area like New York City would produce more social problems than economic benefits. He's right.

But Buffalo is the second largest city in New York State. Does that logic not prevail in Buffalo or Niagara? I think it does. I think it does.

Well, Mr. President, I've taken up enough of your time. Obviously nothing that I will say here tonight or have said previously or will say in the future is going to change anything that happens. This is not the end, however. You can bet on it. Because more of these racetracks are going to want these electronic slot machines. More areas of the

state will cry out for casinos operated by Indian tribes. And there will be more opportunities than you possibly think of.

OTB will ask for these electronic slot machines, there's no doubt about it. They're going to tell us, "Hey, what about us? We need money also." And if this Governor has his way, undoubtedly they'll get it.

Thank you, Mr. President.

ACTING PRESIDENT MAZIARZ: Senator Dollinger.

SENATOR DOLLINGER: Thank you, Mr. President.

I rise -- my views on the issue of gambling in any form are reasonably well known. But I'd like to spend a couple of minutes and go over some of the things that have already been said and perhaps provide at least an ounce of clarification about what we're really doing and why I believe we're doing it.

With all due respect to Senator Bruno, who has been involved in these difficult negotiations, Senator Bruno says we desperately need revenue. I would suggest

that that can't be true, Senator Bruno, because most of the revenue that we're going to get from all these gambling endeavors won't show up for at least two or three years.

So if we desperately need revenue this year, what we're doing today is not going to help us this year. It's not going to help us in the next 18 months. If we desperately need revenue, that suggestion that this implementation of gambling is going to provide it in the short term is just not true. It can't be true.

And, Senator Bruno, an old lesson that I learned that I think belies the comment you made about all of our neighbors, our neighbors in Ontario and elsewhere that have gambling -- Senator Bruno, I'm sure your father said it to you or your mother said it to you. They clearly said it to me. My father said to me enough times that just because everybody does it, that doesn't make it right. If it's the wrong thing to do, the fact that everybody does it doesn't make it right.

I would suggest that the logic we

should follow other states or another province on this errand of fool's gold doesn't make what we're doing right.

And with all due respect to Senator Padavan, one thing that you said, Senator Padavan, is untrue. You said that people will be able to gamble from 10 o'clock in the morning on Sunday and drink as well. As you know, Senator Padavan, we don't allow anybody in this state to buy alcohol before noon on Sunday. We still carry that principle that on Sunday morning, we have a notion that somehow you shouldn't be able to buy alcohol. And yet at 10 o'clock on Sunday morning, Senator Padavan -- well, until 12 o'clock. But at 10 o'clock on Sunday morning, under this bill, the video display -- is it 12 o'clock? It was 10 o'clock in the version I saw.

My point is that we still have - and I apologize, Mr. President. I was under the impression it was 10 o'clock. That was the memo I saw.

But the point is, Senator Padavan -

ACTING PRESIDENT MAZIARZ: Order

in the chamber.

SENATOR DOLLINGER: -- that we still have rules from a long time ago that embedded our values and our judgments about what people do during the day. And it seems to me that to open the video display terminals at 12 o'clock on Sunday makes little sense.

Mr. President, there's one other thing that Senator Padavan said that I think needs to be put in even more graphic detail. If Senator Bruno is correct that this will generate $1 billion in revenue, I would just ask how much money, since that's our revenue -- and before that revenue gets to us, the casinos will have taken their profit and everyone will have taken their profits. How much money do the poor people in this state have to lose, Senator Padavan, for a billion dollars to come to us?

My guess is that that number is somewhere between 7½ billion and $15 billion in lost income. Because remember -- Senator Padavan, let's be honest with each other. The income for a casino is income that comes directly from someone else's earnings. When

they report a profit, that profit constitutes money taken out of the pocket of New Yorkers.

It's just like we walk in and confiscate their money, except we're going to do it under the ruse of gambling. That's people's earnings. That's their paychecks. That's the casino, when they report a profit, that's what they're doing. They're taking people's paychecks and turning it into profits for themselves.

And I would suggest, Senator Padavan, in a state that has about $650 billion or $700 billion in total income reported to our state tax department, I'm telling you in my opinion somewhere between $10 billion and $15 billion in income raised by New Yorkers is going to go down the drain in casinos when we pass this measure.

And that money, as Senator Padavan says, is coming from those who can least afford it. If I stood here today and said we're passing a measure that's going to take $5 billion -- forget $5 billion, how about 500 million -- we're going to take $500 million out of the pockets of people who

can't afford it in this state, I daresay not one person in this chamber would have the courage to vote for it.

Well, that's what you're doing today, make no mistake about it. You're walking in and taking billions of dollars out of their pockets by giving them the lure, the false lure of gambling, this notion that they'll somehow win when we all know that the business is designed to lose, that somehow they'll make more money when we know they're going to lose it. We know it. Why would we do it?

Mr. President, I believe that this budget is worthy of only one person I can think of, with all due respect to all the people who have worked so hard on it, and that's the Sheriff of Nottingham. Remember the Sheriff of Nottingham? He was going to take money out of the poor so that he could support the rich and the wealthy.

I would suggest what we're doing in this budget is we're taking money from poor people in this state so that we can afford tax breaks for businesses and economic development

zones -- which may be valuable, but they shouldn't be paid for at the expense of people without adequate means. That whole notion that we are balancing our budget on the backs of the poor is an intolerable notion to me.

And I would close with one other thought -- well, excuse me, I have one other comment about what we're doing today. I believe it's critical that everybody understand that we are, in my judgment, completely unbalancing our tourist investment in New York State. We in Rochester, New York, do not get a casino. Niagara Falls and Buffalo both do. The Catskills do. And I am telling you, we have spent millions of dollars promoting our visitors and convention bureau in the last ten years, millions of dollars.

And yet what you're doing today is you are creating a strong competitor in Niagara Falls, a strong competitor in Buffalo, strong competitors in the Catskills, all of which will make it more difficult for us to attract visitors and convention bureau business. And that the restaurants and the people in Rochester who rely on those

conventions, for which we have spent millions of hotel and motel tax dollars, all that money that we've spent will go down the drain because we're now creating more powerful competitors in Niagara Falls and Buffalo.

I would suggest those members in this house who come to the Finger Lakes, think about your bed-and-breakfasts, think about the small hotels throughout the Finger Lakes. Because you're going to see "I Love New York" brochures that say why go to the Finger Lakes, go to the Catskills, Niagara Falls, and Buffalo instead.

I believe that we are unbalancing our tourist investment in New York by putting these casinos in only distinct locations, and we're going to damage the tourism business throughout the rest of this state. I don't know why anyone from my neck of the woods would see this as helping the business climate in Rochester, New York. I just don't see it.

I'll close, Mr. President, with one final thought. The governor on the second floor has talked about his predecessor, the former Republican Theodore Roosevelt, a

conservationist, a man who believed in the future of New York. A man who, if any other president embodies it, embodies the notion of what someone can do with diligence and hard work.

I would suggest that this governor is taking a state -- the symbol of our state is the epitome of the American dream, the Statue of Liberty, which shone so brightly and so poignantly on September 11th. This governor's vision is not the American dream, it's a dollar and a dream. And that is a complete, complete shame for the people of this state.

Why George Pataki wants to make us the biggest gambling state in the union is beyond belief. I would suggest that the other Republican predecessor of his by the name of Thomas E. Dewey, the man who smashed the slot machines, the man who fought against vice, would be astounded to think that fifty years later one of his Republican successors is satisfied to have a state built not on the state of liberty, but instead the state of a dollar and a dream.

This is a catastrophe for the State of New York. I urge all of you to think about the repercussions of this. This is not going to be good for our state. Please think about it and vote no.

ACTING PRESIDENT MAZIARZ: Senator Bruno.

SENATOR BRUNO: Thank you, Mr. President.

Mr. President, I'm rising because I feel compelled not to prolong the debate, because this hour is late and going to get a lot later, but really to just correct a couple of statements here that are very, very well intentioned but just plain wrong. Wrong.

If you go to Niagara Falls, Ontario, you will see two casinos, you will see hotels, you will see restaurants, you will see the construction of a brand-new $800 million casino that was announced this week. You will see a thriving metropolitan area where 4 million additional people visited since they opened their first casino.

So don't say it's not happening, because it is happening. Go to Niagara Falls,

New York. You ought to be ashamed to live in this state and allow that to happen. You ought to be embarrassed to allow to happen in Niagara Falls, New York, what has happened since those casinos went up.

And it is wrong to say that there will be no income. I resent in essence being told that what I'm saying isn't true. All of us take licenses on this floor on occasion. That might surprise you. Sometimes we say things that maybe suit ourselves and aren't as upfront, as truthful as we might like to believe they are.

But we do this -- when we do it, there will be anywhere from $200 to $400 million flowing into the state revenues within this next year. So it is just plain wrong to say that we are three years away from creating income.

And I just say that in these two minutes, because when we talk about a desperate need, there is a desperate need. And we have alternatives. We can raise taxes to fill that void and that vacuum that is there in those declining revenues. None of us

want to do that. We can cut vital services in education, in health care, in maintaining our roads and bridges. None of us want to do that in this chamber.

Or we can try and increase the revenue of this state by allowing people to do what they do voluntarily. No one drags people in kicking and screaming. They walk in of their own volition, and they stay there. Just as they go to Niagara Falls, Ontario. Just as they go to the largest casino in the world, in Foxwood, two hours and 15 minutes from here. Mohegan Sun, right next to it, doubling its size every year. No one drags them. They're there.

So I only offer that, Mr. President, not that it will be helpful for those that want to say whatever it is they have in their minds. That's what this debate is all about. And people ought to be able to express themselves as freely as they want to. But the fact of the matter is this state desperately needs to do things that are different, because our lives are different. It doesn't give me any pleasure in what I'm

saying, it doesn't give me any great pleasure in what we're doing, any more than it gives me pleasure to go over to Niagara, Ontario, and see the millions of people going through there in Niagara Falls -- in your home district, Mr. President -- where it looks like a ghost town in the middle of the day.

Thank you, Mr. President.

ACTING PRESIDENT MAZIARZ: Thank you, Senator Bruno.

Senator Duane.

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

ACTING PRESIDENT MAZIARZ: Senator Duane, on the bill.

SENATOR DUANE: I can't believe that we're doing this here tonight. And to make it even worse, we're using the guise of the terrible tragedy, the terrorist attacks on New York, to make New York one of the biggest gaming states in the nation. Instead of being here talking about rebuilding the Empire State, what we're doing is trying to make New York a gambling empire.

You know, you'll hear from others

and we've already heard from others about the harmful effects that casinos will bring to the state. And I agree with all of those. And, sadly, the terrorists are going to win again. They're going to win again here in New York because we're making a drastic decision affecting institutions in our state. We're changing things in this state based on a horrible tragedy that happened to us.

We're not even looking at the social and economic ills that are going to befall us because of this. We're just compounding the terrible things that the terrorists did to us. They're winning again.

I also -- I am just incredibly disgusted about the process that brought us here. You know, we've been sitting around here for three days, most of us kept in the dark -- probably all of us kept in the dark, though maybe not everybody would admit to being kept in the dark -- and basically doing nothing. All the time while three people were talking about making a huge policy change for the State of New York.

You know, 99 percent of the State

Legislature has had nothing to do with something that is going to change the state forever. No public hearings, no conference committees. You know, in a regular year all of that would be, you know, completely dysfunctional and undemocratic. But in the wake of a national tragedy, to keep doing business like that, that's dangerous.

And let's call gambling exactly what it is. It's a tax on poor people. You know, if we want to raise taxes on a group to pay for the terrible and high costs that we now have because of what happened at the Trade Center attack, then I think we should stand up and have the political courage to raise taxes on everybody. Not just poor people, but let's have the political courage to raise taxes on everybody of every income in our state. If we need to raise taxes, then let's raise taxes.

You know, it's really simple. It's not like we've been given a choice. We have to raise revenue. And the fair way to do that is to raise taxes. September 11th made it so that we don't have any other choice. But you know what? We're not facing up to that.

We're not facing up to that reality at all.

You know, why are we making the nonprofit groups that provide very important services to millions of New Yorkers -- why should they be punished? Why are they being punished because we are unable and have been unable all year to get our act together here and actually do a decent budget? And that's what's brought us to this point as well.

I mean, why are we going to make the arts suffer? The arts aren't going to get anything out of this budget, and the arts are one of the things that make New York a wonderful place. And we're not doing a thing to help them in this budget. We're virtually doing nothing for school districts, nothing. Our future is going to be about gambling, not about what's happening in our schools.

What about health programs? What about older people? What's happening in nursing homes? What's happening in hospitals? What's happening for people with AIDS? Virtually nothing. You know, we're not going to raise revenue or start a different revenue stream, because we're afraid to raise taxes.

And we're trying to fool people into believing that gambling is the only way? You know, shame on us. Shame on us.

You know, from what I hear, New Yorkers are willing to stick together during a terrible time like this. And maybe they would be willing to pay a little bit more in taxes to help our state, maybe a little bit more on top of the personal income. Maybe, but we didn't even bother to ask them. We never ask them. And, you know what, we didn't even ask them about gambling.

You know, here we are, at night, passing this at night. I mean, you think that people are not going to know that we're ashamed of what we're doing? At a time when New Yorkers have shown how very brave they are, how very brave New Yorkers are, how willing New Yorkers have been to stand up for and put their lives on the line for what they believe in, this is what we're doing? This is what government is doing? This is how we're going to rebuild the Empire State? I really think New Yorkers deserve better.

And you know what else? I guess in

the future we shouldn't bother to run for election, we should just term-limit ourselves out. Ordinarily I'm against term limits. But you know what we should do in this state? We should just elect the three people that make these decisions by direct election and just leave us out of it. Because that's the way business has been done, that's the way business is being done here, and that's the shame of this Legislature.

I vote no.

ACTING PRESIDENT MAZIARZ: Senator Brown.

SENATOR BROWN: Thank you, Mr. President.

I don't mean to be disrespectful to anyone, but I must confess that I have to agree with Senator Duane on this process. This process is a real disappointment. This process truly, honestly, as Senator Duane said, left so many of us out of this important decision-making process.

Many of us have said it time and time again in this chamber, but I didn't run for election to be in this body not to have

any voice on this important issue that so deeply affects my community and so deeply affects this state.

I feel compelled to vote for this piece of legislation tonight even though it's certainly by no means a perfect piece of legislation. There are many holes and there are many problems with it. But I have listened to the voice of the residents of my district -- Buffalo, Niagara Falls, Grand Island, and the city of Tonawanda -- and from the calls, the letters that I have received, for the most part I think people want to see casino gambling in the western part of this state.

In Niagara Falls -- we've talked about the fact that the state desperately needs revenue. In Niagara Falls, that community desperately needs hope. The people in Niagara Falls are literally on their knees begging for something, anything, to turn that community around. They have worked and fought and begged and pleaded for more than 30 years now to see casino gambling come to that community, a community that is a destination

community.

Niagara Falls is one of the wonders of the world, and we have it. We have it in our state, and we haven't done nearly enough, nothing, to develop that wonderful resource that we have in our state. And like Senator Bruno said, it's disgraceful. It's disgraceful that we have not developed Niagara Falls on the American side.

But let me turn your attention just for a moment to some of the problems that I see with this legislation that I hope as we go forward we might be able to fix, we might be able to clean up.

First of all, there's a question between what the local share will be. It's critical that the local share going to the city of Buffalo and the city of Niagara Falls be significant. We've heard from a number of other speakers the impact that casino gambling is going to have on the poorest in our communities. Well, those communities that are going to bear the brunt of that need to have the resources to take care of people who will have those problems.

Now, unlike some, I feel that people make that decision. And I think poor people are just as intelligent as anyone else. When they make the decision to gamble, they do it of their own free will. And I don't think by not approving this we are saving anyone from what they will do anyway. There's an opportunity for poor people to gamble right now -- and we all know it -- legally quite easily, and illegally if they want to.

What we need to do is educate people to gamble in moderation if they are going to gamble in our state so people aren't spending more than they can afford to spend on something that for people who are wealthier and better educated is a recreational pursuit, not a pursuit to get rich quick, not a hope that they will roll the dice or pull down a handle and in a moment change their life circumstances, in a twinkling of an eye.

Now, also a question is what will be the split of the local share between the city of Buffalo and Erie County, between the city of Niagara Falls and Niagara County. I don't think there should be an equality of

local share between the cities and the counties.

In that part of the state, the counties are much healthier than the cities are. The cities are in desperate need of a financial shot in the arm. And I think if we pass a local share that is equal for both the cities and the counties, we do the city of Buffalo and the city of Niagara Falls a great disservice. It would be a major disservice if we did this.

Let's also look at the land claim on Grand Island. There are more than 18,000 people that live in the town of Grand Island that have been deeply concerned for quite some time now about the Seneca land claim in their community. I think we had an opportunity with this negotiation to do something about that land claim.

Still, this evening, if we pass this tonight, it still leaves those homeowners, those property owners in the town of Grand Island, more than 18,000 of our neighbors in New York State, with the uncertainty of whether or not they will own

their properties, based on the land claim issue, based on the Seneca suit against the town of Grand Island.

So I'm going to vote for this, but my vote is fraught with some real consternation. Consternation because I didn't have the opportunity to participate in this decision-making process to the extent that I feel every one of us should have been able to participate in this process. It's filled with consternation because I don't think that this is a perfect agreement.

But it's something that I feel that I must do because I know that many in the community that I represent are pinning their hopes on this casino agreement. They're hoping that the thousands of visitors to Niagara Falls on the Canadian side -- that bypass Niagara Falls on the American side right now -- might be redirected, might stay on the American side.

Also, the statistics will tell you, if you look at these statistics, that right now, on any given day, 50 percent or more of the cars that are at Casino Niagara are cars

from the United States of America. So right now our dollars are going across the border. Let's not make any mistake about that.

When we make the point that we have nothing to lose by letting this opportunity go by, that no revenue will be gained if we let this opportunity go by, we are absolutely wrong. Right now millions and millions of dollars are being earned every year, $650 million annually in Canadian dollars are being earned every year in Casino Niagara. And many of those dollars are U.S. dollars. And many of those U.S. dollars are coming from citizens of New York State.

We've got to stop the bleeding. And we've got to make sure that, as we move forward with this, we work and massage this agreement. I think we can still make it better. I'm hoping we will still make it better. But I think we need to move forward. I think we need to get it done.

Thank you, Mr. President.

ACTING PRESIDENT MAZIARZ: Senator Schneiderman.

SENATOR SCHNEIDERMAN: Thank you,

Mr. President. On the bill.

ACTING PRESIDENT MAZIARZ: Senator Schneiderman, on the bill.

SENATOR SCHNEIDERMAN: I have seldom heard as many of my colleagues express consternation at having to make a decision on their vote as I have on this particular piece of legislation.

There are some very good things in this bill. There are a lot of things in it in addition to gambling which no one has mentioned yet. I think it's unfortunate that we've lumped so much together and essentially are holding some people's votes on some very good programs hostage to this gambling initiative.

And I feel very strongly about many of the provisions in this bill. I feel constrained to vote against it not just because of the eloquent arguments that have been made by Senator Dollinger and Senator Padavan about the evils of gambling, not just because Senator Duane rightly points out this is extraordinarily regressive, this is the wrong way to move forward economically, but

also because the issues that were of concern to me when a similar piece of legislation came up earlier in the session are still there. And this is something I do not understand.

And I invite my distinguished leader if he can correct me, because I hope I'm wrong. This still has a provision where we're giving a blank check to the Governor, we are ceding our authority to ratify to the Governor. And if it's any indication of the kind of compacts he's going to negotiate with this blank check -- the only indication we have is the reference to the memorandum of understanding referenced in Section 12 of this legislation, the memorandum of understanding of June 21, 2001.

This memorandum of understanding I think indicates that if even if you were for casinos, you should be opposed to this legislation. This is a horrendous deal for the people of the State of New York. There is nothing that's going to guarantee labor laws are enforced. There's nothing that's going to guarantee that civil rights laws are enforced.

I would suggest that perhaps the

most offensive part of this of all is a part that I suppose you could say was economic development. There is a special type of economic development hidden in this memorandum of understanding. It is a felony review process that is more porous than any that exists now in the United States that would enable members of organized crime who are convicted of felonies to still participate in the gambling business.

I think we might as well call this section the "Wise Guy Relocation to New York Act." That will bring in some economic growth, but I respectfully submit it's not the kind of economic activity we should be trying to promote in the state of New York.

Senator Bruno, I want you to lead us in reviewing what the Governor does and ratifying it. Why are we giving him a blank check? Why are we letting ourselves be railroaded into a bad deal when a more tempered approach might produce better results?

Senator Brown has spoken very eloquently about the fact that we need to

massage this. Well, if we pass this, giving the Governor a blank check, he doesn't have to come back to us. Our days of massaging are over, except perhaps with respect to your personal life.

This is not something that we need to do now. This is not something that is going to generate revenue now. This is something that, as Senator Duane and Senator Brown said, that would benefit from some sunshine and some debate.

And I must say I really do not - you know, I've become sensitive to some of these issues of struggles between the different branches of government. I don't understand why the legislative branch of government is ceding its authority in this manner to a governor who has negotiated a memorandum of understanding -- it's the only one we've seen; the others may be worse - that is a disgrace, that does not protect the working people of this state, does not protect the unions of this state, does not provide any guarantee of revenues, and that has a provision that will assuredly bring more

criminal activity into the state of New York.

I think we should all get back to consider this another time. I urge that we vote no. And I hope that this will not pass.

Thank you, Mr. President.

ACTING PRESIDENT MAZIARZ: Senator Volker.

SENATOR VOLKER: I pass.

ACTING PRESIDENT MAZIARZ: Senator Larkin.

SENATOR LARKIN: Thank you, Mr. President.

As the Majority Leader said, the hour is getting late, but I think we have to start and think about what we're doing here tonight. We're putting something in place, as my colleague Senator Brown said, to address an issue in his part of the state, to address an issue in Senator Maziarz's part of the state, Senator Volker's.

And while there's a lot of people saying that this isn't the right thing to do, we have looked, as the Majority, at how we can best address the needs of the people of the state of New York, how we can generate the

revenue. Senator Duane said we raise taxes. I don't know in your district, but in mine raising taxes is a good way to get run out of town.

What we're doing here is putting a package together, a financial package. And some have said it's going to take a long, long time. It isn't. We have three phases in this package. We have the Powerball, which could be in effect within 90 days. We have the video lotteries that could be in effect within seven to eight months.

And while the casinos are being built, what will we see? We will see a lot of people working, making money, paying taxes. And we will be on a steady course to fill that vacuum of revenue we lost when the World Trade Center -- everybody wants to use the World Trade Center. I know on this side of the aisle we were talking about the problems of the decreased revenues long before September the 11th, and we were talking about how we could fill that gap with additional money. And what we've done here is taken three courses, three actions that will enable us to

make a permanent revenue source.

I want to remind the people who kept talking against it that in June of 1997 Foxwood, just from their slots, gave $470 million to the little state of Connecticut. What we're doing here tonight is giving the people of New York State an opportunity to do something that they're doing in another state. What we're doing is providing an opportunity of jobs for our people. None of you can say that you haven't talked or heard from the trades. The trades are saying please go ahead and do it.

This is the right time. It's long overdue. And I suggest that we get along and pass this bill now.

ACTING PRESIDENT MAZIARZ: Read the last section.

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

SENATOR DOLLINGER: Mr. President, can I be recognized one more time.

ACTING PRESIDENT MAZIARZ: Senator Dollinger.

SENATOR DOLLINGER: I believe

under the rules I get a second time to speak.

And while I accept the urging of all of my colleagues who say the hour is late, I have been sitting in Albany since 12:30 on Monday waiting to do this. With all due respect to my colleagues, I don't think anyone can look at me taking 10 or 15 minutes and accuse me of being the reason why the hour is late. That is clearly not my fault. I wouldn't suggest anyone on this side of the aisle bears that responsibility.

Mr. President, I have three things I want to quickly do. First of all, I have to respond to my friend Senator Bruno. As you said, Senator Bruno, this is the opportunity we get to talk about differences of opinions; in some cases, differences of fact.

Senator Bruno, I would suggest that when you say we ought to be ashamed by looking at Niagara Falls, New York, and looking at what the wonderful things they're doing in Niagara Falls, Ontario, I would suggest, Senator Bruno -- I don't know whether you've been there. I assume you have. But I would suggest, Senator Bruno, you might do what I

did. You probably drove through the front door of Niagara Falls, Ontario. You probably went across the bridge and went in the casino.

Well, Senator Bruno, a month and a half ago, on my way back from Canada, I decided to look at Niagara Falls, Ontario, through the back door. Because I wanted to do what sort of the old Irish Catholics used to do. You want to find out what a household is like, go into the kitchen, see how they organize the basement. I drove in the back door of Niagara Falls. I was coming back, I got off the Lewiston-Queenston Extension on Smithson Street, and I drove in the back door.

I would suggest, Senator Bruno, that before you say that there's something to be proud of, look at the underbelly of Niagara Falls, Ontario. It is just -- frankly, it is poor, it is downtrodden, it looks in some ways like places in my own district. It has the earmarks of poverty.

And I will tell you, Senator Bruno, the one thing that I will never forget is when I looked at the Center for Compulsive Gambling, which is about a quarter of a mile

away from the casino, and what is happening there -- it's a Sunday afternoon, there's a big sign that says "Compulsive Gambling," and the front yard of the house has got cars parked all over it going to the casino because they can park there for free.

I would suggest if you look at casinos in the underside of Niagara Falls, Ontario, you will see that this supposed miracle that's occurred there has gone very, very thin into the people that live in that community. I don't see economic development, I see a big, huge casino draining people's money.

I'll conclude with one other thought, Senator Bruno. You said we should be ashamed because that's happened and it hasn't happened in Niagara Falls. I'll tell you what I am really ashamed at. I'm ashamed that we're doing it today. I'm ashamed because we have places like Cuba Street in Rochester, we have Avenue D in Rochester, we have Texas Street in Rochester, three streets in my district -- pick them, there are hundreds of them in my district -- where we have poor

people who need education, they need health care, they need to be told that there's hope for a future, not hope that they're going to win at a casino. Not hope that they're somehow going to get lucky in life, but instead that hard work and diligence and effort and education will give them a chance to reach their potential.

Today I'm ashamed because we're telling them, No, we're going to allow you to do it with a dream. Just go in, put your money into a machine, and guess what, if you're lucky, one in 18 million of you will get there. If that's the American dream, that only one in 18 million can get there, I don't think that's the dream we should be passing on to our children, and it's not the message we should be sending to the people of this state.

There's another way to do it. I will be proud when we do it the right way. I'm ashamed we're doing it this way.

ACTING PRESIDENT MAZIARZ: Read the last section.

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

ACTING PRESIDENT MAZIARZ: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MAZIARZ: Senator Breslin, to explain your vote.

SENATOR BRESLIN: Thank you, Mr. President.

I think for most of us here today this is an extremely difficult decision. We think of New York State as the Empire State, the state that has led this country. And now we are going to be considered as the Nevada of the East. I think that gives us great pause.

But I look down as to what is part of this bill, and I think of the teaching centers, the Empire Zones, and so many good things that are a part of this bill. And for a lot of us, we never knew what a Hobson's choice was until we got to this body. But if we didn't know it before, we certainly know it now. And, you know, when we think about all the positive things that can be accomplished by a little bit of money, it becomes extremely difficult to stand here and to rail against it.

However, we've experienced gambling in the past, and we know it's a short-term fix. It's a short-term fix that doesn't cure the problem, that doesn't create the ultimate dollars to make our economy better. It certainly doesn't. It takes dollars from poor people. We all know that. We don't admit it sometimes, but it does. It takes dollars from people who can least afford it, and I emphasize "least afford it."

And what does it do to our society? It creates an additional burden. At the same time we're cutting back on education, we're cutting back on our ability to support not-for-profits. What will the passage of additional legislation favoring this gambling do? It will increase the need for programs to help people who are addicted to gambling and addicted to those things attendant to that - alcoholism, drug addiction, and other societal problems.

And as much as this bill does so much to causes that I think are very important in our state, I feel it very important to cast my vote no.

Thank you very much, Mr. President.

ACTING PRESIDENT MAZIARZ: Senator Breslin will be recorded in the negative.

Senator Connor, to explain his vote.

SENATOR CONNOR: Thank you, Mr. President.

There are things in this bill I'm not too happy with. I don't imagine there's a single senator in this chamber, whether you're voting for or against it, that's happy with everything in this. And I don't think there's anybody here that's unhappy with every single thing in this bill.

We are now experiencing what we've seen for many, many years, and that's the packaging of large bills with just some bitter-tasting things in it for everybody and some candy in it for everybody in terms of things that they need done for their constituents or that they need issues addressed.

Indeed, there are important governmental issues that are addressed here.

In view of where we were in this process on September 11th, things that -- there's a lot of other things we'd love to do that we can't afford to do. But we have addressed some things that need to be done on an emergency basis to provide some immediate relief.

I noticed that one of the things that was in the print and it wasn't completed in the earlier draft that I saw when we had our conference on this side of the aisle is the inclusion of the Upstate Tourism Council and the Downstate Tourism Council. And it looked familiar, because this house unanimously passed a bill submitted by the Governor creating both councils, providing the Governor with a number of appointments and the Majority Leader and the Speaker a number of appointments and, yes, the Minority Leader an appointment.

Now it comes back, after having been negotiated with the other house, and the Minority Leader no longer has an appointment. That makes it the kind of bill that, were it stand-alone, would certainly receive a party vote in the negative, as it has in some other

assistances when, through inadvertence or other, perhaps less innocent intentions at any given time in history, we have excluded the minority leaders from an appointment. I think I know where the change got made. It didn't get made here. It got made in the other house. And I won't soon forget that.

That kind of tips the balance for me, Mr. President, and leads me to vote no.

ACTING PRESIDENT MAZIARZ: Senator Connor will be recorded in the negative.

Senator Montgomery, to explain her vote.

SENATOR MONTGOMERY: Yes, Mr. President, just briefly to explain my vote.

I certainly agree that this is a very sad thing for us to be sort of forced to vote for, because it's really not an economic development program. And I certainly agree with my colleagues Senator Duane and Senator Frank Padavan and others who have commented on the disaster of this.

But I would like to be on record that if I vote no, as I would like to on

casino development -- I am voting yes, because whatever little bit of a budget that there is -- you know, a small amount of funding for the grants for Teachers of Tomorrow, for instance; teacher recruitment and retention programs; giving out public authorities authorization to do bonding to build some housing, hopefully; universal prekindergarten and preschool for children with disabilities, and quality childcare. There are some very important aspects, and unfortunately our - the process has been corrupted, in my opinion, so that we cannot vote for one without the other.

We are forced to vote -- no matter how we feel about casino gambling and whether or not that's a viable, meaningful economic development program, we must vote for it, because if we do not, we also vote against the budget. And the people in my district, the organizations in my district are going to lose an awful lot based on this budget. So whatever resources that there are going to be for them, I must support that, recognizing that half of the organizations in my district

will not exist in two years from now.

So I'm very saddened by this, but I'm voting yes simply because I must support the revenue that we have agreed to being in the budget getting to the people that I represent. I vote yes.

ACTING PRESIDENT MAZIARZ: Senator Montgomery will be recorded in the affirmative.

Senator Padavan, to explain his vote.

SENATOR PADAVAN: Yes, Mr. President.

I just want to make the record quite clear that in voting in the negative on this bill I acknowledge that within its content are many, many worthwhile provisions. Certainly the Loft Law, the Child Health Plus, the Urban Development Corporation loan guarantees, the Empire Zone expansion and so and so on are all quite laudatory and things that I fully support. It's regrettable that it's all lumped together and in stating a particular position we find ourselves in this ambivalent situation of having to vote against

those things.

And the other point I'd like to make, very briefly, is several speakers have indicated that we are in a very difficult economic cycle. Some say we're in a depression. We may well be. But if you look at the last nine times we were in a depression, we came out of it better and stronger than ever.

And many economists are telling us by the year 2002 or thereabouts, the end of that year, we will come out of this one and we'll be back where we want to be. However, in the meantime we'll have created all of these negatives that we've been talking about here vis-a-vis gambling.

I've been around here, as a handful of you have been, back in the '70s when we had a city almost on the verge of bankruptcy and the state and many of its components in substantial difficulty. We remember the famous wine-and-roses speech of Governor Carey. We worked our way out of all those problems by prudent, thoughtful actions, and the state survived. There's no doubt in my

mind we could do that again.

But I remind you, back in the '70s and the '80s, during these difficult periods, what we didn't do was impact negatively on the lives -- at least not in a premeditated fashion -- of the people of this state by imposing upon them more gambling and other ills than we are now trying to do or about to do.

I vote no.

ACTING PRESIDENT MAZIARZ: Senator Padavan will be recorded in the negative.

Senator DeFrancisco, to explain his vote.

SENATOR DeFRANCISCO: Yes, to explain my vote. It's on the tourism component.

For at least five years I've been working on two concepts, and one of them was to have a dedicated fund for our second biggest industry, the tourism industry. The second thing I've been working on is to try to have some money somehow designated so that we could help new tourism destinations, whether

someone wants to put an amusement park in the state or do something to attract visitors.

This tourism piece does both, because the fund that's being proposed for this tourism piece would be able to be used for more advertising and it will also be used to fund destinations if the board allows it to happen. So I'm very proud of that.

But I want to make it very clear that the fund for the upstate part of this piece doesn't happen unless and until all three phases of this giant mall that's everyone's talking about in Central New York actually happens. And I think it's important that that piece was in there, because we shouldn't be committing to anything unless the promises made by the developer actually occur.

Lastly, on the tourism piece, I agree with Senator Connor one hundred percent. That's why the bill originally had a minority member from each house on the advisory boards. The Assembly wouldn't buy it. The Assembly required that those two names plus another name, the county executive for Onondaga County, to be eliminated. And that's why, to

get an agreement, that was eliminated.

Lastly, I really take umbrage with Senator Duane's remarks about the terrorists winning again. That presupposes, that remark, that the terrorists somehow won by their dastardly act. I think you'd better watch your language and it better be much tighter than talking about that terrible act in New York City as being a victory for criminals, for animals. Because that is not the case. And hopefully we will be able to correct that problem in due course.

I vote aye.

ACTING PRESIDENT MAZIARZ: Senator DeFrancisco will be recorded in the affirmative.

Senator Oppenheimer, to explain her vote.

SENATOR OPPENHEIMER: Yes, to explain my vote.

I feel like I'm damned if I do and I'm damned if I don't, and I think a lot of people here have a similar feeling. I'd like to vote no, because I personally have a kind of a visceral distaste for gambling. And I

see that this bill, the bill before us, is so balanced that one has to look at both the pro and the con and try and weigh what's happening to us here.

It's a difficult decision, but I think because of the way it has been presented to us in this packaged manner, bringing so many bills together, it kind of holds me hostage. And I feel I can't vote against the gambling, which I really dislike so much. But that because so many necessary programs are incorporated in this bill, I'm -- it's a conundrum.

I look at the TANF money which is going to the childcare tax credits, I look at the teacher centers, I look at the pre-K - though it isn't universal pre-K, and I wish to God it was universal pre-K -- the teacher recruitment, the critical human services, the emergency relief -- I mean, what to do? And until I actually say what I'm going to do, I'm not actually certain what I'm going to do.

But I must also point to something else that's very distressing, which is that we seem to be moving backwards to the way we were

making decisions and having things presented to us a number of years ago. It was five years ago that I thought we had started to move away from three people in a room making decisions for the body. And now it seems that we're back there again.

And it's very alarming because it is such a closed way of operating government. And as many of you know, I was the president of a good government, open government organization. And it's embarrassing to me to be a part of a government that is so closed.

But as I said, it's a conundrum. I'm going to vote yes because I want the services. But -- and also I should add that I would like to be able to assist Buffalo and the Catskills, but in a more limited fashion. It's a terribly difficult decision.

I'm going to be voting yes.

ACTING PRESIDENT MAZIARZ: Senator Oppenheimer will be recorded in the affirmative.

Senator Duane.

SENATOR DUANE: Thank you. To explain my vote.

ACTING PRESIDENT MAZIARZ: Senator Duane, to explain his vote.

SENATOR DUANE: You know, I'm not going to be lectured by someone about something that affected me so personally and affected me so deeply, just so they can make believe they're making some kind of patriotic statement at my expense. And I stay and listen to what people have to say.

And I'm not going to be blackmailed by three men in a room. And besides, what the heck does gambling have to do with lofts? What the heck does gambling have to do with Child Health Plus? I mean, maybe something to do with gambling. But why don't we have the courage to do these as separate things? Why do we put them all into one bill?

I'm not going to be blackmailed to vote to extend the Loft Law for a few more months so that we have years of gambling. I'm voting no.

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

Announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 1498 are Senators Breslin, Connor, Dollinger, Duane, Hassell-Thompson, Padavan, Paterson, and Schneiderman. Ayes, 52. Nays, 8.

ACTING PRESIDENT MAZIARZ: The bill is passed.

Senator Bruno.

SENATOR BRUNO: Mr. President, can we at this time ask for an immediate meeting of the Rules Committee in the Majority Conference Room.

ACTING PRESIDENT MAZIARZ: There will be an immediate meeting of the Rules Committee in Room 332.

Senator Bruno.

SENATOR BRUNO: And, Mr. President, if we can return to reports of standing committees, I believe there's a report of the Finance Committee at the desk. I would ask that it be read at this time.

ACTING PRESIDENT MAZIARZ: Reports of standing committees.

The Secretary will read.

THE SECRETARY: Senator Stafford,

from the Committee on Finance, reports the following bill direct to third reading:

Senate Print 5824, Senate Budget Bill, an act making appropriations for the support of economic development initiatives.

ACTING PRESIDENT MAZIARZ: Without objection, third reading.

Senator Bruno.

SENATOR BRUNO: Mr. President, can we at this time take up Calendar Number 1495.

ACTING PRESIDENT MAZIARZ: The Secretary will read.

THE SECRETARY: Calendar Number 1495, Budget Bill, Senate Print 5824, an act making appropriations for the support of economic development initiatives.

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

ACTING PRESIDENT MAZIARZ: There is a message.

SENATOR BRUNO: I would move that we accept the message.

ACTING PRESIDENT MAZIARZ: All those in favor of accepting the message of

necessity signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT MAZIARZ: Opposed, nay.

(No response.)

ACTING PRESIDENT MAZIARZ: The message is accepted.

Senator Bruno.

SENATOR BRUNO: Read the last section.

ACTING PRESIDENT MAZIARZ: Read the last section.

THE SECRETARY: Section 4. This act shall take effect immediately.

ACTING PRESIDENT MAZIARZ: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59. Nays, 1 -- ayes, 58. Nays, 2. Senators Duane and Paterson recorded in the negative.

ACTING PRESIDENT MAZIARZ: We're going to have to get some order in the house.

Would all those in the negative on Calendar Number 1495 please raise your hand.

The Secretary will announce the

results.

THE SECRETARY: Ayes, 58. Nays, 2. Senators Dollinger and Duane recorded in the negative.

ACTING PRESIDENT MAZIARZ: The bill is passed.

Senator Bruno.

SENATOR BRUNO: Mr. President, can we return to motions and resolutions.

And I believe that there are two privileged resolutions by Senator Kuhl. I would ask that the titles be read and move for their immediate adoption.

ACTING PRESIDENT MAZIARZ: Motions and resolutions.

The Secretary will read the titles.

THE SECRETARY: By Senator Kuhl, Legislative Resolution Number 3379, congratulating LaTrisha Sullivan upon the occasion of receiving the distinguished Silver Award, the highest award bestowed upon a Cadette Girl Scout.

And by Senator Kuhl, Legislative Resolution Number 3380, congratulating holly Duquette upon the occasion of receiving the

distinguished Silver Award, the highest award bestowed upon a Cadette Girl Scout.

ACTING PRESIDENT MAZIARZ: All those in favor of adopting the resolutions signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT MAZIARZ: Opposed, nay.

(No response.)

ACTING PRESIDENT MAZIARZ: The resolutions are adopted.

Senator Nozzolio.

SENATOR NOZZOLIO: Mr. President, I wish to call up my bill, Print Number 4525, recalled from the Assembly, which is now at the desk.

ACTING PRESIDENT MAZIARZ: The Secretary will read.

THE SECRETARY: Calendar Number 1133, by Senator Nozzolio, Senate Print 4525, an act to amend the Correction Law.

SENATOR NOZZOLIO: Mr. President, I now move to reconsider the vote by which this bill was passed.

ACTING PRESIDENT MAZIARZ: The

Secretary will call the roll on reconsideration.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

SENATOR NOZZOLIO: Mr. President, I now move to recommit the bill to the Committee on Rules.

ACTING PRESIDENT MAZIARZ: So ordered.

Senator Bruno.

SENATOR BRUNO: Mr. President, can we return to reports of standing committees. I believe there's a report of the Rules Committee at the desk. I ask that it be read.

ACTING PRESIDENT MAZIARZ: Reports of standing committees.

The Secretary will read the Rules Committee report.

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

Senate Print 5826, by the Senate Committee on Rules, Concurrent Resolution of the Senate and Assembly.

Senate Print 5827, by the Senate Committee on Rules, Concurrent Resolution of the Senate and Assembly.

And Senate Print 5829, by Senator Fuschillo, an act in relation to state intervention.

All bills ordered direct to third reading.

ACTING PRESIDENT MAZIARZ: Senator Bruno.

SENATOR BRUNO: I move to accept the report of the Rules Committee.

ACTING PRESIDENT MAZIARZ: All those in favor of accepting the report of the Rules Committee signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT MAZIARZ: Opposed, nay.

(No response.)

ACTING PRESIDENT MAZIARZ: The report is accepted.

Senator Bruno.

SENATOR BRUNO: Mr. President, can we at this time take up Calendar Number 1496.

ACTING PRESIDENT MAZIARZ: Can we have some order, please, in the chamber.

The Secretary will read Calendar Number 1496.

THE SECRETARY: Calendar Number 1496, by the Senate Committee on Rules, Senate Print 5826, Concurrent Resolution of the Senate and Assembly proposing an amendment to Section 9 of Article 1 of the Constitution.

ACTING PRESIDENT MAZIARZ: The Secretary will call the roll on the resolution.

SENATOR DOLLINGER: May I have an explanation, please.

ACTING PRESIDENT MAZIARZ: Senator Bruno, Senator Dollinger has requested an explanation of Calendar Number 1496.

SENATOR BRUNO: Thank you, Mr. President.

What we have before us is a resolution that would authorize first passage of changing the Constitution of New York State to allow the state to engage in operating casinos.

We just approved allowing

negotiations to go forward with the Indian nations here in this state. It just seems to make sense that with a constitutional change -- which, as we all know, has to be passed by two separate resolutions and two separately elected legislatures and then a referendum of the people -- it just seems to make sense, since we are moving forward with casinos, to also move with an opportunity for the people of this state to vote on whether or not a majority of the people would approve casinos here in the state.

If we give second passage by the next elected legislature, it would be in the year 2003. And you would then have a referendum -

ACTING PRESIDENT MAZIARZ: Senator Bruno, excuse me.

There's far too much talking in here. We can't hear the explanation being given.

SENATOR BRUNO: Thank you, Mr. President.

In the year 2003, if we give second passage, the referendum would take place in

November of 2003. And if that were approved by the general public that would be voting, then the state would be allowed, subject to legislative approval to move enabling legislation, to be in the casino business, rather than just leave it as it is where only the Indian nations can be in the business.

And what's included in this bill are the three -- Erie County, Niagara County, Ulster, Sullivan, and Greene County, and the Rockaways. Those are the specific places that are included in this particular bill.

ACTING PRESIDENT MAZIARZ: Senator Dollinger.

SENATOR DOLLINGER: Mr. President, just briefly on the bill.

ACTING PRESIDENT MAZIARZ: Senator Dollinger, on the resolution.

SENATOR DOLLINGER: My views on the broad issue of gambling were talked about a couple of minutes ago, and I won't repeat them again.

I'm going to vote against this bill as well, for the reason that I just don't believe that gambling by the Indian nations of

New York under a compact with this state, a treaty with this state, is the right thing to do. And I think it's even worse if we sponsor it ourselves.

That would send a message to everybody that the state not only is willing to let advertising occur, that a dollar and a dream is all you need, and instead we would actually be sponsoring a form of vice that up until 40 years ago we not only made illegal but we acknowledged was a terrible thing to do. Why was gambling such a horrible thing? We called it a vice. There were actually vice squads that broke up gambling.

And now here we are, the very same slot machines that were broken apart, smashed apart by Thomas E. Dewey, this governor is trying desperately to glue them back together. I don't understand that logic. I fail to appreciate what motivates this sudden interest in widespread gambling.

And I'll conclude with one other thought. Senator Bruno, this bill, again, creates an unbalanced tourist trade in the upstate area. What you're going to do is

favor portions of the Catskills, favor Buffalo, favor Niagara Falls, and you leave Rochester and my community out of the mix. There's nothing in this -- there's no local option in this, there's no opportunity for any other community that would like to compete for visitors and convention business in the upstate business.

There's no way for us to compete because that upstate tourist trade, that upstate convention bureau business is going to go to either Buffalo or Niagara Falls where you have casinos with cheap meals and cheap entertainment. And, frankly, you leave nothing for the Rochester community in this.

This bill, even if it had a local option, I wouldn't vote for it. But quite frankly, I don't see how the Rochester community could embrace this notion when this simply puts us at a competitive disadvantage in the tourist business in upstate New York.

I'm going to vote no, Mr. President. I would urge everyone else to. This chamber has, the whole time I've been here, stood up and said gambling is not the

answer to our problems in New York. I hope that the echoes of those votes will resound in this chamber again and we will discard this ill-advised constitutional amendment.

ACTING PRESIDENT MAZIARZ: Senator Brown, on the resolution.

SENATOR BROWN: Thank you, Mr. President. I'm going to be very brief.

I want to thank Majority Leader Bruno for his explanation. In looking at the bill, it actually specifies a casino within the county of Erie as opposed to specifically the city of Buffalo. And I know that in Erie County the interest has been in the casino being in the city of Buffalo. And I'm wondering if it's possible to change it to specify Buffalo rather than Erie County.

ACTING PRESIDENT MAZIARZ: Senator Bruno, do you yield to a question from Senator Brown?

SENATOR BRUNO: Yes.

SENATOR BROWN: My question, Mr. President, is in the bill it indicates "in the county of Erie shall be established not more than one casino." And heretofore the

conversation has been a casino in the city of Buffalo. And I know in Erie County all of the interest has been in Buffalo as opposed to Erie County.

Is it possible to specify Buffalo in the bill rather than Erie County?

SENATOR BRUNO: The intent was that it be in Buffalo. But, you know, it would not change the resolution here. But that was what the intent and the attitude was.

And for the record, the intent was that it be in Buffalo, because that is by far the largest city in Erie County.

SENATOR BROWN: Thank you.

ACTING PRESIDENT MAZIARZ: The Secretary will call the roll on the concurrent resolution.

(The Secretary called the roll.)

ACTING PRESIDENT MAZIARZ: Senator Duane, to explain his vote.

SENATOR DUANE: Thank you, Mr. President.

You know, since a week after the terrorist attack the only thing that's really gone on here is negotiations on and about

gambling and what could be stuffed into a bill that had to do with gambling. I think it's a complete disgrace.

And I don't see any way that our passing a resolution to allow people to vote on gambling to be fulfilling our patriotic duty. I vote no.

ACTING PRESIDENT MAZIARZ: Senator Duane is recorded in the negative.

Announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 1496 are Senators Connor, Dollinger, Duane, Hassell-Thompson, Montgomery, Oppenheimer, Padavan, Paterson, Schneiderman, and Senator Breslin.

Ayes, 50. Nays, 10.

ACTING PRESIDENT MAZIARZ: The resolution is adopted.

Senator Bruno.

SENATOR BRUNO: Mr. President, can we at this time take up Calendar Number 1497.

ACTING PRESIDENT MAZIARZ: The Secretary will read.

THE SECRETARY: Calendar Number 1497, by the Senate Committee on Rules, Senate Print Number 5827, Concurrent Resolution of the Senate and Assembly proposing an amendment to Section 9 of Article 1 of the Constitution.

SENATOR DOLLINGER: Explanation, Mr. President.

ACTING PRESIDENT MAZIARZ: Senator Bruno, Senator Dollinger has requested an explanation.

SENATOR BRUNO: Thank you, Mr. President.

This resolution before us follows exactly the same procedures as the previous resolution. The previous resolution was specific to the six counties that were mentioned. This one is a general resolution that would go before the people if it gets second passage, in 2003. And it would allow a casino to be placed anywhere in the state that this Legislature designated, subject to a referendum of the county in which the casino was to be placed.

So a casino in Rochester, if Senator Dollinger was really that interested

and could get the concurrence of his colleagues here and his colleagues in the Assembly and could get the county of Monroe to allow a referendum by all of the people, you would then have your wishes. And any other county in the state.

So this is really first passage, recognizing that we aren't designating anywhere, we're simply saying that if the people of this state, by a majority in a referendum vote, say to the Legislature: You submit, and if the county, by referendum, wants to approve it, then it's okay by the majority.

That's it as simply stated. And again, this is an opportunity for people in this state to have a vote for the first time in a lot of years. Thank you.

ACTING PRESIDENT MAZIARZ: Senator Padavan.

SENATOR PADAVAN: Mr. President, I said earlier in discussing one of the previous bills that that wouldn't be the end. Well, obviously I was right. It wasn't the end. We're now further down that slippery

slope.

I might suggest, and the Majority Leader can correct me, that this last concurrent resolution, the potential amendment, could include the city of New York. Casinos in the city of New York. And that's something I think that many of us might draw the line on.

There's going to be a lot of champagne corks popped tonight. Lobbyists throughout the capital representing a whole venue of clients from GTECH to landowners are going to be delighted with everything we've done. Many people will question what we've done. And I think it's fair to point out a number of very important organizations in this state have spoken out in opposition to what we've done.

To me, this goes just a mile too far beyond where we were before, which, as bad as it was, doesn't bring us to the point where now under these resolutions we can have casinos anywhere in the state. Senator Breslin, you're absolutely right. We will be the Las Vegas of the north, a place that

people will look to and point to as the mecca of any and all gambling. The Empire State will no longer be that but the gambling state instead.

I vote no.

ACTING PRESIDENT MAZIARZ: Senator Dollinger.

SENATOR DOLLINGER: Thank you, Mr. President.

I reiterated my views before on the concept of gambling. But let me deal with the local option question that Senator Bruno says that this bill poses.

I'm convinced, with Senator Padavan, that this will pave the way - because what will happen, Senator Padavan - remember IDAs, Senator Padavan? Remember IDAs sort of -- they were going to be confined in large counties, they would be used as tools to encourage business to come to the larger counties of this state? There's an IDA now in every single county in this state. Why? Because the competitive factors drove them to do it.

I would suggest if this amendment

ever becomes law you will not only have casinos in the city of New York, you will have them at every truck stop in upstate New York. There will just be a series of truck-stop casinos, all with their little signs, all of them advertising, all of them telling people that if you buy a ticket, buy a lottery, push a button, hit a lever, you're somehow going to make it in life.

I would suggest that that is overkill for casinos. I would say to Senator Bruno, with respect to the Monroe County, if we someday have a referendum there, I will lead the fight against a casino in Monroe County whether I'm in this office or hopefully retired.

And, lastly, this country got through a depression without casinos and without gambling. We fought it off then. Now, because of the events of a couple of months ago, because we're short some revenues, we're now going to turn to gambling? We ought to look back with pride on what we were able to overcome to make this nation and the state what it is, and we did it without gambling.

Poor Tom Dewey is spinning in his grave.

I'll vote no.

ACTING PRESIDENT MAZIARZ: The Secretary will call the roll on the concurrent resolution.

(The Secretary called the roll.)

SENATOR MORAHAN: On the bill.

ACTING PRESIDENT MAZIARZ: Senator Morahan, to explain his vote.

SENATOR MORAHAN: I did not plan, Mr. President, to speak to this issue. I'm fully in support of it. But Senator Dollinger just made a comment that I heard as I entered the chamber which really was disturbing, the fact that we had a depression and we got out of it without gambling.

We had a depression and we got out of it with World War II. And let me tell you, Senator, gambling casinos are a far better method of taking care of economic downturns than World War II, and that's a stated fact.

Thank you, Mr. President. I vote yes.

ACTING PRESIDENT MAZIARZ: Senator Morahan will be recorded in the

affirmative.

Senator Paterson, to explain his vote.

Can we have some order, please, so that we can all listen to Senator Paterson's explanation of his vote.

SENATOR PATERSON: Thank you, Mr. President.

What disturbs me the most about this legislation coming here right now is what seems to be some kind of feeling that this has to happen because of the events of September 11th.

And even if it did happen, the revenues would not come to this state for years. I think that if this is something we wanted to do, then perhaps this is something that we could sit down and work on for some period of time.

But I'm very disturbed that this type of legislation comes before us right now. When you think about gambling, some people have the types of addictions that Senator Padavan described and some people don't, they actually just do it recreationally. What

bothers me is what I would call a notion of coalesced dreams. It's the state acting more like those who are addicted than acting as if this was really a choice.

In other words, the people who are down and out, we as the state are acting, by passing this legislation tonight, at this time in history, we're acting as if we're down and out.

And the reality is that this is something we've discussed for a long time and see it as an option. We have a lot of upset, dispirited, and confused people in this state right now. No one can blame them. But we should remind them that you don't resort to these types of measures, if it wasn't something you were going to do anyway, because you're in a difficult period in history.

I vote no.

ACTING PRESIDENT MAZIARZ: Senator Paterson will be recorded in the negative.

Any other Senator wishing to speak on the bill?

Senator Bruno.

SENATOR BRUNO: Mr. President, by way of explanation of my vote, and for those who are voting in favor, we are not voting to place casinos anywhere. We are voting to allow the people of New York State to vote in a referendum on whether or not they want to go forward with casinos. That's all.

I am not voting for specific casinos anywhere. I'm voting to allow the people of this state to have a voice on whether or not they want casinos, period.

ACTING PRESIDENT MAZIARZ: The Secretary will announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 1497 are Senators Breslin, Connor, Dollinger, Duane, Hassell-Thompson, Montgomery, Padavan, Paterson, Schneiderman, Stachowski, Stavisky, and Senator Oppenheimer. Ayes, 48. Nays, 12.

ACTING PRESIDENT MAZIARZ: The resolution is adopted.

Senator Bruno.

SENATOR BRUNO: Mr. President, can we at this time call up Calendar Number 1499.

ACTING PRESIDENT MAZIARZ: The Secretary will read.

THE SECRETARY: Calendar Number 1499, by Senator Fuschillo, Senate Print 5829, an act in relation to state intervention.

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

ACTING PRESIDENT MAZIARZ: There is a message.

SENATOR BRUNO: I would move that we accept the message.

ACTING PRESIDENT MAZIARZ: All in favor of accepting the message of necessity signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT MAZIARZ: Opposed, nay.

(No response.)

ACTING PRESIDENT MAZIARZ: The message is accepted.

Read the last section.

SENATOR DOLLINGER: Explanation, please.

ACTING PRESIDENT MAZIARZ: Senator Fuschillo, an explanation has been

requested of Calendar Number 1499 by Senator Dollinger.

SENATOR FUSCHILLO: Thank you, Mr. President.

Back in June of this year, when the session was supposed to conclude, we had voted for and approved in this house a measure which would provide for strong state intervention in the overseeing and the governance of the crisis confronting the Roosevelt School District.

This bill makes some changes to that. One specific change in the five-member board, it would require three members to be from the Roosevelt community. It provides an avenue for deficit financing. If an agreement is ever fully realized from the Assembly, any additional state funds, rather than go for a structural deficit that they have there, the funding would go for teachers and instructional programs.

And I had stated at that time, and we had a lengthy discussion, about two hours -

SENATOR CONNOR: Mr. President, I

can't hear.

ACTING PRESIDENT MAZIARZ: Can we please have some order so that Senator Connor can hear Senator Fuschillo's explanation.

Senator Fuschillo.

SENATOR FUSCHILLO: Thank you, Mr. President.

I had stated at that time, when we had a lengthy discussion about the problems confronting the Roosevelt School District over a number of years, that the situation was bad. Well, it's gotten worse with the school board. Just two weeks ago, the school board met on a Sunday night in a private meeting, they only called three of the five board members to the meeting, and they suspended or took out the authority of the superintendent. A month prior to that, they gave him a three-year contract worth in excess of $300,000.

They gave no reason for the suspension or taking away his duties. The Commissioner of Education required, in a letter to them, by the close of the next business day a reason for taking away the responsibilities and duties of the

superintendent. The president of the school board and the council gave him an answer that "We don't have to tell you why we did this. It's in his contract." The following day, the commissioner had to issue an executive order to reinstate the superintendent.

This past week we had negotiations with the Governor and the Assembly, and we had an agreement with the Governor and the Assembly till last night. As you know, in our discussions the board is integrated back into the community in 2003. The Assembly wanted no elections till 2007, for six years further disenfranchising the voters of the Roosevelt community. I thought that was wrong.

I hope by the passage of this legislation, which puts the community on the appointed board, that the Assembly will see the will and approve it as well.

ACTING PRESIDENT MAZIARZ: Read the last section.

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

ACTING PRESIDENT MAZIARZ: Senator Connor.

SENATOR CONNOR: To explain my vote.

ACTING PRESIDENT MAZIARZ: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MAZIARZ: Senator Connor, to explain his vote.

SENATOR CONNOR: Yes, Mr. President.

We had a lengthy discussion, as Senator Fuschillo pointed out, on the predecessor to this bill. We have earlier, in the extenders, extended the existing supervision of the Roosevelt School District.

At the time this originally passed, Senators Dollinger, Duane, Hassell-Thompson, Oppenheimer, Paterson, Santiago, and Stavisky were in the negative, as well as myself.

This is not agreed upon with the Assembly. It's a one-house bill. And therefore, Mr. President, I continue to vote no.

ACTING PRESIDENT MAZIARZ: Senator Connor will be recorded in the negative.

Senator Dollinger, to explain your vote.

SENATOR DOLLINGER: Thank you, Mr. President.

I appreciate Senator Fuschillo's fervid interest in the future of the Roosevelt School District. As Senator Fuschillo knows, I debated this bill with his predecessor, Senator Levy. I was against the concept then. I don't believe this is the right solution to the problem.

And what I guess strikes me about this bill, and it certainly isn't Senator Fuschillo's fault, but this bill is heavy on financial accountability but doesn't seem quite as heavy on the educational accountability. In a lot of that information you hear about the educational balancing the need for financial control.

I would just suggest that the difficulties they have in Roosevelt -- and they are legion, and I don't dispute that they are serious problems -- somehow taking over an elected government doesn't seem to me to be the American way of solving them.

I'll continue to vote in the negative, Mr. President.

ACTING PRESIDENT MAZIARZ: Senator Dollinger will be recorded in the negative.

Senator Marcellino, to explain your vote.

SENATOR MARCELLINO: Yes, thank you, Mr. President. I just rise to explain my vote briefly.

The statement made by my colleague Senator Fuschillo before about the superintendent being hired two months ago and then summarily on a Sunday evening, without notification of the entire board, being dismissed, no reason given, no rhyme given, the district is in acknowledged chaos by every objective observer of the community and what's going on there.

This is not an educational school system. There is no education going on in those schools. There is nothing happening in a positive way for those children. It is time for the state to do it. Shame on our colleagues in the other house for not standing

up and taking action now. We are simply allowing a generation of youngsters to go by the boards because of their own inaction and inability to have the political will and the political courage to stand up.

I congratulate my colleague Senator Fuschillo for having the courage to do the right thing for the school district of Roosevelt. I vote aye.

ACTING PRESIDENT MAZIARZ: Senator Marcellino will be recorded in the affirmative.

Will all those in the negative please raise your hand so the Secretary can record your votes.

THE SECRETARY: Those recorded in the negative on Calendar Number 1499 are Senators Connor, Dollinger, Duane, Hassell-Thompson, Oppenheimer, Stachowski, and Senator Stavisky.

Ayes, 53. Nays, 7.

ACTING PRESIDENT MAZIARZ: The bill is passed.

Senator Bruno.

SENATOR BRUNO: Mr. President, is

there any housekeeping to be done at the desk?

ACTING PRESIDENT MAZIARZ: No.

SENATOR BRUNO: No. That's good.

Mr. President, then there being no further business to come before the Senate, I would move that we stand adjourned, subject to the call of the Majority Leader, with intervening days to be legislative days.

Thank you very much, and good night.

ACTING PRESIDENT MAZIARZ: The Senate stands adjourned, subject to the call of the Majority Leader, intervening days being legislative days.

(Whereupon, at 9:36 p.m., the Senate adjourned.)