NEW YORK STATE SENATE

THE STENOGRAPHIC RECORD

ALBANY, NEW YORK

June 23, 2011

12:12 p.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 stand 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 bowing our heads in a moment of silence.

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

THE PRESIDENT: Next we'll have the reading of the Journal.

THE SECRETARY: In Senate, Wednesday, June 22nd, the Senate met pursuant to adjournment. The Journal of Tuesday, June 21, was read and approved. On motion, Senate adjourned.

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

Next, presentation of petitions.

Messages from the Assembly.

The Secretary will read.

THE SECRETARY: On page 26, Senator Flanagan moves to discharge, from the Committee on Investigations and Government Operations, Assembly Bill Number 966B and substitute it for the identical Senate Bill Number 4813, Third Reading Calendar 1119.

THE PRESIDENT: Substitution ordered.

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, if we could just hang on for one second.

THE PRESIDENT: Senator Libous.

SENATOR LIBOUS: Mr. President, we have an active list on our desks, and at this time could we take up the noncontroversial reading.

And I am told by the desk that

the first bill, Number 267, is actually high, so we would start at 1119.

THE PRESIDENT: The Secretary will read the active list, starting at Number 1119.

THE SECRETARY: Calendar Number 1119, by Member of the Assembly Kellner, Assembly Print 966B, 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, 54.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1354, by Senator Golden, Senate Print 2733A, an act to amend the State Finance Law.

SENATOR SQUADRON: Lay it aside.

THE PRESIDENT: The bill is laid aside.

THE SECRETARY: Calendar Number 1502, by Member of the Assembly Farrell, Assembly Print Number 8286, 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, 54.

THE PRESIDENT: The bill is passed.

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

SENATOR LIBOUS: Mr. President, I think we can go to the controversial calendar as soon as we can find the sponsor of the bill.

THE PRESIDENT: We'll stand by. The Secretary will ring the bell.

(Pause.)

SENATOR LIBOUS: Mr. President, we're going to get started. We just had a little procedural thing here. We had to make sure that everybody had a copy of the bill.

And I know that Senator Golden will be prepared to debate it momentarily.

THE PRESIDENT: Thank you, Senator.

Senator Libous.

SENATOR LIBOUS: Mr. President, the

sponsor would like to lay the bill aside for the day.

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

That completes the reading of the active list, Senator Libous.

SENATOR LIBOUS: Mr. President, I believe that Senator Hassell-Thompson would like to be recognized at this time.

THE PRESIDENT: Senator Hassell-Thompson.

SENATOR HASSELL-THOMPSON: Thank you, Senator Libous.

Mr. President, there will be an immediate meeting of the Democratic Conference in the Democratic Conference Room.

SENATOR LIBOUS: Mr. President, pending the immediate meeting of the Democratic Conference, there will be a Rules Committee meeting in Room 332. Let me see if I can get a time on that.

SENATOR HASSELL-THOMPSON: Assuming that the bills are there, Senator Libous, I would think that we would need 25 minutes.

SENATOR LIBOUS: And, Senator, I'm

told the bills were there about 10 minutes ago. So I hope that it is indeed true.

Having said that, we'll have a Rules Committee meeting at 1 o'clock.

THE PRESIDENT: Rules Committee meeting at 1 o'clock. Democratic conference immediately.

SENATOR LIBOUS: Mr. President, we will go immediately to the Rules Committee at 1 o'clock. So at 1 o'clock, do not come back to the chamber if you're on the Rules Committee, go to Room 332.

THE PRESIDENT: Per Senator Libous, 1 o'clock meeting of the Rules Committee in Room 332.

The Senate stands at ease.

(Whereupon, the Senate stood at ease at 12:22 p.m.)

(Whereupon, the Senate reconvened at 1:44 p.m.)

THE PRESIDENT: The Senate will come to order.

Senator Libous.

SENATOR LIBOUS: Mr. President, we have an active list that is before us, a

supplemental active list. And I would like to have a noncontroversial reading of that list right now. It starts with Calendar Number 914. Supplemental active list.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: In relation to Calendar Number 914, on page 19 Senator Savino moves to discharge, from the Committee on Judiciary, Assembly Bill Number 7632 and substitute it for the identical Senate Bill Number 4302A, Calendar Number 914.

THE PRESIDENT: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 914, by Member of the Assembly Rosenthal, Assembly Print Number 7632, an act to amend the Family Court 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: In relation to Calendar Number 1107, Senator Ball moves to discharge, from the Committee on Rules, Assembly Bill Number 1428B and substitute it for the identical Senate Bill Number 4583A, Calendar Number 1107.
THE PRESIDENT: Substitution ordered.
The Secretary will read.
THE SECRETARY: Calendar Number 1107, by Member of the Assembly Castelli, Assembly Print Number 1428B, an act to amend the Military 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 1141, Senator Hannon moves to

discharge, from the Committee on Rules, Assembly Bill Number 3304A and substitute it for the identical Senate Bill Number 5556, Calendar Number 1141.

THE PRESIDENT: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1141, by Member of the Assembly Gottfried, Assembly Print Number 3304A, an act to amend the Public Health 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 Hannon to explain his vote.

SENATOR HANNON: Thank you, Mr. President.

This legislation would draw together a number of existing programs that are functioning well in the state. The whole idea of these programs, which are known as medical-legal

aid partnerships, is to make sure that patients and potential patients who interact with the healthcare system are assisted in the often complex procedures for enrollment and continued participation.

We have these partnerships in Buffalo, Rochester, Syracuse, Albany, White Plains, five in New York City, and Long Island.

By enacting this and keeping this movement going I think we make the system better for both the providers -- the providers being clinics and hospitals -- and for the patients themselves, especially as we go through the new complexities of what will be a federal healthcare change.

I thank you very much, Mr. President. I recommend a yes vote.

THE PRESIDENT: Thank you, Senator.

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

The Secretary will announce the results.

THE SECRETARY: Ayes, 62.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1512, by Senator Lanza, an act to amend the Education 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: Those recorded in the negative on Calendar 1512 are Senators Ball, Gianaris, Hassell-Thompson, Huntley, L. Krueger, Montgomery, Perkins, Ranzenhofer, Rivera, Saland, Serrano and Squadron. Also Senator Parker.

Ayes, 49. Nays, 13.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1520, by Member of the Assembly Abbate, Assembly Print 7605A, an act to amend the Retirement and Social Security Law.

THE PRESIDENT: Read the last section.

THE SECRETARY: Section 7. This act shall take effect at the beginning of the first payroll.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 62.

THE PRESIDENT: The bill is passed.

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

SENATOR LIBOUS: Mr. President, at this time I want to move to reports of standing committees. I believe there's a report of the Rules Committee at the desk. And after it's read, I will ask you if we could accept that report.

THE PRESIDENT: 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 3923, by Senator Smith, an act to amend the Penal Law;

3939, by Senator Adams, an act to amend the Education Law;

4315, by Senator Golden, an act to

amend the Public Officers Law;

4879, by Senator Bonacic, an act to amend the Education Law;

5189, by Senator Avella, an act to amend the Correction Law;

5666, by Senator Larkin, an act to amend the General Municipal Law;

5670, by Senator Little, an act to amend the Public Authorities Law;

5742, by Senator Larkin, an act to amend the Public Authorities Law;

5765, by Senator Farley, an act to relating to permitting;

5804, by Senator O'Mara, an act to amend the Retirement and Social Security Law;

5818, by Senator O'Mara, an act to amend the Highway Law;

5829, by Senator Grisanti, an act to amend the Alcoholic Beverage Control Law;

5833, by Senator Hannon, an act to amend Chapter 474 of the Laws of 1996;

And Senate Print 5849, by Senator Seward, an act to amend the Public Authorities Law.

All bills ordered direct to third

reading.

THE PRESIDENT: Senator Libous, Number 3939 was inadvertently read. It is not on the Rules report.

SENATOR LIBOUS: It is not on the Rules report. Then it will not be reported.

THE PRESIDENT: It will not be reported.

SENATOR LIBOUS: That's correct.

Could we then move the Rules report at this time.

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

(Response of "Aye.")

THE PRESIDENT: Any opposed?

(No response.)

THE PRESIDENT: The Rules report is accepted.

Senator Libous.

SENATOR LIBOUS: Mr. President, at this time we will now take up Supplemental Calendar Number 59A, the noncontroversial reading.

THE PRESIDENT: The Secretary will

read.

THE SECRETARY: Calendar Number 1525, by Senator Smith, Senate Print 3923, 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: In relation to Calendar Number 1528, Senator Golden moves to discharge, from the Committee on Rules, Assembly Bill Number 6308 and substitute it for the identical Senate Bill Number 4315, Calendar Number 1528.

THE PRESIDENT: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1528, by Member of the Assembly Abbate, Assembly Print 6308, an act to amend the Public Officers 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 1529, by Senator Bonacic, Senate Print 4879, an act to amend the Education 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 1530, by Senator Avella, Senate Print 5189, 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: Those recorded in the negative on Senate Print 5189: Senator DeFrancisco.

Ayes, 61. Nays, 1.

THE PRESIDENT: The bill is passed.

THE SECRETARY: In relation to Calendar Number 1531, Senator Larkin moves to discharge, from the Committee on Rules, Assembly Bill Number 3146, and substitute it for the identical Senate Bill Number 5666, Calendar Number 1531.

THE PRESIDENT: Substitution ordered.

SENATOR BRESLIN: Lay it aside.

THE PRESIDENT: The bill is laid aside.

THE SECRETARY: Calendar Number 1532, by Senator Little, Senate Print 5670, an act to amend the Public Authorities Law.

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

Read the last section.

THE SECRETARY: Section 4. 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 1533, Senator Larkin moves to discharge, from the Committee on Rules, Assembly Bill Number 2245 and substitute it for the identical Senate Bill Number 5742, Third Reading Calendar 1533.

THE PRESIDENT: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1533, by Member of the Assembly Rabbitt, 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 1534, by Senator Farley, Senate Print 5765, an act relating to permitting.

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 1535, by Senator O'Mara, Senate Print 5804, an act to amend the Retirement and Social Security Law.

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

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 1536, by Senator O'Mara, Senate Print 5818, 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 1537, by Senator Grisanti, Senate Print 5829, 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: Those recorded in the negative on Senate Print 5829 are Senators Fuschillo and L. Krueger.

Ayes, 60. Nays, 2.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1538, by Senator Hannon, Senate Print 5833, an act to amend Chapter 474 of the Laws of 1996.

THE PRESIDENT: Read the last section.

THE SECRETARY: Section 2. 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: Calendar Number 1539, by Senator Seward, Senate Print 5849, an act to amend the Public Authorities Law.

THE PRESIDENT: Senator LaValle.

SENATOR LaVALLE: That bill is high. Can we lay that aside for the day.

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

Senator LaValle, that completes the noncontroversial reading of Senate Supplemental Calendar Number 59A.

SENATOR LaVALLE: Mr. President,

can we go to the controversial reading of the calendar.

THE PRESIDENT: The Secretary will ring the bell.

The Secretary will read.

THE SECRETARY: Calendar Number 1531, by Member of the Assembly Calhoun, Assembly Print Number 3146, an act to amend the General Municipal Law.

SENATOR KRUEGER: Explanation.

THE PRESIDENT: Senator Larkin for an explanation, please.

SENATOR LARKIN: Senator Breslin, are you --

SENATOR BRESLIN: Explanation, please.

SENATOR LARKIN: Thank you very much.

This is a request from a local government. What happened was during the course of the last 18 months an industrial development agency gave excessive tax breaks that the town board thought were out of order and were never brought to the attention of the town board.

So the town board went and checked

out some other municipalities in the state and around the state, and they came up with a proposal which I think is very smooth. It's a mixed board, so it isn't right wings, left wings. And what they wanted to do was to have a written consent of the chief executive officer of the town prior to the approval of any applications under the PILOT program.

They also want to make sure that there's no impact on the municipality, that granting something out of line just to attract a business would not be of benefit to the town. They're saying that the application must have at least one member of the Chester's governing board and three members drawn from a cross-section within the municipality. Which is open government. I think it's the right thing to do.

This town has been very successful. It's moving along very fine. This has been a -- the county government thinks it's the right attitude, I think it's the right -- and I think if we're being serious about home rule, then I think we should be saying to local government: Thank you. Thank you for not just asking the town board to do it, but having a joint venture

between the developer, the town, and bringing in outsiders to watch the project.

THE PRESIDENT: Senator Krueger.

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

I appreciate the sponsor's explanation of his bill, and I support the bill. I wanted to raise for this house that I think this is exactly the kind of policy that should be in place whenever there's a PILOT deal that is made anywhere in the state.

If you look at the history of the too many IDAs, the too many IDAs without enough oversight, as several State Comptroller's reports have shown, you start to understand that this model of giving away somebody else's tax revenue at the local level has gotten out of control.

And so I think that Senator Larkin's bill is an excellent bill. And given the fact that there are so many concerns about the overproliferation of IDAs and the dangers and risks to local communities of some small group of people deciding to give away a community's tax revenue, sometimes for decades into the future, this bill and this model should be looked at very

seriously by the state as a model that applies anytime an IDA is attempting to give away a local government's tax revenue.

I certainly support this bill, Mr. President. Thank you.

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 PRESIDENT: On Senate 1531, 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 Peralta.

THE PRESIDENT: The bill is passed.

Senator LaValle, that completes the controversial reading of Senate Supplemental Calendar 59A.

SENATOR LaVALLE: Mr. President, can we stand at ease.

THE PRESIDENT: The Senate will now stand at ease.

(Whereupon, the Senate stood at ease at 2:11 p.m.)

(Whereupon, the Senate reconvened at 4:00 p.m.)

SENATOR LIBOUS: Mr. President, would you call on Senator Breslin, please.

ACTING PRESIDENT ROBACH: Senator Breslin.

SENATOR BRESLIN: Thank you, Mr. President.

There will be an immediate meeting of the Democratic Conference in Room 314, followed by -- well, there will be a Rules meeting at 4:30.

SENATOR LIBOUS: And I am going to do exactly what Senator Breslin says.

There will be a Rules Committee meeting in Room 332 at 4:30 sharp, a Rules meeting in Room 332 at 4:30 sharp.

And I think, if we could, Mr. President, just go to motions and resolutions for a second. They want me to read a motion.

ACTING PRESIDENT ROBACH: Okay.

Motions and resolutions.

SENATOR LIBOUS: This is on behalf of Senator Golden. Mr. President, I move to amend Senate Print 4269B by striking out the amendments made on June 17th and restoring it to its previous print number, 4269A.

ACTING PRESIDENT ROBACH: So ordered.

Senator Libous.

SENATOR LIBOUS: Okay. The Senate will stand at ease.

ACTING PRESIDENT ROBACH: The Senate will stand at ease. There will be a Democratic conference in Room 314. The Senate will stand at ease. And there will be a Rules meeting at 4:30 in Room 332.

(Whereupon, the Senate stood at ease at 4:02 p.m.)

(Whereupon, the Senate reconvened at 5:05 p.m.)

THE PRESIDENT: The Senate will come to order.

Senator Libous.

SENATOR LIBOUS: Mr. President, how are you?

THE PRESIDENT: Senator, I'm fine. How are you?

SENATOR LIBOUS: Good, thank you.

At this time I think there's a report of the Rules Committee at the desk. If we could have it read and then I will move to accept it.

THE PRESIDENT: 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 4269A, by Senator Golden, an act to amend the Public Health Law;

5702, by Senator Klein, an act to amend the Agriculture and Markets Law;

And 5801, by Senator Bonacic, an act to amend the Estates, Powers and Trusts Law.

All bills ordered direct to third reading.

THE PRESIDENT: Senator Libous.

SENATOR LIBOUS: Move to accept the report of the Rules Committee, please.

THE PRESIDENT: All in favor of accepting the report of the Rules Committee

signify by saying aye.

(Response of "Aye.")

THE PRESIDENT: Any opposed?

(No response.)

THE PRESIDENT: The Rules report is accepted.

Senator Libous.

SENATOR LIBOUS: Mr. President, we have in front of all of us Supplemental Active List Number 2. If we could have the noncontroversial reading of that list.

THE PRESIDENT: The Secretary will read the noncontroversial reading of Supplemental Active List Number 2.

THE SECRETARY: Calendar Number 375, by Senator Fuschillo, Senate Print 3768B, an act to amend the Vehicle and Traffic 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 457, on page 12 Senator Breslin moves to discharge, from the Committee on Investigations and Government Operations, Assembly Bill Number 508 and substitute it for the identical Senate Bill Number 820, Third Reading Calendar 457.

THE PRESIDENT: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 457, by Member of the Assembly McEneny, Assembly Print 508, an act to amend the Tax Law.

THE PRESIDENT: Read the last section.

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

SENATOR LIBOUS: Mr. President, would you lay that bill aside just temporarily. I know that Senator Breslin and I have discussed that.

THE PRESIDENT: The bill is laid aside temporarily.

The Secretary will continue to read.

THE SECRETARY: In relation to

Calendar Number 464, on page 12 Senator Oppenheimer moves to discharge, from the Committee on Investigations and Government Operations --

SENATOR LIBOUS: Lay that aside also temporarily.

THE PRESIDENT: Senator Libous, we need to do the substitution first and then lay it aside.

The Secretary will read the substitution.

THE SECRETARY: On page 12, Senator Oppenheimer moves to discharge, from the Committee on Investigations and Government Operations, Assembly Bill Number 3243 and substitute it for the identical Senate Bill Number 2915, Third Reading Calendar 464.

THE PRESIDENT: Substitution ordered.

The bill is laid aside temporarily.

THE SECRETARY: Calendar Number 1034, by Senator Young, Senate Print 4381A, an act to amend the Real Property Tax Law.

SENATOR LIBOUS: Lay it aside temporarily.

THE PRESIDENT: Lay the bill aside temporarily.

THE SECRETARY: In relation to Calendar Number 1433, on page 29 Senator Robach moves to discharge, from the Committee on Rules, Assembly Bill Number 7811B and substitute it for the identical Senate Bill Number 4886B, Third Reading Calendar 1433.

THE PRESIDENT: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1433, by Member of the Assembly Morelle, Assembly Print 7811B, 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 1451, by Senator Seward, Senate Print 2369C, an act to amend the --

SENATOR LIBOUS: Lay it aside for the day.

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

Senator Libous, that completes the reading of the noncontroversial Supplemental Active List Number 2.

SENATOR LIBOUS: Mr. President, I believe we have the report of the Rules Committee at the desk. And maybe we can do a bill on there.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: In relation to Calendar Number 1540, Senator Golden moves to discharge, from the Committee on Rules, Assembly Bill Number 6037A and substitute it for the identical Senate Bill Number 4269A, Third Reading Calendar 1540.

THE PRESIDENT: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1540, by Member of the Assembly Brook-Krasny, Assembly Print 6037A, an act to amend the Public

Health Law.

THE PRESIDENT: Read the last section.

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

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 1541, Senator Klein moves to discharge, from the Committee on Rules, Assembly Bill Number 7502A and substitute it for the identical Senate Bill Number 5702, Third Reading Calendar 1541.

THE PRESIDENT: Substitution ordered.

The Secretary will read.

SENATOR LIBOUS: Lay it aside temporarily.

THE PRESIDENT: The bill is laid aside temporarily.

THE SECRETARY: In relation to Calendar Number 1542, Senator Bonacic moves to discharge, from the Committee on Rules, Assembly

Bill Number 8297A and substitute it for the identical Senate Bill Number 5801, Third Reading Calendar 1542.

THE PRESIDENT: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1542, by Member of the Assembly Weinstein, Assembly Print 8297A, 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.

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

SENATOR LIBOUS: Mr. President, we are waiting at this time for some legislation to be printed and some various activities. I apologize for the inconsistency this afternoon, but that's what usually happens towards the end

of session.

We're going to stand at ease for maybe an hour, an hour and a half, waiting for some bills to come up and be printed. And then we will come back here and we'll make an announcement as to when we're more definitive.

So I would tell members to please mill around and do what you have to do in your offices, but I don't expect us back here for another hour, hour and a half.

THE PRESIDENT: Thank you, Senator.

The Senate is at ease.

(Whereupon, the Senate stood at ease at 5:12 p.m.)

(Whereupon, the Senate reconvened at 9:18 p.m.)

THE PRESIDENT: The Senate will come to order.

Senator Libous.

SENATOR LIBOUS: Thank you, Mr. President. Could we have the Sergeant-at-Arms close the doors, please.

Sarge, close the doors, please.

THE PRESIDENT: If the Sergeant-at-Arms will close the doors.

SENATOR LIBOUS: Mr. President, could we go to motions and resolutions at this time.

THE PRESIDENT: Motions and resolutions.

Senator Libous.

SENATOR LIBOUS: Mr. President, on behalf of Senator Young -- this is a busy one -- I wish to call up Calendar Number 820, Assembly Print Number 5448.

THE PRESIDENT: The Secretary will read.

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

SENATOR LIBOUS: Mr. President, I now move to reconsider the vote by which the Assembly bill was substituted for Senator Young's bill, Senate Print 2837, on June 21st.

THE PRESIDENT: Call the roll on reconsideration.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 62.

SENATOR LIBOUS: Mr. President, I now move that Assembly Bill Number 5448 be

committed to the Committee on Rules and that Senator Young's Senate bill be restored to the order of the Third Reading Calendar.

THE PRESIDENT: So ordered.

SENATOR LIBOUS: That was a long one, Mr. President.

Okay, Mr. President, at this time we have a Supplemental Active Calendar Number 3. And if we could do the noncontroversial reading of that calendar.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: In relation to Calendar Number 621, on page 14 Senator Golden moves to discharge, from the Committee on Housing, Construction and Community Development, Assembly Bill Number 5375 and substitute it for the identical Senate Bill Number 4035, Third Reading Calendar 621.

THE PRESIDENT: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 621, by Member of the Assembly Lopez, Assembly Print Number 5375, an act to amend the Multiple

Dwelling 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 1187, by Senator Larkin, Senate Print 2678, an act to amend the Tax 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.

As I have argued many times on the floor of the Senate, we need to be thinking about how we utilize some of our resources, where we

get some of our revenue.

I will be voting in the negative on this bill because I do not believe that at a time when we are not extending, as I have said many times, the personal income tax surcharge on wealthier New Yorkers -- we are extending sales taxes all over the place and now we are further giving them a tax cut by allowing the same millionaires who are getting a tax cut from the federal government and from the state for the nonextension of the personal income tax surcharge to now be able to purchase some of their planes with a further tax cut -- with a tax credit.

So I will be voting in the negative on this. I encourage all my colleagues to do the same. And as we look for more revenue and make better decisions about where we spend our resources, I do not believe that this is the type of bill that we should be introducing or passing to do those things.

Thank you, Mr. President. I'll be voting in the negative on this bill.

THE PRESIDENT: Thank you, Senator.

Senator Rivera will be noted in the negative.

The Secretary will announce the results.

THE SECRETARY: In relation to Calendar Number 1187, those recorded in the negative are Senators Addabbo, Avella, Diaz, Duane, Espaillat, Gianaris, Hassell-Thompson, Huntley, L. Krueger, C. Kruger, Parker, Peralta, Rivera, Serrano, Stavisky and Stewart-Cousins. Also Senator Perkins.

Ayes, 45. Nays, 17.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1343, by Senator Golden, Senate Print 5577A, an act to amend the Tax 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 1514, by Senator Golden, Senate Print 4067A, an

act to amend the Education Law.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE PRESIDENT: Senator Stewart-Cousins to explain her vote.

Senator Krueger to explain her vote first.

SENATOR KRUEGER: Thank you very much, Mr. President. I rise to just quickly explain why I am voting no on this bill.

I understand the concerns of the Big Four school districts. But when you do amortization of pensions, what you're doing is borrowing money now to have to pay it back later with interest, and you end up making your pension costs even greater over the long run due to the interest you must pay on the amortized portions.

You're basically potentially, in this year, seeing a situation where we may later in the session or even later tonight be passing a property tax cap which will limit school

districts' revenue streams. But we are now passing this bill allowing school districts to borrow money that they will have to pay back to themselves with interest. And so I see it as a double risk for future ability to repay.

I do understand how difficult the situation is for so many school districts. It's in fact one of the reasons why I voted no on the school portion of the state budget, because I thought we'd be doing too much harm to school districts. And in fact we have, and some school districts now find themselves needing to borrow to pay their own costs.

I understand the dilemma for them, and I am empathetic with the dilemma. But I actually believe allowing this possibility will make their problems even large in future years, which is why I'm voting no.

Thank you, Mr. President.

THE PRESIDENT: Thank you, Senator.

Senator Krueger will be recorded in the negative.

Senator Stewart-Cousins to explain her vote.

SENATOR STEWART-COUSINS: Yes, thank you, Mr. President.

I rise to certainly say thank you to my colleagues and thank you, Senator Golden, for putting forth this bill.

We all know how difficult it is for our school districts, especially the Big Four school districts. We understand that the state as well as federal government and all other assorted forces have come together to make this a very, very difficult time. And we are all doing what we need to do in order to make our education for our students as good as it can be.

In the City of Yonkers, without this bill they will lose $5 million. And we talk about economic recovery and we talk about keeping our education system on track. That $5 million will help to restore some of the 300 jobs that would have been lost if we did not do this tonight.

So when you talk about keeping the communities stable, keeping education at the forefront, and understanding the impact of not having what is needed to keep the district going, something like this -- smoothing out the pension

payments, allowing them to at least stabilize and, again, save jobs -- makes all the difference in the world for those children, for that school district, and hopefully for the future.

We made some tough decisions today in order for next year to have a better fiscal outlook. And I'm hoping that that better fiscal outlook will return the dollars to school systems as we cap taxes, as we do all the other things, that we start really creating an environment where schools flourish.

This will, yes, be a short-term fix. But it is a big fix for a district like mine and like many of yours that really needs this shot in order to keep that promise of educating their children. I vote yes.

THE PRESIDENT: Thank you, Senator.

Senator Stewart-Cousins will be recorded in the affirmative.

Senator Martins to explain his vote.

SENATOR MARTINS: Thank you, Mr. President.

I also rise to support this bill, and I'm going to encourage all of my colleagues to support this bill as well.

I see this bill as mandate relief. Some of you may ask me why. If you understand our pension system and where our pension system is today and where it's going to be over the next two years, we're experiencing a spike right now. This year it's at 8.62, next year it will be at 11 percent, the year after that it will be at 15 percent, but the year after that they expect it to come back down.

So my question is, why are we asking our school districts to have to pay out-of-pocket over the next two years to compensate for this spike when these costs are going to come back down? And why won't we allow them to amortize that over a short period of time and take advantage of the fact that they are going to be able to spread that out over periods of time where the pension contributions are going to be much less than they are over the next two years? And we know that for a fact.

School districts have tremendous choices over the next two years. Certainly the decision as to whether or not to take resources out of the classroom and dedicate them towards paying for pension costs or allowing them to

amortize that over a number of years is something we should be encouraging, because the taxpayers in those districts and the students in those classrooms over these next two years should not have to bear the expense or the brunt of these costs as it pertains to those kids in those classrooms for these two years.

So we have a choice, to allow these school districts the ability to pass that on over a period of time -- and yes, they're going to pay interest on that. But the interest rate is far less than that which this body approved for local governments when they smooth out over the course of the next 10 years and have to pay it back at 8 percent. The rate at which they're able to borrow is significantly less.

The impact to our students and our classrooms and the ability of our school districts to be able to live within the tax cap that we're going to be discussing later is important. This piece of legislation allows school districts to live within their means and allows our school districts to make decisions that are important to our students.

And I'll be voting aye. Thank you,

Mr. President.

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

The Secretary will announce the results.

THE SECRETARY: In relation to Calendar Number 1514, those recorded in the negative are Senators Fuschillo, L. Krueger, LaValle, Marcellino, Rivera, Saland, and Zeldin.

Ayes, 55. Nays, 7.

THE PRESIDENT: The bill is passed.

Senator Marcellino, that completes the noncontroversial reading of Supplemental Active List Number 3.

SENATOR MARCELLINO: Yes, Mr. President. At this time can we go back to momentarily to Calendar Number 59B.

And Calendar Number 1541, by Senator Klein, which had previously been temporarily laid aside, we'd like to lay that aside for the day.

THE PRESIDENT: Calendar Number 1541 is laid aside for the day.

Senator Marcellino.

SENATOR MARCELLINO: Can we at this point now go back to Supplemental Calendar Number

2 and take up Calendar Number 457, noncontroversial.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: Calendar Number 457, substituted earlier today by Member of the Assembly McEneny, Assembly Print 508, 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.

SENATOR MARCELLINO: On the same calendar, Mr. President, Supplemental Active List Number 2, can we take up 464, noncontroversial.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: Calendar Number 464, substituted earlier today by Member of the Assembly Latimer, Assembly Print 3243, 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.

SENATOR MARCELLINO: Mr. President, we'll have an immediate meeting of the Rules Committee in Room 332. Rules Committee meeting, Room 332.

The Senate will stand at ease pending the return of the Rules Committee.

THE PRESIDENT: There will be a Rules Committee meeting in Room 332.

The Senate stands at ease.

(Whereupon, the Senate stood at ease at 9:33 p.m.)

(Whereupon, the Senate reconvened at 9:53 p.m.)

THE PRESIDENT: The Senate will come to order.

Senator Libous.

SENATOR LIBOUS: Thank you,

Mr. President.

I believe there's a report of the Rules Committee at the desk. Could we have the report read and then I will move to accept it.

THE PRESIDENT: 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 5635B, by Senator Bonacic, an act to amend Chapter 367 of the Laws of 1999;

And Senate Print 5851, by Senator Hannon, an act to amend the Social Services Law.

Both bills ordered direct to third reading.

THE PRESIDENT: Senator Libous.

SENATOR LIBOUS: Mr. President, I move that we accept the report of the Rules Committee, please, at this time.

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

(Response of "Aye.")

THE PRESIDENT: Any opposed?

(No response.)

THE PRESIDENT: The Rules report is accepted.

Senator Libous.

SENATOR LIBOUS: Mr. President, could we have the noncontroversial reading of Calendar Number 59C.

We will have it in a moment as soon as everybody gets a copy of it. Mr. President, just a second. We want to make sure that everybody has a copy of this exciting agenda.

Thank you. If we can take up the noncontroversial reading at this time.

THE PRESIDENT: The Secretary will read Calendar Number 59C.

THE SECRETARY: In relation to Calendar Number 1526, Senator Bonacic moves to discharge, from the Committee on Rules, Assembly Bill Number 8368A and substitute it for the identical Senate Bill Number 5635B, Third Reading Calendar 1526.

THE PRESIDENT: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number

1526, by Member of the Assembly Weinstein, Assembly Print 8368A, an act to amend Chapter 367 of the Laws of 1999.

THE PRESIDENT: Senator Libous.

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

THE PRESIDENT: Yes, there is.

SENATOR LIBOUS: Could we please move to accept the message of necessity.

THE PRESIDENT: All in favor of accepting the message of necessity say aye.

(Response of "Aye.")

THE PRESIDENT: Any opposed?

(No response.)

THE PRESIDENT: The message of necessity has been 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 PRESIDENT: The Secretary will announce the results.

THE SECRETARY: In relation to

Calendar 1526, those recorded in the negative are Senators Maziarz, Nozzolio and Ritchie.

Ayes, 59. Nays, 3.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1527, by Senator Hannon, Senate Print 5851, an act to amend the Social Services Law.

SENATOR LIBOUS: Mr. President, I believe this bill is high right now. So we'll lay it aside temporarily until we get a message.

THE PRESIDENT: The bill is laid aside temporarily.

Senator Libous, that completes the noncontroversial reading of Calendar Number 59C.

SENATOR LIBOUS: Thank you, Mr. President.

At this time the Senate will stand at ease.

THE PRESIDENT: The Senate will stand at ease.

(Whereupon, the Senate stood at ease at 9:58 p.m.)

(Whereupon, the Senate reconvened at 10:53 p.m.)

THE PRESIDENT: Senator Libous.

SENATOR LIBOUS: Mr. President, at this time I would ask that all remaining business at the desk would be laid aside for the day.

THE PRESIDENT: So ordered.

SENATOR SKELOS: Mr. President.

THE PRESIDENT: Senator Skelos.

SENATOR SKELOS: I would just like to comment so there's no misunderstanding of life as it is right now.

The reason why we're adjourning is there are still negotiations going on concerning mandate relief and -- basically mandate relief. So bills would not be ready until 4:00 or 5:00 in the morning.

And I think for the good health of all the members and our guests that are here, we apologize, but we will be adjourning as per Senator Libous.

THE PRESIDENT: Thank you, Senator.

Senator Libous.

SENATOR LIBOUS: Thank you, Senator Skelos.

Before I do adjourn, though, could you please call on Senator Hassell-Thompson.

THE PRESIDENT: Senator

Hassell-Thompson.

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

There will be a meeting of the Democratic Conference at 9:30 a.m. in the Democratic Conference Room.

THE PRESIDENT: Thank you, Senator.

Meeting of the Democratic Conference at 9:30 a.m. in the Democratic Conference Room.

Order, please (gaveling).

Senator Libous.

SENATOR LIBOUS: Thank you, Mr. President.

Mr. President, there will be a 9:30 a.m. Republican conference.

And the Senate will stand adjourned until tomorrow at 10:00 a.m., June 24th.

THE PRESIDENT: There will be a 9:30 a.m. Republican conference.

The Senate is adjourned until 10:00 a.m. tomorrow morning, June 24th.

(Whereupon, at 10:55 p.m., the Senate adjourned.)