NEW YORK STATE SENATE

THE STENOGRAPHIC RECORD

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March 17, 2005

11:44 a.m.

REGULAR SESSION

LT. GOVERNOR MARY O. DONOHUE, President

STEVEN M. BOGGESS, Secretary

P R O C E E D I N G S

THE PRESIDENT: The Senate will please come to order.

I ask everyone present to please rise and repeat with me the Pledge of Allegiance.

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

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

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

THE PRESIDENT: Reading of the Journal.

THE SECRETARY: In Senate, Wednesday, March 16, the Senate met pursuant to adjournment. The Journal of Tuesday, March 15, was read and approved. On motion, Senate adjourned.

THE PRESIDENT: Without objection, the Journal stands approved as read.

Presentation of petitions.

Messages from the Assembly.

Messages from the Governor.

Reports of standing committees.

The Secretary will read.

THE SECRETARY: Senator Larkin, from the Committee on Racing, Gaming and Wagering, reports:

Senate Print 2594, by Senator Larkin, an act to amend the Tax Law;

And Senate Print 3276, by Senator Larkin, an act to amend the Tax Law.

Both bills ordered direct to third reading.

THE PRESIDENT: Without objection, the bills are ordered direct to third reading.

Reports of select committees.

Communications and reports from state officers.

Motions and resolutions.

Senator Meier.

SENATOR MEIER: Thank you, Madam President.

On page number 15 I offer the following amendments to Calendar Number 224, Senate Print Number 2521, and I ask that said

bill retain its place on the Third Reading Calendar.

THE PRESIDENT: The amendments are received, and the bill will retain its place on the Third Reading Calendar.

SENATOR MEIER: Thank you, Madam President.

THE PRESIDENT: You're welcome.

Senator Skelos.

SENATOR SKELOS: Madam President, there's a Resolution Number 882 at the desk by Senator Larkin. Could we have the title read and move for its immediate adoption.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: By Senator Larkin, Legislative Resolution Number 882, commemorating the 130th Anniversary of St. Mary's Church of Newburgh, New York.

THE PRESIDENT: All in favor please signify by saying aye.

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: The resolution is

adopted.

Senator Skelos.

SENATOR SKELOS: Madam President, could we go to the noncontroversial reading of the calendar.

THE PRESIDENT: Senator Farley first.

SENATOR FARLEY: Thank you, Madam President.

THE PRESIDENT: You're welcome.

SENATOR FARLEY: I'd just like to wish my colleagues a happy St. Patrick's Day, and wish you, a good Irish woman, a happy St. Patrick's Day.

THE PRESIDENT: Thank you.

SENATOR FARLEY: And I would hope that you might wish the entire chamber such.

THE PRESIDENT: Absolutely.

From Mary O'Connor Donohue, I want to congratulate Senator Farley for such a wise motion, and to congratulate everybody for being here and to celebrate your heritage, whatever it may be. It's a good day to do so.

SENATOR FARLEY: Well done.

THE PRESIDENT: The Secretary

will read.

THE SECRETARY: Calendar Number 183, by Senator Maziarz, Senate Print 2569, an act to amend the Labor Law, in relation to the appointments.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 54. Nays, 1. Senator Duane recorded in the negative.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 200, by Senator Wright, Senate Print 2528, an act to amend the General City Law, in relation to inspectors of plumbing.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 47.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 234, by Senator Volker, Senate Print 20, an act to amend the Tax Law, in relation to extending the expiration.

THE PRESIDENT: Read the last section.

THE SECRETARY: Section 3. This act shall take effect immediately.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 263, by Senator LaValle, Senate Print 2621, an act in relation to granting the Wading River Historical Society.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 282, by Member of the Assembly Sanders, Assembly Print Number 2928B --

SENATOR SCHNEIDERMAN: Lay it aside.

THE PRESIDENT: The bill is laid aside.

THE SECRETARY: Calendar Number 300, by Senator Larkin, Senate Print 2594 --

SENATOR SCHNEIDERMAN: Lay it aside.

THE PRESIDENT: The bill is laid aside.

THE SECRETARY: Calendar Number 301, by Senator Larkin, Senate Print 3276 --

SENATOR SCHNEIDERMAN: Lay it aside.

THE PRESIDENT: The bill is laid aside.

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

SENATOR SKELOS: Thank you, Madam President.

If we could ring the bells at this time to alert the members that we're about to go and discuss the controversial calendar.

THE PRESIDENT: The Secretary will ring the bell.

And we ask that all members take their seats so we can begin the controversial calendar.

Senator Bonacic.

SENATOR BONACIC: Thank you, Madam President.

THE PRESIDENT: You're welcome.

SENATOR BONACIC: With respect to Calendar Number 263, Senate Bill Number S2621, I'd like permission to be voted in the negative.

THE PRESIDENT: Hearing no objection, you will be so recorded as voting in the negative, Senator Bonacic.

SENATOR BONACIC: Thank you.

THE PRESIDENT: Senator Skelos.

SENATOR SKELOS: Madam President, would you please recognize Senator Bonacic.

THE PRESIDENT: Senator Bonacic.

SENATOR BONACIC: Thank you, Madam President.

I would just like to come back to -- let me just put my glasses on a minute -- Calendar Number 263, Senate Number 2621.

We've changed the rules of the house. And I know that now we have to be present on the consent calendar to vote no. I would like to say if I had been here, I would have voted no.

Thank you, Madam President.

THE PRESIDENT: Senator Skelos.

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

THE PRESIDENT: The Secretary will read.

THE SECRETARY: Calendar Number 282, by Member of the Assembly Sanders, Assembly Print Number 2928B, an act to amend the Education Law.

SENATOR SCHNEIDERMAN: Explanation.

THE PRESIDENT: Senator Padavan, an explanation has been requested.

SENATOR PADAVAN: Thank you, Madam President.

This legislation would enable the City of New York to continue bus contracts for our children beyond the current contract, which expires the end of June, June 30th of this year, through a process that would allow them to negotiate with those vendors who are few in number that provide this level of education. As opposed to an RFP, which would cost, by their estimates, $240 million more annually.

This approach makes sense from many, many different vantage points. It ties the increases into the price indexing that is applicable nationwide, the CPI. It allows the city to come up with an appropriate level of cost that would preclude competitive bidding, which would be much higher, history tells us.

And as I indicated at the outset, we're talking about $240 million in savings.

THE PRESIDENT: Does any other member wish to be heard?

Senator Stavisky.

SENATOR STAVISKY: Thank you, Madam President.

When I first saw the bill, I had reservations because whenever we eliminate competitive bidding or RFPs, I was concerned.

I am totally convinced that this is a good bill, that apparently nobody really wants to bid on the bus contracts any longer. They can't make money on them.

And to continue it, to extend it for the five-year period that this bill does, and in conjunction with reforms that the bus operators apparently are planning to initiate in terms of training of the drivers, improved work rules and so on, it seems to me that the savings to the city of New York is a -- it's a good bill, and I'm delighted to support it.

THE PRESIDENT: The debate is closed.

The Secretary will ring the bell.

Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 55. Nays, zero.

Those Senators absent from voting on Calendar Number 282 are Senators Balboni and Sampson.

THE PRESIDENT: There is a local fiscal impact note at the desk.

The bill is passed.

The Secretary will continue to read.

THE SECRETARY: Calendar Number 300, by Senator Larkin, Senate Print 2594, an act to amend the Tax Law, in relation to video lottery gaming.

SENATOR SCHNEIDERMAN: Explanation.

THE PRESIDENT: Senator Meier an explanation has been requested.

SENATOR MEIER: Thank you, Madam President.

This is Senator Larkin's bill. This bill revises the VLT program, really to incentivize the tracks, to get the program up and running, and of most concern, I think, to

everyone in the chamber, to get the dollars flowing for the intended purpose of supporting education.

The bill does that by increasing the vendor fee from 29 percent to a higher percentage. That gives the tracks the revenue they need. It institutes a sliding-scale vendor fee that recognizes the percentage of overhead costs that's incurred by smaller racetracks that install VLT machines. There's going to be a larger percentage than for larger tracks.

This really is an effort to provide an economic incentive for those tracks that need it and to get this program running. We're leaving probably $850 million a year on the table that should be going into the classrooms of this state.

THE PRESIDENT: Senator Sabini.

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

THE PRESIDENT: You may proceed on the bill.

SENATOR SABINI: This bill, as well as the next calendar item, comes out of

the Racing and Wagering Committee. And it's designed really to force an action on the part of the other house, since we really -- they have not come up with a policy decision on this.

This comes as a result of the court decision that said that the racinos that are operating cannot pay money to the horsemen and the breeders because it violates the state constitutional amendment that allowed the lottery which said all proceeds should go to education. So the two bills, and I'll sort of address both of them, take varying approaches to how to fix that.

The fact remains that if we don't do this, not only are those racinos in jeopardy of cessation of their operations, which would a bad thing for Saratoga and Buffalo and Monticello, but the big kahunas of the racino program are Aqueduct and Yonkers.

And the partnership that particularly NYRA has with Aqueduct is -- hinges on a partnership, rather, with MGM Grand, who is providing a lot of the financing for the refurbishment of the grandstand area

where the racino will be operating. And they have been reluctant, frankly, to put up the tens of millions of dollars necessary unless they know that they can do this legally and not have a threat of closure from the courts.

So there are literally thousands of jobs at stake in Queens County and over a thousand in Westchester County that will rely on the fix of this legislation.

So it's important for the education budget to get more money in. It's also important for the economy, for jobs. And particularly in the county that I'm from, in Queens, we will see lots of good-paying jobs established if these bills go through.

Now, one of the other features of this legislation is to change the promotional aspect of these establishments. Right now, when you go to Atlantic City or if you go to Connecticut, or soon if you go to Pennsylvania, you'll find that the players are treated well. There are things that they do, enhancements that they do, the operators do, to get players to spend more time and more money. Now, that can range anywhere from

beverages to apparel to meals.

Yet in New York we're very limited on this. In fact, the promotional budget is so small, it's really laughable. And people have a choice as to where they can go with their money if they want to spend it in an afternoon at a bank of slot machines, and they're going to go where they feel more welcome and where they feel they're getting more for their money.

Additionally, there's an upstate economy aspect to this. Besides the danger of Monticello and Buffalo and Saratoga racinos closing if we don't do something is the fact that the smaller harness tracks upstate will be able to take advantage of this now.

And in the first bill, there's a sliding scale as to how much the track would get as, in effect, a vendor. Because under the Lottery Law, every newsstand that sells a lottery ticket gets a percentage for being the vendor. So the tracks would get a sliding scale based on the size of the take as a vendor fee. And the smaller tracks would get a little bit of a higher percentage as a

vendor.

And currently there are tracks that are either not operating on or on the verge of not operating, in places like Tioga, Vernon Downs, Batavia. These tracks really need these racinos to come up and operate, not only so we can all benefit from the jobs, we can all benefit from the income, but that we can also keep the very important harness breeding industry in New York -- which was an industry that was unparalleled, really, in the country but now has fallen on hard times -- keep the harness industry in New York going.

So each bill is not mutually exclusive. I intend to vote for both of the bills. The committee reported out both bills.

I want to commend Senator Larkin on his hard work on this. And despite the fact that his voice has been failing him, his stewardship on this legislation has been steadfast.

And either bill, really, would do something positive to keep this program going and to expand it so we can get the much-needed revenue and create the jobs.

Thank you, Madam President.

THE PRESIDENT: Senator Libous.

SENATOR LIBOUS: Thank you, Madam President. I too want to speak on the bill, if I may.

THE PRESIDENT: You may proceed on the bill, Senator Libous.

SENATOR LIBOUS: This bill will help to create a great opportunity in upstate New York. Because if this bill is passed, Tioga Downs, which was has been closed for about twenty years, will be reopened. And along with that, it will create about 350 jobs. It will generate some $50 million that will go into education funding. And it will breathe new life into the Southern Tier on Route 17, in the town of Nichols in Tioga County.

So I would urge my colleagues to pass this. This is a good piece of legislation. This helps reallocate and will take an area that is dying for new opportunity and growth, an area that needs the jobs, will help them to grow. And it is a great investment on our part to the future of that

region of the state.

THE PRESIDENT: Senator Rath.

SENATOR RATH: Madam Chairman, I rise to congratulate Senator Larkin on this very creative piece of legislation and comment that Batavia Downs, the country's oldest lighted harness track, will benefit dramatically from this.

For those of that don't know, I would only add that Batavia, in my district, situated neatly between Rochester and Buffalo, was named by Site Selection Magazine as the 8th most important "minipolitan" in the country. Our economic development programs and our aggressive effort to help upstate New York have paid off dramatically for Batavia. We will congratulate them officially here with a resolution.

But to have Batavia Downs have this opportunity, it will only add to their minipolitan stature and hopefully more businesses will come to Batavia and upstate New York. A rising tide lifts all ships.

THE PRESIDENT: Senator Krueger.

SENATOR LIZ KRUEGER: If the

sponsor surrogate would rise for a question. I believe that's Senator Meier.

THE PRESIDENT: Senator Meier --

SENATOR MEIER: We have so many to choose from. So let's hear the question and then we'll fight it out as to who gets to answer.

THE PRESIDENT: Will you take a question, Senator Meier?

SENATOR MEIER: Yes, I will.

THE PRESIDENT: All right. You may proceed, Senator.

SENATOR LIZ KRUEGER: Senator Meier, in your explanation before, you said that this could bring in as much as $850 million for education. I assume you meant on an annualized basis.

SENATOR MEIER: On an annualized basis. Just for Yonkers.

SENATOR LIZ KRUEGER: The Yonkers track alone could bring in $850 million for education?

SENATOR MEIER: I myself am not familiar with the -- no? Senator Sabini is shaking his head.

That's overall.

SENATOR LIZ KRUEGER: Overall.

Through you, Madam President, if the sponsor would continue to yield.

THE PRESIDENT: Senator, will you yield for a question?

SENATOR MEIER: Yes, I will, Madam President.

THE PRESIDENT: You may proceed, Senator Krueger.

SENATOR LIZ KRUEGER: Thank you.

And so I have a chart that shows that 50 percent of the 8 percent that doesn't get paid out in prizes through this model would go to education.

So if I do the math, that means for $850 million to be going into education, over $21 billion would be gambled using these VLT machines. Is that correct?

SENATOR MEIER: Could you repeat that question again, Senator? I'm a little slow with your math.

SENATOR LIZ KRUEGER: Certainly.

I have an analysis that shows that within this bill 92 percent of every dollar

bet would be paid out as prizes, leaving 8 percent.

SENATOR MEIER: Right. Let's do it one piece at a time. That's correct.

SENATOR LIZ KRUEGER: That of that 8 percent remaining, 10 percent would go to the Lottery Division, there would be a complex moving formula for the vendor fee and also a moving formula for the vendor marketing, but that approximately 50 percent of that 8 percent, or 4 percent of the total, would go towards education.

SENATOR MEIER: Yes, that's correct. Approximately.

SENATOR LIZ KRUEGER: Thank you.

So if $850 million is 4 percent, then 100 percent would be $21 billion, a little over $21 billion actually gambled?

SENATOR MEIER: Approximately, yes.

What's your point, Senator?

SENATOR LIZ KRUEGER: Okay. I wanted to just make sure I had the numbers right. Thank you.

Speaking on the bill, Madam

President.

Thank you, Mr. Sponsor Surrogate.

THE PRESIDENT: You may proceed on the bill, Senator Krueger.

SENATOR LIZ KRUEGER: We passed the laws to expand VLTs within harness racing before I was in the Senate, so I can't say that I have a record of voting for or against this model. And I do understand the dilemma of the constitutional question from Dalton v. Pataki.

But I have to say, with little time to look at this, should we not be asking the bigger question? In addition to perhaps 850 million in education that we might receive, that this one model -- and we're talking about many models of gambling, hypothetically, in New York State at this point in time, casinos, other VLTs, expanded lotteries -- $21 billion in gambling revenue just from harness track racinos is $21 billion from our economy that won't be spent in other ways.

Because the income of our constituents doesn't necessarily move with how

much they gamble, although we could argue that the ones who win, their revenue moves. But you're talking about making a decision just in harness racing of $21 billion being spent gambling in VLTs within harness racetracks, which is $21 billion that constituents may not have, then, for their housing or to help pay for their health care or their children's education.

And I know that Senator Padavan, in fact, I think, is the leader in our Senate chamber raising the concerns about the costs to be paid from expanded gambling. But the numbers are startling just for this one proposal within harness racetracks and expanding VLTs there.

And I know that many of my colleagues disagree with me, and they argue that people will go and gamble in other states, they will spend that money anyway, and why shouldn't the money be spent here in New York State so that some of it goes into education.

But I am uncomfortable moving forward with a fix that still results in this

much money going out of the pockets of New Yorkers for gambling, without any information that any of the money in this bill would go towards public education about some of the dangers of gambling, the risks of addiction from gambling, the costs to one's family in losing one's money in gambling, the risks associated with the odds of gambling.

And so I will be voting against this bill today, continuing my concern that we aren't asking all the questions as we move forward to expand gambling in the State of New York.

Thank you, Madam President.

THE PRESIDENT: Senator Spano.

SENATOR SPANO: Thank you, Madam President.

I think we need to look at this bill for what it is. It's a jobs bill, and it's an education bill.

And with all due respect to Senator Krueger, I think rather than flippantly referring to perhaps putting $850 million into education, we should recognize that $850 million means a big difference in the

education of our kids all across this state.

Right now in Yonkers Raceway and Aqueduct and harness racing across this state, we've seen the decline. Yonkers Raceway right now is at a dead stop as a result of that court decision that we need to repair through this bill or the other bill that Senator Larkin is offering today.

We need to get VLTs moving in New York State so that we can get the benefit of the education money that is so necessary for our school districts.

We do pay attention to people who suffer from an addiction. And that's why we have increased our funding over the years, as a Senate initiative, for people who suffer from compulsive gambling. And we recognize that.

But as you said, Senator, that we're taking money out of the pockets of New Yorkers, I'd submit to you that the money is coming out of the pockets of New Yorkers already. They are gambling whether you want to put blinders on or not. They're gambling in Pennsylvania -- which, by the way, gives

more money to the tracks than we would here. They're gambling in Atlantic City. They're gambling at the Indian casinos. They're playing the lottery and taking advantage of so much that is there.

We're saying let's put in place a bill that the intent of this bill is to have a vendor's fee for the racetracks, a reasonable and necessary marketing allowance for the racetracks so that we can market what we're doing at these tracks, pay attention to compulsive gambling, and allow the tracks to move forward to hire people in our communities, to make sure that we are sharing that economic base for education that will be raised by -- $850 million is just a beginning number of what we'll be able to raise for education in this state -- and move forward without delay, because we've delayed too long and have seen the suffering of our communities and our school districts all across the state.

So I am very happy to support this measure, and both measures today, and hope that we move forward without delay and get a bill to the Governor for his signature.

ACTING PRESIDENT LITTLE: Thank you.

Senator Sabini.

SENATOR SABINI: Thank you, Madam President.

I just wanted to explain to my colleagues, because that number that was quoted before sounds vast -- and it is a vast number, but it's not a true number.

Because just like you would at a poker game in someone's house, the statistical amount of money bet is known in the business as a churn. If you put $10 into one of these VLTs, you don't just play it once, you play it over and over until you either win enough money that you want to leave or you lose your, say, theoretical $10.

Statistically, that $10, depending on the play on the machine and the odds on the machine, will churn to $170 or more. So the figure that was quoted before of some $20 billion or something is probably close to twenty times the real number because of the churn.

In other words, every time in a

standard, say, poker machine that we have in our VLTs, the standard bet is a dollar and a quarter. If you want to play for the full odds, you'd play a dollar and a quarter. And you put $10 in that machine, you would keep playing that over and over and over. So the number of $20 billion or whatever I heard was that dollar and a quarter times the number of hands you played.

That doesn't mean you're actually going to lose $20 billion. It probably means close to like less than a billion or around a billion. Which is still a lot of money, but statistically in the gaming industry, it's not the amount -- the amount wagered is not the amount lost. It's part of a churn of money. And it's really probably about an 18th or a 20th of the real number.

So people shouldn't get alarmed at the size of it. It's still a big amount of money. But people that play machines just don't play once -- otherwise, they wouldn't drive three hours to Connecticut or Atlantic City to play -- they make a day of it. And the money that's churned for, say, a hundred

dollars could be well over -- your risking $100 can sometimes be a churn of $10,000, even though you don't realize it.

ACTING PRESIDENT LITTLE: Thank you, Senator.

Senator Nozzolio.

SENATOR NOZZOLIO: Madam President, on the bill.

ACTING PRESIDENT LITTLE: Thank you. Senator Nozzolio, on the bill.

SENATOR NOZZOLIO: I had not expected to rise today, but Senator Krueger's comments motivated me to get up and discuss something that is of a broader perspective.

The efforts of Senator Larkin in pushing this legislation should be commended. Because what this does is present, besides all the other merits that have been discussed today -- about education, about assistance to the General Fund, about helping a variety of regions of the state in economic development efforts -- what needs to be also emphasized is what this will do to help the horse racing industry.

Now, the horse breeding industry is

an industry that in New York perspective is one that is growing as an agricultural entity. It's a key component of our agricultural sector in Western New York. It employs literally thousands of people who are directly involved in the development of horse breeding, who are tangentially involved in growing hay and feed for horses, involved in the training and development of horses.

That we a few years ago in this chamber congratulated the breeders and the owners of Funny Cide, a New York-bred horse who won the Kentucky Derby and then went and to win the Preakness. Each of us stood and congratulated that accomplishment from a New York-bred horse.

New York breeding and the New York horse industry is an excellent contributor to jobs in Western New York. And that for some in this chamber to cavalierly say this is not going to help job development I think misses the mark.

And that if there are to be Funny Cides in the future, those New York-breds who succeed on the national stage of horse racing,

if we are to expand the jobs that are in this industry already, you need to support this legislation. If you don't, you're basically saying no to those jobs for upstate New York.

Thank you, Madam President.

ACTING PRESIDENT LITTLE: Thank you.

Senator Klein.

SENATOR KLEIN: On the bill, Madam President.

ACTING PRESIDENT LITTLE: Thank you. Senator Klein, on the bill.

SENATOR KLEIN: I too rise in support of this legislation.

While I don't think gambling is the economic wherewithal for our state, I do believe we do have some good instances here where it has been an economic generator. Clearly Saratoga has been a success story. Yonkers Raceway, which is within my Senate district, is clearly on economic hard times. The track no longer has a clientele. Needless to say, it's become very shabby, the surrounding area.

I think this legislation would help

get a large handle again at the racetrack. I don't think we can ever go back to the 42,000 people that used to go to Yonkers Raceway each and every night, but we can increase the number of people who go.

I just want to take it one step further, because I believe the money that goes into education is important. It's an important one-shot for an ailing education system.

I would like to see, more specifically, a portion of the money that would be generated at Yonkers Raceway by the VLTs be dedicated to the schoolkids of Yonkers. I think everyone knows clearly that Yonkers is on economic hard times. They have a school system that is not run properly. We can debate why that happened. But the bottom line is we need some money to go to Yonkers schoolkids now.

So I would support this legislation, and I would hope there would be a way that we can at least earmark a portion of this money, not only to make sure that the track survives but also getting more money for

Yonkers schoolkids.

ACTING PRESIDENT LITTLE: Thank you, Senator.

Is there any other Senator wishing to be heard?

The debate is closed.

The Secretary will ring the bell.

Read the last section.

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

ACTING PRESIDENT LITTLE: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT LITTLE: Senator Diaz, to explain his vote.

SENATOR DIAZ: Thank you, Madam President. Good morning. I would like to explain my vote.

But before I explain my vote, I would like to join my colleague on the other side when he wished you and all the Irish people a very good day.

Madam President, tradition states that a day like today, you've got to wear green. And if you don't, you've got to be

pinched. So ladies and gentlemen, start pinching.

(Laughter.)

SENATOR DIAZ: To explain my vote.

I heard Senator Spano. He said that they are gambling in New Jersey, he said they are gambling in Atlantic City, he said they are gambling in Pennsylvania.

And this is a new trend. This is a new trend. Whatever the other people do, we should do. They doing stem research -- embryonic stem cell research in California, then do it here. So whatever any other people do, we should do too.

And gambling is dangerous. Gambling takes money away from people. I oppose gambling in any type, shape or form. Games should be only used for recreational activities.

So I'm voting no on this bill for reasons -- not because I want to bring New York to be bankrupt and I want to prevent the Education Department from getting money, but because gambling is not the right way to

go.

Thank you.

ACTING PRESIDENT LITTLE: Senator Diaz will be recorded in the negative.

Senator Padavan, to explain his vote.

SENATOR PADAVAN: Thank you, Madam President.

I have no illusions that anything I'll say now or have ever said over the last several decades will have any impact whatsoever. However, I think something should be said.

This is not found money. This is not new money that will go toward education in a very positive way. It's money that's being sucked out of the economy like a vacuum cleaner.

If you add up all of the gambling venues that we currently now have in effect -- State Lottery, Quick Draw, Scratch-off, Super Lotto, casinos, those that are online -- and you add these new venues, these racinos, some of which are already in operation, and these that are being proposed today, we're talking

about $80 billion annually being wagered by the people of New York State.

And the argument has always been that they're going to gamble anyhow. And that's true, in part. But what all the economists and sociologists and everybody who has any expertise in this area will tell you is that the more readily available you make gambling, the more people will gamble and the more often they will gamble.

Which is why our State Lottery spends $30 million, $40 million a year in advertising. They have a monopoly. In theory, they shouldn't need to advertise. But they want more people to gamble more often.

These VLTs in Queens that you referred to as economic development, Senator Sabini, are going to suck money out of people in that community who can least afford it. Because you and I both know who lives in the vicinity of Aqueduct. They're not wealthy people who get on a bus or a train or in a car and go to Atlantic City. But they will drive to that large parking lot, which is a flea market on weekends, and they will go there and

lose their money. You know it, and I know it. Let's not kid ourselves.

If we're so concerned about education dollars, why not put the VLTs right in the schools? We could short-circuit the whole system; take the money right out of the machines and turn it over to education. Cut out all the middlemen.

There is absolutely no justification for this state now being the premier state in the nation in terms of gross amounts gambled and over a million people who are both compulsive and problem gamblers.

And if you doubt me, go to a meeting of Gamblers Anonymous and sit there and listen, as I have done, or talk to the people who are the advocates for those poor souls, and find out what we have done in New York State to increase that number every year that I can recall, decade after decade of more gambling, more ways for people to lose money.

And each time, we come up with justification: education. It's not a justification. It's an excuse. Let's call it

for what it is.

I vote no.

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

Senator LaValle, to explain his vote.

SENATOR LaVALLE: Madam President, to explain my vote.

I have listened to Senator Padavan. We've talked about this. And I certainly -- I feel very conflicted about these bills and come to a different conclusion than Senator Padavan.

One, I have always opposed gambling. I think we're going too far in this state. And what is disturbing is that we constantly make manipulations with our constitution. The provisions are very, very clear what we can do and not do. And I wonder whether on some of these measures we are piercing or going around constitutional authority.

And the reason I come to a different position than the Senator is that that's for a court to decide, decisions and

lawsuits, constitutional challenges.

But I think we do have to be very, very careful and go through the right processes that indeed the people have an opportunity to be petitioned -- to have a petition and express themselves, so that our constitutional authority is clear and it is done through a process rather than through back-door pieces.

It does provide more money for education. We're faced with great challenges. And until the courts tell us otherwise, I will vote in the affirmative on this measure.

ACTING PRESIDENT LITTLE: Thank you. Senator LaValle recorded in the affirmative.

Senator Schneiderman.

SENATOR SCHNEIDERMAN: Briefly, Madam President, to explain my vote.

I really -- my feelings are similar to Senator LaValle's. I am conflicted about this. I think in general I am opposed to the expansion of gambling. I think it has become one of the critical elements of the economic development strategy for the State of New York

in the last decade, and I think that's a grave error.

I do think that in this particular case, we have institutions that have been providing gambling entertainment for a long time -- horse racing -- that need some help and support, that do create jobs, that do generate some funds for education.

But this is an issue that no one should vote on without giving it a lot of thought and without taking it very seriously.

And I disagree strongly with Senator Padavan's -- one statement Senator Padavan made, which is the assertion that it has not made any difference for him to speak as he has over these years. I think it's made a tremendous difference. I think people take this more seriously. I think it changes some people's votes.

And there's a long, long history behind us and there's a lot of years ahead of us and decisions on gambling still to be made, and I do think that his voice has been very significant and made a difference on these issues.

I will be voting for this bill, Madam President. But I do so with the same conflicted feelings that Senator LaValle expressed.

Thank you.

ACTING PRESIDENT LITTLE: Thank you. Senator Schneiderman in the affirmative.

The Secretary will announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 300 are Senators Diaz, L. Krueger, Padavan, Parker and Serrano.

Those Senators absent from voting, Balboni and Sampson.

Ayes, 50. Nays, 5.

ACTING PRESIDENT LITTLE: The bill is passed.

The Secretary will read.

THE SECRETARY: Calendar Number 301, by Senator Larkin, Senate Print 3276, an act to amend the Tax Law, in relation to video lottery gaming.

ACTING PRESIDENT LITTLE: Read the last section.

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

ACTING PRESIDENT LITTLE: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT LITTLE: Senator Diaz, to explain his vote.

SENATOR DIAZ: I'm going to vote no again for this one, for the same reason.

But, you know, I hate to see people playing God and the devil, taking the opportunity to stand up and explain how wrong is this and I've got concerns and this is wrong, but I'm voting yes.

I mean, come on, stop, ladies and gentlemen. Let's be somebody. I mean, let's get some kind of sense on this. So stop, you know, wobbling and trying to be on both sides. If you want to vote yes, don't say that there's anything wrong with the bill. If you want to vote no, just vote no. Come on, stop this thing already.

I'm voting no. Thank you.

ACTING PRESIDENT LITTLE: Senator Diaz in the negative.

The Secretary will announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 301 are Senators Diaz, Duane, L. Krueger, Padavan, Parker, Schneiderman and Serrano.

Those absent from voting are Senators Balboni and Sampson.

Ayes, 48. Nays, 7.

ACTING PRESIDENT LITTLE: The bill is passed.

Senator Skelos.

SENATOR SKELOS: Madam President, is there any housekeeping at the desk?

ACTING PRESIDENT LITTLE: No, there is not, Senator Skelos.

SENATOR SKELOS: There will be an immediate meeting of the Majority in the Majority Conference Room.

And there being no further business to come before the Senate, I move we stand adjourned until 3:00 p.m. Monday, March 21st, intervening days being legislative days.

ACTING PRESIDENT LITTLE: Thank you.

On motion, the Senate stands adjourned until Monday, March 21st, at 3:00 p.m., intervening days being legislative days.

(Whereupon, at 12:39 p.m., the Senate adjourned.)