NEW YORK STATE SENATE

THE STENOGRAPHIC RECORD

ALBANY, NEW YORK

June 21, 2011

11:36 a.m.

REGULAR SESSION

LIEUTENANT GOVERNOR ROBERT J. DUFFY, President

FRANCIS W. PATIENCE, Secretary

P R O C E E D I N G S

THE PRESIDENT: The Senate will come to order.

Please rise and join me in the Pledge of Allegiance.

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

THE PRESIDENT: In the absence of clergy, please join me in a moment of silence.

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

THE PRESIDENT: The Secretary will read the Journal.

THE SECRETARY: In Senate, Monday, June 20th, the Senate met pursuant to adjournment. The Journal of Sunday, June 19th, was read and approved. On motion, Senate adjourned.

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

Next we'll have presentation of petitions.

Messages from the Assembly.

The Secretary will read.

THE SECRETARY: Senator Fuschillo moves to discharge, from the Committee on Rules, Assembly Bill Number 7869A and substitute it for the identical Senate Bill Number 3451B, Third Reading Calendar 138.

Senator Young moves to discharge, from the Committee on Labor, Assembly Bill Number 5448 and substitute it for the identical Senate Bill Number 2837, Third Reading Calendar 820.

Senator Bonacic moves to discharge, from the Committee on Judiciary, Assembly Bill Number 6838A and substitute it for the identical Senate Bill Number 4591A, Third Reading Calendar 917.

Senator Zeldin moves to discharge, from the Committee on Rules, Assembly Bill Number 7672 and substitute it for the identical Senate Bill Number 5444, Third Reading Calendar 1048.

Senator Hassell-Thompson moves to discharge, from the Committee on Rules, Assembly Bill Number 8356A and substitute it for the identical Senate Bill Number 5743A, Third Reading Calendar 1335.

And Senator Alesi moves to discharge, from the Committee on Rules, Assembly Bill Number 7985B and substitute it for the identical Senate Bill Number 5587C, Third Reading Calendar 1357.

THE PRESIDENT: The substitutions are so ordered.

Next, messages from the Governor.

Reports of standing committees.

Reports of select committees.

Communications and reports from state officers.

Motions and resolutions.

Senator Libous.

SENATOR LIBOUS: Mr. President, at this time I'd like to call an immediate meeting of the Judiciary Committee in Room 124. So there will be an immediate meeting of the Judiciary Committee in Room 124, and the Senate will stand at ease.

THE PRESIDENT: There will be an immediate meeting of the Judiciary Committee in Room 124.

The Senate will now stand at ease.

(Whereupon, the Senate stood at ease

at 11:39 a.m.)

(Whereupon, the Senate reconvened at 11:59 a.m.)

THE PRESIDENT: The Senate will come to order.

Senator Libous.

SENATOR LIBOUS: Mr. President, I believe there's a report from the Judiciary Committee at the desk. Could we have the report read and, for purpose of nominations, call on Senator Bonacic, please.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: Senator Bonacic, from the Committee on Judiciary, reports the following nomination.

As a judge of the Court of Claims, Philip J. Patti, of Pittsford.

THE PRESIDENT: Senator Bonacic.

SENATOR BONACIC: Thank you, Mr. President.

It gives me great pleasure to talk about Judge Philip Patti. Governor Cuomo has put him up for appointment -- reappointment, I should say, to the Court of Claims, which would extend

to December 31, 2020.

He appeared before the Judiciary Committee. When you look at his judicial background, his experience, it's been exemplary. And the Judiciary Committee moved unanimously to have him confirmed by this body.

And I move his nomination.

THE PRESIDENT: Thank you, Senator.

Any Senators wishing to speak on the nomination?

The question is on the nomination of Judge Philip Patti as a judge of the Court of Claims. All those in favor signify by saying aye.

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: Judge Philip Patti is hereby confirmed as a judge of the Court of Claims.

Congratulations, Judge.

(Applause.)

THE PRESIDENT: The Secretary will read.

THE SECRETARY: As interim justice of the Supreme Court, First Judicial District, Ronald A. Zweibel, of New York.

THE PRESIDENT: Senator Bonacic.

SENATOR BONACIC: Thank you, Mr. President.

Judge Ronald Zweibel is presently a Court of Claims judge, and he has served in that position since 1987.

And I want to commend the Governor also for this appointment. Judge Zweibel, we're moving his nomination as interim Supreme Court judge for New York County, and his term will continue to December 31, 2011.

And now I move that appointment to this floor for confirmation, Mr. President.

THE PRESIDENT: Thank you, Senator.

Any Senators wishing to speak on the nomination?

The question is on the confirmation of Judge Ronald Zweibel as interim Supreme Court judge of the County of New York. All those in favor signify by saying aye.

(Response of "Aye.")

THE PRESIDENT: Any opposed?

(No response.)

THE PRESIDENT: Judge Ronald Zweibel is hereby confirmed as an interim Supreme Court judge of the County of New York.

Congratulations, Your Honor.

(Applause.)

THE PRESIDENT: The Secretary will read.

THE SECRETARY: As interim justice of the Supreme Court, Eleventh Judicial District, Daniel P. FitzGerald, of New York.

THE PRESIDENT: Senator Bonacic.

SENATOR BONACIC: Thank you, Mr. President.

Judge Daniel FitzGerald has also been appointed by our Governor to be the interim justice of the Supreme Court in Queens County. And his term would expire on December 31 of 2011.

He has done yeoman's work in the New York City Criminal Court from 1981 until presently.

All three judges, when you look at their background, have served as a judge in an exemplary fashion. They're experienced, knowledgeable, they'll make us all proud. And we

commend the Governor for all three judges.

But right now I move the nomination of Judge Daniel FitzGerald to the floor for confirmation.

THE PRESIDENT: Thank you, Senator.

Any Senators wishing to speak?

Senator Krueger.

SENATOR KRUEGER: Thank you very much.

I also rise to congratulate the Governor on this nomination and to thank my constituent, Daniel FitzGerald, for wanting to continue in the Criminal Court system. He's at an age where he could decide to retire and do other things with his life, but he has made the commitment to continue to serve the people of New York, and I thank him for it.

Thank you, Mr. President.

THE PRESIDENT: Thank you, Senator.

The question is on the nomination of Judge Daniel FitzGerald as interim Supreme Court judge of the County of Queens. All those in favor say aye.

(Response of "Aye.")

THE PRESIDENT: Any opposed?

(No response.)

THE PRESIDENT: Judge Daniel FitzGerald is hereby confirmed as interim Supreme Court judge of the County of Queens.

Congratulations, Judge.

(Applause.)

THE PRESIDENT: Senator Libous.

SENATOR LIBOUS: Thank you, Mr. President.

At this time could we take up the noncontroversial reading of the active list.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: Calendar Number 132, by Senator Maziarz, Senate Print 2913C, an act to amend the Vehicle and Traffic Law.

THE PRESIDENT: Read the last section.

THE SECRETARY: Section 7. This act shall take effect on the 120th day.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number

138, substituted earlier today by Member of the Assembly Lentol, Assembly Print 7869A, an act to amend the Penal Law.

THE PRESIDENT: Read the last section.

THE SECRETARY: Section 3. This act shall take effect on the 180th day.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 270, by Senator Griffo, Senate Print 2777, Concurrent Resolution of the Senate and Assembly.

THE PRESIDENT: Call the roll on the resolution.

(The Secretary called the roll.)

THE SECRETARY: In relation to Calendar 270, those recorded in the negative are Senators Hassell-Thompson, Perkins, Rivera and Saland.

Ayes, 58. Nays, 4.

THE PRESIDENT: The resolution is adopted.

THE SECRETARY: Calendar Number

342, by Senator Marcellino, Senate Print 2887A, an act to amend the Environmental Conservation Law.

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, 62.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 530, by Senator LaValle, Senate Print 1857A, an act to amend the Correction Law.

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 PRESIDENT: Senator Rivera to explain his vote.

SENATOR RIVERA: Thank you, Mr. President.

I rise quickly to say that I agree

with the stated purpose of this bill and I will be voting in the affirmative. But as I have made the case various times in committee when bills like this have either come to committee or to the floor, I do believe that laws like this need to have more specificity as far as the level of the sex offenders that we are speaking about.

In this case there is no distinction, and therefore someone who is a Level 1 is treated the same as a Level 3. Again, I agree with the stated purpose of the bill and I will be voting in the affirmative, but I do think that there are some changes that need to be made so that it only applies to Level 3 and perhaps Level 2, but certainly not Level 1.

I will be voting in the affirmative. Thank you, Mr. President.

THE PRESIDENT: Thank you, Senator.

Senator Rivera's vote will be recorded in the affirmative.

Please announce the results.

THE SECRETARY: Ayes, 62.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number

531, by Senator Alesi, Senate Print 1927, an act to amend the Correction Law.

THE PRESIDENT: Read the last section, please.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 62.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 589, by Senator Seward, Senate Print 1682, an act to amend the State Law.

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, 62.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 591, by Senator Nozzolio, Senate Print 4431, an act to amend the State Law.

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 PRESIDENT: Senator Carlucci to explain his vote.

SENATOR CARLUCCI: Thank you, Mr. President.

I want to thank Senator Nozzolio for putting this legislation forward. I put forward a similar bill that would have named the onion the official vegetable of the State of New York.

I'm privileged to represent some of the hardest-working people I know, the onion farmers in the black dirt region of Orange County. If you haven't been there, it's worth a trip.

But the importance of this legislation is not whether we have sweet corn or onion or any other vegetable, but it's important that we do recognize and have a state vegetable for New York.

Agriculture is the leading industry in the State of New York, and we should do

everything possible to promote the great produce that New York produces, and make sure that other states know this. And that when people come to New York and they visit restaurants, they visit the supermarket, they should ask "Is this a New-York-grown product?" and purchase locally grown produce so we can support our farmers and continue that proud legacy that we have in New York.

So I'll be voting in the affirmative. Thank you, Mr. President.

THE PRESIDENT: Thank you, Senator.

Senator Carlucci's vote will be recorded in the affirmative.

The Secretary will announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 591 are Senators Hassell-Thompson, L. Krueger, Perkins, Rivera, Serrano and Stavisky.

Ayes, 56. Nays, 6.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 683 --

SENATOR LIBOUS: Lay it aside for

the day, please.

THE PRESIDENT: Set it aside for the day.

THE SECRETARY: Calendar Number 734, by Senator Flanagan, Senate Print 5315A, an act relating to validating actions taken by the Smithtown Central School District.

THE PRESIDENT: Read the last section.

THE SECRETARY: Section 5. This act shall take effect immediately.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 62.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 820, substituted earlier today by Member of the Assembly Morelle, Assembly Print Number 5448, an act to amend the Labor Law.

THE PRESIDENT: Read the last section.

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

SENATOR LIBOUS: Lay it aside for the day.

THE PRESIDENT: Lay it aside for the day.

THE SECRETARY: Calendar Number 871, by Senator Zeldin, Senate Print 3844A, an act to amend Chapter --

SENATOR LIBOUS: Lay it aside for the day.

THE PRESIDENT: Lay it aside for the day.

THE SECRETARY: Calendar Number 890, by Senator Ranzenhofer, Senate Print 4753A, an act to amend the General Municipal Law.

THE PRESIDENT: Read the last section.

THE SECRETARY: Section 12. This act shall take effect immediately.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 62.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 917, substituted earlier today by Member of the Assembly Titone, Assembly Print 6838A, an act to amend the Estates, Powers and Trusts Law.

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, 62.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 974, by Senator Hannon --

SENATOR BRESLIN: Lay it aside.

THE PRESIDENT: The bill is laid aside.

THE SECRETARY: Calendar Number 1022, by Senator Seward, Senate Print 4043A, an act to amend the Insurance Law.

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, 62.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1048, substituted earlier today by Member of the

Assembly Sweeney, Assembly Print 7672, an act to amend the Environmental Conservation Law.

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, 62.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1053, by Senator DeFrancisco, Senate Print 2542, an act to amend the Vehicle and Traffic Law.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE PRESIDENT: The Secretary will announce the results.

THE SECRETARY: In relation to Calendar Number 1053, those recorded in the negative are Senators Carlucci, Diaz, Dilan, Hassell-Thompson, Klein, L. Krueger, LaValle,

Little, Marcellino, Parker, Perkins, Ranzenhofer, Saland, Savino, Squadron and Valesky. Also Senator Stewart-Cousins.

Ayes, 45 --

THE PRESIDENT: Senator DeFrancisco to explain his vote.

SENATOR DeFRANCISCO: Yes. The reason I put this bill in -- I know there's some opposition -- I've always been concerned about police officers approaching a car with tinted windows that are so tinted that they can't see what's inside those windows. And I thought the safer way to deal with this would be to require these checks on tinted windows when an inspection is done.

We've done so many naming bills over the years, naming bills for troopers or police officers or victims of something or other. I'd rather do this now than have to do a naming bill later with the same information in it.

So I vote aye. Thank you.

THE PRESIDENT: Thank you, Senator.

Senator DeFrancisco will be recorded in the affirmative.

The Secretary will announce the results.

THE PRESIDENT: Also Senator Ball and Senator O'Mara recorded in the negative. Also Senator Griffo.

Ayes, 42. Nays, 20.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1072, by Senator Fuschillo, Senate Print 5241, an act to amend the Penal Law.

THE PRESIDENT: Read the last section.

THE SECRETARY: Section 3. This act shall take effect on the first of November.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 62.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1088, by Senator Fuschillo, Senate Print 528, an act to amend the Civil Rights Law.

THE PRESIDENT: Read the last section.

THE SECRETARY: Section 4. This act shall take effect on the 180th day.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 62.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1109, by Senator Ball, Senate Print 5381A, an act to amend the Executive Law.

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, 61. Nays, 1. Senator Dilan recorded in the negative.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1126, by Senator Ritchie, Senate Print 5498, an act to amend the Correction Law.

THE PRESIDENT: Read the last section.

THE SECRETARY: Section 2. This act shall take effect on the 120th day.

THE PRESIDENT: Senator Krueger to explain her vote.

SENATOR KRUEGER: Thank you, Mr. President.

I'll be voting no on this bill today because while I understand the point of wanting to make sure that local jails are reimbursed for the cost of keeping parole violators who have been recapturing to get the reimbursement from the State of New York, I'm very concerned that we would be required to move a parole violator from a local jail in the City of New York -- Rikers -- to an upstate prison, when the amount of time that they might have to do in jail would be relatively small and it's been, by and large, the policy of the City of New York to actually choose to keep short-time, under one year, offenders in the city's jail system.

So I can accept part of the purpose of the bill but not the other unintended or intended consequence. I'll be voting no.

Thank you.

THE PRESIDENT: Senator Krueger to be recorded in the negative.

Why don't we take the roll and then come back to speak on the vote.

(The Secretary called the roll.)

THE PRESIDENT: Anyone else to speak on the bill?

The Secretary will announce the results.

THE SECRETARY: In relation to Calendar Number 1126, those recorded in the negative are Senators Adams, Avella, Dilan, Duane, Gianaris, Huntley, L. Krueger, Montgomery, Parker, Peralta, Perkins, Rivera, Squadron and Stavisky. Also Senator Hassell-Thompson.

Ayes, 47. Nays, 15.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1185, by Senator Skelos, Senate Print 1538, an act to amend the Family Court Act.

THE PRESIDENT: Read the last section.

THE SECRETARY: Section 10. This act shall take effect on the 60th day.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61. Nays, 1. Senator Duane recorded in the negative.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number

1335, substituted earlier today by Member of the Assembly Scarborough, Assembly Print 8356A, an act to amend the Executive Law.

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, 61. Nays, 1. Senator Lanza recorded in the negative.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1357, substituted earlier today by Member of the Assembly Silver, Assembly Print 7985B, an act to amend the Tax Law.

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, 62.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number

1364, by Senator Young, Senate Print 5786, an act to --

SENATOR LIBOUS: Lay it aside for the day.

THE PRESIDENT: Lay the bill aside for the day.

THE SECRETARY: Calendar Number 1419, by Senator Flanagan, Senate Print 1883A, an act to amend the Insurance Law.

THE PRESIDENT: Read the last section.

THE SECRETARY: Section 5. This act shall take effect on the 60th day.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 62.

THE PRESIDENT: The bill is passed.

SENATOR LIBOUS: Lay it aside for the day.

THE PRESIDENT: The Secretary will call the roll on reconsideration.

THE SECRETARY: In relation to Calendar Number 1419 --

(The Secretary called the roll.)

THE SECRETARY: Ayes, 62.

THE PRESIDENT: The bill is laid aside for the day.

THE SECRETARY: Calendar Number 1423, by Senator Fuschillo, Senate Print 5317 --

SENATOR BRESLIN: Lay it aside.

THE PRESIDENT: The bill is laid aside.

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

SENATOR LIBOUS: Thank you, Mr. President. Could we now go to the controversial reading of the calendar.

THE PRESIDENT: The Secretary will please ring the bell.

The Secretary will read the controversial calendar.

THE SECRETARY: Calendar Number 974, by Senator Hannon, Senate Print 5043A, an act to amend the Public Health Law.

THE PRESIDENT: Read the last section.

SENATOR BRESLIN: Explanation.

SENATOR KRUEGER: Explanation.

THE PRESIDENT: Senator Hannon, an has been asked for by Senator Krueger.

SENATOR HANNON: This legislation would have the Department of Health open up its purchase of drug files to third-party vendors for the purpose of making sure that any potential rebate claims against the pharmaceutical manufacturers that could be made would be made. And the money would go to the State Treasury.

THE PRESIDENT: Senator Krueger.

SENATOR KRUEGER: Thank you, Mr. President. If the sponsor could please yield.

SENATOR HANNON: Yes.

THE PRESIDENT: The sponsor will yield.

SENATOR KRUEGER: Thank you. If the sponsor could please explain how this A print differs from the original print that was reported out of committee.

SENATOR HANNON: I don't have the file here and I wouldn't be able to answer that. I'm sure that you could just compare the two and determine that. And probably -- I presume the questioner has that information because she asked me.

SENATOR KRUEGER: Mr. President, if

through you the sponsor could continue to yield.

THE PRESIDENT: Senator, will you yield?

SENATOR HANNON: Yes.

THE PRESIDENT: The Senator yields.

SENATOR KRUEGER: Thank you.

No, in fact I don't have the answer. That's why I asked the question. Bills are coming up very quickly nowadays, and I don't know the difference between the A print and the original print. I truly assumed the sponsor would know. It's his bill.

So again, is there some way the sponsor could get me an answer about what the difference is between the A print on the floor being voted on now and the original print.

SENATOR HANNON: Mr. President, the bill before us is the A print. That is the one we're being asked to vote on, not the prior version. And I would just submit if there's a question about this version, I'd be happy to respond to it.

SENATOR KRUEGER: Mr. President, if through you the sponsor would continue to yield.

THE PRESIDENT: Senator, will you

yield?

SENATOR HANNON: Yes.

THE PRESIDENT: The Senator yields.

SENATOR KRUEGER: Thank you.

Could the sponsor explain to me the difference between this bill and the bill that was passed in 2005, Hannon s5835, that was in fact vetoed by the Governor at that time?

SENATOR HANNON: They are substantially similar.

SENATOR KRUEGER: Mr. President, if through you the sponsor would continue to yield.

THE PRESIDENT: Senator?

SENATOR HANNON: Yes.

THE PRESIDENT: The Senator yields.

SENATOR KRUEGER: Could the sponsor explain to me what the reason for the veto of that bill, which is basically this bill, was?

SENATOR HANNON: It was a difference of opinion. The Governor at that time thought that it would cost the state money. I would -- I differed then, and I differ now. Because the only aspect of it is the state's rebate program is examined. The files, which are public, are made available to the vendors who do

this. In fact, one of the vendors does it in 49 other states.

And I believe this would be a cost savings to the state.

SENATOR KRUEGER: Mr. President, if through you the sponsor would continue to yield.

THE PRESIDENT: Senator?

SENATOR HANNON: Yes.

THE PRESIDENT: The Senator will yield.

SENATOR KRUEGER: Thank you.

One of my concerns with this bill is that it would allow the third-party vendor to sell the information collected about Medicaid recipients and what kinds of prescription drugs they're taking to third parties.

Does the sponsor disagree with me that a third-party vendor could in fact sell this information to other third parties, such as pharmaceutical companies?

SENATOR HANNON: Through you, Mr. President. It's very clear, page 2 of the bill, starting on line 11, which states: "Any prescription drug utilization data provided to third-party data vendors under this demonstration

program shall not be shared with other parties." Except there's an exception if you have entered into an agreement with the federal government.

SENATOR KRUEGER: Mr. President, if through you the sponsor could continue to yield.

THE PRESIDENT: Senator?

SENATOR HANNON: Yes.

THE PRESIDENT: The Senator will yield.

SENATOR KRUEGER: Thank you.

So since that was not the case with the 2005 bill, is that one of the differences either between the 2005 bill or the earlier version of the bill and the version, 5043A, that we are reviewing today?

SENATOR HANNON: I have no idea.

SENATOR KRUEGER: If the sponsor will continue to yield.

SENATOR HANNON: Yes.

THE PRESIDENT: The Senator continues to yield.

SENATOR KRUEGER: Thank you.

There is no same-as version of the bill this year; is that correct?

SENATOR HANNON: That's correct.

SENATOR KRUEGER: Thank you.

Mr. President, on the bill.

THE PRESIDENT: Senator Krueger on the bill.

SENATOR KRUEGER: Thank you.

There is no same-as version, so we're not likely to be seeing this bill passing both houses and brought to the Governor at this point in time.

I sincerely don't know whether -- Senator Hannon is right; it's a new governor, a different bill. I don't know whether this would be a bill that would be vetoed again or approved.

I do understand that there's a particular vendor who's running this kind of program in I thought it was 45 other states, but perhaps they've increased and it's 49 other states. My understanding is, though, that the State Department of Health could in fact run this kind of program themselves if they chose.

I still am very concerned about cost factors to the state, particularly in the Medicaid program. And I also continue to be concerned about third parties getting access to

prescription drug patterns of use by Medicaid recipients, because we have seen over and over again where these third parties -- usually pharmaceutical companies -- exploit the use of that information as a targeted advertising campaign for their specific drugs.

So I accept at face value that this would not be possible in this version of this bill, but it's certainly been a reason for concern in other variations on this bill. And given the fact that it's not likely to be actually moved as a law this year, and given my concerns about the differences between the many versions of this bill that have evolved, I'll be voting no.

Thank you, Mr. President.

THE PRESIDENT: Senator Hannon.

SENATOR HANNON: Mr. President, on the bill.

The whole purpose of this bill is to save the state money, to reduce the cost of running the Medicaid program. This is done in most if not all of the other states, so I find the objections puzzling.

The other part of is I know now in

Washington many Democratic Congressmen and women are introducing similar things as they're grappling with the national deficit and having to deal with the debt ceiling. So it is again puzzling.

But the most puzzling part is the debate about other versions and the prior version of the bill which was vetoed. Why is that puzzling? (A) It's not here. And (B) my esteemed colleague voted for that prior bill. It passed unanimously before this house.

So I would just submit to my colleagues we're trying to reduce the cost, we're trying to have a rational policy, and we're trying to better the Medicaid system.

Thank you.

THE PRESIDENT: Senator Duane.

SENATOR DUANE: Thank you, Mr. President.

As the ranking member of the Health Committee, I'm going to encourage my colleagues to vote in the affirmative on this legislation.

I absolutely understand the questions that my colleague on this side of the aisle has brought up, and the issues raised are

much discussed and debated. I'm tempted to say this ship has sailed and we should get on board, because it may be helpful for a whole host of reasons.

The sharing of information on what pharmaceutical products people use is in this day and age -- you know, for whatever reason, you know, when I go on my computer I start getting ads for that stuff that's -- that supplement, what's it called, glucosamine, you know, for arthritis. I'm always being offered cheap glucosamine. I don't do it that way, because I use my local pharmacist to buy it. But anyway, I digress.

I actually think that this is going to provide help to the Department of Health. I think the information collected will be of help as we implement federal healthcare reform and as we struggle -- because Senator Hannon and I, the chair of the committee, serve on the redesign task force. And for however long that goes on, the information collected that now could be collected could be of great value. And it's a demonstration project.

I think it's a good bill, and I

would encourage my colleagues to vote in the affirmative on it.

THE PRESIDENT: Thank you, Senator.

Any other Senators wishing to speak on the bill?

The debate is closed. The Secretary will ring the bell.

The Secretary will 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 PRESIDENT: Senator Duane to explain his vote.

SENATOR DUANE: Thank you, Mr. President.

I just want to reiterate that the purpose of this bill -- and I take all the parties at their word, the pharmaceutical companies, the Department of Health, that collaboratively the information collected here -- and I know people get concerned because it involves Medicaid -- but will provide for the more effective use of pharmaceuticals. It will

give us more information. This is the 21st century; we should use this information.

This is a good bill. It won't hurt anyone, and it may very well help people. I urge my colleagues to vote in the affirmative.

THE PRESIDENT: Thank you, Senator.

Senator Duane will be recorded in the affirmative.

Announce the results.

THE SECRETARY: In relation to Calendar Number 974, those recorded in the negative are Senators Avella, Espaillat, Hassell-Thompson, Kennedy, L. Krueger, Montgomery, Parker, Peralta and Perkins.

Absent from voting: Senator Smith.

Ayes, 52. Nays, 9.

THE PRESIDENT: The bill is passed.

The Secretary will read the next item.

THE SECRETARY: Calendar Number 1423, by Senator Fuschillo, Senate Print 5317, an act to amend the General Business Law.

SENATOR BRESLIN: Explanation.

THE PRESIDENT: Senator Fuschillo,

an explanation has been requested.

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

This bill will amend the General Business Law in relation to requiring to be printed on packaging for baby bottles and sippy cups a warning label. The intent of the bill is to promote better oral health.

I want to thank my colleagues Senator Espaillat and Senator Peralta for this legislation. Last year they actually took the lead on this. And wrongfully, Governor Paterson vetoed the bill. I didn't agree with his veto then, but some measures were taken this year to correct the veto message.

Specifically, the bill addresses the concerns that Governor Paterson had raised. It revises the definition of a sippy cup to exclude travel or to-go mugs and sport bottles, and also revises the warning label by including language that clarifies the meaning of "prolonged periods" and specifically referencing the risk of allowing children to go to sleep with a baby bottle or a sippy cup.

And the intent of this legislation,

Mr. President, as it was for Senator Peralta, was to lower the rate of oral defects or dental malformation. We also include the Attorney General, with respect to the violation, to have an injunction on it.

And I hope that answers and satisfies your questions or your objections, Senator Breslin.

THE PRESIDENT: Thank you, Senator.

Senator Peralta.

SENATOR PERALTA: If the sponsor would yield to a couple of questions.

THE PRESIDENT: Senator?

SENATOR FUSCHILLO: Mr. President, I'd be happy to yield to the Senator who took the yield on this issue last year.

THE PRESIDENT: The Senator yields.

SENATOR PERALTA: Senator Fuschillo, on this bill -- and I'm very glad that you actually followed up on it. On this bill, can you define -- what is the definition this time around of sippy cup?

SENATOR FUSCHILLO: Senator, I'm sorry, I didn't hear the question.

SENATOR PERALTA: What is the definition, in comparison to last year, of what a sippy cup means? How do you define sippy cup this year?

SENATOR FUSCHILLO: It shall mean a vessel with a duck-billed lid, bill-shaped extension or bill-shaped spout primarily intended for use by children under the age of five.

And I must say, Senator, as a parent of three children, we used these sippy cups to prevent spillage. And not knowing what you raised last year of the potential tooth decay, cavities, dental malformation or oral defects.

SENATOR PERALTA: Now, does that -- would the sponsor yield for another question?

THE PRESIDENT: The Senator yields.

SENATOR FUSCHILLO: Yes.

SENATOR PERALTA: Does that definition, is it -- does it intend to cover other types of cups?

SENATOR FUSCHILLO: I think it's pretty specific. In the memo that we have to correct some of the veto message that Governor Paterson had done on your legislation, when we revised the definition it excluded two concerns

or three concerns that they had: Travel or to-go mugs and sports bottles.

And that was taken out to try to be, I assume -- and I can't assume what your intent was -- but to try to be as specific as you were last time working with the association, we tried to be as specific as we can to really, Senator, what a sippy cup is.

SENATOR PERALTA: If you'd yield for another question.

SENATOR FUSCHILLO: Yes, I'll be happy to yield to a question.

THE PRESIDENT: The Senator yields.

SENATOR PERALTA: Thank you.

I'm glad that that definition was actually changed, because that was one of the reasons that the previous Governor vetoed the bill.

But there was also some other reasons why the previous Governor vetoed the bill. What would happen if a product is sold nationally and a manufacturer has to sell it specifically in New York? Wouldn't that create a burden on the manufacturer if he sells these sippy cups throughout the country but yet has to

only specifically put a label in New York?

SENATOR FUSCHILLO: To answer your question, I'm sure that was a concern of yours, Senator Peralta. And I must say that as the former chairman of the Senate Consumer Protection Committee for a decade, it was always a concern of mine.

But on this issue that I'm going to say you were the champion on, let's be the leader throughout the nation. Nationally distributed products will have to provide this label. Hopefully the federal government will pick this up and make this a national label. We've done stuff like this before where New York has been the leader to protect consumers -- in this case, to protect children -- and the federal government has picked it up.

I'm hopeful -- and I'm following your lead, Senator. I'm hopeful that New York will be a leader and this will be landmark legislation that will protect children throughout the entire nation.

SENATOR PERALTA: I'm glad -- would the sponsor yield for another question?

THE PRESIDENT: Senator?

SENATOR FUSCHILLO: Yes, Mr. President.

THE PRESIDENT: The Senator yields.

SENATOR PERALTA: I'm glad that you're following my lead. But what would happen to noncompliant merchandise if not sold within six months after the effective date? Does the bill address this?

SENATOR FUSCHILLO: They'd have to conform with it, Senator.

There are violations in here. We've also put a measure in there about the Attorney General seeking an injunction. I would hope then that the Attorney General would work with the national distributor or the manufacturer, requiring them to just add a label to their products.

SENATOR PERALTA: In terms of -- would the sponsor yield for another question?

SENATOR FUSCHILLO: Yes.

THE PRESIDENT: The Senator yields.

SENATOR FUSCHILLO: Yes, Senator.

SENATOR PERALTA: In terms of the label that actually would be placed on the sippy cups, what would the label read?

SENATOR FUSCHILLO: As mentioned in the legislation, the label would read: "Warning: Allowing your children to use this product for a prolonged period separate from regular mealtimes or to go to sleep while drinking liquids, other than water, from this baby bottle or sippy cup (whichever is applicable to the product upon which the label is placed), may cause or contribute to early children tooth decay."

How that changed from your legislation referencing Governor Paterson's veto was it revised it, requiring the label, by including language that clarifies "prolonged periods" where we say from regular mealtimes or going to sleep.

SENATOR PERALTA: Now -- would the sponsor yield for another question.

THE PRESIDENT: The Senator yields.

SENATOR FUSCHILLO: Yes.

SENATOR PERALTA: Now, what's defined as a prolonged period of time, according to the warning label?

SENATOR FUSCHILLO: Well, it just states regular mealtimes for the product -- for a

prolonged period of time separate from regular mealtimes or going to sleep while drinking liquids other than water. That's how we define it. We just put it in there. We state what should be on the label.

SENATOR PERALTA: Thank you.

On the bill, Mr. President.

THE PRESIDENT: Senator Peralta on the bill.

SENATOR FUSCHILLO: Thank you.

SENATOR PERALTA: Thank you, Senator Fuschillo.

I want to thank Senator Fuschillo for actually taking the lead, taking my lead in actually introducing this piece of legislation.

But the questions that I have asked here today were the very reasons that the Governor last year vetoed this piece of legislation. The burden to manufacturers, the noncompliant issues with the merchandise in stock, when it comes what happens when you have shiploads of sippy cups at a warehouse specifically targeted towards New York and yet you have to put a specific label on those sippy cups, when the manufacturer will not know where,

at times, whether they're going to go to New York, whether they're going to go to New Jersey, whether they're going to go to Massachusetts.

Last year, 15 members -- and although there were some corrections that were actually made this year to somewhat improve on the bill -- but 15 members voted against the sippy cup bill.

In fact, at some point we have to have faith that our citizens of this state have some kind of common sense. And to suggest that putting a label on a sippy cup or a bottle to tell about early childhood tooth decay is a necessary piece of legislation I think insults the intelligence of the people of our community.

And at this rate, we're going to have a warning label on just about every product that's sold in the State of New York, for whatever warning that the Legislature can come up. And I just think it's getting to the point of absurdity now.

So I'm going to vote no, and I urge all my colleagues to vote no, to do the same. In fact, my colleagues, I just read a transcript of

what was just said last year on this bill by Senator DeFrancisco to explain his vote. And because of his words and his predictions that the Governor would veto this bill -- which indeed he did -- I'm going to be following in his footsteps and I'm going to be voting no on this bill. And I urge all my colleagues to do the same.

Thank you, Mr. President.

THE PRESIDENT: Any other Senators wishing to speak?

The debate is closed. The Secretary will ring the bell.

Read the last section.

THE SECRETARY: Section 2. This act shall take effect on the 180th day.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE PRESIDENT: Senator Diaz to explain his vote.

SENATOR DIAZ: Thank you, Mr. President.

Last year Senator Peralta carried this bill and he asked me to vote for it because it was a good bill. And I voted for it last year because it was a good bill.

I don't know what made Senator Peralta change his mind this year, and he's asking me this year to vote no. But the bill -- if the bill was good last year when he carried it, the bill is good this year when Senator Fuschillo is carrying the bill. And that's why I'm voting yes.

THE PRESIDENT: Senator Diaz will be recorded in the affirmative.

Senator DeFrancisco.

SENATOR DeFRANCISCO: Maybe I can help explain.

(Laughter.)

SENATOR DeFRANCISCO: Sometimes in this lifetime, people grow --

(Laughter.)

SENATOR DeFRANCISCO: -- and they listen to other people and, when the other people make arguments that make sense, you're man enough to be able to change your vote, change your position. And that's what this democracy is all about.

And Senator Peralta reached that point on this bill. And I think that he should be commended rather than criticized for that

change in heart.

I just want to mention one other reason. I've supported Senator Fuschillo on many occasions. I've praised him on his bill. But listen to this warning: "Allowing your child to use this product for prolonged periods separate from regular mealtimes or to go to bed while drinking liquids other than water from this baby bottle or sippy cup (whichever is applicable to the product upon which the label will be placed) may cause or contribute to early childhood tooth decay."

This will mean we will only be able to produce long sippy cups --

(Laughter.)

SENATOR DeFRANCISCO: -- because -- so that they can read the warning sign.

I vote no for the same reasons I voted last year.

THE PRESIDENT: Senator DeFrancisco will be recorded in the negative.

The Secretary will announce the results.

THE SECRETARY: In relation to Calendar Number 1423, those recorded in the

negative are Senators Ball, DeFrancisco, Gallivan, Gianaris, Griffo, L. Krueger, Little, O'Mara, Parker, Peralta, Ranzenhofer, Robach, Squadron, Stavisky, Young and Zeldin. Also Senator Nozzolio. Also Senator Larkin. And Senator Maziarz.

THE PRESIDENT: The Secretary will announce the results again.

THE SECRETARY: In relation to Calendar Number 1423, those recorded in the negative are Senators Ball, Bonacic, DeFrancisco, Gallivan, Gianaris, Griffo, L. Krueger, C. Kruger, Larkin, Little, Maziarz, Nozzolio, O'Mara, Parker, Peralta, Ranzenhofer, Robach, Squadron, Stavisky, Young and Zeldin.

Absent from voting: Senators Duane and Smith.

Ayes, 39. Nays, 21.

THE PRESIDENT: After a spirited sippy cup debate, the bill is passed.

(Laughter.)

THE PRESIDENT: Senator Libous.

SENATOR LIBOUS: Now that we have that out of the way, Mr. President --

(Laughter.)

SENATOR LIBOUS: -- there will be an immediate meeting of the Rules Committee in Room 332, an immediate meeting of the Rules Committee in Room 332. Our intention is to release some legislation, then come back and vote on it.

THE PRESIDENT: Thank you, Senator.

There will be a Rules Committee meeting, and the Senate is at ease.

(Whereupon, the Senate stood at ease at 12:58 p.m.)

(Whereupon, the Senate reconvened at 1:52 p.m.)

ACTING PRESIDENT ROBACH: The Senate will come to order.

Senator Libous.

SENATOR LIBOUS: Mr. President, could we please return to reports of standing committees. I believe there is a report of the Rules Committee at the desk. If we could have it read, and then we will accept the report of the Rules Committee.

ACTING PRESIDENT ROBACH: Reports of standing committees.

The Secretary will read the report of the Rules Committee.

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

Senate Print Number 285A, by Senator Diaz, an act to amend the State Finance Law;

4422, by Senator Flanagan, an act to amend the Vehicle and Traffic Law;

4444B, by Senator Dilan, an act deeming certain parcels;

4886A, by Senator Robach, an act to amend the Penal Law;

5098, by Senator Golden, an act to amend the Civil Service Law;

5253B, by Senator Hannon, an act to amend the Social Services Law;

5540, by Senator Seward, an act to amend the Workers' Compensation Law;

5633B, by Senator Alesi, an act to amend the Tax Law;

5745, by Senator Saland, an act to amend the Social Services Law;

5748, by Senator Oppenheimer, an act to amend the Criminal Procedure Law;

5749, by Senator Flanagan, an act to amend Chapter 58 of the Laws of 2011;

5757, by Senator Saland, an act to amend the Correction Law;

5776, by Senator Golden, an act to amend the Criminal Procedure Law;

5811, by Senator Seward, an act to amend the Insurance Law;

5819, by Senator Flanagan, an act in relation to recovery; and

5821, by Senator Flanagan, an act to amend the Education Law.

All bills ordered direct to third reading.

ACTING PRESIDENT ROBACH: Senator Libous.

SENATOR LIBOUS: Thank you, Mr. President. I now move to accept the report of the Rules Committee.

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

(Response of "Aye.")

ACTING PRESIDENT ROBACH: Opposed, nay.

(No response.)

ACTING PRESIDENT ROBACH: The report is accepted.

Senator Libous.

SENATOR LIBOUS: Mr. President, could we go to motions and resolutions for a moment, please.

ACTING PRESIDENT ROBACH: Motions and resolutions.

Senator Libous.

SENATOR LIBOUS: Mr. President, on behalf of Senator Robach I offer the following amendments to Calendar Number 1433, Senate Print 4886A, and ask that said bill retain its place on the Third Reading Calendar.

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

SENATOR LIBOUS: Would you call on Senator Breslin, please.

ACTING PRESIDENT ROBACH: Senator Breslin.

SENATOR BRESLIN: Thank you, Mr. President.

On behalf of Senator Espaillat, I

wish to call up Senate Print Number 1880A, recalled from the Assembly, which is now at the desk.

ACTING PRESIDENT GRIFFO: The Secretary will read.

THE SECRETARY: Calendar Number 220, by Senator Espaillat, Senate Print 1880A, an act to amend the General Business Law.

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

ACTING PRESIDENT ROBACH: Call the roll on reconsideration.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 62.

SENATOR BRESLIN: I now offer the following amendments.

ACTING PRESIDENT ROBACH: The amendments are received.

Senator Libous.

SENATOR LIBOUS: Thank you. Mr. President, at this time could we take up the reading of noncontroversial Supplemental Calendar 57A.

ACTING PRESIDENT GRIFFO: Senator

Libous.

SENATOR LIBOUS: Mr. President, we will take up the calendar as soon as it is delivered to everyone's desk. So if we would just be at ease here -- that doesn't mean you should leave -- but at ease here comfortably for a couple of minutes and we'll have the calendar put on our desks. And then we will get to it immediately.

ACTING PRESIDENT GRIFFO: The Senate will stand or sit at ease.

(Pause.)

ACTING PRESIDENT GRIFFO: The Senate will come to order.

Senator Libous.

SENATOR LIBOUS: Thank you, Mr. President.

Mr. President, I believe everybody has Supplemental Calendar 57A on their desks. At this time could we please have the noncontroversial reading of 57A.

ACTING PRESIDENT GRIFFO: The Secretary will read Calendar 57A, noncontroversial.

THE SECRETARY: Calendar Number

1429, by Senator Diaz, Senate Print 285A, an act to amend the State Finance Law.

ACTING PRESIDENT GRIFFO: Read the last section.

THE SECRETARY: Section 2. This act shall take effect on the 30th day.

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 62.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 1431, by Senator Flanagan, Senate Print 4422, an act to amend the Vehicle and Traffic Law.

ACTING PRESIDENT GRIFFO: Read the last section.

THE SECRETARY: Section 3. This act shall take effect on the first of November.

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 62.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: In relation to Calendar Number 1432, Senator Dilan moves to discharge, from the Committee on Rules, Assembly Bill Number 6844B and substitute it for the identical Senate Bill Number 4444B, Third Reading Calendar 1432.

ACTING PRESIDENT GRIFFO: The substitution is so ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1432, by Member of the Assembly Jeffries, Assembly Print 6844B, an act deeming certain parcels of real property.

ACTING PRESIDENT GRIFFO: Read the last section.

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

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 62.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: In relation to Calendar Number 1434, Senator Golden moves to

discharge, from the Committee on Rules, Assembly Bill Number 4954 and substitute it for the identical Senate Bill Number 5098, Third Reading Calendar 1434.

ACTING PRESIDENT GRIFFO: Substitution so ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1434, by Member of the Assembly Abbate, Assembly Print 4954, an act to amend the Civil Service Law.

ACTING PRESIDENT GRIFFO: Read the last section.

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

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 62.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: In relation to Calendar Number 1435, Senator Hannon moves to discharge, from the Committee on Rules, Assembly Bill Number 8170B and substitute it for the

identical Senate Bill Number 5253B, Third Reading Calendar 1435.

ACTING PRESIDENT GRIFFO: Substitution so ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1435, by Member of the Assembly Perry, Assembly Print Number 8170B, an act to amend the Social Services Law.

ACTING PRESIDENT GRIFFO: Read the last section.

THE SECRETARY: Section 7. This act shall take effect on the 180th day.

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 62.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: In relation to Calendar Number 1437, Senator Seward moves to discharge, from the Committee on Rules, Assembly Bill Number 7908 and substitute it for the identical Senate Bill Number 5540, Third Reading Calendar 1437.

ACTING PRESIDENT GRIFFO: Substitution so ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1437, by Member of the Assembly Morelle, Assembly Print 7908, an act to amend the Workers' Compensation Law.

ACTING PRESIDENT GRIFFO: Read the last section.

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

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 62.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: In relation to Calendar Number 1438, Senator Alesi moves to discharge, from the Committee on Rules, Assembly Bill Number 7705B and substitute it for the identical Senate Bill Number 5633B, Third Reading Calendar 1438.

ACTING PRESIDENT GRIFFO: Substitution so ordered.

SENATOR BRESLIN: Lay it aside.

ACTING PRESIDENT GRIFFO: The bill is laid aside.

THE SECRETARY: In relation to Calendar Number 1439, Senator Saland moves to discharge, from the Committee on Rules, Assembly Bill Number 8339 and substitute it for the identical Senate Bill Number 5745, Third Reading Calendar 1439.

ACTING PRESIDENT GRIFFO: Substitution so ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1439, by Member of the Assembly Paulin, Assembly Print 8339, an act to amend the Social Services Law.

ACTING PRESIDENT GRIFFO: Read the last section.

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

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 62.

ACTING PRESIDENT GRIFFO: The bill

is passed.

THE SECRETARY: In relation to Calendar Number 1440, Senator Oppenheimer moves to discharge, from the Committee on Rules, Assembly Bill Number 1429 and substitute it for the identical Senate Bill Number 5748, Third Reading Calendar 1440.

ACTING PRESIDENT GRIFFO: Substitution so ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1440, by Member of the Assembly Castelli, Assembly Print Number 1429, an act to amend the Criminal Procedure Law.

ACTING PRESIDENT GRIFFO: Read the last section.

THE SECRETARY: Section 2. This act shall take effect January 2, 2012.

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: In relation to Calendar Number 1440, those recorded in the negative are Senators Duane and L. Krueger.

Ayes, 60. Nays, 2.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 1441, by Senator Flanagan, Senate Print 5749, an act to amend Chapter 58 of the Laws of 2011.

ACTING PRESIDENT GRIFFO: Read the last section.

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

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 62.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 1442, by Senator Saland, Senate Print 5757, an act to amend the Correction Law.

ACTING PRESIDENT GRIFFO: Read the last section.

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

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61. Nays, 1. Senator Libous recorded in the negative.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: In relation to Calendar Number 1443, Senator Golden moves to discharge, from the Committee on Rules, Assembly Bill Number 8247A and substitute it for the identical Senate Bill Number 5776, Third Reading Calendar 1443.

ACTING PRESIDENT GRIFFO: Substitution so ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1443, by Member of the Assembly Lentol, Assembly Print 8247A, an act to amend the Criminal Procedure Law.

ACTING PRESIDENT GRIFFO: Read the last section.

THE SECRETARY: Section 2. This act shall take effect on the 90th day.

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61. Nays,

1. Senator Duane recorded in the negative.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 1445, by Senator Seward, Senate Print 5811, an act to amend the Insurance Law.

ACTING PRESIDENT GRIFFO: Read the last section.

THE SECRETARY: Section 9. This act shall take effect on the 90th day.

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT GRIFFO: Senator Seward to explain his vote.

SENATOR SEWARD: Yes, thank you, Mr. President, to explain my vote.

This legislation, which would exempt insurers from certain rate and policy form approval requirements with respect to policies that are issued to certain large commercial insureds, the so-called sophisticated purchasers of insurance, this legislation is part of an effort to streamline and modernize the regulation of insurance in our state and at the same time

maintain and in fact enhance consumer protections.

The advantage -- in addition to the modernization of the regulation, the advantage of this bill will be that it will help keep premium dollars right here in New York State and in the admitted market of our state.

This commercial modernization legislation has been a long-time Senate priority. I have sponsored and passed similar legislation in the past; last year Senator Breslin did the same. This year it's a departmental bill. There's three-way agreement. It's a good step forward for the state.

I vote aye.

ACTING PRESIDENT GRIFFO: Senator Seward to be recorded in the affirmative.

Announce the results.

THE SECRETARY: Ayes, 61. Nays, 1. Senator Ranzenhofer recorded in the negative.

ACTING PRESIDENT GRIFFO: The bill is passed.

The Secretary will continue.

THE SECRETARY: Calendar Number 1446, by Senator Flanagan, Senate Print 5819, an

act in relation to the recovery.

ACTING PRESIDENT GRIFFO: Read the last section.

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

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 62.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 1447, by Senator Flanagan, Senate Print 5821, an act to amend the Education Law.

ACTING PRESIDENT GRIFFO: Read the last section.

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

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61. Nays, 1. Senator L. Krueger recorded in the negative.

ACTING PRESIDENT GRIFFO: The bill is passed.

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

SENATOR LITTLE: Thank you, Mr. President. Could we now have the reading of the controversial calendar.

ACTING PRESIDENT GRIFFO: The Secretary will ring the bell.

The Secretary will read.

THE SECRETARY: Calendar Number 1438, by Member of the Assembly Lupardo, Assembly Print Number 7705B, an act to amend the Tax Law.

SENATOR BRESLIN: Explanation.

ACTING PRESIDENT GRIFFO: an explanation has been requested by Senator Breslin, Senator Alesi.

Perhaps you could have done it right here at Senator Krueger's desk. Is that all right with you, Senator Breslin?

SENATOR ALESI: Thank you, Mr. President. Thank you for your patience. Was it Senator Breslin?

ACTING PRESIDENT GRIFFO: Senator Breslin has requested the explanation. I do not know who will be asking the questions. I believe it's Senator Krueger.

SENATOR ALESI: This is a bill that we discussed in the Rules Committee, and it extends the qualified emerging technology facilities, operations, and training tax credits to the year 2017, as they are currently scheduled to expire at the end of this year, 2011.

ACTING PRESIDENT GRIFFO: Can I have some order in the chamber so we can hear Senator Alesi, please.

SENATOR ALESI: And if I may, it might be helpful to the Senator, since she was so kind. I tried to deliver some last-minute information regarding the memo, which is now updated.

And the fiscal implication on the corrected memo is a $15 million annual amount, as opposed to $515 million, which I believe was Senator Krueger's concern and my concern. Apparently the memo coming from the Assembly contained a typo. There should have been a dollar sign there instead of an additional 5.

So I find a $15 million investment as opposed to $515 million investing in crucial emerging technology businesses is, I think, a worthwhile investment and substantially less than

the amount that we were both concerned about in the Rules Committee.

ACTING PRESIDENT GRIFFO: Senator Krueger.

SENATOR KRUEGER: Thank you. On the bill.

ACTING PRESIDENT GRIFFO: Senator Krueger on the bill.

SENATOR KRUEGER: It certainly was helpful for us to have this discussion in committee and for the sponsor and I to both understand that the first memo was wrong. It was not a permanent enactment of a much larger group of tax credits, but rather a five-year extension of a relatively small, select number of QETC tax credits.

And yes, Senator Alesi is correct, I had a great deal of concern when I thought we were being asked to support a bill that would blow a $515 million hole in our budget each year for five years.

But upon getting the correct information from the sponsor, I actually think it is perfectly fine for us to pass this $15 million extension of tax credits to a specific subgroup

of companies involved with activities that the State of New York is making clear it wants to encourage and support, which is emerging technology company facilities, operations and training for them.

So I'll be very happy to vote yes now. Thank you very much, Mr. President.

ACTING PRESIDENT GRIFFO: Senator Krueger, thank you.

Is there any other Senator wishing to be heard?

Seeing none, hearing none, debate is closed. The Secretary will ring the bell.

Read the last section.

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

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

Absent from voting: Senator Smith.

ACTING PRESIDENT GRIFFO: The bill is passed.

Senator Libous.

SENATOR LIBOUS: Mr. President, at

this time we're going to stand at ease for a little bit. I expect to be calling a Rules Committee meeting shortly. But for right now, the Senate will stand at ease.

ACTING PRESIDENT GRIFFO: The Senate will stand at ease in anticipation of a Rules Committee meeting being called in a very short time.

The Senate stands at ease.

(Whereupon, the Senate stood at ease at 2:20 p.m.)

(Whereupon, the Senate reconvened at 3:50 p.m.)

ACTING PRESIDENT NOZZOLIO: Senator Libous.

SENATOR LIBOUS: Mr. President, could you call on Senator Hassell-Thompson for an announcement.

ACTING PRESIDENT NOZZOLIO: Senator Hassell-Thompson.

SENATOR HASSELL-THOMPSON: Thank you, Mr. President.

In view of the fact that we still have some minutes to wait for our bills, we will be conferencing in the Democratic Conference Room

at 4:30.

SENATOR LIBOUS: Democratic conference, Mr. President, at 4:30.

ACTING PRESIDENT NOZZOLIO: Democrat conference at 4:30 in the Minority Conference Room.

SENATOR LIBOUS: And, Mr. President, there will be a Republican conference at 4:00 o'clock in Room 332, a Republican conference at 4:00 in Room 332.

In the meantime, the Senate would stand at ease.

ACTING PRESIDENT NOZZOLIO: Republican conference at 4:00 p.m.

The Senate will stand at ease.

(Whereupon, the Senate stood at ease at 3:51 p.m.)

(Whereupon, the Senate reconvened at 7:02 p.m.)

THE PRESIDENT: The Senate will come to order.

Senator Libous.

SENATOR LIBOUS: Mr. President, how are you, sir?

THE PRESIDENT: I'm great. How are

you, sir?

SENATOR LIBOUS: I'm good.

THE PRESIDENT: If you're good, I'm good.

SENATOR LIBOUS: At this time, Mr. President, I would like to have the noncontroversial reading of the supplemental active list, please.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: On page 6, Senator Klein moves to discharge, from the Committee on Racing, Gaming and Wagering, Assembly Bill Number 3705 and substitute it for the identical Senate Bill Number 623, Third Reading Calendar 165.

THE PRESIDENT: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 165, by Member of the Assembly Pretlow, Assembly Print 3705, an act to amend the Racing, Pari-Mutuel Wagering and Breeding Law.

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, 61. Nays, 1. Senator Duane recorded in the negative.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 312, by Senator Klein --

SENATOR LIBOUS: Lay it aside for the day.

THE PRESIDENT: Lay the bill aside for the day.

THE SECRETARY: On page 9, Senator Klein moves to discharge, from the Committee on Racing, Gaming and Wagering, Assembly Bill Number 6255 and substitute it for the identical Senate Bill Number 3828, Third Reading Calendar 325.

THE PRESIDENT: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 325, by Member of the Assembly Pretlow, Assembly Print Number 6255, an act to amend the Racing, Pari-Mutuel Wagering and Breeding Law.

THE PRESIDENT: Read the last

section.

THE SECRETARY: Section 4. This act shall take effect on the 180th day.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60. Nays, 2. Senators Duane and L. Krueger recorded in the negative.

THE PRESIDENT: The bill is passed.

THE SECRETARY: On page 9, Senator Bonacic moves to discharge, from the Committee on Rules, Assembly Bill Number 7852A and substitute it for the identical Senate Bill Number 3949B, Third Reading Calendar 326.

THE PRESIDENT: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 326, by Member of the Assembly Pretlow, Assembly Print 7852A, an act to amend the Racing, Pari-Mutuel Wagering and Breeding Law.

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, 62.
THE PRESIDENT: The bill is passed.
THE SECRETARY: On page 12, Senator Lanza moves to discharge, from the Committee on Finance, Assembly Bill Number 7392 and substitute it for the identical Senate Bill Number 4876, Third Reading Calendar 423.
THE PRESIDENT: Substitution ordered.
The Secretary will read.
THE SECRETARY: Calendar Number 423, by Member of the Assembly Pretlow, Assembly Print 7392, an act to amend the Racing, Pari-Mutuel Wagering and Breeding Law.
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, 62.
THE PRESIDENT: The bill is passed.
THE SECRETARY: Calendar Number

574, by Senator L. Krueger, Senate Print 452, an act to amend the Social Services Law.

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, 62.

THE PRESIDENT: The bill is passed.

THE SECRETARY: On page 18, Senator Griffo moves to discharge, from the Committee on Rules, Assembly Bill Number 7495 and substitute it for the identical Senate Bill Number 4864, Third Reading Calendar 798.

THE PRESIDENT: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 798, by Member of the Assembly Magee, Assembly Print 7495, an act to amend the Mental Hygiene Law.

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, 62.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 943, by Senator Martins, Senate Print 5404, an act to amend the Alcoholic Beverage Control Law.

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, 62.

THE PRESIDENT: The bill is passed.

THE SECRETARY: On page 26, Senator Grisanti moves to discharge, from the Committee on Rules, Assembly Bill Number 7487 and substitute it for the identical Senate Bill Number 4633, Third Reading Calendar 1042.

THE PRESIDENT: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number

1042, by Member of the Assembly Abinanti, Assembly Print Number 7487, an act to amend the Environmental Conservation Law.

THE PRESIDENT: Read the last section.

THE SECRETARY: Section 2. This act shall take effect on the 120th day.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 62.

THE PRESIDENT: The bill is passed.

THE SECRETARY: On page 31, Senator Hannon moves to discharge, from the Committee on Rules, Assembly Bill Number 8098 and substitute it for the identical Senate Bill Number 5552, Third Reading Calendar 1137.

THE PRESIDENT: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1137, by Member of the Assembly Bronson, Assembly Print 8098, an act to amend the Long Term Care Integration and Finance Act.

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, 62.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1188, by Senator Golden --

SENATOR BRESLIN: Lay it aside.

THE PRESIDENT: The bill is laid aside.

The Secretary will continue to read.

THE SECRETARY: On page 33, Senator Golden moves to discharge, from the Committee on Investigations and Government Operations, Assembly Bill Number 5737 and substitute it for the identical Senate Bill Number 4898, Third Reading Calendar 1194.

THE PRESIDENT: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1194, by Member of the Assembly Abbate, Assembly Print 5737, an act to amend Chapter 929 of the Laws of 1986.

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: In relation to Calendar 1194, those recorded in the negative are Senators Fuschillo, Lanza, Larkin and Saland.

Ayes, 58. Nays, 4.

THE PRESIDENT: The bill is passed.

THE SECRETARY: On page 33, Senator Larkin moves to discharge, from the Committee on Rules, Assembly Bill Number 7851 and substitute it for the identical Senate Bill Number 5326, Third Reading Calendar 1197.

THE PRESIDENT: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1197, by Member of the Assembly Pretlow, Assembly Print 7851, an act to amend the General Municipal Law.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 62.

THE PRESIDENT: The bill is passed.

THE SECRETARY: On page 33, Senator Carlucci moves to discharge, from the Committee on Investigations and Government Operations, Assembly Bill Number 7370 and substitute it for the identical Senate Bill Number 4333A, Third Reading Calendar 1228.

THE PRESIDENT: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1228, by Member of the Assembly Jaffee, Assembly Print Number 7370, an act authorizing.

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: In relation to

Calendar Number 1228, those recorded in the negative are Senators Bonacic and Larkin.

Ayes, 60. Nays, 2.

THE PRESIDENT: The bill is passed.

Senator Bonacic.

SENATOR BONACIC: Excuse me, Mr. President. I was out of the chambers when Senate 1194 was passed, and I just want the record to indicate that I was a no vote on that particular bill. Calendar Number 1194.

Thank you very much, Mr. President.

THE PRESIDENT: You will be so indicated on Calendar Number 1194.

Senator Zeldin.

SENATOR ZELDIN: Mr. President, I too was out of the chamber on Calendar Number 1194 and, if present, would like to be recorded in the negative.

THE PRESIDENT: The record will so reflect.

SENATOR ZELDIN: Thank you.

THE PRESIDENT: Senator Libous, that completes the noncontroversial reading of the supplemental calendar.

Senator Libous.

SENATOR LIBOUS: Mr. President, I believe Senator Golden's bill is on the controversial calendar.

THE PRESIDENT: That is correct.

SENATOR LIBOUS: Let us get Senator Golden, and I'd like to go to the reading of controversial calendar.

THE PRESIDENT: The Secretary will ring the bell.

The Secretary will read Calendar Number 1188.

THE SECRETARY: Calendar Number 1188, by Senator Golden, Senate Print 3410, an act to amend the Tax Law.

SENATOR KRUEGER: Explanation.

THE PRESIDENT: Senator Golden, Senator Krueger has asked for an explanation.

SENATOR GOLDEN: Thank you, Mr. President.

This bill would cap the state-imposed tax on cigars of 75 percent of the wholesale price, or $1 per cigar, whichever is less.

The current legislation charges 75 percent per cigar. So if you have a

$10 cigar, they charge you $7.50 tax. So what does that do? That drives the people in our communities that smoke cigars to the Internet and to other states in the tristate area.

Just to give you some perspective of what the price of a box of cigars are in the State of New York, the wholesale price, $100; the cost to the New York State customer, $247 for that. The Internet costs $100; the cost to the New York State customer is $130. You go to Pennsylvania, the same: $137. And way above is what New York taxes and the price of their cigars are.

I have one store, it's the Elegant Smokes Corporation, d/b/a Jim's Smoke Shop. For 2009, he sold 28,000 cigars. The tax paid was $25,000. In 2010, the same store sold 3,000 cigars. The tax paid was $6,000.

The loss of revenue so far is estimated over $3 million to the State of New York. By putting a cap or getting a dollar cap on that cigar or 75 percent, if it's less, would give us the opportunity to bring those people back to the State of New York, to be able to bring those cigars that are being smoked and

bought outside the State of New York back to the State of New York, and allow for that revenue to be recouped, allow for jobs to be created, and allow for these stores to remain open and more stores to open up.

THE PRESIDENT: Senator Krueger.

SENATOR KRUEGER: Thank you, Mr. President.

If the sponsor could yield for a question or two.

THE PRESIDENT: Senator, will you yield?

SENATOR GOLDEN: Certainly, Mr. President.

THE PRESIDENT: The Senator yields.

SENATOR KRUEGER: Thank you.

What is New York State's tobacco tax rate on noncigars, say, cigarettes?

SENATOR GOLDEN: Somewhere around $44 a carton. I don't have the exact figures.

SENATOR KRUEGER: Mr. President, through you. Would the sponsor agree that our tax on cigarettes is higher than our tax on cigars as a percentage?

THE PRESIDENT: Senator?

SENATOR GOLDEN: Mr. President, yes, I would.

SENATOR KRUEGER: Thank you.

Would the sponsor continue to yield, please.

SENATOR GOLDEN: Yes, Mr. President.

THE PRESIDENT: The Senator will yield.

SENATOR KRUEGER: Thank you.

I heard the sponsor say that the tax revenue to the State of New York has been reduced for cigars since we've put this new tax into effect. Could he repeat or confirm what numbers he was working off?

SENATOR GOLDEN: I believe the number was close to $3 million.

SENATOR KRUEGER: Mr. President, if through you the sponsor could yield for an additional question.

THE PRESIDENT: Senator Golden, will you yield?

SENATOR GOLDEN: I do indeed, Mr. President.

SENATOR KRUEGER: Thank you.

Well, I guess I'm going to make a statement, if you don't mind, first, and then ask you whether you disagree with my numbers.

I am looking at the tobacco products tax revenue from the Division of the Budget. This is not including cigarettes, so it's cigars, snuff, chewing tobacco -- although snuff and chewing tobacco are not a very large section of this tax.

And this shows that since we've put the new increased tax into effect our tax revenue has actually gone up per month, not gone down. And just as a comparison, in 2010-2011, before the tax was applicable in April, it was $6.783 million for the month. In 2011-2012, the same month was over $7 million. In May 2010-2011 the tax revenue for these products was $5.8 million. In 2011-2012 in May, it was almost $7 million. And the months in between where we only have the 2010-2011 data so far actually were significantly higher than the months previous.

Now, I would actually say, well, yes, we raised the taxes so we would expect revenue to go up. But based on this data from the Department of Budget, again, I would like the

sponsor to show me how our revenue's going down for these products.

SENATOR GOLDEN: The loss of the business in the cigars and the number of cigar stores that are closing are causing a decrease in the number of cigars being purchased here in the State of New York.

A good cigar that people are going to go out and smoke is not a dollar cigar. The cigars that they're going to smoke are somewhere in the category from $2, $3, up to $20, $25 a cigar. So if you're going to charge 75 percent tax on a cigar that's $10, that's a $7.50 tax.

I assure you, Mr. President, that those cigars are not being bought in Jimmy's Smoke Shop any longer, they're being bought on the Internet, they're being bought on Indian reservations, and they're being bought in the tristate area that are selling cigars at much less a price than we are charging here in the State of New York.

SENATOR KRUEGER: Mr. President, if through you the sponsor would continue to yield.

THE PRESIDENT: Senator, do you yield?

SENATOR GOLDEN: Yes, Mr. President.

THE PRESIDENT: The Senator will yield.

SENATOR KRUEGER: So if we were to change the law as this bill proposes, people who buy less expensive cigars would pay a higher proportional tax rate than people who buy more expensive cigars; is that correct?

SENATOR GOLDEN: No. I believe, Mr. President, that they would pay the tax that would be charged for that cigar, not 75 percent of the cigar.

So we're looking at bringing back an industry here. From one cigar -- as the good Senator has pointed out, from a pack of cigarettes we get a $4 and -- I don't know how much the tax is on a pack of cigarettes. But that's 20 cigarettes. That's not one cigar. I think anybody in this room would agree with me that a 75 percent tax on a single cigar is pretty outrageous even for the State of New York.

So I think this is a matter of fairness, it's a matter of being able to allow these stores and these employees to stay employed

and to allow for that industry to stay here in the State of New York.

SENATOR KRUEGER: Mr. President, if through you the sponsor would continue to yield.

SENATOR GOLDEN: Certainly, Mr. President.

THE PRESIDENT: Senator Golden yields.

SENATOR KRUEGER: Thank you so much.

So again, to rephrase the previous question -- because I don't believe that the Senator understood it correctly -- under current law if you buy a dollar cigarette you pay a 75 percent tax, 75 cents, and if you buy a $10 cigar -- I meant to say cigar. If I said cigarette, excuse me.

So on a dollar cigar, you pay 75 cents tax, 75 percent, and on a $10 cigar you pay $7.50 tax, a 75 percent tax. But under the Senator's bill, people who bought cigars worth more than $1 would only pay a $1 tax maximum per cigar.

So my question is, wouldn't this be a more regressive sales tax where those people

who were buying less expensive cigars would pay a higher percentage tax than those people paying $10, $20, $30 per cigar?

SENATOR GOLDEN: Through you, Mr. President, the good Senator is correct.

But I can tell that she doesn't smoke cigars. Most people, the revenue that would be lost on the more expensive cigars is the industry that we're losing. The industry cannot survive on those less expensive cigars, they need an array of cigars to be able to survive, the industry. And that's why the industry is leaving the State of New York, the jobs are leaving.

And still, it's just a matter of fairness. Seventy-five percent on a cigar? Even a little high by New York State standards.

SENATOR KRUEGER: Mr. President, on the bill.

SENATOR GOLDEN: Thank you, Mr. President.

SENATOR KRUEGER: No, thank me.

THE PRESIDENT: Senator Krueger on the bill.

SENATOR KRUEGER: Thank you.

Well, I have several reasons why I

think we should all vote against this bill. One, the argument that actually we've seen a reduction in tax revenue because we increased our taxes on cigars is not actually proven, based on the fact that the department of Budget is providing us information showing just the opposite. We're not losing tax revenue.

Two, I stand here frequently arguing for progressive taxation and against regressive taxation. I don't think people with more income should pay a lower rate of taxes than people with less income. And if one assumes that people paying a dollar or less for a cigar have less income than the people paying $10, $20, 30, $40 for a cigar, I don't think they should be entitled to a lower rate of taxation than those people who buy less expensive cigars.

And third, and I suppose foremost, I actually think when you're talking about taxing tobacco products there are two agendas in front of us -- the tax revenue outcome from taxing gabbing tobacco products, but also the evidence, which is very broad and well-documented, that increasing the costs of tobacco-based products discourages people from using tobacco-based

products.

And in fact it is better for us, all of us, as we know from science, not to smoke or use tobacco products, whether they're in the form of a cigar or a cigarette. And it is better for the people who go near us not to be exposed to cigar or cigarette or other tobacco-based products.

So from a health perspective, I would recommend a no vote. From an equity perspective on tax policy, I would recommend a no vote. And from a revenue to the State of New York perspective, I would recommend a no vote.

Thank you, Mr. President.

THE PRESIDENT: Thank you, Senator.

Any other Senators wishing to speak on the bill?

The debate is closed. The Secretary will ring the bell.

The Secretary will read the last section.

THE SECRETARY: Section 5. This act shall take effect immediately.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE PRESIDENT: Senator Adams to explain his vote.

SENATOR ADAMS: Yeah, Mr. President, I'm going to vote in favor of this bill because this is -- we're talking about an industry, we're not talking about merely cigars. And we're losing this industry in the State of New York.

You don't have cigarette bars where people just go to try out different cigarettes. This is an important industry that those who have these cigar bars have been asking for some form of relief because we're going to lose this industry, it's going to leave the State of New York and it's going to have a major impact. And that's why I'm going to vote in favor of this bill.

THE PRESIDENT: Thank you, Senator.

Senator Adams will be recorded in the affirmative.

The Secretary will announce the results.

THE SECRETARY: In relation to Calendar Number 1188, those recorded in the

negative are Senators Avella, Diaz, Duane, Fuschillo, Gianaris, Huntley, Kennedy, L. Krueger, Montgomery, Oppenheimer, Parker, Peralta, Perkins, Rivera, Serrano, Squadron, Stavisky and Stewart-Cousins.

Absent from voting: Senator Espaillat.

Ayes, 43. Nays, 18.

THE PRESIDENT: The bill is passed.

Senator Libous, that completes the controversial reading of the supplemental active list.

SENATOR LIBOUS: Thank you, Mr. President. I was just explaining to Senator Robach that the Lieutenant Governor was asking for me.

We're going to go to a Rules Committee meeting at this time, Mr. President, in Room 332. So there will be an immediate meeting of the Rules Committee in Room 332.

Upon the adjournment of the Rules Committee meeting, we'll come back and catch the Rules report. We will then accept it and begin moving on that particular report.

THE PRESIDENT: Thank you,

Senator.

Immediate Rules Committee meeting in Room 332.

The Senate stands at ease.

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

(Whereupon, the Senate reconvened at 8:24 p.m.)

THE PRESIDENT: The Senate will come to order.

Senator Marcellino.

SENATOR MARCELLINO: Thank you, Mr. President.

Can we go back to reports of standing committees. I believe there's a report of the Rules Committee at the desk. I ask that it be read now.

THE PRESIDENT: Reports of standing committees.

The Secretary will read.

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

Senate Print 150A, by Senator Maziarz, an act to amend the Real

Property Tax Law;

175, by Senator Maziarz, an act to amend the Public Authorities Law;

247A, by Senator Montgomery, an act to amend the Social Services Law;

296B, by Senator Diaz, an act to amend the Correction Law;

641B, by Senator Golden, an act to amend the Penal Law;

938, by Senator Marcellino, an act to amend the Highway Law;

2369C, by Senator Seward, an act to amend the Environmental Conservation Law;

2640, by Senator LaValle, an act in relation to authorizing;

2732, by Senator Golden, an act to amend the Tax Law;

2953A, by Senator Larkin, an act to authorize the City of Newburgh;

2976C, by Senator Maziarz, an act to amend the Real Property Tax Law;

3186A, by Senator Hannon, an act to amend the Public Health Law;

3350, by Senator Bonacic, an act to amend the Real Property Tax Law;

3411A, by Senator McDonald, an act in relation to allowing;

3505, by Senator Larkin, an act to authorize the Village of Maybrook;

3550, by Senator McDonald, an act to authorize the Town of North Greenbush;

3741, by Senator Maziarz, an act to amend the Workers' Compensation Law;

3767C, by Senator Bonacic, an act to amend the General Obligations Law;

4013C, by Senator McDonald, an act to amend the Insurance Law;

4048A, by Senator Johnson, an act granting;

4085A, by Senator Grisanti, an act to amend the Environmental Conservation Law;

4263A, by Senator Golden, an act to amend the Multiple Dwelling Law;

4640, by Senator DeFrancisco, an act to amend the Education Law;

4736, by Senator Golden, an act to amend the Tax Law;

5072, by Senator McDonald, an act to authorize the Town of East Greenbush;

5125, by Senator Carlucci, an act

authorizing;

5149B, by Senator Bonacic, an act to amend the Labor Law;

5408A, by Senator Libous, an act to amend the Alcoholic Beverage Control Law;

5413, by Senator O'Mara, an act authorizing Michael P. Koval;

5452B, by Senator Alesi, an act to amend the Public Authorities Law;

5454, by Senator Nozzolio, an act to amend the Criminal Procedure Law;

5474, by Senator Fuschillo, an act to amend the Vehicle and Traffic Law;

5482, by Senator Bonacic, an act to amend the Racing, Pari-Mutuel Wagering and Breeding Law;

5588, by Senator Farley, an act granting retroactive Tier IV membership;

5646A, by Senator Hannon, an act to amend the Social Services Law;

5655, by Senator Bonacic, an act to amend the Retirement and Social Security Law;

5658, by Senator Gallivan, an act to amend the Penal Law;

5669A, by Senator Savino, an act to

confirm eligibility;

5680A, by the Committee on Rules, an act to amend the Tax Law;

5719A, by Senator Libous, an act to authorize the County of Broome;

5756, by the Committee on Rules, an act to amend the Retirement and Social Security Law;

5774, by Senator Grisanti, an act to amend the Environmental Conservation Law;

5799, by Senator Skelos, an act to amend the Insurance Law;

5806, by Senator Bonacic, an act to amend the Vehicle and Traffic Law; and

5840, by Senator Skelos, an act to amend Chapter 576 of the Laws of 1974.

All bills ordered direct to third reading.

THE PRESIDENT: Senator Marcellino.

SENATOR MARCELLINO: Mr. President, can we move to accept the Rules Committee report.

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

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: The Rules report is accepted.

Senator Marcellino.

SENATOR MARCELLINO: Yes, at this time, Mr. President, may we have the noncontroversial reading of Senate Supplemental Calendar Number 57B.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: Calendar Number 1430, by Senator Maziarz, Senate Print 150A, an act to amend the Real Property Tax Law.

SENATOR MARCELLINO: Lay it aside for the day, please.

THE PRESIDENT: Lay the bill aside for the day.

THE SECRETARY: In relation to Calendar Number 1436, Senator Maziarz moves to discharge, from the Committee on Transportation, Assembly Bill Number 356 and substitute it for the identical Senate Bill Number 175, Third Reading Calendar 1436.

THE PRESIDENT: Substitution

ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1436, by Member of the Assembly Hoyt, Assembly Print 356, an act to amend the Public Authorities Law.

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, 62.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1444, by Senator Montgomery, Senate Print 247A, an act to amend the Social Services Law.

THE PRESIDENT: Read the last section.

THE SECRETARY: Section 4. This act shall take effect on the 90th day.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 62.

THE PRESIDENT: The bill is passed.

THE SECRETARY: In relation to Calendar Number 1448, Senator Diaz moves to discharge, from the Committee on Rules, Assembly Bill Number 1363B and substitute it for the identical Senate Bill Number 296B, Third Reading Calendar 1448.

THE PRESIDENT: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1448, by Member of the Assembly Jeffries, Assembly Print 1363B, an act to amend the Correction Law.

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: In relation to Calendar Number 1448: Ayes, 61. Nays, 1. Senator Ranzenhofer recorded in the negative.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1449, by Senator Golden, Senate Print 641B, an

act to amend the Penal Law.

THE PRESIDENT: The last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61. Nays, 1. Senator Duane recorded in the negative.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1450, by Senator Marcellino, Senate Print 938, an act to amend the Highway Law.

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, 62.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1451, by Senator Seward, Senate Print 2369C --

SENATOR BRESLIN: Lay it aside.

THE PRESIDENT: The bill is laid aside.

THE SECRETARY: Calendar Number 1452, by Senator LaValle, Senate Print 2640, an act in relation to authorizing.

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, 62.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1453, by Senator Golden, Senate Print 2732, an act to amend the Tax Law.

THE PRESIDENT: Read the last section.

SENATOR BRESLIN: Lay it aside.

THE PRESIDENT: Lay the bill aside.

THE SECRETARY: In relation to Calendar Number 1454, Senator Larkin moves to discharge, from the Committee on Rules, Assembly Bill Number 7441 and substitute it for the identical Senate Bill Number 2953A, Third Reading Calendar 1454.

THE PRESIDENT: Substitution

ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1454, by Member of the Assembly Kirwan, Assembly Print 7441, an act to authorize the City of Newburgh.

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, 62.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1455, by Senator Maziarz --

SENATOR BRESLIN: Lay it aside.

SENATOR MARCELLINO: Lay the bill aside for the day.

THE PRESIDENT: Lay the bill aside for the day.

THE SECRETARY: Calendar Number 1456, by Senator Hannon, Senate Print 3186A, an act to amend the Public Health Law.

SENATOR MARCELLINO: Lay it aside

for the day.

THE PRESIDENT: Lay the bill aside for the day.

THE SECRETARY: Calendar Number 1457, by Senator Bonacic, Senate Print 3350, an act to amend the Real Property Tax Law.

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, 62.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1458, by Senator McDonald, Senate Print 3411A, an act in relation to allowing John R. Panichi.

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

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, 62.

THE PRESIDENT: The bill is passed.

THE SECRETARY: In relation to Calendar Number 1459, Senator Larkin moves to discharge, from the Committee on Rules, Assembly Bill Number 6043 and substitute it for the identical Senate Bill Number 3505, Third Reading Calendar 1459.

THE PRESIDENT: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1459, by Member of the Assembly Calhoun, Assembly Print 6043, an act to authorize the Village of Maybrook.

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

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, 62.

THE PRESIDENT: The bill is passed.

THE SECRETARY: In relation to Calendar Number 1460, Senator McDonald moves to

discharge, from the Committee on Rules, Assembly Bill Number 5665 and substitute it for the identical Senate Bill Number 3550, Third Reading Calendar 1460.

THE PRESIDENT: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1460, by Member of the Assembly Canestrari, Assembly Print 5665, an act to authorize the Town of North Greenbush.

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

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, 62.

THE PRESIDENT: The bill is passed.

THE SECRETARY: In relation to Calendar Number 1461, Senator Maziarz moves to discharge, from the Committee on Rules, Assembly Bill Number 6294 and substitute it for the identical Senate Bill Number 3741, Third Reading

Calendar 1461.

THE PRESIDENT: Substitution ordered.

The Secretary will read.

SENATOR MARCELLINO: Lay it aside for the day.

THE PRESIDENT: Lay the bill aside for the day.

THE SECRETARY: Calendar Number 1462, by Senator Bonacic, Senate Print 3767C, an act to amend the General Obligations Law.

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 PRESIDENT: The Secretary will announce the results.

THE SECRETARY: In relation to Calendar Number 1462, those recorded in the negative are Senators Ball, Breslin, Duane, Farley, Gallivan, Golden, Griffo, Hannon, Hassell-Thompson, L. Krueger, C. Kruger, Larkin, LaValle, McDonald, Montgomery, Nozzolio, O'Mara,

Parker, Perkins, Ranzenhofer, Rivera, Saland, Sampson, Seward and Stewart-Cousins.

Ayes, 37. Nays, 25.

THE PRESIDENT: The bill is passed.

THE SECRETARY: In relation to Calendar Number 1463, Senator McDonald moves to discharge, from the Committee on Rules, Assembly Bill Number 384B and substitute it for the identical Senate Bill Number 4013C, Third Reading Calendar 1463.

THE PRESIDENT: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1463, by Member of the Assembly Paulin, Assembly Print 384B, an act to amend the Insurance Law.

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, 62.

THE PRESIDENT: The bill is passed.

THE SECRETARY: In relation to

Calendar Number 1464, Senator Johnson moves to discharge, from the Committee on Rules, Assembly Bill Number 6335A and substitute it for the identical Senate Bill Number 4048A, Third Reading Calendar 1464.

THE PRESIDENT: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1464, by Member of the Assembly Raia, Assembly Print 6335A, an act granting retroactive Tier IV membership.

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, 62.

THE PRESIDENT: The bill is passed.

THE SECRETARY: In relation to Calendar Number 1465, Senator Grisanti moves to discharge, from the Committee on Rules, Assembly Bill Number 6195A and substitute it for the identical Senate Bill Number 4085A, Third Reading

Calendar 1465.

THE PRESIDENT: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1465, by Member of the Assembly Sweeney, Assembly Print 6195A, an act to amend the Environmental Conservation Law.

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 PRESIDENT: Senator Grisanti to explain his vote.

SENATOR GRISANTI: Yes, briefly, Mr. President.

I appreciate all my colleagues in the enforcement of this particular bill. You may not be aware, but TRIS, this chemical that's found in TRIS was actually banned from child clothing many, many years ago. Now we find it in products. And unfortunately these particular products, like crib mattresses, toys, car seats,

they don't have the warnings as we do now on the sippy cup.

(Laughter.)

SENATOR GRISANTI: So what we're going to do altogether is we're just going to ban it. And it's important to protect kids from all types of cancer, and it's been found in testing. And I appreciate all the support on this bill. And it's basically for the children, and I appreciate that, Mr. President.

Thanks. I vote in the affirmative.

THE PRESIDENT: Senator Grisanti will be recorded in the affirmative.

And thanks for raising the sippy cups again.

(Laughter.)

THE PRESIDENT: Announce the results.

THE SECRETARY: Ayes, 62.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1466, by Senator Golden, Senate Print 4263A --

SENATOR MARCELLINO: Lay it aside for the day.

THE PRESIDENT: Lay the bill aside

for the day.

THE SECRETARY: Calendar Number 1468, by Senator DeFrancisco, Senate Print 4640, an act to amend the Education Law.

THE PRESIDENT: Read the last section.

THE SECRETARY: Section 3. This act shall take effect three years after it shall have become law.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 62.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1469, by Senator Golden, Senate Print 4736, an act to amend the Tax Law.

SENATOR MARCELLINO: Lay it aside.

THE PRESIDENT: The bill is laid aside for the day. Just a second.

(Pause.)

THE PRESIDENT: Lay the bill aside.

THE SECRETARY: In relation to Calendar Number 1471, Senator McDonald moves to discharge, from the Committee on Rules, Assembly Bill Number 7362 and substitute it for the

identical Senate Bill Number 5072, Third Reading Calendar 1471.

THE PRESIDENT: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1471, by Member of the Assembly Canestrari, Assembly Print 7362, an act to authorize the Town of East Greenbush.

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

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, 62.

THE PRESIDENT: The bill is passed.

THE SECRETARY: In relation to Calendar Number 1472, Senator Carlucci moves to discharge, from the Committee on Local Government, Assembly Bill Number 6866A and substitute it for the identical Senate Bill Number 5125, Third Reading Calendar 1472.

THE PRESIDENT: Substitution

ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1472, by Member of the Assembly Jaffee, Assembly Print 6866A, an act authorizing.

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: In relation to Calendar 1472, those recorded in the negative are Senators Bonacic, Larkin and O'Mara.

Ayes, 59. Nays, 3.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1473, by Senator Bonacic --

SENATOR BRESLIN: Lay it aside.

SENATOR MARCELLINO: Lay it aside for the day.

THE PRESIDENT: Lay the bill aside for the day.

THE SECRETARY: Calendar Number 1474, by Senator Libous, Senate Print 5408A, an

act to amend the Alcoholic Beverage Control Law.

SENATOR MARCELLINO: Lay it aside for the day, please.

THE PRESIDENT: Lay the bill aside for the day.

THE SECRETARY: Calendar Number 1475, by Senator O'Mara, Senate Print 5413, an act authorizing Michael P. Koval.

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

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, 62.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1476, by Senator Alesi, Senate Print 5452B, an act to amend the Public Authorities Law.

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, 62.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1477, by Senator Nozzolio, Senate Print 5454, an act to amend the Criminal Procedure Law.

THE PRESIDENT: Read the last section.

THE SECRETARY: Section 2. This act shall take effect on the 30th day.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61. Nays, 1. Senator L. Krueger recorded in the negative.

THE PRESIDENT: The bill is passed.

THE SECRETARY: In relation to Calendar Number 1478, Senator Fuschillo moves to discharge, from the Committee on Rules, Assembly Bill Number 7932 and substitute it for the identical Senate Bill Number 5474, Third Reading Calendar 1478.

THE PRESIDENT: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number

1478, by Member of the Assembly Lavine, Assembly Print 7932, an act to amend the Vehicle and Traffic Law.

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, 62.

THE PRESIDENT: The bill is passed.

THE SECRETARY: In relation to Calendar Number 1479, Senator Bonacic moves to discharge, from the Committee on Rules, Assembly Bill Number 6877A and substitute it for the identical Senate Bill Number 5482, Third Reading Calendar 1479.

SENATOR BRESLIN: Lay it aside.

THE PRESIDENT: Substitution ordered.

The bill is laid aside.

THE SECRETARY: In relation to Calendar Number 1480, Senator Farley moves to discharge, from the Committee on Rules, Assembly Bill Number 8201 and substitute it for the

identical Senate Bill Number 5588, Third Reading Calendar 1480.

THE PRESIDENT: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1480, by Member of the Assembly Abbate, Assembly Print 8201, an act granting retroactive Tier IV membership.

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, 62.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1481, by Senator Hannon, Senate Print 5646A, an act to amend the Social Services Law.

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, 62.

THE PRESIDENT: The bill is passed.

THE SECRETARY: In relation to Calendar Number 1482, Senator Bonacic moves to discharge, from the Committee on Rules, Assembly Bill Number 8109A and substitute it for the identical Senate Bill Number 5655, Third Reading Calendar 1482.

THE PRESIDENT: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1482, by Member of the Assembly Abbate, Assembly Print 8109A, an act to amend the Retirement and Social Security Law.

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, 62.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number

1483, by Senator Gallivan, Senate Print 5658, an act to amend the Penal Law.

THE PRESIDENT: Read the last section.

THE SECRETARY: Section 2. This act shall take effect on the 180th day.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 62.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1484, by Senator Savino, Senate Print 5669A, an act to confirm eligibility.

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, 61. Nays, 1. Senator Rivera recorded in the negative.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1485, by the Committee on Rules, Senate Print 5680A --

SENATOR BRESLIN: Lay it aside.

THE PRESIDENT: The bill is laid aside.

THE SECRETARY: Calendar Number 1486, by Senator Libous, Senate Print 5719A, an act to authorize the County of Broome.

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

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, 62.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1487, by the Committee on Rules, Senate Print 5765, an act to amend the Retirement and Social Security Law.

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, 62.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1488, by Senator Grisanti, Senate Print 5774, an act to amend the Environmental Conservation Law.

THE PRESIDENT: Read the last section.

THE SECRETARY: Section 6. This act shall take effect on the same date and in the same manner as a chapter of the Laws of 2011.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 62.

THE PRESIDENT: The bill is passed.

THE SECRETARY: In relation to Calendar Number 1489, Senator Skelos moves to discharge, from the Committee on Rules, Assembly Bill Number 7779 and substitute it for the identical Senate Bill Number 5799, Third Reading Calendar 1489.

THE PRESIDENT: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1489, by Member of the Assembly Silver, Assembly

Print 7779, an act to amend the Insurance Law.

THE PRESIDENT: Read the last section.

THE SECRETARY: Section 5. This act shall take effect on the 30th day.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 62.

THE PRESIDENT: The bill is passed.

THE SECRETARY: In relation to Calendar Number 1490, Senator Bonacic moves to discharge, from the Committee on Rules, Assembly Bill Number 3518A and substitute it for the identical Senate Bill Number 5806, Third Reading Calendar 1490.

THE PRESIDENT: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1490, by Member of the Assembly Pretlow, Assembly Print 3518A, an act to amend the Vehicle and Traffic Law.

THE PRESIDENT: Read the last section.

THE SECRETARY: Section 2. This

act shall take effect on the 180th day.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 62.

THE PRESIDENT: The bill is passed.

THE SECRETARY: In relation to Calendar Number 1491, Senator Skelos moves to discharge, from the Committee on Rules, Assembly Bill Number 8508 and substitute it for the identical Senate Bill Number 5840, Third Reading Calendar 1491.

THE PRESIDENT: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1491, by Member of the Assembly Lopez, Assembly Print 8508, an act to amend Chapter 576 of the Laws of 1974.

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

THE PRESIDENT: Yes, there is.

SENATOR MARCELLINO: Move to accept.

THE PRESIDENT: All in favor of accepting the message of necessity signify by

saying aye.

(Response of "Aye.")

THE PRESIDENT: Any opposed?

(No response.)

THE PRESIDENT: The message of necessity is accepted.

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, 62.

THE PRESIDENT: The bill is passed.

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

Senator Espaillat, why do you rise?

SENATOR ESPAILLAT: To explain my vote.

THE PRESIDENT: The roll call has been taken. But without objection.

SENATOR MARCELLINO: Without objection.

SENATOR ESPAILLAT: Thank you, Mr. President.

This is the fourth time we vote for

an extender on the rent bills as we near the finish line. And again, we are concerned that as negotiations continue to move forward, that as we approach tomorrow, substantial changes will come about to bring tenant protection, strengthened tenant protections, and also to extend these laws so that the 2.5 million New Yorkers can go home and go to sleep without the fear that rent will go beyond their means.

So again, this is another one of these extenders that we have resorted to this year. And I am optimistic and hopeful that tomorrow will be a better day and that we will be able to extend the rent laws and strengthen tenant protection.

Thank you, Mr. President. I will be voting aye.

THE PRESIDENT: Thank you, Senator. Your vote is reflected in the affirmative.

That completes the noncontroversial reading of the calendar, Senator Marcellino.

SENATOR MARCELLINO: Yes, Mr. President. Calendar Number 1466 was laid aside for the day. We'd like to remove that lay

aside for the day and return it to the controversial calendar.

THE PRESIDENT: So ordered.

SENATOR MARCELLINO: Mr. President, at this time can we now take up the controversial calendar.

THE PRESIDENT: The Secretary will ring the bells.

The Secretary will read.

THE SECRETARY: Calendar Number 1451, by Senator Seward, Senate Print 2369C, an act to amend the Environmental Conservation Law.

SENATOR BRESLIN: Explanation.

SENATOR MARCELLINO: Lay this bill aside for the day.

THE PRESIDENT: The bill is laid aside for the day.

THE SECRETARY: Calendar Number 1453, by Senator Golden, Senate Print 2732, an act to amend the Tax Law.

SENATOR SQUADRON: Explanation.

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

SENATOR GOLDEN: Thank you, Mr. President. This is Bill Number 2732?

SENATOR MARCELLINO: Yes, it is.

SENATOR GOLDEN: This bill would authorize the personal tax credit of up to $6,000 and a corporate tax credit up to $15,000 for contributions to the public education entities or to charitable organizations which offer tuition assistance and $75 of expense incurred by school personnel or parents.

There would be a local education fund that would be set up for the public education entities, which would be a public school district or a public school or a charter school. And then there would also be set up a educational scholarship organization, which would be set up for the tuitions and scholarships that would go to private and parochial schools and for tuition and mentoring, which both public schools, private and parochials could use.

The monies going into the tax credit would be $200 million a year, any tax year, of which $100 million, or 50 percent, would go to the local education fund for the public schools and classroom supplies, and the other 50 percent, the other hundred million, to home school, the education scholarship, mentoring and tuition for

the private and parochial schools and classroom supplies.

The Department of Taxation and Finance has yet to project a first-year revenue reduction. However, as it would affect only the fourth quarter of FY 2011-2012, it would be less than $200 million allowed when fully implemented. Since the bill allows only for a partial credit, it has the potential of generating $333 million in voluntary contributions to support K-12 education in New York State. Stabilizing the independent and religious sector will significantly lessen the need for local school tax increases as well as the issuance of bonds for new public schools. We wouldn't have to build all of those public schools and all that construction, and generate further savings with that tax credit.

THE PRESIDENT: Thank you, Senator.

Any Senators wishing to speak?

Senator Krueger.

SENATOR KRUEGER: Thank you, Mr. President. If the sponsor would please yield.

THE PRESIDENT: Senator Golden?

SENATOR GOLDEN: Yes, Mr. President.

THE PRESIDENT: Senator Golden yields.

SENATOR KRUEGER: So in the explanation you said that it would authorize a personal tax credit up to $6,000, a corporate tax credit up to $15,000, and $75 in expenses incurred by school personnel or parents. So that means if I am a parent I get a $75 tax credit. If I am a teacher, I get a $75 tax credit. If I'm a private citizen who wants to donate to a public school, charter school, parochial school, I'm entitled to a $6,000 tax credit, is that correct?

SENATOR GOLDEN: That's correct, yes. Mr. President, through you.

SENATOR KRUEGER: Thank you, Mr. President. If through you the sponsor would continue to yield.

SENATOR GOLDEN: Yes, Mr. President, I do.

SENATOR KRUEGER: So I get a one-for-one tax credit if I give -- I thought it was if I give the school $6,000. But I think a

follow-up question will be apparently we're creating some entity I give the money to instead. But I get a dollar-for-dollar tax credit for the $6,000 that I give the school or some new entity, is that correct?

SENATOR GOLDEN: No, that would be 60 percent of the figure, which would mean you'd have to make a donation of $10,000 to get a $6,000 tax credit.

SENATOR KRUEGER: And through you, Mr. President, if the sponsor would continue to yield.

SENATOR GOLDEN: Yes, Mr. President.

THE PRESIDENT: The Senator yields.

SENATOR KRUEGER: And also, if I'm a corporation, I get a $15,000 tax credit. Is that also a 60 percent formula?

SENATOR GOLDEN: Yes, it is, Mr. President.

SENATOR KRUEGER: And through you, Mr. President, if the sponsor would continue to yield.

THE PRESIDENT: Senator Golden?

SENATOR GOLDEN: I do,

Mr. President.

THE PRESIDENT: He yields.

SENATOR KRUEGER: So since these are charitable contributions, we already have state laws that provide tax exemptions or credits for charitable contributions. So this would be whatever the charitable tax credit was for me plus this 60 percent as well? You get both the charitable tax contribution that already exists on the books plus this 6,000 at 60 percent or the 15,000 at 60 percent?

SENATOR GOLDEN: Only if you itemized would you be able to get the tax credit. And therefore those that do not itemize get the ability also to get this tax credit.

SENATOR KRUEGER: Well, most people who make $10,000 contributions, or corporations, by definition itemize already. So it would allow them to take two tax credits on one type of charitable contribution? Mr. President, if through you.

THE PRESIDENT: Senator, do you yield?

SENATOR GOLDEN: Yes, I do, Mr. President. One is a tax deduction and the

other one is an itemized deduction.

SENATOR KRUEGER: So through you, Mr. President, because I need a little clarification. If I am an individual contributing $6,000 and/or a -- excuse me. If I am an individual eligible for a personal tax credit up to $6,000 or a corporate entity eligible for a credit up to $15,000, when I combine both of those, the existing law and this new law, how much of a credit am I getting on these contributions per dollar?

SENATOR GOLDEN: One is still a $6,000 credit, and the other is an itemized deduction.

SENATOR KRUEGER: Mr. President, through you. How much would the itemized deduction be valued at?

SENATOR GOLDEN: They're not dollar for dollar, the itemized deductions.

SENATOR KRUEGER: Mr. President, through you. I agree it's not dollar for dollar, as we've established. This proposal would be 60 percent on the dollar. What would the existing --

SENATOR GOLDEN: There's no way to

tell you that under itemized deductions. We don't know what that would come up to on any given taxpayer.

SENATOR KRUEGER: Mr. President, if through you the sponsor would continue to yield.

THE PRESIDENT: Senator Golden?

SENATOR GOLDEN: Yes, Mr. President.

THE PRESIDENT: The Senator yields.

SENATOR KRUEGER: Thank you.

Now, upon first reading, some people I talked to thought that somehow this applied to working families who send their children to parochial schools and face up to $6,000 of tuition fees. Can you clarify for me how this actually is or isn't applicable for a parent paying television for their child to go to parochial school?

SENATOR GOLDEN: This is set up, Mr. President, as an educational scholarship organization. And if the individual child would get a scholarship to go to that school, that individual would be able to take that $6,000 scholarship and attend that school.

SENATOR KRUEGER: Mr. President, if

through you the sponsor would continue to yield.

THE PRESIDENT: Senator Golden?

SENATOR GOLDEN: Yes, Mr. President.

SENATOR KRUEGER: So it would be correct to say no, parents who are struggling to put their children through parochial school, this is not a tax credit for you?

SENATOR GOLDEN: Correct, Mr. President.

SENATOR KRUEGER: Thank you.

If through you, Mr. President, the sponsor would continue to yield.

THE PRESIDENT: Senator Golden.

SENATOR GOLDEN: Yes, Mr. President.

SENATOR KRUEGER: So the sponsor also in his explanation talked about the cost to the State of New York being $200 million annually, although not in the first year because it would be not a full year. But assuming a full-year annual, he seemed to explain that this would be half for parochial schools and half for other.

How do we know that if people are

going to, we assume, be contributing $6,000 for personal tax credits or 15,000 -- well, actually, excuse me, it's $10,000 personal or $22,000 corporate. Sixty percent of $15,000, plus or minus. So how exactly do we know that these contributions are all going to work out to be X percentage to parochial and Y percentage to public or charter schools? How did we come to that calculation?

SENATOR GOLDEN: Through you, Mr. President. The individual would have to be certified and would have to get a certification from the for-profit that they donated it to.

SENATOR KRUEGER: Mr. President, if through you the sponsor would continue to yield.

SENATOR GOLDEN: I do, Mr. President.

SENATOR KRUEGER: I am confused, I admit. So if the sponsor could explain to me, he's creating with this bill some kind of new entity that all the money goes into and then is distributed out from? I'm very confused on that.

SENATOR GOLDEN: Through you, Mr. President, there are existing vehicles that give out scholarships that you could in fact

donate to or set up and donate to these two, educational scholarship organization or to the local education fund. Not unlike what the City of New York does with the public school system, not unlike what we do for the tax credit here that we've done for the kids across the State of New York for public, private, and parochial schools.

SENATOR KRUEGER: Excuse me, Mr. President. If I heard the sponsor correctly, he said two organizations would be created?

SENATOR GOLDEN: Two types of organizations would be created, yes, Mr. President.

SENATOR KRUEGER: And through you, Mr. President, could you again explain what these two different organizations are or will do?

SENATOR GOLDEN: I explained already. Through you, Mr. President, one would be set up for the public education entity, which would be the public school districts, the individual public schools, and the charter schools. And the second would be for the scholarships and tuition and mentoring grants for not only for those in parochial and private, but

also in the public schools as well.

SENATOR KRUEGER: Through you, Mr. President. So I believe that the sponsor has just explained there will be these two different entities. So I, the donor, can choose which of the two entities I want to give the money to, but it must be one of these two entities?

SENATOR GOLDEN: It can be one, it can be both. It depends on how and what size of the credit you would like to put into each one of those funds to take advantage of it.

SENATOR KRUEGER: Through you, Mr. President, if the sponsor would continue to yield.

THE PRESIDENT: Senator Golden?

SENATOR GOLDEN: Yes, Mr. President.

SENATOR KRUEGER: So I, Liz Krueger, want to give $10,000 to help a particular parochial school. Can I assign my donation to go through one or the other of these entities and then have it further assigned to be used by a particular school?

SENATOR GOLDEN: It can only be done, Mr. President, through you, in that form to

a public school.

SENATOR KRUEGER: If through you, Mr. President, the sponsor would continue to yield.

THE PRESIDENT: Senator Golden?

SENATOR GOLDEN: Yes, Mr. President.

SENATOR KRUEGER: Are we defining charter school as a public school for this purpose?

SENATOR GOLDEN: Yes, we are, Mr. President.

SENATOR KRUEGER: So if I -- through you, Mr. President, if the sponsor would continue to yield.

THE PRESIDENT: Senator?

SENATOR GOLDEN: Yes, Mr. President.

SENATOR KRUEGER: So if I want to -- if I, Liz Krueger, want to contribute to a public or charter school, I can now today give them a contribution but only take a charitable deduction on my taxes. But if we had this law in place, if I made the contribution through this new entity, I could assign where my contribution

ultimately went to but I could also receive a 60 percent tax credit on my contribution. Is that a correct understanding?

SENATOR GOLDEN: Through you, Mr. President. If it was going to the charter school, it would have to go directly to the charter school, Mr. President.

SENATOR KRUEGER: If through you, Mr. President, the sponsor would continue to yield.

SENATOR GOLDEN: Yes, Mr. President.

SENATOR KRUEGER: So a charter school is a public school for the purposes of this bill, except not for contributions, because for contributions I would have to go directly to a charter school. But I could go through this middle entity for a public school.

And then, as my follow-through question, but then if I wanted to give to a parochial school, that goes through the other entity we're creating? Or how does it work for a parochial school?

SENATOR GOLDEN: Through you, Mr. President, the money would either go to a

public school or to a charter school. If she wanted to donate, the good Senator, for a tax credit, she would have to go -- if you wanted it to go to a parochial, she'd have to find a scholarship to donate that to. And that's what we set up here as a scholarship, for that ability to make that happen.

SENATOR KRUEGER: Through you, Mr. President, if the sponsor would continue to yield.

THE PRESIDENT: Senator?

SENATOR GOLDEN: Yes, Mr. President.

SENATOR KRUEGER: So I could give to a parochial school through the other organization that was creating scholarship funds and I could name what parochial school that was?

SENATOR GOLDEN: You could name the scholarship. You cannot name the school.

SENATOR KRUEGER: So if I, Liz Krueger, wanted to give money, $10,000, to a parochial school, I could give it to a scholarship fund for parochial schools but I could not decide which parochial school my contribution was going to; is that correct?

SENATOR GOLDEN: Through you, Mr. President, she did that correctly, yes.

SENATOR KRUEGER: Mr. President, if through you the sponsor could continue to yield.

SENATOR GOLDEN: I do, Mr. President.

SENATOR KRUEGER: And if I wanted my contribution to go to a charter school, I wouldn't go through either of these programs, I would give it directly to a charter school -- either of these two organizations. I would give it directly to the charter school?

SENATOR GOLDEN: That is correct, Mr. President.

SENATOR KRUEGER: And, Mr. President, if through you the sponsor would continue to yield.

THE PRESIDENT: Senator Golden, will you yield?

SENATOR GOLDEN: I will, Mr. President.

SENATOR KRUEGER: So in the bill, paragraph -- excuse me, Section 5, paragraph 5, it talks about 50 percent of the credits shall be afforded to educational scholarship organizations

or home-based instructional materials and 50 percent shall be afforded to donations to public education entities and local education funds.

So if all the Liz Kruegers out there who decide to participate in this program actually divvy up their decisions about their giving -- some of the Lizzes want to give to a specific charter school, some of the Lizzes want to give to public schools in general, and some of the Lizzes want to give to parochial schools for scholarship funds in general -- how do we know that it's a 50 percent/50 percent model when you add it all up?

SENATOR GOLDEN: Because you'd have to be certified and you'd have to get a certificate from either the public school organization that we would have set up, which is local education fund, or from the educational scholarship organization. Or for any vehicle that allows for a scholarship, you would have to certify it.

SENATOR KRUEGER: Mr. President, through you, if the sponsor would continue to yield.

SENATOR GOLDEN: I do, Mr. President.

THE PRESIDENT: The Senator yields.

SENATOR KRUEGER: So if there was a rush on donating to charter schools, the certificates would be used up and the 59th Liz Krueger who showed up would be told, "Sorry, we've given out our tax credits for the charter school program but we have a nice parochial school tuition assistance fund we could talk you into"? Is that a fair analysis?

SENATOR GOLDEN: I would hope -- through you, Mr. President -- that we find a lot of Liz Kruegers willing to do this. And any money that was over and above would go into the next tax year, sir.

SENATOR KRUEGER: Mr. President, if through you the sponsor would continue to yield.

THE PRESIDENT: Senator?

SENATOR GOLDEN: Yes, Mr. President.

SENATOR KRUEGER: And it's the exact same arrangement for corporations who want to give -- I'm assuming it's about $22,000, a 60 percent rate -- I'm sorry.

I'm sorry, just to clarify, Mr. President, through you. The maximum amount an individual corporation could contribute through any of these three scenarios in a year would be what amount?

SENATOR GOLDEN: Through you, Mr. President, it would be $15,000 -- whatever 60 percent of $15,000 is. One of my good colleagues can figure that out. I don't have that number in front of front of me.

SENATOR KRUEGER: Mr. President, if through you the sponsor would continue to yield.

SENATOR GOLDEN: I do, Mr. President.

SENATOR KRUEGER: Thank you.

And would this apply to any type of corporation and LLC as well as a sub-Chapter S as well as a bank, any New York State corporation?

SENATOR GOLDEN: The answer is yes. General business corporations would be the vehicles that could donate to these entities.

SENATOR KRUEGER: Mr. President, if through you the sponsor would continue to yield.

SENATOR GOLDEN: He does, Mr. President.

THE PRESIDENT: Thank you, Senator.

SENATOR KRUEGER: Would you have to be a New York State corporation or could it be any form of corporation who might in fact owe some taxes to the State of New York?

SENATOR GOLDEN: We would hope -- through you, Mr. President -- that there would not only be many Liz Kruegers but that there would be many corporations that would be willing to donate to our educational system here in the State of New York.

This is not unlike the one that's done in the City of New York on the corporations by the mayor of the City of New York for public education.

SENATOR KRUEGER: On the bill.

THE PRESIDENT: Senator Krueger on the bill.

SENATOR GOLDEN: Thank you, Senator Krueger.

SENATOR KRUEGER: You're welcome, Senator Golden.

Well, it's a complicated question. Because I certainly like the idea of people contributing to education, be it public education

or private, parochial education. I'm a big believer in charitable giving and philanthropic giving.

I'm always a little nervous when we're creating these special-design deals to encourage philanthropy for specific purposes. One of the reasons I'm nervous and concerned about it is actually because I was brought up to believe that charitable giving and philanthropy was supposed to be a good unto itself, not necessarily go look for the best tax deal you can get to decide who you're going to give to or what you prioritize.

So in fact much broader than this bill, I worry that people no longer understand philanthropy and giving to others as a good unto itself, but rather as a way to maximize a decreased tax bill.

And then I worry in the context specifically about this piece of legislation because now it seems we're going to encourage charitable giving for higher-income people specifically in order to maximize tax deductions at the expense of the State of New York, in theory to ensure there is more money available

for public and parochial and charter school education.

The dilemma is if this costs us $200 million per year, it's conceivably $200 million that we might have to pull out of our public education to localities. Because if we don't collect the money, we don't get to spend the money on things like education.

And when you move to a model that more and more is having private individuals -- and in this case corporations and individuals -- direct how money should be spent for education, as opposed to the government deciding how money should be spent for education, you can end up skewing equitable distribution of tax money and public money almost as if there's a popularity contest. One group gets out there and does better lobbying for bigger contributions for themselves, and the cost is paid by the other schools or school systems that might not be as attractive or as popular or as almost hot a topic in philanthropy that year.

So I am very concerned about the state moving down this road. I can confess at this hour of 9:15 I'm not a hundred percent sure

I understand every detail of this proposal. I do understand now that it has absolutely nothing to do with an individual thinking that they might be able to get a tax deduction towards their own child's tuition or educational costs.

So I think it's very important that everyone in this room understand that, that there have been proposals to allow tax deductions for people whose children go to private or parochial school, there have been proposals to allow for individuals to have tax deductions specific to an individual donation to a specific school. But by and large, in this bill, that win is $75 for a household, not these very large levels of tax deductions.

I'm voting no, Mr. President. Thank you very much.

THE PRESIDENT: Thank you, Senator.

Any other Senators wishing to speak on the bill?

The debate is closed.

The Secretary will ring the bell

SENATOR LIBOUS: Mr. President.

THE PRESIDENT: Senator Libous.

SENATOR LIBOUS: I know we're

waiting for members to come in. And if I could just ask, Senator Montgomery has indicated she'd like to ask one question of Senator Golden.

So, Senator Golden, would you oblige to that?

THE PRESIDENT: Without objection.

SENATOR GOLDEN: It's up to you, my dear man. Yes, sir.

THE PRESIDENT: Without objection.

SENATOR GOLDEN: Yes, Senator.

THE PRESIDENT: Senator?

SENATOR MONTGOMERY: Thank you.

Mr. President, just through you, I want to just find out -- I want to be very clear about how the system will work.

I'm just trying to read this language. And I see where basically the only part of this legislation that refers to the actual parents of children is that they're eligible for up to $75 for their tax credit. And it's only the corporations and those who make contributions of $10,000 or more who are eligible for up to $6,000 in a tax credit if you make contributions of $10,000 or more, or a corporation up to $15,000. And that -- but

neither of those are tax credits that go for the benefit of a parent of a child.

SENATOR GOLDEN: Through you, Mr. President, it's up to $10,000 for the individual parent or the corporation up to $15,000. And the parent could donate up to $10,000 and get back $6,000 for their child.

One question, right? Thank you, Mr. President.

(Laughter.)

THE PRESIDENT: Thank you, Senators.

The debate is closed. The Secretary will read the last section.

THE SECRETARY: Section 8. This act shall take effect the first of January.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE PRESIDENT: Senator Montgomery to explain her vote.

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

Based on the way that I read the legislation and that it is set up, this really is the -- it establishes a couple of mechanisms

whereby contributions can be made into a system which is to allow for contributions, tax-credited contributions for the purpose of education.

But this is not -- I think it's very important for people to understand this does not inure to those them a families struggling to keep their children in private schools, parochial schools, independent schools. This really is not a bill that is going to provide for individual parents of individual children. It's expressly stated in language in the legislation.

So I am going to vote no because I think it is masquerading for something that it definitely is not going to do. So I vote no, Mr. President.

THE PRESIDENT: Senator Montgomery to be recorded in the negative.

Senator Stavisky to explain her vote.

SENATOR STAVISKY: Yes, thank you, Mr. President.

This bill is going to benefit the hedge funds to the tune of a hundred million or so, of a total of 200 million. But it's benefiting the hedge funds and not the parents.

And for that reason I vote no.

THE PRESIDENT: Senator Stavisky to be recorded in the negative.

Senator DeFrancisco to explain his vote.

SENATOR DeFRANCISCO: Yes. It clearly benefits people that provide or companies that provide a lot of money by way of a tax credit. But the money that's collected benefits the children for various -- for institutions of -- educational institutions.

So the fact that there's a tax benefit to people who are willing to provide a lot of money for the kids is a good thing. So I'm not sure of the logic behind it doesn't benefit the kids.

The more big companies, hedge funds or whoever wants to donate as much as they want to donate, the better, because there's more money for the kids. So I vote aye.

THE PRESIDENT: Senator DeFrancisco will be recorded in the affirmative.

Senator Golden.

SENATOR GOLDEN: I just would like to rise and thank all of my colleagues and

hopefully most of them and all of them if they could see their way to voting for a great tax credit that would allow for our systems to flourish.

We do this already in the City of New York. It would help us to stop having to spend tremendous amounts of money in construction projects. Our last construction project in the Board of Education was $13 billion between the city and the state. That we could save billions of dollars in being allowed to have this tax credit not just for the publics, for the privates and the parochials, but across the system, and allow for tutoring and mentoring for all of those students in public, private and parochial that could take advantage of this.

This is a great opportunity for our children. It's a great opportunity for our state. And I hope most of my colleagues would vote for it.

Thank you, Mr. President.

THE PRESIDENT: Thank you, Senator. Senator Golden's vote will be recorded in the affirmative.

The Secretary will announce the

results.

THE SECRETARY: In relation to Calendar 1453, those recorded in the negative are Senators Duane, L. Krueger, Montgomery, Perkins, Rivera, Stavisky. Also Senator Huntley.

Ayes, 55. Nays, 7.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1466, by Senator Golden --

THE PRESIDENT: Excuse me.

Senator Libous.

SENATOR LIBOUS: Yeah, there was a bit of a confusion. And this bill should be laid aside for the day, and 1469 should have been laid aside. There was a reverse, if we could take care of that right now. So this bill, 1466, will be laid aside for the day.

THE PRESIDENT: Senate 1466 is laid aside for the day.

And the Secretary will read Senate 1469.

SENATOR LIBOUS: That's correct. Thank you, Mr. President.

THE SECRETARY: Calendar Number 1469, by Senator Golden, Senate Print 4736, an

act to amend the Tax Law.

SENATOR BRESLIN: Explanation.

THE PRESIDENT: Senator Golden.

SENATOR GOLDEN: Oh, these people love me here today.

(Laughter.)

SENATOR GOLDEN: Mr. President, through you, this is a bill that would allow for our wholesalers -- there used to be about 60 to 70 wholesalers across the State of New York. They are tax agents, and they collect about $2 billion in revenue for the State of New York. We're down to about 10 to 12 here in the State of New York. One of them is being moved right now to the State of Kentucky, to move their plant and their operation to that state. And that would cost the State of New York about 1400 jobs.

There are thousands of jobs that are unfortunately in the wane right now. And the reason for that is because they only get 2 cents a pack for a handling fee for cigarettes.

What we're doing here is proposing a 12 cents addition which bring that to 14 cents a pack for a handling charge for our wholesalers. And this would give them the ability to still be

the tax agent for the State of New York. The more of these taxing agents that leave the State of New York allow for more contraband to go through our streets and more untaxed cigarettes to flourish in the City and State of New York.

This would enhance this industry and allow those jobs to stay and to flourish here in the State of New York.

THE PRESIDENT: Thank you, Senator.

Senator Krueger.

SENATOR KRUEGER: Hello, Mr. President. So nice to see you again. Senator Golden and I seem to have plenty to discuss tonight.

If through you the sponsor would yield for some questions.

THE PRESIDENT: Senator Golden?

SENATOR GOLDEN: Yes, Mr. President.

THE PRESIDENT: The Senator yields.

SENATOR KRUEGER: Thank you.

If these tax collecting agents leave the State of New York, can they still be licensed to do the work for us?

SENATOR GOLDEN: They would be

distributing cigarettes from outside of the State of New York. You would reduce the number of wholesalers here in the State of New York. You may get down to one. Maybe Philip Morris would be the only one distributing here in the State of New York.

But we would lose those thousands of jobs that are presently here in the State of New York and collecting that money, that tax revenue of $2 billion.

SENATOR KRUEGER: Mr. President, if through you the sponsor could continue to yield.

SENATOR GOLDEN: Yes, Mr. President.

SENATOR KRUEGER: If they are doing the job of wholesaling and tax collecting on the stamps for the State of New York, there's two different fees. Wouldn't they still choose to do that here in the State of New York because they (1) make money and (2) like to sell cigarettes here in the State of New York?

SENATOR GOLDEN: Through you, Mr. President. If they could make money, they'd be glad to stay here, Mr. President. Unfortunately, two cents a pack makes it

impossible to pay their overhead, prevailing wage, truck drivers, have the storage for the cigarettes.

And not only are they obliged to obviously pay prevailing wage and do what they have to do to make sure that they keep a good workforce here in the State of New York, they actually have to pay for those cigarettes in advance. So if they get hijacked or if their cigarettes go missing, that is already paid for. Their tax agent has to give that money to the State of New York. And in some cases these guys are out $60,000, $70,000, $80,000 when these cigarettes are stolen.

Can they go through their insurance company? Sure they can. But that all costs money. So the 2 cents a pack handling is just not enough for these wholesalers to remain in business here in the State of New York.

And the reason for the 12 cents, to make it 14 cents, it would allow for those wholesalers, slash, distributors to stay here in the State of New York.

SENATOR KRUEGER: Mr. President, if through you the sponsor would continue to yell --

yield.

THE PRESIDENT: Senator Golden?

SENATOR GOLDEN: I'm yielding, not yelling, yes, sir.

SENATOR KRUEGER: Thank you.

So earlier tonight we had a discussion about whether or not people were buying cigars in the State of New York. Does the State of New York actually have a shortage of wholesalers that are selling cigarettes to local stores so people can buy them?

I partly understand the argument that the sponsor is making that 2 cents may not be enough per pack. But I'm just confused. Again, maybe because I really don't support people smoking in the first place. But are we actually having trouble getting cigarettes from manufacturers through wholesalers to the people who are buying them at our stores?

SENATOR GOLDEN: Legal cigarettes, yes, Mr. President.

The problem here, if the good Senator Krueger is against smoking, we would imagine she would support a bill that would increase handling charges on a pack of cigarettes

because that would drive up cigarettes -- nominally, but would drive up that pack of cigarettes.

The answer to her question is yes. If we had 60 wholesalers 20 years ago -- 1999 is the last time we had an increase, in which we got to 2 cents a pack, and they haven't had one since then. So we're looking at somewhere of getting it 12 to 14 cents a pack of cigarettes. And we're down to 10 to 12 companies. I'd say there is definitely a problem in being able to maintain those businesses here in the State of New York.

And those distributions, can Philip Morris deliver these cigarettes to a distribution point? The answer is probably yes. But we're going to lose thousands of jobs and put people out of business and families without work.

If that's the goal, then this great Senate body, which I hope it would not be -- I would hope that she would vote for this bill as well as the rest of my colleagues.

SENATOR KRUEGER: Through you, Mr. President, if the sponsor would continue to yield.

SENATOR GOLDEN: Certainly,

Mr. President.

SENATOR KRUEGER: So could some of the reason there are fewer companies doing this business in New York State today be because there are fewer people buying cigarettes today?

SENATOR GOLDEN: Through you, Mr. President, fewer people buying legal cigarettes in the State of New York. The illegal cigarettes in the State of New York are thriving.

SENATOR KRUEGER: Mr. President, if through you the sponsor would continue to yield.

THE PRESIDENT: Senator?

SENATOR GOLDEN: Yes, Mr. President.

THE PRESIDENT: He is yielding.

SENATOR KRUEGER. So actually I think the good news is that really there are fewer people buying cigarettes in New York because there are fewer people smoking. Still too many, but fewer.

But also is it possible that there are fewer numbers of these companies because they are larger than they were so we don't have as many small ones but we have a smaller number of large ones doing the work? Is that possible?

SENATOR GOLDEN: Through you, Mr. President, I'm not sure where the good Senator is going. Whether it's smaller or larger, it's still a business here in the State of New York. And I would also say those are families and employees of those companies that are still here in the State of New York that pay taxes into the City and State of New York.

Our problem is that the good Senator is actually correct, there are less people smoking today. But when it comes to illegal cigarettes, it's over a billion dollars we lose to the Indian reservations and to cigarettes coming in across our borders. So there is plenty of illegal activity going on.

This is for the people that do legal activity in the State of New York. And hopefully she would see that and allow us, the good Senator, to pass a good bill for the working men and women of this great state.

SENATOR KRUEGER: Thank you, Mr. President. If the sponsor would continue to yield.

SENATOR GOLDEN: I do indeed, Mr. President.

THE PRESIDENT: The Senator yields.

SENATOR KRUEGER: Thank you. I'm delighted to support good bills for the good working people of the State of New York.

I'm still just confused about what the crisis is. It seems we do have people in the State of New York stamping cigarettes, working here in New York wholesaling cigarettes, moving them to the retailers. So I'm really trying to understand that the concern is that there are actually not enough people to do the work that needs to be done and, hence, more and more illegal cigarettes are moving through the state.

Is that the analysis of the sponsor about our problem?

SENATOR GOLDEN: No -- through you, Mr. President -- but it's part of it. But I think to simplify it, I think it's about the 1400 families that are about to lose their jobs in Long Island to the State of Kentucky. That's part of it. And it's about the other companies that will follow shortly thereafter because we did not allow that company to make enough money to pay for its employees to deliver those cigarettes legally across the State of New York.

SENATOR KRUEGER: Mr. President, if through you the sponsor would continue to yield.

THE PRESIDENT: Senator?

SENATOR GOLDEN: Yes, Mr. President.

THE PRESIDENT: The Senator yields.

SENATOR KRUEGER: So this bill would propose increasing the cost from 2 cents to 14 cents, is that correct, for a standard pack of 20 cigarettes?

SENATOR GOLDEN: Yes, Mr. President.

SENATOR KRUEGER: And through you, Mr. President, how much would be the increased revenue from changing the formula from 2 cents for a pack of 20 cigarettes to 14 cents for a pack of 20 cigarettes?

SENATOR GOLDEN: I apologize to the good Senator; I do not have that number here.

SENATOR KRUEGER: I'm informed it's approximately $65 million.

If I'm correct or close to correct, where does that $65 million go? We're going to pay $65 million more to the good people who currently have the jobs?

SENATOR GOLDEN: Well, I do know one thing, Mr. President, and she can back it up. The gentleman's name is Barry Feldman from Long Island who has all Teamsters working for him for the past 20 or 30 years. And I do know that that company is about to go to Kentucky if in fact we do not give that company some relief.

So that's the bottom line, good Senator. The bottom line is keeping those families and those jobs here.

SENATOR KRUEGER: Mr. President, if through you the sponsor would continue to yield.

THE PRESIDENT: Senator?

SENATOR GOLDEN: Yes, Mr. President.

SENATOR KRUEGER: So assuming I'm correct and this formula change would result in $65 million of the costs of cigarettes going to the stampers/wholesalers, am I correct to assume that the smokers of New York State will have to pay this additional $65 million?

SENATOR GOLDEN: I'm sorry, Mr. President, I wasn't -- somebody was in my ear, and I apologize. If she could repeat the question.

SENATOR KRUEGER: I'm happy to repeat the question, Mr. President.

So if we were to increase the revenue to the stampers/wholesalers by $65 million by moving from 2 cents a pack to 14 cents a pack -- which seems like a pretty big jump -- would the smokers who are buying the cigarettes have to pay the increased price of an additional 12 cents per pack?

SENATOR GOLDEN: Through you, Mr. President. Who else would pay the additional money?

SENATOR KRUEGER: And through you, Mr. President. Again, my colleague is making the argument that if we don't increase the formula from 2 cents to 14 cents that this company will leave New York and will not be involved in the stamping or the selling of cigarettes in the State of New York?

SENATOR GOLDEN: Through you, Mr. President, for the 15th time, the company is leaving the State of New York. That is one company that we know of. There are other companies that are being wooed by Pennsylvania, Massachusetts, and this one is about to win in

Kentucky.

So I would hope that we don't wait to find out if Senator Golden was right or wrong. But I do know that there are a lot of families that are going to suffer without jobs in some of the worst economic times that we've ever seen. And the last thing we should be doing is shipping 1400 jobs out of the State of New York.

And these wholesalers are tax agents. They collect $2 billion in revenue that goes to the State of New York each and every year. That's what their goal is. That's why they are wholesalers, and that's why they were set up here in the State of New York to do that job.

SENATOR KRUEGER: Through you, Mr. President, if the sponsor would continue to yield.

SENATOR GOLDEN: Yes, Mr. President.

SENATOR KRUEGER: So we're assuming the major brands of cigarettes will just -- will still want to sell their cigarettes in New York, and somebody will still have to stamp them in order for them to be sold in New York. But the

concern is unless we raise our cigarette prices by 12 cents per pack, the jobs of the stampers will leave the state but that company or whatever company will still have to stamp them in order to sell them in New York. Is that correct?

SENATOR GOLDEN: The cigarettes would be stamped with a New York stamp coming into the State of New York. Those that would purchase the stamp -- it could be Philip Morris, could be anybody that has that stamp.

I do know that this one company that I speak of spends just $100,000 alone on energy costs per month, $100,000 per month for energy costs. So -- and that's in Farmingdale. So that's just one of the costs of this company.

So I would hope -- and the State of Kentucky has offered them property in the county at no cost. And yet this company is just looking for some relief to stay here. So I would hope, again, that my good colleague Senator Krueger would see the value in keeping these jobs here. Anybody can put a tax stamp on it, that's correct. But I wouldn't want to be the person that tells that 1400 families in Farmingdale that they no longer have a job here.

So to Senator Krueger's point, I believe it's our responsibility to keep jobs here in the State of New York, to keep families employed, and to keep revenues flowing here in the State of New York. And I think these taxing agents do that, and they also help to prevent the untaxed market from entering and flourishing here in the State of New York.

So we would hope that my colleagues on both sides of the aisle see the value in putting a 12-cents-a-pack handling charge on each pack of cigarettes so that we can keep these jobs and keep this industry alive here in the State of New York.

SENATOR KRUEGER: Mr. President, if through you the sponsor would continue to yield.

SENATOR GOLDEN: Yes, Mr. President.

SENATOR KRUEGER: Am I correct to assume that the only income these wholesalers/tax stampers collect is not just the 2 cents per pack, that they also receive other remuneration for the multiple jobs they do? It's not just the only thing they get is 2 cents per package.

SENATOR GOLDEN: Through you,

Mr. President, it's the 2 cents of handling per pack of cigarettes is what they get.

SENATOR KRUEGER: Mr. President, through you. It's my understanding as stamping agents it's 2 cents per pack. As wholesalers, what's their revenue per pack?

SENATOR GOLDEN: Pardon me, Mr. President?

SENATOR KRUEGER: They have two functions. They are stampers per pack and they're also wholesalers of cigarettes. I'm assuming they also receive revenue as wholesalers. And I'm wondering what that works out to per pack.

SENATOR GOLDEN: Mr. President, for the 16th time, this company is leaving the State of New York because it can't afford to stay here. Senator Krueger can ask me about every fine dime that goes in and out of that corporation. I don't have those dimes. I do know that that company is leaving the State of New York. Those jobs will be gone. And that's only one of 10 companies that are being wooed because they can't afford to do business here in the State of New York.

So, Senator Krueger, we can go on all night, back and forth, 17 times, 18 times, 20 times: 12 cents per pack of cigarettes to the wholesale industry or we lose some more businesses and we lose some more jobs.

SENATOR KRUEGER: Mr. President, if through you the sponsor would continue to yield.

SENATOR GOLDEN: I will yield for one more question, Mr. President.

SENATOR KRUEGER: So the sponsor believes that there is a justification to keep jobs in New York State that wouldn't be filled by other companies doing business in New York State, that in order to accomplish the goal of making sure this company stays in New York -- and again, we're not sure that other companies won't increase the number of people they hire to fill the void left when one competitor leaves. But in order to accomplish this, we need to increase the amount of money paid them not for the wholesaling of the cigarettes, but for the stamping of the pack, from -- we need increase that seven times the current rate, from 2 cents to 14 cents just for the stamping of the pack, having nothing to do with the other parts of their business. Is

that correct?

SENATOR GOLDEN: Mr. President, 21 times. The company that we speak of that leaves, there are no new companies coming in to take over their place. These cigarettes will be delivered from out of state. They will be distributed through either Philip Morris or some other larger distributor. Those jobs can be in New Jersey, Connecticut, they can be in Pennsylvania. They're not going to be in Farmingdale.

So let me make that perfectly clear as the last question that I'm going to answer, that there are no distribution points, new distribution points being set up. Those cigarettes will be delivered from outside distributors coming into the State of New York, New Jersey, Pennsylvania, Connecticut, delivering cigarettes into the State of New York, buying the New York stamp, stamping them and delivering them to the stores. Those wholesale houses that I speak of will no longer exist here in the State of New York.

Thank you, Mr. President.

THE PRESIDENT: Thank you, Senator.

SENATOR KRUEGER: Thank you,

Mr. President. On the bill.

THE PRESIDENT: Senator Krueger on the bill.

SENATOR KRUEGER: Thank you.

We talk about economic development for the state and keeping jobs in the state, both of which I am a very strong believer of. But I just am not clear that giving a seven-times increase for the stamping of a pack of cigarettes is the best possible economic development model for the state.

On the other hand, it's not our money, the government's money. Because actually, if you're raising the cost of the pack of cigarettes 12 cents a pack, you're also raising taxes to the State of New York. Because it's a formula, right? So it would conceivably increase taxes to the State of New York if we're raising the price of cigarettes -- no? I'm being told I'm wrong about that by my staff. Excuse me. Let me stand corrected. It's not a direct percentage formula. Never mind that argument.

So it's not costing us anything in state tax dollars, but also not raising us more in tax dollars. It just seems like an enormous

increase in the price to pay for this activity.

But the higher the price of cigarettes, the less likely people are to buy them. So apparently this is going to raise the price of cigarettes. And out of the benefit of the doubt that it will actually keep jobs in our state, I thank you, Senator Golden. I'll vote for your bill.

SENATOR LIBOUS: Mr. President.

THE PRESIDENT: Senator Libous, I would ask you to ring the bells so that people would come in to vote.

And while you're ringing the bell for people to come in to vote, would Senator Golden yield for a question?

THE PRESIDENT: The Secretary will ring the bell.

Senator Golden?

SENATOR GOLDEN: Yes, Mr. President.

SENATOR LIBOUS: Thank you, Mr. President. Through you.

Senator Golden, you mentioned a gentleman's name earlier. Would that be a gentleman that you and I met a few weeks ago in

New York City?

SENATOR GOLDEN: Yes, it is, Senator.

SENATOR LIBOUS: Mr. President, through you.

And Senator Golden, would that be the gentleman who said that the State of Kentucky was going to give him free land to move his 1400 jobs out of New York State into the State of Kentucky?

SENATOR GOLDEN: That is correct, Senator Libous.

SENATOR LIBOUS: And through you, Mr. President, did he not also say to us that there were other people in his same business that the State of Kentucky was willing to give free land to? And actually I believe they were going to name something in Kentucky, they were really pushing to draw those businesses out of New York State?

SENATOR GOLDEN: They were actually going to name the town after this company when they leave the State of New York to go to the State of Kentucky. That is correct, Senator Libous.

SENATOR LIBOUS: Mr. President, thank you very much. And thank you, Senator Golden. I just wanted to make sure that this debate that I was listening to, which was a very important debate on economic development, the company that was referenced was the same gentleman, businessman that I had the pleasure of meeting and we're going to be able to help through this.

Thank you, Mr. President.

THE PRESIDENT: Thank you, Senators.

Any other Senators wishing to speak?

The debate is closed. The bell has been rung. The Secretary will read the last section.

THE SECRETARY: Section 2. This act shall take effect July 1, 2011.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE PRESIDENT: Senator DeFrancisco to explain your vote.

SENATOR DeFRANCISCO: Yes, I'm going to vote no.

And I'm voting no because I don't

like price fixing, number one. And number two, increasing any fee by 700 percent is a bit onerous. And number three, I have a distributor in my district as well, with 850 jobs, and they happen to be opposed to this bill because they believe that they can compete in the market without price fixing.

So I'm going to vote no.

THE PRESIDENT: Senator DeFrancisco, your vote will be recorded in the negative.

The Secretary will announce the results.

THE SECRETARY: In relation to Calendar 1469, those recorded in the negative are Senators DeFrancisco, Duane, Hassell-Thompson, C. Kruger, Nozzolio, Perkins, and Ranzenhofer.

Absent from voting: Senator Huntley.

Ayes, 54. Nays, 7.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1479, substituted earlier by Member of the Assembly Magee, Assembly Print 6877A, an act to amend the Racing, Pari-Mutuel Wagering and

Breeding Law.

SENATOR BRESLIN: Explanation.

THE PRESIDENT: Senator Bonacic.

SENATOR BONACIC: Thank you, Mr. President.

This legislation would extend for two years the existence of a state task force that exists now on retired racehorses , to identify and encourage more productive uses for racehorses after their use in the racing industry has ended.

THE PRESIDENT: Senator Krueger.

SENATOR KRUEGER: Thanks, Mr. President. If through you the sponsor would answer one question, please.

THE PRESIDENT: Senator Bonacic?

SENATOR BONACIC: Yes, of course. Of course.

THE PRESIDENT: The Senator yields.

SENATOR KRUEGER: Thank you.

So we created the task force in 2005. Nobody's figured out what to do with retired racehorses between then and 2011?

SENATOR BONACIC: No, they have figured out what to do with retired racehorses.

But let me explain more fully what this legislation tries to do.

First of all, the task force never did a report on retired racehorses. This legislation requires them to do a report at the end of the year and every year thereafter till December of 2013.

What has happened, you know, if you had a pet, you would not want to see any cruelty to any animal. What's happened in the raising industry is that these racing horses, after their life in racing has ended, they have gone on farms where they have been physically abused, malnutrition, starved to death, and some of them go to the glue factory. Who knows if some of them wind up as food for restaurants. And I don't want to sound gross, but these things happen.

What they can be used for after their racing life ends, they use them for therapeutic use of horses, whether it's medical, psychological, or rehabilitative uses. They can be used also for federal, state, and correctional institutions. Police forces can use them in the city as a means of crowd control. They can be

used in specialty areas, such as riding shows, steeplechase shows. So they have uses after their racing life ends.

And what they're trying to do is to identify the pedigree of the horse and how its personality can be used by future owners of these horses, not as racing horses but in a very positive, marketable way.

The Times wrote in March, I think, of 2011 of the outrageous abuse of these racing horses when their career has ended. And there has been heavy money put into -- let me just share with you, back in 1984 there was the Thoroughbred Retirement Foundation for the very purpose of saving horses from neglect, abuse, and slaughter. And the Jockey Club and rich owners of Kentucky Derby horses have put money into these foundations to try to give these horses a life after racing where they can extend their horse life with dignity.

That's the purpose of this task force. And as I said, they have not given a report before. Now they are required to do this. I think it's a worthwhile purpose.

SENATOR KRUEGER: Mr. President --

SENATOR DeFRANCISCO: Point of order.

THE PRESIDENT: Senator DeFrancisco.

SENATOR DeFRANCISCO: I believe Senator Krueger said she just had one question. And this would be the second question. And I just --

SENATOR KRUEGER: I haven't asked it.

SENATOR DeFRANCISCO: Okay. All right.

THE PRESIDENT: Senator Krueger.

SENATOR KRUEGER: Mr. President, I don't have any more questions for the sponsor. I appreciate his explanation.

And I think it's a good bill. I'll be voting for it. Thank you.

THE PRESIDENT: Thank you, Senator.

Senator Nozzolio.

SENATOR NOZZOLIO: Mr. President, on the bill.

Mr. President, I suggest that my colleague and dear friend, in looking at solutions to this issue, need only look down the

road, down the road a few hundred miles where the Finger Lakes Horse Adoption Center is one of the first of its kind not just in New York State but the entire nation. Where thoroughbreds who have raced through their careers have found a home where they can rehabilitate and be trained to be ready to be accepted on the farm, at home, as a horse that is schooled to be trained well with children and the like.

That this adoption center is a wonderful place. It's supported in large part by private donations who have gone out and developed this center. So it is in New York State, it is part and adjacent to the Finger Lakes Racetrack. And that it is a place that I think New Yorkers should be proud of.

And as you do your task force review, let's look at home to show that at home we're doing the right thing right in the Central and Western Finger Lakes region.

Mr. President, I think it's certainly a good bill, a wonderful concept, and we have an ideal model from which to replicate not just throughout New York State but continually throughout the United States as well.

Thank you, Mr. President.

THE PRESIDENT: Thank you, Senator.

Any other Senators wishing to speak on this bill?

Senator McDonald.

SENATOR MCDONALD: Thank you.

Horses are special where I live. Saratoga County has more horses than any other county in New York State. It's a business as well as it is an attachment to the animals. Horses in Saratoga County create a lot of money for our state, a lot of tax revenue, a lot of enjoyment. It's easy to be harsh and say it's just a piece of business equipment. But so many of the people who come to our two tracks in Saratoga County, and I'm sure tracks everywhere, become attached to the horses.

This bill is bringing it to light that we have these animals, we've used these animals to make money for us, we've used these animals for entertainment and a certain amount of respect. I hope all of you are up in my track in August and July and you see these beautiful animals and you see the people and how they relate to the horses. People go to the horse

tracks not because of instant gambling -- you can get instant gambling by going to the lottery. They go to the horse track to look at the beautiful animals. They never realize that the people who breed those animals, race those animals, love those animals and what they've accounted for.

If you're in New York City you're going to love the horses that the police department has, or the ones in Central Park. So often it's the police dogs, the military dogs. That's part of our culture, we've accepted it, these animals have ingratiated themselves with us.

Recently I had some wonderful Assembly representatives and Senators over in Rensselaer County to some farms where they had amazing experiences with some cattle and cows of all different types. I came from a city, but you never do not overwhelmingly be amazed when you meet these domesticated animals. And I think what Senator Bonacic and the bill is trying to say, we've got to do something with it because, whether you like it or not -- and I think everybody does like it -- New York State is

becoming one of the horse capitals of the world, not just the United States. Something for us to be proud of.

So I thank you for the bill and for the attention given to these animals. Thank you.

THE PRESIDENT: Thank you, Senator.

Any other Senators wishing to speak on the bill?

The debate is closed. The Secretary will ring the bell.

The Secretary will 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, 61.

Absent from voting: Senator Huntley.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1485, by the Committee on Rules, Senate Print 5680A, an act to amend the Tax Law.

SENATOR SQUADRON: On the bill.

THE PRESIDENT: Senator Squadron on

the bill.

SENATOR SQUADRON: Thank you.

Just very briefly, this bill is a tax bill sponsored by Senator Rules. I've spoken about that previously. The hour is late. I think we can go to the transcript for further clarification.

In addition, this bill would allow the localities to extend their sales taxes without coming back here every couple of years. We've spent many hours in the last week or so dealing with this. And I think that that sort of local control is a good idea.

If there is a sponsor of the bill on the other side who I could ask for two clarification questions, I would appreciate it.

THE PRESIDENT: Senator Marcellino.

SENATOR SQUADRON: Thank you. If Senator Marcellino would yield for a question.

SENATOR MARCELLINO: Yes, I do.

SENATOR SQUADRON: I appreciate it.

Currently in the City of New York, do they need to come to us in order to extend their sales tax at the current rate?

SENATOR MARCELLINO: At this time, no, I believe the City of New York has a permanent --

SENATOR SQUADRON: Thank you. If Senator Marcellino would continue to yield.

THE PRESIDENT: Senator Marcellino, would you yield?

SENATOR MARCELLINO: I do.

SENATOR SQUADRON: Does the City of New York currently need their local legislative body, the City Council, to approve the sales tax in its current form for it to continue?

SENATOR MARCELLINO: I'm not quite sure, but I would believe they probably don't. But I don't know that.

SENATOR SQUADRON: They don't currently. Under this bill they would.

Thank you, Senator Marcellino. I appreciate it.

This bill would do an important positive thing. It would make life a lot easier -- we would have fewer nights that went past 10 o'clock -- and give localities the ability not to have to come begging to us every time they want to balance their own books.

In New York City it would give the City Council a new role they don't currently have. I haven't heard from the City Council; I assume Senator Rules has not heard from the City Council. And so for that reason, I'm not going to be able to support this bill at this time.

I want to know whether the City Council wants to participate in the sales tax structure in this way. And without the weighing in from my local legislative district, I'm not going to be able to support this bill at this time.

Thank you, Mr. President.

THE PRESIDENT: Thank you, Senator.

Senator Oppenheimer.

SENATOR OPPENHEIMER: If the Senator will yield, please.

THE PRESIDENT: Senator Marcellino?

SENATOR MARCELLINO: Yes, I'll yield.

SENATOR OPPENHEIMER: I just need some clarification, Senator.

So outside of the city it would be 3 percent, as it is now. And you don't have to

come except every two years to get things renewed. And the additional amount above that 3 percent has to be approved here, and in some cases -- certainly in two of my cities -- they are now at 4 percent. So that 4 percent is included as well.

Are there any communities in the state that are above 4 percent sales tax? Because I wonder what is going to happen to them.

SENATOR MARCELLINO: Yes, Senator, there are several that are above 4 percent.

SENATOR OPPENHEIMER: And they are grandfathered, they're part of this bill?

SENATOR MARCELLINO: This bill would permit -- as you all know, the 3 percent is given. Anything above that that has been authorized by the local city council, county legislature, whatever, and approved by the state, is there. So whatever the number is currently, this bill would grandfather in.

They would have the authority to continue that existing rate. If they chose to go above the current existing rate, they would have to come here for permission.

SENATOR OPPENHEIMER: Okay, good.

Thank you very much, Senator.

On the bill. That was what I had sort of believed was the case, what you were saying.

Well, for years I have been saying it is a pity that so many of my communities have to come up here every two years and beg for what they have been receiving every two years prior to that. We passed one bill for White Plains sales tax; they have been coming up here for 12 years. It just made no sense.

And I can see it made very little sense on that side of the aisle. While it did not disturb me to pass these bills in my name, I saw that it was normally done in the name of Rules on your side of the aisle. So clearly this is not something that anyone likes.

And I think it's something that we should definitely be moving on. It makes no sense to have them come begging to us every year. In fact, it's an embarrassment. So I'm strongly supportive of this bill.

Thank you, Mr. President.

THE PRESIDENT: Thank you, Senator.

Any other Senators wishing to speak

on this bill?

The debate is closed. The Secretary will ring the bell.

The Secretary will read the last section.

THE SECRETARY: Section 37. This act shall take effect September 1, 2011.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE PRESIDENT: The Secretary will announce the results.

THE SECRETARY: In relation to Calendar Number 1485, those recorded in the negative are Senators Adams, Espaillat, Hassell-Thompson, L. Krueger, Parker, Peralta, Perkins, Rivera, Serrano, and Squadron.

Absent from voting: Senator Huntley.

Ayes, 51. Nays, 10.

THE PRESIDENT: The bill is passed.

Senator Libous, that completes the controversial reading of the supplemental calendar.

SENATOR LIBOUS: Mr. President, is there any further business at the desk?

THE PRESIDENT: There is none.

SENATOR LIBOUS: Mr. President, at this time could you please call on Senator Ruth Hassell-Thompson.

THE PRESIDENT: Senator Hassell-Thompson.

SENATOR HASSELL-THOMPSON: Thank you, Mr. President.

At 10:00 a.m. in the morning there will be a conference of the Democratic Conference in the Democratic Conference Room.

Thank you, Mr. President.

THE PRESIDENT: Senator Libous.

SENATOR LIBOUS: Mr. President, at 10:00 a.m. tomorrow morning there will be a Republican conference in Room 332.

And there being no further business before the Senate this evening, I move that we adjourn until 11:00 a.m. on Wednesday, January --

(Laughter.)

SENATOR LIBOUS: That was wishful thinking on my part, Mr. President.

-- June 22, at 11:00 a.m.

THE PRESIDENT: Senator Libous, I'll support you on the January 22nd.

But the Senate stands adjourned until Wednesday, June 22nd, at 11:00 a.m.

(Whereupon, at 10:15 p.m., the Senate adjourned.)